

REPORT TO APPLICATION DETERMINATION PANEL

Meeting held on 5 June 2014

3.2 72 Quirk Street, Dee Why – Alterations and Additions to a Dwelling House and Construction of a Swimming Pool

SUPPLEMENTARY ASSESSMENT REPORT	
DA No:	DA2013/1264
REPORT BY:	David Auster – Development Planner
ADDRESS:	72 Quirk Street, Dee Why
DEVELOPMENT:	Alterations and additions to a dwelling house and construction of a swimming pool
Application Lodged:	22/10/2013
Plans Reference:	DA1 – DA20 dated January 20, 2014, prepared by Architexture
Amended Plans Reference:	DA1 – DA20 dated May 09, 2014, prepared by Architexture
APPLICANT:	Architexture Australia Pty Ltd
Owner:	Brendan Michael O'Connor Andrea Terezia O'Connor
Zone:	R2 Low Density Residential
Permissible or Prohibited Land use:	Dwelling House – Permissible with consent
Clause 4.6 Variation	No
Land and Environment Court Action:	None pending
Referred to ADP:	5 June 2014

SUMMARY

Submissions:	Public Notification No. 3 (8/5/14 – 23/5/14) 3 new submissions received in relation to amended plans 2 new submissions received after last ADP report was written and submitted to Panel meeting.
Submission Issues:	(a) Submissions after last ADP report and prior to amended plans - Enlargement of existing dwelling means it should be considered as a new dwelling - Proposal does not comply with various aims

	and objectives of relevant controls • Proposal would result in significant impacts on natural and built environments, and have social and economic impacts and not be in public interest (S79C(1)(b) of the Act) • The development should be stepped • Solar access • Character of development • Wall heights • Side Boundary Envelope • Side boundary setbacks • Front boundary setbacks • Views • Privacy – request for further privacy screening • Building bulk • Height of building • Rear setback • Stormwater management including swimming pool overflow • Loss of amenity (b) Submissions received subsequent to notification of amended plans • Schedule of amendments not provided • Development should be defined as a new dwelling • Landscaped open space • Solar Access • Privacy • Building bulk • Impact on neighbouring properties • Noise from swimming pool location
Recommendation:	Approval
Attachments:	• Assessment Report; • ADP Minutes of 22 April 2014; • Submission List; • Amended Plans

BACKGROUND

ADP Meeting on 22 April 2014

The application was considered by the Application Determination Panel (ADP) on 22 April 2014. The minutes from that meeting are as follows:

Two late submissions were tabled at the Panel meeting. The Panel members took a view of the site prior to the meeting and two of the Panel members visited the next objector's property.

The Panel requested that the applicant provide a Quantity Surveyor's Report to confirm the cost of the construction.

The Panel resolved to defer the application for staff to consider the late submissions and provide a response to the Panel and for the Panel to consider whether to refer the application to the Warringah Development Assessment Panel for determination.

That the application be deferred to consider the late submissions and to consider referring the application to the Warringah Development Assessment Panel for determination.

Since the decision of the ADP, the applicant contacted Council and sought to address the Assessment Report and residents objections. As a result of those discussions the applicant requested that they be allowed to submit amended plans. The amended plans were lodged with Council on 8/5/2014 and involve the following changes:

- Increase side setbacks to majority of proposed first floor addition to 1500mm (East) and 1380mm (West)
- Increase side setback of rear addition eastern wall to approx. 1300mm to allow for additional landscaping and reduce bulk.
- Increase side setback of front addition eastern wall to approximately 1200mm to improve side elevation articulation.
- Remove first floor lounge room window
- Decrease roof and parapet height add privacy screen to eastern side of first floor balcony
- Add privacy screen to eastern side of ground floor terrace
- Increase side setback to existing ground floor garage
- Alter 'full height' vertical windows from east facing void space to two opaque windows
- Introduce eaves to east and west elevations to reduce bulk and articulate facades
- Various minor alterations to proposed windows to improve privacy of adjacent properties

Notification of Amended Plans

The amended plans were re-notified to surrounding neighbours between 8/5/14 and 23/5/14. As a result of the notification 3 more submissions were received (added to the two received prior to the ADP meeting). These submissions, and the amended plans, have been assessed below.

Cost of Construction

The applicant submitted a Quantity Surveyor's Report prepared by Econstruct Consulting in response to the ADP decision.

Assessment of Amended Plans

Warringham Local Environmental Plan Development Standards

Standard	Requirement	Original Proposal	Amended Proposal	% Variation	Complies
Height of Buildings	8.5m	8.7m (proposal did not comply)	8.03m	N/A	Yes

Comment: The previous plans included a minor non-compliance with the maximum height limit of 8.5m at the front of the building where the existing driveway was at its lowest point. The non-compliance was to be deleted by a condition of consent to reduce the height of the parapet causing the breach. This condition can now be deleted from the recommendation as the parapet height has been reduced by the amended plans to a compliant level.

Warringham Development Control Plan Built Form Controls

Built Form Control	Requirement	Original assessment	Amended plans	% Variation	Complies
B1 Wall Height	7.2m	7.6m	No change	5.26%	No
B3 Side Boundary Envelope	5m	Breach both sides. Up to 900mm east side, up to 1.2m west side.	Breach both sides. Up to 200mm east side, up to 1.3m	N/A	No
B7 Front Boundary Setbacks	6.5m	Existing garage 5.2m New garage and First floor 6.3m	No change	N/A 3.08%	No
B9 Rear Boundary Setbacks	6m	Patio/pergola 1m New pool 17m	No change	83.33%	No Yes
D1 Landscaped open space	40%	45%	No change	N/A	Yes

Comment: The only significant change to compliance with the built form controls is that the amended plans have provided a significant step in to the walls of the first floor on both side elevations. This has significantly reduced the extent of the breach on the eastern side, which is now almost fully compliant.

Previously, the assessment found that on the east side the building would breach by between approximately 200mm and 900mm for a length of 21.2m. On the west side it would have breached by between approximately 0mm and 1.2m for a length of 22.3m.

The amended plans now show that the building will breach on the eastern side by between 0mm and 200mm for a length of 1m at the south east corner, and by between 0mm and 200mm for a length of 1m at the north eastern corner. On the western side, it will breach by between 500mm and 800mm for a length of 2.3m at the north west corner, and between 900mm and 1.3m for a length of 6.1m at the south western corner.

The breaches have therefore been significantly reduced, and the bulk and scale has also been reduced. The breach on the western side at the south western corner has been slightly increased as the design has now made the higher parapet on the western side, where previously it was on the eastern side, creating a small step down to the east.

Cost of Construction

The Cost Summary Report submitted by the applicants at the request of the ADP has amended the cost of works from \$437,000 to \$478,648.51. The condition contained in the draft set of conditions with respect to Section 94A fees has therefore been amended.

Submissions Received

Name:	Address:
Denis Fish – On behalf of P & P Newton, and prior to previous ADP meeting	18A Coonanga Road NORTH AVALON NSW 2107
Patricia Anne Newton & Paul Vincent Newton – prior to previous ADP Meeting	26 & 28 Carew Street DEE WHY NSW 2099
Sattler & Associates – On behalf of P & P Newton, in response to notification of amended plans	19 Raven Place CLOTHIERS CREEK NSW 2484
John Arthur Beninati – in response to notification of amended plans	22 Carew Street DEE WHY NSW 2099
Ross Palazzi – in response to notification of amended plans	24 Carew Street DEE WHY NSW 2099

Submissions Received in Response to Original Assessment Report (Prior to Amended Plans)

- **Enlargement of existing dwelling means it should be considered as a new dwelling**

Comment: This issue was addressed in detail within the original assessment report. The submissions do not agree with the conclusion reached in the report that the development could be considered as either a new dwelling, or alterations and additions. The report concluded that since no great benefit arises out of the development being called alterations and additions compared to a new dwelling the matter is not critical, and should not result in refusal of the current application. The amended plans have reduced the size of the development. The submission is not supported in this respect.

- **Proposal does not comply with various aims and objectives of relevant controls**

Comment: The various aims and objectives of the relevant controls were assessed as part of the original assessment report. The submissions do not agree with the conclusions reached in the report that the development achieved the relevant aims and objectives. The submission is not supported in this regard.

Further to this, the plans have since been amended, and the development has in general been reduced in size and scale, and been made more compliant with the numerical requirements of the relevant controls. It is concluded that the amended plans therefore continue to achieve the relevant aims and objectives.

- **Proposal would result in significant impacts on natural and built environments, and have social and economic impacts and not be in public interest (S79C(1)(b) of the Act)**

Comment: These issues were assessed as part of the original assessment report, and it was considered that the proposal would not have unreasonable social or economic impacts, and that it would be in the public interest. The submissions are not supported in this regard.

- **The development should be stepped in design**

Comment: The submission stated that the development should be stepped to reduce impacts. The amended plans have provided a significant step-in of the first floor walls for the majority of the length of the building on both sides. In this regard, the amended plans are considered to reasonably satisfy the issue.

- **Solar access**

Comment: The submissions did not agree with the assessment that the development would maintain a reasonable level of solar access. However, the assessment remains that the development will maintain a reasonable level of solar access to neighbouring properties. The amended plans, while reducing the size of the development, have not significantly altered the overshadowing of neighbours. The objections are not supported in this regard.

- **Character of development**

Comment: The submissions do not agree with the conclusions of the report that the development will be compatible with the character of the area. The amended plans have reduced the overall bulk and scale of the development, and the conclusion that the development will be compatible with the character of the area is maintained.

- **Wall heights**

Comment: The submission has objected to wall heights. This issue was addressed in the report although the submissions have not agreed with the conclusion of the report that the development was reasonable in this respect. It is noted that the development was and remains generally compliant with this control, with the exception of an area at the front of the building. The side elevations comply. The submissions are not supported in this regard.

- **Side Boundary Envelope**

Comment: The submissions do not agree with the conclusions of the report in regard to the side boundary envelope non-compliance, and have stated that the side elevations are not broken up and articulated. The previously assessed plans were in fact broken up into various elements with varied setbacks.

The amended plans have stepped back the first floor walls on both side elevations, significantly reducing the extent of numerical non-compliance, and increasing the levels of articulation. The submissions are not supported in this regard.

- **Side boundary setbacks**

Comment: The submissions do not agree with the conclusions of the report in relation to the side boundary setback non-compliances. The amended plans have increased the side boundary setbacks of various elements of the development, including the existing garage (to be used as a storage room), and the majority of the first floor elevations on both the east and west sides. The submissions are not supported in this regard.

- **Front boundary setbacks**

Comment: The submissions do not raise significant concerns with the assessment of the front boundary non-compliances, but request that the development fully comply. As previously assessed the proposed non-compliances are considered reasonable in this case.

- **Views**

Comment: The submissions raised concerns with the potential view loss from the western neighbour. The view loss assessment in the original report remains unchanged as a result of the amendments. The submissions are not supported in this regard.

- **Privacy – request for further privacy screening**

Comment: The submissions raised concerns with privacy, and requested further privacy screening should the development be approved. Privacy concerns were assessed in the original report, and the recommended conditions of consent relating to window sill heights and privacy screening are considered to protect privacy to a reasonable level.

- **Building bulk**

Comment: The submissions did not agree with the conclusions of the report in relation to bulk and scale. The amendments have significantly reduced the bulk and scale of the development, through the stepping-in of the first floor walls. The development was considered to be reasonable with regard to bulk and scale previously, and given the amended plans have reduced the bulk and scale, the submissions are not supported in this regard.

- **Height of building**

Comment: The submissions did not agree with the conclusions of the report in relation to the height of the building. The development was generally compliant with the 8.5m building height control, with a minor exception at the front of the building to be deleted by condition of consent, as discussed in the report. The submissions are not supported in this regard.

- **Rear setback**

Comment: One of the submissions raised concerns with the conclusions of the report in relation to the rear setback. The proposal complies with the variations allowed by the control, and the assessment in the original report remains unchanged. The submission is not supported in this regard.

- **Stormwater management, including swimming pool overflow**

Comment: Concerns were raised that stormwater was not adequately catered for by the development. Council's Development Engineers assessed the development and raised no concerns in relation to stormwater. A condition of consent will require stormwater to be disposed of in accordance with Council's "Stormwater Drainage: From Low Level Properties Policy". These details are required to be provided to the Certifying Authority prior to release of a Construction Certificate. The swimming pool overflow will be required to be directed to the sewer by a condition of consent.

- **Loss of amenity**

Comment: Concerns were raised with a general loss of amenity to neighbours from the development. The development was generally considered to maintain a reasonable level of amenity to the surrounding area, as discussed throughout the report. The amended plans have reduced the bulk and scale of the development, and amenity will therefore be further maintained. The submissions are not supported in this respect.

Submissions Received in Response to Amended Plans

- **Schedule of amendments not provided**

Comment: Concerns were raised that the amended plans did not come with a schedule of amendments attached, as required by Clause 55 of the Environmental Planning and Assessment Regulations 2000.

The applicant has subsequently provided a schedule of amendments, and clause 55 is therefore considered to be satisfied. The amended plans have generally reduced the overall size of the development through a stepping-in of the upper level walls on each side, and a reduction in height of the proposed parapets. However, the objections previously raised by neighbours have generally been maintained in relation to the amended plans, as discussed below.

- **Development should be defined as a new dwelling**

Comment: The submissions repeated the previously raised concerns that the development should be considered a new dwelling, and not alterations and additions, and that the development should subsequently be held to a higher standard of compliance with controls.

This issue was discussed in detail in the original report, and the assessment has not altered as a result of the amendments. The amendments have reduced the overall bulk and scale of the development by further stepping-in much of the upper level walls, and have increased numerical compliance with the side boundary envelope, side setback, and height controls. No significant advantage is gained through calling

the development alterations and additions as opposed to a new dwelling, and the proposal remains acceptable in this regard.

- **Landscaped open space**

Comment: Concerns were raised that the proposed landscape plan does not provide for any canopy trees, and that no planting is proposed along the eastern side setback adjacent to the dwelling, and that the development did not therefore meet the following objectives of clause D1 Landscaped Open Space and Bushland Setting of the Warringah DCP.

- ***To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.***

Comment: The proposed landscape plan does not provide for canopy trees. However, it includes large spaces in both the front and rear setback areas which provide ample room for the establishment of such trees in the future if desired. As discussed in the original report, the bulk and scale of the dwelling is not considered to be unreasonable, and the amended plans have reduced the overall bulk and scale. Council's Landscape Officer previously assessed the development and recommended a condition requiring the planting of three trees, each of 25 litre minimum pot size (1 in the rear yard, 1 in the front yard and 1 on the road verge in front of the site). These plantings will adequately mitigate the bulk and scale of the building in accordance with the objective.

- ***To enhance privacy between buildings.***

Comment: The development will generally maintain a 900mm side setback along the side boundaries. The area in the eastern side setback is currently rocky outcrop and planting along that side boundary is not practical. As discussed in the original report, privacy will be adequately maintained, subject to conditions regarding windows and privacy screening, and the development will therefore achieve this objective.

- **Solar Access**

Comment: Concerns were again raised in relation to solar access. This issue was discussed in detail in the original report, and the development was found to maintain a reasonable level of solar access, in accordance with clause D6 Access to Sunlight. The amended plans have not made any significant alteration to the overshadowing caused by the development.

D6 Access to Sunlight requires that development maintain at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21. In this case the private open spaces of the neighbouring dwellings are far larger than the 60sqm minimum requirement. The solar access diagrams provided make it clear that at least 30sqm of each neighbouring private open space will remain in sunlight for a minimum of 3 hours between 9am and 3pm on June 21.

The previous assessment remains unchanged, and the submissions are not supported in this regard.

- **Privacy**

Comment: The submissions have again raised concerns with privacy. This issue was discussed in detail in the original report. The development was and is still considered to maintain a reasonable level of privacy, subject to conditions of consent regarding window sill heights, and privacy screening.

The amended plans have amended some windows, and the recommended privacy condition has been updated to reflect the amendments. At first floor level W24 has replaced W7 and W8, and is noted on the amended plans as opaque. W23 overlooks the neighbouring private open spaces to the east, and no longer includes a built in desk adjacent to the window to ensure people are standing back from the window internally. The sill height is therefore recommended to be raised to 1.65m.

On the Ground Floor Plan W8 has replaced W7 and W8, but is no longer noted as opaque. This window overlooks the private open spaces to the east, and the condition will therefore require it to be opaque.

The rear terrace area on the ground floor plan is not required to have privacy screens. To the east it is adjacent to the roof of the neighbouring secondary dwelling, which will largely screen any overlooking. To the west a privacy screen is already provided adjacent to the proposed barbeque, and this is considered sufficient to maintain a reasonable level of privacy between the two neighbours.

The upper level rear balconies, while skewed to the north-east, overlook the roofs of the neighbouring secondary dwellings/outbuildings. Given the width of the balconies, location off a bedroom and secondary living area, and distance to neighbouring private open spaces, they are not considered to result in unreasonable privacy impacts, subject to the previously recommended condition requiring a privacy screen on the eastern side of the eastern balcony.

The proposed front deck above the existing garage includes a privacy screen to prevent overlooking to the east. Given its location in front of the dwelling, in full view of the street, and away from the primary living areas of the dwelling, it is unlikely to be used for recreational purposes. The privacy screen provided is adequate to maintain privacy.

- **Building bulk**

Comment: Concerns were again raised with the proposed bulk and scale of the building. This issue was assessed in detail in the original report, and the report concluded that the bulk and scale was reasonable.

The amended plans have significantly reduced the bulk and scale of the building, primarily by stepping-in the first floor walls of the building for the majority of both side elevations. There have also been some more minor reductions at ground level with an increased setback to the study at the south-east corner, and removal of the existing garage from the eastern side setback area.

The amended plans have reduced the bulk and scale of the building, and the development is considered to remain acceptable in this regard.

- **Impact on neighbouring properties**

Comment: The submissions raised concerns with the impacts on neighbouring properties of the development, specifically in relation to the planning principle established under *Davies v Penrith City Council* [2013] NSWLEC 1141:

- ***How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?***

Comment: The development will certainly alter the amenity in the neighbouring properties, particularly to the east. However, as discussed throughout the original report, and in this supplementary report, the amenity impacts are not considered to be unreasonable.

Privacy will be reasonably maintained, subject to conditions of consent. Solar access, although reduced compared to existing, is reasonably maintained in accordance with clause D6 Access to Sunlight of the WDCP2011. Only the western neighbour will suffer some view loss, but as discussed in the original report the view loss is not considered unreasonable with reference to the Tenacity Planning Principles.

- ***How reasonable is the proposal causing the impact?***

Comment: The amended plans mean that the building is largely compliant with the built form controls, with only minor exceptions. Given that the development largely complies with the relevant built form controls, and maintains a reasonable level of amenity to neighbouring properties, it is considered to be a generally reasonable development.

- ***How vulnerable to the impact is the property receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?***

Comment: The properties to the east are quite vulnerable to impacts, given they are topographically significantly lower than the subject site. Numbers 26 and 28 are particularly vulnerable to overshadowing impacts given they are to their private open spaces are to the southeast of where any dwelling built to the 8.5m height limit would generally be expected to be built on the subject site.

Despite these vulnerabilities, the development still complies with the requirements and objectives of the solar access control. Privacy will be reasonably maintained subject to conditions of consent. View impacts were assessed in detail in the original report and found to be reasonable for number 70 Quirk Street to the west. Amenity is generally considered to be maintained to a reasonable level.

- ***Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?***

Comment: The amended plans have significantly reduced the bulk and scale of the dwelling by stepping in the first floor walls on both side elevations, which has meant the floor space at that level has been reduced, and the proposed breaches of the side boundary envelope also reduced.

The amended plans largely comply with the relevant built form controls, and the amenity

impacts on neighbours are not considered to be unreasonable. The design of the building is therefore considered to be reasonable.

- ***Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal?***

Comment: The amended plans largely comply with the relevant built form controls, with some minor exceptions. These exceptions are not considered to cause any major impacts to the amenity of neighbours, such that the removal of the exceptions would create a great improvement in the impacts.

Conclusion: The development is considered to be consistent with the planning principle. The impacts of the development on neighbouring properties are not considered to be unreasonable given the planning controls relevant to the site.

- **Noise from swimming pool location**

Comment: Concerns were again raised with the location of the swimming pool and possible noise impacts. This issue was assessed as part of the original report. The pool is considered to be a relatively standard residential use in rear yards, which is unlikely to cause unreasonable noise concerns through its use. It would generally be expected to be used during the day time, and would not unreasonably impact on bedrooms of neighbours used mainly at night time. Relocation to the western boundary is not acceptable due to the large rock outcrops in that area. A standard condition of consent is recommended requiring that all machinery make no more than 5dBa noise when measured at the boundary. Subject to this condition the objection is not supported.

CONCLUSION

It is considered that all processes and assessments have been satisfactorily addressed and that the proposed development as amended constitutes the proper and orderly planning for the site or the locality.

As a direct result of the application and the consideration of the matters detailed within the original report to the Application Determination Panel on 22 April 2014, and this supplementary report, it is recommended that the Application Determination Panel approve DA2013/1264.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2013/1264 for Alterations and additions to a dwelling house and construction of a swimming pool on land at Lot 97 DP 8139, 72 Quirk Street, DEE WHY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**
The development must be carried out in compliance (except as amended by any other condition of consent) with the following:
 - a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA4	May 09, 2014	Architexture
DA5	May 09, 2014	Architexture
DA6	May 09, 2014	Architexture
DA7	May 09, 2014	Architexture
DA8	May 09, 2014	Architexture
DA9	May 09, 2014	Architexture
DA10	May 09, 2014	Architexture
DA11	May 09, 2014	Architexture
DA12	May 09, 2014	Architexture
DA13	May 09, 2014	Architexture

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) 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
 - (iii) stating that unauthorised entry to the work site is prohibited.

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

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. 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 under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

3. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,

- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) Smoke alarms are to be installed throughout all new and existing portions of any Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)

- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (m) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at www.warringah.nsw.gov.au

- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

4. **Policy Controls**

Warringah Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 478,648.51		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 4,547
Section 94A Planning and Administration	0.05%	\$ 239
Total	1%	\$ 4,786

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

Reason: To provide for contributions in accordance with the Warringah Section 94A Development Contributions Plan 2012.

5. **Bonds**

Security Bond

A bond (determined from cost of works) of \$1000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection)

All bonds and fees shall be deposited with Council prior to Construction Certificate

or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate protection of Councils infrastructure. (DACENZ01)

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

6. **Stormwater Disposal from Low Level Property**

Stormwater shall be disposed of to an existing approved system or in accordance with Council's "Stormwater Drainage: From Low Level Properties Policy". Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the "Stormwater Drainage: From Low Level Properties Policy" are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development. (DACENC02)

7. **Vehicle Crossings Application Formwork Inspection**

An application for street levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property. (DACENC12)

8. **Vehicle Driveway Gradients**

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in Council's Minor Works Policy.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure suitable vehicular access to private property. (DACENC13)

9. **Trees and / or Landscaping**

In order to protect and enhance onsite vegetation and trees the following applies to the development site:

(a) **Existing trees which must be retained**

All trees not indicated for removal on the approved plans.

(b) **Weed removal**

All noxious weeds on the site are to be removed prior to completion of the works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAC01)

10. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'***
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website http://www.humanrights.gov.au/disability_rights/buildings/good.htm

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to. (DACPLC02)

11. External Finishes to Roof

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development. (DACPLC03)

12. Window modifications and privacy screen

The following windows are to have the following sill heights as measured from the finished floor levels as shown on the approved plans:

- Window 4 (east facing Study) - sill height of 1.65m
- Window 6 (east facing Lounge) - sill height of 1.65m
- Window 8 (east facing Family) – to be opaque glazing
- Window 21 (east facing Bed 2) - sill height of 1.65m
- Window 23 (east facing Bed 3) - sill height of 1.65m

A 1.65m high privacy screen (measured from finished floor level) is to be erected along the entire eastern edge of the first floor eastern balcony (located off the Lounge, and accessed via W25).

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: In order to maintain privacy to the adjoining properties. (DACPLC06)

13. Sewer / Water Quickcheck

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development

will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- o Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- o Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- o Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

14. Street Tree Removal

- i) Removal of the located in the road verge as indicated on the approved plans is to be undertaken only by a Council approved contractor.
- ii) The list of currently approved contractors may be obtained from Council's Public Trees Section.

Reason: Public liability (DACLADPC1)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. Vehicle Crossings

The provision of one vehicle crossing 4 metres wide in accordance with Warringah Council Drawing No A4-3330/3 NL and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property. (DACENE05)

16. Layback Construction

A layback 4 metres wide (excluding the wings) is to be constructed in accordance with Warringah Council Drawing No A4-2276 and specifications.

Reason: To ensure suitable vehicular access to private property. (DACENE08)

17. Trees Condition

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees. (DACLAEO3)

18. Protection of rock

The rock outcrop and overhang located on the western boundary in the rear yard is to be retained and protected during the works.

Reason: Protection of significant environmental features (DACLAEDW1)

19. Installation and Maintenance of Sediment Control

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACPLE02)

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

21. Reinstatement of Kerb

All redundant laybacks and vehicular crossings shall be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To facilitate the preservation of on street parking spaces. (DACENF03)

22. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Note: The following Standards and Codes applied at the time of determination:

- (a) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003 - Plumbing and drainage - Stormwater drainage
- (b) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage
- (c) National Plumbing and Drainage Code.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)

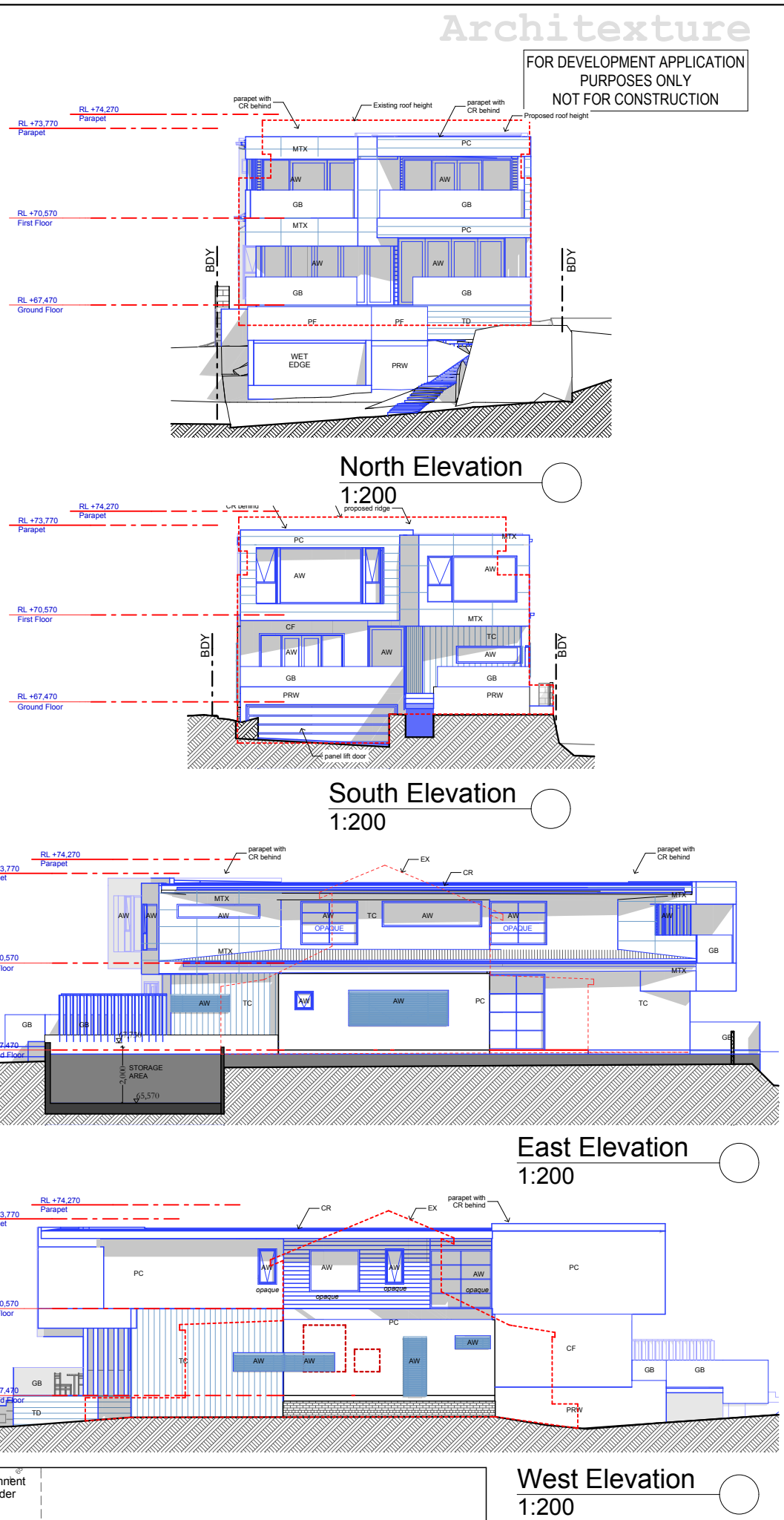
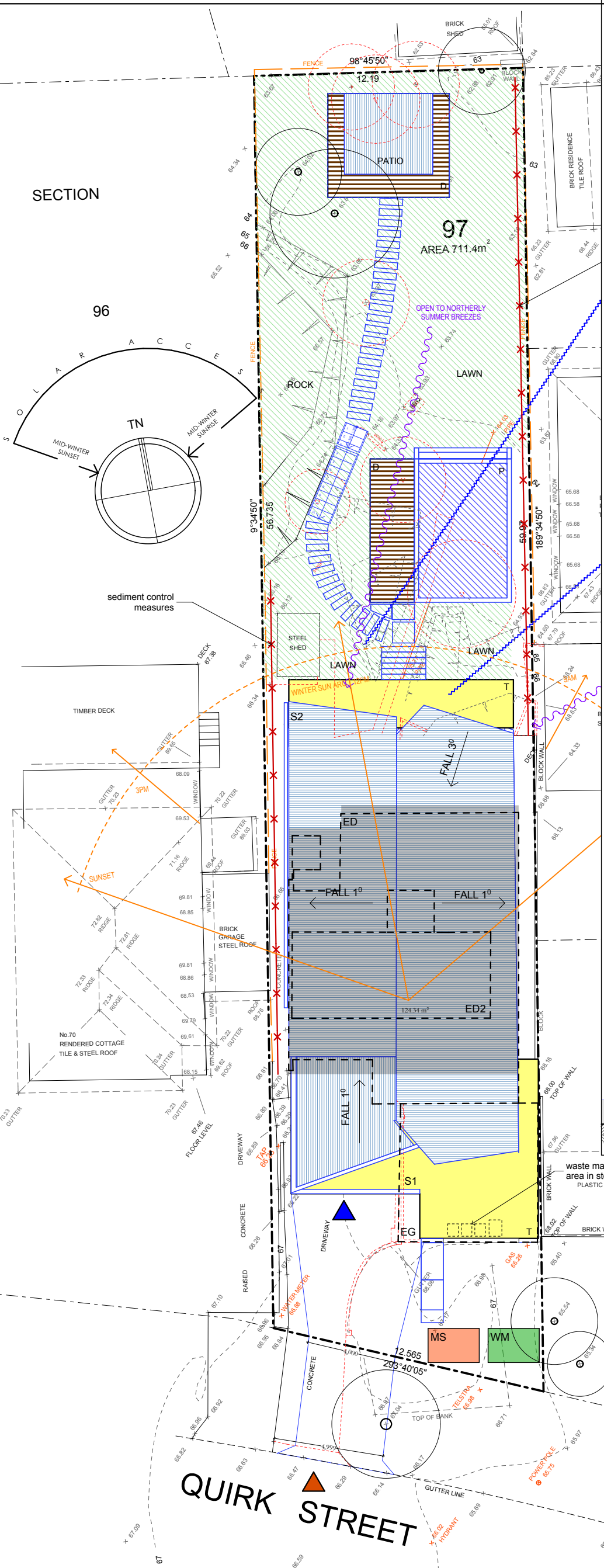
23. **Required Planting**

The tree/s listed in the following schedule shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location	Min Pot Size
2	Tree/s selected from Council's Tree Replacement Guide available at www.warringah.nsw.gov.au	1 x front yard and 1 x rear yard	25 litre
1	<i>Banksia ericifolia</i>	Road verge in front of the site	25 litre

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To maintain environmental amenity. (DACLAF01)



- GB glass balustrade to BCA
- AW aluminium window
- CR Colorbond roof with Colorbond gutters and downpipes
- TC selected timber panel cladding
- PC 75mm polystyrene cladding system on 90mm stud frame
- MTX timber framed with matrix panel cladding
- TD timber deck to engineers details
- PF pool fence to AS1926
- CL clothes drying line
- PRT painted retaining wall
- CF timber framed wall with concrete finish
- EX Existing building outline