HORNSBY
SHIRE COUNCIL

ATTACHMENTS

LOCAL PLANNING PANEL MEETING

Wednesday 30 March 2022
at 4:00pm

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ITEM 1

ATTACHMENT/S

REPORT NO. LPP2/22

ITEM 1

1. LOCALITY MAP
2. ARCHITECTURAL PLANS
3. LANDSCAPE PLAN
4. CLAUSE 4.6
5. PLAN OF MANAGEMENT

ATTACHMENT 1 - ITEM 1

LOCALITY PLAN
DA/131/2021
134 Burdett Street, Wahroonga

5/11/2021 P:\Cad Files\Burdett Street, 134 Wahroonga\architecture\2021.11.03 - 134 Burdett Street, Wahroonga.pln

DEVELOPMENT APPLICATION
134 BURDETT STREET WAHROONGA - LOT B

UNIT BREAKDOWN

UNIT No.		AREA (m2)
B01		
	UNIT SIZE	29.64
	LIVING AREA	16.32
B02		
	UNIT SIZE	21.98
	LIVING AREA	14.03
B03		
	UNIT SIZE	21.73
	LIVING AREA	12.08
B04		
	UNIT SIZE	21.73
	LIVING AREA	12.08
B05		
	UNIT SIZE	25.03
	LIVING AREA	13.89
B06		
	UNIT SIZE	29.64
	LIVING AREA	16.32
B07		
	UNIT SIZE	24.98
	LIVING AREA	14.03
B08		
	UNIT SIZE	21.73
	LIVING AREA	12.08
B09		
	UNIT SIZE	21.73
	LIVING AREA	12.08
B10		
	UNIT SIZE	25.03
	LIVING AREA	13.89
B11		
	UNIT SIZE	21.89
	LIVING AREA	12.20

THERMAL SPECIFICATION

DRAWING SCHEDULE

	DRAWING NAME	ISSUE	SCALE
A0000 GENERAL INFORMATION			
A0001	COVERPAGE	D	
A0002	SITE ANALYSIS	-	
A0003	DEMOLITION PLAN	REMOVED	1:200
A0004	SITE ROOF PLAN	C	1:200
A1000 GENERAL ARRANGEMENT PLAN			
A1001	LOWER GROUND FLOOR PLAN	D	1:200
A1002	GROUND FLOOR PLAN	D	1:200
A1003	FIRST FLOOR PLAN	D	1:200
A1004	ROOF PLAN	B	1:200
A2000 ELEVATIONS			
A2001	NORTH & EAST ELEVATIONS	B	1:200
A2002	SOUTH & WEST ELEVATIONS	B	1:200
A2100 SECTIONS			
A2101	SECTIONS	C	1:200, 1:250
A3000 ADDITIONAL INFO			
A3001	GFA CALCULATIONS	A	1:300
A3002	COMMUNAL OPEN SPACE	A	1:200
A3003	DEEP SOIL CALCULATIONS	A	1:200
A3004	BUILDING HEIGHT PLAN	A	
A3005	SAMPLE BOARD	A	1:200
A3006	ACCESSIBLE UNITS	A	1:100
A3007	SITE COVERAGE	A	1:200
A3008	LIVING AREAS	B	1:200
A3009	BUILDING DIMENSION	B	1:150
A4000 SHADOW DIAGRAMS			
A4001	SHADOW DIAGRAMS	A	1:400
A4002	SHADOW DIAGRAMS	A	1:400
A4003	SHADOW DIAGRAMS	A	1:400
A4100 SOLAR ANALYSIS			
A4101	SOLAR ANALYSIS	B	
A4102	SOLAR ANALYSIS	B	
A4103	SOLAR ANALYSIS	B	
A4104	SOLAR ANALYSIS	B	

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AMENDMENTS

No.	REVISION	BY	DATE
A	Response to RFI dated 13.01.21	MA	28.01.2021
B	Sketch plans for council comment	BC	29.04.2021
C	Drawing update in response to letter dated 18.03.2021	MA	11.05.2021
D	Plans updated in response to Memo dated 18.10.2021	MA	11.05.2021

PROJECT NORTH

BOARDING HOUSE
PROJECT
134 BURDETT STREET
WAHROONGA
PROJECT NO.
20/06

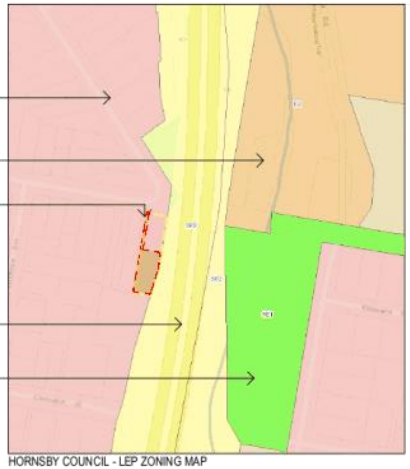
DRAWING:
COVERPAGE
DRAWN BY M.A
CHECKED BY B.C
SCALE: @A3
DRAWING NO.: A0001
ISSUE: D

ATTACHMENT 2 - ITEM 1

5/11/2021 P:\Cad Files\Burdett Street, 134 Wahroonga\architecture\2021.11.03 - 134 Burdett Street, Wahroonga.pln

SITE LOCATION PLAN

SITE ANALYSIS



HORNSBY COUNCIL - LEP ZONING MAP

134 BURDETT STREET
PROPOSED DEVELOPMENT SITE

134 BURDETT STREET
PROPOSED DEVELOPMENT SITE - FRONT

134 BURDETT STREET
PROPOSED DEVELOPMENT SITE - VIEW FROM KING STREET

KING STREET - BURDETT STREET INTERCHANGE
VIEW FROM SITE

132 BURDETT STREET
TWO STOREY RESIDENTIAL DWELLING

130 BURDETT STREET
TWO STOREY RESIDENTIAL DWELLING

128 BURDETT STREET
SINGLE STOREY RESIDENTIAL DWELLING

126 BURDETT ST
SINGLE STOREY RESIDENTIAL

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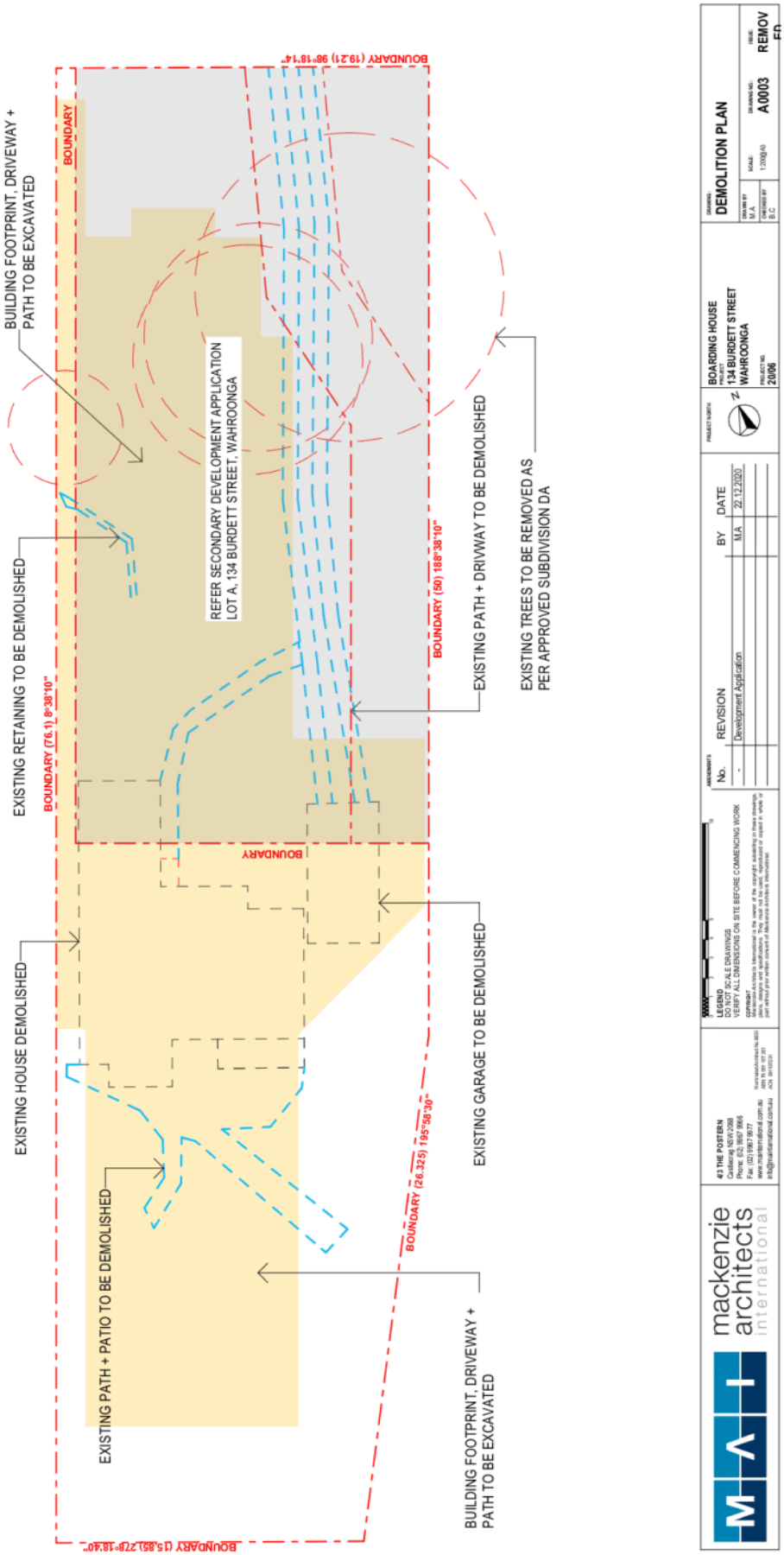
AMENDMENTS

No.	REVISION	BY	DATE
-	Development Application	MA	22.12.2020

BOARDING HOUSE
PROJECT
134 BURDETT STREET
WAHROONGA
PROJECT NO.
20/06

DRAWING:
SITE ANALYSIS
DRAWN BY M.A
CHECKED BY B.C
DRAWING NO.: A0002
ISSUE: -

ATTACHMENT 2 - ITEM 1



ATTACHMENT 2 - ITEM 1

5/11/2021 P:\Cad Files\Burdett Street, 134 Wahroonga\architecture\2021.11.03 - 134 Burdett Street, Wahroonga.pln

TREE 6 (Retained)

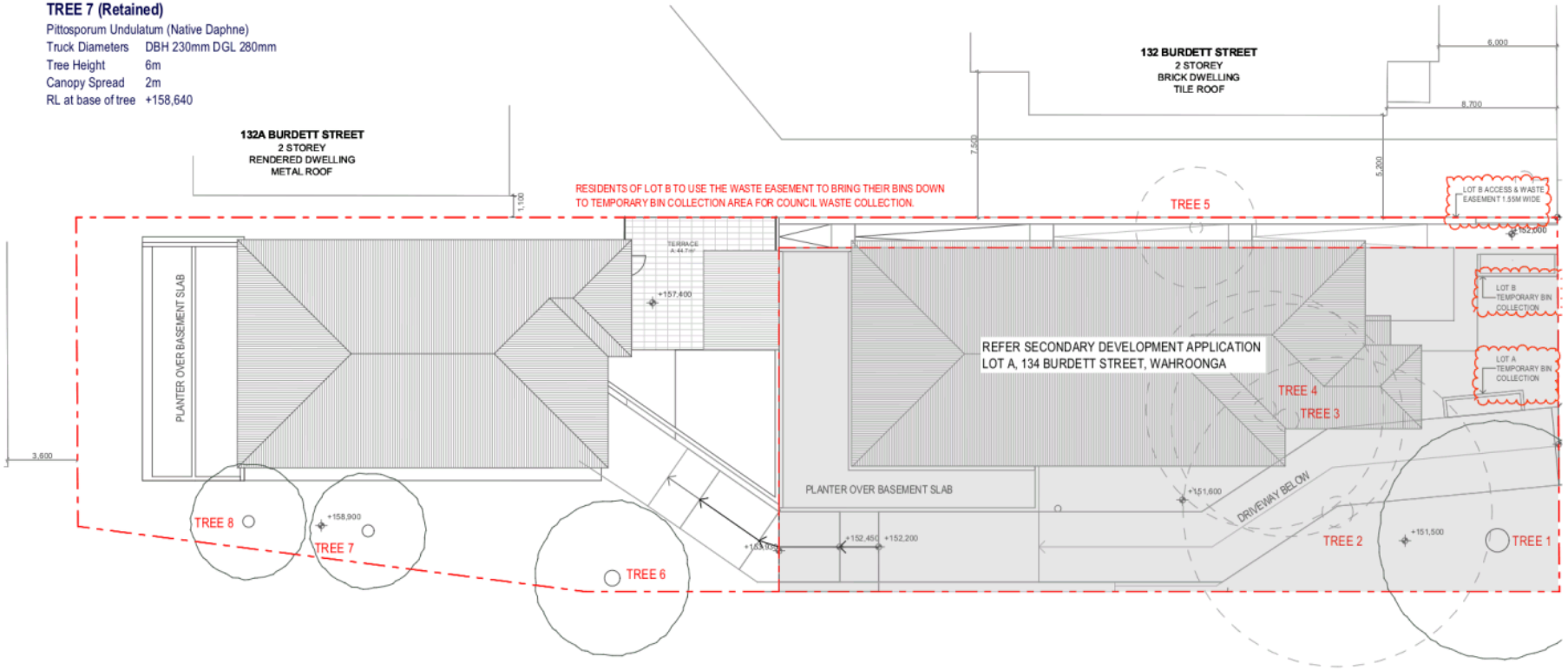
Liquidambar Styraciflau (Sweet Gum)	
Truck Diameters	DBH 480mm DGL 600mm
Tree Height	12m
Canopy Spread	6-4m
RL at base of tree	+156,480

TREE 7 (Retained)

Pittosporum Undulatum (Native Daphne)	
Truck Diameters	DBH 230mm DGL 280mm
Tree Height	6m
Canopy Spread	2m
RL at base of tree	+158,640

TREE 8 (Retained)

Pittosporum Undulatum (Native Daphne)	
Truck Diameters	DBH 230mm DGL 600mm
Tree Height	4m
Canopy Spread	4m
RL at base of tree	+158,360



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-	Development Application	M.A	22.12.2020
A	Information added in response to RFI dated 13.01.21	M.A	28.01.2021
B	Drawing update in response to letter dated 18.03.2021	MA	11.05.2021
C	Drawing update in response to letter dated 25.06.2021	MA	06.07.2021

PROJECT NORTH

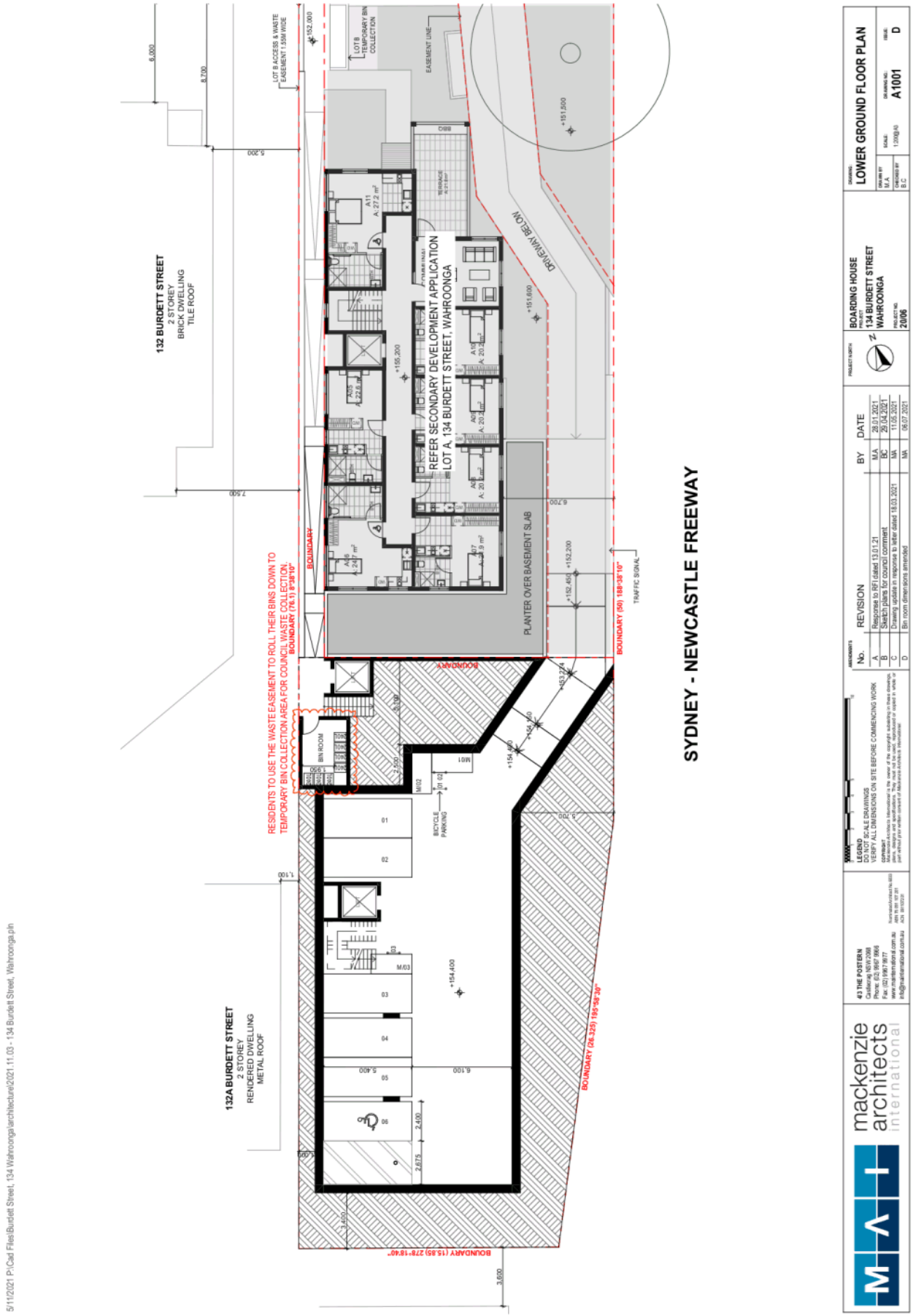
PROJECT
BOARDING HOUSE
134 BURDETT STREET
WAHROONGA

PROJECT NO.
20/06

DRAWING:
SITE ROOF PLAN

DRAWN BY M.A
CHECKED BY B.C
SCALE: 1:200@A0
DRAWING NO.: A0004
ISSUE: C

ATTACHMENT 2 - ITEM 1



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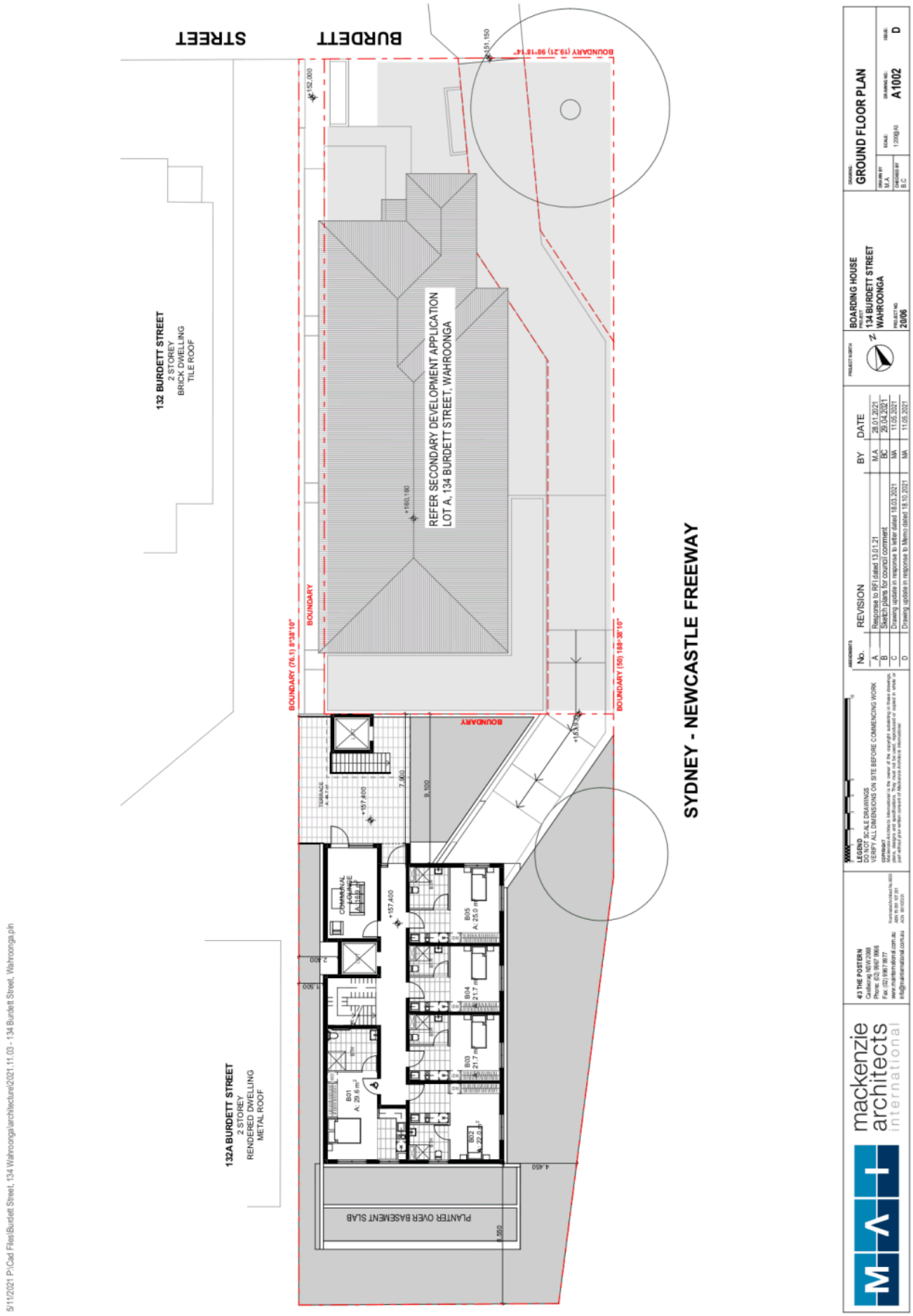

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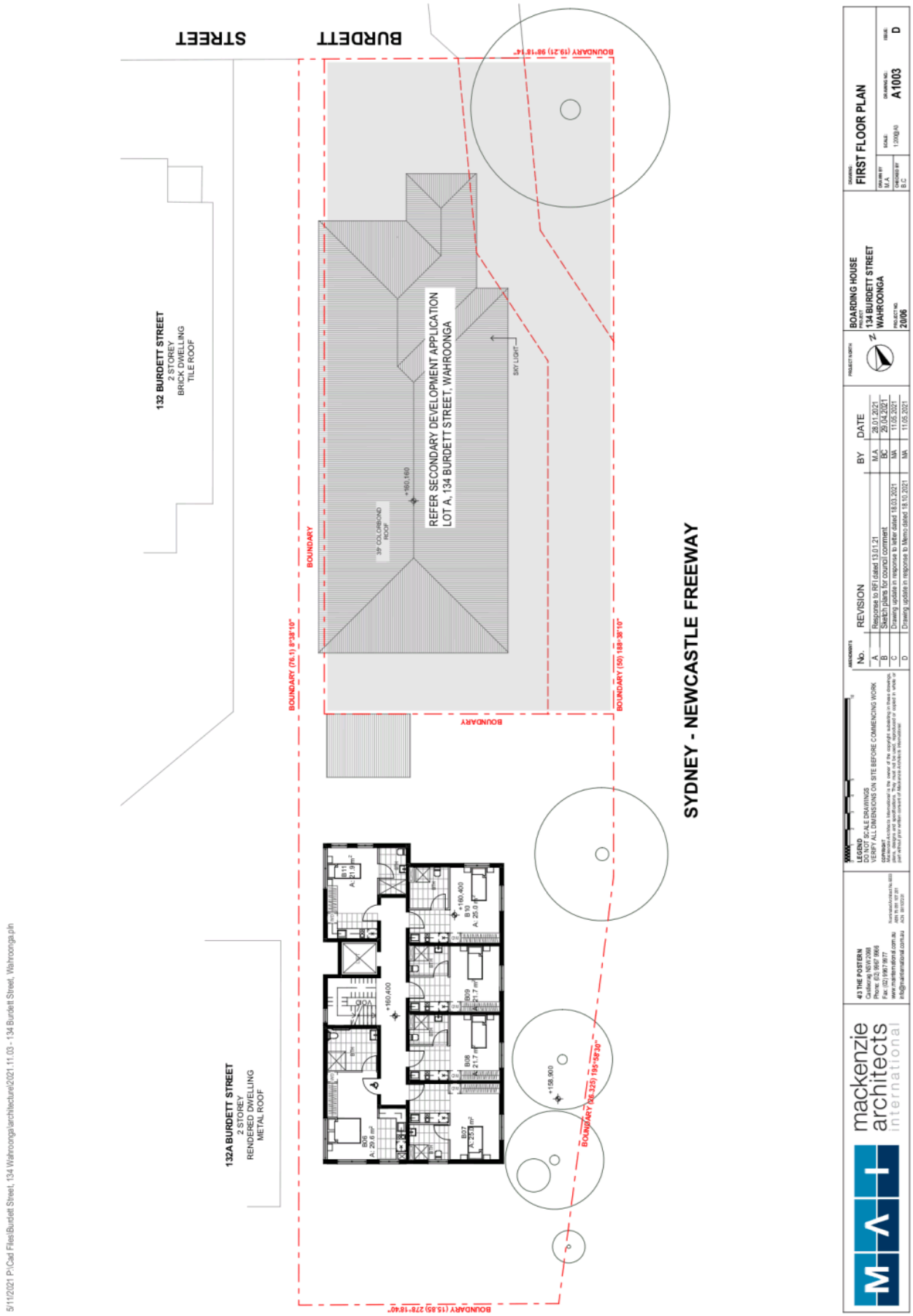

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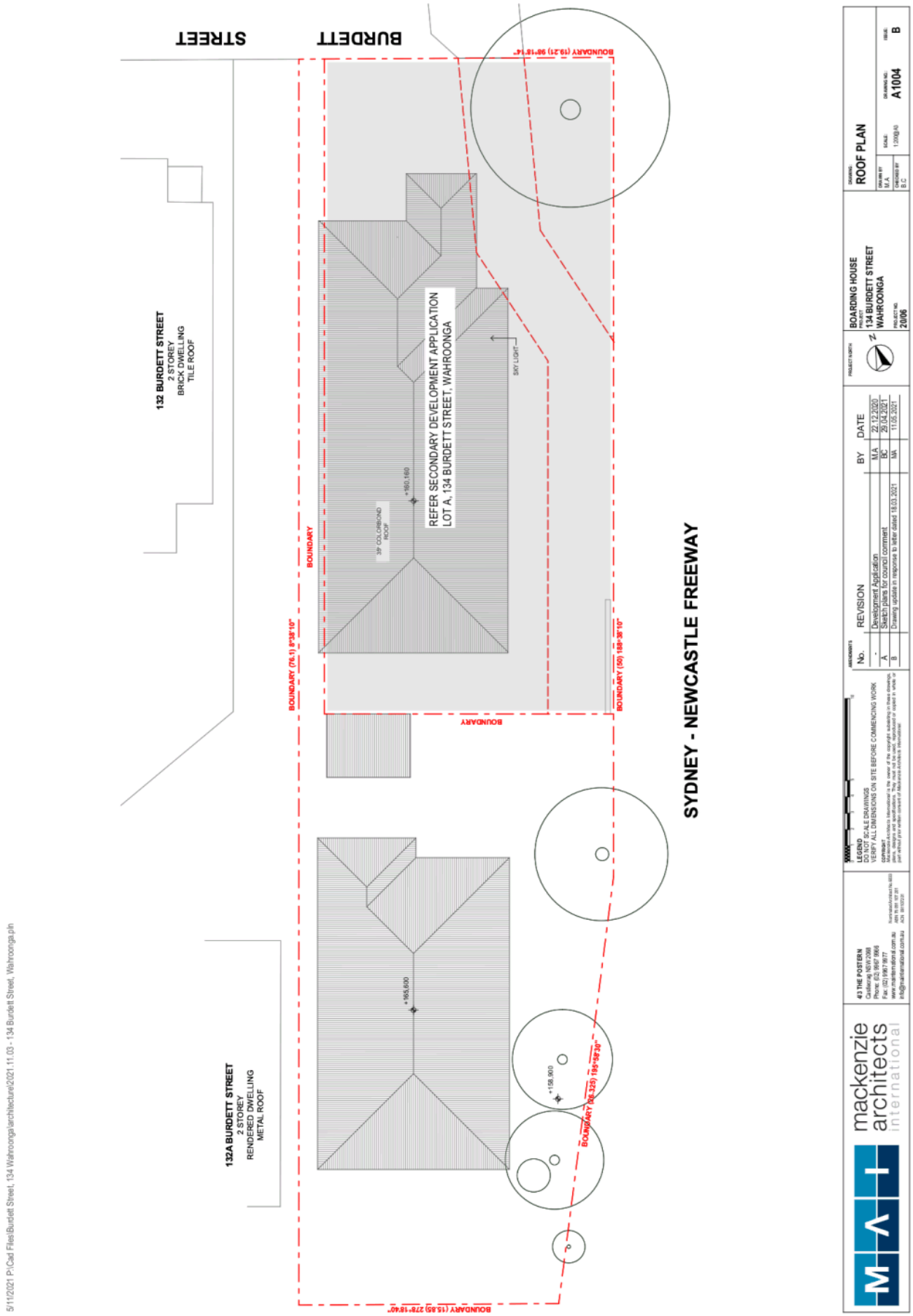

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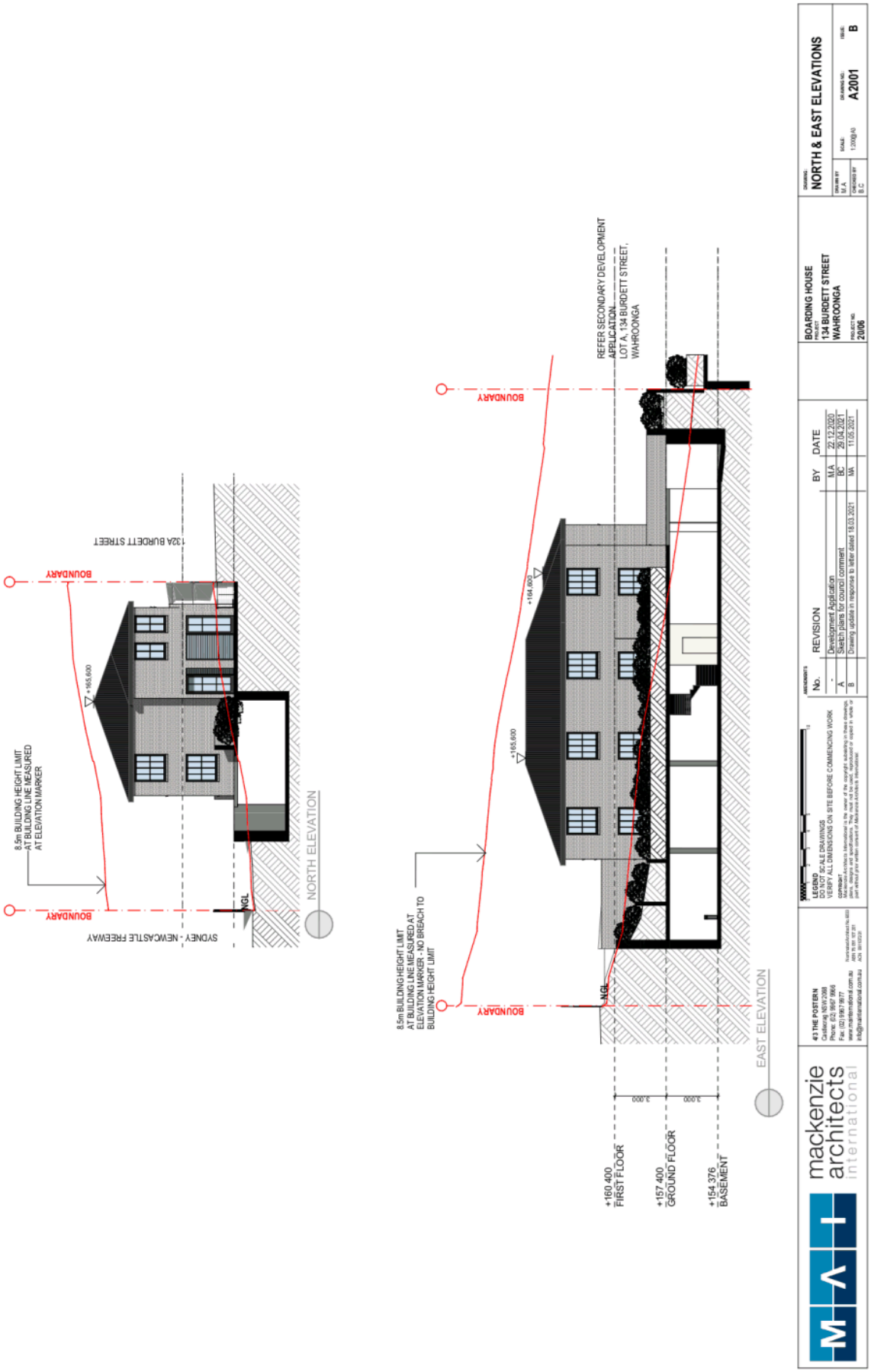

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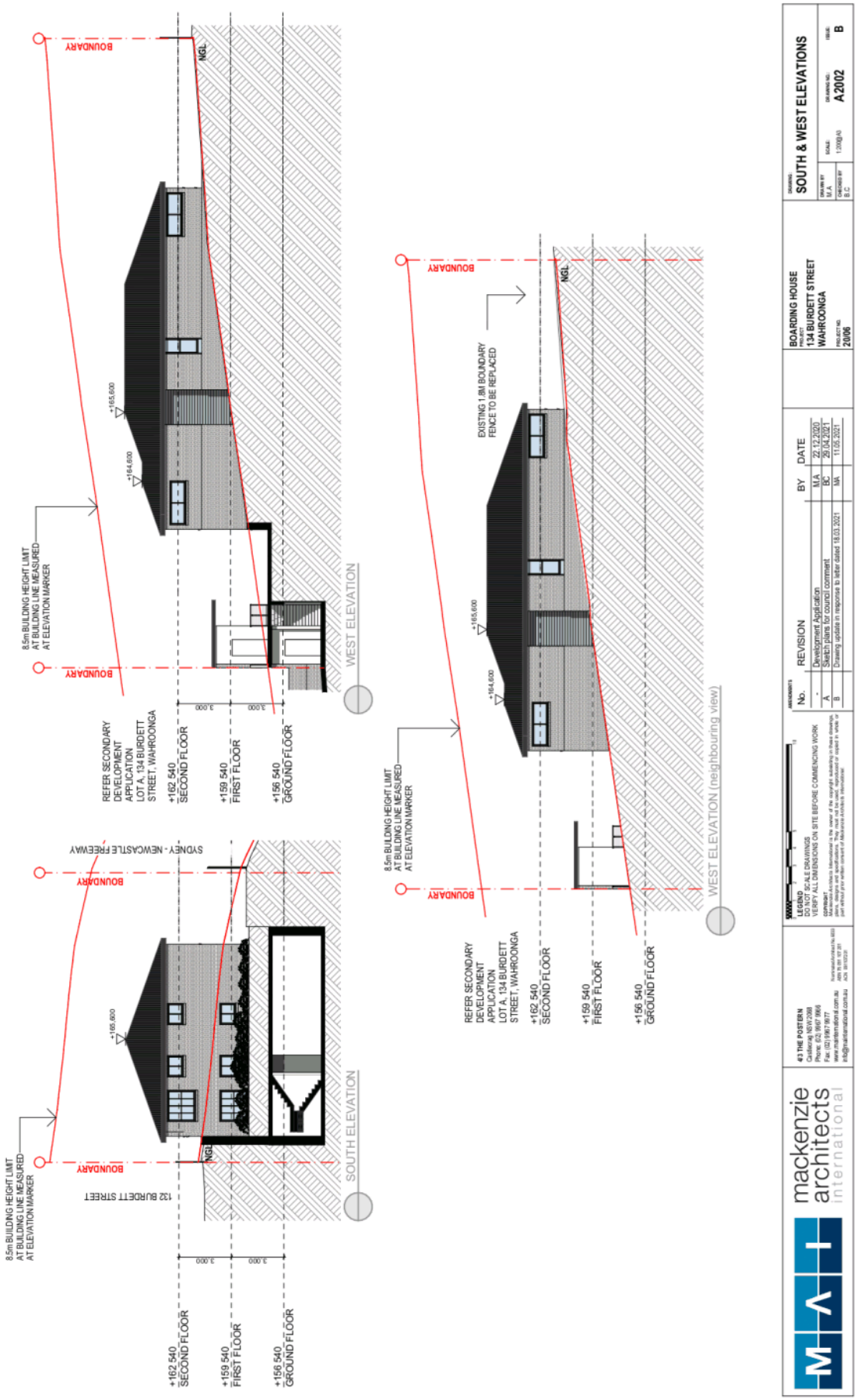

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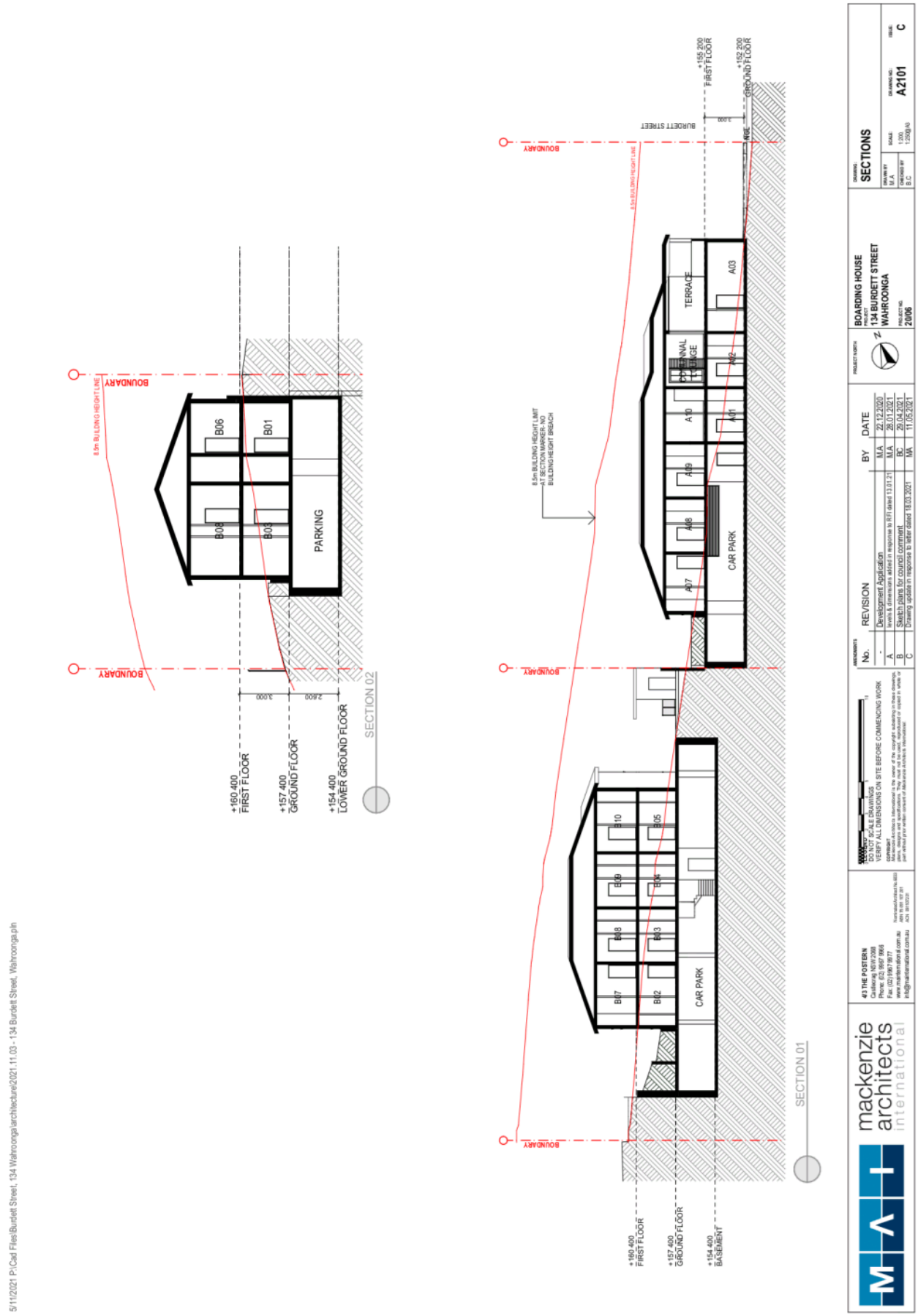

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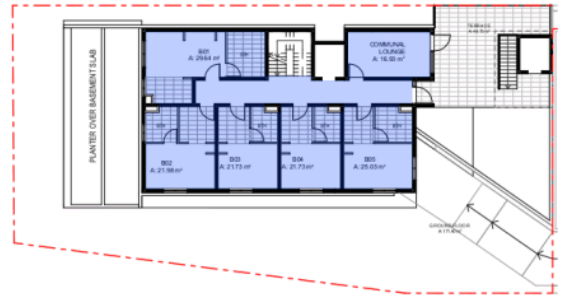

GROUND FLOOR

FIRST FLOOR

GROSS FLOOR AREA	
	AREA (m2)
GROUND FLOOR	171.40
FIRST FLOOR	173.91
PROPOSED GFA m²	345.31 m²
	GFA AREAS MEASURED

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AMENDMENTS

No.	REVISION	BY	DATE
-	Development Application	MA	22.12.2020
A	Drawing update in response to letter dated 18.03.2021	MA	11.05.2021

PROJECT NORTH

BOARDING HOUSE
PROJECT
134 BURDETT STREET
WAHROONGA
PROJECT NO.
20/06

DRAWING:
GFA CALCULATIONS

DRAWN BY M.A
CHECKED BY B.C
SCALE: 1:300@A3
DRAWING NO.: A3001
ISSUE: A

ATTACHMENT 2 - ITEM 1

COMMUNAL LOUNGE	16.93
COMMUNAL OPEN SPACE	36.08
	53.01 m²

No.	REVISION	BY	DATE
-	Development Application	MA	22.12.2020
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BOARDING HOUSE
134 BURDETT STREET
WAHROONGA
2006

COMMUNAL OPEN SPACE

A3002

A

ATTACHMENT 2 - ITEM 1

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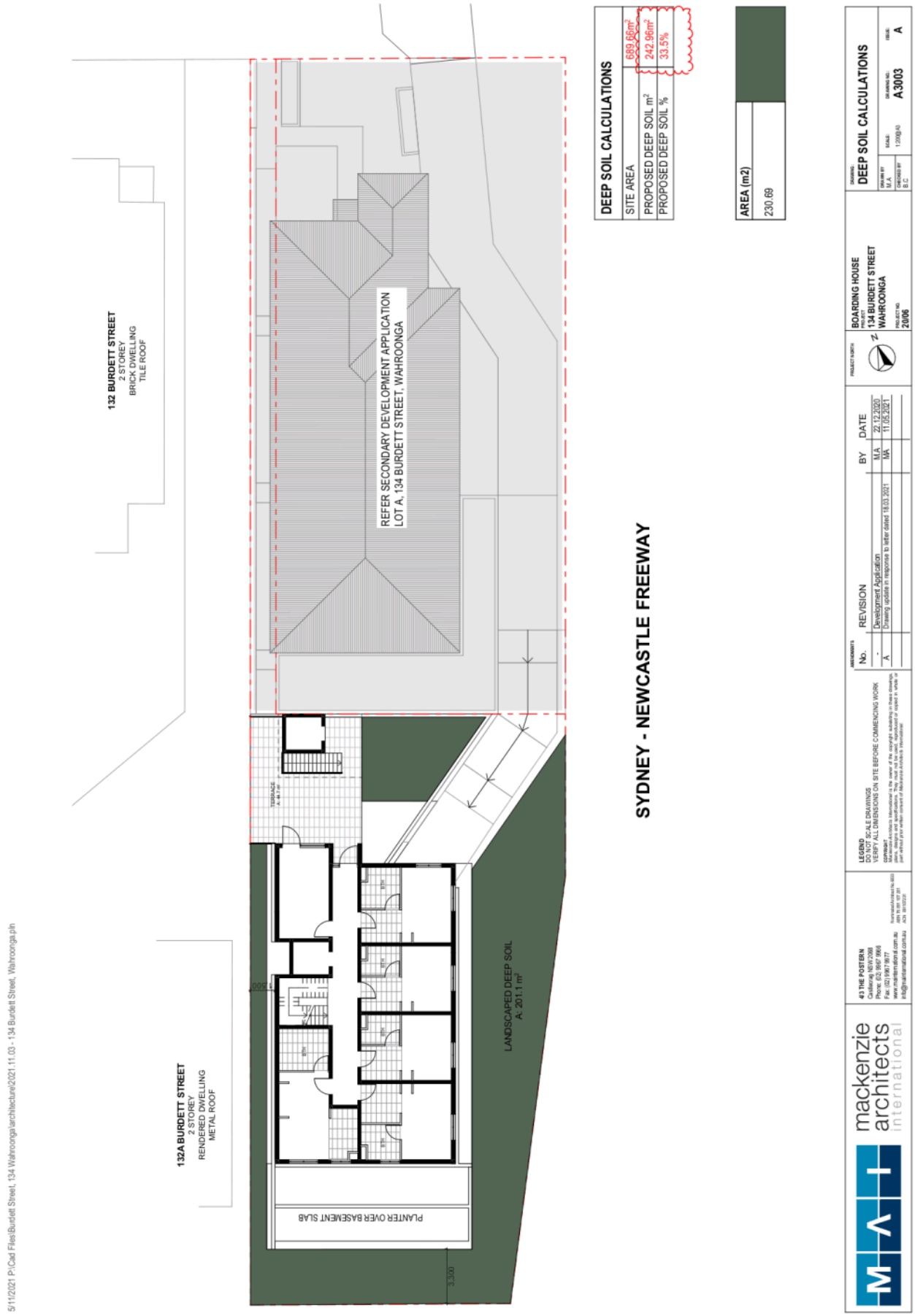

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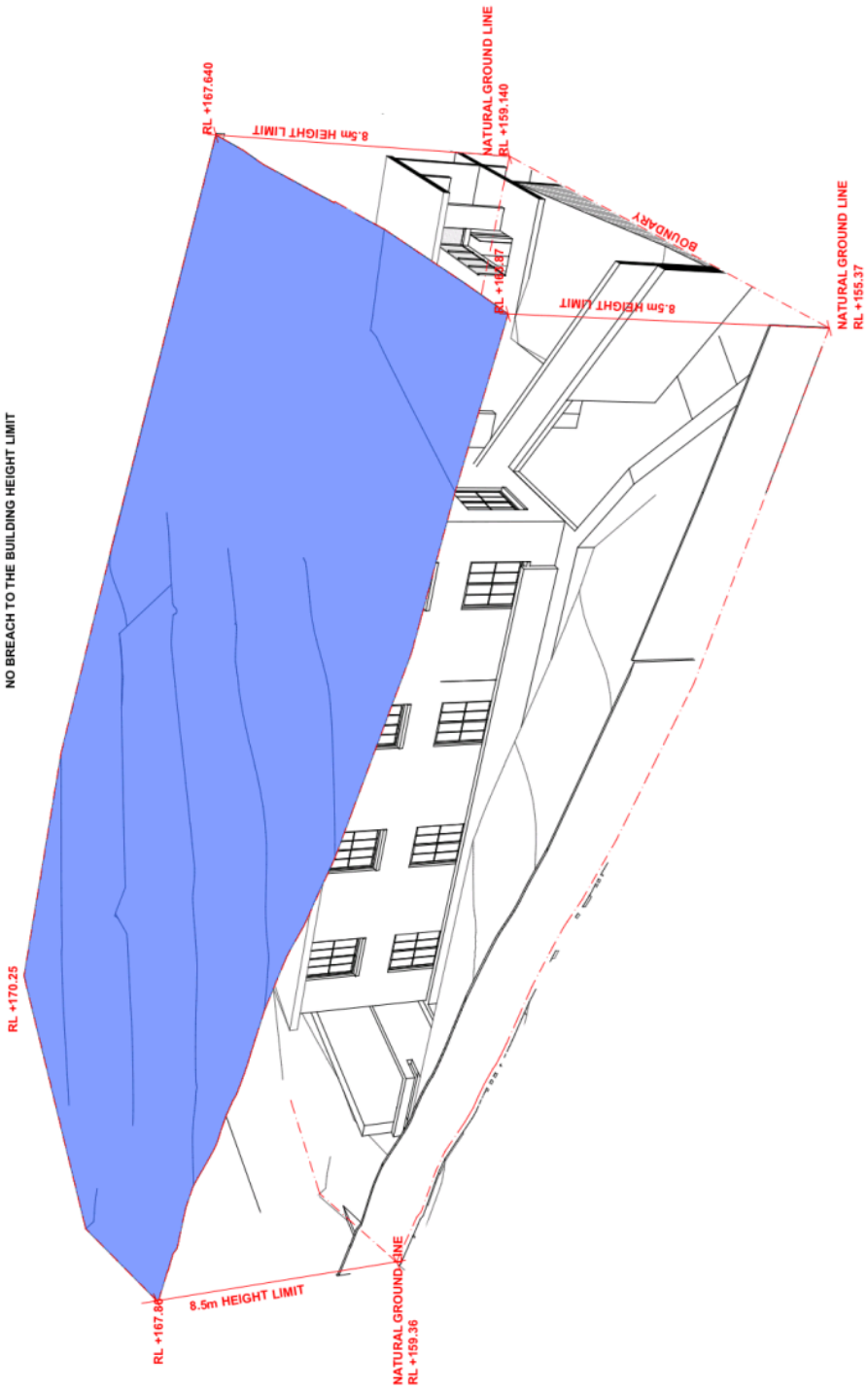

No.	REVISION	BY	DATE
-	Development Application	MA	22.12.2020
A	Drawing update in response to letter dated 18.03.2021	MA	11.05.2021

BOARDING HOUSE
134 BURDETT STREET
WAHROONGA

BUILDING HEIGHT PLAN

A3004

A

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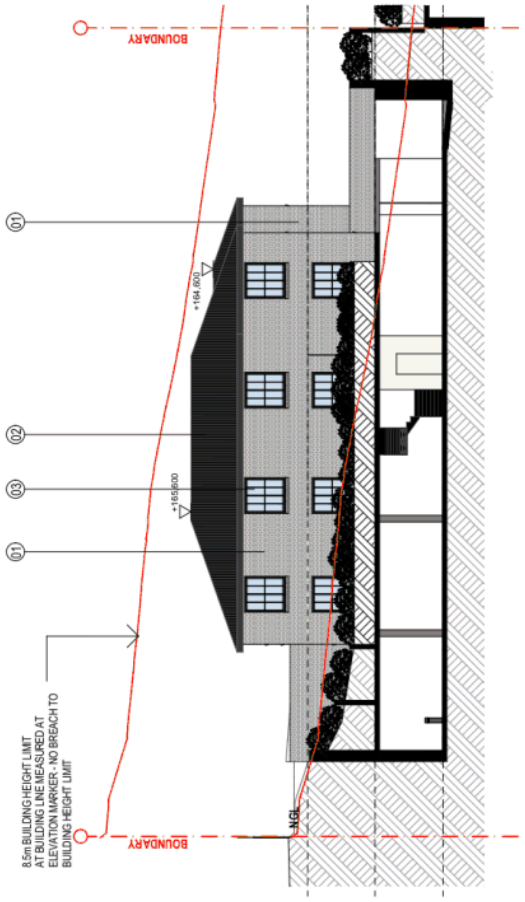
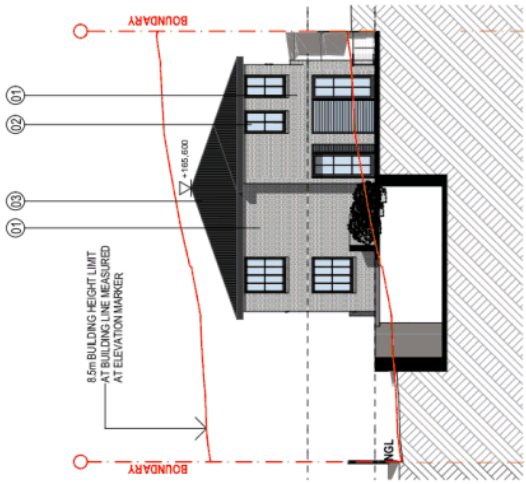
ATTACHMENT 2 - ITEM 1



EAST ELEVATION



NORTH ELEVATION

01. Face brick - Color/finish equal to Austral Freedom

02. Aluminium framed windows + doors, Color/finish equal to Colorbond Monument

03. Aluminium roof with fasia, color/finish equal to colorbond monument

04. James Hardie, Scyon Linea, color/finish equal to Dulux Oolong

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A	Drawing update in response to letter dated 18.03.2021	MA	11.05.2021

BOARDING HOUSE
PROJECT
134 BURDETT STREET
WAHROONGA
PROJECT NO.
2006

DRAWING
SAMPLE BOARD

DRAWN BY M.A.
SCALE: 1:200@A3
DRAWING NO. A3005
ISSUE A
CHECKED BY S.C.

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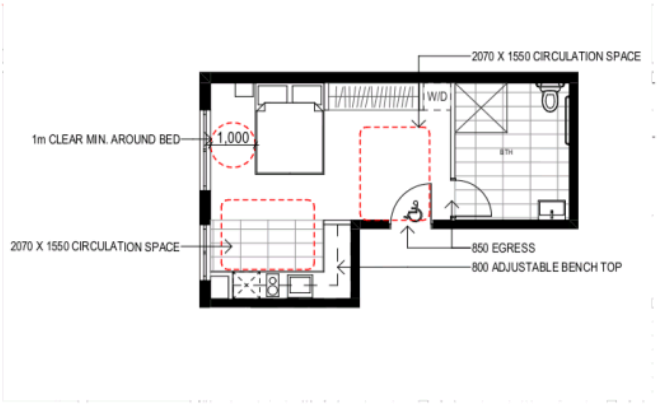
ATTACHMENT 2 - ITEM 1

5/11/2021 P:\Cad Files\Burdett Street, 134 Wahroonga\architecture\2021.11.03 - 134 Burdett Street, Wahroonga.pln



UNIT B01 & B06

ACCESSIBLE UNITS CALCULATIONS	
TOTAL NUMBER OF UNITS	11
BCA REQUIRED ACCESSIBLE UNITS	1:10
BCA REQUIRED ACCESSIBLE UNITS	2
PROPOSED ACCESSIBLE UNITS	2

ACCESSIBLE UNITS
B01
B06

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-	Development Application	MA	22.12.2020
A	Drawing update in response to letter dated 18.03.2021	MA	11.05.2021

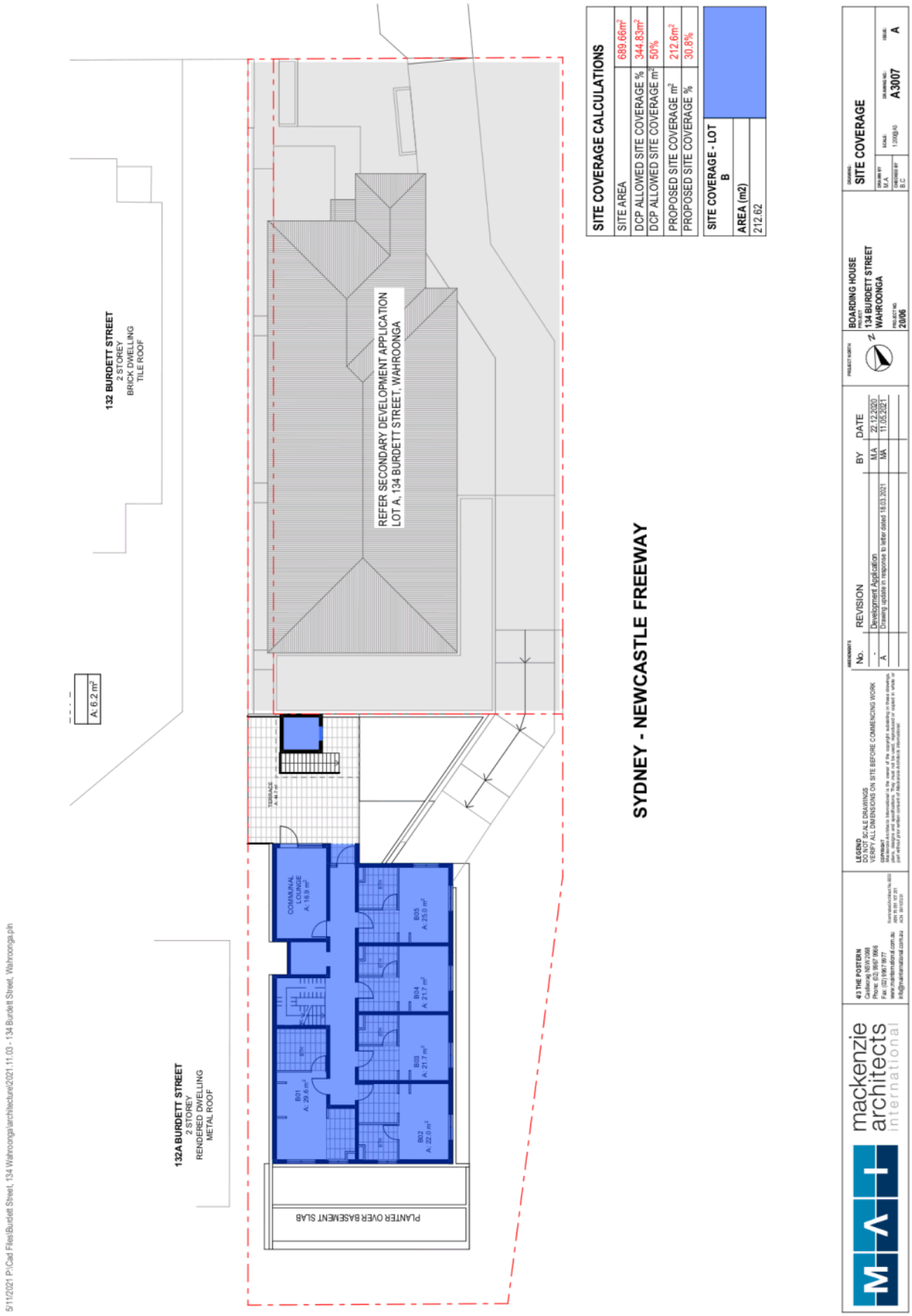
PROJECT NORTH

BOARDING HOUSE
PROJECT
134 BURDETT STREET
WAHROONGA
PROJECT NO.
20/06

DRAWING:
ACCESSIBLE UNITS

DRAWN BY M.A
CHECKED BY B.C
SCALE: 1:100@A3
DRAWING NO.: A3006
ISSUE: A

ATTACHMENT 2 - ITEM 1



ATTACHMENT 2 - ITEM 1

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GROUND FLOOR

SECOND FLOOR

LIVING AREA SCHEDULE		
UNIT No.	No. of Occupants	AREA (m2)
B01	LIVING AREA	16.32
B02	LIVING AREA	14.03
B03	LIVING AREA	12.08
B04	LIVING AREA	12.08
B05	LIVING AREA	13.89
B06	LIVING AREA	16.32
B07	LIVING AREA	14.03
B08	LIVING AREA	12.08
B09	LIVING AREA	12.08
B10	LIVING AREA	13.89
B11	LIVING AREA	12.20

9 UNITS	1 OCCUPANT
2 UNITS	2 OCCUPANT

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AMENDMENTS

No.	REVISION	BY	DATE
A	Drawing added in response to RFI dated 13.01.21	MA	28.01.2021
B	Drawing update in response to letter dated 18.03.2021	MA	11.05.2021

PROJECT NORTH

PROJECT
BOARDING HOUSE
134 BURDETT STREET
WAHROONGA

PROJECT NO.
20/06

DRAWING:
LIVING AREAS

DRAWN BY M.A
CHECKED BY B.C
SCALE: 1:200@A3
DRAWING NO.: A3008
ISSUE: B

ATTACHMENT 2 - ITEM 1

5/11/2021 P:\Cad Files\Burdett Street, 134 Wahroonga\architecture\2021.11.03 - 134 Burdett Street, Wahroonga.pln

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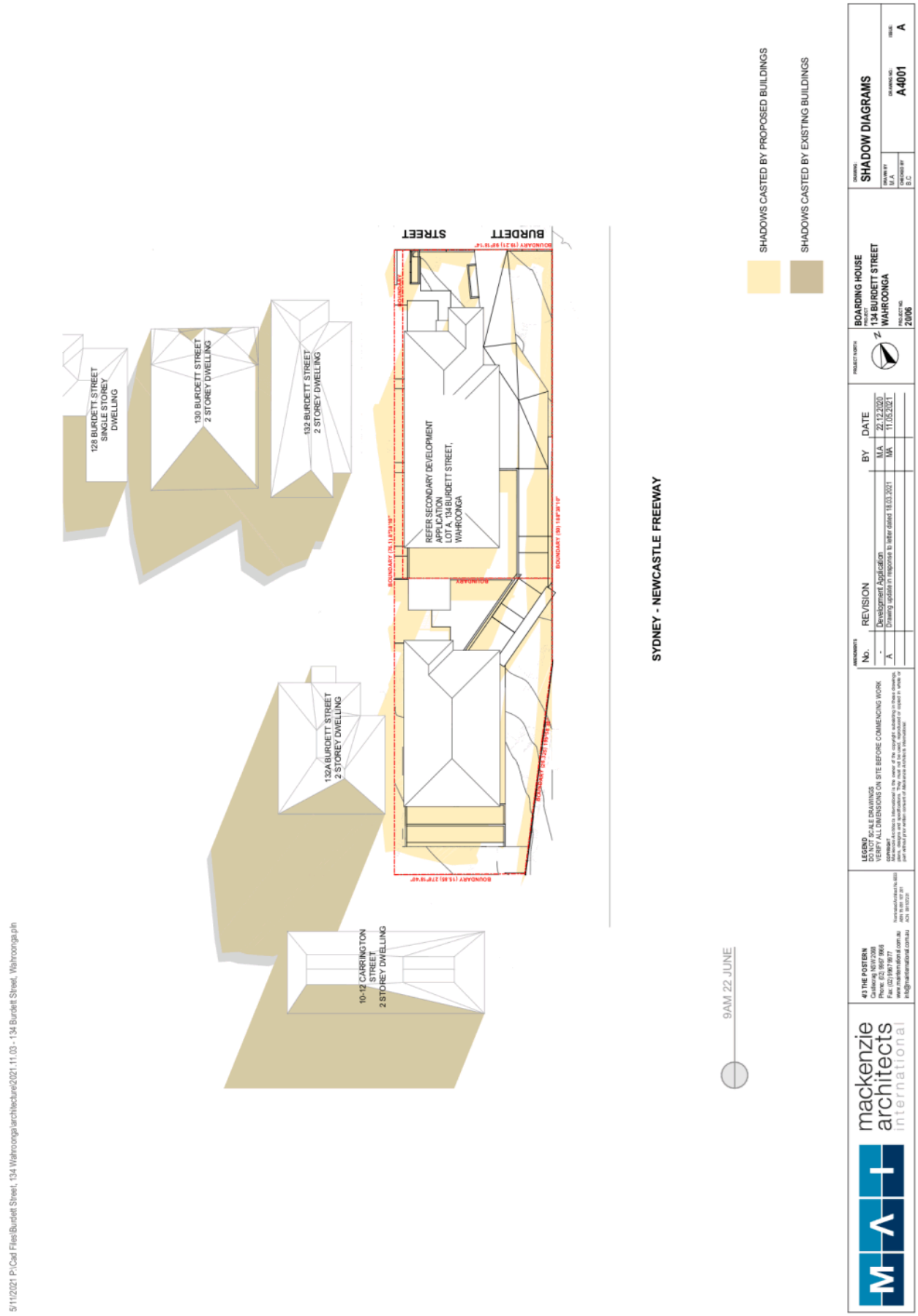
A	Drawing added in response to RFI dated 13.01.21	MA	28.01.2021
B	Drawing update in response to letter dated 18.03.2021	MA	11.05.2021

PROJECT NORTH

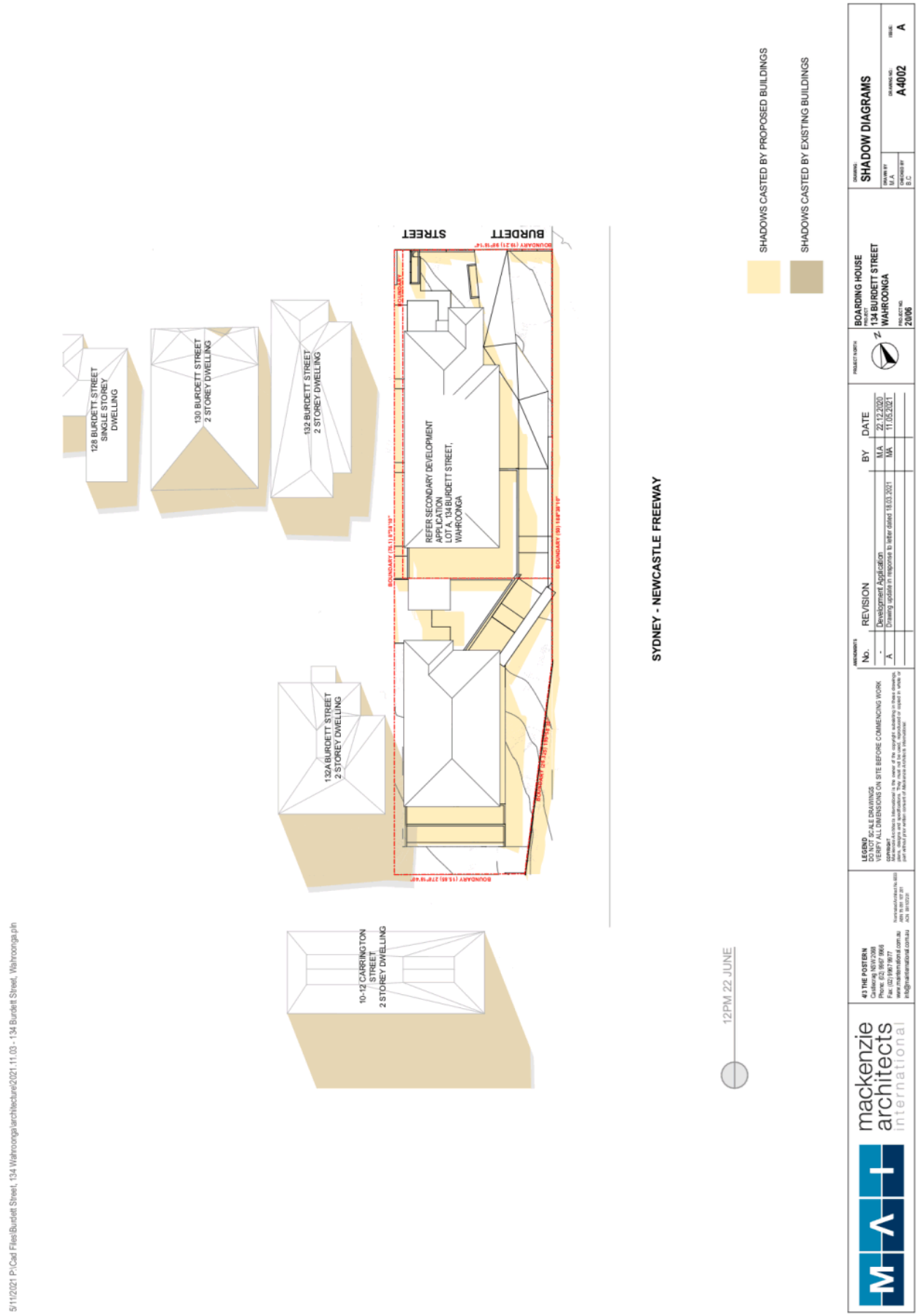
BOARDING HOUSE
PROJECT
134 BURDETT STREET
WAHROONGA
PROJECT NO.
2006

DRAWING
BUILDING DIMENSION
DRAWN BY M.A.
SCALE: 1:100@A3
DRAWING NO. A3009
CHECKED BY S.C.
ISSUE B

ATTACHMENT 2 - ITEM 1



ATTACHMENT 2 - ITEM 1


128 BURDETT STREET
SINGLE STOREY
DWELLING
130 BURDETT STREET
2 STOREY DWELLING
132 BURDETT STREET
2 STOREY DWELLING
132A BURDETT STREET
2 STOREY DWELLING
10-12 CARRINGTON
STREET
2 STOREY DWELLING
BURDETT
STREET
REFER SECONDARY DEVELOPMENT
APPLICATION
LOT A, 134 BURDETT STREET,
WAHROONGA
SYDNEY - NEWCASTLE FREEWAY
12PM 22 JUNE
SHADOWS CASTED BY PROPOSED BUILDINGS
SHADOWS CASTED BY EXISTING BUILDINGS
REVISION
Development Application
Drawing update in response to letter dated 18.03.2021
BY
DATE
22.12.2020
11.05.2021
BOARDING HOUSE
134 BURDETT STREET
WAHROONGA
2006
SHADOW DIAGRAMS
A4002
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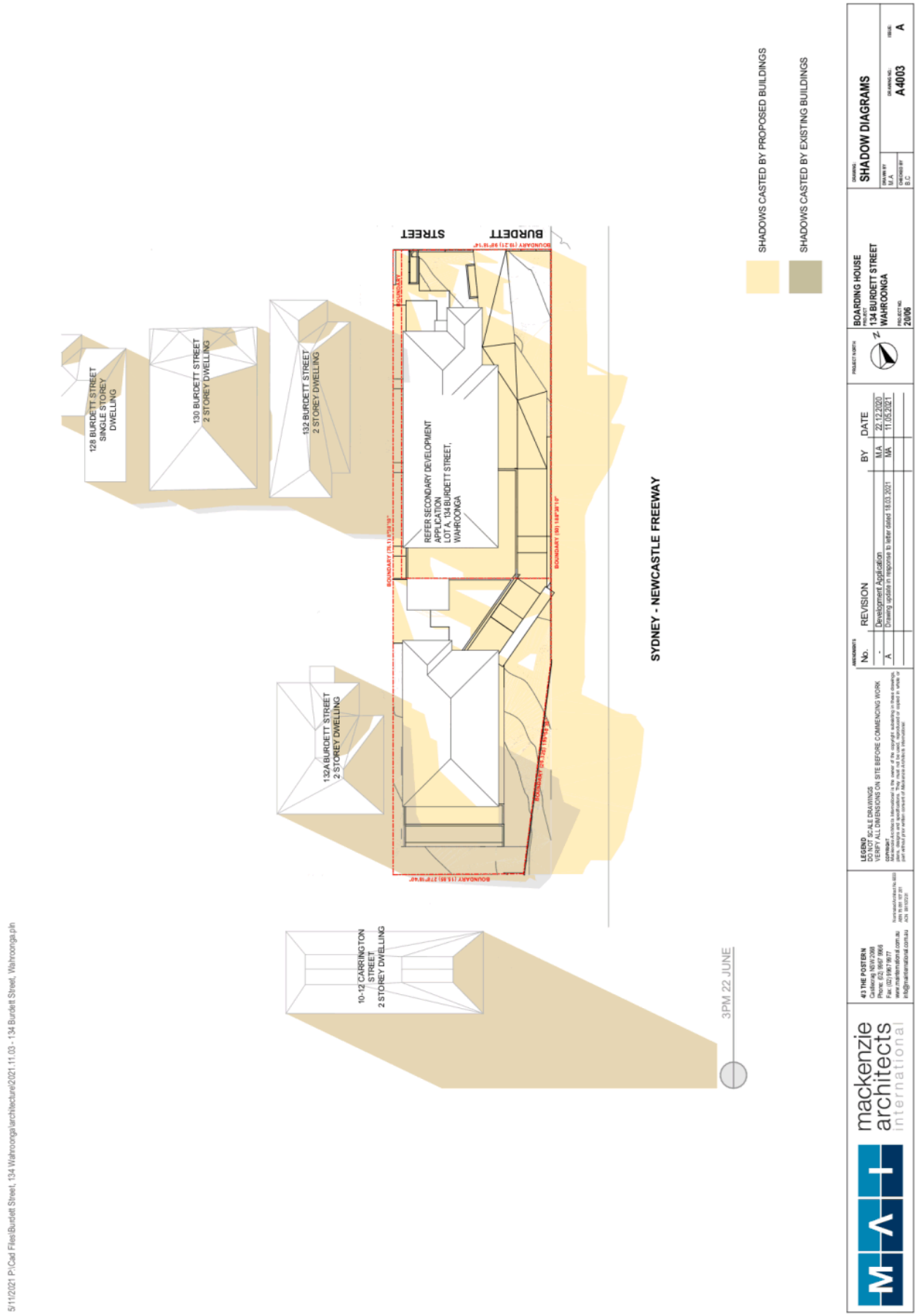

ATTACHMENT 2 - ITEM 1

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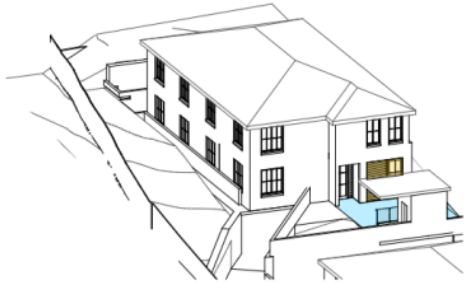
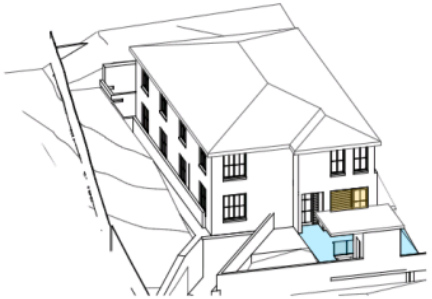


22 JUNE - 9:00AM



22 JUNE - 9:30AM

22 JUNE - 10:00AM

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B	Drawing update in response to letter dated 18.03.2021	MA	11.05.2021

BOARDING HOUSE
PROJECT
134 BURDETT STREET
WAHROONGA

PROJECT NO.
20/06

DRAWING:
SOLAR ANALYSIS

DRAWN BY M.A
CHECKED BY B.C
DRAWING NO.: A4101
ISSUE: B

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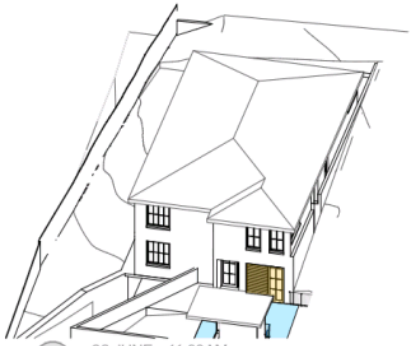
22 JUNE - 10:30AM

22 JUNE - 11:00AM



22 JUNE - 11:30AM

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PROJECT
BOARDING HOUSE
134 BURDETT STREET
WAHROONGA

PROJECT NO.
20/06

DRAWING:
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DRAWN BY M.A
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DRAWING NO.: A4102
ISSUE: B

ATTACHMENT 2 - ITEM 1

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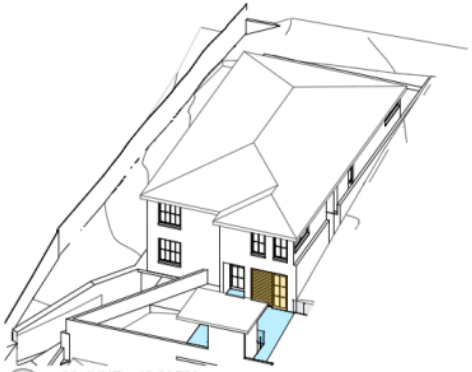

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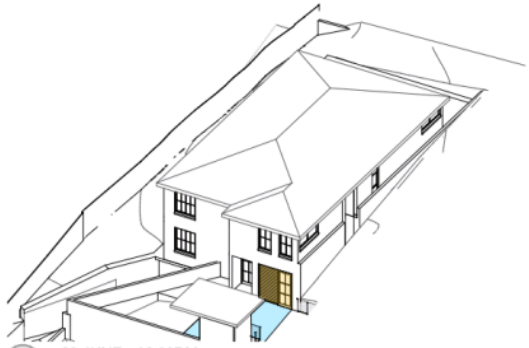

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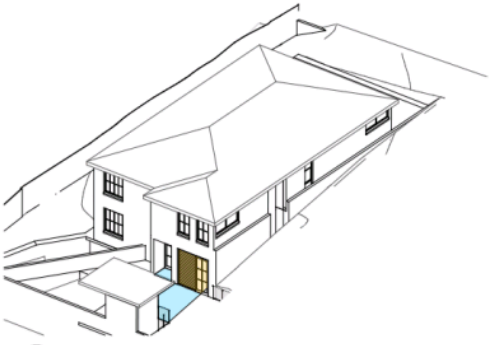

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PROJECT
BOARDING HOUSE
134 BURDETT STREET
WAHROONGA

PROJECT NO.
20/06

DRAWING:
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DRAWN BY M.A
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DRAWING NO.: A4103
ISSUE: B

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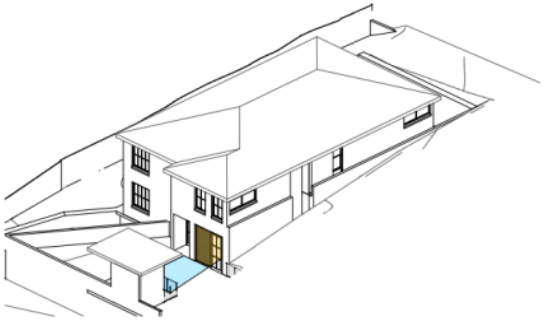

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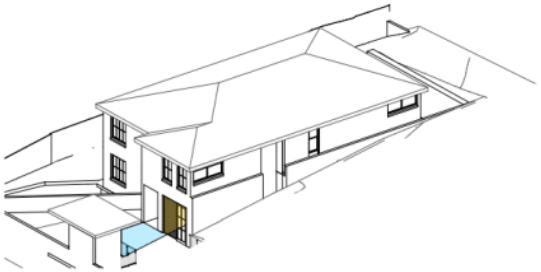

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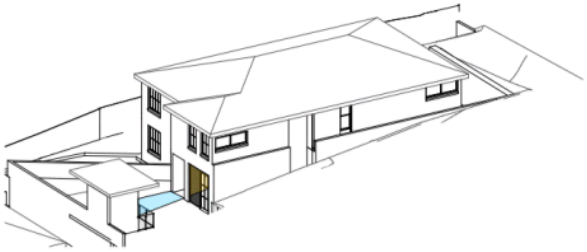

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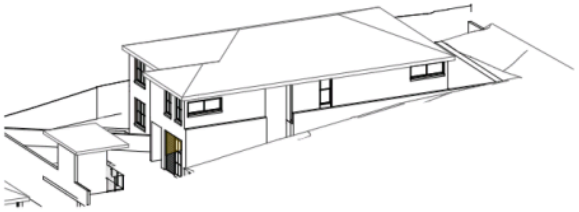

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PROJECT
BOARDING HOUSE
134 BURDETT STREET
WAHROONGA

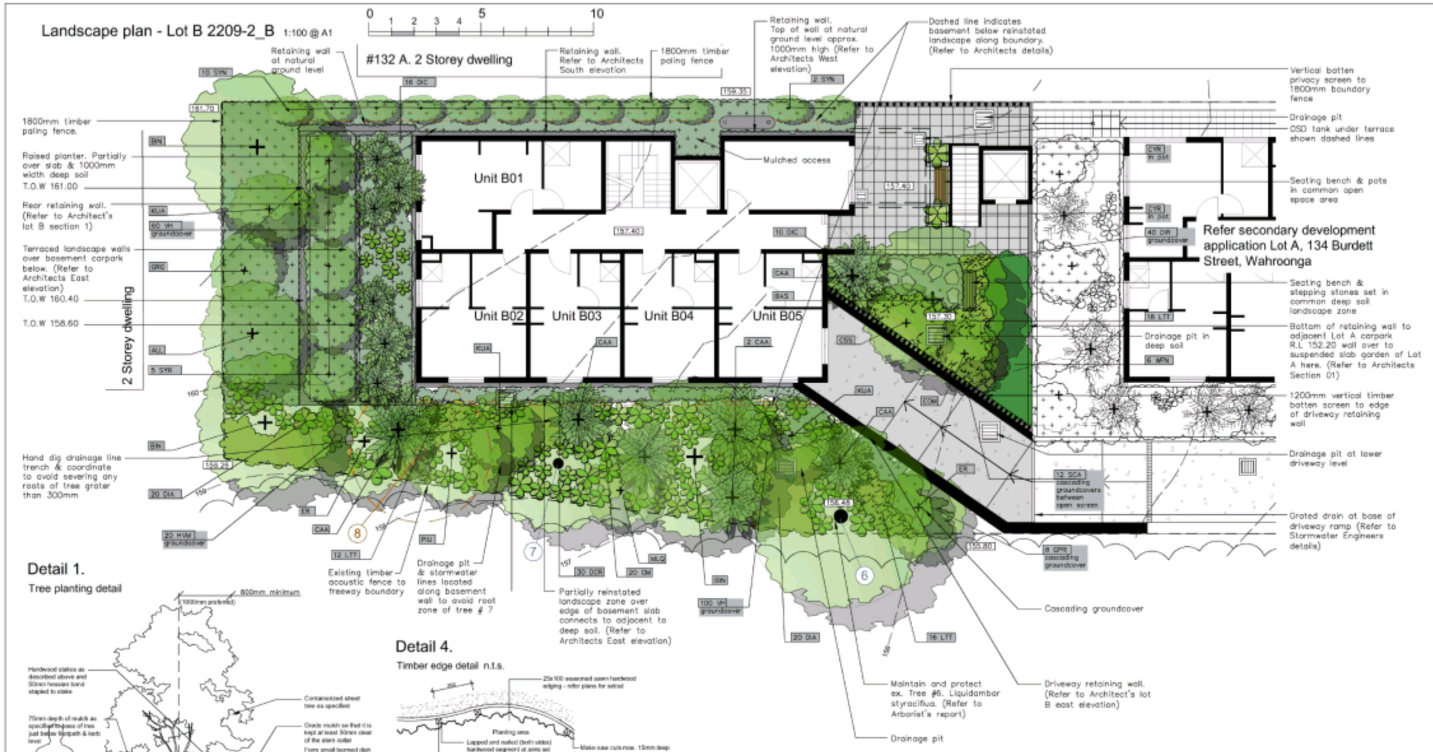
PROJECT NO.
20/06

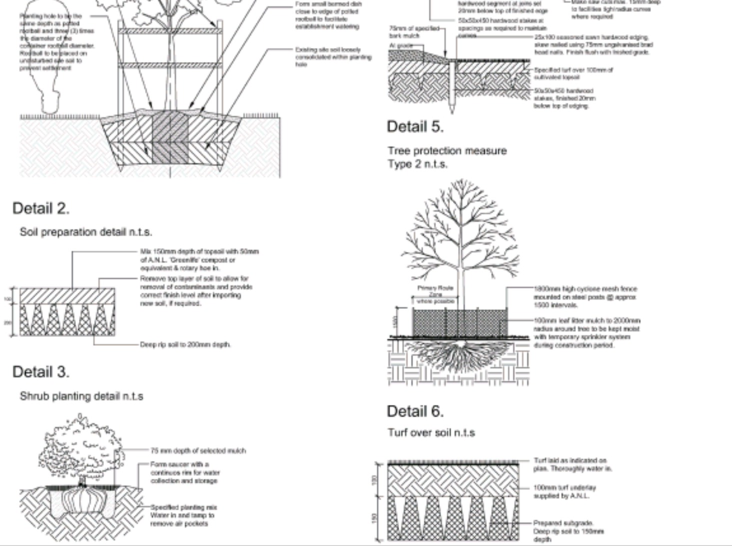
DRAWING:
SOLAR ANALYSIS

DRAWN BY M.A
CHECKED BY B.C
DRAWING NO.: A4104
ISSUE: B

ATTACHMENT 2 - ITEM 1

ATTACHMENT 3 - ITEM 1

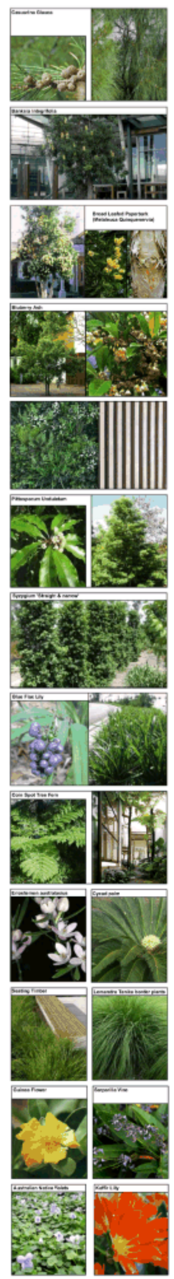




Planting schedule – Lot B

Symbol	Botanical name	Common name	Cont. size	Staking	Mature height	No req.
Canopy trees						
ALL	Allocasuarina littoralis	Black She Oak (native narrow growing med tree)	45Lt	3x50x50x1800	10-15.0.0M	1
BAS	Banksia serrata	Old Man Banksia (Small native. Gnarled trunk & serrated leaves)	75Lt	3x50x50x1800	5-8.0M	1
BIN	Banksia integrifolia	Coast Banksia (medium indigenous tree)	75Lt	3x50x50x1800	12-15.0M	3
ER	Elaeocarpus reticulatus	Blueberry Ash (indigenous small tree)	45Lt	3x50x50x1800	6-8.0M	2
MLQ	Melaleuca quinquenervia	Flax Leaf Paperbark (indigenous medium tree)	75Lt	3x50x50x1800	12-15.0M	1
PIU	Pittosporum undulatum	Showy Pittosporum (Small native understorey tree)	300mm	2x50x50x1800	8-10.0M	1
Shrubs / small feature trees						
CCS	Callistemon citrinus 'Splendens'	Dwarf Crimson Bottlebrush (Crimson flowering native shrub)	200mm	nil	2.5M	1
GRG	Grevillea 'Robyn Gordon'	Robyn Gordon (native flowering screen plan. Can be hedged)	250mm	nil	2.0M	1
EOM	Pilotheca (Eriostemon) australasius	Pink Wax Flower (flowering native shrub)	200mm	nil	1.50M	1
KUA	Kunzea ambigua	Tick Bush (flowering native shrub)	250mm	nil	2-3.0M	3
SYN	Syzygium 'Straight and Narrow'	Narrow vertical Lilly Pilly (native screen plant. Can be hedged)	300mm	hedged	4-5.0M	12
SYR	Syzygium 'Resilience'	Resilience Lilly Pilly (native screen plant. Can be hedged)	300mm	hedged	2.8-3.5M	5
WFN	Westringia fruticosa 'Naringa'	Ozbreed Grey Box® (hardy low screen can be hedged)	200mm	hedged	0.4-0.7M	6
Ferns / Palms / Succulents / ornamental bamboos						
CAA	Cyathea australe	Tree Fern (Native tree ferns)	200mm	nil	2-4.0M	6
CYR	Cycas revolutum	Sago Palm (striking native low palm like)	200mm	nil	1-1.2M	2
Groundcovers/Climbers						
DIR	Dichondra repens	Kidney weed (native carpet groundcover)	tubes	nil	0.1M	40
GPR	Grevillea 'Poorinda Royal Mantle'	Grevillea Groundcover (native low groundcover)	150mm	nil	0.2M	8
HVM	Hardenbergia violacea 'Meema'	Meema Purple Coral Pea (purple flower native groundcover)	200mm	nil	0.4M	20
SCA	Scaevola aemula	Fan Flower (Flowering cascading groundcover)	150mm	nil	0.3M	12
VH	Viola hederacea	Native Violets (native low groundcover)	tubes	nil	0.1M	160
Ornamental grasses/strappy leaved plants						
CM	Clivea miniata	Kaffir Lily (shade tolerant groundcover)	200mm	nil	0.5M	20
DIC	Dianella caerulea	Blue Flax Lily (native grass like plant)	100mm	nil	0.4M	26
DCR	Dianella caerulea 'Tasred'	Tasred Flax Lily (native grass like plant)	100mm	nil	0.4M	30
DIA	Dianella 'Cassa Blue'	Hybrid Flax Lily (native grass like plant)	100mm	nil	0.4M	40
LTT	Lomandra Lime Tuff	Dwarf Lomandra (ornamental grass)	150mm	nil	0.4M	46

Planting schedule species to be sourced from local nurseries supplying plants of local provenance wherever possible. Landscape contractor is to check plant numbers on plan against the schedule prior to submitting tender price. Contact landscape architect if any number discrepancies are found. Council compliance controls require that any substitution of species variety or container size MUST be confirmed with landscape architect to ensure a compliance certificate can be issued that's meets the specific development consent conditions of the project.



General construction notes

1. Site preparation
Any existing trees and vegetation to be retained shall be preserved and protected from damage of any soil during the execution of landscape work. In particular, root systems of existing plants must not be disturbed if possible. Any nearby site works should be carried carefully using hand tools. To ensure the survival and growth of existing trees during landscaping works, protect by fencing or armoring where necessary. Trees shall not be removed or lopped unless specific written approval to do so is given or is indicated on plan. Storage of materials, mixing of materials, vehicle parking, disposal of liquids, machinery repairs and refueling, site office and sheds, and the lighting of fires shall not occur within three (3) metres of any existing trees. Do not stockpile soil, rubble or other debris cleared from the site, or building materials, within the dripline of existing trees. Vehicular access shall not be permitted within three (3) metres of any tree.

2. Soil preparation
All proposed planting areas to be deep ripped to 200mm (where possible) and clay soils to be treated with clay breaker. Apply at least 200mm depth good quality garden soil mix to all garden planting areas. To comply with AS 4419. Turfed areas to be Soft leaf Buffalo or Soft Leaf Buffalo to be laid over 150mm good quality turf underlay over existing soil which is to be deep ripped to 200mm depth prior to installation. To be worked in with rotary hoe except where tree root damage would otherwise occur. In such situations care to be taken to hand cultivate in any area where existing tree roots exist to preserve health of trees and to comply with the requirements of the Arborist's report. Where planting is to occur in existing soil profiles ensure soil conditioners and compost worked into the top 200mm profile. To comply with AS 4454:1999.

3. New plantings
Newly planted trees and large shrubs should be secured to stakes with hessian ties to prevent rocking by wind. Planting holes for plant material should be large enough in size to take root ball with additional space to take back filling of good quality planting mix. (Please note mature heights of planting as shown on planting schedule can vary due to site conditions, locations in constricted deep soil or over slab planters and so forth) Also shallow soils in certain locations may affect planting heights. Nominated heights for plantings in raised planters over slabs are nominated as less than their normal expected heights in acknowledgement of the contained soil environment. For other deep soil trees heights are subject to particular site conditions, and intended hedging or pruning for functional requirements such as available planting width, intended access under branches and solar access.

4. Planter boxes & waterproofing.
All slab areas to be waterproofed and 'Atlantis' drainage cell installed with geotextile fabric. Refer Engineer's details for structural details for planter box construction. All internal planter slab levels to fall to drainage outlets as detailed by Stormwater Engineer. Ensure cavity between planter box and building wherever planter joins habitable rooms of building. Keep cavity clear of debris by providing capping row butted against building. Exterior finishes as per Architect's detail. Ensure base of cavity is able to drain via weep holes in event water seeps into cavity so as to not build up against building wall. Containers to be at height as indicated on Architects' drawing. All planting containers to have the following:

- Impervious waterproof membrane along base and up to top of soil level of containers to Engineer's details
- 'Atlantis' drainage cell (or engineer's approved equivalent at base to be connected to drainage system of development as per stormwater Engineer's details.
- A.N.L. planter box soil mix or equivalent. To comply with AS 4419 and AS 3743
- Contractor to install all planter box finishes after other site works are completed to ensure no deterioration of waterproof membrane. Contractor to be responsible for the integrity of the waterproofing of the planter boxes throughout construction and installation period.
- All planter boxes are to have automatic dripline irrigation system. Connecting pipes to installed during construction of planters and to be coordinated with all Engineer's details

5. Mulching
All planting areas to be mulched with a minimum 75mm thick cover of recycled hard wood chip mulch and then all plant areas to be thoroughly soaked with water. To comply with AS 4454

6. Fertiliser
All planting areas to be fertilized with 9 month 'NPK' slow release fertiliser.

7. Staking
To those plants indicated on the planting schedules provide: hardwood stakes as nominated and driven into ground to a depth able to achieve rigid support.

8. Lawn edging
All ground level garden beds adjacent to site boundary or paved areas to have edging as nominated on the plans.

9. Turfing
Turfed nature strip areas to be Soft leaf Buffalo or Soft Leaf Buffalo 'shademaster' (as nominated on plans) to be laid over 100mm good quality turf underlay over existing soil which is to be deep ripped to 200mm depth prior to installation.

10. Structural
All structural details whatsoever to Engineer's details. All drainage and waterproofing details to Engineers details.

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LANDSCAPE

PO Box 813 Newport NSW 2106
ABN: 627 121 448
Phone: 02 9907 8011
www.scrivener-design.com
Email: paul@scrivener-design.com

Project: Boarding House
134 Burdett Street
Wahroonga

Dwg: Landscape Plan - Lot B 2209-2_B
Date: 1.6.21 Scale: 1:100 @A1
Job Ref: 20/2209-2 Sheet No: 1 of 1

North

1 of 1
ISSUE-C

ATTACHMENT 4 - ITEM 1

Chapman Planning Pty Ltd

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ULTIMO NSW 2007

Phone: 9560 1718
www.chapmanplanning.com.au

2 February 2022

Clause 4.6 Request to Contravene a Development Standard

Property Description: Lot B – 134 Burdett Street, Wahroonga

Development: Boarding House Development

Development Standard: Boarding houses in Zone R2 Low Density Residential

Introduction

This is a clause 4.6 request to contravene the 12 room boarding house development standard contained in Clause 30AA of State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH 2009). The request relates to the proposed 11-room boarding house development at Lot B – 134 Burdett Street, Wahroonga.

This request to contravene the development standard is prepared on the basis of case law *Dib v Canterbury-Bankstown Council [2021] NSWLEC 1553* where the commissioner provides the following addressing whether clause 30AA of SEPP ARH is amenable to clause 4.6 of the LEP.

> *66. I accept that in the context of SEPP ARH when read as a whole, cl 30AA does not serve to prohibit the development of boarding houses within the R2 Low Density Residential zone in all cases. Rather, the SEPP makes clear that a boarding house development may be permissible with consent in the R2 zone. This is the first step in Poynting.*
>
> *67. Although cl 30AA is expressed in the negative, the outward form of the clause is not material to whether the provision is a development standard or prohibition. As Giles JA states in Poynting at [93]:*
>
> > *"Care must be taken lest form govern rather than substance. A provision in the form, "A building may be erected on land in a particular zone if the land has an area greater than a particular area" appears regulatory, whereas a provision in the form, "A building must not be erected on land if the land has an area less than a particular area" appears prohibitory, but the substance is the same."*
>
> *68. Having determined that cl 30AA passes the first step of Poynting, I am satisfied it also passes the second step - that is, by specifying a requirement or fixing a standard, the provision will be a development standard by which permissible development may be carried out.*

69. *In this particular case a boarding house is permissible development able to be carried out within the R2 zone when an aspect of that development - being the number of boarding rooms - is fixed at 12.*

70. *Since I have determined that cl 30AA is a development standard, I am then satisfied it is amenable to cl 4.6 of the BLEP.*

Accordingly, based on the case law established in *Dib v Canterbury-Bankstown Council [2021] NSWLEC 1553* this clause 4.6 request is submitted to address the variation to the development standard. The request relates to the proposed 11-room boarding house development at Lot B – 134 Burdett Street, Wahroonga.

The proposal is for an 11-room boarding house at the subject site, being Lot B – 134 Burdett Street, Wahroonga, noting a separate development application has been submitted for a 11-room boarding house contained within a separate building at Lot A – 134 Burdett Street, Wahroonga.

DA/248/2019A was approved on the 18th of March 2020 for Torrens Title subdivision of the parcel of land known as 134 Burdett Street, Wahroonga into two (2) lots, being Lot A of 728.34m² area fronting Burdett Street, and battle-axe lot, Lot B of 689.66m² area. This subdivision has not been registered.

SEPP ARH 2009 was amended in February 2019 to include Clause 30AA which states:

30AA Boarding houses in Zone R2 Low Density Residential

> *A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.*

In 2018, the NSW Department of Planning, Industry and Environment exhibited an *Explanation of Intended Effect* for the amendment, which detailed the purpose and objectives of the proposed amendment, noting the development standard at Clause 30AA does not contain objectives.

As the approved subdivision under DA/248/2019A has not yet been registered, the proposal will result in there being 22 x boarding rooms at 134 Burdett Street, representing a technical variation to the maximum 12-room boarding house within the R2 Low Density Residential zone development standard.

The request to contravene the development standard has been prepared in accordance with the principles applied in relevant case law including:

1. *Dib v Canterbury-Bankstown Council [2021] NSWLEC 1553*
2. *Winten Property Group Limited v North Sydney Council* (2001) 130 LGERA 79;
3. *Wehbe v Pittwater Council* (2007) 156 LGERA 446;
4. *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009*;*

5. *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118*;*
6. *Al Maha Pty Ltd v Huajun Investments Pty Ltd* (2018) 233 LGERA 170; *and*
7. *RebelMH Neutral Bay Pty Limited v North Sydney Council (2019) NSWCA 130*

This Clause 4.6 variation request is set out in accordance with the relevant principles established by the Court including:

1. Is the development consistent with the objectives of the zone?

2. Is the proposed development consistent with the objectives of the development standard which is not met?

3. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? (cl 4.6(3)(a) and cl 4.6(4)(a)(i))

4. Are there sufficient environmental planning grounds to justify contravening the development standard and therefore the Applicant's written request to vary the development standard is well founded?(cl 4.6(3)(b) and 4.6(4)(a)(ii))

5. Is the proposed development in the public interest because it is consistent with the objectives of the standard and the zone? (cl 4.6(4)(a)(ii))

Matters required to be demonstrated under clause 4.6(3) of the LEP

Compliance with the development standard is unreasonable or unnecessary in this particular case

Pursuant to clause 4.6(3)(a) of the LEP, the contravention of the boarding houses in Zone R2 Low Density Residential is acceptable in the circumstances of this case and compliance with the development standard is considered both unreasonable and unnecessary because the proposed boarding house development, including the contravention, is consistent with the explanation of intended effect of Clause 30AA Boarding houses in Zone R2 Low Density Residential, notwithstanding non-compliance with the standard.

The primary intention of the boarding houses in Zone R2 Low Density Residential is detailed in the *Explanation of Indented Effect* of the introduction of Clause 30AA as follows:

> *To ensure that the built form of boarding house development in the R2 zone is compatible with the built form of other development in the local area.*

The *Explanation of Intended Effect* also details the following secondary objective of the Clause:

> *A maximum room number for boarding houses is considered to assist in ensuring that the amenity impacts of boarding house development on adjoining*

and nearby properties, such as overlooking, overshadowing and car parking impacts, are able to be better managed.

The development proposal achieves the above intention and objective of Clause 30AA of SEPP ARH 2009 based on the following:

- The proposed boarding house development is consistent and compatible with the design, form and scale of development in the locality. The immediate locality contains a diversity of building forms with 1 – 2 storey dwellings and multi-dwelling housing developments within the vicinity of the site. The development proposal, being a 2-storey form with a pitched roof, will reflect the form and scale of the locality and present an architectural uplift to the streetscape.

  The proposed materials and finishes and landscape works are consistent with adjoining development and compatible with the planning controls under SEPP ARH 2009, noting the proposal satisfies the Character Test of Clause 30A of SEPP ARH.

  The configuration of built forms in the immediate locality is shown in the following aerial photograph.

Source: *SIX Maps*

The proposed built form of the boarding houses on Lots A and B is compatible with development in the immediate locality. The proposed built form – 2 storeys is compatible with the existing building character in the immediate locality. The boarding house presents to the street as a similar form and scale to surrounding 2-storey low-density development within its visual catchment. Further, the form and scale of development is consistent with the streetscape and desired future character.

The subject site is zoned R2 – Low Density Residential under the Hornsby Local Environmental Plan 2013 and boarding houses are a permissible land use. The planning controls allow 2-storey development of maximum 8.5m height and the overall scale and form of the proposed development complies

with the density controls applying to the subject site pursuant to the Hornsby LEP 2013.

- The proposed design mitigates amenity impacts to adjoining properties in terms of overlooking, overshadowing and car parking based on the following assessment:

  - The built form has been located on the allotment with regard to the setback controls for dwelling houses contained in the Hornsby Development Control Plan,
  - the boarding house provides adequate car, bicycle and motorcycle parking, and
  - the orientation of the subject site and location adjacent to the Pacific Highway minimises the potential for unreasonable solar access impacts to neighbouring properties.

  The potential overlooking impacts resulting from the development are mitigated by virtue of offset windows and the design of the boarding house with communal areas at second floor level, noting that the communal terrace is oriented towards the street and does not overlook adjoining residential properties.

  The development application is accompanied by shadow diagrams prepared by *Mackenzie Architects International,* which confirm that the proposal meets the solar access and overshadowing requirements contained in the Hornsby DCP.

  The traffic generated by the development proposal will be minimal given the level of parking provided and the site's location within an accessible area, being within 75m of regularly serviced public bus stops, and that bicycle and motorcade parking is provided. The traffic generation will not have any unacceptable or unreasonable traffic implications the surrounding road network and local road, being Burdett Street.

It is unreasonable to require compliance with the development standard noting the non-compliance is the result of the approved subdivision of 134 Burdett Street under DA/248/2019A not yet being registered, and that upon registration of the approved plan of subdivision, the proposed boarding house development will comply with Clause 30AA of SEPP ARH 2009.

Enforcing strict compliance with Clause 30AA in this instance will thwart the timely economic development of the land. The resulting development proposed under this application, when assessed in conjunction with that on Lot B, is compatible with the total impacts of development anticipated by Clause 30AA and therefore compatible with the low density residential zone.

Further, compliance with the development standard is unnecessary, noting the proposed boarding house is compatible with neighbouring and nearby built forms, and that the proposed variation will not result in any amenity impacts upon adjoining properties with respect to overshadowing, overlooking or traffic and car parking.

Furthermore, the proposal, including the variation to the boarding houses in Zone R2 Low Density Residential development standard meets the intention and objectives of

the standard as contained in the *Explanation of Intended Effects,* notwithstanding the numerical contravention.

<u>There are sufficient environmental planning grounds to justify contravening the development standard</u>

Pain J held in *Four2Five vs Ashfield Council* [2015] NSWLEC 90 that to satisfy clause 4.6(3)(b), a clause 4.6 request must do more than demonstrate that the development meets the objectives of the development standard and the zone – it must also demonstrate that there are other environmental planning grounds that justify contravening the development standard, preferably being grounds that are specific to the site.

Pursuant to clause 4.6(3)(b) of the LEP, the environmental planning grounds contained in this application are sufficient to justify the non-compliance with the height of buildings development standard because:

- The proposed boarding house on Lot B has been designed with 11 boarding rooms in accordance with the numerical requirement contained in Clause 30AA of SEPP ARH 2009. The proposed variation is the result of the approved subdivision not yet being registered. The proposed development on Lot B, when accompanied by the proposed development on Lot A, will provide 22 boarding rooms on a single lot. Following the registration of the subdivision both boarding house developments will comply with the numerical requirement.

- Despite the non-compliance with the boarding houses in Zone R2 Low Density Residential, the proposal is consistent with the following aims of the Hornsby LEP 2013 found at clause 1.2(2):

    - 1.2(2)(b) – The proposed boarding house development represents an orderly and sustainable land use at the subject site and within the R2 Low Density Residential zone, noting the proposed built form is compatible with neighbouring and nearby development and that the proposal contributes to the provision of affordable housing to meet the housing needs of the community.

    - 1.2(2)(c) – The proposed boarding house contributes to the range and availability of housing types within the locality and wider Hornsby local government area, providing affordable housing within an accessible area to meet current and future housing demand.

- Despite the non-compliance with the boarding houses in Zone R2 Low Density Residential, the proposal is consistent with the following objects of the Environmental Planning and Assessment Act 1979 as follows:

    - 1.3(c) – The proposal is an orderly and economic use of the subject site and the development is consistent with the intent and objectives of the boarding houses in Zone R2 Low Density residential standard, with a

proposed built form that is compatible with the desired future character of the locality, on an allotment that is capable of accommodating a boarding house development. This clause 4.6 request facilitates the orderly and economic development of the land, allowing a built form on the site prior to its subdivision, which would otherwise comply with the development standard, if sites were developed individually.

- 1.3(g) – The design of the proposal is a good design outcome for the subject site and within the R2 Low Density Residential zone, and will provide a high level of residential amenity for future lodgers of the boarding house whilst preserving the amenity of the broader locality. The proposal has been designed in accordance with the controls and design requirements for dwelling houses contained in the Hornsby LEP 2013, and is therefore a compatible and consistent 2-storey with pitched roof built form within the locality.

Clause 4.6 (4)(a)(i) – The consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3)

As demonstrated above, the proposed development has satisfied the matters required to be demonstrated in clause 4.6(3) of the LEP by providing a written request that demonstrates:

1. Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, by establishing that the objectives of the development standard are achieved notwithstanding the non-compliance.

2. The environmental planning grounds relied on are sufficient to justify the development standard.

In accordance with the findings of Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, the consent authority under clause 4.6(4)(a)(i) need only be satisfied that the written request addresses clause 4.6(3). Under Clause 4.6(4)(a)(i) the Consent Authority is not to determine in its opinion whether the request satisfies the requirements of clause 4.6(3)(a) and (b), just that the request has been made and that these items have demonstrated.

The relevant items in clause 4.6(3) have been demonstrated above.

Clause 4.6(4)(a)(ii) - The proposed development is in the public interest

In relation to clause 4.6(4)(a)(ii) of the LEP, the proposed boarding house development is in the public interest because it is consistent with the objectives of the boarding houses in Zone R2 Low Density Residential development standard and the objectives for development in the R2 – Low Density Residential zone in accordance with the planning assessment provided as follows:

The objectives of the R2 – Low Density Residential zone are as follows:

Objective	Consistency
To provide for the housing needs of the community within a low density residential environment.	The proposed boarding house has been designed to meet the housing needs of the community, noting the demand for affordable housing. The proposed built form is compatible with the future character of the low-density residential environment, presenting as a 2-storey with pitched roof form. The proposal contributes to the range of housing types within the locality with minimal adverse amenity impacts. The boarding house provides for a good level of amenity for residents, noting the considerable room sizes, individual kitchen and bathroom facilities and sufficient communal areas, and is within close proximity to public transport being within an accessible area approximately 75m from regularly serviced bus stops.
To enable other land uses that provide facilities or services to meet the day to day needs of residents.	Not applicable to the development application.

In addition to the above reasons the proposal is also in the public interest because:

- The request for a degree of flexibility in the application of the development standard will facilitate the redevelopment of the site and the provision of a boarding house development that is consistent with the envisioned form of development for the R2 Low Density Residential zone.

- The resulting development is consistent with the intent of the development standard, noting the 2-storey with pitched roof form sits comfortably within the Burdett Street streetscape and is compatible with neighbouring and nearby development, and further that the proposal will not result in unreasonable amenity impacts to the locality.

- The variation to the standard will facilitate the provision of affordable housing within an accessible area, and will contribute to the range and availability of housing in the locality, noting the demand for affordable housing.

Taking into consideration the above, the proposed development is in the public interest as it is consistent with the objectives of the development standard and the R2 – Low Density Residential Zone under the Hornsby Local Environmental Plan 2013.

The request for a numerical variation to the maximum number of boarding rooms within boarding house development on land zoned R2 Low Density Residential is specific to the subject site and the application of Clause 30AA of SEPP ARH 2009. The proposal does not undermine the intent and effectiveness of the boarding houses in Zone R2 Low Density Residential development standard in Clause 30AA or the objectives of the development standard and the zone for achieving positive outcomes on environmental planning grounds.

For these reasons, the proposal and the numerical variation does not undermine the integrity of the boarding houses in Zone R2 Low Density Residential development standard and its objectives, as well as the zoning objectives which have been adopted by Council as being in the public interest.

The concurrence of the Secretary

Clause 4.6(4)(b) of the LEP requires the concurrence of the Secretary (of the Department of Planning, Industry and Environment) before the consent authority can exercise the power to grant development consent for development that contravenes a development standard.

In deciding whether to grant concurrence, the Secretary is required to consider the following:

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

The proposal is not likely to raise any matter of significance for State or regional environmental planning. As addressed above the non-compliance with the boarding houses in Zone R2 Low Density Residential standard is considered to be in the public interest because the proposed development is consistent with the objectives of the standard and the objectives of the R2 Low Density Residential zone.

The proposed non-compliance with the development standard would not undermine the public benefit of maintaining the development standard. The proposal only presents a non-compliance with the standard due to the approved subdivision of the subject site not yet being registered, and the contravention of the standard as a result of this does not result in a development at the subject site that is inconsistent with the objectives of the Low Density Residential zone. The request for flexibility in the application of the development standard will facilitate boarding house development on the subject site that is consistent with the character of recent contemporary redevelopment within the locality, as well as the envisioned built form for the site pursuant to the Hornsby LEP and DCP.

The proposal is consistent with the matters required to be taken into consideration before concurrence can be granted under clause 4.6(5) of the LEP. The contravention of the standard will not result in adverse amenity impacts and is in the public interest.

Conclusion

The development proposal has a non-compliance with the boarding houses in the R2 Low Density Residential zone development standard of a maximum of 12 boarding rooms contained within clause 30AA of SEPP ARH 2009. The non-compliance is the result of the approved subdivision of the parcel of land known as 134 Burdett Street, Wahroonga not yet being registered and the concurrent development application for a 11 room boarding house contained within a separate building at Lot A of the subject site resulting in there technically being 22 boarding rooms proposed at the site as it is currently registered. Notwithstanding, the proposal has been designed with a built form that is compatible with scale, height and form of the surrounding development and consistent with the intent of the R2 – Low Density Residential zone.

The numerical variation to the boarding houses in Zone R2 Low Density Residential standard does not attempt to affect the planning outcomes for the broader locality; rather Clause 30AA of SEPP – ARH 2009 is addressed subject to the registration of the lots in accordance with DA248/2019/A.

The variation will not generate unreasonable additional amenity impacts concerning overlooking, overshadowing or traffic and parking beyond that envisaged for the Low Density Residential zone.

It is unreasonable and unnecessary to enforce strict compliance with this development standard noting the non-compliance is a result of the approved subdivision of 134 Burdett Street into two (2) allotments under DA248/2019/A that has not been registered. The proposed boarding house complies with the relevant development standards contained in the Hornsby LEP 2013, and the design guidelines and requirements for dwelling houses in the R2 zone pursuant to the Hornsby DCP, thereby being consistent with the intent of the planning controls.

Enforcing strict compliance with Clause 30AA in this instance will thwart the timely economic development of the land. The resulting development proposed under this application, when assessed in conjunction with that on Lot B, is compatible with the total impacts of development anticipated by Clause 30AA and therefore compatible with the low density residential zone.

The application to vary the boarding houses in Zone R2 Low Density Residential development standard is well founded and as addressed the proposed boarding house meets the objectives of the development standard. The proposal achieves an acceptable design for this subject site, being Lot B – 134 Burdett Street, and the variation does not result in unreasonable visual and amenity impacts upon surrounding properties. In accordance with the environmental planning grounds addressed in this clause 4.6 request, the proposal can be supported.

Chapman Planning Pty Ltd
Member Planning Institute of Australia

Chapman Planning Pty Ltd

Boarding House Plan of Management

Lot B – 134 Burdett Street, Wahroonga

8 December 2021

1. Introduction

This plan of management is for the operation of the boarding house development at Lot B 134 Burdett Street, Wahroonga. The boarding house contains 9 x single rooms and 2 x double rooms (including 2 x accessible rooms), 6 x car parking spaces (including 1 x accessible space), 3 x bicycle spaces and 3 x motorcycle spaces.

2. Accommodation

The boarding house has the capacity to accommodate up to 13 lodgers. The boarding house has been designed individual kitchens and bathrooms in each boarding room.

The boarding house includes 1 x communal lounge room and 1 x communal rooftop terrace at ground floor level

3. Parking

The boarding house includes 6 x car parking spaces, including 1 x accessible space, 3 x motorcycle parking spaces and 3 x bicycle parking spaces. The managing agent will be responsible for the allocation of the parking spaces.

4. Management

A managing agent will be appointed and responsible for the operation and administration of the boarding house.

The responsibilities of the managing agent are:

i. Selection of tenants, assessment of tenant eligibility and administration of the tenancy agreements.
ii. A hard copy of this Plan is to be provided to each new boarder upon arrival. Failure to adhere may result in cessation of occupation.
iii. An accommodation register will be maintained by the managing agent providing details of all occupants, length of stay and payment details.
iv. Each boarder is to sign an Occupancy Agreement and House Rules Agreement and the minimum term is 3 months.

v. Upon arrival boarders are to be issued with an information sheet. The information sheet will provide information about the premises as well as a note that there is residential development adjoining the property and that boarders need to take the neighbours' interests into account when leaving and entering.
vi. Ensure the maximum number of lodgers in each room/boarding house is not exceeded.
vii. Administration and distribution of the house rules.
viii. Ensure the house rules are fixed in each room and the communal room in a prominent location.
ix. Ensure all lodgers are familiar with fire safety procedures including the location of fire extinguishers, evacuation procedures and assembly areas.
x. Ensure fire safety inspections are undertaken annually and that the fire safety equipment is working.
xi. Manage the cleaning of the common areas and rooms.
xii. Manage waste collection including the provision of waste bins in each room and collection of waste from the waste storage area.
xiii. Provide managing agents contact details to all lodgers and Council. The managing agents contact details are also to be provided on noticeboard within the communal lounge area.
xiv. Manage a complaints register and incident report register. The manager is responsible for recording any complaints in a complaints register ("the Complaints Register") which is to be available to surrounding neighbours and Council upon request. The Complaints Register shall detail how and when any complaints are dealt with. The Complaints Register will contain:

    a. Complaint date and time;
    b. Name of person/police/council making the complaint;
    c. Contact details;
    d. Nature of the complaint;
    e. Action taken (by whom and when); and
    f. Outcome and/or further action required.

Action will be taken by the managing agent within 24 hours of notification. The Complaints Register is to be kept on premises at all times and is to be made available to Police and Council upon request.

xv. the managing agent will be contactable by phone 24 hours per day, 7 days per week.

5. Boarder Identification

The managing agent requires photo ID (eg: typically either passport or driver's licence) from each boarder.

Where the person is an Australian and does not hold a driver's license then alterative ID which may not hold a photo can be accepted.

6. Use of Boarding Rooms

The boarding rooms shall be used for residential purposes with a maximum of 1 lodger per single room and 2 lodgers per double room.

The following management provisions apply to the rooms:

i. No visitors are permitted on the premises no visitors are permitted on the premises (inclusive of the carparking facilities) after 10pm or before 7am Monday to Saturday, and after 10pm or before 8am on Sundays and Public Holidays.
ii. No keys are to be provided to visitors without permission of management.
iii. Lodgers shall not contribute to excessive noise or unruly behavior. Unruly behavior may result in termination of the occupancy agreement.
iv. Rooms and the common areas shall be kept clean and hygienic at all times. The bins are to be emptied by the lodgers to the garbage bins as required.
v. Illegal substances are not permitted on the premises. Any lodger found to be supplying or in the possession of illegal substances will have their occupancy agreement terminated.
vi. No pets are permitted on the premises or boarding rooms without written approval of management.
vii. Rooms will be made available for inspection upon notice from management.

7. Room Furnishing

Rooms will be furnished with the following items:

i. The rooms have been sized to accommodate either a double bed or single bed.
ii. A lockable cupboard for each lodger with a minimum volume of 1 cubic metre per room.
iii. Mirror.
iv. Lamp.
v. Waste container.

Kitchenette facilities will include:

i. A sink with running hot and cold water.
ii. 1 refrigerator & freezer.
iii. Below bench cupboards.
iv. Bench top space.
v. Waste container.

Bathrooms will include:

i. Shower with running hot and cold running water.
ii. Washbasin with hot and cold running water.

iii. Mirror.
iv. Toilet.

Common room facilities will include:

i. Lounge and coffee table.
ii. BBQ facilities

8. Use of Communal Areas

The common room is to be kept clean and tidy at all times. The hanging of clothes, towels or any other personal items in the common areas outside of designated clothes drying area will not be permitted.

The use of the common room for social gatherings will require approval from the manager.

The lodgers wishing to use the 6 x parking spaces must register with the manager.

No more than 13 persons may use the common lounge area or communal terrace at any time within the permitted hours of use. Clear signage shall be displayed at the entry to communal lounge/communal terrace detailing maximum capacity.

No residents/visitors are to gather in the outdoor communal area between 10pm or before 7am Monday to Saturday, and after 10pm or before 8am on Sundays and Public Holidays.

The external door between communal lounge and outdoor terrace shall be fitted with electronic lock/swipe card access which automatically locks between 10pm – 7am Monday to Saturday, and 10pm – 8am on Sundays and Public Holidays ensuring after hours security and no use of external common spaces outside of these times.

9. Safety and Security

Lodgers are responsible for ensuring the access from Burdett Street is locked at all times.

A key/swipe card will be issued to all boarders with no additional keys/cards to be issued to visitors without approval from the manager. The lodgers wishing to use the 6 x parking spaces must register with the manager and will be allocated a specific car space.

If a room key is lost the manager shall be responsible for the issue of a new key/replacement of lock/door code where required. The manager shall hold a spare key to all rooms for access in case of emergency. If spare keys are issued

to lodgers or contractors for access purposes, the manager shall maintain a record of date/time of issue.

Appropriate sensor lighting shall be provided within the common areas including parking, hallway areas and common room. The lighting is to be regularly inspected by the managing agent and replaced where required.

The external door between communal lounge and outdoor terrace shall be fitted with electronic lock/swipe card access which automatically locks between 10pm – 7am Monday to Saturday, and 10pm – 8am on Sundays and Public Holidays ensuring after hours security and no use of external common spaces outside of these times.

1.8m fencing will be provided at the property boundary. Gates and entry doors to the premises are to be kept closed by lodgers at all times.

10. Waste Management

Each room shall contain a waste bin. The lodger is responsible to ensure the bin is emptied in the waste storage area.

The waste storage area will include waste and recycling bins and the lodger is responsible for the separation of the waste and recycling materials.

The waste and recycling materials will be stored in 240 litre bins serviced from Burdett Street. The managing agent shall ensure the building cleaner is responsible for taking the bins to and from the street on collection day.

11. Maintenance and Cleaning

Pest control by a professional contractor shall be carried out at least once a year.

The rooms, common areas, communal room and communal courtyard are to be professionally cleaned by a contractor at least once per week.

12. Damage

Any damage to or the breakdown of any facility, fixture or equipment is to be reported to the boarding house manager.

13. Fire Safety/Certification

A copy of the annual fire safety compliance statement shall be displayed in a prominent location. Essential fire safety measures are to comply with the *Environmental Planning and Assessment Regulation 2000*

Mattresses, curtains and furniture will be of materials that resist the spread of fire, and limit the generation of smoke and heat.

An evacuation plan must be clearly displayed in each boarding room and common room. A floor plan must be permanently fixed to the inside of the door

of each boarding room to indicate the available emergency egress routes from the respective boarding room.

The managing agents contact phone number must be clearly displayed at the entrance of the premises and in each boarding room. Other emergency contact details (police, fire ambulance) as well as utility information (gas, electricity, and plumbing) are to also be clearly visible in each boarding room.

Annual certification of Fire Safety Equipment and preparation of the Form 15a is carried out by a fire safety consultant. Annual certification required of any of the equipment is to be overseen by the owner.

14. Tenancy Agreements

All tenants must enter into a residential agreement in accordance with the Rental Tenancies Act 2010. The managing agent will be responsible for the administration of the agreements.

The minimum lease period will be 3 months.

15. Acoustic Control

The use of the premises must be in accordance with the following recommendations, including but not limited to the following:

i. No external music to be played at any time in the outdoor communal areas. Speakers must not be directed toward the external terrace at any time.
ii. Windows/doors of rooms to be partially closed when TV/Music is played.
iii. The playing of television or amplified music/sound within the communal lounge must only occur through the noise limited audio system installed to this area.
iv. No residents/visitors are to gather in the outdoor communal area between 10pm or before 7am Monday to Saturday, and after 10pm or before 8am on Sundays and Public Holidays.
v. The external door between communal lounge and outdoor terrace shall be fitted with electronic lock/swipe card access which automatically locks between 10pm – 7am Monday to Saturday, and 10pm – 8am on Sundays and Public Holidays. The door will be fitted with signage detailing the open hours.
vi. No more than 13 people are permitted to separately occupy the communal terrace and communal lounge at any one time within the approved hours of use.
vii. All residents and visitors are not to make unreasonable noise while on the premises.

16. Use of this Plan of Management

A copy of this plan of management shall be maintained on premises at all times.

This plan of management shall be reviewed twice per year by managing agent. The key operational practices and any inefficiencies shall be reviewed, with the plan of management to be updated accordingly.

Upon plan of management being updated, a new copy shall be issued to lodgers.

If the updated plan of management results in a change to external measures or new practices which will impact the adjoining properties, a copy of the plan of management must be provided to adjoining properties.

ITEM 2

ATTACHMENT/S

REPORT NO. LPP16/22

ITEM 2

1. LOCALITY MAP
2. ARCHITECTURAL PLANS
3. LANDSCAPE PLAN
4. CLAUSE 4.6
5. PLAN OF MANAGEMENT

ATTACHMENT 1 - ITEM 2

LOCALITY PLAN
DA/133/2021
134 Burdett Street, Wahroonga

19/07/2021 C:\Users\User.CAD02\OneDrive - Mackenzie Architect International_Windows 10 files\Desktop\WFH Burdett\2021.06.04 - 134 Burdett Street, Wahroonga.pln

DEVELOPMENT APPLICATION
134 BURDETT STREET WAHROONGA - LOT A

UNIT BREAKDOWN

UNIT No.		AREA (m2)
A01		
	UNIT SIZE	20.19
	LIVING AREA	12.08
A02		
	UNIT SIZE	20.19
	LIVING AREA	12.08
A03		
	UNIT SIZE	20.43
	LIVING AREA	12.01
A04		
	UNIT SIZE	22.56
	LIVING AREA	12.36
A05		
	UNIT SIZE	22.61
	LIVING AREA	12.03
A06		
	UNIT SIZE	24.67
	LIVING AREA	13.47
A07		
	UNIT SIZE	21.85
	LIVING AREA	12.54
A08		
	UNIT SIZE	20.19
	LIVING AREA	12.08
A09		
	UNIT SIZE	20.19
	LIVING AREA	12.08
A10		
	UNIT SIZE	20.19
	LIVING AREA	12.08
A11		
	UNIT SIZE	27.20
	LIVING AREA	16.00

THERMAL SPECIFICATION

DRAWING SCHEDULE

	DRAWING NAME	ISSUE	SCALE
A0000 GENERAL INFORMATION			
A0001	COVERPAGE	C	
A0002	SITE ANALYSIS	-	
A0003	DEMOLITION PLAN	REMOVED	1:200
A0004	SITE ROOF PLAN	C	1:200
A1000 GENERAL ARRANGEMENT PLAN			
A1001	GROUND FLOOR PLAN	D	1:200
A1002	FIRST FLOOR PLAN	C	1:200
A1003	ROOF PLAN	B	1:200
A2000 ELEVATIONS			
A2001	NORTH & EAST ELEVATIONS	C	1:200
A2002	SOUTH & WEST ELEVATIONS	B	1:200
A2100 SECTIONS			
A2101	SECTIONS	C	1:250
A3000 ADDITIONAL INFO			
A3001	GFA CALCULATIONS	A	1:300
A3002	COMMUNAL OPEN SPACE	A	1:200
A3003	DEEP SOIL CALCULATION	A	1:200
A3004	BUILDING HEIGHT PLAN	A	
A3005	SAMPLE BOARD	A	1:200
A3006	ACCESSIBLE UNITS	A	1:100
A3007	SITE COVERAGE	A	1:200
A3008	LIVING AREAS	B	1:250
A3009	BUILDING DIMENSION	B	1:150
A4000 SHADOW DIAGRAMS			
A4001	SHADOW DIAGRAMS	A	1:400
A4002	SHADOW DIAGRAMS	A	1:400
A4003	SHADOW DIAGRAMS	A	1:400
A4100 SOLAR ANALYSIS			
A4101	SOLAR ANALYSIS	B	
A4102	SOLAR ANALYSIS	B	
A4103	SOLAR ANALYSIS	B	
A4104	SOLAR ANALYSIS	B	

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AMENDMENTS

No.	REVISION	BY	DATE
-	Development Application	M.A	22.12.2020
A	Response to RFI dated 13.01.21	M.A	28.01.2021
B	Sketch plans for council comment	BC	29.04.2021
C	Drawing update in response to letter dated 18.03.2021	MA	11.05.2021

BOARDING HOUSE
PROJECT
134 BURDETT STREET
WAHROONGA
PROJECT NO
20/06

DRAWING
COVERPAGE
DRAWN BY M.A
CHECKED BY B.C
DRAWING NO: A0001
ISSUE: C

ATTACHMENT 2 - ITEM 2

19/07/2021 C:\Users\User.CAD02\OneDrive - Mackenzie Architect International_Windows 10 files\Desktop\WFH Burdett\2021 06 04 - 134 Burdett Street, Wahroonga.pln
SITE LOCATION PLAN
BUS STOPS BUS 575
LOT B, 134 BURDETT STREET WAHROONGA
SYDNEY - NEWCASTLE FREEWAY
PACIFIC HIGHWAY
KING STREET
BURDETT STREET
WOONONA AVENUE
SITE ANALYSIS
WINTER SUN
SUMMER SUN
R2 ZONE LOW DENSITY RESIDENTIAL USE
E2 ENVIRONMENT PROTECTION ZONE
LOT B, 134 BURDETT ST, WAHROONGA
SP2 ZONE INFRASTRUCTURE USE
RE1 ZONE GENERAL RESIDENTIAL USE
HORNSBY COUNCIL - LEP ZONING MAP
132 BURDETT STREET TWO STOREY RESIDENTIAL DWELLING
134 BURDETT STREET PROPOSED DEVELOPMENT SITE
130 BURDETT STREET TWO STOREY RESIDENTIAL DWELLING
134 BURDETT STREET PROPOSED DEVELOPMENT SITE - FRONT
134 BURDETT STREET PROPOSED DEVELOPMENT SITE - VIEW FROM KING STREET
KING STREET - BURDETT STREET INTERCHANGE VIEW FROM SITE
128 BURDETT STREET SINGLE STOREY RESIDENTIAL DWELLING
128 BURDETT STREET SINGLE STOREY RESIDENTIAL
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REVISION
No. REVISION BY DATE
- Development Application MA 22.12.2020
BOARDING HOUSE
134 BURDETT STREET WAHROONGA
2006
SITE ANALYSIS
A0002
ATTACHMENT 2 - ITEM 2

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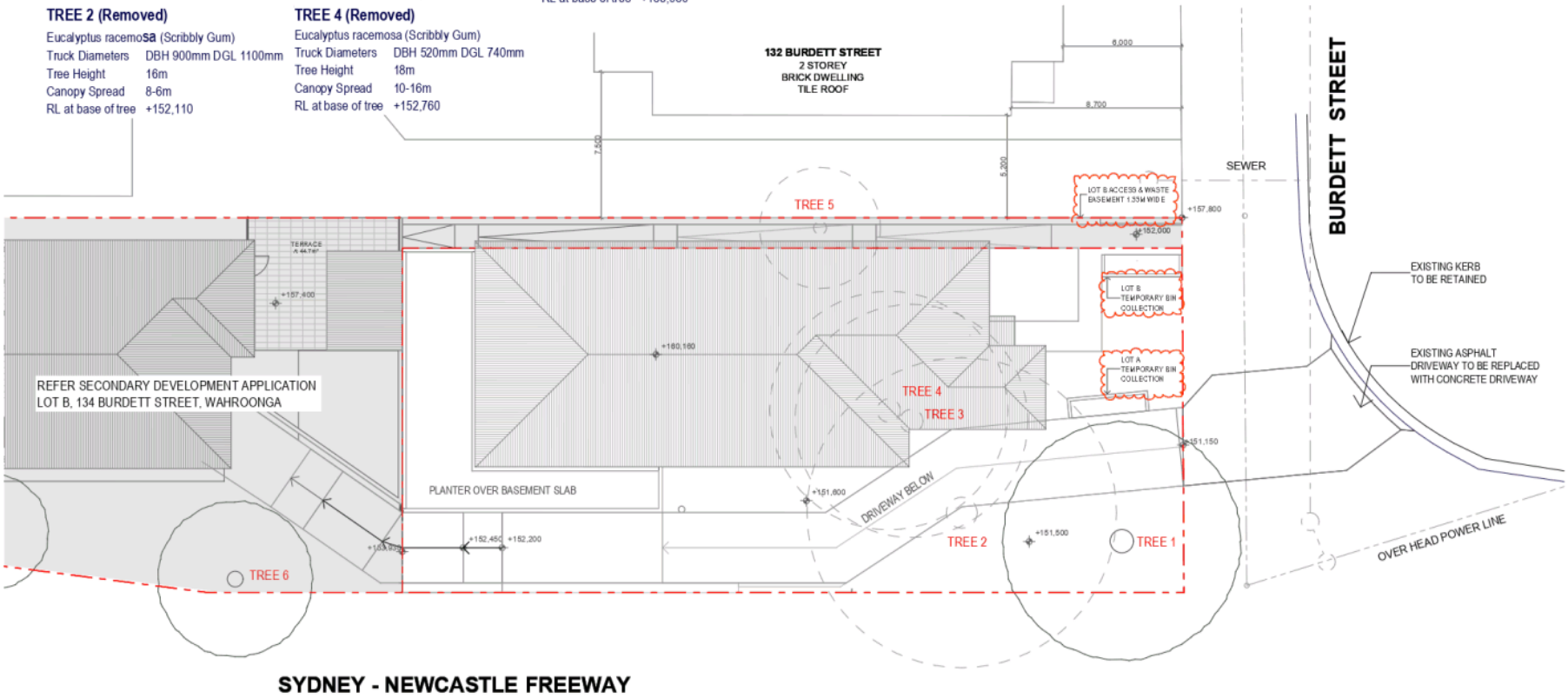
TREE 1 (Retained)
Eucalyptus racemosa (Scribbly Gum)
Truck Diameters DBH 400mm DGL 500mm
Tree Height 15m
Canopy Spread 2-6m
RL at base of tree +151,300

TREE 2 (Removed)
Eucalyptus racemosa (Scribbly Gum)
Truck Diameters DBH 900mm DGL 1100mm
Tree Height 16m
Canopy Spread 8-6m
RL at base of tree +152,110

TREE 3 (Removed)
Eucalyptus racemosa (Scribbly Gum)
Truck Diameters DBH 400mm DGL 480mm
Tree Height 16m
Canopy Spread 2-4m
RL at base of tree +152,380

TREE 4 (Removed)
Eucalyptus racemosa (Scribbly Gum)
Truck Diameters DBH 520mm DGL 740mm
Tree Height 18m
Canopy Spread 10-16m
RL at base of tree +152,760

TREE 5 (Removed)
Cinnamomum Camphora (Camphor Laurel)
Truck Diameters DBH 280mm DGL 350mm
Tree Height 10m
Canopy Spread 2-6m
RL at base of tree +153,980



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-	Development Application	M.A	22.12.2020
A	Information added in response to RFI dated 13.01.21	M.A	28.01.2021
B	Drawing update in response to letter dated 18.03.2021	MA	11.05.2021
C	Drawing update in response to letter dated 25.06.2021	MA	06.07.2021

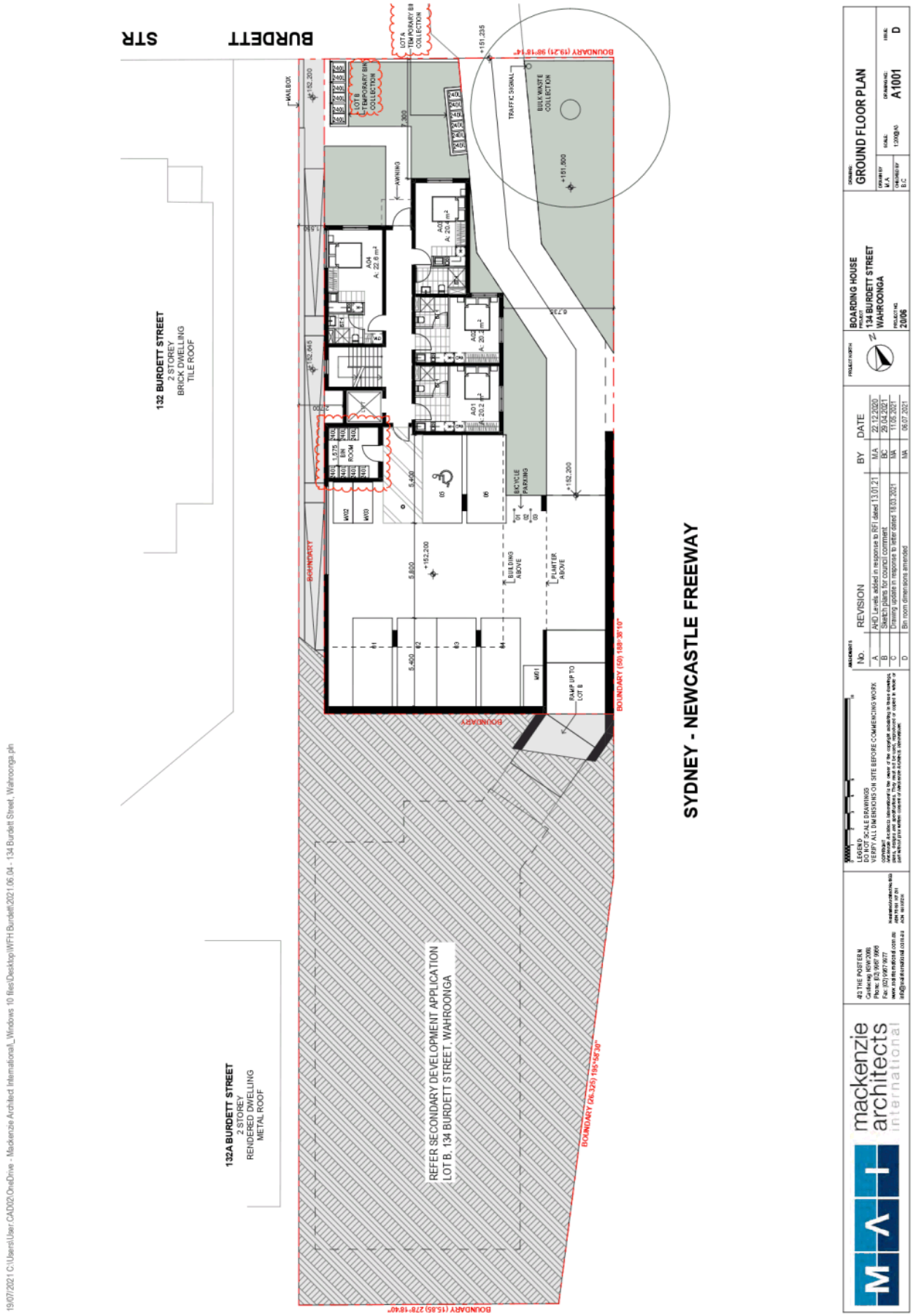
PROJECT NORTH

BOARDING HOUSE
PROJECT
134 BURDETT STREET
WAHROONGA
PROJECT NO
20/06

DRAWING:
SITE ROOF PLAN

DRAWN BY M.A
CHECKED BY B.C
SCALE: 1:200@A3
DRAWING NO: A0004
ISSUE: C

ATTACHMENT 2 - ITEM 2


BURDETT STR
132 BURDETT STREET
2 STOREY
BRICK DWELLING
TILE ROOF
132A BURDETT STREET
2 STOREY
RENDERED DWELLING
METAL ROOF
REFER SECONDARY DEVELOPMENT APPLICATION
LOT B, 134 BURDETT STREET, WAHROONGA
SYDNEY - NEWCASTLE FREEWAY
BOUNDARY
BOUNDARY (50) 189°36'10"
BOUNDARY (26.326) 195°58'30"
BOUNDARY (15.85) 278°18'40"
BOUNDARY (19.21) 98°18'14"
LOT A TEMPORARY BIN COLLECTION
LOT B TEMPORARY BIN COLLECTION
BULK WASTE COLLECTION
TRAFFIC SIGNAL
AWNING
BICYCLE PARKING
BUILDING ABOVE
PLANTER ABOVE
RAMP UP TO LOT B
BIN ROOM
MAILBOX
+152.200
+151.235
+151.800
+152.045
A01 A: 20.2 m²
A02 A: 20.2 m²
A03 A: 20.2 m²
A04 A: 22.8 m²
A05 A: 20.2 m²
W01
W02
W03
W04
W05
W06
W07
W08
W09
W10
W11
W12
W13
W14
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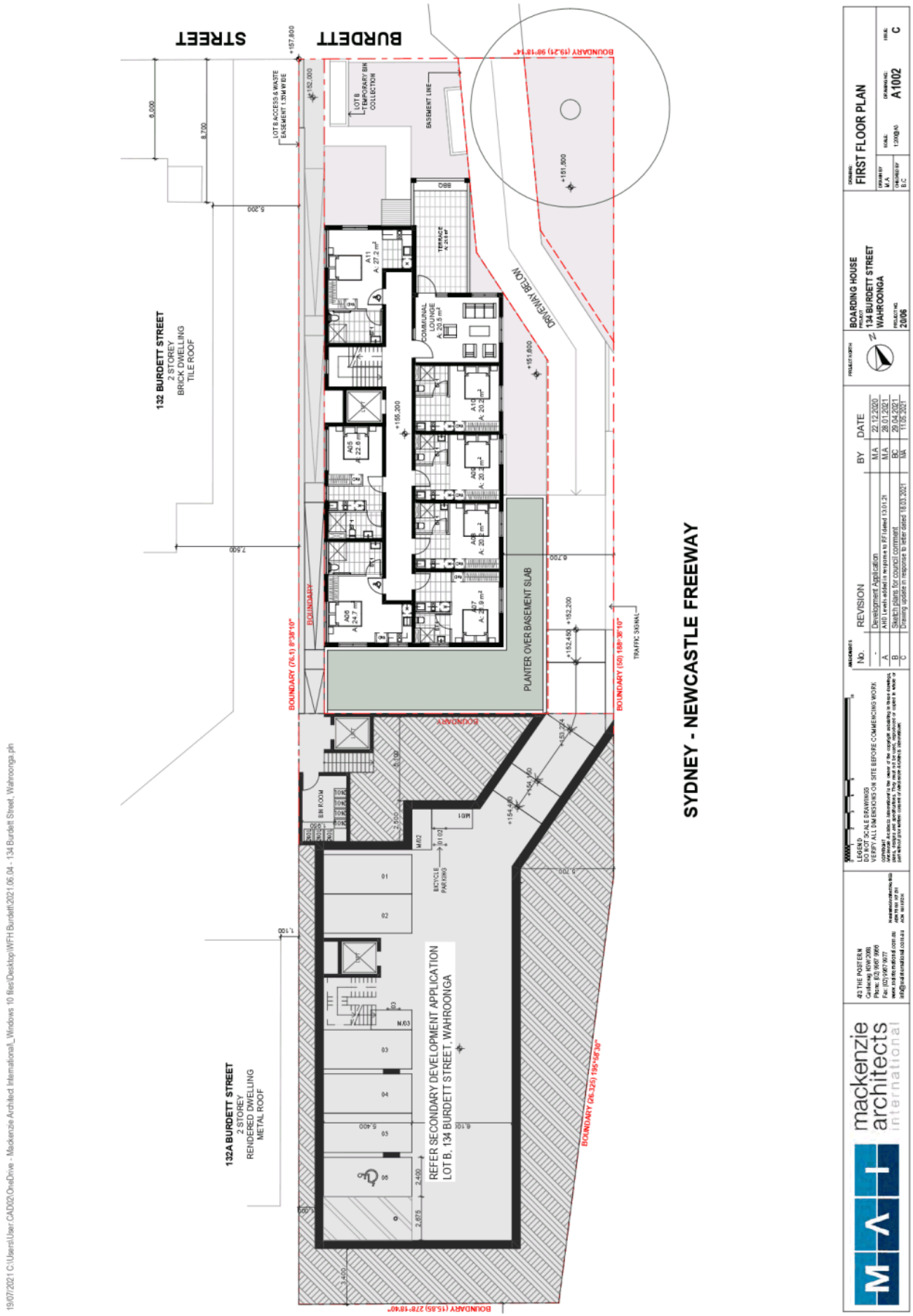
W39
W40



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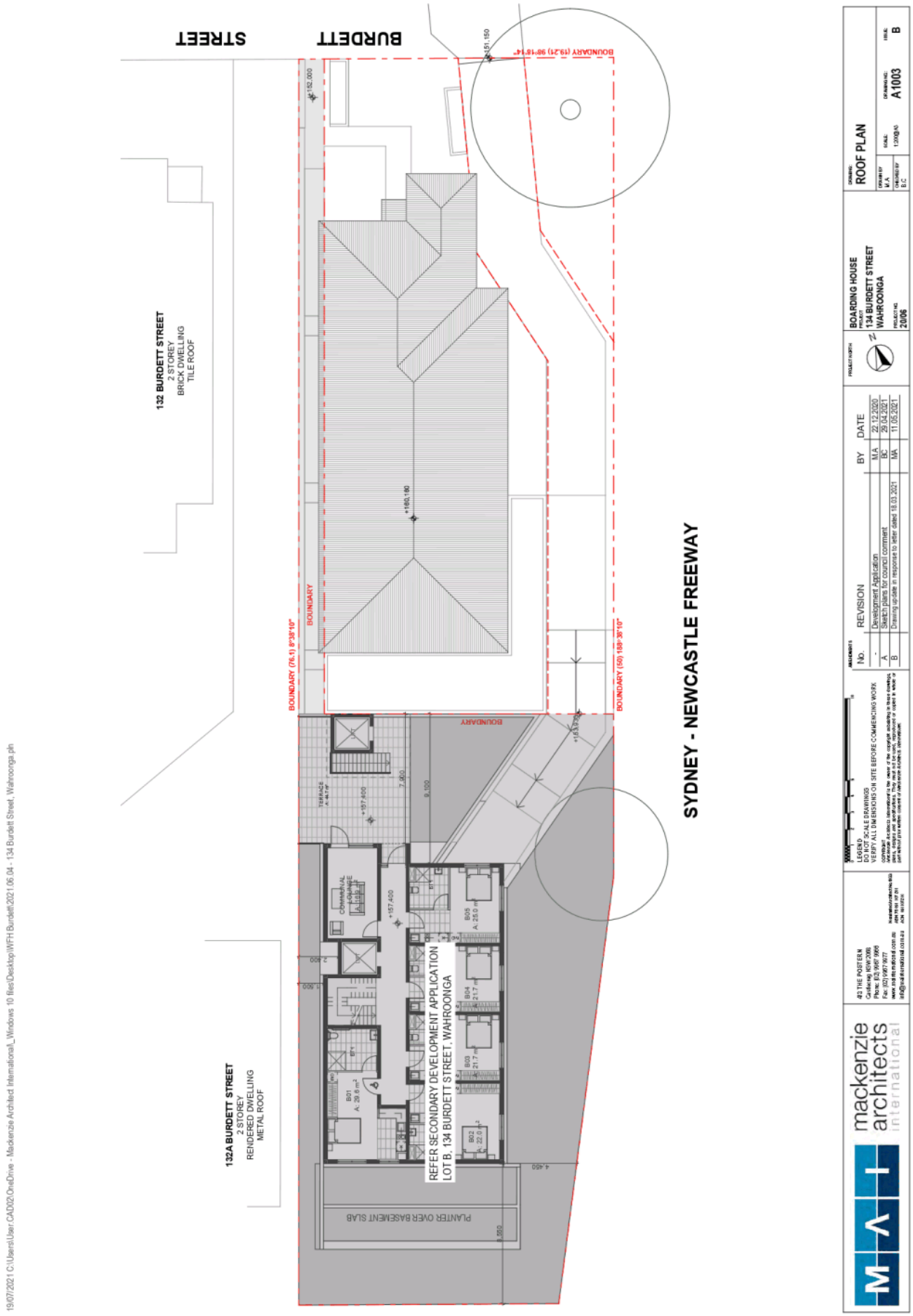

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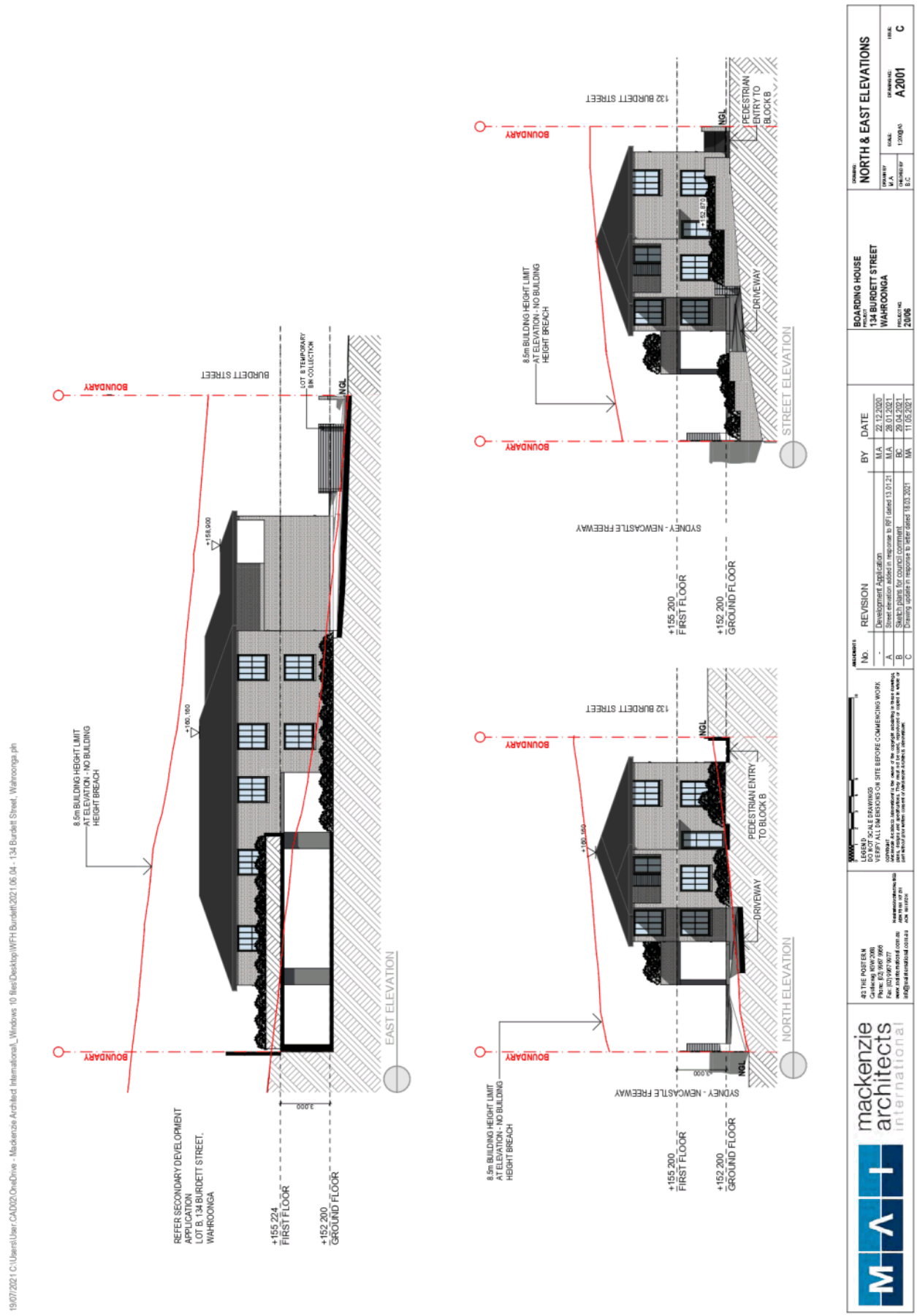

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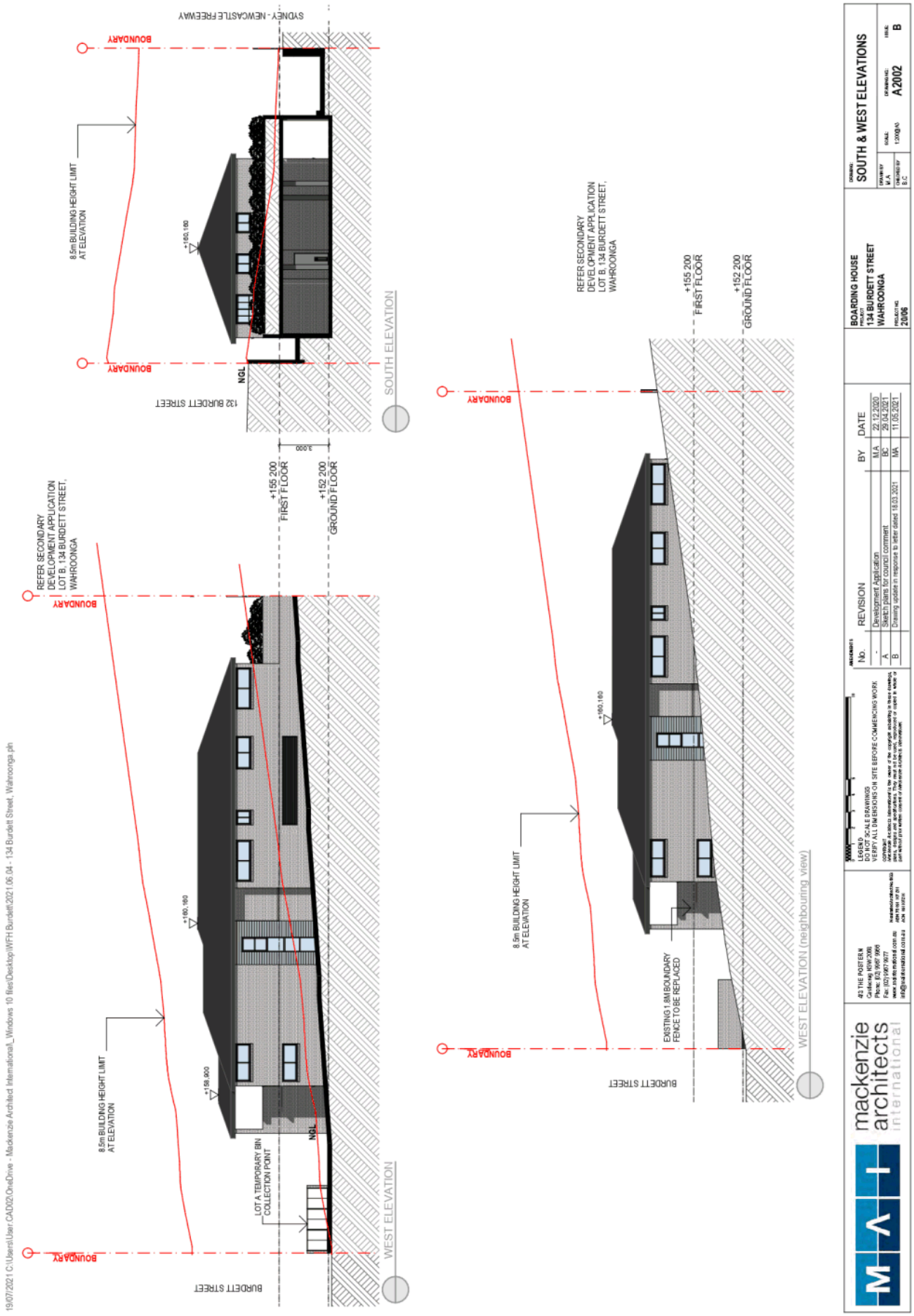

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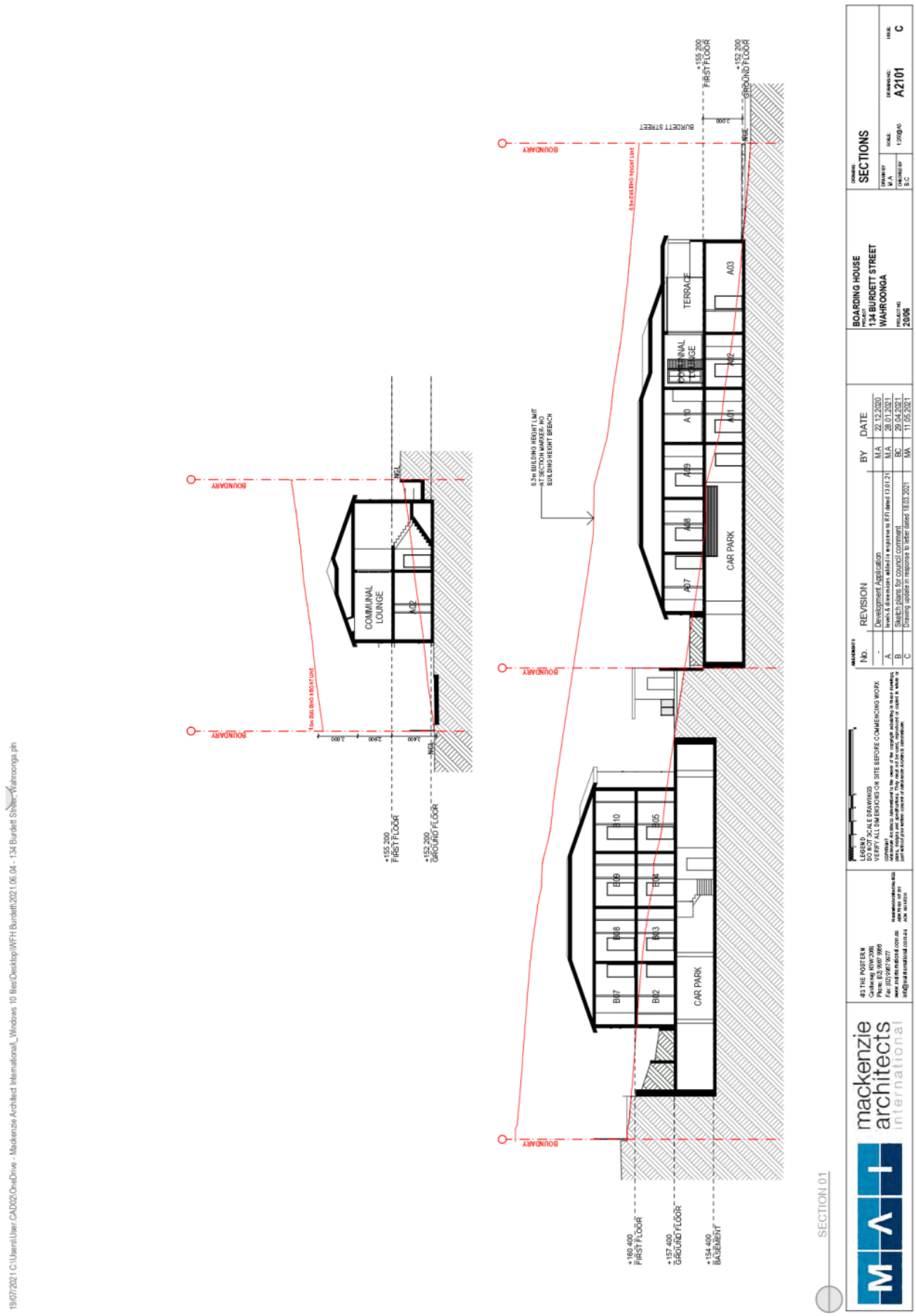

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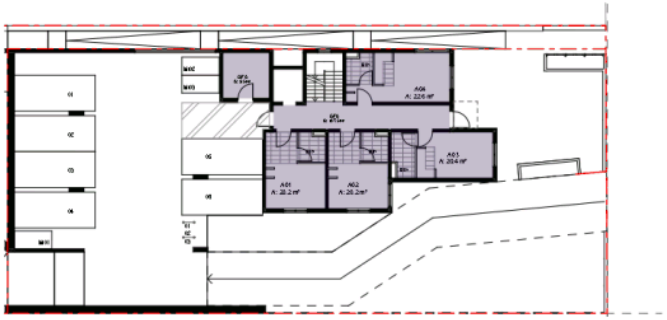
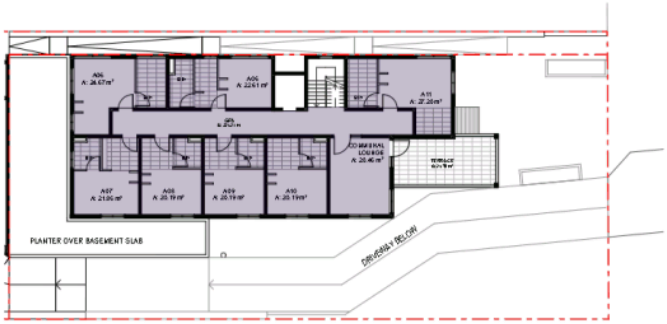


GROUND FLOOR



FIRST FLOOR

GROSS FLOOR AREA	
	AREA (m2)
GROUND FLOOR	117.04
FIRST FLOOR	221.21
PROPOSED GFA m²	338.25 m²
	GFA AREAS MEASURED

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AMENDMENTS

No.	REVISION	BY	DATE
-	Development Application	MA	22.12.2020
A	Drawing update in response to letter dated 18.03.2021	MA	11.05.2021

PROJECT NORTH

BOARDING HOUSE
PROJECT
134 BURDETT STREET
WAHROONGA

PROJECT NO
20/06

DRAWING:
GFA CALCULATIONS

DRAWN BY M.A
CHECKED BY B.C
SCALE: 1:500@A3
DRAWING NO: A3001
ISSUE: A

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	COMMUNAL LOUNGE	20.46
	COMMUNAL OPEN SPACE	21.75
		42.21 m²

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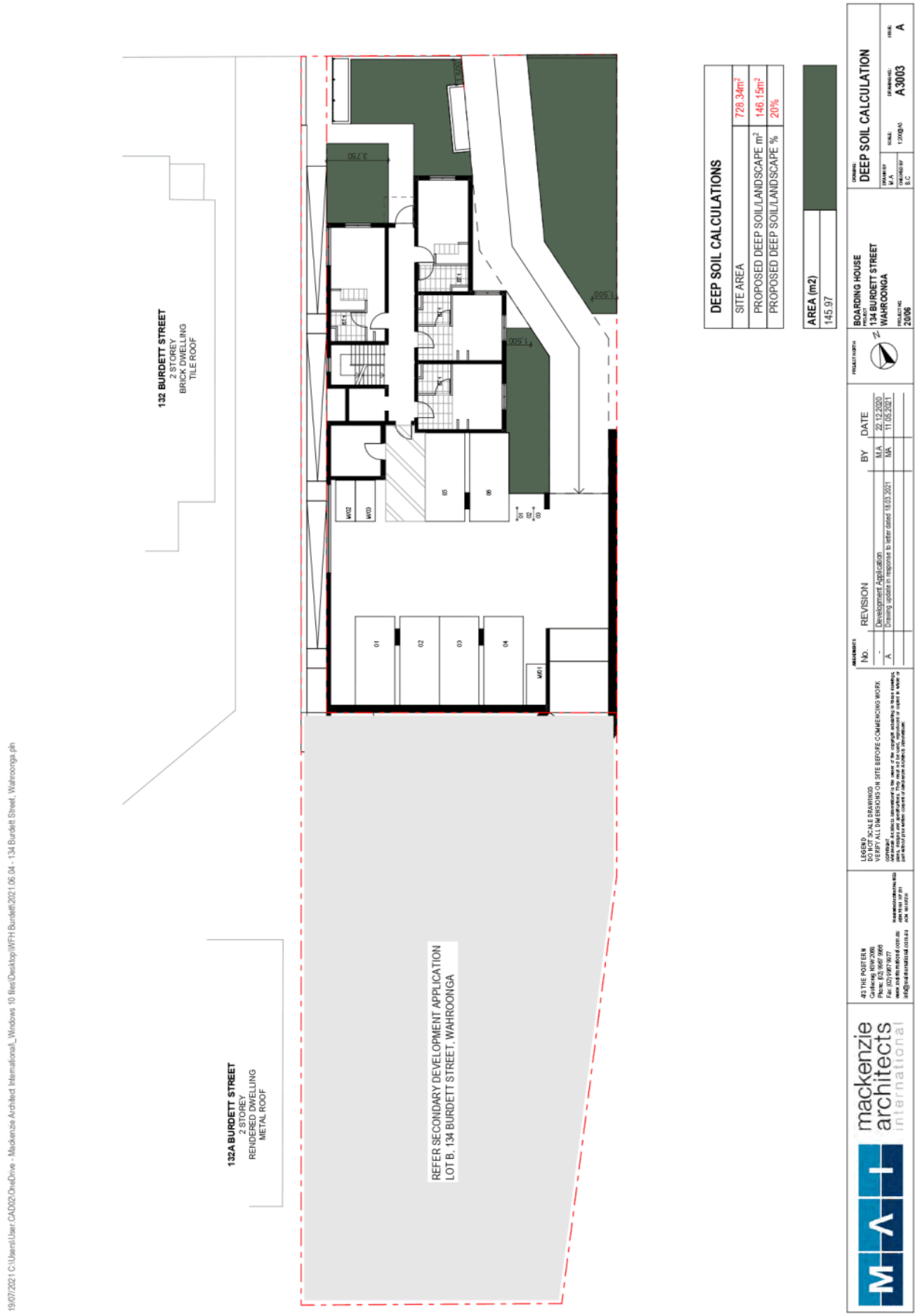
PROJECT NORTH

BOARDING HOUSE
PROJECT
134 BURDETT STREET
WAHROONGA
PROJECT NO
20/06

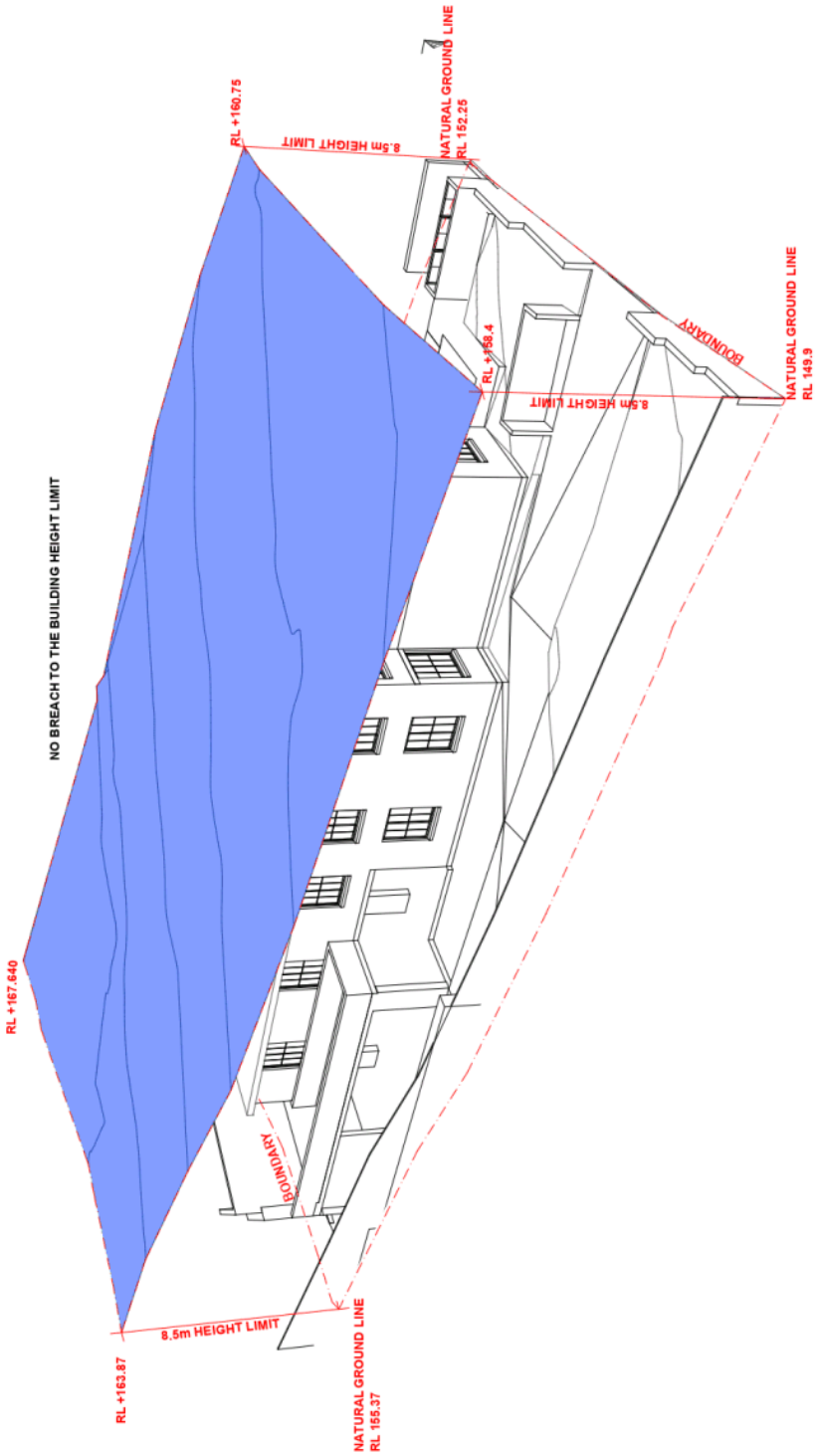
DRAWING:
COMMUNAL OPEN SPACE

DRAWN BY M.A
CHECKED BY B.C
SCALE: 1:200@A3
DRAWING NO: A3002
ISSUE: A

ATTACHMENT 2 - ITEM 2



ATTACHMENT 2 - ITEM 2



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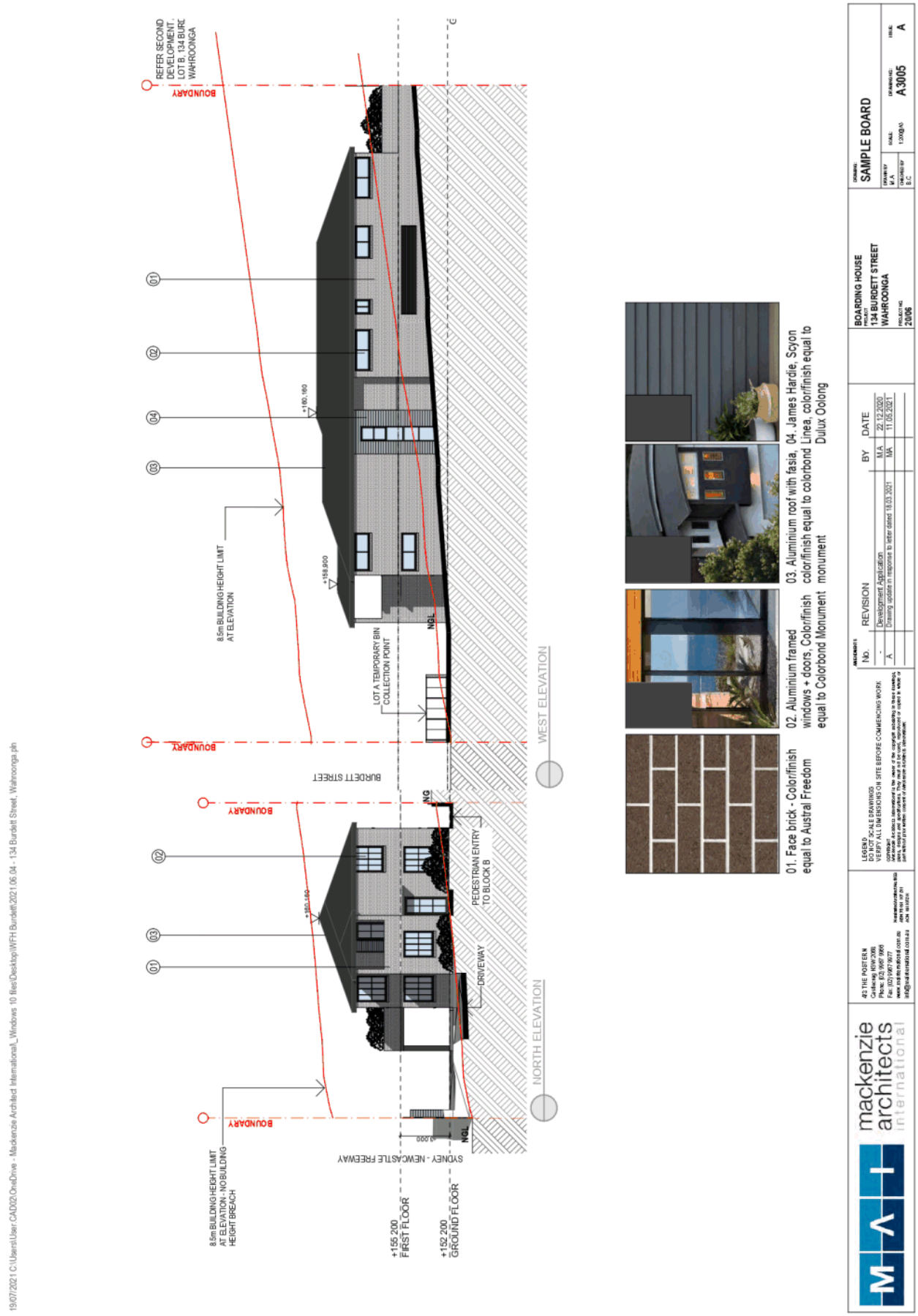
BOARDING HOUSE
PROJECT
134 BURDETT STREET
WAHROONGA
PROJECT NO.
2006

DRAWING
BUILDING HEIGHT PLAN
DRAWN BY M.A.
CHECKED BY B.C.
DRAWING NO. A3004
ISSUE A

ATTACHMENT 2 - ITEM 2



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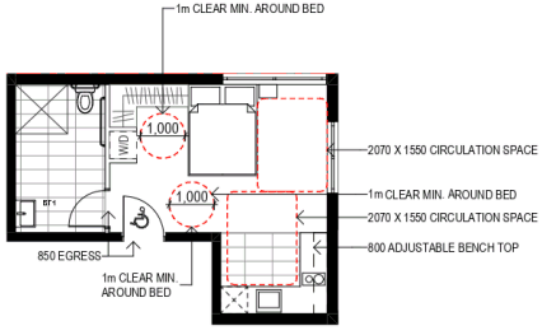
UNIT A06



UNIT A11

ACCESSIBLE UNITS CALCULATIONS	
TOTAL NUMBER OF UNITS	11
BCA REQUIRED ACCESSIBLE UNITS	1:10
BCA REQUIRED ACCESSIBLE UNITS	2
PROPOSED ACCESSIBLE UNITS	2

ACCESSIBLE UNITS
A06
A11

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AMENDMENTS

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-	Development Application	MA	22.12.2020
A	Drawing update in response to letter dated 18.03.2021	MA	11.05.2021

PROJECT NORTH

BOARDING HOUSE
PROJECT
134 BURDETT STREET
WAHROONGA
PROJECT NO
20/06

DRAWING:
ACCESSIBLE UNITS

DRAWN BY	SCALE:	DRAWING NO:	ISSUE:
M.A	1:100@A3	A3006	A
CHECKED BY B.C			

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SITE COVERAGE CALCULATIONS	
SITE AREA	728.34m²
DCP ALLOWED SITE COVERAGE %	364.17m²
DCP ALLOWED SITE COVERAGE m²	50%
PROPOSED SITE COVERAGE m²	280.9m²
PROPOSED SITE COVERAGE %	38.6%

SITE COVERAGE - LOT A
AREA (m2)
280.89

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PROJECT NORTH

BOARDING HOUSE
PROJECT
134 BURDETT STREET
WAHROONGA
PROJECT NO
20/06

DRAWING:
SITE COVERAGE

DRAWN BY M.A
CHECKED BY B.C
SCALE: 1:200@A3
DRAWING NO: A3007
ISSUE: A

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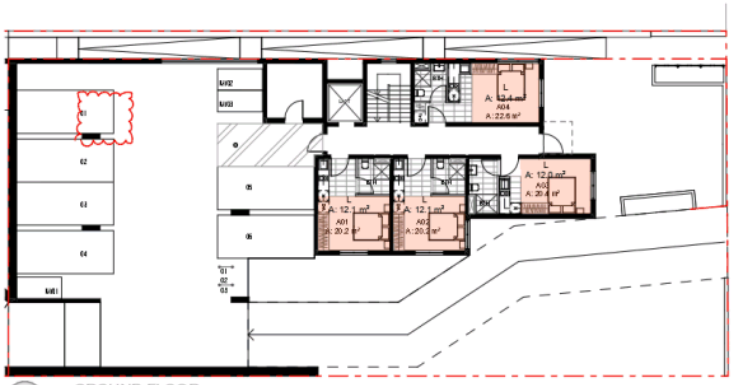

GROUND FLOOR

FIRST FLOOR

LIVING AREA SCHEDULE		
UNIT No.	No. of Occupants	AREA (m2)
A01		
	1	12.08
A02		
	1	12.08
A03		
	1	12.01
A04		
	1	12.36
A05		
	1	12.03
A06		
	1	13.47
A07		
	1	12.54
A08		
	1	12.08
A09		
	1	12.08
A10		
	1	12.08
A11		
	2	16.00

10 UNITS	1 OCCUPANT
1 UNITS	2 OCCUPANT

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A	Drawing added in response to RFI dated 13.01.21	M.A	28.01.2021
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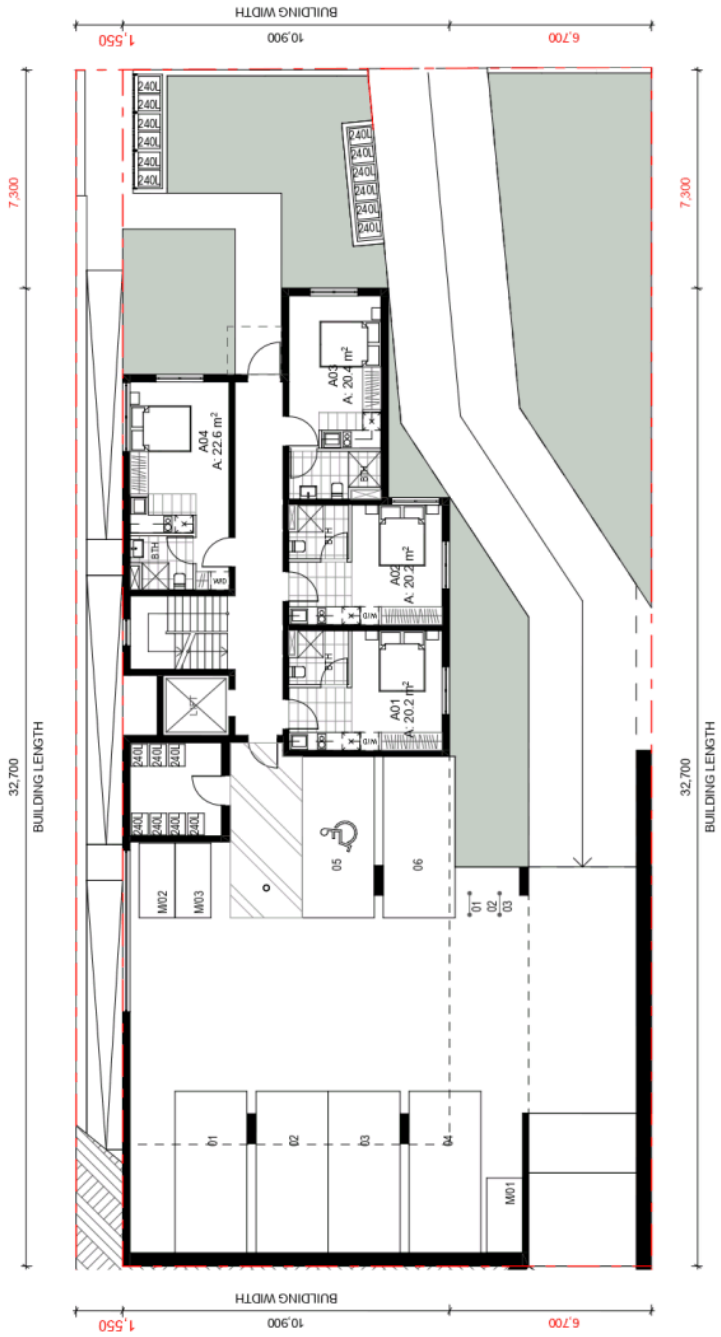
PROJECT NORTH

BOARDING HOUSE
PROJECT
134 BURDETT STREET
WAHROONGA
PROJECT NO
20/06

DRAWING:
LIVING AREAS

DRAWN BY	SCALE:	DRAWING NO:	ISSUE:
M.A	1:250@A3	A3008	B
CHECKED BY B.C			

ATTACHMENT 2 - ITEM 2



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PROJECT NORTH

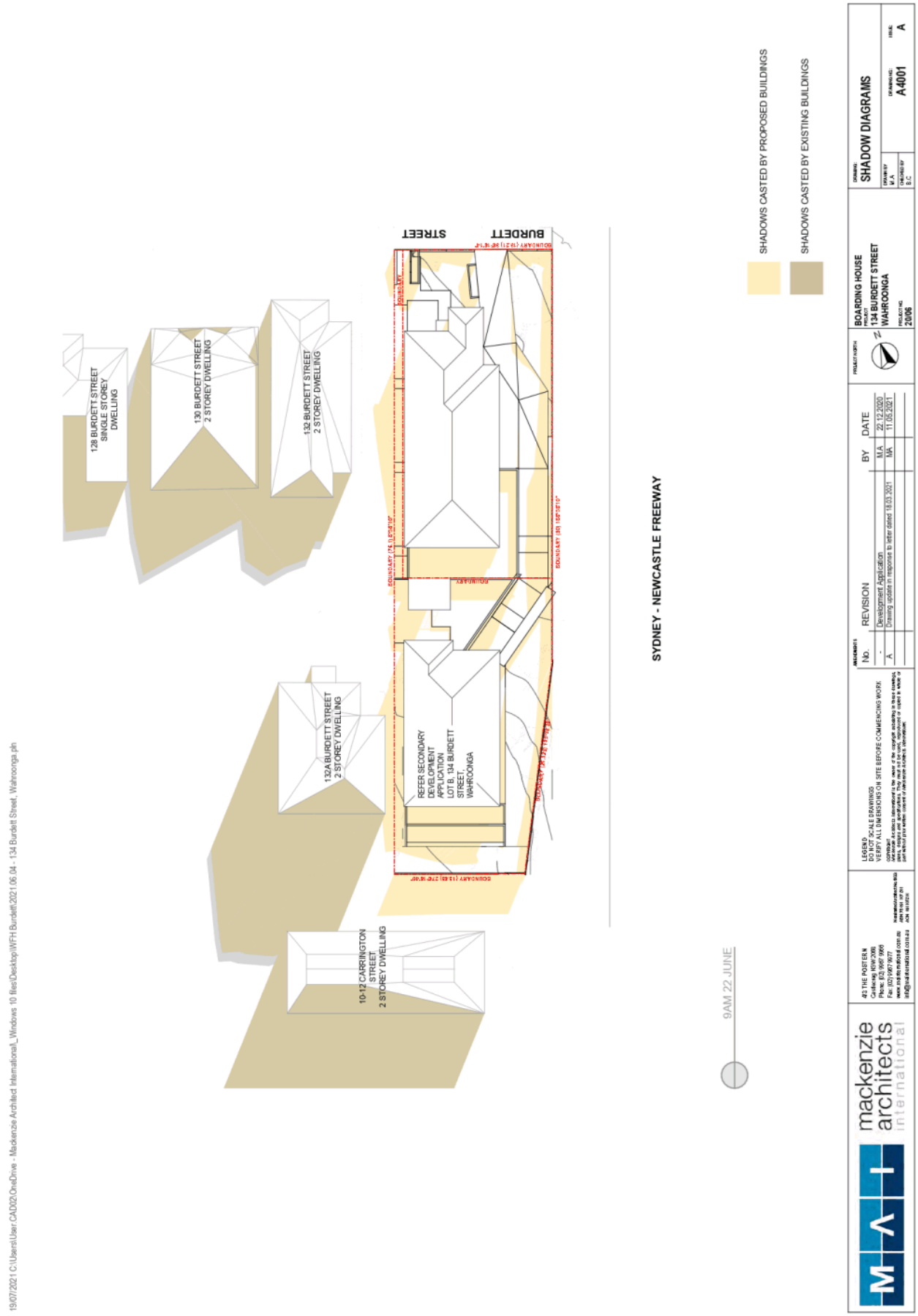
PROJECT
BOARDING HOUSE
134 BURDETT STREET
WAHROONGA

PROJECT NO.
2006

DRAWING
BUILDING DIMENSION

DRAWN BY M.A.
CHECKED BY B.C.
SCALE: 1:150@A3
DRAWING NO: A3009
ISSUE: B

ATTACHMENT 2 - ITEM 2


128 BURDETT STREET SINGLE STOREY DWELLING
130 BURDETT STREET 2 STOREY DWELLING
132 BURDETT STREET 2 STOREY DWELLING
132A BURDETT STREET 2 STOREY DWELLING
10-12 CARRINGTON STREET 2 STOREY DWELLING
REFER SECONDARY DEVELOPMENT APPLICATION LOT B, 134 BURDETT STREET, WAHROONGA
BURDETT STREET
SYDNEY - NEWCASTLE FREEWAY
9AM 22 JUNE
SHADOWS CASTED BY PROPOSED BUILDINGS
SHADOWS CASTED BY EXISTING BUILDINGS
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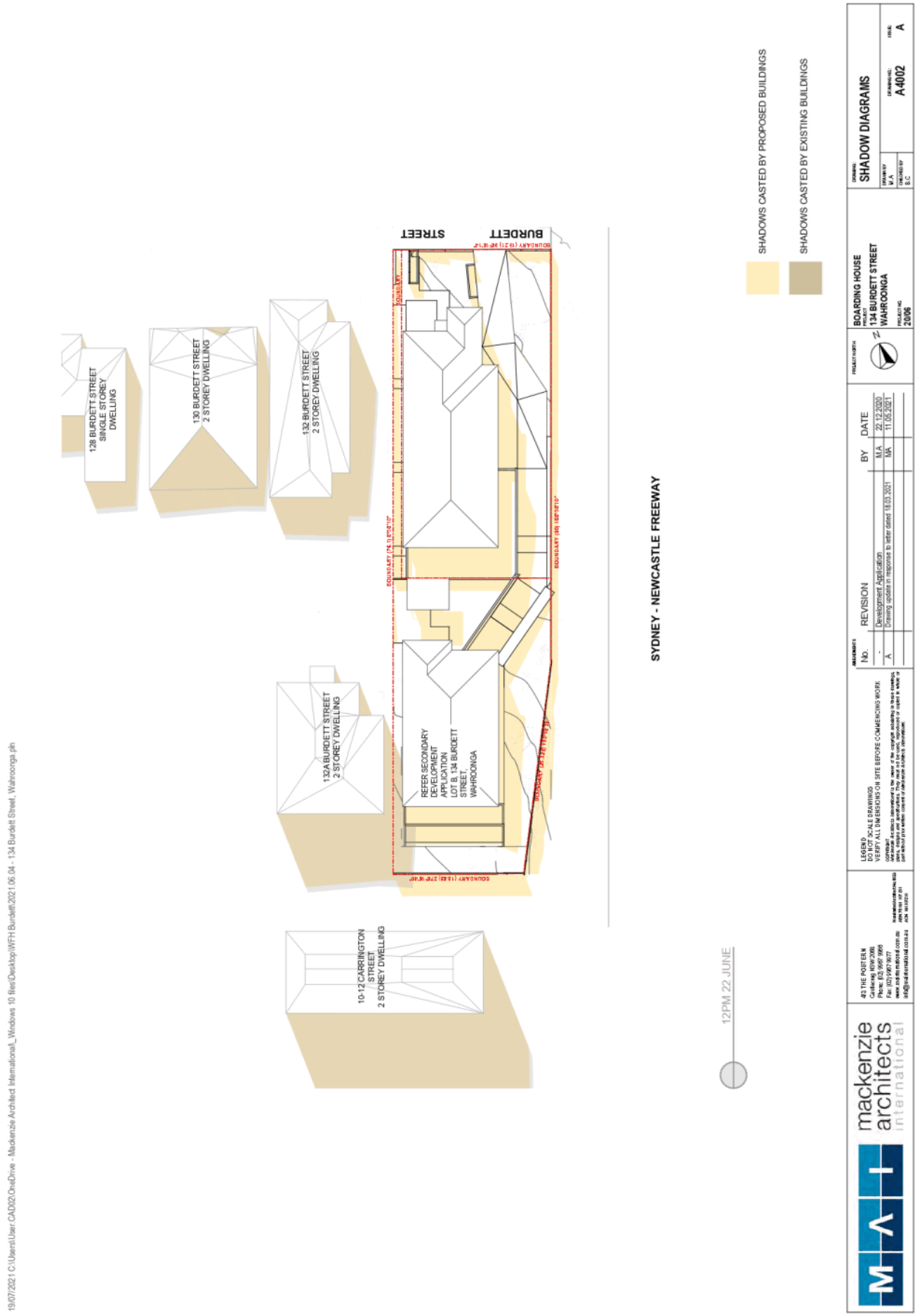
REVISION
Development Application
Drawing update in response to letter dated 18.03.2021
BOARDING HOUSE
134 BURDETT STREET WAHROONGA
SHADOW DIAGRAMS
A4001
ATTACHMENT 2 - ITEM 2



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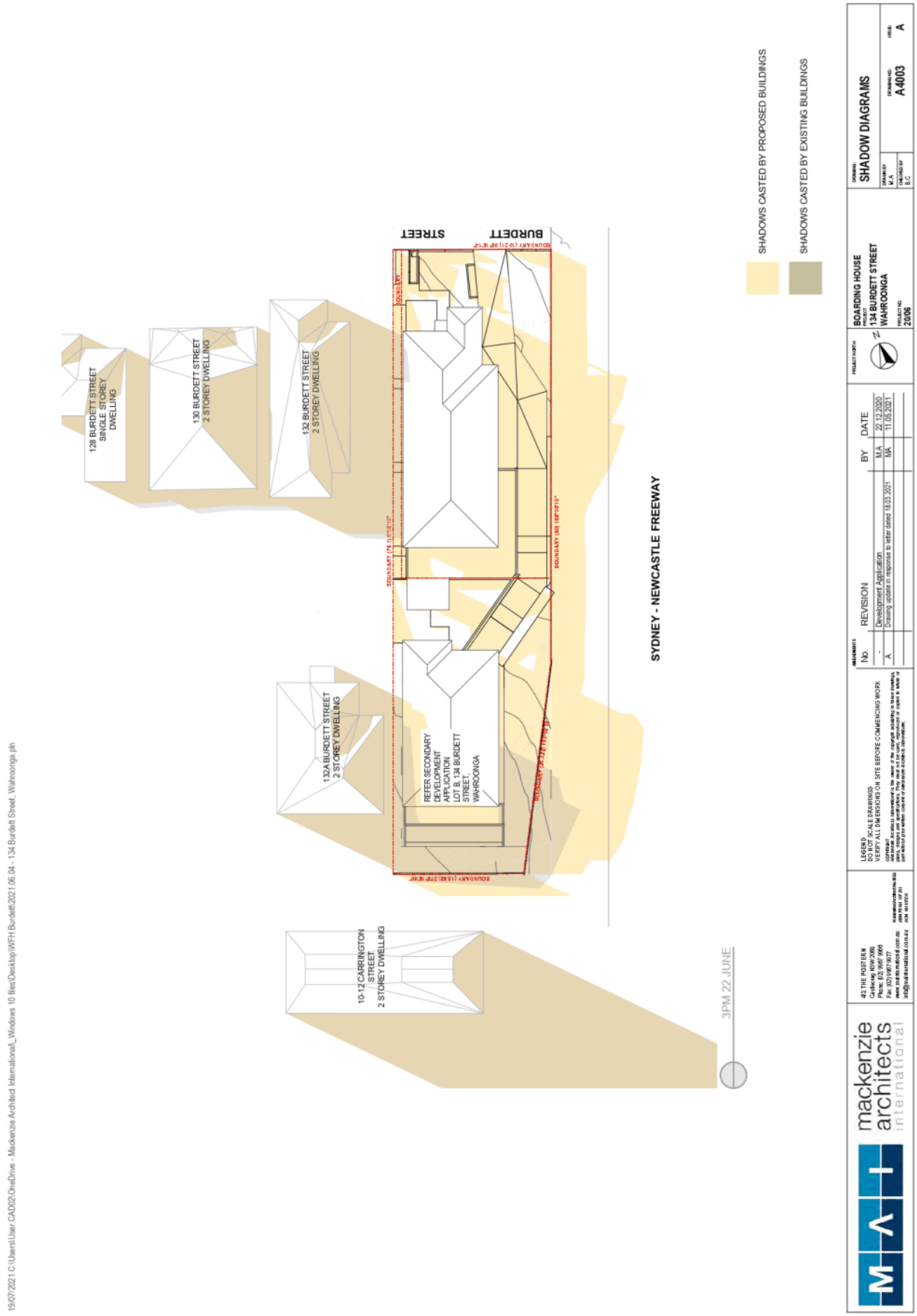
128 BURDETT STREET SINGLE STOREY DWELLING
130 BURDETT STREET 2 STOREY DWELLING
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132A BURDETT STREET 2 STOREY DWELLING
10-12 CARRINGTON STREET 2 STOREY DWELLING
REFER SECONDARY DEVELOPMENT APPLICATION LOT B, 134 BURDETT STREET, WAHROONGA
BURDETT STREET
SYDNEY - NEWCASTLE FREEWAY
3PM 22 JUNE
SHADOWS CASTED BY PROPOSED BUILDINGS
SHADOWS CASTED BY EXISTING BUILDINGS
mackenzie architects international
REVISION
Development Application
Drawing update in response to letter dated 18.03.2021
BY DATE
MA 22.12.2020
MA 11.05.2021
BOARDING HOUSE
134 BURDETT STREET WAHROONGA
2006
SHADOW DIAGRAMS
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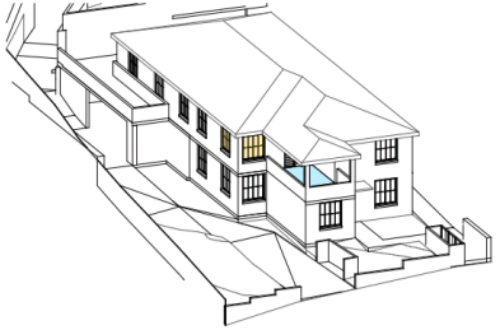

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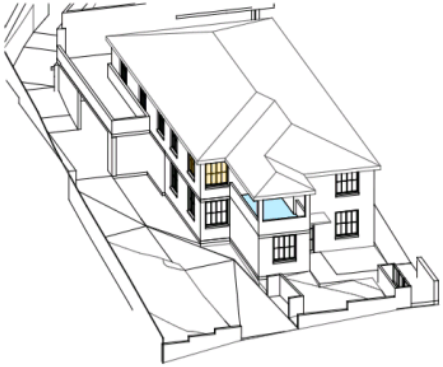

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BOARDING HOUSE
PROJECT
134 BURDETT STREET
WAHROONGA
PROJECT NO
20/06

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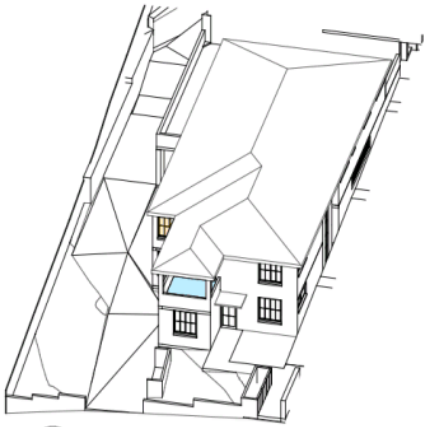

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BOARDING HOUSE
PROJECT
134 BURDETT STREET
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PROJECT NO
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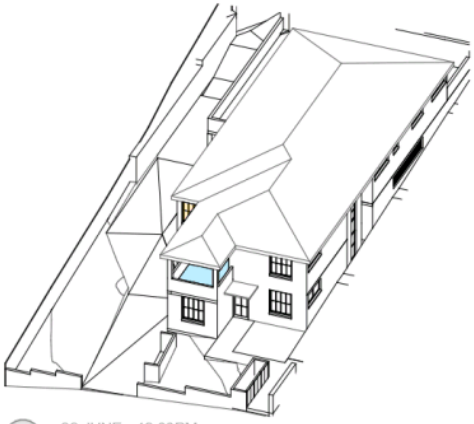

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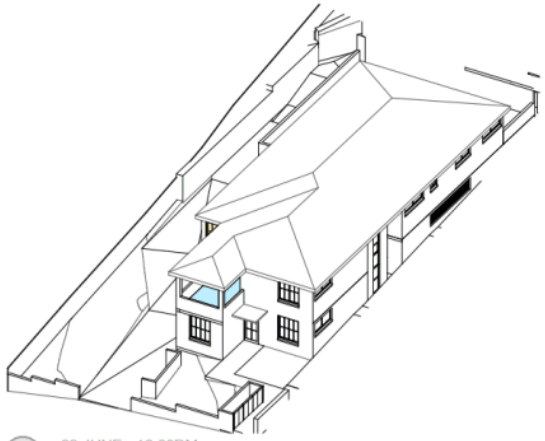

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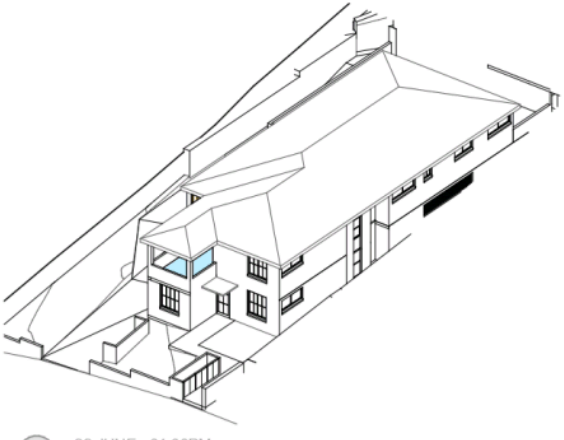

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BOARDING HOUSE
PROJECT
134 BURDETT STREET
WAHROONGA

PROJECT NO
20/06

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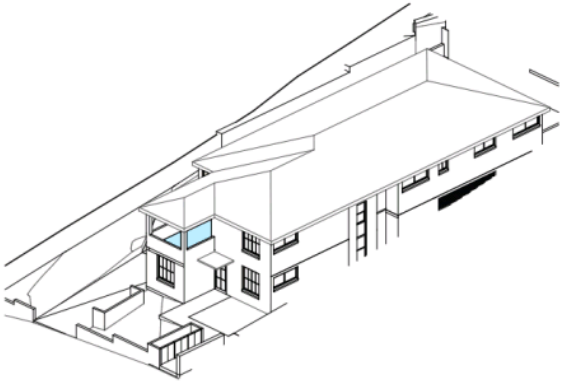

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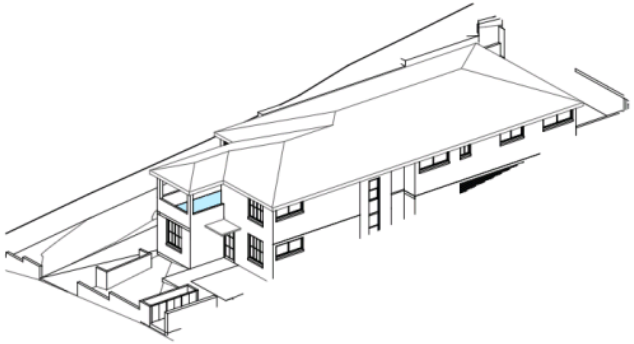

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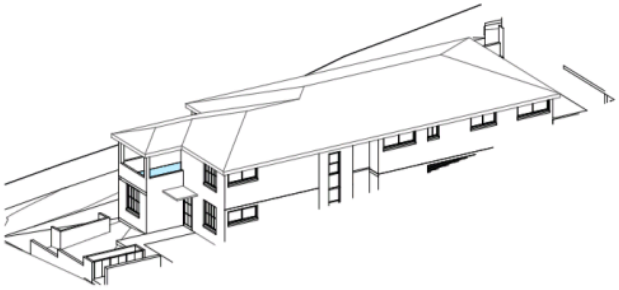

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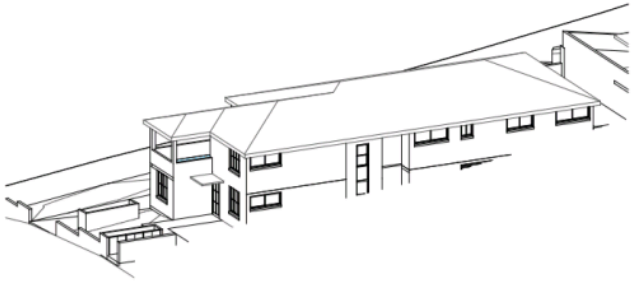

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BOARDING HOUSE
PROJECT
134 BURDETT STREET
WAHROONGA

PROJECT NO
20/06

DRAWING:
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DRAWING NO: A4104
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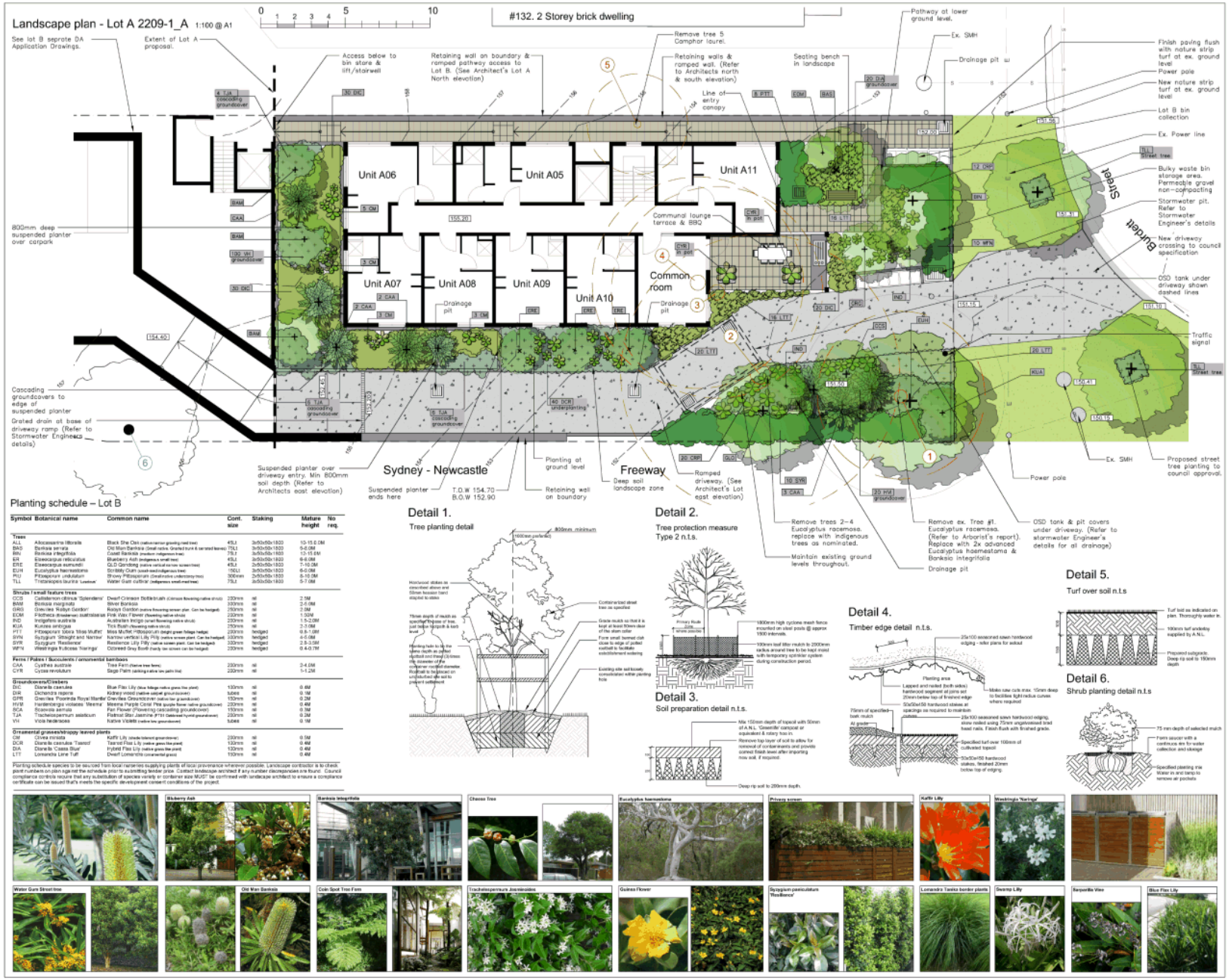
ATTACHMENT 2 - ITEM 2

ATTACHMENT 3 - ITEM 2



General construction notes

1. Site preparation
Any existing trees and vegetation to be retained shall be preserved and protected from damage of any sort during the execution of landscape work. In particular, root systems of existing plants must not be disturbed if possible. Any nearby site works should be carried carefully, using hand tools. To ensure the survival and growth of existing trees during landscaping works, protect by fencing or screening where necessary. Trees shall not be removed or topped unless specific written approval to do so is given or is indicated on plan. Storage of materials, mixing of materials, vehicle parking, disposal of liquids, machinery repairs and refuelling, site office and sheds, and the lighting of fires shall not occur within three (3) metres of any existing trees. Do not stockpile soil, rubble or other debris cleared from the site, or building materials, within the dripline of existing trees. Vehicular access shall not be permitted within three (3) metres of any tree.

2. Soil preparation
All proposed planting areas to be deep ripped to 200mm (where possible) and clay soils to be treated with clay breaker. Apply at least 200mm depth good quality garden soil mix to all garden planting areas. To comply with AS 4419. Turfed areas to be Soft leaf Buffalo or Soft Leaf Buffalo to be laid over 150mm good quality turf underlay over existing soil which is to be deep ripped to 200mm depth prior to installation. To be worked in with rotary hoe except where tree root damage would otherwise occur. In such situations care to be taken to hand cultivate in any area where existing tree roots exist to preserve health of trees and to comply with the requirements of the Arborist's report. Where planting is to occur in existing soil profiles ensure soil conditioners and compost worked into the top 200mm profile. To comply with AS 4454:1999 .

3. New plantings
Newly planted trees and large shrubs should be secured to stakes with hessian ties to prevent rocking by wind. Planting holes for plant material should be large enough in size to take root ball with additional space to take back filling of good quality planting mix. (Please note mature heights of planting as shown on planting schedule can vary due to site conditions, locations in constricted deep soil or over slab planters and so forth) Also shadow lists in certain locations may affect planting heights. Nominated heights for plantings in raised planters over slabs are nominated as less than their normal expected heights in acknowledgement of the contained soil environment. For other deep soil trees heights are subject to particular site conditions, and intended hedging or pruning for functional requirements such as available planting width, intended access ways branches and solar access.

4. Planter boxes & waterproofing.
All slab areas to be waterproofed and 'Mardin' drainage cell installed with geotextile fabric. Refer Engineer's details for structural details for planter box construction. All internal planter slab levels to fall to drainage outlets as detailed by Stormwater Engineer. Ensure cavity between planter box and building adjacent planter pans habitable rooms of building. Keep cavity clear of debris by providing capping row flashed against building. Exterior finishes as per Architect's detail. Ensure base of cavity is able to drain via weep holes in event water seeps into cavity so as to not build up against building wall. Containers to be at height as indicated on Architects' drawing. All planting containers to have the following:
- Impervious waterproof membrane along base and up to top of soil level of containers to Engineer's details.
- 'Mardin' drainage cell (or engineer's approved equivalent at base to be connected to drainage system of development as per stormwater Engineer's details.
- A.N.L. planter box soil mix or equivalent. To comply with AS 4419 and AS 3743
- Contractor to install all planter box finishes after other site works are completed to ensure no deterioration of waterproof membrane. Contractor to be responsible for the integrity of the waterproofing of the planter boxes throughout construction and installation period.
- All planter boxes are to have automatic dripline irrigation system. Connecting pipes to installed during construction of planters and to be coordinated with all Engineer's details.

5. Mulching
All planting areas to be mulched with a minimum 75mm thick cover of recycled hard wood chip mulch and then all plant areas to be thoroughly soaked with water. To comply with AS 4454

6. Fertiliser
All planting areas to be fertilised with 5 month 'NPK' slow release fertiliser.

7. Staking
To those plants indicated on the planting schedules provide hardwood stakes as nominated and driven into ground to a depth able to achieve rigid support.

8. Lawn edging
All ground level garden beds adjacent to site boundary or paved areas to have edging as nominated on the plans.

9. Turfing
Turfed nature strip areas to be Soft leaf Buffalo or Soft Leaf Buffalo 'Sir Walter' (as nominated on plans) to be laid over 100mm good quality turf underlay over existing soil which is to be deep ripped to 200mm depth prior to installation.

10. Structural
All structural details whatsoever to Engineer's details. All drainage and waterproofing details to Engineers details.

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Project: Boarding House
134 Burdett Street
Wahroonga

Dwg: Landscape Plan - Lot A 2209-1_B
Date: 1.6.21 Scale: 1:100 @A1
Job Ref: 20/2209-1 Sheet No: 1 of 1

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North

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ISSUE-C

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2 February 2022

Clause 4.6 Request to Contravene a Development Standard

Property Description: Lot A – 134 Burdett Street, Wahroonga

Development: Boarding House Development

Development Standard: Boarding houses in Zone R2 Low Density Residential

Introduction

This is a clause 4.6 request to contravene the 12 room boarding house development standard contained in Clause 30AA of State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH 2009).

This request to contravene the development standard is prepared on the basis of case law *Dib v Canterbury-Bankstown Council [2021] NSWLEC 1553* where the commissioner provides the following addressing whether clause 30AA of SEPP ARH is amenable to clause 4.6 of the LEP.

> 66. *I accept that in the context of SEPP ARH when read as a whole, cl 30AA does not serve to prohibit the development of boarding houses within the R2 Low Density Residential zone in all cases. Rather, the SEPP makes clear that a boarding house development may be permissible with consent in the R2 zone. This is the first step in* Poynting.
>
> 67. *Although cl 30AA is expressed in the negative, the outward form of the clause is not material to whether the provision is a development standard or prohibition. As Giles JA states in* Poynting *at [93]:*
>
> > *"Care must be taken lest form govern rather than substance. A provision in the form, "A building may be erected on land in a particular zone if the land has an area greater than a particular area" appears regulatory, whereas a provision in the form, "A building must not be erected on land if the land has an area less than a particular area" appears prohibitory, but the substance is the same."*
>
> 68. *Having determined that cl 30AA passes the first step of* Poynting, *I am satisfied it also passes the second step - that is, by specifying a requirement or fixing a standard, the provision will be a development standard by which permissible development may be carried out.*

69. *In this particular case a boarding house is permissible development able to be carried out within the R2 zone when an aspect of that development - being the number of boarding rooms - is fixed at 12.*

70. *Since I have determined that cl 30AA is a development standard, I am then satisfied it is amenable to cl 4.6 of the BLEP.*

Accordingly, based on the case law established in *Dib v Canterbury-Bankstown Council [2021] NSWLEC 1553* this clause 4.6 request is submitted to address the variation to the development standard. The request relates to the proposed 11-room boarding house development at Lot A – 134 Burdett Street, Wahroonga.

The proposal is for a 11-room boarding house at the subject site, being Lot A – 134 Burdett Street, Wahroonga, noting a separate development application has been submitted for an 11-room boarding house contained within a separate building at Lot B – 134 Burdett Street, Wahroonga.

DA/248/2019A was approved on the 18th of March 2020 for Torrens Title subdivision of the land known as 134 Burdett Street, Wahroonga into two (2) lots, being Lot A of 728.34m² area fronting Burdett Street, and battle-axe Lot B of 689.66m² area. This subdivision has not been registered.

SEPP ARH 2009 was amended in February 2019 to include Clause 30AA which states:

30AA Boarding houses in Zone R2 Low Density Residential

> *A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.*

In 2018, the NSW Department of Planning, Industry and Environment exhibited an *Explanation of Intended Effect* for the amendment, which detailed the purpose and objectives of the proposed amendment, noting the development standard at Clause 30AA does not contain objectives.

As the approved subdivision under DA/248/2019A has not yet been registered, the proposal will result in there being 22 x boarding rooms at 134 Burdett Street, representing a technical variation to the maximum 12-room boarding house within the R2 Low Density Residential zone development standard. (Clause 30AA – SEPP ARH 2009).

The request to contravene the development standard has been prepared in accordance with the principles applied in relevant case law including:

1. *Dib v Canterbury-Bankstown Council [2021] NSWLEC 1553;*
2. *Winten Property Group Limited v North Sydney Council* (2001) 130 LGERA 79;
3. *Wehbe v Pittwater Council* (2007) 156 LGERA 446;

4. *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009*;*
5. *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118*;*
6. *Al Maha Pty Ltd v Huajun Investments Pty Ltd* (2018) 233 LGERA 170; *and*
7. *RebelMH Neutral Bay Pty Limited v North Sydney Council (2019) NSWCA 130*

This Clause 4.6 variation request is set out in accordance with the relevant principles established by the Court including:

1. Is the development consistent with the objectives of the zone?

2. Is the proposed development consistent with the objectives of the development standard which is not met?

3. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? (cl 4.6(3)(a) and cl 4.6(4)(a)(i))

4. Are there sufficient environmental planning grounds to justify contravening the development standard and therefore the Applicant's written request to vary the development standard is well founded?(cl 4.6(3)(b) and 4.6(4)(a)(ii))

5. Is the proposed development in the public interest because it is consistent with the objectives of the standard and the zone? (cl 4.6(4)(a)(ii))

Matters required to be demonstrated under clause 4.6(3) of the LEP

Compliance with the development standard is unreasonable or unnecessary in this particular case

Pursuant to clause 4.6(3)(a) of the LEP, the contravention of the boarding houses in R2 Low Density Residential zones is acceptable in the circumstances of this case and compliance with the development standard is considered both unreasonable and unnecessary because the proposed boarding house development, including the contravention, is consistent with the explanation of intended effect of Clause 30AA Boarding houses in Zone R2 Low Density Residential, notwithstanding non-compliance with the standard.

The primary intention of the boarding houses in R2 Low Density Residential zones is detailed in the *Explanation of Indented Effect* of the introduction of Clause 30AA as follows:

> *To ensure that the built form of boarding house development in the R2 zone is compatible with the built form of other development in the local area.*

The *Explanation of Intended Effect* also details the following secondary objective of the Clause:

> *A maximum room number for boarding houses is considered to assist in ensuring that the amenity impacts of boarding house development on adjoining*

and nearby properties, such as overlooking, overshadowing and car parking impacts, are able to be better managed.

The development proposal achieves the above intention and objective of Clause 30AA of SEPP ARH 2009 based on the following:

- The proposed boarding house development is consistent and compatible with the design, form and scale of development in the locality. The immediate locality contains a diversity of building forms with 1 – 2 storey dwellings and multi-dwelling housing developments within the vicinity of the site. The development proposal, being a 2-storey form with a pitched roof, will reflect the form and scale of development in the locality.

  The proposed materials and finishes and landscape works are consistent with adjoining development and compatible with the planning controls under SEPP ARH 2009, noting the proposal satisfies the Character Test of Clause 30A of SEPP ARH.

  The configuration of built forms in the immediate locality is shown in the following aerial photograph.

Source: *SIX Maps*

The proposed built form of the boarding houses on Lots A and B is compatible with development in the immediate locality. The proposed built form – 2 storeys is compatible with the existing building character in the immediate locality. The boarding house presents to the street as a similar form and scale to surrounding 2 storey low density development within its visual catchment. Further, the form and scale of development is consistent with the streetscape and desired future character.

The subject site is zoned R2 – Low Density Residential under the Hornsby Local Environmental Plan 2013 and boarding houses are a permissible land use. The planning controls allow 2-storey development of maximum 8.5m height and the overall scale and form of the proposed development complies

with the density controls applying to the subject site pursuant to the Hornsby LEP 2013.

- The proposed design mitigates amenity impacts to adjoining properties in terms of overlooking, overshadowing and car parking based on the following assessment:
  - The built form has been located on the allotment in accordance the setback controls for dwelling houses contained in the Hornsby Development Control Plan,
  - The boarding house provides adequate car, bicycle and motorcycle parking, and
  - The orientation of the subject site and location adjacent to the Pacific Highway – M1 Motorway minimises the potential for unreasonable solar access impacts to neighbouring properties.

  The potential overlooking impacts resulting from the development are mitigated by the design of offset windows and the boarding house has communal areas at second floor level orientated to the north facing Burdett Street to mitigate privacy impacts to the adjoining property at 132 Burdett Street, Wahroonga.

  The development application is accompanied by shadow diagrams prepared by *Mackenzie Architects International,* which confirm that the proposal meets the solar access and overshadowing requirements contained in the Hornsby DCP.

  The traffic generated by the development proposal will be minimal given the level of parking provided and the site's location within an accessible area, being within 75m of regularly serviced public bus stops, and that bicycle and motorcade parking is provided. The traffic generation will not have any unacceptable or unreasonable traffic implications the surrounding road network and local road, being Burdett Street.

It is unreasonable to require compliance with the development standard noting the non-compliance is the result of the approved subdivision of 134 Burdett Street (under DA/248/2019A) not being registered. On registration of the approved plan of subdivision, the proposed boarding house development will comply with Clause 30AA of SEPP ARH 2009.

Enforcing strict compliance with Clause 30AA in this instance will thwart the timely economic development of the land. The resulting development proposed under this application, when assessed in conjunction with that on Lot B, is compatible with the total impacts of development anticipated by Clause 30AA and therefore compatible with the low density residential zone.

Further, compliance with the development standard is unnecessary, noting the proposed boarding house is compatible with neighbouring and nearby built forms, and that the proposed variation will not result in unreasonable amenity impacts on adjoining properties with respect to overshadowing, overlooking or traffic and car parking.

Furthermore, the proposal, including the variation to the boarding houses in the R2 Low Density Residential zone development standard meets the intention and objectives of the standard as contained in the *Explanation of Intended Effects,* notwithstanding the numerical contravention.

<u>There are sufficient environmental planning grounds to justify contravening the development standard</u>

Pain J held in *Four2Five vs Ashfield Council* [2015] NSWLEC 90 that to satisfy clause 4.6(3)(b), a clause 4.6 request must do more than demonstrate that the development meets the objectives of the development standard and the zone – it must also demonstrate that there are other environmental planning grounds that justify contravening the development standard, preferably being grounds that are specific to the site.

Pursuant to clause 4.6(3)(b) of the LEP, the environmental planning grounds contained in this application are sufficient to justify the non-compliance with the height of buildings development standard because:

- The proposed boarding house on Lot A has been designed with 11 boarding rooms in accordance with the numerical requirement contained in Clause 30AA of SEPP ARH 2009. The proposed variation is the result of the approved subdivision of Lot A and Lot B not yet being registered. The proposed boarding houses on both Lot A and Lot B individually are consistent with the density of the development envisaged under Clause 30AA.

- The variation is not the result of providing additional density on the site beyond that envisaged by clause 30AA but rather the timing of the development, noting the subdivision under DA/248/2019A has not yet been registered. The proposed development on Lot A, when accompanied by the proposed development on Lot B, will provide 22 boarding rooms on a single lot. Following the registration of the subdivision both boarding house developments will comply with the numerical requirement.

- Despite the non-compliance with the boarding houses in Zone R2 Low Density Residential, the proposal is consistent with the following aims of the Hornsby LEP 2013 found at clause 1.2(2):

    - 1.2(2)(b) – The proposed boarding house development represents an orderly and sustainable land use at the subject site and within the R2 Low Density Residential zone, noting the proposed built form is compatible with neighbouring and nearby development and that the proposal contributes to the provision of affordable housing to meet the housing needs of the community.

    - 1.2(2)(c) – The proposed boarding house contributes to the range and availability of housing types within the locality and wider Hornsby local government area, providing affordable housing within an accessible area to meet current and future housing demand.

- Despite the non-compliance with the boarding houses in the R2 Low Density Residential zone the proposal is consistent with the following objects of the Environmental Planning and Assessment Act 1979 as follows:

  - 1.3(c) – The proposal is an orderly and economic use of the subject site and the development is consistent with the intent and objectives of the boarding houses in Zone R2 Low Density residential standard, with a proposed built form that is compatible with the desired future character of the locality, on an allotment that is capable of accommodating a boarding house development. This clause 4.6 request facilitates the orderly and economic development of the land, allowing a built form on the site prior to its subdivision, which would otherwise comply with the development standard, if sites were developed individually.

  - 1.3(g) – The design of the proposal is a good design outcome for the subject site and within the R2 Low Density Residential zone as the proposal has been designed in accordance with the controls and design requirements for dwelling houses contained in the Hornsby LEP 2013, and is therefore a compatible and consistent 2-storey built form in the locality.

Clause 4.6 (4)(a)(i) – The consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3)

As demonstrated above, the proposed development has satisfied the matters required to be demonstrated in clause 4.6(3) of the LEP by providing a written request that demonstrates:

1. Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, by establishing that the objectives of the development standard are achieved notwithstanding the non-compliance.

2. The environmental planning grounds relied on are sufficient to justify the development standard.

In accordance with the findings of Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, the consent authority under clause 4.6(4)(a)(i) need only be satisfied that the written request addresses clause 4.6(3). Under Clause 4.6(4)(a)(i) the Consent Authority is not to determine in its opinion whether the request satisfies the requirements of clause 4.6(3)(a) and (b), just that the request has been made and that these items have demonstrated.

The relevant items in clause 4.6(3) have been demonstrated above.

Clause 4.6(4)(a)(ii) - The proposed development is in the public interest

In relation to clause 4.6(4)(a)(ii) of the LEP, the proposed boarding house development is in the public interest because it is consistent with the objectives of the boarding houses in the R2 Low Density Residential zone development standard, and the

objectives for development in the R2 – Low Density Residential zone in accordance with the planning assessment provided as follows:

The objectives of the R2 – Low Density Residential zone are as follows:

Objective	Consistency
To provide for the housing needs of the community within a low density residential environment.	The proposed boarding house has been designed to meet the housing needs of the community, noting the demand for affordable housing. The proposed built form is compatible with the future character of the low-density residential environment, presenting as a 2-storey building with a pitched roof form. The proposal contributes to the range of housing types within the locality with minimal adverse amenity impacts. The boarding house provides for a good level of amenity for residents, noting the considerable room sizes, individual kitchen and bathroom facilities and sufficient communal areas, and is within close proximity to public transport being within an accessible area approximately 75m from regularly serviced bus stops.
To enable other land uses that provide facilities or services to meet the day to day needs of residents.	Not applicable to the development application.

In addition to the above reasons the proposal is also in the public interest because:

- The request for a degree of flexibility in the application of the development standard will facilitate the redevelopment of the site and the provision of a boarding house development that is consistent with the envisioned form of development for the R2 Low Density Residential zone.

- The resulting development is consistent with the intent of the development standard, noting the 2-storey building with pitched roof form sits comfortably within the Burdett Street streetscape and is compatible with neighbouring and nearby development. Further, the proposal will not result in unreasonable amenity impacts to the locality.

- The variation to the standard will facilitate the provision of affordable housing within an accessible area, and will contribute to the range and availability of housing in the locality, noting the demand for affordable housing.

Taking into consideration the above, the proposed development is in the public interest as it is consistent with the objectives of the development standard and the R2 – Low Density Residential zone under the Hornsby Local Environmental Plan 2013.

The request for a numerical variation to the maximum number of boarding rooms within boarding house development on land zoned R2 Low Density Residential is specific to the subject site and the application of Clause 30AA of SEPP ARH 2009. The proposal does not undermine the intent and effectiveness of the boarding houses in the R2 Low Density Residential zone development standard in Clause 30AA or the objectives of the development standard and the zone for achieving positive outcomes on environmental planning grounds.

For these reasons, the proposal and the numerical variation does not undermine the integrity of the boarding houses in Zone R2 Low Density Residential development standard and its objectives, as well as the zoning objectives which have been adopted by Council as being in the public interest.

The concurrence of the Secretary

Clause 4.6(4)(b) of the LEP requires the concurrence of the Secretary (of the Department of Planning, Industry and Environment) before the consent authority can exercise the power to grant development consent for development that contravenes a development standard.

In deciding whether to grant concurrence, the Secretary is required to consider the following:

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

The proposal is not likely to raise any matter of significance for State or regional environmental planning. As addressed above the non-compliance with the boarding houses in Zone R2 Low Density Residential standard is considered to be in the public interest because the proposed development is consistent with the objectives of the standard and the objectives of the R2 Low Density Residential zone.

The proposed non-compliance with the development standard would not undermine the public benefit of maintaining the development standard. The proposal only presents a non-compliance with the standard due to the approved subdivision of the subject site not being registered, and the contravention of the standard as a result of this does not result in a development at the subject site that is inconsistent with the objectives of the Low Density Residential zone. The request for flexibility in the application of the development standard will facilitate boarding house development on the subject site that is consistent with the character of recent contemporary redevelopment within the locality, as well as the envisioned built form for the site pursuant to the Hornsby LEP and DCP.

The proposal is consistent with the matters required to be taken into consideration before concurrence can be granted under clause 4.6(5) of the LEP. The contravention of the standard will not result in adverse amenity impacts and is in the public interest.

Conclusion

The development proposal has a non-compliance with the boarding houses in the R2 Low Density Residential zone development standard applying a maximum of 12 boarding rooms contained within clause 30AA of SEPP ARH 2009. The non-compliance is the result of the approved subdivision of the parcel of land known as 134 Burdett Street, Wahroonga that has not been registered and the concurrent development application for an 11-room boarding house contained on a separate building at Lot B of the subject site technically resulting in 22 boarding rooms on the site as currently registered. Notwithstanding, the proposal has been designed with a built form that is compatible with scale, height and form of the surrounding development and consistent with the intent of the R2 – Low Density Residential zone.

The numerical variation to the boarding houses in Zone R2 Low Density Residential standard does not attempt to affect the planning outcomes for the broader locality; rather Clause 30AA of SEPP – ARH 2009 is addressed subject to the registration of the lots in accordance with DA248/2019/A.

The variation will not generate unreasonable additional amenity impacts concerning overlooking, overshadowing or traffic and parking beyond that envisaged for the Low Density Residential zone.

It is unreasonable and unnecessary to enforce strict compliance with this development standard noting the non-compliance is a result of the approved subdivision of 134 Burdett Street into two (2) allotments under DA248/2019/A that has not been registered. The proposed boarding house complies with the relevant development standards contained in the Hornsby LEP 2013, and the design guidelines and requirements for dwelling houses in the R2 zone pursuant to the Hornsby DCP, thereby being consistent with the intent of the planning controls.

Enforcing strict compliance with Clause 30AA in this instance will thwart the timely economic development of the land. The resulting development proposed under this application, when assessed in conjunction with that on Lot B, is compatible with the total impacts of development anticipated by Clause 30AA and therefore compatible with the low density residential zone.

The application to vary the boarding houses in Zone R2 Low Density Residential development standard is well founded and as addressed the proposed boarding house meets the objectives of the development standard. The proposal achieves an acceptable design for this subject site, being Lot A – 134 Burdett Street, and the variation does not result in unreasonable visual and amenity impacts upon surrounding properties. In accordance with the environmental planning grounds addressed in this clause 4.6 request the proposal can be supported.

Chapman Planning Pty Ltd
Member Planning Institute of Australia

Chapman Planning Pty Ltd

Boarding House Plan of Management

Lot A – 134 Burdett Street, Wahroonga

8 December 2021

1. Introduction

This plan of management is for the operation of the boarding house development at Lot A 134 Burdett Street, Wahroonga. The boarding house contains 10 x single rooms and 1 x double room (including 2 x accessible rooms), 6 x car parking spaces (including 1 x accessible space), 3 x bicycle spaces and 3 x motorcycle spaces.

2. Accommodation

The boarding house has the capacity to accommodate up to 12 lodgers. The boarding house has been designed individual kitchens and bathrooms in each boarding room.

The boarding house includes 1 x communal lounge room and 1 x communal rooftop terrace at first floor.

3. Parking

The boarding house includes 6 x car parking spaces, including 1 x accessible space, 3 x motorcycle parking spaces and 3 x bicycle parking spaces. The managing agent will be responsible for the allocation of the parking spaces.

4. Management

A managing agent will be appointed and responsible for the operation and administration of the boarding house.

The responsibilities of the managing agent are:

i. Selection of tenants, assessment of tenant eligibility and administration of the tenancy agreements.
ii. A hard copy of this Plan is to be provided to each new boarder upon arrival. Failure to adhere may result in cessation of occupation.
iii. An accommodation register will be maintained by the managing agent providing details of all occupants, length of stay and payment details.
iv. Each boarder is to sign an Occupancy Agreement and House Rules Agreement and the minimum term is 3 months.

v. Upon arrival boarders are to be issued with an information sheet. The information sheet will provide information about the premises as well as a note that there is residential development adjoining the property and that boarders need to take the neighbours' interests into account when leaving and entering.
vi. Ensure the maximum number of lodgers in each room/boarding house is not exceeded.
vii. Administration and distribution of the house rules.
viii. Ensure the house rules are fixed in each room and the communal room in a prominent location.
ix. Ensure all lodgers are familiar with fire safety procedures including the location of fire extinguishers, evacuation procedures and assembly areas.
x. Ensure fire safety inspections are undertaken annually and that the fire safety equipment is working.
xi. Manage the cleaning of the common areas and rooms.
xii. Manage waste collection including the provision of waste bins in each room and collection of waste from the waste storage area.
xiii. Provide managing agents contact details to all lodgers and Council. The managing agents contact details are also to be provided on noticeboard within the communal lounge area.
xiv. Manage a complaints register and incident report register. The manager is responsible for recording any complaints in a complaints register ("the Complaints Register") which is to be available to surrounding neighbours and Council upon request. The Complaints Register shall detail how and when any complaints are dealt with. The Complaints Register will contain:

a. Complaint date and time;
b. Name of person/police/council making the complaint;
c. Contact details;
d. Nature of the complaint;
e. Action taken (by whom and when); and
f. Outcome and/or further action required.

Action will be taken by the managing agent within 24 hours of notification. The Complaints Register is to be kept on premises at all times and is to be made available to Police and Council upon request.

xv. The managing agent will be contactable by phone 24 hours per day, 7 days per week.

5. Boarder Identification

The managing agent requires photo ID (eg: typically either passport or driver's license) from each boarder.

Where the person is an Australian and does not hold a driver's license then alterative ID which may not hold a photo can be accepted.

6. Use of Boarding Rooms

The boarding rooms shall be used for residential purposes with a maximum of 1 lodger per single room and 2 lodgers per double room.

The following management provisions apply to the rooms:

i. No visitors are permitted on the premises no visitors are permitted on the premises (inclusive of the carparking facilities) after 10pm or before 7am Monday to Saturday, and after 10pm or before 8am on Sundays and Public Holidays.
ii. No keys are to be provided to visitors without permission of management.
iii. Lodgers shall not contribute to excessive noise or unruly behavior. Unruly behavior may result in termination of the occupancy agreement.
iv. Rooms and the common areas shall be kept clean and hygienic at all times. The bins are to be emptied by the lodgers to the garbage bins as required.
v. Illegal substances are not permitted on the premises. Any lodger found to be supplying or in the possession of illegal substances will have their occupancy agreement terminated.
vi. No pets are permitted on the premises or boarding rooms without written approval of management.
vii. Rooms will be made available for inspection upon notice from management.

7. Room Furnishing

Rooms will be furnished with the following items:

i. The rooms have been sized to accommodate either a double bed or single bed.
ii. A lockable cupboard for each lodger with a minimum volume of 1 cubic metre per room.
iii. Mirror.
iv. Lamp.
v. Waste container.

Kitchenette facilities will include:

i. A sink with running hot and cold water.
ii. 1 refrigerator & freezer.
iii. Below bench cupboards.
iv. Bench top space.
v. Waste container.

Bathrooms will include:

i. Shower with running hot and cold running water.
ii. Washbasin with hot and cold running water.

iii. Mirror.
iv. Toilet.

Common room facilities will include:

i. Lounge and coffee table.
ii. BBQ facilities.

8. Use of Communal Areas

The common room is to be kept clean and tidy at all times. The hanging of clothes, towels or any other personal items in the common areas outside of designated clothes drying area will not be permitted.

The use of the common room for social gatherings will require approval from the manager.

The lodgers wishing to use the 6 x parking spaces must register with the manager.

No more than 12 persons may use the common lounge area or communal terrace at any time within the permitted hours of use. Clear signage shall be displayed at the entry to communal lounge/communal terrace detailing maximum capacity.

9. Safety and Security

Lodgers are responsible for ensuring the access from Burdett Street is locked at all times.

A key/swipe card will be issued to all boarders with no additional keys/cards to be issued to visitors without approval from the manager. The lodgers wishing to use the 6 x parking spaces must register with the manager and will be allocated a specific car space.

If a room key is lost the manager shall be responsible for the issue of a new key/replacement of lock/door code where required. The manager shall hold a spare key to all rooms for access in case of emergency. If spare keys are issued to lodgers or contractors for access purposes, the manager shall maintain a record of date/time of issue.

Appropriate sensor lighting shall be provided within the common areas including parking, hallway areas and common room. The lighting is to be regularly inspected by the managing agent and replaced where required.

1.8m fencing will be provided at the property boundary. Gates to the premises are to be kept closed by lodgers at all times.

10. Waste Management

Each room shall contain a waste bin. The lodger is responsible to ensure the bin is emptied in the waste storage area.

The waste storage area will include waste and recycling bins and the lodger is responsible for the separation of the waste and recycling materials.

The waste and recycling materials will be stored in 240 litre bins serviced from Burdett Street. The managing agent shall ensure the building cleaner is responsible for taking the bins to and from the street on collection day.

11. Maintenance and Cleaning

Pest control by a professional contractor shall be carried out at least once a year.

The rooms, common areas, communal room and communal courtyard are to be professionally cleaned by a contractor at least once per week.

12. Damage

Any damage to or the breakdown of any facility, fixture or equipment is to be reported to the boarding house manager.

13. Fire Safety/Certification

A copy of the annual fire safety compliance statement shall be displayed in a prominent location. Essential fire safety measures are to comply with the *Environmental Planning and Assessment Regulation 2000*

Mattresses, curtains and furniture will be of materials that resist the spread of fire, and limit the generation of smoke and heat.

An evacuation plan must be clearly displayed in each boarding room and common room. A floor plan must be permanently fixed to the inside of the door of each boarding room to indicate the available emergency egress routes from the respective boarding room.

The managing agents contact phone number must be clearly displayed at the entrance of the premises and in each boarding room. Other emergency contact details (police, fire ambulance) as well as utility information (gas, electricity, and plumbing) are to also be clearly visible in each boarding room.

Annual certification of Fire Safety Equipment and preparation of the Form 15a is carried out by a fire safety consultant. Annual certification required of any of the equipment is to be overseen by the owner.

14. Tenancy Agreements

All tenants must enter into a residential agreement in accordance with the Rental Tenancies Act 2010. The managing agent will be responsible for the administration of the agreements.

The minimum lease period will be 3 months.

15. Acoustic Control

The use of the premises must be in accordance with the following recommendations, including but not limited to:

i. No external music to be played at any time in the outdoor communal areas. Speakers must not be directed toward the external terrace at any time.
ii. Windows/doors of rooms to be partially closed when TV/Music is played.
iii. The playing of television or amplified music/sound within the communal lounge must only occur through the noise limited audio system installed to this area.
iv. No residents/visitors are to gather in the outdoor communal area between 10pm or before 7am Monday to Saturday, and after 10pm or before 8am on Sundays and Public Holidays.
v. No more than 12 people are permitted to separately occupy the communal terrace and communal lounge at any one time within the approved hours of use.
vi. All residents and visitors are not to make unreasonable noise while on the premises.

16. Use of this Plan of Management

A copy of this plan of management shall be maintained on premises at all times.

This plan of management shall be reviewed twice per year by managing agent. The key operational practices and any inefficiencies shall be reviewed, with the plan of management to be updated accordingly.

Upon plan of management being updated, a new copy shall be issued to lodgers.

If the updated plan of management results in a change to external measures or new practices which will impact the adjoining properties, a copy of the plan of management must be provided to adjoining properties.