

IN THE MATTER OF the Resource Management Act 1991
AND

IN THE MATTER OF an application by AD McGrath to
Waikato District Council under
section 88 of the Resource
Management Act 1991 for land use
resource consent to re-site the
existing dwelling in the Living Zone,
at 67 Wallis Street, Raglan (being Pt
Lot 9 Sect 2 DP C38 (SA751/328)).

**Decision following the hearing of a discretionary
activity application by AD McGrath to Waikato District
Councils for resource consent under the Resource
Management Act 1991.**

Proposal

To relocate the existing dwelling and car port at 67 Wallis Street, Raglan, from the western boundary to the eastern boundary of the site.

Council reference: LUC0318/19 – land use (DA).

The application was heard at Council’s Ngaruawahia offices on Tuesday 5 November 2019.

The resource consent sought is **Granted with conditions**. The reasons are set out below.

Hearing Commissioners:	Mr David Hill
Application numbers:	LUC0318/19
Applicant:	AD McGrath
Site addresses:	67 Wallis Street, Raglan
Legal descriptions:	Pt Lot 9 Sect 2 DP C38 (SA751/328)
Site area:	283m ² [boundary adjusted in favour of 65 Wallis Street by -28m ² by SUB0122/19]
Living	Living Zone – Waikato Section ODP Residential – proposed DP

Lodgement:	22 March 2019
S92 On Hold:	12 April 2019
Taken off hold:	26 July 2019
Limited notification:	15 August 2019
Submissions closed:	12 September 2019
Hearing commenced:	5 November 2019
Hearing closed:	13 November 2019
Appearances:	<p><u>The Applicant:</u> Philip Barrett – Planner, Cheal Consultants Ltd Evan Mayo – Architect, Architecture Bureau Ltd</p> <p><u>Submitters:</u> Donna Ewart & Keith Redman – 69 Wallis Street Denis Thomson – Surveyor, Thomson Survey Ltd</p> <p><u>Council:</u> Wade Hill – WaiDC – Team Leader Karleen Thomson – Consultant Planner – Reporting Officer Lynette Wainwright - Hearing Secretary</p>

Summary Decision:

1. Pursuant to sections 104 and 104B, and Part 2 of the Resource Management Act 1991 (RMA), the discretionary activity land use consent is Granted with conditions.

Introduction

2. This decision is made on behalf of the Waikato District Council (WaiDC) by Independent Hearing Commissioner Mr David Hill, appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 (the RMA).
3. This decision contains the findings from my deliberation on the application for resource consent and has been prepared in accordance with section 113 of the RMA.
4. The application was limited notified by WaiDC to 2 identified owners/occupiers of properties at 69 Wallis Street and 35 Rose Street, Raglan by decision dated 31 May 2019, but for reasons noted at section 2.1 of the s42A report not actually notified until 15 August 2019, with submissions closing on 12 September 2019. Two submissions were received in opposition. Both properties that were limited notified are owned by the same persons.

5. A summary of submissions is provided in section 4.2 of the WaiDC s42A report. That summary was not disputed and is adopted for present purposes.
6. No late submissions were received, and no written approvals were provided.
7. The s42A RMA hearing report was prepared by Ms Karleen Thomson for WaiDC and made available to parties on 12 September 2019. The WaiDC s42A report recommended that consent be granted.
8. Ms Thomson's report was informed by a technical review from Mr Inderpaul Randhawa (land development engineer) dated 23 April 2019.
9. The matter was heard at Ngaruawahia 5 November 2019 and closed on 14 November 2019 following receipt of the further information sought from Council regarding fire regulations and a final set of proposed conditions (largely agreed between the applicant and Council).

Site description

10. The subject site is well described in the s42A report¹ as follows:

The site is located approximately 1km east of the Raglan town centre, and just west of the Harbour, and associated business area, on the south side of Wallis Street, directly opposite the sea. The site is near the Wallis Street and Rose Street Intersection, with 67 Wallis Street having vehicular access to both streets.

From Wallis Street there is an existing access to a single car garage located 1.5 metres from the eastern boundary that will be removed as part of this proposal, if consent is granted. From Rose Street there is an existing access to the car port that is also proposed to be relocated as part of this application.

The northern area of 67 Wallis Street is low lying and relatively flat. A garage is located at the eastern boundary on the low lying part of the site. Behind and beside the garage are retaining walls of approximately 1m high. The walls retain a moderate slope that leads up to the upper part of the site. The upper part of the site to the west is where the existing house is located.

To the east of 67 Wallis Street is a small triangular corner site, number 69 Wallis Street. This is a very small site of 56m², created as a result of land take for road. This site has road frontage to both Wallis Street and Rose Street and contains an existing 1 bedroom dwelling with kitchen and bathroom facilities. The bedroom immediately adjoins Wallis Street and the common boundary with 67 Wallis Street. There is a tiny outdoor living area adjoining the bedroom window and a larger outdoor area to the front of the dwelling.

¹ S42A Report, page 9

The adjacent properties along Wallis Street and Rose Street are residential.

Summary of proposal

11. The applicant proposes to resite the existing dwelling at 67 Wallis Street, Raglan from the western boundary to the eastern boundary. This will involve the removal of the existing detached single car garage currently located on the eastern boundary. The existing car port located approximately 2.6 metres from the western boundary will also be relocated.
12. The existing dwelling to be re-sited will be elevated on poles to enable parking underneath. The parking space underneath the dwelling is similar to a car port, the sides will not be enclosed. An elevated deck will be constructed from the eastern side of the dwelling, around the front of the dwelling to the western side of the dwelling. The width of the deck is approximately 1 metre wide leading out the kitchen door on the eastern boundary, around the corner it widens out, before reducing back to 1 metre to the stairs on the western side of the dwelling.

Consents required and Activity Status

13. The s42A report records that land use consent is required under the Operative Waikato District Plan, Living zone, for the following reasons:
 - (a) For a **discretionary activity** under rule 21.10 because it fails to comply with all the building and effects rules;
 - (b) For a **restricted discretionary activity** under access and manoeuvring rule 21.16 because reverse manoeuvring onto the road will be required; and
 - (c) For a **restricted discretionary activity** under daylight admission rule 21.45 because the height control plane is breached as shown on the north, east and south proposed elevation plans referenced R05 & R06.

Mr Barrett notes in his evidence² that an error in the initial drawing set has been rectified by Architecture Bureau Limited (R14) showing that no infringement occurs on the eastern boundary with 69 Wallis Street from the relocated dwelling. The infringement remains to Wallis and Rose Streets.
 - (d) For a **discretionary activity** under building setback rule 21.49 because it fails to comply with the 6m road setback (with less than 3m from both Wallis and Rose Streets)

² Barrett. Statement of evidence, para 11

- (e) For a **restricted discretionary activity** under boundary setback rule 21.50 as 1.5m is required and the proposed deck is only 800mm from the eastern side boundary at its closest point.
 - (f) For a **discretionary activity** under coastal buildings rule 21.53 because the dwelling is not setback at least 23m from the line of MHWS.
14. With one exception, the land use rules of the Proposed District Plan do not yet have legal effect. The exception is proposed building setback – waterbodies rule 16.3.9.3 which similarly requires a 23m setback from the line of MHWS, and mirrors operative rule 21.53 above as a discretionary activity where compliance is not achieved.
15. The land use component was therefore determined overall by WaiDC to be a discretionary activity. That activity status was not in dispute.

Permitted Baseline and Existing Environment

16. With respect to any “permitted baseline”, Ms Thomson concluded³ that as the site is constrained by topography, shape and size, no permitted baseline applies. That was not disputed and I accept that conclusion.
17. With respect to the existing environment, I note that there are multiple non-compliances on both 67 and 69 Wallis Street arising from the circumstances of those sites. Ms Thomson identified those as follows for the subject site:
- The site currently has two vehicle entrances, which currently require reversing out onto the road. There is no change to this aspect of the proposal.
 - The location of the dwelling as it currently exists encroaches the 23 metre setback required from the line of MHWS.
 - The location of the dwelling has existing encroachments of the boundary and height control plane at the western boundary
18. Additionally, I note that the existing dwelling on 69 Wallis Street, because of the site’s unusually small net site area (56m²) and the building being in the order of only 200mm from the common boundary (as estimated by the submitters) exhibits, itself, a series of technical non-compliances (albeit holding existing use rights). While those are not at issue in this proceeding, they are relevant in considering the adverse effects of the present application.

Procedural and other matters

19. No procedural matters were raised for consideration.

³ WaiDC s42A report, section 6.0

Relevant statutory provisions considered

20. In accordance with section 104 of the RMA I have had regard to the relevant statutory provisions, including the relevant sections of Part 2, sections 104, and 104B, and sections 108 and 108AA with respect to conditions.

Relevant standards, policy statements and plan provisions considered

21. In accordance with section 104(1)(b)(i)-(vi) of the RMA, I have had regard to the relevant policy statement and plan provisions of the documents noted below – the relevant provisions of which are assessed, variously, in the Application Summary, and in sections 3 and 8 of the s42A report.
22. I note that those provisions and their interpretation were not in dispute. Accordingly, as no party disputed these matters, in the interest of brevity they are not specifically discussed further or the details repeated in this decision – but are adopted and cross-referenced per section 113(3) of the RMA. Those provisions are contained in the following statutory documents:
- New Zealand Coastal Policy Statement 2010;
 - Waikato Regional Policy Statement 2016;
 - Waikato Regional Plan 2007;
 - Waikato District Plan – Waikato Section 2013; and
 - Proposed Waikato District Plan 2018.
23. I do not consider any other matter to be relevant and reasonably necessary to determine the application in accordance with section 104(1)(c) of the RMA.

Summary of evidence / representations / submissions heard

Council

24. The Council's s42A RMA Hearing reports by reporting officer Ms Karleen Thomson was circulated prior to the hearing and taken as read. Ms Thomson recommended a grant of consent with proposed conditions.
25. Ms Thomson presented a statement of evidence at the hearing in response to matters raised, confirming her conclusion that the infringements were generally minor and acceptable; changed her conclusion to minor and acceptable with respect to the adverse privacy effect of the deck, accepting that the corner point at which the deck was non-compliant by 0.45m (applicant's evidence) was more likely to be a thoroughfare rather than a congregation area; agreed that there was a minor dominance effect on the cottage at 69 Wallis Street due to its proximity but found that effect acceptable in that the primary outlook from that

cottage was seaward and away from Number 67; and the encroachments on the Wallis and Rose Street boundaries would have no adverse traffic effects because of the width of the adjacent road reserves. Ms Thomson recommended some further changes to the proposed conditions.

The Applicant

26. **Mr Philip Barrett**, consultant planner for the applicant, focused his evidence on what he considered the 4 key issues of:
 - (a) Dominance and privacy (noise and smells) effects of the northern wrap around deck at Point B resulting from a 0.7m side yard infringement;
 - (b) On-site dominant effects and shading effects on daylight infringement along the North elevations;
 - (c) Loss of views (part amenity effect) for 35 Rose Street; and
 - (d) Various concerns relating to services and geotechnical matters.
27. Those matters are discussed later in this decision.
28. Mr Evan Mayo, architect, responded to questions put by the Commissioner.

Submitters

29. **Mr Keith Redman**, resident of 69 Wallis (and 35 Rose) Street, spoke to the joint submission (with Ms Donna Ewart) backgrounding the family's ownership of the two properties (69 Wallis and 35 Rose Streets); the consultation had with Mr McGrath; and expressing concern about the proximity of the re-sited dwelling and deck in light of their very constrained site. Mr Redman told me that they had suggested to the applicant that if the dwelling is moved 1m away from their boundary, further into the subject site, they would provide their written approval. That option was rejected.
30. **Mr Denis Thomson**, a surveyor familiar with Raglan (albeit domiciled in Kerikeri) disputed the architect's calculation of the dwelling's conformity with the height in relation to boundary plane on the common boundary, and that the 1m retaining walls in the vicinity of the current garage could not be re-engineered to provide sufficient room to move the dwelling further into the site away from 69 Wallis Street. Mr Thomson also raised a question regarding fire regulations and the required minimum distance between two dwellings, and sought a post-relocation survey (if granted) to confirm that the dwelling was positioned no closer than sought (or approved), did not penetrate the HIRB, and except for the corner of the deck which is 800mm from the boundary and qualifies as a building because more than 1m above ground, did not intrude into the minimum side yard requirement of 1.5m.

Principal issues in contention

31. In terms of section 104(1)(a) of the RMA regarding the actual and potential effects of allowing the activity on the environment, the principal issues raised and addressed were;
 - (a) Whether the side yard infringement was significant;
 - (b) Whether the height in relation to boundary on the common (eastern) boundary with Number 69 had been properly calculated; and
 - (c) Whether the loss of views by 35 Rose Road resulting from the relocation of the dwelling was a material issue.
32. I note that council accepted that servicing and geotechnical issues could, more properly, be addressed through conditions of consent as it was satisfied that workable solutions existed. It also accepted that the infringements to Wallis and Rose Streets was acceptable – and therefore I do not need to determine those issues.
33. While the submitter raised the issue of loss of views from 35 Rose Road, it is well established caselaw that there is no private right to a view, and while that is an unfortunate consequence of the application for that residence, it is not a matter (on its own) to which any decision weight can be accorded.
34. I now consider the principal issues in contention identified above.

Eastern side yard infringement

35. As proposed the dwelling will be more than 1.5m from the eastern boundary, and is therefore compliant, but the external deck, being more than 1m above ground level, qualifies as a building and at its proposed closest point is only 800mm from the eastern boundary and therefore non-compliant.
36. The s42A report notes that as the deck is elevated above the neighbouring cottage, and less than 1m from the side boundary (various figures were provided ranging from 0.45m to 0.8m), this posed a potential adverse privacy effect on 69 Wallis Street because that latter dwelling is only 1m away (being 200mm from the common boundary). In her response, Ms Thomson confirmed her opinion that the adverse effect was acceptable.
37. Mr Barrett's opinion was that this only constituted a minor adverse effect as the submitter's dwelling was orientated away from the proposed re-siting location, there are no windows or other relevant openings facing that part of the deck, it was unlikely that that corner of the deck would be used for other than transiting between areas with the main deck area being off the living area on the northwest side, and a normal height person would not be able to look over the cottage's roof into the open garden area. A cross section illustrating that latter point (drawing R20 rev 4/11/19) was tabled at the hearing. Furthermore, Mr

Barrett wondered whether a complying location some 450mm - 700mm further away would make any real difference to any of those points.

38. Mr Redman was not persuaded – influenced, no doubt, by the fact that the applicant had, to paraphrase his words, taken all the infringement gains at their expense. The submitters had largely “lost” their view from 35 Rose Road with the repositioning of the dwelling, and now had a dwelling and deck within 1m of their cottage at 69 Wallis Street – coupled with the fact that on a 56m² section, their perceived sense of proximity and loss of privacy was engaged.
39. The relevant rule, 21.50 Building setbacks - other boundaries, defaults to a restricted discretionary activity (21.50.2) if infringed, with discretion restricted to the length of building along the boundary, height of building, daylight admission, and privacy. In this instance the privacy / amenity value is the relevant consideration.
40.

The fact that 69 Wallis Street

is only 200mm from the common boundary is a relevant consideration. Furthermore, the fact that that dwelling has no opening windows on that side is not a reason for allowing the infringement. The owners may decide that they wish to open up that side (for whatever reason) in future and, as a permitted activity, should not have that option unnecessarily restricted. The applicant cannot rely upon mitigation effectively being provided by a third party who is unwilling to accept that imposition. While the infringement is small in substance, it is unwelcome and in this constrained circumstance should yield in favour of the unwilling party.
41. I also note that it appears (although not entirely obvious from the drawings) that the deck provides access to the kitchen such that one would expect more “traffic” along that section of the deck for the purpose of conveying food and drink etc to the main deck area. If not then it is difficult to see the purpose of that return deck (indeed that deck return is absent from the lodged plan R03a Rev A entitled Deck pulled back, which demonstrates an ample deck otherwise).

Finding

42. I am satisfied that regardless of the fact that the extent of the side yard encroachment is minor in absolute measured terms, the owners of 69 Wallis Street are entitled to have the minimum side yard of 1.5m observed in view of the fact that their cottage is, through historical circumstance, a mere 200mm from the common boundary. That is so notwithstanding the fact that a complying deck may make little difference in terms of received noise or other perceived nuisance.
43. Accordingly, the plans are to be resubmitted for approval showing no deck intruding into the 1.5m side yard. Whether that requires removal of the side

return deck or some other design solution within that limitation I leave to the applicant.

Height in Relation to Boundary on common (eastern) boundary

44. Mr Thomson challenged the architectural drawings that illustrate no exceedance of the HIRB on the eastern boundary, except for a small corner of the proposed deck railing. His own cross sections (shown on 3 drawings attached to his statement) indicated that the proposed dwelling actually infringed between 1.69m and 1.92m vertical to a horizontal depth of between 2.25m and 2.55m, taken from a ground level of RL 3.64m.
45. Mr Mayo disputed that, confirming that his drawings revealed no such infringements.
46. It would appear that this disagreement stems from starting assumptions regarding the ground level from which the HIRB is to be calculated. The applicant uses a pre-development ground level (as shown in drawing R05c for example - but which drawing does not have an identified RL), whereas Mr Thomson uses an RL of 3.64m in his cross-sections (and which appears to be the existing ground level).
47. The Plan definition of "Height control plane" includes the following:

Such lines commence at a specified vertical distance above the natural ground level at the boundary, point into the site at right angles to the boundary, and rise at an angle of 37 degrees.

There is no indication in the definition or in the rest of the Plan that the reference to *natural ground level* is time-limited such that after a certain period of time the existing ground level becomes the effective reference point. As such the question as to when that ground was removed on the subject site is not relevant.

48. In response to further information requested from Council and the applicant I am advised that the lower point from which the HIRB was calculated, i.e. the natural ground level, was calculated as follows:

The "natural ground" level has been 'assumed' by taking the known height of the retaining wall [RL4.61] at the top from which a line (red dotted line) is drawn to the Wallace St road boundary.

The topographical level RL3.5 (at Point X) lies adjacent where the relocated dwelling gable will be. Because we know the location of Point X current ground level (RL3.5) we use the proposed methodology that divides the distance between RL3.5 at Point X and the red dotted line (the assumed natural ground level). The surveyor can certify Point X current ground level at RL3.5 and then add the divided height distance 0.380 to achieve the assumed natural ground

level at Point X (RL3.88). It is this height that the relocated position has been designed and shown on the drawing RO6C.

49. I subsequently queried Council (by email dated 22 November 2019) as to whether the method used by the applicant to calculate the natural ground level accorded with its standard practice. Council, through Ms Thomson, confirmed that it was, adding:

... the response provided by Cheal is consistent with the approach taken by Council in assessing HIRB, whereby if the NGL is unknown as is the case here, the two known points are taken to come up with a best line of fit as has been demonstrated in the diagram provided by Cheal.

50. The difference between the applicant's RL3.88m and Mr Thomson's RL 3.64m partly explains why there is a subsequent disagreement about infringement (or not) of the HIRB.
51. In any event the applicant indicated that it would accept a condition effectively requiring:
- (i) that the dwelling not infringe the HIRB and comply with the drawings provided; and
 - (ii) that an independent post-completion survey be conducted to verify that fact.
52. Mr Thomson, while not formally accepting that proposed condition, sought clarification as to what action would or could be taken in the event that he is proven correct once re-siting of the dwelling occurs. That, of course, would be an enforcement issue and Mr Thomson is entitled to assume that Council would enforce an appropriate remedy, and the applicant is on notice to that effect.

Finding

53. I find that with the condition imposed as agreed between the applicant and Council officers, the applicant is on clear notice that the building must not infringe the HIRB with respect to the eastern boundary. An independent survey will establish that the dwelling is appropriately sited in that regard. That survey will also verify that no part of the dwelling is closer than 1.5m from that same boundary.

Conditions

54. The conditions are largely agreed between the applicant and Council. I accept those conditions as appropriate.
55. As noted above I have made one amendment to those proposed conditions, requiring (condition 5) that the deck be no closer than 1.5m from the boundary

and that this also be confirmed by the post-completion survey required by condition 8.

Finding

56. I find that the amended conditions that are imposed are appropriate.

Section 104, 104B and Part 2 RMA

57. I confirm that I have considered the matters required under s104 of the RMA. As discussed above I have concluded that the actual and potential effects on the environment of allowing the activity can be managed appropriately.

58. In response to the fire regulation matter raised by Mr Thomson, Ms Thomson advised by memorandum dated 6 November 2019 that Council's building team had advised as follows:

... the attached deck may be considered as meeting requirements of C/AS1 paragraph 5.5(a-c). This will obviously need to be assessed at the time of building consent stage.

If it is deemed outside the scope of the C/AS1 paragraph 5.5(a-c) the applicant may be requested to fire rate the section of the structure that is encroaching on the 1m setback or provide an alternative solution.

In any case whether by distance or passive fire separation, the design may be accepted provided it shows that; in the event of fire in the building the received radiation at the relevant boundary does not exceed 30kW/m² and at a distance of 1m beyond the relevant boundary of the property does not exceed 16kW/m²”

59. However, as I have determined that the 1.5m side yard must be observed, such that the deck cannot be within 1m of the boundary, this matter is resolved.

60. No s6 RMA matters of national importance or s8 (Treaty of Waitangi principles) were identified as being directly engaged by this application.

61. Of the s7 RMA other matters to which particular regard is to be had, we consider the following relevant:

- (b) the efficient use and development of [natural and] physical resources;
- (c) the maintenance and enhancement of amenity values; and
- (f) maintenance and enhancement of the quality of the environment.

62. Those matters were rehearsed in the respective documentation, submission and evidence and regard to them has been had in this decision.

63. When put into the wider context of the Part 2 sustainable management purpose of the RMA and the functions of territorial authorities, I am satisfied that, with


the conditions imposed, the application will promote the sustainable management purpose of the RMA and will not adversely affect the health and safety and/or wellbeing of residential neighbours.

Decision

64. In exercising delegated authority under sections 34 and 34A of the RMA and having regard to the foregoing matters, sections 104, and 104B, and Part 2 of the RMA, the land use applications by AD McGrath to relocate the existing dwelling and car port at 67 Wallis Street, Raglan (being Pt Lot 9 Sect 2 DP C38 (SA751/328) from the western boundary to the eastern boundary is granted as amended for the reasons discussed in this Decision (and as summarised below) and subject to the conditions attached.

Summary reasons for the decision

65. After having regard to the actual and potential effects on the environment of allowing the proposed activity and taking into account the relevant statutory and statutory plan provisions, I find that consent for the proposed activity should be granted for the reasons discussed throughout this decision and, in summary, because:
- (a) The adverse amenity effects of the proposed activity on the closest residential neighbour at 69 Wallis Street is minor in the context of the zone rules that apply, the HIRB as calculated from the estimated natural ground level, and the conditions to be implemented (particularly the requirement to observe the eastern side yard control);
 - (b) Adverse effects with respect to infringements on Wallis and Rose Streets and the coastal setback are acceptable to Council in context as those are not materially different from existing circumstances; and
 - (c) Granting consent is consistent with promoting the sustainable management purpose and principles of Part 2 of the RMA, and the relevant provisions of the statutory plans.



David Hill

Independent Hearing Commissioner

Date: 26 November 2019

Resource Consent

(Resource Management Act 1991)

DECISION ON APPLICATION: LUC00318/19

Pursuant to Sections 34A, Section 104 and 104B of the Resource Management Act 1991, the Independent Commissioner on behalf of Waikato District Council, under delegated authority, grants land use consent for a Discretionary activity to:

Activity: Relocate the existing dwelling and car port at 67 Wallis Street, Raglan, from the western boundary to the eastern boundary of the site

Applicant: A D McGrath

Location Address: 67 Wallis Street, RAGLAN

Legal Description: PT LOT 9 SEC 2 DEEDS C 38 comprised in Record of Title SA751/328

This consent is subject to the conditions that follow.

The reasons for this decision are detailed in the report that precedes this appendix

Dated: 26 November 2019

Schedule 1

Waikato District Council

Consent Conditions

Resource Consent No: LUC0318/19

1) General Conditions

I The development shall be undertaken in general accordance with the information and plans submitted by the Consent Holder in support of application number and officially received by Council on 22 March 2019 and further information received 15 April 2019 except as amended by the conditions below. Copies of the approved plans prepared by Architecture Bureau Ltd are attached:

- Plan – Site Existing dated 15 Apr 2019 R02;
- Plan – Site Proposed dated 15 Apr 2019 R03b⁴;
- Plan – Elevations NE & NW Existing (from Wallis Street) 15 Apr 2019 R04c;
- Plan – Elevations SE & SW Existing (from Rose Street) 15 Apr 2019 R05c;
- Plan – Elevations North & East Proposed (from Wallis Street) dated 15 Apr 2019 R06c & R19;
- Plan – Elevations South & West Proposed (from Rose Street & 65 Wallis St) dated 15 Apr 2019 R07c;
- Daylight Admission Analysis – Existing & Proposed – dated 15 Apr 2019 R08c;
- Proposed view from Wallis Street – dated 15 Apr 2019 R09a;
- Overshading Plan, dated 15 Apr 2019 R14C.

In the case of inconsistency between the application and the conditions of this consent, the conditions of consent shall prevail

2 Pursuant to Section 36 of the Resource Management Act 1991 the Consent Holder shall pay the actual and reasonable costs incurred by the Waikato District Council when monitoring the conditions of this consent.

3 The dwelling shall be located a minimum distance of 3.45 metres from the Wallis Street Road boundary.

4 The dwelling shall be located a minimum distance of 800mm from the Rose Street Road boundary shown as Point D and the car port shall be located a minimum distance of 1.15m from the Rose Street Road boundary shown as Point F on the approved plan by Architecture Bureau labelled 'Plan – Site Proposed' dated 12 February 2019 referenced R03.

⁴ To be modified per condition 5

- 5 The deck shall be located a minimum of 1.5m from the eastern boundary. This is to be shown on an approved revised drawing: Plan – Elevations North & East Proposed (from Wallis Street) dated 15 Apr 2019 R03b, and confirmed by the post-completion survey required by condition 8.
- 6 A detailed foundation design including further geotechnical assessment for the proposed dwelling and car port and condition assessment of the existing retaining wall shall be provided at the time of Building Consent. All recommendations made in the Preliminary Geotechnical Assessment report for 67 Wallis Street by HD Geotechnical dated 6 December 2018 ref: GAR1 shall be adhered to unless an alternative geotechnical assessment report is submitted and approved by the Team Leader, Land Development Engineers, Waikato District Council.

Prior to Construction

- 7 The Consent Holder shall notify the Waikato District Council Monitoring Department at least 10 working days prior to the commencement of activities associated with this consent.

Advice note

To notify Waikato District Council Monitoring Department, email monitoring@waidc.govt.nz with the consent number, address of property and date for when the works will commence.

Post Construction

- 8 Upon completion of the dwelling relocation a Licensed Cadastral Surveyor shall certify to the Council in writing that the dwelling does not exceed the extent of the height in relation to boundary infringement shown on the approved Architecture Bureau Ltd plan R06C dated 15 April 2019. The surveyor shall also certify that the deck complies with condition 5.
- 9 Any exterior lighting and/or security lighting to 67 Wallis Street shall be oriented away from 69 Wallis Street.

Advisory Notes

1 Lapse Date

This Resource Consent for land use lapses five years after the commencement of the consent, unless:

- (a) the Consent is given effect to prior to that date.

or

- (b) an application is made to the consent authority to extend the period after which the consent lapses, and the consent authority decides to grant an extension after taking into account:

- (i) whether substantial progress or effort has been, and continues to be, made towards giving effect to the consent;

- (ii) whether the applicant has obtained approval from persons who may be adversely affected by the granting of an extension; and
- (iii) the effect of the extension on the policies and objectives of any plan or proposed plan.

2 Other consents/permits may be required

To avoid doubt; except as otherwise allowed by this resource consent, all land uses must comply all remaining standards and terms of the relevant Waikato District Plan. The proposal must also comply with the Building Act 2004, Hamilton City Council Infrastructure Technical Specifications and Waikato Regional Plans. All necessary consents and permits shall be obtained prior to development.

Health and Safety at Work (Asbestos) Regulations 2016

Regulation 21 of the Asbestos Regulations 2016 requires that asbestos must be identified and removed before demolition of a structure or plant.

Regulation 34(1) of the Asbestos Regulations 2016 Notification requires that notification be made to WorkSafe New Zealand at least 5 days before work commences. Under Regulation 34(2), there are circumstances where licensed asbestos removal work can begin immediately.

The form for notification of licensed asbestos removal can be found at: <http://forms.worksafe.govt.nz/asbestos-removal-notification>.

All material containing asbestos and any affected soil shall be disposed of at a suitably licensed facility.

In addition to contacting Work Safe New Zealand, it is requested that you also contact Council's Monitoring Department at monitoring@waidc.govt.nz with the consent number, address of property and date of when works ceased.

Archaeological sites may be affected by the proposal

It is possible that archaeological sites may be affected by the proposed work. Evidence of archaeological sites may include burnt and fire cracked stones, charcoal, rubbish heaps including shell, bone and/or glass and crockery, ditches, banks, pits, old building foundations, artefacts of Maori and European origin or human burials.

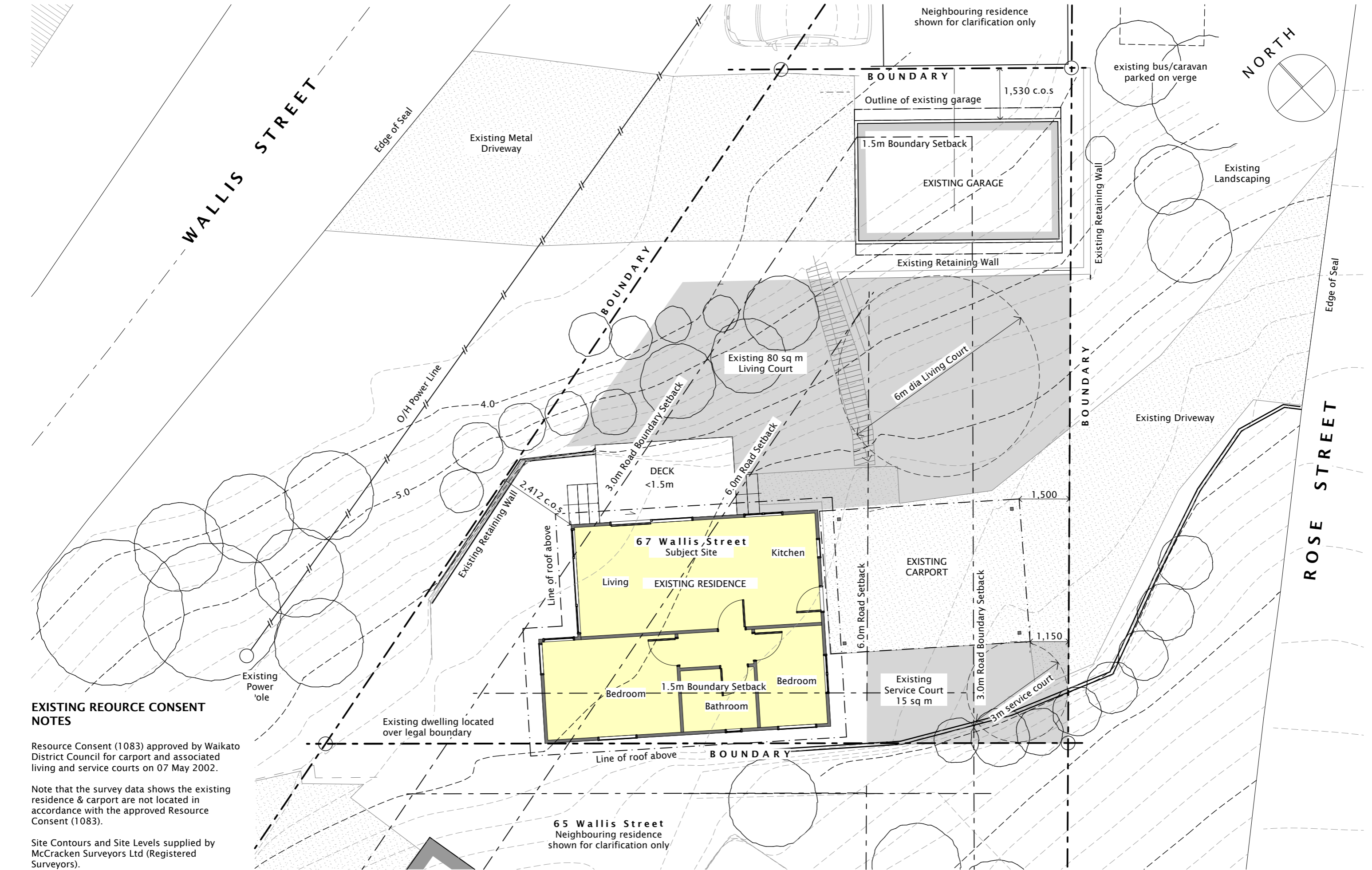
The applicant is advised to immediately stop work and contact Heritage New Zealand Pouhere Taonga if the presence of an archaeological site is suspected. Work affecting archaeological sites is subject to a consenting process under the Heritage New Zealand Pouhere Taonga Act 2014. If any activity associated with this proposal, such as earthworks, fencing or landscaping, may modify or destroy any archaeological site(s), an authority (consent) from Heritage New Zealand Pouhere Taonga must be obtained for

the work to proceed lawfully. The Heritage New Zealand Pouhere Taonga Act 2014 contains penalties for unauthorised site damage.

In addition to contacting Heritage New Zealand Pouhere Taonga, it is requested that you also contact Council's Monitoring Department at monitoring@wairarapa.govt.nz with the consent number, address of property and date of when works ceased.

Enforcement Action

Failure to comply with the conditions of consent may result in Council taking legal action under the provisions of Part 12 of the Resource Management Act (1991).



EXISTING RESOURCE CONSENT NOTES

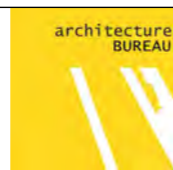
Resource Consent (1083) approved by Waikato District Council for carport and associated living and service courts on 07 May 2002.

Note that the survey data shows the existing residence & carport are not located in accordance with the approved Resource Consent (1083).

Site Contours and Site Levels supplied by McCracken Surveyors Ltd (Registered Surveyors).

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Project
 McGRATH Building Relocation
 A & S McGrath
 67 Wallis Street
 RAGLAN 3225

Project No
 17.023

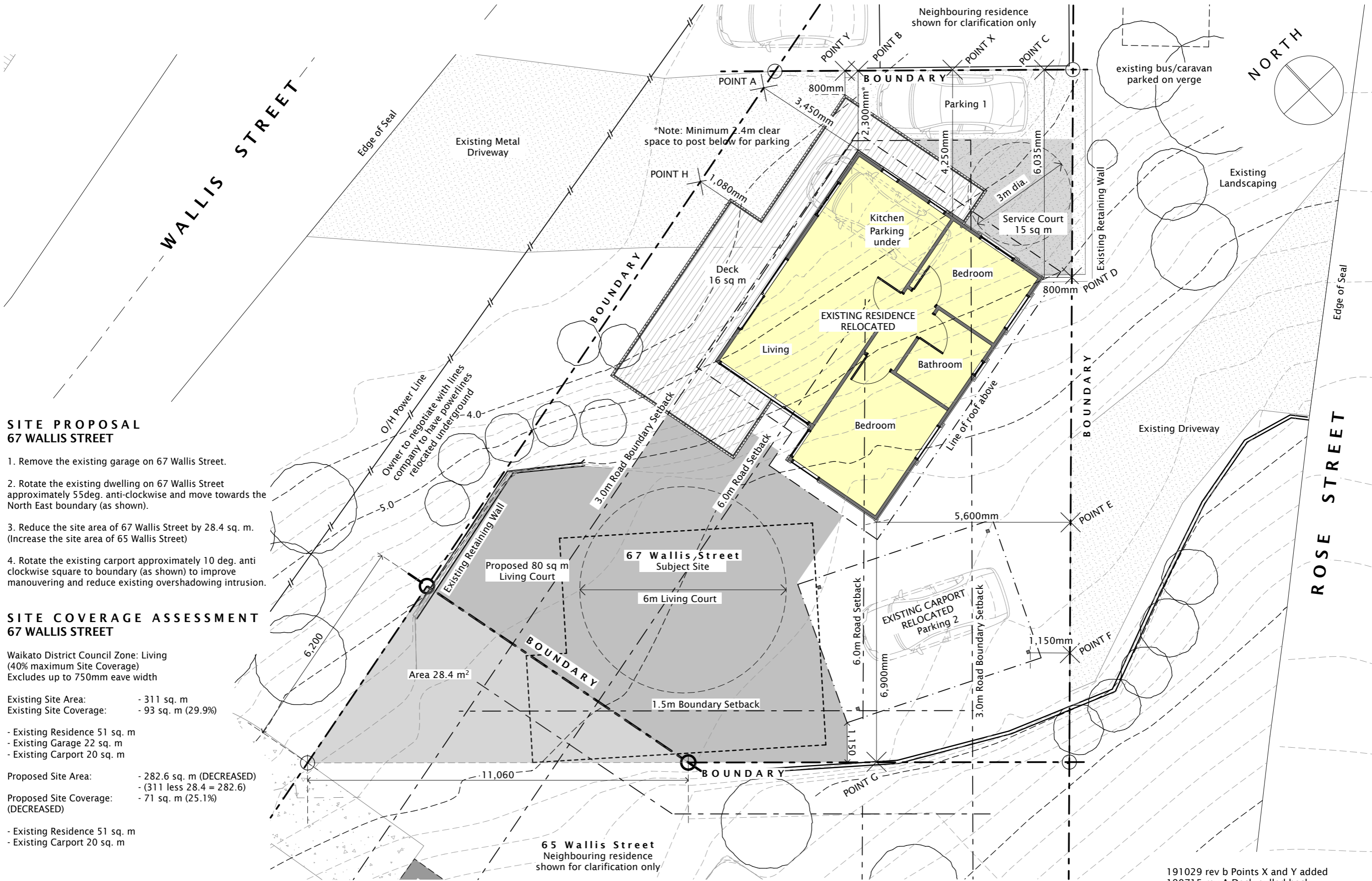
Drawing Title

PLAN - SITE EXISTING

RESOURCE CONSENT ONLY

Revision ORIGINAL SIZE A3 29/10/19, 1:13 PM
 Date 15 APR 2019
 Drawing No
 Scale 1:100 @ A3
 Architect E Mayo 2995

R02



**SITE PROPOSAL
67 WALLIS STREET**

1. Remove the existing garage on 67 Wallis Street.
2. Rotate the existing dwelling on 67 Wallis Street approximately 55deg. anti-clockwise and move towards the North East boundary (as shown).
3. Reduce the site area of 67 Wallis Street by 28.4 sq. m. (Increase the site area of 65 Wallis Street)
4. Rotate the existing carport approximately 10 deg. anti clockwise square to boundary (as shown) to improve manoeuvring and reduce existing overshadowing intrusion.

**SITE COVERAGE ASSESSMENT
67 WALLIS STREET**

Waikato District Council Zone: Living
(40% maximum Site Coverage)
Excludes up to 750mm eave width

Existing Site Area: - 311 sq. m
Existing Site Coverage: - 93 sq. m (29.9%)

- Existing Residence 51 sq. m
- Existing Garage 22 sq. m
- Existing Carport 20 sq. m

Proposed Site Area: - 282.6 sq. m (DECREASED)
- (311 less 28.4 = 282.6)

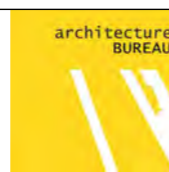
Proposed Site Coverage: - 71 sq. m (25.1%)
(DECREASED)

- Existing Residence 51 sq. m
- Existing Carport 20 sq. m

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Project
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A & S McGrath
67 Wallis Street
RAGLAN 3225

Project No
17.023

Drawing Title

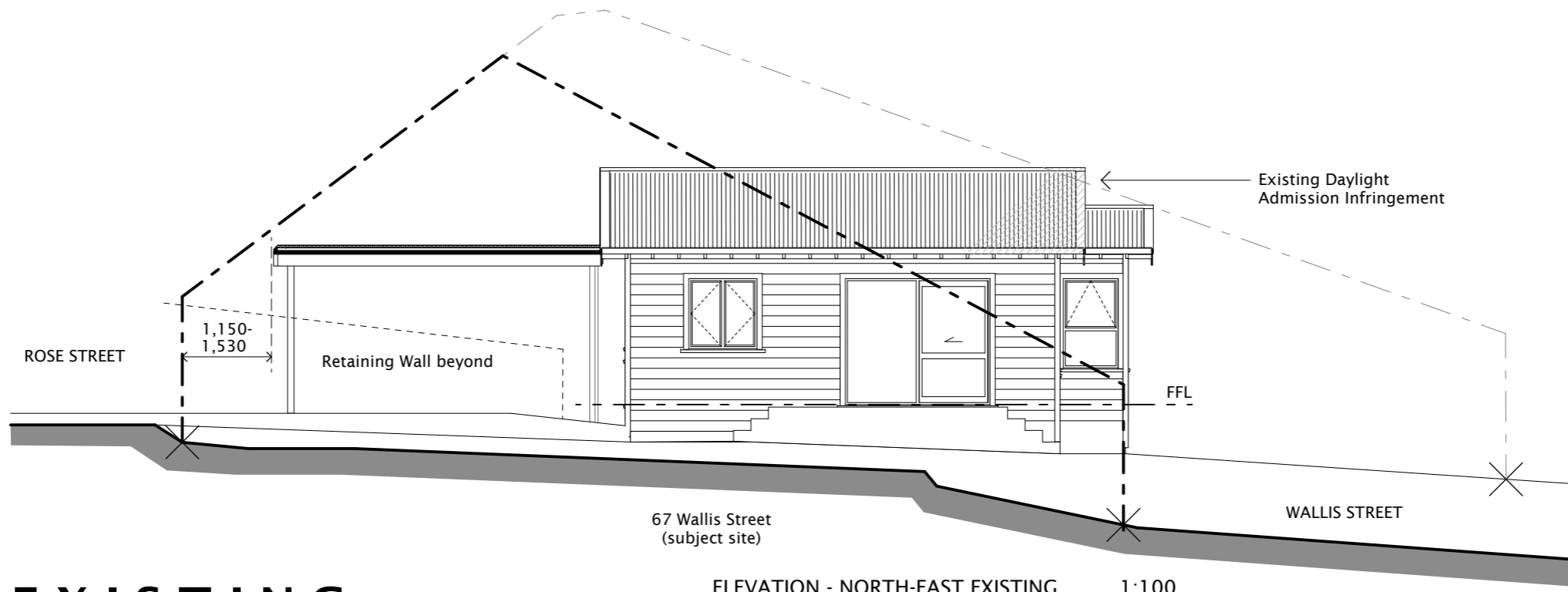
PLAN - SITE PROPOSED

RESOURCE CONSENT ONLY

191029 rev b Points X and Y added
190715 rev A Deck pulled back

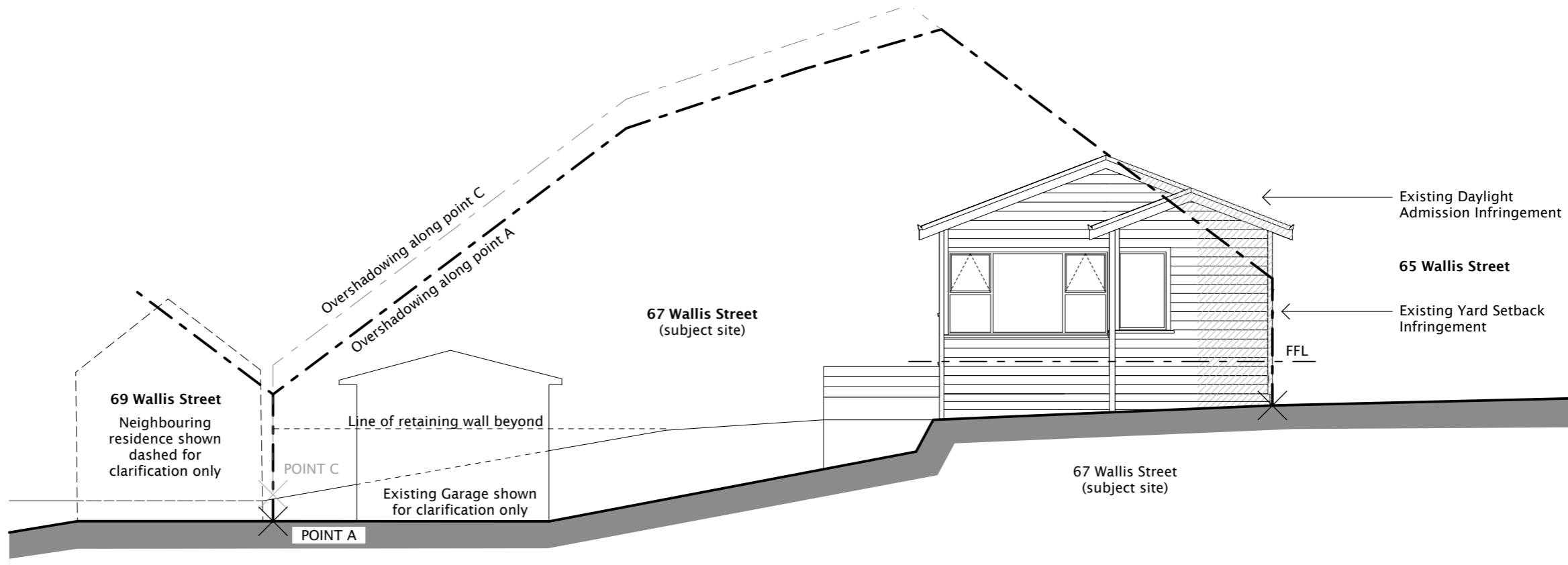
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Date	15 APR 2019	Drawing No
Scale	1:100 @ A3	
Architect	E Mayo 2995	

R03b



EXISTING

ELEVATION - NORTH-EAST EXISTING 1:100
VIEW FROM 69 WALLIS STREET



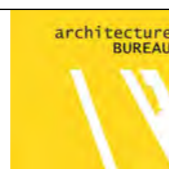
EXISTING

ELEVATION - NORTH-WEST EXISTING 1:100
VIEW FROM WALLIS STREET

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Project
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A & S McGrath
67 Wallis Street
RAGLAN 3225

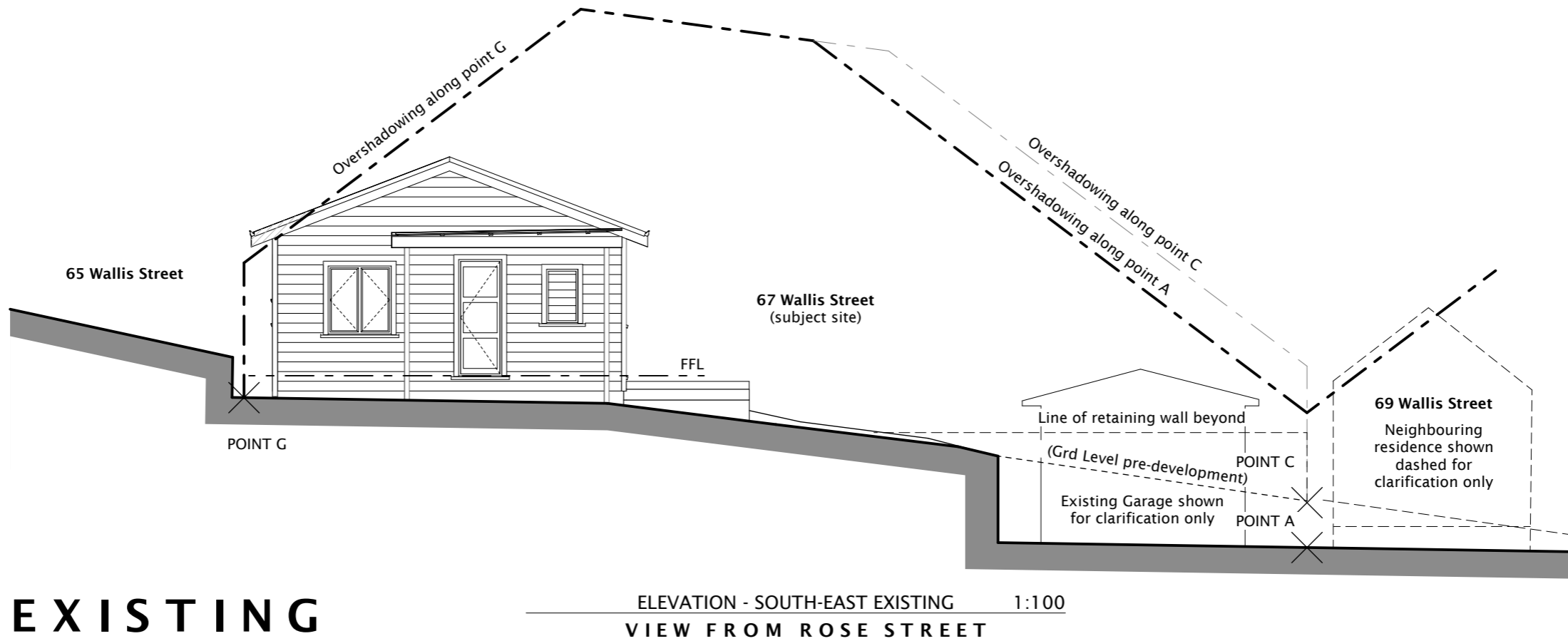
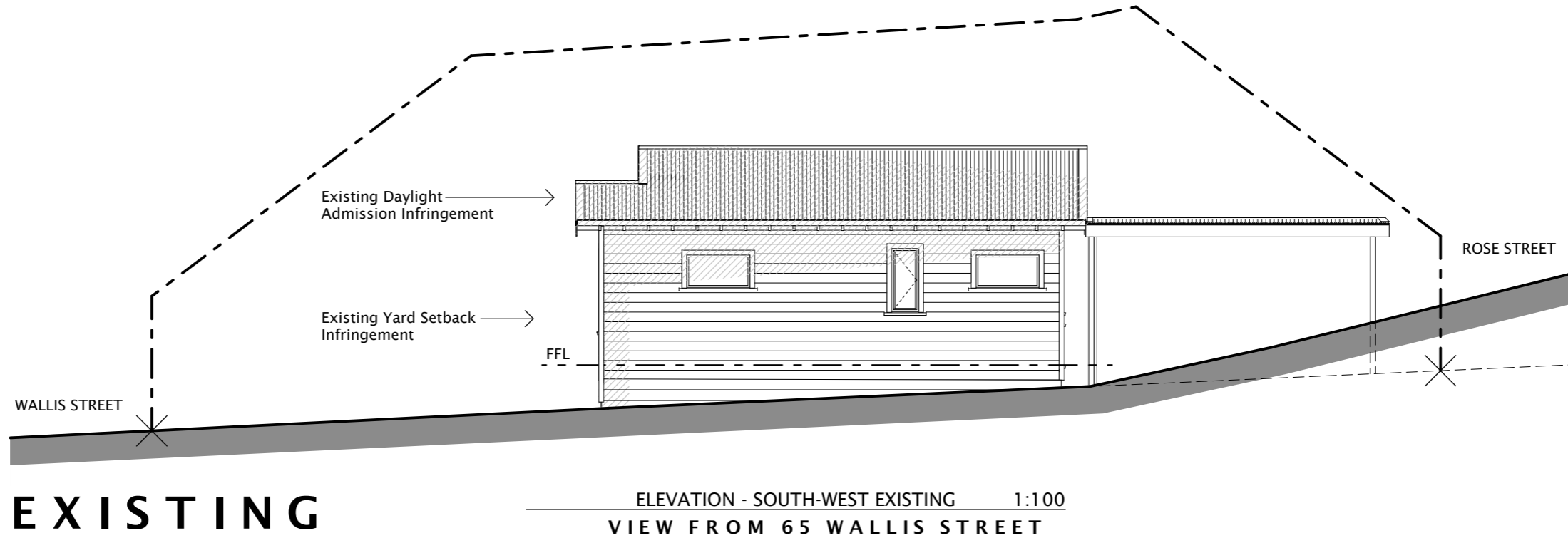
Project No
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Drawing Title

ELEVATIONS - NE & NW EXISTING
RESOURCE CONSENT ONLY

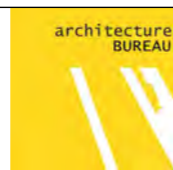
Revision ORIGINAL SIZE A3 29/10/19, 1:13 PM
Date 15 APR 2019 Drawing No
Scale 1:100 @ A3
Architect E Mayo 2995

R04c



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Project No
 17.023

Drawing Title

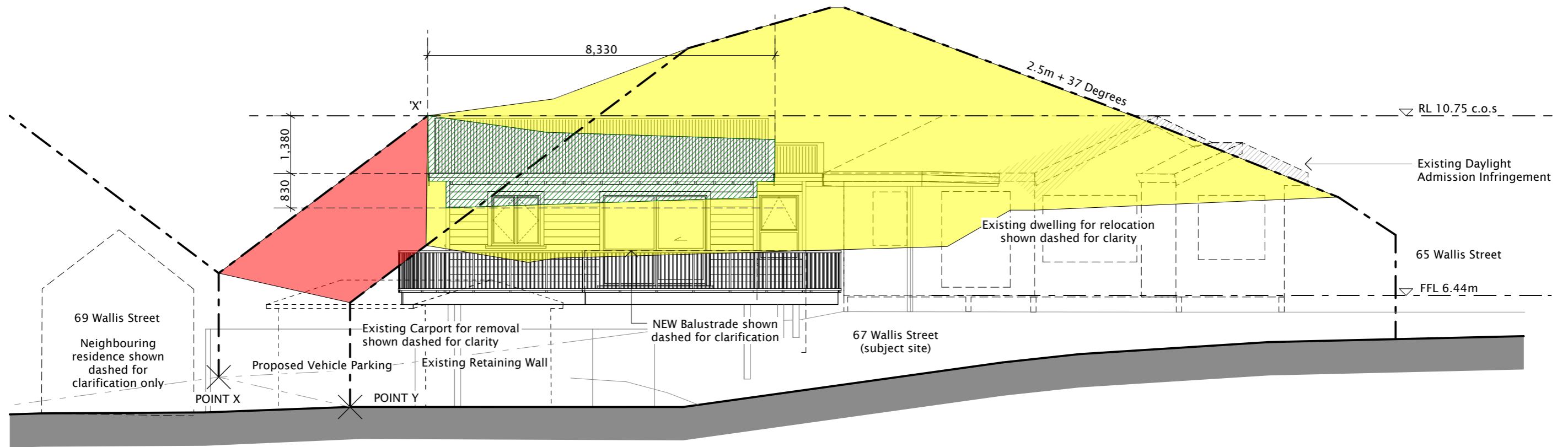
ELEVATIONS - SE & SW EXISTING

RESOURCE CONSENT ONLY

Revision
 Date
 15 APR 2019
 Scale
 1:100 @ A3
 Architect
 E Mayo 2995

ORIGINAL SIZE A3 29/10/19, 1:13 PM
 Drawing No

R05c

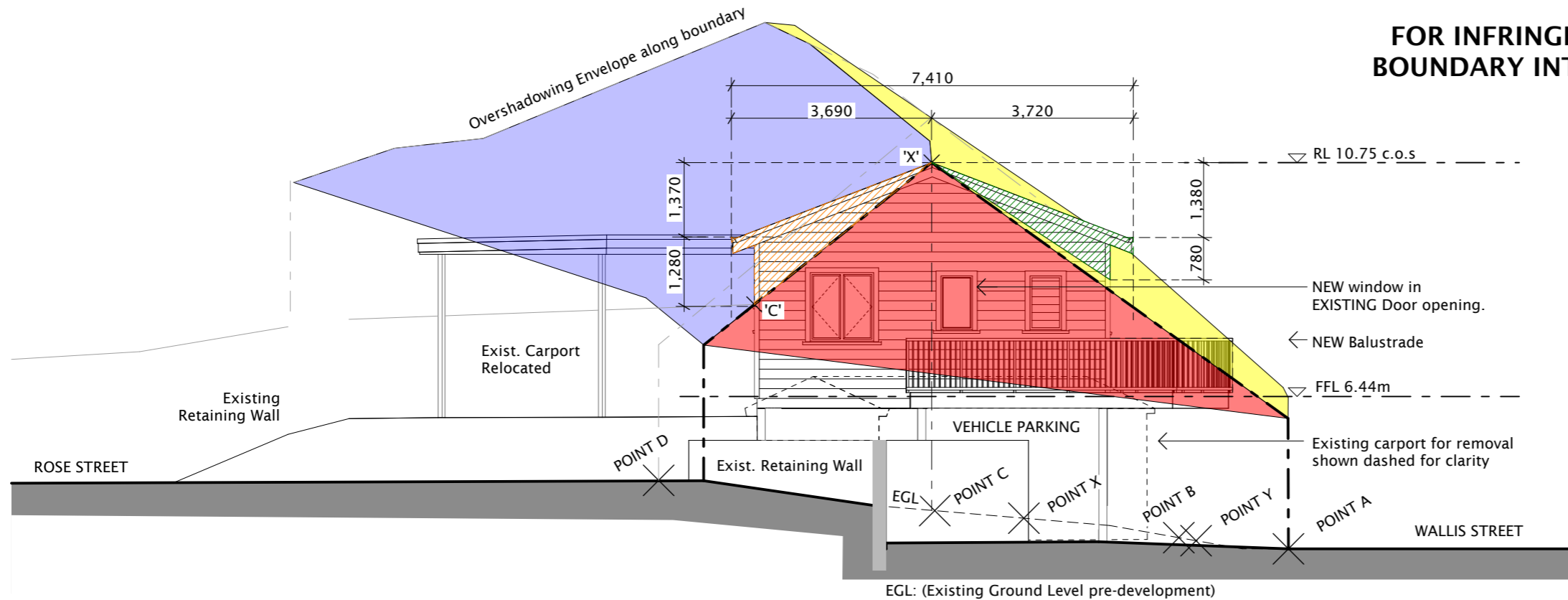


PROPOSED

ELEVATION - NORTH PROPOSED 1:100
VIEW FROM WALLIS STREET

NOTE: OVERSHADOWING INFRINGEMENTS ON THIS DRAWING SHOW INFRINGEMENTS AGAINST WALLIS AND ROSE STREET BOUNDARIES ONLY.

FOR INFRINGEMENTS WITH 69 WALLIS STREET BOUNDARY INTRUSIONS - REFER TO SHEET A19C



PROPOSED

ELEVATION - EAST PROPOSED 1:100
VIEW FROM 69 WALLIS STREET

OVERSHADOWING MODEL KEY

- Overshadowing Plane taken from Boundary between 67 & 69 Wallis Street
- Overshadowing Plane taken from Rose Street Road Boundary
- Overshadowing Plane taken from Wallis Street Road Boundary
- Area of Building Penetrating through Wallis Street Overshadowing Plane
- Area of Building Penetrating through Rose Street Overshadowing Plane

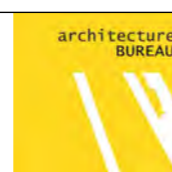
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191016 rev B Clarified Overshadowing
190715 rev A Deck pulled back

Revision	ORIGINAL SIZE A3	29/10/19, 1:13 PM
Date	15 APR 2019	
Scale	1:100 @ A3	
Architect	E Mayo 2995	

R 06c

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Project
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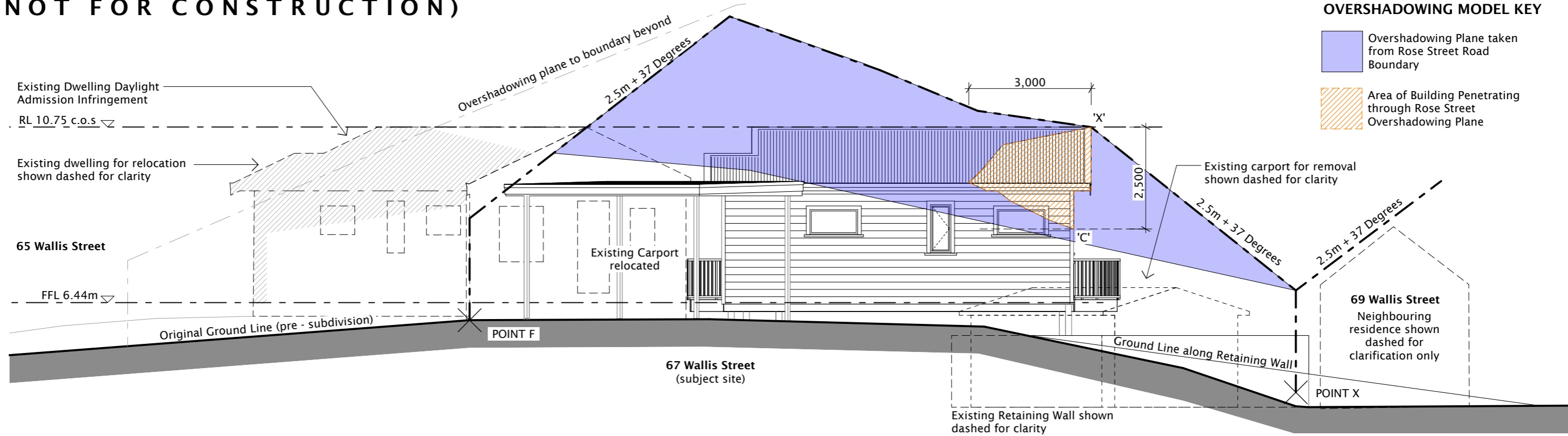
Project No
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Drawing Title

ELEVATIONS - NORTH & EAST PROPOSED

RESOURCE CONSENT ONLY

**FOR RESOURCE CONSENT ONLY
(NOT FOR CONSTRUCTION)**

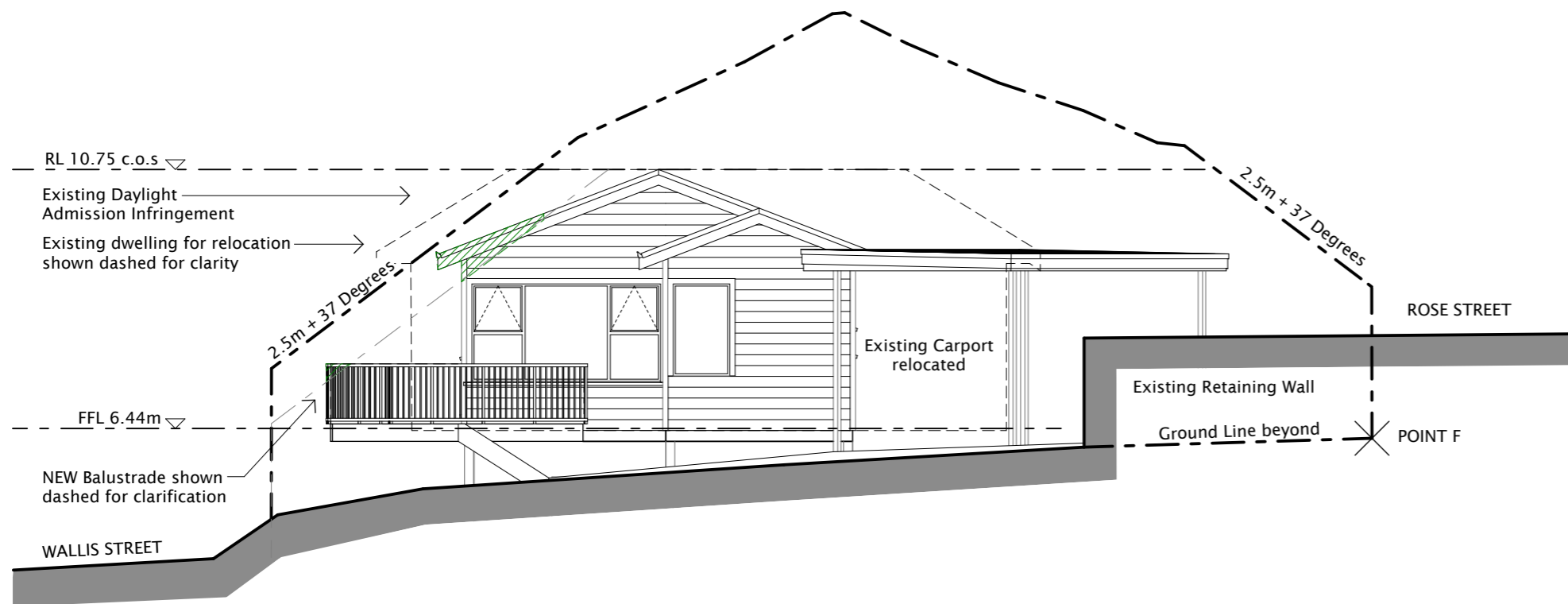


OVERSHADOWING MODEL KEY

- Overshadowing Plane taken from Rose Street Road Boundary
- Area of Building Penetrating through Rose Street Overshadowing Plane

PROPOSED

ELEVATION - SOUTH PROPOSED 1:100
VIEW FROM ROSE STREET



OVERSHADOWING MODEL KEY

- Area of Building Penetrating through Wallis Street Overshadowing Plane

PROPOSED

ELEVATION - WEST PROPOSED 1:100
VIEW FROM 65 WALLIS STREET

GENERAL NOTES

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RAGLAN 3225

Project No
17.023

Drawing Title

ELEVATIONS - SOUTH & WEST PROPOSED

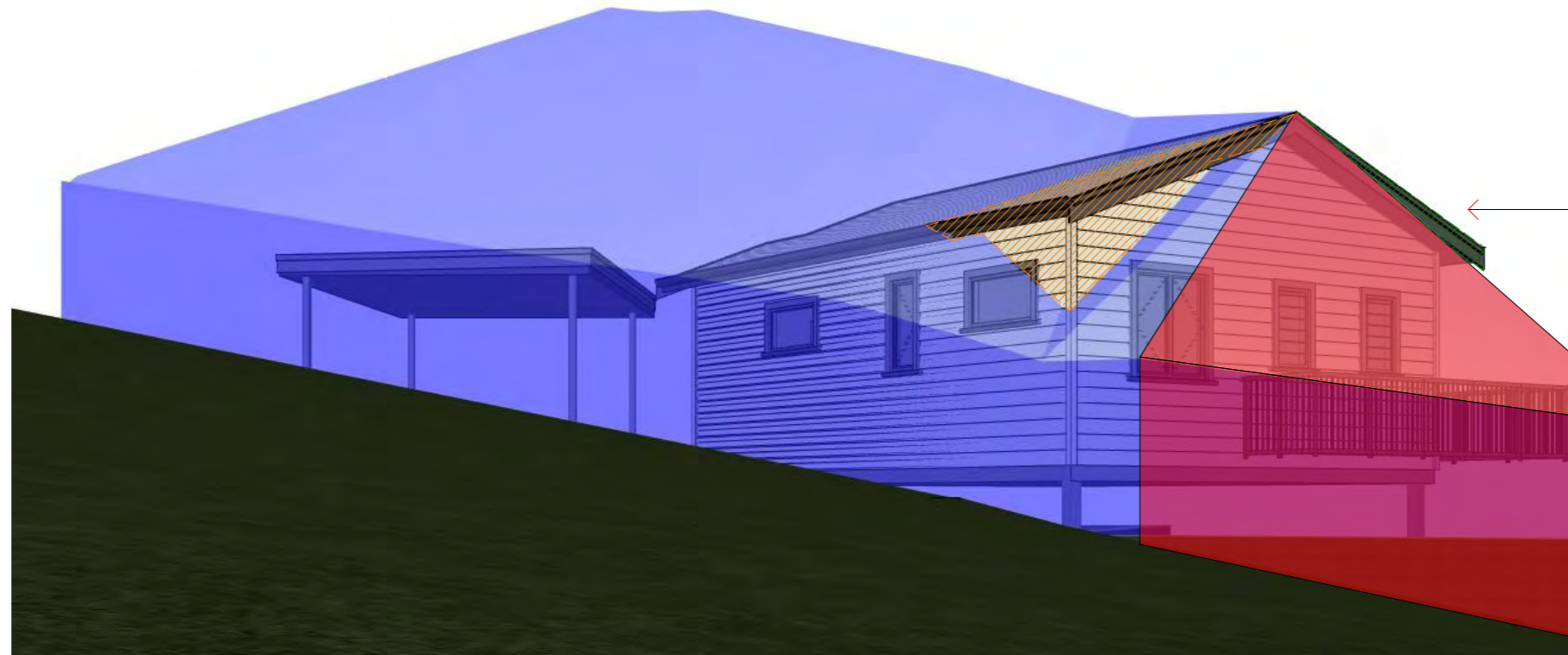
RESOURCE CONSENT ONLY

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191016 rev B Clarified Overshadowing
190715 rev A Deck pulled back

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Date	15 APR 2019	Drawing No
Scale	1:100 @ A3	
Architect	E Mayo 2995	

R07c

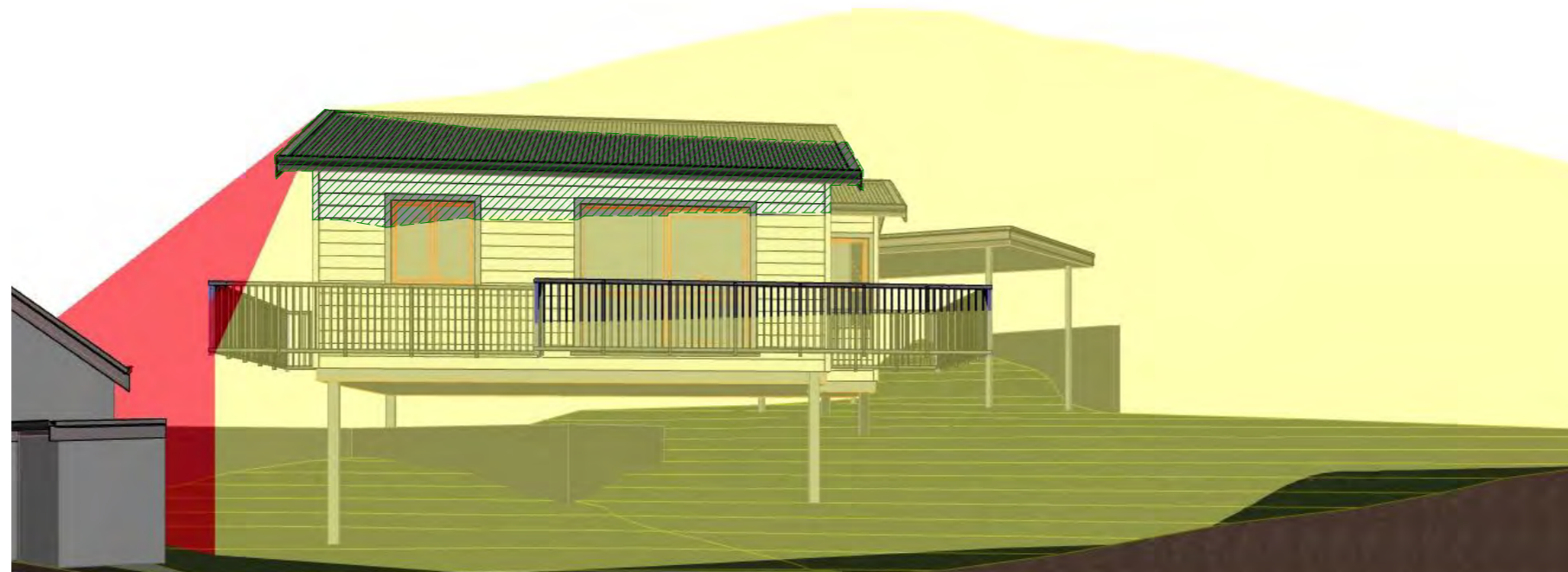
FOR RESOURCE CONSENT ONLY
(NOT FOR CONSTRUCTION)



Daylight Admission Infringement
Area of building shown indicates an infringement into the daylight admission envelope infringement

Daylight Admission Envelope
Shaded/highlighted area indicates modelled daylight admission envelope based on WDC District Plan rule 21.45

VIEW FROM ROSE STREET
PROPOSED



OVERSHADOWING MODEL KEY

- Overshadowing Plane taken from Boundary between 67 & 69 Wallis Street
- Overshadowing Plane taken from Rose Street Road Boundary
- Overshadowing Plane taken from Wallis Street Road Boundary
- Area of Building Penetrating through Wallis Street Overshadowing Plane
- Area of Building Penetrating through Rose Street Overshadowing Plane

VIEW FROM WALLIS STREET
PROPOSED

191016 rev B Clarified Overshadowing
190715 rev A Deck pulled back

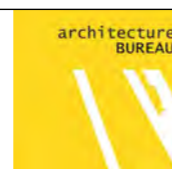
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Date	15 APR 2019	
Scale	NTS	
Architect	E Mayo 2995	

R08c

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Drawing Title

DAYLIGHT ADMISSION ANALYSIS
RESOURCE CONSENT ONLY

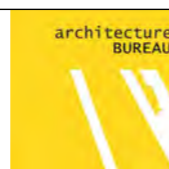


PROPOSED VIEW FROM WALLIS STREET

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Project
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Project No
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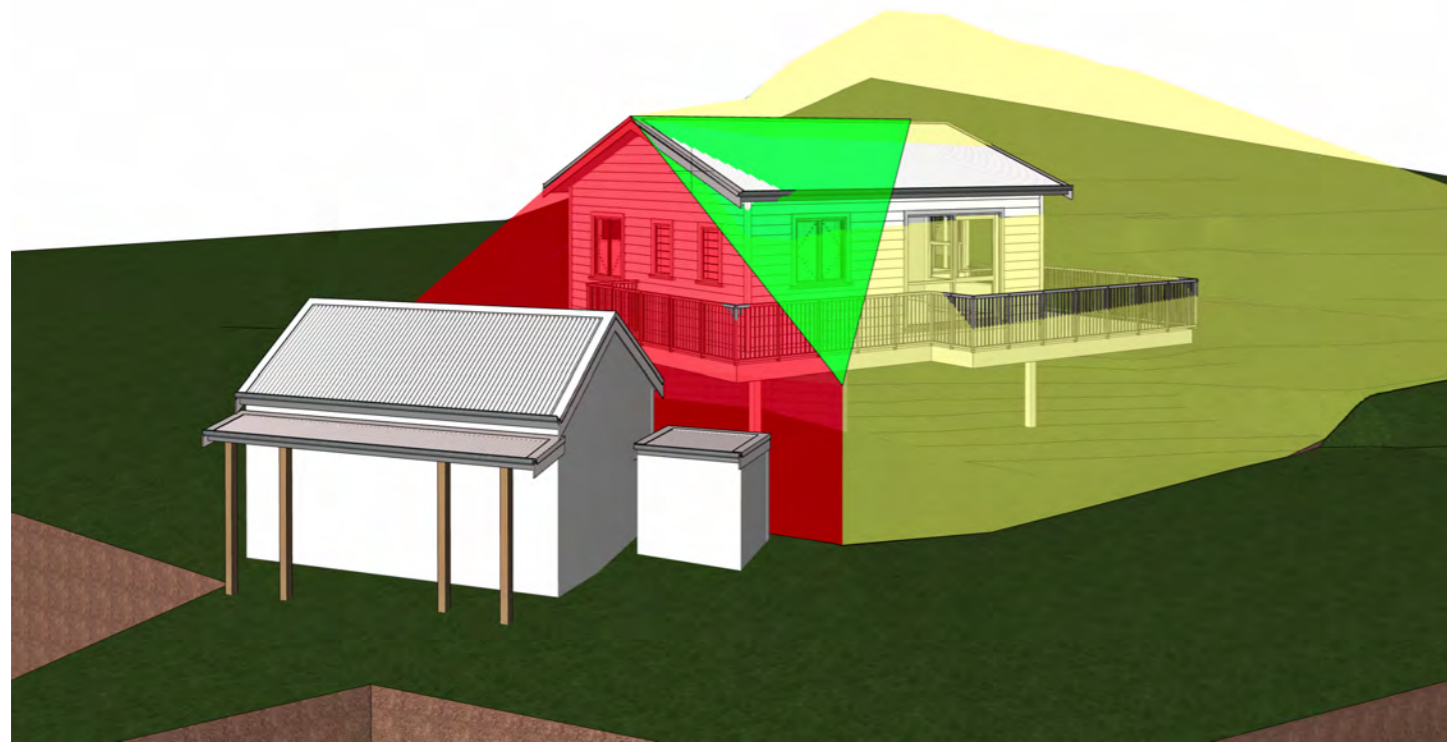
Drawing Title

PERSPECTIVE - VIEW FROM WALLIS STREET
RESOURCE CONSENT ONLY

190715 rev A Deck pulled back

Revision	ORIGINAL SIZE A3	29/10/19, 1:13 PM
Date	15 APR 2019	Drawing No
Scale	NTS	
Architect	E Mayo 2995	

R 09a

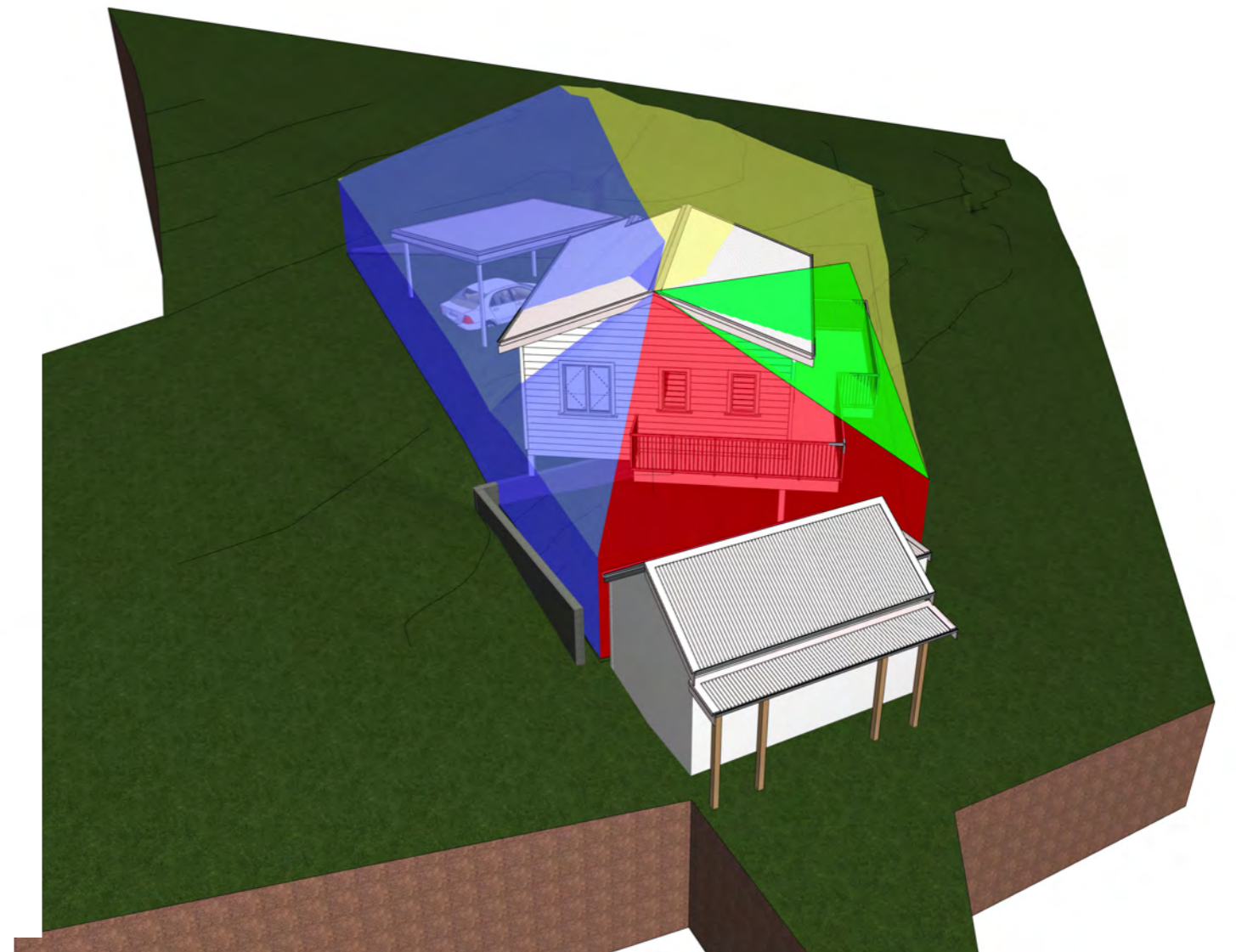
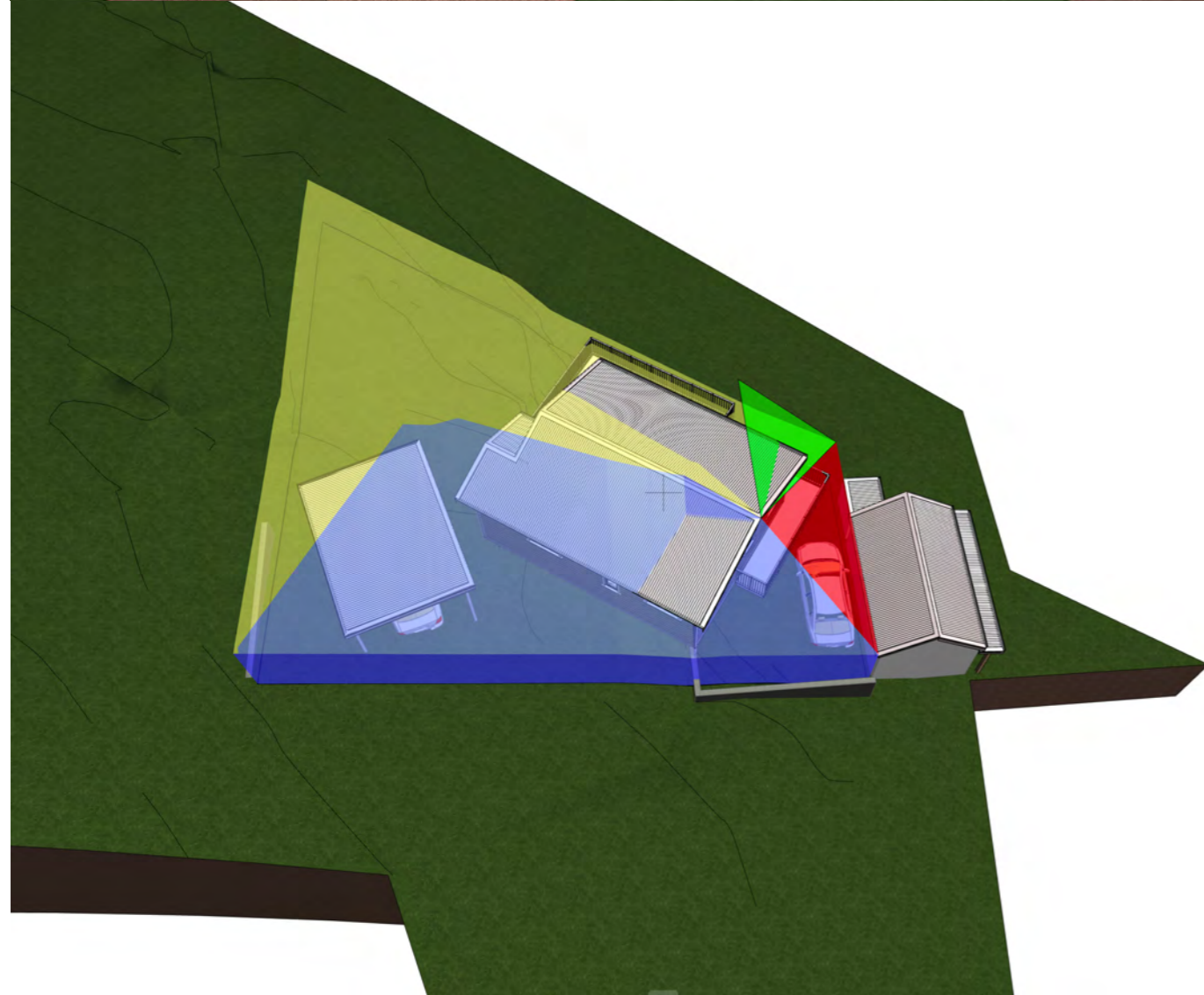


OVERSHADOWING MODEL KEY

- Overshadowing Plane taken from Boundary between 67 & 69 Wallis Street

■ Overshadowing Plane taken from Rose Street Road Boundary
- Overshadowing Plane taken from Boundary between 67 & 69 Wallis Street (WALLIS STREET BOUNDARY OVERSHADOWING PLANE IGNORED)

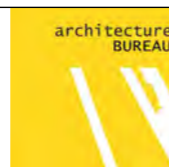
■ Overshadowing Plane taken from Wallis Street Road Boundary



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Drawing Title

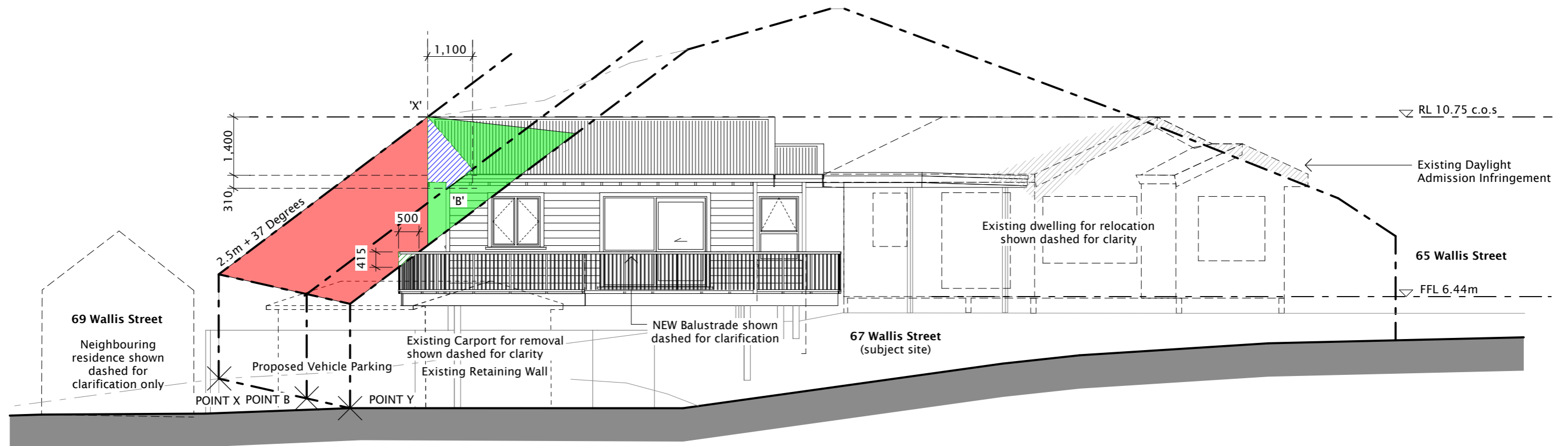
OVERSHADOWING PLANE

RESOURCE CONSENT ONLY

Revision
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 Scale
 @ A3
 Architect
 E Mayo 2995

ORIGINAL SIZE A3 29/10/19, 1:13 PM
 Drawing No

R 14C

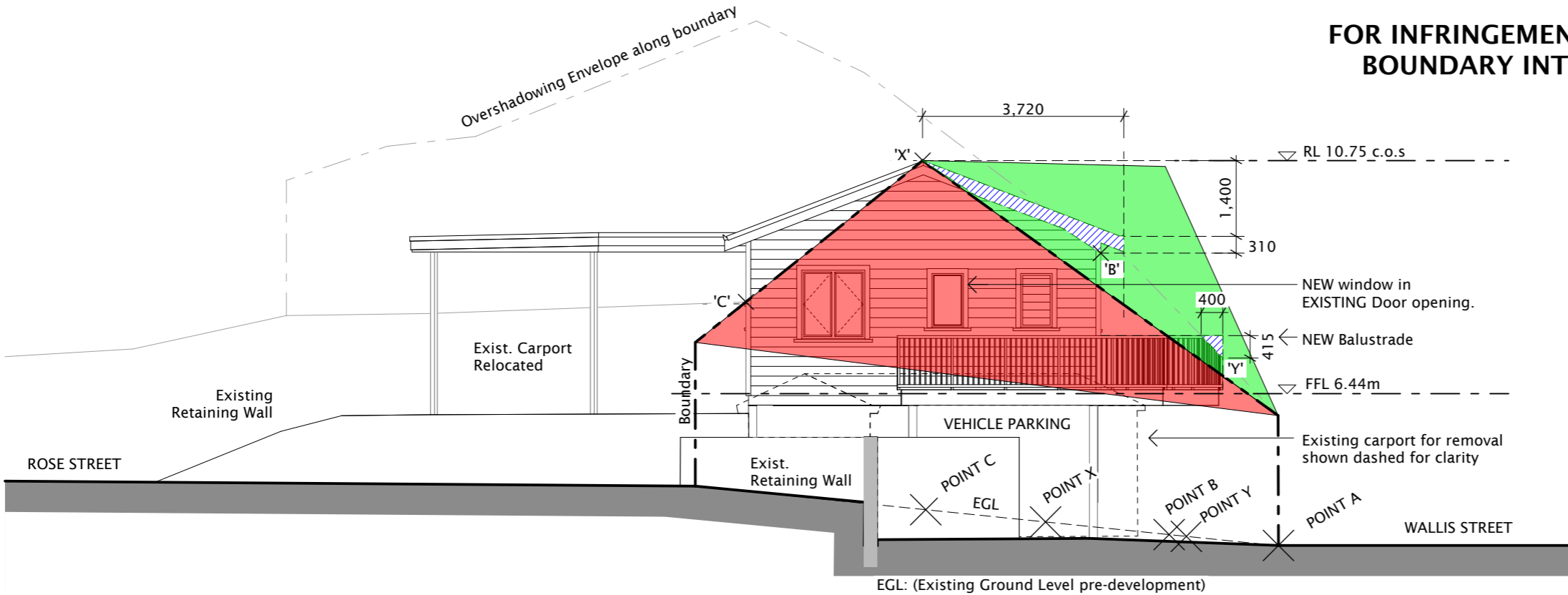


PROPOSED

ELEVATION - NORTH PROPOSED 1:100
VIEW FROM WALLIS STREET

NOTE: OVERSHADOWING INFRINGEMENTS ON THIS DRAWING SHOW INFRINGEMENTS AGAINST 69 WALLIS STREET BOUNDARY ONLY.

FOR INFRINGEMENTS WITH WALLIS AND ROSE STREET BOUNDARY INTRUSIONS - REFER TO SHEET A06C



PROPOSED

ELEVATION - EAST PROPOSED 1:100
VIEW FROM 69 WALLIS STREET

OVERSHADOWING MODEL KEY

- Overshadowing Plane taken from Boundary between 67 & 69 Wallis Street
- Overshadowing Plane taken from Boundary between 67 & 69 Wallis Street (WALLIS STREET BOUNDARY OVERSHADOWING PLANE IGNORED)
- Area of Building Penetrating through between 67 & 69 Wallis Street Overshadowing Plane

191029 rev C Clarified Overshadowing		
191016 rev B Clarified Overshadowing		
190715 rev A Deck pulled back		
Revision	ORIGINAL SIZE A3	29/10/19, 1:13 PM
Date	15 APR 2019	
Scale	1:100 @ A3	
Architect	E Mayo 2995	

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Project
McGRATH Building Relocation

Project No
17.023

A & S McGrath
67 Wallis Street
RAGLAN 3225

Drawing Title
ELEVATIONS - NORTH & EAST PROPOSED

RESOURCE CONSENT ONLY

R 19