

26 April 2022



Chief Executive Officer
Douglas Shire Council
64-66 Front Street
MOSSMAN QLD 4873

RE: CHANGE APPLICATION (MINOR CHANGE) PURSUANT TO S78 OF THE PLANNING ACT 2016, FOR EXISTING DEVELOPMENT PERMIT FOR A MATERIAL CHANGE OF USE (DWELLING HOUSE) OVER LAND AT 76 SPRING CREEK ROAD, MOWBRAY, MORE FORMALLY DESCRIBED AS LOT 4 ON SPI 14407

Aspire Town Planning and Project Services act on behalf of Mr Adam Jones and Mrs. Eleanor Jane Jones (the 'Landowners' and 'Applicants').

On behalf of the Landowners, please accept the following Change Application, pursuant to Section 78 of the *Planning Act 2016* (the 'Act') which seeks Approval to amend the 'Approved Drawing(s) and/or Document(s)' schedule and Appendix of the Development Permit for a Material Change of Use (House) granted in favour of the property at 76 Spring Creek Road. The purpose of the Change Application (Minor Change) is to facilitate an alternative built form discussed further herein.

In support of the Change Application (Minor Change) the following documents are attached:

- Certificate of Title (Attachment 1)
- Duly completed Change Application Form – Planning Act Form 5 (Attachment 2);
- Owners Consent Form (Attachment 3);
- Proposed Site, Floor and Elevation Plans (Attachment 4); and
- Code Assessment (Attachment 5)

The relevant Application Fee of \$450.00 will be paid on lodgement of Change Application (Minor Change).

12 Lloyd Road MIALLO, QLD 4873
PO BOX 1040, MOSSMAN QLD 4873
M. 0418826560
E. admin@aspireqld.com
ABN. 79 851 193 691

Site Description

The subject property is located at 76 Spring Creek Road and is more formally described as Lot 4 on SP114407, see Image 1 below. The property is 55.48ha in size and is largely vegetated. An Easement in favour of the FNQ Electrical Board traverses the north eastern corner of the property. The property is improved by way of an existing single bedroom House, pool and detached garage. An existing concrete driveway provides access to the House from Spring Creek Road. The property is provided with other necessary services including electrical and telecommunications supply, water and onsite waste water disposal.



Image 1: Subject Property (source: QLDGlobe 2022)

Background and Proposal Description

When Douglas Shire was amalgamated with the Cairns Regional Council, the former Landowners of the property were granted a Development Permit for a Material Change of Use (House). This Development Permit was acted upon, however, a much smaller House was built on the property than originally approved, see Images 2 and 3.

The current Landowners purchased the property in 2020 and wish to undertake renovations to build a larger Dwelling House. The renovations off greater living and bedroom space and incorporate the exiting House, refer to Attachment 4). The scale of the proposed renovations are similar to the original House approved by Cairns Regional Council. The new Dwelling House will be contained to the existing benched building pad and will utilise the existing services.



Image 2: Aerial view of existing House



Image 3: Front view of existing House

Planning Context

The property is located within the Rural Zone of the 2018 Douglas Shire Council Planning Scheme and the type of development proposed is defined as a Dwelling House. There are no Local Plans which relate to the property however the following Overlays are relevant:

- Bushfire Hazard
- Hillslopes
- Landscape Values
- Landslide
- Natural Areas
- Transport Road Hierarchy.

A Dwelling House within the Rural Zone is Code Assessable unless where exceeding the Self Assessable provisions.

Minor Change Test

By way of definition under the Act, a 'Minor Change', means a change that:

"...

(b) for a development approval—

(i) would not result in substantially different development; and

(ii) if a development application for the development, including the change, were made when the change application is made would not cause—

(A) the inclusion of prohibited development in the application; or

(B) referral to a referral agency, other than to the chief executive, if there were no referral agencies for the development application; or

(C) referral to extra referral agencies, other than to the chief executive; or

(D) a referral agency, in assessing the application under section 55(2), to assess the application against, or have regard to, a matter, other than a matter the referral agency must have assessed the application against, or had regard to, when the application was made; or

(E) public notification if public notification was not required for the development application."

Assessment Comments

Whether the development triggers 'Substantially Different Development' is assessed in the following section of this correspondence, however in response to the other above Minor Change criteria, it is submitted that the:

- The proposed Change would not cause prohibited development;
- If a development application were made, including the proposed Change, it would not trigger referral to a referral agency. The original development application was referred to the Department of Natural Resources and Water for consideration of vegetation matters. SARA has advised verbally that as the original Development Permit was granted approval with no conditions, SARA does not need to consider the Change Application (Minor Change) as an Affected Entity;
- The proposed Change does not trigger additional referral agencies; and
- If a development application were made, including the proposed Change, it would not trigger Public Notification.

Substantially Different Development Test

The Development Assessment Rules V1.3 offer guidance in relation to assessing whether a proposed Change results in Substantially Different Development:

"A change may be considered to result in a substantially different development if any of the following apply to the proposed change:

-
- (a) involves a new use; or*
 - (b) results in the application applying to a new parcel of land; or*
 - (c) dramatically changes the built form in terms of scale, bulk and appearance; or*
 - (d) changes the ability of the proposed development to operate as intended; or*
 - (e) removes a component that is integral to the operation of the development; or*
 - (f) significantly impacts on traffic flow and the transport network, such as increasing traffic to the site; or*
 - (g) introduces new impacts or increase the severity of known impacts; or*
 - (h) removes an incentive or offset component that would have balanced a negative impact of the development; or*
 - (i) impacts on infrastructure provisions.”*

Assessment Comments

It is submitted that the proposed Change will not result in Substantially Different Development, in particular it is noted that:

- The Change does not involve a new use. The approved use remains a Dwelling House as defined by the current 2018 Douglas Shire Council Planning Scheme;
 - The Change does not introduce a new parcel of land;
 - Although the Change results in an increase in scale, the proposed scale is similar to that originally assessed and approved by Cairns Regional Council in the Development Permit that is subject to this Change Application (Minor Change);
 - The Change does not affect the ability of the development to operate as intended;
 - The Change does not remove an integral component of the development;
 - The Change does not impact traffic flow or the transport network;
 - The Change does not introduce new impacts or increase severity of known impacts;
 - The Change does not remove an incentive or offset; and
- The Change will not impact on infrastructure provisions.

Assessing Change Applications for Minor Change

In consideration of the above two assessment sections, it is therefore submitted that the proposed Change is a Minor Change.

In assessing Change Applications for Minor Change, s82 of the Act prescribes:

“... the responsible entity must consider—

- (a) the information the applicant included with the application; and*

(b) if the responsible entity is the assessment manager—any properly made submissions about the development application or another change application that was approved; and

(c) any pre-request response notice or response notice given in relation to the change application; and

(d) if the responsible entity is, under section 78A(3), the Minister—all matters the Minister would or may assess against or have regard to, if the change application were a development application called in by the Minister; and

(da) if paragraph (d) does not apply—all matters the responsible entity would or may assess against or have regard to, if the change application were a development application; and

(e) another matter that the responsible entity considers relevant.”

In relation to the above, it is noted that:

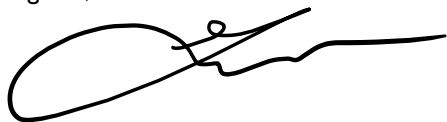
- The original development application was, and a new development application would be Code Assessable and therefore Public Notification would not apply; and
- The original Development Permit was granted under a superseded version of the planning scheme. In initial discussions between the Project Architect and Daniel Lamond (Planning Officer – Douglas Shire Council), it has been requested that a Code Assessment is provided against the Rural Zone Code and the Hillslopes Code (see Attachment 5).

Conclusion

It is demonstrated that the proposed Changes is a Minor Change and does not result in Substantially Different Development. The proposed Change remains in keeping with the intent for the land under the current 2018 Douglas Shire Council Planning Scheme and existing Development Permit. Where Council supports the Change Application (Minor Change) it is respectfully requested that the Approved Drawing(s) and Document(s) schedule and Appendix section of the existing Development Permit are updated with the plans submitted under Attachment 4 to this application.

Thank you for your time in considering this application and if you wish to inspect the property or have any further queries, please contact the undersigned.

Regards,



Daniel Favier
Senior Town Planner
ASPIRE Town Planning and Project Services

Attachment I:
Certificate of Title

Queensland Titles Registry Pty Ltd
ABN 23 648 568 101

Title Reference:	50281410	Search Date:	24/04/2022 09:06
Date Title Created:	21/09/1999	Request No:	40852979
Previous Title:	21234170		

ESTATE AND LAND

Estate in Fee Simple

LOT 4 SURVEY PLAN 114407

Local Government: DOUGLAS

REGISTERED OWNER

Dealing No: 720353876 27/10/2020

ADAM JONES

ELEANOR JANE JONES

JOINT TENANTS

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by
Deed of Grant No. 10568186 (POR 43)
2. EASEMENT IN GROSS No 601495354 (N884934) 13/07/1978
BURDENING THE LAND
TO THE FAR NORTH QUEENSLAND ELECTRICITY BOARD
OVER EASEMENT B ON RP31073
3. MORTGAGE No 720353877 27/10/2020 at 11:43
AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED A.C.N. 005
357 522

ADMINISTRATIVE ADVICES

NIL

UNREGISTERED DEALINGS

NIL

Caution - Charges do not necessarily appear in order of priority

** End of Current Title Search **

Attachment 2:

**Duly Completed Change Application Form – Planning
Act Form 5**

Change application form

Planning Act Form 5 (version 1.2 effective 7 February 2020) made under Section 282 of the Planning Act 2016.

This form is to be used for a change application made under section 78 of the *Planning Act 2016*. It is important when making a change application to be aware of whether the application is for a minor change that will be assessed under section 81 of the *Planning Act 2016* or for an other change that will be assessed under section 82 of the *Planning Act 2016*.

An applicant must complete all parts of this form, and provide any supporting information that the form identifies as being required to accompany the change application, unless stated otherwise. Additional pages may be attached if there is insufficient space on the form to complete any part.

Note: All terms used in this form have the meaning given under the *Planning Act 2016*, the *Planning Regulation 2017*, or the *Development Assessment Rules (DA Rules)*.

PART 1 – APPLICANT DETAILS

1) Applicant details	
Applicant name(s) (individual or company full name)	Adam Jones and Eleanor Jane Jones
Contact name (only applicable for companies)	c/- Daniel Favier (Aspire Town Planning and Project Services)
Postal address (P.O. Box or street address)	PO Box 1040
Suburb	Mossman
State	QLD
Postcode	4873
Country	Australia
Email address (non-mandatory)	admin@aspireqld.com
Mobile number (non-mandatory)	0418826560
Applicant's reference number(s) (if applicable)	2022-04-06 - Jones - 76 Spring Creek Road, Mowbray

2) Owner's consent - Is written consent of the owner required for this change application?	
Note: Section 79(1A) of the <i>Planning Act 2016</i> states the requirements in relation to owner's consent.	
<input checked="" type="checkbox"/> Yes – the written consent of the owner(s) is attached to this change application	
<input type="checkbox"/> No	

PART 2 – LOCATION DETAILS

3) Location of the premises (complete 3.1) or 3.2), and 3.3) as applicable)				
3.1) Street address and lot on plan				
<input checked="" type="checkbox"/> Street address AND lot on plan (all lots must be listed), or				
<input type="checkbox"/> Street address AND lot on plan for an adjoining or adjacent property of the premises (appropriate for development in water but adjoining or adjacent to land e.g. jetty, pontoon. All lots must be listed).				
a)	Unit No.	Street No.	Street Name and Type	Suburb
		76	Spring Creek Road	Mowbray
	Postcode	Lot No.	Plan Type and Number (e.g. RP, SP)	Local Government Area(s)
		4	SP114407	Douglas Shire
b)	Unit No.	Street No.	Street Name and Type	Suburb
	Postcode	Lot No.	Plan Type and Number (e.g. RP, SP)	Local Government Area(s)

3.2) Coordinates of premises (appropriate for development in remote areas, over part of a lot or in water not adjoining or adjacent to land e.g. channel dredging in Moreton Bay)

Note: Place each set of coordinates in a separate row.

☐ Coordinates of premises by longitude and latitude

Longitude(s)	Latitude(s)	Datum	Local Government Area(s) (if applicable)
		<input type="checkbox"/> WGS84 <input type="checkbox"/> GDA94 <input type="checkbox"/> Other:	

☐ Coordinates of premises by easting and northing

Easting(s)	Northing(s)	Zone Ref.	Datum	Local Government Area(s) (if applicable)
		<input type="checkbox"/> 54 <input type="checkbox"/> 55 <input type="checkbox"/> 56	<input type="checkbox"/> WGS84 <input type="checkbox"/> GDA94 <input type="checkbox"/> Other:	

3.3) Additional premises

- ☐ Additional premises are relevant to the original development approval and the details of these premises have been attached in a schedule to this application
- ☒ Not required

PART 3 – RESPONSIBLE ENTITY DETAILS

4) Identify the responsible entity that will be assessing this change application

Note: see section 78(3) of the Planning Act 2016

Douglas Shire Council

PART 4 – CHANGE DETAILS

5) Provide details of the existing development approval subject to this change application

Approval type	Reference number	Date issued	Assessment manager/approval entity
<input checked="" type="checkbox"/> Development permit <input type="checkbox"/> Preliminary approval	2265/2008	Not known	Cairns Regional Council
<input type="checkbox"/> Development permit <input type="checkbox"/> Preliminary approval			

6) Type of change proposed

6.1) Provide a brief description of the changes proposed to the development approval (e.g. changing a development approval for a five unit apartment building to provide for a six unit apartment building):

Change to the footprint of the existing Dwelling House

6.2) What type of change does this application propose?

- ☒ Minor change application – proceed to Part 5
- ☐ Other change application – proceed to Part 6

PART 5 – MINOR CHANGE APPLICATION REQUIREMENTS

7) Are there any affected entities for this change application		
<input checked="" type="checkbox"/> No – proceed to Part 7 <input type="checkbox"/> Yes – list all affected entities below and proceed to Part 7 Note: section 80(1) of the Planning Act 2016 states that the person making the change application must give notice of the proposal and the details of the change to each affected entity as identified in section 80(2) of the Planning Act 2016.		
Affected entity	Pre-request response provided? (where a pre-request response notice for the application has been given, a copy of the notice must accompany this change application)	Date notice given (where no pre-request response provided)
	<input type="checkbox"/> No <input type="checkbox"/> Yes – pre-request response is attached to this change application	
	<input type="checkbox"/> No <input type="checkbox"/> Yes – pre-request response is attached to this change application	
	<input type="checkbox"/> No <input type="checkbox"/> Yes – pre-request response is attached to this change application	

PART 6 – OTHER CHANGE APPLICATION REQUIREMENTS

Note: To complete this part it will be necessary for you to complete parts of DA Form 1 – Development application details and in some instances parts of DA Form 2 – Building work details, as mentioned below. These forms are available at <https://planning.dsdmip.qld.gov.au>.

8) Location details - Are there any additional premises included in this change application that were not part of the original development approval?
<input type="checkbox"/> No <input type="checkbox"/> Yes

9) Development details
9.1) Is there any change to the type of development, approval type, or level of assessment in this change application? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes – the completed Sections 1 and 2 of Part 3 (Development details) of DA Form 1 – Development application details as these sections relate to the new or changed aspects of development are provided with this application.
9.2) Does the change application involve building work? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes – the completed Part 5 (Building work details) of DA Form 2 – Building work details as it relates to the change application is provided with this application.

10) Referral details – Does the change application require referral for any referral requirements?
Note: The application must be referred to each referral agency triggered by the change application as if the change application was the original development application including the proposed change. <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes – the completed Part 5 (Referral details) of DA Form 1 – Development application details as it relates to the change application is provided with this application. Where referral is required for matters relating to building work the Referral checklist for building work is also completed.

11) Information request under Part 3 of the DA Rules
<input checked="" type="checkbox"/> I agree to receive an information request if determined necessary for this change application <input type="checkbox"/> I do not agree to accept an information request for this change application Note: By not agreeing to accept an information request I, the applicant, acknowledge:

- that this change application will be assessed and decided based on the information provided when making this change application and the assessment manager and any referral agencies relevant to the change application are not obligated under the DA Rules to accept any additional information provided by the applicant for the change application unless agreed to by the relevant parties
- Part 3 of the DA Rules will still apply if the application is an application listed under section 11.3 of the DA Rules.

Further advice about information requests is contained in the [DA Forms Guide: Forms 1 and 2](#).

12) Further details

- ☐ Part 7 of *DA Form 1 – Development application details* is completed as if the change application was a development application and is provided with this application.

PART 7 – CHECKLIST AND APPLICANT DECLARATION

13) Change application checklist

I have identified the:

- responsible entity in 4); and
- for a minor change, any affected entities; and ☒ Yes
- for an other change all relevant referral requirement(s) in 10)

Note: See the *Planning Regulation 2017* for referral requirements

For an other change application, the relevant sections of [DA Form 1 – Development application details](#) have been completed and is attached to this application ☐ Yes
☒ Not applicable

For an other change application, where building work is associated with the change application, the relevant sections of [DA Form 2 – Building work details](#) have been completed and is attached to this application ☐ Yes
☒ Not applicable

Supporting information addressing any applicable assessment benchmarks is attached to this application ☒ Yes

Note: This includes any templates provided under 23.6 and 23.7 of *DA Form 1 – Development application details* that are relevant as a result of the change application, a planning report and any technical reports required by the relevant categorising instrument(s) (e.g. the local government planning scheme, State Planning Policy, State Development Assessment Provisions). For further information, see [DA Forms Guide: Planning report template](#).

Relevant plans of the development are attached to this development application ☒ Yes

Note: Relevant plans are required to be submitted for all relevant aspects of this change application. For further information, see [DA Forms Guide: Relevant plans](#).

14) Applicant declaration

- ☒ By making this change application, I declare that all information in this change application is true and correct.
- ☒ Where an email address is provided in Part 1 of this form, I consent to receive future electronic communications from the responsible entity and any relevant affected entity or referral agency for the change application where written information is required or permitted pursuant to sections 11 and 12 of the *Electronic Transactions Act 2001*.

Note: It is unlawful to intentionally provide false or misleading information.

Privacy – Personal information collected in this form will be used by the responsible entity and/or chosen assessment manager, any relevant affected entity or referral agency and/or building certifier (including any professional advisers which may be engaged by those entities) while processing, assessing and deciding the change application.

All information relating to this change application may be available for inspection and purchase, and/or published on the assessment manager's and/or referral agency's website.

Personal information will not be disclosed for a purpose unrelated to the *Planning Act 2016*, *Planning Regulation 2017* and the DA Rules except where:

- such disclosure is in accordance with the provisions about public access to documents contained in the *Planning Act 2016* and the *Planning Regulation 2017*, and the access rules made under the *Planning Act 2016* and *Planning Regulation 2017*; or
- required by other legislation (including the *Right to Information Act 2009*); or
- otherwise required by law.

This information may be stored in relevant databases. The information collected will be retained as required by the *Public Records Act 2002*.

PART 8 – FOR COMPLETION OF THE ASSESSMENT MANAGER – FOR OFFICE USE ONLY

Date received: Reference number(s):

QLeave notification and payment

Note: For completion by assessment manager if applicable

Description of the work			
QLeave project number			
Amount paid (\$)		Date paid (dd/mm/yy)	
Date receipted form sighted by assessment manager			
Name of officer who sighted the form			

Attachment 3:
Owners Consent Form

Individual owner's consent for making a development application under the *Planning Act 2016*

I,
Adam Jones and Eleanor Jane Jones

as owner of the premises identified as follows:

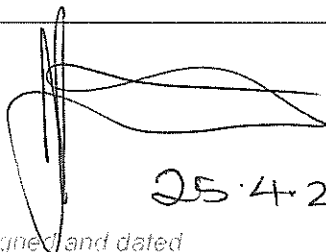
76 Spring Creek Road, Mowbray, more formally described as Lot 4 on SP114407

consent to the making of a development application under the *Planning Act 2016* by:

Daniel Favier (Aspire Town Planning and Project Services)

on the premises described above for:

Change Application (Minor Change)



Signed and dated

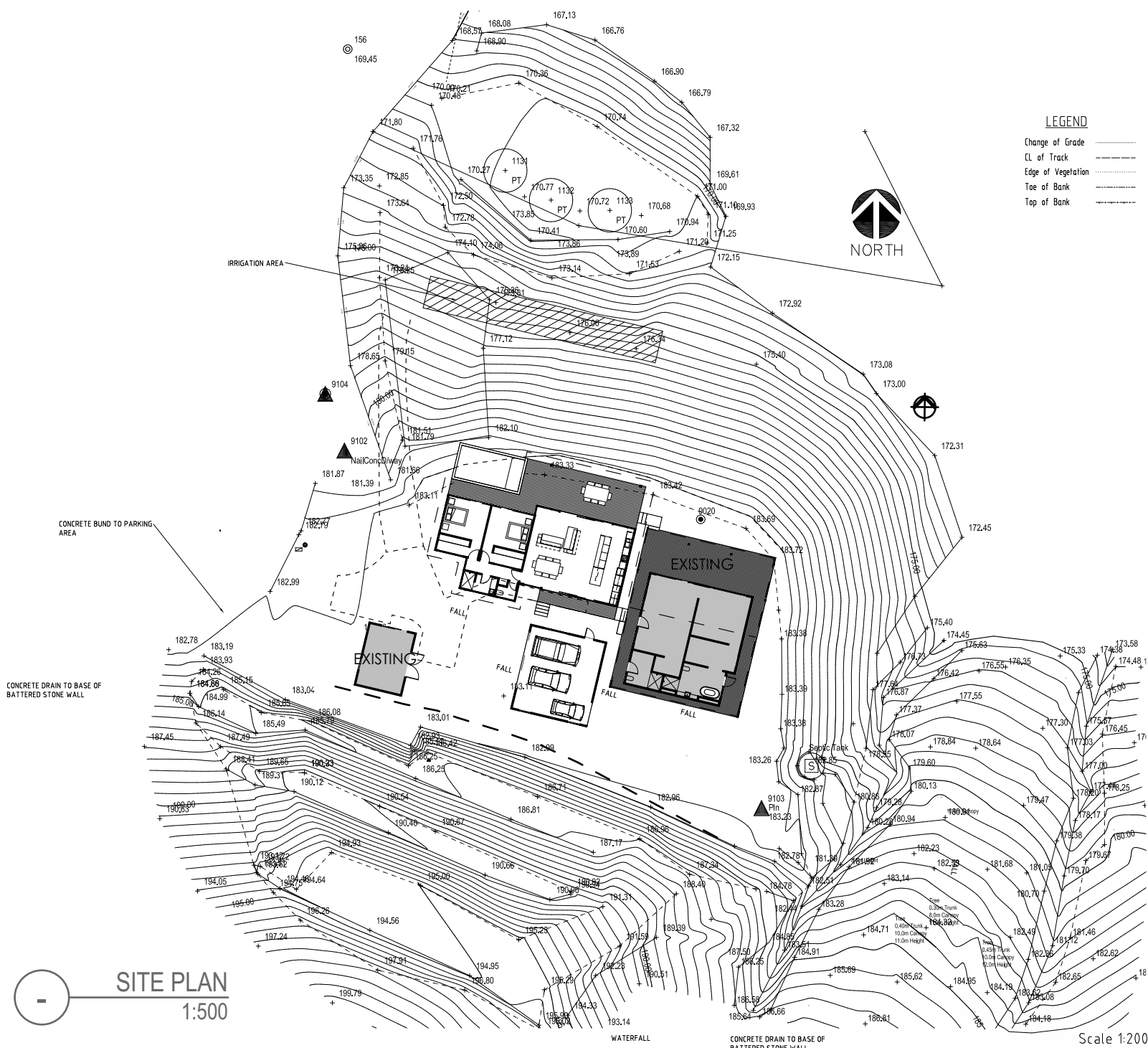
25.4.2022



25.4.2022

Attachment 4:

Proposed Site, Floor and Elevation Plans



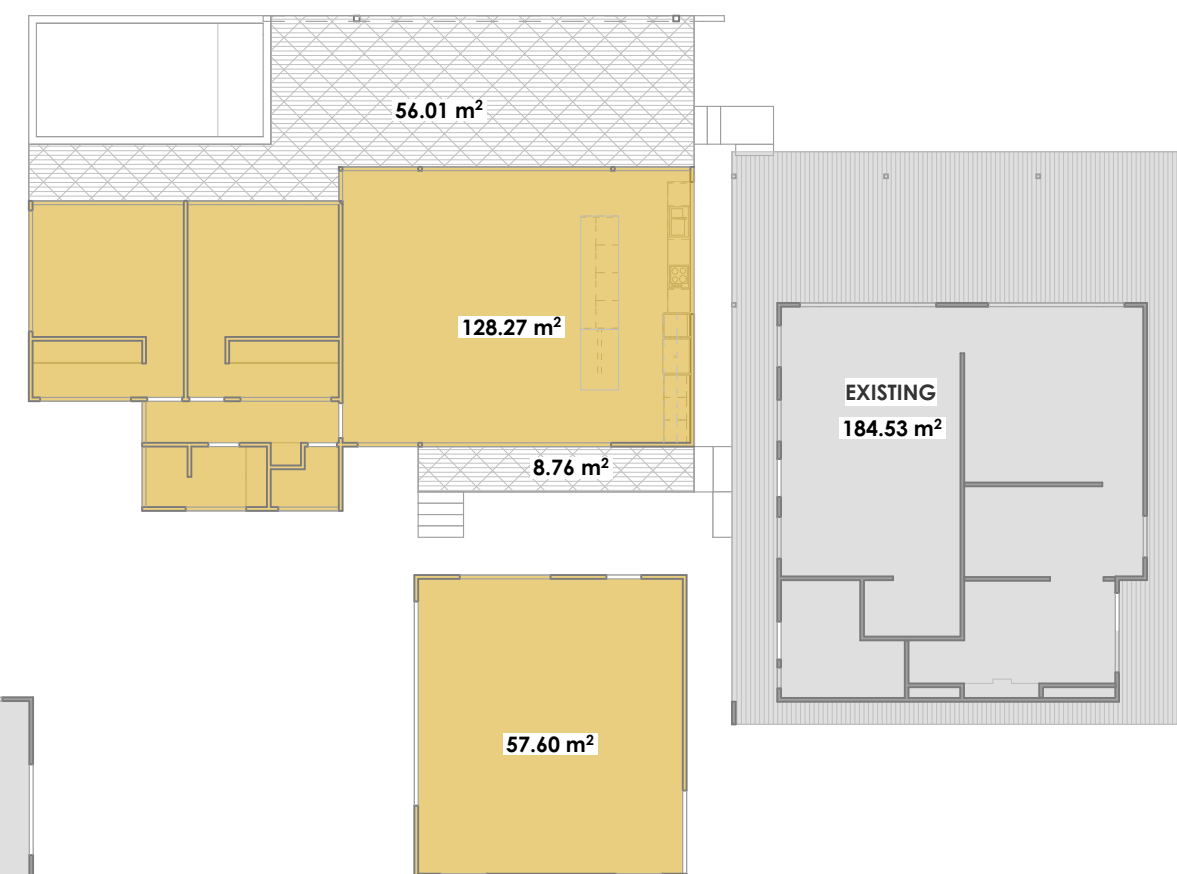
LEGEND

- Change of Grade
- LL of Track
- Edge of Vegetation
- Toe of Bank

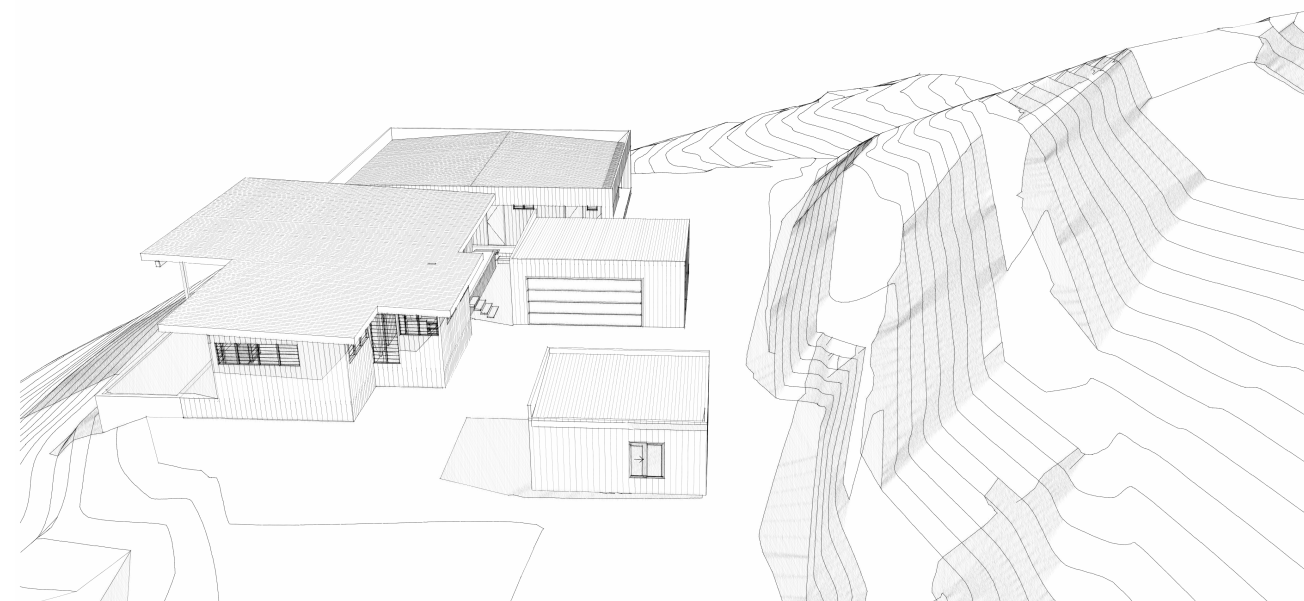
NOTES

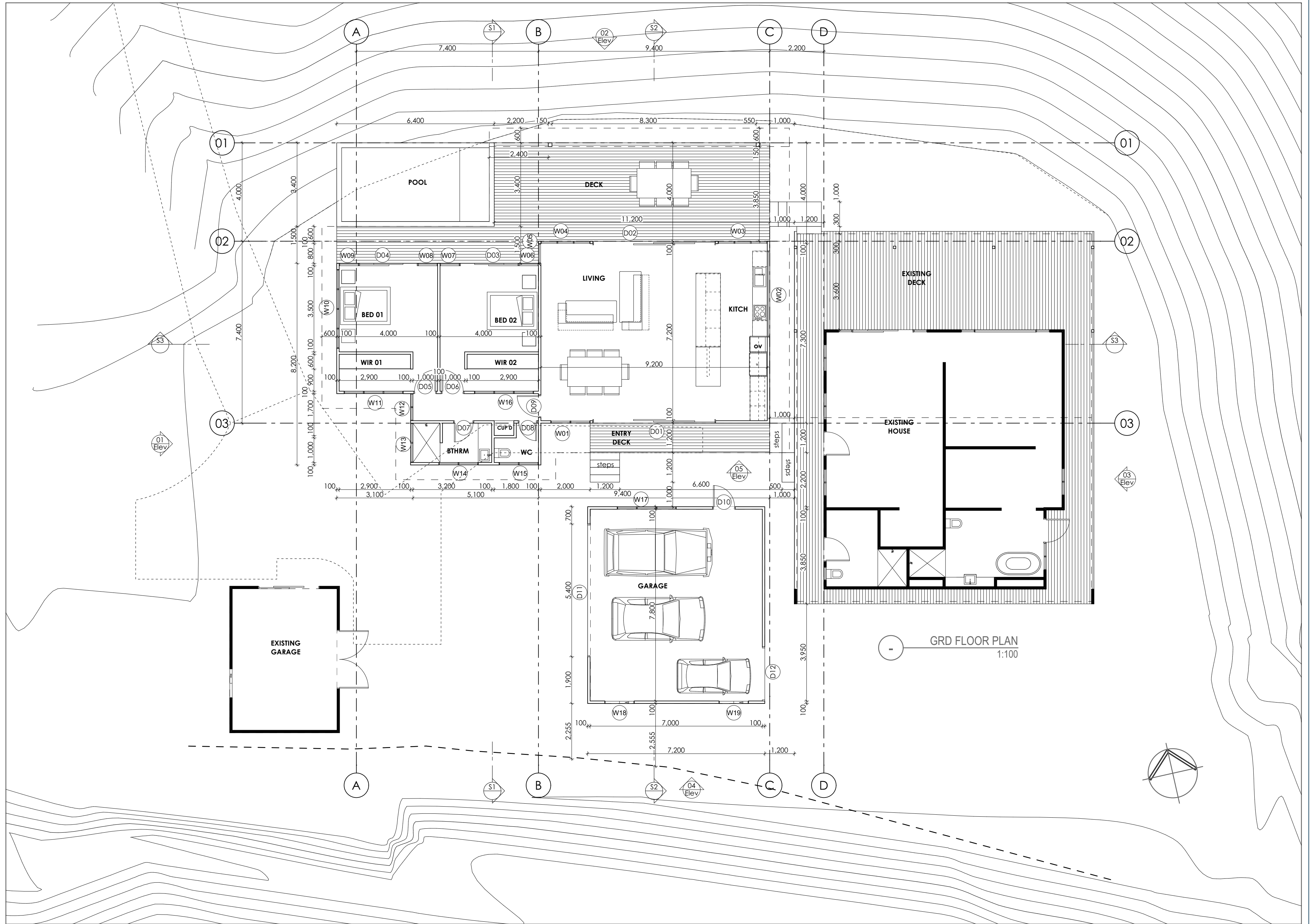
Level Datum: AUSTRALIAN
Origin of Levels: TBM - 9801
Mark in Concrete
at 100.00
Meridians: MAGNA (SAB 4°17'25")
for SPIT4457
Origin of Coordinates: TBM - 9801
Mark in Concrete
E 33709.651
N 961702.200
Contour Interval: 0.25
Index: 1.0

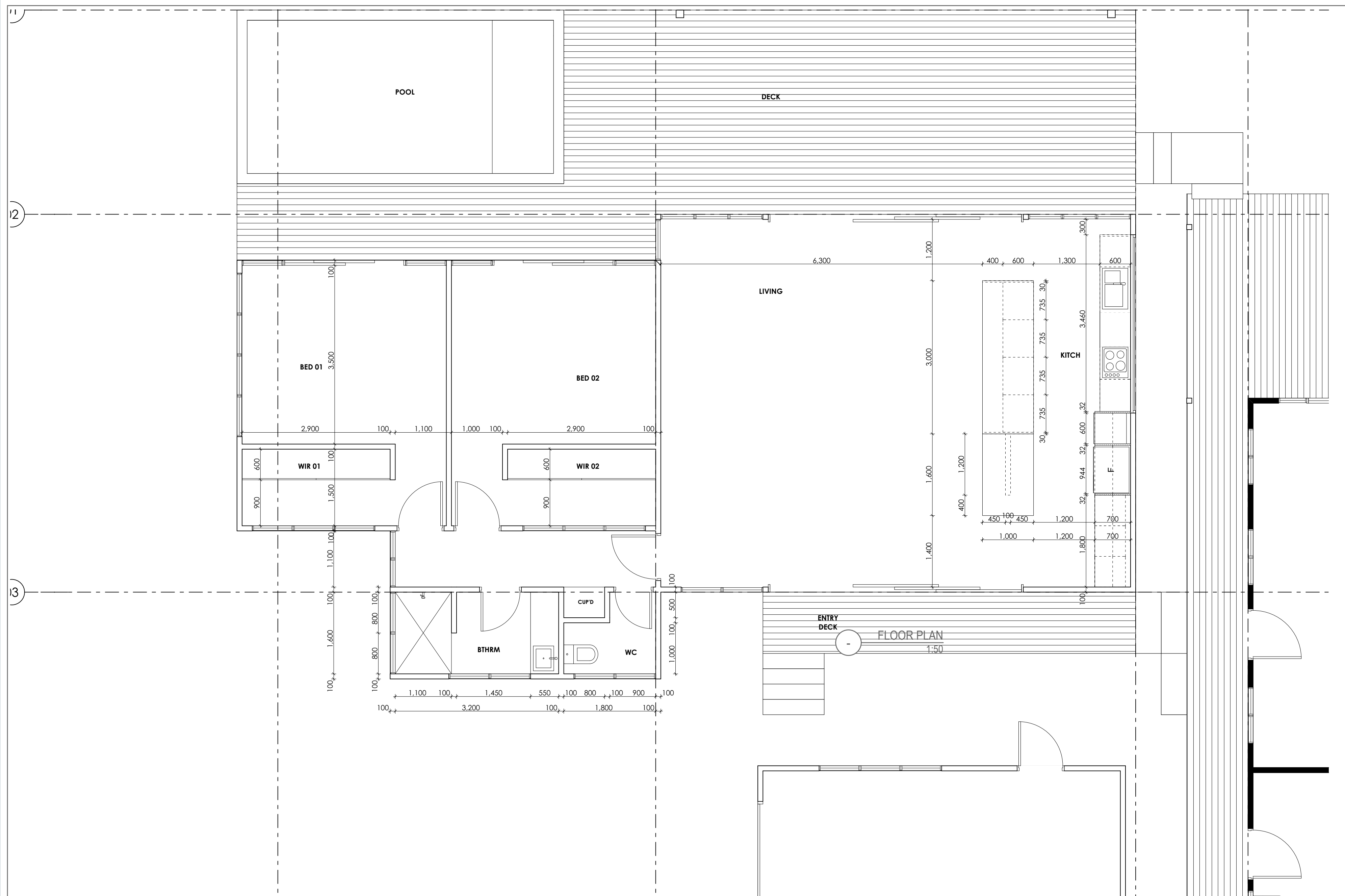
EXISTING
26.59 m²

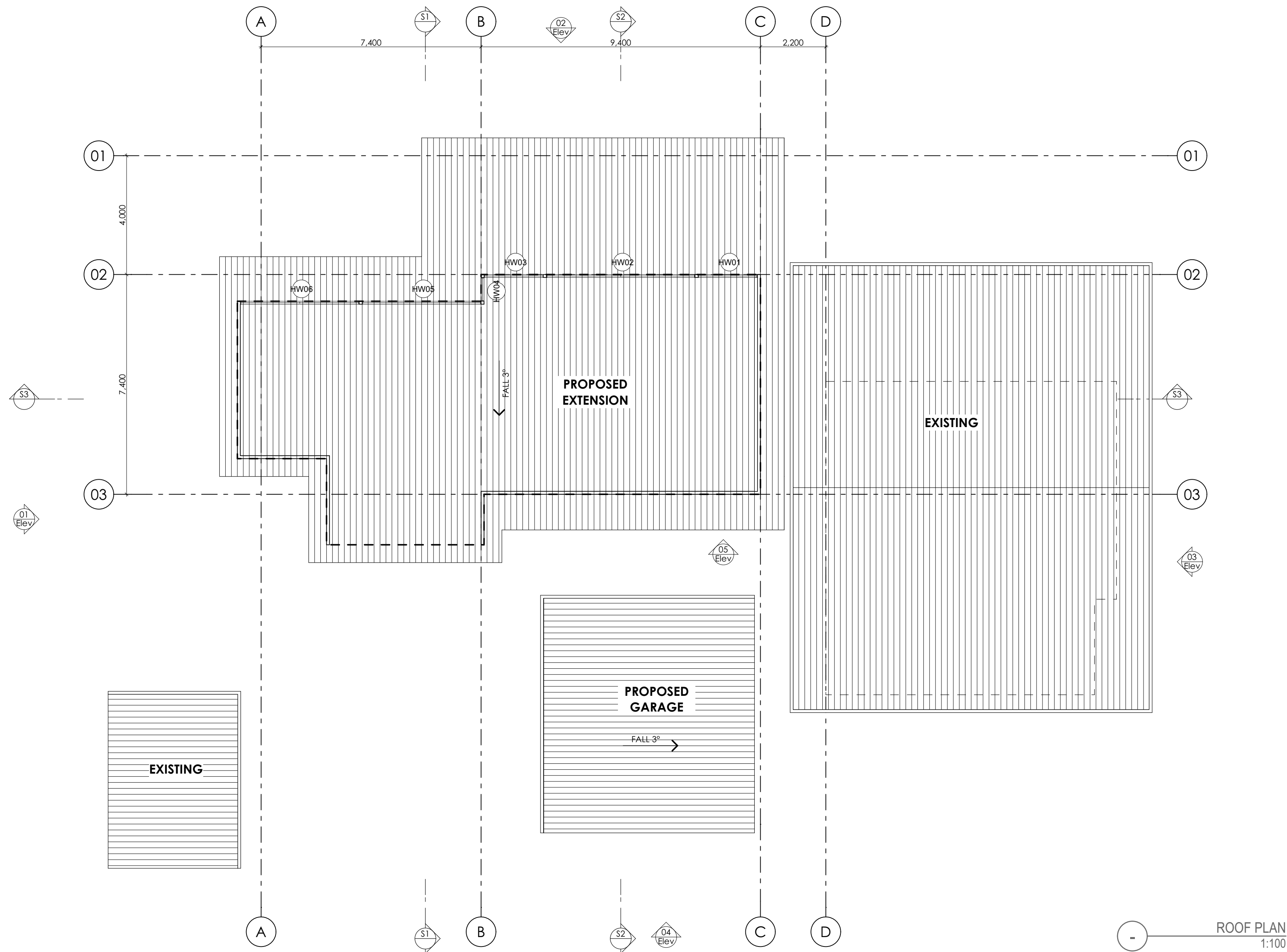


AREAS
1:200

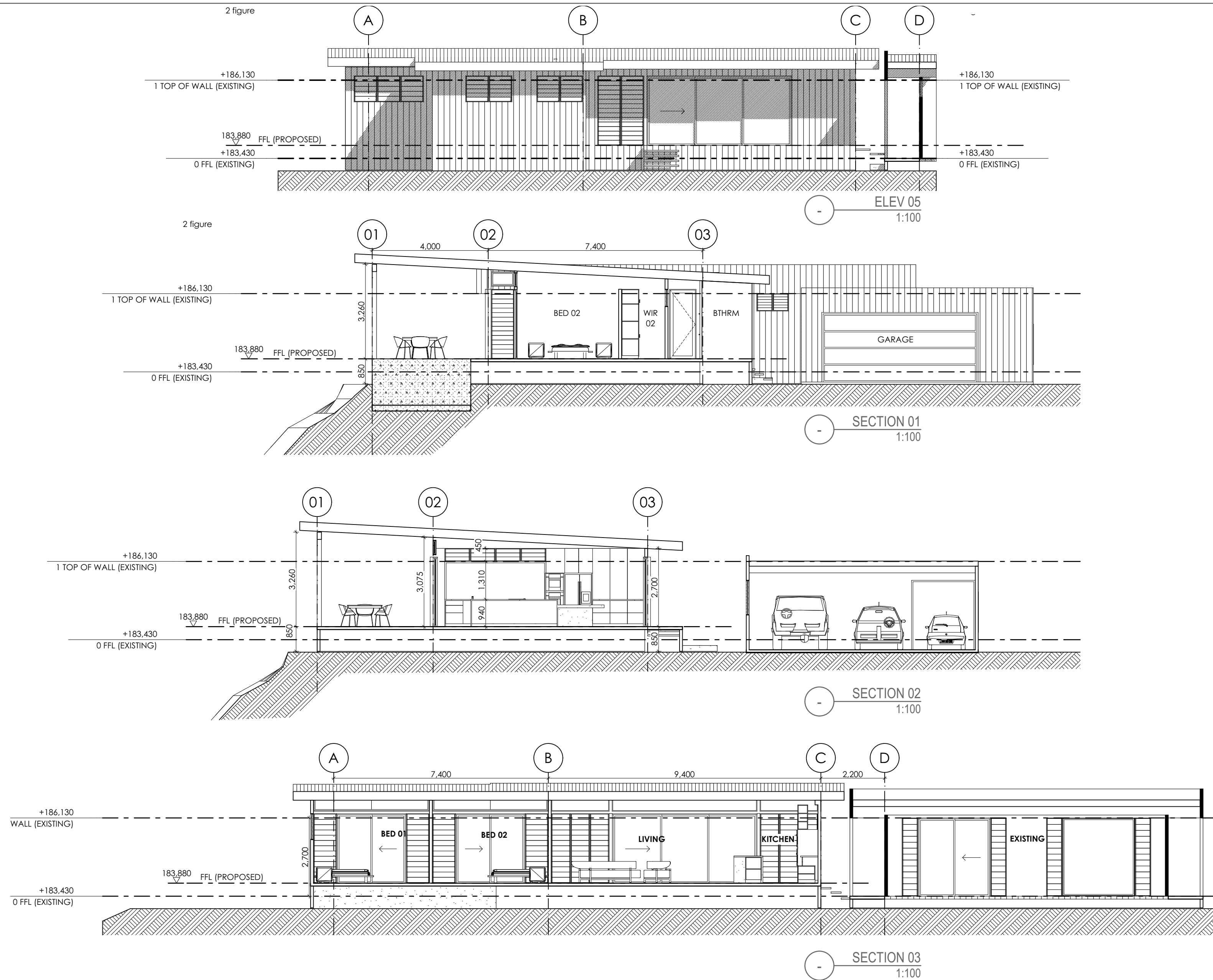


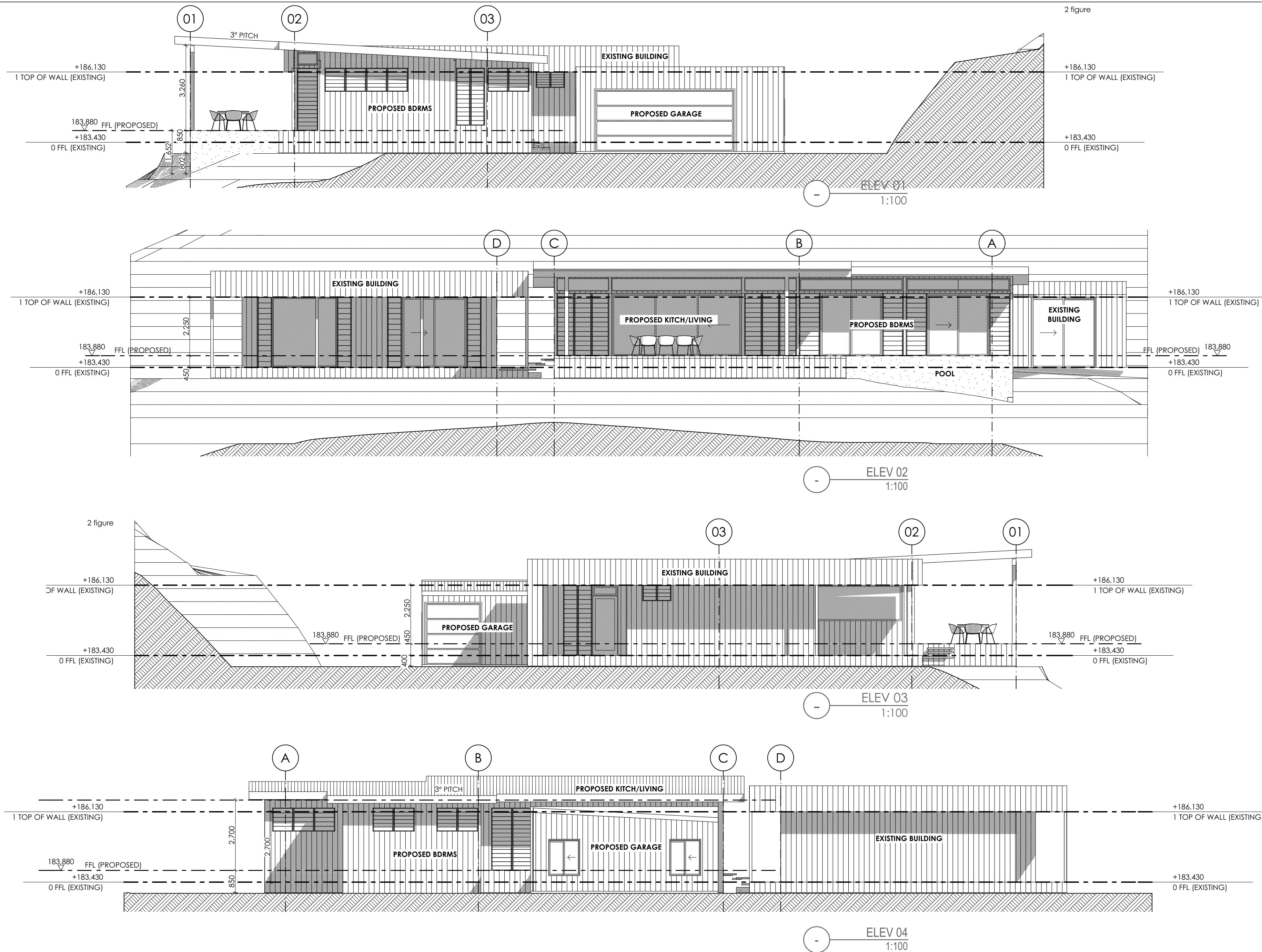






29/05/2019





Attachment 5:
Code Assessment

Rural Zone Code Assessment

Assessment Comment
AO1.1 – Complies – the proposed Dwelling House extension is single storey only with a maximum height of 4.11m to the underside of the deck ceiling (the highest point).
AO1.2 – Not applicable.
AO2 – Complies – the proposed Dwelling House is located well in exceedance of the minimum setback requirements.
AO3 – Condition 6 of the existing Development Permit adequately addresses building finish requirements.
AO4 – AO7 – Not applicable.

Hillslopes Overlay Code Assessment

Assessment Comment
AO1.1 – Alternative Solution – the entire property is virtually located within the Hillslopes Overlay, however the proposed extension is located within an existing benched and level area of the site.
AO2.1 – AO2.2 – Complies – the proposed extension is located within an existing benched and level area of the site.
AO2.3 – Complies – an existing concrete sealed driveway extend from Spring Creek Road to the level building pad.
AO2.4 – Complies – no vegetation clearing is proposed.
AO2.5 – Not applicable.
AO2.6 – The proposed extension is located below the ridgeline.
AO2.7 – AO2.8 – Condition 6 of the existing Development Permit adequately addresses building finish requirements.
AO2.9 – Not applicable.
AO2.10 – the proposed extension is largely confined to the existing benched and level building pad, except for a slight encroachment of the pool which extends approximately 2.5m beyond the top of bank.
AO3 – Complies – only minor excavation is required to facilitate the construction of the proposed pool.
AO4.1 – 4.4 – Not applicable.