

DEVELOPMENT CONSENT AUTHORITY DARWIN DIVISION

NORTHERN TERRITORY PLANNING SCHEME

AGENDA ITEM: 2	MEETING DATE: 21/08/2026	FILE: PA2026/0094
APPLICATION PURPOSE	RECONSIDERATION - Additions to an existing dwelling-single with a reduced building setback to the primary street and side boundaries	
SUBJECT SITE:	Lot 5818 (96) Cullen Bay Cres, Larrakeyah, Town of Darwin	
ZONE:	LR (Low Density Residential)	
SITE AREA:	1160m ²	
APPLICANT	Sheridan Consulting Director - Joseph Sheridan	
PERSONS ON WHOSE BEHALF THE APPLICATION IS MADE	Landowner	
LANDOWNER	Vanessa Marie Farmer	
ANY PERSON WITH AN AGREEMENT TO ACQUIRE AN INTEREST IN THE LAND	John Da Costa	

1. BACKGROUND

An application for 'additions to an existing dwelling-single with a reduced building setback to the primary street and side boundaries' over Lot 5818 (96) Cullen Bay Cres, Larrakeyah, Town of Darwin was considered by the Authority on 08 May 2026 where consideration was deferred to allow the applicant to provide the following further information:

- ***additional information and/or amended plans demonstrating further compliance with the requirements of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) through:***
 - (a) ***Increasing the primary street setback of the ground floor dwelling additions to a minimum of 4.5 metres, and***
 - (b) ***Increasing the eastern side setback of the dwelling additions to align with the existing eastern side setback of the wall of the existing dwelling.***

A copy of the deferral letter is at **Bookmark B**. On 13 July 2026, the applicant provided further information and amended plans to address the points of deferral above, refer to **Bookmark C**. The revised plans seek to address the points of deferral and as a result the primary street frontage setback of the proposed garage has been increased to 4.5m, and the

eastern side setback aligns with the existing eastern side setback of the wall of the existing dwelling at 1.42m. A revised technical assessment of the amended proposal is included at **Bookmark D**.

Noting that the overall substance of the application was not substantially altered, further circulation to service authorities was not considered warranted.

The amended proposal was circulated to the public submitters, and one additional public submission was received on 4 August 2026 at **Bookmark E**.

A copy of the previous assessment report to the Authority is at **Bookmark F**, which includes all service authority comments received and the plans previously considered on 08 May 2026.

2. ASSESSMENT SYNOPSIS

This report concludes that the Authority should approve the application subject to conditions on the development permit.

3. CURRENT SITUATION

A response to the deferral, along with amended plans, was received from the applicant on 13 July 2026. This response is provided at **Bookmark C** with the original plans provided at **Bookmark F** (nested as Bookmark C6). The original and amended proposal are illustrated in Figure 1 below.

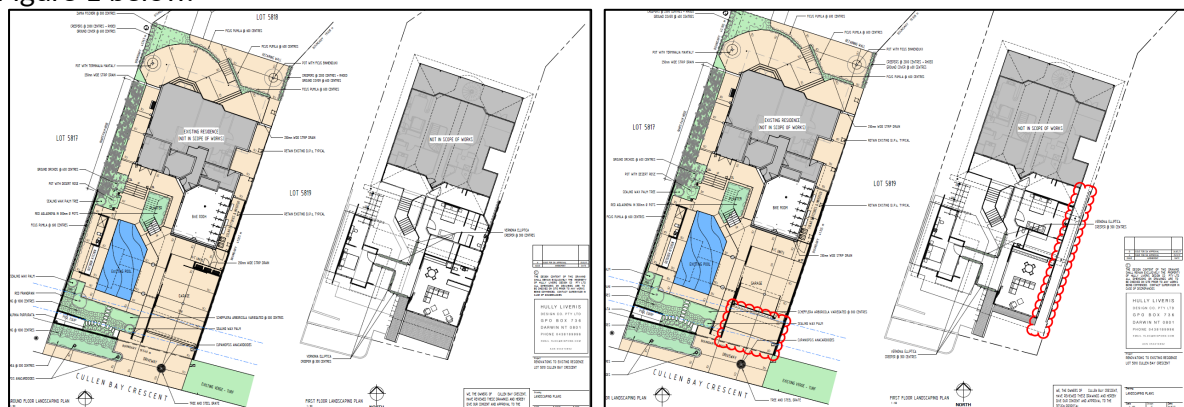


Figure 1: Proposed and Amended Site Plans

The amendments as identified in response to the deferral resolutions are:

The primary street frontage setback of the proposed ground-floor garage has been increased to a minimum of 4.5m however, it is noted that the garage roof, the first-floor eave, and privacy slat screen setback at 3.64m, 3.6m, and 3.75m respectively, encroaching within 0.9m into the minimum setback of 4.5m.

The eastern side setbacks have been increased from 0m to a minimum of 1.42m in accordance with the existing dwelling at the rear portion of the site, which responds to Requirement (b) of the Letter of Deferral. Except for 1.42m setback for the garage supporting column, the rest of the proposed building has a minimum eastern side setback at more than 1.5m, which complies with the provisions of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) and does not require consent.

Overall, the amendment responds to the deferral request.

The amended proposal was circulated to the public submitters, and one additional public submission was received on 4 August 2026 at **Bookmark E**. The submission is summarised as follows:

Eric Withnall on behalf of Gordon Withnall and Vivienne Withnall, Lot 5819 (94) Cullen Bay Cres, Larrakeyah, Town of Darwin - **Bookmark F1**

The public submitter raised two main concerns as follows:

Impact on Streetscape: The amended design is not substantially different from the original proposal in terms of impact on streetscape. The proposed development remains concentrated along the street-facing side of the site, with a central open area that is largely not visible from the street. The submitter considers that the proposed development is not compatible with the existing streetscape and would reduce the openness and visual amenity provided by the existing private open space along the street.

Parking: The proposed garage has been reduced in size to provide 2 car parking spaces instead of 4. Under Clause 5.2.4 of the NTPS 2020, 4 car parking spaces are considered to be required based on the proposed dwelling and additional bedrooms. The submitter considers that the amended proposal therefore does not provide the required minimum number of car parking spaces.

Response from DAS: Detailed consideration of raised concerns is provided at reason 4 of the recommendation.

4. SERVICE AUTHORITY COMMENTS

Noting that the overall substance of the application was not substantially altered, further circulation to service authorities was not considered warranted.

5. RECOMMENDATION

That, the Development Consent Authority vary the requirements of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme, and pursuant to Section 53(a) of the *Planning Act 1999*, consent to the application to develop Lot 5818 (96) Cullen Bay Cres, Larrakeyah, Town of Darwin for the purpose of additions to an existing dwelling-single with a reduced building setback to the primary street and side boundaries, subject to the following conditions:

CONDITION PRECEDENT

1. Prior to the commencement of works (including site preparation), in principle approval is required for the crossover and driveway to the site from the City of Darwin road reserve, particularly regarding the proposed crossover location on Cullen Bay Crescent and its impact on the existing SEP, to the satisfaction of the consent authority.
2. Prior to the commencement of works (including site preparation), an engineered plan completed by a suitably qualified civil engineer demonstrating the on-site collection of stormwater and its discharge into the local underground stormwater drainage system, shall be submitted to, and approved by the City of Darwin, to the satisfaction of the

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consent authority. The plan shall include details of site levels, and Council's stormwater drain connection point/s and connection details.

3. Prior to the commencement of works (including site preparation), the applicant is to prepare a dilapidation report covering infrastructure within the road reserve to the requirements of the City of Darwin, to the satisfaction of the consent authority.
4. Prior to the commencement of works (including site preparation), the applicant is to prepare a Site Construction Management Plan (SCMP) to the requirements of the City of Darwin, to the satisfaction of the consent authority. The SCMP should specifically address the impact to Council owned public spaces and include a waste management plan for disposal of waste to Shoal Bay, traffic control for affected City of Darwin roads, haulage routes, storm water drainage & sediment control, use of City of Darwin land, and how this land will be managed during the construction phase.

GENERAL CONDITIONS

5. The works carried out under this permit shall be in accordance with the drawings numbered 2026/0094/01 through to 2026/0094/09 endorsed as forming part of this permit.
6. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage and electricity to the development shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
Please refer to notations 1 for further information.
7. Any developments on or adjacent to any easements on site shall be carried out to the requirements of the relevant service authority to the satisfaction of the consent authority.
8. Stormwater is to be collected and discharged into the drainage network to the technical standards of and at no cost to the City of Darwin, to the satisfaction of the consent authority.
9. Upon completion of any works within or impacting upon existing road reserves, the infrastructure within the road reserve shall be rehabilitated to the standards and requirements of the City of Darwin and returned to the condition as documented in the dilapidation report.
10. Designs and specifications for landscaping of the road verges adjacent to the property shall be submitted for approval by City of Darwin and all approved works shall be constructed at the applicant's expense, to the requirements of City of Darwin.
11. The kerb crossovers and driveways to the site approved by this permit are to meet the technical standards of City of Darwin, to the satisfaction of the consent authority.
12. No fence, hedge, tree or other obstruction exceeding a height of 0.6m is to be planted or erected so that it would obscure sight lines at the junction of the driveway and the public street to the requirements of the City of Darwin, to the satisfaction of the consent authority.

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13. Any gate over an access to a public road shall be placed on the subject site at least 4.5 metres from the face of the kerb line of the adjoining public road to the requirements of the City of Darwin, to the satisfaction of the consent authority.
14. Storage for waste disposal bins is to be provided to the requirements of the City of Darwin, to the satisfaction of the consent authority.
15. Before the occupation of the development starts the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the consent authority.
16. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the consent authority, including that any dead, diseased or damaged plants are to be replaced.

Notes

1. The Power and Water Corporation advises that the Water and Sewer Services Development Section (waterdevelopment@powerwater.com.au) and Power Network Engineering Section (powerdevelopment@powerwater.com.au) should be contacted via email a minimum of 1 month prior to construction works commencing in order to determine the Corporation's servicing requirements, and the need for upgrading of on-site and/or surrounding infrastructure.
2. This development permit is not an approval to undertake building work. You are advised to contact a Northern Territory registered building certifier to seek a building permit as required by the Northern Territory Building Act 1993 before commencing any demolition or construction works.

6. REASONS FOR THE RECOMMENDATION

1. The application seeks consent for additions to an existing dwelling-single with a reduced building setback to the primary street and side boundaries at Lot 5818 (96) Cullen Bay Cres, Larrakeyah, Town of Darwin (the site). The site is 1160m² in area and located in Zone LR (Low Density Residential) of the Northern Territory Planning Scheme 2020 (NTPS2020).

The site cannot be considered in isolation and must be considered in the context it's locality. The land uses in the immediate locality are residential in nature with built form characterised by single dwellings on large allotments with generally compliant building setbacks to the primary street and side boundaries.

2. The application was initially deferred by the Authority on 18 May 2026 to require that the applicant provide:
 - Amended drawings that demonstrate better compliance with the requirements of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme (NTPS 2020) through:
 - (a) Increasing the primary street setback of the ground floor dwelling additions to a minimum of 4.5 metres, and
 - (b) Increasing the eastern side setback of the dwelling additions to align with the existing eastern side setback of the wall of the existing dwelling.

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An assessment against the deferral request and relevant elements of NTPS 2020 is provided below:

Increasing the primary street setback of the ground floor dwelling additions to a minimum of 4.5 metres

The primary street frontage setbacks of the proposed ground-floor garage and first-floor dwelling have been increased to a minimum of 4.5m, however, it is noted that the garage roof, the first-floor eave, and privacy slat screen setback at 3.64m, 3.6m, and 3.75m respectively, encroaching within 0.9m into the minimum setback of 4.5m.

Increasing the eastern side setback of the dwelling additions to align with the existing eastern side setback of the wall of the existing dwelling

The eastern side setbacks have been increased from 0m to a minimum of 1.42m (associated with garage structural column only) which aligns with the existing dwelling side setback. Except for 1.42m setback for the garage supporting column, the rest of the proposed building has a minimum eastern side setback at more than 1.5m, which complies with the provisions of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) and does not require consent.

3. Pursuant to section 51(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The NT Planning Scheme 2020 applies to the land and additions to an existing dwelling-single with a reduced building setback to the primary street and side boundaries requires consent under Clause 1.8 (When development consent is required). It is identified as Merit Assessable under Clause 1.8(1)(b)(ii)(2); therefore, pursuant to Clause 1.10(2), the requirements in Part 5 that are not complied with and whether the proposal meets the purpose of the requirements, need to be considered.

These clauses have been considered and it is found that the proposal complies with the relevant requirements of the Planning Scheme except for Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures).

4. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NT Planning Scheme 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:
 - a. The purpose and administration clauses of the requirement; and
 - b. The considerations listed under Clause 1.10(3) or 1.10(4).

In response to clause 1.10(5)(b), the considerations listed under Clause 1.10(3) do not apply to this application because the application became Merit Assessable under Clause 1.8(1)(b)(ii)(2), and pursuant to Clause 1.10(2), the consent authority is required only to consider the requirements in Part 5 that are not complied with for such applications.

In response to clause 1.10(5)(a), variation to this clause is appropriate in this instance because:

Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures)

The purpose of Clause 5.4.3 is to ensure that residential buildings and ancillary structures are located in a manner that:

- (a) is compatible with the streetscape and surrounding development including residential buildings on the same site;
- (b) minimises adverse effects of building massing when viewed from adjoining land and the street;
- (c) avoids undue overlooking of adjoining properties; and
- (d) facilitates breeze penetration through and between buildings.

The proposal does not comply with the prescribed setbacks outlined in subclause 6, as follows:

Primary Street (Cullen Bay Crescent):

- Gatehouse and Roof – 0.5m (6m Required)
- Garage and First Floor – 4.5m (6m Required)
- Garage Roof – 3.64m (5.1m Required)
- First Floor Roof – 3.6m (5.1m Required)
- First Floor Privacy Slat Screen – 3.75m (5.1m Required)

Eastern Side:

- Garage Structural Column – 1.42m (1.5m Required)

Western Side:

- Outdoor Kitchen and Bathroom Roof – 0.2m (0.6m Required)

The Authority noted in its Notice of Deferral dated 18 May 2026 that the site was previously able to access site specific setbacks through the Cullen Bay Setback Plan (Policy No. 3) approved on 10 October 2000 by the Development Consent Authority, however, this policy was superseded by the Northern Territory Planning Scheme (NTPS) 2007. A number of properties along Cullen Bay Crescent appear to have utilised relaxed building setbacks as applicable under the previous planning policy. If this proposal were to be assessed under the previous policy it would be largely compliant with the setback requirements, except for a small encroachment of the garage roof into the 1.5m primary street setback, and the 1.5m western side setback, where 3m was required. Notwithstanding the Authority noted that the proposed development requires consideration under the current setback provisions.

Administratively, subclause 3 specifies that *the consent authority may consent to a development that is not in accordance with sub-clause 6-8 only if it is satisfied that the reduced setback is consistent with the purpose of this clause and it is appropriate to the site having regard to such matters as its location, scale and impact on adjoining and nearby property.*

Each of these matters is considered below:

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- (a) *Is compatible with the streetscape and surrounding development including residential buildings on the same site*

Alterations and additions to an existing single dwelling are a typical form of development within Zone LR. The immediate locality is generally characterised by development that complies with the primary street frontage setback requirements, with limited instances of reduced setbacks.

The proposed 4.5m setback to the garage and first-floor dwelling is considered compatible with the existing streetscape. The reduced setback applies to only approximately 5.7m of the 19.54m primary street frontage (29.17%) which limits its visual impact. The roofs and privacy slat screen extend up to 0.9m into the 4.5m setback but are lightweight elements that do not contribute significantly to building bulk. The gatehouse is also minor in scale and consistent with similar structures along primary street frontages within the surrounding Zone LR development.

The eastern side setback non-compliance is limited to a minor garage supporting column, with the remainder of the development complying with the required eastern side setback. The proposed non-compliant element represents a minor encroachment of 80mm into the required 1.5m side setback, which will not be visible from the streetscape or adjoining properties due to the extent of boundary fencing. The western side non-compliance relates only to the kitchen and bathroom roof, while the ground floor additions are modest in height and scale and sufficiently setback from the primary street frontage.

Overall, the non-compliances are limited in extent and predominantly relate to minor or ancillary elements. The proposal is therefore not expected to adversely affect the established streetscape.

- (b) *Minimises adverse effects of building massing when viewed from adjoining land and the street*

The proposed development incorporates a varied building form through the combination of the two-storey dwelling, gatehouse, patio and decks, together with varying setbacks and roof forms. These elements break up the overall building mass and avoid a continuous built form, providing visual articulation and reducing the perceived bulk of the development when viewed from the street and adjoining properties.

The proposed ground floor dwelling additions along the western side boundary are open-sided and integrate with the compliant elements of the proposed first floor dwelling additions reducing any visual bulk.

The proposed gatehouse incorporates a recessed entry from primary street boundary which provides articulation and reduces building massing when viewed from the streetscape. In addition, the proposed gatehouse is small in scale and the open-sided nature of the roof ensures the structure is lightweight and unlikely to have any significant impact on building massing when viewed from adjoining properties or the street.

(c) Avoids undue overlooking of adjoining properties

The proposal incorporates measures to minimise overlooking of adjoining properties. At ground level, a blockwork fence is proposed along the boundaries. At the first level, whilst all elements have compliant side boundary setbacks, it is noted that no windows are proposed along the western elevation and aluminium louvres to the eastern-facing openings restrict direct views towards adjoining land while allowing natural light and ventilation.

(d) Facilitates breeze penetration through and between buildings

Approximately 1.5m eastern side setback is proposed for the development in accordance with the existing dwelling at the northern portion of the site, allowing for improved airflow around the building and supporting natural ventilation. The proposed garage is an open-sided structure, which allows for the movement of air through the garage area rather than creating a continuous built form. In addition, the proposed patio and decks provide open and semi-open areas around the dwelling, supporting airflow through and around the development.

For the reasons above, the proposed development is considered appropriate to the site with regard to its location, scale and impact on adjoining properties.

5. Pursuant to section 51(1)(e) of the Planning Act 1999, the consent authority must take into consideration any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application.

The application was placed on public exhibition for a period of two weeks, between 27 March 2025 and 10 April 2026. One public submission was received under section 49(1) of the *Planning Act 1999* (the Act) and one submission was received outside of the exhibition period stated above. Pursuant to section 51(1)(t) of the Act, which relates to other matters the consent authority thinks fit, the 'late submission' is considered relevant. The NTCAT decision of *Association of Islamic Da'Wah in Australia Inc v Development Consent Authority* [2019] NTCAT 14, in considering the status of a late submission, confirmed that section 51(t) of the Act allows the consent authority to take into account such a submission. The Authority considers the matters raised in the late submissions to be relevant this application.

The main concerns raised by the submitters in their submissions and expressed at the meeting held on the 8 May 2026 are:

- Cullen Bay is a low-density residential suburb, with appeal and ongoing viability as a result of the estate plan.
- The proposed site is located within a constrained cul-de-sac where traffic and parking are already significant issues.
- The proposal adds multiple bedrooms and structures, increasing the dwelling capacity well beyond typical standards in the area.
- The proposed plot ratio significantly exceeds the prevailing plot ratio within the area.
- The design enables a separate habitable dwelling, suggesting dual occupancy rather than a single dwelling. The development should be classified as a dwelling-group, which does not meet the planning provisions.
- The proposal fails to demonstrate compliance with fire safety requirements for the solar battery system under Australian Standard 5139.

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- The interpretation of height controls within the application is considered incorrect.
- The parking provisions are inadequate given the number of residents and existing vehicle usage. Existing on-site and overflow parking conditions already exceed capacity and will worsen with the proposal.
- The proposed landscaping will not mitigate the visual impact of a large, dominant structure at the street frontage.
- The building design will obstruct established views and disrupt the open streetscape.
- The proposal is inconsistent with setback requirements and is not compatible with surrounding development.
- The development would result in unreasonable impacts on neighbouring properties, including reduced amenity and airflow.
- The proposal significantly undermines the established private open space character of Cullen Bay.
- Consent from a former neighbouring owner carries little weight and may not reflect current ownership views.
- The approval process by the Cullen Bay Management Corporation and Committee involved conflict of interest and procedural issues. The Committee's decision is argued to be unfair and unreasonable under relevant regulations.
- The development is inconsistent with the planning scheme and long-standing design standards of the area.
- The building's scale and form will negatively affect streetscape character and nearby property values.
- Approval of the proposal could set a harmful precedent for similar overdevelopment in the future.
- The applicant has alternative options within existing planning controls without requiring excessive development concessions.
- The proposal is based on a temporary living situation, not long-term planning merit, and may lead to overuse of the site.
- The Cullen Bay Management Authority (CBMA) Policy 3 is not part of the NTPS 2020, and therefore carries no statutory weight compared to the current planning scheme.
- It would be poor planning practice to allow a building to encroach into setbacks just to support a private redesign to turn the existing parking space into a hobby area, especially when it negatively affects the streetscape.
- The design may enable additional informal living spaces and function more like a boarding house than a single dwelling.
- The proposed parking is insufficient considering the level of occupancy.
- Private agreements do not replace compliance, and the proposal is seen as contrary to broader public interest.

The Authority took all comments into account and carefully considered the concerns of the submitters. The Authority also took into account the response provided by the applicant regarding submitters concerns expressed at the meeting held on 8 May 2026.

The matters raised in the submissions contributed to the Authority's decision to defer the application in order to obtain further information addressing, the relevant considerations identified by submitters, as well as the concerns of the DCA in relation to the requirements of the NTPS 2020 and the *Planning Act 1999*.

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The applicant's response to the points of deferral was circulated to all public submitters. Additional concerns were raised by Eric Withnall on behalf of Gordon Withnall and Vivienne Withnall in relation to the following:

- The amended design is not substantially different from the original proposal in terms of impact on streetscape. The proposed development remains concentrated along the street-facing side of the site, with a central open area that is largely not visible from the street. The submitter considers that the proposed development is not compatible with the existing streetscape and would reduce the openness and visual amenity provided by the existing private open space along the street.
- The proposed garage has been reduced in size to provide 2 car parking spaces instead of 4. Under Clause 5.2.4 of the NTPS 2020, 4 car parking spaces are considered to be required based on the proposed dwelling and additional bedrooms. The submitter considers that the amended proposal therefore does not provide the required minimum number of car parking spaces.

Detailed consideration of the proposed setbacks and compatibility with the streetscape, impacts of building massing, overlooking and breeze penetration impacts are provided at section 4 of these reasons.

In relation to traffic and parking impacts, the proposal complies with Clause 5.2.4.1 (Car Parking Spaces) of the NTPS 2020, which requires a minimum of 2 on-site car parking spaces

In relation to building height, Clause 5.2.1 (General Height Control) under the NTPS 2020 permits development to a maximum height of two storeys, not exceeding 8.5m. The proposed additions to the existing dwelling-single result in a two-storey building with a maximum height of 6.287m, thereby complying with the clause.

In relation to views, it is noted that there are no planning requirements that require the protection or sharing of views pursuant to the NTPS 2020 or the *Planning Act 1999*.

Concerns raised regarding the solar battery system are not planning matters for consideration under the Act and are outside the scope of the application

Matters regarding the Cullen Bay Marina Act, categorisation as dwelling-single and precedent were addressed by the Authority in its Notice of Deferral dated 18 May 2026.

Detailed consideration of land capacity are addressed at section 6 of these reasons.

6. Pursuant to section 51(1)(j) of the Planning Act 1999, the consent authority must take into consideration the capability of the land to which the proposed development relates to support the proposed development and the effect of the development on the land and on other land, the physical characteristics of which may be affected by the development.

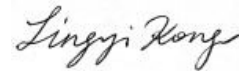
The land is capable of supporting the proposed development. Dwelling-single is a permitted form of development within Zone LR. Regarding servicing requirements, the application was circulated to the relevant authorities, and the comments received have been addressed through conditions and advisory notes on the development permit. Additionally, the Land Resources Division - Department of Lands, Planning and Environment did not identify or raise any issues of concern in relation to land capability.

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7. Pursuant to Section 51(n) of the *Planning Act 1999*, the consent authority must take into consideration the potential impact on the existing and future amenity of the area in which the land is situated.

The impact on amenity should be considered in the context of the site and its surrounds. The application is for a dwelling-single in a locality zoned for low density residential land uses. As a dwelling-single is ordinarily a Permitted land use, this application is not considered likely to unreasonably detract from the existing or future amenity in the area. Detailed consideration of the proposed setbacks and compatibility with the streetscape, impacts of building massing, overlooking and breeze penetration impacts are provided at section 4 of this recommendation.

SIGNED:



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LINGYI KONG/PLANNER
DEVELOPMENT ASSESSMENT SERVICES

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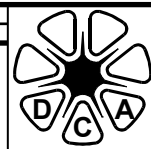


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Development Consent Authority

Northern Territory

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In reply please quote:

Mr Joseph Sheridan
Director
Sheridan Planning and Development Consultants
PO Box 41936
Casuarina NT 0811

Via email: joe@sheridanconsulting.au

Dear Mr Sheridan

LOT 5818 (96) CULLEN BAY CRESCENT, TOWN OF DARWIN

You are hereby advised that the Darwin Division of the Development Consent Authority, at its meeting on 8 May 2026 resolved, pursuant to section 46(4)(b) of the *Planning Act 1999*, to defer consideration of the application to develop the above land for the purpose of Additions to an existing dwelling-single with a reduced building setback to the primary street and side boundaries to require the applicant to provide the following additional information that the Authority considers necessary in order to enable proper consideration of the application:

1. Amended drawings that demonstrate better compliance with the requirements of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme (NTPS 2020) through:
 - (a) Increasing the primary street setback of the ground floor dwelling additions to a minimum of 4.5 metres, and
 - (b) Increasing the eastern side setback of the dwelling additions to align with the existing eastern side setback of the wall of the existing dwelling.

REASONS FOR THE DECISION

1. The application seeks consent for additions to an existing dwelling-single with a reduced building setback to the primary street and side boundaries at Lot 5818 (96) Cullen Bay Cres, Larrakeyah, Town of Darwin (the site). The site is 1160m² in area and located in Zone LR (Low Density Residential) of the Northern Territory Planning Scheme 2020 (NTPS2020).

The Authority highlights that the site cannot be considered in isolation and must be considered in the context it's locality. The land uses in the immediate locality are residential in nature with built form characterised by single dwellings on large allotments with generally compliant building setbacks to the primary street and side boundaries.

At the meeting, Ms Suzanne Philip (the Chair of the Authority) clarified what the Authority considered relevant to this application.

The Chair clarified that the Cullen Bay Setback Plan (Policy No. 3) (the policy) approved on 10 October 2000 was superseded by the Northern Territory Planning Scheme (NTPS) 2007 and that the reduced setback requirements prescribed under this policy are no longer applicable. The Chair highlighted that whilst the policy is not applicable it may be relevant when considering the development of the broader locality.

The Chair further clarified that procedural and conflict of interest concerns regarding the Cullen Bay Management Corporation and Committee are not planning matters for consideration under the *Planning Act 1999* and are outside the scope of the application.

At the meeting, Mr Joe Sheridan (the applicant) summarised the application and acknowledged the Chair's opening remarks clarifying the relevant elements of the application. Mr Sheridan explained that his client acquired the site in 2005 with an expectation that there was some ability to test the setbacks in accordance with this policy. Notwithstanding this, Mr Sheridan acknowledged that the policy is no longer applicable and that the setback requirements of the NTPS 2020 apply.

The Chair emphasised that Section 51(1) of the *Planning Act 1999* requires the consent authority, when assessing a development application, to consider any relevant matters listed in that section. The Chair noted that the landowner's expectations at the time of purchasing the site carry limited weight in its considerations.

Mr Sheridan highlighted that the primary driver of this application is to accommodate a unique family living situation and asked that the Authority keep this in mind, along with the reality that his client purchased the site back when the policy was applicable.

2. Pursuant to section 51(1)(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The Northern Territory Planning Scheme (NTPS) 2020 applies to the land and that while the development of land within Zone LR (Low Density Residential) for dwelling-single is shown as *Permitted* on the relevant assessment table, an application is required in this instance to address non-compliances with relevant development requirements. It is identified as *Merit Assessable* under Clause 1.8(1)(b)(ii)(2); therefore, pursuant to Clause 1.10(2), the requirements in Part 5 that are not complied with and whether the proposal meets the purpose of the requirements, need to be considered.

The Authority notes that the proposed development seeks consent for internal reconfiguration and additions to the existing dwelling. The proposed internal reconfiguration comprises converting the existing ground floor garage to a bike room and converting the first-floor verandah to an enclosed gym along with relocating normal services associated with the existing dwelling. At the ground floor, the proposed dwelling additions comprise a garage, outdoor kitchen, outdoor bathroom, gatehouse and blockwork fence. At the first floor, the proposed dwelling additions comprise 2 bedrooms with ensuites, a new living/dining area with bathroom and an outdoor kitchen, all additions are accessible from a covered elevated deck/walkway.

The Authority has considered the applicable requirements in Part 5 and found that the proposal complies with the relevant requirements of the Planning Scheme except for Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) as it relates to the:

- on boundary'/zero metre setback of proposed ground and first floor dwelling additions (including any blockwork wall associated with the dwelling additions) along the eastern side boundary, where a setback of 1.5m is required.
- 'on boundary'/zero metre setback of proposed ground floor dwelling additions along the western side boundary, where a setback of 1.5m is required.
- approx. 1.2 metre setback of proposed ground floor garage to the primary street frontage, where a setback of 6m is required.

- staggered setback of approx. 460mm to 550mm of proposed ground floor gatehouse to the primary street frontage, where a setback of 6m is required.

The Authority notes that any standalone blockwork fencing does not require planning consent, as there are no planning consent requirements for fencing under the NTPS 2020 and the *Planning Act 1999*.

3. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NT Planning Scheme 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:
 - (a) The purpose and administration clauses of the requirement; and
 - (b) The considerations listed under Clause 1.10(3) or 1.10(4).

In response to clause 1.10(5)(b), the considerations listed under Clause 1.10(3) do not apply to this application because the application became Merit Assessable under Clause 1.8(1)(b)(ii)(2), and pursuant to Clause 1.10(2), the consent authority is required only to consider the requirements in Part 5 that are not complied with for such applications.

In response to clause 1.10(5)(a), a variation to this clause is not appropriate in this instance because:

Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures)

The purpose of Clause 5.4.3 is to *ensure that residential buildings and ancillary structures are located in a manner that:*

- (a) *is compatible with the streetscape and surrounding development including residential buildings on the same site;*
- (b) *minimises adverse effects of building massing when viewed from adjoining land and the street;*
- (c) *avoids undue overlooking of adjoining properties; and*
- (d) *facilitates breeze penetration through and between buildings.*

The proposed development does not comply with the required setbacks pursuant to subclause 6 of this clause as detailed at section 2 of these reasons.

The Authority notes that the site was previously able to access site specific setbacks through the Cullen Bay Setback Plan (Policy No. 3) approved on 10 October 2000 by the Development Consent Authority, however, this policy was superseded by the Northern Territory Planning Scheme (NTPS) 2007. A number of properties along Cullen Bay Crescent appear to have utilised relaxed building setbacks as applicable under the previous planning policy. If this proposal were to be assessed under the previous policy it would be largely compliant with the setback requirements, except for a small encroachment of the garage roof into the 1.5m primary street setback, and the 1.5m western side setback, where 3m was required.

Notwithstanding the Authority notes that the proposed development requires consideration under the current setback provisions.

At the meeting, the Chair requested the applicant justify to the Authority why the extent of variation from the required setbacks should be considered appropriate.

Mr Sheridan explained that the proposed development is largely formalising an area that is already used for parking. Mr John Da Costa (interested party) told the Authority that the proposal was designed to accommodate their family living situation, including adult children and their partners, creating a functional living arrangement for everyone.

The Chair highlighted that there needs to be a balance between the internal onsite amenity and the amenity for the neighbours, noting that the neighbours feel that what is proposed will substantially impact their amenity.

Mr Da Costa highlighted that another option could be to increase the side setback of the dwelling additions, however, this may increase overlooking and acoustic impacts as the current design includes a solid wall with no windows.

Mr Da Costa noted that the existing garage arrangement was impractical and that the proposed bike room along with the new garage was intended to address functional needs, improve security, and reduce parking impacts on surrounding public areas such as the verge.

Mr Hully Liveris (the architect) advised that the design response was informed by the established character of Cullen Bay, where reduced side setbacks are common. Mr Liveris explained that he had completed several successful projects in Cullen Bay and the language of Cullen Bay in this respect are successful outcomes of townscape and amenity based on the zero-lot line. Mr Liveris highlighted that the landowners are experiencing an evolving multi-generational lifestyle that is becoming increasingly common as a result of changing economic and societal factors and that the brief in this case was to provide a functional building for themselves but also for the neighbours and the streetscape. Mr Liveris further advised that a zero-lot line wall would provide privacy and amenity to the adjoining neighbour particularly in respect of visual impacts of car parking.

Administratively, subclause 3 specifies that *the consent authority may consent to a development that is not in accordance with sub-clause 6-8 only if it is satisfied that the reduced setback is consistent with the purpose of this clause and it is appropriate to the site having regard to such matters as its location, scale and impact on adjoining and nearby property.*

Elements of subclause 3 are considered further below:

(a) Is compatible with the streetscape and surrounding development including residential buildings on the same site

The Authority notes that the streetscape of the immediate locality is characterised by primary street frontage setbacks that are generally compliant with the requirements under this clause. There are limited instances of primary street frontage setbacks that would not comply with the requirements of this clause, and the Authority highlights the proposed development is a substantial intrusion into this setback.

Noting the immediate locality and the extent of non-compliance proposed, the Authority considers amended plans are required to increase the primary street frontage setback of the ground floor dwelling additions to a minimum of 4.5m (deferral point 1a). The Authority considers the proposed primary street frontage setback of the first floor of the dwelling additions is compatible with the streetscape.

The proposed ground floor dwelling additions along the western side boundary are minor in terms of height and scale and are well setback from the primary street frontage ensuring its compatibility with the streetscape. In addition, the gatehouse structure is considered minor in nature and in keeping with the streetscape and surrounding development, where solid fencing is common and similar structures located along primary street frontage boundaries are present within the surrounding dwellings zoned LR.

(b) Minimises adverse effects of building massing when viewed from adjoining land and the street

The Authority notes that the proposed dwelling additions extends along the eastern side boundary for approximately 22.3m with a maximum height of 6.287m and the extent of built form along the boundary represents approx. 54% of the overall boundary length.

The proposed built form is articulated through the use of stack bonded blockwork at the ground floor, custom orb wall cladding at the first floor, an aluminium slatted screen located centrally along the boundary and 2 separate skillion roof structures raking up from north to south.

The extent of built form located along the eastern side boundary combined with its overall height will be visually obtrusive and overly dominant when viewed from the adjoining property to the east. The Authority considers amended plans are required to increase the eastern side setback of the dwelling additions to align with the eastern side setback of the wall of the existing dwelling (deferral point 1b).

The Authority notes that the proposed ground floor dwelling additions along the western side boundary are open-sided and integrate with the compliant elements of the proposed first floor dwelling additions reducing any visual bulk.

The Authority considers that the proposed gatehouse incorporates a recessed entry from primary street boundary which provides articulation and reduces building massing when viewed from the streetscape. In addition, the proposed gatehouse is small in scale and the open-sided nature of the roof ensures the structure is lightweight and unlikely to have any significant impact on building massing when viewed from adjoining properties or the street.

(c) Avoids undue overlooking of adjoining properties

The proposed development does not include any habitable room windows that directly face adjoining properties and therefore no overlooking of adjoining properties will occur.

(d) Facilitates breeze penetration through and between buildings

The proposed extent of the existing dwelling along with the extent of the dwelling additions located along the eastern side boundary is likely to impact on breeze penetration east to west across the site. The Authority considers that increasing the primary street frontage setback of the ground floor dwelling additions to a minimum of 4.5m (deferral point 1a) will facilitate greater breeze penetration.

The reasons outlined above contributed to the Authority's decision to defer consideration of the application.

4. Pursuant to section 51(1)(e) of the *Planning Act 1999*, the consent authority must take into consideration any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application.

The application was placed on public exhibition for a period of two weeks, between 27 March 2025 and 10 April 2026. One public submission was received under section 49(1) of the *Planning Act 1999* (the Act) and one submission was received outside of the exhibition period stated above. Pursuant to section 51(1)(t) of the Act, which relates to other matters the consent authority thinks fit, the 'late submission' is considered relevant. The NTCAT decision of *Association of Islamic Da'Wah in Australia Inc v Development Consent Authority* [2019] NTCAT 14, in considering the status of a late submission, confirmed that section 51(t) of the *Planning Act 1999* allows the consent authority to take into account such a submission. The Authority considers the matters raised in the late submissions to be relevant this application.

The main concerns raised by the submitters in their submissions are:

- Cullen Bay is a low-density residential suburb, with appeal and ongoing viability as a result of the estate plan.
- The proposed site is located within a constrained cul-de-sac where traffic and parking are already significant issues.
- The proposal adds multiple bedrooms and structures, increasing the dwelling capacity well beyond typical standards in the area.
- The proposed plot ratio significantly exceeds the prevailing plot ratio within the area.
- The design enables a separate habitable dwelling, suggesting dual occupancy rather than a single dwelling. The development should be classified as a dwelling-group, which does not meet the planning provisions.

- The proposal fails to demonstrate compliance with fire safety requirements for the solar battery system under Australian Standard 5139.
- The interpretation of height controls within the application is considered incorrect.
- The parking provisions are inadequate given the number of residents and existing vehicle usage. Existing on-site and overflow parking conditions already exceed capacity and will worsen with the proposal.
- The proposed landscaping will not mitigate the visual impact of a large, dominant structure at the street frontage.
- The building design will obstruct established views and disrupt the open streetscape.
- The proposal is inconsistent with setback requirements and is not compatible with surrounding development.
- The development would result in unreasonable impacts on neighbouring properties, including reduced amenity and airflow.
- The proposal significantly undermines the established private open space character of Cullen Bay.
- Consent from a former neighbouring owner carries little weight and may not reflect current ownership views.
- The approval process by the Cullen Bay Management Corporation and Committee involved conflict of interest and procedural issues. The Committee's decision is argued to be unfair and unreasonable under relevant regulations.
- The development is inconsistent with the planning scheme and long-standing design standards of the area.
- The building's scale and form will negatively affect streetscape character and nearby property values.
- Approval of the proposal could set a harmful precedent for similar overdevelopment in the future.
- The applicant has alternative options within existing planning controls without requiring excessive development concessions.
- The proposal is based on a temporary living situation, not long-term planning merit, and may lead to overuse of the site.
- The Cullen Bay Management Authority (CBMA) Policy 3 is not part of the NTPS 2020, and therefore carries no statutory weight compared to the current planning scheme.
- It would be poor planning practice to allow a building to encroach into setbacks just to support a private redesign to turn the existing parking space into a hobby area, especially when it negatively affects the streetscape.
- The design may enable additional informal living spaces and function more like a boarding house than a single dwelling.
- The proposed parking is insufficient considering the level of occupancy.
- Private agreements do not replace compliance, and the proposal is seen as contrary to broader public interest.

In addition to the written submissions, the Authority heard from the submitter present at the meeting. Mr Eric Withnall (representing the owners of 94 Cullen Bay Crescent) raised concerns with the statement of effect and the DAS report. Mr Withnall also highlighted that on the 17th of April 2026 the landowners for 94 Cullen Bay Crescent filed an application with the Northern Territory Civil and Administrative Tribunal (NTCAT) under the Cullen Bay Marina Act to have the decision of the committee purportedly approving the plans, set aside. Mr Withnall advised that at this time there is no hearing date for that application.

The Chair highlighted that matters relating to approval under the Cullen Bay Marina Act are not relevant to this application.

Mr Withnall raised concerns that the recommended condition precedent requiring amended plans does not provide clarity on how the applicant would be required to amend the plans. Mr Withnall advised that the condition precedent asks the applicant to better consider the intrusion into the eastern setback, however, application of this condition would mean that the Authority would not

be aware if there is even any eastern side setback intrusion to consent to or not. This means what the Authority is being asked to consent on is not clear at today's meeting.

Mr Withnall raised concerns that the DAS report is not objective and questioned why the term 'extensive landscaping' was used when describing the proposed development. Mr Withnall further raised concerns that the first floor ensuite bathroom connected to the living/family room would make this space readily convertible to a bedroom.

The Chair clarified that there is no requirement under the NTPS 2020 or the *Planning Act 1999* limiting the number of bedrooms that a dwelling-single can contain. The approval sought in this case is for additions to a single dwelling and any approval relates to that use. If there is a subsequent change of use which is not permitted by the permit or is otherwise not permitted by the Act or Scheme, that is a matter for planning enforcement to determine. The Chair acknowledged that the applicant has advised the proposed development will be used as a dwelling-single and the Authority must take this on face value.

Mr Withnall posited to the Authority that the approved Cullen Bay Setback Plan (Policy No. 3) was only available to the approved developments. The current application is not part of the approved developments and goes against the Estate plan and what every other regular lot on the street has done. Mr Withnall stated that even if the Cullen Bay Setback Plan (Policy No. 3) was still legally valid, it would not allow unilateral intrusion for a new development that wasn't contemplated when the setback scheme was approved.

Mr Withnall raised the matter of precedence. The Chair advised that there is no precedent in planning and that every site and application needs to be considered on its own merits. However, in a broader sense, approved developments may impact on the nature of the locality as relevant in matters such as amenity of the locality.

Mr Withnall posited to the Authority that the eastern elevation of the proposed development does not fit in with the streetscape of Cullen Bay.

The Chair asked Mr Withnall to describe the impact on amenity for his clients' property of this setback intrusion. Mr Withnall advised that it completely eliminates the capability to have passive surveillance of the street, and impacts on what can be planted on the property adjoining the dwelling additions. Mr Withnall further advised that the dwelling additions would have a stark and dominant visual appearance and noted that, where there were zero setbacks existing in the street, they do not have this dominant visual appearance and have compliant front setbacks. Mr Withnall advised that where the zero lot setbacks have been utilised, the sheer walls are not visible, as the adjoining neighbour had also built a wall on the boundary.

The Chair further asked Mr Withnall if he had any comments in relation to the primary street frontage setback requirements. Mr Withnall commented that the setback requirements are there for a reason and that where encroachments into the front setback have been allowed that these are generally only single storey in height.

The Authority provided an opportunity for the applicant to respond to matters raised by submitters.

Mr Sheridan (applicant) explained to the Authority that the setback requirements and variations were addressed.

The Chair commented that generally when you have a front setback intrusion it is at one storey not 2 storey, and asked Mr Sheridan if there was an intention to plant a rooftop garden on the portion of the garage roof that encroaches into the primary street frontage setback.

Mr Liveris advised that a previous design iteration proposed landscaping within this setback and it is possible for a roof terrace garden to be planted there. Mr Liveris noted that this is a significant project and investment for his client and they are trying to do the right thing by the neighbours.

The Authority has considered all submitter's comments and applicant's response to the matters raised.

Detailed consideration of the proposed setbacks and compatibility with the streetscape, impacts of building massing, overlooking and breeze penetration impacts are provided at section 3 of these reasons.

The Authority has taken all comments into account and carefully considered the concerns of the submitters and interested parties who lodged late submissions. The Authority has also taken into account the response provided by the applicant regarding the submitters' concerns expressed at the meeting.

The matters raised in the submissions have contributed to the Authority's decision to defer the application in order to obtain further information addressing the relevant considerations identified by submitters, as well as, the concerns of the DCA in relation to the requirements of the NTPS 2020 and the *Planning Act 1999*.

Pursuant to section 46(6) of the *Planning Act 1999*, information required in this correspondence is to be provided within 30 days of the receipt of this correspondence.

You may request the consent authority extend the time to provide the required information. A request must be made before the expiry of the period referred to in section 46(6) (i.e. within 30 days of receipt of this notice) and it must be made in writing to either address listed below:

Email: das.ntg@nt.gov.au
In person: First Floor, Energy House, 18-20 Cavenagh Street, Darwin
Post: Development Assessment Services
Department of Lands, Planning and Environment
GPO Box 1680, Darwin NT 0801

Should you require any further information on this matter, please telephone Development Assessment Services on 8999 6046.

Yours faithfully

 Digitally signed
by Madison
Harvey
Date: 2026.05.18
08:17:01 +09'30'

MADISON HARVEY
Delegate
18 May 2026

cc City of Darwin
Submitter

Sheridan Consulting
PO Box 41936
Casuarina 0811

13 July 2026

Dear Madison,

Via email: Madison.harvey@nt.gov.au

cc: lingyi.kong@nt.gov.au

RE: – PA2026/0094: Response to Notice of Deferral
Lot 5818 Town of Darwin (96 Cullen Bay Crescent, Cullen Bay)

I refer to the above-mentioned Planning Application (PA2026/0094) for the purpose of alterations and additions to an existing dwelling-single with a reduced building setback to the primary street and side boundaries.

The application was considered by the Darwin Division of the Development Consent Authority (DCA) at its meeting on 8 May 2026. The report prepared by Development Assessment Services (DAS) to the DCA recommended approval, however the DCA determined to defer the application and request further information to enable proper consideration of the proposed development.

The material herein is a formal response to the Notice of Deferral issued by the DCA. The following attachments are enclosed:

- **Attachment A** – Notice of Deferral
- **Attachment B** – Updated Development Plans

Notice of Deferral items

1. *Amended drawings that demonstrate better compliance with the requirements of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme (NTPS 2020) through:*

- (a) Increasing the primary street setback of the ground floor dwelling additions to a minimum of 4.5 metres, and;*

The revised design shown in the plans at **Attachment B** illustrates how the garage component of the ground floor dwelling achieves a minimum 4.5m setback from the primary street. The upper floor eaves and privacy slat screen are also designed to be setback 900mm and 750mm respectively and thus comply with front setback requirements. The gatehouse structure is consistent with the previous design and has been retained noting the DCA's favorable assessment of this feature (see reason 3 at **Attachment A**).

(b) Increasing the eastern side setback of the dwelling additions to align with the existing eastern side setback of the wall of the existing dwelling.

The revised design shown in the plans at **Attachment B** illustrates how the east side setback aligns with the existing dwelling to achieve a minimum 1.23m for the garage structural column to block work fence. This makes the total east side setback 1.42m (1320mm + 900mm). The open side design of the garage provides additional breeze circulation and serves to reduce perceived building massing impacts for the adjoining landowner. It also ensures that no other parts of the garage, and thus the dwelling additions on the ground floor, encroach into the east side setback.

The ground floor and first-floor setbacks for the eaves are also consistent with the existing dwelling at 850mm thus complying with NTPS setback requirements. This also allows the required guttering and downpipes to achieve a consistent setback for the eaves and overall roof design of the existing dwelling (see sheet A10 at **Attachment B**).

As noted by the DCA in its Notice of Deferral, standalone blockwork fencing does not require planning consent. Accordingly, the proposed alterations and additions will not be physically attached to the blockwork boundary fence.

Conclusion

In summary, the items set out in the Notice of Deferral issued by the Darwin division of the DCA on 8 May 2026 have been addressed by the additional information contained herein.

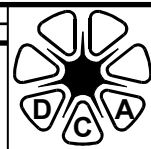
Should you require clarification on any of the above, please contact the undersigned via email joe@sheridanconsulting.au or mobile 0407 703 813.

Yours sincerely



Joe Sheridan
Sheridan Consulting

Attachment A



Development Consent Authority

Northern Territory

GPO BOX 1680
DARWIN NT 0801

Telephone No: (08) 8999 6044
Email: development.consentauthority@nt.gov.au

In reply please quote:

Mr Joseph Sheridan
Director
Sheridan Planning and Development Consultants
PO Box 41936
Casuarina NT 0811

Via email: joe@sheridanconsulting.au

Dear Mr Sheridan

LOT 5818 (96) CULLEN BAY CRESCENT, TOWN OF DARWIN

You are hereby advised that the Darwin Division of the Development Consent Authority, at its meeting on 8 May 2026 resolved, pursuant to section 46(4)(b) of the *Planning Act 1999*, to defer consideration of the application to develop the above land for the purpose of Additions to an existing dwelling-single with a reduced building setback to the primary street and side boundaries to require the applicant to provide the following additional information that the Authority considers necessary in order to enable proper consideration of the application:

1. Amended drawings that demonstrate better compliance with the requirements of Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) of the Northern Territory Planning Scheme (NTPS 2020) through:
 - (a) Increasing the primary street setback of the ground floor dwelling additions to a minimum of 4.5 metres, and
 - (b) Increasing the eastern side setback of the dwelling additions to align with the existing eastern side setback of the wall of the existing dwelling.

REASONS FOR THE DECISION

1. The application seeks consent for additions to an existing dwelling-single with a reduced building setback to the primary street and side boundaries at Lot 5818 (96) Cullen Bay Cres, Larrakeyah, Town of Darwin (the site). The site is 1160m² in area and located in Zone LR (Low Density Residential) of the Northern Territory Planning Scheme 2020 (NTPS2020).

The Authority highlights that the site cannot be considered in isolation and must be considered in the context it's locality. The land uses in the immediate locality are residential in nature with built form characterised by single dwellings on large allotments with generally compliant building setbacks to the primary street and side boundaries.

At the meeting, Ms Suzanne Philip (the Chair of the Authority) clarified what the Authority considered relevant to this application.

The Chair clarified that the Cullen Bay Setback Plan (Policy No. 3) (the policy) approved on 10 October 2000 was superseded by the Northern Territory Planning Scheme (NTPS) 2007 and that the reduced setback requirements prescribed under this policy are no longer applicable. The Chair highlighted that whilst the policy is not applicable it may be relevant when considering the development of the broader locality.

The Chair further clarified that procedural and conflict of interest concerns regarding the Cullen Bay Management Corporation and Committee are not planning matters for consideration under the *Planning Act 1999* and are outside the scope of the application.

At the meeting, Mr Joe Sheridan (the applicant) summarised the application and acknowledged the Chair's opening remarks clarifying the relevant elements of the application. Mr Sheridan explained that his client acquired the site in 2005 with an expectation that there was some ability to test the setbacks in accordance with this policy. Notwithstanding this, Mr Sheridan acknowledged that the policy is no longer applicable and that the setback requirements of the NTPS 2020 apply.

The Chair emphasised that Section 51(1) of the *Planning Act 1999* requires the consent authority, when assessing a development application, to consider any relevant matters listed in that section. The Chair noted that the landowner's expectations at the time of purchasing the site carry limited weight in its considerations.

Mr Sheridan highlighted that the primary driver of this application is to accommodate a unique family living situation and asked that the Authority keep this in mind, along with the reality that his client purchased the site back when the policy was applicable.

2. Pursuant to section 51(1)(a) of the *Planning Act 1999*, the consent authority must take into consideration the planning scheme that applies to the land to which the application relates.

The Northern Territory Planning Scheme (NTPS) 2020 applies to the land and that while the development of land within Zone LR (Low Density Residential) for dwelling-single is shown as *Permitted* on the relevant assessment table, an application is required in this instance to address non-compliances with relevant development requirements. It is identified as *Merit Assessable* under Clause 1.8(1)(b)(ii)(2); therefore, pursuant to Clause 1.10(2), the requirements in Part 5 that are not complied with and whether the proposal meets the purpose of the requirements, need to be considered.

The Authority notes that the proposed development seeks consent for internal reconfiguration and additions to the existing dwelling. The proposed internal reconfiguration comprises converting the existing ground floor garage to a bike room and converting the first-floor verandah to an enclosed gym along with relocating normal services associated with the existing dwelling. At the ground floor, the proposed dwelling additions comprise a garage, outdoor kitchen, outdoor bathroom, gatehouse and blockwork fence. At the first floor, the proposed dwelling additions comprise 2 bedrooms with ensuites, a new living/dining area with bathroom and an outdoor kitchen, all additions are accessible from a covered elevated deck/walkway.

The Authority has considered the applicable requirements in Part 5 and found that the proposal complies with the relevant requirements of the Planning Scheme except for Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures) as it relates to the:

- on boundary'/zero metre setback of proposed ground and first floor dwelling additions (including any blockwork wall associated with the dwelling additions) along the eastern side boundary, where a setback of 1.5m is required.
- 'on boundary'/zero metre setback of proposed ground floor dwelling additions along the western side boundary, where a setback of 1.5m is required.
- approx. 1.2 metre setback of proposed ground floor garage to the primary street frontage, where a setback of 6m is required.

- staggered setback of approx. 460mm to 550mm of proposed ground floor gatehouse to the primary street frontage, where a setback of 6m is required.

The Authority notes that any standalone blockwork fencing does not require planning consent, as there are no planning consent requirements for fencing under the NTPS 2020 and the *Planning Act 1999*.

3. Pursuant to Clause 1.10 (Exercise of Discretion by the Consent Authority), subclause 5 of the NT Planning Scheme 2020, the consent authority may consent to a proposed development which is not in accordance with a requirement set out in Parts 3, 5 or 6 only if it is satisfied that the variation is appropriate having regard to:
 - (a) The purpose and administration clauses of the requirement; and
 - (b) The considerations listed under Clause 1.10(3) or 1.10(4).

In response to clause 1.10(5)(b), the considerations listed under Clause 1.10(3) do not apply to this application because the application became Merit Assessable under Clause 1.8(1)(b)(ii)(2), and pursuant to Clause 1.10(2), the consent authority is required only to consider the requirements in Part 5 that are not complied with for such applications.

In response to clause 1.10(5)(a), a variation to this clause is not appropriate in this instance because:

Clause 5.4.3 (Building Setbacks of Residential Buildings and Ancillary Structures)

The purpose of Clause 5.4.3 is to *ensure that residential buildings and ancillary structures are located in a manner that:*

- (a) *is compatible with the streetscape and surrounding development including residential buildings on the same site;*
- (b) *minimises adverse effects of building massing when viewed from adjoining land and the street;*
- (c) *avoids undue overlooking of adjoining properties; and*
- (d) *facilitates breeze penetration through and between buildings.*

The proposed development does not comply with the required setbacks pursuant to subclause 6 of this clause as detailed at section 2 of these reasons.

The Authority notes that the site was previously able to access site specific setbacks through the Cullen Bay Setback Plan (Policy No. 3) approved on 10 October 2000 by the Development Consent Authority, however, this policy was superseded by the Northern Territory Planning Scheme (NTPS) 2007. A number of properties along Cullen Bay Crescent appear to have utilised relaxed building setbacks as applicable under the previous planning policy. If this proposal were to be assessed under the previous policy it would be largely compliant with the setback requirements, except for a small encroachment of the garage roof into the 1.5m primary street setback, and the 1.5m western side setback, where 3m was required.

Notwithstanding the Authority notes that the proposed development requires consideration under the current setback provisions.

At the meeting, the Chair requested the applicant justify to the Authority why the extent of variation from the required setbacks should be considered appropriate.

Mr Sheridan explained that the proposed development is largely formalising an area that is already used for parking. Mr John Da Costa (interested party) told the Authority that the proposal was designed to accommodate their family living situation, including adult children and their partners, creating a functional living arrangement for everyone.

The Chair highlighted that there needs to be a balance between the internal onsite amenity and the amenity for the neighbours, noting that the neighbours feel that what is proposed will substantially impact their amenity.

Mr Da Costa highlighted that another option could be to increase the side setback of the dwelling additions, however, this may increase overlooking and acoustic impacts as the current design includes a solid wall with no windows.

Mr Da Costa noted that the existing garage arrangement was impractical and that the proposed bike room along with the new garage was intended to address functional needs, improve security, and reduce parking impacts on surrounding public areas such as the verge.

Mr Hully Liveris (the architect) advised that the design response was informed by the established character of Cullen Bay, where reduced side setbacks are common. Mr Liveris explained that he had completed several successful projects in Cullen Bay and the language of Cullen Bay in this respect are successful outcomes of townscape and amenity based on the zero-lot line. Mr Liveris highlighted that the landowners are experiencing an evolving multi-generational lifestyle that is becoming increasingly common as a result of changing economic and societal factors and that the brief in this case was to provide a functional building for themselves but also for the neighbours and the streetscape. Mr Liveris further advised that a zero-lot line wall would provide privacy and amenity to the adjoining neighbour particularly in respect of visual impacts of car parking.

Administratively, subclause 3 specifies that *the consent authority may consent to a development that is not in accordance with sub-clause 6-8 only if it is satisfied that the reduced setback is consistent with the purpose of this clause and it is appropriate to the site having regard to such matters as its location, scale and impact on adjoining and nearby property.*

Elements of subclause 3 are considered further below:

(a) Is compatible with the streetscape and surrounding development including residential buildings on the same site

The Authority notes that the streetscape of the immediate locality is characterised by primary street frontage setbacks that are generally compliant with the requirements under this clause. There are limited instances of primary street frontage setbacks that would not comply with the requirements of this clause, and the Authority highlights the proposed development is a substantial intrusion into this setback.

Noting the immediate locality and the extent of non-compliance proposed, the Authority considers amended plans are required to increase the primary street frontage setback of the ground floor dwelling additions to a minimum of 4.5m (deferral point 1a). The Authority considers the proposed primary street frontage setback of the first floor of the dwelling additions is compatible with the streetscape.

The proposed ground floor dwelling additions along the western side boundary are minor in terms of height and scale and are well setback from the primary street frontage ensuring its compatibility with the streetscape. In addition, the gatehouse structure is considered minor in nature and in keeping with the streetscape and surrounding development, where solid fencing is common and similar structures located along primary street frontage boundaries are present within the surrounding dwellings zoned LR.

(b) Minimises adverse effects of building massing when viewed from adjoining land and the street

The Authority notes that the proposed dwelling additions extends along the eastern side boundary for approximately 22.3m with a maximum height of 6.287m and the extent of built form along the boundary represents approx. 54% of the overall boundary length.

The proposed built form is articulated through the use of stack bonded blockwork at the ground floor, custom orb wall cladding at the first floor, an aluminium slatted screen located centrally along the boundary and 2 separate skillion roof structures raking up from north to south.

The extent of built form located along the eastern side boundary combined with its overall height will be visually obtrusive and overly dominant when viewed from the adjoining property to the east. The Authority considers amended plans are required to increase the eastern side setback of the dwelling additions to align with the eastern side setback of the wall of the existing dwelling (deferral point 1b).

The Authority notes that the proposed ground floor dwelling additions along the western side boundary are open-sided and integrate with the compliant elements of the proposed first floor dwelling additions reducing any visual bulk.

The Authority considers that the proposed gatehouse incorporates a recessed entry from primary street boundary which provides articulation and reduces building massing when viewed from the streetscape. In addition, the proposed gatehouse is small in scale and the open-sided nature of the roof ensures the structure is lightweight and unlikely to have any significant impact on building massing when viewed from adjoining properties or the street.

(c) Avoids undue overlooking of adjoining properties

The proposed development does not include any habitable room windows that directly face adjoining properties and therefore no overlooking of adjoining properties will occur.

(d) Facilitates breeze penetration through and between buildings

The proposed extent of the existing dwelling along with the extent of the dwelling additions located along the eastern side boundary is likely to impact on breeze penetration east to west across the site. The Authority considers that increasing the primary street frontage setback of the ground floor dwelling additions to a minimum of 4.5m (deferral point 1a) will facilitate greater breeze penetration.

The reasons outlined above contributed to the Authority's decision to defer consideration of the application.

4. Pursuant to section 51(1)(e) of the *Planning Act 1999*, the consent authority must take into consideration any submissions made under section 49, and any evidence or information received under section 50, in relation to the development application.

The application was placed on public exhibition for a period of two weeks, between 27 March 2025 and 10 April 2026. One public submission was received under section 49(1) of the *Planning Act 1999* (the Act) and one submission was received outside of the exhibition period stated above. Pursuant to section 51(1)(t) of the Act, which relates to other matters the consent authority thinks fit, the 'late submission' is considered relevant. The NTCAT decision of *Association of Islamic Da'Wah in Australia Inc v Development Consent Authority* [2019] NTCAT 14, in considering the status of a late submission, confirmed that section 51(t) of the *Planning Act 1999* allows the consent authority to take into account such a submission. The Authority considers the matters raised in the late submissions to be relevant this application.

The main concerns raised by the submitters in their submissions are:

- Cullen Bay is a low-density residential suburb, with appeal and ongoing viability as a result of the estate plan.
- The proposed site is located within a constrained cul-de-sac where traffic and parking are already significant issues.
- The proposal adds multiple bedrooms and structures, increasing the dwelling capacity well beyond typical standards in the area.
- The proposed plot ratio significantly exceeds the prevailing plot ratio within the area.
- The design enables a separate habitable dwelling, suggesting dual occupancy rather than a single dwelling. The development should be classified as a dwelling-group, which does not meet the planning provisions.

- The proposal fails to demonstrate compliance with fire safety requirements for the solar battery system under Australian Standard 5139.
- The interpretation of height controls within the application is considered incorrect.
- The parking provisions are inadequate given the number of residents and existing vehicle usage. Existing on-site and overflow parking conditions already exceed capacity and will worsen with the proposal.
- The proposed landscaping will not mitigate the visual impact of a large, dominant structure at the street frontage.
- The building design will obstruct established views and disrupt the open streetscape.
- The proposal is inconsistent with setback requirements and is not compatible with surrounding development.
- The development would result in unreasonable impacts on neighbouring properties, including reduced amenity and airflow.
- The proposal significantly undermines the established private open space character of Cullen Bay.
- Consent from a former neighbouring owner carries little weight and may not reflect current ownership views.
- The approval process by the Cullen Bay Management Corporation and Committee involved conflict of interest and procedural issues. The Committee's decision is argued to be unfair and unreasonable under relevant regulations.
- The development is inconsistent with the planning scheme and long-standing design standards of the area.
- The building's scale and form will negatively affect streetscape character and nearby property values.
- Approval of the proposal could set a harmful precedent for similar overdevelopment in the future.
- The applicant has alternative options within existing planning controls without requiring excessive development concessions.
- The proposal is based on a temporary living situation, not long-term planning merit, and may lead to overuse of the site.
- The Cullen Bay Management Authority (CBMA) Policy 3 is not part of the NTPS 2020, and therefore carries no statutory weight compared to the current planning scheme.
- It would be poor planning practice to allow a building to encroach into setbacks just to support a private redesign to turn the existing parking space into a hobby area, especially when it negatively affects the streetscape.
- The design may enable additional informal living spaces and function more like a boarding house than a single dwelling.
- The proposed parking is insufficient considering the level of occupancy.
- Private agreements do not replace compliance, and the proposal is seen as contrary to broader public interest.

In addition to the written submissions, the Authority heard from the submitter present at the meeting. Mr Eric Withnall (representing the owners of 94 Cullen Bay Crescent) raised concerns with the statement of effect and the DAS report. Mr Withnall also highlighted that on the 17th of April 2026 the landowners for 94 Cullen Bay Crescent filed an application with the Northern Territory Civil and Administrative Tribunal (NTCAT) under the Cullen Bay Marina Act to have the decision of the committee purportedly approving the plans, set aside. Mr Withnall advised that at this time there is no hearing date for that application.

The Chair highlighted that matters relating to approval under the Cullen Bay Marina Act are not relevant to this application.

Mr Withnall raised concerns that the recommended condition precedent requiring amended plans does not provide clarity on how the applicant would be required to amend the plans. Mr Withnall advised that the condition precedent asks the applicant to better consider the intrusion into the eastern setback, however, application of this condition would mean that the Authority would not

be aware if there is even any eastern side setback intrusion to consent to or not. This means what the Authority is being asked to consent on is not clear at today's meeting.

Mr Withnall raised concerns that the DAS report is not objective and questioned why the term 'extensive landscaping' was used when describing the proposed development. Mr Withnall further raised concerns that the first floor ensuite bathroom connected to the living/family room would make this space readily convertible to a bedroom.

The Chair clarified that there is no requirement under the NTPS 2020 or the *Planning Act 1999* limiting the number of bedrooms that a dwelling-single can contain. The approval sought in this case is for additions to a single dwelling and any approval relates to that use. If there is a subsequent change of use which is not permitted by the permit or is otherwise not permitted by the Act or Scheme, that is a matter for planning enforcement to determine. The Chair acknowledged that the applicant has advised the proposed development will be used as a dwelling-single and the Authority must take this on face value.

Mr Withnall posited to the Authority that the approved Cullen Bay Setback Plan (Policy No. 3) was only available to the approved developments. The current application is not part of the approved developments and goes against the Estate plan and what every other regular lot on the street has done. Mr Withnall stated that even if the Cullen Bay Setback Plan (Policy No. 3) was still legally valid, it would not allow unilateral intrusion for a new development that wasn't contemplated when the setback scheme was approved.

Mr Withnall raised the matter of precedence. The Chair advised that there is no precedent in planning and that every site and application needs to be considered on its own merits. However, in a broader sense, approved developments may impact on the nature of the locality as relevant in matters such as amenity of the locality.

Mr Withnall posited to the Authority that the eastern elevation of the proposed development does not fit in with the streetscape of Cullen Bay.

The Chair asked Mr Withnall to describe the impact on amenity for his clients' property of this setback intrusion. Mr Withnall advised that it completely eliminates the capability to have passive surveillance of the street, and impacts on what can be planted on the property adjoining the dwelling additions. Mr Withnall further advised that the dwelling additions would have a stark and dominant visual appearance and noted that, where there were zero setbacks existing in the street, they do not have this dominant visual appearance and have compliant front setbacks. Mr Withnall advised that where the zero lot setbacks have been utilised, the sheer walls are not visible, as the adjoining neighbour had also built a wall on the boundary.

The Chair further asked Mr Withnall if he had any comments in relation to the primary street frontage setback requirements. Mr Withnall commented that the setback requirements are there for a reason and that where encroachments into the front setback have been allowed that these are generally only single storey in height.

The Authority provided an opportunity for the applicant to respond to matters raised by submitters.

Mr Sheridan (applicant) explained to the Authority that the setback requirements and variations were addressed.

The Chair commented that generally when you have a front setback intrusion it is at one storey not 2 storey, and asked Mr Sheridan if there was an intention to plant a rooftop garden on the portion of the garage roof that encroaches into the primary street frontage setback.

Mr Liveris advised that a previous design iteration proposed landscaping within this setback and it is possible for a roof terrace garden to be planted there. Mr Liveris noted that this is a significant project and investment for his client and they are trying to do the right thing by the neighbours.

The Authority has considered all submitter's comments and applicant's response to the matters raised.

Detailed consideration of the proposed setbacks and compatibility with the streetscape, impacts of building massing, overlooking and breeze penetration impacts are provided at section 3 of these reasons.

The Authority has taken all comments into account and carefully considered the concerns of the submitters and interested parties who lodged late submissions. The Authority has also taken into account the response provided by the applicant regarding the submitters' concerns expressed at the meeting.

The matters raised in the submissions have contributed to the Authority's decision to defer the application in order to obtain further information addressing the relevant considerations identified by submitters, as well as, the concerns of the DCA in relation to the requirements of the NTPS 2020 and the *Planning Act 1999*.

Pursuant to section 46(6) of the *Planning Act 1999*, information required in this correspondence is to be provided within 30 days of the receipt of this correspondence.

You may request the consent authority extend the time to provide the required information. A request must be made before the expiry of the period referred to in section 46(6) (i.e. within 30 days of receipt of this notice) and it must be made in writing to either address listed below:

Email: das.ntg@nt.gov.au
In person: First Floor, Energy House, 18-20 Cavenagh Street, Darwin
Post: Development Assessment Services
Department of Lands, Planning and Environment
GPO Box 1680, Darwin NT 0801

Should you require any further information on this matter, please telephone Development Assessment Services on 8999 6046.

Yours faithfully



MADISON HARVEY
Delegate
18 May 2026

cc City of Darwin
Submitter

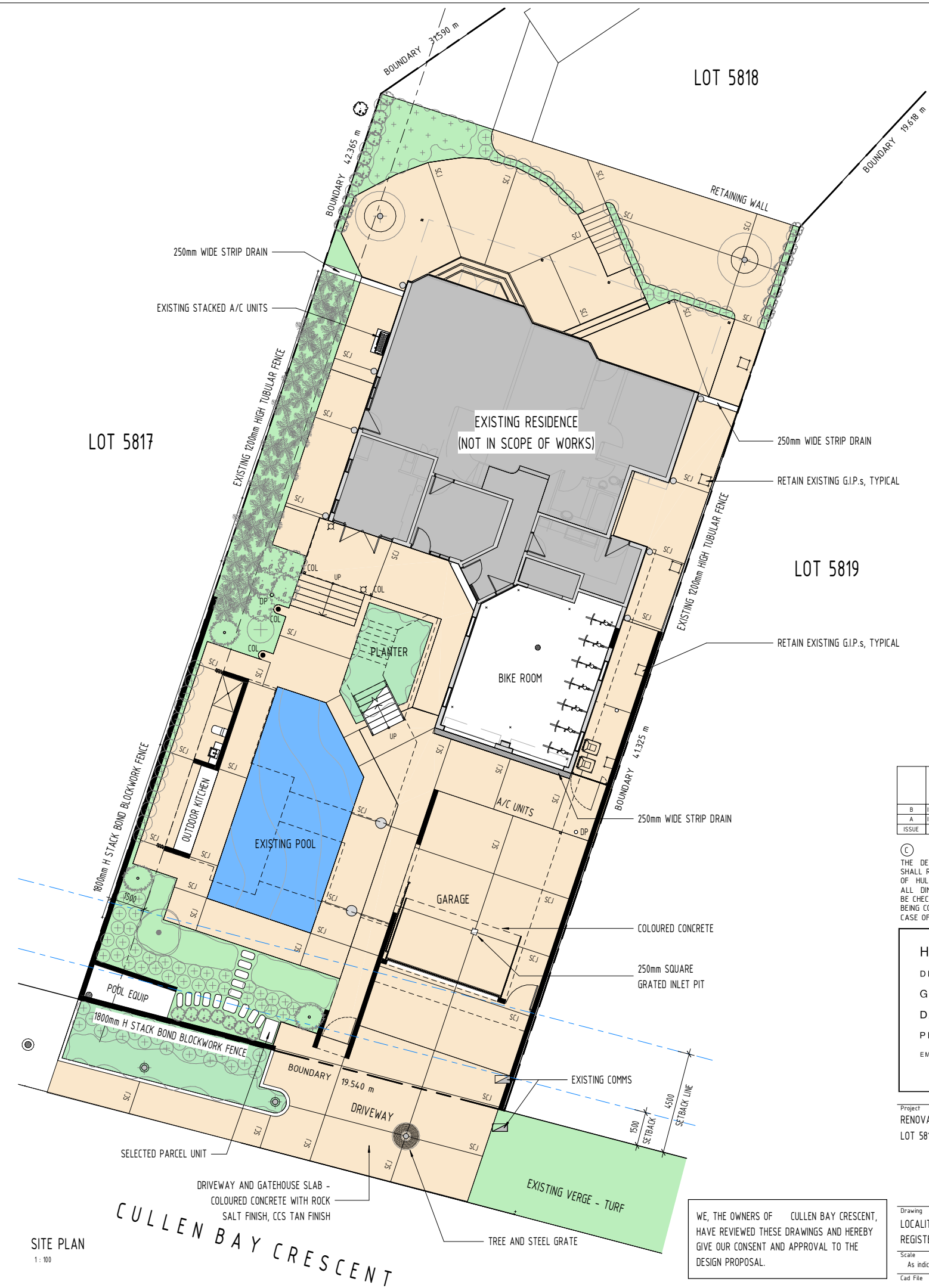
Attachment B

ARCHITECTURAL

A00	COVER SHEET
A01	LOCALITY PLAN, SITE PLAN AND DRAWING REGISTER
A03	LANDSCAPING PLANS
A04	GROUND FLOOR REFERENCE PLAN
A05	FIRST FLOOR REFERENCE PLAN
A06	GROUND FLOOR SET OUT PLAN
A07	FIRST FLOOR SET OUT PLAN
A10	ROOF PLAN
A11	SOUTH AND WEST ELEVATIONS
A12	EAST ELEVATION
A13	SECTIONS
A14	SECTIONS
A15	SECTIONS
A16	3D VIEWS
A17	3D VIEWS
A18	3D VIEWS



LOCALITY PLAN



SITE PLAN
1 : 100

B	ISSUE FOR DA APPROVAL	26.05.27
A	ISSUE FOR DA APPROVAL	25.12.17
ISSUE	AMENDMENT	DATE

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Project
RENOVATIONS TO EXISTING RESIDENCE
LOT 5818 CULLEN BAY CRESCENT

WE, THE OWNERS OF CULLEN BAY CRESCENT,
HAVE REVIEWED THESE DRAWINGS AND HEREBY
GIVE OUR CONSENT AND APPROVAL TO THE
DESIGN PROPOSAL.

Drawing		
LOCALITY PLAN, SITE PLAN AND DRAWING REGISTER		
Scale As indicated	Drawn JT	Date 26.05.27
Cad File	Sheet no. A01	Issue B



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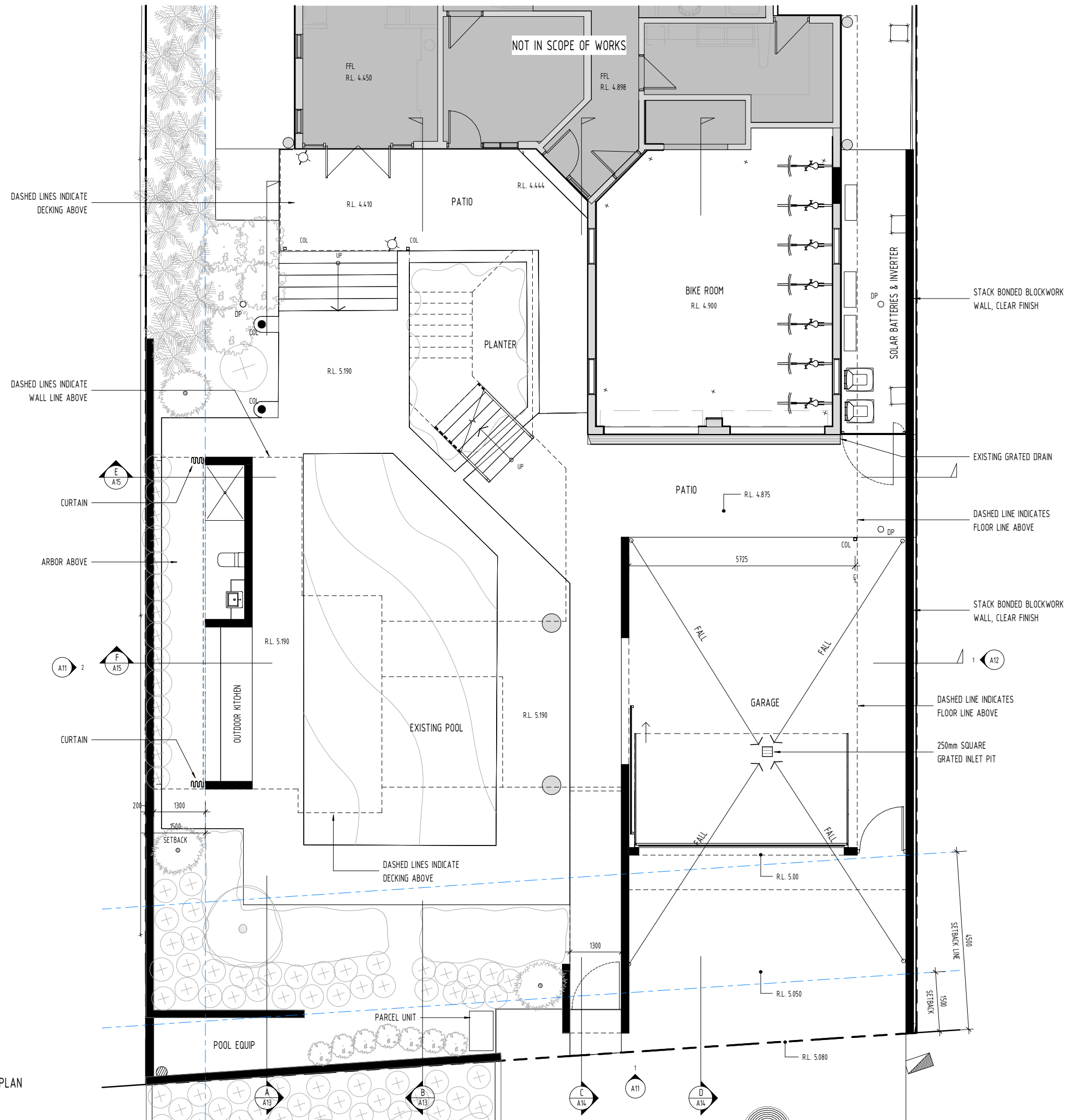
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LANDSCAPING PLANS

Scale 1:100	Drawn JT	Date 26.05.27
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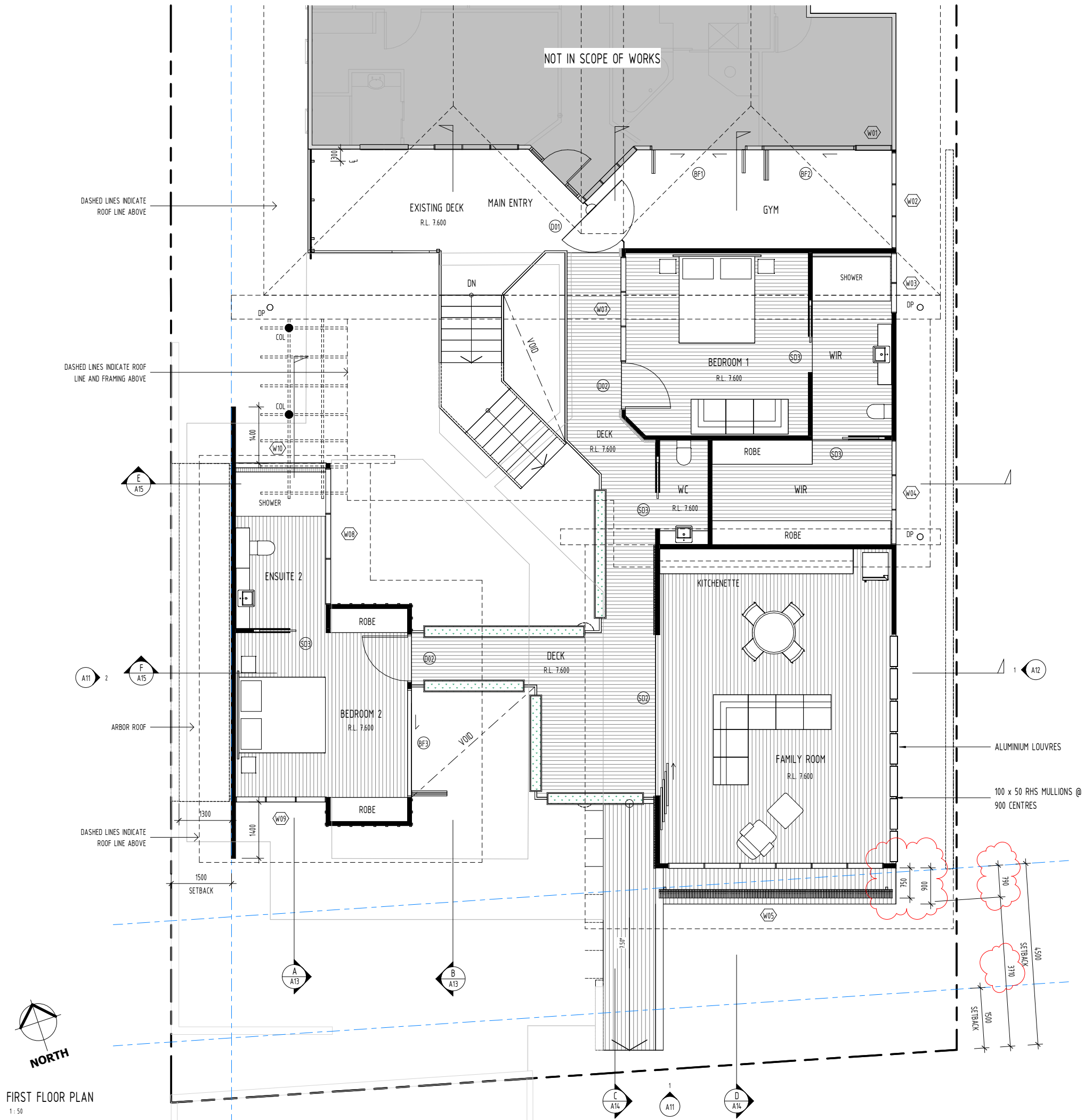
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1:50	JT	26.05.27
Cad File	Sheet no.	Issue
	A04	B

NORTH
GROUND FLOOR PLAN
1:50



FIRST FLOOR PLAN
1:50

ISSUE	AMENDMENT	DATE
C	ISSUE FOR DA APPROVAL	26.06.22
B	ISSUE FOR DA APPROVAL	26.05.21
A	ISSUE FOR DA APPROVAL	25.12.17

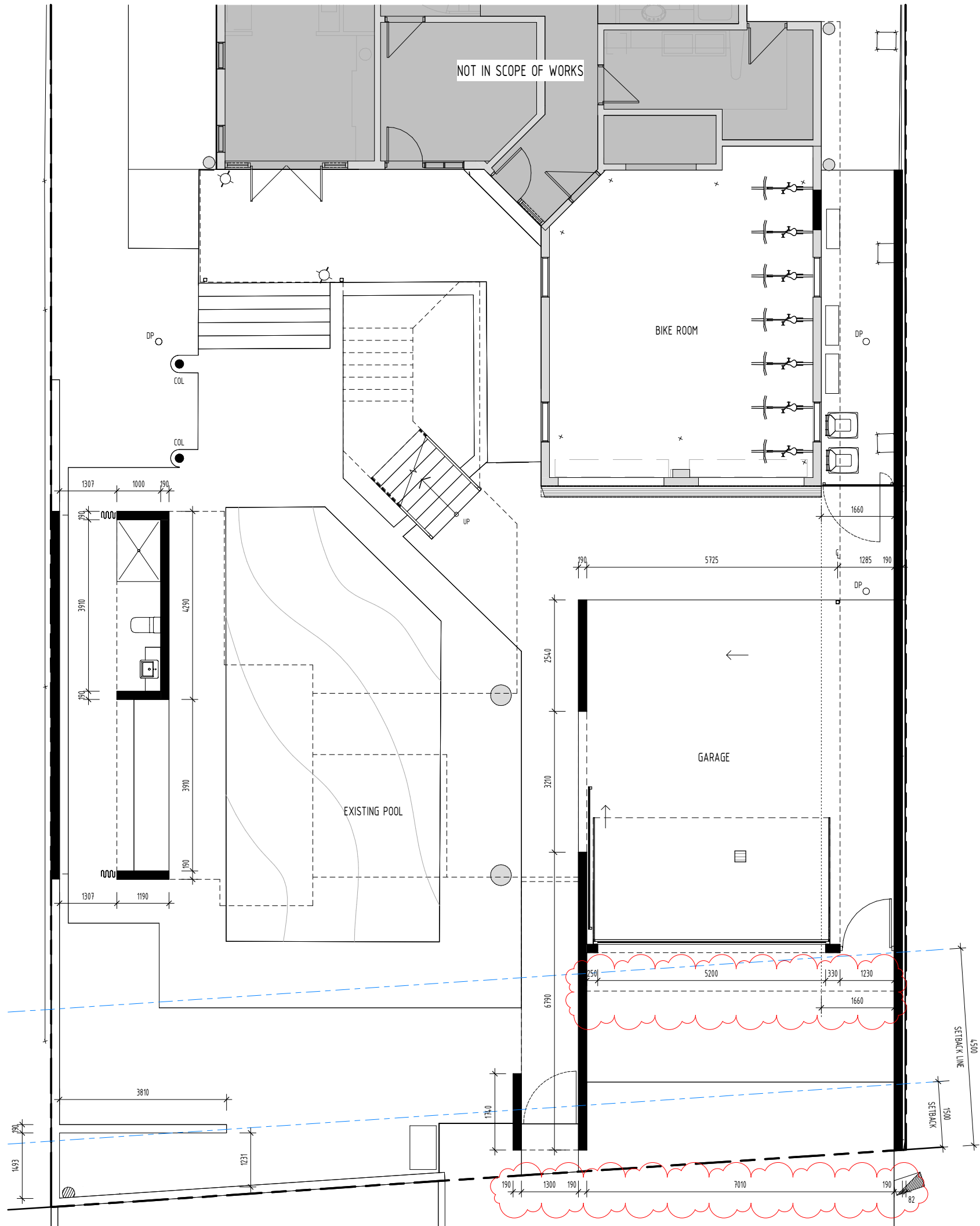
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1:50	JT	26.06.22
Cad File	Sheet no.	Issue
	A05	C



GROUND FLOOR SET OUT PLAN

1 : 50

C	ISSUE FOR DA APPROVAL	26.06.22
B	ISSUE FOR DA APPROVAL	26.05.21
A	ISSUE FOR DA APPROVAL	25.12.17
ISSUE	AMENDMENT	DATE

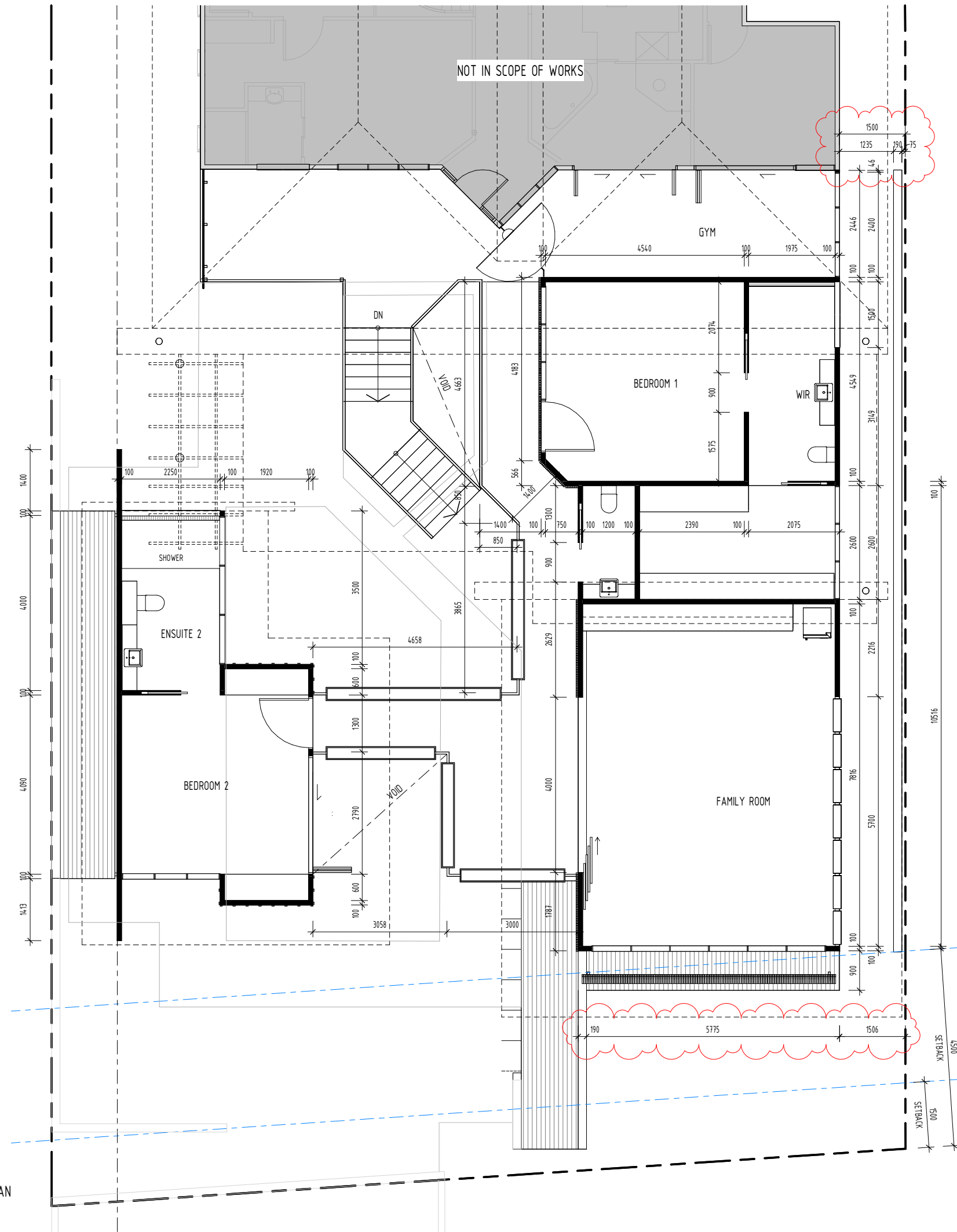
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Drawing GROUND FLOOR SET OUT PLAN		
Scale 1 : 50	Drawn JT	Date 26.06.22
Cad File	Sheet no. A06	Issue C



FIRST FLOOR SET OUT PLAN
1:50

C	ISSUE FOR DA APPROVAL	26.06.22
B	ISSUE FOR DA APPROVAL	26.05.21
A	ISSUE FOR DA APPROVAL	25.12.17
ISSUE	AMENDMENT	DATE

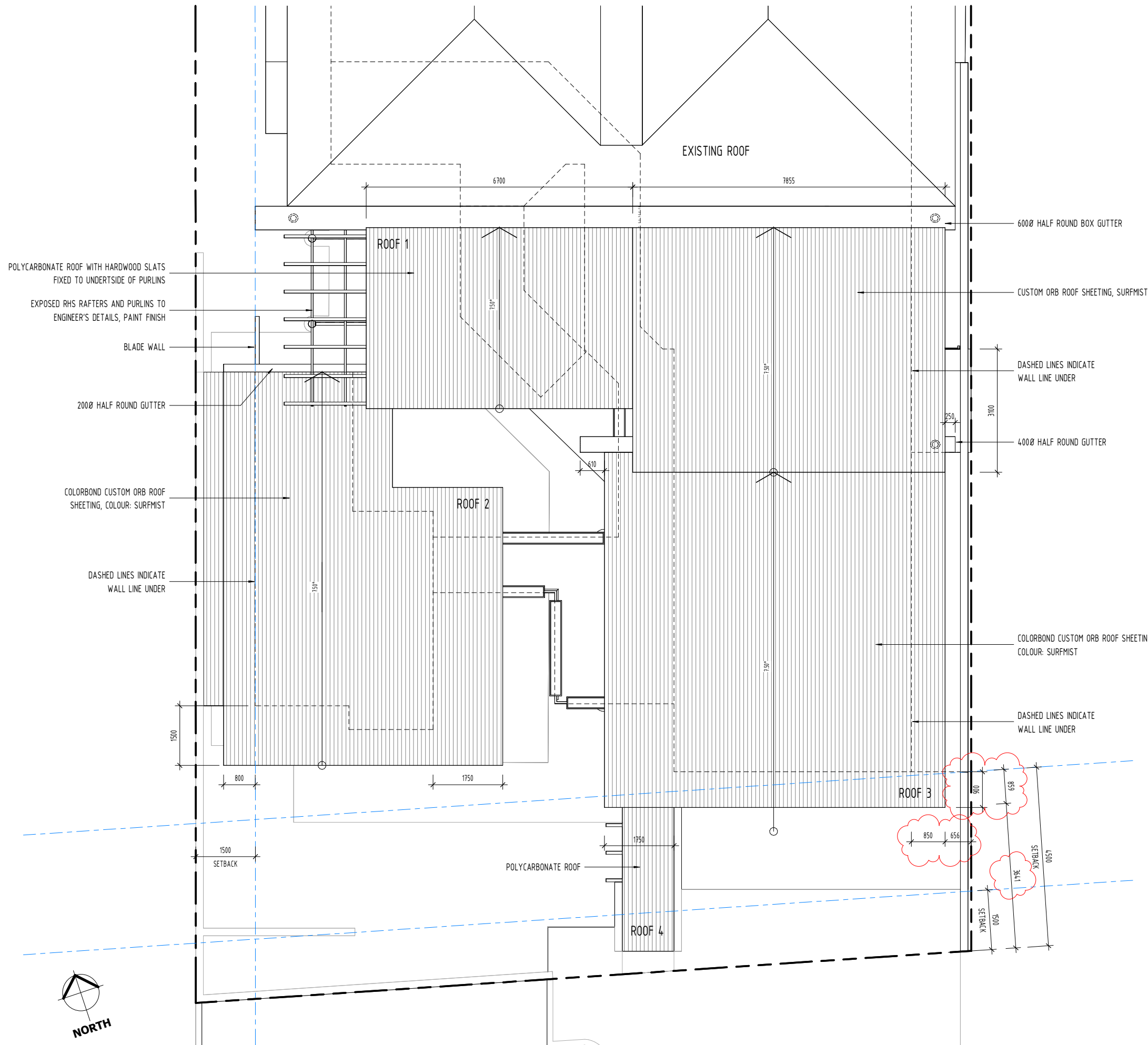
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Drawing FIRST FLOOR SET OUT PLAN		
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Cad File	Sheet no. A07	Issue C



ROOF PLAN
1 : 50

C	ISSUE FOR DA APPROVAL	26.06.22
B	ISSUE FOR DA APPROVAL	26.05.21
A	ISSUE FOR DA APPROVAL	25.12.17
ISSUE	AMENDMENT	DATE

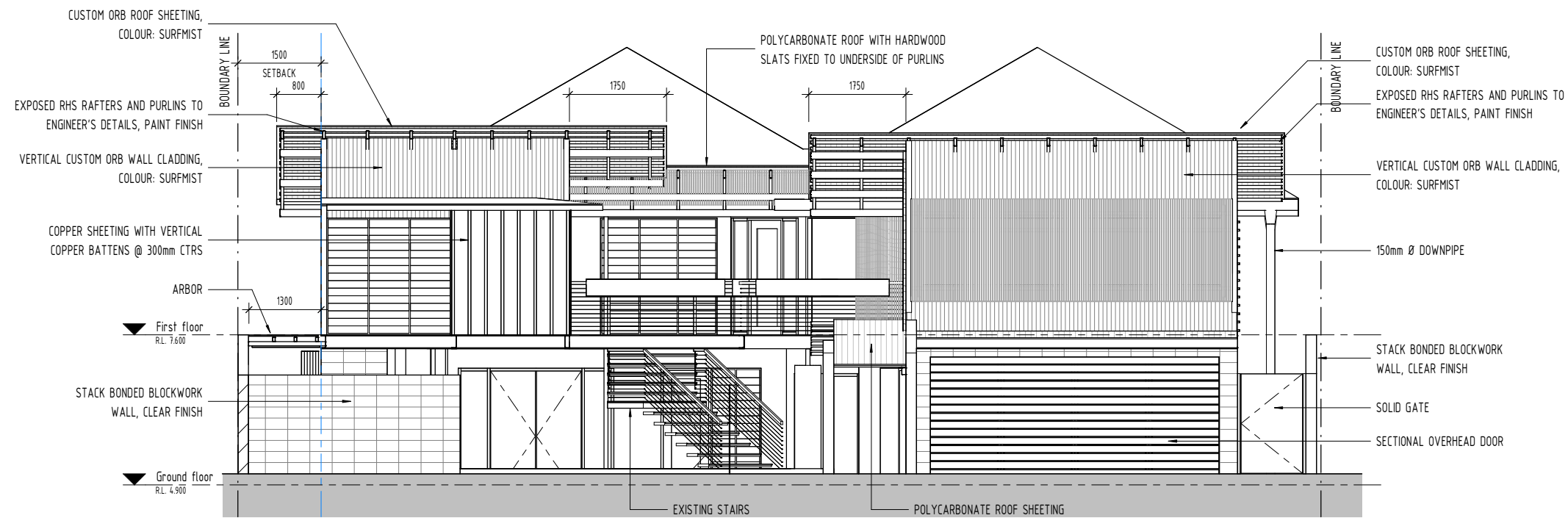
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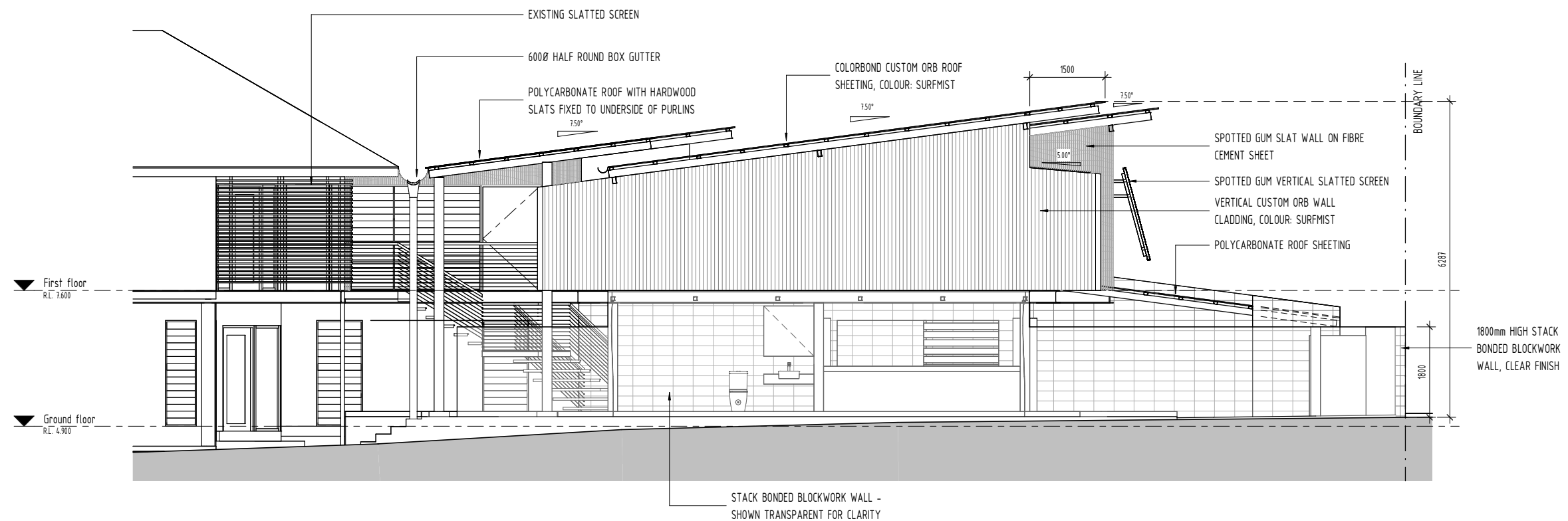
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Drawing ROOF PLAN		
Scale 1 : 50	Drawn JT	Date 26.06.22
Cad File	Sheet no. A10	Issue C



SOUTH ELEVATION
1:50



WEST ELEVATION
1:50

ISSUE	AMENDMENT	DATE
B	ISSUE FOR DA APPROVAL	26.05.27
A	ISSUE FOR DA APPROVAL	25.12.17

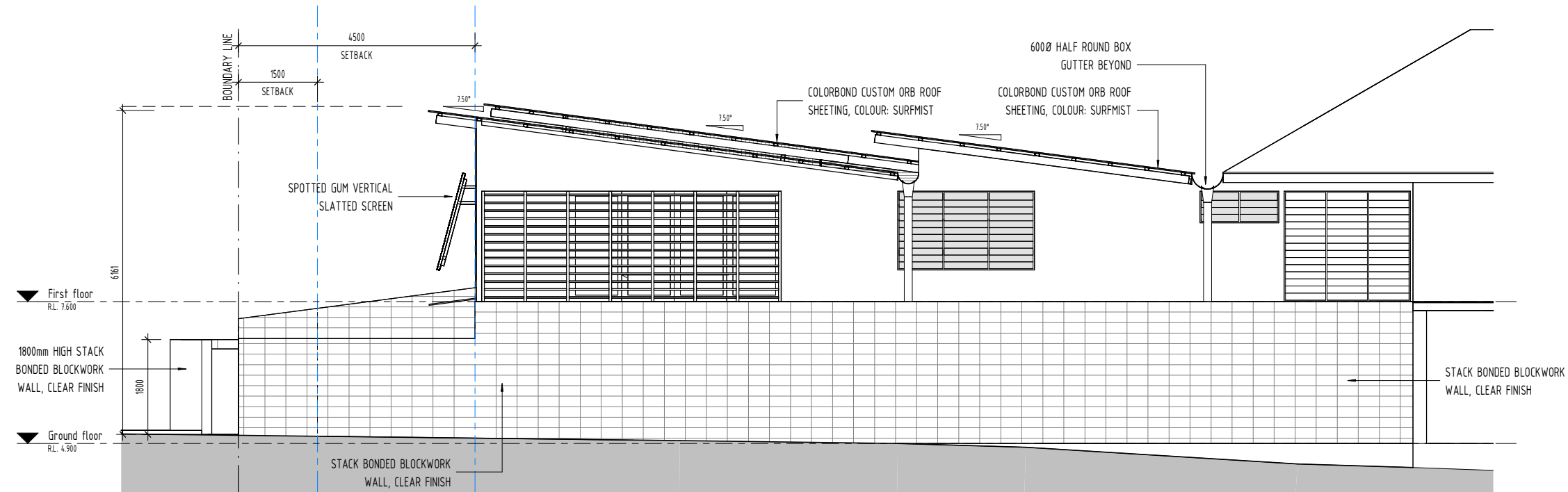
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1:50	JT	26.05.27
Cad File	Sheet no.	Issue
	A11	B



EAST ELEVATION
1:50

B	ISSUE FOR DA APPROVAL	26.05.27
A	ISSUE FOR DA APPROVAL	25.12.17
ISSUE	AMENDMENT	DATE

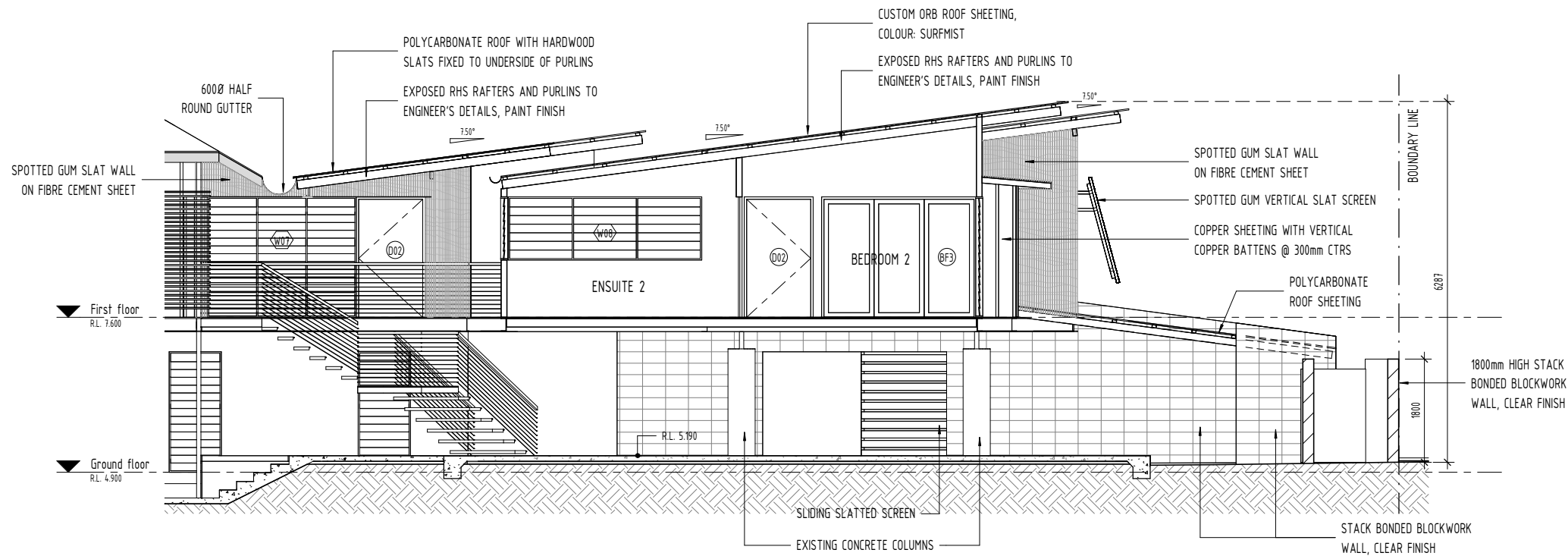
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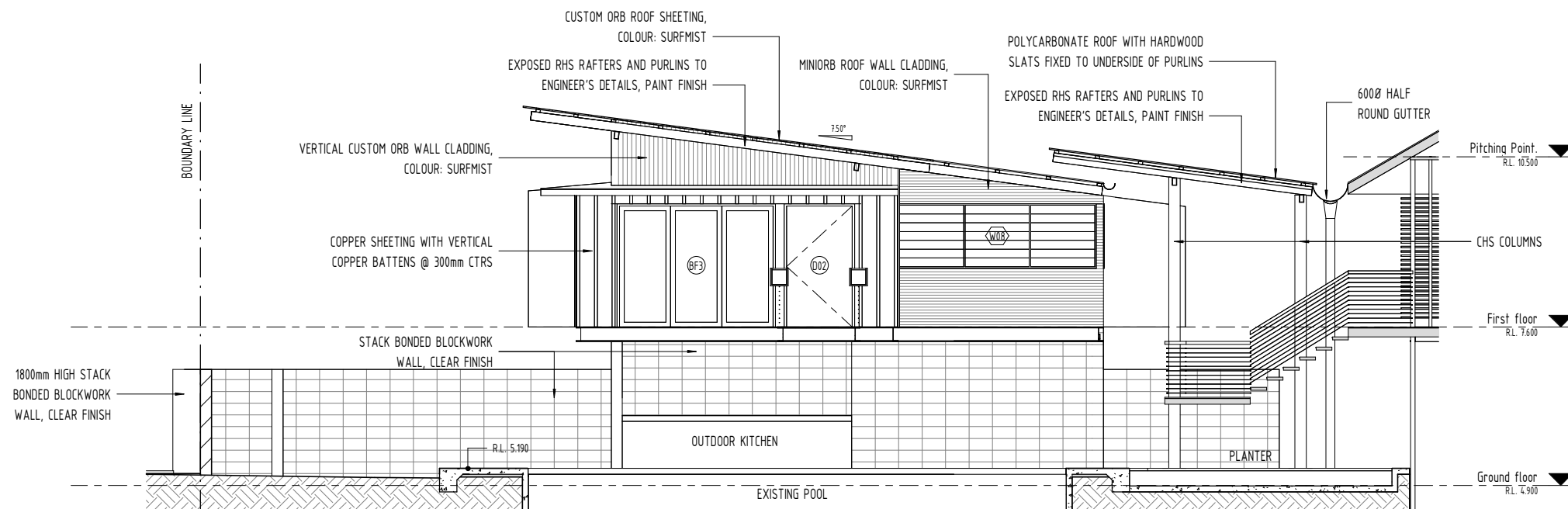
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Drawing EAST ELEVATION		
Scale 1:50	Drawn JT	Date 26.05.27
Cad File	Sheet no. A12	Issue B



SECTION A
1:50



SECTION B
1:50

B	ISSUE FOR DA APPROVAL	26.05.27
A	ISSUE FOR DA APPROVAL	25.12.17
ISSUE	AMENDMENT	DATE

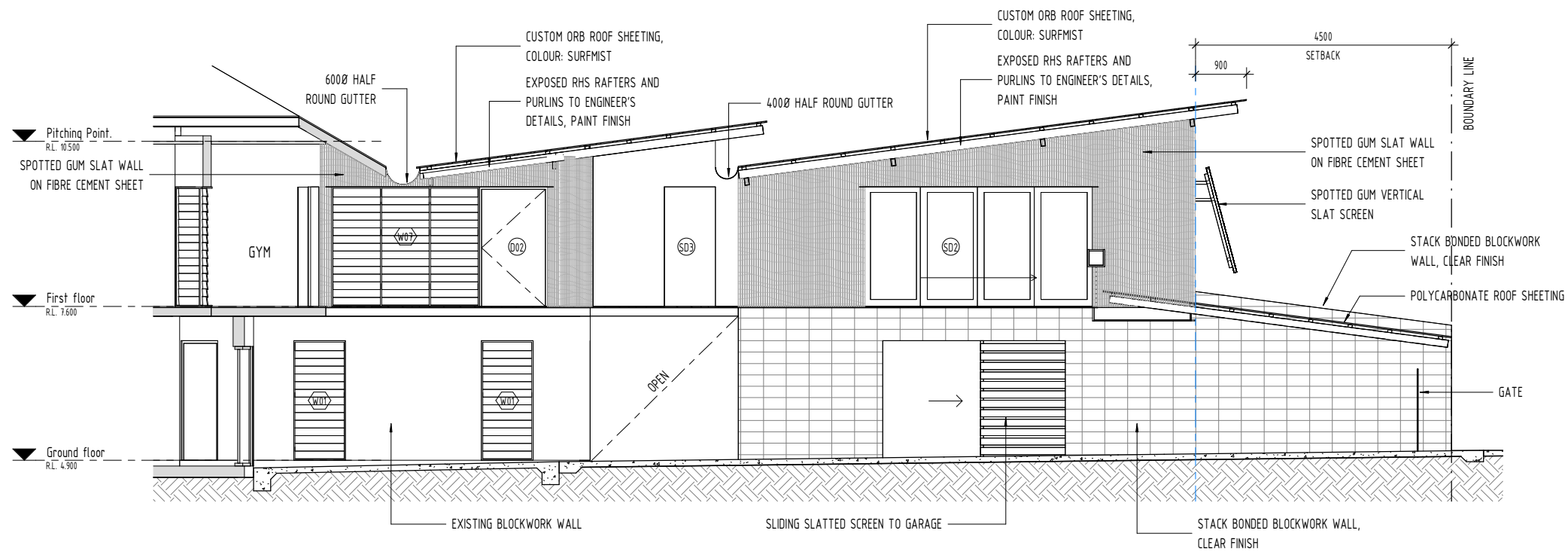
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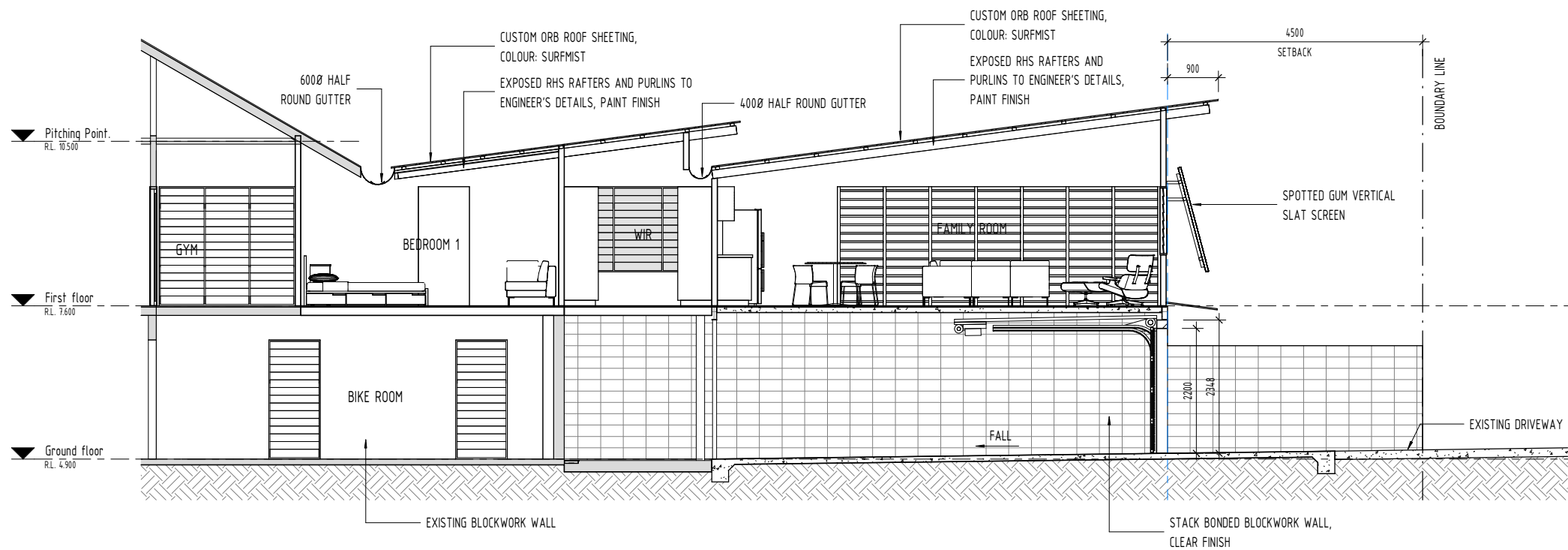
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Drawing		
SECTIONS		
Scale 1: 50	Drawn JT	Date 26.05.27
Cad File	Sheet no. A13	Issue B



SECTION C
1:50



SECTION D
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B	ISSUE FOR DA APPROVAL	26.05.27
A	ISSUE FOR DA APPROVAL	25.12.17
ISSUE	AMENDMENT	DATE

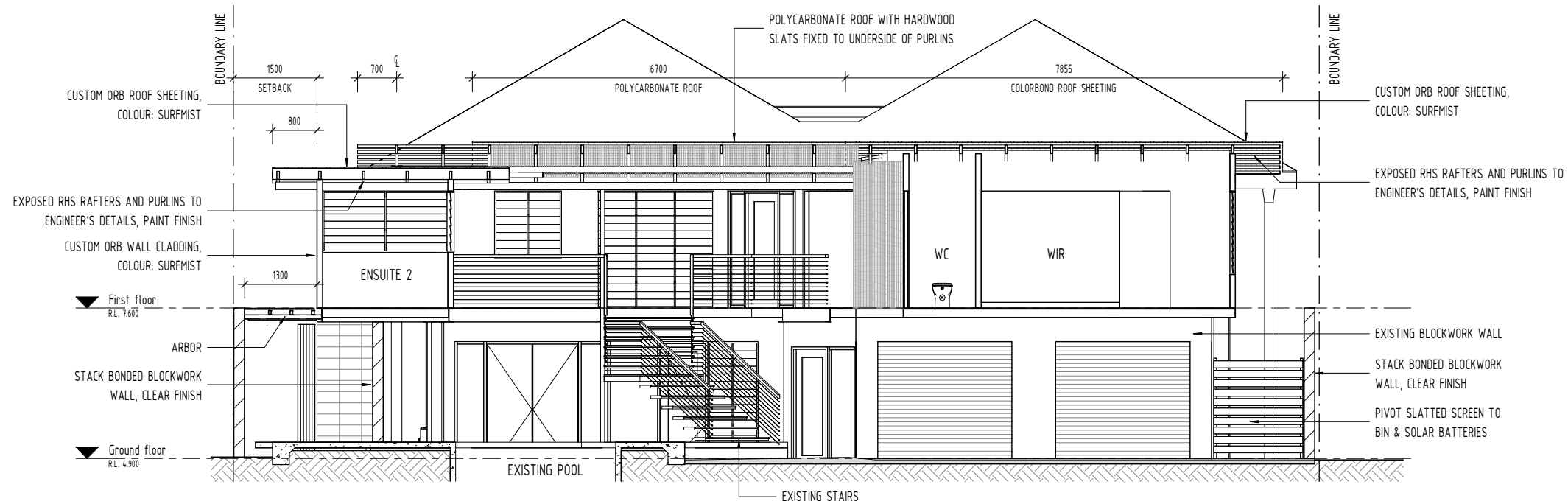
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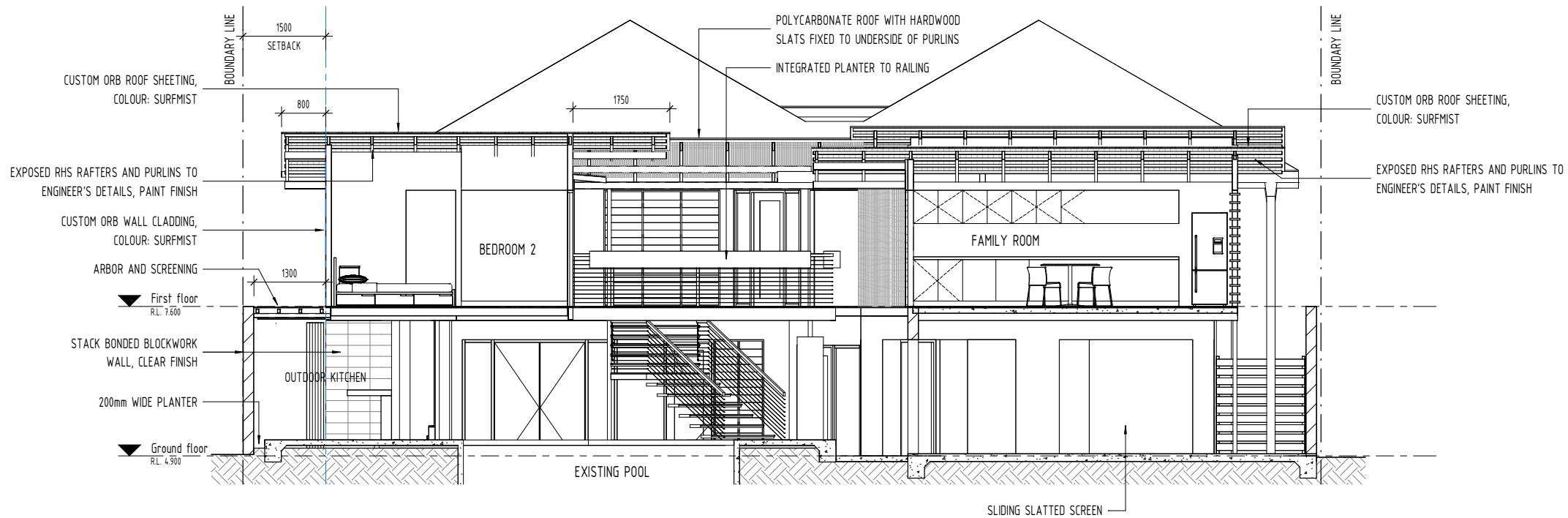
Project
RENOVATIONS TO EXISTING RESIDENCE
LOT 5818 CULLEN BAY CRESCENT

WE, THE OWNERS OF CULLEN BAY CRESCENT,
HAVE REVIEWED THESE DRAWINGS AND HEREBY
GIVE OUR CONSENT AND APPROVAL TO THE
DESIGN PROPOSAL.

Drawing	SECTIONS	
Scale	Drawn	Date
1:50	JT	26.05.27
Cad File	Sheet no.	Issue
	A14	B



SECTION E
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SECTION F
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ISSUE	AMENDMENT	DATE
B	ISSUE FOR DA APPROVAL	26.05.27
A	ISSUE FOR DA APPROVAL	25.12.17

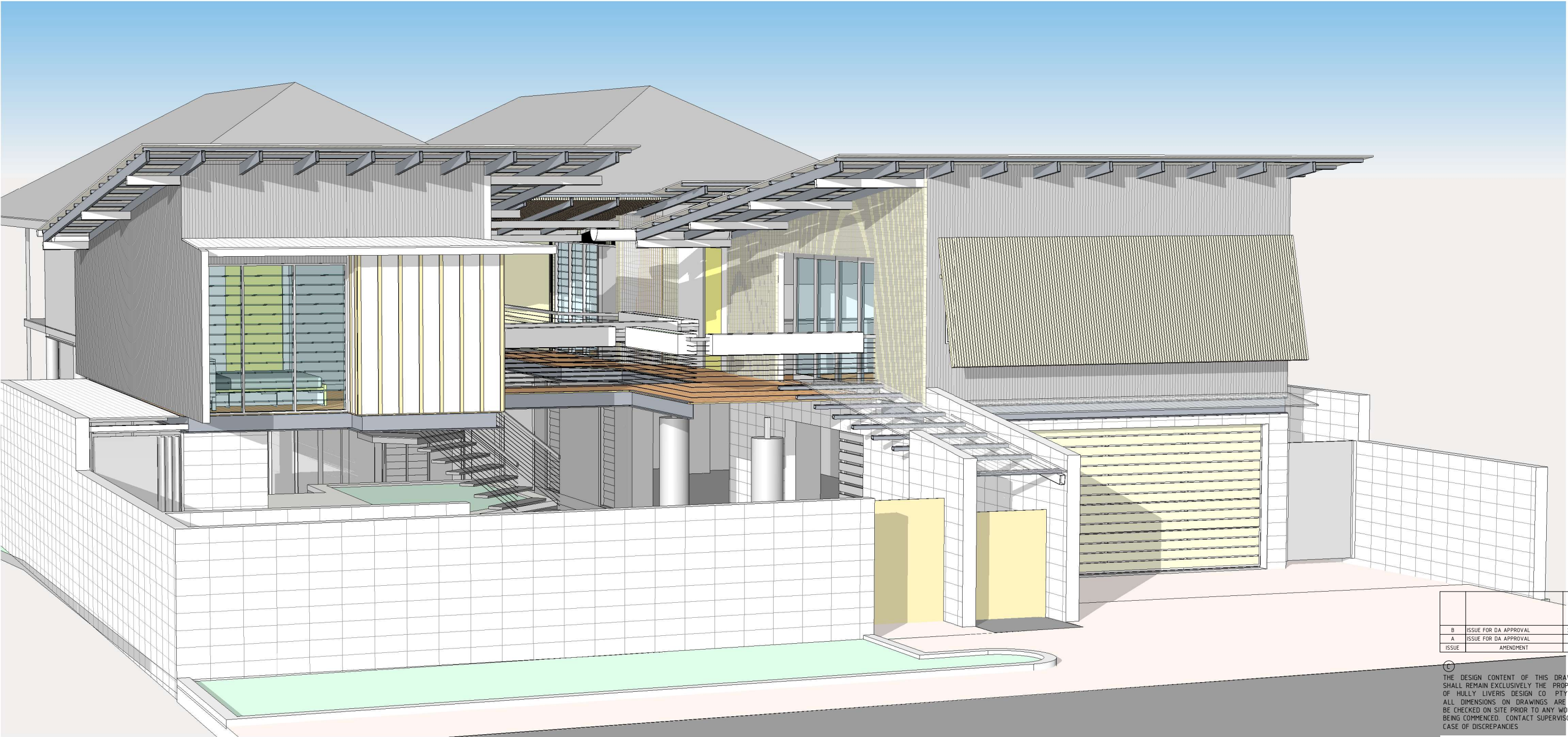
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PERSPECTIVE VIEW

ISSUE	AMENDMENT	DATE
B	ISSUE FOR DA APPROVAL	26.05.27
A	ISSUE FOR DA APPROVAL	25.12.17

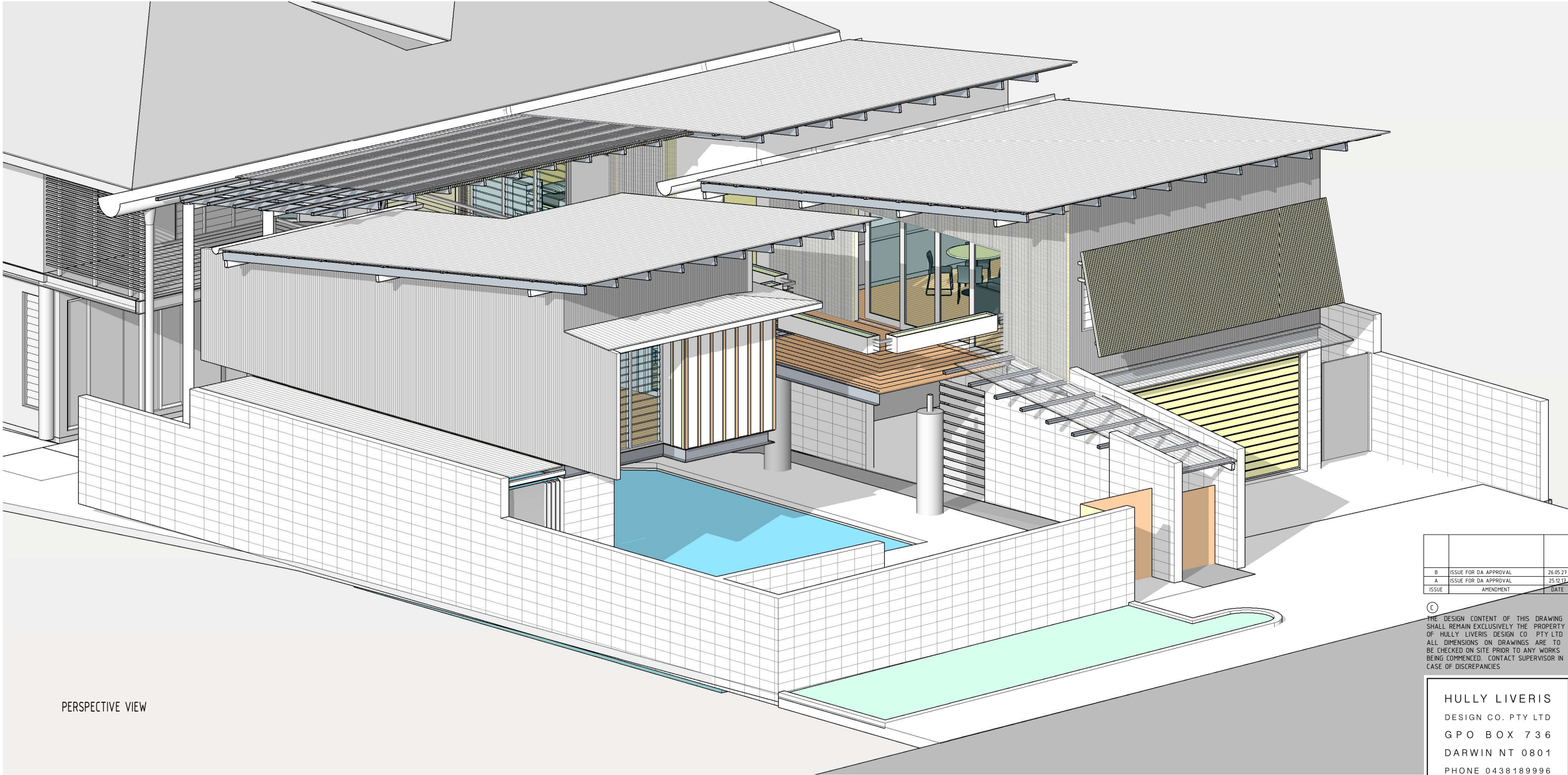
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Drawing 3D VIEWS		
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Cad File	Sheet no. A16	Issue B



PERSPECTIVE VIEW

B	ISSUE FOR DA APPROVAL	26.05.27
A	ISSUE FOR DA APPROVAL	25.12.17
ISSUE	AMENDMENT	DATE

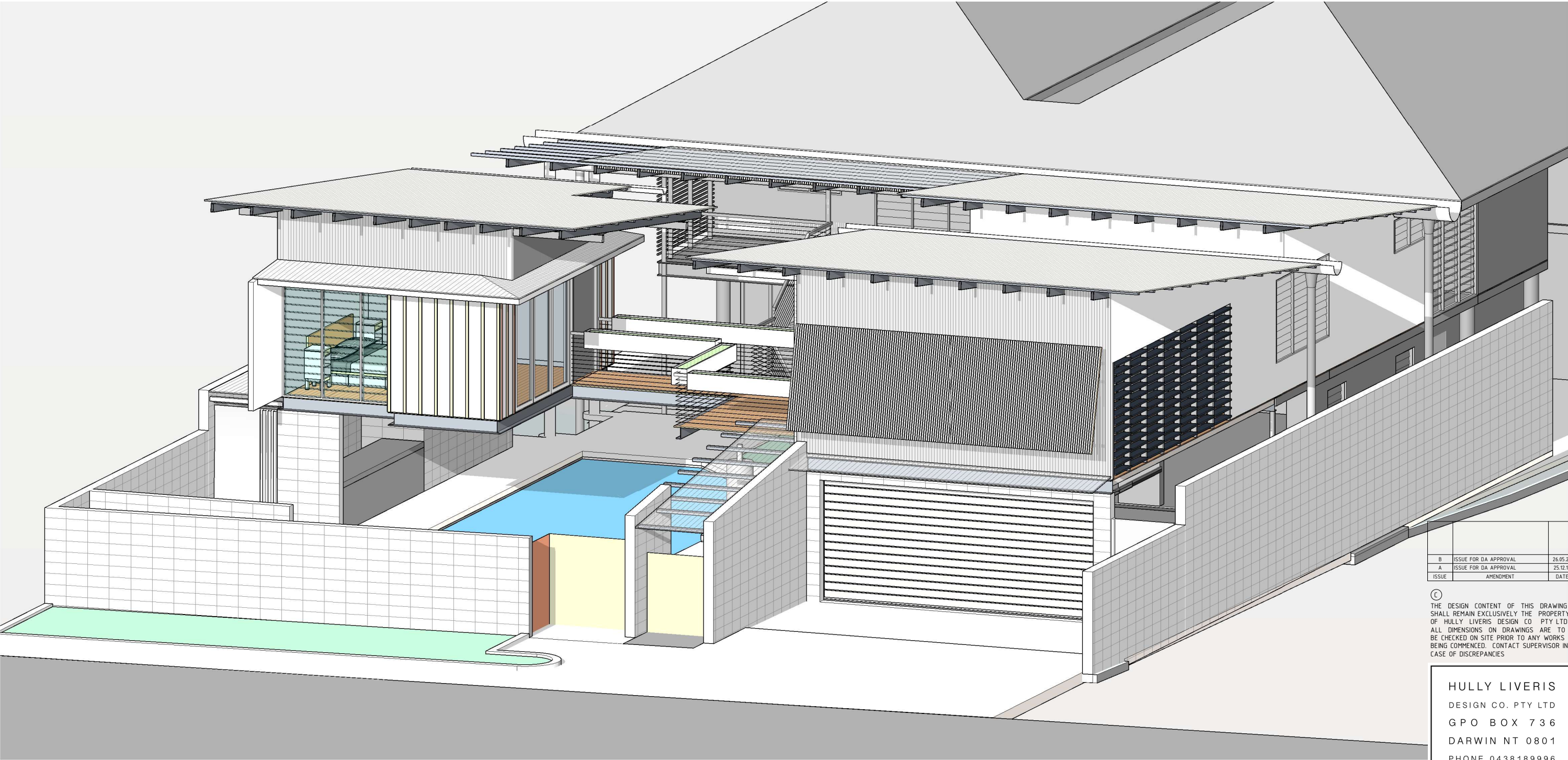
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Drawing 3D VIEWS		
Scale	Drawn JT	Date 26.05.27
Cad File	Sheet no. A17	Issue B



PERSPECTIVE VIEW

B	ISSUE FOR DA APPROVAL	26.05.27
A	ISSUE FOR DA APPROVAL	25.12.17
ISSUE	AMENDMENT	DATE

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Drawing 3D VIEWS		
Scale	Drawn JT	Date 26.05.27
Cad File	Sheet no. A18	Issue B

Technical Assessment PA2026/0094

TECHNICAL ASSESSMENT OF PROPOSED DEVELOPMENT AGAINST RELEVANT PROVISIONS OF THE NORTHERN TERRITORY PLANNING SCHEME 2020

Application No: PA2026/0094

Lot number: Lot 5818 (96) Cullen Bay Cres, Larrakeyah

Town/Hundred: Town of Darwin

Zone: LR (Low Density Residential)

Site Area: 1160m²

Proposal: Additions to an existing dwelling-single with a reduced building setback to the primary street and side boundaries

Plans used for assessment: Attachment E - Development Plans.pdf dated 18 March 2026

Date assessment finalised: 10 August 2026

The proposed development requires consent under the Northern Territory Planning Scheme 2020 as described in the below table:

Zone LR (Low Density Residential)				
Use	Assessment Category	Overlays	General Development Requirements	Specific Development Requirements
Dwelling-Single	Permitted	N/A	5.2.1 General Height control 5.2.4 Car Parking 5.2.6 Landscaping	5.4.1 Residential Density 5.4.3 Building Setbacks of Residential Buildings and Ancillary Structures 5.4.6 Private Open Space

Clause 1.8(1)(b)(ii)(2)

(b) Merit Assessable – use and development that requires the exercise of discretion by the consent authority to ensure it can be established and operated in a way that does not impact on the amenity of the area and accords with the relevant zone purposes and outcomes.

Use and development of land requires consent and is Merit Assessable when any of the following apply:

- ii. it is shown as Permitted on the relevant assessment table in Part 4 but:
 - (2) does not comply with the relevant development requirements set out in Part 5;

Clause 1.10 Exercise of Discretion by the Consent Authority

2. In considering an application for consent for a use or development that has become Merit Assessable under Clause 1.8(1)(b)(ii)(2), the consent authority must consider the requirements in Part 5 that are not complied with and whether the proposal meets the purpose of the requirements.

This is a technical assessment of the proposal against the requirements of the Northern Territory Planning Scheme 2020 (NTPS2020) and is no indication of whether or not approval will be given by the consent authority.

5.2.1 General Height Control

Purpose

Ensure that the heights of buildings and structures are appropriate to the strategic and local context of the location and meet community expectations for development in the zone.

Administration

1. This clause does not apply if:
 - (a) The development is for the purpose of:
 - i. a telecommunications facility;
 - ii. a chimney, flag pole, aerial, antenna or lightning rod; or
 - iii. the housing of equipment relating to the operation of a lift; or
 - (b) an alternative height control is specified in clause 5.9 (Location specific development requirements).
2. The consent authority must not consent to a development in Alice Springs that is not in accordance with sub-clause 5.
3. The consent authority must not consent to a development on land in Zone MR abutting land in Zone LR that is not in accordance with sub-clause 6.
4. Except as set out in sub-clause 3, the consent authority may consent to a development that is not in accordance with sub-clause 6 if it is satisfied the building height is consistent with the intended character and amenity of the area, having regard to:
 - (a) the heights of other buildings in the immediate vicinity; and
 - (b) measures taken to mitigate potential impacts (such as unreasonable overshadowing, or overlooking of dwellings and private open space) on abutting properties.

Requirements

5. The building height of a development in the Municipality of Alice Springs is not to exceed:
 - (a) the maximum building height for the zone and use as specified in table A to this clause; or
 - (b) two storeys to a maximum of 8.5m if the zone and use is not included in table A to this clause.
6. The building height in all other areas is not to exceed:
 - (a) the maximum building height for the zone and use as specified in table B to this clause; or
 - (b) two storeys to a maximum of 8.5m if the zone and use is not included in table B to this clause.

Table B to clause 5.2.1: Height control outside Alice Springs		
Zone	Use	Maximum building height above ground level
MR	Development on a site in zone MR abutting a site in Zone LR	3 storeys
	Development on a site that is: - within the boundaries of the Darwin Inner Suburbs Area Plan or Darwin Mid Suburbs Area Plan; and - has frontage to a street with a reservation width not exceeding 18m on the opposite side of which is a site in Zone LR.	3 storeys

	All other uses	4 storeys
HR	All uses	8 storeys
C	Mixed use development that consists of one or more residential buildings	4 storeys
	All other uses	No height limit
CL and CP	Education establishment or hospital	No height limit
CB, SC, TC and DV	All uses	No height limit

Assessment

The clause permits development to a maximum height of two storeys, not exceeding 8.5m.

The proposed additions to the existing dwelling-single result in a two-storey building with a maximum height of 6.287m, thereby complying with the clause.

COMPLIES

5.2.4.1 Car Parking Spaces

Purpose

Ensure that sufficient off-street car parking, constructed to a standard and conveniently located, are provided to service the proposed use of a site.

Administration

1. *This clause does not apply where alternative car parking space requirements are established under clause 5.9 (Location specific development requirements).*
2. *The consent authority may consent to use or development that is not in accordance with sub-clause 5 if it is satisfied a reduction in the number of car parking spaces is appropriate with regard to:*
 - (a) *the zoning of the land, the use or development or proposed use or development of the land, and the possible future use or development of the land;*
 - (b) *the provision of car parking spaces in the vicinity of the land;*
 - (c) *the availability of public transport in the vicinity of the land;*
 - (d) *the potential impact on the surrounding road network and the amenity of the locality and adjoining property; and**if the use or development relates to a heritage place and the Minister responsible for the administration of the Heritage Act 2011 supports the reduced provision of car parking spaces in the interest of preserving the significance of the heritage place.*
3. *The consent authority may require the provision of car parking spaces for any ancillary use or development in addition to that specified for the primary use or development in the relevant table to this clause.*
4. *For the purposes of this clause:*
 - (a) *the reductions in Table B only apply to uses specifically referenced within Table A and apply to the base car parking rates established in Table A;*
 - (b) *only one reduction percentage is permitted per category when applying Table B; and*

- (c) the reductions in Table B do not apply to one bedroom dwellings.

Requirements

5. Use and development is to include the minimum number of car parking spaces within the development site, as specified in the relevant table to this clause (rounded up to the next whole number).

Table A to Clause 5.2.4.1: Minimum number of required parking spaces

Use or Development	Minimum Number of Car Parking Spaces Required
Dwelling-single	2

Table B to Clause 5.2.4.1: Reductions in car parking spaces for specific usses

Category		Reduction permitted
1	Access to alternative transport options	
(a)	The development is located wholly within 200m walking distance of a public bus stop that provides access to: five or more bus routes; or a minimum 15 minute bus frequency (using multiple routes) during morning and afternoon peak hours Monday to Friday.	15%
(b)	The development is located wholly within 400m walking distance of a public bus stop that provides access to: five or more bus routes; or a minimum 15 minute bus frequency (using multiple routes) during morning and afternoon peak hours Monday to Friday.	10%
(c)	The development is located wholly within 400m riding distance of a dedicated on-road bicycle lane or dedicated shared path (cycling and pedestrian).	5%
2	Proximity to commercial areas	
(a)	The development is located wholly within a commercial zone or 200m walking distance of a commercial zone.	15%
(b)	The development is located wholly within 400m walking distance of a commercial zone.	10%
3	Social housing	
(a)	The dwelling is for: community housing to be owned and/or managed by a registered provider under the National Regulatory System for Community Housing (NRSCH); or public housing owned and/or managed by the Northern Territory Government.	20%

Assessment

2 car parking spaces are required for the proposed development. It is noted that the reductions in Table B to Clause 5.2.4.1 does not apply to the proposed development, as dwelling-single is not specifically referenced within Table A as required under subclause 4(a). The proposed garage is measured 5.725m by 7.8m, provides adequate space to accommodate 2 vehicles. Accordingly, the proposal satisfies the requirements of the clause.

COMPLIES

5.2.6.1 Landscaping in Zones other than Zone CB

Purpose

Encourage landscaping that enhances local amenity by:

- (a) contributing to safe and attractive public spaces and places;*
- (b) responding to the local climate and soil characteristics;*
- (c) supporting cooler internal and outdoor areas; and*
- (d) recognising the value of retaining existing plants and trees.*

Administration

1. Landscaping may include, where subordinate to areas for the planting and growing of plants, impervious and unplanted areas for;
 - (a) pedestrian access,
 - (b) outdoor recreation, or
 - (c) natural or ornamental features and the like.
2. The consent authority may consent to landscaping that is not in accordance with sub-clauses 5, 6 and 7 only if it is satisfied it is consistent with the purpose of this clause and the zone purpose and outcomes, and is appropriate to the site having regard to the amenity of the streetscape, and the potential impact on the amenity of the locality and adjoining property.

Requirements

3. Where landscaping is required by this Scheme it should be designed so that:
 - (a) planting is focused on the area within the street frontage setbacks side setbacks, communal open space areas and uncovered car parking areas;
 - (b) it maximises efficient use of water and is appropriate to the local climate;
 - (c) it takes into account the existing streetscape, or any landscape strategy in relation to the area;
 - (d) significant trees and vegetation that contribute to the character and amenity of the site and the streetscape are retained;
 - (e) energy conservation of a building is assisted having regard to the need for shade and sunlight at varying times of the year;
 - (f) the layout and choice of plants permits surveillance of public and communal areas; and
 - (g) it facilitates on-site infiltration of stormwater run-off.
4. The quality and extent of the landscaping consented to must be maintained for the life of the development.
5. Other than in Zones CB, C and TC, not less than 30% (which may include communal open space) of a site that is used for rooming accommodation, dwellings-group, dwellings-multiple and residential care facility is to be landscaped.
6. In Zones LI, GI and DV all street frontages, except access driveways or footpaths, are to be landscaped to a minimum depth of 3m.
7. In Zones MR and HR, side and rear setbacks are to include planting to the length of the setback of no less than 2m deep, except for areas that are used for private open space.

Assessment

Proposed landscaping is provided along the Cullen Bay Crescent street frontage and the western side boundary. The inclusion of screening vegetation will assist in achieving passive surveillance, support privacy requirements for private open space, enhance the streetscape, and provide shading for residents. The use of native species is appropriate, as they are generally resilient to the local warm climate. Stormwater from roofed areas will be collected and managed within the site and will not adversely impact adjoining properties.

Maintenance of the landscaping will be listed as a condition on the development permit.

Subclauses 5 to 7 do not apply to the proposed development.

COMPLIES

5.4.1 Residential Density**Purpose**

Ensure that the development of residential buildings:

- (a) is of a density compatible with adjoining or nearby existing development or development reasonably anticipated;*
- (b) is of a density compatible with the existing or planned provision of reticulated services and community facilities which will service the area; and*
- (c) is consistent with land capability having regard to relevant characteristics including but not limited to the drainage, slope, seasonal inundation, landforms or soil characteristics, heritage constraints or noise from aircraft operations.*

Administration

- 1. The consent authority may consent to a development that is not in accordance with sub-clause 2 only if it is satisfied it is consistent with the purpose of this clause and the zone purpose and outcomes, and it is appropriate to the site having regard to such matters as its location, scale and impact on adjoining and nearby property.*

Requirements

- 2. The maximum number of dwellings that may be constructed on a site is to be determined in accordance with Table A, B, C or D (as the case requires) to this clause.*

Table A to Clause 5.4.1: Dwelling Density in Certain Zones

Zone	Dwelling Density
LR, RR, RL, R and CV	1 dwelling-single per lot and may include a dwelling-independent

Assessment

1 dwelling-single with 1 dwelling-independent per lot is permitted.

The proposal is for addition to the existing dwelling-single, where 1 dwelling-single is proposed on site, and complies with the requirements of this clause.

COMPLIES

5.4.3 Building Setbacks of Residential Buildings and Ancillary Structures

Purpose

Ensure that residential buildings and ancillary structures are located in a manner that:

- (a) is compatible with the streetscape and surrounding development including residential buildings on the same site;
- (b) minimises adverse effects of building massing when viewed from adjoining land and the street;
- (c) avoids undue overlooking of adjoining properties; and
- (d) facilitates breeze penetration through and between buildings.

Administration

1. This clause does not apply in Zones CB, LI, GI and DV.
2. In this clause:
 - (a) an ancillary structure includes an outbuilding (excluding shade sails), balcony, portico and the like, which may or may not include external walls; and
 - (b) for all developments except dwellings-multiple in Zone MR or HR, where a lot has a boundary with a public street from which vehicular access to the lot is restricted by the controlling Agency or local government council, this boundary shall be considered a side or rear lot boundary for the purpose of calculation of the building setback.
3. The consent authority may consent to a development that is not in accordance with sub-clause 6-8 only if it is satisfied that the reduced setback is consistent with the purpose of this clause and it is appropriate to the site having regard to such matters as its location, scale and impact on adjoining and nearby property.
4. If a building setback plan in Schedule 9 does not establish a specific setback to a nominated boundary, residential buildings and ancillary structures are to be set back from that boundary in accordance with sub-clause 6(a) or clause 5.4.3.3 as appropriate.
5. Despite sub-clause 6 sheds in Zones other than H, A, RR, RL and R may have a nil setback to the side and rear boundaries provided it is
 - (a) 6m or more from the primary street and 2.5m or more from a secondary street when measured to the wall of the shed or where there is no wall, the outer face of any column;
 - (b) has a cumulative floor area of 15m² or less;
 - (c) is 2.5m or less in height;
 - (d) has no openings in walls that are less than 1.5m from a lot or unit title; and
 - (e) does not discharge rainwater on an adjacent lot or unit title.

Requirements

6. Subject to clause 5.2.7, building setbacks of residential buildings and ancillary structures are to be set back from lot boundaries in accordance with:
 - (a) the relevant table to this clause; or
 - (b) any setbacks established in a building setback plan that is included in Schedule 9.
7. Where a zero or 300mm setback is identified on a building setback plan in Schedule 9, a zero or 300mm setback can only be established to the boundary nominated on the setback plan.
8. Unless detailed in a table to this clause or within a building setback plan in Schedule 9, no part of the roof structure, including gutters and eaves, is to encroach more than 0.9m into the minimum building setbacks (subject to the Building Code of Australia) from the lot boundaries.

Table A to Clause 5.4.3: Minimum building setbacks for residential buildings and ancillary structures in zones other than RR, RL, R, H and A

Lot Boundary	Minimum Setback for 1 or 2 storey buildings
Primary street frontage	6m for residential buildings, and ancillary structures with external walls and 4.5m for ancillary structures and balconies without external walls or 3m for shade sails, to a maximum height of 2.5m at the minimum setback
Secondary street frontage	2.5m for residential buildings and 1.5m for ancillary structures and balconies without external walls. or 0.9m for shade sails, to a maximum height of 2.5m at the minimum setback
Side and rear lot boundaries	1.5m for residential buildings and ancillary structures or 1m, provided that the subject wall: - only includes openings that are either glazed in an opaque material and cannot be opened, or have a sill height of 1.6m or greater; - does not extend beyond a maximum height of 3.5m; and - does not extend beyond a maximum length of 9m except shade sails which may be setback 0.9m to a maximum height of 2.5m at minimum setback

Assessment

The amended setbacks are assessed under the NTPS 2020 in the table below:

Lot Boundary	Requirements	Proposed Setback	Assessment
Primary Street (Cullen Bay Crescent)	6m for building 5.1m for roof	Gatehouse & Roof – 0.5m (Approved) Outdoor Kitchen – 7.25m Garage – 4.5m Garage Roof – 3.64m First Floor – 4.5m First Floor Roof – 3.6m Privacy Slat Screen – 3.75m	Does Not Comply
Eastern Side	1.5m for building 0.6m for roof	Garage Structural Column – 1.42m Ground Floor – 1.66m First Floor – 1.506m Roof – 0.656m	Does Not Comply
Western Side		Outdoor Kitchen – 1.5m First Floor – 1.5m Roof – 0.2m to 0.7m	Does Not Comply
Rear Side		No change proposed to existing rear setback approved under DP95/0464	Not Applicable

DOES NOT COMPLY

5.4.6.1 Private Open Space for Dwellings-single, Dwellings-independent and Dwellings-group

Purpose

Extend the function of a dwelling and enhance the residential environment by ensuring that each dwelling has private open space that is:

- (a) of an adequate size to provide for domestic purposes;
- (b) appropriately sited to provide outlook for the dwelling;
- (c) open to the sky and sufficiently permeable to allow stormwater infiltration and lessen runoff from the site; and
- (d) inclusive of areas for landscaping and tree planting.

Administration

1. The consent authority may consent to private open space that is not in accordance with sub-clauses 2 and 3 only if it is satisfied it is consistent with the purpose of this clause and the zone purpose and outcomes, and it is appropriate to the site having regard to such matters as its location, scale and impact on adjoining and nearby property.

Requirements

2. Private open space should:
 - (a) satisfy the minimum area, dimensions and open to the sky requirements contained in the table to this clause;
 - (b) be directly accessible from the dwelling and enable an extension of the function of the dwelling; and
 - (c) be located to provide views from the dwelling to open space and natural features of the site or locality, and to reduce overlooking from neighbouring open space and dwellings;
 - (d) ensure that at least half of the private open space is permeable to allow stormwater infiltration and lessen stormwater runoff from the site;
 - (e) include at least one area of at least 5m², with no dimension less than 1.5m, for the deep soil planting of trees and vegetation for shade or screening; and
 - (f) allow for landscaping at the property frontage to complement the visual amenity of the streetscape.
3. Where the private open space for a dwelling-group is at ground level, it should be:
 - (a) screen fenced to a height of at least 1.8m providing a visual barrier to adjoining residences and public areas; or
 - (b) fenced to a height of at least 1.8m and planted with dense vegetation which will provide a visual barrier at maturity.

Table to Clause 5.4.6.1: Minimum Areas of Private Open Space for Dwellings-single, Dwellings-independent and Dwellings-group

For clarity, in this table:

Area A is the minimum area, for each dwelling, that must be open vertically to the sky and have no dimension less than 1.5m.

At least half of Area A must be permeable, and may include the 5m² required for deep soil planting.

Area B is the minimum dimensioned space that extends the function of the dwelling and may be covered or open to the sky.

Any part of Area B that is open to the sky may form part of Area A.

Type of Dwelling	Private Open Space Area
------------------	-------------------------

Dwelling-single on a lot not less than 450m ²	A. 50m², open vertically to the sky, with no dimension less than 1.5m; and B. 36m², all or any part covered, with no dimension less than 6m.
--	--

Assessment

The proposed private open space meet the requirements for minimum area, dimensions and open to the sky under this clause. Both Area A and Area B are directly accessible from the habitable rooms and enable an extension of the dwelling’s function. Landscaping proposed within the private open space reduce overlooking from the public and neighbouring open space. An area of 63.5m², with no dimension less than 1.5m of the proposed private open space is permeable to allow stormwater infiltration and reduce stormwater runoff. Adequate space is provided for deep soil planting of trees and vegetation. Landscaping is provided at the property frontage to enhance the visual appeal of the streetscape. Subclause 3 does not apply to the proposed single-dwelling.

The proposed open space meets the minimum area and dimension requirements as illustrated in table below:

Area	Requirements	Proposed Area	Minimum Dimension	Assessment
Area A	50m ² , open vertically to the sky, with no dimension less than 1.5m	63.5m ²	1.5m	Complies
Area B	36m ² , all or any part covered, with no dimension less than 6m	Approximately 322m ² due to the irregular layout	6m	Complies

It is noted that the clause requires that at least half of Area A must be permeable, and may include the 5m² required for deep soil planting. The proposed Area A has an area of 63.5 m² and is wholly permeable, making it suitable for deep soil planting. Refer to Figure 1 below.

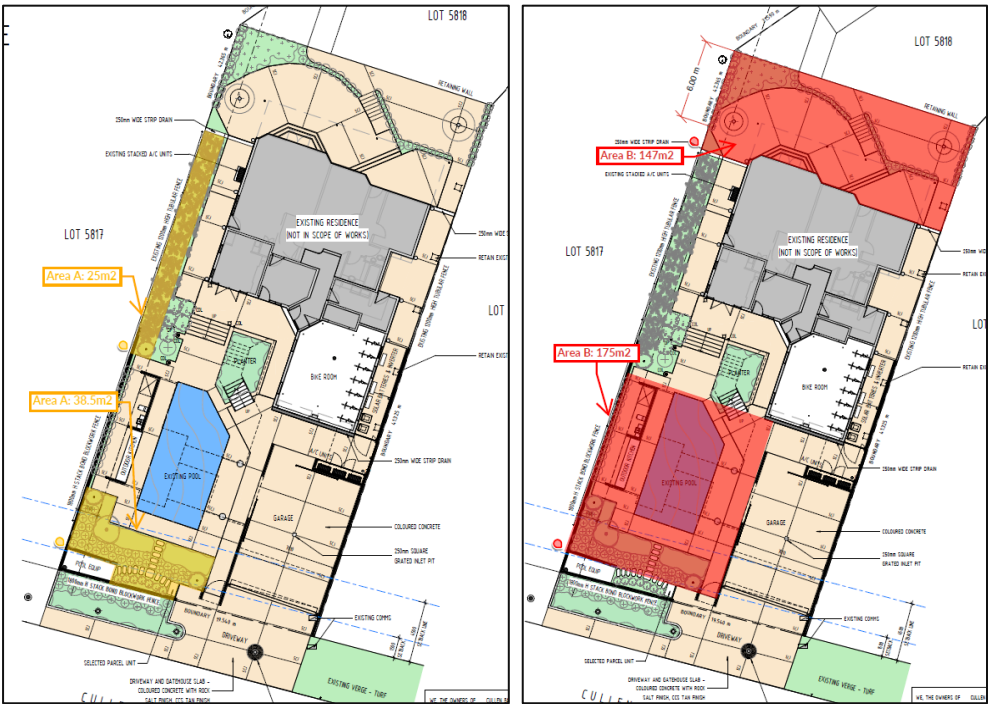


Figure 1: Area A and Area B of the private open space

COMPLIES

Supplementary public submission to PA2026/0094 – Eric Withnall

1. I make this submission in accordance with section 49(1) of the *Planning Act 1999*.

Impact on streetscape

2. In terms of the detrimental impact on the existing streetscape, the design proposed in the amended plans is not substantially different to the design proposed in the original plans. The design continues to deliberately mass structures at the street-facing side of the land, while leaving a void in the middle that does not form part of the streetscape and is imperceptible to all but the users of the land.
3. The existing streetscape is typified in the following perspectives:



Perspective 1: Facing south-south-west from 17 Cullen Bay Crescent



Perspective 2: Facing south-west, approaching 46 Cullen Bay Crescent



Perspective 3: Facing west at Perkins Ct intersection



Perspective 4: Facing northwest from 67 Cullen Bay Crescent



Perspective 5: Facing west from 88 Cullen Bay Crescent



Perspective 6: Facing southeast from 101 Cullen Bay Crescent



Perspective 7: Facing east from Perkins Court intersection

4. The proposed design is not sympathetic to or compatible with the existing streetscape and would detract from the multifaceted amenity provided by the estate's distinctive corridors of private open space along the main residential boulevard.

Parking

5. The parking garage proposed to be built in the south-east quadrant of the property has reduced in size on the amended plan. As a result of the reduction in size, it will apparently provide only 2 carparks instead of 4.
6. Clause 5.2.4 of the Planning Scheme requires a minimum of 2 carparks for the use 'dwelling-single', and a minimum of 1 carpark per bedroom (with a maximum minimum requirement of 2 carparks). With 2 identified additional bedrooms in the dwelling-independent, the minimum number of carparks required is 4 carparks.
7. The design proposed in the amended plans does not provide the minimum number of carparks required by clause 5.2.4 of the scheme.

ERIC WITHNALL

4 AUGUST 2026