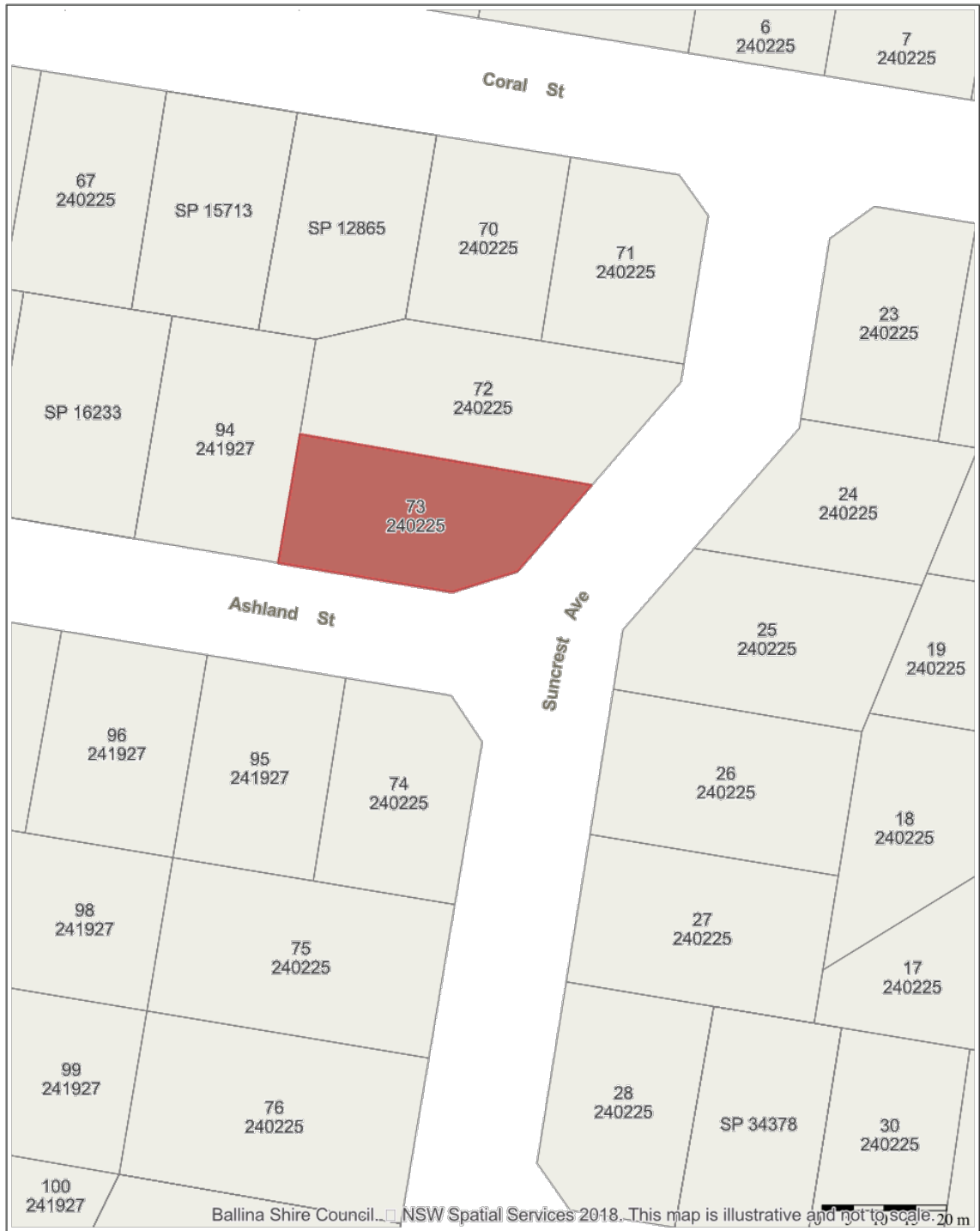


8.1 **DA 2017/575 - Review of Determination - 3 Suncrest Avenue.DOC**



Ballina Shire Council
 40 Cherry Street
 BALLINA NSW 2478

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 BALLINA NSW 2478

02 6686 4444
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ballina shire council
 geographical information system

Projection: GDA94 / MGA zone 56
 Date: 9/05/2018



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Projection: GDA94 / MGA zone 56
Date: 9/05/2018



DAP ASSESSMENT REPORT

File Reference	DA: 2017/575
Applicant	Techton Building Services
Property	Lot: 73 DP: 240225, 3 Suncrest Avenue ALSTONVILLE
Proposal	Secondary Dwelling as depicted in plans prepared by Techton Building Services Project No. AGSabode1 dated September 2017
Effect of Planning Instrument	The land is zoned R2 under the provisions of the Ballina Local Environmental Plan 2012 (BLEP) and affected by Development Control Plan 2012 (DCP).
Locality Plan	The subject land is depicted on the locality plan below.



Introduction

The application is for a detached secondary dwelling to be constructed facing the secondary road frontage to a corner allotment within an established area of the Alstonville village.

The application has been referred to the Development Assessment Panel (DAP) due to objections being received that are unresolved.

Reportable political donations

The applicant has advised that they are not aware of any person with a financial interest in the application having made a political donation in the last 2 years and that they will disclose any donation made prior to determination of the application.

Public exhibition and relevant objector details:

The proposed development was notified in accordance with the Level 1 – Targeted Notification process as described in Clause 3.2.4 of Chapter 1 of the DCP.

The 14 day notification period ended on 4 November 2017.

Two submissions and a petition containing the names, addresses and signatures of 23 people in objection to the proposed development have been received.

Applicable Planning Instruments:

The land is zoned R2 Low Density Residential under the BLEP. The proposed secondary dwelling is associated with an existing principal dwelling on the lot and is therefore permissible within this zone.

The proposed development is also subject to assessment against the provisions of the DCP.

There are no environment issues within Chapter 2 of the DCP that would prevent the development proceeding.

Chapter 4 of the DCP provides the most guidance on development controls relating to secondary dwellings, however the only provisions that are applicable to secondary dwellings are Building Envelopes, Floor Space Ratio and Building lines.

Chapter 4 specifically stipulates that no car parking is required to be provided for secondary dwellings.

Chapter 4 also requires the assessment to consider the matters identified State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP) relating to the land zone, lot area, exclusion of basements and roof terraces as well as the development standards identified in Schedule 1.

DCP Chapter 4

Element B - Floor Space Ratios (FSR)

The combined area of both the existing building and proposed new building results in a FSR of approximately 0.2:1. This is well below the permitted maximum of 0.5:1.

Element C - Building Envelopes

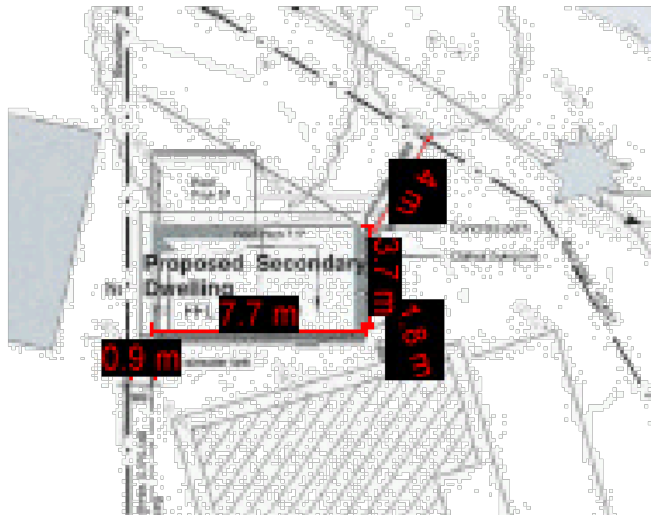
The proposed design is a low set building to be constructed near ground level with a low pitched roof. It is to be set back a minimum of 0.9m from the nearest boundary and complies fully with the building envelope controls

Element E - Building Lines

Reduction in the 6.0m building line to 4.0m is permissible on the secondary road frontage.

A minor encroachment of the corner of the deck is allowable as it is consistent with other approvals for structures forward of the building line in this area of Alstonville.

However, there appears to be some anomalies in the dimensions and/or scale of the submitted site plan. The overall size of the building (8.0m x 4.3m) as measured from the floor plan does not appear to fit within the setback distances to the side boundary, the existing dwelling and the 4.0m setback as indicated on the site plan.



Should approval be recommended, it could be conditioned that the 0.9m, 1.8m and 4.0m setbacks must be achieved and that a survey is to be provided prior to pouring any footings.

ARH SEPP

The proposal complies with all of the applicable development standards within the ARH SEPP other than a possible departure from the Principal Private Open Space development standard.

The ARH SEPP standards are that a lot on which development for the purposes of a secondary dwelling is carried out must have more than 24 square metres of principal private open space.

The principal private open space may be shared by both the principal dwelling and secondary dwelling and may be in the form of a balcony or deck.

The ARH SEPP defines *principal private open space* as an area that:

- (a) is directly accessible from, and adjacent to, a habitable room, other than a bedroom, and
- (b) is more than 4 metres wide, and
- (c) is not steeper than 1:50 gradient.

The proposed deck is not sufficient to meet these standards.

There is no indication in the ARH SEPP that principal private open space cannot be located in front of the secondary dwelling toward the street frontage. However, this would not be "private" unless it was within a courtyard. Structures to create a courtyard would not be permissible as Complying Development or under a merit assessment unless they were to be behind the building line or have an approved variation.

The proposed location of the clothes line is also in an inappropriate location as it will be able to be viewed directly from two street frontages.

The lack of Principle Private Open Space is the only departure from the ARH SEPP that would prevent the proposal being approved under the Complying Development approval pathway. It should also be noted that the proposed minor encroachment of the 4.0m DCP building line is permissible under the ARH SEPP development standards where a 3.0m setback is allowed.

Issues raised with objections / issues of non-compliance:

The objections and lodgement plans are attached at the end of this report.

Submission – 2 Suncrest Avenue	
Objection	Comments
<p>Negative visual impact of a dwelling in the front yard of an existing dwelling changing the streetscape.</p> <p>Setting a precedent for front yard secondary dwellings that impacts on properties other than that of the applicant</p>	<p>Secondary dwellings are permitted by the BLEP and ARH SEPP on a primary street frontage, a secondary street frontage or a parallel street frontage. Building lines are set to protect the amenity of the locality and ensure new developments do not make a negative contribution to the local streetscape and provide sufficient space for landscaping, visual and acoustic privacy and vehicle parking.</p> <p>The SOEE states that the proposal complies with the building lines. This could be conditioned if approved.</p>
<p>Traffic issues related to a proposed additional driveway entrance off Suncrest Avenue. This new access would be close to the intersection and obscured by trees on the council land.</p>	<p>There is no indication in the application that has been submitted that any new vehicular access or car parking is proposed. Should the owner of the land wish to apply for any additional access or parking in the future, this would be assessed on its merits at that time.</p>
<p>Restrictions on Section 88B instrument include:</p> <ul style="list-style-type: none"> • No dwelling or residential unit shall be erected on upon subject land having a floor space (EXCLUDING car ports and outbuildings) of less than 700 feet without written consent of R.Gordon and Son PTY.LTD. • No building to be erected with a frontal alignment closer than 20 feet to any road to which such block has a frontage without the consent of R,Gordon and son PTY LTD 	<p>The NSW Court of Appeal's decision in <i>Lennard v Jessica Estates Pty Limited</i> demonstrates that the terms of a restriction in an 88B instrument must be construed according to their town planning purpose.</p> <p>Clause 1.9A of the BLEP is designed to ensure town planning law prevails over private agreements relating to the development of land, to the extent of any inconsistency between the two.</p> <p>The restrictions on use in this case were not imposed by the Council and may be suspended by as floor area and setbacks controls exist within the current planning provisions and take precedent over those of the 88B.</p>

Submission – 5 Suncrest Avenue

Objection	Comments
<p>Council planning guidelines for R3 residential zones require minimum 300M2</p> <p>Without encroaching on building setbacks it appears impracticable to construct a dwelling of at least 300 M2</p>	<p>The submitted information by the objector is incorrect. The zone is R2 and the floor area referred to is not applicable</p>
<p>Any development towards Suncrest Avenue will potentially obstruct vision at the intersection.</p> <p>The building will clearly encroach on the building setbacks and be well beyond the accepted building line.</p>	<p>The proposal is to be within the building line to Suncrest Avenue and is compliant with the building lines of the ARH SEPP. Therefore, it should not obstruct sight lines to the intersection.</p>
<p>Anecdotal information suggests a driveway is proposed at the truncated corner of the block or close to the street junction which is potentially dangerous</p>	<p>Refer to comments in previous objection relating to no proposal for access or parking.</p>

The planning principle that follows relates to assessing a development for compatibility of with surrounding development. It was established in *Project Venture Developments Pty Ltd v Pittwater Council [2005] NSWLEC*.

Planning principle: compatibility in the urban environment

It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.

It should be noted that compatibility between proposed and existing is not always desirable. There are situations where extreme differences in scale and appearance produce great urban design involving landmark buildings. There are situations where the planning controls envisage a change of character, in which case compatibility with the future character is more appropriate than with the existing. Finally, there are urban environments that are so unattractive that it is best not to reproduce them.

Where compatibility between a building and its surroundings is desirable, its two major aspects are physical impact and visual impact. In order to test whether a proposal is compatible with its context, two questions should be asked.

- *Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*
- *Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

The physical impacts, such as noise, overlooking, overshadowing and constraining development potential, can be assessed with relative objectivity. In contrast, to decide whether or not a new building appears to be in harmony with its surroundings is a more subjective task. Analysing the existing context and then testing the proposal against it can, however, reduce the degree of subjectivity.

For a new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment. In some areas, planning instruments or urban design studies have already described the urban character. In others (the majority of cases), the character needs to be defined as part of a proposal's assessment.

*The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by **building height, setbacks and landscaping**. In special areas, such as conservation areas, **architectural style and materials** are also contributors to character.*

*Buildings do not have to be the same **height** to be compatible. Where there are significant differences in height, it is easier to achieve compatibility when the change is gradual rather than abrupt. The extent to which height differences are acceptable depends also on the consistency of height in the existing streetscape.*

*Front **setbacks** and the way they are treated are an important element of urban character. Where there is a uniform building line, even small differences can destroy the unity. **Setbacks** from side boundaries determine the rhythm of building and void. While it may not be possible to reproduce the rhythm exactly, new development should strive to reflect it in some way.*

***Landscaping** is also an important contributor to urban character. In some areas landscape dominates buildings, in others buildings dominate the landscape. Where canopy trees define the character, new developments must provide opportunities for planting canopy trees.*

*Conservation areas are usually selected because they exhibit consistency of scale, style or material. In conservation areas, a higher level of similarity between the proposed and the existing is expected than elsewhere. The similarity may extend to **architectural style** expressed through roof form, fenestration and materials.*

It should be remembered that most people are not trained planners or urban designers and experience the urban environment without applying the kind of analysis described above. As people move through the city, they respond intuitively to what they see around them. A photomontage of a proposed development in its context provides the opportunity to test the above analysis by viewing the proposal in the same way that a member of the public would.

With consideration to the above, the physical impacts of the proposed development are acceptable in this case.

The existing street scape in this part of Alstonville consists of a mix of older 70's and 80's style buildings with interspersed redeveloped and altered buildings of more modern and varied building materials. Redevelopment in this area is bound to continue with more modern building designs and materials and increased densities likely to continue into the future. The proposed building height, setbacks, architectural style and materials are acceptable in this regard.

This particular part of Suncrest Avenue, is quite "leafy" with established trees on both sides of the street. Although the proposal does not seek to remove any trees, consideration should be given to the possibility of any trees within 3 metres of an approved building being able to be removed as Exempt Development. It appears that only one large branch of one tree located on the subject property would be able to be removed under these provisions.

Several other trees on the Suncrest Avenue road reserve would not be able to be removed without the prior consent of Council.

Conclusion:

The proposal complies with all of the LEP development standards DCP controls for Secondary Dwellings.

The DCP also requires assessment against the additional development standards of the ARH SEPP.

The proposal does not demonstrate that adequate private open space will be provided. This is likely to result in a reduced level of amenity for the occupants of the dwelling than what should be expected from a new dwelling.

The proposed access to any open space is remote from that of the principal dwelling and is unlikely to be shared with the principal dwelling.

It should also be noted that ample room is available on the western end of lot to accommodate the proposed secondary dwelling. This area would also provide sufficient area for the minimum required area of private open space to be more "private".

Although no parking is required to be provided for secondary dwellings, the proposed location of the secondary dwelling in this instance is well away from the existing vehicular access and available parking areas. As such it is foreseeable that a future application for parking closer to the secondary could be lodged. Refusal of such an application may be difficult to justify if a dwelling is already approved in this location.

If recommended for approval in its current location, conditions could be included to require a landscaping plan to be submitted by prior to determination. This would assist in screening the secondary dwelling from the view from other properties, provide more privacy for the occupants and assist in maintaining the landscape character of the streetscape.

Assessment officer Recommendations / Options:

Option 1

Approve the application provided that an acceptable landscaping plan is provided and approved by the DAP.

Option 2

Refuse the application on the grounds that it does not provide adequate private open space and a more suitable location exists on the site.

It is not in the public interest for dwellings to provide less than the accepted standard of amenity required by the planning controls.

Recommendation

It is recommended that Option 2 be adopted for referral to the Group Manager.

Minutes of (DAP) meeting dated 20 November 2017.

The panel inspected the property from both street frontages and also observed other older and more recently constructed existing buildings in the locality.

It was noted that the BLEP definition of private open space is *an area external to a building (including an area of land, terrace, balcony or deck) that is used for private (emphasis added) outdoor purposes ancillary to the use of the building.*

It was also noted that the small outdoor living area as well, as the open spaces that are accessed directly from it, face the two street frontages. It was considered that the proposed location and design of the secondary dwelling does not provide adequate private open space to afford an acceptable level of amenity to the occupants

It was also agreed that the location of the proposed building on the site is inappropriate in this case as it will have an unreasonable impact on the streetscape.

A more suitable and reasonable location exists on the property to the west of the existing dwelling. Development for the purposes of a secondary dwelling in this alternative location would be more reasonable in regards to both amenity and streetscape impacts.

DAP members present at meeting: Vince Hunt, Gary Gee, David Tyler

Site visit date by DAP members: 20 November 2017

DAP Recommendations:

Refuse the application in accordance with Option 2 with additional reasons being an unreasonable adverse impact on the streetscape.

DAP Member / Assessment officer signatures

Vince Hunt    *GARY GEE*

DATED: 20 November 2017

Group Manager/ Comments/ Recommendations/ Endorsement

Insert Comments / Recommendations



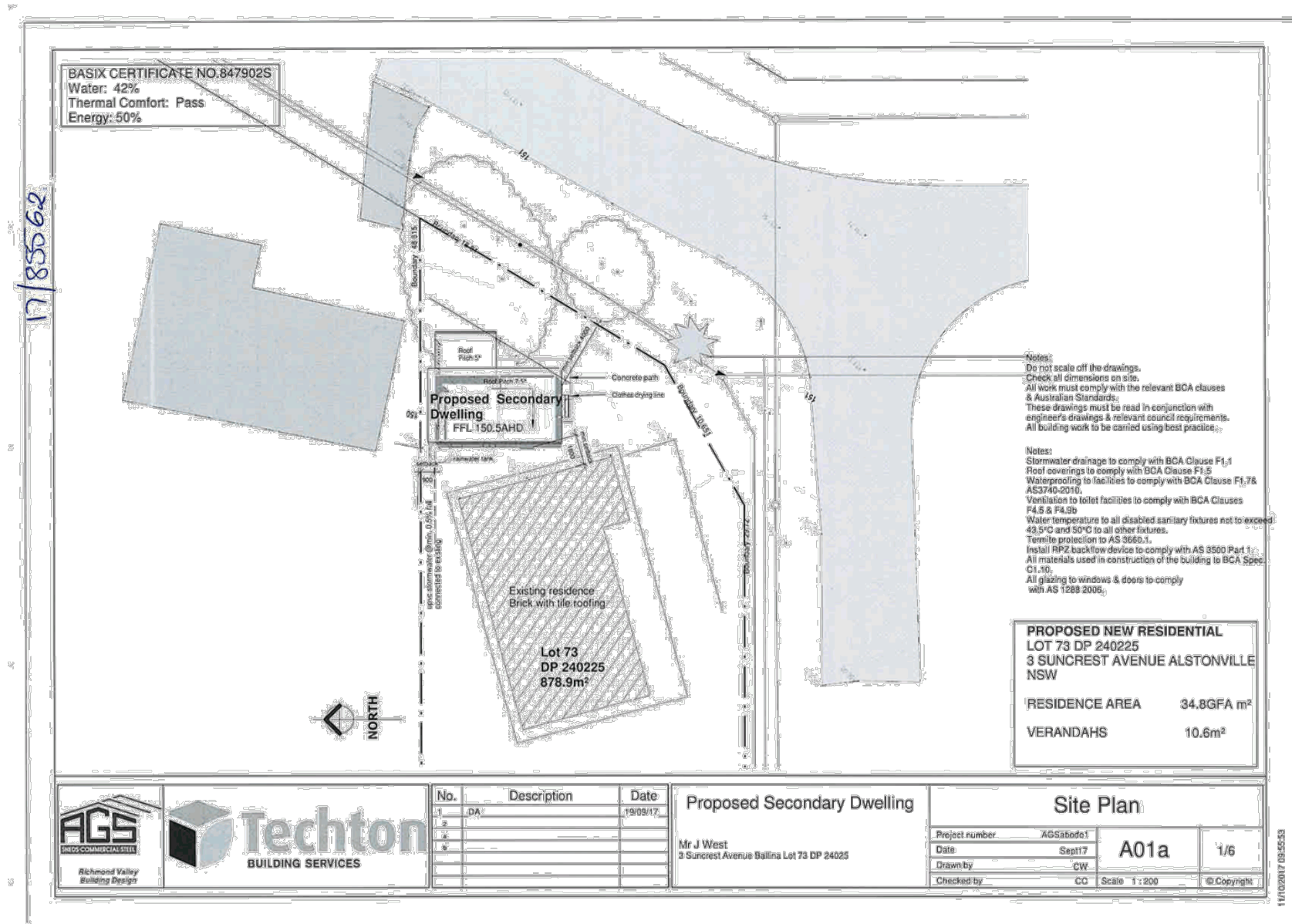
Dated 22/11/17

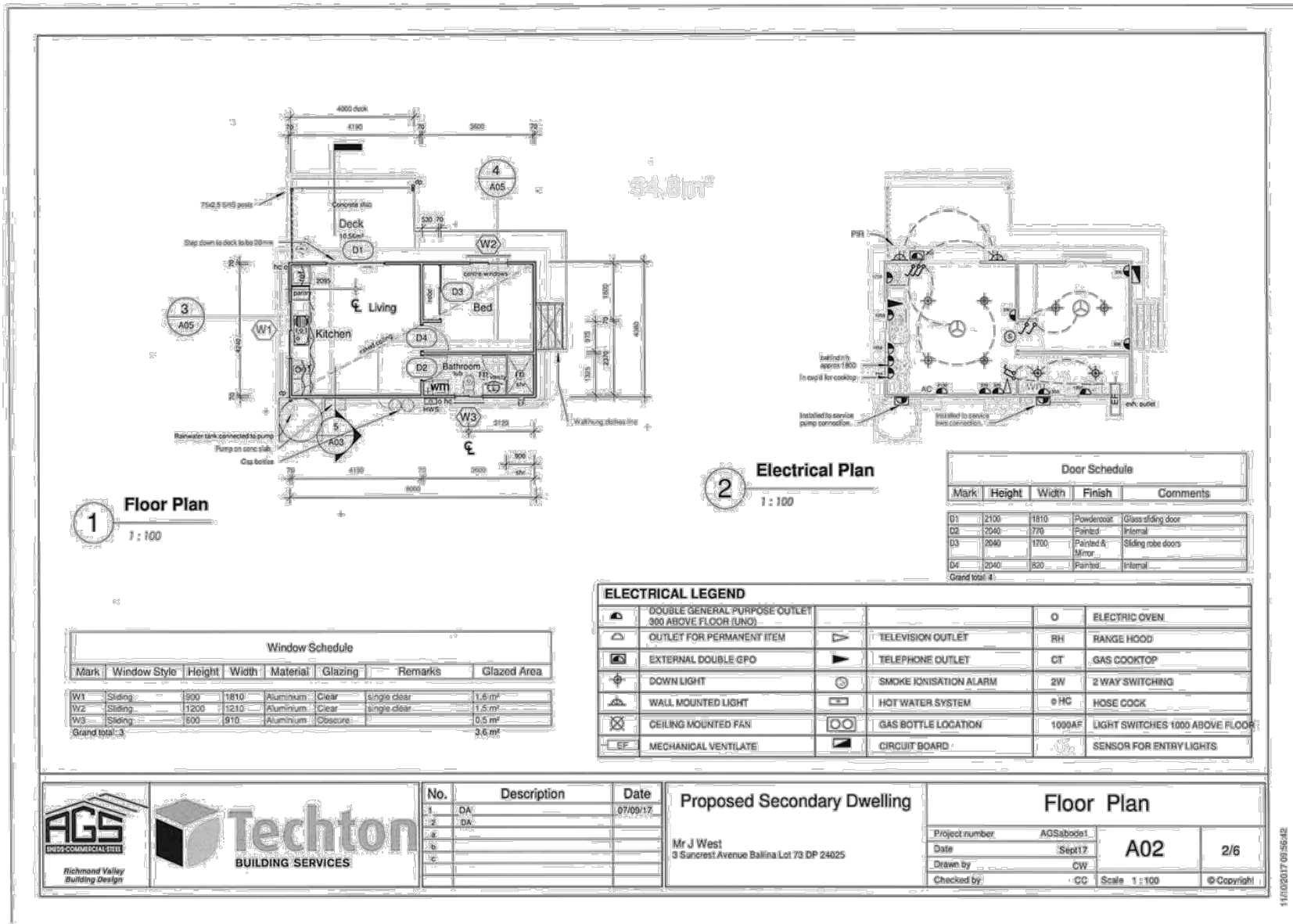
As per recommendation by DAP refusal of application

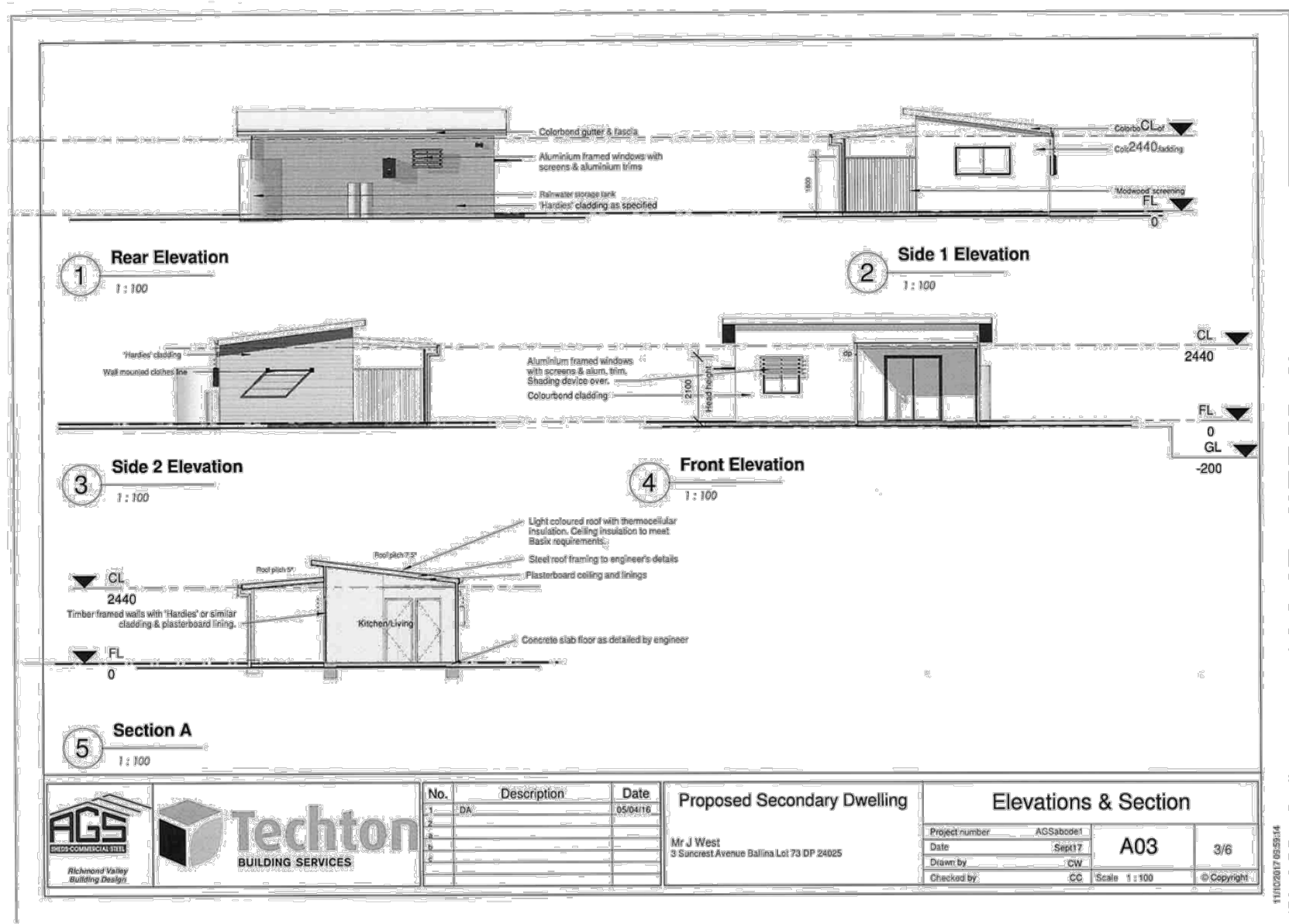
General Manager endorsement where applicable/ required

_____ Dated _____

8.1 DA 2017/575 - Review of Determination - 3 Suncrest Avenue.DOC







No.	Description	Date
1	DA	05/04/16
2		
3		
4		
5		
6		



Proposed Secondary Dwelling
 Mr J West
 3 Suncrest Avenue Ballina Lot 73 DP 24025

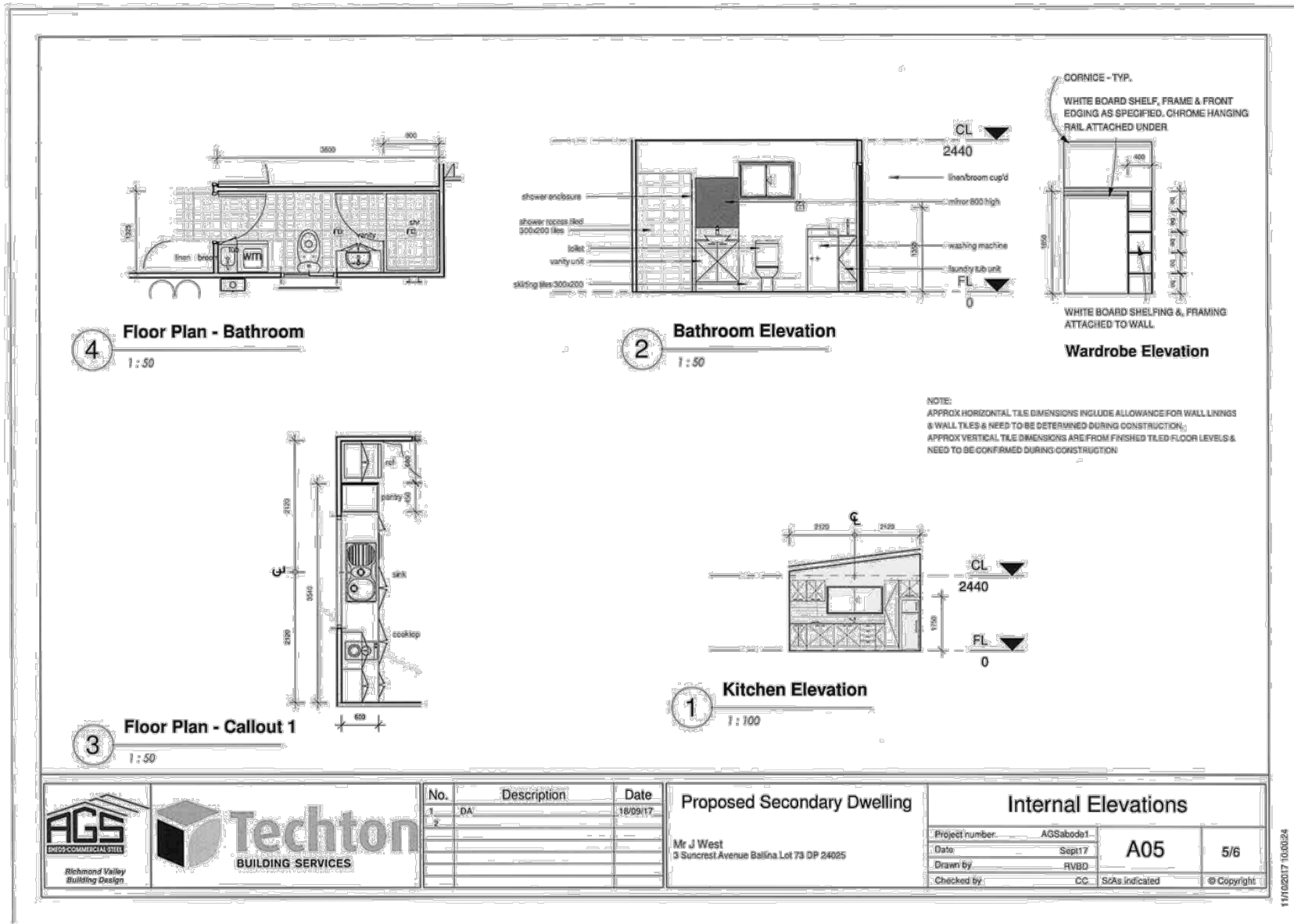
Elevations & Section			
Project number	AGSAbode1	A03	3/6
Date	Sept17		
Drawn by	CW	Scale	1 : 100
Checked by	CC	© Copyright	

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BASIX COMMITMENTS			Certificate No.847902S		
RESULTS			WATER 42 THERMAL COMFORT Pass ENERGY 50		
WATER	Type	Minimum Rating			
FIXTURES	Shr WC Kitchen Bath	3 star 4 star 4 star 4 star			
ALTERNATIVE WATER Rainwater Tank	Size min. 1500 ltrs (Location shown on Site Plan)				
FIXTURES connected to rainwater tank	Toilet, laundry & ext taps.				
LANDSCAPING	0sq m indigenous species planting				
THERMAL COMFORT	Nathers Certificate: No				
FIXED SHADING	Certificate No, Assessor No.				
EXTERNAL WALLS	Eaves Shading Devices Overshadowing	shading devices & verandah as described in Basix Cert. nil			
INTERNAL WALLS	Northern Wall Eastern Wall Southern Wall Western Wall Insulation	'Hardies' cladding on timber frame 'Hardies' cladding Colorbond R2.0 additional			
WINDOWS	Type Area Glazing Frame Internal Cover External Cover	Type 1 Plasterboard			
SKYLIGHTS	Type Area	7.5 sq m see schedule Aluminium Loose weave see Shading			
ROOF	Material Insulation Colour	Colorbond steel Thermocellular reflective Light			
CEILINGS	Material Insulation	Plasterboard Additional R0.9 min			
FLOORS	Covering Material Insulation	Overlay timber , carpet & ceramic tile Timber Min.R1.0			
ORIENTATION	Offset from True North				
VENTILATION	Roof Ventilation Cross Ventilation Living Area open to Entry Living Area Separated by Door Stair Open to Heated Area Sub-floor Ventilation Ventilated Skylights	nil Yes Yes No N/A N/A N/A			

INFILTRATION	Weather Seals to Windows & Doors Exhaust Fans without Damper	Yes Yes
CEILING FANS	Vented Downlights Wall and Ceiling Vents	No No
ENERGY		
HOT WATER STORAGE	Type - gas instantaneous	
COOLING SYSTEM	Type air conditioning Rooms/Areas	
HEATING SYSTEM	Type air conditioning Rooms/Areas	
VENTILATION	Roof Ventilation Mechanical Ventilation Kitchen (Over Stove) Refrigerator Space is Well Ventilated	Type Exhaust Fans only if shown Range hood Yes
ARTIFICIAL LIGHTING	Dedicated Fluorescent Lighting (Shown on Basix Certificate & plan)	
NATURAL LIGHTING	(Shown on plan)	
CLOTHES DRYING	Type: Parallel mounted to wall	Outdoor
	(Shown on Site Plan)	

 AGS RICHMOND VALLEY BUILDING DESIGN	 Techoon BUILDING SERVICES	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>No.</th> <th>Description</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>DA</td> <td>06/10/17</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	No.	Description	Date	1	DA	06/10/17										Proposed Secondary Dwelling Mr J West 3 Suncrest Avenue Ballina Lot 73 DP 2402S	Basix Commitments <table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td>Project number</td> <td>AGSAbode1</td> </tr> <tr> <td>Date</td> <td>Sept17</td> </tr> <tr> <td>Drawn by</td> <td>CW</td> </tr> <tr> <td>Checked by</td> <td>CC</td> </tr> </tbody> </table>	Project number	AGSAbode1	Date	Sept17	Drawn by	CW	Checked by	CC	<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="text-align: center;">A04a</td> <td style="text-align: center;">4/6</td> </tr> <tr> <td colspan="2" style="text-align: center;">Scale 1 : 100</td> </tr> <tr> <td colspan="2" style="text-align: center;">© Copyright</td> </tr> </tbody> </table>	A04a	4/6	Scale 1 : 100		© Copyright	
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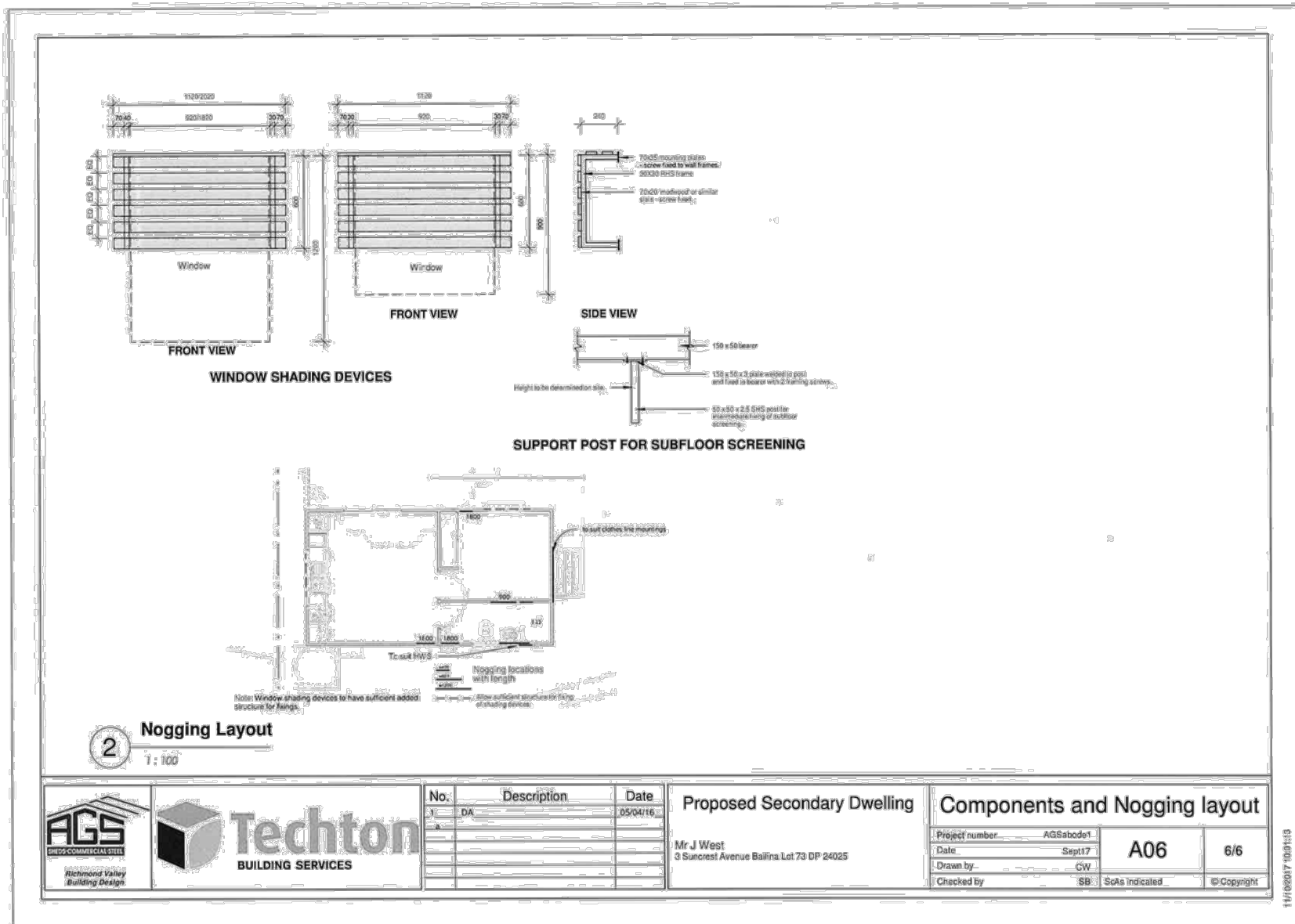
No.	Description	Date
1	DA	18/09/17
2		

Proposed Secondary Dwelling

Mr J West
3 Suncrest Avenue Ballina Lot 73 DP 24025

Internal Elevations		
Project number	AGSAbode1	
Date	Sept17	A05
Drawn by	RVBD	5/6
Checked by	CC	SCAs indicated © Copyright

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		No.	Description	Date	Proposed Secondary Dwelling Mr J West 3 Suncrest Avenue Ballina Lot 73 DP 24025	Components and Nogging layout		
		1	DA	05/04/16		Project number: AGSAbode1 Date: Sept17 Drawn by: CW Checked by: SB	A06 ScAs Indicated	6/6 ©Copyright



Date: 19 March 2018
Our Ref: 18/010

General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Dear Sir,

**Re: Section 8.2 Review of Determination Application No. 2017/575
3 Suncrest Avenue, Alstonville – Lot 73 DP 240225**

Newton Denny Chapelle have been engaged by J West to lodge a Review of Determination for development application 2017/575 for the proposed secondary dwelling at Lot 73 DP 240225 being 3 Suncrest Avenue, Alstonville.

We have attached a copy of the Review of Determination together with a cheque of \$266.50 being Council's S8.2 Fee.

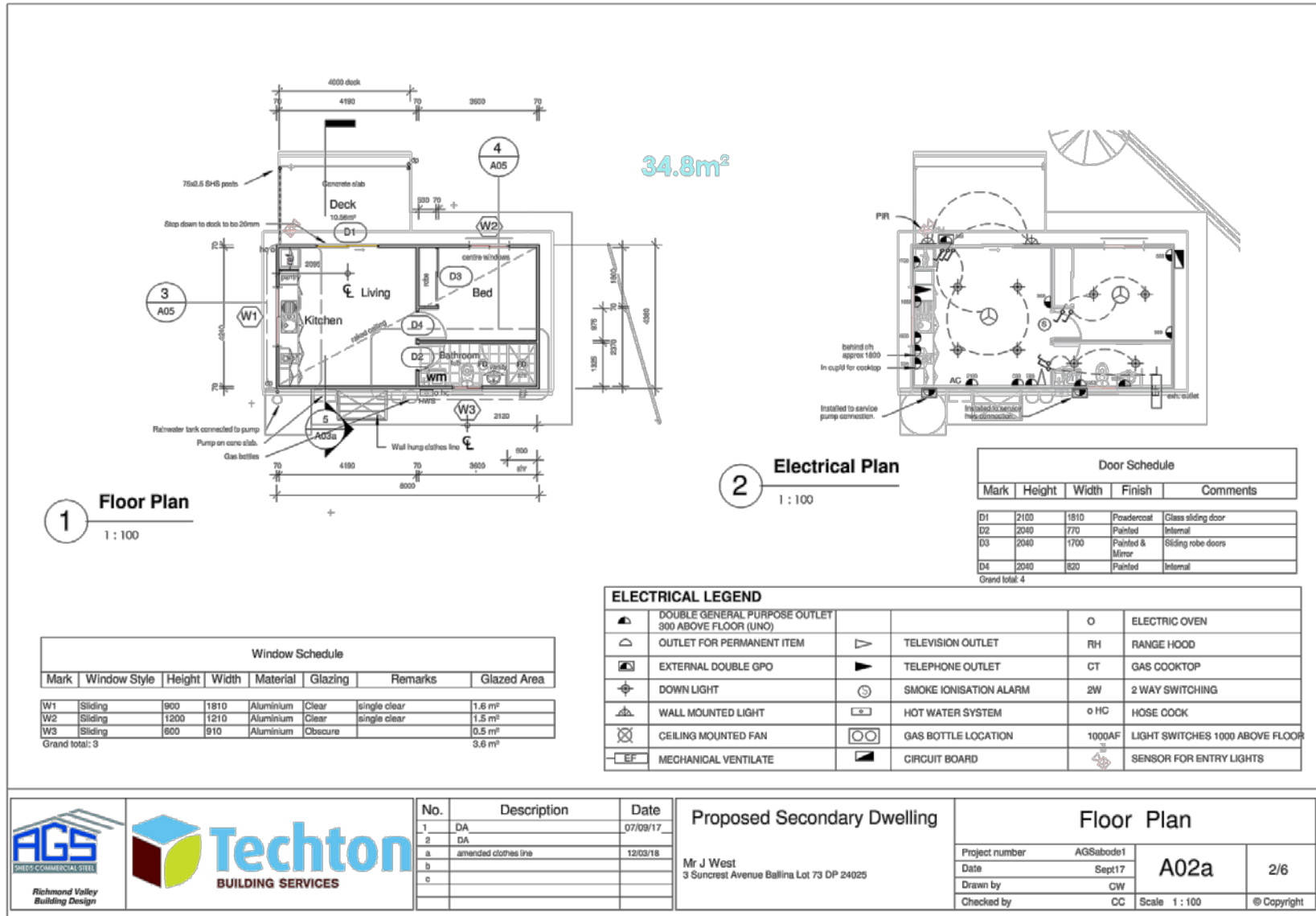
Also enclosed is a CD containing an electronic copy of the Review of Determination.

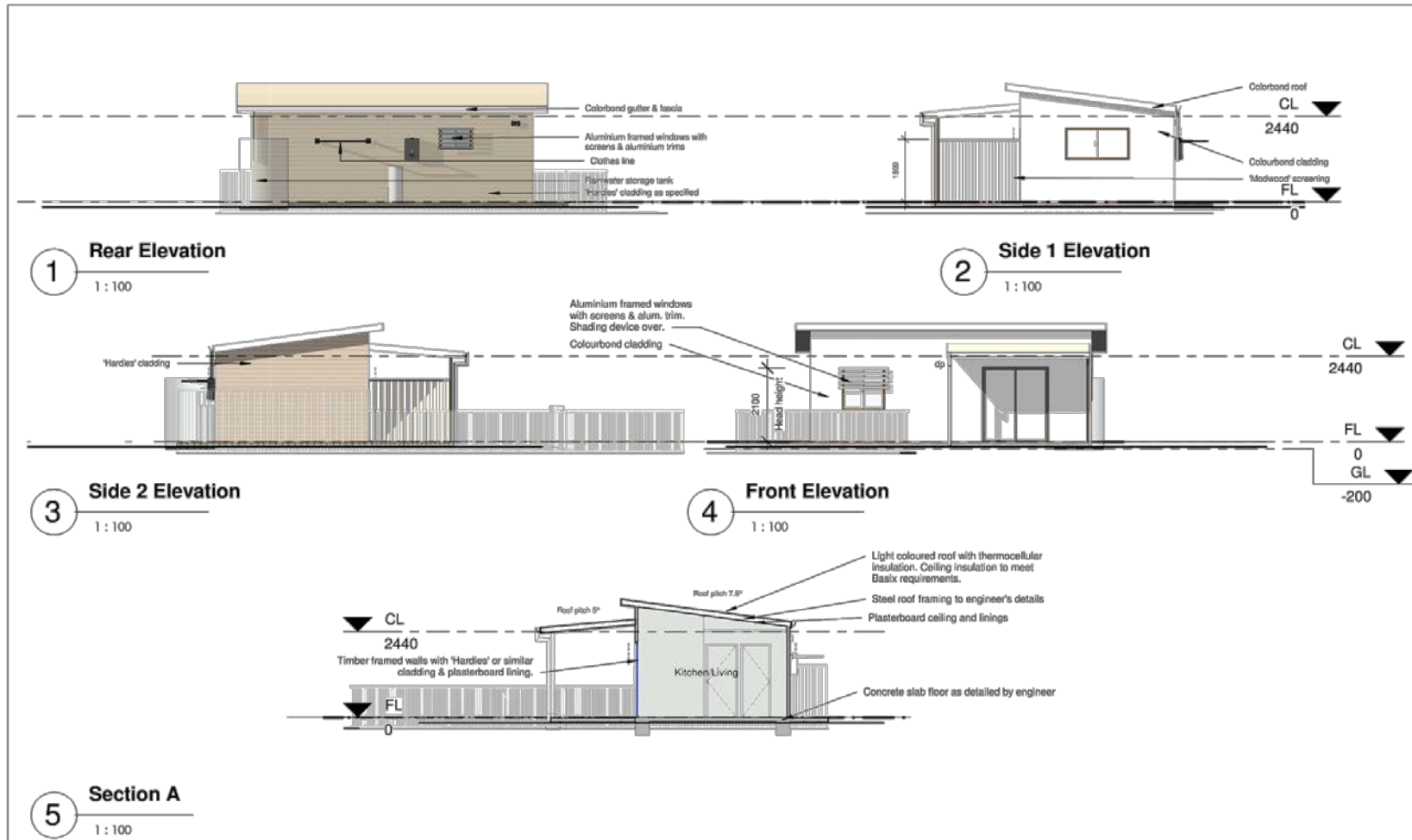
Should you have any questions, please do not hesitate contacting Adrian Zakaras of this office.

Yours sincerely,
NEWTON DENNY CHAPELLE

DAMIAN CHAPELLE
Town Planner, BTP CPP.

JOHN NEWTON B. Surv. M.I.S. Aust. TONY DENNY B. Surv. (Hone) M.I.S. Aust. DAMIAN CHAPELLE BTP CPP
Office: Suite 1, 31 Carrington Street, Lismore, Postal Address: PO Box 1138 Lismore NSW 2480
Phone (02) 6622 1011 Fax (02) 6622 4088 Email office@newtondennychapelle.com.au
Also at: Cassino Court, 100 Barker Street, Casino NSW 2470 Phone/Fax (02) 6662 5000
ABN 18 094 689 845





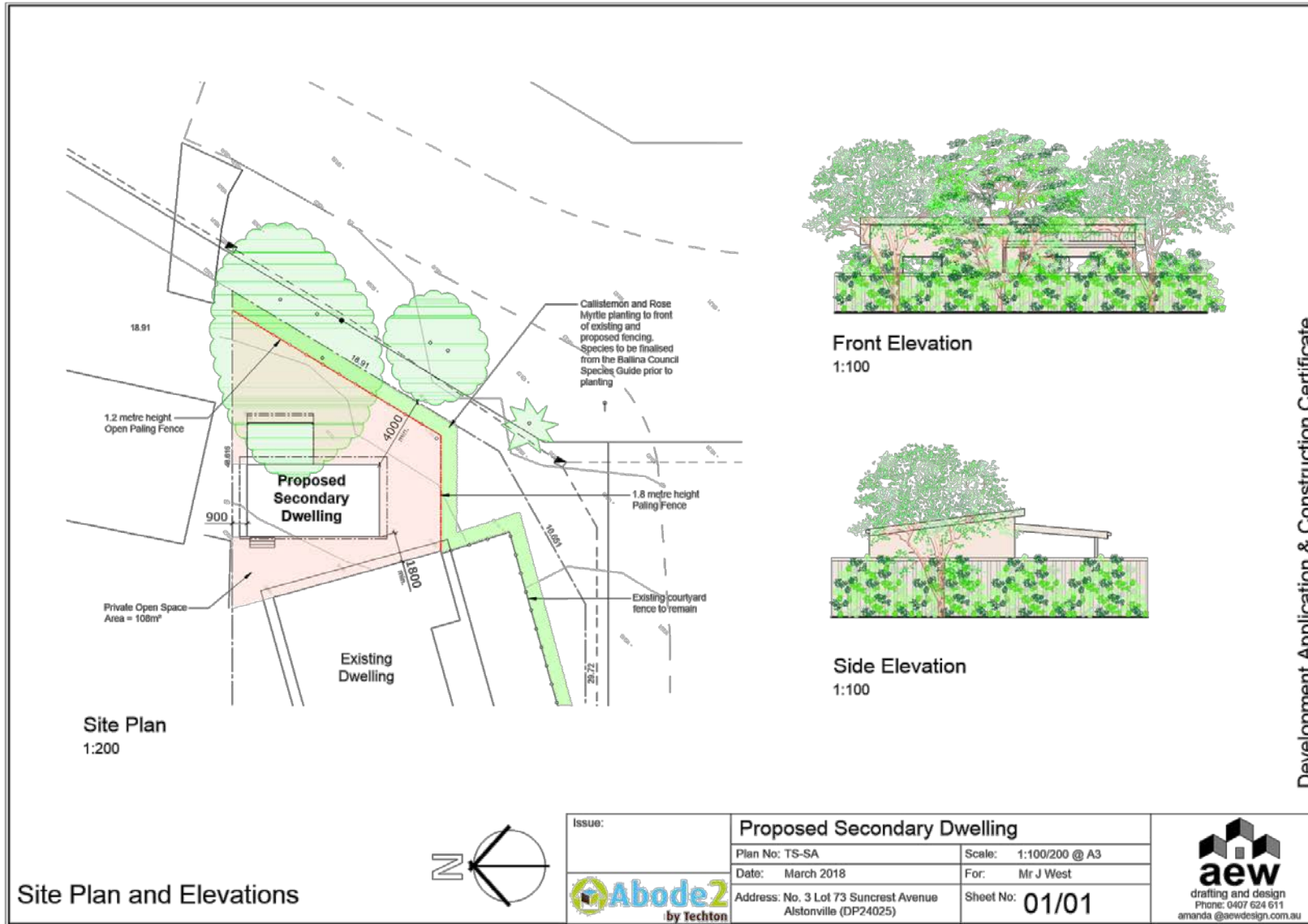
No.	Description	Date
1	DA	05/04/16
2		
3	amended clothes line	12/03/18
4	removed landscaping	14/03/18
5		

Proposed Secondary Dwelling

Mr J West
3 Suncrest Avenue Ballina Lot 73 DP 24025

Elevations & Section			
Project number	AGSAbode1	A03b	3/6
Date	Sept17		
Drawn by	CW	Scale 1 : 100	
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14/03/2018 09:27:04



Development Application & Construction Certificate



Date: 19th March 2018
Our Ref: 2018/010
Your Ref: DA2017/575

General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Dear Sir,

**Re: Section 8.2 Review of Determination Application No. 2017/575
3 Suncrest Avenue, Alstonville – Lot 73 DP 240225**

Newton Denny Chapelle have been instructed by the proponent, J West, to be the lodgement agent for a Review of Determination in respect to development application 2017/575 in accordance with Section 8.2 of the *Environmental Planning and Assessment Act 1979 (as amended)*.

Pursuant to section 8.2 of the Environmental Planning and Assessment Act 1979 (as amended) the applicant requests the Council to review the determination of the development application which was made under delegated authority by Ballina Shire Council staff on 22 November 2018 to refuse the application for the erection of a secondary dwelling at the above property.

Council's reasons for refusal and a response to these reasons is provided below.

- 1. The proposal will not provide adequate private open space to afford the expected level of amenity for the occupants.**

Comment: As illustrated on the attached plan, the proposal provides for approximately 108m² of private open space in addition to the proposed deck area that will have dimensions of 4m x 2.4m [9.6m²].

Private open space is defined under the Ballina Local Environmental Plan 2012 (BLEP) as "an area external to a building (including an area of land, terrace, balcony or deck) that is used for private outdoor purposes ancillary to the use of the building."

Clause 17 of Schedule 1 of *State Environmental Planning Policy (Affordable Rental Housing) 2009* provides controls regarding private open space required for a secondary dwelling. In this clause, principal private open space means an area that:

- (a) is directly accessible from, and adjacent to, a habitable room, other than a bedroom, and*
- (b) is more than 4 metres wide, and*
- (c) is not steeper than 1:50 gradient.*

JOHN NEWTON B. Surv. M.I.S. Aust. TONY DENNY B. Surv. (Hons). M.I.S. Aust. DAMIAN CHAPELLE BTP CPP
Office: Suite 1, 31 Carrington Street, Lismore, Postal Address: PO Box 1138 Lismore NSW 2480
Phone (02) 6622 1011 Fax (02) 6622 4088 Email office@newtondennychapelle.com.au
Also at: Cassino Court, 100 Barker Street, Casino NSW 2470 Phone/Fax (02) 6662 5000
ABN 18 094 689 845

This clause also requires *"a lot on which development for the purposes of a secondary dwelling is carried out must have more than 24 square metres of principal private open space"* and allows *"the principal private open space may be shared by both the principal dwelling and secondary dwelling and may be in the form of a balcony or deck."*

The proposal is compliant with Clause 17 of Schedule 1 as the proposal provides for greater than 24m² of private open space that is accessible from the living room of the proposed secondary dwelling. This area is also relatively flat and is more than 4 metres wide in most areas.

Element G of Chapter 4 of the Ballina Development Control Plan provides guidelines as to the requirements of private open space for dwellings. It is noted that these controls do not apply to secondary dwellings, however, for thoroughness, compliance with these controls is demonstrated below. These guidelines require each dwelling to be provided with a private open space area that is:

- Predominately flat;
- Located at ground level;
- Accessible directly from a living area; and
- Where practicable, located to the north or east of the dwelling.

The open space provided complies with the guidelines above as the land is flat, the open space is at ground level and is accessible from the living area and is located to the east of the proposed dwelling.

The proposed fencing and landscaping clearly delineates the area as private open space and a high level of privacy is afforded to the proposed secondary dwelling through the fencing and landscaping as illustrated on the attached plan prepared by AEW Drafting and Design. A majority of the proposed fencing (i.e. the 1.2 metre fence), is considered to be exempt development.

Given the above, it has been demonstrated that the proposed secondary dwelling has been afforded suitable private open space and the refusal on these grounds is not warranted. We note that neither the Affordable Housing SEPP or Council's DCP prohibit private open space for a secondary dwelling within the front setback.

2. A more suitable and reasonable location exists on the property that would provide greater amenity and less impact on the streetscape.

Comment: Lot 73 DP 240225 is located on the corner of Suncrest Avenue and Ashland Drive. Whilst there is technically another location for the proposed secondary dwelling, the area proposed has been chosen to limit the impact upon the existing dwelling. The area to the west of the existing dwelling is currently and proposed to be further utilised for recreation (i.e. swimming pool etc) by the residents/owners of the dwelling. It is also the area of their private space associated with the existing dwelling.

The proposed location of the secondary dwelling will utilise an area onsite that has not traditionally been used by the owners of the property (who have resided onsite for over 35 years).

The dwelling has been designed to complement the existing streetscape as follows:

- will be slab on ground construction (like most dwellings in the locality),
- has a skillion roof running high to low to better present to Suncrest Avenue,
- has a reverse skillion over the outdoor area to create diversity of roof form,

- has eaves running around the dwelling,
- The clothes line has been relocated to the western elevation as illustrated in the attached plan set, and
- is constructed of modern contemporary materials.

Landscaping within the front setback is also proposed to soften the appearance of the dwelling on the streetscape. This landscaping will extend to in front of the existing courtyard fence which will provide integration and a visual linkage between the existing and new fence thus maximising the street presentation.

The setback of the new fencing from the property boundary and in turn Suncrest Avenue and Ashland Street is significant which maintains the streetscape of the locality. Given the large verge of Suncrest Avenue, the proposed secondary dwelling is setback approximately 11 metres from the road formation of Suncrest Avenue.

3. It is not in the public interest.

Comment: Affordable housing in the form of secondary dwellings within the Ballina Shire is considered to be in the public interest as they have a positive impact on housing affordability and choice. Council has recently adopted to continue the waiving of development contributions (in certain circumstances) in regards to secondary dwellings to encourage affordable housing. The ability to live with family and friends in a self-contained living space has positive social benefits whilst secondary dwellings also provide a range of environmental and economic benefits.

The secondary dwelling achieves the desired outcomes for affordable housing within the Ballina Shire as it:

- Increases the range of residential development types available to accommodate the changing demographics of the shire;
- Increases affordable housing options for single persons or couples without children;
- Provides additional income to households and provides financial support for elderly residents to 'age in place';
- Utilises under occupied space; and
- Maintains site occupancy rates and makes use of existing infrastructure within an established residential area.

Conclusion

We seek Ballina Shire Council's review of the determination to approve the development application for DA 2017/575.

The amended plans have demonstrated that the proposal affords a high level of private open space to the proposed secondary dwelling and the proposed fence and landscaping treatment preserves the amenity of the streetscape.

We trust this information is sufficient for your purposes at this stage to permit the favourable determination of the Section 8.2 review. Should you require clarification of any aspect of the content of this letter or need any further information, please do not hesitate contacting Mr Adrian Zakaras of this office.

Yours sincerely,

NEWTON DENNY CHAPELLE



DAMIAN CHAPELLE
Town Planner BTP, CPP.