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## **Bayside Planning Panel**

**14/12/2017**

Item No	6.5
Application Type	Section 96 AA Application – Modification to semi-detached dwellings
Application Number	DA-2016/74/02
Lodgement Date	11 July 2017
Property	9 Picton Street, Mascot Lot 27 Section 5 DP 937
Owner	Darren Finlayson
Applicant	Andrew Tzannes & Peter Smith
Proposal	Section 96 AA Application to modify Development Consent No. 2016/74, to increase the floor area, add one (1) bedroom to each dwelling and to install roof mounted solar panels to each dwelling.
No. of Submissions	Nil
Cost of Development	N/A
Report by	Matthew Hardwick- Development Assessment Planner

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## **Officer Recommendation**

- 1 That Section 96 AA Application to modify Development Consent No. 16/74 to amend Development Consent No. 16/74 to increase the floor area, add one (1) bedroom to each dwelling and to install roof mounted solar panels to each dwelling at 9 Picton Street, Mascot, be APPROVED subject to the following:
    - a. Amend Condition No. 1 to refer to the amended plans.
    - b. Amend Condition 59 to reflect the correct DA number and date.
  - 2 That any objectors be notified of the determination made by the Bayside Planning Panel.
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## **Attachments**

1. Planning Assessment Report
  2. Site Plan
  3. Roof Plan
  4. North and South Elevation
  5. East and West Elevation
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## **Location Plan**



**Figure 1: Locality Plan**

# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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Application Number:	2016/74/02
Date of Receipt:	11 July 2017
Property:	9 Picton Street, Mascot
Lot & DP/SP No:	Lot 27 Section 5 DP 937
Owner:	Darren Finlayson
Applicant:	Andrew Tzannes & Peter Smith
Proposal:	Section 96 AA Application to modify Development Consent No. 2016/74, to increase the floor area, add one (1) bedroom to each dwelling and to install roof mounted solar panels to each dwelling.
Recommendation:	APPROVAL
Zoning:	R2 – Low Density Residential Botany Bay Local Environmental Plan 2013
Author:	Matthew Hardwick
Date of Report:	26 October 2017
Classification of Building:	Class 1a – semi-detached dwellings
Present Use:	Single storey existing dwelling
No. of submissions:	Nil

### Key Issues

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The key issue with this application relate to FSR. The amended proposal will increase the Land and Environment Court approved FSR of 0.55:1 to approximately 0.61:1. A discussion on the exceedance to the development standard has been discussed in greater detail in Note 1 below however is acceptable as the increase is to the rear ground floor, and will have no effect to the amenity of the neighboring properties, or streetscape character of the vicinity.

The Section 96 AA Application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for approval, subject to conditions of consent.

### Recommendation

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1. That Section 96 AA Application to modify Development Consent No. 16/74 to amend Development Consent No. 16/74 to increase the floor area, add one (1) bedroom to each dwelling and to install roof mounted solar panels to each dwelling at 9 Picton Street, Mascot, be APPROVED subject to the following:
  - a) Amend Condition No. 1 to refer to the amended plans;
  - b) Amend Condition 59 to reflect the correct DA number and date.
2. That any objectors be notified of the determination made by the Bayside Planning

## Background

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### History

The Development Application was approved by way of a Section 34 Agreement in the NSW Land and Environment Court on 1 March 2017 for the demolition of the existing dwelling, Torrens titled subdivision and the construction of two (2) semi-detached two (2) storey dwellings.

### Description of the Proposed S96 Modifications

The subject Section 96 AA Application was received by Council on 11 July 2017 to modify Development Consent No.2016/74 as follows:

- Add one (1) bedroom to each dwelling;
- Increase the floor space on the ground level of both dwellings to facilitate the extra bedroom;
- Addition of solar panels to the roof of each dwelling.

On 25 September the applicant was requested to supply updated plans with the approved finished floor levels of 10.050m, as per Condition 19 of the consent. The applicant requested that we examine the idea of reducing the finished floor levels to below 10.050m, and it was suggested that we would only examine the reduction of the finished floor levels as part of a Section 96 application, which would need to include a Flood Study.

A further request for amended plans or a further modification was made on 13 October 2017, and on 16 October 2017 the applicant informed Council that they would not pursue a further amendment to lower the finished floor levels. On 24 October the applicant submitted amended plans with the correct FFL

### Site Description

The subject site is located on the eastern side of Picton Street, between King Street to the north and Sparks Street to the south. The legal description to the land is Lot 27 Section 5 in DP 937, being 9 Picton Street, Mascot.

The site has an east-west orientation with west being the front of the site and east being the rear boundary. The site is rectilinear in shape and is generally flat with a slight slope towards the front of the site. The western frontage has a length of 12.9m, an eastern rear boundary of 12.19m and a northern boundary of 38.4m and a southern side boundary of 38.4m. The site has a total site area of 468.2sqm.



Figure 1: Locality Plan



Figure 2: Aerial Map of Site

The adjoining sites to the north contains a single storey brick dwelling, with the site to the south containing a single story Federation style brick dwelling. Development surrounding the site consists of a mix of single storey and two (2) storey detached dwellings located within the R2 Low density Residential zone.



Figure 3: Street View (9 Picton in the middle)



## Assessment of the Proposed S96 Modifications

### Modification No.1: Amend approved plans

- Amend Condition 1

The amendment to Condition 1 to include the amended plans.

### Modification No.2: Addition of two (2) new bedrooms, one (1) to each dwelling

- The internal changes to the approved plans involves the additional bedroom for each dwelling being placed between the kitchen and the staircase. The kitchen and living room of both dwellings are proposed to be extended.

9A is proposed to be extended by 2.153m, and 9B Picton Street is proposed to be extended by 3.2m. As part of the addition of a bedroom on the ground level of both dwellings, an additional window is proposed on both the north and south elevations.

#### Comments:

The addition of one (1) window on the southern elevation, and one (1) window to the northern elevations will not cause any adverse privacy impact on the neighbouring properties as they do not directly face any neighbouring windows, and are on the lower level with the dividing boundary fence providing added privacy. The proposed internal alterations will increase the approved ground floor footprint, however as the proposed modification is minor and on the ground floor, no negative impacts will be imposed on adjoining neighbours, as such the proposed modification is acceptable.

### Modification No. 3: Increase of floor space on the ground floor of both dwellings

- To accommodate the additional bedroom in each dwelling, the ground floor plan has been extended to the rear by 2.153m at 9A Picton Street, and 3.2m at 9B Picton Street.

#### Comments:

The proposed modification will increase the FSR from 0.55:1 to 0.61:1, or floor area by 14.9m<sup>2</sup> at 9A Picton Street, and 14.72 at 9B Picton Street, breaching the site nominated FSR of 0.5:1. DA 2016/74 was approved with an increased maximum FSR of 0.55:1, the proposed modification will further increase the FSR by a further 6% creating a total variation of 11%.

The applicant proposed a 0.65:1 FSR as part of DA 2016/74, which was not supported by council as the proposal is contrary to Objective 1, *"To control the bulk and scale of development so that dwellings do not detract from the amenity of adjoining dwellings or the streetscape"* and Control 1, *"The maximum FSR of development must comply with the Floor Space Ratio Map and Clause 4.4 and 4.4A of the Botany Bay Local Environmental Plan 2013"* of Part 4A.2.6 of the Botany Bay Development Control Plan 2013. Amended plans were submitted, and approved by Land and Environment Court with an FSR of 0.55:1.

The proposed modification satisfies Objective 1 of the BBDCP 2013, by designing the increase in floor space to be entirely on the ground floor, reducing any impacts to the amenity of the neighbouring dwellings, while still achieving minimum rear setback and without exceeding allowable site coverage. The increase to floor space is to the rear of

the site, and will have no impact to the street scape while remaining compliant with rear setbacks.

Given the increase in FSR relates to the ground floor of the building, the amenity to adjoining properties will not be affected by this non-compliance as the bulk and scale of the building will not create any additional overshadowing or privacy concerns.

#### Modification No. 4: Addition of solar panels for each dwelling

- The proposed modification includes the addition of solar panels to the northern upper floor rooftop of 9A Picton Street, and to the north-eastern ground floor rooftop of 9B Picton Street.

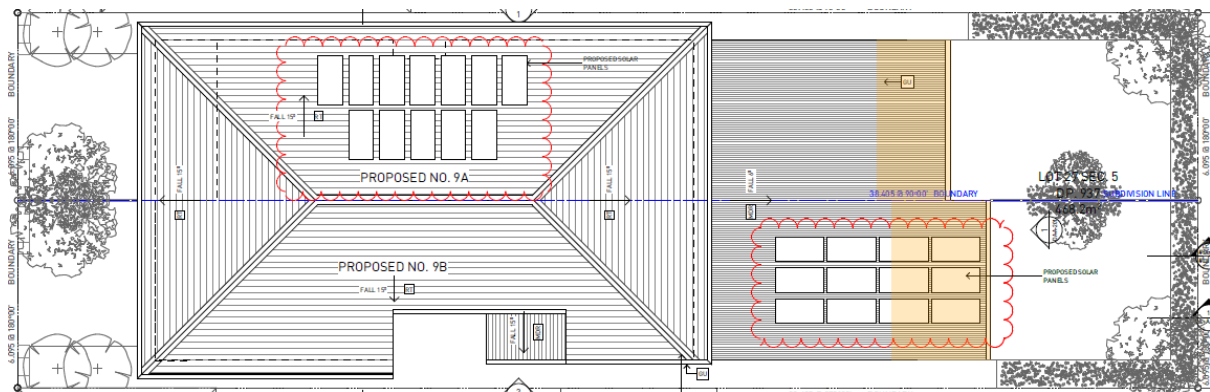


Figure 2: Addition of solar panels

#### Comments:

The panels on 9B are aligned to take full advantage of the morning sun, and midday sun. 9A is aligned to take advantage of the midday sun and afternoon sun. As the proposed modification for the solar panels will have no negative impacts on adjoining neighbours, the proposed modification is acceptable.

## **Statutory Considerations**

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

### **SECTION 79C AND SECTION 96 AA CONSIDERATIONS**

In considering the Section 96 AA Application, the matters listed in Section 79C and Section 96 AA of the *Environmental Planning and Assessment Act 1979* have been taken into consideration in the preparation of this report as follows:

### **SECTION 96 AA PROVISIONS**

Pursuant to Section 96 AA of the *Environmental Planning and Assessment Act 1979*, Council has to be satisfied that the:

- (a) Development Consent No. 2016/74/02 as proposed to be modified is of minimal environmental impact;
- (b) Development Consent No. 2016/74/02 as proposed to be modified is substantially the same development as was originally approved; and
- (c) Development is required to be notified or not. In this instance the application was notified in accordance with Council's DCP.

Section 96 AA Application to modify Development Consent No. 2016/74 is substantially the same development as that approved under the original development application. The proposed changes to the consent will have minimal environmental impact.

Given the above, the proposed modifications satisfy the provisions of Section 96 AA of the *Environmental Planning and Assessment Act 1979*.

## SECTION 79C PROVISIONS

- (a) **The provisions of any EPI and DCP and any other matters prescribed by the Regulations.**

### Botany Bay Local Environmental Plan (BBLEP) 2013

The subject property is zoned R2 Low Density Residential in accordance with the provisions of Botany Bay LEP 2013. The proposed modifications are for internal and external changes that will not result in any change to land use, however will increase the FSR.

The provisions of the Botany Bay Local Environmental Plan 2013 (BBLEP 2013) have been considered in the assessment of this Modification Application and the following information is provided:

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Land use Zone	Yes	The site is zoned R2 Low Density Residential zone under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed use is permissible with Council's consent under the Botany Bay Local Environmental Plan 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	<p>The proposed development continues to be consistent with the objectives of the R2 zone which are:</p> <ul style="list-style-type: none"> <li>• <i>To provide for the housing needs of the community within a low density residential environment;</i></li> <li>• <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents;</i></li> </ul>



Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
		<ul style="list-style-type: none"> <li>To encourage development that promotes walking and cycling.</li> </ul>
<p>What is the height of the building?</p> <p>Does the height of the building comply with the maximum building height?</p>	<p>-</p> <p>Yes</p>	<p>A maximum height of 9 metres applies to the subject site. The original height of development was approved at 7.5m, and has not changed in this application.</p> <p>The maximum height of the dwellings continues to comply with Council's requirements under the Botany Bay Local Environmental Plan 2013.</p>
<p>What is the proposed Floor Space Ratio?</p> <p>Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?</p>	<p>-</p> <p><b>No – Refer to Note 1</b></p>	<p>The maximum Floor Space Ratio requirement is 0.55:1.</p> <p>Each Lot has an area of 234.1m<sup>2</sup></p> <p><u>Approved FSR for each dwelling</u></p> <p>0.55:1</p> <p><u>Proposed Gross Floor Area for each lot:</u></p> <p>143.3m<sup>2</sup></p> <p>143.7m<sup>2</sup></p> <p><u>Proposed Floor Space Ratio for each lot:</u></p> <p>0.61:1</p> <p>0.61:1</p> <p>The proposal increases the approved FSR on each site. As the application is for a modification, a clause 4.6 variation is not required however Note 1 provides a justification for the non-compliances.</p>
Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000m <sup>2</sup> min and maximum height of 22 metres and maximum Floor Space Ratio of 1.5:1?	N/A	The site is not located within the R3 Medium Density Residential or R4 High Density Residential zone.
<p>Is the site within land marked "Area 3" on the Floor Space Ratio Map?</p> <p>If so, does it comply with the sliding scale for Floor Space Ratio in Clause 4.4A?</p>	N/A	The site is not located in the 'Area 3' zone.

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The site is not listed as a heritage item, nor is it located within a Heritage Conservation Area.
The following provisions in Part 6 of Botany Bay Local Environmental Plan apply– <ul style="list-style-type: none"> <li>• 6.1 – Acid Sulfate Soils</li> <li>• 6.2 – Earthworks</li> <li>• 6.3 – Stormwater Management</li> <li>• 6.9 – Development in areas subject to aircraft noise</li> </ul>	N/A	Clauses 6.1, 6.2, 6.3 and 6.9 were assessed as part of the original application. There is no change to the assessment of these clauses other than the excavation has been reduced because of the removal of the approved swimming pools.

#### **Note 1 –Variance to the FSR Standard**

The proposed modification seeks to increase the FSR of each dwelling from 0.55:1 to approximately 0.61:1. As the application is a modification application, the applicant was not required to provide a clause 4.6 variation to justify the FSR of the development. However Council's officer has carried out a justification of the breach in the FSR.

#### Council Officer Comments:

The site is located within an area within an area identified as having an FSR of 0.55 on the FSR map. The objectives of the FSR are as follows:

- a) to establish standards for the maximum development density and intensity of land use;
- b) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality;
- c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation;
- d) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities;
- e) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain;
- f) to provide an appropriate correlation between the size of a site and the extent of any development on that site;
- g) to facilitate development that contributes to the economic growth of Botany Bay.

While the proposed FSR is not compliant with the BBLEP 2013, the increase in FSR will have no impact to the amenity of neighbouring dwellings. The modification will not adversely affect bulk and scale, as the increase is to the rear ground floor of the development, and as the proposed increase of FSR is to the rear, there will be no impact to the streetscape in the vicinity. Accordingly, the proposed modifications do not raise any concern in relation to compliance with the BBLEP 2013.

Component	Approved	Modification as Proposed
GFA	128.3m <sup>2</sup> (9A); 128.7m <sup>2</sup> (9B)	143.3m <sup>2</sup> (9A); 143.7m <sup>2</sup> (9B)
FSR	0.55:1	0.61:1

#### Botany Bay Development Control Plan (BBDCP) 2013

The provisions of the BBDCP 2013 have been considered in the assessment of the proposed modifications. It is not likely that the external changes will negatively impact the streetscape, or amenity of the neighbouring properties. Accordingly, the proposed modifications raise no concerns in relation to compliance with the BBDCP 2013.

Component	Approved	Modification as Proposed	Compliant
Site Coverage	31% (9A); 41% (9B)	37% (9A); 47% (9B)	Yes
Landscaping	40% (9A); 40% (9B)	36% (9A); 33% (9B)	Yes
Private Open Space	85m <sup>2</sup> (9A); 77m <sup>2</sup> (9B)	64m <sup>2</sup> (9A); 56m <sup>2</sup> (9B)	Yes
Rear Setback	10.2m	8.2m (9A); 6.9m (9B)	Yes

**(b) The likely impacts of the development including environmental impacts on both the natural and built environments, social and economic impacts in the locality.**

It is considered that the proposed development as modified will have no significant adverse environmental, social or economic impacts in the locality.

**(c) The suitability of the site for development.**

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

**(d) Any submission made in accordance with the Act or Regulations.**

In accordance with Part 2 - Notification & Advertising of the Botany Bay Development Control Plan 2013, the Section 96 AA Application was notified to surrounding property owners for a period of fourteen days (14) from 14 August 2017 to 28 August 2017. No submissions were received.

**(e) The public interest.**

The proposed amendment will have no significant adverse impact upon the public interest.

## **CONCLUSION**

The Section 96 AA application seeking to modify Development Consent No. 2016/74 to to reduce increase the floor area, add one (1) bedroom to each dwelling and to install roof mounted solar panels to each dwelling at 9 Picton Street, mascot, has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval. Any potential issues associated with minor excavations are appropriately covered through conditions of consent.

## RECOMMENDATION

It is recommended that the Bayside Planning Panel resolve to modify Development Consent No. 2016/74 under Section 96 AA of the *Environmental Planning and Assessment Act 1979* as follows:

- a) Amend Condition 1 to refer to the amended plans;
- b) Amend Condition 59 to reflect the correct DA number and date.

## ANNEXURE "A" CONDITIONS

### FINLAYSON V BAYSIDE COUNCIL

Premises: 9 Picton Street, Mascot

DA No: 16/74/02

## GENERAL CONDITIONS

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

Plan	Author	Date Received
Site Plan, Drawing No. 15_104_DA-A-010, Rev A, dated <del>16 January 2017</del> <b>23 October 2017</b>	Smith & Tzannes	<del>16 January 2017</del> <b>24 October 2017</b>
Sediment Control Plan, Drawing No. 15_104_DA-A-020, Rev A, dated 17 Feb 2017	Smith & Tzannes	16 January 2017
Demolition Plan, Drawing No. 15_104_DA-A-030, dated 25 May 2017	Smith & Tzannes	16 January 2017
Subdivision Plan, Drawing No. 15_104_DA-A-040, dated 25 May 2017	Smith & Tzannes	16 January 2017
Ground Floor Plan, Drawing No. 15_104_DA-A-100, Rev A, dated <del>17 Feb 2017</del> <b>23 October 2017</b>	Smith & Tzannes	<del>17 February 2017</del> <b>24 October 2017</b>
Level 1 Plan, Drawing No. 15_104_DA-A-101, Rev A, dated <del>17 Feb 2017</del> <b>23 October 2017</b>	Smith & Tzannes	<del>17 February 2017</del> <b>24 October 2017</b>
Roof Plan, Drawing No. 15_104_DA-A-102, Rev A, dated <del>17 Feb 2017</del> <b>23 October 2017</b>	Smith & Tzannes	<del>17 February 2017</del> <b>24 October 2017</b>
North & South Elevations, Drawing No. 15_104_DA-A-200, Rev A, dated <del>17 Feb 2017</del> <b>23 October 2017</b>	Smith & Tzannes	<del>17 February 2017</del> <b>24 October 2017</b>

East & West Elevations, Drawing No. 15_104_DA-A-201, Rev A, dated <del>17 Feb 2017</del> <b>23 October 2017</b>	Smith & Tzannes	<del>17 February 2017</del> <b>24 October 2017</b>
Sections, Drawing No. 15_104_DA-A-202, Rev A, dated <del>17 Feb 2017</del> <b>23 October 2017</b>	Smith & Tzannes	<del>17 February 2017</del> <b>24 October 2017</b>
Area Calculations, Drawing No. 15_104_DA-A-800, Rev A, dated <del>17 Feb 2017</del> <b>23 October 2017</b>	Smith & Tzannes	<del>17 February 2017</del> <b>24 October 2017</b>

**(Amended DA 2016/74/02)**

<b>Document</b>	<b>Author</b>	<b>Date Received</b>
Statement of Environmental Effects, dated 19 May 2016	Smith & Tzannes	26 May 2016
BASIX Certificate No. 722493M, dated 24 May 2016	Building Sustainability Assessments	26 May 2016
Survey Plan, dated 28/11/15	Landscape Surveys	26 May 2016
Stormwater Management Plan, Drawing No. SW1, Rev A, dated 11 May 2016	E2 Civil & Structural Design	26 May 2016
Landscape Concept Plan, Drawing No. LA01, dated April 2016	Tranquility Landscapes & Decking	26 May 2016
Waste Management Plan, dated 24 May 2016	Darren Finlayson	26 May 2016
<b>Statement of Environmental Effects, dated June 2017</b>	<b>Design Collaborative</b>	<b>11 July 2017</b>

**(Amended DA 2016/74/02)**

2. Construction certificate plans must not show any change or variation whatsoever from the approved plans referred to in condition 1 above in relation to the following particular elements:
  - a) the side boundary setbacks including the setback of the indented area to the south of the stairwell servicing the dwelling at proposed lot 9B;
  - b) the finished floor level of the habitable floor areas of RL10.05
  - c) the maximum height of the roof ridge line, being RL 17.091
  - d) the height of the eaves and roof pitching points on the southern side of the proposed dwelling at 9B Picton Street, being the top of the gutter adjacent to Bedroom 3 and Bedroom 2 is RL15.569, the top of the gutter adjacent to the Stair and Bath is RL 16.094 and the top of the gutter adjacent to the Robe and Ensuite is RL15.649.
  - e) the façade treatment of the front of the proposal as shown on DA-A-201 EAST & WEST ELEVATION

Note: the above design elements were negotiated and agreed to in good faith as part of a conciliation conference pursuant to s 34 of the *Land an Environment Court Act 1979*.

3. This Consent relates to land in Lot 27, Section 5 in DP 937 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
4. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
5. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate No. 722493M, dated 24 May 2016 for the development are fulfilled.
  - a) Relevant BASIX Certificate means:
    - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
    - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
  - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
6. The consent given does not imply that works can commence until such time that:
  - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
    - i) The consent authority; or
    - ii) An accredited certifier; and
  - b) The person having the benefit of the development consent:
    - i) Has appointed a principal certifying authority; and
    - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
    - iii) The person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.
7. The Applicant has permission to remove the Prunus street tree at their own expense. The tree may only be removed after a Construction Certificate has been issued and removal shall be undertaken by the Applicant at their own expense.
  - a) A qualified Arborist with their own public liability insurance must be engaged.



- b) All work is to take place on the Council road reserve with the appropriate safety and directional signage implemented to ensure public safety and access otherwise road and footpath closures require a Council Road Occupancy Permit.
- c) A Dial-Before-You-Dig enquiry is required prior to stump grinding the trunk and shall occur without damage to Council infrastructure or underground services/utilities.
- d) Council will take no responsibility for any damage incurred to persons, property or services during the tree removal works.

#### **CONDITIONS APPLYING BEFORE THE ISSUE OF THE SUBDIVISION CERTIFICATE**

- 8. A separate application must be made for the Subdivision Certificate. Submission of a subdivision certificate application is to be accompanied by a linen plan with six (6) copies and appropriate fees.
- 9. Prior to the issue of the Subdivision Certificate, a monetary contribution of \$21,981.87 is to be paid to Council in accordance with Council's Section 94 Contributions Plan 2016.
- 10. Prior to the issue of the Subdivision Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained for the subdivision. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-developer" icon or telephone 13 20 92.
  - a) Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
  - b) The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the release of the linen plan.

#### **CONDITIONS APPLYING BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE**

- 11. Prior to the issue of a Construction Certificate, plans shall be amended to the written satisfaction of Council's Manager Development Services to incorporate the following:
  - (a) detailing fixed privacy screens installed to the windows of Bedroom 2 (of each dwelling) at a height of at least 1.7m above the finished floor level. Fixed louvres at an upward angle of 45° shall be installed to prevent overlooking to the adjoining properties;
  - (b) Fixed privacy screens installed to the windows of Bedroom 1 (of each dwelling) at a height of at least 1.7m above the finished floor level. Fixed louvres at an angle of 90° shall be installed to ensure overlooking to the adjoining properties is minimised.
  - (c) Details of materials and finishes to be applied to the indented area adjacent to the stairwell on the southern side of the dwelling at proposed 9B Picton Street. The materials are to be of a light reflective colour to Council's satisfaction.
  - (d) An amended landscape plan corresponding with the amended approved design and otherwise corresponding with the requirements of these conditions.

- (e) Fencing details corresponding with requirements of these conditions. Fencing is to be no higher than 1.8m.
  - (f) The approved site plan (15\_104\_DA-A-010) and sediment control plan (15\_104\_DA-A-020) are to be amended so as to be consistent with the remainder of the approved plans prevail to the extent of any inconsistency.
12. Prior to the issue of a Construction Certificate, the following fees are to be paid:
    - a) Builders Security Deposit \$13,400.00 (see below)
    - b) Development Control \$2,940.00
    - c) Long Service Levy See below
  13. Prior to the issue of a Construction Certificate, the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
  14. Prior to the issue of a Construction Certificate, the applicant shall lodge a Damage Deposit of \$13,400.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
  15. Prior to the issue of a Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
  16. Prior to the issue of a Construction Certificate, the applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. Any adjustments or damage to utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
  17. Prior to the issue of a Construction Certificate, all driveways/access ramps/vehicular crossings shall conform to the current Australian Standards AS 2890.1 and Council's Infrastructure Specifications. These include but are not limited to E-01, E-04, E-07 and E-16. As part of this development, two new concrete driveways shall be constructed, one for each new dwelling. A new (3) three metre wide driveway layback shall be constructed for each dwelling. A minimum of one (1.0) metre of kerb and gutter either side of the driveway layback(s) shall be replaced to enable the correct tie-in with the existing kerb and gutter.
  18. Prior to the issue of a Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval. The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and

to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans. The plans shall incorporate the provisions made in the Stormwater Management Plans by E2 civil and Structural Design, dated 16 May 2016.

19. Prior to the issue of the Construction Certificate, detail design and construction plans in relation to the habitable area shall be submitted to the Principal Certifying Authority for approval. The plans shall incorporate but not be limited to
  - a) The floor level of the habitable areas of the building shall be at least RL10.05 m AHD.
20. Prior to the issue of the Construction Certificate, detail design and construction plans in relation to the front fence shall be submitted to the Principal Certifying Authority for approval. The plans shall incorporate but not be limited to
  - a) The maximum height of the fence shall be 1200mm;
  - b) Any features above 1200mm in height, shall be at least 50% transparent.
21. Prior to the issue of a Construction Certificate, details shall be submitted to Principal Certifying Authority showing that the building shall be designed in accordance with AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction. The report is to include any required noise attenuation to the structure of the buildings to meet the above standard and acoustically treated mechanical ventilation, if necessary, to comply with the above standard and the building plans must be endorsed with the required acoustical measures. If air conditioning is installed to meet the mechanical ventilation requirements, the installation must be designed to meet the additional requirements, applying to air conditioners on residential properties contained in the 'Protection of the Environment Operations (Noise Control) Regulation 2000'.
22. One (1) street tree shall be installed in the nature strip by Council at the Applicant's expense. The Applicant shall make a payment to Council of \$475 for the purchasing and installation of the new street tree, and its establishment costs, prior to the issue of the Construction Certificate.

### **CONDITIONS APPLYING BEFORE THE WORKS COMMENCE**

23. The proposed development shall comply with the following:
  - a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
    - i) Stating that unauthorised entry to the work site is prohibited;
    - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
    - iii) The Development Approval number; and
    - iv) The name of the Principal Certifying Authority including an after hours contact telephone number.

- b) Any such sign is to be removed when the work has been completed.
24. The Principal Certifying Authority must be satisfied that: -
- a) In the case of work to be done by a licensee under the Home Building Act:
    - i) Has been informed in writing of the licensee name and contractor licence number, and
    - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or
  - b) In the case of work to be done by any other person:
    - i) Has been informed in writing of the persons name and owner-builder permit number, or
    - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
25. A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin, and must be kept in place until after the completion of works, if the works:
- a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
  - b) could cause damage to adjoining lands by falling objects, or
  - c) involve the enclosure of a public place or part of a public place.
26. Toilet facilities must be available or provided at the work site before works begin, and must be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:
- a) be a standard flushing toilet connected to a public sewer, or
  - b) have an on-site effluent disposal system approved under the [Local Government Act 1993](#), or
  - c) be a temporary chemical closet approved under the [Local Government Act 1993](#).
27. If a building to be demolished is within 900mm of a boundary, and there is a wall (the adjoining wall) on the lot adjoining that boundary that is less than 900mm from that boundary, a dilapidation report on the adjoining wall is to be carried out. If the person preparing the report is denied access to the adjoining lot for the purpose of inspecting the adjoining wall, the report may be prepared from an external inspection of the adjoining wall.
- 28.

- a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property;
  - b) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
  - c) As the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
    - i) Protect and support the adjoining premises from possible damage from the excavation, and
    - ii) Where necessary, underpin the adjoining premises to prevent any such damage.
29. A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed. The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
30. Prior to the commencement of demolition works, ensure that utility services to the land upon which the building to be demolished stands, as well as the building itself, are terminated and capped in accordance with the requirements of the supply authority, such as water, electricity, gas and telecommunications.
31. Building plans must be submitted with Sydney Water 'Tap in' service for approval prior to commencement of works.
32. Relevant application(s) shall be made to Council's Customer Services Counter for the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993 as appropriate: - (It is noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve
  - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips
  - c) Permit for roads and footways occupancy (long term/ short term)
  - d) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve
  - e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever
  - f) Permit to place skip/waste bin on footpath and/or nature strip
  - g) Permit to use any part of Council's road reserve or other Council lands

33. Erosion and sediment control devices shall be installed prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

#### **CONDITIONS APPLYING DURING THE WORKS**

34.

- a) To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
  - ii) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with:
    - 1 The additional load on the system; and
    - 2 The relocation and/or adjustment of the services affected by the construction.
- b) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

35. Demolition work shall be carried out in accordance with Australian Standards AS 2601-2001 Demolition of Structures.
36. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.
37. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
38. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
39. Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
40. The following shall be Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.



- a) Level Restrictions
    - i) Construction period of 4 weeks and under:
      - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
    - ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
      - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
  - b) Time Restrictions
    - i) Monday to Friday: 7:00am to 5:00pm
    - ii) Saturday: 8:00am to 1:00pm
    - iii) Sundays or Public Holidays: No works permitted
  - c) Silencing
    - i) All possible steps should be taken to silence construction site equipment.
41. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- a) The Soil and Water Management Plan if required under this consent;
  - b) “Managing Urban Stormwater - Soils and Construction” (2004) (‘The Blue Book’); and
  - c) Protection of the Environment Operations Act 1997
42. Any material containing asbestos found on site during the demolition process the shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos;
  - b) Protection of the Environment Operations Act 1997;
  - c) Protection of the Environment Operation (Waste) Regulation;
  - d) DECC Waste Classification Guidelines 2008.
43. The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council’s road reserve is required then separate applications are to be made at Council’s Customer Services Department.
44. During demolition and construction, care must be taken to protect Council’s infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of

construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

45. Inspections must be conducted by Council's Engineer at the following occasions:
- a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete;
  - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete;
  - c) Formwork inspection of Council's footpath prior to laying of concrete;
  - d) Final inspection of driveway layback and adjacent kerb and gutter;
  - e) Final inspection of Council's kerb and gutter; and
  - f) Final inspection of Council's footpath.

#### **CONDITIONS APPLYING BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE**

46. Prior to the issue of an Occupation Certificate, the applicant must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the pre-construction acoustic report have been carried out and certify that the construction meets the requirements and the indoor sound levels of AS2021-2000. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australia Acoustical Consultants).
47. Prior to the issue of an Occupation Certificate, and prior to the release of the damage deposit, any damage not shown in the photographic survey submitted to Council before site works commenced will be assumed to have been caused as a result of the site works (unless evidence to prove otherwise). All damages as a result of site works shall be rectified at the applicant's expense to Council's satisfaction.
48. Prior to the issue of an Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
49. Prior to the issue of an Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- a) Restriction on Use of Land for On-Site Infiltration System. Refer to Appendix A of the Stormwater Management Technical Guidelines for suggested wording.
50. Prior to the issue of an Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.

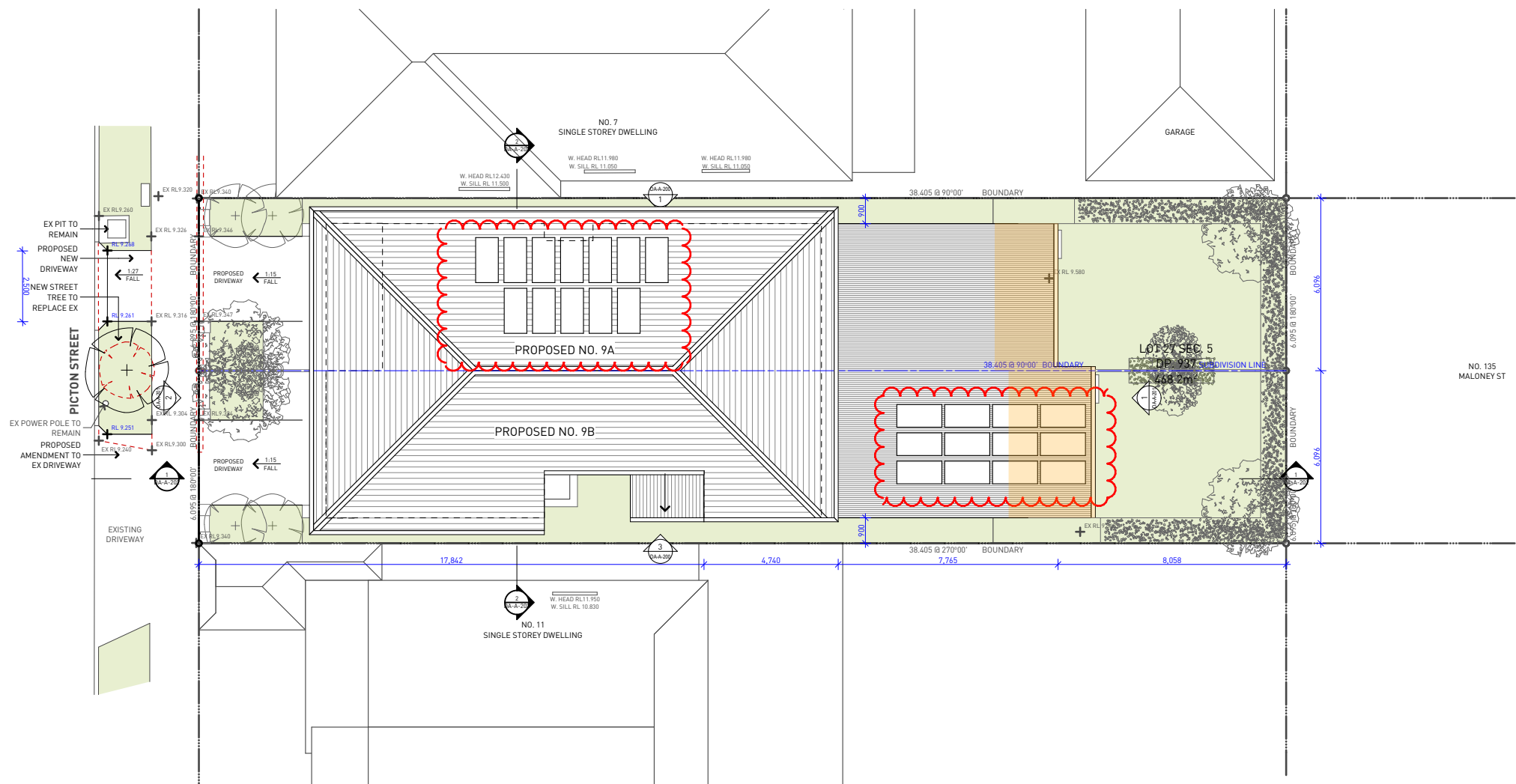
51. Prior to the issue of an Occupation Certificate, the applicant shall carry out the following works:
- a) On Picton Street, adjacent to development, reconstruct the existing kerb and gutter for the full length of the site in accordance with Council Infrastructure Specifications; and
  - b) On Picton Street, adjacent to development, reconstruct the existing footpath for the full length of the site in accordance with Council Infrastructure Specifications.
52. Prior to the issue of an Occupation Certificate, one (1) evergreen tree, at least 1.8 metres in height and 75 litre pot size, shall be installed in the front setback of each property to soften the development and provide amenity to the streetscape and/or as replacement for trees removed. The species selected should be native, have low water requirements, be suited to the local soils and have a minimum height at maturity of 5-6 metres. One (1) evergreen tree shall also be planted in the rear setback of each property to provide screening and privacy for adjoining residents.
- 53.
- a) Prior to the issue of an Occupation Certificate, no more than 50% of the street setback shall be hard paved (including stepping stones and large expanses of gravel). Paving shall be confined to the driveway and a pathway to the dwelling only. The driveway location and dimensions shall be in accordance with the approved site plan, to meet the alignment of the Council crossover, no additional paving shall be provided. The remainder of the setback shall be deep soil and soft landscaped, including the residual area between driveway and boundaries.
  - b) As a minimum, shrubs shall be planted across the front boundary and down both side boundaries to the building alignment. Plants shall be predominantly native, have low water requirements and be suited to the local soils.
54. The residual, unbuilt private open space at the rear of the property is required to be deep soil (permeable) and landscaped, and is to include a tree to provide screening and privacy for adjoining residents, to enhance greening of the property and local area to increase stormwater infiltration. Existing paving in this area is to be removed. Landscaping is required prior to the issue of the Occupation Certificate.
55. Prior to the issue of an Occupation Certificate, the Council nature strip shall be repaired and/or replaced in accordance with Council Specification at the completion of all construction work at the Applicant's expense.
- Ongoing maintenance of the grass nature strips shall be undertaken by the occupier or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass. Maintenance does not include pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.
56. Prior to the issue of an Occupation Certificate, if the work requires alteration to, or the relocation of, utility services on, or adjacent to, the lot on which the work is carried out, the work is not complete until all such works are carried out.
57. Prior to the issue of an Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained for the new dwellings. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business"

section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-developer" icon or telephone 13 20 92.

- a) Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
- b) The Section 73 Certificate must be submitted to the Principal Certifying Authority prior the occupation of the development.

#### **CONDITIONS APPLYING DURING THE ONGOING USE OF THE DEVELOPMENT**

- 58. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
- 59. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as ***Development Application No. 16/59 16/74 dated as 15 April 2016 26 May 2016*** and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council. ***(Amended DA 2016/74/02)***
- 60. Car parking on the driveway is to be solely within the boundaries of the site. No car parking is to occur on the portion of the driveway which is located on the footpath or Council's road reserve.



1 SITE PLAN - PROPOSED  
1:200

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5.0m - 1:100  
2.5m - 1:50  
1.25m - 1:25

PROPOSED SECTION 96 MODIFICATIONS



S 96

REV A 23 /10 / 2017

SITE PLAN

DEVELOPMENT APPLICATION

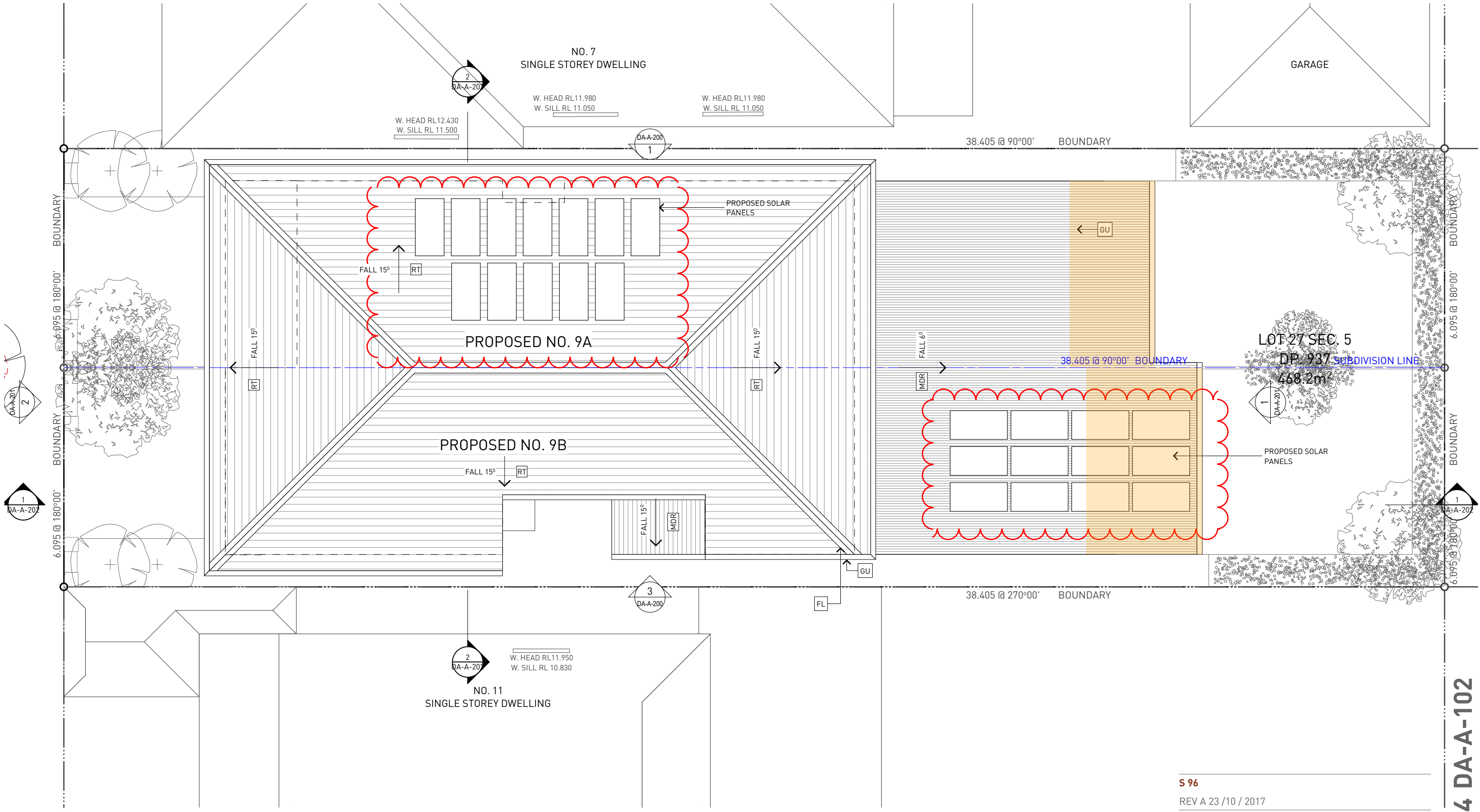
9 PICTON STREET MASCOT NSW 2020

DARREN FINLAYSON

ARCHITECTURE URBAN PLANNING  
M1/147 McEvoy Street Alexandria NSW 2015  
P 02 9516 2022 E email@smithtzannes.com.au  
smithtzannes.com.au  
Nominated Architect: Peter Smith (Reg 7024)



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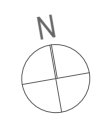


1 ROOF PLAN  
1:100

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PROPOSED SECTION 96 MODIFICATIONS



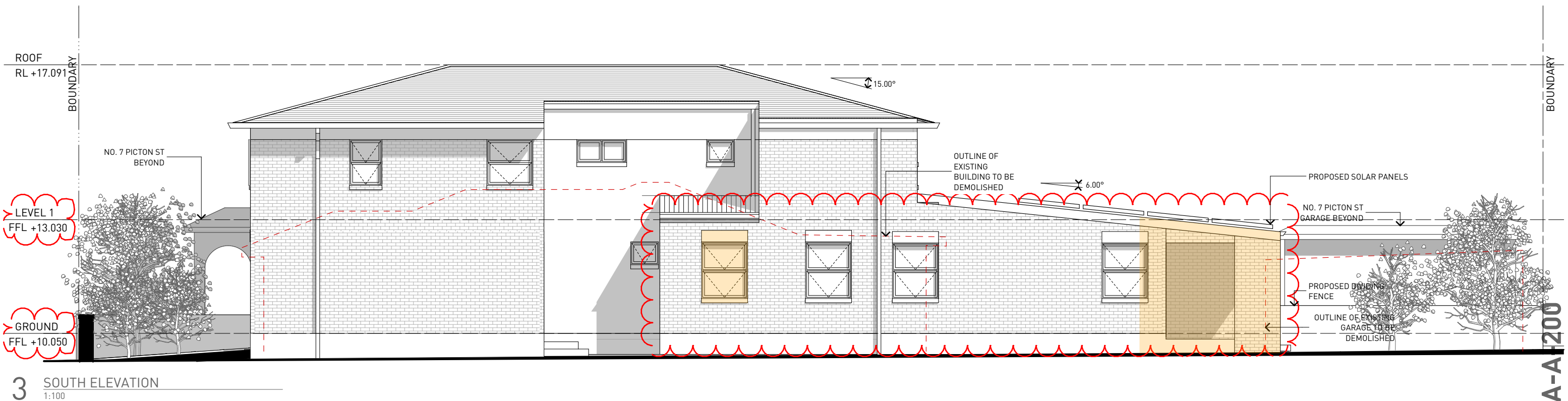
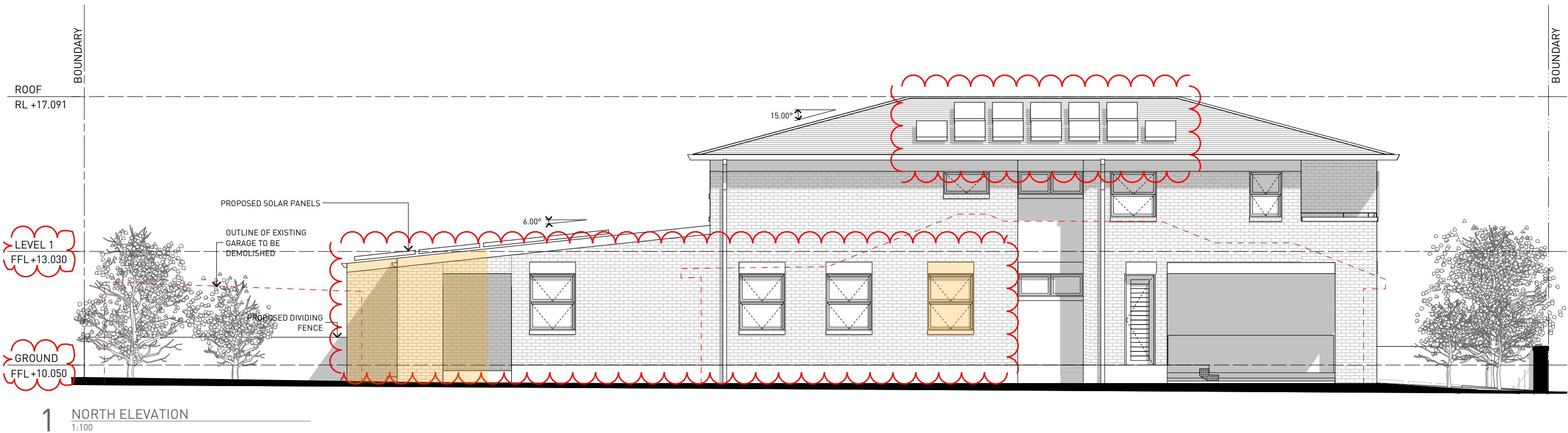
**S 96**  
REV A 23 /10 / 2017  
**ROOF PLAN**  
DEVELOPMENT APPLICATION  
**9 PICTON STREET MASCOT NSW 2020**  
DARREN FINLAYSON

**ARCHITECTURE URBAN PLANNING**  
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P 02 9516 2022 E email@smithtzannes.com.au  
smithtzannes.com.au  
Nominated Architect: Peter Smith (Reg 7024)



15\_104 DA-A-102





**S 96**  
REV A 23 / 10 / 2017  
**NORTH & SOUTH ELEVATIONS**  
DEVELOPMENT APPLICATION  
**9 PICTON STREET MASCOT NSW 2020**  
DARREN FINLAYSON

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5.0m - 1:100  
2.5m - 1:50  
1.25m - 1:25

PROPOSED SECTION 96 MODIFICATIONS

ARCHITECTURE URBAN PLANNING  
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smithtzannes.com.au  
Nominated Architect: Peter Smith (Reg 7024)



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