



Ordinary Meeting of Council

10 July 2024

**UNDER SEPARATE COVER
ATTACHMENTS**

ITEM 9.1

**QUEANBEYAN-PALERANG REGIONAL COUNCIL
ORDINARY MEETING OF COUNCIL**

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QUEANBEYAN-PALERANG REGIONAL COUNCIL

Council Meeting Attachment

10 JULY 2024

ITEM 9.1 DA.2023.0600 - ALTERATIONS AND ADDITIONS TO
DWELLING HOUSE - 28 RIVER DRIVE KARABAR

ATTACHMENT 1 SECTION 4.15 ASSESSMENT REPORT - DA.2023.0600 - 28
RIVER DRIVE KARABAR

QPRC



ASSESSMENT REPORT - DA.2023.0600

SUMMARY

Proposal:	Alterations and additions to dwelling house
Address:	28 River Drive KARABAR NSW 2620
Property description:	Lot 16 DP 837155
Applicant:	Dolphin
Owner:	Emma Kate Martin & Brendan John McMahon
Date of lodgement:	02/12/2023
Notification period:	24/01/2024 to 09/02/2024
Submissions received:	Two
Assessment officer:	Ugyen Tenzin
Estimated cost of works:	\$500000.00
Zoning:	R3 - Medium Density Residential
Heritage:	Not applicable
Flood affected:	No
Bushfire prone:	Bushfire Prone (part)
Recommendation of officer:	Approval subject to conditions of consent

EXECUTIVE SUMMARY

Proposal:	The application seeks approval for alterations and additions to an existing dwelling house.
Notification:	The proposal was notified from 24/01/2024 to 09/02/2024. Two submissions were received raising concerns about light and views impacts due to the construction of the western wall, overlooking concerns due to possible removal of two trees adjacent to the western boundary; and privacy concerns resulting from the proposed new deck on the eastern side. The issues raised were assessed through submitted plans, site inspection and the applicant's responses to the request for additional information. The proposed additions and alterations are not likely to result in a considerable additional impact and the issues raised are considered appropriately mitigated.
Principal issues:	The main issue with the application is the clause 4.6 variation request to vary the permissible building height under the Queanbeyan-Palerang Regional Local Environmental Plan 2022. The request is considered acceptable as the applicant has adequately demonstrated 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.
Recommendations:	The proposal is recommended for approval subject to conditions of consent.

BACKGROUND

The subject lot was created as part of subdivision CA No 33/93 dated 08/02/1994. The dwelling was approved by the Council via application number 416/1994.

DESCRIPTION OF THE SITE AND LOCALITY

The subject site is legally described as Lot 16 DP 837155 and is commonly known as 28 River Drive Karabar. The site is located on the northern side of River Drive and has an area of 658.40m².

Existing development on the site comprises a dwelling house with an attached garage and a deck. Vehicular access is provided to the site via an existing driveway from River Drive.

Existing development within the locality consists of similar scale of residential dwellings.



Figure 1: Locality plan



Figure 2: Front (south) view



Figure 3: Rear (north) view



Figure 4: View along eastern boundary



Figure 5: View along western boundary



Figure 6: View of the property (centre) from the public footpath along the River

PROPERTY BURDENS AND CONSTRAINTS

The subject lot has 2.5m wide easement to drain water and a variable width easement to drain water and sewage on its northern boundary. However, the proposed developments are located clear of these easements.

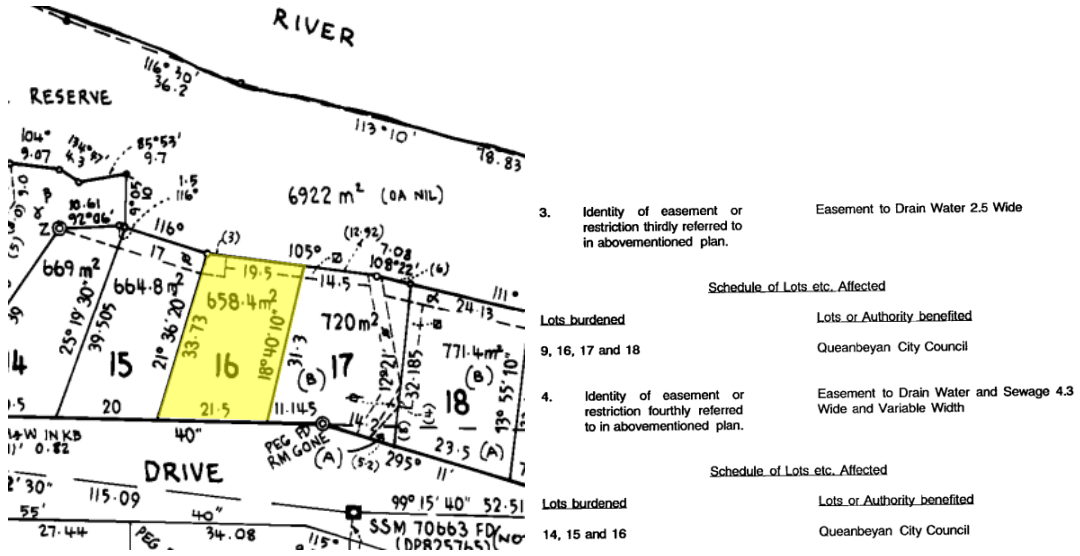


Figure 7: Excerpts from the Deposited Plan

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The application seeks Council approval for alterations and additions to the existing dwelling.

The specific elements of the proposal are:

- Two-storey extension to rear including:
 - a) Changing the layout and dimensions of internal spaces at the upper floor level,
 - b) Adding music studio and store at the lower floor level,
- Adding an internal stair between the upper and lower floors,
- Extending deck at the rear (northern side),
- Replacing existing porch columns with hardwood posts, and
- Replacing existing tile roof on the southern side with a colorbond roof.

Details of the proposed development are as shown in Figures 8 – 13 below:

Floor Plan
Existing

Floor area
 = 259 sqm approx.
 Internal = 173 sqm
 Garage = 41 sqm
 Rear deck = 45 sqm

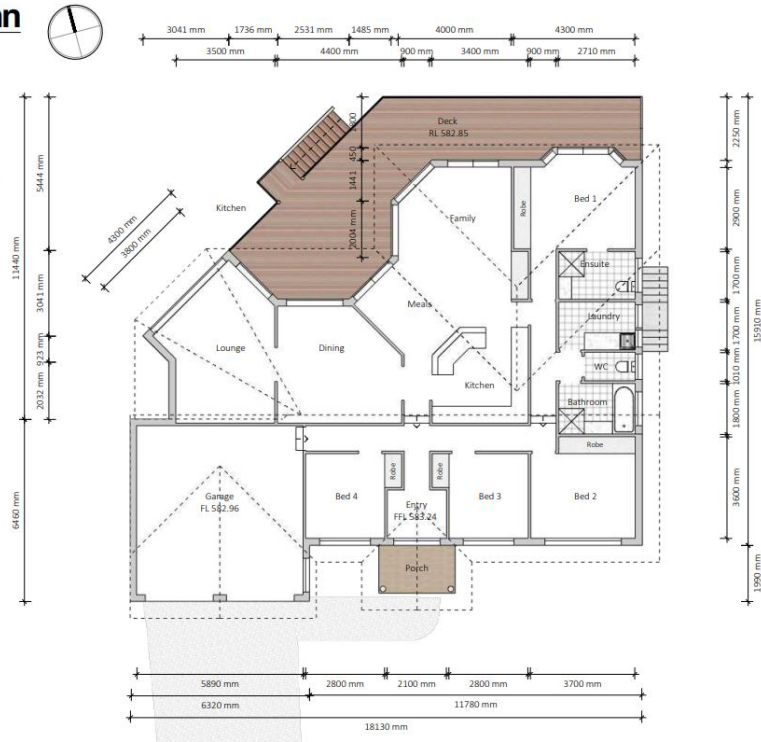


Figure 8: Existing floor plan (Source: PdD Building Design)

Floor Plan
Proposed Upper

Floor area
 = 393 sqm approx.
 Internal:
 Upper = 220 sqm
 Lower = 61 sqm
 Store = 23 sqm
 Garage = 41 sqm
 Rear deck = 48 sqm

Stairs
 Rise = 171.4 mm
 Going = 250 mm
 2R + G = 592.8 mm

SD 240V smoke detectors, hard wired and linked to comply with NCC2019 Part 3.7.5

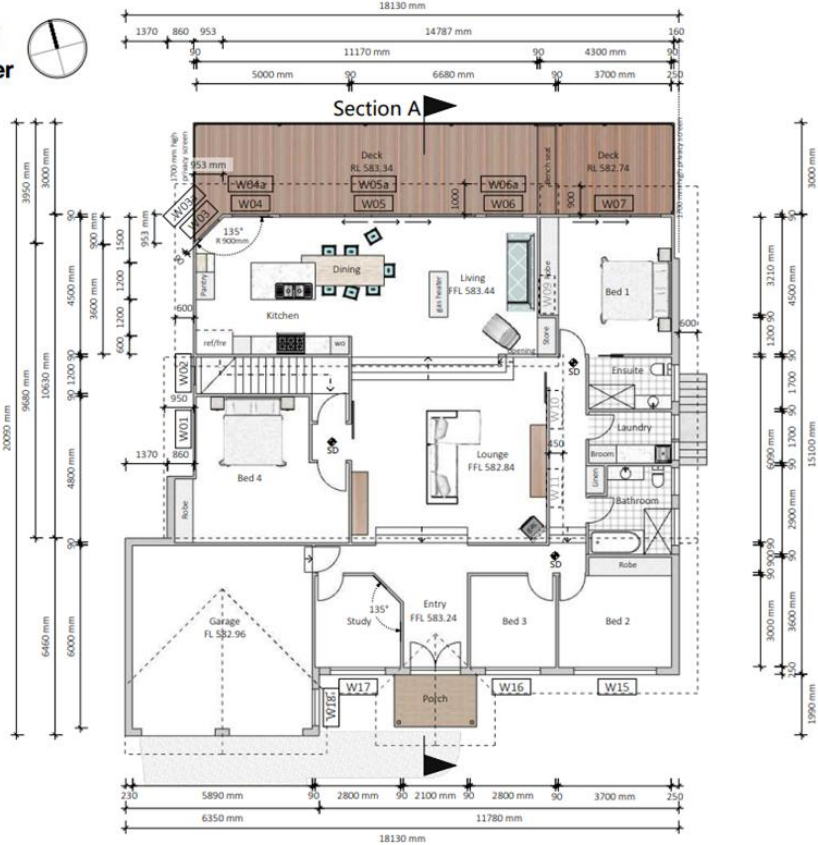


Figure 9: Proposed upper floor plan

Floor Plan Proposed Lower



Floor area
 = 393 sqm approx.
Internal:
 Upper = 220 sqm
 Lower = 61 sqm
 Store = 23 sqm
 Garage = 41 sqm
 Rear deck = 48 sqm

Stairs
 Rise = 171.4 mm
 Going = 250 mm
 2R + G = 592.8 mm

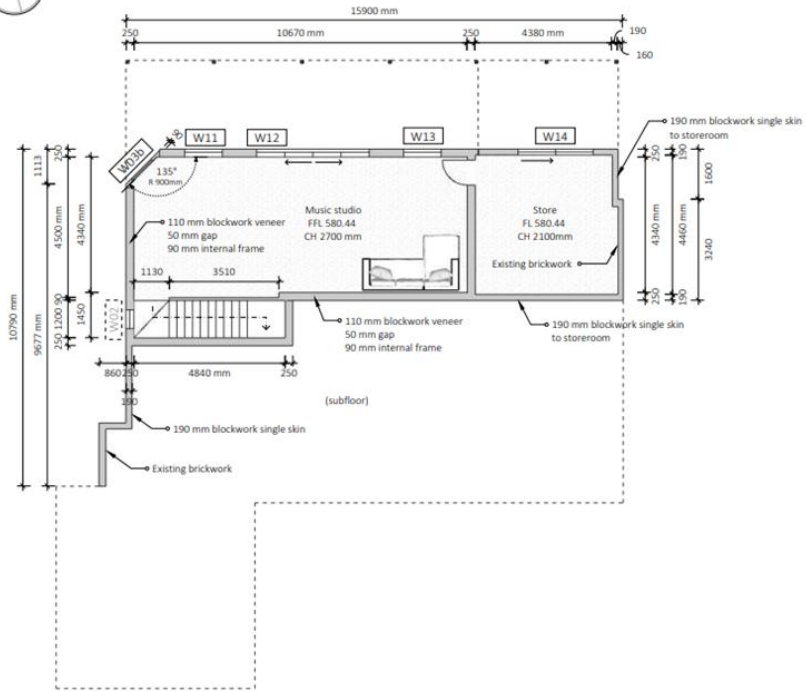


Figure 10: Proposed lower floor plan

Elevations Existing

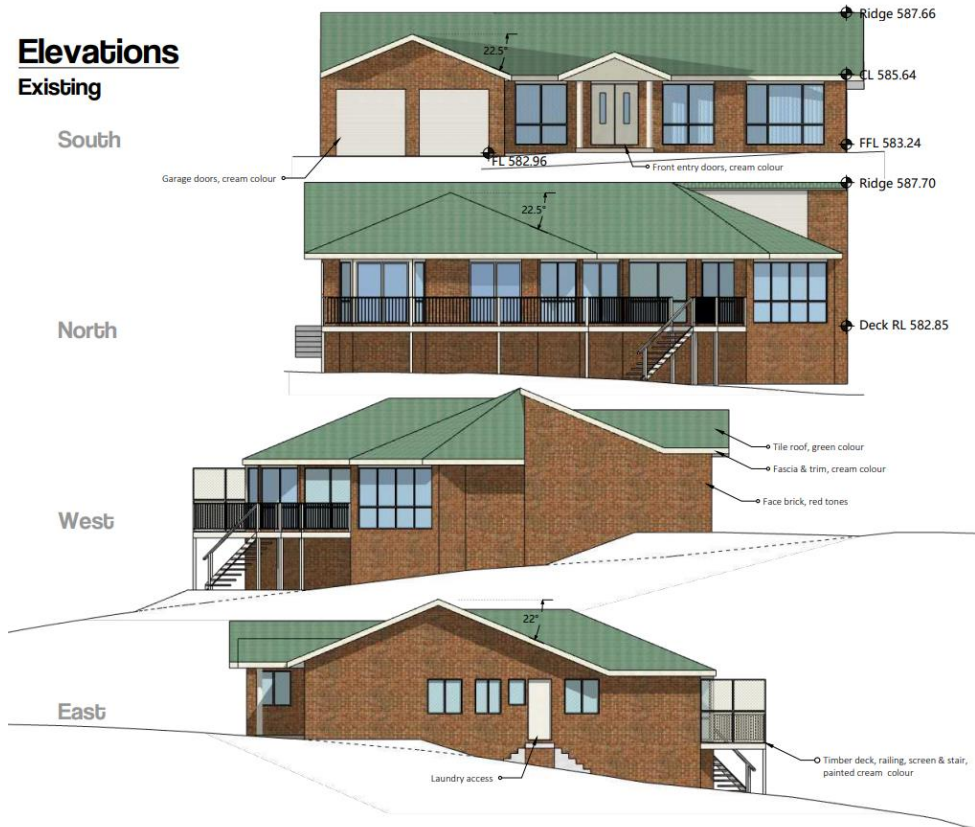


Figure 11: Existing elevations (Source: Pdd Building Design)

Elevations

Proposed 1

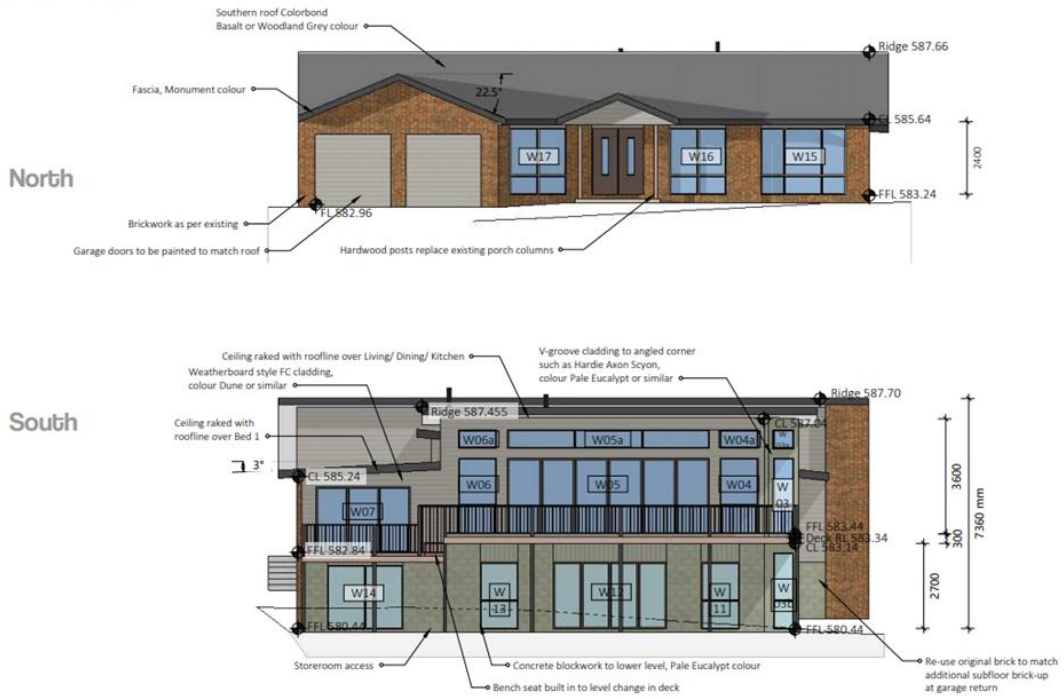


Figure 12: Proposed south & north elevations

Elevations

Proposed 2

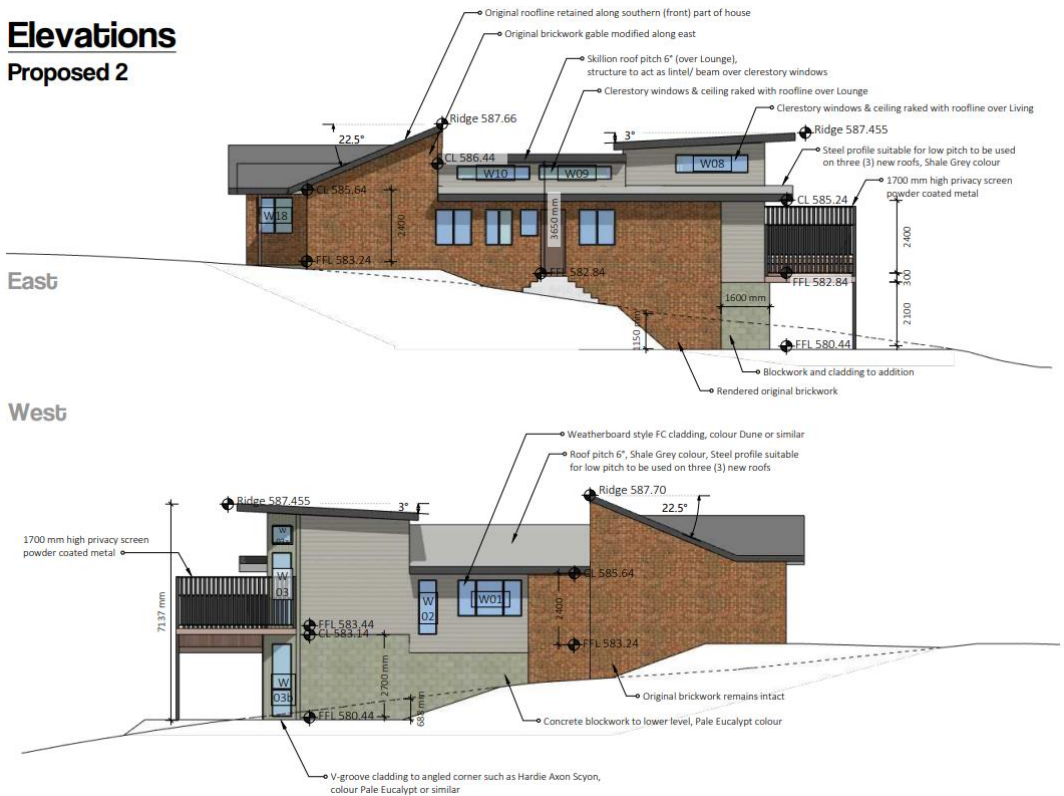


Figure 13: Proposed east & west elevations

CONSENT AUTHORITY

In accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act) the proposal is considered to be local development and Council is the Consent Authority.

SECTION 4.10 DESIGNATED DEVELOPMENT – EP&A Act, 1979

The proposal is not designated development.

SECTION 4.47 INTEGRATED DEVELOPMENT – EP&A Act, 1979

The proposal is not integrated development.

REFERRALS

INTERNAL REFERRALS

No referrals were required for this proposal.

EXTERNAL REFERRALS

No external referrals were required for this proposal.

CONSIDERATION OF THREATENED SPECIES

Council is required under Section 4.15 of the *Environmental Planning and Assessment Act 1979* to make an assessment of whether the proposed development will have a significant impact on any threatened species, populations, or ecological communities, or their habitats. Such threatened species in NSW may be protected under the *NSW Biodiversity Conservation Act 2016* or under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The assessment process under the EPBC Act can occur outside the NSW planning system and requires input from the Federal Department of Environment.

The subject site is not identified as containing any biodiversity values on the biodiversity values map and the following tests are not required:

Section 7.2 of the *Biodiversity Conservation Act 2016*

Test	Assessment
(a) it is likely to significantly affect threatened species or ecological communities, or their habitats, according to the test in section 7.3, or	No.
(b) the development exceeds the biodiversity offsets scheme threshold if the biodiversity offsets scheme applies to the impacts of the development on biodiversity values, or	No vegetation will be removed and the biodiversity offset scheme does not apply.
No vegetation will be removed and the biodiversity offset scheme does not apply	The site is not a declared area of outstanding biodiversity value.



Figure 14: Biodiversity Values Map

The proposed development is located in an established residential area and does not involve any removal of vegetation or clearing of land. The proposal involves very minimal earthworks for the purpose of construction. Considering the scale and nature of development, it is unlikely that the proposed development will result in any adverse impacts on any threatened species or ecological communities or their habitats.

SECTION 4.14 CONSULTATION AND DEVELOPMENT CONSENT – CERTAIN BUSHFIRE PRONE LAND – EP&A ACT, 1979

Section 4.14 of the EP&A Act requires an assessment to be made of the proposal against the requirements of the Rural Fire Service document ‘Planning for Bushfire Protection 2006’. The Act allows this assessment to be made by the Council or the RFS. Assessments under Section 4.14 against the PBP 2006 need to be made for most development on bushfire prone land which does not require an approval under the Rural Fires Act 1997 as integrated development.

The development application includes a Bushfire Assessment Report prepared by Ember Bushfire Consulting dated March 12, 2024. The report has assessed a Bal-12.5 rating for the north-west side and BAL-Low for other sides as comprise of managed land. Conditions of consent are included to ensure that the recommendations of the report are implemented.

SECTION 4.15 CONSIDERATIONS – EP&A Act, 1979

In determining a development application, the consent authority is to take into consideration the following matters of consideration contained within section 4.15 of the Environmental Planning and Assessment Act, 1979 as relevant to the development application:

4.15(1)(a) the provisions of:
(i) any environmental planning instrument

State Environmental Planning Policy	Relevant?	Comment
SEPP (Biodiversity & Conservation) 2021	N/A	The application does not involve any native or extensive vegetation clearing. The proposal will not adversely impact koala habitat. The subject site is not located within a drinking water catchment.
SEPP (Sustainable Buildings) 2022	Yes	A valid BASIX certificate (Number A1378303, issued on 01 December 2023), was lodged with this application. A

		condition requiring the development to meet the commitments of this BASIX certificate is included in the conditions of consent.
SEPP (Housing) 2021	N/A	The application does not propose the construction of any housing defined under the SEPP.
SEPP (Resilience and Hazards) 2021	N/A	The subject site is not located within a coastal management area. Council holds no record of the site having previously been used for potentially contaminating activities.
SEPP (Resources and Energy) 2021	N/A	The application does not propose an industry.
SEPP (Transport and Infrastructure) 2021	Yes	The proposed development will not adversely impact any existing infrastructure or the provision of any infrastructure.
SEPP (Industry and Employment) 2021	N/A	The proposal is not located within the Western Sydney Employment Area. The application does not propose signage.

QUEANBEYAN-PALERANG REGIONAL LOCAL ENVIRONMENTAL PLAN 2022

PART 1—PRELIMINARY

An assessment of the proposal against the general aims of Queanbeyan-Palerang Local Environmental Plan 2022 is included below:

Cl.	Aims	Complies
1.2(2)		
(aa)	• to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,	N/A
(a)	• to protect and improve the economic, environmental, social and cultural resources and prospects of the community,	Yes
(b)	• to facilitate the orderly and economic use and development of land having regard to ecological sustainability principles,	Yes
(c)	• to provide for a diversity of housing to meet the needs of the community into the future,	Yes
(d)	• to provide for a hierarchy of retail, commercial and industrial land uses that encourage economic and business development that caters for the retail, commercial and service needs of the community,	N/A
(e)	• to keep and protect important natural habitat and biodiversity,	Yes
(f)	• to protect water quality, aquifers and waterways,	Yes
(g)	• to keep, protect and encourage sustainable primary industry and associated commerce in rural areas,	N/A
(h)	• to identify and protect the cultural heritage of the area, including the built heritage and the Aboriginal heritage,	Yes
(i)	• to protect important scenic quality, views and vistas,	Yes
(j)	• to facilitate the orderly growth of urban release areas,	N/A
(k)	• to ensure development does not unreasonably increase the demand for public services or public facilities,	Yes
(l)	• to identify, protect and provide areas for community health and recreational activities.	N/A

Comments: The proposal is found to be consistent with the aims of the plan.

Suspension of Covenants, Agreements and Instruments

Under Clause 1.9A, no covenants, agreements and instruments restricting the development have been identified.

PART 2—PERMITTED OR PROHIBITED DEVELOPMENT																													
Clause		Relevant	Comment																										
2.1 Land use Zones The QPRLEP designates land by zone. Zones then have specific development outcomes and development types permitted with consent or prohibited.		Yes	The proposed development is on land zoned R3 - Medium Density Residential.																										
2.2 Zoning of land to which Plan applies:		Yes	For the purposes of this Plan, land is within the zones shown on the Land Zoning Map.																										
2.3 Zone objective and Land use Table: The assessment must have regard for the objectives of the zones. The land use tables specify development assessment streams including with consent or prohibited. R3 Medium Density Residential		Yes	The proposed use (dwelling house) is permitted with consent and not prohibited. <i>Dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.</i>																										
<table border="1"> <thead> <tr> <th colspan="4">Objectives</th> <th>Complies</th> </tr> </thead> <tbody> <tr> <td colspan="4"> <ul style="list-style-type: none"> To provide for the housing needs of the community within a medium density residential environment. </td> <td>Yes</td> </tr> <tr> <td colspan="4"> <ul style="list-style-type: none"> To provide a variety of housing types within a medium density residential environment. </td> <td>Yes</td> </tr> <tr> <td colspan="4"> <ul style="list-style-type: none"> To enable other land uses that provide facilities or services to meet the day to day needs of residents. </td> <td>Yes</td> </tr> <tr> <td colspan="4"> <ul style="list-style-type: none"> To encourage development that is consistent with the amenity of existing and future residents. </td> <td>Yes</td> </tr> </tbody> </table> <p>Comments: The proposed development complies with the objectives of the zone.</p>					Objectives				Complies	<ul style="list-style-type: none"> To provide for the housing needs of the community within a medium density residential environment. 				Yes	<ul style="list-style-type: none"> To provide a variety of housing types within a medium density residential environment. 				Yes	<ul style="list-style-type: none"> To enable other land uses that provide facilities or services to meet the day to day needs of residents. 				Yes	<ul style="list-style-type: none"> To encourage development that is consistent with the amenity of existing and future residents. 				Yes
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2.7 Demolition requires development consent		Yes	The application seeks approval for part demolition/removal of existing structures to accommodate the addition and alterations. Standard conditions of consent will be imposed to ensure demolition is carried out in accordance with the relevant standards.																										
PART 4—PRINCIPAL DEVELOPMENT STANDARDS																													
An assessment of the proposal against the relevant provisions contained within Part 4 of the QPR LEP 2022 is provided below.																													
4.3 Height of Buildings <table border="1"> <thead> <tr> <th>Cl.</th> <th>Standard</th> <th>Controls</th> <th>Proposed</th> <th>Complies</th> </tr> </thead> <tbody> <tr> <td>4.3</td> <td>Height of buildings</td> <td>5.5m</td> <td>7.36m</td> <td>No</td> </tr> </tbody> </table>					Cl.	Standard	Controls	Proposed	Complies	4.3	Height of buildings	5.5m	7.36m	No															
Cl.	Standard	Controls	Proposed	Complies																									
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4.6 Exceptions to development standards																													

The applicant has submitted a request to vary a development standard pursuant to clause 4.6 of the Queanbeyan-Palerang Regional Local Environmental Plan 2022. The standard to be varied is clause 4.3 - height of buildings.

The subject site is zoned R3 - Medium Density Residential and the current height restriction on the site is 5.5 metres. It contains an existing dwelling house with a building height of 6.27m. Council records show that the dwelling was approved in 1994.

The development application proposes to maintain the street façade of the dwelling (facing River Drive) and alterations and additions are proposed to the rear side of the site only. The proposed height of the extension is 7.36m which is 1.86m over the height limit of 5.5m, constituting 33.8% variation. Despite maintaining the existing ridgeline, the additional height results from the site topography that slopes towards the back of the lot.

Clause 4.6 of the QPR LEP 2022 sets out the following criteria for assessment of a variation to a development standard:

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

For the purposes of clause 4.6 (3) (a) and (b), a written request to vary the development standard was submitted as discussed below.

Clause 4.6(3)(a) requires the applicant to demonstrate that *compliance with the development standard is unreasonable or unnecessary in the circumstances*. The applicant's written request makes reference to the relevant case law of *Wehbe v Pittwater [2007] NSW LEC 827 (five-part test)* and argues that compliance with the development standard is unnecessary as the objectives of the development standard are achieved notwithstanding the non-compliance, referring to the first method of the *Wehbe Tests*. The assessment of consistency with the objectives of development standard presented by the applicant is shown in the table below:

Cl.4.3(1)	Objectives	Assessment
(a)	<i>to establish the height of buildings consistent with the character, amenity and landscape of the</i>	<i>The height of buildings within the locality is varied and is often guided by the slope of the land. There are dwellings on the southern side of River Drive, and nearby cul-de-sacs which are of similar bulk, scale and height to the proposed building. Dwellings on the northern side of Queanbeyan River are of similar</i>

	<p>area in which the buildings will be located,</p>	<p>height, around 7-8m. The zoning of the site, being R3 medium density residential, also alludes to the Council anticipating that this area will see growth into the medium density residential sector, seeing increased building heights, bulk and scale, as well as introducing higher density land use, such as dual occupancy, multi-dwelling housing, serviced apartments and shop top housing. As redevelopment of the original buildings commences, the character of the area will change to align more closely with the objectives of the R3 zoning.</p> <p>This area is of high amenity, and as such redevelopment will also be of high quality and will make use of the scenic qualities afforded to it. This is evident on the northern side of the River where dwellings range in height, predominately around 7-8m. The proposed dwelling would not be out of character with this area, particularly with the dwellings on the northern side of the River which are visible from the site.</p>
(b)	<p>to protect residential amenity and minimise overshadowing,</p>	<p>Shadow diagrams are provided with the plan set, which demonstrates the following:</p> <p>9am: a shadow is cast from the building to the western adjoining property, concentrated on their eastern wall which contains the garage, bathroom, bedroom and kitchen at upper level, and a bedroom at lower level. There are no kitchen windows facing east.</p> <p>12pm: There is no shadowing impact onto adjoining properties at 12pm</p> <p>3pm: shadow is cast on the adjoining eastern property. The western elevation at first floor level contains a bedroom, bathroom, lounge and living areas. The lounge contains a west facing window, as does the living area (which is stepped in with a wrap around balcony). This area would only be shadowed from 1pm onwards, achieving a satisfactory amount of solar access for the remainder of the day, with the northern sunlight being unaffected.</p> <p>The shadow diagrams demonstrate that the extent of the roof variation does not significantly change the shadowing impacts, given its location on the site and existing topography.</p>
(c)	<p>to minimise the visual impact of buildings,</p>	<p>The building has the predominant building bulk facing north towards the River, with the presentation from the street remaining largely unchanged. The location of the area of roof that exceeds the height limitation is located to reduce visual impacts, with sufficient articulation around to ensure that it blends within the existing built form. This allows consistency with dwellings on the northern side of the River, and those newer</p>

		<p>developments on the southern side. As redevelopment of this area occurs, it will see increased building densities in this area. The reserve adjacent to the site is considerably sloped, such that the dwellings already sit significantly higher than the pedestrian walking path and River itself. The height of the proposed development will not result in any unreasonable amenity or visual impacts to the scenic qualities of the area. Figure 5 below shows a Google streetview image from the footpath adjacent to the River, looking towards the existing dwellings on the southern side (in proximity to the subject lot). This demonstrates that an increase in building height would not have adverse impacts due to the separation distance between the property boundary and the footpath, the rear setback proposed (7.966m) and the realistic height which has been designed for the site, which is exacerbated by the slope of the lot.</p> <p>Should the 5.5m height limitation be enforced, it would require a significant level of earthworks (cut) to facilitate a single storey development, which would be detrimental to the streetscape. It would also render the development out of character with existing developments along this section of River Drive, given there is little excavation seen and that the heights of dwellings mostly exceed 5.5m. The proposed development will not have any unreasonable visual impacts to adjoining sites or to the adjoining reserve area.</p>
(d)	to maintain the predominantly low-rise character of buildings in the Queanbeyan-Palerang Regional local government area,	The development maintains the low-rise character of buildings within the locality. The height increase is modest and does not present as medium or high-rise character. The proposal is consistent with single dwelling houses in the locality. Although, it is important to note that the area is zoned R3 medium density residential, and as such it is likely that the character will change over time.
(e)	to ensure the height of buildings complement the streetscape or the historic character of the area in which the buildings are located,	There is a segment of 6 lots which are provided with the 5.5m height limitation, with all other lots surrounding having an allowable 8.5m height limitation. From Candor Town Planning's research of available information, it is unclear as to why the 5.5m height limitation has been applied to the 6 lots. Should development of 8.5m be provided on the 6 lots, it would not have any unreasonable impacts to the character of the area. Of the 6 lots in this area, one is undeveloped and 4 contain two storey dwelling houses which would contravene the development standard (ie their heights would exceed 5.5m).

(f)	to protect the heritage character of the Queanbeyan-Palerang Regional local government area and the significance of heritage buildings and heritage items,	There are no mapped heritage items noted within proximity of the site. The proposed development does not contradict the heritage values of the locality, with the proposed alterations and additions retaining the existing character of the building. It improves the overall functionality and amenity of the dwelling.
(g)	to provide appropriate height transitions between buildings, particularly at zone boundaries.	The site adjoins the RE1 Public Reserve to the north. This is land which will not be developed. The site is an R3 zoned lot, with R2 existing to the east. The permitted building height is predominately 8.5m in accordance with the height of buildings map. There is a segment of Karabar which permits 12m heights, located west of Cooma Street and comprises business zoned lots. The height provides an appropriate transition between buildings, as it is relatively consistent with the existing built form in the locality. It is not unreasonably exceeding the height limitation and is consistent with the heights of dwellings surrounding the site.

In summary, the applicant argues that the objectives of the development standard are achieved despite the non-compliance, which is found acceptable, because as argued:

- The area of non-compliance does not cause unacceptable bulk, scale or increased view loss or reduced privacy and solar access.
- The front façade and roof form from the street remains relatively unchanged, and the extension is located behind the building line.
- Developments east and west of the proposal will retain their existing view corridors, if any are available with the existing built form.
- The height does not cause the building to be out of character with the desired future character of the area and its scale and bulk are consistent with the controls that apply to the zone.

Clause 4.6(3)(b) requires the applicant to demonstrate that *there are sufficient environmental planning grounds to justify the contravention of the development standard*. The arguments presented by the applicant in support of this requirement are highlighted below:

- The existing built form contains a variation to the development standard, as do many other dwellings along this section of River Drive, rendering the development standard unreasonable to require compliance with.
- The departure from the numeric height standard is 33.82% or 1.86m and relates to predominately the built form of the roof, with no habitable floor areas being above the height limitation.
- The location of the roof reduces the visual appearance from the street given the built form remains consistent on the southern (front) façade.
- The extent of roof which is a variation to the height limitation does not present as overly bulky or of unreasonable scale to the northern public reserve as it incorporates features which reduce the overall perception, including different roof pitches and orientation, a large rear uncovered deck and a use of a variety of materials and recesses.

- The non-compliance allows for a superior development outcome on the site which provides for an appropriate residential density which reflects the environmental controls for the site having regard for its location, surrounding development and site characteristics.
- The area of noncompliance does not cause additional view loss, solar impact, or privacy impacts.
- Should the 5.5m height limitation be enforced, it would require a significant level of earthworks (cut) to enable the proposed development and also render the development out of character with existing developments along this section of River Drive, given there is little excavation seen and that the heights of dwellings mostly exceed 5.5m.
- The height of the proposed development will not result in any unreasonable amenity or visual impacts to the scenic qualities of the area due to the separation distance between the property boundary and the public footpath located at a distance of about 22m and rear setback of 7.5m which is further enhanced by the slope of the site.

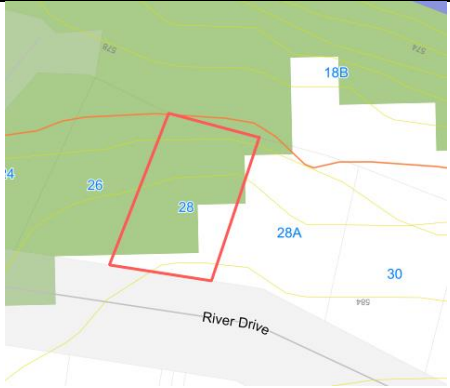
Considering the arguments and justification provided under Clause 4.6(3)(a) and (b) above, the variation request is considered acceptable and supported in this instance.

PART 5—MISCELLANEOUS PROVISIONS

Clause	Relevant	Comment
5.3 Development near zone boundaries: <ul style="list-style-type: none"> • This Clause allows Council to use the objectives of an adjoining zone and permitted uses from the land use table of that adjoining zone to permit a use on the subject site that is currently prohibited. Adjoining zone being relied upon must be within 20m of the subject site. 	N/A	The application does not seek approval for a land use that is permissible in an adjoining land use zone. The proposed development is permissible in the subject zone with consent.
5.4 Controls relating to miscellaneous permissible uses: <ul style="list-style-type: none"> • Specific additional controls for some uses. These are statutory controls that cannot be varied and must be complied with or the use is prohibited. <p>Choose an item.</p>	N/A	The application does not seek approval for a miscellaneous permissible use.
5.10 Heritage conservation:	N/A	The subject site does not contain a heritage item, is not located in a heritage conservation area and is not located adjacent to a heritage item or conservation area.

PART 7—ADDITIONAL LOCAL PROVISIONS

Clause	Relevance	Comment
7.1 Earthworks: <ul style="list-style-type: none"> • Clause applies to earthworks that is not exempt. • Earthworks assessable for a heritage item or in a heritage conservation area except wholly in the back yard). 	Yes	The application proposes earthworks to accommodate the proposed dwelling. The earthworks are considered satisfactory and are unlikely to disrupt or detrimentally impact drainage patterns and soil stability in the locality of the development, or

		adversely impact the likely future use or redevelopment of the land.
<p>7.2 Terrestrial biodiversity:</p> <ul style="list-style-type: none"> This clause primarily seeks to protect native flora and fauna. 	Yes	 <p>The subject lot is identified as being partly located within terrestrial biodiversity land. However, considering that the lot is in an established residential area and considering the extent of clearing already undertaken in the locality, the proposed development is unlikely to result in any further impact on any terrestrial biodiversity, or its habitats or ecosystems.</p>
<p>7.3 Drinking water catchments:</p> <ul style="list-style-type: none"> This clause primarily seeks to protect drinking water supplies by maintaining water quality. 	No	The subject site is not identified as being located within a drinking water catchment.
<p>7.4 Riparian land and watercourses:</p> <ul style="list-style-type: none"> This clause primarily seeks to protect and maintain water quality in waterways, the stability of beds & banks and aquatic & riparian habitats. 	No	The subject site is not identified as being located within riparian and watercourses land.
<p>7.5 Salinity:</p> <ul style="list-style-type: none"> This clause seeks to ensure land that is impacted by salinity or where the site is prone to erosion is managed. 	No	The subject site is not identified as being impacted by salinity.
<p>7.6 Highly erodible soils:</p> <ul style="list-style-type: none"> This clause seeks to protect highly erodible soils. 	No	The subject site is not identified as containing highly erodible soils.
<p>7.7 Slopes over 18 degrees:</p> <ul style="list-style-type: none"> This clause seeks to manage the impact of development on steep slopes. 	No	The subject site is not identified as containing slopes over 18 degrees.
<p>7.8 Airspace operations:</p> <ul style="list-style-type: none"> This clause seeks to manage the potential impact of development that penetrates the Airport Obstacle Limitation Surface. The clause may be triggered by the existing height of the land or the height of the land plus the height of the building. 	No	<p>The subject site is located within the Canberra Airport Obstacle Limitation Surface of 720m.</p> <p>However, the highest elevation of the lot is 584m and was therefore, further assessment was not considered necessary.</p>

7.9 Development in areas subject to aircraft noise: <ul style="list-style-type: none"> The clause seeks to prevent the impact of noise from the airport or under flight paths. 	No	The subject site is not identified as being impacted by aircraft noise.
7.10 Aircraft noise—development in the South Jerrabomberra Urban Release Area: <ul style="list-style-type: none"> This clause applies to noise sensitive development (residential or community use) in South Jerrabomberra Urban Release Area. 	No	The subject site is not located in South Jerrabomberra.
7.11 Development in areas adjoining national parks and nature reserves: <ul style="list-style-type: none"> This clause seeks to protect values of national parks and nature reserves. It applies to land adjoining a national park or nature reserve. 	No	The subject site does not adjoin a national park or nature reserve.
7.12 Essential services: <ul style="list-style-type: none"> This clause seeks to ensure all relevant essential services are available to the development. 	Yes	The subject lot is located in an established residential area and it is considered that it has access to all essential services.
7.13 Location of sex services premises: <ul style="list-style-type: none"> This clause seeks to minimise potential land use conflicts associated with sex services premises. 	No	The application does not propose a sex services premises.
7.14 Scenic protection: <ul style="list-style-type: none"> This clause seeks to protect scenic amenity and ensure development does not impact on it. 	No	The subject site is not identified as being located within a scenic protection area.
7.15 Active street frontages: <ul style="list-style-type: none"> This clause applies to development mapped on land as an active street frontage in the B3 Commercial Core. It seeks to promote uses that attract pedestrian traffic to ground floor street frontages. Clause applies to new buildings and change of use applications. 	No	The subject site is not identified as having an active street frontage.

4.15(1)(a)(ii) any draft environmental planning instruments

There are no draft environmental planning instrument applicable to this development.

4.15(1)(a)(iii) any development control plan

QUEANBEYAN DCP 2012 COMMENTS		
Section	Controls	Compliance / Conditions
PART 1 – ABOUT THIS DEVELOPMENT CONTROL PLAN		
1.8	Public Notification Of A Development Application The development application was notified to adjoining owners from 24/01/2024 to 09/02/2024. Two submissions were received.	Yes

PART 2 – ALL ZONES																																				
2.2	Car Parking Additional car parking was not required for the proposed development.	Yes																																		
2.3	Environmental Management A BASIX certificate has been submitted and the relevant commitments shown on the submitted plans. The proposed development will not result in any significant environmental impacts and is not located within the vicinity of arterial roads, entertainment venues or the like.	Yes																																		
2.4	Contaminated Land Management The proposal is considered generally satisfactory with respect to State Environmental Planning Policy (Resilience and Hazards) 2021 and therefore also with respect to DCP clause 2.4. The land is not known to have been used for potentially contaminating activities.	Yes																																		
2.6	Landscaping A landscaping plan was not required to be submitted with the application.	Yes																																		
2.7	Erosion and Sediment Control Standard conditions relating to site management will be imposed should development consent be granted.	Yes																																		
2.9	Safe Design The proposed development generally satisfies the relevant provisions of this clause.	Yes																																		
2.11	Airspace Operations and Airport Noise The proposed development complies with the requirements prescribed for the site in Clause 7.8 Airspace Operations and 7.9 Development in areas subject to Airport Noise. of the QPRLEP 2022 – see previous discussion in this assessment.	Yes																																		
2.12	Preservation of Trees and Vegetation The proposed development does not require the removal of any existing vegetation.	Yes																																		
PART 3 – SINGLE DWELLING RESIDENTIAL DEVELOPMENT																																				
3A.2.1	External Materials, Patterns, Textures and Decorative Elements The proposal involves the removal, replacement and construction of some section of the external walls with concrete blockwork at the lower level and weatherboard style cladding at the upper floor level. Conditions of consent is recommended to ensure use of muted and natural and non-reflective colours of the external walls.	Yes																																		
3A.2.2	Sitting and Building Setbacks The QDCP 2012 prescribes the following setbacks: Table 1 <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th rowspan="2"></th> <th colspan="2" style="text-align: center;">Front Boundary</th> <th rowspan="2" style="text-align: center;">Rear Boundary</th> </tr> <tr> <th style="text-align: center;">Major Frontage</th> <th style="text-align: center;">Minor Frontage</th> </tr> </thead> <tbody> <tr> <td>Dwelling</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Single Storey *</td> <td style="text-align: center;">6.0m</td> <td style="text-align: center;">4.0m</td> <td style="text-align: center;">4.0m</td> </tr> <tr> <td>Two or more Storeys *</td> <td style="text-align: center;">7.5m</td> <td style="text-align: center;">4.0m</td> <td style="text-align: center;">4.0m</td> </tr> <tr> <td>Free standing garage/ carport</td> <td style="text-align: center;">6.0m</td> <td style="text-align: center;">5.5m</td> <td style="text-align: center;">Nil</td> </tr> <tr> <td>Attached pergola/deck</td> <td style="text-align: center;">6.0m</td> <td style="text-align: center;">4.0m</td> <td style="text-align: center;">0.9m</td> </tr> <tr> <td>Swimming pool or similar</td> <td style="text-align: center;">6.0m</td> <td style="text-align: center;">4.0m</td> <td style="text-align: center;">Nil</td> </tr> <tr> <td>Corner Allotments with Long Curved Frontages</td> <td style="text-align: center;">5.0m</td> <td style="text-align: center;">5.0m</td> <td style="text-align: center;">4.0m (see Fig. 1)</td> </tr> </tbody> </table> <p>Comment: The development proposes the following setbacks which are found adequate:</p>		Front Boundary		Rear Boundary	Major Frontage	Minor Frontage	Dwelling				Single Storey *	6.0m	4.0m	4.0m	Two or more Storeys *	7.5m	4.0m	4.0m	Free standing garage/ carport	6.0m	5.5m	Nil	Attached pergola/deck	6.0m	4.0m	0.9m	Swimming pool or similar	6.0m	4.0m	Nil	Corner Allotments with Long Curved Frontages	5.0m	5.0m	4.0m (see Fig. 1)	Yes
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Corner Allotments with Long Curved Frontages	5.0m	5.0m	4.0m (see Fig. 1)																																	

	<p>Front: Existing setback maintained. Rear: 7.587m Deck: 5.587m</p>	
3A.7	<p>Consideration of Views, Shadowing and Privacy</p> <p>a) New dwellings should be designed to safeguard privacy and minimise the extent of impact on the outlook of existing or potential dwellings in the proximity. Comment: Not a new dwelling</p> <p>b) Direct overlooking of internal living areas of neighbouring dwellings is to be minimised by building layout, location and design of windows and balconies, provision of screening devices and landscaping. Comment: There is no change to a major part of the building. Alterations and additions to the rear side of the site address potential privacy issues with privacy screens and increased side setback.</p> <p>c) Two storey dwellings will include design features to minimise potential impacts on privacy and loss of natural light to existing adjoining development. Comment: The proposed development has incorporated adequate measures to address any privacy concerns, and a comparative review of the shadow diagrams of the building before and after the development shows that the neighbouring dwellings will receive the same amount of natural light and there will be minimal impacts in this regards.</p> <p>d) Shadow diagrams will be required for all two-storey development showing its impact at 9am, 12 noon and 3pm on 21 June (winter solstice). A minimum of 3 hours of natural light to the private open space and north facing living room windows of adjoining properties is required to be maintained between these hours. Comment: Shadow diagram has been provided and overshadowing impact is compliant.</p> <p>e) The proximity of dwellings to each other and the design of dwellings in terms of their layout, bulk, height and position of openings may have an impact on amenity. Privacy considerations are to be addressed through the careful layout of buildings and the activity which occurs in and around them, e.g. windows/decks to be elevated living areas may cause overlooking and be a source of noise nuisance. Comment: The proposed alterations and additions to the existing dwelling house is generally compliant with this control.</p>	Yes

	<p>f) Where two storey development creates a privacy intrusion on adjoining single storey development, appropriate measures must be installed to minimise the impact. The measures can include obscured glazing or screening, but there are alternative options.</p> <p>Comment: <i>The proposal adequately addresses the privacy concerns.</i></p>	
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4.15(1)(a)(iia) any planning agreement or draft planning agreement

No planning agreement has been entered into under section 7.4 of the *Environmental Planning and Assessment Act 1979*.

4.15(1)(a)(iv) matters prescribed by the regulations

Clause 92 of the *Environmental Planning and Assessment (EP&A) Regulation 2000* requires Council to take into consideration Australian Standard AS2601–1991: *The Demolition of Structures*, in the determination of a development application.

Having regard to this prescribed matters, the proposed development involves the demolition of a building for the purposes of AS 2601 – 1991: *The Demolition of Structures*.

Should this application be approved, appropriate conditions of consent are recommended to ensure compliance with any relevant regulations.

4.15(1)(a)(v) any coastal zone management plan

Council is not subject to a coastal zone management plan.

4.15(1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The Aboriginal Cultural Heritage Due Diligence process was followed as part of the assessment. A basic AHIMS search was carried out and no recorded or declared Aboriginal sites were found in or near the subject site. There are not any other sources of information of which a person is already aware and the landscape does not contain features which are likely to indicate the presence of Aboriginal objects.

Subject to the conditions of consent, the proposed development is considered acceptable as it will not result in any significant impacts on the natural or built environments and will not result in any social or economic impacts on the locality.

4.15(1)(c) the suitability of the site for the development

The subject site is relatively unconstrained and is considered to be suitable in its current state for the purposes of the proposed development.

4.15(1)(d) any submissions made in accordance with this Act or the regulations

The application was notified from 24/01/2024 to 09/02/2024. Two submissions were received raising concerns on:

1(a) Limiting access to natural light and existing views from 2 separate windows due to the construction of the proposed development’s western wall.

Comment: Though the proposed development extends beyond the existing building line to the rear, it has maintained a setback of 2.84m from its western boundary. Further, given the northerly orientation of the lots, there are no shadow impacts as seen in Figure 15 below.

Privacy issues are also adequately addressed as there is no window on the extended part of the western wall. The proposed bedroom window is offset from the existing window on the adjoining lot and is located at least 3m from the western boundary. The deck will also be screened. There are also trees along the lower part of the boundary providing natural barrier and privacy screen.

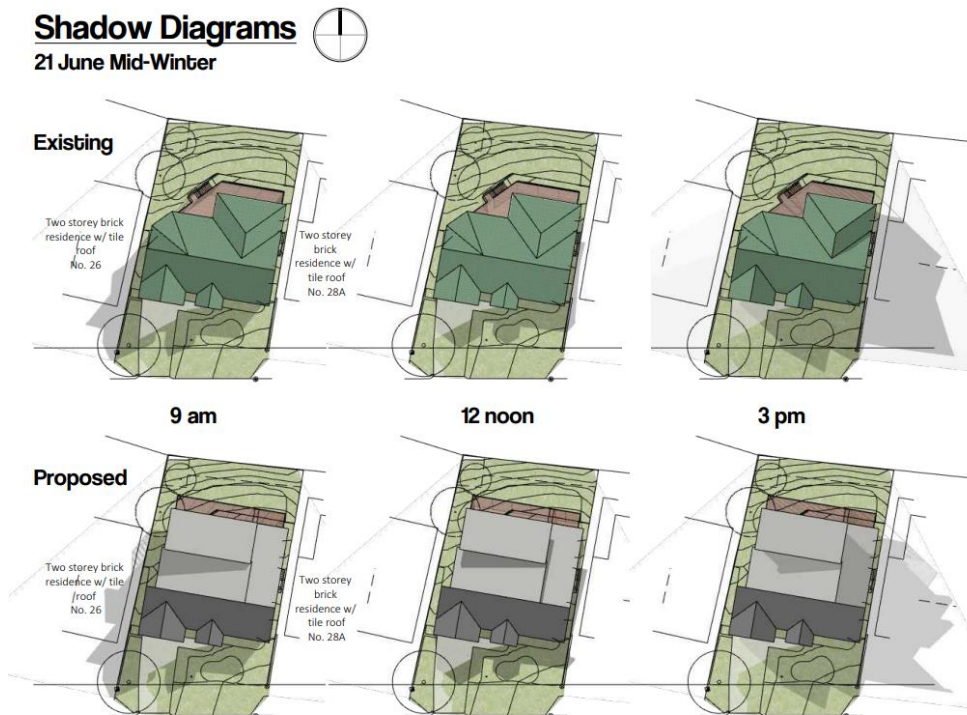


Figure 15: Comparative shadow diagrams (Source: PdD Building Design)

1(b) Possible removal of two large trees on the western side that provide natural privacy barrier between properties and provide shade and aesthetics.

Comment: The trees are shown on the proposed development plans and are not marked for removal. Further, the owner confirmed, during a telephone call on 29 April 2024 that the trees will be retained and that she also had conversation with the neighbour on this issue. Further, during the site inspection on 8 May 2024, it was observed that the medium sized trees stand close to the lot boundary and are sufficiently away from the proposed development and would not require to be removed.

2. The location of the deck on the eastern side could impact the privacy of living room on the adjacent lot and potentially impact on access to light as the windows may have to be permanently covered for privacy reasons.

Comment: It is considered that these concerns are adequately addressed. The part of the deck on this side is lower than the rest and the deck on the adjacent lot. As advised, the applicant has proposed 1.7m high privacy screen on the eastern side of the deck addressing privacy concerns. Further, a comparative review of the shadow diagrams before and after the development shows that there is no impact to the solar and light access for major part of the day, and only a minor impact after 3pm.

4.15(1)(e) the public interest

The public interest is served through the detailed assessment of this development application under the relevant local planning controls and legislation and consideration of any submissions received relating to it by Council. The proposed development is not considered to be contrary to the public interest.

SECTION 64 CONTRIBUTIONS

Section 64 of the Local Government Act 1993 allows contributions to be levied towards the provision of water, sewerage and stormwater infrastructure.

Section 64 Contributions are not applicable to the proposed development.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 of the *Environmental Planning & Assessment Act 1979* permits councils to require as a condition of development consent, the reasonable dedication of land or the payment of monies, or both, for development that is likely to require the provision of, or increase the demand for public amenities and public services within the area.

Section 7.11 Contributions are not applicable to the proposed development.

SECTION 7.12 CONTRIBUTIONS

Section 7.12 of the *Environmental Planning & Assessment Act 1979* permits councils to require as a condition of development consent the payment of monies to be applied towards the provision, extension or augmentation of public amenities or public services (or towards recouping the cost of their provision, extension or augmentation).

Section 7.12 contributions are applicable to the proposed development as follows:

Table 2 Contribution by Development Cost

Proposed Cost of Development	Levy
All development types valued at \$100,000 or less	Nil
All development types valued between \$100,001 and \$200,000	0.5%
All development types valued at more than \$200,000	1.0%

The development is valued at \$500,000, and as such the current proposal will incur a levy of 1% of the cost of development, amounting to \$5,000.

CONCLUSION

The application has been assessed having regard to Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and is considered to be satisfactory for approval, subject to recommended conditions of consent.

QUEANBEYAN-PALERANG REGIONAL COUNCIL

Council Meeting Attachment

10 JULY 2024

ITEM 9.1 DA.2023.0600 - ALTERATIONS AND ADDITIONS TO
DWELLING HOUSE - 28 RIVER DRIVE KARABAR

ATTACHMENT 2 PLANS - DA.2023.0600 - 28 RIVER DRIVE KARABAR

Development Application for Alteration & Addition to Existing Dwelling at 28 River Drive Karabar Lot 16 DP 837155

DRAWINGS

No.	Title
1	Existing Site Plan
2	Proposed Site Plan
3	Existing Floor Plan
4	Existing Elevations
5	Proposed Floor Plan: Upper
6	Proposed Floor Plan: Lower
7	Proposed Elevations 1
8	Proposed Elevations 2
9	Section
10	Window Schedule
11	Tree Removal Plan
12	Rainwater Management Plan
13	Shadow Diagrams:21 June
14	Height Limit 5.5 m
15	Basix Commitments
16	Notification Plan: Site Plan
17	Notification Plan: Elevations



PdD Building Design
ABN 13166138260
Phone 0429204924
Email paul@pddbuidingdesign.com.au
Web pddbuidingdesign.com.au
116 Carramar Drive, Malua Bay



Site Plan



Proposed

Landscaping Ratio
Land Area = 658.6 sqm approx.
Proposed Landscaped Area 330 sqm
Percentage Landscaped = 50 %

Datum AHD

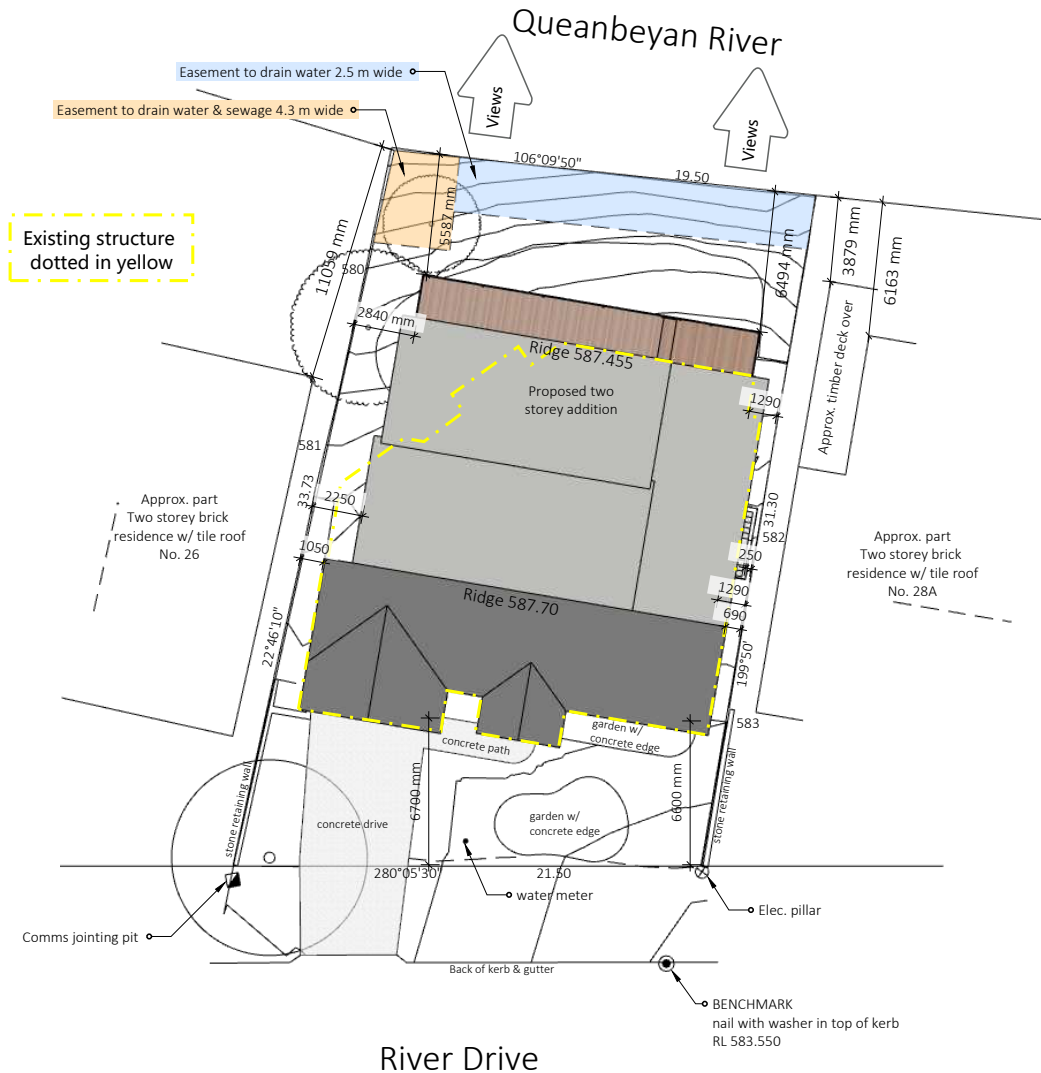
Contour interval = 0.25 m

POS > 24 sqm

All construction to comply with 'AS3959-2018 "Construction of Buildings in Bushfire Prone Areas" and Section A3.7 "Additional Construction Requirements" of Addendum: Appendix 3 - Planning for Bushfire Protection 2019

General Notes

- All construction is to comply with latest issue of BCA.
- All set out of buildings and structures to be carried out by a registered land surveyor and checked prior to construction.
- Locations of underground services are approximate and should be confirmed on site. Connection of sewer and storm water should be to council approved methods.
- Plans to be read in conjunction with all consultants' plans and specifications, in particular the engineer's structural drawings. Engineer's drawings and details to be supplied to council prior to commencement of works, and a copy provided to the certifying authority.
- There is no guarantee that the design details shown on the plans are complete. Should the construction of the design differ from the design and detail in these and any associated documents, the builder and owner should notify the designer.
- Builder to have stamped building approval drawings and permits prior to commencement of works. It is the builder's responsibility to comply with all planning conditions.
- Site conditions are indicated on the plan and may only be correct at the time of drawing; these should be further confirmed by a site visit noting vegetation, drainage and soil profile.



Page Number:
02 of 16

Drawing Title:
Proposed Site Plan

Scale: 1:200 @ A3 Design by: KTW

Issue Date: **28/05/2024**

Superseded: 24/02/2024 Issue: **B**

Client Name: **Emma & Brendan McMahon**
Project Address: **28 River Drive Karabar Lot 16 DP 837155**
Description: **DA for Alterations & Addition to Existing Dwelling**

All dimensions and levels to be verified on site prior to commencement of construction. These drawings are not for construction. Do not scale off plans, use dimensions. Prior to commencing site works, all relevant authorities should be contacted to confirm locations of existing and proposed services.

Disclaimer: the author has attempted to ensure that the information contained in this document is accurate at the time of writing, but does not warrant this. Persons intending to act on information contained in this document should first check all relevant national, state and local building legislations, relevant Australian Standards and the Building Code of Australia, and manufacturers' specifications and requirements. The author is not liable for loss, damage, cost or expense suffered or incurred arising directly or indirectly from the use or reliance on information contained in this document, it is provided in good faith without express or limited warranty.

PdD Building Design
ABN 13166138260
Phone 0429204924
Email paul@pddbuildingdesign.com.au
Web pddbuildingdesign.com.au
116 Carramar Drive, Maitua Bay

Floor Plan

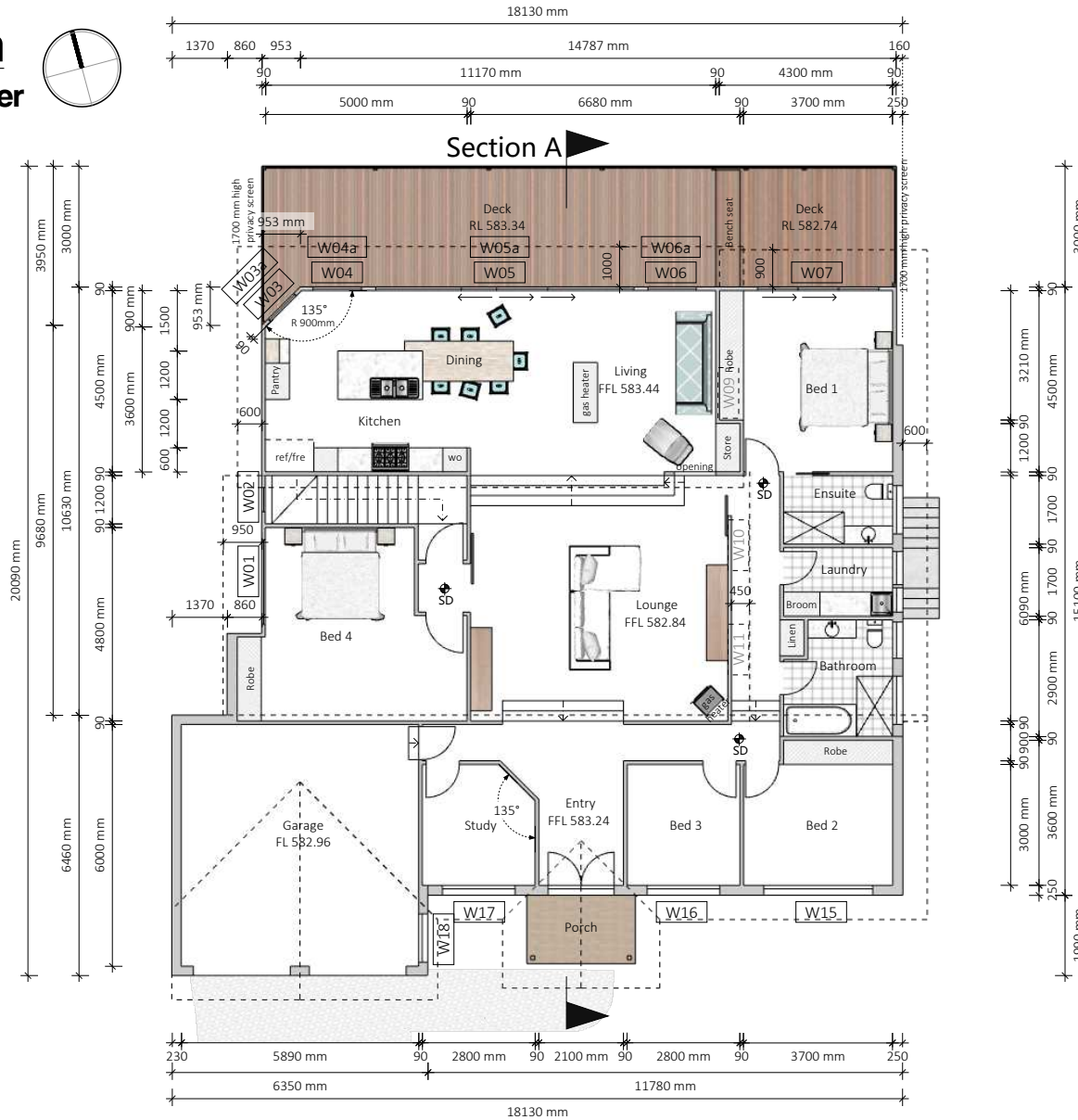
Proposed Upper



Floor area
 = 393 sqm approx.
Internal:
 Upper = 220 sqm
 Lower = 61 sqm
 Store = 23 sqm
 Garage = 41 sqm
 Rear deck = 48 sqm

Stairs
 Rise = 171.4 mm
 Going = 250 mm
 2R + G = 592.8 mm

SD 240V smoke detectors, hard wired and linked to comply with NCC2019 Part 3.7.5



Page Number:
05 of 16

Drawing Title:
Proposed Floor Plan: Upper

Scale: 1:100 @ A3 Design by: KTW

Issue Date: **28/05/2024**

Superseded: 04/02/2024 Issue: **B**

Client Name: Emma & Brendan McMahon
Project Address: 28 River Drive Karabar Lot 16 DP 837155
Description: DA for Alterations & Addition to Existing Dwelling

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PdD Building Design
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 Phone 0429204924
 Email paul@pddbuildingdesign.com.au
 Web pddbuildingdesign.com.au
 116 Carramar Drive, Malua Bay

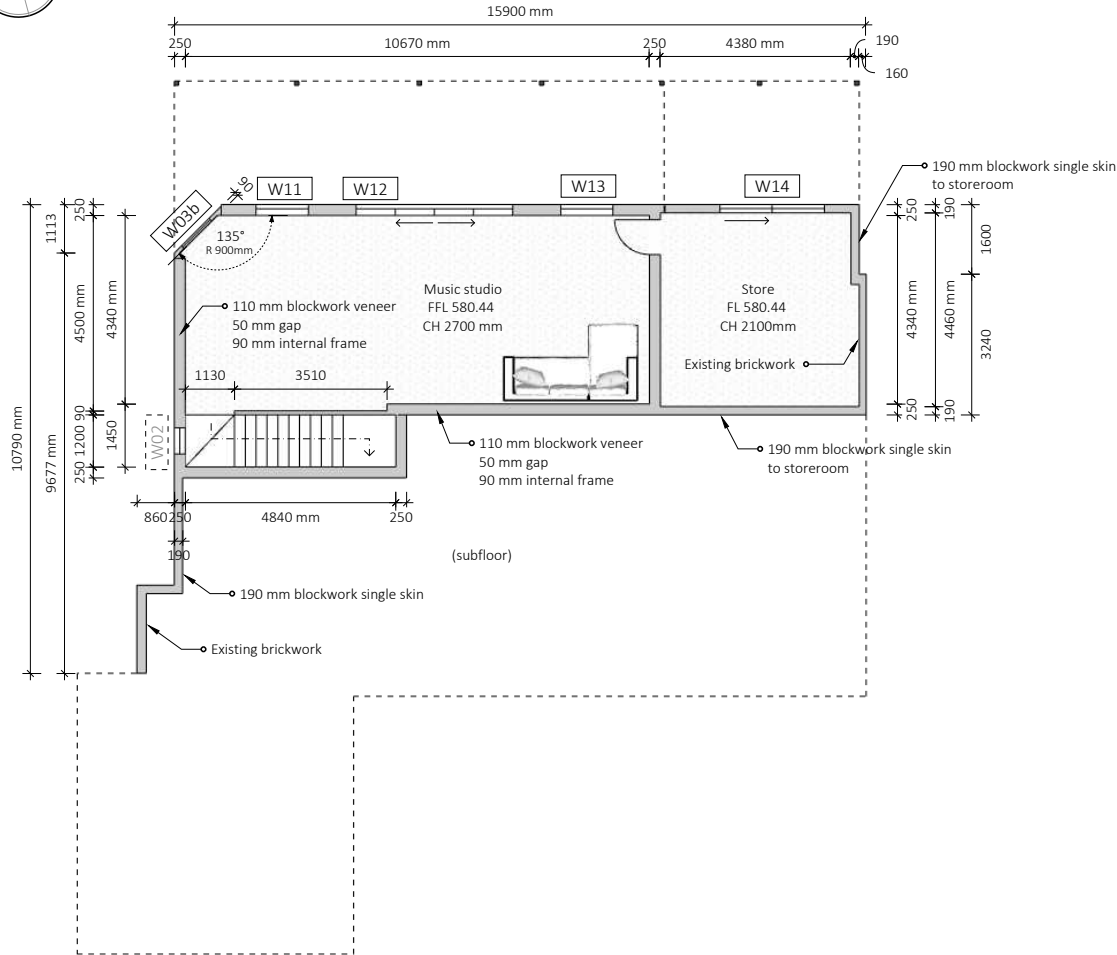
Floor Plan

Proposed Lower



Floor area
 = 393 sqm approx.
Internal:
 Upper = 220 sqm
 Lower = 61 sqm
 Store = 23 sqm
 Garage = 41 sqm
 Rear deck = 48 sqm

Stairs
 Rise = 171.4 mm
 Going = 250 mm
 2R + G = 592.8 mm



Page Number:
06 of 16

Drawing Title:
Proposed Floor Plan: Lower

Scale: 1:100 @ A3
 Design by: KTW

Issue Date: **28/05/2024**

Superseded: 24/02/2024
 Issue: **B**

Client Name: Emma & Brendan McMahon
Project Address: 28 River Drive Karabar Lot 16 DP 837155
Description: DA for Alterations & Addition to Existing Dwelling

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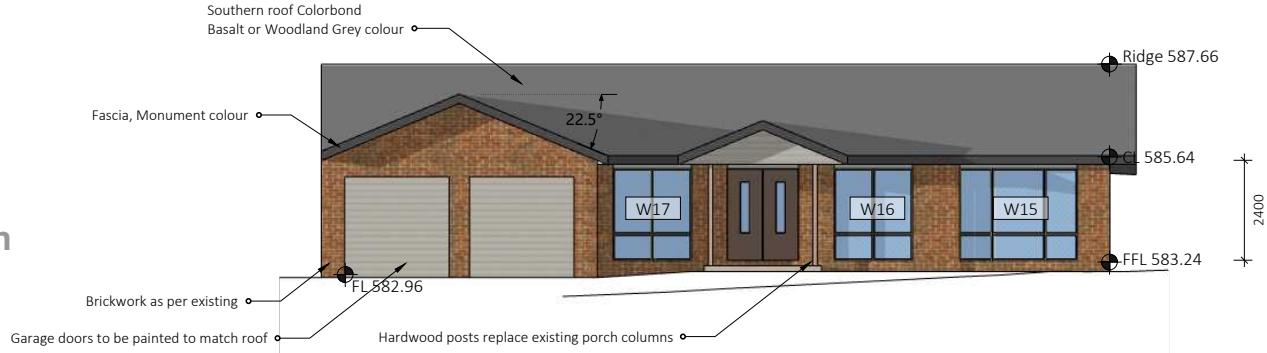
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PdD Building Design
 ABN 13166138260
 Phone 0429204924
 Email paul@pddbuildingdesign.com.au
 Web pddbuildingdesign.com.au
 116 Carramar Drive, Malua Bay

Elevations

Proposed 1

North



South



Page Number:
07 of 16

Drawing Title:
Proposed Elevations 1

Scale: 1:100 @ A3 Design by: KTW

Issue Date: **28/05/2024**

Superseded: 24/05/2024 Issue: **B**

Client Name: **Emma & Brendan McMahon**
 Project Address: **28 River Drive Karabar Lot 16 DP 837155**
 Description: **DA for Alterations & Addition to Existing Dwelling**

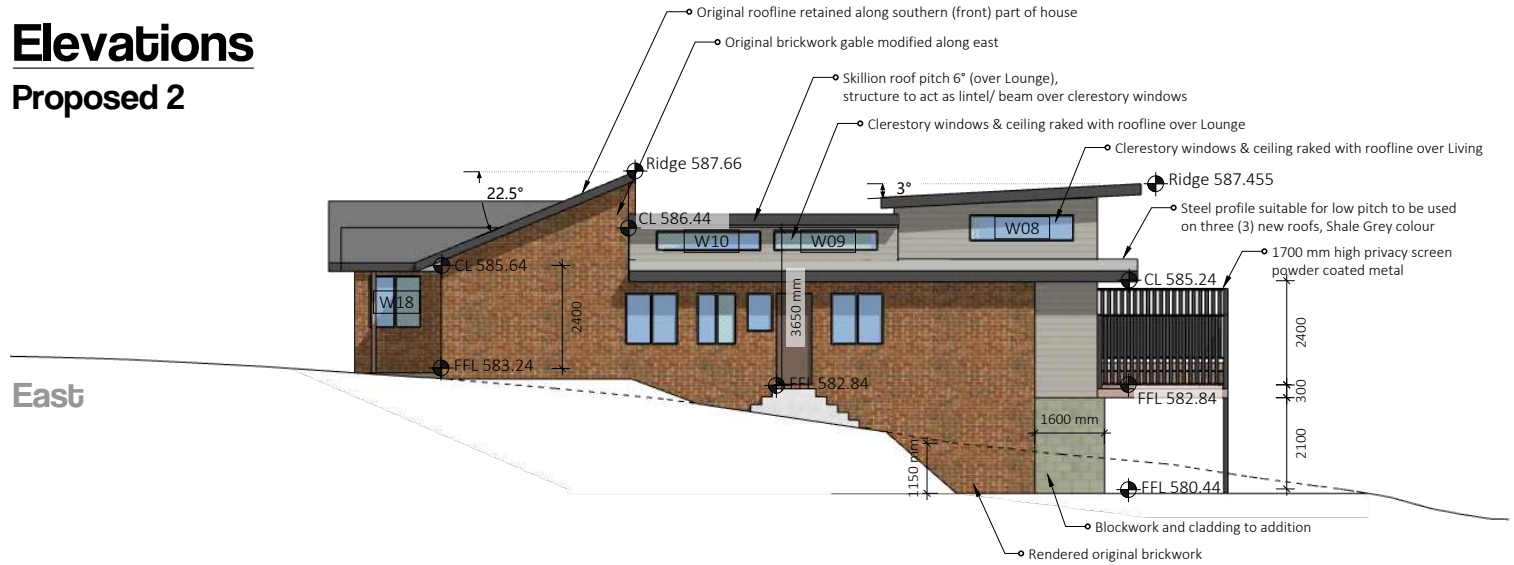
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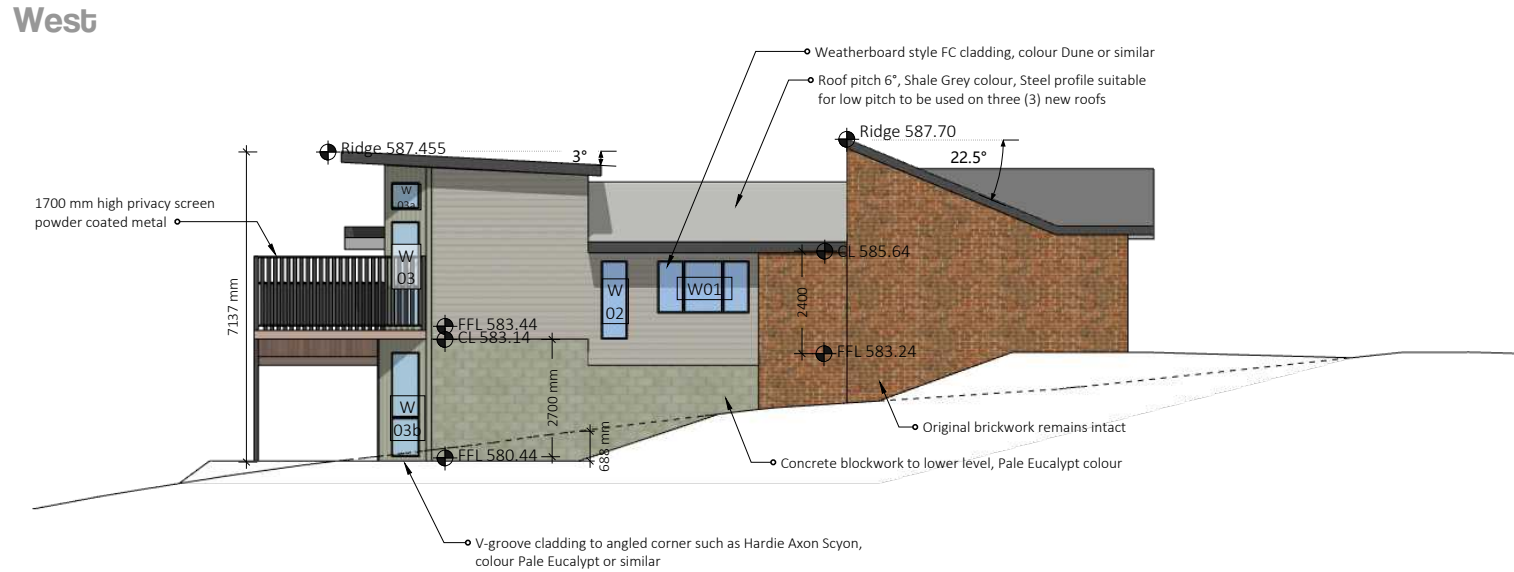
PdD Building Design
 ABN 13166138260
 Phone 0429204924
 Email paul@pddbuildingdesign.com.au
 Web pddbuildingdesign.com.au
 116 Carramar Drive, Malua Bay

Elevations

Proposed 2



East



West



Page Number:
08 of 16

Drawing Title:
Proposed Elevations 2

Scale: 1:100 @ A3 Design by: KTW

Issue Date: **28/05/2024**

Superseded: 24/02/2024 Issue: **B**

Client Name: **Emma & Brendan McMahon**
 Project Address: **28 River Drive Karabar Lot 16 DP 837155**
 Description: **DA for Alterations & Addition to Existing Dwelling**

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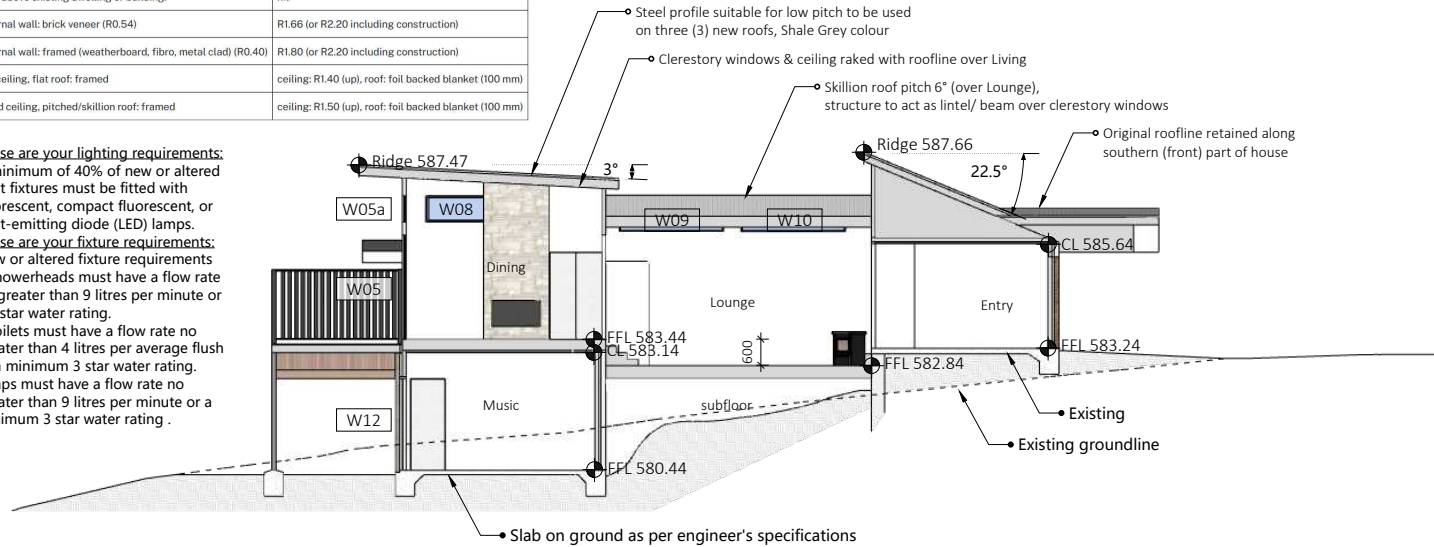
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PdD Building Design
 ABN 13166138260
 Phone 0429204924
 Email paul@pddbuildingdesign.com.au
 Web pddbuildingdesign.com.au
 116 Carramar Drive, Malua Bay

Additional Insulation Requirements

Construction	Additional insulation requirement (R-value)
concrete slab on ground floor.	nil
suspended floor with enclosed subfloor: framed (R0.7).	R1.30 (down) (or R2.00 including construction)
floor above existing dwelling or building.	nil
external wall: brick veneer (R0.54)	R1.66 (or R2.20 including construction)
external wall: framed (weatherboard, fibro, metal clad) (R0.40)	R1.80 (or R2.20 including construction)
flat ceiling, flat roof: framed	ceiling: R1.40 (up), roof: foil backed blanket (100 mm)
raked ceiling, pitched/skillion roof: framed	ceiling: R1.50 (up), roof: foil backed blanket (100 mm)

These are your lighting requirements:
A minimum of 40% of new or altered light fixtures must be fitted with fluorescent, compact fluorescent, or light-emitting diode (LED) lamps.
These are your fixture requirements:
New or altered fixture requirements
> Showerheads must have a flow rate no greater than 9 litres per minute or a 3 star water rating.
> Toilets must have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating.
> Taps must have a flow rate no greater than 9 litres per minute or a minimum 3 star water rating.



Section A



Page Number:
09 of 16

Drawing Title:
Section A

Scale: 1:100 @ A3 Design by: KTW

Issue Date: **28/05/2024**

Superseded: 24/02/2024 Issue: **B**

Client Name: **Emma & Brendan McMahon**
Project Address: **28 River Drive Karabar Lot 16 DP 837155**
Description: **DA for Alterations & Addition to Existing Dwelling**

All dimensions and levels to be verified on site prior to commencement of construction. These drawings are not for construction. Do not scale off plans, use dimensions. Prior to commencing site works, all relevant authorities should be contacted to confirm locations of existing and proposed services.

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PdD Building Design
ABN 13166138260
Phone 0429204924
Email paul@pddbuildingdesign.com.au
Web pddbuildingdesign.com.au
116 Carramar Drive, Maitua Bay

Footings and flooring

- Dwelling is a concrete slab system with framed upper floor.
- Engineer to provide design and computations prior to commencement of construction.

Wall Framing and Timber

- All timber framing to comply with the requirements of the BCA, AS1684 and AS1720. Timber to be selected for durability with regards local weather conditions and termite attack.
- Common studs - 90x35mm
- Noggins 90x35mm
- Top and bottom plates 90x35mm.

Termite Protection

- To be installed in accordance with AS3660-1.

Walls

- Brick-veneer: timber frame system by manufacturer.
- External walls to be clad as illustrated in elevations.
- Line walls internally with 10mm plasterboard sheeting.

Steel

- All Steels to be constructed in compliance with AS4100 Steel Code or AS1250 Steel Code including AS1554 Welding code and AS1538 for a cold form of steel.
- All shop drawings to accompany engineering details, the onus is on the owner and builder to confirm the correct details are provided.

Roof System

- Roof skillion system by manufacturer.
- Ceiling internal lining to be 10mm plaster board.
- Eave lining to be 4.5mm cement sheet.
- All eaves minimum 450mm overhang.
- Gutter, fascia and downpipes to be colorbond.

Electrical work

- All electrical work to be strictly in accordance with AS3000 and AS3112 & approved by a registered inspector.
- All Photovoltaic work to be strictly in accordance with AS5033 & approved by a registered inspector.

Sub Floor Ventilation

- Provide evenly spaced ventilation to subfloor strictly in accordance with part 3.4.1 of BCA.

Stairs

- Stair, handrail and barrier construction and design to comply with BCA Part 3.9 Safe Movement and Access
- Riser = 171.4 mm
- Going = 250 mm
- 2R + G = 592.8 mm

Wet Area Waterproofing

- Timber Floors to be waterproofed as per AS3740.
- Check all bathroom fixture dimensions prior to construction of relevant walls.
- Villaboard or equivalent wall lining to wet areas as specified & to comply with part 3.8 of the BCA.

Drainage

- Agi-drain to be installed to all site cuts.
- Slope soil 1:100 away from dwelling at a distance of 1000mm minimum.

Window Schedule

Window Number	Location	Basix Window Number	Orientation	Dimensions HxW m	Area (sqm)	Window Description
W01	Bed 4	14	W	1.2x2.1	2.52	Sliding
W02	Stair	15	W	1.8x0.6	1.08	Fixed
W03	Kitchen	16	NW	2.4x0.9	2.16	Awning
W03a	Kitchen	17	NW	0.6x0.9	0.54	Fixed clerestory
W03b	Music	18	NW	2.4x0.9	2.16	Awning
W04	Kitchen	1	N	2.4x1.2	2.88	Awning
W04a	Kitchen	2	N	0.6x1.2	0.72	Fixed clerestory
W05	Dining	3	N	2.4x6.4	15.36	Pair Double stacking door
W05a	Dining	4	N	0.6x6.4	3.84	Fixed clerestory
W06	Living	5	N	2.4x1.2	2.88	Awning
W06a	Living	6	N	0.6x1.2	0.72	Fixed clerestory
W07	Bed 1	7	N	2.1x3.0	6.3	Stacking door
W08	Living	11	E	0.6x2.4	1.44	Fixed clerestory
W09	Lounge	12	E	0.45x2.4	1.08	Fixed clerestory
W10	Lounge	13	E	0.45x2.4	1.08	Fixed clerestory
W11	Music	8	N	2.1x1.2	2.52	Awning
W12	Music	9	N	2.1x3.6	5.76	Double Sliding door
W13	Music	10	N	2.1x1.2	2.52	Awning
W14	Store	---	N	2.4x2.0	4.8	Sliding door *Head height to be confirmed on site by builder
W15	Bedroom 2	-	S	2.1x2.7	5.67	Sliding; to replace existing *dimensions to be confirmed on site
W16	Bedroom 3	-	S	2.1x1.8	3.78	Sliding; to replace existing *dimensions to be confirmed on site
W17	Study	-	S	2.1x1.8	3.78	Sliding; to replace existing *dimensions to be confirmed on site
W18	Garage	-	E	1.2x1.2	1.44	Sliding; to replace existing *dimensions to be confirmed on site

Dimensions to be confirmed on site by builder



Page Number:
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Drawing Title:
Window Schedule

Scale: Design by:
 N / A @ A3 KTW

Issue Date: **28/05/2024**

Superseded: Issue:
 24/02/2024 **B**

Client Name: **Emma & Brendan McMahon**
 Project Address: **28 River Drive Karabar Lot 16 DP 837155**
 Description: **DA for Alterations & Addition to Existing Dwelling**

All dimensions and levels to be verified on site prior to commencement of construction. These drawings are not for construction. Do not scale off plans, use dimensions. Prior to commencing site works, all relevant authorities should be contacted to confirm locations of existing and proposed services.

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PdD Building Design
 ABN 13166138260
 Phone 0429204924
 Email paul@pddbuildingdesign.com.au
 Web pddbuildingdesign.com.au
 116 Carramar Drive, Malua Bay

Basix Commitments

Construction		
Insulation requirements		
The applicant must construct the new or altered construction (floor(s), walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m ² , b) insulation specified is not required for parts of altered construction where insulation already exists.		
Construction	Additional insulation required (R-value)	Other specifications
concrete slab on ground floor	nil	N/A
suspended floor with enclosed subfloor: framed (R0.7)	R1.39 (down) (or R2.00 including construction)	N/A
floor above existing dwelling or building	nil	N/A
external wall: brick veneer	R1.66 (or R2.20 including construction)	
external wall: framed (weatherboard, fibro, metal clad)	R1.80 (or R2.20 including construction)	
raked ceiling pitched/skillion roof: framed	ceiling R1.50 (up), roof foil backed blanket (100 mm)	light (solar absorbance < 0.475)
flat ceiling, flat roof: framed	ceiling R1.40 (up), roof foil backed blanket (100 mm)	light (solar absorbance < 0.475)

Glazing requirements						
Window/door number	Orientation	Area of glass including frame (m ²)	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type
W6	N	0.72	0	0	eave/verandah/ pergola/balcony >=900 mm	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W7	N	6.3	0	0	eave/verandah/ pergola/balcony >=900 mm	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W8	N	2.52	0	0	projection/ height above sill ratio >=0.43	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W9	N	5.76	0	0	projection/ height above sill ratio >=0.43	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W10	N	2.52	0	0	projection/ height above sill ratio >=0.43	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)

Glazing requirements						
Window/door number	Orientation	Area of glass including frame (m ²)	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type
W16	NW	216	0	0	eave/verandah/ pergola/balcony >=900 mm	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W17	NW	0.54	0	0	eave/verandah/ pergola/balcony >=900 mm	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W18	NW	216	0	0	eave/verandah/ pergola/balcony >=900 mm	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)

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

Window/door number	Orientation	Area of glass including frame (m ²)	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type
W1	N	2.88	0	0	eave/verandah/ pergola/balcony >=900 mm	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W2	N	0.72	0	0	eave/verandah/ pergola/balcony >=900 mm	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W3	N	15.36	0	0	eave/verandah/ pergola/balcony >=900 mm	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W4	N	3.84	0	0	eave/verandah/ pergola/balcony >=900 mm	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W5	N	2.88	0	0	eave/verandah/ pergola/balcony >=900 mm	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)

Window/door number	Orientation	Area of glass including frame (m ²)	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type
W11	E	1.44	0	0	eave/verandah/ pergola/balcony >=600 mm	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W12	E	1.08	0	0	eave/verandah/ pergola/balcony >=600 mm	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W13	E	1.08	0	0	eave/verandah/ pergola/balcony >=600 mm	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W14	W	2.52	0	0	eave/verandah/ pergola/balcony >=900 mm	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)
W15	W	1.08	0	0	eave/verandah/ pergola/balcony >=900 mm	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)

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



Page Number:
14 of 16

Drawing Title:
Basix Commitments

Scale:
N / A @ A3

Design by:
KTW

Issue Date: **28/05/2024**

Superseded:
04/01/2024

Issue:
B

Client Name: **Emma & Brendan McMahon**
Project Address: **28 River Drive Karabar Lot 16 DP 837155**
Description: **DA for Alterations & Addition to Existing Dwelling**

All dimensions and levels to be verified on site prior to commencement of construction. These drawings are not for construction. Do not scale off plans, use dimensions. Prior to commencing site works, all relevant authorities should be contacted to confirm locations of existing and proposed services.

QUEANBEYAN-PALERANG REGIONAL COUNCIL

Council Meeting Attachment

10 JULY 2024

ITEM 9.1 DA.2023.0600 - ALTERATIONS AND ADDITIONS TO
DWELLING HOUSE - 28 RIVER DRIVE KARABAR

ATTACHMENT 3 DRAFT CONDITIONS OF CONSENT - DA.2023.0600 - 28 RIVER
DRIVE KARABAR

Draft Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

APPROVED DEVELOPMENT AND PLANS

1. Plans and documents

The development referred to in the application is to be carried out in accordance with the approved plans and documents including the following:

Title / Description	Prepared by	Issue/Revision & Date	Date received by Council
Title Sheet	PdD Building Design	-	28/05/2024
Proposed Site Plan	PdD Building Design	Issue B 02 of 16 28.05.2024	28/05/2024
Proposed Floor Plan: Upper	PdD Building Design	Issue B 05 of 16 28.05.2024	28/05/2024
Proposed Floor Plan: Lower	PdD Building Design	Issue B 06 of 16 28.05.2024	28/05/2024
Proposed Elevations 1	PdD Building Design	Issue B 07 of 16 28.05.2024	28/05/2024
Proposed Elevations 2	PdD Building Design	Issue B 08 of 16 28.05.2024	28/05/2024
Section A	PdD Building Design	Issue B 09 of 16 28.05.2024	28/05/2024
Window Schedule	PdD Building Design	Issue B 10 of 16 28.05.2024	28/05/2024
BASIX Commitments	PdD Building Design	Issue B 14 of 16 28.05.2024	28/05/2024
BASIX Certificate	Paul Dolphin	A1378303 01.12.2023	02/12/2023
Bushfire Assessment Report	Ember Bushfire Consulting	12 March 2024	01/05/2024

except as modified by any of the following conditions of consent.

Reason: Development is undertaken in accordance with this consent & is used for the approved purpose only.

GENERAL CONDITIONS

2. Obtain Construction Certificate

Obtain a construction certificate from Queanbeyan-Palerang Regional Council or an appropriately accredited private certifier before undertaking any work. Forward a copy of any construction certificate issued by a private certifier to Queanbeyan-Palerang Regional Council at least 2 days before undertaking any work in accordance with that construction certificate.

Reason: Work is undertaken in accordance this consent & relevant construction standards.

3. Obtain Occupation Certificate

Do not occupy or use the premises until an occupation certificate has been issued by Queanbeyan-Palerang Regional Council or an appropriately accredited private certifier. Provide a copy of any occupation certificate, issued by a private certifier, to Queanbeyan-Palerang Regional Council no later than 2 days after the occupation certificate is issued.

OFFICES

144 Wallace St, Braidwood
13 Gibraltar St, Bungendore
257 Crawford St, Queanbeyan

POSTAL

PO Box 90, Queanbeyan NSW 2620

PHONE

P: 1300 735 025

EMAIL/WEB

E: council@qprc.nsw.gov.au
W: www.qprc.nsw.gov.au

ABN 95 933 070 982

Reason: Ensure that the building complies with relevant standards.

4. Comply with the Building Code of Australia

All work is to comply with the current edition of the Building Code of Australia.

Reason: All building work is carried out in accordance with relevant construction standards.

5. Construction within Boundaries

The development including but not limited to footings, walls, roof barges and guttering must be constructed wholly within the boundary of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath or adjoining land.

Reason: Approved works are to be contained wholly within the subject site.

6. Copy to Owner

A copy of this consent is to be provided to the owner.

Reason: To ensure the owner is aware of the requirements imposed under the consent.

7. Batters

No batter is to have a gradient greater than 1:4. Batters greater than 1:4 must be retained.

Reason: Prevent soil erosion, water pollution and the discharge of loose sediment on surrounding land.

8. Imported Fill

All fill delivered to site has to be certified Virgin Excavated Natural Material (VENM).

Reason: Only clean and non-contaminated fill is used on site.

9. Unauthorised Use of Public Land

No building materials are to be stored or construction activities undertaken on public or adjoining land without prior written approval from Council.

Reason: To prevent unnecessary disturbance to public land.

10. Work on Adjoining Land Is Limited

The verge and other adjoining lands must not be used for storage of materials, trade/construction vehicle parking or disturbed by construction activities with the exception of;

- a. Installation of a temporary, stabilised construction access across the verge,
- b. Installation of services,
- c. Construction of an approved permanent verge crossing.

Reason: To minimise interference with the verge and its accessibility by pedestrians.

CONDITIONS TO BE SATISFIED PRIOR TO COMMENCEMENT OF WORKS

11. Appoint PCA (Building)

Appoint a principal certifying authority before any work is undertaken. Provide details of the appointed principal certifying authority (if not Queanbeyan-Palerang Regional Council) to Queanbeyan-Palerang Regional Council at least 2 days prior to any work being undertaken.

Reason: To provide for supervision of the development works.

12. Development Contributions to be Paid

Prior to the issue of Construction Certificate, the contributions specified in Schedule 1 of this consent must be paid to Council under the provisions of Section 7.11 or 7.12 of the *Environmental Planning and Assessment Act 1979*.

Reason: To provide for the funding of augmentation and provision of services and community facilities.

13. Site Identification

The site where building work, subdivision work, or demolition work are proposed to be carried out shall be identified by a sign sited in a visually prominent position containing the following information;

- the development application number,
- name, address and telephone number of the principal certifying authority,
- name of the principal contractor (if any) and 24 hour contact telephone number, and
- a statement that "unauthorised entry to the work site is prohibited".

Reason: To satisfy the provisions of Clause 70 of the Environmental Planning and Assessment Regulation 2021.

14. Home Building Act Requirements

Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the council) has given Council written notice of the following information:

- (a) In the case of work for which a principal contractor is required to be appointed:
 - (i) The name and licence number of the principal contractor.
 - (ii) The name of the insurer by which the work is insured under Part 6 of that Act.
- (b) In the case of work to be done by an owner-builder:
 - (i) The name of the owner-builder.
 - (ii) If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Reason: This is a prescribed condition under the provisions of clause 98B of the Environmental Planning and Assessment Regulation 2000.

15. Sediment and Erosion Control

A Sediment and Erosion Control Plan (S&ECP) for all site works, including road works and access, is to be approved by the principal certifying authority prior to work commencing. The plan is to cover all measures to control erosion and sediment transport in accordance with the

NSW Landcom publication *Managing Urban Stormwater - Soils and Construction (4th Edition 2004 - "Blue Book")*.

Erosion and sediment controls are to be in place before the disturbance of any soils on the site, and are to be maintained during the works and for as long as necessary after the completion to prevent sediment and dirty water leaving the site and/or entering the surface water system outside of the site as follows:

- (a) divert uncontaminated run-off around cleared or disturbed areas,
- (b) erect a silt fence to prevent debris escaping into drainage systems or waterways,
- (c) prevent tracking of sediment by vehicles on roads, and

- (d) stockpile topsoil, excavated material, construction and landscaping supplies and debris within the site.

Reason: To minimise environmental impact associated with any works & to prevent soil erosion/water pollution.

CONDITIONS TO BE SATISFIED DURING DEMOLITION AND/OR BUILDING WORKS

16. Hours of Operation for Works

All works associated with the construction and/or demolition of this development must be carried out between the following hours unless Queanbeyan-Palerang Regional Council agrees in writing. A written application shall be made to Queanbeyan-Palerang Regional Council if a variation of hours is required.

Weekdays:	7.00am to 6.00pm
Saturdays:	8.00am to 4.00pm
Sundays and Public Holidays:	NIL

Reason: To reduce the chance of offensive noise being created and to minimise the impacts of the development in its locality.

17. Approval Documents

Keep a copy of all stamped approved plans, specifications and documents on site while work is being undertaken.

Reason: Relevant documentation is available for perusal on site by a council officer, for compliance check.

18. Construction Facilities

Toilet facilities are to be provided at or in the close vicinity of the work site on which work involved in the erection or demolition of a building is being carried out.

Reason: To provide adequate facilities to the work site.

19. Unexpected Finds

The development is to proceed with caution. If any Aboriginal objects are found, works should stop and DECCW notified. If human remains are found work is to stop, the site is to be secured and the NSW Police and NSW Office of Environment and Heritage are to be notified.

Reason: To ensure objects discovered during construction are protected and notified in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales.

20. All Works to Be Confined to the Site

All demolition, excavation, backfilling, construction and other activities associated with the development must:-

- a) Be carried out entirely within the allotment boundaries unless otherwise approved by Council.
- b) Comply with the requirements of AS 2601-2001 - The demolition of structures.
- c) If within one metre of the verge, the site must be protected by a hoarding which must be erected prior to the commencement of the demolition works.
- d) Be kept clear of stormwater, sewer manholes and service easements on the site.

- e) Any gates must be installed so they do not open onto any footpath or adjoining land.

Reason: To ensure that all development activity associated with the development does not pose a hazard to life or property and that the effectiveness of public services is not impaired.

21. Demolition Works

The demolition of the existing building must be carried out in accordance with the:

- a) requirements of the SafeWork Authority of New South Wales,
- b) *NSW Work Health and Safety Act 2011*, and
- c) *Australian Standard AS 2601-2001: The Demolition of Structures*.

Reason: To ensure compliance with SafeWork and occupational health and safety requirements.

22. Construction Waste Management

All waste materials generated on-site during construction are to be stored in enclosed containers and deposited in an approved landfill at regular periods.

Reason: To ensure adequate waste management practices are in place during the construction phase.

23. Protection of Adjoining Structures

If any excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on adjoining land, the person causing the excavation to be made:

- (a) must preserve and protect the building from damage, and
- (b) if necessary, must underpin and support the building in an appropriate manner, and
- (c) must, at least seven days before excavating, give notice of intention to do so to the owner of the adjoining and furnish particulars of the excavation to the owner of the building being erected or demolished, and
- (d) satisfy the requirements of SafeWork.

The owner of the adjoining land is not to be liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

Reason: Excavations relating to building work do not pose a hazard to adjoining properties.

24. Excavation and Backfilling

All excavations and backfilling associated with the erection or demolition of a building must be executed in accordance with the requirements of SafeWork.

Reason: To ensure excavation does not impact on adjoining property and compliance with SafeWork requirements.

25. Works Sites to Be Fenced

A fence must be erected between the development site and public places before commencement of any other work.

Reason: To ensure that an effective barrier is provided to preserve the safety of people and property in public places.

26. Temporary Vehicle Access

Temporary vehicle access to the site must be stabilised to prevent the tracking of sediment onto the roads and footpath. Soil, earth, mud or similar materials must be removed from the roadway by

sweeping, shovelling, or a means other than washing, on a daily basis or as required. Soil washings from wheels must be collected and disposed of in a manner that does not pollute waters.

Reason: To minimise transfer of soil from the site onto the road pavement.

CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF OCCUPATION/COMPLETION CERTIFICATE

27. Occupation Certificate

The occupation certificate must not be issued until all conditions of consent have been satisfactorily complied with and all mandatory stage/required plumbing inspections undertaken. Plumbing and drainage must be inspected by Queanbeyan-Palerang Regional Council at the relevant stages of construction in accordance with the attached inspection schedule and a final plumbing certificate obtained prior to issue of any occupation certificate.

Reason: Development is safe & appropriate for occupation, and is completed in accordance with the consent.

28. BASIX Commitments

Comply with all commitments listed on BASIX Certificate No. A1378303, or any subsequent modifications, before occupying the premises.

Reason: To ensure compliance with the requirements of the NSW BASIX certification process.

29. Colours and Material Finishes

The building is to be finished in materials that have a low reflectivity. Colours are to match the existing dwelling and blend with, rather than stand out from, the landscape for major features such as walls, roof and fencing.

Reason: The building is not visually intrusive in the landscape and does not cause glare.

30. Bushfire Protection - BAL 12.5

New construction shall comply with section 5 (BAL 12.5) Australian Standard AS3959-2018 and Appendix 1 of *Planning for Bush Fire Protection 2019* and the recommendations of the Bushfire Assessment Report prepared by Ember Bushfire Consulting dated 12 March 2024

Reason: To ensure that buildings are designed and constructed to withstand the potential impacts of bush fire attack.

31. Bushfire Protection - Landscaping

Landscaping to the site is to comply with the principles of Appendix 4 of *Planning for Bush Fire Protection 2019*.

Reason: To minimise the potential for bushfire attack on the building.

CONDITIONS TO BE SATISFIED DURING THE ONGOING USE OF THE PREMISES

32. Plumbing and Drainage Installation Regulations

Plumbing and drainage work must be carried out in accordance with the requirements of the Local Government (General) Regulation 2005, the Plumbing and Drainage Act 2011 and Regulations under that Act and with the Plumbing Code of Australia. Such work must be carried out by a person licensed by the NSW Department of Fair Trading.

Reason: This is a mandatory condition under the provisions of the Local Government (General) Regulation 2005.

33. Inspection of Plumbing and Drainage

Plumbing and Drainage must be inspected by Council at the relevant stages of construction in accordance with Council's inspection schedule.

Reason: To ensure compliance with the inspection requirements of Plumbing and Drainage Regulation 2012 and Council's inspection schedule.

General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the [Conditions of development consent: advisory notes](#). The consent should be read together with the [Conditions of development consent: advisory notes](#) to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorized contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the *Criminal Code Act 1995 (Cth)* and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council means Queanbeyan-Palerang Regional Council

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

EP&A Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Local planning panel Nil for Queanbeyan-Palerang Regional Council

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to:
the collection of stormwater,

the reuse of stormwater,

the detention of stormwater,

the controlled release of stormwater, and

connections to easements and public stormwater systems.

Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.

Subdivision works certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

Sydney district or regional planning panel means Southern Regional Planning Panel (SRRP)

SCHEDULE 1

NOTICE OF CONTRIBUTIONS & CHARGES ASSOCIATED WITH DEVELOPMENT

PROJECT ADDRESS	28 RIVER DRIVE KARABAR NSW 2620 Lot 16 DP 837155
PROJECT DESCRIPTION	Alterations and additions to dwelling house;
APPLICATION NO	DA.2023.0600
NAME OF APPLICANT	Dolphin

Important

The following contribution rates are those that apply at the date of issue of this consent. Rates are reviewed quarterly. Contributions will only be accepted at the rate applying at the date of payment. Council's Development and Environment section should be contacted to receive a current contribution notice of charges.

Fee Description	Fee Due
Contribution Plan	
71.2 Fixed Levy Development Contribution Plan	\$5,000.00
Total Contributions Payable	\$5,000.00

Relevant Criteria on which these calculations were made:

No equivalent tenements have been credited to this development.

Date Generated: 25 June 2024

Per : _____

QUEANBEYAN-PALERANG REGIONAL COUNCIL

Council Meeting Attachment

10 JULY 2024

ITEM 9.1 DA.2023.0600 - ALTERATIONS AND ADDITIONS TO
DWELLING HOUSE - 28 RIVER DRIVE KARABAR

ATTACHMENT 4 CLAUSE 4.6 VARIATION REQUEST - DA.2023.0600 - 28 RIVER
DRIVE KARABAR



WRITTEN REQUEST CLAUSE 4.6 VARIATION TO CLAUSE 4.3 HEIGHT OF BUILDINGS – QUEANBEYAN
PALERANG REGIONAL LOCAL ENVIRONMENTAL PLAN 2022

May 2024

No. 28 River Drive, Karabar

Lot 16 DP 837155

Alterations and Additions to Dwelling House



DOCUMENT PROPERTIES	
CREATED BY	KR/RI
REVISION NO.	A

Candor Town Planning Pty Ltd ACN 660 528 763



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1. EXECUTIVE SUMMARY

This written request has been prepared in accordance with Clause 4.6 'Exceptions to development standards' ('**Cl4.6**') of the Queanbeyan-Palerang Regional Local Environmental Plan 2022 ('**QLREP**') to support a development application submitted to the Queanbeyan-Palerang Regional Council ('**QPRC**'). The development application seeks approval for alterations and additions to dwelling house at No 28 River Drive, Karabar ('the **site**'). This cl4.6 written request seeks to vary the height of building control prescribed within cl4.3 of QPRLEP 2022 and the associated Height of Buildings Map.

This written request should be read in conjunction with:

- **Annexure One** - Plan Set by Paul Dolphin Designs dated 25/08/2024 sheets 1 – 17 of 17 inclusive

This written request demonstrates that strict compliance with the height of buildings development standard contained with Cl4.3 of the QPRLEP2022 is unreasonable and unnecessary in the circumstances of the case. There are sufficient environmental grounds to justify the proposed variation and it is in the public interest to do so based on the following:

- There are sufficient environmental grounds to justify the contravention of the development standard, due to the minor extent of roof, which is in contravention. The existing built form contains a variation to the development standard, as do many other dwellings along this section of River Drive, rendering the development standard unreasonable to require compliance with.
- The approved development is in the public interest despite the area of non-compliance because it achieves the relevant objectives of the Cl4.3 of the QPRLEP 2022 and is consistent with the relevant objectives of the *R3 Medium Density Residential* zoning in accordance with the QPRLEP 2022.
- The development provides a form which is consistent with the desired character of the area. The R3 Medium Density Zoning is likely to result in redevelopment of sites in a medium density context, which will see increased heights and building bulk.
- The area in breach of the numeric height standard comprises 1.86m or a 33.82% variation to the 8.5m height limitation.



2. BACKGROUND

2.1 Site Context

The Applicant, Paul Dolphin Designs, seeks approval for alterations and additions to dwelling house at the site 28 River Drive, Karabar. The site is located on the northern side of River Drive, adjacent to the Queanbeyan River.

The site is summarised in **Table 1** below, a Location Plan and Site Aerial shown below in **Figure 1** and **Figure 2** respectively.

Table 1 Site Description

Feature	Description
Street Address	28 River Drive, Karabar
Legal Description	Lot 16 DP 837155
Full Site Area	794.05sqm
Site Dimensions	Front 21.50m Side (E) 31.30m Side (W) 33.73m Rear (S) 19.50m
Easements & Restrictions	Refer to Statement of Environmental Effects Deposited plan notes easements to drain water and sewage at the rear of the site, no impacts to development
Site Topography	The site slopes from River Drive (south) to the rear of the site (north).
Vegetation	The subject site is managed land with garden landscaping within property boundaries.

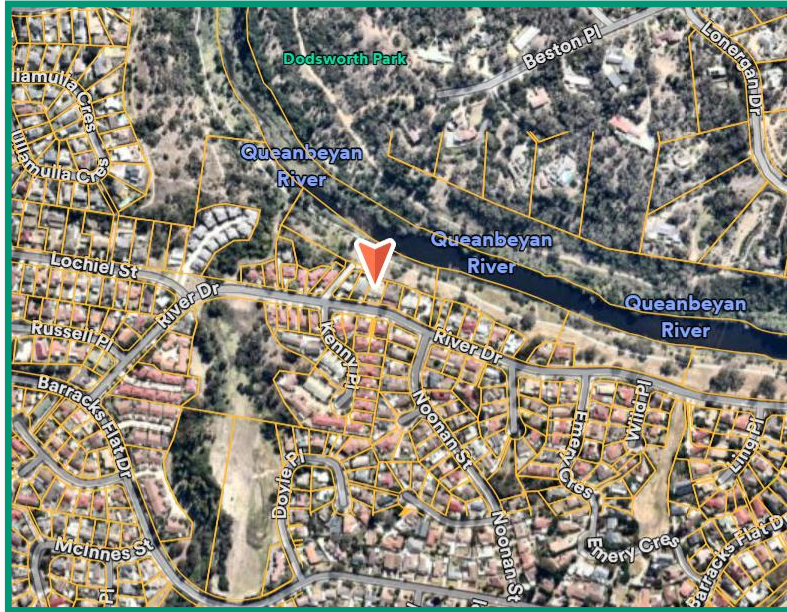


Figure 1 – Location Plan – Nearmaps 2024



Figure 2 – The Site – Nearmaps 2024



In accordance with Cl2.1, 2.2 & 2.3 of the Queanbeyan – Palerang Regional Environmental Plan 2022 ('QPRLEP'), the site is zoned R3 Medium Density Residential.

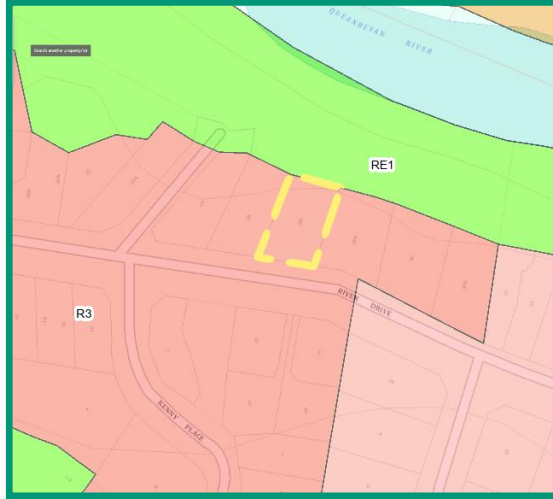


Figure 3 – Land Zoning – QPRC GIS

Figure 4 provides the deposited plan, which notes an easement for drain water.



Site Photos



24 RIVER ROAD



26 RIVER ROAD



STREETScape FACADES

REAR BOUNDARY ADJACENT TO RESERVE



DWELLINGS ACROSS QUEANBEYAN RIVER



DWELLINGS ACROSS RIVER



2.3 Proposed Development

The proposed development includes alterations and additions to existing dwelling house. The dwelling house, as proposed, comprises of the following:

Ground level:

- Music studio
- Store room

Upper Level:

- Two car garage
- Study
- Entry with porch
- 4x bedrooms (ensuite on bedroom 1)
- Laundry
- Bathroom
- Lounge area
- Living area integrated with kitchen and dining
- Large outdoor deck

The above alterations and additions alter the roof form, as identified on plan, and results in the development exceeding the 5.5m height development standard applying to the site. It is important to note that the existing built form exceeds the 5.5m height limitation.

3. VARIATION OF HEIGHT OF BUILDING STANDARD

This section of the written request identifies the development standard, which is proposed to be varied, including the extent of the variation. A detailed justification for the proposed variation is provided **Section 4** of this written request.

3.1 Development Standard seeking to be varied.

This cl4.6 written request seeks to vary the height of building control prescribed within cl4.3 of QPRLEP 2022 and the associated Height of Buildings Map.

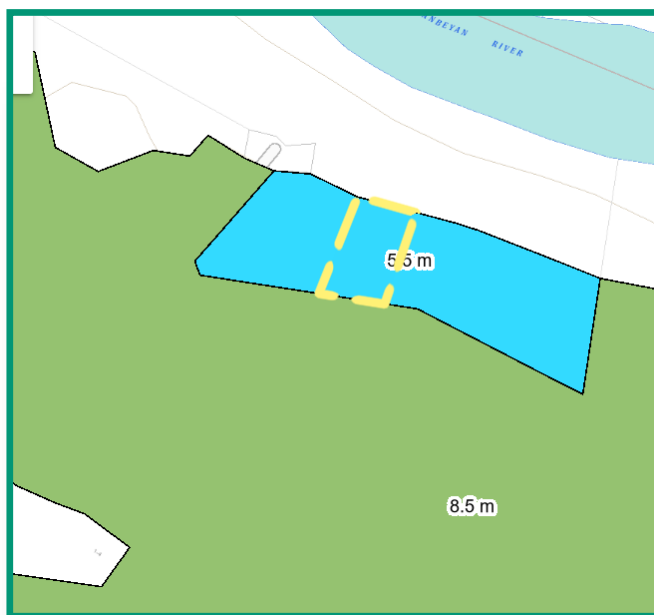


Figure 5 – Height of Building – ESpatial Viewer

As shown in Figure 3, the height control under the QPRLEP 2022 is 5.5m. The height control the subject of this Cl4.6 written request states:

4.3 Height of buildings

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

- (a) to establish the height of buildings consistent with the character, amenity and landscape of the area in which the buildings will be located,
- (b) to protect residential amenity and minimise overshadowing,



- (c) to minimise the visual impact of buildings,
 - (d) to maintain the predominantly low-rise character of buildings in the Queanbeyan-Palerang Regional local government area,
 - (e) to ensure the height of buildings complement the streetscape or the historic character of the area in which the buildings are located,
 - (f) to protect the heritage character of the Queanbeyan-Palerang Regional local government area and the significance of heritage buildings and heritage items,
 - (g) to provide appropriate height transitions between buildings, particularly at zone boundaries.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the *Height of Buildings Map*.

3.2 Proposed variation to Clause 4.3 Height of Buildings

This written request seeks to vary the 5.5m height standard that applies to the site by increasing the height to 7.360m maximum height being an increase of 1.86m or a 33.82% variation as demonstrated in Figure 6.



Figure 6: 3D height plane source: Paul Dolphin Designs



4. RELEVANT ASSESSMENT FRAMEWORK

In considering a cl4.6 written request, regard is to be had to the provisions of cl4.6 itself, as well as NSW Case Law which addresses cl4.6.

4.1 Clause 4.6 Exceptions to Development Standards

Clause 4.6 of the QPRLEP 2022 provides the power for a variation to LEP standards to be considered. Cl4.6 outlines the circumstances and prerequisites for considering the LEP variation. The objectives of Cl4.6 are as follows:

4.6 Exceptions to development standards

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

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

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

Cl4.6 provides flexibility in the application of a planning provisions by allowing the consent authority to approve a development application that does not comply with certain development standards, where it can be demonstrated that flexibility in the circumstances of the case would achieve a better outcome for and from the development.

In determining whether to grant consent, cl4.3(3) requires the consent authority to consider a written request that seeks to justify contravention of the development standard by demonstrating:

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

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

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

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

Cl4.6 requires the consent authority to be satisfied the applicants written request adequately addresses each of the matters listed in Cl4.6(3)(a) & (b). The consent authority should also be satisfied that the proposed development is consistent with the objectives of the standard and the objectives for development within the land zone, therefore being within the public interest.

The objectives of the R3 Medium Density Residential zone are as follows:

Zone R3 Medium Density Residential

The objectives of the QPRLEP R3 Zone are as follows:



- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within 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 encourage development that is consistent with the amenity of existing and future residents.*

Cl4.6(4)(6) & (8) listed below are not applicable or relevant to this written request and do not require addressing.

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

(5) (Repealed)

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

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

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

Note—

When this Plan was made, it did not include land in Zone RU4 Primary Production Small Lots, Zone RU6 Transition or Zone R5 Large Lot Residential.

(7) (Repealed)

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

(a) a development standard for complying development,

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

(c) clause 5.4,

(caa) clause 5.5.

The concurrence of the Secretary can be assumed to have been granted for the purpose of this written request in accordance with the Department of Planning Circular PS-18-003 'Variations to development standards', dated 21 February 2018.

This written request demonstrates that compliance with the height prescribed for the site in Cl4.3 of QPRLEP 2022 is unreasonable and unnecessary, and there are sufficient environmental planning grounds to justify the requested variation and approval of the variation is in the public interest because it is consistent with the development standard and the zone objectives.



4.2 Relevant Case Law

The NSW Planning Principles arising from NSW Land and Environment Court that have been considered in the preparation of this written request are as follows:

- *Winten v North Sydney Council*
- *Wehbe v Pittwater [2007] NSW LEC 827 (five-part test)*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC*

5. ASSESSMENT OF CLAUSE 4.6 VARIATION

5.1 Can the Development Standard be Varied?

Cl4.6(2) states:

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

The height of buildings prescribed by Cl4.3 of the QPRLEP 2022 is a development standard capable of being varied under Cl4.6.

The proposed variation is not excluded from the operation of Cl4.6.

5.2 Compliance with the development standard is unreasonable or unnecessary - cl 4.6(3)(a) QPRLEP.

The objectives of the development standard are achieved notwithstanding non-compliance with the standard as it is compatible with the future desired height in the area as determined by the QPRLEP.

Compliance with the development standard is unnecessary if the at least one part of the *Wehbe* test can be satisfied. In this regard, this written document makes the following assessment:

The objectives of the development standard are achieved notwithstanding the non-compliance.

In addressing the first method identified in *Wehbe*, the specific objectives of the height of building standard as specified in Cl4.3(1)(a) & (b) are addressed in **Table 2** below:

Table 2 – Assessment of Consistency with Cl4.3 objectives

Objectives	Assessment
To establish the height of buildings consistent with the character, amenity and landscape of the area in which the buildings will be located	The height of buildings within the locality is varied and is often guided by the slope of the land. There are dwellings on the southern side of River Drive, and nearby cul-de-sacs which are of similar bulk, scale and height to the proposed building. Dwellings on the northern side of Queanbeyan River are of similar height, around 7-8m. The zoning of the site, being R3 medium density residential, also alludes to the Council anticipating that this area will see growth into the medium density residential sector, seeing increased building heights, bulk and scale, as well as introducing higher density land use,



	<p>such as dual occupancy, multi-dwelling housing, serviced apartments and shop top housing. As redevelopment of the original buildings commences, the character of the area will change to align more closely with the objectives of the R3 zoning.</p> <p>This area is of high amenity, and as such redevelopment will also be of high quality and will make use of the scenic qualities afforded to it. This is evident on the northern side of the River where dwellings range in height, predominately around 7-8m. The proposed dwelling would not be out of character with this area, particularly with the dwellings on the northern side of the River which are visible from the site.</p>
<p>To protect residential amenity and minimise overshadowing</p>	<p>Shadow diagrams are provided with the plan set, which demonstrates the following:</p> <p>9am: a shadow is cast from the building to the western adjoining property, concentrated on their eastern wall which contains the garage, bathroom, bedroom and kitchen at upper level, and a bedroom at lower level. There are no kitchen windows facing east.</p> <p>12pm: There is no shadowing impact onto adjoining properties at 12pm</p> <p>3pm: shadow is cast on the adjoining eastern property. The western elevation at first floor level contains a bedroom, bathroom, lounge and living areas. The lounge contains a west facing window, as does the living area (which is stepped in with a wrap around balcony). This area would only be shadowed from 1pm onwards, achieving a satisfactory amount of solar access for the remainder of the day, with the northern sunlight being unaffected.</p> <p>The shadow diagrams demonstrate that the extent of the roof variation does not significantly change the shadowing impacts, given its location on the site and existing topography.</p>
<p>To minimise the visual impact of buildings</p>	<p>The building has the predominant building bulk facing north towards the River, with the presentation from the street remaining largely unchanged. The location of the area of roof that exceeds the height limitation is located to reduce visual impacts, with sufficient articulation around to ensure that it blends within the existing built form. This allows consistency with dwellings on the northern side of the River, and those newer developments on the southern side. As redevelopment of this area occurs, it will see increased building densities in this area. The reserve adjacent to the site is considerably sloped, such that the dwellings already sit significantly higher than the pedestrian walking path and River itself.</p>



	<p>The height of the proposed development will not result in any unreasonable amenity or visual impacts to the scenic qualities of the area. Figure 5 below shows a Google streetview image from the footpath adjacent to the River, looking towards the existing dwellings on the southern side (in proximity to the subject lot). This demonstrates that an increase in building height would not have adverse impacts due to the separation distance between the property boundary and the footpath, the rear setback proposed (7.966m) and the realistic height which has been designed for the site, which is exacerbated by the slope of the lot.</p> <p>Should the 5.5m height limitation be enforced, it would require a significant level of earthworks (cut) to facilitate a single storey development, which would be detrimental to the streetscape. It would also render the development out of character with existing developments along this section of River Drive, given there is little excavation seen and that the heights of dwellings mostly exceed 5.5m. The proposed development will not have any unreasonable visual impacts to adjoining sites or to the adjoining reserve area.</p>
<p>To maintain the predominantly low-rise character of buildings in the Queanbeyan-Palerang Regional local government area</p>	<p>The development maintains the low-rise character of buildings within the locality. The height increase is modest and does not present as medium or high-rise character. The proposal is consistent with single dwelling houses in the locality. Although, it is important to note that the area is zoned R3 medium density residential, and as such it is likely that the character will change over time.</p>
<p>To ensure the height of buildings complement the streetscape or the historic character of the area in which the buildings are located</p>	<p>There is a segment of 6 lots which are provided with the 5.5m height limitation, with all other lots surrounding having an allowable 8.5m height limitation. From Candor Town Planning’s research of available information, it is unclear as to why the 5.5m height limitation has been applied to the 6 lots. Should development of 8.5m be provided on the 6 lots, it would not have any unreasonable impacts to the character of the area. Of the 6 lots in this area, one is undeveloped and 4 contain two storey dwelling houses which would contravene the development standard (ie their heights would exceed 5.5m).</p>
<p>to protect the heritage character of the Queanbeyan-Palerang Regional local government area and the significance of heritage buildings and heritage items</p>	<p>There are no mapped heritage items noted within proximity of the site.</p> <p>The proposed development does not contradict the heritage values of the locality, with the proposed alterations and additions retaining the existing character of the building. It improves the overall functionality and amenity of the dwelling.</p>



<p>to provide appropriate height transitions between buildings, particularly at zone boundaries</p>	<p>The site adjoins the RE1 Public Reserve to the north. This is land which will not be developed. The site is an R3 zoned lot, with R2 existing to the east. The permitted building height is predominately 8.5m in accordance with the height of buildings map. There is a segment of Karabar which permits 12m heights, located west of Cooma Street and comprises business zoned lots. The height provides an appropriate transition between buildings, as it is relatively consistent with the existing built form in the locality. It is not unreasonably exceeding the height limitation and is consistent with the heights of dwellings surrounding the site.</p>
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Figure 7: Google streetview image from footpath looking south east towards subject development
 source: Google maps

The extent of the variation does not result in any loss of privacy or solar access to adjoining properties due to its placement on the northern façade of the dwelling. The roof retains the existing ridge RL, but with the land sloping down it produces a height variation. It is important to note that the existing built form exceeds the 5.5m height limitation.



The location of the height exceedance will not have any additional adverse visual impacts or view loss implications. **Figure 8** demonstrates the solar diagrams for the proposed dwelling, with the existing shadow also provided. The proposed built form variation does not significantly increase shadowing impact to the adjoining properties. The extent of the roof variation will only marginally increase shadow impacts, and not to an unreasonable extent.

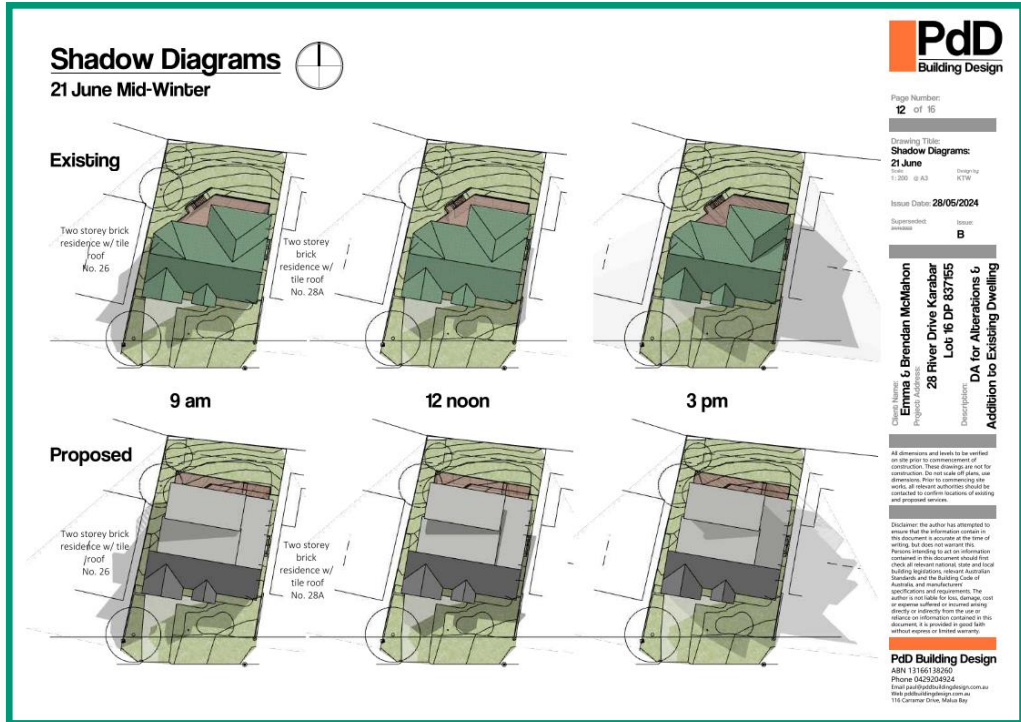


Figure 8: shadow diagrams source: Paul Dolphin Designs

The location of the height variance does not cause any additional view loss. The roof retains the existing maximum ridge line RL of 587.70, see **figures 9-11** below. Figure 9 demonstrates the existing built form, demonstrating an RL of 587.66 on the southern elevation, and 587.70 on the northern elevation, with the overall building height (existing) exceeding 5.5m.

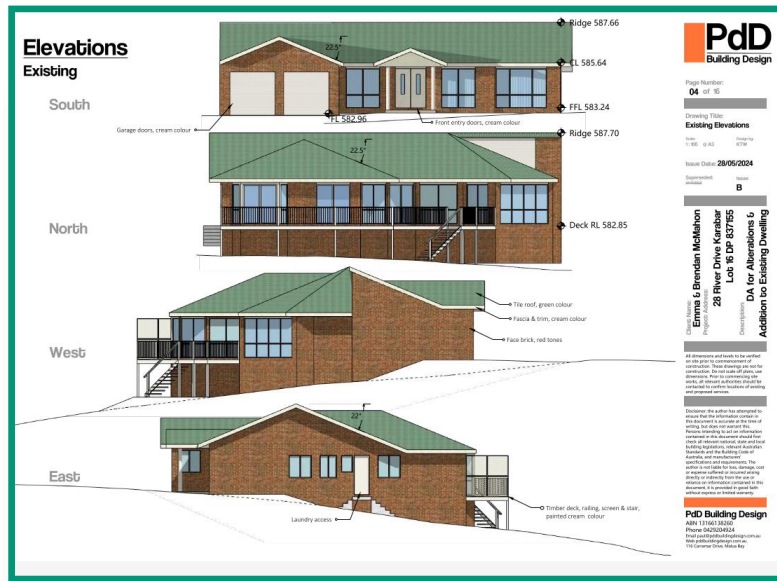


Figure 9: existing elevations showing 587.70 maximum RL

Figures 10 and 11 below demonstrates the proposed elevations. The northern elevation retains the 587.66 RL, and the southern elevation retains the 587.70 RL. Figure 11 demonstrates the extension of the built form will follow this consistent RL, with the slope of the site resulting in the height of building reaching a maximum of 7.360m.



building envelope is all located behind the building line. Developments east and west of the proposal will retain their existing view corridors, if any are available with the existing built form.

When considering the NSW Case Law 'five-part test', the objective of the development standard is achieved notwithstanding the area of roof that is non-compliant with the numeric height standard. The objective and purpose of the development standard is relevant. The area of non-compliance does not cause unacceptable bulk, scale or increased view loss or reduced privacy and solar access. As such, compliance would be unnecessary and unreasonable. The development standard has not been abandoned in the locality however cl 4.6 is provided to allow flexibility in applying development standards. The existing built form exceeds the 5.5m height limitation, with the new extension keeping the existing RL's. The slope of the site results in the increased height for the addition to dwelling. The roof form from the street remains relatively unchanged, ensuring that the development sits comfortably within the existing development of the locality.

The height does not cause the building to be out of character with the desired future character of the area. Its scale and bulk are consistent with the controls that apply to the zone. The R3 zoning applicable to the site is conducive to higher density development, and it is likely that as redevelopment of this area occurs (with many of the dwellings being the original built form), the overall heights and bulk of developments will increase.

5.3 Whether there are sufficient environmental planning grounds to justify contravening the development standard – cl4.6(3)(b) LEP.

Pursuant to QPRLEP cl4.6(3)(b), it is considered that the following environmental planning grounds are sufficient to justify the non-compliances with the development standard proposed:

- The departure from the numeric height standard is 33.82% or 1.86m and relates to predominately the built form of the roof. The existing built form contains a minor variation to the QPRLEP height limitation, which is visible on plan number 13.
- The area of non-compliance is limited to the roof form predominately, with no habitable floor areas being above the height limitation.
- The proposed development provides for a high-quality urban design and improved amenity outcomes for the owner.
- The location of the roof reduces the visual appearance from the street given the built form remains consistent on the southern (front) façade.
- The extent of roof which is a variation to the height limitation does not present as overly bulky or of unreasonable scale to the northern public reserve. The high quality design incorporates features which reduces the overall perception, including different roof pitches and orientation, a large rear uncovered deck and a use of a variety of materials and recesses, which all assist in ensuring the development blends in with existing development, while also being contemporary in design.
- The area of noncompliance does not cause additional view loss, solar impact, or privacy impacts.
- The non-compliance allows for a superior development outcome on the site which provides for an appropriate residential density which reflects the environmental controls for the site having regard for its location, surrounding development and site characteristics.



- The proposal is appropriate given its current and future context.

Based on the above, it has been demonstrated in this written request that there sufficient environmental planning grounds to justify the proposed height of buildings non-compliance in this case.

Further to the above, Council has previously approved an exception to the height limitation on a parcel of land located at 20 Delmar Crescent, Karabar (DA82-2017). This lot is located approximately 1km west of the subject site. In this instance, the lot was an R2 low density residential zoned parcel of land where a 5.5m height limitation applies. Similarly to the proposed development, this application sought alterations and additions to dwelling house which already exceeded the 5.5m height limitation. Council determined that compliance with the height limitation was unreasonable given the circumstances. That height limitation originated from a superseded Development Control Plan No 22A Lands above Delmar Crescent, with a single storey restriction being placed on these lots under the DCP. Of the eight affected lots in this instance, 6 contained two-storey dwelling houses. Council's assessment document noted the following '*A precedence has been set and a variation to the height as proposed is justified*'.

From publicly available searches, the above references DCP (and other historic DCP's which may have provided further information relating to the height limitation) are unavailable. A search of Council's DA tracker shows that no dwellings along this section of River Drive have undergone redevelopment since original approval. From analysis of imagery, it is reasonable to assume that some of these dwellings already exceed the 5.5m height limitation, thus rendering the height limitation no longer reasonable.

5.3 Has the Written Request adequately addressed Clause 4.6(3)?

Clause 4.6(3) of the QPRLEP 2022 and Clause 35B(2)(a) & (b) of the Environmental Planning and Assessment Regulation 2021 state that the consent authority must not grant consent for development that contravenes a development standard unless the consent authority is satisfied that the applicants written request has adequately addressed the matters required to be demonstrated by Cl4.6(3).

Each matter is comprehensively addressed in this written request, including detailed consideration on why compliance is unnecessary in the circumstances of the case. The written request also provides sufficient environmental planning grounds to justify the proposed variation to the development standard.

5.4 is the proposed development in the public interest?

The consistency of a development with the development standard objectives are listed in Section 5.2 and Table 2 of this written request. The proposal is also consistent with the land use objectives that apply to the R3 Medium Density Residential zone in accordance with the QPRLEP 2022. In accordance with the zone objectives, the following is provided in **Table 3**.



Table 3 – Assessment of compliance with the zone objectives

Consideration	Assessment
To provide for the housing needs of the community within a medium density residential environment.	The proposal is for alterations and additions to an existing single dwelling house located on an R3 zoned parcel of land. The use is consistent with low density residential development. Given the R3 zoning of the site, redevelopment of this area for higher density development is likely to occur within the medium to long-term future. This will significantly change the character of the locality, with developments likely to contain higher heights, larger building bulk and generally change the character of the area which has only seen minor redevelopment since original development. The dwelling house, as altered, provides high amenity housing for the community.
To provide a variety of housing types within a medium density residential environment.	The proposal seeks alterations and additions to an existing dwelling house. There is a variety of housing types within the locality, which are more traditional to the low density residential environment.
To enable other land uses that provide facilities or services to meet the day to day needs of residents.	N/A
To encourage development that is consistent with the amenity of existing and future residents.	The development retains the character of the existing built form, while providing a contemporary addition which improves the overall amenity to residents. The new works are reflective of high quality built form that is functional and meets the day to day needs of residents.

The above table above and this written request demonstrates that the proposed development will be in the public interest notwithstanding the proposed variation to the height of buildings development standard as it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

6. CONCLUSION

For the reasons set out in this written request, strict compliance with the height of buildings development standard contained with CI4.3 of the QPRLEP2022 is unreasonable and unnecessary in the circumstances of the case. There are sufficient environmental grounds to justify the proposed variation and it is in the public interest to do so.

It is reasonable and appropriate to vary the height of buildings development standard to the extent proposed for the reasons detailed within this written request and summarised below:

- There are sufficient environmental grounds to justify the contravention of the development standard, due to the minor extent of roof, which is in contravention. The existing built form



of the dwelling, and most others within this area, contravene the development standard thus rendering the development standard unnecessary to comply with.

- The approved development is in the public interest despite the area of non-compliance because it achieves the relevant objectives of the Cl4.3 of the QPRLEP 2022 and is consistent with the relevant objectives of the *R3 Medium Density Residential* zoning in accordance with the QPRLEP 2022.
- The development provides a form which is consistent with the desired character of the area. The R3 Medium Density Zoning is likely to result in redevelopment of sites in a medium density context, which will see increased heights and building bulk.
- The area in breach of the numeric height standard comprises 1.86m or a 33.82% variation to the 8.5m height limitation.

For the reasons outlined above, the Cl4.6 is well founded. Compliance with the development standard is unnecessary and unreasonable in the circumstances, there are sufficient environmental planning grounds that warrant contravention of the standard. In the circumstances of this case, flexibility in the application of the development standard should be applied by the consent authority.

QUEANBEYAN-PALERANG REGIONAL COUNCIL

Council Meeting Attachment

10 JULY 2024

ITEM 9.1 DA.2023.0600 - ALTERATIONS AND ADDITIONS TO
DWELLING HOUSE - 28 RIVER DRIVE KARABAR

ATTACHMENT 5 SUBMISSION 1 - DA.2023.0600 - 28 RIVER DRIVE KARABAR



Make a submission on a Development Application

Any person may make a written submission on a development application during the notification period. If your submission is an objection to the proposal, the grounds of the objection must be stated. Please note that all submissions will be publicly available, may be included in Council reports, published on Council's website or discussed at meetings. Council will not suppress the identity of submitters. All submissions must include a [Political Donations and Gifts Disclosure Statement](#) as required under s. 147(5) of the Environmental Planning and Assessment Act, 1979.

Development Application Number *

DA.2023.0600

Your full name *

[Redacted]

Email Address *

[Redacted]

Contact number

[Redacted]

Submission

1. Request a review before final approval, as the Western boundary construction planned will limit the natural light and impede existing views from 2 separate windows on the eastern side of the neighboring property at [Redacted]. There is likely to be no light entering one window at all, in particular when construction is completed, as both windows will be facing directly against the new western boundary brick wall planned for 28 River Drive.

2. Request a review before final approval, as the Western boundary construction as planned, will require the removal of two large trees. It is mentioned in the plans that no trees will be removed. It is seen as highly likely that the planned construction will require the removal of at least two large trees. These two trees provide a natural privacy barrier to [Redacted] (28 River Drive), as well as providing shade and being aesthetic to the eye.

For your consideration. Thankyou [Redacted]

Attach your submission

[Browse]

Attach your Political Donations and Gifts Disclosure Statement

[Browse]

QUEANBEYAN-PALERANG REGIONAL COUNCIL

Council Meeting Attachment

10 JULY 2024

ITEM 9.1 DA.2023.0600 - ALTERATIONS AND ADDITIONS TO
 DWELLING HOUSE - 28 RIVER DRIVE KARABAR

ATTACHMENT 6 SUBMISSION 2 - DA.2023.0600 - 28 RIVER DRIVE KARABAR



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Development Application Number *

DA.2023.600

Your full name *

[Redacted]

Email Address *

[Redacted]

Contact number

[Redacted]

Submission

[Redacted] objection to the extension is in regards to the new deck. The location of the new east side deck is in line with [Redacted] side windows, both upstairs and downstairs, therefore directly impeding with the privacy of both rooms. [Redacted] 2 west side windows in each of those rooms where one in each room is already permanently covered due to privacy. With the location of the new deck both windows in both rooms, will be required to be permanently covered for privacy which will cause both rooms to be darker and also not allow sun in during winter.

Attach your submission

[Redacted]

Attach your Political Donations and Gifts Disclosure Statement

Other attached files [Redacted]