

Wollongong Local Planning Panel Assessment Report | 20 February 2024

WLPP No.	Item No. 1
DA No.	DA-2023/868
Proposal	Residential – Alterations and Additions to existing dwelling house
Property	3A Cliff Parade THIRROUL NSW 2515
Applicant	South Coast Drafting Pty Ltd
Responsible Team	Development Assessment & Certification Team - City Wide Team (BB)

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Local Planning Panel

The proposal has been referred to the Wollongong Local Planning Panel **for Determination** pursuant to clause 3, Schedule 2 of the Local Planning Panels Direction for departure to Clause 4.4 Floor Space Ratio in Wollongong Local Environmental Plan (WLEP) 2009 by more than 10%. The proposal seeks a departure of 28.6%.

Proposal

- Partial Demolition of existing double storey residence.
- Construction of alterations and additions to ground level and first floor addition of roof top terrace.
- Alterations to the external façade.

Permissibility

The site is zoned C4 Environmental Living pursuant to Wollongong Local Environmental Plan (WLEP) 2009. The proposal is categorised as a Dwelling house and is permissible in the zone with development consent. Demolition is permitted with development consent. Internal alterations and additions, amendments to the external façade are ancillary to the dwelling house and are permissible.

Consultation

The proposal was exhibited in accordance with Council's Community Participation Plan. No Submissions were received during this period.

Additional information was submitted by the applicant to clarify certain matters at Council's request. The information received did not significantly change the design of the proposal to the extent that necessitated further exhibition.

Internal

Details of the proposal were referred to Council's Development Engineering, Environmental and Geotech officers for assessment. Comments and/or recommended conditions were provided in each instance.

Main Issues

- Floor space ratio – departure from Clause 4.4 of WLEP 2009
- Roof terrace area.

Recommendation

DA-2023/868 be approved subject to conditions presented at Attachment 5.

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the development which was accepted for lodgement on 6 November 2023:

State Environmental Planning Policies:

- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan 2009

Other policies

- Wollongong City-Wide Development Contributions Plan 2023
- Wollongong Community Participation Plan 2019

1.2 DETAILED DESCRIPTION OF PROPOSAL

Demolition:

- Internal demolition of the existing dwelling.

Dwelling House:

- Construction of alterations and additions to the existing dwelling house:
 - Roof terrace area
 - Alterations to the external façade.

1.3 BACKGROUND

A pre-lodgement meeting was held on 7 March 2023 and formal notes were issued after the meeting.

Customer service actions

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

1.4 SITE DESCRIPTION

The site is located at 3A Cliff Parade Thirroul NSW 2515, and the title reference is Lot 12 DP 1175049. The site is accessed via a private driveway from Cliff Parade. The site has a frontage of 14m onto Cliff Parade. The site abuts to the east of the Old Thirroul Baths and Thirroul Beach.

The site contains a double storey residential dwelling, located in the Western portion of the site. The site contains dense vegetation in the eastern portion of the lot that corresponds with the foreshore building line. The site contains acid sulphate soils due to its proximity to the coastline. The site contains a 27m rear setback covenant marked as X on the survey plan. The covenant has been acknowledged under the proposed scheme. Land adjacent to the site comprises residential dwelling houses, a reserve and Thirroul bowling and leagues club.

Property constraints

Council records identify the land as being impacted by the following constraints:

- Coastal Hazard Geotechnical Risk,
- Acid Sulphate Class 5
- Foreshore Building Line

There are no restrictions on the Title.



Figure 2: Aerial photographs

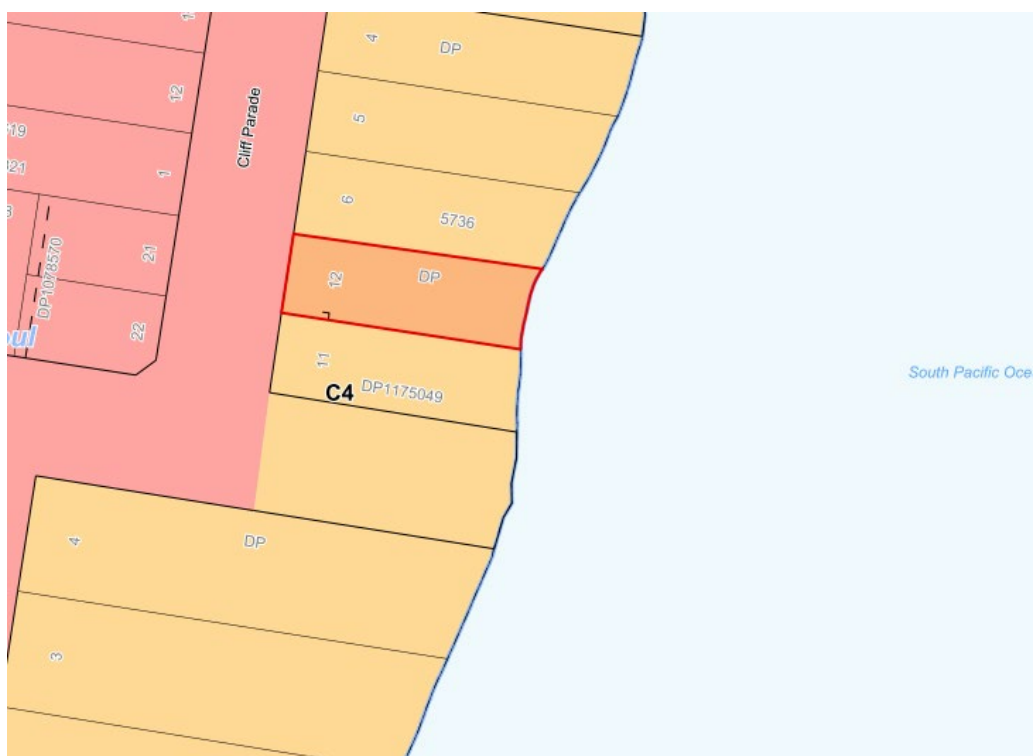


Figure 3: WLEP 2009 zoning map

1.5 SUBMISSIONS

The application was exhibited in accordance with Wollongong Community Participation Plan 2019. No submissions were received.

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Development Engineer

Council's Development Engineer has reviewed the proposal in terms of Traffic, Stormwater drainage and parking and provided a satisfactory referral subject to conditions.

Environmental Officer

Council's Environmental Officer has reviewed the proposal and provided a satisfactory referral subject to conditions of consent.

Geotechnical Officer

Council's Geotechnical Officer has reviewed the proposal and provided a satisfactory referral subject to conditions.

1.6.2 EXTERNAL CONSULTATION

None required.

2 OTHER LEGISLATION

2.1 COASTAL MANAGEMENT Amendment Act 2021

The Wollongong Coastal Zone Management Plans (CZMP) ceased certification under the *Coastal Management Act 2016* on 31 December 2023

The Coastal Management Programme (CMP) for Wollongong LGA (open coast and estuaries excluding Lake Illawarra) is in development and is currently in Stage 2 (technical study stage). The process to develop this CMP requires significant technical studies to be undertaken and comprehensive community engagement, including with First Nations peoples. It is anticipated that, at best, the new CMP could be completed by 2026.

For development assessment purposes coastal hazards have already been defined for the LGA and remain notated on planning certificates. In this instance the subject site is noted as being at risk from Coastal Geotechnical risk i.e. cliff top erosion.

3 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 – 4.15 EVALUATION

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

3.1.1 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 2 Coastal management

2.1 Aim of Chapter

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.*

2.3 Land to which Chapter applies.

This Policy applies to land within the coastal zone.

2.3 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 2.2 Development controls for coastal management areas

Division 3 Coastal environment area

2.10 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.*
- (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.*
- (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 located within the overlapping Coastal Environment and Use area; therefore, this clause applies to the proposal. The proposal mostly consists of internal changes to the dwelling with the inclusion of a roof terrace area and modifications to the external facade. No changes are proposed to the existing dwelling footprint and bulk and scale. As such 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.

Division 4 Coastal use area

2.11 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 funneling 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 considered the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

(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 located within the overlapping Coastal Environment and Use area; therefore, this clause applies to the proposal. The proposal mostly consists of internal changes to the dwelling with the inclusion of a roof top terrace. No changes are proposed to the existing dwelling footprint and bulk and scale. 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.

Division 5 General

2.12 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.

2.13 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.

2.14 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.*

2.15 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 proposed works have been reviewed in relation to Clauses 2.12 to 2.15 above and is considered acceptable in this instance.

NSW Coastal Management Act 2016, Coastal Management Amendment Act 2021, and Wollongong Coastal Zone Management Plan

The Wollongong Coastal Zone Management Plan (Wollongong CZMP) (BMT WBM 2017) was certified on 20 December 2017 and applies to the coastal zone of the Wollongong Local Government Area which includes this development application site. The *Coastal Management Amendment Act 2021* commenced on 1 November 2021, to give coastal councils until 31 December 2023 to implement their CZMPs. By effect this enables a continuation of the current certified CZMP (20 December 2017) whilst Council undertakes further studies and community consultation for a transition to a new Coastal Management Plan.

Councils Planning certificate information identifies the site as being located in a coastal geotechnical risk area. Councils geotechnical engineer has reviewed the proposal and provided satisfactory referrals.

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

Chapter 4 Remediation of land

4.6 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.*

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

(3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

(4) The land concerned is—

(a) land that is within an investigation area,

(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,

(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital—and—

(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and

(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

Council records do not indicate any historic use that would contribute to the potential contamination of the site and the land is not identified as being contaminated on Council's land mapping system. The proposal does not comprise a change of use. Councils' environment officer has reviewed the proposal and no concerns are raised regarding contamination as relates to the intended use of the land such that the consent authority can be satisfied the requirements of clause 4.6 have been satisfied. Under the precautionary principle an unexpected finds protocol condition has been included as Attachment 5.

3.1.2 STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

The proposal is BASIX affected development to which this policy applies. In accordance with Part 3 Division 1 Section 27 of the Environmental Planning and Assessment Regulation 2021, a BASIX Certificate has been submitted in support of the application demonstrating that the proposed scheme achieves the BASIX targets.

A BASIX certificate accompanies the application submission and was issued no earlier than 3 months before the date on which the development application was lodged.

3.1.3 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

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

Dwelling house means a building containing only one dwelling.

Residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following—

(a) attached dwellings,

(b) boarding houses,

(baa) co-living housing,

(c) dual occupancies,

(d) dwelling houses,

- (e) group homes,
- (f) hostels,
- (faa) (Repealed)
- (g) multi dwelling housing,
- (h) residential flat buildings,
- (i) rural workers' dwellings,
- (j) secondary dwellings,
- (k) semi-detached dwellings,
- (l) seniors housing,
- (m) shop top housing,

but does not include tourist and visitor accommodation or caravan parks.

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 C4 Environmental Living.

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.

The proposal is satisfactory with regard to the above objectives.

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

Bed and breakfast accommodation; Business identification signs; Community facilities; **Dwelling houses**; Environmental facilities; Environmental protection works; Home-based childcare; Home businesses; Home industries; Oyster aquaculture; Pond-based aquaculture; Recreation areas; Roads; Secondary dwellings; Tank-based aquaculture.

The proposal is categorised as a Dwelling House as defined above and is permissible in the zone with development consent.

Clause 2.7 Demolition requires development consent.

Conditions of consent have been recommended with regard to demolition.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The proposed maximum building height of 7.05m does not exceed the maximum of 9m permitted for the site.

Clause 4.4 Floor space ratio

Maximum FSR permitted for the zone: 0.3:1

Site area: 609m²

GFA: 234.97m²

FSR: $234.97\text{m}^2 / 609\text{m}^2 = 0.386:1$

The maximum floor space ratio for the zone is 0.3:1. The proposal exceeds the maximum permitted FSR having 0.386:1.

The proposed development results in 28.6 % (52.27m²) departure to the development standard under WLEP 2009. The development is not significant in bulk and scale to impact adversely on the neighbourhood in terms of traffic, parking, streetscape, or amenity of the neighbouring developments. The departure to the development standard is capable of support and regarded as acceptable.

Clause 4.6 Exceptions to development standards

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	Clause 4.4 Floor Space Ratio 0.3:1 The proposal has a FSR of 0.386:1.
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	Yes, the applicant's request contains this justification as provided at Attachment 4.
that there are sufficient environmental planning grounds to justify contravening the development standard.	<p>Yes, the applicant's request contains this justification shown at Attachment 4.</p> <p>It is requested that Council consider the following justifications:</p> <p>The proposed development is consistent with the objectives of Clause 4.4.</p> <p>The proposed dwelling is of two storeys and demonstrates compliance with the required height and setback distances. The design of the single dwelling maintains reasonable amenities for a single dwelling providing necessary features to suit the locality. The proposal is regarded reasonable in the location considering the constraints related to the zoning and site area (the permitted FSR / minimum lot size ratio) and the topography. The design has been adopted to fit within the setback requirements and height limits, demonstrating that the development is appropriate to the size and shape of the site in that context.</p> <p>The exceedance of the floor space ratio by 28.6% will not unduly intensify the proposed land use.</p>

	<p>The applicant's submission include justification for the departure that the developments within immediately surrounding area has varied character and density and the proposal ensures the minor increase of 52.27m² will not be visually apparent or out of keeping with the character of the area.</p> <p>The development satisfies the objectives of the floor space ratio development standard in this instance.</p>
4.6 (4) (a) Consent authority is satisfied that:	
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>The statement submitted by the applicant (Attachment 4) adequately addressed the matters required to be demonstrated, in that compliance to the development standard is unnecessary or unreasonable in the circumstances of the case. In demonstrating that there are sufficient planning grounds the statement appropriately provides reasons that are specific to the site.</p> <p>The site has a smaller area compared to other C4 land and strict adherence to the permitted max FSR on a coastal lot having other constraints can be considered unreasonable. The site-specific design is found to appropriately balance a functional dwelling with a positive contribution to the streetscape, while considering the siting and design of surrounding developments.</p> <p>It is noted land with a FSR maximum of 0.3:1 usually corresponds to a minimum lot size 999sqm for C4 zoned land in WLEP 2009. As the site has an existing area of 609sqm and does not meet the minimum lot size the lot can be considered affected by a planning anomaly to be restricted to FSR 0.3:1. Further, a review of other development approvals granted in similar C4 zoned beach front lots have variations accepted rather than strict compliance with the standard.</p> <p>The Clause 4.6 Statement has provided reasonable justification that the development achieves the objectives of Clause 4.4 and has sufficient planning grounds to justify the variation.</p>
(ii) the proposed development will be in the public interest.	It is considered that strict numerical compliance with the floor space ratio development standard

<p>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>in the context of the proposal would not result in significant public benefit.</p> <p>The objectives of Clause 4.4 Floor Space Ratio are:</p> <p><i>(a) to provide an appropriate correlation between the size of a site and the extent of any development on that site,</i></p> <p><i>(b) to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,</i></p> <p><i>(c) to ensure buildings are compatible with the bulk and scale of the locality.</i></p> <p>With regard to the above, the proposed development will have minimal adverse impacts on the surrounding developments. The extent of the development, density and intensity, and bulk and scale are not to have adverse impacts to the existing infrastructure and vehicle and pedestrian traffic.</p> <p>The objectives of the C4 Environmental Living:</p> <ul style="list-style-type: none"> <i>• To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.</i> <i>• To ensure that residential development does not have an adverse effect on those values.</i> <p>The development is consistent with the above objectives and has minimal impacts on the aesthetic and ecological values of the area. Given that the development is consistent with the objectives of Clause 4.4 and the objectives of the zone, the proposed variation to the floor space ratio is considered to be in the public interest.</p>
<p>(b) the concurrence of the Secretary has been obtained.</p>	<p>The WLPP can assume the Secretary's concurrence as the consent authority.</p>

Comment: The requested departure to the development standard as detailed above is considered capable of support.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The development site is already serviced by electricity, water and sewage services. An existing power pole is proposed to be relocated to Endeavour Energy's requirements to facilitate a new vehicular entry arrangement to the site.

Clause 7.5 Acid Sulfate Soils

The site is identified as being affected by class 5 acid sulphate soils. An acid sulphate soils management plan is not required.

Clause 7.6 Earthworks

The proposal comprises minor excavation related to the construction of the buildings and related infrastructure and landscaping. The earthworks are not expected to have significant detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features surrounding land. Conditions are proposed as Attachment 5 for site fencing and safety of adjacent structures.

Clause 7.7 Foreshore Building Line

The site is located partially within the foreshore building line. Given the works pertaining to the development application are wholly outside of the "foreshore building line" area. Council is satisfied that the development will not impact on natural foreshore processes or affect the significance and amenity of the area.

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

N/A

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

3.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

The development has been assessed against the relevant chapters of WDCP 2009 and found to be satisfactory. A full assessment of the proposal in relation to Chapter B1 of WDCP 2009 is contained at Attachment 2.

CHAPTER A1 – INTRODUCTION

(8) Variations to development controls in the DCP

N/A

CHAPTER A2 – ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Development controls to improve the sustainability of development throughout Wollongong are integrated into the relevant chapters of this DCP. A Basix Certificate has been submitted with the application.

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

3.3.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2023

The estimated cost of works \$860,547.00 and as the works are >\$100,000.00 a levy is applicable under this plan and will be applied to any consent issued. A contribution fee of \$8,605.47 applies to the development.

3.4 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.

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

Environmental Planning and Assessment Regulation 2021

2 Savings

Any act, matter or thing that, immediately before the repeal of the 2000 Regulation, had effect under the 2000 Regulation continues to have effect under this Regulation.

2000 Regulation means the Environmental Planning and Assessment Regulation 2000 as in force immediately before its repeal on 1 March 2022.

6 Determination of BASIX development

The proposal is BASIX affected.

61 Additional matters that consent authority must consider.

Conditions are recommended with regard to demolition works.

62 Consideration of fire safety

No change of use.

63 Considerations for erection of temporary structures

Not applicable.

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

The proposal is considered acceptable with regard to the likely impacts.

The key impacts have been discussed largely within this report. Further impacts are discussed below:

Context and Setting:

The physical and visual impacts on surrounding development matters such as overshadowing, privacy concerns, bulk scale and setbacks are relevant considerations, and the proposal is acceptable for reasons identified in the report.

The development standard departure in respect to FSR, is capable of support. The scale of the development as viewed from the street and foreshore is comparable to other developments in the locality especially along the beachfront.

On balance, the development provides for reasonable amenity to the occupants, neighbours and public areas and is in keeping with the character of the area and compatible with the locality.

Access, Transport and Traffic:

The design and configuration of the vehicular access and car parking arrangements is considered to be acceptable. The proposal will not result in traffic generation that will adversely impact the locality.

Public Domain:

The development is not expected to have adverse impact on the public domain. The form of the building is acceptable with regard to the current and desired future character of the area.

Utilities:

The proposal is not envisaged to place an unreasonable demand on utilities supply.

Heritage:

The site is not a heritage item and is not located in a heritage conservation area.

Other land resources:

The proposal will 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.

Soils:

Council records identify the site as containing Class 5 acid sulfate soils; however, the proposal will not require an acid sulfate soil management plan. With the implementation of appropriate soil and water management controls during construction, it is expected that soil resources will not be compromised during the course of construction activities. Council's Geotechnical officer has reviewed the proposal and is satisfied subject to conditions.

Air and Microclimate:

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

Flora and Fauna:

Tree removal does not form part of the proposal. Council is satisfied that there will be no negative flora and fauna impacts.

Waste:

Construction waste can be managed via the imposition of appropriate conditions. Bins can be stored in an appropriate location and will be collected from the street frontage.

Energy:

The proposal is not expected to involve unreasonable energy consumption subject to the implementation of the measures identified in the submitted BASIX certificate.

Noise and vibration:

A condition is to be imposed that nuisance be minimised during any construction, and/or works.

Natural hazards:

There are no known site constraints that would preclude development of the site.

Technological hazards:

The site is identified to be affected by coastal hazard - geotechnical risk. The application has been reviewed by Council's Geotechnical officer in relation to site stability with no issues identified.

Safety, Security and Crime Prevention:

The development is not expected to give rise to increased opportunities for criminal and/ or antisocial behaviour.

Social Impact:

There are not expected to be adverse social impacts arising from the proposed development.

Economic Impact:

There are not expected to be adverse economic impacts arising from the proposed development.

Site Design and Internal Design:

The site design, car parking and manoeuvring arrangements proposed are acceptable. All other aspects of the proposal are compliant with applicable controls. The application results in a departure from a development standard as discussed within the report, which is capable of support.

Construction:

A condition will be attached to any consent granted that the development is to be in compliance with the Building Code of Australia.

Cumulative Impacts:

The proposal is not expected to have negative cumulative impacts.

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

Does the proposal fit in the locality?

The proposal is permitted in the C4 zone and whilst a development standard departure is sought, the form of the development is not considered to be inappropriate with regard to the character of the development in the locality and is not expected to give rise to adverse 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.

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

Details of the proposal were publicly exhibited in accordance with Wollongong Community Participation Plan 2019. No submissions were received.

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

The application is not expected to have any 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 is satisfactory with regard to the applicable planning controls. Internal referrals are satisfactory subject to appropriate conditions. The proposal is considered to be in the public interest.

4 CONCLUSION

This application has been assessed as satisfactory having regard to the Heads of Consideration under Section S4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 and all relevant Council DCPs, Codes and Policies. The proposal is supportable in its current form.

Pursuant to clause 2.3 of WLEP 2009, Dwelling Houses are permissible in the C4 Environmental Living zone with development consent. The proposal is consistent with the zone objectives. The departure request to the development standard regarding Floor Space Ratio is capable of support for reasons outlined in this report.

Internal referral comments are satisfactory, and no submissions were received resulting from exhibition. It is considered the proposed development is unlikely to result in adverse impacts on the character or amenity of the surrounding area, environment, and adjoining development.

5 RECOMMENDATION

DA-2023/868 be approved subject to the conditions presented at Attachment 5.

6 ATTACHMENTS

- 1 Architectural Plans
- 2 Site Photos
- 3 WDCP Compliance Table
- 4 Applicant's submission to development departure – Clause 4.4 Floor Space Ratio
- 5 Conditions

BASIX COMMITMENTS

FIXTURES & SYSTEMS

Hot water

The applicant must install the following hot water system in the development: gas instantaneous

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

The applicant must ensure new or altered showerheads have a low rate no greater than 9 litres per minute or a 3 star water rating.

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.

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

Concrete slab on ground - Nil

Suspended Floor with open subfloor: Framed (R0.7) R0.8 (down) or (R1.5 including construction)

Suspended Floor above garage: Framed (R0.7)

Floor above existing dwelling - nil

External wall: Brick Veneer R1.15 (or R1.70 including construction)

External wall: Framed R1.30 (or R1.70 including construction)

Internal wall shared with garage: R0.36

Flat ceiling, flat roof: framed - ceiling R2.32 (up), roof: sarking/foil

Light colour (solar absorptance < 0.475)

GLAZING REQUIREMENTS

Windows & Glazed Doors

The applicant must install the windows, glazed doors, and shading devices, in accordance with the specifications listed in the table below. Relevant overshadowing specifications must be satisfied for each window and door.

The following requirements must also be satisfied in relation to each window and glazed door.

Each window or glazed door with improved frames, or pyrolytic low-e glass, or clear/air gap/clear glazing, or toned/air gap/clear glazing must have a U-value and a solar heat gain coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions. The description is provided for information onl. Alternate systems with complying U-value and SHGC may be substituted.

For projections described in millimetres, the leading edge of each eave, pergola, verandah, balcony or awning must be no more than 500mm above the head of the window or glazed door and no more than 2400mm above the sill.

For projections described as a ratio, the ratio of the projection from the wall to the height above the window or the glazed door sill must be at least that shown in the table below.

Pergolas with polycarbonate roof or similar translucent material must have a shading coefficient of less than 0.35.

Pergolas with fixed battens must have battens parallel to the window or glazed door above which they are situated unless the pergola also shades a perpendicular window. The spacing between battens must not be more than 50mm.

SEE WINDOW SCHEDULE PAGE FOR DETAILS



ARTISTS IMPRESSION - MAY NOT DEPICT EXACT FINAL RESULT



LOCATION PLAN - NTS

1	COVER SHEET
2	SITE DEMOLITION PLAN
4	GROUND FLOOR EXISTING
5	FIRST FLOOR EXISTING
6	GROUND FLOOR DEMO
7	FIRST FLOOR DEMO
8	GROUND FLOOR PROPOSED
9	FIRST FLOOR PROPOSED
10	ROOF TERRACE
11	ELEVATIONS 1-2
12	ELEVATIONS 3-4
13	WINDOW & DOOR SCHEDULE
14	SECTIONS 1-2
15	SECTIONS 3-4
17	PERSPECTIVES
18	9AM PROPOSED MID-WINTER SHADOWS
19	12PM PROPOSED MID-WINTER SHADOWS
20	3PM PROPOSED MID-WINTER SHADOWS
21	9AM EXISTING MID-WINTER SHADOWS
22	12PM EXISTING MID-WINTER SHADOWS
23	3PM EXISTING MID-WINTER SHADOWS
24	ROOF TERRACE PERSPECTIVES
25	SITE ANALYSIS
26	EROSION CONTROL PLAN
27	CONCEPT LANDSCAPE PLAN
28	CONSTRUCTION WASTE MGMT PLAN

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COVER SHEET

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MR & MRS BARLOW

LOT 12, DP 1175049

3A CLIFF PARADE

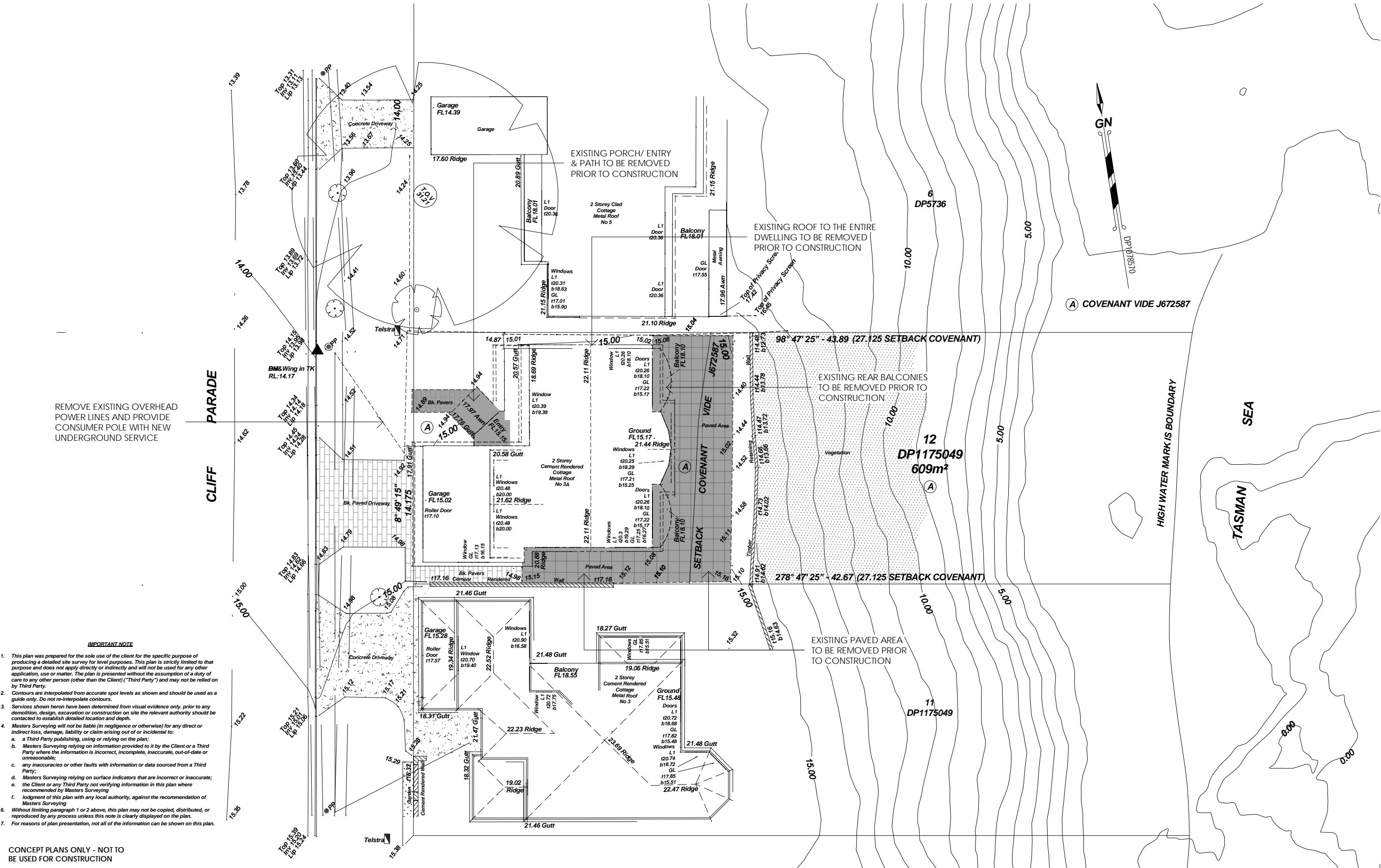
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SITE DEMOLITION PLAN

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FLOOR SPACE RATIO	
SITE:	609.00 m ²
GROUND FLOOR:	150.57 m ²
(Incl. Garage)	
FIRST FLOOR:	120.40 m ²
- GARAGE	-36 m ²
TOTAL:	234.97 m ²
TOTAL LIVING AREA:	
(Excl. Garage/ Alfresco etc.)	234.97 m ²
FLOOR SPACE RATIO	38.58%
MAX. ALLOWABLE BY COUNCIL:	30%

LANDSCAPE AREA	
SITE AREA:	609.00 m ²
BUILT AREA:	207.15 m ²
CONC. DRIVEWAY/PATH	21.76 m ²
TOTAL:	228.91 m ²
REMAINING SOFT AREA:	380.09 m ²
LANDSCAPE AREA:	368.02 m ²
	60.43(%)
MIN REQ. BY COUNCIL:	20.15%

SITE COVERAGE TOTAL	
SITE AREA:	609.00 m ²
DWELLING FOOTPRINT:	157.02 m ²
SITE COVERAGE:	25.78%
MAX. ALLOWABLE:	50%

APPROX. SHAPE &
LOCATION OF
CONCRETE PATH

EXISTING CONCRETE
DRIVEWAY & PATH

IMPORTANT NOTE

- This plan was prepared for the sole use of the client for the specific purpose of producing a detailed site survey for level purposes. This plan is strictly limited to that purpose and does not apply directly or indirectly and will not be used for any other application, use or matter. The plan is presented without the assumption of a duty of care to any other person (other than the Client) ("Third Party") and may not be relied on by Third Party.
- Contours are interpolated from accurate spot levels as shown and should be used as a guide only. Do not re-interpolate contours.
- Services shown hereon have been determined from visual evidence only. prior to any demolition, design, excavation or construction on site the relevant authority should be contacted to establish detailed location and depth.
- Masters Surveying will not be liable (in negligence or otherwise) for any direct or indirect loss, damage, liability or claim arising out of or incidental to:
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 - any inaccuracies or other faults with information or data sourced from a Third Party;
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- Without limiting paragraph 1 or 2 above, this plan may not be copied, distributed, or reproduced by any process unless this note is clearly displayed on the plan.
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SITE PLAN

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PROGRESS SKETCH PLANS

SKETCH PLANS

SKETCH PLANS

FINAL SKETCH PLANS

DA SUBMISSION

STORE ADDED TO REAR OF GARAGE

REV:

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B

C

D

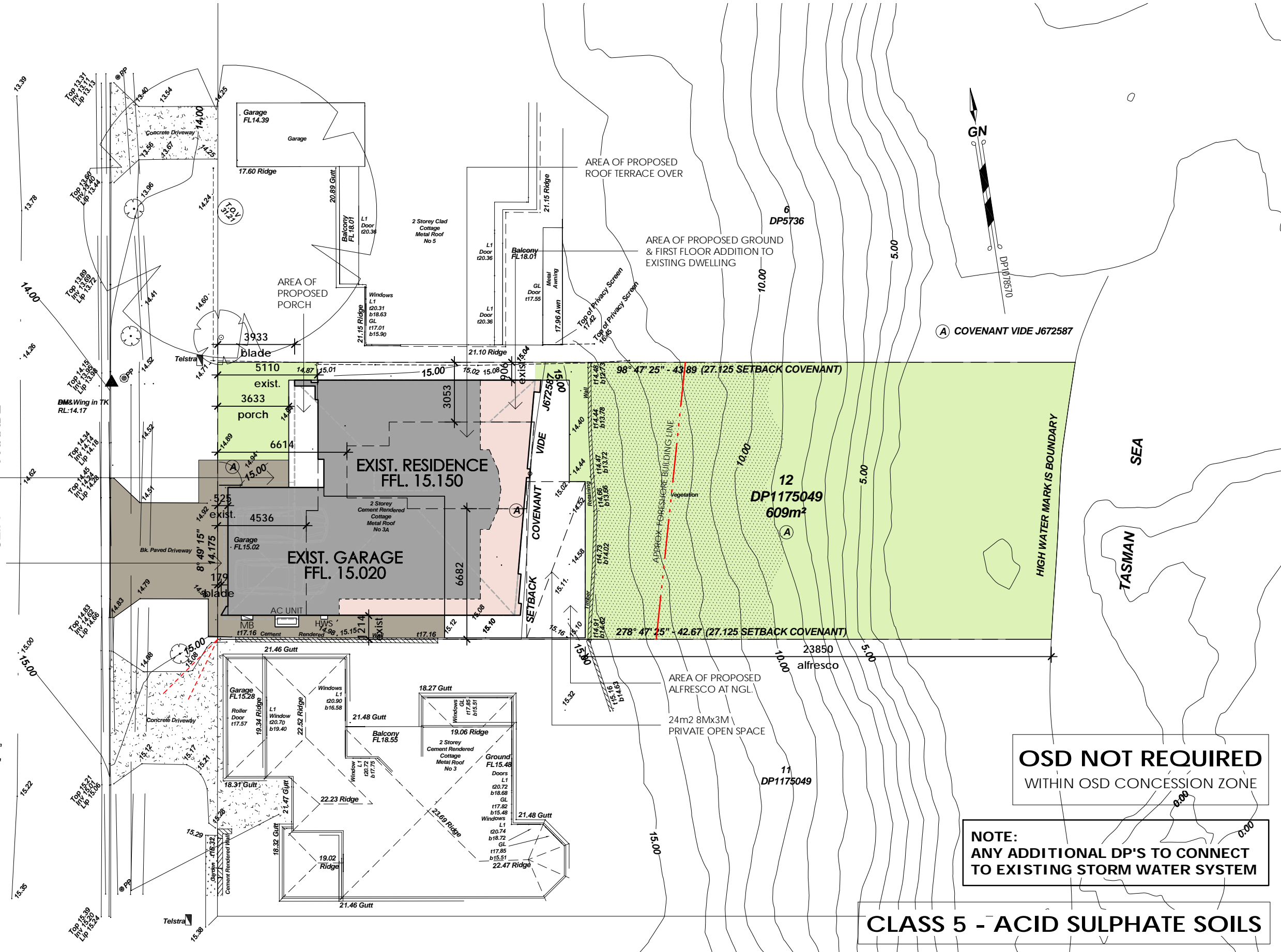
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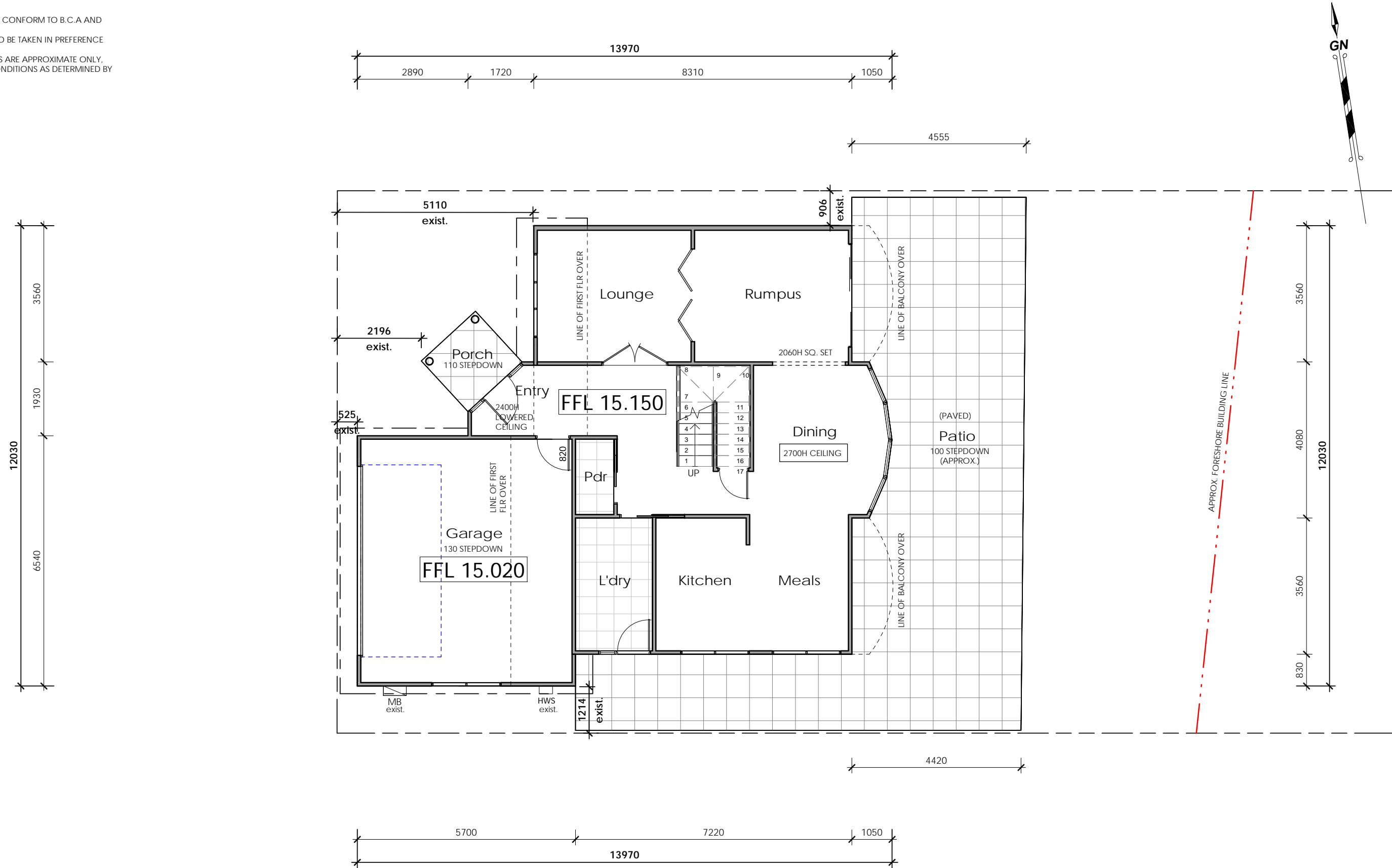
OSD NOT REQUIRED
WITHIN OSD CONCESSION ZONE

NOTE:
ANY ADDITIONAL DP'S TO CONNECT
TO EXISTING STORM WATER SYSTEM

CLASS 5 - ACID SULPHATE SOILS

GENERAL NOTES

- ALL CONSTRUCTION TO CONFORM TO B.C.A AND AUSTRALIAN STANDARDS
- WRITTEN DIMENSIONS TO BE TAKEN IN PREFERENCE TO SCALED
- LOCATION OF SERVICES ARE APPROXIMATE ONLY, AND SUBJECT TO SITE CONDITIONS AS DETERMINED BY BUILDER



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GROUND FLOOR EXISTING

1 : 100

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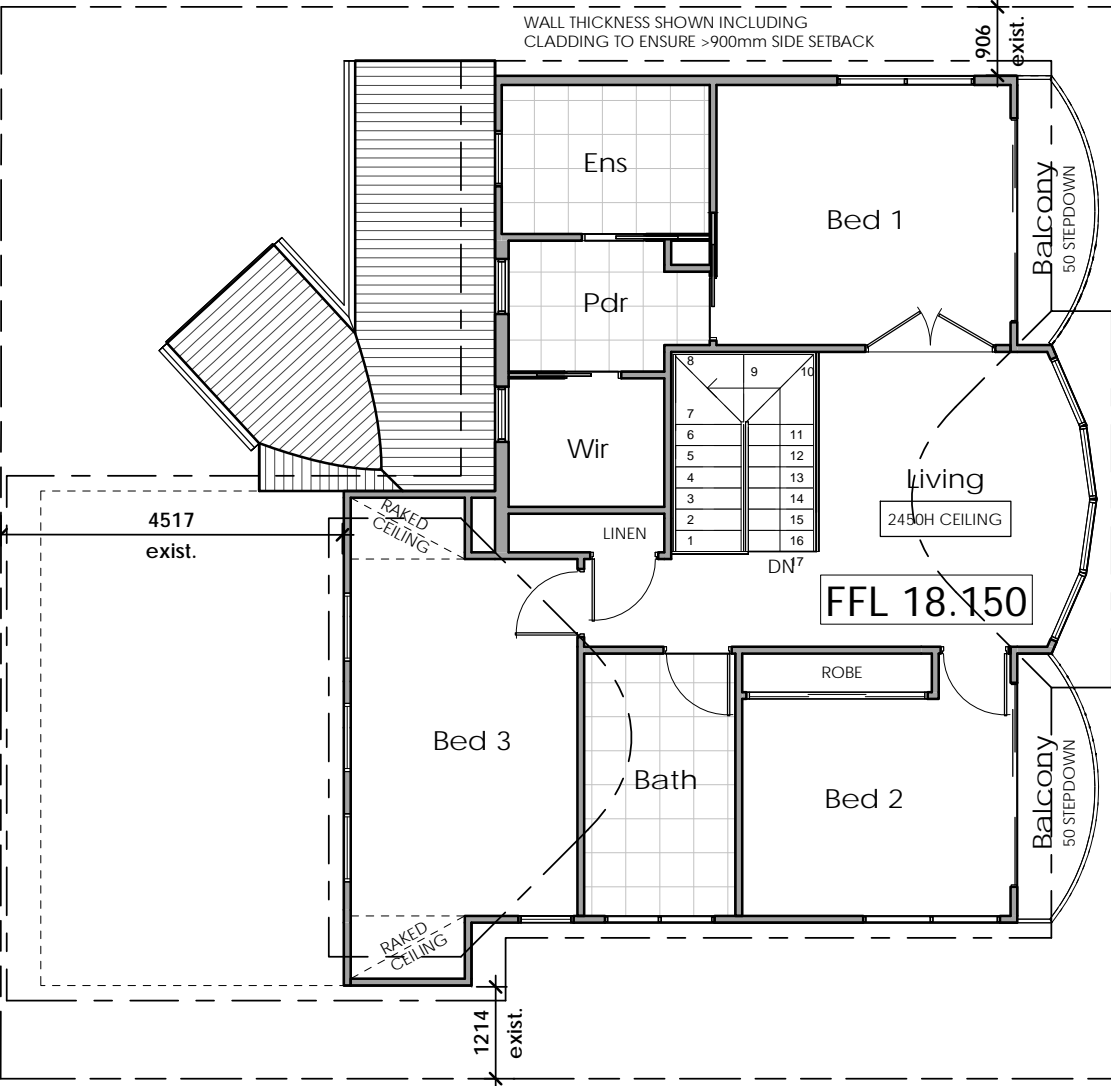
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12030
5580
6450

9960
2000 6910 1050



3560
4080
12030
3560
830

1690 7220 1050
9960

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FIRST FLOOR EXISTING
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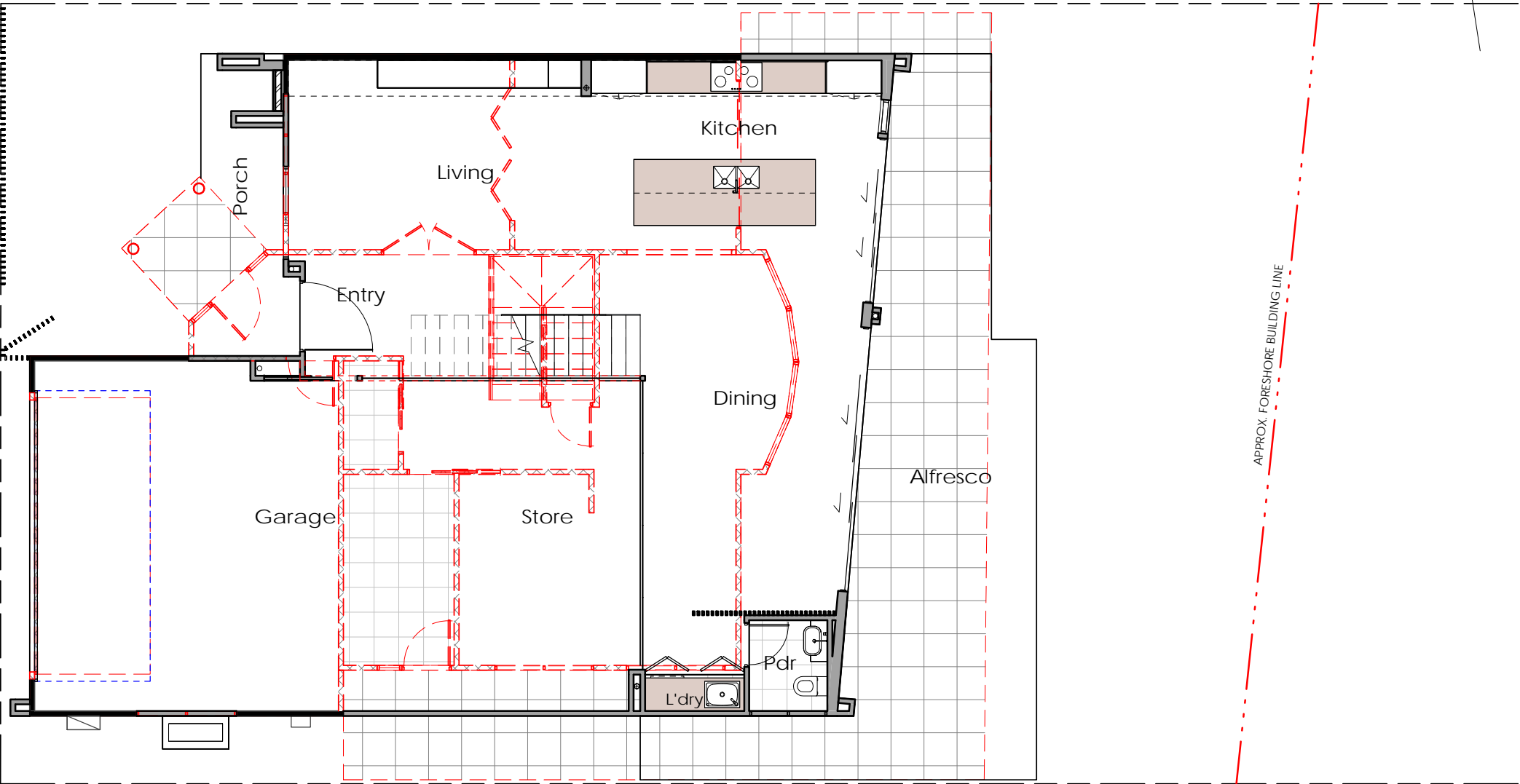


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WALL TYPES

- NEW WALL
- EXISTING WALL
- WALLS TO BE DEMOLISHED
- EXISTING HOUSE AREA - UNTOUCHED

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GROUND FLOOR DEMO

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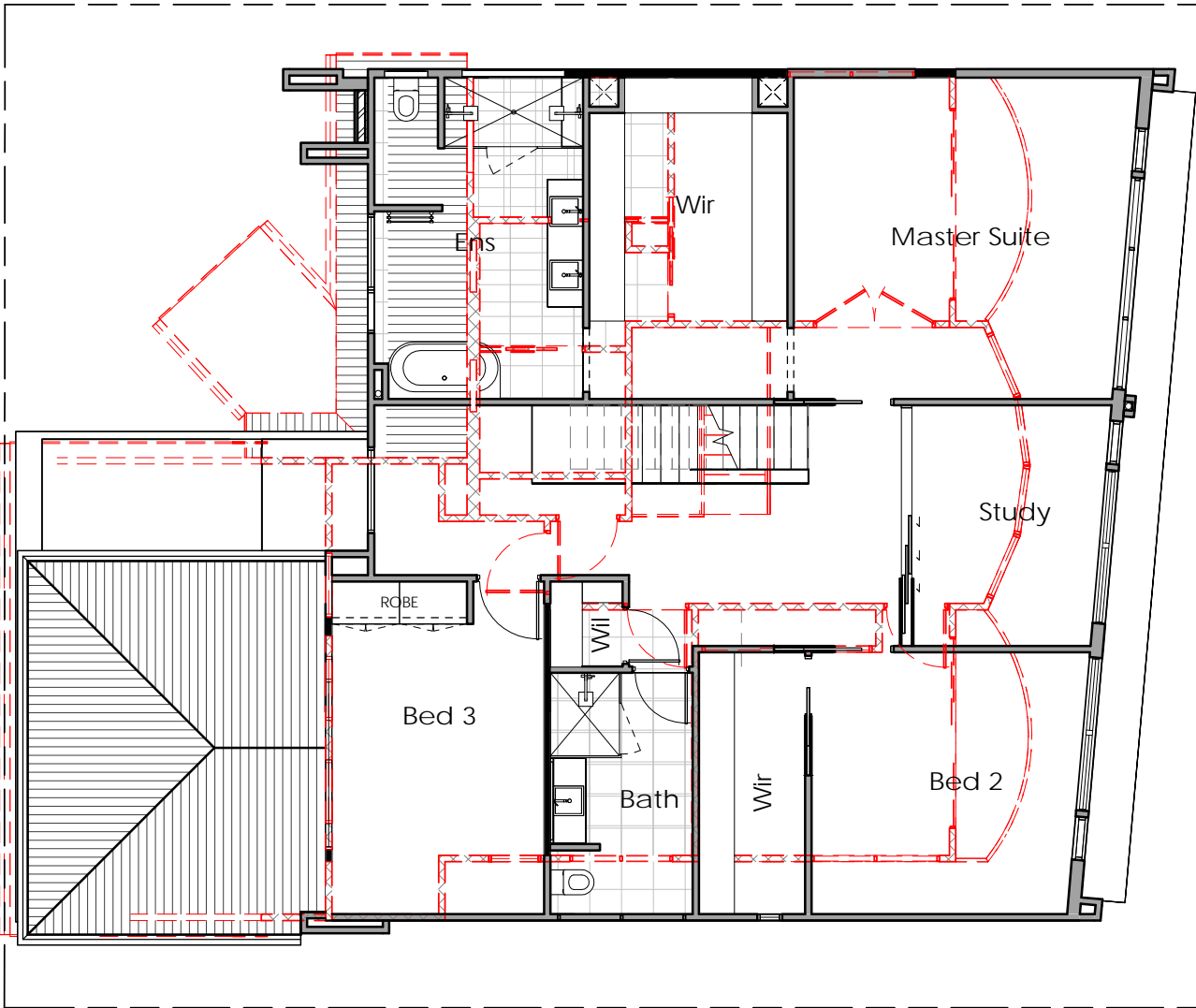
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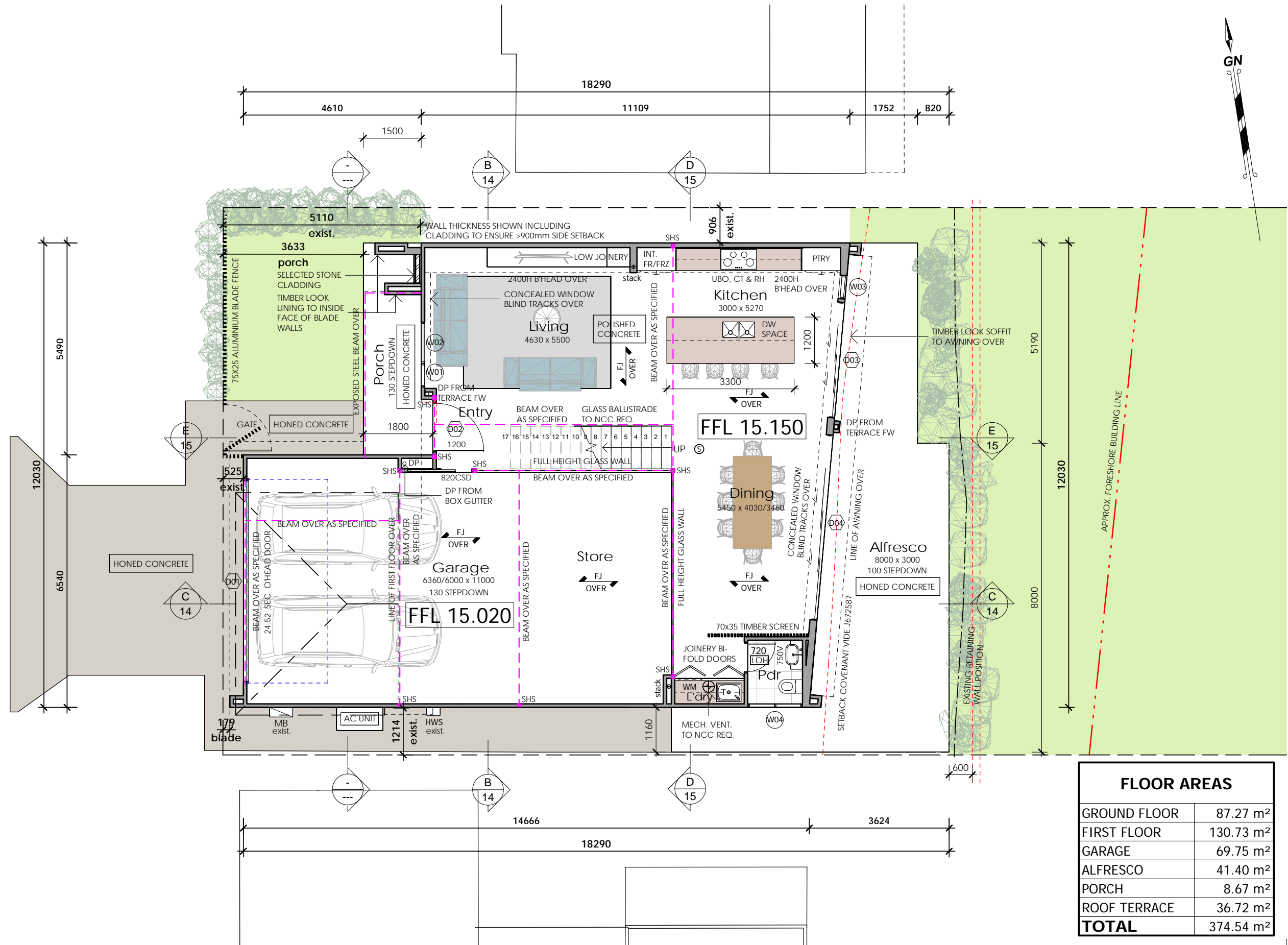
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- ☉ SMOKE ALARMS AS PER CLAUSE 9.55 OF THE NCC
- ⊕ MECH. VENTILATION AS PER CLAUSE 10.6.2(c) OF THE NCC
- LOH LIFT OFF HINGES



2340H INTERNAL DOORS THROUGHOUT DWELLING (UNLESS NOTED OTHERWISE)

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GROUND FLOOR PROPOSED

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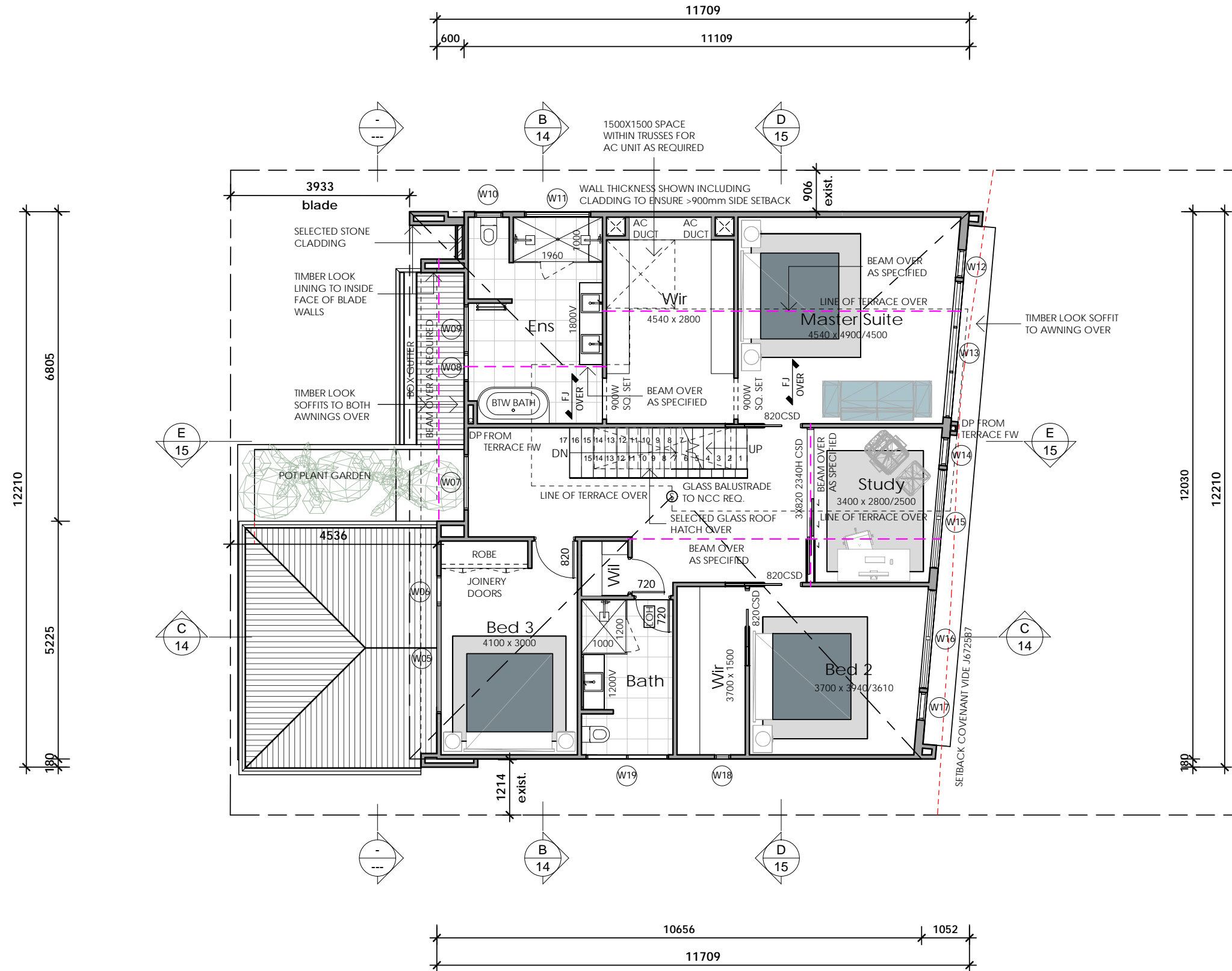
FLOOR AREAS

GROUND FLOOR	87.27 m ²
FIRST FLOOR	130.73 m ²
GARAGE	69.75 m ²
ALFRESCO	41.40 m ²
PORCH	8.67 m ²
ROOF TERRACE	36.72 m ²
TOTAL	374.54 m²

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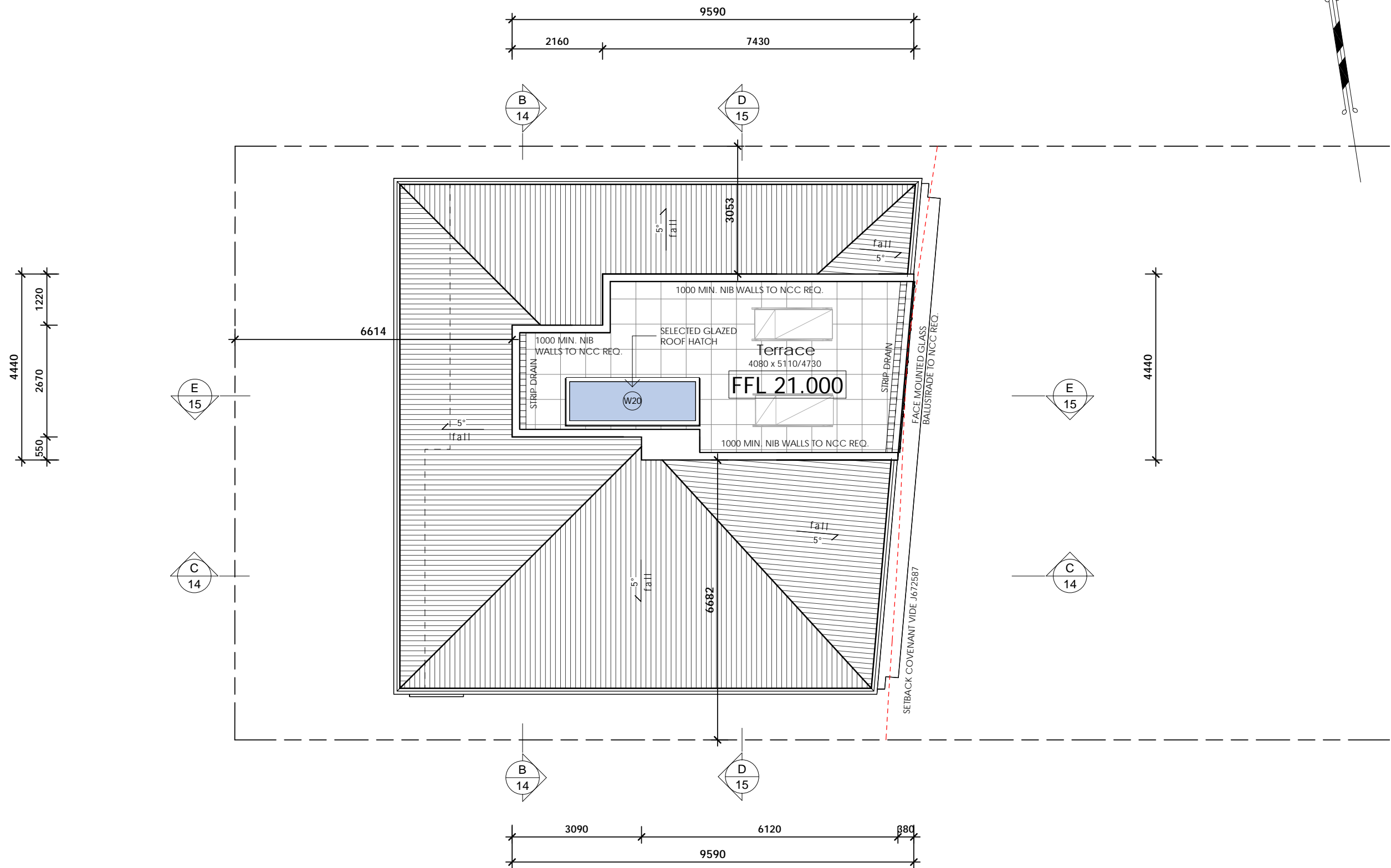
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ROOF TERRACE

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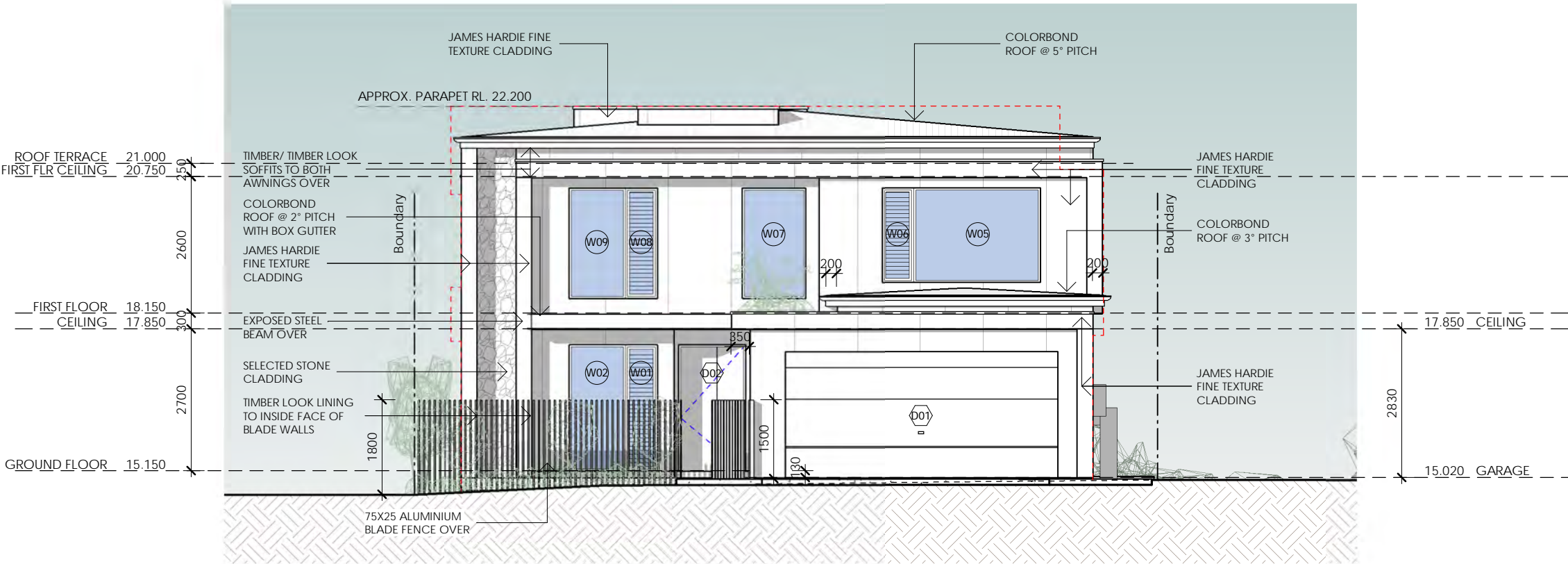
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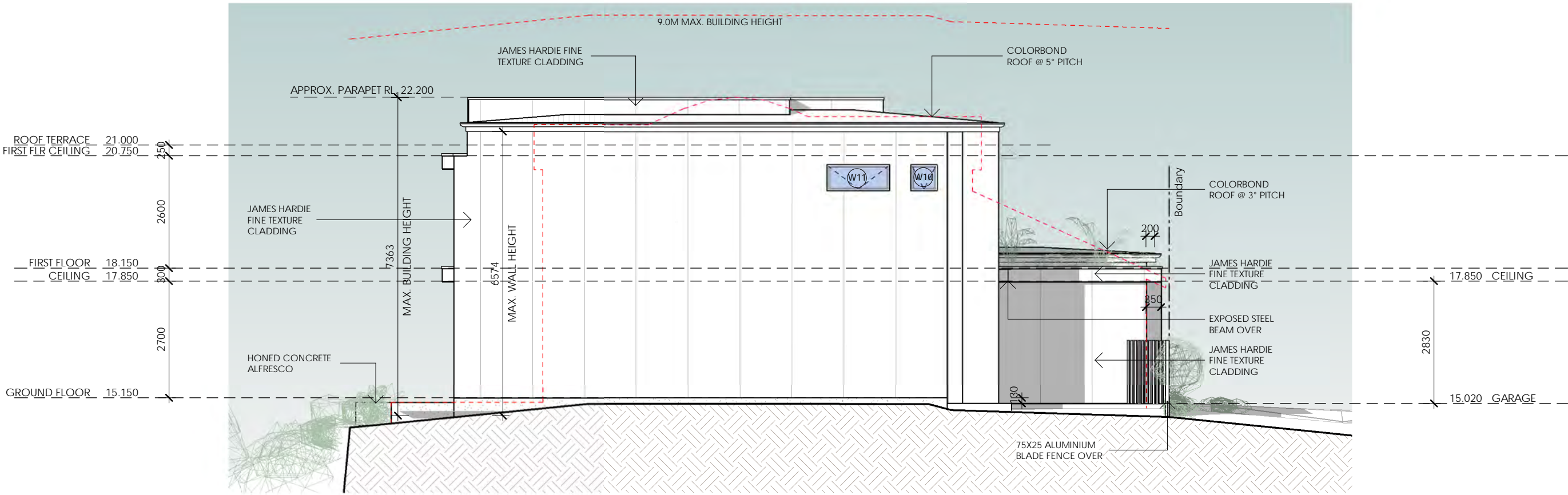
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Western Elevation



Northern Elevation

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ELEVATIONS 1-2

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AMENDMENT:

INITIAL CONCEPT SKETCH

PROGRESS SKETCH PLANS

SKETCH PLANS

SKETCH PLANS

FINAL SKETCH PLANS

DA SUBMISSION

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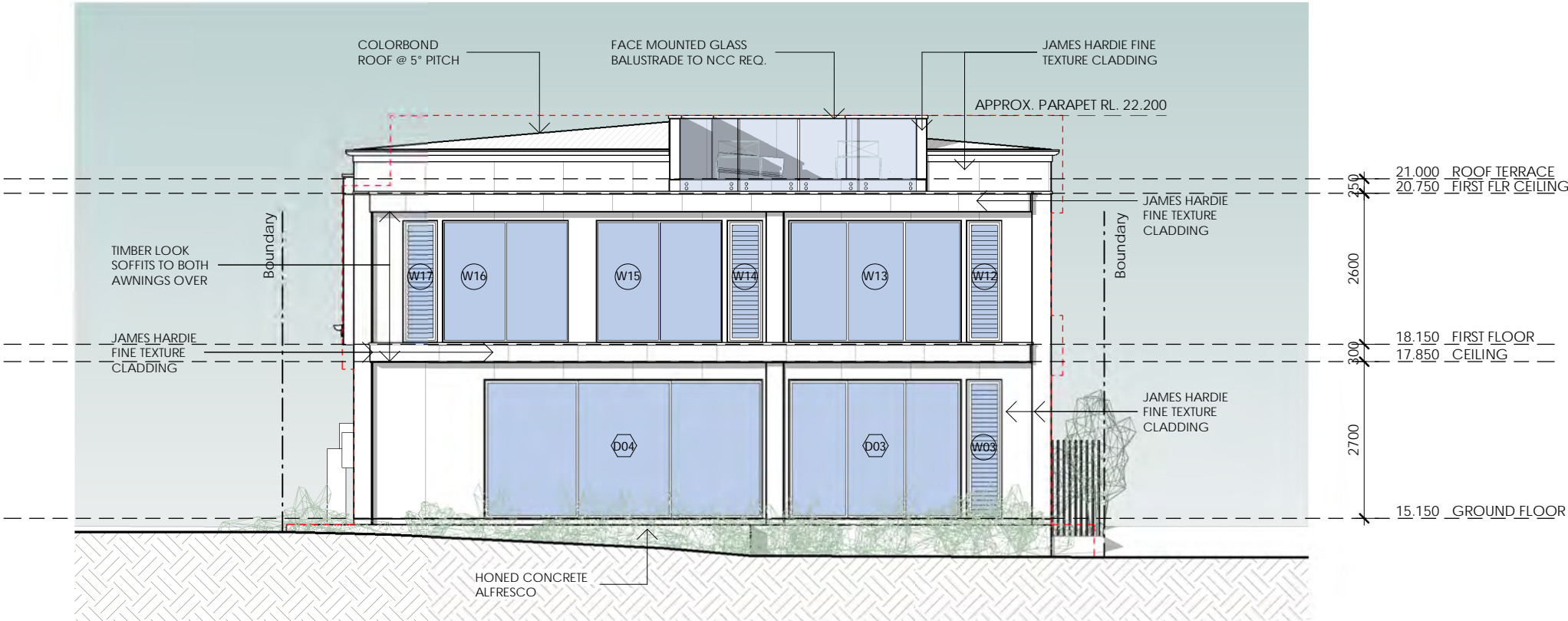


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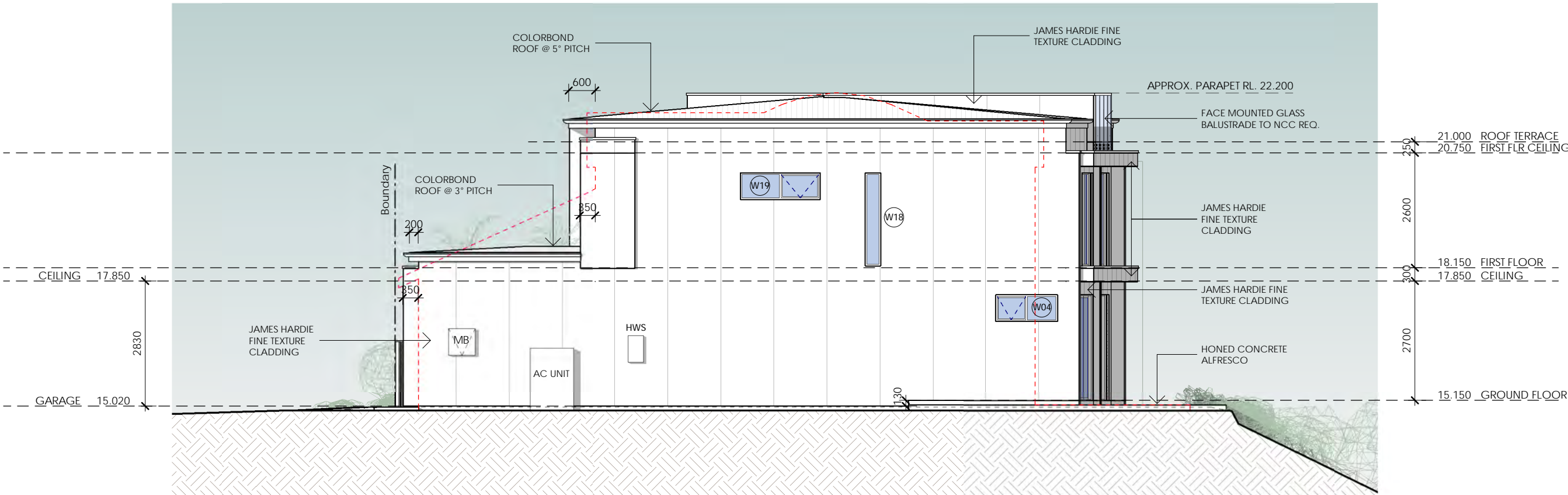
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Elevation Legend

Existing Dwelling Outline



Eastern Elevation



Southern Elevation

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ELEVATIONS 3-4

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3A CLIFF PARADE
THIRROUL, NSW



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Windows and glazed doors glazing requirements

Window / door no.	Orientation	Area of glass inc. frame (m2)	Overshadowing		Shading device	Frame and glass type
			Height (m)	Distance (m)		
W1	W	1.46	0	0	eave/verandah/ pergola/ balcony >=900 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W2	W	2.57	0	0	eave/verandah/ pergola/ balcony >=900 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W3	E	1.46	0	0	eave/verandah/ pergola/ balcony >=600 mm	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)
W4	S	0.84	0	0	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W5	W	4.34	0	0	eave/verandah/ pergola/ balcony >=600 mm	improved aluminium, single pyrolytic low-e, (U-value: 4.48, SHGC: 0.46)
W6	W	1.1	0	0	eave/verandah/ pergola/ balcony >=600 mm	improved aluminium, single pyrolytic low-e, (U-value: 4.48, SHGC: 0.46)
W7	W	2.54	0	0	eave/verandah/ pergola/ balcony >=900 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W8	W	1.28	0	0	eave/verandah/ pergola/ balcony >=900 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W9	W	2.25	0	0	eave/verandah/ pergola/ balcony >=900 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W10	N	0.37	11.26	7.95	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W11	N	0.87	11.26	7.95	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W12	E	1.28	0	0	eave/verandah/ pergola/ balcony >=600 mm	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)
W13	E	6.3	0	0	eave/verandah/ pergola/ balcony >=600 mm	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)
W14	E	1.28	0	0	eave/verandah/ pergola/ balcony >=600 mm	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)
W15	E	4.56	0	0	eave/verandah/ pergola/ balcony >=600 mm	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)

Window / door no.	Orientation	Area of glass inc. frame (m2)	Overshadowing		Shading device	Frame and glass type
			Height (m)	Distance (m)		
W16	E	4.56	0	0	eave/verandah/ pergola/ balcony >=600 mm	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)
W17	E	1.28	0	0	eave/verandah/ pergola/ balcony >=600 mm	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)
W18	S	0.74	0	0	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W19	S	1.09	0	0	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
D03	E	7.2	0	0	eave/verandah/ pergola/ balcony >=600 mm	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)
D04	E	11.54	0	0	eave/verandah/ pergola/ balcony >=600 mm	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)

Skylights

The applicant must install the skylights in accordance with the specifications listed in the table below.

The following requirements must also be satisfied in relation to each skylight:

Each skylight may either match the description, or, have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below.

Skylights glazing requirements

Skylight number	Area of glazing inc. frame (m2)	Shading device	Frame and glass type
S1	3.5	no shading	timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)

Window Schedule

Mark	Location	Type	Height	Width	Area	Description	Head Height	Comments
W01	Living	ALW2406	2400	610	1.46 m²	Aluminum Louvre Window	2400	Coupled with W02
W02	Living	AFW2410	2400	1070	2.57 m²	Aluminum Fixed Window	2400	Coupled with W01
W03	Kitchen	ALW2406	2400	610	1.46 m²	Aluminum Louvre Window	2400	
W04	Powder	AAW0614	600	1400	0.84 m²	Aluminum Awning Window	2400	Trans.
W05	Bed 3	AFW1824	1800	2410	4.34 m²	Aluminum Fixed Window	2400	Coupled with W07
W06	Bed 3	ALW1806	1800	610	1.10 m²	Aluminum Louvre Window	2400	Coupled with W06
W07	First Floor Landing	AFW2112	2100	1210	2.54 m²	Aluminum Fixed Window	2400	
W08	Ensuite	ALW2106	2100	610	1.28 m²	Aluminum Louvre Window	2400	Coupled with W09
W09	Ensuite	AFW2110	2100	1070	2.25 m²	Aluminum Fixed Window	2400	Coupled with W08
W10	Ensuite	AAW0606	600	610	0.37 m²	Aluminum Awning Window	2400	Trans.

Window Schedule

Mark	Location	Type	Height	Width	Area	Description	Head Height	Comments
W11	Ensuite	AAW0615	600	1450	0.87 m²	Aluminum Awning Window	2400	Trans.
W12	Master Suite	ALW2106	2100	610	1.28 m²	Aluminum Louvre Window	2150	
W13	Master Suite	AFW2130	2100	3000	6.30 m²	Aluminum Fixed Window	2150	
W14	Study	ALW2106	2100	610	1.28 m²	Aluminum Louvre Window	2150	
W15	Study	AFW2121	2100	2170	4.56 m²	Aluminum Fixed Window	2150	
W16	Bed 2	AFW2121	2100	2170	4.56 m²	Aluminum Fixed Window	2150	
W17	Bed 2	ALW2106	2100	610	1.28 m²	Aluminum Louvre Window	2150	
W18	Wir	AFW2103	2100	350	0.74 m²	Aluminum Fixed Window	2150	
W19	Bathroom	AAW0618	600	1810	1.09 m²	Aluminum Awning Window	2150	Trans.
W20	Roof Terrace	RHTG9030	3000	900	2.70 m²	Openable Skylight		Glazed Roof Hatch
					42.86 m²			

EXT Door Schedule

Mark	Height	Width	Room Name	Comments
D01	2400	5200	Garage	24.52 Sec. O'head Door
D02	2340	1200	Entry	2340H x 1200W Entry Door
D03	2400	3000	Kitchen	Aluminium Stacking Door
D04	2400	4810	Dining	Aluminium Stacking Door
Grand total: 4				

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WINDOW & DOOR SCHEDULE

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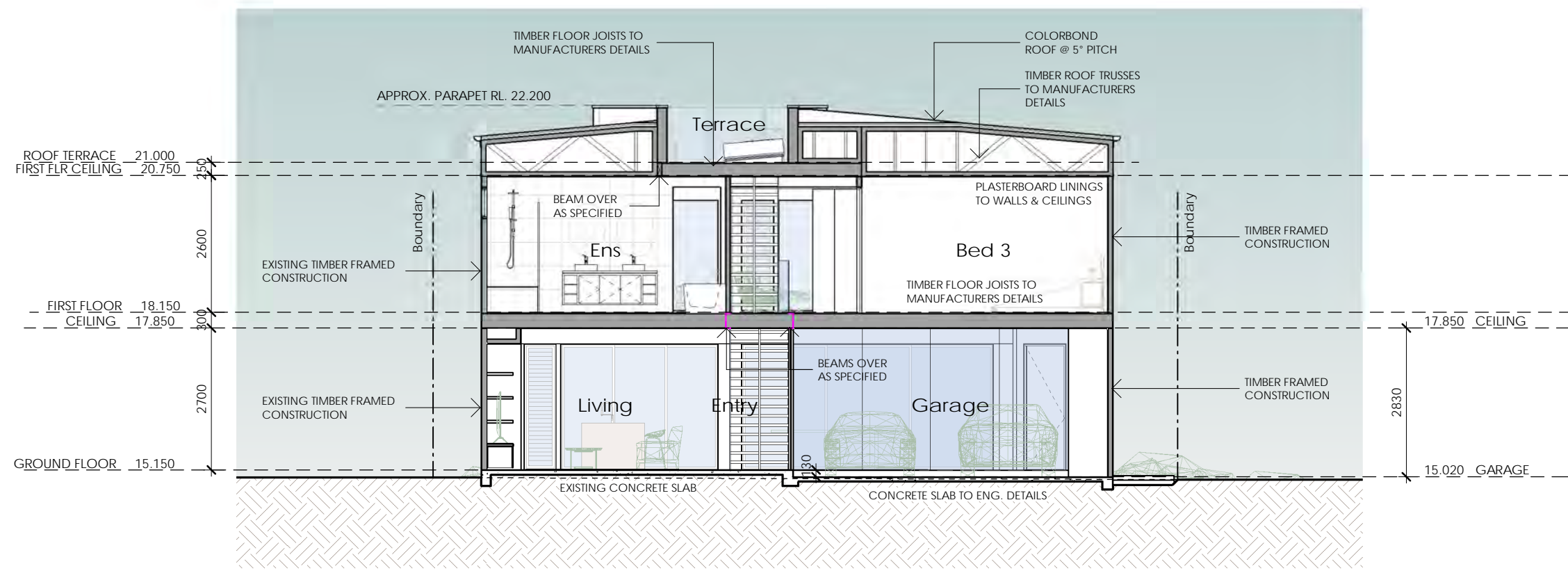
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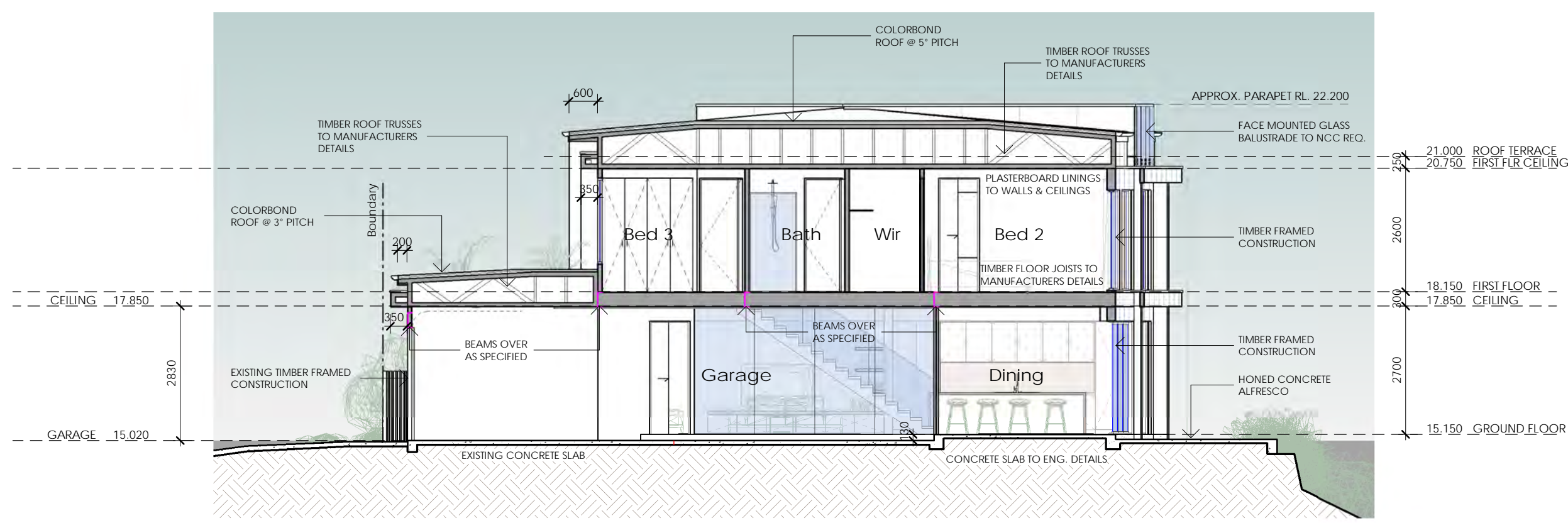
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Section B-B



Section C-C

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SECTIONS 1-2

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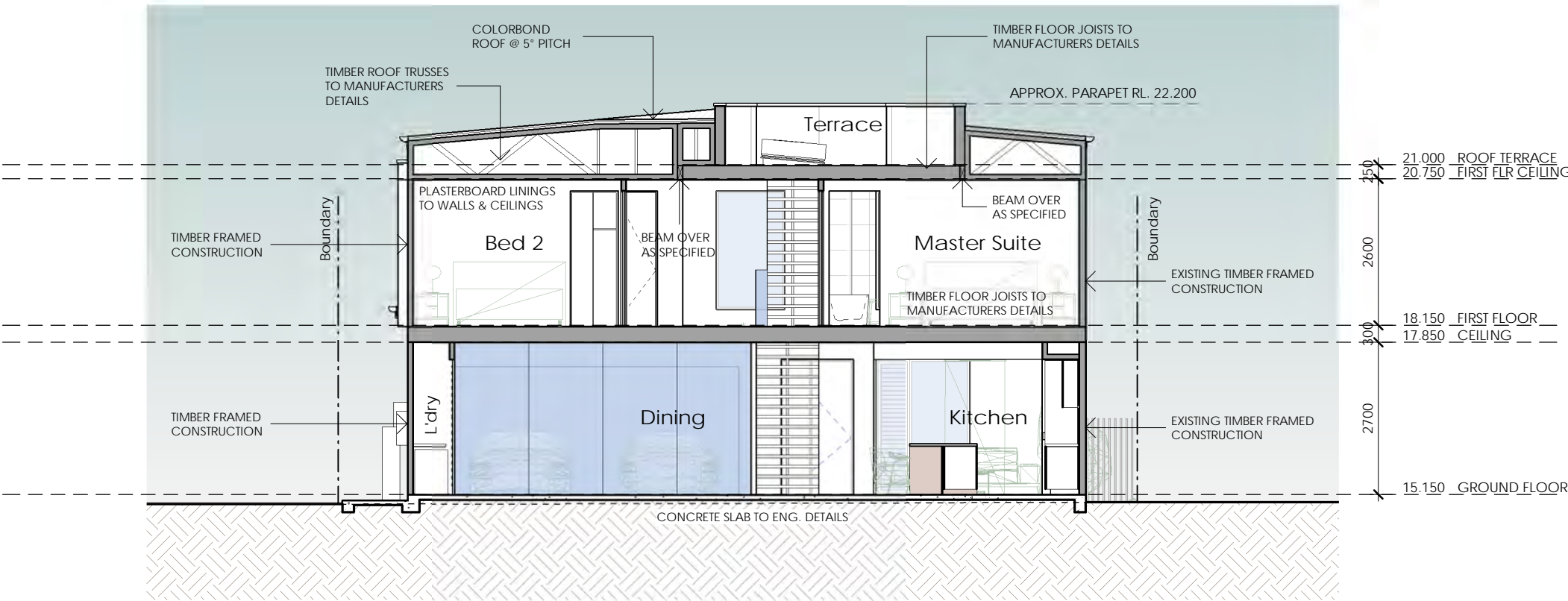
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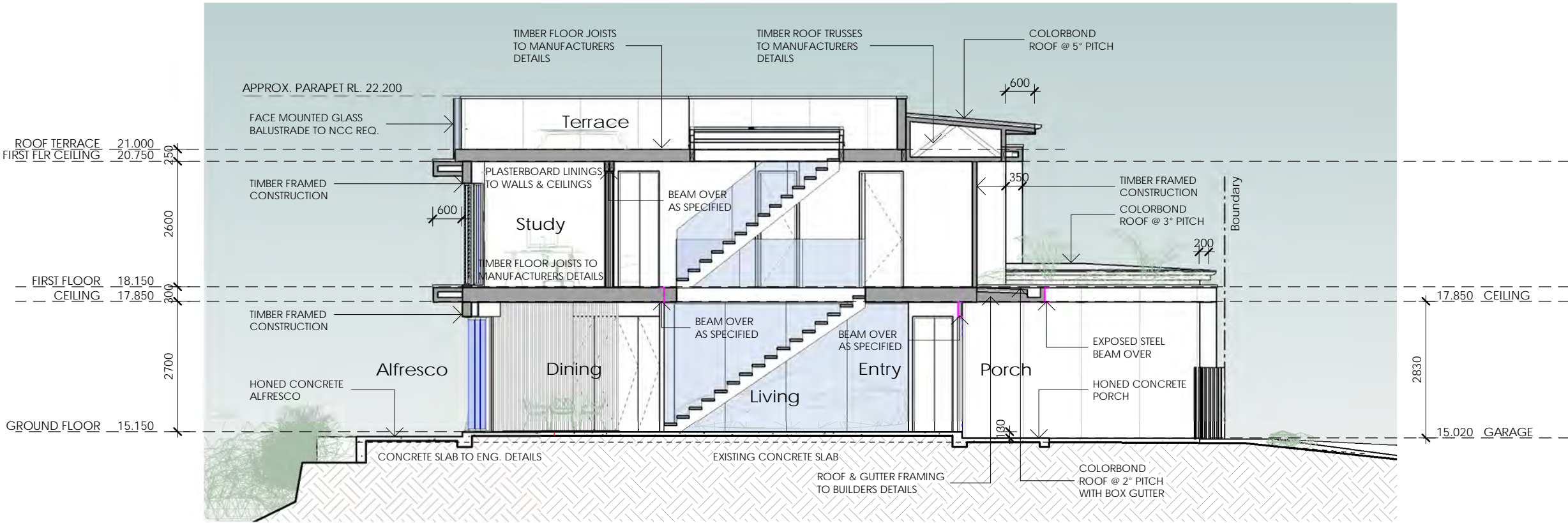
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Section D-D



Section E-E

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SECTIONS 3-4

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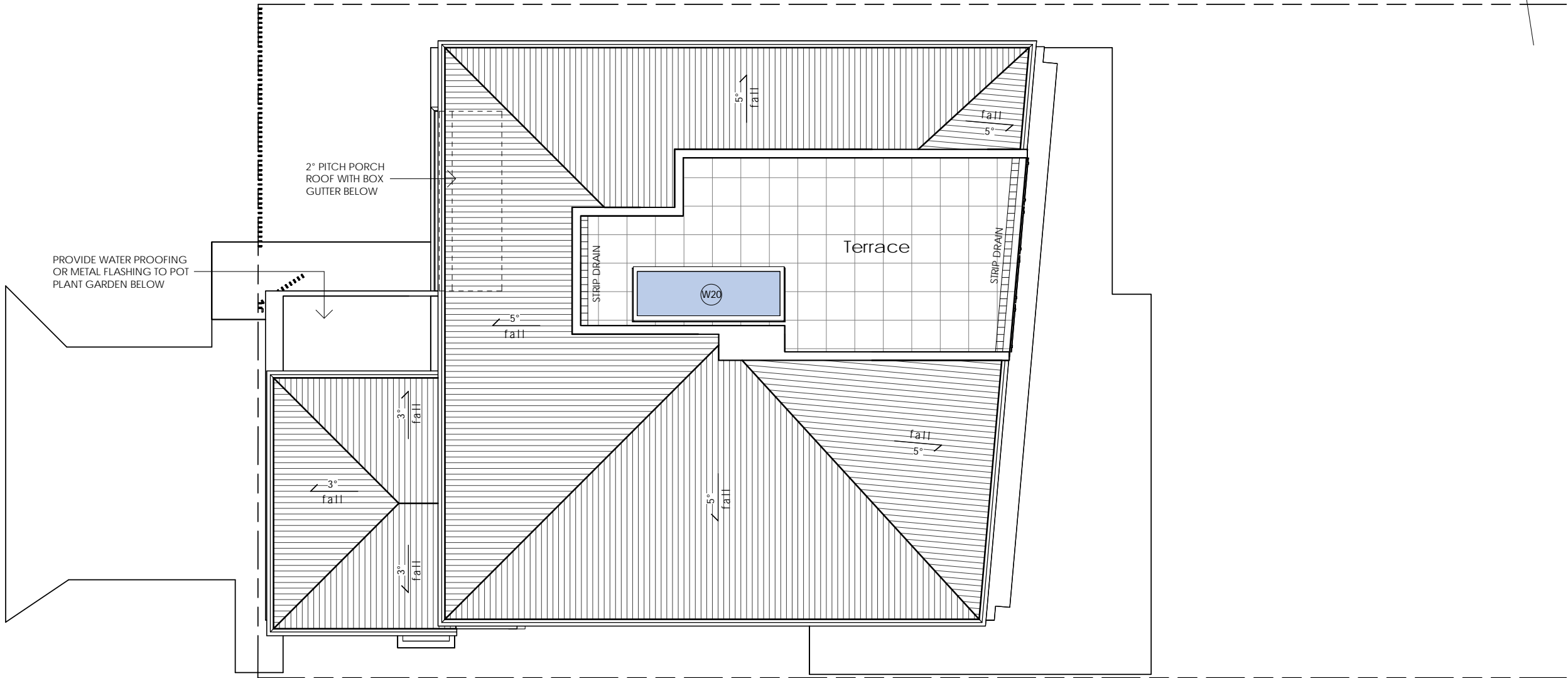
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ROOF PLAN

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PERSPECTIVES

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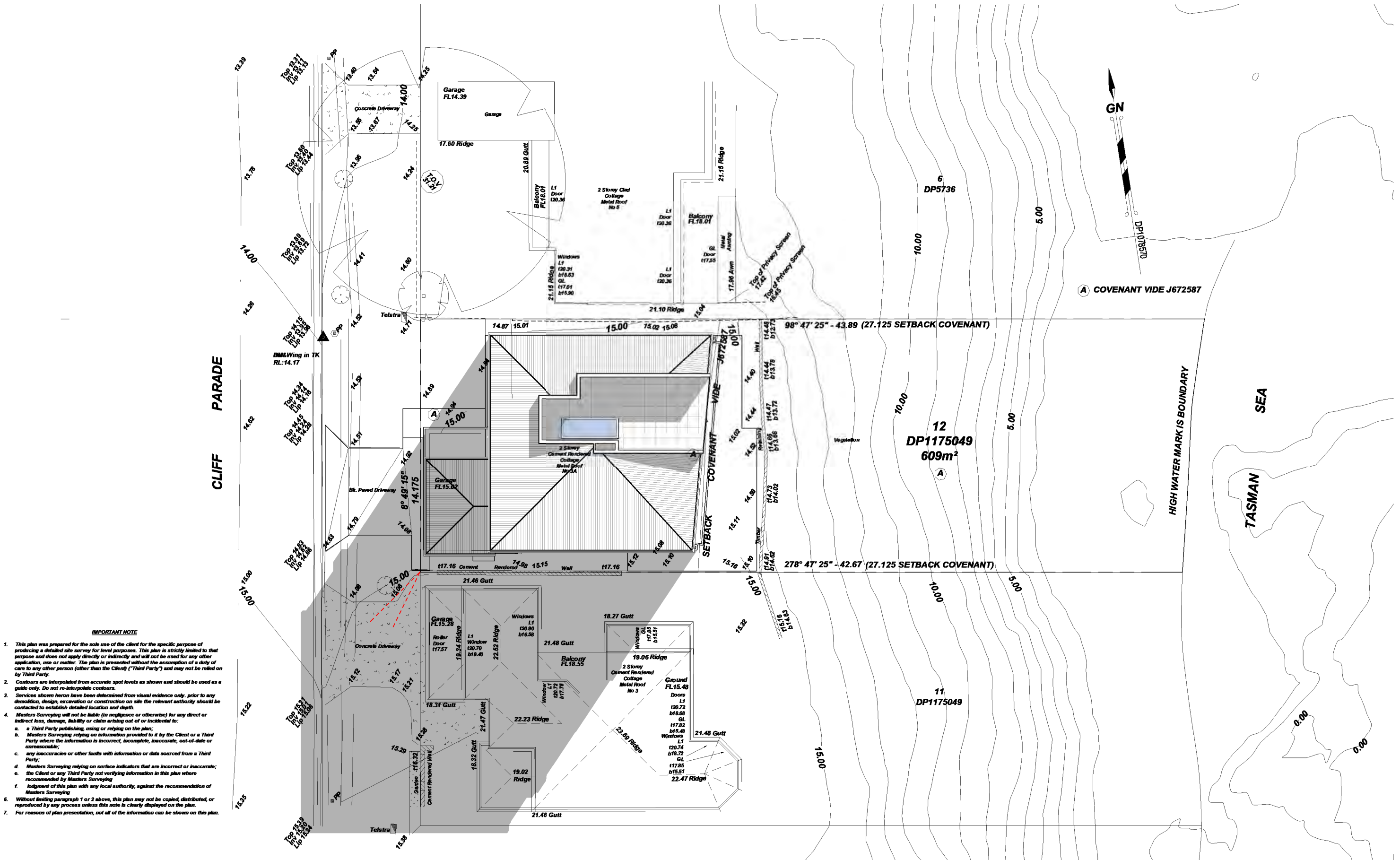
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9AM PROPOSED
MID-WINTER SHADOWS

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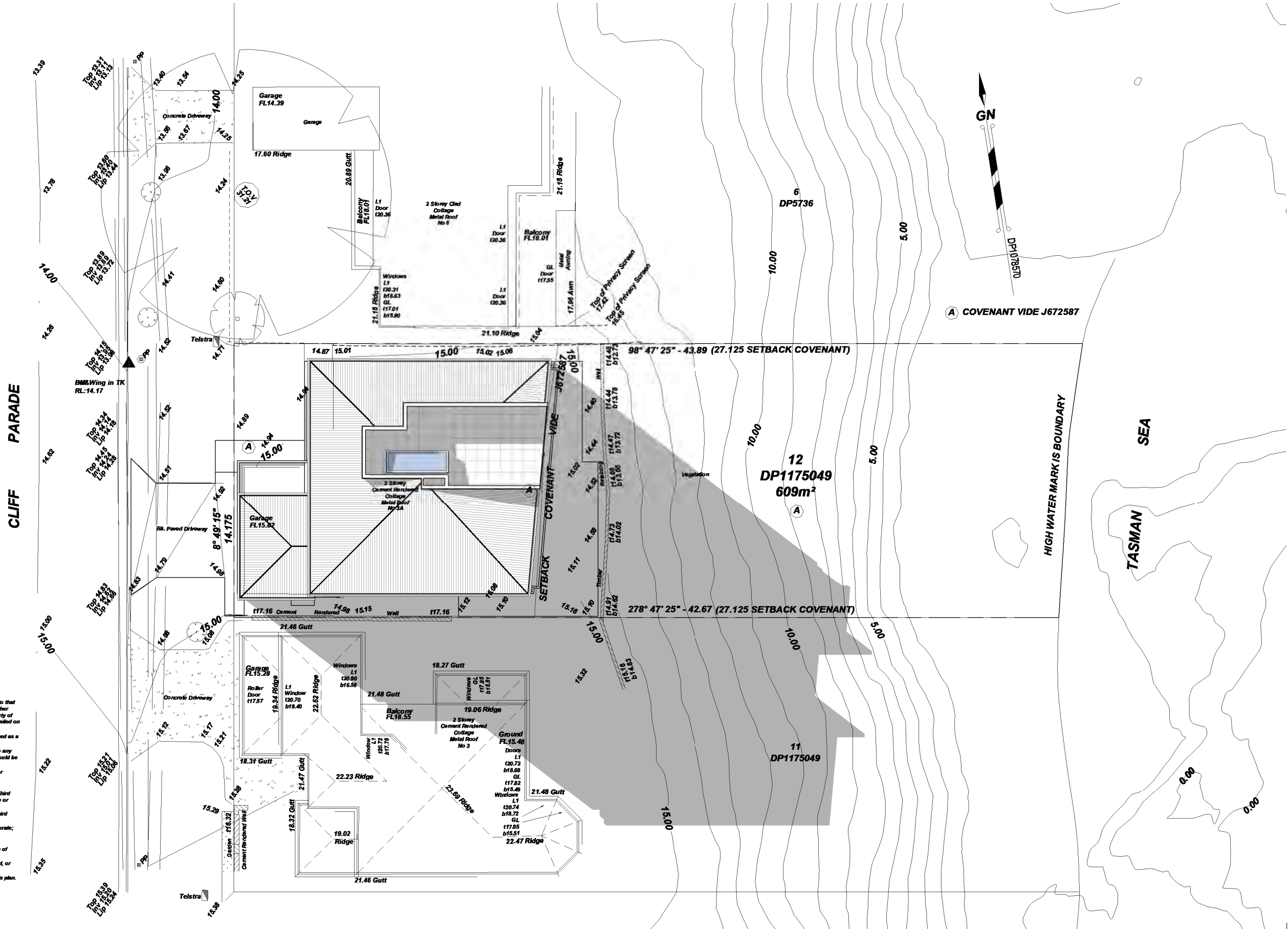
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9AM EXISTING MID-WINTER SHADOWS

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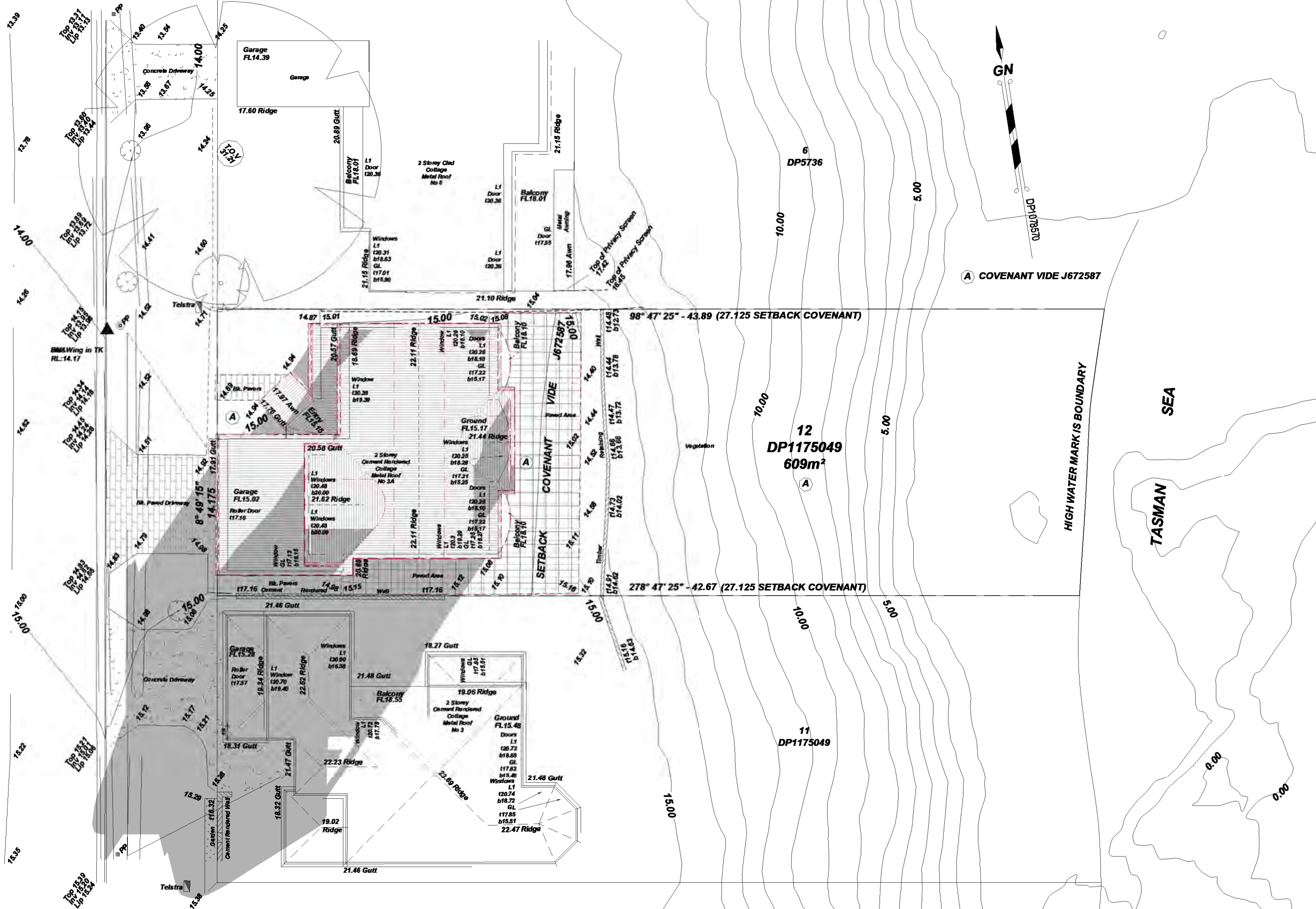
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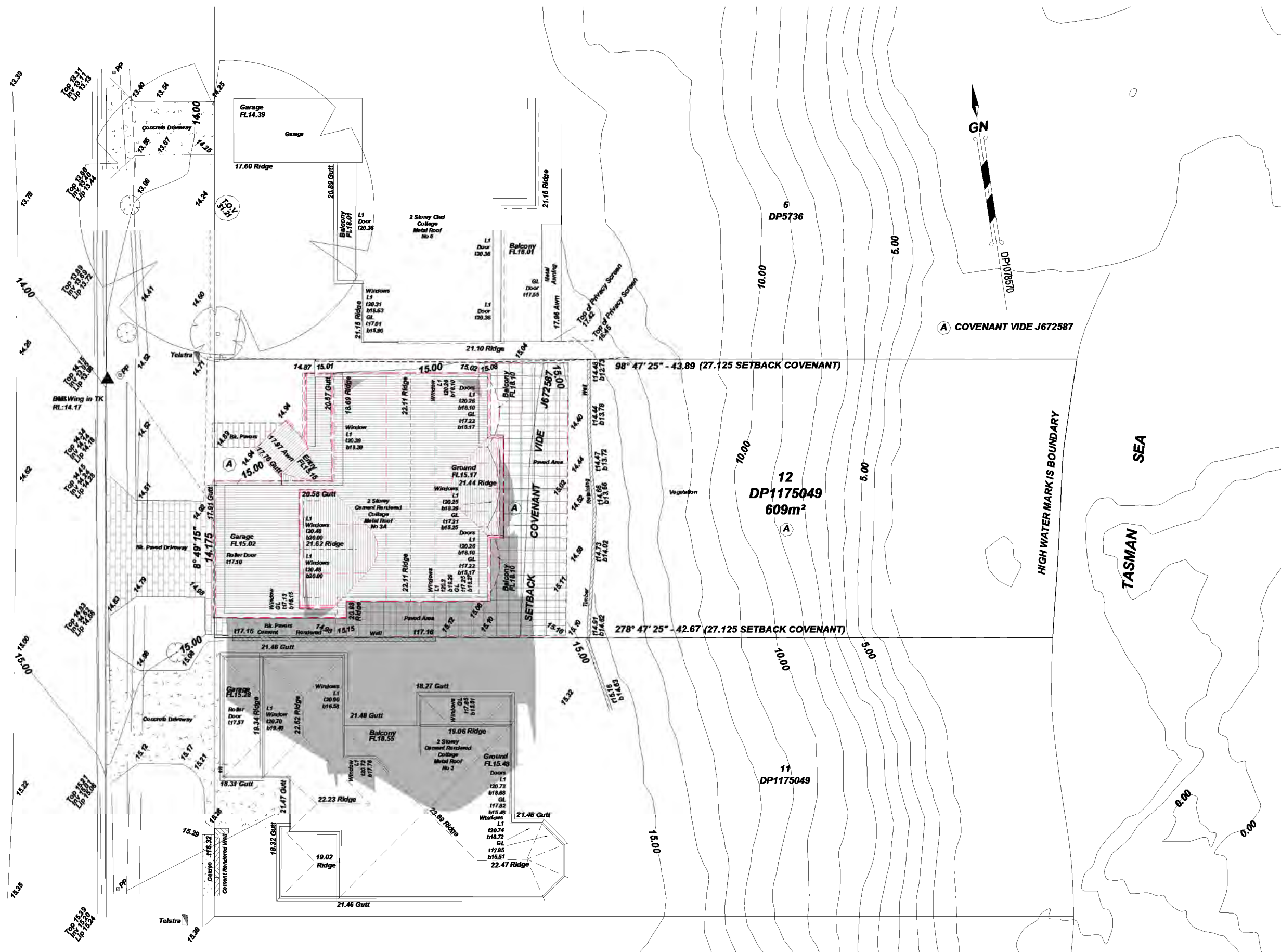
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12PM EXISTING
MID-WINTER SHADOWS

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LOT 12, DP 1175049
3A CLIFF PARADE
THIRROUL, NSW

DRAWN:
SCBD

DATE:
15.01.24

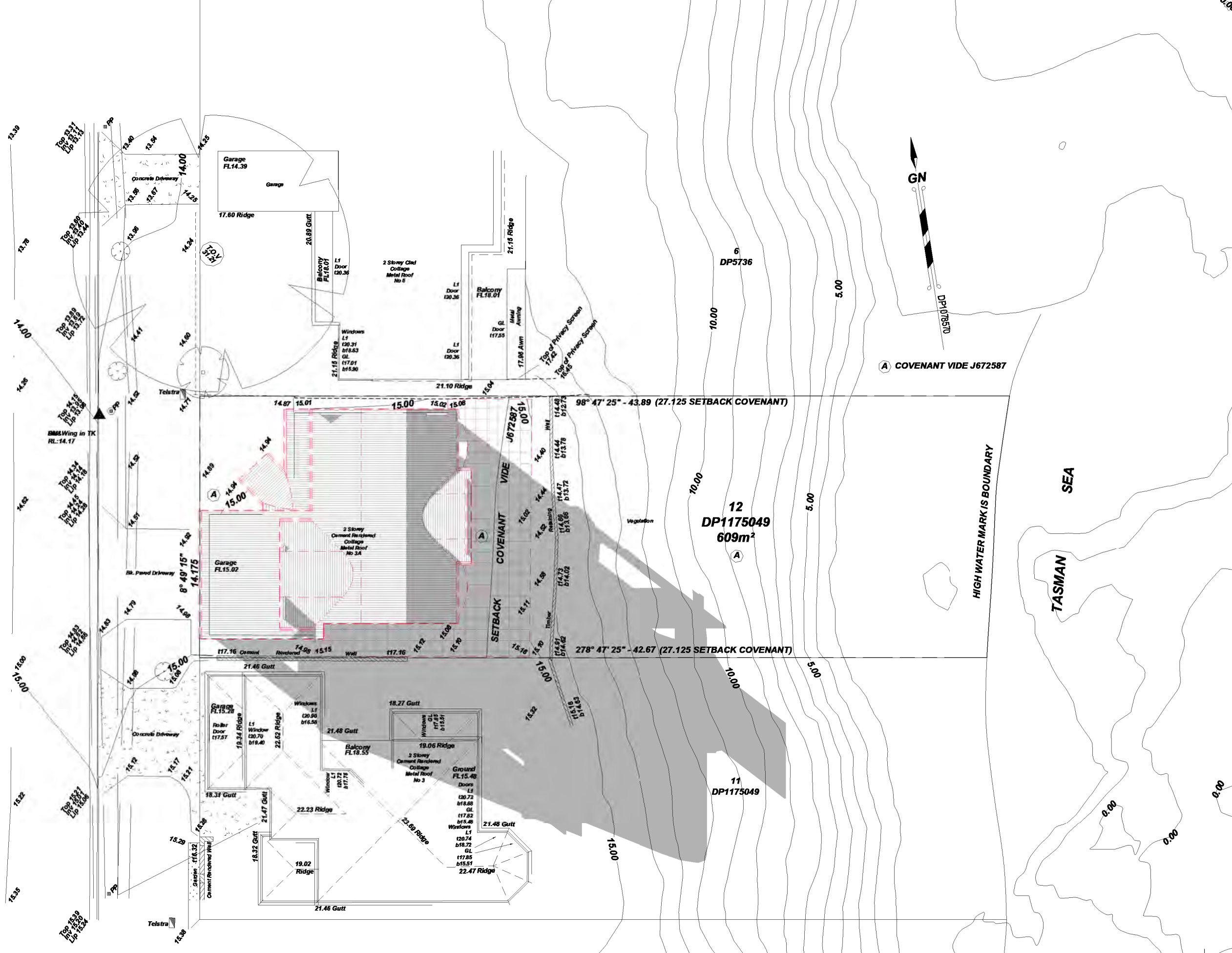
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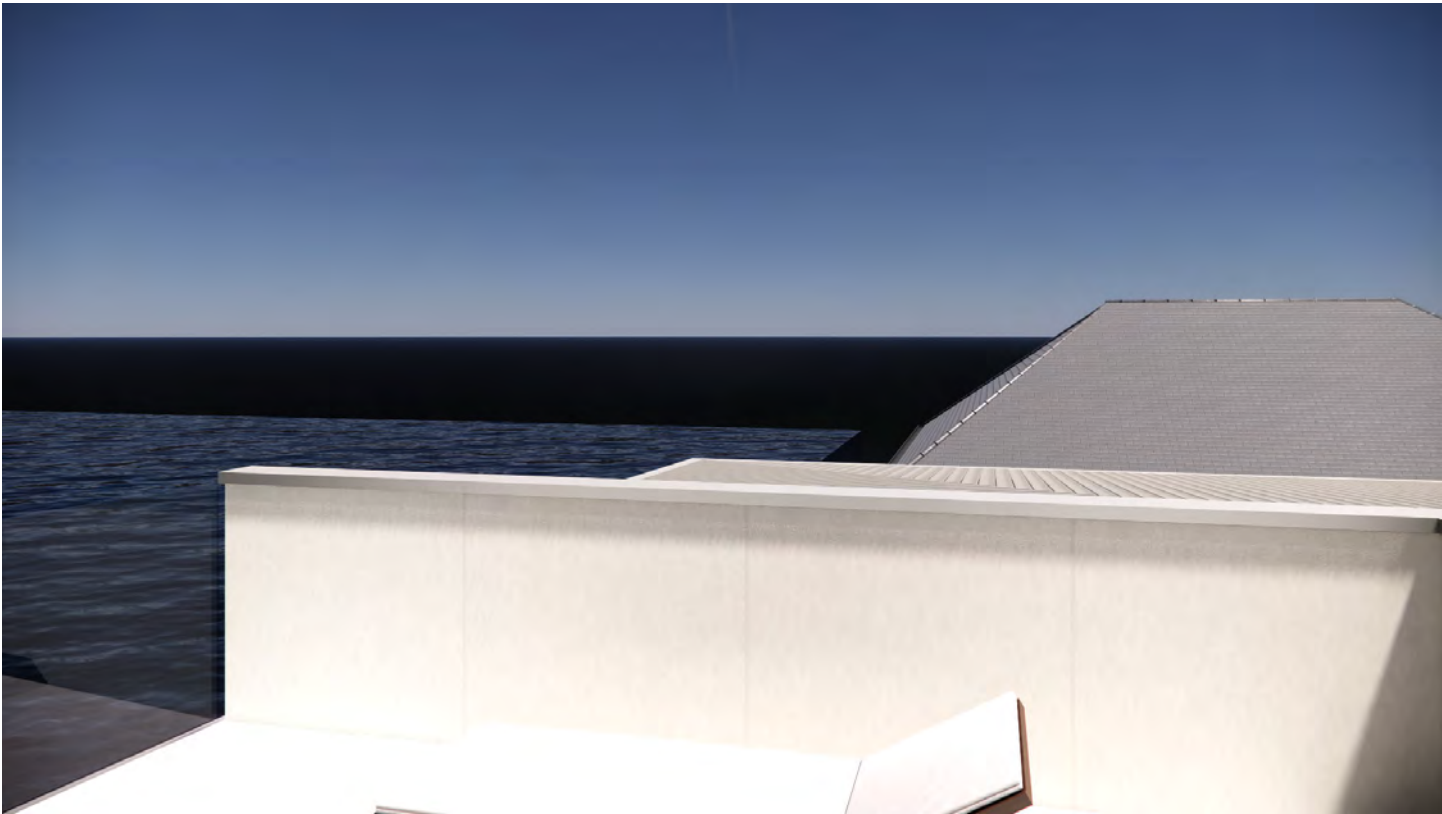
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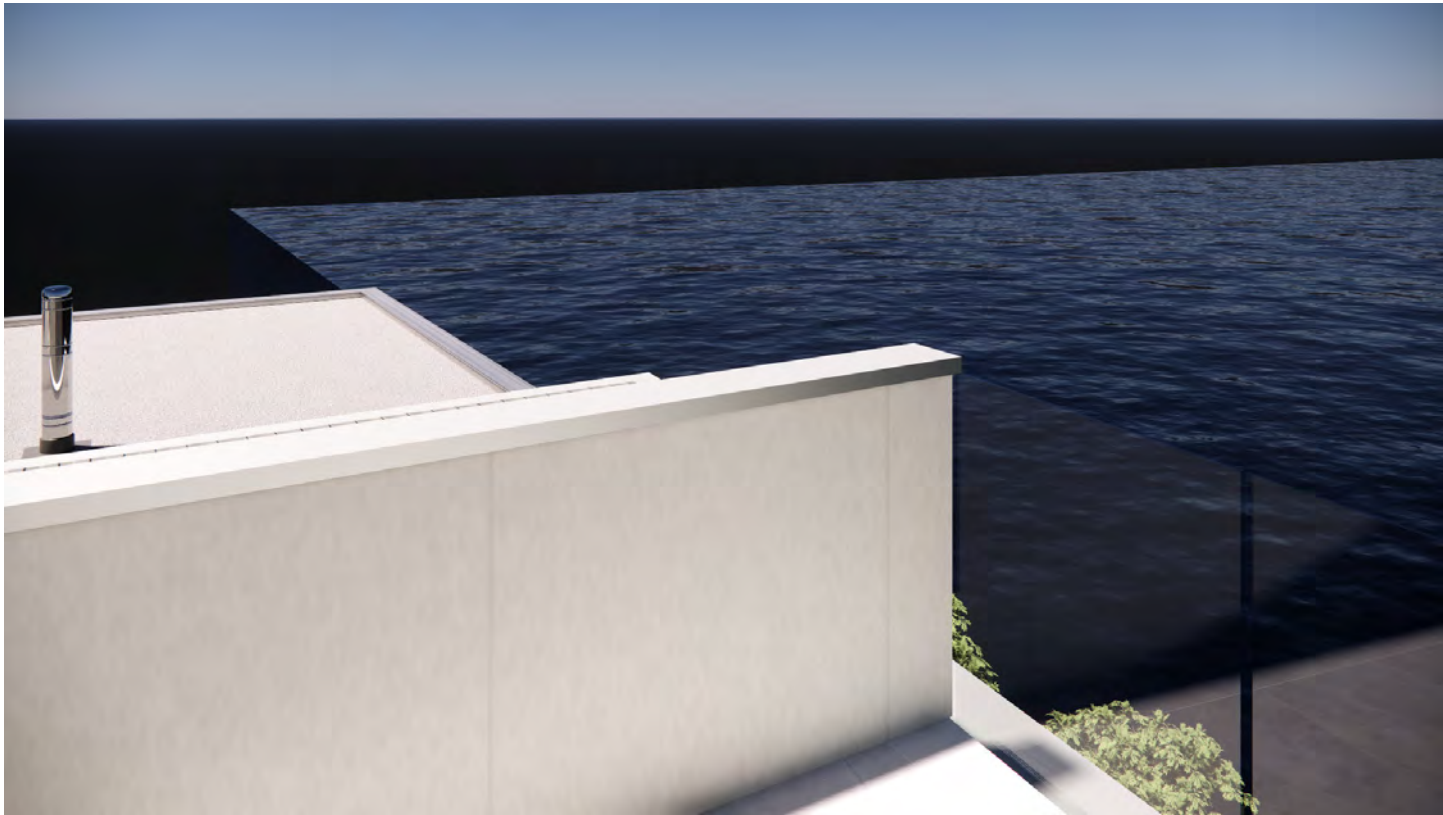




EXISTING SHOTS FROM DRONE AT LEVEL OF PROPOSED
STANDING HEIGHT ON ROOF TERRACE



LOOKING BOTH NORTH AND SOUTH TOWARDS EACH NEIGHBOUR, PRIVACY IS MAINTAINED AND
ROOF TERRACE DOES NOT OVERLOOK INTO NEIGHBOURING PROPERTIES



ROOF TERRACE PERSPECTIVES

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SITE ANALYSIS

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NOTE:
ALL GROUND LINES ARE APPROXIMATE.
EXTENT OF CUT AND FILL BATTERS
WILL BE DETERMINED ON SITE.
SEDIMENT BARRIERS ARE TO BE
CUSTOMISED SITE SPECIFIC



WASTE MATERIAL

EXIST. GARAGE
FFL. 15.020

SEDIMENT EROSION
CONTROL FENCE

278° 47' 25" - 42.67' (27.125 SETBACK COVENANT)

1. ALL EROSION AND SEDIMENTATION CONTROL MEASURES, INCLUDING REVEGETATION AND STORAGE OF SOIL AND TOPSOIL, SHALL BE IMPLEMENTED TO THE STANDARDS OF THE SOIL CONSERVATION OF NSW AND INSPECTED DAILY BY THE SITE MANAGER.

2. ALL DRAINAGE WORKS SHALL BE CONSTRUCTED AND STABILIZED AS EARLY AS POSSIBLE DURING DEVELOPMENT.

3. SEDIMENT TRAPS SHALL BE CONSTRUCTED AROUND ALL INLET PITS, CONSISTING OF 300mm WIDE x 300mm DEEP TRENCH.

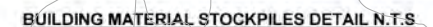
4. ALL SEDIMENT BASINS AND TRAPS SHALL BE CLEARED WHEN THE STRUCTURES ARE A MAXIMUM OF 40% FULL OF SOIL MATERIALS, INCLUDING THE MAINTENANCE PERIOD.

5. ALL DISTURBED AREAS SHALL BE REVEGETATED AS SOON AS THE RELEVANT WORKS ARE COMPLETED.

6. SOIL AND TOPSOIL STOCKPILES SHALL BE LOCATED AWAY FROM DRAINAGE LINES AND AREA WHERE WATER MAY CONCENTRATE. ALL ROADS AND FOOTPATHS TO BE SWEEPED DAILY.

7. FILTER SHALL BE CONSTRUCTED BY STRETCHING A FILTER FABRIC (PROPEX OR APPROVED EQUIVALENT BEHIND ST) AT 3.0m CENTRES. FABRIC SHALL BE BURIED 150mm ALONG ITS LOWER EDGE.

8. DUST PREVENTION MEASURES TO BE MAINTAINED AT ALL TIMES.



- IMPORTANT NOTE**

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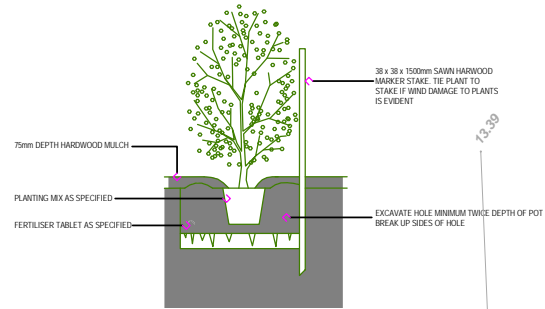
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- NOTES:
1. DIG PIT 100mm DEEPER & 200mm WIDER THAN GROWTH FOR 150mm POT
 2. DIG PIT 150mm DEEPER & 300mm WIDER THAN CONTAINER FOR 200mm POT
 3. DIG PIT 200mm DEEPER & 300mm WIDER THAN CONTAINER FOR 15LITRE CONTAINER
 4. BREAK UP THE SOIL IN THE BASE OF THE HOLE TO 100mm DEPTH
 5. PREPARE THE PLANTS A) PRUNE BACK DAMAGED ROOTS TO HEALTHY GROWTH; B) ENSURE PLANT IS WELL WATERED PRIOR TO PLANTING;
 6. PLANT IN PREPARED PIT CHECKING THAT THE SOIL MARK ON THE STEMS IS AT GROUND LEVEL
 7. BACKFILL THE PIT TO HALF ITS DEPTH AND FIRM BR TREADING. CONTINUE PLANTING THE PIT
 8. ONCE PLANTED, BACKFILL WITH THE REMAINING SOIL AND FIRM AS BEFORE
 9. EITHER: TOPDRESS THE PLANTING AREA WITH 75mm DEPTH x 500mm DIAMETER OF HARDWOOD CHIP MULCH WHEN PLANTING IN GRASS. DO NOT ALLOW MULCH TO TOUCH STEM
 10. OR: TOPDRESS THE PLANTING AREA WITH 75mm DEPTH OF HARDWOOD CHIP MULCH IN MASS PLANTING BEDS. DO NOT ALLOW

DETAIL 2: SHRUB PLANTING

PROPOSED SHRUB PLANTING TO FRONT YARD TO COMPLIMENT FENCE

EXISTING CONCRETE DRIVEWAY & PATH

AREA OF PROPOSED PORCH

EXISTING DENSE VEGETATION TO SLOPE

(A) COVENANT VIDE J672587

SEA

TASMAN

HIGH WATER MARK IS BOUNDARY

LEGEND



PROPOSED TURFING



PROPOSED DRIVEWAY AND PATH



PROPOSED MASS SHRUB PLANTING

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CONCEPT LANDSCAPE PLAN

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DEMOLITION & EXCAVATION STAGE			DESTINATION		
			Reuse & Recycling		Disposal
Material	Estimated Waste		On-Site	Off-Site	
	Volume (m/cube)	Weight (t)	Specify proposed reuse of on-site recycling methods	Specify contractor & recycling outlet	Specify contractor & landfill site
Excavation Material	N/A	N/A	N/A	Refer to construction & recycling directory - Sydney Metro 2Nd Edition 2002	
Green Waste	N/A	1 TON	N/A		
Bricks	N/A	1 TON	N/A		
Sandstone	N/A	N/A	N/A		
Concrete	N/A	7 TON	N/A		
Timber Flooring (hardwood)	N/A	5 TON	N/A		
Timber Structural	N/A	5 TON	N/A		
Plaster	N/A	1 TON	N/A		
Metals - piping - copper-lead	N/A	1 TON	N/A		
Metal Gutter	N/A	300KG	N/A		
Roof Tiles	N/A	3 TON	N/A		
Windows & Doors	N/A	1 TON	N/A		

Estimating Construction Waste		
Material	Average % waste	Tonnes per m/cube
Bricks	3-5%	1.1
Concrete	3 - 5%	1.3
Plasterboard	5 - 20%	0.6
Roof Tiles	NA	1.3
General Site Waste	100%	0.2
Paper/Cardboard	NA	
Steel - Roofing	3-5%	0.6
Steel - Structural	NA	0.9
Steel - Reinforcing	NA	0.65
Timber	5 - 7%	0.5

CONSTRUCTION STAGE			DESTINATION		
			Reuse & Recycling		Disposal
Material	Estimated Waste		On-Site	Off-Site	
	Volume (m/cube)	Weight (t)	Specify proposed reuse of on-site recycling methods	Specify contractor & recycling outlet	Specify contractor & landfill site
Excavation Material	Nil		Cut & Fill & excess fill will be used to form house platform		N/A
Green Waste	1.0 m3		To be chipped & mulched on site & stored for reuse in lanscaping, including stumps & trunks		N/A
Bricks	0.5m3		To be separated & collected on site & removed at roof stage	Refer to construction & recycling directory - Sydney Metro 2Nd Edition 2002	
Concrete	1.0 m3		To be separated & collected on site & removed at roof stage		
Timber	2.0 m3				
Plasterboard	2.0 m3		To be separated & removed at from site		
Metals - brick straps etc	0.5 m3		To be separated & removed at from site		
Other - plastic bottles, carboard boxes, wrapping etc	1.0 m3		To be placed in bins on site		

Use of Premises			
Type of Waste to be Generated	Expected Vol. Per Week	Proposed On-Site Storage & Treatment Facilities	Destination
Please specify eg. Food, Waste, glass, paper, meta, off-cuts etc.	Litres or m/cube	Eg. Waste storage & recycling area, garbage chute, on-site composing compassion equipment	Recycling, disposal, contractor
Household Garbage	120L bin provided	Temporary storage bin in Kitchen Cupboard	To disposal plants by waste contractors
Green Waste	240L bin provided	Recycle collection bin position on-site	
Glass & Plastic bottles & paper	240L bin provided	Waste bin on-site	

CONCEPT PLANS ONLY - NOT TO BE USED FOR CONSTRUCTION

CONSTRUCTION
WASTE MGMT PLAN

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ATTACHMENT 3 - CHAPTER B1 – RESIDENTIAL DEVELOPMENT

4.0 General Residential controls

<i>Controls/objectives</i>	<i>Comment</i>
<p><u>4.1 Maximum Number of Storeys</u></p> <ul style="list-style-type: none"> Max 9m / 2 storey in R2 zone Max 13m / 3 storey in R3 zone In R2 Low Density Residential zones, where development occurs within the 8m rear setback the development is limited to single storey, so as to not adversely impact on the amenity of the adjoining property. Landscaping may be required within the side and rear setbacks to mitigate the visual impact of the building form from adjoining properties. <p><u>4.2 Front Setbacks</u></p> <ul style="list-style-type: none"> 6m front setback <p><u>4.3 Side and Rear Setbacks</u></p> <ul style="list-style-type: none"> Minimum 900mm <p><u>4.4 Site coverage</u></p> <p>55% (lot area <450m²)</p> <p>50% (450m² to 900m²)</p> <p>40% (>900m²)</p> <p><u>4.5 Landscaped Area</u></p> <ul style="list-style-type: none"> lot area less than 600m² - 20% landscaped area lot area from 600m² to 900m² – 120m² + 30% of the site area > 600m² landscaped area lot area greater than 900m² - 210m² + 40% of the site area > 900m² landscaped area. At least 50% of the landscaped area must be located behind the building line to the primary road boundary. Landscaped areas must be integrated with the drainage design. The location of drainage lines, pits and detention areas should not conflict with landscaped areas including proposed and existing trees. 	<p>The proposal is two storeys in height and the dwelling has a maximum height of 7.05m</p> <p>The site is not located in an R2 zone.</p> <p>Existing landscaping is provided within the side and rear setbacks.</p> <p>There is no proposed change to the front building setback.</p> <p>There is no proposed change to side setbacks</p> <p>The site coverage of the dwelling house represents 28.78% of the site. The site coverage for the proposal is 157.02m² measured in accordance with the definition as set out in the WLEP 2009.</p> <p>The landscaped area provided is 368.02m². The DA requires a minimum 130.9m².</p> <p>Over 50% of the landscaped area is located behind the building line and much of the landscaped areas co-exist.</p>

Controls/objectives	Comment
<ul style="list-style-type: none">For development proposing a dwelling, a minimum of one (1) semi mature small to medium evergreen or deciduous tree (minimum pot size 45 litre) is to be provided within the landscape area. This tree is to be planted at least 3m from any existing or proposed dwelling or structure present onsite. No additional tree is required for a secondary dwelling.a minimum of 1.5-metre-wide landscape strip within the front setback for the majority of the site width (excluding the driveway). This area must be mulched and planted with appropriate trees, shrubs and/or groundcovers. A minimum of one (1) semi mature small to medium evergreen or deciduous tree (minimum pot size 45 litre) is to be provided within this landscape bed.second semi mature small to medium tree (minimum pot size 45L) is to be provided onsite in the landscaped area or deep soil zone, p	Suitable deep soil zones are provided for the existing dwelling house.
<u>4.6 Private Open Space</u>	
<ul style="list-style-type: none">24m² minimum POS area, minimum 4m dimensionshould not be located on side boundaries or front yarddefined through the use of planting, fencing, or landscape features.screened where necessarymust not extend forward of the front building line by greater than 900mm.Space shall be provided for clothes lines and waste/recycling bins and rain water tanks behind the front building line but outside of the private open space area.	<p>POS is located on the ground floor, adjacent to the dining and kitchen as indicated on the plans provided with the DA submission. The POS includes the alfresco and the expansive landscaped area beyond, allowing a space in excess of 24m².</p> <p>POS areas do not extend forward of the building line</p>
<u>4.7 Solar Access</u>	
<ul style="list-style-type: none">Windows to living rooms of adjoining dwellings must receive at least 3 hours continuous sunlight, between hours of 9.00am and 3.00pm on 21 June.At least 50% of the private open areas of adjoining residential properties must receive at least 3 hours of continuous sunlight, between hours of 9.00am and 3.00pm on June 21.	<p>The private open space of adjoining dwelling receives at least 3 hours of continuous sunlight between the hours of 9am and 3pm on June 21.</p> <p>Shadow diagrams provided suggest solar access has been maximised along the northern and western extents of the proposed dwelling. Sunlight is maximised to the open plan kitchen.</p>

Controls/objectives	Comment
<ul style="list-style-type: none"> Shadow diagrams are required for 9.00am, 12:00pm and 3.00pm for the 21 June winter solstice period for two storey dwellings <p><u>4.8 Building Character and Form</u></p> <ul style="list-style-type: none"> The design, height and siting of a new development must respond to its site context taking into account both natural and built form features of that locality. The design of the development must have particular regard to the topography of the site to minimise the extent of cut and fill associated with dwelling construction. Large bulky forms are to be avoided, particularly in visible locations New dwelling-houses within established residential areas should be sympathetic with the existing character of the immediate locality. All residential buildings must be designed with building frontages and entries clearly addressing the street frontage. On corner allotments, the development should address the street on both frontages. The appearance of blank walls or walls with only utility windows on the front elevation will not be permitted. Where garages are proposed on the front elevation they must be articulated from the front façade. Fences in the front building line should be predominately constructed in transparent fence materials, allowing for visual connection between the dwelling and the street. Where the garage door addresses the street, they must be a maximum of 50% of the width of the dwelling. <p><u>4.9 Fences</u></p> <ul style="list-style-type: none"> Various. <p><u>4.10 Car parking and Access</u></p> <p>The provision of car parking shall be as follows:</p> <p>(a) 1 space per dwelling with a gross floor area of less than 125m²</p>	<p>The proposal is sympathetic to the natural topography of the site. The split-level design reduces the need for excess cut and fill.</p> <p>The bulk and scale of the dwelling is considered appropriate for its setting and surrounding neighbourhood. The dwelling has been designed with the surrounding residential context in mind.</p> <p>The extent of the dwelling addressing the street will undergo minor modifications and will remain to clearly address the street. However, the entrance to the dwelling off the access handle is well articulated.</p> <p>It is noted that existing fencing will remain in place.</p> <p>Due to gross floor area being greater than 125m² two car parking spaces are therefore required. The dwelling contains a 4-car garage with the option of parking</p>

Controls/objectives	Comment
<p>(b) 2 spaces per dwelling with a gross floor area of 125m² or greater</p> <p>Garages must be setback a minimum of 5.5m from the front property boundary.</p> <p>garage door openings to be a maximum of 50% of the width of the dwelling.</p> <p>6m x 6m minimum for double garages</p> <p>Driveways shall be separated from side boundaries by a minimum of 1 metre.</p> <p>Driveways shall have a maximum cross-over width of 3 metres.</p> <p><u>4.11 Storage Facilities</u></p> <ul style="list-style-type: none"> 10m³ / 5m² <p><u>4.12 Site Facilities</u></p> <ul style="list-style-type: none"> To ensure that site facilities (such as clothes drying, mail boxes, recycling and garbage disposal units/areas, screens, lighting, storage areas, air conditioning units, rainwater tanks and communication structures) are effectively integrated into the development and are unobtrusive <p><u>4.13 Fire Brigade Servicing</u></p> <p>ensure that all dwellings can be serviced by fire fighting vehicles.</p> <p><u>4.14 Services</u></p> <ul style="list-style-type: none"> encourage early consideration of servicing requirements, to ensure that all residential development can be appropriately serviced. <p><u>4.15 Development near the coastline</u></p> <ul style="list-style-type: none"> All development must be setback at least 10m from a beach or cliff top to reduce the potential risk of instability and long-term coastal erosion. In some instances, restricted building zones indicated on the Deposited Plan for an allotment of land will also need to be considered when situating buildings on the site. Note: A Geotechnical Report will be required which confirms that the structural adequacy of the development near a coastal foreshore area from any long term coastal erosion effects. The Geotechnical Report must be prepared in accordance with the requirements contained in the Geotechnical chapter in Part E of the DCP). 	<p>further cars on the driveway in a stacked formation.</p> <p>No carport is proposed.</p> <p>The existing driveway has clearance from the side boundaries by more than 1m. No changes are proposed to the driveway.</p> <p>Storage is adequate</p> <p>Site operates on existing site facilities. Mailboxes and garbage disposal co-exist on the site.</p> <p>Satisfactory.</p> <p>The site is located within an existing urban area and is connected to existing utilities.</p> <p>The existing dwelling is setback from the clifftop. A geotechnical report has been provided which has determined the impact of coastal erosion along with potential geotechnical instability.</p> <p>Councils geotechnical engineer provided the following comments with respect to the geotechnical constraints;</p> <p>The geotechnical report dated 16 June 2023 by Geofirst Pty Ltd has been reviewed and compared with known geotechnical studies for the general area. Councils geotechnical officer notes that this site is located within the coastal erosion impact zone. This has been</p>

<i>Controls/objectives</i>	<i>Comment</i>
<u>4.16 View sharing</u>	noted within the submitted report and the related geotechnical hazards have been addressed. With this, I consider the report to give a good description of the site conditions, and the recommendations are appropriate for the proposed development.
<u>4.17. Retaining walls</u> N/A	The works predominately occur within the shell of the existing dwelling. An upper viewing deck forms part of the works however as it is predominantly located within the roof form, council is satisfied it will not have any negative impacts on view sharing. Plans provided with the DA submission indicate that no additional retaining walls will form part of the renovations.
<u>4.18 Swimming pools and spas</u> N/A	
<u>4.19 Development near railway corridors and major roads</u> N/A	The subject site is not located near a railway corridor or busy road.

CHAPTER D1 – CHARACTER STATEMENTS

Thirroul

The proposal is considered to be consistent with the existing and desired future character for the locality.

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

It is considered that the proposed car parking, access, and traffic management will not cause any adverse impacts to Cliff Parade. The proposal includes one (1) double garage that caters for the parking of 4 vehicles. Council's Development Engineer has reviewed the plans and has provided a satisfactory referral subject to conditions of consent.

CHAPTER E6: LANDSCAPING

Landscaping is considered satisfactory in accordance with this chapter of the DCP. The application has demonstrated that sufficient amounts of soft landscaping have been provided along with deep soil zones that can be utilised.

CHAPTER E7: WASTE MANAGEMENT

A Site Waste Minimisation and Management Plan has been provided in accordance with this chapter. Site waste generated from the proposed development will be disposed of appropriately and ongoing waste generated from the site utilises private waste facilities.

CHAPTER E12: GEOTECHNICAL ASSESSMENT

The application has been reviewed by Council's Geotechnical Engineer in relation to site stability and the suitability of the site for the development. Appropriate conditions have been recommended.

CHAPTER E14: STORMWATER MANAGEMENT

Stormwater is proposed to be disposed of to the existing stormwater system. Council's stormwater engineer has reviewed the proposal with respect to the provisions of this chapter and has recommended conditions of consent.

CHAPTER E19: EARTHWORKS (LAND RESHAPING WORKS)

The proposal has been assessed with respect to the requirements of this chapter. The proposed development involves minimal earthworks and is not proposed to lower the water table below 1 metre. Councils' development engineer has assessed the proposal with respect to earthworks to be undertaken and completed a satisfactory referral with recommended conditions to attach to the consent.

CHAPTER E21: DEMOLITION AND HAZARDOUS BUILDING MATERIALS MANAGEMENT

The proposal involves internal demolition to the existing dwelling. Demolition plans were provided with the DA submission and the plans indicate the extent of the demolition works are mostly within the shell of the existing dwelling house with the exception of pillars to the exterior porch. Councils environmental officer has reviewed the proposal and recommended standard conditions of consent with respect to demolition.

CHAPTER E22 SOIL EROSION AND SEDIMENT CONTROL

Conditions of consent are recommended in regard to appropriate sediment and erosion control measures to be in place during works.



HOUSE OF PLANNING

Clause 4.6 Variation Statement

Clause 4.4 Floor Space Ratio – Wollongong LEP 2009

Site - Lot 12 DP 1175049, 3A Cliff Parade, Thirroul

This Clause 4.6 Variation Request has been prepared in support of a Development Application for the proposed alterations and additions to a residential dwelling at Lot 12 DP 1175049, known as 3A Cliff Parade, Thirroul. This Variation Request relates to the accompanying DA plans and supporting information included in the application.

The provisions of *Wollongong Local Environmental Plan 2009* (WLEP) apply to the assessment of the proposal. Clause 4.6 of WLEP 2009 provides for an appropriate degree of flexibility in the application of development standards where better development outcomes specific to the site result from allowing flexibility.

This Clause 4.6 request has been prepared having regard to recent decisions of the NSW Land and Environment Court-*Initial Action Pty Ltd v Woollahra Municipal Council* [2019] NSWLEC 1097 and *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

The proposal seeks a variation to the Floor Space Ratio (FSR) development standard in Clause 4.4 of the WLEP. The development standard for Floor Space Ratio is not excluded by Clause 4.6(8). Consequently, a written request to vary the development standard subject to Clause 4.6(3) is required as part of the DA.

This report constitutes the applicants written request to justify and seek an appropriate degree of flexibility in the application of the Floor Space Ratio development standard for this development. This variation statement shows that the non-compliance facilitates a built form and function which will have an overall positive environmental planning outcome specific to this site and its setting.

The report includes:

- A general overview of Clause 4.6
- Detailed consideration of the Floor Space Ratio standard and objectives as they apply to the proposal
- Addressing of Clause 4.6(3)(a) – that compliance with the numeric standards is unreasonable or unnecessary in the circumstances of this case
- Addressing of Clause 4.6(3)(b) – that there are sufficient environmental planning grounds in this case to justify contravention of the development standard
- Ways in which the development will be in the public interest
- Addressing of Clause 4.6(5) to WLEP 2009 and the concurrence of the Secretary of the Department of Planning and Environment in accordance with clause 4.6(4)(b) to WLEP 2009, Clause 64 to the Environmental Planning and Assessment Regulation 2000 and Planning Circular PS 18 - 003
- Summary and conclusion.

1. The Proposal

The DA seeks consent for the following:

- Partial demolition of existing double storey residence.
- Construction of alterations and additions to the existing dwelling.

The proposal aims to achieve a high level of residential amenity through the provision of high quality architectural design.

Overall, the development would represent a positive addition to Cliff Parade, through the provision of an updated façade and more functional internal fit out. The development would provide an updated, well designed house on the site, promoting low density housing choices for existing and future residents.

The site is zoned C4 Environmental Living. The objectives of the C4 Environmental Living zone are:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*

Within the C4 zone the following uses are permitted with consent:-

Bed and breakfast accommodation; Business identification signs; Community facilities; Dwelling houses; Environmental facilities; Environmental protection works; Home-based child care; Home businesses; Home industries; Oyster aquaculture; Pond-based aquaculture; Recreation areas; Roads; Secondary dwellings; Tank-based aquaculture

The proposal is consistent with the objectives of the zone and will provide alterations and additions to a dwelling. Dwellings are permissible in the C4 zone. The proposal will provide high quality architectural designed housing that respects the environmental values within and adjacent to the site.

1.1 Description of the Site

The site is located at 3A Cliff Parade, Thirroul, formally known as Lot 12 DP 1175049. The site is accessed via a private driveway from Cliff Parade. The site has a frontage of 14m onto Cliff Parade. The site abuts to the east the Old Thirroul Baths and Thirroul Beach.

The site contains a double storey residential dwelling, located in the western portion of the site. The site contains dense vegetation in the eastern portion of the lot that corresponds with the foreshore building line. The site contains acid sulfate soils due to its proximity to the coastline. The site contains a 27m rear setback covenant marked as X on the survey plan. The covenant has been acknowledged under the proposed scheme.

1.2 Description of Surrounds

The area can best be characterized as a low density residential area with coastal features. The site is adjacent to Thirroul Beach and rock pools.

Land adjacent to the site comprises:

- North – Environmental/residentially zoned land, Thirroul Pool and Thirroul Reserve.

- South – Environmental/residentially zoned land, South Thirroul Beach Reserve and South Thirroul Beach.
- East – Old Thirroul Baths and Thirroul Beach.
- West – Low density residentially zoned land, Thirroul Bowling and Leagues Club and Thomas Gibson Park.

1.2 Impact of Non – compliance

The proposal is non-compliant with the Floor Space Ratio control in WLEP 2009. The LEP control is 0.3:1. The site is 609m², with a Gross Floor Area (GFA) of 234.97m² proposed. This represents a FSR of 0.386:1, an exceedance of 52.27m² or 28.6%. The exceedance will not be evident on the streetscape as the additional habitable floor space is largely attributed to the extension to the rear of the existing dwelling. This extension does not impose on the foreshore building line.

2 Clause 4.6 Variation Statement

A variation to the WLEP is sought for the proposed alterations and additions to a dwelling at 3A Cliff Parade, Thirroul.

The development is compliant with all other statutory development controls communicated in the WLEP 2009. This includes the proposals permissibility in an *C4 – Environmental Living* zone in accordance with Clause 2.1 of the WLEP 2009.

Numeric compliance is not achieved in accordance with the Floor Space Ratio standard, consequently the proposal is seeking to vary the standard pursuant to Clause 4.6 of the WLEP 2009.

Clause 4.6 enables exemptions to development standards if a high level of amenity and sound developable outcome can still be achieved.

Clause 4.6(3) states the following:

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Clause 4.6(4) states that the consent authority needs to be satisfied that:

“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.”

The departure from this development standard is within the delegated authority of the Wollongong Local Planning Panel as determined by Directions issued by the Minister for Planning in accordance with Section 9.1 of the EP&A Act 1979 on 23 February 2018 and effective from 1 March 2018.

This document captures a formal written request to vary the development control within Clause 4.4 –Floor Space Ratio.

Justifications for the variation are provided below, these demonstrate that the noncompliance can still delivers a good design outcome, high level of amenity, and provide up to date, well designed infill low density housing in a popular location. This justification also identified environmental planning grounds specific to this case that demonstrate the proposal is consistent with Clause 4.6(3)(b).

In addition, legal precedence in relation to variations to Local Environmental Plans (LEP) have been included in this submission to solidify acceptable departures from the LEP.

This submission demonstrates that the variation request is well founded by addressing the requirements of Clause 4.6 (3) and (4) and relevant judgements of the NSW Land and Environment Court. It is also noted that the extent of variation afforded by Clause 4.6(2) is not numerically limited.

3 Overview of Clause 4.4 – Floor Space Ratio

3.1 The Development Standard

A variation to Clause 4.4 – Floor Space Ratio, within WLEP 2009 is sought for the proposed alterations and additions to a residential dwelling at 3A Cliff Parade, Thirroul. Clause 4.4 is a development standard for Floor Space Ratio contained in WLEP 2009.

Clause 4.4 of WLEP 2009 establishes a numerical control for the Floor Space Ratio for all development in the Wollongong LGA. The control specifically outlines the following:

4.4 Floor space ratio

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

(a) to ensure the bulk and scale of development does not have an adverse impact on the streetscape and character of the area in which the development is located.

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

The mapped FSR for the site is 0.3:1.



Figure 1 Floor Space Ratio Map (Source – Planning Portal)

3.2 Definition of Dwelling House

A Dwelling House is defined in WLEP 2009 as follows:

dwelling house means a building containing only one dwelling.

3.2 Extent of the Variation

The proposal is non-compliant with the Floor Space Ratio control in WLEP 2009. The total site area of the development is 609m², with the total gross floor area of the proposal *totaling* 234.97m². This creates a FSR of 0.386:1 and *does not* comply with the WLEP 2009 requirement. *The proposed FSR represents an exceedance of 52.27m² or 28.6%.*

4 Addressing Clause 4.6(3)(a)

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the numeric standard is unreasonable or unnecessary in the circumstances of this case. Specifically, clause 4.6(3)(a) states as follows:

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

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case”

Ways in which compliance may be demonstrated to be unreasonable or unnecessary have been set out by Justice Preston in *Wehbe v Pittwater Council* [2007] NSWLEC 872 and summarised as follows:

- (i) the objectives of the standard are achieved notwithstanding noncompliance with the standard;*
- (ii) the underlying objective or purpose of the standard is not relevant to the development;*
- (iii) the underlying objective or purpose of the standard would be defeated or thwarted if compliance was required;*
- (iv) the development standard has been virtually abandoned or destroyed by Council’s own actions in granting consents departing from the standard;*
- (v) the zoning of the particular land is unreasonable or inappropriate and therefore a development standard for that zoning is also unreasonable*

This request for variation demonstrates numeric compliance with Floor Space Ratio development standard, is unreasonable or unnecessary because the proposal is consistent with the objectives for development in Zone C4 Environmental Living.

The objective for land uses in Zone C4 are listed below along with explanations as to how the non-compliant parts of the development are consistent with those objectives.

In accordance with 4.6(3)(a) the unreasonable and unnecessary characteristics of the numeric standard are justified below:

- The noncompliance is largely due to the reduced FSR of 0.3:1 on the site, in comparison to the FSR of 0.5:1 across the road, with the proposal in keeping with the character of the area.
- The noncompliance produces inconsequential impacts on site and off site, with the additional bulk located at the rear, away from the view from the street.
- The additional gross floor area within the dwelling does not compromise compliance with the foreshore building line, height and no. of storeys development controls. The small increase in gross floor area does not impact on privacy, overlooking or overshadowing of the surrounding dwellings.
- The noncompliance facilitates the extension to the rear of the dwelling creating more functional habitable spaces.
- The additional FSR allows for additional cars to be parked in the garage, requiring less demand for street parking and creating a positive impact on the street.

4.1 Clause 4.4 Objective - to ensure the bulk and scale of development does not have an adverse impact on the streetscape and character of the area in which the development is located

The building design is compatible with the height, build and scale of the existing and desired future character of Thirroul. The proposal is consistent with the objectives of the zone and will provide high-quality, low density housing close to the foreshore. The Thirroul area is undergoing transition in built form, character and land use, with older dwellings being replaced by newer dwellings and increased density in infill locations, with development adding greater housing supply and variety to the local market.

The design has considered the bulk and scale of the development to ensure it does not have an adverse impact on the streetscape and character of the area. The proposal is inkeeping with the bulk and scale of the adjacent dwellings.

The location of the dwelling and the proposed bulk, massing and modulation of the building is acceptable and does not result in any unreasonable loss of amenity to any of the adjoining properties. The proposed rooftop terrace has been designed to maximise views to the east whilst not compromising the privacy of neighbouring dwellings. The proposed extension to the rear of the dwelling is considered minor and will improve the functionality of habitable spaces inside the dwelling. The proposal will have no significant adverse impacts in terms of overshadowing or loss of privacy or amenity on the neighbouring properties.

4.2 Clause 2.3 Zone C4 Environmental Living Objectives

As required by Clause 4.6(4) the objectives of the zone are also required to be considered. The objectives of the C4 Low Density Residential are as follows:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*

The proposal provides alterations and additions to a residential dwelling. The proposal is compliant with the LEP height control. The proposal is consistent with the objectives for development in Zone C4 as it provides for housing without compromising the environmental, scientific or aesthetic qualities of the site and surrounding area.

Clause 2.3 of LEP 2009 states that the consent authority must have regard to the objectives of the zoning when determining a DA in respect to land within that zone. The proposal complies with the zoning in the following ways:

- The development provides for low impact residential development in the form of alterations and additions to a dwelling house.
- The development is largely located within the existing building envelope, therefore, minimising environmental impacts.

- The development does not propose to remove trees or vegetation and is located behind the foreshore building line.

Overall, it is considered that the proposal aligns with the objectives of the land use zoning.

5 Addressing Clause 4.6(3)(a)

5.1 Objects of the Environmental Planning and Assessment Act, 1979

As established in *Initial Action v Woollahra Municipal Council [2018] NSWLEC 118* by Preston CJ, sufficient environmental planning grounds include consideration of the objects of the Environmental Planning and Assessment Act, 1979 (EP&A Act, 1979), matters specific to the development standard and are not a 'neutral or beneficial test' in comparison to a compliant scheme. Furthermore, in *Initial Action v Woollahra Municipal Council [2019] NSWLEC 1097* O'Neill C found that the environmental planning grounds related to objects of the EP&A Act, 1979 must specifically focus on the aspect of the development standards under consideration for variation.

The objects at section 1.3 of the EP&A Act, 1979 relevant to this request for variation to the development standard are:

*“(c) to promote the orderly and economic use and development of land,
(g) to promote good design and amenity of the built environment,
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants”*

With regard to Object (c), the proposal represents the orderly and economic development of the site. Dwelling Houses are permitted with consent on the site. The proposal is compliant with the LEP height control. The provision of a residential development promotes the orderly and economic use and development of the land, with the architectural design having a positive impact on the surrounding area, providing a high quality, refurbished dwelling. Strict numeric compliance would not be consistent with Object (c) in this case.

With regard to Object (g), the attributes of the design and consideration of amenity for future building occupants has been discussed in detail above. The extension to the rear of the dwelling will provide a substantial increase in amenity for residents of the dwelling by maximising functional habitable floor space and facilitating greater undercover parking through the extension of the garage.

With regard to Object (h), the well-considered architectural style of the dwelling is considered a positive element to the health and safety of the future building occupants. Strict numeric compliance would not be consistent with Object (h) in this case, the dwelling maintains compliance with solar, privacy and private open space controls.

Relevant objects and an assessment of these in relation to the proposal are included in **Table 1**.

Table 1 Relevant Objects of the EP&A Act

Object of the Act	Commentary
<i>(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the States natural and other resources</i>	The social and economic welfare of the community is promoted in the proposal's capacity create up to date housing stock and management of the site with consideration for the environmental constraints. The proposed development is located outside of the foreshore building line.
<i>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision making about environmental planning and assessment</i>	No trees are proposed for removal. Environmental planning should strive inclusive urban design, that is surrounded by suitable services and facilities that are accessible to the local community.
<i>(c) to promote the orderly and economic use and development of land</i>	The economic use of the land will be realized in the development of the proposed dwelling. The departure from the FSR planning control is considered necessary in achieving optimal economic use of the land.
<i>(g) to promote good design and amenity of the built environment</i>	There are numerous good design outcomes that have been integrated into the design. Those specific to the FSR non-compliance include: <ul style="list-style-type: none"> ○ A function, livable dwelling has been proposed with useable room sizes. ○ A large garage to reduce the requirement for on street parking ○ A roof top terrace that is well integrated with the first floor of the dwelling and provides scenic views of the waterfront. ○ There is limited increase in the appearance of the built form and scale on site. As such, impacts of the increased FSR from the streetscape are negligible.

5.2 Local Planning Benefits

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, the assessment of this numeric non-compliance is guided by the decision of the NSW Land and Environment Court (LEC) in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 and further guidance is gained from the decision in *Moskovich v Waverley Council* [2016] NSWLEC 1015.

5.2.1 Desired Future Character and Streetscape

The proposed building will be consistent with the emerging and desired future character for development in the locality. The street is largely single dwellings, with some dual occupancies emerging in the area. The proposed development is in keeping with the desired future character of Wollongong in well serviced location.

The designs reflect the character of the immediate area, with a mix of cladding and architectural elements and Colorbond roof consistent with the emerging modern coastal style. The ample landscaped areas would soften the appearance of the dwelling from the streetscape. The proposed setbacks are in line with the streetscape. The street has a mix of densities, consequently, the scale and location are considered appropriate to ensure that the development would not impact on the amenity of surrounding dwellings.

6 Addressing Clause 4.6(4)(a)(ii)

Clause 4.6(4)(a)(ii) to WLEP 2009 states that a development consent cannot be granted for a development that contravenes a development standard unless the development is demonstrated to be in the public interest. Clause 4.6(4)(a)(ii) states that a development is in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone. Specifically, Clause 4.6(4)(a)(ii) states as follows:

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

(a) the consent authority is satisfied that:

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

Sections 3 and 4 to this request demonstrates the ways in which the development, and in particular the proposal with a varied FSR is consistent with the objectives of Clause 2.3 for all forms of development in Zone C4.

The proposed LEP height is compliant.

The non-compliance with the dwelling in a C4 zone has a positive design impact and is appropriate in this instance. The noncompliance is largely due to the extension at the rear of the dwelling. The proposal is considered in the public interest as it is consistent with the objectives of the zoning and the desired future character of Thirroul and the greater Wollongong area.

The request for a degree of flexibility in numeric compliance with the Floor Space Ratio development standard is specific to the subject site conditions and the proposal. The proposal does not undermine the intent and effectiveness of the development standard in Clause 4.4 or the objectives of the development standard and the zone for achieving positive outcomes on environmental planning

grounds. For these reasons the proposed development does not undermine the integrity of the Floor Space Ratio development standard, nor will it undermine the zoning objectives which have been adopted by Council as being in the public interest.

The variation permits a high-quality planning outcome with exceptionally high quality architectural and urban design merit.

7 Addressing Clause 4.6(5)

6.1 Concurrence

Clause 4.6(5) to WLEP 2009 requires consideration of the concurrence of the Secretary of the Department of Planning and Environment in accordance with clause 4.6(4)(b) to WLEP 2009 as well as Clause 64 to the Environmental Planning and Assessment Regulation 2000 and Planning Circular PS 18 – 003 (Variations to development standards). Specifically Clause 4.6(5) states as follows:

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

In accordance with PS20-002 the consent authority may not assume Secretary’s concurrence under Clause 4.6 as the variation to the numerical standard is greater than 10%. Variation to the numerical standard in this instance is 28.6%. However this restriction does not apply to decisions made by Independent Hearing and Assessment Panels. The application would need to be determined by the Local Planning Panel (LPP).

6.2 Matters of State and Regional Planning Significance

The proposed variation does not raise any matters of regional or state significance. The variation will not be contrary to the public interest. The variation will not undermine the application of the development standard as the circumstances constitute appropriate flexibility based on the specific circumstances of the case. The dwelling will not result in poor environmental or amenity outcomes. Design elements are incorporated throughout the development to achieve positive environmental outcomes unaffected by the numeric non-compliance.

8 Summary and Conclusion

Supporting justifications and responses are provided in this request to demonstrate that the proposed variation request:

- Identifies the relevant development standard as Clause 4.4 Floor Space Ratio and the relevant definition of a dwelling house
- Explains and identifies the non-compliance with the numeric LEP Floor Space Ratio standard specific to this proposal
- Addresses clause 4.6(3)(a) and Clause 4.6(3)(b) and demonstrates strict numeric compliance is unreasonable or unnecessary because the proposal is consistent with the objectives for development in Zone C4
- Addresses Clause 4.6(4)(a)(ii) and shows the development including numeric non-compliance is in the public interest
- Considers Clause 4.6(5) and shows this variation request is within the concurrence parameters

The variations sought represent an appropriate degree of flexibility within the scope of Clause 4.6. The non-compliance results from concerted effort between the applicant, consultant professionals and applicable planning documents to achieve a design that optimises compliance with all relevant controls, objectives, guidelines and development standards as well as considers the location of the site, and the variety of building bulk, scale and height in the locality coupled with the desired future character of the area.

Flexibility in the application of the Wollongong LEP 2009 Floor Space Ratio development standard is considered reasonable and has planning merit and would achieve better planning outcomes suited to the circumstances of the proposal, site and surrounds. The proposed building density is consistent with the objectives of Clause 4.6(1) to WLEP 2009.

The dwelling is designed within the constraints presented by the site, including but not limited to, existing ground levels of the site, the broader local topography, its proximity to the foreshore and a scale of development consistent with the existing and desired streetscape. The architectural treatments and a layout which responds well to the setting, context and future neighbourhood character will result in positive environmental planning outcomes and justifies the variation in this case. The extension to the rear of the dwelling has inevitably increased the gross floor area of the dwelling, creating more functional habitable areas.

In conclusion, the variation is considered to be well founded and compliance with the standard is unreasonable in the circumstances of the case.

ATTACHMENT 5 - DRAFT CONDITIONS FOR: DA-2023/868

For Office Use Only – Do Not Mail

Consent has been granted subject to the following conditions:

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No	Revision No	Plan Title	Drawn By	Dated
2/28	G	Site Demolition Plan	South Coast Building Design	15.01.24
3/28	G	Site Plan	South Coast Building Design	15.01.24
6/28	G	Ground Floor Demo	South Coast Building Design	15.01.24
7/28	G	First Floor Demo	South Coast Building Design	15.01.24
8/28	G	Ground Floor Proposed	South Coast Building Design	15.01.24
9/28	G	First Floor Proposed	South Coast Building Design	15.01.24
10/28	G	Roof Terrace	South Coast Building Design	15.01.24
11/28	G	Elevations 1-2	South Coast Building Design	15.01.24
12/28	G	Elevations 3-4	South Coast Building Design	15.01.24
14/28	G	Sections 1-2	South Coast Building Design	15.01.24
15/28	G	Sections 3-4	South Coast Building Design	15.01.24

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

Reason:

To ensure all parties are aware of the approved plans and supporting documentation.

General Conditions

2. Stormwater and Wastewater

All stormwater and wastewater are to be taken away from the building envelope by means as recommended by the geotechnical consultant. There is to be no in-ground absorption.

Reason:

To ensure site specific geotechnical constraints are appropriately considered and satisfied.

3. Articulation Jointing

Articulation jointing is to be provided between new and existing development as recommended by the geotechnical consultant.

Reason:

To ensure site specific geotechnical constraints are appropriately considered and satisfied.

4. Class P Soils

Foundation systems are to be designed for Class P soils with all footings for the additions to be founded within the underlying weathered bedrock as recommended by the geotechnical consultant.

Reason:

To ensure site specific geotechnical constraints are appropriately considered and satisfied.

5. Design Endorsement

The structural designs for all foundations are to be endorsed by the geotechnical consultant that all known site geotechnical constraints have been accommodated in the designs.

Reason:

To ensure site specific geotechnical constraints are appropriately considered and satisfied.

6. Work in Accordance with Report

All work is to be in accordance with the geotechnical recommendations contained in the report dated 16 June 2023 by Geofirst Pty Ltd and any subsequent geotechnical report required to address unanticipated conditions encountered during construction.

Reason:

To ensure site specific geotechnical constraints are appropriately considered and satisfied.

7. 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.

Reason:

To satisfy the requirements of the legislation.

8. Compliance with the Building Code of Australia (BCA)

Building work must be carried out in accordance with the requirements of the BCA.

Reason:

To ensure the development is built in accordance with the Building Code of Australia.

9. Construction Certificate

A Construction Certificate must be obtained from Council or a Registered Certifier prior to work commencing.

A Construction Certificate certifies that the provisions of Part 3 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 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 Section 13 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

Reason:

To satisfy the requirements of the legislation.

10. Development Contributions

In accordance with Section 4.17(1)(h) of the Environmental Planning and Assessment Act 1979 and the Wollongong City Wide Development Contributions Plan (2022), a monetary contribution of \$8,605.47 (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 proposed cost of development and the applicable percentage levy rate.

The contribution amount will be indexed quarterly until the date of payment using Consumer Price Index; All Groups, Sydney (CPI) based on the formula show in the Contributions Plan.

To request an invoice to pay the contribution amount go www.wollongong.nsw.gov/contributions and submit a contributions enquiry. The following will be required:

- Application number and property address.
- Name and address of who the invoice and receipt should be issue to.
- Email address where the invoice should be sent.

A copy of the Contributions Plan and accompanying information is available on Council's website www.wollongong.gov.au.

Reason:

To ensure fees are paid in accordance with Councils contribution plans

Before the Issue of a Construction Certificate

11. Flows from Adjoining Properties

Flows from adjoining properties shall be accepted and catered for within the site. Finished ground and top of retaining wall levels on the boundary shall be no higher than the existing upslope adjacent ground levels. The above requirements must be clearly shown on construction certificate plans prior to the release of the construction certificate.

Reason:

To ensure stormwater design is compliant

12. Structures Adjacent to Driveway

Any proposed structures adjacent to the driveway shall comply with the requirements of the current relevant Australian Standard AS 2890.1 (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.

Reason:

To ensure compliance with Australian Standards.

13. No Adverse Runoff Impacts on Adjoining Properties

The design of the development shall ensure there are no adverse effects to adjoining properties or upon the land as a result of flood or stormwater runoff.

Reason:

To protect neighbourhood amenity.

14. 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 the National Construction Code - Building Code of Australia. The location of smoke alarms shall be shown on plan prior to the issue of the Construction Certificate.

Reason:

To satisfy the requirements of the legislation and Australian Standard.

15. Present Plans to Sydney Water

Approved plans must be submitted online using Sydney Water Tap In, 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.

Reason:

To satisfy the requirements of the legislation.

Before the Commencement of Building Work

16. Works in Road Reserve - Minor Works

Approval, under Section 138 of the Roads Act must be obtained from Wollongong City Council's Development Engineering Team prior to any works commencing or any proposed interruption to pedestrian and/or vehicular traffic within the road reserve caused by the construction of this development.

The application form for Works within the Road Reserve – Section 138 Roads Act can be found on Council's website. The form outlines the requirements to be submitted with the application, to give approval to commence works under the Roads Act. It is advised that all applications are submitted and fees paid, five (5) days prior to the works within the road reserve are intended to commence. The Applicant is responsible for the restoration of all Council assets within the road reserve which are impacted by the works/occupation. Restoration must be in accordance with the following requirements:

- a. All restorations are at the cost of the Applicant and must be undertaken in accordance with Council's standard document, "Specification for work within Council's road reserve".
- b. Any existing damage within the immediate work area or caused as a result of the work/occupation, must also be restored with the final works.

Reason:

To satisfy the requirements of the legislation.

17. Adjustment to Public Utility Service

The arrangements and costs associated with any adjustment to a public utility service shall be borne by the applicant/developer. Any adjustment, deletion and/or creation of public utility easements associated with the approved works are the responsibility of the applicant/developer. The submission of documentary evidence to the Principal Certifier which confirms that satisfactory arrangements have been put in place regarding any adjustment to such services is required prior to any works commencing on site.

Reason:

To ensure services are not impacted.

18. 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.

Reason:

To ensure services are not impacted.

19. All-weather Access

An all-weather stabilised access point must be provided to the site to prevent sediment leaving the site as a result of vehicular movement. Vehicular movement should be limited to this single accessway.

Reason:

To protect neighbourhood amenity.

20. 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.

Reason:

To advise neighbourhood.

21. Demolition Works

The demolition works shall be carried out in accordance with Australian Standard AS 2601:2001: The Demolition of Structures or any other subsequent relevant Australian Standard and the requirements of 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.

Reason:

To satisfy the requirements of the legislation and Australian Standards.

22. Tree Protection

Prior to commencement of any work on the site, including any demolition, all trees not approved for removal as part of this consent that may be subjected to impacts of this approved development must be protected in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970:2009).

Tree Protection Zones must be established prior to the commencement of any work associated with this approved development.

No excavation, construction activity, grade changes, storage of materials stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones.

Reason:

To ensure all parties are aware of the approved plans and supporting documentation.

23. 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.

Reason:

To protect neighbourhood amenity.

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.

Reason:

To ensure safety.

25. Structural Engineer's Details

Structural Engineer's details for all structurally designed building works such as reinforced concrete footings, reinforced concrete slabs and structural steelwork must be submitted to the Principal Certifier, prior to the commencement of any works on the site.

Reason:

To ensure structural integrity.

26. Temporary Toilet/Closet Facilities

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided must be:

- a. a standard flushing toilet, and
- b. connected to either:
 - i. the Sydney Water Corporation Ltd sewerage system or
 - ii. an accredited sewage management facility or
 - iii. an approved chemical closet.

The toilet facilities shall be provided on-site, prior to the commencement of any works.

Reason:

To satisfy the requirements of the legislation.

27. Signs On Site

A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:

- a. showing the name, address and telephone number of the Principal Certifier for the work, and
- b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c. stating that unauthorised entry to the worksite is prohibited.

Any such sign is to be maintained while the building work or demolition work is being carried out but must be removed when the work has been completed.

Note: This does not apply in relation to building work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

Reason:

To satisfy the requirements of the legislation.

28. Home Building Act Requirements

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 (not being the Council) has given the Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. the name and licence number of the principal contractor; and
 - ii. the name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
 - i. the name of the owner-builder; and
 - ii. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

Reason:

To satisfy the requirements of the legislation.

29. 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 and notify Council in writing of the appointment irrespective of whether Council or a Registered Certifier is appointed; and
- b. notify Council in writing of their intention to commence work (at least two [2] days' notice is required).

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

Reason:

To satisfy the requirements of the legislation.

While Building Work is Being Carried Out

30. New Information/Unexpected Finds

In the event that demolition and/or construction works cause the generation of odours or the uncovering of previously unidentified contaminants or hazardous materials, works must immediately cease and the Principal Certifier and Council (in the event that Council is not the Principal Certifier) must be notified in writing within two (2) days and an appropriately qualified environmental consultant appointed to undertake an assessment of the potential contaminant and works required to make the site safe from potential human health and environmental harm.

Reason:

To ensure protection of the environment and to comply with legislation.

31. Building Site to be Kept Free of Rubbish

The building site must be kept free of rubbish at all times. All refuse capable of being wind-blown must be kept in a suitable waste container.

Reason:

To comply with Council's Development Control Plan.

32. Cut and Fill

While site works are being carried out, all soil removed from or imported to the site is managed in accordance with the following requirements:

- a. All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility.
- b. All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material identified as being subject to resource recover exemption by the NSW EPA.

Reason:

To ensure soil removed from the site is appropriately disposed of and soil imported to the site is not contaminated and is safe for future occupants.

33. Foundation Inspections

All excavations for foundations are to be inspected by the geotechnical consultant and certified that the ground has been suitably prepared for the placement of footings.

Reason:

To ensure all parties are aware of the approved plans and supporting documentation.

34. Flows from Adjoining Properties

Flows from adjoining properties shall be accepted and catered for within the site. Finished ground and top of retaining wall levels on the boundary shall be no higher than the existing upslope adjacent ground levels.

Reason:

To ensure amenity is protected.

35. Piping of Stormwater to Existing

Stormwater for the land must be piped to the existing stormwater drainage system.

Reason:

To ensure all parties are aware of the approved plans and supporting documentation.

36. 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.

Reason:

To comply with Council's Development Control Plan.

37. Implementation of BASIX Commitments

While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.

Reason:

To satisfy the requirements of the legislation.

38. Cut and Fill Retained

All proposed cut and filling works must be adequately retained with all battered slopes being no steeper than 2H:1V.

Reason:

To ensure ongoing protection of the environment and neighbourhood amenity.

39. Hours of Work

The Principal Certifier must ensure that building work, demolition or vegetation removal is only carried out between:

- 7:00am to 5:00pm on Monday to Saturday.

The Principal Certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Any variation to the hours of work requires Council's approval.

Any request to vary the approved 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; and
- f. any proposed measures required to mitigate the impacts of the works.

Note: The developer is advised that other legislation, such as Noise Guidelines for Local Government January 2023, may control the activities for which Council has granted consent, including but not limited to, the *Protection of the Environment Operations Act 1997*.

Reason:

To protect the amenity of the surrounding area.

40. 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.

Reason:

To comply with Council's Development Control Plan.

41. 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.

Reason:

To ensure ongoing protection of the environment and neighbourhood amenity.

Before the Issue of an Occupation Certificate

42. Drainage Works-As-Executed (WAE)

The developer shall obtain written verification from a suitably qualified civil engineer, stating that all stormwater drainage and related work has been constructed in accordance with the approved Construction Certificate plans. In addition, full WAE plans, prepared and signed by a Registered Surveyor shall be submitted. These plans shall include levels and location for all drainage structures and works, buildings (including floor levels), and finished ground and pavement surface levels. This information shall be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason:

To comply with the relevant Standards.

43. 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 Occupation Certificate unless satisfied that selected commitments have been complied with as specified in the relevant BASIX Certificate.

NOTE: Clause 44 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 provides for independent verification of compliance in relation to certain BASIX commitments.

Reason:

To satisfy the requirements of the legislation.

Occupation and Ongoing Use

44. 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.

Reason:

To comply with legislation and Australian Standards.