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**DAC 20/07/21 – 7 FORT DRIVE NEWCASTLE EAST - DA2020/01382 -
DWELLING HOUSE - ALTERATIONS AND ADDITIONS INCLUDING
DEMOLITION**

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PAGE 28	ITEM-12	Attachment C:	Processing Chronology



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**DAC 20/07/21 – 7 FORT DRIVE NEWCASTLE EAST - DA2020/01382 -
DWELLING HOUSE - ALTERATIONS AND ADDITIONS INCLUDING
DEMOLITION**

ITEM-12 Attachment A: Submitted Plans

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FORT DRIVE ALTERATIONS & ADDITIONS

issue date

Lot 7, DP 2370
7 Fort Drive
DEVELOPMENT APPLICATION
MARCH, 2021

CLIENT DETAILS

client name & Bob Bleeker
address 7 Fort Drive
Newcastle East, NSW 2300
phone 0401 128 900
email laura.johnston@ms.com

PROJECT DETAILS

site address 7 Fort Drive
Newcastle East, NSW 2300
NSW 2300

Lot 7, DP 2370

site area 15,25 m²

location Newcastle

zoning RS Medium Density Residential

FSI building 1:1

floor area (approx.) 150 m²

height limit 10 m

heritage Newcastle East Heritage Conservation Area (Local)

local conditions Newcastle City Centre

food control lot

buffering zoning

food safety lot Class 3

ARCHITECTURAL CONSULTANT

company GMS PRACTICE

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email gms@gmsppractice.com

address 526 Hunter Street
Newcastle, NSW 2300

postcode PO Box 113,
Carrington, NSW 2324

website www.gmusppractice.com



ACKNOWLEDGEMENT

We acknowledge the traditional custodians of the Parramatta area, the Awabakal people, and their elders. We are grateful to all who participated with our community.

HERITAGE CONSULTANT

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website www.gmusppractice.com

REVISION

Rw.	Date	Comment	Dim.	Sign.
A	23/03/21	Development Application	LG	LG
B	23/03/21	Development Application FR	LG	LG

NOTE

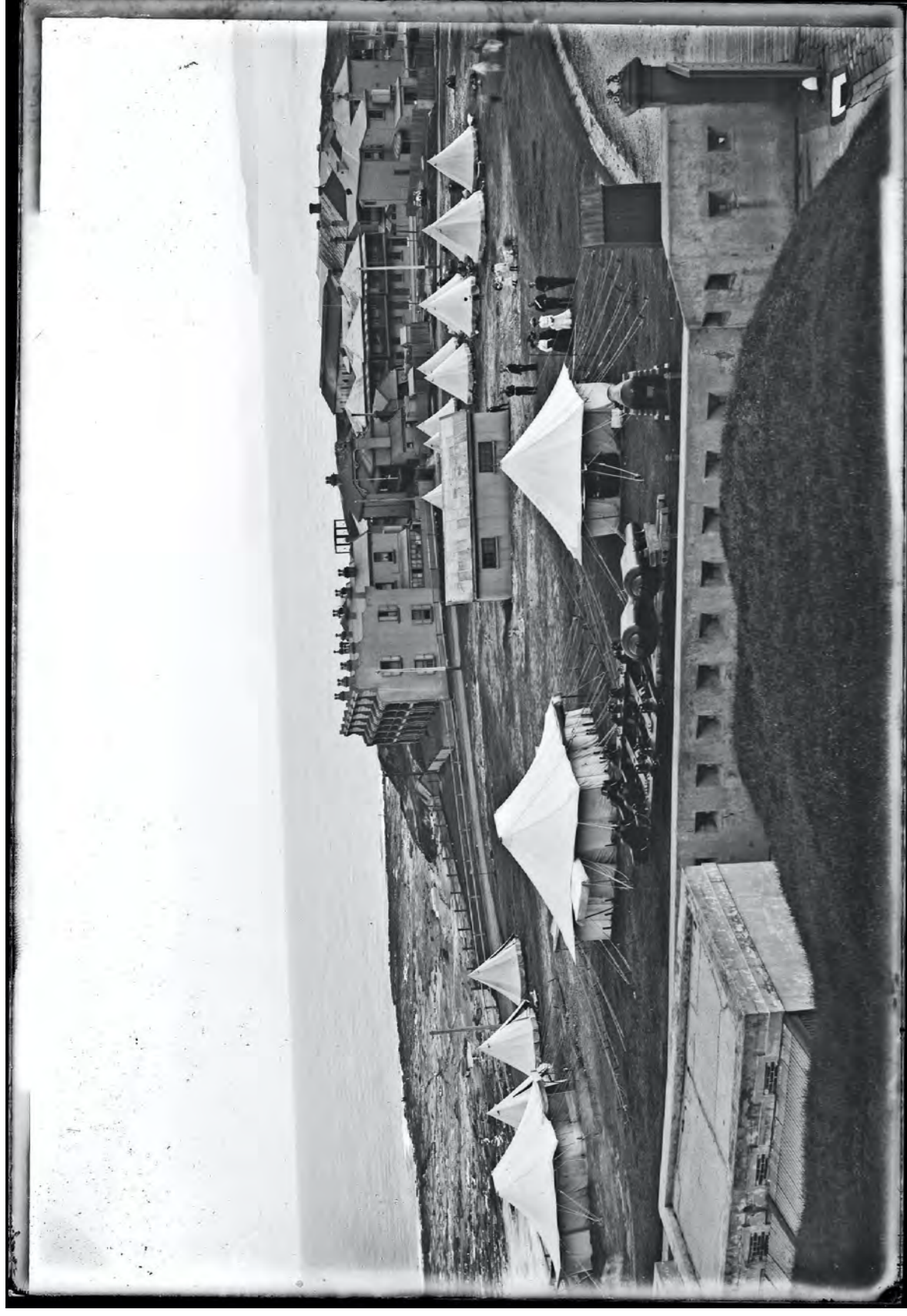
These documents are for **development application** purposes only, not to be used for construction.

The proposed works are to be read in accordance with the relevant Australian Standards, and subject to all government regulations, structural details are subject to structural engineer's specifications, drainage & water details are subject to hydraulic engineer's specifications, site R.L.s, locations & services require further investigation and approval. All alterations are subject to Council engineer's specifications. Building details are subject to a building consultant.

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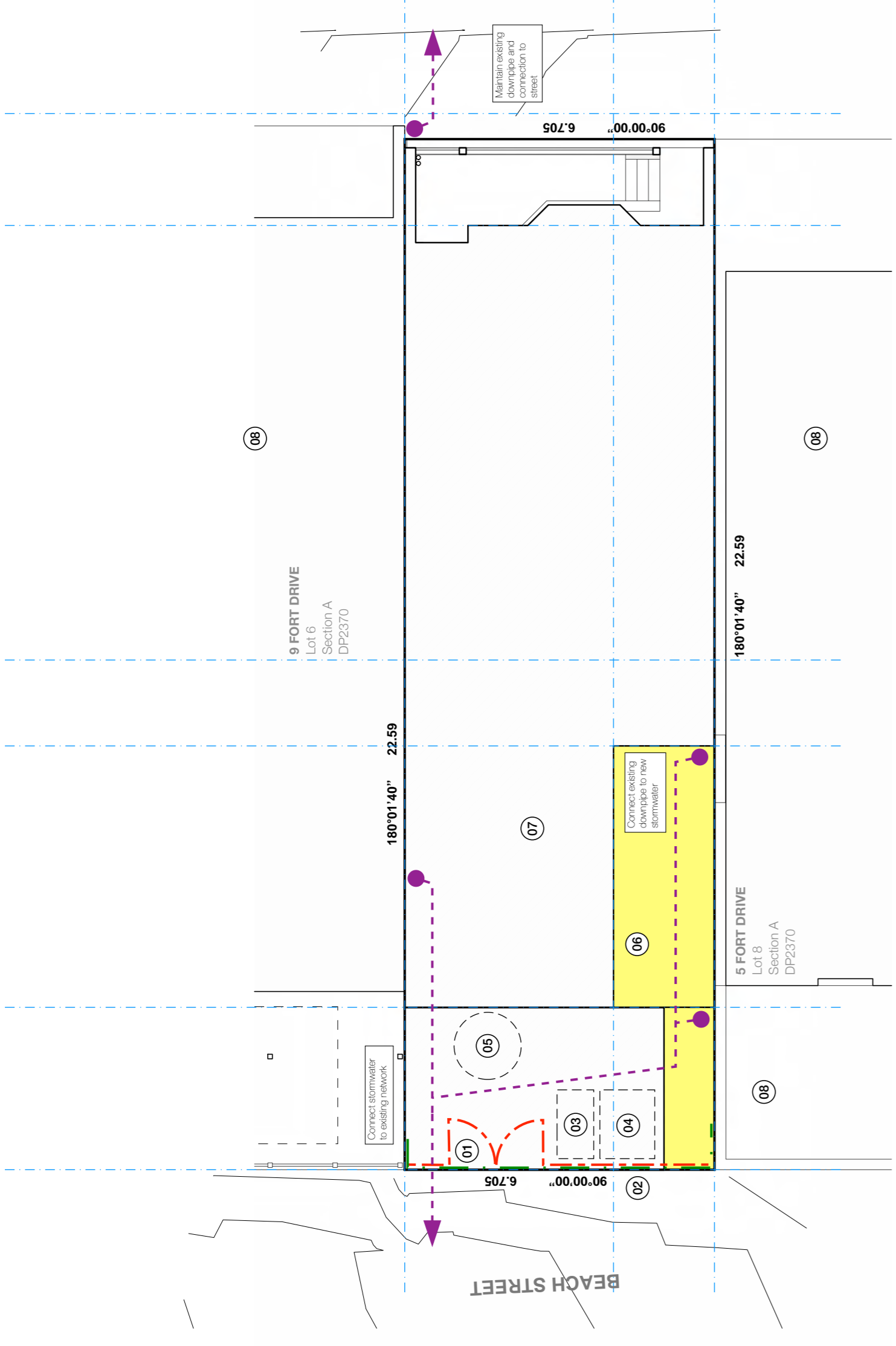
NSW Architects Registration Number 9852



Historical Image (Source: Hunter Living Histories)

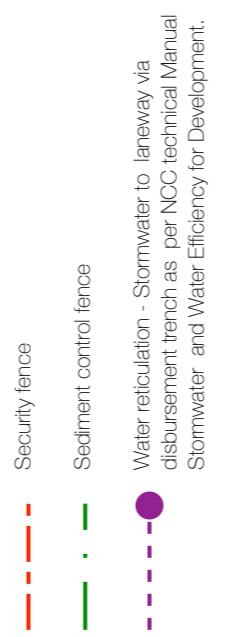


Location Plan - NTS (Source: Neimap)



STORMWATER & SEDIMENT CONTROL PLAN
1:100

- (U1) Site access
 - (U2) Source site access in accordance with Standard Design SD6-8 from NCC Planning for Erosion Prevention and Sediment Control with PCA & Contractors Details.
 - (U3) Stockpile and temporary storage areas for building products and materials.
 - (U4) Container for building waste.
 - (U5) Stockpile for loose building materials such as soil and sand. Ensure well covered when not used. In accordance with Standard Design SD6-8 for Erosion Prevention and Sediment Control.
 - (U6) Proposed carport & studio. New slab on ground. Minor excavation for site required.
 - (U7) Existing Dwelling
 - (U8) Neighbouring dwellings. Maintain existing levels at boundary. Redirect or collect runoff to any neighbouring property.
- Site Area: 151.25m²
 Existing pervious area: 0%
 Existing impervious area: 100%
 Proposed pervious area: 0%
 Proposed impervious area: 100% (no change)
 Existing roof area: 119.4m²
 Proposed roof area: 120.5m² (1.1m² increase)
 Existing terrace (incl. perg.) area: 63.7m² + 3.8 (paving) = 67.5m² (13.1m² decrease)
 Existing roof + terrace area: 183.1m²
 Proposed roof + terrace area: 170.8m²
- The proposed roof area will be connected to the existing stormwater drains, see new drawings.
- It is considered there will be no significant increase load to Council's drainage than currently experienced.

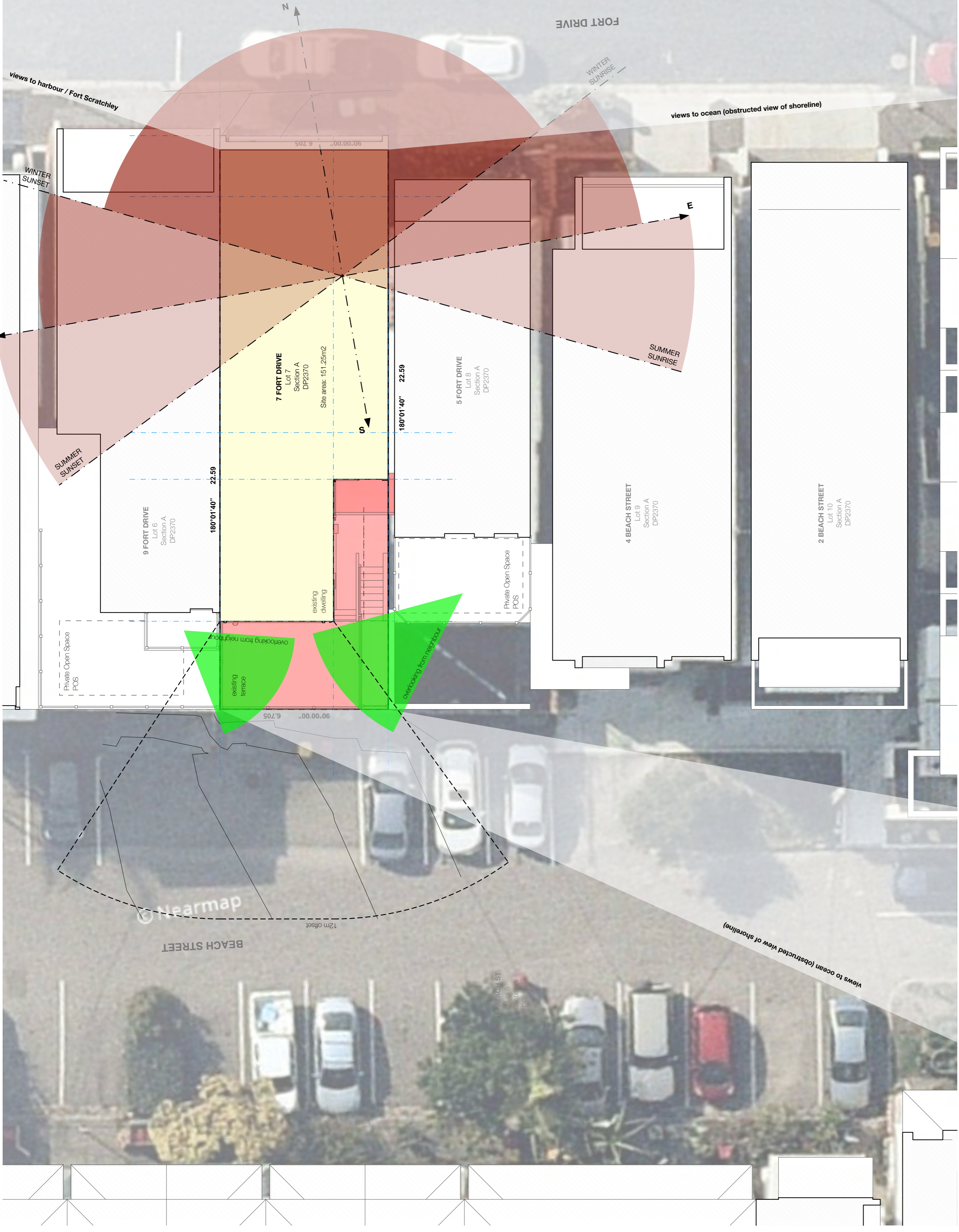


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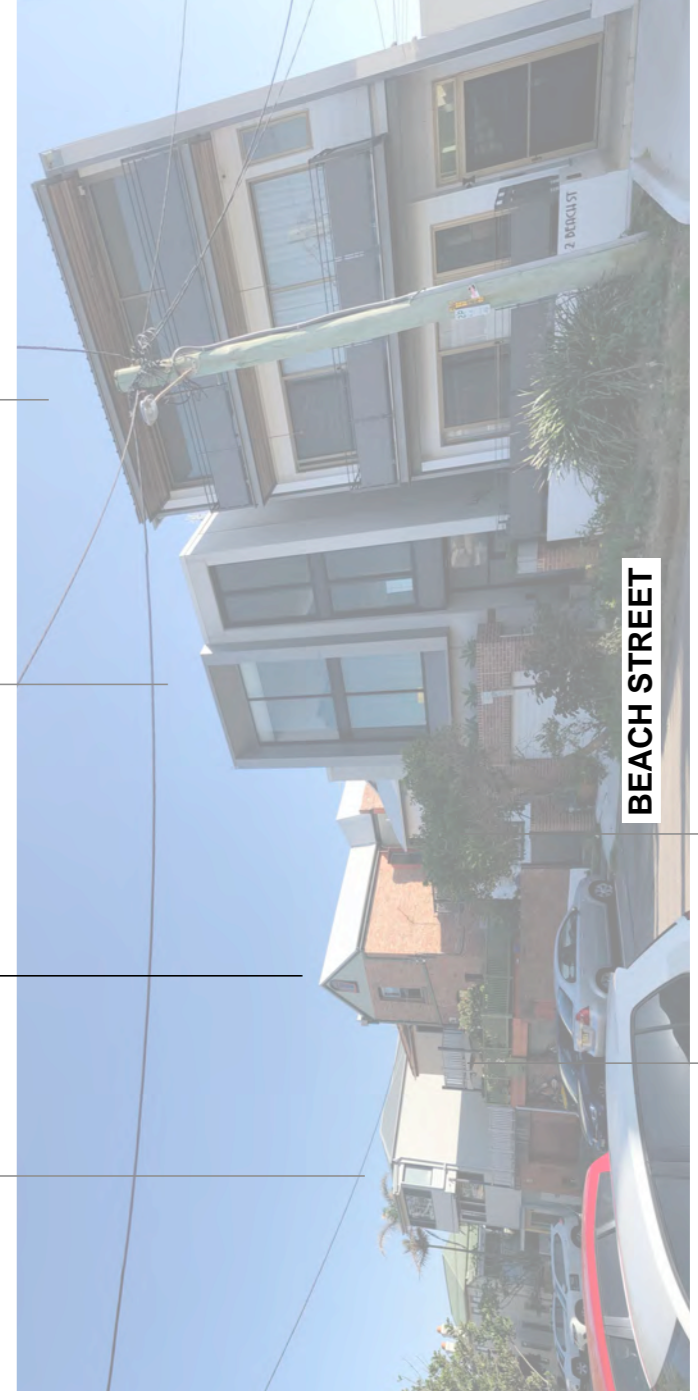
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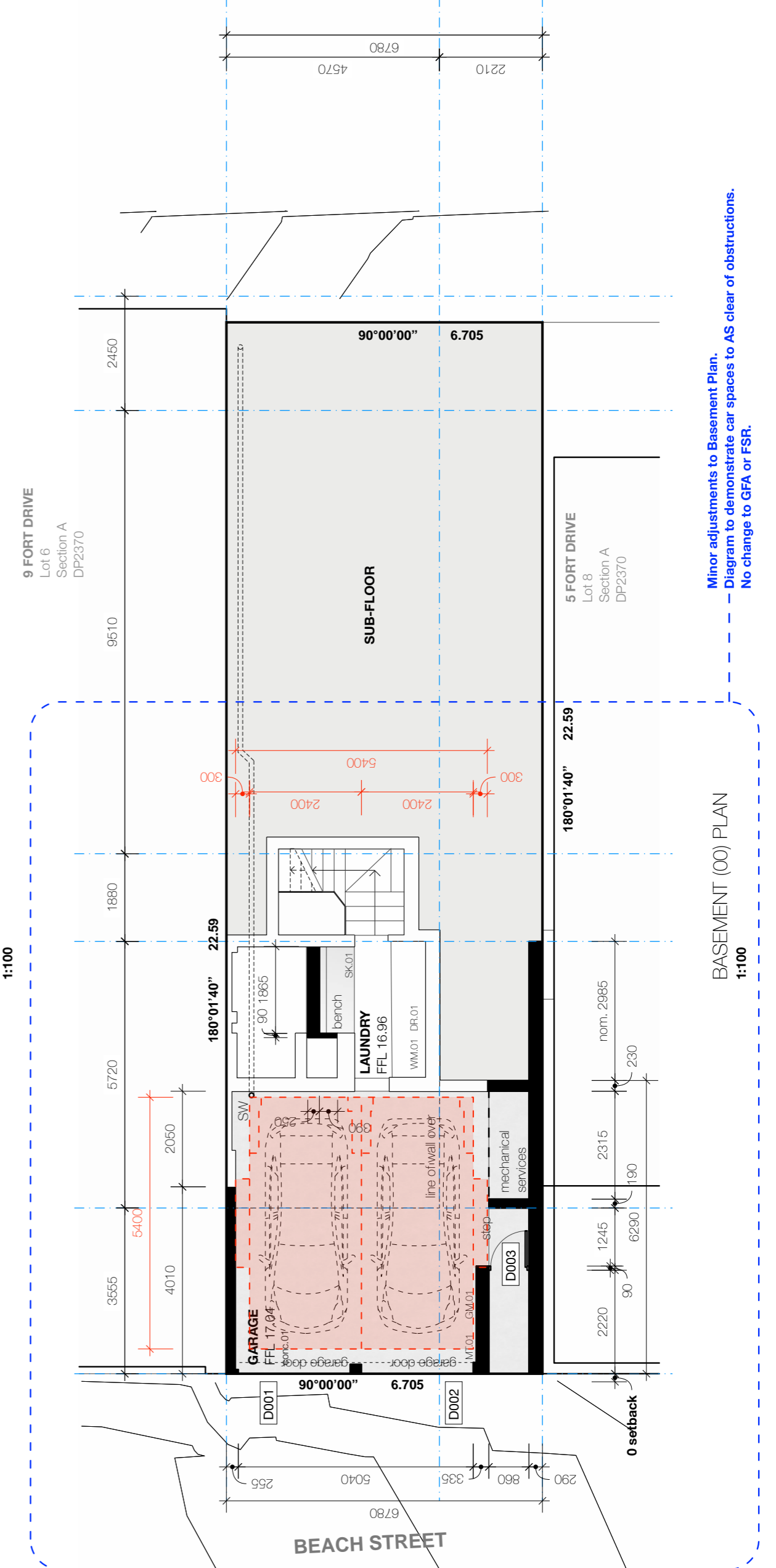
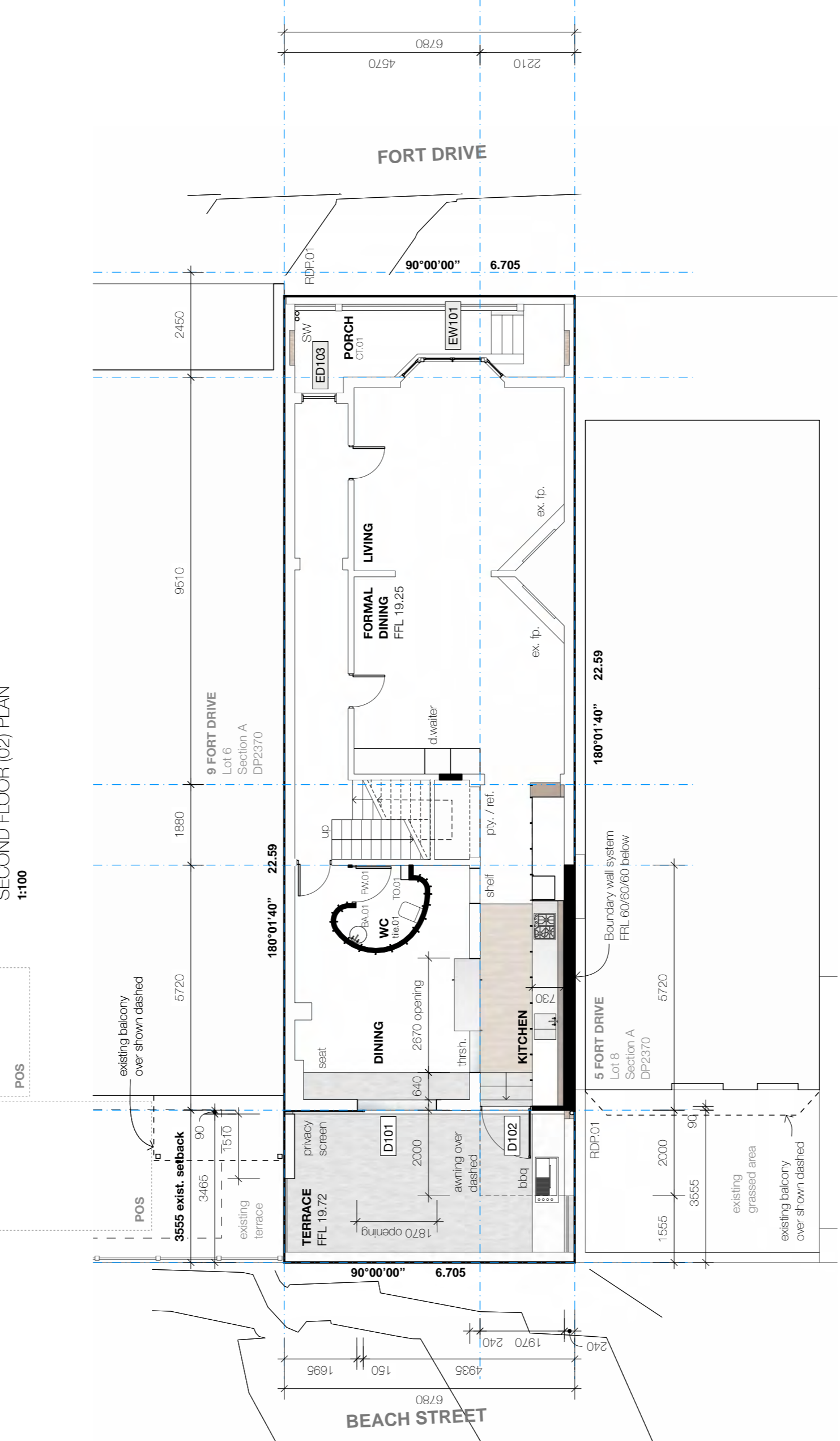
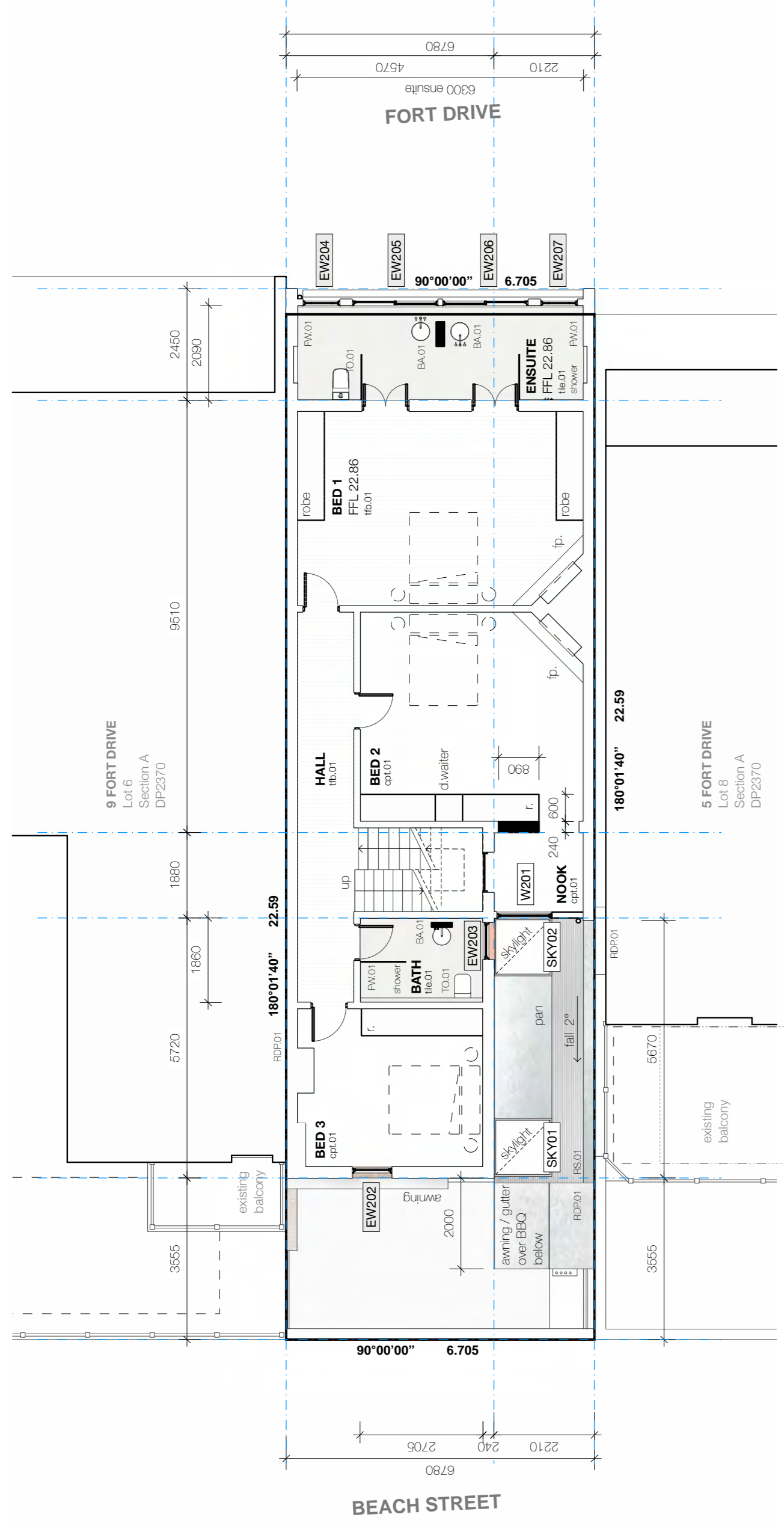
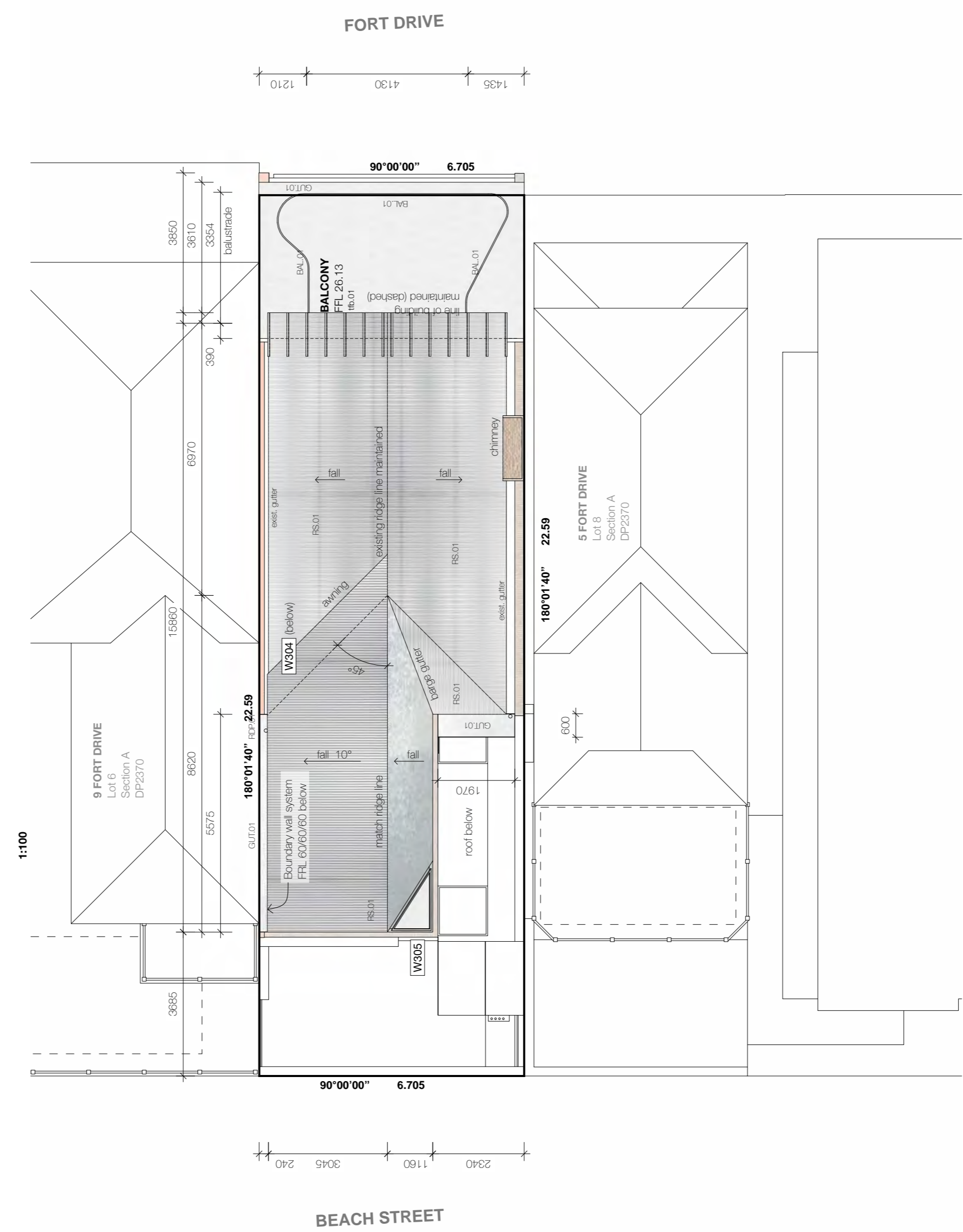
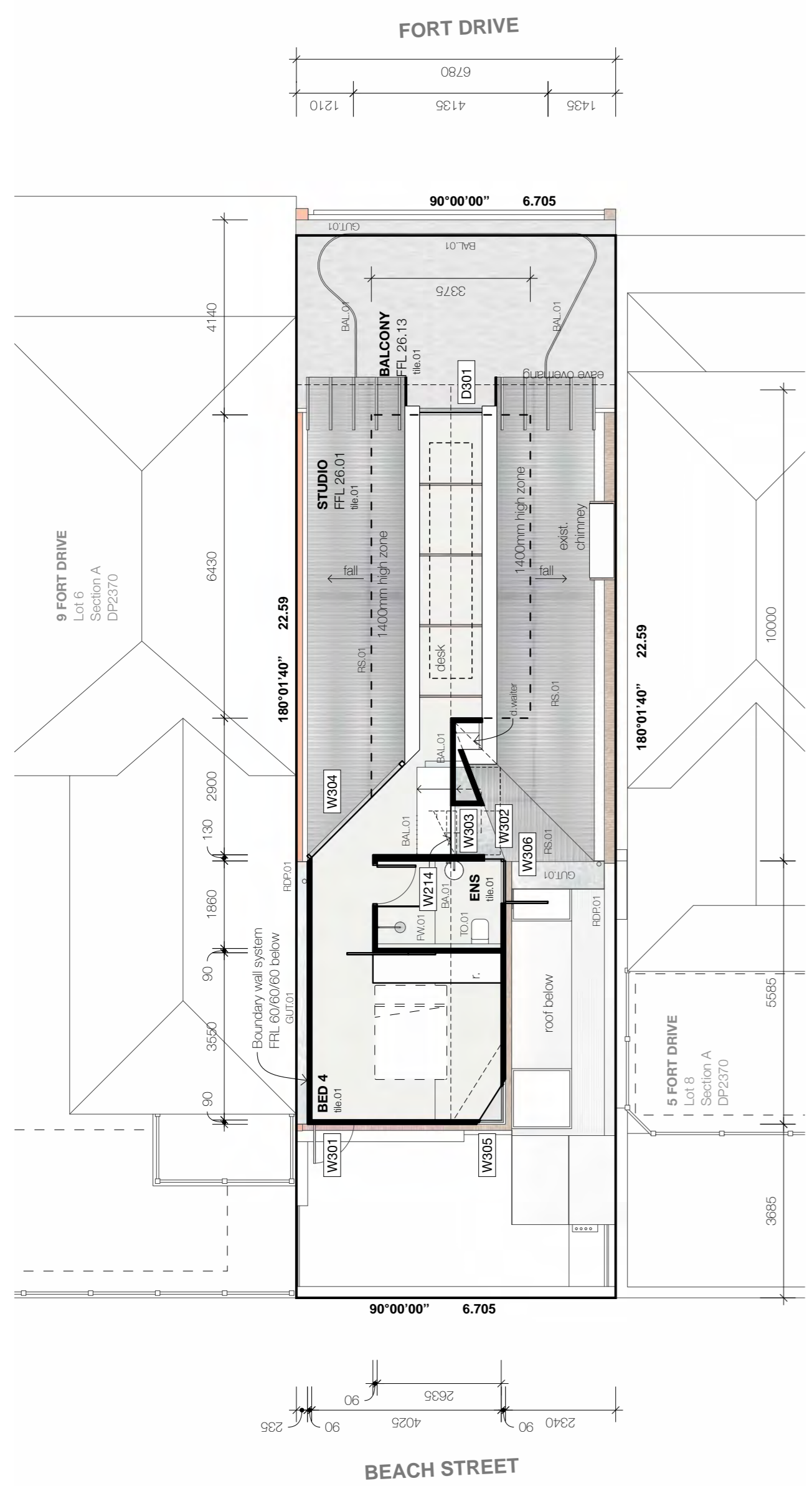


SITE PLAN
1:100

CONTEXT STUDY
1:100



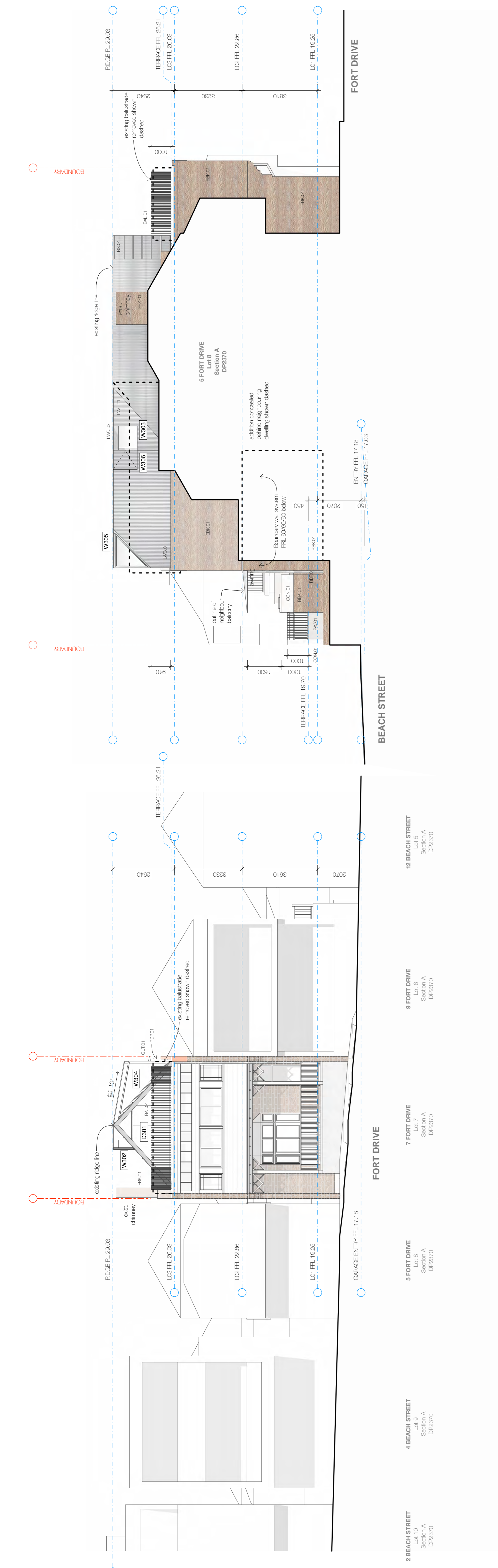
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 The proposed works are to be read in accordance with the relevant provisions of the Building Act 2011 and the Building Regulation 2012. All structural details are subject to the structural engineer's specifications. Drainage & water details are subject to Hydraulic engineers' specifications. Site R.L.'s, locations & services require verification by a qualified professional. All details are subject to Council engineer's specifications.
 Bushfire details are subject to a bushfire consultant.
 Work to figured dimensions. Do not scale drawings. Check dimensions and levels on site prior to the commencement of works. All dimensions are in millimetres.
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NOTE
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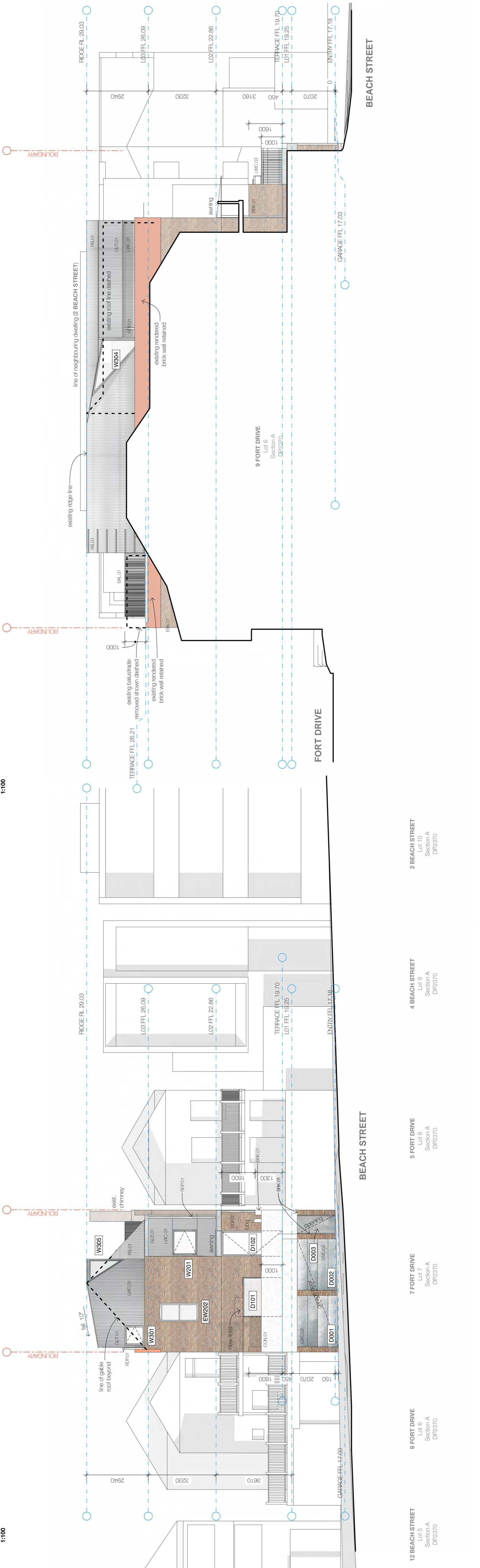
The proposed works are to be read in accordance with the following notes:
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NORTHERN ELEVATION
 1:100

EASTERN ELEVATION
 1:100



SOUTHERN ELEVATION
 1:100

WESTERN ELEVATION
 1:100

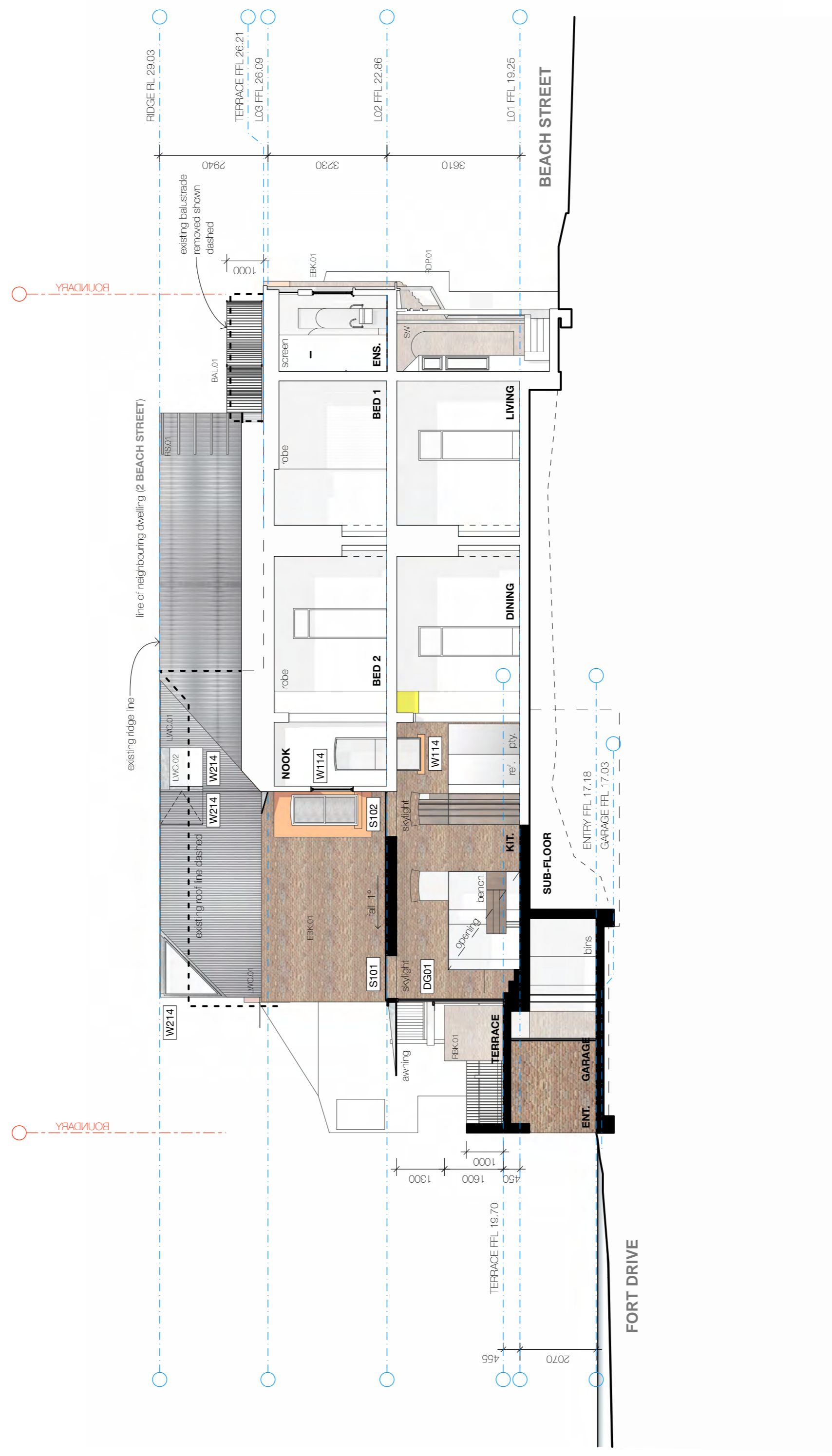
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The proposed works are to be read in accordance with the provisions of the Building Act 1993 and the Building Regulation 2006. All dimensions are in millimetres. All dimensions are in millimetres. All dimensions are in millimetres. All dimensions are in millimetres.

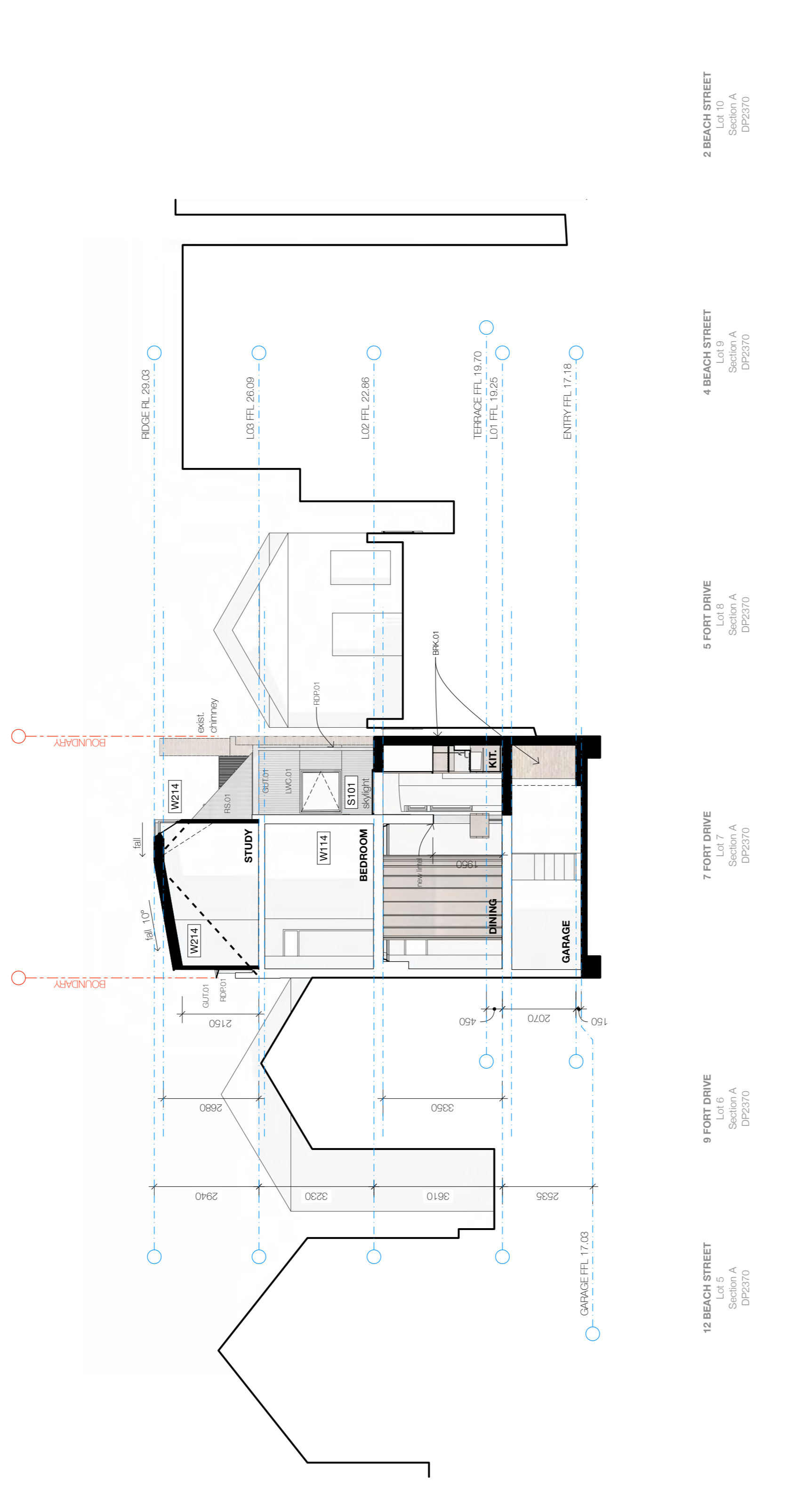
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SECTION A
 1:100



SECTION B
 1:100

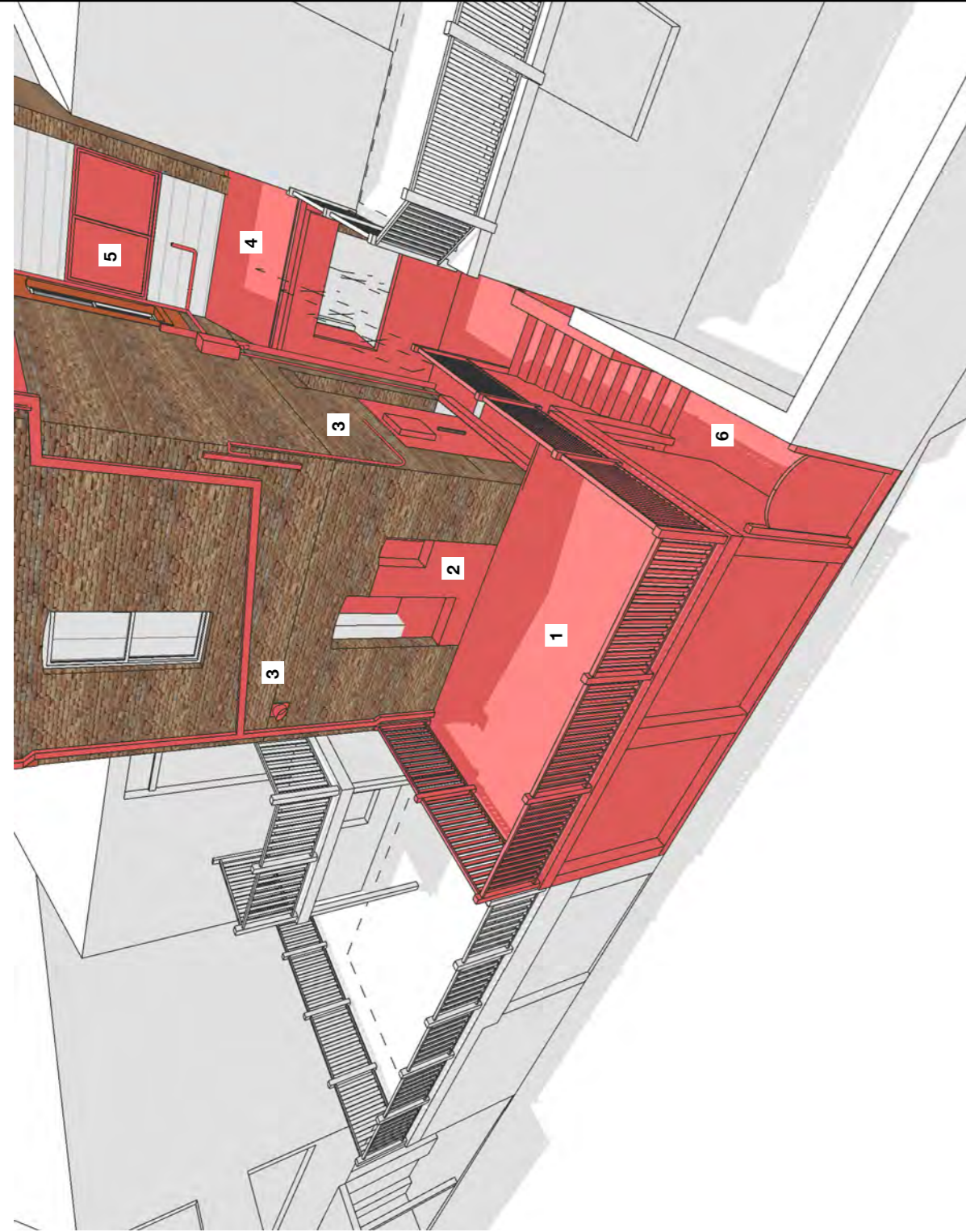
NOTE
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The proposed works are to be read in accordance with the following notes:
1. All work is to be carried out in accordance with the relevant Australian Standards and applicable government regulations. Structural details are subject to structural engineer's specifications. Drainage & water details are subject to Hydraulic engineer's specifications. Site R.L.s, locations & services require verification by a suitably qualified professional officers and are subject to Council engineer's specifications. Bushfire details are subject to a bushfire consultant.

Work to figured dimensions. Do not scale drawings. Check dimensions and levels on site prior to the commencement of work. All dimensions are to be shown in drawings. If in doubt—ask. Report all errors and omissions. All dimensions are in millimetres.

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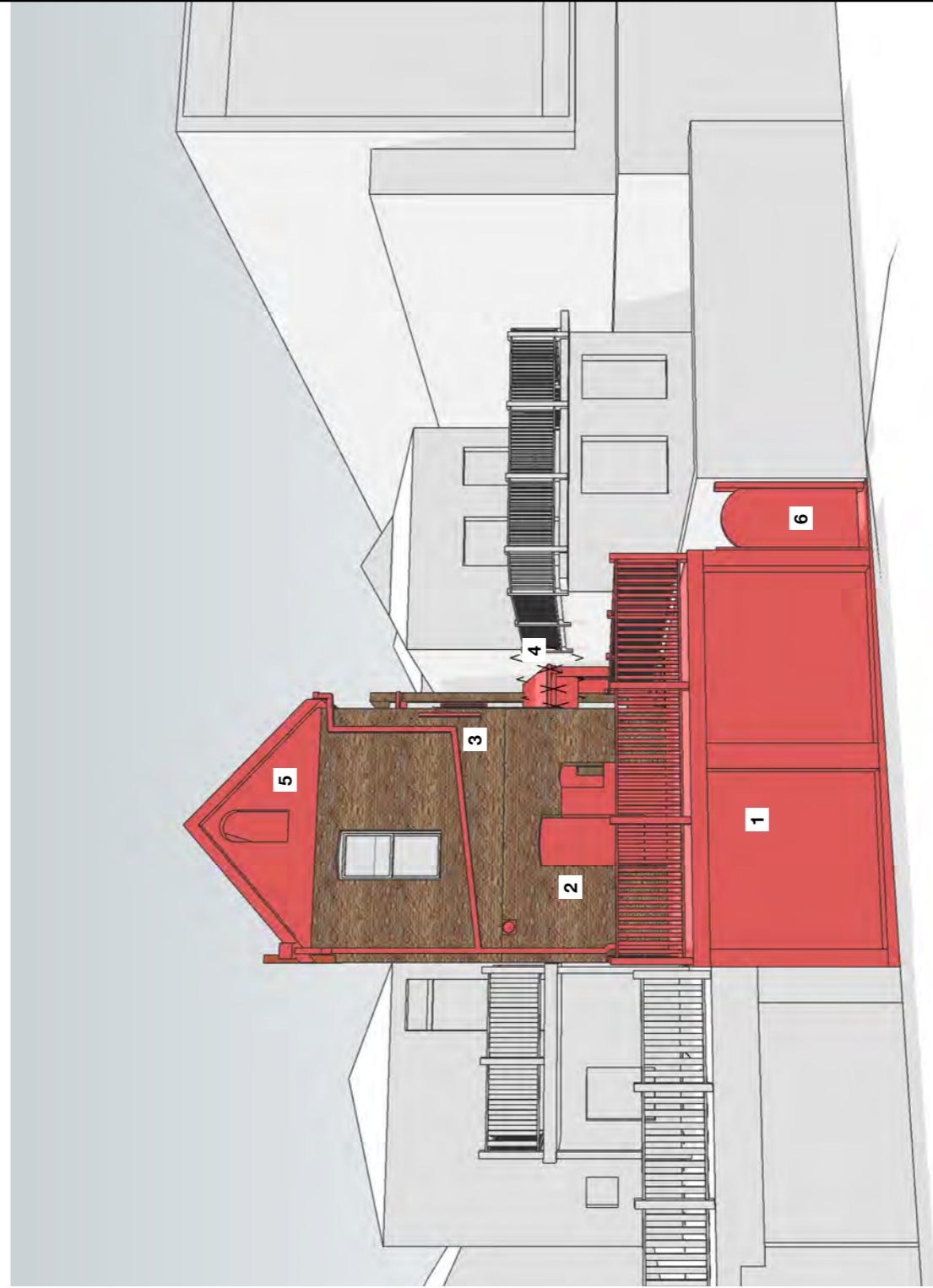
BEACH STREET - EXISTING

- IMAGE**
- 1 REMOVE EXISTING GARAGE WALLS, DOORS AND COLUMNS AND ROOF TERRACE OVER.
 - 2 MINOR ALTERATIONS TO LOWER FLOOR WINDOWS TO PROVIDE GREATER CONNECTION TO OUTDOOR LIVING.
 - 3 RELOCATE ALL USEFUL SERVICES INCLUDING, BUT NOT LIMITED TO, ELEC, POWER CONNECTION LINES AND METER BOARD, GAS HWL, EXISTING BATHROOM MECHANICAL VENT, PAN WATER HEATS AND DOWNPIPES, AND; SEWER WASTER STACKS AND VENTS.
 - 4 REMOVE EXISTING UNSYMPATHETIC LATER ADDITION LEAN TO ROOF (PORTION OVER BOUNDARY). **WATER CURRENTLY FALLS ON NEIGHBOURS PROPERTY VIA UNCONNECTED DOWNPIPE**
 - 5 REMOVE EXISTING STAIRS AND PARTIAL TERRACE BALUSTRADE.
 - 6 REMOVE EXISTING STAIRS, PARTIAL TERRACE BALUSTRADE.



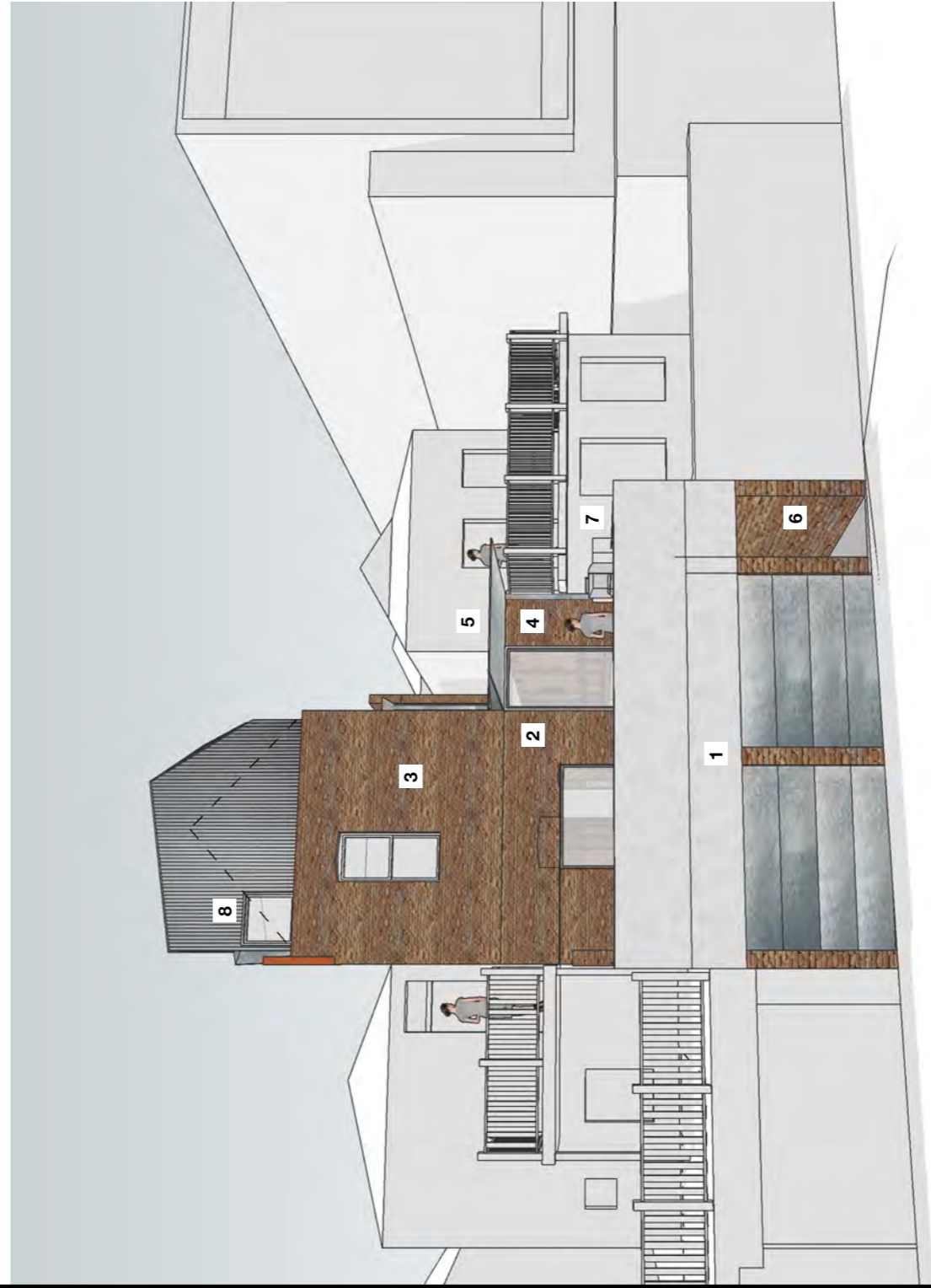
BEACH STREET - PROPOSED

- IMAGE**
- 1 NEW TERRACE EXTENDED TO EASTERN BOUNDARY, CLEAR 2 X CAR GARAGE UNDER.
 - 2 NEW LOWER FLOOR WINDOWS / DOORS TO PROVIDE GREATER CONNECTION TO OUTDOOR LIVING.
 - 3 CLEAN BRICKWORK CLEAR OF ALL UNSYMPATHETIC SERVICES AND CONDUITS.
 - 4 NEW SINGLE STOREY DRINKING ROOM EXTENSION, FLAT ROOF WITH SKYLIGHTS TO ACHIEVE SOLAR ACCESS TO PREDOMINANT SOUTH FACING PRIVATE LIVING AREAS. **STORMWATER CONNECTED TO EXISTING STORMWATER SYSTEM.**
 - 5 NEW AWNING OVER BBQ AREA FOR RAIN PROTECTION AND PRIVACY TO EASTERN NEIGHBOUR. **STORMWATER CONNECTED TO EXISTING STORMWATER SYSTEM.**
 - 6 NEW WALKING OVER BBQ AREA FOR RAIN PROTECTION AND PRIVACY TO EASTERN NEIGHBOUR. **STORMWATER CONNECTED TO EXISTING STORMWATER SYSTEM.**
 - 7 NEW WALKING OVER BBQ AREA FOR RAIN PROTECTION AND PRIVACY TO EASTERN NEIGHBOUR. **STORMWATER CONNECTED TO EXISTING STORMWATER SYSTEM.**
 - 8 NOMINAL 1300 HIGH RECYCLED BRICK PRIVACY / WIND-BREAK WALL / BALUSTRADE.
 - 9 RECYCLED PAINTED TIMBER WINDOW (relocated from existing bathroom)



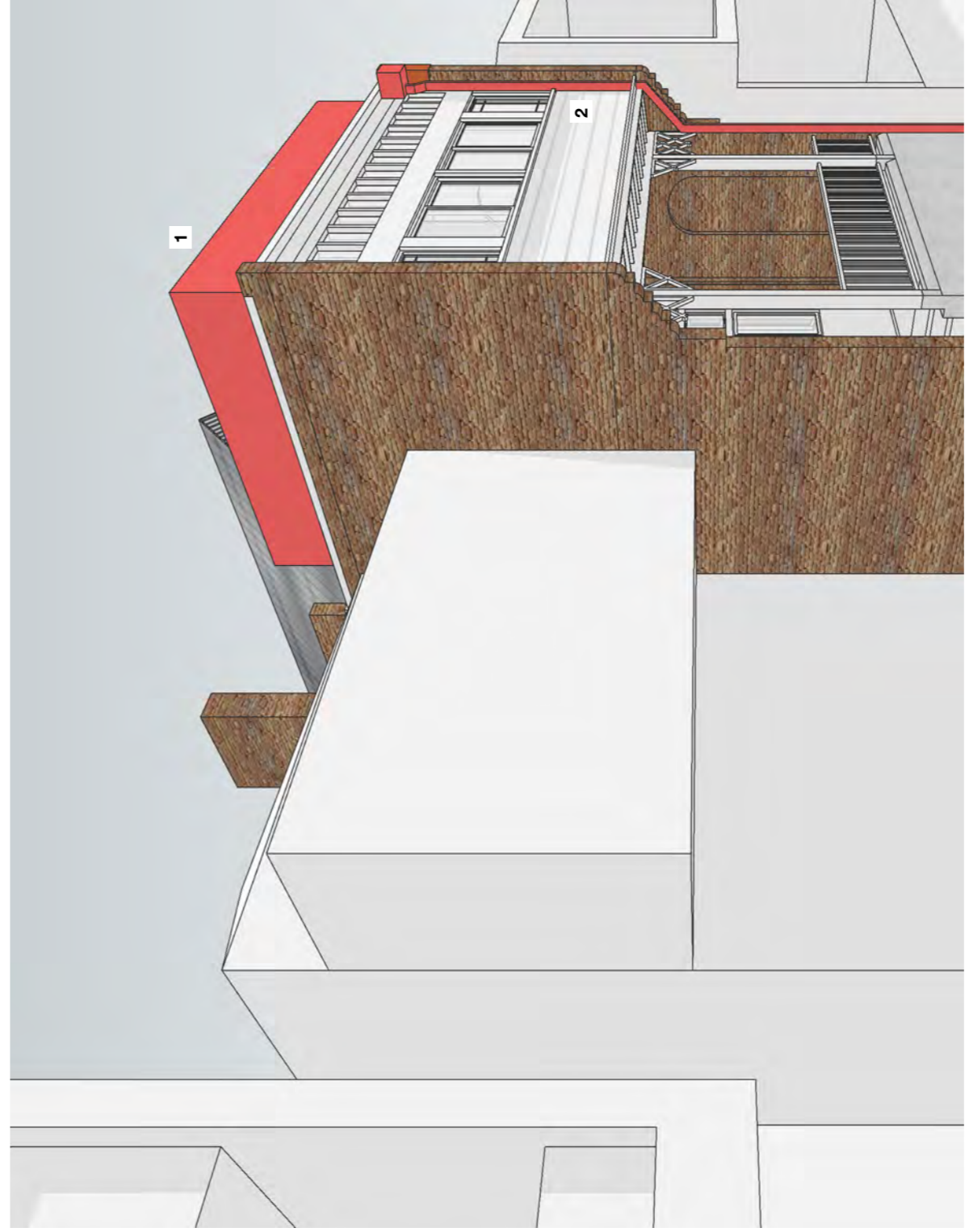
BEACH STREET - EXISTING

- IMAGE**
- 1 REMOVE EXISTING GARAGE WALLS, DOORS AND COLUMNS AND ROOF TERRACE OVER.
 - 2 MINOR ALTERATIONS TO LOWER FLOOR WINDOWS TO PROVIDE GREATER CONNECTION TO OUTDOOR LIVING.
 - 3 RELOCATE ALL USEFUL SERVICES INCLUDING, BUT NOT LIMITED TO, ELEC, POWER CONNECTION LINES AND METER BOARD, GAS HWL, EXISTING BATHROOM MECHANICAL VENT, PAN WATER HEATS AND DOWNPIPES, AND; SEWER WASTER STACKS AND VENTS.
 - 4 REMOVE EXISTING UNSYMPATHETIC LATER ADDITION LEAN TO ROOF (PORTION OVER BOUNDARY). **WATER CURRENTLY FALLS ON NEIGHBOURS PROPERTY VIA UNCONNECTED DOWNPIPE**
 - 5 REMOVE EXISTING STAIRS, PARTIAL TERRACE BALUSTRADE.
 - 6 REMOVE EXISTING STAIRS, PARTIAL TERRACE BALUSTRADE.
- SECTION B**
1:100



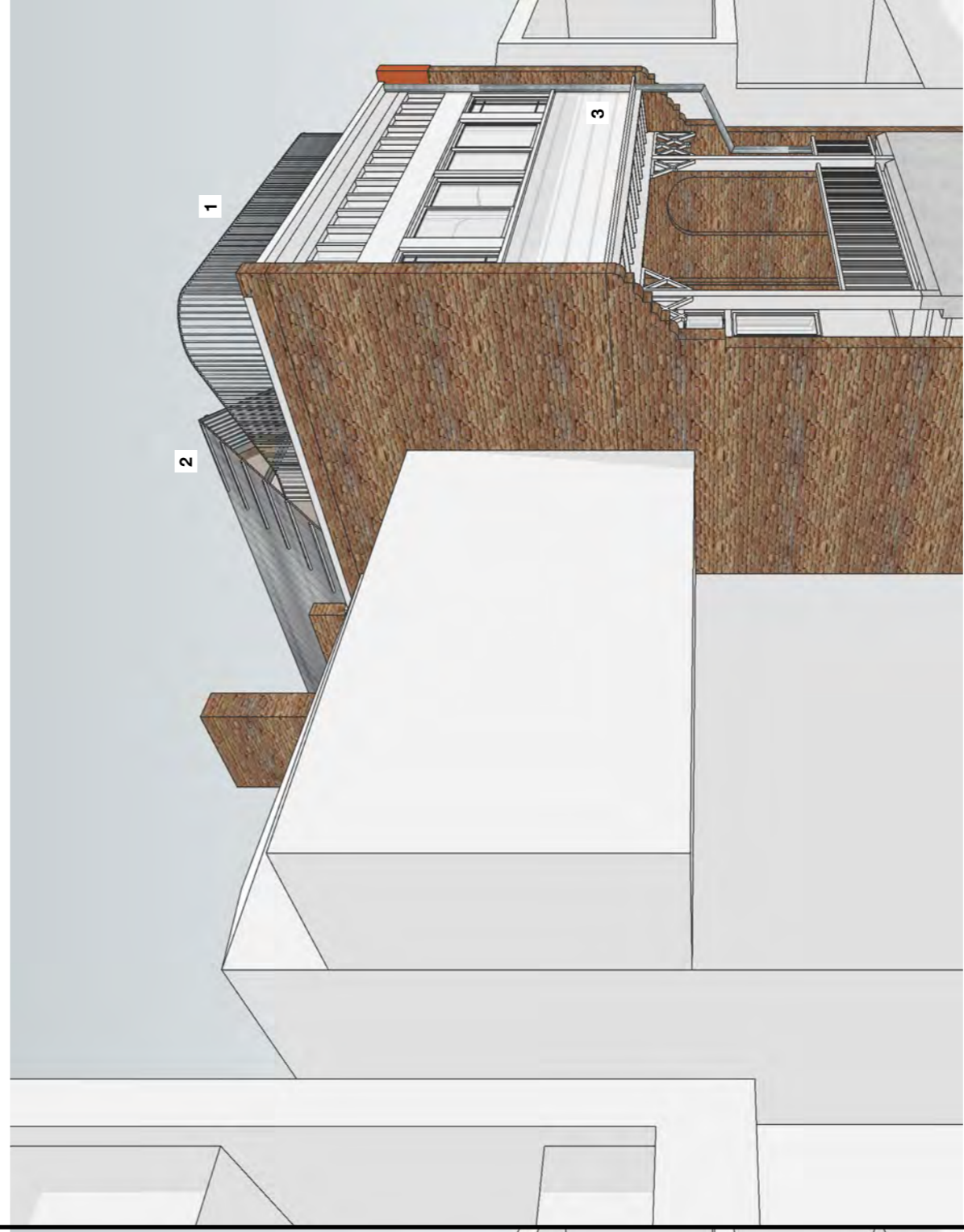
BEACH STREET - PROPOSED

- IMAGE**
- 1 NEW TERRACE EXTENDED TO EASTERN BOUNDARY, CLEAR 2 X CAR GARAGE UNDER, NEW GARAGE DOORS / GLAZING.
 - 2 NEW LOWER FLOOR WINDOWS / DOORS TO PROVIDE GREATER CONNECTION TO OUTDOOR LIVING.
 - 3 CLEAN BRICKWORK CLEAR OF ALL UNSYMPATHETIC SERVICES AND CONDUITS.
 - 4 NEW SINGLE STOREY DRINKING ROOM EXTENSION, FLAT ROOF WITH SKYLIGHTS TO ACHIEVE SOLAR ACCESS TO PREDOMINANT SOUTH FACING PRIVATE LIVING AREAS. **STORMWATER CONNECTED TO EXISTING STORMWATER SYSTEM.**
 - 5 NEW AWNING OVER BBQ AREA FOR RAIN PROTECTION AND PRIVACY TO EASTERN NEIGHBOUR. **STORMWATER CONNECTED TO EXISTING STORMWATER SYSTEM.**
 - 6 NEW WALKING OVER BBQ AREA FOR RAIN PROTECTION AND PRIVACY TO EASTERN NEIGHBOUR. **STORMWATER CONNECTED TO EXISTING STORMWATER SYSTEM.**
 - 7 NEW WALKING OVER BBQ AREA FOR RAIN PROTECTION AND PRIVACY TO EASTERN NEIGHBOUR. **STORMWATER CONNECTED TO EXISTING STORMWATER SYSTEM.**
 - 8 ALTERATION TO UPPER FLOOR, CEILING LEVEL INCREASED TO COMPLY WITH HABITABLE ROOM REQUIREMENTS, NO CHANGE TO BUILDING FOOTPRINT. HIGH LEVEL GLAZING TO REDUCE ANY IMPACT TO PRIVACY. **PITCHED GABLE ROOF FORM CARRIED THROUGH IN DESIGN.**



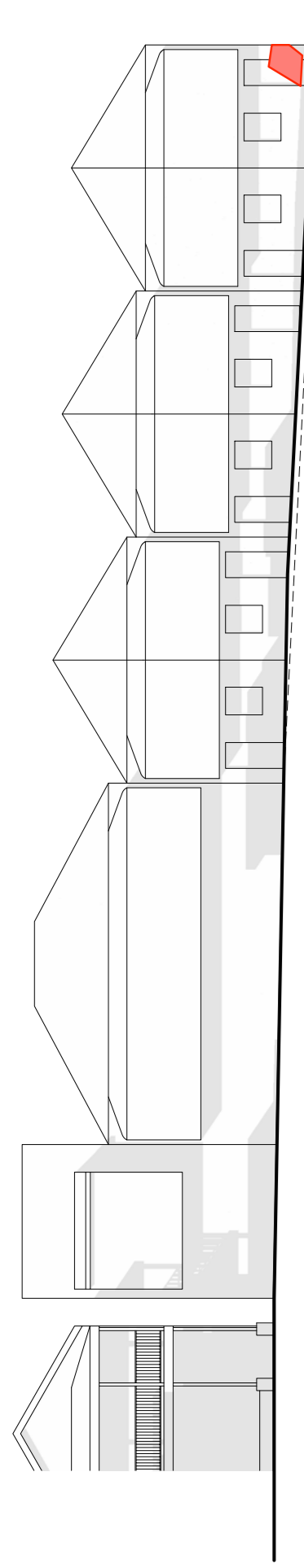
FORT DRIVE - EXISTING

- IMAGE**
- 1 REMOVE EXISTING UNSYMPATHETIC ALUMINIUM AND GLASS BALUSTRADE
 - 2 RELOCATE EXISTING PAN WATER HEAD AND DOWNPIPE.



FORT DRIVE - PROPOSED

- IMAGE**
- 1 NEW BALUSTRADE WITH GREATER SETBACK FROM BUILDING FRONT AND SIDE SETBACKS TO REDUCE VISIBILITY.
 - 2 NEW GLAZING TO GABLE END, NO CHANGE TO ROOF PITCH AND SETBACK.
 - 3 NEW PAINT FINISH TO FORT DRIVE FACADE.



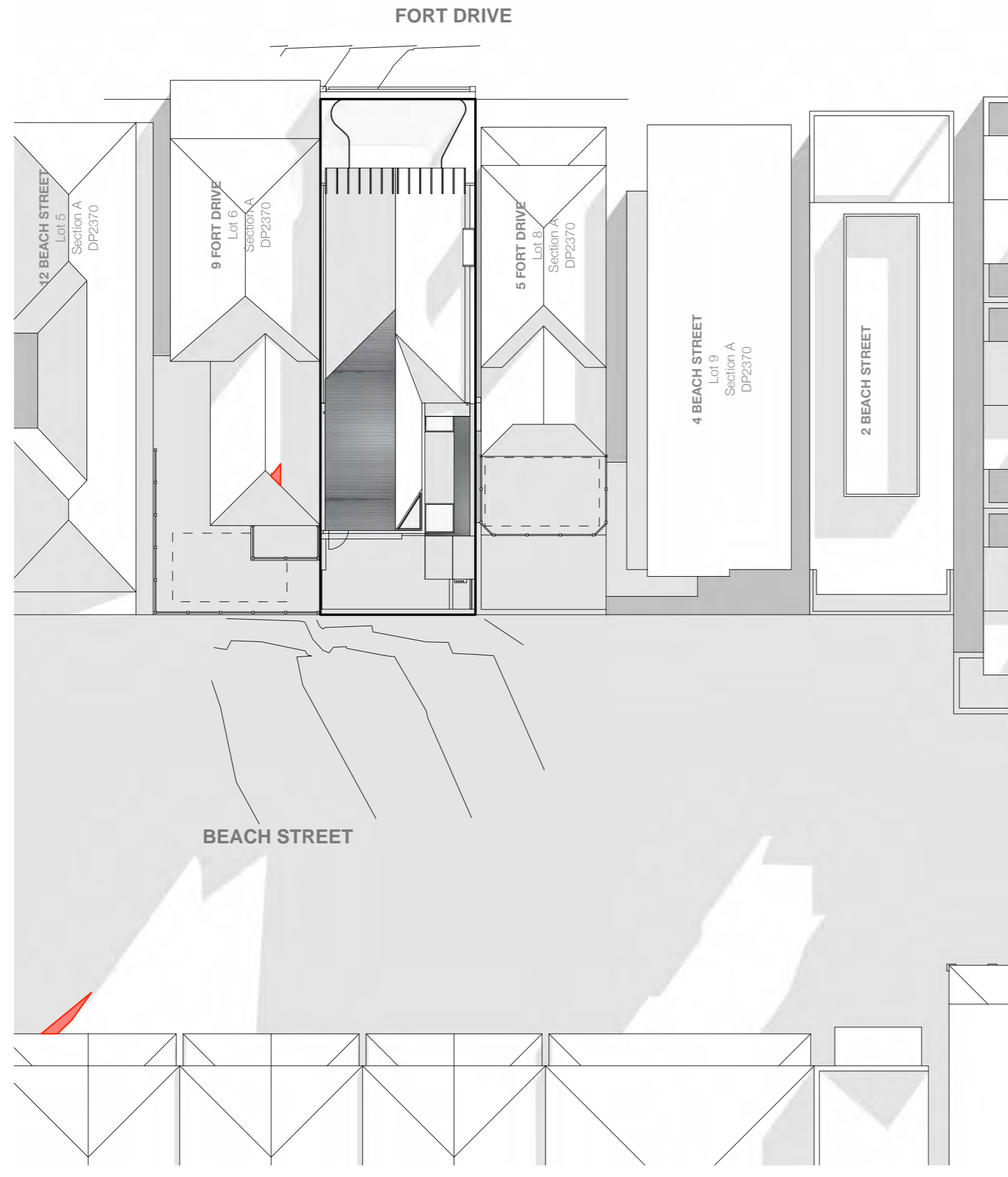
NOTE
Additional shadows cast by proposed structure from subject property.

No significant change to existing shadow projections.



SHADOW PROJECTIONS - PROPOSED - 9am

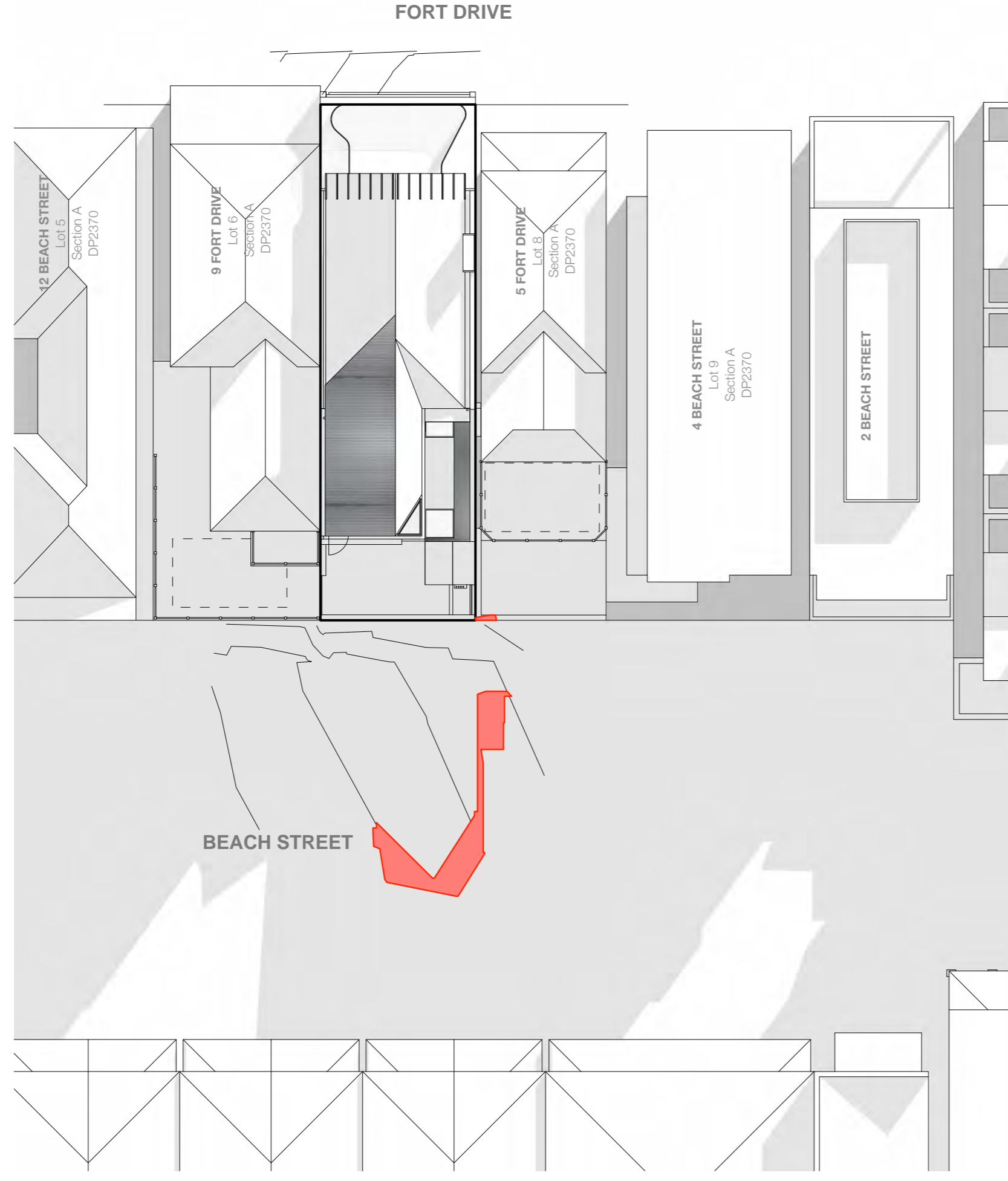
1200



1200

SHADOW PROJECTIONS - PROPOSED - 12pm

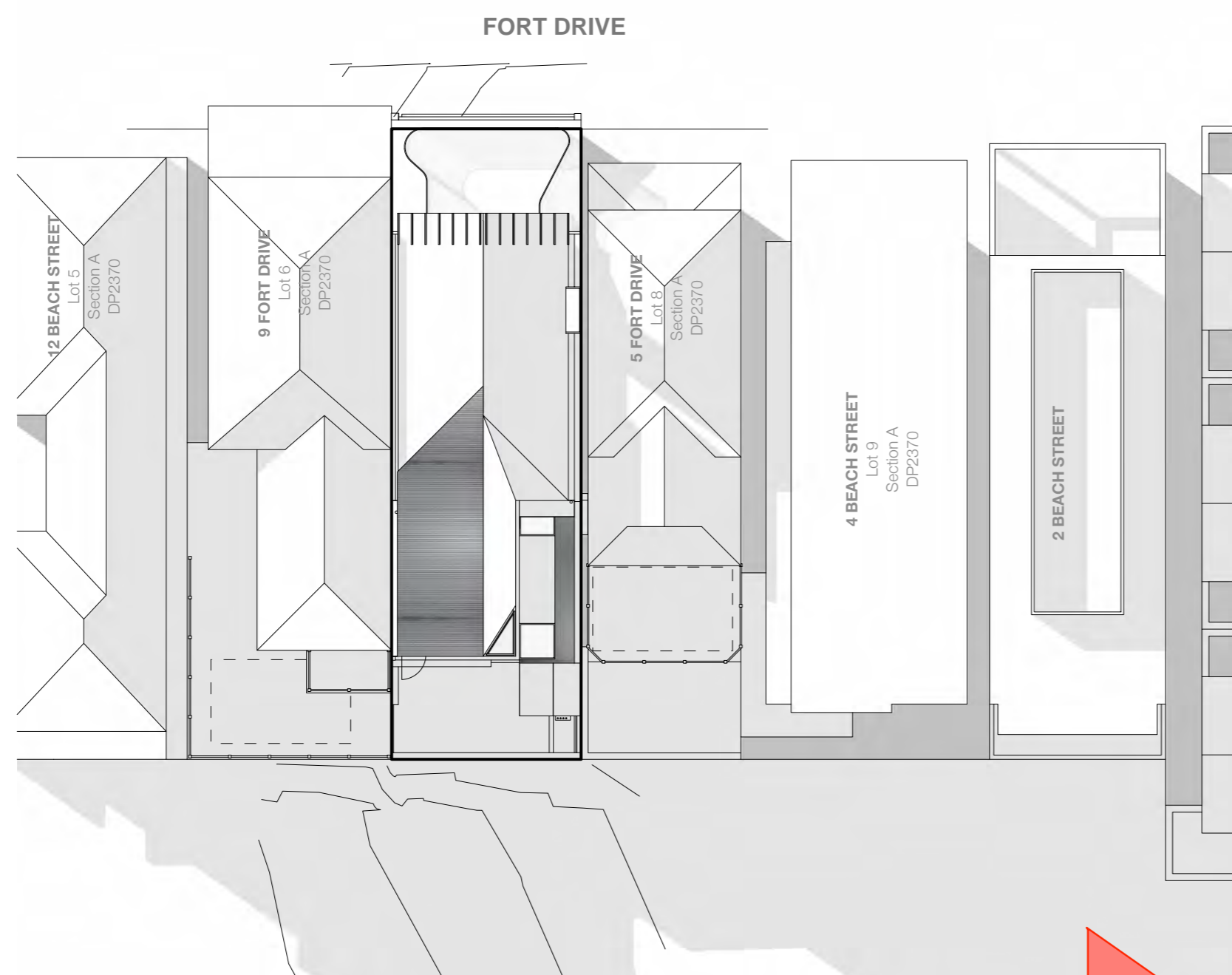
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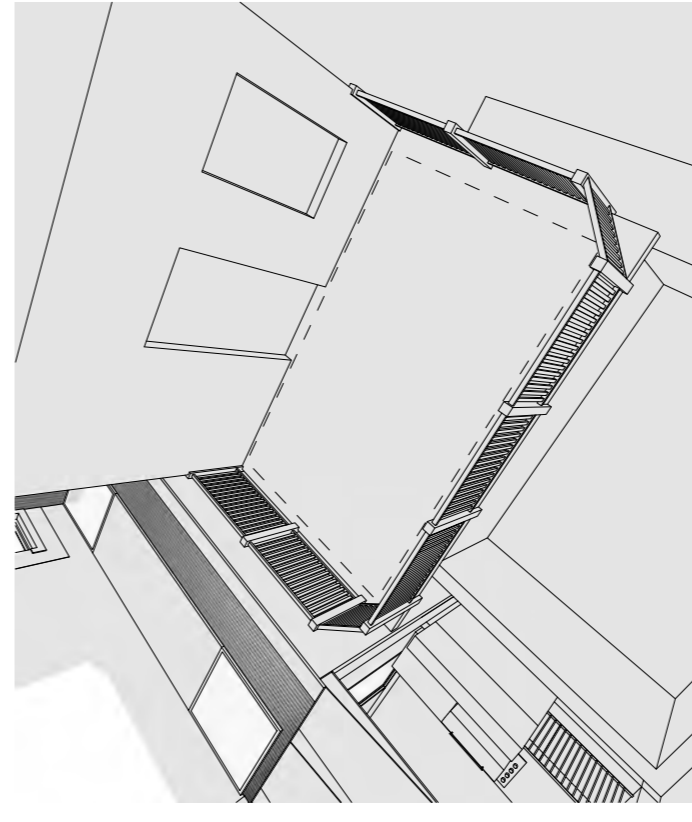
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SHADOW PROJECTIONS - PROPOSED - 3pm

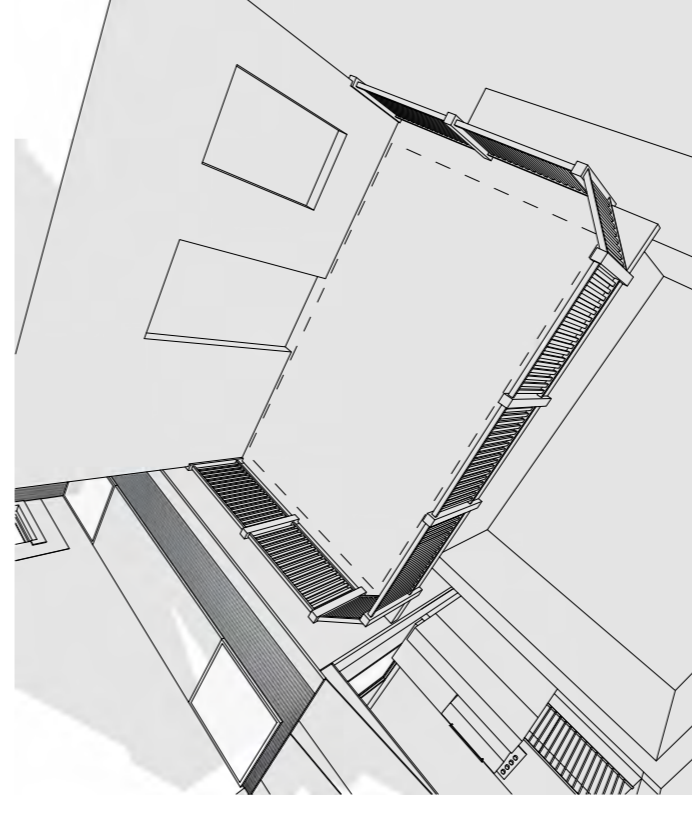
1200



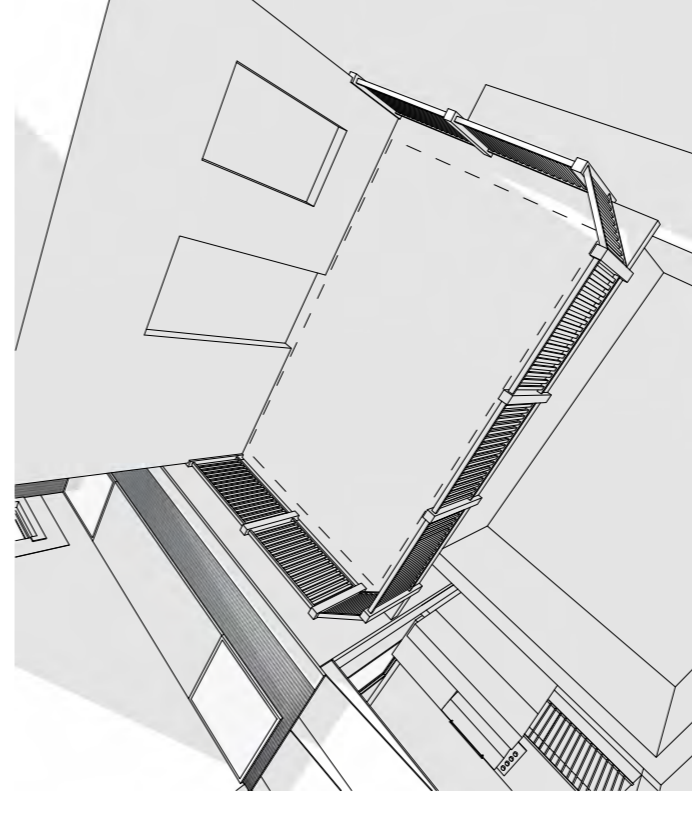
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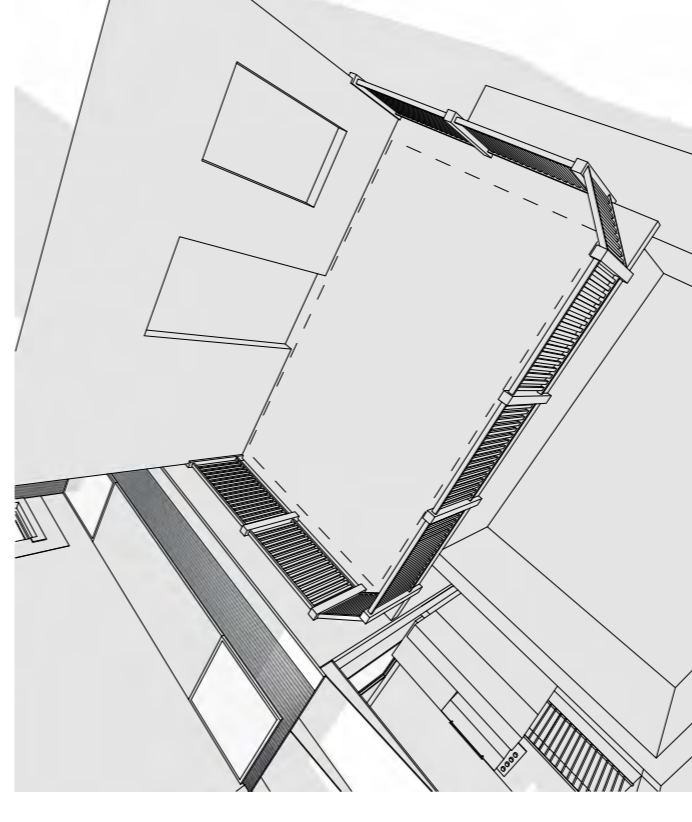
Existing - 9am



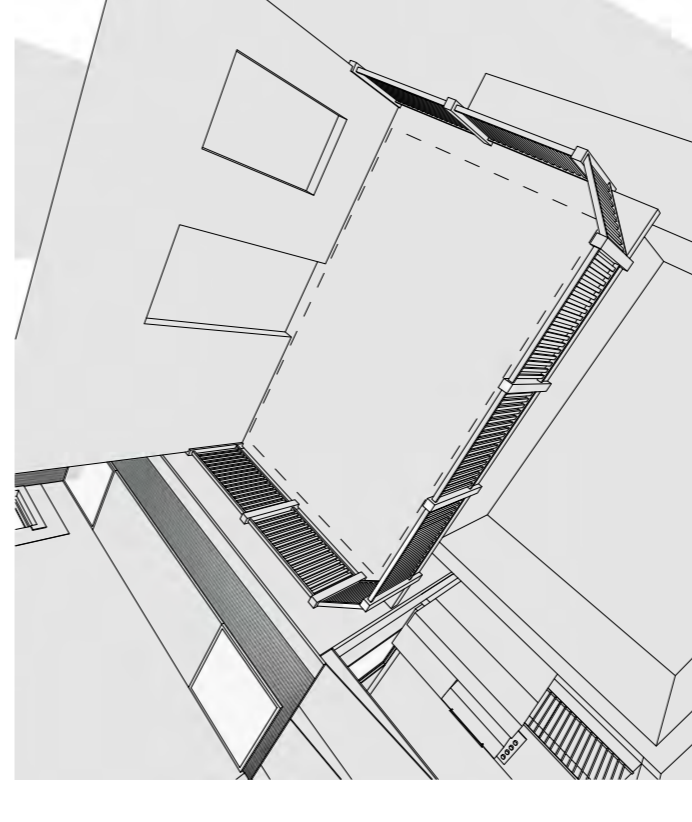
Existing - 10am



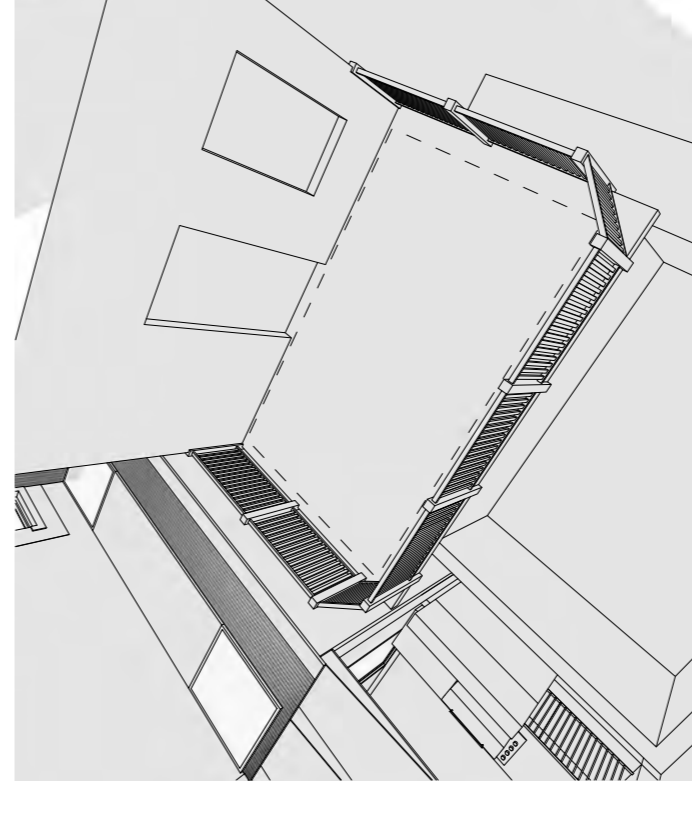
Existing - 11am



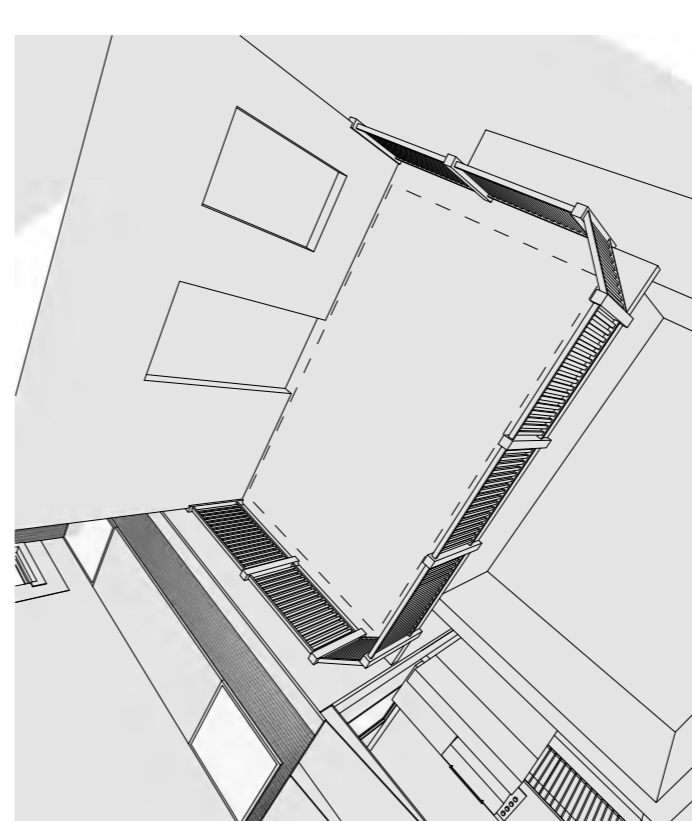
Existing - 12pm



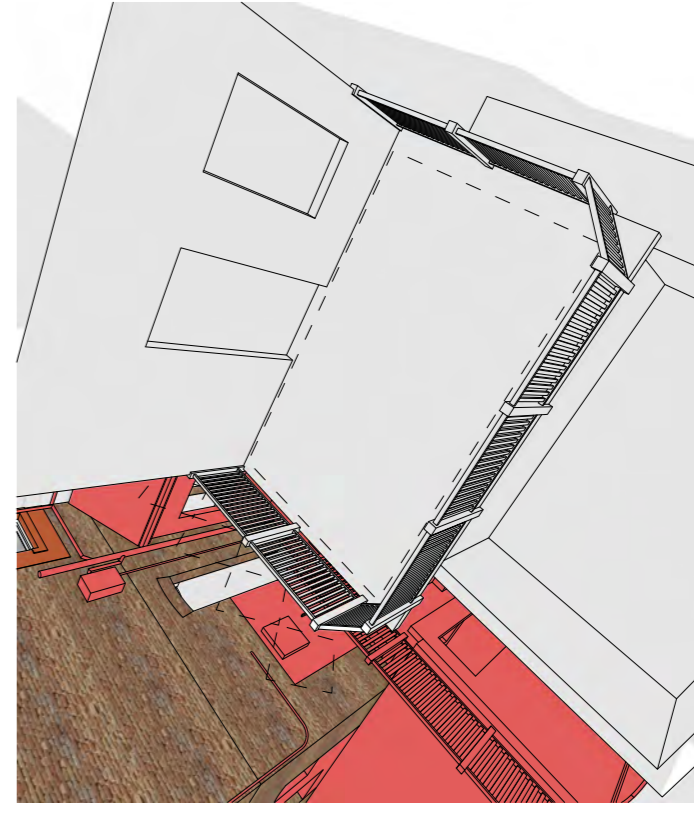
Existing - 1pm



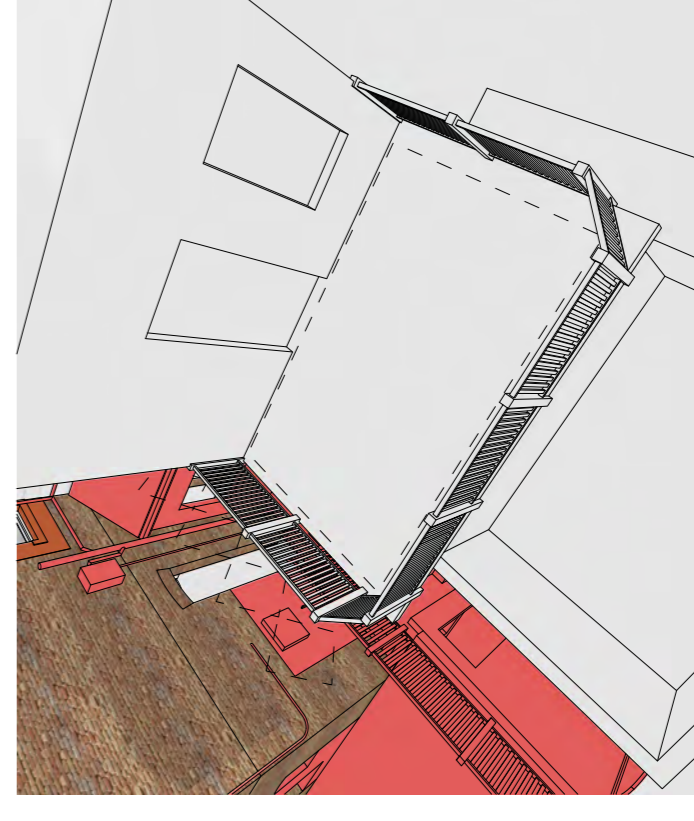
Existing - 2pm



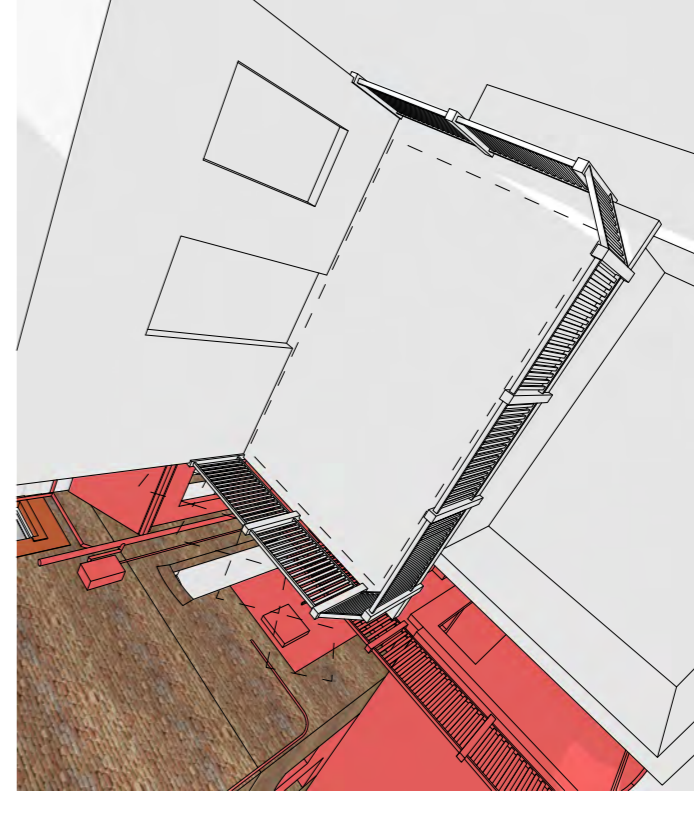
Existing - 3pm



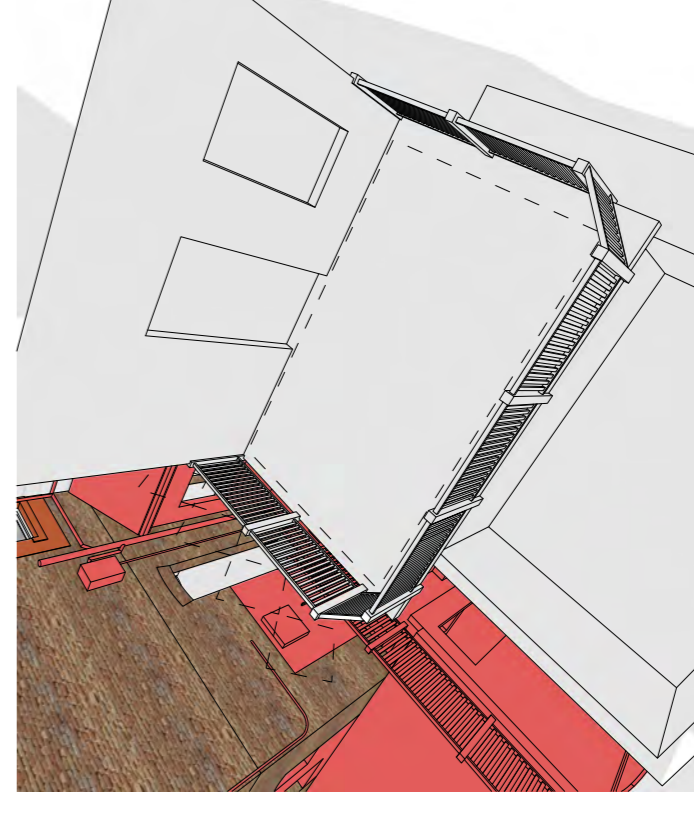
Proposed - 9am



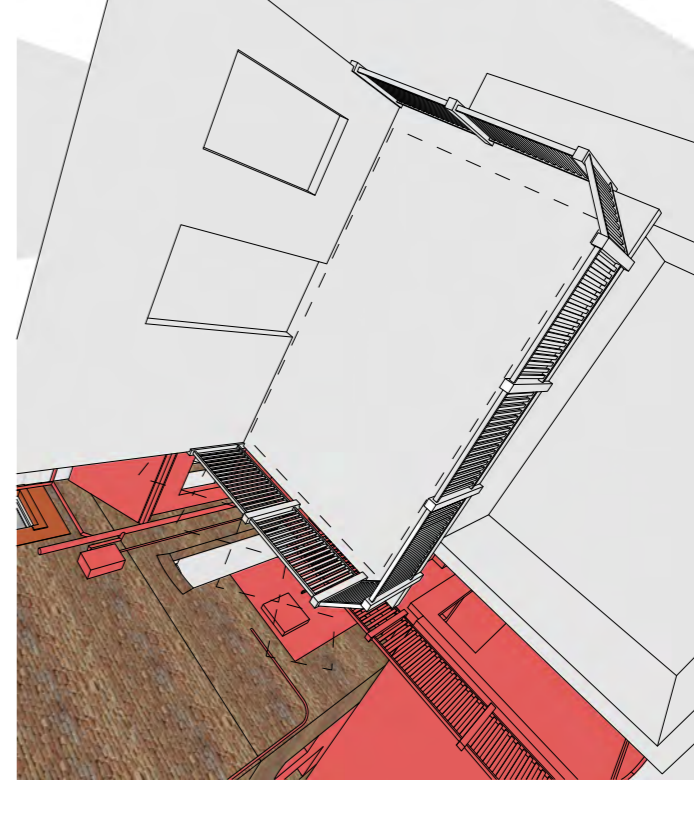
Proposed - 10am



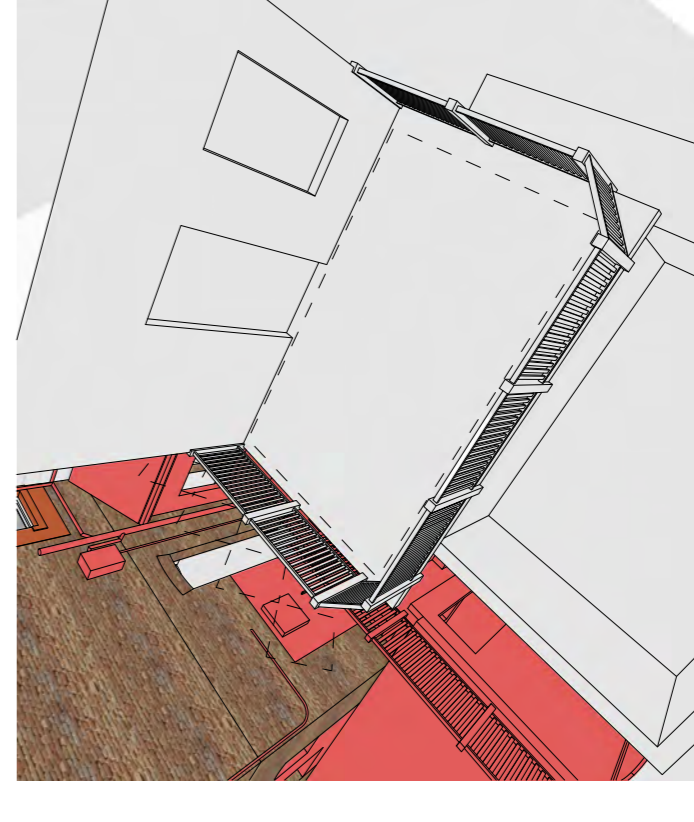
Proposed - 11am



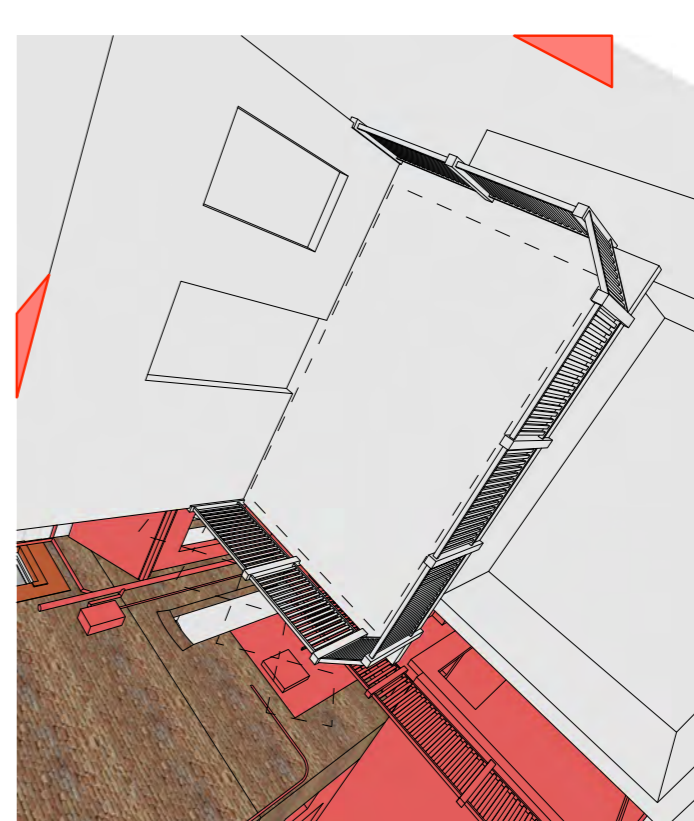
Proposed - 12pm



Proposed - 1pm



Proposed - 2pm



Proposed - 3pm

SHADOW PROJECTIONS - PROPOSED - 5 Fort Drive POS

NOTE
Existing overshadowing by buildings of the principal area of private open space of adjoining property does not satisfy the acceptable solution. The existing sunlight is not unreasonably reduced (no increase). When addressed against the performance criteria.

The immediate neighbour critical heights and levels have been surveyed - Refer to 0435 - DE. Adjoining development has not been surveyed. Set-out, heights, and opening locations are approximate only.

Additional shadows cast by proposed structure from subject property limited only to roof of 5 Fort Drive and upper wall of 4 Beach Street (no living room windows).

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4.0 CONCLUSION

The response to clause 4.6 Exceptions to Development Standards has been prepared for the numerical non-compliance of the proposal to development standard 4.4 Floor Space Ratio under the Newcastle LEP. The extent of variation is considered acceptable as demonstrated in parts above and in context to the existing volumes surrounding the proposal.

As demonstrated, the overall massing, scale, volume and height of the proposed development is compatible and in harmony with the desired future character envisioned by the City of Newcastle for the Newcastle East Precinct and R3 medium density zoning.

The variation would allow for the continued domestic use of the land with a contemporary living scenario. Further, after consultation meetings with immediate neighbours and amending the design to meet the most appropriate development massing for the site, the proposal will not result in any unreasonable impact on amenity or any significant adverse environmental impacts as a result of the variation.

The table below provides a summary of this document.

SUBJECT LOT	7 Fort Drive NEWCASTLE EAST, 2300
ZONING	Lot 7 Sec. A DP 2370 R3 Medium Density Residential
SUBJECT DEVELOPMENT STANDARD	4.3 Height of Buildings
ADVERSE EFFECT	10m
POTENTIAL BENEFIT	12m
PROPOSED HEIGHT	12m
JUSTIFICATION	- Existing height exceeds standard - Significant increase to property amenity - Sympathetic massing to neighbourhood character - Complementary materials - Neighbouring solar access maintained
SUPPORT	- Existing condition - Heritage Impact Statement - View Sharing Analysis & Statement - Shadow Projection Study

drawing scale	4:6 Variation Height of Buildings	1:100	date	23.11.20	comment	Development Application
site address	Client	CL	ref.	24.03.21	Development Application	99
height	Development Application B	CL	date	24.03.2021	Development Application	99

4.6 Exceptions to Development Standards

4.4 Floor Space Ratio

4.3 Height of Buildings

4.2 Maximum Height

4.1 Maximum Height

4.0 Maximum Height

3.9 Maximum Height

3.8 Maximum Height

3.7 Maximum Height

3.6 Maximum Height

3.5 Maximum Height

3.4 Maximum Height

3.3 Maximum Height

3.2 Maximum Height

3.1 Maximum Height

3.0 Maximum Height

2.9 Maximum Height

2.8 Maximum Height

2.7 Maximum Height

2.6 Maximum Height

2.5 Maximum Height

2.4 Maximum Height

2.3 Maximum Height

2.2 Maximum Height

2.1 Maximum Height

2.0 Maximum Height

1.9 Maximum Height

1.8 Maximum Height

1.7 Maximum Height

1.6 Maximum Height

1.5 Maximum Height

1.4 Maximum Height

1.3 Maximum Height

1.2 Maximum Height

1.1 Maximum Height

1.0 Maximum Height

3.1 DEVELOPMENT STANDARD & EXISTING CONDITION

The subject lot is located in a K10 zone. Refer to Height of Buildings - Sheet HCB_D04K (clipping provided above). Accordingly, the prescribed height of building development standard under clause 4.3 Height of Buildings is 10m.

Due to the slope across the site, the existing overall ridge line (RL 230.1) of the property is 12m to the Beach Street elevation and 10.6m to Fort Drive. The existing ridge line to be altered (RL 231.7) is 11.2m high to Beach Street.

3.2 PROPOSED VARIATION

The proposed alterations and additions seek to update interior spaces with most exterior alterations made to the rear Beach Street elevation. The southern portion of the existing third floor is contained within a low pitched attic space and is at present practically unusable. In order to improve this underperforming area of the property, a minor increase (0.84m) to the existing rear height of the building has been made to meet the existing overall ridge height.

The proposed height of the building is 12m at the Beach Street elevation and 10.6m at the Fort Drive elevation.

This is a 20% (2m) increase from the building height allowed under clause 4.3 Height of Buildings. However, this is only a 7.1% (0.84m) increase from the existing ridge line being altered and a 0% increase from the overall existing ridge line.

3.3 VARIATION JUSTIFICATION

For the proposal at 7 Fort Drive, Newcastle East, strict compliance with the height of building development standard of 10m is unreasonable. This is due to the reasons outlined below.

- Existing height: the existing height of the building already exceeds that allowable. The proposed increase does not exceed the existing overall ridge line but meets it.
- Amenity: the proposed increase to the height of the building occurs only in an area of existing floor space which has a very low pitched roof above it. The building in this location provides improved amenity for the occupants of the building, comprising an floor space which already exists but is not fit for habitation.
- Massing: the shape and massing of the existing building is retained. The rear pitched roof form is altered but retained and sculpting of the mass at corners reduces bulk and reinforces the vegetated character of the building and street. The mass of this alteration only occupies roughly half of the lot width, with the other half set further back, reducing the presence of the building's volume. This is in contrast with the new large, rectilinear dwellings at 2, 4 and 12 Beach Street.
- Materiality: the lightweight cladding of corrugated metal sheathing makes the addition as an extension of the roof rather than that of the masonry building below. The proposed alterations and additions to this property aims to provide a light, clean, refreshed and high quality dwelling for the streetscape and neighbourhood.
- Solar access: the increased height of the development does not significantly affect the solar access of any neighbouring lots. Refer to the Shadow Projection Study supplied with the Development Application submission.

Strict compliance would compromise the objectives of:

- ensuring the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy, and
- providing for the housing needs of the community within a medium density residential environment, and
- allowing some diversity of densities in the scale and height of proposed buildings are compatible with the character of the locality.
- encouraging increased population levels in locations that will support the commercial viability of centres provided that the associated new development has regard to the desired future character of residential streets and does not significantly detract from the amenity of any existing nearby development.

Given the established built context, existing built heights on the subject lot and the change of level across the site, the numerical control of 10m is impossible. We can assume that the 10m control has been nominated to ensure that the associated development control provisions—streetscape appearance, landscape and outdoor areas, privacy, solar access, view sharing, car parking—are achieved. These related considerations have been addressed and satisfied (refer to the Statement of Environmental Effects, View Sharing Analysis and Heritage Impact Statement for detailed justifications in these areas). The minor variation of the existing rear height to meet the existing overall height does not significantly impact on neighbouring lots or detract to its context and the public interest associated with the R3 medium density zoning.

3.4 ENVIRONMENTAL PLANNING GROUNDS

A Heritage Impact Statement (PHS2020/00048) was undertaken for this property. An increase to the overall height of the building had been proposed and subsequently altered after the meeting following advice that the existing gabled roof to the roof section of the dwelling is maintained, or that the new roof match the ridge height of the existing roof.

The existing roof has been maintained with the alteration matching the existing ridge height.

The Heritage Impact Statement (PHS) undertaken by Linda Babic at Haines Architecture and supplied with this DA, outlines support for those parts of the alterations and additions which propose to alter the building height:

- The proposal achieves a substantial single family dwelling accommodation without the bulk represented by nearby recent construction at No. 2 and No. 4 Beach Street.
- The contributory building is retained, its profile and form is retained, and its contribution to the HCA as a contributory building is maintained.
- The roof amendment at the rear is complementary to the existing massing, form, rhythm, bulk, scale, pitch, ridge heights of the immediate context. The new rear form also continues a historical pitched roof form, as opposed to the numerous more modern flat roof forms in the area.
- The existing roof ridge is maintained and extended in the rear extension. The existing gabled roof form will remain distinct. It is noted that the original roof form of this dwelling was hip and tiled, but at some unknown date was amended to a gabled, metal clad roof.
- The new rear roof form is similar to the new roof form at 1 Ocean Terrace.

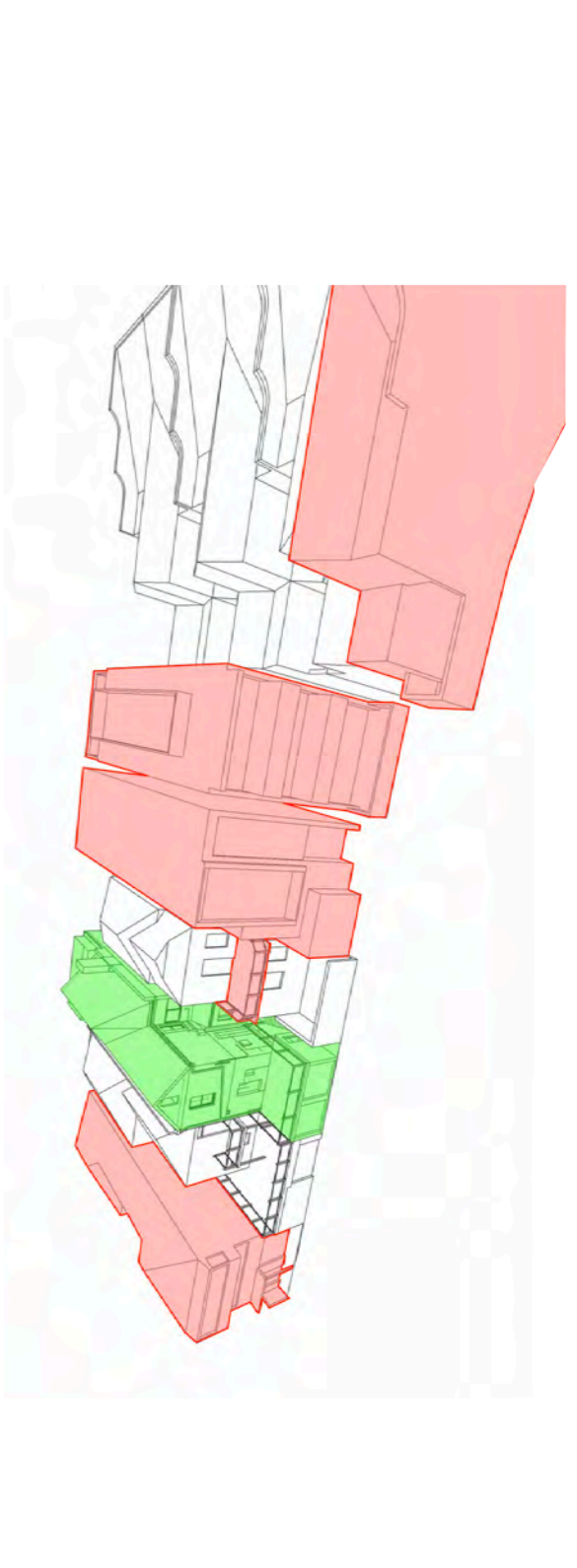
This assessment by the heritage architect finds no negative impact by the proposed design or height increase on the historic character of the neighbourhood or significance of the contributory building. Finding the alterations and additions to be complementary and notes its superior performance in these matters to the numerous modern flat roof forms in the proximity.

3.5 PUBLIC INTEREST

The proposed development, as outlined in this report, will be in the public interest as it is consistent with the objectives of the Newcastle LEP. The desired Newcastle East character is to allow for the housing needs of the community within a medium density residential environment. This proposal aims to be sympathetic with Newcastle East and specifically the built character of Fort Drive and Beach Street. The proposed height is commensurate with the objectives of the zone which allows for a density of density if the scale and height of proposed buildings are compatible with the local character. The addition, in achieving contemporary living standards, further enables the existing contributory dwelling to be generally maintained as part of a sequence of terrace houses to Fort Drive without need for demolition and infill development.

The majority of works associated with proposal are limited to the Beach Street facade which is congruent with past additions and alterations to neighbouring dwellings and maintains the Fort Drive historic elevation. In addition, it has regard to the desired future character of residential streets as the proposed additions are to the rear of the property and proportionate to previous neighbouring alterations and additions and does not significantly detract from the amenity of any existing nearby development.

Consultation with immediate neighbours has been undertaken prior to the assessment period with modifications to the proposed works carried out to satisfy their concerns. The proposed height of the building was not raised as a issue as there will be no significant adverse impact on the amenity of any existing nearby development.



Perspective view of the existing volumes

VARIATION TO A DEVELOPMENT STANDARD - Height of Building

1.0 INTRODUCTION

This Application seeks exception to a development standard pursuant to clause 4.6 Exceptions to development standards of the Newcastle Local Environmental Plan 2012 (LEP), the objectives of which are as follows:

- to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Development standards are a means to achieving an environmental planning objective and can be numerical or performance based. Some developments may, subject to this clause, achieve planning objectives despite contravening a development standard imposed by this or any other environmental planning instrument. The planning system provides flexibility to allow these objectives to be met by varying development standards in exceptional cases. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

This Application demonstrates compliance with the development standard is unreasonable or unnecessary in the circumstances of this development and that there are sufficient environmental planning grounds to justify contravening the development standard.

2.0 SITE DETAILS

The Application seeks to vary an existing 3.5 storey, single residential terrace house that occupies the property at 7 Fort Drive, Newcastle East. The site is rectangular with 6.78m wide frontage to both Fort Drive and Beach Street and 22.69m side boundaries. The property abuts single residences of 5 and 9 Fort Drive properties through the seawall walls. The site has a significant change in level from Fort Drive to Beach Street with a period basement (garage) under the Fort Drive entry level. The site is on the southern side of Fort Drive and has a total floor area of 163.1m². The current building footprint covers approximately 100m²—including garaging and service areas—of the site with no landscaping. Fort Drive is a two-way road through to primarily used one-way as a local access road for residences and paid parking for city workers and beachgoers. The site is also accessed from Beach Street and is the primary vehicular access for the site. Dual vehicular doors address Beach Street though are however only accessible by a single small vehicle. External pedestrian access from Beach Street is via gated path and stairs.

The site lies within the Newcastle East Heritage Conservation Area and within a Heritage Item. It could be considered a Contributory 2 building as it dates from the conservation area's key period of significance (c.1801 - 1940). The house presents as a 2-storey, brick terrace house with enclosed parkland weatherboard upper floor sun-room and enclosed habitable gable and roof spaces. Ground floor openings consist of original timber windows, doors and are complemented with decorative timber work and pressed in sheathing around bay window. Unsympathetic alterations are evident to Fort Drive facade including replaced slanted glass windows in sun-room and aluminium and aluminium and glass balustrade to the perimeter of roof terrace. A later flag pole across gable end roof. Alterations have been made to the dwelling and ancillary structures since its initial construction, which are concentrated to the rear. These include removal and filling of existing windows and of garage with roof terrace of Fort Drive level. The modifications are evident externally through material and form varying from the original dwelling.

All general use zones including kitchen, dining, bathroom and lounge are located on the ground level (Fort Drive). A small garage, bin store and laundry is accessed internally below within a semi underground basement of the Beach Street level. Offices comprise three bedrooms and a single sun-room. Above is a habitable roof space with residential ceiling height. A secondary garage is located to the rear of the site. Access to the R3 zone is one road terrace to Fort Drive. The roof terrace, addition to ground floor parking and garaging is of a grade that could be considered later unsympathetic alterations.

The southern rear garage roof terrace is the residence's primary private open outdoor space and is accessed via the Fort Drive level containing lecture and primary living areas. The outlook is over to Beach Street and has obscured views of the ocean to the south-east. Both immediate adjoining properties have balconies and terraces immediately adjacent and/or above that overlook the owners of 7 Fort Drive's Private Open Space. In particular no. 5, no. 9 and no. 12 Fort Drive. The Private Open Space is also highly exposed to Beach Street vehicle and pedestrian traffic.

2.1 ZONING

The subject lot is located in a R3 Medium Density Residential zone. Refer to Land Zoning Map - Sheet LZN_D04K (clipping provided).

Zone R3 Medium Density Residential has the following objectives:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types, with a medium density residential environment.
- To enable other end uses that provide facilities or services to meet the day to day needs of residents.
- To allow some diversity of activities and densities in—
 - the scale and height of proposed buildings is compatible with the character of the locality, and
 - there will be no significant adverse impact on the amenity of any existing nearby development.
- To encourage increased population levels in locations that will support the commercial viability of centres
- provided that the associated new development—
 - is in accord with the desired future character of residential streets, and
 - does not significantly detract from the amenity of any existing nearby development.

3.0 VARIATION TO THE DEVELOPMENT STANDARD

This Application seeks exception to the development standard 4.3 Height of Buildings of the Newcastle LEP. The objectives of which are as follows:

- to ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy,
- to allow reasonable daylight access to all developments and the public domain.

Under Section 3.02 Single Dwellings and Ancillary Development of the Newcastle Development Control Plan 2012 (DCP), clause 3.02.02 Height of buildings does not set performance criteria. As such, variations to the controls set by the LEP are subject to clause 4.6 Exceptions to development standards. Since the property is within a Heritage Conservation Area, although a Height of Building Map is provided for this property, a Heritage Impact Assessment has been supplied as part of the Development Application (DA2020/01389) application to justify the proposed heights.

This Application seeks to vary the development standard 4.3 Height of Buildings and justifies this action pursuant to clauses (3), (4) and (5) of part 4.6 Exceptions to Development Standards which are as follows:

- Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - that the proposed development is unreasonable or unnecessary in the circumstances of the development standard, and
 - that there are sufficient environmental planning grounds to justify contravening the development standard.
- Development consent must not be granted for development that contravenes a development standard unless—
 - the consent authority is satisfied that—
 - the benefits of the proposed development justify the contravention of the development standard, and
 - the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development with the zone in which the development is proposed to be carried out, and
 - the concurrence of the Planning Secretary has been obtained,
 - whether consent is granted, the Planning Secretary must consider—
 - regional environmental planning, and
 - the public benefit of maintaining the development standard, and
 - any other matters required to be taken into consideration by the Planning Secretary before granting consent.



Newcastle LEP Height of Buildings Map Sheet 2004

VARIATION TO A DEVELOPMENT STANDARD - Floor Space Ratio

1.0 INTRODUCTION

This Application seeks exception to a development standard pursuant to clause 4.6 Exceptions to development standards of the Newcastle Local Environmental Plan 2012 (LEP), the objectives of which are as follows:

- to provide an appropriate degree of flexibility in applying certain development standards to particular developments;
- to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Development standards are a means to achieving a development planning objective and can be numerical or performance based. Some developments may, subject to this clause, achieve planning objectives despite contravening a development standard imposed by this or any other environmental planning instrument. The planning system provides flexibility to allow these objectives to be met by varying development standards in exceptional cases. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

This Application demonstrates compliance with the development standard is unreasonable or unnecessary in the circumstances of this development and that there are sufficient environmental planning grounds to justify contravening the development standard.

2.0 SITE DETAILS

The Application relates to an existing 3.5 storey, single residential terrace house that occupies the property at 7 Fort Drive, Newcastle East. The site is rectangular with 6.78m wide increase to both Fort Drive and Beach Street and 22.69m side boundaries. The property abuts single residences of 5 and 9 Fort Drive properties though has separate walls. The site has a significant change in level from Fort Drive to Beach Street with a small basement (below) under the Fort Drive entry level. The site is on the sea shore side of Fort Drive and has a total area of 152.25m². The street building footprint covers approximately 100%, including parking and service areas, of the site with no setbacks. Fort Drive is a two-way road though is created used one-way as a local access road for residents and paid parking for city workers and beach-goers. The site is also accessed from Beach Street and is the primary vehicular access for the site. Dual vehicular doors Beach Street though are however only accessible by a single (small) vehicle. External pedestrian access from Beach Street is via gated path and stairs.

The site lies within the Newcastle East Heritage Conservation Area and while not a Heritage Item, it could be considered a Contributory 2 building as it dates from the conservation area's Key Period of Significance (c.1801 - 1940). The house presents as a 2 storey, brick terrace house with enclosed parked weatherboard upper floor sun-room and enclosed habitable gable and roof spaces. Ground floor openings consist of original timber windows, doors and are complemented with decorative timber work and pressed in sheeting around bay window. Unsymmetrical alterations are evident to Fort Drive facade including replaced stained glass windows in sun-room and aluminium and glass balustrade to the perimeter of roof terrace. A later, full-gable across gable and roof. Alterations have been made to the dwelling and ancillary structures since its initial construction, which are concentrated to the rear. These include removal and filling of existing windows and of gables with roof terrace of Fort Drive level. The modifications are evident externally through material and form varying from the original dwelling.

All general use zones including kitchen, dining, bathroom and lounge are located on the ground level (Fort Drive). A small garage, bin store and laundry is accessed internally below within an area underground level of Beach Street level. Offices consist of two bedrooms and a single sun-room. Above is a habitable roof space with residential ceiling height of 2.1m. A secondary bedroom is located on the site and is accessed from Fort Drive. The roof terrace, additional sun-room and roof parking and garage is off-street and is accessed from Beach Street and Beach Street. The site is also accessed from Beach Street and is the primary vehicular access for the site. The site could be considered later unsympathetic addresses.

The southern rear, garage and roof terrace is the residence's primary private open outdoor space and is accessed via the Fort Drive level containing bicycle and primary living areas. The outlook is out to Beach Street and has obscured views of the ocean to the south-east. Both immediate adjoining properties have balconies and terraces immediately adjacent and/or above that overlook the owners of 7 Fort Drive's Private Open Space. In particular no. 5, no. 9 and no. 12 Fort Drive. The Private Open Space is also highly exposed to Beach Street vehicle and pedestrian traffic.

2.1 ZONING

The subject lot is located in a R3 Medium Density Residential zone. Refer to Land Zoning Map - Sheet LZ_NL_004K (clipping provided).

Zone R3 Medium Density Residential has the following objectives:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types, with a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To allow some density of activities and dwellings:
 - the scale and height of proposed buildings is compatible with the character of the locality;
 - there will be no significant adverse impact on the amenity of any existing nearby development;
- To encourage increased population levels in locations that will support the commercial viability of centres
- provided that the associated new development:
 - has regard to the desired future character of residential streets; and
 - does not significantly detract from the amenity of any existing nearby development.

3.0 VARIATION TO THE DEVELOPMENT STANDARD

This Application seeks exception to the development standard 4.4 Floor Space Ratio of the Newcastle LEP. The objectives of which are as follows:

- to provide an appropriate density of development consistent with the established centre hierarchy;
- to ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centre hierarchy.

Under Section 3.02 Single Dwellings and Ancillary Development of the Newcastle Development Control Plan 2012 (DCP), clause 3.02.01 Density - Floor Space Ratio does not set performance criteria. As such, variations to the LEP are subject to clause 4.6 Exceptions to development standards. The property is subject to a Heritage Conservation Area, although an FSR Map is provided for this property. A Heritage Impact Assessment has been supplied as part of the Development Application (DA0200101892) to justify this proposed height.

This Application seeks to vary the development standard 4.4 Floor Space Ratio and justifies the action pursuant to clauses (b), (4) and (5) of part 4.6 Exceptions to Development Standards which are as follows:

- Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
 - that there are sufficient environmental planning grounds to justify contravening the development standard.
- Development consent must not be granted for development that contravenes a development standard unless:
 - the consent authority is satisfied that:
 - the applicant's written request has adequately addressed the matters required to be addressed by clause 3.02.01 (b); and
 - the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out; and
 - the concurrence of the Planning Secretary has been obtained.
- In deciding whether to grant concurrence, the Planning Secretary must consider:
 - whether contravention of the development standard raises any matter of significance for State or regional environmental planning; and
 - the public benefit of maintaining the development standard; and
 - any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

3.1 DEVELOPMENT STANDARD & EXISTING CONDITION

The subject lot is located in a M1 zone. Refer to Floor Space Ratio Map - Sheet FSR_L004K (clipping provided above). Accordingly, the prescribed FSR development standard under clause 4.4 Floor Space Ratio is 1:1.

The FSR has been calculated in accordance with the definition of gross floor area under the Newcastle LEP, being:

the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- habitable rooms in a basement or attic;
- any area for common vertical circulation, such as lifts and stairs; and

but excludes—

- any area for common vertical circulation, such as lifts and stairs; and

any basement—

- storage; and
- vehicular access, loading areas, garages and services; and
- plant rooms, lift boxes and other areas used exclusively for mechanical services or ducting; and
- carparks to meet any requirements of the consent authority (including access to that car parking); and
- terraces and balconies with outer walls less than 1.4 metres high.

The existing site area is 151.25m² and the total allowable gross floor area (GFA) under the 1:1 FSR control is 151.25m².

The existing GFA of the property is 248.70m² and the FSR is 1.651, which historically is already additional to the FSR allowable under the LEP. This is an increase of 64.5% from the allowable FSR.

3.2 PROPOSED VARIATION

The proposed alterations and additions are made primarily to the rear Beach Street elevation, to provide greater connection between the interior kitchen and living spaces to the principal area of private outdoor space.

The resulting minor increase to the FSR by the proposed additions are from development made on areas of built form and where already primarily enclosed by the surrounding existing development resulting in a negligible increase to building bulk, and no loss of landscaping.

The proposed total GFA of the property is 254.58m² and the FSR is 1.681

This is a 68.3% increase from the FSR allowable under clause 4.4 Floor Space Ratio. However, this is only a 2.3% (6.82m²) increase from the existing property's FSR.

3.3 VARIATION JUSTIFICATION

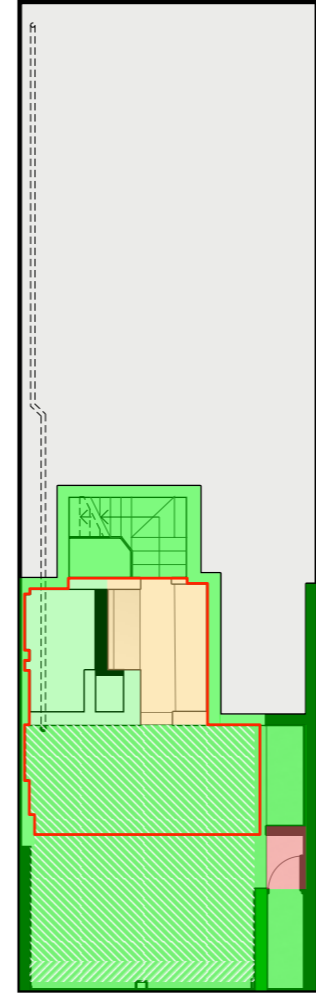
For the proposal at 7 Fort Drive, Newcastle East, strict compliance with the FSR development standard of 1:1 is unreasonable. This is due to the reasons outlined below.

- Existing condition: the FSR on the site already exceeds that allowable under the development standard. That which is being proposed substantially improves the performance and amenity of the dwelling or occupants who mightily increasing the FSR by 2.3%. This is achieved by growing the GFA in key areas but reducing in others.
- Addressing the building bulk: lighting, planning and zoning enables an unreservable gross floor area for the intention of a contemporary family living space. The proposed alterations and additions are made primarily to the rear Beach Street elevation, to provide greater connection between the interior kitchen and living spaces to the principal area of private outdoor space. When this has been necessary, the proposal has sought to minimise the extent of these additions.
- Star access: the established terrace dwelling type and north-south orientation restricts star access into areas of contemporary living (decent) and typical of the area south-facing enclosed private outdoor areas. The small addition would achieve greater star access and amenity for the occupants toward the rear of the building; and
- Size: the alterations do not increase the footprint of development on the site, and simply alter existing hard surfaced underperforming areas of external circulation. The varied historic mass of the building, compared to its excellent, contemporary neighbours, means the additional (predominantly existing) FSR does not result in unnecessary volume and scale from the street.

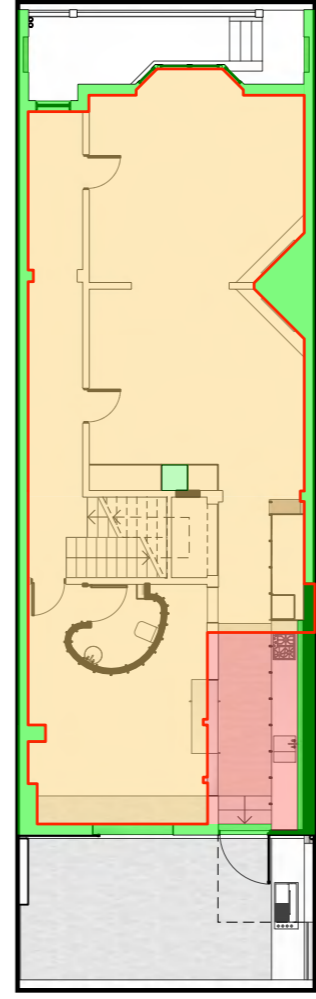
Strict compliance would compromise the objectives of:

- providing an appropriate development density consistent in Newcastle East, shown by the dwelling itself and neighbouring properties (referenced below); and
- ensuring that building density, bulk and scale makes a positive contribution towards the desired built form established in Newcastle East by retaining contributory buildings in situ; and
- encouraging increased population levels in locations that will support the commercial viability of centres provided that the associated new development does not significantly detract from the amenity of any existing nearby development.

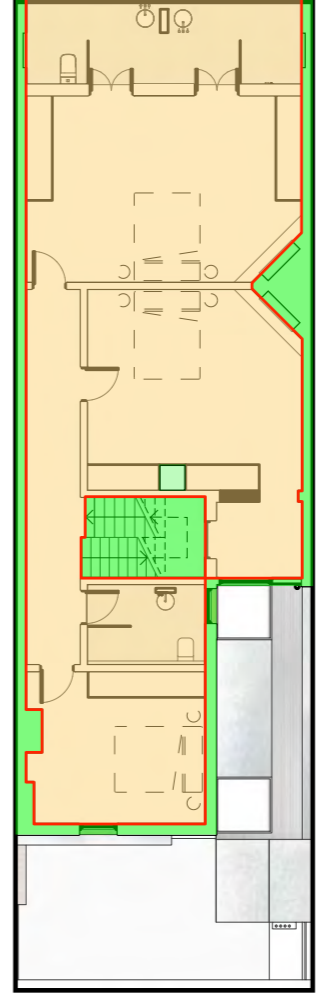
Given the established built context and associated lot areas along with the site's medium density zoning, the numerical control of 1:1 is considered low. We can assume that the 1:1 control has been nominated to ensure that the associated development control provisions—steepness appearance, landscape appearance, outdoor areas, privacy, star access, view framing, car parking—are achieved. These related controls have all been addressed and satisfied refer to the Statement of Environmental Effects, View Framing Analysis and Heritage Impact Statement for detailed justifications in these areas). The minor variation of the existing FSR does not significantly impact on neighbours and relates to its context and the public interest associated with its zoning.



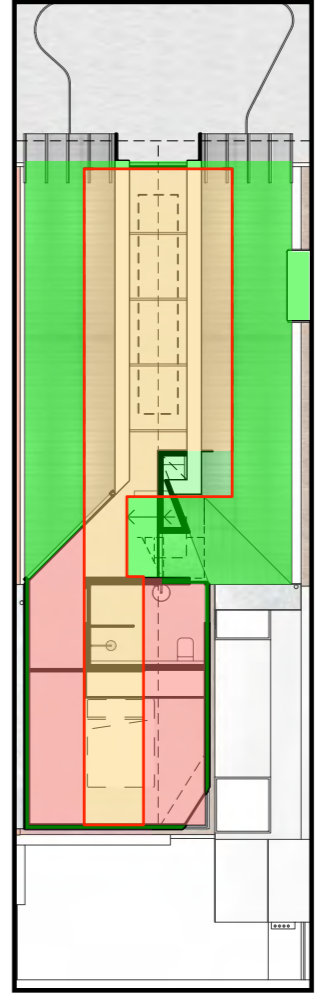
00 Basement Floor Plan



01 First Floor Plan



02 Second Floor Plan



03 Third Floor Plan

- EXCLUDED FROM GFA CALCULATION
- PREVIOUSLY INCLUDED IN GFA CALCULATION
- EXISTING AREAS OF GFA CALCULATION
- ADDITIONAL AREAS OF GFA CALCULATION
- EXISTING AREA OF GFA
- EXCLUDED AREA OF PARKING AND ACCESS TO PARKING

3.4 ENVIRONMENTAL PLANNING GROUNDS

Many examples of existing dwellings exceeding the prescribed FSR are evident in Newcastle East with no adverse impact to the context, environment or neighbouring amenity to which the zone applies.

Recently approved development exceeding FSR controls have been documented through the City of Newcastle's Development Tracking App. Dwellings along Fort Drive with addresses to Beach Street that are contributing items, have developed their properties in a scale consistent or greater in terms of gross floor areas. Specifically, developments including 2, 4 and 12 Beach Street, 2 Herivel Place and 2A Ocean Terrace.

- DA2019A000851 71%
- 2 Herivel Place, Newcastle East
- DA2016001478 49%
- 4 Beach Street, Newcastle East
- DA2013A0012 40%
- 11 Beach Street, Newcastle East
- DA2020A0443 40%
- 9 Beach Street, Newcastle East

Multiple dwellings along Fort Drive and Beach Street exceed the nominated built form envelope – as nominated by NCC height and setback DCP controls. While some do not specifically exceed the nominated gross floor areas, the existing volume establishes an alternative built character and density to which the proposed works seek to address.



FSR variations in the local context

3.5 PUBLIC INTEREST

The proposed development, as evident in this report will be in the public interest as it is consistent with the objectives of the Newcastle DCP and the R3 zoning in Newcastle LEP objectives. The desired Newcastle East character is to allow for housing needs of the community within a medium density residential environment. The proposed volume and scale is sympathetic with Newcastle East and specifically the built character of Beach Street and Fort Drive. The proposed density is commensurate with the objectives of the zone which allows for a variety of housing types to meet contemporary living standards for occupants. The addition, in achieving contemporary living standards, further enables the existing contributory dwelling to be generally maintained as part of a sequence of terrace houses to Fort Drive without need for demolition and a full development.

The majority of works associated with proposal are limited to the Beach Street facade which is congruent with historical additions and alterations to neighbouring dwellings and maintains the Fort Drive terrace elevation. In addition, it is in regard to the desired future character of residential streets as the proposed additions are to the rear of the property and proportional to neighbouring historical alterations and additions, it does not significantly detract from the amenity of any existing nearby development.

Consultation with immediate neighbours has been undertaken prior to the assessment period with modifications to the proposed works carried out to satisfy their concerns including the additional garage area and privacy walls. There will be no significant adverse impact on the amenity of any existing nearby development.

4.0 CONCLUSION

The response to clause 4.6 Exceptions to Development Standards has been prepared for the numerical non-compliance of the proposal to development standard 4.4 Floor Space Ratio under the Newcastle LEP. The extent of variation is considered acceptable as demonstrated in points above and in context to the existing volumes surrounding the proposal.

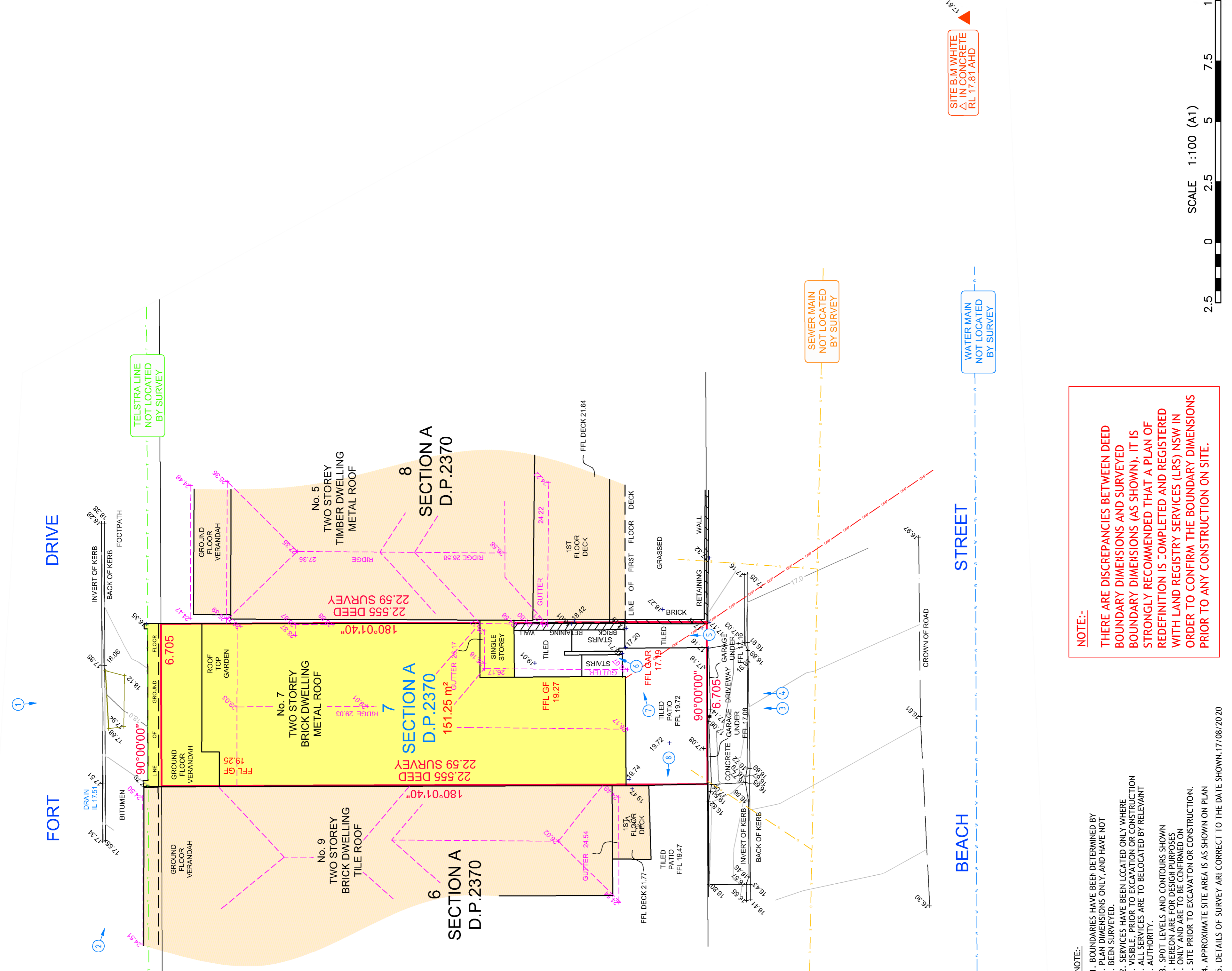
As demonstrated, the overall massing, scale, volume and height of the proposed development is compatible and in harmony with the desired future character envisioned by the City of Newcastle for the Newcastle East Precinct and R3 medium density zoning.

The variation would allow for the continued domestic use of the land with a contemporary living aesthetic. Further, after consultation meetings with immediate neighbours and amending the design to meet the most appropriate development massing for the site, the proposal will not result in any unreasonable impact on amenity or any significant adverse environmental impacts as a result of the variation.

The table below provides a summary of this document.

SUBJECT LOT	7 Fort Drive NEWCASTLE EAST, 2300
ZONING	R3 Medium Density Residential
SUBJECT DEVELOPMENT STANDARDS	Lot 7 Sec A DP 2370 4.4 Floor Space Ratio
SITE AREA	151.25m ²
ALLOWABLE FSR	1:1
EXISTING GROSS FLOOR AREA	248.76 m ²
EXISTING FSR	1.651
TOTAL GROSS FLOOR AREA	254.58 m ²
TOTAL FSR	1.681
TOTAL ADDITIONAL GFA	5.82 m ²
AUTIFICATION	- Existing FSR exceeds standard - Small site area - Solar access and occupant amenity - Varied property massing
SUPPORT	- Existing condition - Heritage Impact Statement - Local approved DA precedence

Updated table



SITE B.M. WHITE IN CONCRETE RL 17.87 AND

NOTE:-
THERE ARE DISCREPANCIES BETWEEN DEED BOUNDARY DIMENSIONS AND SURVEYED BOUNDARY DIMENSIONS (AS SHOWN). IT IS STRONGLY RECOMMENDED THAT A PLAN OF REDEFINITION IS COMPLETED AND REGISTERED WITH LAND REGISTRY SERVICES (LRS) NSW IN ORDER TO CONFIRM THE BOUNDARY DIMENSIONS PRIOR TO ANY CONSTRUCTION ON SITE.

- NOTE:-
- BOUNDARIES HAVE BEEN DETERMINED BY PLAN DIMENSIONS ONLY, AND HAVE NOT BEEN SURVEYED.
 - SERVICES HAVE BEEN LOCATED ONLY WHERE VISIBLE. PRIOR TO EXCAVATION OR CONSTRUCTION ALL SERVICES ARE TO BE LOCATED BY RELEVANT AUTHORITY.
 - SPOT LEVELS AND CONTOURS SHOWN HEREON ARE FOR DESIGN PURPOSES ONLY AND ARE TO BE CONFIRMED PRIOR TO EXCAVATION OR CONSTRUCTION.
 - APPROXIMATE SITE AREA IS AS SHOWN ON PLAN.
 - DETAILS OF SURVEY ARI CORRECT TO THE DATE SHOWN 17/08/2020

LEGEND	
PHOTO LOCATION & DIRECTION	POWER POLE
HYDRANT	GAS
SEWER MAIN	SEWER INSPECTION POINT
WATER MAIN	SEWER MAN HOLE
OVERHEAD ELECTRICITY	TELSTRA PIT
UNDERGROUND ELECTRICITY	POWER TURRENT
TELSTRA LINE	GRATED PIT
FENCE LINE	LIGHT POLE
MINOR CONTOUR LINE	WATER METER
MAJOR CONTOUR LINE	SIGN
BOUNDARY LINE	TOP & TOE OF BANKS
DENOTES PHOTO LOCATION	DENOTES WINDOW UPPER FLOOR
DENOTES TREE	DENOTES WINDOW LOWER FLOOR
HEIGHT/DIMETERS/SPREAD	

Ed.	Initial Issue	18/08/20	Date
Details of Revisions			

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Scale:	1:100 (A1), 1:200 (A3)	Datum:	AHD
Origin:	XXX	Contour Int:	0.2
Surveyor:	S.N.	Drawn:	S.N.
Checked:	S.N.	Approved:	J.H.
Job Number:	6439	Drawing File:	6439-DE
Registered Surveyor:		

LAND DEVELOPMENT SOLUTIONS

Surveying...Planning...Engineering

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E-mail: mail@lds.net.au ABN: 42 110 897 928

DETAIL SURVEY OF LOT 7 SECTION A D.P. 2370 BEING No. 7 FORT DRIVE, NEWCASTLE EAST

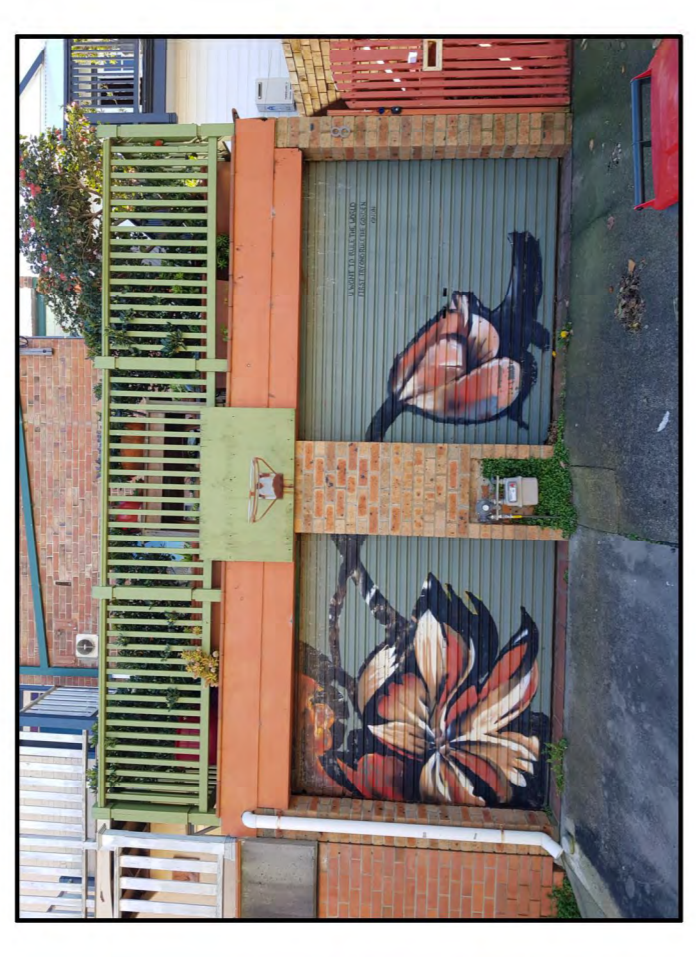
Drawing Number	1	Edition	A
Sheet 1. of. 1			



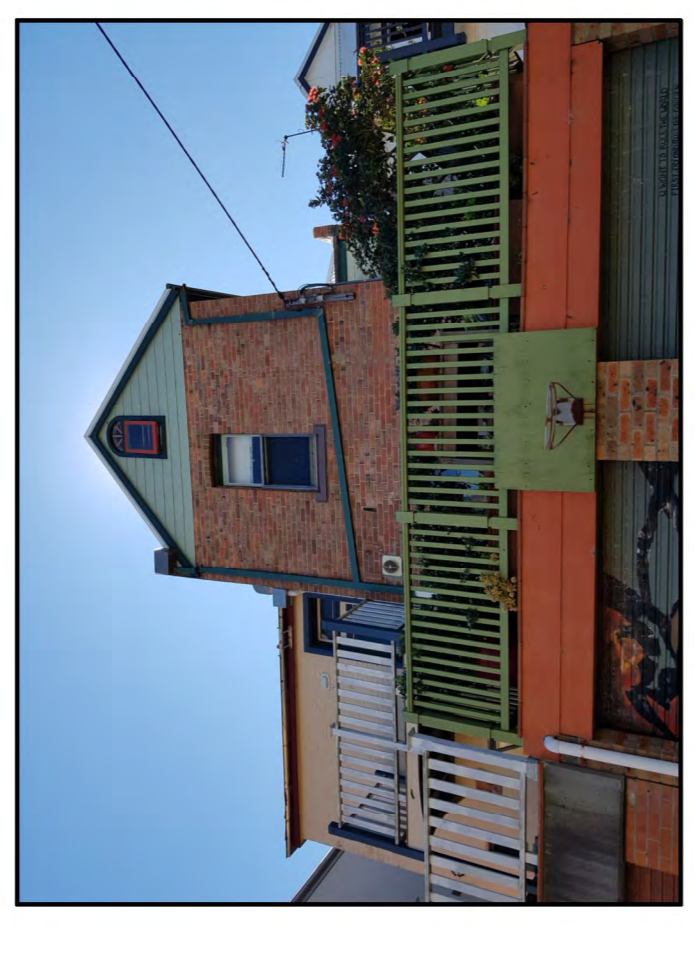
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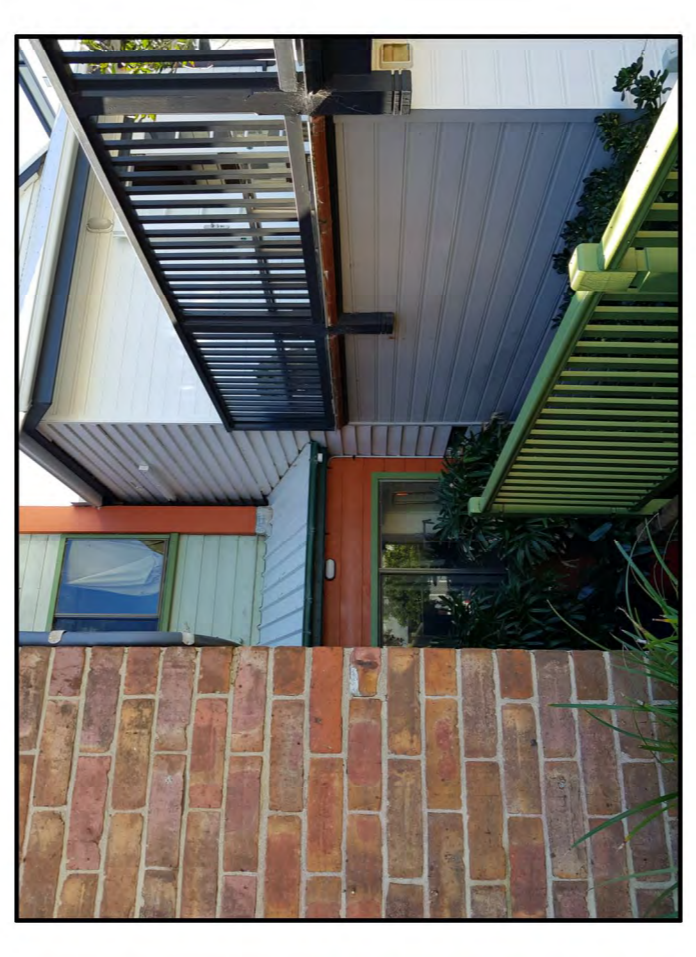
PHOTOGRAPH 2



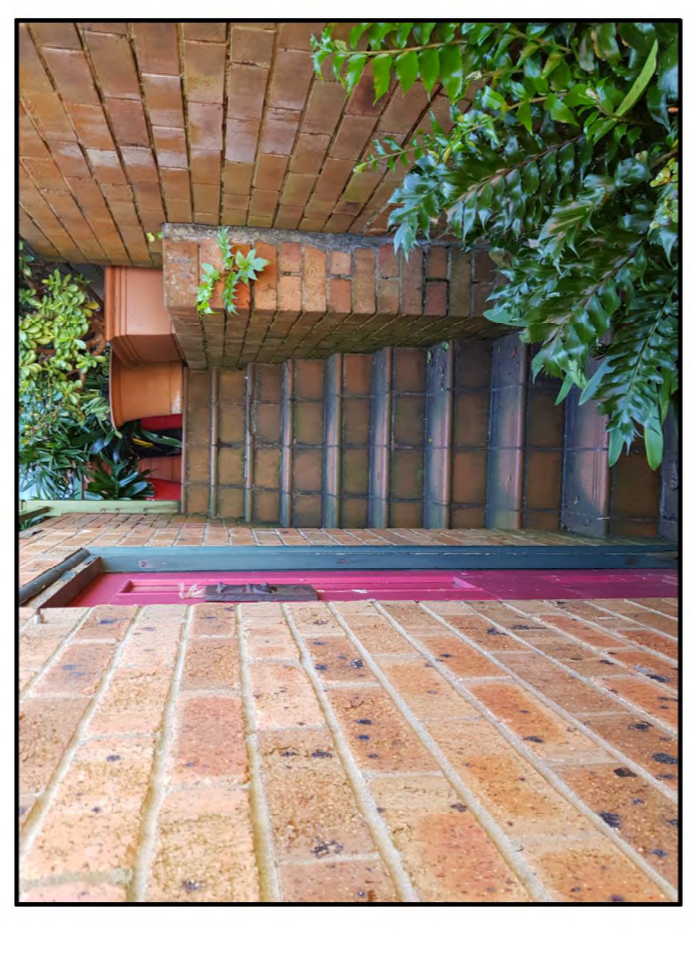
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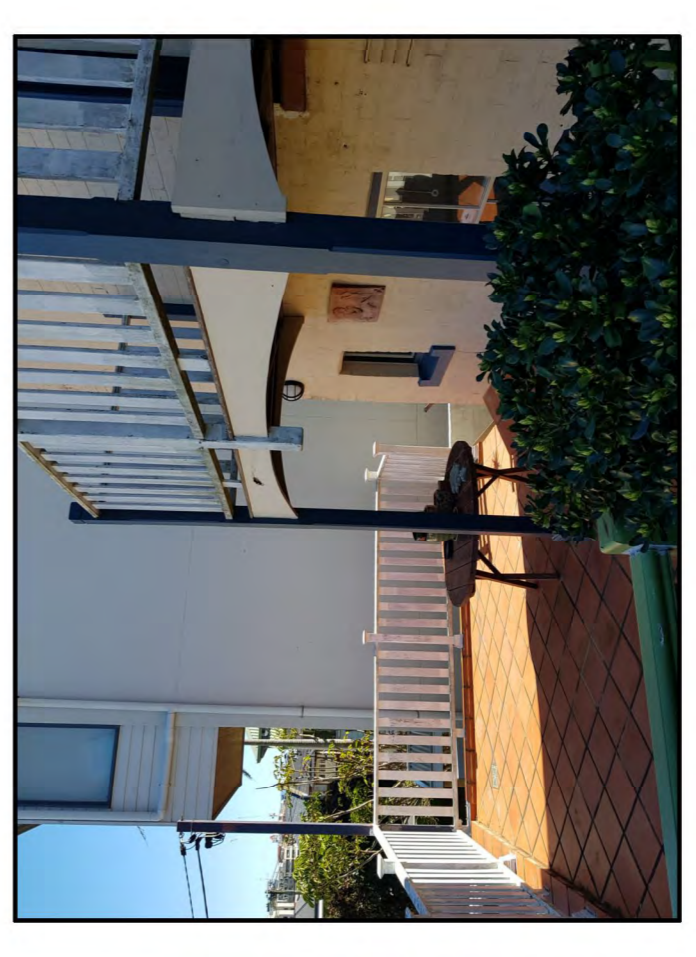
PHOTOGRAPH 4



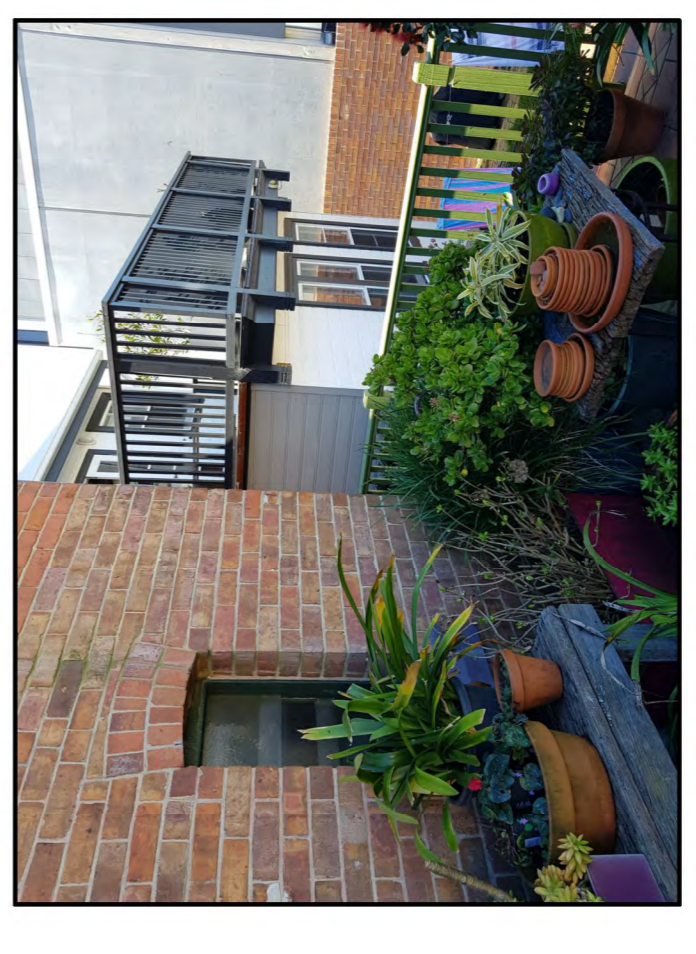
PHOTOGRAPH 5



PHOTOGRAPH 6



PHOTOGRAPH 7



PHOTOGRAPH 8

ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 20/07/21 – 7 FORT DRIVE NEWCASTLE EAST - DA2020/01382 -
DWELLING HOUSE - ALTERATIONS AND ADDITIONS INCLUDING
DEMOLITION**

ITEM-12 Attachment B: Draft Schedule of Conditions

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Application No:	DA2020/01382
Land:	Lot 7 Sec A DP 2370
Property Address:	7 Fort Drive Newcastle East NSW 2300
Proposed Development:	Dwelling house – alterations and additions including demolition

SCHEDULE 1

APPROVED DOCUMENTATION

1. The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No / Supporting Document	Reference / Version	Prepared by	Dated
Site Plan	2031.DA Revision B A001	Curious Practice	24/03/2021
Floor Plan	2031.DA Revision C A003	Curious Practice	31/05/2021
Elevation Plan	2031.DA Revision B A004	Curious Practice	24/03/2021
Section Plan	2031.DA Revision B A005	Curious Practice	24/03/2021
BASIX Report	A396880_02	Curious Practice	23/03/2021

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

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

2. The car parking and vehicular access are to be designed to comply with the relevant provisions of *AS/NZS 2890 Parking facilities*. Details are to be included in documentation for a Construction Certificate application.
3. All new impervious surfaces, including driveways and paved areas are to be drained to the nominated discharge controls. Details are to be included in documentation for a Construction Certificate application.

4. The applicant is to comply with the requirements of the Hunter Water Corporation in respect of any building or structure proposed to be erected over any services or drain under the Corporation's control. Details addressing any requirements of the Hunter Water Corporation are to be included in documentation for a Construction Certificate application.
5. The development is to comply with the recommendations in the Statement of Heritage Impact (Heritas, Reference 201435, Issue B, dated 23 November 2020, p.22) with respect to the use of new bricks to areas of new brick construction. Full details are to be provided in documentation for a Construction Certificate.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

6. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with *Australian Standard 2601:2001 - The Demolition of Structures*. A copy of the Hazardous Substances Management Plan is to be provided to the City of Newcastle and to the demolisher prior to commencement of work.
7. Demolition works are to be undertaken in accordance with *Australian Standard 2601:2001 - The Demolition of Structures* and the following requirements:
 - a) Demolition works are to be conducted in accordance with the submitted Hazardous Substances Management Plan and a copy of the Hazardous Substances Management Plan is to be kept on site for the duration of the proposed development;
 - b) The removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the required class of Asbestos Licence, issued by SafeWork NSW;
 - c) A copy of all waste disposal receipts are to be kept on site for the duration of the proposed development and made available to authorised City of Newcastle officers upon request;
 - d) Seven working days' notice in writing is to be given to the City of Newcastle and the owners/occupiers of neighbouring premises prior to the commencement of any demolition work. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor. Notification to owners/occupiers of neighbouring premises is also to include City of Newcastle's contact telephone number (4974 2000) and the SafeWork NSW telephone number (4921 2900); and
 - e) On sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.
8. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
9. All excavations and backfilling are to be executed safely and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.

10. If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent is to, at that person's own expense:
- a) Protect and support the adjoining premises from possible damage from the excavation, and
 - b) Where necessary, underpin the adjoining premises to prevent any such damage.

The above requirements do not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to the requirements not applying.

11. A Registered Surveyor's certificate detailing the setting out of the proposed building on the site, including the relationship of the set out building to property boundaries, is to be submitted to the Principal Certifier before construction is commenced.
12. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifier at the stages of construction indicated:
- a) When the roof has been completed, confirming that the building does not exceed the approved levels.
13. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.
14. Where the proposed development involves the destruction or disturbance of any survey monuments, those monuments affected are to be relocated, at no cost to the City of Newcastle, by a Surveyor registered under the *Surveying and Spatial Information Act 2002*.
15. A rigid and durable sign is to be erected on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:
- a) showing the name, address and telephone number of the Principal Certifier for building work and subdivision work, and
 - b) showing the name, address and telephone number of the Principal Contractor for any building work and also including a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and
 - c) stating that unauthorised entry to the work site is prohibited, and
 - d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out.

16. All building work is to be carried out in accordance with the provisions of the National Construction Code.
17. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force, such a contract of insurance is to be in force before any building work authorised to be carried out by this consent commences.

18. All building materials, plant and equipment is to be placed on the site of the development, to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on City of Newcastle reserves, including the road reserve, is not permitted.
19. A separate application is to be lodged and consent obtained from the City of Newcastle for all works within the road reserve, pursuant to Section 138 of the *Roads Act 1993*, prior to the commencement of works.
20. All roof and surface waters are to be conveyed to the street gutter by way of a sealed pipe system, extending through the footway to City of Newcastle requirements, in accordance with Element 7.06 '*Stormwater*' of Newcastle Development Control Plan 2012.
21. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
 - Monday to Friday, 7:00 am to 6:00 pm and
 - Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public holidays.

22. City of Newcastle's '*Prevent Pollution*' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary, so it is clearly visible to the public, or at other locations on the site as otherwise directed by the City of Newcastle, for the duration of demolition and construction work.

The sign can be obtained by presenting your development application receipt at City of Newcastle's Customer Enquiry Centre, Wallsend Library or the Master Builders Association Newcastle.

23. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of *Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1* (the '*Blue Book*') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
24. All public trees that are required to be retained are to be protected in accordance with the City of Newcastle *Urban Forest Technical Manual, Part B Public Trees*.

The tree protection fencing is to remain in place and be maintained until all works have been completed, with no waste materials, washouts, equipment or machinery to be stored within the fenced area.

25. The following waste management measures are to be implemented during construction:
 - a) waste container of at least one cubic metre capacity shall be provided, maintained and regularly serviced from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste

- b) the waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets
- c) appropriate provision is to be made to prevent wind blown rubbish leaving the site and
- d) footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the *Protection of the Environment Operations Act 1997* (NSW)

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

- 26. All commitments listed in the relevant BASIX certificate for the development are to be satisfactorily completed prior to the issue of an Occupation Certificate. Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to the City of Newcastle with Occupation Certificate documentation.
- 27. The water management measures as indicated on the submitted plans and Statement of Environmental Effects and/or as modified under the terms of this consent are to be implemented and the nominated fixtures and appliances are to be installed and operational prior to issue of an Occupation Certificate.
- 28. Prior to the issue of an Occupation Certificate, the existing building shall be upgraded to comply with Performance Criteria P2.3.2 (Automatic warning for occupants) of the Building Code of Australia.
- 29. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a condition that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to City of Newcastle's satisfaction prior to the completion of demolition work or prior to the issue of any Occupation Certificate in respect of development involving building work.
- 30. All works within the road reserve required by this consent are to be completed prior to the issue of a Occupation Certificate.

ADVISORY MATTERS

- Any approval for fences on side boundaries, common to other private properties, is independent of any consent or agreement which may be required from any adjoining owner under the provisions of the *Dividing Fences Act 1991*.
- Development applications are not assessed against the provisions of the National Construction Code. An application to modify the application under the *Environmental Planning and Assessment Act 1979* will be required if design amendments that cause the proposal to be inconsistent with the development consent are necessary to comply with the provisions of the Building Code of Australia.

- The carrying out of the development may be affected by the '*declared racing area*' under the *Motor Racing (Sydney and Newcastle) Act 2008*. The ability for works to occur on the site or within the road reserve in the vicinity of the property may be impacted between the first week in February and Mid-April 2022 each year that motor racing is conducted in the area. Further consultation is required in the nominated area during this period with the possibility of access restrictions being imposed. For further information and assistance please contact the City's Major Events Team at events@ncc.nsw.gov.au.
- If archaeological deposits or relics not considered in the supporting documents for this consent are discovered, work must cease in the affected area(s) and the Heritage Council of NSW notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Note: The Heritage Council of NSW can be contacted on 02 9873 8500 or heritagemailbox@environment.nsw.au. A 'relic' is any deposit, object or material evidence that relates to the settlement of New South Wales, not being Aboriginal settlement, and is of State or local significance. It is an offence under the provisions of the Heritage Act 1977 (NSW) for a person to disturb or excavate any land on which the person has discovered a relic except in accordance with a gazetted exemption or an excavation permit issued by the Heritage Council of NSW.

- Retaining walls not clearly noted on the approved plans or outside of the parameters of '*exempt development*', as specified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, are to be subject to a separate development application. An application in this regard is to be approved prior to any works relating to such a retaining wall taking place.
- It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
- Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of the City of Newcastle and any other relevant authorities. City of Newcastle and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- Prior to commencing any building works, the following provisions of Part 6 of the *Environmental Planning and Assessment Act 1979* are to be complied with:
 - a) A Construction Certificate is to be obtained; and
 - b) A Principal Certifier is to be appointed for the building works and the City of Newcastle is to be notified of the appointment; and
 - c) The City of Newcastle is to be given at least two days notice of the date intended for commencement of building works.
- Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to a building, an Occupation Certificate is to be obtained from the Principal Certifier appointed for the proposed development. An application for an Occupation Certificate is to contain the information set out in Clause 149 of the *Environmental Planning and Assessment Regulation 2000*.

- It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice (ie 'on-the-spot fine') or prosecution.
- Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979*, which may be subject to a penalty infringement notice (ie 'on-the-spot fine') or prosecution.

END OF CONDITIONS

SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* (NLEP) and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- Council has considered and accepted the proposed development standard variation made under Clause 4.6 (Exceptions to development standards) of the Newcastle Local Environmental Plan 2012. The proposed 20% variation to Clause 4.3 (Height of Buildings) is considered acceptable in the particular circumstances of this case as the variation will not significantly overshadow the neighbouring properties, obstruct significant view corridors or adversely impact the heritage significance of the Newcastle East Heritage Conservation Area. The proposed height and scale of the development is in character with existing dwellings within the Fort Drive streetscape.
- Council has considered and accepted the proposed development standard variation made under Clause 4.6 (Exceptions to development standards) of the Newcastle Local Environmental Plan 2012. The proposed 68% variation to Clause 4.4 (Floor Space Ratio) is considered acceptable in the particular circumstances of this case as the variation will not significantly impact the bulk and scale of the existing development, the proposed development will make a positive contribution towards the desired built form in the area, the proposed development will not detrimentally impact on the streetscape and the occupant's amenity will be improved under this application. The proposed development will not detrimentally overshadow the neighbouring properties, obstruct significant view corridors or adversely impact the heritage significance of the Newcastle East Heritage Conservation Area.
- Any issues raised in submission have been taken into account in the assessment report and where appropriate conditions of consent have been included in the determination.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- Confirm and clarify the terms of Council's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.

ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 20/07/21 – 7 FORT DRIVE NEWCASTLE EAST - DA2020/01382 -
DWELLING HOUSE - ALTERATIONS AND ADDITIONS INCLUDING
DEMOLITION**

ITEM-12 **Attachment C:** Processing Chronology

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PROCESSING CHRONOLOGY

DA2020/01382 – 7 Fort Drive Newcastle East

27 November 2020	-	Application lodged
4 December 2020	-	Public notification commenced. Two submissions were received in response to the public notification of the application.
18 February 2021	-	Request for additional information
25 March 2021	-	Additional information received
28 May 2021	-	Further request for additional information
4 June 2021	-	Additional information received