

Wollongong Local Planning Panel Assessment Report | 9 June 2020

WLPP No.	Item No. 1
DA No.	DA-2020/96
Proposal	Residential – alterations and use of development as a multi-dwelling site and Subdivision - Strata title - three (3) lots
Property	195 Lawrence Hargrave Drive, THIRROUL NSW 2515
Applicant	JIH Building Design Pty Ltd
Responsible Team	Development Assessment & Certification – City Wide Planning Team (RT)

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Wollongong Local Planning Panel (WLPP)

The proposal has been referred to the WLPP for **determination** pursuant to part 3 of Schedule 2 of the Local Planning Panels Direction, as the Development contravenes a development standard (Minimum site width) imposed by an environmental planning instrument by more than 10%. The required site width is 18m whereas the proposal provides a site width of 15.854m which represents a 11.92% departure

Proposal

The proposal seeks consent for the following:

- Alterations and use of the existing development as a multi-dwelling site; and
- Subdivision – Strata title – three (3) lots.

Permissibility

The subject site is zoned R2 Low Density Residential pursuant to Wollongong Local Environmental Plan (WLEP) 2009. Multi-dwelling housing development is permissible with consent in the R2 zone. Demolition is ancillary works to facilitate the proposal and as such is also permissible.

The proposed subdivision is permissible on land to which the Wollongong Local Environmental Plan 2009 (WLEP 2009) applies pursuant to Clause 2.6 of WLEP 2009.

Consultation

Details of the proposal were publicly exhibited in accordance with Council's adopted Community Participation Plan 2019. One (1) submission was received. The issues identified are discussed at section 1.5 of this report

Internal

Details of the proposal were referred to Council's Development Engineering, Landscape and Building Officers for assessment. Satisfactory referral advice, comments and/or recommended conditions were provided in each instance. Assessment considerations of internal groups as relates to relevant Chapters of the WDCP 2009 are presented at section 2.3.1 of this report.

Main Issues

The main issues resulting from the assessment process are:-

- Exception to a development standard in respect of minimum site width (Clause 7.14(1)) of WLEP 2009 for multi dwelling housing; and

- Variation requests regarding the following development controls of Chapter B1 of WDCP2009:
 - Clause 5.1.2(1) Minimum site width;
 - Clause 5.4.2(1) Side and Rear setbacks;
 - Clause 5.7.2(1) Car parking
 - Clause 5.11.2(2a) Private Open Space width

RECOMMENDATION

DA-2020/96 be approved subject to the conditions provided in **Attachment 6**.

1.0 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the proposal:

State Environmental Planning Policies:

- SEPP No. 55 – Remediation of Land
- SEPP (Coastal Management) 2018
- SEPP (Building Sustainability Index: BASIX) 2004

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan (WDCP) 2009

Other policies

- Wollongong City Wide Development Contributions Plan 2019
- Wollongong Community Participation Plan 2019

1.2 DETAILED DESCRIPTION OF PROPOSAL

The application proposes the following:

- Minor demolition works to facilitate the proposal;
- Alterations to the existing building to satisfy Building Code of Australia (BCA) requirements;
- Use of the existing development as a three (3) unit multi dwelling housing development; and
- Subdivision – Strata title – three (3) lots.

1.3 BACKGROUND

The development history of the site is as follows:

Application Number	Description	Decision	Decision Date
BA-1958/1497	Additions	Approved	13-Aug-1958
BA-1964/923	Additions To Dwelling To Make Flats	Approved	01-Jun-1964
DA-1981/249	Brick Veneering Of Existing Flats	Approved	16-Mar-1981
DA-1983/132	Home Occupation (Plumber) And Identification Sign	Approved	29-Aug-1983
BA-1990/1180	Glass In Part Of The Verandah	Approved	19-Jul-1991
BA-1996/1813	Alterations And Additions To Dwelling	Approved	20-Jan-1997
DA-2017/1017	Subdivision - strata title - three (3) residential lots	Withdrawn	07-Nov-2017
DA-2020/96	Residential - alterations and use of development as a multi-dwelling site and Subdivision - Strata title - three (3) lots	Current Application	

Customer service actions:

There are no outstanding customer service requests of relevance to the properties.

1.4 SITE DESCRIPTION

The site is located at 195 Lawrence Hargrave Drive, THIRROUL and the title reference is Lot A DP 392369.

Situated on the land is a double storey brick building with a pitched tile roof. The building is currently used as a three (3) unit multi-dwelling housing development with Units 1 and 3 occupied and Unit 2 vacant. There is a detached garage to the rear of the site. The site is a corner lot and is bounded by Lawrence Hargrave Drive to the North west and Jones Lane to the South west. Vehicular parking for the site is accessed off Jones Lane.

The land is an irregular shaped allotment with an overall site area of 673.5m². The site has a slight slope to the rear of the block with a cross fall to the South west.

The street scene in the immediate vicinity is characterised predominantly by low density residential dwellings of single and double storey construction with some medium density development. Adjoining development consists of a three storey residential flat building to the North east, a double storey dwelling to the rear and a single storey dwelling to the South west on the opposite side of Jones Lane.



Figure 1: Aerial photograph (2018)

Property constraints

- Acid sulphate soils – Class 5

There are no restrictions on the title.

1.5 SUBMISSIONS

Details of the proposal were publicly exhibited in accordance with Council’s adopted Community Participation Plan 2019. One (1) submission was received. The main issues identified within the submissions are discussed below.

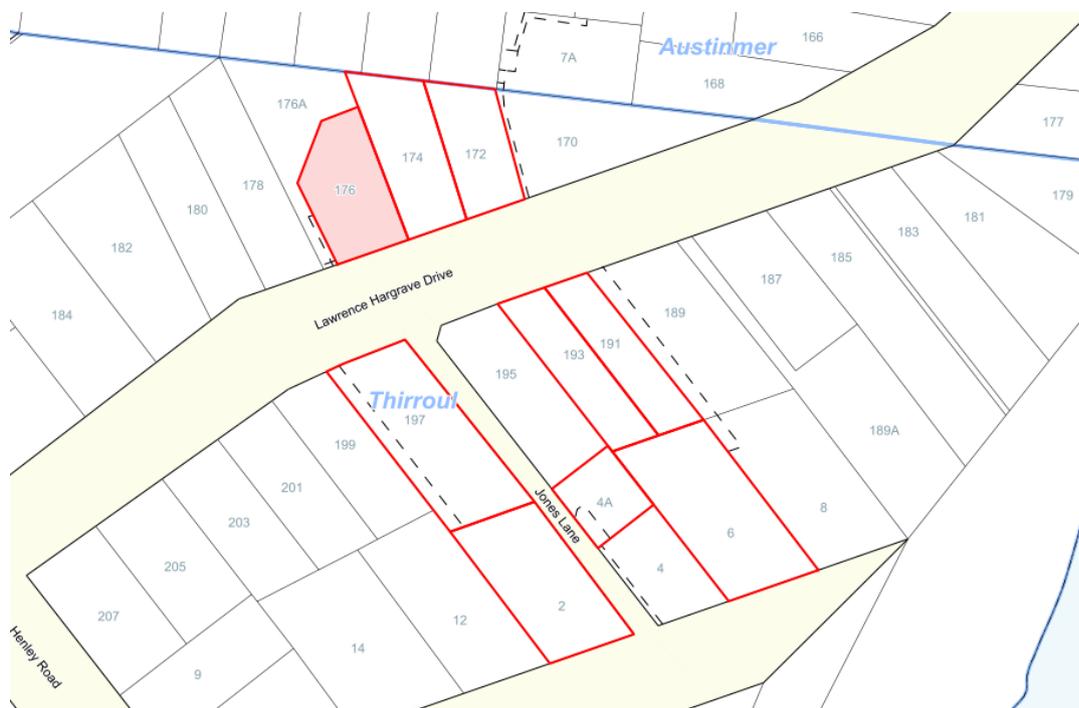


Figure 2: Notification map

Table 1: Submissions

Concern	Comment
1. Proposed landscaping’s impact on current visual outlook from property	<p>Consideration was given to impacts on view corridors of the sea and beach from dwellings on the Western side of Lawrence Hargrave Drive from the proposed deep soil planting forward of the existing building. Details of the application submission including the landscape plan were referred to Council’s Landscape Officer for comment. Advice received is that the application is considered conditionally satisfactory.</p> <p>Condition 15 included at Attachment 6 accounts for the species of trees to be used in the deep soil planting forward of the building so as to minimise impacts on the South easterly outlook of dwellings on the Western side of Lawrence Hargrave Drive towards the sea beach.</p>

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Development Engineering Officer

Council’s Development Engineering Officer has assessed the application submission in regard to traffic, stormwater and subdivision matters and provided conditionally satisfactory advice.

Landscape Officer

Council's Landscape Officer has assessed the application submission and provided conditionally satisfactory advice.

It is noted that particular consideration was given to impacts on view corridors of the sea and beach from dwellings on the Western side of Lawrence Hargrave Drive from the proposed deep soil planting forward of the existing building following concerns raised.

Condition 15 included at **Attachment 6** accounts for the species of trees to be used in the deep soil planting forward of the building so as to minimise impacts on the South easterly outlook of dwellings on the Western side of Lawrence Hargrave Drive towards the sea and is considered to resolve concerns raised.

Building Officer

Council's Building Officer has assessed the application submission and provided conditionally satisfactory advice.

Conditions are included at **Attachment 6** specifying fire safety upgrade measures to be taken during construction.

1.6.1 EXTERNAL CONSULTATION

There was no external consultation required for the proposed development.

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 – 4.15 EVALUATION

2.1 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

2.1.1 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

7 Contamination and remediation to be considered in determining development application

- (1) *A consent authority must not consent to the carrying out of any development on land unless:*
- (a) *it has considered whether the land is contaminated, and*
 - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

A desktop audit of the subject site revealed there is no previous history of land uses that could be considered to present as a contamination risk. The earthworks are considered minor, reflective of normal residential construction and the proposal does not comprise a change of use. No concerns are raised in regard to contamination as relates to the intended use of the land and the requirements of clause 7.

The site is therefore considered suitable for the proposed development and consistent with the assessment considerations of SEPP 55.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2018

3 Aim of Policy

The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by:

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and

- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.

5 Land to which Policy applies

This Policy applies to land within the coastal zone.

7 Relationship with other environmental planning instruments

- (1) In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.
- (2) This Policy does not apply to land within the Lease Area within the meaning of State Environmental Planning Policy (Three Ports) 2013.

Part 2 Development controls for coastal management areas

Division 1 Coastal wetlands and littoral rainforests area

10 Development on certain land within coastal wetlands and littoral rainforests area

Comment: The subject site is not identified within the SEPP maps as containing coastal wetlands or littoral rainforest areas. As such, this part does not apply to the subject development.

11 Development on land in proximity to coastal wetlands or littoral rainforest

Comment: The subject site is not identified as being within the proximity area of either the coastal wetland or littoral rainforest area. As such, this part does not apply to the subject development.

Division 2 Coastal vulnerability area

Comment: At the commencement of this Policy, no Coastal Vulnerability Area Map was adopted and therefore no coastal vulnerability area has been identified. As such, this part does not apply to the subject development.

Division 3 Coastal environment area

13 Development on land within the coastal environment area

- (1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - (b) coastal environmental values and natural coastal processes,
 - (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
 - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (f) Aboriginal cultural heritage, practices and places,
 - (g) the use of the surf zone.

Comment: The subject site is located within the overlapping Coastal Environment and Use area, therefore this clause applies to the proposal. The development is not expected to result in adverse impacts on the integrity and resilience of the ecological environment, the coastal environmental values, natural processes, water quality, marine vegetation, habitats or headlands or rock platforms, public open space and access to that public open space, aboriginal cultural heritage or the use of the surf zone. It is noted that the application was supported by flood information demonstrating that the proposed floor levels are above the expected inundation levels.

(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment: As discussed above, generally, the proposal has been designed and sited to avoid potential impacts to the coastal environment. The floor levels would be above the expected ocean inundation levels at the site. As such, it is considered that the potential impact resulting from the proximity to the coast is able to be managed.

(3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

Comment: The subject site is not located within the Foreshores and Waterways Area.

Division 4 Coastal use area

14 Development on land within the coastal use area

(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
- (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment: the proposed development would not be likely to cause an adverse impact on access to the foreshore area, any overshadowing of the foreshore area, impacts on the visual amenity of the coast, Aboriginal cultural heritage or cultural or built environmental heritage.

(2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

Comment: The subject site is not located within the Foreshores and Waterways Area.

Division 5 General

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment: Council is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on the subject land or any other land.

16 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment: On 30 October 2017, Council endorsed the final draft of the Wollongong Coastal Zone Management Plan for resubmission to the NSW Minister for Environment for certification. The draft Plan was certified on 20 December 2017. This Plan identifies that the site is affected by ocean inundation, and the site has been subsequently mapped according and considered as discussed throughout this report. There are no other provisions of the Plan which apply to the subject land.

17 Other development controls not affected

Subject to clause 7, for the avoidance of doubt, nothing in this Part:

- (a) permits the carrying out of development that is prohibited development under another environmental planning instrument, or
- (b) permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.

Comment: noted

18 Hierarchy of development controls if overlapping

If a single parcel of land is identified by this Policy as being within more than one coastal management area and the development controls of those coastal management areas are inconsistent, the development controls of the highest of the following coastal management areas (set out highest to lowest) prevail to the extent of the inconsistency:

- (a) the coastal wetlands and littoral rainforests area,
- (b) the coastal vulnerability area,
- (c) the coastal environment area,
- (d) the coastal use area.

Comment: The subject site is located within the overlapping Coastal and Environment Use areas. There is no inconsistency between the controls as discussed above.

NSW Coastal Management Act 2016 and Wollongong Coastal Zone Management Plan

The NSW Coastal Management Act 2016 came into force on 3 April 2018. Under the Act any existing certified CZMP's continue in force until 2020.

A review of Council's associated CZMP coastal hazard mapping extents identifies that the subject site is not impacted by coastal geotechnical risks or ocean inundation.

Minimal adverse impact on the coastal environment is anticipated as a result of the proposed development.

Minimal adverse impacts on the development are expected as a result of coastal processes.

The proposal is therefore considered satisfactory with regard to the aims outlined in clause 3 of this policy and the matters outlined for consideration.

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

SEPP BASIX applies to the development. In accordance with Schedule 1 of the Regulations and the requirements of the SEPP, a BASIX Certificate has been submitted in support of the application demonstrating that the proposed development achieves the BASIX targets.

2.1.4 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Part 1 Preliminary

Clause 1.4 Definitions

Demolition: In relation to a building means wholly or partly destroy, dismantle or deface the building.

Multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

Note. Multi dwelling housing is a type of **residential accommodation**

Subdivision of land for the purposes of the Environmental Planning & Assessment Act 1979, means the division of land into two or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition. The division may (but need not) be effected:

- (a) by conveyance, transfer or partition, or
- (b) by any agreement, dealing, plan or instrument rendering different parts of the land available for separate occupation, use or disposition.

Strata title subdivision is essentially the subdivision of space in three dimensions defined by or with Part B – Land Use Based Planning Controls Chapter B2: Residential Subdivision Wollongong Development Control Plan 2009 3 reference to walls, floors and ceilings as well as courtyards. It allows for the horizontal subdivision of land and / or airspace into separate titles for separate "strata" lots or units. Each lot or unit represents a separate apartment. An owner of a strata title unit has title to the air bounded by the inner skin of the boundary walls of the unit and by the ceiling height above and the floor level below horizontally.

The legal title to the land and building structure is owned by the "Owners Corporation" being a corporate body comprising and representing the owners of all the units in the building. The common property in the strata title includes the building itself, common open space, waste and recycling storage bin areas, visitor car parking and driveways on the land. Generally, car parking spaces (except visitor car parking spaces) are marked on the strata plan and form part of the unit title for the unit owner's exclusive rights.

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned **R2 Low Density Residential**.

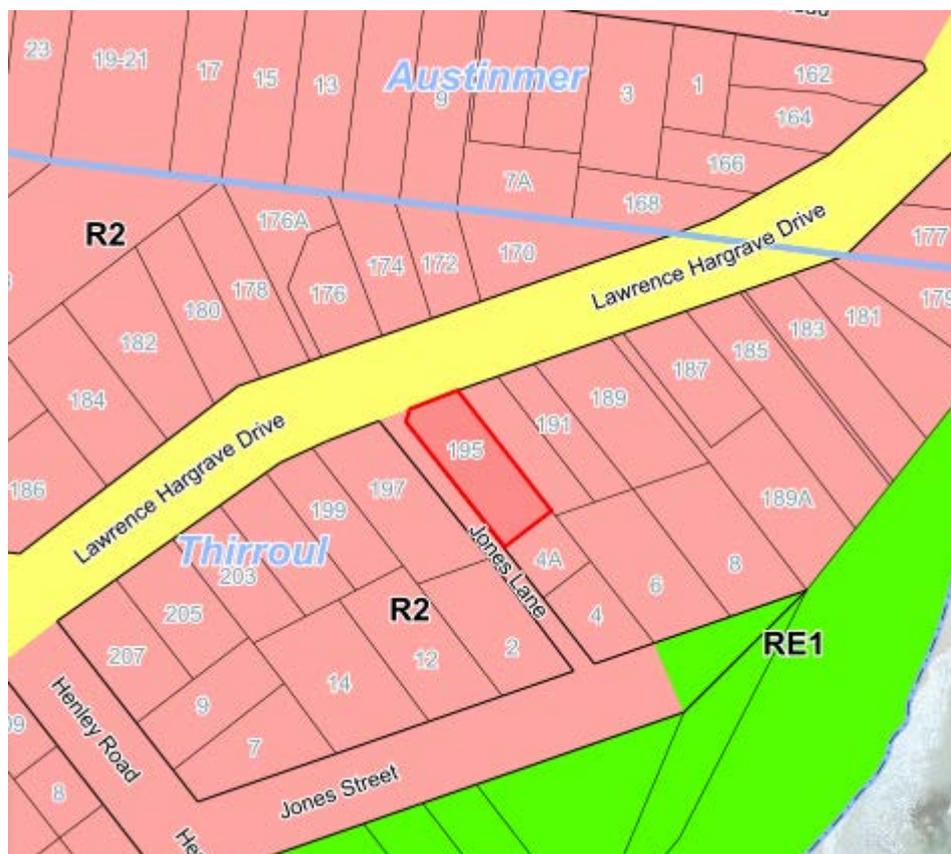


Figure 3: WLEP 2009 zoning map

Clause 2.3 – Zone objectives and land use table

The objectives of the zone R2 Low Density Residential are as follows:

- *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.*

It is considered that the proposed multi-dwelling housing use is generally satisfactory with regards to the above objectives for Zone R2 Low Density Residential.

The land use table permits the following uses in the zone.

ZONE R2 Low Density Residential permitted uses:

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Hospitals; Hostels; Information and education facilities; Jetties; **Multi dwelling housing**; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Residential flat buildings; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Signage; Veterinary hospitals

The proposal is categorised as multi-dwelling housing and is permissible in the R2 Low Density Residential zone with development consent. Demolition is ancillary work to facilitate the proposal and as such is also permissible.

The proposed subdivision is permissible on land to which the Wollongong Local Environmental Plan 2009 (WLEP 2009) applies pursuant to Clause 2.6 of WLEP 2009.

Clause 2.6 Subdivision—consent requirements

Subdivision is permissible with consent as the subject site is on land to which the Wollongong Local Environmental Plan 2009 applies.

Clause 2.7 Demolition requires development consent

Demolition of a building may be carried out only with development consent. The demolition of elements of the existing building on the land is required to facilitate the development as proposed.

Part 4 Principal development standards

Clause 4.1 Minimum subdivision lot size

The minimum allotment size for the subdivision of land under Part 4.1 of WLEP2009 for the subject site is 449m². Subclause 4.1(4) identifies that clause 4.1 does not apply in relation to the subdivision of individual lots in a strata plan. Advice received from Council’s Development Engineering Officer indicates there are no issues with the proposal subject to consent conditions included at **Attachment 6**.

Clause 4.3 Height of buildings

The proposal does not alter the maximum height of the existing building approved under BA-1996/1813.

The maximum building height of 8.65m does not exceed the maximum 9m permissible for the site.

Clause 4.4 Floor space ratio

The proposed development does not comprise additional gross floor area to the site.

Maximum FSR permitted for the site: 0.5:1

FSR provided for Site: $336\text{m}^2/673.5\text{m}^2 = 0.499:1$

The floor space ratio does not exceed the maximum permissible for the site.

Clause 4.6 Exceptions to development standards

Clause 4.6 of the Wollongong LEP “Exceptions to development standards” provides that development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument, where certain matters are met.

In this instance, a departure is sought in respect of Clause 7.14 Minimum site width. The applicant has provided a departure request statement prepared with reference to Clause 4.6. A copy is provided at **Attachment 3**. The development departure is dealt with as follows.

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	<p>Clause 7.14 Minimum site width</p> <p>Clause 7.14(1) requires that development consent must not be granted for development for the purposes of multi dwelling housing unless the site area on which the development is to be carried out has a dimension of at least 18 metres.</p>

Is the planning control in question a development standard	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	A satisfactory clause 4.6 variation has been submitted
that there are sufficient environmental planning grounds to justify contravening the development standard.	Yes
4.6 (4) (a) Consent authority is satisfied that:	
the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>The applicant's written request seeks to justify that compliance with the development standard is considered to be unreasonable and unnecessary in the circumstances of this case as:</p> <ul style="list-style-type: none"> • The proposal is considered to achieve the objectives of the development standard; • The proposal is considered to achieve the objectives of the R2 Zone; • There are sufficient planning grounds to vary minimum site width in this circumstance for the following reasons: <ul style="list-style-type: none"> - The proposal does not seek to alter the building form and therefore there will be no visual impacts and no issues arising as a result of spatial separation between the building and neighbouring residential flat building to the North east; - No adverse privacy impacts are anticipated for the neighbouring residential flat building; - Shadows cast from the existing building will fall on Jones Lane which bounds the South western side boundary of the subject site and therefore overshadowing impacts on the property to the South west 191 Lawrence Hargrave Drive will be minimal; - No environmental constraints that limit the sites development potential; - The potential environmental and amenity impacts of the proposed development are no greater than those currently existing and therefore there is no benefit derived from achieving a minimum 18m width; <p>A copy of the applicant's Clause 4.6 Statement is provided at Attachment 3. The written request has adequately addressed the matters required to be addressed under subclause (3).</p>

<p>the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</p>	<p>WLEP2009 Clause 7.14 does not provide any specific objectives for the Minimum site width development standard. However Wollongong Development Control Plan 2009 (WDCP2009) Section 5.1 contains an identical minimum site width control to that in Clause 7.14(1) with objectives provided in Section 5.1.1.</p> <p>The statement demonstrates that the proposed development will be in the public interest because it is consistent with the objectives of the development control plan for Minimum site width as follows:</p> <p style="padding-left: 40px;"><i>(a) To allow for development of sites which are of sufficient size to accommodate the required building envelope, car parking and landscaping requirements.</i></p> <p>The proposal will have no impact on the existing external built form of the building or its footprint approved under BA-1996/1813. Therefore the buildings appearance to the streetscape, privacy and overshadowing will remain unchanged.</p> <p>Existing access and on-site parking arrangements are considered adequate such that the proposal satisfies onsite car parking controls.</p> <p>The proposed landscaped area complies with Council’s minimum landscaped area development controls.</p> <p style="padding-left: 40px;"><i>(b) To encourage amalgamation of allotments to provide for improved design outcomes.</i></p> <p>The subject site is a stand-alone lot. The only potential lot to consolidate with to increase lot width is the adjoining lot to the North east, 191 Lawrence Hargrave Drive containing a three (3) storey, Strata titled residential flat building. Having regard to the existing development on the neighbouring property and the multiple owners consolidation is unlikely.</p> <p>The objectives for development in the R2 zone are:</p> <ul style="list-style-type: none"> • <i>To provide for the housing needs of the community within a low density residential environment.</i> • <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> <p>The proposal is for residential development which is consistent with the objectives for the zone as listed above.</p> <p>The proposal is considered consistent with the zone objectives and the objectives as detailed for minimum site width under WDCP2009 and therefore despite the development departure, the development is considered within the public interest.</p>
<p>the concurrence of the Secretary has been obtained.</p>	<p>In accordance with Planning Circular PS 18-003 dated 21 February 2018 the concurrence of the Secretary is assumed for Council and their established Local Planning Panels for applications made with a supporting objection under Clause 4.6.</p>

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The proposal has been assessed against Clause 7.1 of WLEP2009 and it is considered that the subject site is already serviced by public utilities.

Clause 7.5 Acid Sulfate Soils

The subject site is identified as being affected by Class 5 acid sulphate soils and is less than 100m from a Class 3 acid sulphate soils area. However as there is no earthworks proposed and the proposed works for the development are to be located at and above 11m A.H.D and are not likely to lower the water table beyond 1m it is considered that there is minimal impact. As such no special conditions are required in relation to Acid Sulphate Soils.

Clause 7.14 Minimum site width – see also commentary at Clause 4.6

This clause prescribes a minimum site width of 18m for multi-dwelling housing.

WLEP2009 Clause 7.14 does not provide any specific objectives for the Minimum site width development standard. However Wollongong Development Control Plan 2009 (WDCP2009) Section 5.1 contains an identical minimum site width control to that in Clause 7.14(1) with objectives provided in Section 5.1.1.

The objectives of the development control plan for Minimum site width are as follows:

- (a) To allow for development of sites which are of sufficient size to accommodate the required building envelope, car parking and landscaping requirements.*
- (b) To encourage amalgamation of allotments to provide for improved design outcomes.*

The subject site has a minimum site width of 15.854m. The proposed development does not comply with Clause 7.14 and a departure request statement has been provided by the applicant addressing Clause 4.6 of the LEP. A copy is provided at **Attachment 3**.

2.2 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

None applicable to the site or proposed development.

2.3 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

The development has been assessed against the relevant chapters of WDCP 2009. Compliance tables can be found at **Attachment 4** to this report. The proposal does involve variations to the minimum site width, side and rear setbacks of the first floor to the North eastern side and rear boundaries, car parking location and private open space width. Variation request statements with justification have been provided by the applicant in accordance with clause 8 of Chapter A1 of WDCP 2009 and are included at **Attachment 5**. These variations have been considered and is capable of support in this instance as discussed within **Attachment 4** of this report.

2.3.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2019

The estimated cost of works is \$150,000 and a levy of 0.5% is applicable under this plan as the threshold value is \$100,000.

2.4 SECTION 4.15(1)(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the development

2.5 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

92 What additional matters must a consent authority take into consideration in determining a development application?

A condition at **Attachment 6** requires compliance with AS 2601 for demolition works.

93 Fire safety and other considerations

Council's BCA Officer has assessed the application submission which included a BCA Report with regards to Fire Safety upgrading and returned a conditionally satisfactory referral response.

94 Consent authority may require buildings to be upgraded

Council's BCA Officer has assessed the application submission which included a BCA Report with regards to Fire Safety upgrading and returned a conditionally satisfactory referral response.

2.6 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT

Context and Setting:

In regard to the matter of context, the planning principle in Project Venture Developments v Pittwater Council [2005] NSWLEC 191 is relevant in that it provides guidance in the assessment of compatibility. The two major aspects of compatibility are physical impact and visual impact. In assessing each of these the following questions should be asked:

- Are the proposals physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.
- Is the proposals appearance in harmony with the buildings around it and the character of the street?

In response to the first question, matters such as overshadowing, privacy concerns, bulk scale and setbacks are relevant. The proposed development is for use of an existing building as a three unit multi-dwelling housing development. It is considered that the building has been reasonably sited such that it satisfies the objectives of Council's boundary setback requirements so as to have minimal impact on the adjoining properties in terms of privacy and overshadowing and to allow reasonable solar access to the units and adjoining development.

In regard to the visual impact, the development is considered to be largely in harmony with the surrounding character the area. The immediate area surrounding the site is characterised predominantly by low density residential development of varying architectural with the exception being a three storey residential flat building on the adjoining property to the North east of the subject site. The proposed development satisfies Council's Floor Space Ratio and Building Height development standards as identified in the WLEP 2009, and overall the bulk and scale of the proposed development is considered acceptable in this circumstance.

The proposal will have minimal impact on the external built form, and no impact on the scale of the existing building and therefore will have minimal impact on the existing street scape.

It is considered that the scale of the development as viewed from the street is comparable to other developments in the locality.

In summary, the proposal has been assessed with regard to the amenity impacts from the development, the zoning, permissible lot size and existing and future character of the area, and is considered to be compatible with the local area.

Access, Transport and Traffic:

Access to the site will be via an approved driveway to Council's formed roadway which adjoins Council's Local Road. The development is considered not to result in an adverse impact on the traffic

movement and access to the site. Council's Development Engineering Officer has no objections to the proposed access arrangements subject to conditions included at **Attachment 6**.

Public Domain:

The development is considered to be consistent with the amenity of the locality, the development is not considered to result in significant impact on the public domain.

Utilities:

The proposal is not envisaged to place an unreasonable demand on utilities supply. Existing utilities can be augmented to service the proposal.

Heritage:

No heritage items will be impacted by the proposal.

Other land resources:

The proposal is considered to contribute to orderly development of the site and is not envisaged to impact upon valuable land resources.

Water:

The site is presently serviced by Sydney Water, and the proposal is not envisaged to have unreasonable water consumption. A BASIX certificate has been provided for the proposal.

Soils:

It is expected that, with the use of appropriate erosion and sedimentation controls during construction, soil impacts will not be unreasonably adverse.

The soil profile is considered to be acceptable for the construction of the proposed development. Council's Development Engineering Officer has assessed the application submission and considered it satisfactory subject to conditions.

Air and Microclimate:

The proposal is not expected to have a negative impact on air or microclimate.

Flora and Fauna:

No tree removal is proposed with this application. The proposal is not expected to adversely impact fauna. Council's Landscape Officer has reviewed the application submission including the landscape plan. Advice received is that the application is considered conditionally satisfactory.

Condition 15 included at **Attachment 6** accounts for the species of trees to be used in the deep soil planting forward of the building so as to minimise impacts on the South easterly outlook of dwellings on the Western side of Lawrence Hargrave Drive towards the sea.

For Council's Landscape Officers response please see Section 1.6.1 of the report.

Waste:

Waste management during works can be managed through proper arrangements. A condition is proposed requiring the use of an appropriate receptacle for any waste generated during the construction and compliance with the Site Waste Management and Minimisation Plan provided with the DA.

Energy:

The proposal is not envisaged to have unreasonable energy consumption. A BASIX certificate has been provided for the proposal.

Noise and vibration:

Noise and vibration impacts during demolition, excavation and construction are unavoidable. If the development is approved, a suite of conditions are recommended for imposition (see **Attachment 6**) to minimise nuisance during demolition and construction.

Natural hazards:

There are no natural hazards affecting the site that would prevent the proposal.

Technological hazards:

There are no technological hazards affecting the site that would prevent the proposal.

The proposal is identified as being affected by class 5 acid sulphate soils. However as there is no earthworks proposed and the proposed works for the development are to be located at and above 11m A.H.D and are not likely to lower the water table beyond 1m it is considered that there is minimal impact. As such no special conditions are required in relation to Acid Sulphate Soils.

Safety, Security and Crime Prevention:

This application does not result in greater opportunities for criminal or antisocial behaviour.

Social Impact:

The proposal is not expected to create negative social impacts.

Economic Impact:

The proposal is not expected to create negative economic impacts.

Site Design and Internal Design:

The proposal does involve an exception to WLEP 2009 development standard for Minimum site width. The exception is considered to have been adequately justified via the submission of an appropriate justification statement and capable of support.

The application identifies variations to the minimum site width Clause 5.1.2(1), side and rear setbacks of the first floor to the North eastern side and rear boundaries Clause 5.4.2(1), car parking location Clause 5.7.2(1) and private open space width Clause 5.11.2(2a) in Chapter B1 of WDCP2009.

These variations have been considered in section 2.3.1 as being adequately justified and are thus capable of support.

Construction:

Conditions of consent are recommended in relation to construction impacts such as hours of work, erosion and sedimentation controls, works in the road reserve, excavation, demolition and use of any crane, hoist, plant or scaffolding.

A condition will be attached to any consent granted that all works are to be in compliance with the Building Code of Australia.

Cumulative Impacts:

The development is considered consistent with the amenity of the neighbourhood and to be consistent with the surrounding development.

2.8 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR DEVELOPMENT

Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site and is not expected to result in negative impacts on the amenity of the locality or adjoining developments.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

2.9 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

See section 1.5 of this report.

2.10 SECTION 4.15(1)(E) THE PUBLIC INTEREST

The proposal is not expected to result in unreasonable impacts on the environment or the amenity of the locality. It is considered appropriate with consideration to the zoning and the character of the area and is therefore considered to be in the public interest.

3 CONCLUSION

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 and all relevant Council DCPs, Codes and Policies.

Multi-dwelling housing is permitted in the R2 land use zone with development consent pursuant to the WLEP 2009.

The development is consistent with most of the applicable provisions of the relevant planning instruments including Wollongong LEP 2009 with the exception of the minimum site width development standard departure which has been discussed in the body of this report and is considered capable of support.

The proposal does involve Development Control Plan variations to the minimum site width, side setback of the first floor to the North eastern side boundary, car parking location and private open space width. Variation request statements with justification have been provided by the applicant in accordance with clause 8 of Chapter A1 of WDCP 2009. These variation has been considered and are capable of support in this instance as discussed within section 2.3.1 of this report.

The development is considered appropriate with regard to the controls outlined in the Wollongong DCP 2009.

All internal referrals are satisfactory and there are no outstanding issues.

It is considered that the proposed development is unlikely to result in adverse impacts on the character or amenity of the surrounding area, environment and adjoining development.

4 RECOMMENDATION

DA-2020/96 be approved pursuant to Section 4.16(1) of the Environmental Planning & Assessment Act 1979 subject to the conditions provided at **Attachment 6**.

5 ATTACHMENTS

- 1 Plans
- 2 Site Inspection Photos
- 3 Clause 4.6 Exception to Development Standard Statement – Applicant
- 4 Compliance table for Wollongong Development Control Plan 2009
- 5 Clause 8 Variation to Development Control Statements
- 6 Conditions

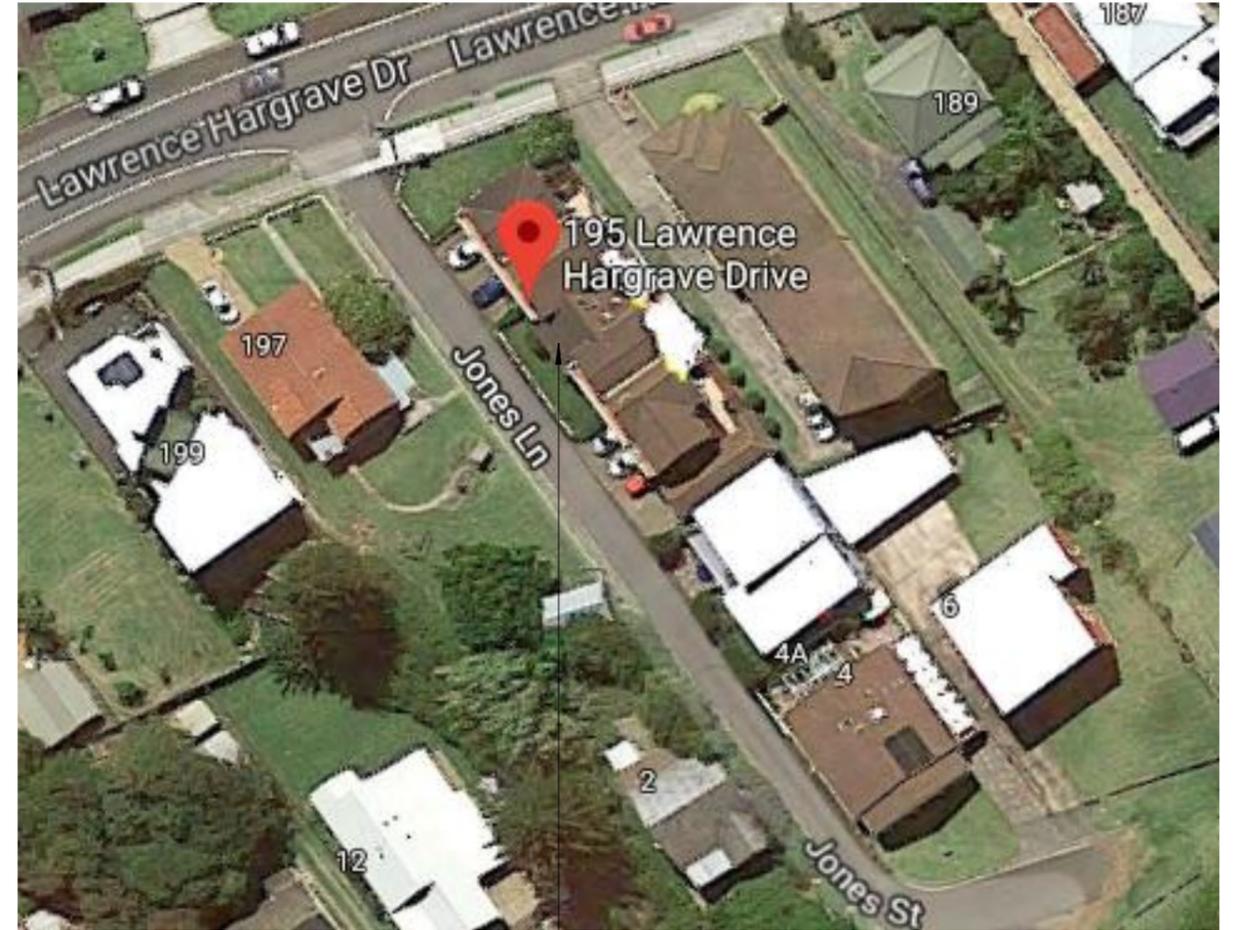
PROPOSED ALTERATIONS & ADDITIONS

LOT A DP 393369 195 LAWRENCE HARGRAVE DRV, THIRROUL

Sheet Number	Sheet Name
SH-00	Cover Page
SH-01	Basix
SH-02	Basix
SH-03	Site Plan
SH-04	Ground Floor Plan
SH-05	First Floor Plan
SH-06	NE & SW Elevations
SH-07	NW & SE Elevations
SH-08	Gross Floor Areas
SH-09	Landscaping & DZP
SH-10	Shadows 1
SH-11	Shadows 2
SH-12	Elevational Shadows

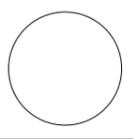
Gross Floor Area Schedule

Name	Area Type	Area
UNIT 1 GROUND GFA	Floor Area	36 m ²
UNIT 3 GROUND GFA	Floor Area	50 m ²
UNIT 2 GFA	Floor Area	115 m ²
UNIT 3 GARAGE	Floor Area	38 m ²
UNIT 1 FIRST FLOOR GFA	Floor Area	70 m ²
UNIT 3 FIRST FLOOR GFA	Floor Area	63 m ²
6		374 m²



SUBJECT SITE

AMENDMENTS:				GENERAL NOTES: - Dimensions in preference to scale - All ground lines are approximate - Window & Door sizes as shown - Nominal - All work to be carried out in accordance with Local Council Codes, the B.C.A., Australian Standards and any relevant authorities - Wind Rating refer to framing manufacturer's specification	DRAWING: Cover Page PROJECT: FIRE SAFETY UPGRADES TO EXISTING BUILDING AND 3 LOT STRATA TITLE SUBDIVISION SUBJECT: DEVELOPMENT APPLICATION	CLIENT: PRAGATI GOSWAMI SITE: LOT A DP 392369 195 LAWRENCE HARGRAVE DRIVE THIRROUL, NSW, 2515	JOB NO.: 00302018 DATE: 15.05.20 DRAWN: J.H	ABN: 37 164 783 108 PH: 42 954433 SUITE 14/2 MEMORIAL DRIVE, SHELLHARBOUR CITY CENTRE PO Box 178 Warilla 2528 © 2014 JIH BUILDING DESIGN PTY LTD	SCALE: PAGE NO.: SH-00
No:	DATE:	COMMENTS:	DWN:						



CERTIFICATE NUMBER: A377495

SCHEDULE FOR BASIX REQUIREMENTS - UNIT 1		
ITEM	REQUIREMENT UNDER BASIX	CERTIFIER CHECK
<i>FIXTURES & SYSTEM</i>		
LIGHTING		
	The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.	
FIXTURES		
Shower Heads	The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating.	
Toilets	The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating.	
Altered Taps	The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.	
CONSTRUCTION		
-Insulation Requirements -Glazing Requirements -Sky Light Requirements	<p>The applicant must construct the new or altered construction (floor(s), walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m², b) insulation specified is not required for parts of altered construction where insulation already exists.</p> <ul style="list-style-type: none"> - Floor above existing dwelling or building: Nil - External wall: Brick Veneer (weatherboard, fibro, metal clad) R1.16 (or R1.70 including construction) - External wall: framed (weatherboard, fibro, metal clad) R1.30 (or R1.70 including construction) - flat ceiling, pitched roof: ceiling R1.45 (up), roof: foil backed blanket (55mm). Medium (solar absorptance 0.475 - 0.70) 	

CERTIFICATE NUMBER: A377543

SCHEDULE FOR BASIX REQUIREMENTS - UNIT 2		
ITEM	REQUIREMENT UNDER BASIX	CERTIFIER CHECK
<i>FIXTURES & SYSTEM</i>		
LIGHTING		
	The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.	
FIXTURES		
Shower Heads	The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating.	
Toilets	The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating.	
Altered Taps	The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.	
CONSTRUCTION		
-Insulation Requirements -Glazing Requirements -Sky Light Requirements	<p>The applicant must construct the new or altered construction (floor(s), walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m², b) insulation specified is not required for parts of altered construction where insulation already exists.</p> <ul style="list-style-type: none"> - Floor above existing dwelling or building: Nil - External wall: Brick Veneer (weatherboard, fibro, metal clad) R1.16 (or R1.70 including construction) - External wall: framed (weatherboard, fibro, metal clad) R1.30 (or R1.70 including construction) - flat ceiling, pitched roof: ceiling R1.45 (up), roof: foil backed blanket (55mm). Medium (solar absorptance 0.475 - 0.70) 	

1 BASIX

1 : 5000

AMENDMENTS:		GENERAL NOTES: - Dimensions in preference to scale - All ground lines are approximate - Window & Door sizes as shown - Nominal - All work to be carried out in accordance with Local Council Codes, the B.C.A., Australian Standards and any relevant authorities - Wind Rating refer to framing manufacturer's specification	DRAWING: Basix PROJECT: FIRE SAFETY UPGRADES TO EXISTING BUILDING AND 3 LOT STRATA TITLE SUBDIVISION SUBJECT: DEVELOPMENT APPLICATION	CLIENT: PRAGATI GOSWAMI SITE: LOT A DP 392369 195 LAWRENCE HARGRAVE DRIVE THIRROUL, NSW, 2515	JOB NO.: 00302018 DATE: 15.05.20 DRAWN: J.H	 ABN: 37 164 783 108 PH: 42 954433 SUITE 14/2 MEMORIAL DRIVE, SHELLHARBOUR CITY CENTRE PO Box 178 Warilla 2528 © 2014 JIH BUILDING DESIGN PTY LTD	SCALE: 1 : 5000 PAGE NO.: SH-01
No:	DATE:						

CERTIFICATE NUMBER: A377544

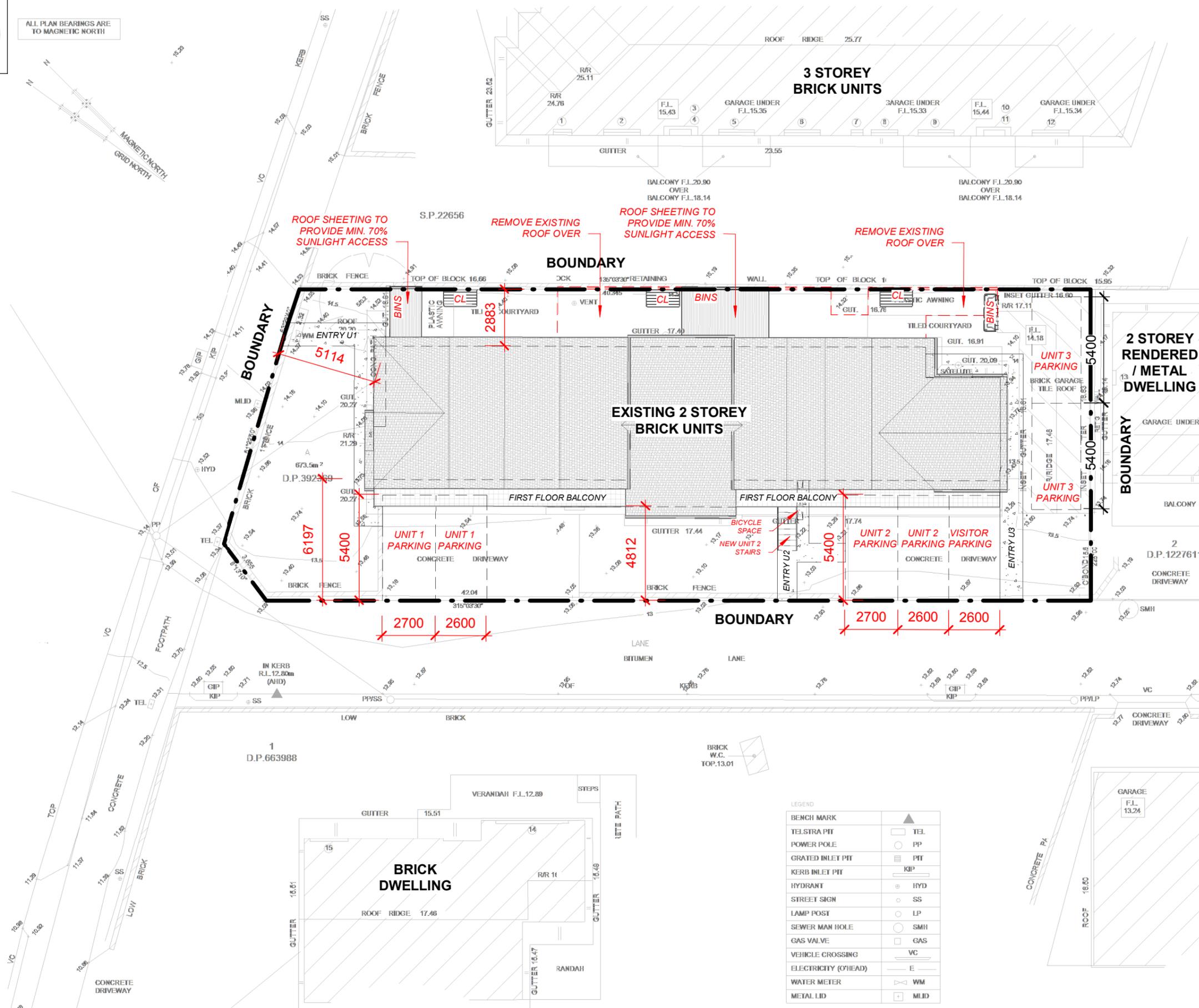
SCHEDULE FOR BASIX REQUIREMENTS - UNIT 3		
ITEM	REQUIREMENT UNDER BASIX	CERTIFIER CHECK
<i>FIXTURES & SYSTEM</i>		
LIGHTING		
	The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.	
FIXTURES		
Shower Heads	The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating.	
Toilets	The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating.	
Altered Taps	The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.	
CONSTRUCTION		
-Insulation Requirements -Glazing Requirements -Sky Light Requirements	<p>The applicant must construct the new or altered construction (floor(s), walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m², b) insulation specified is not required for parts of altered construction where insulation already exists.</p> <ul style="list-style-type: none"> - Floor above existing dwelling or building: Nil - External wall: Brick Veneer (weatherboard, fibro, metal clad) R1.16 (or R1.70 including construction) - External wall: framed (weatherboard, fibro, metal clad) R1.30 (or R1.70 including construction) - flat ceiling, pitched roof: ceiling R1.45 (up), roof: foil backed blanket (55mm). Medium (solar absorptance 0.475 - 0.70) 	

1 BASIX 2
1 : 5000

AMENDMENTS:				GENERAL NOTES: - Dimensions in preference to scale - All ground lines are approximate - Window & Door sizes as shown - Nominal - All work to be carried out in accordance with Local Council Codes, the B.C.A., Australian Standards and any relevant authorities - Wind Rating refer to framing manufacturer's specification	DRAWING: Basix PROJECT: FIRE SAFETY UPGRADES TO EXISTING BUILDING AND 3 LOT STRATA TITLE SUBDIVISION SUBJECT: DEVELOPMENT APPLICATION	CLIENT: PRAGATI GOSWAMI SITE: LOT A DP 392369 195 LAWRENCE HARGRAVE DRIVE THIRROUL, NSW, 2515	JOB NO.: 00302018 DATE: 15.05.20 DRAWN: J.H	 ABN: 37 164 783 108 PH: 42 954433 SUITE 14/2 MEMORIAL DRIVE, SHELLHARBOUR CITY CENTRE PO Box 178 Warilla 2528 © 2014 JIH BUILDING DESIGN PTY LTD	SCALE: 1 : 5000 PAGE NO: SH-02
No:	DATE:	COMMENTS:	DWN:						



ALL PLAN BEARINGS ARE TO MAGNETIC NORTH



P.O.S. TABLE:

UNIT 1:	
COURTYARD	= 22.5m ²
BALCONY	= 27.9m ²
TOTAL:	= 50.4m ²
UNIT 2:	
COURTYARD	= 45.1m ²
TOTAL:	= 45.1m ²
UNIT 3:	
COURTYARD	= 26.6m ²
BALCONY	= 29.0m ²
TOTAL:	= 55.6m ²
TOTAL:	= 151.1m²

F.S.R. CALCULATIONS
(AREAS TAKEN FROM THE INSIDE OF THE EXTERIOR WALLS & CENTRELINE OF DIVIDING WALLS.)

SITE AREA	= 673.5m²
UNIT 1	
GROUND FLOOR	= 36.00m ²
FIRST FLOOR	= 70.00m ²
TOTAL	= 106.00m ²
UNIT 2	
GROUND FLOOR	= 115.00m ²
TOTAL	= 115.00m ²
UNIT 3	
GROUND FLOOR	= 50.00m ²
FIRST FLOOR	= 63.00m ²
GARAGE	= 38.00m ²
TOTAL	= 151.00m ²
TOTAL AREA	= 115.00m²
(Less Garage Deduction 36m ²)	
TOTAL GROSS FLOOR AREA	= 336.00m²
F.S.R. (338/673.5)	= 49.89%

1 Site Plan
1 : 200

! SITE CHECK ALL DIMENSIONS BEFORE CONSTRUCTION

LEGEND

BENCH MARK	▲
TELSTRA PIT	TEL
POWER POLE	PP
GRATED INLET PIT	PIT
KERB INLET PIT	KIP
HYDRANT	HYD
STREET SIGN	SS
LAMP POST	LP
SEWER MAN HOLE	SMH
GAS VALVE	GAS
VEHICLE CROSSING	VC
ELECTRICITY (O'HEAD)	E
WATER METER	WM
METAL LID	MILD

AMENDMENTS:

No:	DATE:	COMMENTS:	DWN:

GENERAL NOTES:

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- All ground lines are approximate
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- Wind Rating refer to framing manufacturer's specification

DRAWING: Site Plan
PROJECT: FIRE SAFETY UPGRADES TO EXISTING BUILDING AND 3 LOT STRATA TITLE SUBDIVISION
SUBJECT: DEVELOPMENT APPLICATION

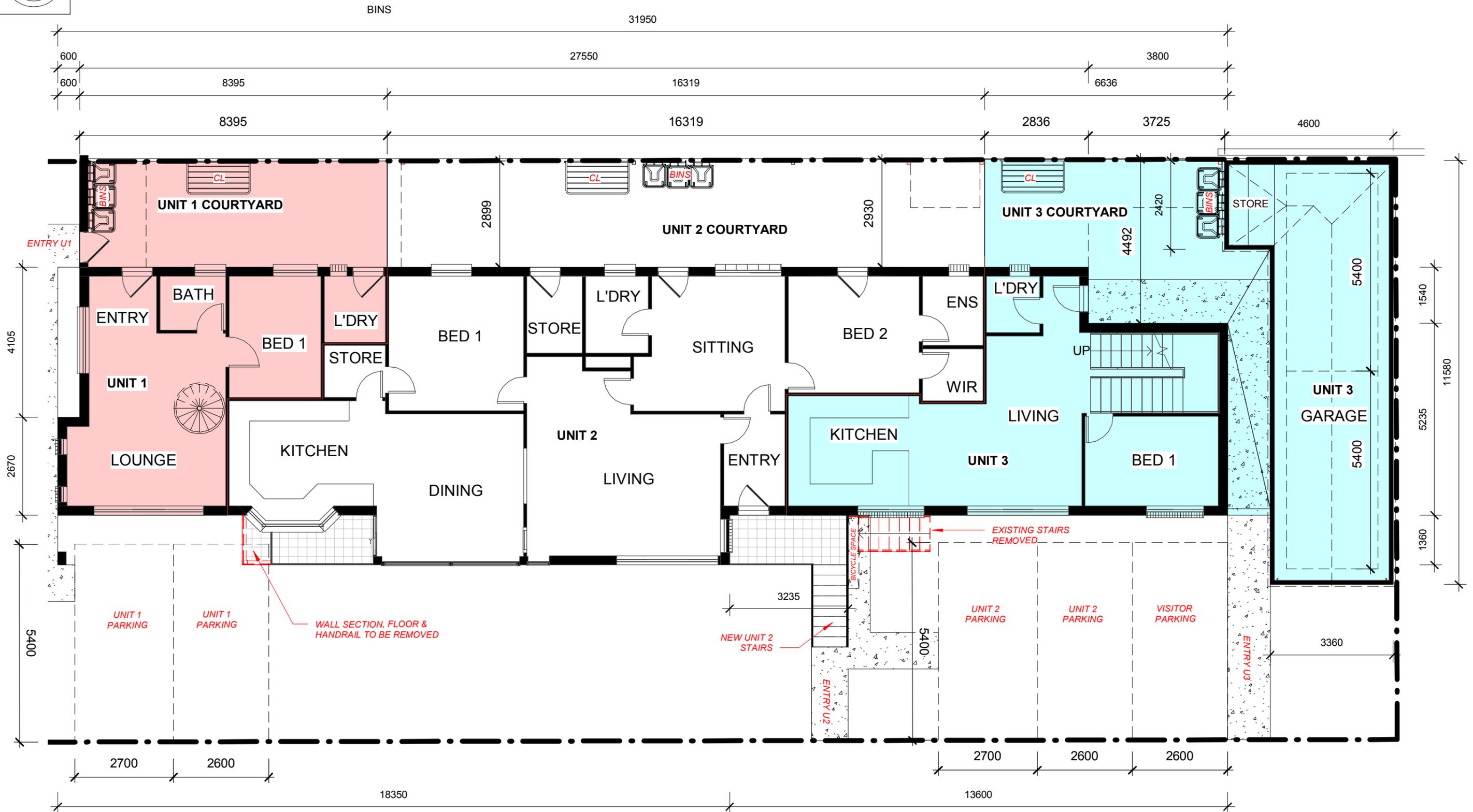
CLIENT: PRAGATI GOSWAMI
SITE: LOT A DP 392369
 195 LAWRENCE HARGRAVE DRIVE
 THIRROUL, NSW, 2515

JOB NO.: 00302018
DATE: 15.05.20
DRAWN: J.H

JIH BUILDING DESIGNS

ABN: 37 164 783 108 PH: 42 954433 SUITE 14/2 MEMORIAL DRIVE, SHELLHARBOUR CITY CENTRE PO Box 178 Warilla 2528 © 2014 JIH BUILDING DESIGN PTY LTD

SCALE:
As indicated
PAGE NO.: SH-03



1 Ground Floor Plan
1 : 100

AMENDMENTS:			
No:	DATE:	COMMENTS:	DWN:

GENERAL NOTES:
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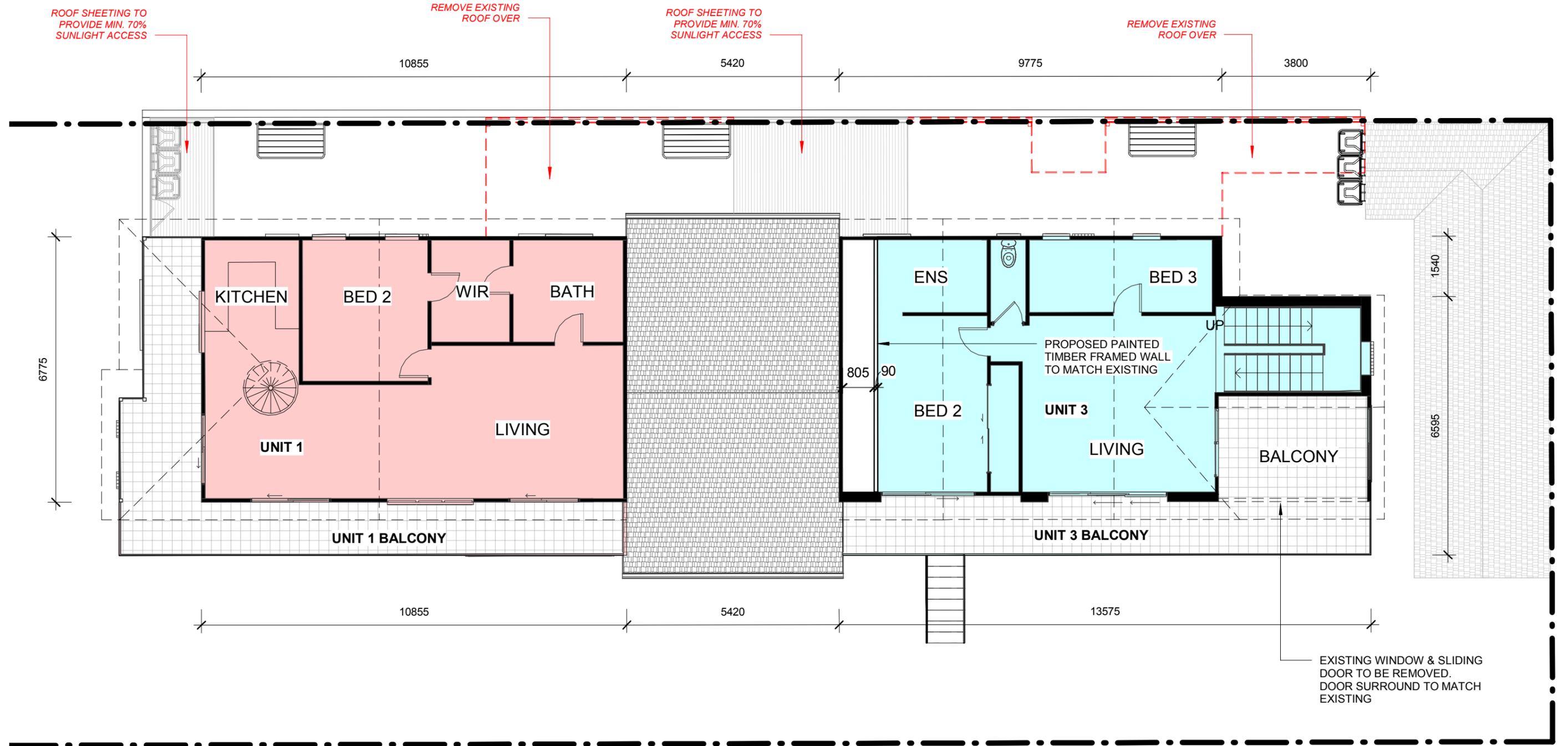
DRAWING: Ground Floor Plan
PROJECT: FIRE SAFETY UPGRADES TO EXISTING BUILDING AND 3 LOT STRATA TITLE SUBDIVISION
SUBJECT: DEVELOPMENT APPLICATION

CLIENT: PRAGATI GOSWAMI
SITE: LOT A DP 392369
 195 LAWRENCE HARGRAVE DRIVE
 THIRROUL, NSW, 2515

JOB NO.: 00302018
DATE: 15.05.20
DRAWN: J.H

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SCALE: 1 : 100
PAGE NO.: SH-04



1 First Floor Plan
1 : 100

AMENDMENTS:			
No:	DATE:	COMMENTS:	DWN:

GENERAL NOTES:
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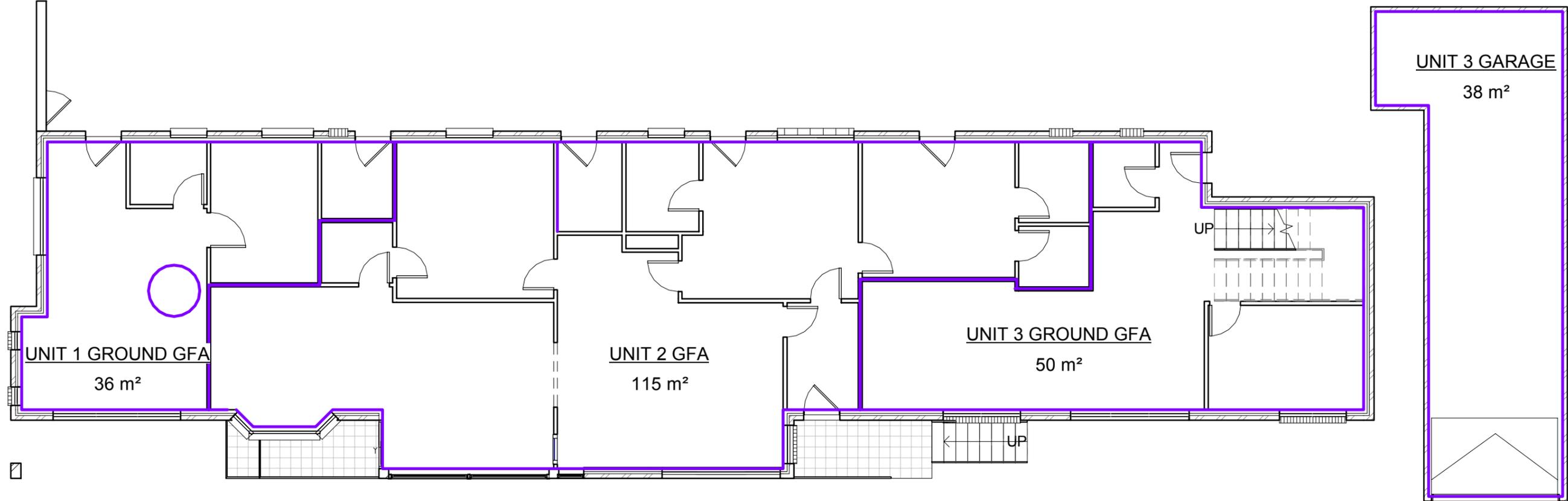
DRAWING: First Floor Plan
PROJECT: FIRE SAFETY UPGRADES TO EXISTING BUILDING AND 3 LOT STRATA TITLE SUBDIVISION
SUBJECT: DEVELOPMENT APPLICATION

CLIENT: PRAGATI GOSWAMI
SITE: LOT A DP 392369
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 THIRROUL, NSW, 2515

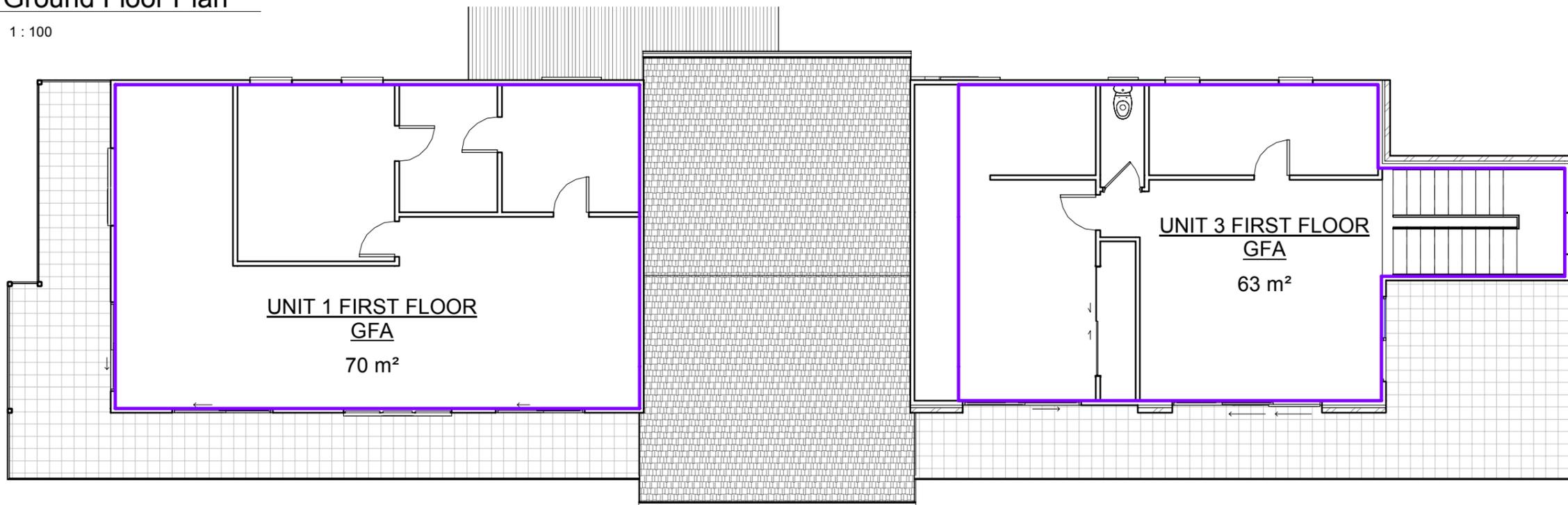
JOB NO.: 00302018
DATE: 15.05.20
DRAWN: J.H

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SCALE: 1 : 100
PAGE NO.: SH-05



1 Ground Floor Plan
1 : 100



2 First Floor Plan
1 : 100

AMENDMENTS:			
No:	DATE:	COMMENTS:	DWN:

GENERAL NOTES:
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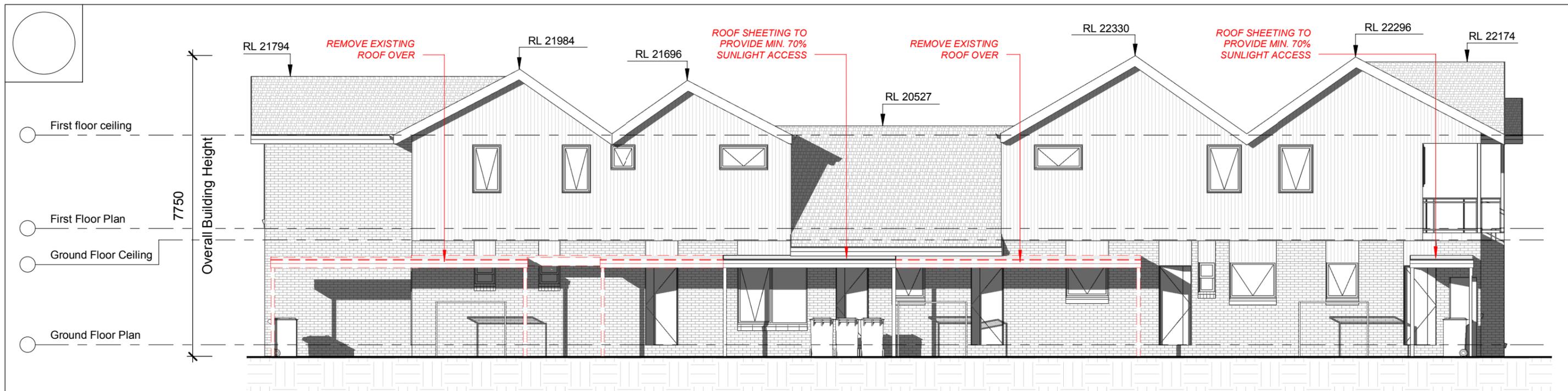
DRAWING: Gross Floor Areas
PROJECT: FIRE SAFETY UPGRADES TO EXISTING BUILDING AND 3 LOT STRATA TITLE SUBDIVISION
SUBJECT: DEVELOPMENT APPLICATION

CLIENT: PRAGATI GOSWAMI
SITE: LOT A DP 392369
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 THIRROUL, NSW, 2515

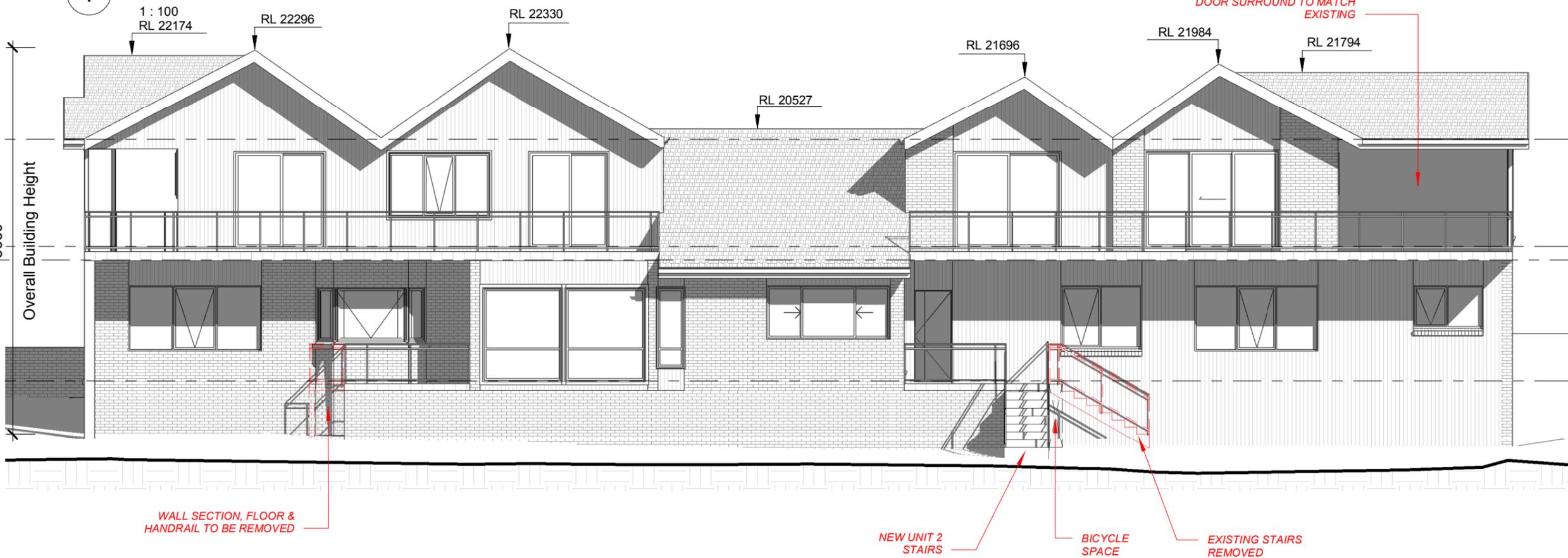
JOB NO.: 00302018
DATE: 15.05.20
DRAWN: J.H

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SCALE: 1 : 100
PAGE NO: SH-08



1 North East Elevation



2 South West Elevation

1 : 100

AMENDMENTS:			
No:	DATE:	COMMENTS:	DWN:

GENERAL NOTES:
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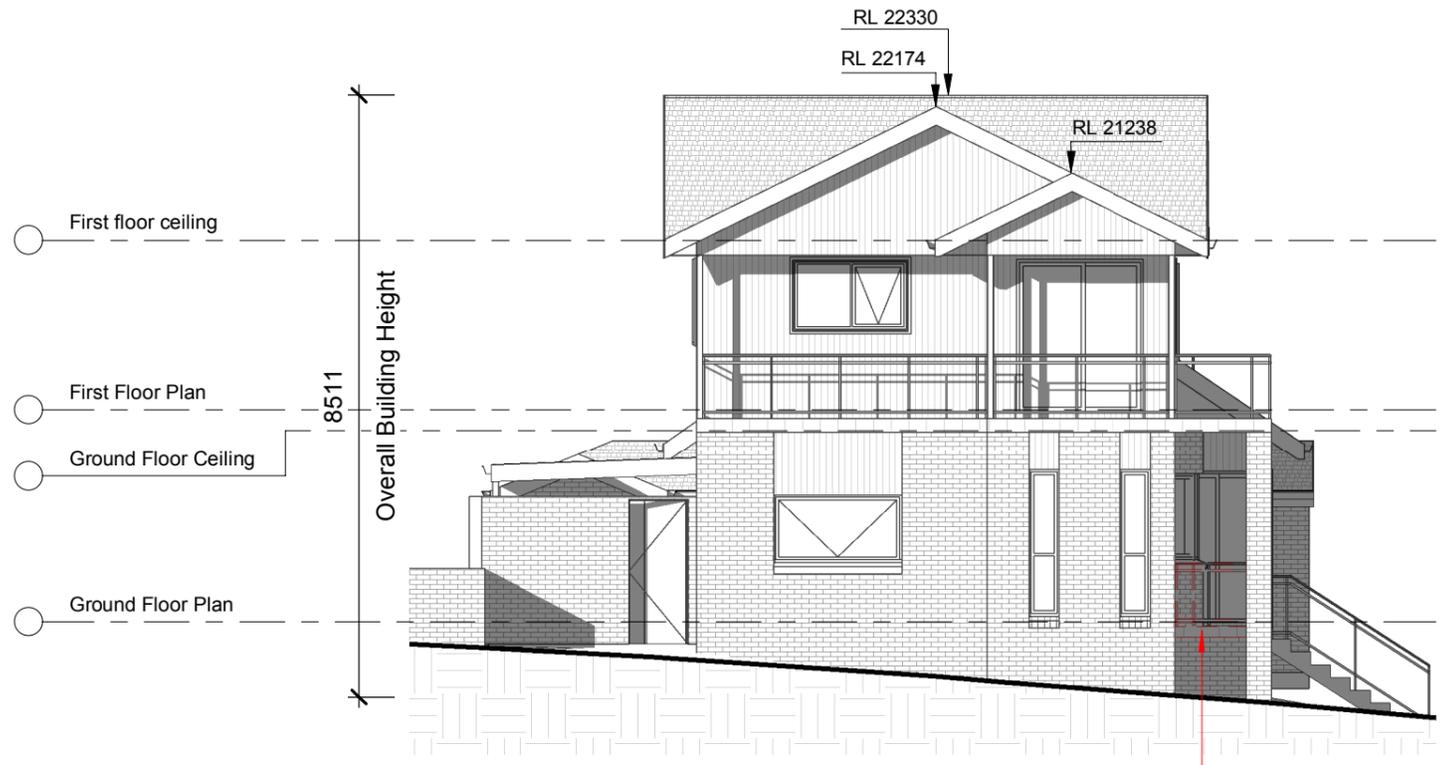
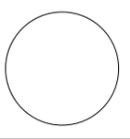
DRAWING: NE & SW Elevations
PROJECT: FIRE SAFETY UPGRADES TO EXISTING BUILDING AND 3 LOT STRATA TITLE SUBDIVISION
SUBJECT: DEVELOPMENT APPLICATION

CLIENT: PRAGATI GOSWAMI
SITE: LOT A DP 392369
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 THIRROUL, NSW, 2515

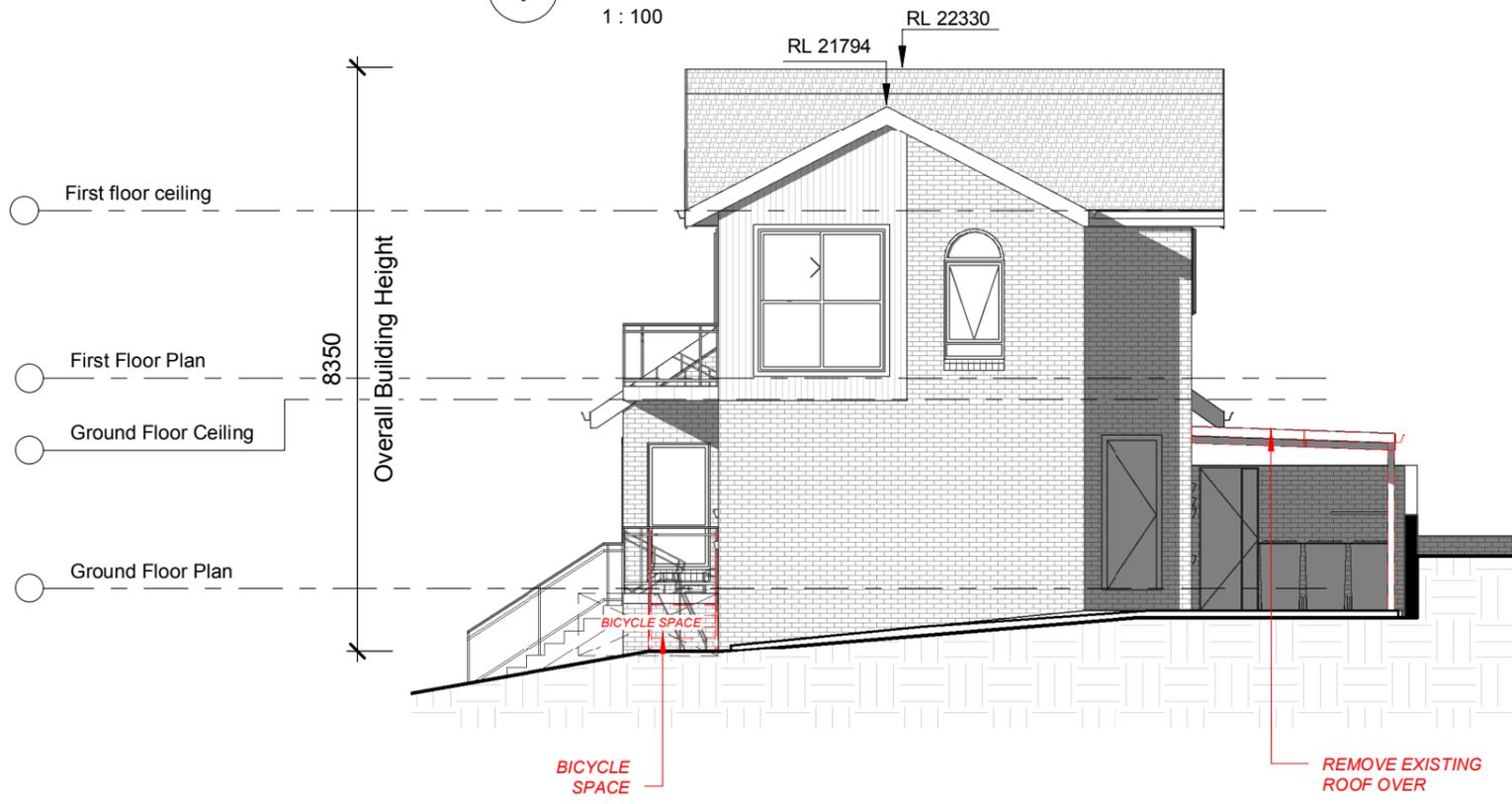
JOB NO.: 00302018
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SCALE: 1 : 100
PAGE NO.: SH-06



1 North West Elevation
1 : 100



2 South East Elevation
1 : 100

AMENDMENTS:			
No:	DATE:	COMMENTS:	DWN:

GENERAL NOTES:
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 - Window & Door sizes as shown - Nominal
 - All work to be carried out in accordance with Local Council Codes, the B.C.A., Australian Standards and any relevant authorities
 - Wind Rating refer to framing manufacturer's specification

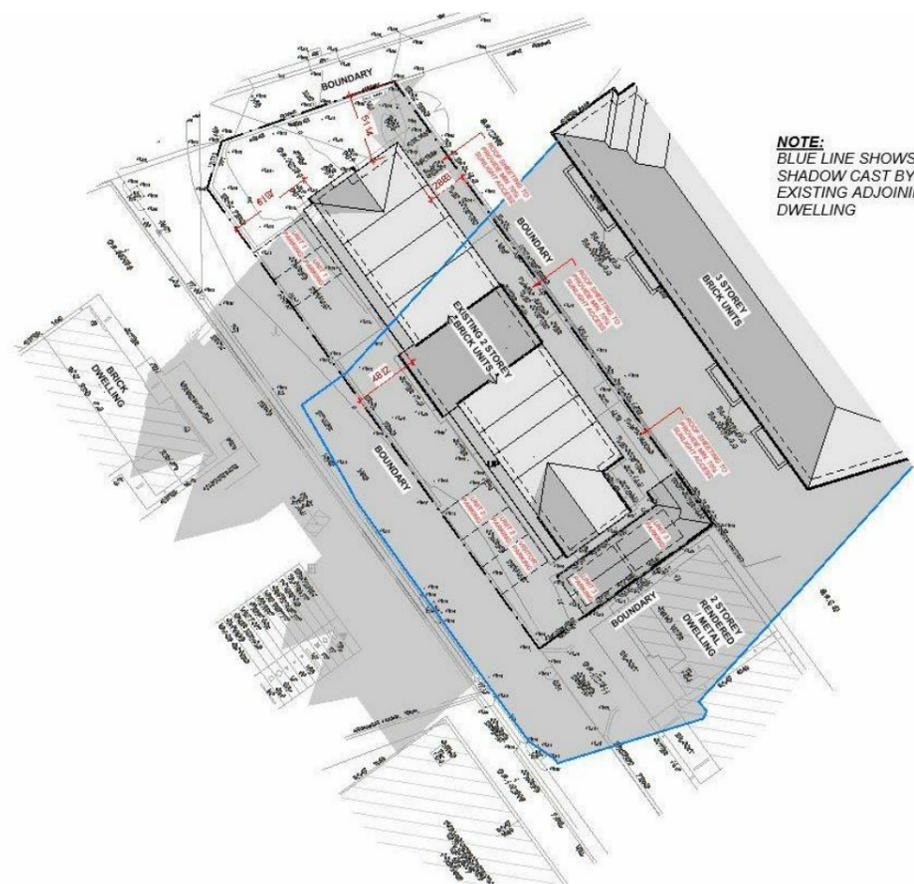
DRAWING: NW & SE Elevations
PROJECT: FIRE SAFETY UPGRADES TO EXISTING BUILDING AND 3 LOT STRATA TITLE SUBDIVISION
SUBJECT: DEVELOPMENT APPLICATION

CLIENT: PRAGATI GOSWAMI
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 195 LAWRENCE HARGRAVE DRIVE
 THIRROUL, NSW, 2515

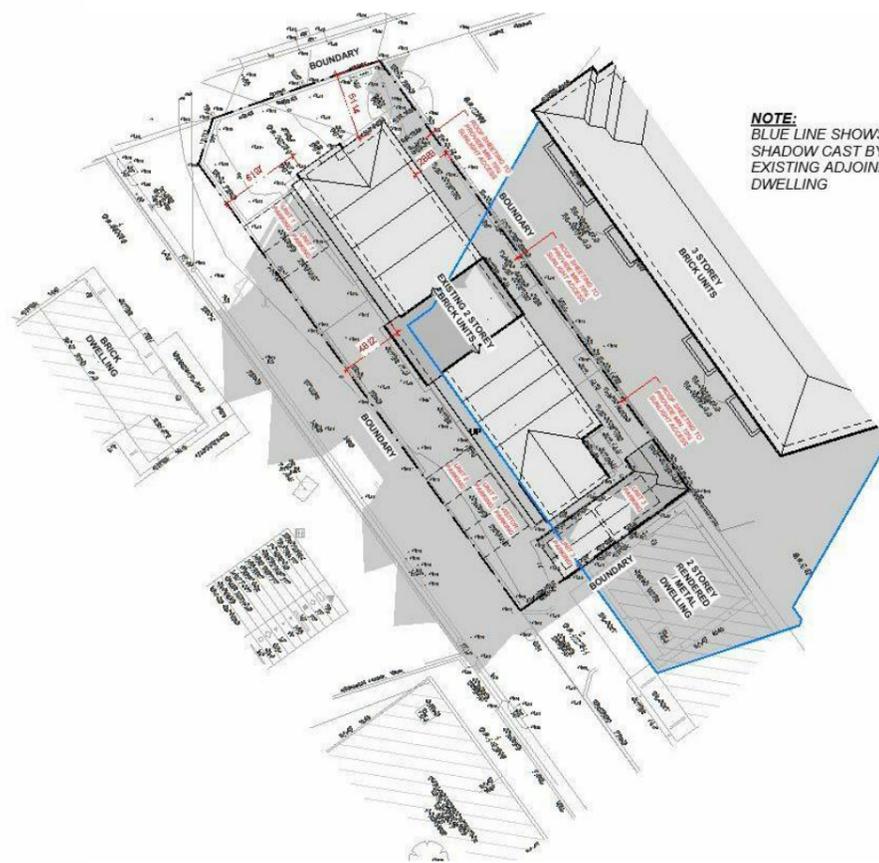
JOB NO.: 00302018
DATE: 15.05.20
DRAWN: J.H

J|H BUILDING DESIGNS
 ABN: 37 164 783 108 PH: 42 954433 SUITE 14/2 MEMORIAL DRIVE, SHELLHARBOUR CITY CENTRE PO Box 178 Warilla 2528 © 2014 J|H BUILDING DESIGN PTY LTD

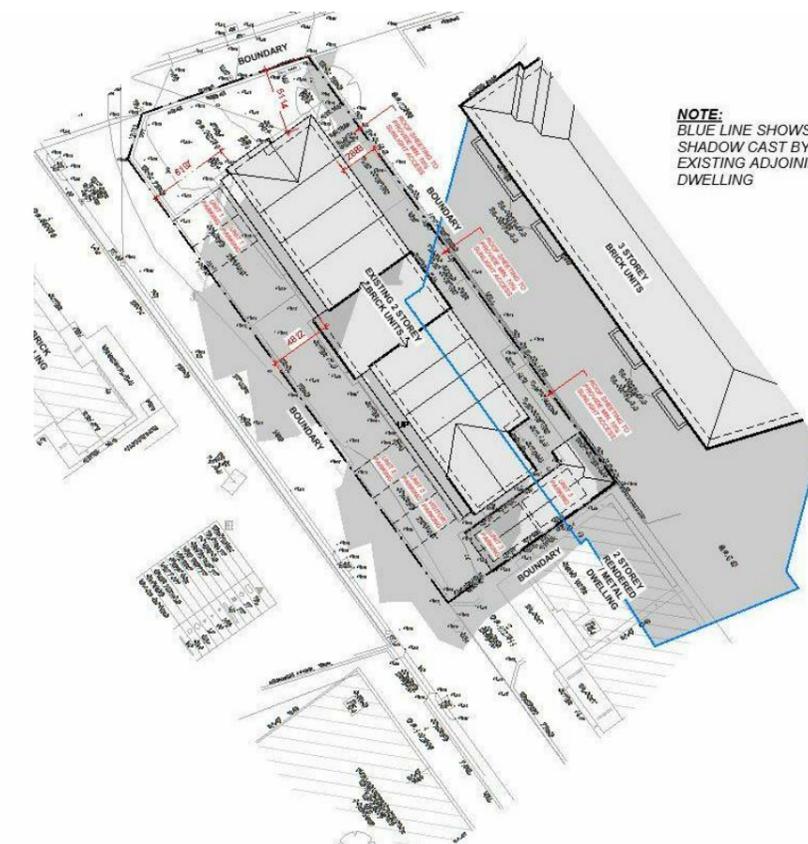
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1 : 100
PAGE NO.:
SH-07



NOTE:
BLUE LINE SHOWS
SHADOW CAST BY
EXISTING ADJOINING
DWELLING



NOTE:
BLUE LINE SHOWS
SHADOW CAST BY
EXISTING ADJOINING
DWELLING



NOTE:
BLUE LINE SHOWS
SHADOW CAST BY
EXISTING ADJOINING
DWELLING

9am 21 June

10am 21 June

11am 21 June

AMENDMENTS:			
No:	DATE:	COMMENTS:	DWN:

GENERAL NOTES:
 - Dimensions in preference to scale
 - All ground lines are approximate
 - Window & Door sizes as shown - Nominal
 - All work to be carried out in accordance with Local Council Codes, the B.C.A., Australian Standards and any relevant authorities
 - Wind Rating refer to framing manufacturer's specification

DRAWING: Shadows 1
PROJECT: FIRE SAFETY UPGRADES TO EXISTING BUILDING AND 3 LOT STRATA TITLE SUBDIVISION
SUBJECT: DEVELOPMENT APPLICATION

CLIENT: PRAGATI GOSWAMI
SITE: LOT A DP 392369
 195 LAWRENCE HARGRAVE DRIVE
 THIRROUL, NSW, 2515

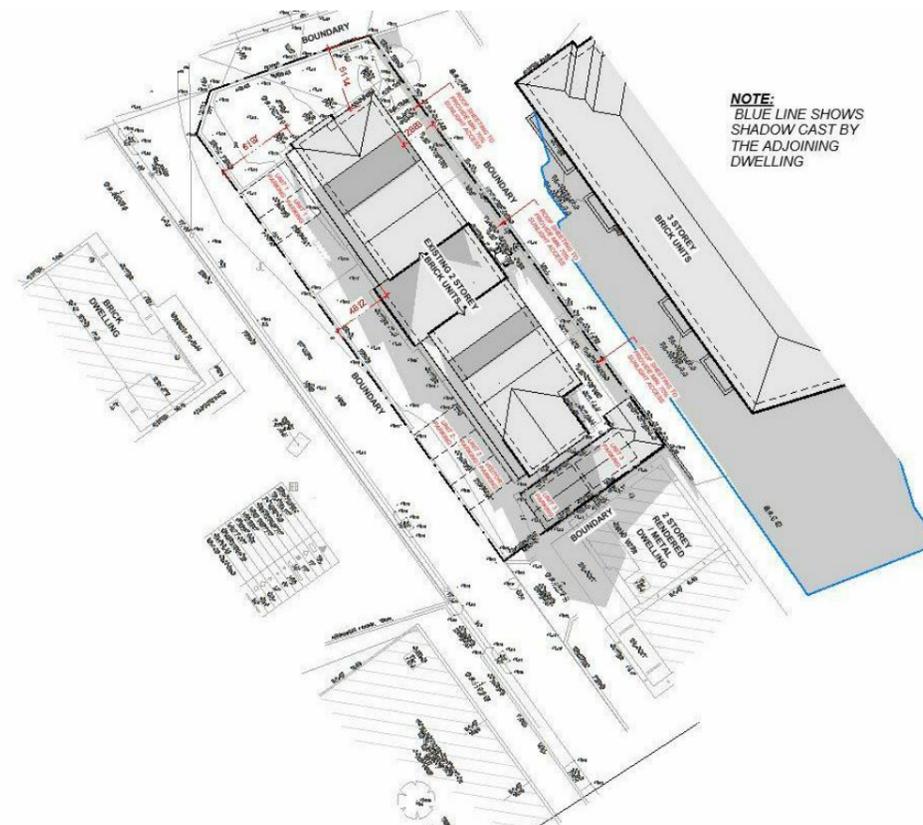
JOB NO.: 00302018
DATE: 15.05.20
DRAWN: J.H

JIH BUILDING DESIGNS
 ABN: 37 164 783 108 PH: 42 954433 SUITE 14/2 MEMORIAL DRIVE, SHELLHARBOUR CITY CENTRE PO Box 178 Warilla 2528 © 2014 JIH BUILDING DESIGN PTY LTD

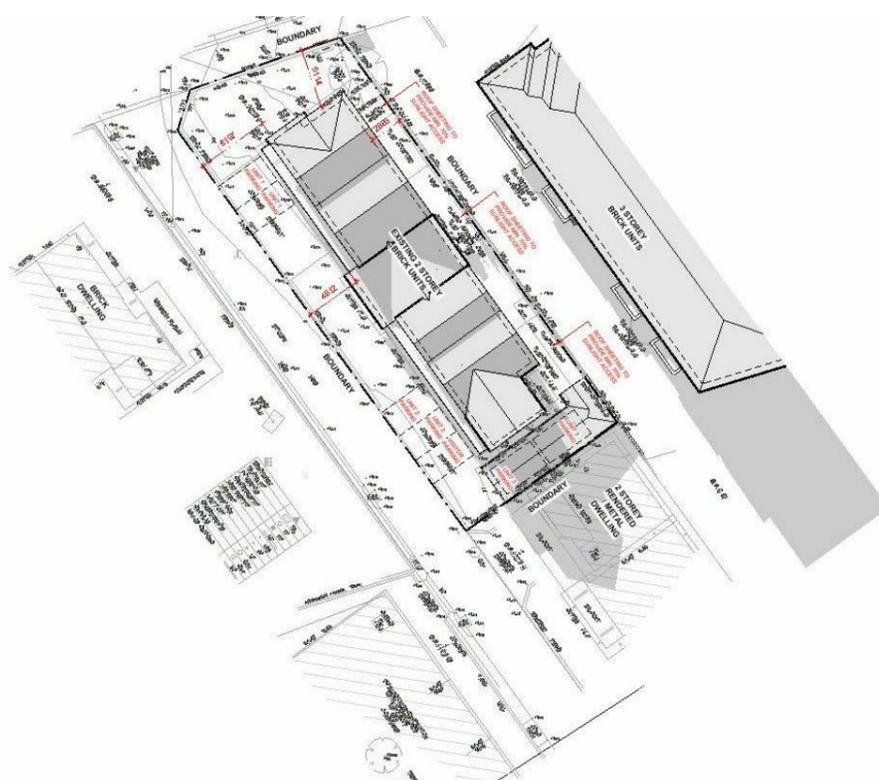
SCALE:
PAGE NO: SH-10



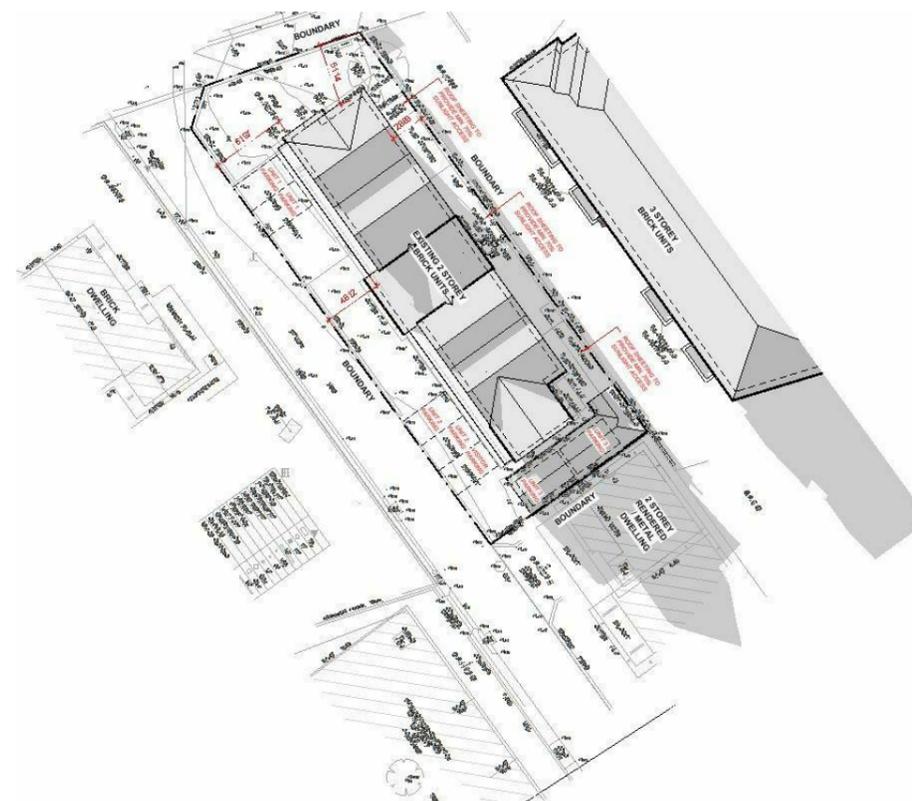
12pm 21 June



1pm 21 June



2pm 21 June



3pm 21 June

AMENDMENTS:			
No:	DATE:	COMMENTS:	DWN:

GENERAL NOTES:
 - Dimensions in preference to scale
 - All ground lines are approximate
 - Window & Door sizes as shown - Nominal
 - All work to be carried out in accordance with Local Council Codes, the B.C.A., Australian Standards and any relevant authorities
 - Wind Rating refer to framing manufacturer's specification

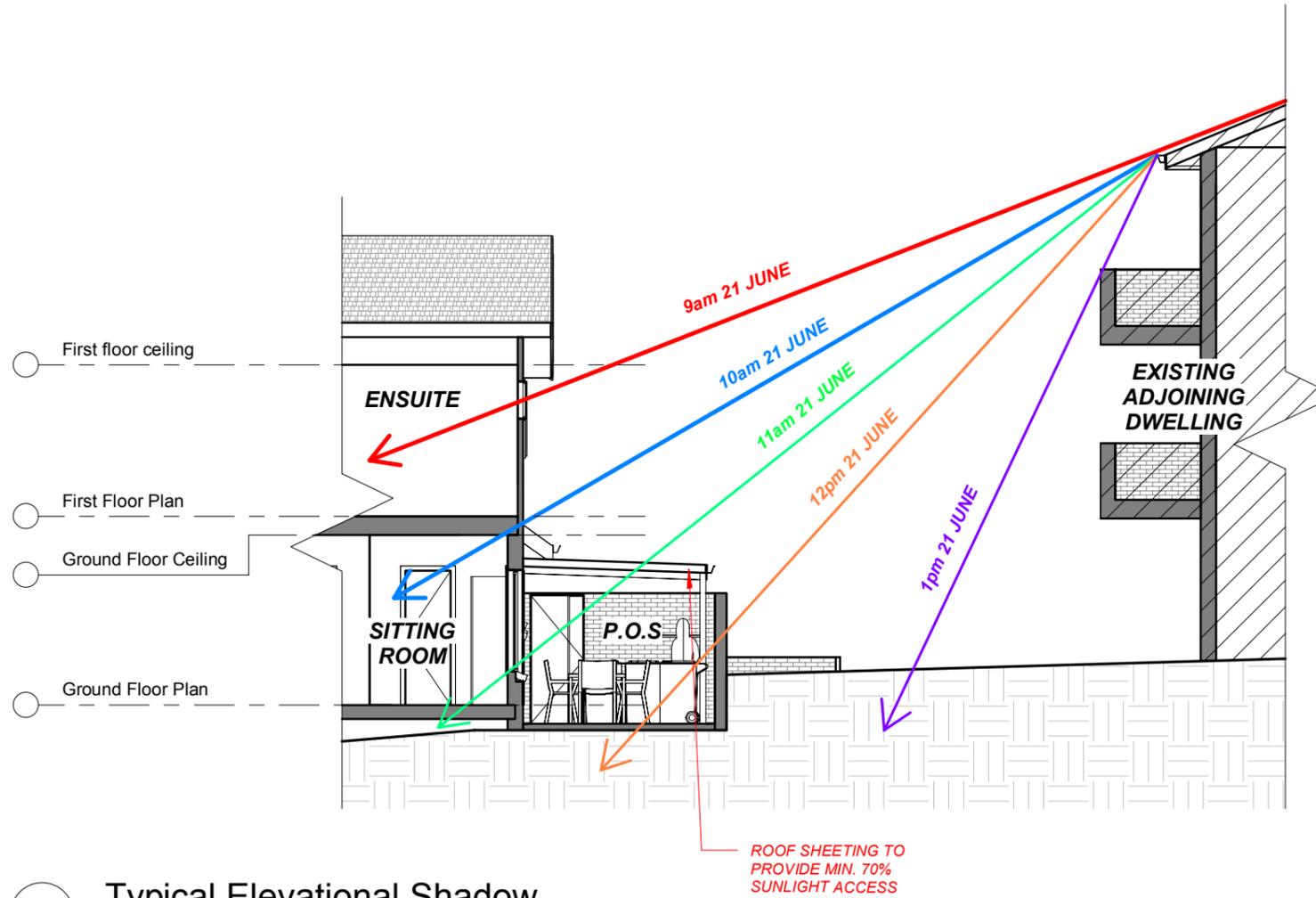
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PROJECT: FIRE SAFETY UPGRADES TO EXISTING BUILDING AND 3 LOT STRATA TITLE SUBDIVISION
SUBJECT: DEVELOPMENT APPLICATION

CLIENT: PRAGATI GOSWAMI
SITE: LOT A DP 392369
 195 LAWRENCE HARGRAVE DRIVE
 THIRROUL, NSW, 2515

JOB NO.: 00302018
DATE: 15.05.20
DRAWN: J.H

J|H BUILDING DESIGNS
 ABN: 37 164 783 108 PH: 42 954433 SUITE 14/2 MEMORIAL DRIVE, SHELLHARBOUR CITY CENTRE PO Box 178 Warilla 2528 © 2014 J|H BUILDING DESIGN PTY LTD

SCALE:
PAGE NO: SH-11



1 Typical Elevational Shadow
1 : 100

AMENDMENTS:			
No:	DATE:	COMMENTS:	DWN:

GENERAL NOTES:
 - Dimensions in preference to scale
 - All ground lines are approximate
 - Window & Door sizes as shown - Nominal
 - All work to be carried out in accordance with Local Council Codes, the B.C.A., Australian Standards and any relevant authorities
 - Wind Rating refer to framing manufacturer's specification

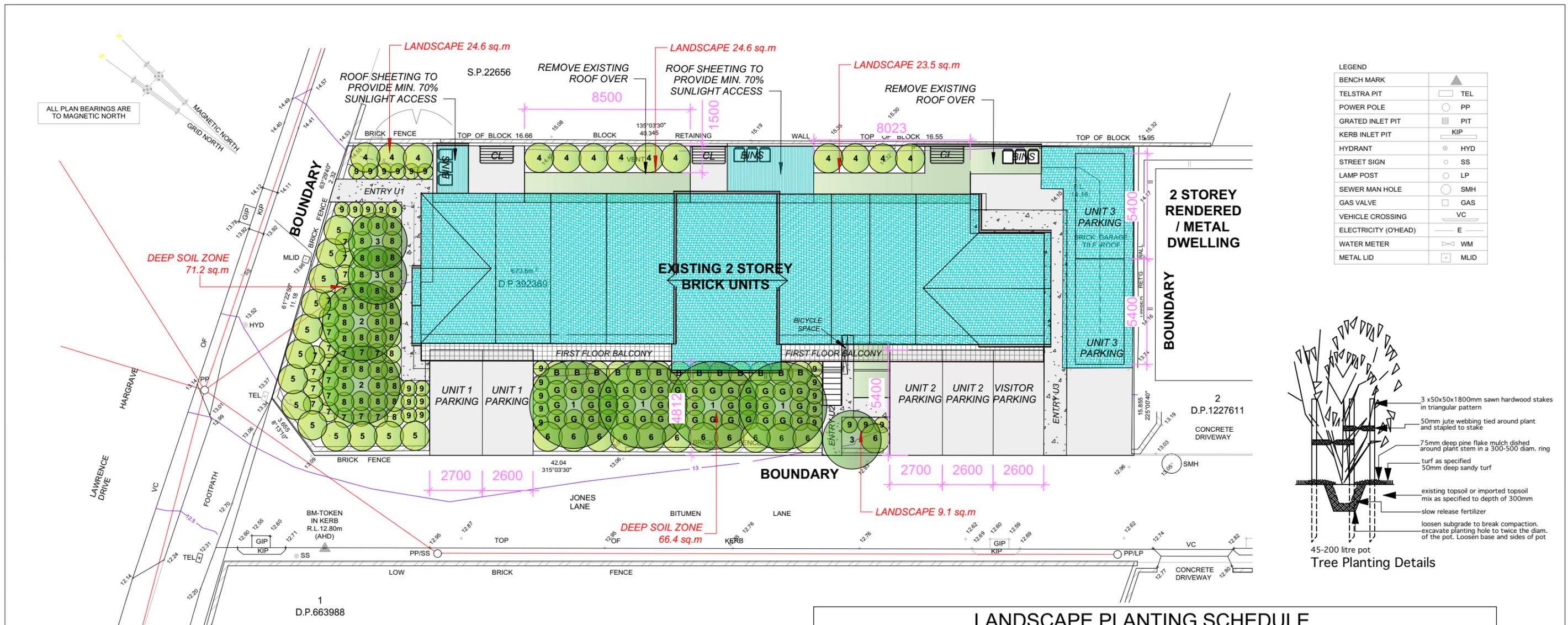
DRAWING: Elevational Shadows
PROJECT: FIRE SAFETY UPGRADES TO EXISTING BUILDING AND 3 LOT STRATA TITLE SUBDIVISION
SUBJECT: DEVELOPMENT APPLICATION

CLIENT: PRAGATI GOSWAMI
SITE: LOT A DP 392369
 195 LAWRENCE HARGRAVE DRIVE
 THIRROUL, NSW, 2515

JOB NO.: 00302018
DATE: 15.05.20
DRAWN: J.H

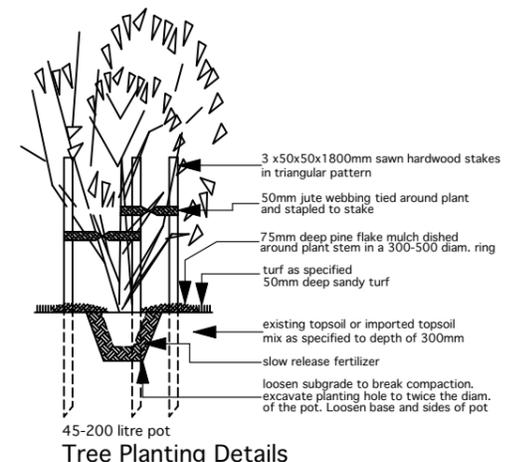
J|H BUILDING DESIGNS
 ABN: 37 164 783 108 PH: 42 954433 SUITE 14/2 MEMORIAL DRIVE, SHELLHARBOUR CITY CENTRE PO Box 178 Warilla 2528 © 2014 J|H BUILDING DESIGN PTY LTD

SCALE: 1 : 100
PAGE NO: SH-12



LEGEND

BENCH MARK	▲
TELSTRA PIT	□ TEL
POWER POLE	○ PP
GRATED INLET PIT	■ PIT
KERB INLET PIT	□ KIP
HYDRANT	⊗ HYD
STREET SIGN	○ SS
LAMP POST	○ LP
SEWER MAN HOLE	○ SMH
GAS VALVE	□ GAS
VEHICLE CROSSING	VC
ELECTRICITY (O'HEAD)	E
WATER METER	◁ WM
METAL LID	◻ MLID



PLANTING DETAILS

- 1- PLANT MATERIAL. Shall be pest and disease free and of correct shape and form. Plants should be well advanced in the growing container but not potbound.
- 2- STAKING Shall be hardwood timber stakes measuring 50x50x1800mm, three stakes per tree. Jute webbing or similar should be used to fix tree species to the stakes.
- 3- MULCHING. Is to be placed in all areas of planting to a depth of 75mm. Mulch should be of 25mm river stones, decorative gravel or similar. A consistent depth of mulch is to be maintained for a period of 12 months following initial landscape installation.

MAINTENANCE PROGRAMME

- 4- WATERING. Planted areas shall be watered regularly to ensure continuous and healthy growth. Water shall be frequently applied in the initial period following planting to the extent that healthy plant growth continues and establishment is rapid. Water shall be made available to all new plantings on as need basis, this is a climate dependant variable.
- 5- TURF. If required should be quality kikuyu, buffalo or varietal couch grass that is weed, pest and disease free. Turf shall be maintained at regular intervals with fortnightly cutting in the growing season and monthly cutting in the cool season months for the maintenance period. Cutting height shall ensure that turf is not scalped or damaged by mowing.
- 6- MAINTENANCE PERIOD. Shall be for a period of 12 months commencing from completion of initial landscape works.

LANDSCAPE PLANTING SCHEDULE

BOTANIC NAME	COMMON NAME	(H) x (W)	SIZE	QTY	STAKING
1 Tristaniopsis laurina 'Luscious'	Luscious Water Gum	8 m x 5 m	45 litre	4	YES
2 Waterhousia floribunda 'Green Avenue'	Weeping Lilli Pilli	8 m x 5 m	45 litre	2	YES
3 Livistona australis	Cabbage Palm	12 m x 4 m	45 litre	3	YES
4 Callistemon viminalis 'Macarthur'	Macarthur Bottlebrush	2.5 m x 1.8 m	200 mm	13	NO
5 Syzygium smithii 'Firescreen'	Firescreen Lilli Pilli	3 m x 1.5 m	200 mm	13	NO
6 Doryanthes excelsa	Gynea Lilly	1.5 m x 1.5 m	200 mm	12	NO
7 Callistemon 'White Anzac'	White Anzac Bottlebrush	0.8 m x 1 m	200 mm	22	NO
8 Grevillea 'FlatAz'	Grevillea hybrid 'GR01'	0.3 m x 1.5 m	200 mm	37	NO
9 Dianella caerulea 'Breeze'	Breeze Dianella	0.8 m x 0.8 m	200 mm	31	NO
B Buxus microphylla var. Japonica	Japanese Box	1.5 m x 1.2 m	200 mm	13	NO
G Gardenia augusta 'Florida'	Gardenia	1 m x 1 m	200 mm	41	NO

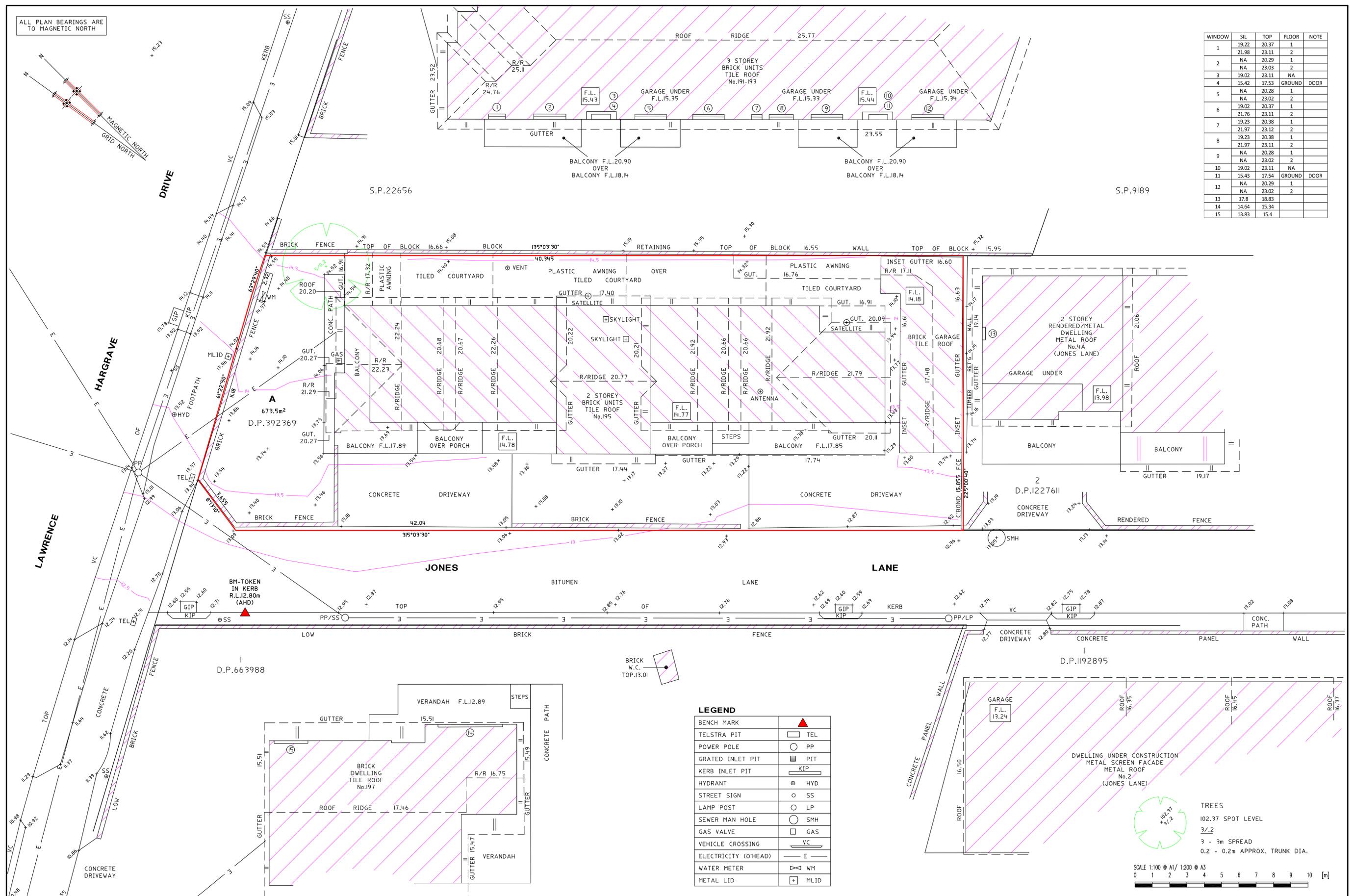
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 B.Env.Sc. (Hons.) Dip.Hort. (Landscape Design)
 Cert. 5 Hort. (Arboriculture), MPLA
 PO Box 739, Wollongong NSW 2520
 Phone: (02) 42273650 / 0421642763
 Email: markspence@optusnet.com.au
 ABN: 54 132 590 517

NO.	DATE	REVISION DETAILS	BY	PROJECT	CLIENT	PROJECT #	MS2020011
A	11/05/20	REVISED LAYOUT	MS	LANDSCAPE DESIGN	JIH BUILDING DESIGN	DWG DATE	11 / 05 / 2020
				ADDRESS		SCALE @ A1	1 : 200
				195 LAWRENCE HARGRAVE DRIVE, THIRROUL		DRAWN BY	MARK SPENCE
						FILE NAME	00302018 PRAGATI
						PAGE #	PAGE 1 OF 1

ALL PLAN BEARINGS ARE TO MAGNETIC NORTH



WINDOW	SIL	TOP	FLOOR	NOTE
1	19.22	20.37	1	
	21.98	23.11	2	
2	NA	20.29	1	
	NA	23.03	2	
3	19.02	23.11	NA	
4	15.42	17.53	GROUND	DOOR
5	NA	20.28	1	
	NA	23.02	2	
6	19.02	20.37	1	
	21.76	23.11	2	
7	19.23	20.38	1	
	21.97	23.12	2	
8	19.23	20.38	1	
	21.97	23.11	2	
9	NA	20.28	1	
	NA	23.02	2	
10	19.02	23.11	NA	
11	15.43	17.54	GROUND	DOOR
12	NA	20.29	1	
	NA	23.02	2	
13	17.8	18.83		
14	14.64	15.34		
15	13.83	15.4		

LEGEND

BENCH MARK	▲
TELSTRA PIT	TEL
POWER POLE	PP
GRATED INLET PIT	PIT
KERB INLET PIT	KIP
HYDRANT	HYD
STREET SIGN	SS
LAMP POST	LP
SEWER MAN HOLE	SMH
GAS VALVE	GAS
VEHICLE CROSSING	VC
ELECTRICITY (O'HEAD)	E
WATER METER	WM
METAL LID	MLID



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- NOTES**
- NO INVESTIGATION OF UNDERGROUND SERVICES OR BUILDING FOOTINGS HAS BEEN UNDERTAKEN IN PREPARATION OF THIS SURVEY.
 - ORIGIN OF LEVELS SSM19156 R.L.4.153m (AHD) BY SCIMS, DATED 5TH JULY 2019.
 - ALL BUILDING AND FENCING INFORMATION IS APPROXIMATE ONLY.
 - TREE SIZES ARE ESTIMATES ONLY.
 - DATE OF SURVEY 10TH JULY 2019.

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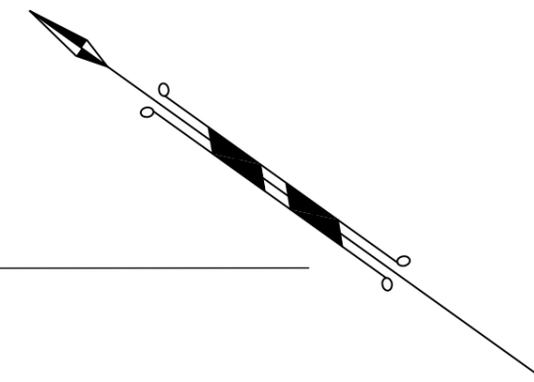
 UNDERGROUND SERVICES SEARCH SHOULD BE UNDERTAKEN PRIOR TO ANY EXCAVATION TAKING PLACE UPON THE SITE

TITLE:
SITE ANALYSIS SURVEY OVER LOT A IN D.P.392369 No. 195 LAWRENCE HARGRAVE DRIVE THIRROUL

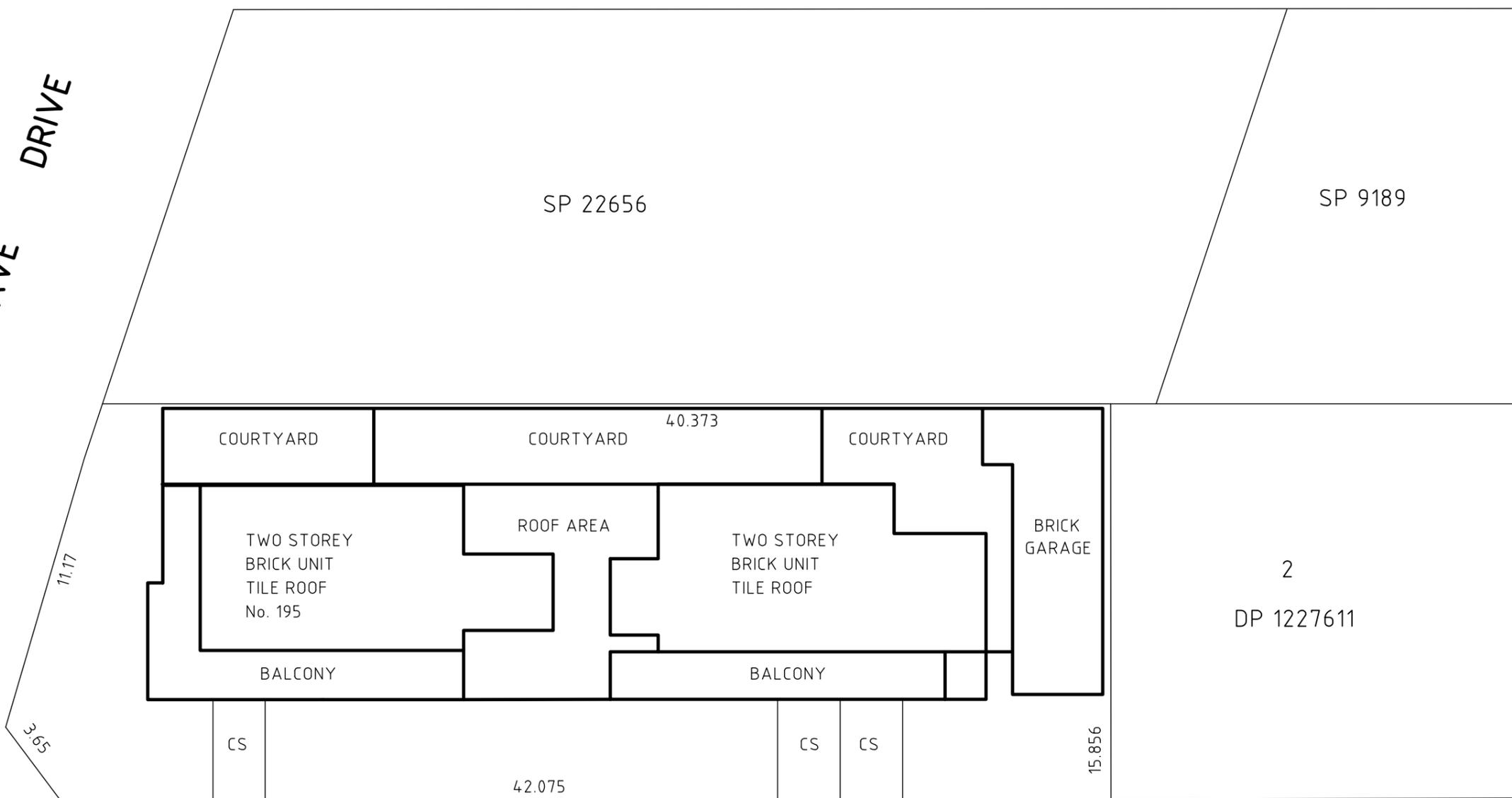
JRK SURVEYS
 SURVEYING.COM.AU
 LAND SURVEYORS info@surveying.com.au
 Wollongong (HQ) (02) 4284 9922 Engadine (02) 9548 1338
 Petersham (02) 9572 9044 Kingsford (02) 9663 1832

CLIENT: JIH BUILDING DESIGN	NOTES: 0.5m CONTOURS
LEVEL DATUM: A.H.D.	DRAWN BY: M.S./L.S.
SURVEY BY: M.S.	
DRAWING No. 19-168P1	SHEET 1 OF 1 SHEETS
SCALE 1:100@A1 1:200@A3	DATE: 15TH JULY 2019

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LAWRENCE HARGRAVE DRIVE



JONES STREET

LOCATION PLAN

CS DENOTES CAR SPACE

SURVEYOR

Name: CRAIG ROBSON
 Date: 13-3-2017
 Reference: 16410

PLAN OF SUBDIVISION OF LOT A DP 392369

L.G.A.: WOLLONGONG
 Locality: THIRROUL
 Reduction Ratio 1:200
 Lengths are in metres.

REGISTERED

SP DRAFT COPY

ALL AREAS ARE APPROXIMATE AND ARE MEASURED FOR STRATA PURPOSES ONLY.

THE DEPTH OF THE COURTYARDS EXTENDS TO 3 BELOW THE UPPER SURFACE OF THEIR RESPECTIVE UNITS ADJOINING GROUND FLOOR SLAB LEVEL.

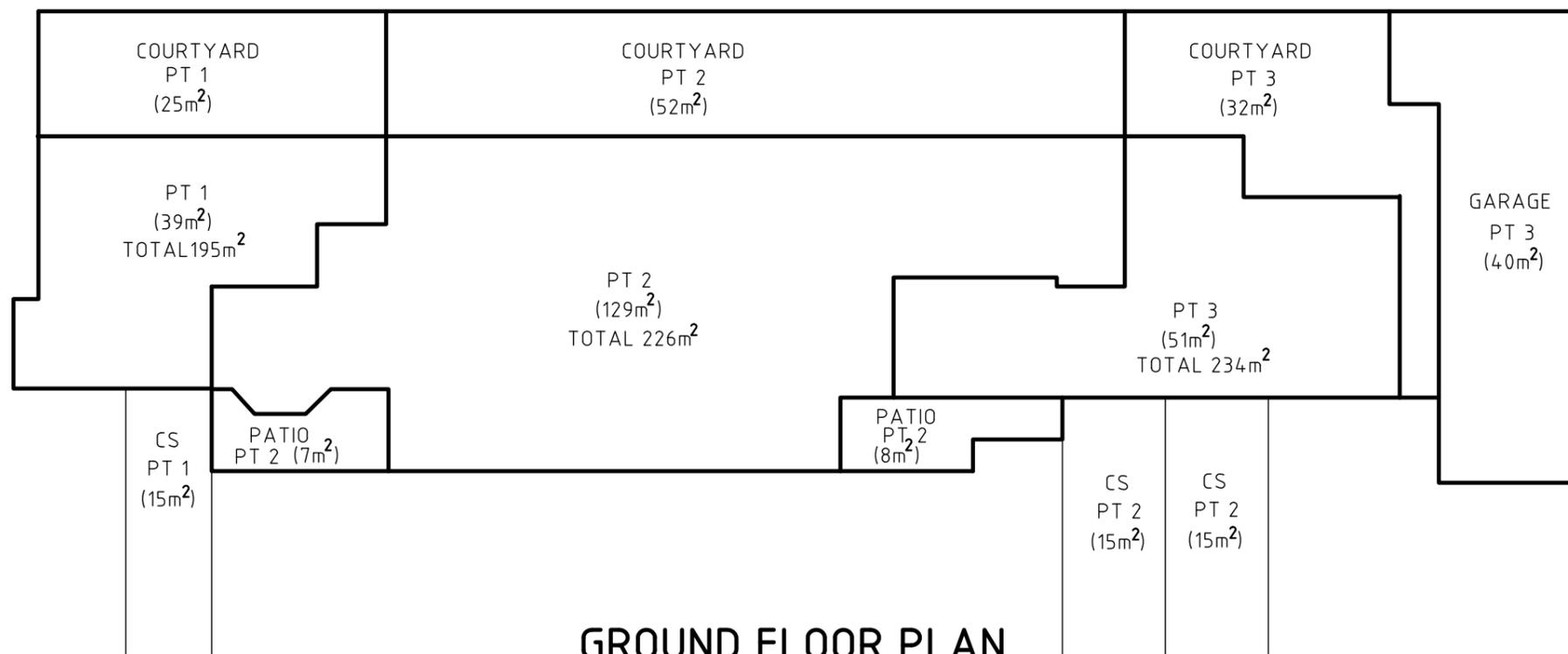
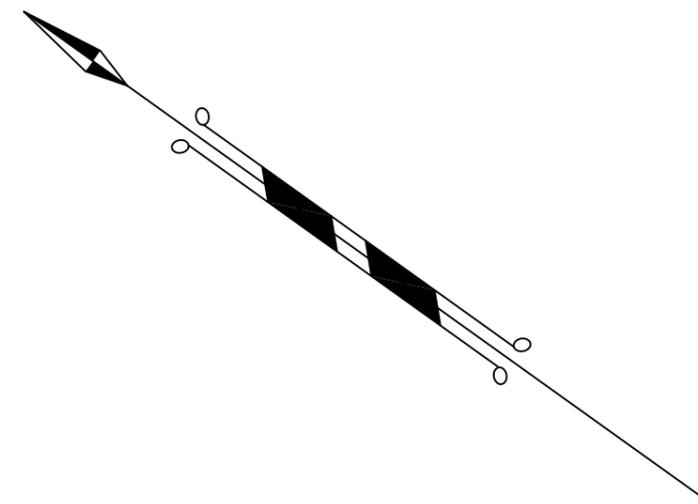
THE HEIGHT OF THE COURTYARD EXTENDS TO 10 ABOVE THE UPPER SURFACE OF THEIR RESPECTIVE UNITS ADJOINING GROUND FLOOR SLAB LEVEL EXCEPT WHERE COVERED.

ALL STRUCTURES WITHIN THE COURTYARDS AND PATIOS NOT SHOWN OR REFERRED TO IN THE PLAN FORM PART OF THEIR RESPECTIVE LOT WITH THE EXCEPTION OF COMMON SERVICES.

ANY SERVICE LINE WITHIN ONE LOT SERVICING ANOTHER LOT IS COMMON PROPERTY.

ALL BRICK, TIMBER AND METAL FENCES FORMING COURTYARD BOUNDARIES ARE COMMON PROPERTY.

THE HEIGHT OF THE PATIOS IS LIMITED IN HEIGHT TO 3 ABOVE THE UPPER SURFACE OF THEIR RESPECTIVE HARDSTAND FLOOR LEVEL EXCEPT WHERE COVERED.



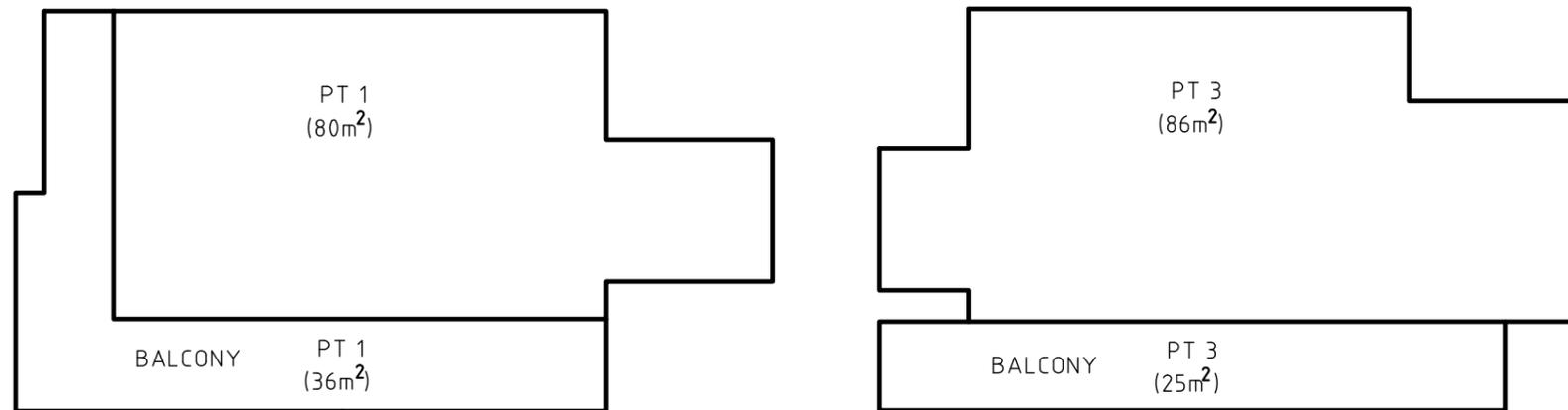
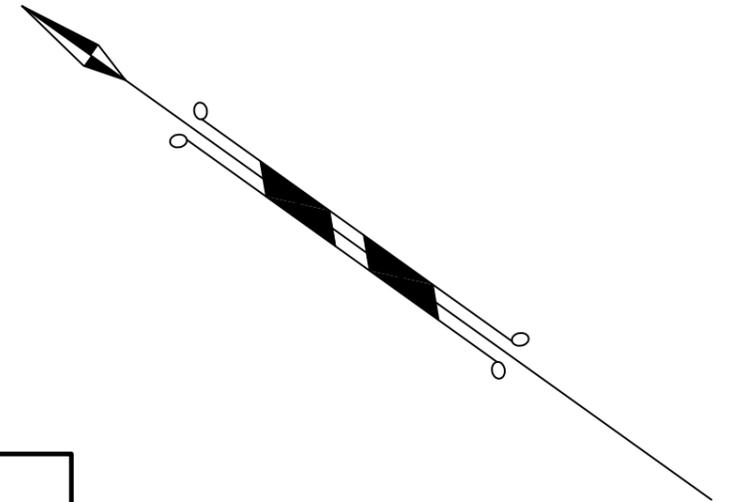
SURVEYOR
 Name: CRAIG ROBSON
 Date: 13-3-2017
 Reference: 16410

PLAN OF SUBDIVISION OF LOT A DP 392369

L.G.A.: WOLLONGONG
 Locality: THIRROUL
 Reduction Ratio 1:150
 Lengths are in metres.

REGISTERED

SP DRAFT COPY



ALL AREAS ARE APPROXIMATE AND ARE MEASURED FOR STRATA PURPOSES ONLY.

THE HEIGHT OF THE BALCONIES IS LIMITED IN HEIGHT TO 3 ABOVE THE UPPER SURFACE OF THEIR RESPECTIVE HARDSTAND FLOOR LEVEL EXCEPT WHERE COVERED.

FIRST FLOOR PLAN

<p>SURVEYOR Name: CRAIG ROBSON Date: 13-3-2017 Reference: 16410</p>	<p>PLAN OF SUBDIVISION OF LOT A DP 392369</p>	<p>L.G.A.: WOLLONGONG Locality: THIRROUL Reduction Ratio 1:150 Lengths are in metres.</p>	<p>REGISTERED</p>	<p>SP DRAFT COPY</p>
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Date: 18 February 2020

Description: Subject site as viewed from the corner of Lawrence Hargrave Drive and Jones Lane.



Date: 18 February 2020

Description: Photo showing the subject site to the right of photo and RFB on adjoining property to the North east 191 Lawrence Hargrave Drive as viewed from Lawrence Hargrave Drive.



Date: 18 February 2020

Description: Photo showing separation distance between the subject site to the right of photo and RFB on adjoining property to the North east 191 Lawrence Hargrave Drive



Date: 18 February 2020

Description: Property to the South west of the subject site. Jones Lane and subject site to the left of photo.



Date: 18 February 2020

Description: Subject site as viewed from Lawrence Hargrave Drive.



Date: 18 February 2020

Description: Adjoining property to the rear of the subject site. Photo taken from Jones Lane facing North. Subject site is in rear-ground.



Date: 18 February 2020

Description: View from subject site towards Thirroul beach.



Date: 18 February 2020

Description: Dwelling to the South west, 197 Lawrence Hargrave Drive as viewed from the subject site.



Date: 13 May 2020

Description: Proposed Unit 3 and existing carparking spaces as viewed from Jones Lane.



Date: 13 May 2020

Description: Proposed Unit 2 as viewed from Jones Lane



Date: 13 May 2020

Description: Proposed Unit 1 and existing carparking spaces as viewed from Jones Lane.



Date: 13 May 2020

Description: Subject site as viewed from Jones Lane facing East.



Date: 18 February 2020

Description: View from POS of Unit 1 towards RFB on adjoining property to the North east, 191 Lawrence Hargrave Drive



Date: 18 February 2020

Description: View from POS of Unit 1 towards RFB on adjoining property to the North east, 191 Lawrence Hargrave Drive.



Date: 18 February 2020

Description: View from POS of Unit 3 towards RFB on adjoining property to the North east, 191 Lawrence Hargrave Drive.



Date: 18 February 2020

Description: View from POS of Unit 3 towards RFB on adjoining property to the North east, 191 Lawrence Hargrave Drive.



Date: 18 February 2020

Description: View along the eastern elevation of the existing building.



Date: 18 February 2020

Description: Proposed area for POS of Unit 2.



Date: 18 February 2020

Description: Proposed area of POS for Unit 3.



Date: 18 February 2020

Description: Subject site as viewed from Jones Lane facing approximately North.



Date: 18 February 2020

Description: Existing detached garage and proposed Unit 3.



Date: 18 February 2020

Description: The subject site as viewed from the driveway of the adjoining property to the North east 191 Lawrence Hargrave Drive. Photo taken facing South east from near front boundary.



Date: 18 February 2020

Description: The subject site as viewed from the driveway of the adjoining property to the North east 191 Lawrence Hargrave Drive. Photo taken facing South east from near front boundary.



Date: 18 February 2020

Description: View from driveway of adjoining property to the North east, 191 Lawrence Hargrave Drive towards the POS of Unit 2.



Date: 18 February 2020

Description: Unit 3 as viewed from the driveway of the RFB on adjoining property to the North east, 191 Lawrence Hargrave Drive.



1.0 INTRODUCTION

Clause 4.6 of WLEP 2009 sets out the procedure to be followed by applicants for consent, Council, and the Director-General of Planning in requesting, assessing and determining an application for development that involves a contravention of a development standard.

The objectives of clause 4.6 are stated as:-

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

This submission has been prepared in accordance with the provisions of clause 4.6 and is submitted for Council's consideration and assessment and the Director-General's concurrence (where required).

1.1 Subject Site

The subject site is an irregular-shaped allotment of land located on the corner of Lawrence Hargrave Drive and Jones Lane at Thirroul. The subject site is known as Lot A in Deposited Plan No.392369 No.195 Lawrence Hargrave Drive, Thirroul and has an area of 673.5m².

The site is currently vacant and is zoned R2 Low Density Residential under the provisions of Wollongong Local Environmental Plan 2009 (WLEP 2009).

1.2 Development Proposal

The ground floor level of the building located on the subject site has previously been used as four (4) separate flats (at that time the building was a single storey structure). However, alterations and additions undertaken in 1997 converted the building into a single, two-storey dwelling house.

At some stage between the completion of the 1997 building works and the current owner's purchase of the property in 2016, the building had been divided into three (3) separate dwellings without prior consent. The current development application seeks Council's consent to legitimise the existing division of the building into three (3) separate dwellings and proposes works necessary to bring the building into compliance with the Building Code of Australia.

2.0 DEVELOPMENT STANDARD TO BE VARIED

Clause 7.14 of WLEP 2009 relates to minimum site widths. Specifically, sub-clause 7.14(1) provides that “*development consent must not be granted for development for the purposes of multi dwelling housing unless the site area on which the development is to be carried out has a dimension of at least 18 metres*”.

The subject site has a width of 15.854m.

The provisions of clause 7.14 are not expressly excluded from the operation of clause 4.6, and accordingly Council is able to exercise flexibility in the application of the minimum site width development standard in accordance with that clause.

(The lot width provisions of clause 7.14 of WLEP 2009 are repeated in clause 5.1 of Chapter B1 of Wollongong Development Control Plan 2009, and therefore this variation justification is also to be taken as a formal request to vary those provisions of the development control plan).

3.0 JUSTIFICATION IN SUPPORT OF THE CONTRAVENTION

Clause 4.6(3) of WLEP 2009 requires that an application involving a contravention of a development standard must be accompanied by a written request from the applicant that seeks to justify the contravention by demonstrating that compliance with the development standard is unreasonable or unnecessary under the circumstances of the case, and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

3.1 The Development Standard is Unreasonable or Unnecessary

Typically, the method by which compliance with a development standard is established as unreasonable or unnecessary is by proving that the underlying objectives of the development standard are achieved. Preston J in *Wehbe v Pittwater Council (2007) NSWLEC 827* identified to four (4) further means by which it is possible to establish that compliance is unreasonable or unnecessary as follows:-

- (a) establish that the “*underlying objective or purpose is not relevant to the development*” and consequently compliance is unnecessary;
- (b) establish that the “*underlying objective or purpose would be defeated or thwarted if compliance was required*”, and therefore compliance is unreasonable;
- (c) establish that the “*development standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard*”, therefore compliance is both unreasonable and unnecessary; or
- (d) establish that “*the zoning of particular land’ was ‘unreasonable or inappropriate’ so that ‘a development standard appropriate for that zoning was also unreasonable or*

unnecessary as it applied to that land”, and therefore compliance with the standard is unreasonable and unnecessary.

In this instance, it is proposed to rely on the usual approach of establishing that the underlying objectives of the development standard are achieved in order to establish that strict compliance with the 18m minimum lot width development standard is unreasonable and unnecessary under the circumstances of the case.

Strict compliance with the minimum site width development standard is considered to be unreasonable and unnecessary in this instance for the following reasons:-

- The development proposal does not seek to make any additions to the existing building or to alter its built form in any way. Accordingly, all existing side and rear boundary setbacks will be maintained. Therefore, there is no need to achieve a specific minimum allotment width in order to ensure the appropriate siting of the building.
- Achieving a minimum 18m lot width can only be achieved through a consolidation or boundary adjustment with a neighbouring property. The subject site is bounded to one side by Jones Lane and to the other by an established three-storey, Strata-tiled residential flat building (No.191 Lawrence Hargrave Drive). Therefore, there is no viable option open for consolidation or a boundary adjustment.

3.2 There are Sufficient Environmental Planning Grounds

Despite not achieving a minimum site width of 18m, the development will not result in any adverse environmental or amenity impacts, in particular:-

- The external physical appearance of the existing building will be unchanged as a result of the development proposal. Accordingly, there will be no adverse visual amenity impacts arising and no issues arising as a result of the spatial separation between the building and the neighbouring residential flat building to the north-east.
- No adverse privacy impacts are anticipated for the neighbouring residential flat building. The north-eastern elevation of the first floor level of the existing building contains only bedroom and bathroom windows – with the exception of one small kitchen window, within Unit 1, located towards the Lawrence Hargrave Drive frontage of the site. First floor balconies are located at the Lawrence Hargrave Drive and Jones Lane frontages and do not pose any privacy threat.
- As the existing building is located on the north-eastern side of Jones Lane, there is no risk of shadows from the building being cast onto the neighbouring property at No.191 Lawrence Hargrave Drive, therefore the balconies of the neighbouring development and any adjacent internal living areas will not be impacted by the proposal despite the reduced allotment width.
- The site has no environmental constraints which would otherwise limit its development potential.

- The potential environmental and amenity impacts of the proposed development are no greater than those currently existing, and therefore there is no benefit to be derived from achieving a minimum 18m width.

For the above reasons, despite the site having a width of less than 18m, it is considered that there are sufficient environmental planning grounds to justify variation of the development standard.

4.0 PUBLIC INTEREST

In considering a development proposal that contravenes a development standard Council must be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the development standard and those of the relevant zone.

4.1 Objectives of the Development Standard

There are no objectives for clause 7.14 stated in WLEP 2009. However, clause 5.1 of Wollongong Development Control Plan 2009 (WDCP 2009) contains an identical minimum site width provision to that in sub-clause 7.14(1), and has the following objectives:-

- (a) *To allow for development of sites which are of sufficient size to accommodate the required building envelope, car parking and landscaping requirements.*
- (b) *To encourage amalgamation of allotments to provide for improved design outcomes.*

In the absence of specific objectives for clause 7.14 of WLEP 2009, it is appropriate to consider the development proposal in light of these objectives. The development proposal is considered to be consistent with these objectives as:-

- The building exists on the site and its physical form and position on the site will be unchanged as a result of the development proposal.
- The plans submitted with the development application indicate that:-
 - existing access and on-site car parking arrangements are adequate to accommodate parking for residents and their visitors; and
 - the existing available landscaped area provided on the site exceeds the minimum area required by Council's planning controls.
- Whilst it is submitted that the development can stand alone without the need for consolidation, it is noted that the only potential site to consolidate the site with is the adjoining property to the north-east (No.191 Lawrence Hargrave Drive) which currently contains a three-storey, Strata-titled residential flat building and has its access driveway located adjacent to the common boundary line. Having regard to the existing development on the neighbouring property and the multiple owners of that property, consolidation is highly unlikely.

Having regard to the above, it is considered that the proposal will achieve the objectives underpinning the minimum lot width development standard.

4.2 Objectives of the Zone

The subject site is zoned R2 Low Density Residential under the provisions of WLEP 2009. The objectives of the R2 zone are stated as:-

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed division of the existing building into three (3) separate dwellings satisfies the objective of providing for the housing needs of the community within a low density residential environment. The form of development proposed is permitted in the zone (as "multi dwelling housing" and the site location is considered appropriate for the proposed development having regard to its location on a major bus route, its proximity to the Thirroul town centre, and its desirable beachside location.

The second objective is not specifically relevant to the development proposal.

5.0 OTHER MATTERS

In determining whether or not to grant concurrence to a development proposal that involves the contravention of a development standard, the Director-General of Planning must consider whether the contravention of the development standard raises any matters of State or regional planning significance; and, the public benefit of maintaining the development standard.

5.1 State and Regional Planning Matters

The contravention of the minimum site width development standard does not raise any matters of State or Regional environmental planning significance. As explained in the Statement of Environmental Effects, the proposed development is consistent with all relevant State Environmental Planning Policies, particularly State Environmental Planning Policy (*Coastal Management*) 2018. The proposal is also not inconsistent with the *Illawarra Shoalhaven Regional Plan* (2015).

5.2 Public Benefit

It is considered that, having regard to the circumstances of this particular case, there is no public benefit to be gained by insisting upon strict compliance with the 18m minimum lot width development standard.

As the building is already existing on the site and as its setbacks and curtilage have already been established, and as the proposed development will not alter the external

appearance of the building, there is little to be achieved by insisting on strict compliance with the development standard.

It has been demonstrated in the Statement of Environmental Effects and associated documents and plans, that the proposal will not create any adverse impacts on the amenity of neighbouring properties and will not result in an unacceptable visual or streetscape outcome. The facilities and amenities provided on-site within the development are adequate for the future residents.

6.0 CONCLUSION

This justification statement has been prepared in accordance with clause 4.6 of WLEP 2009 and demonstrates that, under the circumstance of this case, the strict compliance with the 18m minimum site width is unreasonable and unnecessary; is supportable on the basis of there being sufficient environmental planning grounds to justify the departure; will not compromise the objectives of the development standard or the R2 zone; does not raise any issues of State or regional significance; and, is not contrary to the public interest.

For the reasons outlined in this justification statement, the variation to the minimum site width development standard to allow the conversion of the existing building into three (3) separate dwellings is recommended for Council's support and approval.



Glenn Debnam BTP (UNSW) RPIA
Town Planner
Director

Attachment 4: WDCP 2009 compliance table

CHAPTER A1 – INTRODUCTION

8 Variations to development controls in the DCP

The applicant proposes variations to the minimum site width Clause 5.1.2(1), side and rear setback of the first floor to the North eastern side and rear boundaries Clause 5.4.2(1), car parking location Clause 5.7.2(1) and private open space width Clause 5.11.2(2a) in Chapter B1 of WDCP2009. See considerations table below.

Control	Comment
1. The variation statement must address the following points:	
a) The control being varied; and	The variation request statement identifies the control being varied as Clause 5.1.2 Minimum Site Width of Chapter B1 Residential Development of WDCP 2009.
b) The extent of the proposed variation and the unique circumstances as to why the variation is requested; and	<p>The subject site is an irregular shaped allotment with a minimum site width of 15.854m.</p> <p>WDCP2009 Chapter B1 Clause 5.1.2(1) stipulates that a minimum 18 metre site width is required for multi-dwelling housing development. Site width is measured for the full width of the site, perpendicular to the side property boundaries.</p> <p>It is considered that the variation to the minimum site width can be supported in this circumstance for the following reasons:</p> <ul style="list-style-type: none"> • The proposal will have no impact on the existing external built form of the building or its footprint approved under BA-1996/1813. Therefore the buildings appearance to the streetscape, privacy and overshadowing will remain unchanged. • As the proposal does not seek to alter the building form no issues are expected to arise as a result of spatial separation between the building and neighbouring residential flat building to the North east; • Existing access and on-site parking arrangements are considered adequate such that the proposal satisfies onsite car parking controls. • The proposed landscaped area complies with Council's minimum landscaped area development controls. • The site is not considered to be constrained by environmental site constraints. Details of the application submission were referred to Council's Development Engineering Officer for comment. Advice received indicates that the development is conditionally satisfactory. • Although the numerical requirements have not

	<p>been strictly met in this circumstance it is considered that the objectives of the clause have been met ensuring minimal impact on the street scene and on the amenity of the adjoining dwellings.</p>
<p>c) Demonstrate how the objectives are met with the proposed variations; and</p>	<p>The overall objectives of the minimum site width clause for multi-dwelling housing are:</p> <p>(a) <i>To allow for development of sites which are of sufficient size to accommodate the required building envelope, car parking and landscaping requirements.</i></p> <p>(b) <i>To encourage amalgamation of allotments to provide for improved design outcomes.</i></p> <p>The applicant has indicated that they consider the development consistent with the above objectives.</p> <p><u>Council comment:</u></p> <p>The development is not considered to be inconsistent with the above objectives.</p>
<p>d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.</p>	<p><u>Council comment:</u></p> <p>Due to the development maintaining its existing footprint and external appearance to the street and compliance with the required car parking, private open space, landscaping and other requirements, the development is not considered to result in adverse impacts as a result of the variation.</p>
<p>Comment:</p> <p>The requested variation is considered capable of support.</p>	

Control	Comment
<p>1. The variation statement must address the following points:</p>	
<p>a) The control being varied; and</p>	<p>The variation request statement identifies the control being varied as Clause 5.4.2(1) Side and Rear Setbacks of Chapter B1 Residential Development of WDCP 2009.</p>
<p>b) The extent of the proposed variation and the unique circumstances as to why the variation is requested; and</p>	<p>The existing development provides for a minimum side setback of 2.955m from the first floor to the North eastern side boundary and 4.675m to the rear boundary of the subject site. WDCP2009 Chapter B1 Clause 5.4.2(1) stipulates that the minimum side and rear setbacks be 0.8 x ceiling height and 1.0 x ceiling height where balconies or windows of living areas face the rear boundary at first floor level. The required side setbacks would be between 4.944m and 5.6m and rear setback 7m.</p> <p>Clause 5.4.2(4) indicates that Council may consider a</p>

variation where the siting of the building satisfies the setback objectives, windows which are located on the side or rear boundary are primarily provided for natural light or ventilation purposes; the amenity of the adjoining property is not unreasonably affected; and the design will result in a significant improvement in amenity for residents who will occupy the proposed dwelling.

It is considered that the variation to the side and rear setback can be supported in this circumstance for the following reasons:

- The proposal will not alter the side and rear setbacks approved under BA-1996/1813 and does not alter the setbacks to the remaining boundaries.
- The subject dwellings are adjacent to the driveway of the adjoining upslope property to the North east 191 Lawrence Hargrave Drive. Therefore the proposed development will have minimal impact on the adjoining property to the North east in terms of privacy, views or solar access.
- Unit 3 is separated from the rear boundary of the subject site or side boundary of No.4A Jones Lane by the detached garage on the subject site and is not opposite an area of private open space on the adjoining property therefore the proposed development will have minimal impact on the adjoining property to the rear in terms of privacy, views or solar access.

It is considered that the iconic views from the first floor balcony of Unit 3 would be of Thirroul beach to the South and the escarpment to the South west which the balcony and windows have been oriented to take in therefore minimising overlooking on the adjoining property to the rear, 4A Jones Lane.

- It is considered that the proposed development will have minimal impact on development to the South west as shadows cast from the existing building will fall on Jones Lane which bounds the South western side boundary of the subject site and therefore overshadowing impacts on the property to the South west 197 Lawrence Hargrave Drive will be minimal.
- No changes are proposed to existing footprint of the building therefore the existing separation distances between the existing building on the subject site and the adjoining residential flat building to the North east incorporating the

	<p>access driveway and the dwelling to the rear incorporating the detached garage will remain unchanged.</p> <ul style="list-style-type: none"> • It is considered that the proposed development will have minimal impacts in terms of overlooking, privacy as windows to the first floor are predominantly to bedrooms and bathrooms which are not considered to be high usage rooms with the exception of a small kitchen window toward the front of Unit 1 which is considered acceptable as this is offset to the adjoining residential flat building to the North east. <p>It is noted that the living room for Unit 3 is located on the first floor of the South western elevation however this room is setback 8.475m from rear boundary and complies with rear boundary setback controls.</p> <ul style="list-style-type: none"> • It is considered that the development allows for casual surveillance in all directions. • It is considered that the reduced setback will have minimal impact on the future residents of the proposed development. • The proposed will have minimal to no impact on the existing external built form and character of the building and therefore will have minimal visual impact on the streetscape. • Although the numerical requirements have not been strictly met in this circumstance it is considered that the objectives of the clause have been met ensuring minimal impact on the street scene and on the amenity of the adjoining dwellings.
<p>c) Demonstrate how the objectives are met with the proposed variations; and</p>	<p>The overall objectives of the Side and Rear Setback Clause are to:</p> <ul style="list-style-type: none"> (a) <i>To provide adequate setbacks from boundaries and adjoining dwellings to retain privacy levels, views, sunlight and daylight access and to minimise overlooking.</i> (b) <i>To provide appropriate separation between buildings to achieve the desired urban form.</i> (c) <i>To optimise the use of land at the rear of the property and surveillance of the street at the front of the property.</i> (d) <i>To minimise overshadowing of adjacent properties and private or shared open space.</i> <p><u>Council comment:</u> The development is not considered to be inconsistent with the above objectives.</p>

<p>d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.</p>	<p><u>Council comment:</u> Due to the development maintaining existing side setbacks and building separation with minimal impact on adjoining development in terms of privacy and overshadowing the development is not considered to result in adverse impacts as a result of the variation.</p>
<p>Comment: The requested variation is considered capable of support.</p>	

Control	Comment
<p>1. The variation statement must address the following points:</p>	
<p>a) The control being varied; and</p>	<p>The variation request statement identifies the control being varied as Clause 5.7.2(1) Car Parking of Chapter B1 Residential Development of WDCP 2009.</p>
<p>b) The extent of the proposed variation and the unique circumstances as to why the variation is requested; and</p>	<p>The existing development provides for car parking spaces forward of the secondary building line on Jones Lane. WDCP2009 Chapter B1 Clause 5.7.2(1) indicates that on site car parking must be positioned to minimise impacts on the streetscape. Car parking must be located behind the building setback and be screened from view with well designed structures and vegetation. Car parking may also be located within a basement.</p> <p>It is considered that the variation to the car parking development control can be supported in this circumstance for the following reasons:</p> <ul style="list-style-type: none"> • The proposal utilises the existing car parking spaces approved for the residential flat building use of the site approved under BA-1964/923 and retained under BA-1996/1813. Therefore the proposed continues use of these parking spaces will have minimal impact on the streetscape. • These spaces are accessed from Jones Lane which is considered to experience low traffic volumes. • Details of the application submission were referred to Council's Development Engineering Officer for comment. Advice received indicates that there are no issues with the proposed on-site parking arrangement. • It is considered that the proposed deep soil zone planting within the front setback will minimise the impacts of the proposed car parking spaces when the site is viewed from Lawrence Hargrave

	<p>Drive.</p> <ul style="list-style-type: none"> Although the numerical requirements have not been strictly met in this circumstance it is considered that the objectives of the clause have been met ensuring minimal impact on the street scene and on the amenity of the adjoining dwellings.
c) Demonstrate how the objectives are met with the proposed variations; and	<p>The overall objectives of the Car Parking Clause are to:</p> <p>(a) <i>To provide an adequate level of on-site car parking based upon anticipated occupancy rates and proximity to public transport.</i></p> <p>(b) <i>To ensure that there is adequate provision for access to and manoeuvring within the development.</i></p> <p>(c) <i>To ensure that residential developments are designed to be accessible for pedestrians, cyclists and motorists.</i></p> <p>(d) <i>To ensure that integrated design of car parking facilities to minimise visual impacts.</i></p> <p>(e) <i>To ensure the provision of facilities such as bike racks, which encourage the use of alternative methods of transport.</i></p> <p><u>Council comment:</u> The development is not considered to be inconsistent with the above objectives.</p>
d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.	<p><u>Council comment:</u> Due to the historical approval of the parking spaces and minimal impact on the streetscape and amenity of the area the development is not considered to result in adverse impacts as a result of the variation.</p>
<p><u>Comment:</u> The requested variation is considered capable of support.</p>	

Control	Comment
1. The variation statement must address the following points:	
a) The control being varied; and	The variation request statement identifies the control being varied as Clause 5.11.2(2a) Private Open Space of Chapter B1 Residential Development of WDCP 2009.
b) The extent of the proposed variation and the unique circumstances as to why the variation is requested; and	The existing development provides for a private open space width of 2.89m for Unit 1 and 2.93m for Units 2 and 3. WDCP2009 Chapter B1 Clause 5.11.2(2a) indicates that Private open space must be provided at the ground level or podium level. The courtyard or

terrace must have a minimum dimension of 4 metres x 5 metres. This area must be separated from boundaries by at least 1.5 metres with a vegetated landscaping bed and must not encroach upon deep soil zone landscaping areas.

It is considered that the variation to the private open space development control can be supported in this circumstance for the following reasons:

- The area of private open space provided for each unit though not meeting the minimum width control does however meet or exceed the minimum area required by Clause 5.11.2 as follows:
 - Unit 1: 23.9m²;
 - Unit 2: 47.7m²; and
 - Unit 3: 20m².

It is noted that the existing width of the private open space would also not satisfy the minimum width for single dwellings.

- The courtyards are located on the North eastern side of the building providing better solar access and amenity to the residents.
- The private open space for Units 1 and 3 are augmented through the provision of first floor balconies on the Southern elevation that provide a suitable area for passive outdoor recreation.
- The court yards as proposed generally satisfy the requirements of the Apartment Design Guide which requires court yards to be 15m² in area with a minimum width of 3m.
- The solid masonry wall along the North eastern side boundary of the subject site is considered to provide physical separation between the courtyards and the adjoining property to the North east thus minimising visual and acoustical amenity impacts on the residents.
- Although the numerical requirements have not been strictly met in this circumstance it is considered that the objectives of the clause have been met ensuring minimal impact on the amenity of the residents and the adjoining dwellings.

c) Demonstrate how the objectives are met with the proposed variations; and

The overall objectives of the Private Open Space Clause are to:

(a) To ensure that private open spaces are of sufficient size to accommodate a range of uses and are accessible and connected to indoor spaces where appropriate

	<p>(b) To ensure functionality of private open space by reducing overlooking and overshadowing of such spaces</p> <p><u>Council comment:</u> The development is not considered to be inconsistent with the above objectives.</p>
d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.	<p><u>Council comment:</u> Due to the minimal impact on the amenity of the residents the development is not considered to result in adverse impacts as a result of the variation.</p>
<p>Comment: The requested variation is considered capable of support.</p>	

CHAPTER A2: ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Development controls to improve the sustainability of development throughout Wollongong are integrated into the relevant chapters of this DCP.

Generally speaking, the proposal could be considered to be consistent with the principles of Ecologically Sustainable Development.

CHAPTER B1 – RESIDENTIAL DEVELOPMENT

4.0 General Residential controls

Chapter B1 contains residential development controls for multi dwelling housing. Clause 5 applies to multi-dwelling housing and provides additional controls to those in Section 4 (excluding 4.1 to 4.11 and 4.19 to 4.22 that must also be taken into consideration.

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<p><u>4.11 Storage Facilities</u></p> <ul style="list-style-type: none"> 3 bedroom- 10m³ storage volume to 5m² storage area 	The proposed development will provide adequate storage facilities.	Yes
<p><u>4.12 Site Facilities</u></p> <ul style="list-style-type: none"> letterboxes in an accessible location air-con, satellite dishes and other ancillary structures to be located away from street frontage, not in a place where they are a skyline feature and adequately setback 	The necessary site facilities have been provided and are acceptable in this circumstance.	Yes
<p><u>4.13 Fire Brigade Servicing</u></p> <ul style="list-style-type: none"> All dwellings located within 60m of a fire hydrant 	The subject site can be adequately serviced by fire fighting vehicles in this circumstance.	Yes
<p><u>4.14 Services</u></p> <ul style="list-style-type: none"> Encourage early consideration of servicing requirements 	Water, electricity, sewage and telephone services are available to the site	Yes
<u>4.15 Development near the coastline</u>		

<ul style="list-style-type: none"> • Must minimise built intrusions into coastal landscape • Retain views to the ocean from roads and public spaces • Maintain buildings consistent with coastal character 	<p>The subject site is located within the Coastal Zone.</p> <p>The proposed development is for use of the existing building for multi-dwelling housing with minimal impact to the external built character and form of the building.</p> <p>It is considered that the proposed development will not create built intrusions into the coastal landscape, will have minimal to no impact on existing view corridors and have no impact on the existing coastal character of the area.</p>	N/A
<p><u>4.16 View sharing</u></p>	<p>The proposed development will have minimal impact on view corridors of existing development.</p> <p>It is noted that particular consideration was given to impacts on view corridors of the sea and beach from dwellings on the Western side of Lawrence Hargrave Drive from the proposed deep soil planting forward of the existing building.</p> <p>Condition 15 included at Attachment 6 accounts for the species of trees to be used in the deep soil planting forward of the building so as to minimise impacts on the South easterly outlook of dwellings on the Western side of Lawrence Hargrave Drive towards the sea.</p>	Yes
<p><u>4.17 Retaining walls</u></p>	Not Applicable	N/A
<p><u>4.18 Swimming pools and spas</u></p>	Not Applicable.	N/A

5 Attached dwellings and multi - dwelling housing

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<u>5.1 Minimum Site Width Requirement</u>		
18m for multi-dwelling	WDCP2009 Chapter B1 Clause 5.1.2(1) stipulates that a minimum 18 metre site width is required for multi-	No -refer to considerations at Chapter A1

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
	<p>dwelling housing development. Site width is measured for the full width of the site, perpendicular to the side property boundaries.</p> <p>The subject site is an irregular shaped allotment with a minimum site width of 15.854m.</p>	above
<p><u>5.2 Number of Storeys</u></p> <p>Maximum 2 Storeys for Zone R2 Low Density Residential</p>	<p>The existing building is two (2) storeys.</p> <p>The proposal does not alter the maximum height of the existing building approved under BA-1996/1813.</p> <p>The maximum building height of 8.65m does not exceed the maximum 9m permissible for the site.</p>	Yes
<p><u>5.3 Front Setbacks</u></p> <ul style="list-style-type: none"> • Infill 6m minimum • 3m secondary street setback 	<p>5.114m</p> <p>The proposal development will not alter the footprint of the existing building and therefore does not alter the existing front setback approved under BA-1964/923.</p> <p>Secondary Street Setback: 4.812m</p>	<p>Yes – Existing approved setback</p> <p>Yes</p>
<p><u>5.4 Side and Rear Setbacks</u></p> <ul style="list-style-type: none"> • 0.8 x ceiling height min • 1.0 x ceiling height where balconies or windows of living areas face the rear or side boundary at first floor level. <p><u>Required Side Setbacks</u></p> <p>Ground Floor: 2.528m (North east)</p> <p>First Floor: between 4.944m and 5.6m (North east)</p> <p><u>Required Rear Setbacks</u></p> <p>Ground Floor: 2.528m</p> <p>First Floor: between 6.m and 5.6m (North east)</p>	<p><u>Side Setbacks</u></p> <p>Ground Floor: 2.955m</p> <p>First Floor: 2.955m</p> <p><u>Rear Setback</u></p> <p>Ground Floor: 4.675m</p> <p>First Floor: 4.675m</p> <p>No changes are proposed to the existing garage with this application.</p>	<p>Yes</p> <p>No -refer to considerations at Chapter A1 above</p> <p>Yes</p> <p>No -refer to considerations at Chapter A1 above</p>

Controls/objectives	Comment	Compliance
<p><u>5.5 Building Character and Form</u></p> <ul style="list-style-type: none"> To design residential development to respond to the streetscape character. The Site and Context Analysis must inform the development proposal. To complement and enhance the visual character of the street and neighbourhood through appropriate building scale, form and detail. 	<p>Therefore the existing boundary setbacks of 0.075m to the side and rear boundaries for the detached garage will remain as approved under BA-1964/923.</p> <p>It is considered that the design, height and siting of the proposed dwellings respond to the site context.</p> <p>The proposal defines the street edge and allows for surveillance of the street, with all units addressing the street frontages.</p> <p>The proposal will have minimal impact on the built character and form of the existing building which does not present as inappropriate in scale or form when considered in relation to the zoning of the site and desired future character.</p>	<p>Yes</p>
<p><u>5.6 Access / Driveway Requirements</u></p>	<p>The proposed development satisfies the objectives of Council's Access/Driveway Requirements controls and policies.</p> <p>Council's Development Engineering Officer has no objections to the proposed access arrangements.</p>	<p>Yes</p>
<p><u>5.7 Car Parking Requirements</u></p> <ul style="list-style-type: none"> 1 car parking spaces per dwelling with a GFA of less than 70m² 1.5 parking spaces per dwelling with a GFA between 70m² and 110m². 2 car parking spaces per dwelling with a GFA of greater than 110m². Plus 0.2 car parking spaces per dwelling <p>Required Parking:</p> <p>Units 1 1.5 spaces per dwelling = 1.5 spaces</p> <p>Units 2 and 3 2 spaces per dwelling = 4 spaces</p> <p>0.2 x 3 dwellings = 0.6 Spaces</p> <p>Therefore a total of seven (7) spaces are</p>	<p>Proposed Parking:</p> <ul style="list-style-type: none"> The proposal provides two (2) open hardstand double parking spaces one each for Units 1 and 2. An open hardstand visitor parking space adjacent to the double parking space for Unit 2. The existing double garage is provided for Unit 3. <p>Therefore a total seven (7) onsite parking spaces are proposed.</p> <p>The visitor and resident spaces for Units 1 and 2 are proposed forward of the building façade on the Jones Lane frontage.</p> <p>Council's Development Engineering</p>	<p>Yes</p> <p>No -refer to considerations at Chapter A1 above</p>

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<p>required for the proposed development.</p> <ul style="list-style-type: none"> On site car parking must be positioned to minimise impacts on the streetscape. Car parking must be located behind the building setback and be screened from view with well designed structures and vegetation. 	<p>Officer has raised no objections to the proposed car parking.</p> <p>The proposed development satisfies the objectives of Council's Car Parking Requirements controls and policies.</p>	
<p><u>5.8 Landscaping Requirements</u></p> <ul style="list-style-type: none"> A minimum of 30% of the total site area must be provided as landscaped area. 	<p>Landscaped Area Proposed: 31.9%</p> <p>The proposed development satisfies the objectives of Council's landscaped area controls and policies.</p> <p>Council's Landscape Officer has provided a conditionally satisfactory referral response.</p>	Yes
<p><u>5.9 Deep Soil Planting</u></p> <ul style="list-style-type: none"> A minimum of half of the landscaped area (i.e. 15% of the site) must be provided as a deep soil zone, where the deep soil zone is not located at the rear of the site. The deep soil zone may be located in any position on the site, other than forward of the building line, subject to this area having a minimum dimension of 6m. No structures, basement car parks, driveways, hard paving, decks, balconies or drying areas are permitted within the deep soil zone. The deep soil zone shall be densely planted with trees and shrubs. 	<p>The proposal provides for 137.6m² (20% of site area) of deep soil zone planting.</p> <p>The proposed development satisfies the objectives of Council's Deep Soil Planting controls and policies.</p> <p>It is noted that particular consideration was given to impacts on view corridors of the sea and beach from dwellings on the Western side of Lawrence Hargrave Drive from the proposed deep soil planting forward of the existing building.</p> <p>Condition 15 included at Attachment 6 accounts for the species of trees to be used in the deep soil planting forward of the building so as to minimise impacts on the South easterly outlook of dwellings on the Western side of Lawrence Hargrave Drive towards the sea.</p>	Yes
<p><u>5.10 Communal Open Space</u></p> <p>Required for greater than ten (10) dwellings</p>	<p>The proposal is for a three (3) unit multi-dwelling housing development only.</p>	N/A
<p><u>5.11 Private Open Space</u></p> <ul style="list-style-type: none"> The courtyard or terrace must have a minimum dimension of 4 metres x 5 metres 	<p>The existing development provides for a private open space width of 2.89m for Unit 1 and 2.93m for Units 2 and</p>	No -refer to considerations at Chapter A1

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
	<p>3.</p> <p>Area of POS</p> <ul style="list-style-type: none"> • Unit 1: 23.9m²; • Unit 2: 47.7m²; and • Unit 3: 20m². <p>The proposed development satisfies the objectives of Council's Private Open Space controls and policies.</p>	<p>above</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p><u>5.12 Solar Access Requirements</u></p>	<p>The proposed development will have minimal impact on adjoining properties in terms of Solar Access as reasonable setbacks and building heights have been maintained.</p> <p>No changes are proposed to existing footprint or built character and form of the building therefore the existing separation distances between the existing building on the subject site and the adjoining residential flat building to the North east incorporating the access driveway and the dwelling to the rear incorporating the detached garage and thus overshadowing will remain unchanged.</p> <p>The units have been oriented on the lot so as to maximise the amount of sunlight received by the living areas and private open space.</p> <p>It is considered that the proposed development can receive a reasonable amount of sunlight to private open space areas.</p>	<p>Yes</p>
<p><u>5.13 Additional Control for Multi Dwelling Housing - Dwelling Mix and Layout</u></p>		
<p>Required for greater than ten (10) dwellings.</p>	<p>The proposal is for a three (3) unit multi-dwelling housing development only.</p>	<p>N/A</p>
<p><u>5.14 Additional Control for Multi Dwelling Housing - Adaptable Housing</u></p>		
<p>Required for greater than six (6) dwellings.</p>	<p>The proposal is for a three (3) unit multi-dwelling housing development only.</p>	<p>N/A</p>

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<u>5.15 Additional Control for Multi Dwelling Housing – Crime Prevention through Environmental Design</u>	The proposed development satisfies the objectives of Council’s Crime Prevention Through Environmental Design controls and policies in this circumstance, minimising areas for entrapment and concealment. See chapter E2 comments below.	Yes

CHAPTER D1: THIRROUL

Chapter D1 indicates that residential development will remain primarily low density in nature with some medium density within close vicinity to the Thirroul village centre and railway station envisaged. Any new housing must be sympathetic with the existing Thirroul village built form and streetscape, particularly in older areas with weatherboard houses, pitched roofs and wide eaves.

The proposal is for alterations to the existing building to satisfy BCA requirements, use of the existing building as a three (3) unit multi-dwelling housing development and a three (3) lot Strata subdivision of the building. The proposal will have minimal to impact on the existing external built character and form of the building and therefore will have minimal to no impact on the existing streetscape and character of the area.

Development within the immediate vicinity of the subject site is characterised predominantly by low density residential dwellings of single and double storey construction with some medium density development. Adjoining development consists of a three storey residential flat building to the North east and a double storey dwelling to the rear.

The proposed development is a permissible use in the R2 zone and reasonably satisfies controls for multi-dwelling housing development under Wollongong Development Control Plan 2009. The proposal is considered to not detract from the existing character of Thirroul and is compatible with the desired future character for the locality.

CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
<u>3.1 Lighting</u>	It is considered that the proposed development will improve existing lighting conditions on the subject site which is currently vacant. A condition as at Attachment 6 is proposed in regards to providing adequate general area lighting.	Yes
<u>3.2 Natural surveillance and sightlines</u>	The proposed development will improve natural surveillance and sight lines of adjoining properties and the street.	Yes
<u>3.3 Signage</u>	No signage is proposed with this application and the proposed development will have	Yes

<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
	minimal impact on the existing signage within the vicinity.	
<u>3.4 Building design</u>	The proposal is for use of an existing building as a three (3) unit multi-dwelling housing development. It is considered that the development allows for casual surveillance in all directions. It is considered that the proposed development satisfies Council's building design policies and controls for Crime Prevention Through Environmental Design as relates to minimising areas of entrapment.	Yes
<u>3.5 Landscaping</u>	The proposal is considered to satisfy the landscaping controls for CPTED in this circumstance as relates to minimising areas of concealment. Council's Landscape Officer has reviewed the proposed landscaping and raised no objections.	Yes
<u>3.6 Public open space and parks.</u>	The proposal is for use of an existing building as a three (3) unit multi-dwelling housing development only on a privately owned lot.	N/A
<u>3.7 Community facilities & Public Amenities</u>	The proposal is for use of an existing building as a three (3) unit multi-dwelling housing development only on a privately owned lot.	N/A
<u>3.8 Bus stops and taxi ranks</u>	The subject site is not adjacent to any major bus stops or taxi ranks.	Yes

CHAPTER E3: CAR PARKING, ACCESS, SERVICING/LOADING FACILITIES AND TRAFFIC MANAGEMENT

Council's Development Engineering Officer has reviewed the proposal in relation to this chapter and provided a satisfactory response commenting that the number of parking spaces, access arrangements and manoeuvring are acceptable. Conditions have been included at **Attachment 6** relating to these matters.

CHAPTER E6: LANDSCAPING

The proposed landscape plan was referred to Council's Landscape Officer for comment with referral advice indicating the proposal as satisfactory subject to conditions.

CHAPTER E7: WASTE MANAGEMENT

It is considered that the proposed development satisfies the objectives of this Chapter. Council's street waste collection service is to be utilised. Council's Development Engineering Officer has reviewed the proposal providing conditionally satisfactory referral advice.

CHAPTER E14 STORMWATER MANAGEMENT

Council's Development Engineering Officer has assessed the application in this regard and has not raised any issues with the existing stormwater management system.

CHAPTER E21 DEMOLITION AND ASBESTOS MANAGEMENT

The proposal will require demolition works. Appropriate conditions are included in **Attachment 6** of this report to minimise impacts and ensure that demolition is carried out to Council's and Work Safe NSW requirements.

CHAPTER E22 SOIL EROSION AND SEDIMENT CONTROL

Conditions are included in **Attachment 6** in this regard so as to minimise the impacts of the proposed works on the environment.

1.0 PLANNING CONTROL TO BE VARIED

Clause 5.4.2 of Chapter B1 of Wollongong Development Control Plan 2009 (WDCP 2009) imposes certain controls in relation to the setback of buildings to side and rear boundaries, including the following:-

Zone	Minimum side and rear setback	Minimum side and rear setbacks where balconies or windows of living areas face the rear boundary at first floor level or above
All zones	1.5m	1.5m
R2 Low Density Residential Zone	0.8 x ceiling height	1.0 x ceiling height

The existing building has adopted a setback of 2.955m to the north-eastern side boundary to both the ground floor level and the first floor level. While the setbacks provided to the ground floor level are compliant with the setback control, the setbacks provided to the first floor level are between 1.68m and 2.08m closer than the planning control allows.

In addition, the first floor balcony of Unit 3, although predominantly facing Jones Lane, does also face the neighbouring property at No.4A Jones Lane. In accordance with clause 5.4.2, the first floor balcony is supposed to be setback 6.4m from the south-eastern boundary of the site, but is only setback 4.675m – 1.725m closer than the planning control anticipates.

2.0 OBJECTIVES OF THE PLANNING CONTROL

The objectives for the side and rear boundary setback planning control are stated in clause 5.4.1 as:-

- (a) *To provide adequate setbacks from boundaries and adjoining dwellings to retain privacy levels, views, sunlight and daylight access and to minimise overlooking.*
- (b) *To provide appropriate separation between buildings to achieve the desired urban form.*
- (c) *To optimise the use of land at the rear of the property and surveillance of the street at the front of the property.*
- (d) *To minimise overshadowing of adjacent properties and private or shared open space.*

3.0 ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

Subsection 4.15(3A) of the Environmental Planning and Assessment Act, 1979, advocates the flexible application of the provisions set by development control plans, as follows:-

(3A) Development control plans

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards – is not to require more onerous standards with respect to that aspect of the development, and*
- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards – is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and*
- (c) may consider those provisions only in connection with the assessment of that development application.*

*In this subsection, **standards** include performance criteria.*

Consistent with subsection 4.15(3A)(b) of the Act, clause 8 of Chapter A1 of WDCP 2009 enables Council to consider variations to the provisions of that DCP, subject to the submission of a variation statement for Council's consideration. This submission has been prepared to facilitate Council's consideration of the proposed variation.

4.0 JUSTIFICATION IN SUPPORT OF THE VARIATION

Clause 5.4.2(4) allows Council to grant a variation to the side and rear boundary setback requirements where the following can be demonstrated to Council's satisfaction:-

- (a) *The siting of the building satisfies the setback objectives; and*
- (b) *Windows which are located on the side or rear boundary are primarily provided for natural light or ventilation purposes. This would include highlight windows with a minimum 1.7m sill, fixed obscure glass windows, glass bricks or windows with fixed louvres; and*
- (c) *The amenity of the adjoining property is not unreasonably affected; and*
- (d) *The design will result in a significant improvement in amenity for residents who will occupy the proposed dwelling.*

With regard to these considerations, the following is noted:-

- The development proposal is consistent with the objectives for the building setback planning controls, which are outlined in clause 5.4.1 of Chapter B1. The table below summarises the development proposal's performance against each of the stated objectives:

Objective	Comment
<p><i>a) To provide adequate setbacks from boundaries and adjoining dwellings to retain privacy levels, views, sunlight and daylight access and to minimise overlooking.</i></p>	<p>The residential flat building development to the north-east of the subject site has its access driveway provided along the common boundary with the subject site. As a result, the proposal will not result in any negative impacts in terms of privacy, views, or solar access.</p> <p>The first floor balcony to Unit 3 is an existing balcony (approved in 1997), which pre-dates the construction of the neighbouring dwelling house at No.4A Jones Lane. Therefore, the potential impacts of the balcony would have been known at the time of the design and construction of the neighbouring dwelling house. Clearly these potential impacts were not viewed as sufficiently negative or deleterious to warrant a specific design response from No.4A.</p>

Objective	Comment
<p><i>b) To provide appropriate separation between buildings to achieve the desired urban form.</i></p>	<p>The existing 2.955m setback in conjunction with the position of the driveway of the neighbouring development to the north-east will ensure that more than adequate separation distance is provided between the dwellings to the north-east and those within the proposed development.</p> <p>Given that only one dwelling in the proposed development (Unit 3) is located adjacent to the rear boundary, the impacts on the neighbouring dwelling house are no greater than if the subject site were developed for a single dwelling house. Accordingly, with the single storey garage providing some additional separation, the separation between Unit 3 and the neighbour at No.4A Jones Lane is considered appropriate.</p>
<p><i>c) To optimise the use of land at the rear of the property and surveillance of the street at the front of the property.</i></p>	<p>As the building is existing, the (existing) reduced setbacks to the north-eastern and south-eastern boundaries do not alter the established setbacks to the remaining boundaries. Units 1 and 3 have first floor balconies which will promote casual surveillance of the street frontages.</p>
<p><i>d) To minimise overshadowing of adjacent properties and private or shared open space.</i></p>	<p>The reduced setback to the north-eastern boundary of the subject site will have no impact at all on that neighbour in terms of solar access or shadowing.</p> <p>As the first floor balcony to Unit 3 is an existing balcony, the strict non-compliance with the provisions of clause 5.4.2 does not create any additional shadowing impacts beyond those of the original approved development.</p> <p>Jones Lane defines the south-western boundary of the subject site, rendering shadowing in that direction a non-issue.</p>

- The north-east facing windows at the first floor level of the existing building are predominantly windows to bedrooms and bathrooms only – with the exception of one small window to the kitchen of Unit 1, located towards the Lawrence Hargrave Drive frontage of the site. There are no living rooms provided at first floor level that face the north-eastern side boundary. Potential privacy impacts arising from the first floor windows of the development will be negligible as the low-level and specialised use of these rooms does not give rise to overlooking opportunities, and the existing internal configuration of the rooms is unchanged as a result of the proposal.
- The first floor balcony to Unit 3 provides views of the ocean and coastline to the south-east, and the escarpment to the south-west. The balcony is not orientated to look directly into the private open space area of the neighbouring dwelling at

No.4A Jones Lane. In any case, the first floor balcony of Unit 3 was approved in 1997 under BA-1813/96, well before the design, approval and construction of the dwelling house at No.4A. Accordingly, if there were any significant privacy concerns arising as a result of the first floor balcony, then mitigation measures would have been incorporated into the design of the neighbouring dwelling house.

- Being a corner allotment, the subject site does not have a “rear” boundary in the typical sense of the word. Rather than abutting the rear yard of an adjoining allotment, the south-eastern boundary of the subject site forms the side boundary of the neighbouring property. Accordingly, the potential to create adverse privacy impacts (such as overlooking of rear yard private open space) does not arise in this case.
- It is noted that, because of the availability of desirable coastal and ocean views to the south-east, both the existing building on the subject site and the neighbouring dwelling house at No.4A Jones Lane have been designed with first floor level balconies looking out over the street. A consequence of these deliberate design decisions is that the balconies themselves are openly exposed to view from the public street, somewhat compromising the privacy of those spaces. It would seem that the trade-off for the view is an acceptance of a diminished level of privacy. Whether the existing building on the subject site remains as a dwelling house (as approved) or changes to a multi dwelling housing development (as proposed) makes no difference to this situation.
- Notwithstanding the fact that the building is already existing on the subject site with the side boundary setback already established, as the neighbouring residential flat building is located to the north-east of the proposed development, the reduced boundary setback will not cause any overshadowing. Similarly, as the neighbouring residential flat building development provides its access driveway along the common boundary line, there is limited potential for overlooking and privacy impacts. Accordingly, the proposal will not detrimentally impact upon the amenity of any dwellings within the neighbouring residential flat building.
- The fact that the balcony to Unit 3 does not comply with the setback requirements of 5.4.2 does not alter the existing shadowing impact of the building. Apart from the removal of the enclosing wall to the balcony (which was installed without prior approval anyway), no physical changes to the balcony that would alter the amount of shadow cast by the building are proposed.
- The reduced setbacks to the side and rear boundaries will not compromise the amenity of the future residents of the proposed development.
- In addition, the reduced setbacks will not give rise to any negative visual impacts. The physical appearance of the existing building will not be significantly changed as a result of the development proposal. Accordingly, the building design (incorporating smaller gables and hipped roofs and the use of lightweight cladding at first floor level) – approved by Council in 1997 – will remain constant.

5.0 CONCLUSION

Clause 8 of Chapter A1 of WDCP 2009 enables Council to consider variations to the planning controls contained within the DCP and advises that variations will be considered on a case by case basis, and subject to Council's consideration of a variation statement.

Having regard to the site context, the fact that the building has already been long established in this position on the subject site, and the nature of the adjoining development, it is considered that the development proposal will not result in any detrimental impacts on the amenity of any dwellings within the neighbouring residential flat building to the north-east or the neighbouring dwelling house to the south-east. The side and rear boundary setbacks are existing and are of negligible impact, and the proposal achieves consistency with the setback objectives of 5.4.1.

It has been demonstrated that the proposal is consistent with the objectives for building setbacks and that the proposal will satisfy the provisions of sub-clause 5.4.2(4). Accordingly, the proposed side and rear boundary setback variations are submitted for Council's consideration and approval.

1.0 PLANNING CONTROL TO BE VARIED

Clause 5.7.2 of Chapter B1 of Wollongong Development Control Plan 2009 (WDCP 2009) imposes certain controls in relation to car parking requirements for multi dwelling housing developments, including the following:-

1. *On site car parking must be positioned to minimise impacts on the streetscape. **Car parking must be located behind the building setback and be screened from view with well designed structures and vegetation.** Car parking may also be located within a basement. [emphasis added]*

The development proposal seeks to utilise existing driveways and paved areas to provide car parking to cater for Units 1 and 2 and visitors. These parking spaces will be located forward of the 3m building line setback to Jones Lane.

2.0 OBJECTIVES OF THE PLANNING CONTROL

The objectives for the car parking planning controls are stated in clause 5.7.1 as:-

- (a) *To provide an adequate level of on site car parking based upon anticipated occupancy rates and proximity to public transport.*
- (b) *To ensure that there is adequate provision for access to and manoeuvring within the development.*
- (c) *To ensure that residential developments are designed to be accessible for pedestrians, cyclists and motorists.*
- (d) *To ensure that integrated design of car parking facilities to minimise visual impacts.*
- (e) *To ensure the provision of facilities such as bike racks, which encourage the use of alternative methods of transport.*

3.0 ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

Subsection 4.15(3A) of the Environmental Planning and Assessment Act, 1979, advocates the flexible application of the provisions set by development control plans, as follows:-

(3A) Development control plans

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards – is not to require more onerous standards with respect to that aspect of the development, and*
- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards – is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and*
- (c) may consider those provisions only in connection with the assessment of that development application.*

*In this subsection, **standards** include performance criteria.*

Consistent with subsection 4.15(3A)(b) of the Act, clause 8 of Chapter A1 of WDCP 2009 enables Council to consider variations to the provisions of that DCP, subject to the submission of a variation statement for Council's consideration. This submission has been prepared to facilitate Council's consideration of the proposed variation.

4.0 JUSTIFICATION IN SUPPORT OF THE VARIATION

Council is requested to allow a variation to the provisions of clause 5.7.2(1) to enable the provision of car parking spaces within the building line setback to Jones Lane, for the following reasons:-

- The proposed car parking spaces will utilise existing, established paved areas within the site which were originally constructed for the purposes of car parking. This is evidenced in the 1977/78 aerial photography on Council's website; the site plan approved under Development Application D81/249; and, the plans approved under Building Application No.1813/96 (see Figures 1, 2 and 3 below).

Figure 1 – 1977/78 Aerial Photography



5.0 CONCLUSION

Clause 8 of Chapter A1 of WDCP 2009 enables Council to consider variations to the planning controls contained within the DCP and advises that variations will be considered on a case by case basis, and subject to Council's consideration of a variation statement.

Having regard to the continued historical use of the proposed car parking spaces for car parking purposes, and the fact that these areas have previously been approved by Council for use as parking spaces, it is considered that the proposed development is not strictly changing the use of these spaces and Council is requested to permit their use to provide car parking to cater for the development proposal.

1.0 PLANNING CONTROL TO BE VARIED

Clause 5.11.2 of Chapter B1 of Wollongong Development Control Plan 2009 (WDCP 2009) imposes certain controls in relation to private open space requirements for multi dwelling housing developments, including the following:-

2. *Private open space for each dwelling within an attached dwelling housing development must comply with the following:*
 - (a) *Private open space must be provided at the ground level or podium level. The courtyard or terrace must have a minimum dimension of 4 metres x 5 metres. This area must be separated from boundaries by at least 1.5 metres with a vegetated landscaping bed and must not encroach upon deep soil zone landscaping areas. Where a level courtyard is not possible, a deck or split level courtyard must have a minimum depth of 3 metres.*

The private open space areas for each of the dwellings are provided as north-east facing courtyard areas located at ground level at the rear of each dwelling. Because of the physical limitation imposed by the existing building's setback to the side boundary, the private open space courtyards can only be a maximum 2.93m wide without landscaping along the boundary line.

2.0 OBJECTIVES OF THE PLANNING CONTROL

The objectives for the private open space planning controls are stated in clause 5.11.1 as:-

- (a) *To ensure that private open spaces are of sufficient size to accommodate a range of uses and are accessible and connected to indoor spaces where appropriate.*
- (b) *To ensure functionality of private open space by reducing overlooking and overshadowing of such spaces.*

3.0 ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

Subsection 4.15(3A) of the Environmental Planning and Assessment Act, 1979, advocates the flexible application of the provisions set by development control plans, as follows:-

(3A) *Development control plans*

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards – is not to require more onerous standards with respect to that aspect of the development, and*
- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards – is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and*
- (c) may consider those provisions only in connection with the assessment of that development application.*

*In this subsection, **standards** include performance criteria.*

Consistent with subsection 4.15(3A)(b) of the Act, clause 8 of Chapter A1 of WDCP 2009 enables Council to consider variations to the provisions of that DCP, subject to the submission of a variation statement for Council's consideration. This submission has been prepared to facilitate Council's consideration of the proposed variation.

4.0 JUSTIFICATION IN SUPPORT OF THE VARIATION

Council is requested to allow a variation to the provisions of clause 5.11.2(2) of Chapter B1 of WDCP 2009 to enable the provision of courtyards as proposed, for the following reasons:-

- The private open space courtyard areas for each dwelling meet or exceed the minimum area of 20m² required by clause 5.11.2. Unit 1 has a courtyard area of 23.9m²; Unit 2, 47.7m²; and, Unit 3, 20m².
- The courtyards are located on the north-eastern side of the dwellings and have excellent solar access as a result. This makes for useable areas that provide adequate amenity for future residents.
- In addition to their courtyard areas, Units 1 and 3 have first floor balconies that take in the coastal and ocean views and provide suitable spaces for passive outdoor recreation.
- The provision of the courtyards as proposed is generally in line with the objective 4E-1 of the *Apartment Design Guide* (2015) which, in respect of ground level apartments, requires the following private open space provision:

2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.

The area of each courtyard exceeds 15m² and the width of each is just 70mm short of achieving a full 3m.

- The courtyards are sufficiently screened from the neighbouring property (No.191 Lawrence Hargrave Drive) by a solid masonry wall erected along the common boundary and are also physically separated from the balconies of the neighbouring residential flat building, to further promote visual and acoustic privacy.
- It is noted that, even if the existing building was used as a single dwelling house, the width of the private open space area would still be deficient as sub-clause 4.6.2(1)(a) of Chapter B1 requires the private open space area for a single dwelling house to have a minimum width of 4m.

5.0 CONCLUSION

Clause 8 of Chapter A1 of WDCP 2009 enables Council to consider variations to the planning controls contained within the DCP and advises that variations will be considered on a case by case basis, and subject to Council's consideration of a variation statement.

The width of the courtyards is constrained by the position of the existing building, which is setback just 2.93m from the north-eastern side boundary. The courtyards are located on the north-eastern side of the building, which allows for adequate solar access; and are screened and separated from the balconies of the neighbouring development, making them suitable private spaces.

The lack of width of the courtyard areas is compensated for by additional area above the minimum 20m² requirement, which (in the case of Units 1 and 3) is supplemented by first floor level balconies.

Having regard to the site constraints and circumstances of the case, Council is requested to exercise flexibility in the application of the controls contained in clause 5.11, as promoted by subsection 4.15(3A)(b) of the Act, to enable the carrying out of the development proposal.

Attachment 6: Conditions

Approved Plans and Specifications

- 1 The development shall be implemented substantially in accordance with the details and specifications set out on Job No 00302018 Drawing page SH-01 to SH-07 dated 15 May 2020 prepared by JIH Building Designs and Drawing Reference 16410 Location Plan, Ground Floor Plan and First Floor Plan dated 13 March 2017 prepared by Craig Robson and any details on the application form, and with any supporting information received, except as amended by the conditions specified and imposed hereunder.

General Matters

- 2 **Building Work - Compliance with the Building Code of Australia**
All building work must be carried out in compliance with the provisions of the Building Code of Australia.
- 3 **Construction Certificate**
A Construction Certificate must be obtained from Council or an Accredited Certifier prior to work commencing.

A Construction Certificate certifies that the provisions of Clauses 139-148 of the Environmental Planning and Assessment Amendment Regulations, 2000 have been satisfied, including compliance with all relevant conditions of Development Consent and the Building Code of Australia.

Note: The Certifier must cause notice of its determination to be given to the consent authority, and to the council, by forwarding to it, within two (2) days after the date of the determination, the plans and documentation referred to in clause 142 (2) of the Environmental Planning and Assessment Regulation 2000.
- 4 **Mailboxes**
The developer must install mailboxes along street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.
- 5 **Occupation Certificate**
An Occupation Certificate must be issued by the Principal Certifier prior to occupation or use of the development. In issuing an Occupation Certificate, the Principal Certifier must be satisfied that the requirements of section 6.9 of the Environmental Planning and Assessment Act 1979, have been complied with as well as all of the conditions of the Development Consent.

Prior to the Issue of the Construction Certificate

- 6 **Signage and or Line Marking**
The designated car parking and bicycle facility must be clearly delineated with appropriate signage and or line marking. The designated car parking and bicycle facility shall be shown on the Construction Certificate plans.
- 7 **Crime Prevention Through Environmental Design (CPTED) - Lighting**
The proposed development shall incorporate 'low impact' lighting to ameliorate any light spillage and/or glare impacts upon surrounding properties in accordance with Council's CPTED principles. The final design details of the proposed lighting system shall be reflected on the Construction Certificate plans. The erection of the lighting system shall be in accordance with the approved final design.
- 8 **Fire Safety Upgrade – Construction Certificate**
The following information will be required to be detailed on the plans or supporting documentation to the accredited certifier, prior to the issue of the Construction Certificate. This condition relates to fire safety upgrade considerations under Clause 94 of the Environmental Planning & Assessment Regulation 2000. This condition relates to any part of the existing building that requires building upgrade works as detailed in Accredited Building Certifiers BCA Audit

Report dated 30 May 2017. The upgrade work shall be carried out in accordance with the National Construction Code Series (BCA) Volume 1:

- Full details, Engineering, specifications, scope of works, schedule of essential services and any other supporting information/documentation demonstrating compliance with the recommendations detailed under the heading “Summary of key Compliance matters” in Accredited Building Certifiers BCA Audit Report dated 30 May 2017.
- Fire Engineering Performance Report prepared by a suitably accredited C10 Fire Engineer addressing any identified non compliances and detailed in Accredited Building Certifiers BCA Audit Report dated 30 May 2017

9 **Present Plans to Sydney Water**

Approved plans must be submitted online using Sydney Water Tap, available through www.sydneywater.com.au to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

The Principal Certifier must ensure that Sydney Water has issued an approval receipt prior to the issue of a Construction Certificate.

Visit www.sydneywater.com.au or telephone 13 20 92 for further information.

10 In order to reduce the opportunities for “hiding places” the proposed landscaping must:

- a use shrubs/plants which are no higher than 1 metre adjacent to pathways.
- b the type of trees proposed must have a sufficiently high canopy, when installed and fully grown, so that pedestrian vision is not impeded.
- c Shrub planting to be set back min. 1 metre from the edge of the pathway. Groundcover planting acceptable.

This requirement shall be reflected on the Construction Certificate plans.

11 **Car parking and Access**

The development shall make provision for a total of 6 residential car parking spaces, 1 visitor car parking spaces and 1 bicycle space. This requirement shall be reflected on the Construction Certificate plans. Any change in above parking numbers shown on the approved DA plans shall be dealt with via a section 4.55 modification to the development. The approved car parking spaces shall be maintained to the satisfaction of Council, at all times.

12 The parking dimensions, internal circulation, aisle widths, kerb splay corners, head clearance heights, ramp widths and grades of the car parking areas are to be in conformity with the current relevant Australian Standard AS2890.1, except where amended by other conditions of this consent. Details of such compliance are to be reflected on the Construction Certificate plans.

13 **Structures Adjacent to Driveway**

Any proposed structures adjacent to the driveway/car parking spaces shall comply with the requirements of the current relevant Australian Standard AS2890.1 (figure 3.2 and 3.3) to provide for adequate pedestrian and vehicle sight distance. This includes, but is not limited to, structures such as signs, letterboxes, retaining walls, dense planting etc. This requirement shall be reflected on the Construction Certificate plans.

14 **Landscaping**

The submission of a final Landscape Plan will be required in accordance with the requirements of Wollongong City Council DCP 2009 Chapter E6 and the approved Landscape Plan (ie as part of this consent) for the approval by the Principal Certifier, prior to the release of the Construction Certificate.

15 The submission of a final Landscape Plan to the Principal Certifier, prior to the release of the Construction Certificate. The final Landscape Plan shall address the following requirements:

- a Substitute Banksia integrifolia for the Waterhousia floribunda to ensure view sharing.

The completion of the landscaping works as per the final approved Landscape Plan is required, prior to the issue of Occupation Certificate.

16 The submission of certification from a suitably qualified and experienced landscape designer and drainage consultant to the Principal Certifier prior to the release of the Construction Certificate, confirming that the landscape plan and the drainage plan are compatible.

17 The implementation of a landscape maintenance program in accordance with the approved Landscape Plan for a minimum period of 12 months to ensure that all landscape work becomes well established by regular maintenance. Details of the program must be submitted with the Landscape Plan to the Principal Certifier prior to release of the Construction Certificate.

18 **Smoke Alarms**

Smoke alarms designed to ensure the occupants are given adequate warning so they can evacuate the building in an emergency shall be installed in the building in accordance with Part 3.7.2 of the Building Code of Australia (Housing Provisions). The location of smoke alarms shall be shown on plan prior to the issue of the construction certificate.

19 **Property Addressing Policy Compliance**

Prior to the issue of any construction certificate, the developer must ensure that any site addressing complies with Council's **Property Addressing Policy** (as amended). Where appropriate, the developer must also lodge a written request to Council's **Infrastructure Systems & Support – Property Addressing** (propertyaddressing@wollongong.nsw.gov.au), for the site addressing prior to the issue of the construction certificate. Please allow up to 3-5 business days for a reply. Enquiries regarding property addressing may be made by calling 4227 8660.

20 **Development Contributions**

Pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979 and the Wollongong City-Wide Development Contributions Plan, a monetary contribution of \$750.00 (subject to indexation) must be paid to Council towards the provision of public amenities and services, prior to the release of any associated Construction Certificate.

This amount has been calculated based on the estimated cost of development and the applicable percentage rate.

The contribution amount will be subject to indexation until the date of payment. The formula for indexing the contribution is:

$$\text{Contribution at time of payment} = \$C \times (\text{CP2}/\text{CP1})$$

Where:

\$C is the original contribution as set out in the Consent

CP1 is the Consumer Price Index; All Groups CPI; Sydney at the time the consent was issued

CP2 is the Consumer Price Index; All Groups CPI; Sydney at the time of payment

Details of CP1 and CP2 can be found in the Australian Bureau of Statistics website – Catalogue No. 6401.0 - Consumer Price Index, Australia.

The following payment methods are available:

METHOD	HOW	PAYMENT TYPE
Online (Full payment only)	http://www.wollongong.nsw.gov.au/applicationpayments Your Payment Reference: 1201273	<ul style="list-style-type: none"> • Credit Card
In Person	Wollongong City Council Administration Building - Customer Service Centre Ground Floor 41 Burelli Street, WOLLONGONG	<ul style="list-style-type: none"> • Cash • Credit Card • Bank Cheque
PLEASE MAKE BANK CHEQUE PAYABLE TO: Wollongong City Council (Personal or company cheques are not accepted)		

A copy of the Wollongong City-Wide Development Contributions Plan and accompanying Fact Sheet may be inspected or obtained from the Wollongong City Council Administration Building, 41 Burelli Street, Wollongong during business hours or on Council's web site at www.wollongong.nsw.gov.au

Prior to the Commencement of Works

21 Appointment of Principal Certifier

Prior to commencement of work, the person having the benefit of the Development Consent and a Construction Certificate must:

- a Appoint a Principal Certifier (PC) and notify Council in writing of the appointment irrespective of whether Council or an accredited private certifier is appointed; and
- b notify Council in writing of their intention to commence work (at least two days notice is required).

The Principal Certifier must determine when inspections and compliance certificates are required.

22 Residential Building Work – Compliance with the Requirements of the Home Building Act 1989

Building work involving residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates:

- a in the case of work to be done by a licensee under that Act:
 - i has been informed in writing of the licensee's name, contractor license number and contact address details (in the case of building work undertaken by a contractor under the Home Building Act 1989); 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, contact address details and owner-builder permit number; and
 - ii has been given a declaration signed by the property owner(s) 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 of the Home Building Act 1989 and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

Note: A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that the specific person or licensed contractor is the holder of an insurance policy issued for the purposes of that Part of the Act is, for the purposes of this condition, sufficient evidence that the person has complied with the requirements of that Part of the Act.

23 Sign – Supervisor Contact Details

Before commencement of any work, a sign must be erected in a prominent, visible position:

- a stating that unauthorised entry to the work site is not permitted;
- b showing the name, address and telephone number of the Principal Certifier for the work; and
- c showing the name and address of the principal contractor in charge of the work site and a telephone number at which that person can be contacted at any time for business purposes.

This sign shall be maintained while the work is being carried out and removed upon the completion of the construction works.

- 24 **Enclosure of the Site**
The site must be enclosed with a suitable security fence to prohibit unauthorised access, to be approved by the Principal Certifier. No building work is to commence until the fence is erected.
- 25 **Demolition Works**
The demolition of the existing building elements shall be carried out in accordance with Australian Standard AS2601 (2001): The Demolition of Structures or any other subsequent relevant Australian Standard and the requirements of the SafeWork NSW.
No demolition materials shall be burnt or buried on-site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Any unforeseen hazardous and/or intractable wastes shall be disposed of to the satisfaction of the Principal Certifier. In the event that the demolition works may involve the obstruction of any road reserve/footpath or other Council owned land, a separate application shall be made to Council to enclose the public place with a hoarding or fence over the footpath or other Council owned land.
- 26 **Demolition Notification to Surrounding Residents**
Demolition must not commence unless at least two (2) days written notice has been given to adjoining residents of the date on which demolition works will commence.
- 27 **Consultation with SafeWork NSW – Prior to Asbestos Removal**
A licensed asbestos removalist must give written notice to SafeWork NSW at least five (5) days before licensed asbestos removal work is commenced.
- 28 **Temporary Sediment Fences**
Temporary sediment fences (eg haybales or geotextile fabric) must be installed on the site, prior to the commencement of any excavation, demolition or construction works in accordance with Council's guidelines. Upon completion of the development, sediment fencing is to remain until the site is grassed or alternatively, a two (2) metre strip of turf is provided along the perimeter of the site, particularly lower boundary areas.
- 29 **Notification to Council of any Damage to Council's Infrastructure**
Council must be notified in the event of any existing damage to any of Council's infrastructure including, but not limited to the road, kerb and gutter, road shoulder, footpath, drainage structures and street trees fronting the development prior to the commencement of work. Adequate protection must be provided to Council infrastructure prior to work commencing and during the construction period. Any damage to Council's assets shall be restored in a satisfactory manner prior to the issue of the Occupation Certificate.

During Demolition, Excavation or Construction

- 30 **Piping of Stormwater to Existing Stormwater Drainage System**
Stormwater for the land must be piped to the existing onsite stormwater drainage system.
- 31 **No Adverse Run-off Impacts on Adjoining Properties**
The design and construction of the development shall ensure there are no adverse effects to adjoining properties, as a result of flood or stormwater run-off. Attention must be paid to ensure adequate protection for buildings against the ingress of surface run-off.
Allowance must be made for surface run-off from adjoining properties. Any redirection or treatment of that run-off must not adversely affect any other property.
- 32 **Restricted Hours of Construction Work**
The developer must not carry out any work, other than emergency procedures, to control dust or sediment laden runoff outside the normal working hours, namely, 7.00 am to 5.00 pm, Monday to Saturday, without the prior written consent of the Principal Certifier and Council. No work is permitted on public holidays or Sundays.
Any request to vary these hours shall be submitted to the **Council** in writing detailing:
a the variation in hours required (length of duration);

- b the reason for that variation (scope of works);
- c the type of work and machinery to be used;
- d method of neighbour notification;
- e supervisor contact number;
- f any proposed measures required to mitigate the impacts of the works.

Note: The developer is advised that other legislation may control the activities for which Council has granted consent, including but not limited to, the Protection of the Environment Operations Act 1997.

33 **Excavation/Filling/Retaining Wall Structures**

Any proposed filling on the site must not:

- a encroach onto the adjoining properties, and
- b adversely affect the adjoining properties with surface run-off.

34 All proposed cut and filling works must be adequately retained with all battered slopes being no steeper than 2H: 1V and comply with Council's Development Control Plan.

35 **Asbestos – Removal, Handling and Disposal Measures/Requirements Asbestos Removal by a Licensed Asbestos Removalist**

The removal of any asbestos material must be carried out by a licensed asbestos removalist if over 10 square metres in area of non-friable asbestos, or if any type of friable asbestos in strict accordance with SafeWork NSW requirements (< <http://www.safework.nsw.gov.au> >).

36 **Asbestos Waste Collection, Transportation and Disposal**

Asbestos waste must be prepared, contained, transported and disposed of in accordance with SafeWork NSW and NSW Environment Protection Authority requirements. Asbestos waste must only be disposed of at a landfill site that can lawfully receive this this type of waste. A receipt must be retained and submitted to the Principal Certifier, and a copy submitted to Council (in the event that Council is not the Principal Certifier), prior to commencement of the construction works.

37 **Provision of Waste Receptacle**

The developer must provide an adequate receptacle to store all waste generated by the development, pending disposal. The receptacle must be regularly emptied and waste must not be allowed to lie or accumulate on the property other than in the receptacle. Consideration should be given to the source separation of recyclable and re-usable materials.

38 **BASIX**

All the commitments listed in each relevant BASIX Certificate for the development must be fulfilled in accordance with Clause 97A(2) of the Environmental Planning & Assessment Regulation 2000.

A relevant BASIX Certificate means:

- A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 4.55 of the Environmental Planning & Assessment Act 1979, a BASIX Certificate that is applicable to the development when this development consent is modified); or
- if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.”

Prior to the Issue of the Occupation Certificate

39 **Fire Engineering Certification (Applicable if building was subject to Fire Engineered Solution)**

Prior to the issue of an Occupation Certificate, provide a compliance certificate or written Statement from the Accredited C10 Fire Engineer in accordance with Clause 152B of the Environmental Planning and Assessment Regulation 2000, certifying that any building solutions

detailed within the Fire Engineering Assessment Report and considered at Construction Certificate stage, have been implemented/installed/constructed within the building to the their satisfaction.

40 **Fire Safety Upgrade – Occupation Certificate**

Prior to the issue of an Occupation Certificate, the building must be upgraded to comply with the recommendations contained in Accredited Building Certifiers BCA Audit Report dated 30 May 2017 and submitted to the accredited certifier at Construction Certificate stage.

41 **Structural Engineers Certification**

Prior to the issue of an Occupation Certificate, provide certification from a Structural Engineer detailing that the building complies with Part B1.2 and B1.4 of the National Construction Code Series (BCA) Volume 1.

42 **A Section 73 Certificate** must be submitted to the **Principal Certifier** prior to occupation of the development/release of the plan of subdivision.

43 **Fire Safety Certificate**

A Fire Safety Certificate must be issued for the building prior to the issue of an Occupation Certificate. As soon as practicable after a Fire Safety Certificate is issued, the owner of the building to which it relates:

- a Must cause a copy of the certificate (together with a copy of the current fire safety schedule) to be given to the Commissioner of New South Wales Fire Brigades, and
- b must cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.

44 **Occupation Certificate**

A Occupation Certificate must be issued by the Principal Certifier prior to occupation or use of the development. In issuing an Occupation Certificate, the Principal Certifier must be satisfied that the requirements of section 6.9 of the Environmental Planning and Assessment Act 1979, have been complied with as well as all of the conditions of the Development Consent.

45 **BASIX**

An Occupation Certificate must not be issued unless accompanied by the BASIX Certificate applicable to the development. The Principal Certifier must not issue the final occupation certificate unless satisfied that selected commitments have been complied with as specified in the relevant BASIX Certificate. NOTE: Clause 154B of the Environmental Planning and Assessment Regulation 2000 provides for independent verification of compliance in relation to certain BASIX commitments.

46 **Completion of Landscape Works**

The completion of the landscaping works as per the final approved Landscape Plan is required prior to the issue of Occupation Certificate.

Prior to the Issue of the Subdivision Certificate

47 **Occupation Certificate Prior to Subdivision Certificate**

An Occupation Certificate for the dwelling/s must be issued prior to the release of the Subdivision Certificate for the Torrens Title subdivision. A copy of the Occupation Certificate shall be lodged to Council with the subdivision certificate application.48 **88B** **Instrument**

Easements/Restrictions

Any easements or restrictions required by this consent must nominate Wollongong City Council as the authority to vary, modify or release/extinguish the easements or restrictions. The form of the easement(s) or restriction(s) created as a result of this consent must be in accordance with the standard format for easements and restrictions as accepted by NSW Land Registry Services.

49 **Final Documentation Required Prior to Issue of Subdivision Certificate**

The submission of the following information/documentation to the Principal Certifier, prior to the issue of a Subdivision Certificate:

- a Completed Subdivision Certificate application form and fees in accordance with Council's fees and charges;

- b Final plan of Subdivision prepared by a registered surveyor plus four (4) equivalent size paper copies of the plan;
- c Section 88B Instrument (where applicable) covering all necessary easements and restrictions on the use of any lot within the subdivision;
- d Original Subdivider/Developer Compliance Certificate pursuant to Section 73 of the Water Board (Corporatisation) Act 1994 from Sydney Water.

Operational Phases of the Development/Use of the Site

50 **Loading/Unloading Operations/Activities**

All loading/unloading operations are to take place at all times wholly within the confines of the site or within the road reserve under an approved traffic control plan.

51 **Fire Safety Measures**

All new and existing fire safety measures shall be maintained in working condition, at all times.