

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

TUESDAY, 20 JUNE 2023

1. This Meeting makes Recommendations to the Manager Statutory Planning.
2. Should any Elected Member wish to discuss the content of any item included as part of the attached agenda, please contact Peter Prendergast, Manager Statutory Planning. Contact should be established as soon as possible after the publication of the agenda to the City of Melville website. Contact details are as follows: peter.prendergast@melville.wa.gov.au or Tel 9364 0626.
3. Should an Elected Member propose that an item on this agenda be referred to Council for determination, a request to that effect must be made to the Chief Executive Officer (CEO). This request shall be made in accordance with the requirements set out by Clause 3.5.4 of Local Planning Policy LPP 1.1 'Planning Process and Decision Making'.
4. Should any applicant or adjoining property owner object to any proposal included as part of this DAU agenda, then an opportunity exists to request that the application be determined by Council. All such requests should be referred to an Elected Member of Council for the Ward within which the development application is located. An Elected Member may request that the application be determined by Council. Any call up request from an Elected Member shall be made in accordance with the requirements set out by Clause 3.5.4 of Local Planning Policy LPP 1.1 'Planning Process and Decision Making'.
5. In the absence of any referral request, a decision on any application included as part of this DAU agenda can take place under delegated authority to the Manager Statutory Planning, after midday on the second Monday after the Friday publication of the minutes to the City's website. In the event that the DAU minutes are not published to the City's website until the Monday after the DAU meeting, a decision on the application can still take place the following Monday.

DISTRIBUTED: FRIDAY, 23 JUNE 2023



**REPORTS AND RECOMMENDATIONS FROM THE DEVELOPMENT ADVISORY UNIT
MEETING HELD IN, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD,
BOORAGOON, COMMENCING AT 9:00 AM ON TUESDAY, 20 JUNE 2023.**

PRESENT

P Prendergast
M Scarfone
T Geddes
L Johnson

Manager Statutory Planning
Planning Services Coordinator
Senior Planning Officer
Planning Officer

DISCLOSURES OF INTEREST

**DISCLOSURE OF FINANCIAL INTERESTS
LOCAL GOVERNMENT ACT 1995**

Members' interests in matters to be discussed at meetings to be disclosed

S.5.65 (1) A member who has an interest in any matter to be discussed at a Council or Committee meeting that will be attended by the member must disclose the nature of the interest -

- (a) in a written notice given to the Chief Executive Officer before the meeting; or
- (b) at the meeting immediately before the matter is discussed.

Penalty: \$10,000 or imprisonment for 2 years.

Meeting to be informed of disclosures

S.5.66 If a member has disclosed an interest in a written notice given to the Chief Executive Officer before a meeting then before the meeting -

- (a) the Chief Executive Officer is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) the person who is to preside at the meeting is to bring the notice to the attention of the persons who attend the meeting.

Disclosing members not to participate in meetings

S.5.67 A member who makes a disclosure under Section 5.65 must not -

- (a) preside at the part of the meeting relating to the matter; or
- (b) participate in, or be present during, any discussion or decision making procedure relating to the matter,

unless, and to the extent that, the disclosing member is allowed to do so under Section 5.68 or 5.69.

Penalty: \$10,000 or imprisonment for 2 years.

Please refer to your Handbook for definitions of interests and other detail.

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U23/0610 – REMOVAL OF CONDITION OF APPROVAL ON DA-2021-1238 - LOT 889 (NO. 67B) KENNEDY STREET, ALFRED COVE 6154 (REC) (ATTACHMENT)

Ward : Bicton Attadale Alfred Cove
 Category : Operational
 Application Number : DA-2022-907
 Property : 67B Kennedy Street, Alfred Cove
 Proposal : Removal of condition of development approval
 Applicant : Jani Kalla and Anita Lee
 Owner : Jani Kalla and Anita Lee
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : No Previous Items
 Responsible Officer : Peter Prendergast
 Manager Statutory Planning

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input checked="" type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council to note.</i>

U23/0610 – REMOVAL OF CONDITION OF APPROVAL ON DA-2021-1238 - LOT 889 (NO. 67B) KENNEDY STREET, ALFRED COVE 6154 (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Development approval was granted subject to conditions in January 2022 for a Two Storey Single House at 67B Kennedy Street, Alfred Cove
- This development application seeks to remove condition 10 of DA-2021-1238 on the basis that the relevant performance standards in Clause 5.4.1 Visual privacy of State Planning Policy 7.3 Residential Design Codes (R-Codes have been met.
- The application was advertised in accordance with the provisions of the R-Codes, Planning and Development (Local Planning Scheme) Regulations 2015 and Local Planning Policy 1.1 Planning Process and Decision Making (LPP1.1).
- One submission that objected to the proposal was received during the advertising period.
- Notwithstanding the objection received, it is considered that the development is acceptable when assessed against the relevant Design Principles of the R-Codes.



Figure 1 – Aerial Photography

U23/0610 – REMOVAL OF CONDITION OF APPROVAL ON DA-2021-1238 - LOT 889 (NO. 67B) KENNEDY STREET, ALFRED COVE 6154 (REC) (ATTACHMENT)**BACKGROUND****Scheme Provisions**

MRS Zoning	: Urban
LPS Zoning	: Residential
R-Code	: R20
Use Type	: Single House
Use Class	: Permitted

Site Details

Lot Area	: 508m ²
Retention of Existing Vegetation	: Not Applicable
Street Tree(s)	: Yes
Street Furniture (drainage pits etc)	: No
Site Details	: Refer to Figure 1 above

A copy of the plans forms part of the attachments to the agenda which were distributed to Elected Members on Friday, 23 June 2023.

Background

On 7th January 2021, the City approved DA-2021-1238 for a two storey single house at lot 889 (67B) Kennedy Street. Condition 10 was imposed on the development requiring screening devices be installed on the first-floor void/staircase window, as It was considered that the design principles of the R-Codes were not met. At the time of determination of DA-2021-1238 the City had not approved any development for 67A Kennedy Street, so this condition was applied to safeguard any future development from overlooking habitable spaces of the adjoining dwelling.

On 4th April 2023 the City received an application for planning approval for the removal of condition 10 on the grounds that any overlooking from the first-floor void/staircase windows would not have a negative impact on the privacy of the dwelling at 67A Kennedy Street, as approved under DA-2022-60.

DETAIL

The following has been assessed against the provisions of LPS6, the R-Codes and relevant Local Planning Policies. A performance assessment is required in respect of the matters listed below.

U23/0610 – REMOVAL OF CONDITION OF APPROVAL ON DA-2021-1238 - LOT 889 (NO. 67B) KENNEDY STREET, ALFRED COVE 6154 (REC) (ATTACHMENT)

State Planning Policy 7.3 - Residential Design Codes Volume 1

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
5.4.1 Visual privacy Cl. 1.1 (i) – Void/Staircase window first floor (west)	6m	3.6m	Requires a performance assessment against the Design Principles of the R-Codes.	Development Advisory Unit (DAU)

Local Planning Policy 3.1 Residential Development

The officer comment below is limited to variations to R-Code 5.4.1 as this was the subject of the objection received.

No other elements of the R-Codes were proposed to be altered by this amendment.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Advertising Required: Yes
 Neighbour's Comment Supplied: Yes
 Reason: Required pursuant to LPP 1.1 Planning Process and Decision Making Clause 1.7.6
 Support/Object: One objection received

The application was assessed in accordance with the provisions of LPP1.1 – Planning Process and Decision Making. This included advertising with the adjoining property owner/occupier (67A Kennedy St) for variations to R-Code 5.4.1 – Visual Privacy. The application was advertised for a period of 14 days between 16th May, 2023 and 30th May 2023.

U23/0610 – REMOVAL OF CONDITION OF APPROVAL ON DA-2021-1238 - LOT 889 (NO. 67B) KENNEDY STREET, ALFRED COVE 6154 (REC) (ATTACHMENT)

A summary of the content of the objection received and an officer's response is provided in the table below.

Summary of Issues Raised	Officer's Comment
<p>Visual Privacy <i>Concerns raised that if privacy screening is removed overlooking will be cast toward 67A Kennedy street and into the theatre, laundry, toilet/powder room, kitchen, scullery, dining room/living room and even backyard. Concern that this will result in a reduction of privacy.</i></p>	<p>The proposal is considered to meet the design principles of R-Code 5.4.1 as the development causes minimal direct overlooking of active habitable spaces and outdoor living areas.</p> <p>See detailed discussion in Comments section of this report.</p>

II. OTHER AGENCIES / CONSULTANTS

No consultation with other agencies/consultants is required.

STATUTORY AND LEGAL IMPLICATIONS

Should the City of Melville refuse the application for planning approval, the Applicant will have the right to have the decision reviewed by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

FINANCIAL IMPLICATIONS

There are no financial implications for the City relating to this proposal.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There are no strategic, risk or environmental management implications with this application.

POLICY IMPLICATIONS

There are no policy implications in relation to this proposal.

U23/0610 – REMOVAL OF CONDITION OF APPROVAL ON DA-2021-1238 - LOT 889 (NO. 67B) KENNEDY STREET, ALFRED COVE 6154 (REC) (ATTACHMENT)

COMMENT

The removal of condition 10 of DA-2021-1238 means the development does not meet the deemed to comply visual privacy setback contained in Clause 5.4.1 of the R-Codes, As such the proposal is required to be assessed against the design principles of R-Code 5.4.1.

Condition 10 was originally applied to prevent overlooking from the activity room on the upper floor for the dwelling. The activity room is located away from the window, and is separated from it by the stairwell, a void, and a hallway/circulation space at the top of the stairs. The extent to which overlooking results from the activity room is reduced by virtue of the buffer provided by the stairwell, void, and hallway space, and by the nib walls on either side of the stairwell and void.

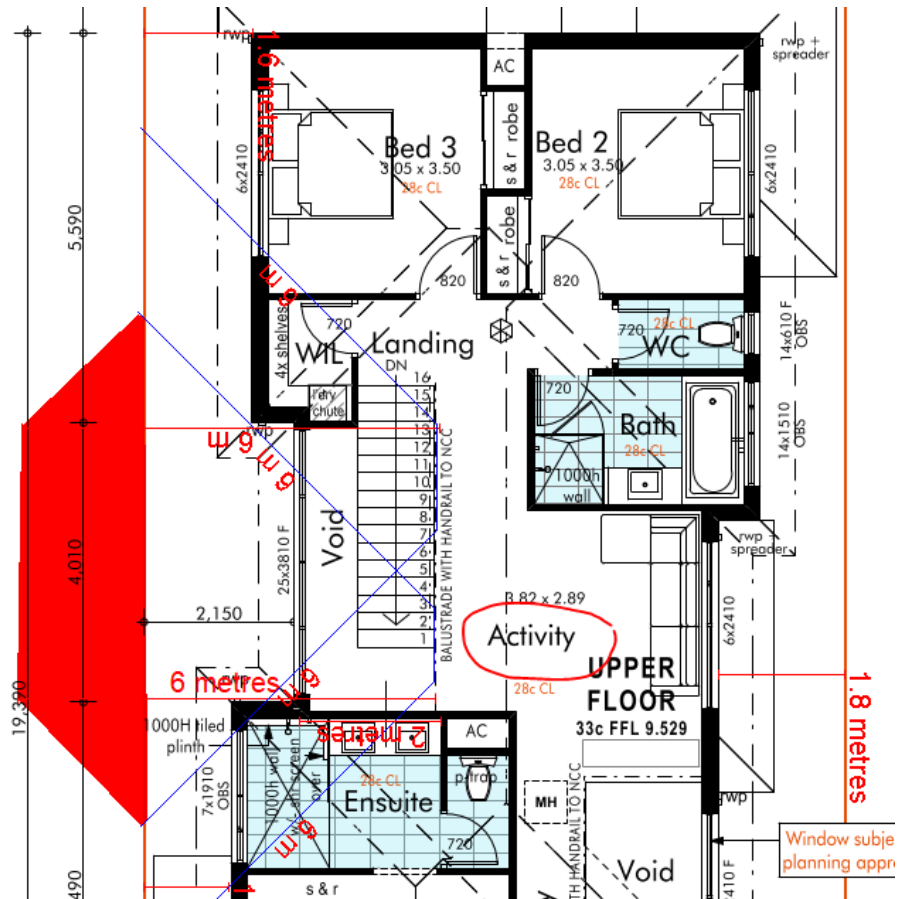


Figure 1: Cone of vision from staircase void to adjoining residence from 67B Kennedy Street (ground floor plan). No overlooking generated to any habitable rooms with major openings

U23/0610 – REMOVAL OF CONDITION OF APPROVAL ON DA-2021-1238 - LOT 889 (NO. 67B) KENNEDY STREET, ALFRED COVE 6154 (REC) (ATTACHMENT)

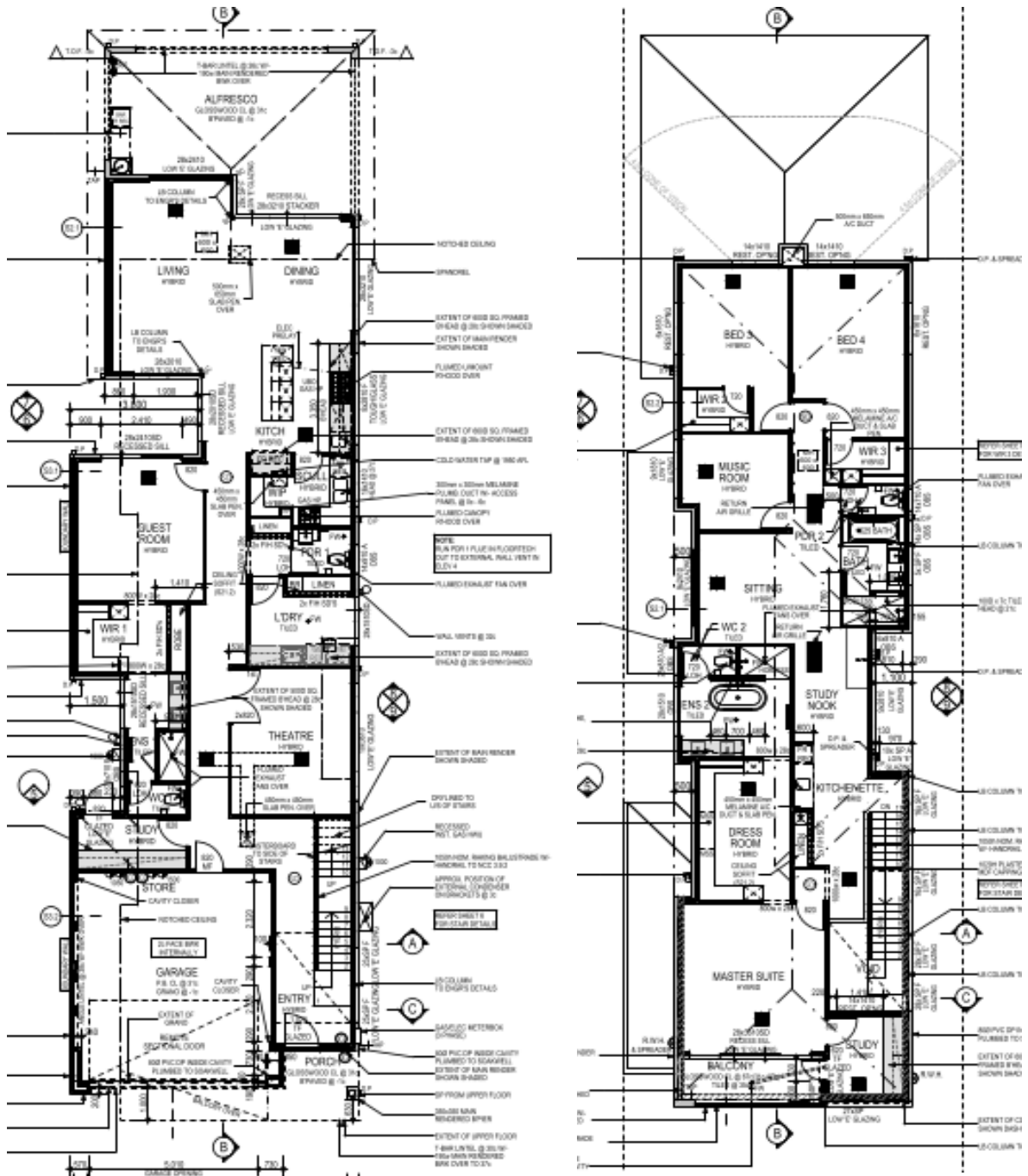


Figure 2: 67A Kennedy Street ground floor and first floorplans – no first floor major openings directly to the eastern boundary with 67B Kennedy Street.

U23/0610 – REMOVAL OF CONDITION OF APPROVAL ON DA-2021-1238 - LOT 889 (NO. 67B) KENNEDY STREET, ALFRED COVE 6154 (REC) (ATTACHMENT)

The privacy impact of the window without the benefit of screening has been assessed against the design principles of Clause 5.4.1 of the R Codes Vol 1 and is considered to have met these as there are no major openings or outdoor living areas within the cone of vision and as such the privacy for occupiers of that dwelling is safeguarded. This is shown in Figure 4 below which shows that the windows on the receptor property at 67a Kennedy are either highlight windows, or they serve non-habitable rooms. In that way they are not capable of being overlooked in the context of the R Code requirements. The only major openings located on the adjoining property are highlighted by Figure 3 below, and as shown by Figure 4 below these are unaffected by the cone of vision from the subject window on 67b.

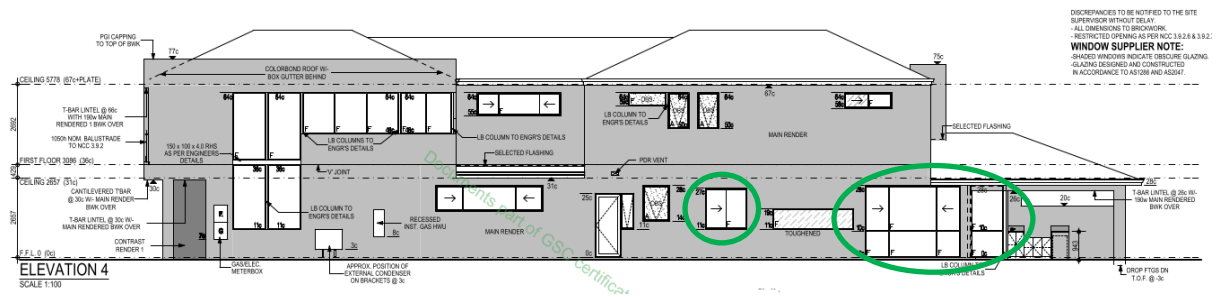


Figure 3: 67A Kennedy Street eastern elevation major openings (green)

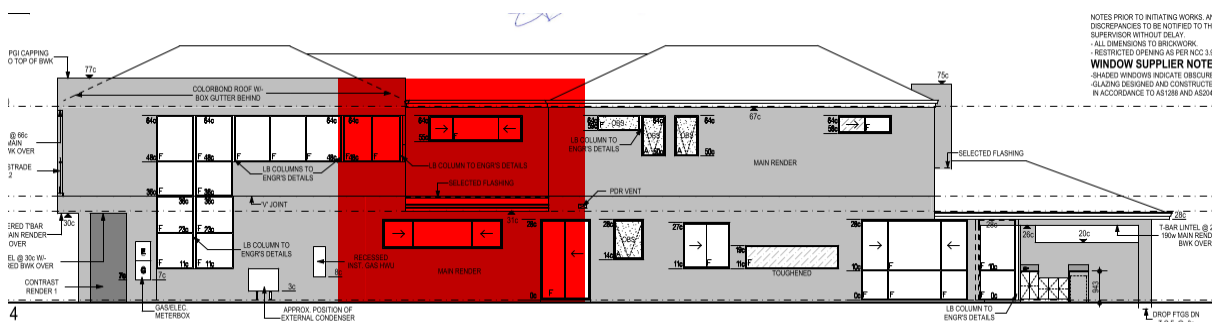


Figure 4: 67A Kennedy Street eastern elevation cone of vision impact

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

This application is proposed to be approved under delegation through the Development Advisory Unit (DAU) process.

Should Elected Members have an alternative view, the DAU 'call-up' procedures provide opportunity to call this matter up for formal Council consideration.

CONCLUSION

The proposed removal of condition 10 meets the relevant design principles of the R-Codes and therefore is not considered to generate overlooking issues which will be detrimental to the amenity and privacy of the adjoining residence.

U23/0610 – REMOVAL OF CONDITION OF APPROVAL ON DA-2021-1238 - LOT 889 (NO. 67B) KENNEDY STREET, ALFRED COVE 6154 (REC) (ATTACHMENT)

OFFICER RECOMMENDATION

APPROVAL

- 1. That Condition 10 be deleted from DA-2022-907 subject to all other conditions remaining applicable.**

**ATTACHMENTS
OF THE
DEVELOPMENT ADVISORY UNIT
MEETING
HELD ON
TUESDAY, 20 JUNE 2023
U23/0610**

Distributed: Friday, 23 June 2023

CONSTRUCTION NOTES

24°43' Roof Pitch
Metal ROOF

31c GROUND FLOOR
28c+PL UPPER FLOOR

RENDERED BWK EXTERNALLY

N1
TERRAIN CATEGORY 3

ALL DIMENSIONS STATED ON THIS DRAWING RELATE TO BRICKWORK SETOUT ONLY. NO ALLOWANCE IS MADE FOR ADDITION OF PLASTER OR WALL FINISH WHERE THESE APPLY. CARE SHOULD BE TAKEN TO INCLUDE SUCH ALLOWANCES IN CALCULATION OF CLEARANCE REQUIRED FOR FUTURE FITTINGS.

RWP POSITIONS SHOWN ARE APPROXIMATE AND ARE TO BE POSITIONED AT THE ROOF PLUMBERS DISCRETION.

- OPENABLE BEDROOM WINDOWS NON-COMPLIANT WITH NCC (1.7m) OR WINDOWS LESS THAN 1M, TO HAVE A SUITABLE DEVICE FITTED TO RESTRICT THE OPENING TO MAX. 125mm.

Corrosion Classification R2

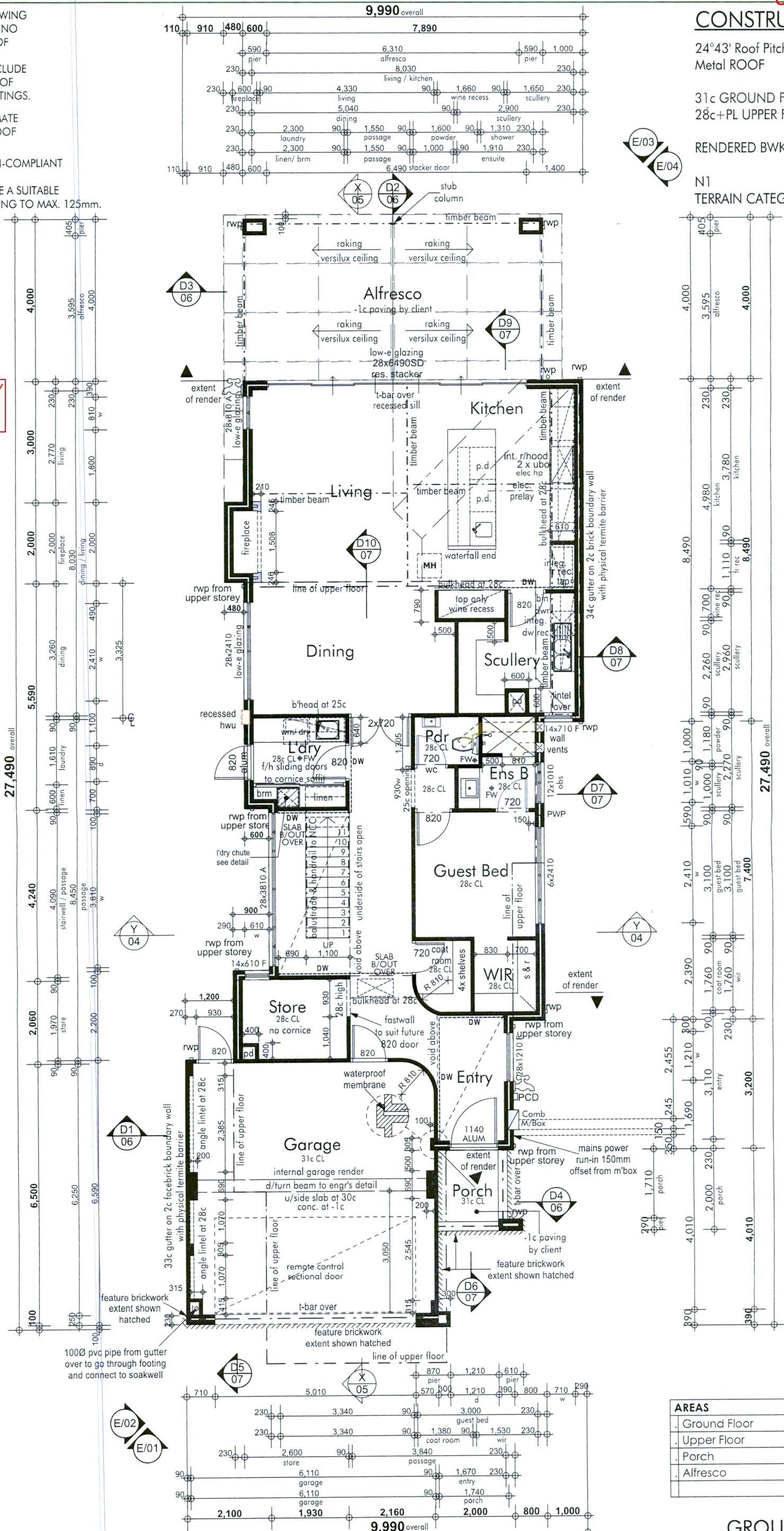
PLASTERER/CEILING FIXER

- DRYWALLING MARKED "DW"

Cavity Insulation to all external cavity walls


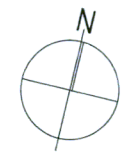
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APPLICANTS COPY



AREAS	
Ground Floor	137.95 (57.576m)
Upper Floor	122.97
Porch	3.69
Alfresco	30.75
	295.36 m ²

GROUND FLOOR PLAN

 <p>WEBB & BROWN-NEAVES</p>	CLIENT: J. Kalla & A. Lee ADDRESS: LOT 889 (#67b) KENNEDY ST ALFRED COVE	OWNER OWNER BUILDER DATE		CONTRACT DRAWN: EDG DATE: 20/01/22 CHECKED: MDS	AMENDMENTS: 20/01/22 EDG PCVO1 20/01/22 EDG PCVO2 28/02/22 EDG Engr Cert. 11/03/22 TDB VO1 10/05/22 EH VO2	Individual SHEET No. 1 of 16 SCALE: 1:100 JOB NO: 17773
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ALL DIMENSIONS STATED ON THIS DRAWING RELATE TO BRICKWORK SETOUT ONLY. NO ALLOWANCE IS MADE FOR ADDITION OF PLASTER OR WALL FINISH WHERE THESE APPLY. CARE SHOULD BE TAKEN TO INCLUDE SUCH ALLOWANCES IN CALCULATION OF CLEARANCE REQUIRED FOR FUTURE FITTINGS.

RWP POSITIONS SHOWN ARE APPROXIMATE AND ARE TO BE POSITIONED AT THE ROOF PLUMBERS DISCRETION.

- OPENABLE BEDROOM WINDOWS NON-COMPLIANT WITH NCC (1.7m) OR WINDOWS LESS THAN 1M, TO HAVE A SUITABLE DEVICE FITTED TO RESTRICT THE OPENING TO MAX. 125mm.

Corrosion Classification R?

PLASTERER/CEILING FIXER
- DRYWALLING MARKED "DW"

Cavity Insulation to all external cavity walls

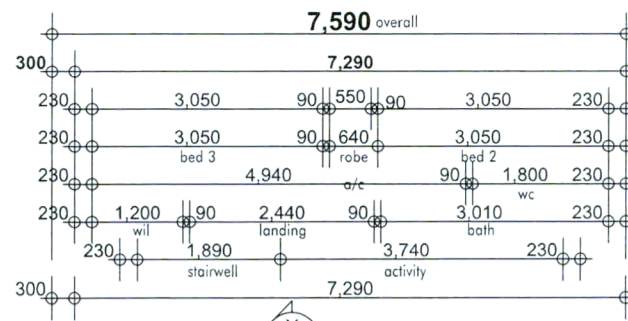
CONSTRUCTION NOTES

24°43' Roof Pitch
Metal ROOF

31c GROUND FLOOR
28c+PL UPPER FLOOR

RENDERED BWK EXTERNALLY

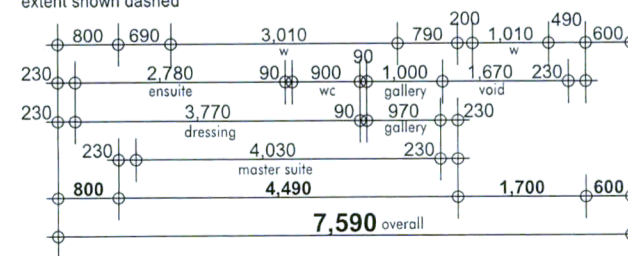
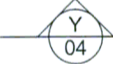
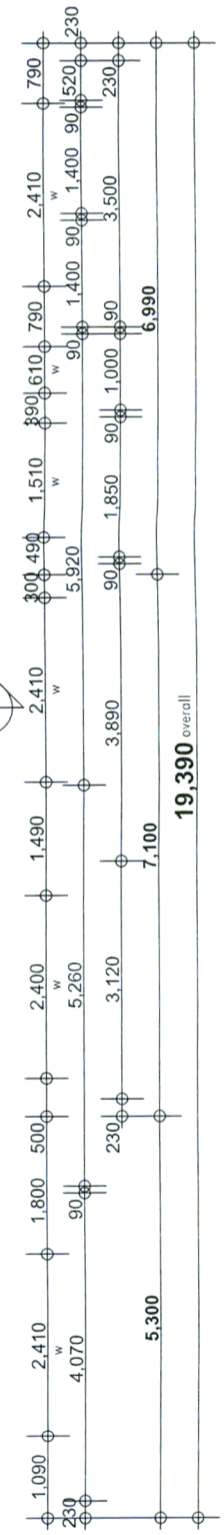
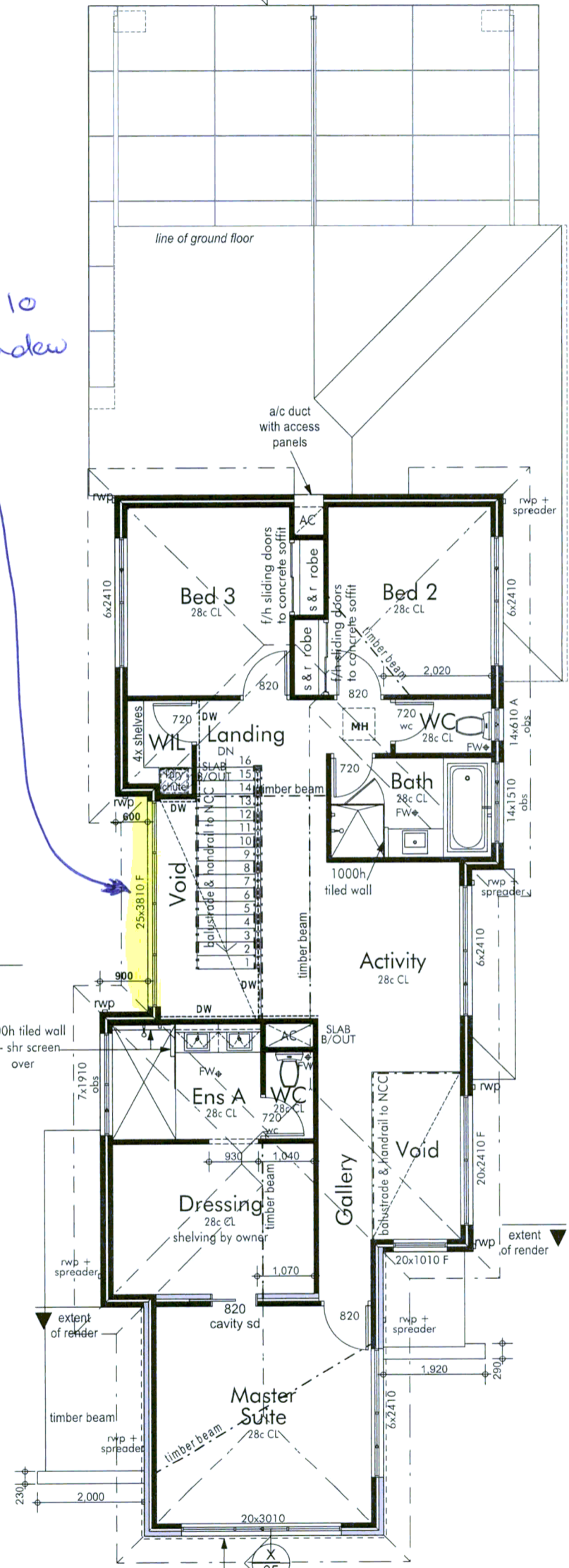
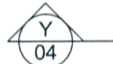
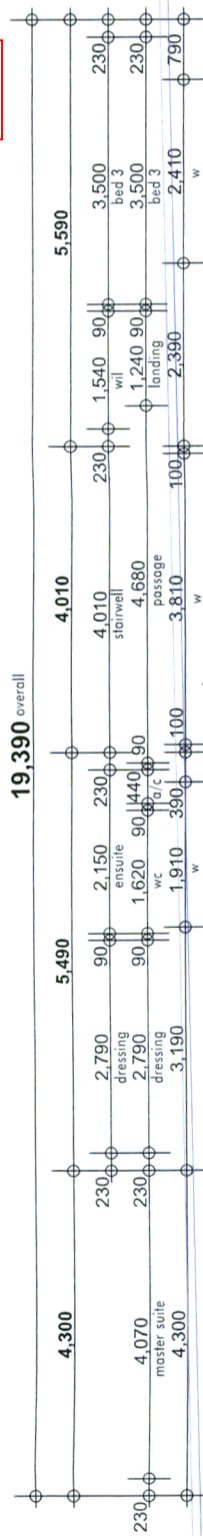
N1
TERRAIN CATEGORY 3



Remove Condition to for obscured window treatment

PLANNING APPROVAL ONLY
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AREAS		
Ground Floor	137.95	(57.576m)
Upper Floor	122.97	
Porch	3.69	
Alfresco	30.75	
Total	295.36	m²

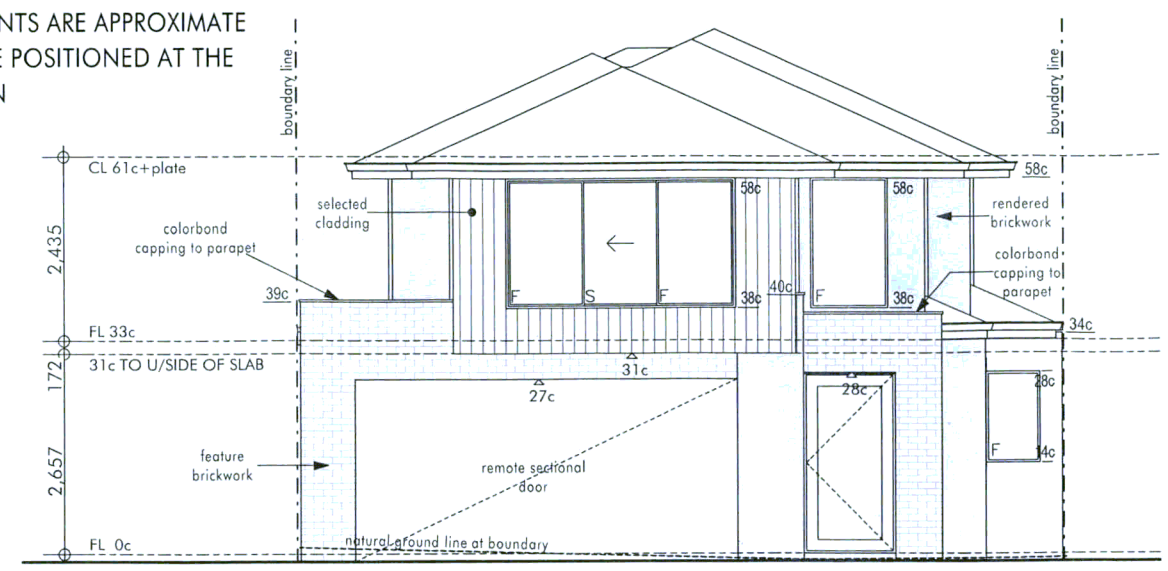
UPPER FLOOR PLAN

	CLIENT: J. Kalla & A. Lee	OWNER		CONTRACT DRAWN: EDG	AMENDMENTS: 20/01/22 EDG PCVO1 20/01/22 EDG PCVO2 28/02/22 EDG Engr. Cert. 11/03/22 TDB VO1 10/05/22 EH VO2	Individual
	ADDRESS: LOT 889 (#67b) KENNEDY ST ALFRED COVE	OWNER		DATE: 20/01/22		SHEET No. 2 of 16
		BUILDER		CHECKED: MDS		SCALE: 1:100
		DATE				JOB NO: 17773

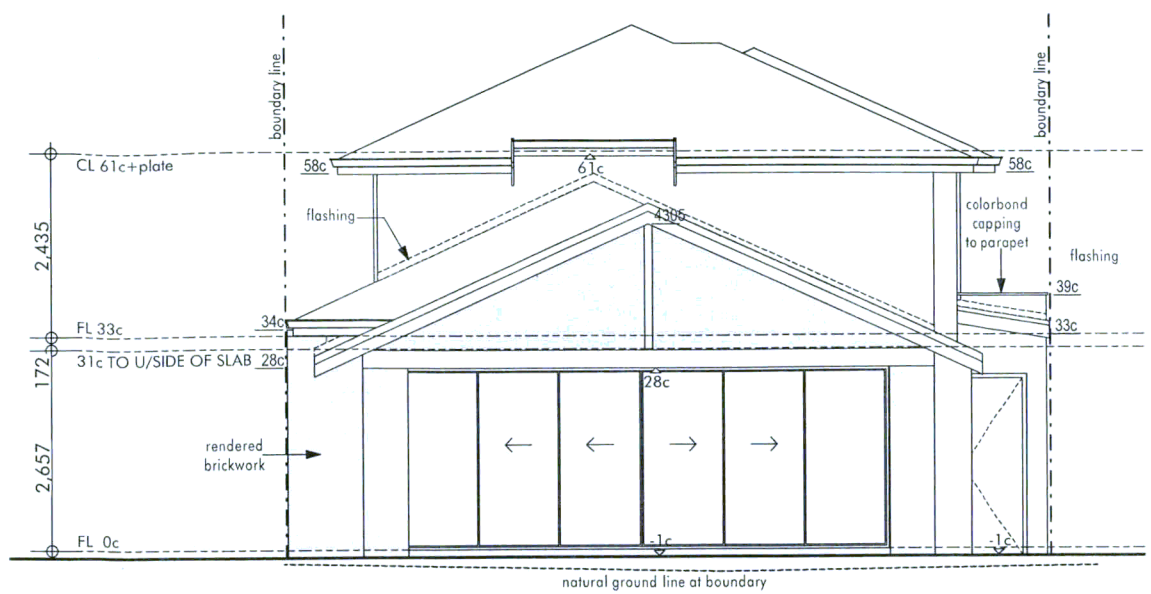
CLIENT NOTE
- LOCATION OF 'V' JOINTS ARE APPROXIMATE ONLY AND ARE TO BE POSITIONED AT THE BUILDERS DISCRETION

PLANNING APPROVAL ONLY
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BUILDING PERMIT

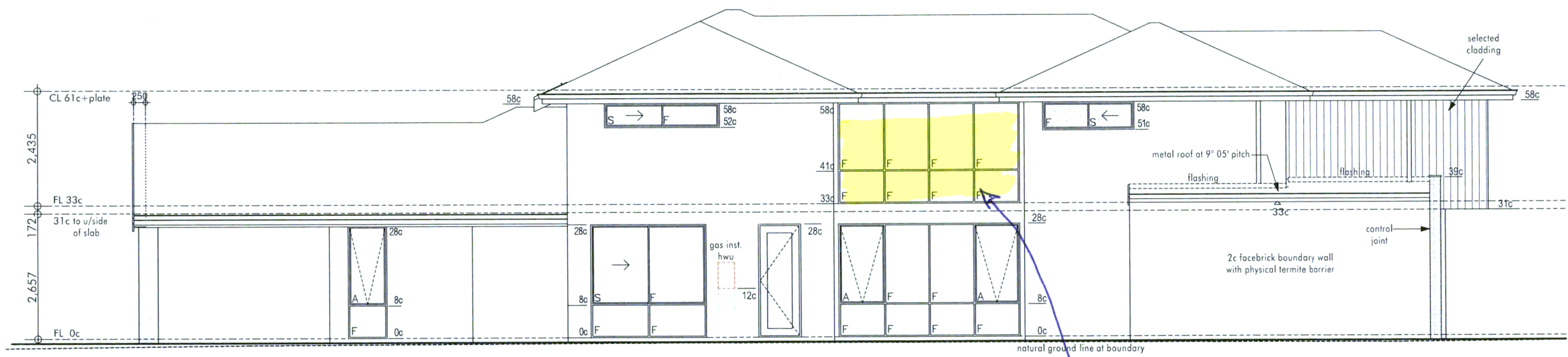
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ELEVATION 1

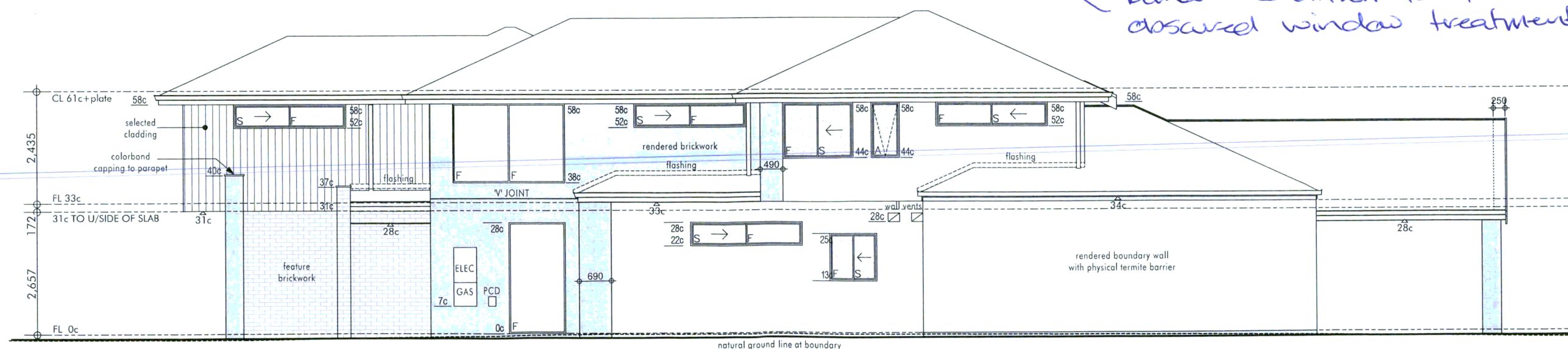


ELEVATION 3




ELEVATION 2

Remove condition 10 for obscured window treatment.



ELEVATION 4

	CLIENT: J. Kalla & A. Lee	OWNER	CONTRACT DRAWN: EDG	AMENDMENTS:	Individual SHEET No. 3 of 16
	ADDRESS: LOT 889 (#67b) KENNEDY ST ALFRED COVE	OWNER	DATE: 20/01/22	20/01/22 EDG PCVO1 20/01/22 EDG PCVO2 28/02/22 EDG Engr Cert. 11/03/22 TDB VO1 10/05/22 EH VO2	
		BUILDER	CHECKED: MDS		SCALE: 1:100
		DATE			JOB NO: 17773