

Report to the Future Melbourne (Planning) Committee

Agenda item 6.4

Planning Permit Application: TP-2019-665
131-133 Domain Road, South Yarra

8 December 2020

Presenter: Evan Counsel, Director Planning and Building

Purpose and background

1. The purpose of this report is to advise the Future Melbourne Committee of a planning permit application seeking approval to carry out partial demolition, external alterations, external painting and building works to construct a building at 131-133 Domain Road, South Yarra (Refer to Attachment 2, Locality Plan).
2. The applicant is Planning & Property Partners Pty Ltd acting on behalf of Di & Peter Pausewang. The owner is 131 Domain Properties Pty Ltd. The architect is Ilario G. Cortese Architects Pty Ltd.
3. The land is located within the General Residential Zone (GRZ5) and is affected by the Heritage Overlay Schedule 6 (HO6) and the Design and Development Overlay Schedules 15 – Area 1 (DDO15-A1). A planning permit is not required under the GRZ5 in this instance as the site is between 300-500sqm, therefore clause 54 (ResCode) does not apply. A planning permit is required under the provisions of the HO and DDO15.
4. The proposal seeks permission for rear demolition to allow for the construction of a three storey addition plus basement to be used as a single dwelling.
5. Public notice of the proposal has been undertaken and a total of 23 objections have been received.

Key issues

6. Key issues for consideration are heritage, urban design, the requirements of DDO15, and the matters outlined in the objections.
7. The proposed development is considered to be consistent with the relevant built environment and heritage policies that apply to the land.
8. The demolition proposed to the contributory heritage place is acceptable in this instance as the works do not impact the main buildings, their notable features, and will not adversely impact the heritage character of the place.
9. The proposed addition respects the existing contemporary and historic built forms typical in this area, which include larger scale buildings, without dominating the retained heritage buildings. The proposed development complies with the 12 metre height control as stipulated by DDO15 and the additions are not visible from the Royal Botanic Gardens.

Recommendation from management

10. That the Future Melbourne Committee resolves to issue a Notice of Decision to Grant a Permit subject to the conditions outlined in the Delegate Report (refer Attachment 4 of the report from management).

Attachments:

1. Supporting attachment (Page 2 of 43)
2. Locality Plan (Page 3 of 43)
3. Plans (Page 4 of 43)
4. Delegate Report (Page 12 of 43)

Supporting Attachment

Legal

1. Division 1 of Part 4 of the *Planning and Environment Act 1987 (Act)* sets out the requirements in relation to applications for permits pursuant to the relevant planning scheme.
2. As objections have been received, sections 64 and 65 of the Act provide that the responsible authority must give the applicant and each objector notice in the prescribed form of its decision to either grant a permit or refuse to grant a permit. The responsible authority must not issue a permit to the applicant until the end of the period in which an objector may apply to the VCAT for a review of the decision or, if an application for review is made, until the application is determined by the VCAT.

Finance

3. There are no direct financial issues arising from the recommendations contained in this report.

Conflict of interest

4. No member of Council staff or other person engaged under a contract, involved in advising on or preparing this report has declared a material or general conflict of interest in relation to the matter of the report.

Health and Safety

5. Relevant planning considerations such as traffic, waste management and potential amenity impacts that could impact on health and safety have been considered within the planning permit application and assessment process.

Stakeholder consultation

6. Public notice of the application has been undertaken to surrounding owners and occupiers, pursuant to Section 52 and 57B of the Act.

Relation to Council policy

7. Relevant Council policies are discussed in the attached Delegate Report (refer Attachment 4).

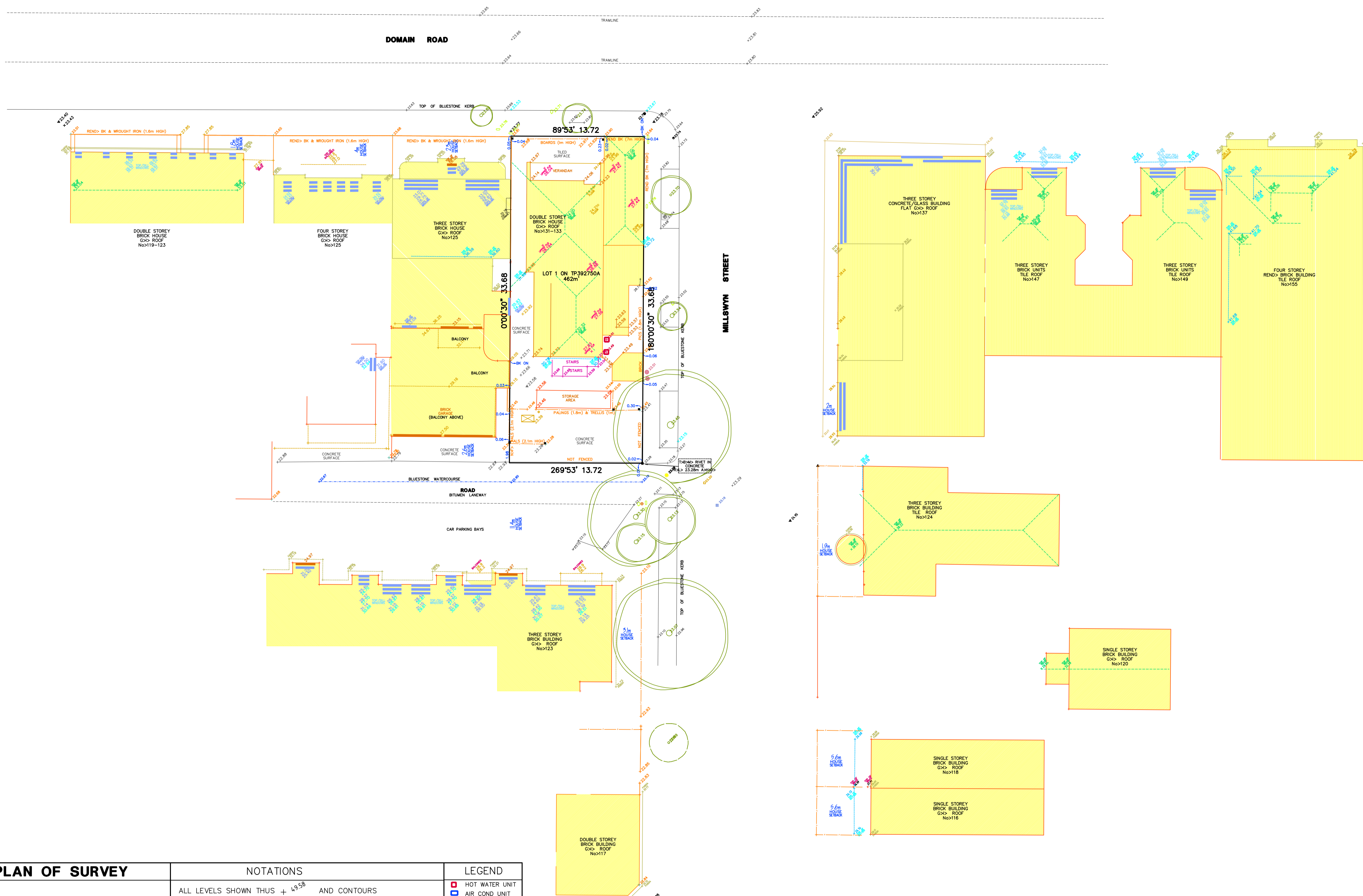
Environmental sustainability

8. The proposed development will achieve the relevant performance measures set out in Clauses 22.19 (Energy, Water and Waste Efficiency) and 22.23 (Stormwater Management) of the Melbourne Planning Scheme.

Locality Plan

131-133 Domain Road, South Yarra





PLAN OF SURVEY

**131-133 DOMAIN ROAD
SOUTH YARRA**

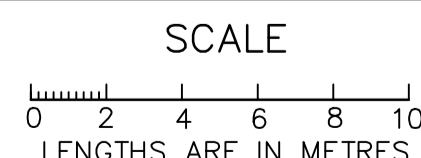
NOTATIONS

ALL LEVELS SHOWN THUS ± 19.58 AND CONTOURS ARE CONNECTED TO THE AUSTRALIAN HEIGHT DATUM USING PERMANENT MARK MELBOURNE SOUTH PM297 (R>L>22.37m A>H>D>). ALL FENCING SHOWN ON THIS PLAN HAS BEEN EXAGGERATED FOR THE PURPOSE OF CLARITY.
CONTOUR INTERVAL : 0.25m
ALL FENCE AND TREE HEIGHTS SHOWN ARE APPROXIMATE ONLY>
W: WINDOW UW: UPPER STOREY WINDOW D: DOOR G: GARAGE
NW: NON-HABITABLE WINDOW
ALL WINDOWS SHOWN ARE HABITABLE UNLESS OTHERWISE NOTED>
NOTE: THIS PLAN HAS BEEN PROVIDED AS A HARD COPY PLAN AND ALSO IN DIGITAL FORMAT> THE HARD COPY TAKES PRECEDENCE OVER THE DIGITAL DATA & NO GUARANTEE CAN BE GIVEN TO TRANSFER OF DATA TO ANOTHER SYSTEM>

DATE OF SURVEY: 27 & 28/3/2019
SURVEYOR: DM, CP
DRAWN: DM
CHECKED: BT

LEGEND

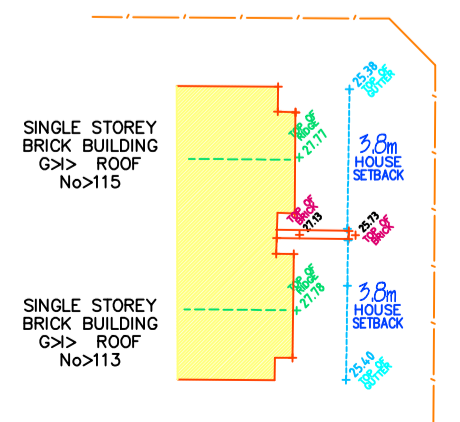
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- AIR COND UNIT
- FIRE HYDRANT
- SIGN
- GAS METER
- TELSTRA PIT
- ELEC> POLE
- ELEC> PIT
- WATER VALVE
- GRATED PIT
- DRAINAGE PIT
- WATER METER
- TAP
- SEWER VENT
- SEWER PIT
- SEWER INSPECTION PIT
- BOLLARD
- TANK
- WINDOW
- DOOR



ORIGINAL SCALE SHEET SIZE 1: 200 A1

BT SURVEYS
1/34 DEEPPENE ROAD, BALWYN 3103
PHONE/FAX 9817 6293 MOBILE 0412 567 778
EMAIL bt surveys@optusnet.com.au

SURVEYORS REF> 19321
COMPUTER REF> 19321POS



General Notes
THESE DRAWINGS SHALL BE READ IN CONJUNCTION WITH ALL ARCHITECTURAL AND OTHER CONSULTANTS DRAWINGS AND SPECIFICATIONS AND WITH SUCH WRITTEN INSTRUCTIONS AS MAY BE ISSUED DURING THE COURSE OF THE CONTRACT. DIMENSIONS SHALL NOT BE OBTAINED BY SCALING THE DRAWINGS. THE BUILDER SHALL CHECK ALL DIMENSIONS AT THE JOB AND SHALL REFER ALL DISCREPANCIES TO THE ARCHITECT BEFORE THE WORK PROCEEDS. ALL WORKMANSHIP AND MATERIALS SHALL BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE CURRENT EDITIONS, INCLUDING AMENDMENTS OF THE RELEVANT SAA STANDARDS AND SAA CODES OF PRACTICE EXCEPT AS VARYED BY THE CONTRACT DOCUMENTS AND BY THE LAWS AND REQUIREMENTS OF STATUTORY AUTHORITIES. SUBSTITUTIONS ARE TO BE ONLY WITH THE APPROVAL OF THE ARCHITECT.

Project
PROPOSED ALTERATIONS AND EXTENSIONS TO EXISTING DWELLING AND SHOP
131 - 133 DOMAIN ROAD SOUTH YARRA

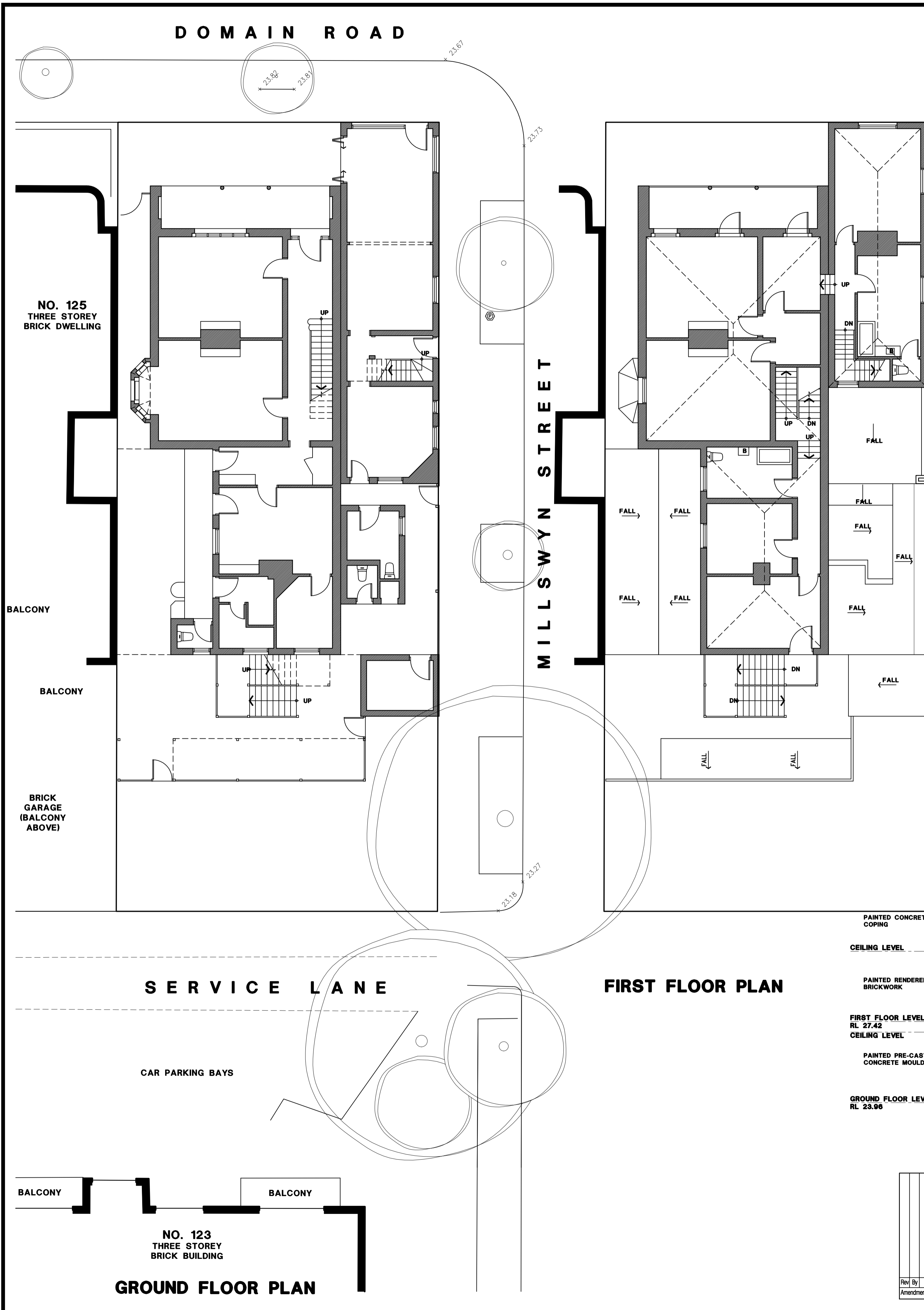
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SITE ANALYSIS PLAN

Proprietor
North

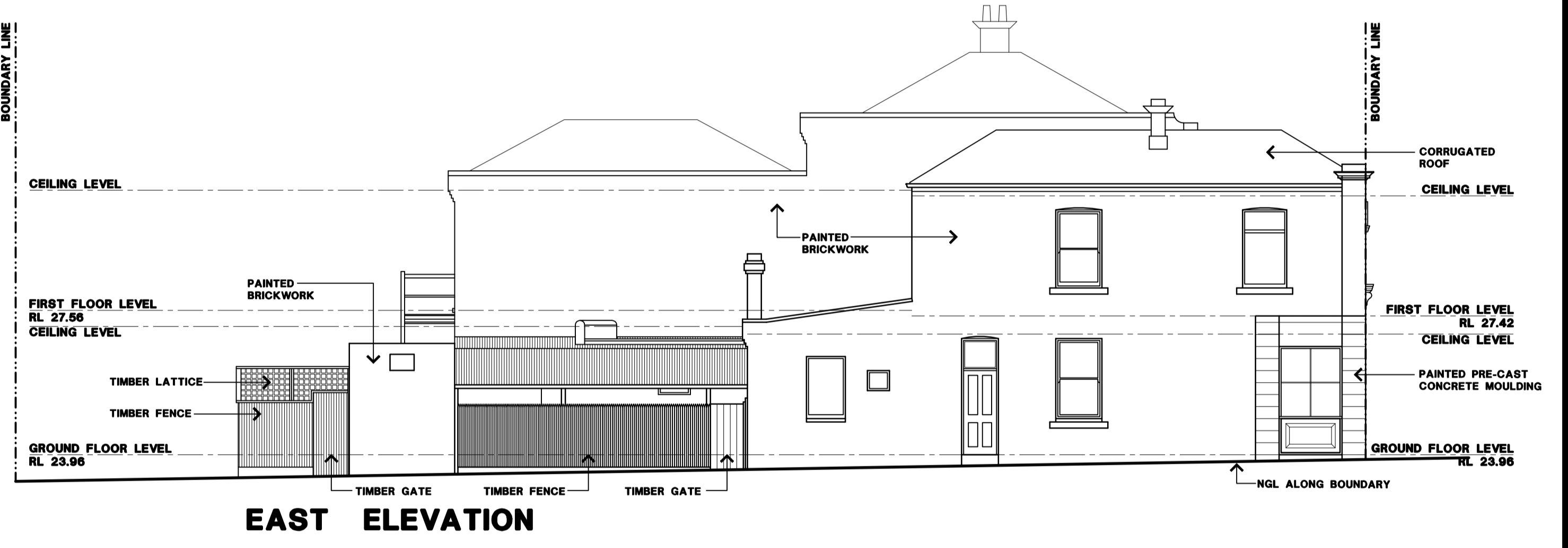
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Job No	1528
Drawing No	TP05
Revision	-



Rev	By	Date	Amendment Details



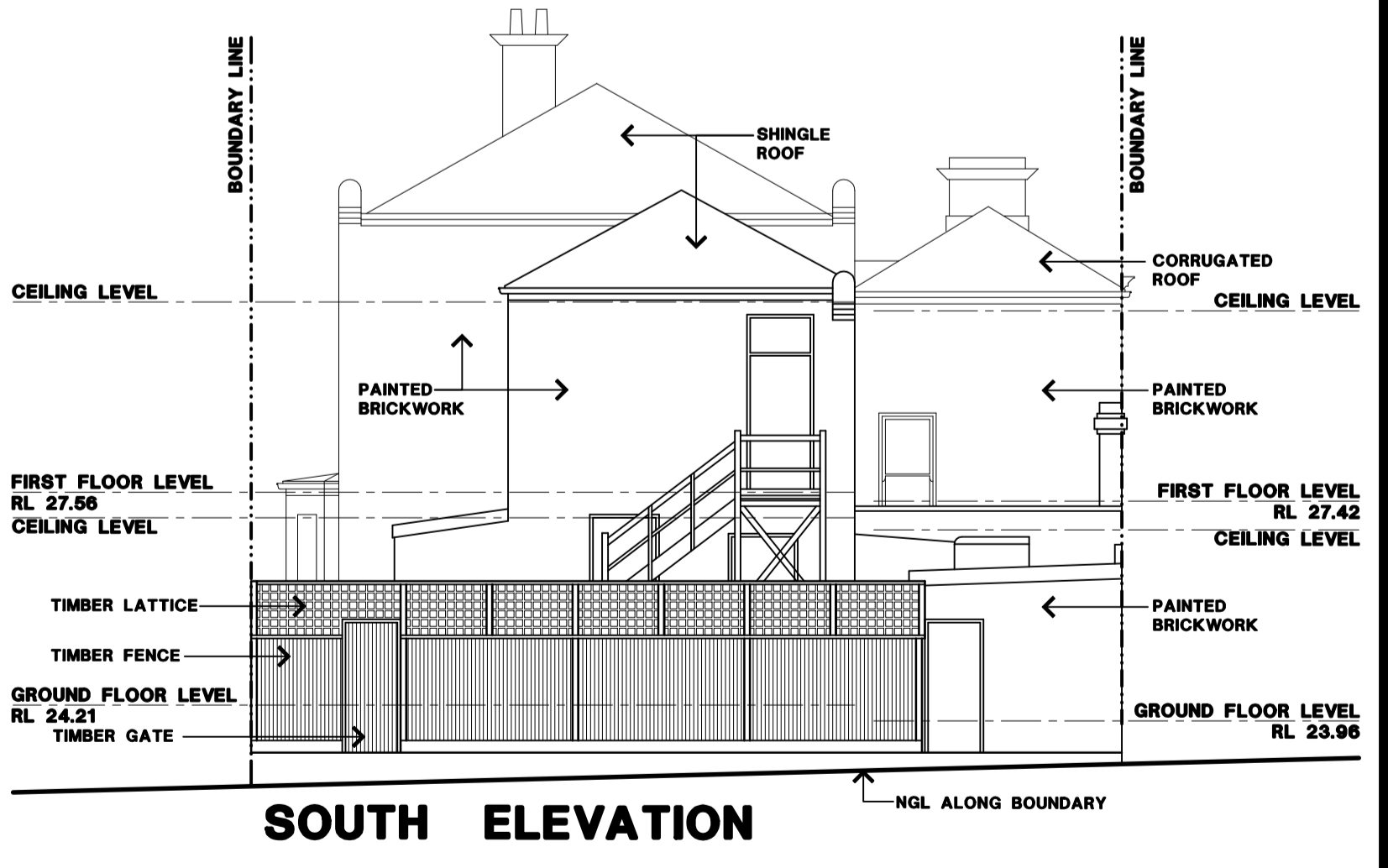
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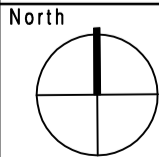
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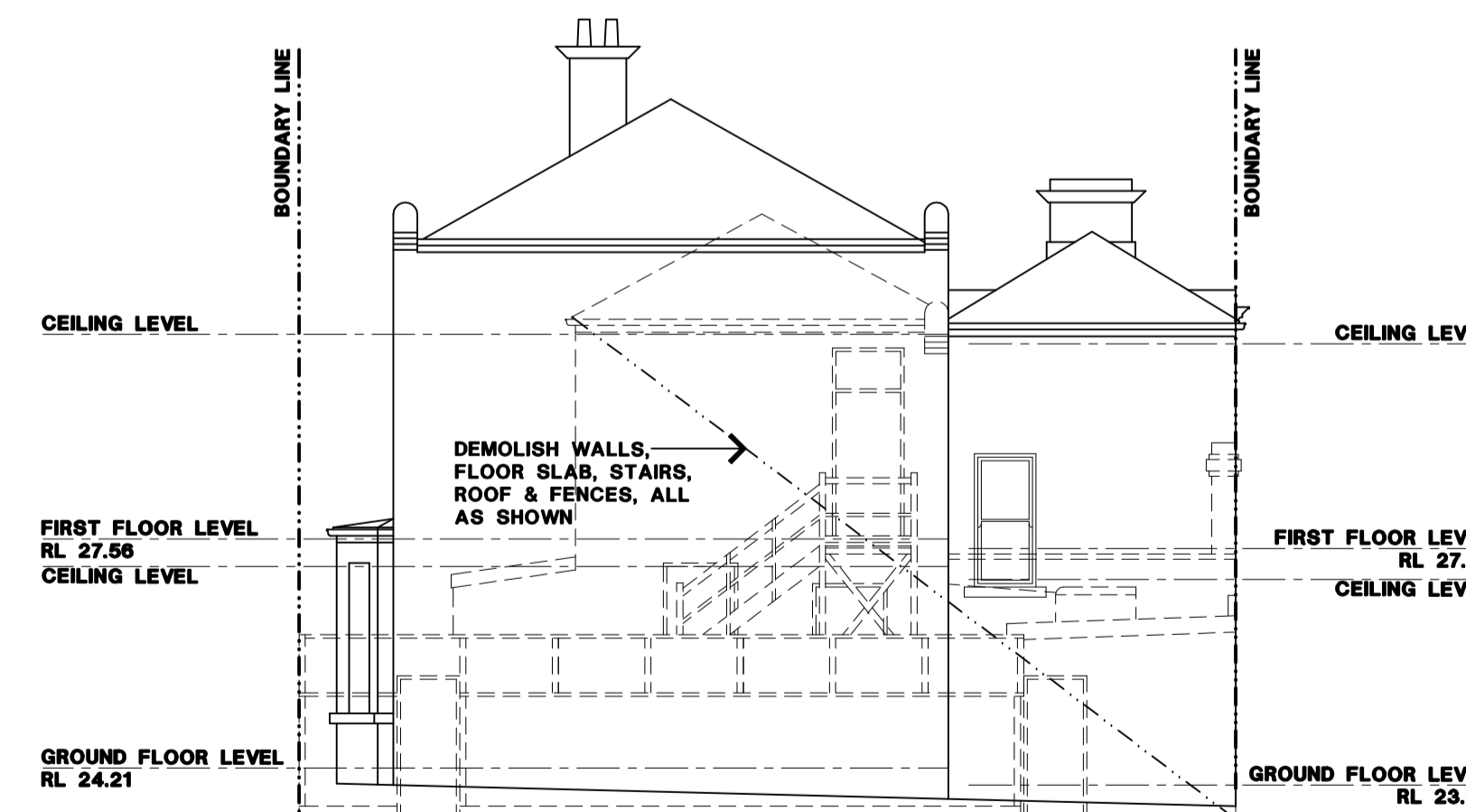
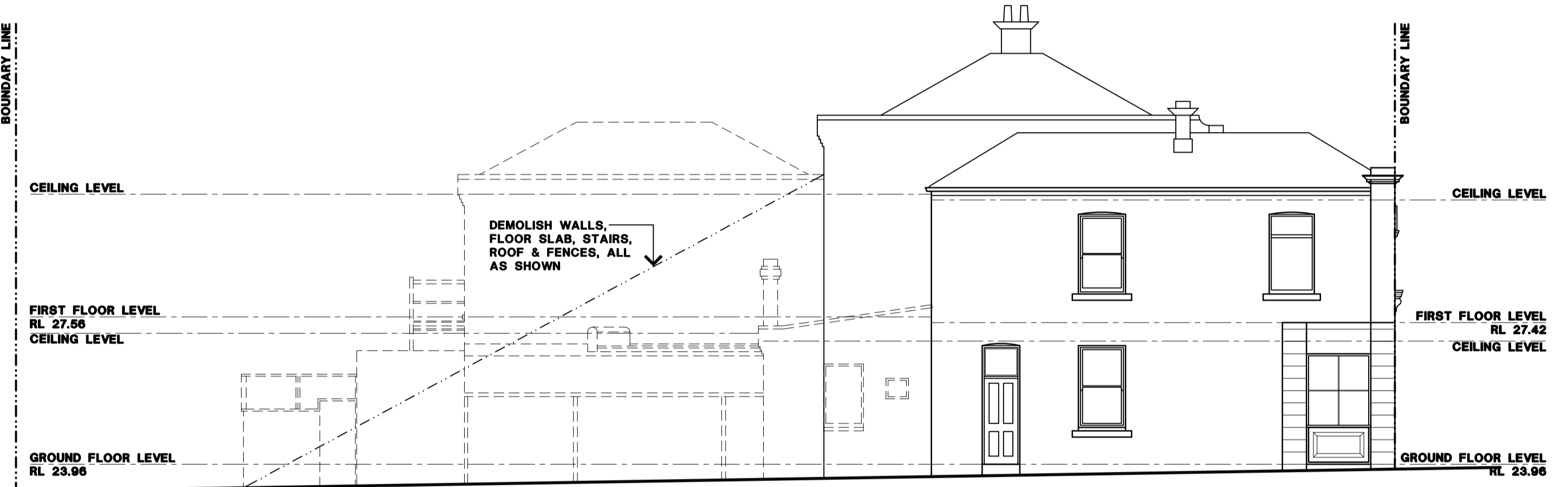
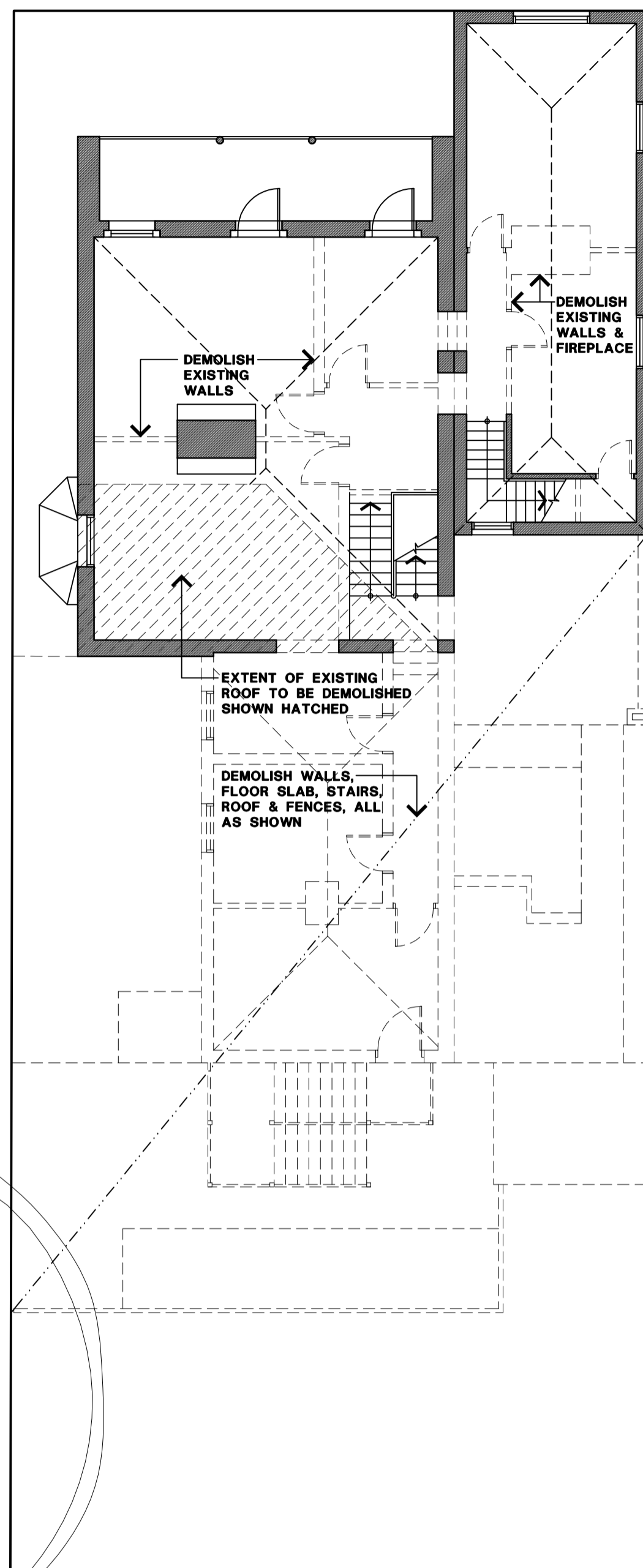
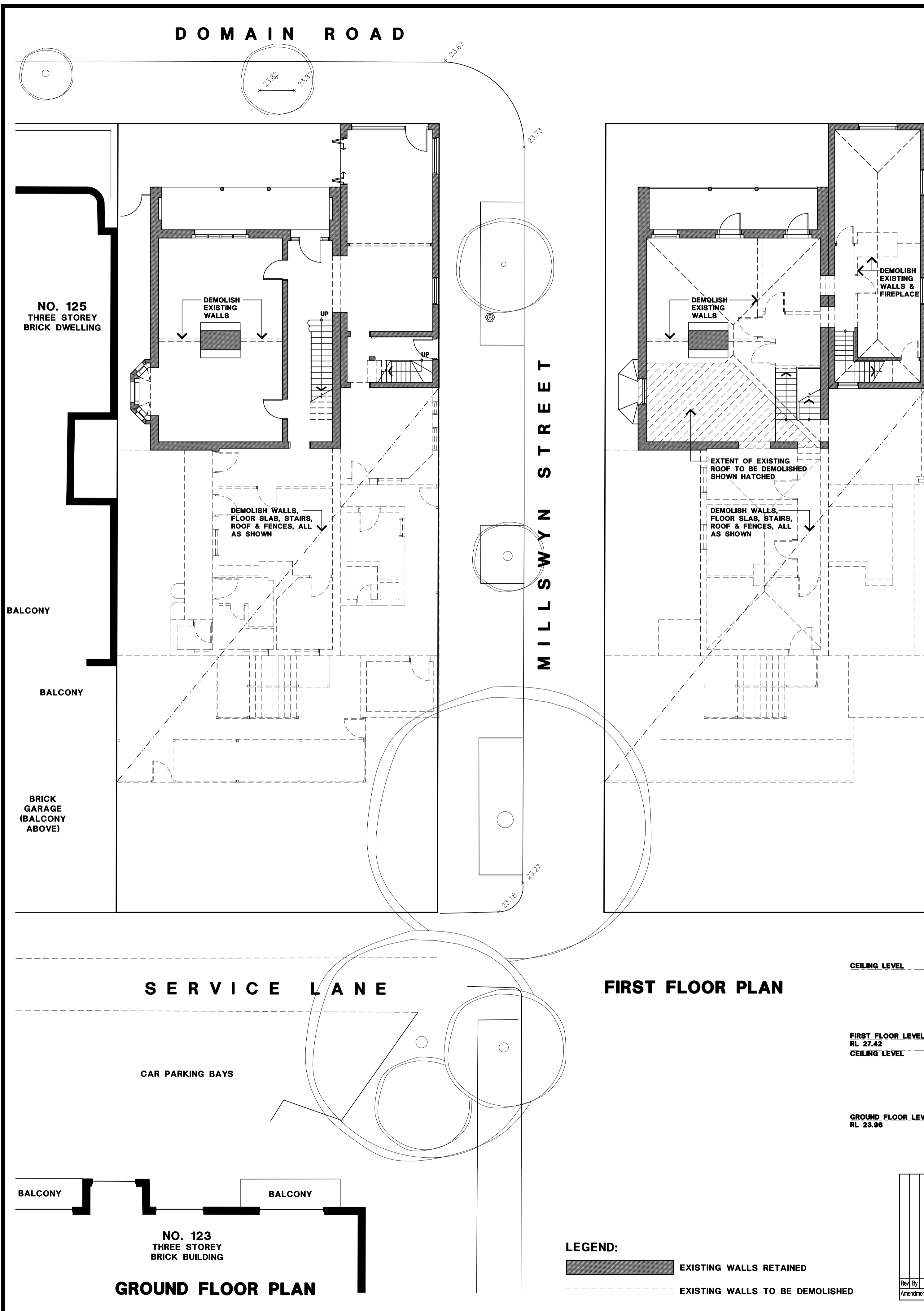


NORTH ELEVATION



SOUTH ELEVATION

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<p>Drawing Title EXISTING CONDITIONS</p>		<p>North</p> 		<p>Drawn YSY Date JUNE 2019 Scale 1:100 Filename</p>	
<p>Rev By Date Amendment Details</p>		<p>Job No 1528</p>		<p>Drawing No EX01</p>	
<p>Amendments</p>		<p>Revisions</p>		<p>ILARIO G. CORTESE ARCHITECTS PTY LTD Suite 6 481 Burke Road Camberwell Victoria 3124 p:+613 9813 1727 e:info@corsesearchitects.com.au</p>	



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<p>Drawing Title DEMOLITION PLANS</p>		<p>Scale 1:100</p>		<p>Drawn YSY</p>	
<p>Rev By Date Amendment Details</p>		<p>Job No 1528</p>		<p>Date JUNE 2019</p>	
<p>Amendments</p>		<p>Drawing No D01</p>		<p>Scale 1:100</p>	
<p>Amendments</p>		<p>Revision -</p>		<p>Filename</p>	



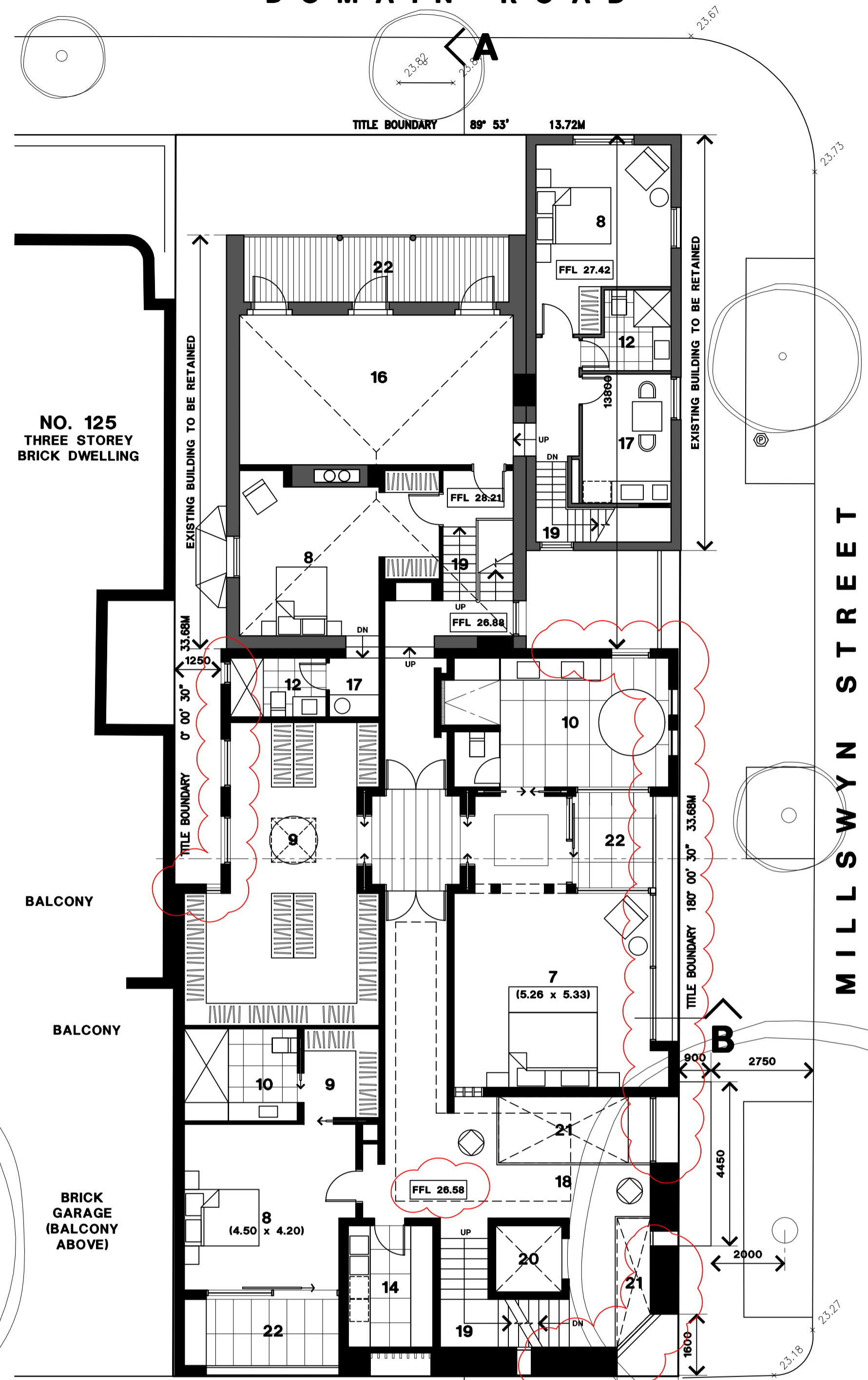
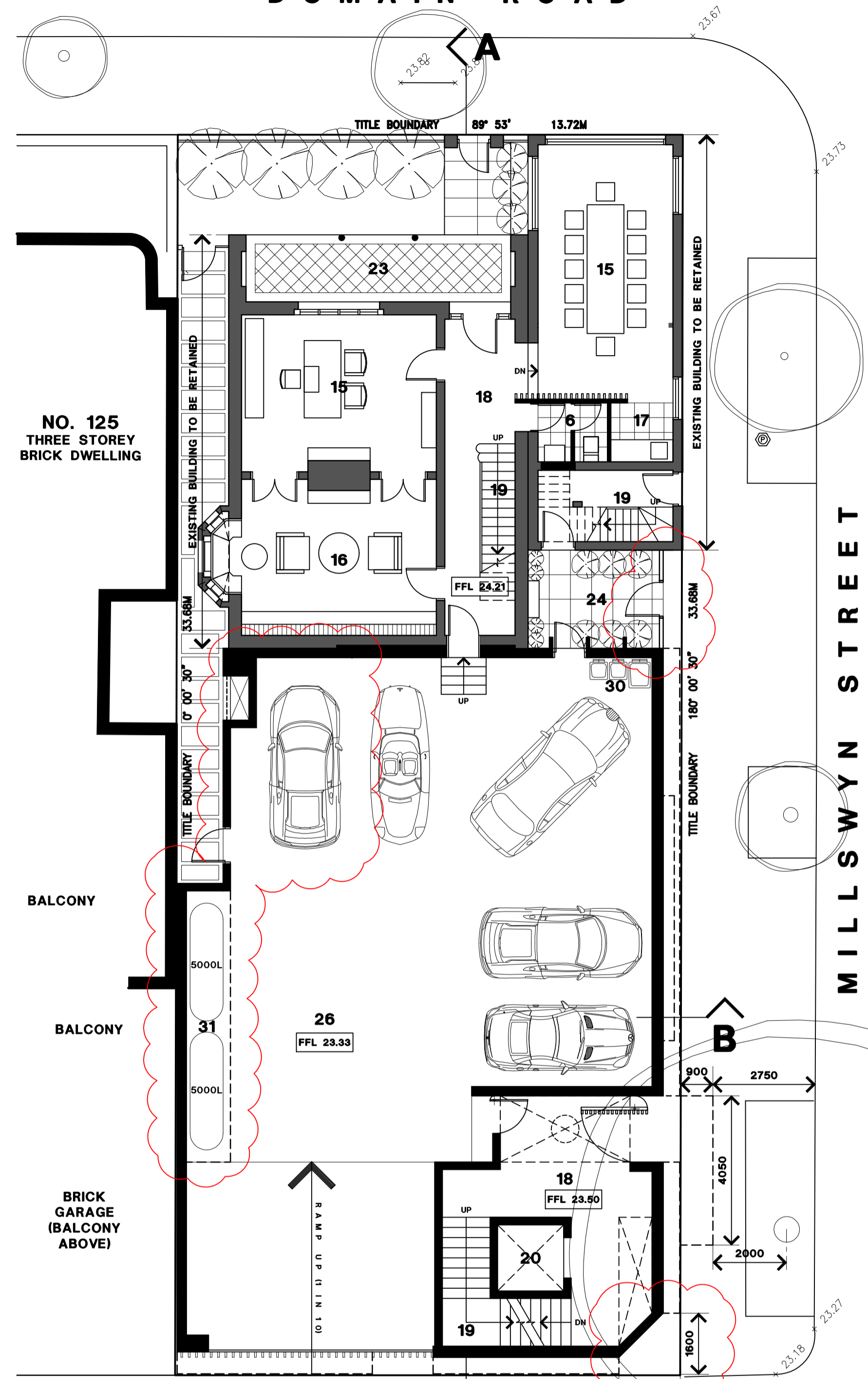
DOMAIN ROAD

DOMAIN ROAD

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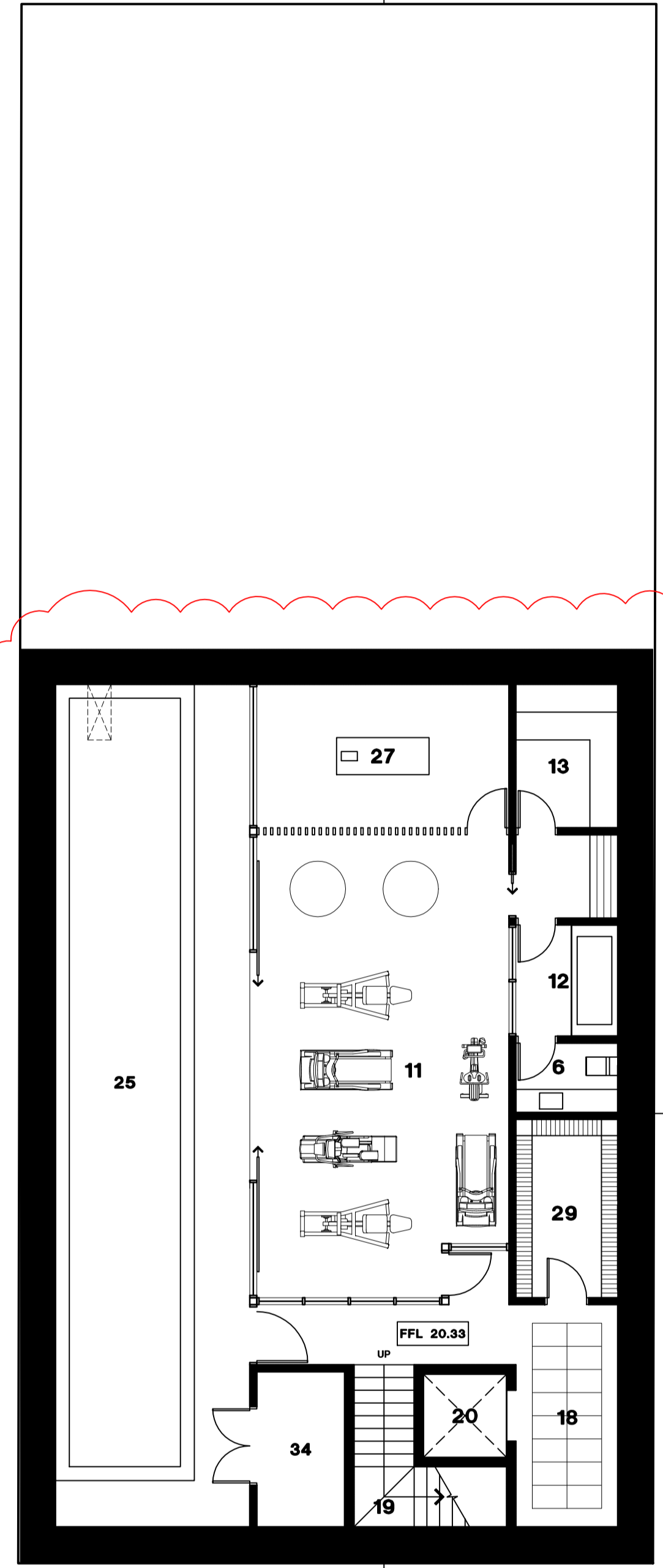
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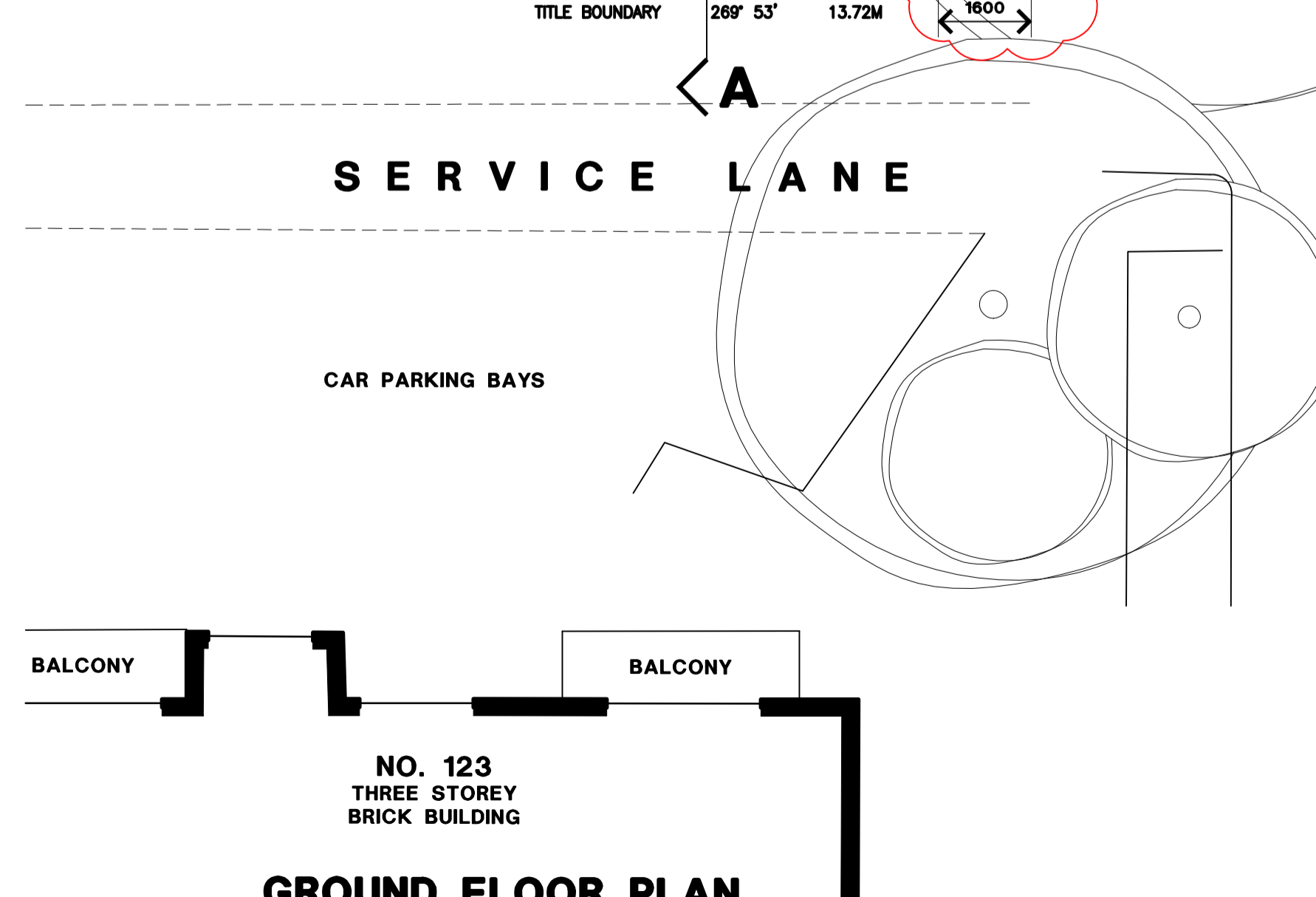
- KEY**
- 1 SITTING
 - 2 DINING
 - 3 KITCHEN
 - 4 PANTRY
 - 5 WINE
 - 6 POWDER ROOM
 - 7 MASTER BEDROOM
 - 8 BEDROOM
 - 9 DRESSING
 - 10 ENSUITE
 - 11 GYMNASIUM
 - 12 BATHROOM
 - 13 STEAM ROOM
 - 14 LAUNDRY
 - 15 STUDY
 - 16 LIBRARY READING
 - 17 TEA ROOM
 - 18 HALL / FOYER
 - 19 STAIRS
 - 20 LIFT
 - 21 VOID
 - 22 TERRACE / BALCONY
 - 23 VERANDAH
 - 24 COURTYARD
 - 25 POOL
 - 26 GARAGE
 - 27 MASSAGE ROOM
 - 28 STORE
 - 29 CELLAR
 - 30 BINS
 - 31 RAINWATER TANKS
 - 32 SOLAR PV PANELS
 - 33 SOLAR HWS
 - 34 POOL EQUIPMENT

SCHEDULE OF AREAS

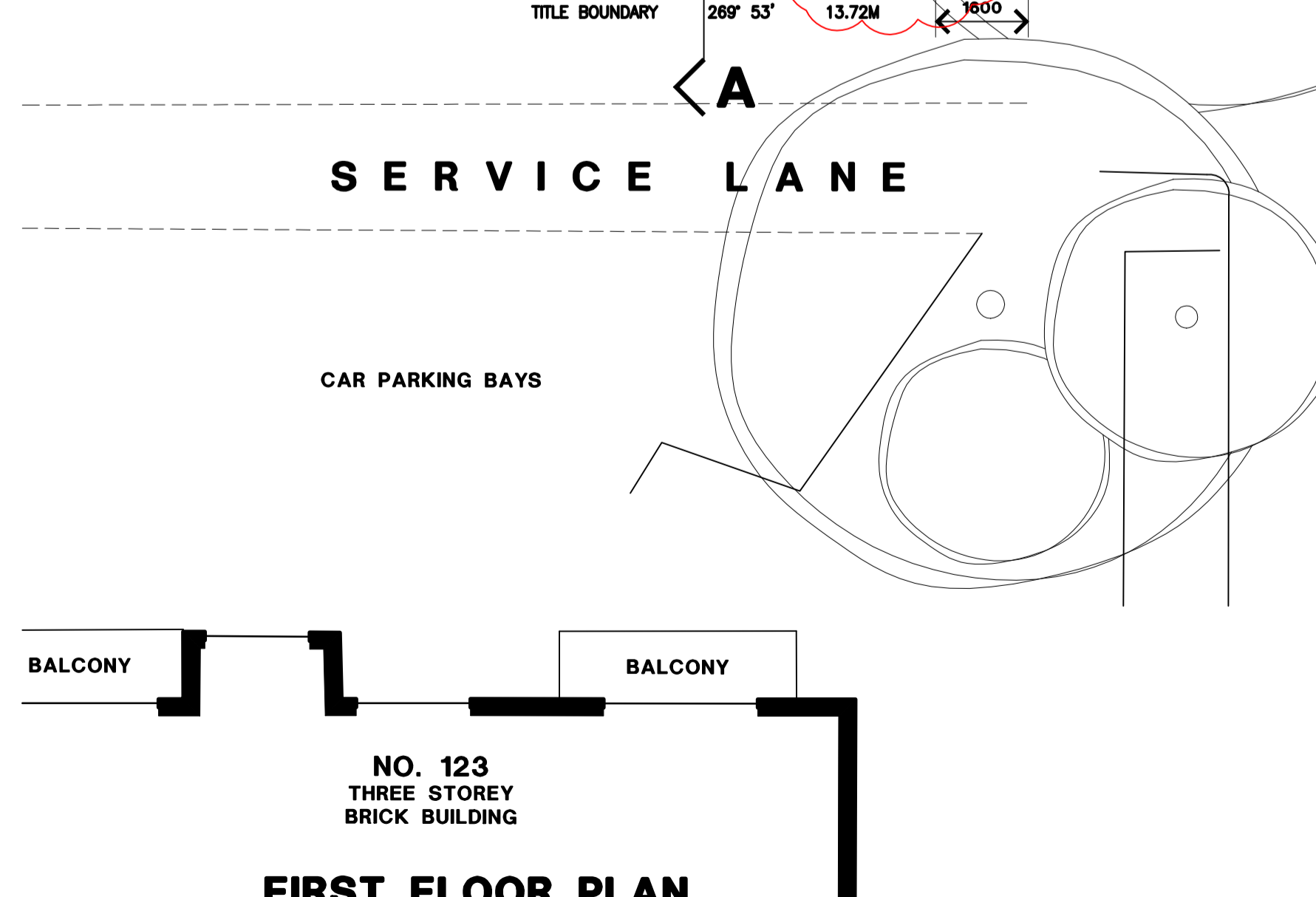
SITE AREA	462 M2
SITE COVER	400 M2 (86.60 %)
PERMEABLE AREAS	49 M2 (10.6%)
BASEMENT FLOOR	269 M2
GROUND FLOOR	378 M2
FIRST FLOOR	373 M2
SECOND FLOOR	168 M2
TOTAL	1188 M2



BASEMENT FLOOR PLAN



GROUND FLOOR PLAN



FIRST FLOOR PLAN

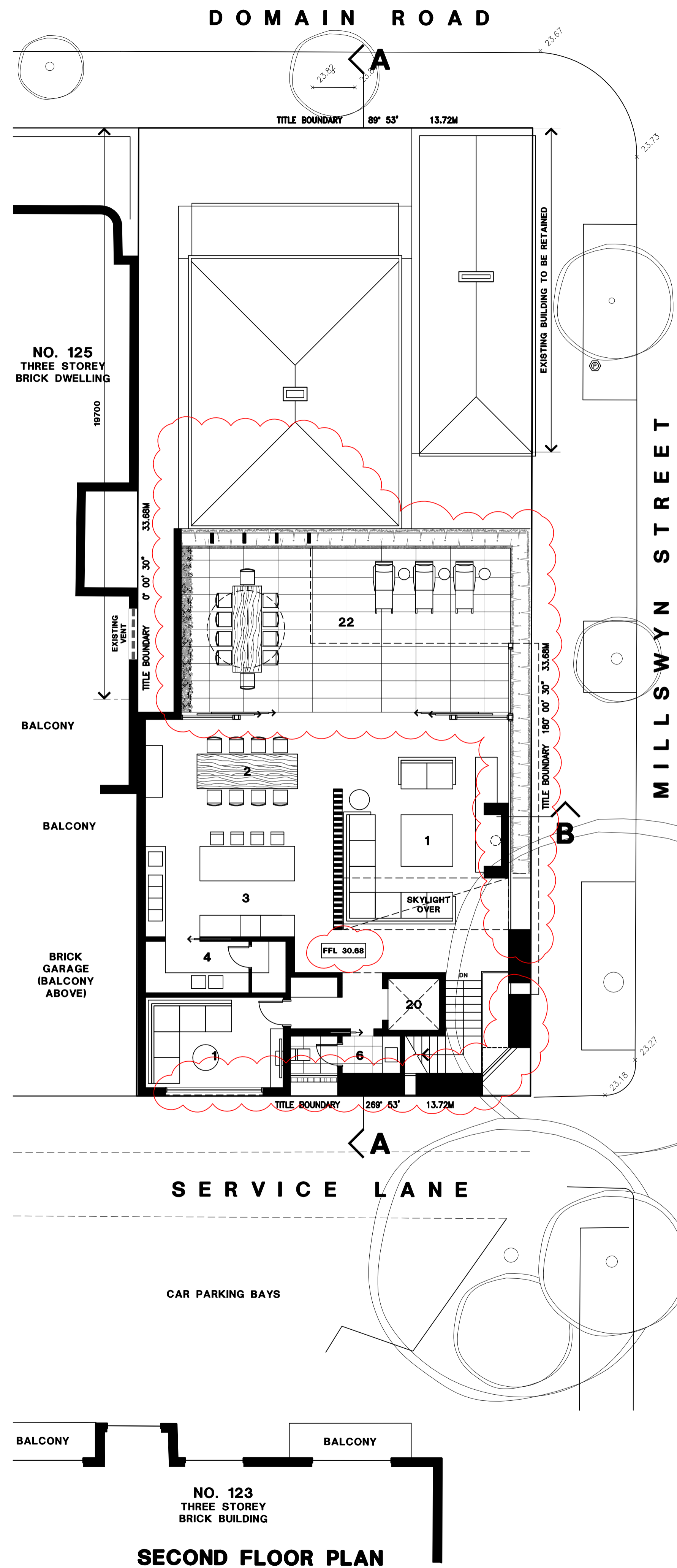
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Project
 PROPOSED ALTERATIONS & EXTENSIONS TO EXISTING DWELLING AND SHOP
 131 - 133 DOMAIN ROAD SOUTH YARRA
 Proprietor

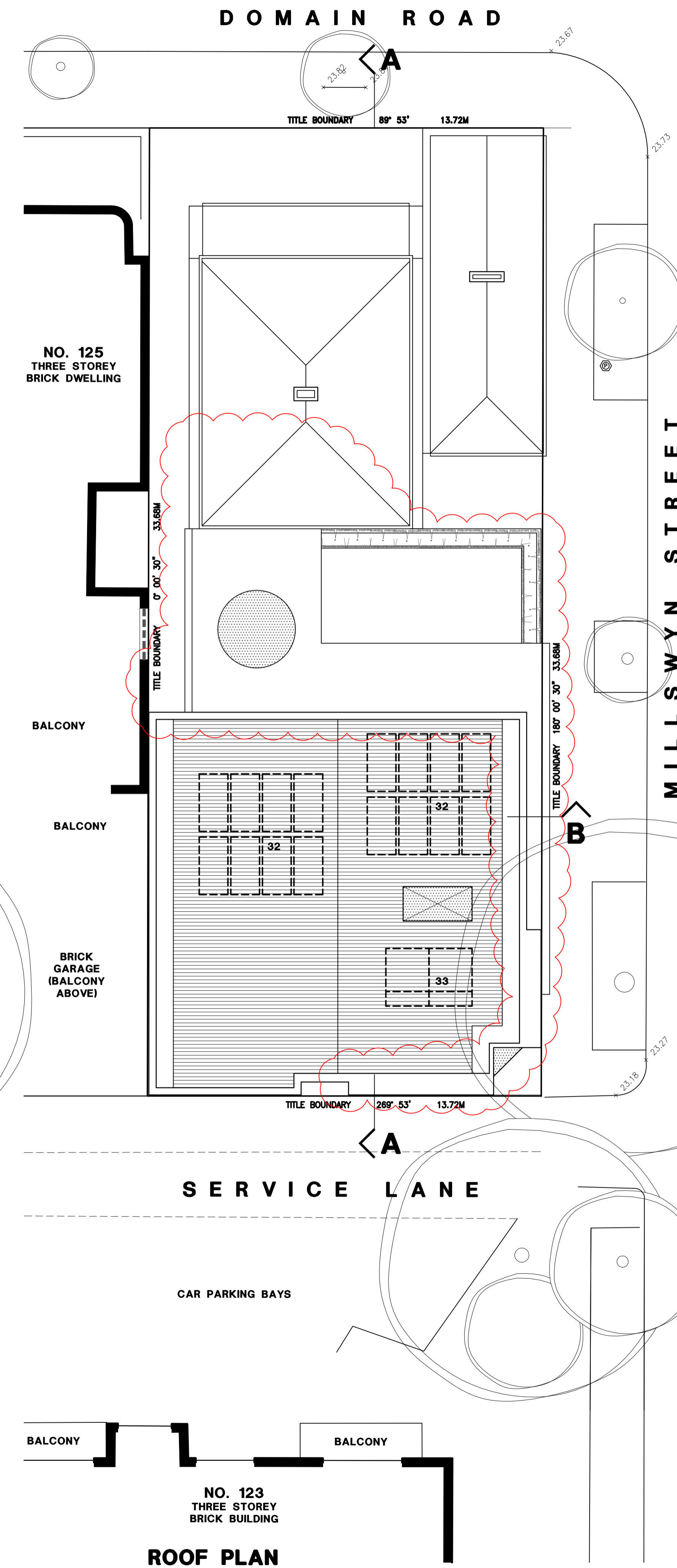
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	Date JUNE 2019	
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	Filename	
Job No 1528	Drawing No TP01	Revision C

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SECOND FLOOR PLAN



ROOF PLAN

- KEY**
- 1 SITTING
 - 2 DINING
 - 3 KITCHEN
 - 4 PANTRY
 - 5 WINE
 - 6 POWDER ROOM
 - 7 MASTER BEDROOM
 - 8 BEDROOM
 - 9 DRESSING
 - 10 ENSUITE
 - 11 GYMNASIUM
 - 12 BATHROOM
 - 13 STEAM ROOM
 - 14 LAUNDRY
 - 15 STUDY
 - 16 LIBRARY READING
 - 17 TEA ROOM
 - 18 HALL / FOYER
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 - 23 VERANDAH
 - 24 COURTYARD
 - 25 POOL
 - 26 GARAGE
 - 27 MASSAGE ROOM
 - 28 STORE
 - 29 CELLAR
 - 30 BINS
 - 31 RAINWATER TANKS
 - 32 SOLAR PV PANELS
 - 33 SOLAR HWS
 - 34 POOL EQUIPMENT

SCHEDULE OF AREAS

SITE AREA	462 M2
SITE COVER	400 M2 (86.60 %)
PERMEABLE AREAS	49 M2 (10.6%)
BASEMENT FLOOR	
GROUND FLOOR	378 M2
FIRST FLOOR	373 M2
SECOND FLOOR	168 M2
TOTAL	1188 M2

C:\YSY\17.09.20\AMENDED FOR TOWN PLANNING APPROVAL

Rev	By	Date	Amendment Details

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Project
 PROPOSED ALTERATIONS & EXTENSIONS TO EXISTING DWELLING AND SHOP
 131 - 133 DOMAIN ROAD SOUTH YARRA

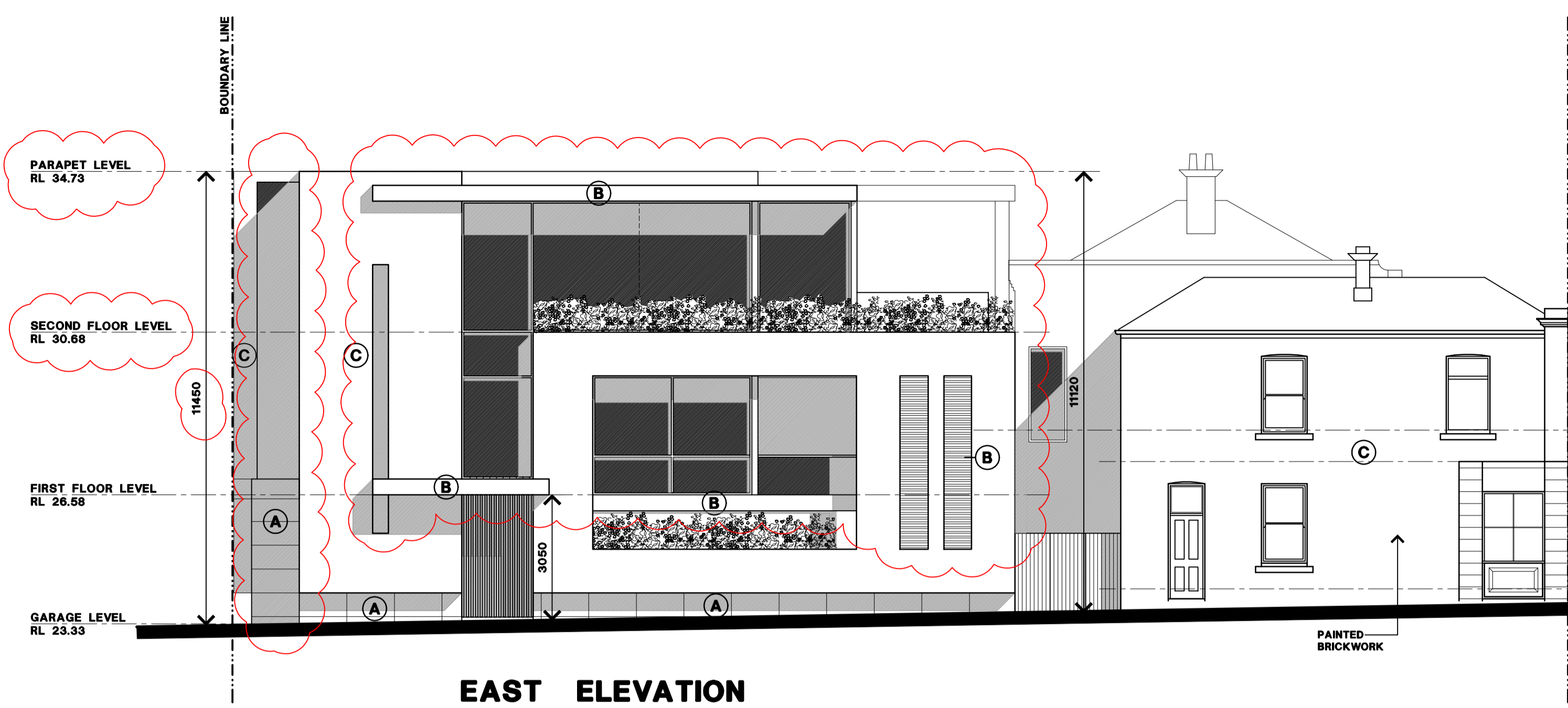
Proprietor
 [Name]

Drawing Title
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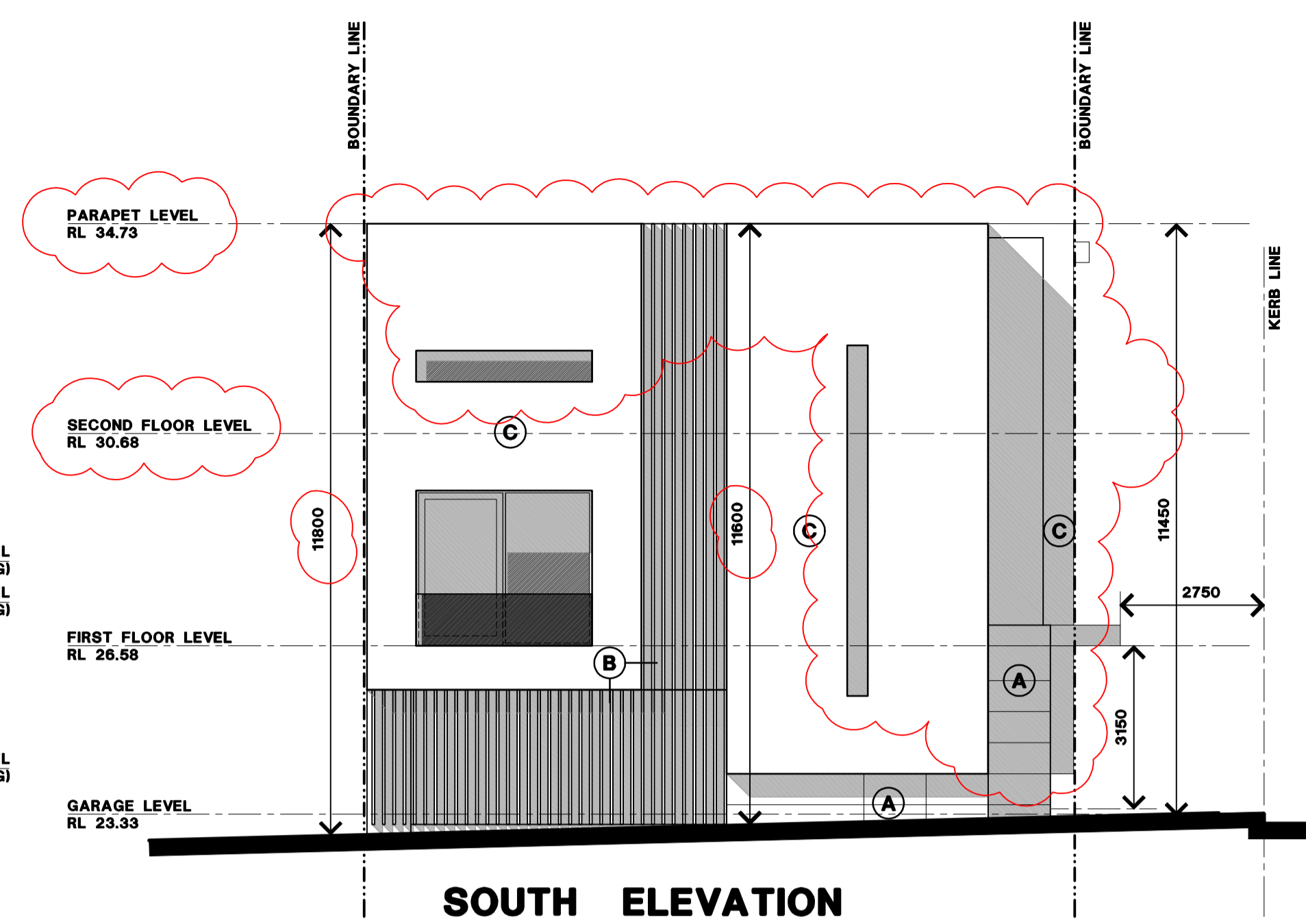
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	Date	JUNE 2019
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	Filename	
Job No	Drawing No	Revision
1528	TP02	C

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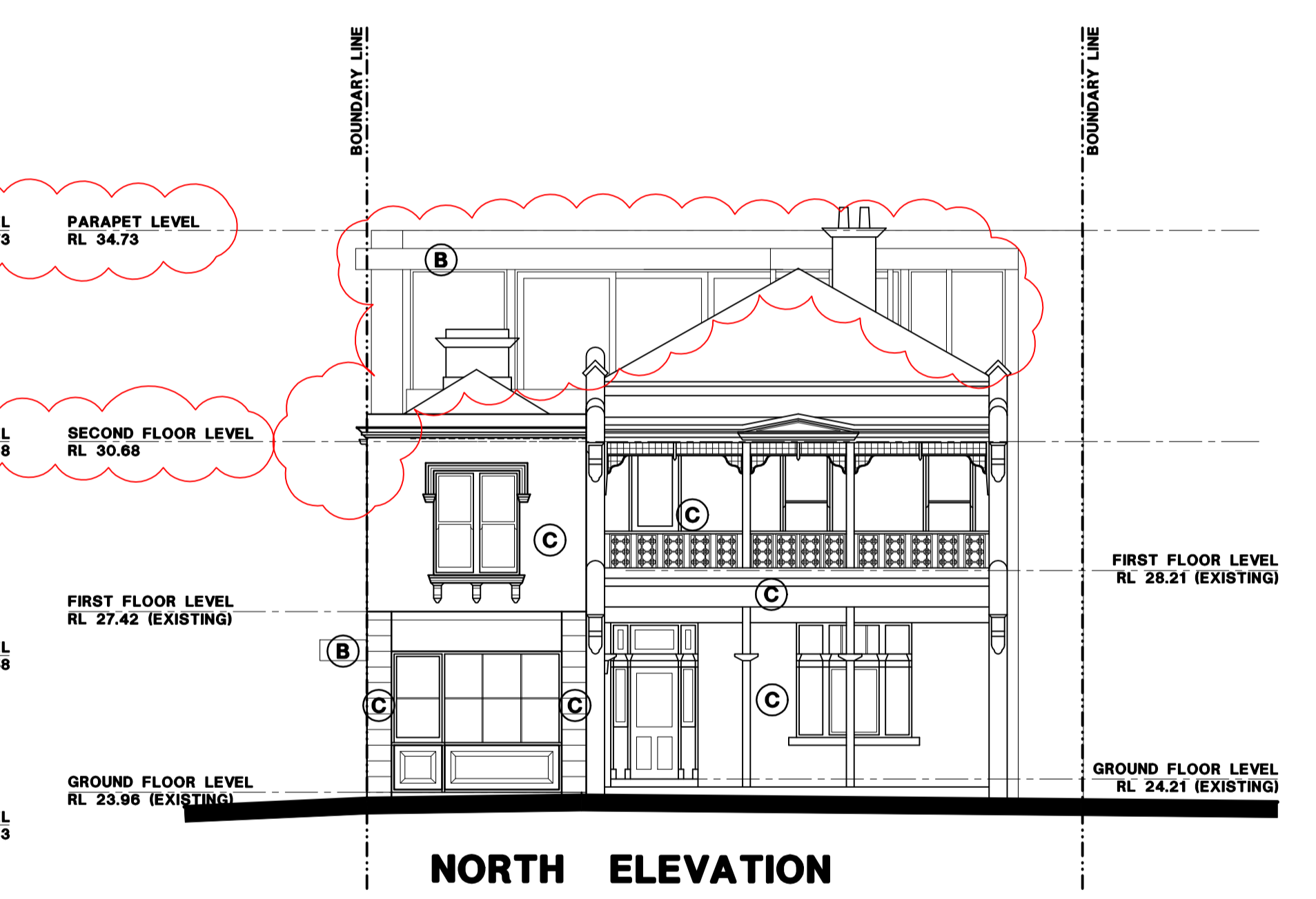
EAST ELEVATION



SOUTH ELEVATION



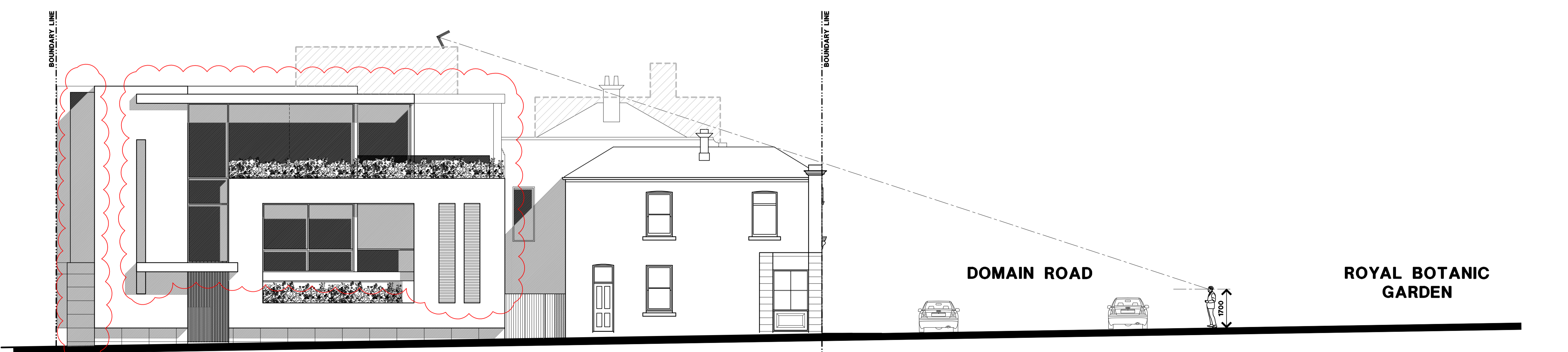
WEST ELEVATION



NORTH ELEVATION

COLOURS AND MATERIALS SCHEDULE

- (A)** SAWN BLUESTONE - BLACK/BLUE
- (B)** DULUX 'GUMMETAL KINETIC - PEARL SATIN' POWER COAT (9718115K) (FOR ALL WALL SCREENS, WINDOW AND DOOR FRAMES)
- (C)** PORTER'S PAINT - 'POPCORN' WALL COLOUR



SIGHT LINE DIAGRAM (VIEW FROM DOMAIN ROAD)

NO. 131-133 DOMAIN ROAD (SUBJECT SITE)

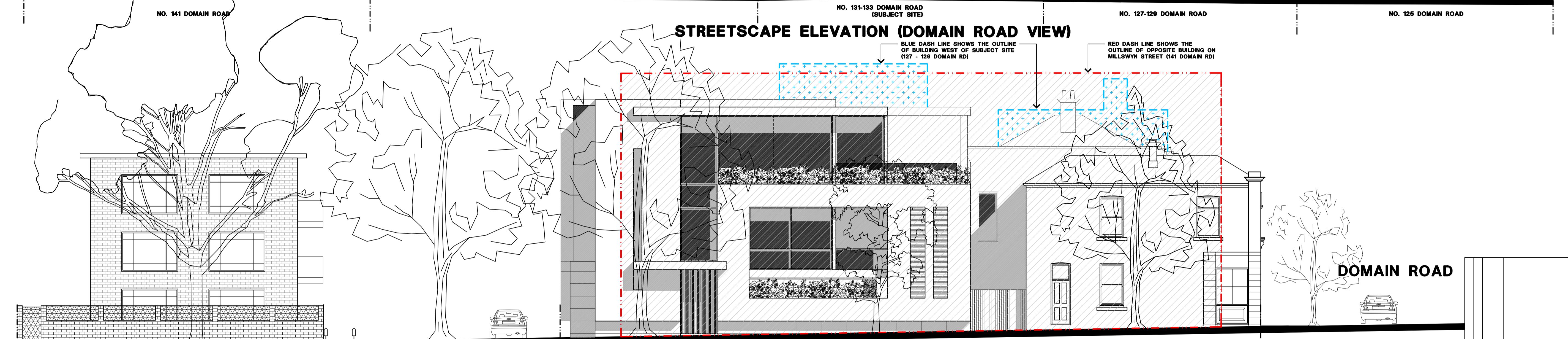
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Project		
PROPOSED ALTERATIONS & EXTENSIONS TO EXISTING DWELLING AND SHOP		
131 - 133 DOMAIN ROAD SOUTH YARRA		
Proprietor		
Drawing Title		
PROPOSED ELEVATIONS AND SIGHT LINE DIAGRAM		
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	Date	JUNE 2019
	Scale	1:100
	Filename	
Job No	Drawing No	Revision
1528	TP03	C

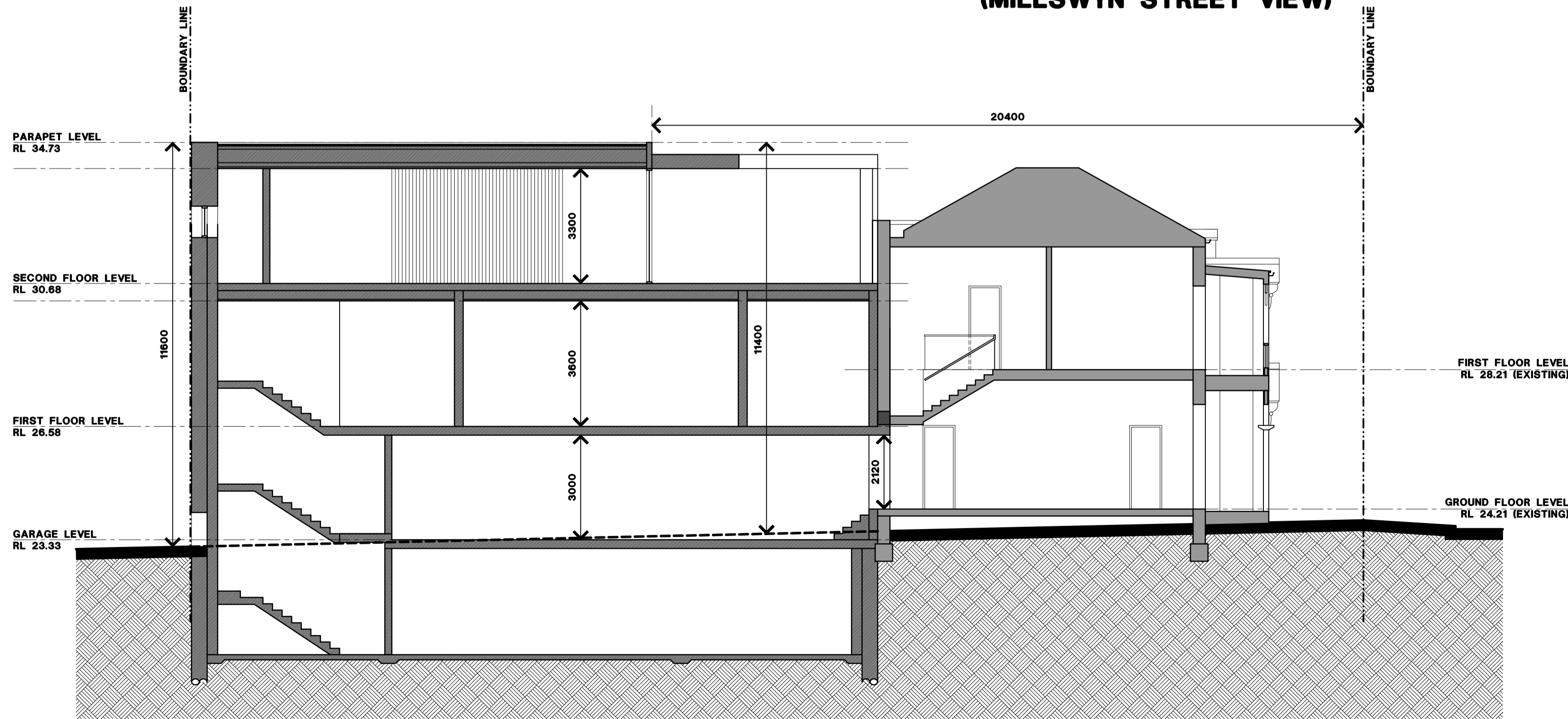
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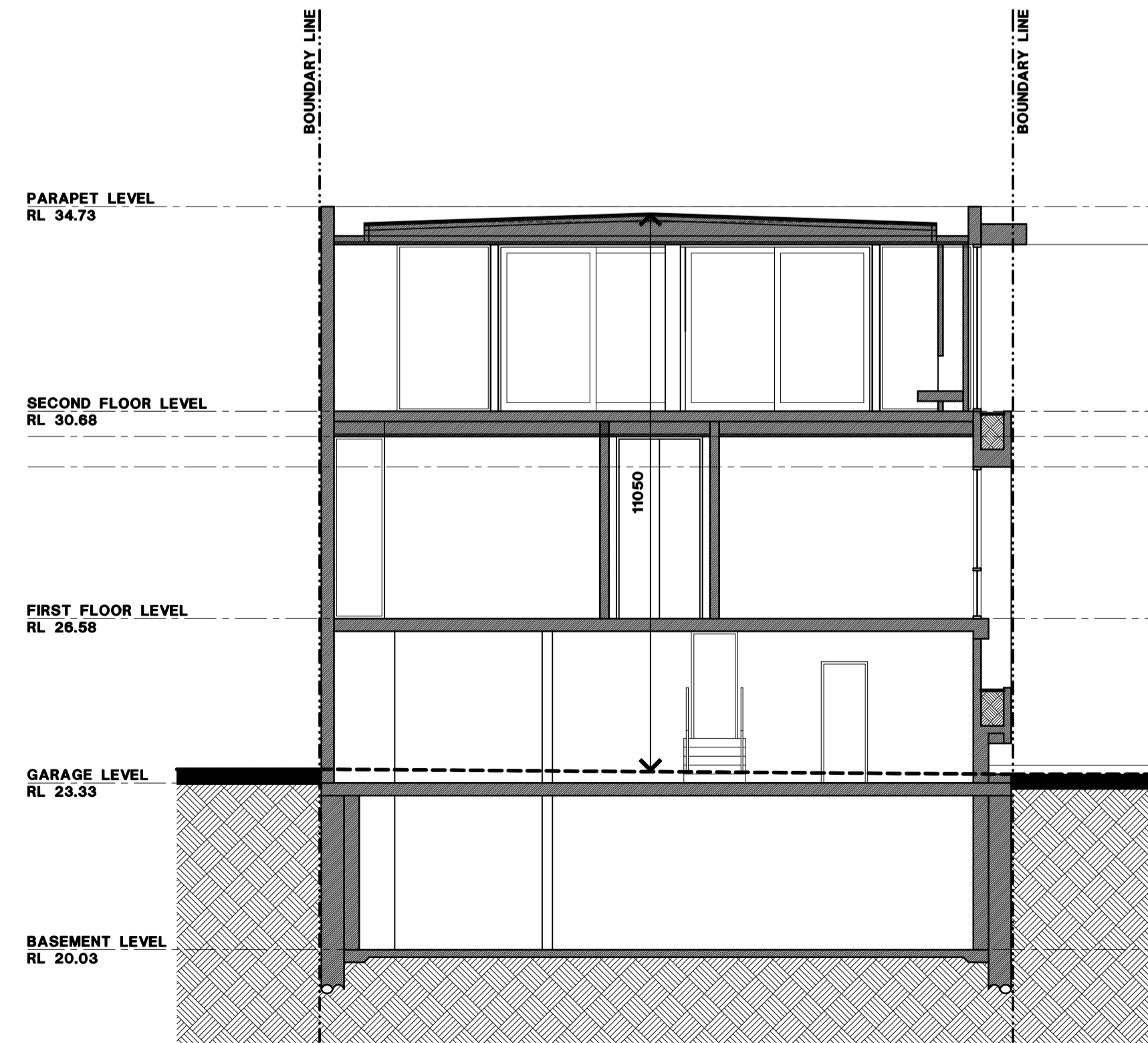
STREETSCAPE ELEVATION (DOMAIN ROAD VIEW)



STREETSCAPE ELEVATION (MILLSWYN STREET VIEW)



SECTION A



SECTION B

C:\YSY\17.09.20\AMENDED FOR TOWN PLANNING APPROVAL
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Project
PROPOSED ALTERATIONS & EXTENSIONS TO EXISTING DWELLING AND SHOP
 131 - 133 DOMAIN ROAD SOUTH YARRA
 Proprietor

Drawing Title
PROPOSED SECTIONS AND STREETSCAPE ELEVATIONS

North	Drawn YSY	Revision
Date JUNE 2019	Scale 1:100	Job No 1528
Filename	Drawing No TP04	Revision C

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131-133 DOMAIN ROAD, SOUTH YARRA - INDICATIVE RENDER

DELEGATED REPORT

PLANNING PERMIT APPLICATION

Application number:	TP-2019-665
Applicant:	Peter And Di Pausewang
Owner:	131 Domain Properties Pty Ltd
Architect:	Ilario G. Cortese Architects Pty Ltd
Address:	131-133 Domain Road, SOUTH YARRA VIC 3141
Proposal:	Partial demolition, external alterations, external painting, and buildings and works to construct a building.
Cost of works:	\$3,400,000.00
Date of application:	23 August 2019
Responsible officer:	Ryan Cottrell, Urban Planner

1 SUBJECT SITE AND SURROUNDS

1.1 The Site

The application site (the Site) is located on the south west corner of Domain Road and Millswyn Street, South Yarra. The site contains two buildings known as 131 Domain Road and 133 Domain Road, South Yarra (Figure 1).

The Site is formally identified as Lot 1 on Title Plan 392750A. There are no restricted easements or covenants applied to the land.

The Site is rectangular and has a Domain Road frontage (north boundary) that measures 13.72 metres, a Millswyn Street frontage (east boundary) that measures 33.68 metres and a total area of 452 square metres.

Rear access to the Site is possible via the south boundary which adjoins Corporation Lane 1435 (CL1435) which is accessed via Millswyn Street. CL1435 is a public lane.

Title Plan 392750A refers to CL1435 as a 'Road' and affords the Site carriageway over that land marked as 'Road', enabling legitimate rear access.

131 Domain Road is developed with a two storey Edwardian terrace with late Victorian features. This building is set back approximately 3.7 metres from Domain Road with a ground level canopy that extends over an alfresco dining area that extends to the street boundary (Figure 2). The main structure of this building is approximately 10 metres deep and has a hipped roof. Beyond the main structure is a rear wing that extends a further 8.5 metres south. Beyond these structures is a range of contemporary additions. This part of the Site was constructed in 1909.

133 Domain Road contains a two storey building built to the Domain Road and Millswyn Street boundaries that extends approximately 11 metres to the south.

Beyond the first 11 metres is a single storey rear level that has various contemporary additions accommodating part of the café and outdoor seating area. The front of this building contains a contemporary ground level entrance, ornate first floor windows and fabric canopies that extend over the footpaths (Figure 3). This building was constructed in 1881-82.

The site has operated as a restaurant since at least 1977 and was used as a grocery shop for the first 80 years of its life.

The City of Melbourne's *Heritage Places Inventory February 2020 Part A (Amended July 2020)* categorises the Site as 'Contributory' in a non-categorised streetscape.

According to the *South Yarra Conservation Study 1984* the original front door to the building has been replaced, the interior of the building has been considerably altered but there are elaborate console brackets remaining under the sill of the Domain Road facing window and the site.

The City of Melbourne's i-Heritage database provides the following description and notable features for 131 Domain Road, South Yarra:

"A terraced residence typical of the early Edwardian/late Victorian period, incorporating elements from each. Bull nosed bricks are used to accentuate corners and openings. Decorative render panels are used on verandah wing walls, and a central chimney rising from the hipped roof emphasises the Edwardian nature of the facade. Notable features include verandah decoration; verandah roof and structure."

The City of Melbourne's i-Heritage database provides the following description and notable features for 133 Domain Road, South Yarra:

"A narrow fronted shop retaining shopfront glazing bars and stall board. Original front door has been replaced. Stall board unusually high with fittings for vertical blinds. Console brackets under sill quite elaborate. This building was a grocer's shop for the first 80 years of its life. Notable features include intact shopfront."

Figure 1 – Locality map



Figure 2 – The Site (131-133 Domain Road, South Yarra – right to left)



Figure 3 – The Site (Looking south-west from Domain Road)



1.2 Surrounds

The immediate surrounds contain a range of historic and contemporary buildings that of between two and four storeys. This section of Domain Road also contains larger apartment block buildings of a contemporary appearance. The Site and surrounds are generally used for residential purposes however this section of Domain Road contains several food and drink oriented uses.

A description of the neighbouring properties is as follows:

North

- Across Domain Road to the north is the Kings Domain South public open space and the Royal Botanic Gardens. These parks and gardens are of

significance to Victoria and as such are included in the Victorian Heritage Register.

South

- South of the Site, at 123-131 Millswyn Street, is a three storey building that contains 27 dwellings. This is a large site that extends all the way east to Hope Street (Figure 4). The building on this site is setback approximately 7 metres from its north boundary and approximately 11 metres from the Site's south boundary. Within this setback are the parking spaces allocated to the building's residents, accessed via CL1438. This site is not included in the City of Melbourne's Heritage Inventory.

East

- Across Millswyn Street to the east, at 137 Domain Road, is a three storey contemporary building that contains four dwellings. This building is box like, contains contemporary materials and is setback approximate 1.9 metres from the Domain Road and Millswyn Street boundaries (Figure 5). This site is not included in the City of Melbourne's Heritage Inventory.
- Across Millswyn Street, at 124 Millswyn Street, is a three storey building that contains accommodation uses. This building is generally set back approximately 4 metres from Millswyn Street, except for a turret built at the front. This site is not included in the City of Melbourne's Heritage Inventory.
- Further east along Domain Road is a range of three to five storey apartment buildings of varying designs (Figure 6). The City of Melbourne's *Heritage Places Inventory February 2020 Part A (Amended July 2020)* categorises 155 and 161-137 Domain Road, South Yarra as 'Contributory' places in non-categorised streetscapes.

West

- Adjoining the Site to the west, at 129 Domain Road, is a three storey apartment building. This building is generally box like with front terraces to each level (Figure 7). This site is not included in the City of Melbourne's Heritage Inventory.
- Further west of the Site, at 125 Domain Road, is a four storey apartment building that contains four dwellings. This structure has a high level of detail with centrally located balconies to each level. This site is not included in the City of Melbourne's Heritage Inventory.

Figure 4 – 123-131 Millswyn Street, South Yarra



Figure 5 – 137 Domain Road, South Yarra

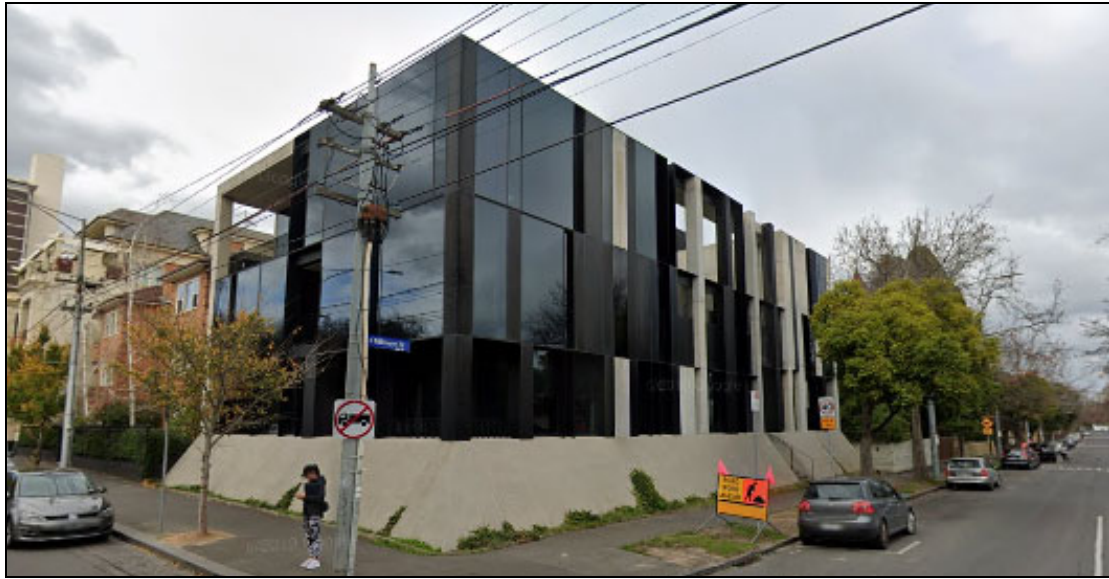


Figure 6 – 149 – 173 Domain Road, South Yarra (right to left)



Figure 7 – 125 and 129 Domain Road South Yarra (right to left)



2 BACKGROUND AND HISTORY

2.1 Application timeline

The following timeline relates to the application (Table 1):

Table 1- Application timeline	
Date	Action
8 July 2019	Pre application advice received (PA-2019-327)
23 July 2019	CoM urban design team provide pre application advice
23 August 2019	Application received (TP-2019-665)
28 August 2019	Request for further information sent to the applicant
4 September 2019	Response to request for further information received
20 September 2019	Section 50 Application to Amend the Planning Permit Application prior to notice.
26 September 2019	Notice of the application commenced.
19 November 2019	Meeting with the applicant
26 November 2019	Without Prejudice plans received
10 December 2019	Updated urban design advice provided to the applicant
16 December 2019	Updated Heritage advice received
20 February 2020	Applicant submitted further urban design advice
18 September 2020	Section 57A application to amend the application after notice providing drawings addressing objector concerns.
9 November 2020	Notice of the amended drawings commenced.

2.1 Pre-application discussions

On 8 July 2019, pre application request was received by the City of Melbourne.

On 16 July 2019, a pre-application meeting was held with the applicant and a planning officer of the City of Melbourne.

The following was discussed at the pre-application meeting:

- *Proposal generally satisfactory – no need to do a clause 54 assessment as site greater than 300sqm*
- *Advised that “carer’s apartment” be deleted unless seeking to have a second dwelling – if second dwelling proposed, clause 55 assessment will be required.*
- *Obtained comments from urban design and heritage*
- *Street trees will need to be protected during works*
- *Overhanging pool (if supported) will be subject to a S173 agreement*

- *Greater articulation needed to the rear façade to break up the blank mass and make reference to the single dwelling within*
- *Unsure on the appropriateness of the pergola structure above the pool and its impact on the heritage building – seems to dominate. Further work required*
- *Applicant proposes to remove roof and replace with slate (apparently was originally slate) – confirmation via a heritage impact statement will be required*
- *Overshadow diagrams to confirm built form does not shadow park should be provided*
- *Applicant made suggestion that the existing restaurant could be retained – advised that it is likely that the restaurant benefits from existing use rights.*
- *Appropriate noise attenuation between the restaurant and dwelling should be considered.*

On 23 July 2019, the urban design team provided the following pre-application advice:

The main concerns for 131-133 Domain Road regard the façade and the materiality.

1 Façade

The eastern façade is required to aid in the break- up of the 3 storey mass, in the same manner that the northern façade successfully does so. Currently, the scale, height and low proportion of openings compared to blank surface does not offer a sense of human scale toward the street or reduce the sense of large mass. In addition, the corner glazing which extends the full elevation accentuates the height and visual dominance viewed from the street. We encourage a reconfiguration and balance of openings across the eastern façade, including the corner stairwell glazing in a way that balances the internal floorplate and articulation of the external façade.

2. Materiality

The proposed external finish of painted concrete does not offer tone, texture or grain variation across the façade or visual interest to the street. As it is applied to majority of the external surfaces, we suggest reconsidering the material in order for it to be more reflective and respectful of the bagged brick of the adjoining heritage building. Explorations of this might be through the use of render with a textured or popcorn finish.

2.2 Request for Further Information

Following a preliminary review of the application, Council issued a Request for Further Information (RFI) on 28 August 2019.

On 4 September 2019, the applicant provided the following response to the RFI:

- *A revised set of plans showing:*
 - *Clearance from the undercroft/ceiling of the canopy to the surface of the footpath on the east and south elevation plans;*
 - *Council trees on the first and second floor plans;*
 - *Clearance from the canopy and pool to the nearby Council trees;*
 - *Setback of the canopy and pool from the face of the kerb on the first floor, second floor and south elevation plans, and;*
 - *Rubbish storage arrangements.*
- *A waste management plan prepared in accordance with the City of Melbourne's Guidelines for Waste Management Plans.*

- *An Environmentally Sustainable Design (ESD) Statement and a Water Sensitive Urban Design (WSUD) Response are being prepared and will be lodged imminently.*
- *In accordance with the phone discussions with Johan, it is respectfully requested that the application proceed to notice while the ESD and WSUD submissions are being prepared.*

2.3 Consultation Prior to Notice / S.50 Amendment

The application was amended pursuant to Section 50 of the *Planning and Environment Act 1987* on 20 September 2019 to increase the height of the proposed development.

The applicant noted that Planning Scheme Amendment C360 had been approved and incorporated into the Melbourne Planning Scheme on 12 September 2019. Amendment C360 increased the maximum building height stipulated in Schedule 5 to the General Residential Zone from 11 metres to 12 metres, aligning with the existing 12 metre height control found in Clause 43.02, Schedule 16 (DDO15).

The applicant sought to take advantage of the newly increase height control by increasing the maximum height of the proposal.

2.4 Post-Advertising Consultation / S.57A Amendment

A copy of objections received during the formal notice period, in addition to final feedback from Council's Urban Design Advisor and Heritage Advisor, were provided to the permit applicant on 31 October 2019.

In response to concerns raised in objections received in respect of the application, and final feedback from Council's Heritage Advisor and Urban Design Advisor, the permit applicant amended their application pursuant to Section 57A of the *Planning and Environment Act 1987* on 18 September 2020.

The amended application contained the following design modification:

- Reduction in overall building height.
- Design modifications relating to the transition between the existing retained building and proposed addition.
- Deletion of the pool projecting over the footpath.
- Increase activation and engagement with the public realm.
- Splaying the south-east corner to improve sightlines and safety.

Notice of the amended application was given by sending mail to all persons who originally received notice of the application, and registered objectors to the application, under Section 57B of the *Planning and Environment Act 1987*.

2.5 Planning Application History

The following applications have been lodged on the subject site and adjoining sites (Table 2):

Table 2: Relevant Planning Applications			
Application Reference	Property Address	Description	Decision/Date of Decision
TP-2017-50	133 Domain Road, South Yarra, 3141	Minor ground floor buildings and works to rear of site and installation of weather protection screens	Permit Issued – 10 April 2017

TP-2010-443	133 Domain Road, South Yarra, 3141	Buildings and works to carry out modifications to the building facades including the construction of awnings and construction and display of business identification signs and building identification signs and external painting	Permit Issued – 16 July 2010
TP-2007-391	135-141 Domain Road, South Yarra	Demolition of the existing apartment building and construction of a new apartment building under the Design and Development Overlay Schedule 15, and the demolition of existing building and construction of a new building in an area covered by Heritage Overlay Schedule 6 South Yarra Precinct, in accordance with the plans to be endorsed as part of the permit and subject to the following conditions.	Permit issued by order of VCAT – 6 December 2007

3 PROPOSAL

3.1 Plans / Reports considered in assessment

The plans which have been considered in this assessment are identified in Table 3 below:

Table 3: Plans / Reports considered in assessment		
Plan / Report Title	Drawing/ Report No.	Dated / Date Stamped
Title Documentation	Vol. 05744, Fol. 799	8 August 2019
Metropolitan Planning Levy	MPLCERT13832	16 August 2019
Planning Report	Planning & Property Partners	22 August 2019
Traffic Engineering Assessment	Traffix Group	28 August 2019
Sustainable Design Statement	SBE Melbourne	13 September 2019
Tree Report	Glenn Waters	30 October 2019
Heritage Impact Assessment	Bryce Raworth Pty Ltd	September 2019
Waste Management Plan	Planning & Property Partners	4 September 2019
Development Plans	Ilario G Cortese Architects Pty Ltd	Existing and demolition drawings dated June 2019 and proposed development drawings dated June 2019 marked as Revision C
Urban design advice	Andrew Hutson	21 February 2020

3.2 Summary of proposed development

The application, as shown on the plans, seeks planning approval for the partial demolition and buildings and works with alterations and additions to the existing building.

The works are summarised as follows (Note that the development described below is a summary of the originally advertised demolition drawings and the most recent amended proposed built form (revision C) that have been formally substituted into the application pursuant to Section 57A of the *Planning and Environment Act 1987*):

- Demolish walls, roof, stairs, roof, fences to the rear of the existing building. The proposed demolition is beyond the first two rooms in depth for the buildings at 131 and 133 Domain Road (Figure 8 and 9).

The demolition will be largely confined to the existing later additions to the heritage building, including the removal of the later additions and garage. The original heritage building will largely remain as existing, with some minor alterations, including the addition of a number of additional windows and a new verandah to the existing balcony.

- Construct an addition to the existing building and convert the restaurant to a dwelling. The proposal includes extending the building to the side and rear boundaries of the Site except for the south-east corner which has a 1.6m spay to assist with views around the corner into the rear lane. The development contains a basement and three storeys with a maximum building height of 11.45 metres at the south boundary. The proposed addition is 11.12 metres at the centre of the Site (Figure 10). The addition contains:
 - A gym and lap pool at the basement level (Figure 11).
 - A five car garage, study, reading room and washcloset at the ground level (Figure 12).
 - Three bedrooms, tea room, dressing room, library and washcloset on the first floor (Figure 13).
 - Kitchen, living, entertainment and outdoor terrace located on the second floor (Figure 14).
 - A flat roof that accomodates solar panels (Figure 15).
 - Sawn bluestone at the base, external walls in Porter's Paint – 'popcorn' (off-white), and gunmetal powdercoated screens, frames and detailing.
- Externally paint the existing buildings off-white (Porter's Paint – 'popcorn').

Environmentally Sustainable Design (ESD) and waste elements

The proposal contains:

- 4kW PV for on-site electricity generation.
- One 120L general waste bin and one 240L comingled recycling bin collected weekly by the City of Melbourne.
- Roof and terrace rainwater collected in 11,000L of storage for reuse in WC flushing.

Figure 8 - Proposed demolition plan (ground floor)

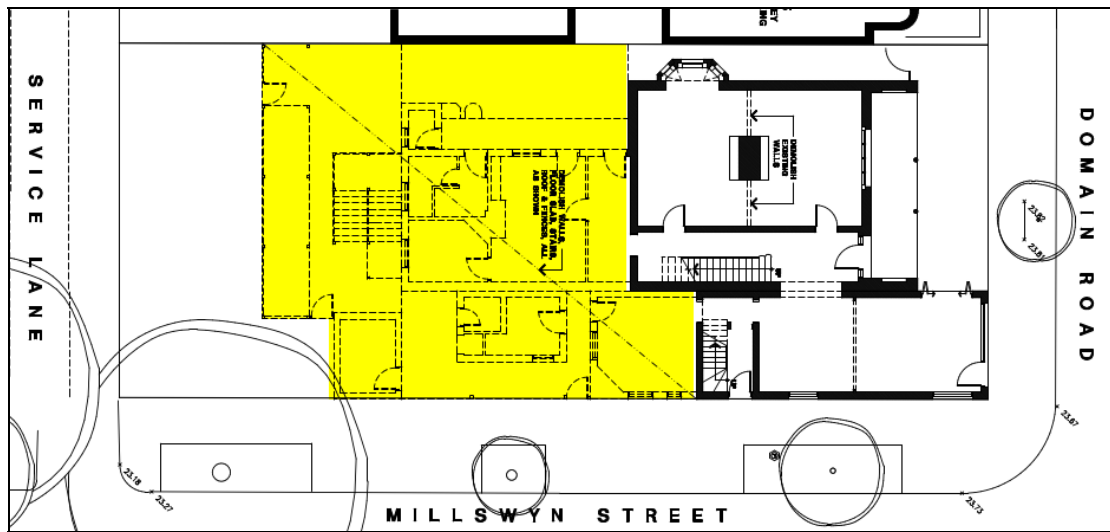


Figure 9 – Proposed demolition plan (first floor and roof)

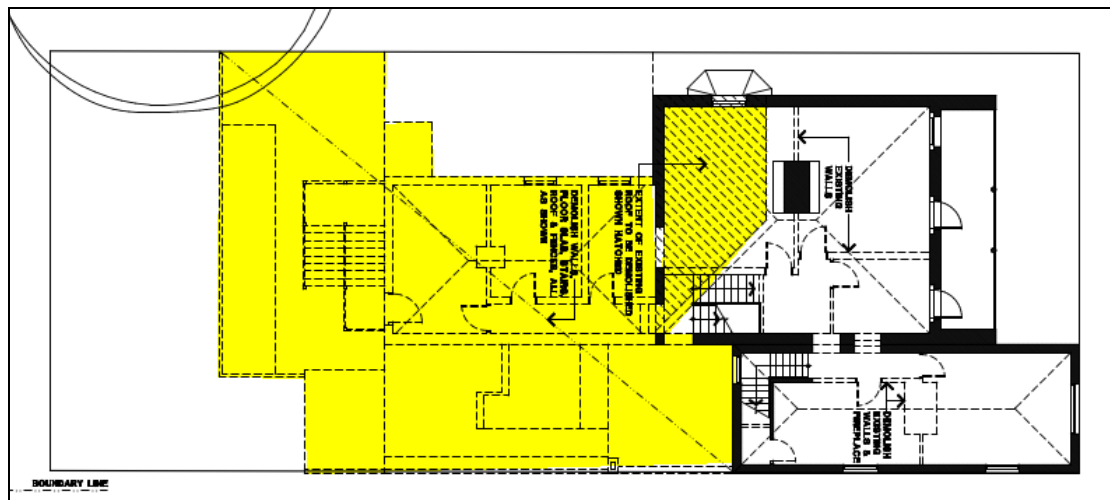


Figure 10 – Artistic Impression of Proposed Development (image shows a red line indicating the reduction in height as amended application dated 18 September 2020).

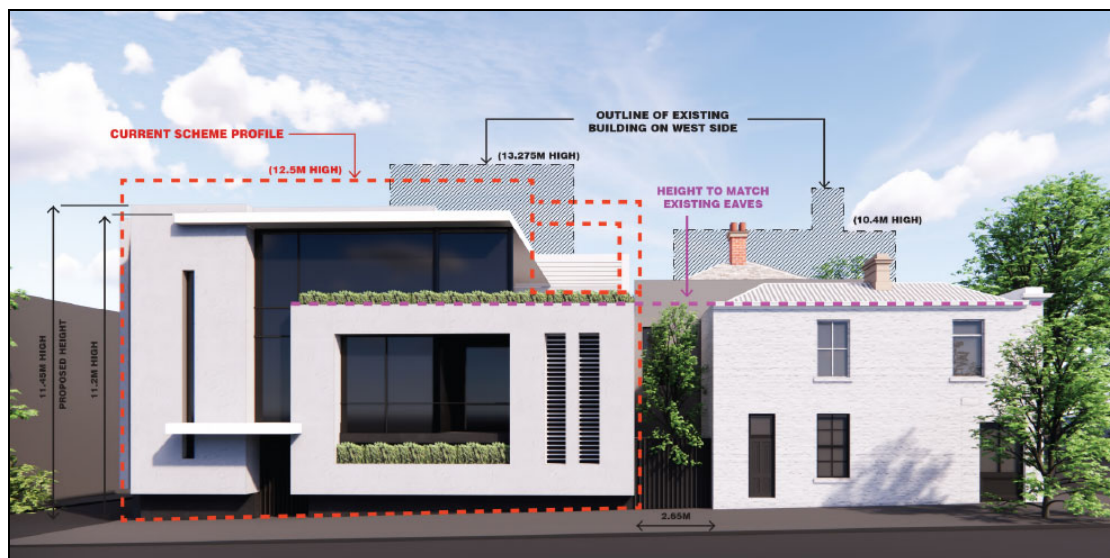


Figure 11 – Proposed basement plan

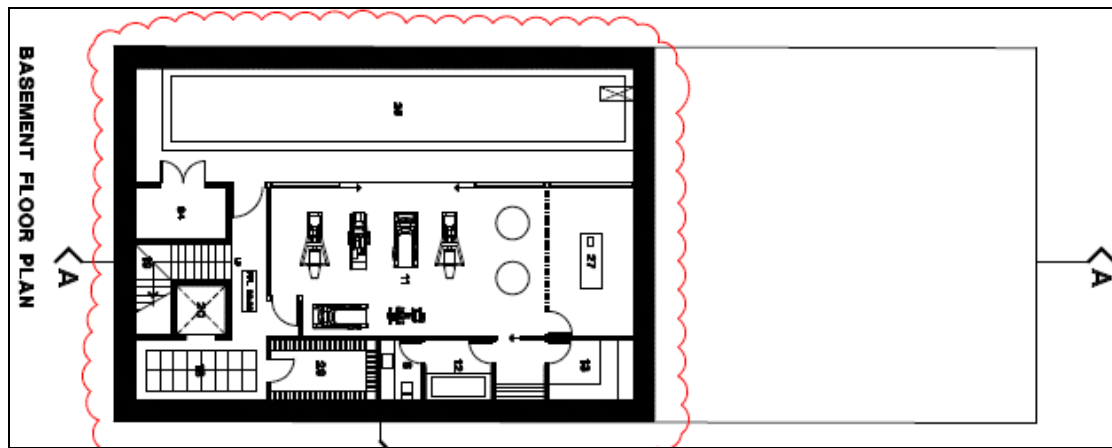


Figure 12 – Proposed ground level

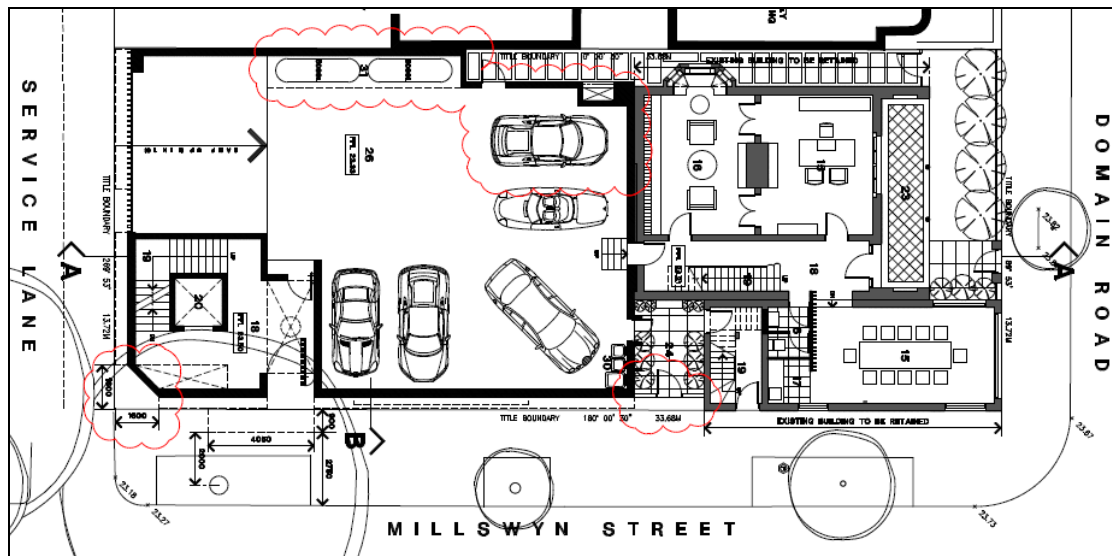


Figure 13 – Proposed first floor

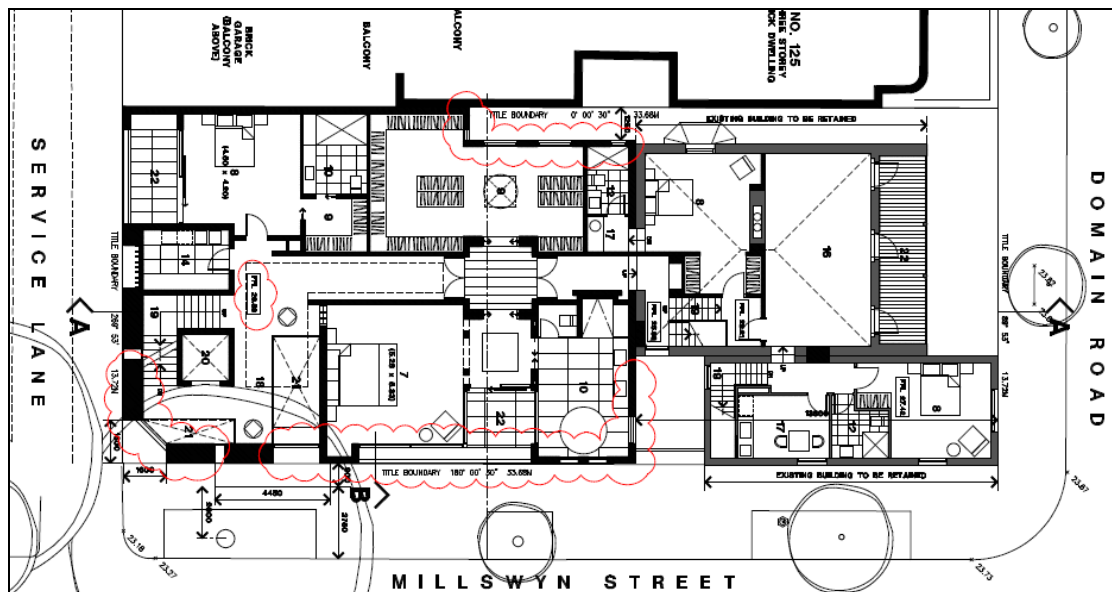


Figure 14 – Proposed second floor

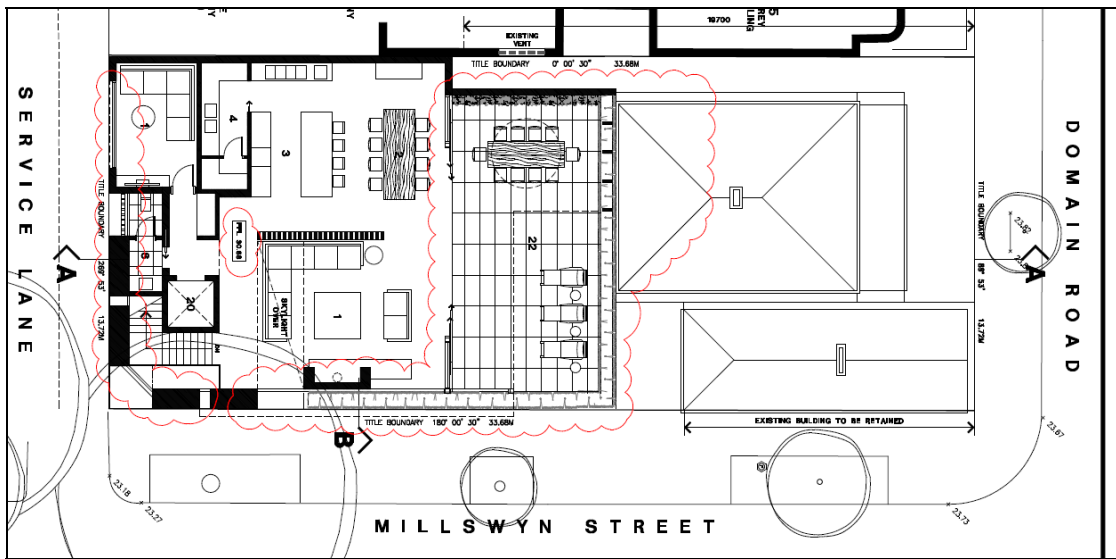
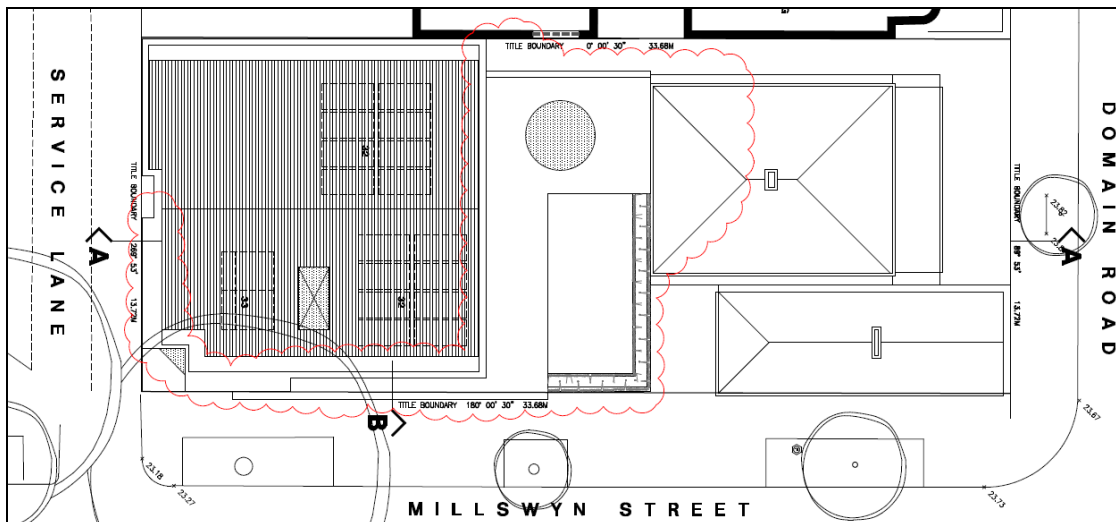


Figure 15 – Proposed roof plan



4 STATUTORY CONTROLS

The following clauses in the Melbourne Planning Scheme require a planning permit for this proposal (Table 4):

Table 4: Statutory Controls/ Permit Triggers	
Clause	Permit Trigger
Clause 32.09 General Residential Zone Schedule 5 General Residential Areas – 12 Metre Height Limit	Pursuant to Clause 32.08, a dwelling is a Section 1 use and does not require a permit. Pursuant to Clause 32.08-5, a permit is required to construct or extend one dwelling on: <ul style="list-style-type: none"> ▪ A lot of less than 300 square metres. ▪ A lot of between 300 square metres and 500 square metres if specified in a schedule to this zone. Schedule 5 states that a permit is not required to construct or extend one dwelling on a lot of between 300 and 500 square

	<p>metres.</p> <p>As the site is 452 square metres, a planning permit is not required under the provisions to this zone.</p> <p>Pursuant to Clause 32.08-10, regardless if a permit is required, a building must not be constructed for use as a dwelling or a residential building that:</p> <ul style="list-style-type: none"> ▪ exceeds the maximum building height specified in a schedule to this zone; ▪ or contains more than the maximum number of storeys specified in a schedule to this zone. <p>If no maximum building height or maximum number of storeys is specified in a schedule to this zone:</p> <ul style="list-style-type: none"> ▪ the building height must not exceed 11 metres; ▪ and the building must contain no more than 3 storeys at any point. <p>Schedule 5 to Clause 32.08 states that a building used as a dwelling or a residential building must not exceed a height of 12 metres.</p> <p>The proposal does not seek to exceed the 12 metre height control.</p> <p>Schedule 5 also states that for lots between 300 and 500 square meters a permit is not required to construct or extend one dwelling under Clause 32.08 of the Melbourne Planning Scheme.</p> <p>Clause 32.08-4 states that an application to alter or extend an existing building that did not comply with the minimum garden area requirement of Clause 32.08-4 on the approval date of Amendment VC110 is exempt from the Minimum Garden Area Requirement.</p> <p>Given that most of the Site is already developed with longstanding buildings or car parking areas that cannot be included in the calculation for garden area, the proposed would satisfy the exemption for not providing the minimum garden area if a permit was required.</p>
<p>Clause 43.01 Heritage Overlay (HO6 South Yarra Precinct)</p>	<p>Pursuant to Clause 43.01 a permit is required to:</p> <ul style="list-style-type: none"> ▪ Demolish or remove a building or works. ▪ Construct a building or construct or carry out works. ▪ Externally paint a building.
<p>Design and Development Overlay Clause 43.02 Schedule 15 – Area 1 Royal Botanic Gardens</p>	<p>Pursuant to Clause 43.02-2, a permit is required to construct a building or construct or carry out works unless a schedule to this overlay specifically states that a permit is not required.</p> <p>Schedule 15 to Clause 43.02 does not provide any permit exemptions; therefore, a permit is required.</p> <p>Table 1 to Clause 43.02, Schedule 15, states that the maximum building height within Area 1 is 12 metres.</p> <p>In this instance, building height is the vertical distance between the footpath or natural surface level at the centre of the site frontage and the highest point of the building, with the</p>

	exception of architectural features and building services.
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5 STRATEGIC FRAMEWORK

5.1 Planning Policy Framework (PPF)

The relevant provisions of the PPF are summarised as follows:

- Clause 10 (Planning Policy Framework)
- Clause 11 (Settlement)
- Clause 15 (Built Environment and Heritage)
- Clause 16 (Housing)

5.2 Local Planning Policy Framework

5.2.1 (Municipal Strategic Statement)

The relevant provisions of the MSS include:

- Clause 21.04 (Settlement)
- Clause 21.06 (Built Environment and Housing)
- Clause 21.07 (Housing)
- Clause 21.16 (Other Local Areas)
 - Clause 21.16-1 (St Kilda Road and South Yarra)

5.2.2 Local Policies

The relevant local policies are summarised as follows:

- Clause 22.05 (Heritage Places outside the Capital City Zone)
- Clause 22.17 (Urban Design Outside of the Capital City Zone)
- Clause 22.19 (Energy, Water and Waste Efficiency)
- Clause 22.23 (Stormwater Management – Water Sensitive Urban Design)

6 PARTICULAR PROVISIONS

There are no particular provisions which directly apply to this application.

7 GENERAL PROVISIONS

The following general provision applies to the application:

- Clause 65 (Decision Guidelines)
- Clause 66 (Referral and Notice Provisions).

8 PUBLIC NOTIFICATION

It was determined that the proposal may result in material detriment. Notice of the proposal was given by ordinary mail to the owners and occupiers of surrounding properties and by posting one notice on the site for a 14 day period, in accordance with Section 52 of the *Planning and Environment Act 1987*.

A signed statutory declaration confirming that the permit applicant had erected the public notice sign in accordance with Council's requirements was returned on 02 December 2019.

On 9 November 2020, objectors were further notified of the amended plans submitted by the applicant, relating to their amended application that was received 19 September 2020.

9 OBJECTIONS

Twenty three objections were received in response to advertising of the application. The matters raised by objectors have been summarised as follows:

Amenity Impacts

- Building height
- Visual bulk
- Overshadowing
- Residential noise from rooftop
- Views interrupted along Millswyn Street.

Heritage

- Neighbourhood character
- Building materiality
- Building scale and form
- Building height.

Other

- Impacts on street trees
- Swimming pool over Millswyn Street and not located within property boundary
- Noise during construction
- Line of sight for cars and pedestrians in the laneway
- Fails to respond to human scale
- 124 Millswyn Street not included on the plans
- 123 Millswyn Street is incorrectly labelled on the plans
- Lack of open space.

Further consideration of the objections is given in Section 13 of this report.

10 CONSULTATION

A copy of the objections was provided to the applicant for review. On 10 December 2019, the applicant provided a written response to the objections received for Council review. This response was circulated to the objectors on 10 December 2019.

11 INTERNAL REFERRALS

The application was referred internally to the following areas of Council for comment:

11.1 Urban Design

The application was referred to the City of Melbourne's Urban Design Team who provided the following comments (summarised):

- Concerns with:

- the visual dominance of the contemporary form and its abrupt transition from adjoining retained corner
- The lack of visual permeability and interaction with the public realm
- The legibility of entries and sense of address

Upon receiving the first amended drawings (Section 50 Amendment – dated 20 September 2019), Urban Design provided the following additional comments (summarised):

- The separation between the retained corner form and the contemporary infill to the rear is supported. This approach ensures that the two forms read as distinct buildings within the streetscape.
- The massing transition within the contemporary infill from a two-storey mass to the north and three to the south is supported.
- The thick pergola fin element presents visual bulk and should be addressed.
- The Millswyn Street elevation contains blank walls and a planter that is too high and not of a pedestrian scale.
- The legibility of entry and sense of address remains unaddressed in the discussion drawings.
- The large concrete façade planes to the Millswyn Street frontage cantilever above ground, resulting in an ill-defined space at street level which will be a litter trap, and erodes street definition.
- We strongly object to the cantilevered pool over the public realm which represents a 'land grab' of public space for private benefit in an attempt to capture oblique park views. A 1.5m projection over the footpath cannot be supported and must be reduced to no more than 300mm beyond the title boundary.

Planner's Response

Since the above advice was prepared, the applicant addressed many of the issues raised by formally amending the development drawings on 18 September 2020 (57A Amendment). The changes included reducing the building height, adjusting the Millswyn Street elevation to include more refined detail and deleting the projecting pool.

Given the changes generally responded to the previous advice given, formal referral to the City of Melbourne's Urban Design Team was not required to be repeated. The application is assessed against the relevant built environment policies at Section 13 of this report.

11.2 Heritage

The application was reviewed by the City of Melbourne's Heritage Advisor who provided the following comment:

"I have some key concerns about the proposal which, in summary, I could not support due to its unacceptable negative heritage impacts upon both the subject sites and on the broader HO in particular in that part of the HO that immediately abuts the subject sites in both Domain Rd and Millswyn St.

Key concerns in summary are:

- The extent of demolition to the corner property at #133 Domain Rd
- The height, form, façade pattern and detailing of the proposed rear addition to the corner property at #133 Domain Rd

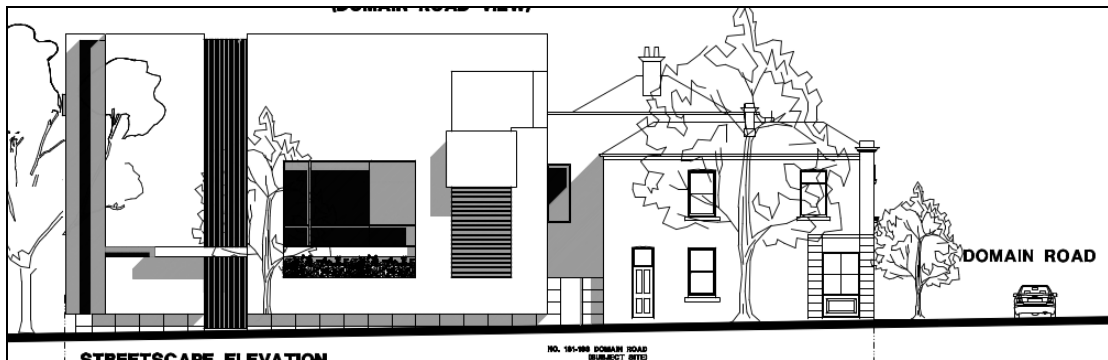
The proposed addition does not appropriately respond to its heritage sensitive context and the reference to the recent modern infill on the opposite corner at 141 Domain Rd as a basis for which to consider the proposal contextual, is not supported.”

Planner’s Response

It should be noted that the above heritage comments related to proposal prior to the application being amended to reduce the height of the addition (Figure 16). The latest development plans have made significant improvements that provide a more considered design response relating to the existing heritage buildings.

The application is assessed against the relevant heritage policies at Section 13 of this report.

Figure 16 – Previously proposed addition



11.3 Traffic Engineering

The application was referred to the City of Melbourne’s Traffic Engineers who provided the following comments:

“Traffix Group has undertaken a carpark assessment and notes the aspects of the carpark that generally comply with the requirements of the Planning Scheme or Australian Standards. It is noted however that the car spaces are not to be line marked, or may operate in tandem, and turning movement diagrams have been by Traffix group provided to confirm that they can function appropriately. Given that the use is for a single residential dwelling the informal car parking arrangement is considered acceptable. We understand that the layout does not strictly accord with the Australian Standards and should any issues arise it will be for the applicant to resolve. Engineering Services notes that the carpark is proposed for use by a single dwelling and that residents would be familiar with access to the informal car spaces and would manage any access requirements for tandem spaces. Swept path diagrams have also been provided to demonstrate that satisfactory access is available to and from the car lift.

Access to the garage at ground floor is to be via a 6.1m wide door that is setback 500mm from the site boundary. The adjoining laneway is 3.8m wide and swept path diagrams prepared by Traffix Group show access to and from the site for each car space can be satisfactorily undertaken in a forward direction. Traffix Group advises that the ramp grades and 2.2m headroom clearance satisfy the Planning Scheme.

It is noted that proposed building adjoins the intersection of Council Lane 1435 and Millswyn Street with minimal setbacks provided at the southeast corner of the site, impacting on the sightlines between vehicles and pedestrians. It is requested that as a minimum, a corner splay or area at least

50 per cent clear of visual obstructions extending at least 2.0m by 2.5m be provided at the southeast corner of the site, to provide a clear view of pedestrians on the footpath (as set out in the Planning Scheme for Access ways).

Engineering Services accepts the assessment by Traffix Group that traffic generation from the proposal will not result in any material change in traffic generation to or from the site.”

Planner’s Response

The City of Melbourne’s Traffic Team did not object to the proposal however they noted a splayed corner at the rear would improve safety. The application was formally amended on 18 September 2020 by the applicant to include a splayed corner where CL1435 intersects with Millswyn Street to address the issue of sightlines and mitigating potential safety issues.

11.4 Waste and Recycling

The Waste Management Plan (WMP) submitted with the application was referred to the City of Melbourne’s Waste and Recycling Team who provided the following comment:

“We have reviewed the WMP for this proposed development and found it to be **acceptable**.”

Waste Condition:

The waste storage, processing and collection arrangements must be in accordance with the Waste Management Plan (WMP) prepared by Huw Wilson dated 3rd September 2019.

The submitted WMP must not be altered without prior consent of the City of Melbourne – Waste and Recycling“

Planner’s Response

The provided WMP is accepted by the City of Melbourne’s Waste and Recycling Team. It is recommended that the supplied condition be included on any permit issued for the proposal, See Section 16 of this report - **Condition 11**.

Given the above, the waste element of the proposal is satisfied and does not require further assessment.

11.5 Civil Design

The application was referred to the City of Melbourne’s Civil Design Team who provided the following comment:

“The proposal includes a swimming pool projecting over the footpath. These types of projections are *not* included in our Road Encroachment Guidelines. This application shall be referred to Council’s Urban Design for comments. This projection also has an impact on street tree and shall be referred to Council’s Urban Sustainability for comments.

All projections over the street alignment must conform to Building Regulations 2018, Part 6, and Sections 98 to 110 as appropriate. Reference may be made to the City of Melbourne’s Road Encroachment Operational Guidelines with respect to projections impacting on street trees and clearances from face/back of kerb.”

In addition to the above, standard civil engineering permit conditions were supplied.

Planner’s Response

No projecting swimming pool is now proposed, but the recommended permit conditions should be applied to any permit issued for the Site. See Section 16 - **Conditions 2, 3, 4, 5, 6, 7, 8, and 9.**

11.5.1 Urban Forestry

The application was referred to the City of Melbourne's Urban Forestry Team as it was identified the proposal may impact on the existing street trees adjacent to the Site. They provided the following comments as well as recommending standard permit conditions:

"The application plans show that the two public trees, growing in plots within the footpath of Millswyn Street, can be retained. The most significant tree is the mature Sweet Gum (asset 1029218). Approximately 15-20% of the western aspect of the trees canopy overhangs the property boundary and as such pruning will be necessary. Some pruning to minimise the property overhang has been carried out in the past. Whereas the extent of pruning required by the design of the proposed building is not likely to be detrimental to either tree, the proximity of the building to the mature Sweet Gum, may increase pressure for future pruning.

Additionally, most impacts to public trees occur at demolition or construction phases. Whilst the planning scheme does not require applicants to consider how a building will be demolished or constructed, it is a factor for council. The Tree Retention and Removal Policy will support minimal pruning and the retention of trees. In this instance, space for demolition and construction is limited and as such, impacts can be expected.

The Arboricultural Impact Assessment provided by the applicant by Glenn Waters Arboriculture, (30 Oct 2019) concludes that, if the works are carried out under the supervision of an Arborist, there should be little impact. But, no demolition or construction requirements were assessed in forming this opinion.

Should a permit be issues it is recommended that the following conditions are included."

Planner's Response

It is understood the proposed development may impact on the City of Melbourne's assets. To ensure that the street trees are not damaged, it is recommended the provided conditions be included on any permit issued. For completeness, it is also recommended that a construction and demolition management plan be required through applying a permit condition to any permit granted. See Section 16 – **Conditions 10, 12, 13, 14, 15, 16, and 17.**

12 EXTERNAL REFERRALS

The application was not required to be referred externally.

13 ASSESSMENT

The application is seeking planning permission for partial demolition, external alterations, external painting, and buildings and works to construct a building.

The key issues when considering the appropriateness of the application are:

- Heritage.
- Built environment (urban design).
- The requirements of DDO15.

- Compliance with the mandatory provisions of the Melbourne Planning Scheme.
- Matters raised by objectors.

13.1 Heritage

The key consideration of this application regarding heritage is the appropriateness of the works to the existing 'Contributory' heritage buildings on the Site and the impact the proposal may have on the South Yarra Precinct.

The Site is listed as 'Contributory' in the City of Melbourne's Heritage Places Inventory February 2020 Part A (Amended July 2020).

The City of Melbourne's i-Heritage database provides the following description and notable features for 131 Domain Road, South Yarra:

"A terraced residence typical of the early Edwardian/late Victorian period, incorporating elements from each. Bull nosed bricks are used to accentuate corners and openings. Decorative render panels are used on verandah wing walls, and a central chimney rising from the hipped roof emphasises the Edwardian nature of the facade. Notable features include verandah decoration; verandah roof and structure."

The City of Melbourne's i-Heritage database provides the following description and notable features for 133 Domain Road, South Yarra:

"A narrow fronted shop retaining shop front glazing bars and stall board. Original front door has been replaced. Stall board unusually high with fittings for vertical blinds. Console brackets under sill quite elaborate. This building was a grocer's shop for the first 80 years of its life. Notable features include intact shop front."

Incorporated Document *Heritage Precincts Statements of Significance February 2020* provides the following statement of significance for the South Yarra Precinct:

"South Yarra Precinct is predominantly residential, where significant and contributory development dates from the 1850s through to the mid-twentieth century, including the post-World War II period. While nineteenth century development is well represented, the twentieth century is also an important period. The precinct is renowned for its high quality historic dwellings, and proximity to some of Melbourne's most significant public parks and gardens, and public institutions, including the Royal Botanic Gardens and National Herbarium; Government House and Government House Reserve; Melbourne Observatory; Shrine of Remembrance and Sidney Myer Music Bowl. Kings Domain, Queen Victoria Gardens, Alexandra Gardens and Fawkner Park are also largely within or immediately adjoining the precinct. Mature street plantings and rows are also part of the significant development of the precinct. The precinct is generally bounded by Alexandra Avenue to the north; Punt Road to the east; Commercial Road to the south; and St Kilda Road to the west. A separate precinct area is located to the south of Commercial Road."

The incorporated document also provides the following relevant key attributes of the precinct:

- Typical nineteenth and early twentieth century building characteristics including:
 - Use of face brick, rendered masonry and bluestone building materials, the latter typical of the early institutional buildings.

- Hipped and gable ended roof forms with often visible and prominent chimneys, slate or tile cladding; prominent parapets, with urns and finials; side or party walls extending from the fronts of terraces; verandahs with decorative and often ornate cast iron work and tiled verandah floors, and timber verandahs and friezes in the Edwardian dwellings; iron palisade fences on stone plinths.

The proposal is an acceptable response to the relevant heritage policies for the following reasons:

- The proposal respects the existing Site features and immediate built form context, aligning with the existing character of the surrounds within the South Yarra Precinct.
- The proposed demolition does not unreasonably affect the heritage place.
- The proposal seeks to conserve and enhance the elements of the Site that contribute to its significance.
- The proposal does not unreasonably dominate the contributory building on the site or unreasonably detract from any neighbouring heritage place.

The following assessment of the Clause 22.05 performance standards has been provided to address the appropriateness of the proposed development.

13.1.1 Demolition

Clause 22.05 states that partial demolition of significant elements or the front or principal part of contributory buildings will not generally be permitted.

Clause 22.05 defines the front or principal part of a building as:

“For most non-residential buildings, the front or principal part is generally considered to be one full structural bay in depth complete with the structure and cladding to the roof or generally 8-10 metres in depth.

For corner sites, the front or principal part of a building includes the side street elevation.”

Although the proposal contains demolition to part of the rear roof structure within 8 metres of the front of 131 Domain Road and the rear single storey structure at 133 Domain Road that fronts Millswyn Street, the proposed demolition is acceptable for the following reasons:

- The demolition to 131 Domain Road is generally beyond the first two rooms in depth which is approximately 9 metres behind the front of the building. The demolition within the front part of the building is isolated to the south-west section of the hipped roof of the main structure.

This variation of the policy is acceptable in this instance as this section of the roof is not generally visible from the street and the works will not significantly detract from the heritage character of this building. This is confirmed as the demolition does not affect the notable features of the building as listed in the City of Melbourne’s i-Heritage database. Note the proposal does not seek to remove the front terrace detailing or existing central chimney which bestows the site a typical Edwardian character.

- The demolition to the rear single storey structure at 133 Domain Road is well beyond 8-10 metres (11 metres) as required by the policy however, this section of the building is still defined as the front or principal part of the building as it is the side street elevation.

The variation of the policy is acceptable in this instance as the works retain a significant portion of existing heritage building and the works do not remove features identified as notable in the City of Melbourne's i-Heritage database. It is noted that much of the heritage value of this building is attributed to the shopfront and historic shop use of the land. While the shop use will not continue, the proposed residential use is as of right under the planning scheme (a dwelling does not require a planning permit).

- The proposed demolition will facilitate the extended use of the Site without compromising the principal part of the building.
- The proposed demolition will not compromise the appearance or character of the heritage place.
- The demolition does not seek to alter the three dimensional form of the place or insert façadism.
- The proposed demolition works will not affect the conservation of the retained principal part of the buildings.
- The proposed demolition does not seek to remove notable features of the building or detract from any notable features identified in the South Yarra Precinct Statement of significance.
- The southern-most structures are not original, and their demolition will not adversely impact the heritage value of the Site.

13.1.2 Alterations

The proposed external alterations (including painting) to the front of the Site are acceptable for the following reasons:

- The works do not seek to remove or significantly alter the appearance of the existing details of the building that contribute to the Site's character and appearance.
- The minor works to the front of the Site seek to unify the two buildings, while retaining their varying heritage characteristics.
- The works to the front of the building are minor and readily reversible without resulting in the loss of significant fabric.

13.1.3 Additions

The proposed additions to the contributory buildings are an acceptable response to the policy at Clause 22.05 based on the following:

- The works are respectful to the buildings character and appearance as they are set back approximately 9 metres behind 131 Domain Road and approximately 11 metres behind 133 Domain Road.

The setback of the addition combined with the Millswyn Street side entrance materiality and 2.65 metre wide courtyard beyond the fence line affords the heritage places 'breathing space' to ensure the new buildings are not a dominant or intrusive addition (Figure 17 and 18).

- The addition is visually recessive and considerate of the contributory host buildings as well as being clearly modern and distinguishable from the original building fabric.
- The proposed addition maintains a consistent height with the surrounding built form, responding to the theme of higher buildings in this section of South Yarra.

- The design response and materials are respectful and will sit comfortably within the streetscape which includes a range of historic and contemporary buildings that contain a variety of materials. The proposed materials are clearly modern and separated from the heritage form which is respectful.

Figure 17 – Proposed floor plan showing side entrance / courtyard (green)

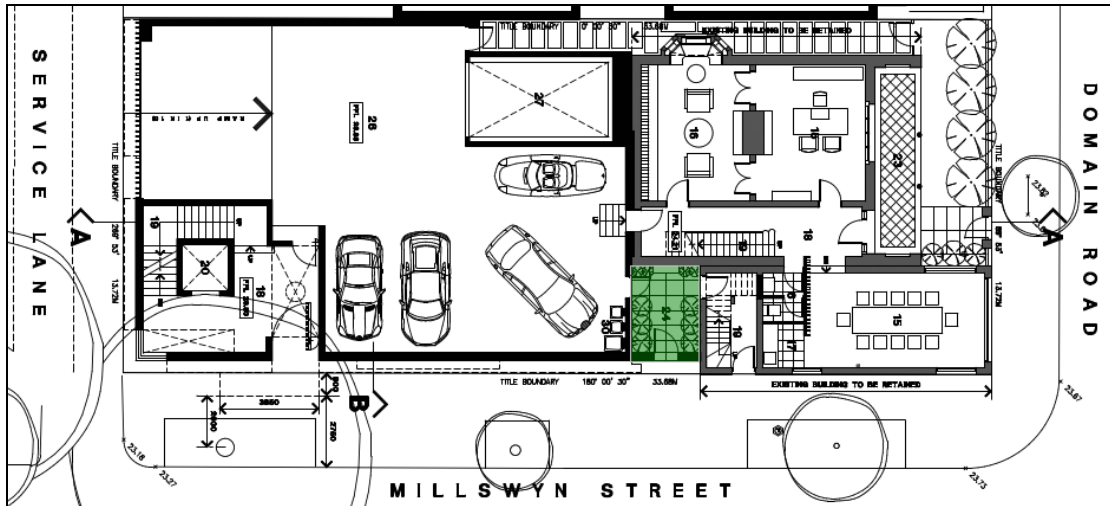
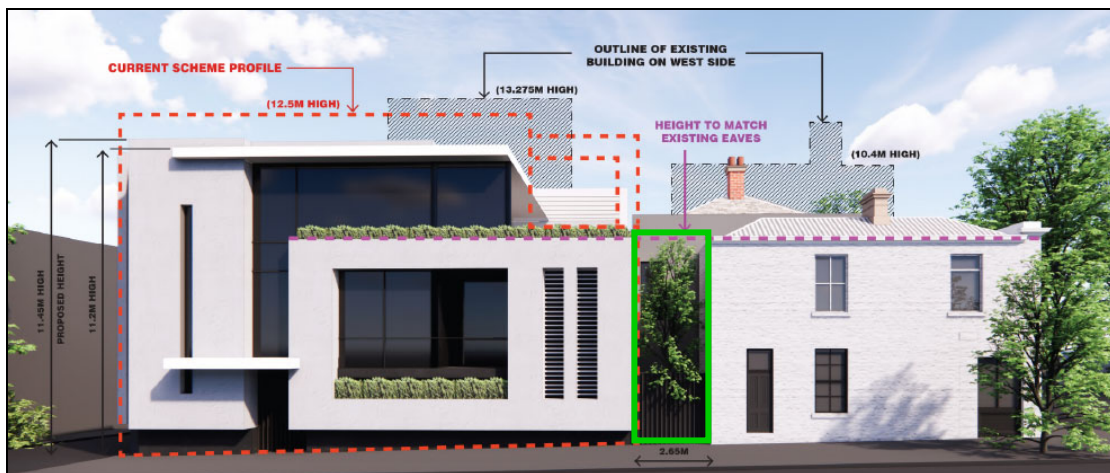


Figure 18 - Proposed Millswyn Street elevation



13.1.4 Concealment of additions

The proposed additions are appropriately partially concealed behind the existing heritage buildings as they are greater than 8 metres behind the front façade (Figure 19)

Figure 19 - Sightline



13.2 Built Environment (Urban Design)

The proposal is an acceptable response to the relevant built environment policies for the following reasons:

- The proposed built form aligns with the height, scale, context, and bulk of the buildings adjoining and near the Site. This is achieved through proposing a respectful height, setback, and level of detail that is influenced by the heritage buildings and existing higher scale development at this section of the immediate surrounds.
- The new building inserts an acceptable level of detail and quality materials to ensure visual interest, avoiding visual bulk and blank walls.
- The design response acknowledges and respects the existing heritage buildings and proposes a considered addition that does not dominate the existing structures.
- The new buildings do not introduce unreasonable overshadowing to the public realm. Any overshadowing to Millswyn Street will be after mid-day given the lot location and orientation.
- The splayed south-west corner promotes pedestrian and vehicle safety for users of the rear lane.
- The proposal maintains a contextual landscaping response through including various planters at the lower and upper levels.

13.3 DDO15 (Royal Botanic Gardens)

The proposed works are an acceptable response to DDO15 which relates to the Royal Botanic Gardens (RBG), based on the following reasons:

- The proposed works are more than 100 metres south of the RBG and are not likely to be visible given the presence of the garden's existing structures, fencing, planting and the open space to the south known as Kings Domain South (Figure 20).
- The proposed building is less than the 12 metre maximum height control and will not cast any shadow on the RBG.
- The scale of the proposed development is not likely to result in any significant wind impacts.
- The proposal does not obscure views or vistas to the RBG from the public realm as they are located behind an existing building.
- The proposal responds appropriately to the existing built form context in the surrounds, noting the proposed development is lower than other sites fronting Domain Road. This is acceptable given the heritage host building that is being retained.
- The proposal does not impact on the landscaping properties of the RBG.
- The proposed addition reasonably limits amenity impacts noting:
 - The west adjoining property has existing structure constructed near the shared boundary.
 - The habitable room windows / balconies of the property to the south are approximately 11 metres south of the proposed buildings south elevation.

- The property to the east is approximately 18 metres from the new works.
-

Figure 20 – Location of the Site and Royal Botanic Gardens



13.4 Technical Compliance

13.4.1 Minimum Garden Area Requirement

It is noted that Clause 32.08-4 states that an application to alter or extend an existing building that did not comply with the minimum garden area requirement of Clause 32.08-4 on the approval date of Amendment VC110, is exempt from the Minimum Garden Area Requirement.

Victorian Planning Schemes were all amended by VC110 to include mandatory garden area requirements on 27 March 2017.

Clause 73.01 provides the following definition for garden area:

“Any area on a lot with a minimum dimension of 1 metre that does not include:

- a) a dwelling or residential building, except for:
 - an eave, fascia or gutter that does not exceed a total width of 600mm;
 - a pergola; unroofed terraces, patios, decks, steps or landings less than 800mm in height;
 - a basement that does not project above ground level;
 - any outbuilding that does not exceed a gross floor area of 10 square metres;
 - and domestic services normal to a dwelling or residential building;
- b) a driveway; or
- c) an area set aside for car parking.”

Given that most of the Site is already developed with longstanding buildings or car parking areas that cannot be included in the calculation for garden area, the proposal would satisfy the exemption for not providing the minimum garden area.

13.5 Matters Raised by Objectors

Where concerns raised in an objection have not been addressed in the above assessment, these matters have been separately considered below.

- Views interrupted along Millswyn Street.

Views from private property are not protected by the provisions of the Melbourne Planning Scheme that apply to this permit application.

- Neighbourhood character

The existing neighbourhood character within the immediate surrounds is defined by its larger scale developments.

The proposal reasonably responds to the existing neighbourhood character and proposes a structure that is within the height parameters, design and built form character sought by the relevant planning controls.

- Impacts on street trees

The impacts on street trees can be appropriately managed through the permit conditions recommended by the City of Melbourne Urban Forestry Team.

- Swimming pool over Millswyn Street and not located within property boundary.

This element of the proposal has been deleted from the proposal under the Section 57A amendment dated 18 September 2020.

- Noise during construction.

Construction noise is regulated by Council's Local Laws and the relevant Environmental Protection Authority (EPA) guidelines.

- Line of sight for cars and pedestrians in the laneway / the laneway is too narrow for emergency and waste services.

The City of Melbourne's traffic engineers have not objected to the proposal. The current application plan shows the south-east corner of the proposed development splayed to address this issue.

The City of Melbourne's Waste and Recycling team have confirmed that the proposed development and waste management plan are acceptable. This includes waste collections from garbage trucks.

The proposed development does not seek to encroach into the rear lane, and it is noted the rear of the Site is already occupied by structures and car parking. The proposed development is not likely to significantly impact the ability for emergency services to navigate the lane.

- Fails to respond to human scale.

The proposed development has been assessed against the existing surrounding built form context, which contains several buildings of a similar height, and the identified preferred built form character for the area. The scale is acceptable in this instance.

- 124 Millswyn not included on the plans.

124 Millswyn Street was included on the advertised site analysis plan drawing titled 'TP05'. This neighbouring property has been considered in the assessment of this application.

- Inaccuracy of 123 Millswyn Street's north boundary shown on the drawings.

It appears the proposed elevation drawings incorrectly show the location of the north boundary of 123 Millswyn Street. Despite this error, the correct site boundary for 123 Millswyn Street is shown on the plan drawings. In this instance the error is of no consequence as the proposed development does not seek to take advantage of or rely on the incorrectly shown boundary of that site or the additional lane width the error produces. This error does not impact the assessment of the proposal.

- Noise from the terrace

Noises generated from the rooftop terrace of a single dwelling will not unreasonably detract from the amenity of the surrounding neighbourhood.

In any instance, concerns regarding noise generation from the property once construction is complete can be followed up through the Victorian Police, Local Council (Local Laws) and the Environment Protection Authority (EPA) where applicable.

- Lack of open space.

The proposed development is not subject to a Clause 54 (ResCode) assessment which would consider private open space. Nonetheless, the proposal contains adequate private open space in the form of the roof terrace.

13.7 Sustainability

13.7.1 Energy, Water and Waste Efficiency

Clause 22.19 provides that it is policy to encourage buildings that:

- Minimise greenhouse gas emissions and maximise energy efficiency.
- Minimise mains potable water consumption and encourage the use of alternative water sources, such as rainwater and grey water.
- Provide the facilities that will enable building users and occupants to reduce waste sent to landfill, maximise the recycling and reuse of materials and support the municipality's progress towards becoming a resource and material-efficient city.

The proposed development complies with performance measures set out in Clause 22.19-5 for development, noting the following:

- The development includes double glazing, inclusion of a 11,000L water tank, raingarden systems and permeable surfaces to ensure the building achieves best practice environmentally sustainable design outcomes.
- The proposed addition to the building and its ESD features result in a 10 per cent increase in the energy efficiency of the building.
- The dwelling has access to a bin storage area.
- The Waste Management Plan (WMP) has been reviewed and accepted by the City of Melbourne's Waste and Recycling Team.

13.7.2 Stormwater Management (Water Sensitive Urban Design)

The objectives of this policy include:

- To achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended).
- To promote the use of water sensitive urban design, including stormwater re-use.

Clause 22.23 provides that it is policy that development applications relating to new buildings incorporate water sensitive urban design that achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Guidelines, CSIRO 1999 (or as amended).

The permit applicant has supplied a STORM Rating Report identifying that the development has the preliminary design potential to achieve a STORM rating of 100 per cent by introducing permeable surfaces and rainwater tanks.

Standard conditions (Civil Engineering) will be included on any permit being granted, as recommended by Council's Principal Engineer (Infrastructure), to ensure that the development complies with Local Planning Policy Clause 22.23.

14 RECOMMENDATION

It is considered that the proposal is consistent with the relevant sections of the Melbourne Planning Scheme, as discussed above, and that a Notice of Decision to Grant a Permit should be issued for the proposal subject to conditions.

15 WHAT WILL THE PERMIT ALLOW?

If a permit is granted, it is recommended the permit preamble reads as follows:

Partial demolition, external alterations, external painting, and buildings and works to construct a building in accordance with the endorsed plans.

16 CONDITIONS

Compliance with the endorsed plans

1. The development as shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.

Engineering

2. All projections over the street alignment must be drained to a legal point of discharge in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services
3. The title boundaries for the property may not exactly agree with the road alignment of the abutting Council lane. The approved works must not result in structures that encroach onto any Council lane.
4. Prior to the commencement of the development, a stormwater drainage system, incorporating integrated water management design principles, must be submitted to and approved by the Responsible Authority – Engineering Services. This system must be constructed prior to the occupation of the development and provision made to connect this system to the City of Melbourne's underground stormwater drainage system.
5. Prior to the commencement of the use/occupation of the development, all necessary vehicle crossings must be constructed and all unnecessary vehicle crossings must be demolished and the footpath, kerb and channel reconstructed, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services
6. All portions of roads and laneways affected by the building related activities of the subject land must be reconstructed together with associated works including the reconstruction or relocation of services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.

7. The footpaths adjoining the site along Domain Road and Millswyn Street must be reconstructed together with associated works including the reconstruction of kerb and channel and modification of services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.
8. Existing street levels in Domain Road, Millswyn Street and laneway known as CL1435 must not be altered for the purpose of constructing new vehicle crossings or pedestrian entrances without first obtaining approval from the Responsible Authority – Engineering Services
9. All street lighting assets temporarily removed or altered to facilitate construction works shall be reinstated once the need for removal or alteration has been ceased. Existing public street lighting must not be altered without first obtaining the written approval of the Responsible Authority – Engineering Services.

Construction and demolition management plan

10. Prior to the commencement of the development, including demolition or bulk excavation, a detailed construction and demolition management plan must be submitted to and be approved by the Responsible Authority – Construction Management Group. This construction management plan must be prepared in accordance with the Melbourne City Council - Construction Management Plan Guidelines and is to consider the following:
 - a. Public safety, amenity and site security.
 - b. Operating hours, noise and vibration controls.
 - c. Air and dust management.
 - d. Stormwater and sediment control.
 - e. Waste and materials reuse.
 - f. Traffic management.

Waste Management Plan

11. The waste storage and collection arrangements must be in accordance with the Waste Management Plan (WMP) prepared by Trethowan Architects dated 4th July 2019.

The submitted WMP must not be altered without prior consent of the City of Melbourne – Engineering Services.

Urban Forestry

12. Prior to the commencement of any works, including demolition and bulk excavation, a Tree Protection Plan (TPP) must be provided to the satisfaction of the Responsible Authority (Urban Forestry & Ecology). The TPP must identify all impacts to public trees, be in accordance with AS 4970-2009 – Protection of trees on development sites and include:
 - a. City of Melbourne asset numbers for the subject trees (found at <http://melbourneurbanforestvisual.com.au>).
 - b. Reference to the Arboricultural Impact Assessment by Glenn Waters Arboriculture, (30 Oct 2019).

- c. Reference the finalised Construction and Traffic Management Plan, including any public protection gantries, scaffolding, construction zones, machinery locations and vehicle swept paths.
 - d. Site specific details of the temporary tree protection methods to be used to isolate public trees from the demolition and construction activities.
 - e. Specific details of any special construction methodologies to be used within the Tree Protection Zone of any public trees. These must be provided for any utility connections or civil engineering works.
 - f. Full specifications of any pruning required to public trees with reference to marked images.
 - g. Any special arrangements required to allow ongoing maintenance of public trees for the duration of the development.
 - h. Details of the frequency of the Project Arborist monitoring visits, interim reporting periods and final completion report (necessary for bond release).
13. All works (including demolition), within the Tree Protection Zone of public trees, must be undertaken in accordance with the endorsed Tree Protection Plan and supervised by a suitably qualified Arborist where identified in the report, except with the further written consent of the Responsible Authority.
14. Following the approval of a Tree Protection Plan (TPP) a Tree Protection Bond (bank guarantee) equivalent to the combined environmental and amenity values of public trees that may be affected by the development will be held against the TPP for the duration of construction activities.
- The bond amount will be calculated by council and provided to the applicant/developer/owner of the site. Should any tree be adversely impacted on, the Melbourne City Council will be compensated for any loss of amenity, ecological services or amelioration works incurred.
15. No public tree adjacent to the site can be removed or pruned in any way without the written approval of the Melbourne City Council.
16. Building canopies must be designed and installed in a way that minimises pruning of public trees and avoids the removal of main structural branches within the public realm.
17. No public trees can be removed without the approval of the Melbourne City Council.

Expiry

18. This permit will expire if one of the following circumstances applies:
- a) The development is not started within two years of the date of this permit.
 - b) The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the permit if a request is made in writing before the permit expires, or within six months afterwards. The Responsible Authority may extend the time for completion of the development

if a request is made in writing within 12 months after the permit expires and the development started lawfully before the permit expired.

Notes.

All necessary approvals and permits are to be first obtained from the City of Melbourne and the works performed to the satisfaction of the responsible authority – Manager Engineering Services Branch.

In accordance with the Tree Retention and Removal Policy a bank guarantee must be:

1. Issued to Melbourne City Council, ABN: 55 370 219 287.
2. From a recognised Australian bank.
3. Unconditional (i.e. no end date)
4. Executed (i.e. signed and dated with the bank stamp)

Please note that insurance bonds are not accepted by the Melbourne City Council. An acceptable bank guarantee is to be supplied to Council House 2, to a representative from Council's Urban Forest and Ecology Team. Please email trees@melbourne.vic.gov.au to arrange a suitable time for the bank guarantee to be received. A receipt will be provided at this time.

At the time of lodgement of the bank guarantee the completed Project Arborist Confirmation Form must be provided. On completion of the works the bank guarantee will only be released when evidence is provided of Project Arborist supervision throughout the works and a final completion report confirms that the health of the subject public trees has not been compromised.

Approval for any tree removal is subject to the Tree Retention and Removal Policy, Melbourne City Council's Delegations Policy and requirements for public notification, and a briefing paper to councillors. It should be noted that certain tree removals including but not limited significant or controversial tree removals, may be subject to decision by Melbourne City Council or a Committee of Melbourne City Council.

All costs in connection with the removal and replacement of public trees, including any payment for the amenity and ecological services value of a tree to be removed, must be met by the applicant/developer/owner of the site. The costs of these works will be provided and must be agreed to before Melbourne City Council remove the subject trees.