

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSCC-130
DA Number	DA 84/2021/JP
LGA	The Hill Shire Council
Proposed Development	Medical Centre and Child Care Facility for 84 Children
Street Address	27 Hynds Road, Box Hill (Proposed Lot 1 in a resubdivision of Lot 85 DP 11104)
Applicant/Owner	Baini Design/Javian Development Pty Ltd
Consultant/s	Baini Design Think Planners Rodney Stevens Acoustics Australian Consulting Engineers Stanbury Traffic Planning RGM Property Surveys Ideal Geotech Vista Access Architects AA Power Engineering Advanced Arborist Reporting Outside Design Group (Landscape Architect) QPC & C Pty Ltd (Registered Quantity Surveyor)
Date of DA lodgement	21 July 2020
Number of Submissions	Nil
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Private infrastructure and community facilities over CIV \$5 million (child care centre and health services facility) CIV: \$5,050,587
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Sydney Region Growth Centres) 2006 - Appendix 11 The Hills Growth Centre Precinct Plan • State Environmental Planning Policy No 55 — Remediation of Land. • State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 • Central City District Plan. • Sydney Region Environmental Plan No. 20 (Hawkesbury-Nepean River) No. 2 - 1997 • Box Hill Development Control Plan 2018. • The Hills Development Control Plan 2012 • Environmental Planning and Assessment Act Regulation 2000.
List all documents submitted with this report for the Panel's consideration	N/A
Clause 4.6 requests	N/A
Summary of key	No submissions received

submissions	
Report prepared by	Harrison Depczynski, Senior Town Planner
Report date	12 May 2021 (Electronic)

Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	NA
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S94EF)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Yes
Conditions Have draft conditions been provided to the applicant for comment?	NA

EXECUTIVE SUMMARY

- The key issues that need to be considered by the Panel in respect of the development application are:
 - Insufficient information has been provided as to whether public utility infrastructure (supply of water and the disposal and management of sewage) that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required (Clause 6.3 of the LEP).
 - The proposal relies on a modification to underlying development consent 1184/2018/ZE, to consolidate and create the subject development allotment, amend stormwater management arrangements and development contributions.
 - Variations to the Child Care Planning Guideline with respect to built form, character and streetscape, and acoustic considerations.
 - Variations to the Box Hill Development Control Plan 2018 with respect to the effects of non-residential development in residential zones.
 - Variations to The Hills Development Control Plan 2012 with respect to setbacks and landscaping.
 - Outstanding planning, environmental health, engineering, landscaping and resource recovery matters with respect to streetscape, acoustics, basement design and circulation, waste servicing, stormwater management and landscaping.
- Assessment of the application against the relevant planning framework and consideration by technical staff (planning, waste, engineering, environmental health, landscaping, land information, developer contributions) has identified outstanding information and issues that have not been satisfied.

3. The development application is considered unsatisfactory when evaluated against Section 4.15 of the Environmental Planning and Assessment Act 1979.
4. This report recommends that the Panel refuse the application for the reasons outlined in the recommendation of this report.

BACKGROUND

The site is located at No. 27 Hynds Road, Box Hill which is legally known as Lot 85 DP 11104 and as a total area of 10,120m².

The site contains an existing court approved development consent (1184/2018/ZE) for a small lot housing development and subdivision creating 44 residential lots/dwellings comprising 32 semi-detached dwellings and 12 detached dwellings including new roads and demolition (refer Attachment 12). The consent develops the site from its existing rural residential form into small residential lots ranging in sizes from 300m² to 370m² with housing construction included. The consent also includes the upgrade of Hynds Road fronting the site and partial construction of three DCP roads bordering the site including the realignment of Zaniah Street which was relocated adjacent to the western boundary of the site as part of the approval and will be constructed wholly on No. 29 Hynds Road. The applicant for the subject development application is the same applicant as the underlying consent 1184/2018/ZE.

The proposed development will be located on a future development lot on the southern portion of the site which is to be created under a modification to development consent 1184/2018/ZE. The future development lot will be approximately 1522m² in size with a 50m southern frontage to Hynds Road, 30m eastern and western frontages to future public roads (Nova Street and Zaniah Street), and a 50m common boundary with two future residential properties to the north.

A prelodgement meeting was held with the applicant on 24 January 2020 to discuss the proposal. The applicant was provided notes in follow-up to the meeting advising them on several matters to be addressed with the submission of a development application. Of particular note the applicant was advised:

- The development needed to cater for onsite waste collection within the basement and that kerbside waste collection was not permitted.
- Full details of earthworks, site cross sections and retaining walls were to be submitted and driveway profiles and vehicular access designed in accordance with the Australian Standards.
- Underlying development consent 1184/2018/ZE may be required to be amended for a number of reasons including because it requires subdivision of the site into residential lots and the proposed development is located in the location of the approved stormwater detention basin.

The subject development application was lodged on 21 July 2020. The application was notified in July/August 2020 and no submissions were received.

The application as originally lodged proposed was for a Medical Centre and Child Care Facility for 86 Children. Kerbside waste collection was proposed instead of onsite collection within the basement and the plans including elevations did not accurately reflect the existing and proposed levels of the site.

On 18 August 2020, correspondence was sent to the applicant raising several issues with the proposal and its incompatibility with the underlying approval 1184/2018/ZE. The applicant was advised a Section 4.56 modification application would be required for the underlying approval to remove approved dwellings, consolidate lots, amend development contributions and

stormwater arrangements for the overall site noting a stormwater detention basin was approved in the location of the proposed child care centre.

On 17 September 2020, correspondence was sent to the applicant requesting several matters to be addressed with the proposal including planning, child care planning guideline, public utility infrastructure, engineering basement grades and parking design, earthworks, waste servicing and storage, acoustics, contamination and landscaping. The applicant was also advised, based off the plans submitted, that a 1m high retaining wall with 1.8m high acoustic wall (2.8m combined height) along the frontage of Hynds Road would result in an unacceptable streetscape outcome and alternative options would need to be explored.

On 15 October 2020, the Panel were briefed on the application and in their Record of Briefing noted that given the uncertain timing of the resolution of the issues relating to Consent 1184/2018/ZE and the fact that Council had received no response from the applicant to its requests for further information, as described above, Council may wish to suggest to the applicant that it withdraws the DA in order to address all outstanding issues prior to the Panel's determination of the application.

The applicant was provided a copy of the Record of Briefing and subsequently requested to withdraw the application on 23 October 2020 and re-lodge when all the matters raised were addressed.

On 26 October 2020 the applicant advised that they were preparing to lodge the Section 4.56 modification application in response to the correspondence on 18 August 2020 regarding the underlying consent 1184/2018/ZE. On 20 November 2020 correspondence was sent to the applicant regarding traffic engineering matters to be addressed. The applicant advised on 27 November 2020 that they were aiming to submit a response as soon as possible.

On 21 January 2021, correspondence was sent to the applicant advising that the information requested on 18 August 2020 and 17 September 2020 had not been received and needed to be provided within fourteen days to enable assessment of the application to proceed.

On 22 January 2021 the applicant submitted additional information including amended architectural, stormwater, civil and landscaping plans.

On 23 February 2021, the applicant was advised that several of the items requested in previous correspondence on 17 September 2020 were not provided or had not been addressed. This included matters relating to public utility infrastructure, DCP variations, contamination, acoustics, waste servicing and application fees.

On 24 February 2021, the applicant advised that it appeared the correspondence sent to them on 17 September 2020 never made it onto their server and they would provide a response as soon as possible. The applicant was advised that the correspondence of 17 September 2020 was requested and uploaded via the NSW Planning Portal and subsequent correspondence (as described above) referred to this outstanding information requested. Given the DA had been in for 217 days and the applicant still had not addressed either of the requests for information from 16 August 2020 and 17 September 2020, they were requested to withdraw the application and re-lodge at a time all issues were been addressed. The applicant was advised that if the application was not withdrawn, given the unreasonable delays the application would be reported to the panel for determination at the next available panel meeting.

On 17 March 2021, the applicant submitted additional information including amended architectural plans, engineering and stormwater plans, and revised traffic, arborist and acoustic reports.

On 9 April 2021, the applicant submitted further amended architectural, landscape and stormwater plans. This latest revision of plans (Attachments 6-11) is the first set that more accurately reflects the site levels and it is apparent that the interface to Hynds Road now requires an increased 1.7-2m high retaining wall with a 1.8m high acoustic wall on top for a combined wall height of 3.5-4m. This is proposed to be setback 2m from the front boundary to Hynds Road with a requested variation to the DCP requirement for minimum 4.5m setback for child care outdoor play areas. It is noted that the advice to the applicant in the correspondence of 17 September 2020 was that the previously shown 2.8m high wall was unsatisfactory and alternative design solutions were to be explored.

On 23 April 2021, correspondence was sent to the applicant advising that the application would be reported to the Sydney Central City Planning Panel (SCCPP) in May 2021 for electronic determination. Prior to proceeding to the Panel for determination, the applicant was provided the opportunity to withdraw the application in order to reconsider the current proposal and make any necessary amendments for the re-lodgement a new development application. A request to withdraw the application was not received from the applicant.

On 6 May 2021, a Section 4.56 Modification Application was lodged for the underlying development consent (1184/2018/ZE/A) seeking changes to the approved development which was requested in Council's correspondence dated 18 August 2020.

DETAILS AND SUBMISSIONS

Owner:	Javian Development Pty Ltd
Zoning:	R3 Medium Density Residential
Area:	10,120m ² (Parent Site) 1,522m ² (Subject Development Lot)
Existing Development:	Dwelling house (to be demolished under consent 1184/2018/ZE)
Section 7.11 Contribution	\$322,720.63
Notification:	14 days
Notice Adj Owners:	Yes
Number Advised:	10
Submissions Received:	Nil

PROPOSAL

The proposal is for the construction of a medical centre and a centre-based child care facility on proposed development lot 1 in development consent 1184/2018/ZE.

The proposal includes:

- A two storey child care facility located on the western part of the site
 - 84 child care placements and 14 staff
 - Three age-group separated indoor play areas, outdoor play areas, and administrative rooms spread across ground floor and first floor levels.
 - Proposed hours of operation from 7.00am - 7.00pm Monday to Friday
- A three storey medical centre located on the eastern part of the site
 - Comprising 3 doctor's rooms, x-ray room, surgery room, an ancillary chemist, and staff and administration rooms over 3 levels.
 - 8 staff
 - Proposed hours of operation:
 - 7.00am - 6.00pm Monday to Friday
 - 8.00am - 5.00pm Saturday
 - 9.00am - 4.00pm Sunday

- Two-level basement car park comprising 28 car parking spaces on the lower level and 19 car parking spaces on the upper level.
- Waste collection from within basement level 1

ISSUES FOR CONSIDERATION

1. State Environmental Planning Policy (State and Regional Development) 2011

Part 4 and Schedule 7 of SEPP (State and Regional Development) 2011 provides the following referral requirements to the SCCPP:-

5 **Private infrastructure and community facilities over \$5 million**

Development that has a capital investment value of more than \$5 million for any of the following purposes—

- (a) *air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities,*
- (b) *affordable housing, **child care centres**, community facilities, correctional centres, educational establishments, group homes, **health services facilities** or places of public worship.*

The proposed development has a Capital Investment Value of \$5,050,587 thereby requiring determination by the SCCPP.

2. State Environmental Planning Policy (Sydney Region Growth Centres) 2006

The Hills Growth Centre Precincts Plan applies to the site which is contained as Appendix 11 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

a. Permissibility

The site is zoned R3 Medium Density Residential under SEPP (SRGC) 2006. The proposal is for the purposes of a centre based child care facility and a medical centre (with ancillary chemist) which are defined as follows:

centre-based child care facility means—

(a) *a building or place used for the education and care of children that provides any one or more of the following—*

- (i) *long day care,*
- (ii) *occasional child care,*
- (iii) *out-of-school-hours care (including vacation care),*
- (iv) *preschool care, or*

(b) *an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)),*

Note.

An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided.

but does not include—

- (c) a building or place used for home-based child care or school-based child care, or*
- (d) an office of a family day care service (within the meanings of the Children (Education and Care Services) National Law (NSW)), or*
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or*
- (f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or*
- (g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or*
- (h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.*

medical centre means business premises used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals, and may include the ancillary provision of other health services.

health services facility means a building or place used as a facility to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes the following—

- (a) day surgeries and medical centres,*
- (b) community health service facilities,*
- (c) health consulting rooms,*
- (d) facilities for the transport of patients, including helipads and ambulance facilities,*
- (e) hospitals.*

Centre-based child care facilities are permitted with consent in the R3 Medium Density Residential Zone.

Medical centres, a type of health services facility, are permitted with consent in the R3 Medium Density Residential Zone being “*any other development not specified in item 2 or 4*”. It is also noted that health services facilities are a permitted land use in the R3 Medium Density Residential Zone pursuant to Division 10 of State Environmental Planning Policy (Infrastructure) 2007.

The proposal is satisfactory with respect to permissibility.

b. Zone Objectives

The site is zoned R3 Medium Density Residential under SEPP (SRGC) 2006.

The objectives of the R3 zone are:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

- *To support the well-being of the community by enabling educational, recreational, community, religious and other activities where compatible with the amenity of a medium density residential environment.*

The proposal is consistent with the objectives of the R3 Medium Density Residential Zone as it enables other land uses (child care centre and medical centre) that provide facilities or services to meet the day to day needs of residents.

The proposal is satisfactory with respect to the zone objectives.

c. Development Standards

The following table addresses the principal development standards of SEPP (SRGC) 2006:

CLAUSE	REQUIRED	PROVIDED	COMPLIES
4.1 Minimum subdivision lot size	N/A - No subdivision is proposed under this application.	N/A	N/A
4.1B Residential Density	N/A to commercial development	N/A	N/A
4.3 Height of buildings	14 metres	The maximum building height for the development is 10.91 metres.	Yes
4.4 Floor space ratio	N/A – There is no FSR specified for the site.	N/A	N/A

d. Clause 6.1 Public Utility Infrastructure

Clause 6.1(1) states the following:

- (1) Development consent must not be granted for development on land to which this Precinct Plan applies unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.*

Clause 6.1(3) defines public utility infrastructure as any of the following:

- the supply of water,
- the supply of electricity,
- the disposal and management of sewage.

With respect to the supply of electricity, the applicant submitted documentation from an accredited service provider confirming the electricity requirements for the development including the requirement for a padmount substation which is shown on plans.

With respect to the supply of water and the disposal and management of sewage, the applicant was requested to submit documentation from Sydney Water or a Water Servicing Coordinator to demonstrate that water and sewer for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.

The applicant has not submitted the requested information regarding water and sewage to demonstrate that the public utility infrastructure is available or that adequate arrangements have been made to make that infrastructure available when required. Therefore in accordance with Clause 6.1 development consent must not be granted.

The proposal is unsatisfactory with respect to Clause 6.1 of the SEPP.

3. State Environmental Planning Policy No. 55 Remediation of Land

This Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspects of the environment.

Clause 7 of the SEPP states:-

- 1) *A consent authority must not consent to the carrying out of any development on land unless:*
 - (a) *it has considered whether the land is contaminated, and*
 - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

A Stage 1 Preliminary Site Investigation and Stage 2 Detailed Site Investigation were carried out over the site for the underlying subdivision 1184/2018/ZE in accordance with the relevant guidelines. A follow-up contamination statement was provided for this application confirming that no changes had occurred onsite since the previous report and that the site was considered suitable for the proposed childcare and medical centre provided a validation assessment is undertaken post demolition of the house and driveway. The information has been reviewed by Council's Environmental Health Officer and no objections were raised regarding contamination subject to conditions of consent.

The proposal is satisfactory with respect to the SEPP.

4. Sydney Region Environmental Plan No. 20 (Hawkesbury-Nepean River) No. 2 - 1997

The aim of this plan is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

The development is unlikely to have detrimental impacts on the health of the environment of the Hawkesbury and Nepean River system.

5. The Greater Sydney Region Plan & Central City District Plan

The Central City District Plan is a 20-year plan to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision of Greater Sydney. It is a guide for implementing the Greater Sydney Region Plan, A Metropolis of Three Cities, at a district level and is a bridge between regional and local planning.

The Central City District Plan contains 'Directions for Liveability' which include:

- A City for People
 - Planning Priority C3 - Providing services and social infrastructure to meet people's changing needs.
 - Planning Priority C4 - Fostering healthy, creative, culturally rich and socially connected communities.

Liveability is about people's quality of life. Maintaining and improving liveability requires housing, infrastructure and services that meet people's needs; and the provision of a range of housing types in the right locations. Liveability is about creating and renewing great places, neighbourhoods and centres, and providing services and social infrastructure to meet people's changing needs.

The proposed development generally meets the intent of the Plans as follows:

- The proposal provides a health services facility and early education and child care facility within a residential neighbourhood to meet the changing needs of local residents;
- The site is accessible within the Box Hill Precinct via Hynds Road, an identified precinct collector road which will be increasingly serviced by public transport (buses);
- The proposal is co-located in close proximity to other social infrastructure including opposite zoned public open space and recreation land.

The proposal is considered satisfactory with regard to the Greater Sydney Region Plan and Central City District Plan.

6. State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

The proposal has been assessed against the requirements of the SEPP and the Child Care Planning Guideline. The proposal achieves compliance with the relevant requirements with the exception of the following:

CONSIDERATION NO.	REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
C1	For proposed developments in or adjacent to a residential zone, consider: <ul style="list-style-type: none"> • the acoustic and privacy impacts of the proposed development on residential properties • the setbacks and siting of buildings within the residential context • traffic and parking impacts of the proposal on residential amenity 	The submitted acoustic report and subsequent amendments do not consider all acoustic impacts of the development on residential properties.	No – see comments below.
C5	The proposed development should: <ul style="list-style-type: none"> • contribute to the local area by being designed in character with the locality and existing streetscape • reflect the predominant form of surrounding land uses, particularly in low density residential areas 	The proposal has not been designed in character with the locality and streetscape.	No – see comments below.

	<ul style="list-style-type: none"> • recognise predominant streetscape qualities, such as building form, scale, materials and colours • include design and architectural treatments that respond to and integrate with the existing streetscape • use landscaping to positively contribute to the streetscape and neighbouring amenity • integrate car parking into the building and site landscaping design in residential areas. 		
C15	<p>The built form of the development should contribute to the character of the local area, including how it:</p> <ul style="list-style-type: none"> • respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage • contributes to the identity of the place • retains and reinforces existing built form and vegetation where significant • considers heritage within the local neighbourhood including identified heritage items and conservation areas • responds to its natural environment including local landscape setting and climate • contributes to the identity of place. 	The built form of the development does not contribute to the character of the local area.	No – see comments below.
C23	<p>A new development that is located adjacent to residential accommodation should:</p> <ul style="list-style-type: none"> • provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence). • ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure. 	The proposed development does not identify locations of mechanical plant or adequately consider noise impacts or mitigation measures.	No – see comments below

a. C1 – Developments in Residential Zones

The proposed child care centre is within a residential zone and directly adjoins future residential properties to the north. Consideration 1 of the Guideline requires developments to consider the acoustic and impacts of the proposed development on residential properties.

Comment:

The objective is as follows:

To ensure that appropriate zone considerations are assessed when selecting a site.

The submitted acoustic report and subsequent amendments do not consider all acoustic impacts of the development on residential properties. This includes inconsistencies with stated hours of operation in the Statement of Environmental Effects, inadequate consideration of mechanical plant noise, and inadequate consideration staff/visitor car use of the driveway which is adjacent to a residential receiver, particularly on weekends when the medical centre is proposed to operate. The development does not appropriately consider the acoustic sensitivities of the site and residential zone in which it is located.

b. C5 – Local Character and Streetscape

Consideration 5 of the Guideline states the proposed development should:

- *Contribute to the local area by being designed in character with the locality and existing streetscape*
- *Reflect the predominant form of surrounding land uses, particularly in low density residential areas*
- *Recognise predominant streetscape qualities, such as building form, scale, materials and colours*
- *Include design and architectural treatments that respond to and integrate with the existing streetscape*
- *Use landscaping to positively contribute to the streetscape and neighbouring amenity*
- *Integrate car parking into the building and site landscaping design in residential areas.*

Comment:

The objective is as follows:

To ensure that the child care facility is compatible with the local character and surrounding streetscape.

The proposed development does not adequately respond to the constraints of the site and will be out of character with future surrounding residential development. The site slopes from the northern boundary and future residential properties down towards Hynds Road with a level difference of 1.5-2m. The applicant's latest design amendments propose a 1.7-2m high retaining wall along the frontage to Hynds Road (refer Attachments 7, 8, 9) (no T.O.W or B.O.W reduced levels were provided despite being requested). Where the child care front outdoor play area is located, an additional 1.8m high acoustic barrier is proposed resulting in an overall combined wall height of 3.5-4m to Hynds Road. Further the applicant is seeking a reduced 2m front setback to the outdoor play area where the DCP requires 4.5m. The finished floor level of the outdoor play area at RL 37.19 is approximately 2m above the adjacent finished ground level of Hynds Road at RL 35.15.

The proposed development results in a poor visual outcome in the residential streetscape and is considered incompatible with the envisaged scale, visual amenity and character of the residential area.

c. C15 – Built Form

Consideration 15 of the Guideline states:

The built form of the development should contribute to the character of the local area, including how it:

- *Respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage*
- *Contributes to the identity of the place*
- *Retains and reinforces existing built form and vegetation where significant*
- *Considers heritage within the local neighbourhood including identified heritage items and conservation areas*
- *Responds to its natural environment including local landscape setting and climate*
- *Contributes to the identity of place*

Comment:

The objective is as follows:

To ensure that the built form, articulation and scale of development relates to its context and buildings are well designed to contribute to an area's character.

The built form of the development does not respect or respond to the physical context of the site. The proposal seeks to incorporate retaining walls up to 2m high along Hynds Road with combined wall heights of up to 4m for the children's outdoor play area. The proposed design is inconsistent with the envisaged streetscape within the residential neighbourhood.

d. C23 – Acoustic Considerations

Consideration 23 of the Guideline states that:

A new development that is located adjacent to residential accommodation should:

- *Provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence).*
- *Ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure.*

Comment:

The objective is as follows:

To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments.

The proposed development does not identify locations of mechanical plant or adequately consider its noise impacts or mitigation measures. The acoustic report discusses mechanical

plant within section 5.4, however, notes that it has not been selected at this point in time. The submitted architectural plans also do not indicate the location of any mechanical plant. Further review and consideration is required to be undertaken in regards to mechanical plant selection and location (air conditioners, carpark ventilation etc) and potential acoustic impacts on neighbouring residential properties, particularly noting the medical centre's weekend operation. There are also other unresolved acoustic matters raised by Council's Environmental Health Officer which have not been addressed (refer Section 9 below).

There is insufficient information provided to ensure the impact of the child care facility on the acoustic privacy of neighbouring residential development is minimised.

7. Box Hill Development Control Plan 2018

The proposal has been assessed against the relevant provisions of the Box Hill Development Control Plan; particularly Clause 5.6 which applies to 'other development' in residential areas. The proposed development achieves compliance with the relevant requirements of the development controls with the exception of the following:

DEVELOPMENT CONTROL	DCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
<p>Clause 5.6.1 (9)</p> <p>Council will have particular regard to the effects of non-residential development in the residential zones. Council will consider the following:</p>	<ul style="list-style-type: none"> • If the proposed development will be out of character with surrounding residential development, particularly in relation to the height and/or scale of any proposed buildings the proposed development will contribute to an undesirable clustering of that type of development, or non-residential uses in general, in the area; • If an undesirable effect on the amenity of the surrounding area will be created; • If the proposed use will draw patronage from areas outside of the surrounding neighbourhood, and the extent to which that patronage might impact on the amenity of residents through factors such as traffic generation, noise or the overall scale of the non-residential use; • If a noise nuisance will be created; • If the development will 	<p>Proposed development is considered out of character with surrounding development.</p> <p>An undesirable effect on the amenity of the surrounding area will be created.</p> <p>Noise nuisance may be created as insufficient information has been submitted to satisfy acoustic considerations.</p> <p>Inadequate facilities have been provided for the purposes of parking, loading and deliveries.</p>	<p>No – see comments below.</p>

	<p>generate traffic out of keeping with the locality;</p> <ul style="list-style-type: none"> • If adequate facilities are provided for the purposes of parking, loading and deliveries; • Adequate provision is made for access by disabled persons. 		
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a. Effects on Non-Residential Development in Residential Zones

Clause 5.6.1(9) of the Box Hill DCP 2018 specifies the following with respect to the effects of non-residential development in the residential zones:

(9) Council will have particular regard to the effects of non-residential development in the residential zones. Council will consider whether:

- *the proposed development will be out of character with surrounding residential development, particularly*
- *in relation to the height and/or scale of any proposed buildings the proposed development will contribute to an undesirable clustering of that type of development, or non-residential uses in general, in the area;*
- *an undesirable effect on the amenity of the surrounding area will be created;*
- *the proposed use will draw patronage from areas outside of the surrounding neighbourhood, and the extent to which that patronage might impact on the amenity of residents through factors such as traffic generation, noise or the overall scale of the non-residential use;*
- *a noise nuisance will be created;*
- *the development will generate traffic out of keeping with the locality;*
- *adequate facilities are provided for the purposes of parking, loading and deliveries;*
- *adequate provision is made for access by disabled persons.*

Comment:

The DCP objectives are as follows:

- (a) To establish appropriate controls to minimise the adverse effects of non-residential development on surrounding residential development.*
- (b) To maintain consistency in development standards between non-residential and residential land uses and ensure that buildings are similar in height, bulk and scale to surrounding buildings.*
- (c) To ensure that non-residential development is appropriately located.*
- (d) To avoid concentrations of non-residential uses in any particular area where the cumulative impact on residential amenity would be unacceptable.*

The proposed development does not adequately respond to the constraints of the site and will be out of character with future surrounding residential development. The site slopes from the northern boundary and future residential properties down towards Hynds Road with a level difference of 1.5-2m.

The applicant's latest amendments propose a 1.7-2m high retaining wall along the frontage to Hynds Road (no T.O.W or B.O.W reduced levels were provided despite being requested). Where the child care front outdoor play area is located, an additional 1.8m high acoustic

barrier is proposed resulting in an overall combined wall height of 3.5-4m to Hynds Road while seeking a reduced 2m setback to this front boundary. The finished floor level of the outdoor play area at RL 37.19 is approximately 2m above the adjacent finished ground level of Hynds Road at RL 35.15.

The proposed retaining wall results in a poor streetscape outcome along Hynds Road and does not reflect the overall desired scale, visual amenity and character of the residential zoned neighbourhood. The applicant was advised of this in correspondence on 17 September 2020 and that alternative design solutions such as lowering the play area and reducing the acoustic fence height requirement through reducing child numbers. Subsequent amended plans which more accurately reflect the levels of the site reveal an even higher combined wall height (3.5-4m).

With respect to noise nuisance and amenity impacts, the submitted acoustic report and subsequent amendments fail to address outstanding concerns raised by Council's Environmental Health Officer. This includes inconsistencies with stated hours of operation, inadequate consideration of mechanical plant noise, and inadequate consideration of staff/visitor car use of the driveway which is adjacent to a residential receiver, particularly on weekends when the medical centre is proposed to operate. As such, with respect to the DCP controls it is unknown if the development will create noise nuisance and undesirable amenity impacts on the future residential area given these outstanding concerns.

With respect to the provision of adequate facilities for the purposes of parking, loading and deliveries; the development does not provide adequate facilities for waste vehicles to service the development from within the basement such as ramp grades, swept paths and manoeuvring areas in compliance with the relevant Australian Standards (also refer Engineering and Resource Recovery Comments below). The basement also lacks a turning bay and swept paths demonstrating the ability of vehicles to manoeuvre into car parking spaces which may result in the loss of car spaces and lead to a shortfall of car parking to service the development.

The proposal is inconsistent with the controls and objectives of Clause 5.6.1 of the Box Hill DCP 2018 and is not supported.

8. The Hills Development Control Plan 2012

The proposed development has been assessed against the relevant development controls within The Hills Development Control Plan 2012 in Part B Section 6 – Business, Part C Section 1 – Parking and Part C Section 3 – Landscaping.

The proposed development achieves compliance with the relevant requirements of the development controls with the exception of the following:

DEVELOPMENT CONTROL	DCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Part B Section 6 – Business			
CI 2.34 (h)	The location of outdoor child play areas in the front setback area is not permitted.	The outdoor child play area is located within the minimum 4.5m front setback at 2m setback from the boundary.	No – refer comments below.
CI 2.34 (j)	Landscaping along the primary and secondary	Insufficient landscaping provided.	

	frontages is to include a combination of ground covers, large trees, shrubs, and grass planting and is to provide high-quality landscaping for the development. Landscaping shall be established prior to the occupation of the building.		
CI 2.34 (k)	Trees and shrubs shall be provided alongside and rear boundaries to screen outdoor play areas.	Insufficient landscaping provided.	
Part C Section 3 – Landscaping			
CI 3.1 (b)	Landscaped areas shall have a minimum width of two metres.	Insufficient landscaping width provided.	No – refer comments below.
CI 3.1 (c)	Landscaping to side and rear boundaries should effectively screen the development; All electrical substations, water supply valves, hydrants and the like shall be indicated on the plans and suitably screened with due consideration given to the requirements of the appropriate authority.	Insufficient landscaping screening provided.	
CI 3.12(e)	Driveways are to be screened by a minimum of two metre wide landscaping strip on either side.	Insufficient landscaping width provided adjacent to the driveway entrance	No – refer comments below.

a. Part B Section 6 – Business – Clause 2.34

Clause 2.34 within The Hills DCP 2012 Part B Section 6 – Business contains development controls for centre-based child care facilities that are applicable to the proposed development. The proposal does not comply with clauses 2.34 (h), (j) and (k) which are listed as follows:

(h) The location of external child play areas in the front setback area is not permitted.

(j) Landscaping along the primary and secondary frontages is to include a combination of ground covers, large trees, shrubs, and grass planting and is to provide high-quality landscaping for the development. Landscaping shall be established prior to the occupation of the building.

(k) Trees and shrubs shall be provided along side and rear boundaries to screen outdoor play areas.

The applicant provided the following justification with respect to the outdoor play area within the front setback:

Part 2.34 of The Hills Shire DCP 2012 stipulates "The location of external child play areas in the front setback area is not permitted".

Noting the play area is 2m from the boundary on the secondary frontage only- and not in the 'primary' frontage. Further there is dense landscaping of 2m to screen this area as proposed and it is contained in the middle portion of the site only. As such, the result of this specific design approach is the most suitable design outcome considering the nature of the site.

Therefore, the outdoor play area located within the front setback proposed is suitable and worthy of support when having regard to the site context and lot orientation as this configuration minimises effect of privacy and has no significant impact on amenities of neighbouring dwellings.

In regard to the objectives:

- 1. The development provides quality landscaping around the site and in proximity to the front setback as detailed on the submitted landscape plan noting the 2m landscape buffer to screen the modest run of the play areas encroaching into the front setback.*
- 2. The external play area is a safe environment noting the acoustic report confirms the acoustic impact on the development is satisfactory and the traffic assessment has confirmed safety for the play area. Therefore the external play area is safe and suitable for children.*
- 3. The building design and associated landscaping presents a quality outcome on the site that maintains visual amenity of the neighbourhood;*
- 4. The development provides a suitable balance between built areas, landscaped areas and adjoining development.*

On the basis of this variation is considered acceptable and is worthy of Council approval.

Comment:

The objectives of DCP Part B Section 6 – Cl 2.34 are as follows:

- 1. To ensure that adequate area is provided to permit high-quality landscape planting for the development.*
- 2. To ensure that external play areas are located to provide a safe environment for children.*
- 3. To ensure a high standard of environmental quality in child care centre developments and to maintain the overall visual amenity and character of the neighbourhood.*
- 4. To provide a satisfactory relationship between buildings, landscaped areas and adjoining developments.*
- 5. To ensure that food is handled in a safe and healthy manner.*

The proposed development does not adequately respond to the constraints of the site. The site slopes from the northern boundary to future residential properties down towards Hynds Road resulting in a level difference of 1.5-2m. It was not until the latest plan set submitted to Council on 17 March 2021 that this level difference was more accurately shown on plans despite being raised in Council's Request for Information Letter dated 17 September 2021 and being evident on the applicant's survey plan and floor plan.

The applicant's latest amendments propose a 1.7-2m high retaining wall along the frontage to Hynds Road, and where the child care outdoor play area is located an additional 1.8m high acoustic fence resulting in an overall combined wall height of 3.5-4m to Hynds Road with a 2m setback to the front boundary. The finished floor level of the outdoor play area at RL 37.19 is approximately 2m above the adjacent finished ground level of Hynds Road at RL 35.15.

The proposed retaining wall results in a poor streetscape outcome to Hynds Road and does not reflect the overall desired visual amenity and character of the residential zoned neighbourhood. The variation for a reduced 2m front setback for the children's outdoor play area (where minimum 4.5m is otherwise required by the DCP) in combination with the excessive 3.5-4m combined retaining wall and acoustic wall height does not provide adequate area to permit high-quality landscape planting for the development or provide a satisfactory relationship between buildings, landscaped areas and adjoining developments. This is also the case along the rear northern boundary where it lacks a minimum 2m wide landscape bed to permit adequate and accessible landscaping to screen the rear outdoor play area (also raised in Landscape Officer's comments below).

The proposal is inconsistent with the controls and objectives of Clause 2.34 of The Hills DCP 2012 Part B Section 6 – Business and is not supported.

b. Part C Section 3 – Landscaping – Clause 3.1

The Hills DCP Part C Section 3 – Landscaping – Clause 3.1 contains general planning and design controls applicable to the development. The proposal does not comply with Clauses 3.1 (b) and (c) which are relevantly provided as follows:

(b) Landscaped areas shall have a minimum width of two metres.

(c) All landscaping is to adhere to the following principles:

- *Landscaping to side and rear boundaries should effectively screen the development;*
- *All electrical substations, water supply valves, hydrants and the like shall be indicated on the plans and suitably screened. However, due consideration given to the requirements of the appropriate authority, and must not be located through the root ball of any trees being retained;*

Comment:

The DCP objectives are as follows:

- (i) To provide general design principles to ensure that appropriate landscaping is provided to complement the type of development proposed.*
- (ii) To ensure that appropriate detail and information is provided on landscape plans.*

The proposal contains areas throughout including along boundaries where minimum 2m landscape widths have not been provided. For example, within the medical centre setback to Hynds Road; and the rear northern setback to future residential properties which is 1.8m in width adjacent to the building and reduces down to approximately 800mm adjacent to the outdoor play area. Further, the basement levels underneath in some areas are set back 680mm from the boundary affecting the ability for deep soil planting along the boundary.

The electrical substation proposed in the latest landscape plan revision is located in a prominent position with minimal opportunity to provide landscape planting to soften views from the street. Furthermore the limited easement area cannot have any shrub planting as proposed due to the easement. The substation could be positioned in a location where landscaping can be provided on either side of the substation easement.

The lack of sufficient width landscape areas throughout the development provide inadequate opportunity for appropriate landscaping to complement the development and screen it where required.

The proposal is inconsistent with the controls and objectives of Clause 3.1 of The Hills DCP Part C Section 3 – Landscaping and is not supported.

b. Part C Section 3 – Landscaping – Clause 3.12

The Hills DCP Part C Section 3 – Landscaping – Clause 3.12 contains car park design controls applicable to the development. The proposal does not comply with Clause 3.12 (e) which states:

(e) Driveways are to be screened by a minimum of two metre wide landscaping strip on either side

Comment:

The DCP objectives are as follows:

- (i) To ensure that adequate consideration is given to landscaping in car parking area designs, to reduce the prominent visual appearance of the facility.*
- (ii) To provide appropriate landscaping for external and uncovered car parks so that they do not detract from the surrounding area.*
- (iii) To provide shade and improve amenity of loading, service and car parking areas and to provide a buffer to neighbouring properties.*
- (iv) To utilise landscaping to provide amenity to neighbouring properties in accordance with Council's Ecological Sustainable Development objective 7.*

The driveway does not provided minimum 2m landscape strips on either side with 1.8m proposed on the northern side and a pedestrian ramp located on the southern side. Adequate minimum 2m width landscaping is required to provide amenity to neighbouring properties in accordance with Council's Ecological Sustainable Development objective 7.

The proposal is inconsistent with the controls and objectives of Clause 3.12 of The Hills DCP Part C Section 3 – Landscaping and is not supported.

9. Submissions

The application was publicly notified for 14 days in accordance with the Box Hill Development Control Plan. No submissions were received.

10. Internal Referrals

The application was referred to the following sections of Council:

Subdivision Engineering Comments

Council's Engineer has reviewed the proposal and subsequent amendments by the applicant and has outstanding matters relating to compliant basement design and stormwater arrangement as outlined below:

- The ramp from the street to Basement 1 does not comply with the maximum permitted grades as per AS 2890.2 for SRV vehicles. The permitted maximum grade is 15.4% and

grades up to 20% are proposed which does not comply. The applicant should consider alternate access from Hynds Road or Nova Street which may facilitate complying grades.

- There are inconsistencies with the revised traffic report prepared by Stanbury Traffic Planning dated 15 March 2021 and the ground clearance plan and the architectural plans prepared by Baini Design Revision E with respect to the height of the ramp. The traffic report indicates a height clearance of 2.08m whereas the architectural plans show a height of 2.8m. The applicant is to demonstrate the height of the ramp is adequate for the SRV vehicle to enter the basement.
- Swept path plans shall be provided showing the SRV vehicle and B99 vehicle existing/ entering the site at the driveway cross over.
- The traffic report and revised swept path plan is to detail the vehicular interactions at the base of basement 1 ramp in particular as the waste vehicle is turning left onto the ramp as another vehicle is entering and as the B99 vehicle is manoeuvring to exit.
- Swept path plan shall be provided to demonstrate how visitor spot 13 can negate the space without traversing over the pedestrian walk way.
- A dedicated turning bay is to be provided on basement 2 at the termination of the aisle (e.g. in location of car space no. 30).
- The applicant is to ensure the stormwater management plans for this development is compatible with the parent subdivision plans which are yet to be addressed. It is noted that a modification has recently been lodged.
- The revised civil plan (which will be assessed as part of the parent subdivision modification) prepared by Australian Consulting Engineers project number 175151 drawing C01.1 Revision I show a bio-retention/WSUD basin on the south eastern corner of the lot which is not evident on the site stormwater plans project number 200327 drawing 104 Issue C, which shows the stormwater reticulation draining to the rainwater tank, discharging to kerb and by-passing the quantity and quality chamber.
- The 1.5m inter-allotment drainage line indicated on the civil/ subdivision plans that runs along the northern boundary of the site must also be clearly identified on the Architectural/ landscape and site stormwater plans. In addition, all structures must be wholly contained outside of the drainage easement such as the acoustic wall and animal hutch.

Landscaping /Tree Management Comments

Council's Landscape Assessment Officer has reviewed the proposal and subsequent amendments by the applicant and does not support the proposal.

There remain undesirable streetscape impacts from high walling, acoustic fencing, and pad mount stations. The development does not adequately respond to the topography of the site to allow 2m landscape strips to sufficiently soften the development. There remains insufficient detail, conflicting information between plans, and a lack of attempt at retaining any existing trees. Refusal of the application is recommended for the following reasons:

- No attempt at tree retention has been undertaken despite Council's repeated requests and recommendations from the Pre Da stage. An arborist report from 2017 was submitted. No Arboricultural Impact Assessment for the development was provided. Existing mature native trees could potentially have been retained with appropriate consideration in design.

- The height of ramps and the combined retaining wall and acoustic fence of the proposed childcare centre have now been further indicated on the landscape plans. However as anticipated, the estimated height above the street level up to 3.5m is not supported. The landscape area provided does not allow for adequate landscaping to achieve an acceptable streetscape outcome to Hynds Road and Zaniah Street.
- The provided photomontages indicated in the materials schedule do not reflect the proposed development levels and walling/acoustic fencing.
- Insufficient landscape screening width remains proposed throughout the development. 2m wide landscape strips are to be located between the driveway and the northern boundary, between the outdoor play area and the northern boundary with residential properties, and between the corner of Zaniah Street and Hynds Road and the high pedestrian ramp.
- Once sufficient screen planting width (2m) is provided to the outdoor play area, this will further limit and unencumbered area, and may affect proposed child numbers.
- Top of Wall and Bottom of Wall Reduced Levels have still not been provided for all planter boxes over the basement slab to assess proposed soil depth. Therefore the wall heights and proposed planting in many locations remain unable to be assessed in accordance with THDCP Part C Section 3 Landscaping.
- Additional planting is to required forward to the proposed Syzigium 'Pinnacle', or a wider screen plan proposed to fill the space. Furthermore, the width of the bed needs to be widened to 2m in accordance with THDCP Part C Section 3 Landscaping – 3.12 Car Parking. Furthermore, the basement below allows only 680mm of planting between the boundary and driveway in the highlighted area, which is insufficient. The basement line under is not indicated on landscape plans to illustrate the conflict between the planting and the basement below.
- The area within the medical centre front setback to Hynds Road is lacking in detail and soft landscaping. The walling and balustrades on the 3D imagery are not detailed on the landscape plan. Furthermore, the additional hard surface and chair lift located on the Landscape Plans are not indicated on the 3D imagery. It is envisaged that the streetscape outcome of the medical centre at this location would be highly undesirable. The height of the development should be minimised, so that where 2m of landscaping is provided, it has the opportunity to sufficiently soften the bulk and scale of the development.
- A minimum of 2 large dominant tree species from Cumberland Plain Woodland ecological community have not been provided within the front/side setbacks of the development to offset the proposed tree removal.
- Sections continue to fail to correctly locate and detail proposed retaining walls. Furthermore, the height of walling and acoustic barriers over are not dimensioned to allow their individual and combined heights to be assessed for their impact on the streetscapes.
- The basement retaining wall meeting the front boundary of Zaniah Street has no T.O.W levels provided. The driveway section suggests a wall approximately 900mm high meeting the boundary. This wall is to be detailed, and lowered to follow N.G.L. Furthermore, a wall is indicated on the 3D imagery, on the opposite side of the driveway adjacent the path, which is not indicated or detailed on plans. Whether or not these walls will affect sight lines for traffic are not clear. All indications of this wall suggest an unfinished concrete block wall. The material of the basement retaining walls, and other high walls indicated with this hatch facing Hynds Road and Nova Street are to be clarified and detailed.

- The substation proposed in the latest landscape plan revision is located in a prominent position with no opportunity to provide landscape planting to soften views from the street. Furthermore the limited easement area cannot have any shrub planting as proposed due to the easement. Relocation of the substation is required to position it in such a location that landscaping can be provided on either side of the substation easement.
- Acoustic fencing to the northern boundary is proposed by the acoustic consultant to be 1.8m high. It is unclear why a second acoustic barrier is proposed when a 1.8m barrier fence at natural ground level would be supported (in terms of visual amenity). The current location of the barriers removes the ability to effectively access and maintain the hedging.

Environmental Health Comments

As per the additional information requested by Council's Environmental Health Officer in the Request for Information Letter dated 17 September 2020, the following additional information is still outstanding.

Crash Barrier

As there is an outdoor play area fronting Hynds Road, a crash barrier is required to be incorporated into the design to protect the children in the event of a car accident. Noting that the elevations show a brick wall at the front of the property – the applicant / a suitably qualified person is to address whether this would be sufficient in the event of a car accident to protect the children.

The applicant advised in a letter dated 16th March 2021, regarding the crash barrier that they had engaged a structural engineer to confirm this but no further detail was provided.

Hours of operation

The submitted acoustic report advises that the childcare centre will operate Monday to Friday 7am – 6.30pm this is different from the SEE which advises the hours of operation will be Monday to Friday 7am – 7pm. In addition, the hours of operation for the medical centre have not been mentioned in the acoustic report and an assessment of the medical centre has not been sufficiently covered. The applicant is to confirm what hours they are seeking consent for and the acoustic report amended to reflect this along with the assessment of the operation of the medical centre.

The applicant advised in a letter dated 16th March 2021 that this matter was addressed in section 5.3 of the acoustic report, however can be revised upon request. The abovementioned matter has not been addressed in section 5.3 of the acoustic report. This also leads into the request for additional information below and confirmation that the mechanical plant proposed can comply with the project specific noise level of 46dB.

Acoustic Report

The acoustic report discusses mechanical plant within section 5.4, however, notes that it has not been selected at this point in time. The submitted architectural plans also do not indicate the location of any mechanical plant.

The applicant and the acoustic consultant are to liaise with regards to mechanical plant selection and location (air conditioners, carpark ventilation etc). The mechanical plant is to be indicated on the architectural plans and the acoustic report is to make recommendations around any barriers that would be required (modelling is to be based on worst case scenario). Should rooftop mechanical plant be proposed, the elevations are to be reviewed and amended in addition to the floor plans.

Due to the potential noise impact that mechanical ventilation could have and the proposed use of the medical centre on the weekend this must be addressed at the development application stage.

The acoustic assessment has only occurred for car movements within the basement, no consideration has been given to the use of the driveway which is adjacent to a residential receiver. An acoustic assessment is to be undertaken for the use of the driveway including during the proposed operation hours of the medical centre on the weekend.

Resource Recovery Comments

Council's Resource Recovery Officer has reviewed the proposal and subsequent amendments by the applicant and the following issues have not been resolved:

- The amended architectural plans have been reviewed and it has been noted that the waste storage room is not located adjacent to the waste servicing area. As advised in previous comments, the waste storage room must be located to provide the most direct access to the designated waste servicing area. The room must not be more than 10 meters away from the waste servicing area. Amended architectural plans were not submitted demonstrating the relocation of the waste storage room to be adjacent to the waste servicing area. The waste room must have a clear floor width of the internal walkways and the servicing door must be 1.5m at minimum.
- Swept turning paths must be submitted demonstrating that two-way traffic flow between the standard 6.4m long Small Rigid Vehicle and the standard B99 passenger vehicle can be achieved at the driveway crossover and that there is no potential for waste collection to impede upon general access to, from or within the site. Swept paths must not be based off the dimensions of the Waste Wise Mini Rear Loader and must be in accordance with the standard 6.4m long SRV as per AS2890.2.
- Driveway/ramp gradients must comply with AS2890.2 for the standard Small Rigid waste vehicle to enter for waste collection purposes. The maximum gradient permitted is 1:6.5 (15.4%). The proposed driveway gradients shown on floor plans and sections do not comply, showing 1:5 or 20% (e.g. Drawing No. 12, Revision E dated 03/04/20).
- The applicant was advised at the prelodgement stage that to accommodate private commercial waste vehicle servicing from within the basement, access and loading must be designed in accordance with AS2890.2 for the standard 8.8m long Medium Rigid Vehicle. However, if evidence could be provided that private waste contractors have small rigid sized vehicles in operation that can service the site, designs for the standard 6.4m long Small Rigid Vehicle (AS2890.2) would be supported, with a clear vertical clearance exception of 2.8m to facilitate onsite waste collection within the basement.

Only two out of the three requested letters from private waste service providers have been provided. A third letter, signed from a private waste service provider must be submitted specifically stating that they are able to collect both garbage and recycling from the proposed development. This is to confirm there are sufficient providers to service the development should one or more no longer operate or be unable service the development. Clearance height must remain at minimum 2.8m throughout the basement level to facilitate onsite waste collection within the basement.

Traffic Management Comments

No objection is raised to the proposal as amended.

Forward Planning (Section 7.11 Contributions) Comments

No objection is raised to the proposal subject to conditions.

Land Information Systems Comments

No objection is raised to the proposal subject to conditions.

CONCLUSION

The Development Application has been assessed under the relevant heads of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, State Environmental Planning Policy (Sydney Region Growth Centres) 2006, State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, Child Care Planning Guideline, Box Hill Development Control Plan 2018 and The Hills Development Control Plan 2012 and is considered to be unsatisfactory.

The proposal does not satisfy Clause 6.1 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 with respect to arrangements for water and sewage public utility infrastructure and therefore development consent cannot be granted.

The proposal contains variations to the Child Care Planning Guideline with respect to built form, character and streetscape, and acoustic considerations which are considered unsatisfactory.

The proposal contains variations to the Box Hill Development Control Plan 2018 with respect to the effects of non-residential development in residential zones which are considered unsatisfactory.

The proposal contains variations to The Hills Development Control Plan 2012 with respect to setbacks and landscaping which are considered unsatisfactory.

The proposed development has been amended on a number of occasions however the applicant has failed to provide adequate plans and requested information, including compliant basement access and design, streetscape presentation, evidence of servicing, sufficient detailed information on plans such as levels, acceptable landscape plans and revised stormwater plans.

The proposed development does not adequately respond to the constraints of the site and will be out of character with future surrounding residential development.

The bulk and scale of the buildings and basement car park, and the intensity of the medical centre and child care uses cannot be adequately accommodated within the constraints of the site, resulting in an overdevelopment of the site.

The application has been unreasonably delayed with information requested in August and September 2020 still outstanding and fundamental design matters such as basement design and access unresolved despite being advised of the requirements at the prelodgement stage and throughout the assessment of the application.

There are several outstanding matters raised by Council's Engineering, Landscaping, Resource Recovery and Environmental Health staff that remain unresolved.

The proposal relies on a modification to underlying development consent 1184/2018/ZE, to consolidate and create the subject development allotment, amend stormwater management arrangements and development contributions. The modification application was only recently lodged on 6 May 2021, despite being requested on 18 August 2020, with the relevant matters yet to be resolved.

Given the period of time that the application has been under consideration, and the remaining unresolved matters, it is considered necessary to recommend the application for refusal.

The Development Application is recommended for refusal.

IMPACTS:

Financial

This matter may have a direct financial impact upon Council's adopted budget as refusal of this matter may result in Council having to defend a Class 1 Appeal in the NSW Land and Environment Court.

The Hills Future - Community Strategic Plan

The proposed development is inconsistent with the planning principles, vision and objectives outlined within "Hills 2026 – Looking Towards the Future" as the proposed development will not ensure a satisfactory built form outcome provided with respect to the streetscape and character of the locality.

RECOMMENDATION

The Development Application be refused for the matters and specific reasons listed below:

- The proposal does not satisfy the relevant state and local planning provisions.
 - The proposal will have an unacceptable impact on the built environment.
 - The site is considered unsuitable for the development as currently proposed.
1. Development consent cannot be granted as the consent authority is not satisfied that public utility infrastructure (supply of water and the disposal and management of sewage) that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.
(Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979)
 2. The proposal does not satisfy the requirements of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 and the Child Care Planning Guideline with respect to built form, character and streetscape, and acoustics.
(Section 4.15(1)(a)(i), 1(b) and 1(c) of the Environmental Planning and Assessment Act, 1979).
 3. The proposal does not satisfy the requirements of the Box Hill Development Control Plan 2018 with respect to the effects of non-residential development in residential zones.
(Section 4.15(1)(a)(iii), 1(b) and 1(c) of the Environmental Planning and Assessment Act, 1979).
 4. The proposal does not satisfy the requirements of The Hills Development Control Plan 2012 with respect to setbacks and landscaping.
(Section 4.15(1)(a)(iii), 1(b) and 1(c) of the Environmental Planning and Assessment Act, 1979).
 5. The bulk and scale of the buildings and basement car park, and the intensity of the medical centre and child care uses cannot be adequately accommodated within the constraints of the site, resulting in an overdevelopment of the site.
(Section 4.15 1(b) and 1(c) of the Environmental Planning and Assessment Act, 1979).
 6. The proposal relies on modifications to development consent 1184/2018/ZE to consolidate and create the allotment and amend stormwater management arrangements. The modification application has only recently been lodged and these matters are yet to be resolved.
(Section 4.15 1(c) of the Environmental Planning and Assessment Act, 1979).
 7. The proposal has not adequately addressed outstanding planning, engineering, landscaping, environmental health and resource recovery matters.

(Section 4.15(1)(a)(iii), 1(b) and 1(c) of the Environmental Planning and Assessment Act, 1979).

8. The proposed development does not adequately respond to the constraints of the site and will be out of character with future surrounding residential development.
(Section 4.15(1)(b) and (c) of the Environmental Planning and Assessment Act, 1979).
9. The submitted plans are inadequate and lack detail which has prevented a complete assessment of the application.
(Section 4.15(1)(b) and (c) of the Environmental Planning and Assessment Act, 1979).

ATTACHMENTS

1. Locality Plan
2. Aerial Photo
3. Zoning Map
4. Building Height Map
5. DCP Road Layout
6. Site Plan
7. Floor Plans
8. Elevations
9. Sections
10. 3D Views
11. Landscape Plans
12. Approved Site Plan (Consent 1184/2018/ZE)
13. Amended Site Plan (Modification 1184/2018/ZE/A)

ATTACHMENT 1 – LOCALITY PLAN



- ☐ SUBJECT SITE
- ✓ PROPERTIES NOTIFIED

THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

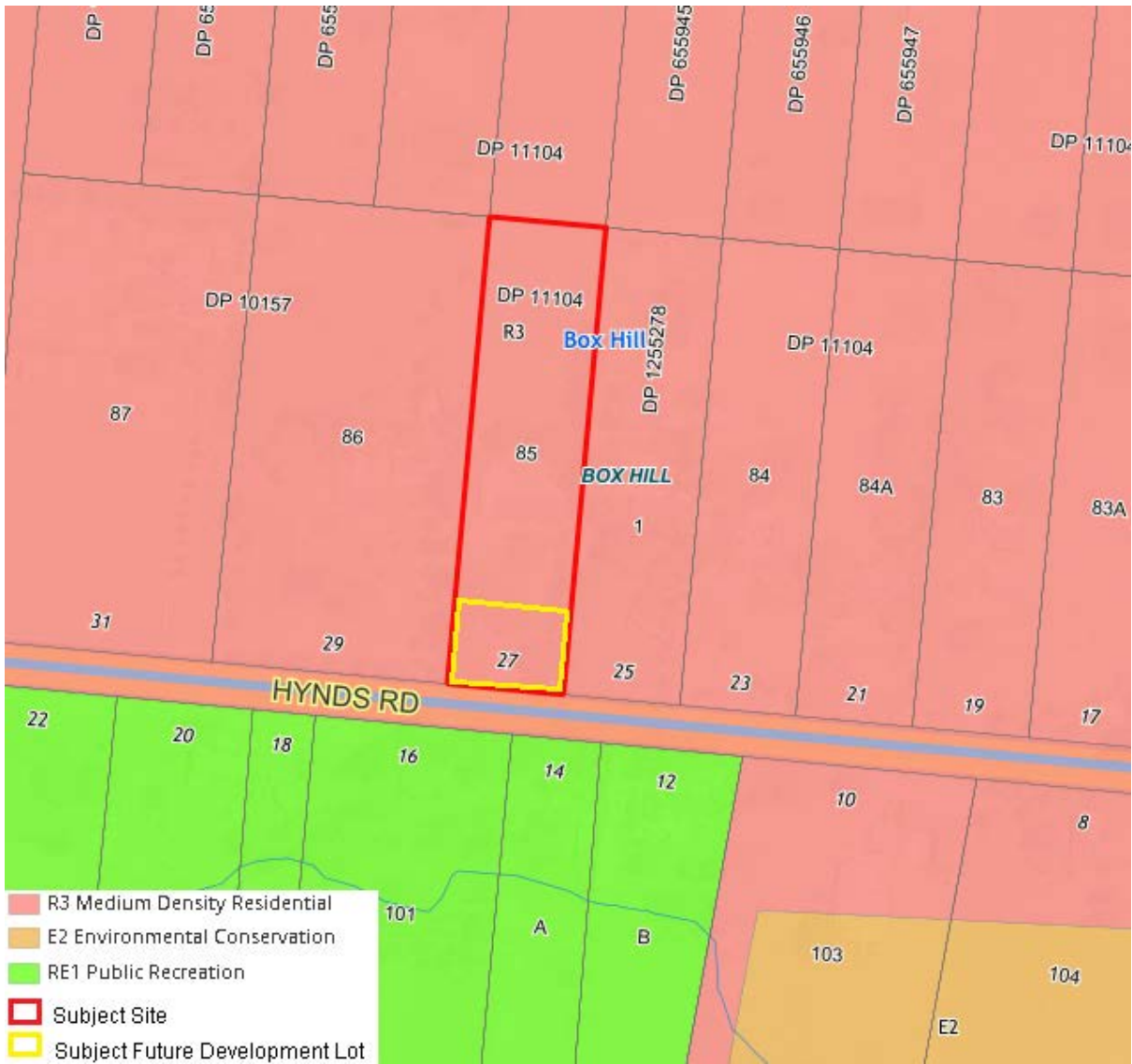
THE HILLS SHIRE COUNCIL DOES NOT GIVE ANY GUARANTEES CONCERNING THE ACCURACY, COMPLETENESS OR CURRENCY OF THE TEXTUAL INFORMATION HELD IN OR GENERATED FROM ITS DATABASE
BASE CADASTRE COPYRIGHT LAND & PROPERTY INFORMATION NSW (LPI). CADASTRE UPDATE INCLUDING COUNCIL GENERATED DATA IS SUBJECT TO THIS COPYRIGHT.

ATTACHMENT 2 – AERIAL PHOTO



SUBJECT SITE

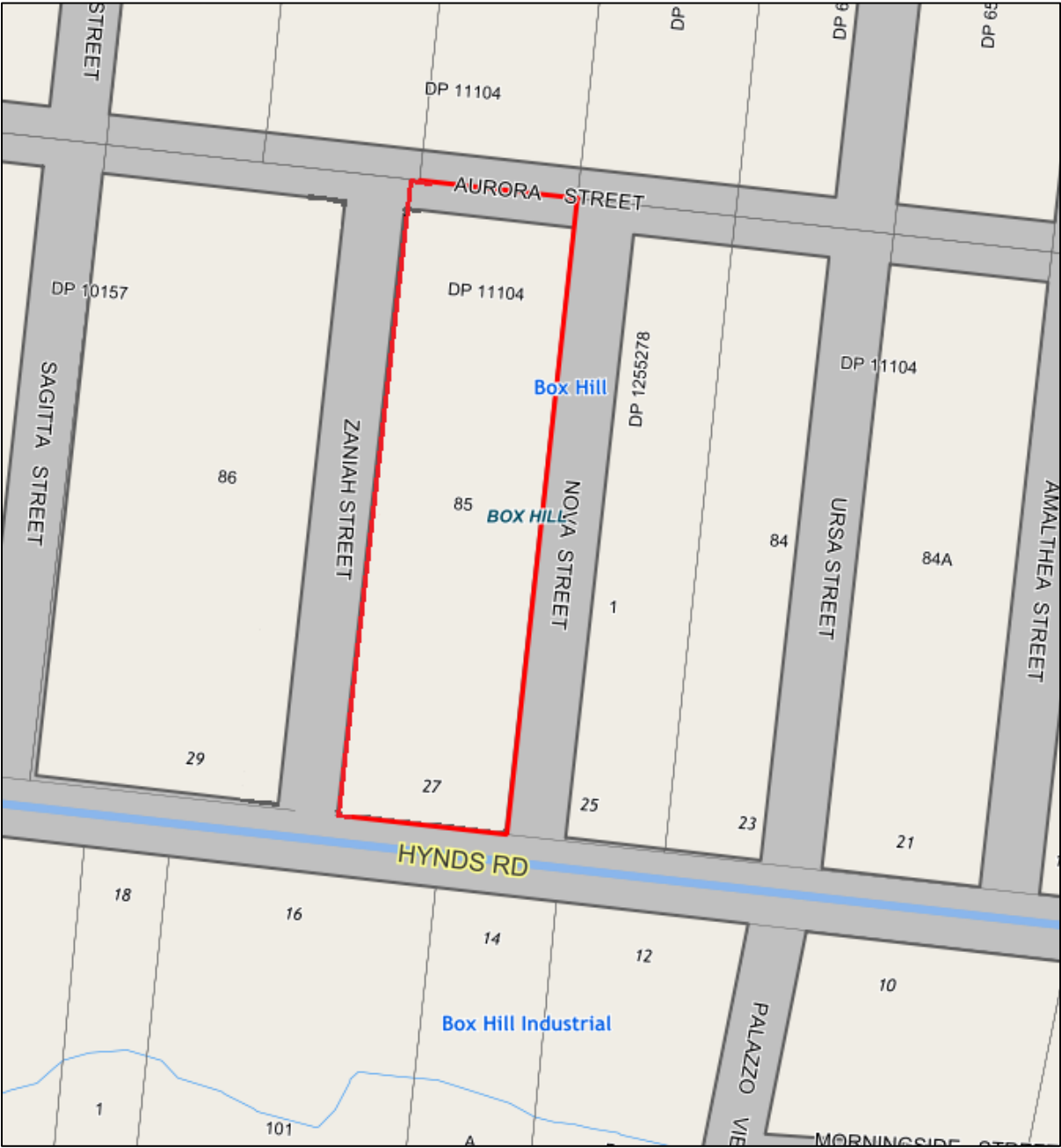
ATTACHMENT 3 – ZONING MAP



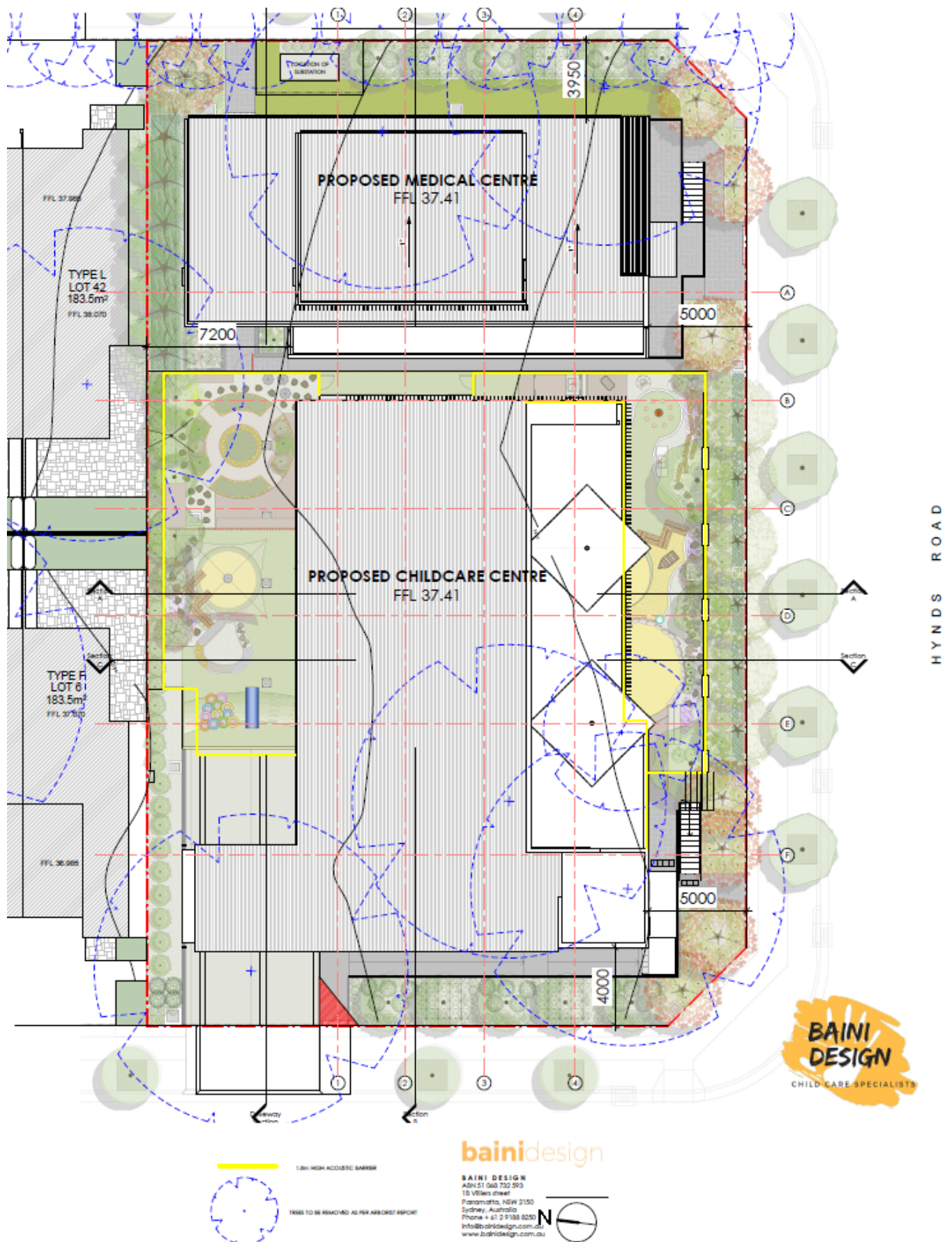
ATTACHMENT 4 – BUILDING HEIGHT MAP



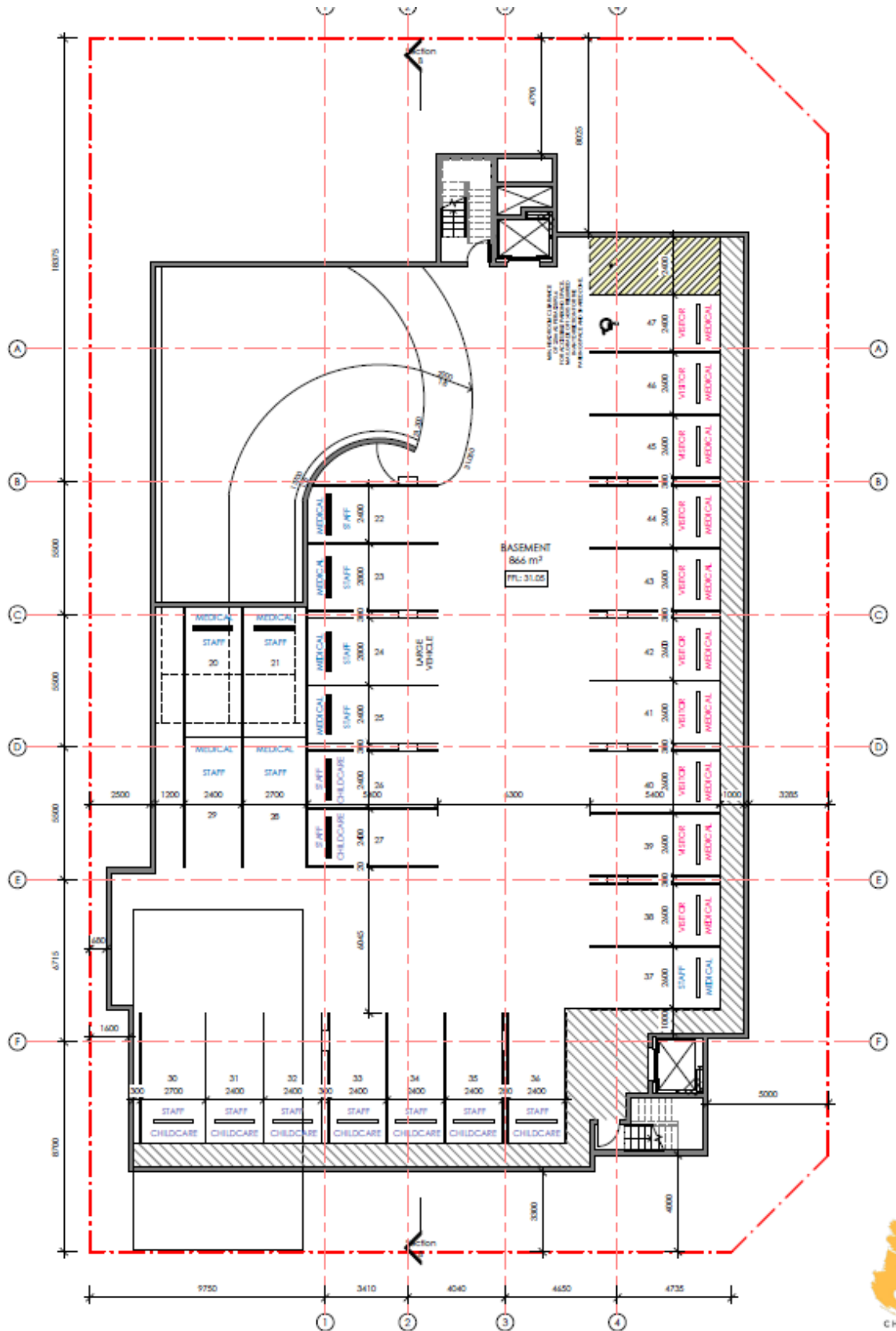
ATTACHMENT 5 – DCP ROAD LAYOUT



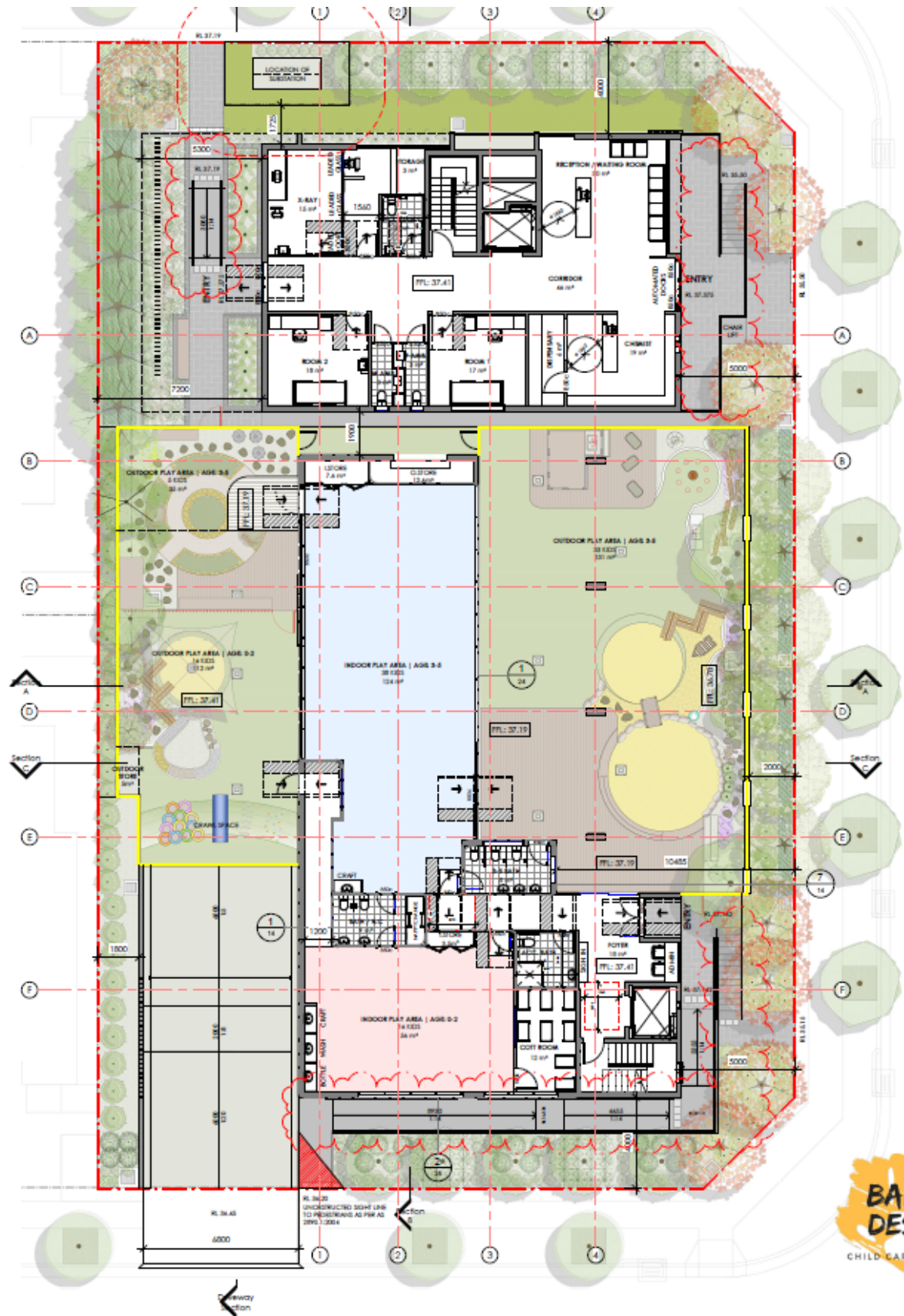
ATTACHMENT 6 – SITE PLAN



ATTACHMENT 7 – FLOOR PLANS

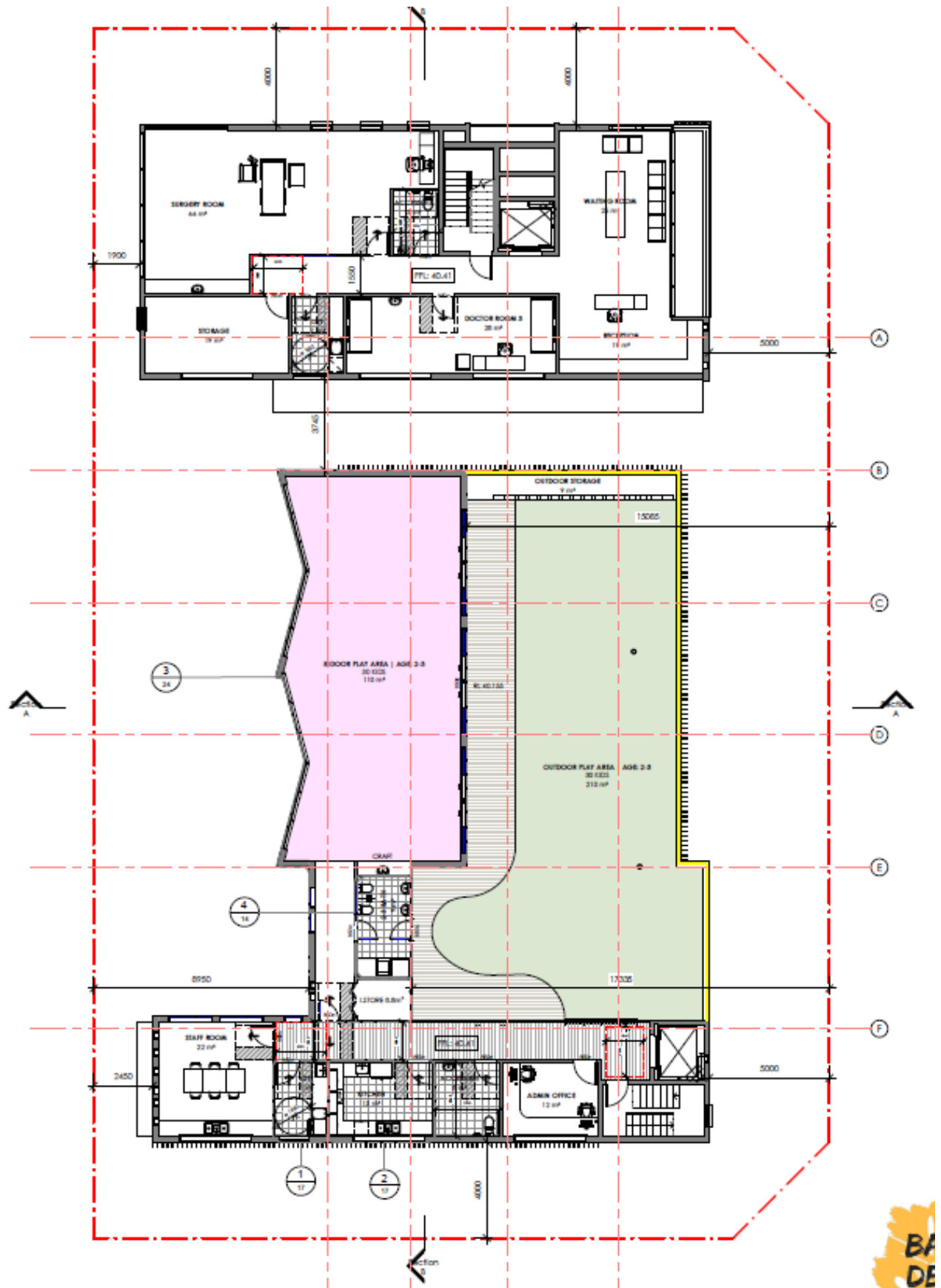


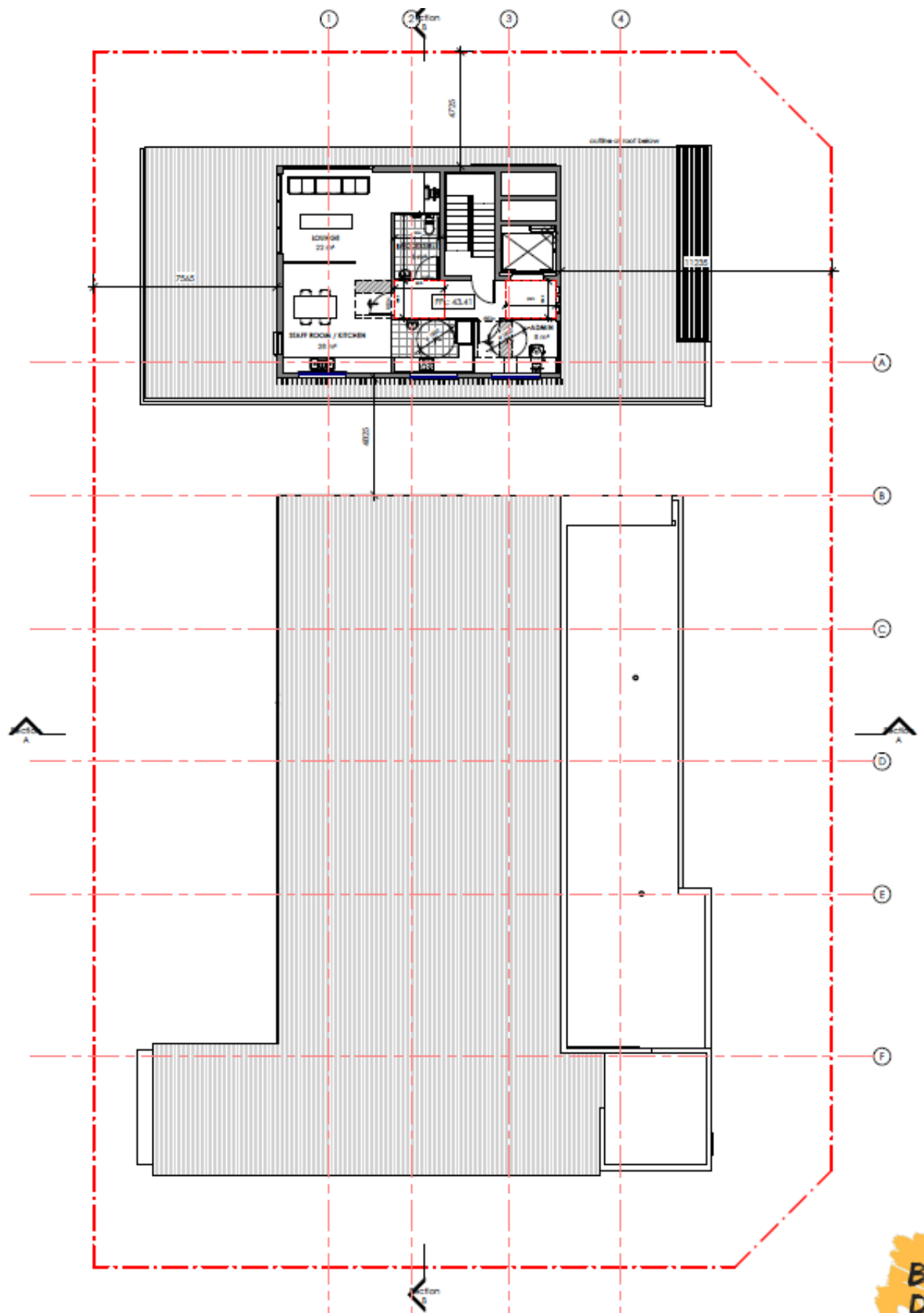
1 Basement 2 (Lower)
1 : 100



1.2m HIGH ACOUSTIC BARRIER

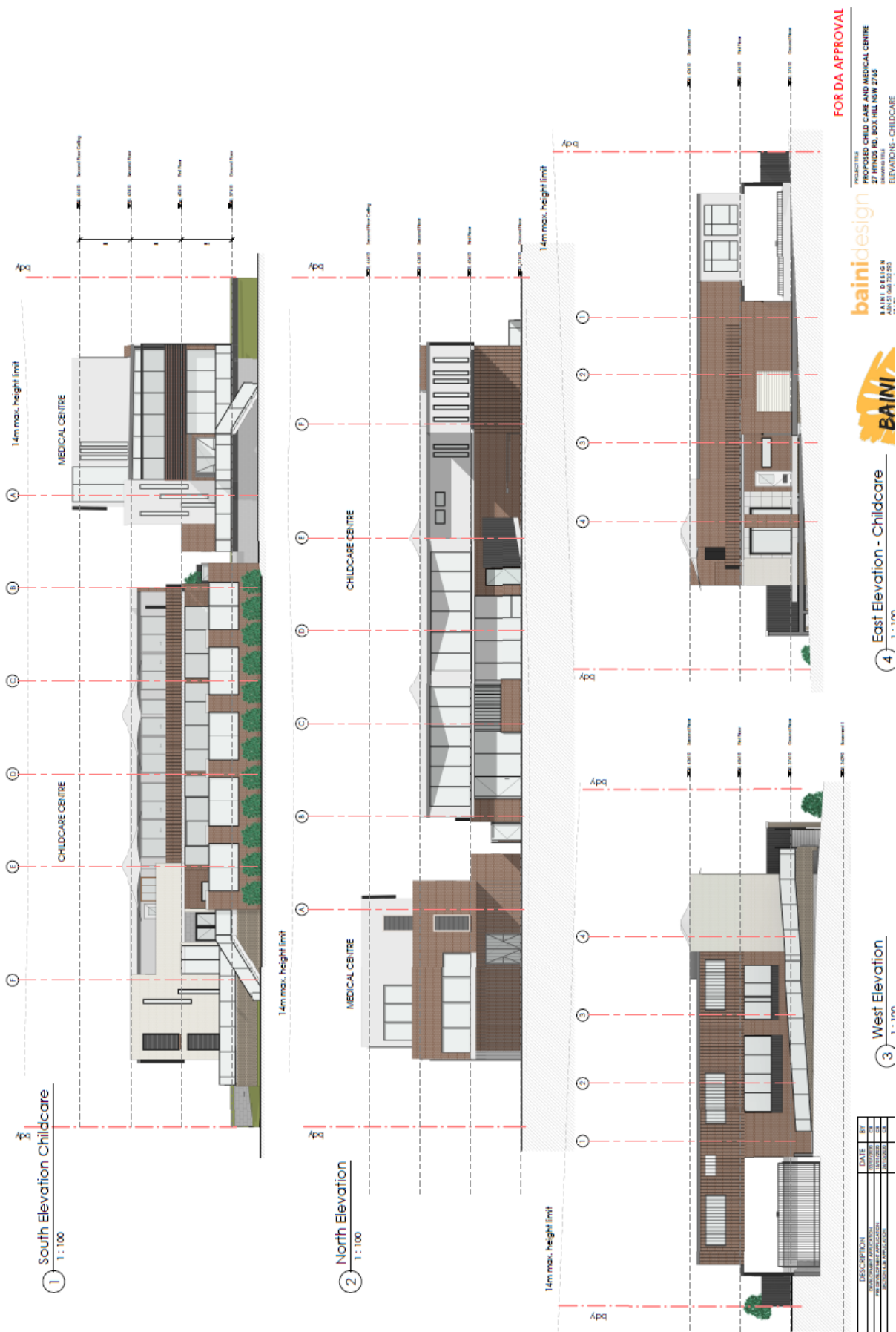
1 Ground Floor
1:100

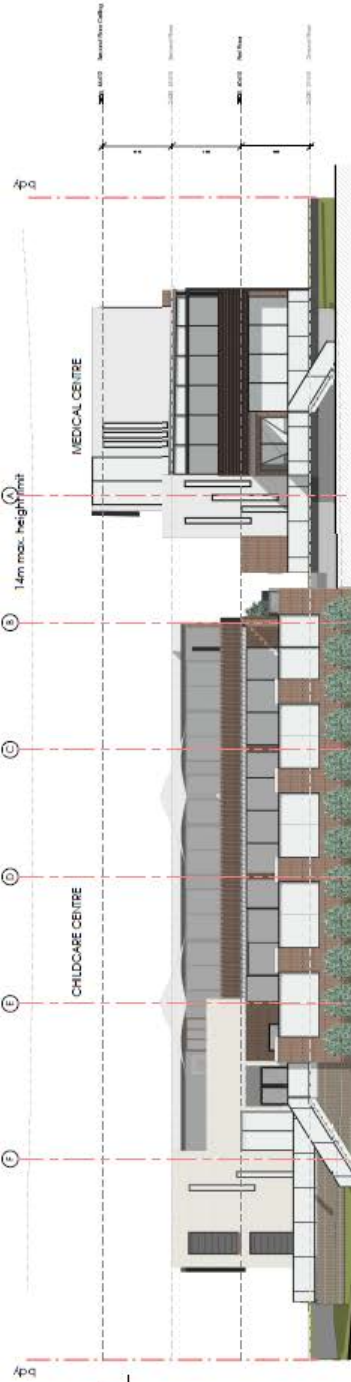




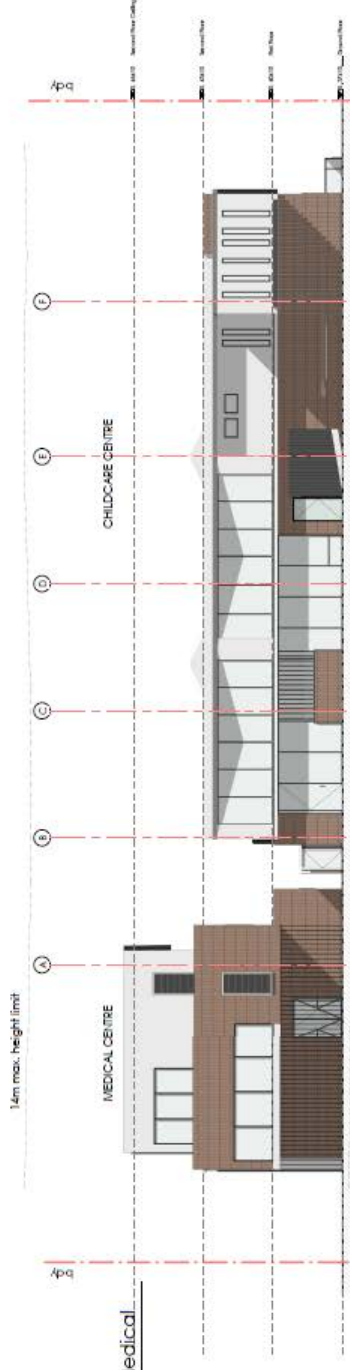
1 Second Floor
1:100

ATTACHMENT 8 – ELEVATIONS

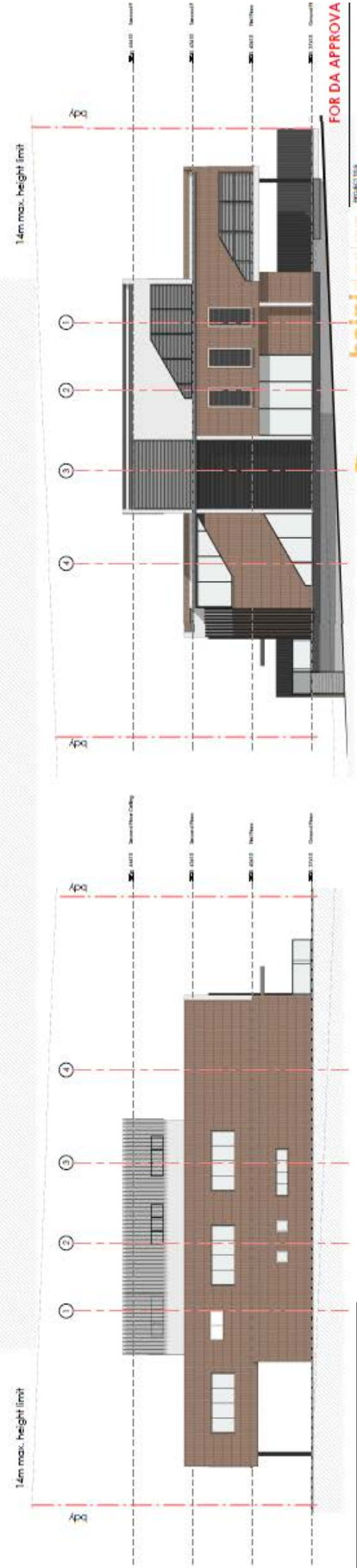




3 South Elevation Medical
1:100



4 North Elevation Medical
1:100



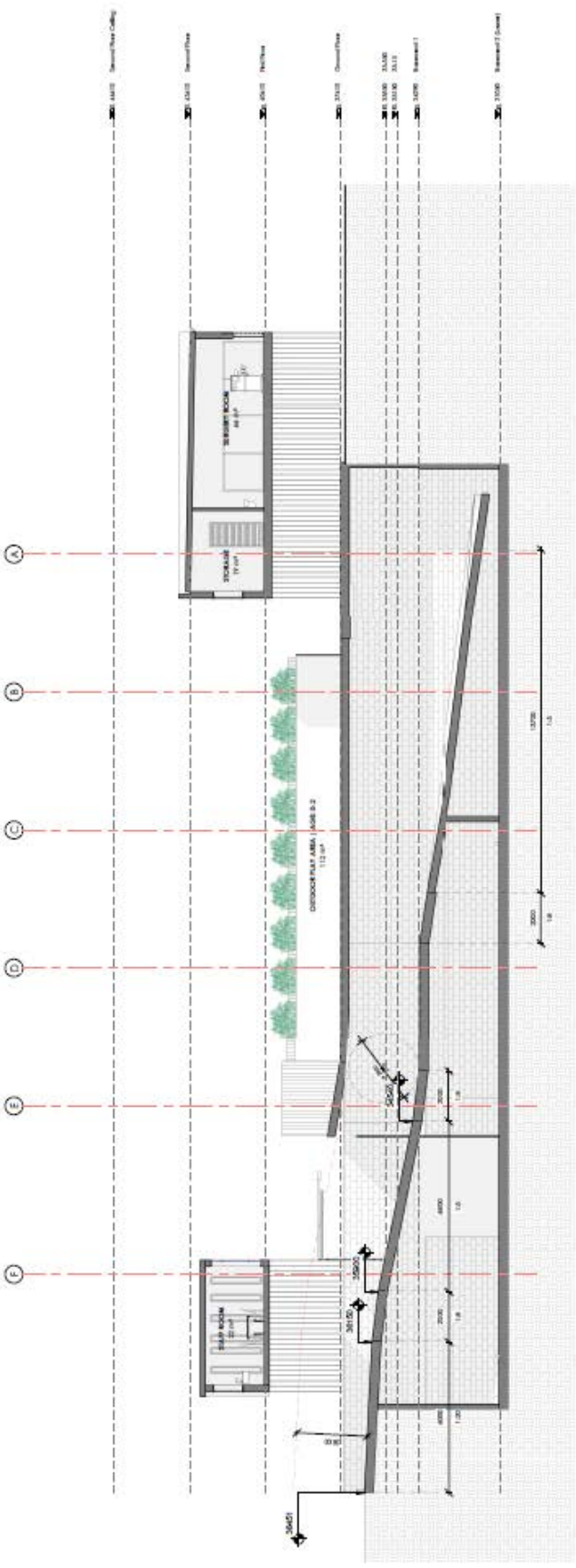
FOR DA APPROVAL

BAINE DESIGN
ALLEN 51 040 722 293
18 Villiers Street

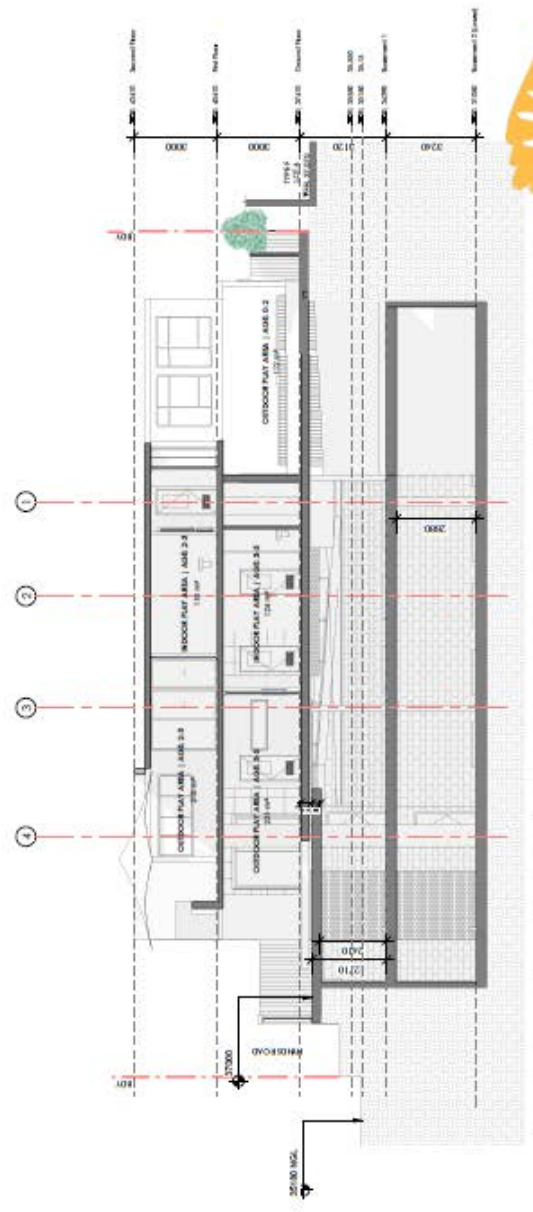
PROJECT TEAM
PROPOSED CHILD
27 HINDS RD, BO
DRAWING TEAM
SECTIONS



DATE	BY
001/01/2020	C-B
13/01/2020	C-B
26/01/2020	C-B
20/01/2021	C-B



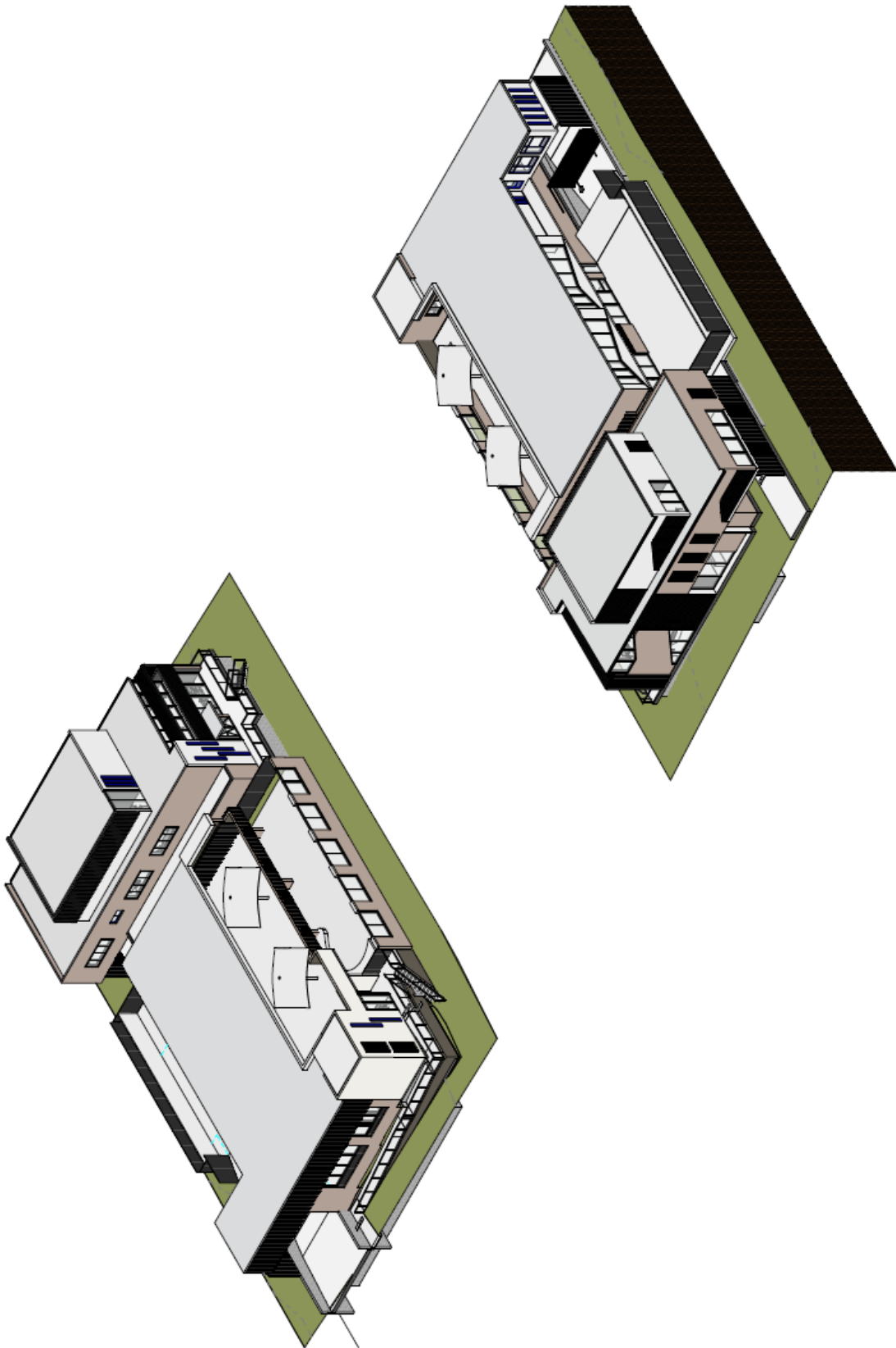
1 Driveway Section
1:100



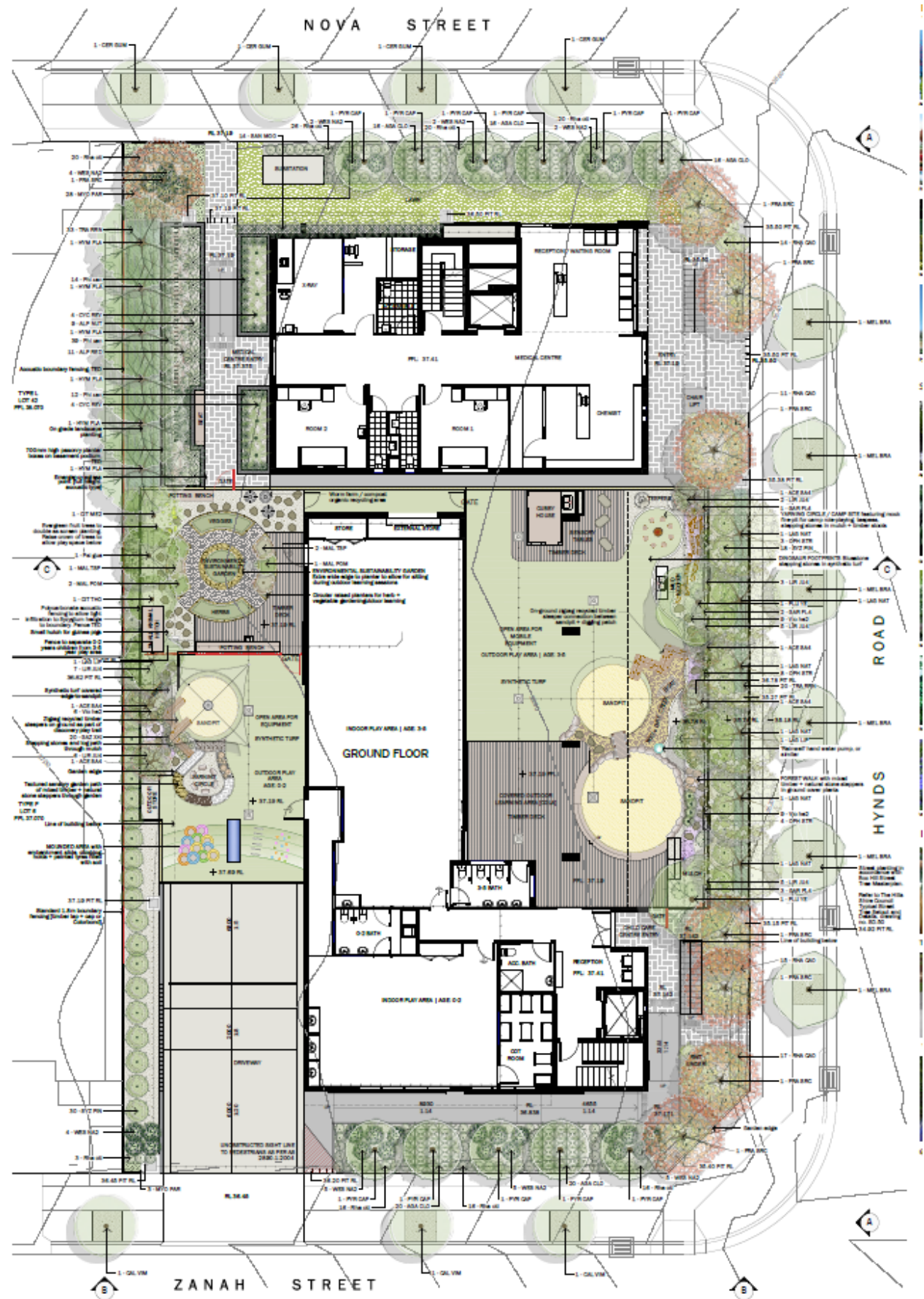
2 Section C
1:100

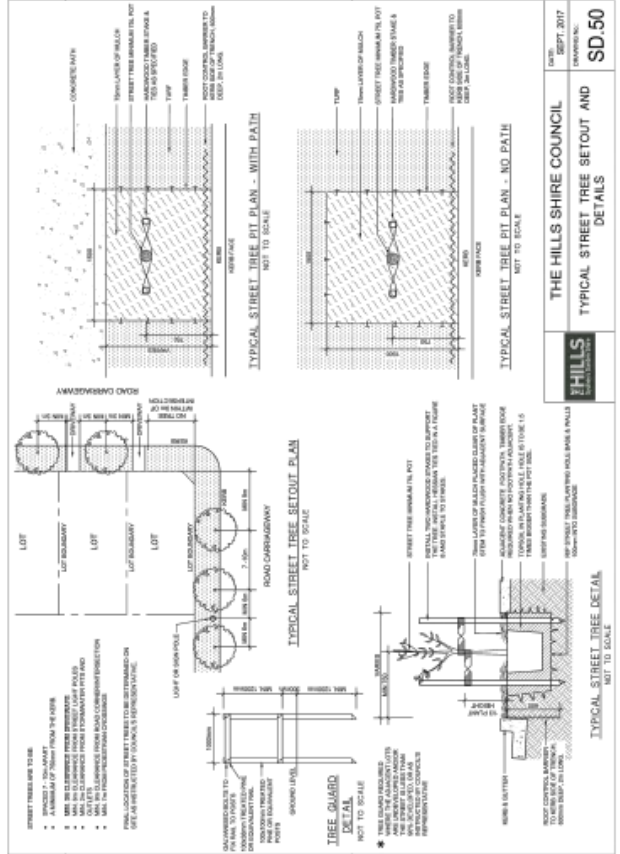
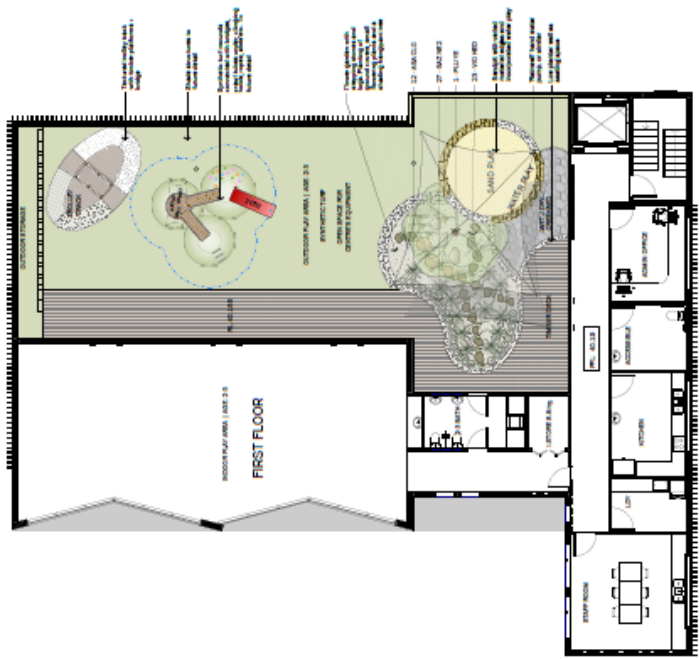
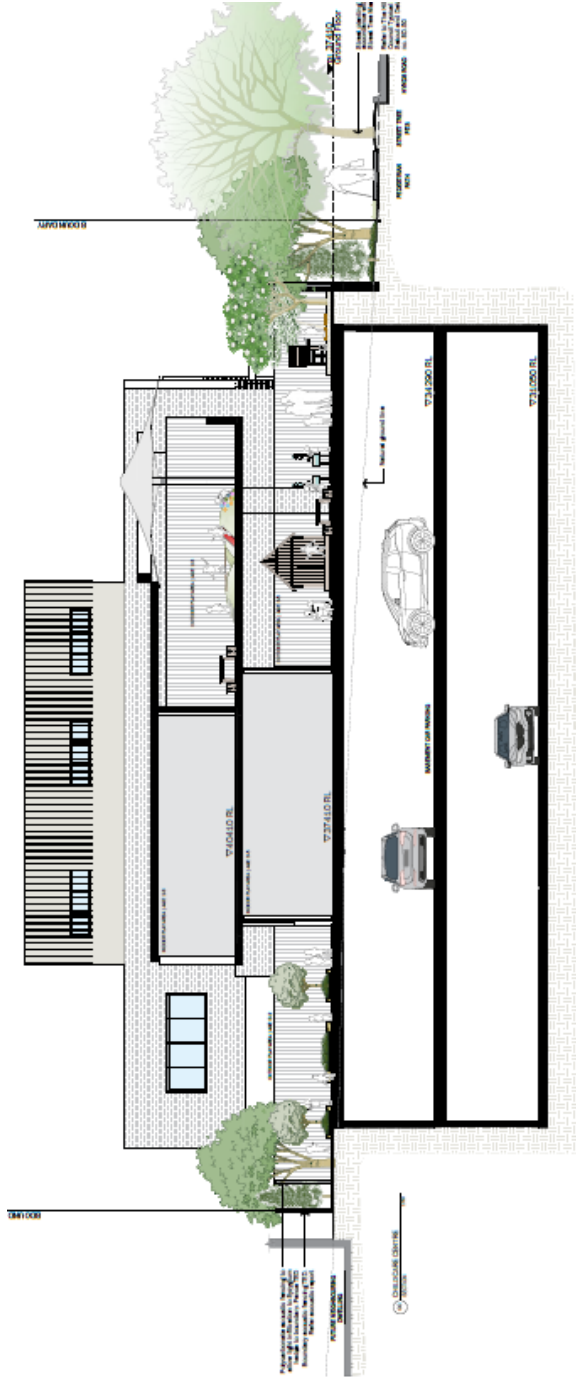
DATE	BY
10/10/2018	CB
10/10/2018	CB
10/10/2018	CB
10/10/2018	CB
10/10/2018	CB

ATTACHMENT 10 – 3D VIEWS



ATTACHMENT 11 – LANDSCAPE PLANS







ATTACHMENT 12 – APPROVED SITE PLAN (CONSENT 1184/2018/ZE)



ATTACHMENT 13 – AMENDED SITE PLAN (MODIFICATION 1184/2018/ZE/A)

