

22 September 2023

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

Lodged via email: enquiries@douglas.qld.gov.au

RE: CHANGE APPLICATION (MINOR CHANGE) PURSUANT TO S78 OF THE PLANNING ACT 2016, OVER LAND AT 34 MURPHY STREET, PORT DOUGLAS, MORE FORMALLY DESCRIBED AS LOT 126 ON SP144708

Council ref: MCUC 2022_5127/I

Aspire Town Planning and Project Services act on behalf of Greg Smith and Donna Michelle Smith (the 'Landowner' and the 'Applicant').

On behalf of the Applicant, please accept the following Change Application (Minor Change), pursuant to Section 78 of the *Planning Act 2016* (the 'Act'), which seeks changes to the Development Permit for a Material Change of Use (Dwelling House) as granted by Douglas Shire Council on 24 March 2023.

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);
- Revised Proposed Site, Floor and Elevation Plans (Attachment 3); and
- Original Decision Notice (Attachment 4).

It is calculated that the relevant Application Fee under the Fees and Charges Schedule 2023/24 is \$358.00. We respectfully request Council issue an Invoice to facilitate payment of the relevant fee directly by the Applicant.

Background

Our earliest record confirms that approval was granted on the 1 October 2013 for a Development Permit for a Material Change of Use (Dwelling House). This approval was not acted upon and has lapsed. The subject site was sold and the most recent owners gained a Development Permit for a Material Change of Use (Dwelling House) on the 24 March 2023. This approval has not been acted upon at this point in time and remains a valid Development

Permit. The subject site has since sold again and the current owners, whilst desire the approved design, are seeking to slightly customize the design to suit their personal preferences.

The Architectural Consultant, Danny Vos Architect, responsible for the design of the Dwelling House within the current Development Permit, has been engaged to make the desired design changes as illustrated on the revised Site, Floor and Elevation Plans included under Attachment 3.

Proposed Minor Change

The Proposed Minor Change seeks approval for a series of both internal and external changes as summarised below:

- Addition of a bin/services and entry gate to the boundary at the bottom of the driveway.
- Increase the size of the garage to incorporate a laundry and hanging area.
- Addition of a bedroom on the ground floor and enclose the access verandah.
- Moving the pool to the side of the house rather than over the garage which requires a portion of the retaining wall to be moved onto the boundary.
- Addition of a store & powder room which has decreased the setback to the RHS (eastern) corner of the roof from 1060mm to 756mm (see the First Floor Plan – the particular area is clouded on the plans to draw attention). Furthermore, a 1500mm line is marked on the plan which clearly shows that it's only a very small part of the roof that encroaches.

The proposed changes do not seek to change the approved use or increase the scale development, but rather slightly customise the design to suit the current owners.

A copy of the revised Site, Floor and Elevation Plans is included under Attachment 3.

The original Decision Notice which this Change Application (Minor Change) seeks to vary is included under Attachment 4.

Planning Context

The subject site remains within the Environmental Management Zone under the Douglas Shire Planning Scheme 2018 v1.0 (the 'Planning Scheme'). The current Planning Scheme remains the version under which the originating application was made and assessed against.

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

In support of the position that the proposed changes qualify as a Minor Change, 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 other than the Chief Executive;
- The proposed Change does not trigger additional referral agencies other than the Chief Executive; and
- Public Notification for the original Development Application was not required and would not be required under the current Planning Scheme if the application was re-made at today's date.

Assessment as to whether the proposed changes trigger ‘Substantially Different Development’ is included in the following section of this application.

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 development remains for the purpose of a Dwelling House, although the design has been slightly customised to suit the personal preferences of the current land owners;
- The Change does not involve new land;
- The Change includes very minor amendments to the approved built form. The only issue that we see necessary to make particular reference to is the proposed reduced setback to the eastern boundary from 1060mm to 756mm. Ordinarily an encroachment of this nature may raise concerns around privacy and amenity and streetscape pattern and character, however under the circumstance this matter is not an issue as the adjoining land is road reserve which is likely to remain vegetated providing a buffer and screening of the development;
- 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 tests, it is 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.”

The proposed changes have been assessed against the relevant code provisions of the Planning Scheme and it is submitted that the proposal does not give rise to any additional matters of non-compliance, with the exception of the proposed eastern side boundary setback. This is a minor encroachment, albeit slightly greater under the revised plans, which Council has already assessed and given concession.

The original application material included design plans for retaining walls and site drainage, as well as swept paths detailing vehicle access. The retaining wall and site drainage plans will be updated in advance of the Development Application for Building Works. The garage remains generally in the position as approved, utilizing the existing crossover. We note that the Decision Notice contains relevant conditions relating driveway construction.

Given the nature of the application and the general overall compliance, a full detailed code assessment is not included within this submission. It is considered that the existing conditions of approval remain largely relevant to the changed design, except that:

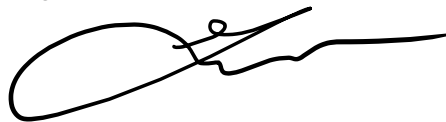
- The Approved Drawings and / or Documents Schedule should be updated with the proposed revised Site, Floor and Elevation Plans; and
- The appended Approved Drawings and / or Documents are updated accordingly.

Conclusion

It is demonstrated that the proposed Change satisfies the test for a Minor Change and does not result in Substantially Different Development. The proposed Change remains in keeping with the current approved use for the land and generally complies with the relevant assessment benchmarks under the 2018 Douglas Shire Planning Scheme.

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



Town Planning and Project Services

Attachment I:

Certificate of Title

Queensland Titles Registry Pty Ltd
ABN 23 648 568 101

Title Reference:	50474485	Search Date:	21/09/2023 10:54
Date Title Created:	23/12/2003	Request No:	45738798
Previous Title:	20665057		

ESTATE AND LAND

Estate in Fee Simple

LOT 126 SURVEY PLAN 144708
Local Government: DOUGLAS

REGISTERED OWNER

Dealing No: 722694730 22/08/2023

GREG SMITH
DONNA MICHELLE SMITH

JOINT TENANTS

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by
Deed of Grant No. 10366049 (ALLOT 5 SEC 12)
2. EASEMENT No 707316386 18/12/2003 at 16:13
burdening the land to
LOT 125 ON SP144708 OVER
EASEMENT A ON SP144708

ADMINISTRATIVE ADVICES

NIL

UNREGISTERED DEALINGS

NIL

Caution - Charges do not necessarily appear in order of priority

** End of Current Title Search **



ASPIRE

Town Planning and Project Services

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)	Greg Smith and Donna Michelle Smith
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)	2023-09-78 - Smith - 34 Murphy Street, Port Douglas

2) Owner's consent - Is written consent of the owner required for this change application?

Note: Section 79(1A) of the *Planning Act 2016* states the requirements in relation to owner's consent.

- ☐ Yes – the written consent of the owner(s) is attached to this change application
- ☒ 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

- ☒ Street address **AND** lot on plan (all lots must be listed), **or**
- ☐ 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
		34	Murphy Street	Port Douglas
	Postcode	Lot No.	Plan Type and Number (e.g. RP, SP)	Local Government Area(s)
	4877	126	SP144708	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)



**Queensland
Government**

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	MCUC 2022_5127/1 (Doc ID:1141769)	24 March 2023	Douglas Shire 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):

Minor changes to the approved 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 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 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 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 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

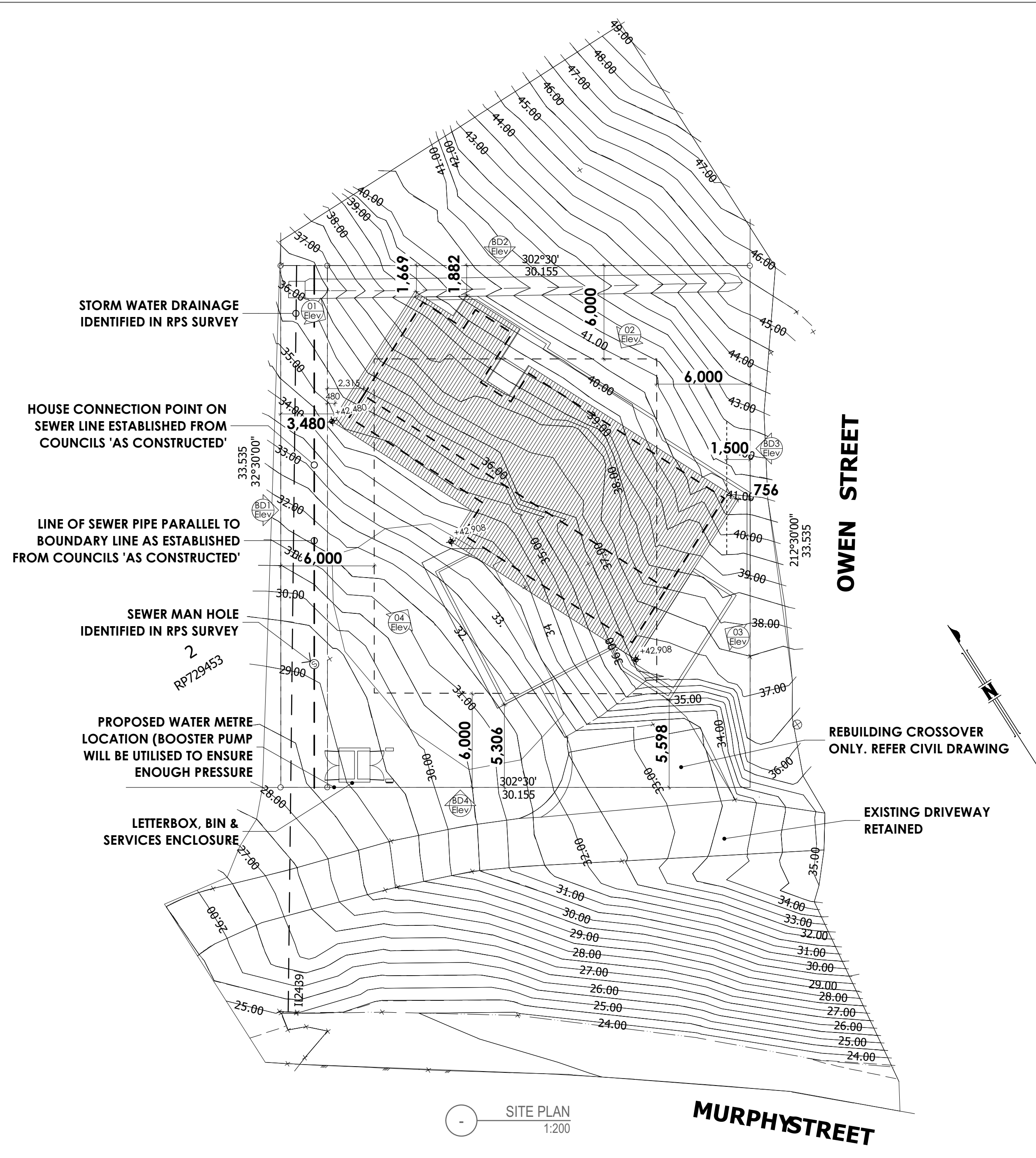
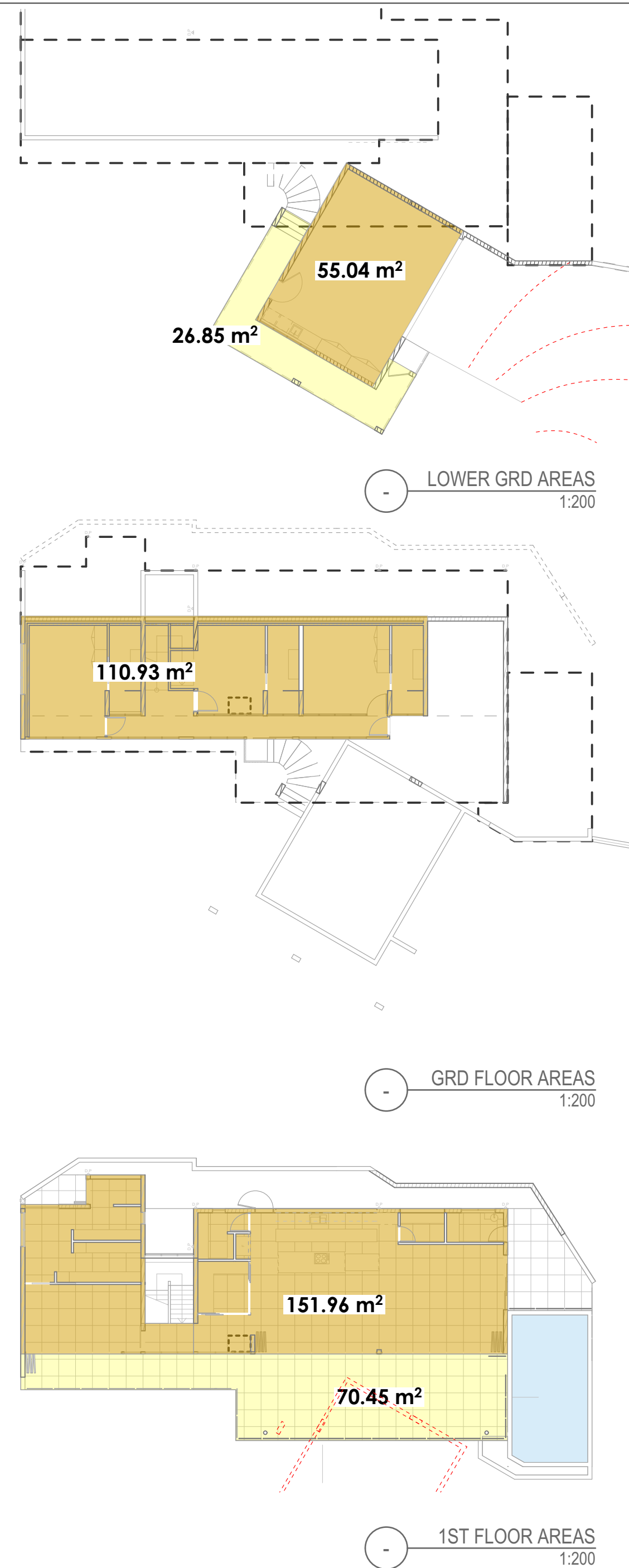
Description of the work			
QLeave project number			
Amount paid (\$)		Date paid (dd/mm/yy)	
Date receipted form sighted by assessment manager			
Name of officer who sighted the form			

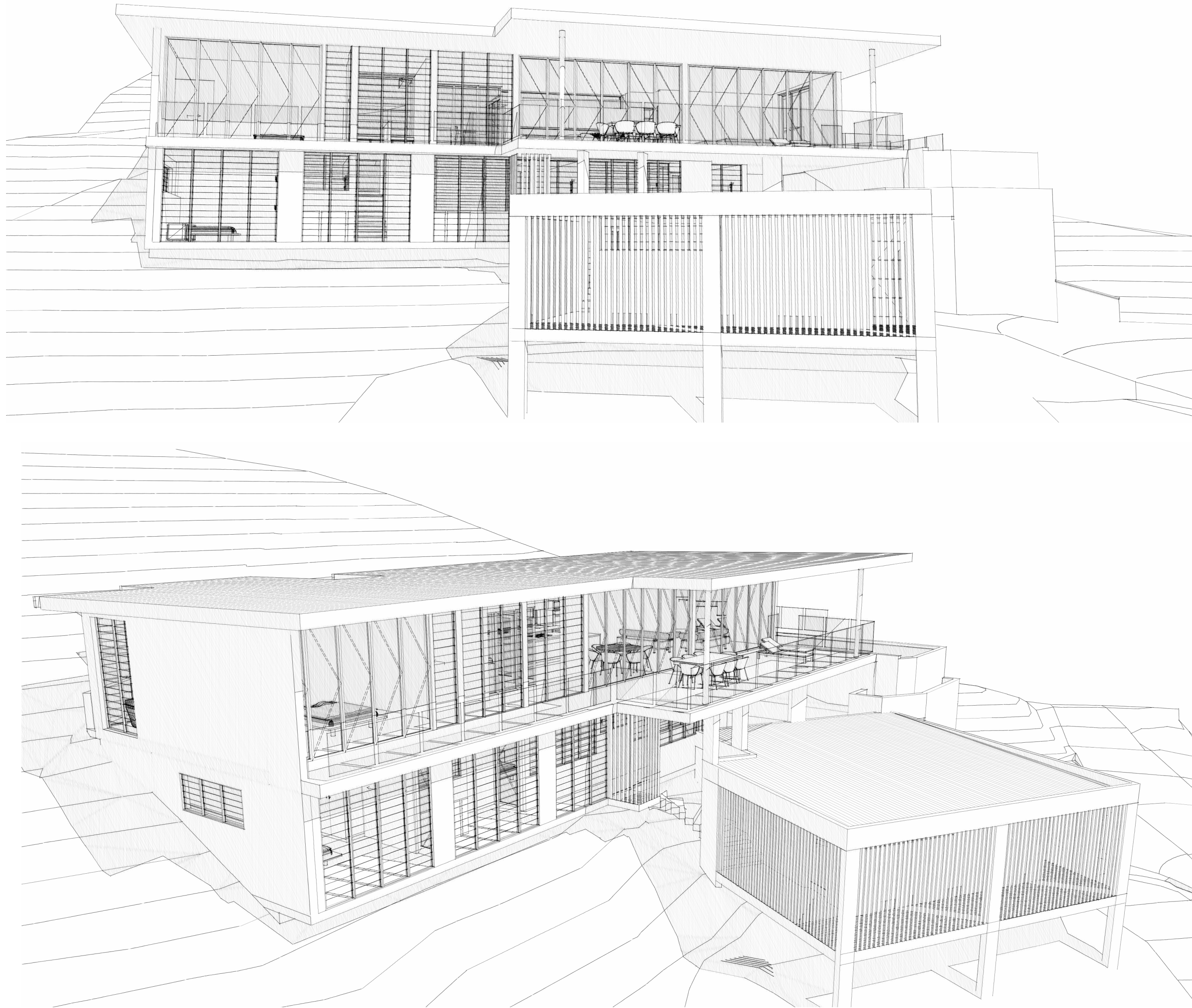


Town Planning and Project Services

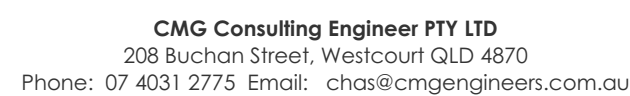
Attachment 3:

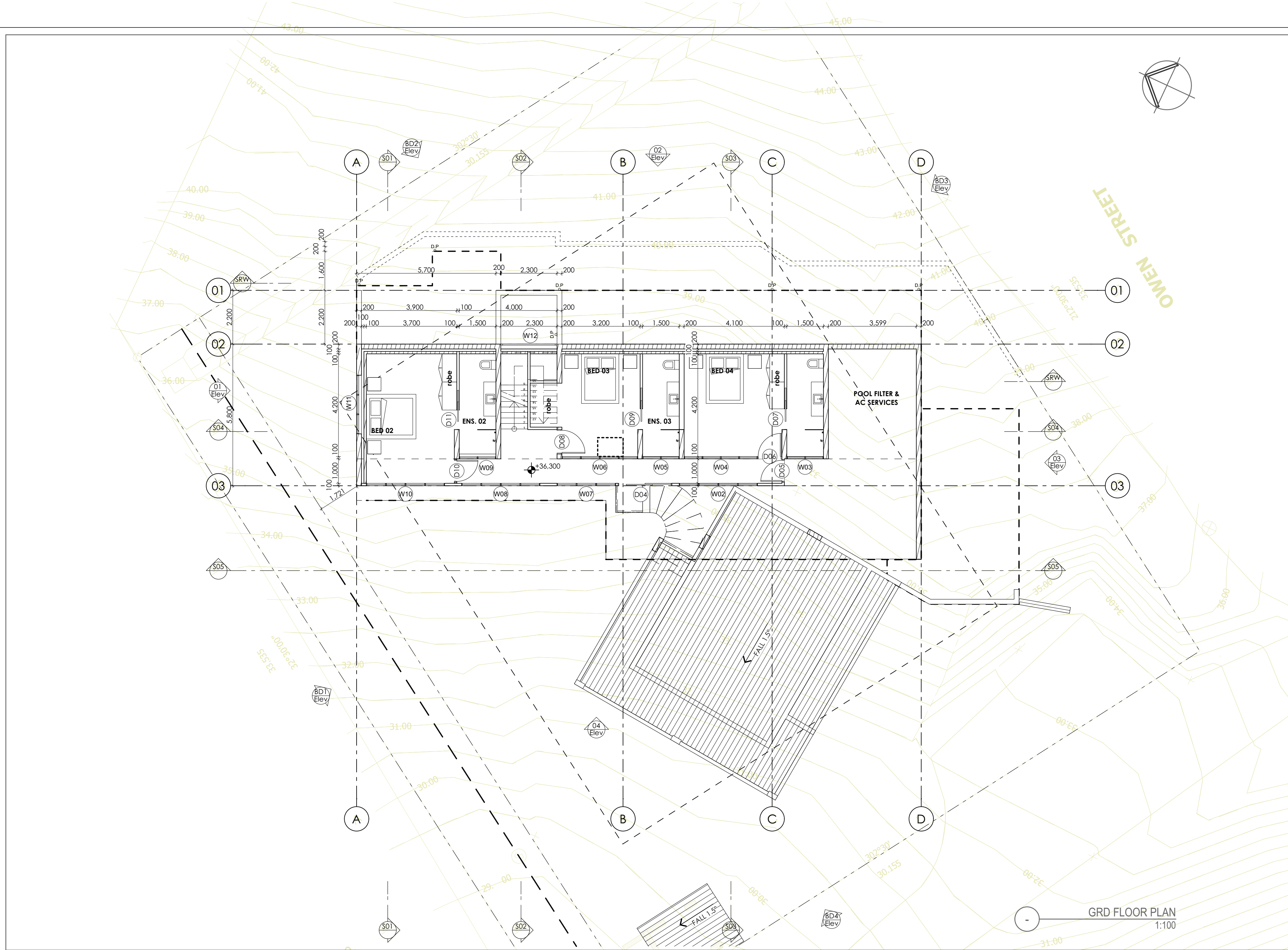
Revised Site, Floor and Elevation Plans

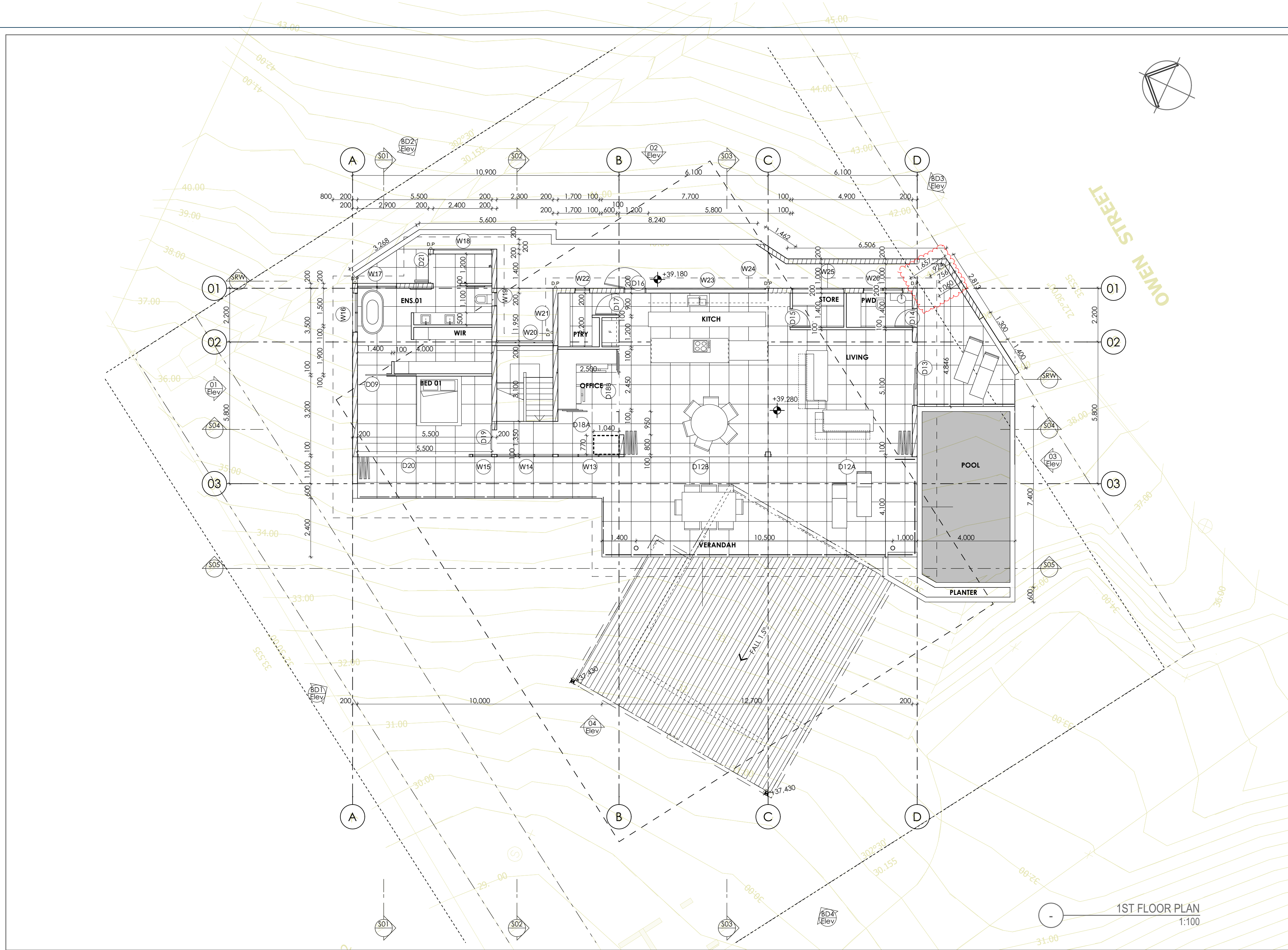


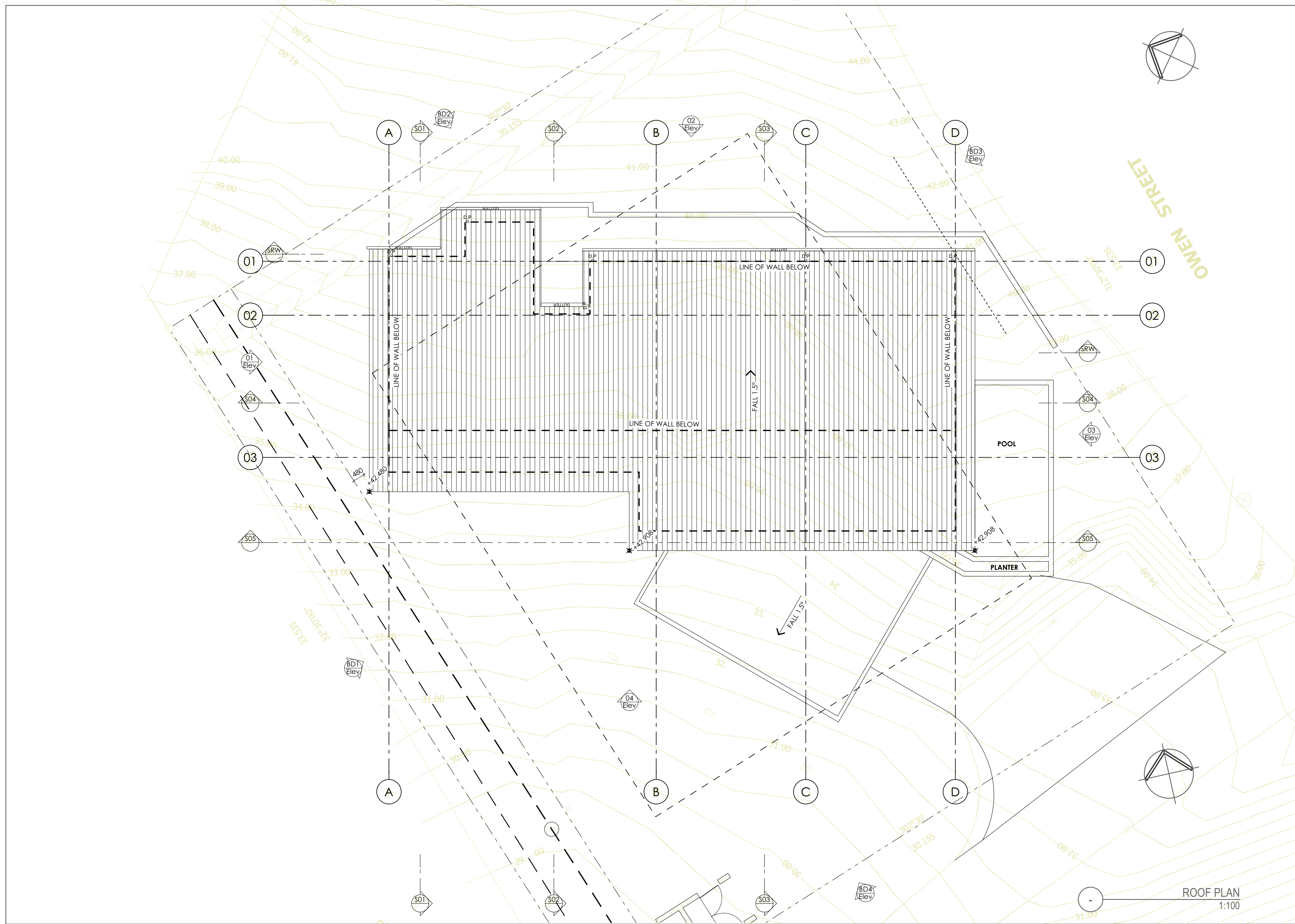


REV D
A2 SHEET
22/09/2023

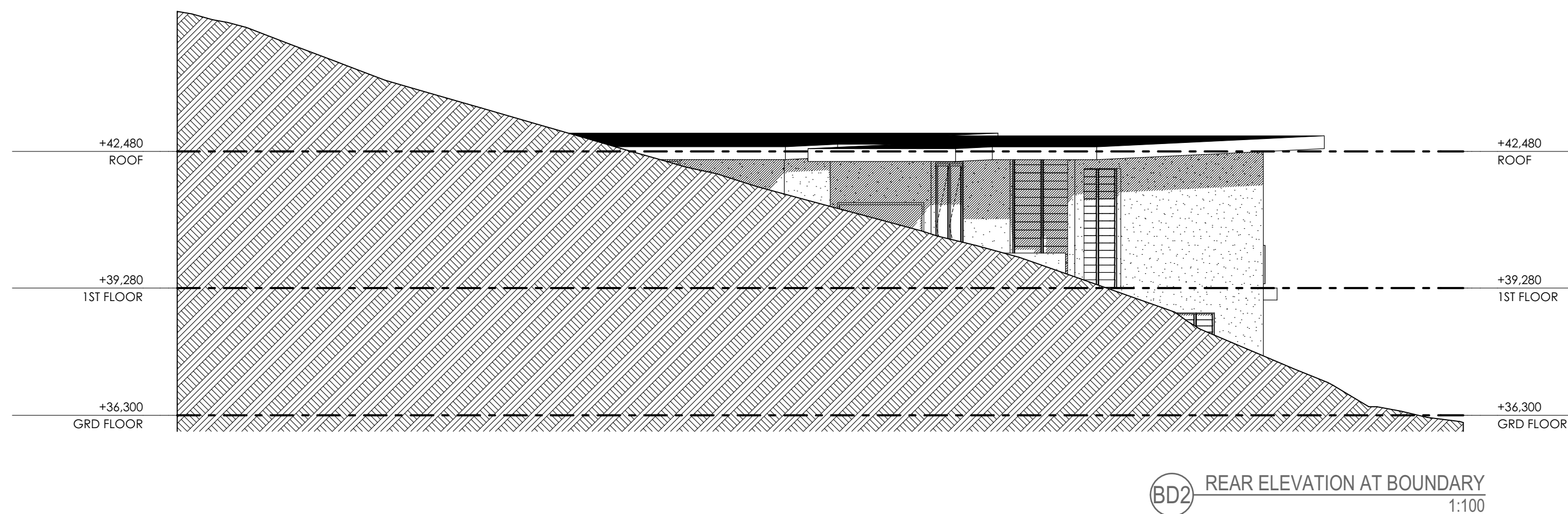
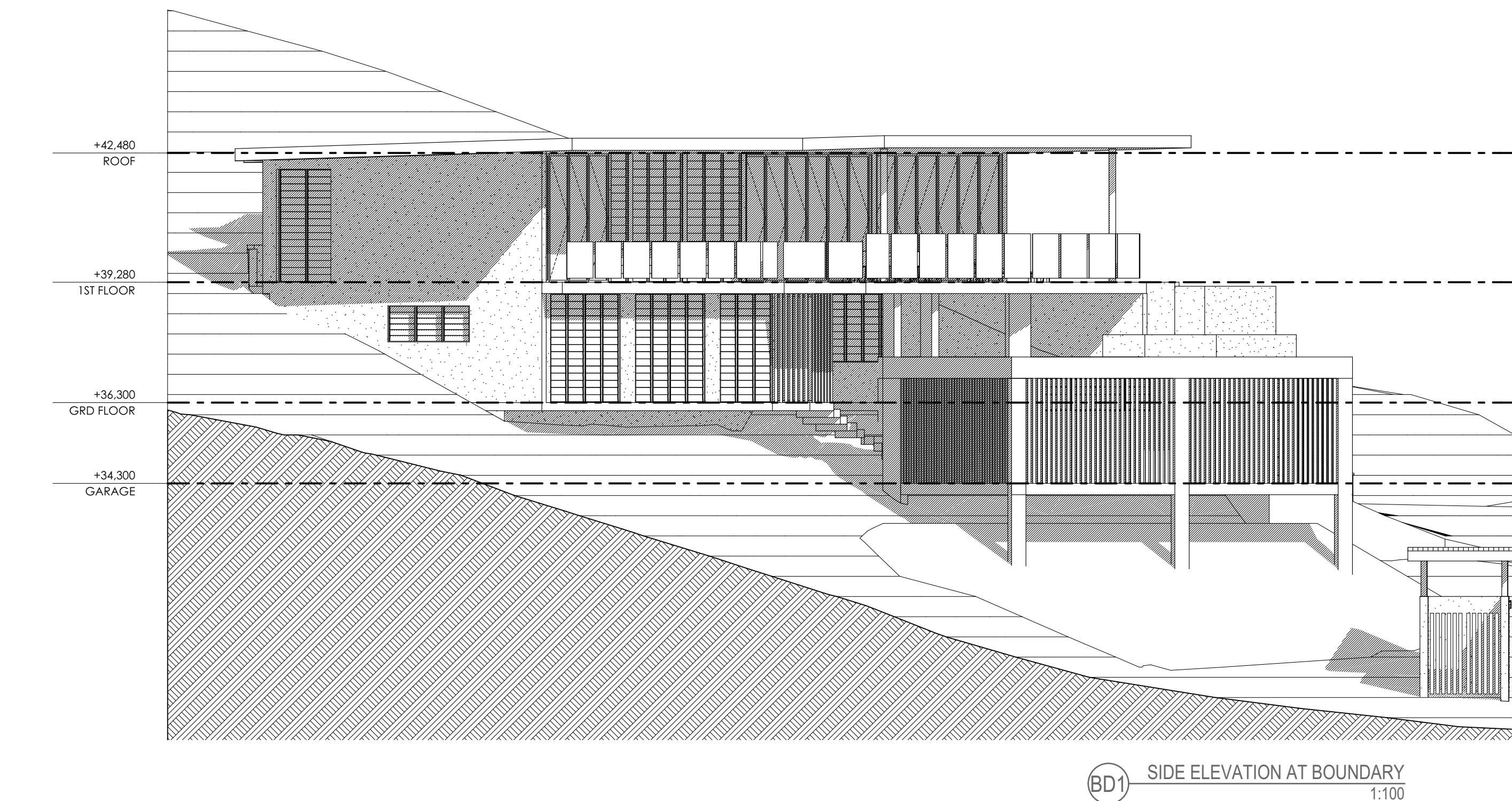


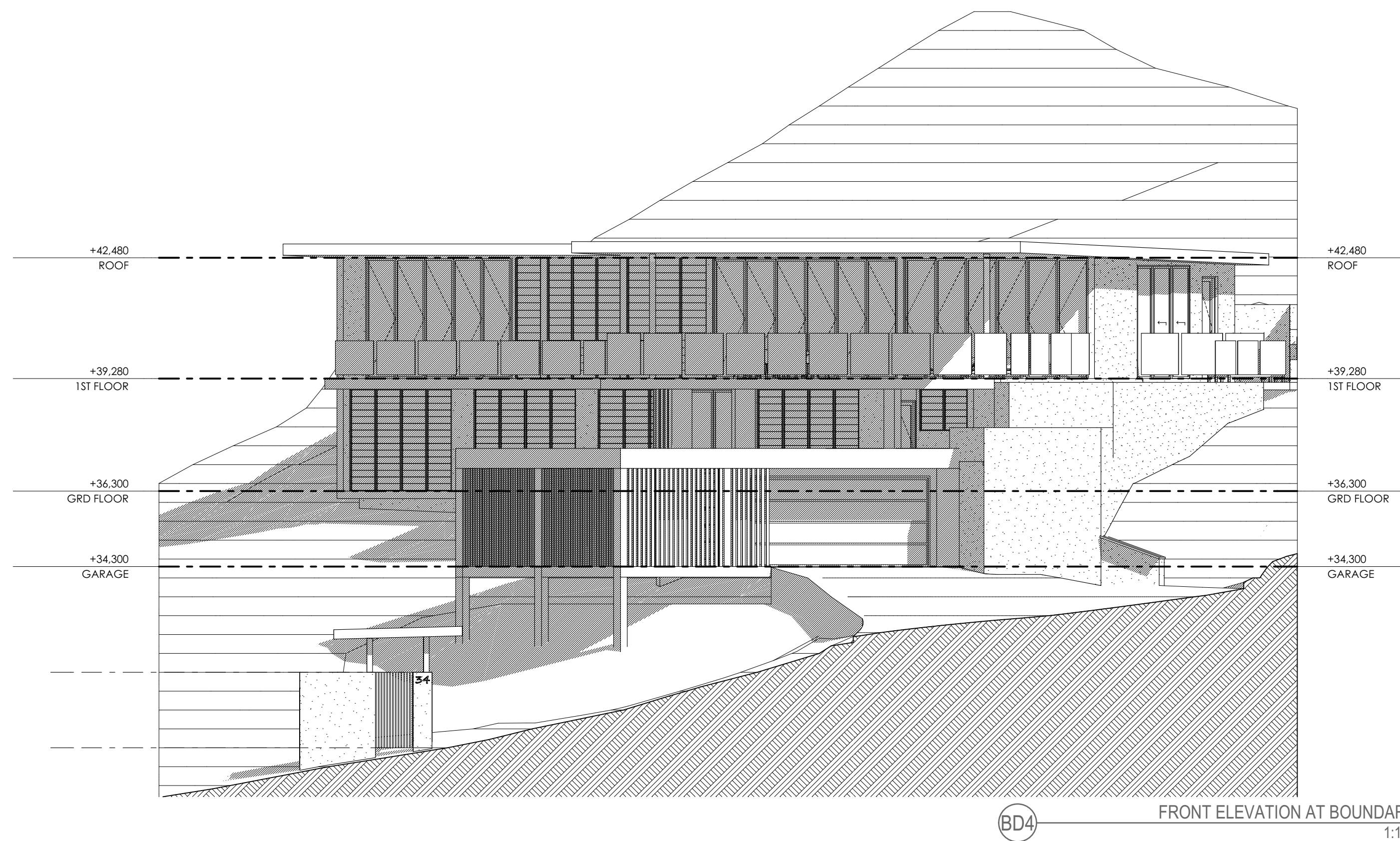
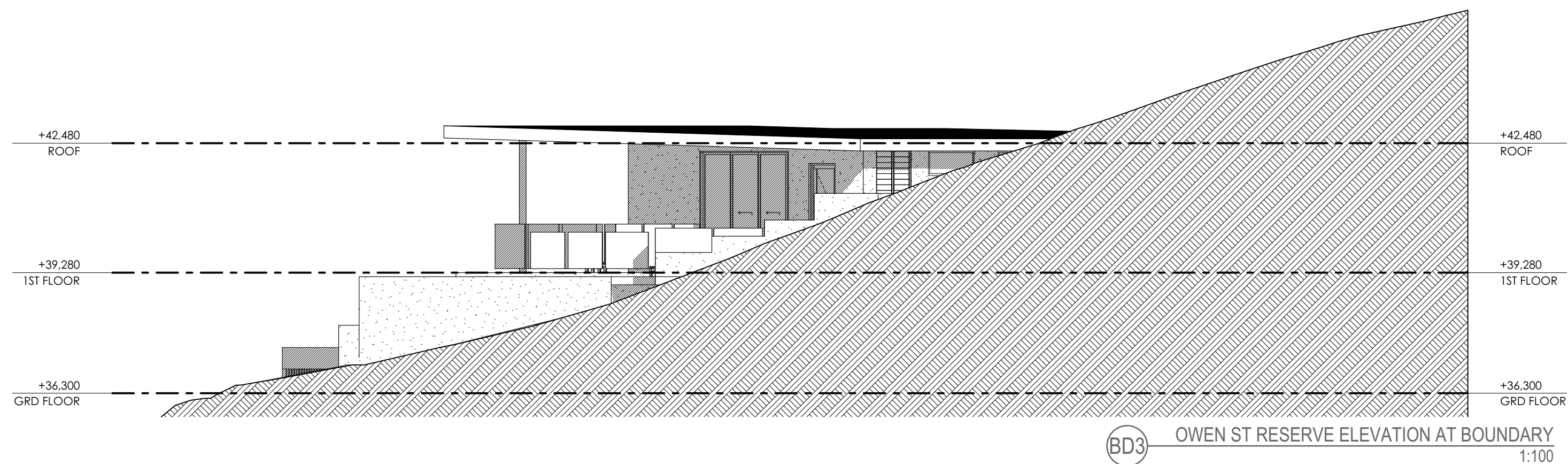


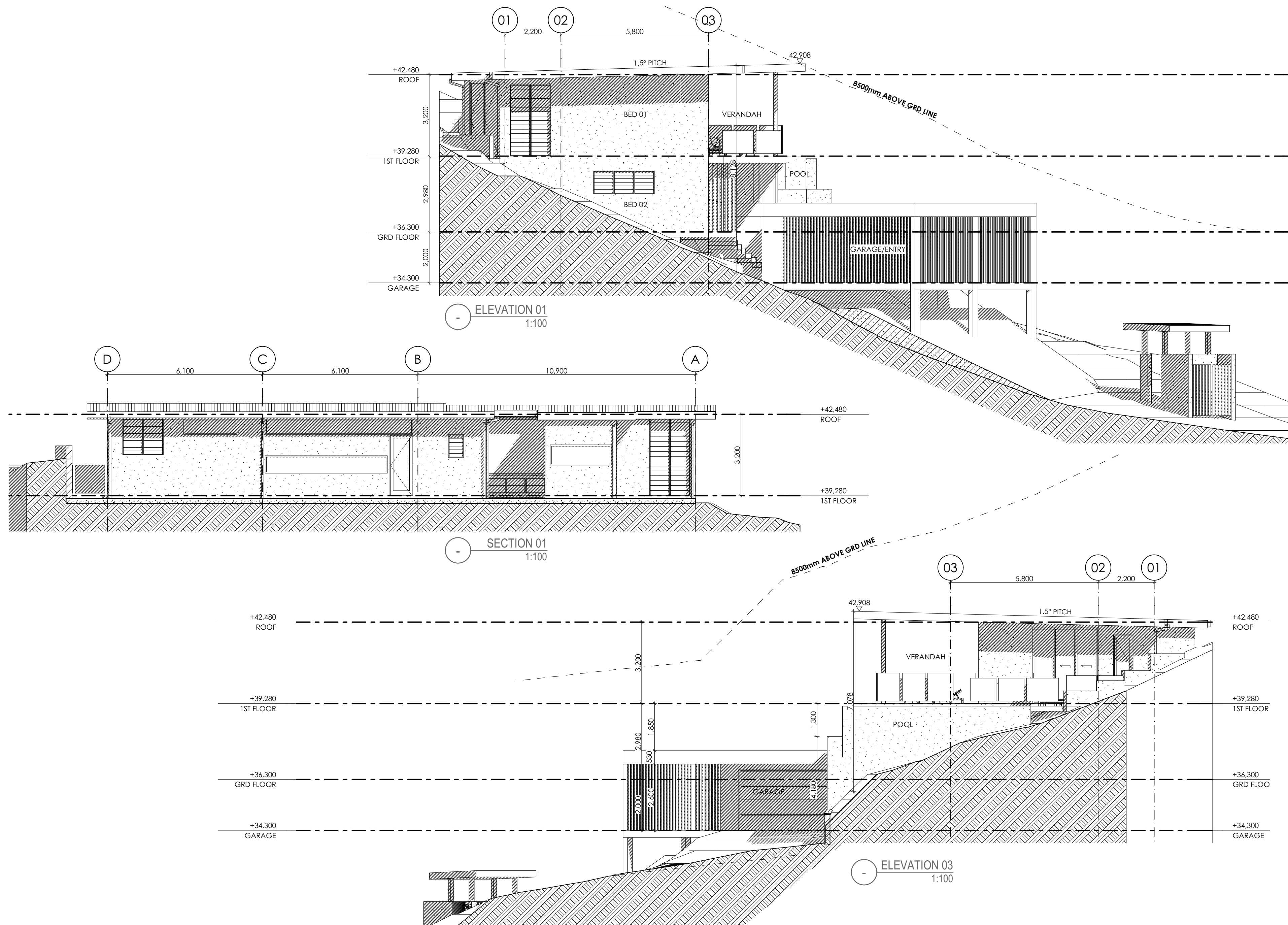


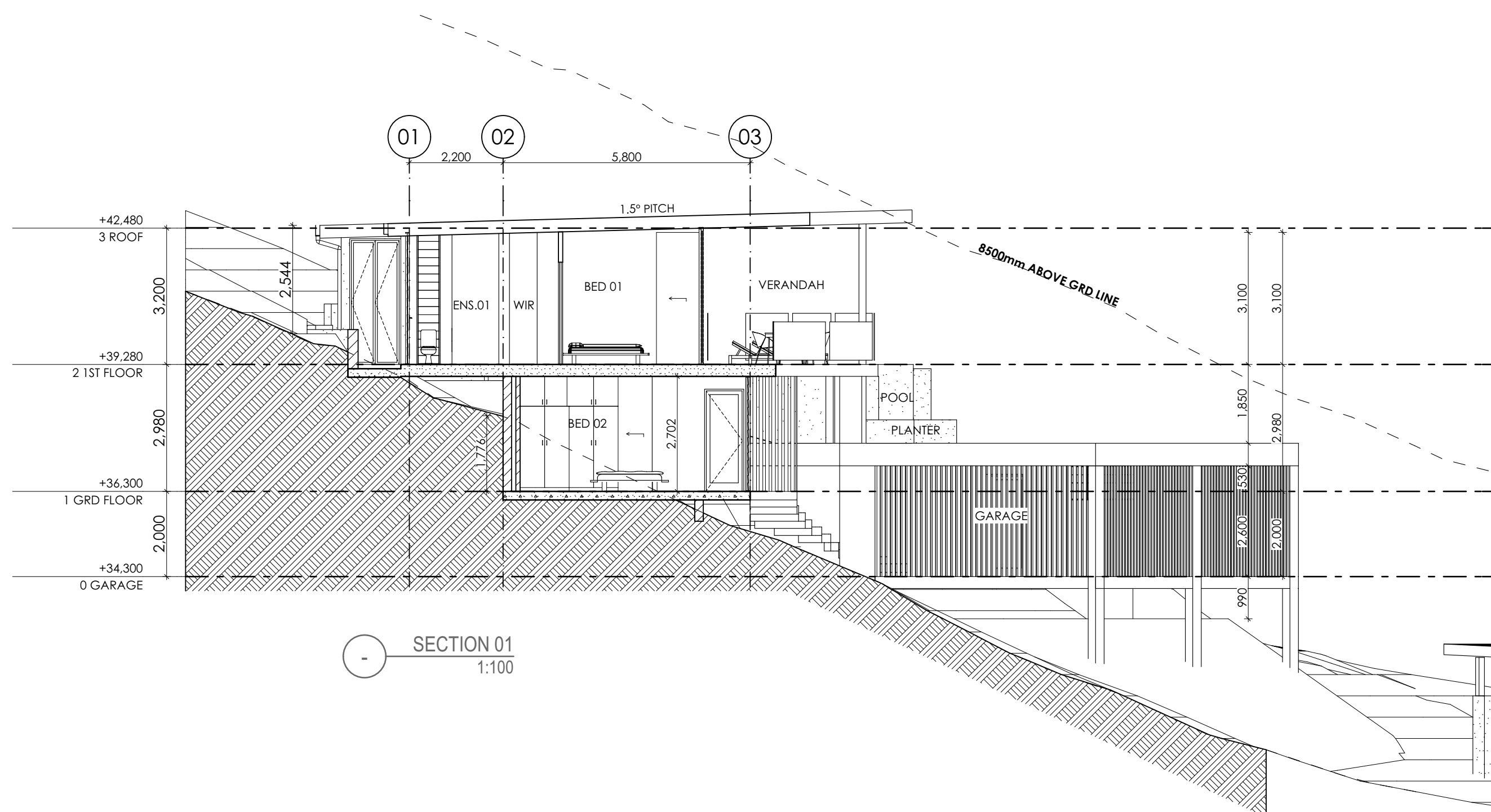
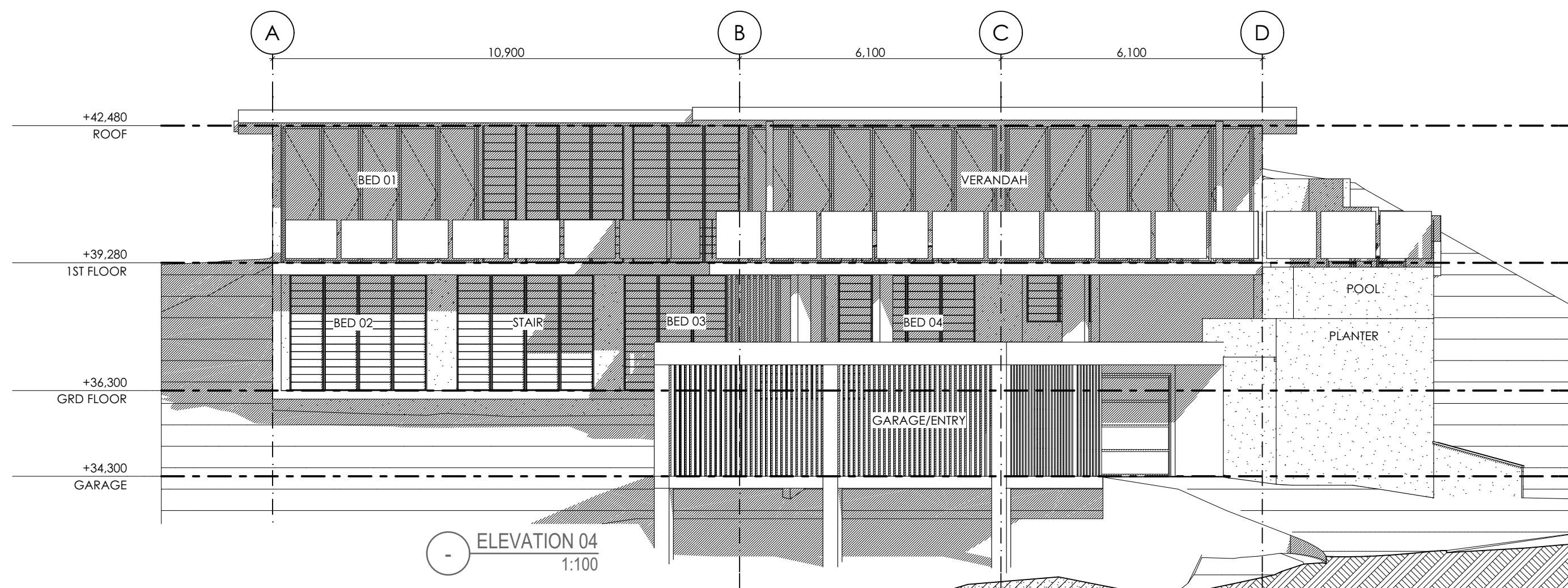


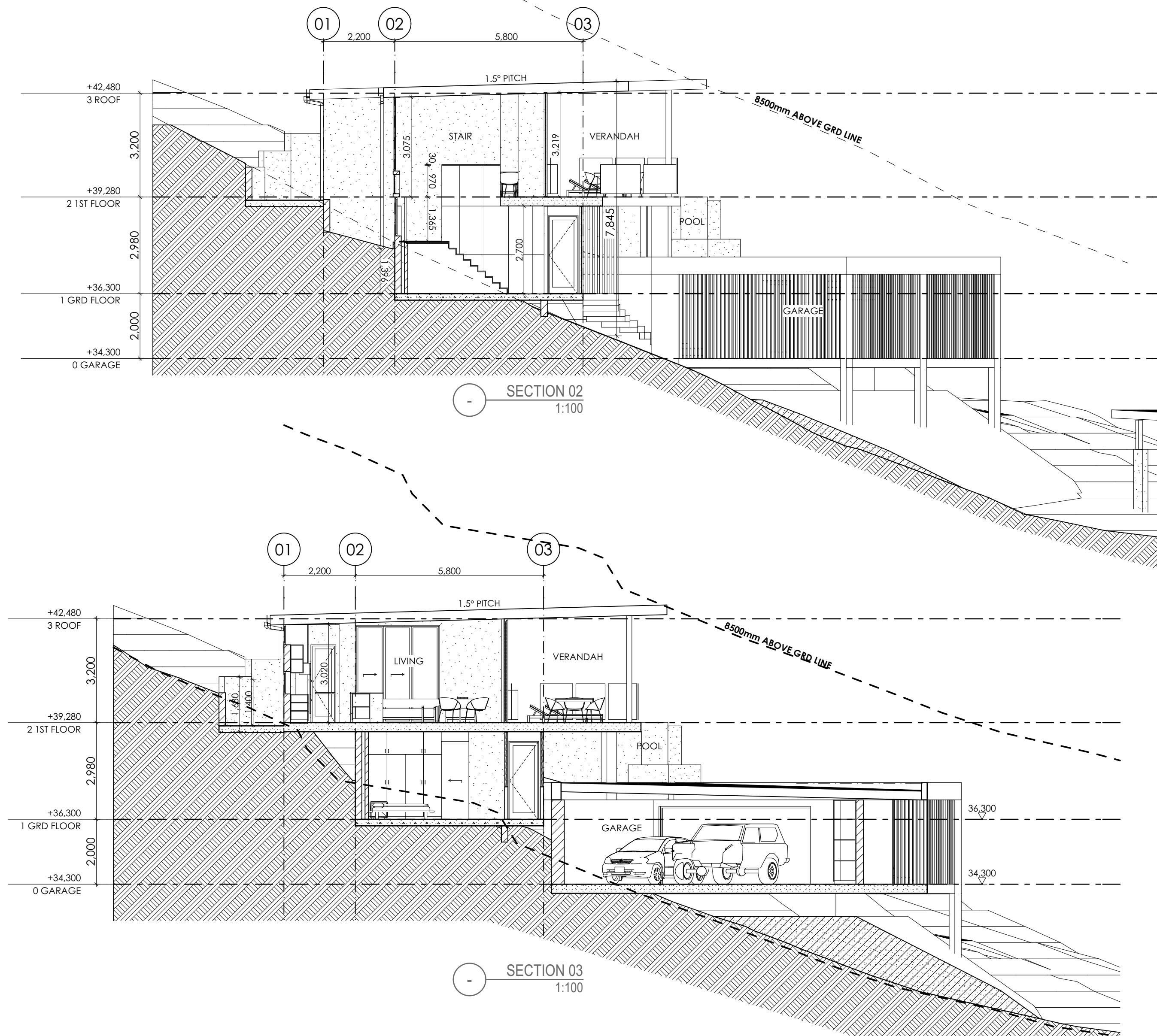
ROOF PLAN
1:100

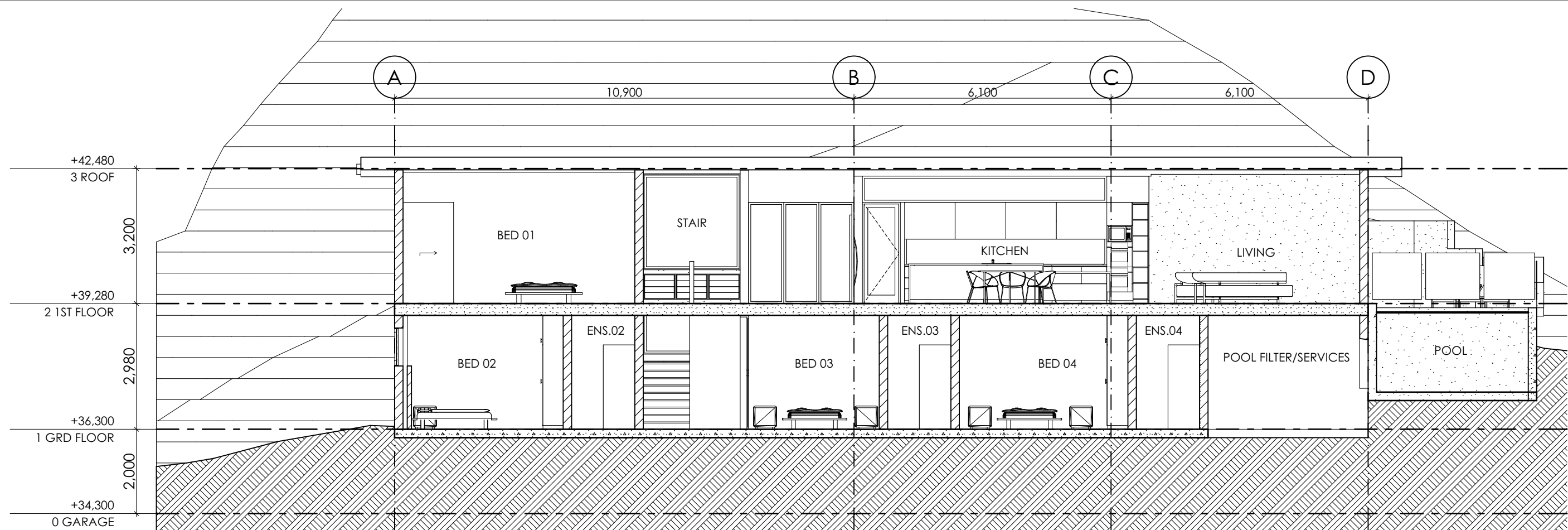




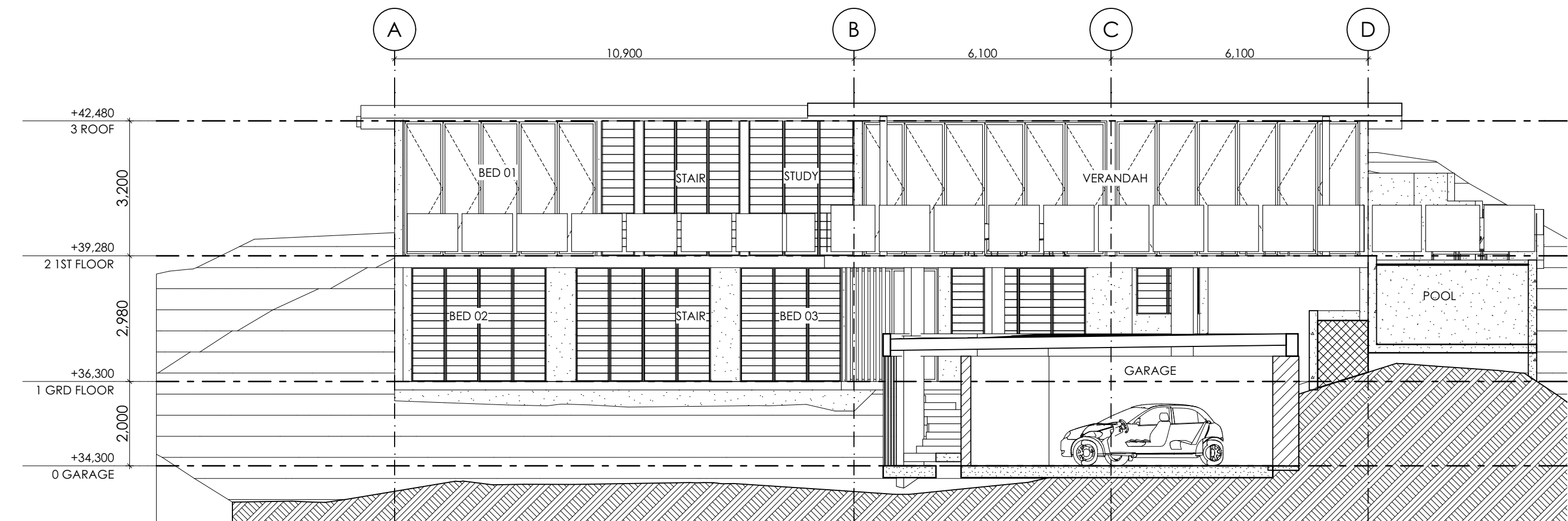




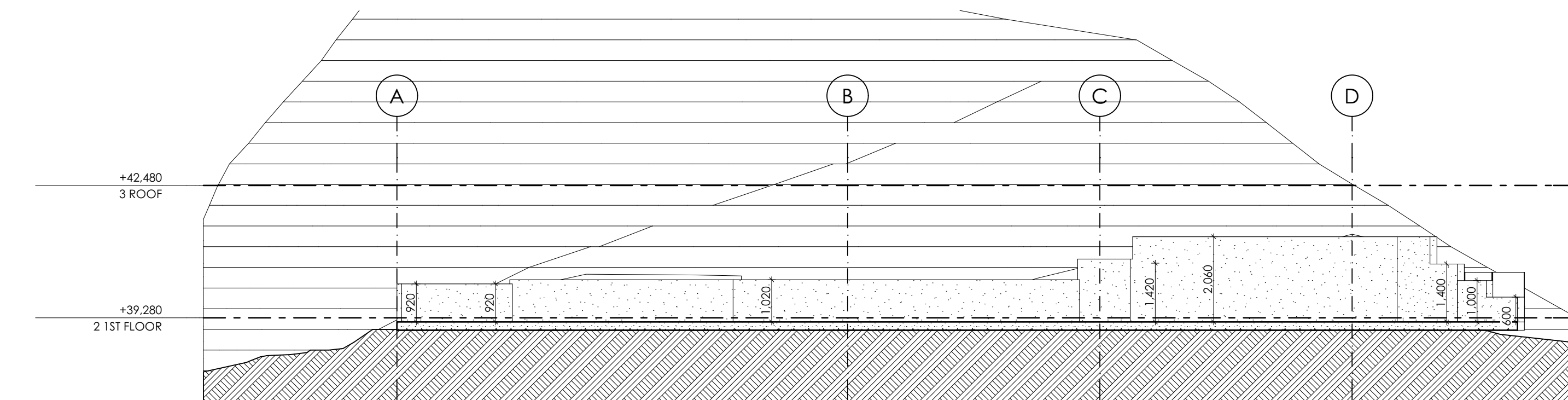




SECTION 04
1:100



SECTION 05
1:100



RETAINING WALL ELEVATION
1:100



ASPIRE

Town Planning and Project Services

Attachment 4:

Original Decision Notice

24 March 2023

Enquiries: Rebecca Taranto
Our Ref: MCUC 2022_5127/1 (Doc ID:1141769)
Your Ref:

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

Vermilion 21 Pty Ltd (Tte)
C/- Daniel Favier (Aspire Town Planning)
PO Box 1040
MOSSMAN QLD 4873

Dear Sir/Madam

**Development Application for Material Change of Use (Dwelling house)
At 34 Murphy Street Port Douglas
On Land Described as Lot 126 on SP144708**

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

Please quote Council's application number: MCUC 2022_5127/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

encl.

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - Reasons for Decision - response to properly made submissions.
- Advice For Making Representations and Appeals (Decision Notice)



Decision Notice

Approval (with conditions)

Given under s 63 of the Planning Act 2016

Applicant Details

Name: Vermilion 21 Pty Ltd (Tte)
Postal Address: C/- Daniel Favier (Aspire Town Planning)
PO Box 1040
Mossman QLD 4873
Email: admin@aspireqld.com

Property Details

Street Address: 34 Murphy Street Port Douglas
Real Property Description: Lot126 on SP144708
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for MCU - Material Change of Use (Dwelling house)

Decision

Date of Decision: 24 March 2023
Decision Details: Approved (subject to conditions)

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

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

The term 'approved drawing(s) and/or document(s) or other similar expressions means:

Drawing or Document	Reference	Date
Lower Ground, Ground Floor, 1 st Floor Areas	Danny Vos Architect Rev 0 Sheet 1.0	08/02/2023
Proposed Dwelling	Danny Vos Architect Rev 0	08/02/2023

	Sheet 1.1	
Lower Ground Floor Plan	Danny Vos Architect Rev0 Sheet 2.0	08/02/2023
Ground Floor Plan	Danny Vos Architect Rev 0 Sheet 2.1	08/02/2023
First Floor Plan	Danny Vos Architect Rev 0 Sheet 2.2	08/02/2023
Roof Plan	Danny Vos Architect Rev 0 Sheet 2.3	08/02/2023
Side and rear Elevation	Danny Vos Architect Rev 0 Sheet 3.1	08/02/2023
Owen St Reserve and Front Elevation at Boundary	Danny Vos Architect Rev 0 Sheet 3.2	08/02/2023
Elevations 01, 01 and 03	Danny Vos Architect Rev 0 Sheet 4.0	08/02/2023
Elevation 04 and Section 01	Danny Vos Architect Rev 0 Sheet 4.1	08/02/2023
Section 02 and 03	Danny Vos Architect Rev 0 Sheet 4.2	08/02/2023
Section 04 and 05 and Retaining Wall Elevation	Danny Vos Architect Rev 0 Sheet 4.3	08/02/2023
Stormwater Management and Retaining Wall Plan	CMG Consulting Engineers Pty Ltd Dwg No. 45853-SK01 AMDT A	February 2023
Driveway Grading	CMG Consulting Engineers Pty Ltd	February 2023

	Dwg No. 45853-SK02 AMDT A	
Landscape Concept Plan	Hortulus Australia Pty Ltd Drawing 1	25 November 2022
Site Planting Plan	Hortulus Australia Pty Ltd Drawing 2	25 November 2022
Landscape Plan for Town Planning Approval	Hortulus Australia Pty Ltd Drawing 3	25 November 2022
Schematic Elevation	Hortulus Australia Pty Ltd Drawing 4	25 November 2022
Schematic Elevation	Hortulus Australia Pty Ltd Drawing 5	25 November 2022

Assessment Manager Conditions & Advices

Conditions

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.

Site Drainage Study

3. With reference to the Site Drainage Management Plan drawn by CMG Consulting Engineers Pty Ltd, Drawing No. 45853-SK01, dated February 2023, undertake a local drainage study of the site to determine the drainage impacts on upstream and downstream properties and the mitigation measures required to minimise such impacts. In particular, the study must address the following:
 - a. The contributing catchment boundaries;
 - b. Primary and secondary flow paths for the 5, 20, 50 and 100 year ARI flood events;
 - c. Delivery of all storm water from the proposed development to the storm water pit located within the road reserve to the south-west of the allotment.
 - d. Information on the proposed works and any impacts on the receiving stormwater pit.

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

The Site Drainage Study and Drainage Management Plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work with the necessary works being undertaken prior to Commencement of Use.

External Storm Water Connection

4. Connection of the proposed onsite stormwater drainage infrastructure to the stormwater pit located in the Murphy Street road reserve will require a separate Operation Works application be submitted to Council.

Earthworks Plan

5. Submit an Earthworks Plan and retaking to be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Works. The plan is to detail those areas that will be characterised by earth batters and those areas to be retained.

All earthworks must be carried out in accordance with the requirements as detailed in the Geotechnical Report prepared by Geo Design, Reference 22098AA-D-R01-v1, dated 7 February 2023, prepared by Stephen Ford RPEQ 25762. All works are to be carried out under the direction and supervision of Geo Design to confirm design and construction adequacy.

Sediment and Erosion

6. 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 Building Work.

All earthworks must be carried out in accordance with section CP1.13 and D5 of the FNQROC Development Manual. 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.

Access Driveway

7. Should the existing access driveway on Council land be required to be extended to facilitate the development, an Operational Works application will be required to be submitted to Council.

Any extension to the driveway must be developed in accordance with the latest version of AS2890-2004 with the following design parameters being met:

- a. Vehicle access to any other allotment must not be inhibited by the section of private access driveway in the Murphy Street road reserve.
- b. Any proposed removal or damage to vegetation within the adjacent Murphy Street road reserve requires approval be sought from Council prior to the commencement of work.

The access driveway within the road reserve of Murphy Street will not become a Council asset and will not 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 Internal

8. Undertake the following water supply and sewerage works internal to the subject land:
 - a. Provide a single internal sewer connection which complies with the requirements of the Queensland Development Code MP 1.4. Should HCB be altered, provide Council with CCTV footage prior and on completion of the works.
 - b. Provide a single internal water connection;

- c. Provide an internal water pump and storage tanks to the extent necessary to provide adequate supply and pressure at the house pad. Supply and installation of the pump and associated pipework and fillings is to be at the applicant's cost.

All the above works must be designed and constructed in accordance with the FNQROC Development Manual. All works must be carried out to the requirements and satisfaction of the Chief Executive Officer prior to Commencement of Use.

Water Supply Connection

9. Connection to Council's reticulated water supply can be achieved through a plumbing application to Council for water connection.

Landscaping

10. The site must be landscaped in accordance with details included on the landscaping concept plan prepared by Hortulus Landscape Designs dated 25 November 2022. All landscaping must be completed prior to the commencement of use and maintained at all times to the satisfaction of the Chief Executive Officer.

Damage to Council Infrastructure

11. 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, including but not limited to; mobilisation of heavy construction equipment, stripping and grubbing, the applicant/owner must notify Council immediately of the affected infrastructure and have it repaired or replaced at the developer's/owners/builders cost, prior to the Commencement of Use.

Bushfire Hazard

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

External Building Colours

13. Prior to the issue of a Development Permit for Building Work, the external colours of the building must be submitted to Council for endorsement by the Chief Executive Officer. The external building colours must be reflective of the surrounding natural environment, must not be white or metallic. The building exterior finishes, including any exposed concrete, fixed / louvered and pool glazing, must be of suitably dark colours to blend into the surrounding vegetation. All glazing must be of a non-reflective finish.

Off-site impacts

14. Dust emissions or other air pollutants, including odours, must not extend beyond the boundary of the site and cause a nuisance to surrounding properties.

ADVICE

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of s85 of the *Planning Act 2016*.
2. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
4. Light emanating from the site must not cause a light nuisance to surrounding properties in accordance with the *Environmental Protection Act 1994*.
5. The development approval does not permit the landscaping beyond the property

boundary. Any such work would be subject to achieving suitable tenure and approval under the Planning Scheme.

6. For information relating to the *Planning Act 2016* log on to www.dsdmip.qld.gov.au . To access the FNQROC Development Manual, Local Laws and other applicable Policies, log on to www.douglas.qld.gov.au .

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 approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

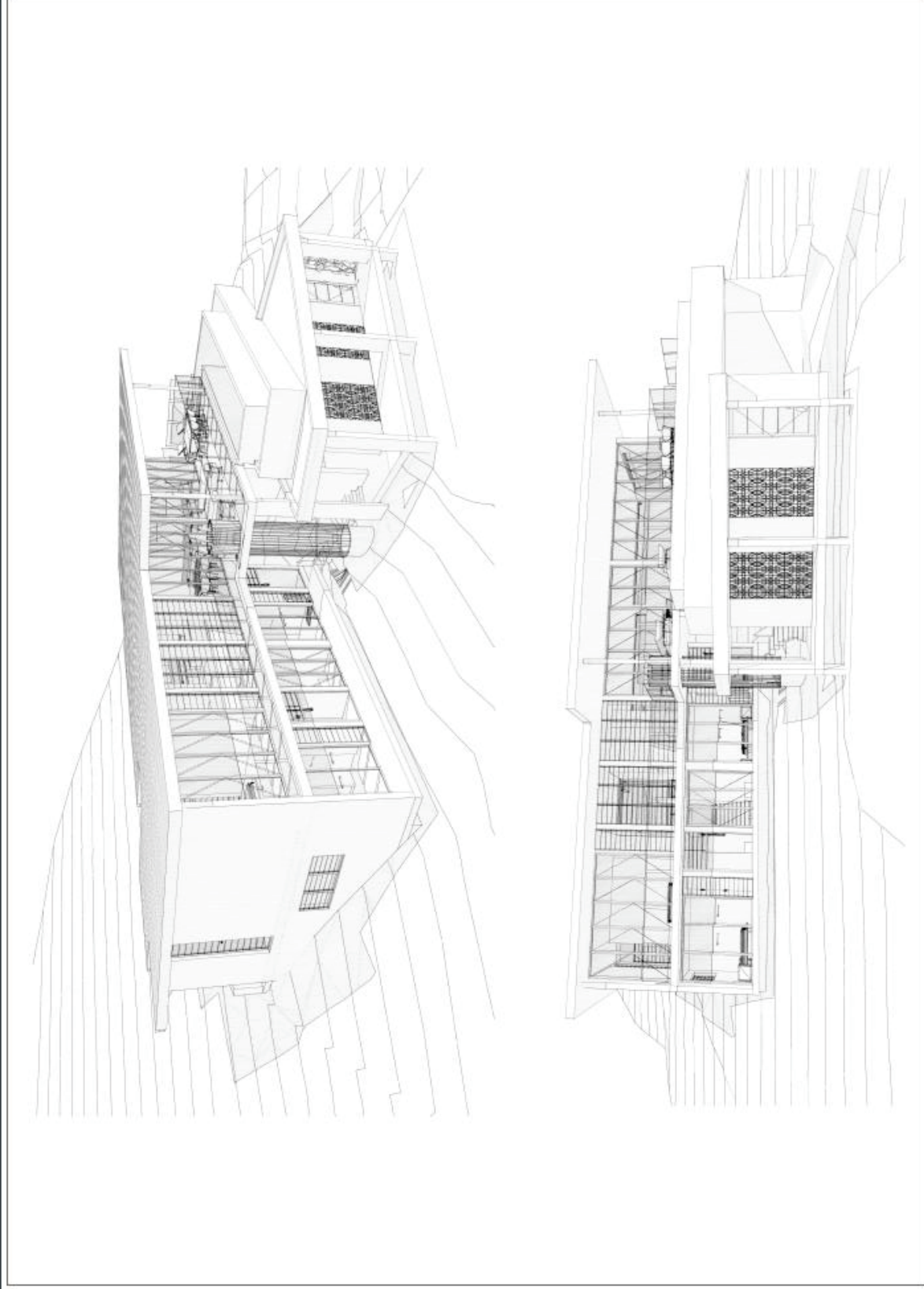
Rights to make Representations & Rights of Appeal

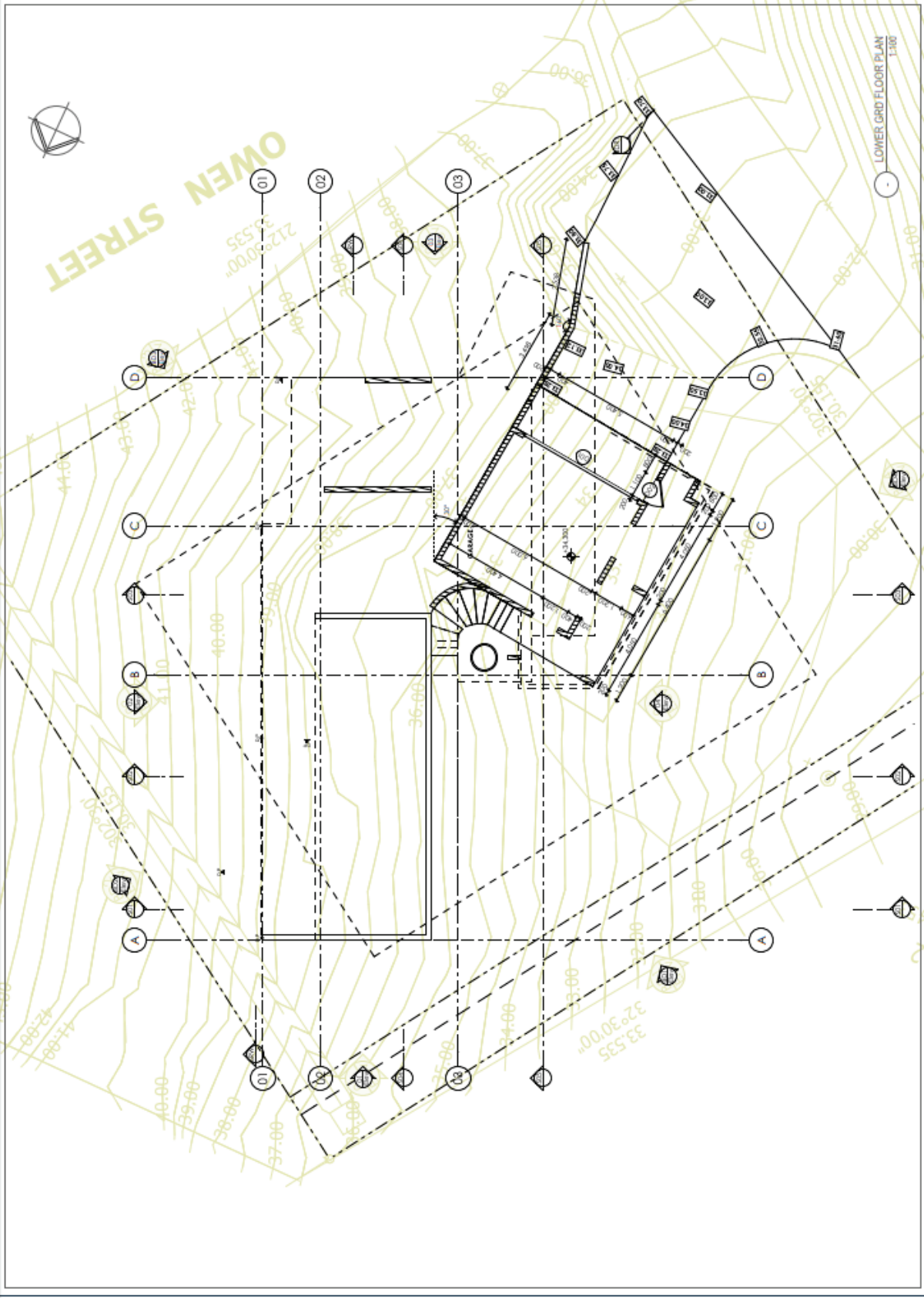
The rights of applicants to make representations and rights to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

A copy of the relevant appeal provisions are attached.

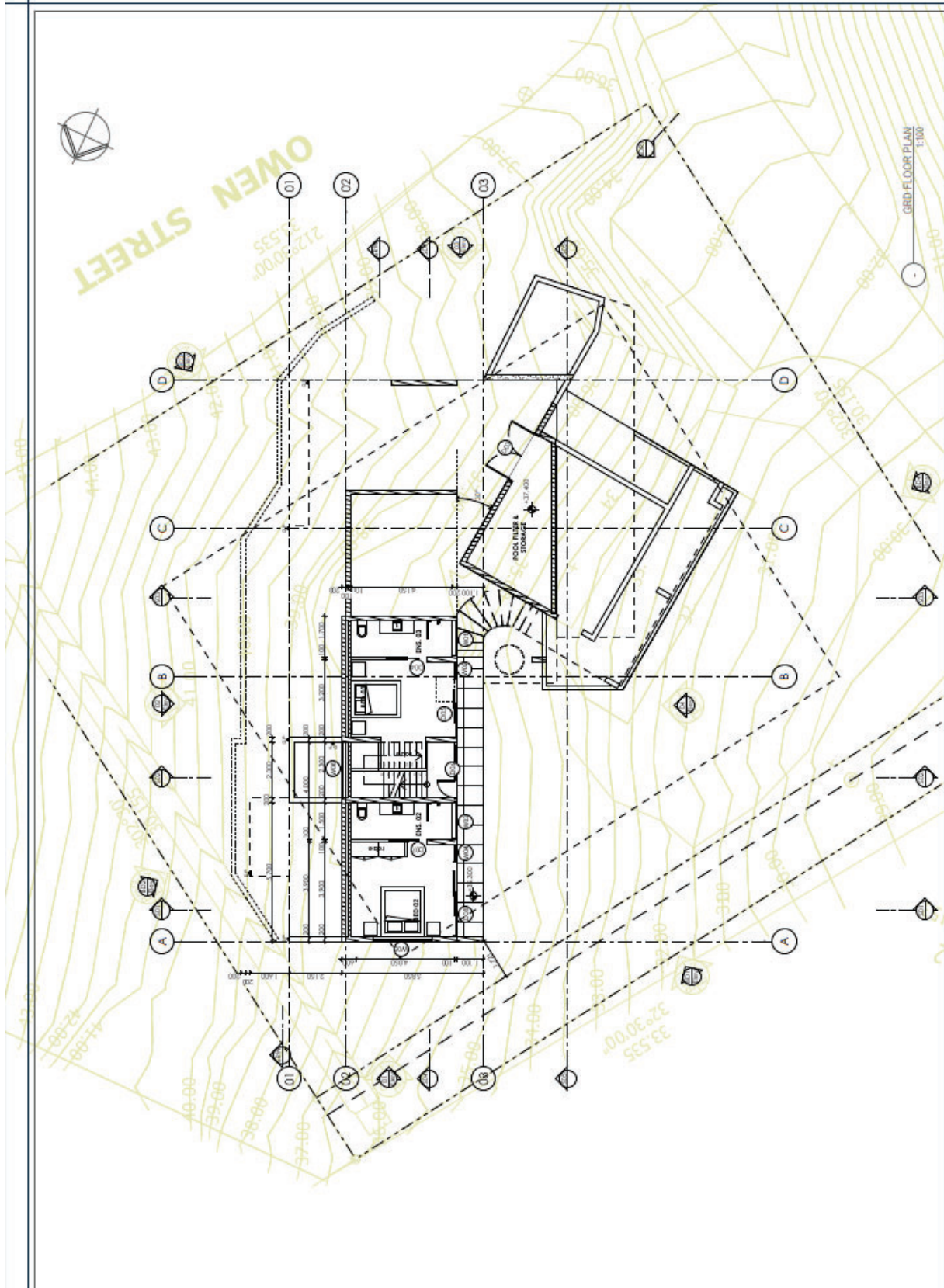
Approved Drawing(s) and/or Document(s)







VOS
Architect
GARRY
m. 0415 300 748
P R O P O S E D D W E L L I N G
Vermilion Pty Ltd AT THE MCNEIL PARK SUBSTATION FORD
34 MURPHY STREET, PORT DOUGLAS QLD





OWEN STREET

1ST FLOOR PLAN
1:100

P R O P O S E D D W E L L I N G
VERMILION PT PTY LTD, ATTN: THE WICKHAM SUBURBAN FARM
34 MURPHY STREET, PORT DOUGLAS QLD

VOS
Architect
m 0415 500 748

CMG Consulting Engineers Pty Ltd
208 Bunker Street, Westport QLD 4870
Phone: 07 4637 2073 Email: chris@cmgengineers.com.au

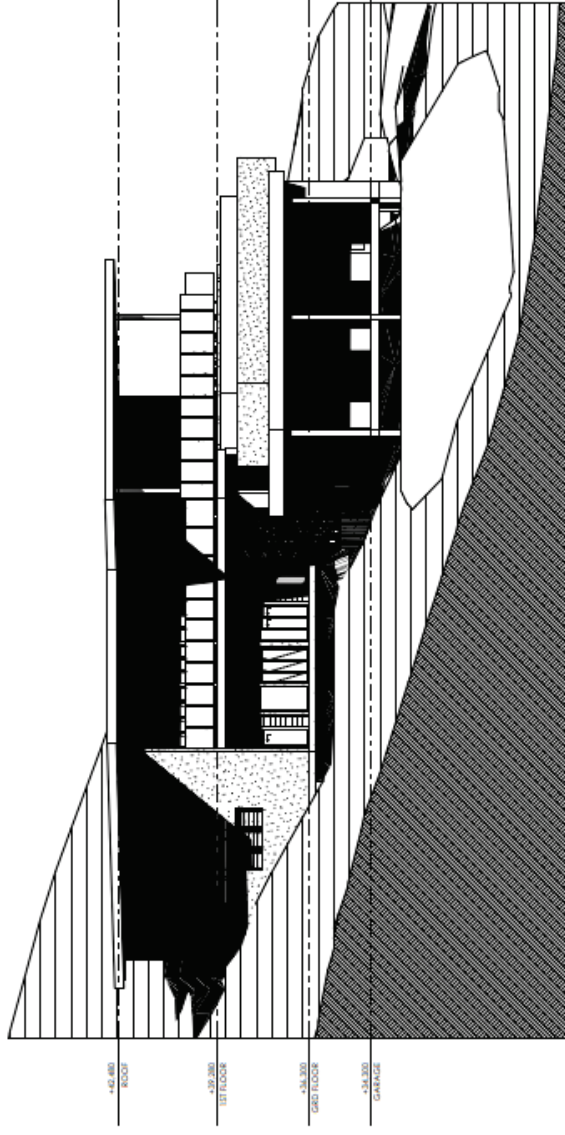
OWEN STREET

PROPOSED DWELLING
Vermilion2 Pty Ltd, ATTF The McEninhaus Superannuation Fund
34 MURPHY STREET, PORT DOUGLAS QLD

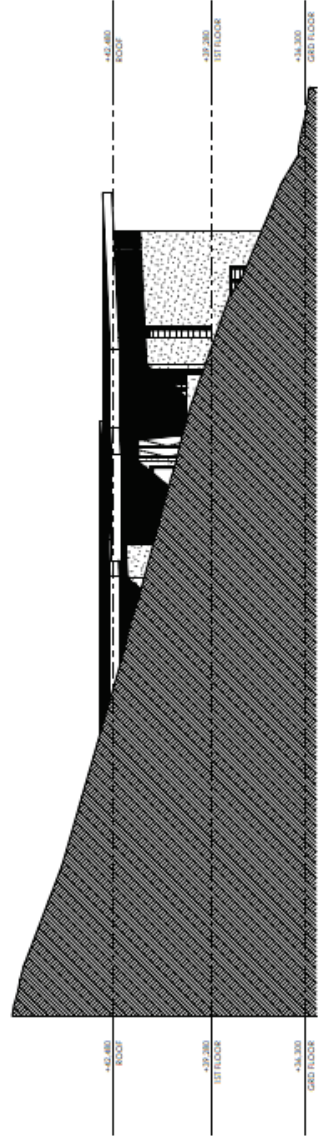
vos
Architect
m 0415 300 748

CMS Consulting Engineers Pty Ltd
30/100 The Esplanade, Port Douglas QLD 4870
Phone: 07 4833 2775 Email: cms@cms-engineers.com.au

ROOF PLAN
1:100



BD1 SIDE ELEVATION AT BOUNDARY 1:100

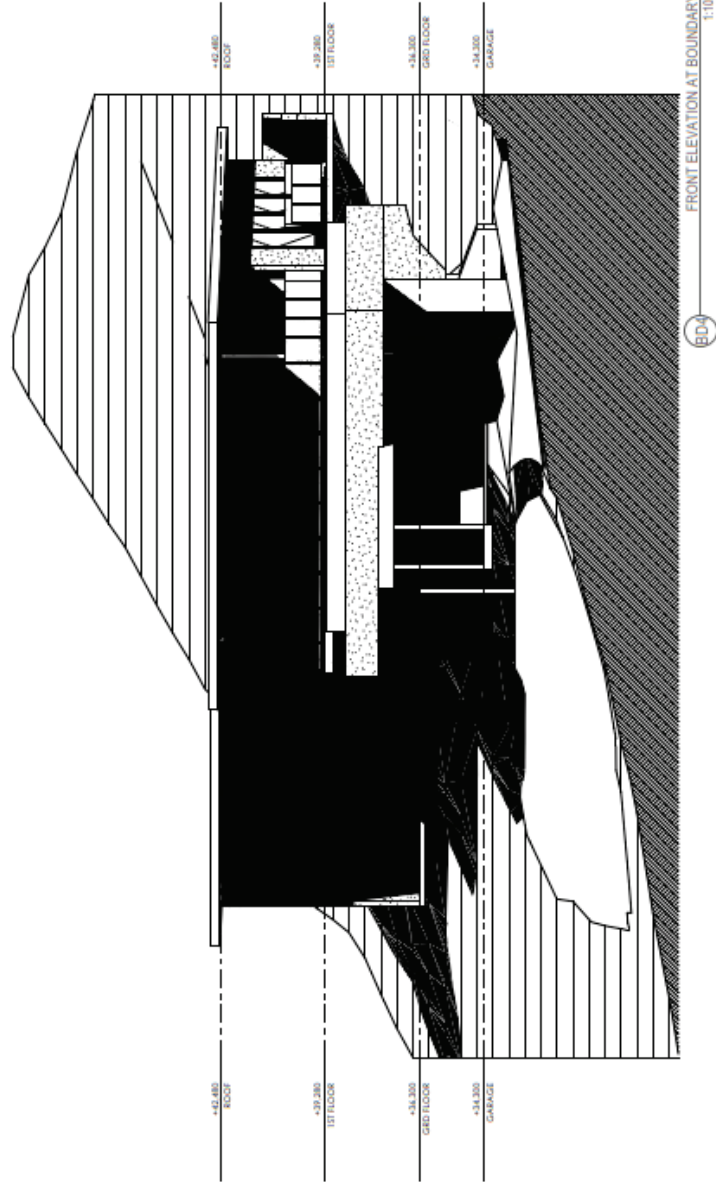
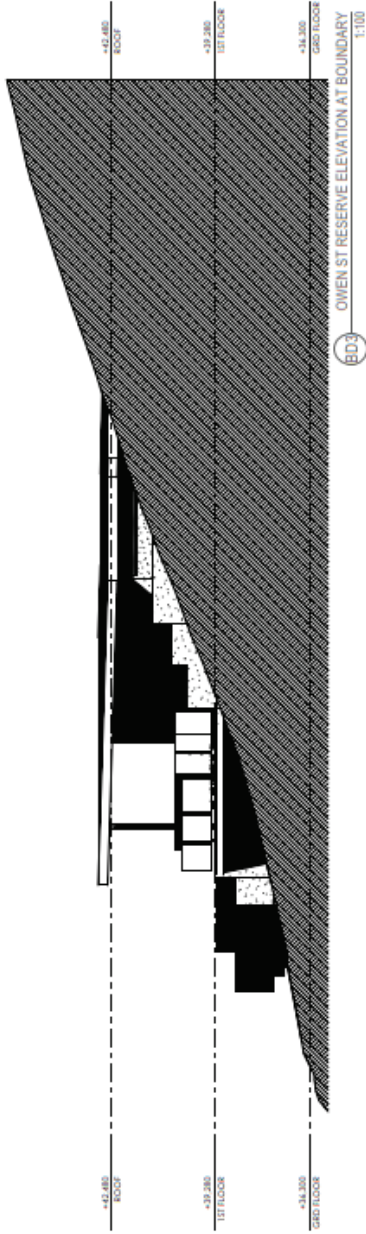


BD2 REAR ELEVATION AT BOUNDARY 1:100

VOS
Architect
m 0415 300 748

CMG Consulting Engineers Pty Ltd
208 Burchon Street, Westcourt QLD 4870
Phone: 07 4631 2775 Email: chad@cmgengr.com.au

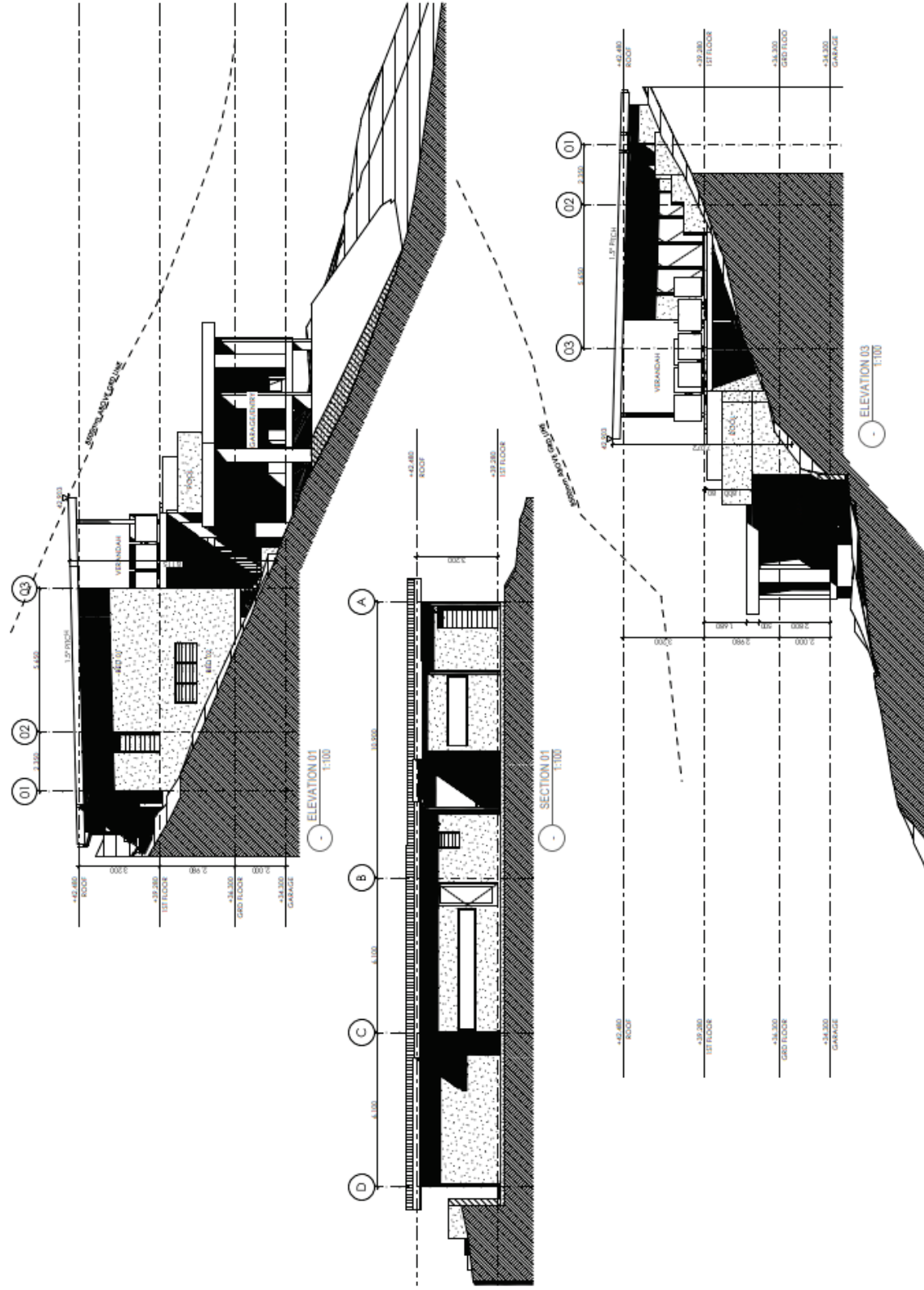
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Vermillion 21 Piv 110, Atf the McNeil Road Superannuation Fund
34 MURPHY STREET, PORT DOUGLAS QLD

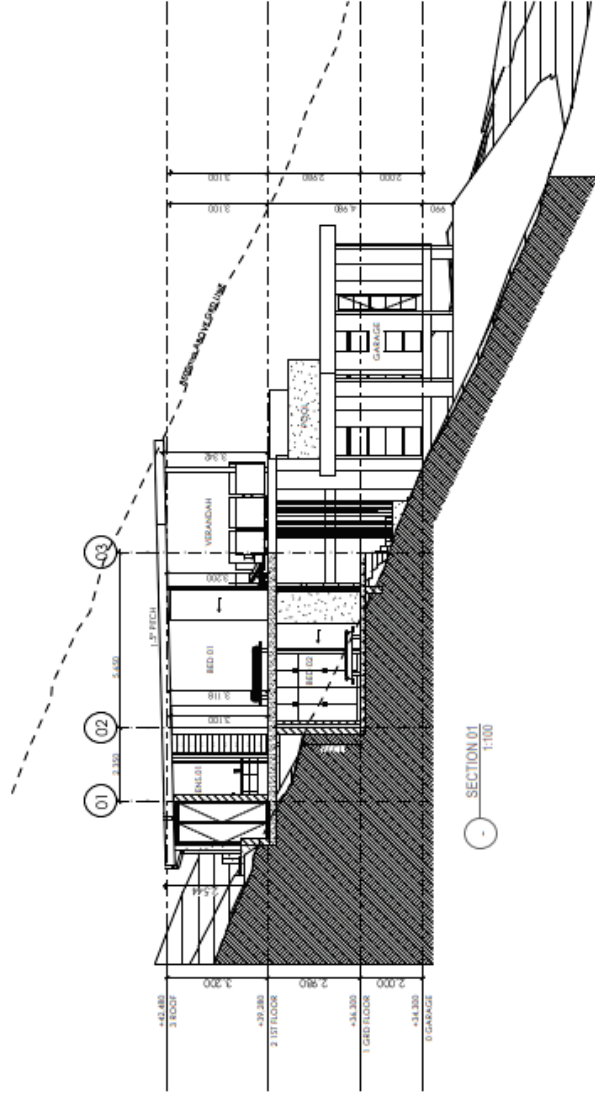
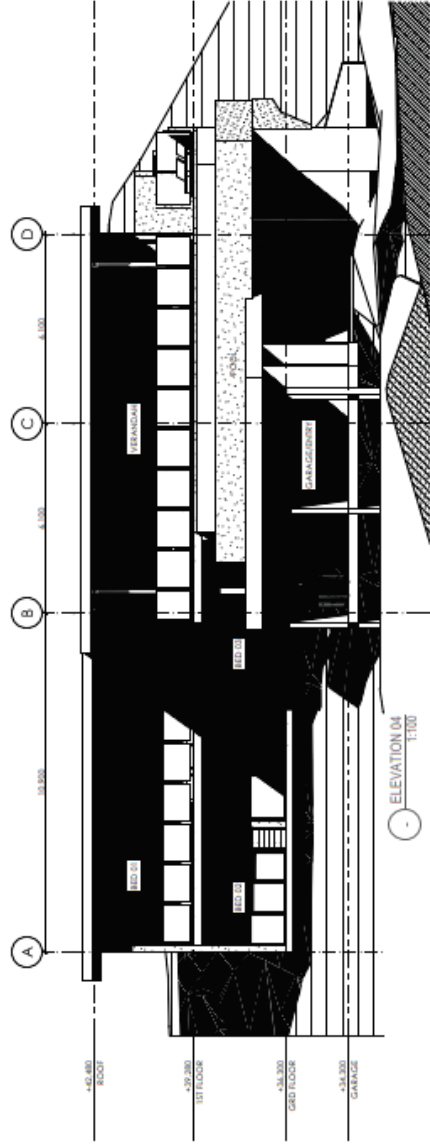


P R O P O S E D D W E L L I N G
Vermillion 21 Pty Ltd, Attn: The McWhirter Supplementation Fund
34 MURPHY STREET, PORT DOUGLAS QLD

VOS
GOOSE
Architect
m 0415 300 748

CHS Consulting Engineers Pty Ltd
3001/100 The Esplanade, Port Douglas QLD 4870
Phone: 07 403 2775 Email: chs@chsengr.com.au





S K E T C H D E S I G N

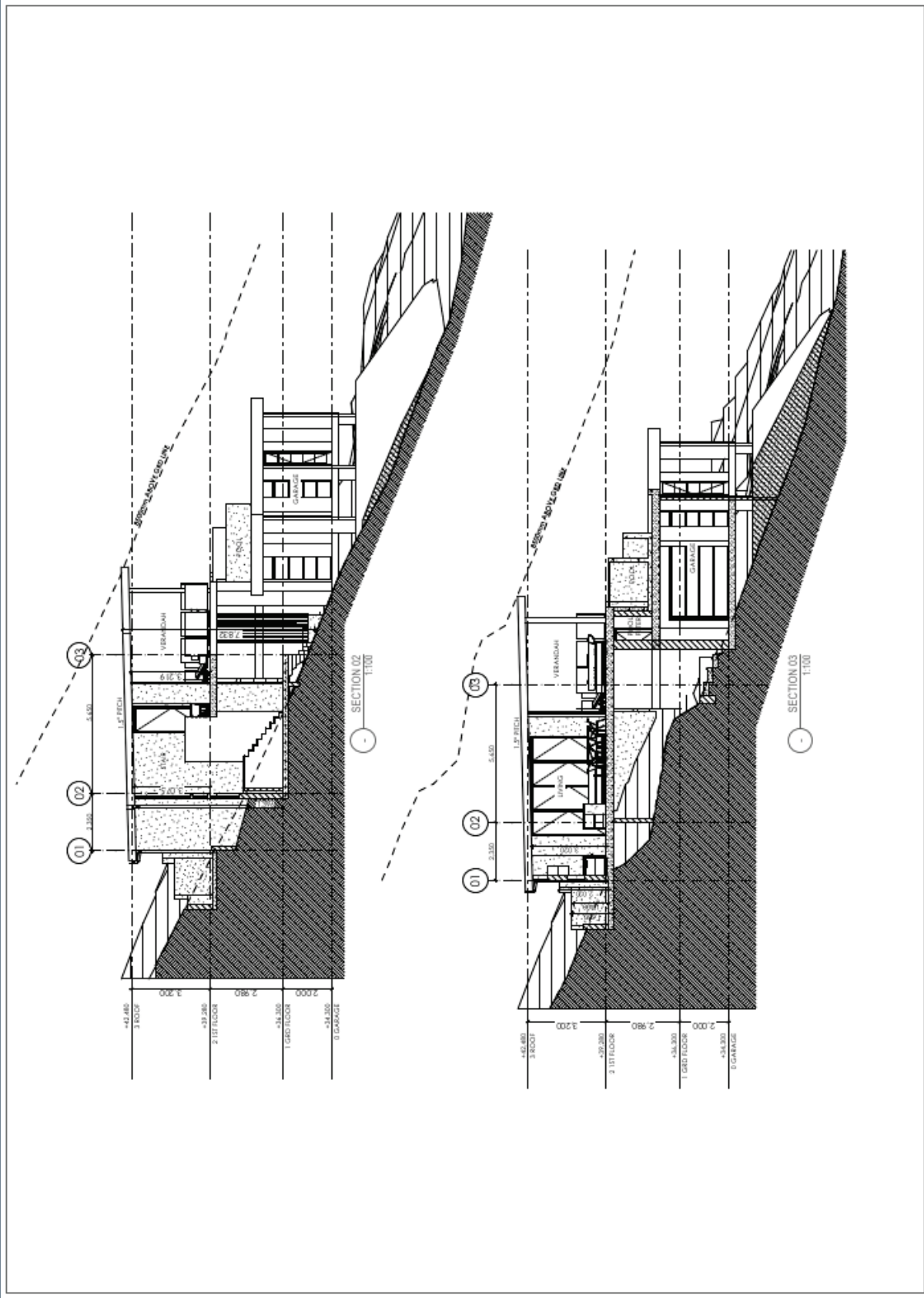
REV O
A3 SHEET
8/10/2023

4.1

PROPOSED DWELLING
34 MURPHY STREET, FORT DOUGLAS QLD

VOS
Architect
m 0415 300 748

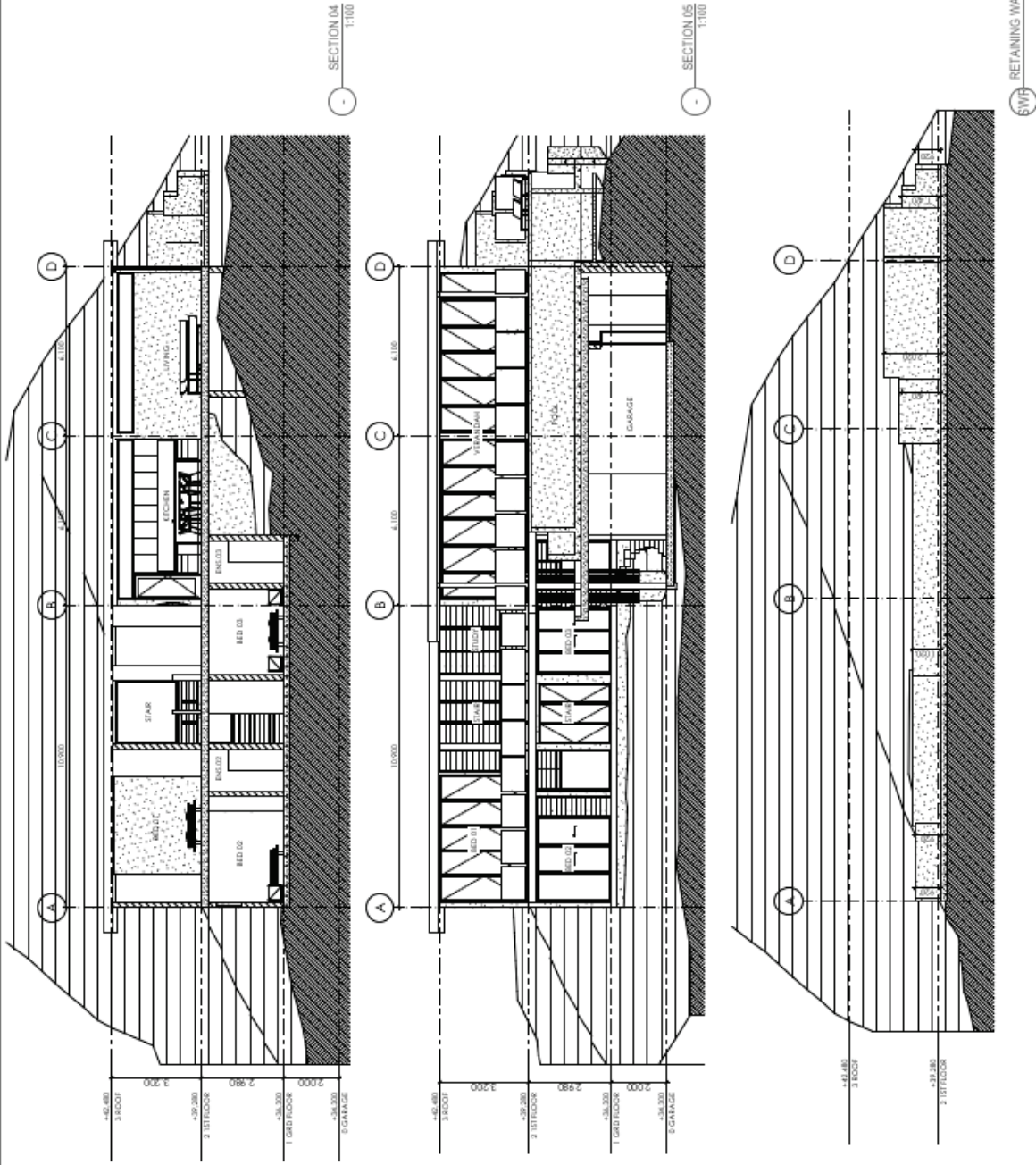
QMS Consulting Engineers Pty Ltd
308 Roper Street, Fort Douglas QLD 4870
Phone: 07 4631 2755 Email: chris@qmseng.com.au

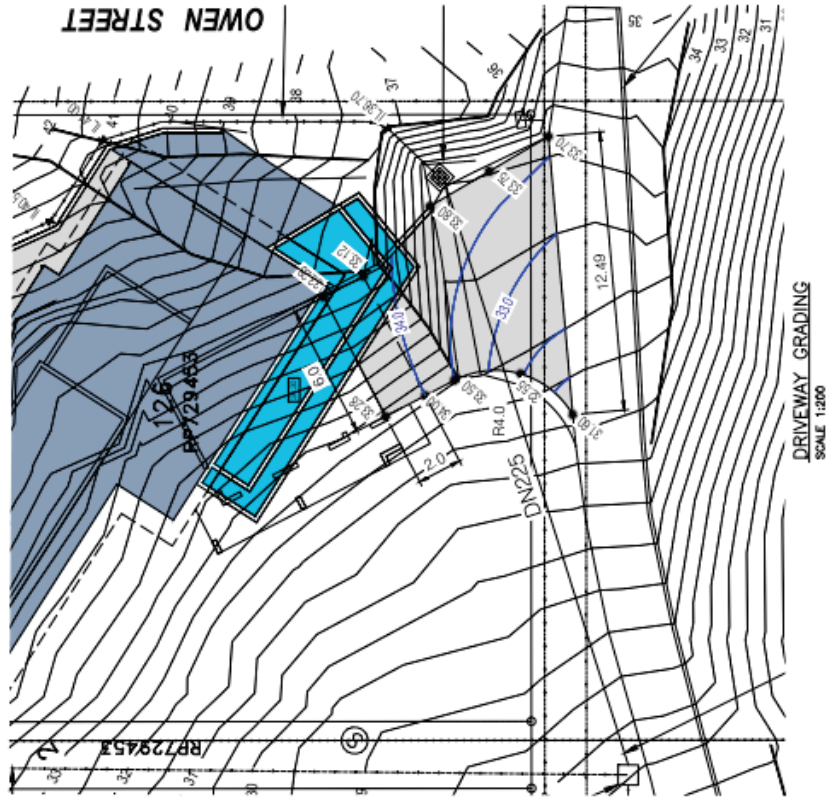
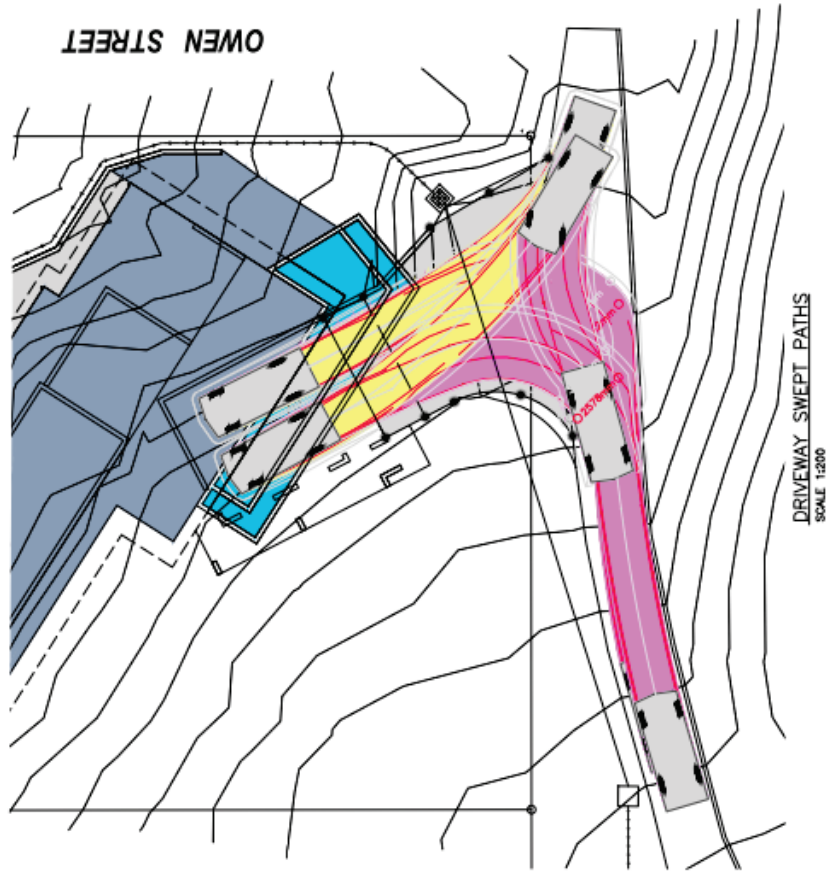


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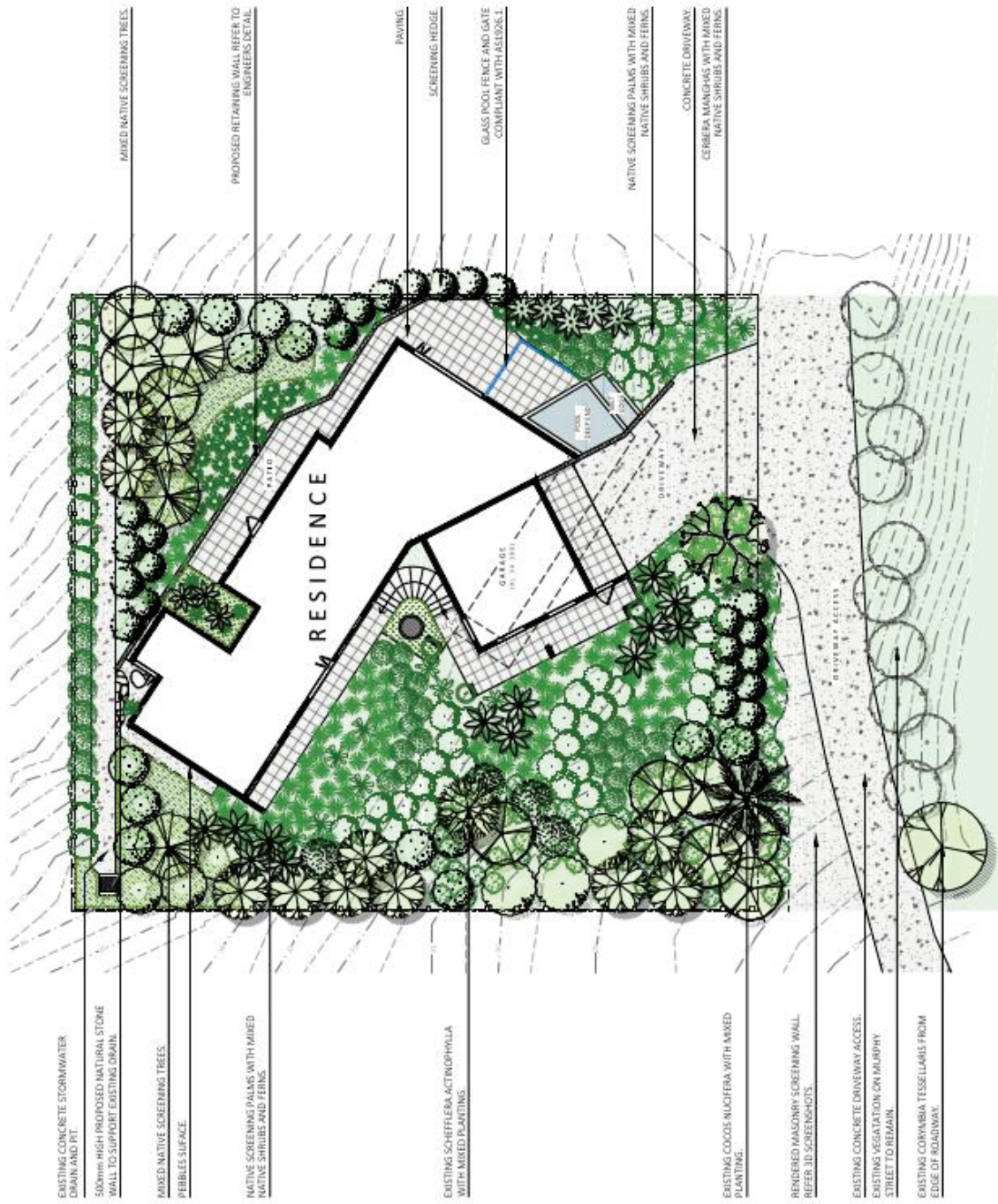
VOS
Architect
m 0415 300 748

Chief Consulting Engineer (Pty) Ltd
200/201 Stirling Highway, Port Douglas QLD 4222
Phone: 07 4031 2735 Email: chiefofengineering.com.au





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VERMILION21 PTY LTD RESIDENCE

SITE ADDRESS: 34 Murphy Street | Port Douglas QLD

DRAWING TITLE

LANDSCAPE CONCEPT PLAN

SCALE: 1:100 @A1

DATE: 25 November 2022

DRAWING NO.

REV. 1

HORTULUS AUSTRALIA PTY LTD

338 Port Douglas Road | Port Douglas QLD Australia 4877

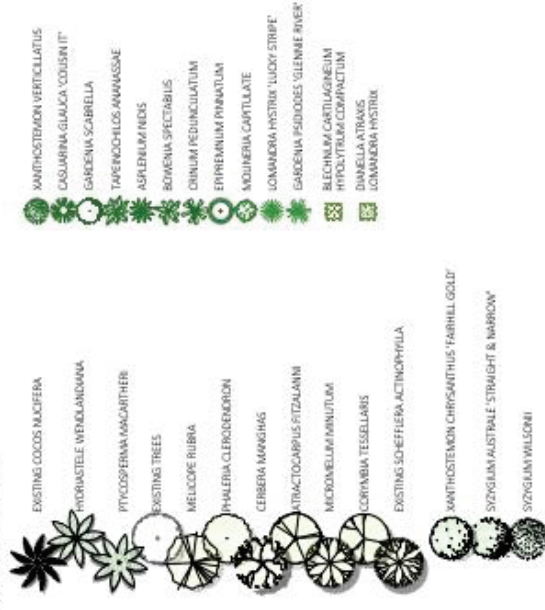
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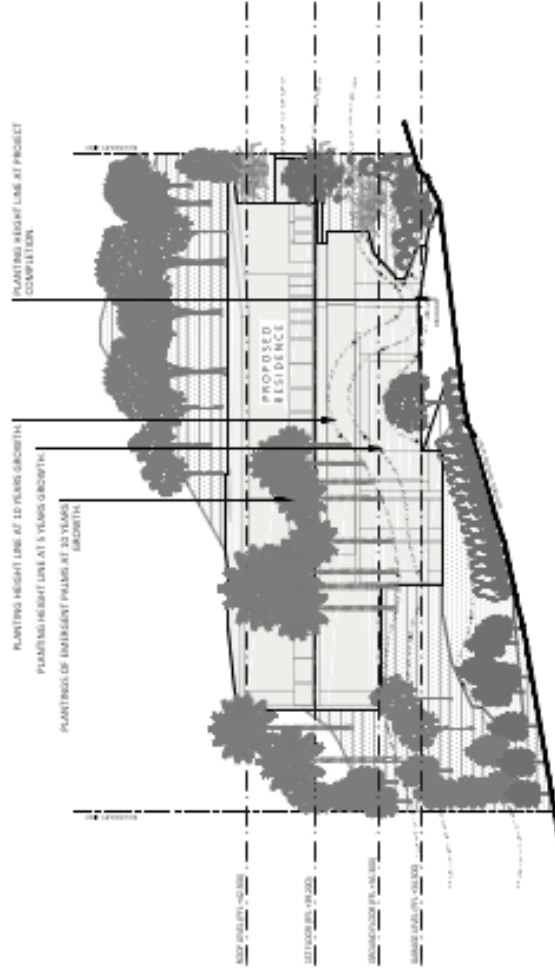
W: www.hortulus.com.au

E: design@hortulus.com.au

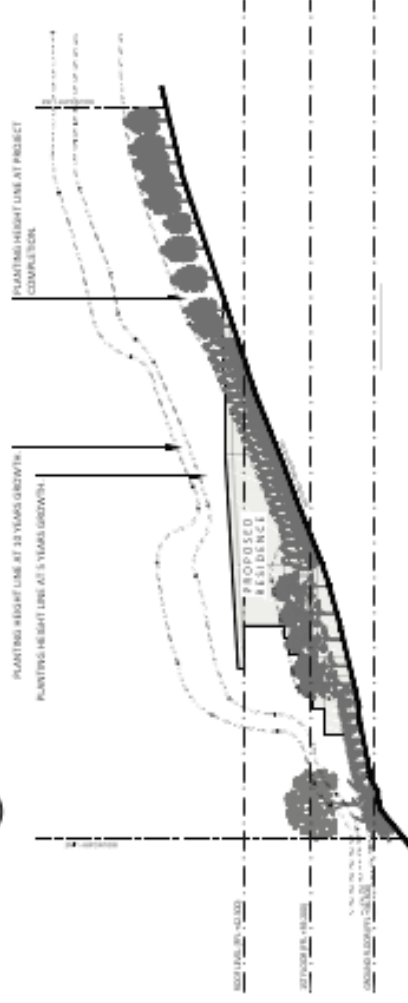


Code	Botanical Name	Common name	Qty.	Net Size	Type	W x H
M1	Amorpha fruticosa	Amorpha fruticosa	6	480mm	T	6x6
M2	Sorbus domestica	Sorbus domestica	3	1000mm	T	6x6
M3	Sorbus domestica	Sorbus domestica	1	1000mm	P	12x6
M4	Conyza canadensis	Conyza canadensis	1	1000mm	P	12x6
M5	Conyza canadensis	Conyza canadensis	10	120mm	P	6x1.5
M6	Conyza canadensis	Conyza canadensis	3	120mm	T	100x1
M7	Conyza canadensis	Conyza canadensis	11	120mm	T	6x6
M8	Conyza canadensis	Conyza canadensis	4	120mm	T	6x6
M9	Conyza canadensis	Conyza canadensis	5	120mm	P	6x6
M10	Conyza canadensis	Conyza canadensis	26	120mm	T	6x6
M11	Conyza canadensis	Conyza canadensis	1	100mm	T	6x6
M12	Conyza canadensis	Conyza canadensis	4	120mm	T	6x6
M13	Conyza canadensis	Conyza canadensis	14	120mm	T	6x6
M14	Conyza canadensis	Conyza canadensis	19	140mm	P	14x1
M15	Conyza canadensis	Conyza canadensis	3	120mm	P	14x1
M16	Conyza canadensis	Conyza canadensis	25	120mm	P	14x1
M17	Conyza canadensis	Conyza canadensis	18	140mm	P	14x1
M18	Conyza canadensis	Conyza canadensis	26	140mm	P	14x1
M19	Conyza canadensis	Conyza canadensis	25	140mm	P	14x1
M20	Conyza canadensis	Conyza canadensis	65	140mm	P	14x1
M21	Conyza canadensis	Conyza canadensis	75	140mm	P	14x1
M22	Conyza canadensis	Conyza canadensis	70	140mm	P	14x1
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M200	Conyza canadensis	Conyza canadensis	50	120mm	P	14x1
M201	Conyza canadensis	Conyza canadensis	50	120mm	P	





1 FRONT ELEVATION AT BOUNDARY - SCHEMATIC VEGETATION 1:100

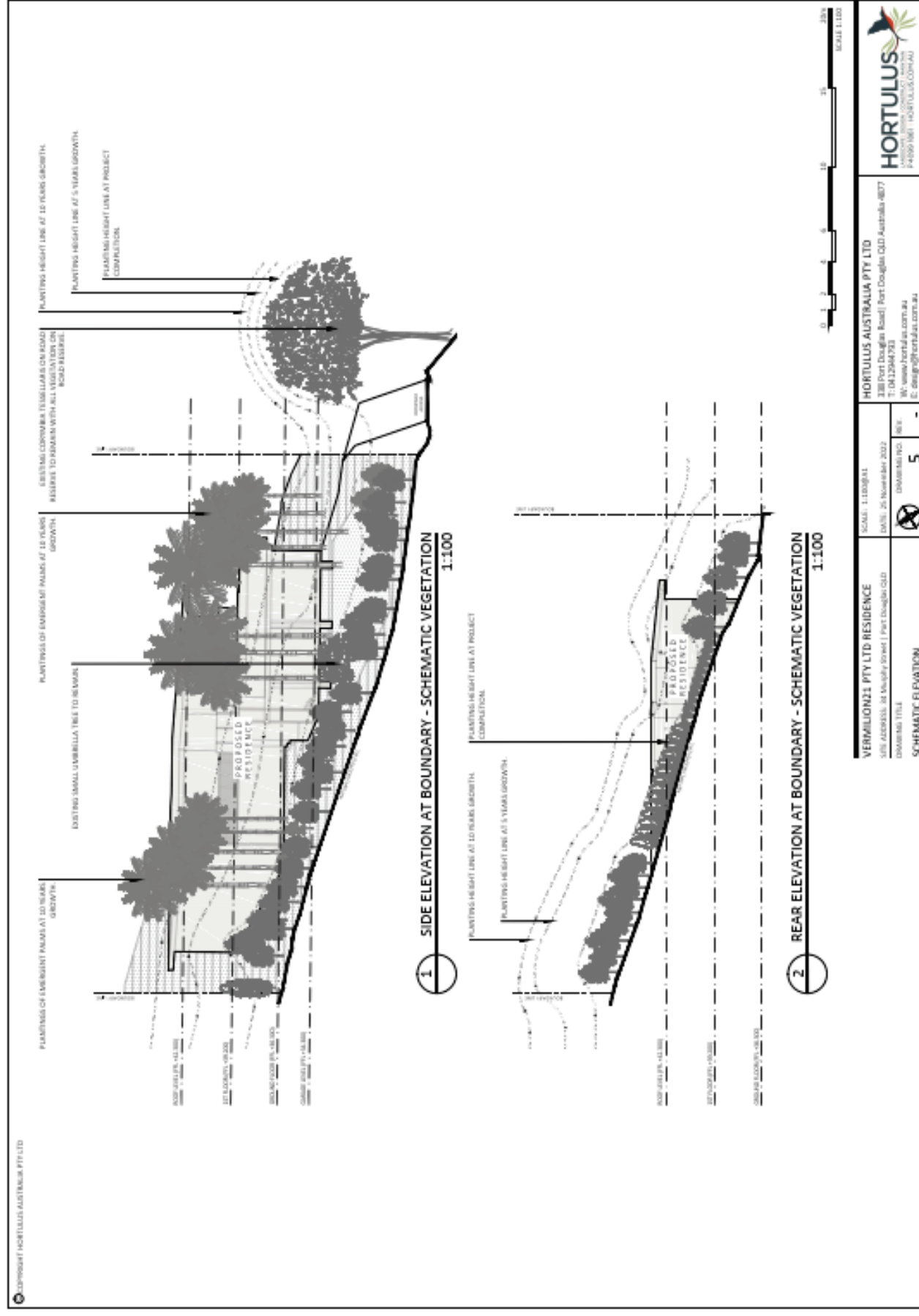


2 OWEN STREET RESERVE ELEVATION AT BOUNDARY - SCHEMATIC VEGETATION 1:100



VERMILION21 PTY LTD RESIDENCE	SCALE: 1:100 @ A1	HORTULUS AUSTRALIA PTY LTD
SITE ADDRESS: 34 Macquarie Street Port Douglas QLD	DATE: 26 November 2022	238 Port Douglas Road Port Douglas QLD Australia 4877
DRAWING TITLE	DRAWING NO. 4	T: 0412944793
SCHEMATIC ELEVATION	4	W: www.hortulus.com.au
		E: design@hortulus.com.au





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 18/10/2022 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.