

Report of Development Application

Environmental Planning and Assessment Act 1979

Application Details	Application Number	DA22/0002	Applicant	S Gunning 9 Jumbuck Drive Gobbagombalin 2650
	Date of Lodgement	05/01/2022		
	Proposal	Use of existing building, retaining walls and associated works as a dwelling	Description of Mod.	N/A
	Development Cost	N/A (use of existing building)	Other Approvals	Nil
Site Details	Subject Land	49 Atherton Cres TATTON NSW 2650 Lot 14 DP 1040326	Owner	DDW Jayabal & JMGG Balasamy

Recommendation: The application be approved subject to conditions of consent.

Delegation to Determine Application:- Council - Under Section 1.10 if the Wagga Wagga Development Control Plan 2010, where the number of submissions in the form of objections received in response to an advertised or notified development application is 10 or more, the application will be referred to Council for determination.

☒ Section 4.55 Modification of Consent

☐ Section 4.15(1) Matters for consideration - general

Description	<p>This application seeks approval for the use of an existing building and associated retaining walls and earthworks for the purposes of a dwelling.</p> <p>The existing dwelling was originally consented to via DA20/0451. A Construction Certificate was issued by a Private Certifier (CC20/0502). The dwelling was then constructed not in accordance with the approved plans under the consent and the Construction Certificate as detailed below:</p> <ul style="list-style-type: none"> • Front setback – constructed 10.745m - approved 9.6m (1.145m further from front boundary) • Setback to southern boundary – constructed 1.125m - approved 1.455m (0.33m closer to boundary) • Dwelling constructed with overall height (top of parapet wall) 0.43m higher than originally approved <p>As a result of the unlawful works, the applicant was unable to complete the development and was unable to obtain an Occupation Certificate from the Private Certifier. There is no ability to retrospectively obtain consent for the unlawful works (such as a modification of the original consent) and, as a result, the applicant was unable to resolve the matter with the Private Certifier to allow for occupation.</p> <p>The applicant has now lodged a further Development Application with Council seeking approval for the use of the existing building as a dwelling. The application deals with the use of the building as a dwelling and does not retrospectively deal with any of the building issues that may have resulted from the previous consent.</p>
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Matters for consideration

GIS & System Check	Section 4.15(1) EP&A Act 1979	Issue	Legislative Provisions	Not Relevant	Satisfactory	Comment
◀ (b) (c) (e)		DA History		○ NR	● Sat	<p>DA20/0451 – Dwelling – approved 25/9/2020</p> <p>Related CC (CC20/0502) approved 10/11/2020</p> <p>DA20/0451.01 – Application to modify the consent – alteration to bathroom layout. – approved 6/4/2021</p> <p>22/11/2021 – Stop Work Order issued by Council upon being notified that the dwelling had not been sited or constructed in accordance with consent granted.</p>

LEP 2010 Zones	(a)(i) (b) (c) (e)	Zoning	LEP 2.2 Zoning of land to which Plan applies 2.3 Zone objectives and Land Use Table	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	Zoning of land (cl 2.2): R1 The development is permissible in the zone (cl. 2.3(1)) The development is consistent with the following objectives of the zone (cl. 2.3(2)): <ul style="list-style-type: none"> To provide for the housing needs of the community. To provide for a variety of housing types and densities.
Land Parcels & DP	(b) (c) (e)	Land Title Correct legal description and ownership Easements & Building Envelopes Open Deposited Plan (including 88b) Registered title (deferred commencement)		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	No easements or restrictions have been identified over the subject land that are of relevance to the proposed development.
LEP 2010 Listed item and Conservation	(a)(i) (a)(iii) (b) (c) (e)	Heritage Conservation Area Listed item <i>DCP 3 Heritage Conservation</i>		<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
			LEP 5.10 Heritage conservation	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	

LEP 2010 Urban release Area	(a)(i) (b) (c) (e)	Urban Release Area	LEP 6.2 Public utility infrastructure	● NR	○ Sat	
			LEP 6.3 Development control plan	● NR	○ Sat	
Natural resource Sensitivity	(a)(i) (a)(iii) (b) (c) (e)	Natural Resource Sensitivity <i>DCP 5.4 Environmentally sensitive land</i>	LEP 7.3 Biodiversity	○ NR	● Sat	A small section of the site adjacent to the rear boundary is identified as Biodiversity on the Terrestrial Biodiversity Map. A site inspection has revealed that there is no significant vegetation encroaching onto the rear of the subject lot and the development will no impact on this area. It is likely that the encroachment is a result of the lot being located immediately adjacent to the public reserve land which does contains areas of significant and protected vegetation. It is satisfied that the development will not have any adverse impact with respect to the matters identified in this clause.
			LEP 7.4 Vulnerable land	● NR	○ Sat	
			LEP 7.5 Riparian lands and waterways	● NR	○ Sat	
			LEP 7.6 Groundwater vulnerability	● NR	○ Sat	
Flooding (including MOFS)	(a)(i) (a)(iii) (b) (c) (e)	Flooding Overland flow		● NR	○ Sat	

		<i>DCP 4.2 Flooding</i>	LEP 5.21 Flood Planning	<input checked="" type="radio"/> <i>NR</i>	<input type="radio"/> <i>Sat</i>	
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Bushfire Prone Land	(a)(iii) (b) (c) (e)	Bushfire <i>DCP 4.1 Bushfire</i>		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	<p>The subject site is identified as a bush fire buffer zone with the threat being from the public reserve to the west. The predominant vegetation can be identified as a grassy woodland, the subject site is steeply sloped from west to east.</p> <p>The land to the north, south and east is considered to be managed land.</p> <p>An APZ of 24 metres is achievable from the dwelling wall to the western boundary (closest to the bush fire threat). The APZ will result in a BAL of 12.5.</p> <p>Performance Criteria as per PBP:</p> <ul style="list-style-type: none"> • APZ – As discussed above. The APZ will be conditioned. • Siting and design – The dwelling is well sited, below the ridgeline of the hill which is a public reserve (the mapped land). The dwelling has been constructed with a concrete slab, face brick with some cladding which is considered acceptable given the required APZ and resulting BAL12.5. • Construction Standards – Conditions of consent will ensure the building is constructed to relevant standards. • Access requirements – The site is accessed from Atherton Crescent a two-way sealed road.
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						<ul style="list-style-type: none"> • Water and Utilities – The site has acceptable access to all services and is within proximity to a hydrant within the street for firefighting purposes. • Landscaping – The APZ will be in accordance with the PBP with regards to landscaping. Conditions have been imposed. <p>The applicant has carried out a bushfire assessment that acknowledges they are aware of the issues.</p> <p>The proposal meets the aim and objectives of PBP 2018.</p>
Environmental - Contaminated Land & PFAS	(a)(i) (b) (c) (e)	Contaminated Land PFAS Study Area Site observations	SEPP55	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	There is no indication that the site has previously been occupied by any use that could have led to contamination of the site. Furthermore, the land is not identified on Councils register of contaminated sites.
Airport Constraints	(a)(i) (b) (c) (e)	Airport Constraints	LEP 7.11 Airspace operations	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
			LEP 7.12 Development in areas subject to aircraft noise	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	

Assets – Sewer and Stormwater	(b) (c) (e)	Services/Utilities (Septic area? Health referral) Sewer/stormwater infrastructure (Build over, encroachment, earthwork impacts) Stormwater issues – overland flow Electricity infrastructure (including setbacks to substations) (Infrastructure SEPP referral)		<input type="radio"/> <i>NR</i>	<input checked="" type="radio"/> <i>Sat</i>	All required services are available at the allotment.
Aerial Imagery (*Topographic – Hydrology)	(b) (c) (e)	Existing site conditions Buildings on site Retaining walls Cut and fill Deposited fill Boundary fencing and walls Private open space Vegetation *Proximity to natural waterways Other observations		<input type="radio"/> <i>NR</i>	<input checked="" type="radio"/> <i>Sat</i>	Site visit undertaken on: 20/1/2022 Existing dwelling, earthworks and retaining walls as depicted in submitted plans.

Aerial Imagery (*Topographic – Hydrology)	(b) (c) (e)	Off site observations Buildings Window locations Private open space Retaining walls Cut and fill Boundary fencing and walls Vegetation *Proximity to natural waterways Other observations		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	West Public reserve adjoining to the west. East Atherton Crescent. Residential properties on opposite (lower) side of Atherton Cres. North Undeveloped vacant land adjoining, 47 Atherton Cres. Double storey dwelling at 45 Atherton Cres. See discussion regarding potential privacy impacts later in report. South Undeveloped vacant land, 53 Atherton Cres. Double storey dwelling adjoining, 51 Atherton Cres. See discussion regarding potential privacy and solar impacts later in report.
	(a)(iii) (b) (c) (e)	Traffic, access and parking Manoeuvring Site Distance Issues Driveway grade Check Driveway location and grade <ul style="list-style-type: none"> Side entry pit 		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	Existing double garage with access via existing concrete driveway to Atherton Crescent.

		<ul style="list-style-type: none"> • Service lids/pits • Poles/turrets/substations • Street Trees <p>DCP 2.1 Vehicle access and movements 9.3.6 Front setbacks</p>				
	(a)(iii) (b) (c) (e)	Context, setting and streetscape DCP 9.2.2 Streetscape 9.2.3 Corner lots and secondary facades 9.2.4 Sloping Sites 9.3.1 Site area per dwelling 9.3.2 Site cover 9.3.6 Front setbacks 9.3.7 Side and rear setbacks 9.4.1 Building elements 9.4.2 Materials and finishes 9.4.4 Garages, carports, sheds and driveways 9.4.5 Site facilities		○ NR	● Sat	Refer to discussion under 9.2.2, 9.2.4 and 9.3.7 of DCP 2010 later in this report.
	(a)(iii) (b) (c) (e)	Public Domain Impact on street or adjoining public place Condition/Dilapidation Construction access		○ NR	● Sat	

		<i>DCP</i> <i>2.7 Development adjoining open space</i> <i>9.4.5 Site facilities</i>			
	(a)(iii) (b) (c) (e)	Safety, security and crime prevention <i>DCP 2.5 Safety and security</i>		○ <i>NR</i>	● <i>Sat</i>
	(a)(iii) (b) (c) (e)	Site and internal design <i>DCP</i> <i>9.2.1 Site layout</i> <i>9.4.1 Building elements</i> <i>9.4.4 Garages, carports, sheds and driveways</i>		○ <i>NR</i>	● <i>Sat</i>
	(a)(iii) (b) (c) (e)	Solar impact <i>DCP</i> <i>9.3.4 Solar access</i> <i>9.3.7 Side and rear setbacks</i>		○ <i>NR</i>	● <i>Sat</i>
	(a)(iii) (b) (c) (e)	Visual Privacy Private open space Boundary fencing and screening <i>DCP</i> <i>9.3.5 Private open space</i> <i>9.3.7 Side and rear setbacks</i> <i>9.4.3 Privacy</i>		○ <i>NR</i>	● <i>Sat</i>

See detailed discussion under Section 9.3.4 and 9.3.7 of DCP 2010.

Refer to discussion under 9.4.3 and 9.3.7 of DCP 2010 later in this report.

	(a)(i) (b) (c) (e)	Noise and Vibration		<input type="radio"/>	<input checked="" type="radio"/>	
		Acoustic privacy conflicts Impacting nearby landuses (Rail, Road, Infrastructure SEPP referrals)		NR	Sat	
	(a)(i) (b) (c) (e)	Air and microclimate		<input type="radio"/>	<input checked="" type="radio"/>	
		Impacting nearby landuses (Rail, Road, Infrastructure SEPP referrals)		NR	Sat	
	(a)(i) (a)(iii) (b) (c) (e)	Earthworks and Soils		<input type="radio"/>	<input checked="" type="radio"/>	
		Cut and fill Stability and erosion control Stormwater quality <i>DCP 9.4.6 Changing the landform – cut and fill</i>	LEP 7.1A Earthworks	<input type="radio"/>	<input checked="" type="radio"/>	
	(b) (c) (e)	Landscaping		<input checked="" type="radio"/>	<input type="radio"/>	
				NR	Sat	
	(b) (c) (e)	Waste		<input type="radio"/>	<input checked="" type="radio"/>	
		Construction waste management		NR	Sat	

		Asbestos				
	(a)(iii) (b) (c) (e)	Energy & Water <i>DCP</i> <i>9.3.7 Side and rear setbacks</i> <i>9.4.1 Building elements</i> <i>9.4.2 Materials and finishes</i>		<input type="radio"/> <i>NR</i>	<input checked="" type="radio"/> <i>Sat</i>	
	(a)(i) (b) (c) (e)	BASIX <i>(Use assessment checklist)</i>	BASIX SEPP 2004	<input checked="" type="radio"/> <i>NR</i>	<input type="radio"/> <i>Sat</i>	Use of building only.
	(b) (c) (e)	Other hazards Natural Technological		<input type="radio"/> <i>NR</i>	<input checked="" type="radio"/> <i>Sat</i>	
	(a)(iii) (b) (c) (e)	Flora and Fauna (on and off-site) Check for native veg requirements (R5 and RU4 Land) <i>DCP</i> <i>5.2 Preservation of trees</i> <i>5.3 Native Vegetation Cover</i>		<input type="radio"/> <i>NR</i>	<input checked="" type="radio"/> <i>Sat</i>	
			Section 5AA and Part 7 of the Biodiversity Conservation Act 2016 <i>Test for determining whether proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats)</i>	<input type="radio"/> <i>NR</i>	<input checked="" type="radio"/> <i>Sat</i>	Section 5AA and Part 7 of the Biodiversity Conservation Act 2016 (Test for determining whether proposed development or activity likely to significantly affect threatened species or ecological communities, or their habitats) There are a number of tests to determine whether the proposal triggers the NSW Biodiversity Offset Scheme under the NSW Biodiversity Conservation Act 2016 and results in the need for further assessments or offsets.

						<p>1. <i>Is the subject site identified as an area of outstanding biodiversity value on the biodiversity values map?</i></p> <p>No</p> <p>2. <i>Does the amount of native vegetation being removed exceed the biodiversity offsets scheme threshold.</i></p> <p>No native vegetation is proposed to be removed.</p> <p>3. <i>Test of Significance - the test to determine whether the proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats.</i></p> <p>Given that no native vegetation is being removed and in the absence of any recorded endangered flora or fauna on the site of the proposed development, it is not anticipated that the development will significantly affect threatened species or ecological communities or their habitats.</p> <p>Based on the above assessment it is satisfied that the development will not trigger the Biodiversity Offset Scheme.</p>
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	(b) (c) (e)	Social and economic impacts		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	(b) (c) (e)	Facilitation of Ecologically Sustainable Development		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	(a)(i) (b) (c) (e)	Other LEP Clauses	LEP 2.7 Demolition requires development consent	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
			LEP 4.3 Height of buildings	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
			LEP 7.9 Primacy of Zone B3 Commercial Core	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
			LEP 4.2A Erection of dwelling houses and dual occupancies on land in certain residential, rural and environmental protection zones	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
			LEP 5.16 Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	

			Other Clauses	● NR	○ Sat	
	(a)(i) (b) (c) (e)	Other EPIs	SEPP (Infrastructure) 2007	● NR	○ Sat	
			SEPP (Activation Precincts) 2020	● NR	○ Sat	
			Other SEPPs	● NR	○ Sat	
	(a)(ii) (b) (c) (e)	Draft EPIs		○ NR	● Sat	There are a number of state environmental planning policies currently subject to review, including some which have involved consultation and notification. None of these are applicable to this application.
	(a)(iii) (e)	Planning agreements		● NR	○ Sat	No related planning agreement has been entered into under section 7.4.
	(d) (e)	Submissions		○ NR	● Sat	A total of 13 submissions objecting to the development were received during the notification period. The content of the submissions has been summarised in the table in APPENDIX 3 at the end of this report. The table details how each matter raised in the submissions has been addressed.
	(e)	Section 68 Application made as part of DA	<i>Local Government Act 1993</i>	● NR	○ Sat	

	(e)	Section 7.11 Contributions (Local Infrastructure Contributions Plan 2019 - 2034)	<i>EP&A Act 1979</i>	● NR	○ Sat	
	(e)	Section 7.12 Contributions (Local Infrastructure Contributions Plan 2019 - 2034)	<i>EP&A Act 1979</i>	● NR	○ Sat	
	(e)	Section 64 sewer (Development Servicing Plan – Sewerage Services – July 2013)	<i>s64 LG Act 1993 & s306 Water Management Act 2000</i>	● NR	○ Sat	
	(e)	Section 64 stormwater (Development Servicing Plan – Stormwater – November 2007)	<i>s64 LG Act 1993 & s306 Water Management Act 2000</i>	● NR	○ Sat	
cl.	(a)(iv) (e)	The Regulation – Prescribed Matters <i>EP&A Regulation 2000</i>		○ NR	● Sat	
			cl.92(1)(b) - Demolition of a building, the provisions of AS 2601 <i>(ensure condition included requiring compliance with standard)</i>	● NR	○ Sat	
			cl.92A - Additional matters that consent authority must consider for Wagga Wagga	● NR	○ Sat	
			cl.94 require existing building to be brought into total or partial conformity with BCA <i>(check with Building Surveyor for development proposing the rebuilding, alteration,</i>	● NR	○ Sat	

			<i>enlargement or extension of an existing building)</i>			
	(a)(iv) (e)	The Regulation – Prescribed Conditions <i>(ensure conditions of consent included)</i>	EP&A Regulation 2000	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	(e)	Other regulation matters	EP&A Regulation 2000	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	(e)	Council Policies		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	Policy 046 - Processing Development Applications lodged by Councillors, staff and individuals of which a conflict of interest may arise, or on Council owned land. No declaration has been made that would require action under this policy.
	(e)	Other public interest matters		<input type="radio"/> NR	<input checked="" type="radio"/> Sat	It is considered that this application will not have a detrimental effect on the public interest.

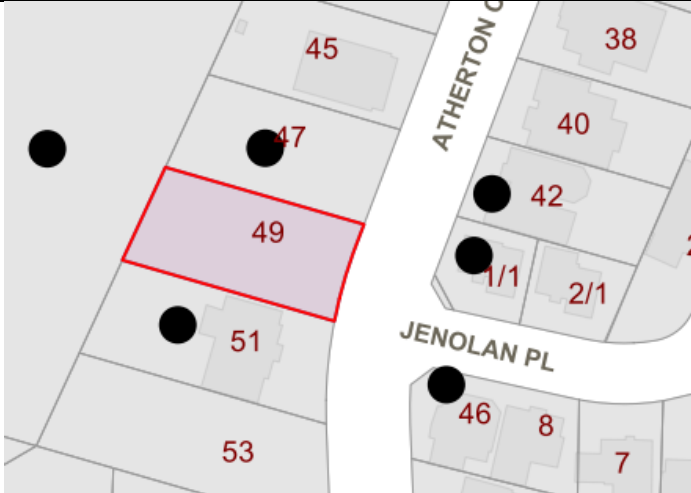
Development Control Plan 2010

Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979

DCP Section (Objectives and Controls)	Not Relevant	Satisfactory	Comment
(☒ section not relevant)			

☐ 1.10 Notification of a Development Application

Compliance with the advertising and notification procedures detailed in this section of the DCP	○ NR	● Sat	<p>The application has been notified in accordance with the notification provisions outlined in Section 1.10 of the WWDCP. Two storey dwellings are required to be notified (Type A notification – see description below) for a minimum period of 7 days. The diagram below details the extent of notification which complies with the requirements for Type A under the policy.</p> <p>Dates: 20/1/2022 – 3/2/2022</p> <p>Notification Type A: Immediately adjoining lots at the side and rear of the lot/s on which development is proposed. Plus properties directly opposite the frontage of the development site in the street or rear lane.</p>
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			 <p>Under this section of the DCP, where the number of submissions in the form of objections received in response to an advertised or notified development application is 10 or more, the application will be referred to Council for determination. A total of 13 submissions were received in objection to the development. The application will be referred to Council for determination.</p>
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☒ 1.11 Complying with the Wagga Wagga Development Control Plan 2010

☐ 2.1 Vehicle access and movements

O1 Ensure the safety and efficiency of urban and rural roads.	C3 Vehicles are to enter and leave in a forward direction unless it can be demonstrated that site conditions prevent it.	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
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O2 Limit new access points to arterial roads or ensure alternative access is utilised where practical.	C5 Access driveways are to be located in accordance with the relevant Australian Standard at the time of lodgement of an application.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	C6 Ensure adequate sight lines for proposed driveways.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	

2.2 Off-street parking

<p>O2 Ensure the provision of safe and efficient parking for all modes of transport to meet anticipated demands.</p> <p>O3 Minimise disruptions to existing levels of service and safety as a result of insufficient parking being provided on site.</p>	C1 Parking is to be provided in accordance with the table below. For uses not listed, similar land uses should be used as a guide in assessing car parking requirements.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
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2.3 Landscaping

2.5 Safety and security

O1 Incorporate crime prevention strategies in new developments.	C1 Use good site planning to clearly define public, semi-public and private areas.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
O2 Encourage active, pedestrian oriented environments where developments are designed	C2 Entries are to be clearly visible and identifiable from the street, and are to give the resident/occupier a sense of personal address and shelter. For non-residential uses, administration offices or showroom are to be located at the front of the building.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	

<i>to integrate into the public domain.</i> <i>O3 Maximise opportunities for natural surveillance of public spaces and building or site entrances.</i>				
	C3 Minimise blank walls along street frontages.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	C4 Avoid areas of potential concealment and 'blind' corners.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	C5 Provide lighting to external entry areas, driveways and car parks in accordance with the relevant Australian Standards. The lighting is to be designed and sited to minimise spill and potential nuisance to adjoining properties.	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
	C6 Planting and fencing is not to reduce the safety of users or compromise areas of natural surveillance.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	C7 Where a site provides a pedestrian through route the access path is to be clearly defined and sign posted, appropriately lit, and have satisfactory visibility.	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
	C8 Locate public toilets and rest areas to promote their use, and maximise public surveillance without creating visual intrusion.	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	

2.6 Erosion and sediment control

<i>O1 Protect the environment against soil erosion and loss of soil from construction sites.</i> <i>O2 Prevent the degradation of drainage systems, waterways and aquatic environments from</i>	Consistent with the objectives of this section of the DCP.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
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<p><i>deposition of soil and foreign material from construction sites.</i></p> <p><i>O3 Prevent flood damage of individual properties caused by sediment reducing the flow capacity of the stormwater drainage system.</i></p> <p><i>O4 Promote the implementation of erosion and sediment control measures by persons undertaking construction and earthworks activities to prevent the loss of soil from the site.</i></p>				
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2.7 Development adjoining open space

3 Heritage Conservation

4.1 Bushfire

<p><i>O1 Minimise risk to life, property and the environment from bush fire.</i></p>	<p>C1 Applications are to satisfy the relevant provisions of <i>Planning for Bush Fire Protection 2006</i> (or any later versions) and Australian Standard: 3959 Construction of Buildings in Bush Fire Prone Areas.</p>	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	See earlier discussion.
<p><i>O2 Ensure compliance with statutory obligations for development in bush fire prone areas.</i></p>	<p>C2 Where required, a clear separation is to be provided between buildings and bushfire hazards in the form of a fuel-reduced Asset Protection Zone (APZ). In all cases the APZ is to be located wholly</p>	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	See earlier discussion.

	within the land zoned Residential. Refer to the requirements of Planning for Bush Fire Protection 2006			
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☒ 4.2 Flooding

☒ 5.1 Development on ridges and prominent hills

☒ 5.2 Preservation of trees

☒ 5.3 Native Vegetation Cover

☐ 5.4 Environmentally sensitive land

<i>O1 To support the controls and objective for both the E2 and E4 Zone and environmentally sensitive land provisions in Clauses 7.3 to and inclusive of Clause 7.6 of the LEP.</i> <i>O2 Protect, maintain or improve the diversity of the native flora and fauna.</i> <i>O3 Protect the ecological processes necessary for their continued existence.</i> <i>O4 Encourage the recovery of threatened species, communities or populations and their habitats.</i>	C1 Development is to be consistent with any Conservation Management Plan prepared for land in the E2 zone.	● NR	○ Sat	
	Environmentally sensitive land – biodiversity (Outside “biocertified area”)	○ NR	● Sat	See comment under Clause 7.3 of LEP 2010
	Natural Resources Sensitivity - land	● NR	○ Sat	
	Natural Resources Sensitivity - waterways	● NR	○ Sat	
	Natural Resources Sensitivity - groundwater	● NR	○ Sat	









O5 Protect, maintain or improve the diversity and stability of landscapes.				
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6 Villages

8 Rural Development

9.1.5 R3 Zone – Staunton Estate

9.2.1 Site layout

<p>O1 Encourage site responsive development that is compatible with existing or desired built form.</p> <p>O2 Facilitate sustainable development through passive solar design.</p> <p>O3 Integrate landscaping and built form.</p> <p>O4 Encourage designs which respond to the physical context and characteristics of the particular site.</p> <p>O5 Encourage design that maximises the opportunity for passive surveillance of</p>	C1 Use site characteristics such as trees, changes in level or rock outcrops as features within the site layout.	 NR	 Sat	
	C2 Integrate access, landscaping and services in the site layout, avoiding underutilised spaces.	 NR	 Sat	
	C3 Orient living spaces to maximise solar access.	 NR	 Sat	
	C4 Facilitate natural cross ventilation within dwellings through the location of windows and doors.	 NR	 Sat	

<i>communal spaces from private living areas.</i>				
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9.2.2 Streetscape

<i>O1 Encourage compatibility with existing built form.</i> <i>O2 Encourage attractive streetscapes.</i> <i>O3 Ensure a strong street edge with good definition between the public and private domain.</i> <i>O4 In locations where front fences are an important feature of the established streetscape, ensure that new fences complement the character of the streetscape.</i>	C1 Provide a street address and front elevation that is consistent with the predominant scale, rhythm and form of the street.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	The development is consistent in form and scale with other development located on the western side of Atherton Crescent. Refer to further detailed discussion under Section 9.3.4 of DCP 2010 later in this assessment.
	C2 Front fence height forward of the building line is not to exceed 1200mm. However, a side boundary fence forward of the building line may be permitted to taper from the maximum permitted height (1.8 metres) at the building line down to the 1200mm maximum permitted height at the front boundary.	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
	C3 Fence height at and behind the building line is not to exceed 1800mm in height.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	C4 The majority of windows in dwelling wall which face the street should be windows of habitable rooms.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	

9.2.3 Corner lots and secondary facades

9.2.4 Sloping sites

<i>O1 Encourage site responsive development.</i>	C1 Use pier, split level or suspended floor designs on sloping sites.	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	The development proposes a 2 storey design at the front of the site extending back to a single storey that will meet the rising natural ground level. This is considered to be an appropriate design
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<p><i>O2 Encourage building design that is appropriate to the site conditions.</i></p> <p><i>O3 If an alternate design is possible, avoid development that would require cutting into the site.</i></p>				<p>solution for this sloping site and is entirely consistent with other development in the area. Refer to further detailed discussion under Section 9.3.4 of DCP 2010 later in this assessment.</p>
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9.3.1 Site area per dwelling













<p><i>O1 Ensure adequate area to provide separation between buildings, landscaping and private open space.</i></p>	<p>C1 The minimum area of any site in an R1 Zone on which development is carried out is to be in accordance with Table 9.3.1a.</p>	<p>○ NR</p>	<p>● Sat</p>	
<p><i>O2 Maintain development patterns that are compatible with the established character of established residential areas.</i></p>	<p>C2 The maximum site of any land in an R3 Zone on which development is carried out is to be in accordance with Table 9.3.1a.</p>	<p>● NR</p>	<p>○ Sat</p>	
<p><i>O3 Encourage maximum utilisation of land in the R3 Zone.</i></p>	<p>C3 On larger sites the site area per dwelling may be distributed to provide a range of lot sizes, and to respond to site conditions and context.</p>	<p>● NR</p>	<p>○ Sat</p>	

9.3.2 Site cover

<p><i>O1 Ensure that development sites are of sufficient size for dual occupancy, multi dwelling housing and residential flat developments.</i></p>	<p>C1 Maximum site cover is to be in accordance with Table 9.3.2a.</p>	<p>○ NR</p>	<p>● Sat</p>	
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<p><i>O2 Ensure adequate areas for access, parking, landscaping, useable garden and outdoor areas and natural runoff.</i></p> <p><i>O3 Retain compatibility with site context and avoid over development resulting from excessive site cover.</i></p>				
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9.3.4 Solar access

<p><i>O1 Ensure that the amenity of the occupants of dwellings is achieved by designing so that they receive adequate daylight and natural ventilation to habitable rooms and sunlight to private open space areas.</i></p> <p><i>O2 Ensure non-habitable rooms such as garages, laundries and bathrooms are positioned so that living areas, open space and habitable rooms receive maximum winter solar access and ventilation.</i></p> <p><i>O3 Maintain reasonable sunlight access to adjoining properties.</i></p>	C1 Locate garages, laundries and bathrooms to provide insulation from western sun.	 NR	 Sat	
	C2 Locate living areas and private open space to ensure orientation to the north and north east where possible.	 NR	 Sat	
	C3 Building design and site layout is to ensure adequate sunlight access to the internal living spaces and private open space of the proposed development.	 NR	 Sat	
	C4 Variations can be considered to C1, C2 and C3 where it can be demonstrated that site constraints, existing built form and good design practices limit the ability of the proposal to comply with these controls.	 NR	 Sat	
	C6 For any adjacent dwellings that have north facing living areas, maintain 3 hours sunlight access to the windows of the living areas between 9am and 3pm in mid-winter (June 22).	 NR	 Sat	SEE DETAILED DISCUSSION – APPENDIX 2
	C7 Variations to C6 above can be considered where it can be demonstrated that any form of reasonable	 NR	 Sat	SEE DETAILED DISCUSSION – APPENDIX 2

	development on the lot would cause non-compliance with C6. In this instance the impacts are to be minimised where possible.			
	C8 Proposed development design should take into account the location of any adjacent private open space and avoid excess overshadowing of that space.	○ NR	● Sat	The development will have no impact on the private open space area of the adjacent dwelling to the south which is located along the western façade of that dwelling.

□ 9.3.5 Private open space

<i>O1 Provide quality, useable private open space.</i> <i>O2 Ensure adequate areas for recreation and outdoor living.</i> <i>O3 Encourage good connection between dwellings and private open space.</i>	C1 At least 24m ² of private open space is required per dwelling. The private open space is to be directly accessible to the main living area and have a minimum dimension of 4m.	○ NR	● Sat	
	C2 Enclosure of approved private open space will be permitted, however at least one side of the approved private open space is to remain open. Roofing of approved private open space is permitted provided that BASIX requirements are not compromised.	● NR	○ Sat	
	C3 Use screening where necessary to ensure the privacy of private open space areas.	○ NR	● Sat	

□ 9.3.6 Front setbacks

<i>O1 Encourage uniform building lines that correspond to the built setbacks and patterns of neighbouring buildings.</i>	C1 Minimum front setbacks for residential development (site area smaller than 2000m ²): Primary frontage to a main or arterial road 9m # Primary street frontage (other roads) 6m # Secondary frontage (corner site) 3m	○ NR	● Sat	
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<p><i>O2 Encourage attractive residential streets and quality public domain.</i></p> <p><i>O3 Ensure that new developments complement the established built patterns</i></p> <p><i>O4 Maintain lines of sight for vehicle safety.</i></p>	# - For residential accommodation in R3 Zones a minimum setback of 3m may be considered.			
	C2 In the older areas of Wagga Wagga front setbacks are typically 7.5m. where the setback of existing adjoining buildings is greater than 6m increase the front setback to the setback of the adjoining building closest to the street boundary.	● NR	○ Sat	
	C3 The front elevation of a dwelling as visible from a public road shall include at least one change in plane of the dwelling wall (that encloses a habitable room) of a minimum of 500mm. The front of the garage shall not protrude in front of the face of the forward most wall of the dwelling enclosing a habitable room. In all instances, the garage shall not encroach on the front setback identified under C1. The forward most part of a building/dwelling wall shall not project forward of the building line. Refer to diagrams opposite.	○ NR	● Sat	
	<p>C4 Variations to the minimum setback can be considered in the following circumstances:</p> <ul style="list-style-type: none"> • Within Urban Release Areas where it can be demonstrated that the reduced setback will be generally consistent with the character of the area or likely or desired future character of the area consistent with those generally allowed under the SEPP (Exempt and Complying Code) 2008 or relevant Code at the time of lodgement of a development application. • Areas where it can be demonstrated that the setback is consistent with neighbouring properties. This situation is typical to older established areas of Central Wagga and large lot residential land. • Corner lots where it can be demonstrated that the reduced setback on either or both frontages provides a more attractive streetscape without impacting unreasonably on the amenity of the neighbouring 	● NR	○ Sat	

	properties. This is relevant to designs that address both frontages without boundary fencing.			
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9.3.7 Side and rear setbacks

<p><i>O1 Ensure adequate separation between buildings for landscaping, privacy, natural light and ventilation.</i></p> <p><i>O2 Ensure new development continues the rhythm or pattern of development in the locality.</i></p> <p><i>O3 Provide access for maintenance.</i></p> <p><i>O4 Building setbacks from the side and rear boundaries shall have careful regard to the impact of proposed structures on adjoining landowners.</i></p>	<p>C1 The rear setback for detached secondary dwellings is determined by site conditions and the setbacks of similar structures on adjoining and nearby sites.</p>	<p>● NR</p>	<p>○ Sat</p>	<p>Having regard to the assessment of privacy and solar access impacts under Sections 9.4.3 and 9.3.4 of the DCP 2010, it is satisfied that the proposed side setback under this application meet the objectives of this section of the DCP including object O4 relating to the impact of the building on adjoining properties.</p>
	<p>C2 Any point of a building must have a setback from the side boundary nearest to that point of at least:</p> <p>a) If the lot is in Zone R5 a setback of 2m, or</p> <p>b) If the lot is in Zone RU1, RU2 or RU4 a setback of 10m.</p>	<p>● NR</p>	<p>○ Sat</p>	

9.4.1 Building elements

<p><i>O1 Encourage quality and visually interesting buildings through the use of building elements.</i></p> <p><i>O2 Facilitate passive solar design principles.</i></p>	<p>C1 Use verandahs or pergolas to link internal and external living areas.</p>	<p>○ NR</p>	<p>● Sat</p>	
	<p>C2 Porches are to be integrated into the building design, and are to be used to create a sheltered and clearly visible entry.</p>	<p>○ NR</p>	<p>● Sat</p>	

	C3 Locate ancillary components such as aerials, satellite dishes, air conditioning units and the like so they are not visible from the street.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	C5 Secondary dwellings are to appear as a single occupancy from the public domain.	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	

9.4.2 Materials and finishes

<p><i>O1 Encourage the use of external materials and finishes that are suited to their location and support consistent quality streetscapes.</i></p> <p><i>O2 Encourage use of materials that have good thermal performance.</i></p> <p><i>O3 Promote the use of materials that are climate responsive and contribute to innovative building design.</i></p> <p><i>O4 Discourage corporate colours in building facades.</i></p>	C1 Select materials for their environmental performance, durability, detail and appearance to achieve quality appearance.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	C2 Avoid large unbroken expanses of any single material.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	C3 Minimise use of highly reflective or glossy materials on building exteriors.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	C4 Use contrasting materials in combination with design elements for features such as corner elements.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	

9.4.3 Privacy

<i>O1 Ensure privacy within new developments, and</i>	C1 Offset windows, balconies and private open space areas between adjoining dwellings.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	SEE DETAILED DISCUSSION – APPENDIX 1
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<p><i>avoid potential impacts to existing properties.</i></p> <p><i>O2 Ensure adequate acoustic privacy within dwellings.</i></p>	<p>C3 Screening is required where there is direct line of sight between neighbouring balconies or private open space areas, or between windows and door openings of habitable rooms.</p>	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	<p>SEE DETAILED DISCUSSION – APPENDIX 1</p>
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9.4.4 Garages, carports, sheds and driveways

<p><i>O1 Minimise the visual dominance of garages and driveways in the streetscape.</i></p> <p><i>O2 Where possible, locate garages so as to assist in protecting dwellings from early morning and late afternoon summer sun.</i></p>	<p>C1 Where garage doors form part of the facade of a dwelling fronting a public road</p> <ul style="list-style-type: none"> - the garage door is to be: <p>less than 50% of the width of the house*</p> <p>no wider than 6m #</p> <p>maximum 2.4m high #</p> <ul style="list-style-type: none"> - double garages are only permitted on lots 12.5m wide or greater* - single fronted tandem garages with one space behind the other are permitted <p>* - Variations to these controls may be considered for multi storey dwellings</p> <p># - Variations to these controls may be considered where the setback of the dwelling exceeds 10 metres.</p>	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	<p>C2 Garages, carports and sheds that open up to a laneway must be setback a minimum of 1m from the property boundary.</p>	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
	<p>C3 The floor area of an outbuilding on a residential lot must not be more than the following:</p> <p>(a) 8% of the site area if the lot has an area of less than 600m²,</p>	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	

	(b) 8% of the area or a maximum area of 175m ² , whichever is the lesser, if the lot has an area of at least 600m ² but less than 4000m ² , (c) Lots greater than 4000m ² will be considered on their merits.			
	C4 The total cumulative floor area of all outbuildings on any one property shall not exceed 8% of the site area or a maximum area of 300m ² , whichever is the lesser.	● NR	○ Sat	
	C5 Sheds may only be erected on residential land where a dwelling house is constructed or under construction and must be used for purposes ancillary to the residential use of the land.	● NR	○ Sat	
	C6 The height of an outbuilding or the alterations and additions to an existing outbuilding on a lot must not be more than 4.8m above ground level (existing). The building shall be single storey construction with a maximum roof pitch of 27 degrees or steeper to match the roof pitch of the house.	● NR	○ Sat	
	C7 An outbuilding shall not be located in front of the main building line. Variations may be considered for a balcony, deck, patio, pergola, terrace or verandah.	● NR	○ Sat	

9.4.5 Site facilities

<i>O1 Ensure site facilities are integrated into site design, and are convenient, visually discreet and easy to maintain.</i>	C3 Locate mail boxes so that they are clearly visible from the street or main entry. The plans are to include details of the location for letter boxes and any associated shelter structure.	○ NR	● Sat	
	C4 Garbage areas are to be easily accessible within the site, and are to have adequate lighting. The area	○ NR	● Sat	

<i>O2 Encourage an attractive residential setting and quality public domain.</i>	should be visually screened from adjoining developments and public spaces.			
<i>O3 Minimise duplication of trenches for services and the like.</i>	C5 Provide an external drying area in an area that receives reasonable solar access. The drying area is to be screened from the street or adjoining public spaces.	○ NR	● Sat	

9.4.6 Changing the landform – cut and fill

<i>O1 Encourage site responsive development and protect the amenity of adjoining land.</i>	C1 Excavation is not to exceed a maximum depth measured from ground level (existing) as follows: (a) If located no more than 1m from boundary – 1.5m, and (b) If located more than 1m but not more than 1.5m from any boundary – 2m, and (c) If located more than 1.5m from any boundary – 3m.	○ NR	● Sat	
<i>O2 Avoid excessive earthworks and minimise changes to the natural landform.</i>	Any depths and/or setbacks outside of the above may only be considered where there is no unreasonable or unacceptable impact on the amenity of the adjoining properties (direct overlooking and loss of privacy, overshadowing to areas of principal private open space and living areas).			
<i>O3 Encourage site layout and building design that is appropriate to the site conditions, including use of split levels, pier foundation or suspended floor house designs.</i>	C2 Fill is not to exceed: (a) 1.5m above ground level (existing), and (b) Must be contained by either: (i) A retaining wall or other form of structural support that does not extend more than 1.5m from the closest external wall of the dwelling house, or (ii) An unprotected sloping embankment or batter that does not extend from the dwelling house by more than 3m, in which case the toe of the embankment or batter must be more than 1m away from a side or rear boundary.	○ NR	● Sat	
<i>O4 Avoid adverse impacts on salinity by minimising the potential for surface water to enter the groundwater in recharge areas.</i>				
<i>O5 Avoid inappropriate fill being introduced to sites.</i>				

O6 Ensure adequate provision of drainage in relation to cut and fill practices.	Variations to the above setbacks can be considered where the applicant can demonstrate that there is an acceptable impact on the amenity of the adjoining properties (privacy, overshadowing).			
	C3 Retaining walls and support for earthworks that are more than 600mm above or below ground (existing) and within 1m of the boundary or more than 1m above the ground level in another location, must take the form of a retaining wall or other form of structural support that: (a) has been certified by a professional engineer, and (b) has adequate drainage lines connected to the existing stormwater drainage system for the site, and (c) does not result in any retaining wall or structural support with a total height measured vertically from the base of the retaining wall or structural support to its uppermost portion is: (i) more than 1.5m in height and within 1m from a side or rear boundary, or (ii) more than 3m in height at any other location.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	C4 Retaining walls are not to be located within the easement. The retaining wall shall be located outside the easements zone of influence.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	C5 No cut or fill to take place within easements.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	C6 To encourage site responsive development, excavation and retaining walls greater than that specified in C1 to C3 above can be considered where the design responds to the slope (or incorporates split levels). The additional retaining wall height is to facilitate basements, garages or the like at the lower level. The excavation is to be adequately retained and drained, in accordance with approved engineering details.	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	

	C7 Where achievable, any proposed dwelling is to be designed incorporating retaining walls and fill within the dwelling. Should the provision of retaining walls and fill not be achievable within a proposed dwelling due to demonstrated site constraints they should be located as close to the proposed dwelling as is possible, to minimise the impact on the amenity of the adjoining properties.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	C8 All retained material is to have a gradient of at least 5%.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	C9 Fill material is to be substantially from the site only. Imported fill material is not encouraged.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	C10 Cut and fill outside the building envelope is not to exceed 600mm.	<input checked="" type="radio"/> NR	<input type="radio"/> Sat	
	C11 Stormwater or surface water runoff is not to be redirected or concentrated onto adjoining properties so as to cause a nuisance. Adequate drainage is to be provided to divert water away from batters.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	
	C12 Earthworks should not be carried out within the angle of repose of adjoining property. Unless such works are supported by certified structural engineer reports and do not impact on neighbouring property.	<input type="radio"/> NR	<input checked="" type="radio"/> Sat	

14 Boorooma Urban Release Area

15 Lloyd Urban Release Area

16 Gobbagombalin Urban Release Area

APPENDIX 1 - PRIVACY ASSESSMENT

Privacy (Section 9.4.3 DCP 2010)

The development has been designed so that the main living areas (located on the upper floor) are oriented to the east, north and north east. These internal living areas have no privacy impact on the immediately adjoining dwelling located at 51 Atherton to the south.

Parts of the proposed development that potentially impact on the privacy of the dwelling at 51 Atherton Crescent are discussed below. These areas consist of the southern elevation of the dwelling and also the external east (front) facing balcony and the external west (rear) facing patio area.

Subject to specific works proposed to be undertaken (as discussed below), it is satisfied that the privacy impacts of the development have been appropriately addressed including the matters requiring consideration under the controls in Section 9.4.3 of the DCP 2010.

Southern Elevation Windows and Lower Verandah

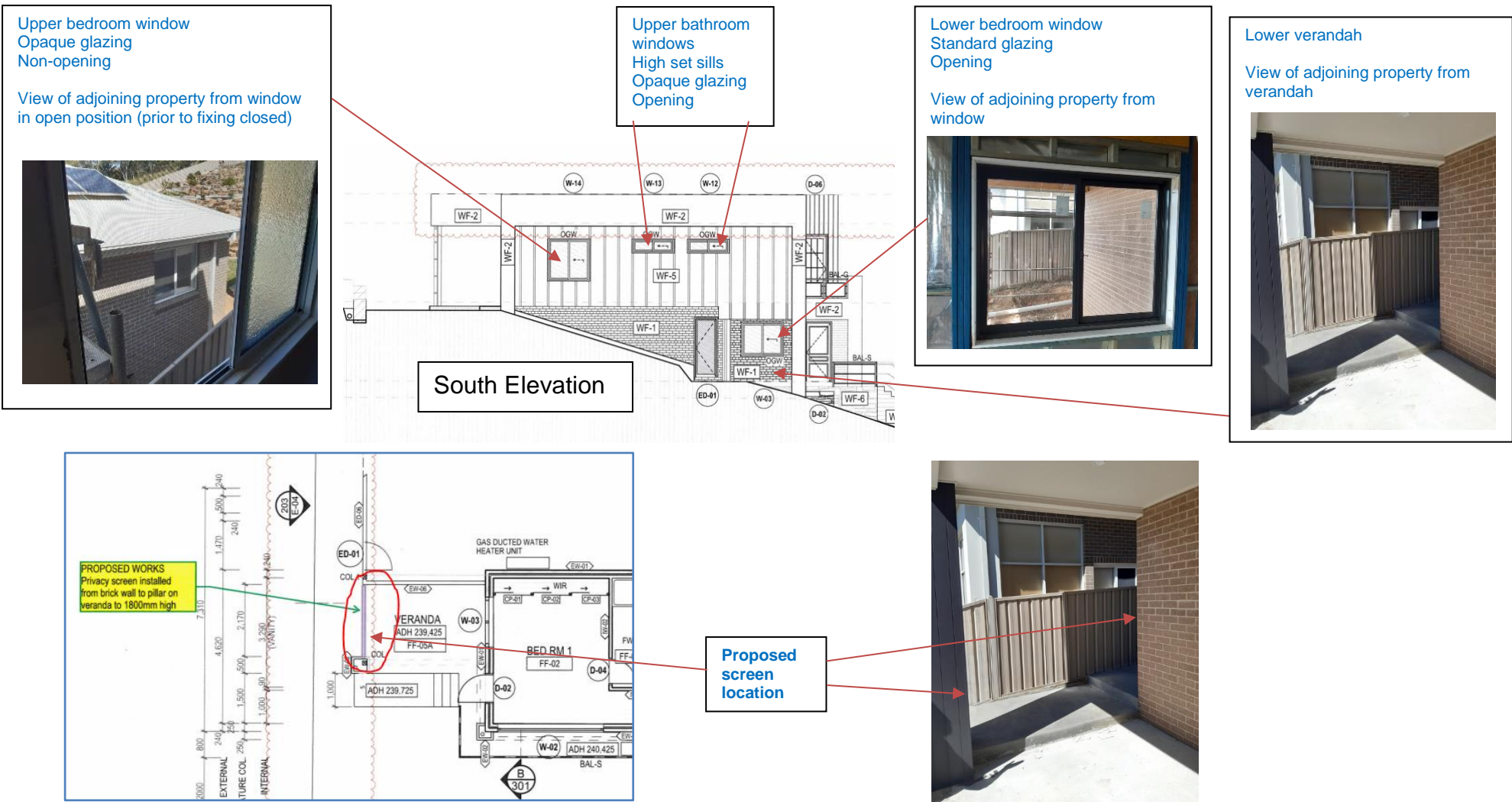
The southern section of the dwelling consists of 2 bedrooms, 2 bathrooms and a lower verandah. This results in 4 windows within the southern elevation facing 51 Atherton Crescent. The windows and the verandah are described in the diagram below (over page).

No privacy impact will result from the upper bedroom window which will be fixed closed and will consist of opaque glazing. Whilst the elevation indicates an openable window, the applicant has confirmed that the window will be fixed closed. This will be reinforced via a recommended condition of any consent prior to any occupation of the building.

No privacy concerns will result from the bathroom windows which will include high set sills and opaque glazing.

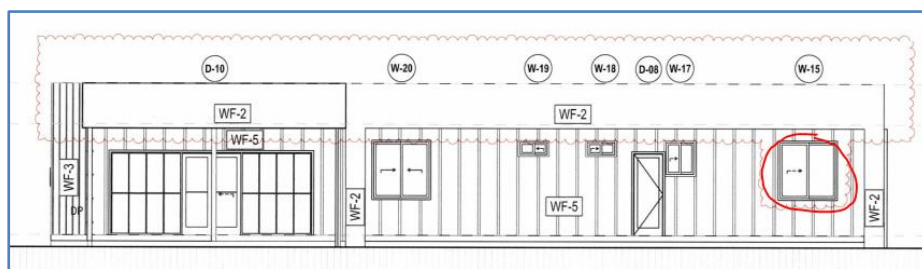
The lower floor bedroom results in a line of sight to the adjoining living room window at 51 Atherton Crescent as depicted below (over page). The applicant has proposed a 1.8 metre high screening structure along the southern edge of the proposed verandah area adjoining the lower bedroom (see diagram over page). Based on observations during the site inspection, it is recommended

that the screening structure have a finished height of 2 metres (minimum) measured from the finished floor level of the verandah to ensure the line of sight to the adjoining property window is eliminated. It is recommended that a condition of any consent require that this screen be in place within 2 months of the date of this consent. Subject to this recommended conditional requirement, it is satisfied that the window will not present an unreasonable privacy impact to the adjoining dwelling.



Western Elevation Bedroom Window

The west facing bedroom window will overlook part of the rear yard of the adjacent dwelling at 51 Atherton Crescent. This is a result of the slope of the land and the elevated nature of the rear yard. Whilst the window has been oriented away from the adjacent dwelling and its primary private outdoor area, there is no reasonable opportunity to prevent the sight line to the rear section of the adjoining yard as demonstrated in the photograph below. These types of sight lines are common within sloping areas and is not deemed to be unacceptable given these circumstances.

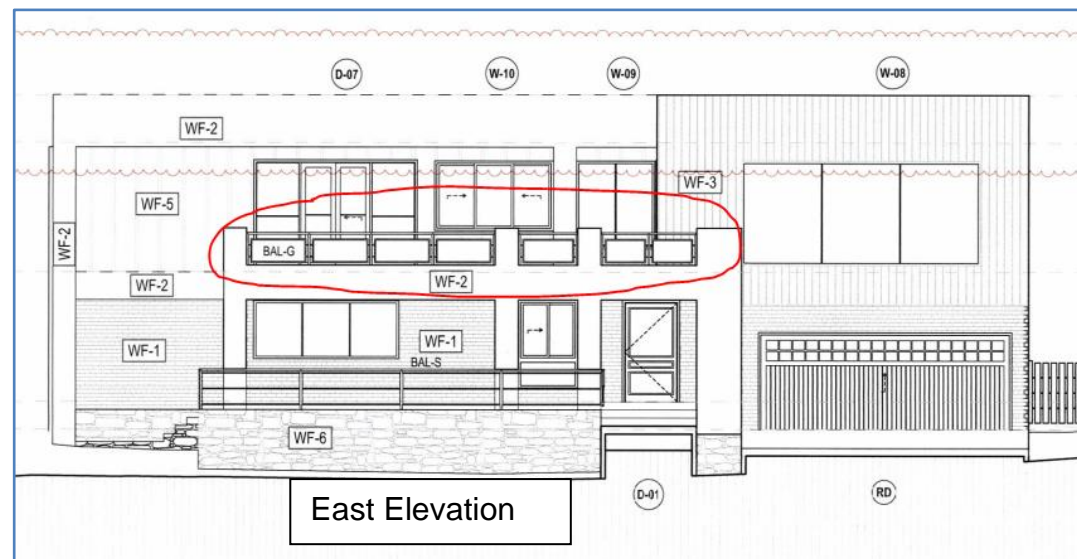
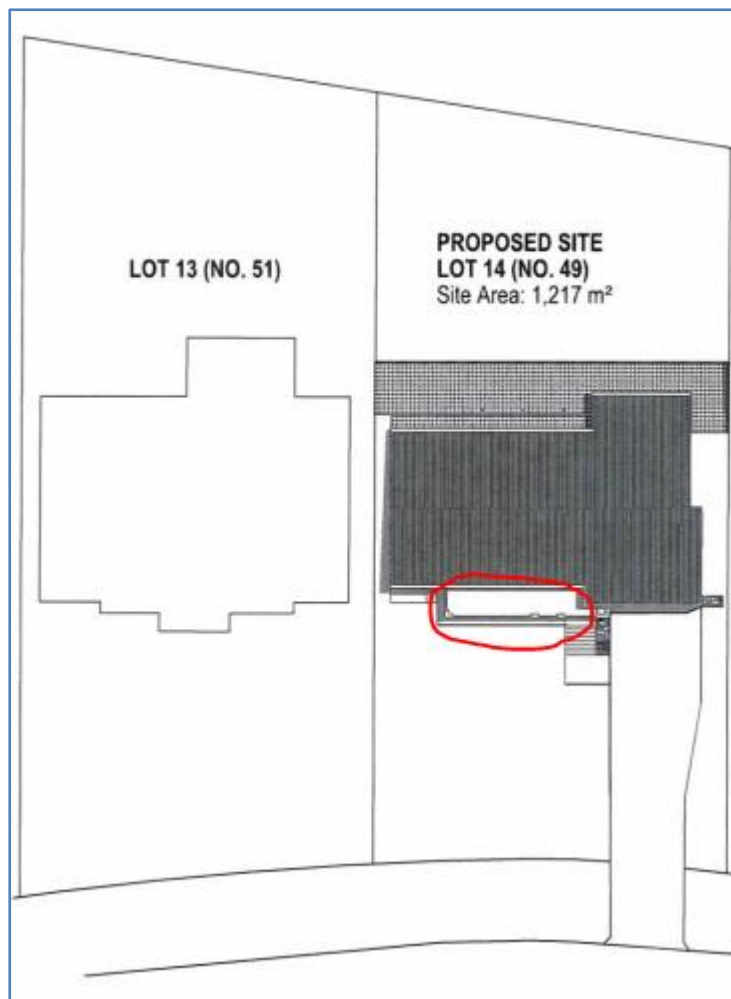


West Elevation



East Facing Balcony

The development proposes an elevated east facing balcony. As depicted below.

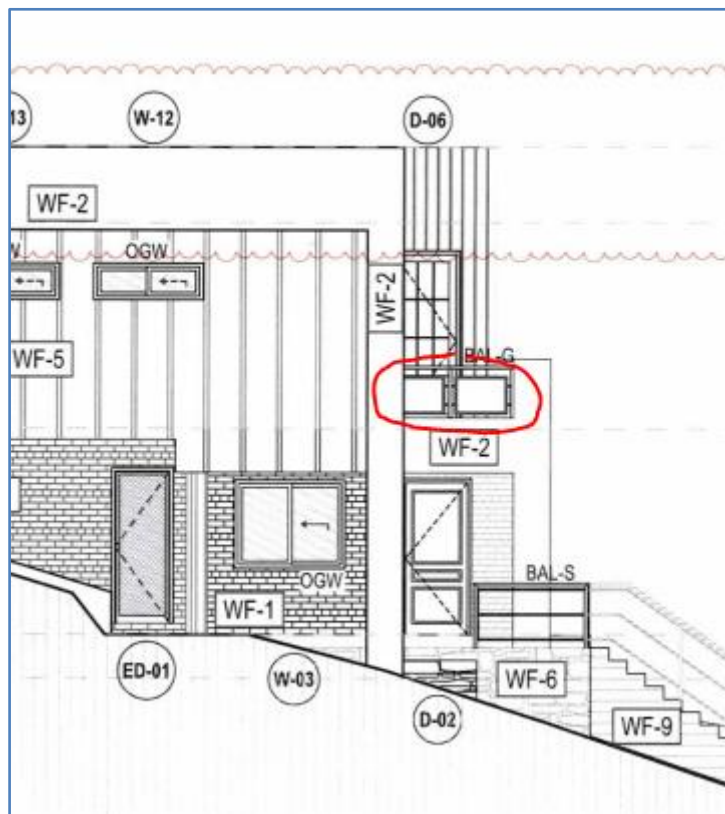


The outlook from the balcony will be predominantly across Atherton Crescent and to distant views spanning from the north east to the south east. The balcony will result in overlooking of the front yard/setback to the adjoining property at 51 Atherton Crescent as demonstrated in the following photograph. The photograph was taken whilst scaffolding was in place during construction however demonstrates the area of the front yard visible from the balcony. Whilst the adjoining property may use their front yard as a semi private outdoor area, it would be unreasonable to expect that this area be protected given its exposure to the street and also to the front of adjacent properties.

The photograph demonstrates that the balcony will have negligible impact on the front (east facing) living room windows of the adjacent dwelling (marked in blue).

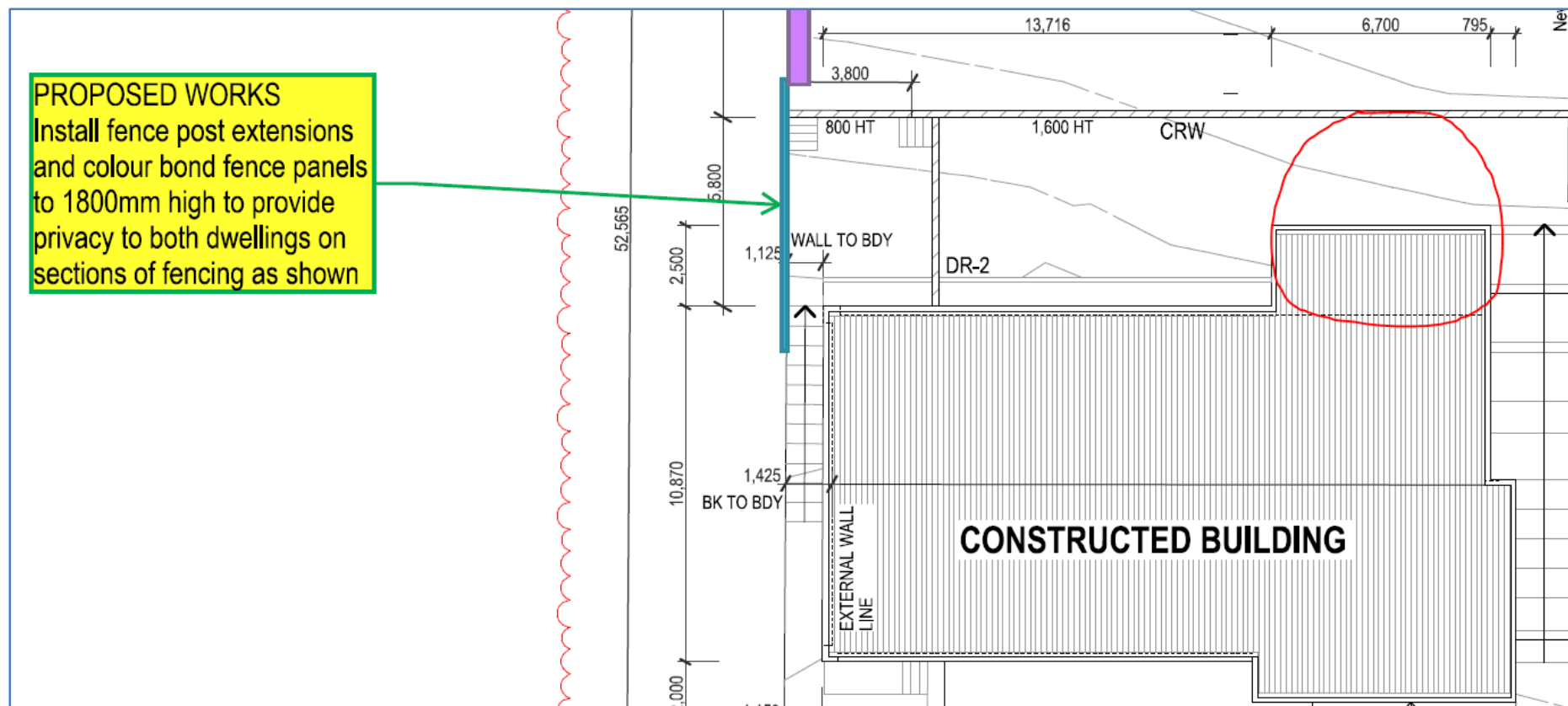


Despite this, the applicant has proposed to treat the southern end of the balcony with opaque glazing which will assist in limiting certain view lines from the balcony to the front of the adjoining property. No further restrictions are recommended with respect to this part of the development.



Rear West Facing Patio

The rear facing patio forms the primary outdoor private open space for the dwelling. It is located adjacent to the main living space within the dwelling at the north western corner of the building as depicted below.



Whilst this area is located approximately 15 metres from the southern boundary of the site, the natural rise in ground level results in this area being elevated leading to a sight line towards the main outdoor private open space for the adjoining property at 51 Atherton Crescent to the south. This sight line is illustrated in the photo below.



The applicant proposes to undertake works to increase the fence height as identified in the yellow plan notation above. Subject to these works being undertaken, it is satisfied that the site line and privacy concerns will be resolved with respect to the use of the patio area and the other areas immediately to the rear of the dwelling.

APPENDIX 2 – SOLAR ACCESS ASSESSMENT

Solar Access (Section 9.3.4 DCP 2010)

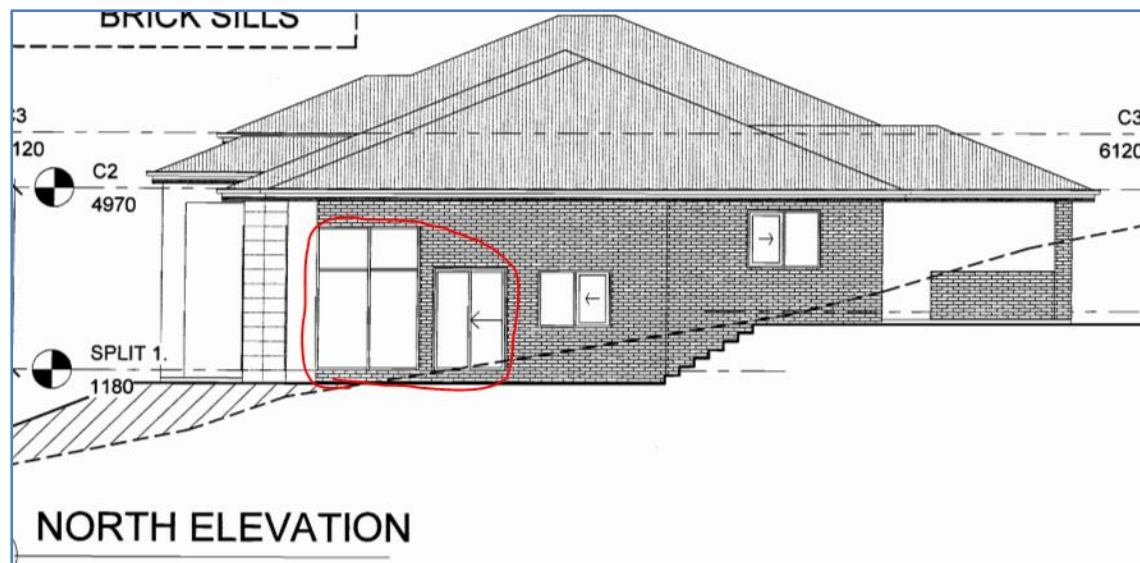
The application provides shadow diagrams illustrating the impact of the development on the property immediately to the south (51 Atherton Crescent). The property to the south contains a large (3m high) north facing window (and a sliding door) that services the primary living area of that dwelling (highlighted in red below) and a smaller north facing window that services a kitchen area that also forms part of the main living space. The dwelling also contains large extended height east facing windows that service the same main living area that are unaffected by the development (highlighted in blue below).



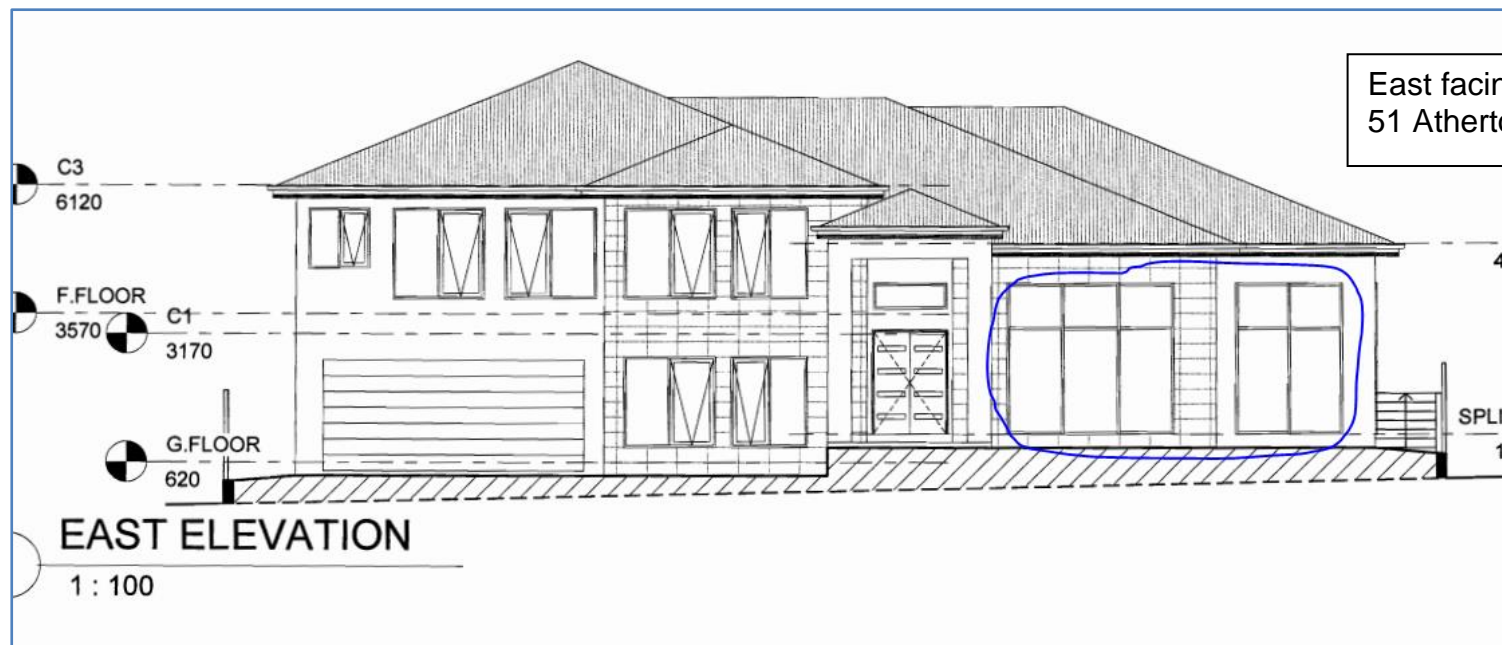
North and east facing living room windows - 51 Atherton Crescent



Boundary and setback between 51 and 49



North facing living room windows
51 Atherton Crescent



East facing living room windows
51 Atherton Crescent

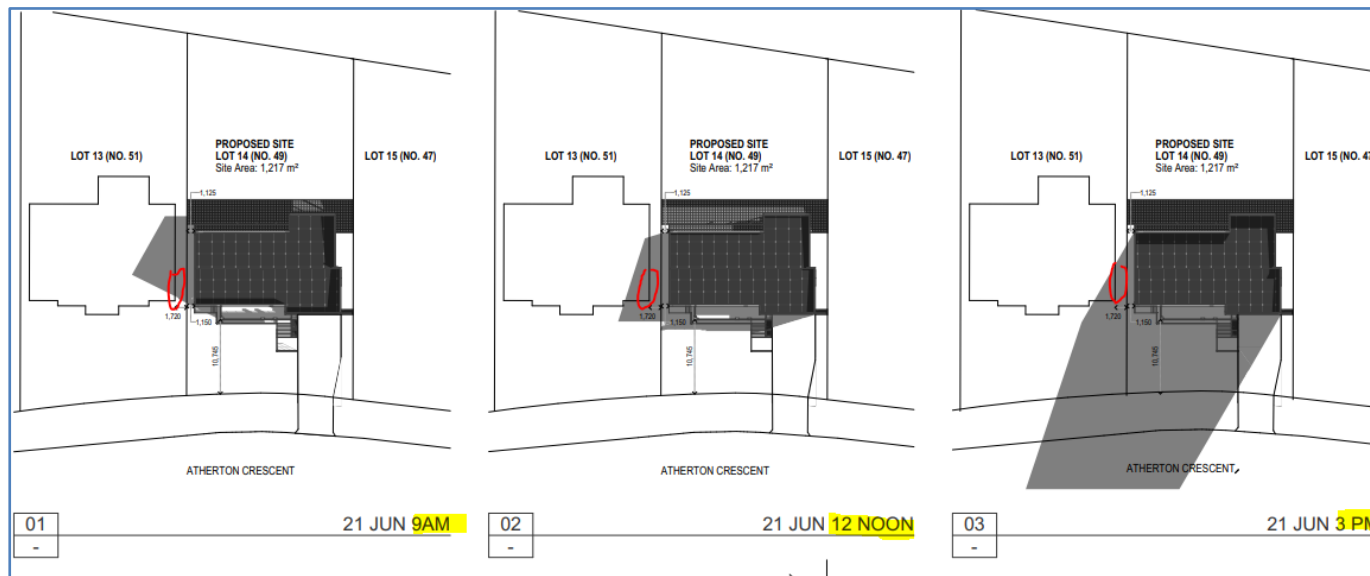
The relevant controls under Section 9.3.4 of the DCP 2010 are reproduced below:

C6 For any adjacent dwellings that have north facing living areas, maintain 3 hours sunlight access to the windows of the living areas between 9am and 3pm in mid-winter (June 22).

C7 Variations to C6 above can be considered where it can be demonstrated that any form of reasonable development on the lot would cause non-compliance with C6. In this instance the impacts are to be minimised where possible.

For clarity, it is important to note that the control is dealing with access to sunlight (direct light from the sun) as opposed to natural (or indirect) light from the sun. For example, a north facing window will have potential to receive direct sunlight as opposed to a south facing window which may only receive access to natural light.

The shadow diagrams provided in the application for 21 June (winter solstice) identify that the proposed dwelling will result in overshadowing of the north facing living room at all times between 9am and 3pm. The development is therefore non-compliant with this control. The shadow diagrams are reproduced below and the approximate location of the affected window is marked on the diagrams for reference.



Despite a non-compliance with Control C6, the DCP does allow under Control C7 for a variation to the provisions of Control C6 to be considered where it can be demonstrated that any form of “reasonable development” would result in a non-compliance. The question of whether the development is a form or “reasonable development” is discussed below.

The site is a steeply sloping allotment rising 13 metres from Atherton Crescent to the rear of the property. This is entirely characteristic of all of the allotments on the western side of this section of Atherton Crescent extending from numbers 16 to 61 Atherton Crescent (totalling 22 allotments). Of these 22 properties, there are 16 existing dwellings of which 15 can be described as having double storey frontages facing Atherton Crescent extending through to single storey upper floors to the rear. This is predominantly a result of the steeply sloping nature of all allotments. Opportunity to construct single storey dwellings on these lots is unrealistic given the likely footprint of such a development and the extensive cut and retention that would result. To minimise this impact dwellings in this area are designed as 2 storey to limit the footprint over the sloping land and to allow the upper floor to extend back to the natural ground level. This has resulted in a series of double storey facades in this area that are of comparable scale and have relatively consistent setbacks and is deemed to be an entirely reasonable form of development given the circumstances of this area. Some examples of dwellings in this area are shown below which are not dissimilar to the subject dwelling form at 49 Atherton Crescent.



31 Atherton



33 Atherton



55 Atherton



59 Atherton



51 Atherton 49 Atherton (subject development)

As the allotments are oriented east-west in this area, the 2 storey component of a development will impose varying degrees of overshadowing impact on the property immediately to the south. Most properties combat this by ensuring that their primary solar receptors (windows) are oriented eastwards which coincides with the expansive and uninterrupted easterly aspect and views. Where developments also propose additional north facing solar receptors, these receptors are at risk of impact from existing or future adjacent developments. This is reflected in the design of 51 Atherton Crescent that incorporates large expansive east facing windows that provide substantial natural light throughout the day and also uninterrupted morning sunlight. The design also includes north facing windows that have enjoyed unobstructed sunlight since its occupation of the dwelling in 2011 through until the construction of the dwelling at number 49 in 2021.

The dwelling (number 49) assessed under this application is consistent in scale and form with respect to the existing dwellings in this part of Atherton Crescent. Whilst it proposes a differing roof form to the adjacent hipped roof at number 51 and a number of other dwellings in the area, the proposed parapet type roof line can be identified on other properties nearby including numbers 55 and 59 Atherton Crescent (see photos above). The overall height of building does rise above the northern façade of the dwelling at number 51 (as shown in the following diagram over page), however this is a result of the lower split level design on the northern side of number 51 (see elevation plans and photos above) and also the fact that the lots gradually increasing in height to the north in this location as Atherton Crescent rises in this direction. Overall, however, the maximum height of the dwelling at number 49 is lower than the maximum roof height of number 51 (approximately 1 metre lower - see diagram over page).

The following diagram (over page) identifies the relationship of the eastern elevations of the 2 dwellings (numbers 49 and 51 Atherton Crescent). The diagram provides an indicative shadowline cast by the dwelling over 51 Atherton Crescent at 12 noon on 21 June (winter solstice). The diagram shows the impact of the shadowline in relation to the 3 metre high north facing window at number 51. The diagram also shows how the shadowline would be affected with a variation to the height of the 2 storey façade such as the removal of the parapet roof line from the design. As can be seen, any substantial variation to the 2 storey façade would unlikely result in any significant increase in sunlight access to the north facing window.

As demonstrated by the third shadowline in the diagram, to achieve reasonable sunlight access to the north facing window, the building would need to be of single storey design or would require a substantial redesign to incorporate a single storey component along the southern section of the site.

Having regard to provisions of Control C7 and all of the matters raised in the discussion above, it is considered that the 2 storey dwelling represents a reasonable design response having regard to the characteristics of the development site and the following matters:

- The development is consistent in character with the design response selected for a number of other existing dwellings constructed on similar allotment types within this section of Atherton Crescent.
- Minor variations to the height of the building are unlikely to result in improved direct sunlight access to the north facing living room windows of number 51 Atherton Crescent.
- Reasonable direct sunlight access to number 51 would only be achieved through single storey construction, however this type of construction is unrealistic given the likely impacts that would result from the nature of the site and the required earthworks (cut, fill and retention).
- Minor variations to the height of the building are unlikely to result in any improvement on access to natural light (as opposed to direct sunlight) for number 51 along the northern boundary of that property.
- The adjoining property (number 51) will retain excellent access to natural light (and morning sunlight) as a result of its design incorporating large extended height and unobstructed east facing windows.

Subsequent to the provisions of Control C7, it is recommended that a variation to the provisions of Control C6 be supported.

21 June - 12 Noon
 Wagga Wagga
 Latitude 35 degrees 07'
 Altitude 31 degrees

Shadowline as proposed

Approx. shadowline with parapet removed

Indicative shadowline for single storey development

Approx. max roof height
 51 Atherton Cres
 248.200

Boundary

247.230 Parapet

246.200 Roof

243.400 Upper Floor

240.600 Ground Floor

240.000 Garage

240.820
 Floor Level
 Adjoining Dwelling

3m
 high
 window

3.79 metres

1.72 metres 1.16 metres

EASTERN ELEVATION

APPENDIX 3 – ASSESSMENT OF SUBMISSIONS

Submissions

A total of 13 submissions objecting to the development were received during the notification period. The content of the submissions has been summarised in the table below. The table details how each matter raised in the submissions has been addressed.

Submission Summary	Comment
Detrimental solar impact on adjoining property to the south including non compliance with related DCP provisions.	Refer to discussion in report.
Inaccurate solar diagrams	The submission claims that the submitted solar diagrams are inaccurate. The submission provides alternate solar diagrams to demonstrate this point. Whilst there are difference between the diagrams, it is satisfied that both sets of diagrams adequately identify the effect of the development with regard to solar impact on the adjoining property to the south. Refer to discussion in report.
Privacy impacts on adjoining property/dwelling to the south	Refer to discussion in report.
Privacy impacts on existing dwelling located to the north and other dwellings in the area.	The slope of the site will result in windows along the northern elevation of the dwelling being above the proposed fence height resulting in sightlines to the north. A site inspection has identified that the existing dwelling to the north (45 Atherton) is located approximately 30 metres away from the development site. Number 45 also has elevated windows above its fence line which are also a result of the sloping nature of the land and will also result in sightlines to the south. The development will not impact on these windows as none of them service the main living area of that dwelling. It is also satisfied that there will be no sightline impacts on the rear outdoor private open space area. Any future

	<p>development of the vacant allotment (number 47) will negate any privacy concern from the development.</p> <p>The development will not result in privacy impacts on any other dwellings within the area.</p>
Failure to comply with DCP	All relevant provisions and controls under the DCP 2010 have been addressed in this assessment report.
Inappropriate side setbacks	See comment under Section 9.3.7 of DCP 2010. Proposed side setback are considered satisfactory having regard to the assessment in this report of associated impacts including privacy and solar access.
Failure to notify this and previous development applications	<p>This application has been notified in accordance with Council policy contained in Section 1.10 of the DCP 2010 – see earlier comments.</p> <p>Notification of other applications is not a relevant matter for consideration in relation to this application.</p>
Building not constructed in accordance with original approval (including setbacks and height) and failure to identify incorrect siting of dwelling	Not a relevant matter for consideration in relation to the assessment of the development proposed under this application.
Building height	Impacts of building height with respect to privacy and solar impacts have been addressed in this report.
Bulk, scale and streetscape (including impact of building height)	Refer to discussion in report.
Property valuation	Property values are not a relevant matter for consideration. Impacts that may affect property values have been considered addressed in this report.

Insufficient time to prepare submission	This matter has been addressed allowing for the resident to submit their submission for consideration as part of this assessment.
Determination of this application should be made at a Council meeting and not delegation.	The application will be determined by Council in accordance with the provisions of the DCP (see earlier comments under Section 1.10 of the DCP 2010).