

9 April 2021

Katelyn Symington
Senior Environmental Assessment Officer
Industry Assessments
Department of Planning, Industry and Environment
4PSQ Level 17, 12 Darcy Street
Parramatta NSW 2150

Re: Statement of environmental effects - Section 4.55 (1A) Modification to SSD 7733 - waste recycling and transfer facility at 46-48 Peachtree Road, Penrith

Dear Katelyn,

EMM Consulting Pty Limited (EMM) acts on behalf of Benedict Industries Pty Ltd (Benedict) is submitting this statement of environmental effects (SEE), to accompany a modification to state significant development (SSD) consent (Ref: SSD 7733), pursuant to Section 4.55 (1A) of the NSW *Environmental Planning and Assessment Act 1979* (EP&A Act).

1 Introduction

On 15 May 2020, the NSW Department of Planning, Industry and Environment (DPIE), as delegate to the Minister for Planning, approved SSD 7733, to construct and operate a waste recycling and transfer facility (the facility) at 46–48 Peachtree Road, Penrith (the site).

The facility has an approved capacity of up to 180,000 tonnes per annum (tpa) of general solid (non-putrescible waste), including pre-classified waste types from construction and demolition works, selected commercial and industrial waste, spoils, soils, council clean-ups, hand unloaded household waste, green and wood wastes and virgin natural excavated material.

The Penrith Waste Recycling and Transfer Facility Environmental Impact Statement (EIS), dated 2 June 2017, was prepared by EMM with input from a range of specialists. It was prepared in accordance with the requirements of DPIE and other government agencies, including Penrith City Council (Council).

The Penrith Waste Recycling and Transfer Facility Response to Submissions (RTS), dated 15 November 2018 and supplementary information dated 22 February 2019, was prepared by EMM to address issues raised in submissions by government agencies, businesses and the local community in response to the public exhibition of the EIS.

2 Proposed modification

2.1 Overview

Benedict proposes a modification to development consent SSD 7733 (Mod 1) to change the material forming the external walls of the main shed. The current approved design includes walls with part masonry and part colorbond construction. The proposed modification includes masonry for all of the external walls.

There will be no change to the approved size, location or roof of the shed or any other aspects of the approved development.

The proposed modification will require only minor amendments to the development consent instrument, including in relation to:

- Condition A2 – Terms of Consent: to add reference to the modification application and/or this SEE; and
- Appendix 1 – Development Layout Plans: to update the schedule to reflect the amended plans (provided in Appendix A of this SEE).

Plan excerpts of the proposed layout and main (east) elevation are provided below in Figure 2.1 and Figure 2.2, respectively. The approved plans are provided in Appendix A and the proposed Plan are provided in Appendix B.

2.2 Justification

The proposed change of material to masonry is required to increase the fire safety rating of the external walls of the main shed, where it is close to the boundary with adjoining properties.

Fire and Rescue NSW (FRNSW) provided comments during the public exhibition of the EIS. These comments were addressed as part of the RTS, including through the preparation of a fire safety strategy, prepared by Stephen Grubits and Associates and dated April 2018. The fire safety strategy identified that, whilst the Deemed-to-Satisfy Provisions of the National Construction Code (NCC) require the external walls to achieve a fire rating level (FRL) of -/240/240 if non-loadbearing and 240/240/240 if loadbearing, preliminary calculations have shown that the following could be justified through fire-engineering methods:

Concrete walls bunding bays having an FRL of at least 120/120/120 and to be at least 4 m tall; and

External walls, where no bays are provided being constructed on non-combustible construction, such as corrugated metal with the required FRL.

Since the fire safety strategy was prepared, FRNSW have been insisting on higher fire ratings for the construction of waste facilities. The proposed use of masonry rather than metal on all external boundary walls of the main shed will increase the overall FRL of the building. This will reduce the risk of any fire spreading to any nearby buildings and, in turn, increase the safety of the occupants of these buildings as well as the safety of fire fighters.

The shed will be designed to meet relevant structural and fire safety requirements as required by the following conditions of SSD 7733:

A25. The external walls of all buildings including additions to existing buildings must comply with the relevant requirements of the BCA.

A26. Before the issue of a Construction Certificate and an Occupation Certificate, the Applicant must provide the Certifying Authority with documented evidence that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the requirements of the BCA.

A27. The Applicant must provide a copy of the documentation given to the Certifying Authority under condition A26 to the Planning Secretary within seven days after the Certifying Authority accepts it.

B36. Prior to the commencement of construction (excluding site preparation works), the fire and life safety design of the development, including firewater containment, must be finalised in consultation with FRNSW to the satisfaction of the Planning Secretary and include suitable provisions for special hazards by specifically addressing Clauses E1.10 and E2.3 of Volume One of the National Construction Code (NCC) Series.



Figure 2.1 Plan excerpt of proposed layout

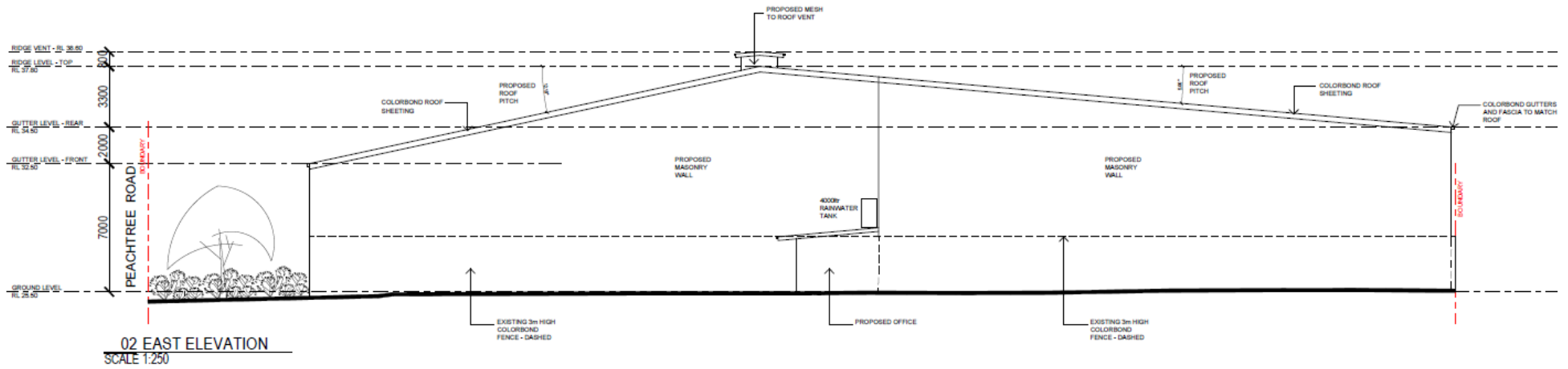


Figure 2.2 Plan excerpt of proposed east elevation

3 Planning context

Section 4.55 (1A) of the EP&A Act allows for a consent authority to modify a development consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).

A consideration of the potential environmental impacts of the proposed modification and whether it constitutes 'substantially the same development' is provided below.

3.1 Assessment

The following assessment considers whether, the development as proposed to be modified, will be of minimal environmental impact.

3.1.1 Compliance with relevant planning instruments

The 2017 EIS and subsequent 2018 RTS, submitted as part of the SSD 7733 application addressed the proposed development's compliance against relevant planning instruments and legislation, comprising:

- State Environmental Planning Policy (State and Regional Development) 2011;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy 55 (Remediation of Land);
- State Environmental Planning Policy 33 (Hazardous and Offensive Development);
- State Environmental Planning Policy 64 (Advertising and Signage);
- Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River (No 2 – 1997);
- Penrith Local Environmental Plan 2010;
- *Protection of the Environment Operations Act 1997*;
- *Waste Avoidance and Resource Recovery Act 1997*;
- *Water Management Act 2000*; and
- *Roads Act 1993*.

The assessment of the proposed modified development remains unchanged with respect to the above planning instruments and legislation and the relevant assessment matters (see below).

3.1.2 Potential environmental impacts

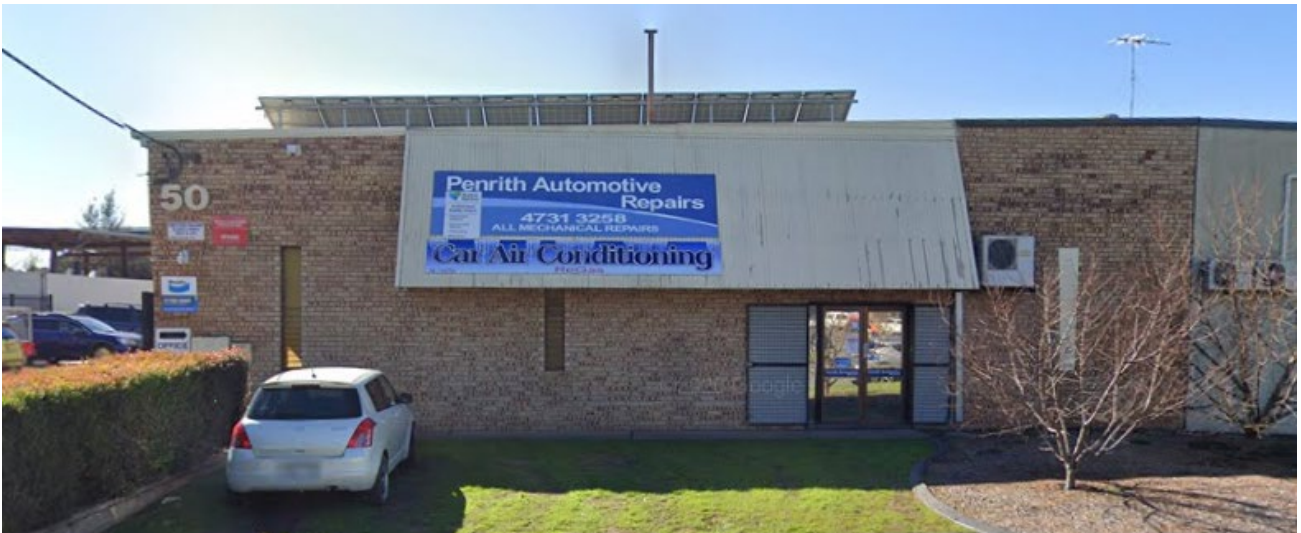
The following sections include a consideration of the proposed modification against the key environmental issues identified as part of the EIS and subsequent RTS documents.

i Visual

A visual impact assessment of the originally proposed development was undertaken as part of the June 2017 EIS and a further assessment undertaken as part of the November 2018 RTS. The assessments concluded that:

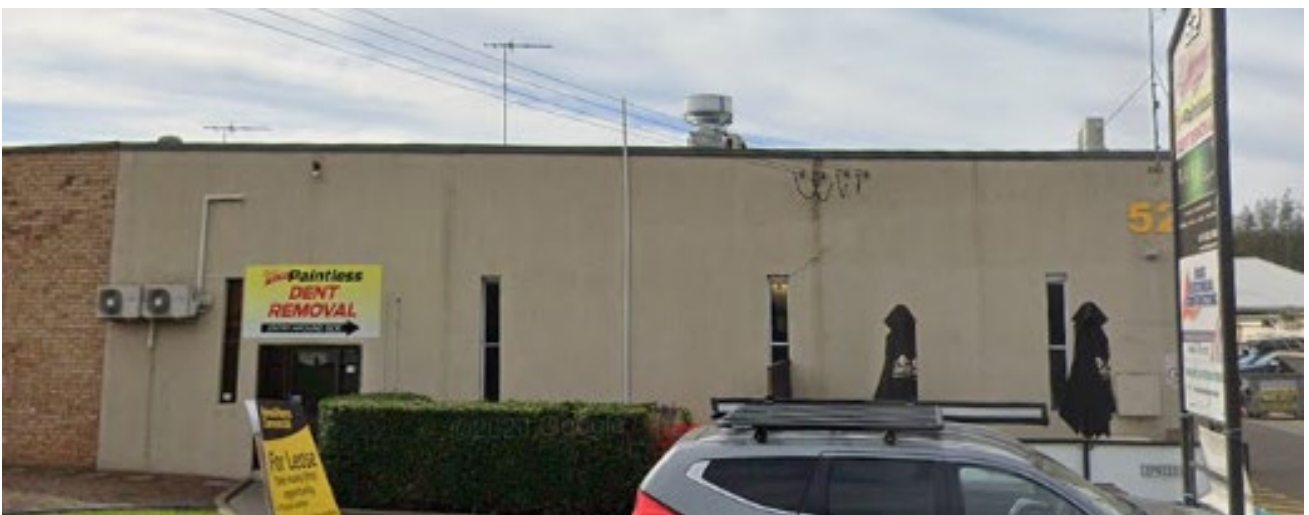
- the visual appearance of the building is in keeping with the industrial character of the area and the scale and massing of other buildings in the area; and
- the design of the main shed, with its pitched roof, will not be visually intrusive within the skyline and will protect the scenic character and landscape values of the area.

It is not considered that the proposed modification will change these outcomes. The proposed use of masonry on the external walls is considered to be in keeping with the industrial character of the area. Concrete and brickwork is used extensively on buildings in vicinity of the site, including either side of the site, to the east at 50 and 52 Peachtree Road and to the west at 44 Peachtree Road, as shown in Photographs 3.1 to 3.3.



Source: GoogleEarth

Photograph 3.1 50 Peachtree Road



Source: GoogleEarth

Photograph 3.2 52 Peachtree Road



Source: GoogleEarth

Photograph 3.3 44 Peachtree Road

ii Air quality and odour

The EIS and subsequent RTS documents including an assessment of the potential air quality and odour impacts of the proposed development during construction and operation. No exceedances of relevant criteria were identified during these assessments.

There would already be a large amount of material required for the construction of parts of the walls, other buildings and the site's external areas. The small increase in masonry for the proposed modification is unlikely to result in any additional air quality or odour impacts during construction. It is likely that there will be construction efficiencies from having to only use one material type in the construction of the shed's external walls.

The main shed will remain enclosed during operation, ensuring that potential air quality and odour impacts will not change as a result of the proposed modification. Notwithstanding, it is noted that Condition B23 of SSD 7733 includes a requirement for the preparation of an air quality management plan (AQMP), which will form part of the overarching operational environmental management plan (OEMP). The AQMP is required to include the following:

- detail and rank of emissions from all sources of the development, including particulate emissions;
- a program that is capable of evaluating the performance of the operation and determining compliance with key performance indicators;
- identification of control measures that that will be implemented for each emission source; and
- description of proactive and reactive management strategies.

The AQMP will reflect the details of the proposed modification.

iii Water management

The proposed modification will not result in any change to the proposed water management system. The majority of the site (approximately 3,000 m²) will be covered by the roof of the main shed, which will not be altered, and there will be no change to the other external areas of the site.

a Traffic and Access

There will be no change in the operation of the facility and, therefore, no additional traffic requirements during operation.

Any change in construction traffic as a result of the increase in the amount of masonry is likely to be minimal given the large amount that is already required for the construction of the facility.

iv Waste management

There will be no change to the operation of the facility and therefore no additional waste generated during operation. As mentioned above, there are likely to be construction efficiencies in using only one material type in the construction of the walls, which could reduce potential waste generated during construction.

3.1.3 Community and stakeholder engagement

The EIS was placed on public exhibition from 30 June to 14 August 2017 (45 days). Submissions were received from eight government agencies, including Penrith Council, 21 individual community members and seven businesses. No issues were raised in relation to the appearance or materiality of the proposed facility.

Benedict undertook extensive community consultation to inform the preparation of the EIS, including face to face meetings, telephone calls, emails and the distribution of a factsheet summarising the proposal, predicted impacts, and inviting feedback on the proposal. Ongoing consultation is anticipated with the following:

- the NSW Department of Planning, Industry and Environment (DPIE) - regarding this and any other modifications and in relation to the ongoing compliance with conditions of SSD 7733;
- Penrith City Council - regarding this and any subsequent modifications;
- the NSW Environment Protection Agency (EPA) - regarding the requirement for an environmental protection licence;
- one-on-one consultation - regarding any upcoming activities at the site as required by neighbours/adjoining occupiers; and
- utilities (water, sewage and power) - regarding connection services to the site.

For the reasons set out above, it is not considered that the proposed modification will result in any additional environmental impacts beyond those considered during the assessment of SSD 7733 and therefore, the proposed modification satisfies the requirements of Section 4.55 (1A)(a) of the EP&A Act.

3.2 Substantially the same development

The proposed modification seeks only to change the material of the proposed main shed from colorbond metal to masonry to comply with fire regulations. The modified development is substantially the same for the following reasons:

- the proposed modification will not result in any changes to the approved size or location of the main shed or any other aspects of SSD 7733 as approved; and
- the proposed modification will not result in any additional environmental impacts (refer section above).

Accordingly, it is considered that the modified proposal is substantially the same development for which consent was originally granted and therefore, the proposed modification satisfies the requirements of Section 4.55 (1A)(b) of the EP&A Act.

4 Justification and conclusion

The proposed modification seeks to amend SSD 7733 to change the proposed external material of the main shed from colorbond metal to masonry to increase the fire safety rating of the external walls of the main shed, where it is close to the boundary with adjoining properties.

As demonstrated in this SEE and in accordance with section 4.55 (1A) of the EP&A Act, the consent can be modified, as:

- the consent, as proposed to be modified, is substantially the same development as that originally approved; and
- the proposed modifications will not result in any additional environmental impacts.

For these reasons it is recommended that the proposed modification be approved.

Should you require any further information or wish to discuss any matters please do not hesitate to contact the undersigned on 0448 221 270 or via the contact details below.

Yours sincerely

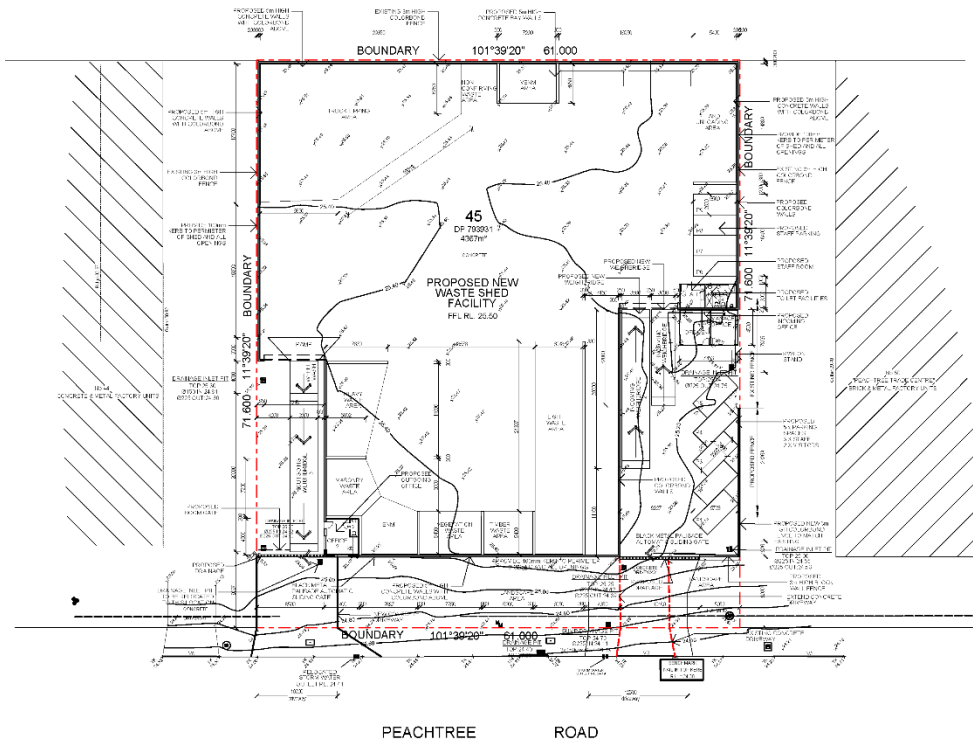


John Arnold
Associate

jarnold@emmconsulting.com.au

Appendix A

Approved plans



01 PROPOSED SITE PLAN
SCALE 1:500

REFERENCES
 1. SURVEY DATA AND RECORDS: DETAILED SURVEY OF THE SITE AND ADJACENT PROPERTIES, PREPARED BY A.S.A. SURVEYORS, 2010.
 2. THE SURVEY AND RECORDS OF THE ADJACENT PROPERTIES, PREPARED BY A.S.A. SURVEYORS, 2010.
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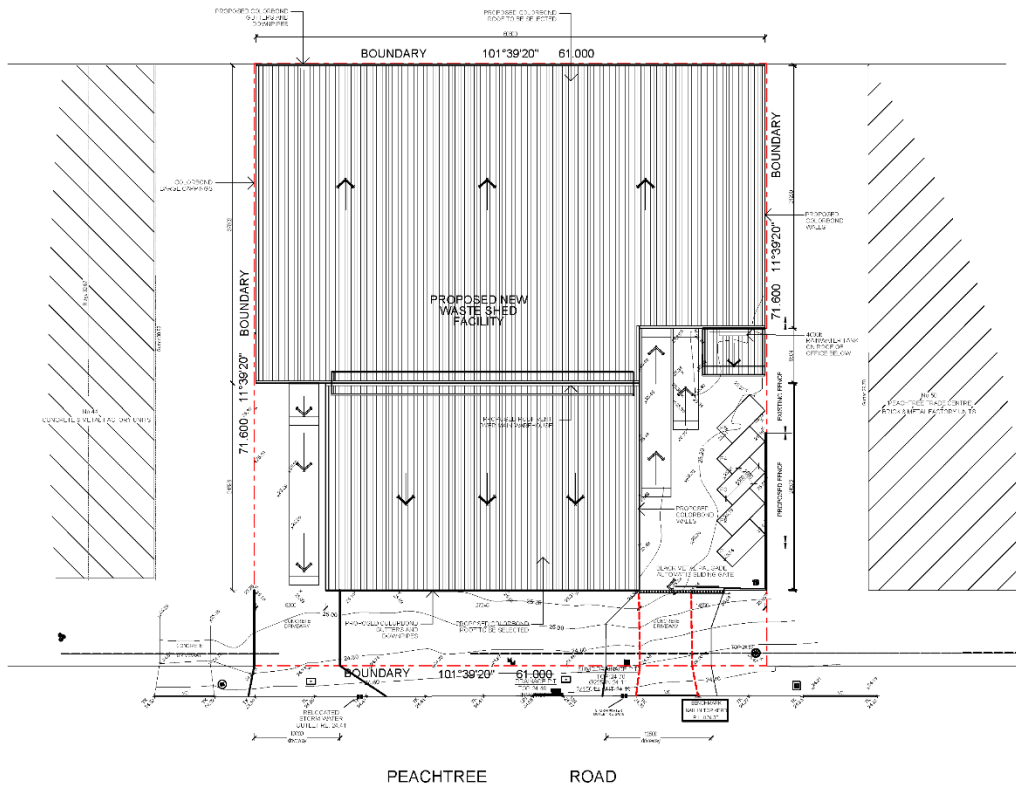


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A	23.05.18	DA SUBMISSION
Rev.	Date	Description
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3	23.05.18	15
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PROPOSED
WASTE MANAGEMENT FACILITY
 45 PEACHTREE ROAD, PENRITH
 NSW 2150
 DRAWING NO:
PROPOSED SITE PLAN

Job No.	Drawing	Rev.
J17401D	A103	C
Drawn by	Checked by	Approved by
LW	SP	21
Date		Rev.
		APR 2017



01 PROPOSED ROOF PLAN
SCALE 1:500

REFERENCES
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 2. LOCAL GOVERNMENT ACT 1995 (NSW)
 3. LOCAL GOVERNMENT (GENERAL PURPOSE POWERS) ACT 1996 (NSW)
 4. LOCAL GOVERNMENT (GENERAL PURPOSE POWERS) REGULATIONS 1996 (NSW)
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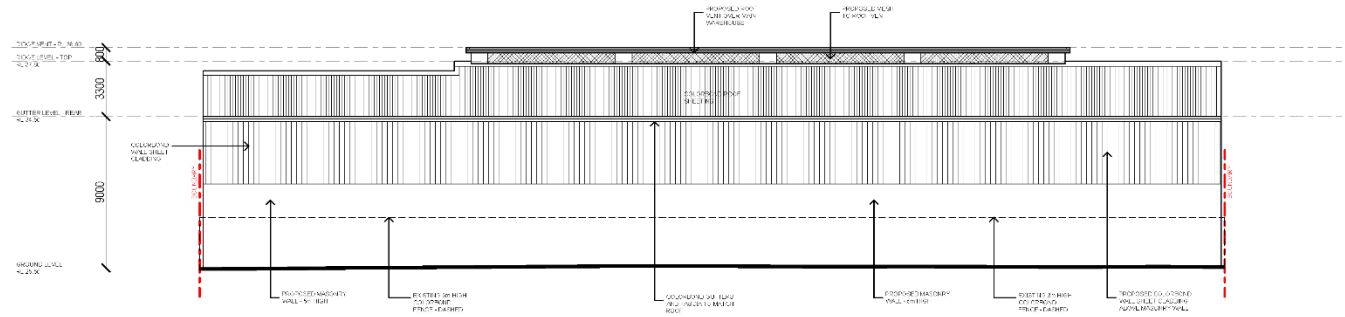
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PROPOSED WASTE MANAGEMENT FACILITY
 45 PEACHTREE ROAD, PENRITH
 NSW 2750

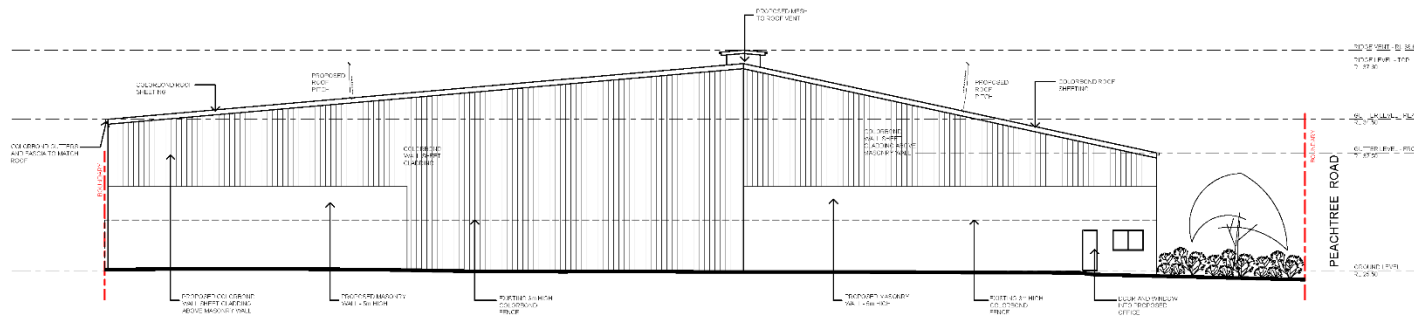
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LW	JY	JY	APR 2011



03 NORTH ELEVATION
SCALE 1:250



04 WEST ELEVATION
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REFERENCES
 1. ARCHITECTURE RECORD BOOK OF THE CITY OF SYDNEY
 2. ARCHITECTURE RECORD BOOK OF THE CITY OF SYDNEY
 3. ARCHITECTURE RECORD BOOK OF THE CITY OF SYDNEY
 4. ARCHITECTURE RECORD BOOK OF THE CITY OF SYDNEY
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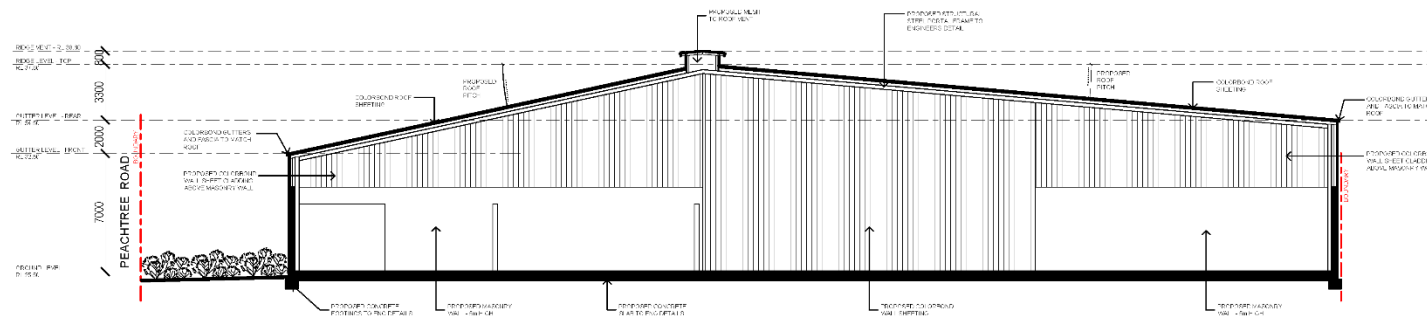
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PROPOSED
 WASTE MANAGEMENT FACILITY
 45 PEACHTREE ROAD, PENRITH
 NSW 2750
 DRAWING NO.
 SITE ELEVATION 2

Drawn	Checked	Rev.
J17401D	A104	B

Drawn	Checked	Approved	Date
LW	JY	JY	APR 2017



02 SECTION AA
SCALE 1:250

REFERENCES
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PROPOSED WASTE MANAGEMENT FACILITY
 48 PEACHTREE ROAD, PENRITH
 NSW 2750
 Drawing No.
SITE ELEVATION

Drawn by	Checked by	Approved by	Date
J17401D	A104	A	
LW	JY	JY	APR 2017

Appendix B

Proposed plans

PROPOSED WASTE MANAGEMENT FACILITY AT 46 PEACHTREE ROAD PENRITH

REFERENCES

DRAWINGS TO BE READ IN CONJUNCTION WITH BUT NOT LIMITED TO ALL STRUCTURAL ENGINEERS, STORMWATER ENGINEERS, LANDSCAPE ARCHITECTS, AND OTHER ASSOCIATED PLANS & REPORTS

REFER TO THE BASIS REPORT FOR ADDITIONAL REQUIREMENTS TO THE ONES NOTED ON THE DRAWINGS.

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DOCUMENT REGISTER	
DOC No	DOCUMENT TITLE
A100	COVER SHEET
A101	EXISTING SITE PLAN
A102	DEMOLITION PLAN
A103	PROPOSED SITE PLAN
A104	PROPOSED ROOF PLAN
A200	SITE ELEVATIONS 1
A201	SITE ELEVATION 2
A202	SECTION AA

B 09.03.21 AMENDED SUBMISSION
A 28.06.18 DA SUBMISSION

Rev. Date Description

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Project
**PROPOSED
WASTE MANAGEMENT FACILITY**

46 PEACHTREE ROAD, PENRITH
NSW 2750

Drawing Title
COVER SHEET

Job no. Drawing no. Rev.

J17401D A100 B

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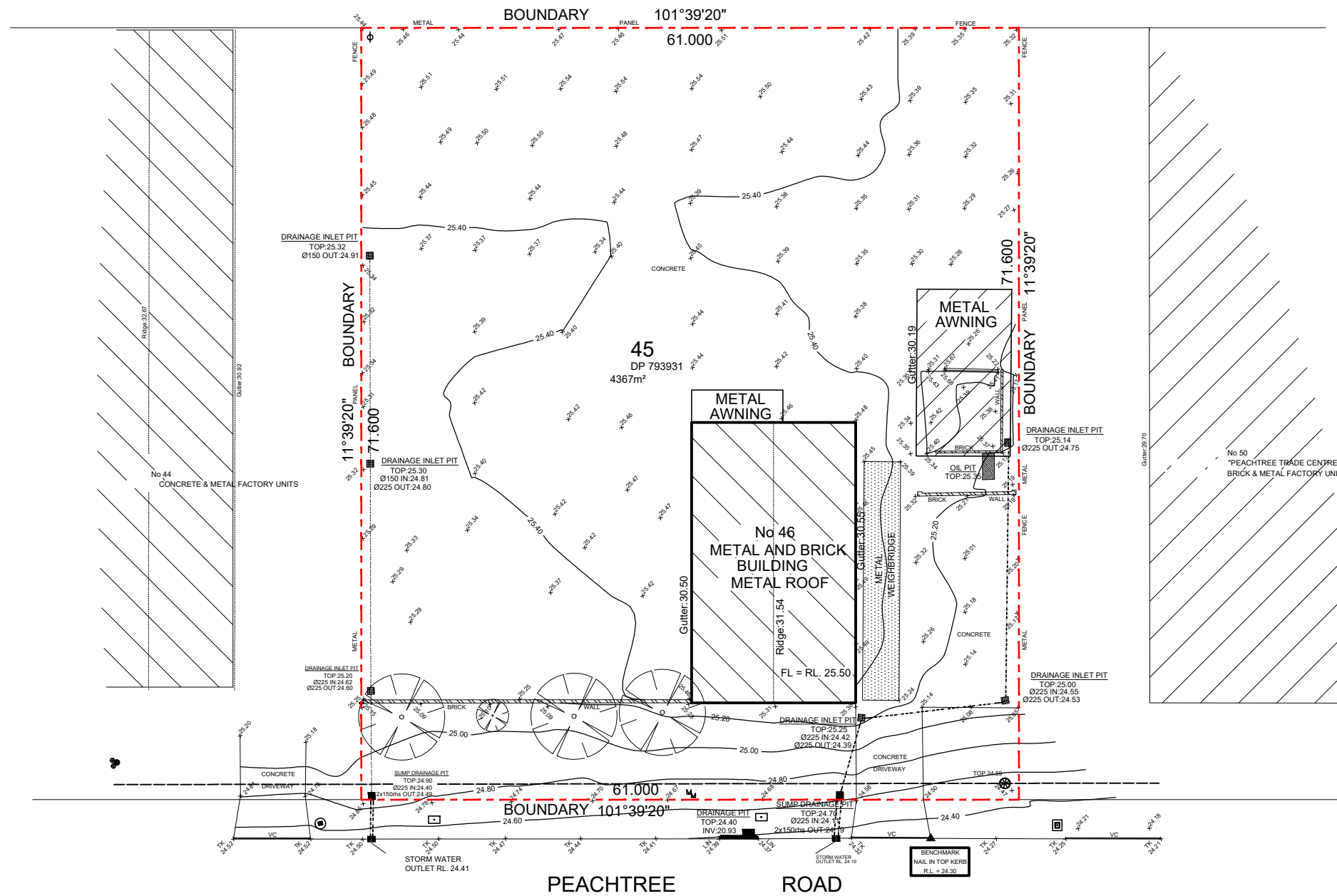
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Project
**PROPOSED
WASTE MANAGEMENT FACILITY**

46 PEACHTREE ROAD, PENRITH
NSW 2750

Drawing Title
EXISTING SITE PLAN

Job no.	Drawing no.	Rev.	
J17401D	A101	A	
Drawn by	Checked by	Approved by	Date
LW	JY	JY	APR 2017

01 EXISTING SITE PLAN
SCALE 1:500

REFERENCES

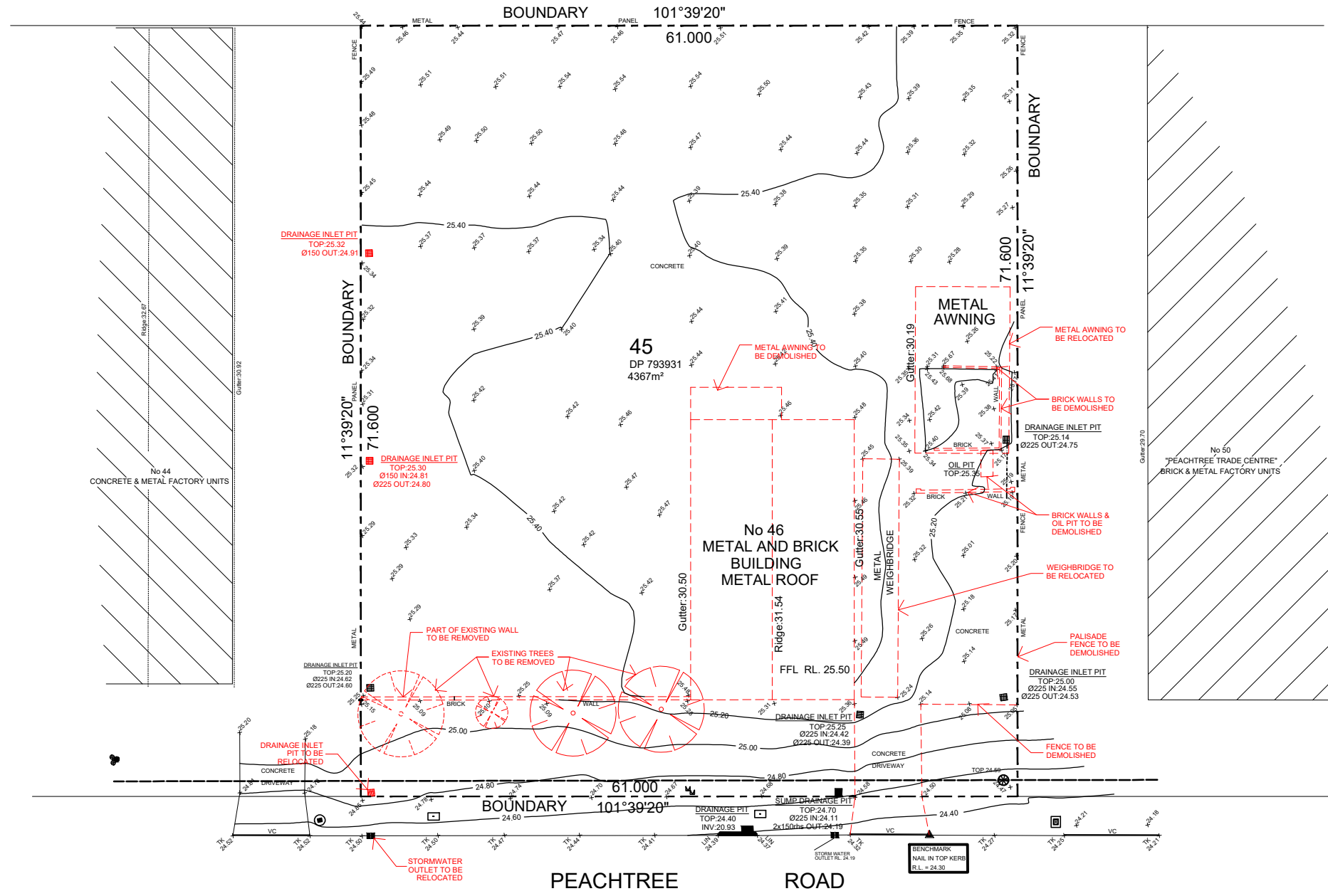
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Project
**PROPOSED
WASTE MANAGEMENT FACILITY**

46 PEACHTREE ROAD, PENRITH
NSW 2750

Drawing Title
DEMOLITION PLAN

Job no.	Drawing no.	Rev.
J17401D	A102	A

Drawn by	Checked by	Approved by	Date
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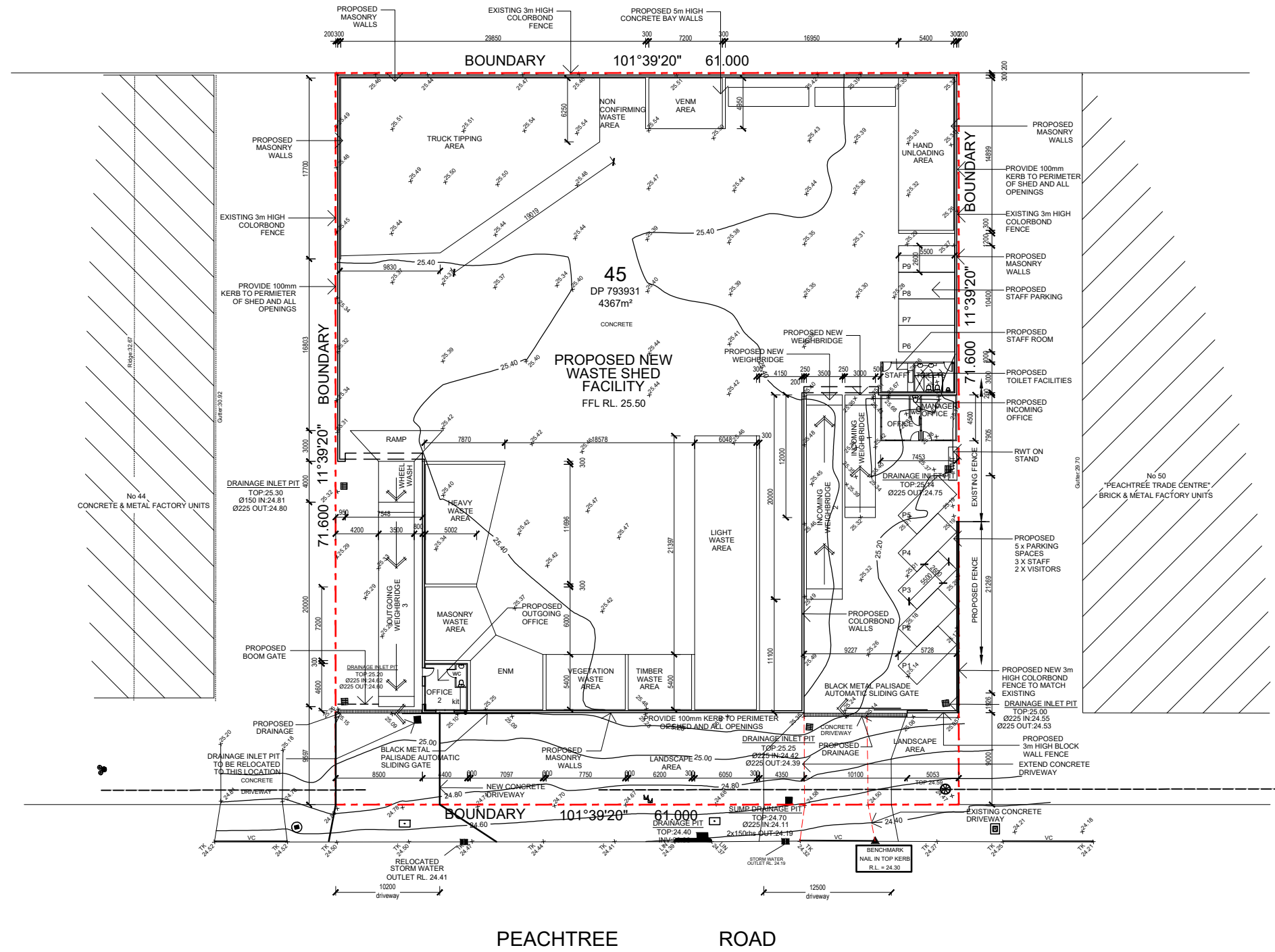
REFERENCES

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Rev.	Date	Description
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C	19.10.18	GENERAL AMENDMENTS
B	03.10.18	GENERAL AMENDMENTS
A	28.06.18	DA SUBMISSION

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PROPOSED WASTE MANAGEMENT FACILITY

46 PEACHTREE ROAD, PENRITH
NSW 2750

Drawing Title
PROPOSED SITE PLAN

Job no.	Drawing no.	Rev.
J17401D	A103	D

Drawn by	Checked by	Approved by	Date
LW	JY	JY	APR 2017

01 PROPOSED SITE PLAN
SCALE 1:500

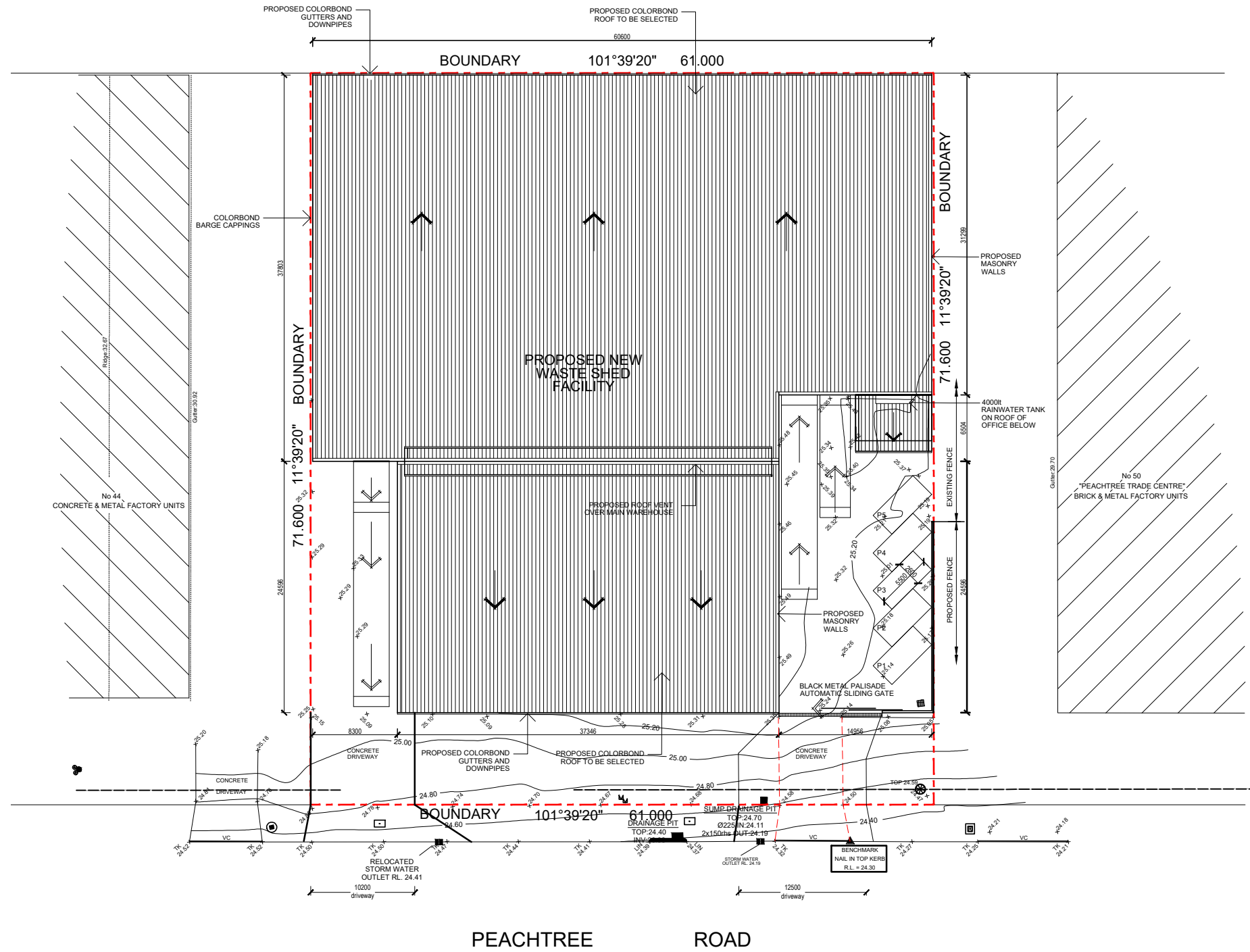
REFERENCES

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FIGURED DIMENSIONS TO BE USED AT ALL TIME.
DO NOT SCALE MEASUREMENTS OFF DRAWINGS.



Rev.	Date	Description
B	09.03.21	AMENDED SUBMISSION
A	28.06.18	DA SUBMISSION

Scale
m 0 5 10 15 20
1:500 at A3

Project Architect

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SYDNEY NSW 2000
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Nominated Architect: Jacob Yammine 8395, ABN 79 097 830 754

Project
PROPOSED WASTE MANAGEMENT FACILITY

46 PEACHTREE ROAD, PENRITH
NSW 2750

Drawing Title
PROPOSED ROOF PLAN

Job no.	Drawing no.	Rev.
J17401D	A104	B
Drawn by	Checked by	Approved by
LW	JY	JY
Date	APR 2017	

01 PROPOSED ROOF PLAN
SCALE 1:500

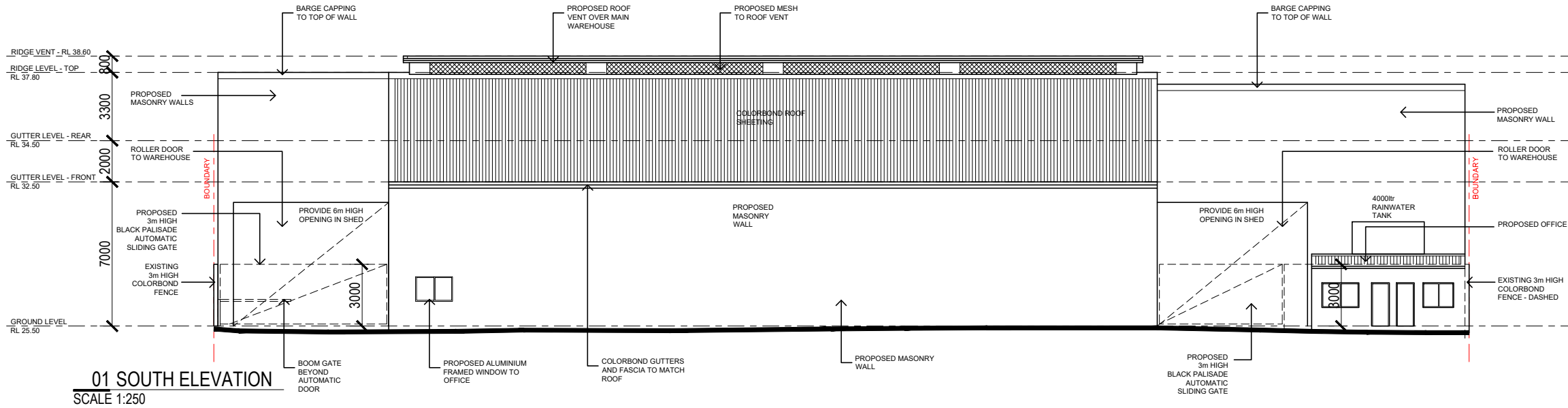
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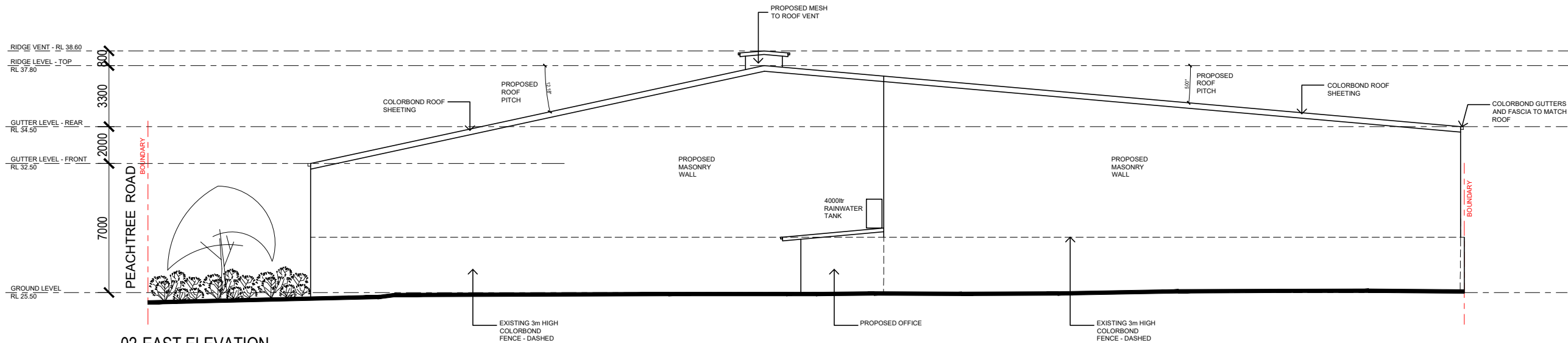
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01 SOUTH ELEVATION
SCALE 1:250

SOUTH FLE



02 EAST ELEVATION
SCALE 1:250

Rev.	Date	Description
C	09.03.21	AMENDED SUBMISSION
B	03.10.18	GENERAL AMENDMENTS
A	28.06.18	DA SUBMISSION

Scale	0	2.5	5	7.5	10
m					

1:250 at A3

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Project
PROPOSED WASTE MANAGEMENT FACILITY

46 PEACHTREE ROAD, PENRITH
NSW 2750

Drawing Title
SITE ELEVATION 1

Job no.	Drawing no.	Rev.
J17401D	A104	C

Drawn by	Checked by	Approved by	Date
LW	JY	JY	APR 2017

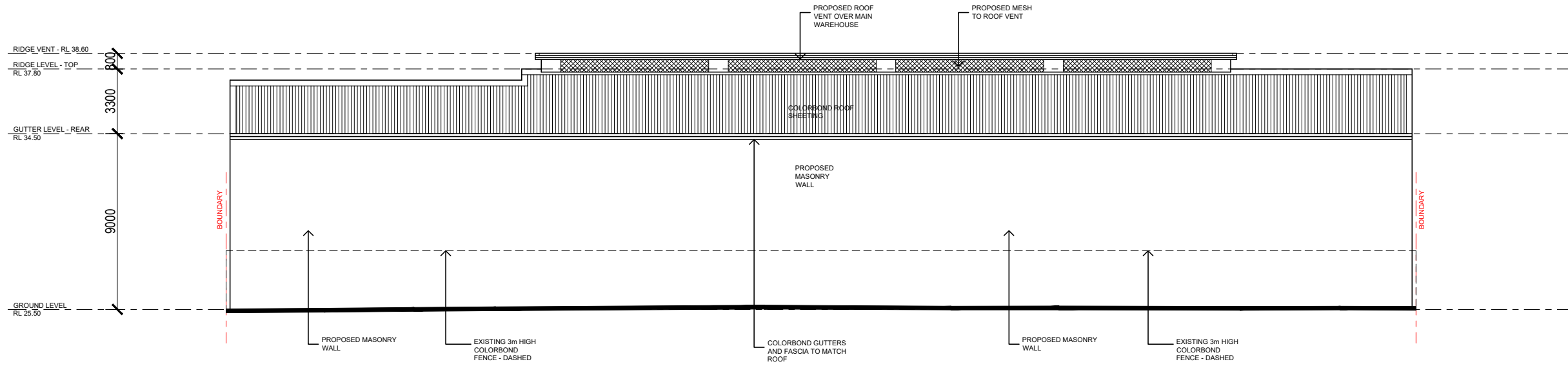
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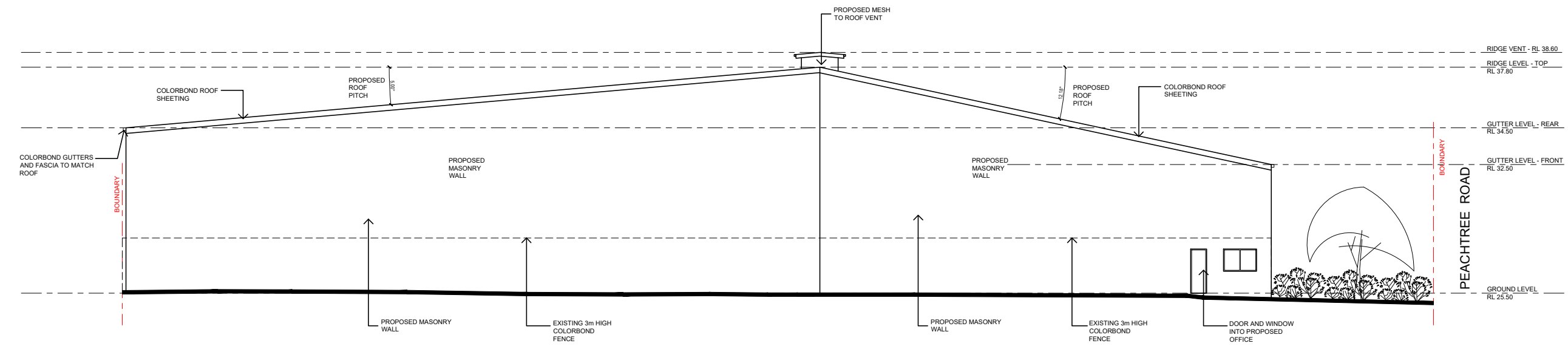
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03 NORTH ELEVATION
SCALE 1:250



04 WEST ELEVATION
SCALE 1:250

Rev.	Date	Description
C	09.03.21	AMENDED SUBMISSION
B	03.10.18	DA SUBMISSION
A	28.06.18	DA SUBMISSION

Scale
m 0 2.5 5 7.5 10
1:250 at A3

Project Architect

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Project
**PROPOSED
WASTE MANAGEMENT FACILITY**

46 PEACHTREE ROAD, PENRITH
NSW 2750

Drawing Title
SITE ELEVATION 2

Job no.	Drawing no.	Rev.
J17401D	A104	C
Drawn by LW	Checked by JY	Approved by JY
Date APR 2017		

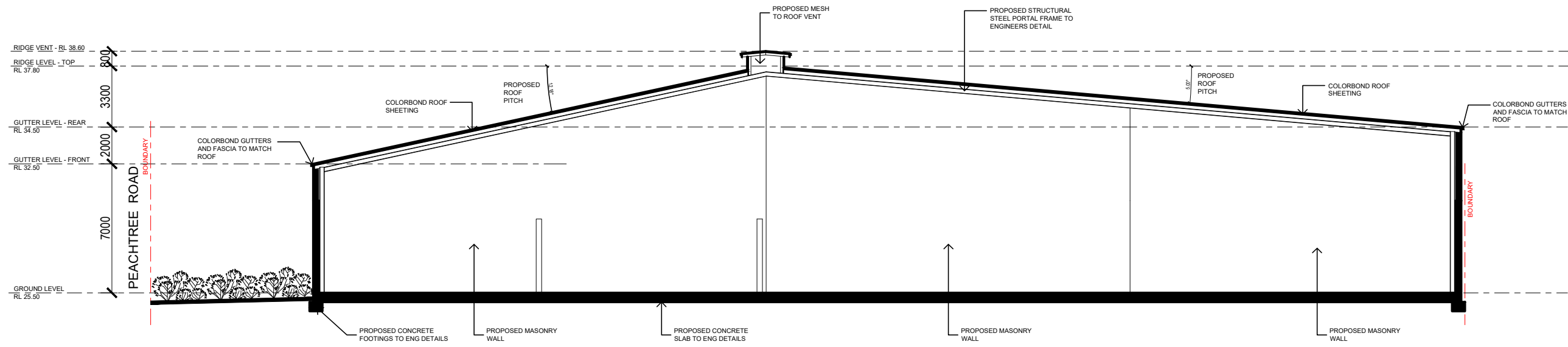
REFERENCES

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02 SECTION AA
SCALE 1:250

Rev.	Date	Description
B	09.03.21	AMENDED SUBMISSION
A	28.06.18	DA SUBMISSION

Scale
m 0 2.5 5 7.5 10
1:250 at A3

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Project
**PROPOSED
WASTE MANAGEMENT FACILITY**

46 PEACHTREE ROAD, PENRITH
NSW 2750

Drawing Title
SITE ELEVATION

Job no.	Drawing no.	Rev.	
J17401D	A104	B	
Drawn by	Checked by	Approved by	Date
LW	JY	JY	APR 2017