
Bayside Planning Panel

24/10/2017

Item No	5.5
Application Type	Development Application
Application Number	DA-2017/394
Lodgement Date	23 June 2017
Property	23 Earlwood Crescent, Bardwell Park
Owner	Mr Boris Markovski and Mrs Milica Markovski
Applicant	Boris Markovski
Proposal	Demolition of existing garage and construction of a split level dwelling house
No. of Submissions	Two (2) upon initial notification, two (2) upon re-notification
Cost of Development	\$475,000
Report by	Eric Alessi, Development Assessment Planner

Officer Recommendation

- 1 That the Bayside Planning Panel supports the variation to Clause 4.3 Height of Buildings of the Rockdale Local Environmental Plan 2011 in accordance with the Clause 4.6 variation request submitted by the applicant.
 - 2 That Development Application DA-2017/394 for the construction of a split level residential dwelling at 23 Earlwood Crescent, Bardwell Park 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.
 - 3 That the objectors be advised of the Bayside Planning Panel's decision.
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Attachments

- 1 Planning Assessment Report
 - 2 Proposed site plan
 - 3 site analysis
 - 4 Side elevations - north-eastern and south-western
 - 5 Front and rear elevations
 - 6 Roof plan
 - 7 Landscape plan
 - 8 Finishes schedule
 - 9 Streetscape analysis
 - 10 Shadow Diagram – June – 9am
 - 11 Shadow Diagram – June – 12pm
 - 12 Shadow Diagram – June – 3pm
 - 13 Clause 4.6 submission
 - 14 Statement of Environmental Effects
 - 15 Survey plan
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Location Plan

Fig 1 – Location Plan



BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2017/394
Date of Receipt:	23 June 2017
Property:	23 Earlwood Crescent, BARDWELL PARK (Lot 56 DP 792433)
Owner(s):	Mr Boris Markovski Mrs Milica Markovski
Applicant:	Mr Boris Markovski
Proposal:	Demolition of existing garage and construction of a split level dwelling house
Recommendation:	Approved
No. of submissions:	Two (2) upon initial notification, two (2) upon re-notification
Author:	Eric Alessi
Date of Report:	11 October 2017

Key Issues

The key issues related to this application are:

- The application has been accompanied by a written clause 4.6 variation which seeks a variation to the Maximum Permissible Building Height in the Height of Buildings Map.
- The land is in an area marked as Environmentally Sensitive Land in the Rockdale LEP 2011 Natural Resources - Biodiversity Map and contains a large rock outcrop.
- The site is steeply sloping containing a 9.3 metre fall to the rear.

Recommendation

1. That the Bayside Planning Panel supports the variation to Clause 4.3 Height of Buildings of the Rockdale Local Environmental Plan 2011 in accordance with the clause 4.6 variation request submitted by the applicant.
2. That Development Application DA-2017/394 for the construction of a split level residential dwelling at 23 Earlwood Crescent, Bardwell Park 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.
3. That the objectors be advised of the Bayside Planning Panels's decision.

Background

History

No records of previous consents exist in Council's records.

Proposal

Council is in receipt of a development application DA-2017/394 at 23 Earlwood Crescent Bardwell Park, which seeks consent to carry out the demolition of an existing garage and construction of a split level dwelling house (with three separate levels no greater than two (2) storeys at any one point).

Specifically, the proposal consists of:

- Four bedrooms
- Rumpus room
- Laundry
- Four (4) bathrooms
- Combined meals and kitchen area
- Family Room
- Rumpus room
- Three (3) balconies
- Double garage
- Combined lounge and dining area

Site location and context

The site is known as Lot 56 DP 792433, 23 Earlwood Crescent BARDWELL PARK. The allotment is generally rectangular in shape, however the front boundary along Earlwood Crescent is angled to align with the street. The land is unique in that it features large rocky outcrops. These rocks create steep falls at certain points on the land. The total slope of the site is steep with a fall to the north of 9.3 metres. There are three rocks that make up the bulk of the crop. There is a large rock which forms a cliff face running through the middle of the allotment extending from the neighbouring dwelling to the west into the site. The existing garage sits onto this rock. There is a series of smaller and larger rocks along the eastern boundary and a large rock in front of the cliff face.

The immediate area surrounding the site is characterised by low density residential development with a mix of one (1) and two (2) storey dwellings. Neighbouring the site to the east is a two (2) storey dwelling, and neighbouring the site to the west is the private open space of 97 Slade Road. On the opposite side of Earlwood Crescent are single and two storey dwellings. The topography of the area around the site is such that there is a slope from south to north. Properties on the southern side of Earlwood Crescent are higher than properties on the northern side. Land to the north of Earlwood Crescent is lower than the street level, with some allotments sunken significantly below the street.

There are no significant trees on site, however there is one street tree on Earlwood Crescent in front of the site. Some trees are located on adjacent properties.

Statutory Considerations

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 808777S_02

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

Reduction in Energy Consumption 40%

Reduction in Water Consumption 43%

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
2.7 Demolition requires consent	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 - see discussion	Yes - see discussion
5.9 Preservation of trees or vegetation	Yes	Yes - see discussion
5.9AA Trees or vegetation not prescribed by development control plan	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 - see discussion

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 (RLEP 2011). The proposal is defined as Dwelling House 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.

2.7 Demolition requires consent

The proposed development seeks consent for the demolition of the existing brick garage and hence satisfies the provisions of this Clause.

4.3 Height of buildings

The highest part of the proposed building from the natural ground level is 11m which exceeds the maximum 8.5m height permitted in Clause 4.3 (Height of buildings) of RLEP 2011. At this point the extent of the variation is 2.5 metres (or 30%). For an area of approximately 5 metres towards the rear of the first floor the height of the roof varies between 8.6 to 11 metres. The variation is due the the roof line of the ground floor component of the proposal exceeding the height on its northern side where the ground level drops considerably.

In accordance with clause 4.6 of RLEP 2011, the applicant has requested a variation to the maximum building height requirement. The proposed variation is discussed in section 4.6 exceptions to development standards in this report.

4.4 Floor space ratio - Residential zones

The Gross Floor Area of the proposed development has been calculated as 269.1 square metres over a site area of 582.2 square metres. In this regard, the proposed floor space ratio (FSR) for the building is 0.46:1 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 the Bardwell Valley, 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 RLEP 2011.

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.

As previously stated, for a length of approximately 5 metres the building exceeds the 8.5 metre height limit and is up to 11 metres at the highest point. The applicant has submitted a detailed justification for the proposed variation to the development standard. The justification is summarised as follows:

- The proposal has been designed to respond sensitively to its context and has regard to the form and style of other buildings in the streetscape.
- The building has been designed to maintain a two (2) storey form as it slopes down the site.
- The proposal maintains satisfactory sky exposure and daylight access to adjoining buildings.
- Not permitting the variation would require a design which involves cutting into the rock-face, or result is a design which is incongruous.
- The proposal only exceeds the height necessary for the proposal to step down the rock ledge.
- The proposed non-compliance only extends for a length of five (5) metres.

Height Discussion

The proposal seeks a variation to clause 4.3 Height of Buildings. The objectives of this clause are as follows:

4.3 Height of buildings

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

- (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.*

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

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

The proposal is under the maximum permissible floor space ratio permitted for the site. Furthermore the scale and form of the dwelling is consistent with that of the neighbouring dwellings and dwellings in the broader area. Despite this the proposal exceeds the maximum permissible height for the land. In this regard consideration has been given to the merits of the proposal. The subject site is unique in that it is a steeply sloping allotment and features a rock formation which creates a steep fall at one point. The proposal has been designed as a split level building which contains a total of three (3) levels, with no section being greater than two (2) storeys in height. The part of the building which is to exceed the height limit is the roof of the ground-floor component of the building. This roof line starts at the front of the building along the Earlwood Crescent frontage which is single storey. At the front the height of the roof is well under the height limit, however it becomes over the height limit towards the rear as the ground level falls. The roof-level ends at a point towards the rear in which the building is to step down over the rock ledge, and the second split level component of the building begins. Any proposal on the site would need to be designed to be step in accordance with the natural features on the site. The variation to the height is to accommodate a design which responds to the topography of the land as opposed to facilitating a design which is in excess in scale to what is desired.

The proposal is consistent with this objective.

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

The consequence of not permitting the proposed variation to the building height would be that a completely different layout and form would be required. Consideration has been given to the suitability of the proposed built form. The form of the proposal is considered suitable for the following reasons:

- The proposal has been designed to minimise impact on views by maintaining a single storey form at the ground level.
- The proposal avoids cutting into the rock-face.
- The proposal has been designed to respond to the topography of the land.
- The proposal is generally consistent with the requirement of the RLEP2011 and RDCP 2011.

In this regard the proposal is consistent with this objective.

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

Consideration has been given the impacts on solar access to neighbouring properties as a result of the variation. The additional roof height is anticipated to only result in a minor increase in shadow length. The proposal incorporates appropriate setbacks and built form to minimise loss of solar access to neighbouring dwellings. The allotment is north-south oriented and shadowing caused by the proposal is considered acceptable for a development of this scale. Solar access to neighbouring dwelling is maintained well above what is the minimum required by the Development Control Plan.

The proposal is consistent with this objective.

(d) to nominate heights that will provide an appropriate transition in built form and land use intensity. Consideration has been given as to whether the built form of the proposal is consistent with that of the surrounding area. The proposal is a slip level dwelling which does not exceed two (2) storeys at any one point. The proposal complies with required setback, floor space ratio and maintains the required area of landscaping and private open space. The dwelling is of a similar scale to those in the immediate area and is not considered to be excessive.

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 objectives of clause 4.3 Height of Buildings.
- The site is unique as it slopes steeply and contains environmental features.
- The building has been designed to respond to the natural topography of the land.
- The variation will be of minimal environmental impact.

In consideration of the above it is considered that strict compliance with the development standards in this case is unreasonable and unnecessary, and there are sufficient environmental planning grounds to justify the variation.

5.9 Preservation of trees or vegetation

The site does not contain trees that are subject to approval by Council under clause 5.9 of RLEP 2011.

5.9AA Trees or vegetation not prescribed by development control plan

The proposal does not involve ringbarking, cutting down, topping, lopping, removal, injuring or destruction of any tree or other vegetation that is not of a species or kind prescribed for the purposes of clause 5.9 by a development control plan made by the Council.

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

The objectives of this clause are as follows:

6.2 Earthworks

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

(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,

(b) to allow earthworks of a minor nature without requiring separate development consent.

(2) Development consent is required for earthworks unless:

(a) the work is exempt development under this Plan or another applicable environmental planning instrument, or

(b) the work is ancillary to other development for which development consent has been given.

(3) Before granting development consent for earthworks, the consent authority must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,

(b) the effect of the proposed development on the likely future use or redevelopment of the land,

(c) the quality of the fill or the soil to be excavated, or both,

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,

(e) the source of any fill material and the destination of any excavated material,

(f) the likelihood of disturbing relics,

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.

The proposal contains a large rocky outcrop which includes a cliff face extending from the neighbouring dwelling at 97 Slade Road into the site. The outcrop is visible from neighbouring dwellings to the sides and to properties located at the rear, but is not visible from the street. The outcrop provides a considerable level of amenity. As such the impact on the outcrop should be minimised for the following reasons:

- To maintain amenity to occupants and neighbouring dwellings.
- To maintain the amenity of the land at the end of life of the development.

The proposal impacts on the rock outcrop as follows:

The proposal has generally been designed to avoid excavations and fill, in particular cutting into the rock outcrop that is on the site. The dwelling steps over rock so that removal of the rock is minimised. In particular the proposal avoids cutting into the rock cliff that runs through the middle of the site. A large portion of rock is to be retained underneath the sub-floor of the second storey. Despite this the proposal will involve some disturbance to the rocky outcrop. The land where the basement level is to be located is to be cleared of rock. The plans show that the wall of the second and basement storey are to be built adjacent to the cliff-face, and are not to disturb this part of the rock. Despite this page 6 of the Clause 4.6 submission statement states that *"there may be some very minor cutting into the rock ledge, with that level of detail to be resolved at Construction Certificate stage"*. Cutting into the rock ledge is undesirable and as such a condition of consent is proposed requiring no cutting into the rock ledge.

The proposed earthworks are acceptable in this instance as the development has been generally avoided excavations to maintain the future amenity of the site and the proposal meets the objectives of this Clause.

6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 51 metres to Australian Height Datum (AHD). The proposed building height is at 36.485 metres to AHD and in this regard, it is considered that the proposed development will have minimal adverse impact on the OLS and hence is acceptable with regards to this Clause.

6.6 Flood Planning Land

The site is affected by flooding. Special advice was sought from Council floodplain engineer in relation to flood controls for the site. Advice was that the following design specification is required:

- The driveway shall be at least 200mm higher than the top of the adjacent Earlwood Crescent kerb.

The proposal has been accompanied by a driveway profile demonstrating a crest height of 200mm above the top of adjacent Earlwood Crescent kerb. The plans have been assessed by Council's Development Engineer, and appropriate conditions of consent have been incorporated in the draft Notice of Determination. Subject to compliance with these conditions, the proposal is satisfactory in regards to flooding.

6.7 Stormwater

Council's development engineer has assessed the proposal and has provided the following comments:

"9,500 litre rainwater tank shall be provided to collect minimum 75% the roof runoff. Overflow is proposed to be directed to an existing drainage easement through No. 95 Slade Road property. The applicant must connect the rainwater tank to:

- the cold water tap that supplies each clothes washer in the development*
- for toilet flushing*
- at least one outdoor tap in the development (only for non-potable use)*

Condition will be inserted to submit amended stormwater plan as above requirement prior to CC."

Council's development engineer recommendations have been included as conditions of consent in the draft notice of determination. Provided conditions of consent are adhered to the proposal is consistent with the objectives and controls of this Clause.

6.12 Essential services

Services will generally 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
4.1.3 Water Management	Yes	Yes - see discussion
4.1.3 Flood Risk Management	Yes	Yes
4.1.4 Soil Management	Yes	Yes - see discussion
4.1.6 Development on Sloping Sites	Yes	Yes - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.7 Tree Preservation	Yes	Yes - see discussion
4.1.9 Lot size and Site Consolidation - Dwelling	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.2 Streetscape and Site Context - Fencing	Yes	Yes - see discussion
4.3.1 Open Space & Landscape Design - Low & medium density residential	Yes	Yes - see discussion
4.3.2 Private Open Space - Low 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 - Dwelling House	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes - see discussion
4.6 Basement Parking - General	Yes	Yes
4.6 Driveway Widths	Yes	Yes
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 - Dwelling house and Attached Dwellings	Yes	Yes - see discussion
5.1 Building Design - General	Yes	Yes - see discussion

4.1.1 Views and Vista

The objectives of this clause are as follows:

Objectives

- A. To maintain and enhance existing views to and from the Cooks River and Botany Bay*
- B. To protect significant view corridors to landmarks and heritage items that contribute to a sense of place*
- C. To ensure the appearance of development at highly visible sites complements the character of the area and its skyline*
- D. To encourage view sharing as a means of ensuring equitable access to views from neighbouring properties*
- E. To provide additional views and vistas from streets and other public spaces where opportunities arise*

Adjoining properties enjoy views over the site, in particular properties on the southern side of Earlwood Crescent which are situated at a higher ground level. The part of the building along Earlwood Crescent has been designed to be minimal in scale in comparison to the dwelling as a whole. The front component of the proposal will be single storey and have a total height of 4.585 metres (3.63 metres above the nature strip in front of the site). More specifically the view impact on the dwelling directly opposite the site is discussed below.

22 Earlwood Crescent

22 Earlwood Crescent is located directly opposite the site and is a split level dwelling which consists of a basement level garage and a ground level residential component. The dwelling is located on the southern side of Earlwood Crescent. The topography of the area is such the the dwelling is situated at a higher ground level than 23 Earlwood Crescent. The property enjoys views of the valley over the site, however views are partially obstructed by the existing double garage. A review of aerial photography demonstrates that this garage has been on the site since at least 1965. While the existing garage covers part of the frontage of the allotment the proposal extends the length of building work along most of the frontage, and as such will increase impacts on views.

The principles of view sharing set out in *Tenacity Consulting v Warringah Council* were used to assess the impact:

The 'planning principle' sets out a four step assessment in regards to what constitutes a 'reasonable sharing of view'. The steps are as follows:

1. *Description and assessment of views to be affected by the proposal and the value of these views.*
2. *Ascertain whether view retention expectations are realistic. Consider what part of the property the views are obtained. (The protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries)*
3. *Assess the extent of the impact for the whole property. The impact should be qualified on a scale of negligible to devastating.*
4. *Assess the reasonableness of the proposal that is causing the impact, taking into account any non-compliance that is causing view loss (A development that complies with all the planning controls would be more reasonable than one that breached them).*

The following comments are offered in respect to the above considerations:

Description and assessment of views to be affected by the proposal and the value of these views.

The property enjoys views over the valley. The view does not include any iconic features, but does offer amenity value. The value of the view is considered high.

Ascertain whether view retention expectations are realistic. Consider what part of the property the views are obtained. (The protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries)

Views are obtained from the front of the property.

Assess the extent of the impact for the whole property. The impact should be qualified on a scale of negligible to devastating.

The impact is to the front of 22 Earlwood Crescent which consists of an elevated porch and windows to habitable rooms. The impact on views is considered moderate. This is due to the fact the existing garage blocks most of the views across the valley.

Assess the reasonableness of the proposal that is causing the impact, taking into account any non-compliance that is causing view loss (A development that complies with all the planning controls would be more reasonable than one that breaches them)

The impact is caused by the front elevation along Earlwood Crescent. It is noted that the proposal seeks a variation to the maximum permissible building height on the site, however it is considered that this variation relates to a component of the proposal which is does not impact on views to 22 Earlwood Crescent. The front elevation of the proposal which is the component of the proposal impacting on

views is single storey in height and is compliant with all planning controls including setbacks, and the maximum permissible building height. For impact on views to be eliminated the proposal would need to be heavily modified to be restricted to the curtilage of the existing garage or relocated to the rear of the allotment, or the site remain not developed. The proposal is generally consistent with planning controls and the proposal is considered reasonable.

In consideration of the above principles of view sharing are satisfied.

The dwelling has been designed and sighted to minimise adverse impact on views on adjoining properties and as such the proposal is consistent with the objectives of this section.

4.1.3 Water Management

The roofwater and runoff is to be directed to an detention tank. A stormwater plan has been submitted.

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. The topography of the site such that it falls steeply from Earlwood Crescent. The fall is pronounced by a cliff face formed by a rocky outcrop.

The design of the building has been made to step in in-accordance with the natural topography of the land. The dwelling incorporates a multilevel design incorporating a one (1) storey portion at the front and a two (2) storey portion to the rear. The design has been made to minimise cutting and filling, however some excavations will be needed to create a level foundation as discussed in section 6.2 Earthworks.

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

4.1.7 Tree Preservation

There are no significant trees on site. Council's Tree Management Officer has recommended appropriate conditions that have been imposed in the draft Notice of Determination, regarding the protection and retention of trees on adjoining properties and the protection of the Brush Box street tree located on the nature strip.

4.1.9 Lot size and Site Consolidation - Dwelling

The allotment has a width of 16 metres. The minimum required allotment width for this type of development is 15 metres. The proposal is consistent with the objectives and controls of this section.

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 two (2) storey dwellings. The proposed split level dwelling 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 front setback is consistent with the variable setbacks of the neighbouring two (2) storey buildings and in this regard the residential streetscape will be retained and complemented.

The proposed built form on site complies with the required height and FSR requirements. The proposed development has been designed with appropriate use of articulation & modulation to the facades which adds visual interest to the facades. The proposed development will have a front door and window addressing the street, with the building's frontage and entry points being readily apparent from the street.

The proposed development has been designed with front living windows etc, that will provide casual surveillance of the street. Further, the proposed landscaping, and other features have been sited so as to provide clearly defined public, semi public and private spaces.

Roof form

Control 16 of section 5.1 requires roof forms to respond to the local context, in particular scale and pitch. The proposal incorporates a flat roof. The majority of dwelling along Earlwood Crescent have pitched roofs with terracotta tiling. Dwellings on Earlwood Crescent predominantly consist of between the wars and post war period housing. There is one recently constructed modern dwelling with a flat roof.

Consideration has been given to the appropriateness of a flat roof in the context of the site. The roof-form is not consistent with the predominate roof forms in the street. However in this instance it is anticipated a pitched roof would result in a design which is not constant with the objective of clauses 4.1.1 Views and Vista of the RDCP2011 and 4.3 Height of buildings of the RLEP2011. Therefore in this instance a flat roof is acceptable.

4.2 Streetscape and Site Context - Fencing

The proposal does not include any fencing.

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

The total area of landscape area proposed to be provided is 222.6 square metres over a total site area of 582.2 square metres. Landscaping consists of a total area of 38% of the site. The minimum required landscaped area is 25%. Councils Landscape officer has approved the submitted landscape plans subject to recommendations to be incorporated into the draft Notice of Determination. The proposal provides adequate landscaping, with 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.

The proposal complies with the controls and objectives of this section.

4.3.2 Private Open Space - Low density residential

The proposal incorporates 184.2 square metres of private open space. The required area of private open space for a dwelling with a Gross Floor Area of greater than 125 square metres is 80 square metres. Private open spaces are usable, accessible, clearly defined and will meet occupants requirements of privacy, solar access, outdoor activities and landscaping.

The proposal complies with the controls and objectives of this Clause.

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

The proposal has been accompanied by shadow diagrams for mid-winter at 9:00 am, 12:00 pm and 3:00 pm. The shadow diagrams show that at 9:00 am mid winter a shadow will be cast into the private open space of 97 Slade Road. By 12:00 pm the shadow will shift to shadow the front of the proposal and the carport area of 97 Slade Road. At 3:00 pm the shadow will have shifted so that shadow is mostly cast to the front of the proposal with a small area of overshadowing to no. 21 Earlwood Crescent. The proposal will cause no overshadowing to habitable rooms of adjoining dwellings. Less than 50% of the private open space of 97 Slade Road is to receive shadowing and over three (3) hours of direct sunlight is to be maintained.

The proposal does not unreasonably diminish sunlight to neighbouring properties and within the development site and the proposal is consistent with the controls and objectives of this Clause.

4.4.3 Natural Lighting and Ventilation - Residential

The proposed development is designed to achieved natural ventilation and lighting, incorporating minimum ceiling heights of 2.7m to the ground and first floors and basement levels.

4.4.5 Visual privacy

The objective of this section is as follows:

Objective

A. To site and design buildings to ensure acoustic and visual privacy for occupants and neighbours

Visual impact discussion

The nature of the land is such that that the building will need to be situated considerably higher than neighbouring dwellings. As such the opportunity for overlooking into neighbouring properties will be present. Consideration has been given to privacy impact on adjoining properties for balconies and windows. The proposal includes three (3) rear facing balconies, one for each level of the dwelling. The ground floor balcony is the highest and largest balcony included. The balcony faces into the rear into 97, 95, and 93 Slade Road and 21 Earlwood Crescent. To provide a reasonable level of privacy to adjoining dwellings the balcony is to feature 1.8 metre high privacy screens to both sides of the deck area. A non trafficable roof area extends 3.3 metres to the rear of the balcony area. This will prevent downward looking into northern properties providing some level of privacy to northern dwellings.

The balconies for the second storey and basement level are much smaller than the ground level, and it is anticipated will experience less use than the ground floor balcony. These balconies features a glass balustrade the whole length of the balcony. No privacy screens are proposed on either side of these balconies. The balconies present the opportunity for overlooking into adjoining dwellings to the side and to the rear. To provide a reasonable level of privacy to the dwellings to the side it is proposed a conditions of consent require privacy screening to be incorporated into both sides of the balconies.

The provide additional privacy to dwellings to the north the proposal incorporates screening vegetation along its northern boundary. The landscape plan shows that there are to be trees growing to a mature height of three (3) to six (6) metres.

Along the eastern boundary there are seven windows. Two will face forward of number 21 Earlwood Crescent. These are both windows for bathrooms and will be frosted. There area no windows on the southwestern elevation.

In summary the proposal incorporates the following measures to minimise visual privacy impacts to adjoining dwellings.

- Appropriately locating window to minimise overlooking
- The inclusion of privacy screens
- Prevent downward looking from balconies by incorporating non trafficable areas.
- Incorporating privacy screening vegetation

In consideration of the above the proposal meets the objectives of this clause which is to site and design buildings to ensure visual privacy to neighbouring dwellings and occupants. The proposal meets the objective and controls of this section.

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. A condition of consent as been included to ensure air conditioning does not create offensive noise.

4.6 Parking Rates - Dwelling House

The development will have minimal impact on access, parking and traffic in the area. The provision of two (2) car spaces is in accordance with RDCP 2011.

4.6 Car Park Location and Design

Car parking is easily accessible and recognisable to motorists. Garage doors are treated as an integrated element of the building design.

The proposal meets the objectives and controls of this section.

4.7 Air Conditioning and Communication Structures

The plans do not show any ancillary facilities which are visually intrusive to the streetscape. The proposal is consistent with the controls set out in this Clause.

5.1 Storey Height and Setbacks - Dwelling house and Attached Dwellings

Street Setback

The nature of the land is such that no prevailing setback has been established on the north side of Earlwood Crescent. The neighbouring dwelling at 21 Earlwood Crescent has a setback of 8.3 metres at its shortest point as measured from the survey plan provided. The front boundary is angled so the numerical measurement varies depending on what point of the frontage the setback is measured. The proposal incorporates a front setback of 7 metres at its shortest point. Where the dwellings meet each other at the adjoining boundary 21 Earlwood Crescent has a setback of 8.3 metres and the proposal has a setback of 9.6 metres. The proposal has been designed so that the building line is consistent with

that of the adjoining dwelling. The setback also provides adequate space for landscaping and visual amenity. In consideration of the above the proposal setback is acceptable and compliant with DCP2011.

Side Setback

The minimum required side setback for two (2) storey components of a dwelling is 1.5 metres, and 0.9 metres for single storey components. The proposal incorporates a 0.9 metres side setback for the single storey component along both side boundaries. All two (2) storey components have a 1.5 metre side setback.

Rear Setback

The proposal incorporates a 14 metre rear setback. The minimum required rear setback is 6 metres.

The proposed setbacks meet all numerical requirements in the RDCP2011. Further, 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.

5.1 Building Design - General

The following comments are made in relation to building design and the controls of this section:

- The garage is located at the front of the property facing Earlwood Crescent. The garage is recessed into the building frontage being set back 3.2 metres from the front building line. Garage doors are an integrated element of the building design and consists of less than 40% of the site frontage.
- The flat roof is appropriate in this instance to minimise impacts of the proposal in terms of overshadowing and view loss.
- Features are incorporated into the facade including glazing and a porch.
- The proposal incorporates a split level design which is appropriate in this context.

Accordingly the proposal is consistent with the controls of this section.

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.

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 the provision of surface flows however, excavation for the proposed dwelling is not deep enough to cause any adverse impact on the direction of the surface flows.

Construction

The residential building is to be constructed in brick and flat metal deck roof. 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.

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. To the extent that there are natural hazards, physical constraints and environmental impacts measure have been made to minimise the impact of these as discussed through this report.

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

The development has been notified in accordance with the provisions of Rockdale DCP 2011 and four (4) separate submissions have been received. The issues raised in the submission are discussed below:

Issue 1: The proposal exceeds the maximum permissible height

Comment: The impacts of this exceedance in height have been considered and are considered minimal. Unique constraints on the site are such that exceeding the height is warranted to achieve a good design outcome.

Issue 2: The proposal is not consistent with objective (c) of Clause 4.3 Height of buildings

Comment: The impacts on solar access are consistent with the requirements of the Development Control Plan and the component of the proposal which exceeds the height will present minimal additional overshadowing.

Issue 3: The proposal is not compatible with the existing streetscape

Comment: The northern side of Earlwood Crescent is unique in that the topography varies so that some parts are higher or lower than the street level. There is no consistent streetscape form in terms of building heights, scale or setbacks. The proposed streetscape form is suitable as it is not excessive in scale and will minimise adverse impacts on views to properties on the opposite side of Earlwood crescent.

Issue 4: The proposal will have adverse privacy impacts

Comment: The proposal has been designed to minimise adverse privacy impacts on adjoining dwellings. A detailed discussion on privacy is in section 4.1.1 of this report.

Issue 5: There will be more fill along the eastern boundary than what is represented in the plans.

Comment: The levels of fill will need to be consistent with the approved plans. A condition on consent will be placed on the draft notice of determination stating that excavation or fill that is not shown on the approved plans is not permitted.

Issue 6: The proposal will impact on views.

Comment: A detailed discussion on views is provided in section 4.1.1 Views and Vista.

Issue 7: The proposal will impact on trees on adjoining premises.

Comment: Council's tree management officer has assessed the proposal and recommended appropriate conditions of consent pertinent to the protection of trees on adjoining properties.

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

The rocky outcrop located on the land provides amenity, and as such it is in the public interest for disturbance to the rock to be minimised. A detailed discussion about the proposal and the outcrop is in section 6.2 of this report.

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.

S94A Fixed development consent levies

Section 94A of the Environmental Planning and assessment Act 1979 (as amended) applies to the proposal. In this regard, a standard condition of development consent has been imposed in respect to a levy applied under this section.

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 5 Prohibition of the construction of buildings of more than 50 feet in height in specified areas

The proposed development is affected by the 15.23 m Building Height Civil Aviation Regulations, however the proposed building height at 10.6 m will have minimal impact upon the height requirement in the regulations.

Schedule 1 - Draft Conditions of consent

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.

Plan/Dwg No.	Drawn by	Dated	Received by Council
01 (Site Plan)	Sabton & Son	Aug. 2017	10.08.2017
01c (Landscape Plan)	Sabton & Son	Aug. 2017	10.08.2017
02 (Ground Floor Plan)	Sabton & Son	Aug. 2017	10.08.2017
03 (Lower Floor Plan)	Sabton & Son	Aug. 2017	10.08.2017
04 (Basement Floor Plan)	Sabton & Son	Aug. 2017	10.08.2017
05 (Front and Back Elevations)	Sabton & Son	Aug. 2017	10.08.2017
06 (Side Elevations)	Sabton & Son	Aug. 2017	10.08.2017
07 (Section Through A - A)	Sabton & Son	Aug. 2017	10.08.2017
08 (Roof Plan)	Sabton & Son	Aug. 2017	10.08.2017
09 (Nathers Commitments)	Sabton & Son	Aug. 2017	10.08.2017
Schedule of Finishes	Sabton & Son	26.06.2017	26.06.2017

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 (808777S_02) 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. Excavation, filling of the site (with the exception of the area immediately under the building envelope), or construction of retaining walls are not permitted unless shown on the approved plans and authorised by a subsequent construction certificate.

Development specific conditions

The following conditions are specific to the Development Application proposal.

7. 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 temporarily detained 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.
8. 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.
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 sides of the balconies of the second and basement levels.
11. All trees shall be located within mulched landscaped beds except where this may interfere with the performance of an on site detention system.
12. No cutting, disturbance or removal of rock outside of the approved plans is to be undertaken.
13. The planting of indigenous plant species is encouraged and development is to be designed to minimise and preferably avoid the impact on indigenous flora and fauna on the development site or on land adjacent to it. (For list of suitable species, refer to Council's Technical Specification - Landscape, in particular Bardwell Valley Plant List)
14. Reduce maintenance and water consumption through appropriate species selection, and minimise turf to create a buffer zone to add to existing areas of remnant vegetation with local indigenous species.
15. Not cutting into the cliff face is to be undertaken during construction and in the operation of the development.

Prior to issue of the construction certificate

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

16. 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.
 - A Footpath Reserve Restoration Deposit of \$2,570.00. 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.
 - An environmental enforcement fee of 0.25% of the cost of the works.
 - A Soil and Water Management Sign of \$18.00.
17. 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.
18. An application for Driveway Works (Public Domain Construction – Vehicle Entrance/Driveway Application) / Frontage Works (Public Domain Frontage Works Construction Application) shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary frontage works, egress paths, driveways and fences shall comply with the approval. A fee is payable to Council. 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.
19. A Section 94 contribution of \$7,513.00 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:

Child Care Services	\$48.01
Community Services	\$51.42
Library Services	\$694.84
Bexley North	\$1287.47
Bexley North Regional Open Space Fund	\$2036.31
Bexley North City Wide Open Space Fund	\$1524.35
Bexley North Local TC and Streetscape Fund	\$322.32
Bexley North City Wide TC & Streetscape Fund	\$228.85
Bexley North Pollution Control	\$1177.87
Bexley north Admin & Management	\$96.74
Bexley North Admin & Management Amend 5	\$44.82

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

20. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance or owner builder's permit in force in accordance with Part 6 of that Act, that such a contract or permit is in place.
21. 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>

22. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted in generally in accordance with stormwater management plan prepared by Savvas Polycarpou, dated Aug 2017, ref no. 3028, issue B to Principal Certifying Authority for assessment and approval. Stormwater plan shall also include following:

(i) 9,500 litre rainwater tank to be provided to collect minimum 75% the roof runoff.

The applicant must connect the rainwater tank to:

- the cold water tap that supplies each clothes washer in the development
- For toilet flushing
- at least one outdoor tap in the development (only for non-potable use)

(ii) No concentrated flow to be directed to neighbouring property.

(iii) Driveway grate to be minimum 300mm width

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.

23. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile 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 length.

Driveway profile to be designed as per the following requirement:

(i) Driveway to have a crest level which is 200mm above the gutter invert level to protect low level driveway from flooding in 1% AEP flood event.

(ii) Front boundary level to be above the Top of kerb level in front of the property.

(iii) Driveway gradient and transition shall comply with AS2890.1:2004.

Where a Private Certifier issues the Construction Certificate a copy of the above

documentation must be provided to Council, once the Construction Certificate is issued for the relevant stage of works.

24. A qualified practicing geotechnical engineer must;

- (a) Implement all recommendations contained in the report prepared by AssetGeo, dated 24/8/2017, ref no 4523-R1, dated 6/9/2016.
- (b) Provide a certificate that the structural design drawings, including the retaining structure design and other relevant construction certificate plans are satisfactory from a geotechnical perspective.
- (c) Prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure.
- (d) Prepare critical stage inspection schedule, supervise installation of support measures & inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.
- (e) Inspect all new footings and earthworks to confirm compliance to design assumptions with respect to allowable bearing pressure, basal cleanness and stability prior to the placement of steel or concrete,
- (f) Review completed works and dilapidation report to ensure no impact to adjoining structures have been created by site works and that all required stabilisation and drainage measures are in place.
- (g) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued for the relevant stage of works.

25. **Vibration monitoring**

Prior to the commencement of works vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice.

The principal contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifying Authority within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

Note: Professional engineer has the same meaning as in Clause A1.1 of the BCA.

Note: Building has the same meaning as in section 4 of the Act i.e. "building includes part of a building and any structure or part of a structure".

Note: Supported land has the same meaning as in section 88K of the Conveyancing Act 1919.

26. **Workzone Traffic Management Plan**

Prior to the issue of the relevant Construction Certificate, a Workzone Traffic Management Plan (WZTMP) prepared by a suitably qualified person shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- (a) ingress and egress of vehicles to the site;
- (b) loading and unloading, including construction zones;
- (c) predicted traffic volumes, types and routes; and
- (d) pedestrian and traffic management methods.

Prior to commencement of works

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

- 27. 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.
- 28. 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.

- 29. 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.

30. 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.
31. 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 outside the drip lines of trees which are required to be retained. 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.
32. 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.
33. 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.
34. 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.

35. 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.
36. 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.
37. 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.
38. 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.

39. 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.

40. 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 1.8m 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.
- 41. 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.
 - 42. The existing Brush Box street tree located at the front of the property is not to be removed or pruned, including root pruning, without the written consent of Council.
 - 43. Trees located within adjoining properties or Council's nature strip shall not be removed or pruned without the written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011.
 - 44. 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.
 - 45. Where drainage or paving works are proposed to be constructed in the area below the dripline of trees, the proposed works and construction methods must not damage the tree. Where either the trees or works were not shown in detail on the approved plans, then Council approval must be obtained by contacting Council's Tree Management Officer.

46. Underground Services such as pipelines or cables to be located close to trees, must be installed by boring or by such other method that will not damage the tree rather than open trench excavation. The construction method must be approved by Council's Tree Management Officer.
47. Existing soil levels within the drip line of trees to be retained shall not be altered without reference to Council's Tree Management Officer.
48. Building materials, site residue, machinery and building equipment shall not be placed or stored under the dripline of trees required to be retained.

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.

49. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
50. 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.
51. All landscape works are to be carried out in accordance with the approved landscape plans prior to the issue of an Occupation Certificate for the approved development. The landscaping is to be maintained to the approved standard at all times.
52. 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.
53. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
54. The width of the single driveway shall be minimum width of 3.0m and maximum of 4.5m at the property boundary.
55. 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.
56. 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.
57. 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.

58. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention (rainwater tank) facility to provide for the maintenance of the detention (rainwater tank) facility.
59. 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.
60. Prior to occupation a Chartered Professional Engineer competent in geotechnics shall certify that the construction works has been constructed in accordance with the approved geotechnical report and include an evaluation of the completed works. All the critical stage inspection note/report as was identified by the Geotechnical Engineer prior to the construction to be included within this certificate.

A copy of the certificate shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.

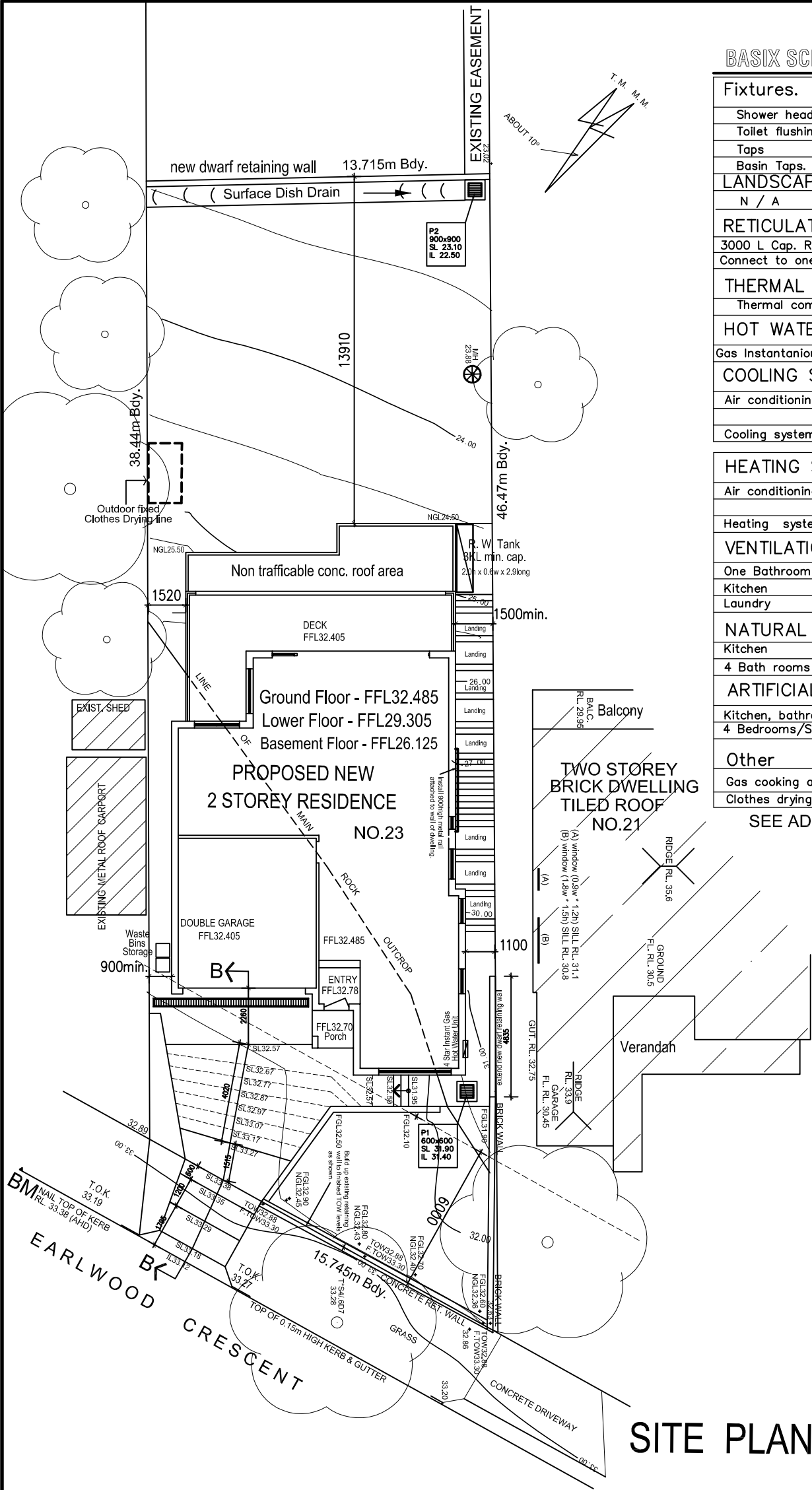
Development consent advice

- 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 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. Section 88E 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.
- d. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.

- e. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.



GENERAL NOTES

Do not scale drawings. Figured dimensions only to be used. All dimensions to be checked on site prior to commencement of the works.

All work to be done in a tradesperson manner and shall comply in all respects with local Government requirements. Relevant Aust. standards. Building code of Australia and Industry trade practice.

All Electrical, Plumbing and drainage works to be carried out by relevant qualified licenced persons in strict accordance with the requirements of the relevant authority.

All worked to be carried out with a minimum of inconvenience to adjoining residence. Protect adjoining properties from dust and debris. Keep site clean at all times and protect all established flora

All insurances must be taken out prior to the commencement of works and evidence provided to the relevant Authority

All timber framing members to be stress grade F7 or greater unless otherwise noted (except trusses in accordance with manu. Design Spec.). Framing to comply with AS 1684 in all respects. All exposed timbers to be dressed unless otherwise noted and paint primed where applicable prior to installation.

Protect timber from mortar stains and other damage, remove all debris from roof gutters and clean all face bricks on completion of works.

Roof to be build from timber framing and or truss.

All footings, concrete slabs, retaining walls and other load bearing elements to be designed by a Structural Engineers Design.

PROPOSED 2 STOREY / 3 LEVEL NEW CAVITY BRICK RESIDENCE

AT: 23 EARLWOOD CRESCENT BARDWELL PARK

FOR: MR. BORIS MARKOVSKI

ISSUE	DATE	CHANGES
A	Mar.17	DA Application
B	AUG.. 17	Additional Information as per Council's Letter dated June 2017

DRAWN: - A. M. JAMES

DATE: Aug. 2017

SCALE: 1 : 200

ISSUE: B

JOB NO: DOC818-17

DRG. NO: 01



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BUILDING DESIGNERS AND ENGINEERS
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BASIX SCHEDULE

Fixtures.	
Shower head	3 star minimum rating all showers.
Toilet flushing system	4 star rating in each toilet.
Taps	4 star minimum rating in the kitchen.
Basin Taps.	4 star minimum rating in each both room.
LANDSCAPE	
N / A	plant low water use vegetation
RETICULATED WATER	
3000 L Cap. Rain Water Tank to collect rainwater from at least 100sqm of roof area. Connect to one outdoor tap and connect to clothes washing machine tap.	
THERMAL REQUIREMENTS	
Thermal comfort performance	According to specified Basix certificate.
HOT WATER	
Gas Instantaneous Hot water system with a performance of 3 Stars or better	
COOLING SYSTEM	
Air conditioning 3 phase	Energy rating: EER > 2.5
In at least 1 bed room and 1 living room.	
Cooling system zoning	Day/night between living and bed room areas .
HEATING SYSTEM	
Air conditioning 3 phase	Energy rating: EER > 2.5
In at least 1 bed room and 1 living room.	
Heating system zoning	Day/night between living and bed room areas .
VENTILATION	
One Bathroom	Individual fan (not ducted) switch on / off
Kitchen	Individual fan (ducted to facade) switch on / off
Laundry	Natural ventilation only
NATURAL LIGHTING	
Kitchen	Window to be installed.
4 Bath rooms / WC	Windows for natural lighting .
ARTIFICIAL LIGHTING	
Kitchen, bathrooms, L'dry, hallways	Flourescent or led light
4 Bedrooms/Study & 2 Living/Dining	Flourescent or led light
Other	
Gas cooking and elect. oven.	In the kitchen.
Clothes drying	Fixed out door installed to the side of the house

SEE ADDITIONAL BASIX & NATHERS COMMITMENTS ON PAGE 09

DEVELOPMENT DATA

Lot 56 Site Area	582.2sqm
Permissible floor Area (50%)	291.0sqm
Ground floor Area	118.8sqm
Lower Floor Area	97.3sqm
Basement Floor Area	49.8sqm
Tot. floor Area Provided (46%)	265.9sqm
Proposed Site Cover (39.5%)	230.0sqm
Garage Floor Area	33.0sqm
Ground Floor Deck Area	32.1sqm
Private Open Space	188.0sqm
Landscape Area Provided	222.6sqm

Min. Building Front Setback - Gen. >6.0m

Min. new walls Side Setback - Gen. 1.5m

Max. permissible building height - 8.5m

Proposed Building height generally complies but for a small part of encroachment because of unusual site constrains as detailed in SEE.

FOR TERMITE CONTROL SYSTEM

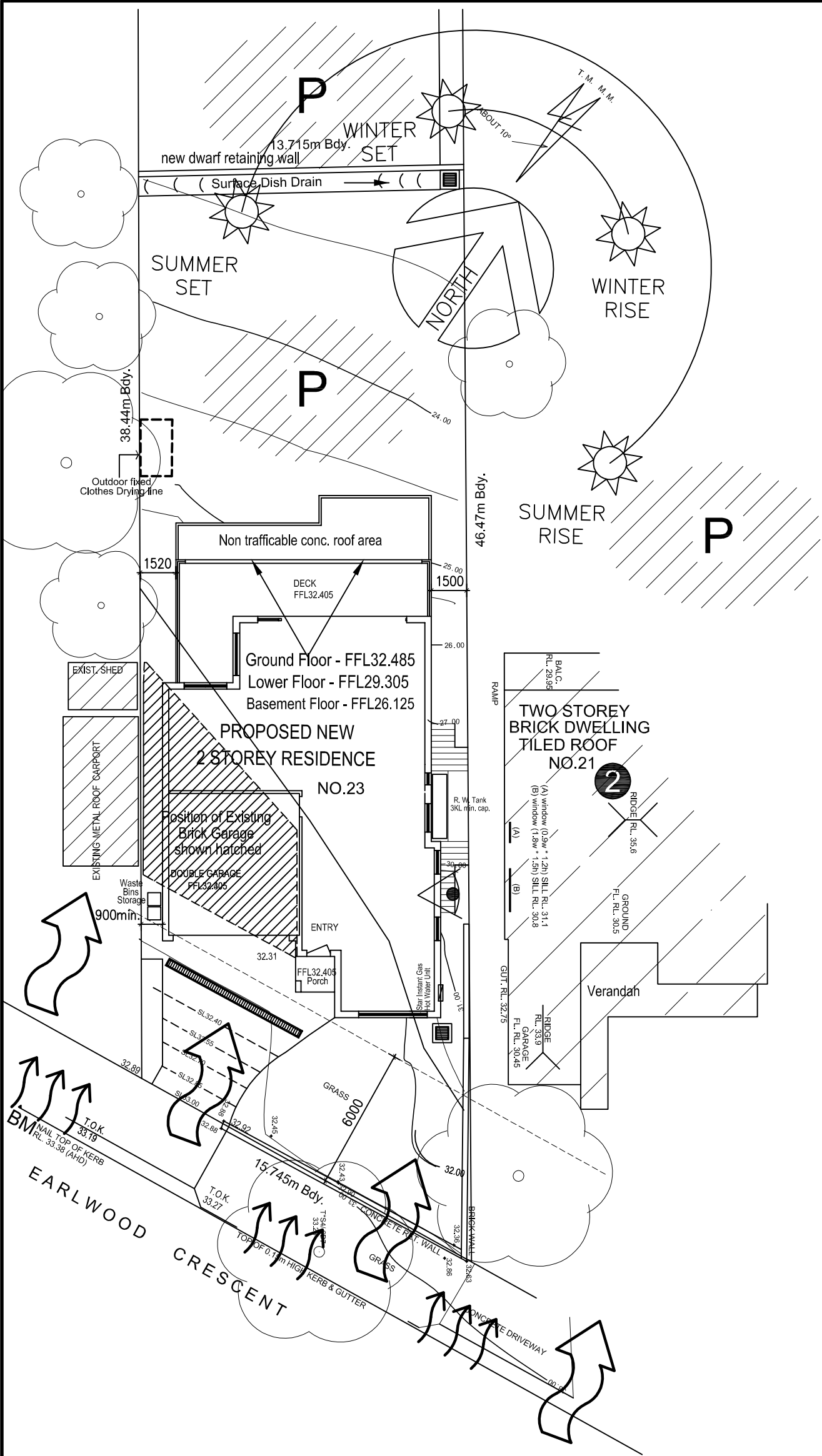
EXTENT OF WORK:

FORM A PHYSICAL TERMITE PROTECTION BARRIER TO PROTECT ALL NEW WORK FROM TERMITE ATTACK.








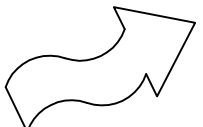
PROPRIETARY SYSTEM:

TERMIMESH STAINLESS STEEL TERMITE CONTROL BY TMA CORPORATION.

SUPPLY AND INSTALL MARINE GRADE STAINLESS STEEL WOVEN WIRE MESH BY AN ACCREDITED TECHNICIAN IN ACCORDANCE WITH THE MANUFACTURERS SPECIFICATION AND AUSTRALIAN STANDARD 3660.1-2000,"TERMITE MANAGEMENT,PART 1:NEW BUILDING WORK".



SITE ANALYSIS KEY


-  DENOTES EXISTING TREES TO BE RETAINED
-  DENOTES EXISTING TREES TO BE REMOVED BY OWNER PRIOR TO CONSTRUCTION
-  NUMBER OF STOREYS
-  PRINCIPAL PRIVATE OPEN SPACE
-  MINIMAL OVERLOOKING
-  MAIN VIEWS
-  NOISE IMPACT
-  PREVAILING WINDS

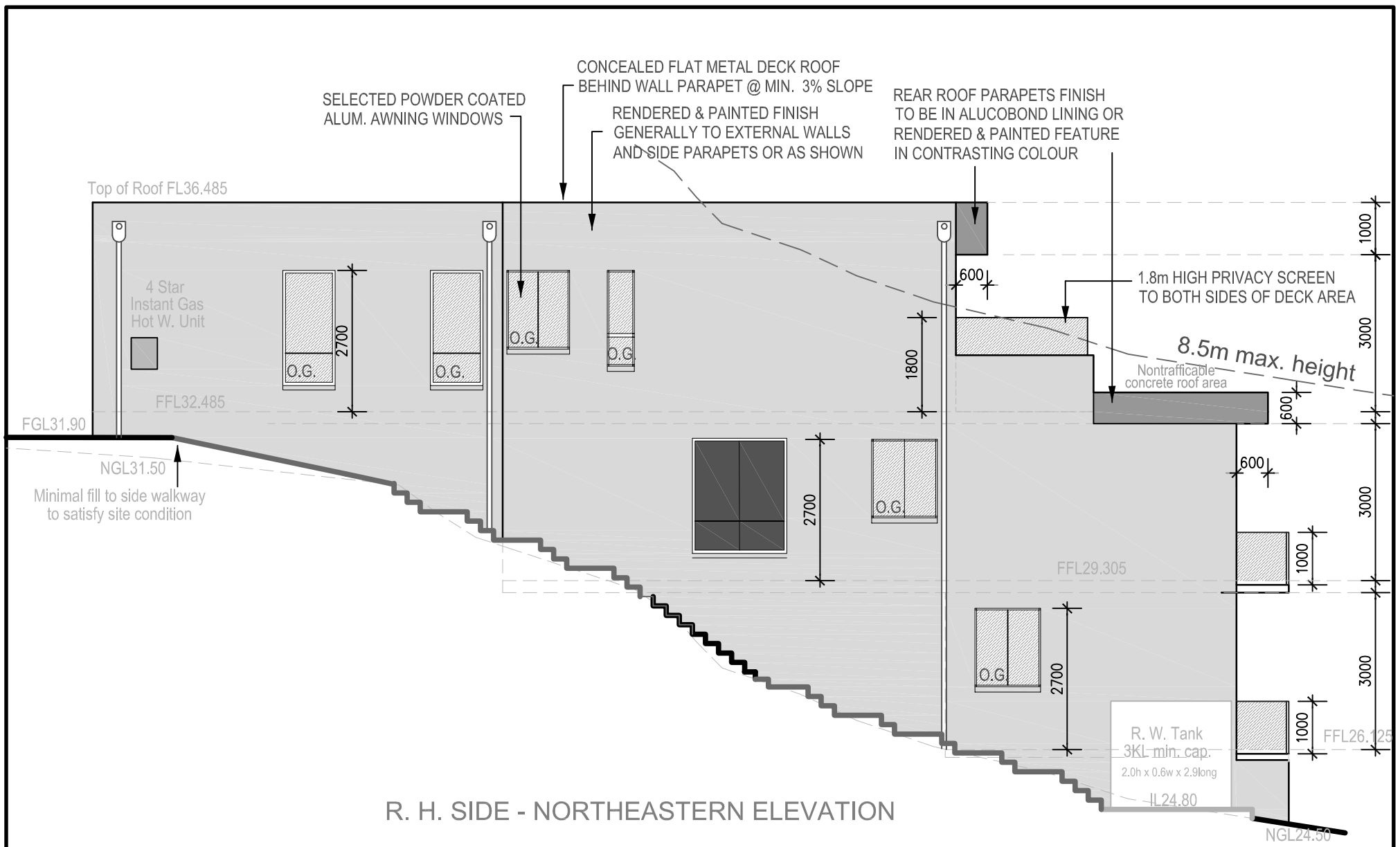
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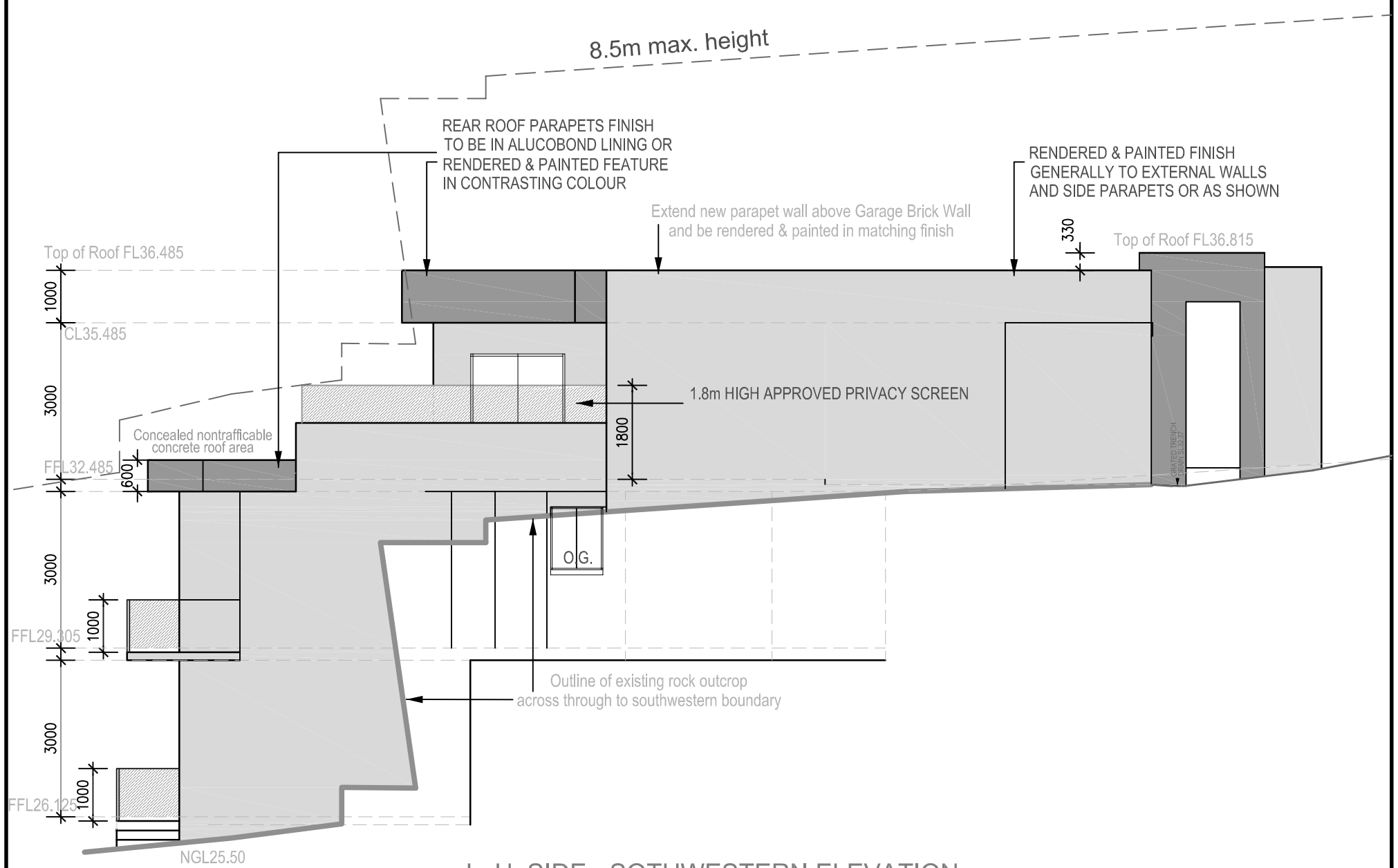
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Proposed Building height generally complies but for a small part of encroachment because of unusual site constraints as detailed in SEE.

SITE ANALYSIS PLAN

PROPOSED 2 STOREY / 3 LEVEL NEW CAVITY BRICK RESIDENCE AT: 23 EARLWOOD CRESCENT BARDWELL PARK FOR: MR. BORCE MARKOVSKI	ISSUE	DATE	CHANGES	DRAWN: - A. M. JAMES DATE: Mar. 2017 SCALE: 1 : 200 ISSUE: A JOB NO: DOC818-17 DRG. NO: 01a	 SABTON & SON BUILDING DESIGNERS AND ENGINEERS TEL: (612) 4567 2002 sabton@optusnet.com.au FAX: (612) 4567 2002 design@sabtonandson.com.au MOB: 0408 663 223
	A	Mar.17	DA Application		




R. H. SIDE - NORTHEASTERN ELEVATION

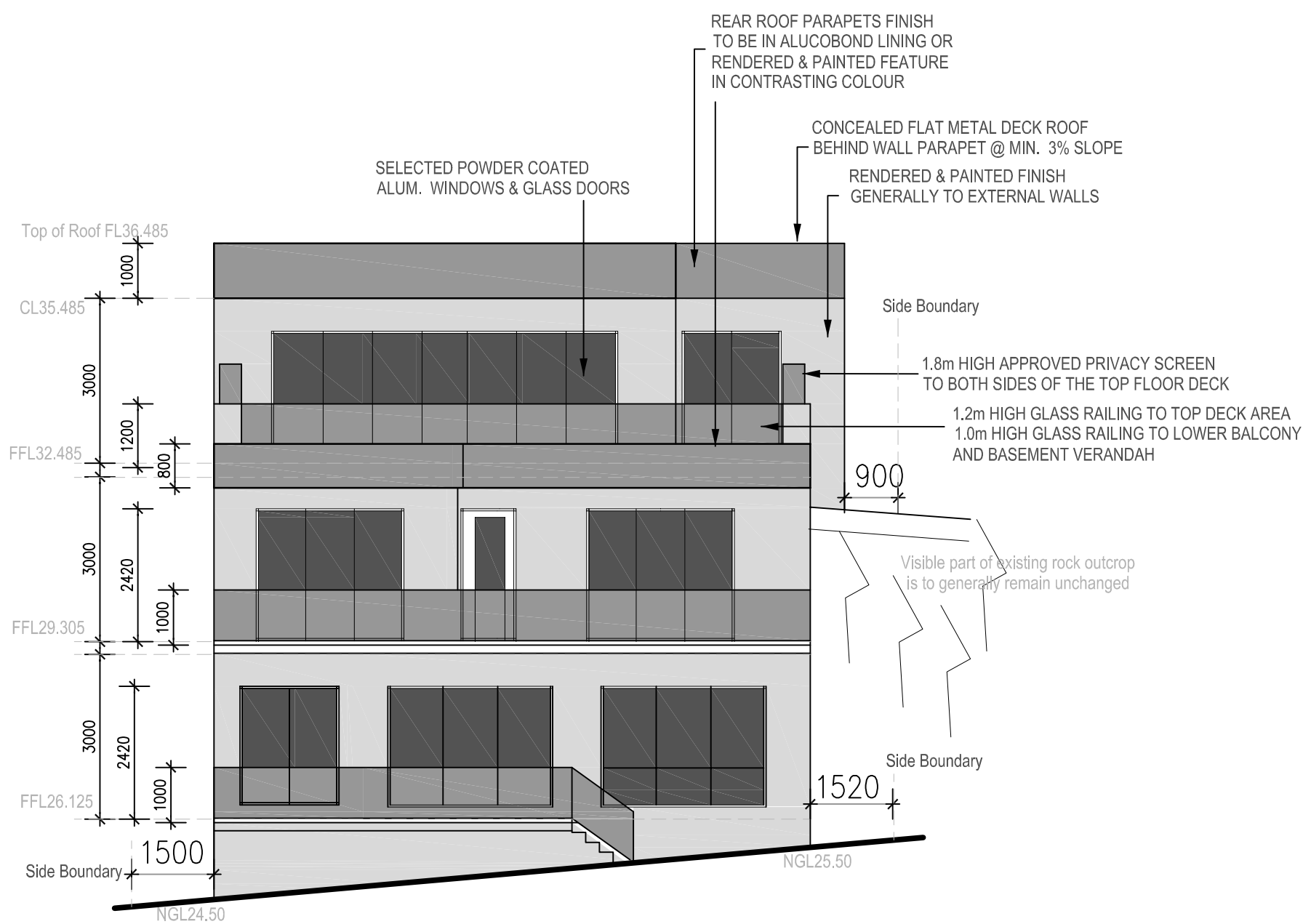
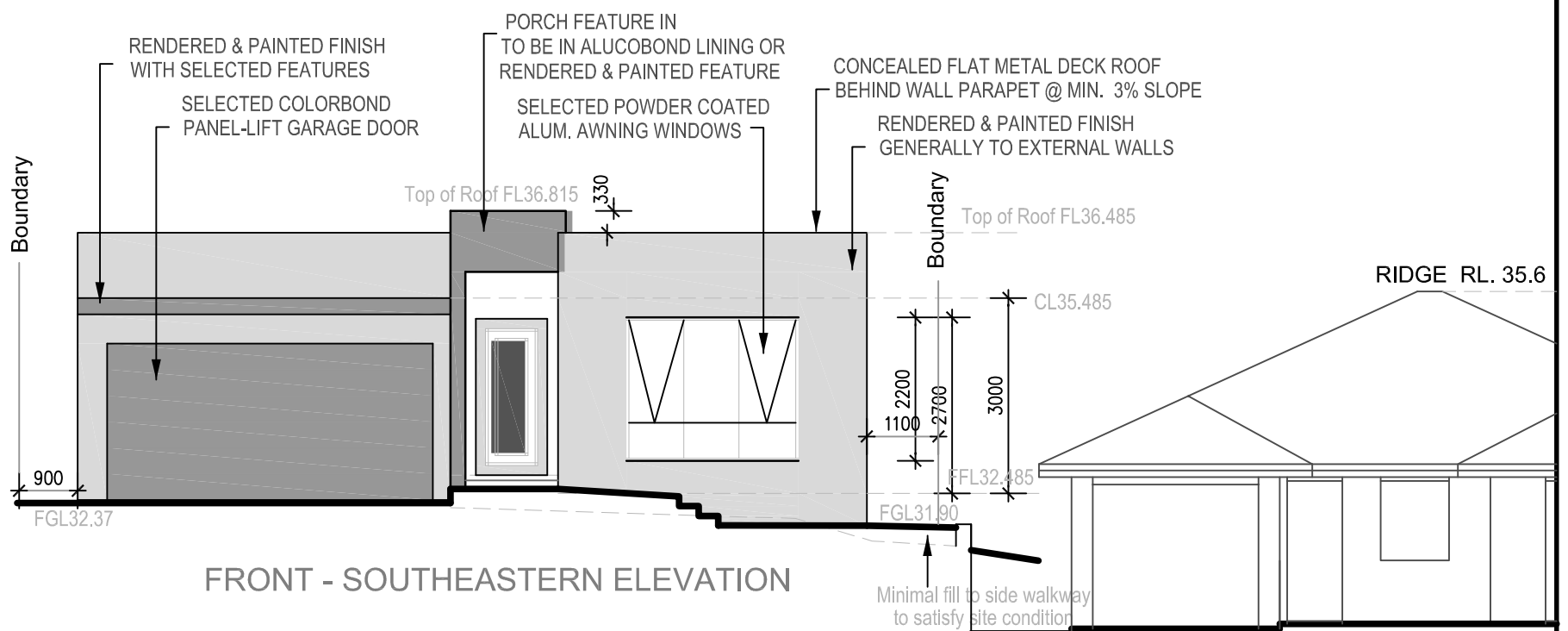


L. H. SIDE - SOUTHWESTERN ELEVATION

O.G. - DENOTES WINDOW WITH OBSCURED GLASS

SEE ADDITIONAL BASIX & NATHERS COMMITMENTS ON PAGE 09

PROPOSED 2 STOREY / 3 LEVEL NEW CAVITY BRICK RESIDENCE AT: 23 EARLWOOD CRESCENT BARDWELL PARK FOR: MR. BORIS MARKOVSKI	ISSUE	DATE	CHANGES	DRAWN: - A. M. JAMES DATE: Aug. 2017 SCALE: 1 : 100 ISSUE: B JOB NO: DOC818-17 DRG. NO: 06	 SABTON & SON BUILDING DESIGNERS AND ENGINEERS TEL: (612) 4567 2002 FAX: (612) 4567 2002 MOB: 0408 663 223
	A	MAR., 17	PRELIMINARY SKETCH		
	B	AUG., 17	Additional Information as per Council's Letter dated June 2017		



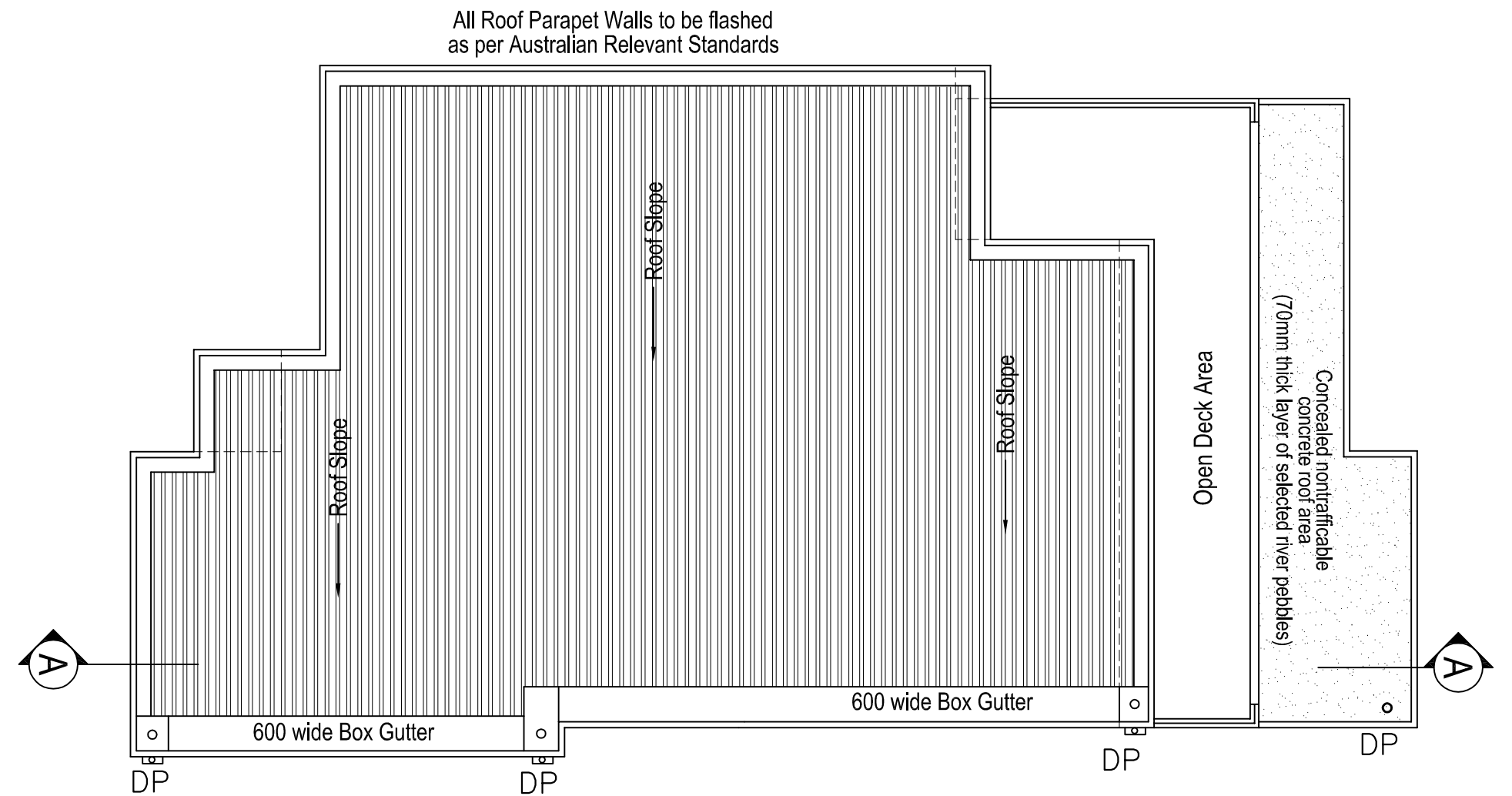
SEE ADDITIONAL BASIX & NATHERS COMMITMENTS ON PAGE 09

PROPOSED 2 STOREY / 3 LEVEL NEW CAVITY BRICK RESIDENCE
AT: 23 EARLWOOD CRESCENT BARDWELL PARK
FOR: MR. BORIS MARKOVSKI

ISSUE	DATE	CHANGES
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ROOF PLAN

SEE ADDITIONAL BASIX & NATHERS COMMITMENTS ON PAGE 09

PROPOSED 2 STOREY / 3 LEVEL NEW CAVITY BRICK RESIDENCE
AT: 23 EARLWOOD CRESCENT BARDWELL PARK
FOR: MR. BORCE MARKOVSKI

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CARRY OUT THE FOLLOWING TASKS FOR A TWELVE-MONTH PERIOD FROM THE DATE OF PRACTICAL COMPLETION:

- * WATERING OF ALL LAWN AND PLANTED AREAS
- * MOWING OF ALL TURFED AREAS
- * WEEDING OF ALL LAWNS AND GARDEN AREAS
- * RUBBISH REMOVAL
- * FERTILISING TO ACHIEVE OPTIMAL GROWTH

- * PEST AND DISEASE CONTROL
- * RETURNING TO FAILED LAWN AREAS
- * ADJUSTMENT OF STAKES AND TIES
- * REPLACE FAILED PLANTING
- * PRUNING AND HEDGE CLIPPING OF PLANTS
- * AERATING OF TURF
- * REINSTATEMENT OF MULCH
- * TOP DRESSING OF TURF AREAS AS REQUIRED

IN GROUND PLANTING PROCEDURE

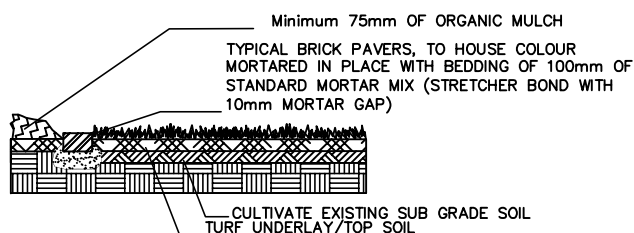
- 1) REMOVE EXISTING GRASS PRIOR TO ANY WORKS.
- 2) LOOSELY BREAK-UP SOIL SURFACE WITH A ROTARY HOE.
- 3) APPLY 50mm OF DECOMPOSED COW MANURE OVER ALL PLANTER BEDS AND LOOSELY DIG IN TO SITE SOIL.
- 4) REST SOIL FOR AT LEAST 3 TO 4 WEEKS PRIOR TO PLANTING.
- 5) PLANTS SHOULD BE REMOVED FROM THEIR POTS AND PLANTED INTO PRE-DUG HOLE TWO TIMES THE SIZE OF THE POT, THE SOIL SURFACE SHOULD BE LEVEL WITH THE POTTING MIX SURFACE LEVEL. NO FERTILIZER OR OTHER MATERIAL SHOULD BE INCLUDED PRIOR TO BACK FILLING. BACK FILL WITH SITE SOIL AND LIGHTLY COMPACT AROUND PLANT.
- 6) APPLY 100mm OF PINE FLAKE MULCH
- 7) APPLY UREA AT A RATE OF 5KG PER 100M² TO ALL BEDS.
- 8) SOIL MOISTURE SHOULD BE MAINTAIN AROUND TREES DURING THE ESTABLISHMENT PERIOD (FIRST 12 MONTHS). AFTER THAT PERIOD, TREES SHOULD BE ALLOWED TO HARDEN OFF. THE SOIL MOISTURE AROUND TREES AND SHRUBS WILL TO BE MAINTAINED DURING DRY PERIODS FOR THE CONTINUING HEALTH VIGOUR OF ALL PLANTS

To preserve the the existing tree, no work shall commence until the trunk is protected by the placement of 2.0 metre long of 50 x 100mm hardwood timbers stakes spaced at 1500mm centres and secured by 2mm wire at 300mm spacings. The barrier will be install to the trees drip line or a minimum of 2m from the base of the trunk of the tree completely surround the trunks. The trunk protection shall be maintained intact until the completion of all building work on site. Any damage to the tree shall be treated immediately by an experienced Arborist, with minimum qualification of Tree Surgery Certificate and a report detailing the works carried out shall be submitted to the Principal Certifying Authority.

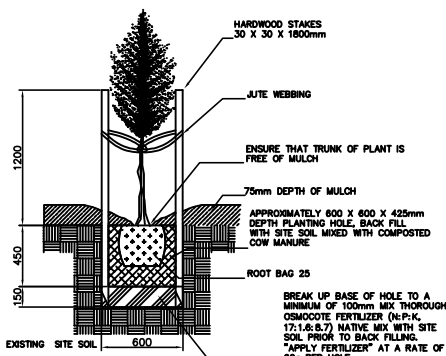
Prevent compaction around the up to the drip line of the tree. No materials are to be stored or stockpiled, and spillage of harmful substances prohibited within the fenced area. In addition prevent windblown materials from harming.

BUILDING FOOTPRINT AREA	227.45sqm
TOTAL LANDSCAPED AREA	222.60sqm
TOTAL GARDEN PLANTED AREA	87.43sqm

Note: Some rock face outcrop will remain natural.



TYPICAL BRICK EDGING STD SECTION
scale 1 : 20



TYPICAL 30L POT PLANTING SECTION
scale NTS

EXISTING TREES TO BE REMOVED
NILL - N/A

TREES TO BE PROTECTED
(EXISTING STREET TREE)

A
Silver Stem Wattle
(SEE TYPICAL 30 L POT
PLANTING SECTION)

B
White Feather
(SEE TYPICAL 30 L POT
PLANTING SECTION)

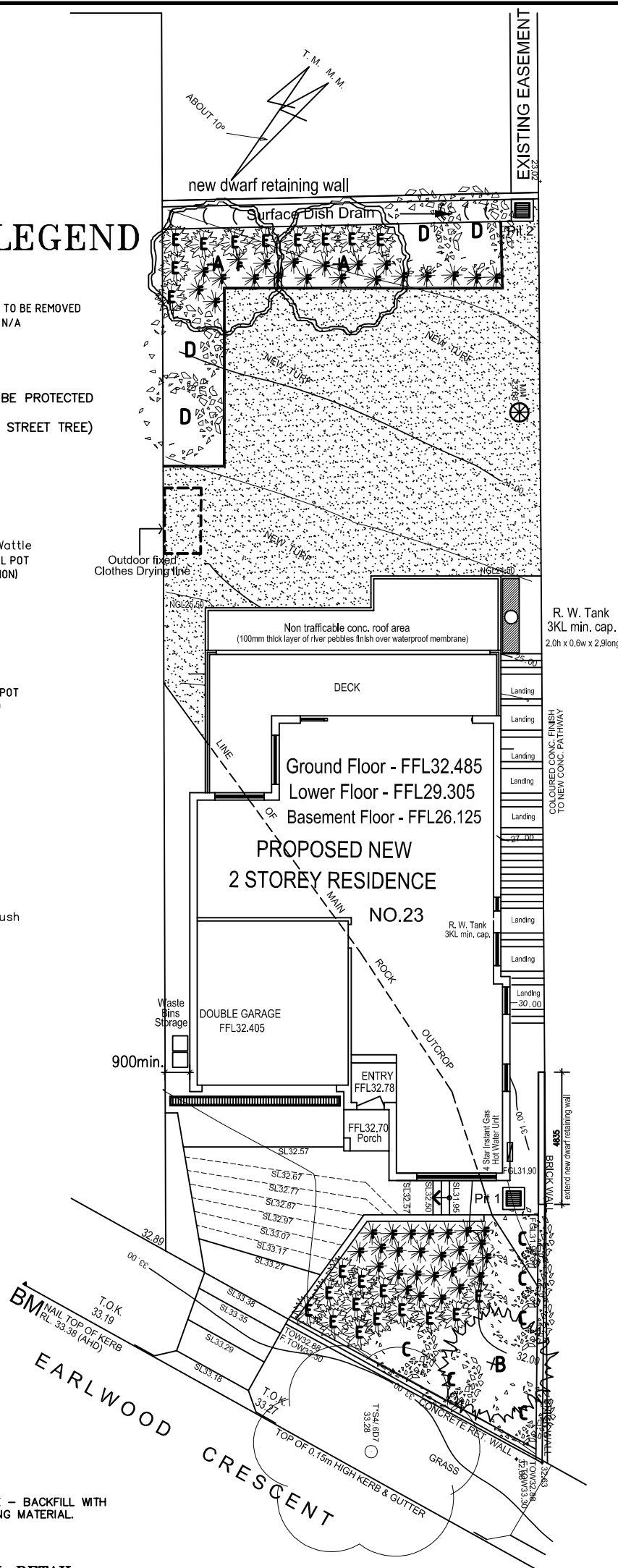
C
Hairpin Banksia

D
Silver Banksia

E
Spiny headed mat rush

F
Mauve Flax Lilly

TURF PLANT



TYPICAL RETAINING WALL DETAIL
(WHERE REQUIRED)
scale 1:20

PLANT TYPE	SYMBOL ON PLAN	QUANTITY REQUIRED	BOTANICAL NAME	COMMON NAME	NATIVE (N)	POT TYPE/ SIZE (Standard Term)	MATURE HEIGHT	VOLUME OF POT (Litres)	Spacing in M
MED./SMALL TREES	A B	2 1	Acacia Parvipinnula Malealeuca Decora	Silver Stem Wattle White Feather	LN LN	Plant Bag 30 Plant Bag 30	4.0–6.0 5.0–10.0	30 30	N/A N/A
MED./SMALL SHRUBS	C D	6 4	Banksia Spinulosa Banksia Marginata	Hairpin Banksia Silver Banksia	LN LN	Plant Pot 200 Plant Pot 200	1.5–2.0 3.0–4.0	5 5	2.0 2.0
GROUND COVERS	E F	25 46	Lomandra longifolia Dianella Revoluta	Spiny headed mat rush Mauve Flax Lilly	LN LN	Plant Pot 200 Plant Pot 200	0.4–0.6 0.3–0.5	5 5	1.0 1.0
		AREA m ²	BOTANICAL NAME	COMMON NAME					
TURF PLANT	TURF	160.10	Wahlenbergia Communis	Bluebell Grass	Max. Plant height 200mm				

NOTE: UNLESS STATED OTHERWISE ON THE PLAN THE PLANT SPACING WILL BE AS SHOWN ON THE SCHEDULE.
SPACING MARKED "N/A" MEANS TO SCALE OF PLAN

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SCHEDULE OF FINISHES

At: No. 23 Earlwood Cr., Bardwell Park

External Walls
(rendered brick)

Mid-Grey

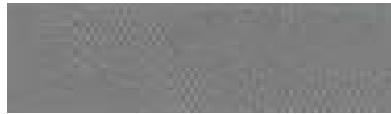


Window & Doors

Charcoal or Dark Grey

Garage door

Panel lift Door- Colorbond - Dune



Fascia (White)
Front Facade
(Contrasting
Feature Wall)

Boral – Cultured Stone (or similar)



Balcony Rail

Grey tinted clear glass in grey frame



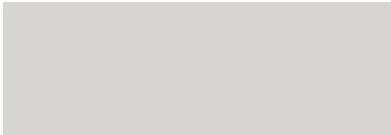
Driveway

Charcoal or Dark Grey

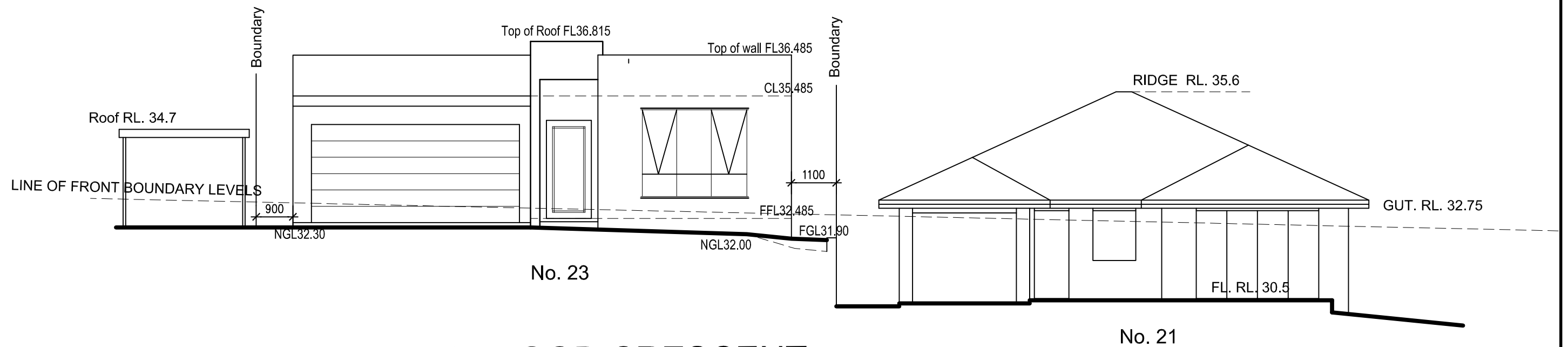


Roofing

Custom Orb – Shale Grey



These materials and colours are to be constructed as specified or similar chosen by the client



EARLWOOD CRESCENT STREET SCAPE VIEW ANALYSIS

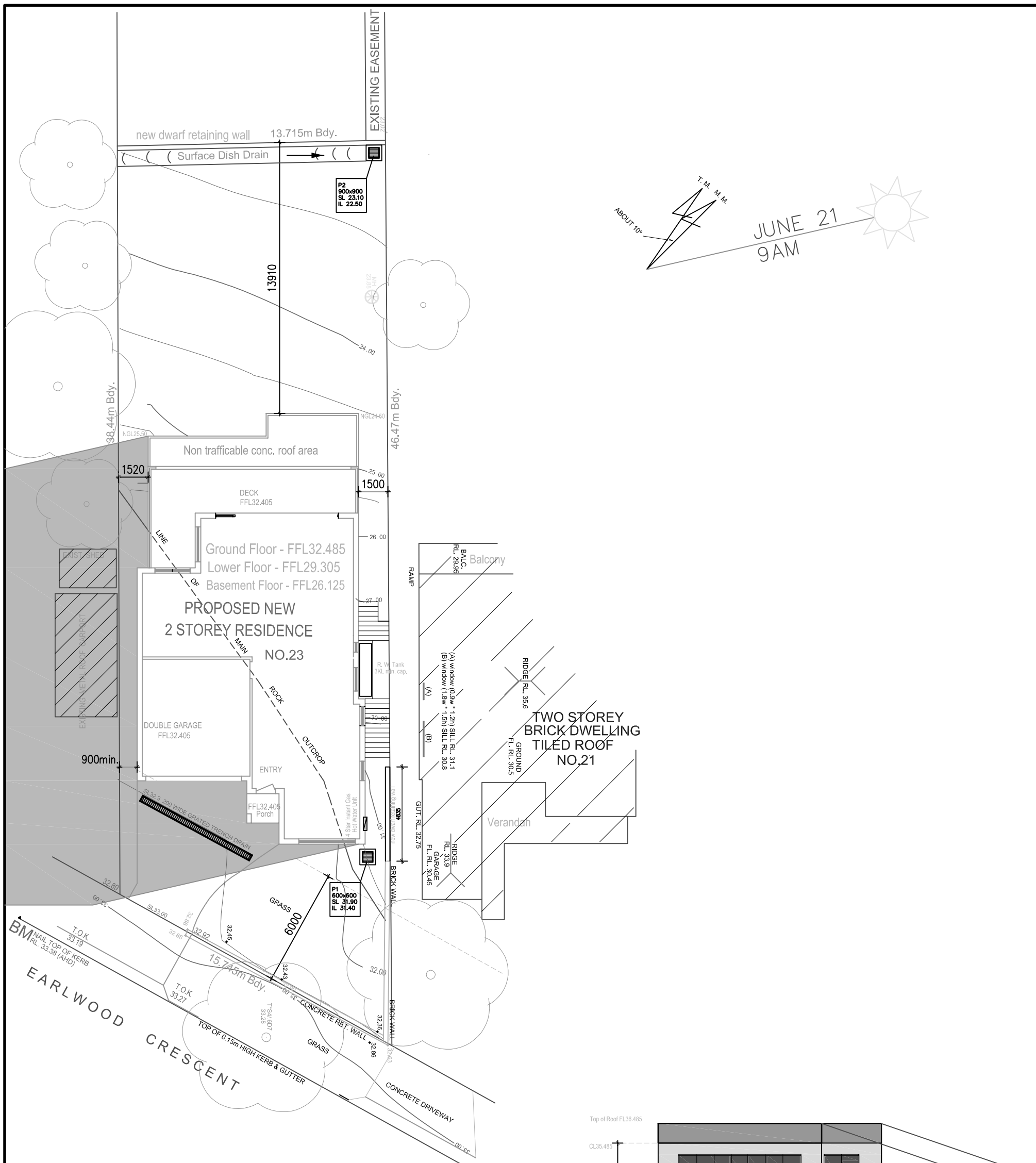
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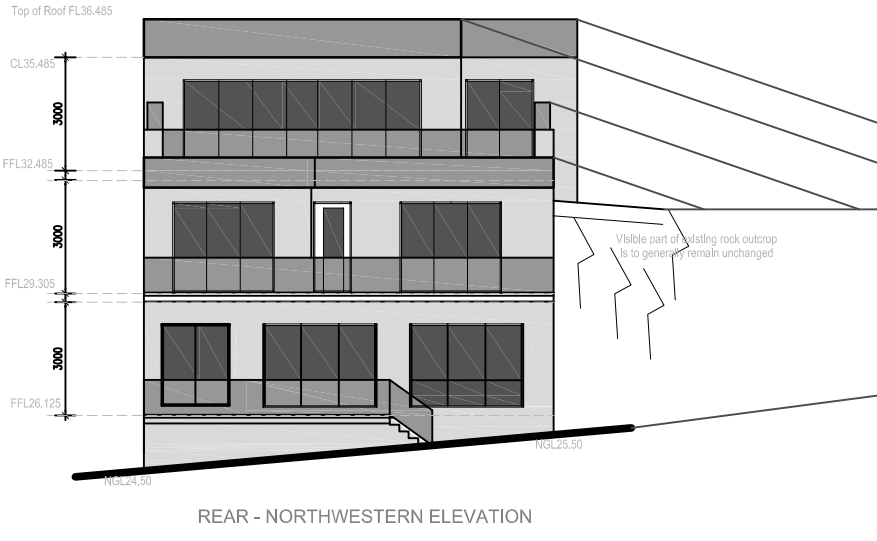
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SITE PLAN

9AM SHADOW DIAGRAM WINTER - JUNE 21



PROPOSED 2 STOREY / 3 LEVEL NEW CAVITY BRICK RESIDENCE
AT: 23 EARLWOOD CRESCENT BARDWELL PARK
FOR: MR. BORCE MARKOVSKI

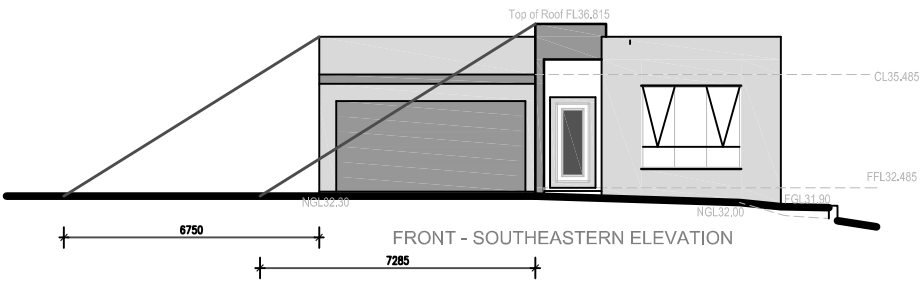
ISSUE	DATE	CHANGES
A	Mar.17	DA Application

DRAWN: - A. M. JAMES
DATE: Mar. 2017
SCALE: 1 : 200
ISSUE: A
JOB NO: DOC818-17
DRG. NO: 01d.i

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SITE PLAN



NOON SHADOW DIAGRAM
WINTER - JUNE 21

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23 Earlwood Crescent
BARDWELL PARK NSW

Proposed dwelling house and associated works

**Submission providing justification under clause 4.6(3) of
Rockdale Local Environmental Plan 2011 for exception to
clause 4.3(2) of that instrument**

Prepared for Sabton & Son
Issue A - J17092
16 June 2017

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A. Introduction

1. This written request provides justification for contravention of clause 4.3(2) of *Rockdale Local Environmental Plan 2011* (RLEP2011) in response to clause 4.6(3) of that instrument in relation to a development application for a proposed dwelling house and associated works.
2. The proposed development is described in plans by Sabton & Son, Job Number DOC818-17, dated March 2017, including:

DRG. NO. 1	Site plan
DRG. NO. 2	Ground floor plan
DRG. NO. 3	Lower floor plan
DRG. NO. 4	Basement floor plan
DRG. NO. 5	Front & rear elevations
DRG. NO. 6	Side elevations
DRG. NO. 7	Section A-A

Shadow diagrams are also provided.

3. Part B of this written request describes the site and its locality and the proposed development. It also describes the proposed non-compliance.
4. Part C of this written request sets out the relevant town planning controls. Part C also sets out the relevant provisions of clause 4.6 that may allow the development to be approved notwithstanding the proposed non-compliance with clause 4.3(2), and summarises relevant Land and Environment Court case law and how that affects consideration of clause 4.6.
5. Part D of this written request addresses clause 4.6(3)(a).
6. Part E of this written request addresses clause 4.6(3)(b).
7. Part F of this written request addresses clause 4.6(4) and (5).
8. Part G of this written request provides concluding comments.

B. The site and its locality, the proposed development and the proposed non-compliance

9. The site is 23 Earlwood Crescent, Bardwell Park (Figure 1) and has the real property description of Lot 56, DP792433. It is on the northern side of Earlwood Crescent, but with side boundaries running north-northwest to south-southeast. Earlwood Crescent is locally classified and carries low traffic volumes, and is on a straight and level alignment in front of the site. The site has no other boundary to a road.
10. The lot is of irregular configuration, with a width of 13.7 metres measured perpendicular to the side boundaries and has an area of 582.4 square metres.



Figure 1: Subject site, highlighted in yellow (Source: Six Maps)

11. The site falls around 10 metres from front to rear, with there being a rock ledge running diagonally across the site from approximately west-northwest to east-southeast (Figure 2).
12. Existing on the site is a brick double garage built up to the west-southwestern side boundary (Figures 2 and 3). It has an angular shape in plan due to the manner in which it is built to follow the line of the rock ledge. The garage appears to be of approximately 1950s construction.
13. The site does not contain significant vegetation.
14. To the north-northwest of the site is 95 Slade Road, which is in the same ownership as the subject site and which was previously part of the same lot. 95 Slade Road is occupied by a dwelling house presenting a single storey towards the subject site (Figure 4).
15. To the east-northeast of the subject site is 21 Earlwood Crescent, which is occupied by a two storey dwelling house (Figures 5 and 6).



Figure 2: Rock ledge within the site, with brick garage within the site on top



Figure 3: Existing garage on the site, as viewed from the south



Figure 4: Existing dwelling house at 95 Slade Road, as seen from the rear of the subject site (there is no fence between the properties)



Figure 5: Existing dwelling house at 21 Earlwood Crescent, as viewed from Earlwood Crescent



Figure 6: Existing dwelling house at 21 Earlwood Crescent, as viewed from downslope within 23 Earlwood Crescent

16. The proposal is to demolish the existing garage and to construct a new dwelling house on the property and associated works. The new house would be of split level configuration, with a single storey component forward of (towards the street from) the rock ledge and also extending rearwards of the rock ledge; and with a lower level and a basement level rearwards of the rock ledge. (The “basement level” would not be a true “basement” in that it would not be below natural ground level). The ground floor level would be partially over the lower level. The basement level would be rearwards of the rear line of the ground floor level (although a rear deck of the ground level would be rearwards of that line). Areas between the front line of the basement level and the rock ledge, which would be below the ground floor level, would be non-trafficable subfloor areas.
17. The proposal substantially avoids cutting away or cutting into the existing rock ledge. There may be some very minor cutting into the rock ledge, with that level of detail to be resolved at Construction Certificate stage. The dwelling has been designed to step over and beyond the rock ledge, instead of being excavated into the site.
18. The proposal would have a flat roof form. The top of the proposed roof would have a level of RL36.49. The lowest part of the natural ground level below that roof would have a level of RL25.50. The maximum height of the building would therefore be 10.99 metres, presenting to the east-northeast elevation. That figure may be appropriately rounded to 11.0 metres.

19. Clause 4.3(2) of *Rockdale Local Environmental Plan 2011* (RLEP2011) makes reference to the *Height of Buildings Map* and requires compliance with the height indicated on that map. Height is measured from “ground level (existing)” at any one point to the highest part of the building. Under the clause 4.3(2) development standard, the maximum height is 8.5 metres.
20. The proposed maximum height of 11.0 metres is 2.5 metres. The proposal therefore does not comply with the maximum height standard. The extent of non-compliance is 29.4 percent of a compliant height.

C. The town planning controls and summary of clause 4.6

21. The principal environmental planning instrument that is relevant to the site is *Rockdale Local Environmental Plan 2011* (RLEP2011). The site is zoned R2 Low Density Residential under that instrument.
22. Dwelling houses, amongst other things, are permissible with the consent of Council in the R2 zone.
23. “Dwelling house” is defined in the Dictionary to RLEP2011 as:
...a building containing only one dwelling.
24. The proposed development would comprise a dwelling house and is permissible in the R2 zone with consent.
25. Clause 4.3(2) relates to the height of buildings and, as described elsewhere in this written request, the maximum height permitted is 8.5 metres, measured from “ground level (existing)” at any one point to the top of the roof (excluding antennae and the like). The maximum height of the proposed development is 11.0 metres. The proposal therefore departs from clause 4.3(2) by 2.5 metres, being 29.4 percent of a compliant amount. The present proposal seeks, under clause 4.6 of RLEP2011, to depart from the height standard as set out elsewhere in this written request.
26. Clause 4.4 of RLEP establishes a maximum floor space ratio of 0.5:1. The proposed floor space ratio is 0.457:1. The proposal therefore complies.
27. The site is not affected by the RLEP2011 heritage provisions.
28. *Rockdale Development Control Plan 2011* (RDCP2011) is applicable. It seeks (amongst other things) to:
Protect and enhance the residential character of the City’s suburbs and neighbourhoods, to ensure they remain pleasant and amenable.
29. RDCP2011 includes various provisions of indirect relevance to an assessment of the proposed non-compliance with the RLEP2011 height control. Key RDCP2011 provisions include:
- Consideration is required of impacts upon views and vistas. The proposal has some potential impact in that regard, as considered elsewhere in this written request;

- Part 4.1.6 seeks to limit the extent of cut and fill on steeply sloping sites. The proposal addresses that matter by using piers to step down the site and avoiding significant excavation, retaining the existing rock ledge;
- Part 4.2 seeks to ensure that development responds sensitively to its context and have regard to the form and style of other buildings in the streetscape;
- Part 4.3.1 provides that the development should have a landscaped area of 25 percent – the proposal provides 38 percent landscaped area;
- Part 4.4.2 relates to solar access and requires provision/retention of 3 hours mid-winter solar access to living areas and private open space of the proposed and surrounding dwellings;
- Part 4.4.5 requires consideration of visual privacy impacts;
- Part 5 – Control 1 establishes a maximum height in storeys of two storeys. The proposal departs from that control to the extent that the proposed ground floor level rear deck may be regarded as part of the ground storey. The proposal is otherwise designed so that the building maintains a two storey form as it steps down the site;
- Part 5 – Control 1 also establishes setback requirements. The proposal is generally consistent with established front setbacks and is acceptable in that regard. The proposal has a 900mm minimum side setback where it comprises one storey (towards Earlwood Crescent) and 1.5 metres further to the rear, where it comprises two storeys. The proposed side setbacks comply. The proposed 13.9 metre rear setback readily complies with the minimum required 6 metre setback;
- Part 5 – Control 8 requires that large expanses of blank wall surface are avoided. The proposal includes carefully designed side windows (to avoid overlooking) and stepping in of the form to address that control.

30. Clause 4.6(1) of RLEP2011 provides as follows:

The objectives of this clause are:

- (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 applying flexibility in particular circumstances.*

31. Clause 4.6(2) of RLEP2011 provides as follows:

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.

32. Clause 4.6(2) may therefore potentially allow the proposed development to be approved notwithstanding that the proposed development does not comply with the development standard contained in clause 4.3(2).

33. Clause 4.6(3) provides as follows:

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.*

34. The present written request is provided to allow council to grant consent. Matters (a) and (b) are addressed elsewhere in this written request.

35. Clause 4.6(4) provides as follows:

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 addressed 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 Secretary has been obtained.*

36. The present written request sets out why it is considered that council may find that the matters required to be addressed by subclause (3) are adequately addressed. It is also set out, elsewhere in this written request, how it is considered that the proposed development is in the public interest because it is consistent with the objectives of the height control and the objectives of the R2 Low Density Residential zone. Council would forward the matter to the Secretary for concurrence.

37. Clause 4.6(5) provides as follows:

In deciding whether to grant concurrence, the Secretary must consider:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

38. The proposed development would not give rise to State or regional matters given its domestic scale. The present written request sets out how there are particular matters justifying the proposed departure from the development standard in the present circumstances, and why there is therefore no public benefit to maintaining the development standard in this instance. There are understood to be no relevant matters under item (c).
39. Clause 4.6(6) relates to certain zones aside from the R2 zone and has no bearing.
40. Clause 4.6(7) relates to record keeping by council of clause 4.6 matters and does not bear upon the present matter.
41. Clause 4.6(8) excludes certain development standards from being able to be the subject of a clause 4.6 submission. Clause 4.3(2) is not one of those excluded matters.
42. There are no further clause 4.6 matters.
43. Cases heard in the NSW Land and Environment Court bear upon the interpretation of clause 4.6.
44. In the case *Wehbe v Pittwater Council [2007]* (the Wehbe case) CJ Preston established principles concerning the process for assessing a proposal to which an objection to a development standard had been made under *State Environmental Planning Policy No 1 – Development Standards* (SEPP1). SEPP1 is no longer applicable – it has been replaced by clause 4.6 in standard instrument environmental planning instruments. However, principles established in that case continue to have relevance.
45. The Wehbe case establishes three matters of which the consent authority is to be satisfied in relation to a SEPP1 objection: 1. That the objection is well founded; 2. That consent is consistent with the aims of the policy; and 3. Any matters of State or regional significance and the public benefit of maintaining the planning controls.
46. In relation to item 1, the objection that has to be well founded must be an objection that compliance with the standard is “unreasonable or unnecessary in the circumstances of the case”.
47. In relation to establishing that compliance is “unreasonable or unnecessary in the circumstances of the case”, the Wehbe case sets out five ways in which that may be established. Those ways are neither mutually exclusive nor exhaustive. Only one would need to be satisfied. The ways are:

First way: That the objectives of the standard are satisfied notwithstanding the proposed non-compliance.

Second way: That the underlying purpose of the development standard is not relevant to the proposed development.

Third way: That the underlying purpose would be thwarted if compliance were required.

Fourth way: That the standard has been virtually abandoned by the actions of the consent authority in relation to other consents.

Fifth way: That the zoning of the land is unreasonable or inappropriate.

48. Those five ways continue to be relevant to consideration of clause 4.6(3)(a) of RLEP2011. That is the relevance of the *Wehbe* case to the present matter. Consideration of that matter is set out elsewhere in this report. It is reiterated though that those five ways are not the only ways in which it may be demonstrated that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. Furthermore, as set out further below, it is established in case law that Way 1 cannot be exclusively relied upon.

49. In the case *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009* (the Four2Five case) Pearson C made a ruling concerning the operation of clause 4.6. That case was appealed in the Land and Environment Court and then in the Supreme Court, but those appeals were dismissed.

50. In the Four2Five case Pearson C found that the development that was the subject of the appeal achieved the relevant objectives of the development standard that was the subject of a clause 4.6 written request. However, the written request used the same argument to claim that compliance would be unreasonable or unnecessary in the circumstances of the case. Pearson C did not accept that that would be sufficient. Based upon that case, it is therefore necessary to identify additional reasons to satisfy clause 4.6(3)(a) and (b) to only that the development achieves the relevant zone objectives or the objectives of the development standard.

51. The principles arising from the Four2Five case may be summarised as:

- The justification must demonstrate (amongst other things) that circumstances exist particular to circumstances of this proposed development on the subject site;
- The justification must demonstrate that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case by reference to other ways or matters that set out in clause 4.6(4)(a)(ii), meaning other than that the proposal achieves the objectives of the development standard and the objectives of the zone.

52. In the case *Micaul Holdings Pty Limited v Randwick City Council [2015] NSWLEC 1386* (the Micaul Holdings case), Morris S considered an

application that included a clause 4.6 submission seeking to justify significant departures. Morris S upheld the appeal against Randwick Council's refusal of that development application. An appeal was made against that judgment, but that appeal was not upheld.

53. Although the Micaul Holdings case does not include specific principles for the interpretation of clause 4.6, that case does facilitate a less rigid interpretation of clause 4.6 than the Four2Five case. There is a reduced emphasis on the need to identify highly site-specific grounds for variation compared to the Four2Five case.
54. The Micaul Holdings case and the subsequent appeal means that, in relation to the items in clause 4.6(3), the consent authority must be satisfied that the applicant's written request has adequately addressed clause 4.6(3), but this does not mean that the consent authority must be satisfied directly as to each of those matters.
55. In the case *Moskovich v Waverley Council [2016] NSWLEC 1015* (the Moskovich case) Tuor C considered an application subject to a clause 4.6 application. The application involved a numerically large variation to the floor space ratio development standard.
56. In the Moskovich case it was found that there is a difference between consideration of the objectives of the development standard for the purposes of "the first way" under the Wehbe case and consideration of those objectives under clause 4.6(4)(a)(ii). However, if "the first way" is not satisfied, there are other ways established under the Wehbe case, and there are yet further ways that 4.6(3)(a) could be established.
57. In the Moskovich case it was also found that it may not be necessary for a clause 4.6 written request to address clause 4.6(a) and (b) under those headings but that the arguments within the written request may be considered as a whole in relation to whether it adequately addresses the relevant matters.
58. In the case *Zhang and anor v Council of the City of Ryde [2016] NSWLEC 1179* Brown C considered an application subject to clause 4.6 written requests. Brown C sets out the following as the assessment framework for clause 4.6:

Clause 4.6 of LEP 2012 imposes three preconditions on the Court in exercising the power to grant consent to the proposed development. The first precondition (and not necessarily in the order in cl 4.6) requires the Court to be satisfied that the proposed development will be consistent with the objectives of the zone (cl 4.6(4)(a)(ii)). The second precondition requires the Court to be satisfied that the proposed development will be consistent with the objectives of the standard in question (cl 4.6(4)(a)(ii)). The third precondition requires the Court to be satisfied that the written request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and with the Court finding that the matters

required to be demonstrated have been adequately addressed (cl 4.6(3)(a) and cl 4.6(4)(a)(i)). This precondition also requires the Court to be satisfied that the written request demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard and with the Court finding that the matters required to be demonstrated have been adequately addressed (cl 4.6(3)(b) and cl 4.6(4)(a)(i)).

59. In considering whether the development in question was consistent with the objectives of the development standard in question or with the zone objectives, Brown C adopted the approach that it had to be demonstrated that the development was not antipathetic to those objectives, but that it does not necessarily have to be demonstrated that the development achieved those objectives or even that it is even ancillary to or compatible with those objectives.
60. Brown C's finding suggests that there is a need for the applicant to more directly demonstrate that the compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard.
61. From those cases, the following framework is used:
 - Consideration is firstly given to 4.6(3)(a) and the Wehbe ways are considered. Additional matters relating to why compliance is unreasonable or unnecessary in the circumstances of the case are also considered if there are any such matters;
 - In considering 4.6(3)(a), it is taken to be the case that for Wehbe way 1 to be satisfied, there is an expectation that the relevant objectives are positively satisfied, rather than merely being not antipathetic to the objectives. In some cases objectives may not be of particular relevance to the proposed development or may be poorly written such that they do not contain clear assessment criteria. In those cases, the test of achieving those zone objectives should not have to be satisfied. It is not necessarily the case that the development must be demonstrated to achieve a better outcome than a development that complies with the development standard;
 - Consideration is next given to 4.6(3)(b). It is taken to be the case that the environmental planning grounds should go beyond only achieving the zone objectives and the objectives of the development standard.
 - This written request also addresses clause 4.6(4) even though it is not strictly necessary for that to be included in this written request.

D. Consideration of clause 4.6(3)(a)

62. In relation to the first Wehbe way, it is considered that the proposal satisfies the objectives of the development standard notwithstanding the proposed non-compliance.

63. The objectives of the development standard are set out in clause 4.3(1) and are:

- (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 building form,*
- (c) *to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain, and*
- (d) *to nominate heights that will provide an appropriate transition in built form and land use intensity.*

64. Objective (a) does not provide any substantive assessment criteria.

Objective (b) relates to high quality building form. Objective (c) relates to sky exposure and daylight access. Objective (d) relates to transitions, presumably between areas where different controls apply, and does not seem to contain clear assessment criteria. It is considered that the relevant matters are limited to “high quality building form”, “sky exposure” and “daylight access”.

65. In relation to “high quality built form”, the built form is of high quality because of the way in which it responds sensitively to the site’s difficult topography. Care has been exercised in the design of the proposed building to ensure that the building does not obliterate the existing rock ledge. Care has also been exercised in ensuring that the building steps down the site in a manner that does not give rise to a full three storey scale at any one point (excepting that the rear ground level deck will be aligned with two storeys below it). The side elevations of the building are stepped in as the proposal extends to the rear so that they do not appear unduly massive. In those respects, a high quality built form is achieved even though the building exceeds the maximum permissible height control.

66. In relation to sky exposure and daylight access, the adjoining dwelling to the east-northeast of the proposed building is the only building that could be affected in that regard. However, that building would continue to receive high exposure to direct sunlight due to its north-northwesterly orientation. Additionally, Figure 6 shows that the building does not have significant windows facing towards the subject site and only has a walkway to the side rather than a full balcony. Clearly the proposal is not going to cause that property to have insufficient sky exposure or daylight access.

67. The proposed development will therefore provide a high quality building form and will maintain satisfactory sky exposure a daylight access to buildings, notwithstanding the proposed non-compliance.
68. In relation to the second Wehbe way, it is not considered that that way is relevant to the present case.
69. In relation to the third Wehbe way, it is the case that to some extent the underlying purpose of the development standard would be thwarted by a compliant proposal. That is because compliance could be achieved simply by pushing the rear part of the ground floor level and the “front” part (meaning southern part) of the lower level into the subfloor space at the “front” of the basement level. That change would result in the loss of access to the proposed rear ground floor level deck – that impact could be accepted with some reconfiguration of internal use areas (such as by locating the main living areas to the lower level). However, the main impact of such a modification would be that it would require the demolition of the existing rock ledge. Doing so would permanently remove an existing landscape feature, whereas the proposal retains that feature such that it could be restored at the end of the life cycle of the building. Furthermore, demolition of that rock ledge would result in much more significant construction related noise and would involve a waste of energy associated with hauling away the rock. The proposed built form is of a higher quality because it is more sensitively integrated with the landscape. Furthermore, lowering parts of the building in the manner described above would result in proposed bedroom 3 occupying what is presently proposed as a subfloor area, and that bedroom would have poor internal amenity if such an amendment was carried out. Therefore, the proposed built form is of a higher quality than would be achieved by amendments to the proposal to bring about compliance.
70. The fourth and fifth Wehbe ways are not considered to have particular relevance to the present proposal.
71. In addition to the Wehbe ways, a requirement for compliance would also be unreasonable because it would fail to recognise that the site’s unusual topography requires that a more flexible approach is provided. The rock ledge runs diagonally across the usable area of the site. In order to step down the site, it is necessary to have some connection between the different levels whilst negotiating the step down the ledge. The proposal only exceeds the height limit to the extent necessary to provide that connection between levels. The proposed non-compliance only occurs for around a five metre extent and only towards the east-northeastern side of the building. On the west-southwestern side the building is compliant. The limitations to the parts of the building that are non-compliant reflects that the non-compliance only occurs as far as it is necessary to provide a connected built form that negotiates the rock ledge. It would be unreasonably onerous to impose the height control on the proposed

development in the circumstances of the difficult and unusual site constraints.

E. Consideration of clause 4.6(3)(b)

72. The existing rock ledge that runs diagonally through the buildable area of the subject site creates unique environmental circumstances that warrant a flexible approach being taken to the clause 4.3(2) height standard.
73. Retention of the existing rock ledge is justified on environmental planning grounds because, although the proposed development will result in the rock ledge being substantially hidden, the rock ledge will still be perceived to the sides of the building and the form of the proposed building will give expression to the form of the rock. Furthermore, the proposal will retain the rock ledge so that, when the building is at the end of its life cycle, the rock ledge will remain as part of the original, natural landscape and will be able to be reinterpreted perhaps in a different way at that time.
74. Avoidance of excavation of the rock ledge is also desirable from an energy conservation perspective and in terms of minimising construction-related impacts to surrounding properties.
75. A requirement that the proposed development comply with the height control in the circumstances of the proposed development on the subject site would be inconsistent with objects of the Act set out in Section 5, including “(a) to encourage the proper management, development and conservation of natural and artificial resources, including..., natural areas,...for the purpose of promoting the social and economic welfare of the community and a better environment”. A requirement for compliance would require removal of the existing rock ledge which would represent a waste of resources and which would diminish the environment.
76. Reflecting the foregoing comments, Part 4.3.1 Control 3 within RDCP2011 provides that significant “...natural features such as rock formations should be retained and incorporated into the design of the development wherever possible”. The proposed non-compliance allows the construction of a dwelling house on the site whilst allowing retention of the rock formation in accordance with that provision.
77. Having regard to the foregoing, there are sufficient environmental planning grounds to justify contravening the development standard.

F. Consideration of clause 4.6(4) and (5)

78. It is considered that the consent authority may be satisfied that this written submission adequately addresses clauses 4.6(3)(a) and (b) for the reasons set out in Part E of this written request.
79. It is considered that the consent authority may be satisfied that the proposal is in the public interest because the proposed development is consistent with the objectives of the development standard. That is because the proposal will not cause surrounding development to have

insufficient daylight of sky exposure for reasons set out in Part E, and the building will be of high quality also for reasons set out in Part E.

80. It is considered that the consent authority may be satisfied that the proposal is in the public interest because the proposed development is consistent with the objectives of the R2 Low Density Residential zone.

81. The objectives of the R2 Low Density Residential 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.*

82. The first of those objectives is achieved because the proposal provides a dwelling house on the existing vacant site. The proposed non-compliance facilitates the construction of the proposed dwelling house in a way that connects the areas of the site above and below the existing rock ledge without requiring the arduous removal of that rock ledge. The proposed non-compliance is therefore more compatible with that zone objective than would be a compliant development that would entail removal of that rock ledge or of a significant part of it.

83. The second of those objectives is irrelevant to the proposal and the proposal is not antipathetic to that zone objective.

84. The third of those zone objectives is facilitated by the proposed non-compliance because the proposed non-compliance allows for the retention of the existing rock ledge, being a rock ledge that contributes to the character and amenity of the area. The removal of the rock ledge would detract from the amenity of the area during the construction phase. Furthermore, the proposed development does not cause unreasonable overshadowing impacts, unreasonable amenity impacts or an unreasonable presentation of bulk and scale to surrounding development – particularly not to the most potentially affected property at 23 Earlwood Crescent. The proposed elevation facing that dwelling is carefully designed to avoid overlooking, and the proposed rear ground floor level deck is provided with screens to assist in achieving that purpose. A non-trafficable area is provided rearwards of the proposed rear ground level deck so that angles of overlooking are restricted. Furthermore, as adjoining land levels falls away to the rear, overlooking from that proposed rear deck is further reduced. The existing dwelling at 23 Earlwood Crescent does not have windows facing directly towards the proposed development and the proposed development will not cause excessive visual bulk and scale-related impacts. The proposed development will not greatly exceed the height of the existing development at 23 Earlwood Crescent and it will not present an excessive bulk and scale to the street. The proposed dwelling house will have a

contemporary style but will not be inconsistent with the style of several dwelling houses in the street.

85. In relation to clause 4.6(4)(b), the consent authority may seek the consent of the Secretary.

86. In relation to clause 4.6(5), the proposal does not raise any issues of State or regional significance given that the proposed development is of a domestic scale and does not involve any such matters. The proposal is not contrary to the public benefit of maintaining the development standard because the subject site has unique characteristics and approval of the proposal notwithstanding the proposed non-compliance will not establish any broad precedent.

G. Conclusion

87. Having regard to the foregoing, the proposed development should be permitted to be carried out notwithstanding the proposed non-compliance with clause 4.4(2) of RLEP2011.



Matthew Benson
Principal - MB Town Planning
16 June 2017



23 Earlwood Crescent
BARDWELL PARK NSW

Proposed dwelling house and associated works

Statement of Environmental Effects

Prepared for Sabton & Son
Issue A – J17092
16 June 2017

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1. Introduction

This is a Statement of Environmental Effects (SEE) relating to a proposed dwelling house and associated works at 23 Earlwood Crescent, Bardwell Park.

This statement is based upon architectural details by Sabton & Son, Job Number DOC818-17, Issue A dated March 2017, including:

- | | |
|------------|--|
| 1 | Site plan |
| 2 | Ground floor plan |
| 3 | Lower floor plan |
| 4 | Basement floor plan |
| 5 | Front and rear elevations |
| 6 | Side elevations |
| 7 | Section A |
| 001d i-iii | Midwinter shadow diagrams (9am, noon, 3pm) |
| 001e i-iii | Equinox shadow diagrams (9am, noon, 3pm) |

Part 2 of this report describes the site and its locality. Part 3 describes the proposed development. Part 4 identifies the relevant town planning controls and provides an assessment of the proposed development. Part 5 sets out concluding comments.

2. Description of the site and its locality

The site is 23 Earlwood Crescent, Bardwell Park. The real property description for the site is Lot 56, DP792433 (Figure 1). The property is owned by Boris Markovski and Milicia Markovski. There is a covenant over the property purporting to limit certain uses and to control the type of building works – however, that covenant would be overridden by the applicable town planning controls. There is a one metre wide drainage easement burdening the adjoining property at 95 Slade Road and benefitting the subject site. That drainage easement runs along the eastern boundary of 95 Slade Road.

The subject site is on the northern side of Earlwood Crescent, which is on a straight and level alignment. Earlwood Crescent is locally classified and carries low traffic volumes. The site has no other boundary to a road. The property is of irregular configuration and has its side boundaries at an angle to the front boundary – whereas the front boundary is on an approximately east-west alignment, the side boundaries, which are parallel, are on an approximately north-northwest to south-southeast alignment. The rear boundary is at 90 degrees to the side boundaries. The site is 13.7 metres wide, measured at a right angle to the side boundaries, and has an area of 582.4 square metres.

The site falls steeply from front to rear, by around 10 metres. Existing on the property is a brick garage (Figures 2 and 3). The site is otherwise vacant. It includes a rock outcrop (Figure 3). There are no significant trees on the site. There is a tree within the nature strip in front of the subject site (Figure 4).



Figure 1: Subject site, highlighted in yellow (Source Six Maps)



Figure 2: Existing garage on the subject site as viewed from Earlwood Crescent



Figure 3: Existing garage as viewed from the downslope areas of the subject site, with the garage being located above the existing rock outcrop



Figure 4: Tree on the nature strip in front of the subject site

Adjoining to the north-northwest of the site is 95 Slade Road, which is downslope and which contains a detached dwelling house presenting two storeys to Slade Road and presenting one storey towards the subject site (Figure 5). That property is under the same ownership as the subject site. There is no fence between the two properties.



Figure 5: Existing dwelling house at 95 Slade Road, as viewed from near to the rear boundary of the subject site

Adjoining to the east-northeast of the subject site is 21 Earlwood Crescent, containing a two storey dwelling house (Figure 6).



Figure 6: Existing dwelling house at 21 Earlwood Crescent

Adjoining to the west-southwest of the subject site is 97 Slade Road, which has boundaries to both Slade Road and Earlwood Crescent. The dwelling house on that property is near to Slade Road, and is not alongside the subject site.

On the opposite side of Earlwood Crescent to the subject site are single storey bungalow-type dwelling houses.



Figure 7: Existing dwelling houses on opposite side of Earlwood Crescent to the subject site (Source: Google Maps)

The subject lot is part of a two-lot subdivision carried out in 1989, that also created 95 Slade Road from an original lot that extended between Earlwood Crescent and Slade Road. The subdivision that created the earlier allotment was part of an extensive subdivision that created a substantial proportion of the suburb of Bardwell Park (DP15625), in 1927.

The suburb of Bardwell Park within which the site is located predominantly comprises a hill between Wolli Creek to the north and Bardwell Creek to the south, with those two creeks joining immediately to the east of Bardwell Park. The subject site runs down the side of a ridge facing north towards Wolli Creek, with Earlwood Crescent running along that ridge. There is an area of bushland along Wolli Creek, and the East Hills Railway Line also runs alongside that creek. Bardwell Park Railway Station is around a 460 metre walking distance from the subject site. There is a small group of shops around that railway station. The site is therefore highly accessible, although with steep terrain making it difficult for people with a disability to travel as a pedestrian to and from the station, in addition to which the station is not accessible to people with a disability.

The suburb of Bardwell Park is a substantially low density residential suburb and is a 14 kilometre road distance to the southwest of the Sydney CBD, being an inner-ring suburb.

3. Description of the proposed development

The proposal is to demolish the existing garage and to construct a new dwelling house on the site, with an attached garage, along with associated works.

The dwelling house would comprise three levels in total, but along any vertical line would accommodate only two levels as the building would have a split level configuration as it steps down the steep topography of the site.

The dwelling would be designed to be square in plan to the side boundaries.

The three levels would include:

Ground floor: Presenting a single storey to Earlwood Crescent. The ground floor level would be at RL32.485. It would include a double garage with a double garage door facing towards Earlwood Crescent, at RL32.405. The top of the driveway to that garage would be at RL32.92, and would be off the western part of the front boundary. The garage would be set back around 3700mm from the line of the front wall. However, due to the angle of the street to the building, both the garage and the front wall would be 6000mm from the front property boundary. The ground level would have side walls set 900mm from the west-southwestern side boundary and between 1000mm and 1500mm from the east-northeastern side boundary. The rear wall would be between 17.2 metres and 26.2 metres from the front boundary and would be between 19.2 metres and 22.2 metres from the rear boundary. There would be a 2500mm wide deck to the rear of the ground floor level. The ground floor level would include a lounge/dining room to the front, a common bathroom, and a family/meals/kitchen area to the rear. There would be an internal stair between the front and rear areas down to the level below. The gross floor area of the ground floor level is 112.9 square metres.

Lower floor: Not presenting to Earlwood Crescent – presenting as a mid level to the rear. It would have a level of RL29.305. The lower floor level would be entirely rearwards of the rockface that runs diagonally across the site. The side boundaries would be 1520mm from the west-southwestern side boundary and would be 1500mm from the north-northeastern side boundary. The rear walls would be between 14.6 metres and 15.7 metres from the rear boundary. It would contain three bedrooms, including a master bedroom with an ensuite and wardrobe room and a separate bathroom. There would be a 1100mm wide balcony across the rear. The gross floor area of the lower floor level is 96.6 square metres.

Basement level: Not presenting to Earlwood Crescent – presenting as ground floor level to the rear. The natural ground level to the rear is between RL24.50 and 25.50. The proposed basement floor level is RL26.13, therefore raised by between 630mm and 1630mm above natural ground level. The side boundaries of the basement level would be 1520mm from the west-southwestern side and 1500mm from the north-northeastern side. The rear wall would be 14.4 metres

from the rear. There would be a 1.1 metre wide porch to the rear. It would contain a bedroom, a rumpus room, a laundry and a common bathroom. The basement level would have a gross floor area of 53 square metres.

The dwelling would contain four bedrooms in total, and would have a total gross floor area of 265.9 square metres.

The top of the proposed roof would have a level of RL36.49. The lowest part of the natural ground below that roof would have a level of RL25.50. The maximum height of the building would therefore be 10.99 metres, presenting to the east-northeast elevation. That figure may be appropriately rounded to 11.0 metres.

The proposal has been designed to avoid cutting into the existing rock face that extends across the site. The proposal involves up to approximately 900mm excavation and involves limited fill placement for new external stairs. The proposal involves construction with footings stepping down the site.

The dwelling house would have a modern, flat-roofed style. The walls would have a painted render finish. Windows facing the rear would be full-height to allow access to balconies. However, the rear elevation would have a balanced proportion of glazing to solid wall surfaces. There would be glazed rear balustrades. Side elevations would be predominantly solid, and the limited extent of windows would be of obscure glazing.

4. Assessment under the relevant town planning controls

Rockdale Local Environmental Plan 2011

The principal environmental planning instrument for the subject site is *Rockdale Local Environmental Plan 2011* (RLEP2011), under which the site is zoned R2 – Low Density Residential (Figure 8). Dwelling houses are permissible in that zone with the consent of Council. The proposed development is therefore permissible with consent.

Clause 4.3(2) of RLEP2011 establishes a maximum permissible height of 8.5 metres, by reference to the *Height of Buildings Map* (Figure 9). The height of the proposed development would be up to 2.5 metres over that height and would not comply with clause 4.3(2). However, clause 4.6 of RLEP2011 allows a development that does not comply with clause 4.3(2). Certain matters are required to be taken into consideration in determining whether such a development may be approved, including that a written request from the applicant is submitted seeking to justify the proposed contravention on the basis of specified matters. Such a written request has been prepared by MB Town Planning, and that written request will accompany the development application. The written request seeks to justify the proposed contravention on grounds that include, in summary, that:

- Compliance with the development standard is unreasonable because of the site's topographic features; and
- The proposal, in its non-compliant form, results in a better outcome than a compliant form because it involves less excavation and represents the orderly and economic use of scarce urban land resources.

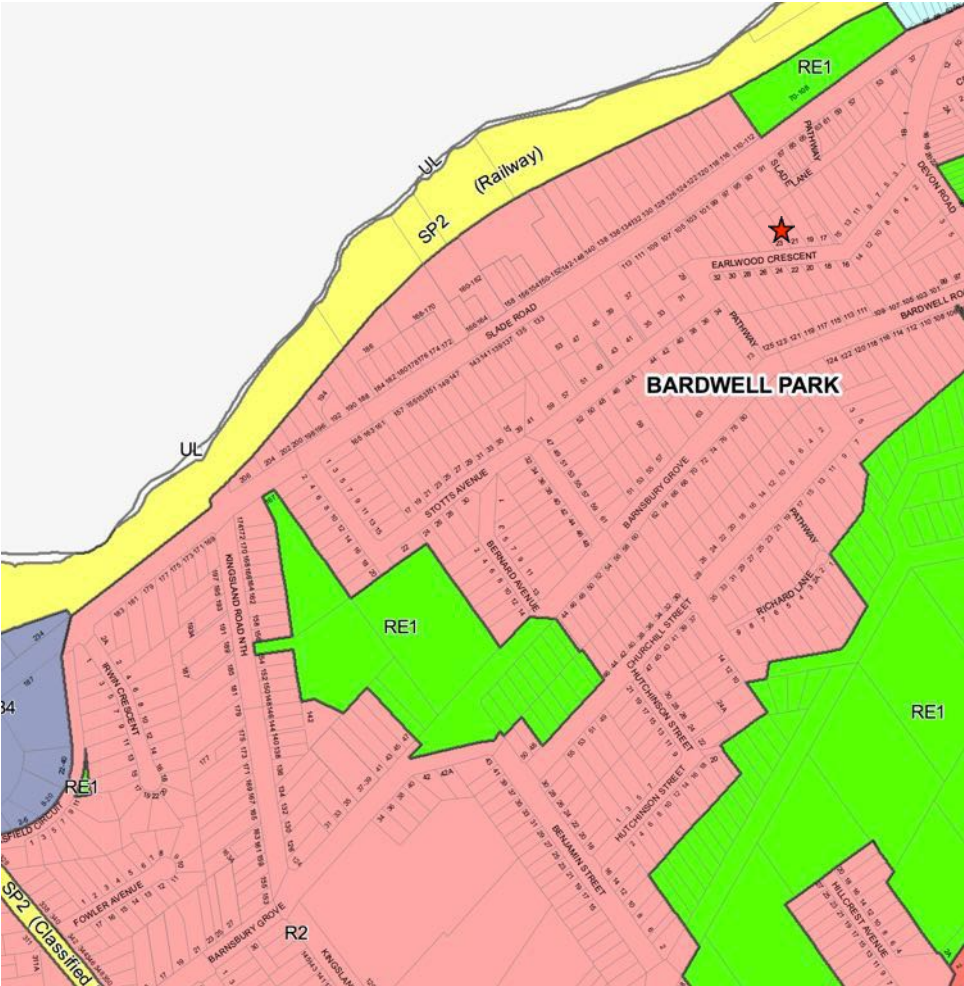


Figure 8: Extract from RLEP2011 Zoning Map, marked up to indicate the subject site with a star

Height of Buildings Map
- Sheet HOB_001

Maximum Building Height (m)

I	8.5
M	12
N1	13
N2	14.5
O1	15
O2	16
P1	17.5
P2	18



Figure 9: Extract from RLEP2011 Height of Buildings Map, marked up to indicate the subject site with a star

Clause 4.4 of RLEP2011, by reference to the *Floor Space Ratio Map*, is 0.5:1. Based upon the subject lot size of 582.4 square metres, the maximum permissible gross floor area for the site is 291.2 square metres. The proposed gross floor area of 265.9 square metres complies with that maximum permissible floor space ratio requirement, resulting in a floor space ratio of 0.457:1.

The site is not a heritage item and is not within a conservation area, for the purposes of the RLEP2011 heritage provisions. The site is not near to a heritage item and is not near to a conservation area.

The site is within a Class 5 acid sulfate soil area, which is a low level of sensitivity. The proposal does not involve significant excavation and does not give rise to any significant issues in that regard.

Clause 6.2 relates to earthworks and requires specified matters to be taken into consideration. Given that the proposal involves only 900mm of excavation, and within only limited area of the site, the proposal does not give rise to significant issues in relation to those matters. Appropriate information will be provided during the construction certificate phase to demonstrate that the proposal will be structurally adequate and that the rockface will be stable during and after construction. The applicant may submit information with the development application in that regard.

Clause 6.7 relates to stormwater and requires specified matters to be taken into consideration. In that regard, the subject site benefits from an easement over the downstream property and no significant issues arise in that regard.

In addition to consideration of those development standards and specific clauses, clause 2.3 requires that the consent authority have regard to the relevant zone objectives. Consideration of the proposed development having regard to those objectives is:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses...*
- *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.*

Comment: The proposal maintains the low density character of the area by complying with the applicable density control and maintaining a single storey scale presentation to the primary road. The proposal does not cause unacceptable amenity impacts to surrounding properties because the proposal does not cause significant overshadowing to areas of adjoining residential properties that are sensitive to overshadowing impacts; the visual privacy impacts of the proposal would be acceptable as set out elsewhere in this report; and the presentation of bulk and scale to adjoining properties would be acceptable as set out elsewhere in this report.

Having regard to the foregoing, the proposed development is acceptable and worthy of approval when assessed under RLEP2011.

Rockdale Development Control Plan 2011

Rockdale Development Control Plan 2011 (RDCP2011) is applicable to the proposal. The form of RDCP2011 that is presently considered was last modified on 5 June 2015.

Part 2 presents the overall urban strategy, which relevantly seeks to:

Protect and enhance the residential character of the City's suburbs and neighbourhoods, to ensure they remain pleasant and amendable.

The proposal has an appropriate streetscape presentation and will not unacceptably impact upon the amenity of surrounding properties, as set out in greater detail further below.

Part 3 relates to site analysis. The submitted documentation addresses that matter.

Part 4 relates to general principles for development.

Part 4.1 relates to site planning. Part 4.1.1 relates to views and vistas. That section includes a diagram showing significant views in the area covered by the DCP. Bardwell Park is not indicated. Although there are parts of Bray Avenue, Earlwood from which the proposed development might be visible, the views from there are part of a general suburban backdrop rather than being of particular scenic importance. Furthermore, the existing rock ledge within the subject site is not part of any significant vista. The proposed development will have a height to the top of its roof of RL36.485, compared to the neighbouring property to the east at RL35.60. The proposed development is therefore only 885mm higher than that development. The proposed development will not be particularly prominent.

In relation to view impacts (referred to in Part 4.1.1), there are general suburban views to the north that would be enjoyed from 20, 22 and 24 Earlwood Crescent, on the opposite side of Earlwood Crescent to the subject site. The proposed development, which would have a height of up to 3.63 metres above the level of the nature strip in front of the site, may have some impact on views from those properties. Those properties have floor levels raised around two metres above the level of Earlwood Crescent. However, the existing garage on the subject site already blocks most of those views, and there is a reasonable expectation that a one storey scale building may be constructed within the level area between the rock ledge and the boundary Earlwood Crescent. The proposed development is therefore within reasonable expectations relating to the level of impact upon views from properties opposite the site and the view impacts to those properties will therefore be acceptable.

In relation to view impacts upon 21 Earlwood Crescent, that property has a rear balcony and the proposed development would extend around 6.6 metres rearwards of that rear balcony, therefore having some impact on views to the northwest from that affected rear balcony. However, the proposal would be set back 1.5 metres from the side boundary in that area and the level of impact

would be reasonable because there would continue to be views to the rear from that affected deck. The proposed extent to which the proposal would extend rearwards of the affected balcony is reasonable given the angle of the street to the side boundaries. On balance, the impact is reasonable and acceptable.

Part 4.1.3 relates to water management. In that regard, the subject site benefits from a downstream easement, and the proposal has been designed to comply with applicable hydraulic standards.

Part 4.1.4 relates to soil management. Soil management details addressing those matters are to accompany the development application. The proposal does not involve significant excavation.

Part 4.1.6 relates to development on sloping sites. The provisions seek to limit the extent of cut and fill. The proposal achieves that outcome by using piers construction stepping down the steep site rather than involving significant excavation.

Part 4.2 relates to streetscape and site context.

Part 4.2 control 1 is that development is to respond sensitively to its context. In that regard, the proposed dwelling is within an existing allotment that is part of a group of three allotments, two of which are to the east of the subject site and have been developed for dwelling houses. The proposed development would be around 6.6 metres rearwards of the adjoining dwelling to the east, reflecting the angle of Earlwood Crescent to the side boundaries (Figure 10).



Figure 10: Approximate position of the proposed building (highlighted in yellow) relative to the locations of adjoining buildings

The proposal would be marginally higher than the adjoining building to the east, and would have a flat roof rather than a pitched roof. However, it would present as only a single storey to Earlwood Crescent and would not be out of scale with development in the locality generally.

Control 4 is that the building design and materials, roof pitch, and architectural styles should have regard to those of surrounding buildings so as to create a cohesive streetscape. The two nearby buildings on the same side of Earlwood Crescent as the subject site are of early post-WW2 construction, whereas the proposal has a modern, contemporary character. However, there are several examples of contemporary style buildings in the immediate locality of Earlwood Crescent (Figure 11), and the proposal is consistent with that emerging pattern of new development. The proposal therefore satisfies control 4.

Control 5 states that street setbacks are to be consistent with prevailing setbacks in the streetscape. The proposed street setback is 6000mm, measured across the shortest distance at 90 degrees to the road alignment. Measured in the same way, the garage of the adjoining development to the east, at 21 Earlwood Crescent, is 7000mm (scaled of the submitted site plan which incorporates survey details). The proposed setback is therefore generally consistent with that of the neighbouring property. The setback of 19 Earlwood Crescent is greater. However, 17 Earlwood Crescent has a single car garage built up to the street boundary. It is also noted that the proposed 6000mm setback is reached at two points only, with the general setback angling back from those points. Seen in that context, the proposed street setbacks are reasonable and are in accordance with the prevailing street setbacks.

Control 7 states that access to garages should not necessitate a major alteration to levels within the front setback area. In that regard, the proposed driveway levels are close to natural ground level and the proposal satisfies that control.

Control 9 provides that garages are not permitted between the front building line and the front property boundary. The proposal satisfies that control.

Control 10 provides that residential buildings are to address the street by having a front door and living room window facing the street. The proposal satisfies that control. Control 11 also provides that dwelling houses are to be designed to provide passive surveillance of the street. The proposal achieves that outcome.

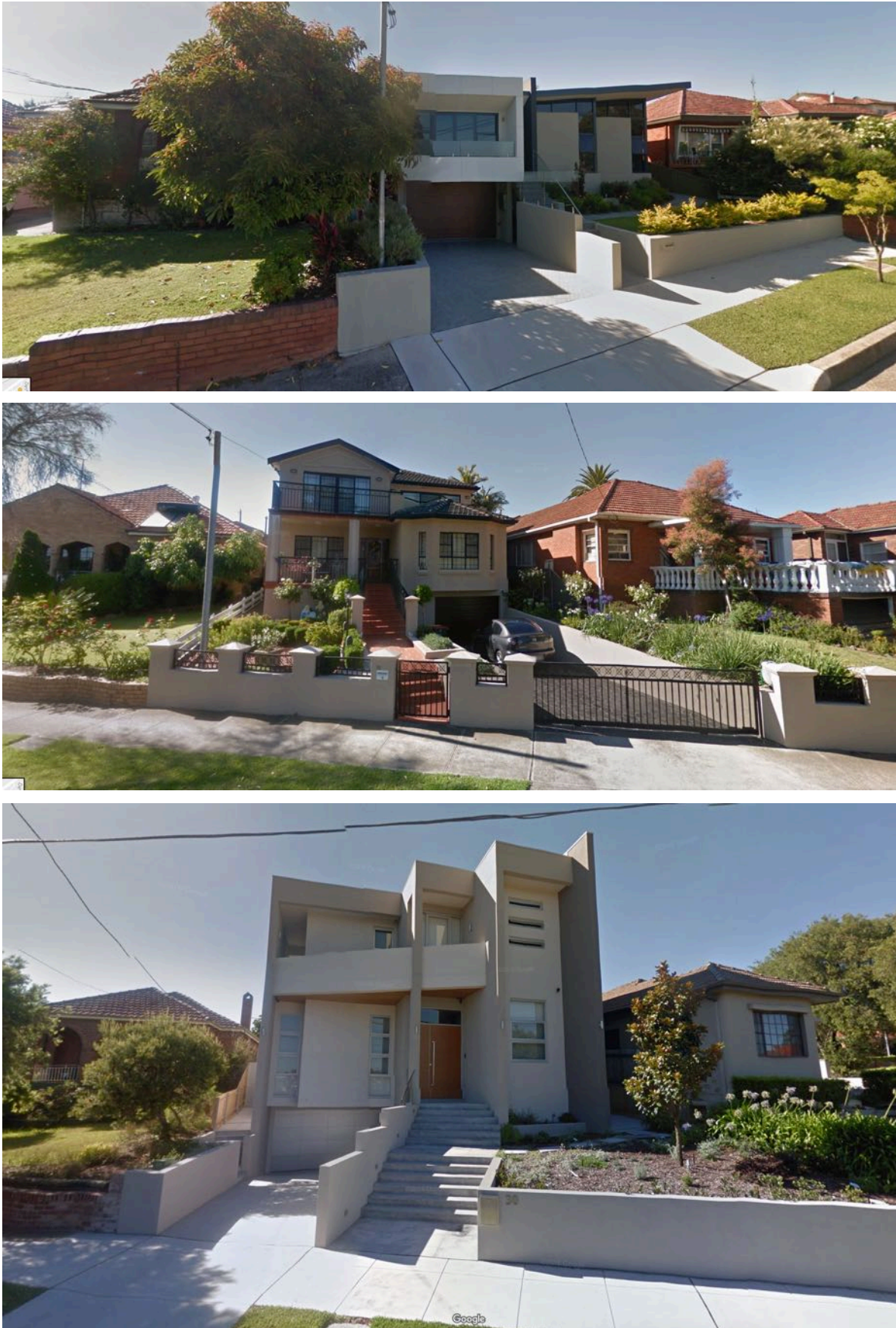


Figure 11: Contemporary dwellings at 14 Earlwood Crescent (top), 20 Earlwood Crescent (middle) and 30 Earlwood Crescent (bottom)

Part 4.3 relates to landscape planning and design.

Part 4.3.1 relates to open space and landscape design.

Control 3 within Part 4.3.1 provides that significant trees and natural features, such as rock formations, should be retained and incorporated into the design of the development wherever possible. The proposal retains the existing rock outcrop, although it does not retain it as a visible feature. At the end of the life cycle of the building the rock outcrop could be restored as a landscape feature. It is not feasible to design a dwelling house on the site whilst retaining the rock outcrop as a visible feature in the landscape.

Control 4 within Part 4.3.1 provides that the amount of hard surfaces within a site is to be minimised. The proposal achieves that outcome because it does not include unnecessary or excessive areas of hard paving.

Control 8 within Part 4.3.1 provides that at least 25 percent of the site area is to be a landscaped area. The proposal provides 222.6 square metres of landscaped area, which is 38 percent and which complies.

Control 9 within Part 4.3.1 provides that at least 20 percent of the front setback area is to be provided as a landscaped area. The proposal provides (on visual estimate) 60 percent landscaping within the front setback area and readily complies.

Part 4.3.2 relates to private open space. Control 1 provides that an 80 square metre area is to be provided, with a minimum width of 3 metres. The proposal has a relatively flat rear yard area of around 170 square metres and readily complies. The proposed open space is north-facing. It is not practicable to provide the main area of private open space directly off the living areas because the topography of the site results in the level adjacent to the yard area being of limited area. However, the yard area will be accessible by internal stairs, further to which a well-proportioned deck area is provide to the rear of the living area (more specifically, to the rear of the meals area and family room). The outcome is reasonable given the site constraints.

Part 4.4 relates to sustainable building design. Part 4.4.1 relates to energy efficiency. In that regard, a BASIX certificate accompanies the application addressing compliance with relevant BASIX requirements and addresses relevant energy efficiency matters. Part 4.4.2 relates to solar access and requires that the subject proposed dwelling house and neighbouring properties receive at 3 hours midwinter solar access to living area windows and private open space. The submitted shadow diagrams demonstrate that that amount of solar access is readily achieved. The topography of the site is essentially north-facing. Part 4.4.3 relates to natural light and ventilation. The proposal provides good natural light and ventilation and satisfies relevant requirements in that regard.

Part 4.4.5 relates to visual and acoustic privacy. The main potential impacts of the proposed development to visual privacy are to the balconies and rear yard area of 21 Earlwood Crescent (Figure 12).



Figure 12: Rear of 21 Earlwood Crescent, as seen from the rear yard area of the subject site

The proposed dwelling house would extend rearwards of the rear balcony at 21 Earlwood Crescent. Therefore, the proposed rear balcony would not affect the visual privacy to that balcony, noting also proposed privacy screening.

There would be a bedroom window in the western elevation at a similar level to the balcony at 21 Earlwood Crescent (the balcony is 645mm higher). However, that bedroom window would be in an offset position to the side of the balcony and would not face onto any windows at 21 Earlwood Crescent. Therefore the proposed bedroom window would not cause any unacceptable privacy impact to 21 Earlwood Crescent.

The proposed upper level rear balcony would have oblique viewing towards the rear yard area of 21 Earlwood Crescent, and towards the rear yard area of 97 Slade Road adjoining to the west. The extent of the impact would be reduced by the proposed 1500mm side setbacks and also by the provision of a non-trafficable roof area rearwards of the deck, which would limit the line of site. It is considered that the non-trafficable roof area and side setbacks would combine to limit overlooking to a reasonable extent. The extent of overlooking would be further reduced by the falling land levels of the affected yards, so that with normal use there would not be significant privacy impacts. The proposed 1800mm high screen to the eastern side of the deck would further reduce the extent of overlooking.

The proposal would have sufficient separation from 93 Slade Road not to cause significant privacy impacts to that property.

Part 4.6 relates to car access and vehicular movements. The proposal includes

a double garage accessed by an appropriately designed driveway.

Part 4.7 relates to site facilities. In that regard, there is room in the rear yard for a clothes line. Bins would be stored to the west-southwestern side.

Part 5 relates to building types. Part 5.1 relates to low and medium density residential development.

Control 1 establishes a maximum height of two storeys. The proposal essentially complies, in that the basement level is designed to be rearwards of the rear line of the ground floor level. However, the proposed rear ground level deck/terrace extends beyond that line and to the extent that the deck is regarded as part of a “storey” the proposal involves a departure from the two storey control. The design satisfies the intent of the control and is reasonable given the steep, difficult topography of the site.

Control 1 also establishes the following setbacks:

- Street setback to match predominant street setback or, if there is no prevailing pattern, should be 6 metres;
- Side setbacks minimum 900mm single storey/1500mm two storey;
- Rear setbacks minimum 3000mm single storey/6000mm two storey.

The proposed minimum street setback of 6 metres is acceptable as discussed elsewhere in this report.

The part of the upper level that is near to natural ground level in the front area of the site has a single storey scale for that part of the building. The proposed side setbacks for that part of the building are 900mm, which complies. The remaining parts of the building, that have a two storey scale, are set back at least 1500mm, which complies. The proposed rear setback of 13.9 metres complies.

Control 8 provides that large expanses of blank walls are to be avoided through the use of fenestration and modeling. In that regard, the proposed step back of the building from 900mm to around 1500mm along the sides assist in breaking up the mass of the building and avoids excessive blank wall surfaces. The side walls also include fenestration, noting that they include obscure glazing to avoid privacy impacts where necessary.

Control 14 provides that garages must be integrated with the overall design of the building and not be visually dominant. The proposal achieves that outcome because the proposed garage is stepped back from the frontmost building alignment (although the angle of the street results in the setback being numerically the same) and the garage is therefore not visually dominant. Control 15 requires garages to be 300mm from the front building line. Measured perpendicular to the side boundaries the proposed garage is set back around 6000mm and, although the actual street setback is the same, the intent of the provision is readily achieved.

Having regard to the foregoing, the relevant RDCP2011 provisions are satisfied.

Other matters

In relation to the general impact of the proposed development under Section 79C(1)(b), assessment of the proposal under the relevant RLEP2011 and RDCP2011 provisions has addressed relevant matters. In an overall sense, the proposal responds sensitively to the difficult site, with its rock ledge running diagonally across. The design appropriately and skillfully steps the building down the site to avoid removal of that rock ledge and providing a building that has proper access from the street; maintains a proper street setback; and provides access to the rear area of the site.

In relation to Section 79C(1)(c), the suitability of the site for the proposed development is demonstrated in the foregoing assessment.

Appropriate BASIX documentation is to be provided and the proposed development is designed in accordance with the *Building Code of Australia*, having regard to the regulations.

There are no further town planning controls relevant to the proposal.

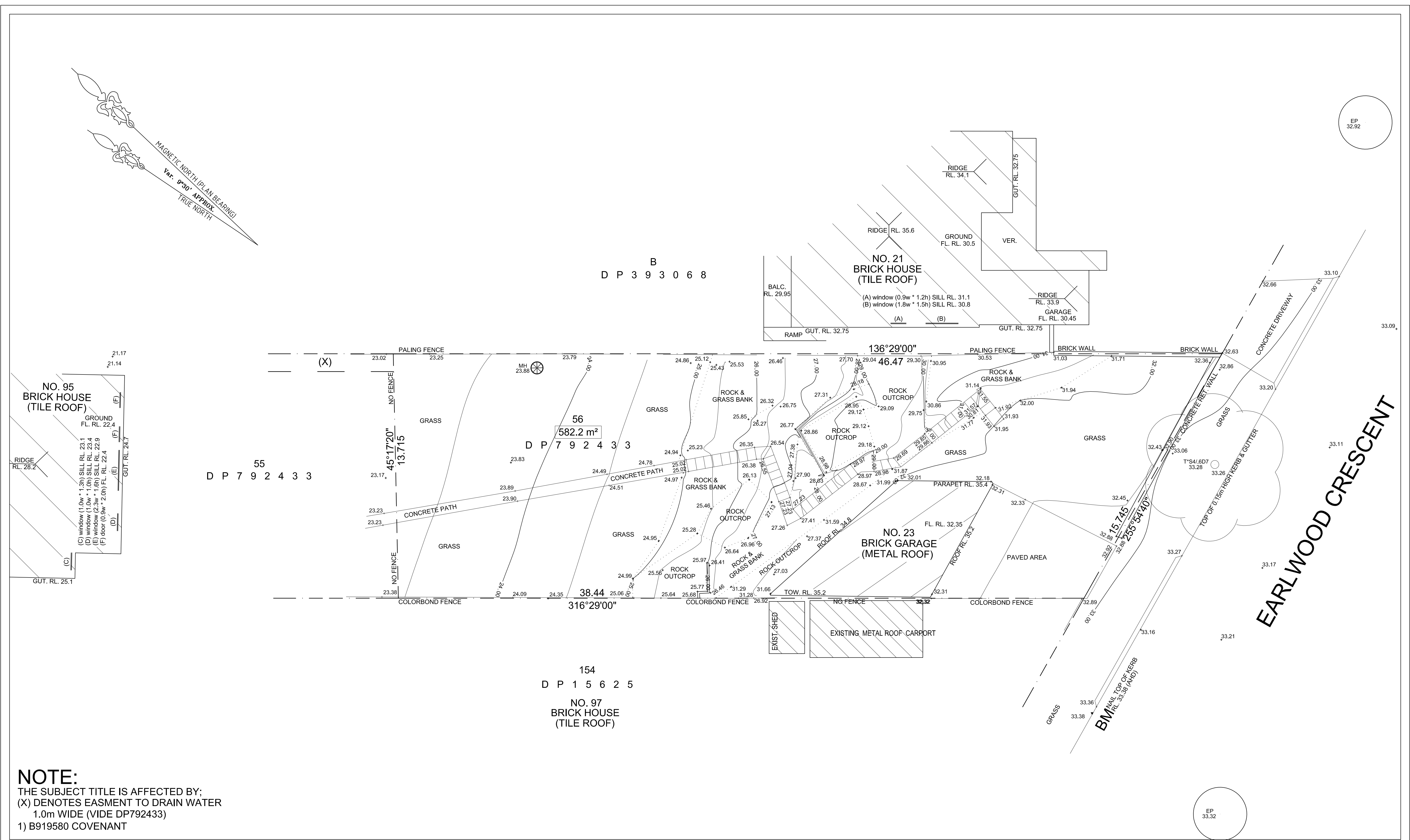
5. Conclusion

The proposal has been assessed under the relevant town planning controls. The proposal is acceptable and should be approved.

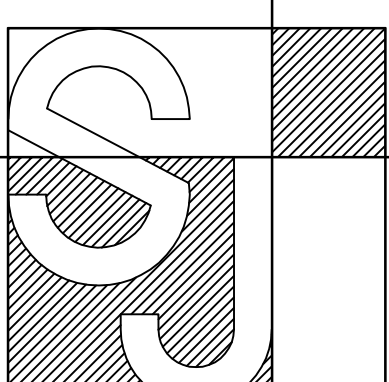
A handwritten signature in black ink, appearing to read 'Matthew Benson', with a stylized, looping flourish at the end.

Matthew Benson

Principal - MB Town Planning



NOTE:
THE SUBJECT TITLE IS AFFECTED BY:
(X) DENOTES EASMENT TO DRAIN WATER
1.0m WIDE (VIDE DP792433)
1) B919580 COVENANT

	S.J SURVEYING SERVICES PTY LTD LAND & ENGINEERING SURVEYORS ABN 76 600 839 978 P.O. BOX 139 MORTDALE, NSW 2223 Mob: 0408 671 199 FAX: (02) 9570 1390 EMAIL: sash@sjsurveying.com www.sjsurveying.com		TITLE DETAIL AND LEVEL SURVEY NO. 23 EARLWOOD CRESCENT, BARDWELL PARK LOT 56 DP 792433		PLAN DETAILS JOB No.: 140116 FILE No.: 140116 SCALE: 1: 100 (A1)		NOTE: (1) NO BOUNDARIES HAVE BEEN MARKED OR SURVEYED (TILE DIMENSIONS SHOWN). (2) LOT BEARINGS, DIMENSIONS AND AREA HAVE BEEN COMPILED FROM DP792433 AND ARE SUBJECT TO FINAL SURVEY. (3) ALL DETAIL AND FEATURES SHOWN HEREON HAVE BEEN PLOTTED IN RELATION TO THE OCCUPATIONS (FENCES AND/OR WALLS ETC). THESE OCCUPATIONS HAVE NOT YET BEEN ACCURATELY LOCATED IN RELATION TO THE BOUNDARIES. (4) SHOULD ANY FEATURES OR STRUCTURES BE CRITICAL TO THE DESIGN OF FUTURE DEVELOPMENT THAT FEATURE SHOULD BE ACCURATELY LOCATED WHERE OFFSETS TO BOUNDARIES ARE CRITICAL FURTHER SURVEY IS REQUIRED. (5) SERVICES THAT ARE NOT SHOWN ON THE PLAN WERE NOT VISIBLE AT THE TIME OF THE SURVEY. NO INVESTIGATION OF UNDERGROUND SERVICES. HAS BEEN MADE. ALL RELEVANT AUTHORITIES SHOULD BE NOTIFIED PRIOR TO ANY EXCAVATION ON OR NEAR THE SITE. (DIAL 1100 BEFORE YOU DIGI). (6) SPOT LEVELS SHOULD BE USED FOR CALCULATION OF QUANTITIES WITH CAUTION. (7) CONTOURS ARE INDICATIVE ONLY. ADOPT SPOT LEVELS IN PREFERENCE TO CONTOURS. (8) SIGNIFICANT TREES SHOWN "APPROXIMATELY" ONLY. (9) ADJOINING PROPERTIES AND WINDOWS LOCATIONS APPROXIMATE ONLY. (10) SHOULD THERE BE ANY DISCREPANCIES ON THE SURVEY PLAN PLEASE CONTACT S.J SURVEYING SERVICES PTY LTD IMMEDIATELY BEFORE WORK COMMENCES.										
	SURVEYED BY: S.H & A.T DRAWN BY: J.D		CLIENT BORIS MARKOVSKI MILICA MARKOVSKI	PLAN DATE: 22/02/17													
	HEIGHT DATUM: SSM 108793 RL. 32.644 (AHD) CLASS LB			DATE OF SURVEY: 07/02/17													
				CONTOUR INTERVAL: 0.5m													
							LEGEND		SI GP SV AV FL BM MH GAS PIT HY TAP RTA UTILITY EBOX	SIGN GULLY PIT STOP VALVE AIR VENT FLOOR LEVEL BENCH MARK MAN HOLE GAS METER UNKNOWN PIT HYDRANT WATER TAP ELECTRICITY BOX							
							WM WATER METRE		TCPT TELSTRA PIT	SIP SURFACE INLET PIT	SWMH STORM WATER MH	BT BOUNDARY TRAP	EP ELECTRIC POLE	S RADIAL TREE SPREAD	TL TRAFFIC LIGHT	DMR RTA UTILITY	EBOX ELECTRICITY BOX