From: Robert Bennett

Sent: 16/07/2024 9:40:33 AM

To: Council Northernbeaches Mailbox; Stephanie Gelder

Cc: 'brian riggall'; 'Jane Riggall';

Subject: TRIMMED: REV2024/0020 (DA 2023/1469): Review of Determination of

Application DA2023/1469 - Objection / Submission

Attachments: 2024 16 July 2024 submission FINAL incl Attachments v2.pdf;

Attention: Development Assessment / Stephanie Gelder

REV2024/0020 (DA 2023/1469): Review of Determination of Application DA2023/1469 - Objection / Submission

The attached letter is a formal objection to the above formal request for a review of the determination of development application DA2023/1469, seeking consent for proposed alterations and additions to a dwelling housing, including a

swimming pool, at 955 Barrenjoey Road, Palm Beach (the Site).

The objection is lodged on behalf of **Brian and Jane Riggall**, who own and occupy the property at 953 Barrenjoey Road, Palm Beach – immediately adjoining the Site.

My clients would like to point out that the DA as lodged comprises a plan of survey which appears to contradict – to a significant degree - a plan of survey that they obtained for their own purposes. The level of error along the northern boundary appears to be between 0.5 – 0.75 metres – resulting in a potential total impact of up to approximately 34 sqm of land. Whilst acknowledging the differences between the two plans of survey could simply be the result of "human error", the resulting impact on the ground is very significant, with major implications for the two property owners.

As a result, we request – in the **strongest possible terms** – that the Council:

- 1. make the applicant (and their surveyor) aware of this issue as a matter of urgency;
- 2. require the applicant (and their surveyor) to double check their survey data;
- 3. require the applicant (and their surveyor) and provide a "confirmation" survey, with reference to the existing survey markers located on-site (as identified in **Attachment 3** to the enclosed letter).

It is <u>vital</u> that the boundary between the two properties at 955 and 953 Barrenjoey Road be accurately mapped, and appropriately resolved.

To avoid unnecessary expense and delay to any party, this should occur **before** any decision by Council on the review of determination of application DA2023/1469.

We request that this objection / submission be formally acknowledged by Council for our records.

Regards

Robert Bennett

Noble Planning

ABN: 76 827 727 751

Mobile: Email:

2 Evans Street Balmain NSW 2041



Our Ref: 2024_16 JULY_Palm Beach

Proj Ref: 24_042: Riggalls, Barrenjoey Rd, Bronte

16 July 2024

Attention: Development Assessment Northern Beaches Council PO Box 1336 Dee Why NSW 2099

By email: council@northernbeaches.nsw.gov.au

Noble PlanningABN 768 277 277 51

2 Evans Street
Balmain NSW 2041
Phone:

Attention: Development Assessment / Ms Stephanie Gelder

REV2024/0020 (DA 2023/1469): Review of Determination of Application DA2023/1469 for alterations and additions to a dwelling housing including a swimming pool (955 Barrenjoey Road, Palm Beach)

Introduction

This letter is a formal objection to the above formal request for a review of the determination of a development application (DA2023/1469), seeking consent for proposed alterations and additions to a dwelling housing, including a swimming pool, at 955 Barrenjoey Road, Palm Beach (the Site).

My name is Robert Bennett. I am a Director of Noble Planning and I have over 30 years of experience as a town planner. I have been instructed by **Brian and Jane Riggall**, who own and occupy the property at **953 Barrenjoey Road**, Palm Beach – immediately adjoining the Site. This objection letter has been made with reference to the letter received from Council, dated 28 June 2024, and other documentation made available on the Council website.

My clients would like to point out the following concerns:

- 1. The DA as lodged comprises a plan of survey which appears to contradict to a <u>significant degree</u> a plan of survey obtained by Brian and Jane Riggall with substantial implications, for example:
 - a. The location of boundary fences between the two properties; and
 - b. The location of the rising sewer main, servicing 953 Barrenjoey Road;
 - c. The location of the septic pump out pit, servicing 953 Barrenjoey Road;
 - d. The location of the hot water heater, servicing 953 Barrenjoey Road.
- 2. As a result, the DA as lodged appears to encroach onto land owned by Brain and Jane Riggall; and
- 3. Notwithstanding, the DA as lodged proposes buildings and structures that do not respond properly or appropriately to the Site, its topography and/or its constraints and leaves insufficient room between the proposed buildings and the boundary for appropriate access or maintenance.

As a result of the above, the review of determination sought by the applicant appears to relate to a DA that is based on erroneous survey information. If — as we believe - the survey is in error, then many of the supporting documents (for example the architectural plans) would also be based on an incorrect foundation, and <u>cannot</u> be relied upon for an accurate assessment of impact, or be stamped as approved plans.

A copy of the survey plan undertaken by TSS Total Surveying Solutions and lodged with the DA can be found at **Attachment 1**.

A copy of the survey undertaken for the Riggalls by Waterview Surveying Services can be found at Attachment 2

The surveyor (Michael Joyce) who undertook the survey for the Riggalls has confirmed that their survey was based on existing survey markers located on-site, as shown on the marked-up Deposited Plan 545616 (the Title Diagram). Refer Attachment 3.



A set of annotated plans indicating the differences between the two plans of survey can be found at Attachment 4.

These annotations suggest that the survey plan lodged with the DA may be <u>in error</u> and that all of the supporting documentation (for example the architectural plans) would therefore be based on an <u>incorrect premise</u>.

The level of error between the two boundaries appears to be <u>between 0.5 – 0.75 metres</u> – resulting in a potential total impact of up to approximately <u>34 sqm</u> of land. Whilst acknowledging the differences between the two plans of survey could simply be the result of "human error", the resulting impact on the ground is <u>very significant</u>, with major implications for the two property owners.

As a result, we request – in the **strongest possible terms** – that the Council:

- 1. make the applicant (and their surveyor) aware of this issue as a matter of urgency;
- 2. require the applicant (and their surveyor) to **double check** their survey data;
- 3. require the applicant (and their surveyor) and provide a "confirmation" survey, with reference to the existing survey markers located on-site (as identified in **Attachment 3**).

It is <u>vital</u> that the boundary between the two properties at 955 and 953 Barrenjoey Road be <u>accurately mapped</u>, and any issues and/or easements that may (or may not) be required to permit the continued use of the land (for <u>both</u> parties) be appropriately resolved. To avoid unnecessary expense and delay to any party, this should occur <u>before</u> any decision by Council on the review of determination of application DA2023/1469.

If the above request proves unsuccessful, we ask that a Council representative meet with the Riggalls' surveyor <u>on-site</u> to confirm the situation on the ground, and agree the way forward.

Notwithstanding, my clients' reserve their rights to seek a <u>formal audit</u> of the boundary by the Officer of the Registrar General, and potentially recover any out of pocket expenses associated with this process.

It should be noted that the above concerns over the accuracy of the boundary between 955 and 953 Barrenjoey Road are **not new**, and that this issue was included in a formal objection to the DA in April 2024.

If you require any additional information of clarrification of the above, please do not hesitate to contact me at any time on

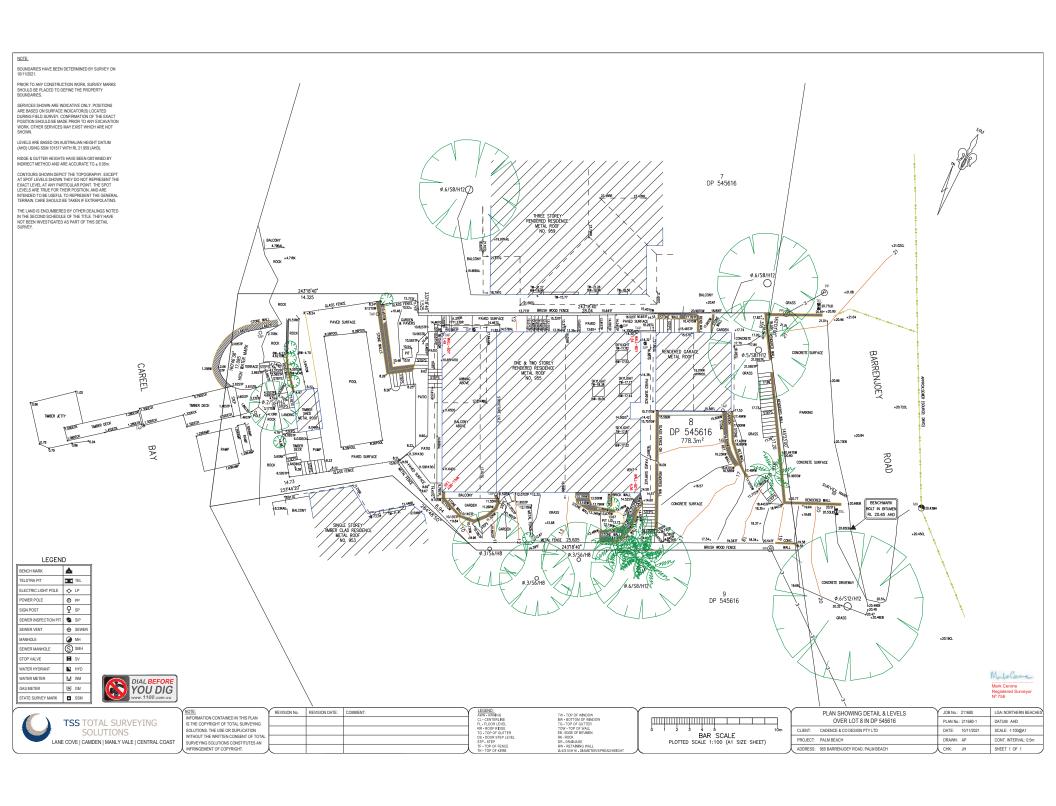
Yours sincerely

Noble Planning

Mobile: Email:

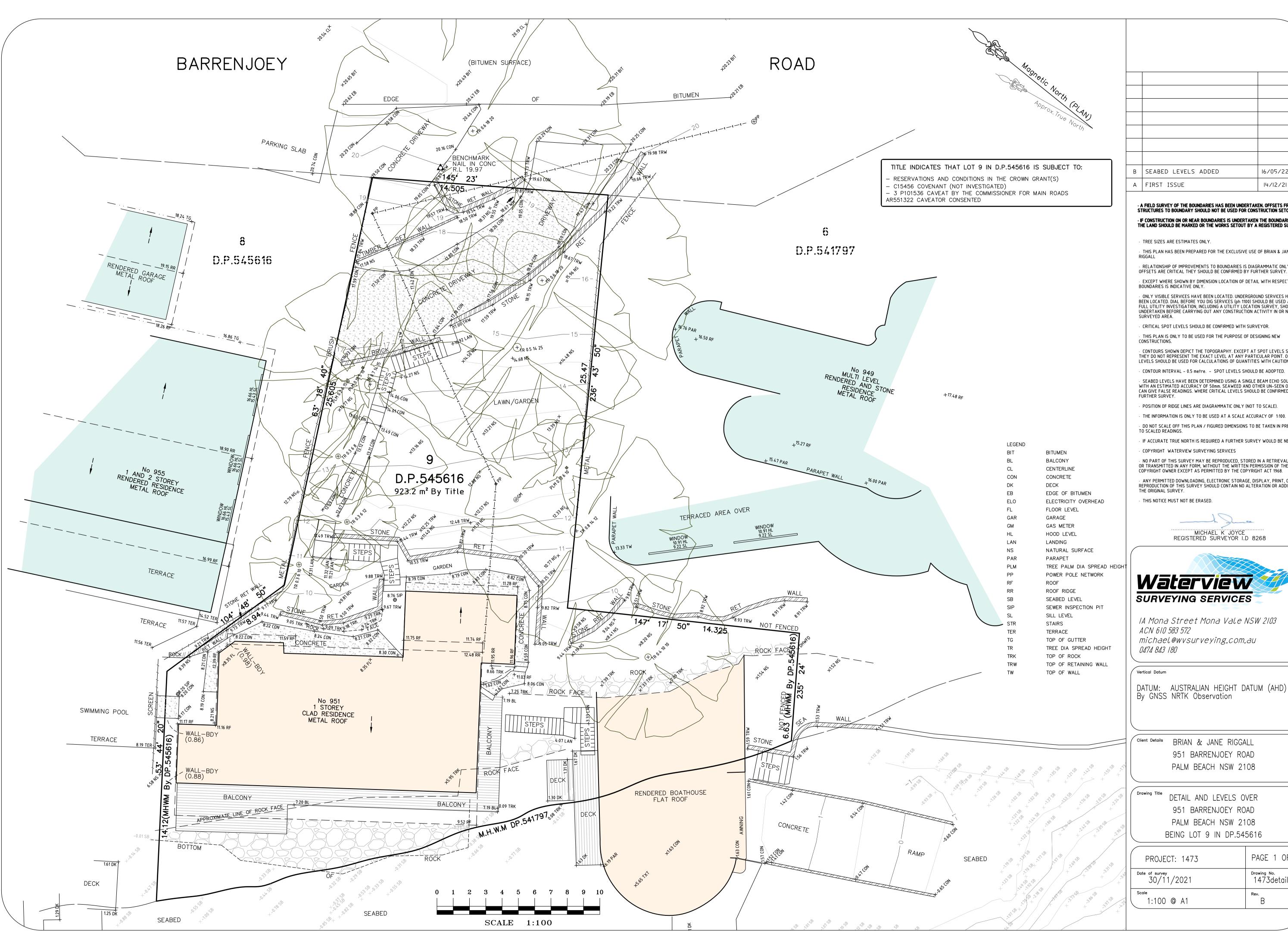


Attachment 1: Survey of 955 Barrenjoey Road by TSS Total Surveying Solutions, dated 10/11/2021





Attachment 2: Survey of 953 Barrenjoey Road by Waterview Surveying Services, dated 30/11/2021



16/05/22 B | SEABED LEVELS ADDED 14/12/21

\cdot A FIELD SURVEY OF THE BOUNDARIES HAS BEEN UNDERTAKEN. OFFSETS FROM STRUCTURES TO BOUNDARY SHOULD NOT BE USED FOR CONSTRUCTION SETOUT. · IF CONSTRUCTION ON OR NEAR BOUNDARIES IS UNDERTAKEN THE BOUNDARIES OF THE LAND SHOULD BE MARKED OR THE WORKS SETOUT BY A REGISTERED SURVEYOR.

TREE SIZES ARE ESTIMATES ONLY.

THIS PLAN HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF BRIAN & JANE

RELATIONSHIP OF IMPROVEMENTS TO BOUNDARIES IS DIAGRAMMATIC ONLY. WHERE

 \cdot except where shown by dimension location of detail with respect to boundaries is indicative only.

ONLY VISIBLE SERVICES HAVE BEEN LOCATED. UNDERGROUND SERVICES HAVE NOT BEEN LOCATED. DIAL BEFORE YOU DIG SERVICES (ph 1100) SHOULD BE USED AND A FULL UTILITY INVESTIGATION, INCLUDING A UTILITY LOCATION SURVEY, SHOULD BE UNDERTAKEN BEFORE CARRYING OUT ANY CONSTRUCTION ACTIVITY IN OR NEAR THE

· CRITICAL SPOT LEVELS SHOULD BE CONFIRMED WITH SURVEYOR.

· THIS PLAN IS ONLY TO BE USED FOR THE PURPOSE OF DESIGNING NEW CONSTRUCTIONS.

CONTOURS SHOWN DEPICT THE TOPOGRAPHY. EXCEPT AT SPOT LEVELS SHOWN, THEY DO NOT REPRESENT THE EXACT LEVEL AT ANY PARTICULAR POINT. ONLY SPOT LEVELS SHOULD BE USED FOR CALCULATIONS OF QUANTITIES WITH CAUTION.

· CONTOUR INTERVAL - 0.5 metre. - SPOT LEVELS SHOULD BE ADOPTED.

SEABED LEVELS HAVE BEEN DETERMINED USING A SINGLE BEAM ECHO SOUNDER WITH AN ESTIMATED ACCURACY OF 50mm. SEAWEED AND OTHER UN-SEEN OBJECTS CAN GIVE FALSE READINGS. WHERE CRITICAL LEVELS SHOULD BE CONFIRMED BY

POSITION OF RIDGE LINES ARE DIAGRAMMATIC ONLY (NOT TO SCALE).

THE INFORMATION IS ONLY TO BE USED AT A SCALE ACCURACY OF 1:100. DO NOT SCALE OFF THIS PLAN / FIGURED DIMENSIONS TO BE TAKEN IN PREFERENCE

• IF ACCURATE TRUE NORTH IS REQUIRED A FURTHER SURVEY WOULD BE NECESSARY.

NO PART OF THIS SURVEY MAY BE REPRODUCED, STORED IN A RETRIEVAL SYSTEM OR TRANSMITTED IN ANY FORM, WITHOUT THE WRITTEN PERMISSION OF THE COPYRIGHT OWNER EXCEPT AS PERMITTED BY THE COPYRIGHT ACT 1968.

ANY PERMITTED DOWNLOADING, ELECTRONIC STORAGE, DISPLAY, PRINT, COPY OR REPRODUCTION OF THIS SURVEY SHOULD CONTAIN NO ALTERATION OR ADDITION TO

THIS NOTICE MUST NOT BE ERASED.

MICHAEL K JOYCE REGISTERED SURVEYOR I.D 8268

Waterview

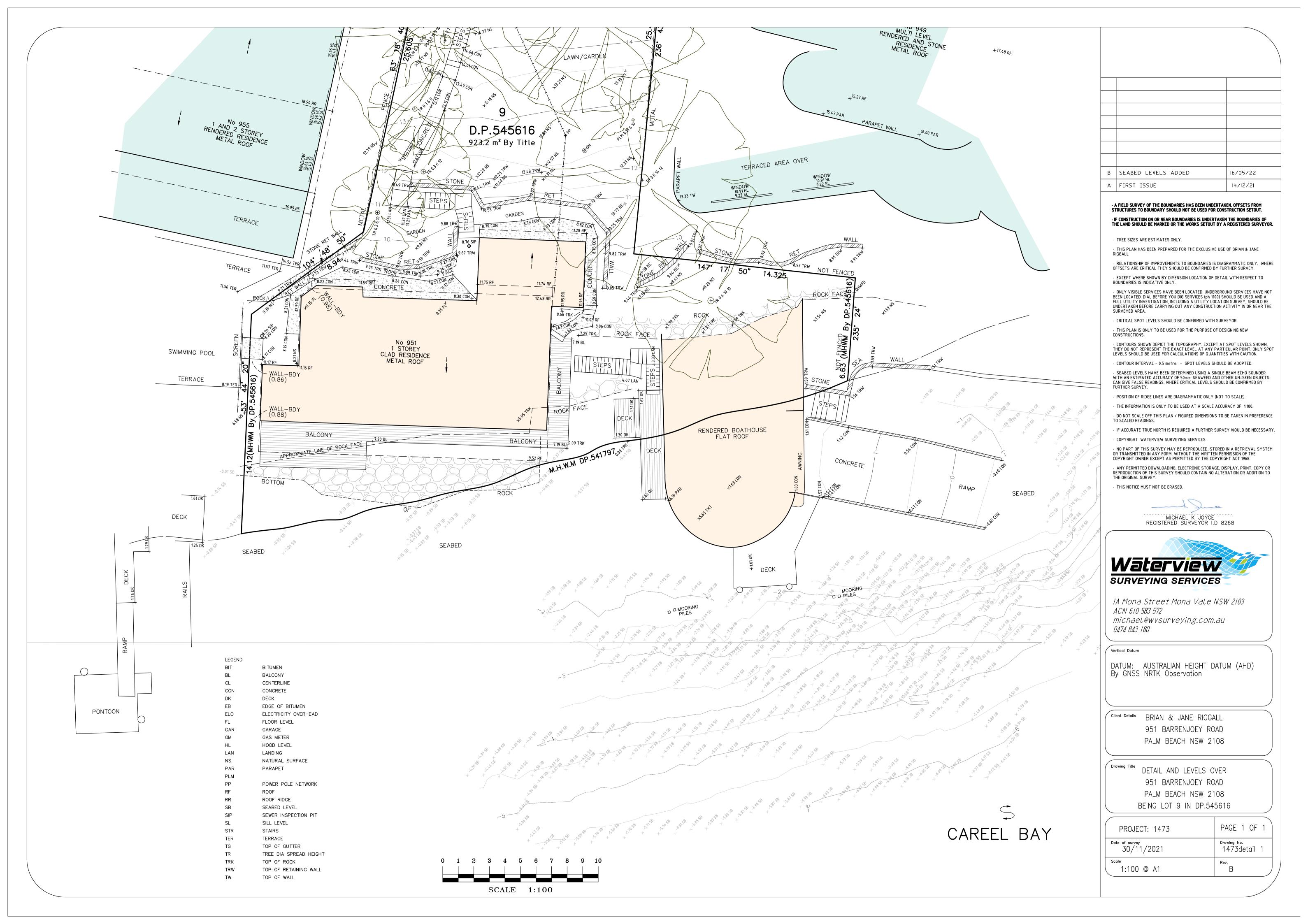
IA Mona Street Mona Vale NSW 2103 michael@wvsurveying.com.au

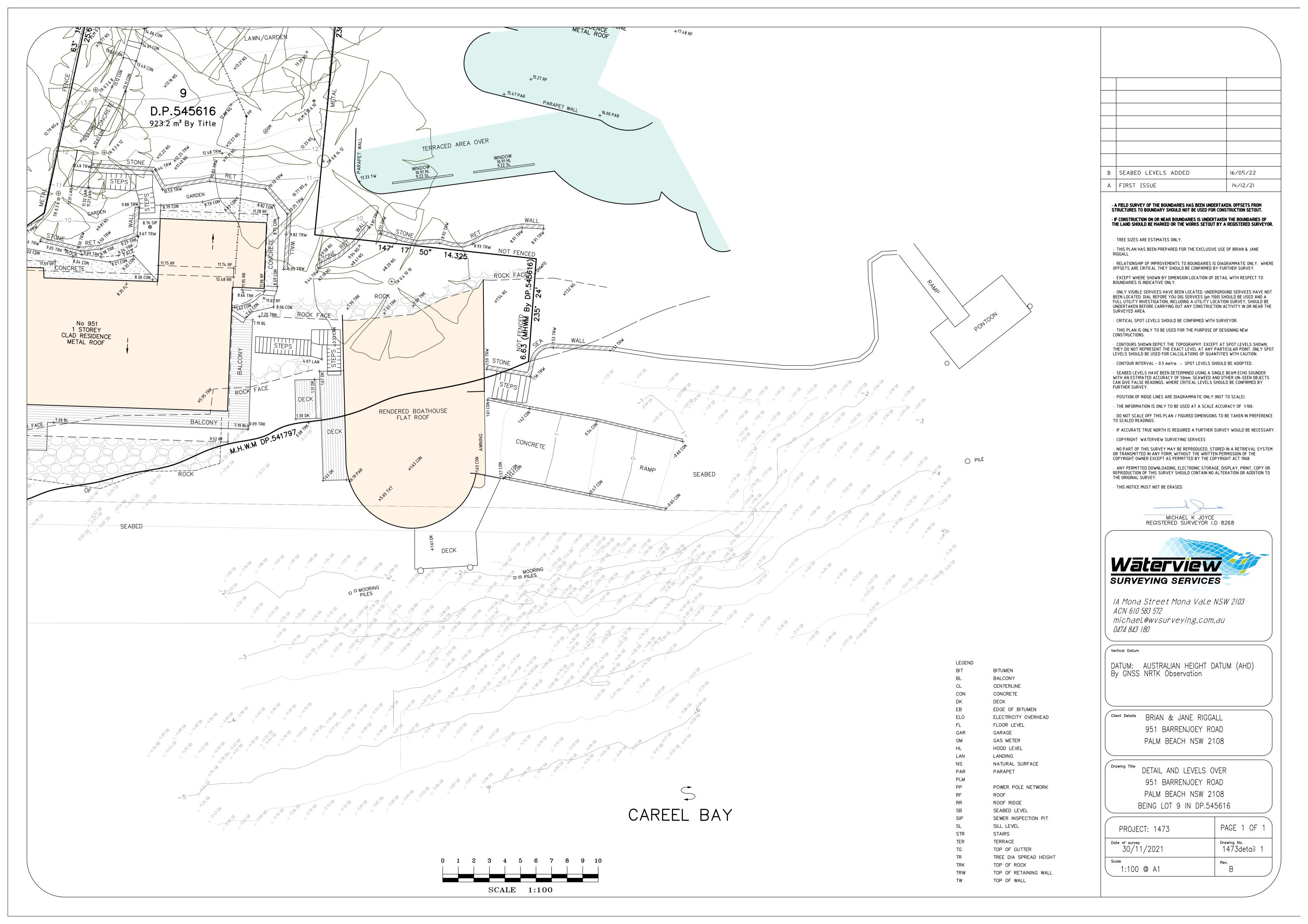
DATUM: AUSTRALIAN HEIGHT DATUM (AHD) By GNSS NRTK Observation

BRIAN & JANE RIGGALL 951 BARRENJOEY ROAD PALM BEACH NSW 2108

DETAIL AND LEVELS OVER 951 BARRENJOEY ROAD PALM BEACH NSW 2108 BEING LOT 9 IN DP.545616

	PROJECT: 1473	PAGE 1 OF 1
3.00	Date of survey 30/11/2021	Drawing No. 1473detail 1
20	Scale 1:100 @ A1	Rev.

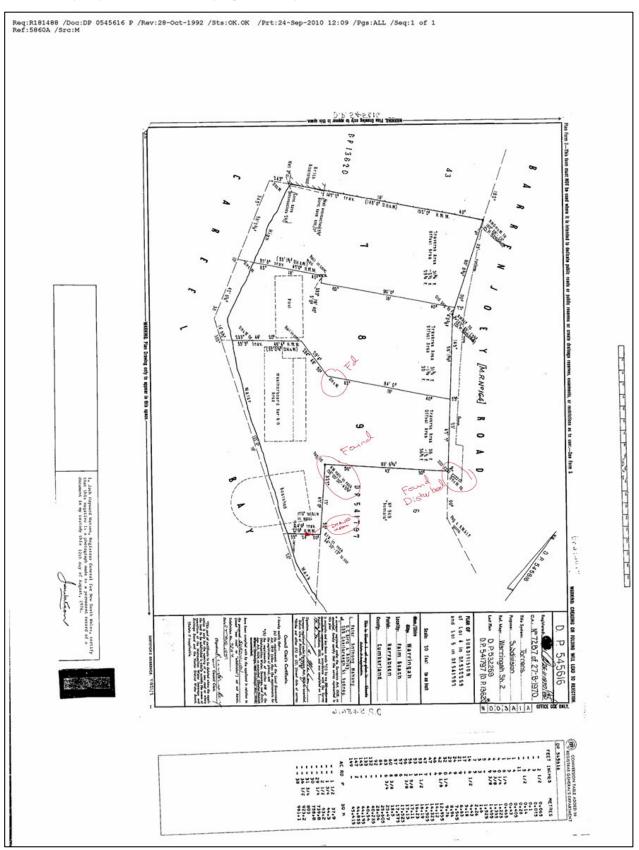






Strategic and Statutory Planning Advice – NSW / ACT

Attachment 3: Certificate of Title for 953 Barrenjoey Road indicating markers found on-site by Michael Joyce (Waterview Surveying Services)

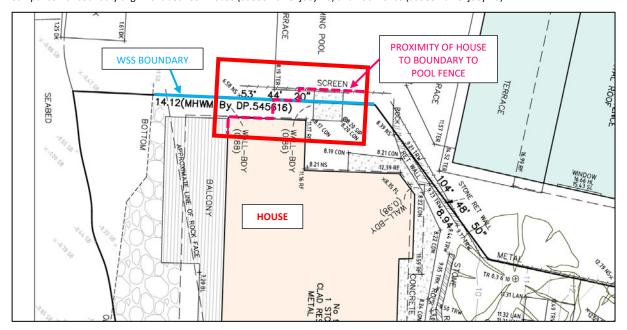




Attachment 4: Annotated plans (by Noble Planning July 2024) comparing the TSS and WSS surveys – suggesting significant anomalies between the two.

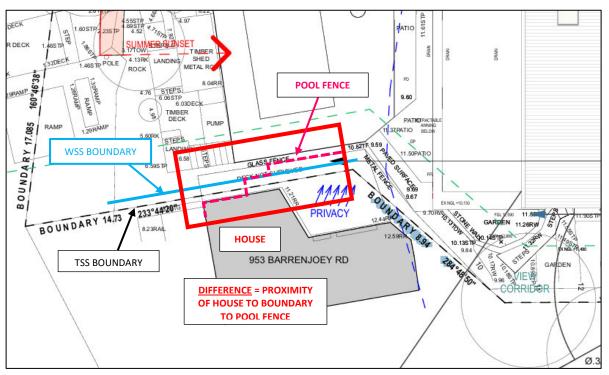
Waterfront Surveying Servies (WSS) - Survey of 953 Barrenjoey Road - extract

Comparison of boundary alignment between House (at 953 Barrenjoey Rd) and Pool Fence (at 955 Barrenjoey Rd)



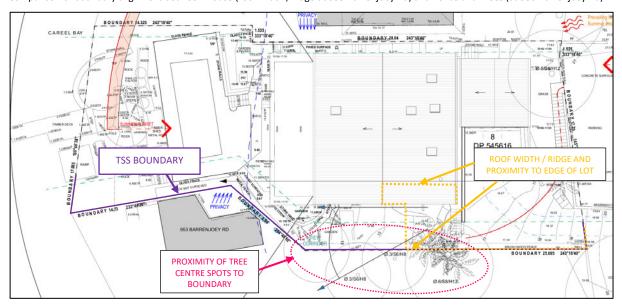
TSS Total Surveying Solutions - Survey of 955 Barrenjoey Road - extract

Comparison of boundary alignment between House (at 953 Barrenjoey Rd) and Pool Fence (at 955 Barrenjoey Rd) – ASSUMING SAME DIMENSIONS



TSS Total Surveying Solutions – Survey of 955 Barrenjoey Road - extract

Comparison of boundary alignment between House (roof width / ridge at 955 Barrenjoey Rd) and Fence and Trees (at 953 Barrenjoey Rd)



Waterfront Surveying Servies (WSS) – Survey of 953 Barrenjoey Road - extract

Comparison of boundary alignment between House (roof width / ridge at 955 Barrenjoey Rd) and Fence and Trees (at 953 Barrenjoey Rd)

