

21 December 2020

The Chief Executive Officer  
Northern Beaches Council

Dear Sir / Madam,

**141 Powderworks Road, Elanora Heights  
Request for modification under Section 4.55(1A) to Development Consent  
DA2020/0053 to alter the approved development**

**1 Introduction**

Development Application no. 2020/0053 approved alterations and additions to a dwelling house and construction of an attached dual occupancy upon the subject site. It was approved by the Northern Beaches Council on 8 April 2020. Modification to the development consent is sought to make minor changes to the approved development, as described herein.

The modifications proposed are the result of further detailed design during the preparation of the construction certificate and consequential to the conditions of the development consent.

**2 Proposed Modifications**

The proposed modifications involve various minor design changes, are depicted in the accompanying architectural plans and summarised below:

1. Change external building colour to “Deep Ocean” (a ‘Colourbond’ colour)
2. Enlarge the south facing bedroom window with larger compliant fire shutter on the outside.
3. Enlarge the west facing bedroom window
4. Reinstall north facing window to kitchen
5. Reinstall skylight to bathroom
6. Front door – removal of alcove

The proposed modifications are summarised within the figures at Annexure 1 and depict a comparison to the DA approved plans.

The proposed modifications will necessitate a modification to the consent, to reflect the architectural plans that accompany this application.

### **3 Statement of Environmental Effects**

#### **3.1 Section 4.55(1A) and environmental assessment considerations**

The following is a Statement of Environmental Effects made under the provisions of Section 4.55(1A) being modifications involving substantially the same development. Having regard to Section 4.55(1A) a consent authority may, modify the consent if:

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

In this regard, it is noted that:

- The nature of the proposed modifications are minor and within the scope of Section 4.55 (1A) being modifications involving substantially the same development for which consent was originally approved on the land.
- The application has taken into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.
- The following Statement of Environmental Effects considers the nature of the proposed modifications and the potential impact of the changes on environmental planning grounds.

### **4 Environmental Assessment**

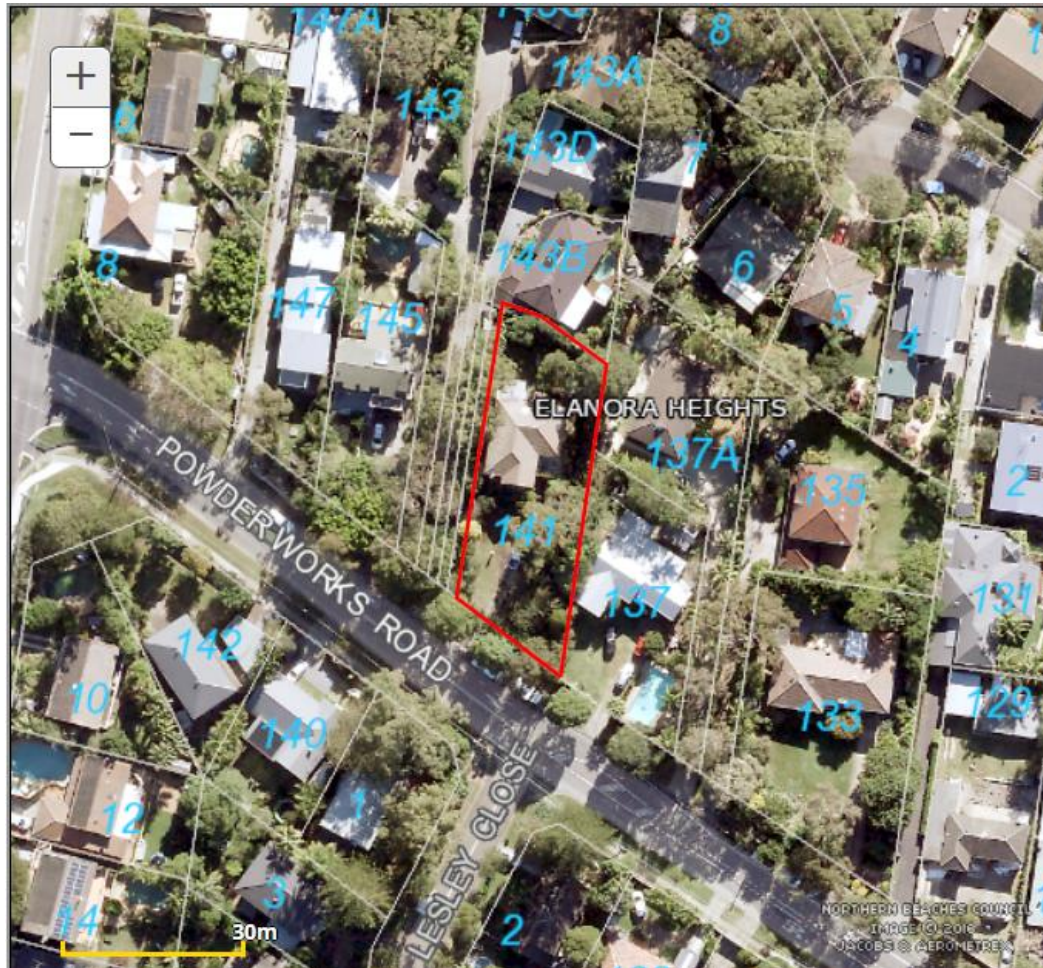
#### **4.1 Site analysis**

##### **4.1.1 Details of the property and subject site**

The site is located 141 Powderworks Road, Elanora Heights. It is legally described as Lot 101 in Deposited Plan 842992. The site has an area of approximately 1,017.50m<sup>2</sup>. The site is irregularly shaped.

#### **4.2 Zoning and key environmental affectations**

The land is not affected by key environmental considerations like, for example, heritage, acid sulfate soils, flooding, waterways, bushfire, sensitive vegetation or sloping land. Based on the site investigations that have been undertaken, there are no zoning or environmental characterises that present impediments to the improvements proposed to the land.



**Figure 1 – 141 Powderworks Road, Elanora Heights (source: Northern Beaches Council)**

## 5 Pittwater LEP

Planning considerations from the Pittwater LEP 2014 that are relevant to the proposed modifications are noted and addressed as follows.

### 5.1 Zone

The proposal constitutes modifications to the approved dual occupancy land zoned E4 Environmental Living. No development is proposed by the application within the RE1 Public Recreation zone at the eastern end of the site. The proposal is permitted within this zone with Development Consent.

Clause 2.3(2) of the LEP requires the consent authority to 'have regard to the objectives for development in a zone'. The proposed modifications represent modest changes to the approved development and are therefore assessed as being consistent with the zone objectives.

### 5.2 LEP Clause 4.3 Height of buildings

Clause 4.3 of the LEP 'Height of buildings' is applicable to the assessment of the proposal. It establishes an 8.5m height limit applicable to the site. The proposed modifications maintain the height of the approved DA.

### **5.3 LEP Clause 7.1 Acid sulfate soils**

The land is within an area designated as being Class 5 on Council's Acid Sulfate Soils Map. The proposed modifications do not involve any increase in the depth of excavation of the site that has been approved by DA 2020/0053. There are no further matters for assessment relating to acid sulphate soil conditions triggered by the proposed modification.

### **5.4 LEP Clause 7.2 Earthworks**

The proposed modifications do not involve any increase in the depth of excavation of the site that has been approved by DA 2020/0053. There are no further matters for assessment relating to earthworks triggered by the proposed modification.

## **6 State Environmental Planning Policies**

### **6.1 State Environmental Planning Policy - BASIX**

The proposed modifications are BASIX affected development as prescribed. A updated BASIX assessment report accompanies the Modification application and satisfies the SEPP in terms of the DA assessment.

## **7 Pittwater DCP**

### **7.1 Elanora Heights Locality**

The subject site is within the Elanora Heights Locality. The scope of the proposed modifications are modest and not impactful in relation to the proposal's compatibility with the desired future character of the Elanora Heights Locality. The modifications maintain a compatible development within the local landscaped setting.

### **7.2 DCP Principal Built Form Controls**

- The proposed modifications do not result in any changes to the DCPs built form controls.
- The proposed modifications to window openings necessitate consideration of clause C1.5 which relates to privacy. The following aspects are noted:
  - There are no significant changes to the location or configuration of the approved living areas within the approved development.
  - Each of the proposed window changes are appropriately setback from the property boundaries and the adjacent dwelling houses.
  - The development is / will be located within a landscaped setting with provision made for the landscaping of spaces surrounding the proposed development. There is also established landscaping within the property and dividing fences that facilitate privacy between the development and adjoining residential land.
  - In summary there are no significant or unreasonable adverse privacy impacts arising from the proposed modifications and the proposed modifications are assessed as appropriate in satisfying the provisions of the control.
- Character as viewed from a public place - the proposed modifications will present appropriately to the site's street frontages. The proposal will maintain appropriate material and colours, in keeping with the desired architectural characteristics and qualities of the locality.

#### **In summary:**

The proposed modifications provide an appropriate architectural outcome for the property. The proposed built form outcome will be compatible with the established streetscape context and

positively enhance the desired future character of this location. There will be no significant or unreasonable visual or privacy, impacts resulting from the proposed modifications. The proposed modifications are assessed as appropriate in satisfying the provisions of the DCP controls.

### **7.3 Section 4.15 Matters for Consideration and 4.55 (1A) Modifications**

The proposal has been assessed having regard to the matters for consideration pursuant to Section 4.15(1) and 4.55(1A) of the Act, and to that extent, Council can be satisfied that:

- The site is suitable and capable of accommodating the proposed modifications based on its area, proportions, topography, and the environmental affectations which have been appropriately investigated and assessed.
- The proposal will not result in any significant unacceptable impacts that limit the use or enjoyment of nearby or adjoining land.
- The proposed modifications to Development Consent no.2020/0053 will provide an improved residential amenity without any unacceptable adverse impacts on the amenity of neighbouring properties of the approved housing development.
- The proposed modifications to Development Consent no.2020/0053 are appropriate changes to the development consent. The development as modified is substantially the same development for which consent was originally granted.
- The likely impacts of the proposed modification have been appropriately identified and considered.
- The public interest will be appropriately served by the approval of the proposed modification.

## **8 Conclusion**

The proposed modification to Development Consent no. 2020/0053, at 141 Powderworks Road, Elanora Heights, for changes to the approved alterations and additions to a dwelling house and construction of an attached dual occupancy, represent appropriate modifications.

The proposed development as modified is substantially the same development for which consent was originally granted. The proposed modification is appropriate when considering the relevant matters to the property and the proposal pursuant to Section 4.55(1A).

It is our considered opinion that the proposed development, as modified, is satisfactory and the modification may be approved by Council.

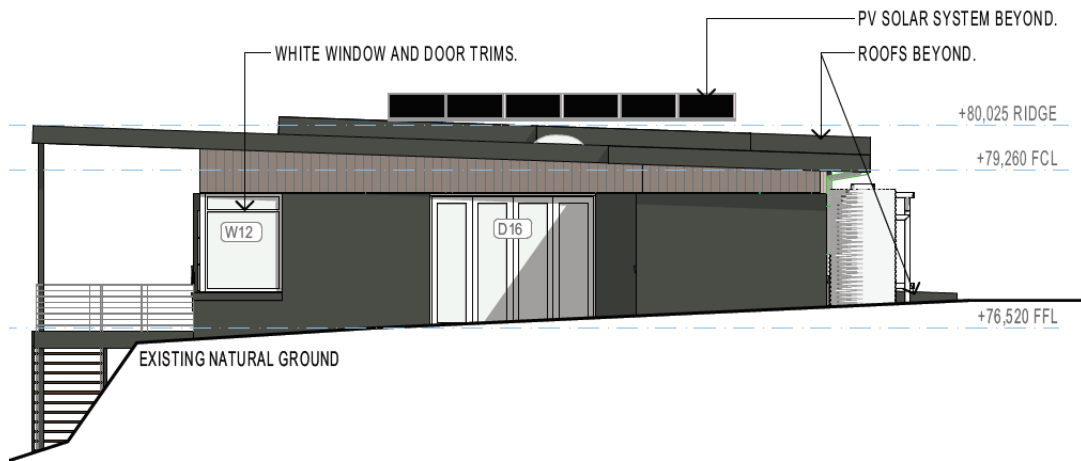
Yours sincerely,



**Michael Haynes**  
**Director - BBF Town Planners**



## ANNEXURE 1 – Summary of modifications as compared the DA approved plans



FM

NORTHERN ELEVATION

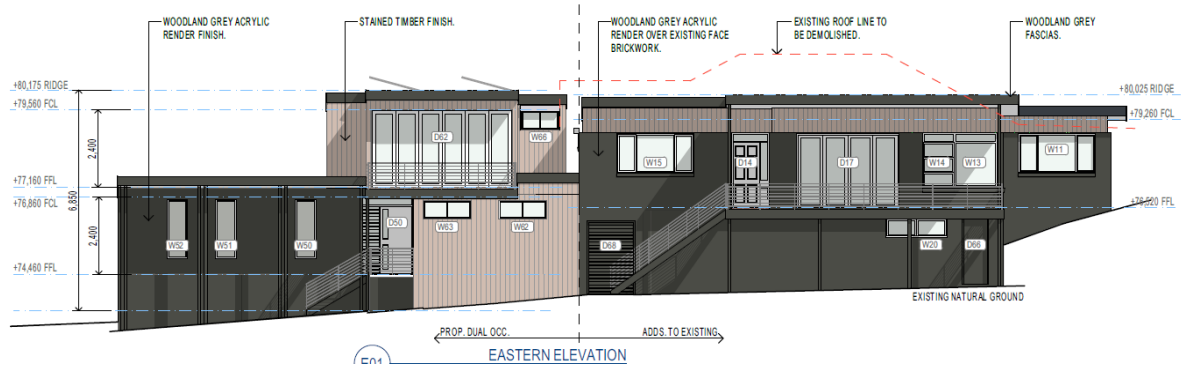
Figure 1 – north elevation approved



FM

NORTHERN ELEVATION

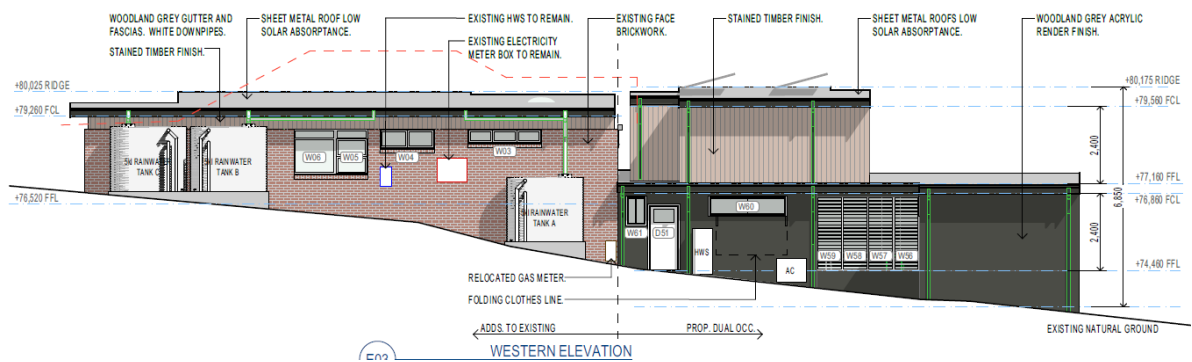
Figure 2 – north elevation proposed modifications



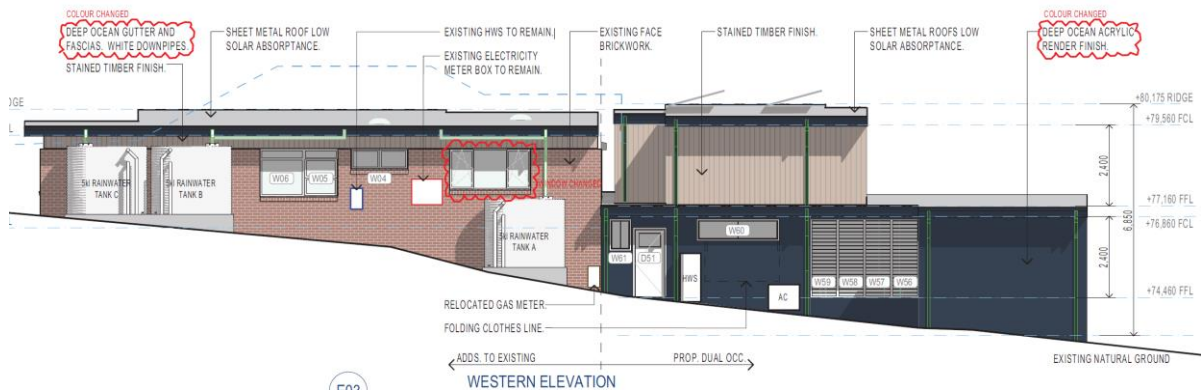
**Figure 3 – east elevation approved**



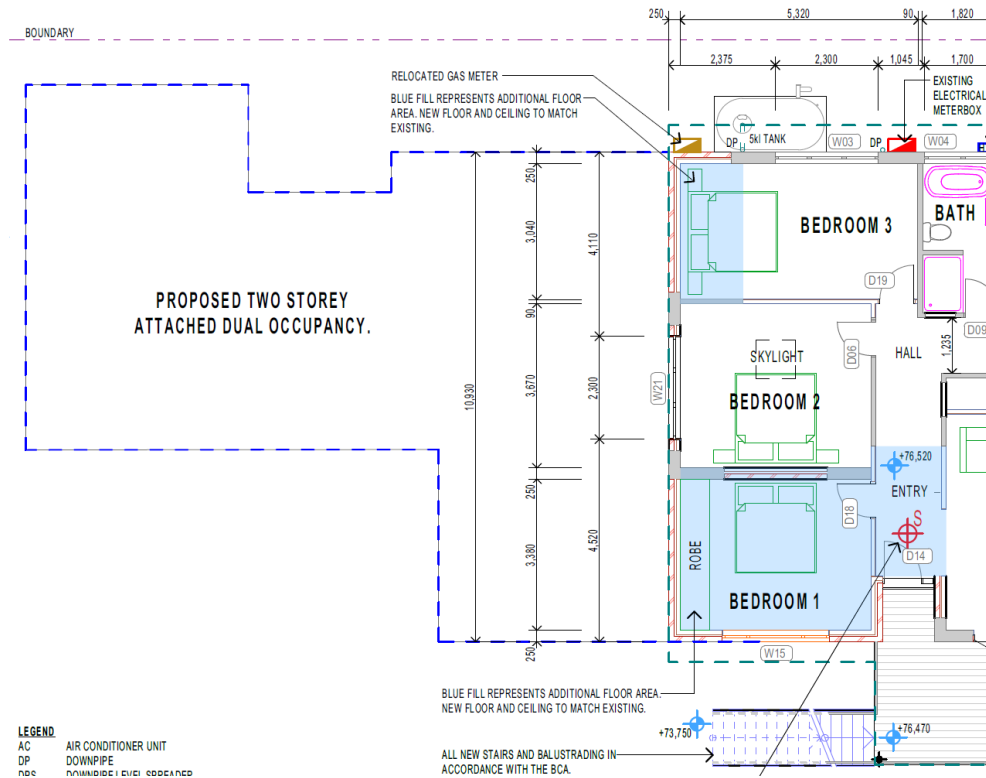
**Figure 4 – east elevation proposed modification**



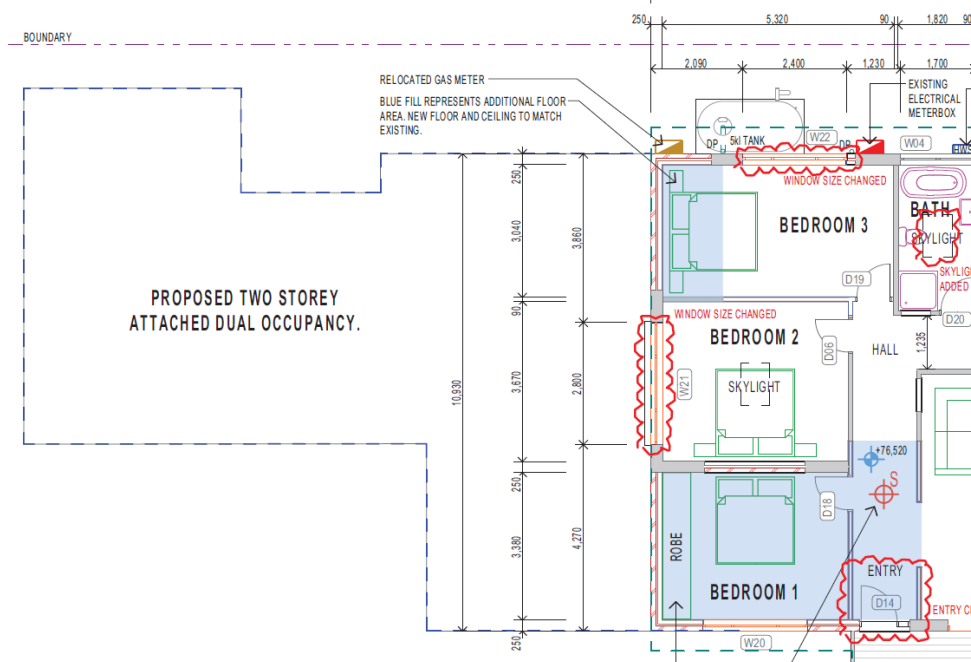
**Figure 5 – west elevation approved**



**Figure 6 – west elevation proposed modification**

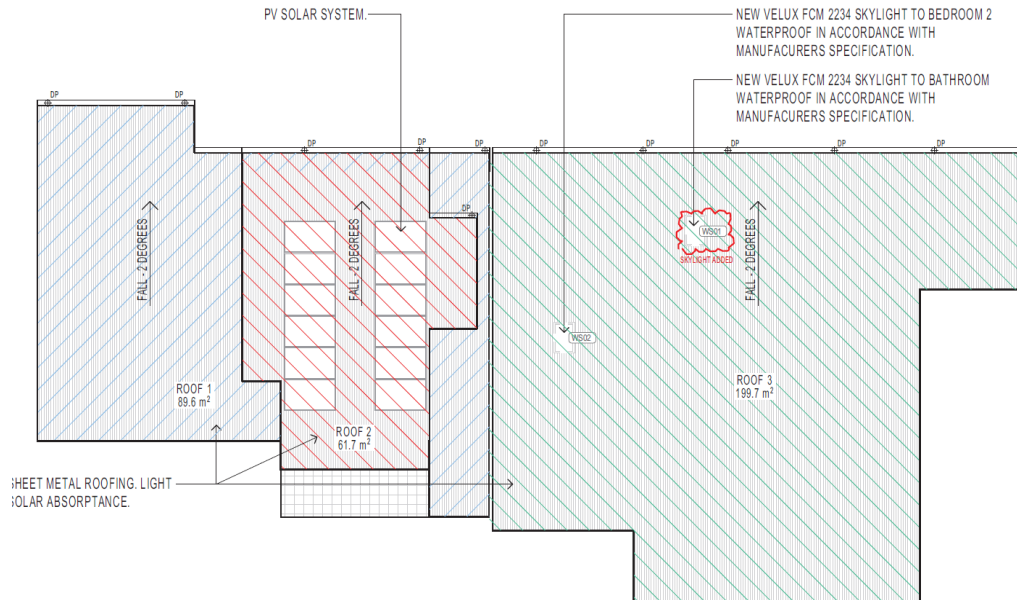


**Figure 7 – location of approved southern bedroom 2 window**

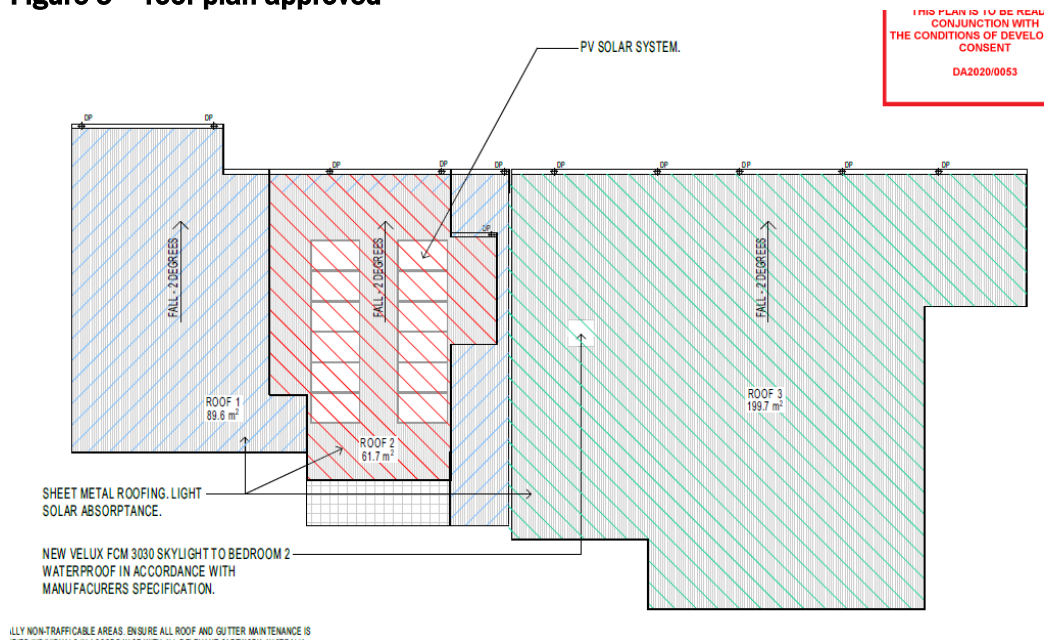


**Figure 8 – location of proposed modification to southern bedroom 2 window**





**Figure 9 – roof plan approved**



ALL NON-TRAFFICABLE AREAS. ENSURE ALL ROOF AND GUTTER MAINTENANCE IS

**Figure 10 – roof plan proposed modification**