



**Burwood**<sup>Inc.1874</sup>  
Burwood . Burwood Heights . Croydon . Croydon Park . Enfield . Strathfield

**Attachments Excluded from Agenda**  
**Burwood Local Planning Panel Meeting**  
**Wednesday, 28 May, 2025**  
**6:00 PM**

Table of Contents

Development Applications

**DA6/25    Section 4.56 Modification of development application no. DA.2021.88 for a centre-based Child Care Centre (approved by the NSW Land & Environment Court on 10 November 2022).**

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**Attachment 5:**    HIS..... 57





# TREE & LANDSCAPE CONSULTANTS

## Site Analysis, Arboricultural Assessments

INSTITUTE OF AUSTRALIAN  
CONSULTING ARBORICULTURISTS



MANAGING URBAN TREES ®

**Peter A Richards**

Dip. Hort. (Arboriculture)

Assoc. Dip. Hort. (Park Management)

Member IACA, Member Arb. Aust. 256003, Member ISA

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**Padstow 2211 N.S.W.**

Mobile

**0418 277 379**

Email

**talc2@optusnet.com.au**

**11 November 2024**

**Tony Geagea**

18 Appian Way

Burwood NSW 2134

**RE:** 18 Appian Way Burwood NSW 2134

**TALC Ref:** 6113L

### **Statement: Arboricultural Issues (*Substation Relocation*)**

The site was inspected on the "4<sup>th</sup> November 2024" in regards to removal of a *Lophostemon confertus* "Brush Box" identified within this statement and previous report by TALC dated 3<sup>rd</sup> February 2022 as T5 (See Attachment A). The tree was previously described as being poor in condition having been subject to lopping. The tree at the latest inspection has declined considerably since the initial inspection, now producing extensive epicormic shoots throughout its crown in response to stress having had half of its crown modified over the years to accommodate utility wires.

The tree if retained is expected to further decline over a short term and is recommended for removal to accommodate the proposed relocation of the substation adjoining the tree which is currently proposed.

Other nearby trees numbered 3 & 4 are either dead or in advanced senescence and should be removed as part of street tree management to make the land safe. Removal of these trees would provide other options for the substation re-location if desired.

Please contact us on 0418277379 if you require further information.

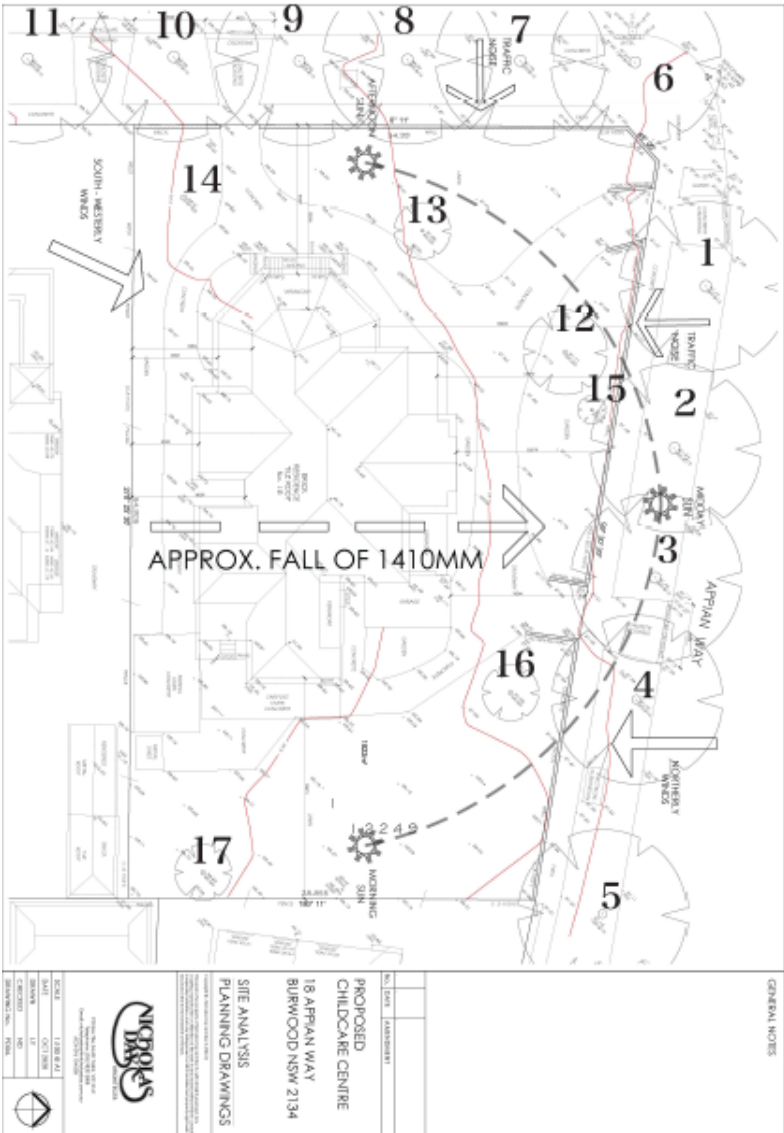
A handwritten signature in black ink, appearing to read 'Peter Richards'.

Peter Richards

**Tree & Landscape Consultants**

Attachment A

Locations

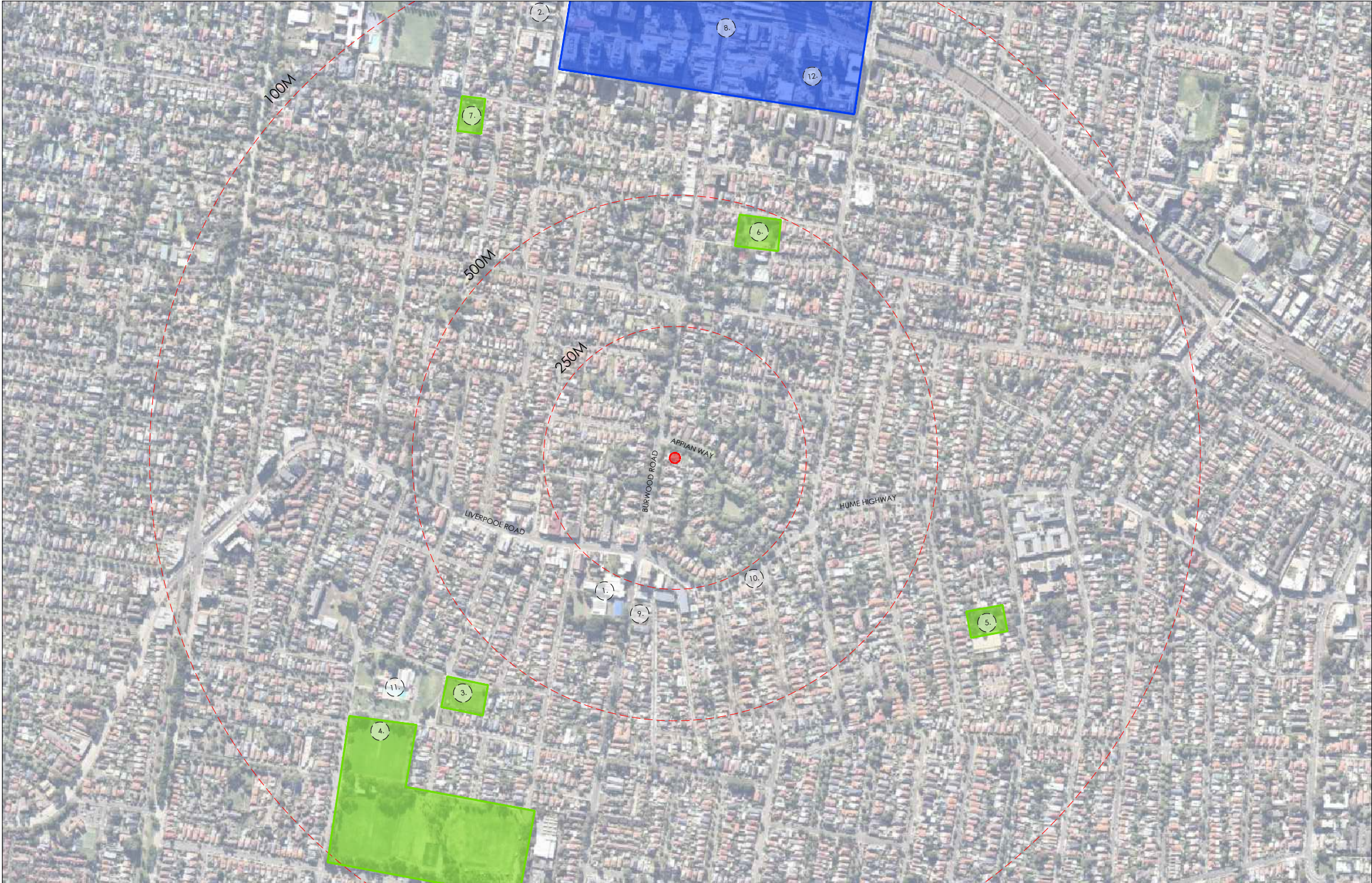




"ROMA"  
18 APPIAN WAY, BURWOOD  
N I C H O L A S   D A Y   A R C H I T E C T S

SCHEDULE OF DRAWINGS			
PROJECT NAME – 18 APPIAN WAY, BURWOOD			
SHEET NUMBER	SHEET NAME	CURRENT REVISION	CURRENT REVISION DATE
	Cover Sheet	1	06.02.2025
PD01	Neighbourhood & Site Context Plan	1	06.02.2025
PD02	Aerial Photograph	1	06.02.2025
PD03	Photomontage of Surrounding Streetscapes	1	06.02.2025
PD04	Site Analysis	1	06.02.2025
PD05	Design Response Plan	1	06.02.2025
PD06	Existing Conditions Plan	1	06.02.2025
PD07	Existing Conditions Elevations	1	06.02.2025
PD08 - Part 1	Lower Basement Plan	1	06.02.2025
PD08 - Part 2	Upper Basement Plan	1	06.02.2025
PD09	Ground Floor Plan	1	06.02.2025
PD10	First Floor Plan	1	06.02.2025
PD11	Roof Plan	1	06.02.2025
PD12	North & West Elevations	1	06.02.2025
PD13	South & East Elevations	1	06.02.2025
PD14	Sections A-A, B-B, C-C & D-D	1	06.02.2025
PD15	Section E-E & F-F	1	06.02.2025
PD16	Streetscape Elevation - Appian Way	1	06.02.2025
PD17	Streetscape Elevation - Burwood Road	1	06.02.2025
PD18	Shadow Diagram 9am & 10am	1	06.02.2025
PD19	Shadow Diagram 11am & 12pm	1	06.02.2025
PD20	Shadow Diagram 1pm & 2pm	1	06.02.2025
PD21	Shadow Diagram 3pm	1	06.02.2025
PD22	Area Diagrams	1	06.02.2025
PD23	Gross Floor Area Diagrams	1	06.02.2025
PD24	Fence Types Drawing	1	06.02.2025
PD25	Emergency Evacuation Plan	1	06.02.2025





NEIGHBOURHOOD CONTEXT PLAN  
INFRASTRUCTURE & AMENITIES

SCHOOLS  
ST JOSEPHS CATHOLIC PRIMARY SCHOOL  
BURWOOD PUBLIC SCHOOL  
SYDNEY SCHOOL OF ENGLISH

1.  
2.  
1200M NORTH

PUBLIC OPEN SPACES  
GRANT PARK  
HENLEY PARK  
KEITH SMITH PARK  
WOODSTOCK PARK  
SANDERS PARK

3.  
4.  
5.  
6.  
7.

PUBLIC TRANSPORT  
BURWOOD RAILWAY STATION  
BUS ROUTES NO. 410, 420 - BURWOOD ROAD AT BLIGH STREET  
BUS ROUTES NO. 418, 480 & 483  
LIVERPOOL ROAD AFTER CLAREMONT ROAD

8.  
9.  
10.

HOSPITALS  
STRATHFIELD PRIVATE HOSPITAL  
SYDNEY PRIVATE HOSPITAL  
CONCORD REPATRIATION GENERAL HOSPITAL

2000m NORTH  
3200m EAST  
6500m NORTH

RECREATIONAL FACILITIES  
ENFIELD AQUATIC CENTRE  
MLC SCHOOL AQUATIC CENTRE  
CONCORD OVAKL

11.  
1700M NORTH  
2300m NORTH / EAST

SHOPPING  
BURWOOD SHOPPING PLAZA  
WESTFIELD BURWOOD SHOPPING MALL  
STRATHFIELD SHOPPING PLAZA

12.  
1200m NORTH  
2100m NORTH / WEST

GENERAL NOTES

1.: 04.02.2025 \$4.55 AMENDMENT APPLICATION

NO. DATE AMENDMENT

PROPOSED  
CHILDCARE CENTRE

18 APPIAN WAY  
BURWOOD NSW 2134

NEIGHBOURHOOD &  
SITE CONTEXT PLAN  
PLANNING DRAWINGS

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Email: nicholasday@nicholasday.com.au  
ACN 096 104 808

SCALE	NTS.
DATE	OCT 2020
DRAWN	LY
CHECKED	ND
DRAWING No.	PD01/1.







GENERAL NOTES

1.	06.02.2025	\$4.55 AMENDMENT APPLICATION
NO.	DATE	AMENDMENT

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AERIAL PHOTOGRAPH  
PLANNING DRAWINGS

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Architectural Plans



12 APPIAN WAY      14 APPIAN WAY      16 APPIAN WAY      16 APPIAN WAY      18 APPIAN WAY - SUBJECT SITE

STREETSCAPE PHOTO MONTAGE 1  
APPIAN WAY



27 APPIAN WAY      25 APPIAN WAY      23 APPIAN WAY      21 APPIAN WAY

STREETSCAPE PHOTO MONTAGE 2  
APPIAN WAY



304 BURWOOD ROAD      18 APPIAN WAY      306 BURWOOD ROAD      308 BURWOOD ROAD

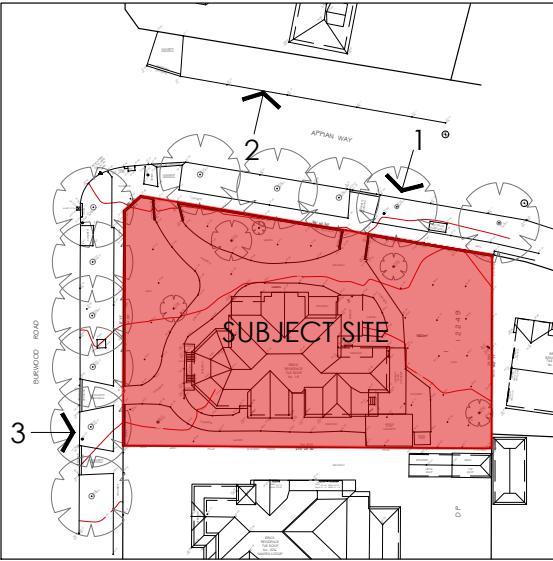
STREETSCAPE PHOTO MONTAGE 3  
BURWOOD ROAD



18 APPIAN WAY, BURWOOD, NSW 2134

LAND ZONING - R2 - LOW DENSITY RESIDENTIAL

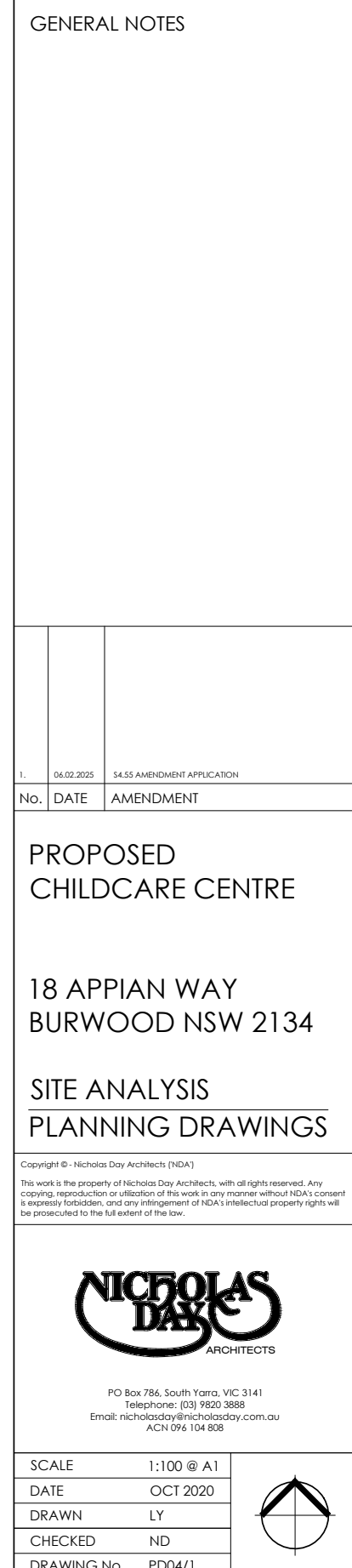
MAX BUILDING HEIGHT - 8.5M

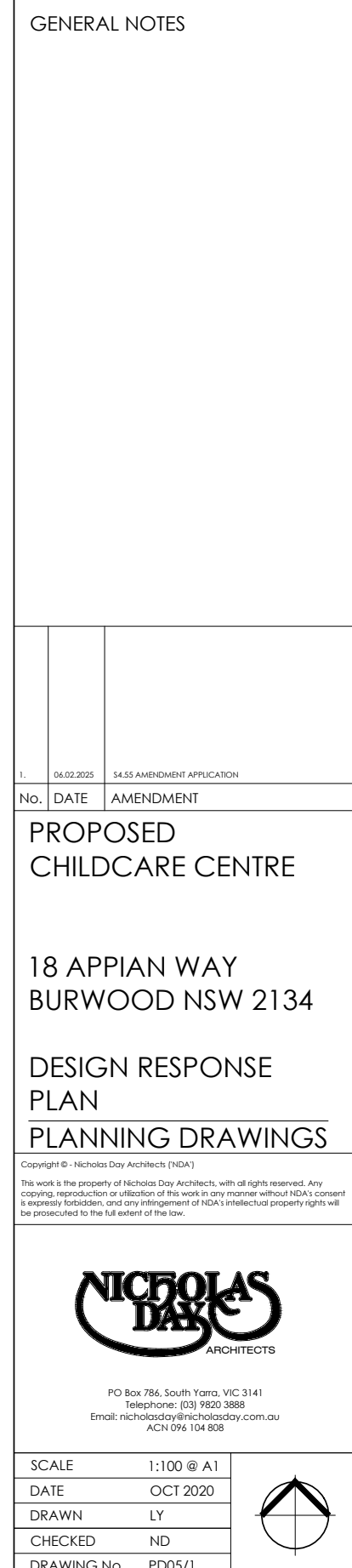
HERITAGE - APPIAN WAY CONSERVATION AREA  
SIGNIFICANCE : LOCAL



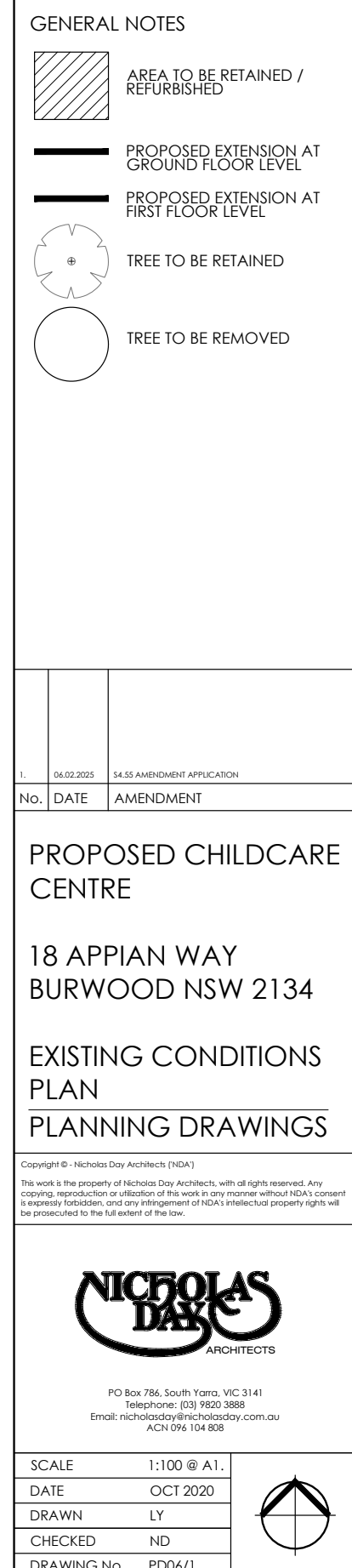
1. 06.02.2025 \$4.55 AMENDMENT APPLICATION		
NO.	DATE	AMENDMENT
PROPOSED CHILDCARE CENTRE		
18 APPIAN WAY BURWOOD NSW 2134		
PHOTO MONTAGE OF SURROUNDING STREETSCAPES		
PLANNING DRAWINGS		
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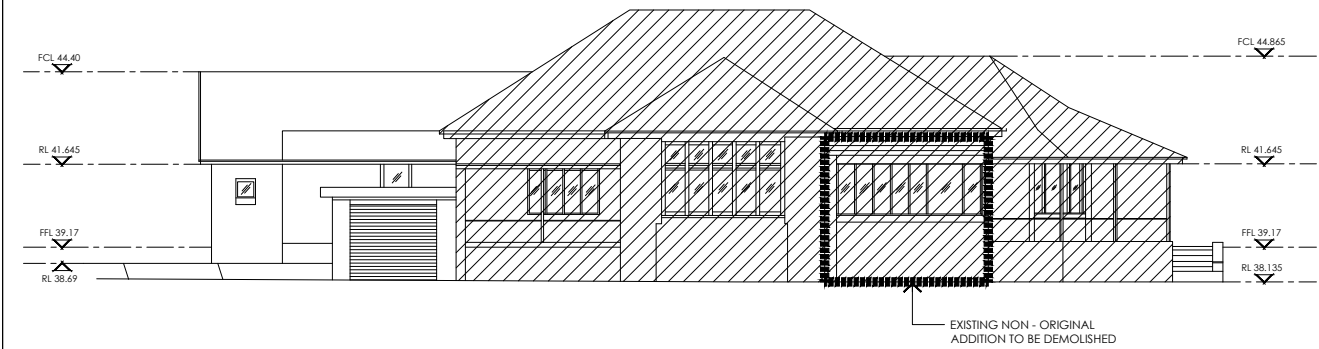




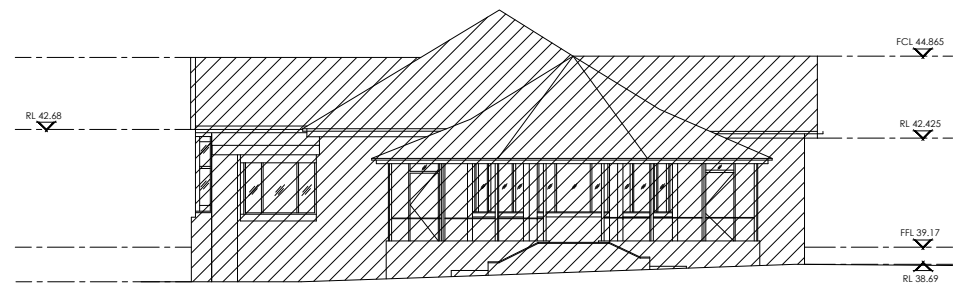




Architectural Plans



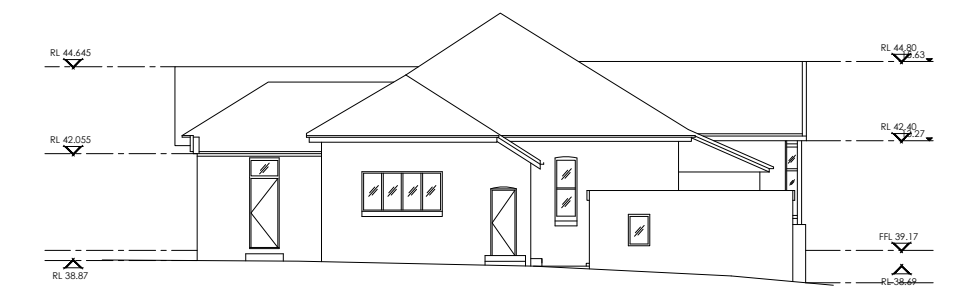
EXISTING NORTH ELEVATION



EXISTING WEST ELEVATION



EXISTING SOUTH ELEVATION



EXISTING EAST ELEVATION

GENERAL NOTES



AREA TO BE RETAINED /  
REFURBISHED

1. 06.02.2025 S4.55 AMENDMENT APPLICATION

NO. DATE AMENDMENT

PROPOSED CHILDCARE  
CENTRE

18 APPIAN WAY  
BURWOOD NSW 2134

EXISTING CONDITIONS  
ELEVATIONS  
PLANNING DRAWINGS

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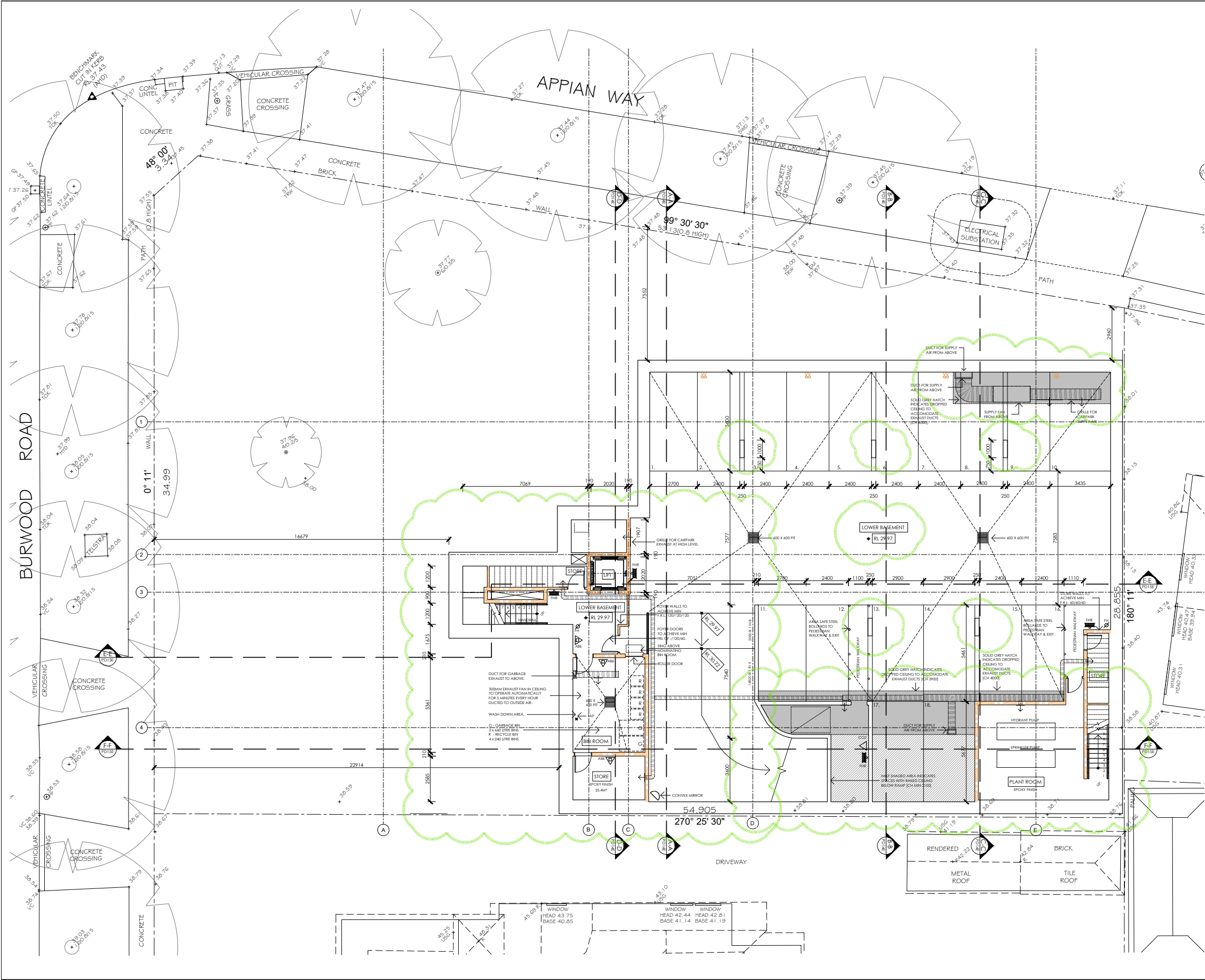
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SCALE 1:100 @ A1.  
DATE OCT 2020  
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DRAWING No. PD07/1.





GENERAL NOTES

- BASEMENT AREA AT THIS LEVEL - 675.2M²
- STORAGE - 25.4M²
- NUMBER OF CAR SPACES ON THIS LEVEL - 18
- GARAGE DOOR TO BE PLAIN PAINTED PLYWOOD FACED DOORS. COLOUR: DULUX "OFF - WHITE"
- WASTE MANAGEMENT
- WASTE WILL BE COLLECTED IN THE ONSITE BASEMENT BY A PRIVATE CONTRACTOR. THE COLLECTOR WILL TRANSFER BINS BETWEEN THE BIN STORE AND THE TRUCK.
- THIS WILL AVOID LEAVING UNSIGHTLY BINS ON THE NATURE STRIP AND DISTURBANCE TO NEARBY RESIDENTIAL PROPERTIES.
- BIN STORE VENTILATION IN ACCORDANCE WITH AUSTRALIAN STANDARDS AS1668.
- RECYCLING - ALL RECYCLABLES WILL BE COLLECTED IN A SINGLE BIN (FOR LOOSE PAPER, CARDBOARD, GLASS, ALUMINIUM, STEEL AND PLASTICS.)
- GREEN WASTE - GARDEN ORGANICS WILL BE COLLECTED AND DISPOSED BY THE FUTURE LANDSCAPE MAINTENANCE CONTRACTOR. INCLUDING A GARDEN WASTE BIN FOR USE IN BETWEEN COLLECTIONS.
- HARD WASTE - DISPOSAL OF HARD WASTE SHALL BE ORGANISED WITH THE ASSISTANCE OF THE OPERATOR.
- L.C. - LAUNDRY CHUTE
- W.C. - WASTE CHUTE

STAFF PARKING ONLY AT THIS LEVEL

1.	04.02.2025	S4.55 AMENDMENT APPLICATION
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PROPOSED CHILDCARE CENTRE

18 APPIAN WAY  
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LOWER BASEMENT PLAN  
PLANNING DRAWINGS

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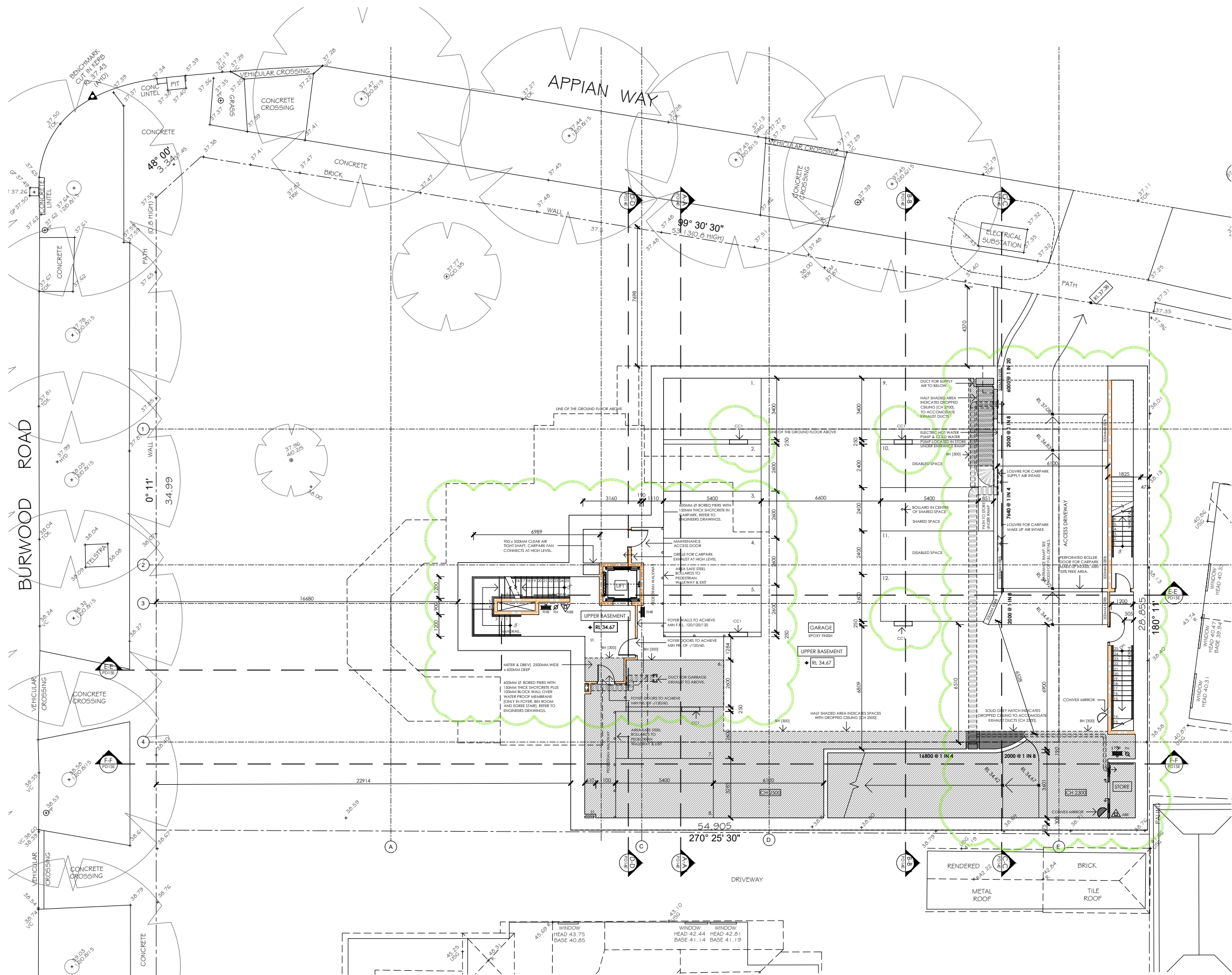
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DRAWING No.	PD08-PART 1/1.





- GENERAL NOTES**
- BASEMENT AREA AT THIS LEVEL - 650.8M²
- NUMBER OF CAR SPACES ON THIS LEVEL - 13
- ROLLER GARAGE DOOR. COLOUR: DULUX "OFF - WHITE"
- L.C. - LAUNDRY CHUTE
- W.C. - WASTE CHUTE
- HATCHED AREA INDICATES 2500H LOWERED CEILING AREA TO PROVIDE DEEP SOIL PLANTING ABOVE. (SEE SECTION F-F)
- HATCHED AREA INDICATES 2300H LOWERED CEILING OVER RAMP TO PROVIDE DEEP SOIL PLANTING ABOVE. (SEE SECTION F-F)

**DROP OFF/ PICK UP PARKING ONLY AT THIS LEVEL**

1.	04.02.2025	S4.55 AMENDMENT APPLICATION
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**PROPOSED  
CHILDCARE CENTRE**

**18 APPIAN WAY  
BURWOOD NSW 2134**

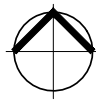
**BASEMENT PLAN  
PLANNING DRAWINGS**

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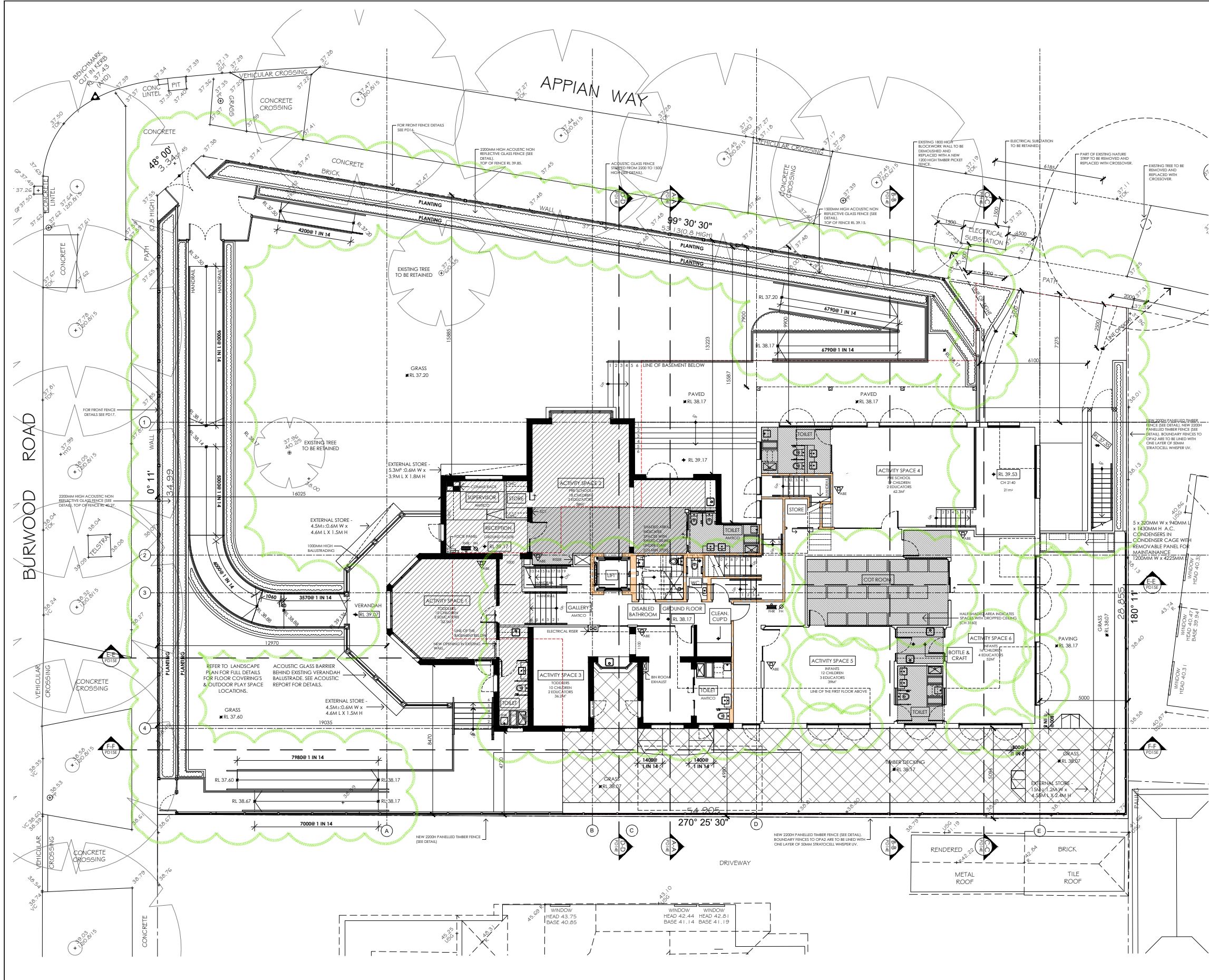
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Architectural Plans



GENERAL NOTES  
DEVELOPMENT SUMMARY

1822M <sup>2</sup>	AREA OF THE SITE
614.6M <sup>2</sup> (33.7%)	SITE COVERAGE
959.1M <sup>2</sup> (52.6%)	LANDSCAPED AREA
697.8M <sup>2</sup> (38.8%)	PERMEABLE AREA
31	TOTAL NUMBER OF CAR SPACES
<b>CHILDCARE FACILITY</b>	
120	TOTAL NUMBER OF CHILDREN
390M <sup>2</sup>	ACTIVITY SPACE REQUIRED (3.25M <sup>2</sup> PER CHILD)
401.5M <sup>2</sup>	ACTIVITY SPACE PROVIDED
840M <sup>2</sup>	OPEN SPACE REQUIRED (7.0M <sup>2</sup> PER CHILD)
849.9M <sup>2</sup>	OPEN SPACE PROVIDED
252M <sup>2</sup>	SHADED AREA REQUIRED (30% OF OPEN SPACE)
267.1M <sup>2</sup>	SHADED AREA PROVIDED
35.7M <sup>2</sup>	EXTERNAL STORAGE REQUIRED (0.3M <sup>2</sup> PER CHILD)
37.5M <sup>2</sup>	EXTERNAL STORAGE PROVIDED
23.8M <sup>2</sup>	INTERNAL STORAGE REQUIRED (0.2M <sup>2</sup> PER CHILD)
62.8M <sup>2</sup>	INTERNAL STORAGE PROVIDED

- HATCHED AREA INDICATES EXISTING FLOOR LEVEL (RL 39.17) TO BE RETAINED.
- HATCHED AREA INDICATES DEEP SOIL AREAS FOR PLANTING.

ALL ACOUSTIC FENCING HEIGHTS ARE SUBJECT TO ACOUSTIC ENGINEERS REPORT.

1.	06.02.2025	54.55 AMENDMENT APPLICATION
NO.	DATE	AMENDMENT

PROPOSED  
CHILDCARE CENTRE

18 APPIAN WAY  
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GROUND FLOOR PLAN  
PLANNING DRAWINGS

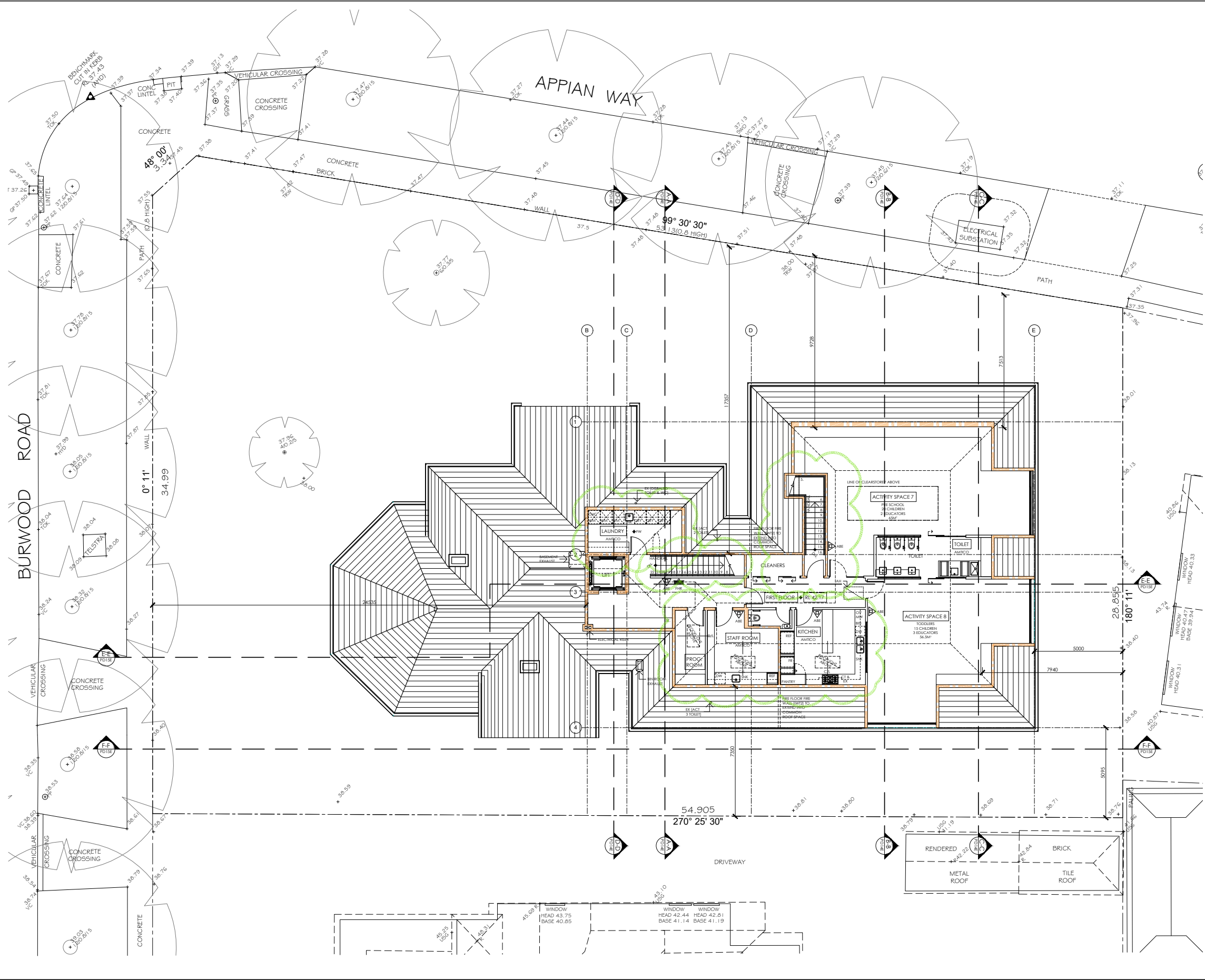
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DRAWING No.	PD09/1.





GENERAL NOTES		
<u>SCREENING</u>		
SC - PRIVACY SCREEN TO 1700MM ABOVE FLOOR LEVEL - SEE DETAIL ON PD13D.		
<u>TOTAL NUMBER OF CHILDREN PER AGE GROUP</u>		
INFANTS		
TOTAL NUMBER OF INFANTS -		28
REQUIRED NUMBER OF EDUCATORS -		7
RATIO -	1 EDUCATORS TO 4 CHILDREN	
UNENCMUMBERED INDOOR AREA REQUIRED -		91M²
TOTAL UNENCMUMBERED INDOOR AREA PROVIDED -		91M²
TODDLERS		
TOTAL NUMBER OF TODDLERS -		35
REQUIRED NUMBER OF EDUCATORS -		7
RATIO -	1 EDUCATORS TO 5 CHILDREN	
UNENCMUMBERED INDOOR AREA REQUIRED -		113.75M²
TOTAL UNENCMUMBERED INDOOR AREA PROVIDED -		125.2M²
PRE SCHOOL		
TOTAL NUMBER OF PRE SCHOOL CHILDREN -		57
REQUIRED NUMBER OF EDUCATORS -		6
RATIO -	1 EDUCATOR TO 10 CHILDREN	
UNENCMUMBERED INDOOR AREA REQUIRED -		185.25M²
TOTAL UNENCMUMBERED INDOOR AREA PROVIDED -		185.3M²


1.	06.02.2025	S4.55 AMENDMENT APPLICATION
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PROPOSED  
CHILDCARE CENTRE

18 APPIAN WAY  
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FIRST FLOOR PLAN  
PLANNING DRAWINGS

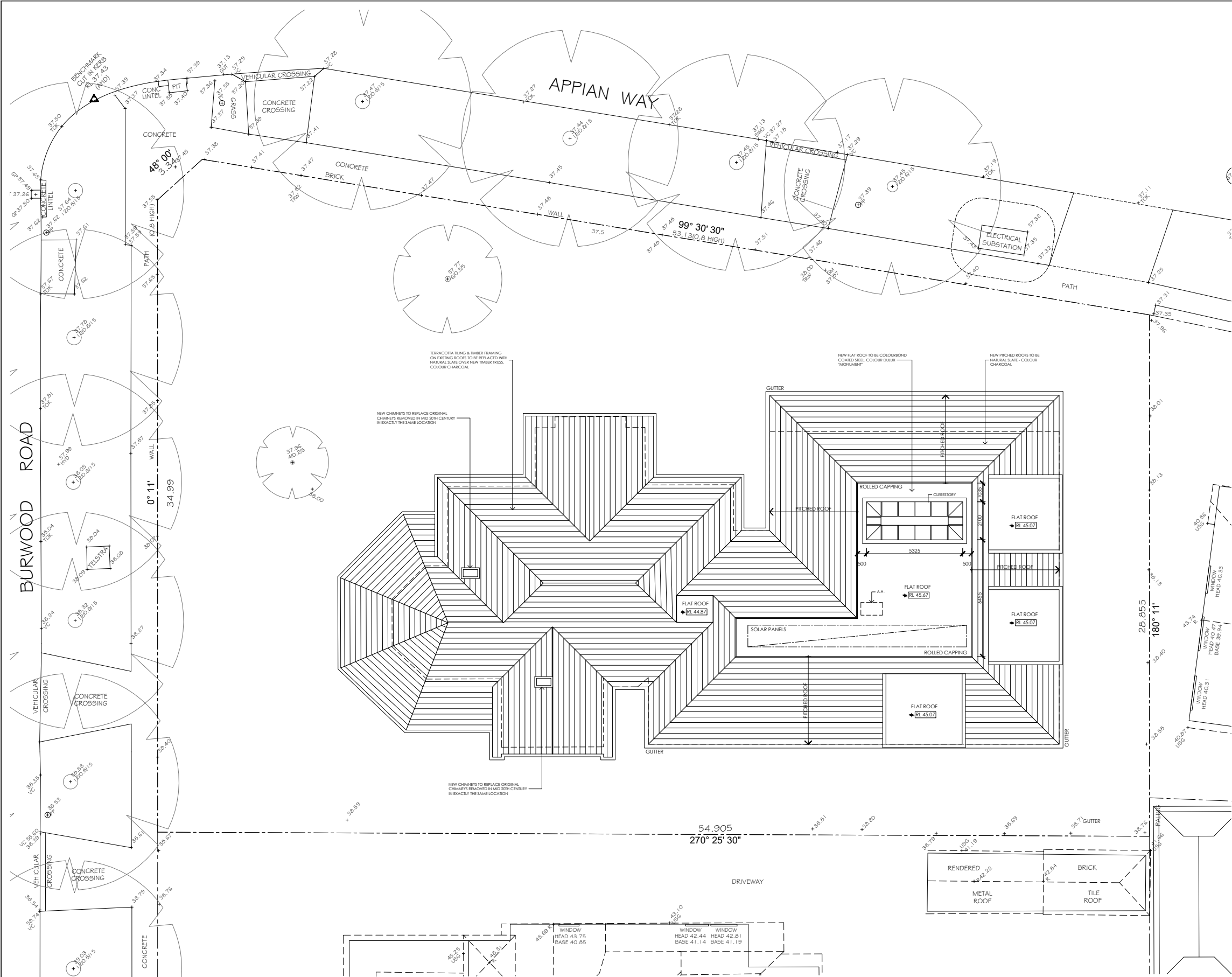
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SCALE	1:100 @ A1
DATE	OCT 2020
DRAWN	LY
CHECKED	ND
DRAWING No.	PD10/1.





GENERAL NOTES

-  **FLAT ROOF**  
COLOURBOND COATED STEEL DECK ROOFING  
AT 2° PITCH. COLOUR DULUX "MONUMENT"
-  **NEW & EXISTING PITCHED ROOFS**  
NON ORIGINAL TERRACOTTA TILES TO BE  
REPLACED WITH NATURAL SLATE

1.	06.02.2025	S4.55 AMENDMENT APPLICATION
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CHILDCARE CENTRE

18 APPLAN WAY  
BURWOOD NSW 2134

ROOF PLAN  
PLANNING DRAWINGS

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SCALE	1:100 @ A1
DATE	OCT 2020
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DRAWING No.	PD11/1.





GENERAL NOTES



NEW EXTERNAL WALLS

FACE BRICKWORK: AUSTRAL BOWAL GERTRUDIS BROWN



EXISTING WALLS

EXISTING BRICKWORK TO BE RETAINED AND REINSTATED. COLOUR: RED



NEW & EXISTING ROOFS

NON ORIGINAL TERRACOTTA TILES TO BE REPLACED WITH NATURAL SLATE



PRIVACY LOUVRES

PAINTED STEEL, MATT FINISH, COLOUR - DULUX "CHARCOAL"



WINDOW FRAMES, GUTTERS & FASCIAS

EXISTING & NEW - PAINTED TIMBER COLOUR - DULUX "GRAND PIANO HALF"



BALUSTRADING

50 X 50 K.D.H.W BALUSTERS AT 150 CENTRES, IN 100 X 50 TOP AND BOTTOM RAILS - PAINTED DULUX "GRAND PIANO HALF"

1. 06.02.2025 S4.55 AMENDMENT APPLICATION

No. DATE AMENDMENT

PROPOSED  
CHILDCARE CENTRE

18 APPIAN WAY  
BURWOOD NSW 2134

NORTH & WEST  
ELEVATIONS  
PLANNING DRAWINGS

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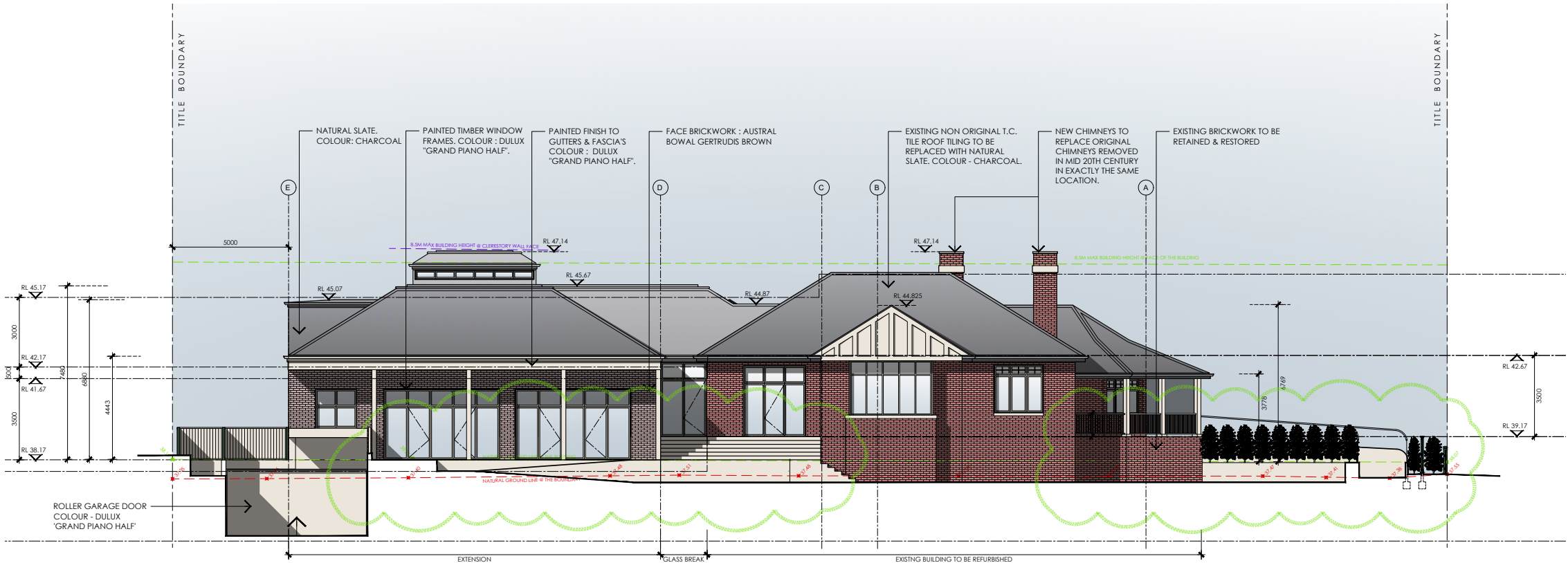
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DATE OCT 2020

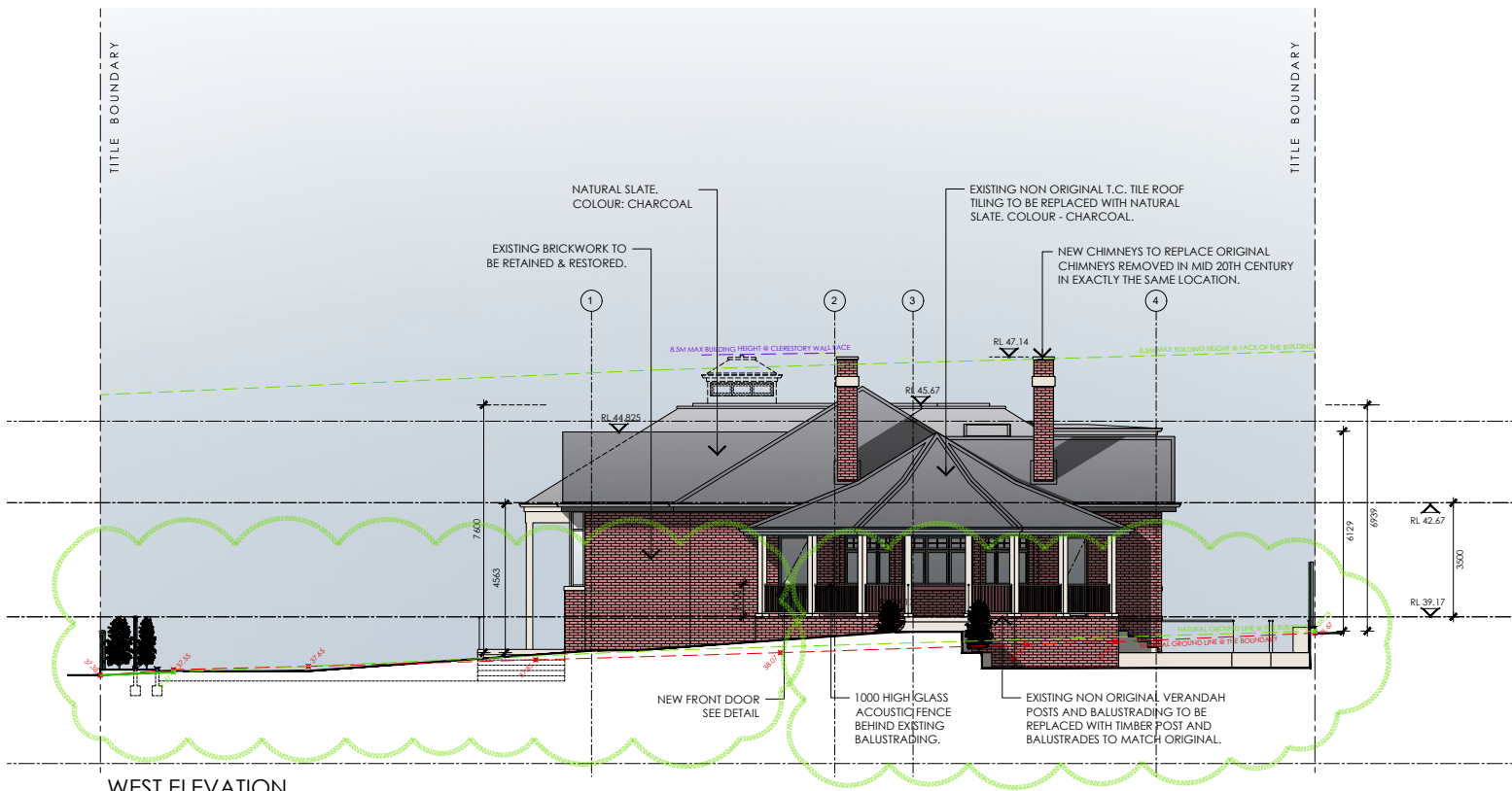
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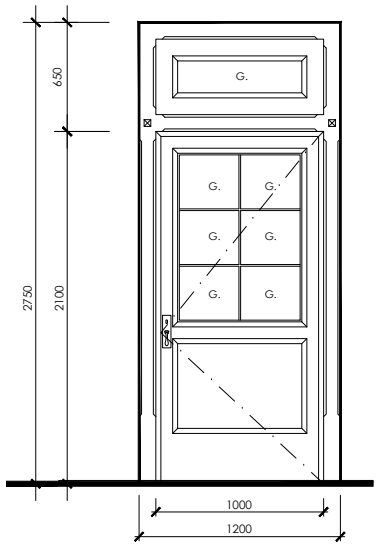
DRAWING No. PD12/1.



NORTH ELEVATION



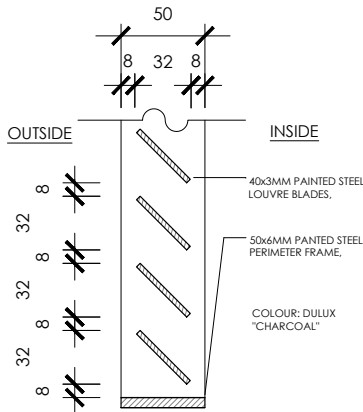
WEST ELEVATION



TIMBER FRAMED FRONT DOOR  
SCALE: 1:20 @ A1



GENERAL NOTES



LOUVRE PRIVACY SCREEN DETAIL (SC)  
SCALE - 1:2 @ A1

1. 06.02.2025 S4.55 AMENDMENT APPLICATION

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CHILDCARE CENTRE

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BURWOOD NSW 2134

SOUTH & EAST  
ELEVATIONS  
PLANNING DRAWINGS

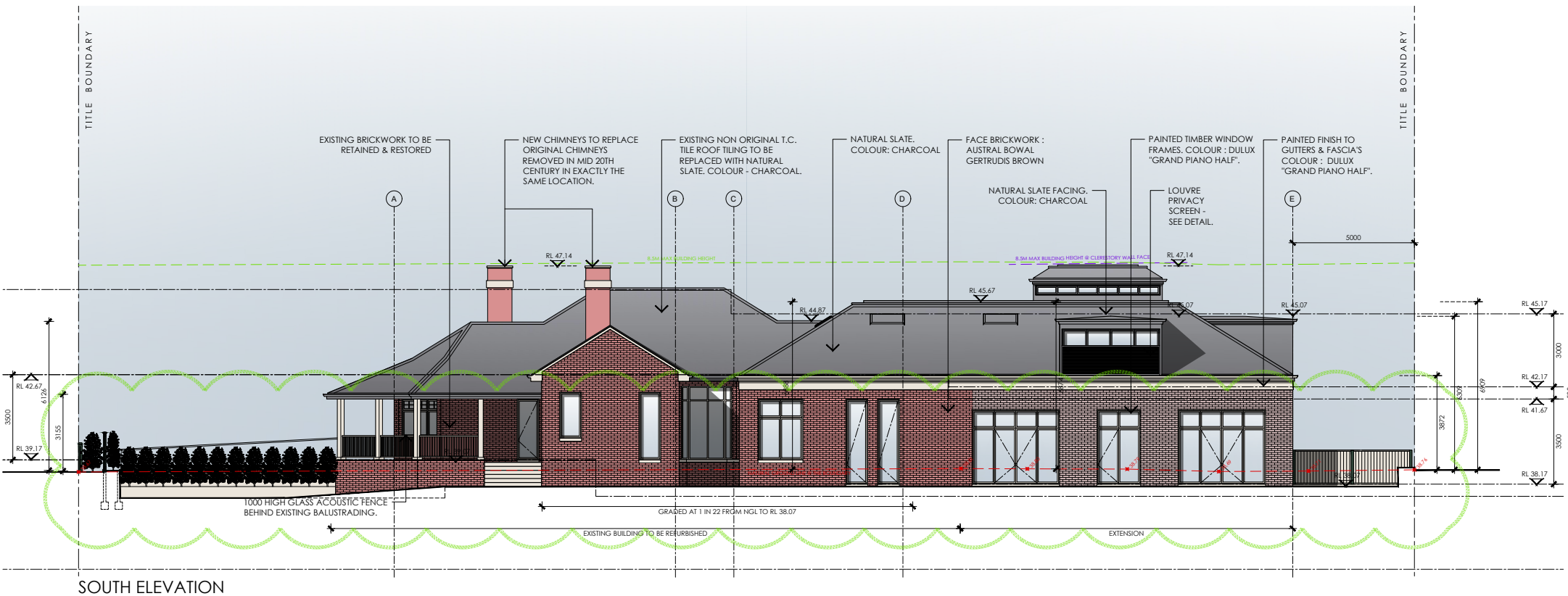
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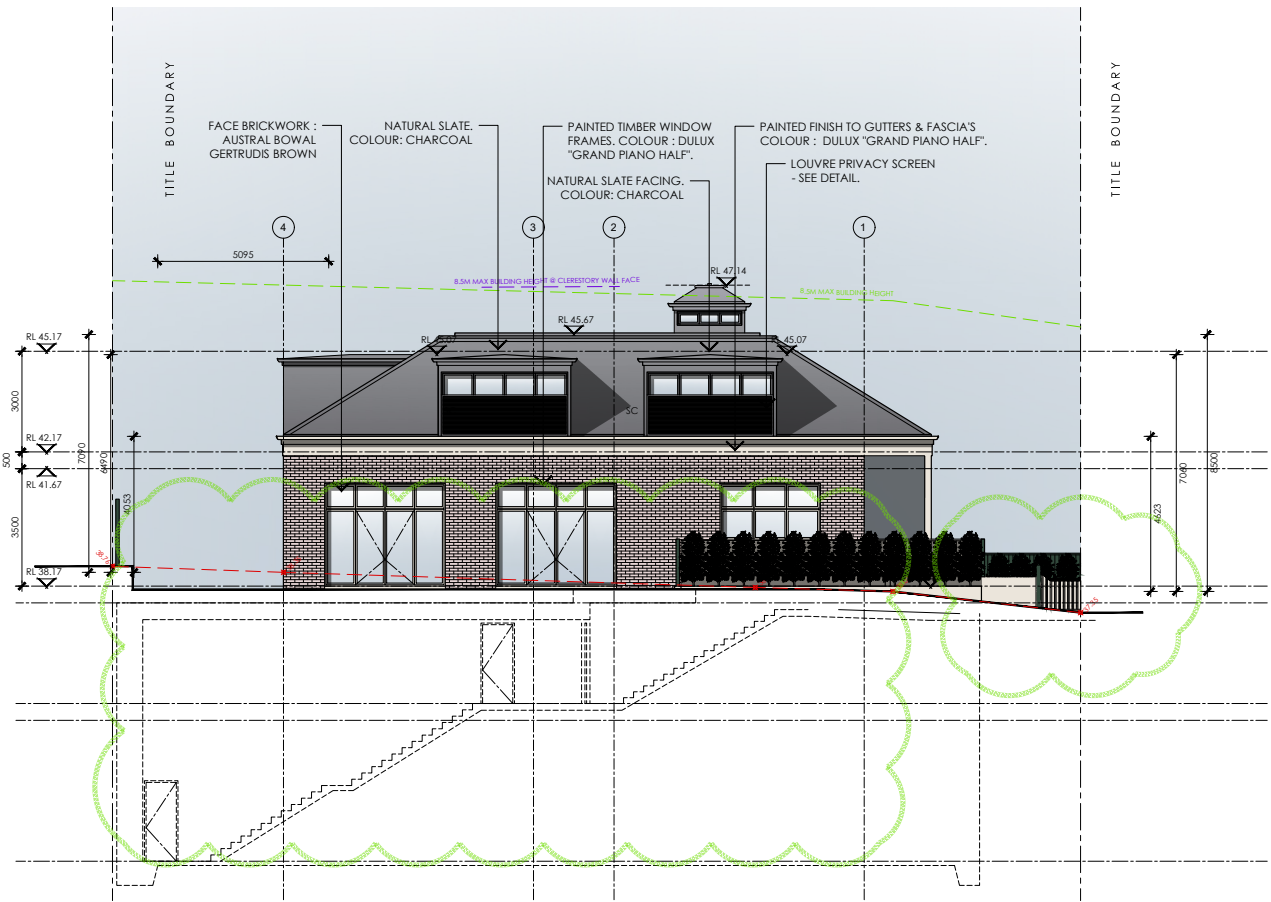


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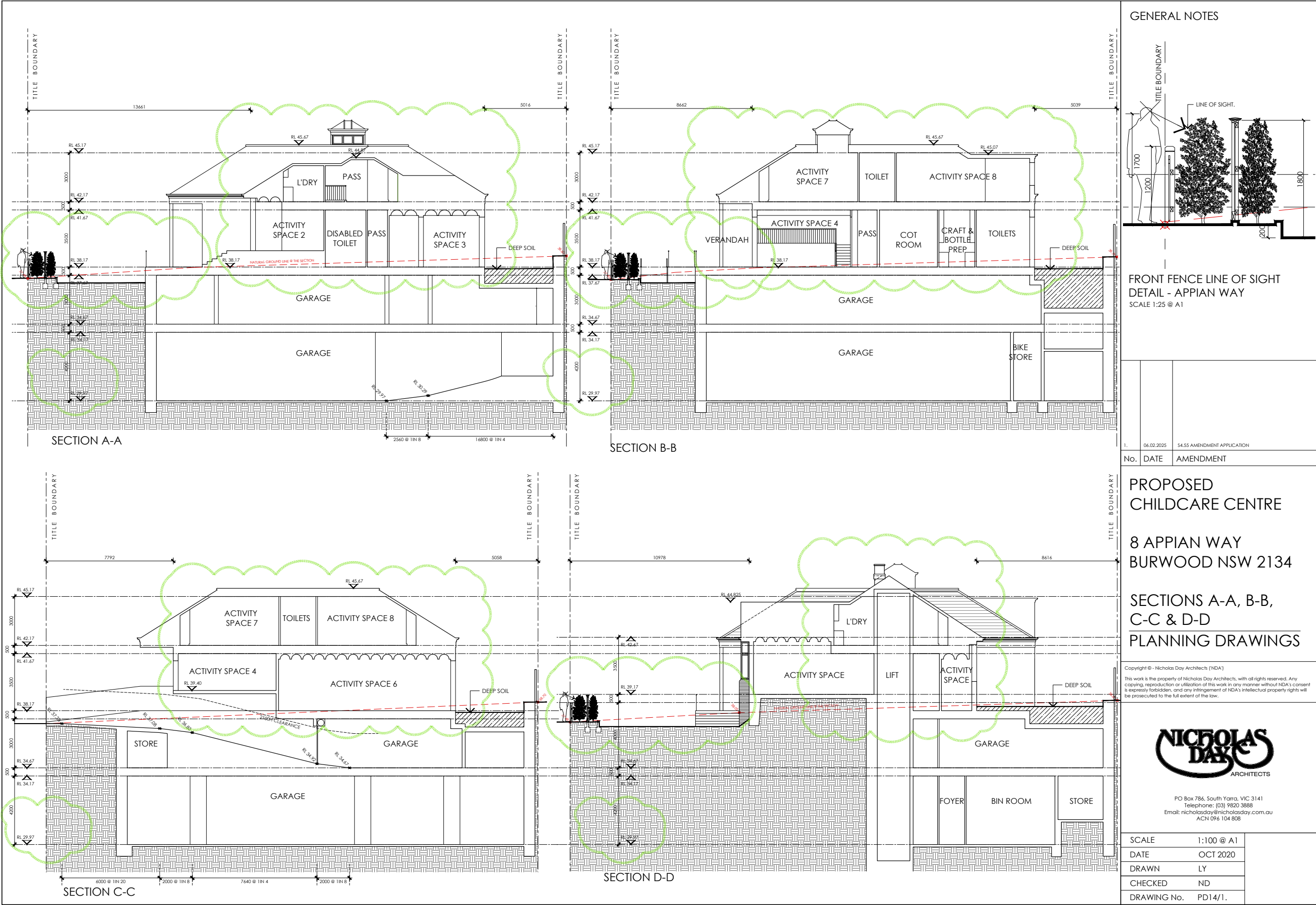
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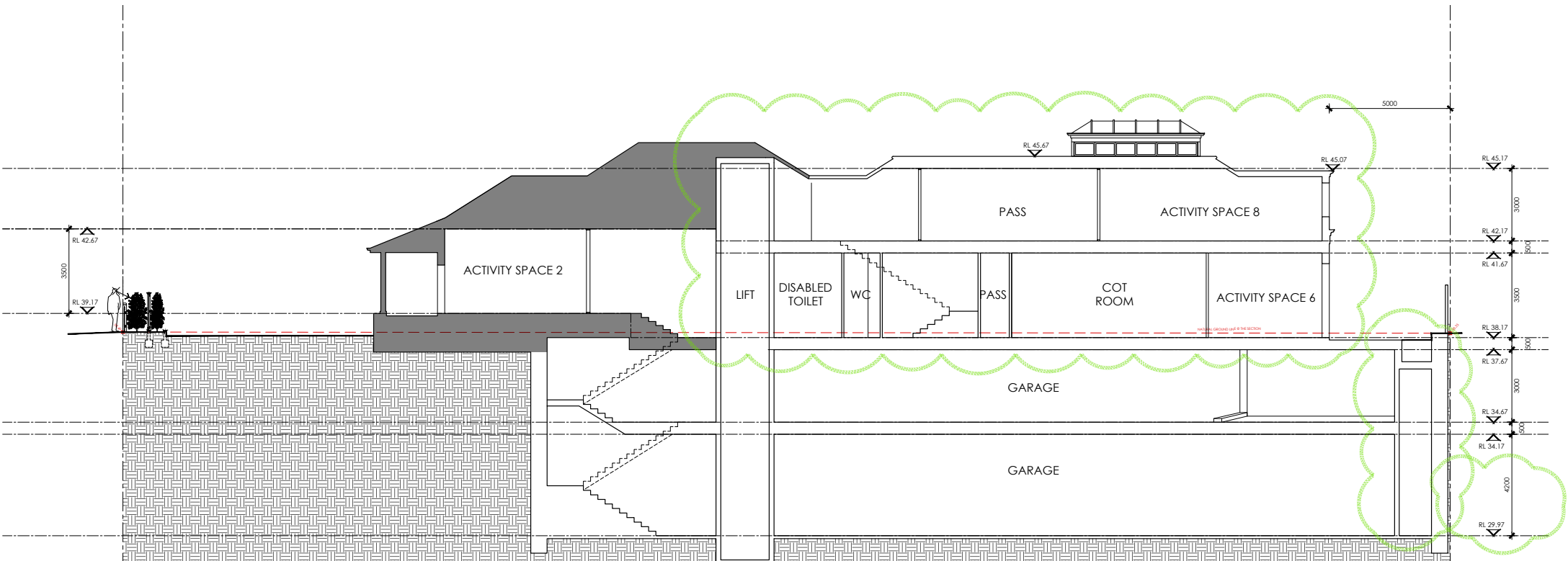


SOUTH ELEVATION



EAST ELEVATION



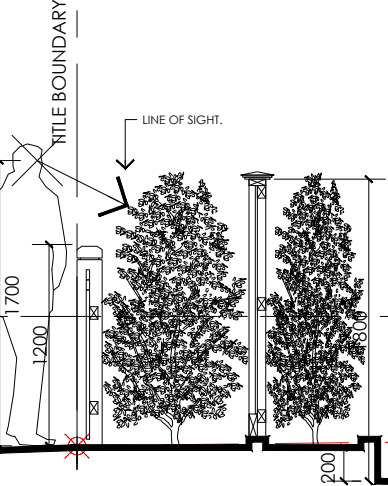


SECTION E-E



SECTION F-F

GENERAL NOTES



FRONT FENCE LINE OF SIGHT  
DETAIL - BURWOOD ROAD  
SCALE 1:25 @ A1

1.	06.02.2025	S4.55 AMENDMENT APPLICATION
NO.	DATE	AMENDMENT

PROPOSED  
CHILDCARE CENTRE

18 APPIAN WAY  
BURWOOD NSW 2134

SECTIONS E-E & F-F  
PLANNING DRAWINGS

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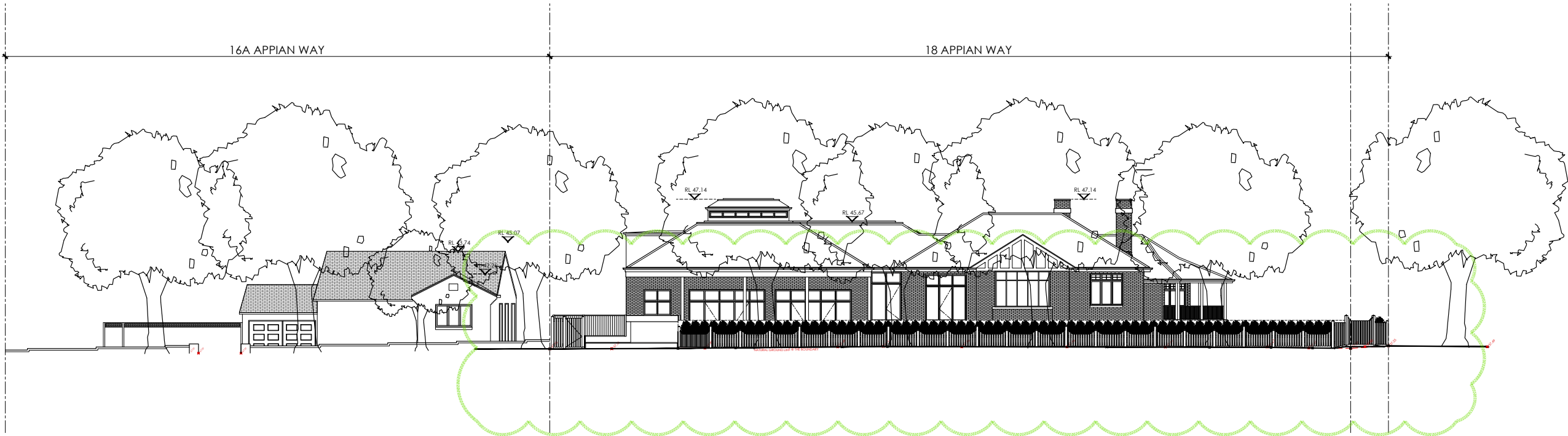


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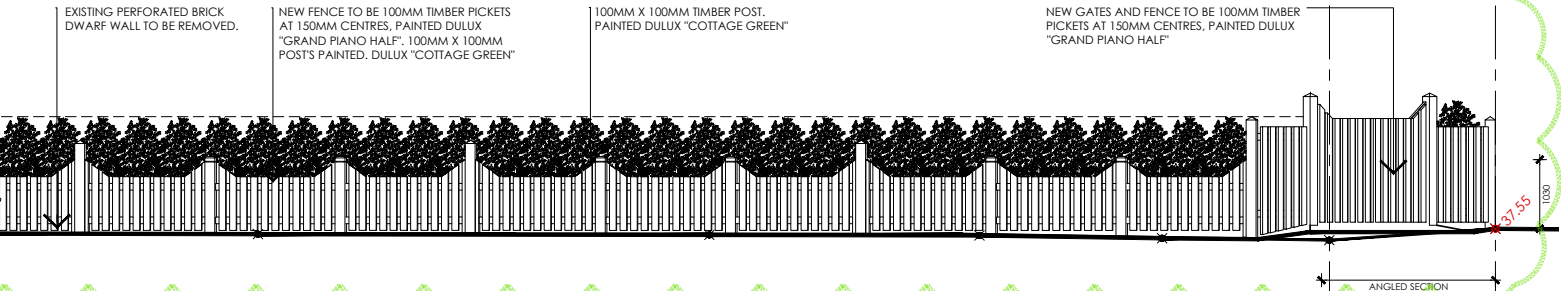
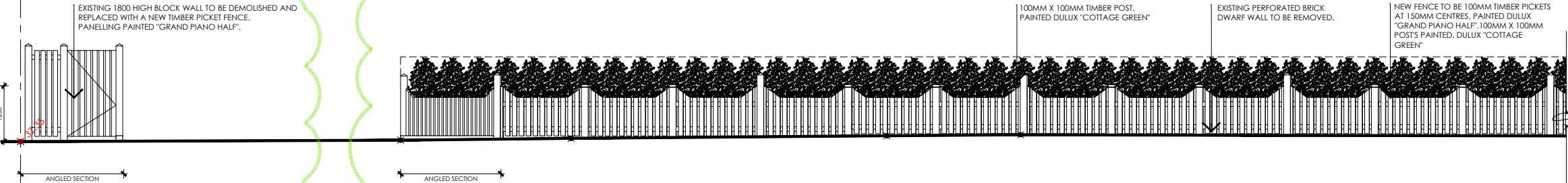
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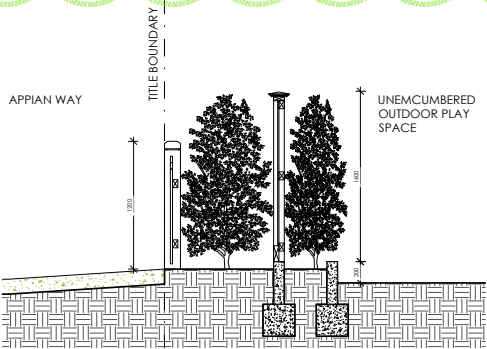




STREET SCAPE APPIAN WAY - NTS



FRONT FENCE APPIAN WAY - 1:50 @ A1



ACOUSTIC GLASS FENCE - NTS

NOTES

1.	06.02.2025	S4.55 AMENDMENT APPLICATION
No.	DATE	AMENDMENT

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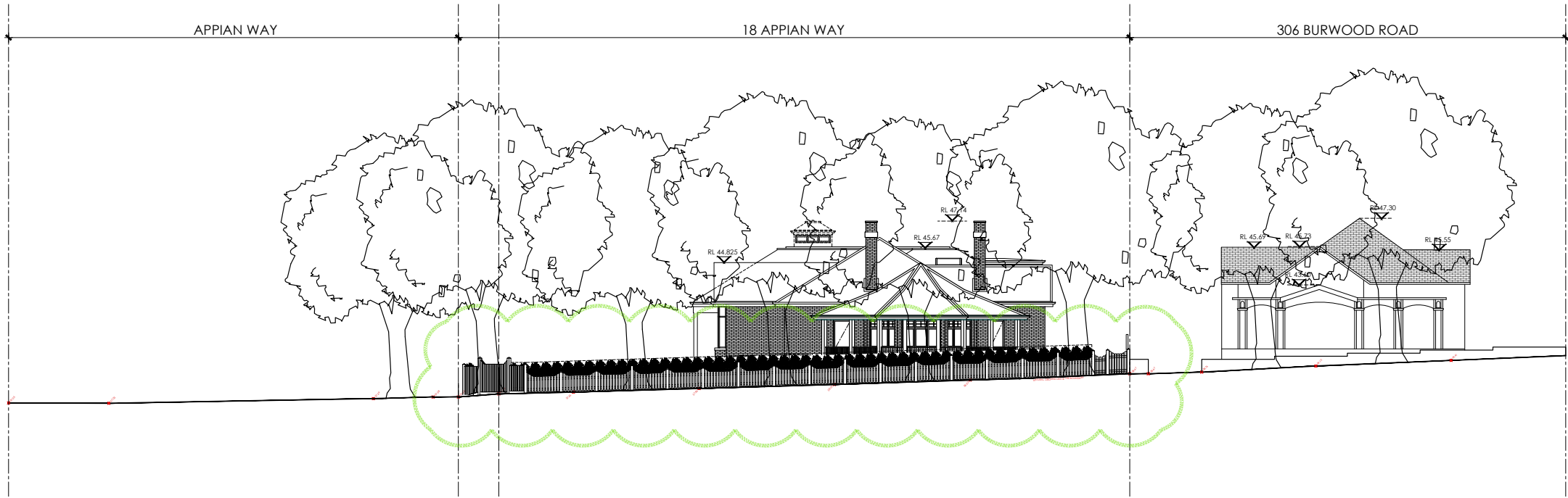
18 APPIAN WAY  
BURWOOD NSW 2134

STREETSCAPE APPIAN WAY  
PLANNING DRAWINGS

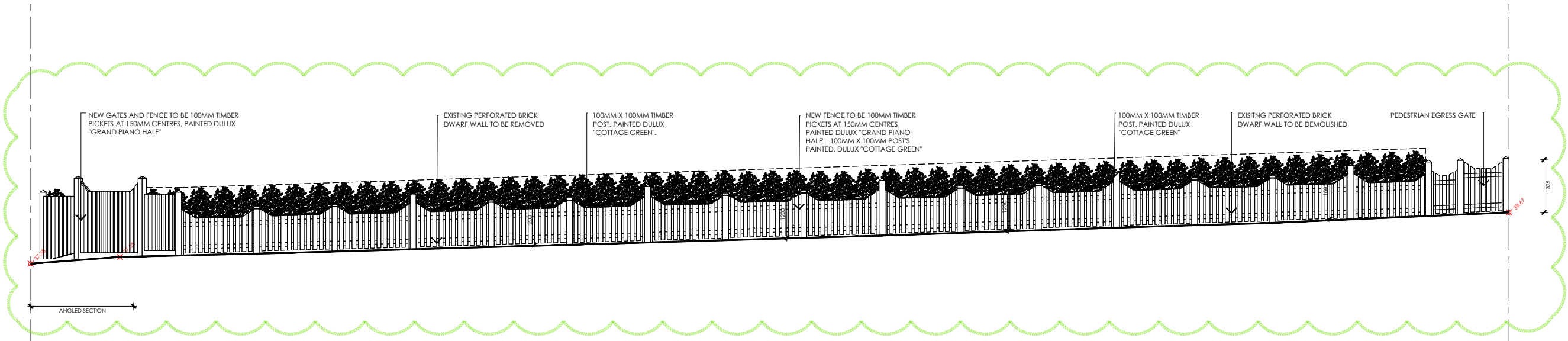


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SCALE	AS SHOWN	
DATE	03.08.2020	
DRAWN	L.Y	
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STREET SCAPE BURWOOD ROAD - NTS



FRONT FENCE BURWOOD ROAD - 1:50 @ A1

NOTES

1.	06.02.2025	S4.55 AMENDMENT APPLICATION
No.	DATE	AMENDMENT

PROPOSED CHILDCARE CENTRE

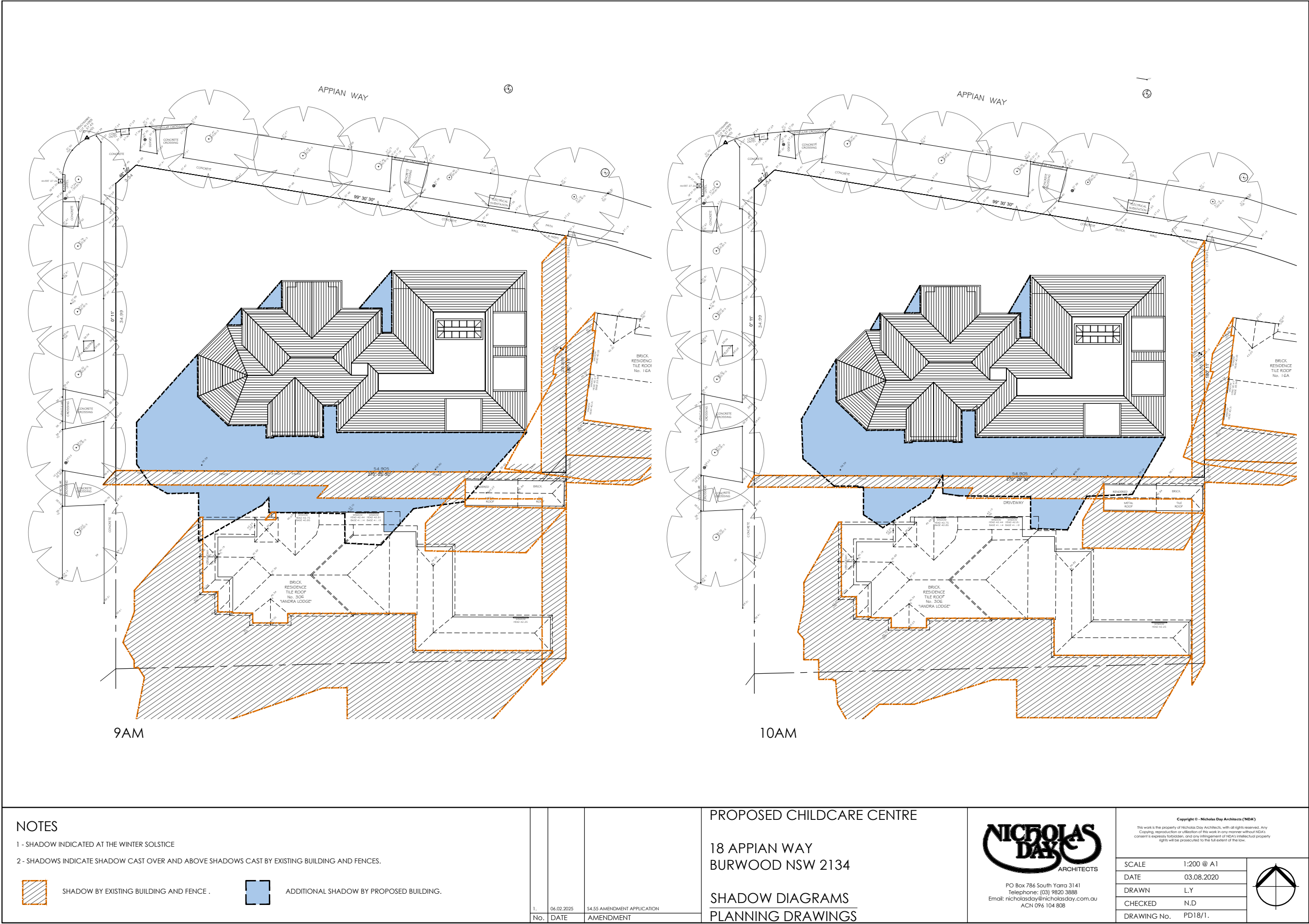
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STREETSCAPE BURWOOD ROAD  
PLANNING DRAWINGS

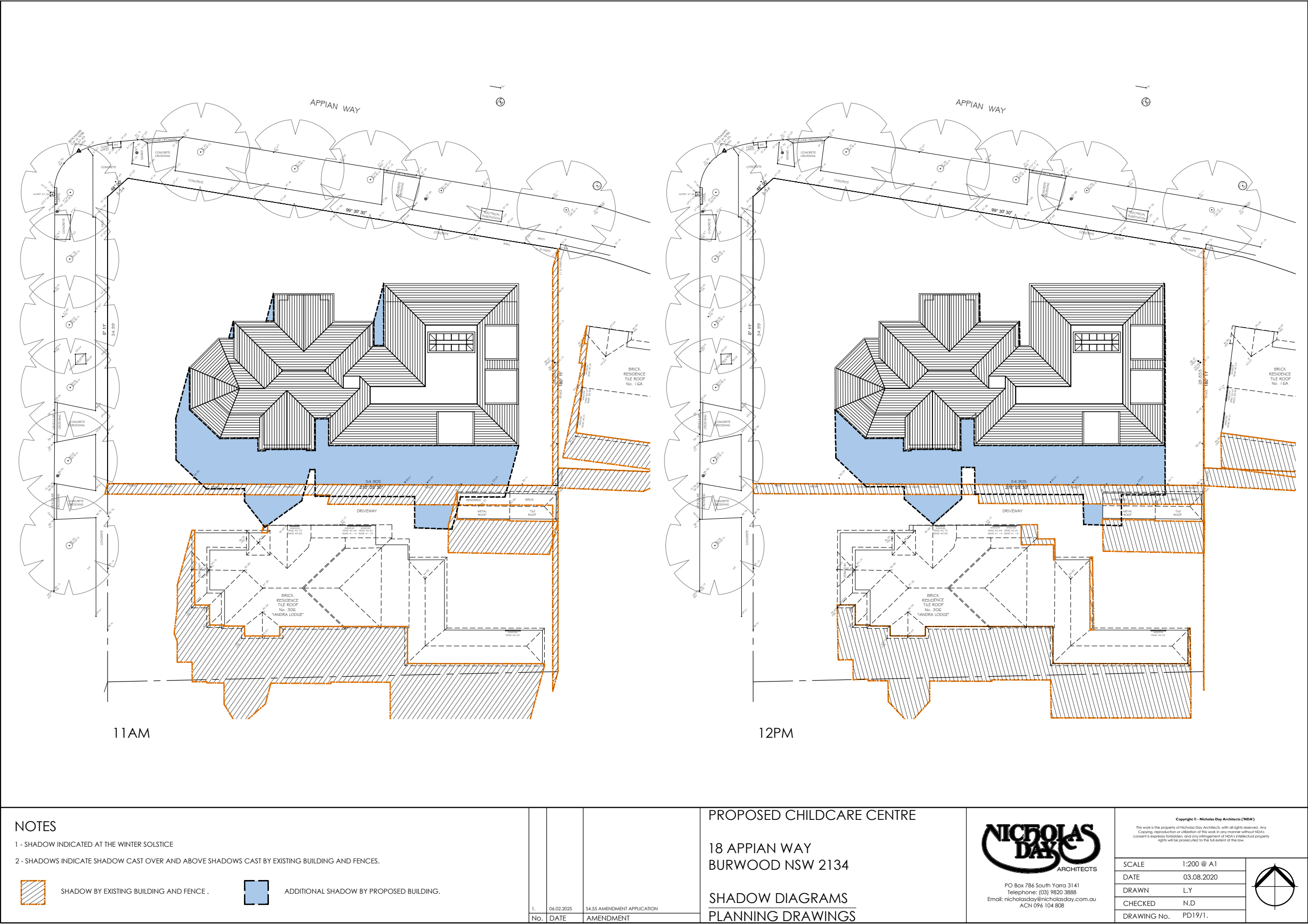


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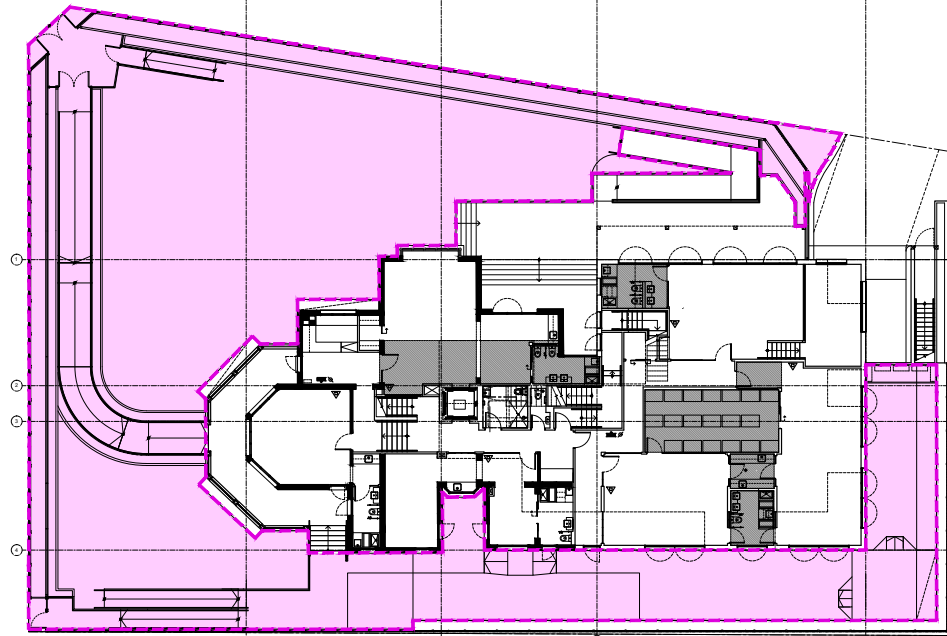




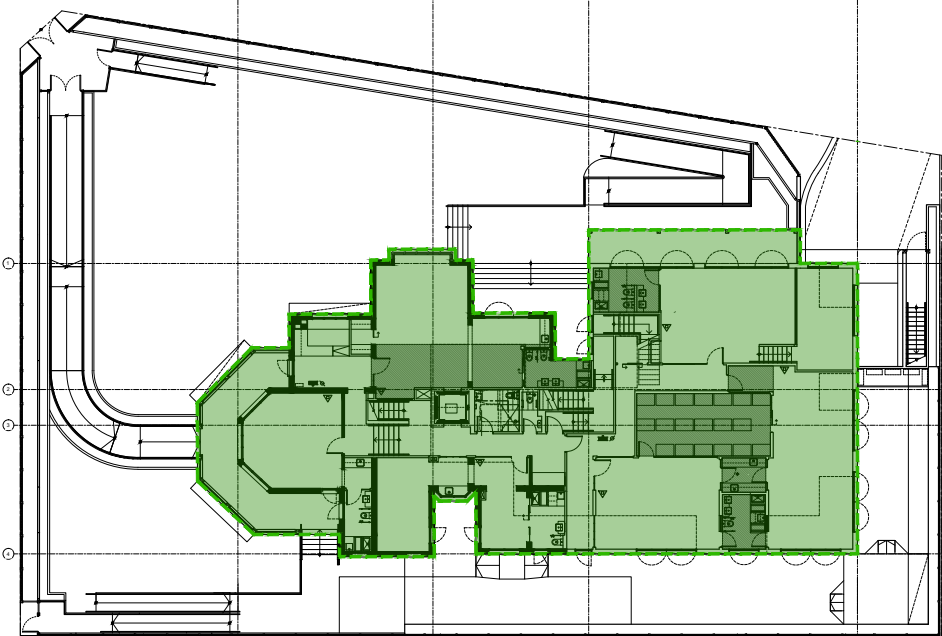




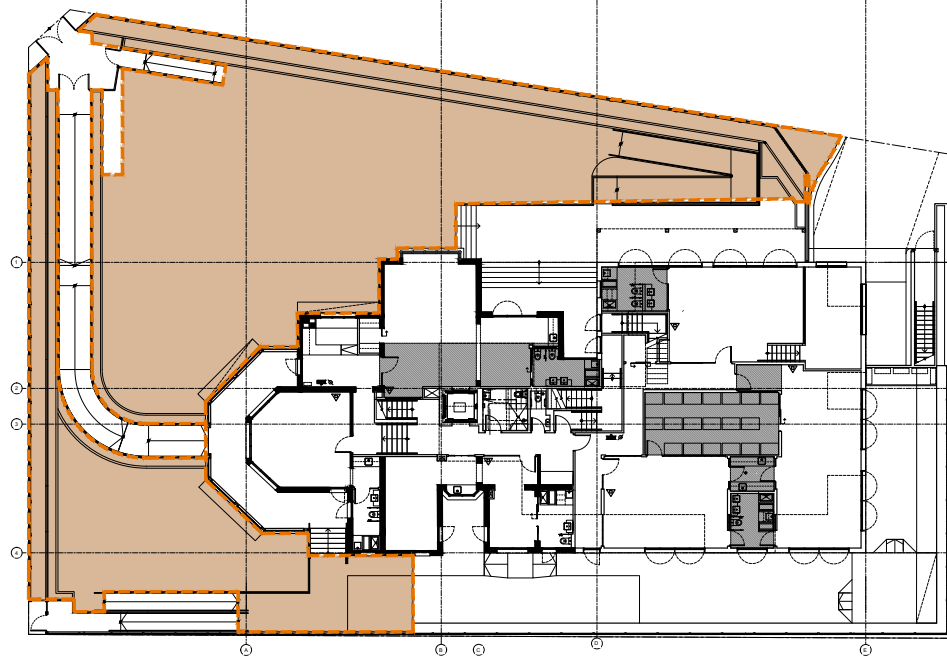




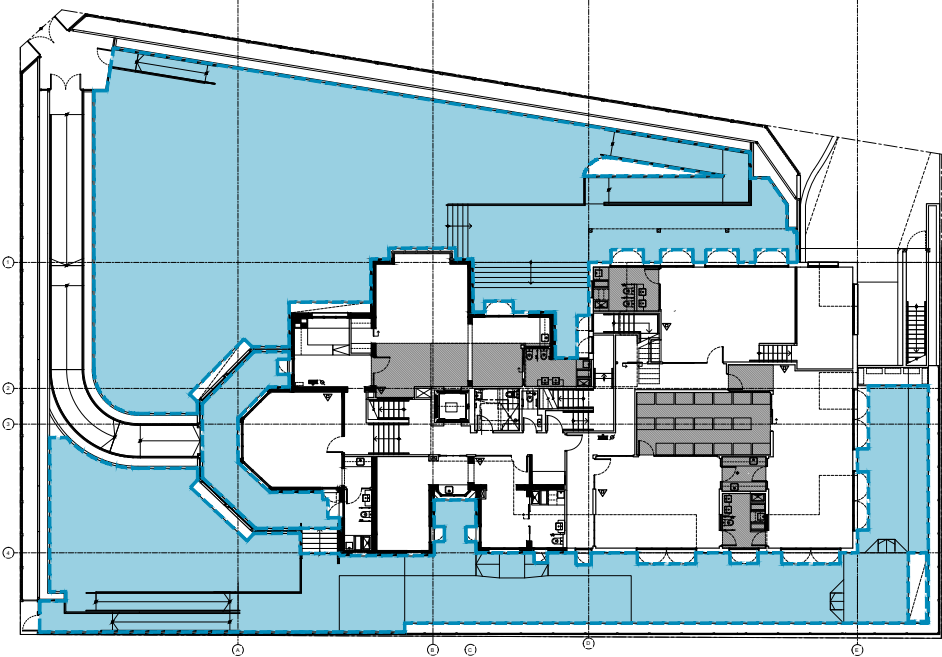
LANDSCAPED AREA  
- 959.1M<sup>2</sup> (52.6%)



SITE COVERAGE  
- 614.6M<sup>2</sup> (33.7%)



PERMEABLE AREA  
- 697.8M<sup>2</sup> (38.3%)



UNENCUMBERED OUTDOOR AREA AT GROUND FLOOR LEVEL  
- 849.9M<sup>2</sup>

GENERAL NOTES

1.	06.02.2025	S4.55 AMENDMENT APPLICATION
NO.	DATE	AMENDMENT

PROPOSED  
CHILDCARE CENTRE

18 APPIAN WAY  
BURWOOD NSW 2134

AREA DIAGRAMS  
PLANNING DRAWINGS

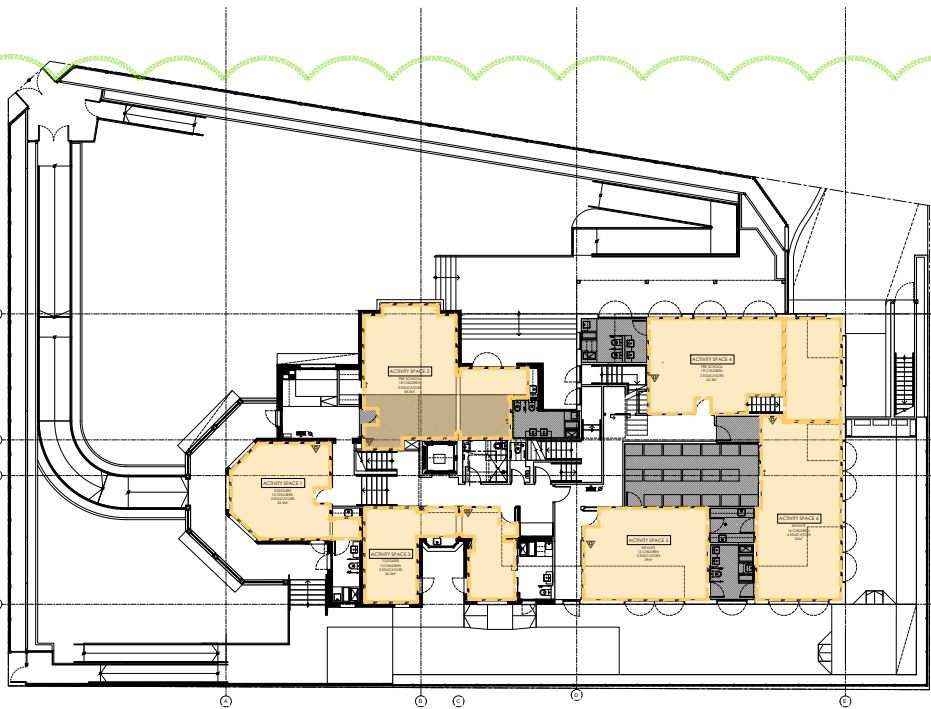
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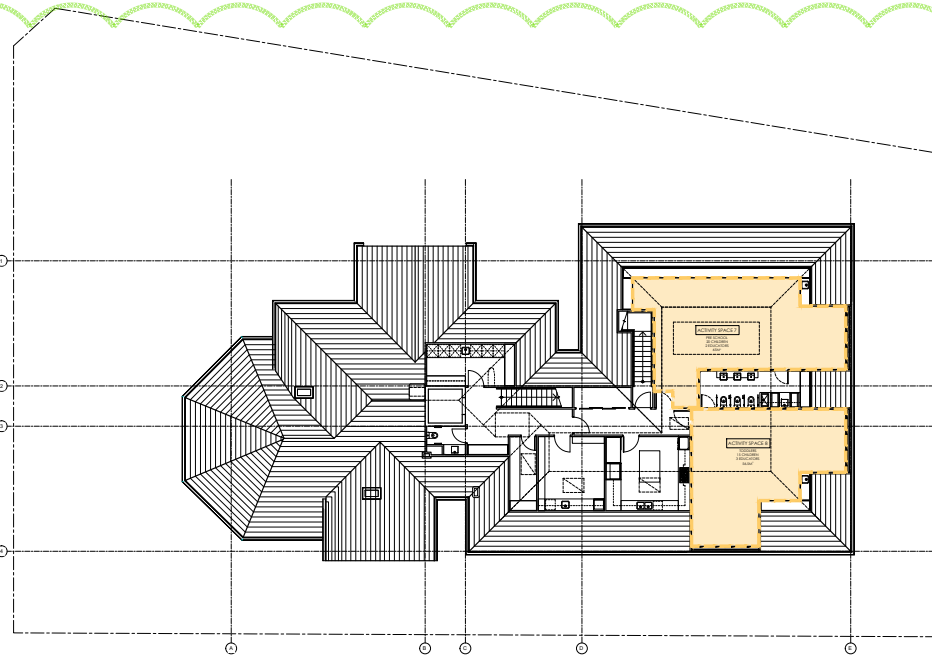
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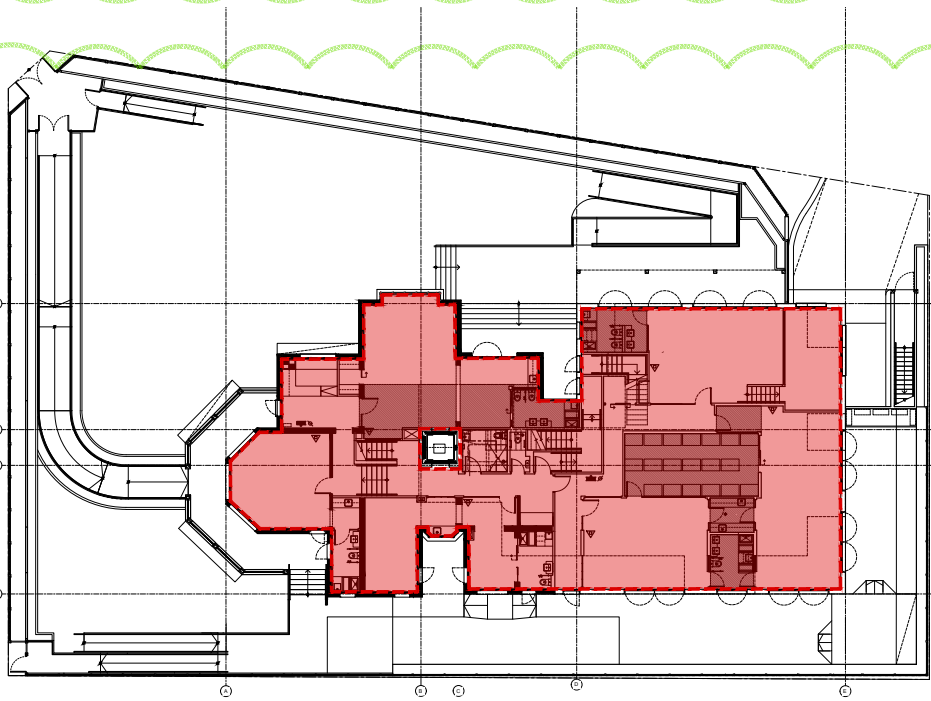


UNENCUMBERED INDOOR ACTIVITY SPACE AT GROUND FLOOR  
- 280M<sup>2</sup>

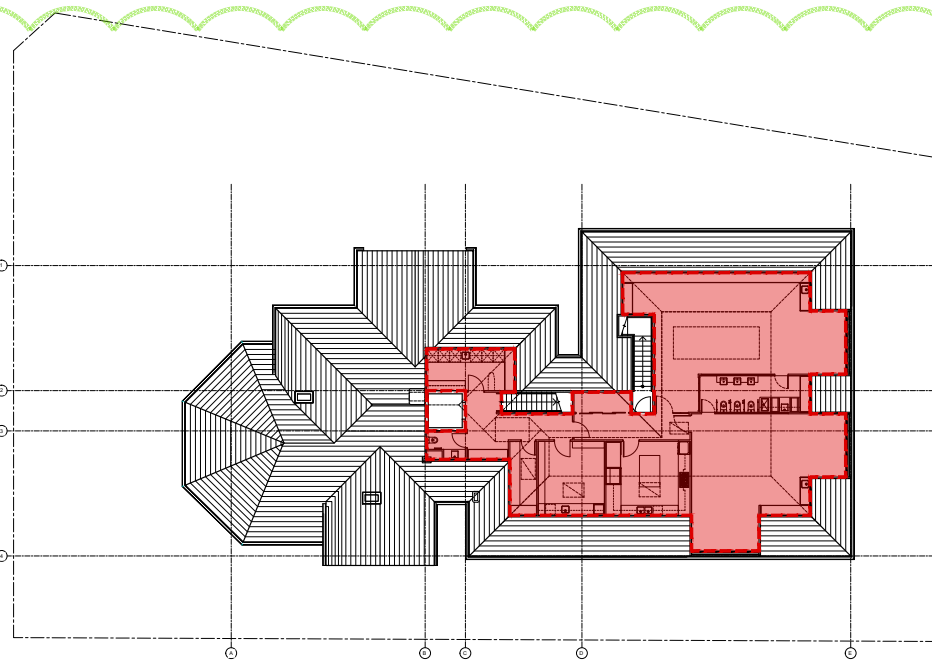


UNENCUMBERED INDOOR ACTIVITY SPACE AT FIRST FLOOR  
- 121.5M<sup>2</sup>

TOTAL INDOOR ACTIVITY SPACE - 401.5M<sup>2</sup>



GROUND FLOOR GFA  
- 510.4M<sup>2</sup>



FIRST FLOOR GFA  
- 247.6M<sup>2</sup>

TOTAL GROSS FLOOR AREA - 758M<sup>2</sup> (41.6% OF SITE AREA)

GENERAL NOTES

1. 06.02.2025 S4.55 AMENDMENT APPLICATION

NO. DATE AMENDMENT

PROPOSED  
CHILDCARE CENTRE

18 APPIAN WAY  
BURWOOD NSW 2134

UNENCUMBERED  
INDOOR SPACE &  
GFA AREA DIAGRAMS  
PLANNING DRAWINGS

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THIS DRAWING EXACTLY REFLECTS  
THE CONDITIONS INDICATED ON  
THE GROUND FLOOR PLAN PD091

GENERAL NOTES

FENCE TYPES LEGEND

- 2200MM HIGH ACOUSTIC NON-REFLECTIVE GLASS PANEL FENCE.
- 1000MM HIGH ACOUSTIC NON-REFLECTIVE GLASS PANEL FENCE BEHIND EXISTING BALUSTRADE AND GATES.
- 1200MM HIGH TIMBER PICKET FENCE.
- 2200MM HIGH PANELLED TIMBER FENCE, LINED WITH ONE LAYER OF 50MM STRATOCELL WHISPER UV.
- 2200MM HIGH PANELLED TIMBER FENCE, NO STRATOCELL WHISPER UV REQUIRED.
- 2000MM HIGH PANELLED TIMBER FENCE, LINED WITH ONE LAYER OF 50MM STRATOCELL WHISPER UV.
- 2000MM PANELLED TIMBER FENCE, NO STRATOCELL WHISPER UV REQUIRED.

1.	06.02.2025	S4.55 AMENDMENT APPLICATION
NO.	DATE	AMENDMENT

PROPOSED  
CHILDCARE CENTRE

18 APPIAN WAY  
BURWOOD NSW 2134

FENCE TYPES DRAWING

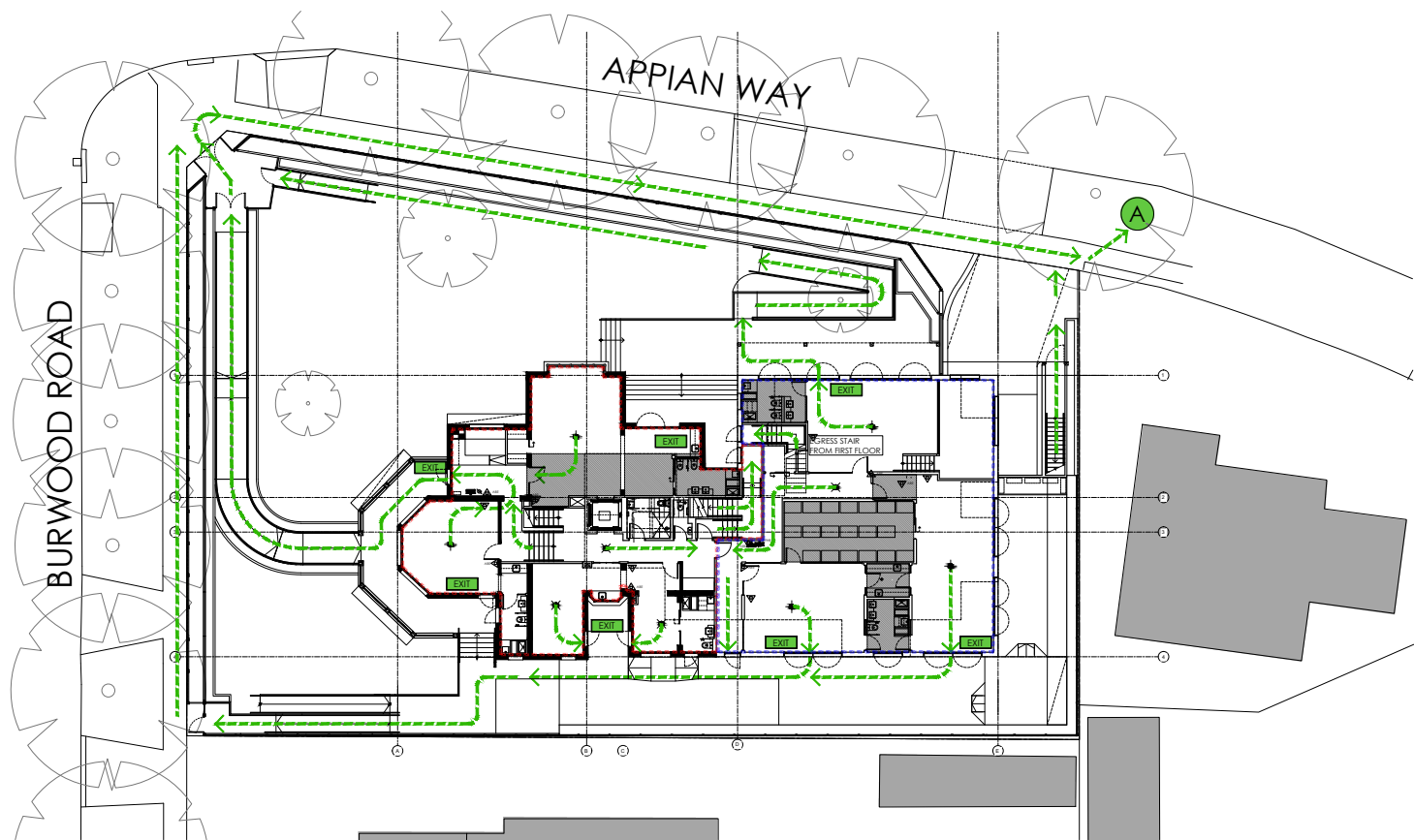
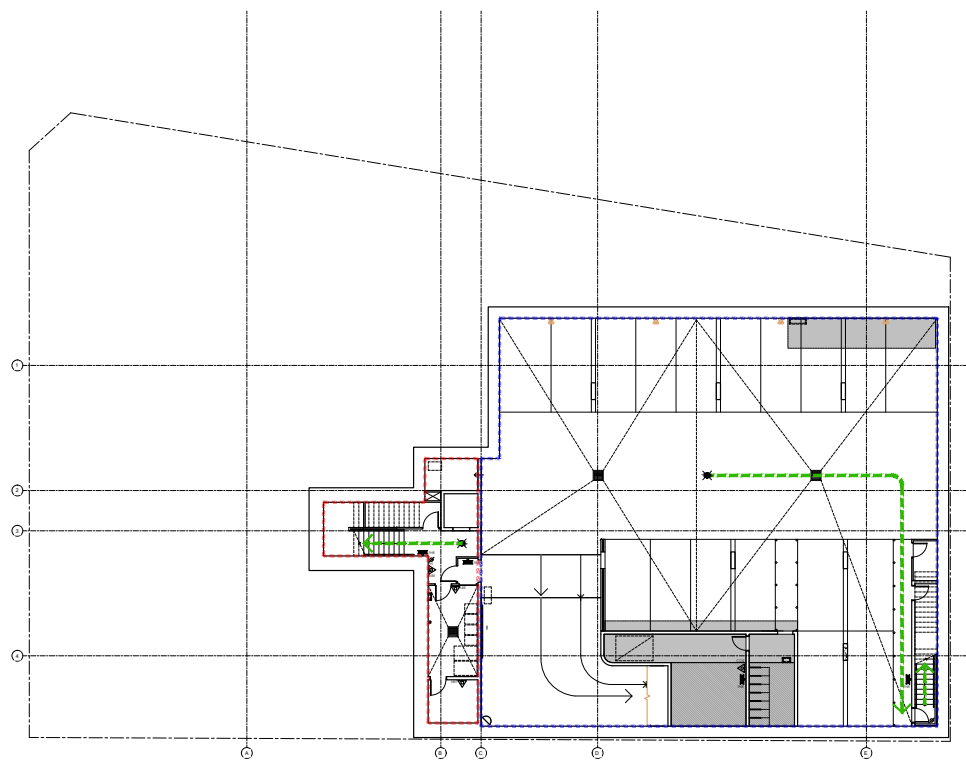
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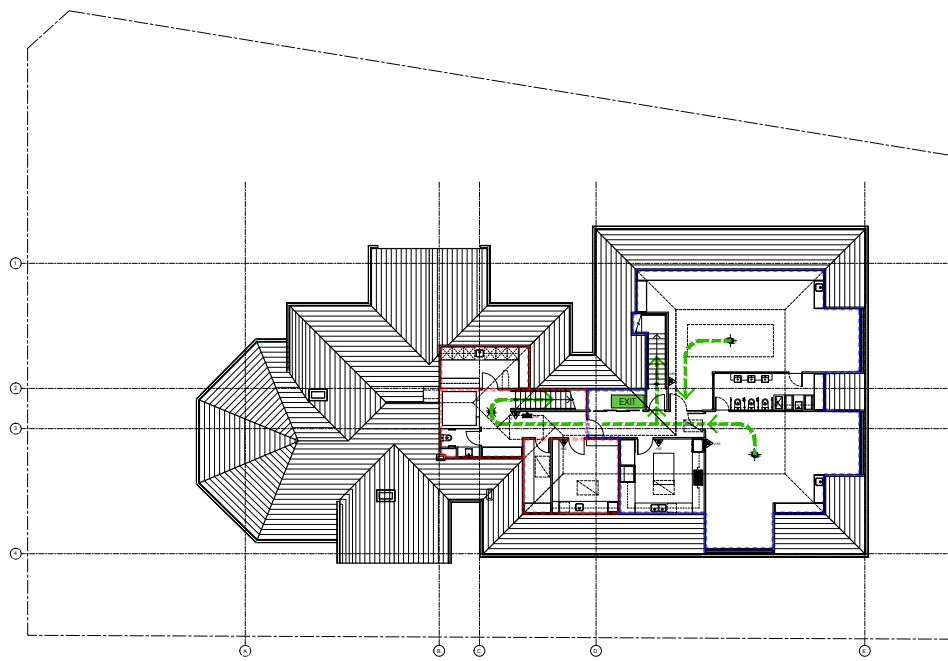
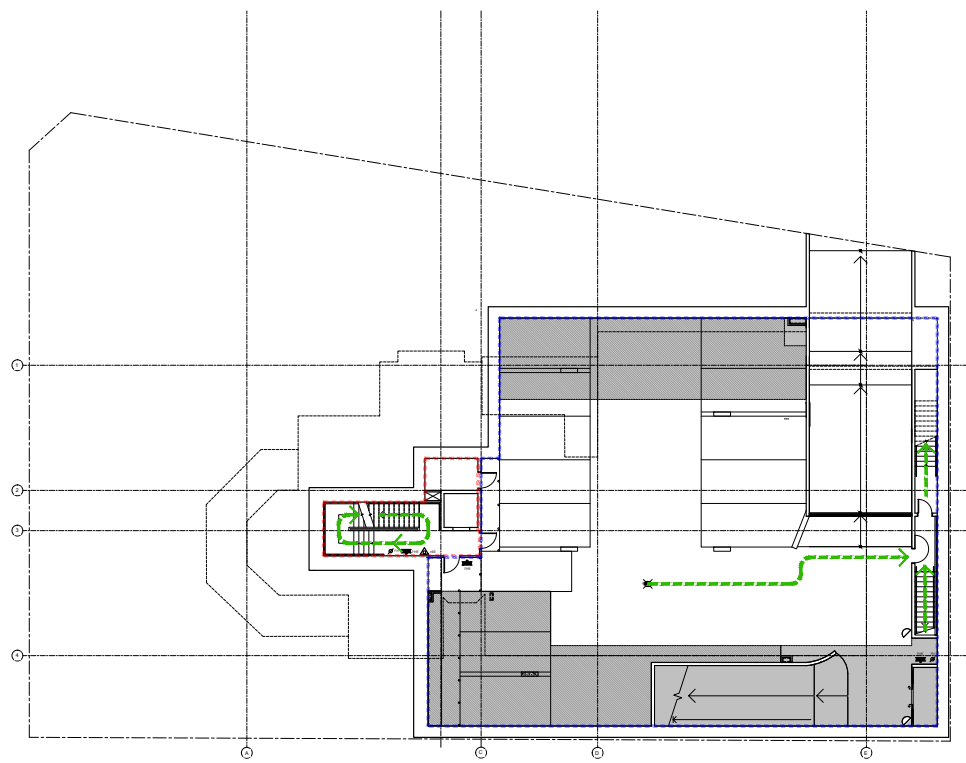
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SCALE	1:100 @ A1
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GROUND FLOOR EVACUATION PLAN



FIRST FLOOR EVACUATION PLAN

- FIRE COMPARTMENT #1
- FIRE COMPARTMENT #2

1.	06.02.2025	S4.55 AMENDMENT APPLICATION
No.	DATE	AMENDMENT

**PROPOSED  
CHILDCARE CENTRE**

**18 APPIAN WAY  
BURWOOD NSW 2134  
EMERGENCY  
EVACUATION PLAN  
PLANNING DRAWINGS**

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**NICHOLAS  
DAY**  
ARCHITECTS

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Ph: (02) 9553 1857  
Address: Suite 4, 15-17 Forest Rd  
Hurstville NSW 2220  
Postal Address: PO BOX 910  
HURSTVILLE NSW 1481  
ABN: 33160935142

---

11/11/2024

PB Projects  
PO Box 1112  
Paramatta NSW 2124  
[joseph@pbprojects.com.au](mailto:joseph@pbprojects.com.au)

Att: Joseph Karam

REF: 18 Appian Way Burwood – substation location

Dear Joseph,

AAPE as an Accredited Service Provider (NSW Trade & Investment Resources & Energy Accreditation Number 3712) have been working with Ausgrid and initiated a project regarding the substation location under reference number 1900131141 BURWOOD - 18 APPIAN WAY,BURWOOD

After reviewing the relocation of the substation we have encountered multiple implications being:

- Substation has multiple street supplies which must be maintained. It forms part of the High Voltage and Low Voltage network in the area.
- Substation can't be physically relocated, a new substation needs to be installed along with all cabling etc, and on a transition day, the new substation commissioned and the old one decommissioned and removed.
- The cabling involved in the relocation will require the whole development frontage along Appian Way and Burwood Road excavated
- Substation location shown on architectural plans has the restriction zone going over the neighbouring site which will be an issue to overcome.
- There are heritage impacts based on the new substation location
- Additional to the above the cost implications are significant

Whilst this proposed substation relocation is constructable, I recommend finding an alternative to the relocation of the substation. Based on our assessment and further site investigation the obstacles involved far outweigh the benefit of slightly diverting the driveway. In general it is a complicated process to relocate such infrastructure and even more difficult in this already developed area such as this.

If you have any questions or inquiries, please don't hesitate to contact me on (02) 9553 1857.

Regards,

A handwritten signature in black ink, appearing to read 'Ali Alaouie'.

Ali Alaouie

Level 3 ASP and Director

---



## STATEMENT OF ENVIRONMENTAL EFFECTS

---

Section 4.56 Application to modify DA 2021.88

No. 18 Appian Way,  
Burwood NSW 2134

Prepared for: Geagea Famille Custodians Trois Trust

REF M210535  
14 February 2025





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# 1. Introduction

---

This Statement of Environmental Effects (SEE) has been prepared on behalf of the owner of No. 18 Appian Way, Burwood. The report accompanies an application pursuant to Clause 4.56 of the Environmental Planning and Assessment (EP&A) Act 1979, seeking consent for internal and external modifications to approved development application DA 2021.88.

This subject application seeks to modify a number of elements to the child care centre under DA 2021.88. The extent of alterations predominately relate to modifications to the internal layout arrangements of the centre following advice from future centre operators seeking to ensure the best design for operational and functional purposes. The proposal also includes modifications which relate to the retention of the existing substation which requires amendments to the approved driveway location and subsequent tree removal at the street frontage. Other external alterations are limited to the pedestrian entrance path, changes to the front fence and some minor changes with regard to window treatment.

The proposed changes are largely design and construction changes that do not alter the essence of the approved building nor significantly alter the envelope or amenity from what was originally considered. The proposal is substantially the same as that approved under DA 2021.88.

The proposal continues to align with the objectives of its R2 Low Density Residential zoning and will not lead to any additional variations to the principal development standards in the *Burwood Local Environmental Plan 2012*. The proposal satisfies the controls and/or objectives in the *Burwood Development Control Plan*.

The full extent of modifications are detailed in Section 3.2 of this Statement and on the Architectural Plans prepared by *Nicholas Day Architects*.

The purpose of this Statement is to address the planning issues associated with the modification proposal and specifically to assess the likely impact of the development on the environment in accordance with the requirements of Sections 4.56 and 4.15 of the Environmental Planning & Assessment (EP&A) Act, 1979.

This Statement is divided into five sections. The remaining sections include a locality and site analysis; a description of the proposal; an environmental planning assessment; and a conclusion.





## 2. Locality and Site Analysis

### 2.1 THE SITE

The subject site is known as No. 18 Appian Way, Burwood and has legal description of Lot 1 in Deposited Plan 12249. The site comprises of an irregular allotment on the south-eastern corner between Appian Way and Burwood Road. An aerial photograph of the site and surround is provided at **Figure 1** (site is shaded red).



**Figure 1** Aerial photograph of site and surrounds (NearMaps).

The site has a primary street frontage to Appian Way of 53.13m in length, a secondary street frontage to Burwood Road of 34.99m, an eastern (side) boundary of 28.855m in length, and a southern (rear) boundary of 54.905m in length, giving a total site area of 1822m<sup>2</sup>. The site is bordered by detached residential dwellings within the Appian Way Heritage Conservation Area on all fronts, with dwellings constructed in the Edwardian and Federation architectural styles. The site has a fall from the southern (rear) boundary to the northern (front) boundary of 1.41m.

The subject site is currently occupied by a single-storey residential dwelling (Refer to **Figure 2** and **3**). The dwelling is identified as a local heritage item under the BLEP marked as item No. I235. Importantly the dwelling is constructed in the Federation architectural style. Pedestrian and vehicular entry to the dwelling is provided at both Appian Way and Burwood Road.







Figure 2 The existing dwelling as viewed from Appian Way (Source: Google Streetview).



Figure 3 The existing dwelling as viewed from Burwood Road (Source: Google Streetview).

2.2 CONNECTIVITY AND ACCESS TO PUBLIC TRANSPORT

The site is located in close proximity to numerous bus stops with services operating along Burwood Road and the Hume Highway including 464, 480, 483 all which provide transport to surrounding suburbs including Ashfield, Concord, Strathfield, Chippendale and routes linking to the CBD. Additionally, the subject site is located 1km or a 13-minute walk from Burwood Station.

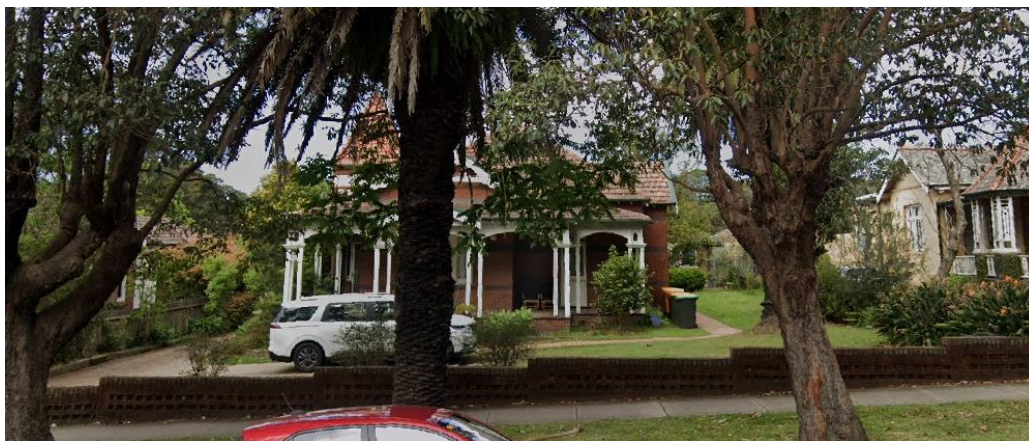
The site is within a well-established urban area and as such is connected to all essential utilities and services including electricity, water, sewage, and telecommunications services.



## 2.3 SURROUNDING DEVELOPMENT

The site is located in the Appian Way Heritage Conservation Area. Accordingly, the immediate locality of the subject site is characterised by detached one and two storey residential dwellings constructed in the Federation architectural style. Additionally, dwellings are characterised by landscaped front setbacks with brick and picket fencing at the front alignment and mature street trees.

Adjoining the site to the south is No. 306 Burwood Road. This property contains a residential dwelling which exhibits Federation architectural features. It is understood that this property is utilised as a Group Home for individuals with developmental disabilities and is also known as 'L'Arche NSW Inc. Burwood'. An image of this site is provided at **Figure 4** below.



**Figure 4** No. 306 Burwood Road (Source: Google Streetview).

Adjoining the site to the east is No. 16A Appian Way. This property contains a detached residential dwelling. This property is not listed as a heritage item and is not constructed in a Federation architectural style. An image of this site is provided at **Figure 5** below.



**Figure 5** No. 16A Appian Way (Source: Google Streetview).

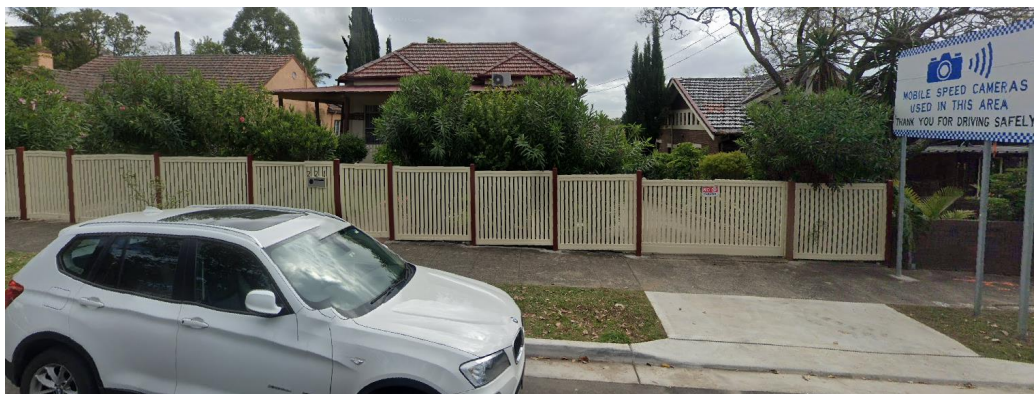
On the opposite side of Appian Way is No. 304 Burwood Road. This property is located directly north of the subject site and contains a large detached residential dwelling constructed in the Federation architectural style. An image of this site is provided at **Figure 6** overpage.





**Figure 6** No. 304 Burwood Road (Source: Google Streetview).

On the opposite side of Burwood Road is Nos. 219, 221 and 221A Burwood Road. These properties are located directly west of the subject site and all contain detached residential dwellings exhibited in different architectural styles. An image of these sites collectively is provided in **Figure 7** below.



**Figure 7** Nos. 219, 221 and 221A Burwood Road (Source: Google Streetview).

Of relevance to this modification, it is important to note that there are several existing driveways on Appian Way which are curved or angled, rather than offering a straight line driveway and vehicle crossing configuration. Refer to **Figure 8**, overpage.



SEE



Figure 8 Existing curved driveways on Appian Way.



### 3. Description of the Proposal

#### 3.1 BACKGROUND

DA 2021.88 was lodged with Burwood Council on the 18<sup>th</sup> of August 2021 and sought consent for alterations and additions to an existing dwelling house and change of use to a centre based childcare facility. The development application was initially refused by Council but was subsequently upheld on appeal to the LEC in *Appian CCC Pty Ltd v Burwood Council* [LEC NO 2021/00286455].

This modification application seeks to make changes to the development application approved under DA 2021.88.

A Pre-DA meeting was held with Burwood Council on the 13<sup>th</sup> of November 2024, regarding the proposed modifications, namely the relocation of the substation. The outcomes of the meeting discussion and how the applicant responds to the issues raised by Council are summarised in **Table 1** below.

Table 1 Pre-DA Meeting Discussions	
Issue	How the Application has responded
<u>Traffic and Driveway Access</u>  The driveway appears to be skewed (not 90 degrees with the kerb line) is not acceptable that contradicts with the DCP and in particular in Appian Way Area.  The curved driveway required to avoid the existing driveway is an undesirable outcome for the Appian Way streetscape.  Clearance of 5.5m wide driveway from the existing substation is not specified and has to be indicated as per service provider's requirement  The swept path analysis on page 2 of the attached document has been cut off and does not clearly show where vehicles are turning into and out of in respects to the travel lanes on Appian Way. If we are to consider this we will need to receive full swept path plans submitted.  Also note that the new driveway orientation at the boundary will intrude into the pedestrian walkway.	<p>A Letter of Response has been prepared by <i>McLaren Traffic Engineering</i> and provides the following comments: "The proposed driveway intersects with Appian Way at an angle of 81° as shown in Figure 1, instead of the typical perpendicular (90°) intersection. Reference is made to <i>Austroads Guide to Road Design Part 4A: Unsignalised and Signalised Intersections – Commentary 1</i>, which states the following, "Road centrelines should be designed to intersect at between 70° and 110° in both urban and rural situations. For a curved alignment the angle should be measured to an approaching vehicle at a distance from the intersection equal to the design intersection sight distance." This requirement can also reasonably be applied to driveways.</p> <p>Considering the proposed driveway intersects Appian Way at 81°, the driveway satisfies the <i>Austroads</i> guidelines."</p> <p>"The clearance of the proposed driveway from the existing substation is 1.5m. Ausgrid requires a 1.25m clearance for door opening and will also require a bollard. Therefore, 1.5m clearance will suffice, which has been depicted in the updated plans."</p> <p>Swept Path analysis has been undertaken and is provided with the updated plans.</p> <p>"An emergency fire stair is located adjacent to the proposed driveway in which pedestrians would exit onto the proportion of the driveway that is at a grade of 5%. This access is to be used for emergencies only with the main access into the basement located elsewhere. Additionally, the fire stairs do not open directly into the vehicular path and it is unlikely for vehicles to use the driveway in an emergency situation. Hence the proposed use of the top of the driveway for emergency pedestrian egress is supported."</p>
<u>Tree Removal</u>  The relocation of the substation will also impact the avenue street tree planting of the brush box on Burwood Road. Council would recommend no impact to the avenue of trees and in theory would not support the relocation of the substation to Burwood Road frontage.  The removal of a street tree within the highly significant Appian Way HCA is not acceptable.	<p>An Arborist Letter has been prepared by <i>Tree and Landscape Consultants</i> in support of the proposed modifications.</p> <p>The relocation to Burwood Road frontage has already been approved under the original DA. This modification seeks to retain the location of the existing substation along Appian Way and remove only a single tree (No. 5) on Appian Way with significant health issues rather than damage multiple trees along Burwood Road (No. 4 to 10).</p> <p>There are several trees that have been removed within the street (Refer to Figure 9) and the tree proposed for removal (No. 5) is</p>

Table 1 Pre-DA Meeting Discussions

	considerably declining in health and recommended for removal regardless of the substation, as per the comments from the Arborist submitted with this application. Importantly, the use of the existing substation location prevents removal of additional trees along Burwood Road.
In this case, it has greater impact because there is already a large gap between the tree to be removed and the existing tree to the west, and this would widen this gap.	This gap was created for the existing substation that is now sought to be retained. Furthermore there are several trees that have been removed within along the streetscape (Refer to Figure 9). Importantly, the tree to be removed is considerably declining in health and is recommended for removal either way.
The tree to be removed on Burwood Road is a smaller tree between two larger trees and its removal would not form a wide gap.	The tree referred to by council is tree No. 10 and is reported to be in perfect health and condition. This approach would also damage other trees on Burwood Road including tree No. 6, 7, 8 and 9, not just tree No. 10.
Although the tree is also located in an HCA, the Burwood Road HCA is considered less significance and less sensitive than the Appian Way HCA.	The tree referred to by council is tree No. 10 and is reported to be in perfect health and condition. Tree No. 5 that is proposed for removal is significantly declining in health and is recommended for removal by the project arborist. Notably, the approved substation location will cause harm to trees No. 4 to 10, not just tree No. 5, like as proposed by this modification.

<u>Substation Relocation</u>	
The existing substation detracts from the character of the Appian Way and its relocation to Burwood Road is a positive heritage outcome.	Installing the new substation will damage all the trees on Appian Way from trees No. 4 to 10, as the arborist reports the tree roots are no deeper than 700-1000mm. The cabling involved in the relocation of the substation would require the whole development frontage along Appian Way and Burwood Road to be excavated. The deep excavation required would sever the roots of all of these trees and cause significant impacts on the site frontages and landscape character of the streetscape, far greater than if only tree No. 5 were removed, as per the proposal. Refer to supporting letter prepared by AAPE.



Figure 9 Gaps along the Appian Way streetscape where trees have been removed.



### 3.2 PROPOSAL

The proposal seeks internal and external modifications to the approved development under DA 2021.88. A detailed list of the proposed modifications is provided within the Architectural Plans prepared by *Nicholas Day Architects*. These changes are also summarised below in **Table 2** with additional commentary provided for the reasoning behind the proposed amendments.

Notably, the modification seeks to make relatively minor changes to the approved layout of the development at the request of the future operator of the centre. The proposed changes seek to enhance the use and operation of the centre, and overall ensure the most efficient, safe and accessible design for the use of children and staff.

Table 2 List of proposed modifications and comments

Floor/Level	Comments
Lower Basement	<ol style="list-style-type: none"> <li>Plant room located in Southeast corner of the basement. Reason: Provide a safe location for Fire Pumpsets whilst and allow for direct access from the street via basement egress stair.</li> <li>Carparking layout updated to accommodate plant room and additional columns. Reason: Ensure basement parking complies with Traffic conditions &amp; regulations.</li> <li>Bin room and store increased in width. Reason: To allow for a disabled entrance into the foyer to prevent the need to manoeuvre over a ramp.</li> <li>Basement plant and exhaust room added behind Lift Reason: To safely house mechanical unit for both lift and basement exhaust.</li> <li>Laundry &amp; waste chute removed. Reason: Not needed in the centre and allows for a buffer zone for safe pedestrian entrance to the basement foyer.</li> <li>Basement secondary exit stair widen. Reason: To allow for compliant handrails and additional storage space below.</li> <li>Sub-basement lowered to RL 29.97 from RL 31.17 Reason: To increase ceiling height of basement level to house all mechanical ventilation and service.</li> </ol>
Basement	<ol style="list-style-type: none"> <li>Basement secondary exit stair widen. Reason: To allow for compliant handrails and additional storage space below.</li> <li>Carparking layout updated to accommodate plant room and additional columns. Reason: To ensure basement parking complies with Traffic conditions &amp; regulations.</li> <li>Laundry &amp; waste chute removed. Reason: Not needed in the centre and allows for a buffer zone for safe pedestrian entrance to the basement foyer.</li> <li>Driveway &amp; entrance ramp updated. Reason: Allow for vehicle access whilst retaining the existing substation location.</li> </ol>
Ground Floor	<ol style="list-style-type: none"> <li>Infants moved from First floor to Ground floor. Reason: To prevent the need of educators to carry infants down the stairs to external play areas &amp; provide easier evacuation in emergency.</li> <li>Administration areas moved to first floor. Reason: To allow access to the Burwood external play space from toddler activity space 3.</li> <li>Rooms adjacent to Appian Way external play space changed to pre-school. Reason: To allow better separation by making specific external area for different aged groups that can be accessed from each internal play space.</li> <li>Main &amp; secondary stair relocated because of PD10 changes. Reason: To reflect same change at first floor level</li> <li>Windows reconfigured to suit updated layout on Southern &amp; Eastern Wall. Reason: As a consequence of adding the infant rooms to the ground floor.</li> <li>View corridor removed and Front fence plan &amp; materials updated. Reason: A painted acoustic timber fence behind a hedge in lieu of glass to aesthetically fit better into the streetscape.</li> <li>Pedestrian entrance path updated. Reason: Entrance path made compliant with BCA regulations.</li> </ol>
First Floor	<ol style="list-style-type: none"> <li>Staff room, Laundry, Kitchen &amp; Programme Room moved to First floor.</li> </ol>

Table 2 List of proposed modifications and comments

	<p>Reason: To allow the relocation of Infant &amp; cot rooms on the Ground floor.</p> <p>20. Both stairs relocated.</p> <p>Reason: To create two fire compartments and ensure 9m separation between the top of each staircase.</p> <p>21. Kitchen &amp; Laundry layouts updated.</p> <p>Reason: To show location of appliances and fixtures.</p>
External	<p>22. Removal of Tree No. 5</p> <p>Reason: Allow for retention of substation without relocating and causing impact to Tree No.4 and No.10.</p>

Importantly, with regard to the retention of the existing substation, a letter has been prepared by AAPE, an accredited service provided who has been working with Ausgrid in relation to the relocation of substation on the site which was approved under DA 2021.88. The letter prepared by AAPE concludes the following:

*After reviewing the relocation of the substation we have encountered multiple implications being:*

- *Substation has multiple street supplies which must be maintained. It forms part of the High Voltage and Low Voltage network in the area.*
- *Substation can't be physically relocated, a new substation needs to be installed along with all cabling etc, and on a transition day, the new substation commissioned and the old one decommissioned and removed.*
- *The cabling involved in the relocation will require the whole development frontage along Appian Way and Burwood Road excavated*
- *Substation location shown on architectural plans has the restriction zone going over the neighbouring site which will be an issue to overcome.*
- *There are heritage impacts based on the new substation location*
- *Additional to the above the cost implications are significant*

*Whilst this proposed substation relocation is constructable, I recommend finding an alternative to the relocation of the substation. Based on our assessment and further site investigation the obstacles involved far outweigh the benefit of slightly diverting the driveway. In general it is a complicated process to relocate such infrastructure and even more difficult in this already developed area such as this.*

In accordance with the above advice, it is proposed to retain the existing location of the substation on the site and make subsequent amendments to the driveway in response to this.

Furthermore, the street front acoustic fencing is to be amended, as per Council's heritage consultant advice following the approval. As requested by Council, the 2200mm high glass acoustic fence is to be replaced with a 1200mm high timber lapped and capped fence, a 1500mm high hedge, 700mm excavation and 700mm wide planting bed to reduce the impact of the additional wall height. This change gives a similar effect to the 2200mm high acoustic glass fence without the visual impact on the streetscape.

### 3.3 MODIFICATION TO CONDITIONS

The proposed necessitates the modification of the following consent conditions under DA 2021.88:

#### Condition 1

Condition 1 of the consent states:

1. *The development being carried out in accordance with the plans and documentation in the table below except where amended by the conditions of consent.*



The proposal necessitates Condition 1 to be amended to refer to the revised Architectural Plans and documentation (where relevant) submitted with this application.

#### Condition 4

Condition 4 is to be deleted since the fencing adjacent to the front entry walkway is to be amended to be lapped and capped timber instead of glass. This change has been reviewed by both the Applicant and Council's heritage consultants and considered to be a better visual outcome for the streetscape.

#### Condition 77 and 78

Condition 77 and 78 refer to the number of parking spaces required for the proposed development. The proposed modification seeks to make modifications to the basement parking layout and will ultimately result in the reduction of parking spaces from 31 to 30. Importantly, the proposed parking provision complies with the number of parking spaces required under the Burwood DCP which is 30 spaces based on the rate of 1 space per 4 children.

As such, it is requested that Condition 77 and 78 be amended as follows:

*77. A total of ~~34~~ 30 off-street car parking spaces must be provided on-site. The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Council's Development Control Plan.*

*78. The approved parking spaces must be allocated as detailed below. All spaces must be appropriately line-marked and labelled according to this requirement prior to the issue of an Occupation Certificate. If the development is to be strata subdivided, the car park layout must respect the required allocation:*

*(a) ~~43~~ 12 pick-up/drop-off parking spaces on level B1.*

*(b) 18 staff parking spaces on level B2.*

#### Condition 121

Condition 121 of the consent states:

##### *121. Landscaping*

*Subject to condition 123:-*

*a. Landscaping to be installed as per the Landscape Plan sheet set by Site Image, drawing numbers: 000, Issue F, dated 19.06.22; 101, Issue F, dated 1.9.22; 102, Issue G, dated 1.09.22; and 501, Issue B, dated 31.3.22.*

*b. Landscaping to be completed prior to the issuing of an Occupation Certificate.*

*c. Landscaping to be maintained at all times, including replacement of any plants that are dead, damaged, diseased or stolen, with like for like.*

The proposal necessitates Condition 121 to be amended to refer to the revised Landscape Plan submitted with this application.

#### Condition 122

Condition 122 of the consent refers to the trees to be protected and removed on the site. The proposed modifications necessitate the amended of Condition 122 to refer to the removal of Tree No. 5 as part of this application. Furthermore, Tree No. 12, 13 and 16 are proposed to be retained.

##### *122. Tree Protection*

*a. Tree protection measures to be implemented for Tree Numbers 1, 2, 3, 4, ~~5~~, 6, 7, 8, 9, 10 and 11 in accordance with sections 4.5, 4.6, 4.7 and 4.8, and the Tree Protection Plan (Appendix D) of the Arboricultural Impact Assessment report by TALC dated 3 February 2022.*

SEE

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b. Tree numbers ~~5, 12, 13~~, 14, 15, ~~16~~ and 17 may be removed from the site.





## 4. Statutory and Policy Compliance

### 4.1 SECTION 4.56

Section 4.56 of the *Environmental Planning & Assessment Act 1979* contains provisions relating to the modification of development consents issued by the NSW Land and Environment Council, and states:

*(1) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if:*

*(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

*(b) it has notified the application in accordance with:*

*(i) the regulations, if the regulations so require, and*

*(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

*(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and*

*(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

*(1A) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

*(1B) (Repealed)*

*(1C) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*

*(2) After determining an application for modification of a consent under this section, the consent authority must send a notice of its determination to each person who made a submission in respect of the application for modification.*

*(3) The regulations may make provision for or with respect to the following:*

*(a) the period after which a consent authority, that has not determined an application under this section, is taken to have determined the application by refusing consent,*

*(b) the effect of any such deemed determination on the power of a consent authority to determine any such application,*

*(c) the effect of a subsequent determination on the power of a consent authority on any appeal sought under this Act.*

*(4) (Repealed)*

The proposal is the subject of a Section 4.56 modification which relates to modifications to a Court approved application as outlined above.

Assessment of the proposed modification against the relevant provisions of Section 4.56(1) is provided below, and against the relevant provisions of Section 4.15 in Section 4.2 of this Statement.

When assessing a modification application, the consent authority has a threshold decision to make and must be satisfied that what is proposed is "substantially the same" development as the original development, as set out in Section 4.56(1) of the EP&A Act. Whether the development will be "substantially the same" as the original consent is a mixed question of fact and law. This decision can be guided by principles and tests established in the Courts.

Decisions of the Land and Environment Court support the proposition that the main elements of the proposal are matters substantially the same as the existing development consent, as outlined below.

### Modification Principles Established by the Courts

The traditional 'test' as to whether or not a development as modified will be "substantially the same" development as that originally approved was applied by J Stein and the Court of Appeal in *Vacik Pty Limited v Penrith City Council [1992] NSWLEC 8* and endorsed by J Bignold in *Moto Projects (No 2) Pty Ltd v North Sydney C [1999] NSWLEC 280*.

J Stein stated in the *Vacik* case: "*In my opinion 'substantially' when used in the section [s102, the predecessor of s96] means essentially or materially having the same essence*".

J Bignold expressed in the *Moto* case: "*The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified ... not merely a comparison of the physical features or components of the development ... rather ... involves an appreciation, qualitative as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).*"

J Bignold came to deal with the matter of "substantially the same" again in *Tipalea Watson Pty Limited v Kurringai Council [2003] NSWLEC 253*. From this Judgement, one can distil a list of matters or 'tests' to consider, being whether the modification involves the following:

- (a) significant change to the nature or the intensity of the use;
- (b) significant change to the relationship to adjoining properties;
- (c) adverse amenity impacts on neighbours from the changes;
- (d) significant change to the streetscape; and
- (e) change to the scale or character of the development, or the character of the locality

In 2015, the principles regarding Section 96(2)(a) (now Section 4.55(2)(a)) were summarised in *Agricultural Equity Investments Pty Ltd v Westlime Pty Ltd (No 3) [2015] NSWLEC 75* where Pepper J set out the legal principles that apply as follows:

*The applicable legal principles governing the exercise of the power contained in s 96(2)(a) of the EPAA may be stated as follows:*

1. *first, the power contained in the provision is to "modify the consent". Originally the power was restricted to modifying the details of the consent but the power was enlarged in 1985 (North Sydney Council v Michael Standley & Associates Pty Ltd (1998) 43 NSWLR 468 at 475 and Scrap Realty Pty Ltd v Botany Bay City Council [2008] NSWLEC 333; (2008) 166 LGERA 342 at [13]). Parliament has therefore "chosen to facilitate the modification of consents, conscious that such modifications may involve beneficial cost savings and/or improvements to amenity" (Michael Standley at 440);*
2. *the modification power is beneficial and facultative (Michael Standley at 440);*
3. *the condition precedent to the exercise of the power to modify consents is directed to "the development", making the comparison between the development as modified and the development as originally consented to (Scrap Realty at [16]);*
4. *the applicant for the modification bears the onus of showing that the modified development is substantially the same as the original development (Vacik Pty Ltd v Penrith City Council [1992] NSWLEC 8);*
5. *the term "substantially" means "essentially or materially having the same essence" (Vacik endorsed in Michael Standley at 440 and Moto Projects (No 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280; (1999) 106 LGERA 298 at [30]);*
6. *the formation of the requisite mental state by the consent authority will involve questions of fact and degree which will reasonably admit of different conclusions (Scrap Realty at [19]);*

7. the term “modify” means “to alter without radical transformation” (Sydney City Council v Ilenace Pty Ltd [1984] 3 NSWLR 414 at 42, Michael Standley at 474, Scrap Realty at [13] and Moto Projects at [27]);

8. in approaching the comparison exercise “one should not fall into the trap” of stating that because the development was for a certain use and that as amended it will be for precisely the same use, it is substantially the same development. But the use of land will be relevant to the assessment made under s 96(2)(a) (Vacik);

9. the comparative task involves more than a comparison of the physical features or components of the development as currently approved and modified. The comparison should involve a qualitative and quantitative appreciation of the developments in their “proper contexts (including the circumstances in which the development consent was granted)” (Moto Projects at [56]); and

10. a numeric or quantitative evaluation of the modification when compared to the original consent absent any qualitative assessment will be “legally flawed” (Moto Projects at [52]).

In the case of *Arrage v Inner West Council* [2019] NSWLEC 85, Preston J found that there was no legal obligation to consider the circumstances in which the development consent was granted when comparing the approved development and the proposed modified development, or to consider the material or essential elements of the original development consent, neither of which are mandatory relevant matters. Rather it is the statutory provision of Section 4.55 (or s4.56 in this instance) which provides the relevant test.

In *Hunter Development Brokerage Pty Limited trading as HDB Town Planning and Design v Singleton Council* [2022] NSWLEC 64, Duggan J stated that in determining whether a development is substantially the same, it is not only important to ascertain that a development is for the same use, but also to consider the way in which the development is to be carried out. Furthermore, Duggan J sets out the need to establish significance of an alteration to understand whether a development is substantially the same, as follows:

*“The significance of a particular feature or set of features may alone or in combination be so significant that the alteration is such that an essential or material component of the development is so altered that it can no longer be said to be substantially the same development – this determination will be a matter of fact and degree depending upon the facts and circumstances in each particular case. Such an exercise is not focussing on a single element, rather it is identifying from the whole an element which alone has such importance it is capable of altering the development to such a degree that it falls outside the jurisdictional limit in s 4.56.”*

Furthermore, another key decision to consider is that of the Chief Judge of the Court in *Realize Architecture Pty Ltd v Canterbury-Bankstown Council* [2024] NSWLEC 31 which seeks to apply a balanced approach to determining whether or not a development as modified will be substantially the same as that originally approved. The decision sets out the balanced approach that should be applied to answer the substantially the same test, which is as follows:

7. In deciding whether or not the development as modified is substantially the same development as the development for which consent was originally granted, the Commissioner needed to undertake three tasks:
  - a) Finding the primary facts: This involves drawing inferences of fact from the evidence of the respects in which the originally approved development would be modified. These respects include the components or features of the development that would be modified, such as height, bulk, scale, floor space, open space and use, and the impacts of the modification of those components or features of the development.
  - b) Interpreting the law: This involves interpreting the words and phrases of the precondition in s 4.55(2) as to their meaning.
  - c) Categorising the facts found: This involves determining whether the facts found regarding the respects in which the development would be modified fall within or without the words and phrases of the precondition in s 4.55(2). American jurist, Karl Llewellyn termed such descriptions of words and phrases as “abstract fact-categories”. Karl Llewellyn, *The Bramble Bush: On Our Law and Its Study* (Oceana Publication 1960) 80. In the Australian authorities, they are commonly referred to as “statutory descriptions” or “statutory criteria”: see, for example, *The Australian Gas Light Company v The Valuer-General* (1940) 40 SR



(NSW) 126 at 137-138; *Azzopardi v Tasman UEB Industries Ltd* (1985) 4 NSWLR 139 at 156; *Randwick Municipal Council v Manousaki* (1988) 66 LGRA 330 at 333. The decision-maker's task is to determine whether the facts found fall within or without the statutory description, "according to the relative significance attached to them" by the decision-maker: *The Australian Gas Light Company v The Valuer-General* at 138.

Whether or not there will be increased environmental or neighbourhood amenity impacts under a proposed modified development is not a consideration as to whether or not a modification proposal is substantially the same under Section 4.55 (or s4.56 in this instance) of the EP&A Act. Authority for this position is set out in a decision of Talbot J in *Wolgan Action Group Incorporated v Lithgow City Council* [2001] NSWLEC 199 [43] in which he provides:

*"Even if the present applicant is correct in that there will be a significant increase in the environmental impact ... that, nevertheless, does not necessarily preclude a conclusion that the development, to which the consent as modified relates, is substantially the same development as that already permitted. The extension ... alone does not change the inherent character of the development itself. There may be some additional environmental impact but that is a matter to be considered as part of the deliberations on the merits."*

#### Modification Principles Applied to the Proposal

When considered against these principles, the proposed modification described at Section 3 of this Statement will result in a development that is substantially the same as the development for which consent was originally granted and the consent authority can therefore consider the application pursuant to Section 4.56 of the EP&A Act.

A comparison between the development, as modified, and the development that was subject of the original consent can conclude that there is no material change, with the final form being almost wholly the same to that which has been granted approval. The development as modified does not significantly amend the scale or form of the approved development nor increase the intensity of activity at the site. The extension of the basement car park is minor, will not extend beyond the footprint of the building above, and being located below ground will not have any bearing on the visual bulk or scale of the approved development. The alterations proposed are predominately internal and any external alterations are designed to complement the characteristics of the approved development to ensure the extent of the modifications will be "essentially or materially having the same essence" as the approved development (*Vacik endorsed in Michael Standley at 440 and Moto Projects (No 2) Pty Ltd v North Sydney Council* [1999] NSWLEC 280; (1999) 106 LGERA 298 at [30]).

The changes to fencing will have a positive impact on the streetscape appearance of the development by providing a more sympathetic fence type that will continue to offer acoustic privacy whilst also respect the heritage significance of the locality. The proposed location of the substation, which is the same as existing, will not radically change the character of the development or have any adverse impacts on the public domain. Importantly, whilst the proposed location will necessitate the removal of one (1) street tree, it will protect other trees along the Burwood Road frontage which would have been damaged in the process of the previously approved substation relocation.

With regard to the proposed internal alterations, they do not add any considerable building bulk to the development and will not radically change the character of the development or have any adverse impact to the amenity of future users, surrounding developments or the public domain. The proposed modifications will still have the same essence as the original approval and the proposed modifications will "alter without radical transformation" (*Sydney City Council v Ilene Pty Ltd* [1984] 3 NSWLR 414 at 42, *Michael Standley at 474*, *Scrap Realty at [13]* and *Moto Projects at [27]*).

The proposed modifications maintain the approved use and setting being a centre based child care centre development in the R2 Low Density zone, and will not alter the capacity, hours of operation or staff numbers of the centre. Whilst the intensity of use, of itself, is not sufficient to conclude the development is substantially the same, it is a relevant consideration which adds to the above analysis.

With consideration to the tests identified in *Tipalea Watson Pty Limited v Ku-ring-gai Council*, the proposal (as modified) will not change the nature or the intensity of the use or relationship to adjoining properties, will not result in any significant change to the streetscape, scale or character of the development or character of the locality, and will not result in adverse amenity impacts on neighbours. The key modifications proposed are fundamental to minimising

impacts on the public domain and achieving compliance with the relevant access and operational requirements and standards and will provide for a safe and attractive environment for the conduct of children's early education.

As noted in *Wolgan Action Group Incorporated v Lithgow City Council*, an increase in environmental impacts is not a consideration as to whether or not a modification proposal is substantially the same. Nonetheless, in our view, the impact of the proposed modifications will be generally minimal when set against the backdrop of the approved building envelope and use of spaces, especially in terms of design and character, landscaping, privacy and solar access.

Finally, *Moto Projects (No. 2) Pty Limited v North Sydney Council* [1999] NSWLEC 280; (1999) 106 LGERA 298, which outlines principles for determining whether a s4.56 application is 'substantially the same' as an originally issued development consent. The assessment of 'substantially the same' needs to consider qualitative and quantitative matters.

In terms of a quantitative assessment, the proposed modifications will maintain the capacity of the centre, being 120 children and will not alter the number of staff required for the operation of the centre. Whilst the proposal involves modifications to the basement layout, and a reduction of one (1) parking space, a total of 30 parking spaces will still be provided within the basement levels which complies with the DCP requirements. The modifications to the internal layout, whilst changing indoor play spaces, will still provide play area in accordance with the requirements. The proposal will not change approved hours and days of operation. The modification will actually result in a decrease in site coverage and an increase in garden area, which is considered to be a positive outcome. The proposal will not change the approved building height.

Qualitatively, the relationship of the building to public domain and adjoining properties will be maintained largely as approved. The proposal will retain the building form and presentation as viewed from both street frontages. The bulk, scale and character of the site as established by the approved development will be unchanged when viewed from the street frontages. That is, the modifications are largely internal, and any respond appropriately to the character of the surrounding development and neighbours. The main external changes relate to retention of the existing location of the substation and the subsequent driveway amendments and tree relocation. Whilst the amended driveway location will be angled to the carriageway, this is not unlike a number of other driveways within the location and presents a suitable response to the retention of the substation which is a better outcome for the site and locality, as discussed throughout this statement. The proposed tree removal is again considered to have result in a better outcome for the locality than the existing approval which would necessitate significant tree removal along Burwood Road for relocation of the substation. The resulting outcome for one (1) tree to be removed is considered acceptable and will not have any significant visual impacts on the streetscape noting there are a number of similar gaps in street trees along Appian Way, as previously mentioned. The proposal will also alter the front fencing to provide a more appropriate response to the heritage conservation area, which will visually enhance the site and its contribution to the streetscape character. Furthermore, in response to various internal rearrangements, the proposal will require window modifications at the ground floor, however, these changes will not have any adverse impacts in terms of privacy or visual impact.

The proposed modifications will improve upon the internal and external arrangements of the approved childcare centre, which will enhance utility, efficiency and amenity. Additionally, the proposal will not significantly alter the privacy relationship to surrounding developments or public domain as appropriate measures have been taken to mitigate any potential impacts in accordance with the approved Landscape Plan, Acoustic Report and Plan of Management.

In accordance with the recent findings of *Realize Architecture Pty Ltd v Canterbury-Bankstown Council* [2023] NSWLEC 1437 (*Realize Architecture* (1)) and *Canterbury-Bankstown Council v Realize Architecture Pty Ltd* [2024] NSWLEC 31 (*Realize Architecture* (2)), the Court found that whilst there may be quantitative and qualitative differences between a modification application and original consent, the focus of the test in s4.55(2) (or s4.56 in this instance) should be holistic and assess the overall 'balance' between the original and modified development, in assessing the substantially the same test.

Whilst the quantitative and qualitative assessment, comparison of material and essential features and consideration of environmental impacts are instructive for the purposes of comparing a modification application and the original development consent, they are not mandatory. In accordance with both *Realise Architecture* (1) and (2), a holistic balance and balanced approach must be taken to the substantially the same test.

In this regard, a balanced approach has been undertaken to demonstrate that the proposal, whilst modifying certain aspects, will be in totality a development which is consistent with that originally approved. Overall, the proposed modifications will not result in any extensive changes to the character of the development, relationship to the streetscapes and neighbouring properties, and will have minimal adverse environmental and amenity impacts.

In conclusion, the modifications proposed by this application are considered to result in a development that is substantially the same as the development for which consent was originally granted. This proposal does not seek to alter the use or predominant built form, with the provision of a childcare centre being maintained. The proposal will continue to operate under all other conditions imposed under DA 2021.88 and therefore satisfies the substantially the same test.

## 4.2 SECTION 4.15 ASSESSMENT

Section 4.56 requires consideration of Section 4.15(1)(a) of the EP&A Act, 1979 which was undertaken in the original development application assessment report and associated planning documents. The majority of the applicable Environmental Planning Instruments (EPIs) were considered in the original development application assessment report and the proposed modifications do not seek to vary the assessment or conclusions of those EPIs, unless where specifically addressed below. As such, the conclusion of the original development application assessment report remains valid and applicable to the subject modification application.

The proposed modification is assessed under the relevant heads of consideration below.

### 4.2.1 State Environmental Planning Policy (Transport and Infrastructure) 2021

State Environmental Planning Policy (Transport and Infrastructure) 2021 commenced on 1 March 2022 and repealed the provisions of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017. The former provisions of the repealed SEPP have been transferred into Chapter 3 of the Policy.

Part 3.3 of the Policy applies to the proposed development. Clause 3.23 requires a consent authority to consider any applicable provisions of the Child Care Planning Guidelines before determining a development application.

The proposal does not alter the development in terms of compliance with Chapter 3 of the SEPP or the Child Care Planning Guidelines given the nature of the modifications proposed.

Importantly, the proposed modifications do not alter the approved development in terms of the envelope, scale and amenity issues in relation to both the centre itself and for neighbouring properties. The proposal will not alter the number of children or the number of staff, and will continue to provide for the minimum indoor and outdoor unencumbered area requirements.

Ultimately, the consent authority reached a level of satisfaction that the proposal satisfied the requirements of SEPP Childcare Planning Guidelines, and the same conclusion applies in this instance.

### 4.2.2 Burwood Local Environmental Plan 2012

The *Burwood Local Environmental Plan (BLEP) 2012* applies to the subject site. Under BLEP 2012, the subject site continues to fall within the R2 Low Density Residential Zone. The proposed modifications to the approved development are consistent with the objectives of the R2 zone, which are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed modifications will retain the approved land use as a centre based childcare facility and is entirely consistent with the objectives of the zone as it will allow for a non-residential land use to serve the needs of the community. The utilities provided are necessary to accommodate the approved development, which was considered to be of a scale that was appropriate for the site and the locality. The proposed modifications will not introduce any additional amenity impacts on the neighbouring properties and will continue to provide a compatible non-residential use on the site. Despite the proposed tree removal, the proposal will still provide substantial landscape area across the



site, including within the front setback, consistent with the landscape character within the locality. An amended Landscape Plan has been prepared by *Site Image Landscape Architects* and is submitted with this modification application.

With regards to Part 5.10 – Heritage Conservation of the BLEP, there are minimal changes proposed to the external building appearance and streetscape presentation that would have an impact on the heritage significance of the subject site or the Appian Way Heritage Conservation Area. The retention of the substation will result in the removal of one (1) tree, which is considered a better outcome for the HCA than the complete relocation of the substation and potential impact to Trees No. 4 and No.10. Importantly, and as previously detailed, there are a number of instances along Appian Way where there are larger gaps within the street tree line than that proposed as a result of the removal of Tree No. 4.

Furthermore, the amendment to the driveway in response to the retention of the existing substation is not considered to have any adverse impact on the streetscape character or the wider heritage conservation area. As previously detailed, the proposed angle of the driveway is not unlike other driveways within the immediate locality and is not considered to have any bearing of the heritage significance of the heritage item, noting that the driveway is not an existing driveway.

Overall, the proposed modifications will not result in any change to the approved building height, FSR or other relevant development standards and continues to satisfy the objectives and/or controls in BLEP 2012.

#### 4.2.3 Burwood Development Control Plan 2013

The *Burwood Development Control Plan 2013* (BDCP) applied to and was used to assess DA 2021.88. The modifications do not significantly alter the assessment and conclusions from the approved development application Assessment Report which are still valid. The proposed modifications do not change the original determination of BDCP and the development will continue to satisfy the objectives and/or controls in the DCP.

It is also important to note that the proposed modifications have been reviewed against the most recent amendment of the Burwood DCP and there are no non-compliances resulting from this application.

Notably, with regard to parking, whilst the proposal will reduce the number of parking spaces on the site by (1), a total of 30 parking spaces will still be provided for the 120 place centre which satisfies the BDCP requirement of 1 space per 4 children.

### 4.3 IMPACT OF PROPOSED MODIFICATION

#### 4.3.1 Natural Environment

The proposal does not give rise to any significant additional environmental impacts beyond that considered and approved as part of the original application. The proposal will maintain compliance with all approved conditions of consent that are imposed to minimise all environmental impacts during construction and upon completion of the development.

Whilst the proposal will remove one (1) tree at the site frontage, it will prevent significant impacts to a number of trees along the Burwood Road frontage and therefore is considered to have a better outcome for the approved development. Notably, this application is accompanied by a statement from Tree & Landscape Consultants which states:

*The site was inspected on the “4<sup>th</sup> November 2024” in regards to removal of a *Lophostemon confertus* “Brush Box” identifies within this statement and previous report by TALC dated 3<sup>rd</sup> February 2022 as T5. The tree was previously described as being poor in condition having been subject to lopping. The tree at the latest inspection has declined considerably since the initial inspection, now producing extensive epicormic shoots throughout its crown in response to stress having had half of its crown modified over the years to accommodate utility wires.*

*The tree if retained is expected to further decline over a short term and is recommended for removal to accommodate the proposed relocation of the substation adjoining the tree which is currently proposed.*

In light of the above, the proposed tree removal is considered acceptable and will not have any significant environmental impacts.

#### 4.3.2 Built Environment

In terms of the relationship between the modified development to the adjoining properties, the proposal will not have an adverse impact on the amenity of adjoining properties and will be entirely compatible with the approved built form and character as it relates to Burwood Road and Appian Way. The proposed modifications primarily relate to internal changes and will not alter the relationship of the development with the adjoining properties.

Other external changes, including the retention of the existing substation will not add any significant bulk to the approved development and will integrate into the overall development and landscape setting with minimal visual impacts when compared to the existing site arrangements and the approval.

#### 4.3.3 Amenity Impacts

##### Solar Access

The proposed modifications will not alter the approved building envelope, and it therefore follows that the proposed modifications will also not alter the approved level of overshadowing. As such, no further consideration is required.

##### Views

The proposed modifications will not alter the approved building envelope, and it therefore follows that the proposed modifications will also not alter the approved level of view sharing. As such, no further consideration is required.

##### Aural & Visual Privacy

The proposed modifications will not alter the approved privacy relationship between adjoining properties. There are no changes proposed to the number of children or location of outdoor play space. The rearrangement of which indoor play spaces are dedicated to certain age groups will not adversely impact the approved acoustic arrangements will all mitigation measures maintained including operation, activities and hours of operation. The only change to fencing relates to the glass front fence which is to be replaced with a timber fence behind the hedging to aesthetically fit better into the streetscape. No change is proposed to acoustic screening.

It therefore follows that the proposed modifications the proposed modifications will create acceptable aural and visual privacy relationships with the surrounding land uses. As such, no further consideration is required.

#### 4.3.4 Parking and Access

Whilst the proposal will reduce the number of parking spaces by one (1), a total parking provision of 30 spaces will be maintained which complies with the DCP requirements.

With regard to the basement layout amendments and changes to driveway design, a Traffic and Parking Assessment prepared by McLaren Traffic is submitted with the subject application and provides an assessment of the proposed modifications. The Assessment concludes that the proposal has been assessed against the relevant standards and have been found to satisfy the objectives of each standard. Furthermore, it concludes that the proposed driveway angle and distance to the substation are appropriate and should be supported.

### 4.4 ECONOMIC & SOCIAL IMPACTS

The proposal will continue to increase the number of available childcare places within the locality consistent with the approved use of the site, which will contribute to the availability of the service for the local community. The proposal will continue to have a positive economic and social impact given the provision of services for the locality.

Undertaking the works will have some short-term positive economic impacts through employment generation, both direct employment and multiplier effects. The centre will employ the same number of staff as per the approved development. Accordingly, it is considered that the proposed development is likely to have only positive economic



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impacts in the locality, consistent with the approval. The proposed modifications will not have any significant detrimental impact on the social dynamic of the locality.

**4.5 THE PUBLIC INTEREST**

The proposal, as amended, is considered to be compatible with the approved development and existing surrounding development, and will provide a balance between protecting residential amenity, the natural and built environment, and providing appropriate amenity to the child care centre.







## 5. Conclusion

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This Statement of Environmental Effects accompanies an application pursuant to Section 4.56 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) which seeks approval for a number of modifications to the approved development at No. 18 Appian Way, Burwood (DA 2021.88).

As described throughout this Statement, the proposed modifications are a result of either technical changes required to construct the approved childcare centre or changes to improve the amenity of the centre for future occupants.

Overall, the proposed modifications are considered to be substantially the same as the approved development, and it is considered that the modifications will maintain a high level of amenity for the potential occupants without significantly affecting the amenity of adjoining properties, as originally approved.

The modifications are consistent with the objectives and/or controls of the BLEP and BDCP and will not introduce any adverse built or natural environmental impacts over and above the approved development. Accordingly, for the reasons outlined in the Statement, we respectfully request that Council modify the development consent to incorporate the proposed changes detailed in this report and accompanying architectural plans prepared by *Nicholas Day Architects*.



## Weir Phillips Heritage

11 March, 2025

J4757\_02

**Re: No. 18 Appian Way, Burwood, New South Wales: s4.55 Application to Modify DA2021.88  
Statement of Heritage Impact**

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### 1.0 Preamble

This Statement of Heritage Impact (SoHI) has been prepared in conjunction with a Section 4.55 Application to modify DA 2021.88 at No. 18 Appian Way, Burwood, New South Wales.

DA 2021.88 was lodged with Burwood Council on the 18 August, 2021. The DA sought consent for alterations and additions to an existing dwelling house and change of use to a centre based childcare facility. The development application was initially refused by Council but was subsequently upheld on appeal to the LEC in Appian CCC Pty Ltd v Burwood Council [LEC NO 2021/00286455]. This application seeks amendments to the approved DA.

This SoHI has been prepared at the request of PB Projects and should be read in conjunction with plans prepared by Nicholas Day Architects (architecture) and Site Image (landscape) and reports prepared by others.

This SoHI is designed to be read in conjunction with the SoHI, then called a Heritage Impact Statement, prepared by Weir Phillips Heritage to accompany DA2021.88. This statement, hereafter referred to as the *HIS 2021*, contains a history and assessment of significance of the site, which are relied upon for the following.

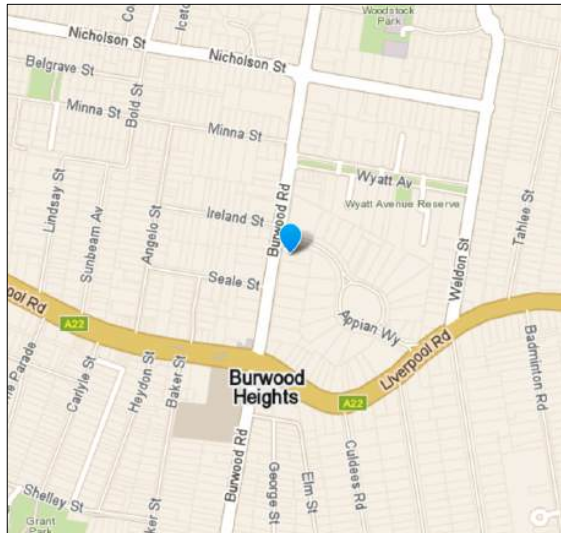
Schedule 5 Part 1 (Heritage Items) of the *Burwood Local Environmental Plan 2012* has been amended since the *HIS 2021* was prepared. No. 18 Appian Way is now:

- Listed as a heritage item as part of the group listing of 'Federation houses,' Nos 2, 2A, 3–19, 21, 23 and 25 Appian Way; 304, 306, 308, 310, 312, 316 and 318 Burwood Road; 55, 59 and 67 Liverpool Road (1226). The group listing is identified as having local significance.
- Located within the Appian Way Heritage Conservation Area (C1) as it is defined by Schedule 5 Part 2 of the *Burwood Local Environmental Plan 2012 (LEP 2012)*. The area is identified as having local significance.
- Is located within the vicinity of heritage items/conservation areas listed by the State Heritage Register under the NSW Heritage Act 1977 and/or the *Burwood LEP 2012*.

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### 2.0 Site Location

No. 18 Appian Way, Burwood is located on the south eastern corner of Appian Way and Burwood Road (Figure 1). The site is identified as Lot 1 D.P.12249.



**Figure 1:**  
**Site location.**  
Whereis.com.au.

### 3.0 Brief Site History

No. 18 Appian Way lies on a model housing estate developed by George Hoskins, who owned and occupied the nearby *St. Cloud*, in the early 1900s. Hoskins built many dwellings on the Estate, renting them to select people before later selling the freeholds. The subject dwelling, constructed in c.1905, was among the first dwellings to be built on the Appian Way. It was likely designed and constructed by William Richards, who built many of the dwellings on the Estate. No. 18 Appian Way was originally named *Roma*. For part of its history, it operated as a reception centre.

As set out in the *HIS 2021*, the dwelling (and garden) has been extensively altered. There is a current approval, DA 2021.88, for substantial alterations and additions to the dwelling and change in use to a childcare centre.

### 4.0 Brief Description of the Site

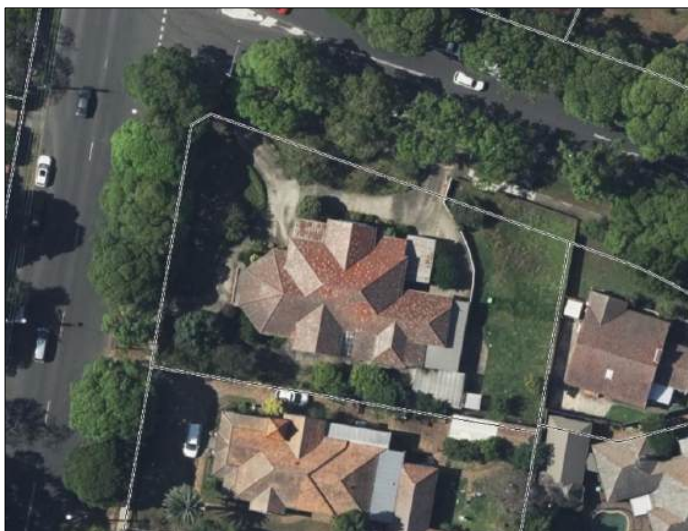
The site is irregular in shape. The western boundary to Burwood Road is 34.99m in length; the northern boundary to the Appian Way is 53.13m in length; the eastern and southern boundaries are 28.855m and 54.905m in length respectively. The site area is 1,822sqm. The site has a gentle fall to the north. The building on the site is a much altered, single storey, Federation period dwelling.

DA 2021.88 provides for part demolition and substantial alterations to the existing dwelling and the construction of a two storey addition to the rear. Reconstruction works are approved to the retained section of the dwelling, including replacing aluminium framed windows, recladding the roof in slate and reconstructing the front chimneys. New fencing, landscaping and structures associated with the childcare centre have also been approved.

Refer to Figures 2 to 7.



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**Figure 2:**  
**Aerial photograph**  
**over the site.**  
SIX Maps.



**Figure 3:  
Northern elevation of  
the dwelling  
addressing Appian  
Way.**

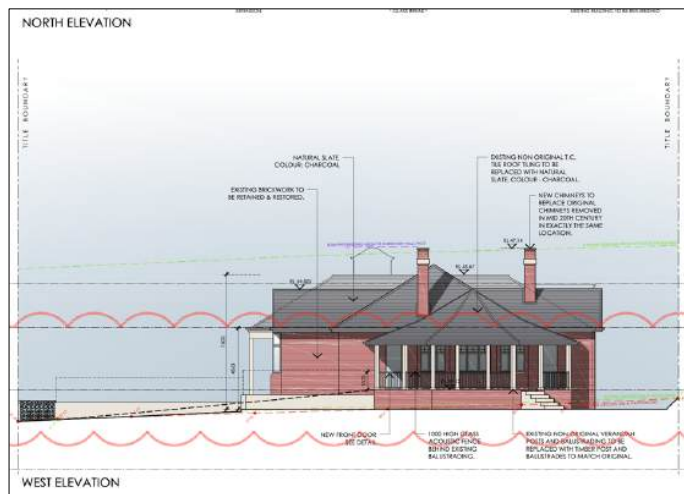


**Figure 4:**  
**Approved northern**  
**elevation.**  
Nicholas Day Architects.

## Weir Phillips Heritage



**Figure 5:**  
Western elevation of  
the dwelling  
addressing Burwood  
Road.



**Figure 6:**  
Approved western  
elevation.  
Nicholas Day Architects

### 5.0 The Setting

The site is located within a predominately residential area that is characterised by free standing one and two storey dwellings, set within garden surrounds, dating from the Late Victorian period through to the current day. Refer to Figure 7.

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**Figure 7: Aerial photograph over the site and the surrounding area.**  
SIX Maps.

The **Appian Way** lies at the heart of the Appian Way Heritage Conservation Area. The road gently curves as it winds from Burwood Road to Liverpool Road. There are nature strips, concrete footpaths and concrete kerb and guttering to either side and regularly planted mature street trees. The road divides towards the Liverpool Road end to provide for a tree line recreational area- with picket fence and weatherboard clad clubhouse- in the centre.

The immediately adjoining property to the east of the subject site is No. 16A Appian Way. This is an unusually small lot on the Appian Way created by a subdivision of No. 16 Appian Way during the Post World War II period. The dwelling on this site is a small, free standing, red brick single storey dwelling with pitched tiled roof. It lies close to its common boundary with the site. It is not part of the group listing for Federation period dwellings on the Hoskins Estate.

Opposite the site, on the north eastern corner of Burwood Road and the Appian Way, lies No. 304 Burwood Road. The dwelling on this site is orientated to Burwood Road, presenting a side elevation to Appian Way. While recognisably a Federation period and style dwelling, it has undergone alteration over time. There is a driveway and three car garage close to the Appian Way boundary of this site and a tennis court to the rear. There is no planting in the front setback, which is part hard surfaced.

Continuing east along both sides of the Appian Way, the dwellings erected by Hoskins during the Federation period are substantially intact. All those within the vicinity of the site are single storey to the street. Each lies behind a timber picket fence of varying designs and within a garden setting.

Figures 8 to 10 illustrate the Appian Way in the immediate vicinity of the site.



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**Figure 8:**  
No. 16A Appian Way  
from the Appian  
Way (east of the  
site).



**Figure 9:**  
No. 16 The Appian  
Way.



**Figure 10:**  
No. 304 Burwood  
Road, opposite the  
site, as it presents to  
the Appian Way.

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### Burwood Road

Burwood Road is a wide and busy thoroughfare. There are concrete footpaths and nature strips to either side. There are regularly spaced mature street trees on the western side of the road within the vicinity of the site. There are few street trees on the eastern side of the road in the vicinity of the site.

To the south of the site lies No. 306 Burwood Road. The dwelling on this site is a substantially intact single storey Federation period and style dwelling, part of the Hoskins Estate. The dwelling has a similar setback from Burwood Road to the subject dwelling and lies close to its common boundary with the site. It is constructed of face brick and has a hipped and gabled terracotta tile roof. A large addition has been constructed to the rear. Continuing south, Nos. 308-312 Burwood Road as substantially intact single storey Federation period and style dwellings. These dwellings lie within garden settings with low brick walls to Burwood Road.

To the north of the site, lies No. 304 Burwood Road, on the opposite corner of Appian Way, described above. The streetscape continuing south is varied in character and comprises one and two storey dwellings from the Federation and Interwar periods.

To the east of the site, on the opposite side of Burwood Road, lie one and two storey dwellings dating from the Late Victorian period to the current day. These dwellings lie within the Burwood Conservation Area and demonstrate mixed integrity. Most lie behind high walls and/or screening vegetation.

Figures 11 to 15 illustrate Burwood Road in the vicinity of the site.



**Figure 11:**  
**No. 306 Burwood**  
**Road, south of the**  
**site.**

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**Figure 12:**  
No. 304 Burwood  
Road as it presents  
to Burwood Road.



**Figure 13:**  
A large two storey  
Interwar period  
dwelling at No. 302  
Burwood Road.



**Figure 14:**  
Burwood Road  
opposite the site.



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Figure 15:  
Burwood Road  
opposite the site.

## 6.0 Heritage Items in the Surrounding Area

For the following, refer to Figure 16, a detail from the NSW Planning Portal which locates heritage items and conservation areas within the vicinity of the site. The site is outlined in yellow. Heritage items listed by the State Heritage Register under the *NSW Heritage Act 1977* are hatched in blue. Heritage items listed by Schedule 5 Part 1 of the *Burwood Local Environmental Plan 2012 (LEP 2012)* are coloured brown (built) or green (landscape) and numbered. Conservation Areas listed by Schedule 5 Part 2 of this plan are hatched in red and numbered.

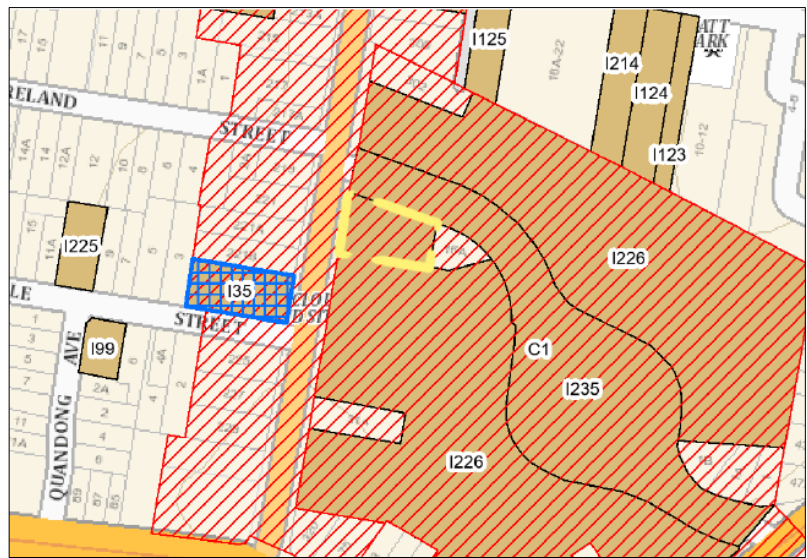


Figure 16: Plan showing the location of heritage items and conservation areas with respect to the site. Heritage items are hatched in blue (state), coloured brown or green (local) and numbered. Conservation Areas (local) are hatched in red and numbered.

NSW Planning Portal; annotation by WP Heritage.

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There is one heritage item listed on the State Heritage Register under the *NSW Heritage Act 1977* within the vicinity of the site:

- ***St. Cloud and Site, No. 223 Burwood Road, Burwood.***

Identified as 'I35' in Figure 16 above. State Heritage Register No.: 00564.

This item is also listed by Schedule 5 Part 1 of the *Burwood LEP 2012* (I35).

This item lies on the opposite side of Burwood Road to the subject site and to the south west. It is separate from the site by around 30m.

*St. Cloud* was the home of George Hoskins, who developed the Appian Way. The two storey Victorian period villa on this site, constructed in c.1892-3, has rendered and painted walls and a hipped roof clad in slate. The front elevation is dominated by a three storey square tower topped with a copper clad dome, and a two storey verandah with cast iron lace detailing.<sup>1</sup> It is largely concealed from Burwood Road by a high fence and densely planted garden. Refer to Figure 17 below.



**Figure 17:**  
***St. Cloud* from Burwood Road.**

The State Heritage Inventory (SHI) listing sheet does not provide a statement of significance for this item. It is likely to have historic and aesthetic significance as a fine Late Victorian period villa that has historic associations with George Hoskins and St. Joseph's Convent, of which it formed part for many years.

This item has a lot boundary curtilage. The principal view corridors toward it from the public domain are obtained from Burwood Road and Searle Street. View corridors from Burwood Road are, however, largely screened by a high fence and by vegetation.

The upper levels of the dwelling likely have partially screened views over Burwood Road. Figure 18 is a view from outside of the gates of *St. Cloud* towards the subject site, marked by the arrow.

<sup>1</sup> *St. Cloud and Site, No. 223 Burwood Road, Burwood.* State Heritage Inventory Database No.: 045017.

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**Figure 18:**  
View from outside of *St. Cloud* towards the subject site, marked by the arrow.

In addition to *St. Cloud* and the properties part of the same heritage listing as the site, the site lies in the immediate vicinity of the following items listed by Schedule 5 Part 1 of the *LEP 2012*:

- ***Central Reserve Appian Way, and Appian Way—including the Club House, trees, picket fence, safety fence and AWRC Gate, Appian Way.***

Identified as 'I235' in Figure 16 above.

This item adjoins the site to the north.

The item comprises a serpentine street which opens into a circle surrounding a landscaped central reserve which includes several tennis courts and club house surrounded by a white timber picket fence with wrought iron gates incorporating the lettering 'AWRC.' The trees framing the internal and external streetscape are Brush Box, likely planted c.1905. Refer to Figure 19 and to the photographs in Section 5 above.

The inventory sheet provided by Council's website provides the following statement of significance for this item:

'A rare Edwardian 'garden city' bungalow precinct surrounded by excellent Federation Queen Anne and at least one Federation Arts and Crafts architectural and landscape detail. The landscape elements and streetscape are largely intact incorporating significant elements, around an unusual and beautifully landscaped oval, containing a resident-owned recreational and sporting facility.

The design and construction of the estate, including its unique organic street layout, was based on a vision of suburban utopia of its owner George Hoskins who was instrumental in developing the steel industry in NSW.

The concept for the design was based on 'Garden City' ideas being developed in England and USA at the time, for example, "Riverside" in Chicago by Frederick Law Olmstead and Vaux and "Bedford Park", "Port Sunlight" and "Letchworth" in England designed by Barry Parker and Raymond Unwin springing from the 'Picturesque Landscaping Movement' of the 18th Century in England.



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The landscape elements and streetscape of the Appian Way (especially when considered with the surrounding heritage item dwellings), have local (and State) significance for their ability to demonstrate early and unique subdivision pattern within Burwood (and more broadly NSW), their unique yet consistent Federation aesthetic, their rarity as a garden city suburb, for their association with George Hoskins and for their representative value as fine planning example of its type.<sup>2</sup>



**Figure 19:**  
Looking along the  
Appian way  
towards the  
central reserve.

The site is visible from within this item from the Appian Way. It is, however, concealed from the central fenced reserve by the bend in the Appian Way and by the mature street trees. The contribution that the site makes to this item is limited by the extent of alteration and addition made to the subject dwelling over time.

- **Burwood Road Heritage Conservation Area, Burwood**

Identified as 'C5' in Figure 16 above.

This area lies on the opposite side of Burwood Road to the subject site and is listed by Schedule 5 Part 2 of the *Burwood LEP 2012* (C5).

The SHI provides the following description for the conservation area, which includes those properties directly opposite the site and within the Conservation Area:

"The precinct, between Church Street and Liverpool Road, comprises a mixture of substantially intact housing from the c.1870's to early twentieth century. Of note are Edmund Blacket designed St Paul's Church and Victorian villas, numbers 201 and 203. Large Victorian houses at 213-*The Priory*, 213c-*The Lighthouse* and 223-*St Cloud* dominate the western side of Burwood Road. St Paul's Rectory, 207-*Dedee*, 290 and Appian Way are examples of Federation styled architecture."<sup>3</sup>

<sup>2</sup> *Appian Way Central Reserve and Public Domain*. Burwood Council Heritage Data Form.

<sup>3</sup> *Burwood Road Precinct*, Nos 209-213B, 215-229, 278-300, 320 Burwood Road, Burwood. State Heritage Inventory Database No.: 1250209.

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The listing sheet provides the following statement of significance for the area:

“The Burwood Road Precinct is of local significance for its outstanding architectural and streetscape qualities.”<sup>4</sup>

The principal view corridors within this area are along the streets that lie within it and towards individual properties that make a positive contribution to it. Refer to Figures 14 and 15 in Section 5 above.

### 7.0 Appian Way Listing and the Appian Way Conservation Area

#### 7.1 Group Listing: *Federation Houses*

The group listing that includes the site ('Federation houses') is for Federation period dwellings fronting the Appian Way and Burwood Road on the Hoskins Estate. These dwellings are all free standing, within garden surrounds. Most have timber fences across their front boundaries. Most, but not all, of the dwelling are single storey. They are fine and varied examples of the Federation styles.

Whilst most dwellings in this group are substantially intact, it is noted that the subject dwelling is not intact; that No. 2A Appian Way adjoining the site to the east is a Post World War II dwelling that is not included in the group listing; and that No. 304 Burwood Road, directly opposite the site, on the corner with Appian Way, has also been altered and does not have a garden setting within the front setback.

Refer to the photographs in Section 5 above.

The Heritage Assessment prepared by Council to support the listing provides the following statement of significance:

'A rare Edwardian 'garden city' bungalow precinct with excellent Federation Queen Anne and at least one Federation Arts and Crafts architectural and landscape detail, largely intact streetscape, around an unusual and beautifully landscaped oval, containing a resident-owned recreational and sporting facility.

The design and construction of the estate was based on a vision of suburban utopia of its owner George Hoskins who was instrumental in developing the steel industry in NSW.

The concept for the design was based on 'Garden City' ideas being developed in England and USA at the time, for example, "Riverside" in Chicago by Frederick Law Olmstead and Vaux and "Bedford Park", "Port Sunlight" and "Letchworth" in England designed by Barry Parker and Raymond Unwin springing from the 'Picturesque Landscaping Movement' of the 18th Century in England.

The group of Federation era houses associated with the Appian Way HCA, have local significance for their ability to demonstrate early and unique subdivision pattern within Burwood, their unique yet consistent Federation aesthetic, their rarity as a group of dwellings within a garden city suburb, for their association with George Hoskins and for their representative value as fine examples of their type, most with minimal alterations from the public domain.’<sup>5</sup>

<sup>4</sup> *Burwood Road Precinct*, Burwood. State Heritage Inventory, Heritage Item ID: 1250209.

<sup>5</sup> *Burwood Council- Federation Dwellings within the Appian Way HCA- Heritage Assessment*. Burwood Council website.

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### 7.2 Conservation Area: Appian Way Conservation Area

The State Heritage Inventory listing sheet for the Appian Way Conservation Area provides the following statement of significance:

'A rare Edwardian 'garden city' bungalow precinct with excellent Federation Queen Anne and at least one Federation Arts and Crafts architectural and landscape detail, largely intact streetscape, around an unusual and beautifully landscaped oval, containing a resident-owned recreational and sporting facility.

The design and construction of the estate was based on a vision of suburban utopia of its owner George Hoskins who was instrumental in developing the steel industry in NSW.

The concept for the design was based on 'Garden City' ideas being developed in England and USA at the time, for example, "Riverside" in Chicago by Frederick Law Olmstead and Vaux and "Bedford Park", "Port Sunlight" and "Letchworth" in England designed by Barry Parker and Raymond Unwin springing from the 'Picturesque Landscaping Movement' of the 18th Century in England.

The Appian Way Precinct is of State significance as a representative of an innovative approach to residential development that contains outstanding examples of Edwardian and Federation architecture in a garden setting.'<sup>6</sup>

This statement is adopted for the purposes of this assessment.

### 8.0 View Corridors

View corridors are important in assessing the proposed amendments. The following observations were made in *HIS 2021* and remain relevant today:

The principal view corridors towards the site are obtained from directly outside of it on Burwood Road and the Appian Way.

Views towards the site on approach from the south along Burwood Road are blocked until close by the site by adjoining dwellings and the large street trees. The view corridors are slightly more open on approach from the north along Burwood Road because of the intersection with Appian Way. The dwelling does not read readily as a Federation period dwelling within these view corridors because of the extent of alteration. Refer to Figures 20 to 26.

<sup>6</sup> *Appian Way Precinct*, Nos 1-25 & 2A-18 Appian Way, Burwood. State Heritage Inventory Database No.: 1250265.



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**Figure 20:**  
View towards  
the site from  
directly outside  
of it on  
Burwood Road.



**Figure 21:**  
Wide angled  
view towards  
the site on  
approach along  
Burwood Road  
from the south.



**Figure 22:**  
View towards  
the site, closer  
than the above.

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**Figure 23:**  
View from a  
more acute  
angle on  
approach from  
the south.



**Figure 24:**  
View towards  
the site on  
approach from  
the north along  
Burwood Road.



**Figure 25:**  
Closer to the  
site than the  
above.



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**Figure 26:**  
From the same  
side of  
Burwood Road  
as Figure 25 but  
at an acute  
angle.

Views on approach along Appian Way from the east are restricted by the bend in the road, the street trees and by the later infill dwelling, No. 16A Burwood Road. The high cement block wall along part of the northern boundary restricts views towards the rear of the dwelling. These are not significant view corridors. Refer to Figures 27 to 30.



**Figure 27:**  
View towards  
the site from  
the Appian  
Way. The high  
block wall  
along part of  
the northern  
boundary of the  
site and a small  
section of the  
roof of the  
subject  
dwelling are  
visible.



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**Figure 28:** View across the front yard of No.16A Appian Way. The roof of the subject dwelling is visible. This is not a significant view corridor.



**Figure 29:** View toward the site from directly opposite it on the Appian Way.

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**Figure 30:**  
Just west of the site  
on the Appian Way.

The principal view corridors out of the site are to the north and west.

### 9.0 Contribution of the Site to the Group Listing/Conservation Area

As assessed in the statement prepared for the *HIS 2021*, the site as it currently exists makes a diminished contribution to the ability to understand the unique characteristics of George Hoskins' Appian Way development. Whilst amongst the earliest dwellings constructed on the estate, it has undergone considerable alteration and addition over time, such that is no longer a good and intact example of the standard and style of dwelling Hoskins constructed on his estate.

The characteristics of the site that do contribute to the Conservation Area and group listings are the lot boundaries (which date from the time the dwelling was created), the free standing character of the dwelling, the face brickwork and the hipped and gabled roof form. The characteristics that detract from the Conservation Area are the boundary walls and the loss of many of the significant original elements of the dwelling including the chimneys, verandah detailing, original roof finish, original gable detailing and windows.

The proposed reconstruction works to the dwelling and the new picket fencing approved as part of DA 2021.88 will improve the contribution that the site makes to the conservation area. The works to the dwelling include the installation of timber framed windows, the recladding of the roof in slate and the reconstruction of the front chimneys. New planting is proposed within the site.

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### 10.0 Scope of Works

The following should be read in conjunction with the plans, prepared by Nicholas Day Architects and Site Image that accompany this application. The report, 'Statement: Arboricultural Issues (Substation Relocation)', prepared by TALC, should also be referred to.

### 10.1 General Overview

Amendment	Heritage Impact
<b><i>Lower Basement Level</i></b>	
1. Plant room located in Southeast corner of the basement.	These amendments involve interior changes only to a level not yet constructed. There will be no impacts on the site, adjoining sites part of the same group listing, the Conservation Area or adjoining items/areas.
2. Carparking layout updated to accommodate plant room and additional columns.	
3. Bin room and store increased in width.	
4. Basement plant and exhaust room added behind Lift	
5. Laundry and waste chute removed.	
6. Basement secondary exit stair widened.	
7. 7. Sub-basement lowered to RL 29.97 from RL 31.17	
<b><i>Basement Plan</i></b>	
8. Basement secondary exit stair widened.	These amendments involve interior changes only to a level not yet constructed. There will be no impacts on the site, adjoining sites part of the same group listing, the Conservation Area or adjoining items/areas.
9. Carparking layout updated to accommodate plant room and additional columns.	
10. Laundry and waste chute removed.	
11. Driveway and entrance ramp updated	This work is required to allow for vehicular access whilst retaining the existing substation location and meeting the offset requirement of 1.5m set by Endeavour Energy. An entrance ramp is added beside the driveway for the purposes of fire egress.  See Section 10.2 below for discussion of impacts.
<b><i>Ground floor plan</i></b>	
12. Infants moved from first floor to ground floor.	Given the reduced integrity of the existing dwelling and its contribution to the Conservation Area, the proposed interior



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Amendment	Heritage Impact
	changes, which are minor, resulting from this change will have no additional impact on the contribution that this site makes to the group listing. Given that the proposed works are internal only, there will be no impact on the Conservation Area or nearby heritage items/areas.
13. Administration areas moved to the first floor.	These amendments involve interior changes only to a level not yet constructed. There will be no impacts on the site, adjoining sites part of the same group listing, the Conservation Area or adjoining items/areas.
14. Rooms adjacent to Appian Way external play space changed to pre-school.	<p>Regarding interior changes:</p> <p>Given the reduced integrity of the existing dwelling and its contribution to the Conservation Area, the proposed interior changes, which are minor, resulting from this change will have no additional impact on the contribution that this site makes to the group listing. Given that the proposed works are internal only, there will be no impact on the Conservation Area or nearby heritage items/areas.</p> <p>Regarding exterior changes:</p> <p>The exterior changes resulting from this change are minor and relate to the removal of stairs and a ramp. There will be no change in the massing, scale, pattern of openings or architectural character of the approved elevation. There will thus be no impact on the group listing, the conservation area or nearby heritage items/conservation areas.</p>
15. Main and secondary stair relocated to reflect same change at first floor level.	Given the reduced integrity of the existing dwelling and its contribution to the Conservation Area, the proposed interior changes, which are minor, resulting from this change will have no additional impact on the contribution that this site makes to the group listing. Given that the proposed works are internal only, there will be no impact on the Conservation Area or nearby heritage items/areas.

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Amendment	Heritage Impact
16. Windows reconfigured to suit updated layout on southern and eastern wall.	<p>Regarding the eastern elevation:</p> <p>The changes are to the yet to be constructed side elevation of the approved addition, which will have limited visibility from the public domain. An appropriate void to solid ratio is proposed. There will be no impact on the group listing, the conservation area or nearby heritage items/conservation areas.</p> <p>Regarding the eastern elevation:</p> <p>The changes are to the yet to be constructed rear elevation of the approved addition, which will have limited visibility from the public domain. This elevation addresses a property not part of the group listing. An appropriate void to solid ratio is proposed. There will be no impact on the group listing, the conservation area or nearby heritage items/conservation areas.</p>
17. View corridor removed and front fence plan and materials updated.	A painted acoustic timber fence behind a hedge is proposed in lieu of glass approved. See Section 10.2 below for discussion of impacts.
18. Pedestrian entrance path updated.	<p>The proposed changes are required to make the pathway BCA compliant. Steps are removed and ramped for fire and disabled access.</p> <p>This work is to new elements and will not significantly impact on the character of the approved landscaping. There will be no impact on the group listing, the conservation area or nearby heritage items/conservation areas.</p>
<b><i>First floor</i></b>	
19. Staff room, laundry and kitchen and programme room moved to first floor.	<p>Changes to the first floor will have no impact as this is a new level not yet constructed. The proposed relocation of the stairs will have no further impact for the reasons given above.</p> <p>There are no exterior changes arising from this work. There will be no impact on the group listing, the conservation area or nearby heritage items/conservation areas.</p>
20. Both stairs relocated.	
21. Kitchen and laundry layouts updated.	

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Amendment	Heritage Impact
<i>External</i>	
22. Removal of tree No. 5.	<p>Tree removal is proposed because of the proposed driveway works and to allow for the retention of the existing substation.</p> <p>See section 10.2 below for discussion of the impacts.</p>

### 10.2 Impacts of Selected Works in Greater Detail

The Pre-DA advice regarding the retention of the substation in the existing location (as proposed) or its relocation to Burwood Road (as approved) is conflicting, with one part of the advice stating that its removal from the Appian Way will be a positive impact (with Burwood Road identified as the less significant street) and the other stating that its relocation to Burwood Road (although approved) would have an unacceptable impact on the street trees.

The retention of the substation in its current location is supported because the impact of relocating it to Burwood Road on the street trees would have an unacceptable impact on the group listing (which includes properties on Burwood Road) and on the Appian Way and Burwood Conservation Areas because of the excavation for cabling required as part of the relocation. One tree, which has been assessed as being in poor health, is impacted upon by retaining the subdivision in the existing location. Multiple trees would be impacted upon should the substation be removed. The impact of the substation on the Appian Way is reduced by the proposed works by replacing the light grey cement block wall behind it with a picket fence and hedge. The substation, which is painted a dark green, will visually recess into this background.

The removal of one tree is required to achieve the clearances required for the operation of the driveway and substation if the substation is retained in the existing location. The impact is acceptable because the tree is in poor health and is likely to decline further.

A gap will be created by the removal of the tree. The spacing between trees is already greater than is typical for the Appian Way in this location and has been since at least 1943. The impact is acceptable because of the poor health of the tree, which would likely be required to be removed in coming years regardless of the substation; the existing irregularity and the less intact nature of the streetscape at this end of the Appian Way. The arborist further notes that the adjoining street trees are also in declining health and may require replacement in coming years. This would provide an opportunity for co-ordinated new street planting that considers existing infrastructure.

The proposed changes to the driveway angle are required to meet standards. The difference in the angle to Appian Way is nine degrees. The impact is acceptable because this driveway is located at the very end of the Appian Way, which is concealed in views into/out of the heart of the street by street trees and the bend in the street. It is also associated with a much altered property. Driveways are low lying elements that have less prominence in the streetscape than vertical elements, such as fencing.

The proposed change to the fence will have a positive impact. The change was made following concerns expressed by Jennifer Hill, Council's heritage adviser during the Land and Environment



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Court, about the visual impact of the glazed fencing. A dark painted timber fence, behind hedging and a picket fence on the boundary, will have an acceptable impact.

Please do not hesitate to contact me on 02 8076 5317 if you have any questions.

Yours faithfully,



**Alice Fuller** | Associate Director

### References

*Appian Way Central Reserve and Public Domain.* Burwood Council Heritage Data Form.

*Appian Way Precinct, Nos 1-25 & 2A-18 Appian Way, Burwood.* State Heritage Inventory Database No.: 1250265.

*Burwood Council- Federation Dwellings within the Appian Way HCA- Heritage Assessment.* Burwood Council website.

*Burwood Road Precinct, Burwood.* State Heritage Inventory, Heritage Item ID: 1250209.

*Burwood Road Precinct, Nos 209-213B, 215-229, 278-300, 320 Burwood Road, Burwood.* State Heritage Inventory Database No.: 1250209.

*St. Cloud and Site, No. 223 Burwood Road, Burwood.* State Heritage Inventory Database No.: 045017.