

Wollongong Local Planning Panel Assessment Report | 9 August 2022

WLPP No.	Item No. 1
Integrated DA No.	DA-2021/1438
Proposal	Development Application – alterations and additions to dwelling, including swimming pool
Property	Lot 14 DP 1164638 5 Blackwattle Place, Berkeley NSW 2506
Applicant	Mr Abraham Nemra
Responsible Team	Development Assessment & Certification Team – Building and Certification Team (EF)

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Wollongong Local Planning Panel (WLPP)

The proposal has been referred to the Wollongong Local Planning Panel (WLPP) for **determination** pursuant to Section 3 of Schedule 2 of the Local Planning Panels Direction of 30 June 2020, as the proposed development contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

Proposal

The proposal is for the construction of a first floor addition to a dwelling, including a swimming pool on the first floor.

Permissibility

The site is zoned R2 Low Density Residential pursuant to Wollongong Local Environmental Plan 2009. The proposal is categorised as a dwelling house and is permissible in the zone with development consent.

Exhibition

The application was notified in accordance with the Wollongong Community Participation Plan 2019 and no submissions were received.

Consultation

The Development Application did not require any internal/external consultation.

Main Issues

The main issues arising from the assessment process are:

- Floor Space Ratio
- Number of Storeys
- Side setbacks
- Landscaping
- Building character and form

Recommendation

It is recommended that DA-2021/796 be Refused for the following reasons:

1. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development exceeds the maximum

- permissible Floor Space Ratio (FSR) of 0.50:1 as prescribed by Part 4.4 – Floor Space Ratio, Wollongong Local Environmental Plan 2009, and is contrary to the objectives of this clause, as:
- a) The proposal does not provide an appropriate correlation between the size of the site and the extent of the development on the site,
 - b) The bulk and scale of the proposed development is not compatible with the locality.
2. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is inconsistent with the provisions of the Wollongong Development Control Plan 2009, Chapter B1 *Residential Development*, Clause 4.1 – Number of Storeys.
 3. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered the shadow diagrams submitted with the application do not address the provisions of the Wollongong Development Control Plan 2009, Chapter B1 *Residential Development* of Clause 4.3 – Side and Rear Setbacks.
 4. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered the shadow diagrams submitted with the application do not address the provisions of the Wollongong Development Control Plan 2009, Chapter B1 *Residential Development* of Clause 4.5 – Landscaped Area.
 5. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the bulk and scale of the proposed development is inconsistent with the objectives of the Wollongong Development Control Plan 2009, Chapter B1 *Residential Development*, Clause 4.8 – Building Character and Form.
 6. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered the shadow diagrams submitted with the application do not address the provisions of the Wollongong Development Control Plan 2009, Chapter B1 *Residential Development* of Clause 4.18 – Swimming Pools and Spas.
 7. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the significant bulk and scale of the proposed development is inconsistent with the desired future character of Berkeley, as prescribed by Wollongong Development Control Plan 2009, Chapter D1 *Character Statements*, of Clause 3.40 – Berkeley.
 8. Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is excessive in bulk and scale and would likely adversely impact upon the amenity of the locality.
 9. Pursuant to the provisions of Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, it is considered that the site is not suitable for the development.
 10. Pursuant to the provisions of Section 4.15 (1)(d) of the Environmental Planning and Assessment Act 1979, it is considered that having regard for public submissions, the development is not suitable having regard to the impact on the amenity of the occupants of the adjoining premises
 11. Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, it is considered that approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.

1. APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the development:

State Environmental Planning Policies:

- SEPP (Building Sustainability Index: BASIX) 2004

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 2021
- Wollongong Community Participation Plan 2019

1.2 PROPOSAL

The proposal is for the construction of a first floor addition to a dwelling, including a swimming pool on the first floor.

1.3 BACKGROUND

Application No.	Description	Determination Date	Decision
PC-2013/2	Construction of a single storey dwelling	20/12/2012	Approved
DA-2021/1438 (current application)	Alterations and additions to dwelling, including swimming pool		<i>Referred to WLPP</i>

Customer service actions

There are no outstanding customer service requests that would preclude the development.

1.4 SITE DESCRIPTION

The site is located at Lot 14 DP 1164638, 5 Blackwattle Place, Berkeley NSW 2516.

The subject site is a battle-axe allotment located on the southern side of Blackwattle Place, Berkeley. The site has an area of 521.6m² and contains an existing single storey dwelling.

Property constraints

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

- Filled Land - Affected

Easements

These restrictions relate to:

- 'B' Right of Carriageway 2.5 Wide

88b Restrictions

These restrictions relate to:

- Right of Carriageway 2.5 Wide
- Footings and Foundations



Figure 1: Aerial photograph



Figure 2: WLEP 2009 zoning map

1.5 SUBMISSIONS

The Development Application was exhibited in accordance with the Wollongong Community Consultation Plan 2019. No submissions were received.

Submissions from public authorities – Nil

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Not applicable.

1.6.2 EXTERNAL CONSULTATION

Not applicable.

1.6.3 REFERRAL TO WOLLONGONG LOCAL PLANNING PANEL (WLPP)

The proposal has been referred to the Wollongong Local Planning Panel (WLPP) for **determination** pursuant to Section 3 of Schedule 2 of the Local Planning Panels Direction of 30 June 2020, as the proposed development contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

2. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 – 4.15 EVALUATION

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

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

SEPP BASIX applies to the development.

In accordance with Schedule 1 of the Regulations and SEPP 2004 a BASIX Certificate (BASIX Certificate No. A441946 dated 29 November 2021) has been submitted in support of the application demonstrating that the proposed scheme achieves the BASIX targets.

The aforementioned certificate is dated no earlier than 3 months of the lodgement of this application.

2.1.2 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Part 1 Preliminary

Clause 1.4 Definitions

dwelling house means a building containing only one dwelling.

dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

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

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

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

The development would be considered generally satisfactory with regard to the above objectives as it would provide for the housing needs of the community within a low density residential environment. However, due to the bulk and scale of the development, in addition to the exceedance of the maximum permissible FSR the application is not supported.

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

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

The proposal remains categorised as dwelling house and is permissible in the zone with development consent.

Part 4 Principal development standards

Clause 4.3 Height of buildings

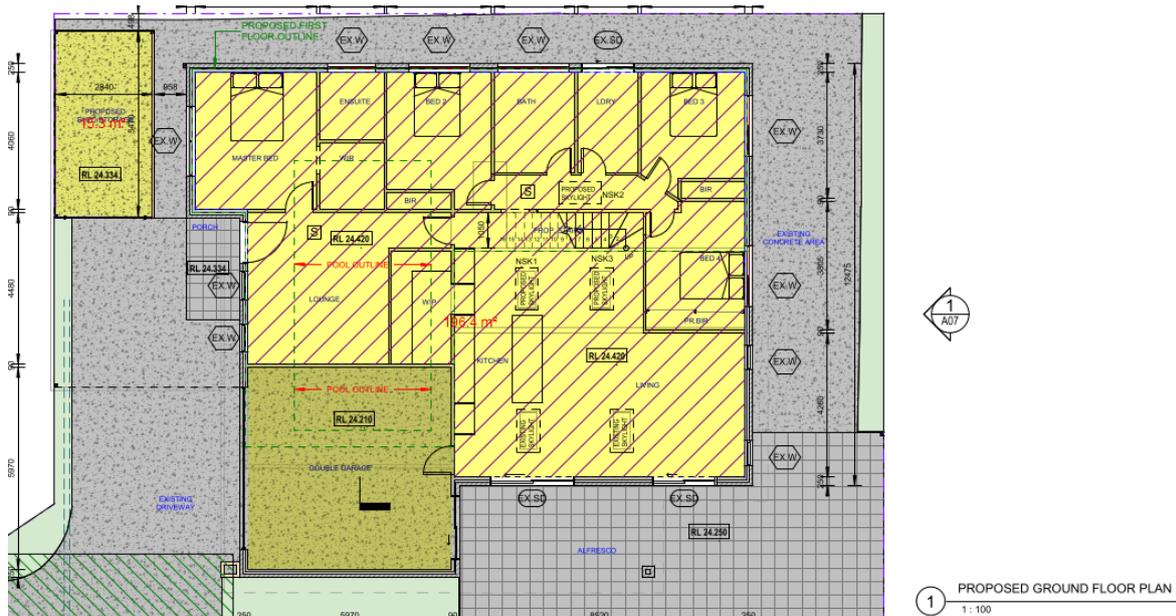
The proposed building height of 8.282 metres exceeds the maximum of 9 metres permitted for the site.

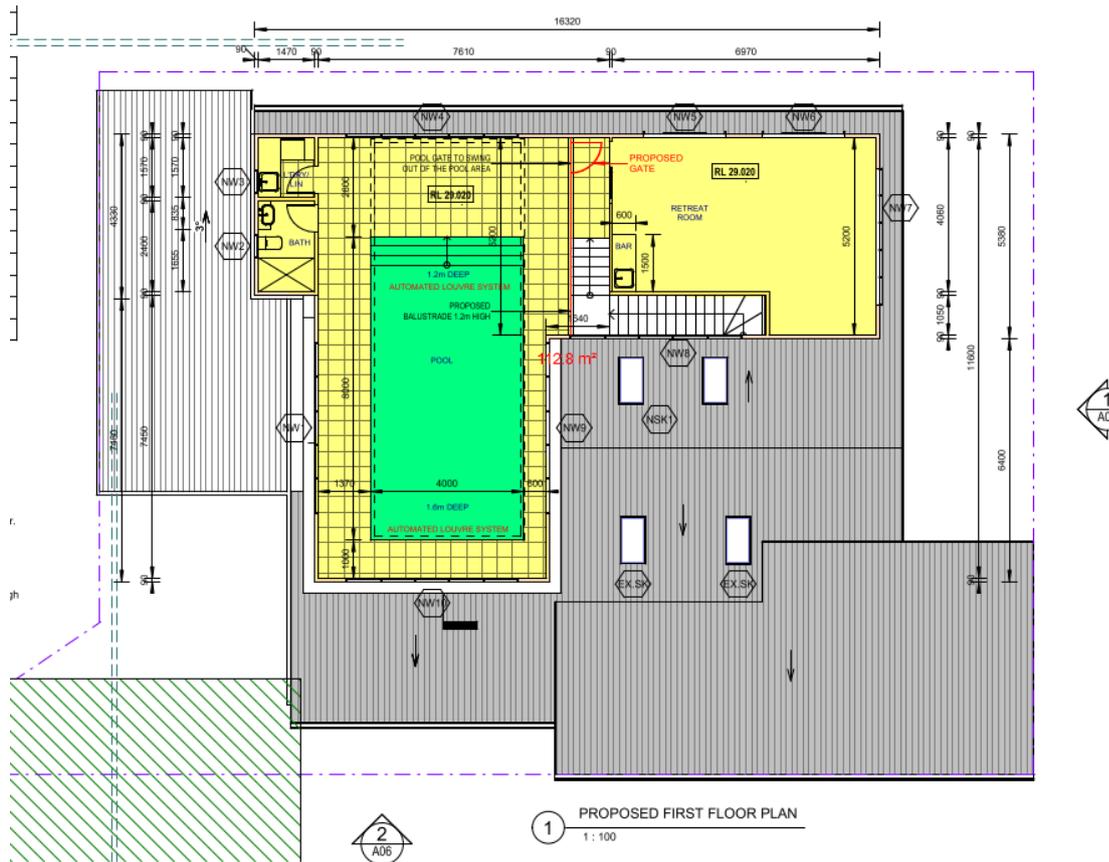
Clause 4.4 Floor space ratio

Maximum FSR permitted for the zone: 0.50:1

FSR calculated: 288.5m²/451.6m² (Site Area = 521.6m² including right of carriageway) = 0.638:1

Exceeds 0.50:1 by 27.8%





Clause 4.6 Exceptions to development standards

The subject development application does not seek an exception to the floor space ratio development standards. A Clause 4.6 Statement has not been submitted addressing the exception to development standard for Clause 4.4 – Floor Space Ratio of the *Wollongong Local Environmental Plan 2009*.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The subject site is already serviced by public utilities.

Clause 7.2 Natural Resource Sensitivity – Biodiversity

The site is not identified as being affected by “Natural Resource Sensitivity – Biodiversity” on the Natural Resource Sensitivity – Biodiversity Map.

Clause 7.4 – Riparian Lands

The site is not identified in the Riparian Land Map as containing “riparian land”.

Clause 7.6 Earthworks

The proposed earthworks are exempt under WLEP09 or are of a minor nature.

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

None applicable.

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

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

CHAPTER B1 – RESIDENTIAL DEVELOPMENT

An assessment of the proposed application has been undertaken against the controls of Chapter B1 below:

4.0 General Residential controls

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<u>4.1 Number of Storeys</u>		
<ul style="list-style-type: none"> • <i>R2 max height of 9m or two storey</i> • <i>Ancillary structures – 1 storey</i> • <i>Built form that has a positive impact on the visual amenity of the area and addresses site constraints and overlooking of neighbouring properties</i> • <i>In R2 Low Density Residential zones, where development occurs within 8m rear setback the development is limited to single storey</i> 	<p>Storeys: 2</p> <p>Max Height: 8.282m</p> <p>The development has been assessed against the relevant objectives and considered unsatisfactory.</p> <p>The proposed development is for a two (2) storey dwelling on a battle-axe allotment which is contrary to the prescriptive controls of this clause.</p> <p>The two (2) storey portion of dwelling will be setback <8m from rear boundary which is also contrary to the prescriptive controls of this clause.</p> <p>The design and siting of windows on the first floor will have a negative impact on the amenity of the surrounding properties to the north, east and west of the site. As the windows around the swimming pool area have a sill height of only 300mm above the coping level of the pool.</p> <p>This will enable 270 degree views from the proposed first floor directly into the private open space areas and dwellings of the adjoining properties, and also impose on the amenity of those properties as people walking around the swimming pool area on the first floor will be completely visible from the adjoining dwellings and adjacent open space areas.</p>	No
<u>4.2 Front Setbacks</u>		

<ul style="list-style-type: none"> • <i>Infill 6m min but less dependent on street character</i> • <i>Garages and carports 5.5m min</i> • <i>Greenfield sites 4m min</i> 	<p>The development has been assessed against the relevant objectives and considered satisfactory.</p> <p>The site is located on a battle-axe allotment.</p>	Yes
<p><u>4.3 Side and Rear Setbacks</u></p> <ul style="list-style-type: none"> • <i>Wall Setback: 900mm min</i> • <i>Eave Setback: 450mm min</i> • <i>Rear Setback: 900mm min</i> 	<p><u>Shed</u></p> <p>Side: nil, 498mm</p> <p><u>Dwelling Addition</u></p> <p>Side: 5662mm, 1358mm, 4048mm</p> <p>Rear: 4022mm</p> <p>Eaves: >450mm</p> <p>The development has been assessed against the relevant objectives and considered unsatisfactory.</p> <p>The boundary setbacks of the proposed shed are not in accordance with the prescriptive controls of this clause and will negatively impact the amenity of the adjoining properties as the structures will impose on the amenity of the private open space of the properties to both the east and north of the site.</p> <p>The placement of a 3m high ancillary carport/shed structure on the property boundary for a length of 10.5m, located immediately adjacent to the private open space of the adjoining property will have an imposing and negative impact on the amenity of that property.</p> <p>It was also observed during a site inspection that several unauthorised structures are existing on the site and have been built to the property boundaries and are an existing example of unsuitable development for the site.</p>	No
<p><u>4.4 Site Coverage</u></p> <ul style="list-style-type: none"> • <i>55% of the area of the lot, if the lot has an area less than 450m²</i> 	<p>Site Area = 521.6m²</p>	Yes

<ul style="list-style-type: none"> • 50% of the area of the lot, if the lot has an area of at least 450m² but less than 900m² • 40% of the area of the lot, if the lot has an area of at least 900m² 	<p>Site Coverage = <50%</p> <p>The development has been assessed against the relevant objectives and considered satisfactory.</p>	
<p><u>4.5 Landscaped Area</u></p> <ul style="list-style-type: none"> • Minimum Required 20% permeable area capable of growing trees, shrubs, groundcover and/or lawn. • 50% behind the building line to the primary road • Integrated with drainage design • Dual occupancy requires 1.5m min landscape strip within the front setback for the majority of site width (excluding driveway) 	<p>Site Area = 521.6m²</p> <p>Landscaped Area = <104m²</p> <p>The development has been assessed against the relevant objectives and considered unsatisfactory.</p> <p>The existing landscaped area on the site is 28.2m², which is considerably less than the minimum 104m² required by this clause.</p> <p>The considerable lack of landscaped area on the site, in conjunction with the unauthorised shed and awning built to the property boundaries, and the proposed development on the site, would represent a significant overdevelopment of the property.</p>	No
<p><u>Clause 4.6 Private Open Space</u></p> <ul style="list-style-type: none"> • 24m² of private open space must be directly accessible from the living areas; min width of 4m and no steeper than 1:50. • Not to be located on side boundaries or front yards without variation. 	<p>Private open space >24m².</p> <p>The development has been assessed against the relevant objectives and considered satisfactory.</p>	Yes
<p><u>4.7 Solar Access Requirements</u></p> <ul style="list-style-type: none"> • Windows to living rooms of adjoining dwellings must receive at least 3hrs continuous sunlight between 9.00am - 3.00pm on 21 June. • At least 50% of the private open areas of adjoining residential properties must receive at least 3hrs continuous sunlight between 9.00am - 3.00pm on June 21. • Shadow diagrams will be required by Council for 9am, 12pm, 3pm for the 21 June for two storey dwellings. 	<p>The development has been assessed against the relevant objectives and considered unsatisfactory.</p> <p>Shadow diagrams submitted with the application are not accurately depicted.</p> <p>The 9am shadow diagram is incorrect, as it shows the shading from the proposed first floor addition overshadowing the properties to the east of the site.</p> <p>The 9am shadow diagram should be indicating overshadowing over</p>	No

	the adjoining property to the west of the site.	
<p>4.8 Building Character and Form</p> <ul style="list-style-type: none"> • <i>Design, height and siting of a new dwelling-house or secondary dwelling must respond to its site context</i> • <i>New dwelling-houses within established residential areas should be sympathetic with the existing character of the immediate locality.</i> • <i>All residential buildings must be designed with building frontages and entries clearly addressing the street frontage.</i> • <i>Where garages are proposed on the front elevation they must be articulated from the front façade.</i> 	<p>The development has been assessed against the relevant objectives and considered unsatisfactory. The design of the development:</p> <ul style="list-style-type: none"> • does not respond to both its natural and built context, • the development does not respond to the existing character and the future character of the area, • the building design does not contribute to the locality through a design that considers building scale. <p>The nature of the proposed first floor addition has not been designed to minimise the impact on the amenity of the adjoining properties, by appropriate window design and placement, as the proposal has incorporated windows with a sill height of only 300mm above the finished level of the pool coping on the northern, eastern and western elevations, which will enable complete overlooking of the adjoining residential properties, and will enable anyone at that level to be completely visible from the adjoining properties.</p> <p>The height and setback of the proposed shed and carport located along the northern property boundary and 458mm from the western property boundary will result in the ancillary structure being a dominant built form as viewed from the abovementioned properties and will impact negatively on the amenity of those properties, considering the proximity to their private open space areas and the imposing nature of a structure of that size in</p>	No

	<p>such proximity to the property boundaries.</p> <p>The design of the proposed development will not contribute to the locality, as the building design does not incorporate an appropriate building scale, form, articulation, or landscaping.</p>	
<p><u>4.9 Fences</u></p> <ul style="list-style-type: none"> • <i>Fences must be constructed to allow natural flow of stormwater or runoff.</i> • <i>Fences within front and secondary building lines should be mainly constructed of transparent fence materials.</i> • <i>Any fence or related retaining wall within the front setback from the primary road frontage must be a max 1.2m in height</i> 	<p>The development has been assessed against the relevant objectives and considered satisfactory.</p> <p>1200mm high swimming pool safety barrier (fencing).</p>	Yes
<p><u>4.10 Car parking and Access</u></p> <ul style="list-style-type: none"> • <i>1 space per dwelling with a GFA of less than 125m²</i> • <i>2 spaces per dwelling with a GFA of greater than 125m²</i> • <i>Car parking spaces may be open hard stand space, driveway, carport or a garage.</i> • <i>Garage door facing roads—not greater than 50% of the width of the dwelling.</i> • <i>Carports must be setback behind the front building line.</i> • <i>Garages must be setback min of 5.5 from front boundary.</i> • <i>Driveways shall be separated from side boundaries by a minimum of 1m.</i> • <i>Driveways shall have a max cross-over width of 3m.</i> 	<p>GFA>125m²</p> <p>Two (2) car parking spaces provided.</p> <p>The development has been assessed against the relevant objectives and considered satisfactory.</p>	Yes
<p><u>4.11 Storage Facilities</u></p> <ul style="list-style-type: none"> • <i>Studio/1 bedroom- 6m³ storage volume to 3m² storage area</i> • <i>2 bedroom- 8m³ storage volume to 4m² storage area</i> • <i>3 bedroom- 10m³ storage volume to 5m² storage area</i> 	<p>The development has been assessed against the relevant objectives and considered satisfactory.</p>	Yes

<p><u>4.12 Site Facilities</u></p> <ul style="list-style-type: none"> • <i>Letterboxes in an accessible location</i> • <i>Air-con, satellite dishes and other ancillary structures to be located away from street frontage, not in a place where they are a skyline feature and adequately setback</i> 	<p>The development has been assessed against the relevant objectives and considered satisfactory and is capable of complying.</p>	<p>Yes</p>
<p><u>4.13 Fire Brigade Servicing</u></p> <ul style="list-style-type: none"> • <i>All dwellings located within 60m of a fire hydrant</i> 	<p>The development has been assessed against the relevant objectives and considered satisfactory.</p>	<p>Yes</p>
<p><u>4.14 Services</u></p> <ul style="list-style-type: none"> • <i>Encourage early consideration of servicing requirements</i> 	<p>The development has been assessed against the relevant objectives and considered satisfactory.</p> <p>Services are available.</p>	<p>Yes</p>
<p><u>4.15 Development near the coastline</u></p> <ul style="list-style-type: none"> • <i>Must minimise built intrusions into coastal landscape</i> • <i>Retain views to the ocean from roads and public spaces</i> • <i>Maintain buildings consistent with coastal character</i> 	<p>The subject site is not located within 10m of a clifftop and/or a beach.</p>	<p>n/a</p>
<p><u>Clause 4.16 View Sharing</u></p> <p>a) <i>Is impact of view loss acceptable?</i></p> <p>b) <i>Tenacity Consulting v Waringah Roseth, SC (2004)</i></p>	<p>The proposal has been assessed against the relevant objectives and considered satisfactory.</p>	<p>Yes</p>
<p><u>4.17. Retaining walls</u></p> <ul style="list-style-type: none"> • <i>To ensure well designed retaining walls that are structurally sound</i> 	<p>No retaining walls are proposed.</p>	<p>n/a</p>
<p><u>4.18 Swimming pools and spas</u></p> <ul style="list-style-type: none"> • <i>To ensure relevant safety standards meet user's needs.</i> • <i>To ensure site and design maintain the amenity of the area</i> 	<p>The proposal has been assessed against the relevant objectives and considered unsatisfactory.</p> <p>The proposed swimming pool is located within the first floor of the proposed development, approximately 4.6m above ground level (existing), with the trafficable pool coping around the full perimeter of the swimming pool have windows with a sill height of</p>	<p>No</p>

	<p>only 300mm above the finished coping level.</p> <p>It is considered that the siting and design of the swimming pool and associated surrounds will have a negative impact on the amenity of the surrounding residential neighbourhood, as the pool area and any users within the area will be completely visible when walking the trafficable areas around the pool due to the low sill height and size of the windows enclosing this area.</p> <p>The low sill height and significant size of the windows within the pool area promote overlooking into adjoining dwellings and associated private open space areas.</p>	
<p><u>4.19 Development near railway corridors and major roads</u></p> <ul style="list-style-type: none"> • <i>Ensure development near rail corridors and major roads are protected from vibration</i> • <i>Ensure development does not affect operations or safety</i> • <i>Comply with SEPP Infrastructure.</i> 	<p>The subject site is not located adjacent to a railway corridor and/or a major road.</p>	<p>n/a</p>

CHAPTER D1: CHARACTER STATEMENTS

Clause 3.40 – Berkeley

It is considered that the design, bulk and scale of the development does not meet the desired future character of Berkeley.

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

A two (2) car garage has been provided attached to the dwelling house. The proposed driveway grades are capable of complying with Australian Standard AS 2890.1

CHAPTER E7: WASTE MANAGEMENT

A Site Waste Minimisation and Management Plan has been submitted. The proposal has been assessed against the relevant objectives and considered satisfactory. Conditions would be imposed on any development consent in regard to waste management and asbestos removal.

CHAPTER E14 STORMWATER MANAGEMENT

Stormwater generated from the proposed development is to be connected to the existing stormwater drainage system.

CHAPTER E17 PRESERVATION AND MANAGEMENT OF TREES AND VEGETATION

No tree removal is proposed and/or required as part of the proposed development.

CHAPTER E21 DEMOLITION AND ASBESTOS MANAGEMENT

The application involves demolition and as such the provisions of AS 2601-2001: The Demolition of Structures applies.

CHAPTER E22 SOIL EROSION AND SEDIMENT CONTROL

Conditions in relation to soil and erosion control have been imposed on the original development consent.

2.3.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN (2021)

<http://www.wollongong.nsw.gov.au/council/governance/Pages/policies.aspx>

The plan applies to all land within the local government area of Wollongong City Council excluding the commercial core of the city centre and Horsley.

The proposal has been assessed against this plan and a contribution fee of \$2,800.00 applies to the proposal.

2.4 SECTION 4.15(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 7.4 which affect the development.

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

Clause 61 - Additional matters that consent authority must consider

- (1) In determining a development application for the demolition of a building, the consent authority must consider the Australian Standard AS 2601—2001: The Demolition of Structures.

The application involves demolition and as such the provisions of AS 2601-2001: The Demolition of Structures applies.

Clause 62 - Consideration of fire safety

Not applicable.

Clause 64 – Consent authority may require upgrade of buildings

Not applicable.

2.6 SECTION 4.15 1(A)(V) ANY COASTAL ZONE MANAGEMENT PLAN (WITHIN THE MEANING OF THE COASTAL PROTECTION ACT

None applicable.

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

Context and Setting:

The proposed development is located within a low density residential area and is permissible with development consent, however, it is considered that the proposed development is inconsistent with the surrounding context and setting.

Access, Transport and Traffic:

Access to the site is from Blackwattle Place. The development is considered not to result in an adverse impact on the traffic movement and access to the site.

Public Domain:

There will be adverse impact on the public domain as a result of the proposed development.

Utilities:

The proposal is not envisaged to place an unreasonable demand on utilities supply. Existing utilities are adequate to service the proposal.

Heritage:

No known heritage items will be impacted by the proposal.

Other land resources:

The proposal is not considered to contribute to orderly development of the site, however, it is not envisaged to impact upon any valuable land resources.

Water:

The site is presently serviced by Sydney Water, which can be readily extended to meet the requirements of the proposed development.

The proposal is not envisaged to have unreasonable water consumption.

Soils:

There will be no adverse impacts on the soils of the subject site or surrounding area as a result of the proposed development.

Air and Microclimate:

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

Flora and Fauna:

There is no significant vegetation removal proposed and/or required.

Waste:

A condition will be attached to any consent granted that an appropriate receptacle be in place for any waste generated during the construction.

Energy:

The proposal is not envisaged to have unreasonable energy consumption.

Noise and vibration:

A condition will be attached to any consent granted that nuisance be minimised during any construction, demolition, or works.

Natural hazards:

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

Technological hazards:

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

Safety, Security and Crime Prevention:

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

Social Impact:

The proposal is not expected to create negative social impacts.

Economic Impact:

The proposal is not expected to create negative economic impacts.

Site Design and Internal Design:

The site is located within an R2 Low Density Residential Zone, and Clause 4.4 of Council's WLEP2009 a maximum floor space ratio of 0.50:1 is applicable to the site.

The proposed development has an FSR of 0.638:1, which exceeds the maximum development standard by 27.8%. Council has concluded that the development is contrary to the objectives of Clause 4.4 of WLEP2009, and that there is not an appropriate correlation between size of the site and the extent of the proposed development on the site, and also that the development is not compatible with the bulk and scale of the locality.

Construction:

Conditions of consent are applicable in relation to construction impacts such as hours of work, erosion and sedimentation controls, works in the road reserve, excavation, demolition and use of any crane, hoist, plant or scaffolding. A condition will be attached to any consent granted that all works are to be in compliance with the Building Code of Australia.

Cumulative Impacts:

The development would result in a negative cumulative impact, as it would promote similar undesirable development in the area.

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

Does the proposal fit in the locality?

The development is considered permissible with regard to the zoning of the site with development consent, however the design of the development would result in negative impacts on the amenity of the locality and adjoining developments.

Are the site attributes conducive to development?

The site is located within an R2 Low Density Residential Zone, and Clause 4.4 of Council's WLEP2009, a maximum floor space ratio of 0.50:1 is applicable to the site, respectively. The development has an FSR of 0.638:1, which exceeds the maximum development standard by 27.8%. Council has concluded that the development is contrary to the objectives of Clause 4.4 of WLEP2009, and that there is not an appropriate correlation between size of the site and the extent of the proposed development on the site, and also that the development is not compatible with the bulk and scale of the locality. The development is contrary to the objectives of the zone.

It is concluded that the subject site is not suitable for the development.

2.9 SECTION 4.15 (D) SUBMISSIONS

Refer to Section 2.5 of this report.

2.10 SECTION 4.15 1(E) THE PUBLIC INTEREST

The development is excessive in bulk and scale, is inconsistent with the established streetscape character and will have adverse impacts upon the amenity of the area. It is considered that approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.

3. CONCLUSION

This application has been assessed having regard to the Heads of Consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of WLEP 2009 and all relevant Council DCPs, Codes and Policies.

There are no outstanding issues.

The development is permitted in the R2 Low Density Residential Zone with development consent pursuant to WLEP 2009. The application request did not involve a request for an exception to development standard, specifically Clause 4.4 – Floor Space Ratio of WLEP2009.

It is considered that the application has not been designed appropriately given the nature and characteristics of the site and would result in significant adverse impacts on the character and amenity of the surrounding area.

4. RECOMMENDATION

It is recommended that the development application be refused subject to the reasons contained in Attachment 2.

5. ATTACHMENTS

1. Architectural Plans
2. Draft Refusal

BLACKWATTLE PLACE



LOT 16
DP 1164638

LOT 17
DP 1164638

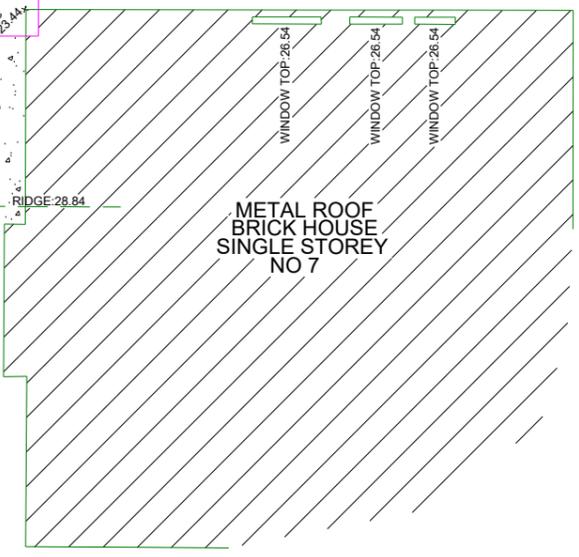
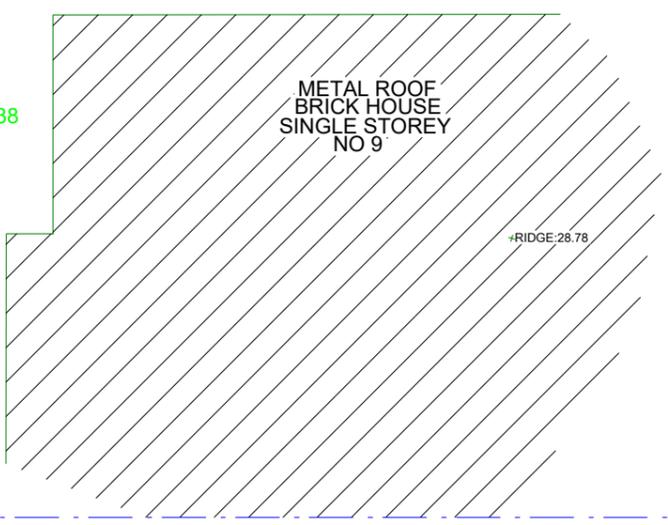
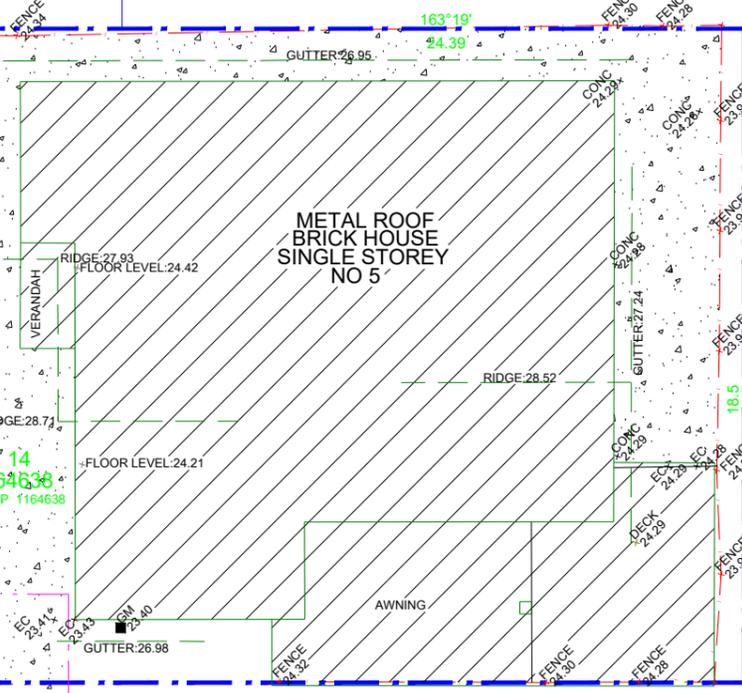
LOT 18
DP 1164638

LOT 15
DP 1164638

LOT 14
DP 1164638
521.6m² by DP 1164638

LOT 12
DP 1164638

LOT 13
DP 1164638



LEGEND

	BENCH MARK
	ELECTRICAL METER
	GAS METER
	GAS VALVE
	HYDRANT
	POWER POLE
	SEWER INSPECTION POINT
	SEWER MANHOLE
	STREET SIGN
	SEWER VENT PIPE
	TELECOM
	DENOTES TREE: SPREAD/TRUNK/HEIGHT
	WATER METER
	ELECTRICAL BOX
	VEHICLE CROSSING
	PRAM CROSSING
	GULLY PIT
	STORMWATER PIT
	FENCE LINE
	BOUNDARY LINE

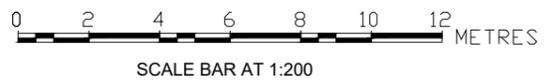
(B) -EASEMENT FOR DRAINAGE OF WATER 2.5 WIDE.

NOTES:

- This plan has been prepared from a combination of field survey and existing records, for the purpose of updating the drawing records of the land and should not be used for any other purpose.
- The title boundaries shown hereon have been determined by plan dimensions only and have not been verified by field measurement.
- Services shown hereon have been located by field survey only where visible.
- Prior to any demolition, excavation or construction on the site, the relevant authority should be contacted for possible location of further underground services and their detailed location.
- Contours are interpolated from the spot heights are taken at the time of survey and are approximation only.
- This note is an integral part of this plan.

ORIGIN OF LEVELS IS FROM ESTABLISHED SSM 172726

REVISION	REV	DATE	DESCRIPTION	BY
A				



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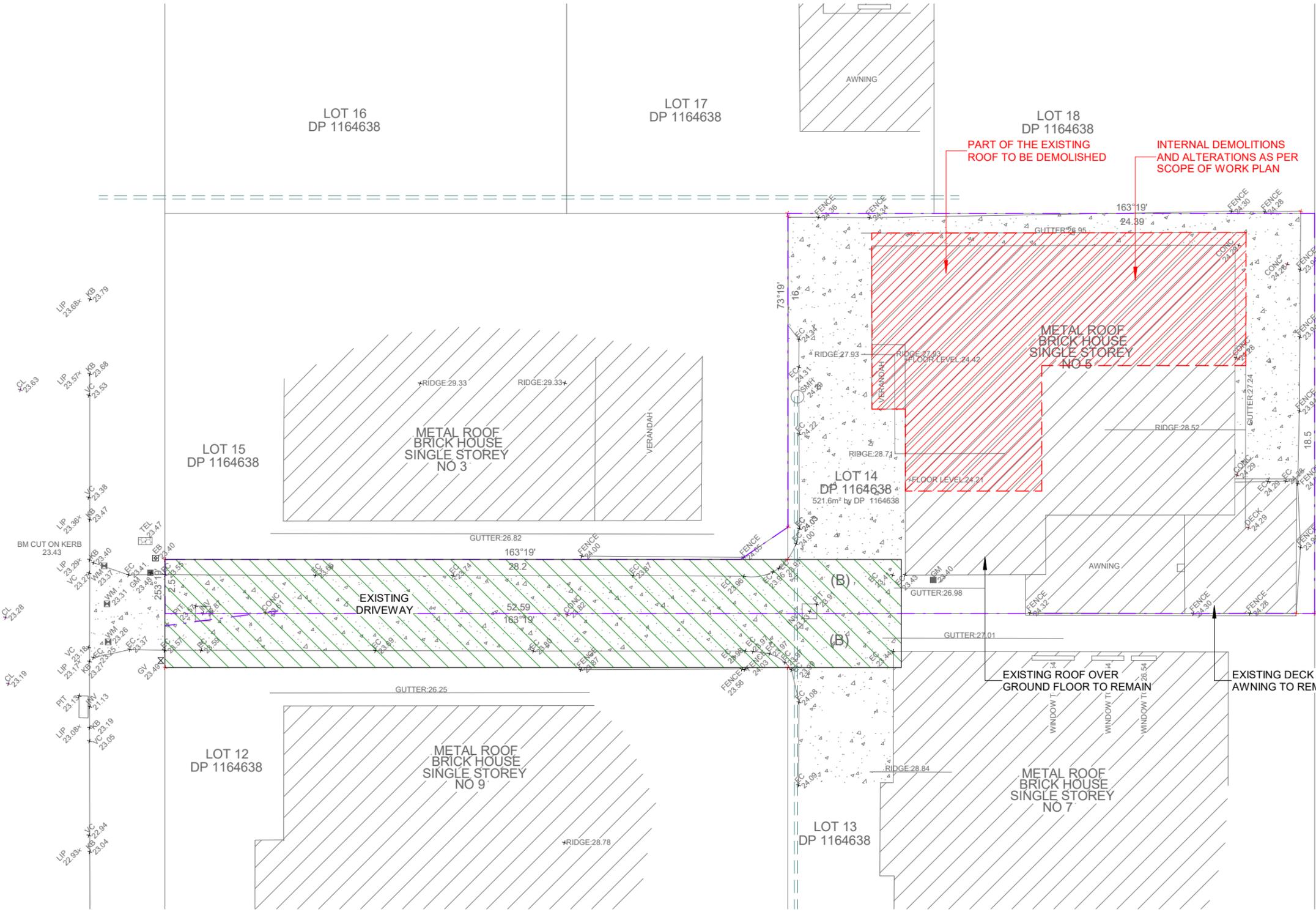
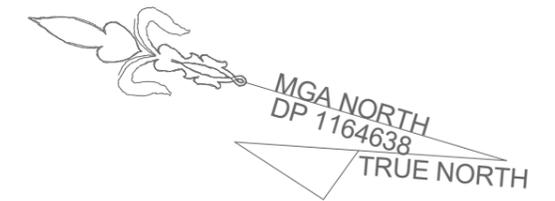
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P: 1300 868 072 M: 0422 606 228
E: abraham@nemcodesign.com.au

DESCRIPTION:
DETAIL SURVEY OVER:
LOT 14, DP 1164638
LGA: CITY OF WOLLONGONG
5 BLACKWATTLE PLACE, BERKELEY

JOB NUMBER: 20421	DATUM: AHD	ORIGINAL SIZE: A3
SURVEYED: M.M	DATE: 08.09.2020	
DRAWN BY: M.M	SCALE: 1:200	

BLACKWATTLE PLACE



PART OF THE EXISTING ROOF TO BE DEMOLISHED
INTERNAL DEMOLITIONS AND ALTERATIONS AS PER SCOPE OF WORK PLAN

(B) -EASEMENT FOR DRAINAGE OF WATER 2.5 WIDE.

1 DEMOLITION PLAN

1 : 200

DEMOLISH IN ACCORDANCE TO "AS 2601-2001 THE DEMOLITION OF STRUCTURES"

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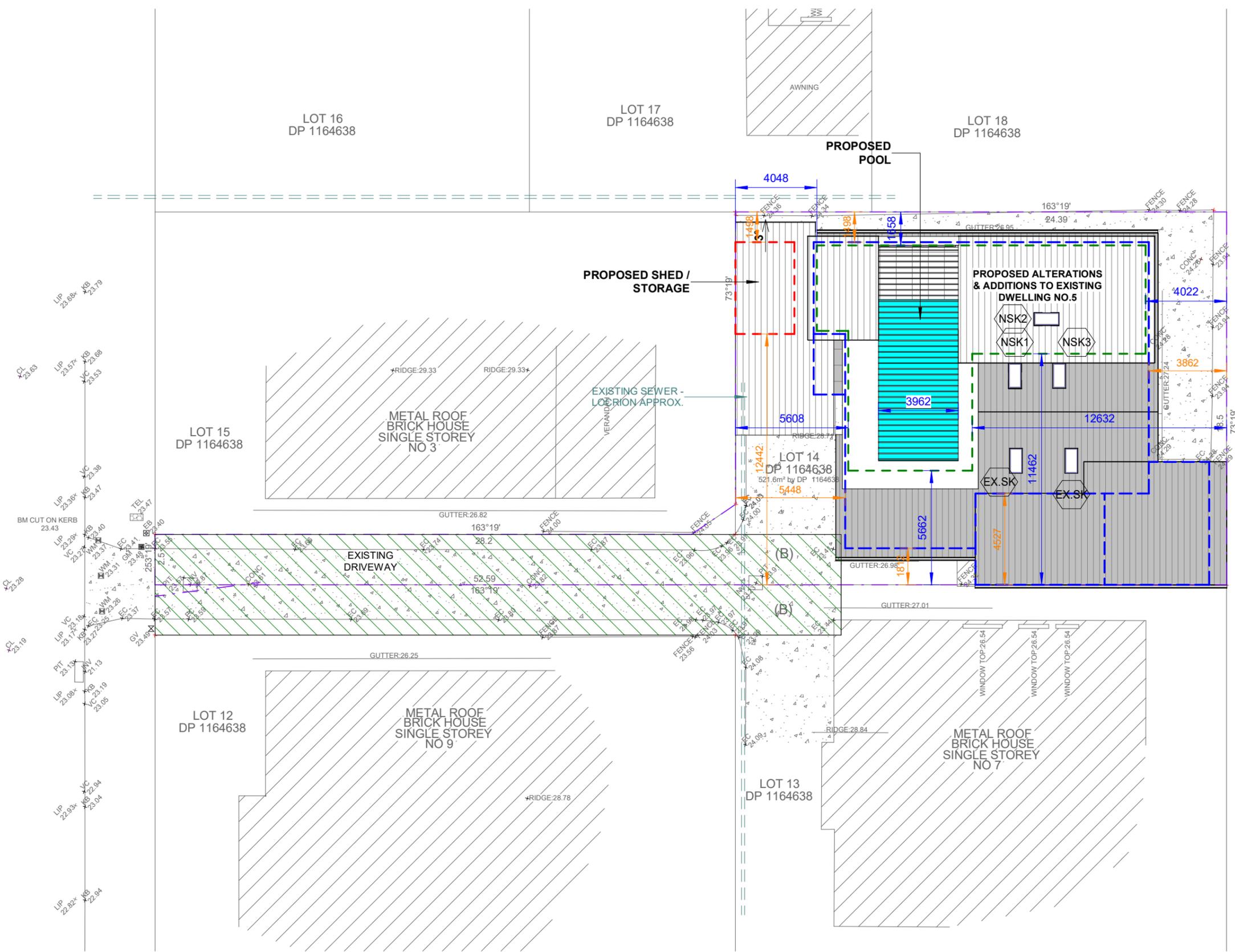
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E: abraham@nemcodesign.com.au

PROPOSED ALTERATION AND ADDITION TO EXISTING DWELLING
5 BLACKWATTLE PLACE, BERKELEY
LOT 14, DP 1164638

DEMOLITION PLAN

JOB NUMBER: 20421	DWG NUMBER: A01.01	ORIGINAL SIZE: A3
DESIGNED BY: A.N.	DATE: 29.07.2021	
DRAWN BY: A.N.	SCALE: AS SHOWN	

BLACKWATTLE PLACE



(B) -EASEMENT FOR DRAINAGE OF WATER 2.5 WIDE.

- LEGEND:**
- SITE BOUNDARY
 - EXISTING GROUND FLOOR OUTLINE
 - PROPOSED GROUND FLOOR OUTLINE
 - PROPOSED FIRST FLOOR OUTLINE
 - EXISTING EASEMENT
 - EXISTING SETBACK
 - PROPOSED SETBACK

1 SITE PLAN, ROOF PLAN & SITE ANALYSIS PLAN
1 : 200

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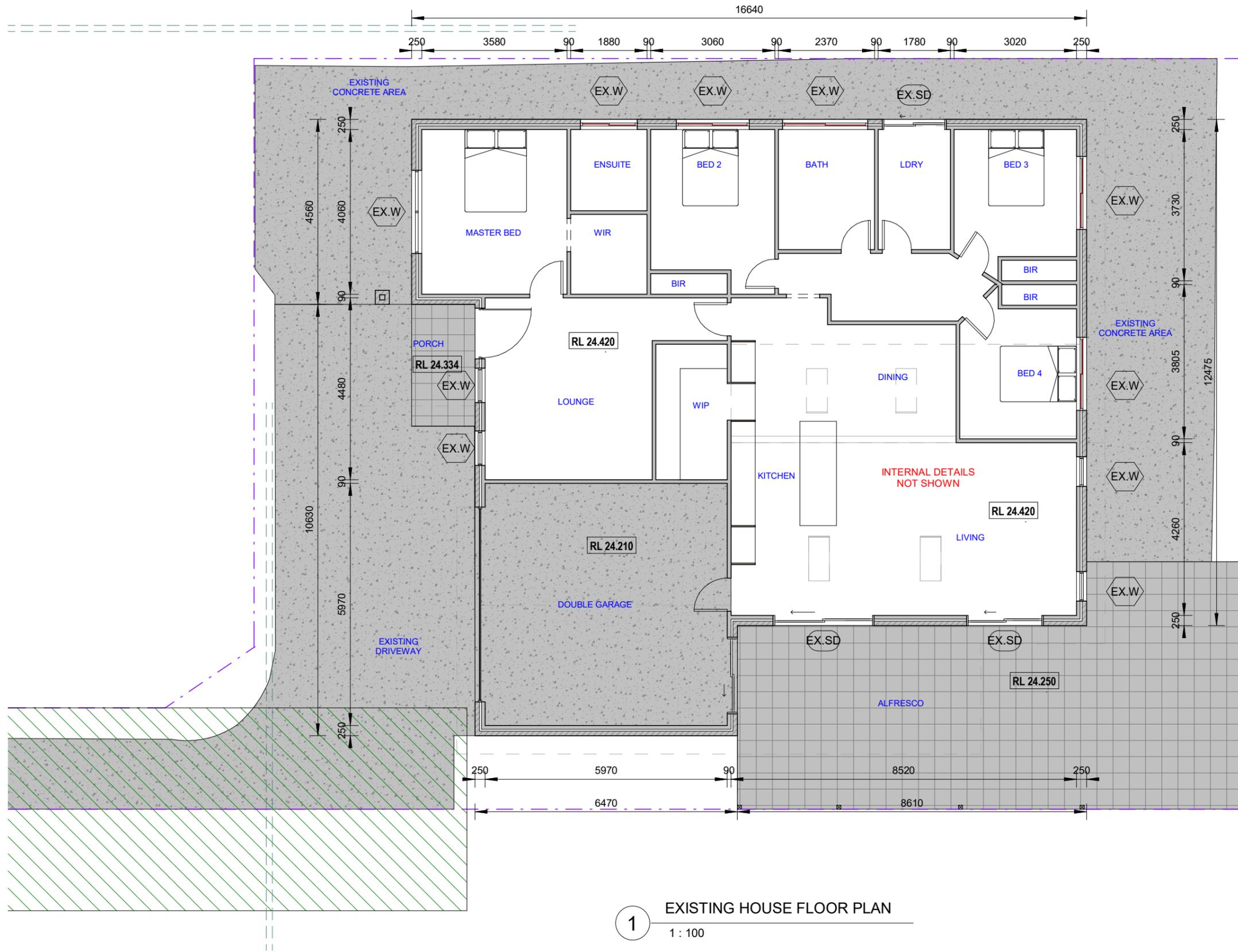
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PROPOSED ALTERATION AND ADDITION TO EXISTING DWELLING
5 BLACKWATTLE PLACE, BERKELEY
LOT 14, DP 1164638

SITE PLAN, ROOF PLAN & SITE ANALYSIS PLAN

JOB NUMBER: 20421	DWG NUMBER: A01.02	ORIGINAL SIZE: A3
DESIGNED BY: A.N.	DATE: 29.07.2021	
DRAWN BY: A.N.	SCALE: AS SHOWN	

26/11/2021 1:18:27 PM



1 EXISTING HOUSE FLOOR PLAN
1 : 100

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5 BLACKWATTLE PLACE, BERKELEY
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EXISTING HOUSE FLOOR PLAN

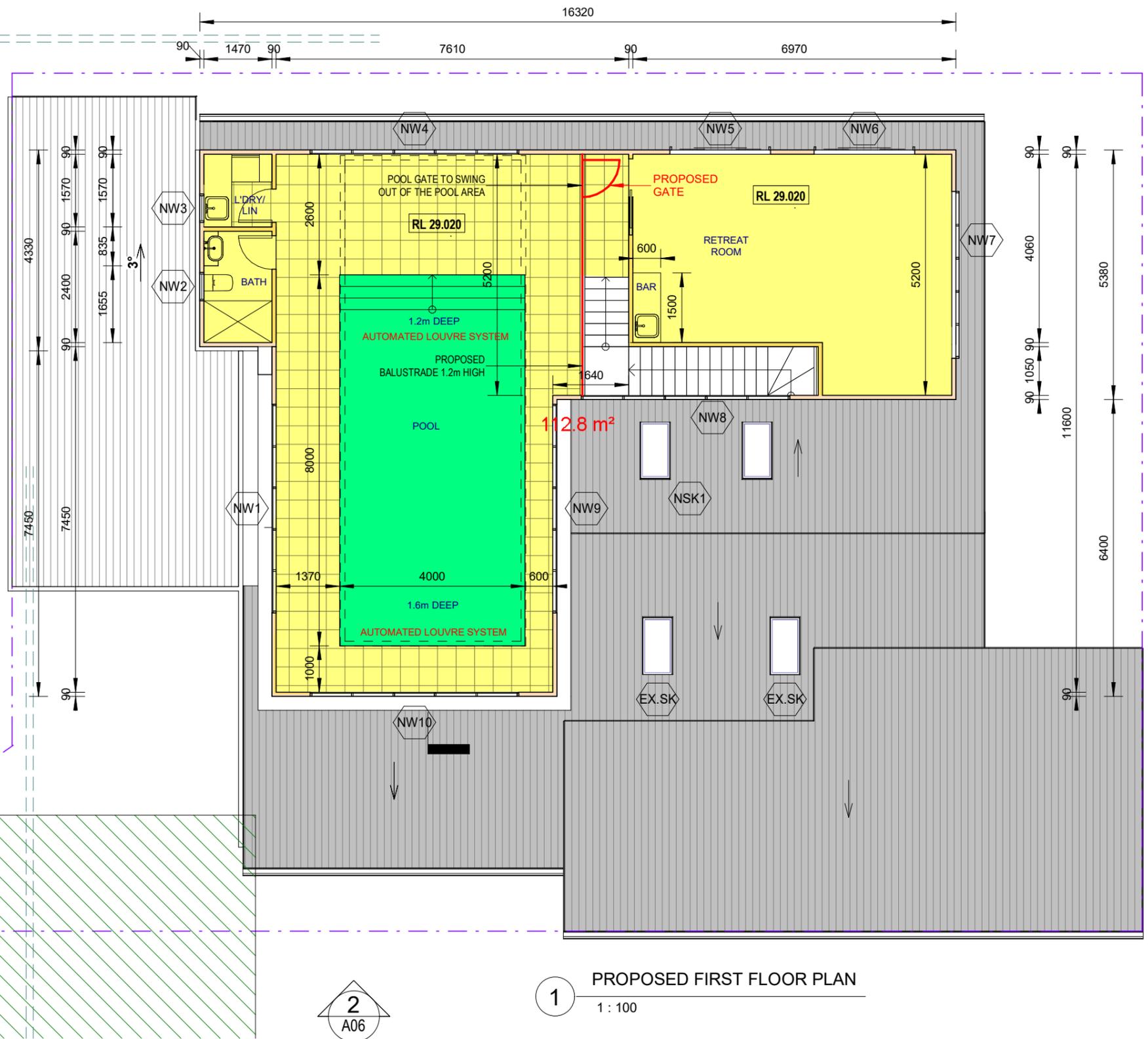
JOB NUMBER: 20421	DWG NUMBER: A02	ORIGINAL SIZE: A3
DESIGNED BY: A.N.	DATE: 29.07.2021	
DRAWN BY: A.N.	SCALE: AS SHOWN	

PROPOSED WINDOWS SCHEDULE

Mark	Height	Width	Glazed Area
------	--------	-------	-------------

NSK1	1200	600	0.72 m ²
NSK2	1200	600	0.72 m ²
NSK3	1200	600	0.72 m ²
NW1	1800	4500	8.10 m ²
NW2	1200	610	0.73 m ²
NW3	1200	610	0.73 m ²
NW4	1800	4500	8.10 m ²
NW5	850	2170	1.84 m ²
NW6	850	2170	1.84 m ²
NW7	1800	3600	6.48 m ²
NW8	1800	4500	8.10 m ²
NW9	1800	4500	8.10 m ²
NW10	1800	4500	8.10 m ²
Grand total: 13			54.29 m ²

- NOTES:**
1. Required pool dimensions to be confirmed on site by builder.
 2. Proposed pool to comply with AS 1926.1-2012.
 3. Pool backwash to be connected to sewer.
 4. Pool gates with child resistant barrier.
 5. Pool gates to open away from pool area.
 6. Pool fencing to be non-combustible.
 7. Boundary fence (acting as pool barrier) to be min. 1.80m high from the level of pool decking. No footholds on the barrier.
 8. Lights, skimmer and internal plumbing designed by builder.



PROPOSED FIRST FLOOR PLAN

1 : 100

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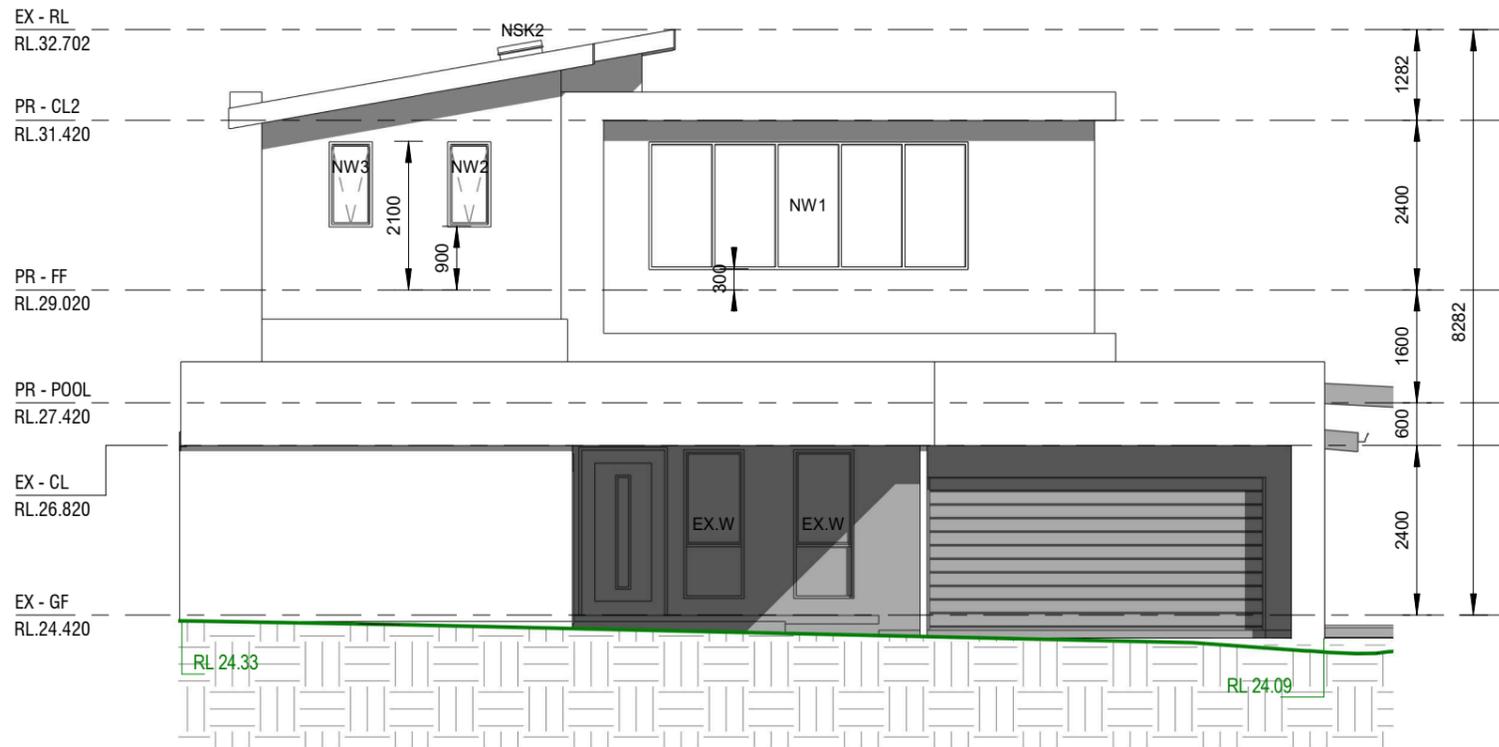
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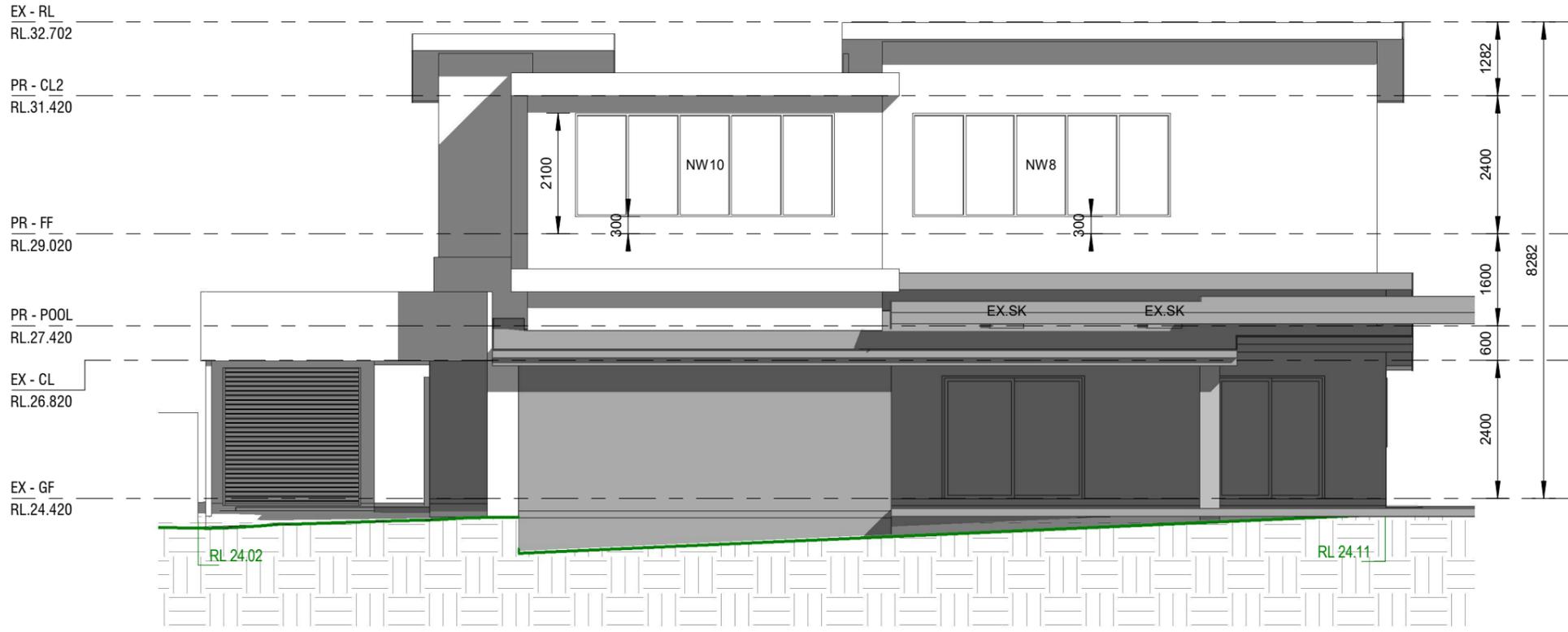
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5 BLACKWATTLE PLACE, BERKELEY
LOT 14, DP 1164638

PROPOSED FIRST FLOOR PLAN

JOB NUMBER: 20421	DWG NUMBER: A05	ORIGINAL SIZE: A3
DESIGNED BY: A.N.	DATE: 29.07.2021	
DRAWN BY: A.N.	SCALE: AS SHOWN	



1 NORTH ELEVATION
1 : 100



2 WEST ELEVATION
1 : 100

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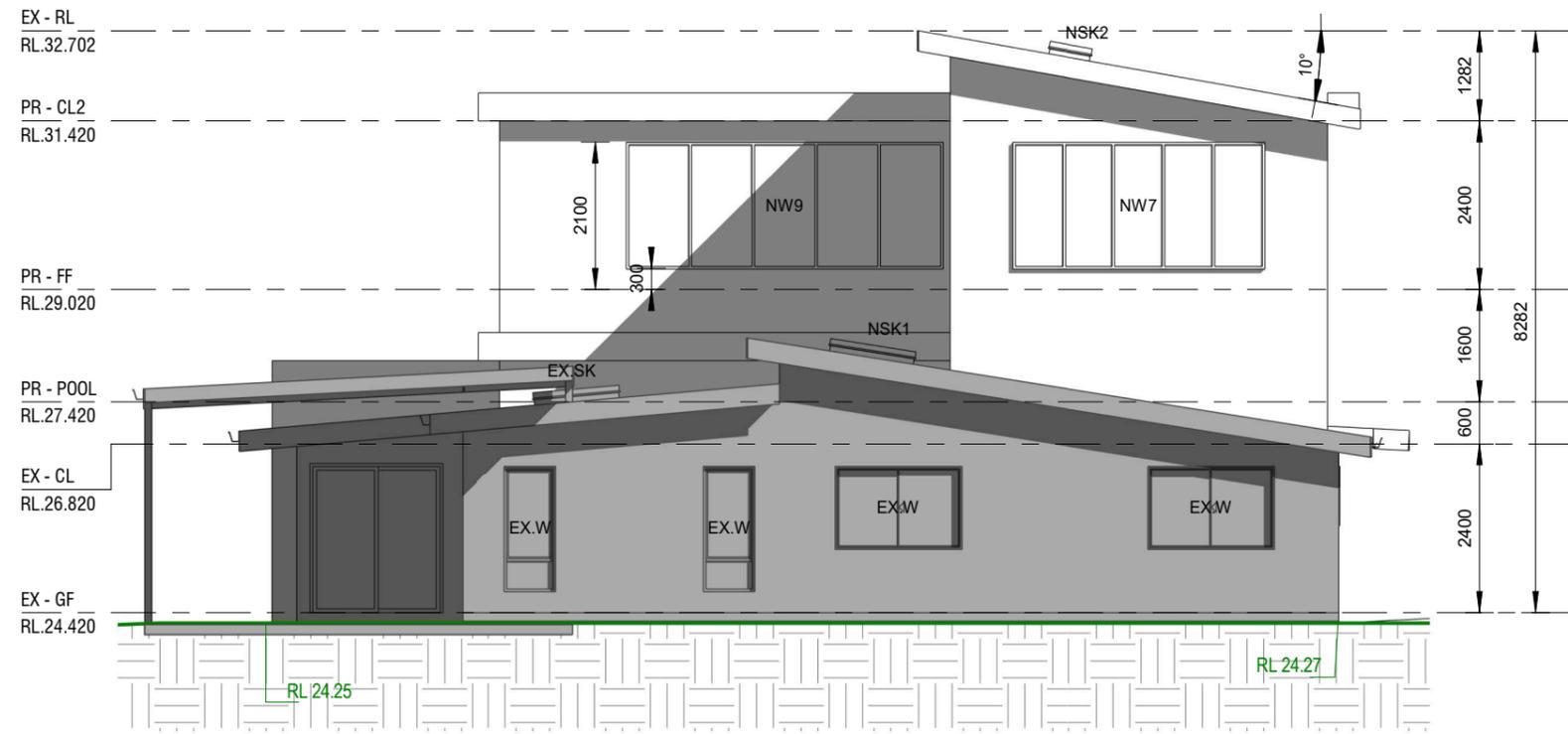
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ELEVATIONS - PART 1

JOB NUMBER: 20421	DWG NUMBER: A06	ORIGINAL SIZE: A3
DESIGNED BY: A.N.	DATE: 29.07.2021	
DRAWN BY: A.N.	SCALE: AS SHOWN	



1 SOUTH ELEVATION
1 : 100



2 EAST ELEVATION
1 : 100

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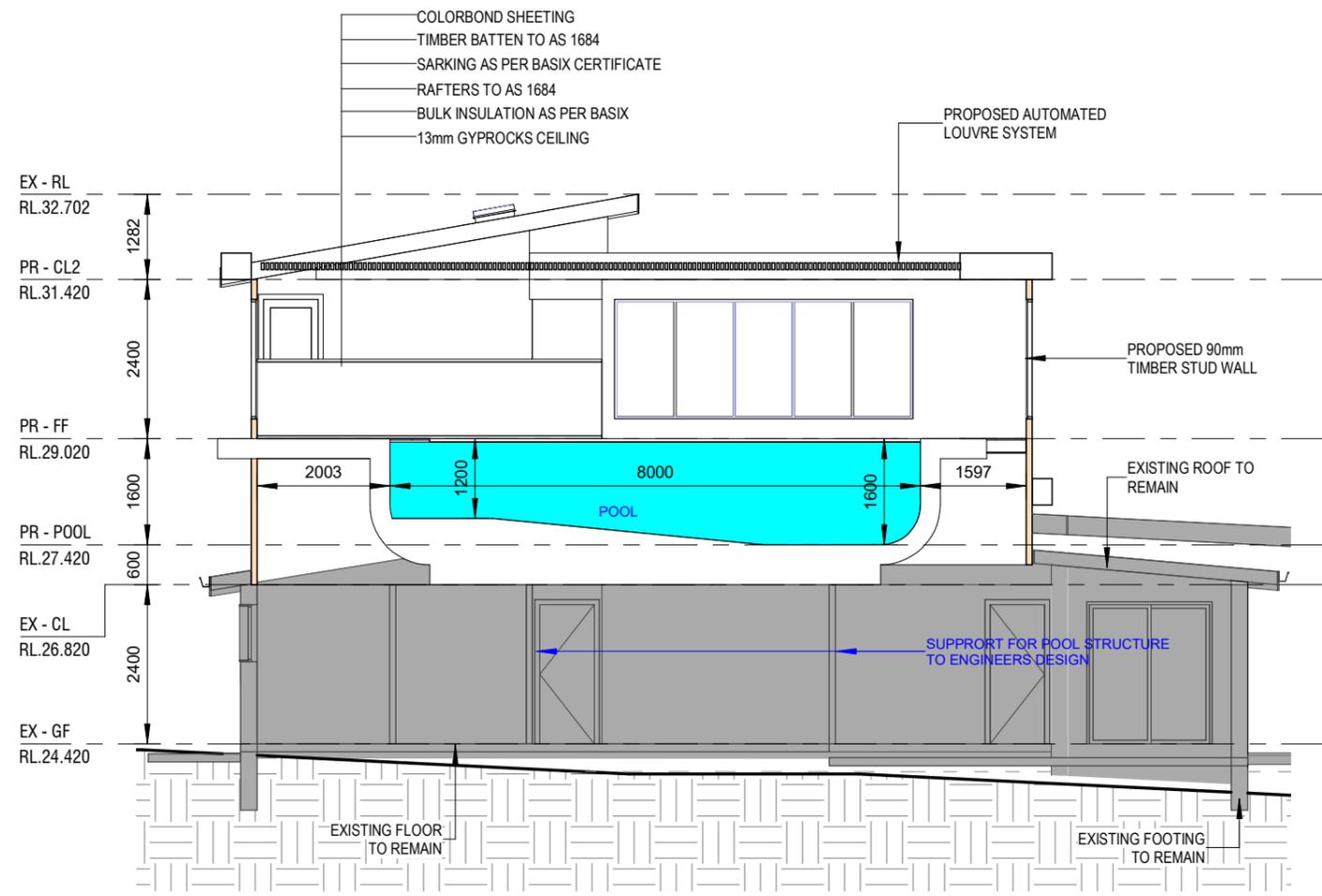
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ELEVATIONS - PART 2

JOB NUMBER: 20421	DWG NUMBER: A07	ORIGINAL SIZE: A3
DESIGNED BY: A.N.	DATE: 29.07.2021	
DRAWN BY: A.N.	SCALE: AS SHOWN	



1 SECTION 1
1 : 100

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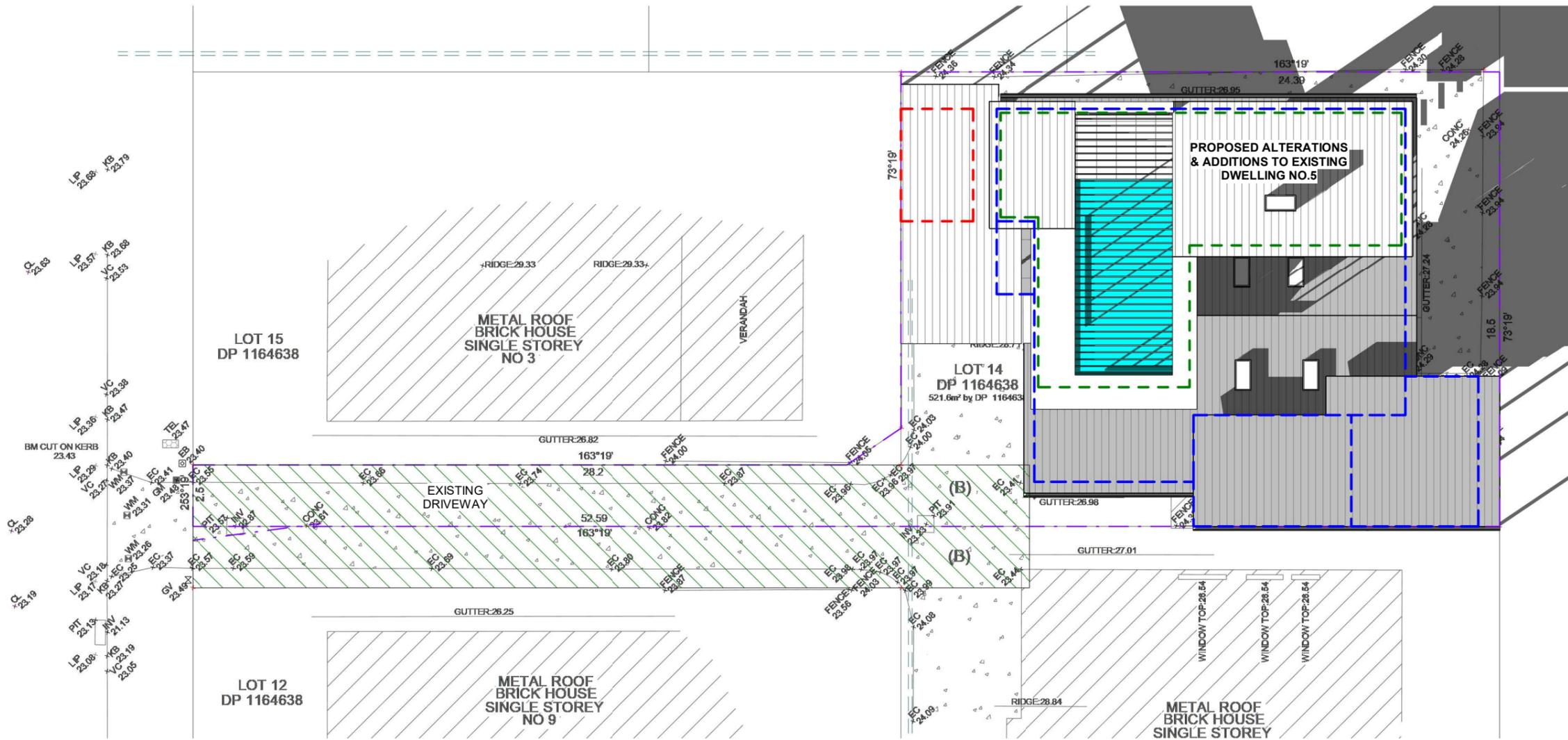
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**PROPOSED ALTERATION AND ADDITION TO
EXISTING DWELLING**
5 BLACKWATTLE PLACE, BERKELEY
LOT 14, DP 1164638

SECTION 1

JOB NUMBER: 20421	DWG NUMBER: A08	ORIGINAL SIZE: A3
DESIGNED BY: A.N.	DATE: 29.07.2021	
DRAWN BY: A.N.	SCALE: AS SHOWN	

BLACKWATTLE PLACE



1 SHADOW DIAGRAM - 21ST JUN 9AM
1 : 200

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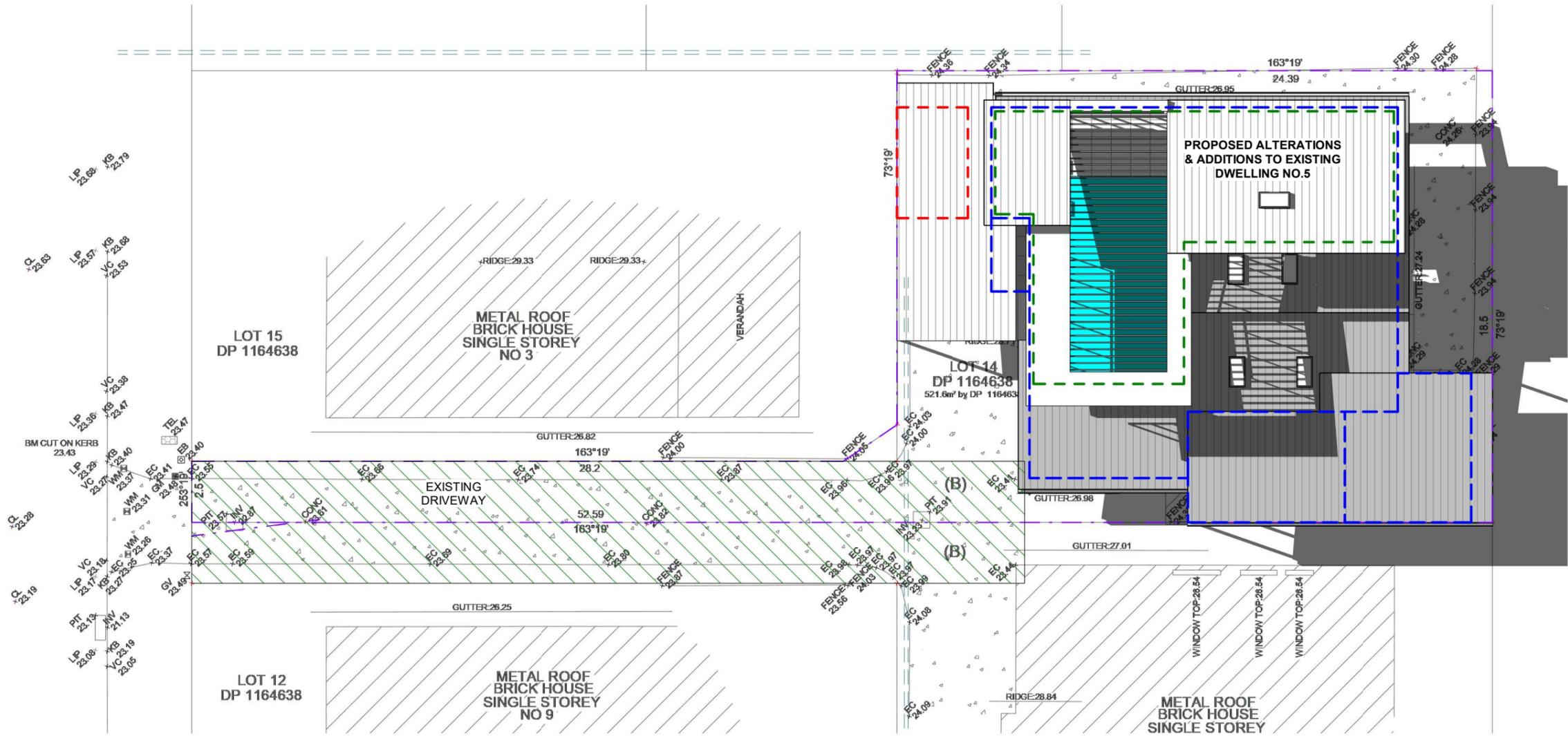
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PROPOSED ALTERATION AND ADDITION TO EXISTING DWELLING
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SHADOW DIAGRAM - 21ST JUN 9AM

JOB NUMBER: 20421	DWG NUMBER: A12.01	ORIGINAL SIZE: A3
DESIGNED BY: A.N.	DATE: 29.07.2021	
DRAWN BY: A.N.	SCALE: AS SHOWN	

BLACKWATTLE PLACE



1 SHADOW DIAGRAM - 21ST JUN 12PM
1 : 200

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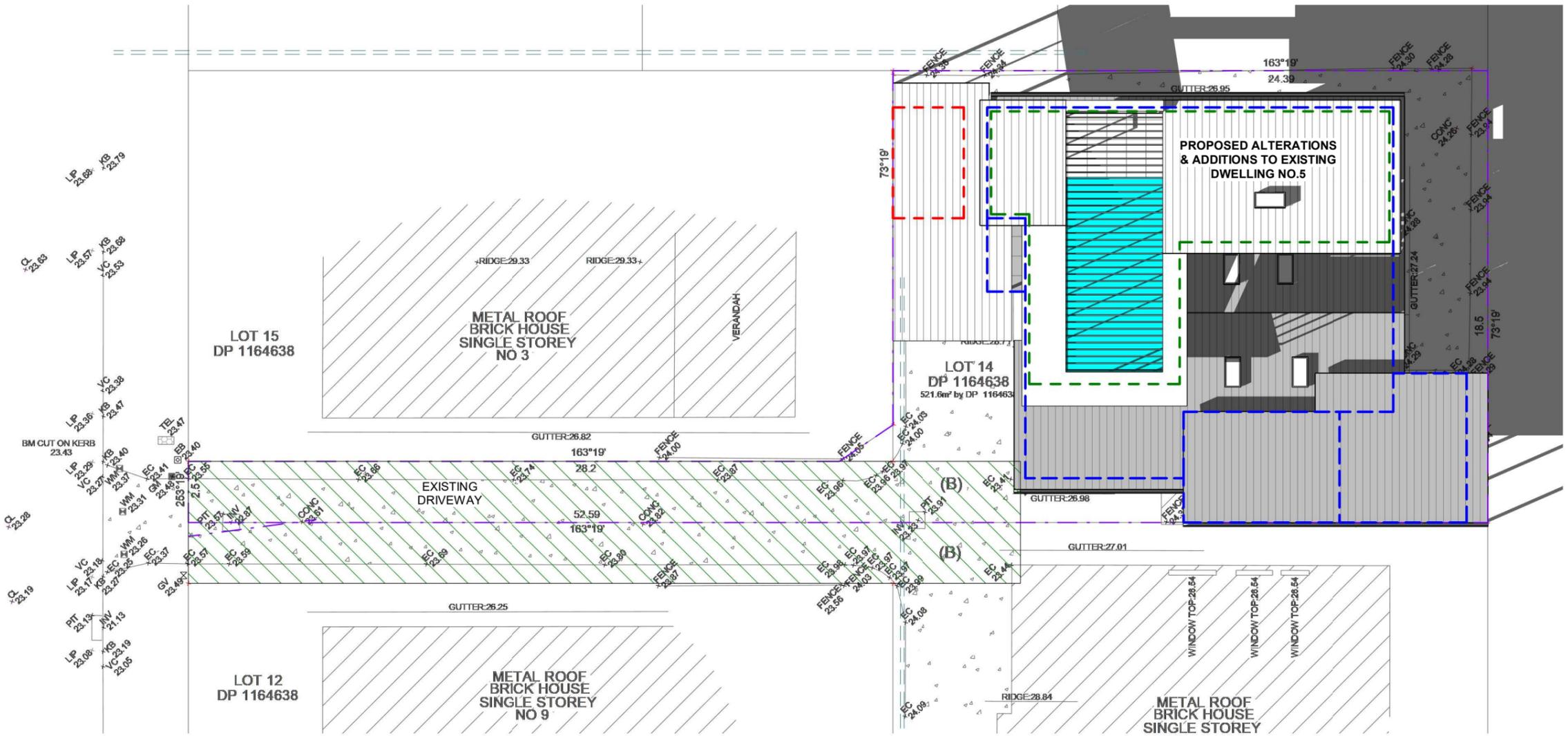
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PROPOSED ALTERATION AND ADDITION TO EXISTING DWELLING
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SHADOW DIAGRAM - 21ST JUN 12PM

JOB NUMBER: 20421	DWG NUMBER: A12.02	ORIGINAL SIZE: A3
DESIGNED BY: A.N.	DATE: 29.07.2021	
DRAWN BY: A.N.	SCALE: AS SHOWN	

BLACKWATTLE PLACE



1 SHADOW DIAGRAM - 21ST JUN 3PM
1 : 200

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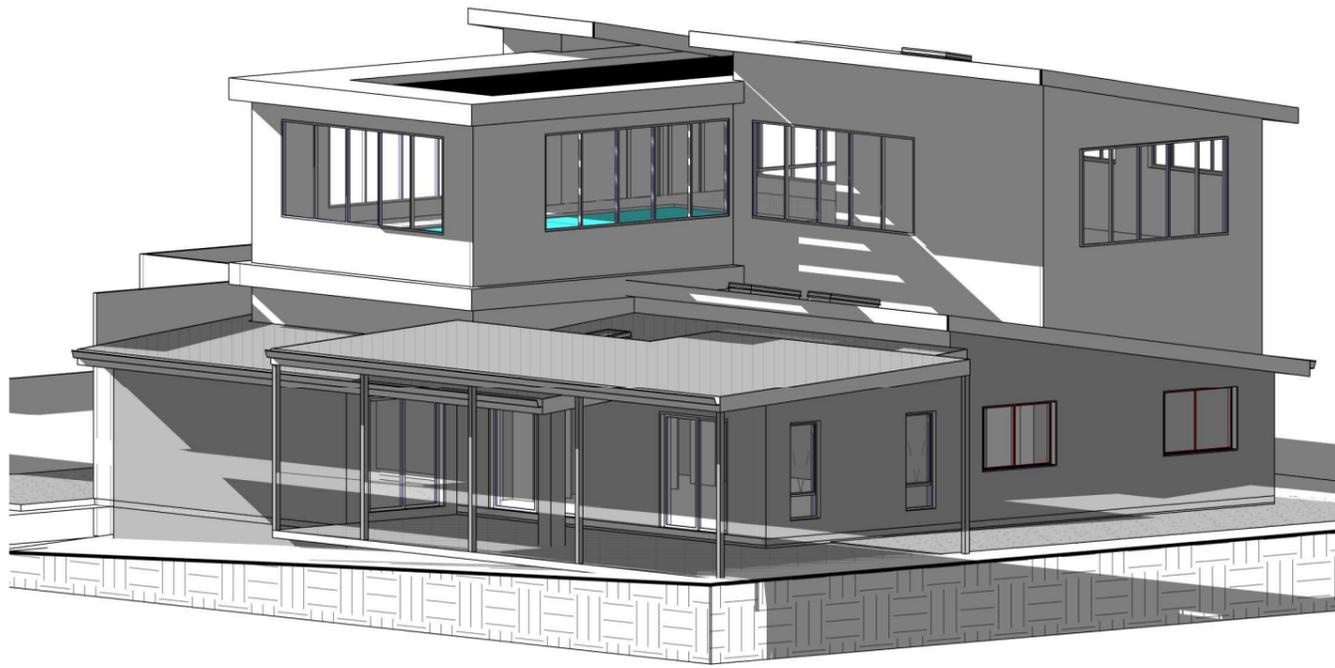
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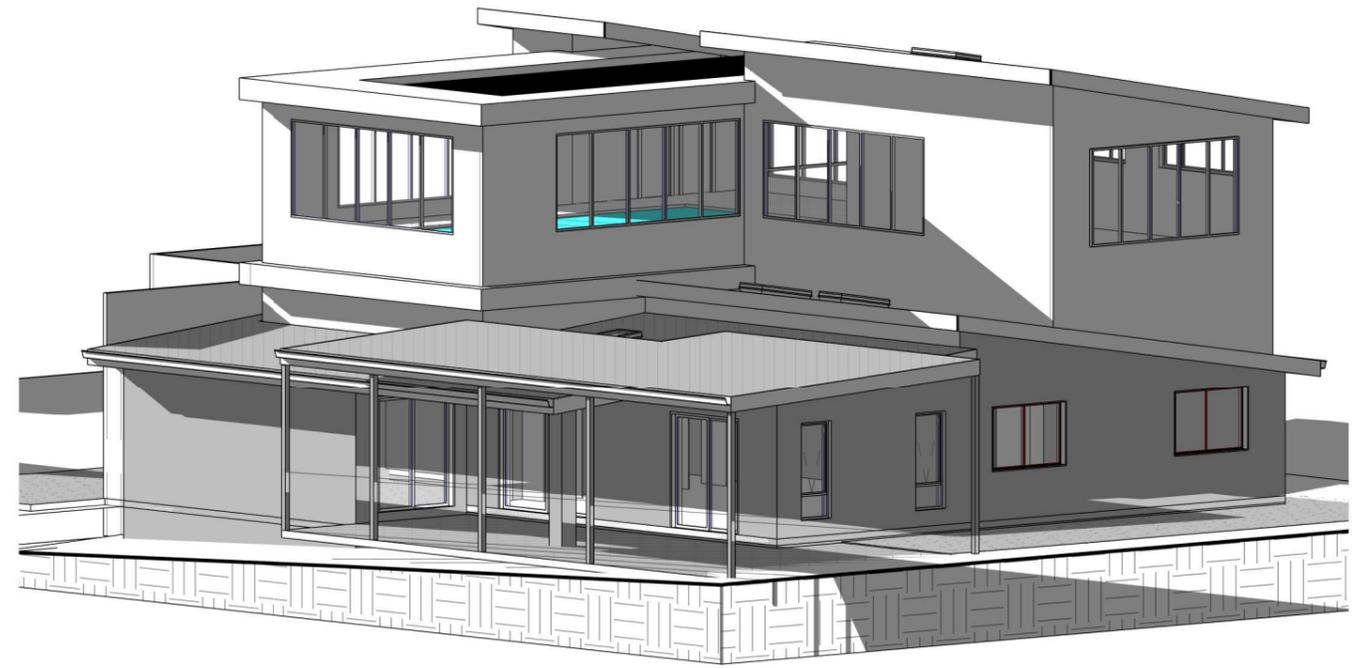
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5 BLACKWATTLE PLACE, BERKELEY
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SHADOW DIAGRAM - 21ST JUN 3PM

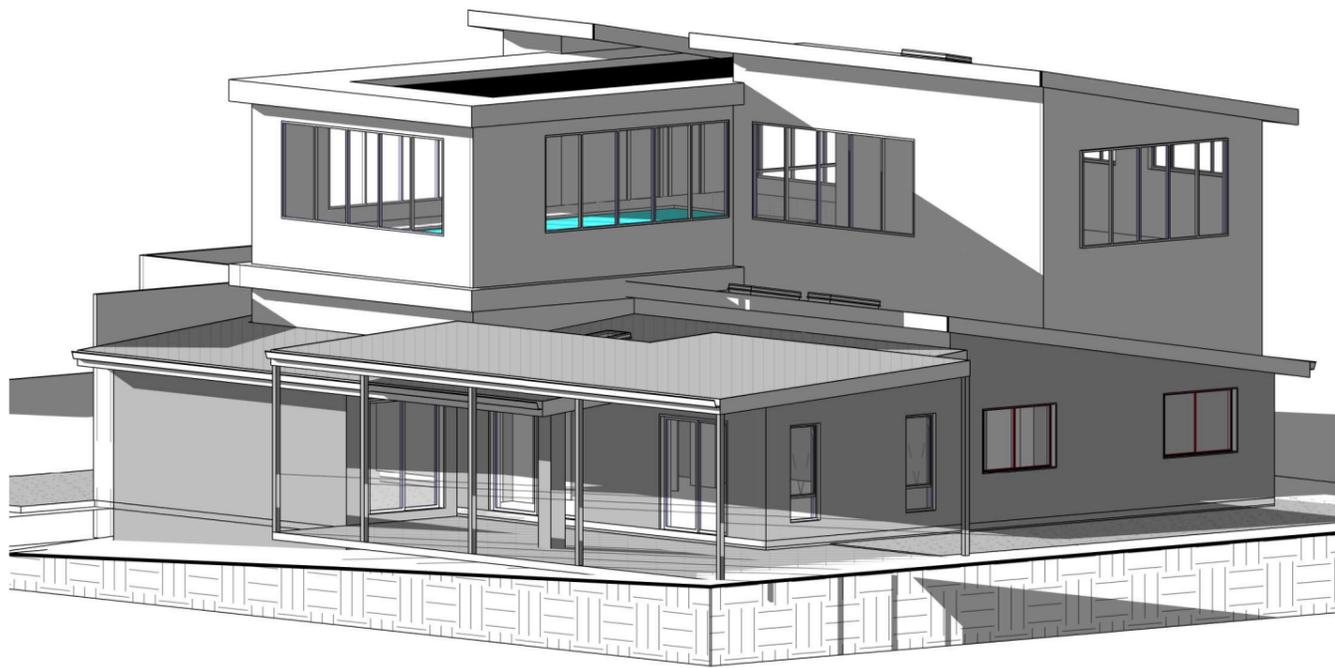
JOB NUMBER: 20421	DWG NUMBER: A12.03	ORIGINAL SIZE: A3
DESIGNED BY: A.N.	DATE: 29.07.2021	
DRAWN BY: A.N.	SCALE: AS SHOWN	



1 3 HOURS OF SUNLIGHT TO LIVING & 50% POS - 21ST JUN 12PM



2 3 HOURS OF SUNLIGHT TO LIVING & 50% POS - 21ST JUN 1PM



3 3 HOURS OF SUNLIGHT TO LIVING & 50% POS - 21ST JUN 2PM



4 3 HOURS OF SUNLIGHT TO LIVING & 50% POS - 21ST JUN 3PM

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PROPOSED ALTERATION AND ADDITION TO EXISTING DWELLING
 5 BLACKWATTLE PLACE, BERKELEY
 LOT 14, DP 1164638

3 HOURS OF SUNLIGHT TO LIVING & 50% POS - 21ST JUN

JOB NUMBER: 20421	DWG NUMBER: A12.04	ORIGINAL SIZE: A3
DESIGNED BY: A.N.	DATE: 29.07.2021	
DRAWN BY: A.N.	SCALE: AS SHOWN	

ATTACHMENT 2

It is recommended that DA-2021/796 be Refused for the following reasons:

1. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development exceeds the maximum permissible Floor Space Ratio (FSR) of 0.50:1 as prescribed by Part 4.4 – Floor Space Ratio, Wollongong Local Environmental Plan 2009, and is contrary to the objectives of this clause, as:
 - a) The proposal does not provide an appropriate correlation between the size of the site and the extent of the development on the site,
 - b) The bulk and scale of the proposed development is not compatible with the locality.
2. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is inconsistent with the provisions of the Wollongong Development Control Plan 2009, Chapter B1 *Residential Development*, Clause 4.1 – Number of Storeys.
3. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered the shadow diagrams submitted with the application do not address the provisions of the Wollongong Development Control Plan 2009, Chapter B1 *Residential Development* of Clause 4.3 – Side and Rear Setbacks.
4. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered the shadow diagrams submitted with the application do not address the provisions of the Wollongong Development Control Plan 2009, Chapter B1 *Residential Development* of Clause 4.5 – Landscaped Area.
5. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the bulk and scale of the proposed development is inconsistent with the objectives of the Wollongong Development Control Plan 2009, Chapter B1 *Residential Development*, Clause 4.8 – Building Character and Form.
6. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered the shadow diagrams submitted with the application do not address the provisions of the Wollongong Development Control Plan 2009, Chapter B1 *Residential Development* of Clause 4.18 – Swimming Pools and Spas.
7. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the significant bulk and scale of the proposed development is inconsistent with the desired future character of Berkeley, as prescribed by Wollongong Development Control Plan 2009, Chapter D1 *Character Statements*, of Clause 3.40 – Berkeley.
8. Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is excessive in bulk and scale and would likely adversely impact upon the amenity of the locality.
9. Pursuant to the provisions of Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, it is considered that the site is not suitable for the development.
10. Pursuant to the provisions of Section 4.15 (1)(d) of the Environmental Planning and Assessment Act 1979, it is considered that having regard for public submissions, the development is not suitable having regard to the impact on the amenity of the occupants of the adjoining premises
11. Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, it is considered that approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.