
Bayside Planning Panel

24/10/2017

Item No	5.4
Application Type	Development Application
Application Number	DA-2017/142
Lodgement Date	24 October 2016
Property	28A Caledonian Street, Bexley NSW 2207
Owner	Mrs Wafaa Hijazi
Applicant	Space 0.618:1
Proposal	Additions and conversions to approved shed at the rear and convert use to a secondary dwelling
No. of Submissions	One (1) submission objecting to the proposal
Cost of Development	\$80,000.00
Report by	Michael Maloof, Senior Development Assessment Planner

Officer Recommendation

- A. The Development Application DA-2017/142 for the additions to an approved shed at the rear and conversion of its use to a secondary dwelling at 28A Caledonian Street, Bexley, be **REFUSED** pursuant to Section 80(1) of the Environmental Planning and Assessment Act 1979. The reasons for refusal are detailed as follows:
1. Non-compliance with Rockdale Local Environmental Plan 2011 with regard to the following provisions, and as such failure to satisfy Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act 1979:
 - The objectives of the R2 Low Density Residential zone,
 - Clause 4.4 (Floor Space Ratio),
 - Clause 6.3 (Development in areas subject to aircraft noise), and
 - Clause 6.7 (Storm water).
 2. Section 79C(1)(a)(iv) The applicant has failed to provide Council with the requested information outlined within Council's letter dated 12 January 2017, as requested in accordance with Section 54 of the Environmental Planning and Assessment Regulation 2000.
 3. The proposed development is unsatisfactory, pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the objectives and provisions of Rockdale Development Control Plan 2011 including:
 - Part 4.1.3 (Water Management),
 - Part 4.3.1 (Open Space and Landscape Design),
 - Part 4.3.2 (Private Open Space),

- Part 4.4 (Sustainable Building Design),
 - Part 4.7 (Landry Facilities and Drying Areas), and
 - Part 5.1 (Low and Medium Density Residential).
4. Pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to create unacceptable impacts on the surrounding development and the locality in the following regards:
 - a. The likely impact of the development on the safety of future residents is unacceptable due to the lack of certainty regarding the structural adequacy of the building.
 - b. The impacts of the development on the amenity of adjoining land is unacceptable.
 - c. The likely impacts resulting from the lack of on-site water management is unacceptable.
 - d. The likely impact of the development on the solar access and natural ventilation available to residents of the site is unacceptable.
 - e. The impacts resulting from a lack of usable private open space area is unacceptable.
 - f. The impacts of the development on the character of the local area is unacceptable.
 5. Pursuant to the provisions of Section 79C(1)(d) of the Environmental Planning and Assessment Act 1979, the proposal has not adequately considered the concerns raised in the public submissions received against the development.
 6. Having regard to the previous reasons noted above and the number of submissions received by Council against the proposed development, pursuant to the provisions of Section 79C(1)(e) of the Environmental Planning and Assessment Act, 1979, approval of the development application is not in the public interest as it does not satisfy the objectives of the local planning instruments, being the RLEP 2011 and RDCP 2011. Further the proposal is not considered to be in the public interest due to the unacceptable impacts on the natural and built environment.

B. That the objector be advised of the Bayside Planning Panel's decision.

Attachments

1. Consultant Planning Assessment Report
2. Compliance Table
3. Clause 4.6 Variation – Floor Space Ratio control
4. Draft Notice of Refusal

5. Survey Plan
 6. Site Plan
 7. Elevations and Section Plan
 8. Structural Adequacy Certificate
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Location Plan



BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2017/142
Date of Receipt:	24 October 2016
Property:	28A Caledonian Street, BEXLEY NSW 2207
Owner:	Mrs Wafaa Hijazi
Applicant:	Space 0.618:1
Proposal:	Additions and conversions to approved shed at the rear and convert use to a secondary dwelling.
Recommendation:	Refusal
No. of Submissions:	One (1) submission objecting to the proposal has been received.
Author:	Patrick Waite – Creative Planning Solutions Pty Limited
Date of Report:	16 August 2017

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Key Issues

- **Unauthorised building works** - It is understood that the 'additions' component of the proposed development have already been constructed. In accordance with Section 109A of the *Environmental Planning and Assessment Act 1979*, Council can only approve the 'use' of a building that was unlawfully commenced. In this regard, the proposed description of the development is incorrect as retrospective development approval for the already constructed 'additions' cannot be sought.
- **Structural safety** - In order to consider the suitability of the building for which the new use is sought, the structural integrity of the building must be determined to be adequate and in compliance with the Building Code of Australia (BCA). However, as the building was constructed unlawfully, the critical stage inspections that normally certify structural compliance with the standards of the BCA and associated building regulations would not have been completed. In this regard, there is no evidence to suggest that the existing building is suitable in terms of safety and habitability.
- **Floor space ratio exceedance** - The proposal exceeds the applicable floor space ratio (FSR) of 0.55:1 permitted under the *Rockdale Local Environmental Plan 2011*

by 0.18:1, or 73.12m². No written request pursuant to clause 4.6 has been submitted by the applicant seeking to justify this non-compliance with a development standard. For this reason alone, Council is unable to grant consent to the proposal.

- **Unacceptable impacts** – The proposal results in unacceptable impacts on adjoining neighbours, the habitability and amenity of the subject site, and general character of the local area. The proposal will result in an increased sense of enclosure, constant internal shading, limited solar access, poor water management, increased pervious area, and inadequate landscaping. The unacceptable impacts are embodied in the proposal's non-compliances with controls and objectives of the *Rockdale Development Control Plan 2011* (RDCP2011).

Recommendation

The Development Application DA-2017/142 for the additions to an approved shed at the rear and conversion of its use to a secondary dwelling at 28A Caledonian Street, Bexley, be **REFUSED** pursuant to Section 80(1) of the *Environmental Planning and Assessment Act 1979*. The reasons for refusal are detailed as follows:

Section 54(6) of the Regulation	The applicant failed to provide Council with the requested information outlined within Council's additional information letter dated 12 January 2017.
Section 79C(1)(a)(i)	Proposal is inconsistent with the provisions of the RLEP 2011, specifically the objectives of the R2 Low Density Residential zone, clause 4.4 (Floor Space Ratio), clause 6.3 (Development in areas subject to aircraft noise), and clause 6.7 (Storm water).
Section 79C(1)(a)(iii)	Proposal is inconsistent with the provision and objectives of the RDCP2011, including Part 4.1.3 (Water Management), Part 4.3.1 (Open Space and Landscape Design), Part 4.3.2 (Private Open Space), Part 4.4 (Sustainable Building Design), Part 4.7 (Laundry Facilities and Drying Areas), and Part 5.1 (Low and Medium Density Residential).
Section 79C(1)(b)	<p>The likely impact of the development on the safety of future residents is unacceptable due to the lack of certainty regarding the structural adequacy of the building.</p> <p>The impacts of the development on the amenity of adjoining land is unacceptable.</p> <p>The likely impacts resulting from the lack of on-site water management is unacceptable.</p> <p>The likely impact of the development on the solar access and natural ventilation available to residents of the site is</p>

unacceptable.

The impacts resulting from a lack of usable private open space area is unacceptable.

The impacts of the development on the character of the local area is unacceptable.

Section 79C(1)(d) - The proposal has not adequately considered the concerns raised in the submissions objecting to the development.

Section 79C(e) - The proposal is not considered to be in the public interest as it does not satisfy the objectives of the local planning instruments, being the RLEP 2011 and RDCP 2011. Further the proposal is not considered to be in the public interest due to the unacceptable impacts the development will have on the natural and built environment.

Background

History

The relevant site history is as follows:

- On 6 June 2015, a development application (DA) seeking consent for a boundary adjustment and re-subdivision of two existing lots was lodged with Council. On 27 July 2015, the DA was withdrawn.
- On 21 July 2016, a Building Certificate (BC) application seeking certification of an unapproved secondary dwelling, was lodged with Council. On 29 September 2016, the BC application was withdrawn
- On 24 October 2016, the subject DA (DA-2017/142) was lodged with Council.
Note. The subject DA seeks consent for works that have already been completed.
- On 16 November 2016, the subject DA was notified to adjoining landowners in accordance with the *Rockdale Development Control Plan 2011* (DCP2011). Adjoining land owners were given fourteen (14) days to make a submission. One (1) submission objecting to the proposal was received.

The objection raised the following concerns with reference to the proposal:

- Density, and
- Poor boundary separation.
- On 5 January 2017, the subject DA was referred to Creative Planning Solutions Pty Ltd for an independent assessment.

- Following a preliminary assessment, CPS made a recommendation to Council on 12 January 2017 to advise the applicant to withdraw the DA. To gain an understanding of the position held regarding the DA, the reasons for recommending withdrawal of the DA that were outlined within this letter are included below

1. Unauthorised works

It is understood that the 'additions' to the shed which are the subject of DA-2107/142 have already been constructed without authorisation.

In accordance with Section 109A of the Environmental Planning and Assessment Act 1979, Council can only approve the use of a building that is unauthorised via the development consent pathway.

In this regard, the proposed description of the development is incorrect as retrospective development approval for the already constructed 'additions' cannot be sought.

Furthermore, the structural integrity of the building is unknown and may be unsuitable for the proposed use as a secondary dwelling. It should be acknowledged that all the critical stage inspections that normally certify structural compliance with the standards of the Building Code of Australia (BCA) would not have been completed for the unauthorised structure.

2. Floor Space Ratio exceedance

The application of Clause 4.2(2A) of the LEP2011 to the subject site limits the floor space ratio (FSR) to 0.55:1.

The applicant is made aware that in accordance with the definition of "floor space ratio" under Clause 4.5(2), the FSR of buildings on a site is the ratio of the gross floor area (GFA) of all buildings within the site to the site area.

In this regard, including the GFA attributable from the conversion and use of the existing detached structure to a secondary dwelling, the subject site will exhibit a FSR of 0.728:1. This FSR has been calculated as follows: 239.39m² attributable to the principal dwelling, and 60.63m² attributable to the secondary dwelling.

The FSR exceedance of 73.42m² (or 32%) represents a significant overdevelopment of the subject site. It is noted that the principle dwelling, with a GFA of approximately 239.39m², already exceeds the permitted GFA of 226.6m².

3. Water Management and minimisation of hard surfaces

Clause 6.7(3)(a) of the LEP2011 outlines that development is to be designed to maximise the use of water permeable surfaces, and have regard to the soil characteristics affecting on-site infiltration of water.

Additionally, Development Control 4 of Section 4.3.1 (Open Space and Landscape Design) of the DCP2011 requires the amount of hard surface area be minimised to reduce the impacts of storm water run-off. This can be achieved by directing any overland flow of rainwater to pervious surfaces such

as garden beds. The control also encourages that development incorporate semi-pervious paving materials wherever possible to assist this outcome.

In this regard, the development does not demonstrate the amount of hard surface area has been minimised, as over 90% of the site incorporates hard surface area, and no pervious areas are identified to accommodate rainwater overflow.

Section 4.1.3 (Water Management) of the DCP2011 requires the development to comply with the Rockdale Technical Specifications for Stormwater Management, including that development for a secondary dwelling provide on-site detention or a minimum 9,500L rainwater tank with a catchment of at least 75% of the total roof area.

The DA is not accompanied by any stormwater plans, and has not demonstrated that the additional expanse of hard surface area will not result in any negative water run-off impacts to adjoining properties, or Council's infrastructure.

Furthermore, the lack of landscaping and existing on-site stormwater management demonstrates the Water Sensitive Urban Design principals have not been incorporated into the design, as required by Section 4.1.3 of the DCP2011. The development is considered to result in a poor water management outcome, and will result in unnecessary additional environmental impacts.

4. Tree Plantings and Landscaping

Development Control 6 and 7 of Section 4.3.1 (Open Space and Landscape Design) of the DCP2011 outlines that trees must be planted within properties to maximise tree cover, and that planting design solutions are to provide privacy between dwellings.

The subject site on which the development is proposed does not appear to contain any tree plantings that provide tree cover. Additionally, the location of the structure built on three (3) lot boundaries provides no opportunities for side and rear setback landscaping that would improve the amenity and privacy between the proposed development and neighbouring dwellings. The proposed development is therefore not acceptable.

The purpose of tree planting is to support the formation of a contiguous landscaped corridor, which in turn supports the enhancement of habitat for indigenous wildlife and contributes to the provision of privacy between neighbours, as is intended by the open space and landscape controls of the DCP2011.

Development Control 8 of Section 4.3.1 (Open Space and Landscape Design) of the DCP2011 requires a minimum 25% of site area to be landscaped area on low and medium density residential sites.

A precise measurement of the proposed landscaping is not possible as no landscape plan has been submitted, and the site plan provides no detail of landscaping. Nonetheless, a site inspection and review of aerial images suggest the subject site, inclusive of the structures sought to be used as a secondary dwelling, provides for landscaping equating to 7.8% of the site

area. The landscape area is limited to the front setback area, because the rear of the site is entirely developed.

In this regard, the subject site inclusive of the unlawful structures does not provide for an acceptable level of landscaping.

5. Private Open Space

Development Control 1 of Section 4.3.2 (Private Open Space) of the DCP2011 requires the provision of at least 80m² of private open space that can be shared with a principal dwelling, on those sites where a secondary dwelling is proposed.

The proposal does not afford any private open space to the secondary dwelling as the private open space utilised by the principal dwelling is not accessible to the secondary dwelling. Furthermore, the unencumbered private open space that is currently afforded to the principal dwelling measures less than 30m².

Firstly, this illustrates that the construction of the unlawful structure reduced the private open space for the principal dwelling. The DCP2011 identifies that at least 80m² is to be provided to a dwelling with a GFA of 125m² or more. The available private open space attributed to the principal dwelling is not considered to appropriately satisfy the DCP2011 objectives in terms of usability for outdoor activities, privacy, solar access, landscaping and accessibility. Accordingly there is inadequate private open space to be shared with the proposed secondary dwelling.

Secondly, the absence of any accessible private open for the secondary dwelling is unacceptable, and illustrates the unsuitability of the structure for residential use.

It is acknowledged that the submitted Statement of Environmental Effects (SEE) prepared by 'Space 0.618:1 Pty Ltd', suggests that a future boundary adjustment will provide the proposed secondary dwelling with private open space. However, as no such boundary adjustment has been approved, and does not form part of this DA, it cannot be considered in the assessment of the proposal. This is because there is no guarantee that the boundary adjustment will be supported or that the area subject to a future boundary adjustment would satisfy the minimum requirements to be considered appropriate.

6. Natural Lighting and Ventilation and Solar Access

Development Control 1 of Section 4.4.3 (Natural Lighting and Ventilation) of the DCP2011 requires residential development to provide a minimum 2.7m ceiling height for any habitable space to facilitate adequate natural lighting and ventilation.

The existing structure has ceiling heights of 2.4m, as stated in the submitted SEE. The SEE argues that 2.4m ceiling heights are the minimum requirement under the BCA and is therefore suitable.

However, compliance with BCA ceiling heights does not demonstrate that the development provides for appropriate levels of natural lighting and ventilation as sought by this development control. The level of direct solar access to the structure is significantly impacted by the absence of external north, east, and west facing windows. Furthermore, as the structure is constructed closer than 0.9m from the north, east, and west lot boundaries, the structure needs to satisfy BCA fire safety requirements, which essentially precludes any wall openings within these respective walls. Hence, the structure is left with two (2) south facing and one (1) west facing windows directed internally to the site, and only two (2) small skylights.

It is further understood that an existing awning joins the principal dwelling to the secondary dwelling. This awning further prevents direct solar access to the primary windows of the structure.

The skylight windows are considered secondary windows that provide for a limited amount of lighting to a confined portion of the habitable space, with the bedroom and bathroom not having any benefit from the skylight windows. Overall the lack of solar access to the proposal is less than what can be reasonably expected of residential development. It is noted that the lack of solar access is not the result of any identified site constraints, but rather the existing nature and context of the structure that is sought to be converted to a dwelling.

The restricted orientation of the windows, being limited to internal south and west directions, further prevents any opportunities for cross-flow and natural ventilation in and through the proposed secondary dwelling.

In this regard, it is obvious that the unauthorised structure has not been appropriately designed for residential use in terms of internal amenity that is otherwise reasonably expected for living spaces. The location of the structure further inhibits any design changes to improve natural lighting and ventilation to a level of internal amenity that is expected by the DCP2011 and future residents of new development in the local area.

7. Laundry Facilities and Drying Areas

Development Control 11 and 12 of Section 4.7 (Laundry Facilities and Drying Areas) of the DCP2011 requires the design of each dwelling unit to incorporate laundry facilities and an open and sunny drying area to hang clothes.

The proposed secondary dwelling does not incorporate laundry facilities, and due to the absence of a private open space area, the proposed dwelling is not afforded an open and sunny area to dry clothes.

In this regard, the proposal doesn't provide access to site facilities that is expected of such residential development and is therefore not considered to be appropriate.

8. Setbacks

Development Control 1 of Section 5.1 (Low and Medium Density Residential) of the DCP2011 requires that secondary dwellings be setback a minimum

0.9m from the side and rear boundaries. These minimum setbacks further support site responsive and environmentally sensitive designs which normally includes designs to capitalise on favourable solar access, provide appropriate levels of landscaping and tree plantings, preserve privacy for neighbouring residents, and maximise internal amenity.

The unauthorised structure that is proposed to be used as a secondary dwelling provides for a minimum side and rear setback of 0.03m, as identified on the submitted survey.

In the circumstances, there are no planning grounds or identifiable site constraints to justify a secondary dwelling being constructed directly on three (3) lot boundaries.

- On 29 March 2017, Council sent the applicant an additional information letter requesting that the reasons detailed above to be addressed.
- To date, no response has been received from the applicant to Council's request for additional information letter.
- On this basis, the assessment report and recommendation contained herein is based on the original plans and documentation submitted.

Proposal

Council is in receipt of Development Application DA-2017/142 at 28A Caledonian Street, Bexley NSW 2207 which seeks consent for additions to an approved shed at the rear of the subject site and subsequent conversion to a secondary dwelling.

It is to be noted that Council's records do not include any evidence of a consent being issued for the shed structure, and no evidence accompanies the DA demonstrating that the shed structure has been lawfully erected. Furthermore, the 'additions' component of the DA for which consent is sought has already been completed.

Ground Floor Plan:

The submitted Ground Floor Plan, prepared by Space 0.681:1, identifies that the structure for which consent is sought is 60.63m² in gross floor area (GFA), and built up to the rear lot boundaries.

The structure contains a bedroom, lounge room, kitchen, bathroom, and a gym. An existing door that provides access to the gym from the remaining rooms within the structure is identified to be 'closed' on the plan. Refer to **Figure 1**.

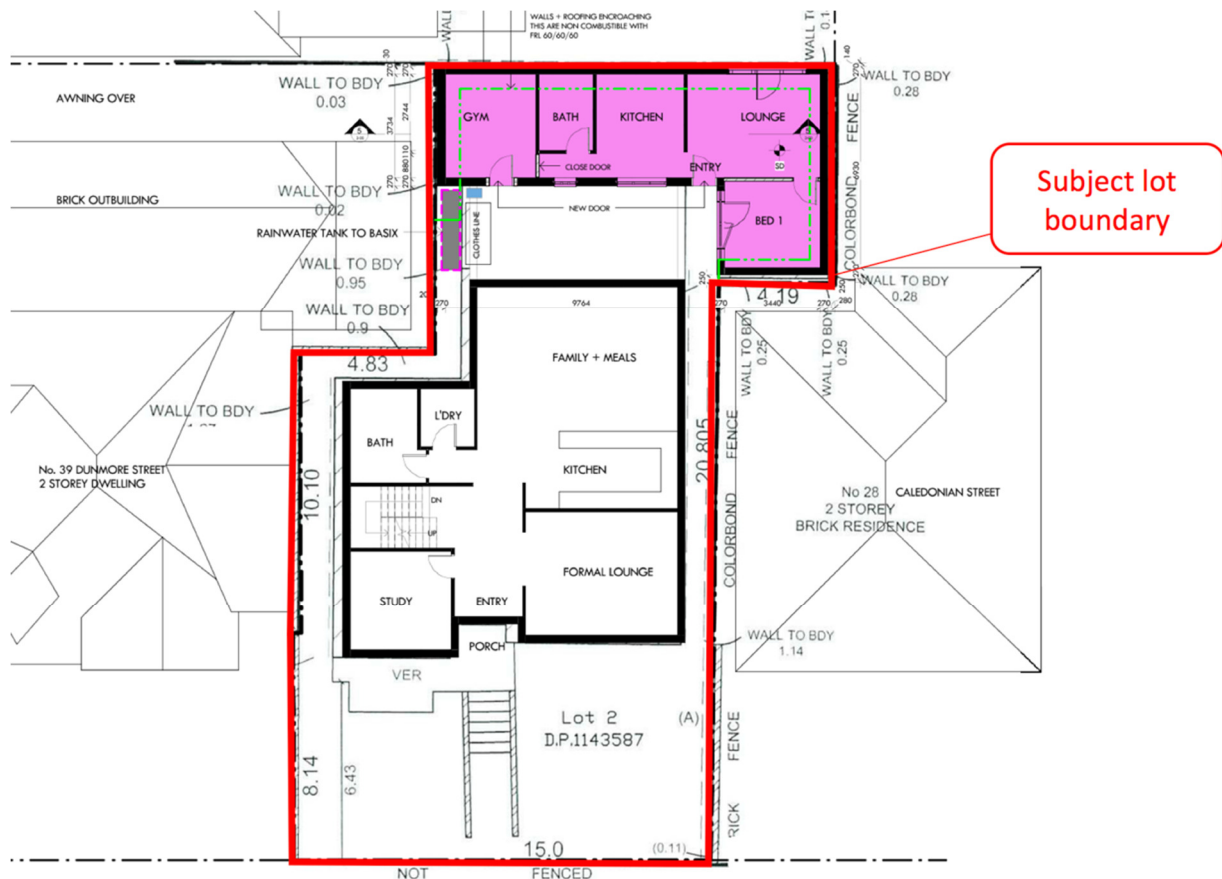


Figure 1 - Proposed/existing rear structure, highlighted in purple, which is the subject of this DA.

Source: Ground Floor Plan, prepared by Space 0.681:1, as adapted by CPS.

Site location and context

The subject site is located at 28A Caledonian Street, Bexley, and is formally known as Lot 2 DP 1143587. The site is irregular in shape with a frontage of 15m to Caledonian Street, and a total site area of 412.5m². The site is located on the northern side of Caledonian Street.

The site is occupied by a two-storey dwelling comprising a sandstone façade and a multi-pitched roof with two (2) street facing gables. The two-storey dwelling contains five (5) bedrooms, a study, lounge room, family/dining room, and basement parking.

The site is further occupied by a structure in rear setback which is the subject of this DA and is described in detail under the *Proposal* section earlier in this report.

An awning connects the subject structure to the two-storey dwelling. A narrow pathway provides separate access from Caledonian Street to rear of the site. This pathway is located along the eastern side boundary.

The limited vegetation on the subject site is located within the front setback area adjoining to the driveway to the basement garage. The submitted survey does not detail any further landscaping or plantings within the rear of the site. An electrical pole is located within the street verge in front of the dwelling.

Refer to **Figure 2** for an aerial image of the subject site and **Figure 3** for a site photograph of the front of the two-storey dwelling located on the subject site.



Figure 2 - Aerial image of the 28 Caledonian Street, Bexley. The subject site is highlighted in yellow.

Source: maps.six.gov.au



Figure 3 – Photograph captured from the site inspection that illustrates the front facade of the dwelling at 28A Caledonian Street.

Source: Site Photo taken by CPS.

Adjoining the site to the west, at 39 Dunmore Street North, is a corner allotment containing a single-storey dwelling which is built up to the side boundary that adjoins the subject site. Adjoining to the east, at 28 Caledonian Street, is a two-storey brick dwelling. Adjoining to the north is the side setback of 37 Dunmore Street North which is occupied by a single storey dwelling.

The lot boundaries between the subject lot and side adjoining lots is irregular with a 'dog-leg' occurring on the side boundaries at a depth of about 17-18 metres (refer to **Figure 2**).

The local area is characteristic of an established residential neighbourhood. The immediate area of the subject site is comprised of one and two-storey dwellings of varying styles and ages. Further north and south multi-dwelling developments in the form of townhouses and villas are present.

In terms of regional context, the subject site is a 750m walk from Rockdale Train Station, 400m south of Forest Road, and directly adjacent to Seaforth Park.

Refer to **Figure 4** for aerial image of local area, and **Figure 5** for a zoning map extract.



Figure 4 - Aerial image of local area. The subject site is highlighted in yellow.

Source: maps.six.gov.au

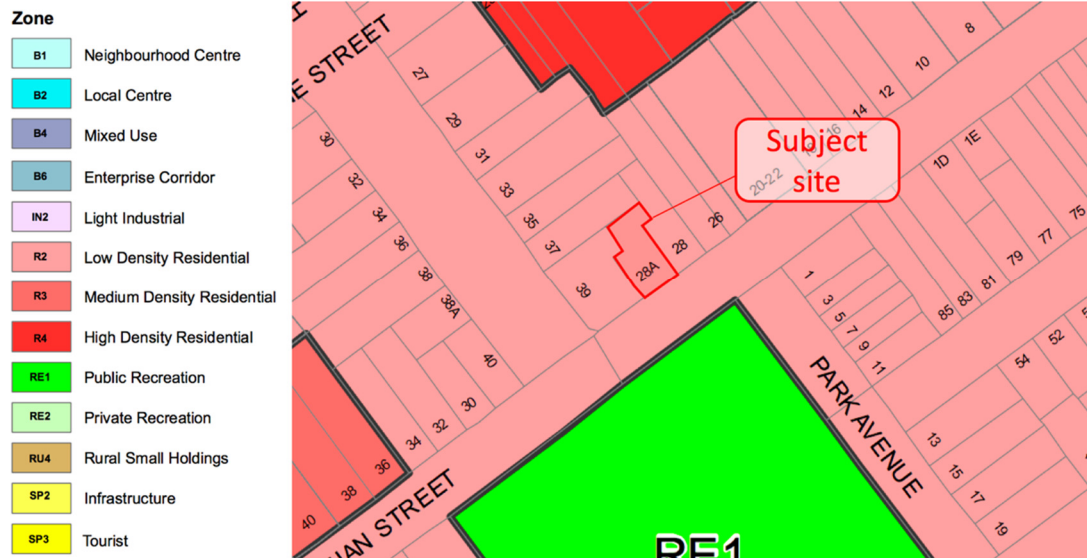


Figure 5 - Zoning map extract from the RLEP2011 illustrating the R2 Low Density zoning of the subject site.

Source: legislation.nsw.gov.au

Statutory Considerations

Environmental Planning and Assessment Act, 1979

Section 109A - Uses unlawfully commenced

In accordance with Section 109A of the *Environmental Planning and Assessment Act 1979* (the Act), Council can only approve the use of a building that was unlawfully commenced. Section 109A does not extend to works associated with the erection or construction of a structure which has been unlawfully commenced or completed.

Accordingly, the works associated to the 'additions' component of the proposed development cannot be approved by Council. Furthermore, without the certification process that is normally afforded by construction, occupation, and completion certificates afforded in lawful buildings, the structural adequacy and BCA compliance of the subject structure cannot be confirmed.

Guidance provided by the Land and Environment Court case *Chami v Lane Cove Council [2015] NSWLEC 176* on the matter of unlawfully commenced works under paragraph 64, outlines that:

'the appropriate process is to consider the structural adequacy and building code compliance of the unapproved works before considering whether it is appropriate to approve the change of use if the unapproved works were to be regularised. This process also necessitates two separate applications, one for a building certificate to regularise the unauthorised works with a second application being necessary for approval for the change of use.'

In this regard, it is considered inappropriate for Council to approve the use of a structure that has not undergone appropriate structural adequacy and building code compliance assessment. Section 149A (Building Certificate) of the Act provides Council with a pathway to review and assess the structural adequacy and building code compliance of a structure.

Notwithstanding the above matter of law, the remainder of the report assesses the appropriateness and compliance of the second part for which approval is sought; that being the use of the structure for a secondary dwelling.

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

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

The following Environmental Planning Instruments are relevant to this application:

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

In accordance with the BASIX SEPP, any development that contains one or more dwellings building must be accompanied by a valid BASIX Certificate.

The proposal is accompanied by BASIX Certificate 767833S issued on 13 October 2016, which is valid as it was prepared within three (3) months of the date of lodgement of the subject development application.

The submitted BASIX certificate illustrates that the development achieves the water, thermal comfort and energy targets required by the BASIX SEPP. In this regard, the proposal satisfies the provision and objectives of this SEPP.

State Environmental Planning Policy No 55 – Remediation of Land

In accordance with clause 7 of the SEPP 55, a consent authority must consider whether the land is contaminated before providing consent to the carrying out of any development on the land.

In accordance with the Planning Guidelines SEPP 55 – Remediation of Land, prepared by Department of Urban Affairs and Planning in 1998, the history of land use needs to be considered as an indicator of potential contamination. Where there is no reason to suspect contamination after acting substantially in accordance with these guidelines, the proposal may be processed in the usual way. Table 1 on page 12 of the guidelines lists activities that may cause contamination.

In this regard, the suggested checklist for evaluation contained in the guidelines are addressed as follows:

- Council has not previously investigated the subject site for contamination,
- The subject site is currently zoned for residential purposes, that is R2 Medium Residential Density, as per the RLEP2011,
- The subject site was previously zoned for residential purposes, being 2(a) Low Density Residential, pursuant to the RLEP2000,
- The proposed development seeks to continue using the land for residential purposes,
- Subject to a desktop review of aerial imagery and site inspection, there is no evidence to suggest that the subject site or any adjoining sites have previously been used for commercial, industrial, or agricultural activities as detailed in Table 1 of the guidelines, and
- There are no known clean-up notices or licences issued by the Environmental Protection Authority that apply to the site.

Therefore, there is no evidence to suggest that the land is contaminated and unsuitable for the proposed development and that further land contamination assessment is required.

Accordingly, the subject site is considered to have satisfied the provisions of SEPP 55 and is considered to be suitable for residential purposes.

State Environmental Planning Policy (Affordable Rental Housing) 2009

Division 2 of the Affordable Rental Housing SEPP outlines that development for the purposes of a secondary dwelling on land zoned R1, R2, R3, R4, and R5 is permissible with consent.

However, Council must not consent to development to which Division 2 of the Affordable Rental Housing SEPP applies if the development would result in:

(2) there being on the land, any dwelling other than the principal dwelling and the secondary dwelling,

and when:

- (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and*
- (b) the total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.*

The total floor of the principle dwelling and the secondary dwelling exceeds the maximum floor area allowed for a dwelling on the subject site by the RLEP2011. For this reason alone, Council is unable to grant consent for the use of the structure as a secondary dwelling.

Refer to assessment of the proposal against the provisions of the RLEP 2011 below for detailed assessment of gross floor area exceedance.

Rockdale Local Environmental Plan 2011

The following are the relevant matters from the RLEP 2011 that need to be taken into consideration.

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R2 Low Density Residential	No – see discussion	Yes – see discussion
4.3 Height of buildings	Yes	Yes
4.4 Floor space ratio - Residential zones	Yes	No – see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
5.4 Controls relating to miscellaneous permissible uses	N/A	Yes
5.9 Preservation of trees or vegetation	No	Yes
5.10 Heritage conservation	Yes	Yes
6.1 Acid Sulfate Soil - Class 5	Yes	Yes
6.2 Earthworks	Yes	Yes
6.3 Development in areas subject to aircraft noise	No	No – see discussion
6.4 Airspace operations	Yes	Yes
6.7 Stormwater	No	No – see discussion
6.12 Essential services	Yes	Yes

2.3 Zone R2 Low Density Residential

The proposal seeks consent for the use of an existing structure for the purposes of a secondary dwelling. Secondary dwellings are identified as being permissible with consent within the R2 zone.

The proposal is considered to be consistent with the RLEP2011 definition of a secondary dwelling. The definition of which within the Dictionary of the RLEP2011 is reproduced as follows:

“secondary dwelling means a self-contained dwelling that:
(a) is established in conjunction with another dwelling (the principal dwelling), and
(b) is on the same lot of land as the principal dwelling, and
(c) is located within, or is attached to, or is separate from, the principal dwelling.”

The objectives of the R2 zone are:

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

The proposed use of the structure as a secondary dwelling is not considered to provide for the housing needs commensurate of a low density residential environment, and is not considered to be carried out in a context and setting that minimises any impact on the character and amenity of the area. This is demonstrated by the following:

- The proposed development does not maintain appropriate boundary setbacks which are consistently upheld within the local area,
- The proposal will result in exacerbated acoustic and visual impacts to neighbouring properties when compared to a design that complies with Council's development controls,
- Minimal solar access is afforded to the proposed secondary dwelling due to the limited opportunities for windows, as fire treated walls (rated 60/60/60) are required by the BCA for any habitable walls located within 900mm of a lot boundary, and
- Subject to the proposed development, the subject site will not include the minimum required level of landscaping which can reasonably be expected within a low density area.

4.4 Floor space ratio - Residential zones

Clause 4.4(2A) restricts the floor space ratio for a building on land that is in Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone R4 High Density Residential and that has an area of less than 460 square metres to 0.55:1. For the subject site this equates to a maximum gross floor area of 226.88m².

The proposal will result in the subject site exhibiting a maximum FSR of 0.727:1, which equates to a GFA of 300m². This is an exceedance of 73.12m².

Accordingly, the proposal contravenes this development standard. The applicant has not submitted any written request seeking to justify the contravention of the FSR development standard pursuant to clause 4.6 for Council's consideration.

For this reason alone, the development cannot be supported by Council.

6.3 Development in areas subject to aircraft noise

In accordance with the Sydney Airport 2033 ANEF diagram contained within the Sydney Airport Master Plan 2013, the subject site is located between the 20-25 ANEF contours.

In this regard, Council must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.

As the development has already been constructed, and no acoustic report accompanies the subject DA, Council cannot be satisfied that the structure has been constructed in a fashion that will meet the indoor design levels prescribed by AS 2021-2000. Accordingly, the provisions of this clause are not satisfied.

6.7 Stormwater

This clause requires Council to consider whether the development:

- (b) will include, where practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and
- (c) will avoid, or if a disturbance or impact cannot be avoided, will minimise and mitigate, any disturbance or impact of stormwater runoff on:
 - (i) properties adjoining the land on which the development is proposed to be carried out, and
 - (ii) native bushland, and
 - (iii) receiving waters.

With consideration of the unlawful building works and the extent of roofing over the subject site, the existing stormwater management and on-site stormwater retention is likely to be inadequate and result in increased stormwater runoff disturbance to adjoining properties.

As no concept stormwater management plans have been submitted, Council cannot be certain that the existing stormwater management is suitable or adequate with reference to the proposal.

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

No draft environmental planning instruments have been identified as being applicable to the proposed modification.

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

The following development control plan is relevant to this application:

Rockdale Development Control Plan 2011

The application is subject to RDCP 2011. A summary compliance table for the proposed development is provided below. Detailed discussions are provided for non-complying aspects of the proposal in respect to the RDCP 2011.

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	Yes	Yes
4.1.2 Heritage Conservation	Yes	Yes
4.1.3 Water Management	No	No – see discussion
4.1.4 Soil Management	Yes	Yes
4.1.5 Contaminated Land	Yes	Yes
4.1.7 Tree Preservation	Yes	Yes
4.1.9 Lot size and Site Consolidation - isolated sites	Yes	Yes
4.2 Streetscape and Site Context	Yes	Yes

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.3.1 Open Space and Landscape Design	No	No – see discussion
4.3.2 Private Open Space	No	No – see discussion
4.4.2 Solar Access	No	No – see discussion
4.4.5 Visual privacy	Yes	Yes
4.5.2 Social Equity - Equitable Access	Yes	Yes
4.6 Parking Rates - Other Uses	Yes	Yes
4.6 Car Park Location and Design	Yes	Yes
4.6 Driveway Widths	Yes	Yes
4.7 Site Facilities - Laundry Facilities and Drying Areas	No	No – see discussion
5.1 Setbacks	No	No – see discussion
5.1 Building Design	Yes	Yes

4.1.3 Water Management

Section 4.1.3 (Water Management) of the DCP2011 requires development to comply with *Rockdale Technical Specifications for Stormwater Management*, including that development for a secondary dwelling provide on-site detention or a minimum 9,500L rainwater tank with a catchment of at least 75% of the total roof area.

The DA is not accompanied by any stormwater plans. The proposal has not demonstrated that the additional expanse of hard surface area will not result in any negative water run-off impacts to adjoining properties, or Council's infrastructure.

Furthermore, the lack of landscaping and re-use systems illustrates the Water Sensitive Urban Design principals have not been incorporated into the design, as required by Section 4.1.3 of the DCP2011.

In this regard, the development is considered to result in a poor water management outcome, and will result in unnecessary additional environmental impacts.

4.3.1 Open Space and Landscape Design

Development Control 6 and 7 of Section 4.3.1 (Open Space and Landscape Design) of the DCP2011 outlines that trees must be planted within properties to maximise tree cover, and that planting design solutions are to provide privacy between dwellings.

The subject site on which the development is proposed does not contain any tree plantings that provide tree cover. Additionally, the location of the structure built on three (3) lot boundaries provides no opportunities for side and rear setback landscaping which would normally improve the amenity and privacy between neighbouring properties. As such, the proposal results in a poor landscaping outcome and sets a poor precedent for the local area.

Development Control 8 of Section 4.3.1 (Open Space and Landscape Design) of the DCP2011 requires a minimum 25% of site area to be landscaped area on low and medium density residential sites.

A precise measurement of the proposed landscaping is not possible as no landscape plan has been submitted, and the site plan provides no detail of landscaping. Nonetheless, a site inspection and review of aerial images suggest the subject site, inclusive of the structures sought to be used as a secondary dwelling, provides for landscaping equating to 7.8% of the site area. The landscape area is limited to the front setback area, because the rear of the site is entirely developed.

In this regard, the subject site inclusive of the unlawful structures does not provide for an acceptable level of landscaping.

4.3.2 Private Open Space

Development Control 1 of Section 4.3.2 (Private Open Space) of the DCP2011 requires the provision of at least 80m² of private open space that can be shared with a principal dwelling on those sites where a secondary dwelling is proposed.

The proposal does not afford any private open space to the secondary dwelling as the private open space utilised by the principal dwelling is not accessible to the secondary dwelling. Furthermore, the unencumbered private open space that is currently afforded to the principal dwelling measures less than 30m².

Firstly, this illustrates that the construction of the unlawful structure reduced the private open space for the principal dwelling. The DCP2011 identifies that at least 80m² is to be provided to a dwelling with a GFA of 125m² or more. The available private open space attributed to the principal dwelling is not considered to appropriately satisfy the DCP2011 objectives in terms of usability for outdoor activities, privacy, solar access, landscaping and accessibility. Accordingly, there is inadequate private open space to be shared with the proposed secondary dwelling.

Secondly, the absence of any accessible private open for the secondary dwelling is unacceptable, and illustrates the unsuitability of the structure for residential use.

It is acknowledged that the submitted Statement of Environmental Effects (SEE) prepared by 'Space 0.618:1 Pty Ltd', suggests that a future boundary adjustment will provide the proposed secondary dwelling with private open space. However, as no such boundary adjustment has been approved, and does not form part of this DA, it cannot be considered in the assessment of the proposal. This is because there is no guarantee that the boundary adjustment will be supported or that the area subject to a future boundary adjustment would satisfy the minimum requirements to be considered appropriate.

4.4.2 Solar Access

Development Control 1 of Section 4.4.3 (Natural Lighting and Ventilation) of the DCP2011 requires residential development to provide a minimum 2.7m ceiling height for any habitable space to facilitate adequate natural lighting and ventilation.

The existing structure has ceiling heights of 2.4m, as stated in the submitted SEE. The SEE argues that 2.4m ceiling heights are the minimum requirement under the BCA and is therefore suitable.

However, compliance with BCA ceiling heights does not demonstrate that the development provides for appropriate levels of natural lighting and ventilation as sought by this development control. The level of direct solar access to the structure is significantly impacted by the absence of external north, east, and west facing windows. Moreover, as the structure is constructed closer than 0.9m from the north, east, and west lot boundaries, the structure needs to satisfy BCA fire safety requirements, which essentially precludes any wall openings within these respective walls. Hence, the structure is left with two (2) south facing and one (1) west facing windows directed internally to the site, and only two (2) small skylights.

Furthermore, an existing awning joins the principal dwelling to the secondary dwelling. This awning further prevents direct solar access to the primary windows of the structure.

The proposed skylight windows are considered secondary windows that provide for a limited amount of lighting to a confined portion of the habitable space, and with the bedroom and bathroom not having any benefit from the skylight windows. Overall the lack of solar access to the proposal is less than what can be reasonably expected of residential development. It is noted that the lack of solar access is not the result of any identified site constraints, but rather the existing nature and context of the structure that is sought to be converted to a dwelling.

The restricted orientation of the windows, being limited to internal south and west directions, further prevents any opportunities for cross-flow and natural ventilation in and through the proposed secondary dwelling.

In this regard, it is obvious that the unauthorised structure has not been appropriately designed for residential use in terms of internal amenity that is otherwise reasonably expected for living spaces. The location of the structure further inhibits any design changes to improve natural lighting and ventilation to a level of internal amenity that is expected by the DCP2011 and future residents of new development in the local area.

4.7 Site Facilities - Laundry Facilities and Drying Areas

Development Control 11 and 12 of Section 4.7 (Laundry Facilities and Drying Areas) of the DCP2011 requires the design of each dwelling unit to incorporate laundry facilities and an open and sunny drying area to hang clothes.

The proposed secondary dwelling does not incorporate laundry facilities, and due to the limited and covered private open space area, the proposed dwelling is not afforded an open and sunny area to dry clothes.

In this regard, the development does not provide access to site facilities that is expected of residential development and is therefore not considered to be appropriate.

5.1 Setbacks

Development Control 1 of Section 5.1 (Low and Medium Density Residential) of the DCP2011 requires that secondary dwellings be setback a minimum 0.9m from the side and rear boundaries. These minimum setbacks further support site responsive and environmentally sensitive designs which normally include designs to capitalise on favourable solar access, provide appropriate levels of landscaping and tree plantings, preserve privacy for neighbouring residents, and maximise internal amenity.

The unauthorised structure that is proposed to be used as a secondary dwelling provides for a minimum side and rear setback of 0.03m, as identified on the submitted survey.

In the circumstances, there are no planning grounds or identifiable site constraints to justify a secondary dwelling being constructed directly on three (3) lot boundaries.

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

Environmental Planning and Assessment Regulation 2000

Clause 54 of the Regulations outlines that a consent authority may request the applicant to provide it with such additional information about the proposed development as it considers necessary for its proper consideration of the application.

As detailed in the *History* section of this report, the applicant was requested to provide additional information in early 2017, with a response being requested within two (2) weeks of the receipt of the letter. To date, no response has been received by Council.

Clause 54(6) further identifies that if the applicant has failed to provide any of the requested information by the end of the period specified in the additional information request, and any further period as the consent authority allows, the applicant is taken to have notified the consent authority that the information will not be provided, and the application may be dealt with accordingly.

The applicant has been afforded more than enough time to respond to the request for additional information letter and has not responded despite numerous subsequent requests by Council. Accordingly the DA is being dealt with based on the originally submitted plans and documents.

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

The likely impacts resulting from the proposed development on the natural and built environments have been assessed and are considered to be unreasonable. The proposal results in unacceptable impacts on the:

- Safety of the future residents of the proposed development,
- Residential amenity of adjoining properties,
- Residential amenity of the existing and future proposed residents on the subject site,

- Stormwater management of the subject site and the associated impacts on adjoining properties,
- The level of solar access available to the future internal residents,
- The level of achievable natural ventilation to the proposed development, and
- The amount of usable private open space available to existing and future proposed residents.

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

This report has undertaken a thorough assessment of the proposal's impacts on the natural and built environment, whilst also assessing compliance against the relevant environmental planning instruments and development control plans.

The subject site has been identified as being suitable for residential development with considerations of access to services and absence of land contamination, however the proposal itself has been determined to be unsuitable for the site.

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

The development has been notified in accordance with the provisions of DCP2011. In response, one (1) submissions has been received. The submission raised the following concerns:

- Density, and
- Lack of building separation to the lot boundaries.

These issues are essentially concurred with as evidenced in the discussions throughout this assessment report.

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

The proposed development is not considered to be in the public interest because of the proposal's inability to satisfactory comply with the objectives and controls of the RLEP 2011 and RDCP 2011. Further, the proposal is also not considered to be in the public interest by virtue of the identified negative impacts on the natural and built environments.

PRELIMINARY ASSESSMENT

DA No:	DA-2017/142
Date Plans Rec'd	24 October 2016
Address:	28A Caledonian Street BEXLEY
Proposal:	Additions and conversions to approved shed at the rear and convert use to a secondary dwelling
Constraints Identified:	<ul style="list-style-type: none"> Structure appears to be existing – built without approval – see BC-2017/3 – withdrawn 29/09/16 15.24m Building Height Civil Aviation Regs 450sqm min lot size 8.5m height max Class 5 ASS Authorised vehicular entrance Between 20-25 ANEF FSR 0.5:1, however clause 4.4(2A) states not to exceed 0.55:1 In vicinity of heritage item (street – I107, park - I100, house -I152, I126, I126, I124) Affected by OLS
Zoning:	R2 – Low Density Residential (tile LZN_004)



DESKTOP SITE INSPECTION		
	Comment	Planning matter
Adjoining development	<ul style="list-style-type: none"> Subject site and adjoining development to the west have irregular shaped allotments West – large single storey stone dwelling East – two-storey modern style brick dwelling Seaforth Park is located across the road 	Proposed secondary dwelling has been constructed up rear and side boundaries.
Road reserve	<ul style="list-style-type: none"> No works required or effecting road reserve 	

ROCKDALE LEP 2011	PROPOSAL	COMPLIANCE
4.3(2) Height of buildings <ul style="list-style-type: none"> 8.5m overall 	3.562m (EGL 39.91 – Ridge RL 43.47)	Yes
4.4(2) Floor space ratio <ul style="list-style-type: none"> 0.5:1 4.4(2A) Floor space ratio <ul style="list-style-type: none"> 0.55:1 for sites less than 450sqm in R2, R3, and R4 <p>Subject site is 412sqm</p>	<p><i>Principal dwelling GFA:</i></p> <ul style="list-style-type: none"> Basement - 0sqm Ground floor – 123.47sqm First floor – 115.92 <p>Total = 239.39sqm</p> <p><i>Proposed use of shed for secondary dwelling GFA:</i></p> <ul style="list-style-type: none"> Sec dwelling - 48.35sqm Attached Gym - 12.28sqm <p>Total = 60.63sqm</p> <p>Site total = 300.02sqm, or 0.728:1</p>	No

5.4(9) Miscellaneous permissible uses – secondary dwellings <ul style="list-style-type: none"> • 60sqm, or 43% of floor area of principal dwelling • (43% of 239.39 = 102.9sqm) 	Ground floor plan identifies that the secondary dwelling: <ul style="list-style-type: none"> o Sec dwelling - 48.35sqm o Attached Gym - 12.28sqm 	Yes
6.1 Acid Sulfate Soils <ul style="list-style-type: none"> • Class 5 	No excavation req.	N/A
6.3 Aircraft Noise <ul style="list-style-type: none"> • ANEF 20 -25 	Insulation properties of the existing structure is not known.	No
6.7 Stormwater <ul style="list-style-type: none"> • Maximise water permeable area • OSD for use as alternative water supply, where practical • Minimise disturbance of stormwater run-off 	No stormwater plans have been submitted. 88% of the site is impervious.	No

ROCKDALE DCP 2011	PROPOSED	COMPLIANCE
Part 4 – General Principles for Development		
Part 4.1 – Site Planning		
Part 4.1.1 – Views & Vistas		
– Development must consider any significant views to, from and across site.	The proposed development is located to the rear of the subject site, as a result of which views are confined to the principal dwelling and adjoining boundary fences.	N/A
– Development must retain existing views to Botany Bay.	As above.	N/A
– Development on highly visible sites to complement character of area.	As above.	N/A
– View corridors to landmarks and significant heritage items to be protected.	As above.	N/A
– Views from public spaces to the bay and districts to be preserved.	As above.	
– Roof forms on low side of street to be well articulated to allow public views.	Development is not viewable from the street.	N/A
– Building forms enable sharing of views with surrounding residences	Development is localised to the rear setback of the subject site.	Yes
Part 4.1.2 – Heritage Conservation – For Heritage Items		
– Heritage impact statement required for development of heritage items. – Development of heritage item to conserve heritage setting – Development of a heritage item must not have a negative impact upon the heritage significance of the item – Additions to heritage item to be located at rear. – Two storey additions to a single storey heritage item must be in the form of a pavilion or an extension at the rear. – Original verandah roof forms must be maintained. – Original face brick work or stone must not be rendered or painted.	Subject site is not identified as being or containing an item of heritage.	N/A

ROCKDALE DCP 2011	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Original finishes and materials must be retained. - Reconstruction must only be undertaken where physical and/or documentary evidence provides adequate information regarding the original building detail. - Development of a heritage item must conserve original landscape features of significance. - Off street car parking is not required if it would have a detrimental impact upon the heritage significance of the item. - New garages are to be located behind the rear building line of the principal building form. - Satellite dishes, air conditioning units, solar collectors and water tanks must be located so as not to be visible from the public domain. - if an archaeological assessment identifies the potential for significant archaeology then the applicant must comply with the provisions of the Heritage act 1977 and the national parks and Wildlife act 1974 		
<ul style="list-style-type: none"> • Development in the vicinity of Heritage Items <ul style="list-style-type: none"> - Any proposed development located adjacent to or nearby a heritage item must not have an adverse impact on the heritage item including its setting and curtilage - Development adjacent to a heritage item must be designed: <ul style="list-style-type: none"> o To be of a similar scale to the heritage item o To pay attention to design elements - Where new development is proposed adjacent to a heritage item in a street of buildings similar to the heritage item, new development must maintained historic streetscape pattern. 	<p>Development is within the vicinity of Heritage Listed Items, Caledonian Street tree plantings (item no. I107), park, Seaforth Park (item no. I100), house (item no. I152, I125, I126, I124), federation house (I125), federation house (I126), and inter-war house (I124).</p> <p>However, as the development is located away from view, the proposal will not impact visually on the heritage values of the items identified above.</p> <p>As above</p> <p>As above.</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p>

ROCKDALE DCP 2011	PROPOSED	COMPLIANCE
Part 4.1.3 – Water Management		
<ul style="list-style-type: none"> • Stormwater Management <ul style="list-style-type: none"> – Development to comply with Councils Technical Specs. – WSUD to be incorporated into design of stormwater drainage. 	<p>No stormwater plans have been provided at this stage.</p> <p>TS identifies development is in a low-absorption area.</p> <p>The secondary dwelling (and associated single dwelling house) shall provide OSD or min 9,500L rainwater tank with a catchment of min 75% of roof area. Secondary dwelling is exempted if it involves conversion of an existing outbuilding approved prior to 23 March 1993. – Applicant has not demonstrated that approval for existing ‘shed’ is in place.</p>	No
<ul style="list-style-type: none"> • Flood Risk Management <ul style="list-style-type: none"> – Development to comply with Councils Flood Management Policy. – Filling of land up to 1:100 ARI level not permitted. – Development not to increase potential for flooding on other properties. – Impact of flooding and flood liability to be managed, no flood water diverted. – Flood refuge may be required for occupants requiring higher level of care. 	<p>Subject site is not flood affected and does not adjoin any flood affected properties.</p>	N/A
<ul style="list-style-type: none"> • Water Conservation <ul style="list-style-type: none"> – BASIX Compliant – Water efficient appliance must meet minimum WELS Scheme Standards 	<p>BASIX Certificate 7678333S submitted with the application demonstrates compliance with BASIX SEPP</p>	Yes
<ul style="list-style-type: none"> • Water Quality <ul style="list-style-type: none"> – Measures to control pollutants in stormwater discharge. – Runoff to waterways/bushland to be treated. 	<p>Compliance with BASIX</p> <p>No adjoining bushland.</p>	<p>Yes</p> <p>N/A</p>
<ul style="list-style-type: none"> • Groundwater protection <ul style="list-style-type: none"> – Operating practices and technology must be employed to prevent contamination of groundwater. – Development which has potential risk to groundwater must submit a geotechnical report. – Certain development in areas subject to Botany Sands Aquifer may be considered Integrated Development. 	<p>No excavation is proposed.</p> <p>As above.</p> <p>Development is not within the identified Botany Sands Aquifer area.</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p>
Part 4.1.4 – Soil Management		
<ul style="list-style-type: none"> – Development must minimise soil loss 	<p>No construction works are proposed as the structure is already built.</p>	N/A

ROCKDALE DCP 2011	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> – Erosion and Sediment control plan required where development involves site disturbance. – Development is to minimise site disturbance. 		
Part 4.1.5 – Contaminated Land		
<ul style="list-style-type: none"> – Development on land that is likely to have contamination must follow State Environmental Planning Policy 55 – Remediation of Land. 	Development does not seek a change of land use. Subject site has been zoned for residential purposes since at the RLEP 2000. There is no evidence to suggest that any land uses with the potential of contaminating the land has occurred on the subject land. Accordingly, the subject land is considered to be suitable for residential use.	Yes
Part 4.1.6 Development on Sloping Sites		
<ul style="list-style-type: none"> – Building footprint designed to minimise cut and fill – Any habitable room of dwelling must have at least one external wall entirely above existing ground level. 	<p>No construction works are proposed as the structure is already built.</p> <p>All habitable rooms of the dwelling have at least one external wall entirely above existing ground level.</p>	<p>N/A</p> <p>Yes</p>
4.1.7 Tree Preservation		
<ul style="list-style-type: none"> – Council consent required to undertake tree work for a tree that is: <ul style="list-style-type: none"> o More than 3m tall or o Has a circumference in excess of 300mm at a height of 1m above ground <p>Existing significant trees and vegetation are to be incorporated into proposed landscaping</p> <p>Building setbacks are to preserve existing significant trees and vegetation and allow for new planting.</p>	<p>No construction works are proposed as the structure is already built.</p> <p>No trees are present on the subject site.</p> <p>No trees are present on the subject site.</p> <p>No existing trees are present adjacent to the structure on adjoining developments.</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p>
4.1.8 Biodiversity		
<ul style="list-style-type: none"> – Development is to be sited and designed to minimise impact on indigenous flora and fauna. – Indigenous species planting is encouraged – Development abutting bushland, creeklines or wetland areas is to utilise local indigenous plant species – Statement of Flora/Flora Impact required for development in or adjacent to bushland or wetlands – Species Impact Statement required where development is to occur adjacent to threatened species or endangered ecological communities. 	<p>No construction works are proposed.</p> <p>No landscape plan has been submitted, however no physical works are proposed.</p> <p>Development does not abut significant biodiversity containing areas.</p> <p>As above.</p> <p>As above.</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>
4.1.9 Lot Size and Site Consolidation		
<ul style="list-style-type: none"> • Lot Size and Minimum Site Frontage <ul style="list-style-type: none"> o Dwelling House – Minimum lot size 450m² – Minimum width 15m at the front building alignment 	N/A	N/A

ROCKDALE DCP 2011	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> ○ Dual Occupancy <ul style="list-style-type: none"> - Minimum lot size 700m² - Minimum site frontage 15m ○ Multi Dwelling Housing <ul style="list-style-type: none"> - Minimum site frontage of 18m unless site fronts classified road, then minimum of 27m. ○ Secondary dwelling <ul style="list-style-type: none"> - There is no minimum lot size requirement ● Avoidance of Isolated Sites <ul style="list-style-type: none"> - Adjoining parcels must be capable of being economically developed - Development of existing isolated sites is not to detract from the character of the streetscape. 	<p>N/A</p> <p>N/A</p> <p>Proposal is for use of structure for secondary dwelling.</p> <p>No subdivision is proposed.</p> <p>Subject site is not considered to be an isolated site.</p>	<p>N/A</p> <p>N/A</p> <p>Yes</p> <p>N/A</p> <p>N/A</p>
4.2 Streetscape and Site Context		
<p>Site context</p> <ul style="list-style-type: none"> - Development is to respond and relate to urban context. <ul style="list-style-type: none"> - Topography - Block pattern - Subdivision - Street alignment - Landscape - Views and patterns of development - Development adjoining land use zone boundaries should provide a transition in form. - Buildings addressing or bordering public open space must relate positively to it. <p>Streetscape Character</p> <ul style="list-style-type: none"> - Cohesive streetscape must be created through building design and materials. - Consistent building setbacks from the street boundary. - Buildings on corner sites are to address each frontage. - Access to garages should not require major cut and fill. - First floor additions for streets of predominately single storey dwellings shall: <ul style="list-style-type: none"> ○ Locate addition at rear and/or ○ Incorporate addition into the existing roof space and/or ○ Use similar proportion if existing windows and doors in new work. - Garages and carports are not permitted in front setback ● Pedestrian Environment 	<p>Structure is already existing.</p> <p>Structure does not have a direct frontage to any streets as it is located in the rear of an existing residential allotment containing a two-storey dwelling.</p> <p>Use of structure for residential purposes relates to the urban context of the residential neighbourhood.</p> <p>Due to structure's pre-existence it is already part of the urban fabric. In any event the structure is not viewable from the streetscape.</p>	<p>N/A</p> <p>N/A</p>

ROCKDALE DCP 2011	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Residential buildings must address the street - Buildings adjacent to public area must have at least one habitable room window overlooking public area, to provide casual surveillance. - Pedestrian and cycle thorough fares are safe routes through: <ul style="list-style-type: none"> o Appropriate lighting o Casual surveillance from the street o Minimised opportunities for concealment o Landscaping which allows clear sight-lines between buildings and the street o Avoidance of blind corners. - Clearly defined public, common, semi-private and private space - Discrete vehicle entries with minimal pedestrian conflict - Development it to take advantage of rear lane access to sites, where possible. 	As above	N/A
<ul style="list-style-type: none"> • Fencing - Sandstone fences and walls to be retained and repaired (if necessary) - Front fences/walls to enable surveillance of street - Front fences are to be maximum 1.2m above footpath level - Open construction front fences (min. 30% open) to a maximum of 1.8m – where the solid portion is no higher than 600mm. - New fences and walls to be constructed of material which reduce potential graffiti - For sloping streets, height of fences and walls may be regularly stepped, so that average height above footpath level is 1.2m - No fences constructed in floodways. - Gates must not encroach over street alignment when opening or closing. - Side and rear fences are to be maximum height of 1.8m on level sites. - Side fences between the street alignment and front building wall are to be maximum height of 1.2m or 1.8m if open construction. - Where a vehiculaer entrance is proposed in conjunction with fence height greater than 1.2m a 45 degree splay or its equivalent is provided either side of the entrance 	No physical works are proposed.	N/A

ROCKDALE DCP 2011	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Sheet metal fencing is not to be used at the street frontage or forward of the building line. • Sandstone Walling, Rock Outcrops and Kerbing - No brick or stone kerbing/cross overs to be removed without Council approval. - Excavation of sandstone or rock outcrops for the purpose of providing a garage is not permitted where: <ul style="list-style-type: none"> o The rocky outcrop forms a significant part of the streetscape and character of the locality; or o Adequate on street parking is available; or o Alternative access to a site is available. - Where excavation of rock outcrop is considered acceptable for provision of off-street car parking, garage entry is to utilise sandstone, stone coloured mortar and a recessive coloured door. 	No physical works are proposed.	N/A
4.3 Landscape Planning and Design		
4.3.1 Open Space and Landscape Design		
<ul style="list-style-type: none"> - Must comply with Council's Technical Specifications - Landscape - Landscape Plan submitted and prepared by qualified Landscape Architect to be submitted - except for dwelling houses or secondary dwellings - Significant trees and natural features incorporated into design - Hard surface areas to be minimised to reduce runoff by: <ul style="list-style-type: none"> o Directing run-off from overland flow of rainwater to pervious surface o Utilise semi-pervious paving materials where possible - Landscaping must relate to building scale - Planting design solutions are to: <ul style="list-style-type: none"> o Provide shaded areas in summer o Provide screening o Provide vegetation and tree cover o Provide privacy between dwellings o Not overshadow solar collectors/panels o Incorporate plant species in appropriate locations and densities o Rely on low water demand and nil or low fertilizer plants o Use indigenous plant species - Trees must be planted - Minimum landscape areas 25% 	<p>DA proposal is for use only</p> <p>Secondary dwelling use DA.</p> <p>No significant trees are located on the site.</p> <p>DA has not illustrated compliance with the control.</p> <p>No stormwater plans have been submitted.</p> <p>No works proposed.</p> <p>No physical works, including landscaping, are proposed.</p> <p>No trees have been planted within the subject site.</p> <p>No landscape plan has been provided, however comparing satellite</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p> <p>No</p> <p>N/A</p> <p>N/A</p> <p>No</p> <p>No</p>

ROCKDALE DCP 2011	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> – Min 20% of front setback to be landscaped area, with min dimension of 1m – Landscape areas should adjoin neighbouring landscape area – Where basement car parking protrudes above ground level the walls are to be screened – Street trees to be provided in accordance with Council's Street Tree Masterplan – Footpath area adjacent to the site be restored at time of development. – Development must comply with streetscape requirement of relevant public domain plans 	<p>images and site plan = 30.27sqm + 1.66sqm = 31.93sqm or 7.8%. Landscaped area is limited to the front setback. 35% of the front setback is landscaped area. Front setback landscape area adjoins neighbouring front landscape areas. Rear of the site does not include any landscaped area and as such does not create a contiguous corridor of landscape and vegetation. Existing basement carpark has already been approved.</p> <p>No physical works are proposed and as such there is no impact on street trees. As above.</p> <p>As above.</p>	<p>Yes</p> <p>N/A No</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p>
4.3.2 Private Open Space		
<ul style="list-style-type: none"> • Dwelling House/Dual Occupancy/Attached Dwelling/Semi-detached Dwelling <ul style="list-style-type: none"> – Minimum 60m² POS for dwelling with up to 125m² GFA – Minimum 80m² POS for dwelling with >125m² GFA – Minimum 80m² required for Secondary Dwelling which may be shared with existing dwelling. – Minimum width of 3m • General POS <ul style="list-style-type: none"> – Private open space is to be clearly defined – Provide north-facing POS – POS should not impact usability of neighbouring POS – POS to act as extension of indoor living areas – Balcony design is to: <ul style="list-style-type: none"> o Maximise habitability o Provide privacy o Provide for a variety of uses. 	<p>Proposed use of structure for secondary dwelling.</p> <p>Secondary dwelling is not afforded access to any POS. (Existing dwelling has a POS area of 26.19sqm). Existing POS has width of 3m</p> <p>No POS provided to secondary dwelling. As above. N/A</p> <p>N/A</p> <p>N/A</p>	<p>Yes</p> <p>No</p> <p>Yes</p> <p>No</p> <p>No</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>
4.3.3 Communal Open Space		
<ul style="list-style-type: none"> – A primary communal open space area must be provided for use by all resident of: – Multi dwelling housing >12 dwellings – RFB with >12 dwellings – Shoptop housing of mixed use development >12 dwellings 	<p>Development is for a use of a structure for a secondary dwelling.</p>	<p>N/A</p>

ROCKDALE DCP 2011	PROPOSED	COMPLIANCE
4.4 Sustainable Building Design		
4.4.1 Energy Efficiency		
<ul style="list-style-type: none"> - BASIX certificate submitted 	<p>A valid BASIX certificate has been submitted.</p> <p>NOTE: BASIX certificate suggest that the secondary dwelling has two bedrooms.</p> <p>Garden area of 51sqm has not been demonstrated.</p>	Yes
4.4.2 Solar Access		
<ul style="list-style-type: none"> - Development must be designed and sited to minimise the extent of shadows that it casts on <ul style="list-style-type: none"> o private and communal open space within the development; o private and communal open space of adjoining dwellings; o public open space such as parkland and bushland reserves; o solar collectors of adjoining development; and o habitable rooms within the development and in adjoining developments. - Development to provide good solar access to internal and external living spaces. - Buildings must be sited and designed to reduce overshadowing - Development must have adequate solar access: <ul style="list-style-type: none"> - Dwellings within the development site and adjoining properties should receive a minimum of 3 hours direct sunlight in habitable rooms and in at least 50% of the private open space between 9am and 3pm in mid-winter - Shadow diagrams required for DA of any building two or more storeys - Shadow diagrams should provide information relating to the effect of the proposed development at 9am, 12pm and 3pm on: <ul style="list-style-type: none"> o 21 June (mid-winter) o 21 December (mid-summer) and o 21 March/September (equinox) - Where a significant level of overshadowing occurs, elevational shadow diagrams are to be submitted. 	<p>Development is existing and is limited to one storey.</p> <p>Development is not afforded good solar access.</p> <p>Existing single story structure. Assessment is not for structure, only for use of unauthorised structure.</p> <p>As above</p> <p>As above.</p> <p>As above.</p>	<p>N/A</p> <p>No</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>
4.4.3 Natural Lighting and Ventilation		
<ul style="list-style-type: none"> - Minimum 2.7m ceiling height for habitable space - Minimum 2.4m ceiling height for non-habitable space - Designed to maximise opportunities for cross flow ventilation. 	<p>Elevations plans suggest that the structure is afforded with a floor to ceiling height of 3m.</p> <p>N/A</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p>

ROCKDALE DCP 2011	PROPOSED	COMPLIANCE
– Openable windows which can control airflow must be installed		Yes
4.4.4 Glazing		
– Areas of glazing are located to avoid energy loss and unwanted energy gain	Energy loss and efficiency measures are detailed in the accompanying BASIX certificate.	Yes
– Development provides appropriate sun protection during summer for glazed areas facing north, west and east.	Energy loss and efficiency measures are detailed in the accompanying BASIX certificate.	Yes
4.4.5 Visual and Acoustic Privacy		
<ul style="list-style-type: none"> - Windows of habitable rooms with a direct sightline to the windows of a habitable room of an adjacent dwelling and located within 9.0m: <ul style="list-style-type: none"> ○ Are to be sufficiently off-set to preclude views into the or ○ have sill heights of 1.7m above floor level; or ○ have fixed obscure glazing in any part of the window below 1.7m above floor level. - Balconies, terraces, rooftop recreation areas etc are to minimise overlooking - Use of roof top area for recreational purposes is permissible subject to: <ul style="list-style-type: none"> ○ Internal stair access ○ Usable area of roof must be set back at least 1.5m from building edge - Planters/privacy screens must be utilised to protect visual and acoustic amenity of neighbouring properties • Acoustic Privacy <ul style="list-style-type: none"> - Driveways, open space and recreation areas must minimise noise impacts - Bedrooms of one dwelling should not share walls with living rooms or garages of adjacent dwellings. - Party walls must be carried to the underside of the roof - All residential development except dwelling house are to be AAAC Acoustical Star Rating of 5 Acoustic Report to be submitted confirming the standards have been met - Attached dwellings and multi-unit development's internal layouts should consider acoustic privacy by locating circulation spaces and non-habitable rooms adjacent to party walls 	<p>All windows are inwards orientated.</p> <p>Bifold doors are located on the north-west elevation entering adjoining property of 37 Dunmore Street North.</p> <p>The SEE states that a section of the north adjoining lot directly adjacent to the bifold doors will be amalgamated with the subject lot, however this does not form part of the DA.</p> <p>N/A</p> <p>N/A</p> <p>No driveway construction is proposed.</p> <p>Existing structure is detached.</p> <p>As above.</p> <p>Structure proposed to be used as a secondary dwelling.</p> <p>N/A</p>	<p>No</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>
4.4.6 Noise Impact		

ROCKDALE DCP 2011	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Development must comply with the Australian Standard 2021 – 2000 acoustic – aircraft noise. - Mitigation measures must be BASIX compliant - External walls to be constructed with material with good sound insulating quality - The building plan, walls, windows, doors and roof are to be designed to reduce intrusive noise levels. - Balconies and other external building elements are to minimise noise infiltration. - New windows to be fitted with noise attenuating glass - Design landscaping to create a buffer between new residential development and adjacent potential sources of noise. 	<p>Subject site is located in between the 20-25 ANEF contours is therefore conditionally acceptable in accordance with AS2021-2000. This can be conditioned</p> <p>Development will include BASIX and BCA compliant walls as can be confirmed by conditions of consent. As above.</p> <p>No balconies.</p> <p>Development to be in accordance with AS2021-2000. No landscaping proposed.</p>	<p>N/A</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
4.4.7 Wind Impact		
<ul style="list-style-type: none"> - Buildings must be designed and proportioned to consider the wind generation effects 	Proposal is for use of existing structure.	N/A
4.5 Social Equity		
4.5.1 Housing Diversity and Choice		
<ul style="list-style-type: none"> - Multi-dwelling housing must be compliant with AS4299: - 1 adaptable dwelling required for >10 dwellings - 2 adaptable dwellings required for 10-30 dwellings; and - 10% adaptable dwellings required for more than 30 dwellings. 	N/A	N/A
4.5.2 Equitable Access		
<ul style="list-style-type: none"> - Access is to meet the requirements of: <ul style="list-style-type: none"> o Disability Discrimination Act o Relevant Australian Standards - Access Report required for DA's other than single dwellings and dual occupancies. 	<p>Proposed design is not considered to result in the inability to comply with the requirements of the accessibility DDA or BCA. In this regard, it is possible to confirm compliance with the BCA/DDA as a condition of consent.</p> <p>N/A</p>	<p>Yes</p> <p>N/A</p>
4.6 Car Parking, Access and Movement		
<ul style="list-style-type: none"> • Secondary dwellings <ul style="list-style-type: none"> - No additional required • Dwelling House/Dual Occupancy <ul style="list-style-type: none"> - 1 car parking space/dwelling with 2 bedrooms or less - 2 car parking spaces/dwelling with 3 bedrooms or more • Multi Dwelling Housing/Residential Flat Buildings/Shoptop Housing 	<p>Use of structure for secondary dwelling purposes.</p> <p>Existing principal dwelling incorporates a basement garage with space for two (2) vehicles.</p>	<p>Yes</p>

ROCKDALE DCP 2011	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - 1 car parking spaces/studio, 1 and 2 bedroom apartment - 2 car parking spaces/3 bedrooms apartments or more - Visitor car parking: 1 space/5 dwellings - 1 bicycle space/10 dwellings - 1 motorcycle space/15 dwellings • Car Park Location and Design - Vehicle access points and parking areas are to be: <ul style="list-style-type: none"> o Easily accessible o Minimise traffic hazards o Located on secondary frontage where possible o Minimise loss of on-street parking o Multiple driveway crossings not permitted - Car parking areas not to be visually dominate - Car parking areas must be well lit and laid out convenient to manoeuvring - Developments of four or more dwellings to be designed so that vehicles can enter and exit in forward direction - Mechanical parking systems supported subject to Council's Tech Specs - All visitor parking must be clearly marked and not located behind shutter unless intercom is provided. - Disable parking spaces must be close to lifts - Access Driveway widths to comply with Council's Tech Specs. <ul style="list-style-type: none"> o Min width 3m o Max boundary width 4.5m - Garage doors must be integrated in building design. • Basement Car Parking - Is to be adequately ventilated - Located within the building footprint - Located fully below NGL - Designed for safe and convenient pedestrian movement. - Provided with daylight where feasible • Car Wash Facilities - For buildngs >5 dwellings car wash facilities must be available • Pedestrian Access and Sustainable Transport - Separate pedestrian access should be provided 	<p>Vehicular access is existing.</p>	<p>N/A</p>

ROCKDALE DCP 2011	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Safe and convenient pedestrian access from car parking and public areas - Provide bicycle access which does not interfere with pedestrian access - Bicycle parking to be secure and minimise pedestrian obstruction - Bicycle parking to cater to various users. - Where bicycle parking is to be provided for residents in basement, it is to be individual bicycle lockers - New development must enhance and maintain pedestrian, cycle and public transport networks. - Design initiatives promoting sustainable transport are encouraged. - Use slip resistant ground surfaces which are traversable by wheelchairs and indicate changes of grade. 		
4.7 Site Facilities		
<ul style="list-style-type: none"> • Air Conditioning and Communication Structures - Ancillary structures are: <ul style="list-style-type: none"> o Not to be visually intrusive. o Located to have minimal impact on amenity of adjoining properties. o Do not have negative impact on architectural character of building. - For each building comprising >2 dwelling a master TV antenna/satellite dish to be provided. • Waste Storage and Recycling Facilities - Must comply with Council's Tech Specs - Provision of separate recycling and waste reuse facilities - Bins must be appropriately located - Must incorporate convenient access • Service Lines/Cables - Internal communication cabling must be installed for telephone, internet and cable television use. • Laundry Facilities and Drying Areas - Laundry in each dwelling - Drying areas not to be located forward of building line or in any street frontage setback - Drying areas in open, sunny part of site. 	<p>None proposed.</p> <p>N/A</p> <p>Existing waste management is to be utilised.</p> <p>Satisfiable via conditions of consent.</p> <p>Proposed secondary dwelling is not afforded any laundry facilities or drying areas.</p>	<p>N/A</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>No</p>

ROCKDALE DCP 2011	PROPOSED	COMPLIANCE
<ul style="list-style-type: none"> - Each dwelling must be provided with a clothes line with min. length of 7.5m • Letterboxes - Letterbox points to be integrated with building design and located in covered area - Letterboxes to be centrally located and lockable - Letterboxes are to be visible for at least some dwellings • Hot Water Systems - HWS to be encased in recessed box if located on balcony. 	<p>Letterbox details are not provided within the subject application.</p> <p>No balcony proposed.</p>	<p>N/A</p> <p>N/A</p>
Part 5 – Building Types		
Part 5.1 – Low and Medium Density Residential		
Storey Height		
<ul style="list-style-type: none"> • Dwelling House & Attached Dwelling - Maximum two storeys - On battle axe lot – one storey • Dual occupancy & semi-detached dwelling - Maximum two storeys - Dwelling located at rear – one storey • Secondary Dwelling - Maximum one storey • Multi dwelling housing - Maximum two storeys 	<p>Secondary dwelling to be one-storey.</p>	<p>Yes</p>
Setbacks		
<ul style="list-style-type: none"> - Sites subject to overland flooding require greater side and rear setbacks • Dwelling House & Attached Dwelling ○ Street Setback - Must be consistent with the prevailing setbacks in the street - If there is not a consistent or established setback, a 6m setback ○ Secondary Street Setback - Min 1.5m ○ Side Setback - min 0.9m for single storey building or ground floor of a two-storey building - min 1.5m for first floor of a two-storey building, except on lots with street frontages less than 15m, it may be set back a min of 1.2m - 0m between Attached Dwellings and Semi-detached Dwellings ○ Rear setback and rear lane setback - Min 0.9m for secondary dwellings 	<p>Subject site is not flood affected.</p> <p>N/A for secondary dwellings.</p> <p>No secondary street.</p> <p>Submitted survey suggest that a 0.03m side setback is provided to the south-west, and a 0.28m side setback to the north-east boundaries.</p> <p>Submitted survey identifies that a minimum rear setback of 0.03m is provided to the rear setback.</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p> <p>No</p> <p>No</p>

ROCKDALE DCP 2011	PROPOSED	COMPLIANCE
Building Design		
<ul style="list-style-type: none"> - Building design is to interpret and respond to character of the locality. - Building articulation must respond to environmental conditions - Architectural design features, are to be utilised to minimise blank walls. - For multi dwelling housing, the front dwelling must address the street - Building heights should be sympathetic to the natural land form and topographical features of the site and to existing buildings in the immediate vicinity. - Staircases leading to the first floor should be internal. - Split level dwellings should be considered in situations where a two storey building will be out of character with adjoining and nearby properties. - Balconies may be located up to 1.2m into the front setback. - Garages must be integrated with the overall design of the building in terms of height, form, materials, detailing and colour. - Garages and carports are to be located a minimum distance of 300mm behind the front building line. - The total width of the garage doors which address the street must be a maximum width of 6.3m or 40% of the site frontage width, whichever is lesser. - Roof must provide continuity and character of streetscape. - Mansard roofs are prohibited. 	Existing structure is not viewable from the streetscape.	N/A
Additions to Semi-detached Buildings		
<ul style="list-style-type: none"> - Must not dominate or compromise the uniformity or geometry of the principal/street front elevation - First floor additions should be set back beyond apex or main ridge. 	Proposal is not an addition to a semi-detached building.	N/A
Attics		
<ul style="list-style-type: none"> - Attics may be habitable provided windows are small dormer windows - Attic roof space may be used provided it is: <ul style="list-style-type: none"> - contained wholly within the roof pitch - is part of the dwelling unit immediately below; and - is incapable of being used as separate unit - use of attic must not adversely impact on privacy of adjoining properties 	An attic is not proposed.	N/A
Residential Subdivision		
<ul style="list-style-type: none"> - Torrens, Strata or Community title subdivision for dwelling houses, 	Subdivision is not proposed.	N/A

ROCKDALE DCP 2011	PROPOSED	COMPLIANCE
<p>attached dwellings and semi-detached dwellings must take into account the principles in 4.1 Site Planning and other provisions in Part 4 of this DCP to achieve a desirable development outcome with minimal adverse impacts on the environment.</p> <ul style="list-style-type: none"> - Torrens, Strata or Community title subdivision for dwelling houses, attached dwellings and semi-detached dwellings must take into account the principles in 4.1 Site Planning and other provisions in Part 4 of this DCP to achieve a desirable development outcome with minimal adverse impacts on the environment. - new allotments must make adequate provision for infrastructure service. - On corner allotments, the dedication to Council for road widening purposes is a minimum 3 metres splay - Where roads are intended for public use under a Community or Strata Tile subdivision they are required to comply with the current aus – speC 1. • Minimum lot width and depth for subdivision <ul style="list-style-type: none"> ○ Dwelling house <ul style="list-style-type: none"> - Min 15m width - Min 25m depth ○ Attached dwelling and semi-detached dwelling <ul style="list-style-type: none"> - Min 9m width - Min 25m depth ○ Battleaxe subdivision <ul style="list-style-type: none"> - Min 15m width - Min 25m depth - Min 3.5m width for access corridor ○ Dual Occupancy <ul style="list-style-type: none"> - Min 15m street frontage • Access corridors <ul style="list-style-type: none"> - Are to provide safe and practical vehicular access to a formed public road. - allow vehicles enter and leave the driveway in a forward direction, - make provision for vehicles to pass where exceeding a length of 30m, - include appropriate landscaping to maintain the amenity of the area, - be accessible for service providers and emergency services 		

BASIX	PROPOSAL	COMPLIANCE
All ticked "DA plans" commitments on the BASIX Certificate are to be shown on plans (list) BASIX Cert # dated ABSA Cert #	BASIX Certificate 767833S submitted with application.	Yes

BASIX	PROPOSAL	COMPLIANCE
• RWT	Min 3000L tank required.	Yes s
• Thermal Comfort Commitments: - Construction - TCC – Glazing.	Compliance with certificate can be conditioned	Yes Yes
• Solar Gas Boosted HWS 2/41-45 RECS+	Compliance with certificate can be conditioned	Yes
• Natural Lighting - kitchen - bathrooms ()	Compliance with certificate can be conditioned	 Yes Yes
Water Target 40	Water: 40	Yes
Energy Target 40	Energy: 43	Yes
Correct description of property/proposal on 1 st page of Certificate.	Correct details shown	Yes

Summary of Issues/Non-compliances:

- **Clause 4.4 – FSR**
- **4.1.3 Water Management** - TS identifies development is in a low-absorption area. The secondary dwelling (and associated single dwelling house) shall provide OSD or min 9,500L rainwater tank with a catchment of min 75% of roof area. A secondary dwelling is exempted if it involves conversion of an existing outbuilding approved prior to 23 March 1993. – Applicant has not demonstrated that approval for existing ‘shed’ is in place.
- **4.3.1 Open Space and Landscape Design** - Impact of hard surfaces to be minimised.
- **4.3.1 Open Space and Landscape Design** - Trees are to be planted.
- **4.3.1 Open Space and Landscape Design** - Min landscaped area to be 25%. Proposed 7.8%
- **4.3.1 Open Space and Landscape Design** - Landscape area should be contiguous with adjoining properties.
- **4.3.2 POS** – Min POS required = 80sqm can be shared. 0sqm proposed to secondary dwelling. SEE states ‘Private open space is non-compliant at this present time. The applicant suggests a boundary adjustment with No.37 Dunmore Street is in the pipeline once DA consent has been given to the secondary dwelling in order to comply with the required 80sqm for POS.
- **4.3.2 POS** – to be clearly defined, and act as an extension to indoor space.
- **4.4.2 Solar Access** - Development to provide good solar access to internal and external areas. – not provided.
- **4.7 Laundry Facilities and Drying Areas** - Proposed secondary dwelling is not afforded any laundry facilities or drying areas.

- **5.1 Setbacks** – Min. side and rear setback of 0.9m is required. A minimum side setback of 0.03m is provided, and a minimum rear setback of 0.03m is provided to the rear setback.


Notes:

- BASIX certificate suggest that the secondary dwelling will have two bedrooms with a roof area of 70sqm and a conditioned floor area of 54sqm. This suggests that the proposed gym is included in the building and dwelling.
- DA requests approval for additions to shed, however retrospective planning approval cannot be provided to the existing additions.
- Proposal includes a door that leads to the adjoining property.

Certification

I certify that all of the above issues have been accurately and professionally examined by me.

Name: Patrick Waite
Creative Planning Solutions Pty Ltd

Signature: 

Date: 16 August 2017

VARIATION 4.6

28A CALEDONIAN STREET, BEXLEY

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

ROCKDALE LEP 2011

2. What is the zoning of the land?

Zone R2 Low Density Residential

1 Objectives of zone

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

2 Permitted without consent

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

3 Permitted with consent

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

4 Prohibited

Any development not specified in item 2 or 3

4. What is the development standard being varied?

FLOOR SPACE RATIO.

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

CLAUSE 4.4 (2A)

6. What are the objectives of the development standard?

Objectives

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

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

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

0.55:1 MAX FSR OF 412sqm = 226.6sqm

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

254sqm

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

6%

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

The strict compliance with the development standard is unnecessary in this case as it is only a variation of 6%. the variation is so minor that it will have absolutely no effect on neighbouring properties, the majority of extra floor space is to the rear of the property unsighted from the street with no extra bulk added to the building envelope. A boundary adjustment (DA-2016/11) which was lodged with council on 06/07/2015 and withdrawn and recommended to relodge by council once the structure was built. The proposed boundary adjustment proposes a site area of 463.4m².

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

Strict compliance would not hinder the attainment of the objects in section 5 of the act, however the development proposal offers a better variety of house size.

The land is being developed for its intended purpose in an orderly and economic manner. The development will not result in any detrimental environmental effects.

NOTICE OF REFUSAL

Section 81(1)(a) of the Environmental Planning and Assessment Act, 1979

Determination Date	
Authority	Bayside Planning Panel
Reference	DA-2017/142
Contact	Michael Maloof 9562 1686

Space 0.618:1
53 Station St
ARNCLIFFE NSW 2205

Property: 28A Caledonian Street, BEXLEY NSW 2207

Lot 2 in DP 1143587

Proposal: Additions and conversions to approved shed at the rear and convert use to a secondary dwelling

The above development has been refused under Section 80(1)(b) of the Environmental Planning and Assessment Act 1979, for the following reasons:

1. Non-compliance with Rockdale Local Environmental Plan 2011 with regard to the following provisions, and as such failure to satisfy Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act 1979;
 - The objectives of the R2 Low Density Residential zone,
 - Clause 4.4 (Floor Space Ratio),
 - Clause 6.3 (Development in areas subject to aircraft noise), and
 - Clause 6.7 (Storm water).
2. Section 79C(1)(a)(iv) The applicant has failed to provide Council with the requested information outlined within Council's letter dated 12 January 2017, as requested in accordance with Section 54 of the Environmental Planning and Assessment Regulation 2000.
3. The proposed development is unsatisfactory, pursuant to the provisions of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the objectives and provisions of Rockdale Development Control Plan 2011 including:

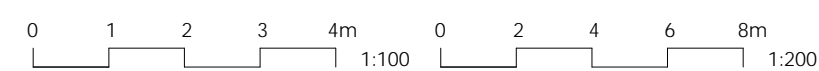
- Part 4.1.3 (Water Management),
 - Part 4.3.1 (Open Space and Landscape Design),
 - Part 4.3.2 (Private Open Space),
 - Part 4.4 (Sustainable Building Design),
 - Part 4.7 (Landry Facilities and Drying Areas), and
 - Part 5.1 (Low and Medium Density Residential).
4. Pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to create unacceptable impacts on the surrounding development and the locality in the following regards:
- a. The likely impact of the development on the safety of future residents is unacceptable due to the lack of certainty regarding the structural adequacy of the building.
 - b. The impacts of the development on the amenity of adjoining land is unacceptable.
 - c. The likely impacts resulting from the lack of on-site water management is unacceptable.
 - d. The likely impact of the development on the solar access and natural ventilation available to residents of the site is unacceptable.
 - e. The impacts resulting from a lack of usable private open space area is unacceptable.
 - f. The impacts of the development on the character of the local area is unacceptable.
5. Pursuant to the provisions of Section 79C(1)(d) of the Environmental Planning and Assessment Act 1979, the proposal has not adequately considered the concerns raised in the public submissions received against the development.
6. Having regard to the previous reasons noted above and the number of submissions received by Council against the proposed development, pursuant to the provisions of Section 79C(1)(e) of the Environmental Planning and Assessment Act, 1979, approval of the development application is not in the public interest as it does not satisfy the objectives of the local planning instruments, being the RLEP 2011 and RDCP 2011. Further the proposal is not considered to be in the public interest due to the unacceptable impacts on the natural and built environment.

ADDITIONAL INFORMATION

- If you are dissatisfied with the result of a Development Application, you are entitled to appeal under Section 97 of the Act to the Land and Environment Court. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388) and the appropriate form of appeal is available from the Clerk of your Local Court.
- Section 82A also allows Council to reconsider your proposal. Should you wish to have the matter reconsidered you should make an application under that section with the appropriate fee.

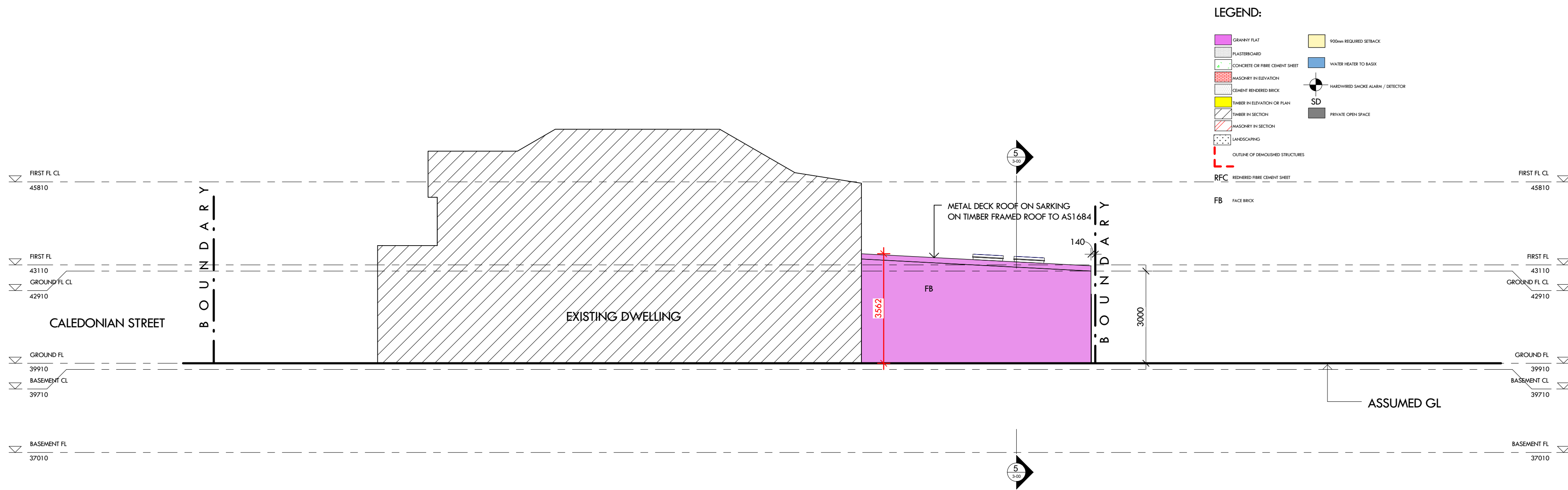
Should you have any queries please contact Michael Maloof on 9562 1686.

Luis Melim
Manager - Development Services

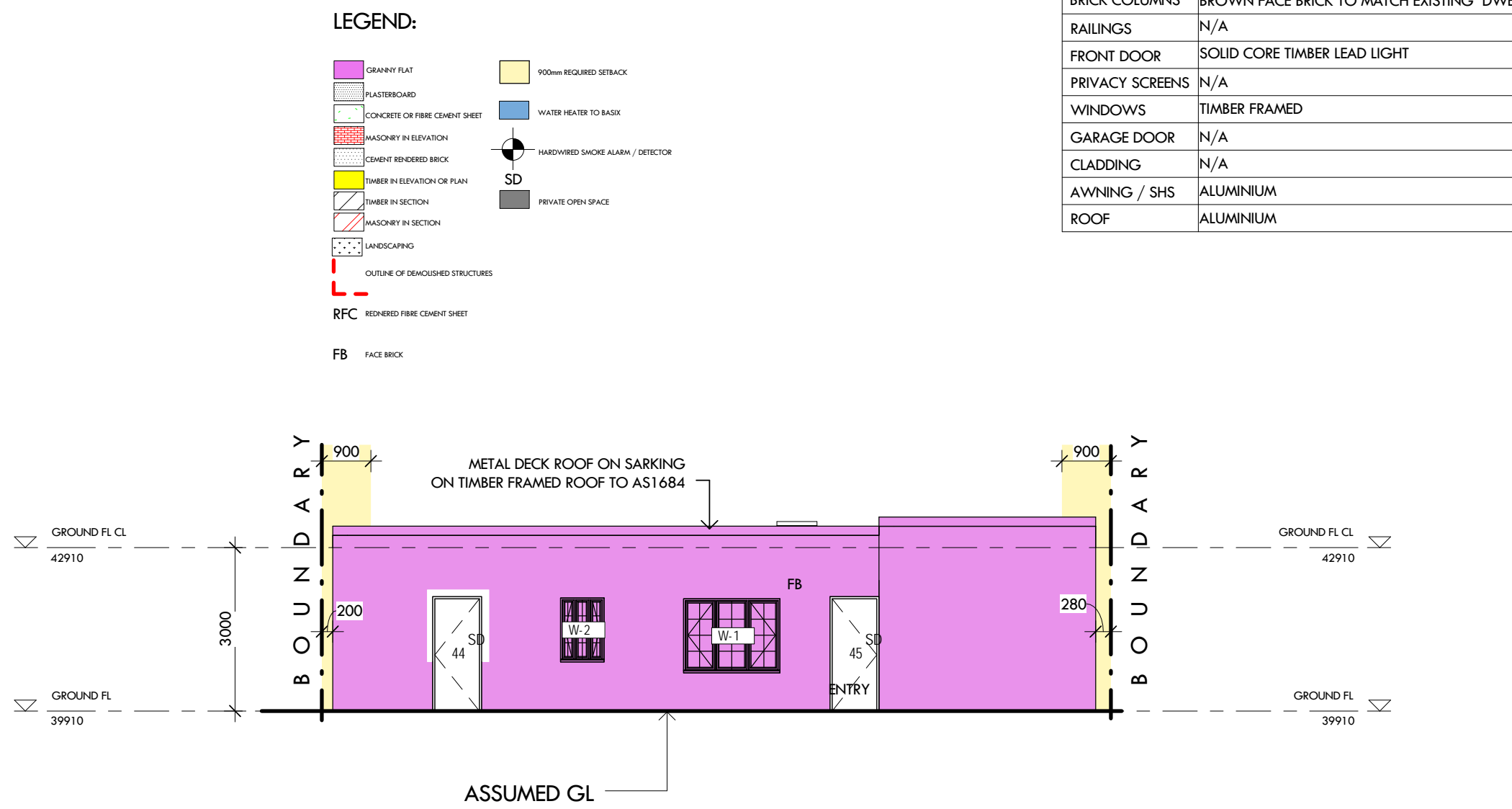
rev:

MATERIALS SCHEDULE	
WALLS	BROWN FACE BRICK TO MATCH EXISTING DWELLING
BRICK COLUMNS	N/A
RAILINGS	N/A
FRONT DOOR	SOLID CORE TIMBER LEAD LIGHT
PRIVACY SCREENS	N/A
WINDOWS	TIMBER FRAMED
GARAGE DOOR	N/A
CLADDING	N/A
AWNING / SHS	ALUMINIUM
ROOF	ALUMINIUM

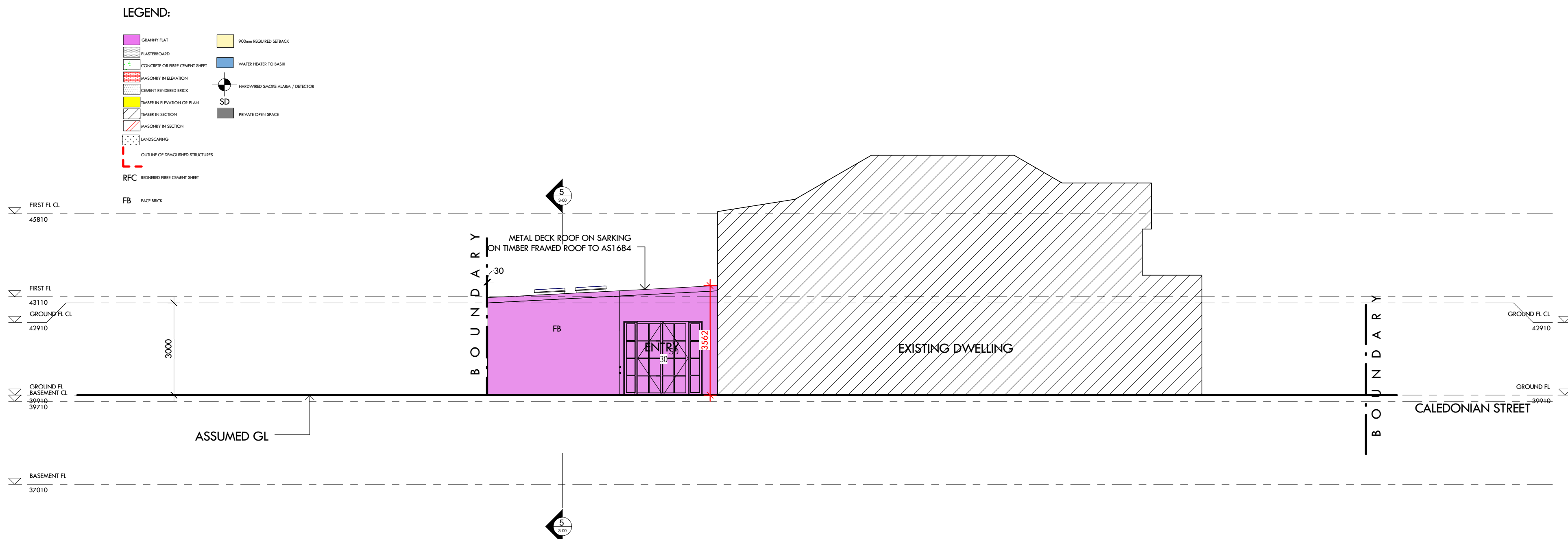
1 NE ELEVATION
Scale: 1:100



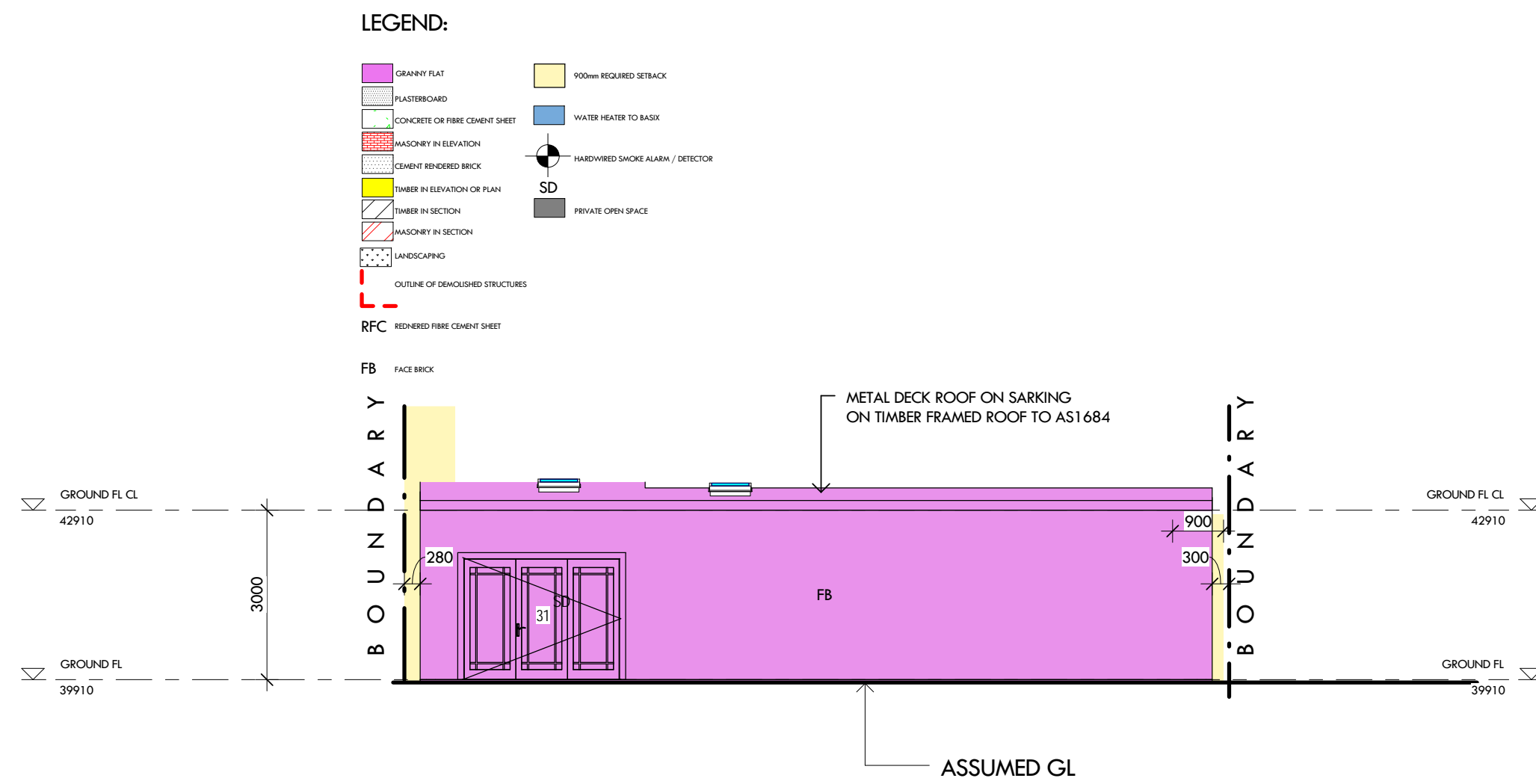
2 SE ELEVATION
Scale: 1:100



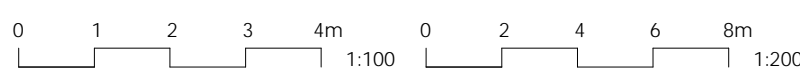
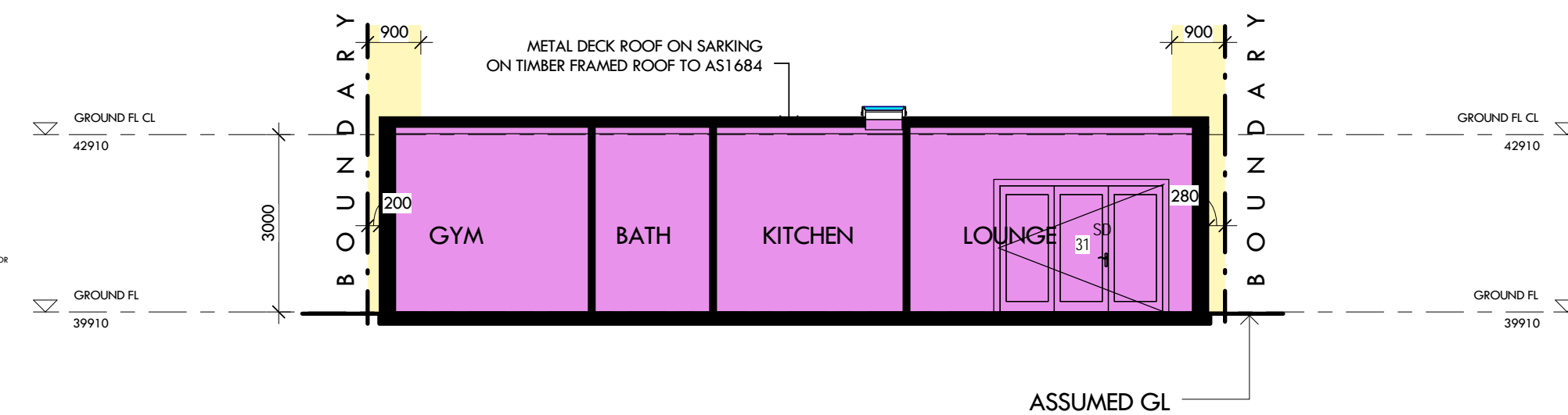
3 SW ELEVATION
Scale: 1:100



4 NW ELEVATION
Scale: 1:100



5 Section 1
Scale: 1:100



Date	Rev	Amendment

project:
28A CALEDONIAN STREET, BEXLEY

NOT FOR CONSTRUCTION

Verify all dimensions on site before proceeding with construction. Do not scale off drawings. Work to written dimensions. report any discrepancies for resolution. All work to be carried out in accordance with relevant parts of the BCA and the Environmental Planning and Assessment Act and regulations under the Act.
© Copyright in all documents and drawings prepared by Space 0.618:1
and in any works executed from those documents and drawings shall remain the property of Space 0.618:1 or on creation vested in Space 0.618:1



title:
ELEVATIONS + SECTION

drawn: Moe Hijazi
approved: Approver

job no: HUJAZI02 date: OCT 16

lot no: 2 DP 1143587 drawing no: 3-00

scale @ A11 : 100

rev: A

22/05/2010

M.M.Farah
Civil/Structural PEng MIEAust
129 Hampden Rd
Wentworthville
N.S.W. 2145
04117 80327

Ref : ~~Granny flat~~
At : No Caledonian St. Bexley
Item : Timber framed roof

TO WHOM IT MAY CONCERN

This is to certify that an inspection was carried out the timber frame .

Upon inspection the timber frame is considered safe, adequate, structurally sound and in accordance with AS 1684.

Signed

M.M.Farah



22/03/2010

M.M.Farah
Civil/Structural PEng MIEAust
129 Hampden Rd
Wentworthville
N.S.W. 2145
04117 80327

Ref : Granny flat

AT : No Caledonian St. Bexley

Item : Slab on ground

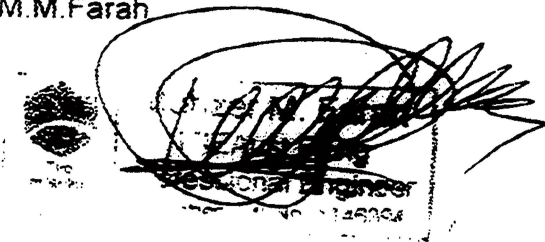
STRUCTURAL CERTIFICATE

This is to certify that an inspection was carried out at the above site to the Reinforcements of the slab on ground.

The size of the slab on ground, also the 50mm of sand with plastic laid for Dampness and the thickness of the laid reinforcements were in Accordance with the engineers design and approval was given for the pouring of the concrete.

Signed

M.M.Farah

A handwritten signature in black ink is written over a rectangular professional engineer stamp. The stamp contains the text 'Professional Engineer' and 'No. 146904'. To the left of the stamp is a small circular seal or logo.