

27 April 2022



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

RE: CHANGE APPLICATION (MINOR CHANGE) PURSUANT TO S78 OF THE *PLANNING ACT 2016*, FOR EXISTING DEVELOPMENT PERMIT FOR A MATERIAL CHANGE OF USE (DUAL OCCUPANCY) OVER LAND AT 23 SAND STREET, PORT DOUGLAS, MORE FORMALLY DESCRIBED AS LOT 13 ON CROWN PLAN PTD20934.

DOUGLAS SHIRE COUNCIL REF: MCUC 2019_3118/1

Aspire Town Planning and Project Services act on behalf of Mr Bruce Robert Parker and Mrs. Gail Nadine Parker (the 'Landowners' and the 'Applicants').

On behalf of the Landowners, please accept the following Change Application, pursuant to Section 78 of the *Planning Act 2016* (the 'Act') which seeks Approval to amend the 'Approved Drawing(s) and/or Document(s)' Schedule and Appendix of the above referenced Development Permit for a Material Change of Use (Dual Occupancy) granted by Douglas Shire Council on the 11 November 2019. All other conditions are accepted. The purpose of the Change Application (Minor Change) is to facilitate an amended floor layout discussed in further detail herein.

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

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

An invoice is requested to allow electronic payment of the relevant Application Fee of \$450.00.

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

Site Description

The subject property is located at 23 Sand Street, Port Douglas and is more formally described as Lot 13 on Crown Plan PTD 20934, see Image 1 below. The property is a corner block with frontages to both Sand Street and Tide Street. The property has a total area of 866m². There was an single Dwelling House on the property up until it was recently removed.



Image 1: Subject Property (source: QLDGlobe 2022)

Background and Proposal Description

On the 11 November 2019 Douglas Shire Council granted a Development Permit for a Material Change of Use (Dual Occupancy). Since this time the Landowners have engaged local Architect Danielle Vos to refine the design plans.

In summary, the main differences between the original Approved Plans and the proposed Changed Plans, include:

- Increase to the internal Living Area on the ground floor by building out the original wrap around Patio;
- The internal Laundry was setback 3m however this has been reduced to 1.5m off the northern rear boundary and provided with a skillion type roof; and

-
- The original 2.4m wide balcony to the first floor has been extended across the full length of the Tide Street frontage of each unit. This balcony has also been wrapped around the eastern and western sides of the building and narrows to 1.5m. A solid/screened balustrade will be installed to ensure privacy is maintained;
 - To Sand Street the building is setback 4.7m to the first floor balcony and 6.2m to the wall. The ground floor setback is 6.2m;
 - To Tide Street the first floor balcony is setback 5.047m and tapers 2.802m, and to wall the setback tapers from 7.447m to 5.202m. The ground floor garages are setback 4.353m and tapers to 3.436m; and
 - Along the western boundary the ground floor is setback a minimum of 4.894m, and the first floor 3.394m to the balcony and 4.894m to the first floor wall.

Planning Context

The property is located within the Medium Density Residential Zone of the 2018 Douglas Shire Council Planning Scheme and the land use is defined as a Dual Occupancy.

The property is located within the Port Douglas Craiglie Local Plan, however is not included in a Precinct.

The following Overlays relate to the property:

- Acid Sulphate Soils
- Coastal Processes
- Landscape Values
- Transport Road Hierarchy.

A Dual Occupancy within the Medium Density Residential Zone is Code Assessable.

An assessment has been carried out against the Medium Residential Zone Code and the Dual Occupancy Code and is included in Attachment 5. The original Development Application was assessed and approved under the current Planning Scheme. It is submitted that given the nature of the proposed changes, further assessment against the Overlay Codes is not warranted.

Minor Change Test

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

“..."

(b) for a development approval—

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

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

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

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

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

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

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

Assessment Comments

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

- The proposed Change would not cause prohibited development;
- If a development application were made, including the proposed Change, it would not trigger referral to a referral agency;
- The proposed Change does not trigger additional referral agencies; and
- If a development application were made, including the proposed Change, it would not trigger Public Notification.

Substantially Different Development Test

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

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

(a) involves a new use; or

(b) results in the application applying to a new parcel of land; or

(c) dramatically changes the built form in terms of scale, bulk and appearance; or

(d) changes the ability of the proposed development to operate as intended; or

(e) removes a component that is integral to the operation of the development; or

(f) significantly impacts on traffic flow and the transport network, such as increasing traffic to the site; or

(g) introduces new impacts or increase the severity of known impacts; or

(h) removes an incentive or offset component that would have balanced a negative impact of the development; or

(i) impacts on infrastructure provisions.”

Assessment Comments

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

- The Change does not involve a new use. The approved use will remain for a Dual Occupancy;
 - The Change does not introduce a new parcel of land;
 - Although the Change results in a marginal increase in building footprint, overall the building bulk is considerably less than the planning scheme permits, especially in terms of building height;
 - 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.”

In relation to the above underlined relevant sections, it is noted that:

- The original development application was, and a new development application would be Code Assessable and therefore Public Notification would not apply. However, the Landowner and Project Architect, as responsible neighbours have informally discussed the proposed development with their adjoining neighbours to the west. It is understood no objection has been received. Solid balustrade will be installed to the first floor balcony to provide privacy; and
-

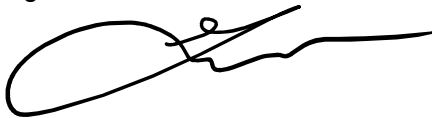
-
- An assessment has been carried out against the Medium Residential Zone Code and the Dual Occupancy Code and is included in Attachment 5. The original Development Application was assessed and approved under the current Planning Scheme. It is submitted that given the nature of the proposed changes, further assessment against the Overlay Codes is not warranted.

Conclusion

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

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

Regards,



Daniel Favier
Senior Town Planner
ASPIRE Town Planning and Project Services

Attachment I:

Certificate of Title

Queensland Titles Registry Pty Ltd
ABN 23 648 568 101

Title Reference:	21085170	Search Date:	24/04/2022 13:44
Date Title Created:	06/03/1979	Request No:	40853305
Creating Dealing:			

ESTATE AND LAND

Estate in Fee Simple

LOT 13 CROWN PLAN PTD20934
Local Government: DOUGLAS

REGISTERED OWNER

Dealing No: 721031939 20/08/2021

BRUCE ROBERT PARKER
GAIL NADINE PARKER

JOINT TENANTS

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by
Deed of Grant No. 21085170 (ALLOT 13 SEC 25)

ADMINISTRATIVE ADVICES

NIL

UNREGISTERED DEALINGS

NIL

** End of Current Title Search **

Attachment 2:

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

Change application form

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

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

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

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

PART 1 – APPLICANT DETAILS

1) Applicant details	
Applicant name(s) (individual or company full name)	Bruce Robert Parker and Gail Nadine Parker
Contact name (only applicable for companies)	c/- Daniel Favier (Aspire Town Planning and Project Services)
Postal address (P.O. Box or street address)	PO Box 1040
Suburb	Mossman
State	QLD
Postcode	4873
Country	Australia
Email address (non-mandatory)	admin@aspireqld.com
Mobile number (non-mandatory)	0418826560
Applicant's reference number(s) (if applicable)	2022-04-07 - Parker – 23 Sand Street, Port Douglas

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

PART 2 – LOCATION DETAILS

3) Location of the premises (complete 3.1) or 3.2), and 3.3) as applicable)				
3.1) Street address and lot on plan				
<input checked="" type="checkbox"/> Street address AND lot on plan (all lots must be listed), or				
<input type="checkbox"/> Street address AND lot on plan for an adjoining or adjacent property of the premises (appropriate for development in water but adjoining or adjacent to land e.g. jetty, pontoon. All lots must be listed).				
a)	Unit No.	Street No.	Street Name and Type	Suburb
		23	Sand Street	Port Douglas
	Postcode	Lot No.	Plan Type and Number (e.g. RP, SP)	Local Government Area(s)
		13	Crown Plan PTD20934	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 2019_3118/1	11 November 2019	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):

Change to the footprint of an approved Dual Occupancy.

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

☒ No – proceed to Part 7

☐ 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?

☐ No

☐ 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?

☒ No

☐ 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?

☒ No

☐ 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.

☒ No

☐ 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

☒ I agree to receive an information request if determined necessary for this change application

☐ I do not agree to accept an information request for this change application

Note: By not agreeing to accept an information request I, the applicant, acknowledge:

- that this change application will be assessed and decided based on the information provided when making this change application and the assessment manager and any referral agencies relevant to the change application are not obligated under the DA Rules to accept any additional information provided by the applicant for the change application unless agreed to by the relevant parties
 - Part 3 of the DA Rules will still apply if the application is an application listed under section 11.3 of the DA Rules.
- Further advice about information requests is contained in the [DA Forms Guide: Forms 1 and 2](#).

12) Further details

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

PART 7 – CHECKLIST AND APPLICANT DECLARATION

13) Change application checklist

I have identified the:

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

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

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

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

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

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

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

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

14) Applicant declaration

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

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

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

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

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

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

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

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

Date received: Reference number(s):

QLeave notification and payment

Note: For completion by assessment manager if applicable

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

Attachment 3:

Owners Consent Form

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

We,
Bruce Robert Parker and Gail Nadine Parker

as owner of the premises identified as follows:

23 Sand Street, Port Douglas, more formally described as Lot 13 on Crown Plan PTD20934

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

Daniel Favier (Aspire Town Planning and Project Services)

on the premises described above for:

Change Application (Minor Change) for a current Development Permit for a Material Change of Use (Dual Occupancy)

 . 27.4.22

Bruce Parker

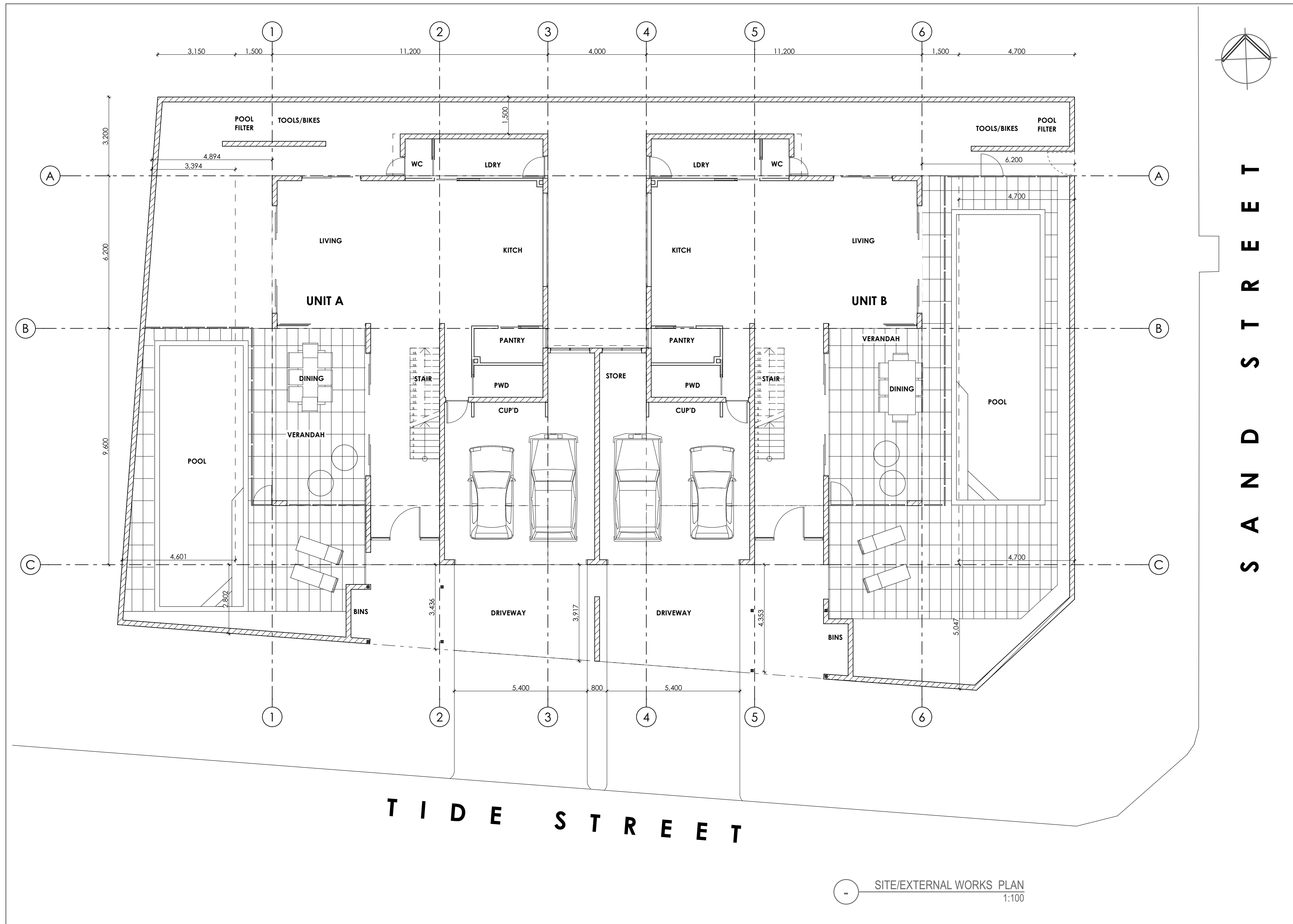


Gail Parker 27.4.22

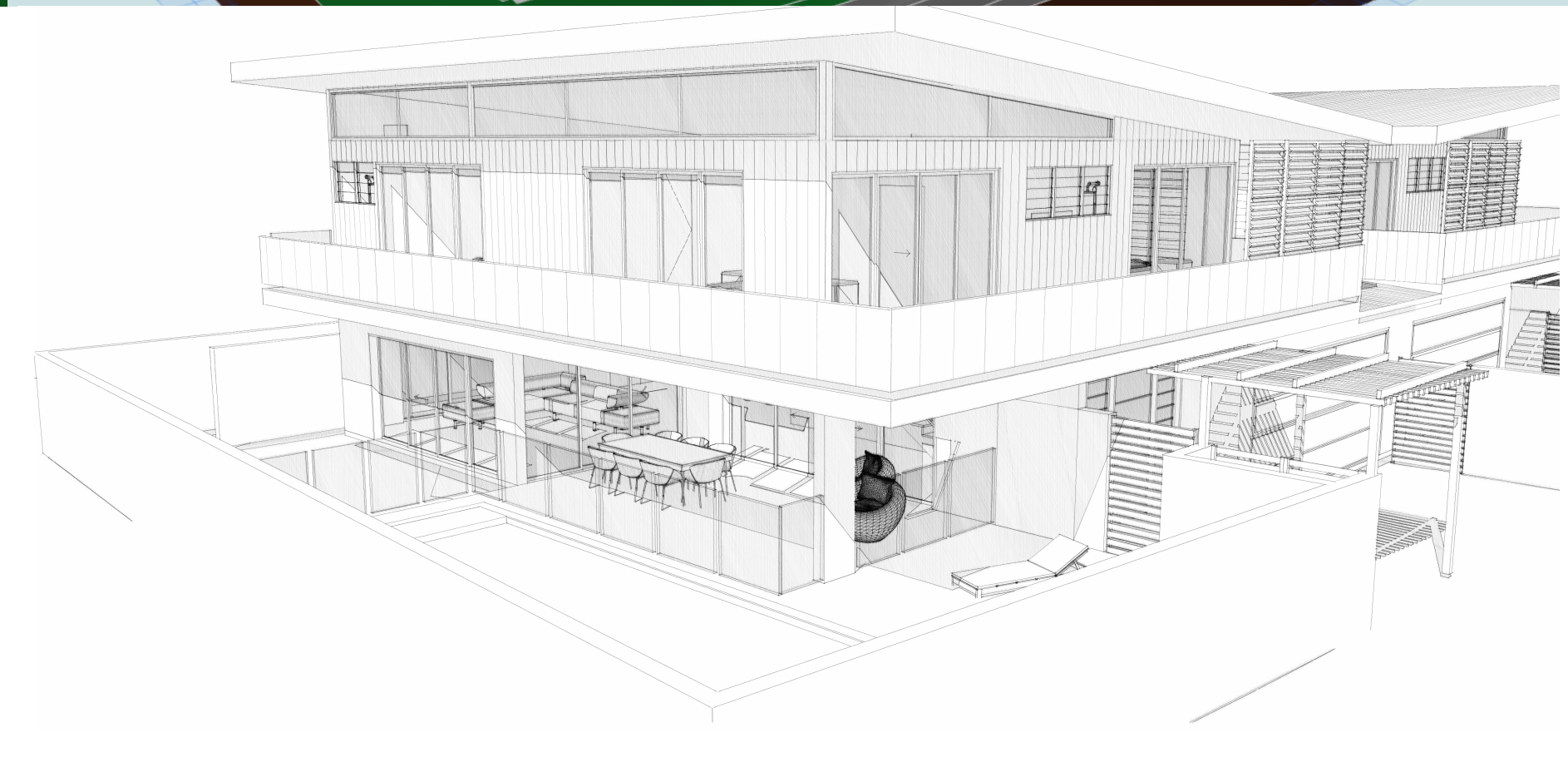
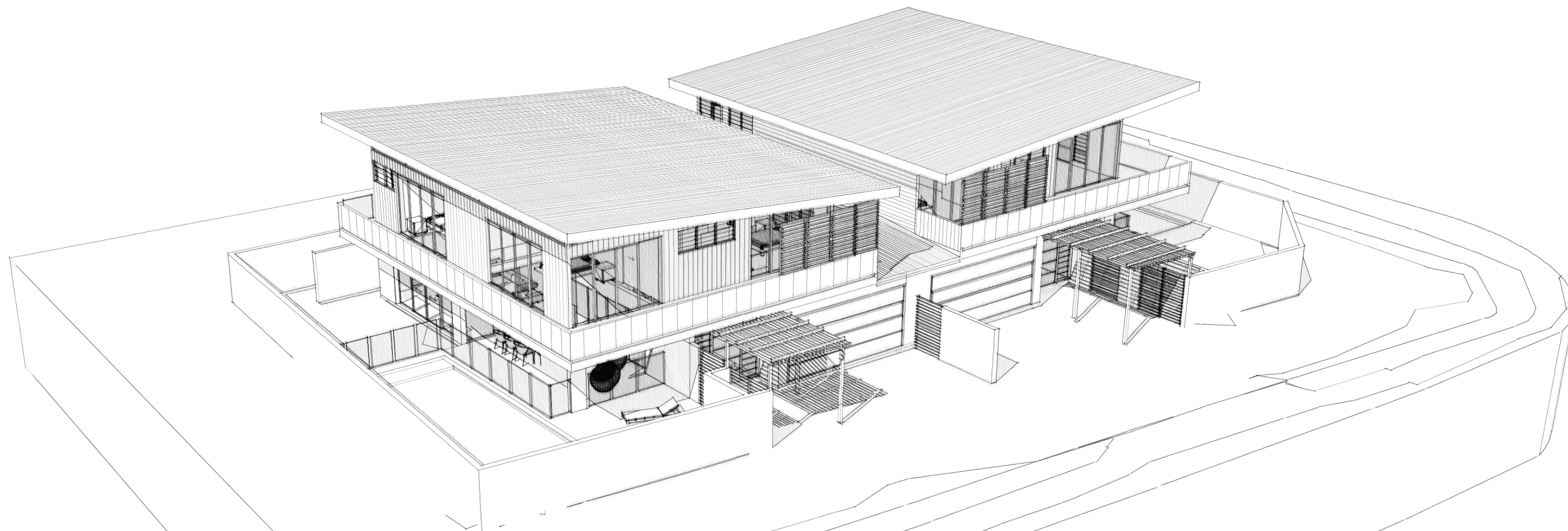
Signed and dated.

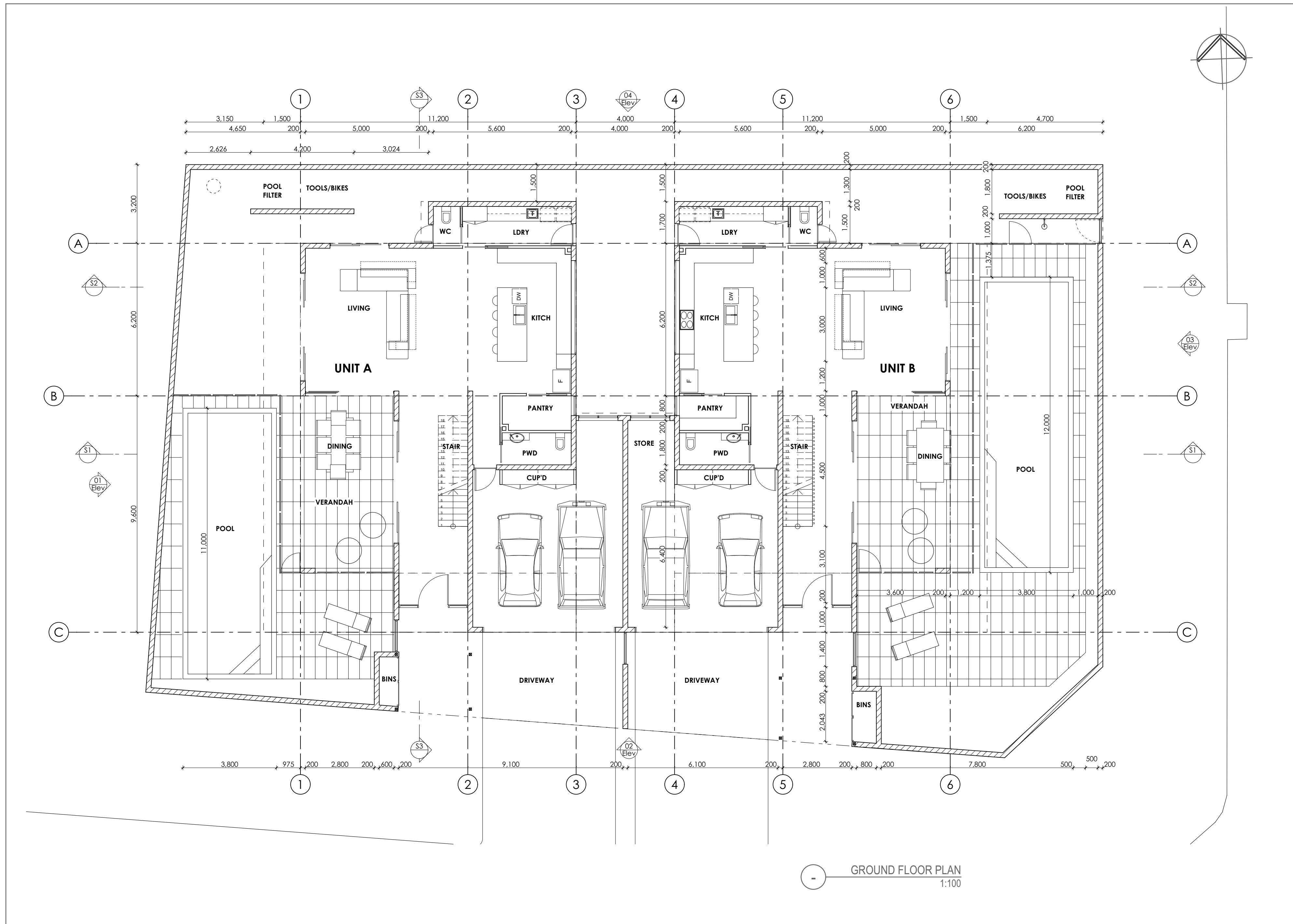
Attachment 4:

Proposed Site, Floor and Elevation Plans

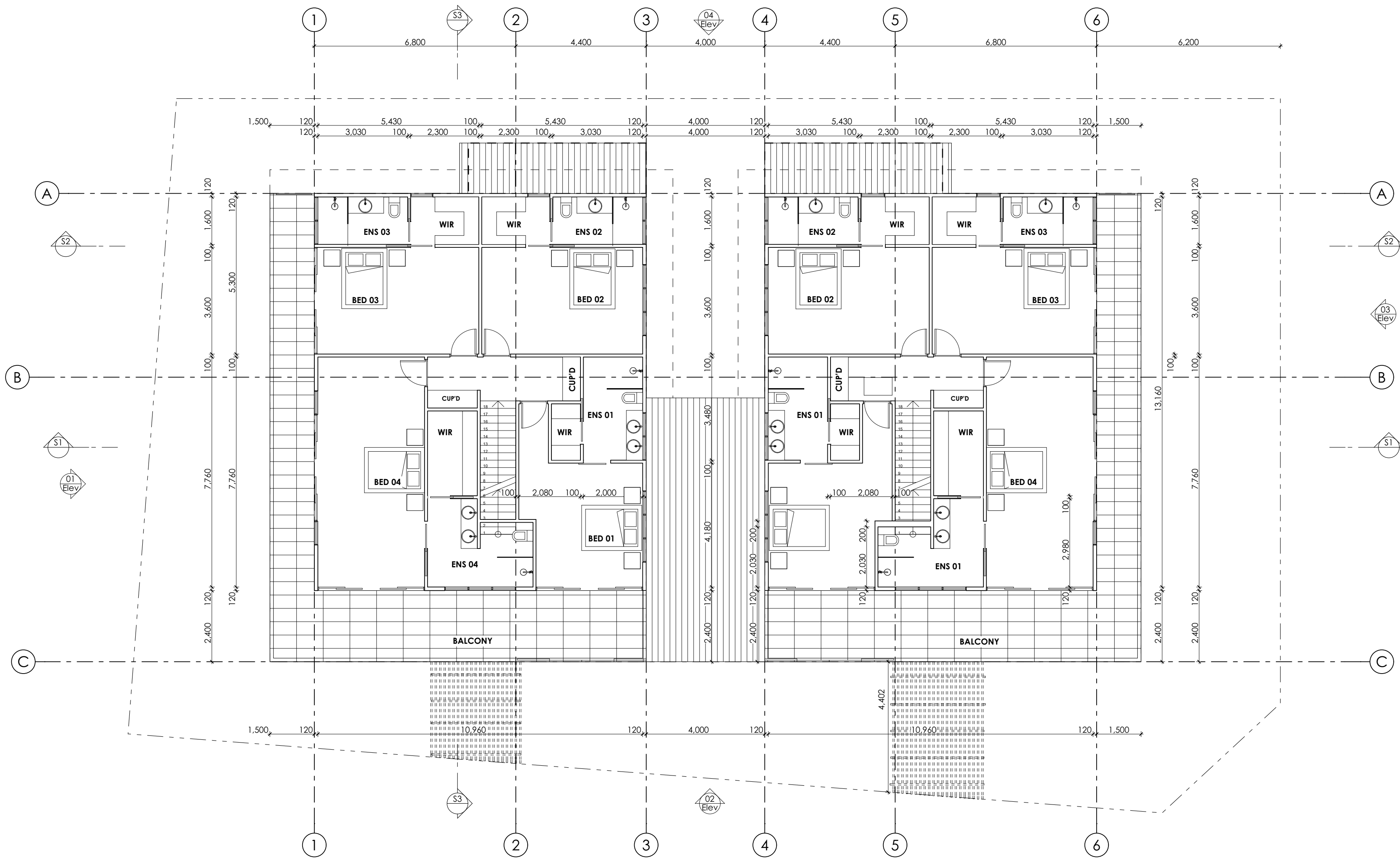
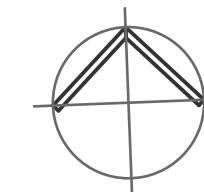


— SITE/EXTERNAL WORKS PLAN
1:100

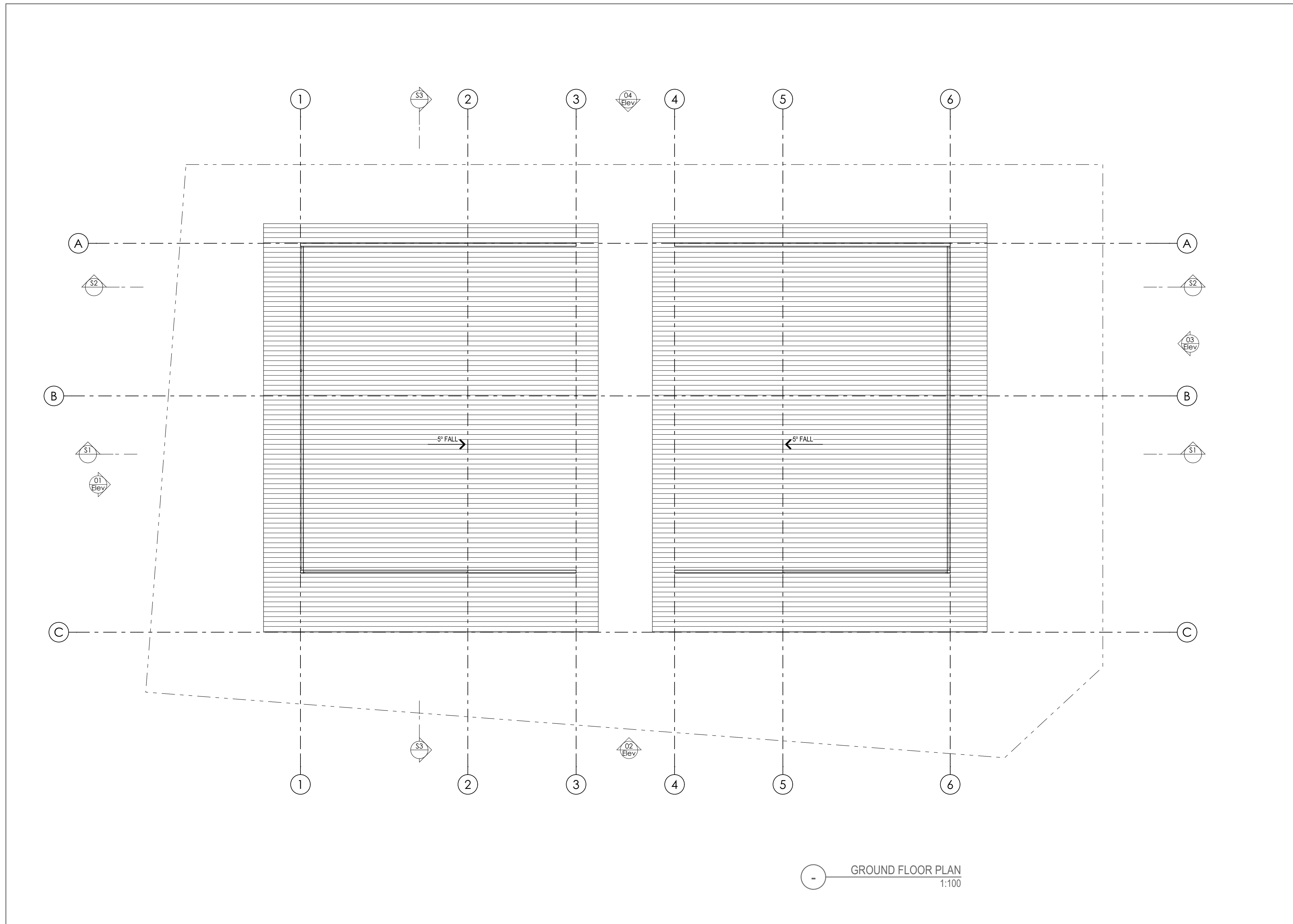


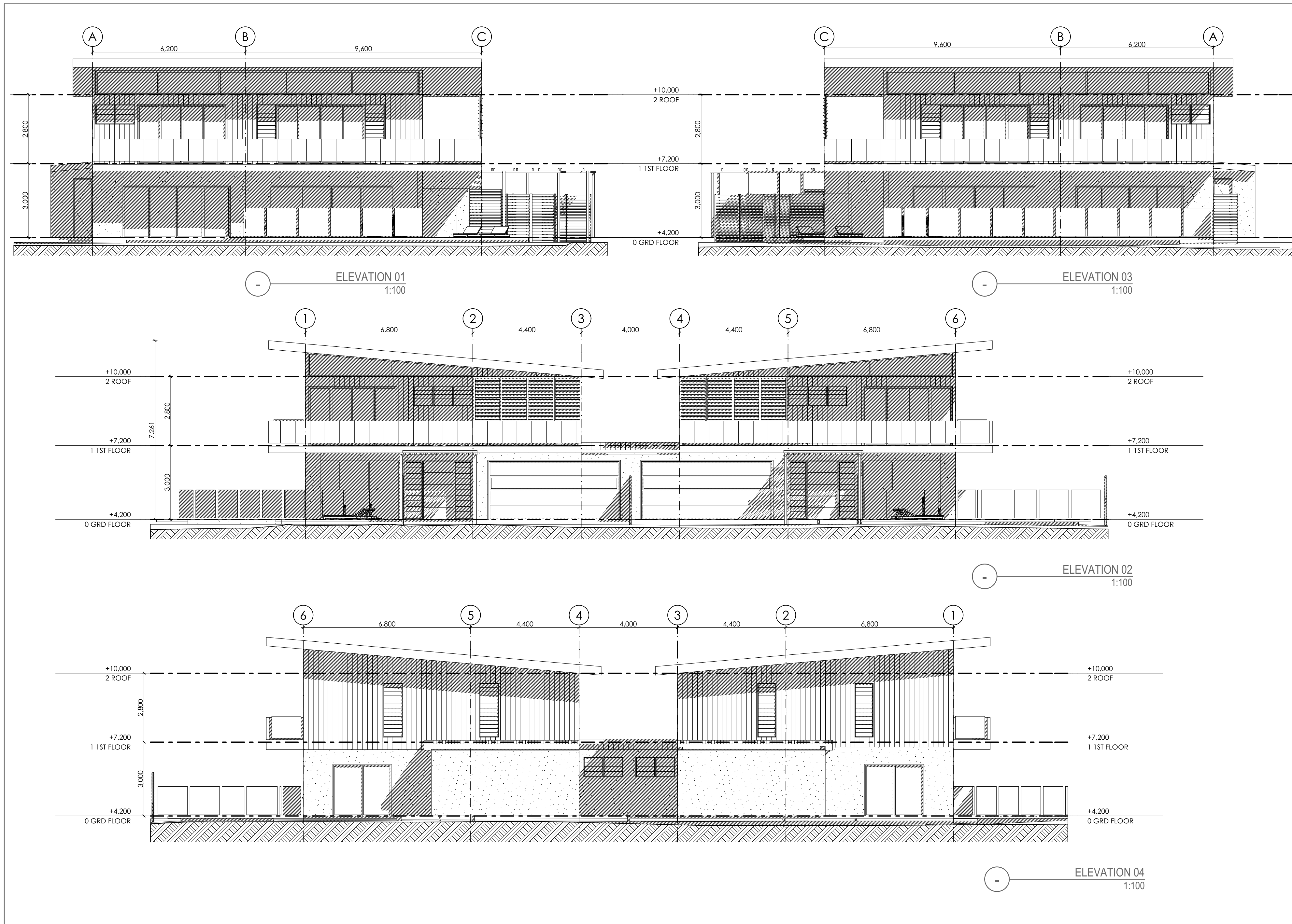


GROUND FLOOR PLAN
1:100



FIRST FLOOR PLAN
1:100





Attachment 5:

Code Assessment

Medium Density Residential Zone Code Assessment

Assessment Comment
AO1 – Complies – the maximum building height is 7.261.
AO2 – Alternative solution – Although to Sand Street the building is setback 6.2m to the wall, the balcony does slightly encroach and is 4.7m to the first floor balcony. This could also be considered a shade structure for the ground floor and in which case the design would comply. The balcony will be fitted with a solid balustrade to maintain privacy.
Due to the irregular shape in the property boundaries, setbacks vary along Tide Street. The first floor balcony is setback 5.047m and tapers 2.802m, and to wall the setback tapers from 7.447m to 5.202m. The ground floor garages are setback 4.353m and tapers to 3.436m. Given the variations in this elevation, and the situation where Esplanade Reserve exists on the opposite side of Tide Street, it is submitted the proposed setbacks generally comply with the purpose of the code.
Along the western boundary the ground floor is setback a minimum of 4.894m. The first floor is setback a minimum of 3.15m to the balcony and 4.650m to the wall. Where Council regards the first floor balcony as a shade structure for the patio below, the proposed setbacks comply with the minimum 4.5m rear boundary setback.
It is acknowledged the internal Laundry setback 1.5m encroaches and does not comply with the minimum 2m, however this is only a small section at the ground floor and the bulk of the building is setback 3.2m.
AO3 – Alternative Solution – the site coverage is calculated at 52.79% which exceeds the maximum allowed site coverage by only 24.6m ² . This is only a marginal non-compliance and reducing the building site coverage would be a negligible reduction in overall scale.
AO4.1 – AO4.4 – Complies – The overall length does not exceed 30m nor does a continuous wall exceed 15m. Balcony areas are designed to remain open and will not be enclosed. The first floor balcony will be fitted with a solid balustrade to maintain privacy, however visually it will still appear open given the high ceilings.
AO5.1 – AO5.3 – Conditioned to Comply – The Project Architect has reviewed the proposed changes against the approved Landscape Plan. It is intended that the site will be landscaped generally in accordance with this Landscape Plan, as conditioned within the Development Permit.
AO6 – Not applicable.
AO7 – Complies.
AO8 – Complies.
AO9 – AO11 – Not applicable.

Dual Occupancy Code Assessment

Assessment Comment
AO1 – Alternative Solution – The land size is 866m ² . Council has previously assessed and accepted this land size for the Dual Occupancy Development.
AO2 – Not applicable – in this instance the Zone Code prevails, refer to the assessment above.
AO3.1 – Alternative Solution – Garages are located along the Tide Street frontage and represent approximately 31% of the street frontage. The arrangement is not dissimilar to the original Approved Plans.
AO3.2 – Alternative Solution – Garages are located along the Tide Street frontage which is not dissimilar to the original Approved Plans.
AO4.1 – Complies.
AO4.2 – Alternative Solution – The boundary fence to the street frontage is proposed to be 2m in height. Given the height of the building casual surveillance is still facilitated across the along the street. Furthermore, a large break is provided in the fence line along Tide Street to allow for pedestrian and vehicle access to the development. Casual surveillance is facilitated from these openings.
AO5 – Complies – adequate private open space is provided to each unit.
AO6.1 – Alternative Solution – given the width of the property it is difficult to accommodate individual single or shared double driveway crossovers in accordance with the code. As such reduced double crossovers are proposed to each unit with a landscape strip in between, refer to the amended Site Plan.
AO6.2 – Complies – no alteration to existing public services is required.
AO7.1 – AO7.2 – Alternative Solution – a 2m high solid fence is proposed to the side and rear boundaries which is unchanged from the approved plans.
AO8 – Alternative Solution – a solid fence 2m high is proposed along the street boundaries which is unchanged from the original approved plans. This is not dissimilar to the original approved plans. The site will be landscaped generally in accordance with the approved Landscape Plan.
AO9 – Will comply.
AO10 – Complies – Air conditioning equipment will be located behind the front façade of the building. Storage space of 3.24m ² plus additional cupboard space is provided within the enclosed garages.
AO11 – Complies – Designated bin storage is provided adjacent the driveways.
AO12.1 – 12.4 and AO13 – Not applicable.