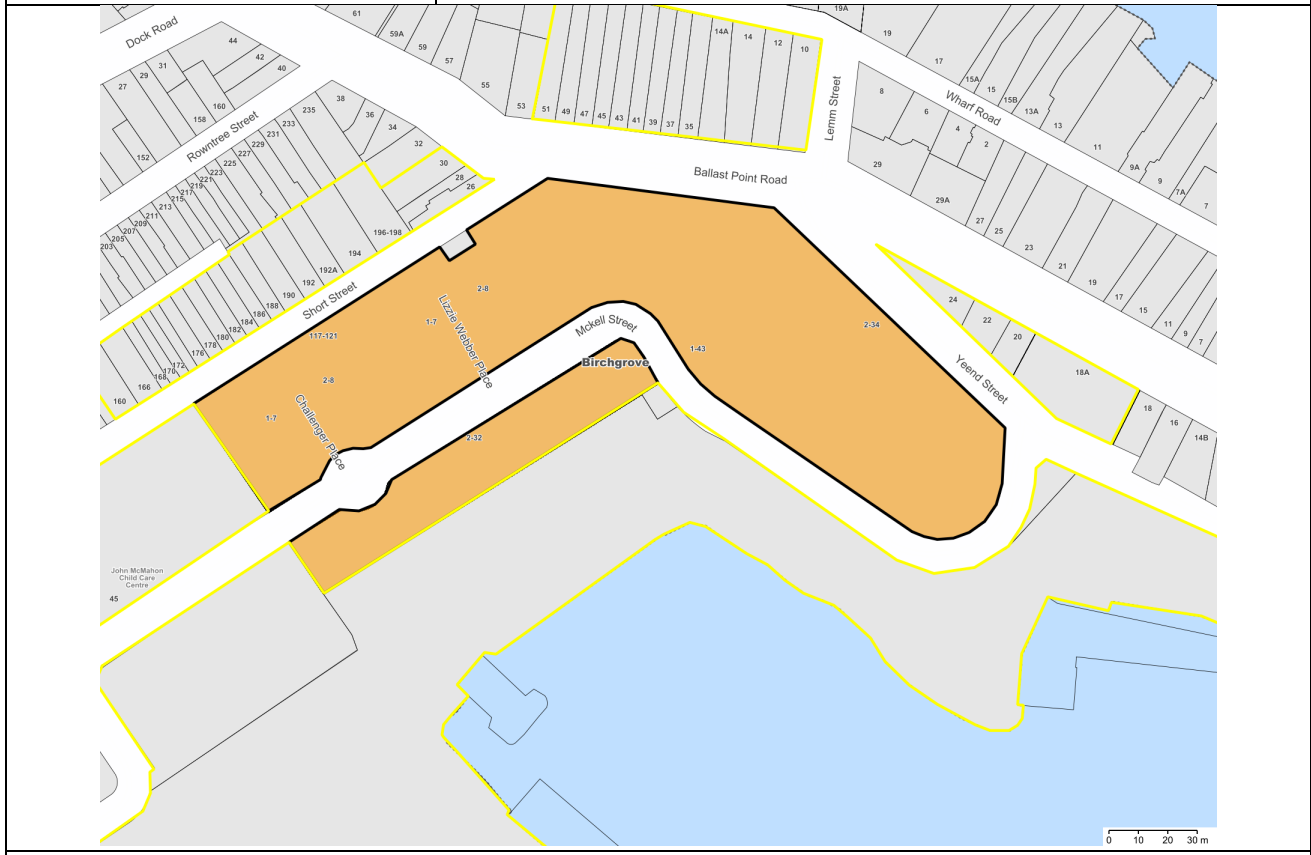




DEVELOPMENT ASSESSMENT PANEL REPORT

Application No.	DA/2024/0120
Address	26 Yeend Street BIRCHGROVE
Proposal	Alterations and additions to existing strata titled townhouse.
Date of Lodgement	22 February 2024
Applicant	Christopher Jordan
Owner	Mr Nicholas Gouras
Number of Submissions	0
Cost of works	\$256,999.00
Reason for determination at Planning Panel	Section 4.6 variation exceeds 10%
Main Issues	Variations to development standards
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Section 4.6 Exception to Development Standards (FSR)
Attachment D	Section 4.6 Exception to Development Standards (Landscaping/Site Coverage)



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to the existing strata titled townhouse at 26 Yeend Street Birchgrove. The application was notified to surrounding properties and no submissions were received in response to the notification.

The main issues that have arisen from the application include:

- Variation to FSR development standard
- Variation to Site Coverage development standard
- Variation to Landscaped Area development standard

The non-compliances are acceptable given they are technical in nature and a function of the existing strata subdivision pattern which limits strict compliance. The application is recommended for approval.

2. Proposal

The proposed development, as amended, includes the following works:

- Demolition works including existing roof at south-eastern side, paving at entrance, internal timber stairs, internal walls at ground level, mid-floor and lower ground floor;
- Extension of ground floor level, with new entrance and low pitch roof above, internal open plan kitchen living and dining room, bathroom;
- New internal staircase, in place of existing;
- New bathroom at mid-floor level;
- New master bedroom with robe and ensuite at lower ground floor level;
- External landscaping works at ground floor level and lower ground floor level.

3. Site Description

The site contains a multi-dwelling residential redevelopment. The whole site was privatised and sold off under the Strata Scheme, 1-43 McKell Street, Birchgrove. The site has an area of 17,230sqm. It occupies the area bound by McKell Street, Yeend Street, Ballast Point Road and Short Street and includes Challenger Place and Lizzie Webber Place.

The specific strata lot (Lot 13 in SP 62555) is located on the western side of Yeend Street, between McKell Street and Ballast Point Road, and has an approximate area of 176sqm. The site has a frontage to Yeend Street of approximately 6 metres.

The site supports a three storey townhouse and garage parking, with similar townhouses located in the adjoining and surrounding rows.

The site is not a heritage item under IWLEP 2022 however it is located within the Town of Waterview Heritage Conservation Area. The site is identified as a flood control lot and is zoned R1 General Residential under the *Inner West Local Environmental Plan 2022*.

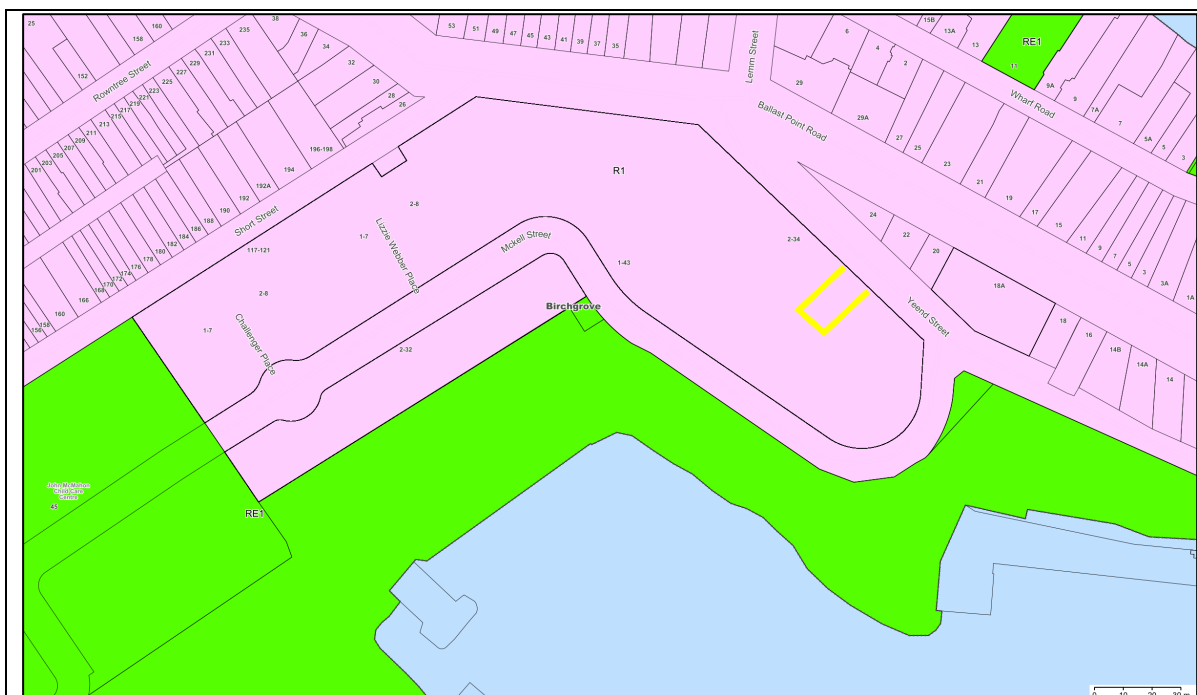


Figure 1: IWLEP Zoning Map – approximate location of site in yellow (Intramaps 2024)

4. Background

Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

The overall site is a multi-dwelling, residential redevelopment of a former shipping terminal which was developed by the NSW Department of Housing and Public Works. The whole site was privatised and sold off under the Strata Scheme (SP 62555 registered 27/11/2001), 1-43 McKell Street, Birchgrove. The site has a total area of 17,230sqm. It occupies the area bound by Mort Bay Park, McKell Street, Yeend Street, Ballast Point Road and Short Street and includes Challenger Place and Lizzie Webber Place.

Subject Site – N/A

Surrounding properties

No. 24 Yeend Street

Application	Proposal	Decision & Date
D/2012/609	Minor alterations and additions to existing dwelling.	Approved 19/2/2013

No. 28 Yeend Street

Application	Proposal	Decision & Date
D/2018/673	Alterations and additions to the existing dwelling, convert carport to garage and landscaping works.	Approved 9/4/2019

Application history

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter / Additional Information
2/5/2024	Amended plans were received, with minor changes to design in response to heritage feedback, extent of paving and scale of proposed additions to existing dwelling and carport.
7/5/2024	Amended Clause 4.6 request (FSR) provided.
9/5/2024	Clause 4.6 request (Landscaped Area/Site Coverage) provided.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979 (EPA Act 1979)*.

A. Environmental Planning Instruments

The application has been assessed and the following provides a summary of the relevant Environmental Planning Instruments.

State Environmental Planning Policies (SEPPs)

SEPP (Resilience and Hazards) 2021

Chapter 4 Remediation of land

Section 4.6(1) of the *Resilience and Hazards SEPP* requires the consent authority not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

In considering the above, there is evidence of historic contamination on the site, however the site has undergone remediation prior to construction of the existing strata complex. The proposed works involve minimal earthworks and will maintain the existing residential use.

The site is suitable for the ongoing proposed residential use.

SEPP (Sustainable Buildings) 2022

The applicant has included a BASIX Certificate as part of the lodgment of the application (lodged within 3 months of the date of the lodgment of this application) in compliance with the *EPA Regulation 2021*.

A. SEPP (Biodiversity and Conservation) 2021

Chapter 6 Water Catchments

Section 6.6 under Part 6.2 of the *Biodiversity and Conservation SEPP* provides matters for consideration which apply to the proposal. The subject site is located within the designated hydrological catchment of the Sydney Harbour Catchment and is subject to the provisions contained within Chapter 6 of the above *Biodiversity Conservation SEPP*.

It is considered that the proposal remains consistent with the relevant general development controls under Part 6.2 of the *Biodiversity Conservation SEPP* and would not have an adverse effect in terms of water quality and quantity, aquatic ecology, flooding, or recreation and public access.

Inner West Local Environmental Plan 2022

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*.

Part 1 – Preliminary

Section	Proposed	Compliance
Section 1.2 Aims of Plan	The proposal satisfies the section as follows: <ul style="list-style-type: none"> The proposal encourages diversity in housing to meet the needs of, and enhance amenity for, Inner West residents 	Yes

Part 2 – Permitted or prohibited development

Section	Proposed	Compliance
Section 2.3 Zone objectives and Land Use Table	<ul style="list-style-type: none"> The application proposes alterations and additions to an existing multi dwelling housing complex. Multi dwelling housing is permissible with consent in the R1 General Residential zone. The proposal is consistent with the relevant objectives of the zone, as it will retain a residential 	Yes

Section	Proposed	Compliance
	use which will continue to provide for the housing needs of the community while maintaining the built and natural character of the area.	
Section 2.7 Demolition requires development consent	The proposal satisfies the section as follows: <ul style="list-style-type: none"> • Demolition works are proposed, which are permissible with consent; and • Standard conditions are recommended to manage impacts which may arise during demolition. 	Yes, subject to conditions

Part 4 – Principal development standards

Section	Proposed	Compliance
Section 4.3C (3)(a) Landscaped Area	Minimum (strata complex)	20% or 35.2sqm
	Minimum (subject site)	15% or 26.4sqm
	Proposed	17.9% or 31.6sqm
	Variation (strata complex) Variation (subject site)	3.6sqm or 10.2% N/A - complies
Section 4.3C (3)(b) Site Coverage	Maximum (strata complex)	60%
	Maximum (subject site)	60%
	Proposed	43.4% or 76.5sqm
	Variation (strata complex) Variation (subject site)	Unknown N/A - complies
Section 4.4 Floor space ratio	Maximum (strata complex)	0.7:1 or 123.2sqm
	Maximum (subject site)	0.9:1 or 158.4sqm
	Proposed	0.717:1 or 126.2sqm
	Variation (strata complex) Variation (subject site)	3sqm or 2.4% N/A - complies
Section 4.5 Calculation of floor space ratio and site area	The site area and floor space ratio for the proposal has been calculated in accordance with the section.	Yes
Section 4.6 Exceptions to development standards	The applicant has submitted a variation request in accordance with Section 4.6 to vary Section 4.3C and 4.4.	See discussion below

Section 4.6 – Exceptions to Development Standards

As indicated in the table above, the proposal complies with the applicable site coverage, landscaping and FSR development standards if calculated for the individual strata lot upon which it is situated. However, the *IWLEP* does not distinguish strata lots as development allotments for this purpose.

It is not known by exactly how much the overall strata development exceeds the standards by, given its multi-unit nature and fragmented ownership, Council and the proponent agree that the development will require Clause 4.6 requests to contravene the applicable LEP development standards. A written request to address each standard (FSR, site coverage, landscaping) has been submitted, in accordance with Section 4.6(3) and is assessed below.

FSR development standard

The applicant seeks a variation to Section 4.4 under section 4.6 of the *IWLEP 2022* by 3sqm or 2.4%. This variation has been estimated, on the basis that the exact FSR of the entire strata complex is unknown, due to the extent of built form changes since construction. Council's records indicate that the overall parent parcel had a compliant FSR of 0.696:1 when originally approved. There have been many applications and work to the strata complex which have increased this FSR to a point where it exceeds the LEP development standard.

Section 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *IWLEP 2022* below. A written request has been submitted to Council in accordance with Section 4.6(3) of the *IWLEP 2022* justifying the proposed contravention of the development standard.

Whether compliance with the development standard is unreasonable or unnecessary

In *Wehbe* at [42] – [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant's written request, the first method described in *Initial Action* at [17] is used, which is that the objectives of the FSR standard are achieved notwithstanding the numeric non-compliance.

The **first objective of Section 4.4** is *"to establish a maximum floor space ratio to enable appropriate development density"*. The written request states the proposal has an increased FSR due to an increase to GFA at the ground floor and that the site maintains a similar to existing site coverage and therefore provides an appropriate development density. As the proposed increase in floor area and site coverage is relatively minor, the site will remain an appropriate development density having regard to surrounding properties. Accordingly, the breach is consistent with the first objective.

The **second objective of Section 4.4** is *"to ensure development density reflects its locality"*. The written request states despite the increase in FSR, the bulk and scale of the building has been carefully designed to respect the local context and match other units in the strata development. This reasoning is accepted, particularly considering the restrained nature of the proposed additions to the existing dwelling. Accordingly, the breach is consistent with the second objective.

The **third objective of Section 4.4** is *"to provide an appropriate transition between development of different densities"*. The written request states the proposal does not result in significant impacts on surrounding properties and the external alterations are minimal in scale. It is acknowledged that the site does not adjoin properties with differing development density (FSR, land use zoning). Importantly, the proposed additions will retain an appropriate transition with surrounding properties within the strata complex, irrespective of the variation. Accordingly, the breach is consistent with the third objective.

The **fourth objective of Section 4.4** is “*to minimise adverse impacts on local amenity*”. The written request states there are no adverse impacts to the environmental amenity of neighbouring properties. As indicated, there will be no view, solar access, visual or acoustic privacy impacts to neighbouring properties. Accordingly, the breach is consistent with the fourth objective.

The **fifth objective of Section 4.4** is “*to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain*”. The written request states the proposal has no impact to trees. This is accepted, given the proposed works will not impact upon any trees on the site or neighbouring properties. The proposal includes landscaped areas within the upper and lower courtyard spaces, which provide for future tree planting opportunities. Accordingly, the breach is not inconsistent with the fifth objective.

As the proposal achieves the objectives of the FSR standard, compliance is considered unreasonable and unnecessary in this instance.

Whether there are sufficient environmental planning grounds to justify contravening the development standard

Pursuant to Section 4.6(3)(b), the Applicant advances seven environmental planning grounds to justify contravening the FSR development standard. Each will be dealt with in turn:

Environmental Planning Ground 1 - *The subject dwelling is part of a larger development which may or may not comply with the FSR control. If the subject dwelling was treated as its own allotment, the FSR control would be 0.9:1 and the proposal would comply. As previously indicated, the site would have been subject to a larger allowable GFA had the site been a Torrens Title subdivision. This environmental planning ground is accepted on that basis.*

Environmental Planning Ground 2 - *The design of the development provides a desirable urban form that maintains the existing site as a single residence, retains the original principle building form. This environmental planning ground is accepted because despite the proposed minor additions to the existing dwelling, the site will continue to read as a single attached residence. It is also noted that the amended design will better relate to the existing dwelling and overall roof form as perceived from Yeend Street.*

Environmental Planning Ground 3 - *The proposed dwelling has been sympathetically designed to consider the amenity and character of the surrounding neighbourhood through its retention of the original principle building and modest alterations. The extent of additions to the existing dwelling are minor and will not result in adverse amenity or character impacts. This environmental planning ground is therefore accepted.*

Environmental Planning Ground 4 - *The FSR development standard departure does not itself create any adverse impact by way of privacy or bulk and scale that could be viewed by neighbours or those passing the site within the public domain. As previously indicated, there will be an absence of environmental impacts arising from proposal, irrespective of the variation to FSR. This ground is accepted.*

Environmental Planning Ground 5 – *No additional amenity impacts arise as a result of the proposal.* This environmental planning ground is accepted because the proposed variation will not result in adverse view or solar access impacts to neighbouring properties. Existing levels of visual privacy for neighbouring properties will also be retained, irrespective of the additional FSR.

Environmental Planning Ground 6 and 7 – *The development achieves the aims and objectives of IWLEP 2022. The proposal satisfies the zone objectives.* These constitute separate preconditions under Section 4.6 and the *IWLEP* more broadly and are therefore considered less relevant to a consideration of environmental planning grounds.

Cumulatively, and while not all the grounds have been adequately made out, grounds 1-5 are considered sufficient to justify contravening the development standard.

Whether the proposed development meets the objectives of the development standard, and of the zone

The objectives of the R1 General Residential zone under the *IWLEP 2022* are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide residential development that maintains the character of built and natural features in the surrounding area.*

Council accepts the Applicant's submissions in the written request that the relevant objectives of the R1 General Residential zone are met. The variation will enable improved occupant amenity without impacting upon the amenity of neighbouring properties. Importantly, the proposal will retain the residential use of the site and will continue to provide a built form which maintains the built and natural character of the area. As indicated above, Council is also satisfied that the development meets the objectives of the FSR standard. As the proposal is consistent with both the objectives of the zone and the standard, it is considered in the public interest.

For the reasons outlined above, it is recommended the section 4.6 exception be granted.

Landscaped Area development standard

The applicant seeks a variation to the above mentioned under section 4.6 of the *IWLEP 2022* by 3.6sqm or 10.2%. This variation has been estimated, on the basis that the exact landscaped area of the entire strata complex is unknown, due to the extent of built form changes since construction. There have been many applications and work to the strata complex which have reduced the overall landscaped area to a point where it likely falls short of the LEP development standard.

Section 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against

the objectives and provisions of Section 4.6 of the *IWLEP 2022* below. A written request has been submitted to Council in accordance with Section 4.6(3) of the *IWLEP 2022* justifying the proposed contravention of the development standard.

Whether compliance with the development standard is unreasonable or unnecessary

In *Wehbe* at [42] – [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant's written request, the first method described in *Initial Action* at [17] is used, which is that the objectives of the landscaped area standard are achieved notwithstanding the numeric non-compliance.

The **first objective of Section 4.3C** is *“to provide landscaped areas for substantial tree planting and for the use and enjoyment of residents”*. The written request states the proposal will maintain the existing soft landscaping and retains amenity for users of the lower and ground floor. This reasoning is accepted though it is acknowledged that there may be planting opportunities for substantial trees, particularly at the Yeend Street upper level. The breach is consistent with the first objective.

The **second objective of Section 4.3C** is *“to maintain and encourage a landscaped corridor between adjoining properties”*. The written request states the existing building has a nil setback to the side boundaries; is part of a strata development and there will be no changes to existing landscaping. The proposed works are relatively limited and will maintain the existing nil side setbacks. Similarly, landscaping will also be retained at the ground and lower-level courtyards, along the respective side boundaries between the private open space of adjoining properties. Accordingly, the breach is consistent with the second objective.

The **third objective of Section 4.3C** is *“to ensure that development promotes the desired character of the neighbourhood”*. The written request states the proposal will result in an appropriate and sensitive development, providing retained amenity to the existing residence and retaining landscaping while being respectful of surrounding built form and character. This reasoning is accepted and the breach is therefore consistent with the third objective.

The **fourth objective of Section 4.3C** is *“to encourage ecologically sustainable development”*. The written request states the proposal will retain existing soft landscaped areas, which retains adequate retention and absorption of surface drainage water on site. Given the proposed works will retain on-site landscaping and the proposed additions satisfy the requirements of BASIX, the breach is consistent with the fourth objective.

The **fifth objective of Section 4.3C** is *“to control site density”*. The written request states the proposal will retain the existing site density. Notwithstanding the negligible increase in site coverage, the site will reasonably control overall site density and therefore a similar footprint to other dwellings within the strata complex. Accordingly, the breach is consistent with the fifth objective.

The **sixth objective of Section 4.3C** is *“to provide for landscaped areas and private open space”*. The written request states the proposed slight increase in building footprint will not affect landscaped area. This reasoning is accepted, particularly considering existing

landscaped areas are unchanged and ample private open space will be retained. Accordingly, the breach is consistent with the sixth objective.

As the proposal achieves the objectives of the landscaped area standard, compliance is considered unreasonable and unnecessary in this instance.

Whether there are sufficient environmental planning grounds to justify contravening the development standard

Pursuant to Section 4.6(3)(b), the Applicant advances seven environmental planning grounds to justify contravening the landscaped area development standard. Each will be dealt with in turn:

Environmental Planning Ground 1 - *The subject dwelling is part of a larger development which may or may not comply with the landscaped area or site coverage control. If the subject dwelling was treated as its own allotment, the landscape control would be 17.9% of the site area and the proposal would comply.* As indicated, the subject site is part of a strata complex and is therefore subject to a landscaped area requirement of 20% of the site. The nature of the variation is technical, given the site would have been subject to a requirement of 15% had the development been a Torrens Title subdivision. It is also acknowledged that the entire strata complex may in fact comply with landscaping irrespective of the proposed variation to No. 26 Yeend Street, although the exact figure is unknown. This environmental planning ground is accepted.

Environmental Planning Ground 2 – *The design of the development provides a desirable urban form that maintains the site as a single residence and retains the original principle building form.* This environmental planning ground is not accepted because it is of limited relevance to the proposed variation to landscaped area. A reduction in the scale of on-site built form or paving would have brought the individual allotment closer to technical compliance with landscaped area.

Environmental Planning Ground 3 – *The proposal has been designed to consider the amenity and character of the neighbourhood through retention of the original principle building and modest alterations.* The extent of additions to the existing dwelling have been minimised, in effect enabling retention of existing landscaped areas. This includes soft landscaping within the upper level courtyard area. This environmental planning ground is accepted because the technical variation will not limit compatibility within the neighbourhood.

Environmental Planning Ground 4 – *The existing landscaped area is compliant with the required area as per Clause 4.3C of the IWLEP.* The existing site does not comply with the 20% landscaping requirement, as applies to the site given it remains part of a larger strata complex. Compliance with the 15% landscaped area requirement is a situation which relies upon hypothetical subdivision, which is not proposed under this application. This environmental planning ground is not accepted given the existing landscaped area is not compliant with the required area as per the IWLEP.

Environmental Planning Ground 5 – *There will be no amenity impacts arising from the proposal.* There will be an absence of amenity impacts as a result of the landscaping variation, though it is argued that the proposed landscaping would not impact upon neighbouring amenity, such is the low-impact nature of the type of landscaping on the site (planters and low at-grade planting). This environmental planning ground is not accepted.

Environmental Planning Ground 6 and 7 – *The development achieves the aims and objectives of IWLEP 2022. The proposal satisfies the zone objectives.* These constitute separate preconditions under Section 4.6 and the *IWLEP* more broadly and are therefore considered less relevant to a consideration of environmental planning grounds.

Cumulatively, and while not all the grounds have been adequately made out, grounds 1 and 3 are considered sufficient to justify contravening the development standard.

Whether the proposed development meets the objectives of the development standard, and of the zone

The objectives of the R1 General Residential zone under the *IWLEP 2022* are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide residential development that maintains the character of built and natural features in the surrounding area.*

Council accepts the Applicant's submissions in the written request that the relevant objectives of the R1 General Residential zone are met. Notwithstanding the landscaped area variation, the proposal will retain the existing soft landscaping area and will provide an improved architectural presentation while retaining existing primary open space. As indicated above, Council is also satisfied that the development meets the objectives of the landscaped area standard. As the proposal is consistent with both the objectives of the zone and the standard, it is considered in the public interest.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning.

For the reasons outlined above, it is recommended the section 4.6 exception be granted.

Site Coverage development standard

The applicant seeks a variation to the above mentioned under section 4.6 of the *IWLEP 2022*, though the exact extent of variation is unknown given the property forms part of a larger strata complex. It is noted that the proposed development would provide a compliant site coverage, of 43.4%, had the allotment been a Torrens Title subdivision. For abundant caution, the proposed site coverage will be assessed on the basis of a variation to the standard.

Section 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this

instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *IWLEP 2022* below. A written request has been submitted to Council in accordance with Section 4.6(3) of the *IWLEP 2022* justifying the proposed contravention of the development standard.

Whether compliance with the development standard is unreasonable or unnecessary

In *Wehbe* at [42] – [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant’s written request, the first method described in *Initial Action* at [17] is used, which is that the objectives of the site coverage standard are achieved notwithstanding the numeric non-compliance.

The **first objective of Section 4.3C** is “*to provide landscaped areas for substantial tree planting and for the use and enjoyment of residents*”. The written request states the proposal will maintain the existing soft landscaping and retains amenity for users of the lower and ground floor. Importantly, the negligible increase to site coverage will not limit landscaping or private open space. This reasoning is accepted and the breach is consistent with the first objective.

The **second objective of Section 4.3C** is “*to maintain and encourage a landscaped corridor between adjoining properties*”. The written request states the existing building has a nil setback to the side boundaries; is part of a strata development and there will be no changes to existing landscaping. The proposed alterations and additions will maintain the existing nil setback for the dwelling, while also retaining a near identical building alignment. Landscaping will be retained, at the upper and lower courtyards. Accordingly, the breach is consistent with the second objective.

The **third objective of Section 4.3C** is “*to ensure that development promotes the desired character of the neighbourhood*”. The written request states the proposal will result in an appropriate and sensitive development, providing retained amenity to the existing residence and retaining landscaping while being respectful of surrounding built form and character. This reasoning is accepted and the breach is therefore consistent with the third objective.

The **fourth objective of Section 4.3C** is “*to encourage ecologically sustainable development*”. The written request states the proposal will retain existing soft landscaped areas, which enables adequate retention and absorption of surface drainage water on site. Given the proposed works will retain on-site landscaping, increases to the building footprint are minor and the proposed additions satisfy the requirements of BASIX, the breach is consistent with the fourth objective.

The **fifth objective of Section 4.3C** is “*to control site density*”. The written request states the proposal will retain the existing site density. Notwithstanding the increased site coverage, the site will reasonably control overall site density and have a similar footprint to other dwellings within the strata complex. As indicated, the site itself would comply with site coverage, which may be a further indicator of a controlled site density. Accordingly, the breach is consistent with the fifth objective.

The **sixth objective of Section 4.3C** is “to provide for landscaped areas and private open space”. The written request states the proposed slight increase in building footprint will not affect landscaped area or private open space. This reasoning is accepted and the breach is consistent with the sixth objective.

As the proposal achieves the objectives of the site coverage standard, compliance is considered unreasonable and unnecessary in this instance.

Whether there are sufficient environmental planning grounds to justify contravening the development standard

Pursuant to Section 4.6(3)(b), the Applicant advances seven environmental planning grounds to justify contravening the site coverage development standard. Each will be dealt with in turn:

Environmental Planning Ground 1 - *The subject dwelling is part of a larger development which may or may not comply with the landscaped area or site coverage control. If the subject dwelling was treated as its own allotment, the site coverage would be 43.4% of the site area and the proposal would comply.* This environmental planning ground is accepted because the site would comply with the site coverage development standard when calculated for the individual allotment.

Environmental Planning Ground 2 – *The design of the development provides a desirable urban form that maintains the site as a single residence and retains the original principle building form.* The proposed changes to the existing dwelling are limited and will maintain a similar overall form, building footprint and envelope. Importantly, the dwelling will remain compatible with surrounding development within the complex. This environmental planning ground is accepted.

Environmental Planning Ground 3 – *The proposal has been designed to consider the amenity and character of the neighbourhood through retention of the original principle building and modest alterations.* This environmental planning ground is accepted because the limited scope of works is such that there will be an absence of amenity impacts and the built form will remain compatible with the surrounding neighbourhood.

Environmental Planning Ground 4 – *The existing landscaped area is compliant with the required area as per Clause 4.3C of the IWLEP.* The existing site does not comply with the 20% landscaping requirement, as applies to the site given it remains part of a larger strata complex, therefore this environmental planning ground is not accepted.

Environmental Planning Ground 5 – *There will be no amenity impacts arising from the proposal.* Irrespective of the minor increase to site coverage, there will be no amenity impacts arising from the proposed additions. This environmental planning ground is accepted.

Environmental Planning Ground 6 and 7 – *The development achieves the aims and objectives of IWLEP 2022. The proposal satisfies the zone objectives.* These constitute separate preconditions under Section 4.6 and the IWLEP more broadly and are therefore considered less relevant to a consideration of environmental planning grounds.

Cumulatively, and while not all the grounds have been adequately made out, grounds 1-3 and 5 are considered sufficient to justify contravening the development standard.

Whether the proposed development meets the objectives of the development standard, and of the zone

The objectives of the R1 General Residential zone under the *IWLEP 2022* are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide residential development that maintains the character of built and natural features in the surrounding area.*

Council accepts the Applicant’s submissions in the written request that the relevant objectives of the R1 General Residential zone are met. The proposal will provide a similar to existing site coverage; will retain existing soft landscaping area and will provide an improved architectural presentation while retaining the existing primary open space. As indicated above, Council is also satisfied that the development meets the objectives of the site coverage standard. As the proposal is consistent with both the objectives of the zone and the standard, it is considered in the public interest.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning.

For the reasons outlined above, it is recommended the section 4.6 exception be granted.

Part 5 – Miscellaneous provisions

Section	Compliance	Compliance
Section 5.10 Heritage conservation	<p>The subject site contains a late 20th century town house development which is a neutral building within the Town of Waterview Heritage Conservation Area (HCA).</p> <p>Council’s heritage advisor reviewed the initially submitted proposal and indicated it to be supported, subject to two design change conditions in the following regard:</p> <ul style="list-style-type: none"> • The pitch of the roof form of the side addition to be reduced from 15 degrees to 10 degrees, to reduce the extent of demolition required to the main roof plane and to ensure more of the complementary gable roof is retained. • The material for the part filling in of the existing window opening in the SW elevation to the dining area to be lightweight and not brickwork, painted to complement the existing colour scheme of the NE elevation. 	Yes

Section	Compliance	Compliance
	<p>The applicant submitted amended plans, which have met the abovementioned requirements.</p> <p>The proposal achieves the objectives of this section as it has been designed to respond to the significance of the conservation area and preserve contributory elements and fabric of the existing building</p> <p>Given the above, the amended proposal preserves the environmental heritage of the Inner West.</p>	
Section 5.21 Flood planning	The site is located in a flood planning area. The development is considered to be compatible with the flood function and behaviour on the land now and under future projections. The design of the proposal and its scale will not affect the floor affectation of the subject site or adjoining properties and is considered to appropriately manage flood risk to life and the environment.	Yes

Part 6 – Additional local provisions

Section	Proposed	Compliance
Section 6.1 Acid sulfate soils	The site is identified as containing Class 5 acid sulfate soils. The proposal is considered to adequately satisfy this section as the application does not propose any works that would result in any significant adverse impacts to the watertable.	Yes
Section 6.2 Earthworks	The proposed earthworks are unlikely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability.	Yes
Section 6.3 Stormwater Management	The development maximises the use of permeable surfaces, and subject to standard conditions would not result in any significant runoff to adjoining properties or the environment.	Yes, subject to conditions

B. Development Control Plans

Summary

The application has been assessed and the following provides a summary of the relevant provisions of Leichhardt Development Control Plan 2013 (LDCP 2013).

LDCP2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes

Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.11 Parking	Yes
C1.12 Landscaping	Yes
C1.14 Tree Management	Yes
Part C: Place – Section 2 Urban Character	
C2.2.2.5 Mort Bay Distinctive Neighbourhood	Yes
C2.2.2.5(a) Lower Slopes Sub Area	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	Yes
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.2.1 Water Conservation	Yes
E1.2.5 Water Disposal	Yes

C. The Likely Impacts

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will not have significant adverse environmental, social or economic impacts upon the locality.

D. The Suitability of the Site for the Development

The proposal is of a nature in keeping with the overall function of the site. The premises are in a residential surrounding and amongst similar uses to that proposed.

E. Submissions

The application was required to be notified in accordance with Council's Community Engagement Strategy between 6 March to 20 March 2024. No submissions were received.

F. The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

This has been achieved in this instance.

6. Section 7.12 Contributions

Section 7.12 levies are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$2,570.00 would be required for the development under the Inner West Local Infrastructure Contributions Plan 2023.

A condition requiring that contribution to be paid is included in the recommendation.

7. Referrals

The following internal referrals were made, and their comments have been considered as part of the above assessment:

- Heritage Specialist;
- Development Engineer.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and the *Leichhardt Development Control Plan 2013*.

The development will not result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. The applicant has made written requests pursuant to Section 4.3C and 4.4 of the *Inner West Local Environmental Plan 2022*. After considering the requests, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the FSR, Landscape Area and Site coverage standards is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variations. The proposed development will be in the public interest because the exceedances are not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2024/0120 for alterations and additions to the existing strata townhouse at 26 Yeend Street, Birchgrove subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

GENERAL CONDITIONS

Condition	
1.	<p style="text-align: center;">Boundary Alignment Levels</p> <p>Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary.</p> <p>Reason: To allow for pedestrian and vehicular access.</p>
2.	<p style="text-align: center;">Stormwater Drainage System – Simple</p> <p>Stormwater runoff from proposed new or altered roof areas may be discharged to the existing site drainage system.</p> <p>Any existing component of the stormwater system that is to be retained, must be checked and certified by a Licensed Plumber or qualified practising Civil Engineer to be in good condition and operating satisfactorily.</p> <p>If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works, the drainage system must be upgraded to discharge by gravity to the kerb and gutter of a public road.</p> <p>Reason: To ensure adequate disposal of stormwater.</p>
3.	<p style="text-align: center;">Permits</p> <p>Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the <i>Local Government Act 1993</i> and/or Section 138 of the <i>Roads Act 1993</i>. Permits are required for the following activities:</p> <ul style="list-style-type: none"> a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application; b. A concrete pump across the roadway/footpath; c. Mobile crane or any standing plant; d. Skip Bins; e. Scaffolding/Hoardings (fencing on public land); f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.; g. Awning or street veranda over the footpath; h. Partial or full road closure; and i. Installation or replacement of private stormwater drain, utility service or water supply. <p>If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be</p>

	submitted and approved by Council prior to the commencement of the works associated with such activity.			
	Reason: To ensure works are carried out in accordance with the relevant legislation.			
4.	Documents related to the consent			
	The development must be carried out in accordance with plans and documents listed below:			
	Plan, Revision and Issue No.	Plan Name	Date Issued/Received	Prepared by
	Drawing 01 Rev C	Site / Roof Plan	22/02/2024	Christopher Jordan Architecture & Design
	Drawing 02 Rev A	Ground Floor Demolition Plan	21/02/2024	Christopher Jordan Architecture & Design
	Drawing 03 Rev A	Mid Floor Demolition Plan	21/02/2024	Christopher Jordan Architecture & Design
	Drawing 04 Rev B	Lower Ground Floor Demolition Plan	22/02/2024	Christopher Jordan Architecture & Design
	Drawing 05 Rev B	Ground Floor Plan	21/02/2024	Christopher Jordan Architecture & Design
	Drawing 06 Rev C	Mid Floor Plan	22/02/2024	Christopher Jordan Architecture & Design
	Drawing 07 Rev C	Lower Ground Floor Plan	22/02/2024	Christopher Jordan Architecture & Design
	Drawing 08 Rev B	Elevations North-West + South-East	22/02/2024	Christopher Jordan Architecture & Design
	Drawing 09 Rev B	Elevations North-East + South-West	22/02/2024	Christopher Jordan Architecture & Design
	Drawing 10 Rev B	Section A	22/02/2024	Christopher Jordan Architecture & Design
	Drawing 11 Rev A	Section B	13/11/2023	Christopher Jordan Architecture & Design
	No Ref	External Finishes Schedule	N.D.	Christopher Jordan Architecture & Design
	Cert No. A1736452	BASIX Certificate	19/02/2024	Christopher Jordan
	As amended by the conditions of consent.			
	Reason: To ensure development is carried out in accordance with the approved documents.			

5.	<p style="text-align: center;">Works Outside the Property Boundary</p> <p>This development consent does not authorise works outside the property boundaries on adjoining lands.</p> <p>Reason: To ensure works are in accordance with the consent.</p>
6.	<p style="text-align: center;">Storage of Materials on public property</p> <p>The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.</p> <p>Reason: To protect pedestrian safety.</p>
7.	<p style="text-align: center;">Other works</p> <p>Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
8.	<p style="text-align: center;">National Construction Code (Building Code of Australia)</p> <p>A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
9.	<p style="text-align: center;">Notification of commencement of works</p> <p>Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:</p> <ul style="list-style-type: none"> a. In the case of work for which a principal contractor is required to be appointed: <ul style="list-style-type: none"> i. The name and licence number of the principal contractor; and ii. The name of the insurer by which the work is insured under Part 6 of that Act. b. In the case of work to be done by an owner-builder: <ul style="list-style-type: none"> i. The name of the owner-builder; and ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit. <p>Reason: To ensure compliance with legislative requirements.</p>
10.	<p style="text-align: center;">Dividing Fences Act</p> <p>The person acting on this consent must comply with the requirements of the <i>Dividing Fences Act 1991</i> in respect to the alterations and additions to the boundary fences.</p> <p>Reason: To ensure compliance with legislative requirements.</p>

11.	<p style="text-align: center;">Lead-based Paint</p> <p>Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.</p> <p>Reason: To protect human health.</p>
12.	<p style="text-align: center;">Dial before you dig</p> <p>Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.</p> <p>Reason: To protect assets and infrastructure.</p>
13.	<p style="text-align: center;">Bin Storage - Residential</p> <p>All bins are to be stored within the property. Bins are to be returned to the property within 12 hours of having been emptied.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected.</p>
14.	<p style="text-align: center;">Asbestos Removal</p> <p>Hazardous and industrial waste arising from the use must be removed and / or transported in accordance with the requirements of the NSW Environment Protection Authority (EPA) and the New South Wales WorkCover Authority.</p> <p>Reason: To ensure compliance with the relevant environmental legislation.</p>
15.	<p style="text-align: center;">Insurances</p> <p>Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.</p> <p>Reason: To ensure Council assets are protected.</p>

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

	Condition				
16.	<p>Security Deposit - Custom</p> <p>Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.</p> <table border="1" style="margin-left: 20px;"> <tr> <td>Security Deposit:</td> <td>\$2,996.00</td> </tr> <tr> <td>Inspection Fee:</td> <td>\$374.50</td> </tr> </table> <p>Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.</p> <p>The inspection fee is required for the Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.</p> <p>Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.</p> <p>A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.</p> <p>The amount nominated is only current for the financial year in which the initial consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.</p> <p>Reason: To protect Council assets.</p>	Security Deposit:	\$2,996.00	Inspection Fee:	\$374.50
Security Deposit:	\$2,996.00				
Inspection Fee:	\$374.50				
17.	<p>Dilapidation Report – Pre-Development – Minor</p> <p>Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.</p> <p>Reason: To ensure compliance with legislative requirements.</p>				

<p>18.</p>	<p>Changes to Levels</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans incorporating the following amendments:</p> <p style="padding-left: 40px;">a. A 150mm step down must be provided between the finished floor level of the internal room and the finished surface level of the external area.</p> <p>Reason: To protect buildings from overland flow.</p>
<p>19.</p>	<p>Long Service Levy</p> <p>Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has been paid at the prescribed rate of 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.</p> <p>Reason: To ensure the long service levy is paid.</p>
<p>20.</p>	<p>Structural Certificate for retained elements of the building</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.</p> <p>Reason: To ensure the structural adequacy of the works.</p>
<p>21.</p>	<p>Sydney Water – Tap In</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.</p> <p>Note: Please refer to the web site http://www.sydneywater.com.au/tapin/index.htm for details on the process or telephone 13 20 92.</p> <p>Reason: To ensure relevant utility and service provides requirements are provided to the certifier.</p>
<p>22.</p>	<p>Section 7.12 Development Contribution Payments</p> <p>In accordance with section 7.12 of the <i>Environmental Planning and Assessment Act 1979</i> and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), a monetary contribution of \$2,570.00 shall be paid to Council for the purposes of the provision, extension or augmentation of local infrastructure identified in the Plan.</p> <p>At the time of payment, the monetary contribution payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:</p>

	<p>$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$</p> <p>Where:</p> <ul style="list-style-type: none"> • C_{payment} = is the contribution at time of payment • C_{consent} = is the contribution at the time of consent, as shown above • CPI_{consent} = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being 137.7 for the March 2024 quarter. • CPI_{payment} = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment <p>Note: The contribution payable will not be less than the contribution specified in this condition.</p> <p>The monetary contributions must be paid to Council (i) if the development is for subdivision – prior to the issue of the subdivision certificate, or (ii) if the development is for building work – prior to the issue of the first construction certificate, or (iii) if the development involves both subdivision and building work – prior to issue of the subdivision certificate or first construction certificate, whichever occurs first, or (iv) if the development does not require a construction certificate or subdivision certificate – prior to the works commencing.</p> <p>It is the professional responsibility of the principal certifying authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.</p> <p>Council's Plan may be viewed at www.innerwest.nsw.gov.au or during normal business hours at any of Council's customer service centres.</p> <p>Please contact any of Council's customer service centres on 9392 5000 or council@innerwest.nsw.gov.au to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.</p> <p>Once the invoice is obtained, payment can be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to www.innerwest.nsw.gov.au/invoice; please note that a fee of 0.75 per cent applies to credit cards), (iii) in person (at any of Council's customer service centres), or (iv) by mail (make cheque payable to 'Inner West Council' with a copy of your remittance to PO Box 14 Petersham NSW 2049).</p> <p>The invoice will be valid for 3 months. If the contribution is not paid by this time, please contact Council's customer service centres to obtain an updated invoice. The contribution amount will be adjusted to reflect the latest value of the Consumer Price Index (All Groups Index) for Sydney.</p> <p>Reason: To ensure payment of the required development contribution.</p>
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BEFORE BUILDING WORK COMMENCES

Condition	
23.	<p>Waste Management Plan</p> <p>Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
24.	<p>Erosion and Sediment Control</p> <p>Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
25.	<p>Standard Street Tree Protection</p> <p>Prior to the commencement of any work, the Certifying Authority must be provided with details of the methods of protection of all street trees adjacent to the site during demolition and construction.</p> <p>Reason: To protect and retain trees.</p>
26.	<p>Dilapidation Report</p> <p>Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the identified properties (Nos. 24 and 28 Yeend Street) to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.</p> <p>Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>
27.	<p>Construction Fencing</p> <p>Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.</p> <p>Reason: To protect the built environment from construction works.</p>

DURING BUILDING WORK

Condition	
28.	<p>Construction Hours – Class 1 and 10</p> <p>Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5.00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

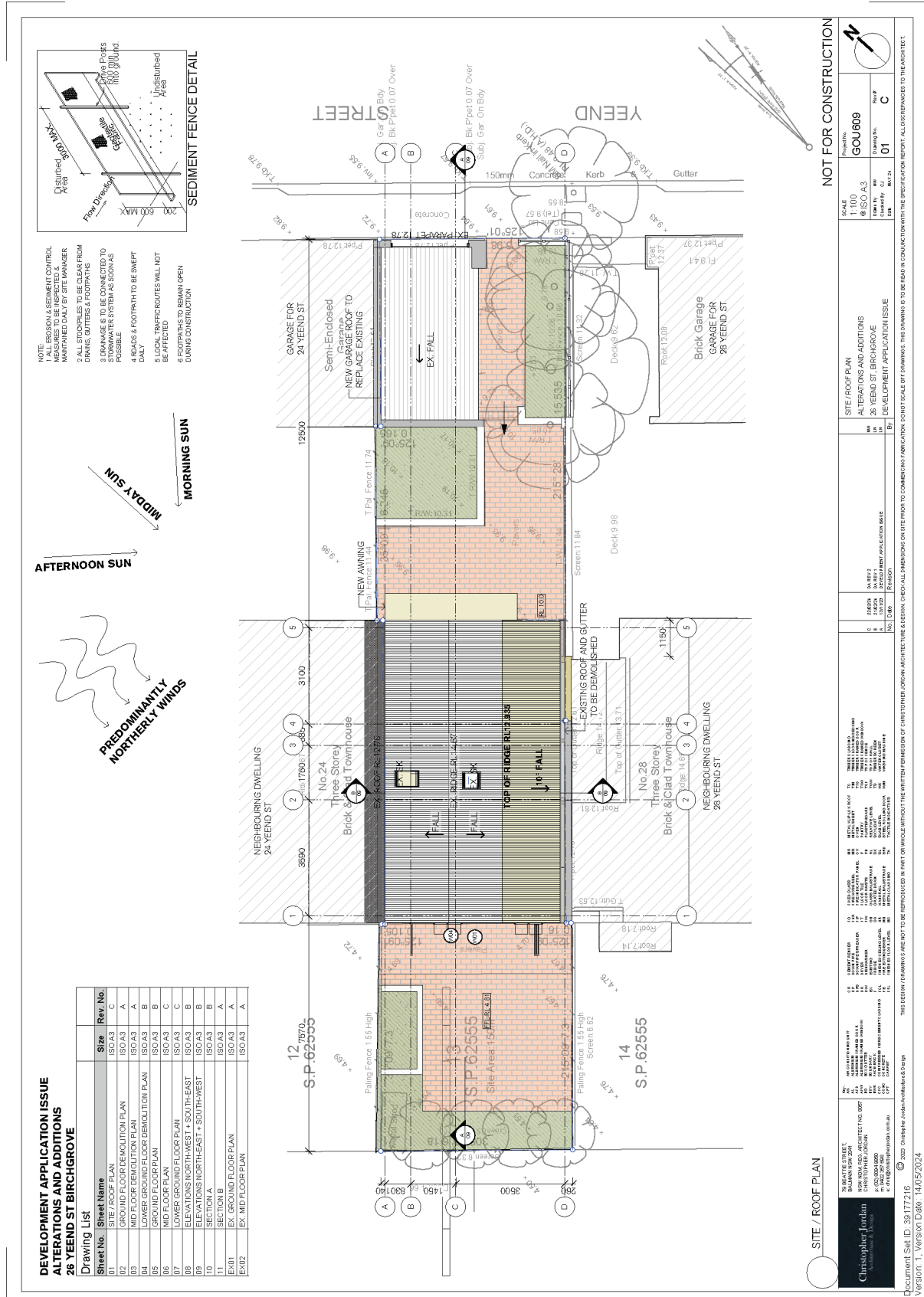
Condition	
29.	<p>No Encroachments</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.</p> <p>Reason: To maintain and promote vehicular and pedestrian safety.</p>
30.	<p>Dilapidation Report</p> <p>Prior to the issue of an Occupation Certificate, the Certifying Authority and owners of identified properties must be provided with a second colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the identified properties (Nos. 24 and 28 Yeend Street) to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.</p> <p>Reason: To determine potential construction impacts.</p>

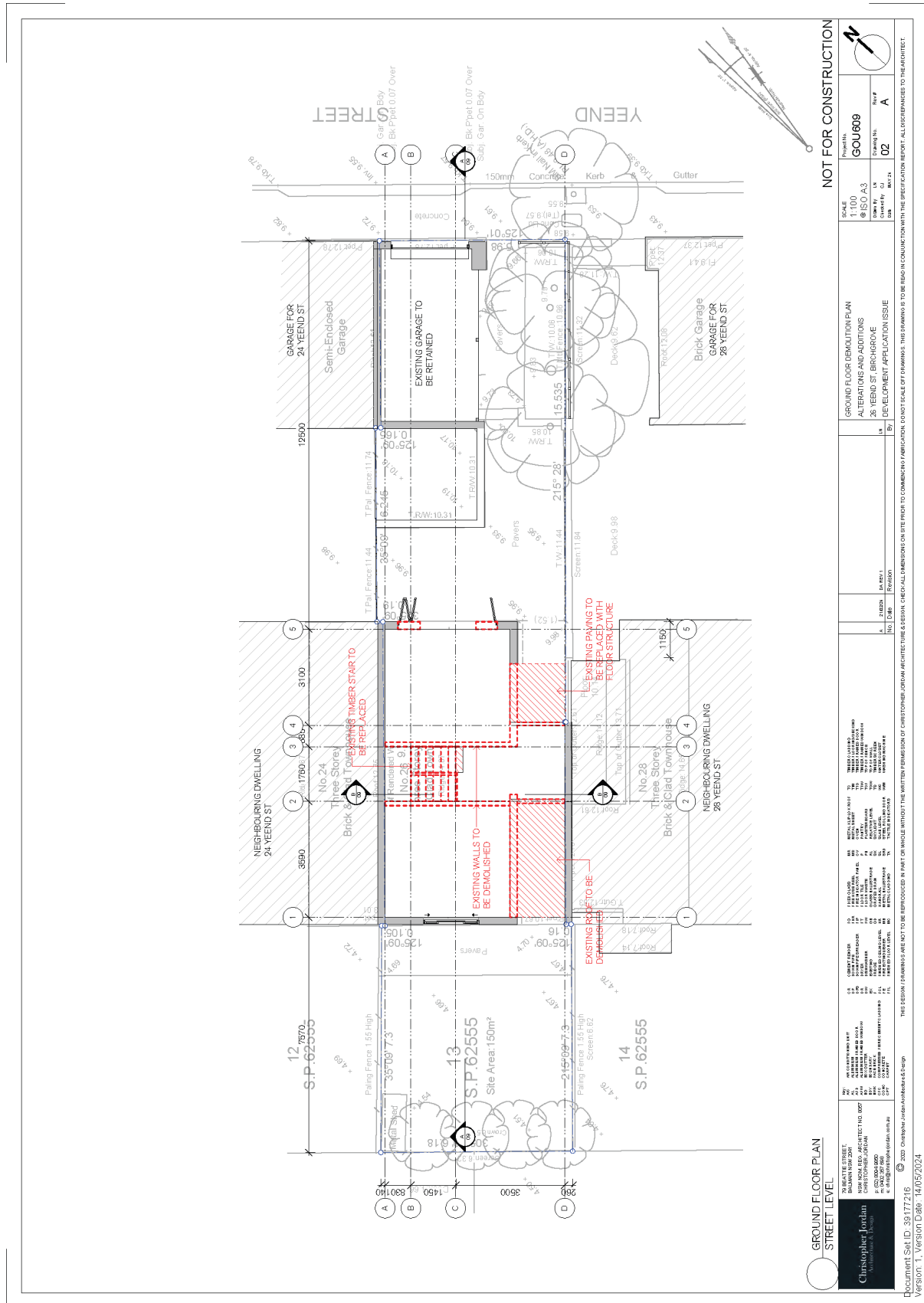
DEMOLITION WORK

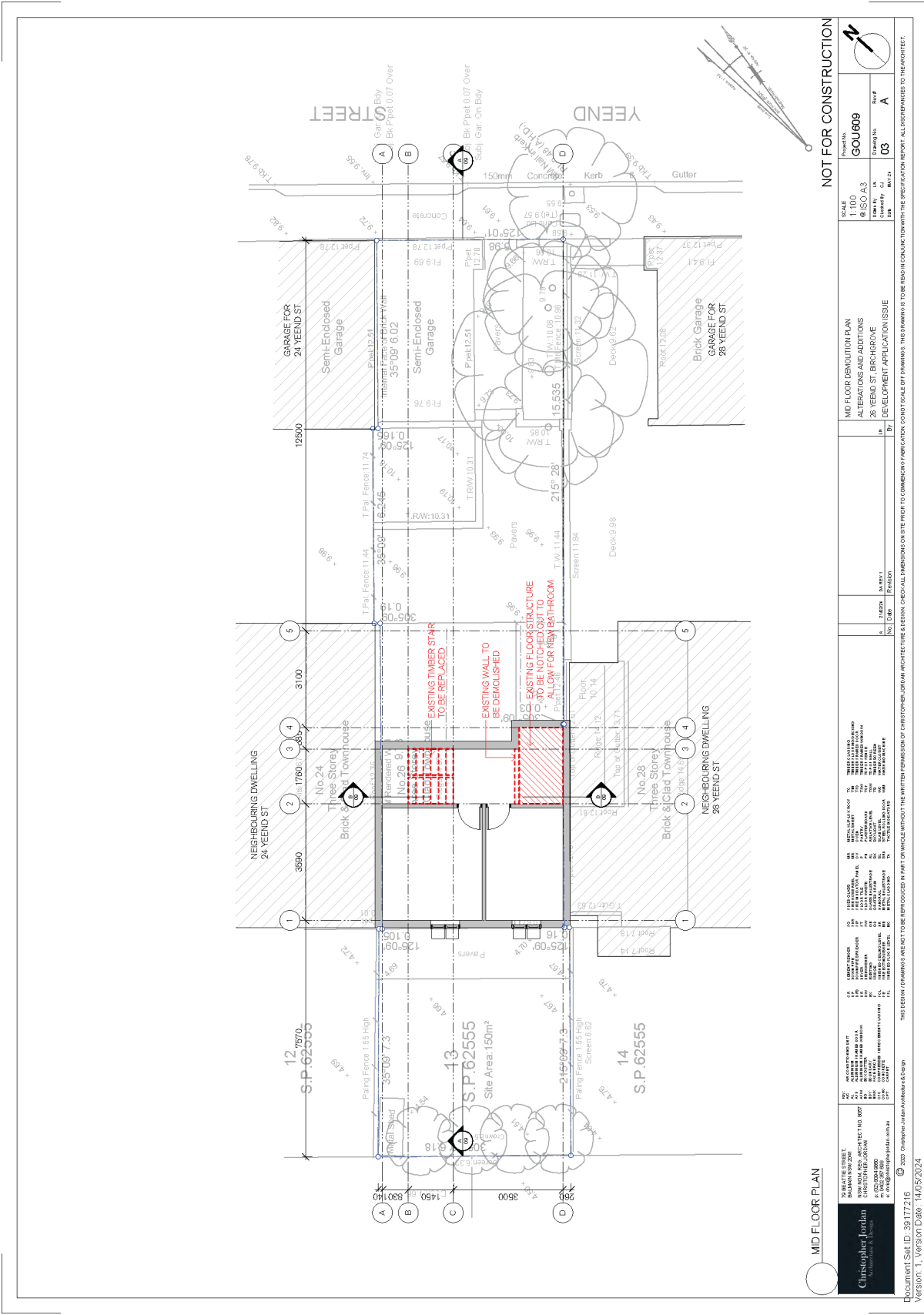
BEFORE DEMOLITION WORK COMMENCES

Condition	
31.	<p>Hoardings</p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.</p> <p>Separate approval is required from the Council under the <i>Roads Act 1993</i> to erect a hoarding or temporary fence or awning on public property.</p> <p>Reason: To ensure the site is secure and that the required permits are obtained if enclosing public land.</p>

Attachment B – Plans of proposed development







NOT FOR CONSTRUCTION

SCALE: 1:100
 ISO A3
 DATE: 14/05/2024
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 PROJECT NO: GOU609
 DRAWING NO: 03
 REV: A

**MID FLOOR DEMOLITION PLAN
 ALTERATIONS AND ADDITIONS**

26 YEEND ST, BIRCHMORE
 By: [Name]
 Title: [Title]

PROPERTY INFORMATION

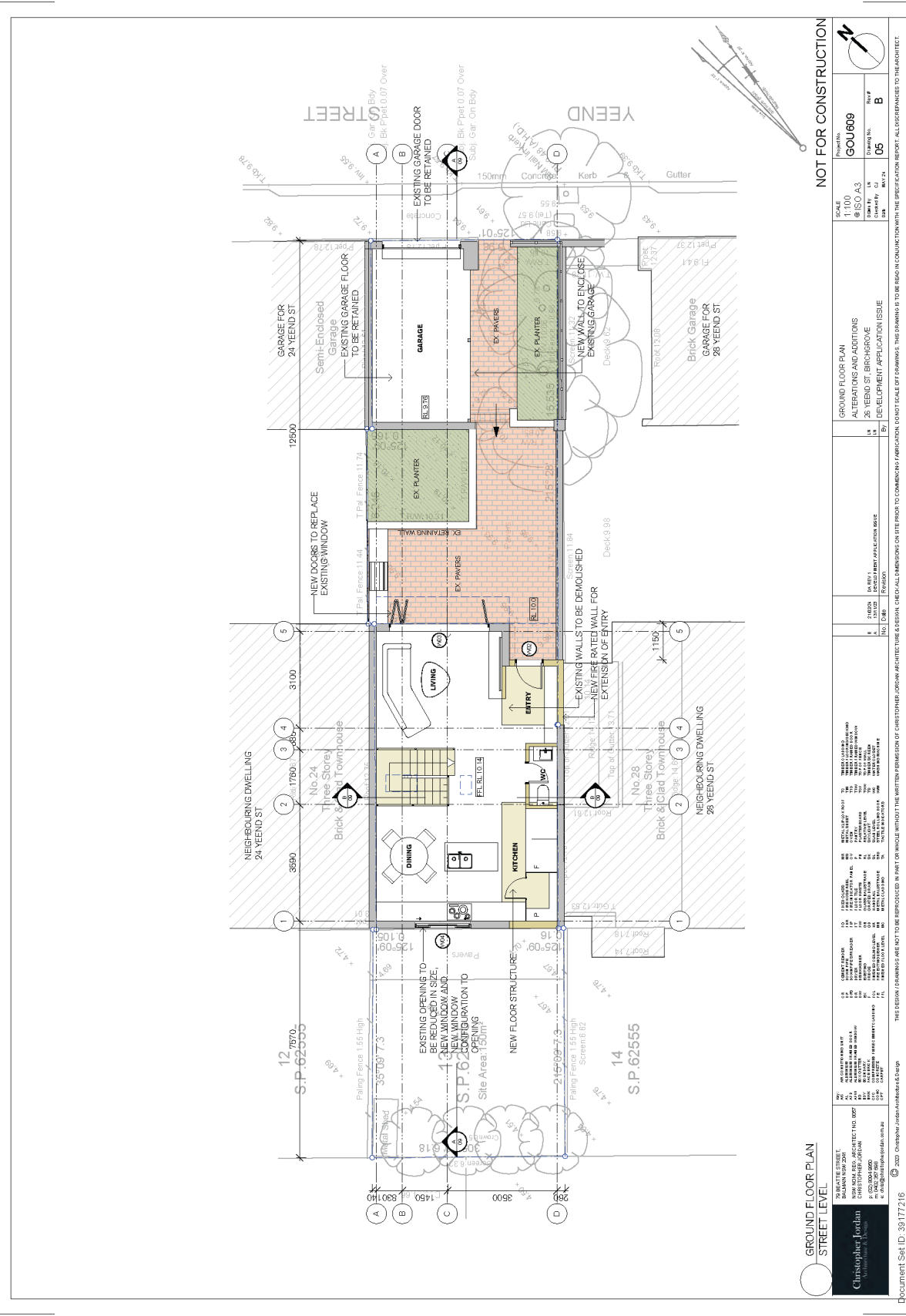
PROJECT ADDRESS: 26 YEEND ST, BIRCHMORE
 LOT AREA: 150.00m²
 SITE AREA: 150.00m²
 SUBDIVISION: [Name]
 DATE OF SURVEY: [Date]

CLIENT INFORMATION

CLIENT NAME: [Name]
 CONTACT: [Phone]
 ADDRESS: [Address]

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Document Set ID: 39177216
 Version: 1, Version Date: 14/05/2024



GROUND FLOOR PLAN

STREET LEVEL

14
S.P. 62555

NEIGHBOURING DWELLING 24 YEEND ST
NEIGHBOURING DWELLING 28 YEEND ST

NOT FOR CONSTRUCTION

Project No: **GOU609**

Scale: **1:100**

Standard: **AS 1506.3**

Drawn by: **LN**

Checked by: **BY 24**

Rev: **B**

Client: **26 YEEND ST BRIDGE**

By: **DEVELOPMENT APPLICATION ISSUE**

Issue No: **05**

Issue Date: **14/05/2024**

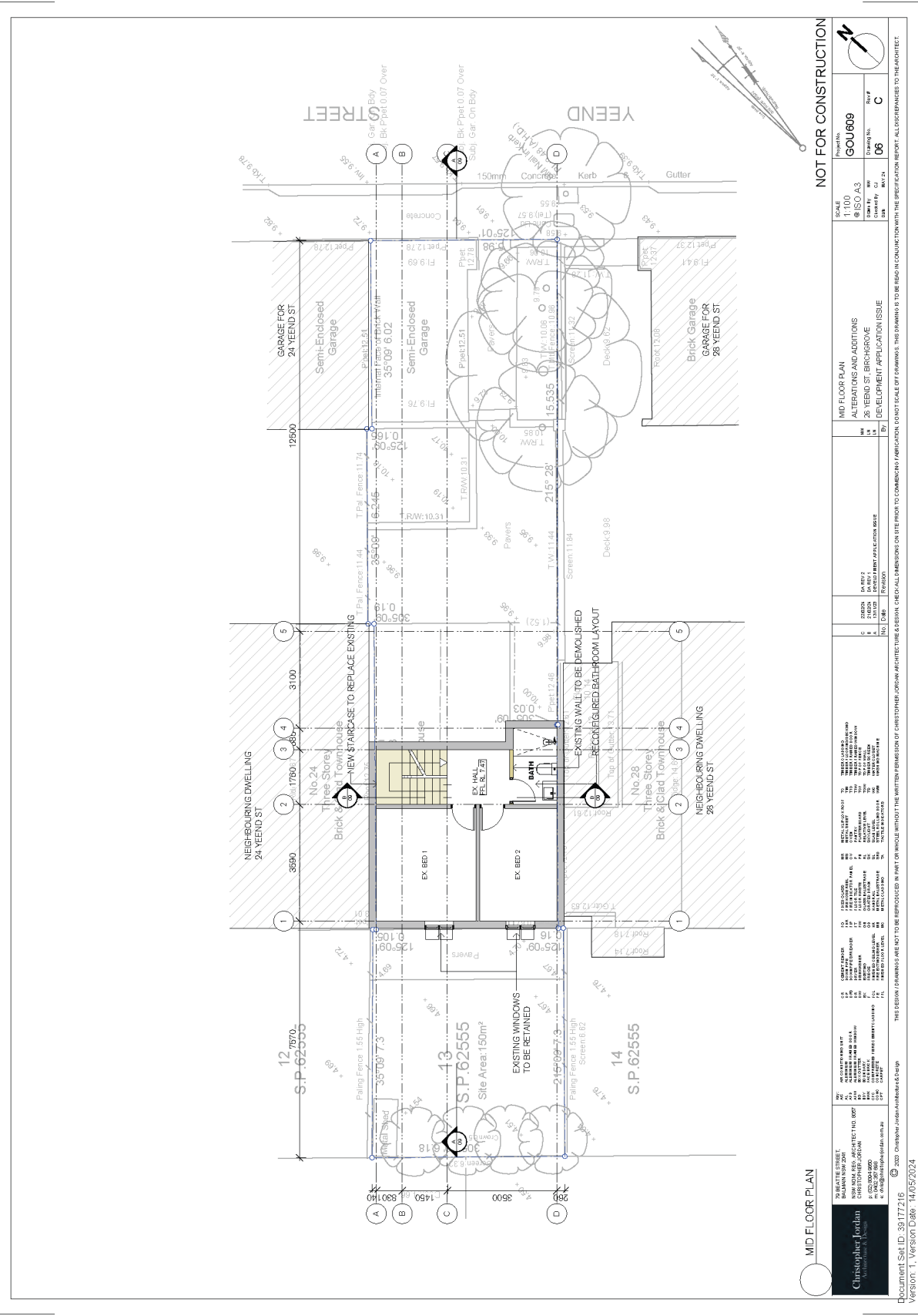
Version: **1**

Document ID: **38177216**

Version 1.1, Version Date: **14/05/2024**

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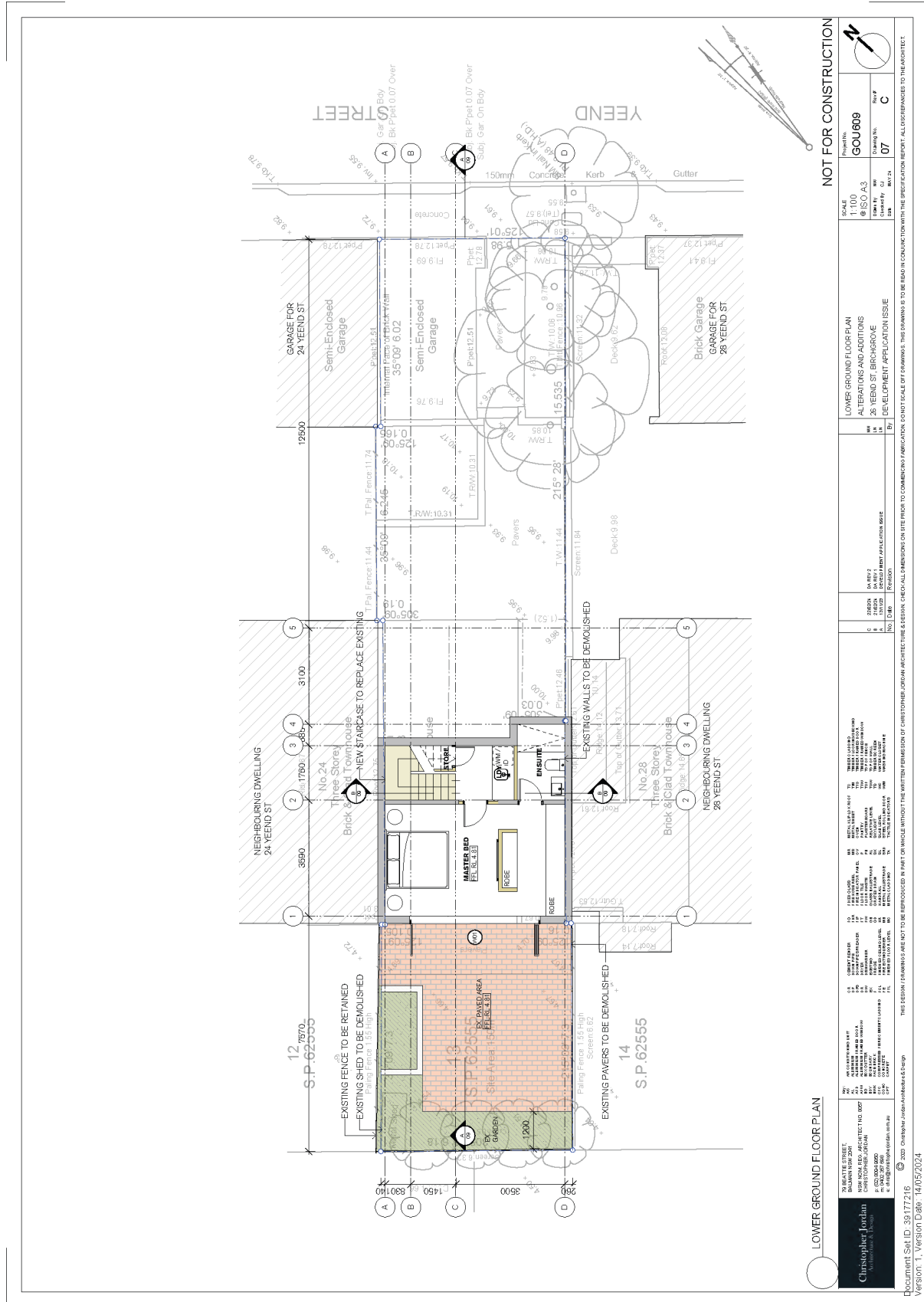
MID FLOOR PLAN
ALTERATIONS AND ADDITIONS
26 YEEND ST BIRCHMORE
By DEVELOPMENT APPLICATION ISSUE

SCALE: 1:100
@ ISO A3
DATE: 14/05/2024
BY: JORDAN
REVISED: 06
REVISED: C

NEIGHBOURING DWELLING
24 YEEND ST
NEIGHBOURING DWELLING
26 YEEND ST
NEIGHBOURING DWELLING
28 YEEND ST

39 HEALE STREET
BIRCHMORE NSW 2162
CHRISTOPHER JORDAN
ARCHITECTURE & DESIGN
P 02 9240 9200
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W www.christopherjordan.com.au

Document Set ID: 3917216
Version: 1, Version Date: 14/05/2024



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LOWER GROUND FLOOR PLAN

Christopher Jordan
 ARCHITECTS & DESIGNERS
 12/14 YEEND STREET, BIRCHGROVE NSW 1585
 PH: 02 9550 9900
 WWW.CHRISTOPHERJORDAN.COM.AU

Project No: **GOU609**
 Drawing No: **07**
 Revision: **C**

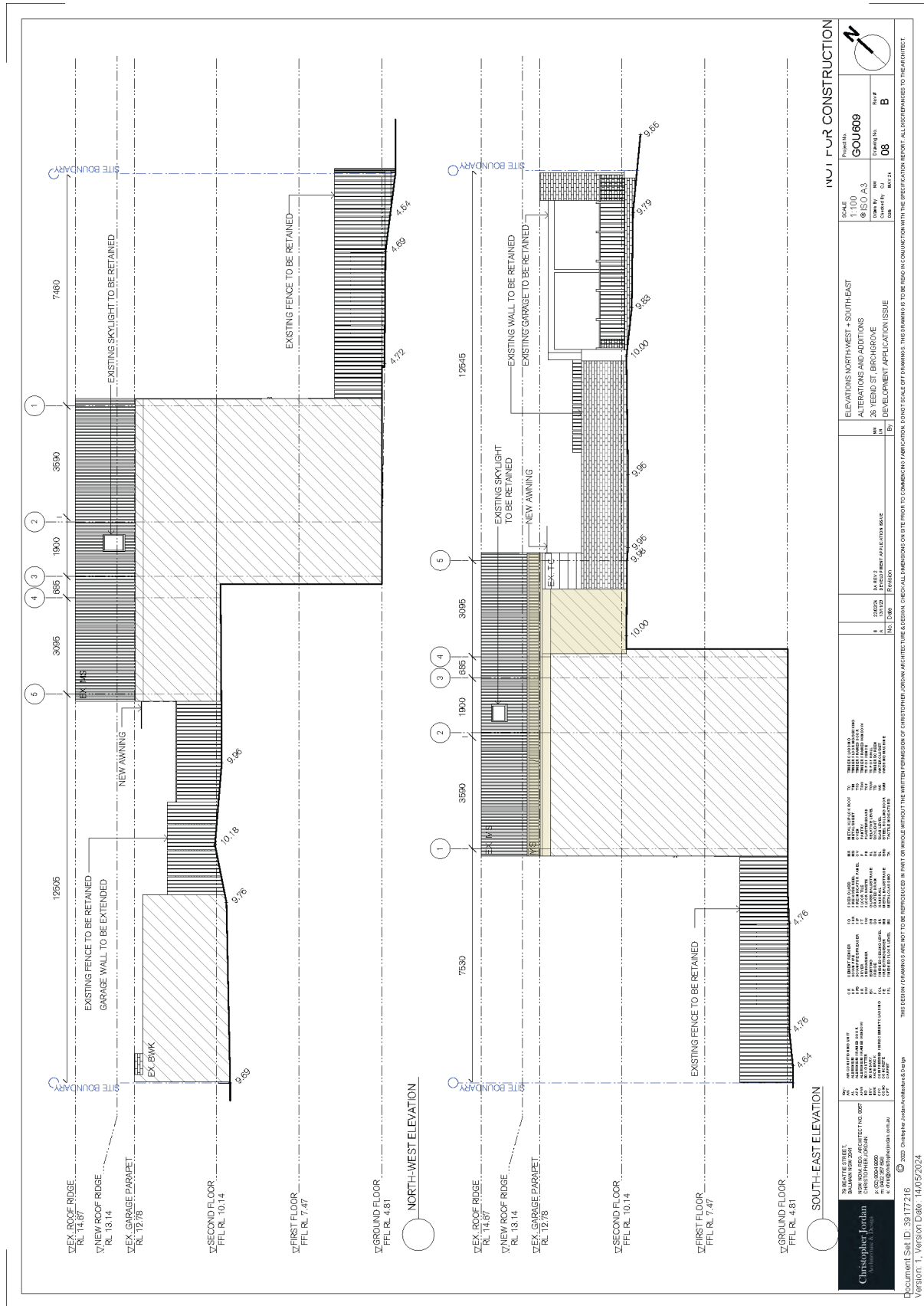
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 @ ISO A3
 DATE: 14/05/2024

LOWER GROUND FLOOR PLAN
 ALTERATIONS AND ADDITIONS
 26 YEEND ST, BIRCHGROVE
 NSW 1585
 BY: DEVELOPMENT APPLICATION ISSUE

NO. 12/14 YEEND STREET, BIRCHGROVE NSW 1585
 PROJECT NO. GOU609
 DRAWING NO. 07
 REVISION: C

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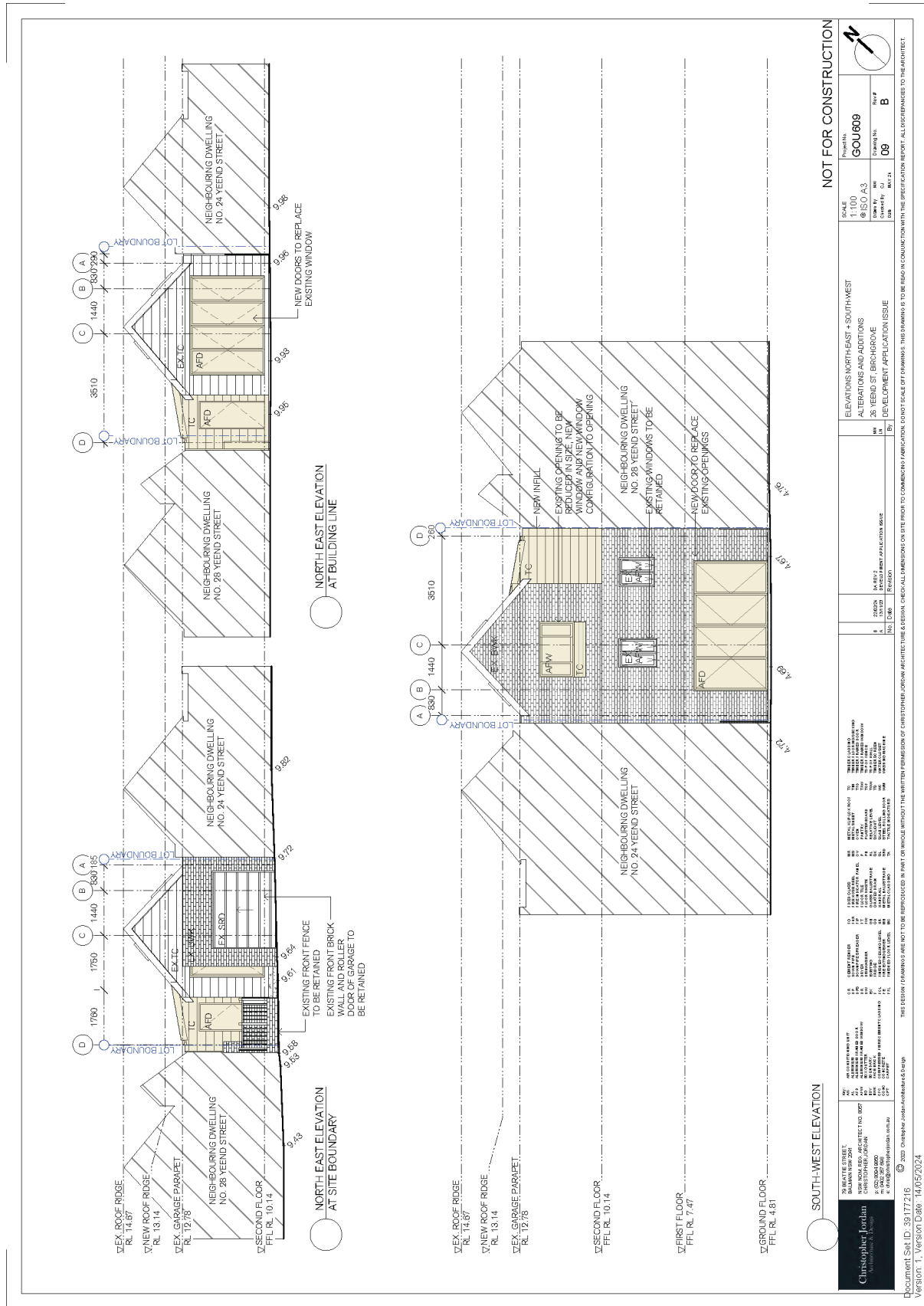
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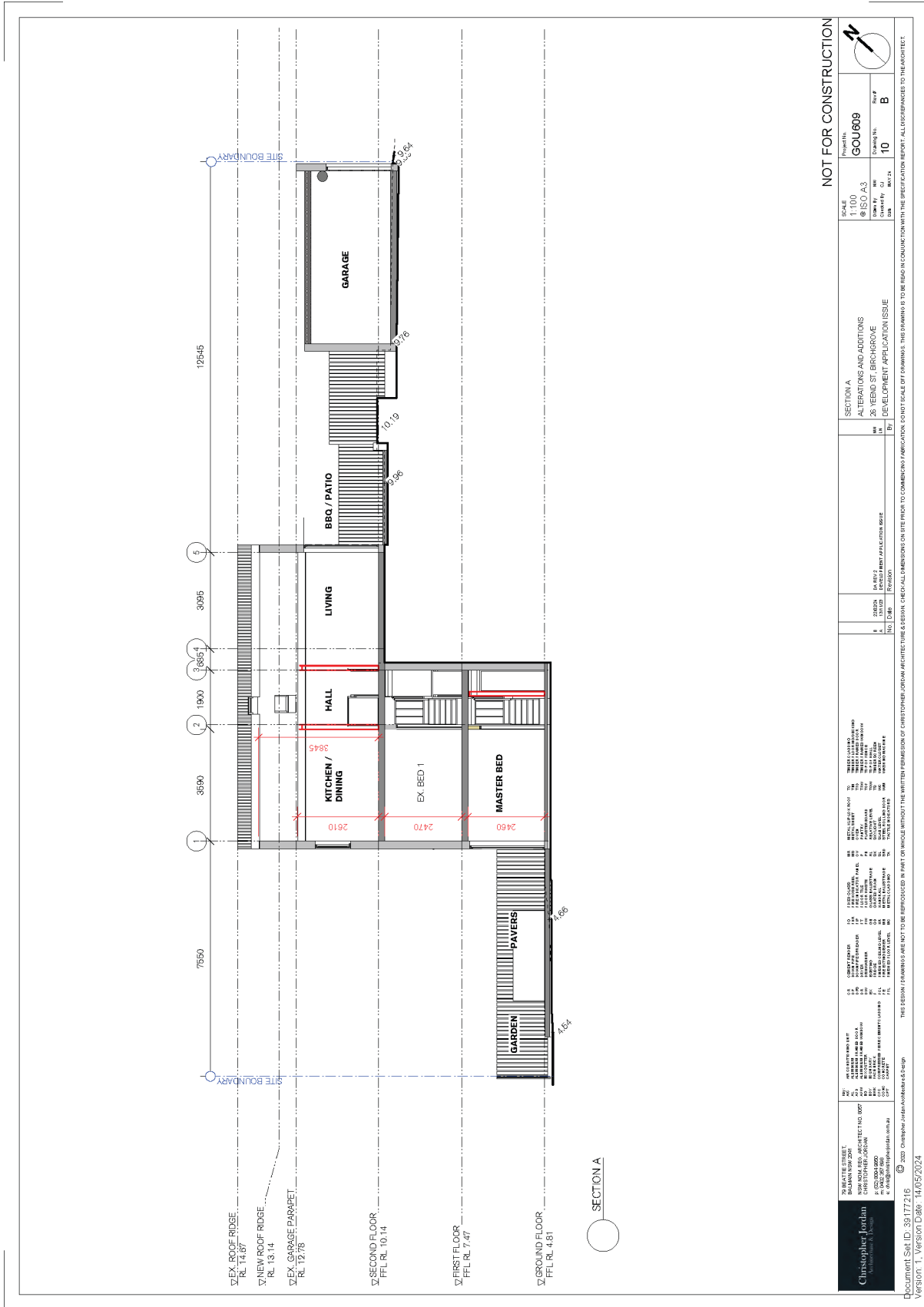


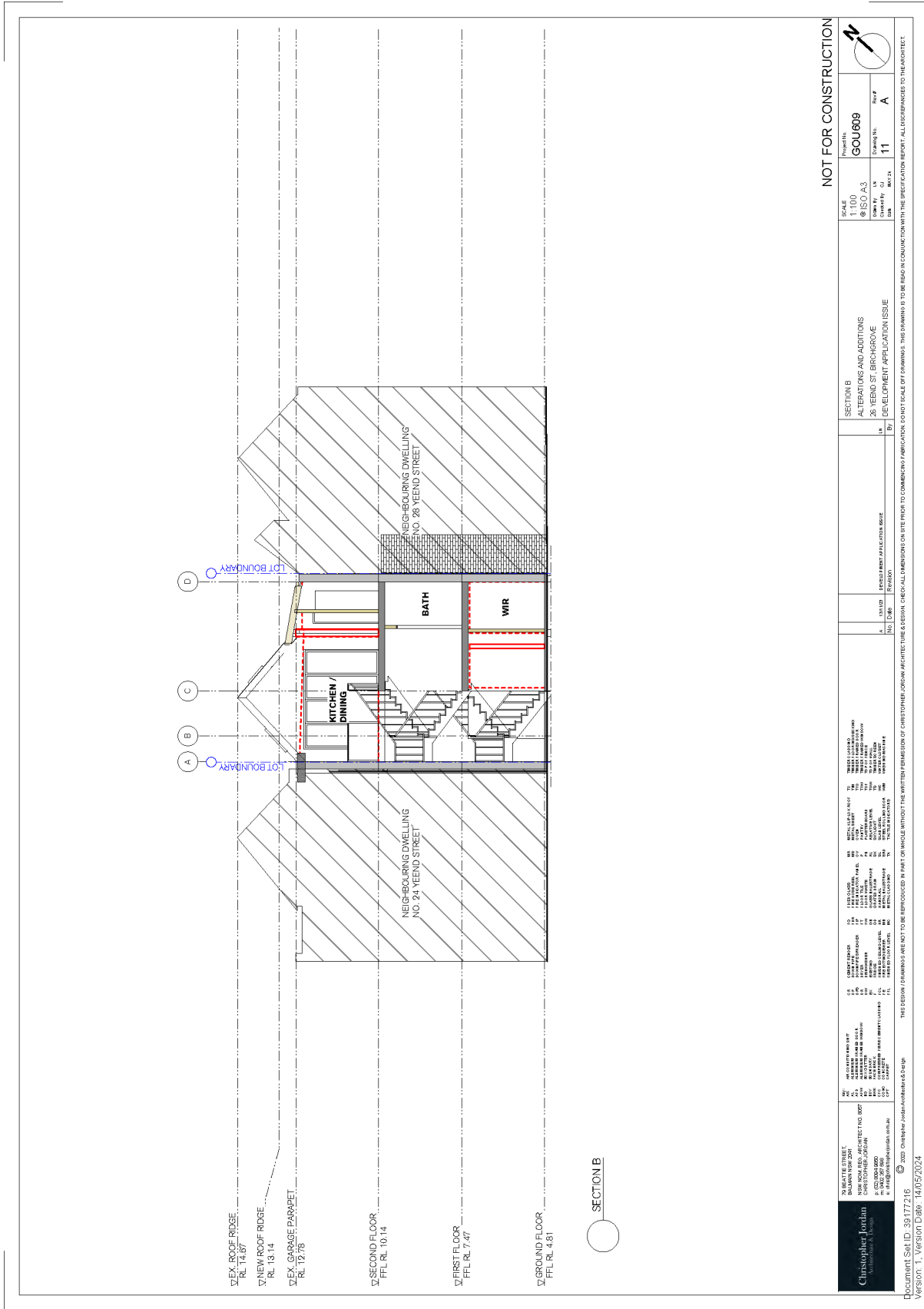
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<p>36 WAVERLEY STREET BALMAIN NSW 2041 AUSTRALIA P 02 9550 9900 E info@inui.com.au W www.inui.com.au</p>		<p>PROJECT NO: 202205 NO. 286 REVISION</p>		<p>SCALE: 1:100 @ ISO A3 DATE: 14/05/2024 DRAWN BY: MVS CHECKED BY: MVS</p>		<p>PROPERTY: GOU609 DRAWING NO: 08 REV: B</p>	
<p>CLIENT: INUI FOR CONSTRUCTION PROJECT: ELEVATIONS NORTH-WEST + SOUTH-EAST ALTERATIONS AND ADDITIONS 28 YEESID ST BRIDGEVIEW NSW DRAWN BY: MVS CHECKED BY: MVS</p>				<p>PROJECT: ELEVATIONS NORTH-WEST + SOUTH-EAST ALTERATIONS AND ADDITIONS 28 YEESID ST BRIDGEVIEW NSW DRAWN BY: MVS CHECKED BY: MVS</p>			
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Version 1.1, Version Date: 14/05/2024



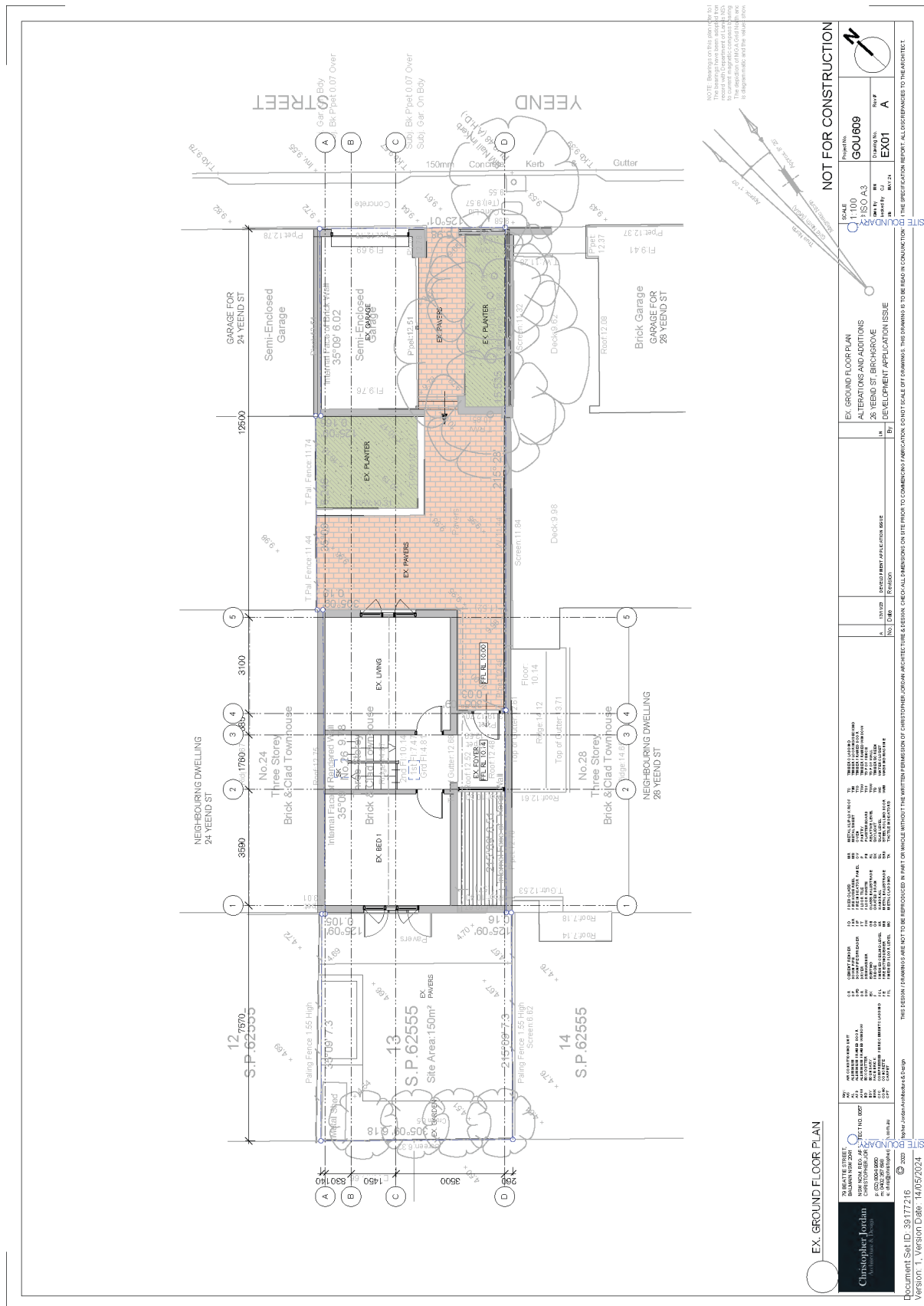


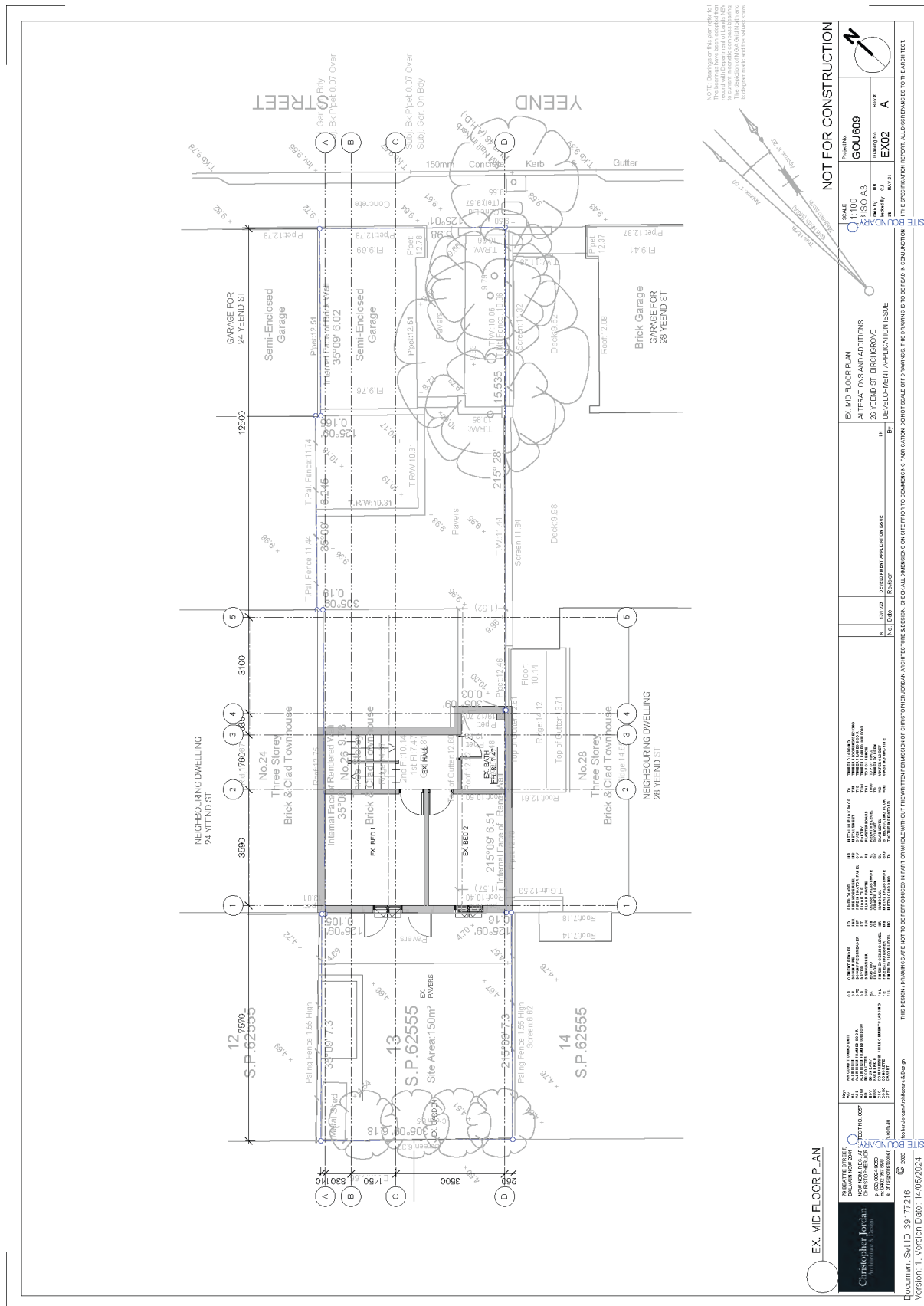


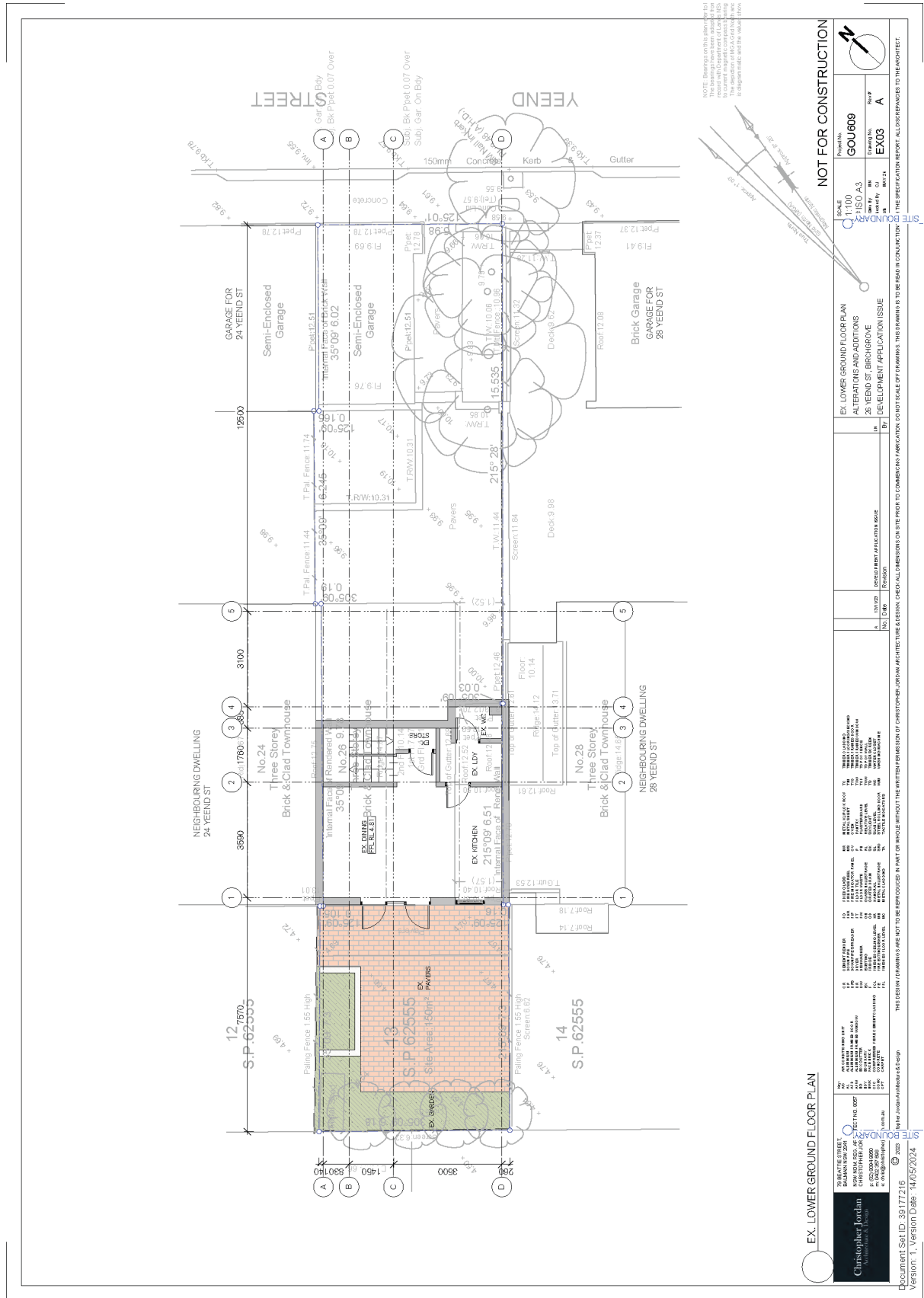
SECTION B

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Chrisopher Jordan Architects & Designers 10/11-13/15 YEEND STREET SYDNEY NSW 2015 P 02 9550 9900 F 02 9550 9901 E info@chrisopherjordan.com.au W www.chrisopherjordan.com.au		PROJECT NO: 2023-00000000 PROJECT NAME: 28 YEEND ST BIRCHROME PROJECT ADDRESS: 28 YEEND ST BIRCHROME NSW 2161 PROJECT DATE: 11 MAY 24 PROJECT STATUS: A	
DRAWN BY: [Name] CHECKED BY: [Name] DATE: [Date]		SCALE: 1:100 STANDARD: AS 1500:2011 DRAWING NO: 11	
SECTION B ALTERATIONS AND ADDITIONS 28 YEEND ST BIRCHROME DEVELOPMENT APPLICATION ISSUE		PROJECT NO: [Number] REVISION: [Number]	
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Project No: **GOU609**
 Scale: **1:100**
 Drawing No: **EX03**
 Revision: **A**

Client: **HIS O A3**
 Design: **BN**
 Drawn: **BN**
 Checked: **BN**
 Date: **14/05/2024**

EX. LOWER GROUND FLOOR PLAN
 ALTERATIONS AND ADDITIONS
 28 YEEND ST BRIDGECROFT
 No. 28
 By: **DEVELOPMENT APPLICATION ISSUE**

Prepared by: **BN**
 Checked by: **BN**
 Date: **14/05/2024**

Scale: **1:100**
 Drawing No: **EX03**
 Revision: **A**

Project No: **GOU609**
 Client: **HIS O A3**
 Design: **BN**
 Drawn: **BN**
 Checked: **BN**
 Date: **14/05/2024**

Document No: **3917216**
 Version: **1**
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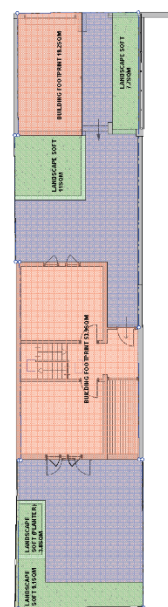
SITE AREA
176m²

SITE COVERAGE (MAXIMUM)
60% (105.6m²)

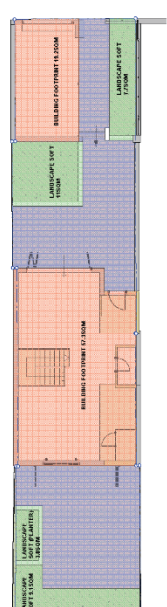
LANDSCAPING (MINIMUM)
15% (26.4m²)

EXISTING AREAS
SITE COVERAGE: 73.1m² (41.5%)
LANDSCAPING SOFT: 31.6m² (17.9%)

PROPOSED AREAS
SITE COVERAGE: 76.5m² (43.4%)
LANDSCAPING SOFT: 31.6m² (17.9%)



EXISTING SITE COVERAGE



PROPOSED SITE COVERAGE

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Scale: 1:100
@ ISO A3
Drawn by: [unintelligible]
Date: [unintelligible]

Project No: GOU609
Sheet: AREAS
Date of Issue: 01
Rev # B

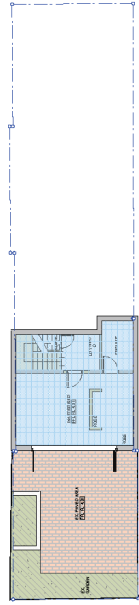
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ALTERATIONS AND ADDITIONS
BY: [unintelligible]
BY DEVELOPMENT APPLICATION ISSUE

228204
2022
31 DEC 2022
31 DEC 2022
31 DEC 2022
31 DEC 2022

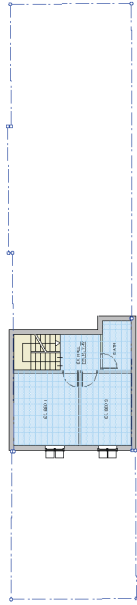
PREPARED BY: [unintelligible]
DESIGNED BY: [unintelligible]
ENGINEER: [unintelligible]

CLIENT: [unintelligible]
PROJECT: [unintelligible]

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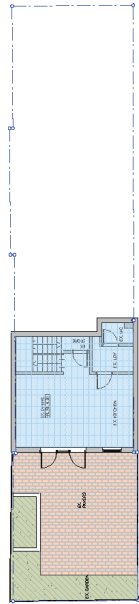
PROPOSED GROUND FLOOR AREA DIAGRAM



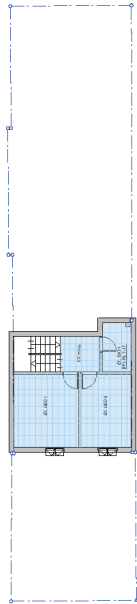
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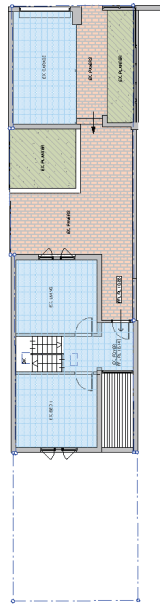
PROPOSED SECOND FLOOR AREA DIAGRAM



EX. GROUND FLOOR AREA DIAGRAM



EX. FIRST FLOOR AREA DIAGRAM



EX. SECOND FLOOR AREA DIAGRAM

SITE AREA	178m²
FSR CONTROL	0.3:1 (158.4m²)
EXISTING FLOOR AREAS	
GROUND	32.8m ²
FIRST	28.7m ²
SECOND	54.7m ²
TOTAL	116.2m² (0.66:1)

PROPOSED FLOOR AREAS	
GROUND	32.8m ²
FIRST	28.7m ²
SECOND	64.7m ²
TOTAL	126.2m²

FSR (PROPOSED)
0.71:1

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<p>Christopher Jordan Architects & Design</p>	<p>79 HEALEY STREET BALMAIN NSW 2041 PH: 02 9550 9900 WWW.CHRISTOPHERJORDAN.COM.AU</p>	<p>NO. 24 ALBERT STREET SYDNEY NSW 2000 PH: 02 9550 9900 WWW.CHRISTOPHERJORDAN.COM.AU</p>	<p>PROJECT NO. 2023-0048 DATE: 14/05/2024</p>	<p>PROJECT NAME: 26 YEEND ST BRICKROVE PROJECT TYPE: DEVELOPMENT APPLICATION ISSUE</p>	<p>SCALE: 1:100 STANDARD: AS 1500 A3 DATE: 14/05/2024 DRAWN BY: [Name] CHECKED BY: [Name]</p>	<p>PROJECT NO: GOU609 AREA: AREAS REV: B DATE: 14/05/2024</p>
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Christopher Jordan
Architecture & Design

**26 Yeend St, Birchgrove
External Finishes Schedule
To accompany a Development
Application**

MS - Roof – Lysaght Custom Orb Colorbond
Pale Eucalypt



MS01- Thin metal sheet awning over front door



Gutters – Colorbond – new gutters to match existing downpipes and gutter colors at rear of house or front of house



TC – horizontal weatherboard cladding to match existing



AFW and AFD - Proposed new aluminium framed doors and windows to match existing



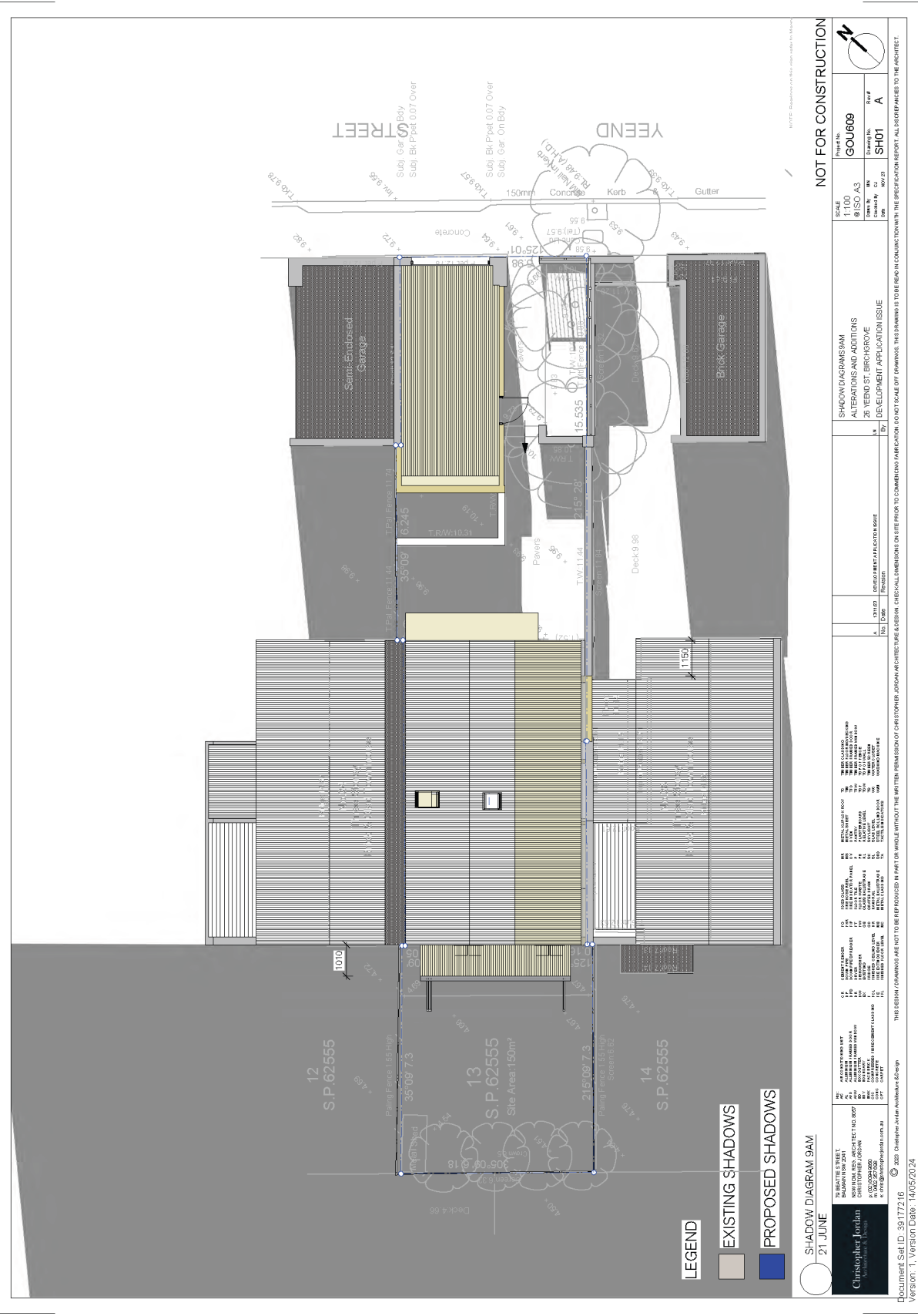
BWK – Brickwork to be painted to match garage front wall.



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Project No: **GOU608**

Scale: **1:100**

Standard: **AS 1500**

Drawn By: **SH01**

Rev: **A**

SHADOW DIAGRAMS 3AM

ALTERATIONS AND ADDITIONS

26 YEEND ST BIRCHROVE

NSW DEVELOPMENT APPLICATION ISSUE

By: **DEVELOPMENT APPLICATION ISSUE**

DATE: **21 JUNE**

NO. **1246**

REVISION:

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SHADOW DIAGRAM 3AM

21 JUNE

Chrsophar Jordan

Architects & Designers

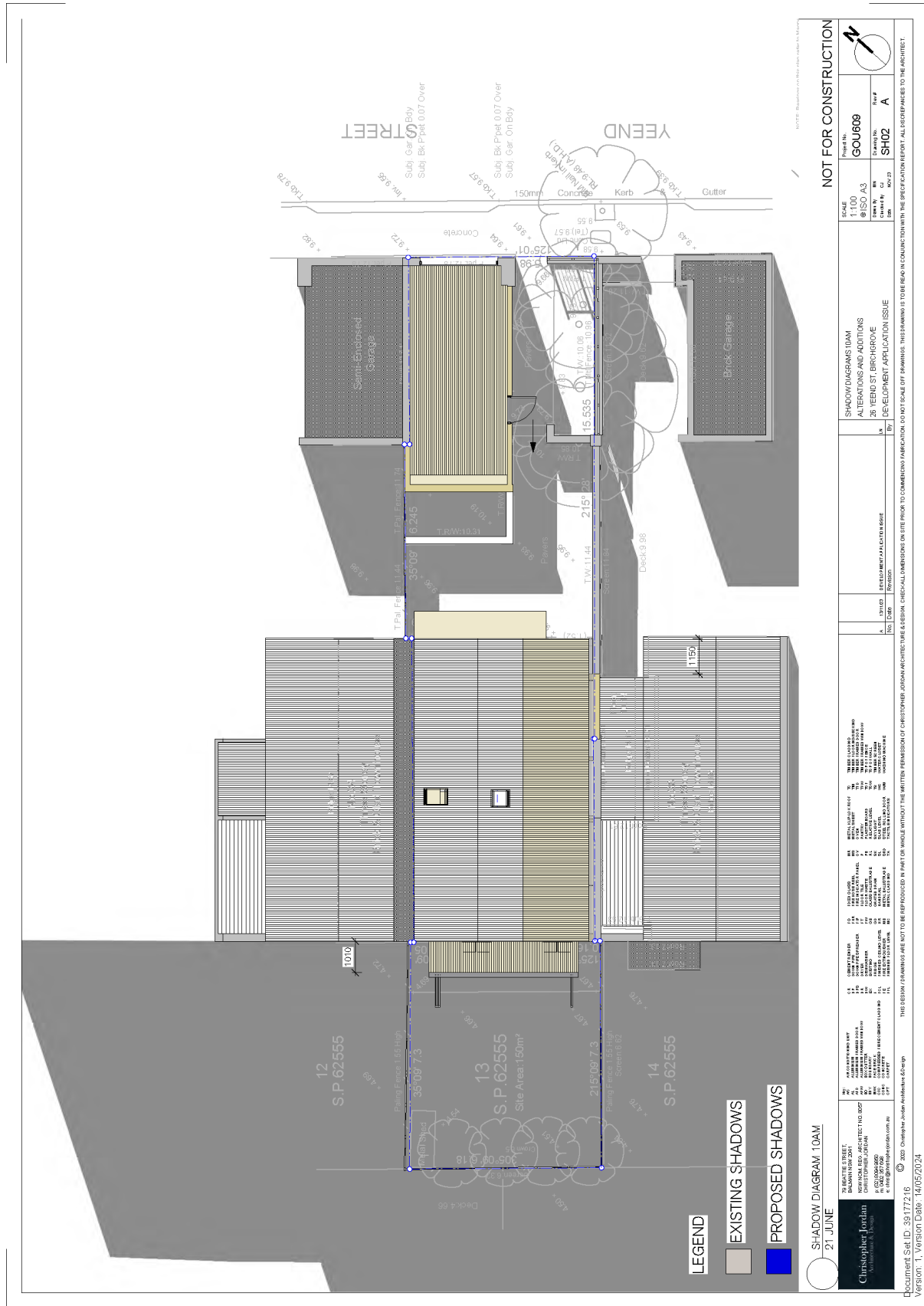
15/02/2024

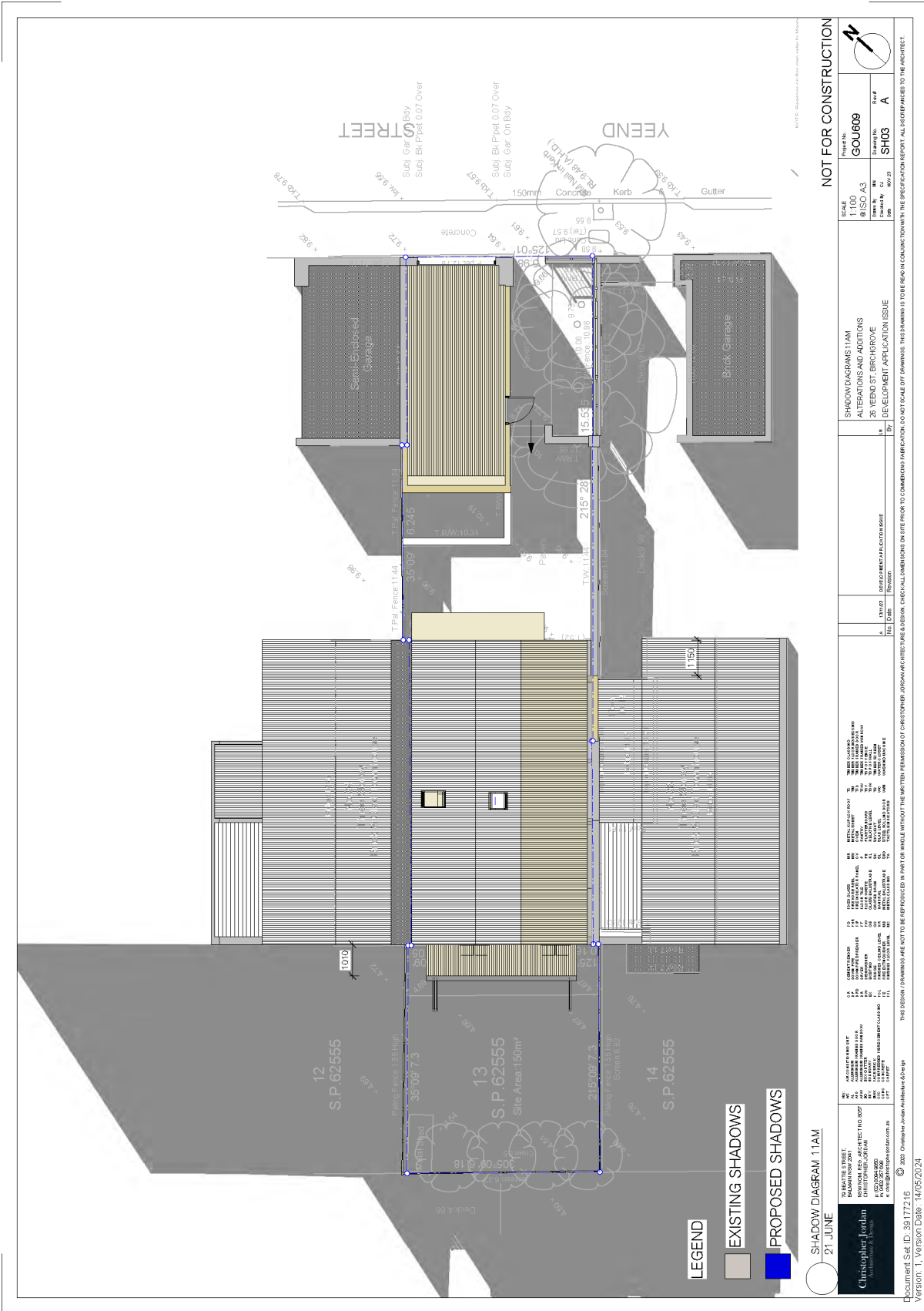
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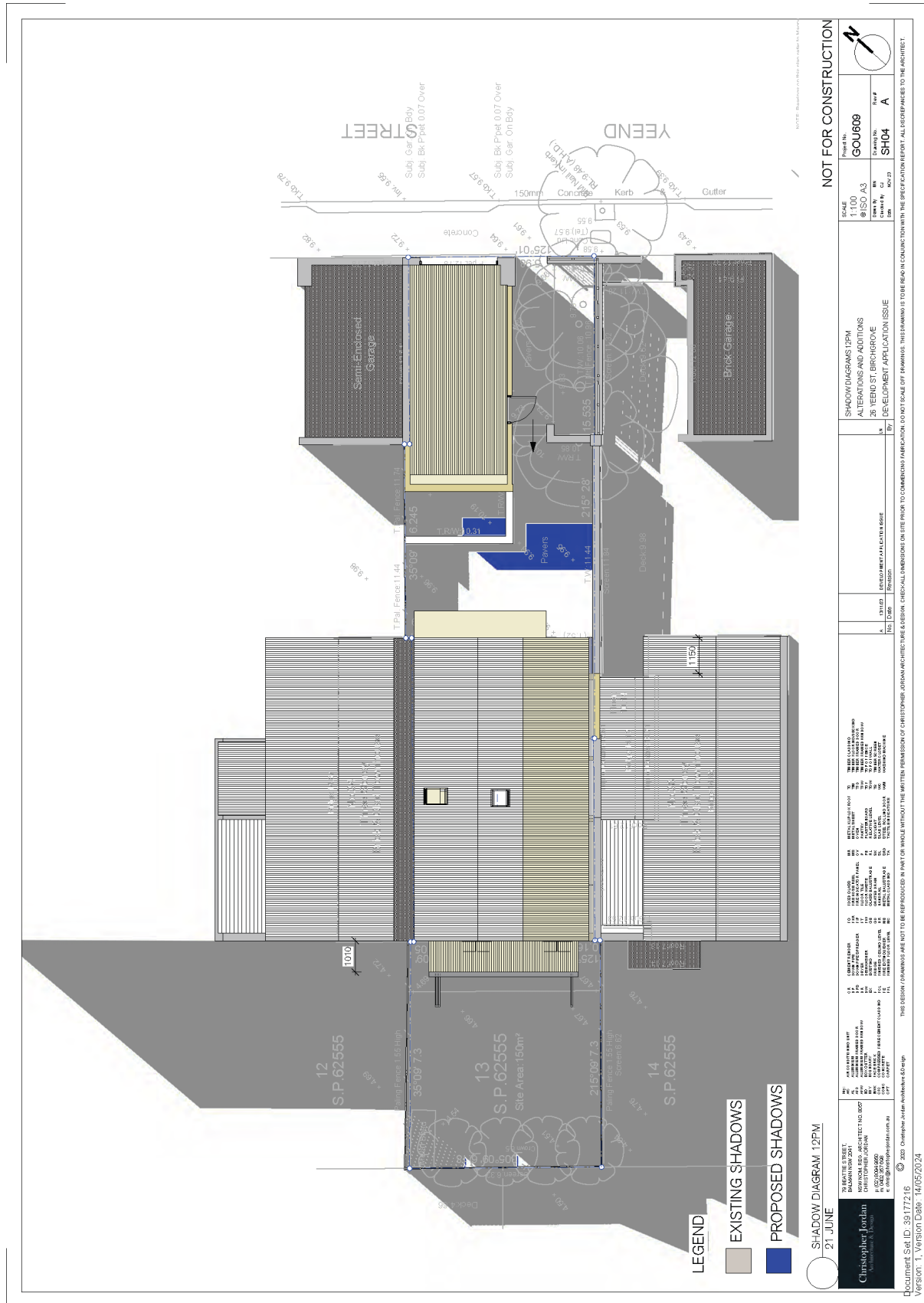
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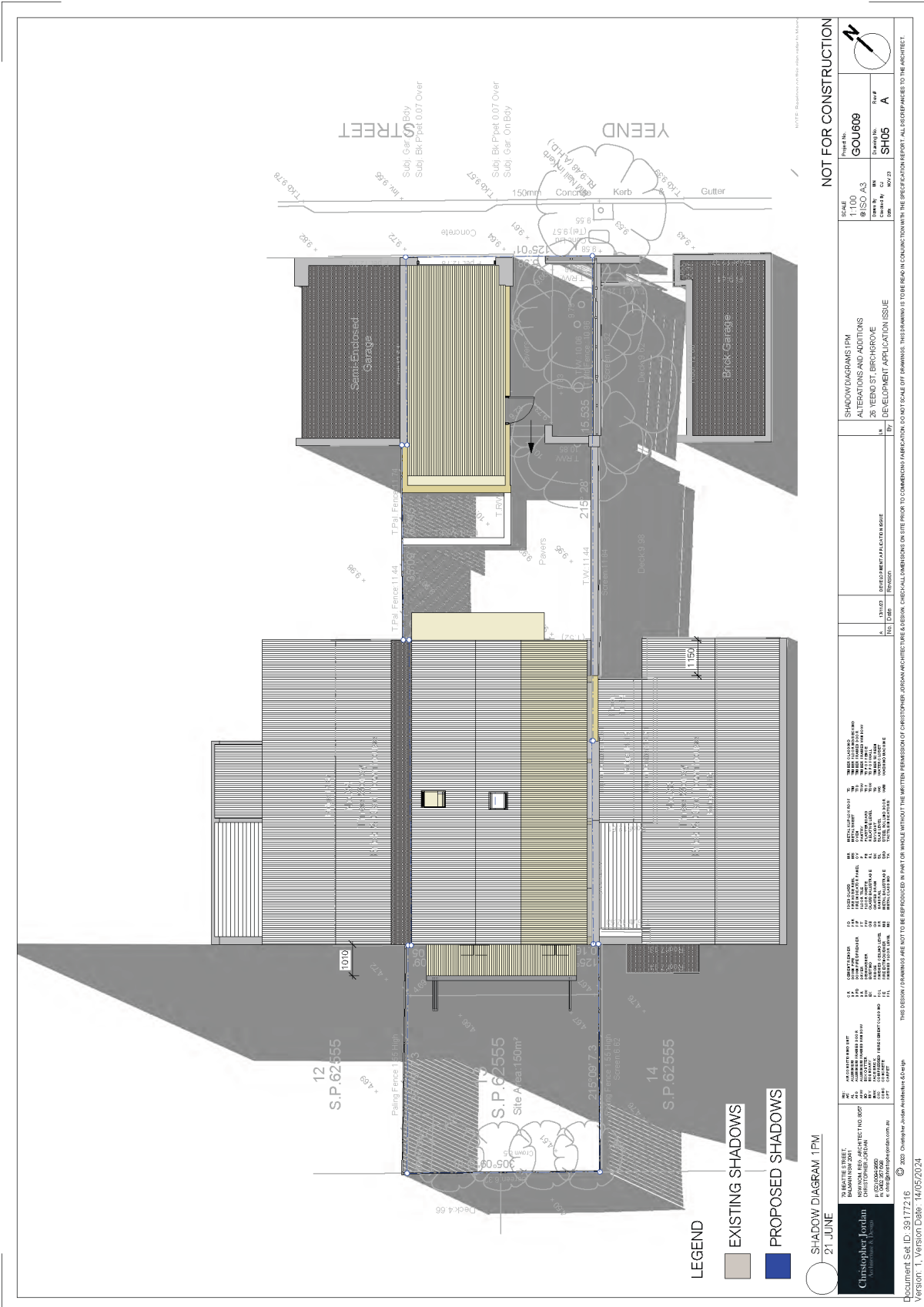
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Version: **1**, Version Date: **14/05/2024**









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SCALE 1:100
@ ISO A3

SHADOW DIAGRAMS IPM
ALTERATIONS AND ADDITIONS
26 YEEND ST BRIDGEVIEW
NSW
BY DEVELOPMENT APPLICATION ISSUE

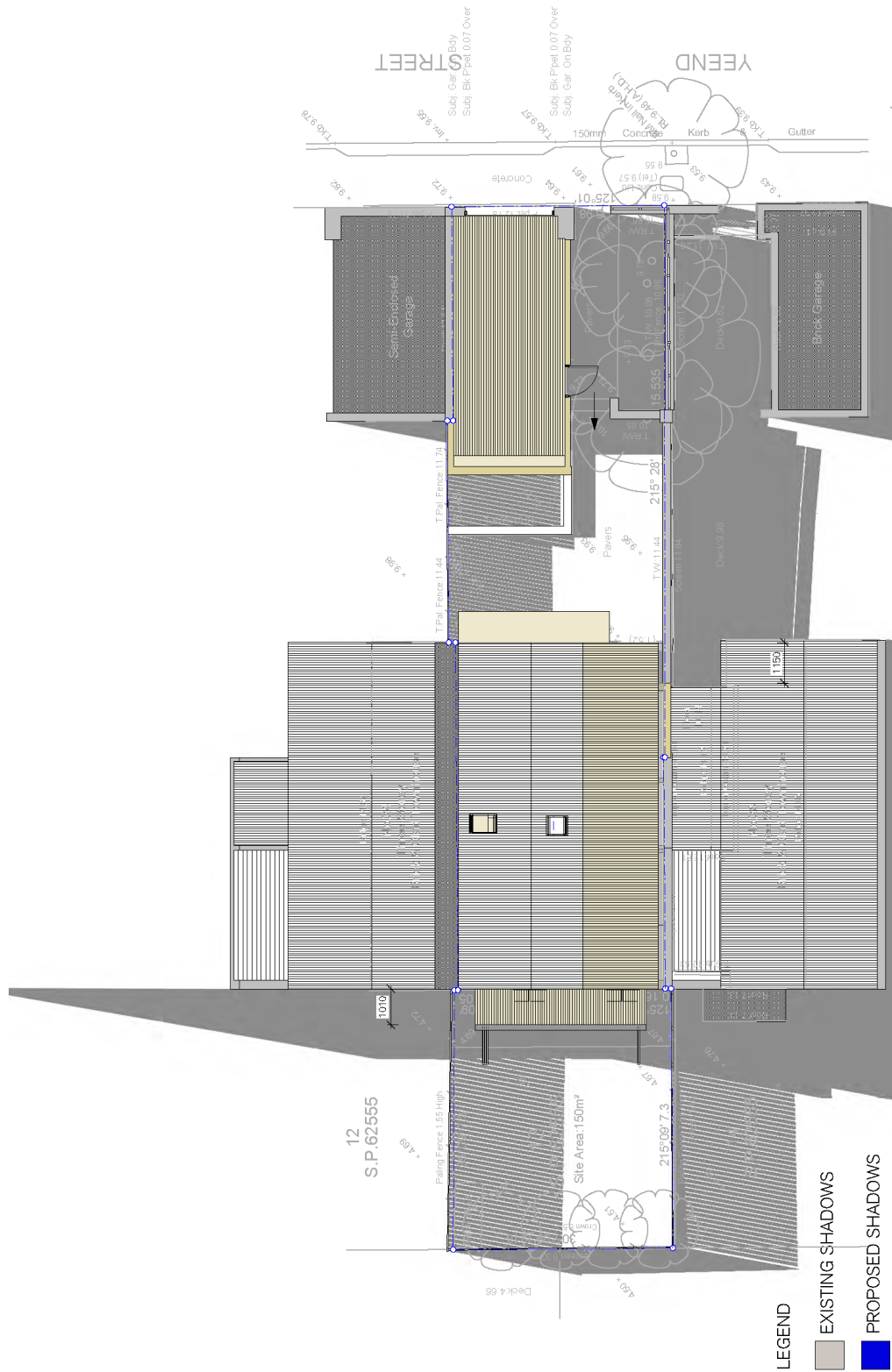
Project No. GOU608
Drawing No. SH05
Rev. A

DATE: 21 JUNE 2024
DRAWN BY: [Name]
CHECKED BY: [Name]
NO. DATE REVISION

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Chrisopher Jordan
Architects & Designers
15/02/2024
15/02/2024
15/02/2024

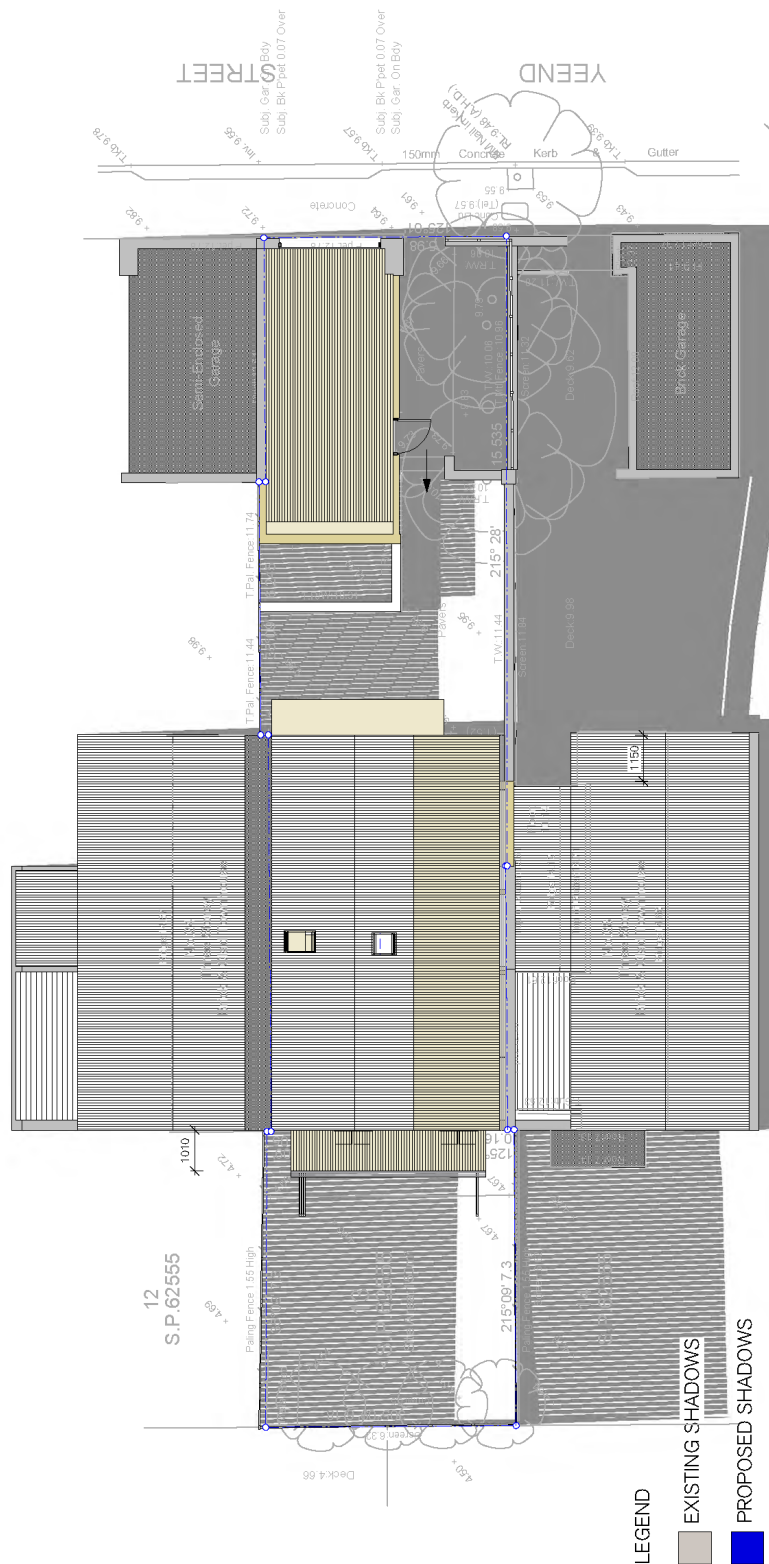
Document Set ID: 3917216
Version: 1, Version Date: 14/05/2024



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LVPF - Requirements for this table are in Table 10

SCALE 1:100	PROJECT NO. GOU608	SHADOW DIAGRAMS 2PM ALTERATIONS AND ADDITIONS 26 YEEND ST BRIDGEHOLE NSW BY DEVELOPMENT APPLICATION ISSUE	DATE 21 JUNE
STANDARD AS/NZS 1100	DATE 14/05/2024	NO. DRAWING SH06	REVISION A
<p>DESIGNER: CHRSOPHER JORDAN ARCHITECTURE & DESIGN 1/100 YEEND STREET BRIDGEHOLE NSW PHONE: 02 9550 2000 EMAIL: info@chrisjordan.com.au WEBSITE: www.chrisjordan.com.au</p> <p>CLIENT: GOSFORD CITY COUNCIL 1/100 YEEND STREET BRIDGEHOLE NSW PHONE: 02 9550 2000 EMAIL: info@chrisjordan.com.au WEBSITE: www.chrisjordan.com.au</p> <p>DATE: 21 JUNE 2024 BY: CHRSOPHER JORDAN ARCHITECTURE & DESIGN NO. DRAWING: SH06 REVISION: A</p> <p>THIS DESIGN/DRAWING IS NOT TO BE REPRODUCED OR PARTLY REPRODUCED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF CHRSOPHER JORDAN ARCHITECTURE & DESIGN. CHECK ALL DIMENSIONS ON SITE PRIOR TO COMMENCING FABRICATION. DO NOT SCALE OFF DRAWINGS. THIS DRAWING IS TO BE READ IN CONJUNCTION WITH THE SPECIFICATION REPORT. ALL DISCREPANCIES TO THE ARCHITECT.</p> <p>Document Set ID: 3917216 Version: 1, Version Date: 14/05/2024</p>			



LEGEND

- EXISTING SHADOWS
- PROPOSED SHADOWS

SHADOW DIAGRAM 3PM
21 JUNE

NOT FOR CONSTRUCTION

Project No: **GOU609** Scale: **1:100**
 Drawing No: **SH07** Rev: **A**
 Client: **WV** Date: **20/06/24**

By: **Development Application Issue**
 No. **2467** Reason: **Development Application Issue**

Check all dimensions on site prior to commencing fabrication. Do not scale off drawings. This drawing is to be read in conjunction with the specification report. All discrepancies to the architect.

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Attachment C – Section 4.6 Exception to Development Standards (FSR)

Christopher Jordan
Architecture & Design

Clause 4.6 Variation: Floor Space Ratio

To Accompany a Development Application For Alterations and Additions

26 Yeend St Birchgrove

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 for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(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.

(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 6.27(4),

(cb), (cc) (Repealed)

(cd) clause 6.31.

The applicant requests a variation under Clause 4.6 to the 0.9:1 FSR standard contained under clause 4.4 2B (b) of Inner West LEP 2022. The proposed FSR is unknown due to the scale of the strata plan within which the proposal sits.

The proposed FSR when calculated on the lot of the individual terrace is 0.71:1.

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ABN 67 203 541 537 | Christopher Jordan NSW Norm. Architect #8057 | www.christopherjordan.com.au



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Version: 1, Version Date: 14/05/2024

Any variation request must justify the need to vary the particular development standard by considering the following:

- (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.

Strict application of the 0.9:1 FSR development standard is considered unreasonable and unnecessary in the circumstances of the case for the following reasons:

1. The subject dwelling is part of a larger development which may or may not comply with the FSR control. If the subject dwelling was treated as its own allotment, the FSR control would be 0.9:1 and the proposal would comply.
2. The design of the development provides a desirable urban form that maintains the existing site as a single residence, retains the original principle building form.
3. The proposed dwelling has been sympathetically designed to consider the amenity and character of the surrounding neighbourhood through its retention of the original principle building and modest alterations.
4. The FSR development standard departure does not itself create any adverse impact by way of privacy or bulk and scale that could be viewed by neighbours or those passing the site within the public domain.
5. No additional amenity impacts arise as a result of the proposal.
6. The development achieves the aims and objectives of IWLEP 2022.
7. The proposal satisfies the zone objectives.

The relevant objectives are as follows and a comment is provided in relation to each objective demonstrating adequacy of the proposal and the requested variation:

The objectives of this clause are as follows:

(a) to ensure that residential accommodation:

(i) is compatible with the desired future character of the area in relation to building bulk, form and scale,

Listed below are the relevant objectives to the Clause 4.4 FSR development standard and a comment provided in relation to each objective demonstrating adequacy of the proposal and the requested variation.

4.4 Floor space ratio

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

(a) to establish a maximum floor space ratio to enable appropriate development density,

The proposal has an increased FSR due to an increase in GFA proposed on the ground floor. It maintains a similar level of site coverage to the existing since it sits above the mid floor. The proposal maintains the compliance with site coverage controls of the IWLEP ensuring an appropriate development density.

(b) to ensure development density reflects its locality,

The proposal retains the existing maximum building height and remains subservient to the original building form. The increase of FSR is derived from the reconfiguration of the ground floor layout to create better amenity for the kitchen/ living and dining space for the occupants. The infill of the recessed sections of the ground floor will allow the dwelling to meet the growing needs for a family. Despite the increase in FSR, bulk and scale of the building is carefully designed to respect the local context and match other units of the strata development which have had alterations done previously.

The proposal has a reduced landscaped areas of 31.6m² (17.9%) when calculated on the individual lot area which is compliant with the LEP control.

(c) to provide an appropriate transition between development of different densities,

The proposal does not result in significant impacts on neighbouring properties due to bulk or scale. The external alterations are minimal in scale and does not impact neighbouring properties. There are no changes to the front and rear setbacks. Materials and finishes proposed will also assist in reducing the appearance and extent of the built form. The bulk and scale does not have any significant impacts on neighbouring properties.

26 Yeend St Birchgrove

(d) minimise adverse impacts on local amenity,

This proposal achieves this objective as there are no adverse impacts to the environmental amenity of neighbouring properties. The main objectives are summarised below;

1. **Solar Impacts:** Given the east-west orientation of the subject site, solar access is reasonably maintained to the adjoining properties. Please refer to shadow diagrams.
2. **Privacy:** The proposed development does not have additional privacy amenity impacts onto adjoining neighbours from the proposed FSR variation.
3. **Acoustic:** The site remains a single dwelling, with no impact to acoustics.
4. **View Loss:** There is no impact on views or view loss.
5. **Visual Impacts:** Visual impacts due to bulk and scale are minimal as described under Clause 4.4(1)(c) above.

(e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.

The proposal has no impact on trees.

In order for council to consider a variation the proposal must be consistent with the zone objectives:

1 Objectives of zone R1 General Residential

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide residential development that maintains the character of built and natural features in the surrounding area.

The subject proposal satisfies the stated residential objectives given that:

- There is no change to the use of the building as a dwelling house and further floor space provides valuable bedroom and living areas to house an increased number of individuals. The proposed attic room helps facilitate the needs of the residents through providing additional bedroom space.
- Careful design measures as documented in the proposal reduce the urban heat island effect, especially with a green roof and careful landscaping.
- The proposed living room now has a connection with the outdoor paving, creating usable living areas that can be better enjoyed and utilised.
- The amenity of the site is enhanced by the development due to added value placed on the property.
- The building remains retains the majority of the existing building, with the additions setback behind the primary roof form. As a result, the proposal is compatible with the bulk and scale of the desired locality due to retaining the front façade and matching neighbouring terraces in bulk and scale to the rear.
- The proposal will enhance the long-term amenity of the neighbourhood and is compatible with the desired character of the area whilst sympathetic to its past heritage and use.

It is considered that the minor variation to the FSR standard, in this case, is reasonable and should be accepted by council as the proposed development does not have an adverse impact on the surrounding environment and the design is within the guidelines outlined in the Inner West LEP 2022.

Yours Sincerely,



Chris Jordan, Director

Christopher Jordan Architecture & Design

Page 3

Attachment D – Section 4.6 Exception to Development Standards (Site Coverage/Landscaped Area)

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Clause 4.6 Variation: Landscaped Area and Site Coverage

To Accompany a Development Application For Alterations & Additions

26 Yeend St Birchgrove

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 for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(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.

(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 6.27(4),

(cb), (cc) (Repealed)

(cd) clause 6.31.

The applicant requests a variation under Clause 4.6 to the landscaped area and site coverage for residential accommodation in Zone R1 standard contained under Clause 4.3C (3)(a) and Clause 4.3C (3)(b) of Inner West LEP 2022. The subject site is 176m² and the development needs to achieve a landscaped area of 15% of the site area and the site coverage does not exceed 60% of the site area. The proposed landscaped area is unknown due to the scale of the strata plan within which the proposal sits.

The proposed landscaped area when calculated on the lot of the individual terrace is 31.6m² (17.9%) which exceeds the requirement.

The proposed site coverage area when calculated on the lot of the individual terrace is 76.5m² (43.4%) which is under the maximum site coverage.

Any variation request must justify the need to vary the particular development standard by considering the following:

- *whether strict compliance with the standard, in the particular case, would be unreasonable or unnecessary and why, and*
- *demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard.*

Strict application of the landscaped area and site coverage development standard is considered unreasonable and unnecessary in the circumstances of the case for the following reasons:

1. The subject dwelling is part of a larger development which may or may not comply with the landscaped area or site coverage control. If the subject dwelling was treated as its own allotment, the landscape control would be 17.9% of the site area, the site coverage would be 43.4% of the site area and the proposal would comply.
2. The design of the development provides a desirable urban form that maintains the existing site as a single residence, retains the original principle building form.
3. The proposed dwelling has been sympathetically designed to consider the amenity and character of the surrounding neighbourhood through its retention of the original principle building and modest alterations.
4. The existing landscaped area is presently compliant with the required landscaped area for the site as per Clause 4.3C of the IWLEP 2022.
5. No additional amenity impacts arise as a result of the proposal.
6. The development achieves the aims and objectives of IWLEP 2022.
7. The proposal satisfies the zone objectives.

Listed below are the relevant objectives to the Clause 4.3C landscaped areas and site coverage development standard and a comment provided in relation to each objective demonstrating adequacy of the proposal and the requested variation.

4.3C Landscaped areas for residential accommodation in Zone R1
 (1) The objectives of this clause are as follows:
 (a) *to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,*

The DA proposal maintains the existing soft landscaping provision and retains its amenity for the users on both the lower ground and ground floor. Landscaping to the front and rear remains as existing and are not disturbed.

(b) to maintain and encourage a landscaped corridor between adjoining properties,

The existing building has a nil setback to the side boundaries and is part of a strata development. There are no landscaping works proposed as part of this development application and all landscaping will be retained as existing.

(c) to ensure that development promotes the desired future character of the neighbourhood,

The proposal results in an appropriate and sensitive development, providing a retained amenity to the existing residence and retaining all landscaped growth, whilst being respectful of the surrounding built form and desired future character.

(d) to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water,

The proposal retains the existing soft landscaped areas, which retains adequate retention and absorption of surface drainage water on site.

(e) to control site density,

26 Yeend St Birchgrove

The proposal retains the existing site density.

(f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.

The proposal slightly increases the building footprint by 3m² and does not affect landscaped area.

In order for council to consider a variation the proposal must be consistent with the zone objectives:

1 Objectives of zone R1 General Residential

- To provide for the housing needs of the community.*
- To provide for a variety of housing types and densities*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- To provide residential development that maintains the character of built and natural features in the surrounding area.*

The subject proposal satisfies the stated residential objectives given that:

- The amenity is enhanced by the development due to the improved architectural presentation of the residential dwelling, whilst retaining the existing primary open space.
- The proposal is compatible with the existing grain of development and the surrounding residential dwellings.
- The proposal retains the existing soft landscaped area.
- The proposal will enhance the long term amenity of the neighbourhood, compatible with the desired character of the area yet sympathetic to its past use.

It is considered that the variation to the landscaped standard in this case is reasonable and should be accepted by council as the proposed development does not have an adverse impact on the surrounding environment and the design is within the guidelines outlined in the Inner West LEP 2022 and DCP.

Yours Sincerely,



Chris Jordan, Director

Christopher Jordan Architecture & Design

Page 3

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