

**Item 1**
**6 Shackel Avenue, Gladesville**
**Alterations and additions to existing dwelling house including demolition of existing unauthorised works**

Report prepared by: Senior Town Planner

 Report approved by: Senior Coordinator - Development Assessment  
 Manager - Development Assessment  
 Executive Manager – City Development

**City of Ryde  
Local Planning Panel Report**

<b>DA Number</b>	LDA2024/0015
<b>Site Address &amp; Ward</b>	6 Shackel Avenue, Gladesville East Ward
<b>Zoning</b>	R2 Low Density Residential
<b>Proposal (as amended)</b>	Alterations and additions to existing dwelling house including demolition of existing unauthorised works
<b>Property Owner</b>	Roumany and Mariam Gadalla
<b>Applicant</b>	Roumany and Mariam Gadalla
<b>Report Author</b>	Shannon Butler – Senior Town Planner
<b>Lodgement Date</b>	24 January 2024
<b>Notification - No. of Submissions</b>	One submission received in objection.
<b>Cost of Works</b>	\$1,730,135.22
<b>Reason for Referral to LPP</b>	Departure from development standards – contravention of the height of buildings and floor space ratio development standards by more than 10% - <i>Schedule 1, Part 3 of Local Planning Panels Direction.</i>

Recommendation	Approval
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Draft Conditions of Consent</li> <li>2. Submitted architectural plans</li> <li>3. Compliance Table – Ryde DCP</li> <li>4. Compliance Table – Chapter 6 – Development in Regulated Catchments</li> <li>5. Clause 4.6 written variation requests to Height and FSR</li> </ol>

## 1. Executive Summary

The subject application at 6 Shackel Avenue, Gladesville (Lot 19 DP 10340) seeks consent for alterations and additions to the existing dwelling house and includes the demolition of existing unauthorised works.

The application is reported to RLPP for determination as it proposes a departure from two development standards, with each departure being in excess of 10%. The application is accompanied by Clause 4.6 written requests to contravene the Clause 4.3 Height and Clause 4.4 Floor Space Ratio development standards under the RLEP 2014. The written requests demonstrate sufficient environmental planning grounds to justify the contraventions. The contraventions are largely consistent with the existing built form and do not result in any additional impacts on adjoining properties than the existing built form.

The site currently accommodates a four (4) level rendered dwelling house with a tile roof, which was approved under Building Application No. 1075/86 on 12 December 1988. Due to the slope of the site, the dwelling presents from Shackel Avenue as a predominantly two (2) storey dwelling, with a third level being visible in the oblique angle along the southern elevation. The upper level is partly contained within the roof form which pitches away from Shackel Avenue.

The development contravenes Clause 4.3(2) of RLEP 2014, which prescribes a maximum building height of 9.5m. On the western side of the dwelling where the lift shaft overrun is proposed, the dwelling has a height of 11.87m, being from the roof ridge (RL17.29) to the existing ground level (RL 5.42). The height of the existing dwelling on the western side results in a variation of 25% to the 9.5m height control.

The proposed lift shaft overrun does not exceed the maximum building height of the dwelling, however, the proposed works mean that a slightly greater extent of the building will contravene the height standard. The maximum height of the proposed lift overrun is 11.27m or a variation of 18% to the 9.5m height control.

The development contravenes Clause 4.4(2) of RLEP 2014, which prescribes that the maximum floor space ratio (FSR) for buildings on the subject site is not to exceed 0.5:1 or 341.45m<sup>2</sup>. The existing dwelling has an existing gross floor area (GFA) of 0.54:1 (368.76m<sup>2</sup>), and the proposed alterations and additions result in a FSR of 0.61:1

(416.44m<sup>2</sup>) or a net increase of 47.68m<sup>2</sup>. This equates to a proposed overall variation of 22% to the development standard.

The applicant has submitted Clause 4.6 written variation requests in respect of the breach to the height and floor space ratio standards. These submissions satisfy the pre-conditions for a consent authority to allow a variation to the standard.

The application was notified from 29 January until 13 February 2024 in accordance with the Ryde Community Participation Plan and one submission was received. The submission raised concern in relation to privacy impact from one of the proposed windows. The concern is addressed by way of a recommended condition of consent requiring obscure glazing for this window.

The proposal has been assessed in accordance with the relevant environmental planning instruments and local provisions in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP & A Act). The proposal would not result in any unacceptable impacts upon the streetscape or the amenity of surrounding properties. The proposal does not raise any issues that would be contrary to the public interest, and it is considered to be a suitable form of development for the site.

## 2. The Site and Locality



Figure 1 Aerial photograph of the subject site (outlined in orange) and the surrounding locality.

The site is legally identified as Lot 19 in DP 10340 and is commonly known No.6 Shackle Avenue, Gladesville. The allotment is generally rectangular with the exception of the splayed southern boundary which follows the harbour shoreline. The allotment has an area of 682.9m<sup>2</sup>, and a frontage of 16.46m to Shackle Avenue.

The area and dimensions of the site is shown below (note that the submitted survey does not provide the southern boundary length that adjoins Parramatta River):

<b>6 Shackel Avenue</b>	
Northern Boundary (Street Frontage)	16.46m
Eastern Boundary	45.47m
Western Boundary	37.74m
Site Area	682.9m <sup>2</sup>

The site is located on the southern side of Shackel Avenue and experiences a significant fall of approximately 7.93m from the northern street frontage (RL 9.44) to the southern rear boundary (RL 1.51).

The site currently accommodates a four (4) level rendered dwelling house with a tile roof (**Figure 2**), which was approved under Building Application No. 1075/86 on 12 December 1988. Due to the slope of the site, the dwelling presents from Shackel Avenue as a predominantly two (2) storey dwelling, with a third level being visible in the oblique angle along the southern elevation (**Figure 3**). The upper level is partly contained within the roof form which pitches away from Shackel Avenue.

The double garage and associated elevated driveway is the predominant feature of the building's streetscape presentation.



*Figure 2 Existing dwelling as viewed from Shackel Avenue.*





*Figure 3 Southern elevation of the existing dwelling as viewed from Shackel Avenue.*

Adjoining to the west is No. 8 Shackel Avenue which comprises of a multi-level rendered dwelling that appears as a two storey dwelling from the public domain (**Figure 4**), but three (3) storeys from the rear.



*Figure 4 Adjoining dwelling situated at 8 Shackel Avenue.*

Adjoining to the east of the subject site is No. 4 Shackel Avenue which comprises of a multi-level rendered dwelling that appears as single storey garages from the streetscape (**Figure 5**). The dwelling is three (3) storeys in scale as viewed from the rear.

In response to the topography of the surrounding area, dwellings on the southern side of Shackel Avenue present as single and two storeys in scale containing third and

fourth levels presenting to the waterway. Garages and parking areas are predominant features of the streetscape.



*Figure 5 Adjoining property to the east, No. 4 Shackel Avenue.*

Located to the north, on the opposite side of Shackel Avenue, is Nos. 3 and 5 Shackel Avenue which each contain three storey rendered dwellings with integrated garages (**Figure 6**). To the south, the site has a water frontage to the adjoining Parramatta River and views are available from properties on both sides of Shackel Avenue, with views from the higher dwellings on the northern side of Shackel Avenue available over the dwellings on the southern side.

Minimal landscaping and tree coverage is present in the surrounding locality, with the topography falling southwards towards the waterfront. On street parking is available on both sides of Shackel Avenue, although is limited in some parts due to the locations of wide vehicular crossings.



*Figure 6 Dwellings located on the northern side of Shackel Avenue. No.3 located to the right and No. 5 on the left.*

### 3. The Proposal

The application seeks consent for alterations and additions to the existing dwelling and the demolition of unauthorised works. The proposed works based on the levels of the building are as follows:

#### River Level FFL4.0 (Figure 7)

- Demolition of unauthorised windows and building works to the covered outdoor area to the rear of the building.
- Demolition of existing slab between exposed rock and external floor area in the sub-floor area. Following the demolition in this area, a new concrete slab will be poured which falls to drainage pits to collect seepage through the sandstone bedrock.
- Conversion of the existing plant room to a laundry and the conversion of the current laundry to a bar.
- The installation of new glass sliding doors to the games/rumpus room.
- The provision of a new external opening to the covered outdoor area to the rear of the building.
- The installation of a new lift.





Figure 7: River level floor plans with existing floor plan on left and proposed on right.

### Lower Ground Floor FFL6.87 (Figure 8)

- Demolition of existing unauthorised works to the subfloor area including the floor slab and windows.
- Demolition of existing unauthorised brickwork and window to approved undercroft area.
- The conversion of the existing subfloor, laundry and undercroft area into a bedroom with ensuite, bathroom and walk in robe servicing bedroom 1.
- The conversion of the existing bedroom 4 into an ensuite servicing bedroom 1.
- The provision of a new lift.





Figure 8: Lower ground floor plans with existing floor plan on left and proposed on right.

### Ground Floor FFL10.090 (Figure 9)

- Internal wall demolition in the living/kitchen/dining areas.
- Alteration of floor layout to create an open plan living, dining and kitchen area.
- Amendments to window locations and sizes.
- The installation of new bi-fold doors to the existing rear balcony.
- The installation of a new lift.



Figure 9: Proposed ground floor plan with existing plan on the left and proposed on the right.

### First Floor FFL13.600 (Figure 10)

- The provision of a new glass sliding door to the sunroom.
- The provision of a new barbeque area to the rear terrace area.
- The installation of a new lift. The lift shaft is proposed to sit below the existing eaves and within the approved roof envelope.

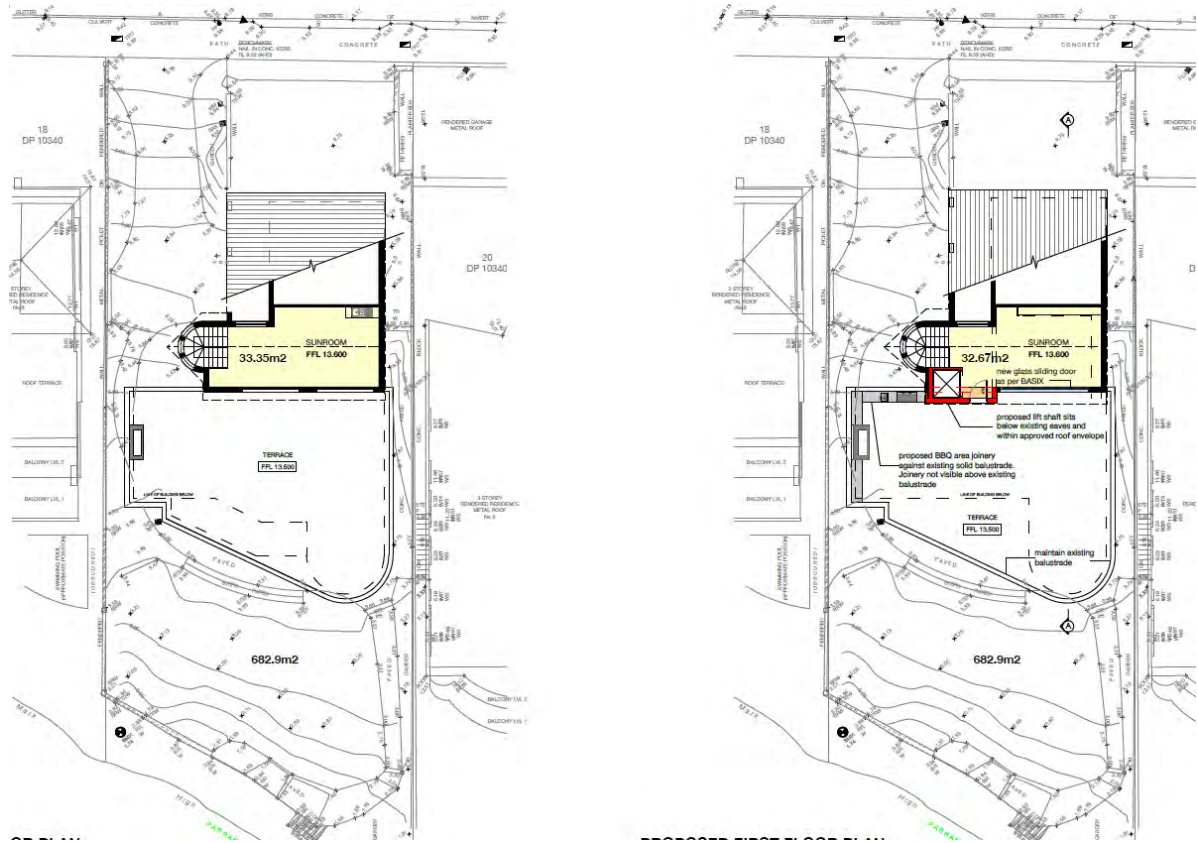


Figure 10: Proposed first floor plan with existing plan on the left and proposed plan on the right.

The dwelling contains a number of existing elements of unauthorised works which were identified during the assessment of the previous refused Development Application and subsequent Section 8.3 review application, which include:

- The covered outdoor area at the sub-ground level which is currently utilised as a bedroom (**Figure 11**)
- The 'existing sub-floor' area at the sub-ground level (**Figure 12 and 13**)
- The laundry and bathroom at the lower ground floor level (**Figure 14 and 15**)

The subject application remedies these unauthorised works by demolishing them and bringing the building back to its originally approved state before the alteration works proposed in the subject application are undertaken.





Figure 11 The existing dwelling showing the "Outdoor Covered Area", which is internalised within the dwelling and currently used as bedroom.

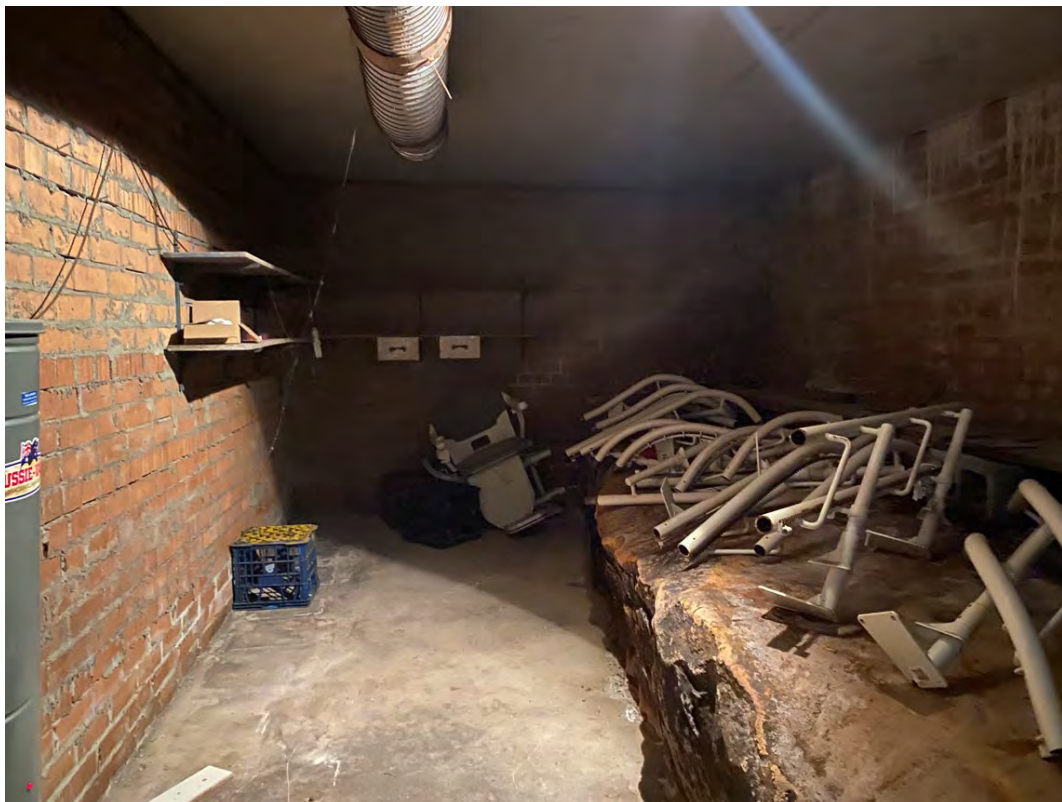


Figure 12 The 'existing sub-floor area' looking west.



*Figure 13 The 'existing sub-floor' area looking in a north eastern direction.*



*Figure 14 The laundry and bathroom at the lower ground floor level.*





Figure 15 The location of the subfloor and laundry and bathroom at lower ground floor level as viewed from the western elevation.

#### 4. Background

<p>12 December 1988</p>	<p>Building Application No. 1075/86 provided consent for the erection of the dwelling house on the subject site. The approval was signed by a senior building surveyor who undertook an inspection of the property and confirmed that the development has been built in accordance with Ordinance No. 70 and without material deviation from the approved plans that pertained to the subject approval.</p> <p>There are no additional approvals from the intervening period that apply to the subject site available on Council's records.</p>
<p>12 May 2022</p>	<p>LDA2021/0278 seeking consent for alterations and additions to the existing residential dwelling was refused by the RLPP. The reasons for refusal were as follows:</p> <ol style="list-style-type: none"> <li>1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development is inconsistent with the provisions of Ryde Local Environmental Plan 2014 in that: <ul style="list-style-type: none"> <li>• The proposed development does not comply with the height of buildings standard prescribed by Clause 4.3 of Ryde Local Environmental Plan 2014. Whilst the current dwelling already exhibits a non-compliance, the development extends existing visual impacts to neighbouring land, and the Clause 4.6 written request to vary the</li> </ul> </li> </ol>



	<p><i>development standard is not adequate.</i></p> <ul style="list-style-type: none"> <li>• <i>The proposed development does not comply with the floor space ratio standard prescribed by Clause 4.4 of Ryde Local Environmental Plan 2014. Whilst the current dwelling already exhibits a non-compliance, the development extends existing visual impacts to neighbouring land, and the Clause 4.6 written request to vary the development standard is not adequate.</i></li> <li>• <i>There is insufficient information provided to confirm if the proposal satisfies Clause 6.1 Acid Sulfate Soils as it is unclear if the development will involve the disturbance of more than 1 tonne of soil, and/or if the works are likely to lower the watertable.</i></li> <li>• <i>The proposal is inconsistent with Clause 6.2 as the proposed earthworks are unsympathetic to the natural topography of the site, resulting in unacceptable impacts on the development as viewed from the waterway and neighbouring properties.</i></li> </ul> <p><i>2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development is inconsistent with the provisions of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 in that no amended BASIX Certificate has been provided with the application as required by section 37 (4)(a) of the Regulations.</i></p> <p><i>3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development is inconsistent with the provisions of clause 25 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 in that the scale, form, design and siting of the building is not compatible with the likely future character of the locality and that the development detracts from the character of the waterways.</i></p> <p><i>4. The development is inconsistent with a number of provisions of the Ryde Development Control Plan 2014, specifically:</i></p> <ul style="list-style-type: none"> <li>• <i>The proposed development is inconsistent with sections 2.5.1 Streetscape and 2.6.2 Topography and Excavation.</i></li> <li>• <i>The proposal results in an excessive floor space area and is inconsistent with section 2.7 Floor Space Ratio.</i></li> <li>• <i>The proposal seeks to extend the existing wall plate height and height in storeys non-compliances associated with Section 2.8.2 of the RDCP 2014.</i></li> <li>• <i>The proposal seeks to lower the ceiling height of the first floor study/library area to 2.39m and this results in a non-compliant floor to ceiling height,</i></li> </ul>
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	<p><i>short of that required by Section 2.8.2 of the RDCP 2014.</i></p> <ul style="list-style-type: none"> <li>• <i>The waste storage area is not identified within the plans as prescribed in Section 2.3 of Part 7.2.</i></li> <li>• <i>No Erosion and Sediment Control Plan was submitted with the DA, as prescribed by Section 2.1.2 of Part 8.1.</i></li> <li>• <i>Insufficient information has been submitted to enable a proper assessment of the proposed overshadowing provisions contained within Section 2.14.1 Daylight and Sunlight Access.</i></li> </ul> <p><i>5. The site is unsuitable for the proposed development pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.</i></p> <p><i>6. Having regard to the reasons noted above, pursuant to the provisions of Section 4.15(1)(d) and Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.</i></p>
<p>30 August 2022</p>	<p>APL2022/0003 being a Section 8.3 Review of the refusal of LDA2021/0278 was refused by the RLPP for the following reasons:</p> <p><i>1. The site is not suitable for the proposed development pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979. The proposal seeks to utilise a structure that has been unlawfully constructed. A Building Information Certificate has not been obtained. Development consent cannot be granted for alterations to, and use of, an unauthorised structure.</i></p> <p><i>2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development is inconsistent with the provisions of Ryde Local Environmental Plan 2014 in that:</i></p> <ul style="list-style-type: none"> <li>• <i>The proposed development does not comply with the height of buildings standard prescribed by Clause 4.3 of Ryde Local Environmental Plan 2014. Whilst the current dwelling already exhibits a non-compliance, the development extends existing visual impacts to neighbouring land, and the Clause 4.6 written request to vary the development standard is not adequate.</i></li> <li>• <i>The proposed development does not comply with the floor space ratio standard prescribed by Clause 4.4 of Ryde Local Environmental Plan 2014. Whilst the current dwelling already exhibits a non-compliance, the development extends existing visual impacts to neighbouring land, and the Clause 4.6 written request to vary the development standard is not adequate.</i></li> </ul>

	<p>3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development is inconsistent with the provisions of clause 25 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 in that the scale, form, design and siting of the building is not compatible with the likely future character of the locality and that the development detracts from the character of the waterways.</p> <p>4. The development is inconsistent with provisions of the Ryde Development Control Plan 2014, specifically:</p> <ul style="list-style-type: none"> <li>• The proposed development is inconsistent with sections 2.5.1 Streetscape.</li> <li>• The proposal results in an excessive gross floor area and is inconsistent with section 2.7 Floor Space Ratio.</li> <li>• The proposal seeks to extend the existing wall plate height and height in storeys non-compliances associated with Section 2.8.2 of the RDCP 2014.</li> <li>• Insufficient shadow diagrams have been provided to satisfy Section 2.14.1 – Solar access.</li> </ul> <p>5. Having regard to the reasons noted above, pursuant to the provisions of Section 4.15(1)(d) and Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.</p>
24 January 2024	Subject Development Application lodged with Council.
29 January to 13 February 2024	The subject application was notified in accordance with the Ryde Community Participation Plan and one submission was received as a result. The submission is addressed later in this report.
15 February 2024	An email was sent to the applicant via the NSW Planning Portal requesting the submission of a geotechnical report and a stormwater management plan.
20 March 2024	A geotechnical report and stormwater management plan were submitted in response to Council's request.

## 5. Planning Assessment

The following planning policies and controls are of relevance to the development:

- State Environmental Planning Policy Resilience and Hazards SEPP 2021;
- State Environmental Planning Policy Biodiversity and Conservation SEPP 2021;
- State Environmental Planning Policy (Sustainable Buildings) 2022
- Ryde Local Environmental Plan 2014; and
- Ryde Development Control Plan 2014 – Part 3.3 – Dwelling Houses and Dual Occupancy (Attached)



## 5.1 Environmental Planning and Assessment Act

All relevant matters for consideration under Section 4.15 have been addressed in the assessment of this application.

## 5.2 State Environmental Planning Instruments

Instrument	Proposal	Compliance
<b>State Environmental Planning Policy (Resilience and Hazards) 2021</b>		
<b>Chapter 2 Coastal Management</b>		
<p>The aim of this Policy is to promote an integrated and coordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the <i>Coastal Management Act 2016</i> including the management objectives for coastal management areas.</p>	<p>The site is mapped as being within a coastal environment area on the Coastal Management Map.</p> <p>Pursuant to Clause 2.10(3) the land is within the Foreshore and Waterways Area as defined in SEPP (Biodiversity and Conservation) 2021, Chapter 6. Accordingly, this Section of the SEPP is not applicable to the development.</p>	<p>Yes</p>
<b>Chapter 4 Remediation of land</b>		
<p>The object of this Chapter is to provide for a Statewide planning approach to the remediation of contaminated land.</p> <p>The aims are to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.</p>	<p>Pursuant to Clause 4.6(1) considerations, the subject site has been historically used for residential purposes. As such, it is unlikely to contain any contamination and further investigation is not warranted in this case.</p>	<p>Yes</p>
<b>State Environmental Planning Policy (Sustainable Buildings) 2022</b>		
<p>The submitted BASIX certificate demonstrates compliance with the provisions of the SEPP and is consistent with commitments identified in the application documentation.</p>	<p>A BASIX Certificate (see Certificate No. (A1729494 dated 8 December 2023) has been submitted with the application. The BASIX commitments have been included on the architectural plans.</p>	<p>Yes</p>
<b>State Environmental Planning Policy (Biodiversity and Conservation) 2021</b>		
<b>Chapter 2 Vegetation in non-rural areas</b>		
<p>The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.</p>	<p>No tree removal is included as part of this application.</p> <p>The proposal is considered satisfactory by Council's Landscape Architect.</p>	<p>Yes</p>
<b>Chapter 6 Water Catchments</b>		

<p>This Plan applies to the whole of the Ryde Local Government Area as the LGA is within the Sydney Harbour Catchment. Division 2 of Part 6.2 of this SEPP identifies controls on development in respect of water quality and quantity, aquatic ecology, flooding, recreation and public access and total catchment management.</p>	<p>The site is located within the Foreshores and Waterways Area and subject to consideration under the provisions of the SEPP. The compliance table is provided in <b>Attachment 4</b>.</p> <p>The site is mapped pursuant to Clause 10.13 as being zoned W8 Scenic Waters Passive Use. Pursuant to Clause 10.13(3) land within the W8 zone comprises the waters between the mean high water mark and a line running parallel to and 30 metres to the seaward of the mean high water mark.</p>	<p>Yes</p>
<p>The objectives of the W8 zone are as follows:</p> <p><i>(a) to give preference to unimpeded public access along the intertidal zone, to the visual continuity and significance of the landform and to the ecological value of waters and foreshores,</i></p> <p><i>(b) to allow low-lying private water-dependent development close to shore only where it can be demonstrated that the preferences referred to in paragraph (a) are not damaged or impaired in any way, that any proposed structure conforms closely to the shore, that development maximises open and unobstructed waterways and maintains and enhances views to and from waters in this zone,</i></p> <p><i>(c) to restrict development for permanent boat storage and private landing facilities in unsuitable locations,</i></p> <p><i>(d) to allow water dependent development only where it can be demonstrated that it meets a demonstrated demand and harmonises with the planned character of the locality,</i></p> <p><i>(e) to ensure that the scale and size of development are appropriate to the locality and protect and improve the natural assets and natural and cultural scenic quality of the surrounding area,</i></p>	<p>The proposal is consistent with objectives of the zone as the proposal does not impede public access and the proposed works result in an acceptable visual presentation to the waterway. The proposal does not include any private water dependant development close to the shore or permanent boat storage or private landing.</p> <p>Pursuant to Clause 10.15 the proposed works are not located within the foreshore which is zoned W8. The proposed works are located behind the mean high water mark.</p> <p>The proposed works are considered to be of an appropriate scale and size which is appropriate to the locality and do not result in any adverse impacts upon the scenic quality of the area.</p>	<p>Yes</p>

<i>particularly when viewed from waters in this zone or areas of public access.</i>		
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### 5.3 Ryde Local Environmental Plan 2014

The site is zoned R2 Low Density Residential under the provisions of the RLEP 2014. The proposal is considered to constitute ancillary works to the existing dwelling house and development for the purpose of a dwelling house is permissible with Council's consent within the R2 Low Density Residential zone.

The R2 Low Density Residential zone is based on the following objectives:

- *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.*
- *To provide for a variety of housing types.*

The proposal will assist in providing for the housing needs of the community whilst maintaining the low density residential character of the locality. The proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

The following is a summary of the clauses under Ryde LEP 2014 applicable to the development:

Clause	Proposal	Compliance
<b>4.3 Height of Buildings</b>		
9.5m	<p>The proposal does not seek to alter the existing maximum height of the building, but it does propose a lift shaft overrun within the existing roof line and this element exceeds the height control.</p> <p>The maximum height of the lift overrun is 11.27m or a variation of 18%.</p> <p>Refer to discussion below.</p>	<b>No</b>
<b>4.4 Floor Space Ratio</b>		
0.5:1 (341.45m <sup>2</sup> )	<p>River level: 81.63m<sup>2</sup>            Lower ground: 176.7m<sup>2</sup>            Ground level: 125.44m<sup>2</sup>            First floor: 32.67m<sup>2</sup>            Total GFA: 416.44m<sup>2</sup>            Proposed FSR: 0.61:1            Existing FSR: 0.54:1</p> <p>(The garage floorspace is 34m<sup>2</sup> and has been excluded from the GFA in accordance with the RDCP controls).</p>	<b>No</b>

Clause	Proposal	Compliance
	<p>This results in a maximum 22% variation.</p> <p>Refer to discussion below.</p>	
<b>4.6 Exceptions to development standards</b>		
<p>(1) The objectives of this clause are as follows—</p> <p>(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,</p> <p>(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</p>	<p>The Clause 4.6 written requests are discussed below.</p>	<p><b>Yes</b></p>
<b>5.10 Heritage Conservation</b>		
<p>(1) The objectives of this clause are as follows—</p> <p>(a) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views,</p> <p>(c) To conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance</p>	<p>The subject site does not contain an item of environmental heritage and is not located within a heritage conservation area. The nearest heritage item is Item 4 (houses) which is located approximately 120m north-east of the site and located at 23-31 Amiens Street.</p> <p>Considering the distance to the nearest heritage item, the proposal is considered unlikely to impact on the heritage significance of that item.</p>	<p>Yes</p>
<b>6.1 Acid Sulfate Soils</b>		
<p>(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</p>	<p>The subject site is mapped as being affected by Class 5 acid sulfate soils. A Geotechnical Investigation Report has been prepared by Geotechnical Consultants Australia to accompany the application. The assessment undertaken screened for the presence of Actual Acid Sulphate Soils (AASS) and Potential Acid Sulphate Soils (PASS) in accordance with the ASSMAC guidelines and in general with the National Acid Sulphate Soils Guidance Manual. The samples collected from the boreholes has determined that there are no acid sulfate soils present on site.</p>	<p>Yes</p>



Clause	Proposal	Compliance
<b>6.2 Earthworks</b>		
(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	The Geotechnical Investigation Report provided with the application notes that approximately 500mm – 1m of excavation is proposed on site and is located within the existing building envelope. The proposed works are supported by a Geotechnical Investigation Report and satisfies this clause.	Yes
<b>6.4 Stormwater Management</b>		
(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.	The proposed stormwater management plan has been reviewed by Council's Senior Engineer and deemed acceptable subject to recommended conditions of consent.	Yes
<b>6.5 Limited Development on Foreshore Area</b>		
(1) The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.	The proposal does not seek any building works within the foreshore area or impacts upon public access to the foreshore. No issues have been raised from Council's Senior Development Engineer in relation to drainage impacts on the waterway.	Yes

### Clause 4.6 Exceptions to Development Standards

Clause 4.6 of the RLEP 2014 provides flexibility in the application of planning controls by allowing Council to approve a development application that does not comply with a development standard. The development contravenes both Clause 4.3 Height and Clause 4.4 Floor Space Ratio standards and written requests have been submitted. These are discussed below.

#### Clause 4.3 Height of Buildings

The development contravenes Clause 4.3(2) of RLEP 2014, which prescribes a maximum building height of 9.5m. On the western side of the dwelling where the lift shaft overrun is proposed, the dwelling has a height of 11.87m, being from the roof ridge (RL17.29) to the existing ground level (RL 5.42). The height of the existing dwelling on the western side results in a variation of 25% to the 9.5m height control.

The proposed lift shaft overrun does not exceed the maximum building height of the dwelling, however, the proposed works mean that a slightly greater extent of the building will contravene the height standard. The maximum height of the proposed lift overrun is 11.27m or a variation of 18% to the 9.5m height control.

The applicant has submitted a Clause 4.6 request prepared by Andrew Martin Planning dated 15 December 2023 (**Attachment 5**) to vary the development standard.

The definition of 'building height' and 'ground level (existing)' as per the Dictionary of the RLEP 2014 has been provided below for reference:

**building height (or height of building) means—**

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

**ground level (existing)** means the existing level of a site at any point.

Council has undertaken the height measurement on the western elevation based on the submitted survey which includes contours and a spot level of RL5.42 at the existing ground level at the location of the ridge and the ridge height in this location is RL17.29, resulting in a maximum height of 11.87m on the western side of the dwelling.

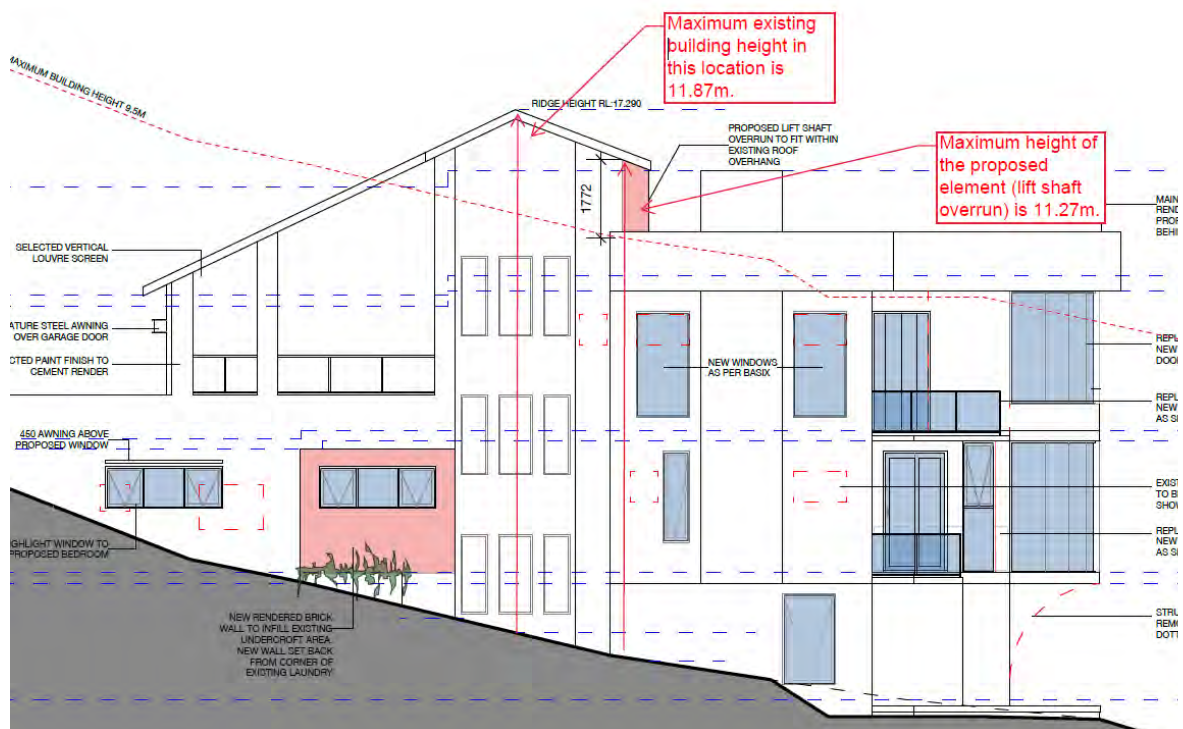


Figure 16 – Proposed western elevation.

An assessment of the relevant provisions of Clause 4.6 is as follows:

- Clause 4.6(3)(a) - Is compliance unreasonable or unnecessary in the circumstances of the case?

- Clause 4.6(3)(b) - Are there sufficient environmental planning grounds to justify the proposed contravention of the development standard?

The written request provides the reasons why compliance with the standard is unreasonable and/or unnecessary, with selected excerpts shown below with Council's comments below.

#### Unreasonable and unnecessary

- *The view of the height and the built form and design of the existing dwelling when viewed from Shackel Avenue is not changed by the proposal and is maintained generally as a 2 storey dwelling. There is no change to the thematic reading of the existing dwelling house within the neighbourhood character of Shackel Avenue or more broadly – Gladesville.*

Planner's comment: Agreed, the additional element on the rooftop (being the lift overrun) is a minor element that is proposed to be located below the existing roofline and will largely be obscured from view by the roofline and existing structure. The lift overrun will sit below the existing maximum height of the roof ridgeline.

- *The building envelope, footprint, orientation and siting of the dwelling is not changed by the proposal. The building works generally comprise internal alterations with consequential changes to window openings and doors as a result of the reconfigured layout. The height of the dwelling house is not changed by the proposed works and the shadow diagrams submitted with the DA Plan set demonstrate that the shadows fall on the neighbouring properties as per the current building and are not increased to a level that would change the residential amenity of either property.*

Planner's comment: Agreed, the existing form of the building is not materially changed by the proposed lift overrun which is located below the existing roofline. As a result, the overshadowing impact of the dwelling will remain consistent with the current extent of overshadowing.

- *The proposal satisfies the objectives of the development standard as the height variation is existing and there is no change to the overall height of the existing dwelling house. The building alterations are predominantly internal to the building envelope and the proposal does not unduly change the interrelationship of the dwelling with either of the adjoining properties or the streetscape character of Shackel Avenue. The works are considered to be improvements to the dwelling which will modernise the dwelling and provide improved internal living amenity and functionality for its residents.*

Planner's comment: Agreed, there are no changes proposed to the maximum height of the dwelling as the proposed lift overrun is located under the existing roofline. The lift overrun will be largely invisible from the streetscape. There will be minimal additional impacts resulting from the lift overrun element.

#### Environmental planning grounds

The justification in the applicant's request and Assessment Officer's comments are below:

- *The overall height of No. 6 Shackel Avenue Gladesville is not altered by the proposed alterations to the existing dwelling house. The pitch of the roof and height of the ridgeline (RL17.29m AHD) is not changed by the proposal.*

Planner's comment: Agreed, the pitch of the roof and height of the ridgeline are not proposed to be altered. Similarly, the existing roofing form and materials will remain unchanged.

- *The site slopes from north to south from Shackel Avenue to the waterway (Parramatta River).*

Planner's comment: Agreed, this a topographical feature of the site which minimises the impacts of the building height non-compliance.

- *The dwelling house, when viewed from Shackel Avenue appears as one storey to the garage and two storeys to side elevation.*

Planner's comment: Agreed, when the dwelling is viewed directly in front of the garage but when viewed down the driveway, it is evident that the dwelling is three storeys in height.

- *The extent of the additional area outside the maximum height of building (HOB) plane is not significant when compared to the existing built form.*

Planner's comment: Agreed, the proposed lift overrun element is minor in the context of the overall dwelling.

- *There is no part of this application that seeks to the extend the maximum HOB variation when compared to the existing.*

Planner's comment: Agreed, the proposal does not result in any increase to the maximum existing building height non-compliance. The proposed lift overrun occurs below the existing roofline.

- *The variation required for the lift element at the upper level does not cause any additional overshadowing or view loss.*

Planner's comment: Agreed, there are no additional overshadowing or view loss impacts caused by the proposed lift overrun.

- *There are no additional adverse environmental impacts as a result of the height departure.*



Planner's comment: Agreed, there are no environmental impacts posed by the lift overrun element.

- *The proposed works will make each floor more accessible by way of the provision of lift access.*

Planner's comment: Agreed, the proposed lift access improves the accessibility of the building for all levels.

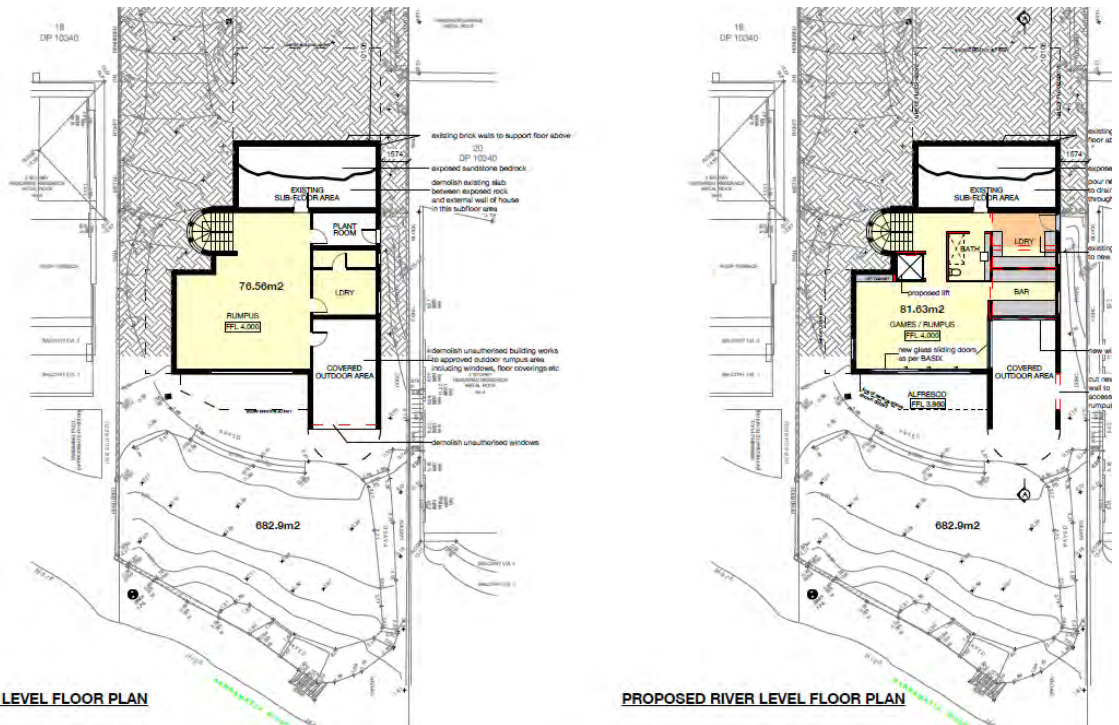
### Conclusion

The applicant has adequately addressed why compliance with the development standard is unreasonable or unnecessary under Clause 4.6(3)(a) of RLEP 2014. It is considered that the non-compliance with the building height can be supported in the circumstance of the case, as there are sufficient environmental planning grounds for contravening the development standard. The proposal is for alterations and additions to an existing dwelling where the established maximum building height approved under the previous development application is maintained.

### **Clause 4.4 – Floor Space Ratio**

Clause 4.4(2) of RLEP 2014 provides that the maximum floor space ratio (FSR) for buildings on the subject site is not to exceed 0.5:1 or 341.45m<sup>2</sup>. The submitted Clause 4.6 written request prepared by Andrew Martin Planning dated 15 December 2023 indicates that the existing dwelling has an existing gross floor area (GFA) of 0.54:1 (368.76m<sup>2</sup>), and the proposed alterations and additions result in a FSR of 0.61:1 (416.44m<sup>2</sup>). This equates to a proposed overall variation of 22% to the development standard. Following an assessment of the plans approved under Building Application No. 1075/86 and the proposal, these figures are considered to be a correct reflection of the existing and proposed floor space ratios.

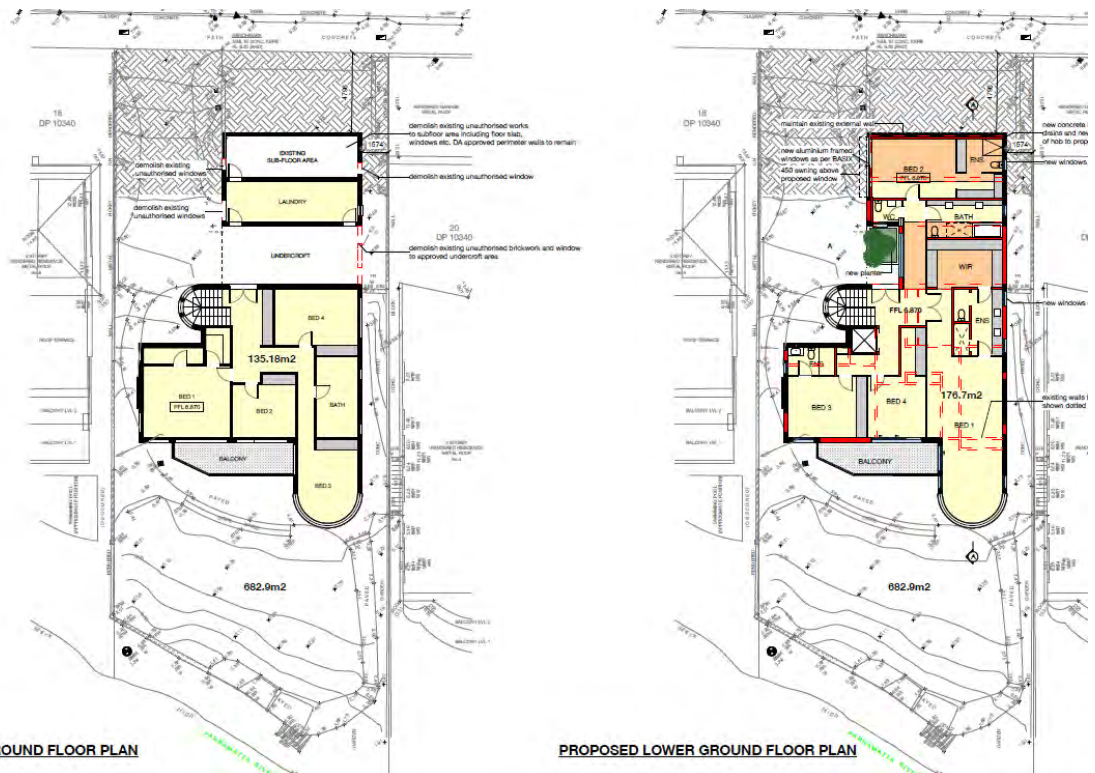
The additional gross floor area proposed within the development results from changes on the river level and lower ground floor as depicted below:



**EXISTING RIVER LEVEL FLOOR PLAN**

**PROPOSED RIVER LEVEL FLOOR PLAN**

**Figure 17 – Existing and proposed river level floor plans – the additional gross floor area is indicated in orange.**



**EXISTING LOWER GROUND FLOOR PLAN**

**PROPOSED LOWER GROUND FLOOR PLAN**

**Figure 18 – Existing and proposed lower ground floor plans – the additional gross floor area is indicated in orange.**

In addition to the above changes, there are very minor changes to doorways on the ground floor and first floor which result in an additional total 1.5m<sup>2</sup> on these floors. The additional gross floor area is created predominately by the change of use of rooms and the enclosure of an undercroft area on the lower ground floor.

An assessment of the relevant provisions of Clause 4.6 is as follows:

- Clause 4.6(3)(a) – Is compliance unreasonable or unnecessary in the circumstances of the case?
- Clause 4.6(3)(b) – Are there sufficient environmental planning grounds to justify the proposed contravention of the development standard?

The written request provides the reasons why compliance with the standard is unreasonable and/or unnecessary, with selected excerpts shown below:

#### Unreasonable and unnecessary

- *The existing dwelling is substantially the same when viewed from both Shackel Avenue and the waterway to the south of the site (Parramatta River). The alterations that increase the overall GFA are generally internalised within the existing building envelope. The lift at upper level is setback from the leading edge.*

Planner's comment: It is agreed that the changes to the building will not be visible when viewed from Shackel Avenue. Whilst there is a minor change proposed to the first floor concerning the addition of a lift overrun, the view of this change will be obscured from view given the length of the first floor terrace and this will result in the element not being visible from the waterway to the rear. The proposed alterations and additions will not result in increasing the bulk and scale of the dwelling.

- *The proposal does seek to increase the total GFA of the existing dwelling. However, the additional floor area is generally internalised within the existing building envelope and not discernible from the street or as an extension of the building when viewed from the water. Therefore, it is absorbed into the existing built form. There are a number of large dwellings along the waterfront of the Parramatta River in the immediate locality. The proposal, not unreasonably increasing the bulk or scale of the development when compared to the existing building or others within the vicinity of the subject site is acceptable for this specific area.*

Planner's comment: The additional gross floor area occurs within the existing building envelope and will not be able to be read from the public domain. The additional area will not increase the bulk and scale of the dwelling and will not increase its impacts on surrounding properties. The scale of the existing dwelling is not inconsistent with surrounding built form located on the waterfront in the locality.

- *The proposal satisfies the objectives of the development standard as the FSR variation is existing and there is no discernible change to the overall built form, bulk or scale of the existing dwelling house. The building alterations are predominantly internal to the building envelope and the proposal does not unduly change the interrelationship of the dwelling with either of the adjoining properties or the streetscape character of Shackel Avenue. The works are considered to be improvements to the dwelling which will modernise the dwelling and provide improved internal living amenity and functionality for its*

*residents. As stated, the lift addition is set back a considerable distance from the leading edge of the upper floor.*

Planner's comment: The floor space ratio is an existing feature to an extent and is added to in a minor degree by the proposal. The proposal will not result in an increased impact on the adjoining properties but will improve the internal amenity of the dwelling and contribute towards its ongoing viability.

#### Environmental planning grounds

The justification in the applicant's request and Assessment Officer's comments are below:

- *The FSR of the dwelling is currently non-compliant at 0.54:1 (+29.76m<sup>2</sup>). The proposal seeks to increase the GFA from the existing 371.2m<sup>2</sup> to 416.44m<sup>2</sup>, increase of 45.24m<sup>2</sup>. The proposed FSR is 0.61:1.*

Planner's comment: Following an assessment of the existing dwelling and proposed development, these figures are concurred with.

- *The proposed modifications to the existing dwelling are designed to better utilise the existing building envelope and improve the living areas of the dwelling. This is a logical and practical approach to proposed alterations without undue impacts on the adjoining properties or streetscape.*

Planner's comment: It is agreed that the proposed alterations to the dwelling better utilise the existing building envelope and improve the internal amenity of the dwelling. The proposal does not increase the bulk and scale of dwelling and has a neutral impact on the streetscape.

- *The additional GFA does not alter the building envelope of No. 6 Shackel Avenue Gladesville. The large majority of the additional floor area is achieved via reconfiguration of the existing sub-floor and lower ground floor areas, not by extension of the outer walls of the dwelling or excavation works.*

Planner's comment: Agreed, the proposal maintains the originally approved building envelope and does not extend the outer walls of the dwelling or result in additional excavation works.

- *The proposal does not alter the number of storeys when viewed from either Shackel Avenue or the waterway to the south of the site.*

Planner's comment: The proposal does not alter the view of the dwelling in terms of the number of storeys presented on all four elevations.

- *There are no impacts arising from the internalised increase in the GFA of the dwelling. The consequential changes to the floor level layouts required changes to the window and door openings shown in the DA Plan set.*



Planner's comment: It is agreed that there are no impacts arising from the internalised increase of gross floor area of the dwelling however, there are minor impacts resulting from the fenestration changes proposed on the side elevations. These fenestration changes are not considered to be unreasonable on balance.

- *The non-compliance is existing and therefore does not contribute to additional shadow impact on either adjoining property.*

Planner's comment: It is agreed that the proposed alterations do not contribute to additional shadow impact on either adjoining property.

### Conclusion

The applicant has adequately addressed why compliance with the development standard is unreasonable or unnecessary under Clause 4.6(3)(a) of RLEP 2014. It is considered that the non-compliance with the floor space ratio standard can be supported in the circumstance of the case, as there are sufficient environmental planning grounds for contravening the development standard. The proposal is for alterations and additions to an existing dwelling where the existing building envelope approved under the previous development application is maintained.

## **5.4 Draft Environmental Planning Instruments**

There are no relevant draft Environmental Planning Instruments for consideration.

## **5.5 Ryde Development Control Plan 2014 (RDCP 2014)**

The proposal is subject to the provisions of the following parts of RDCP 2014:

- Part 3.3: Dwelling Houses and Dual Occupancy
- Part 7.2: Waste Minimisation and Management
- Part 8.1: Construction Activities
- Part 8.2: Stormwater & Floodplain Management
- Part 9.3: Parking Controls

A full list of the existing and new non-compliances can be found in the Compliance Check at **Attachment 3**. Non-compliances which are a result of the proposed development and are relevant to the recommendation of refusal, are detailed below.

### Part 3.3 – Dwelling Houses and Dual Occupancy

It is acknowledged that the existing dwelling results in a number of existing non-compliances with the current controls, primarily relating to the number of storeys, the prominent location of the garage in the streetscape, deep soil area, front setback, driveway width and lack of landscaping in front setback. These **non-compliances are not exacerbated by the proposal and are not discussed in detail below.**

The proposal exacerbates the following non-compliances:

### **Section 2.7 Floor Space Ratio (FSR)**

The DCP mirrors the Ryde LEP 2014 in stating that a maximum floor space ratio of 0.5:1 is permitted. The proposal contravenes the FSR development standard resulting in a FSR of 0.61:1. This non-compliance has been addressed earlier in this report and is considered satisfactory for the reasons outlined.

### **Section 2.8.1 Building Height**

The DCP mirrors the Ryde LEP 2014 in stating that a maximum height of 9.5 metres is permitted for dwelling houses and dual occupancies. The proposed lift shaft overrun does not exceed the existing maximum building height of the dwelling, however, the proposed works mean that a slightly greater extent of the building will contravene the height standard. The maximum height of the proposed lift overrun is 11.27m or a variation of 18% to the 9.5m height control. This non-compliance has been addressed earlier in this report and is considered satisfactory for the reasons outlined.

### **5.6 Planning Agreements OR Draft Planning Agreements**

The application is not the subject of any planning agreements or draft planning agreements.

### **5.7 City of Ryde Section 7.11 - Development Contributions Plan 2020**

No developer contributions are payable given the proposed development does not seek new housing allotments or any additional dwellings.

### **5.8 Any matters prescribed by the regulation**

The Regulations guides the processes, plans, public consultation, impact assessment and decision made by local councils, the Department of Planning, Industry and Environment and others. The matters for consideration contained from clause 61 to clause 64 of *Environmental Planning and Assessment Regulation 2021* are of limited relevance to this application.

## **6. The likely impacts of the development**

The likely impacts of the development have been considered within this report and the assessment demonstrates that the proposal will not have any significant adverse impacts upon any adjoining properties or the environment in general due to the nature of the development. All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report (see the Referrals, Submission and DCP sections). The development is considered satisfactory in terms of environmental impacts.

## **7. Suitability of the site for the development**

The site is mapped as containing Class 5 acid sulfate soils, being land within 500m of actual acid sulfate soils. The extent of works is such that it is not considered to come into contact with or affect the profile of any area containing actual acid sulphate soils

further. The submitted geotechnical report includes details of borehole testing on the site which did not identify any actual acid sulfate soils on the site.

The proposal exceeds the height and floor space ratio development standards. The submitted Clause 4.6 variations to Clauses 4.3 and 4.4 and has met the jurisdiction prerequisites to enable the consent authority to support the proposed departures from the development standards. The proposal is an appropriate development, and this has been demonstrated in this report. The continued residential use of this site is suitable for the proposal.

## **8. The Public Interest**

Given the above assessment, the proposal does not result in any significant adverse impacts upon adjoining properties or the streetscape. On this basis, the proposal is not considered to raise any issues that would be contrary to the public interest.

## **9. Public Notification and Submissions**

The application was notified from 29 January 2024 to 13 February 2024 in accordance with the Ryde Community Participation Plan. One submission was received in response. The issue raised in the submission was as follows:

*Facing the waterfront on the ground floor, there is a new window proposed which will look directly into the objector's bedroom. It is requested that this window be amended to contain opaque glazing.*

Comment: A condition of consent is recommended which requires that this window be amended to contain opaque glazing. See Condition No. 10.

## **10. Referrals**

### **Senior Development Engineer**

No objection was raised subject to recommended conditions of consent. See Condition Nos. 5 to 8, 14,15, 20, 21 and 23.

### **Landscape Architect**

No objection was raised subject to one recommended condition of consent. See Condition No. 16.

## **11. Conclusion**

After consideration of the development against section 4.15 of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is suitable for the site and is not contrary to the public interest. Therefore, it is recommended that the application be approved for the following reasons:

- The proposal is consistent with the objectives for R2 Low Density Residential zoned land.

- The proposal has been supported by a satisfactory Clause 4.6 written variation to Clauses 4.3 and 4.4 of the Ryde Local Environmental Plan 2014 which demonstrates compliance is both unreasonable and unnecessary and has provided sufficient environmental planning grounds to support the variation.
- The proposal does not result in any significant adverse impacts upon adjoining properties or the streetscape.
- The proposal is not contrary to the public interest.

## **12. Recommendation**

- A. That the Ryde Local Planning Panel accepts that the Clause 4.6 written request to vary the height standard (Clause 4.3 in LEP 2014 has adequately addressed the matters in subclause (4) and would not be contrary to the public interest as it is consistent with the objectives of the development standard in Clause 4.3 (1) and the objectives of the R2 Low Density Residential Zone of Ryde Local Environmental Plan 2014.
- B. That the Ryde Local Planning Panel accepts that the Clause 4.6 written request to vary the floor space ratio standard (Clause 4.4 in LEP 2014 has adequately addressed the matters in subclause (4) and would not be contrary to the public interest as it is consistent with the objectives of the development standard in Clause 4.4 (1) and the objectives of the R2 Low Density Residential Zone of Ryde Local Environmental Plan 2014.
- C. That the Ryde Local Planning Panel, as the consent authority, grant consent to LDA2024/0015 for alterations and additions to the existing dwelling at 6 Shackel Avenue, Gladesville subject to the draft conditions contained in Attachment 1.

## **ATTACHMENTS**

- 1 Draft Conditions of Consent**
- 2 Proposed plans**
- 3 Compliance Table – Ryde DCP**
- 4 Compliance Table – Sydney Harbour Foreshores DCP**
- 5 Clause 4.6 written variation requests to Height and FSR**

Report prepared by:

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**Acting Manager Development Assessment**

**Carine Elias**  
**Acting Executive Manager City Development**



# ATTACHMENT 1 – RECOMMENDED CONDITIONS OF CONSENT

## GENERAL CONDITIONS

		Condition			
1)	<b>Approved plans and supporting documentation</b>				
	Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.				
	Approved plans				
	Plan Number	Revision Number	Plan Title	Drawn by	Date of Plan
	DA01	-	Roof/Site Plan	Dalgliesh Ward Architects	November 2023
	DA02	-	River Level Floor Plan	Dalgliesh Ward Architects	November 2023
	DA03	-	Lower Ground Floor Plan	Dalgliesh Ward Architects	November 2023
	DA04	-	Ground Floor Plan	Dalgliesh Ward Architects	November 2023
	DA05	-	First Floor Plan	Dalgliesh Ward Architects	November 2023
	DA06	-	Section AA	Dalgliesh Ward Architects	November 2023
	DA07	-	North (Street) Elevation	Dalgliesh Ward Architects	November 2023
	DA08	-	South (River) Elevation	Dalgliesh Ward Architects	November 2023
	DA09	-	East Elevation	Dalgliesh Ward Architects	November 2023
	DA10	-	West Elevation	Dalgliesh Ward Architects	November 2023
DA15	-	Landscape Plan	Dalgliesh Ward Architects	November 2023	
Approved documents					
Document Title		Revision Number	Prepared by	Date of document	

	Condition			
	BASIX Certificate	-	Dalgleish Ward Architects	8 December 2023
	Geotechnical Investigation Report	A	Geotechnical Consultants Australia	11 March 2024
	Concept Stormwater Drainage Plan/Details	D	SDS Engineering	13 March 2024
	In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.			
	<b>Condition Reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development			
2)	<b>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</b>			
	<ol style="list-style-type: none"> <li>1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia.</li> <li>2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.</li> <li>3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the Building Code of Australia.</li> <li>4. In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made.</li> <li>5. In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.</li> <li>6. This section does not apply— <ol style="list-style-type: none"> <li>(a) to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or</li> <li>(b) to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.</li> </ol> </li> </ol>			
	<b>Condition Reason:</b> Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.			
3)	<b>Erection of signs</b>			

	Condition
	<ol style="list-style-type: none"> <li>1. This section applies to a development consent for development involving building work, subdivision work or demolition work.</li> <li>2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out— <ol style="list-style-type: none"> <li>(a) showing the name, address and telephone number of the principal certifier for the work, and</li> <li>(b) showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and</li> <li>(c) stating that unauthorised entry to the work site is prohibited.</li> </ol> </li> <li>3. The sign must be— <ol style="list-style-type: none"> <li>(a) maintained while the building work, subdivision work or demolition work is being carried out, and</li> <li>(b) removed when the work has been completed.</li> </ol> </li> <li>4. This section does not apply in relation to— <ol style="list-style-type: none"> <li>(a) building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or</li> <li>(b) Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</li> </ol> </li> </ol> <p><b>Condition Reason:</b> Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
4)	<p><b>Fulfilment of BASIX commitments</b></p> <p>It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled—</p> <ol style="list-style-type: none"> <li>5. BASIX development,</li> <li>6. BASIX optional development, if the development application was accompanied by a BASIX certificate.</li> </ol> <p><b>Condition Reason:</b> Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.</p>
5)	<p><b>Design and Construction Standards</b></p> <p>All engineering plans and work inside the property shall be carried out in accordance with the requirements of the relevant Australian Standard. All Public Domain works or modification to Council infrastructure which may be located inside the property boundary, must be undertaken in accordance with Council’s DCP Part 8.5 (Public Civil Works) and Part 8.2 (Stormwater and Floodplain Management), except otherwise as amended by conditions of this consent.</p> <p><b>Condition Reason:</b> To ensure that all works are undertaken in accordance with any relevant standard and DCP requirements.</p>
6)	<p><b>Public Utilities and Service Alterations</b></p> <p>All mains, services, poles, etc., which require alteration due to works associated with the development, shall be altered at the Applicant’s expense. The Applicant shall comply with the requirements (including</p>

	financial costs) of the relevant utility provider (e.g. AusGrid, Sydney Water, Telstra, TfNSW, Council, etc) in relation to any connections, works, repairs, relocation, replacement and/or adjustments to public infrastructure or services affected by the development.
	<b>Condition Reason:</b> Protection of infrastructure and compliance with relevant Authorities requirements.
7)	<b>Restoration</b>
	Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure as a result of the construction works associated with this development site, shall be undertaken by the Applicant in accordance with Council's standards and specifications, and DCP Part 8.5 (Public Civil Works), to the satisfaction of Council.
	<b>Condition Reason:</b> To ensure the amenity and state of the public domain is maintained.
8)	<b>Road Activity Permits</b>
	Prior to carrying out any work in, on or over a road reserve, consent from Council is required as per the Roads Act 1993. The applicant is required to review the "Road Activity Permits Checklist" (available from Council's website: <a href="https://www.ryde.nsw.gov.au/files/assets/public/forms-and-documents/2023-07-road-activity-permits-checklist.pdf">https://www.ryde.nsw.gov.au/files/assets/public/forms-and-documents/2023-07-road-activity-permits-checklist.pdf</a> ) and apply for the relevant permits for approval by Council. Types of road activity permits potentially required include Road Use Permit, Work Zone Permit, Road / Footpath / Driveway / Nature Strip / Kerb & Gutter Opening Permit, Temporary Placement of Elevated Tower, Crane or Concrete Pump, Operation of a Crane Over Air Space Permit, Construction Hoarding Permit and Skip Bin on Nature Strip Permit. Penalties apply for failure to comply.
	<b>Condition Reason:</b> To ensure the amenity and state of the public domain is maintained.
9)	<b>Protection of Public Domain</b>
	The public domain must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
	<b>Condition Reason:</b> To ensure public safety.

## BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

	Condition
10)	<b>Design amendments</b>
	Before the issue of a construction certificate, the principal certifier must ensure the construction certificate plans and specifications detail the following required amendments to the approved plans and documents: <ul style="list-style-type: none"> <li>a) The east facing meals room window on the ground floor is to be amended to comprise fixed obscure glazing. Similarly, the</li> </ul>



	Condition
	<p>curved meals room window is to be amended to comprise obscure glazing where it faces the east.</p> <p>b) The west facing family room windows on the ground floor are to be amended to comprise obscure glazing.</p> <p><b>Condition Reason:</b> To require minor amendments to the plans endorsed by the consent authority following assessment of the development.</p>
11)	<p><b>Long Service Levy</b></p> <p>Before the issue of the relevant construction certificate, the long service levy of \$3,989.00 as calculated at the date of this consent, must be paid to the Long Service Corporation of Council under the <i>Building and Construction industry Long Service Payments Act 1986</i>, section 34, and evidence of the payment is to be provided to principal certifier.</p> <p><b>Condition Reason:</b> To ensure the long service levy is paid</p>
12)	<p><b>Payment of security deposits</b></p> <p>Before the issue of the relevant construction certificate, the applicant must:</p> <ul style="list-style-type: none"> <li>- make payment of \$1,810.00 for a security deposit to the consent authority (as calculated at the date of this consent), and</li> <li>- if a principal certifier is required to be appointed for the development – provide the principal certifier with written evidence of the payment and the amount paid.</li> </ul> <p><b>Condition Reason:</b> To ensure any damage to public infrastructure is rectified and public works can be completed</p>
13)	<p><b>Structural certification</b></p> <p>Before to the issue of a construction certificate, structural certification prepared from a qualified practising structural engineer must be provided to the principal certifier.</p> <p><b>Condition reason:</b> To ensure the structural adequacy of the development.</p>
14)	<p><b>Stormwater Management</b></p> <p>To ensure the management of stormwater runoff from the development is undertaken without impact to the subject site, neighbouring properties or receiving drainage system, stormwater runoff from the development shall be collected and discharged to the approved point of discharge in accordance with the requirements of Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management), associated annexures, and generally in accordance with the approved Stormwater Management. Accordingly, detailed engineering plans and certification demonstrating compliance with this condition are to be submitted with the application for a Construction Certificate.</p> <p><b>Condition Reason:</b> To ensure that the developments stormwater management system is aligned with the controls and objectives of the City of Ryde DCP 2014 Part 8.2.</p>
15)	<p><b>Erosion and Sediment Control Plan</b></p>

	<p>An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified consultant, detailing soil erosion control measures to be implemented during construction. The ESCP is to be submitted with the application for a Construction Certificate. The ESCP must be in accordance with the manual “Managing Urban Stormwater: Soils and Construction” by NSW Department – Office of Environment and Heritage and must contain the following information;</p> <ul style="list-style-type: none"> <li>a) Existing and final contours</li> <li>b) The location of all earthworks, including roads, areas of cut and fill</li> <li>c) Location of all impervious areas</li> <li>d) Location and design criteria of erosion and sediment control structures,</li> <li>e) Location and description of existing vegetation</li> <li>f) Site access point/s and means of limiting material leaving the site</li> <li>g) Location of proposed vegetated buffer strips</li> <li>h) Location of critical areas (drainage lines, water bodies and unstable slopes)</li> <li>i) Location of stockpiles</li> <li>j) Means of diversion of uncontaminated upper catchment around disturbed areas</li> <li>k) Procedures for maintenance of erosion and sediment controls</li> <li>l) Details for any staging of works</li> <li>m) Details and procedures for dust control.</li> </ul> <p>The ESCP must be submitted with the application for a Construction Certificate.</p>
	<p><b>Condition Reason:</b> To protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.</p>

### BEFORE BUILDING WORK COMMENCES

	Condition
16)	<p><b>Tree Protection</b></p> <p>All tree protection works including installation of any fencing is to be undertaken prior to any demolition or site clearing works on site. All trees on site are to be retained and are to have protective fencing and signage around TPZs and must be located in accordance with AS4970-2009: Protection of trees on development sites. In this regard, any fencing required to be constructed around the TPZ is to be in accordance with AS4687 Temporary fencing and hoardings.</p> <p><b>Condition Reason:</b> To protect existing trees before any work on site commences.</p>

### DURING BUILDING WORK

	Condition
17)	<p><b>Hours of work</b></p> <p>Site work must only be carried out between the following times:</p>

	Condition
	<ul style="list-style-type: none"> <li>Monday to Friday - 7.00am and 7.00pm (other than public holidays)</li> <li>Saturday - 8.00am and 4.00pm</li> </ul> <p>Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <p><b>Condition Reason:</b> To protect the amenity of the surrounding area</p>
18)	<p><b>Procedure for critical stage inspections</b></p> <p>While building work is being carried out, the work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.</p> <p><b>Condition Reason:</b> To require approval to proceed with building work following each critical stage inspection</p>
19)	<p><b>Traffic Management</b></p> <p>Traffic management procedures and systems must be implemented during the construction period to ensure a safe environment and minimise impacts to pedestrian and other vehicle traffic. Any traffic management procedures and systems must be in accordance with AS 1742.3 2019 and the DCP 2014 Part 8.1 (Construction Activities).</p> <p><b>Condition Reason:</b> To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.</p>
20)	<p><b>Stormwater Management (Construction)</b></p> <p>The stormwater drainage system on the site must be constructed in accordance with the Construction Certificate version of the Stormwater Management Plan and any requirements of Council in relation to the connection to the public drainage system.</p> <p><b>Condition Reason:</b> To ensure the stormwater system is constructed as approved.</p>
21)	<p><b>Erosion and Sediment Control Plan (Implementation)</b></p> <p>The applicant shall install erosion and sediment control measures in accordance with the Construction Certificate approved Soil Erosion and Sediment Control (ESCP) plan at the commencement of works on the site. Erosion control management procedures in accordance with the manual “Managing Urban Stormwater: Soils and Construction” by the NSW Department – Office of Environment and Heritage, must be practiced at all times throughout the construction.</p> <p><b>Condition Reason:</b> To prevent soil erosion and the discharge of sediment over the land.</p>

## BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

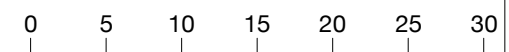
	Condition
22)	<p><b>BASIX</b></p> <p>Before the issue of any occupation certificate, documentary evidence of compliance with all commitments listed in the approved BASIX Certificate(s) is to be provided to the principal certifier.</p> <p><b>Condition reason:</b> Statutory requirement.</p>

23)	<p><b>Engineering Compliance Certificates</b></p>
	<p>Before the issue of any Occupation Certificate, a compliance certificate prepared by a suitably qualified engineer, to the satisfaction of the principal certifier, detailing:</p> <p>a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and Council's DCP 2014 Part 9.3 (Parking Controls).</p> <p>b) Confirming that the Stormwater Management system (including any constructed ancillary components such as onsite detention) servicing the development complies with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures, and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.</p> <p>c) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual "Managing Urban Stormwater: Soils and Construction" by the NSW Department – Office of Environment and Heritage and Council's DCP 2014 Part 8.1 (Construction Activities).</p> <p>d) Confirming that the connection of the site drainage system to the trunk drainage system complies with Section 4.7 of AS 3500.3 (Stormwater drainage), the relevant sections of the Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures and any requirements of Council pending on site conditions.</p>
	<p><b>Condition Reason:</b> To ensure that all engineering components are completed to the satisfaction of an appropriately qualified person, prior to occupation or use of the development.</p>

## OCCUPATION AND ONGOING USE

24)	<p><b>Air conditioning equipment on residential premises</b></p>
	<p>The air conditioning equipment must not:</p> <ol style="list-style-type: none"> <li>1. emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open): <ul style="list-style-type: none"> <li>before 8am and after 10pm on any Saturday, Sunday or public holiday; or</li> <li>before 7am and after 10pm on any other day.</li> </ul> </li> </ol> <p>emit a sound pressure level when measured at the boundary of any other residential property, at a time other than those as specified in (1), which exceeds the background (LA90, 15 minute) by more than 5dB(A).</p> <p>The source noise level must be measured as a LAeq 15 minute.</p>
	<p><b>Condition reason:</b> To ensure the use of air conditioning equipment on residential premises does not give noise to offensive noise.</p>





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 PO Box 36 Gladesville NSW 1675 studio@dalglieshward.com  
 Nominated Architect Geoff Dalgliesh No 7656 (0405 168 364)  
 Nominated Architect Daniel Ward No 7672 (0416 228 374)



NOTES
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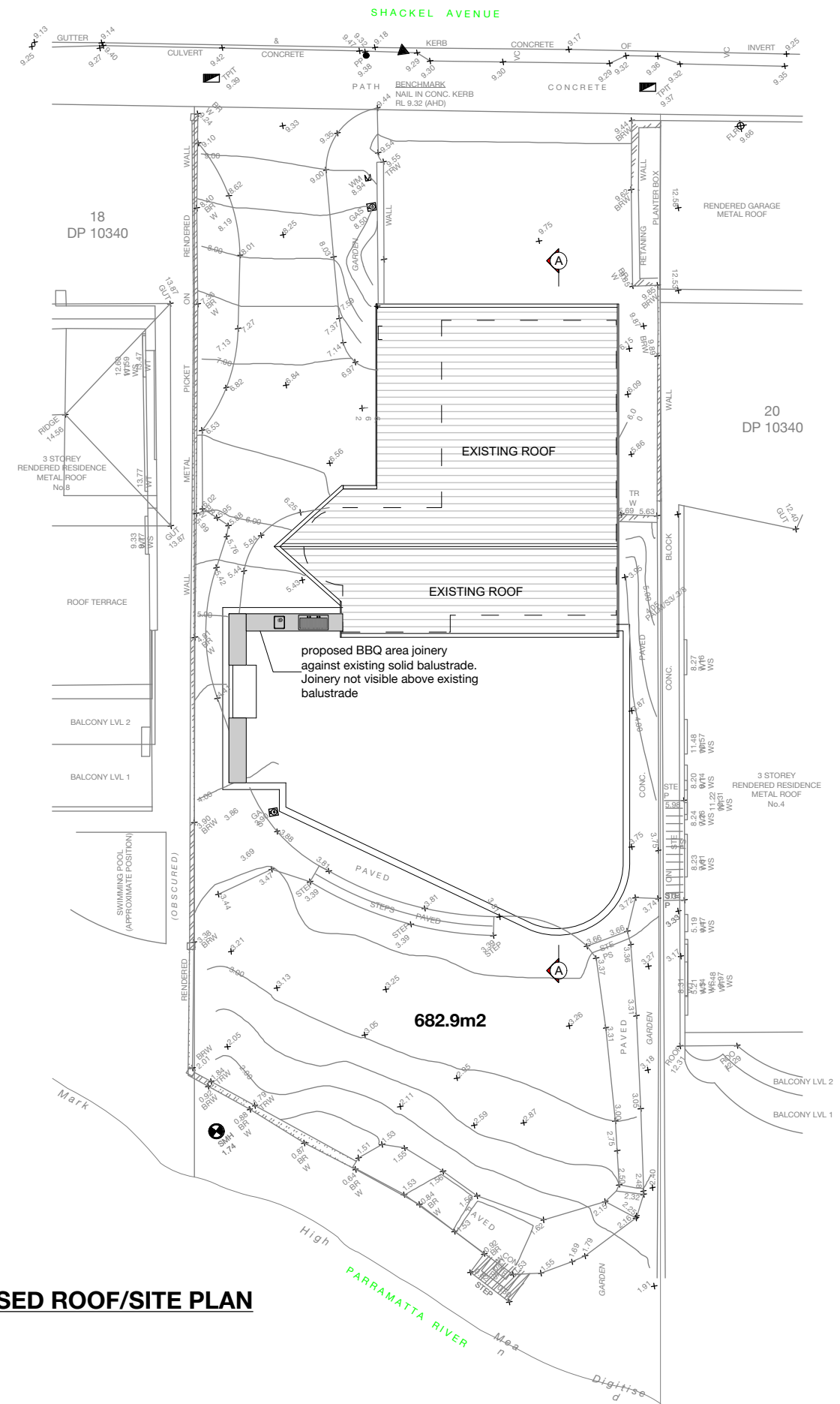
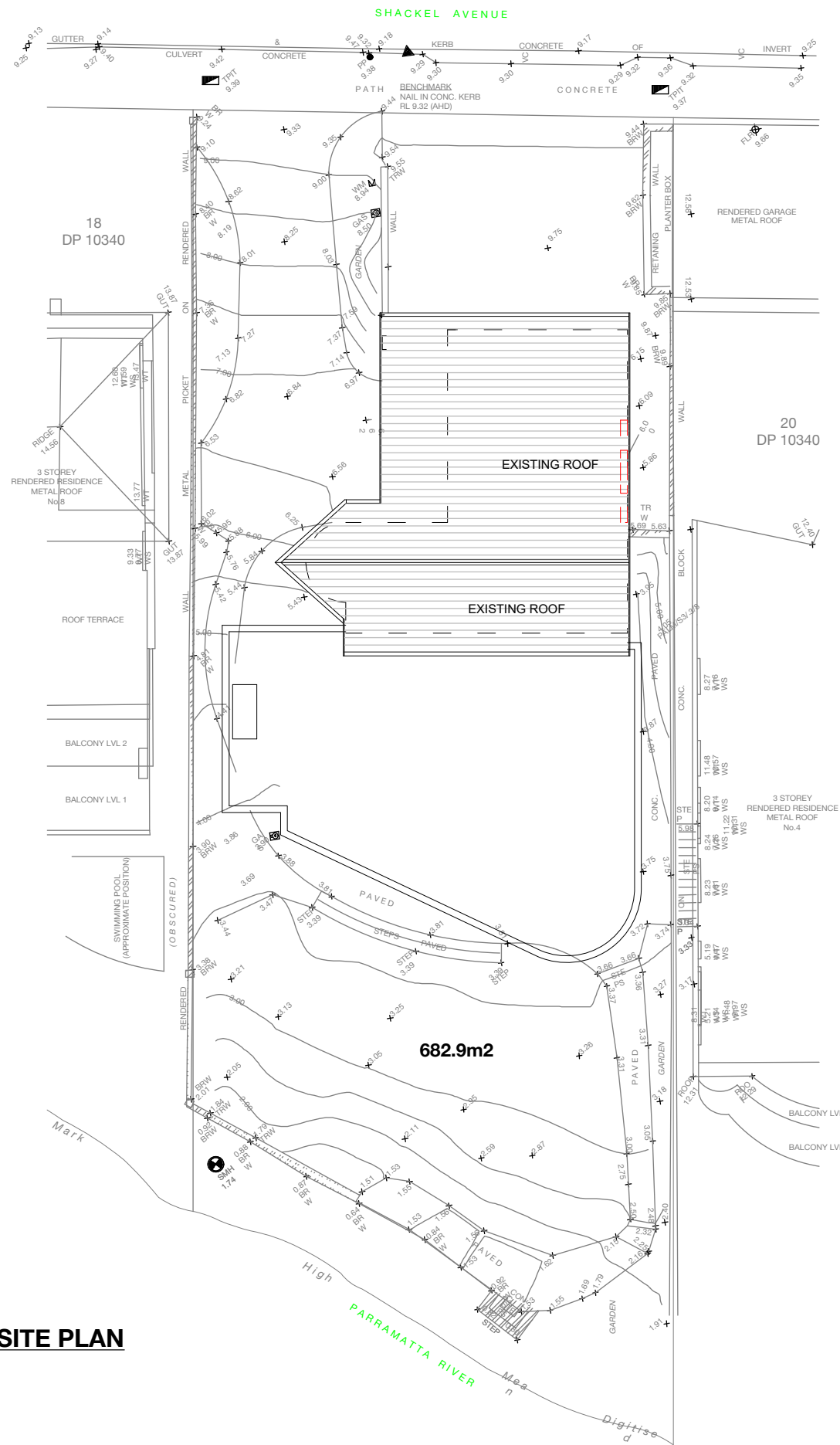
REVISIONS
DA SUBMISSION NOVEMBER 2023

PROJECT NAME	ALTERATIONS AND ADDITIONS
LOCATION	6 SHACKEL AVE, GLADESVILLE LOT 19 DP10340
APPLICANT	MR R GADALLA

DRAWING TITLE	SITE ANALYSIS PLAN
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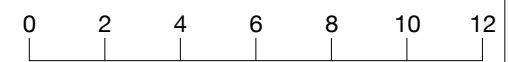
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DATE	11/11/23		





**EXISTING ROOF/SITE PLAN**

**PROPOSED ROOF/SITE PLAN**



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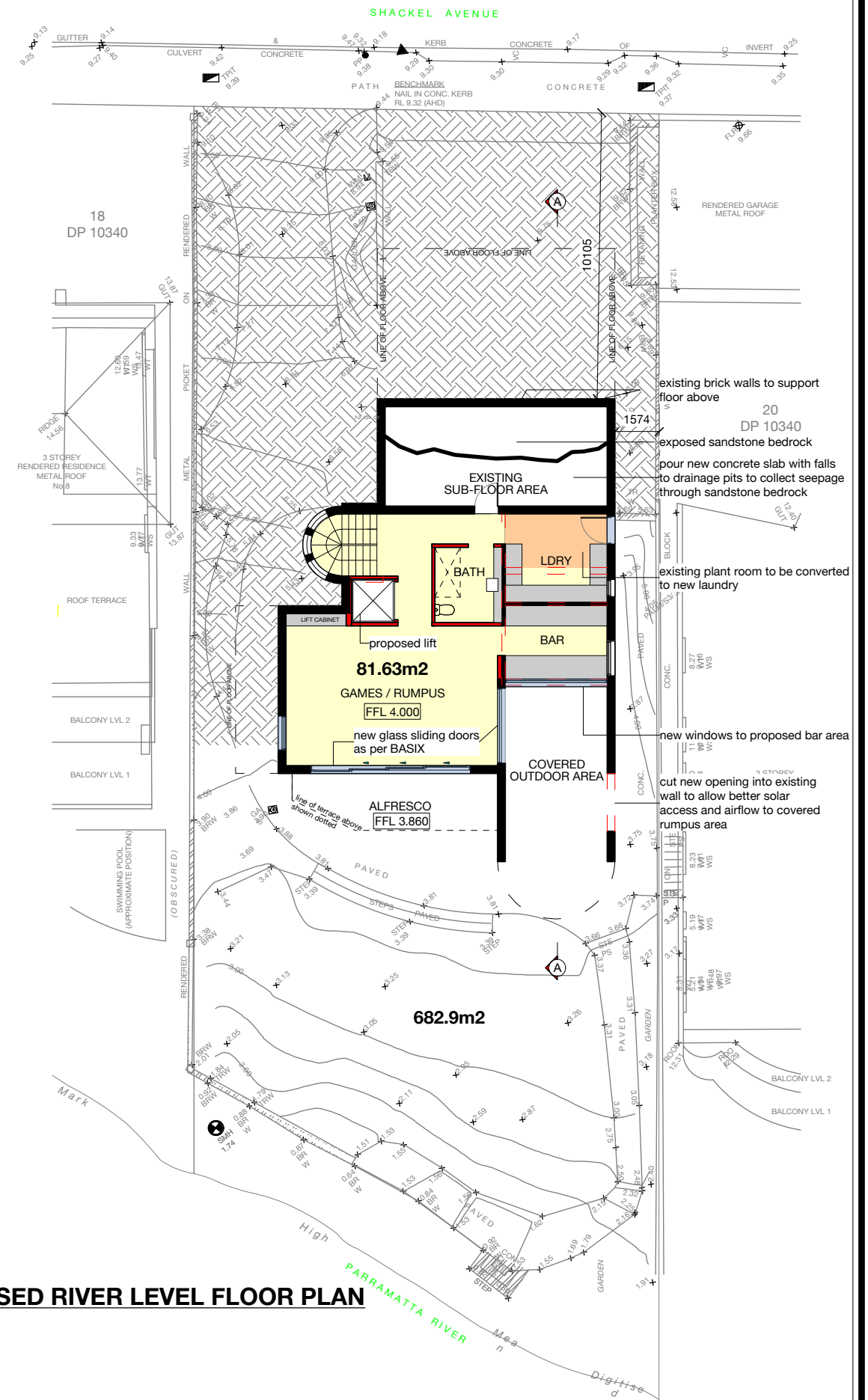
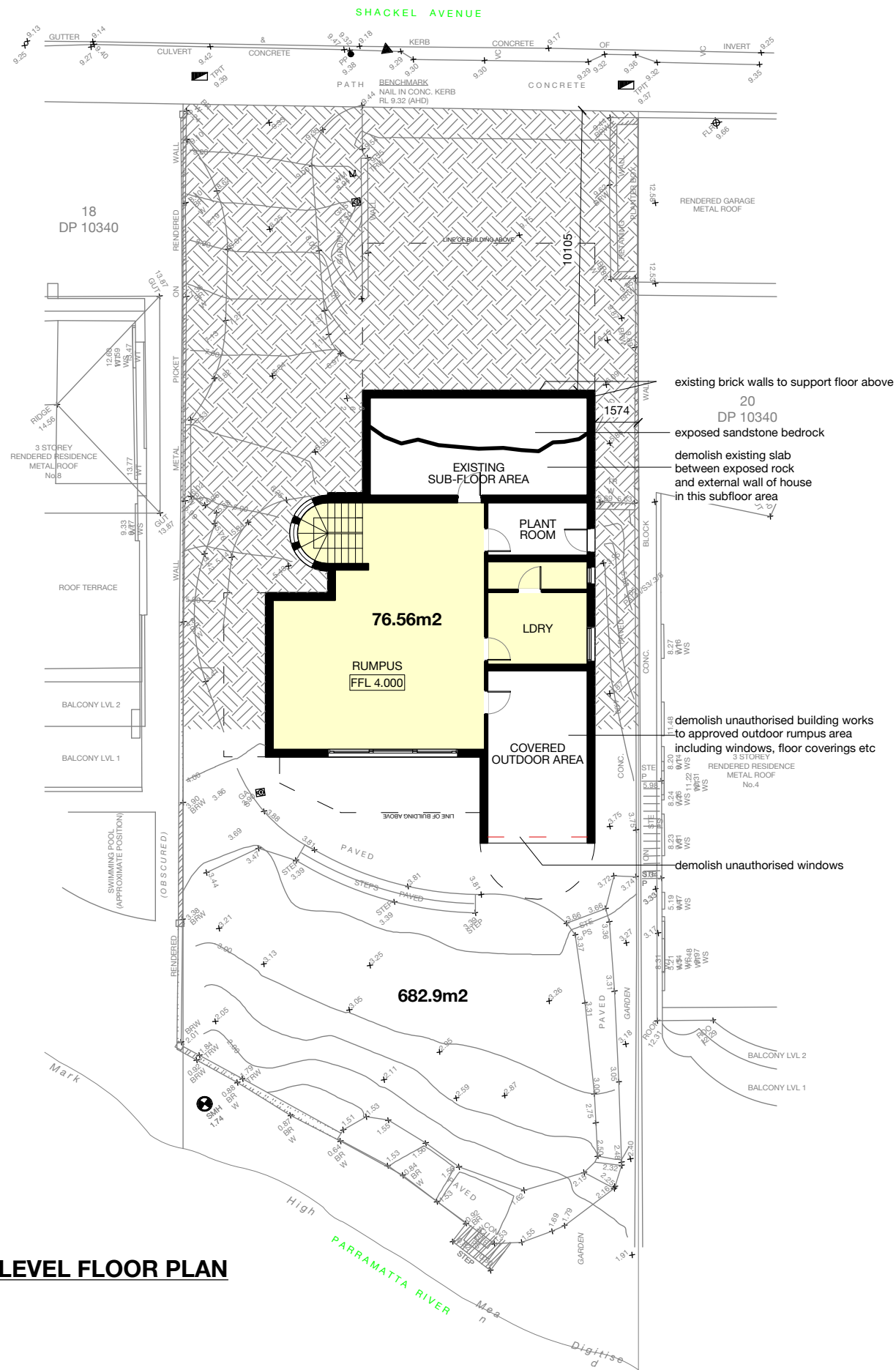
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REVISIONS
DA SUBMISSION NOVEMBER 2023

PROJECT NAME	ALTERATIONS AND ADDITIONS
LOCATION	6 SHACKEL AVE, GLADESVILLE LOT 19 DP10340
APPLICANT	MR R GADALLA

DRAWING TITLE	ROOF/SITE PLAN
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PROJECT NO	2320	REVISION	-
DRAWN	GJD	CHECKED	DTW
SCALE	1:200@A3	DRAWING NO	DA01
DATE	11/11/23		



**EXISTING RIVER LEVEL FLOOR PLAN**

**PROPOSED RIVER LEVEL FLOOR PLAN**



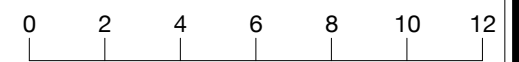
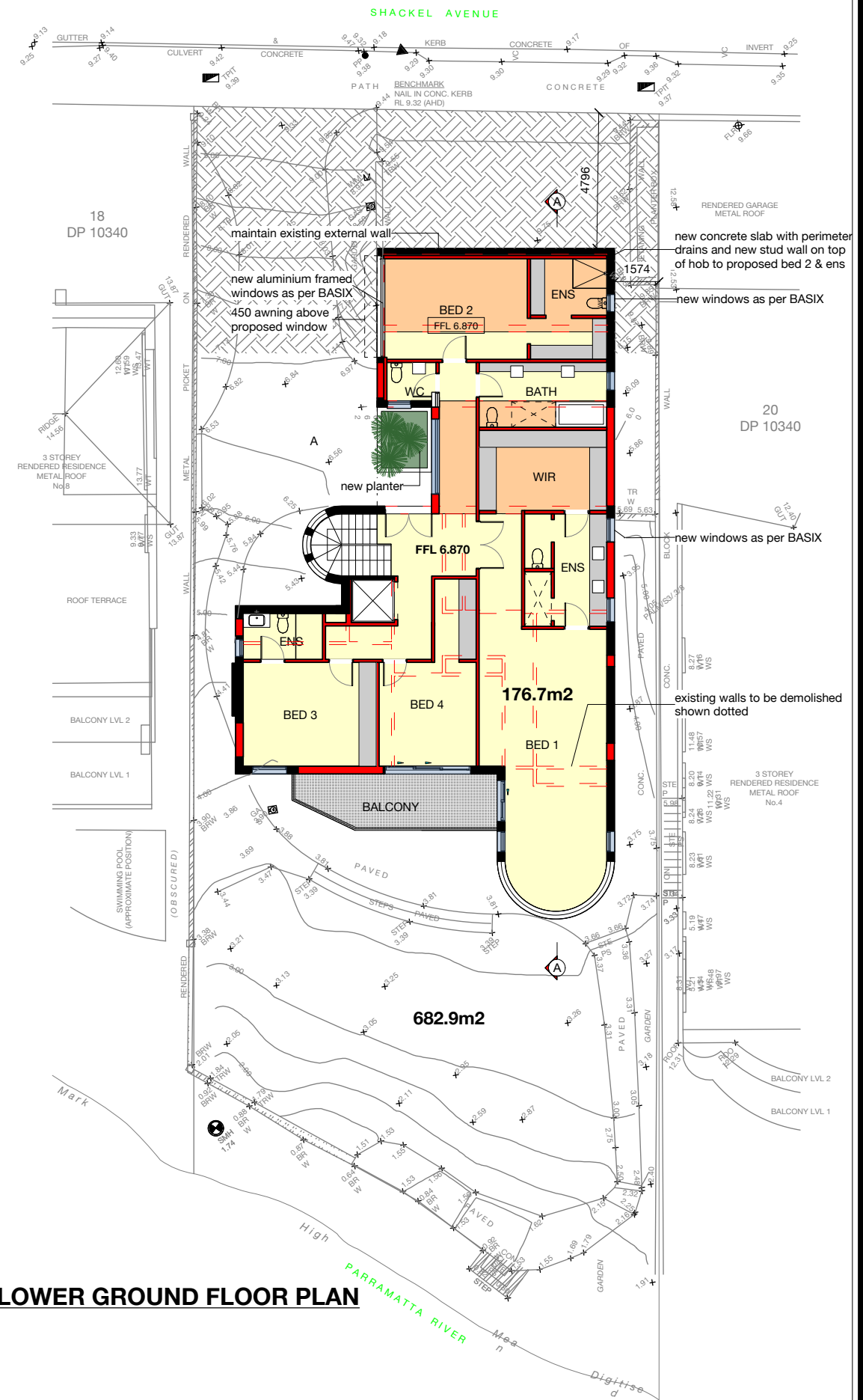
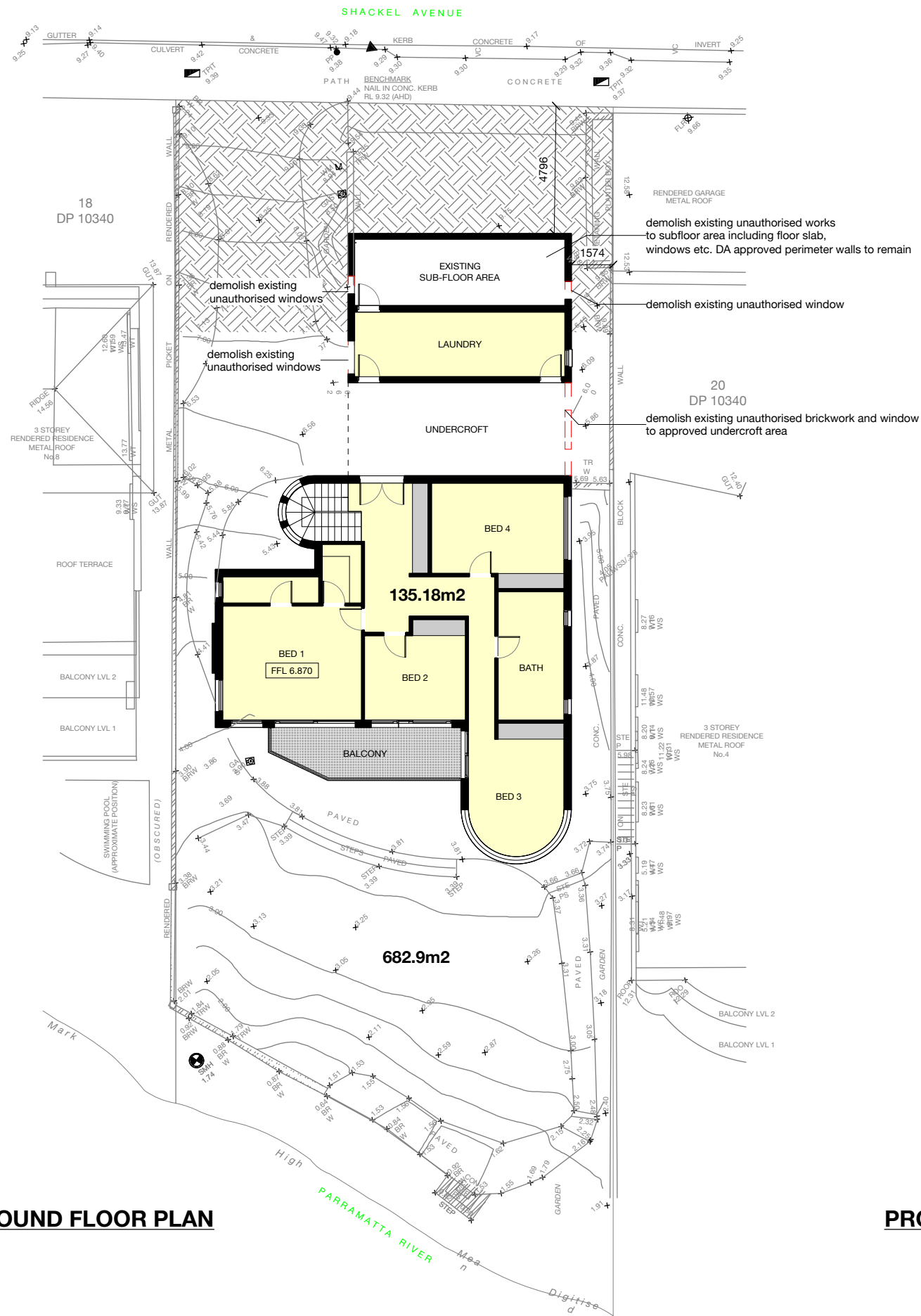
NOTES	REVISIONS
	DA SUBMISSION NOVEMBER 2023

PROJECT NAME	DRAWING TITLE
ALTERATIONS AND ADDITIONS	RIVER LEVEL FLOOR PLAN

LOCATION	APPLICANT
6 SHACKEL AVE, GLADESVILLE LOT 19 DP10340	MR R GADALLA

PROJECT NO	REVISION
2320	-

DRAWN	CHECKED	DRAWING NO
GJD	DTW	DA02



**EXISTING LOWER GROUND FLOOR PLAN**

**PROPOSED LOWER GROUND FLOOR PLAN**

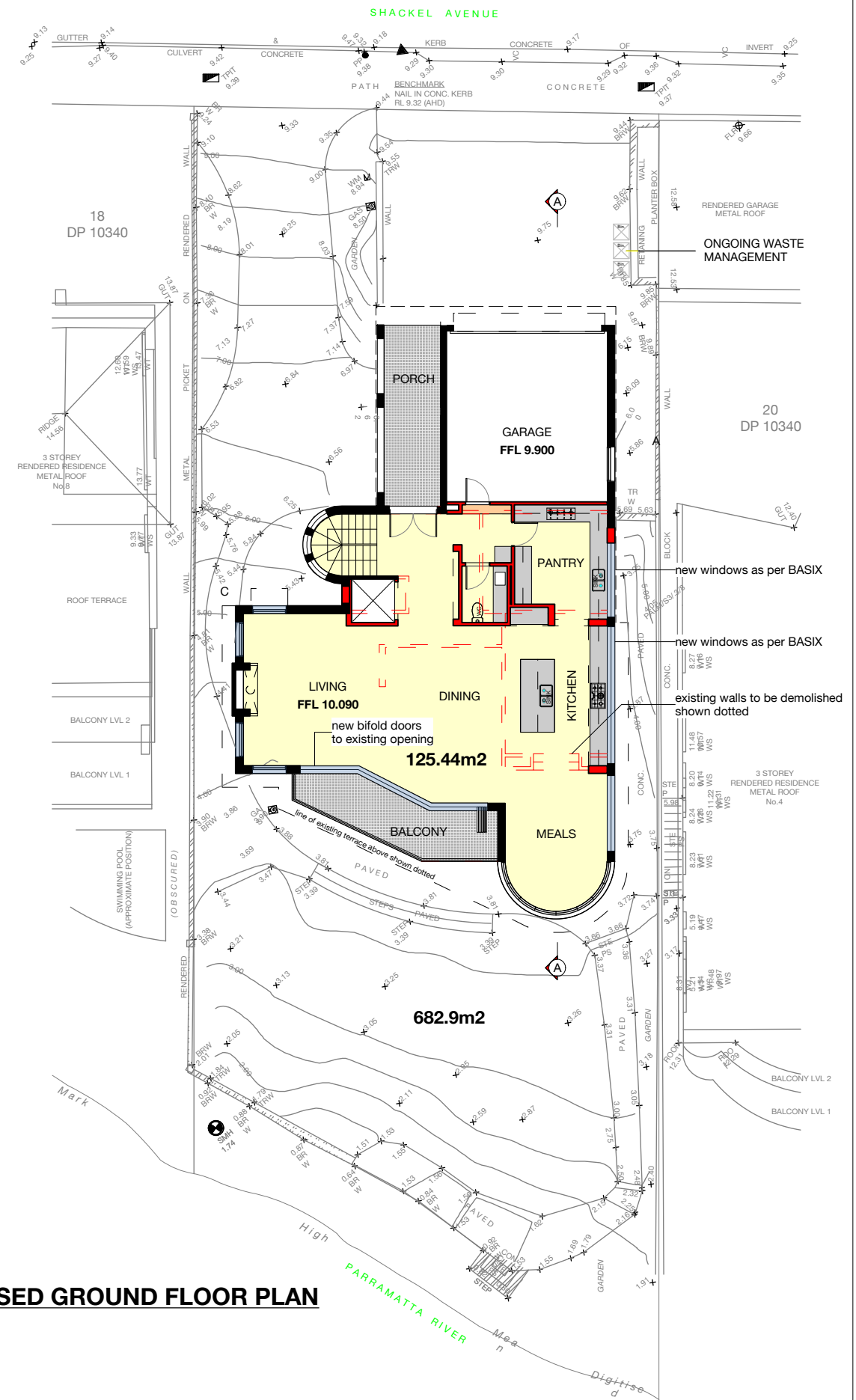
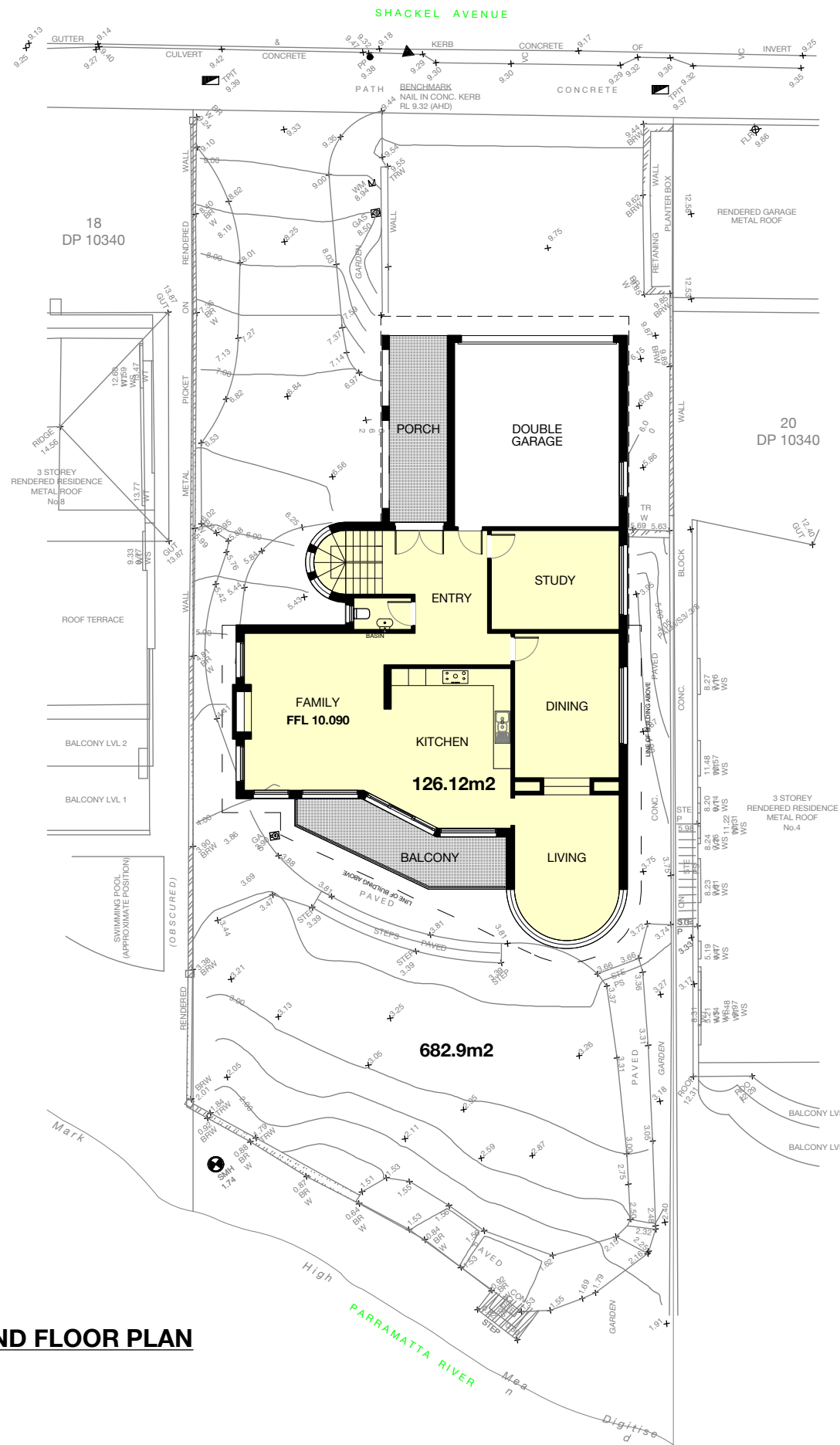


NOTES	REVISIONS
	DA SUBMISSION NOVEMBER 2023

PROJECT NAME	DRAWING TITLE
ALTERATIONS AND ADDITIONS	LOWER GROUND FLOOR PLAN
LOCATION 6 SHACKEL AVE, GLADESVILLE LOT 19 DP10340	
APPLICANT MR R GADALLA	

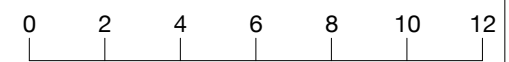
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2320	-
DRAWN GJD	CHECKED DTW
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DATE 11/11/23	





**EXISTING GROUND FLOOR PLAN**

**PROPOSED GROUND FLOOR PLAN**

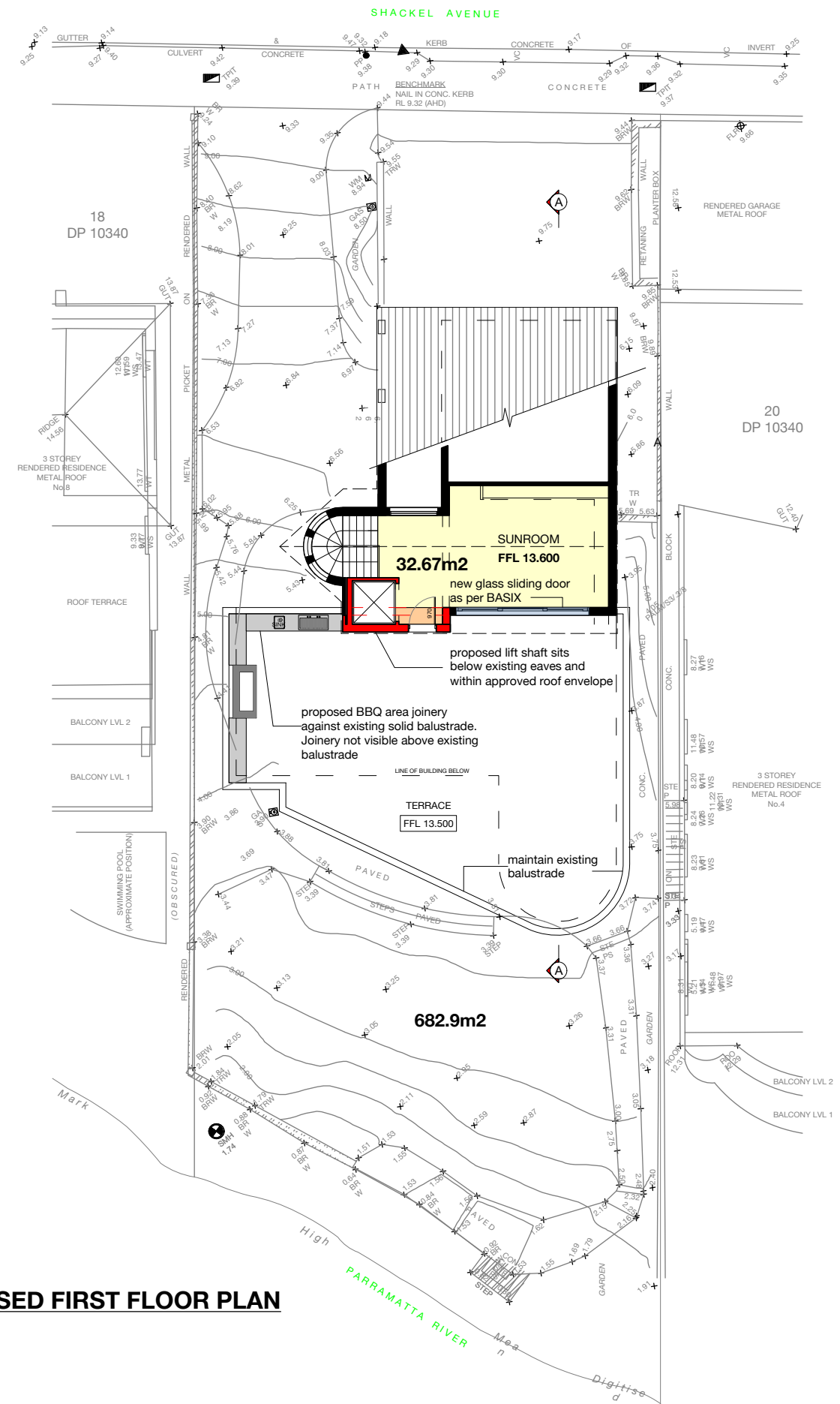
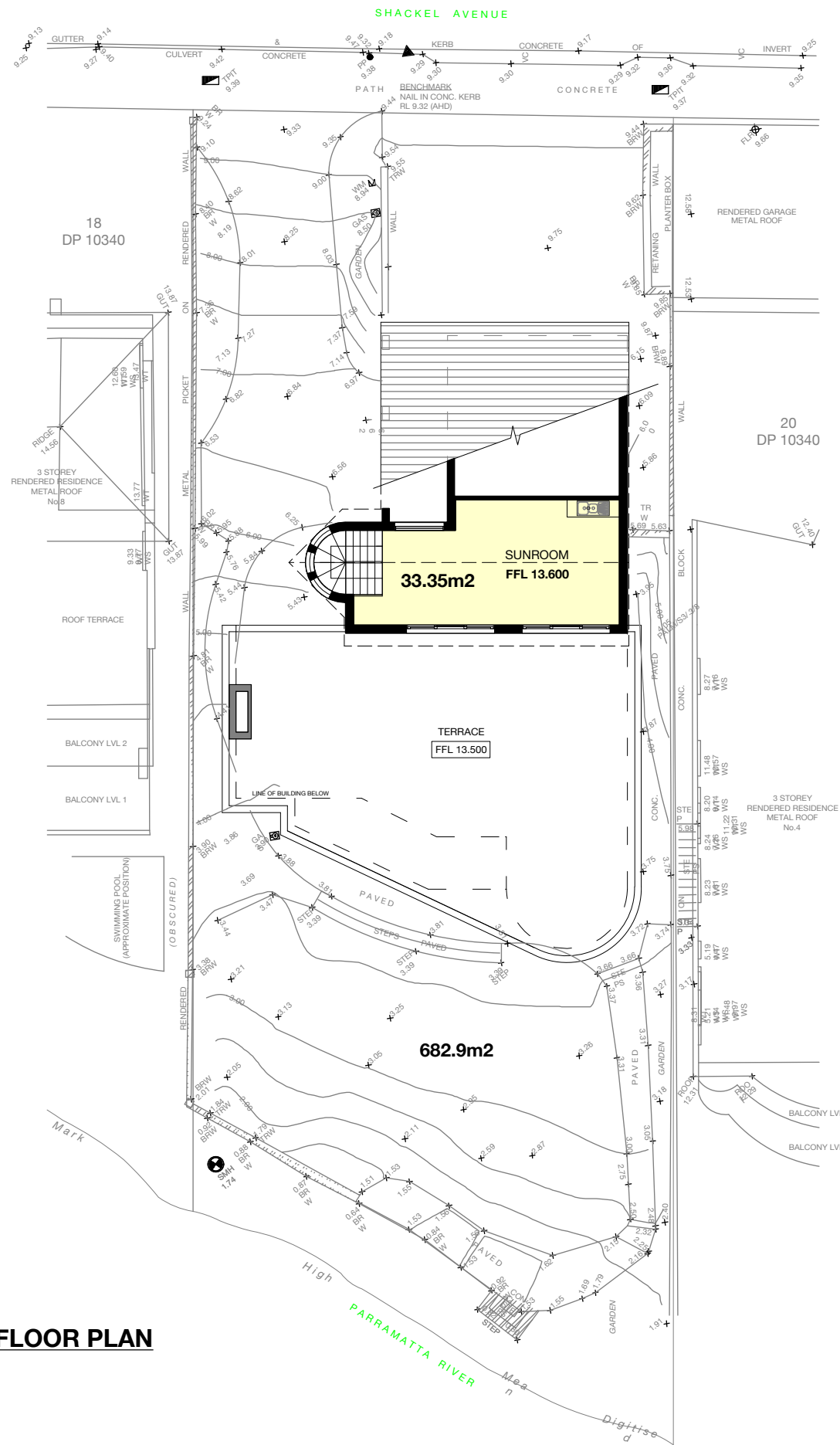


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 Nominated Architect Daniel Ward No 7672 (0416 228 374)

NOTES	REVISIONS
	DA SUBMISSION NOVEMBER 2023

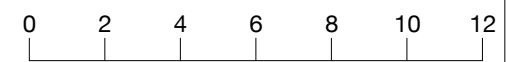
PROJECT NAME	DRAWING TITLE
ALTERATIONS AND ADDITIONS	GROUND FLOOR PLAN
LOCATION	PROJECT NO
6 SHACKEL AVE, GLADESVILLE LOT 19 DP10340	2320
APPLICANT	REVISION
MR R GADALLA	-
	CHECKED
	DTW
	DRAWING NO
	DA04
	DATE
	11/11/23

PROJECT NO	2320	REVISION	-
DRAWN	GJD	CHECKED	DTW
SCALE	1:200@A3	DRAWING NO	DA04
DATE	11/11/23		



**EXISTING FIRST FLOOR PLAN**

**PROPOSED FIRST FLOOR PLAN**



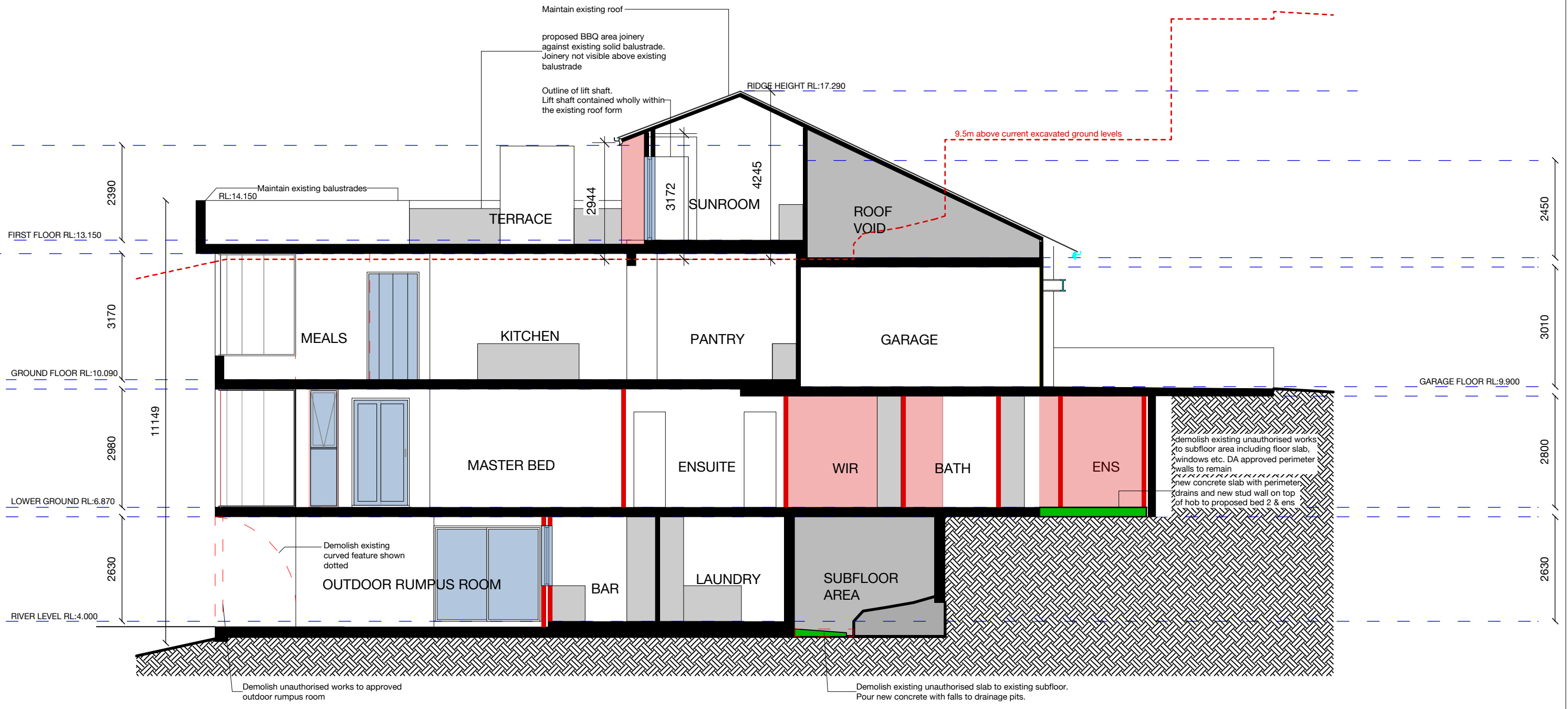
**DALGLIESH WARD ARCHITECTS**  
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NOTES	REVISIONS
	DA SUBMISSION NOVEMBER 2023

PROJECT NAME	DRAWING TITLE
ALTERATIONS AND ADDITIONS	FIRST FLOOR PLAN
LOCATION 6 SHACKEL AVE, GLADESVILLE LOT 19 DP10340	
APPLICANT MR R GADALLA	

PROJECT NO	REVISION
2320	-
DRAWN GJD	CHECKED DTW
SCALE 1:200@A3	DRAWING NO DA05
DATE 11/11/23	





PROPOSED SECTION AA



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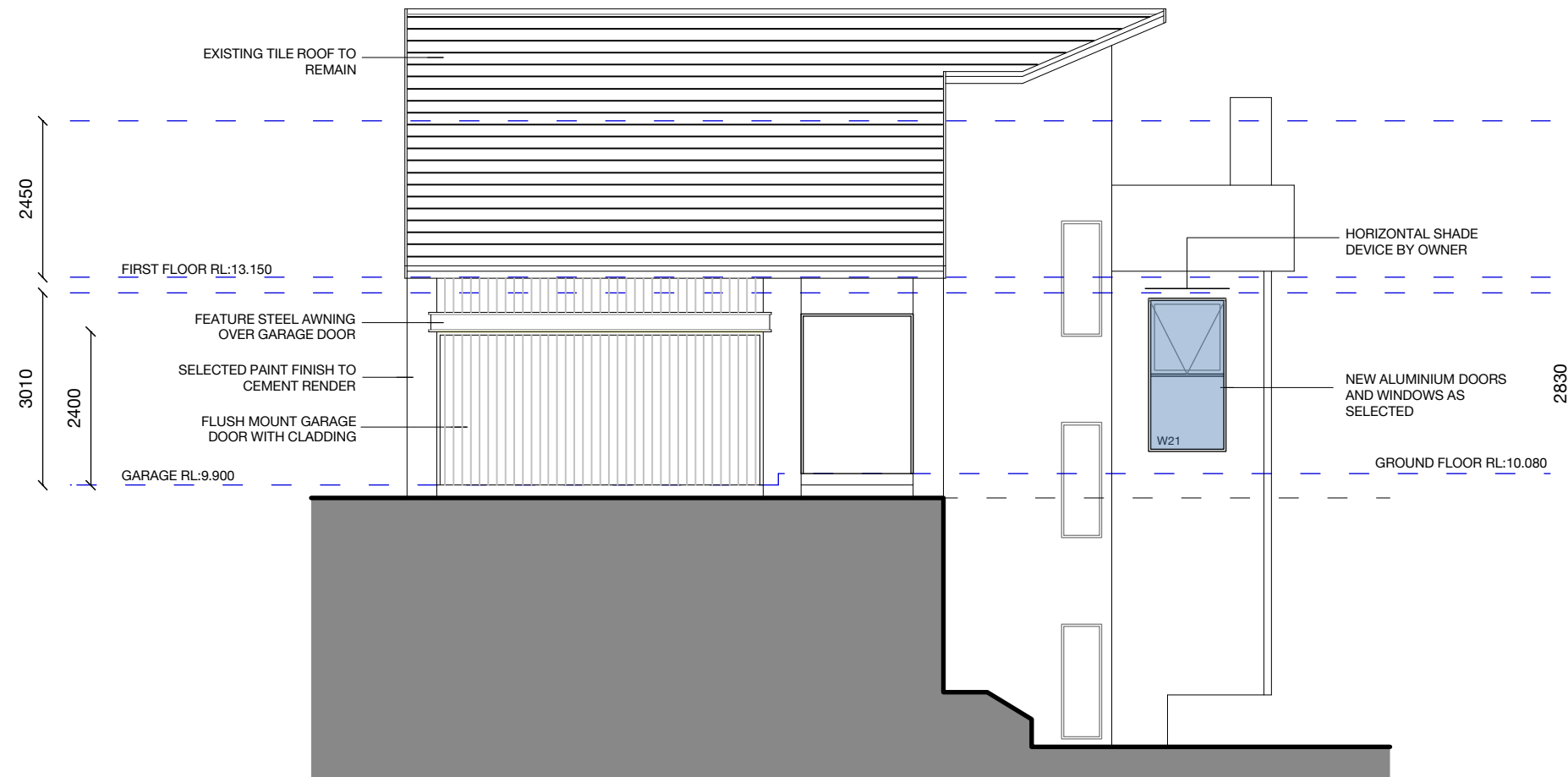
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REVISIONS
DA SUBMISSION NOVEMBER 2023

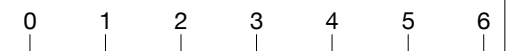
PROJECT NAME	ALTERATIONS AND ADDITIONS
LOCATION	6 SHACKEL AVE, GLADESVILLE LOT 19 DP10340
APPLICANT	MR R GADALLA

DRAWING TITLE	SECTION AA
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PROJECT NO	2320	REVISION	-
DRAWN	GJD	CHECKED	DTW
SCALE	1:100@A3	DRAWING NO	DA06
DATE	27/10/23		



**PROPOSED ELEVATION 1**  
NORTH ELEVATION





**PROPOSED ELEVATION 3**  
SOUTH ELEVATION



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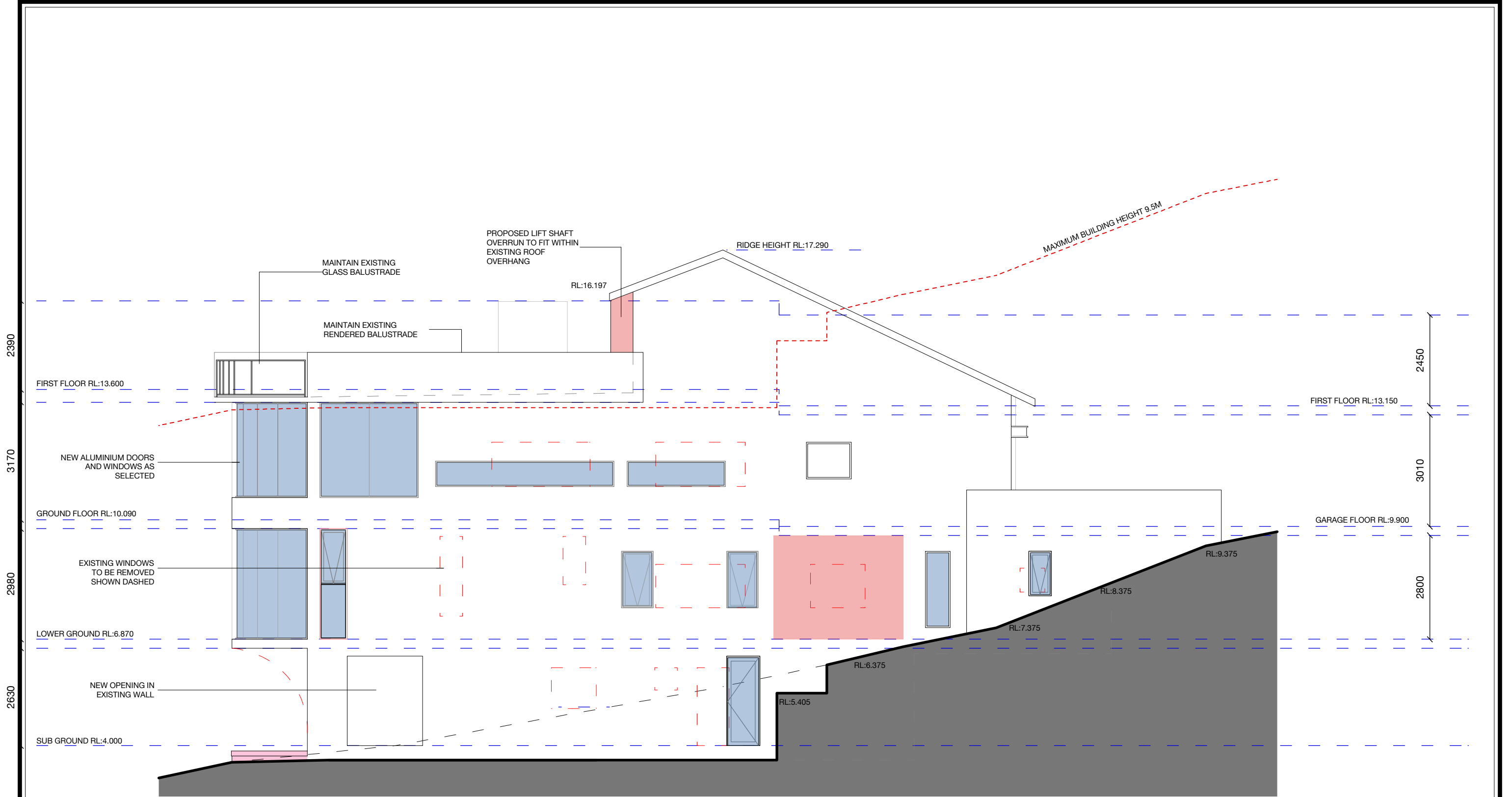
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DA SUBMISSION NOVEMBER 2023

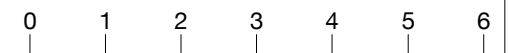
PROJECT NAME	ALTERATIONS AND ADDITIONS
LOCATION	6 SHACKEL AVE, GLADESVILLE LOT 19 DP10340
APPLICANT	MR R GADALLA

DRAWING TITLE	SOUTH (RIVER) ELEVATION
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PROJECT NO	2320	REVISION	-
DRAWN	GJD	CHECKED	DTW
SCALE	1:100@A3	DRAWING NO	DA08
DATE	27/10/23		



PROPOSED ELEVATION 4  
EAST ELEVATION



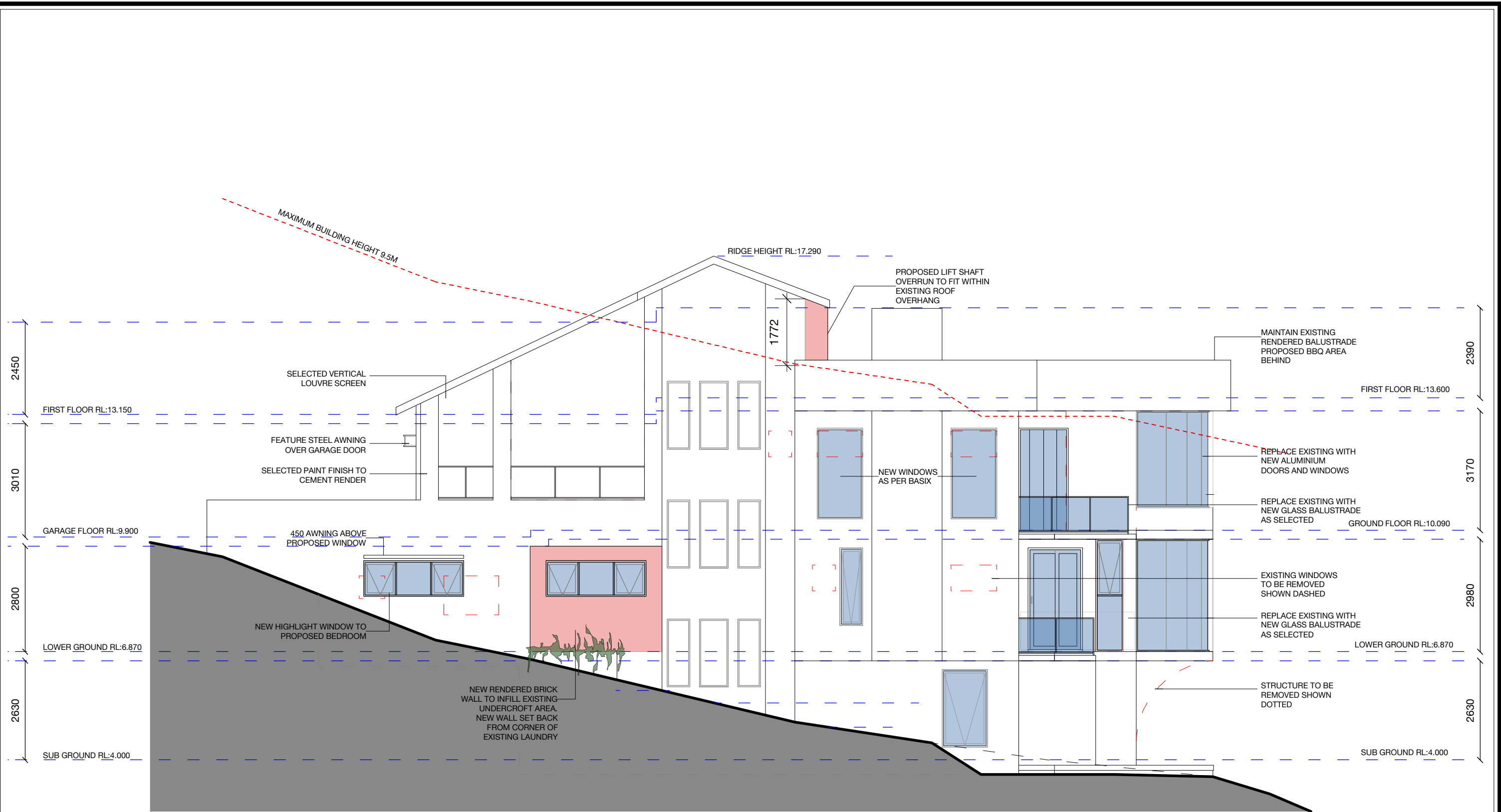
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REVISIONS
DA SUBMISSION NOVEMBER 2023

PROJECT NAME	ALTERATIONS AND ADDITIONS
LOCATION	6 SHACKEL AVE, GLADESVILLE LOT 19 DP10340
APPLICANT	MR R GADALLA

DRAWING TITLE	EAST ELEVATION
---------------	----------------

PROJECT NO	2320	REVISION	-
DRAWN	GJD	CHECKED	DTW
SCALE	1:100@A3	DRAWING NO	DA09
DATE	27/10/23		



**PROPOSED ELEVATION 2**  
WEST ELEVATION



**DALGLIESH WARD ARCHITECTS**  
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 Nominated Architect Daniel Ward No 7672 (0416 228 374)

NOTES

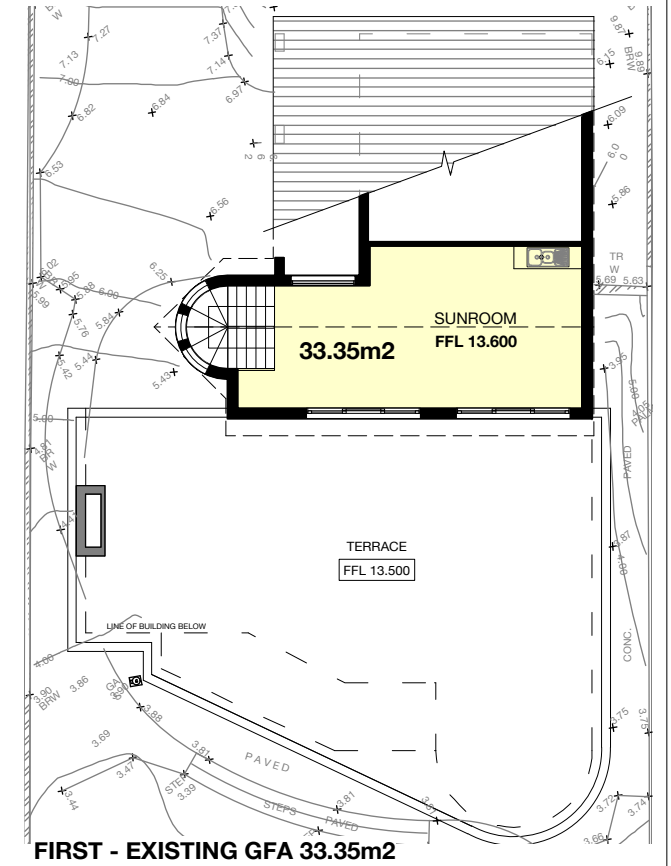
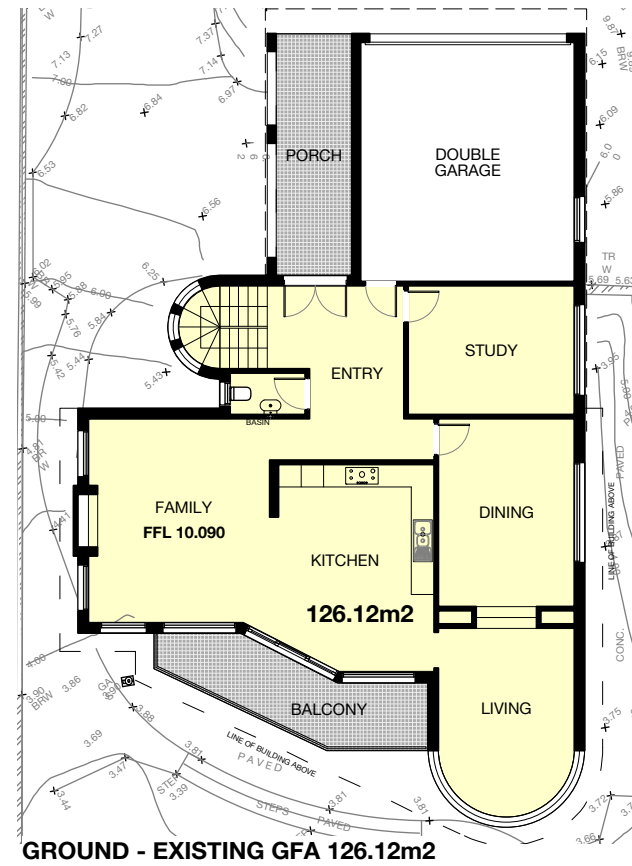
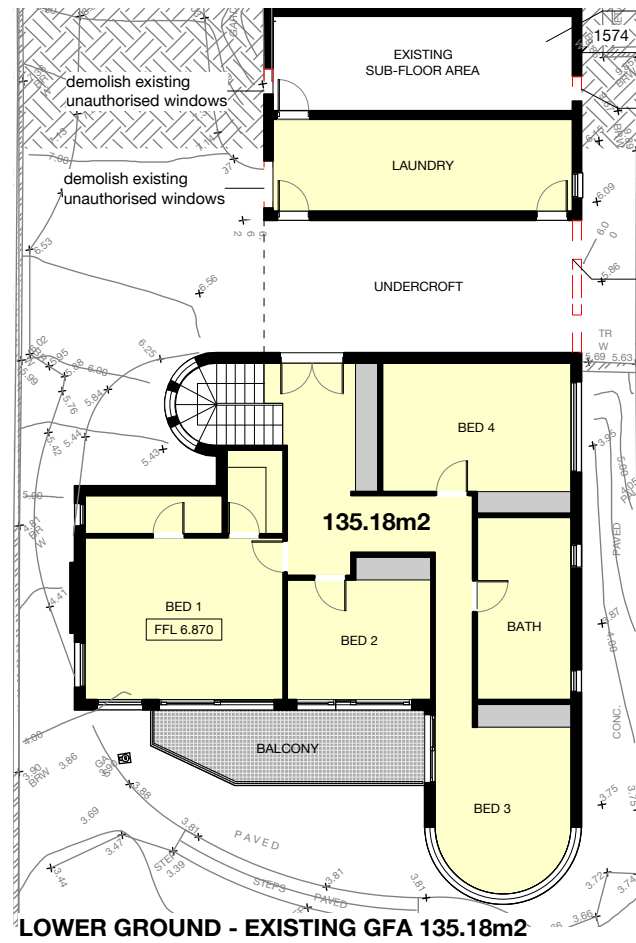
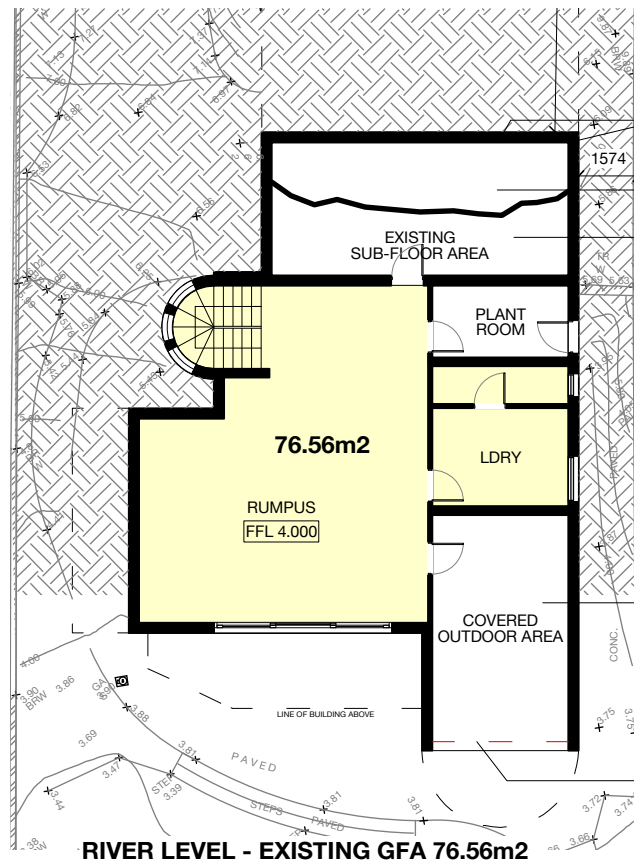
REVISIONS
DA SUBMISSION NOVEMBER 2023

PROJECT NAME	ALTERATIONS AND ADDITIONS
LOCATION	6 SHACKEL AVE, GLADESVILLE LOT 19 DP10340
APPLICANT	MR R GADALLA

DRAWING TITLE	WEST ELEVATION
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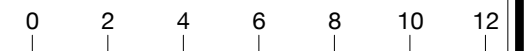
PROJECT NO	2320	REVISION	-
DRAWN	GJD	CHECKED	DTW
SCALE	1:100@A3	DRAWING NO	DA10
DATE	27/10/23		





 **EXISTING GFA**

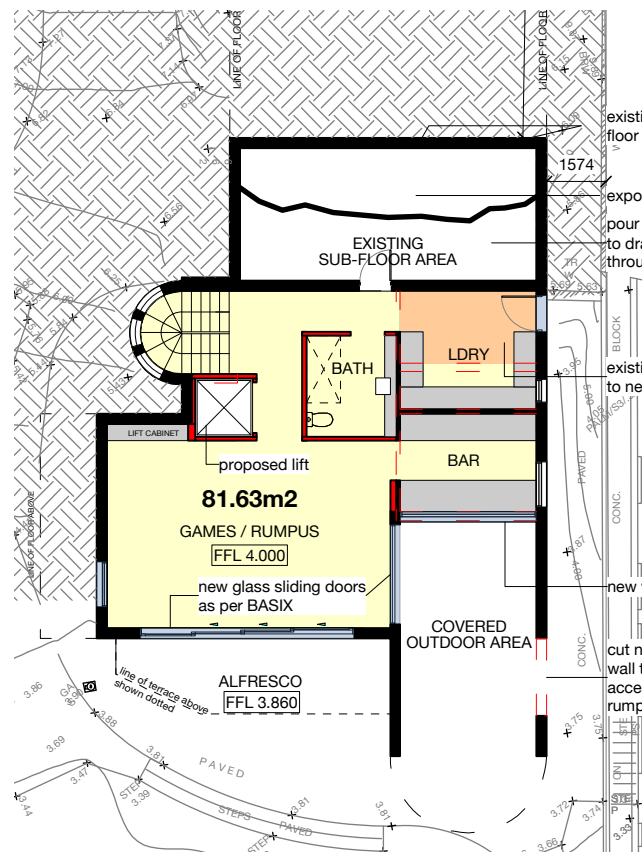
**SITE AREA = 682.9m2**  
**TOTAL EXISTING GFA = 371.21m2**  
**TOTAL EXISTING FSR = 0.54:1**



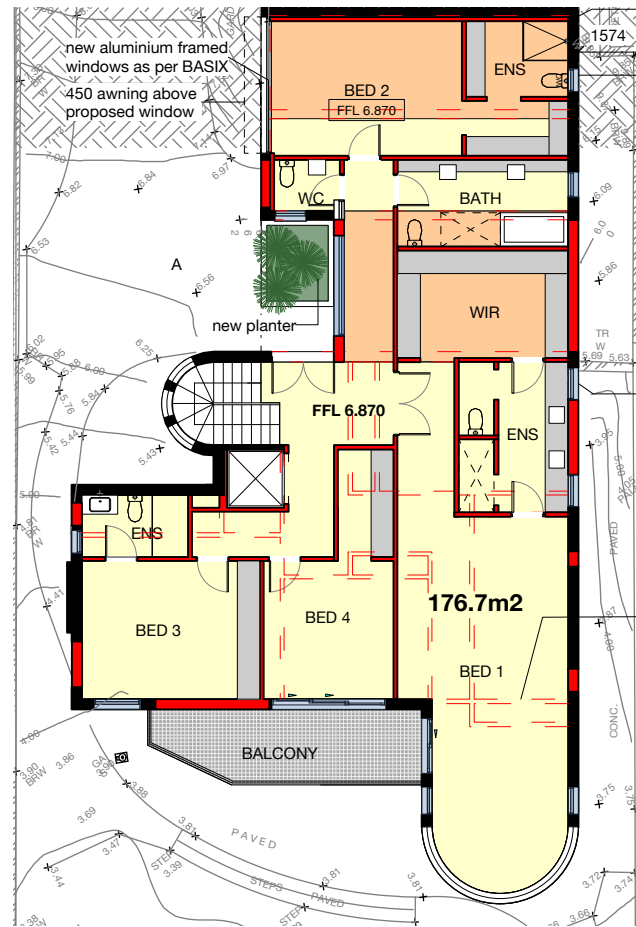
NOTES	REVISIONS
	DA SUBMISSION NOVEMBER 2023

PROJECT NAME	DRAWING TITLE
ALTERATIONS AND ADDITIONS	GROSS FLOOR AREA - EXISTING
LOCATION	6 SHACKEL AVE, GLADESVILLE LOT 19 DP10340
APPLICANT	MR R GADALLA

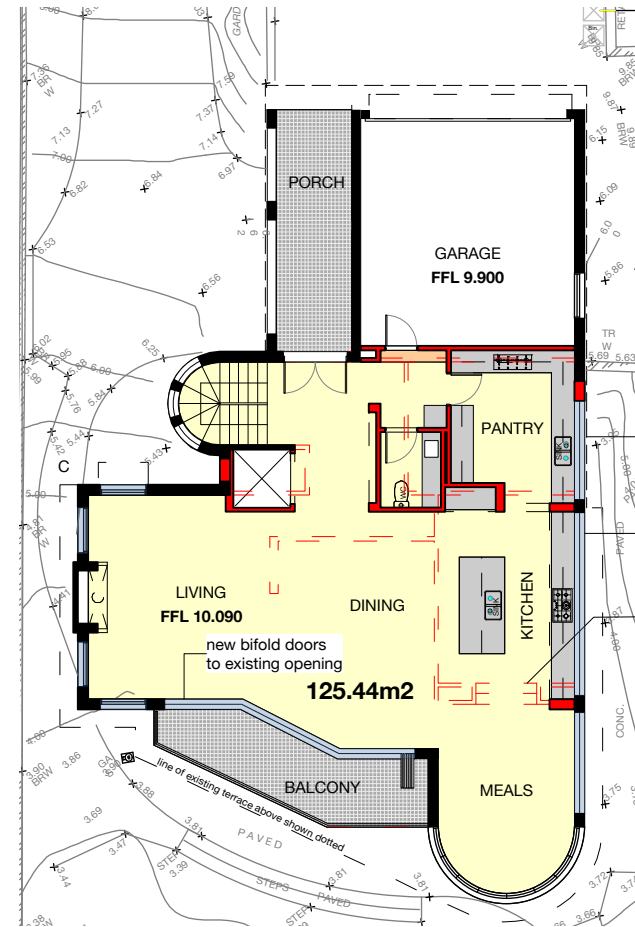
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DRAWN	GJD	CHECKED	DTW
SCALE	1:200@A3	DRAWING NO	DA11
DATE	11/11/23		



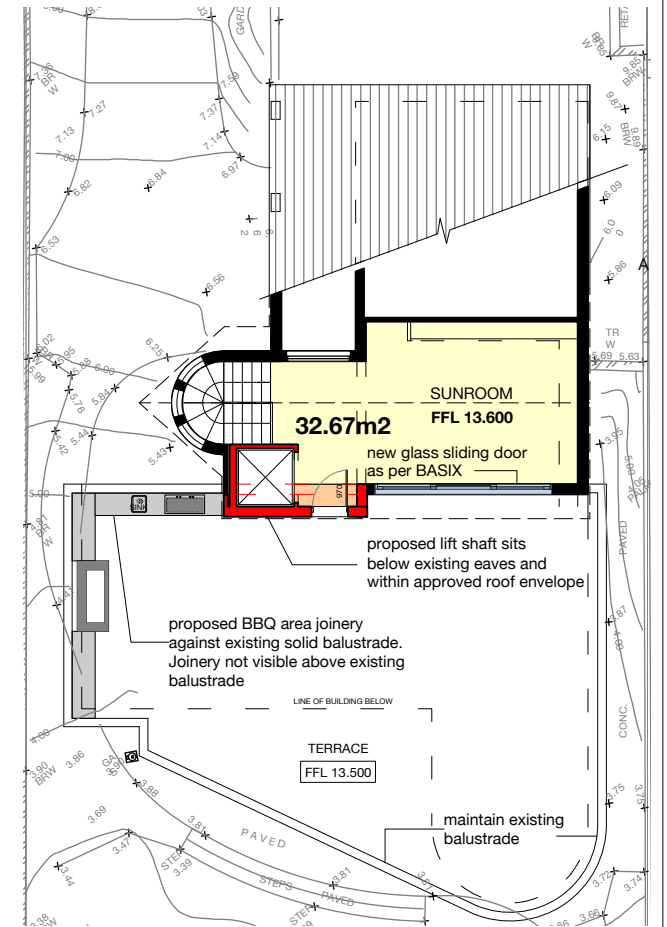
RIVER LEVEL - PROPOSED GFA 81.63m2



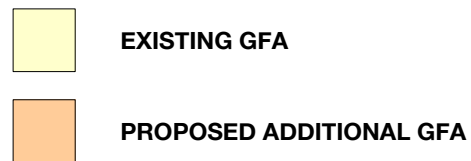
LOWER GROUND - PROPOSED GFA 176.7m2



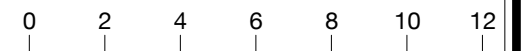
GROUND - PROPOSED GFA 125.44m2



FIRST - PROPOSED GFA 32.67m2



SITE AREA = 682.9m2  
 TOTAL PROPOSED GFA = 416.44m2  
 TOTAL PROPOSED FSR = 0.61:1



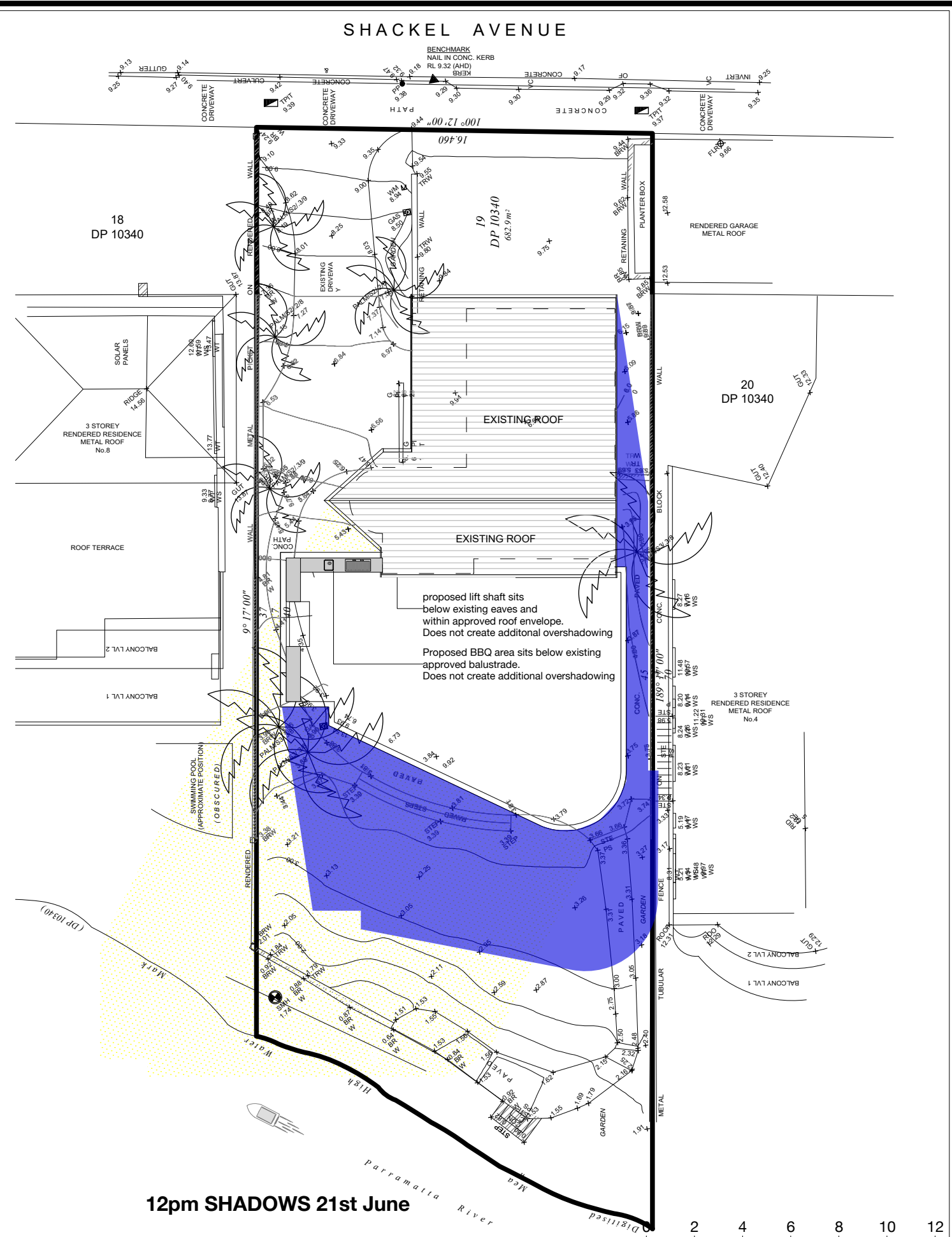
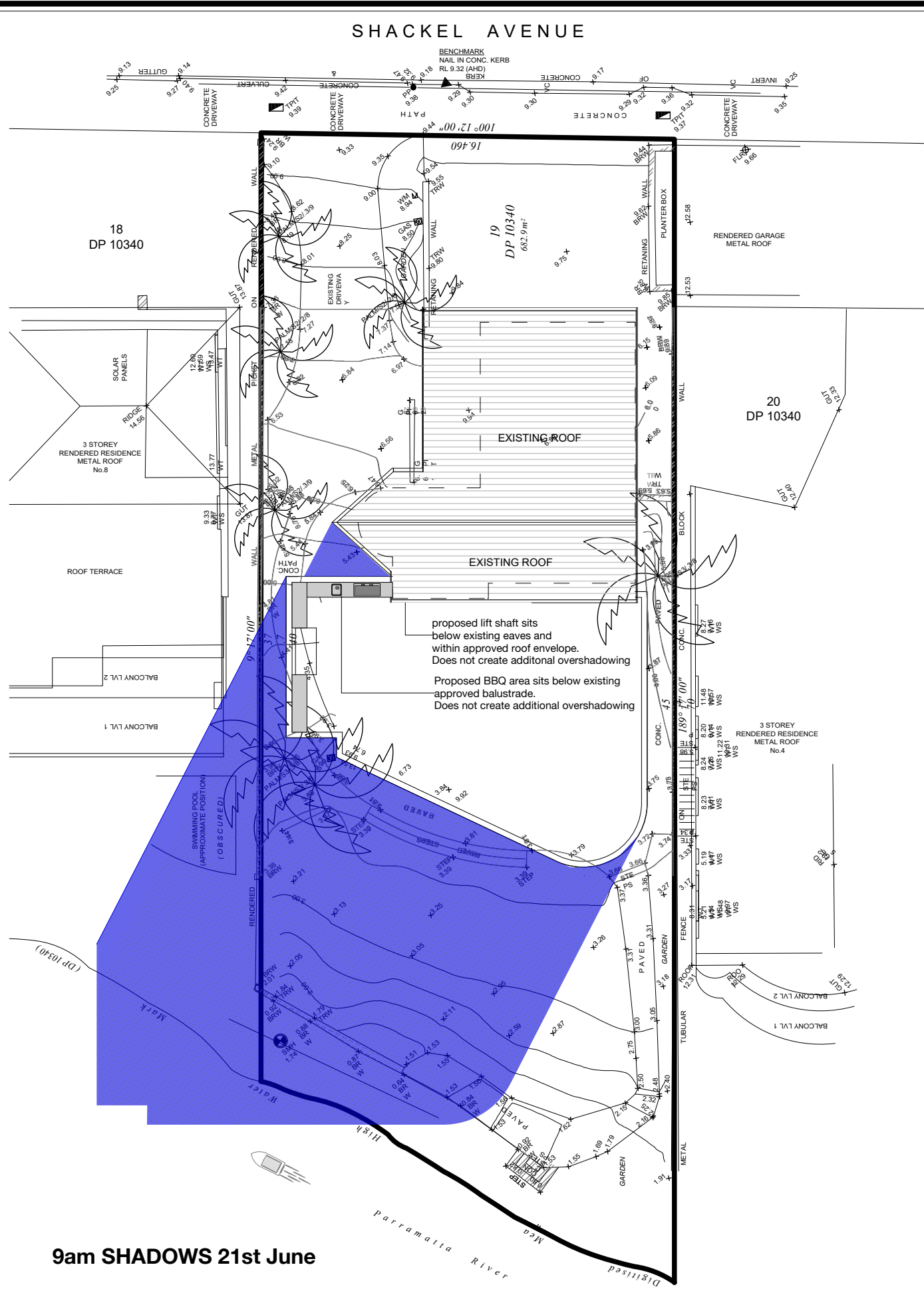
NOTES	REVISIONS
	DA SUBMISSION NOVEMBER 2023

PROJECT NAME	DRAWING TITLE
ALTERATIONS AND ADDITIONS	GROSS FLOOR AREA - PROPOSED

LOCATION	APPLICANT
6 SHACKEL AVE, GLADESVILLE LOT 19 DP10340	MR R GADALLA

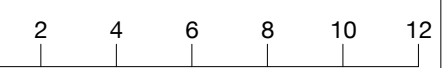
PROJECT NO	REVISION
2320	-

DRAWN	CHECKED	DRAWING NO
GJD	DTW	DA12



9am SHADOWS 21st June

12pm SHADOWS 21st June



**DALGLIESH WARD ARCHITECTS**  
 Dalgliesh Ward & Associates Pty Ltd ABN 16 122 427 212  
 PO Box 36 Gladesville NSW 1675 studio@dalglieshward.com  
 Nominated Architect Geoff Dalgliesh No 7656 (0405 168 364)  
 Nominated Architect Daniel Ward No 7672 (0416 228 374)

**NOTES**

- EXISTING SHADOW
- ADDITIONAL PROPOSED SHADOW

**REVISIONS**

DA SUBMISSION NOVEMBER 2023
-----------------------------

**PROJECT NAME**  
ALTERATIONS AND ADDITIONS

**LOCATION**  
6 SHACKEL AVE, GLADESVILLE LOT 19 DP10340

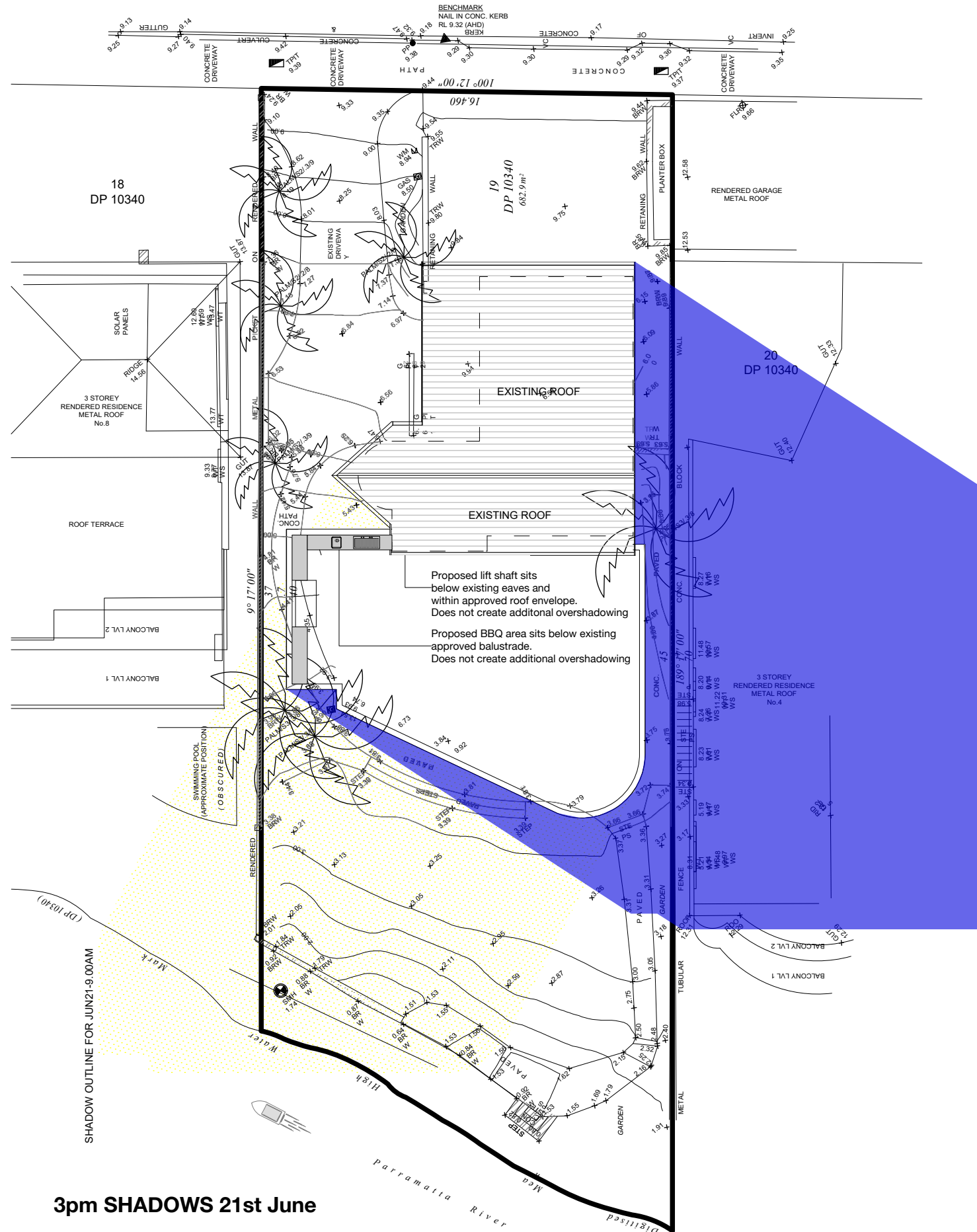
**APPLICANT**  
MR R GADALLA

**DRAWING TITLE**  
SHADOW DIAGRAMS - 9am & 12pm

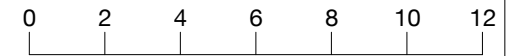
<b>PROJECT NO</b>	2320	<b>REVISION</b>	-
<b>DRAWN</b>	GJD	<b>CHECKED</b>	DTW
<b>SCALE</b>	1:200@A3	<b>DRAWING NO</b>	DA13
<b>DATE</b>	11/11/23		



SHACKEL AVENUE



3pm SHADOWS 21st June



**DALGLIESH WARD ARCHITECTS**  
 Dalgliesh Ward & Associates Pty Ltd ABN 16 122 427 212  
 PO Box 36 Gladstone NSW 1675 studio@dalglieshward.com  
 Nominated Architect Geoff Dalgliesh No 7656 (0405 168 364)  
 Nominated Architect Daniel Ward No 7672 (0416 228 374)



**NOTES**

- EXISTING SHADOW
- ADDITIONAL PROPOSED SHADOW

**REVISIONS**

DA SUBMISSION NOVEMBER 2023
-----------------------------

**PROJECT NAME**  
ALTERATIONS AND ADDITIONS

**LOCATION**  
6 SHACKEL AVE, GLADESVILLE LOT 19 DP10340

**APPLICANT**  
MR R GADALLA

**DRAWING TITLE**  
SHADOW DIAGRAMS - 3pm

<b>PROJECT NO</b>	2320	<b>REVISION</b>	-
<b>DRAWN</b>	GJD	<b>CHECKED</b>	DTW
<b>SCALE</b>	1:200@A3	<b>DRAWING NO</b>	DA14
<b>DATE</b>	11/11/23		

**PLANT & MAINTENANCE SPECIFICATIONS**

**1. PREPARE THE SITE FOR OPTIMUM PLANT GROWTH**

Ensure trees and shrubs are removed that need to be removed. Remove all building rubble from garden beds and lawn areas. Remove weeds: Spray 'Roundup' or similar product. Follow the manufacturers instructions. Ensure weeds are dead before pulling out. Ensure there is proper stormwater run-off and drainage on site. Compacted soil should be loosened and, where applicable (in clay soil) gypsum added. Fill garden beds with a minimum 300mm organic garden mix. Sprinkle granular wetting agent and water in well according to packet instructions.

**2. PLANTING THE PLANTS AND TREES**

Stand plant pots in their position according to the planting plan. Dig a hole 1.5 times the width, and the same depth as the plant pot. Carefully remove the plants from the pots so as not to disturb the roots. Plant the plant so that the top of the root ball is level with the soil. Trees are to be staked with 3x (50x50x1800)mm hardwood stakes. Tie the trees and stakes with hessian. Avoid the rootball when inserting the stake. The stakes need to stay for at least 18 months for high wind areas.

**3. LAWN**

Ensure the turf is disease and weed free. Apply 150mm layer of good quality turf underlay. Level the topsoil into a smooth surface. Ensure the turf is finished at appropriate (flush) levels with adjoining paving or edging. Apply topdressing if/where required. Water often over the first 4 weeks. Gradually cut back the water to weekly in the first summer. Check the levels 2-4 times annually to topdress any depressions due to compaction over time. Hand weeding on a regular basis is important when the lawn is establishing.

**4. IRRIGATION AND WATER**

It is advised to run irrigation tubing over the soil and under the mulch. This is connected to a tap with a manual or automatic timer to ensure plants get sufficient water during establishment period to grow healthy and pest and disease free. Water plants well 3-4 times per week in the first month and 2 times per week in the second month (depending on weather conditions). Occasional hose watering is advised to allow even distribution of water to the roots. Apply a wetting agent to help soil maintain moisture and not become hydrophobic.

**5. FOOD**

Fertilise with a general purpose slow release fertiliser such as 'Osmocote' or 'Nutricote'. Fertilize natives with 'Osmocote for Natives'. Apply as per manufacturers specifications for the plants size and type. Fertilizer needs to be reapplied regularly during the growing period, follow packet directions. Always under fertilise rather than over fertilise. Occasional dressing of organic compost is beneficial to all soils. Plants can benefit from seaweed solution during establishment stage.

**6. MULCH**

Cover the entire soil surface with a minimum of 75mm eucalyptus mulch or cypress mulch. The mulch surrounding trees needs to be less near the base of the trunk, to form a shallow watering dish. Care should be taken not to mix the mulch with the soil. Mulch suppresses weeds as well as preventing soil dehydration. Top up mulch annually or as required so that the correct thickness is maintained. Use an organic mulch such as Eucalyptus mulch, Cypress mulch/woodchip. Sugarcane or Lucern mulches are best suited for vegetable gardens.

**7. TRIMMING**

Prune hedges to desired height from a very young age by using a level string line. Tip prune all young plants to ensure compact and lush growth. Follow instructions in the above table for specific plants.



**HARDWOOD STAKING FOR TREES  
TYPICAL SECTION**



**MASS PLANTING  
TYPICAL SECTION**

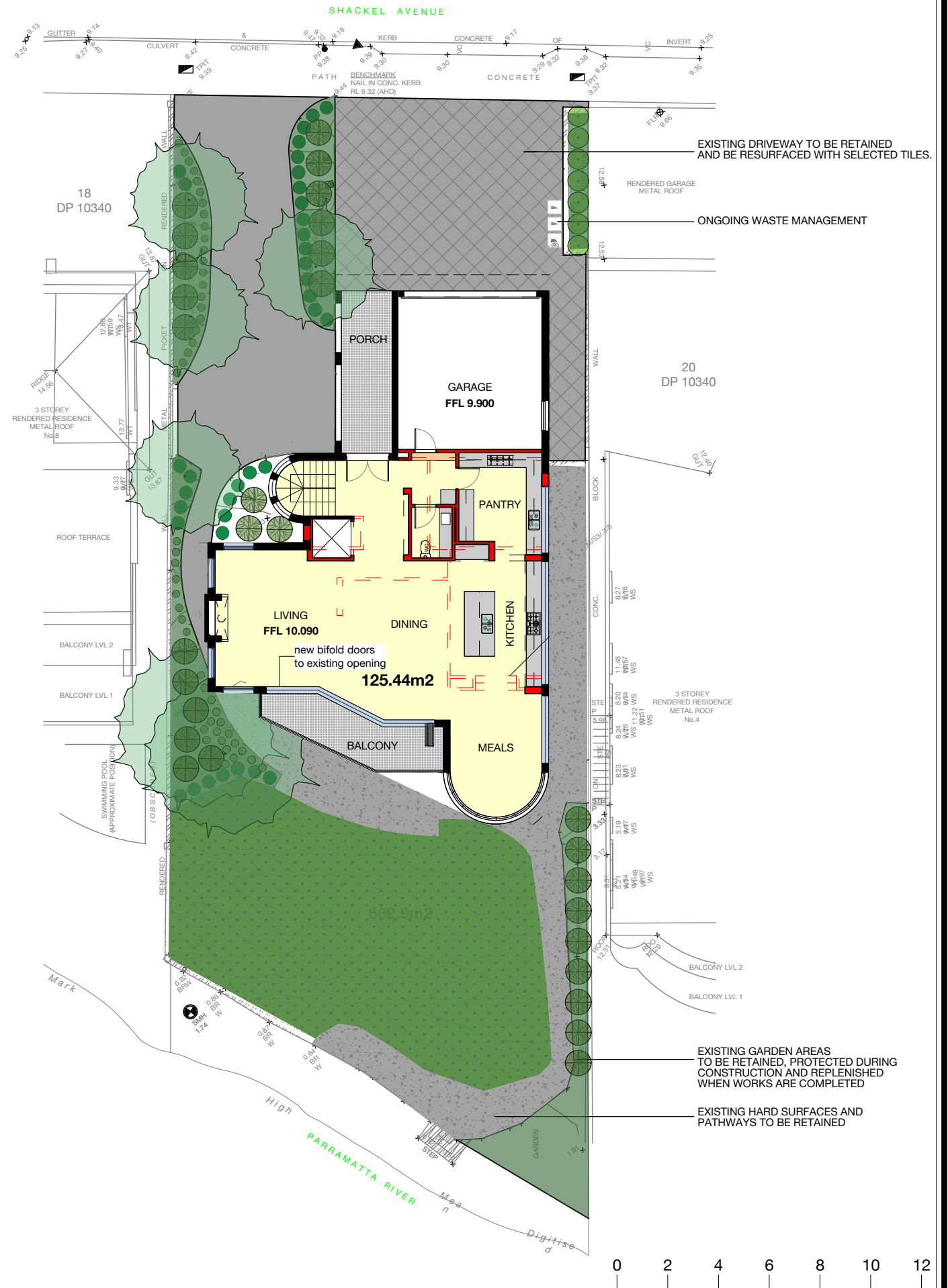


**STEPPING PAVERS - Gap filled with pebbles or plants (as per plan)  
TYPICAL SECTION**



**TIMBER or STEEL EDGING  
TYPICAL SECTION**

	RETAINING WALLS TO ENGINEERS DETAILS
	1800mm HIGH TIMBER LAPPED AND CAPPED BOUNDARY FENCE
	PAVED OUTDOOR ENTERTAINMENT AREA
	APPLIED FINISH TO CONCRETE DRIVEWAY
	GRASSED AREA
	DEEP SOIL ZONE = 197.69m2 (28.94%) EXISTING



NOTES	REVISIONS
	DA SUBMISSION NOVEMBER 2023

PROJECT NAME	DRAWING TITLE
ALTERATIONS AND ADDITIONS	LANDSCAPE PLAN
LOCATION	6 SHACKEL AVE, GLADESVILLE LOT 19 DP10340
APPLICANT	MR R GADALLA

PROJECT NO	2320	REVISION	-
DRAWN	GJD	CHECKED	DTW
SCALE	1:200@A3	DRAWING NO	DA15
DATE	11/11/23		

PROJECT NO	2320	REVISION	-
DRAWN	GJD	CHECKED	DTW
SCALE	1:200@A3	DRAWING NO	DA15
DATE	11/11/23		

PROJECT NO	2320	REVISION	-
DRAWN	GJD	CHECKED	DTW
SCALE	1:200@A3	DRAWING NO	DA15
DATE	11/11/23		



**Alterations and Additions**

Certificate number: A1729494

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Definitions" dated 10/09/2020 published by the Department. This document is available at www.basix.nsw.gov.au

Secretary  
Date of issue: Friday, 08 December 2023  
To be valid, this certificate must be lodged within 3 months of the date of issue.



Project address	
Project name	Alterations and Additions
Street address	6 SHACKEL AVENUE GLADESVILLE 2111
Local Government Area	Ryde City Council
Plan type and number	Deposited Plan DP10340
Lot number	19
Section number	-
Project type	
Dwelling type	Separate dwelling house
Type of alteration and addition	My renovation work is valued at \$50,000 or more, and does not include a pool (and/or spa).
N/A	N/A
Certificate Prepared by (please complete before submitting to Council or PCA)	
Name / Company Name	Dalgliesh Ward Architects
ABN (if applicable)	

Fixtures and systems			
Hot water			
The applicant must install the following hot water system in the development: gas instantaneous.			
✓	✓	✓	✓
Lighting			
The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting diode (LED) lamps.			
✓	✓	✓	✓
Fixtures			
The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating.			
✓	✓	✓	✓
The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating.			
✓	✓	✓	✓
The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.			
✓	✓	✓	✓

Construction			
Insulation requirements			
The applicant must construct the new or altered construction (floors, walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that additional insulation is not required where the area of new construction is less than 2m <sup>2</sup> . If insulation specified is not required for parts of altered construction where insulation already exists.			
✓	✓	✓	✓
Construction			
Construction	Additional insulation required (R-value)	Other specifications	
concrete slab on ground floor.	nil	NA	
external wall: cavity brick	nil		
internal wall shared with garage: single skin masonry (R0.18)	nil		

Glazing requirements			
Windows and glazed doors			
The applicant must install the windows, glazed doors and shading devices, in accordance with the specifications listed in the table below. Relevant overshadowing specifications must be satisfied for each window and glazed door.			
The following requirements must also be satisfied in relation to each window and glazed door:			
✓	✓	✓	✓
Each window or glazed door with standard aluminium or timber frames and single clear or tinted glass may either match the description, or have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions.			
✓	✓	✓	✓
Each window or glazed door with improved frames, or pyrolytic low-e glass, or clear/low-e glass, or translucent/glycerol/glassing must have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions. The description is provided for information only. Alternative systems with complying U-value and SHGC may be substituted.			
✓	✓	✓	✓
For projections described in millimetres, the leading edge of each eave, pergola, verandah, balcony or awning must be no more than 500 mm above the head of the window or glazed door and no more than 2400 mm above the sill.			
✓	✓	✓	✓
Pergolas with polycarbonate roof or similar translucent material must have a shading coefficient of less than 0.35.			
✓	✓	✓	✓
Pergolas with fixed battens must have battens parallel to the window or glazed door above which they are situated, unless the pergola also shades a perpendicular window. The spacing between battens must not be more than 50 mm.			
✓	✓	✓	✓
Overshadowing buildings or vegetation must be of the height and distance from the centre and the base of the window and glazed door, as specified in the 'overshadowing' column in the table below.			
✓	✓	✓	✓

Glazing requirements							
Windows and glazed doors glazing requirements							
Window/door number	Orientation	Area of glass including frame (m <sup>2</sup> )	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type	
F01	S	9.1	0	0	eave/verandah/pergola/balcony >=600 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
F02	S	1.9	0	0	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
G01	S	16	0	0	eave/verandah/pergola/balcony >=600 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
G02	S	18	0	0	eave/verandah/pergola/balcony >=600 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
G03	S	2.3	0	0	eave/verandah/pergola/balcony >=600 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	

Glazing requirements							
Window/door number	Orientation	Area of glass including frame (m <sup>2</sup> )	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type	
G04	W	2.4	3	2.8	eave/verandah/pergola/balcony >=600 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
G05	W	2.6	3	2.8	none	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)	
G06	N	2.6	0	0	eave/verandah/pergola/balcony >=600 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
G07	E	1.8	2.3	2.4	none	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)	
G08	E	3.3	2.3	2.4	none	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)	

Glazing requirements							
Windows and glazed doors glazing requirements							
Window/door number	Orientation	Area of glass including frame (m <sup>2</sup> )	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type	
G09	E	6.8	2.3	2.4	none	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)	
G01	S	19.2	0	0	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
G02	W	1.9	6	2.8	eave/verandah/pergola/balcony >=600 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
G03	W	3.6	6	2.8	eave/verandah/pergola/balcony >=600 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
G04	S	7.7	0	0	eave/verandah/pergola/balcony >=600 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	

Glazing requirements							
Window/door number	Orientation	Area of glass including frame (m <sup>2</sup> )	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type	
L005	S	2.6	0	0	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
L006	W	1.2	6	2.8	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
L007	W	2.5	0	0	eave/verandah/pergola/balcony >=600 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
L008	S	1.28	0	0	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
L009	W	2.5	7	7.3	eave/verandah/pergola/balcony >=600 mm	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)	

Glazing requirements							
Windows and glazed doors glazing requirements							
Window/door number	Orientation	Area of glass including frame (m <sup>2</sup> )	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type	
L010	E	0.6	5.5	2.4	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
L011	E	1.37	5.5	2.4	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
L012	E	1.3	5.5	2.4	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
L013	E	1.3	5.5	2.4	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
L014	E	1.9	5.5	2.4	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	

Glazing requirements							
Window/door number	Orientation	Area of glass including frame (m <sup>2</sup> )	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type	
R01	S	3.5	0	0	eave/verandah/pergola/balcony >=600 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
R02	E	6.4	8.3	2.4	eave/verandah/pergola/balcony >=600 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
R03	S	13.7	0	0	eave/verandah/pergola/balcony >=600 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)	
R04	W	2.2	6	2.8	none	standard aluminium, single tinted, (or U-value: 7.57, SHGC: 0.57)	
R05	E	1.9	8.3	2.4	none	standard aluminium, single tinted, (or U-value: 7.57, SHGC: 0.57)	

Legend	
In these commitments, "applicant" means the person carrying out the development.	
Commitments identified with a ✓ in the "Show on DA Plans" column must be shown on the plans accompanying the development application for the proposed development (if a development application is to be lodged for the proposed development).	
Commitments identified with a ✓ in the "Show on CC/DC Plans & specs" column must be shown in the plans and specifications accompanying the application for a construction certificate / complying development certificate for the proposed development.	
Commitments identified with a ✓ in the "Certifier check" column must be certified by a certifying authority as having been fulfilled, before a final occupation certificate for the development may be issued.	

## ATTACHMENT 3 – RYDE DCP 2014 – COMPLIANCE TABLE

DCP 2014	Proposed	Compliance
<b>Part 3.3 - Dwelling Houses and Dual Occupancy (attached)</b>		
<b>Section 1.0 Introduction</b>		
<b>Part 1.6 Site Analysis</b>		
Site analysis to be submitted.	Drawing prepared by Dalgleish Ward and dated 11/11/2023	Yes
<b>Section 2.0 General Controls</b>		
<b>2.1 Desired Future Character</b>		
Development is to be consistent with the desired future character of the low density residential areas.	The development is considered to be consistent with the desired future character given that the proposed works will occur largely within the existing building envelope.	Yes
<b>2.2 Dwelling Houses</b>		
(a) Landscape setting which includes significant deep soil areas at the front and rear	The dwelling is located in an existing landscape setting to the rear, however the front setback comprises largely hardstand which is an existing situation.	No, existing situation
(b) Maximum two storeys high	The building is four storeys in height to the centre of the footprint.	No, existing situation
(c) Dwellings address the street	The dwelling addresses the street.	Yes
(d) Boundary between public and private space is clearly articulated	The boundary between public and private is clearly delineated.	Yes
(e) Garages and carports are not to be visually prominent features	The garage is a prominent element but is an existing feature.	No, existing situation
(f) Dwellings are to respond appropriately to the site analysis	The dwelling responds to the site analysis.	Yes
<b>2.5 Public Domain Amenity</b>		
<b>2.5.1 Streetscape</b>		
(a) Site design, building setbacks and level changes respect the existing topography	The design, setbacks and level changes are as per the existing.	Yes
(b) Dwelling design is to enhance the safety and amenity of the streetscape	The design has a neutral impact on the streetscape.	Yes
(c) Carports and garages visible from the public street are to: (i) Be compatible with the building design (ii) Be setback behind the dwelling's front elevation	The garage is compatible with the building design but is not set back behind the front elevation.	No, existing situation.
(d) Driveways and hard stand areas are to be minimised	The driveways and hardstand are consistent with the existing.	Yes

DCP 2014	Proposed	Compliance
(e) Dwellings, garages and carports are to be orientated to match the prevailing orientation of such buildings in the streetscape	The dwelling and garage match the orientation of such buildings in the streetscape.	Yes
(f) Facades from the public domain are to be well designed.	The façade is consistent with what currently exists on site.	Yes
<b>2.5.2 Public Views and Vistas</b>		
(a) A view corridor is to be provided along at least one side allotment boundary where there is an existing or potential view to the water from the street. Landscaping is not to restrict views. Fence 70% open where height is >900mm.	There is a partial view corridor along the western side of the site.	Yes
(b) Garages/carports and outbuildings are not to be located within view corridor if they obstruct view.	There are no proposed structures in the existing view corridor.	Yes
<b>2.5.2 Pedestrian &amp; Vehicle Safety</b>		
(a) Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard.	Car parking accommodates sight lines to the footpath and road.	Yes
(b) Fencing that blocks sight lines is to be splayed.	There is no fencing existing or proposed which blocks sightlines.	Yes
(c) Refer to relevant AS when designed driveways	Complies with AS.	Yes
<b>2.6 Site Configuration</b>		
<b>2.6.1 Deep Soil Areas</b>		
(a) 35% of site area min.	28.94% existing and no changes proposed.	No, existing situation
(b) Deep soil area must include: (i) Min 8x8m deep soil area in backyard. (ii) Front garden area to be completely permeable (exception driveway, pedestrian path and garden walls).	There is an 8m x 8m area existing to the rear of the dwelling.	Yes
(c) Deep soil areas to have soft landscaping	The deep soil areas comprise soft landscaping.	Yes
(d) Deep soil areas to be 100% permeable. Not covered by structures, paving or the like, or have below surface structures	Deep soil areas are 100% permeable.	Yes

DCP 2014	Proposed	Compliance
such as stormwater detention elements.		
<b>2.6.2 Topography &amp; Excavation</b>		
(a) Building form and siting relates to the original topography of the land and of the streetscape.	The proposal does not alter the existing building form and siting.	Yes
(b) The area under the building footprint may be excavated or filled so long as:		
(i) the topography of the site requires cut and/or fill in order to reasonably accommodate a dwelling	There is no additional cut or fill within the building footprint.	Yes
(ii) the depth of excavation is limited to 1.2m maximum	Max cut: No additional proposed	Yes
(iii) the maximum height of fill is 900mm	Max fill: No additional proposed	Yes
(c) Areas outside the dwelling footprint may be excavation and/or filled so long as:		
(i) the maximum height of retaining walls is not >900mm	Retaining wall height = There are no new retaining walls proposed	Yes
(ii) the depth of excavation is not >900mm	Max cut: There is no cut proposed outside the footprint	Yes
(iii) the height of fill is not >500mm	Max fill: There is no fill proposed outside the footprint	Yes
(iv) the excavation and filled areas do not have an adverse impact on the privacy of neighbours		Yes
(v) the filled areas do not have an adverse impact on the privacy of neighbours		Yes
(vi) the area between the adjacent side wall of the house and the side boundary is not filled		Yes
(vii) the filled areas are not adjacent to side or rear boundaries		Yes
(d) Fill is not allowed in areas of overland flow. Refer to Part 8.2 stormwater management		N/A

DCP 2014	Proposed	Compliance
(e) Generally the existing topography is to be retained.		Yes
<b>2.7 Floor Space Ratio (FSR)</b>		
(a) FSR is 0.5:1 in accordance Clause 4.4	River level: 81.63m <sup>2</sup> Lower ground: 176.7m <sup>2</sup> Ground level: 125.44m <sup>2</sup> First floor: 32.67m <sup>2</sup> Total GFA: 416.44m <sup>2</sup> Proposed FSR: 0.61:1 Existing FSR: 0.54:1	No, a Clause 4.6 request has been submitted. See report for discussion.
(b) A floor area of 36m <sup>2</sup> may be excluded when this area accommodates 2 car space. An area of 18m <sup>2</sup> may be excluded when the area accommodates 1 parking space.	The garage floorspace is 34m <sup>2</sup> and has been excluded from the GFA.	Yes
<b>2.8 Height</b>		
<b>2.8.1 Building height</b>		
(a) Building heights are to be as follows: - Maximum height of 9.5 metres for dwellings and dual occupancy. - Outbuildings including garages and carports maximum height 4.5 metres.	The proposal does not seek to alter the maximum height of the building, but it does propose a lift shaft overrun within the existing roof line and this element exceeds the height control.  The maximum height of the lift overrun is 12.44m or a variation of 30%.	No, a Clause 4.6 request has been submitted. See report for discussion.
<u>Maximum wall plate</u> - 7.5m max above FGL or - 8m max to top of parapet <i>NB:</i> <i>TOW = Top of Wall</i> <i>EGL = Existing Ground Level</i> - FGL = Finished Ground Level	There are no changes proposed to the existing wall plate heights. The lift overrun occurs away from the wall plate.	Yes
<u>Maximum number of storeys:</u> - 2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL).	The dwelling is four storeys in height towards the centre of the footprint, however, this is an existing situation which is not exacerbated by the proposal.	Yes
- 1 storey maximum above attached garage incl semi-basement or at-grade garages	There is a roof void above the garage.	Yes
<b>2.8.2 Ceiling Height</b>		



DCP 2014	Proposed	Compliance
(a) Habitable rooms to have 2.4m floor to ceiling height (min).	2.63m minimum room height.	Yes
<b>2.9 Setbacks</b>		
<b>2.9.1 Front setbacks</b>		
(a) Dwellings are generally to be set back 6m from street front boundary	The existing built form is set back 4.96m from the street.	No, existing situation
(b) On corner sites, the setback secondary frontage minimum 2m	N/A	N/A
(c) Garages and carports, including semi-basement garages and attached garages, set back min 1m from façade	The garage is not set back from the façade. However, this is an existing situation.	Yes
(d) The front setback free of structures. The exception is car parking structures which comply with 2.11.	The front setback is devoid of structures, with the exception of driveways.	Yes
(e) Attached garages, including semi-basement garages on secondary frontages not to protrude forward of the façade. The exception is garages located on battle axe allotments. These garages do not need to be setback.	N/A	N/A
(f) The outside face of wall built above a garage aligns with the outside face of the garage wall below.	There are no wall elements above the garage.	N/A
<b>2.9.2 Side Setbacks</b>		
(a) One storey dwellings setback 900mm	N/A	N/A
(b) Two storey dwellings setback 1.5m	Both sides of the dwelling have a 1.5m side setback.	Yes
(c) The second storey addition to a single storey dwelling are to be set back 1.5m	N/A	N/A
(d) Allotments wider than they are long, one side setback a min of 20% of the width of the lot or 8m, whichever is greater.	N/A	N/A
<b>2.9.3 Rear Setbacks</b>		
(a) The rear setback min 25% of the site length or 8m, whichever is greater.	A rear setback of 9.435m is 25% of site length.	Yes
(b) Allotments wider than they are long, min setback of 4m	Proposed rear setback is 11.5m N/A	Yes
<b>2.11 Car Parking and Access</b>		

DCP 2014	Proposed	Compliance
<b>2.11.1 Car Parking</b>		
(a) Dwellings 2 spaces. Dual occ 1 space/dwg	The dwelling contains an existing double garage.	Yes
(b) Spaces can be enclosed or roofed.	Two spaces enclosed in the garage.	Yes
(c) Garages setback 1m behind front elevation.	Garage is not setback behind the elevation, but this is an existing situation.	No, existing situation
(d) Garages doors solid. No expanded mesh doors.	The garage door is solid.	Yes
(e) Preference located off laneways, secondary street frontages.	N/A	N/A
(f) Driveway widths minimised. Driveways single car width except where needed to be widened to double garage access.	The driveway is existing and is not proposed to be altered.	Yes
(g) Driveways not roofed.	Not roofed	Yes
(h) Min width 6m or 50% of the frontage whichever is less	Driveways account for over 50% of the frontage width but they are existing and are not altered by the proposal.	No, existing situation
(i) Total width garage doors not to be >5.7m	5.3m wide garage door	Yes
(j) Driveways for battle axe enable vehicles to enter and leave in forward direction	N/A	N/A
(k) Garage doors not to be recessed more than 300mm	Not recessed.	Yes
(l) Garage windows >900mm from boundaries	Garage window is 1.5m from side boundary.	Yes
(m) Free standing garages max GFA 36m <sup>2</sup>	Not freestanding	Yes
(n) Design and materials to complement dwelling	Complements dwelling	Yes
(o) Setback at least 1m from façade	Not set back but this is an existing situation.	Yes
(p) Carports not enclosed.	No carport proposed	Yes
<b>2.13 Landscaping</b>		
(a) Major trees to be retained where practical	No impact on trees from proposal	Yes
(b) Lots adjoining bushland, protect and retain indigenous native vegetation and use native indigenous plant spaces for a distance of 10m	Does not adjoin bushland	N/A
(c) Provide useful outdoor spaces	The outdoor spaces are considered useful	Yes

DCP 2014	Proposed	Compliance
(d) Physical connection between dwelling and external ground level	There is a physical connection from dwelling to ground level.	Yes
(e) Provide landscape front garden. Hard paved areas no more than 40%.	Hard paving exceeds 40% but this is an existing situation.	No, existing situation
(f) Pathway along one side boundary connecting front to rear. Not to be blocked by ancillary structures. Not required where there is rear lane access or corner allotment.	There is a pathway along one side of the dwelling.	Yes
(g) Landscape elements in front garden to be compatible with scale of dwelling.	The landscape elements are compatible with scale of dwelling.	Yes
(h) Front garden at least 1 canopy tree at least 10m in height	There is no capacity to plant a canopy tree to the front given the existing hardstand	No, due to existing situation
(i) Mature tree at least 15m in rear garden with the DSA	One existing mature tree to the rear	Yes
(j) Locate and design landscaping to increase privacy between dwellings	Landscaping aids privacy	Yes
(k) Hedge planting on boundary no greater than 2.7m	There are no hedge plantings exceeding 2.7m	Yes
(l) Retaining walls and other landscape elements not to obstruct stormwater overland flow.	There are no retaining walls proposed	N/A
(m) OSD not to be located within front setback unless it is underneath driveway	No OSD existing or proposed	N/A
(n) Landscaping to include POS	Satisfactory	Yes
<b>2.14 Dwelling Amenity</b>		
<b>2.14.1 Daylight and Sunlight Access</b>		
(a) Living areas are to be predominantly located to the north where possible	The dwelling does not comprise living areas facing north. This is an existing situation	No, existing situation
(b) Sites with northern side boundary to have increased setback of 4 metres is preferred. <u>Subject Dwelling</u>	Does not have a north side boundary	Yes
(c) Windows to north facing living areas of subject dwellings are to receive at least 3 hours of sunlight between 9am to 3pm on June 21.	There are no north facing living areas	No

DCP 2014	Proposed	Compliance
<p>(d) Private open space is to receive at least 2 hours sunlight between 9am to 3pm on June 21. <u>Neighbouring properties:</u></p> <p>(e) For neighbouring properties:</p> <p>(i) sunlight to 50% of principal areas of ground level POS is not reduced to less than 2 hours between 9am to 3pm on 21 June</p> <p>(ii) windows to north facing living areas to receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of surface, where can be reasonably maintained given orientation and topography.</p>	<p>POS receives over 2 hours direct sunlight between 9am and 3pm on 21 June.</p> <p>The PPOS of adjoining properties is not affected by the proposed works as they occur within the existing roofline.</p> <p>The north facing living room windows of the adjoining properties are not impacted by the proposal</p>	<p>Yes</p> <p>Not impacted by proposal</p> <p>Not impacted by proposal</p>
<b>2.14.2 Visual Privacy</b>		
<p>(a) Orientate the windows of main living spaces (living room, dining, kitchen, family etc) to the front and rear</p> <p>(b) Orientate terraces, balconies and outdoor living areas to front or rear and not side boundary</p> <p>(c) Terraces and balconies are not to overlook neighbour's living areas and POS</p> <p>(d) Living and kitchen windows, terraces and balconies are not to allow direct view into neighbouring dwelling or POS</p> <p>(e) Side windows are to be offset by sufficient distance to avoid visual connection between dwellings.</p>	<p>The windows of main living spaces are largely orientated to the rear</p> <p>Outdoor living spaces are orientated to the rear.</p> <p>No additional impact from the proposal</p> <p>There are no unreasonable additional privacy impacts</p> <p>Side windows are suitably offset</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<b>2.14.3 Acoustic Privacy</b>		
<p>(a) Noise of mechanical equipment not to exceed 5dB(A) above background noise measured in or on any premises in vicinity of the item.</p> <p>(b) Dwellings on arterial roads double glazed windows fronting road.</p>	<p>No additional impact</p> <p>N/A</p>	<p>Yes</p> <p>N/A</p>

<b>DCP 2014</b>	<b>Proposed</b>	<b>Compliance</b>
(c) Dwellings on arterial roads acoustic seal on the front door.	NA	N/A
<b>2.14.4 View Sharing</b>		
(a) The siting of development is to provide for view sharing.	The proposal has no additional impact on views.	Yes
<b>2.14.5 Cross Ventilation</b>		
(a) Designed to optimise access to prevailing breezes and provide for cross ventilation.	The dwelling achieves sufficient cross ventilation	Yes
<b>2.15 External Building Elements</b>		
<b>2.15.1 Roofs</b>		
<p>(a) Relate roof design to the desired built form by:</p> <ul style="list-style-type: none"> <li>(i) articulating the roof</li> <li>(ii) roof is consistent with the architectural character of dwelling</li> <li>(iii) eaves minimum 450mm overhang on pitched roofs</li> <li>(iv) compatible roof form, slope, material and colour to adjacent buildings</li> <li>(v) roof height is in proportion to the wall height of the building</li> </ul> <p>(b) The main roof not trafficable terrace.</p> <p>(c) Proposed attic contained within the volume of the roof space.</p> <p>(d) Skylights to be minimised on roof planes visible from the public domain. Skylights are to be symmetrical.</p> <p>(e) The front roof plane is not to contain both dormer and skylight. Dormers are preferred.</p> <p>(f) Balconies and terraces are not to be set into roofs.</p> <p>(g) Scale of the roof is to be in proportion with the scale of the wall below.</p> <p>(h) Attics may be located in the garage roofs if the garage is located next to the dwelling. Garages located within front or rear setbacks are not to have attics.</p>	The proposal does not include any changes to the existing roof profile and does not include any additional skylights, etc.	Yes
<b>2.16 Fences</b>		





DCP 2014	Proposed	Compliance
<ul style="list-style-type: none"> <li>(c) Space to be provided for bulk waste where appropriate.</li> <li>(d) Storage of green waste provided</li> <li>(e) Stored within the boundaries of the site.</li> <li>(f) Site Waste Minimisation and Management Plan (SWMMP) to be submitted</li> <li>(g) Located to provide easy, direct and convenient access.</li> <li>(h) No incineration devices.</li> <li>(i) Collection point identified on plan.</li> <li>(j) Path for wheeling bin collection not less than 14</li> </ul>		<p style="text-align: center;">Yes</p> <p style="text-align: center;">Yes</p> <p style="text-align: center;">Yes</p> <p style="text-align: center;">Yes</p> <p style="text-align: center;">Yes</p> <p style="text-align: center;">Yes</p> <p style="text-align: center;">Yes</p>
<b>2.4 Demolition and Construction</b>		
<ul style="list-style-type: none"> <li>(a) Demolition must comply with AS and WorkCover</li> <li>(b) Demolition work plan submitted</li> <li>(c) Dedicated area on site for stockpile of materials taking into account environmental factors and amenity impacts.</li> <li>(d) Construction materials to be stored away from the waste materials on site.</li> </ul>	<p style="text-align: center;">Only minor demolition works are proposed which are all within the confines of the dwelling and will not impact on surrounding properties.</p>	<p style="text-align: center;">Yes</p>
<b>2.5 Residential Developments comprising 1 or 2 Dwellings</b>		
<ul style="list-style-type: none"> <li>(a) Space inside each dwelling for receptacles for garbage, recycling.</li> <li>(b) Space provided outside the dwellings to store the required garbage, recycling and green waste bins. Screened from street. Easy access to wheel the bins to the kerbside.</li> </ul>	<p style="text-align: center;">There is suitable space in the dwelling for garbage and recycling.</p>	<p style="text-align: center;">Yes</p> <p style="text-align: center;">Yes</p>
<b>Part 8: Engineering</b>		
<b>Part 8.2 Stormwater and Floodplain Management</b>		
<b>2.0 Stormwater Drainage</b>		
<ul style="list-style-type: none"> <li>(a) Drainage is to be piped in accordance with Section 2.0 Stormwater Drainage Application has been consideration satisfactory by Development Engineering and City Works.</li> </ul>	<p style="text-align: center;">The proposal does not impact upon stormwater drainage.</p>	<p style="text-align: center;">Yes</p>

DCP 2014	Proposed	Compliance
<b>Part 9.2 Access for People with Disabilities</b>		
<b>4.1.2 Class 1 Buildings</b>		
Accessible path required from the street to the front door, where the level of land permits.	There is an accessible path of travel from the street to the front door.	Yes
<b>Part 9.3 Parking Controls</b>		
<b>2.2 Residential Lane Uses</b>		
<ul style="list-style-type: none"> <li>- Dwelling houses up to 2 spaces/dwelling</li> <li>- Dual occupancy 1 space/dwelling</li> </ul>	There are two existing spaces in the double garage.	Yes

**Attachment 4: Chapter 6 Water Catchments - Development in Regulated Catchments**

Provision	Proposal	Compliance
<b>Cl. 6.6 Water Quality and Quantity</b>		
(a) Development should have neutral or beneficial effect on quality of water entering waterways	The proposal will result in a neutral impact on the quality of water entering the waterway as there are no works proposed outside the existing building footprint.	Yes
(b) Development should not have an adverse impact on water flow in a natural waterbody.	The proposal does not include any components that will impact upon water flow in the natural waterbody.	Yes
(c) Development should not increase the amount of stormwater runoff from a site.	The proposed works are occurring within the existing building footprint and will not increase the extent of runoff.	N/A
(d) Development should incorporate on-site stormwater retention, infiltration or reuse.	There is no on-site retention, infiltration or reuse but the proposal does not increase the existing extent of impervious area on the site.	Yes
(e) Development should not impact upon the level and quality of the water table.	The proposed development will not impact upon the level and quality of the water table.	Yes
(f) Development should not increase the cumulative impact of development on the regulated catchment.	The development will result in neutral impact on the regulated catchment.	Yes
(g) Development should make adequate provision to protect the quality and quantity of groundwater.	The proposal will not impact upon the quality or quantity of groundwater.	Yes
(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied the development ensures-		
(a) The effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial.	The development will not result in any detrimental impact on the quality of water entering the natural waterbody.	Yes
(b) The impact on water flow in a natural waterbody will be minimised.	The proposal will not result in any detrimental impact on water flow in the waterbody.	Yes
<b>Cl. 6.7 Aquatic Ecology</b>		

Provision	Proposal	Compliance
(a) Consent authority must consider whether the development will have a direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation.	The development does not include any works below the mean high water mark and will not impact on terrestrial, aquatic or migratory animals or vegetation.	Yes
(b) Consent authority must consider whether the development involves the clearing of riparian vegetation and, if so, whether the development will require – (i) A controlled activity approval under the Water Management Act 2000 (ii) A permit under the Fisheries Management Act 2000.	The proposal does not result in any disturbance of riparian vegetation and will not require a controlled activity approval or permit under the Fisheries Management Act.	N/A
(c) Consent authority must consider whether the development will minimise or avoid – (i) The erosion of land abutting a natural waterbody. (ii) The sedimentation of a waterbody.	The proposed development includes suitable measures to prevent erosion and sedimentation.	Yes
(d) Consent authority must consider whether the development will have an adverse impact on wetlands that are not in the coastal wetlands or littoral rainforests area.	There are no wetlands located in the vicinity of the site.	N/A
(e) Consent authority must consider whether the development includes adequate safeguards and rehabilitation measures to protect aquatic ecology.	Given the scope of works there will be no impact on the aquatic ecology.	N/A
(f) If the development site adjoins a natural waterbody – it should be considered whether additional measures are required to ensure a neutral or beneficial effect on water quality of the waterbody.	All necessary measures are detailed in the recommended conditions of consent.	Yes
(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following -		
(a) the direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the carrying out of the development,	Proposal will not result in any adverse impacts on terrestrial, aquatic or migratory animals or vegetation.	Yes
(b) the development will not have a direct, indirect or cumulative adverse impact on aquatic reserves,	Proposal will not have any foreseeable direct, indirect or cumulative adverse impact on aquatic reserves.	Yes



Provision	Proposal	Compliance
(c) if a controlled activity approval under the <i>Water Management Act 2000</i> or a permit under the <i>Fisheries Management Act 1994</i> is required in relation to the clearing of riparian vegetation—the approval or permit has been obtained,	N/A	N/A
(d) the erosion of land abutting a natural waterbody or the sedimentation of a natural waterbody will be minimised,	The proposal includes measures to minimise the extent of erosion of land abutting the waterbody.	Yes
(e) the adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area will be minimised.	N/A – there are no wetlands in the vicinity of the site.	N/A
<b>Cl. 6.8 Flooding</b>		
(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the likely impact of the development on periodic flooding that benefits wetlands and other riverine ecosystems.	Given its topography, the subject site is not subject to any flooding.	N/A
(2) Development consent must not be granted to development on flood liable land in a regulated catchment unless the consent authority is satisfied the development will not— (a) if there is a flood, result in a release of pollutants that may have an adverse impact on the water quality of a natural waterbody, or (b) have an adverse impact on the natural recession of floodwaters into wetlands and other riverine ecosystems.	N/A – the site is not flood affected.	N/A
<b>Cl. 6.9 Recreation and Public Access</b>		
(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider— (a) the likely impact of the development on recreational land	The proposal will not result in any impact on recreational land uses in the catchment.  All land up to the mean high water mark is privately	Yes

<b>Provision</b>	<b>Proposal</b>	<b>Compliance</b>
<p>uses in the regulated catchment, and</p> <p>(b) whether the development will maintain or improve public access to and around foreshores without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation.</p>	<p>owned and it is not possible to provide public access to the foreshore. There is no existing public access to the foreshore fronting the site.</p>	
<p>(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—</p> <p>(a) the development will maintain or improve public access to and from natural waterbodies for recreational purposes, including fishing, swimming and boating, without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation,</p> <p>(b) new or existing points of public access between natural waterbodies and the site of the development will be stable and safe,</p> <p>(c) if land forming part of the foreshore of a natural waterbody will be made available for public access as a result of the development but is not in public ownership—public access to and use of the land will be safeguarded.</p>	<p>The proposal does not seek to alter the existing access arrangements or seawall.</p>	<p>Yes</p>
<p><b>Cl. 6.10 Total catchment management</b></p>		
<p>In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consult with the council of each adjacent or downstream local government area on which the development is likely to have an adverse environmental impact.</p>	<p>The proposal will not result in any adverse environmental impacts on the any downstream areas.</p>	<p>N/A</p>
<p><b>Cl. 6.11 Land within 100m of a natural waterbody</b></p>		

<b>Provision</b>	<b>Proposal</b>	<b>Compliance</b>
<p>In deciding whether to grant development consent to development on land within 100m of a natural waterbody in a regulated catchment, the consent authority must consider whether—</p> <p>(a) the land uses proposed for land abutting the natural waterbody are water-dependent uses, and</p> <p>(b) conflicts between land uses are minimised.</p>	<p>The proposed landuse is not water-dependent. The proposal will not result in any conflicts between landuses.</p>	<p>Yes</p>

**CLAUSE 4.6 VARIATION TO  
CLAUSE 4.3 (2) (HEIGHT OF BUILDING)  
RYDE LEP 2014**

***6 Shackel Avenue  
GLADESVILLE***

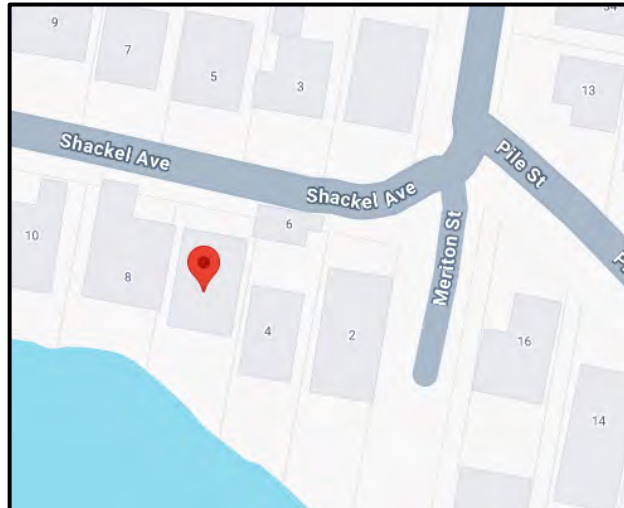
**15<sup>th</sup> December 2023**



## Section 1 Introduction

The subject application, to which this Clause 4.6 variation relates, is a development application for additions and alterations to an existing dwelling, at 6 Shackel Avenue, Gladesville.

The subject site is legally identified as Lot 19 DP 10340.



**Figure A: Location of the site**



**Figure B: Aerial view of the development site**

The site is zoned **R2 Low Density Residential** under the Ryde Local Environmental Plan 2014 (RLEP 2014) where a dwelling house is permissible with consent.

The relevant *development standard* subject of the variation request is the **9.5m maximum height of building** control under **clause 4.3 of RLEP 2014**.

Clause **4.6(2)** confirms that environmental planning instruments (EPIs) are subject to the provisions of Clause 4.6.

Clause **4.6(3)** provides the requirements to be addressed justifying the proposed variation.

This written variation forms part of the written material to be considered by the Consent Authority in determining the subject development application.



The subject application proposes a maximum height variation of 2370mm as this is the height of the ridgeline of the roof of the existing dwelling. there is no change to height or to the roof as part of the development application.

Height is a *development standard* for the purposes of the *EP&A Act 1979* as it prescribes a numerical value to an aspect of the permitted development (see Justice Mc Clellans decision in *Georgakis v North Sydney Council [2004] NSWLEC 123*).

This request to vary the Clause 4.3 of RLEP 2014 has regard to the judgments in:

- a. *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* (“Initial Action”)
- b. *Wehbe v Pittwater Council [2007] NSWLEC 827* at [42] (“Wehbe”)
- c. *SJD DB2 Pty Ltd v Woollahra Council [2020] NSWLEC 1112* (SJD DB2).

The objective of Clause 4.6 (1)(a) is to provide an ‘*appropriate degree of flexibility in applying certain development standards to particular development*’. The intent is ‘*to achieve better outcomes for and from development by allowing flexibility in particular circumstances*’ in accordance with Clause 4.6 1(b).

The extent of the discretion available to the consent authority is unfettered (see SJD DB2) and therefore a variation can be granted to the height variation articulated in Section 3 of this written request.

The relevant plans relied upon are those identified as the plans prepared by Dalgliesh Ward Architects submitted with the package.

## Section 2 Development Standard to be Varied

The relevant *development standard* to be varied is the **9.5m** maximum height control under Clause 4.3(2) of RLEP 2014. **Clause 4.3** of the RLEP 2014 relevantly provides:

### 4.3 Height of buildings

- (1) *The objectives of this clause are as follows—*
  - (a) *to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,*
  - (b) *to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,*
  - (c) *to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,*
  - (d) *to minimise the impact of development on the amenity of surrounding properties,*
  - (e) *to emphasise road frontages along road corridors.*
- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The relevant height of buildings map is identified below:



Figure C: Height map extract from RLEP 2014

The subject site is mapped “J” – 9.5m (max).

### Section 3 Nature of Variation Sought

The requested variation is as follows:

The maximum height of the dwelling house is 11.87m (existing roof ridgeline). This equates to a variation of **2370mm (max)** or 25% to the 9.5m height limit for the site.

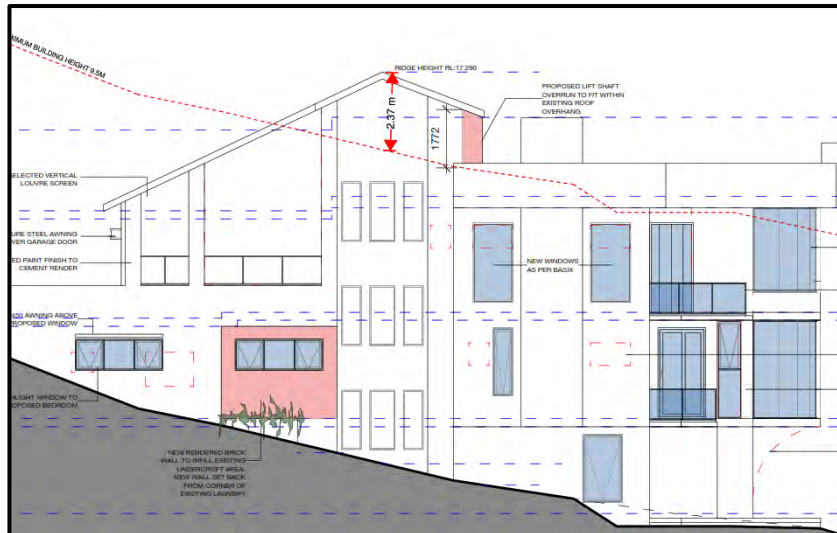


Figure D: Section A showing the HOB line dotted red

### Section 4 Clause 4.3 Height - Development Standard

A development standard is defined in S 1.4 of the *Environmental Planning and Assessment Act 1979* (“EPA Act”) to mean:

*“provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:*

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b) the proportion or percentage of the area of a site which a building or work may occupy,*
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
- (d) the cubic content or floor space of a building,*
- (e) the intensity or density of the use of any land, building or work,*
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,*
- (h) the volume, nature and type of traffic generated by the development,*
- (i) road patterns,*
- (j) drainage,*
- (k) the carrying out of earthworks,*
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,*
- (m) the provision of services, facilities and amenities demanded by development,*

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*(n) the emission of pollution and means for its prevention or control or mitigation, and  
(o) such other matters as may be prescribed.” (our emphasis)*

The 9.5m maximum height standard is a *development standard* as defined under the EP&A Act 1979.

## **Section 5 - Clause 4.6 of The Ryde Local Environmental Plan 2014 (RLEP 2014)**

Clause 4.6 of the RLEP 2014 provides a legal pathway by which an applicant can vary a *development standard*. Clause 4.6 of RLEP 2014 relevantly provides as follows:

### *4.6 Exceptions to development standards*

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

*(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

*(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

*(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

*(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*

*(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*

*(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

*Note—The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).*

*(4) The consent authority must keep a record of its assessment carried out under subclause (3).*

*(5) (Repealed)*

*(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—*

*(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*

*(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

*Note— When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E3 Environmental Management or Zone E4 Environmental Living.*

*(7) (Repealed)*

*(8) This clause does not allow development consent to be granted for development that would contravene any of the following—*

*(a) a development standard for complying development,*

*(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*

*(c) clause 5.4,*

- (caa) clause 5.5,  
(ca) clause 4.3, to the extent that it applies to the land identified as “Town Core” on the Ryde Town Centre Precincts Map,  
(cb) clause 4.1A, to the extent that it applies to the Torrens title subdivision of a dual occupancy (attached),  
(cc) clause 6.9.

## 5.1 Response to Clause 4.6 of RLEP 2014

The following provides a response to the Clause 4.6 provisions:

### 1. Clause 4.6 (1)(a) and (b):

- 1) *The objectives of this clause are as follows—*
- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The purpose of Clause 4.6 of RLEP 2014 is to provide flexibility in the application of development standards.

Justification within this written request demonstrates that an appropriate degree of flexibility should be applied to this particular application based on the environmental planning grounds outlined in this written request.

### 2. Clause 4.6 (2):

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Clause 4.6(2) is satisfied as:

- Clause 4.6(2) requires the control to be a development standard.
- The 9.5m height control is a development standard as it relates to the height of a building and therefore is capable of being varied by a written request.
- The provisions of Clause 4.3 of RLEP 2014 are not expressly excluded under Clause 4.6(8) of the RLEP 2014.

### 3. Clause 4.6 (3) (a) & (b):

- (3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
- (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
  - (b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

**Note—** *The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).*

The existing and proposed development does not comply with the 9.5m maximum height control under Clause 4.3 of the RLEP 2014.

Strict compliance with the 9.5m height development standard is considered to be ‘unreasonable and unnecessary in the circumstances of this case’, with the environmental planning grounds to support this written request for variation contained in Section 7.

4. **Clause 4.6 (4):**

- (4) The consent authority must keep a record of its assessment carried out under subclause (3).*

This is an administrative subclause that requires Council's compliance. There is no work for the applicant in complying with this provision.

5. **Clause 4.6 (5) & (7):** Repealed.

6. **Clause 4.6 (6):**

- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—*
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

The site is zoned R2 Low Density Residential. This clause is not applicable to the proposal.

7. **Clause 4.6 (8):**

- (8) This clause does not allow development consent to be granted for development that would contravene any of the following—*
- (a) a development standard for complying development,*
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
- (c) clause 5.4,*
- (caa) clause 5.5,*
- (ca) clause 4.3, to the extent that it applies to the land identified as “Town Core” on the Ryde Town Centre Precincts Map,*
- (cb) clause 4.1A, to the extent that it applies to the Torrens title subdivision of a dual occupancy (attached),*
- (cc) clause 6.9.*

The development standard is contained in clause 4.3 of the RLEP 2014. It is therefore not excluded from the application of Clause 4.6 as clause 4.3 is not listed in clause 4.6(8).



## Section 6 Compliance is Unreasonable or Unnecessary - Clause 4.6(3)(a)

In dealing with the “unreasonable and unnecessary” we refer to Preston CJ where he identifies and validates at least 5 arguments available to an applicant in *Wehbe v Pittwater Council* which can be adopted in dealing with the *unreasonable and unnecessary* test under **Cl. 4.6(3)(a)**.

Preston CJ concluded as follows:

*“As to the first matter required by cl 4.6(3)(a), I summarised the common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary in Wehbe v Pittwater Council at [42]-[51]. Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.”*

*‘An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the **objectives of the development standard are achieved notwithstanding non-compliance with the standard**’ (our emphasis)*

The first way identified in *Wehbe* is to justify this written variation (as set out at 42 of the judgment):

*“42 An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard”*

This written 9.5m height variation request relies in the first instance by demonstrating that compliance is *unreasonable and unnecessary* as the objectives of the development standard are achieved notwithstanding, a variation with the development standard.

Clause 4.3 of the RLEP 2014 provides express objectives of the *development standard*.

The objectives of Clause 4.3 relevantly provide:

- (a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,*
- (b) to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,*
- (c) to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,*
- (d) to minimise the impact of development on the amenity of surrounding properties,*
- (e) to emphasise road frontages along road corridors.*

The relevant objectives are discussed below:

- (a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,***

The view of the height and the built form and design of the existing dwelling when viewed from Shackel Avenue is not changed by the proposal and is maintained generally as a 2 storey dwelling. There is no change to the thematic reading of the existing dwelling house within the neighbourhood character of Shackel Avenue or more broadly – Gladesville. This objective is satisfied.

- (b) to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,***



The building envelope, footprint, orientation and siting of the dwelling is not changed by the proposal. The building works generally comprise internal alterations with consequential changes to window openings and doors as a result of the reconfigured layout. The height of the dwelling house is not changed by the proposed works and the shadow diagrams submitted with the DA Plan set demonstrate that the shadows fall on the neighbouring properties as per the current building and are not increased to a level that would change the residential amenity of either property.

***(c) to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,***

Not relevant to this application.

***(d) to minimise the impact of development on the amenity of surrounding properties***

As outlined above the built form and height of the existing dwelling is not altered by the subject proposal. The height variation is existing and the variation, of itself, does not impact on either of the adjoining properties by way of overshadowing, additional bulk, scale or substantial changes to view sharing opportunities to either adjoining property. On this basis, there is minimal impact as a result of the proposal on the amenity of adjoining properties. The objective is satisfied.

***(e) to emphasise road frontages along road corridors***

Not relevant to this application.

Summary:

The proposal satisfies the objectives of the development standard as the height variation is existing and there is no change to the overall height of the existing dwelling house. The building alterations are predominantly internal to the building envelope and the proposal does not unduly change the interrelationship of the dwelling with either of the adjoining properties or the streetscape character of Shackel Avenue. The works are considered to be improvements to the dwelling which will modernise the dwelling and provide improved internal living amenity and functionality for its residents.

## **Section 7 Sufficient Environmental Planning Grounds – Clause 4.6(3)(b)**

*Clause 4.6 (3)(b) prescribes the following:*

*(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*

*(a) ...*

*(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

The following provides sufficient environmental planning grounds to warrant the variation:

- The overall height of No. 6 Shackel Avenue Gladesville is not altered by the proposed alterations to the existing dwelling house. The pitch of the roof and height of the ridgeline (RL17.29m AHD) is not changed by the proposal.
- The existing and proposed HOB is shown in Figure D above.
- The site slopes from north to south from Shackel Avenue to the waterway (Parramatta River).
- The dwelling house, when viewed from Shackel Avenue appears as one storey to the garage and two storeys to the side elevation.
- The extent of the additional area outside the maximum HOB plane is not significant when compared to the existing built form.

- There is no part of this application that seeks to extend the maximum HOB variation when compared to the existing.
- The variation required for the lift element at the upper level does not cause any additional overshadowing or view loss.
- There are no additional adverse environmental impacts as a result of the height departure.

### Clause 1.3 Objects of the EP&A Act 1979

In explaining the sufficient environmental planning grounds referred to in cl 4.6 Preston CJ in 'Initial Action' considers that it is available to the applicant to also deal with the Objectives of the Act under S1.3 when considering a Clause 4.6 variation. Clause 1.3 of the EP&A Act 1979 relevantly provides:

#### “1.3 Objects of Act

*The objects of this Act are as follows:*

**(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,**

**(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,**

**(c) to promote the orderly and economic use and development of land,**

**(d) to promote the delivery and maintenance of affordable housing,**

**(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,**

**(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),**

**(g) to promote good design and amenity of the built environment,**

**(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,**

**(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,**

**(j) to provide increased opportunity for community participation in environmental planning and assessment. (emphasis added)**

The proposal accepting the height variation described above reasonably satisfies the objectives of under s1.3 EP&A Act 1979. The DA plan set satisfy the objectives in bold (as above) given that:

- The height exceedance is essentially existing and is not increased by the proposal with regard to the maximum height. The built form is essentially retained as a 1 – 2 storey to the street and 2 storey with undercroft to the waterway.
- The proposed alterations are predominantly internal and make best use of land currently serviced by existing infrastructure;
- The area of the site subject to the works is area previously disturbed by building works and is contained within the external walls of the dwelling;
- The proposed landuse and alterations are permissible under the RLEP 2014;
- The proposal represents an economically viable development of the site, that is both capable and suitable for the site, when assessed on a merit based assessment under the S4.15 heads of the consideration of the EP&A Act 1979.
- Redevelopment to a compliant height is not viable or practical and would require significant changes to the dwelling and its internal layout, resulting in devaluation of the property and significant intervention. There is no valid reason or meaningful planning purpose to require strict compliance in this case.
- The urban design outcomes, incorporating the existing building envelopment, which includes the existing height variation is not antipathetic to the existing and likely future character of the area.

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Notwithstanding the above Preston CJ clarified in *Micaul* and *Initial Action*, that sufficient environmental planning grounds may also include demonstrating a lack of adverse amenity impacts. In this case, these include:

- The additional built form limited to no greater than the current roof element does not result in any adverse impacts on the site, its surrounds or any neighbouring property.
- The variation is very site specific and does not create any precedence in the application of the height limits in the area.
- The dwelling is located within a setting that includes 2 – 3 storey built form and as such the dwelling will remain compatible within the foreshore context.

## Section 8 Conclusion

The proposed development contravenes Clause 4.3 of the RLEP 2014 being a *development standard* and height is not excluded from the application of clause 4.6 of RLEP 2014.

This written request to vary the development standard has been prepared in accordance with cl4.6 of the RLEP 2014 and demonstrates that strict compliance with the development standard is unreasonable and unnecessary for the reasons outlined in this submission.

In addition, this written request outlines sufficient environmental planning grounds to justify the contravention of the development standard.



**Andrew Martin MPIA**  
**Planning Consultant**

**CLAUSE 4.6 VARIATION TO  
CLAUSE 4.4 (2) (FLOOR SPACE RATIO)  
RYDE LEP 2014**

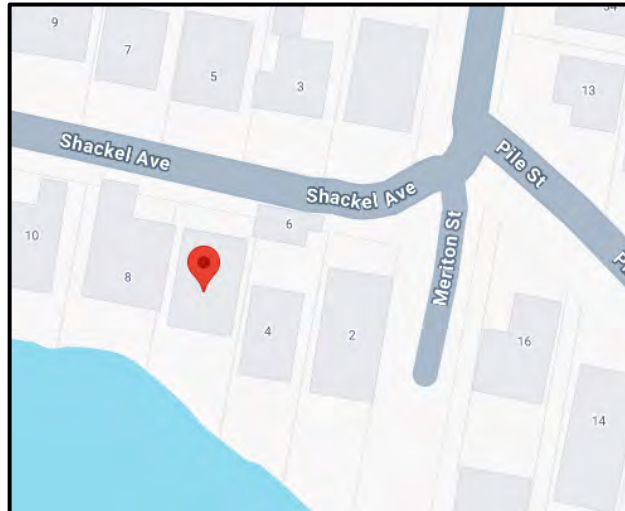
***6 Shackel Avenue  
GLADESVILLE***

**15<sup>th</sup> December 2023**

## Section 1 Introduction

The subject application, to which this Clause 4.6 variation relates, is a development application for additions and alterations to an existing dwelling at 6 Shackel Avenue, Gladesville.

The subject site is legally identified as Lot 19 DP 10340.



**Figure A: Location of the site**



**Figure B: Aerial view of the development site**

The site is zoned **R2 Low Density Residential** under the Ryde Local Environmental Plan 2014 (RLEP 2014) where a dwelling house is permissible with consent.

The relevant *development standard* subject of the variation request is the 0.5:1 maximum Floor space ratio control under **clause 4.4 of RLEP 2014**.

Clause **4.6(2)** confirms that environmental planning instruments (EPIs) are subject to the provisions of Clause 4.6.

Clause **4.6(3)** provides the requirements to be addressed justifying the proposed variation.

This written variation forms part of the written material to be considered by the Consent Authority in determining the subject development application.

The subject application proposes a maximum FSR of **0.61:1**. This is a variation to the permitted FSR of 0.11:1, noting that the existing dwelling has a FSR of 0.54:1 – an existing variation of **0.04:1**.

Floor Space Ratio (FSR) is a *development standard* for the purposes of the *EP&A Act 1979* as it prescribes a numerical value to an aspect of the permitted development (see Justice Mc Clellans decision in *Georgakis v North Sydney Council [2004] NSWLEC 123*).

This request to vary the Clause 4.4 of RLEP 2014 has regard to the judgments in:

- a. *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* (“Initial Action”)
- b. *Wehbe v Pittwater Council [2007] NSWLEC 827* at [42] (“Wehbe”)
- c. *SJD DB2 Pty Ltd v Woollahra Council [2020] NSWLEC 1112* (SJD DB2).

The objective of Clause 4.6 (1)(a) is to provide an ‘*appropriate degree of flexibility in applying certain development standards to particular development*’. The intent is ‘*to achieve better outcomes for and from development by allowing flexibility in particular circumstances*’ in accordance with Clause 4.6 1(b).

The extent of the discretion available to the consent authority is unfettered (see SJD DB2) and therefore a variation can be granted to the floor space ratio variation articulated in Section 3 of this written request.

The relevant plans relied upon are those identified as the plans prepared by Dalgliesh Ward Architects, submitted with the DA package.

## Section 2 Development Standard to be Varied

The relevant *development standard* to be varied is the **0.5:1** maximum FSR control under Clause 4.4(2) of RLEP 2014. **Clause 4.4** of the RLEP 2014 relevantly provides:

### 4.4 Floor space ratio

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

- (a) *to provide effective control over the bulk of future development,*
- (b) *to allow appropriate levels of development for specific areas,*
- (c) *in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.*

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

The relevant FSR map is identified below:

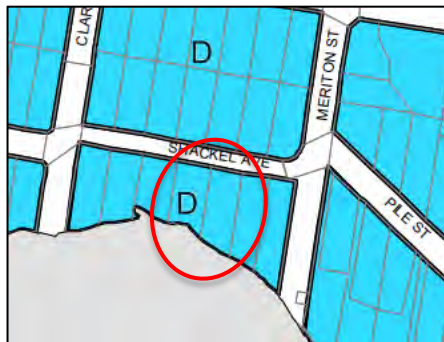


Figure C: FSR map extract from RLEP 2014



The subject site is mapped “D” – 0.5:1(max).

### Section 3 Nature of Variation Sought

The requested variation is as follows:

The FSR of the dwelling house is as follows:

Site area: 682.9m<sup>2</sup>  
 Permitted GFA: 341.45m<sup>2</sup>  
 Existing GFA: 371.21m<sup>2</sup>  
 Existing FSR: **0.54:1 (variation of 0.04:1)**

Proposed GFA: 416.44m<sup>2</sup>  
 Diff GFA: +45.23 m<sup>2</sup>  
 Proposed FSR: **0.61:1 (variation of 0.11:1 or 22%)**

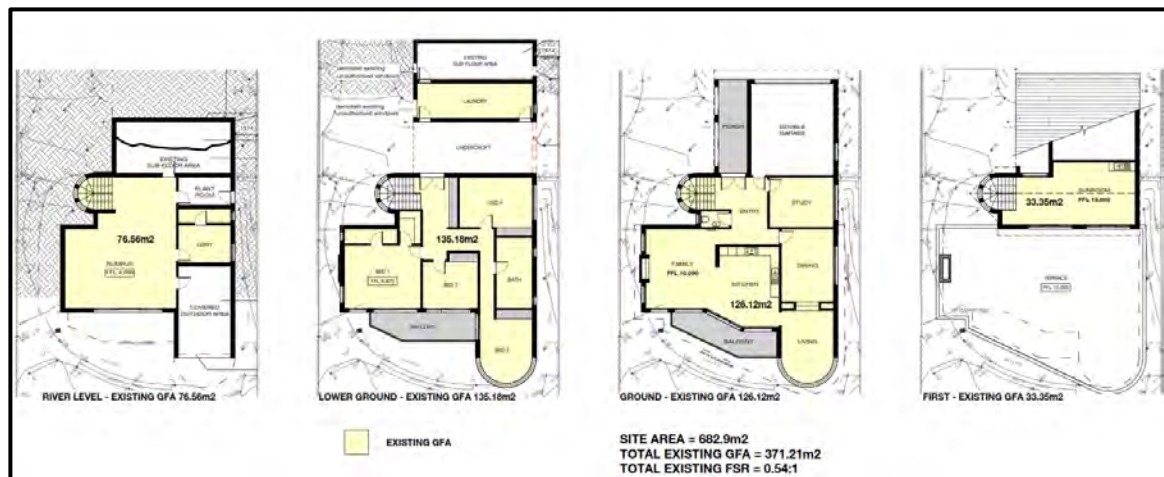


Figure D: Existing GFA by level

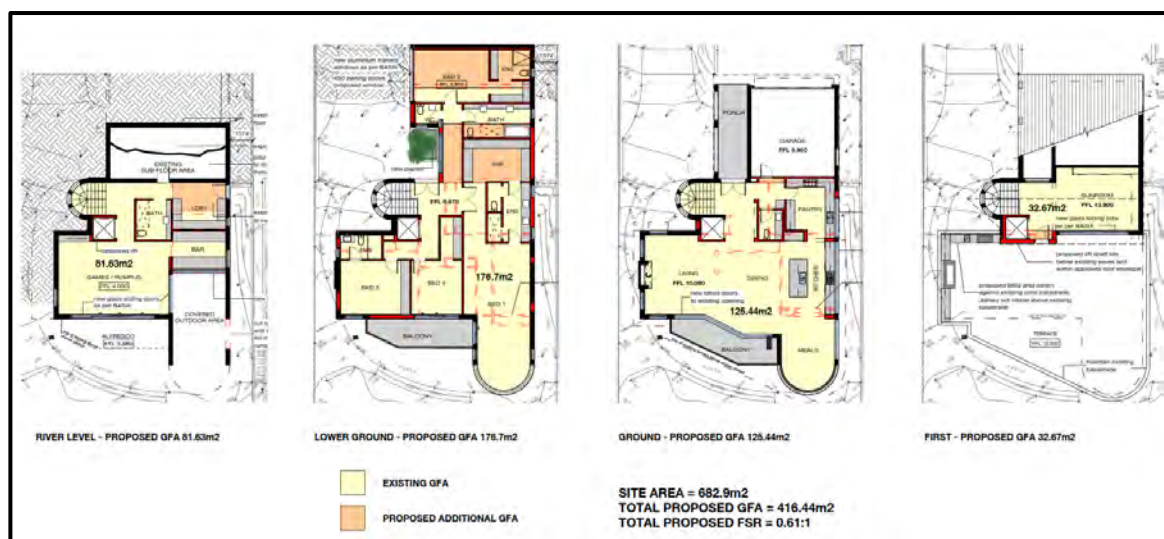


Figure E: Proposed GFA by level

## Section 4 Clause 4.4 Floor Space Ratio - Development Standard

A *development standard* is defined in S 1.4 of the *Environmental Planning and Assessment Act 1979* ("EPA Act") to mean:

*"provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:*

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b) the proportion or percentage of the area of a site which a building or work may occupy,*
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
- (d) the cubic content or floor space of a building,*
- (e) the intensity or density of the use of any land, building or work,*
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,*
- (h) the volume, nature and type of traffic generated by the development,*
- (i) road patterns,*
- (j) drainage,*
- (k) the carrying out of earthworks,*
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,*
- (m) the provision of services, facilities and amenities demanded by development,*
- (n) the emission of pollution and means for its prevention or control or mitigation, and*
- (o) such other matters as may be prescribed." (our emphasis)*

The 0.5:1 maximum FSR standard is a *development standard* as defined under the *EP&A Act 1979*.

## Section 5 - Clause 4.6 of The Ryde Local Environmental Plan 2014 (RLEP 2014)

Clause 4.6 of the RLEP 2014 provides a legal pathway by which an applicant can vary a *development standard*. Clause 4.6 of RLEP 2014 relevantly provides as follows:

### 4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows—*
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
  - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
  - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

*Note—The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).*

*(4) The consent authority must keep a record of its assessment carried out under subclause (3).*

*(5) (Repealed)*

*(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—*

*(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*

*(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

*Note— When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E3 Environmental Management or Zone E4 Environmental Living.*

*(7) (Repealed)*

*(8) This clause does not allow development consent to be granted for development that would contravene any of the following—*

*(a) a development standard for complying development,*

*(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*

*(c) clause 5.4,*

*(caa) clause 5.5,*

*(ca) clause 4.4, to the extent that it applies to the land identified as “Town Core” on the Ryde Town Centre Precincts Map,*

*(cb) clause 4.1A, to the extent that it applies to the Torrens title subdivision of a dual occupancy (attached),*

*(cc) clause 6.9.*

## **5.1 Response to Clause 4.6 of RLEP 2014**

The following provides a response to the Clause 4.6 provisions:

### **1. Clause 4.6 (1)(a) and (b):**

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

*(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

*(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The purpose of Clause 4.6 of RLEP 2014 is to provide flexibility in the application of development standards.

Justification within this written request demonstrates that an appropriate degree of flexibility should be applied to this particular application based on the environmental planning grounds outlined in this written request.

### **2. Clause 4.6 (2):**

*(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this*

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*or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Clause 4.6(2) is satisfied as:

- Clause 4.6(2) requires the control to be a development standard.
- The 0.5:1 FSR control is a development standard as it relates to the ratio of the site area to the gross floor area of the development and therefore is capable of being varied by a written request.
- The provisions of Clause 4.4 of RLEP 2014 are not expressly excluded under Clause 4.6(8) of the RLEP 2014, except for *land identified as “Town Core” on the Ryde Town Centre Precincts Map*.

3. **Clause 4.6 (3) (a) & (b):**

- (3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
- (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
  - (b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

**Note—** *The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).*

The existing and proposed development does not comply with the **0.5:1** maximum FSR control under Clause 4.4 of the RLEP 2014.

Strict compliance with the 0.5:1 FSR development standard is considered to be ‘unreasonable and unnecessary in the circumstances of this case’, with the environmental planning grounds to support this written request for variation contained in Section 7.

4. **Clause 4.6 (4):**

- (4) *The consent authority must keep a record of its assessment carried out under subclause (3).*

This is an administrative subclause that requires Council's compliance. There is no work for the applicant in complying with this provision.

5. **Clause 4.6 (5) & (7):** Repealed.

6. **Clause 4.6 (6):**

- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—*
- (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
  - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

The site is zoned R2 Low Density Residential. This clause is not applicable to the proposal.



7. **Clause 4.6 (8):**

- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following—*
- (a) *a development standard for complying development,*
  - (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
  - (c) *clause 5.4,*
  - (caa) *clause 5.5,*
  - (ca) *clause 4.4, to the extent that it applies to the land identified as “Town Core” on the Ryde Town Centre Precincts Map,*
  - (cb) *clause 4.1A, to the extent that it applies to the Torrens title subdivision of a dual occupancy (attached),*
  - (cc) *clause 6.9.*

The development standard is contained in clause 4.4 of the RLEP 2014. It is therefore not excluded from the application of Clause 4.6 as clause 4.4 (as it applies to the subject site) is not listed in clause 4.6(8).

**Section 6 Compliance is Unreasonable or Unnecessary - Clause 4.6(3)(a)**

In dealing with the “unreasonable and unnecessary” we refer to Preston CJ where he identifies and validates at least 5 arguments available to an applicant in *Wehbe v Pittwater Council* which can be adopted in dealing with the *unreasonable and unnecessary* test under **Cl. 4.6(3)(a)**.

Preston CJ concluded as follows:

*“As to the first matter required by cl 4.6(3)(a), I summarised the common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary in *Wehbe v Pittwater Council* at [42]-[51]. Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.”*

*‘An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the **objectives of the development standard are achieved notwithstanding non-compliance with the standard**’ (our emphasis)*

The first way identified in *Wehbe* is to justify this written variation (as set out at 42 of the judgment):

*“42 An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard”*

This written 0.5:1 FSR variation request relies in the first instance by demonstrating that compliance is *unreasonable and unnecessary* as the objectives of the development standard are achieved notwithstanding, a variation with the development standard.

Clause 4.4 of the RLEP 2014 provides express objectives of the *development standard*.

The objectives of Clause 4.4 relevantly provide:

- (a) to provide effective control over the bulk of future development,*
- (b) to allow appropriate levels of development for specific areas,*
- (c) in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.*

The relevant objectives are discussed below:

***(a) to provide effective control over the bulk of future development,***

The existing dwelling is substantially the same when viewed from both Shackel Avenue and the waterway to the south of the site (Parramatta River). The alterations that increase the overall GFA are generally internalised within the existing building envelope. The lift at upper level is setback from the leading edge. The objective is satisfied.

***(b) to allow appropriate levels of development for specific areas***

The proposal does seek to increase the total GFA of the existing dwelling. However, the additional floor area is generally internalised within the existing building envelope and not discernible from the street or as an extension of the building when viewed from the water. Therefore, it is absorbed into the existing built form. There a number of large dwellings along the waterfront of the Parramatta River in the immediate locality. The proposal, not unreasonably increasing the bulk or scale of the development when compared to the existing building or others within the vicinity of the subject site is acceptable for this specific area. The objective is satisfied.

***(c) in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure***

Not relevant to this application.

Summary:

The proposal satisfies the objectives of the development standard as the FSR variation is existing and there is no discernible change to the overall built form, bulk or scale of the existing dwelling house. The building alterations are predominantly internal to the building envelope and the proposal does not unduly change the interrelationship of the dwelling with either of the adjoining properties or the streetscape character of Shackel Avenue. The works are considered to be improvements to the dwelling which will modernise the dwelling and provide improved internal living amenity and functionality for its residents. As stated the lift addition is setback a considerable distance from the leading edge of the upper floor.

## **Section 7 Sufficient Environmental Planning Grounds – Clause 4.6(3)(b)**

*Clause 4.6 (3)(b) prescribes the following:*

- (3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
  - (a) ...*
  - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

The following provides sufficient environmental planning grounds to warrant the variation:



- The FSR of the dwelling is currently non-compliant at 0.54:1 (+29.76m<sup>2</sup>). The proposal seeks to increase the GFA from the existing 371.2m<sup>2</sup> to 416.44m<sup>2</sup>, increase of 45.24m<sup>2</sup>. The proposed FSR is 0.61:1.
- The proposed modifications to the existing dwelling are designed to better utilise the existing building envelope and improve the living areas of the dwelling. This is a logical and practical approach to proposed alterations without undue impacts on the adjoining properties or streetscape.
- The additional GFA does not alter the building envelope of No. 6 Shackel Avenue Gladesville.
- The large majority of the additional floor area is achieved via reconfiguration of the existing sub-floor and lower ground floor areas, not by extension of the outer walls of the dwelling or excavation works.
- The proposal does not alter the number of storeys when viewed from either Shackel Avenue or the waterway to the south of the site.
- Landscaping improvements will assist with the presentation to the water.
- There are no impacts arising from the internalised increase in the GFA of the dwelling. The consequential changes to the floor level layouts required changes to the window and door openings shown in the DA Plan set (shaded orange).
- The non-compliance is existing and therefore does not contribute to additional shadow impact on either adjoining property.
- There are no additional impacts as a result of the FSR departure.

### Clause 1.3 Objects of the EP&A Act 1979

In explaining the sufficient environmental planning grounds referred to in cl 4.6 Preston CJ in 'Initial Action' considers that it is available to the applicant to also deal with the Objectives of the Act under S1.3 when considering a Clause 4.6 variation. Clause 1.3 of the EP&A Act 1979 relevantly provides:

#### "1.3 Objects of Act

*The objects of this Act are as follows:*

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,**
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,**
- (c) to promote the orderly and economic use and development of land,**
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,**
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,**
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,**
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment. (emphasis added)*

The proposal accepting the FSR variation described above reasonably satisfies the objectives of under s1.3 EP&A Act 1979. The DA plan set satisfy the objectives in bold (as above) given that:

- The bulk and scale of the existing dwelling is not altered by the proposal.
- The built form and building envelope are not changed by the proposed works.
- The proposed alterations are predominantly internal and make best use of land currently serviced by existing infrastructure;
- The proposed landuse and alterations are permissible under the RLEP 2014;

- The proposal represents an economically viable development of the site, that is both capable and suitable for the site, when assessed on a merit-based assessment under the s4.15 heads of the consideration of the *EP&A Act 1979*.
- Redevelopment to a compliant FSR is not viable or practical and would require significant changes to the dwelling and its internal layout, resulting in a devaluation of the property. There is no valid reason to require compliance in this case.
- The urban design outcomes, incorporating the existing building envelope, which includes the small FSR variation, is not antipathetic to the existing and likely future character of the area.

Notwithstanding the above Preston CJ clarified in *Micaul* and *Initial Action*, that sufficient environmental planning grounds may also include demonstrating a lack of adverse amenity impacts. In this case, these include:

- The additional GFA and FSR does not alter the bulk and scale of the dwelling house and therefore no impact on view sharing from properties on the northern side of Shackel Avenue.
- As there is no discernible change to the building envelope, there is no undue change to shadows cast by the building onto properties either side of the site.
- The internalised additional GFA will not be discernible from the waterway or Shackel Avenue.
- Solar access is not altered from the existing built form and building envelope on the site.
- The dwelling appears as one/two storeys when viewed from Shackel Avenue;

## Section 8 Conclusion

The proposed development contravenes Clause 4.4 of the RLEP 2014 being a *development standard* and FSR is not excluded from the application of clause 4.6 of RLEP 2014.

This written request to vary the development standard has been prepared in accordance with cl4.6 of the RLEP 2014 and demonstrates that strict compliance with the development standard is unreasonable and unnecessary for the reasons outlined in this submission.

In addition, this written request outlines sufficient environmental planning grounds to justify the contravention of the development standard.



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