

12 December 2022

Enquiries: Daniel Lamond
Our Ref: MCUC 2022_4867/1 (1127848)
Your Ref: KRDPS:MURPHY

Administration Office
64 - 66 Front St Mossman
P 07 4099 9444
F 07 4098 2902

K P Cullen & N G Biddle
C/- Kelly Reaston Development & Property
44 McLeod St
CAIRNS QLD 4870

Dear Sir/Madam

**Minor Change to Development Approval for Material Change of Use (Dwelling house)
At 12 Murphy Street PORT DOUGLAS
On Land Described as LOT: 113 TYP: PTD PLN: 2094**

Please find attached the Decision Notice for the above-mentioned development application.

Please quote Council's application number: MCUC 2022_4867/1 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Daniel Lamond on telephone 07 4099 9444.

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - Reasons for Decision
- Advice For Making Representations and Appeals (Decision Notice)



Decision Notice

Minor Change Approval (with conditions)

Given under s 81 of the Planning Act 2016

Applicant Details

Name: K P Cullen & N G Biddle
Postal Address: C/- Kelly Reaston Development & Property
44 McLeod St
CAIRNS QLD 4870
Email: kelly@kellyreaston.com.au

Property Details

Street Address: 12 Murphy Street PORT DOUGLAS
Real Property Description: LOT: 113 TYP: PTD PLN: 2094
Local Government Area: Douglas Shire Council

Details of Proposed Development

Minor Change to Development Permit- Material Change of Use (Dwelling house)

Decision

Date of Decision: 12 December 2022
Decision Details: Approved (subject to conditions)

Approved Drawing(s) and/or Document(s)

Copies of the following plans, specifications and/or drawings are enclosed.

Drawing or Document	Reference	Date
Site Plan- Existing (Survey)	Hunt Design Drawing No. 02.0	22 November 2022
Site and Environs Plan	Hunt Design Drawing No. 02.1	22 November 2022
Floor Plan- Existing (Survey)	Hunt Design Drawing No. 03.0	22 November 2022
Floor Plan- Lower ground level	Hunt Design Drawing No. 03.1	22 November 2022
Floor Plan- Ground level	Hunt Design Drawing No. 03.2	22 November 2022

Floor Plan- First Floor	Hunt Design Drawing No. 03.3	22 November 2022
Floor Plan- Roof	Hunt Design Drawing No. 03.4	22 November 2022
Section A	Hunt Design Drawing No. 04.1	22 November 2022
Section B	Hunt Design Drawing No. 04.2	22 November 2022
Section C	Hunt Design Drawing No. 04.3	22 November 2022
Elevations	Hunt Design Drawing No. 05.1	22 November 2022
Rear Retaining Walls- Site Plan	Hunt Design Drawing No. 06.1	22 November 2022
Rear Retaining Walls- Sections	Hunt Design Drawing No. 06.2	22 November 2022
Rear Retaining Walls- Sections	Hunt Design Drawing No. 06.3	22 November 2022
Rear Retaining Walls- Sections	Hunt Design Drawing No. 06.4	22 November 2022
Rear Retaining Walls- Sections	Hunt Design Drawing No. 06.5	22 November 2022
Area Calculation	Hunt Design Drawing No. 08.1	22 November 2022
Cover Sheet	Landplan Drawing No. L0.01	3 June 2022
Landscape Plan	Landplan Drawing No. L1.01	3 June 2022
Landscape Plan	Landplan Drawing No. L1.02	3 June 2022
Landscape Standard Details	Landplan Drawing No. L2.01	3 June 2022
Landscape Specification	Landplan Drawing No. L3.01	3 June 2022

Assessment Manager Conditions & Advices

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:-
 - (a). The specifications, facts and circumstances as set out in the application submitted to Council;
 - (b). The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

Except where modified by these conditions of approval

Timing of Effect

2. The conditions of the Development Permit must be effected prior to Commencement of use, except where specified otherwise in these conditions of approval.

Operational Works

3. An Operational Works Approval is required for the water, sewer, earthworks and driveway construction associated with the development. The application for Operational Works must include, but not be limited to, the following:

- a. Decommissioning of the existing services within the site including demolition and removal of redundant services and site remediation;
- b. Drainage works to deliver stormwater to Murphy Street being the lawful point of discharge;
- c. Earthworks internal and external to the site;
- d. Required internal and external works within the road reserve for the driveway and retaining walls;
- e. Water and sewerage works required to service the site.

Such works must be completed to the satisfaction of the Chief Executive Officer prior to Commencement of Use.

Access Driveway

4. The access driveway must be developed in accordance with the latest version of AS2890-2004 with the following design parameters being met:
 - a. Retaining walls supporting the access driveway on road reserve must not exceed 1000mm in height.
 - b. Vehicle access to any other allotment must not be inhibited by the section of private access driveway in the Murphy Street road reserve.

The section of private access driveway within the road reserve of Murphy Street will not become a Council asset and will never be maintained by Council. The ongoing maintenance obligation of the driveway in the Murphy Street road reserve remains with the property owner at all times.

Water Supply and Sewerage Works External

5. Undertake the following water supply and sewerage works external to the site to connect the site to existing water supply and sewerage infrastructure:
 - a. Augment existing water supply infrastructure to the extent necessary such that the development does not adversely affect the water supply to adjacent properties and such that a water service connection can be provided at the lot frontage;
 - b. Construct new sewer to accommodate the development. Detailed plans are to be provided showing levels and alignment and must be designed in accordance with the FNQROC Development Manual.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to Commencement of Use.

Water Supply and Sewerage Works Internal

6. Undertake the following water supply and sewerage works internal to the subject land:
 - a. Provide a single internal sewer connection which must be clear of any buildings or structures;
 - b. Provide a single internal water connection.

All the above works must be designed and constructed in accordance with the FNQROC Development Manual.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to Commencement of Use.

Inspection of Sewers

7. Where altering existing sewer mains or construction of new sewer main, provide CCTV inspections of sewers both prior to commencement of works on site and at works completion where works have been undertaken over or to sewers. Defects must be rectified to the satisfaction of the Chief Executive Officer at no cost to Council prior to Commencement of Use.

Exterior Finishes

8. The exterior finishes and colors of the house must be non-reflective and must blend with the natural colors of the surrounding environment. The exterior finishes must be generally in accordance with the Material Palette Plan by Hunt Design, Drawing No. 01.3 dated 2 June 2022.

Air-conditioning Screens

9. Air-conditioning units located above ground level and visible from external properties and the street must be screened with appropriate materials to improve the appearance of the building. Such screening must be completed prior to the Commencement of Use.

Damage to Council Infrastructure

10. In the event that any part of Council's existing sewer, water or road infrastructure is damaged as a result of construction activities occurring on the site, the applicant/owner must notify Council immediately of the affected infrastructure and have it replaced at no cost to Council.

Vehicle Parking

11. The amount of vehicle parking must be as specified in Council's Planning Scheme which is a minimum of two (2) spaces located on site. In addition, all parking, driveway and vehicular manoeuvring areas must be imperviously sealed and drained.

Storage of Machinery and Plant

12. The storage of any machinery, material and vehicles must not cause a nuisance to surrounding properties, to the satisfaction of the Chief Executive Officer.

Landscaping Plan

13. The site must be landscaped in accordance with details included on ~~the landscaping plan prepared by Landplan Landscape Architecture, project number 2112-055 dated 3 June 2022~~ a landscaping plan prepared by an experienced landscape architect. The plan must;
 - a. be developed in accordance with Planning Scheme Policy SC6.7;
 - b. be inclusive of native and endemic species only;
 - c. include dense planting of species with high screening qualities on the side boundaries.

The landscaping plan must be endorsed by the Chief Executive Officer prior to commencement of use.

Ponding and/or Concentration of Stormwater

14. The proposed development is not to create ponding nuisances and/or concentration of stormwater flows to adjoining properties.

Sediment and Erosion Control

15. All earthworks must be carried out in accordance with section CP1.13 and D5 of the FNQROC Development Manual. A copy of the contractors Erosion and Sediment Control Plan (ESCP) is to be submitted to Council prior to the issue of a Development Permit for Operational Work. Measures nominated in the ESCP must be implemented prior to commencement of any earthworks. The ESC Plan must address the Institution of Engineers' Australia Guidelines for Soil Erosion and Sediment Control and the Environment Protection (Water) Policy and Clauses CP1.06, CP1.13 and D5.10 of Council's FNQROC Development Manual.

Bushfire Hazard

16. The house must be developed in accordance with AS3959- 2009.

Further Development Permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Building Work
- All Operational Work

All Plumbing and Drainage Work must only be carried in compliance with the Queensland *Plumbing and Drainage Act 2018*.

Currency Period for the Approval

This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the original development approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

Rights to make Representations & Rights of Appeal

The rights of applicants to make representations and rights to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

A copy of the relevant appeal provisions are attached.

SITE PLAN - EXISTING (SURVEY)
SCALE 1:200

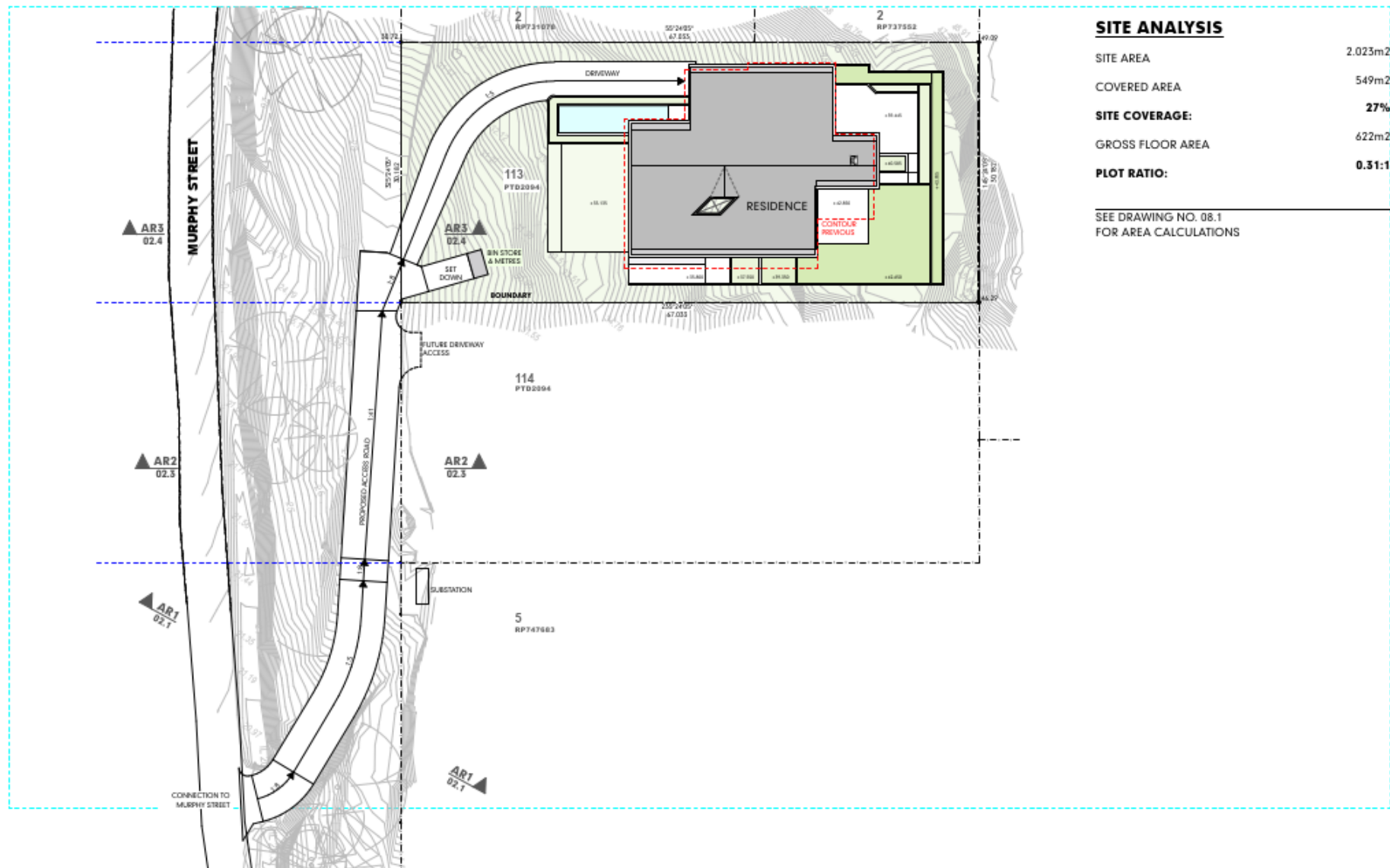
LEGEND

Stream Marker	Edge of Blotter	Underground Electricity (from records)	Significant tree
Boundary White	Edge of Blotter	Underground Water (from records)	Significant tree to be retained
Utility Pit	Top of Blotter	Underground Water (from records)	
Flow Marker	Top of Blotter	Underground Water (from records)	
Gas Valve	Change of Grade	Underground Gas (from records)	

PROPOSED DRIVEWAY
POOL
EXTENT OF PROPOSED RESIDENCE
EXTENT OF PROPOSED RESIDENCE BEFORE
PROPOSED DRIVEWAY/RETAINING WALL BEFORE
BOUNDARY
EXTENT OF PROPOSED STORAGE
PROPOSED ACCESS ROAD

SOURCE: RPS: Detail and Contour Survey
DRG No: 150672-1
date: 27.09.2021





SITE PLAN
SCALE: 1:200

MURPHY STREET RESIDENCE
PROPOSED NEW RESIDENCE AT No 12 MURPHY STREET
ON LOT 113 (PTD2094)
FOR : KIM CULLEN & NEIL BIDDLE

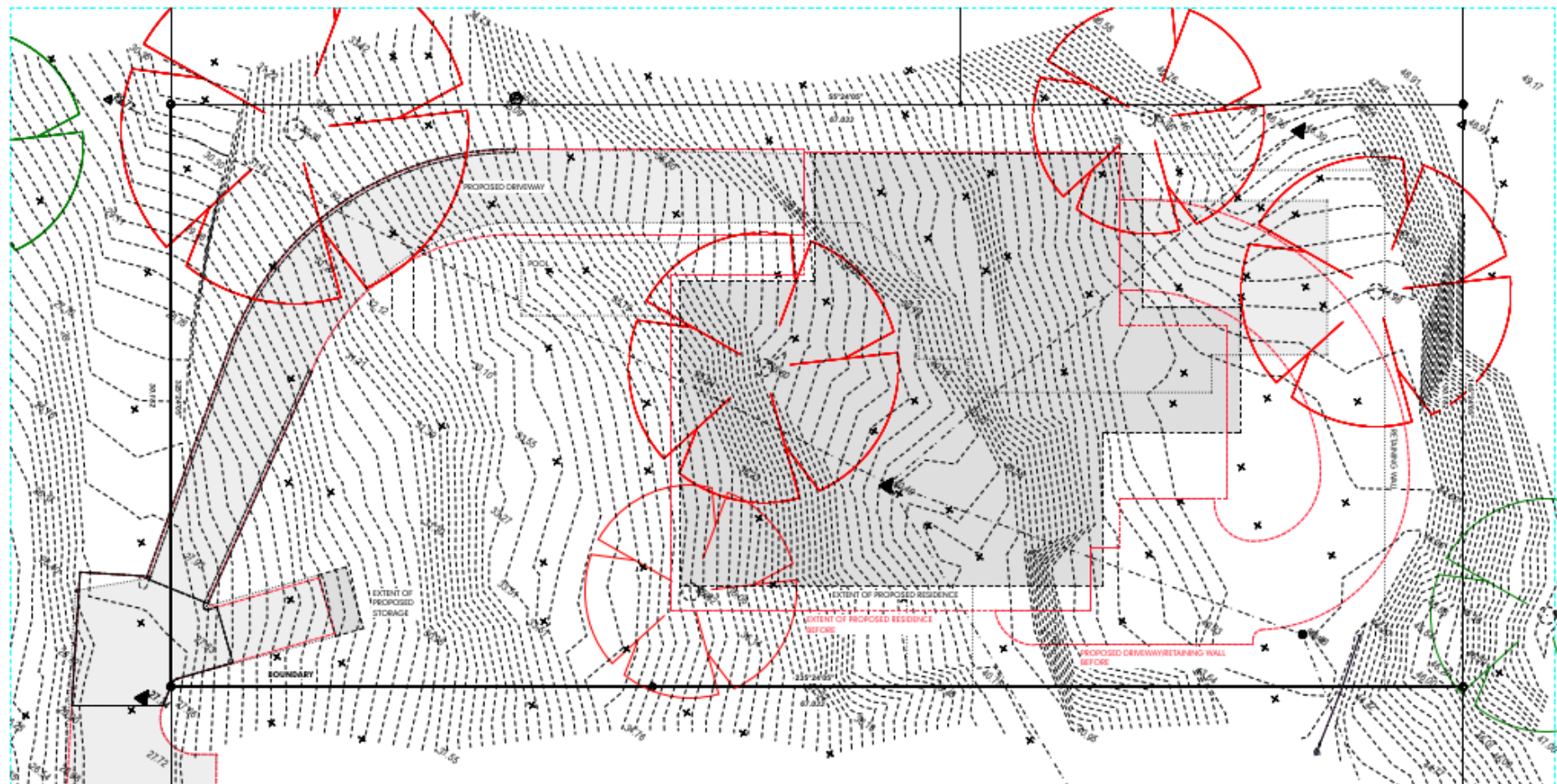
DEVELOPMENT APPLICATION
SITE & ENVIRONS PLAN

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DEVELOPMENT APPLICATION
PROJECT NO. MURPHY001
DRAWING NO. 02.1
REVISION NO. 01
DATE 22/11/22



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SITE PLAN - EXISTING (SURVEY)

SCALE: 1:50

LEGEND

	Sewer Manhole		Edge of Bitumen		Underground Electricity (from records)		Significant tree
	Electricity Pillar		Edge of Gravel Track		Underground Telstra/ NBN (from records)		Significant tree to be removed
	Telstra Pit		Top of Bank		Underground Water (from records)		
	Fire Hydrant		Toe of Bank		Underground Sewer (from records)		
	Gas Valve		Change of Grade		Underground Gas (from records)		

SOURCE: RPS: Detail and Contour Survey
DRG No: 150672-1
date: 27.09.2021

MURPHY STREET RESIDENCE
PROPOSED NEW RESIDENCE AT No 12 MURPHY STREET
ON LOT 113 (PTD2094)
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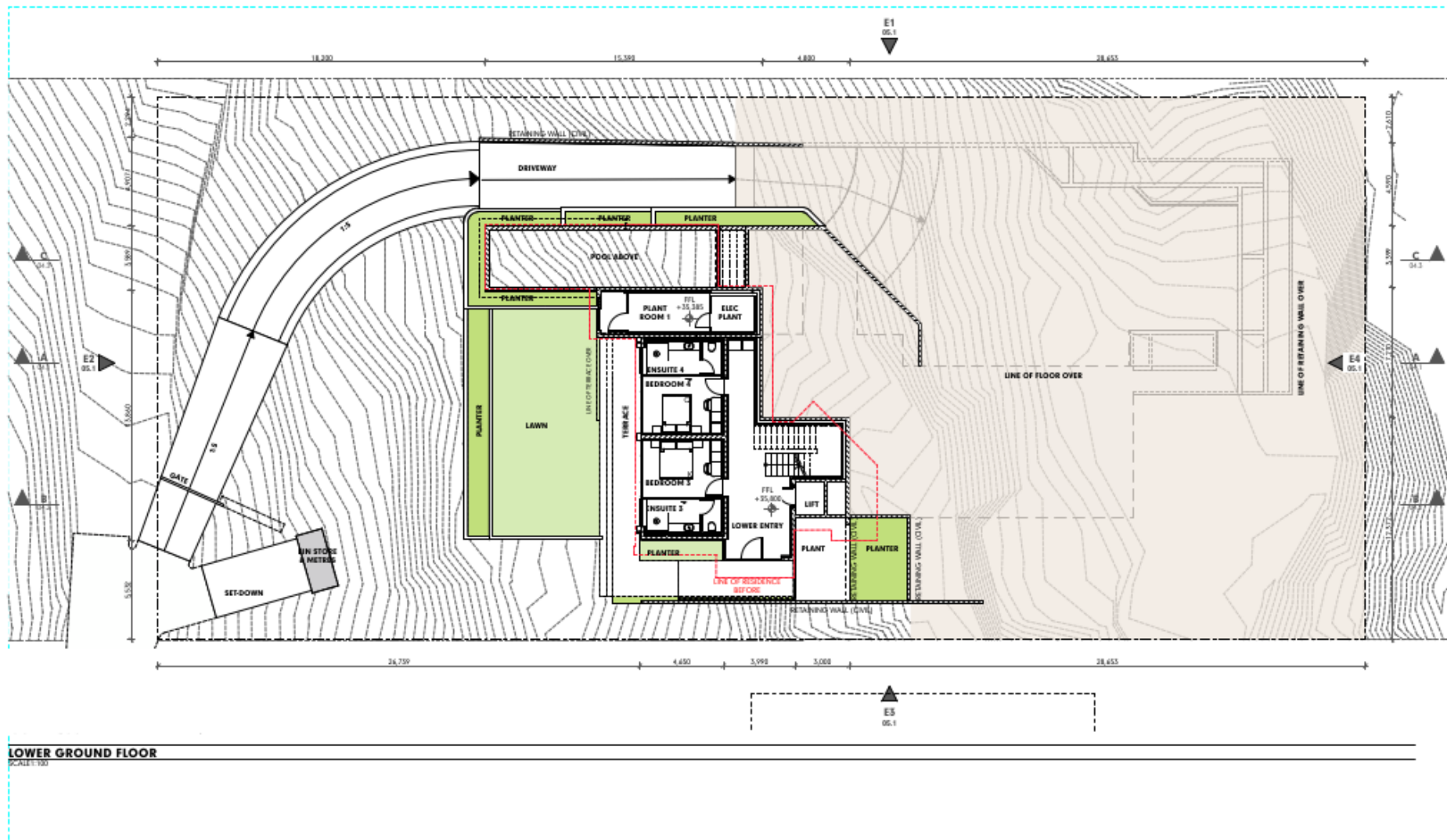
DEVELOPMENT APPLICATION
FLOOR PLAN- EXISTING (SURVEY)

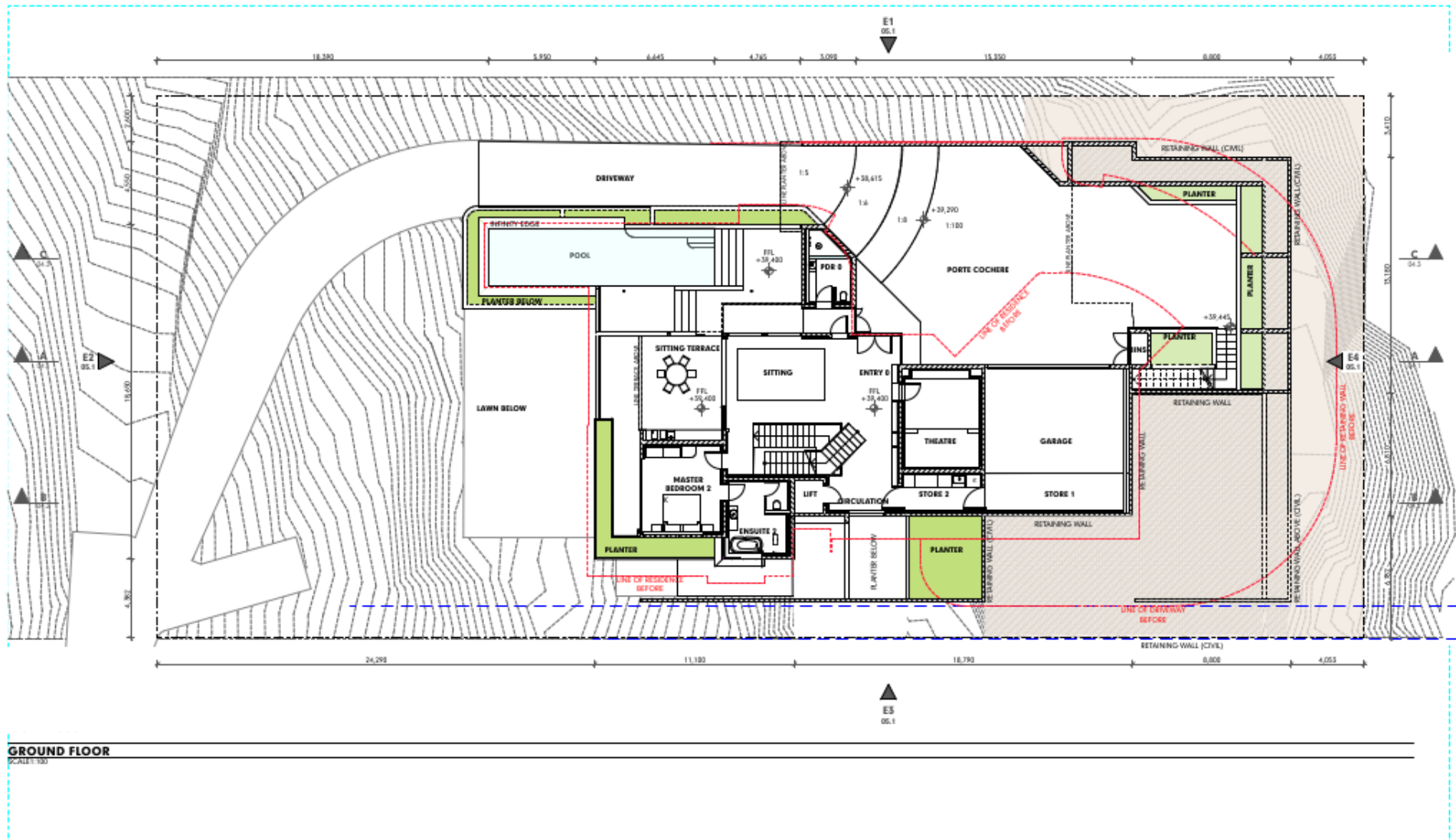
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DEVELOPMENT APPLICATION
PROJECT NO. MURPHY001
DRAWING NO. 05.0
REVISION NO. 01
DATE 22/11/22



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MURPHY STREET RESIDENCE
 PROPOSED NEW RESIDENCE AT No 12 MURPHY STREET
 ON LOT 113 (PTD2094)
 FOR : KIM CULLEN & NEIL BIDDLE

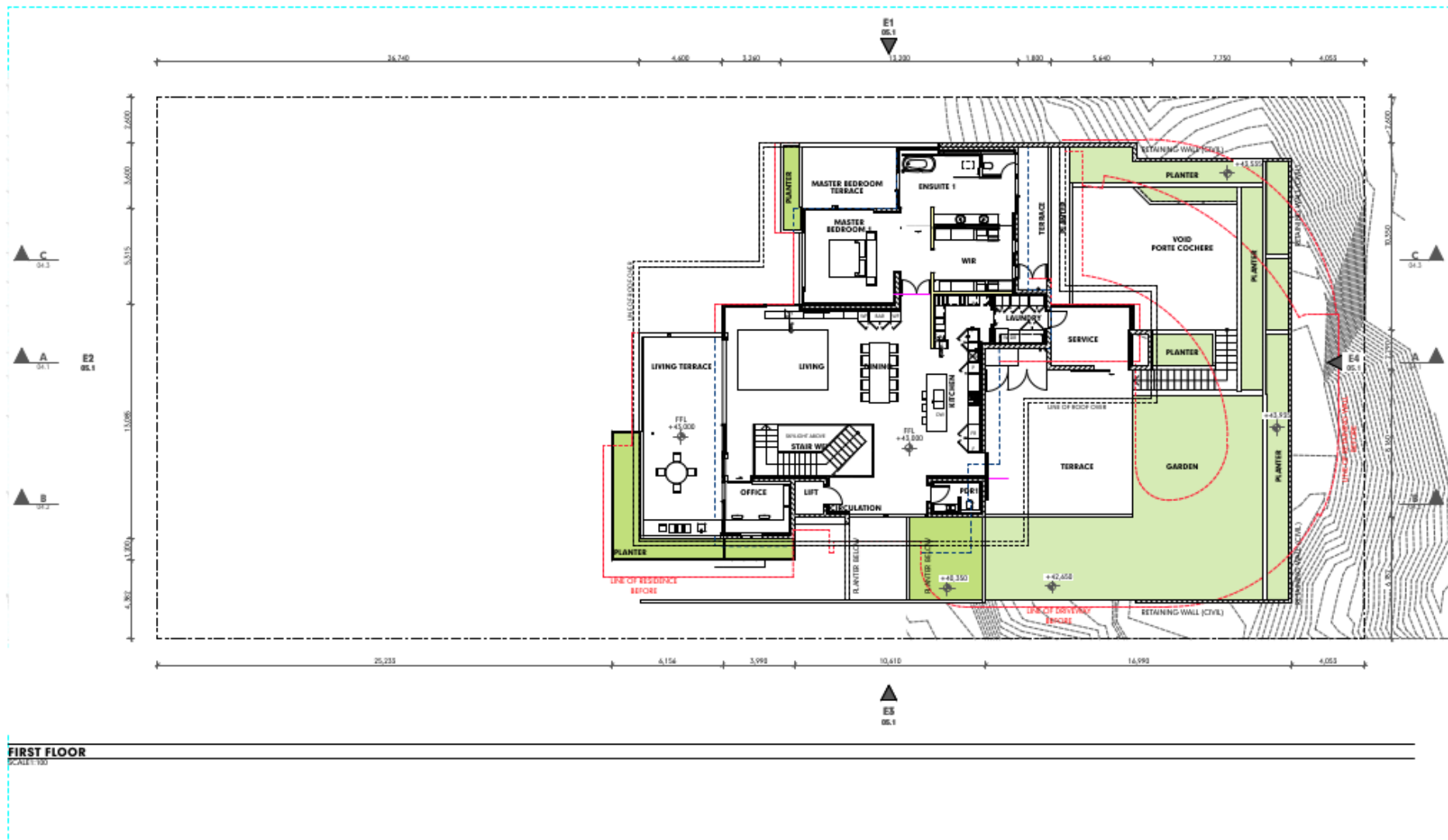
DEVELOPMENT APPLICATION
FLOOR PLAN - GROUND LEVEL

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DEVELOPMENT APPLICATION
 PROJECT NO. MURPHY001
 DRAWING NO. 05.2
 REVISION NO. 01
 DATE 22/11/22



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MURPHY STREET RESIDENCE
PROPOSED NEW RESIDENCE AT No 12 MURPHY STREET
ON LOT 113 (PTD2094)
FOR : KIM CULLEN & NEIL BIDDLE

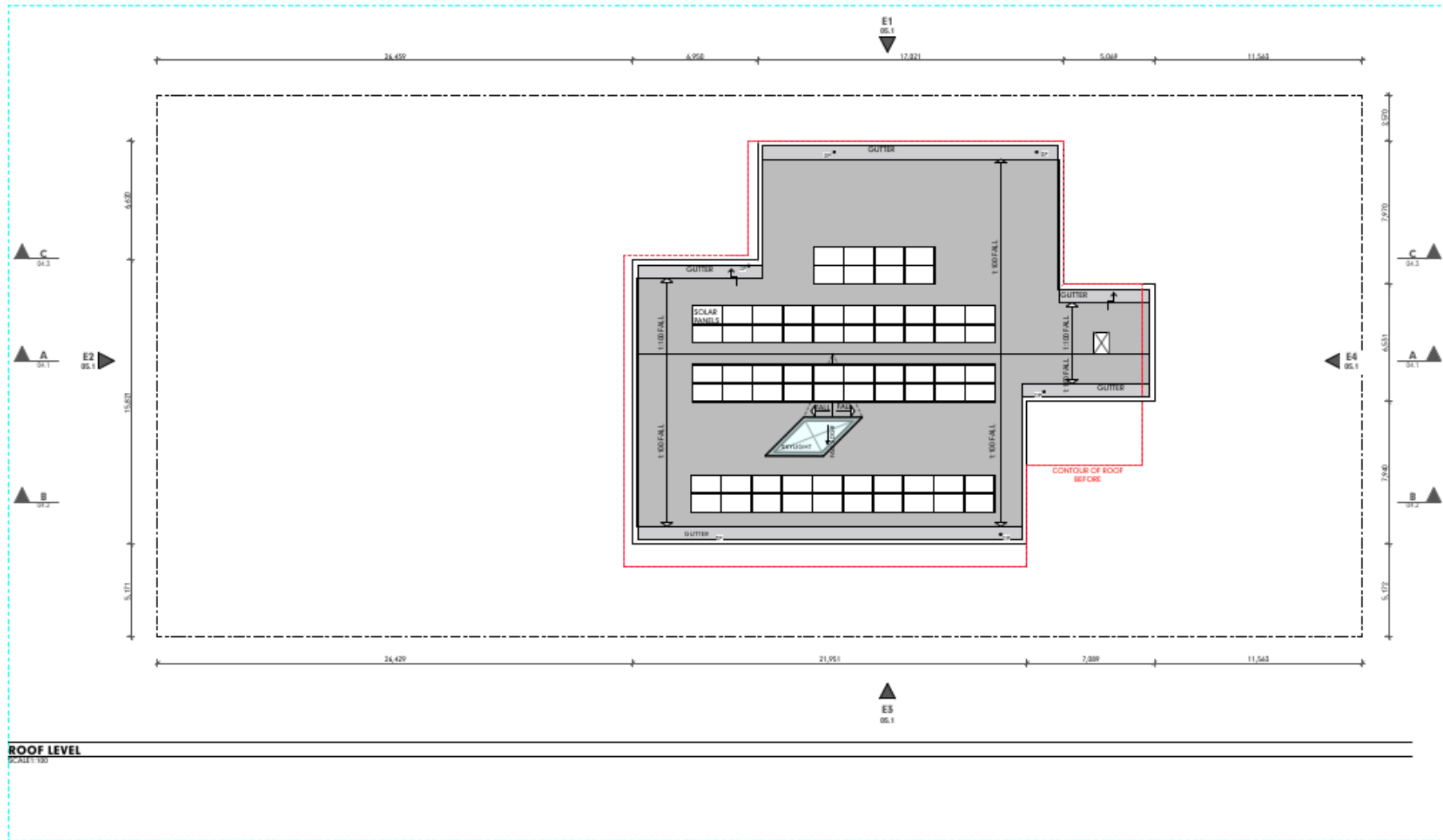
DEVELOPMENT APPLICATION
FLOOR PLAN - FIRST FLOOR

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DEVELOPMENT APPLICATION
PROJECT NO. MURPHY001
DRAWING NO. 03.5
REVISION NO. 01
DATE 22/11/22



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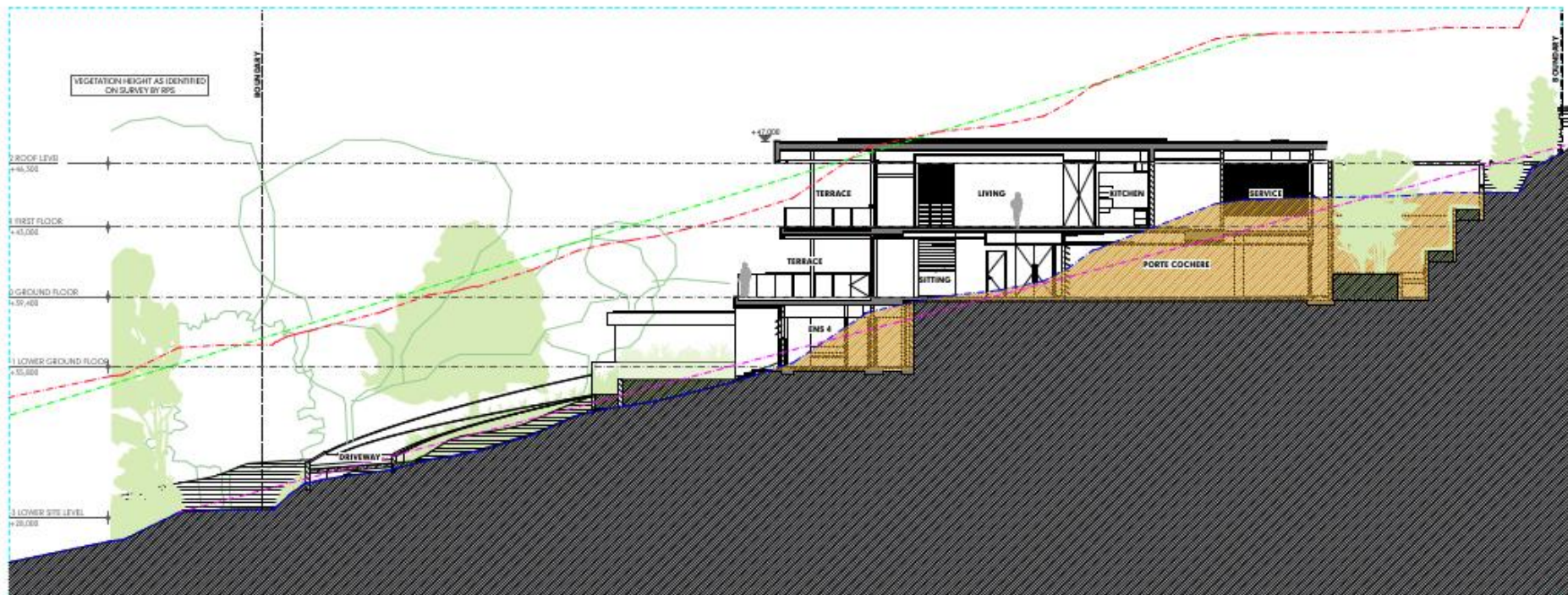
MURPHY STREET RESIDENCE
PROPOSED NEW RESIDENCE AT No 12 MURPHY STREET
ON LOT 113 (PTD2094)
FOR : KIM CULLEN & NEIL BIDDLE

DEVELOPMENT APPLICATION
FLOOR PLAN - ROOF
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DEVELOPMENT APPLICATION
PROJECT NO. MURPHY001
DRAWING NO. 03.4
REVISION NO. 01
DATE 22/11/22



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SECTION A
SCALE 1:100

LEGEND

- EXCAVATION
- FILL
- NATURAL SURFACE LEVEL (N.S.L.)
- AVERAGE N.S.L.
- 8.5M ABOVE N.S.L.
- AVERAGE 8.5M ABOVE N.S.L.

MURPHY STREET RESIDENCE
PROPOSED NEW RESIDENCE AT No 12 MURPHY STREET
ON LOT 113 (PTD2094)
FOR : KIM CULLEN & NEIL BIDDLE

DEVELOPMENT APPLICATION
SECTION A

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DEVELOPMENT APPLICATION
PROJECT NO. MURPHY001
DRAWING NO. 04.1
REVISION NO. 01
DATE 22/11/22

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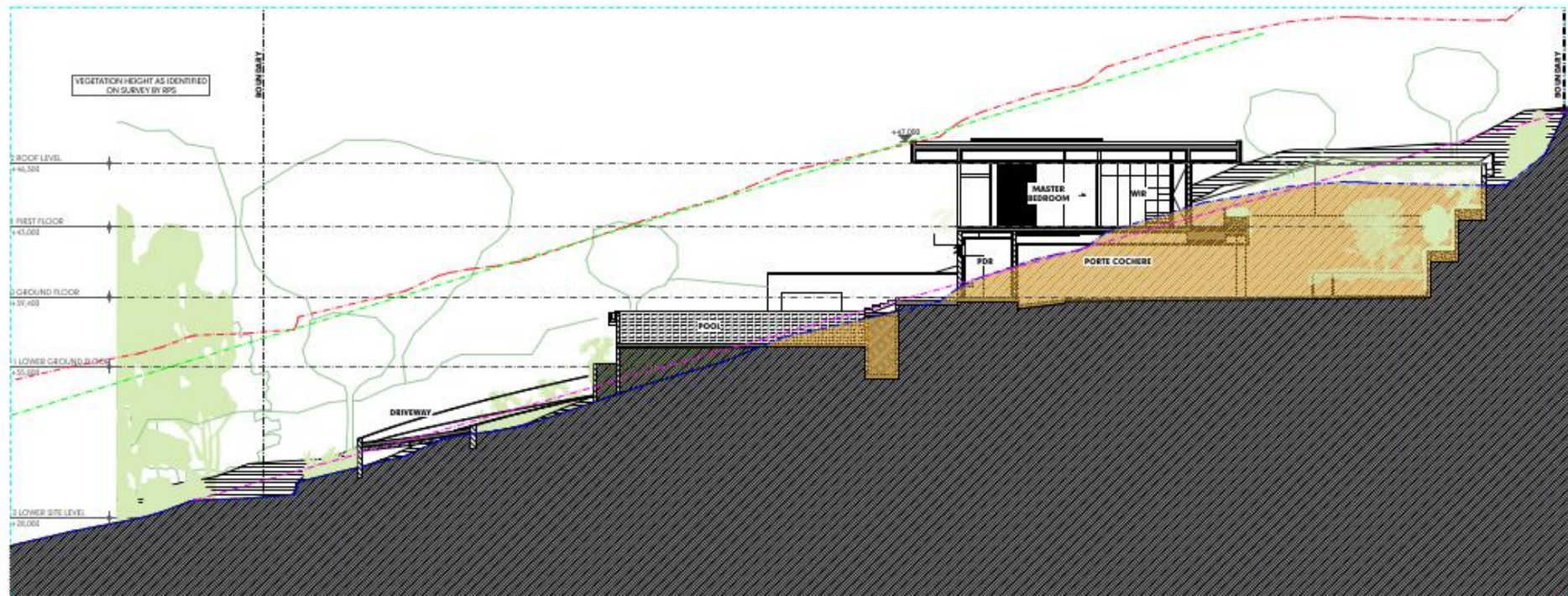


MURPHY STREET RESIDENCE
 PROPOSED NEW RESIDENCE AT No 12 MURPHY STREET
 ON LOT 113 (PTD2094)
 FOR : KIM CULLEN & NEIL BIDDLE

DEVELOPMENT APPLICATION
 SECTION B
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DEVELOPMENT APPLICATION
 PROJECT NO. MURPHY001
 DRAWING NO. 04.2
 REVISION NO. 01
 DATE 22/11/22

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SECTION C

SCALE 1:500

LEGEND

- EXCAVATION
- FILL
- NATURAL SURFACE LEVEL (N.S.L.)
- AVERAGE N.S.L.
- 8.5M ABOVE N.S.L.
- AVERAGE 8.5M ABOVE N.S.L.

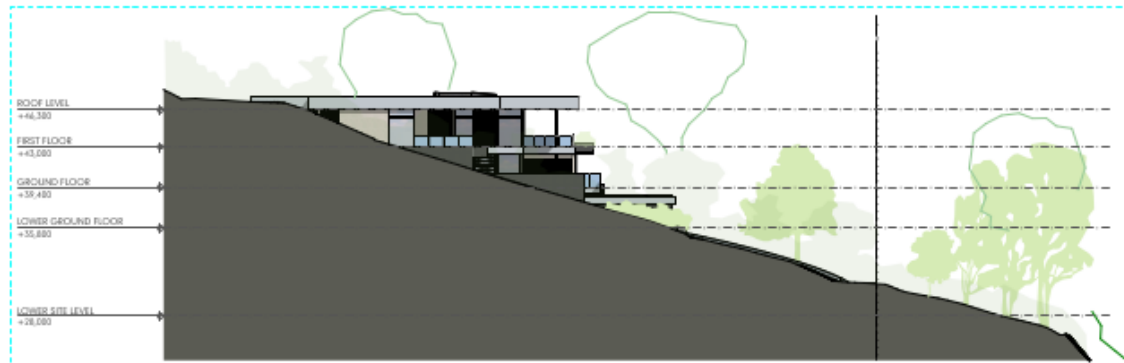
MURPHY STREET RESIDENCE
PROPOSED NEW RESIDENCE AT No 12 MURPHY STREET
ON LOT 113 (PTD2094)
FOR : KIM CULLEN & NEIL BIDDLE

DEVELOPMENT APPLICATION
SECTION C

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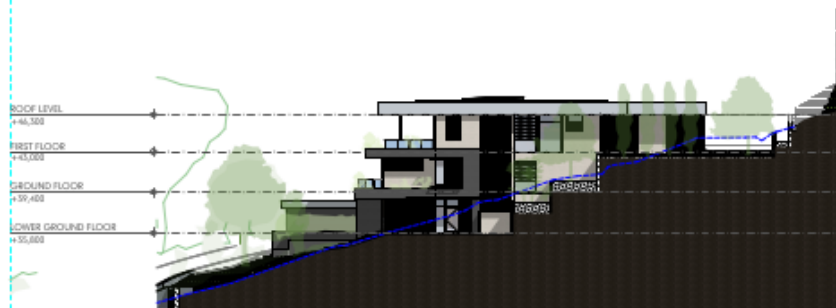
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 PROJECT NO. MURPHY001
 DRAWING NO. 04.3
 REVISION NO. 01
 DATE 22/11/22

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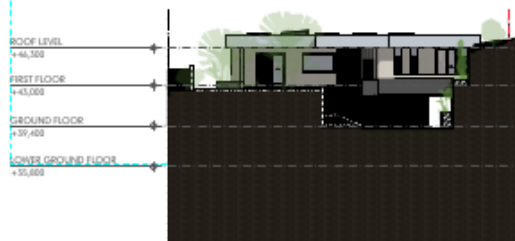
NORTH-WEST ELEVATION

SCALE: 1:200



SOUTH-EAST ELEVATION

SCALE: 1:200



NORTH-EAST ELEVATION

SCALE: 1:200



SOUTH-WEST ELEVATION

SCALE: 1:200

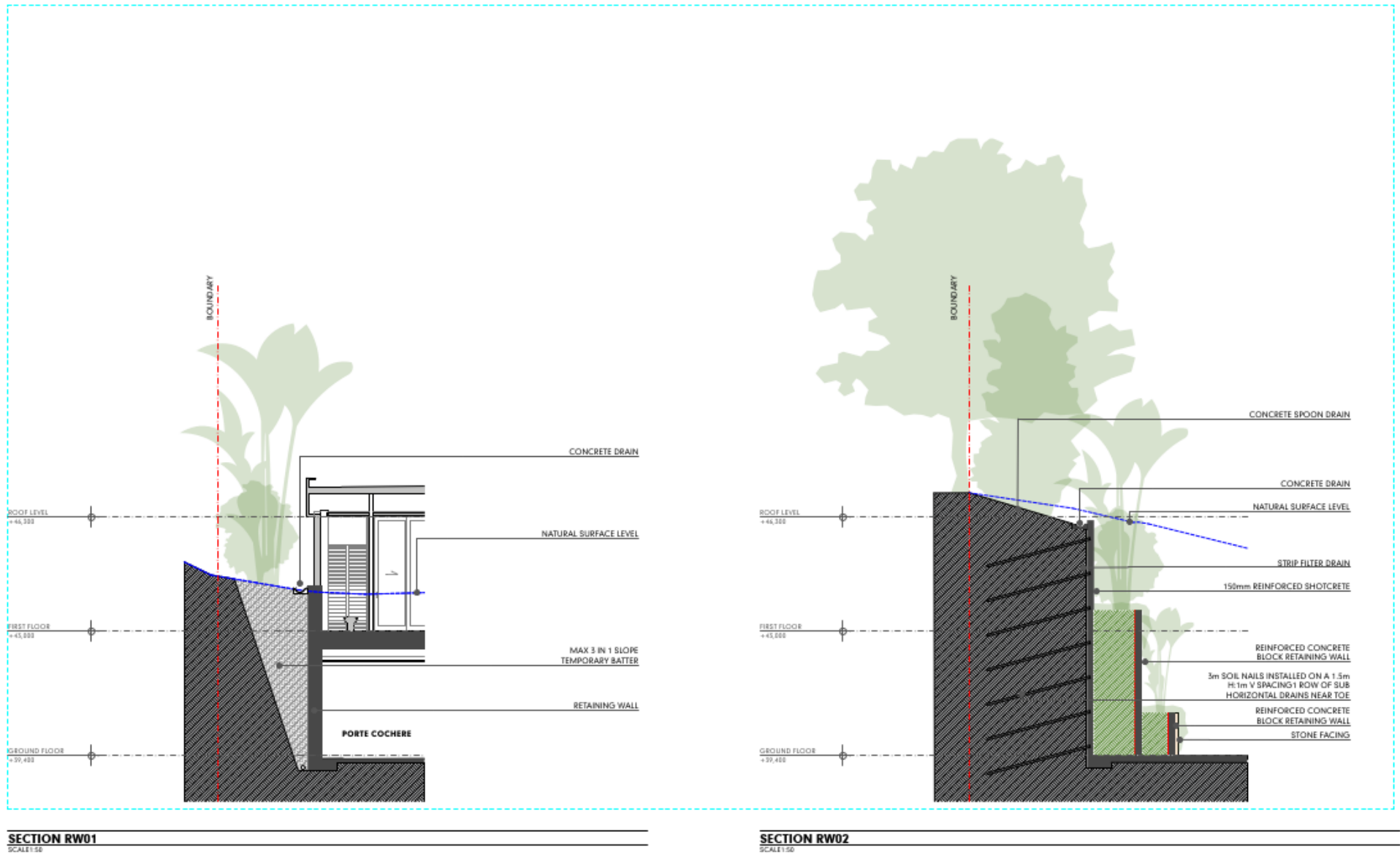
MURPHY STREET RESIDENCE
PROPOSED NEW RESIDENCE AT No 12 MURPHY STREET
ON LOT 113 (PTD2094)
FOR : KIM CULLEN & NEIL BIDDLE

DEVELOPMENT APPLICATION
ELEVATIONS

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DEVELOPMENT APPLICATION
 PROJECT NO. MURPHY001
 DRAWING NO. 05.1
 REVISION NO. 01
 DATE 22/11/22

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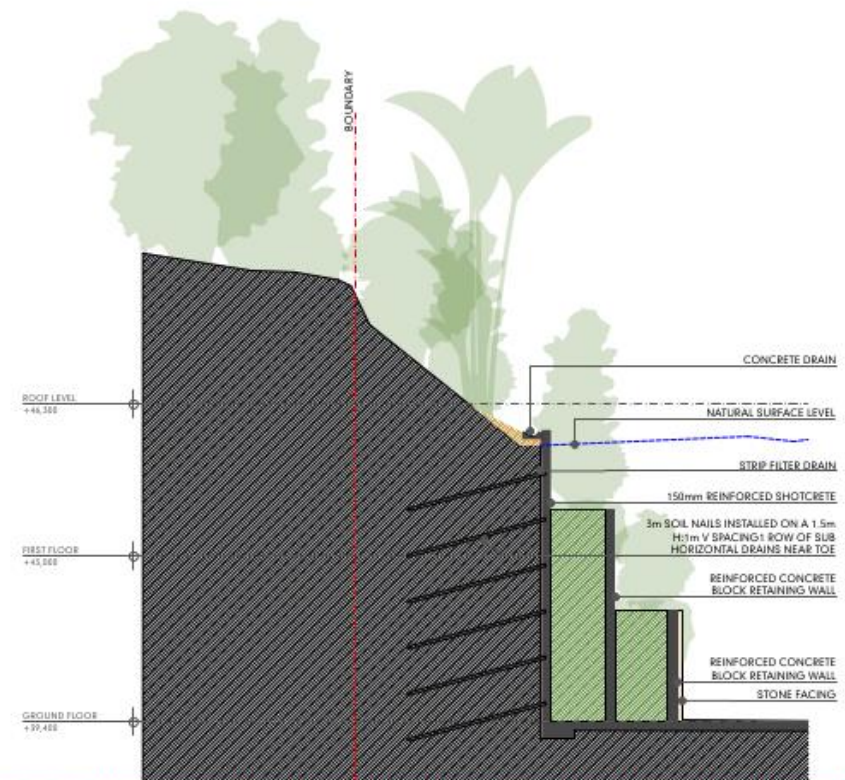
PLANTS AT MATURE HEIGHT

MURPHY STREET RESIDENCE
PROPOSED NEW RESIDENCE AT No 12 MURPHY STREET
ON LOT 113 (PTD2094)
FOR : KIM CULLEN & NEIL BIDDLE

DEVELOPMENT APPLICATION
REAR RETAINING WALLS - SECTIONS
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DEVELOPMENT APPLICATION
PROJECT NO. MURPHY001
DRAWING NO. 06.2
REVISION NO. 01
DATE 22/11/22

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SECTION RW04
SCALE 1:50

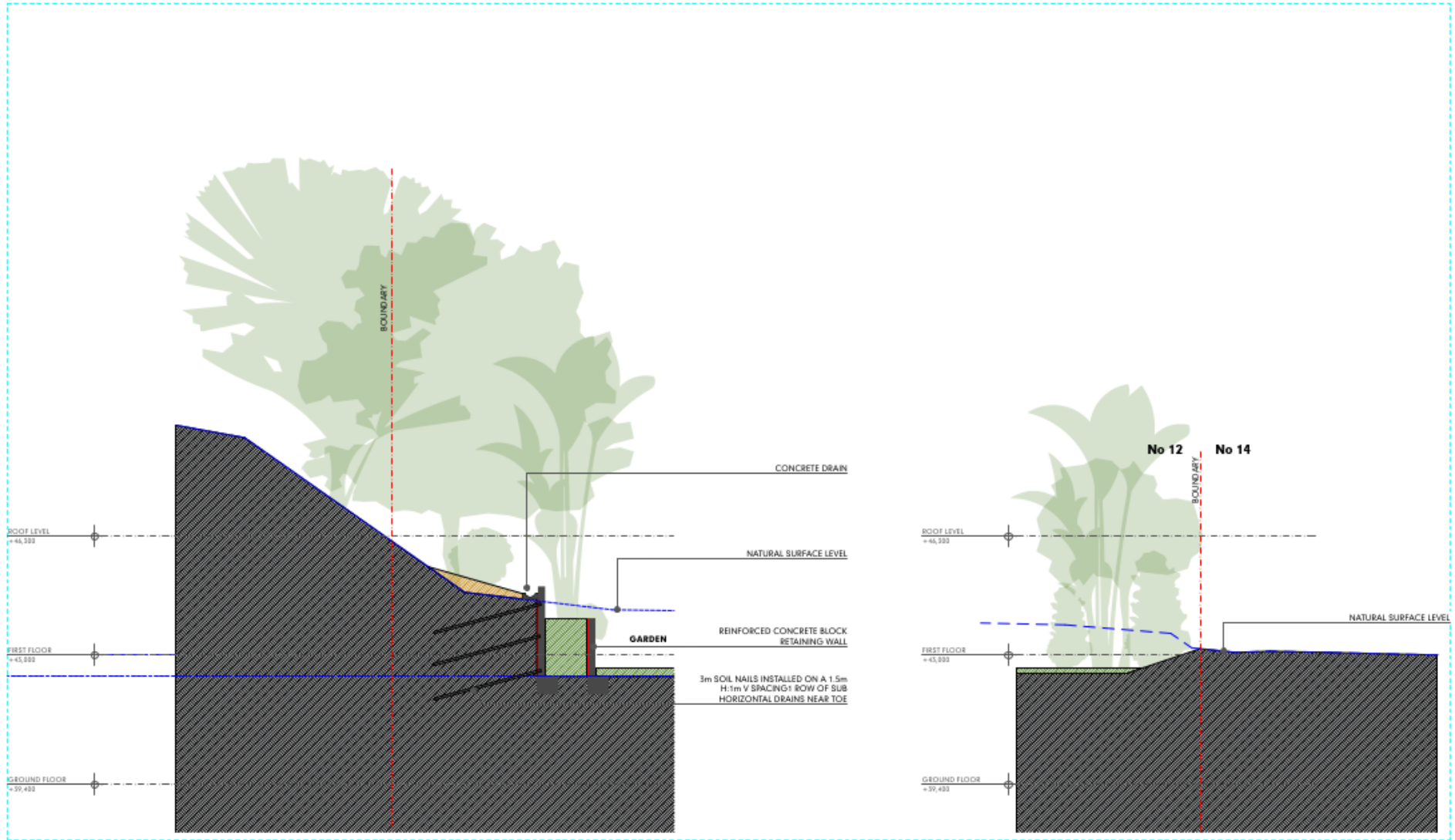
PLANTS AT MATURE HEIGHT

MURPHY STREET RESIDENCE
PROPOSED NEW RESIDENCE AT No 12 MURPHY STREET
ON LOT 113 (PTD2094)
FOR : KIM CULLEN & NEIL BIDDLE

DEVELOPMENT APPLICATION
REAR RETAINING WALLS - SECTIONS
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DEVELOPMENT APPLICATION
PROJECT NO. MURPHY001
DRAWING NO. 06.5
REVISION NO. 01
DATE 22/11/22

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PLANTS AT MATURE HEIGHT

MURPHY STREET RESIDENCE
PROPOSED NEW RESIDENCE AT No 12 MURPHY STREET
ON LOT 113 (PTD2094)

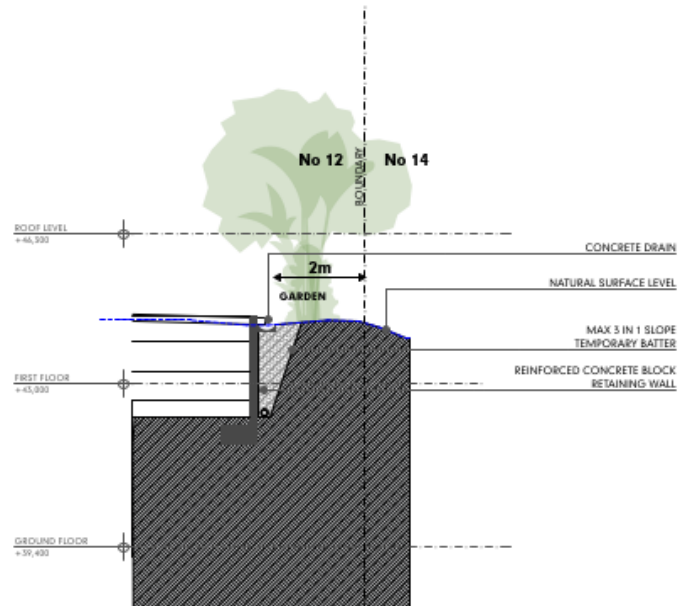
FOR : KIM CULLEN & NEIL BIDDLE

DEVELOPMENT APPLICATION
REAR RETAINING WALLS - SECTIONS

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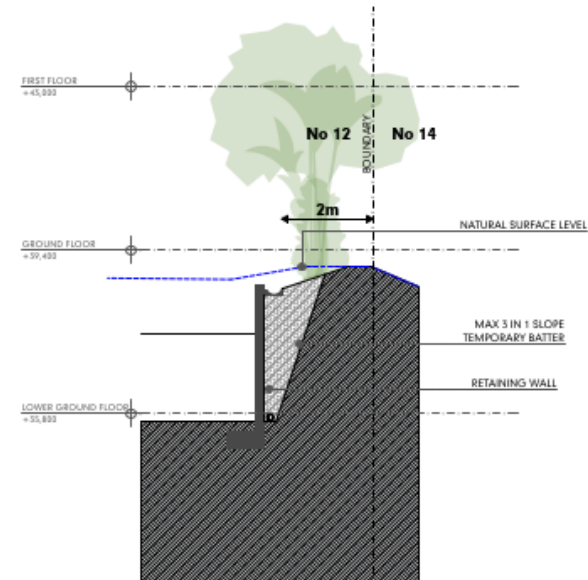
DEVELOPMENT APPLICATION
 PROJECT NO. MURPHY001
 DRAWING NO. 06.4
 REVISION NO. 01
 DATE 22/11/22

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SECTION RW07

SCALE 1:50



SECTION RW08

SCALE 1:50

PLANTS AT MATURE HEIGHT

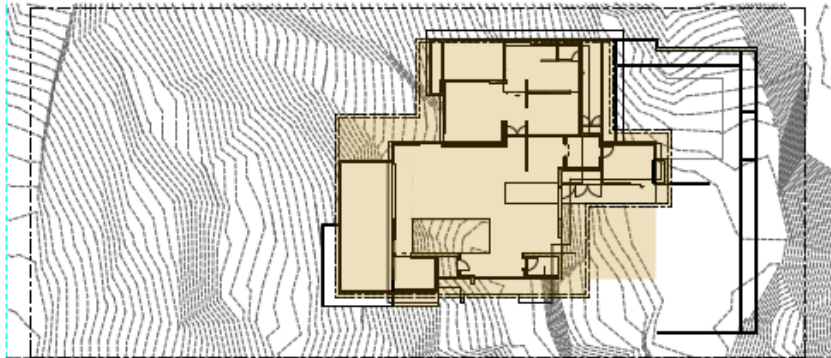
MURPHY STREET RESIDENCE
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 ON LOT 113 (PTD2094)
 FOR : KIM CULLEN & NEIL BIDDLE

DEVELOPMENT APPLICATION
REAR RETAINING WALLS - SECTIONS

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DEVELOPMENT APPLICATION
 PROJECT NO. MURPHY001
 DRAWING NO. 06.5
 REVISION NO. 01
 DATE 22/11/22

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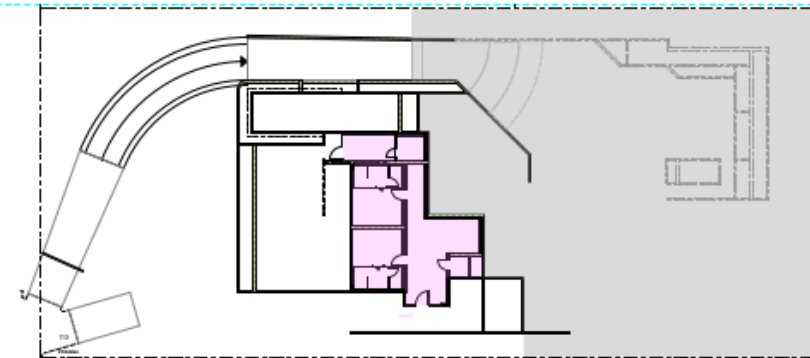


SITE COVERAGE
SCALE: 1:200

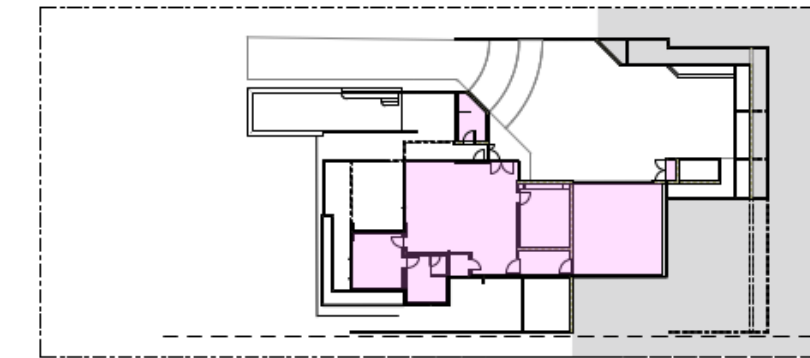
SITE AREA	
	AREA (m ²)
SITE	2,023

COVERED AREA	
	AREA (m ²)
COVERED	549

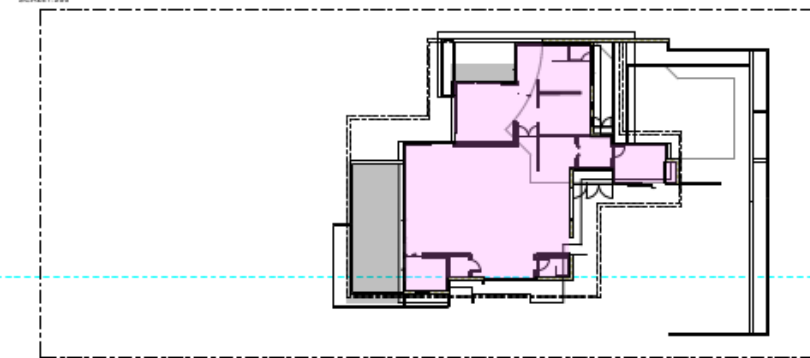
GROSS FLOOR AREA (GFA)	
STORY	AREA (m ²)
LOWER GROUND FLOOR	116
GROUND FLOOR	232
FIRST FLOOR	274
	622 m ²



LOWER GROUND FLOOR - GFA
SCALE: 1:200



GROUND FLOOR - GFA
SCALE: 1:200



FIRST FLOOR - GFA
SCALE: 1:200

MURPHY STREET RESIDENCE
PROPOSED NEW RESIDENCE AT No 12 MURPHY STREET
ON LOT 113 (PTD2094)
FOR : KIM CULLEN & NEIL BIDDLE

DEVELOPMENT APPLICATION
AREA CALCULATION

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DEVELOPMENT APPLICATION
PROJECT NO. MURPHY001
DRAWING NO. 08.1
REVISION NO. 01
DATE 22/11/22

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DESIGN

Reasons for Decision

1. The reasons for this decision are:
 - a. Sections 60, 62 and 63 of the *Planning Act 2016*;
 - b. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and
 - c. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
 - a. the development application was properly lodged to the Douglas Shire Council 9/12/22 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
 - b. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
 - a. the development triggered assessable development under the Assessment Table associated with the Environmental Management Zone Code;
 - b. Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
 - c. the applicant's reasons have been considered and the following findings are made:
 - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

Planning Act 2016
Chapter 3 Development assessment

[s 74]

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

74 What this subdivision is about

- (1) This subdivision is about changing a development approval before the applicant's appeal period for the approval ends.
- (2) This subdivision also applies to an approval of a change application, other than a change application for a minor change to a development approval.
- (3) For subsection (2), sections 75 and 76 apply—
 - (a) as if a reference in section 75 to a development approval were a reference to an approval of a change application; and
 - (b) as if a reference in the sections to the assessment manager were a reference to the responsible entity; and
 - (c) as if a reference in section 76 to a development application were a reference to a change application; and
 - (d) as if the reference in section 76(3)(b) to section 63(2) and (3) were a reference to section 83(4); and
 - (e) with any other necessary changes.

75 Making change representations

- (1) The applicant may make representations (*change representations*) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
 - (a) a matter in the development approval, other than—
 - (i) a matter stated because of a referral agency's response; or

-
- (ii) a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
 - (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- (3) Only 1 notice may be given.
- (4) If a notice is given, the appeal period is suspended—
- (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
 - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
 - (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
 - (ii) the applicant receives notice that the assessment manager does not agree with the change representations; or
 - (iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (5) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

76 Deciding change representations

- (1) The assessment manager must assess the change representations against and having regard to the matters that

- must be considered when assessing a development application, to the extent those matters are relevant.
- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
- (a) the applicant; and
 - (b) if the assessment manager agrees with any of the change representations—
 - (i) each principal submitter; and
 - (ii) each referral agency; and
 - (iii) if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
 - (iv) if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
 - (v) another person prescribed by regulation.
- (3) A decision notice (a *negotiated decision notice*) that states the assessment manager agrees with a change representation must—
- (a) state the nature of the change agreed to; and
 - (b) comply with section 63(2) and (3).
- (4) A negotiated decision notice replaces the decision notice for the development application.
- (5) Only 1 negotiated decision notice may be given.
- (6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or

- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
 - (iii) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
 - (iv) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.

- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and

- (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
 - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
 - (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.

- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
decision includes—
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.**non-appealable**, for a decision or matter, means the decision or matter—
 - (a) is final and conclusive; and
 - (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.