



# **Planning and Strategy Committee of the Whole**

**10 June 2020**

**UNDER SEPARATE COVER  
ATTACHMENTS**

**ITEMS 6.1 AND 6.2**



**QUEANBEYAN-PALERANG REGIONAL COUNCIL  
PLANNING AND STRATEGY COMMITTEE OF THE WHOLE**

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# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Planning and Strategy Committee of the Whole Meeting Attachment

10 JUNE 2020

- ITEM 6.1 DEVELOPMENT APPLICATION DA.2019.1116 - SHOP TOP  
HOUSING PROPOSAL - 47 ANTILL STREET,  
QUEANBEYAN
- ATTACHMENT 1 SECTION 4.15 MATTERS FOR CONSIDERATION -  
DA.2019.1116 - 47 ANTILL STREET, QUEANBEYAN



## DA.2019.1116 – 4.15 CONSIDERATIONS

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

### 4.15(1)(a) the provisions of:

#### (i) any environmental planning instrument

#### STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX ) 2004

The subject application was accompanied by a BASIX Certificate (Certificate Number: 1013483S) identifying the project as satisfying minimum water, thermal comfort and energy requirements. It is however noted that the Certificate identifies the proposal as including a four (4) bedroom dwelling which includes each of the enclosed offices as a bedroom.

#### STATE ENVIRONMENTAL PLANNING POLICY NO. 55 - REMEDIATION OF LAND

Clause 7 of SEPP 55 requires that consideration be given to the suitability of the site in its current state for the purposes of the proposed development. A search of Councils records found that the subject site was historically utilised as private open space in conjunction with an adjoining dwelling. As such, the subject site is considered to be suitable in its current state for the purposes of the proposed development.

#### QUEANBEYAN LOCAL ENVIRONMENTAL PLAN (QLEP) 2012

An assessment of the proposal against the general aims of QLEP 2012 is included below:

<b>Cl.</b>	<b>Aims</b>	<b>Complies</b>
<b>1.2(2)</b>		
<b>(a)</b>	<i>To facilitate the orderly and economic use and development of land in Queanbeyan based on ecological sustainability principles.</i>	<b>Yes</b>
<b>(b)</b>	<i>To provide for a diversity of housing throughout Queanbeyan.</i>	<b>Yes</b>
<b>(c)</b>	<i>To provide for a hierarchy of retail, commercial and industrial land uses that encourage economic and business development catering for the retail, commercial and service needs of the community.</i>	<b>Yes</b>
<b>(d)</b>	<i>To recognise and protect Queanbeyan's natural, cultural and built heritage including environmentally sensitive areas such as Queanbeyan's native grasslands, the Queanbeyan River and Jerrabomberra Creek.</i>	<b>Yes</b>
<b>(e)</b>	<i>To protect the scenic quality, views and vistas from main roads and other vantage points within Queanbeyan of the escarpment and Mount Jerrabomberra.</i>	<b>Yes</b>
<b>(f)</b>	<i>To maintain the unique identity and country character of Queanbeyan.</i>	<b>Yes</b>
<b>(g)</b>	<i>To facilitate the orderly growth of the urban release area in Googong in a staged manner that promotes a high level of residential amenity and the timely provision of physical and social infrastructure through</i>	<b>Yes</b>

*appropriate phasing of the development of land.*

## Permissibility

The subject site is zoned B3 Commercial Core under the QLEP 2012. Development for the purposes of shop top housing, as defined below, is the only form of residential accommodation permissible with consent within the zone.

**shop top housing** means one or more dwellings located above ground floor retail premises or business premises.

To date Council has received limited information regarding the proposed ground floor use beyond a note on the application form stating “lower space to be used as office space to run a family business”. It is noted that the use of the ground floor tenancy as an office premise being a type of commercial premises is permissible with consent within the zone, however such a use falls outside of the above definition of a shop top housing development and as such the residential component of the development would be prohibited.

**office premises** means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

**commercial premises** means any of the following—

- (a) business premises,
- (b) office premises,
- (c) retail premises.

Beyond this Council staff have concern that the proposed structure is intended to be utilised in its entirety as a single dwelling which is prohibited within the zone. Conversations with the applicant have confirmed these concerns noting that while “there will be office use relating to a family business, the area will also be used to provide infrequent accommodation for family members”. The configuration of ground floor with offices areas including walk in robes and ensuites, laundry facilities, an outdoor kitchen and tennis court lends itself to residential use. Based upon this information Council staff are of the opinion that the proposed development is defined as a single dwelling potentially including a home occupation element being a prohibited use within the zone. As such, it is recommended that the subject application be refused.

### Zone Objectives

An assessment of the proposal against the objectives of the B3 Commercial Core zone is included below:

<b>Objectives</b>	<b>Complies</b>
➤ To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.	<b>Yes</b>
➤ To encourage appropriate employment opportunities in accessible locations.	<b>Yes</b>
➤ To maximise public transport patronage and encourage walking and cycling.	<b>Yes</b>
➤ To recognise the Queanbeyan central business district as the main commercial and retail centre of Queanbeyan and to reinforce its commercial and retail primacy in Queanbeyan.	<b>Yes</b>
➤ To encourage some high density residential uses in conjunction with retail or employment uses where appropriate.	<b>Yes</b>

## Part 4: Principal development standards

An assessment of the proposal against the relevant provisions contained within Part 4 of the QLEP 2012 is provided below.

**Height of building**

<b>Cl.</b>	<b>Standard</b>	<b>Controls</b>	<b>Proposed</b>	<b>Complies</b>
<b>4.3</b>	<i>Height of building</i>	30m	12.3m	<b>Yes</b>

**Part 7: Local Provisions**

The relevant provisions contained within Part 7 of the QLEP 2012 are addressed below as part of this assessment:

**7.2 Flood planning**

Clause 7.2 of the QLEP 2012 makes provision for developments within the flood planning area. The site is identified as “flood planning area” on the Flood Planning Map. The proposed floor levels are compatible with the flood risk upon the site, however a Comprehensive Flood Management Plan would be required for the proposal if Council was of a mind to support the proposal.

**7.9 Essential services**

Clause 7.9 of the QLEP 2012 requires satisfactory arrangements to be made for water supply, stormwater drainage, solid domestic waste, sewage, and the treatment and disposal of effluent. Along with the supply of electricity and suitable vehicle access.

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) *the supply of water,*
- (b) *the supply of electricity,*
- (c) *the disposal and management of sewage,*
- (d) *stormwater drainage or on-site conservation,*
- (e) *suitable vehicular access.*

Council’s Development Engineer has assessed the proposed development and confirmed that the site is capable of being adequately serviced for the purposes of the proposed development.

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

There are no applicable draft planning instruments that are or have been placed on public exhibition, to consider as part of this assessment.

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

<b>QUEANBEYAN DCP 2012 COMMENTS</b>		
<b>Section</b>	<b>Controls</b>	<b>Compliance / Conditions</b>
<b>PART 1 – ABOUT THIS DEVELOPMENT CONTROL PLAN</b>		
<b>1.8</b>	<b>Public Notification Of A Development Application</b> The development application was notified to adjoining owners and No submissions were received.	Yes
<b>PART 2 – ALL ZONES</b>		
<b>2.2</b>	<b>Car Parking</b> The amended plans received to date fail to demonstrate compliant off street car parking spaces to accommodate for the proposed ground floor tenancy. A minimum of Four (4) spaces are required for this tenancy.	No
<b>2.3</b>	<b>Environmental Management</b> A BASIX certificate has been submitted and the relevant commitments shown on the submitted plans, however this document includes the ground floor area of the structure as part of the dwelling.	No
<b>2.4</b>	<b>Contaminated Land Management</b>	Yes



	The proposal is considered generally satisfactory with respect to State Environmental Planning Policy 55 – Remediation of Land (SEPP 55) and therefore also with respect to DCP clause 2.4. The land is not known to have been used for potentially contaminating activities.	
2.5	<b>Flood Management</b> While the subject site is flood prone the proposed development is consistent with the flood risk upon the site.	Yes
2.6	<b>Landscaping</b> A landscaping plan was required to be submitted with the application. Such a plan was not submitted.	Yes
2.7	<b>Erosion and Sediment Control</b> Standard conditions relating to site management will be imposed should development consent be granted.	Yes

<b>QUEANBEYAN DCP 2012 COMMENTS</b>		
<b>Section</b>	<b>Controls</b>	<b>Compliance / Conditions</b>
<b>PART 3D – SHOP TOP HOUSING</b>		
3.2	<p><b>Shop Top Housing</b></p> <p><b>Controls</b></p> <ul style="list-style-type: none"> <li>a) Setbacks for shop top housing within the CBD shall comply with the setback requirements set out in Part 7 of this DCP.</li> <li>b) Provide flexible building layouts which allow variable tenancies or uses on the first two floors of a building above the ground floor.</li> <li>c) Minimum floor to ceiling heights are 3.3 metres for commercial office and 3.6 metres for active public uses, such as retail and restaurants.</li> <li>d) Separate commercial service requirements, such as loading docks, from residential access, servicing needs and primary outlook.</li> <li>e) Locate clearly demarcated residential entries directly from the public street.</li> <li>f) Clearly separate and distinguish commercial and residential entries and vertical circulation.</li> <li>g) Provide security access controls to all entrances into private areas, including car parks and internal courtyards.</li> <li>h) All development must be provided with designated secure storage space for each unit.</li> <li>i) Provide safe pedestrian routes through the site, where required.</li> <li>j) Front buildings onto major streets with active uses.</li> <li>k) Avoid the use of blank building walls at the ground level.</li> </ul>	No – the proposed development fails to provide compliant floor to ceiling heights for the ground floor tenancy.
3.3	<p><b>Design</b></p> <p><b>Controls</b></p> <ul style="list-style-type: none"> <li>a) New buildings facades shall include articulation such as awnings, balconies and other architectural elements to reduce the perceived depth and bulk of the development.</li> </ul>	While the proposed development appears bulky in nature when viewed from

	<p>b) Awnings are to be provided along streets where active street frontages are promoted.</p> <p>c) Awnings must have sufficient depth but also be setback sufficiently to allow for street trees, furniture etc.</p>	<p>the public carpark to the rear of the site this is consistent with existing developments on adjoining lots as a result of flood levels affecting the site.</p>
3.4	<p><b>Parking</b></p> <p><b>Controls</b></p> <p>a) Parking is provided at the rate of 2 spaces per dwelling, such parking to be in addition to the commercial requirements of the building.</p>	<p>No – 3 spaces for dwelling but no commercial parking.</p>
3.5	<p><b>Services</b></p> <p><b>Controls</b></p> <p>a) Mechanical drying facilities are provided.</p> <p>b) Common garbage facilities are provided, at ground level, screened from any street (lane or alternate).</p> <p>c) Letter boxes are provided in accordance with Australia Post requirements.</p>	<p>No – No common garbage facilities provided</p>
3.6	<p><b>Private Open Space</b></p> <p><b>Controls</b></p> <p>a) Private open space is provided for each dwelling at a minimum rate of 12m<sup>2</sup> per dwelling, with a minimum depth of 2.4m.  <b>Note:</b> Private open space would generally be provided by way of a balcony or deck at the first floor level.</p>	<p>Yes</p>
3.7	<p><b>Residential Balconies Associated with Shop Top Housing</b></p> <p><b>Controls</b></p> <p>a) Where other private open space is not provided, at least one primary balcony should be provided.</p> <p>b) Primary balconies shall be:</p> <ol style="list-style-type: none"> <li>i) Located adjacent to the main living areas; and</li> <li>ii) Sufficiently large and well proportioned.</li> </ol> <p>c) Secondary balconies, including Juliet balconies and the like should be considered for additional amenity and choice.</p> <p>d) Design solutions should be considered to ameliorate the effect of noise and wind. This could be achieved by:</p> <ol style="list-style-type: none"> <li>i) Locating balconies facing predominantly north, east or west to provide solar access;</li> <li>ii) Utilising sun screens, pergolas, shutters and operable walls to control sunlight and wind;</li> <li>iii) Providing balconies with operable screens, Juliet balconies or operable walls/sliding doors with a balustrade in special locations where noise or high winds prohibit other solutions on busy roads or in tower buildings;</li> </ol>	<p>Yes</p>

	<ul style="list-style-type: none"> <li>iv) Choose cantilevered balconies, partially cantilevered balconies and/or recessed balconies in response to daylight, wind, acoustic privacy and visual privacy; and</li> <li>v) Ensuring balconies are not so deep that they prevent sunlight entering the dwelling below.</li> </ul> <p>e) Design balustrades to allow views and casual surveillance of the street while providing for safety and visual privacy. Design considerations may include:</p> <ul style="list-style-type: none"> <li>i) Detailing balustrades using a proportion of solid to transparent materials to address site lines from the street, public domain or adjacent development. Full glass balustrades do not provide privacy for the balcony or the apartment's interior, especially at night.</li> <li>ii) Detailing balustrades and providing screening from the public, for example, for a person seated looking at a view, clothes drying areas, bicycle storage or air conditioning units.</li> <li>iii) Co-ordinate and integrate building services, such as drainage pipes, with overall façade and balcony design, for example, drainage pipes under balconies are often visible from below in taller buildings and negatively impact on the overall façade appearance.</li> <li>iv) Choose cantilevered balconies, partially cantilevered balconies and/or recessed balconies in response to daylight, wind, acoustic privacy and visual privacy; and</li> <li>v) Ensuring balconies are not so deep that they prevent sunlight entering the dwelling below.</li> </ul>	
<p><b>3.8</b></p>	<p><b>Size of dwelling</b></p> <p><b>Controls</b></p> <ul style="list-style-type: none"> <li>a) Each dwelling has a minimum area of 50m<sup>2</sup>.</li> <li>b) Access at ground level is separate from the access to any commercial building and does not exceed 1.8m width across the frontage of the building.</li> <li>c) All construction complies with the BCA.</li> </ul> <p><b>Note:</b> All relevant construction shall address the heritage chapter of this DCP.</p>	<p>No – proposed dwelling does not include BCA compliant laundry facilities (laundry proposed within ground floor tenancy).</p>
<p><b>3.9</b></p>	<p><b>Utilities</b></p> <p><b>Controls</b></p> <ul style="list-style-type: none"> <li>a) Separately metered power and water is to be provided to each dwelling.</li> </ul>	<p>Could be conditioned if proposal was to be approved</p>

**4.15(1)(a)(iiia) any planning agreement or draft planning agreement**

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

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

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

Having regard to this prescribed matters, the proposed development does not involve the demolition of a building for the purposes of AS 2601 – 1991: *The Demolition of Structures*.

Should this application be approved, appropriate conditions of consent will need to be prepared to ensure compliance with any relevant regulations.

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

Council is not subject to a coastal zone management plan.

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

The subject application was accompanied by insufficient information regarding the proposed use of the ground floor tenancy and the associated off-street parking and waste management arrangements as to allow for appropriate consideration to be given to the likely impacts of the proposal.

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

The subject application was accompanied by insufficient information regarding the proposed use of the ground floor tenancy and the associated off-street parking and waste management arrangements as to allow for appropriate consideration to be given to suitability of the site for the purposes of the proposed development.

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

The application was notified in accordance with Section 1.8 of the QDCP 2012 from **3 September 2019** to **17 September 2019**, with **No** submissions received.

#### **4.15(1)(e) the public interest**

The public interest is served through the detailed assessment of this development application under the relevant local planning controls and legislation and consideration of any submissions received relating to it by Council. In recognition of the number of non-compliances identified throughout this assessment the proposed development is considered to be contrary to the public interest.

### **SECTION 64 CONTRIBUTIONS**

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

Section 64 Contributions would be applicable to the proposed development, however calculations have not been undertaken as the proposal is recommended for refusal.

### **SECTION 7.11 CONTRIBUTIONS**

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

Section 7.11 Contributions would be applicable to the proposed development, however calculations have not been undertaken as the proposal is recommended for refusal.

## **CONCLUSION**

The application has been assessed having regard to Section 4.15 the Environmental Planning and Assessment Act 1979, and is considered to be unsatisfactory for approval. The application is recommended for refusal for the following reasons:

### **Reasons for Refusal:**

- (a) The subject application was accompanied by insufficient information to determine whether compliance of the proposed development with the relevant development standards and controls could be established;**
- (b) Based upon the information provided to date the proposed development is prohibited within the B3 Commercial Core zone under the Queanbeyan Local Environmental Plan 2012.**



# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Planning and Strategy Committee of the Whole Meeting Attachment

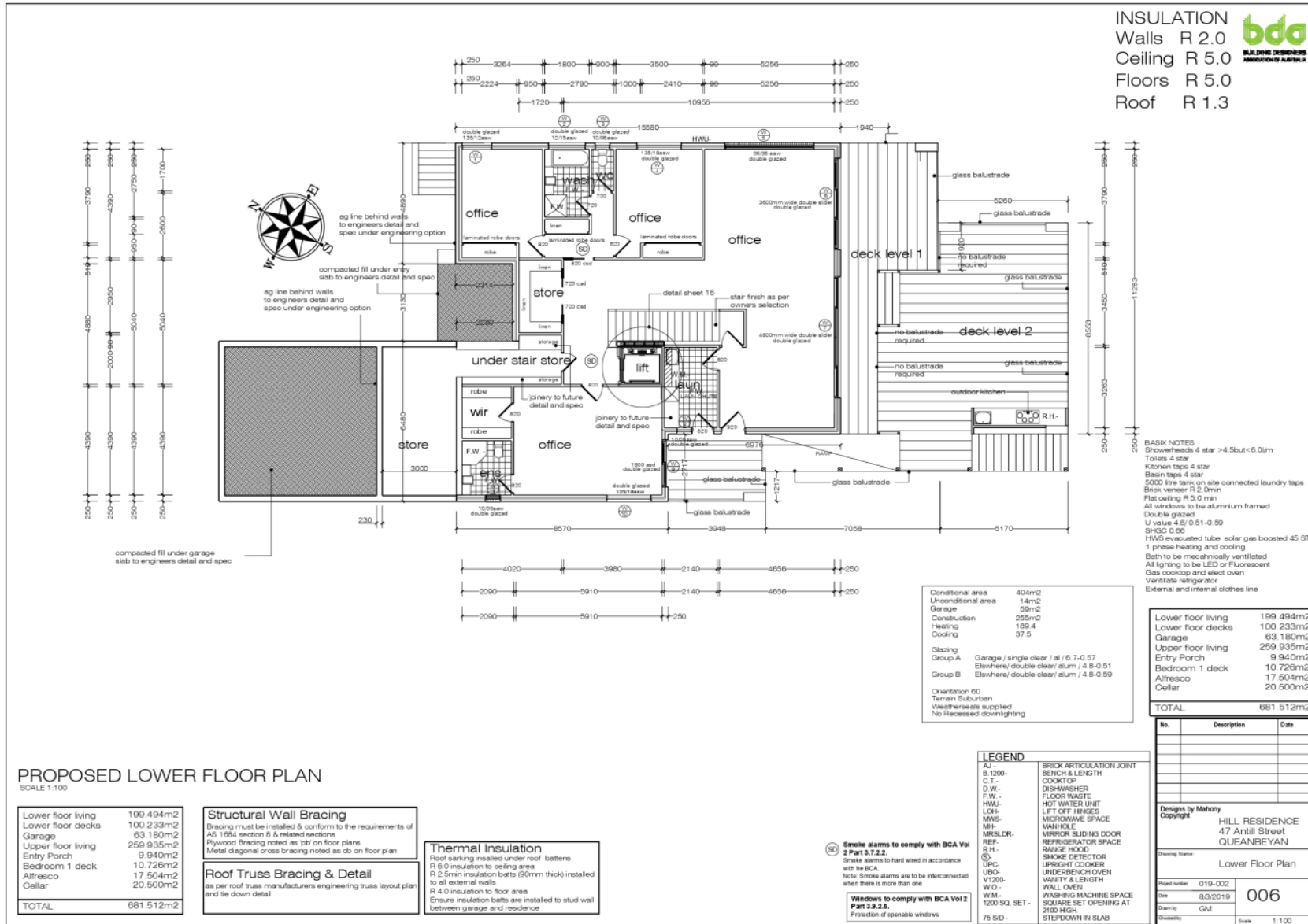
10 JUNE 2020

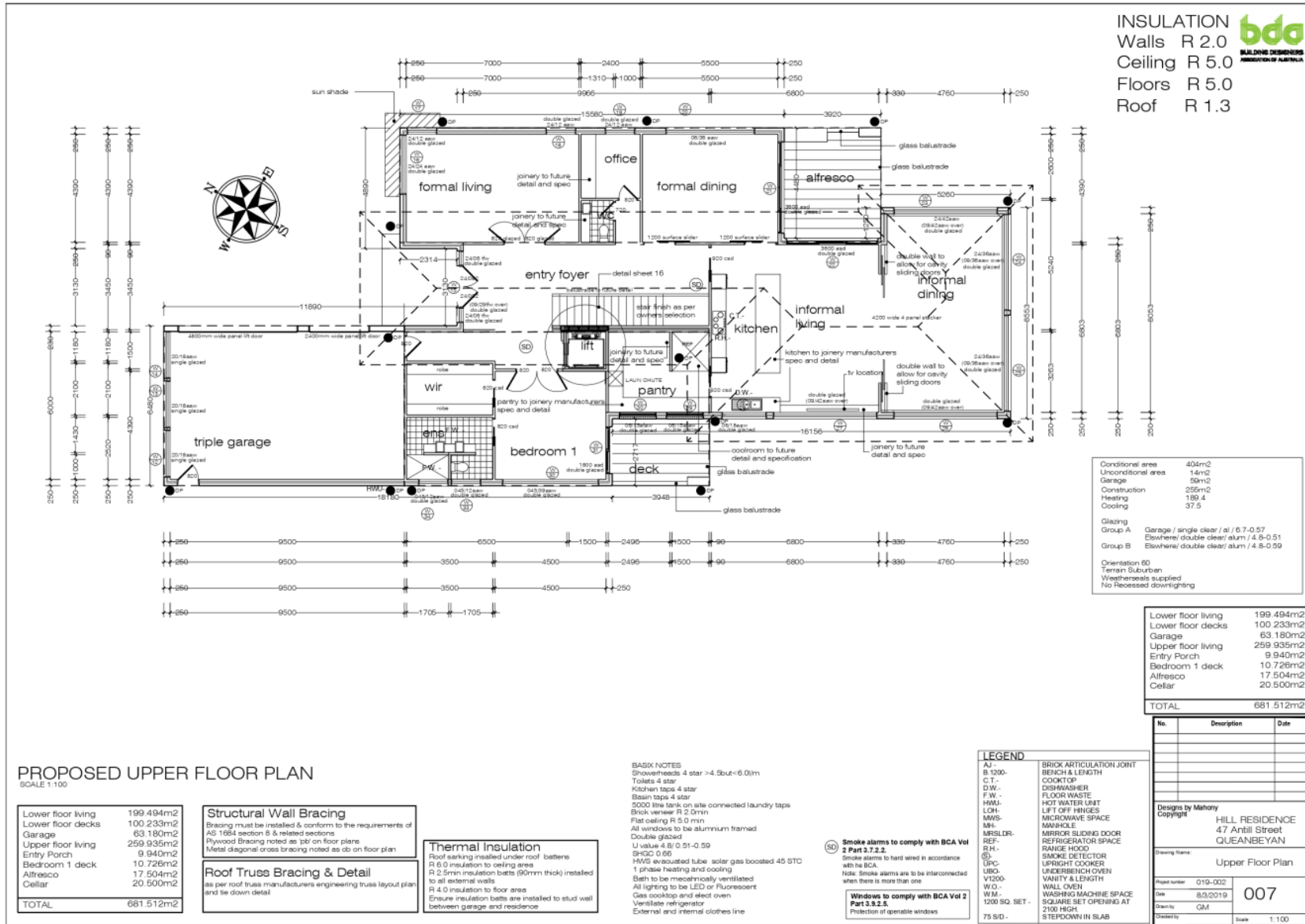
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HOUSING PROPOSAL - 47 ANTILL STREET,  
QUEANBEYAN

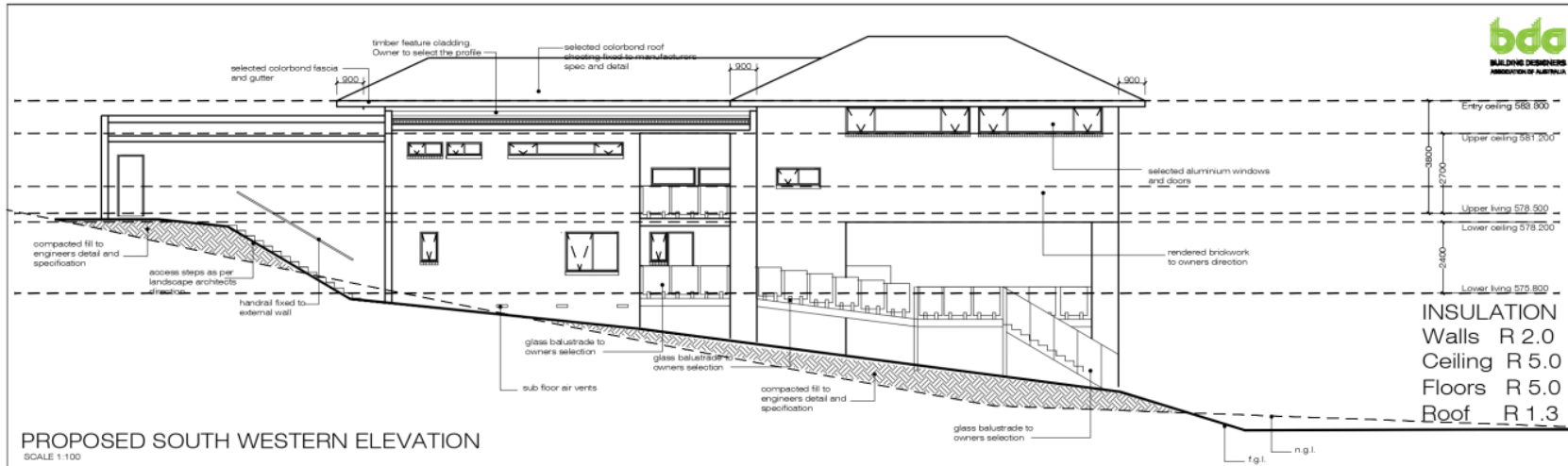
ATTACHMENT 2 PLANS - DA.2019.1116 - 47 ANTILL STREET, QUEANBEYAN



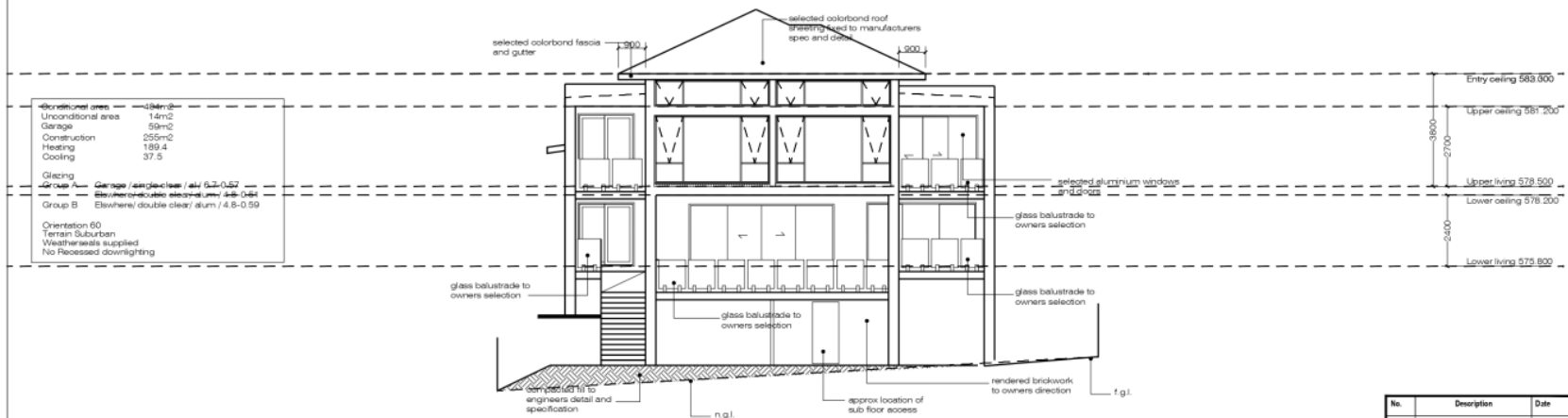








PROPOSED SOUTH WESTERN ELEVATION  
SCALE 1:100



PROPOSED SOUTH EASTERN ELEVATION  
SCALE 1:100

Unconditional area	344m <sup>2</sup>
Garage	59m <sup>2</sup>
Construction	255m <sup>2</sup>
Heating	189.4
Cooling	37.5
Glassing	
Group A	Garage / asphalt / slab / 5.3 / 0.57
Group B	Bitumen/mastic/ electrical/Lin / 4.8 / 0.61
Group B	Bitumen/ double clear/ alum / 4.8 / 0.59
Orientation	60
Terrain	Suburban
Weather seals	supplied
No recessed downlighting	
<b>TOTAL</b>	<b>681.512m<sup>2</sup></b>

**Structural Wall Bracing**  
 Bracing must be installed & conform to the requirements of AS 1594 section 8 & related sections.  
 Plywood Bracing noted as 'pb' on floor plans.  
 Metal diagonal cross bracing noted as 'cb' on floor plan.

**Roof Truss Bracing & Detail**  
 As per roof truss manufacturers engineering truss layout plan and tie down detail.

**Thermal Insulation**  
 Roof sarking installed under roof battens  
 R 6.0 insulation to ceiling area  
 R 2.5min insulation batts (60mm thick) installed to all external walls  
 R 4.0 insulation to floor area  
 Ensure insulation batts are installed to stud wall between garage and residence

**BASIC NOTES**  
 Showerheads 4 star >4.5but <6.0(m)  
 Toilets 4 star  
 Kitchen taps 4 star  
 Basin taps 4 star  
 5000 litre tank on site connected laundry taps  
 Back veneer R 2.0min  
 Flat ceiling R 5.0 min  
 All windows to be aluminium framed  
 Double glazed  
 U value 4.8 / 0.51-0.59  
 SHCO 0.66  
 HW5 evacuated tube solar gas boosted 45 STC  
 1 phase heating and cooling  
 Bath to be mechanically ventilated  
 All lighting to be LED or Fluorescent  
 Gas cooktop and elect oven  
 Ventilate refrigerator  
 External and internal clothes line

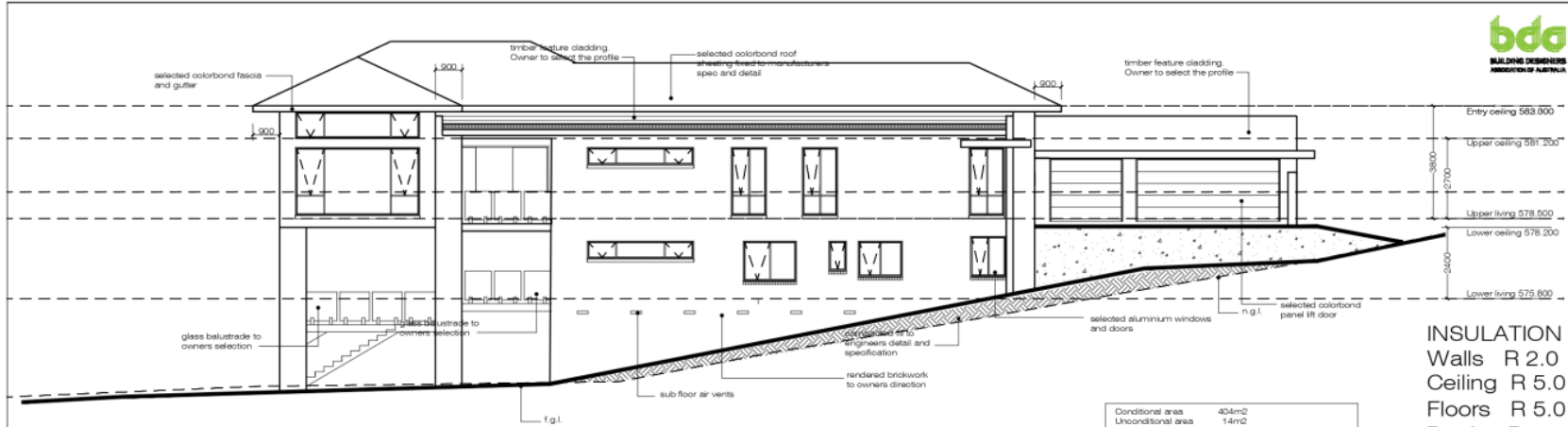
**Smoke alarms to comply with BCA Vol 2 Part 3.7.2.2.**  
 Smoke alarms to hard wired in accordance with the BCA.  
 Note: Smoke alarms are to be interconnected when there is more than one

**Windows to comply with BCA Vol 2 Part 3.9.2.3.**  
 Protection of operable windows

**LEGEND**

AJ -	BRICK ARTICULATION JOINT
B -	BENCH & LENGTH
C.T. -	COOKTOP
D.W. -	DISHWASHER
F.W. -	FLOOR WASTE
HW -	HOT WATER UNIT
L.OH -	LIFT OFF HINGES
MWS -	MICROWAVE SPACE
MH -	MANHOLE
MRLDR -	MIRROR SLIDING DOOR
REF -	REFRIGERATOR SPACE
RH -	RANGE HOOD
SD -	SMOKE DETECTOR
UPC -	UPRIGHT COOKER
UCO -	UNDERBENCH OVEN
V2000 -	VANITY & LENGTH
W.O -	WALL OVEN
W.M. -	WASHING MACHINE SPACE
1200 SQ. SET -	SQUARE SET OPENING AT 2100 HIGH
75 S/D -	STEPDOWN IN SLAB

No.	Description	Date
Design by Mahony Copyright Hill Residence 47 Antill Street QUEANBEYAN Elevations		008
Project number	019-002	
Date	8/3/2019	
Drawn by	GM	
Checked by	GM	
Scale	1:100	

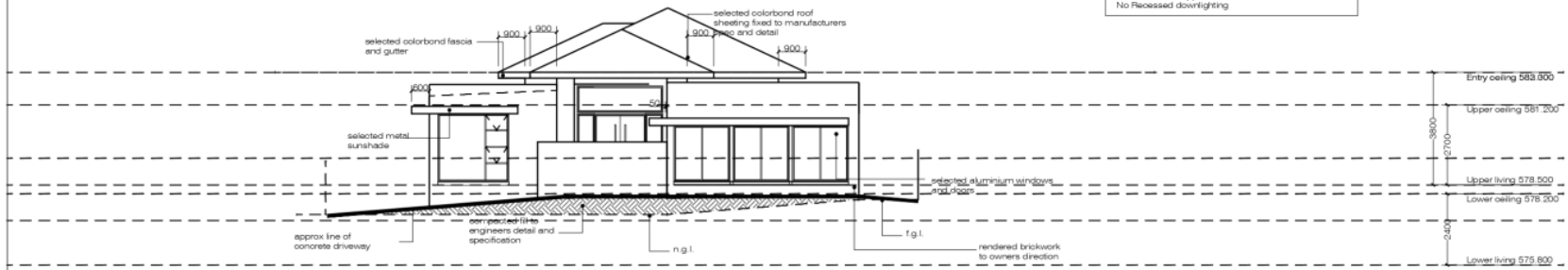


PROPOSED NORTH EASTERN ELEVATION

SCALE 1:100

INSULATION  
 Walls R 2.0  
 Ceiling R 5.0  
 Floors R 5.0  
 Roof R 1.3

Conditional area	404m <sup>2</sup>
Unconditional area	14m <sup>2</sup>
Garage	59m <sup>2</sup>
Construction	255m <sup>2</sup>
Heating	189.4
Cooling	37.5
<b>Glazing</b>	
Group A	Garage / single clear / gl / 6.7-0.57
	Elsewhere/ double clear/ alum / 4.8-0.51
Group B	Elsewhere/ double clear/ alum / 4.8-0.59
<b>Orientation</b>	
	Terrain Suburban
	Weatherseals supplied
	No Recessed downlighting



PROPOSED NORTH WESTERN ELEVATION

SCALE 1:100

Lower floor living	199.494m <sup>2</sup>
Lower floor decks	100.233m <sup>2</sup>
Garage	63.180m <sup>2</sup>
Upper floor living	259.935m <sup>2</sup>
Entry Porch	9.940m <sup>2</sup>
Bedroom 1 deck	10.726m <sup>2</sup>
Airfresco	17.504m <sup>2</sup>
Cellar	20.500m <sup>2</sup>
TOTAL	681.512m <sup>2</sup>

**Structural Wall Bracing**  
 Bracing must be installed & conform to the requirements of AS 1684 section 6 & related sections  
 Plywood Bracing noted as pb on floor plans  
 Metal diagonal cross bracing noted as cb on floor plan

**Roof Truss Bracing & Detail**

**Thermal Insulation**  
 Roof sheathing installed under roof battens  
 R 6.0 insulation to ceiling area  
 R 2.5m insulation batts (90mm thick) installed to all external walls  
 R 4.0 insulation to floor area  
 Ensure insulation batts are installed to stud wall between garage and residence

- BASIC NOTES**  
 Showerheads 4 star >4.5but<6.0l/m  
 Toilets 4 star  
 Kitchen taps 4 star  
 Basin taps 4 star  
 5000 litre tank on site connected laundry taps  
 Brok sewer R 2.0min  
 Flat ceiling R 5.0 min  
 All windows to be aluminum framed  
 Double glazed  
 U value 4.8/ 0.51-0.59  
 SHCO 0.02  
 HWS evacuated tube solar gas boosted 45 STC  
 1 phase heating and cooling  
 Bath to be mechanically ventilated  
 All lighting to be LED or Fluorescent  
 Gas cooktop and elect oven  
 Ventilate refrigerator  
 External and internal clothes line

**Smoke alarms to comply with BCA Vol 2 Part 3.7.2.2.**  
 Smoke alarms to be hard wired in accordance with the BCA.  
 Note: Smoke alarms are to be interconnected when there is more than one

**Windows to comply with BCA Vol 2 Part 3.9.2.6.**  
 Protection of operable windows

**LEGEND**

AJ -	BRICK ARTICULATION JOINT
B -	BENCH & LENGTH
C.T -	COOKTOP
D.W -	DISHWASHER
F.W -	FLOOR WASTE
HWU -	HOT WATER UNIT
LCH -	LIFT OFF HINGES
MWS -	MICROWAVE SPACE
MH -	MANHOLE
MBSLDR -	MIRROR SLIDING DOOR
REF -	REFRIGERATOR SPACE
RH -	RANGE HOOD
SD -	SMOKE DETECTOR
UPC -	UPRIGHT COOKER
UBO -	UNDERBENCH OVEN
V1200 -	VANITY & LENGTH
WO -	WALL OVEN
WL -	WASHING MACHINE SPACE
W1200 SQ. SET -	SQUARE SET OPENING AT 1200 HIGH
75 S/D -	STEPDOWN IN SLAB

No.	Description	Date
Design by Mahony Copyright		
HILL RESIDENCE 47 Antill Street QUEANBEYAN		
Drawing Name Elevations		
Project number	019-002	
Date	8/3/2019	<b>009</b>
Drawn by	GM	
Checked by		
Scale	1:100	

# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Planning and Strategy Committee of the Whole Meeting Attachment

10 JUNE 2020

- ITEM 6.2            MODIFIED DEVELOPMENT APPLICATION DA.2019.1048.A -  
   GARAGE/SHED & CARPORT - 79 THE MOUNTAIN ROAD,  
   BUNGENDORE
- ATTACHMENT 1    SECTION 4.15 MATTERS FOR CONSIDERATION -  
   DA.2019.1048.A - 79 THE MOUNTAIN RAOD,  
   BUNGENDORE



## DELEGATED REPORT – DA.2019.1098.A

### SUMMARY

<b>Proposal:</b>	Construction of Garage/Shed and Carport  Modification (summary): <ul style="list-style-type: none"><li>• Minor re-location of building;</li><li>• Introduction of sub-floor;</li><li>• Installation of water tank in sub-floor;</li><li>• Increase in maximum building height from 8.5m to 9.0m; and</li><li>• Installation of additional windows.</li></ul>
<b>Address:</b>	79 The Mountain Road, Bungendore
<b>Property description:</b>	Lot 1 DP 1194403
<b>Applicant:</b>	Graeme Harlor
<b>Owner:</b>	Graeme & Samantha Harlor
<b>Date of lodgement:</b>	14 April 2020
<b>Notification period:</b>	N/A
<b>Submissions received:</b>	Nil
<b>Assessment officer:</b>	Chelsea Newman, Consultant Town Planner
<b>Estimated cost of works:</b>	\$50,000
<b>Zoning:</b>	E4 Environmental Living under Palerang Local Environmental Plan 2014.
<b>Heritage:</b>	None identified.
<b>Flood affected:</b>	None identified.
<b>Bushfire prone:</b>	Yes.
<b>Recommendation of officer:</b>	Conditional approval.

### EXECUTIVE SUMMARY

The original development application (DA) was granted conditional approval by Council at the Ordinary Meeting held on 28 August 2019. The original DA had no significant planning or environmental issues.

In summary:

- The proposed modification does not introduce any significant planning or environmental issues;
- The original development application was not required to be advertised or notified, and neither is the proposed modification;
- The proposed modification is fully compliant with all relevant statutory and local policy planning requirements; and
- Approval is recommended.

## BACKGROUND

The site is part of a rural subdivision approved by Council under DA.2011.173 on 9 November 2012. In addition to the subject application for garage/shed and carport, the existing dwelling house on the site was approved by Council on under BA16/85.

## DESCRIPTION OF THE SITE AND LOCALITY

The subject site is legally described as Lot 1 DP 1194403 and is commonly known as 79 The Mountain Road, Bungendore. The site is located on the south side of The Mountain Road and has an area of 7.73 ha.

Existing development on the site comprises a dwelling house. Vehicular access is provided to the site via an existing driveway from a right of carriageway linking to the Mountain Road.

Existing development within the locality consists of small to larger rural holdings and residential structures.

## PROPERTY BURDENS AND CONSTRAINTS

There are no easements or burdens on the land which could affect, or be affected by, the proposed modified development. An existing electricity easement is located outside the existing building envelope and the proposed building is more than 5m from the electricity lines.

## DESCRIPTION OF THE PROPOSED DEVELOPMENT

The modified application seeks Council approval for the construction of a garage/shed and carport.

The specific elements proposed to be modified are:

- Re-locate the building by 4.0m to the south-west and by 2.0m to the north-west;
- Changes to earthworks and levels resulting in the introduction of a sub-floor and an increase in maximum building height from 8.5m to 9.0m;
- Installation of a water-tank within the sub-floor; and
- Inclusion of additional windows along the northern and southern elevations.

Elements of the proposal which remain unchanged from the originally approved DA are:

- The external cladding will match the existing dwelling;
- The proposal will not be visible from a public road;
- The floor area will be 300m<sup>2</sup>;
- Removal of "3-4 small native trees"; and
- The proposed building is located within the existing approved building envelope and complies with the prescribed building set-backs under the Palerang DCP.

The applicant's reasons for the proposed changes are:

- *The adjusted location of the garage will have less impact on the growth and potential of a stand of trees to the east of the building;*
- *Further reasoning for the amended location is to negate the need for excessive excavation and subsequent retaining walls to support the existing tennis court; and*
- *The current approval anticipated an even cut / fill to form a flat building platform however, significant fill would have been necessary in order to establish a sufficient levelled area (with external batters). It is now proposed to provide a "dropped edge beam" to NGL so it is not necessary for raising of the ground levels beyond the perimeter of the building.*

## REFERRALS

### INTERNAL REFERRALS

*Development Engineering* – Commented that the building would require adequate stormwater disposal. The existing conditions of consent satisfactorily address this issue.

No other internal or external referrals were required for the proposed modification.

## SECTION 4.55 MODIFICATIONS – GENERALLY EP&A ACT, 1979

### 4.55 (1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
- (c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be. Subsections (1), and (2) do not apply to such a modification."

#### Comment:

In regards subclause 'a', it is considered that the modification(s) sought as part of this application is of minimal environmental impact as the proposal does not involve any additional vegetation clearing and the relocation of the building will result in less impact on a stand of trees and less earthworks.

In regards to subclause 'b', Council is satisfied that the development to which the consent as modified relates is substantially the same development for which consent was originally granted. In answering this threshold question, a comparative analysis of the approved development as modified has been undertaken. The proposal is for the construction of a structure with the same area and general appearance and use as originally approved.

With regards subclause 'c' and 'd', neither the original application or the proposed modification were required to be notified in accordance with Part E of the Palerang DCP 2015.

## SECTION 4.15 CONSIDERATIONS – EP&A Act, 1979

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

	YES	NO	N/A
<b>Construction:</b>			
Is the development likely to comply with BCA?	✓		
<b>Stormwater:</b>			
Can stormwater be satisfactorily disposed of?	✓		
Is an easement required?		✓	
<b>Utilities:</b>			
Does the development impact on sewer/drainage services or easements?		✓	
<b>Demolition:</b>			
Does the development comply with AS2601-1991?			✓
<b>Disability Access:</b>			
Can compliance be achieved with the Disability (Access to Premises – Building Standards 2010)?			✓



<b>The provisions of any environmental planning instrument (SEPP):</b>			
<b>SEPP 55 – Remediation Of Land</b>			
	YES	NO	N/A
Is the development consistent with the aims and objectives of the SEPP	✓		
Is the development consistent with the requirements of the SEPP	✓		
Are relevant clauses satisfied? Clause 7.	✓		

<b>State Environmental Planning Policy (Infrastructure) 2007</b>			
	YES	NO	N/A
Is the development consistent with the aims and objectives of the SEPP	✓		
Is the development consistent with the requirements of the SEPP	✓		
Are relevant clauses satisfied? Clause 45.	✓		
<i>Proposed building remains clear of electricity easement and power lines.</i>			

<b>State Environmental Planning Policy (Vegetation In Non Rural Areas) 2017</b>			
	YES	NO	N/A
Is the development consistent with the aims and objectives of the SEPP	✓		
Is the development consistent with the requirements of the SEPP	✓		
Are relevant clauses satisfied? Clause 7.	✓		
<i>No changes to vegetation removal approved under original DA.</i>			

<b>The provisions of the Palerang Local Environmental Plan 2015 (LEP):</b>			
Is the development permissible in the Zone?	✓		
Is the development consistent with the aims and objectives of the zone?	✓		
Are relevant clauses satisfied? Elaborate where necessary			✓
<p><b>Clause 4.3 – Height of buildings</b>                      Maximum permitted building height on the site is 9.0m. The original DA showed the maximum proposed height of the building as being 8.5m, with minimal earthworks.</p> <p>The proposed changes to construction result in an increase to the maximum height of the building by 0.5m to 9.0m (measured according to the LEP definition).</p> <p>In support of the proposed modification the applicant states that the original proposal anticipated an even cut and fill to form a flat building platform, however, significant fill would have been necessary in order to establish a sufficient levelled area (with external batters). It is now proposed to provide a “dropped edge beam” to NGL so it is not necessary for raising of the ground levels beyond the perimeter of the building. The modified plans show natural ground level and the amount of cut and fill required.</p> <p>The proposed modification complies with the maximum permitted height of buildings under this clause and remains consistent with the clause’s objectives in that: residential amenity and solar access will not be undermined; and it will result in an acceptable visual impact on site and within the locality.</p> <p><b>Clause 6.1 – Earthworks</b>                      The modified plans show that the proposed earthworks are not excessive, with all material to be sourced from the location of the building platform and retained within the building footprint. No external batters or retention of soil will be required. Therefore, there are no significant impacts anticipated to drainage patterns, soil stability, amenity of adjoining properties, and any environmentally sensitive areas. Standard conditions relating to sediment and erosion control, unexpected finds and stormwater management will ensure any impacts are minimal.</p>			

<b>Will the proposed development have a detrimental effect on:</b>			
The views to and from potentially affected land		✓	
The overshadowing of potentially affected land		✓	
The privacy of potentially affected land		✓	
<i>Note: The nearest dwelling is over 150m from the proposed building.</i>			
From any zero lot line wall			✓
The likelihood of land being detrimentally affected by noise		✓	
Drainage and stability of and onto, adjoining lands		✓	
Will the development detrimentally affect neighbouring land		✓	
Will the development effect light & ventilation to any adjacent window		✓	
Any other detrimental effects		✓	
<b>Provisions of any Draft Environmental Planning Instruments (LEPS):</b>			
Are there any Draft Environmental Planning Instruments?		✓	
Will the proposal satisfy the Draft EPs?			✓
<b>Provisions of the Palerang Development Control Plan 2015</b>			
What are the relevant sections of the DCP?	<ul style="list-style-type: none"> <li>• B4 – Bushfire Prone Land.</li> <li>• C22 – Filling of Land.</li> <li>• C25 Sheds in RU1 Primary Production, E3 Environmental Management and E4 Environmental Living.</li> </ul>		
Does the development satisfy the relevant sections? Elaborate when necessary.		✓	
<p><b>B4 – Bushfire Prone Land</b>                      The subject site is mapped as bushfire prone land. Pursuant to s.4.14 of the EP &amp; A Act 1979, the original DA was subject to the provisions of the Rural Fire Service's 'Planning for Bushfire Protection 2006' (PBP 2006). Under PBP 2006 the originally approved Class 10a building did not need to comply with any bushfire requirements due to it being located 10m from the existing dwelling-house.</p> <p>On March 1 2020 PBP 2019 replaced PBP 2006, and is prescribed by the EP &amp; A Regulation 2000 for the purposes of s.4.14 of the EP &amp; A Act 1979.</p> <p>The proposed modification includes re-locating the garage / shed structure to be 8m from the existing dwelling-house. However, Clause 8.3.2 of PBP 2019 states that there are no bush fire protection requirements for Class 10a buildings located more than 6m from a dwelling in bush fire prone areas. Therefore, as per the original approval, there are no bushfire requirements applicable to the proposed modified development.</p> <p><b>C22 – Filling of Land</b>                      The proposed modification includes some cutting and filling of the site, however, all material will be retained within the building footprint, with no requirement for external batters. The modified plans show that the proposed earthworks are not excessive, and compliance with standard conditions will ensure any impacts are minimal.</p> <p><b>C25 – Sheds in the E4 Zone</b>                      The proposed modification remains compliant with this clause. Floor area is unchanged at 300m<sup>2</sup>, and the minor re-location of the building does not result in any non-compliances with setbacks and visual amenity controls.</p>			
Are there any variations to the DCP? Elaborate when necessary.		✓	
Is notification required under the provisions of Part E of the DCP?		✓	
Have any submissions been received? If Yes, elaborate		✓	
<b>Impact of the development on the Environment</b>			
<b>Context &amp; Setting</b>			
Is the impact on the character of the Locality/Streetscape satisfactory?		✓	
Is the Scale, Form, Character, Density and Design satisfactory?		✓	
<b>Access</b>			
Is vehicle access satisfactory? Refer to any engineering requirements below		✓	
<b>Public Domain</b>			
Is the effect on Recreational Opportunities satisfactory?		✓	

<b>Utilities</b>			
Are utility services available (water, sewer, electricity, etc)?	✓		
<b>Heritage</b>			
Is the site affected by a Heritage item or Conservation Area?		✓	
If Yes, has it been referred to Council's Heritage Advisor/Committee?			✓
Is a Heritage Impact Statement required?		✓	
<b>Soils/Stability</b>			
Will the development effect stability of the land or adjoining land?		✓	
Will there be any cut and fill works? <i>Refer to earlier comments.</i>	✓		
<b>Tree Removal</b>			
Will any trees be removed?	✓		
<b>Waste</b>			
Are the provisions for waste control adequate?	✓		
<b>Hazards</b>			
Are there risks from Natural hazards - Bushfires, Slope and Flooding? If Yes, elaborate <i>Refer to earlier comments re; bushfire.</i>	✓		
Are there risks from Hazards - Industry, Contamination? If Yes, elaborate		✓	
<b>Social/Economic Impact</b>			
Will there be any Social Benefits?		✓	
Will there be any Social Costs?		✓	
Will there be any Economic Benefits?		✓	
Will there be any Economic Costs?		✓	
<b>Design</b>			
Is the development design sensitive to the Environment/Landscape?	✓		
<b>BASIX</b>			
Is a BASIX Certificate required?		✓	
Have the required commitments been included on the plans?			✓
<b>4.15(1) Suitability of the site</b>			
Is the proposal compatible with the locality?	✓		
<b>4.15(1)(d) Any submissions made.</b>			
		✓	
<b>4.15(1)(e) Is the Public Interest adequately protected?</b>			
	✓		

**Additional Comments:** The proposed modification is considered overall to be minor. It will result in less impacts to vegetation and less earthworks than would have been required for the originally approved development. The installation of a sub-floor water tanks will allow for stormwater capture from the building's roof.

The distance of the building from other properties means that the increase in height and the installation of additional windows will not result in amenity impacts to adjoining properties or the locality.

The proposed modification is recommended for approval. The only condition imposed on the original approval that is required to be amended is condition no. 1, which lists the approved plans. No new conditions are required.

**CONCLUSION**

The application has been assessed having regard to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, and is considered to be satisfactory for approval, subject to the recommended conditions of consent.

**CONDITIONS OF CONSENT OR REASONS FOR REFUSAL**

Amend condition no. 1 as follows:

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

Title / Description	Prepared by	Issue/Revision & Date	Date received by Council
Site Plan	G. Harlor	May 2020	May 2020
Elevations & Sections	G. Harlor	May 2020	May 2020
Roof Plan	G. Harlor	May 2020	May 2020
Floor Plan	G. Harlor	May 2020	May 2020

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

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

Signed: 

Date: 25 May 2020

Assessing Officer: Chelsea Newman

**Recommendation:** That DA.2019.1048.A be **Approved** under delegated authority pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 subject to amendment of Condition 1 as indicated above.

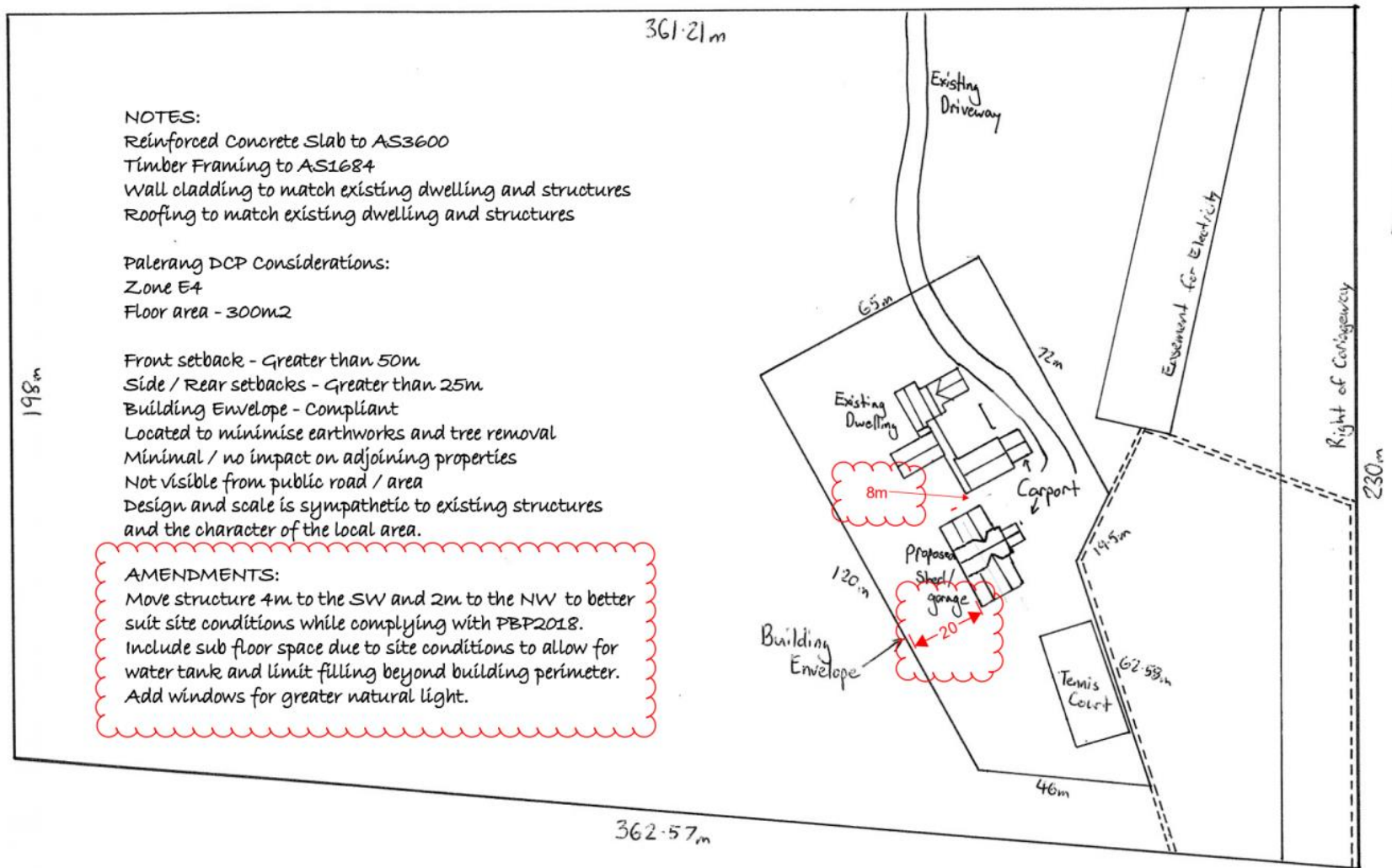
# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Planning and Strategy Committee of the Whole Meeting Attachment

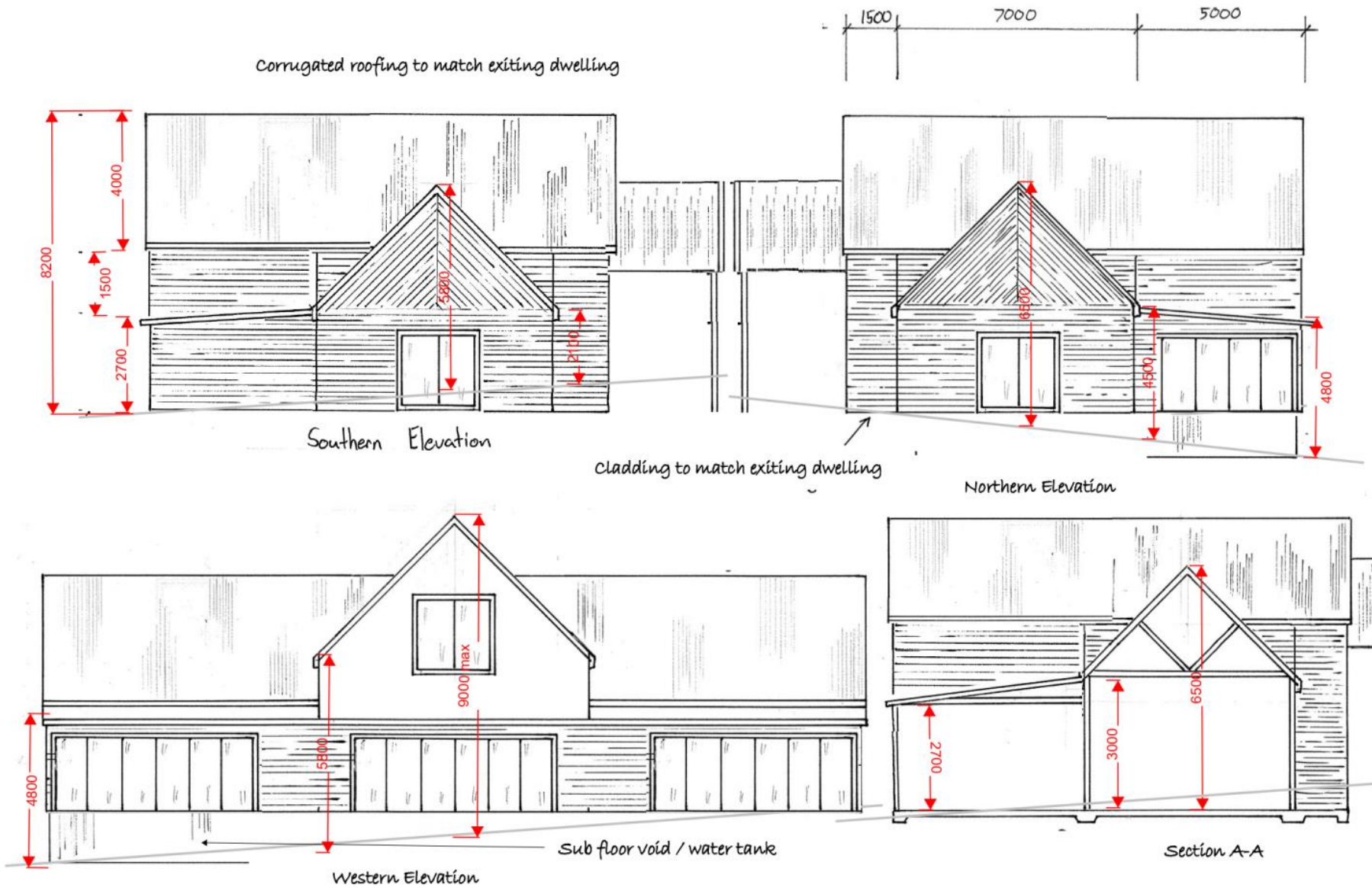
10 JUNE 2020

ITEM 6.2            MODIFIED DEVELOPMENT APPLICATION DA.2019.1048.A -  
   GARAGE/SHED & CARPORT - 79 THE MOUNTAIN ROAD,  
   BUNGENDORE

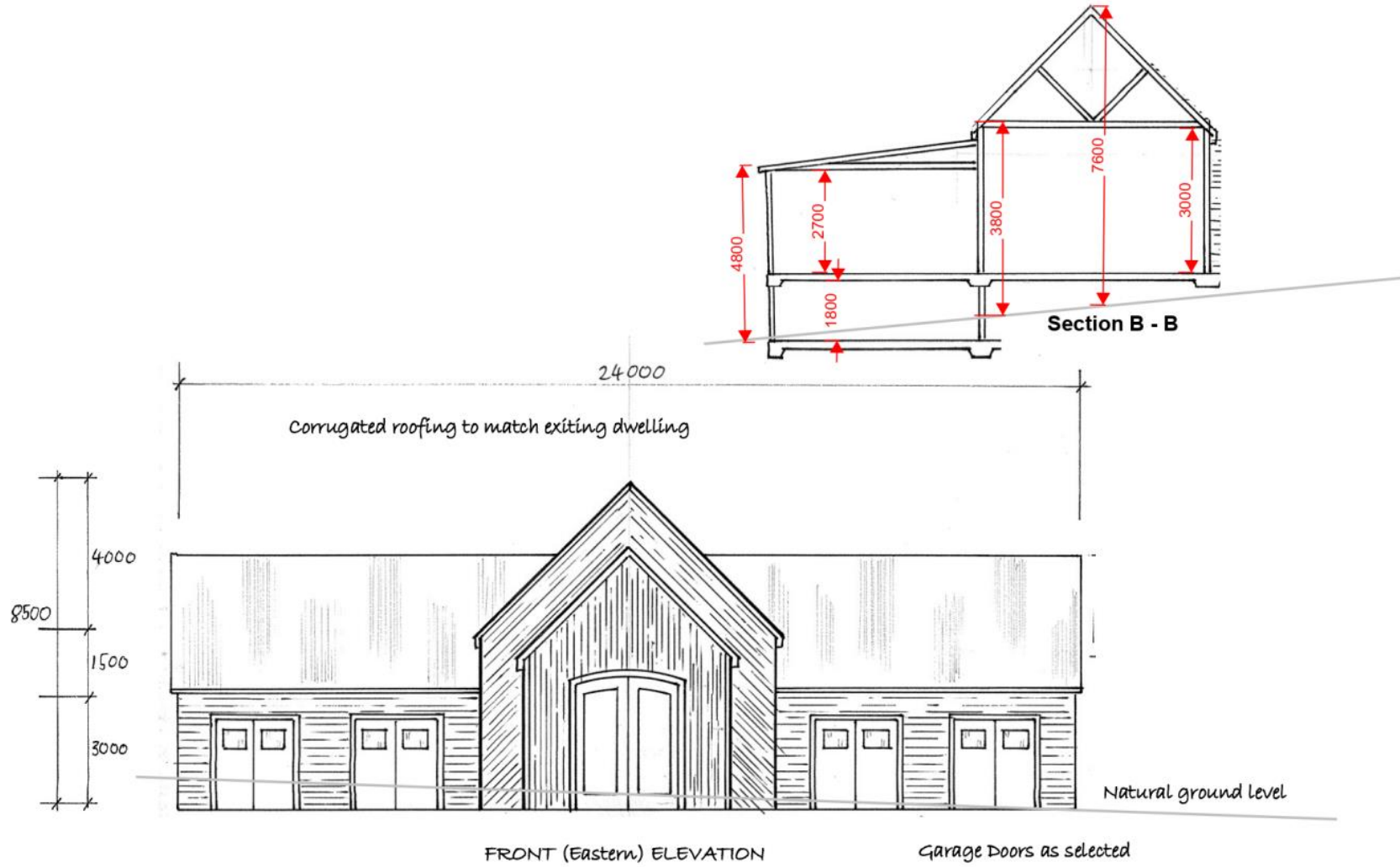
ATTACHMENT 2    PLANS - DA.2019.1048.A - 79 THE MOUNTAIN ROAD,  
   BUNGENDORE



Lot 1, DP1194403 - 79 The Mountain Road Bungendore - Proposed Garage /Shed and Carport - SITE PLAN - May 2020 - Scale 1:1000

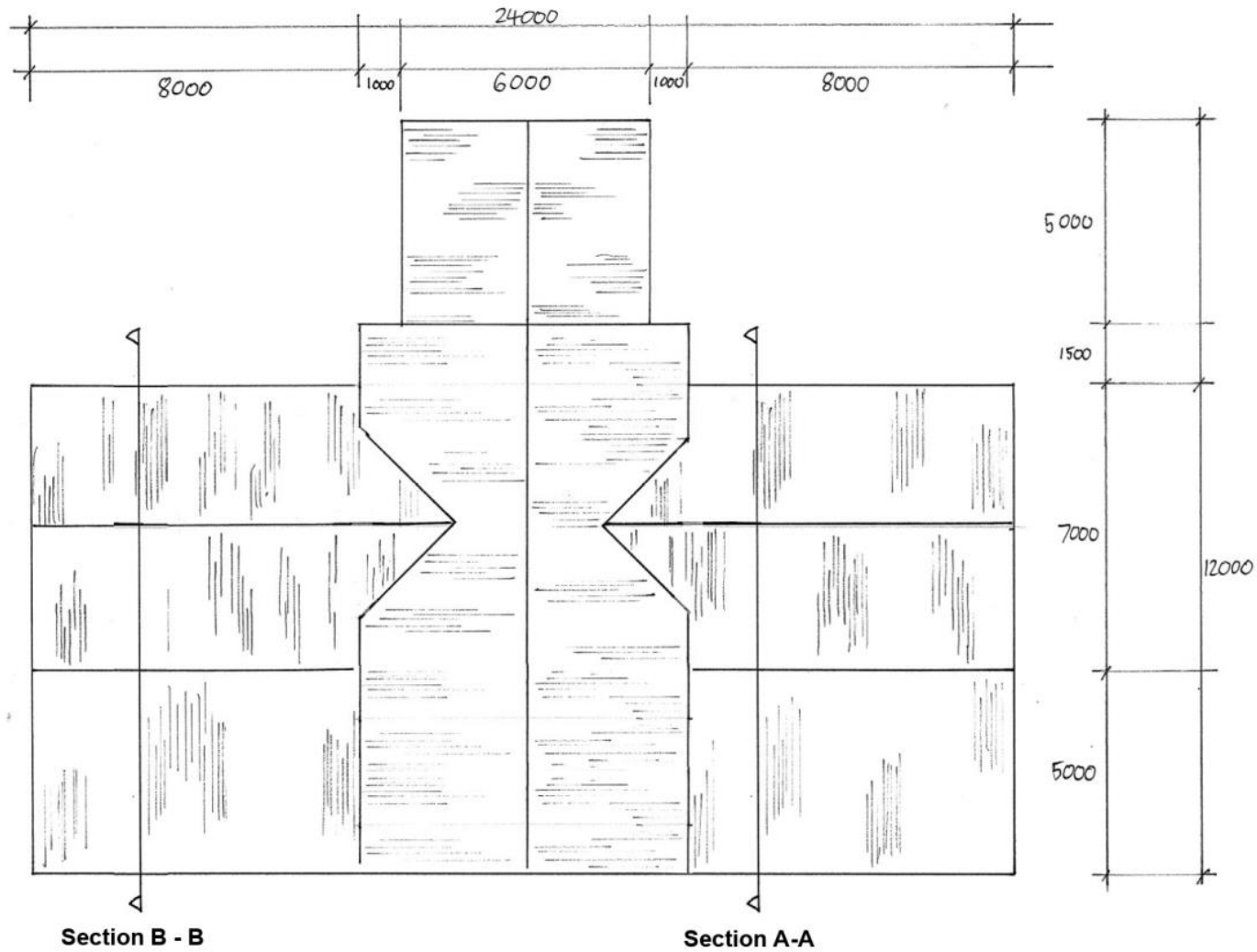


Lot 1, DP1194403 - 79 The Mountain Road Bungendore - Proposed Garage / Shed and Carport - ELEVATIONS - May 2020 - Scale 1:100

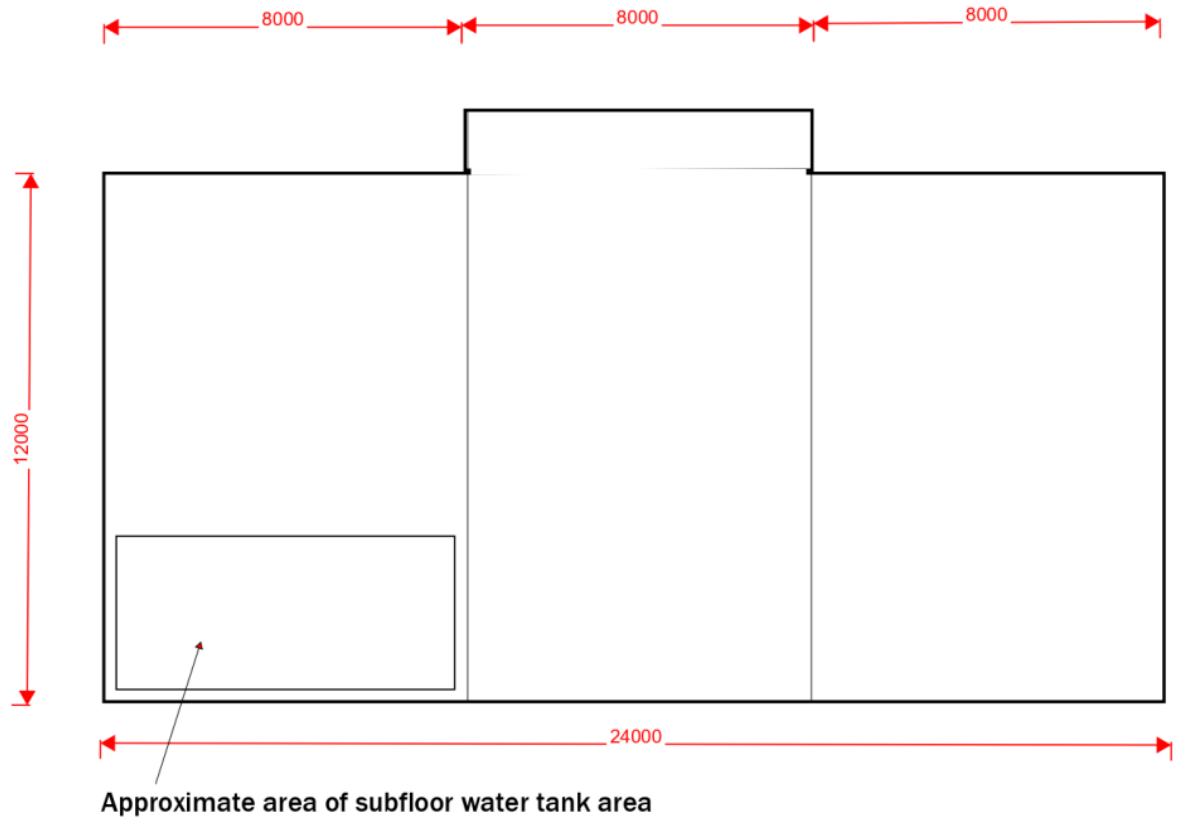


Lot 1, DP1194403 - 79 The Mountain Road Bungendore - Proposed Garage / Shed and Carport - ELEVATIONS - May 2020 - Scale 1:100





Lot 1, DP1194403 - 79 The Mountain Road Bungendore - Proposed Garage / Shed and Carport - ROOF PLAN - May 2020 - Scale 1:100



Lot 1, DP1194403 - 79 The Mountain Road Bungendore - Proposed Garage / Shed and Carport - FLOOR PLAN - May 2020 - Scale 1:100