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## **Bayside Planning Panel**

**10/10/2017**

Item No	5.2
Application Type	Development Application – New dwelling house
Application Number	DA-2017/1114
Lodgement Date	17 July 2017
Property	244 Wentworth Avenue, Eastgardens Lot: 18 DP: 16948
Owner	Sebastian Antony & Jijimol Antony
Applicant	John Spiteri
Proposal	Demolition of all existing structures and construction of a new two-storey dwelling.
No. of Submissions	Nil.
Cost of Development	\$462,000.00
Report by	Christopher Lazaro

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## **Officer Recommendation**

1. That Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of Botany Bay Local Environmental Plan 2013 and that the proposed development is in the public interest as it is consistent with the objective of the Floor Space Ratio and the objectives for the R2 Low Density Residential zone.
  2. That Development Application No. 2017/1114 for the demolition of the existing structures and construction of a new two-storey dwelling at 244 Wentworth Avenue, Eastgardens 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.
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## **Attachments**

1. Planning Assessment Report
2. Clause 4.6 variation to floor space ratio
3. Site Plan
4. Elevations
5. Elevations and Sections
6. Landscape Plan
7. Survey Plans

## 8. Shadow Plans.

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### Location Plan



**Figure 1: Locality Plan**

# BAYSIDE COUNCIL

## Planning Assessment Report

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### Application Details

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<b>Application Number:</b>	2017/1114
<b>Date of Receipt:</b>	17 July 2017
<b>Property:</b>	244 Wentworth Avenue, Eastgardens Lot: 18 DP: 16948
<b>Owners:</b>	Sebastian Antony & Jijimol Antony
<b>Applicant:</b>	John Spiteri
<b>Proposal:</b>	Demolition of all existing structures and construction of a new two-storey dwelling.
<b>Recommendation:</b>	Approve the development, subject to conditions.
<b>Value:</b>	\$462,000.00
<b>No. of submissions:</b>	Nil
<b>Author:</b>	Christopher Lazaro
<b>Date of Report:</b>	27 September 2017

### Key Issues

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Bayside Council received Development Application No. 2017/1114 on 17 July 2017 seeking consent for the demolition of the existing dwelling and the construction of a new two-storey dwelling at 244 Wentworth Avenue, Eastgardens. Specifically the proposal consists of the demolition of the existing single-storey dwelling and detached garage and the construction of a new two-storey dwelling consisting of an integrated garage, 3 x living areas, 4 x bedroom, 1 x master bedroom with ensuite, kitchen, laundry, dining room, 2 x bathroom, rear patio and front veranda.

The key issues with this application include the variation to the floor space ratio development standard, inconsistency with the surrounding streetscape and non-compliance with the landscaping control. A Clause 4.6 has been submitted which provides a justification for the departure from the floor space ratio provision under Clause 4.6(3)(a), 4.6(3)(b). The inconsistency with the surrounding streetscape is considered acceptable given the proposal satisfies the objectives of the Eastgardens Character Precinct and is consistent with the desired future character of the area. Additionally, the shortfall in landscaping is considered acceptable as it is only minor and will not have any adverse impacts with regards to stormwater runoff.

The application has been referred to the Bayside Planning Panel (BPP) given the 14.5% departure from the Floor Space Ratio development standard. The application was placed on public exhibition for a fourteen (14) day period from 31 July to 14 August 2017. No objections were received.

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979 (EPA Act)* and is recommended for approval, subject to conditions of consent.

## **Recommendation**

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As per attached cover page.

## **Background**

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### **History**

There are no historic application relating to the subject site. The site has an extended history of residential use.

### **Proposal**

The development application seeks Council consent for the demolition of all existing structures and the construction of a new two-storey dwelling.

The specifics of the proposal are as follow:

- Demolition of all existing structures and detached garage.
- Construction of a new two-storey dwelling consisting of:
  - Ground floor – integrated garage, 2 x living areas, bedroom, kitchen, laundry, dining room, bathroom, rear patio and front veranda.
  - First floor – living area, bathroom, 3 x bedrooms and 1 x master bedroom with ensuite.
- Associated landscaping works including a new driveway.

### **Site Description**

The subject site is located on the southern side of Wentworth Avenue in between Denison Street to the west and Bunnerong Road to the east. The subject site is rectangular in shape with a total area of 376.1m<sup>2</sup> and is oriented north to south with north being the front. The north and south boundaries have widths of 13.1m and the east and west boundaries have lengths of 28.3m. The site slightly slopes to the south west of the property. It consists of a single-storey detached dwelling and detached garage located to the eastern rear of the property which is zoned R2 - Low Density Residential.

### **Description of the Surrounding Development**

The surrounding area consists of a mix of one and two-storey detached dwellings with Westfield Eastgardens located to the north. The adjoining site to the west consists of a single-storey detached dwelling and a two-storey detached dwelling is located on the adjoining site to the east.



**Figure 1. Locality Plan**

## **Referrals**

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### Internal

The development application was referred to Council's development engineer and tree preservation officer. Appropriate comments have been provided relating to the stormwater management, waste collection, noise impacts, landscaping management and construction details.

### External

The development application was referred to Roads and Maritime Services (RMS) conditions were provided in relation to access off Wentworth Avenue.

## **Statutory Considerations**

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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 (Infrastructure) 2007**

The site is located along a classified road, and the application was referred to the RMS who support the application subject to conditions.

The site is affected by traffic noise and as such Clause 102 relating to the impact of road noise has been considered in the assessment of the application. The application is accompanied by a Traffic Noise Intrusion Assessment by Acoustic Logic, dated 3 July 2017 which

demonstrates that the proposed development will meet the minimum indoor noise requirements subject to acoustic attenuation measures implemented in the design of the building. Appropriate conditions are recommended to comply with the recommendations of the acoustic report. Accordingly, the proposal is considered to comply with Clause 102, and is satisfactory with regard to potential impacts on the development resulting from traffic noise.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate No. 833553S issued on 26 June 2017 committing to environmental sustainable measures.

#### **State Environmental Planning Policy No. 55 – Remediation of Land**

The provisions of SEPP 55 have been considered in the assessment of the development application, along with the requirements of Part 3K- Contamination of the Botany Bay Development Control Plan 2013. The likelihood of encountering contaminated soils on the subject site is considered to be extremely low given the following:

1. The site appears to have been continuously used for residential purposes.
2. The adjoining and adjacent properties are currently used for residential purposes.
3. The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in State Environmental Planning Policy 55, in particular industrial, agricultural or defence uses.

On this basis, the site is considered suitable in its present state for the proposed residential development. No further investigations of contamination are considered necessary.

#### **Botany Bay Local Environmental Plan 2013**

Botany Bay Local Environmental Plan 2013 has been considered in the assessment of the Development Application and the following information is provided:

<b>Principal Provisions of BBLEP 2013</b>	<b>Compliance Yes/No</b>	<b>Comment</b>
Land-use Zone	Yes	The site is located within the R2 Low Density Residential zone.
Is the proposed use/works permitted with development consent?	Yes	The proposal is for a two-storey detached dwelling which is permissible with Council's consent under the BBLEP 2013.
Does the proposed use/works meet the objectives of the zones?	Yes	The proposed development is consistent with the objectives of the R2 – Low Density Residential zone, namely to provide for the housing needs of the community within a low density residential environment.

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
What is the height of the building?  Does the height of the building exceed the maximum building height?	Yes	The maximum building height allowed on the subject site is 8.5m. The highest point of the proposed development is 7.6m which is compliant with this provision.
What is the proposed FSR? Does the FSR of the building exceed the maximum FSR?	<b>No – Refer to Clause 4.6 discussion</b>	The maximum FSR allowed for the subject site is 0.55:1. The proposed FSR of a 0.63:1 is a 14.5% departure from this provision. Refer to Clause 4.6 Floor Space Ratio discussion.
6.1 – Acid sulphate soils	N/A	The subject site is not affected by acid sulphate soils.
6.3 – Stormwater management	Yes	A 5000L absorption tank has been proposed and will help minimise the impacts of stormwater run-off. Furthermore, a minimum 1200L capacity rainwater tank has been proposed to ensure overflow is effectively managed. A charged system has been proposed given the property is a low level site. The proposed development is subject to the requirements outlined in the Botany Bay Stormwater Management Technical Guidelines.
6.9 – Development in areas subject to aircraft noise	N/A	The subject site is not affected by aircraft noise.

#### **Note 1 – Clause 4.6 variation relating to FSR variance**

The subject site has a maximum FSR of 0.55:1 (206.9m<sup>2</sup>) as outlined in the BB LEP 2013, however, the proposed FSR of 0.63:1 exceeds this provision.

The calculation of the proposed floor space ratio are as follows:

Ground floor area = 116.1m<sup>2</sup>

First floor area = 120.4m<sup>2</sup>

Total floor area = 236.5m<sup>2</sup> (Additional 29.6m<sup>2</sup>)

Site area = 376.1m<sup>2</sup>

FSR = 0.63:1

The applicant has provided a written Clause 4.6 variation request, providing justification for the proposals variation to the 0.55:1 floor space ratio requirement, stating that it is unnecessary and unreasonable in the particular circumstances, which is considered below.

*“In respect to the above Clauses, it is considered that strict compliance with the maximum floor space ratio standard is unreasonable and unnecessary in the circumstance of the case for the following reasons:*

- *The proposal represents a modest development that has been skilfully designed to remain consistent with the height, bulk and scale of other two-storey dwelling houses within the immediate vicinity of the site.*
- *The proposal development is also compatible with the bulk and scale of the development permissible under the General Housing Code and complies with the maximum gross floor area allowable under Clause 3.19 of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.*
- *The proposed development has been designed to comply with all relevant development controls under the Botany Bay Development Control Plan 2013 in relation to site coverage, building setbacks, landscaped area, solar access, private open space and car parking.*
- *The proposed development will not result in any significant adverse impacts upon the amenity of the adjoining dwellings in terms of overshadowing, loss of privacy or views. The rear yard of the southern neighbour will continue to receive adequate direct sunlight in mid-winter,*
- *The proposal is sympathetic to the existing and desirable future character of the locality and will contribute to the mixture of building style and sizes in the area*
- *The proposal is consistent with the relevant objectives of the floor space ratio standard, contained in Clause 4.4 of the LEP, in that it will provide an appropriately scaled development that is consistent with the existing surrounding built form and desired future character of the locality. The proposed development has been skilfully designed to maintain reasonable levels of environmental amenity for the neighbouring properties and will be compatible with the bulk and scale of the existing residential development along Wentworth Avenue.*

*In addition, the proposed contravening of the development standard is considered to be in the public interest and supportable on the following environmental planning grounds:*

- *The proposed development is consistent with the relevant objectives of the R2 – Low Density Residential zone in that the proposed development will provide for the housing needs of the community within an established residential environment.*
- *The proposed variation to the following to the floor space ratio standard does not conflict with any matters of State or regional environmental planning significance, nor does it conflict with any State Planning Policies or Ministerial directives. The significance of the non-compliance is acceptable in the context of the overall development of the broader Eastgardens area.*
- *The public benefit would be best served by approval of the development application under consideration, given the absence of any demonstrable adverse impacts resulting from the proposal.*
- *It is considered that due to the absence of any demonstrable adverse impacts arising from the proposed development, as argues elsewhere in this objection, adherence to the subject development standard would hinder the attainment of the objects of Section 5(a) (i) and (ii) of the Environmental planning and Assessment Act 1979 (as amended). Further, the proposed development is consistent with the relevant objectives of the floor space ratio standard.*
- *The proposed development has been designed to respect the amenity of the adjoining neighbours and the character of the streetscape. No precedent will be set that would allow unjustified non-compliance with the standard in future applications.*

*For the above reasons, it is considered that the objection under Clause 4.6 of the LEP satisfactorily demonstrates that strict adherence to the maximum floor space ratio standard is unreasonable and unnecessary in the subject application, and consent to the proposed development, would be in the public interest.”*



Consent may be granted for the proposal subject to Clause 4.6, notwithstanding that the proposal would contravene this development standard, as the Floor Space Ratio development standard is not expressly excluded from this Clause (Cl 4.6(2)). The applicant has provided a written request justifying the contravention of the development standard pursuant to Clause 4.6(3) of Botany Bay Local Environmental Plan 2013, which is considered below. The matter for consideration pursuant to Clause 4.6(4) (ii) is also considered below. Clause 4.6 (5), (6), (7) and (8) are not relevant to the current proposal.

In *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe*), the Land and Environment Court set out the following 5 different ways in which an objection to a development standard may be well founded:

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

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEC 90 (*Four2Five*), the Court established that the construction of Clause 4.6 is such that it is not sufficient for the applicant to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standards, as required by Clause 4.6(3)(b), or for the consent authority to be satisfied that the proposed development is consistent with 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, as required by Clause 4.6(4)(a)(ii). The Court outlines, that Clause 4.6 requires that in addition to the requirements listed above, the applicant must also establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as is required by Clause 4.6(3)(a). This may involve reference to reasons 2-5 outlined within *Wehbe*.

The requirements of 4.6(3)(a), 4.6(3)(b), and 4.6(4)(a)(ii) are each addressed below:

*Is the development standard unreasonable or unnecessary in the circumstances of the case?*

Officer's Comments:

The applicant has provided justification for the variation to the floor space ratio which is viewed as unreasonable and unnecessary given:

- The proposed GFA of 236.5m<sup>2</sup> complies with the maximum GFA of 244.03m<sup>2</sup> when assessed under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. In this regard, the proposed FSR is within the limits of what is reasonably anticipated for the site, albeit, under a different planning scheme.

- The excess floor area of 29.62m<sup>2</sup> will create no additional impacts given the development complies with height and site coverage controls and will not adversely affect the streetscape. Additional overshadowing impacts have been found to comply with Council's minimum solar access requirements for the adjoining properties. It is considered that any overshadowing and visual privacy impacts created by the proposed development have been addressed accordingly and are within acceptable limits.

Will the proposed development 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?

Officer's Comments:

Additionally, further justification provided by the applicant proposes the variation of the development standard to be in the public interest given:

- The proposal satisfies the objectives of the floor space ratio standard, namely to ensure buildings are compatible with the bulk and scale of the surrounding locality and do not adversely affect the existing streetscape.
- The proposal satisfies the objectives of the zone, namely, to continue providing for the housing needs of the community within a low density residential environment.

### Summary

The Clause 4.6 exception to the floor space ratio provision has been assessed in accordance with relevant case law, being the principles of *Wehbe v Pittwater Council* [2007] NSW LEC 827 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEC 90 (*Four2Five*). The proposal is consistent with the underlying objectives of the standard identified. The proposed development has been assessed against Councils' Botany Bay Local Environmental Plan 2013 and Botany Bay Development Control Plan 2013 controls which are compliant with the majority.

In this regard, the Floor Space Ratio development standard is considered unreasonable and unnecessary given the proposed FSR is within the limits of what has been anticipated for the site under the SEPP (Exempt and Complying Development Codes) 2008. Furthermore, the proposal will ensure bulk and scale of the development is compatible with the streetscape character and will not result in any additional impacts with respect to overshadowing and visual privacy. The proposed variation is considered to satisfy the objectives of the floor space ratio standard and the R2 Low Density Residential zone.

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

There are no current Draft EPIs applicable to this development

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

#### **Botany Bay Development Control Plan 2013**

The development proposal has been assessed against the controls contained in the Botany Bay Development Control Plan 2013 as follows:

### **Part 3A –Parking and Access**

Control C2 of the Botany Bay Development Control Plan 2013 states that car parking provision shall be provided in accordance with Table 1. Table 1 identifies that dwelling houses with two or more bedrooms are to provide 2 car parking spaces per dwelling.

The development proposes to provide 2 car parking spaces on site, which is compliant with the controls.

The proposal is compliant with control 28, which is to provide a 3m minimum width access driveway at the property boundary, which the proposal provides.

### **Part 3L – Landscaping and Tree Management**

<b>Control</b>	<b>Proposed</b>	<b>Complies</b>
<b>3L.1.1 Tree Preservation Bonds</b>		
Tree Preservation Bonds required for significant or heritage trees, or trees with a high potential to be impacted during construction.	The existing Council street tree fronting the property is required to be retained and protected. In this regard, a tree Preservation Bond has been conditioned for consent.	Y – Subject to condition
<b>3L.1.2 Submission Requirements</b>		
<b>C1</b> Landscape Plan required	Provided	Y
<b>3L.2 General Requirements</b>		
<b>C1</b> Existing trees including street trees must be preserved	Refer to <b>3L.1.1</b> Tree Preservation Bonds	Y
<b>3L.3 Planting Design and Species</b>		
<b>C7</b> Canopy trees are to be planted in setbacks, particularly the front and rear setbacks of a property, to ameliorate built elements, subduing their appearance in the landscape and to encourage the continuity of landscape patterns.	No trees have been proposed for this application.	Y
<b>3L.4.2 Tree Works Requiring Council Approval</b>		
<b>C12</b> If consent is granted for the removal or pruning of a tree, suitable replacement tree/s will be required to be planted on the subject property by the property owner or applicant. Council will stipulate the minimum acceptable replacement tree/s pot size and number of trees and may recommend suitable species.	No tree works have been approved for this application.	N/A
<b>3L.5 Stormwater</b>		
<b>C1</b> Impervious surfacing is to be minimised. Permeable pavements are to be used where possible eg. Decks, pebbles, spaced pavers, specialised permeable pavers. Note: Run-off from paved areas can be minimised by directing runoff to garden beds. <b>C2</b> Underground on-site stormwater detention (OSD) tanks and infiltration trenches are not to be located within soft landscaped areas.	The proposed infiltration system is currently located in a soft landscaped area. However, this is considered acceptable given sufficient deep soil zones have been provisioned for the site.	Y

### **Part 3N – Waste Minimisation and Management**

A waste management plan prepared by Osmo Consulting Group Pty Ltd has been provided to Council, which addresses the works involved including minor excavation and fill to the site, in addition to the construction of the works proposed.

### **Part 4A – Dwelling Houses**

Control	Proposed	Complies
4A.2.4 Streetscape Presentation		
C1 New dwellings must be designed to reflect the relevant Desired Future Character Statement in Part 8 - Character Precincts and are to reinforce the architectural features and identity which contributes to its character. Applicants must address the design principles outlined in the statement.	The existing streetscape character consists of a mix of one and two-storey detached dwellings with a pitched roof being the most common roof form in the area. The proposed two-storey detached dwelling with a skillion roof and contemporary architectural features departs from the existing architectural styles found in the immediate context, which is anticipated given the area is undergoing changes where new development is replacing the older housing stock.  The proposal for a more contemporary roof style within the streetscape will be consistent with similar developments found in the nearby area at 34 and 35 Fraser Avenue. In this regard, the proposal is a suitable reflection of the desired future character of the area.	Y
C2 Development must be designed to reinforce and maintain the existing character of the streetscape.		
C3 Development must reflect dominant roof lines and patterns of the existing streetscape (refer to Figure 3).		
C6 The entrance to a dwelling must be readily apparent from the street.	The dwelling entry and habitable room windows are readily apparent from the street.	Y
C7 Dwelling houses are to have windows to the street from a habitable room to encourage passive surveillance.		
4A.2.7 Site Coverage		
C1 Refer to Part 3L.1.4 – Definitions for definitions of site coverage, deep soil zones, and soft and hard landscape areas.	Site Coverage - Existing = 118.9m <sup>2</sup> - Proposed = 187.2m <sup>2</sup> Deep Soil zones - Existing = 124.8m <sup>2</sup> - Proposed = 91.2m <sup>2</sup> Soft Landscape Areas – 172.6m <sup>2</sup> - Existing = 124.8m <sup>2</sup> - Proposed = 103.4m <sup>2</sup> Hard Landscape Areas - Existing = 52.5m <sup>2</sup> - Proposed = 67m <sup>2</sup>	Y

C2 For sites over 200m <sup>2</sup> the maximum site coverage is: >300m <sup>2</sup> = 50% of the lot (188.05m <sup>2</sup> )	Site area = 376.1m <sup>2</sup> . Site coverage = 49.8% (187.2m <sup>2</sup> )	Y
<b>4A.2.8 Building Setbacks</b>		
<b>C.1</b> Dwelling houses must comply with the following minimum setbacks as set out in Table 1. Minimum front setback – comply with the prevailing street setback or 6 metres (min) Minimum side setback - Assessed on merit based – depending on visual impact to street, pattern of adjoining development, sunlight and natural daylight access, privacy, visual amenity of adjoining residential properties and streetscape  Minimum rear setbacks – 4 metres Zero lot lines (with Council Discretion) – On merit based on building type and open space provisions Eaves – 450mm minimum setback	Front setback = 6m  East side setback = 1m West side setback = 0.98m  The side setbacks proposed on both sides are a minimum 980mm, and are in keeping with the visual pattern of the adjoining development and streetscape. The setback allows for privacy, visual amenity and natural daylight access where possible, given the site orientation for sites adjacent. Rear setback = 5.96m None proposed.  East eave side setback = 0.61m West eave side setback = 0.61m	Y  Y         Y N/A   Y
<b>C5</b> Side and rear setbacks should be modulated to avoid the appearance of bulky or long walls. Side and rear setbacks should be stepped or walls articulated by projecting or recessing window elements.	Modulation is provided in the proposal along both the side and rear of the proposal, through stepped walls.	Y
<b>4A.2.9 Landscaped Area</b>		
<b>C2</b> Development shall comply with the following minimum landscaped area requirements, based on the area of the site in <b>Table 2</b> . Table 2 requires the following minimum landscaped area: 350m <sup>2</sup> - 400 m <sup>2</sup> - 30% (112.8m <sup>2</sup> )  Landscaped Area is to be fully permeable deep soil zones which are areas of natural ground or soil, not planter boxes (refer to definition in Part 3L – Landscaping).	Landscaped area = 103.4m <sup>2</sup> (27%).  The proposed landscaping has a shortfall of 9.4m <sup>2</sup> . However, the proposal is considered acceptable as the non-compliance is only minor and adequate stormwater management has been provisioned.	N – Considered acceptable
<b>C8</b> The front setback is to be fully landscaped with trees and shrubs and is not to contain paved areas other than driveways and entry paths. Paving is restricted to a maximum of 50% of the front setback area.	46% (39.8m <sup>2</sup> ) of the front setback is landscaped. No trees have been proposed.	N – Considered acceptable
<b>C9</b> The front setback area must contain at least one tree for frontages up to 11.5 metres in width and 2 trees for frontages	52% (45.6m <sup>2</sup> ) of the front setback is paving. This equates to an additional 2m <sup>2</sup> of paving which will	Y

greater than this and properties located on corner blocks.	have no adverse effects on stormwater management or streetscape character. In this regard, the minor non-compliance is considered acceptable.	
<b>4A.3.1 Materials and Finishes</b>		
<b>C10</b> The exterior walls of new dwellings must incorporate different materials, colours and textures to add interest and articulate the facade.	A Schedule of Colours and Finishes was provided.  The materials, colours, architectural detail and finishes reflect similar developments in the area.	Y - Subject to condition
<b>4A.3.2 Roofs and Attics/Dormer</b>		
<b>C1</b> Where roof forms in a street are predominantly pitched, then any proposed roof should provide a similar roof form and pitch.	Refer to DCP Streetscape Presentation Discussion.	Y
<b>4A.3.3 Fences</b>		
<b>C1</b> Front fences are to compliment the period or architectural style of the existing dwelling house.	The front fence design has not been provided in detail within this proposal. The site plan proposes a 1m front fence with. The design will be conditioned to comply.	Y – Subject to condition
<b>C7</b> Fences (or returns) that are higher than 1 metre are not encouraged along residential frontages but may be constructed to a maximum of 1.2 metres provided the top 600mm of the fence is 50% transparent or open style to allow for passive surveillance (refer to Figure 19).	The proposed fence has a height of 1m and will be conditioned to comply.	Y – Subject to Condition
<b>C17</b> Access gates must be hung so that the direction of swing is inward.	No access gate has been proposed.	N/A
<b>4A.4.1 Visual Privacy</b>		
<b>C2</b> Visual privacy for adjoining properties must be minimised by: <ul style="list-style-type: none"> <li>▪ using windows which are narrow or glazing</li> <li>▪ Ensuring that windows do not face directly on to windows, balconies or courtyards of adjoining dwellings</li> <li>▪ Screening opposing windows, balconies and courtyards; and</li> <li>▪ Increasing sill heights to 1.5 metres above floor level.</li> </ul>	The visual privacy impacts resulting from the proposed development have been assessed in Note 1 of the discussion.	Y – See <b>Note 1</b> Subject to condition
<b>4A.4.3 Solar Access</b>		
<b>C1</b> Buildings (including alterations/ additions/ extensions) are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and the principal open space areas such as swimming pools, patios and terraces, and	The subject allotment is north-south oriented with north being the front. The overshadowing impacts resulting from the proposed development have been assessed in Note 2 of the discussion.	Y – See <b>Note 2</b>

drying areas of both the subject site and adjoining properties.		
<b>4A.4.4 Private Open Space</b>		
<p><b>C1</b> Each dwelling is to have a private open space that:</p> <p>(i) Has at least one area with a minimum area of 36m<sup>2</sup>;</p> <p>(ii) Is located at ground level with direct access to the internal living areas of the dwelling;</p> <p>(iii) Maximises solar access;</p> <p>(iv) Is visible from a living room door or window of the subject development;</p> <p>(v) Minimises overlooking from adjacent properties;</p> <p>(vi) Is generally level;</p> <p>(vii) Is oriented to provide for optimal year round use;</p> <p>(viii) Is appropriately landscaped; and</p> <p>(ix) Is located or screened to ensure privacy;</p> <p>Note: Private open space is not to include:</p> <p>(i) Non-recreational structures (including garages, tool sheds and such like structures);</p> <p>(ii) Swimming pools; and</p> <p>(iii) Driveways, turning areas and car spaces, drying areas and pathways.</p>	<p>Private open space</p> <ul style="list-style-type: none"> <li>- Existing = 66.5m<sup>2</sup></li> <li>- Proposed = 85.3m<sup>2</sup></li> </ul> <p>The site provides a private open space area of 85.3m<sup>2</sup> which is accessed through at ground level through the dining room and is generally consistent with the specified requirements.</p>	Y
<b>4A.4.7 Vehicle Access</b>		
<p><b>C1</b> Driveways within a property shall have a minimum width of 3 metres.</p> <p>Note: An additional clearance of 300mm is required (for each side) if the driveway is located adjacent to a solid structure (i.e. masonry wall).</p>	The proposed driveway has a width of 5.25m, and it is not adjacent to a solid structure.	Y
<b>C6</b> The number of vehicle crossings is to be limited to one (1) per allotment.	One vehicle crossing is proposed for this site.	Y
<b>4A.4.8 Car Parking</b>		
<p><b>C3</b> Car parking is to be located at the rear of the site with access from a rear lane. If rear lane access is not possible, parking must be provided behind the front building alignment. For existing and new dwellings, a garage or carport in order of priority must be:</p> <p>(i) Located at the rear of the site with access from a rear lane;</p> <p>(ii) At the rear of the site with access from the street frontage;</p> <p>(iii) Located at the side of the dwelling house, at least 1 metre behind the front building alignment and 5.5 metres from the front boundary; or</p>	<p>Parking is provided through a double garage integrated within the dwelling, accessed from the primary frontage and setback 1.5m behind the main building alignment.</p> <p>This is considered an appropriate location for the garage, having regard to the existing site conditions, as well as BDDCP 2013 requirements relating to dwelling design, landscaping and site coverage.</p>	Y

**Note 1: Visual Privacy**

(iv) Located at the side of the dwelling house, at least 1 metre behind the front building alignment.		
<b>C4</b> Car parking structures must be located and designed to: (i) Comply with AS2890.1 and (ii) Conveniently and safely serve all users; (iii) Enable efficient use of car spaces, including adequate manoeuvrability for vehicles between the site and the street; (iv) Not dominate or detract from the appearance of the existing dwelling or new development and the streetscape; (v) Be compatible in scale, form, materials and finishes with the associated dwelling; (vi) Not reduce availability of kerbside parking; (vii) Retain any significant trees; and (viii) Have minimal impact on existing fences and garden areas that contribute to the setting of the associated dwelling and the character of the streetscape.	The proposed attached garage is integrated into the proposed dwelling house. It is in keeping with the scale of the proposed dwelling house, being less than 50% of the façade.	Y
<b>C8</b> In new development the garage/carport is to be setback 5.5 metres from the front boundary.	Garage front setback = 7.5m	Y

The visual privacy impacts anticipated by the proposed dwelling have been assessed and are considered to be acceptable subject to minor amendments. The amendments are as follows:

- West elevation
  - Ground floor windows servicing the kitchen and laundry are to incorporate either minimum 1.5m high sill heights or obscure glazing for sill heights less than 1.5m high.
  - First floor windows servicing the bedrooms towards the rear of the property are to incorporate either minimum 1.5m high sill heights or obscure glazing for sill heights less than 1.5m high.
- East Elevation
  - The first floor window at the top of the staircase is to incorporate either a minimum 1.5m high sill height or obscure glazing for a sill height less than 1.5m high.



## **Note 2: Solar Access**

Development Control Plan (DCP) 2013 states that the minimum amount of direct solar access to the dwelling's and adjoining dwellings primary open space area shall not be less than 2 hours between 9:00am and 3:00pm on the 21<sup>st</sup> June. In addition, Clause 6 states that where an existing development currently receives less than the required amount of sunlight (on 21<sup>st</sup> of June) the amount of sunlight available on the 21<sup>st</sup> of March or the 21<sup>st</sup> of September will be used as an alternative standard.

With respect to the Land and Environment Court planning principles on the impact on solar access of neighbours (Parsonage v Ku-ring-gai (2004) NSWLEC 347) and as amended by The Benevolent Society v Waverly Council is addressed as follows:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed). At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

Comment: The subject allotment is north-south oriented with south being the rear and north being the front of the property adjoining Wentworth Avenue. The proposed development is considered to be contemporary in design, within the height control and rear boundary setbacks as required by DCP2013. The locality is a low density residential area directly opposite the Westfields Eastgardens Shopping Centre. The overshadowing impacts from the proposed development will affect the solar access to the adjoining neighbours to the east and west located at 246 and 242 Wentworth Avenue and the southern adjoining properties located at 16 and 14 Fraser Avenue. Despite this, the adjoining sites to the west and south-west will receive solar access to more than 50% of the private open space area between the hours of 9am to 12pm and the sites to the east and south-east will receive solar access between the hours of 1pm-4pm on the 21<sup>st</sup> of June. It is considered that the overshadowing impacts created by the proposed development are within acceptable limits and the application should be supported in its submitted form.

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

Comment: The proposal is not considered to be of poor design. The proposed flat and skillion metal roof will reduce the overall bulk of the development and therefore any subsequent overshadowing impacts will also be reduced. The dwelling has a height of 7.6m which is below the maximum 8.5m building height allowed for the site.

- *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest proportions of the glazed area.*

Comment: As stated above, the subject allotment is north-south orientated. The submitted shadow diagrams clearly indicate that the private open space areas of the adjoining properties will have access to direct sunlight for the required period during the 9am to 3pm assessment period.

- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

Comment: Overshadowing by fences, roof overhangs and changes in level have been taken into consideration. The site is not affected by any substantial trees, shrubs and or overgrown vegetation.

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as existing development.*

Comment: The area is a low-density residential area with single-storey detached dwellings being the most common housing stock. The area is undergoing change which will see the existing single storey dwellings be redeveloped either through knock down rebuilds or first floor additions. In this regard, the proposed development will have minimal adverse impacts on the development potential of adjoining properties and is consistent with the desired future character of the area.

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

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

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

As outlined in the assessment above, the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

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

The subject site is flood affected however, it will not impact the proposal. The site is not known to be affected by any other site constraints or other natural hazards likely to have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered, however, given the nature of the development, and the long-standing use of the land for residential purposes, onsite investigation is not warranted.

The proposed development is permissible in the zone and satisfies the objectives of the zone. The traffic impacts are not considered to be significant given the relatively small scale of the development and no significant planning issues are raised that would warrant the refusal of the proposed development.

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

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period from 31 July to 14 August 2017. No submissions were received.

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

It is considered that granting approval to the proposed development will have no significant adverse impact on the public interest.

### **Other Matters**

The site is subject to flooding. A hydraulic certificate prepared by N. Koloff (Structural and Civil Engineer) has concluded that the proposed new dwelling with a garage RL 21.00 and proposed ground floor of the main building – split level with RL 21.10 to 20.74 – will not be affected by future floods in the area.

### **Section 94 Contributions**

No contributions are applicable for this proposed development.

## **Conclusion**

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Development Application No. 2017/1114 for construction of a new two-storey dwelling at 244 Wentworth Avenue, Eastgardens has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979. A Clause 4.6 has been provided justifying the departure from the Floor Space Ratio development standard stating that, in this instance, the development standard is unreasonable and unnecessary. In this regard the application is recommended for approval subject to conditions of consent given the Clause 4.6 is well-founded and any other non-compliances are considered to be minor.

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## **Attachment**

### **Schedule 1 – Conditions of Consent**

**Premises: 244 Wentworth Ave**

**DA No: 2017/1114**

### **SCHEDULE OF CONSENT CONDITIONS**

#### **GENERAL CONDITIONS**

1. The development is to be carried in accordance with the following plans listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

<b>Drawing No.</b>	<b>Author</b>	<b>Date Received</b>
Site Plan A01 – Issue 1	John Spiteri	Dated 11 July 2017; Received 17 July 2017
Ground Floor Plan A02 – Issue 1		Dated 11 July 2017; Received 17 July 2017

Drawing No.	Author	Date Received
First Floor Plan A03 – Issue 1		Dated 11 July 2017; Received 17 July 2017
Elevations A04 – Issue 1		Dated 11 July 2017; Received 17 July 2017
Elevations and Sections A05 – Issue 1		Dated 11 July 2017; Received 17 July 2017
Landscape Plan L-01 – Issue 1	Jacob Bennett Landscape Architect	Dated 10 July 2017; Received 17 July 2017

Reference Document(s)	Author	Date Received
Statement of Environmental Effects	John Spiteri	Dated June 2017; Received 17 July 2017
Clause 4.6 – Floor Space Ratio Statement	-	Not dated; Received 25 July 2017
Drainage Plan D4	Osmo Consulting Group Pty Ltd	Dated 3 July 2017; Received 17 July 2017
Waste Management Plan D3	Osmo Consulting Group Pty Ltd	Dated 3 July 2017; Received 17 July 2017
BASIX Certificate	Max Brightwell	Dated 26 June 2017; Received 29 July 2017
Traffic Noise Intrusion Assessment	Acoustic Logic	Dated 3 July 2017; Received 17 July 2017

2. This Consent relates to land in Lot 18 in DP 169418, and as such, building works must not encroach on to adjoining lands or other public places.
3. The following shall be complied with:
  - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
  - b) In accordance with Clause 94 *Environment Planning & Assessment Regulation 2000*, an automatic smoke detection and alarm system for early warning of occupants must be installed in the building (dwellings). The installation must satisfy the following:-
    - i) smoke alarms must comply with AS3786 - 1993;
    - ii) smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and
    - iii) be located in a position as required by Vol 2. BCA.
4. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the approved BASIX Certificate (as referenced in Condition No.1) for the development are fulfilled.
  - a) Relevant BASIX Certificate means:
    - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is

modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or

- ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
  - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
5. The consent given does not imply that works can commence until such time that: -
- a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by: -
    - i) The consent authority; or,
    - ii) An accredited certifier; and,
  - b) The person having the benefit of the development consent: -
    - i) Has appointed a principal certifying authority; and,
    - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
    - iii) The person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

#### **CONDITIONS IMPOSED BY EXTERNAL AUTHORITIES**

6. The following conditions imposed by **RMS** are as follows:
- a) All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Wentworth Avenue boundary
  - b) The redundant driveway on the Wentworth Avenue frontage shall be removed and replaced with kerb and gutter to match existing. The design and construction of the new kerb and gutter crossing on Wentworth Avenue shall be in accordance with Roads and Maritime Services, Manager Developer Works, State Wide Delivery, Parramatta (telephone 9598 7798).

Detailed design plans of the proposed gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.
  - c) All vehicles are to be wholly contained on site before being required to stop.

- d) Should the post development storm water discharge from the subject site into the Roads and Maritime system exceed the pre-development discharge, detailed design plans and hydraulic calculations of any changes are to be submitted to Roads and Maritime for approval, prior to the commencement of works on site.

Details should be forwarded to: [Suppiah.THILLAI@rms.nsw.gov.au](mailto:Suppiah.THILLAI@rms.nsw.gov.au)

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regards to the Civil works requirement please contact the Roads and Maritime project Engineer, External Works Ph: 88492114.

- e) All works and signposting associated with the subject development, including any utility adjustment/ relocation works, shall be at no cost Roads and Maritime.
- f) Sight distances from the proposed vehicular crossing to road users on Wentworth Avenue are to be in accordance with the Austroads Guide to Road Design Part 4A: Unsignalised and Signalised Intersections, Section 3.4, and AS 2890. Vegetation and proposed landscaping/ fencing must not hinder sight lines to and from the vehicular crossing to motorists, pedestrians and cyclists.
- g) A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.
- h) All demolition and construction vehicles are to be contained wholly within the site. All vehicles must enter the site before stopping as a construction zone will not be permitted on Wentworth Avenue.
- i) A Road Occupancy License should be obtained from Transport Management Centre for any works that may impact on traffic flows on Wentworth Avenue during construction activities. A ROL can be obtained through <http://myrta.com/oplinc2/pages/securty/oplincLogin.jsf>
- j) Any traffic control during construction must be carried out by accredited Roads and Maritime approved traffic controllers.

#### **CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

- 7. Prior to the issue of Construction Certificate, detail design and construction plans in relation to the habitable area shall be submitted to the Principal Certifying Authority for approval. The plans shall incorporate but not limited to:
  - a) The front fence design shall be limited to an overall height no greater than 1.2m with the height of the solid section limited to 600mm. Minimum 50% opening shall be provided in the upper 600mm of the fence and in colours and materials in keeping with the associated dwelling.
  - b) Any gates on the front boundary shall be constructed with open style or be at least 50% transparent to allow for passive surveillance.
  - c) The following windows are to be amended accordingly;

- i) West facing ground floor windows servicing the kitchen and laundry are to incorporate either minimum 1.5m high sill heights or obscure glazing for sill heights less than 1.5m high above the finished floor level;
  - ii) West facing first floor windows servicing the bedrooms towards the rear of the property are to incorporate either minimum 1.5m high sill heights or obscure glazing for sill heights less than 1.5m high above the finished floor level; and
  - iii) The east facing first floor window at the top of the staircase is to incorporate either a minimum 1.5m high sill height or obscure glazing for a sill height less than 1.5m high.
8. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval.  
  
(The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)  
  
The plans shall incorporate measures such as:
  - a) the provision for a On-site Stormwater Infiltration System designed to retain all 1 in 100 year storm events and satisfying all relevant Council and Australian Standards,  
  
Note: a Rainwater Tank may be used as an alternative, for which up to half of the capacity may contribute towards the on-site detention system / infiltration trench
  - b) all calculations shall be submitted to Council for assessment.
9. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
10. The applicant must prior to the obtainment of the approved plans and specifications pay the following fees:-
  - a) Footpath Crossing Deposit \$2570.00 (Refer to condition No. 12)
  - b) Development Control \$875.00
  - c) Tree Preservation Bond \$5,855.00 (Refer to condition No. 13)
11. Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Certifying Authority. All utilities within the work zone shall be protected during construction.

Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.

12. Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing Deposit of \$2570.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
13. Prior to the issue of the Construction Certificate, the applicant is to submit payment for a Tree Preservation Bond of \$5,855.00. The duration of the Bond shall be limited to a period of three (3) months after issue of the Occupation Certificate. At the completion of the three (3) month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection by Council or a qualified Arborist. If the tree is found to be damaged, dying or pruned without Council permission, then Council will forfeit all or part of the bond. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.
14. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and Certifying Authority.

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 20m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

15. A dilapidation report of the frontage of 53 and 59 Forster Street, including a photographic survey must be prepared. A copy of the dilapidation report together with the accompanying photographs shall be lodged with Certifying Authority prior to the release of the Construction Certificate.
16. Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall conform to the current Australian Standards AS 2890.1 and Council's Infrastructure Specifications. These include but are not limited to E-01, E-04, E-07 and E-16.

As part of this development, a new concrete driveway shall be constructed. A new 5.25 metre wide driveway layback shall be constructed as part of the new driveway. A minimum of one (1.0) metre of kerb and gutter either side of the driveway layback shall be replaced to enable the correct tie-in with the existing kerb and gutter.

17. Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Certifying Authority, showing the storage location of construction building materials and plants and the method of access to the property. No storage of construction materials and plants to be allowed in road reserve area.
18. Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the



construction of external walls including finishes and claddings such as synthetic or aluminum composite panels comply with the relevant requirements of the National Construction Code (NCC).

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT OR WORK**

19. Where demolition is proposed, the following shall be provided to Council at least forty-eight (48) hours prior to the commencement of demolition:
  - a) Written notice, indicating the date when demolition of the building is to commence.
  - b) This persons full name and address.
  - c) Details of Public Liability Insurance.
20. The Certifying Authority must be satisfied that: -
  - a) In the case of work to be done by a licensee under the Home Building Act: -
    - i) Has been informed in writing of the licensee name and contractor licence number, and;
    - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or,
  - b) In the case of work to be done by any other person: -
    - i) Has been informed in writing of the persons name and owner-builder permit number, or;
    - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
  - c) And is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.
21. Prior to the commencement of works, the applicant must inform Council, in writing, of:
  - a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
  - b) The name and permit number of the owner-builder who intends to do the work;
  - c) The Council also must be informed if: -
    - i) A contract is entered into for the work to be done by a different licensee; or
    - ii) Arrangements for the doing of the work are otherwise changed.

22. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
23. Building plans must be lodged through a Sydney Water Tap In Service for approval prior to commencement of works.
24. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
25. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
26. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
  - a) The *Soil and Water Management Plan* if required under this consent;
  - b) “Do it Right On Site, Soil and Water Management for the Construction Industry” published by the Southern Sydney Regional Organization of Councils, 2001; and
  - c) “*Managing Urban Stormwater – Soils and Construction*” published by the NSW Department of Housing 4<sup>th</sup> Edition” (‘The Blue Book’).
  - d) Where there is any conflict The Blue Book takes precedence.

Note: The International Erosion Control Association – Australasia (<http://www.austieca.com.au/>) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

Note: The “Do it Right On Site,” can be downloaded free of charge from Council’s website at: <http://www.botanybay.nsw.gov.au/council/services/planning/factsheets.htm>, further information on sediment control can be obtained from [www.ssroc.nsw.gov.au](http://www.ssroc.nsw.gov.au).

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

Warning, irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

27. Prior to commencement of any works, relevant application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993:

*(It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)*

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
- b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
- c) Permit for roads and footways occupancy (long term/ short term),
- d) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
- e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
- f) Permit to place skip/waste bin on footpath and/or nature strip, and
- g) Permit to use any part of Council's road reserve or other Council lands.

(Application(s) shall be submitted minimum one (1) month prior to the planned commencement of works on the development site. The application will be referred to the Council's Engineering and Regulatory Services for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s)).

#### **CONDITIONS TO BE SATISFIED DURING WORKS**

28. Any demolition work shall be carried out in accordance with Australian Standards AS 2601-1991 Demolition of Structures and the requirements of the NSW WorkCover Authority.
29. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos;
  - b) Protection of the Environment Operations Act 1997;
  - c) Protection of the Environment Operation (Waste) Regulation;
  - d) DECC Waste Classification Guidelines 2008.
30. No demolition materials shall be burnt or buried on the site.

31. All services (Utility, Council, etc) within the road reserve (including the footpath) shall be relocated/adjusted to match the proposed/existing levels as required by the development.
32. The proposed development shall comply with the following:
  - a) 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;
    - ii) Showing the name of the person in charge of the work site and a the Local Environmental Plan phone number at which that person may be contacted outside working hours;
    - iii) The Development Approval number; and
    - iv) The name of the Certifying Authority including an after-hours contact the Local Environmental Plan phone number.
  - b) Any such sign is to be removed when the work has been completed.
33. Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises.
34.
  - a) To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -
    - i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
    - ii) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -
      - 1 The additional load on the system; and
      - 2 The relocation and/or adjustment of the services affected by the construction.
  - b) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
35. Should the construction process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.
36. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible

to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.

37. The approved Waste Management Plan/ Environmental Site Management Plan (as referenced in Condition 1) shall be complied with at all times during construction and on-going use of the site.
38. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
39. If any excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
  - a) Must preserve and protect the building/ fence from damage; and,
  - b) If necessary, underpin and support such building in an approved manner;
  - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
  - d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
  - e) If the soil conditions required it:
    - i) Retaining walls associated with the erection of a building (swimming pool) or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided and:-
    - ii) Adequate provision must be made for drainage.
  - f) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property.
40. Any dewatering is not permitted on this site without NSW-EPA approval.
41. The following shall be complied with during construction and demolition:
  - a) Construction Noise

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
  - b) Level Restrictions
    - i) Construction period of 4 weeks and under:

The L<sub>10</sub> sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).

- ii) Construction period greater than 4 weeks and not exceeding 28 weeks:

The L<sub>10</sub> sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).

- c) Time Restrictions

- i) Monday to Friday 07:00am to 05:00pm
- ii) Saturday 08:00am to 01:00pm
- iii) No Construction to take place on Sundays or Public Holidays.

- d) Silencing

All possible steps should be taken to silence construction site equipment.

- 42. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:

- a) construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
- b) Each toilet provided:
  - i) must be standard flushing toilet; and,
  - ii) must be connected:
    - 1 to a public sewer; or
    - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
    - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
- c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.

- 43. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls as required by this consent and the Protection of the Environment Operations Act 1997.

- 44. The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.

- 45.
- a) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion; and,
  - b) In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
  - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
  - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
  - e) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
46. During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be make safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
47. During construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
48. Inspections must be conducted by Council's Engineer at the following occasions:
- a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
  - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete,
  - c) Formwork inspection of Council's footpath prior to laying of concrete,
  - d) Final inspection of driveway layback and adjacent kerb and gutter,
  - e) Final inspection of Council's kerb and gutter,
- Final inspection of Council's footpath.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE**

49. Prior to the issue of any Occupation Certificate(s), the applicant shall carry out the following works:
  - a) On Wentworth venue, adjacent to development, reconstruct existing Footpath for the full length of the property in accordance with Council Infrastructure Specifications.
50. Prior to the issue of any Occupation Certificate(s), a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
  - a) Restriction on Use of Land for On-Site Infiltration System. Refer to Appendix A of the Stormwater Management Technical Guidelines for suggested wording.
  - b) Restriction on the use and to maintenance the first floor roof top area as a green roof.
51. Prior to the issue of any Occupation Certificates(s), documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
52. Prior to release of the Occupation Certificate the developer must submit to the Principal Certification Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
53. Prior to the issue of any Occupation Certificate, satisfactory inspection reports (formwork and final) for any works on the road reserve shall be obtained from Council's engineer and submitted to the Certifying Authority.
54. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
55. The Council nature strip at any site frontage shall be repaired and/or replaced and maintained in accordance with Council Specification at the completion of all construction work at the Applicant's expense.
56. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.



## **CONDITIONS WHICH MUST BE SATISFIED DURING THE ONGOING USE OF THE DEVELOPMENT**

57. Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway.
58. Ongoing maintenance of the grass nature strips shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass. Maintenance **does not include** pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.
59. The building is approved as a single dwelling on the site for use and occupation by a single family. The dwelling cannot be used as a secondary dwelling. It shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council.
60. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
61. All intruder alarms must be fitted with a timing device in accordance with the requirements of Protection of the Environment Operations (Noise Control) Regulation 2008, and AS2201, Parts 1 and 2 - 1978 Intruder alarm systems.
62. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

63. Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
64. The Protection of the Environment Operations (Noise Control) Regulation 2000, states that noise from any air-conditioning units (measured as the LAeq 15 minute) is not to exceed the background level (measured as the LA90 15 minute) by more than 5dBA at

any time. The measurement is to be taken at boundary of the property. If the noise from the air conditioner contains any annoying characteristics, the measurements are to be corrected in accordance with the New South Wales Industrial Noise Policy. In addition noise from any air conditioning units are not to be audible within habitable room of other residence before 7am or after 10pm (Monday to Friday) or before 8am or after 10pm (Sat/Sun/Public Holidays).

**Note:** in order to meet this condition the compressors and any other noise generating part of the air conditioning unit is to be located a sufficient distance from any residential boundary to permit the sound from the unit to decay sufficiently to meet the standard, or enclosed in a suitable acoustic enclosure.

65. All wastewater and the stormwater system (including all pits, pipes, absorption, detention structures, treatment devices and rainwater tanks) shall be regularly maintained (at least once per year) in order to ensure that they remain effective. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
66. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 2017/1114 dated as 17 July 2017 and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.

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## ADDENDUM TO THE STATEMENT OF ENVIRONMENTAL EFFECTS

<b>Address</b>	244 Wentworth Avenue, Eastgardens
<b>Proposal</b>	Demolition of an existing structures and construction of a new two storey dwelling house with double garage

The following is an addendum to the Statement of Environmental Effects in relation to the non-compliance with the maximum floor space ratio standard under Clause 4.4 of the Botany Bay Local Environmental Plan 2013 (LEP).

The proposed variation is summarised in the table below:

Site Area:	371.5m <sup>2</sup>
Maximum allowable FSR:	0.55:1
Proposed FSR:	0.63:1

As a result, an objection, under Clause 4.6 of the LEP is provided below to argue that full compliance with the maximum floor space ratio standard contained in the LEP, in the circumstances, is unnecessary and unreasonable.

The objection to the identified standard is based upon Clause 4.6(3) and Clause 4.6(4) of the LEP, which states:

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

*(4) Development consent must not be granted for development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

*(b) the concurrence of the Director-General has been obtained.*

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In respect to the above Clauses, it is considered that strict compliance with the maximum floor space ratio standard is unreasonable and unnecessary in the circumstance of the case for the following reasons:

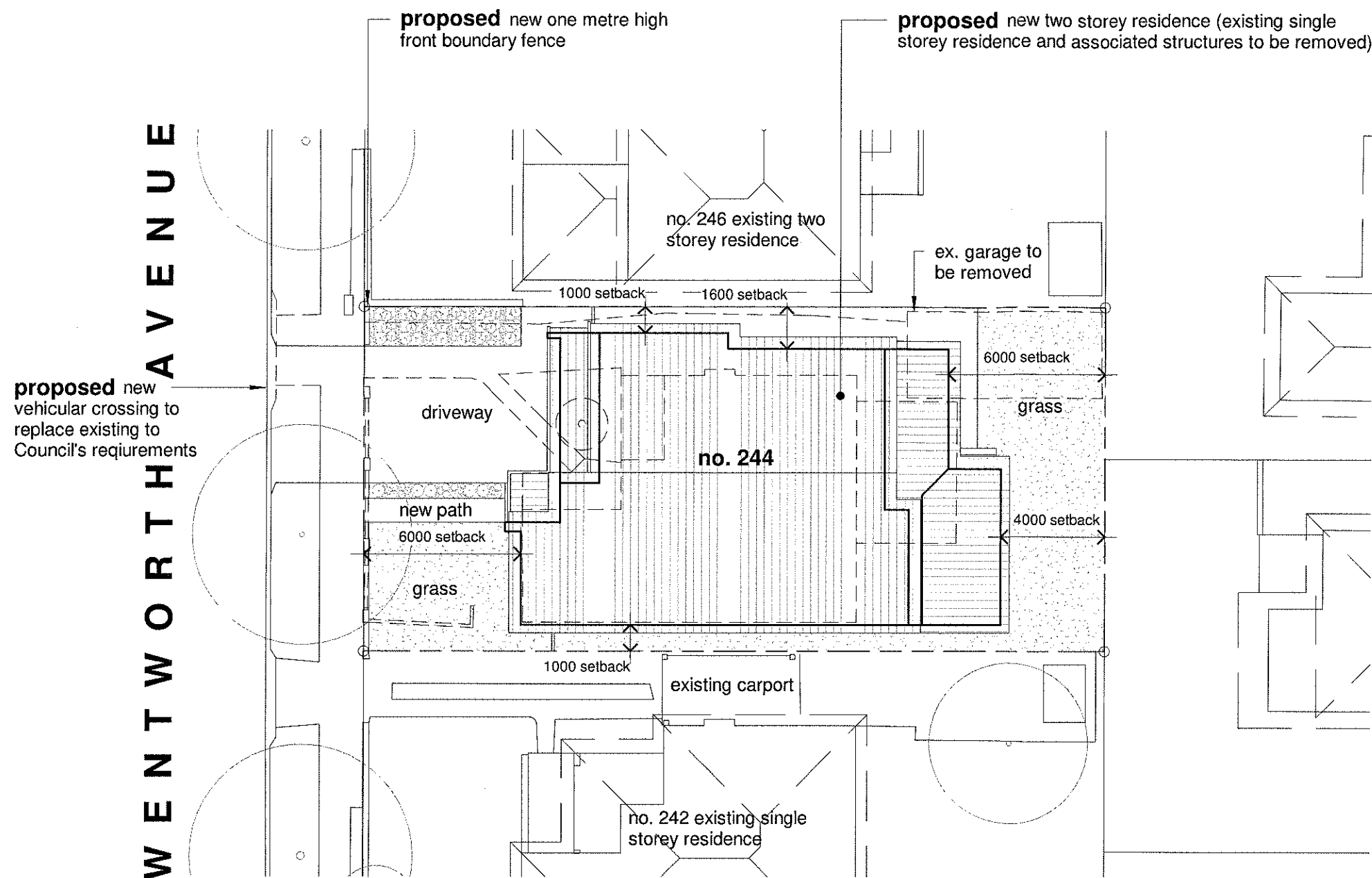
- The proposal represents a modest development that has been skilfully designed to remain consistent with the height, bulk and scale of other two storey dwelling houses within the immediate vicinity of the site.
- The proposal development is also compatible with the bulk and scale of the development permissible under the General Housing Code and complies with the maximum gross floor area allowable under Clause 3.19 of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- The proposed development has been designed to comply with all relevant development controls under Botany Bay Development Control Plan 2013 in relation to site coverage, building setbacks, landscaped area, solar access, private open space and car parking.
- The proposed development will not result in any significant adverse impacts upon the amenity of the adjoining dwellings in terms of overshadowing, loss of privacy or views. The rear yard of the southern neighbour will continue to receive adequate direct sunlight in mid winter.
- The proposal is sympathetic to the existing and desirable future character of the locality and will contribute to the mixture of building style and sizes in the area.
- The proposal is consistent with the relevant objectives of the floor space ratio standard, contained in Clause 4.4 of the LEP, in that it will provide an appropriately scaled development that is consistent with the existing surrounding built form and desired future character of the locality. The proposed development has been skilfully designed to maintain reasonable levels of environmental amenity for the neighbouring properties and will be compatible with the bulk and scale of the existing residential development along Wentworth Avenue.

In addition, the proposed contravening of the development standard is considered to be in the public interest and supportable on the following environmental planning grounds:

- The proposed development is consistent with the relevant objectives of the R2 – Low Density Residential zone in that the proposed development will provide for the housing needs of the community within an established residential environment.
- The proposed variation to the floor space ratio standard does not conflict with any matters of State or regional environmental planning significance, nor does it conflict with any State Planning Policies or Ministerial directives. The significance of the non-compliance is acceptable in the context of the overall development of the broader Eastgardens area.
- The public benefit would be best served by approval of the development application under consideration, given the absence of any demonstrable adverse impacts resulting from the proposal.

- 
- It is considered that due to the absence of any demonstrable adverse impacts arising from the proposed development, as argued elsewhere in this objection, adherence to the subject development standard would hinder the attainment of the objects of Section 5(a) (i) and (ii) of the Environmental Planning and Assessment Act 1979 (as amended). Further, the proposed development is consistent with the relevant objectives of the floor space ratio standard.
  - The proposed development has been designed to respect the amenity of the adjoining neighbours and the character of the streetscape. No precedent will be set that would allow unjustified non-compliance with the standard in future applications.

For the above reasons, it is considered that the objection under Clause 4.6 of the LEP satisfactorily demonstrates that strict adherence to the maximum floor space ratio standard is unreasonable and unnecessary in the subject application, and consent to the proposed development, would be in the public interest.



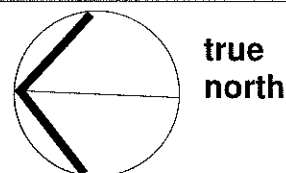
**1 Site Plan**  
1 : 200  
○ indicates existing trees to be removed

- General Notes:**
- All dimensions are in millimetres unless stated otherwise, dimensions take preference to scale.
  - All dimensions and levels to be confirmed, prior to tender and construction, by builder.
  - Notes continued see attachment...

- Construction Notes:**
- All new work to be carried out in accordance with BCA, EPA act 1979 as amended, Local Govt. Act 1993, regulations under the Acts, Council requirements and Sydney Water requirements.
  - All structural components of the proposed construction to engineer's details.
  - This plan is to be read in conjunction with BASIX certificate no: 833553S dated: 26.06.2017  
The required commitments listed and identified in the basix certificate are to be incorporated with the new works.
  - 3 star basin taps, 3 star kitchen taps, 3 star rated showerheads and 3 star rated toilets shall be provided to the development, in accordance with BASIX certificate commitments.
  - Provide weather seals to all new windows and doors.
  - Provide one of the following to all new windows and doors; heavy drapes or curtains, PVC vertical or horizontal blinds, or timber or vinyl shutters.
  - New light fixtures in all bedrooms / living and dining / kitchen in the development are to be installed with fluorescent, compact fluorescent or LED lights.

- Site Calculations:**
- Site Area: 371.5m<sup>2</sup>
  - Proposed Total Floor Area: 232.15m<sup>2</sup>
  - Proposed Floor Space Ratio: 0.63:1
  - Proposed Permeable Landscape: 31% approx.
  - Proposed Site Coverage: 47.8% approx.

**JOHN SPITERI** DESIGN AND DRAFTING  
31A TIERNEY AVE, EASTGARDENS NSW 2036 AUST  
BUS PH/FAX: 612 9349 6422  
MOBILE: 0419 412 299  
(C)

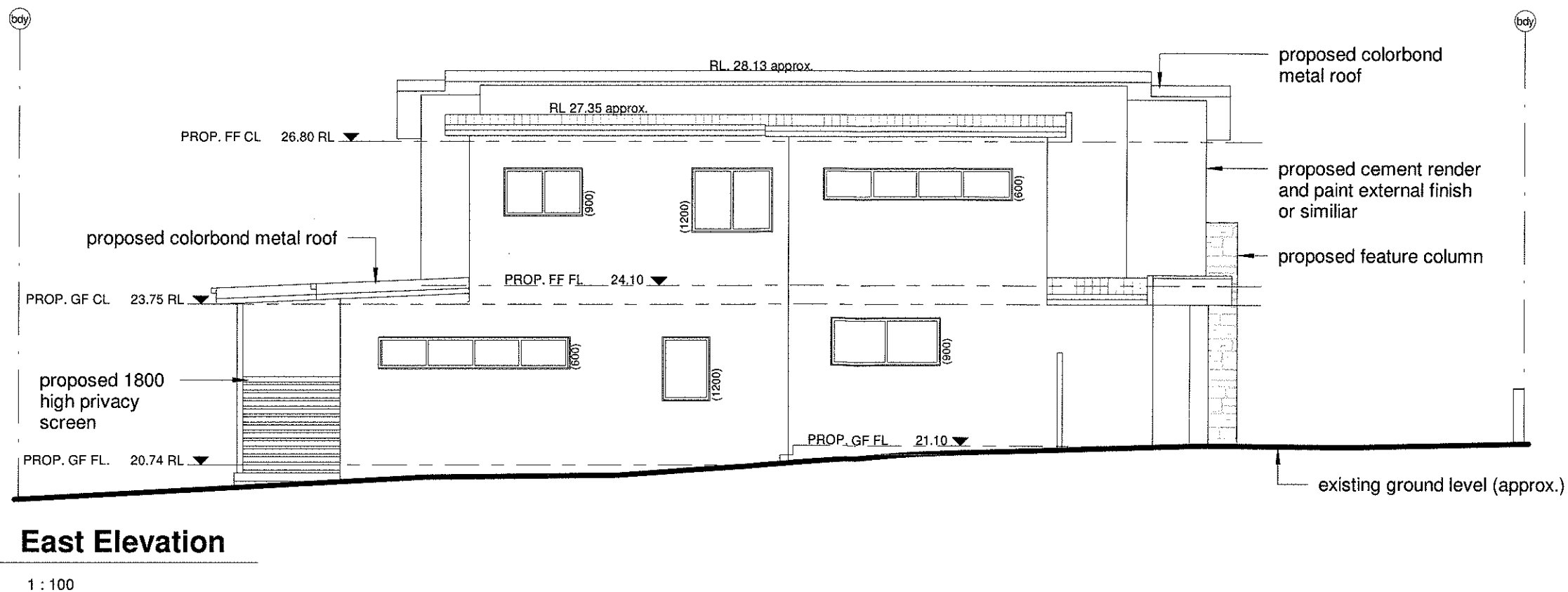
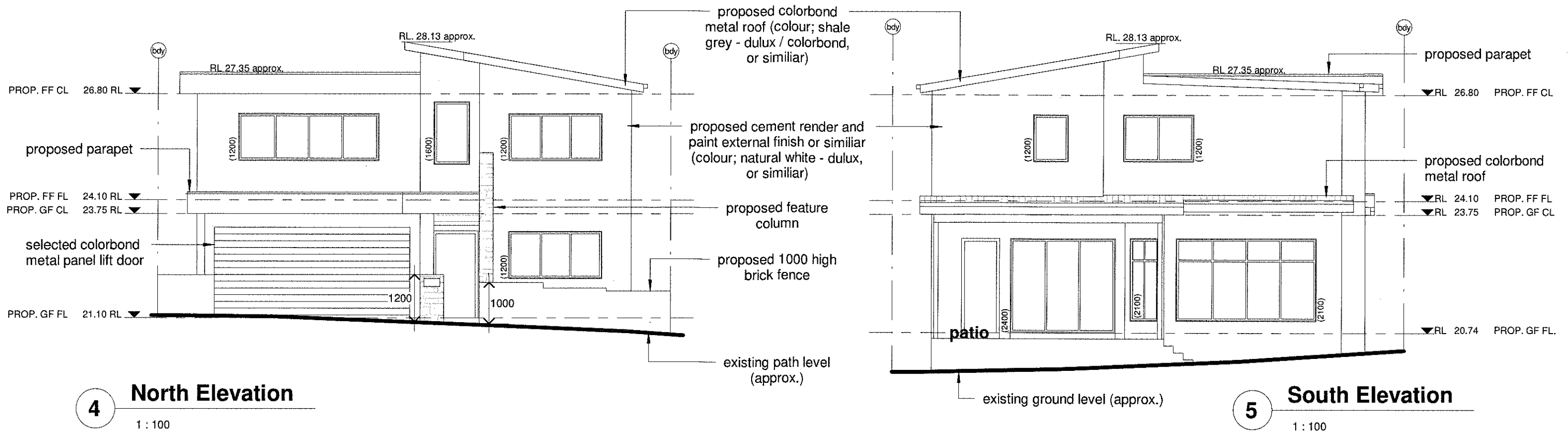


**PROJECT NAME**  
proposed new two storey residence at  
No. 244 Wentworth Avenue, Eastgardens  
**CLIENT/S**

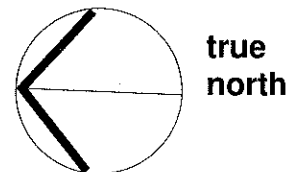
DEVELOPMENT APPLICATION

**SCALE:** 1 : 200  
**DATE:** 11/07/2017  
**DRAWN BY:** LS  
**SHEET NAME:** Site Plan

**DRAWING NUMBER**  
17.132  
**SHEET NUMBER**  
A01



**JOHN SPITERI** DESIGN AND DRAFTING  
31A TIERNEY AVE, EASTGARDENS NSW 2036 AUST  
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(C)



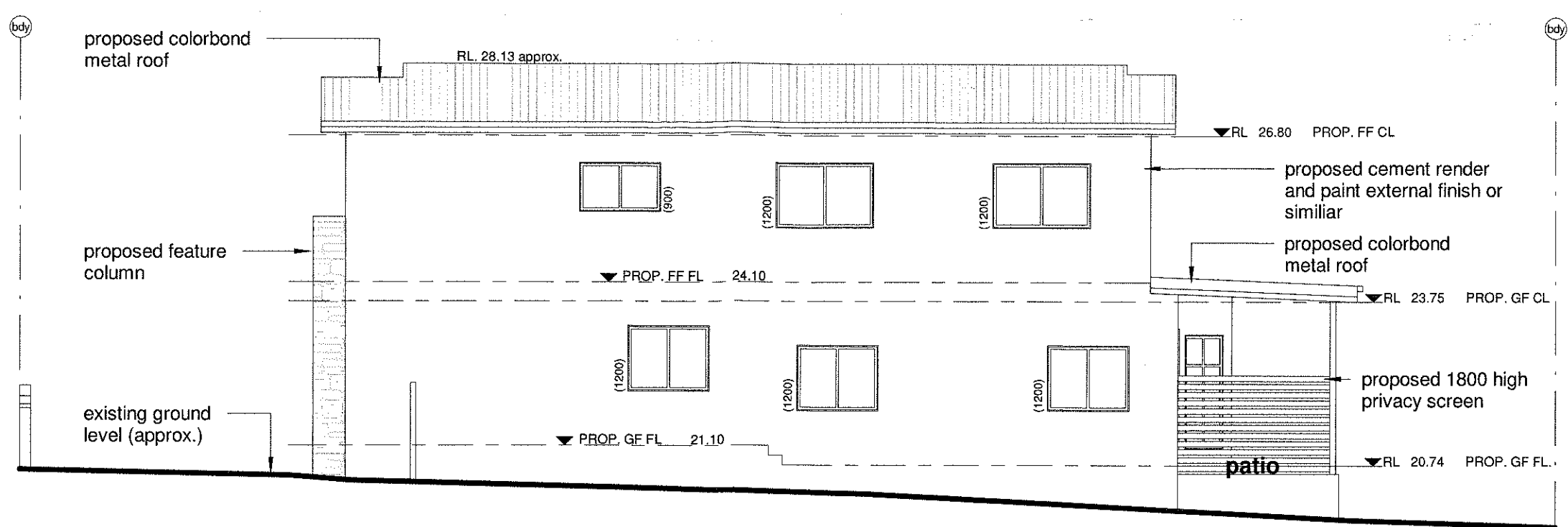
**PROJECT NAME**  
proposed new two storey residence at  
No. 244 Wentworth Avenue, Eastgardens  
**CLIENT/S**

DEVELOPMENT APPLICATION

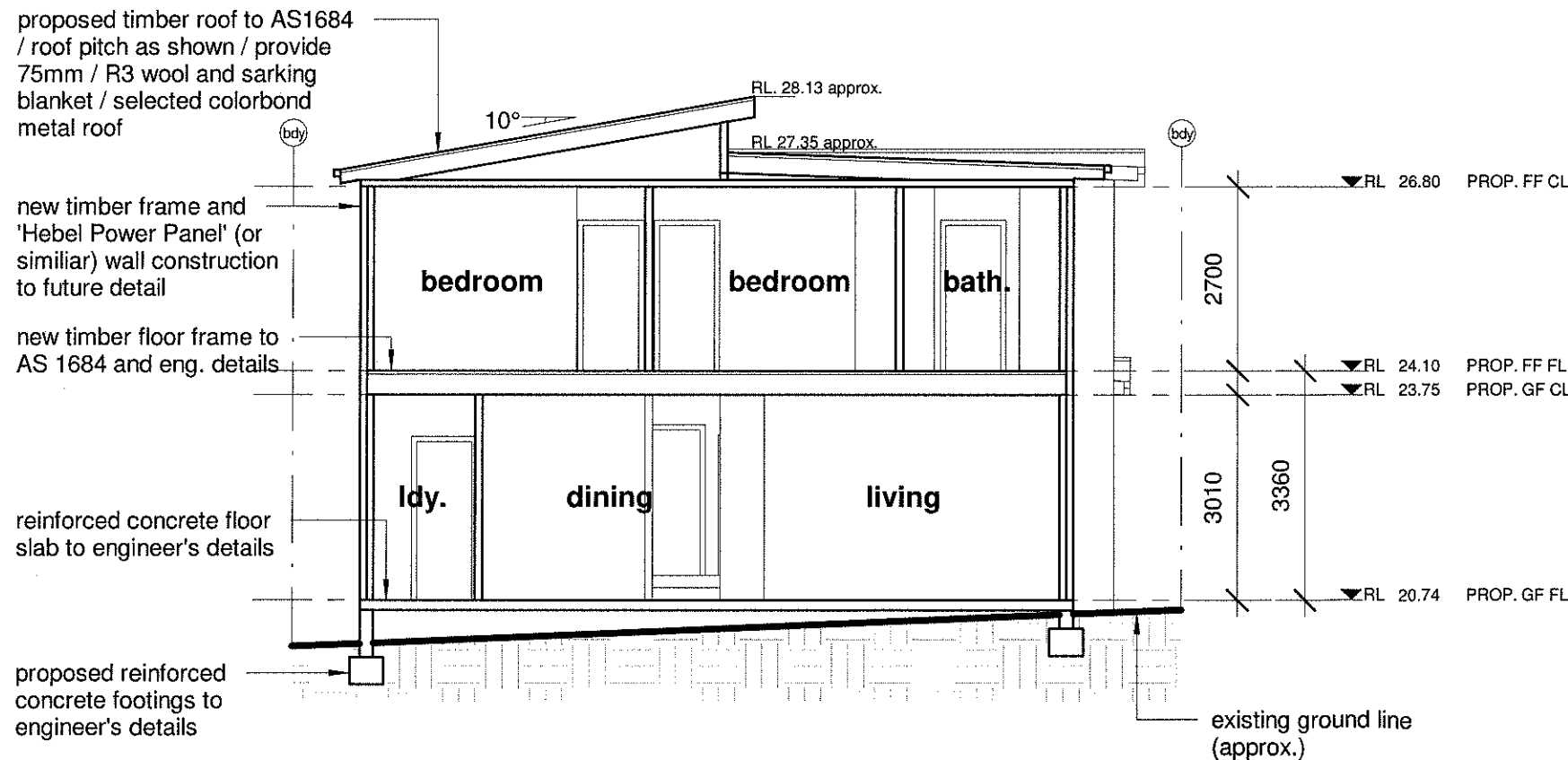
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**DATE:** 11/07/2017  
**DRAWN BY:** LS  
**SHEET NAME:** Elevations

**DRAWING NUMBER**  
17.132  
**SHEET NUMBER**  
A04

WENTWORTH  
AVENUE



7 West Elevation  
1 : 100



8 Section A-A  
1 : 100

### Construction Notes:

- Provide a rainwater tank, volume equivalent to 1200 litres to the development. Tank and associated pump to be installed to manufacturer's specifications and in accordance with BASIX commitments. RWT denotes rainwater tank, see plan for location.
- Rainwater tank to serve cold water tap serving clothes washer and at least one outdoor tap to the development.
- Rainwater tanks to collect stormwater from at least 80m<sup>2</sup> of roof area from the development.
- Selected indigenous or low water use species of vegetation to be planted to at least \_\_\_\_\_m<sup>2</sup> of the site to the development.
- A gas instantaneous hot water system with a minimum \_\_\_\_ star rating is to be provided to the development.
- The air conditioning system for heating and cooling to be provided to the development is to be single phase with a minimum 3 star new rating, and, is to serve living and bedroom areas to the development.
- An electric oven and gas cooktop is to be installed in the kitchen area of the development.
- An individual fan, ventilation system ducted to an external wall is to be installed in the kitchen, laundry, bathroom and ensuite of the development, in accordance with BASIX certificate requirements.
- A fixed outdoor clothes drying line is to be installed in the rear yard of the development.
- An individual, ventilation system ducted to an external wall or roof is to be installed in the kitchen / laundry / bathroom / ensuite of the development.
- Selected new doors and windows to comply with construction specifications and glazing requirements listed and identified as commitments in BASIX Certificate No.; 833553S Dated; 26.06.2017

### Demolition Notes:

Demolition is to be carried out and stored in accordance with AS2601-2001 and workcover NSW code of practice for the safe removal of asbestos and council conditions. If required, fibro sheets to be removed with minimal breakage and placed in a plastic lined bin and covered with plastic. Demolition waste to be removed by a licensed contractor to an approved waste depot.

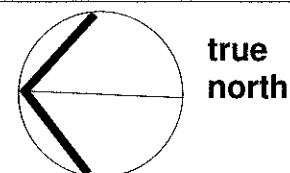
### Construction Site Management Notes:

1. Protective fencing, 1.8m high cyclone metal fence, to be provided along boundaries, where open and required. Existing boundary fencing and gates to act as protective fencing elsewhere during construction.
2. Provide sediment control, as per attached detail, along boundaries, where necessary, during construction.
3. Demolition waste, construction waste, and material stockpiles to be positioned within front/rear/side boundary setbacks, demolition and construction waste to be removed by a licensed contractor to an approved waste depot.
4. Provide temporary sanitary facilities on site during construction.

### Acoustic Control Notes:

This plan is to be read in conjunction with 'Aircraft Noise Assessment' prepared by Acoustic Logic Consultancy ref no; 20170908.1 dated; 03.07.2017 Acoustic control measures and construction detailed in the report are to be incorporated with new works (i.e. window construction and glazing, roof/ceiling/wall construction).

**JOHN SPITERI** DESIGN AND DRAFTING  
31A TIERNEY AVE, EASTGARDENS NSW 2036 AUST  
BUS PH/FAX: 612 9349 6422  
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(C)



**PROJECT NAME**  
proposed new two storey residence at  
No. 244 Wentworth Avenue, Eastgardens  
**CLIENT/S**

DEVELOPMENT APPLICATION

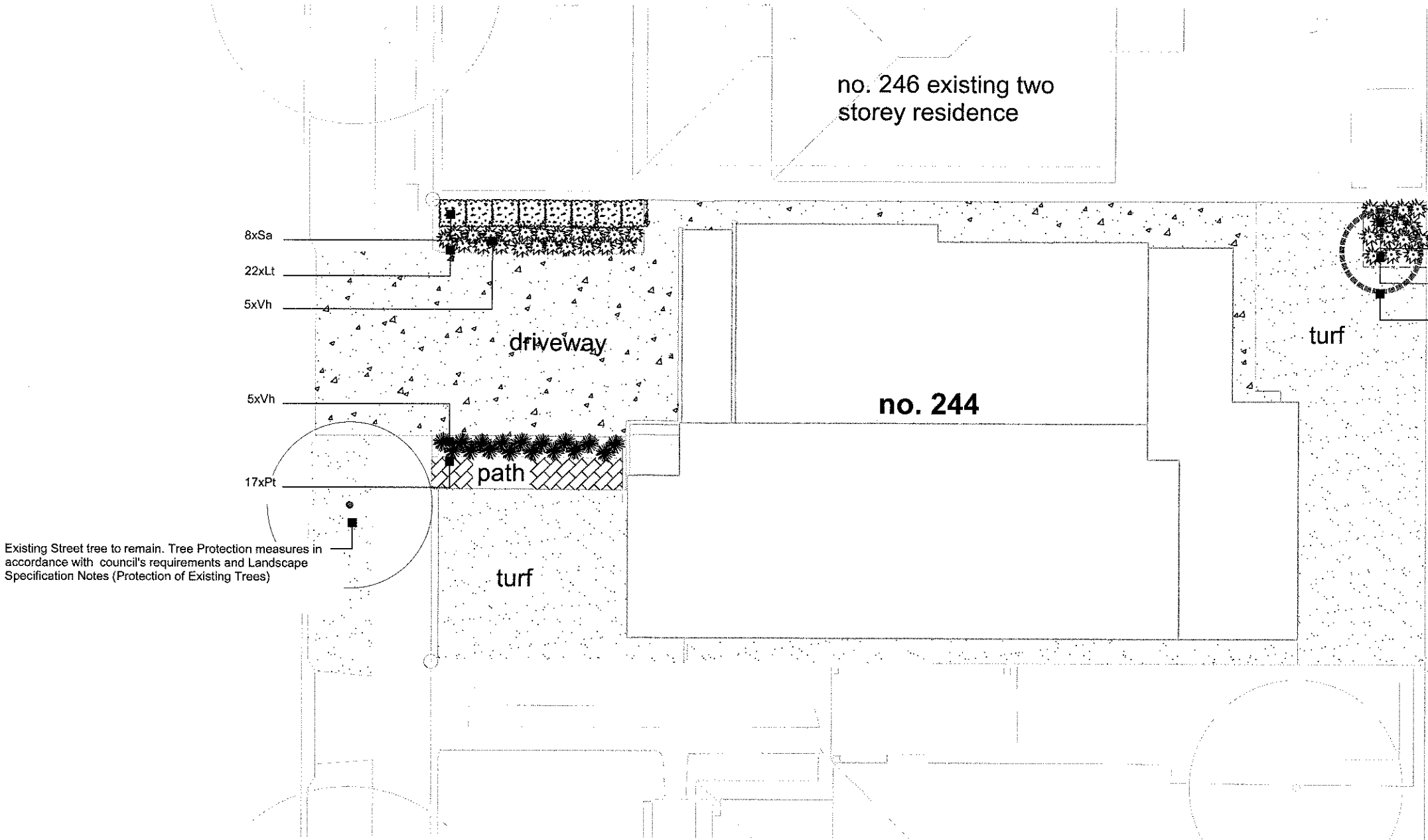
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**SHEET NAME:** Elev. & Section

**DRAWING NUMBER**  
17.132  
**SHEET NUMBER**  
A05



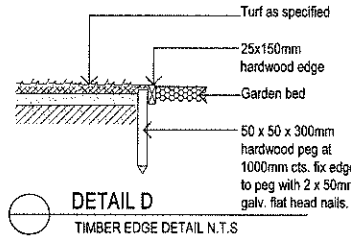
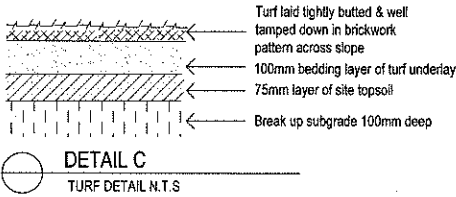
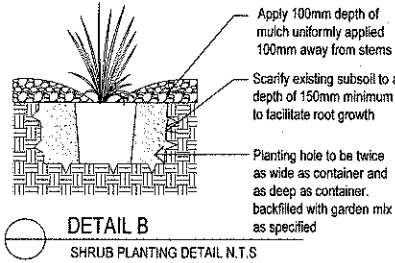
LEGEND	
	CONCRETE
	HARDWOOD EDGE
	TURF

WENTWORTH AVENUE



Existing Street tree to remain. Tree Protection measures in accordance with council's requirements and Landscape Specification Notes (Protection of Existing Trees)

PROPOSED PLANT SCHEDULE					
KEY	BOTANICAL NAME	COMMON NAME	QTY	MATURE HGT	POT SIZE
Mg	Magnolia 'Little Gem'	Magnolia	1	4m	25 Litre
Sa	Syzygium australe 'Aussie Boomer'	Lily Pilly	8	2m	200mm
Pt	Phormium tenax 'Maori Chief'	Bronze Flax	22	500mm	150mm
Lt	Lomandra tanika	Lomandra	31	500mm	150mm
Vh	Viola hederacea	Native Violets	15	50mm	Tube



**LANDSCAPE SPECIFICATION NOTES**

**SITE PREPARATION**  
 Locate any underground and overground services & ensure no damage occurs. Levels on plan are nominal only & all dimensions to be checked on site prior to commencement. Final structural integrity of all items shall be the sole responsibility of landscape contractor.

**PROTECTION OF EXISTING TREES:**  
 Prior to commencement of work, a continuous Tree Protection Fence shall be erected around the perimeter of the Tree Protection Zone (TPZ). The Tree Protection Fence shall be a minimum of 1800mm high chain link fabric on 2400mm star picket or 50 6mm GWH pipe anchor posts driven 600mm into the ground.  
 Take necessary precautions to protect the Structural Root Zone(SRZ) as per AS 4970-2009 Australian Standard for Protection of Trees on Development Sites. Tree protection measures shall remain intact until the completion of all construction works. A 600mm x 450mm prohibition sign complying with AS1319 stating "NO ENTRY - TREE PROTECTION ZONE" and including contact details of the site foreman is to be attached to the fence.  
 Prohibited Works or material storage within the TPZ as per AS 4970-2009 except with approval of council:  
 - entry of machinery or storage of building materials  
 - parking of any kind of vehicle  
 - erection or placement of site facilities  
 - removal or stockpiling of soil or site debris  
 - disposal of liquid waste including paint & concrete wash  
 - excavation or trenching of any kind (including irrigation or electrical connections).  
 - attaching any signs or any other objects to the tree  
 - placement of waste disposal or skip bins  
 - pruning and removal of branches, other than those by a qualified Arborist  
 Compacted Ground/Coring: Avoid compaction of the ground under trees. If compaction nevertheless occurs loosen the soil by Coring. Coring to be carried out by a qualified Arborist.

**ELIMINATE WEEDS**  
 Remove all existing weeds by hand, wiping or spraying with a glyphosate based herbicide. Weed control shall never be performed by mechanical cultivation or by scraping. Herbicide spraying is to be used to eliminate all existing weeds 30 days prior to planting.

**EXCAVATION & SUB SOIL PREPARATION**  
 Excavate garden beds to the depth required and rip or scarify base & sides of pit to a minimum depth of 150mm.

**SUB SOIL DRAINAGE**  
 Install drainage layer where there is surface water runoff draining into garden bed areas & where the existing sub-soil has more than 50% clay composition & there is a risk of subsurface water ponding.  
 Install perforated corrugated ag. line 75-100mm Dia. with geotextile filter sock & backfill to a minimum 200mm using free draining material, reclaimed/recycled where available. Direct flows at a minimum 0.5% fall to sw system. In areas isolated from stormwater system excavate & backfill an appropriate water dispersion pit.

**REUSE EXISTING TOPSOIL**  
 Existing site topsoil should be salvaged & appropriately stockpiled where possible.

**IMPORTED TOPSOIL**  
 Quality System: AS 4419 or as specified below.  
 Turf Areas: 'Turf Underlay' as supplied by, ANL p: 02 9450 1444 or approved alternative.  
 Tree Pit and Shrub Planting: 'Premium Garden Mix' as supplied by, ANL p: 02 9450 1444 or approved alternative.

**PLANTING**  
 Health & Vigour: Supply plants with foliage size, texture & colour consistent with that shown in healthy specimens of the species.  
 Balance of Crown: Supply plants with max. variation in crown bulk on opposite sides of stem axis, +/- 20%.  
 Stock selection should be based on NATSPEC Guide *Specifying Trees: a Guide to Assessment of Tree Quality*.

**STAKING**  
 Install 2 x 1800mm 40x40 hardwood timber stakes with hessian ties to all trees. Provide appropriate support considering exposure to prevailing winds. Stakes and hessian ties to be removed as soon as the tree is self supporting.

**MULCHING**  
 Quality system: AS 4454  
 All planting area impacted by building works to receive 75mm -100mm of garden Mulch, Droughtmaster, ANL p: 02 9450 1444 or approved alternative. Keep mulch 100mm away from plant stem & form a well to stop excessive water runoff. Finish flush with adjacent surfaces.

**TURFING**  
 New turf- Sir Walter Softed Leafed Buffalo.  
 Excavate / grade all areas to be turfed to 120mm below finished levels. Ensure that all surface runoff is directed away from buildings. Ensure that no pooling or ponding will occur. Further rip the subgrade to 150mm. Install 100mm of imported turf underlay. Rolls to be closely butted and laid in a brickwork pattern. Fill any small gaps with topsoil and water thoroughly.

**WATERING**  
 Water in immediately after plant installation & allow for soil settlement. For the first 2 to 4 weeks after planting, the root zone & immediate surrounds must be kept moist. Continue watering until plants have established.

**GARDEN EDGING**  
 All garden edging is to be 25mm x 10mm, Grade H4 (minimum). Secured at a 1 metre intervals on the internal (garden side) and at the ends of each length of edging with 300mm x 50 x 50mm hardwood staking pegs fixed firmly into the ground 10mm below top of edging.

NOTES:  
 - Contractors to check and verify all dimensions and all levels on site prior to any works.  
 - Any discrepancies should be immediately referred to Landscape Architect.  
 - All work to comply with B.C.A. Statutory Authorities and relevant Australian Standards.  
 - Dimensions recognised over scaling. All measurements are in millimetres.

Rev.	Date	Issue
A	10.7.17	DA Issue

Checked: JB  
 Jacob Bennett  
 Landscape Architect B.LARCH, ASS. DIP. APP. (Science)  
 0481 438 501  
[Jacobcbennett2003@yahoo.co.uk](mailto:Jacobcbennett2003@yahoo.co.uk)

CLIENT John Spiteri  
 Design & Drafting  
 ADDRESS 244 Wentworth Ave  
 EASTGARDENS

DRN: JB  
 DATE: 10.07.2017  
 SCALE: 1:100@A2  
 PROJECT NO: 244 WENTWORTH

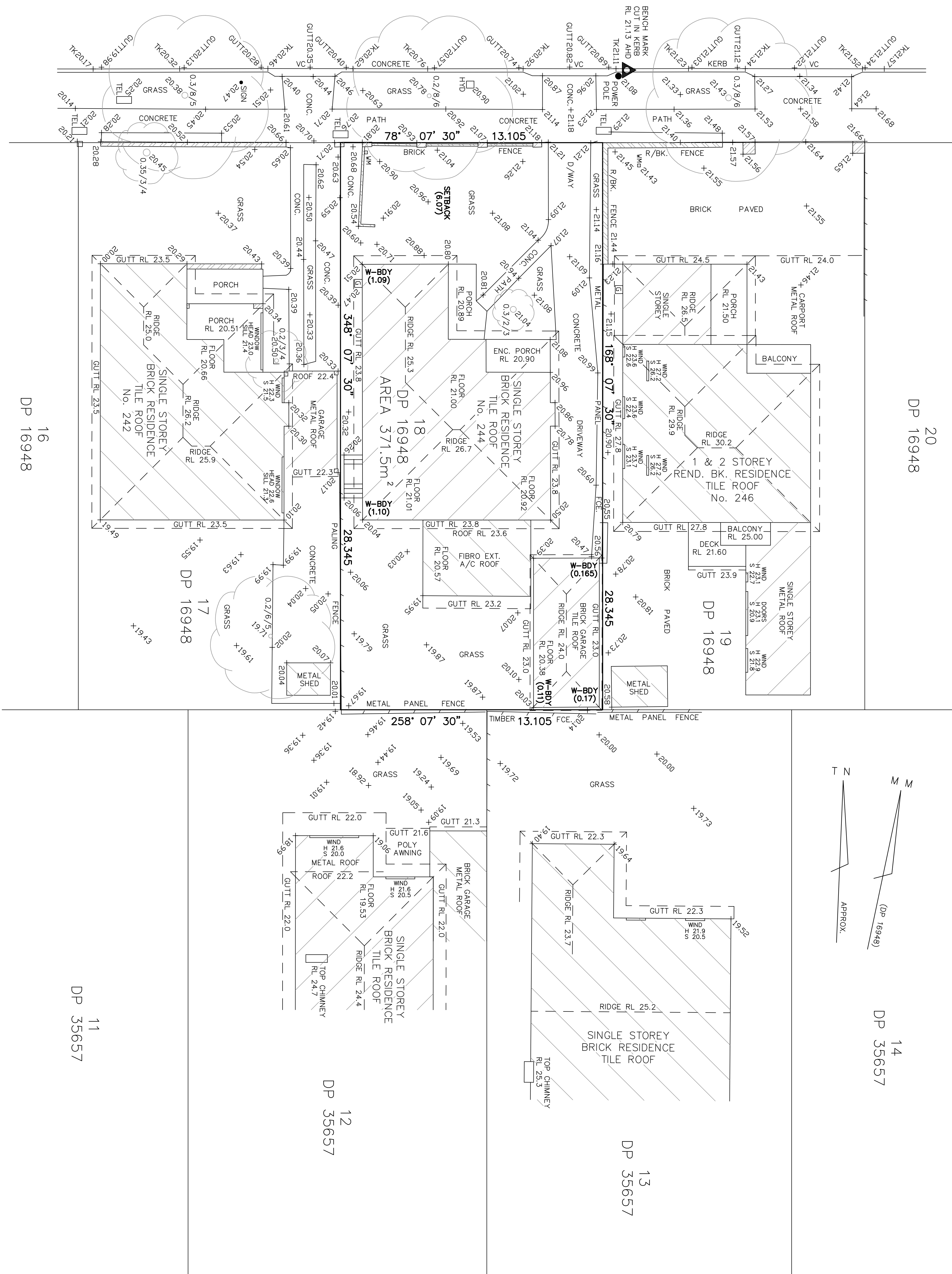


LANDSCAPE PLAN

L-01

Rev A

W E N T W O R T H                      A V E N U E



## KEY

TRUNK DIAMETER	SPREAD DIAMETER	APPROX HEIGHT
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THE SUBJECT LAND IS AFFECTED BY:

1. LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND CONDITIONS IN FAVOUR OF THE CROWN – (SEE CROWN GRANT(S))

DP 35657 14

- Bearings and distances are by Title and/or Deed only. No boundary investigation has been carried out.
- Relationship of improvements to boundaries is diagrammatic only, except where offsets are shown in writing on the plan. Where offsets are critical they should be confirmed by further survey.
- Services shown hereon have been determined from visual evidence only. Prior to any demolition, excavation or construction on the site the relevant authority should be contacted to establish detailed location and depth, if confirmed by further survey.
- The bearings on these plan boundaries are from Land Title Office plans. They are on Magnetic Meridian.
- If True North is required a further survey would be necessary.

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SYMBOLS & ABBREVIATION			
D	DOOR	OPP	POWER POLE
DRILL	DRILL HOLE & WING	OSM	SEWER MANHOLE
—E—	ELECTRICITY LINE	SV	SEWER VENT
FL	FLOOR LEVEL	TEL	TELECOM PIT
G	GAS METER	TK	TOP OF KERB
HYD	HYDRANT	W	WATER METER
VC	VEHICLE CROSSING	WINDY	
PC	PEAK CROSSING	D	DOOR
		KD	KERB OUTLET

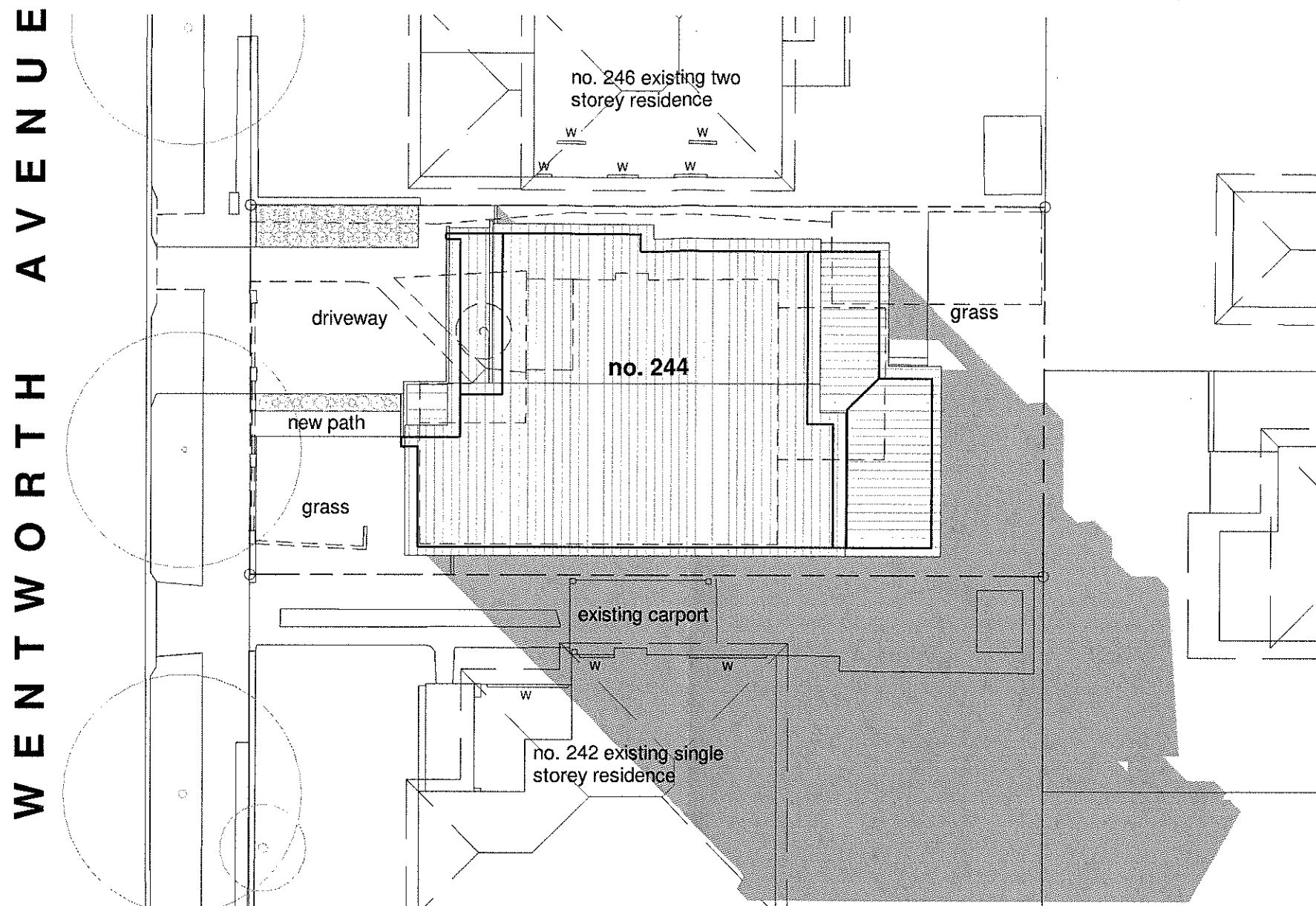
SURVEY NOTES	
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ORIGIN OF LEVELS :	PM 25458 RL 23.568 AHD
SURVEYORS :	GK & RD
SURVEY DATE :	16/05/2017
LOCAL GOVT AREA :	BAYSIDE
Accessed CAD 2002 :	20170127 DNG
PLOT FILE :	<A1 - 1:100> 20170127

THIS SURVEY WAS CONDUCTED FOR THE PRODUCTION OF PLANS AT A REDUCED RATE OF INTEREST. NMR SUPPORTED

**BALDENEN SURVEYORS**

C/102-106 BOYCE RD,  
MARDURBO JUNCTION, N. S. W. 2035  
PHONE (02) 9344 5506 FAX (02) 9344 5506  
E-mail: ballden@ozemail.com.au

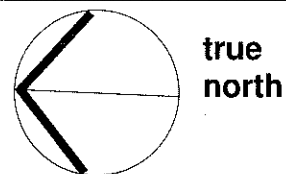
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SCALE : 1:100(A1)	1:200(A3)	LOT 18 IN DP 16948			



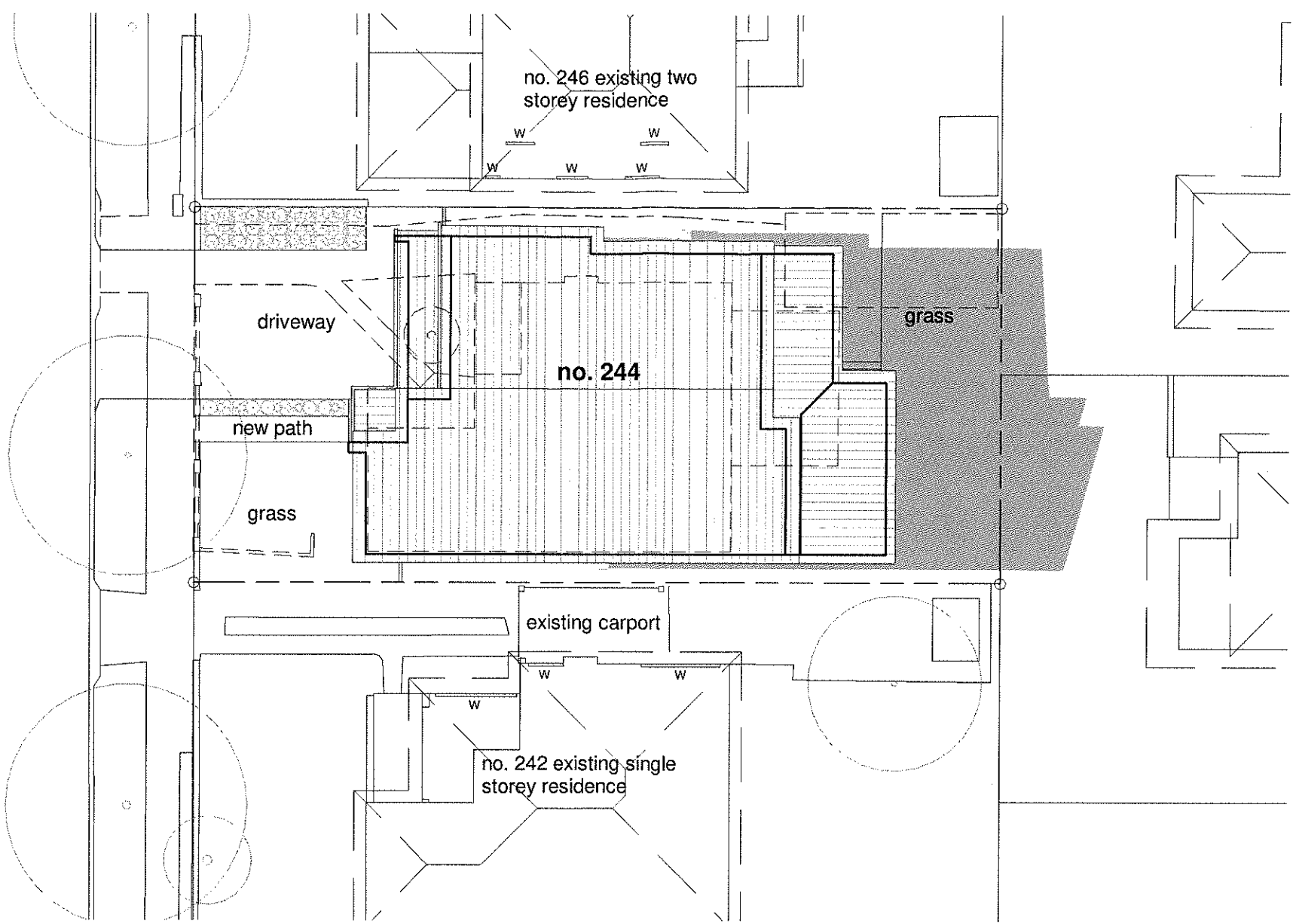
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Shadow Diagram - 21st June 9am

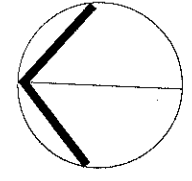
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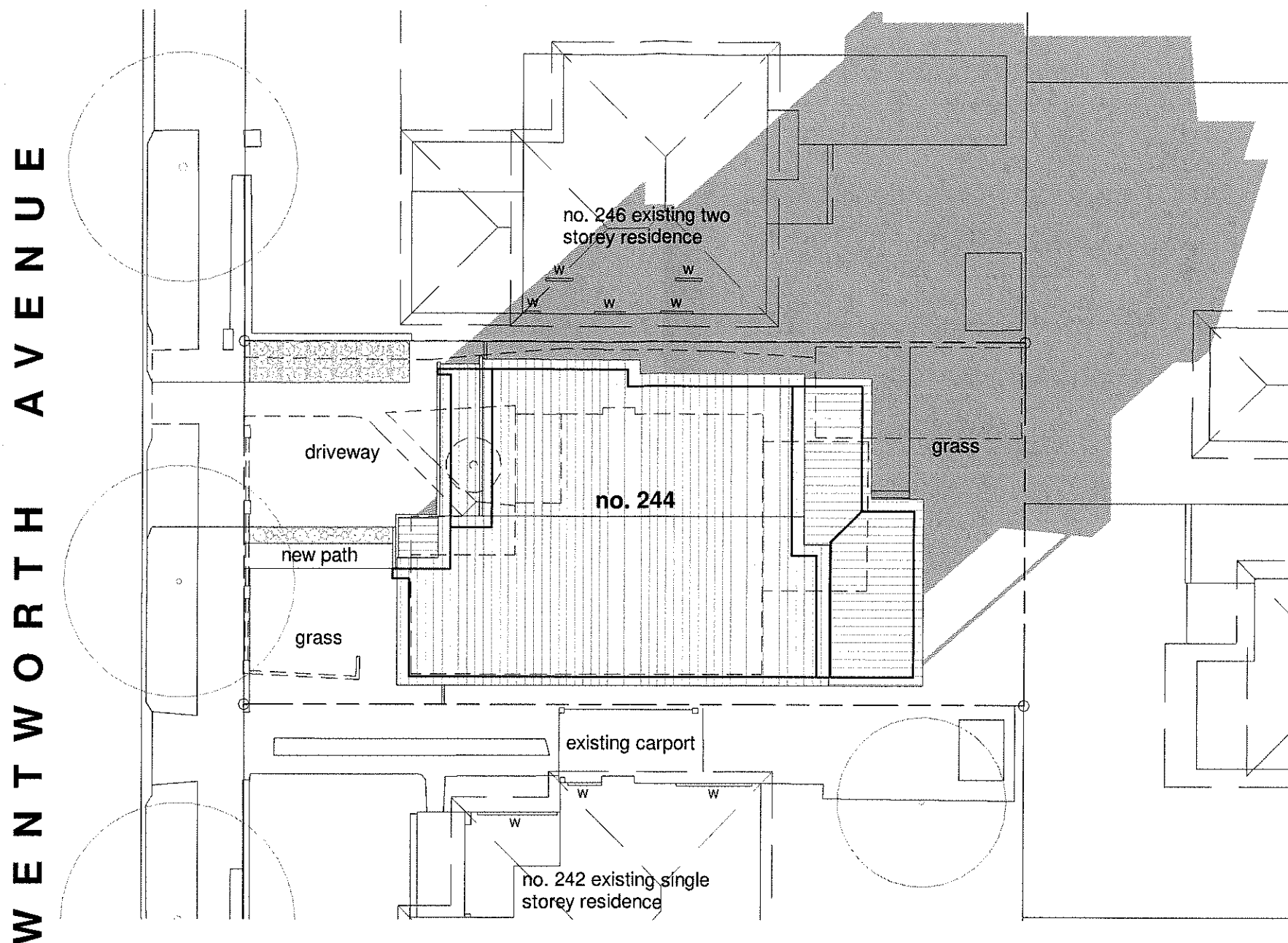


WENTWORTH AVENUE



10 Shadow Diagram - 21st June 12pm  
1 : 200

<b>JOHN SPITERI</b> DESIGN AND DRAFTING 31A TIERNEY AVE, EASTGARDENS NSW 2036 AUST BUS PH/FAX: 612 9349 6422 MOBILE: 0419 412 299 (C)	 true north	<b>PROJECT NAME</b> proposed new two storey residence at No. 244 Wentworth Avenue, Eastgardens <b>CLIENT/S</b>	DEVELOPMENT APPLICATION	<b>SCALE:</b> 1 : 200 <b>DATE:</b> 11/07/2017 <b>DRAWN BY:</b> LS <b>SHEET NAME:</b> Shadow Diagram	<b>DRAWING NUMBER</b> 17.132 <b>SHEET NUMBER</b> A07
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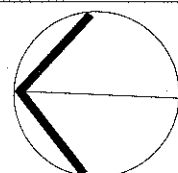
11

Shadow Diagram - 21st June 3pm

1 : 200

**JOHN SPITERI** DESIGN AND DRAFTING  
31A TIERNEY AVE, EASTGARDENS NSW 2036 AUST  
BUS PH/FAX: 612 9349 6422  
MOBILE: 0419 412 299

(C)



true  
north

**PROJECT NAME**

proposed new two storey residence at  
No. 244 Wentworth Avenue, Eastgardens

**CLIENT/S**

DEVELOPMENT APPLICATION

**SCALE:** 1 : 200

**DATE:** 11/07/2017

**DRAWN BY:** LS

**SHEET NAME:** Shadow Diagram

**DRAWING NUMBER**

17.132

**SHEET NUMBER**

A08