



# INNER WEST COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	M/2019/84
<b>Address</b>	93 Louisa Road, Birchgrove
<b>Proposal</b>	Modification of Development Consent D/2018/25 seeking various internal and external changes, including: increase the floor area at the basement level; increases to rear setbacks and reductions to front setbacks; changes to window locations and sizes; and internal reconfiguration.
<b>Date of Lodgement</b>	6 May 2019
<b>Applicant</b>	Mr F Bilotta
<b>Owner</b>	Mr F Bilotta and Mrs B Bilotta
<b>Number of Submissions</b>	No submissions
<b>Value of works</b>	\$1,464,000
<b>Reason for determination at Planning Panel</b>	Clause 4.6 variation for Floor Space Ratio exceeds 10%
<b>Main Issues</b>	Non-compliance with FSR
<b>Recommendation</b>	Approved with Conditions
<b>Attachment A</b>	Recommended Modified Conditions of Consent
<b>Attachment B</b>	Plans of Proposed Development
<b>Attachment C</b>	Operational Development Consent of D/2018/25
<b>Attachment D</b>	Approved Plans for D/2018/25



**LOCALITY MAP**

Subject Site



Notified Area



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## 1. Executive Summary

This report is an assessment of the application submitted to Council for the modification of Development Consent D/2018/25, which includes various internal and external changes, including: increase the floor area at the basement level; increases to rear setbacks and reductions to front setbacks; changes to window locations and sizes; and internal reconfiguration at 93 Louisa Road, Birchgrove. The application was notified to surrounding properties and no submissions were received.

The main issues that have arisen from the application include:

- Floor Space Ratio proposed is 1.076:1 which exceeds the permissible FSR of 0.8:1; and
- Heritage Conservation.

Subject to conditions to address privacy and replacement of trees, the proposal is considered to satisfy all relevant planning controls and consequently is recommended for approval.

## 2. Proposal

Determination No. D/2018/25, dated 4 December 2018, approved an application for demolition of the existing dwelling and associated structures, remediation of site, construction of a new dwelling with basement parking provided with a car lift and landscaping.

This application seeks to modify Development Consent D/2018/25 pursuant to the provisions of Section 4.55(2) of the Environmental Planning and Assessment Act, 1979 in the following way:

- Basement: Increase the floor area to create a new bathroom, rumpus and gym, reduce the size of the terrace and increase the lawn area.
- Lower ground: Increase the overall rear setback by 500mm and reduce the width of the car spaces from 2.9m to 2.7m.
- Upper ground (Louisa Road level): Increase the rear setback by 1.3m, reduce the front setback by 500mm, reconfigure the lounge/ dining/ kitchen area, change the window location and sizes on the eastern side boundary and relocate the replacement tree from the front setback to the rear private open space.
- First floor: Increase the rear setback by 500mm and reduce the front setback by 500mm.
- Roof terrace: Increase the rear setback by 500mm, reduce the front setback by 500mm and reduce the size of the roof terrace.

## 3. Site Description

The site is located on the southern side of Louisa Road, between Birchgrove Oval and Yerroulbin lane. The site consists of four allotments and is generally rectangular with a total area of 417.2 m<sup>2</sup>. The site is legally described as Lot 1 DP 947055, Lot 1 DP 972969, Lot 1 DP 770507 and Lot 2 DP 770507.

The site has a frontage to Louisa Road of 12.195 metres and a rear boundary to Snails Bay of 12.17 metres. The adjoining properties support modern dwellings that present as two storeys to Louisa Road and include off street parking in their front façade.

The site previously supported a weatherboard cottage which presented as single storey to Louisa Road, with a lower level accessing the rear yard. While the existing dwelling contained heritage fabric, it was in a dilapidated condition and consent was granted under D/2018/25 for its demolition. The demolition has subsequently been undertaken and the site is currently vacant.

The property is located within the 'Birchgrove and Ballast Point Road Heritage Conservation Area' (C8) and is identified as a Foreshore Inundation lot. The listed heritage items in the visual vicinity of the subject site include:

- 1553 "Geierstein", the dwelling at 85 Louisa Road, Birchgrove; and
- 1536 Birchgrove Park, Grove Street, Birchgrove.



*Figure 2: The subject site viewed from Louisa Road.*

## 4. Background

### 4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

## Subject Site

Application	Proposal	Decision and Date
D/2000/1013	Demolition of existing dwelling, erection of a new dwelling and rebuilding/refurbishment of an existing rear boatshed with residence above and associated works.	Approved 10 October 2001
M/2001/300	Altering roof form and fenestration and minor upper level internal reconfiguration.	Approved 27 February 2002
M/2004/80	Minor changes to window and door openings in house and boatshed, new door to boatshed, changes to an external stair, minor internal reconfiguration and adjustment to level of boatshed floor slabs.	Approved 9 August 2004
D/2018/25	Demolition of existing dwelling and associated structures and remediation of site. Construction of a new dwelling with basement parking provided with a car lift, and landscaping.	Approved with Deferred Commencement Condition on 12 Jun 2018  Operational Development Consent 4 December 2018
D/2019/174	New pool and retaining wall works and repair and recapping of sea wall.	Lodged on 6 May 2019 and currently under assessment.

## Surrounding properties

Application	Proposal	Decision and Date
D/2011/425 M/2013/52 M/2014/37	<u>87-91 Louisa Road, Birchgrove</u> Demolition of existing structures, remediation of the site, construction of three new dwellings with parking and three lot subdivision.	Approved on appeal 3 April 2012.
D/2000/645	<u>95 Louisa Road, Birchgrove</u> Alterations and additions to the existing dwelling at ground and first floor level.	Approved 19 May 2001
D/2002/915 M/2004/5 M/2004/219	Alterations and additions to existing dwelling involving new external cladding at ground and first floor level and demolition of the front room of the dwelling to accommodate a new carport to the Louisa Road elevation.	Approved 6 August 2003

## 4(b) Application history

Not applicable.

## 5. Section 4.55 Assessment

Section 4.55(2) of the Environmental Planning and Assessment Act, 1979, requires the following matters to be assessed in respect of all applications which seek modifications to approvals.

*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).*

Comment: The original Development Application approved demolition of the existing dwelling and associated structures, remediation of site, construction of a new dwelling with basement parking provided with a car lift and landscaping. The proposed modifications relate to the front and rear setbacks, internal changes and additional floor space in the basement level. The application is consistent with the approved application and the proposal is considered to be substantially the same development as that originally approved.

*Council has consulted with the relevant Minister, public authority or approval body in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority.*

Comment: No concurrence with any external bodies was required.

*The application has been notified in accordance with the regulations, if the regulations so require, or a development control plan, if council's development control plan requires the notification or advertising of applications for modification of a development consent.*

Comment: The application was notified for a period of 14 days, between 10 May 2019 and 24 May 2019.

*Consideration of any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan.*

Comment: No submissions received during the notification period.

## 6. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

### 5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- State Environmental Planning Policy No. 55—Remediation of Land
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Coastal Management) 2018
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The following provides further discussion of the relevant issues:

**5(a)(i) State Environmental Planning Policy No 55—Remediation of Land**

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. LDCP 2013 provides controls and guidelines for remediation works. SEPP 55 requires that remediation works must be carried out in accordance with a Remediation Action Plan (RAP) and any guidelines enforced under the Contaminated Land Management Act 1997.

A Detailed Site Investigation (DSI) and Remedial Action Plan (RAP) were provided in the original Development Application (D/2018/25) to address the management of contaminated groundwater onsite and the treatment and/or disposal of any contaminated soils and contamination issues prior to determination. The contamination documents were reviewed and it was found that the site could be made suitable for the proposed use after the completion of the RAP. Conditions of consent were included in the original application in accordance with Clause 7 of SEPP 55. The changes involved in this modification will not impact those conditions.

**5(a)(ii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

An amended BASIX Certificate was submitted with the application and will be referenced in any consent granted.

**5(a)(iii) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

The original Development Application was referred to the Foreshores and Waterways Planning and Development Advisory Committee as required under the SREP. The committee raised no specific issues in relation to the proposed development.

An assessment has been made of the matters set out in Clause 20 of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed modifications are not considered to be contrary to the objectives of the Plan and would not have an adverse effect on environmental heritage, the visual environment, the natural environment and open space and recreation facilities for the following reasons:

- The appearance of the modified development as viewed from the harbour is compatible with surrounding development; and
- The development as modified does not further restrict access to foreshore land and will protect existing views from Louisa Road to the water.

**5(a)(iv) State Environmental Planning Policy (Coastal Management) 2018**

The application has been considered against the SEPP for Coastal Management. The subject site is located within the "Coastal Zone" pursuant to Cl 5 of the SEPP, as identified on the map in the SEPP. The modified development has been assessed by Council's development engineers, who have confirmed that the proposal will not result in an unacceptable increased risk of coastal hazards on the site.

**5(a)(v) Leichhardt Local Environment Plan 2013 (LLEP 2013)**

The application was assessed against the following relevant clauses of the *Leichhardt Local Environmental Plan 2013*:

- Clause 1.2 - Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition
- Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1
- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 4.6 – Exceptions to development standards
- Clause 5.10 – Heritage Conservation
- Clause 6.1 – Acid Sulfate Soils
- Clause 6.2 – Earthworks
- Clause 6.3 – Flood Planning
- Clause 6.4 – Stormwater management
- Clause 6.5 – Limited development on foreshore area
- Clause 6.6 – Development on foreshore must ensure access

**Clause 2.3 - Land Use Table and Zone Objectives**

The site is zoned R1 – General Residential under the LLEP 2013. The LLEP 2013 defines the development as a dwelling house, meaning a building containing only one dwelling.

The development is permitted with consent within the zone. The development is consistent with the objectives of the R1 – General Residential zone.

The following table provides an assessment of the application against the development standards:

<b>Standard</b>	<b>Approved (D/2018/25)</b>	<b>Proposal</b>	<b>Non compliance</b>	<b>Complies</b>
<b>Floor Space Ratio</b> Maximum: 0.8:1 (333.8m <sup>2</sup> )	0.92:1 (382.5 m <sup>2</sup> )	1.076:1 (449.0m <sup>2</sup> )	34% (115.2sqm)	No*
<b>Landscape Area</b> Minimum: 20% (83.4m <sup>2</sup> )	21.3% (89 m <sup>2</sup> )	26% (107.9m <sup>2</sup> )	Complies	Yes
<b>Site Coverage</b> Maximum: 60% (250.3m <sup>2</sup> )	58.75% (245.1 m <sup>2</sup> )	58.8% (245.1m <sup>2</sup> )	Complies	Yes

\*Note: The approved FSR under D/2018/25 was 0.92:1 (382.5sqm) which resulted in a non-compliance of 14.6%. The application was determined by the Inner West Local Planning Panel on 12/06/2018 and the Panel considered the matters relied upon by the applicant in regard to the contravention of the FSR development standard and were satisfied that the written request was well founded and the contravention would not result in a detrimental effect on the public interest and the objectives of the standard would nevertheless be satisfied.

This modification proposes an additional 66.5sqm of gross floor area located on the basement floor level.

#### Clause 4.6 Exceptions to Development Standards

As outlined in table above, the modified proposal results in a breach of the Floor Space Ratio development standard.

The applicant seeks a variation to the FSR development standard under Clause 4.4 of the applicable local environmental plan by 35% (116sqm).

Pursuant to *Gann and Anor v Sutherland Shire Council* [2008] NSWLEC 157, the Land and Environment Court has held that there is power to modify a development application where the modification would result in a breach or further breach of development standards without the need to lodge variation requests (in this case under Clause 4.6 of the LLEP2013 – Exceptions to Development Standards).

Notwithstanding the above, had a Clause 4.6 Exceptions to Development Standards request been required, seeking Council's consent to vary the floor space ratio standard, the request would have been considered favourably in this instance for the following reasons:

- The modified proposal does not seek to increase the overall building height and the proposal would result in negligible impact to the solar access to adjoining properties compared to the approved development.
- The additional GFA proposed with this modification is located in the basement level, which is below the existing ground level. As such, this space does not add to the bulk and scale of the proposed dwelling, as it would otherwise be foundation space below the building.
- The basement level is not visible from Louisa Road due to the fall in the land and will have minimal visibility from the water as it is behind the terrace and lawn area.
- The proposal does not result in any significant additional adverse amenity impacts upon the surrounding properties.
- The proposed dwelling is of similar bulk and scale to adjoining dwellings and does not result in view loss.
- The proposal complies with the Landscaped Area and Site Coverage standards, providing a suitable balance between landscaped areas and the built form
- The proposal is considered acceptable with regard to the objectives of the R1 General Residential zone.
- The proposal is considered acceptable with regard to the objectives of Clause 4.4 Floor Space Ratio.

#### Clause 5.10 – Heritage Conservation

The subject property at 93 Louisa Road, Birchgrove, is located within the Birchgrove and Ballast Point Road Heritage Conservation Area (C8 in Schedule 5 of the Leichhardt LEP 2013).

It is in the vicinity of the heritage listed house, "Geierstein", including interiors, at 85 Louisa Road (I553 in Schedule 5 of the Leichhardt Local Environmental Plan 2013).

The application was referred to Council's Heritage Advisor who provided the following comments:



*“A DA for the demolition of the existing dwelling and construction of a new dwelling at the subject site was approved by Council (D/2018/25). The proposed modifications include an increased rear setback to all levels and decrease in the front setback to the upper ground floor, first floor and roof terrace, an increase in floor area to the basement; relocation of terrace columns towards the front boundary and amend car space sizes to 2.7m wide on the lower ground floor and internal configuration and changes to window locations and sizes on the upper ground floor.*

*Overall, the proposed modifications will not alter the approved dwelling, as will be viewed from Louisa Road or Snails Bay. There are no concerns from a heritage perspective with the increase in the footprint of the basement floor plan for the gym and rumpus as this will be located within the approved building envelope of the dwelling.*

*The increased setback of the dwelling from Snails Bay is a positive outcome and will be more complementary to the established rear setback pattern in the area. The reduced setback from Louisa Road to the upper ground floor, first floor and roof terrace will generally complement the established street setback and will be set back behind the zero setbacks of the dwellings and garages to the north.”*

Given the above comments, the proposed modifications are acceptable from a heritage perspective as they will not detract from the heritage significance of the Birchgrove and Ballast Point Road Heritage Conservation Area or “Geierstein”.

#### Clause 6.2 – Earthworks

The approved development involves excavation of up to 6 metres in depth adjacent to Louisa Road and the neighbouring properties.

Conditions of development consent were imposed to ensure these excavation works do not damage adjacent properties or Council’s roadway. These conditions will continue to apply to the modified consent.

#### Clause 6.3 – Flood Planning

It is noted that the original Development Application included a condition of consent requiring the floor level of the terrace and basement to be raised to RL 2.7m AHD RL2.8m AHD respectively. These RLs are included on the modified plans and are therefore acceptable.

The original Development Application also included a pool immediately adjacent to the sea wall on the Snails Bay frontage. Issues were raised with regard to the pool being susceptible to inundation and the pool was subsequently required to be deleted via condition of consent.

The plans submitted with this application show the pool as being deleted. However, a separate Development Application has since been submitted which seeks consent for the pool, which will be assessed separately on its merits.

#### Clause 6.5 – Limited development on foreshore area

The modifications, as proposed by this application, do not fall within foreshore area; a separate application (D/2019/174) has been lodged with Council to seek approval for works within the foreshore area (e.g. new pool, recapping of seawall).

Clause 6.6 – Development on the foreshore must ensure access

As noted in the assessment of the original DA, both adjoining properties do not provide public access to the foreshore and the site is not located close to public foreshore paths. As such, there is no opportunity to provide foreshore access on this site and this still applies to the proposed modifications.

**5(b) Draft Environmental Planning Instruments**

The application has been assessed against the relevant Draft Environmental Planning Instruments listed below:

- State Environmental Planning Policy - Environment

The proposed modification raises no issues with regard to the above draft instrument.

**5(c) Development Control Plans**

The application has been assessed against the following applicable DCPS:

- Leichhardt Development Control Plan 2013
- Sydney Harbour Foreshores and Waterways Development Controls Plan 2005

The following provides an assessment of the proposal against the relevant provisions of the DCPs mentioned above.

**5(c)(i) Leichhardt Development Control Plan 2013**

<b>LDCP2013</b>	<b>Compliance</b>
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Not applicable
B3.1 Social Impact Assessment	Not applicable
B3.2 Events and Activities in the Public Domain (Special Events)	Not applicable
<b>Part C</b>	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Not applicable
C1.4 Heritage Conservation Areas and Heritage Items	Yes – See below
C1.5 Corner Sites	Not applicable
C1.6 Subdivision	Not applicable
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Not applicable
C1.10 Equity of Access and Mobility	Not applicable
C1.11 Parking	Yes – See below
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	Not applicable

C1.14 Tree Management	Yes – See below
C1.15 Signs and Outdoor Advertising	Not applicable
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Not applicable
C1.17 Minor Architectural Details	Not applicable
C1.18 Laneways	Not applicable
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	Yes
C1.20 Foreshore Land	Yes
C1.21 Green Roofs and Green Living Walls	Not applicable
<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.2.6(a) Louisa Road sub area, Birchgrove distinctive neighbourhood	Yes
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes – See below
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	Not applicable
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Not applicable
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes – See below
C3.10 Views	Yes – See below
C3.11 Visual Privacy	Yes – See below
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	Not applicable
C3.14 Adaptable Housing	Not applicable
<b>Part C: Place – Section 4 – Non-Residential Provisions</b>	
<b>Part D: Energy</b>	
Section 1 – Energy Management	Not applicable
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	Not applicable
D2.5 Mixed Use Development	Not applicable
<b>Part E: Water</b>	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Not applicable
E1.1.1 Water Management Statement	Not applicable
E1.1.2 Integrated Water Cycle Plan	Not applicable
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	Yes
E1.1.5 Foreshore Risk Management Report	Yes
E1.2 Water Management	Not applicable
E1.2.1 Water Conservation	Not applicable

E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Not applicable
E1.2.4 Stormwater Treatment	Not applicable
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	Not applicable
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	Not applicable
E1.3.1 Flood Risk Management	Yes
E1.3.2 Foreshore Risk Management	Yes
<b>Part F: Food</b>	Not applicable
<b>Part G: Site Specific Controls</b>	Not applicable

The following provides discussion of the relevant issues:

#### C1.4 Heritage Conservation Areas and Heritage Items

Heritage aspects have been discussed previously in Part 5(a)(iv) of this report above with regards to Clause 5.10 of Leichhardt Local Environmental Plan 2013. The modified proposal is considered acceptable having regard to Heritage Conservation.

#### C1.11 Parking

The proposal includes modifications to the approved car parking spaces on the basement and lower ground floor levels. The width of the three car spaces is proposed to be reduced from 2.9m to 2.7m.

Council's Development Engineers have advised that the 2.7m width is considered acceptable in this instance as the parking spaces are located side by side on the lower ground floor and next to the bin storage on the basement floor, which allows for a level of flexibility with the width of these spaces. Therefore, the car parking spaces as modified are acceptable from an engineering perspective.

#### C1.14 Tree Management

The Landscape Plan approved with the original application included a tree being planted within the front setback of the proposed dwelling. A Deferred Commencement condition of consent was imposed requiring the trees proposed in this western setback to be relocated further east so that they are located in front of the proposed dwelling and do not block the public view corridor from Louisa Road to the water.

The plans originally submitted with this modification did not show any trees being planted in this setback due to the reduced setback of the front building line.

Condition 57 of the original consent requires tree replacement planting in accordance with Landscape plan prepared by 'SPACE Landscape Designs Pty Ltd', Project No. 181544, dated 23/04/2018. As such, an amended Landscape Plan was requested by Council to show the replacement tree relocated elsewhere on the site to ensure appropriate compensatory tree planting is maintained. A condition of consent requiring this replacement tree to be planted on the site is included in the recommendation.

C3.2 Site Layout and Building Design

**Building Location Zone (BLZ):** The proposal reduces the front BLZ by 0.2m – this is consistent and complaint with the front BLZ of adjoining dwellings. The approved rear BLZ, although is reasonably aligned with 87-91 Louisa Road, does not strictly comply with the control; however, the proposed modification increases the setback of the dwelling across all levels from the rear boundary (south). This further aligns the building with the surrounding buildings and as such, is considered acceptable, as it will lessen any existing impacts on views, solar access privacy, and overall building mass. Therefore, the proposal is satisfactory having regard to the Building Location Zone (BLZ).

**Side setback:** No changes proposed to the approved side setbacks, which do not comply; compliance with the applicable side setbacks is not reasonable in this context, as the dwelling’s maximum height of 13.8m (resulting from the substantial slope of the site) requires a setback in excess of 4m.

C3.9 Solar Access

The proposed modifications are considered minor having regard to the existing development overall and the changes are not anticipated to exacerbate the existing solar access impacts to the subject site or neighbouring properties.

C3.10 Views

The proposal results in an increased rear setback and therefore would not result in adverse impacts on view enjoyed by neighbouring properties, compared to the approved development. The tree in its new location to the south-west of the dwelling will not obstruct the view corridor of the water, as viewed from Louisa Road. The tree will achieve a height of approximately 7m, and it will be located at a much lower level than the level of the street (approximately 7m), due to the significant slope of the site.

C3.11 Visual Privacy

Changes are proposed to the windows on the eastern elevation on the upper ground floor, servicing the lounge room. Specifically, Window W06 is to be replaced by 2 smaller windows on either side of a fireplace.

In the assessment of the original DA it was found that Window W06 was located opposite a balcony at 95 Louisa Road and was only setback 410mm from the side boundary. Compliant screening was required via condition of consent as follows:

- 5. *To ensure reasonable privacy for the adjoining property, the following windows/glazing:*

<i>Window/glazing</i>	<i>Room</i>	<i>Elevation</i>
<i>W06</i>	<i>Kitchen</i>	<i>Eastern</i>
<i>W07</i>	<i>Lounge</i>	<i>Western</i>
<i>W13</i>	<i>Bedroom</i>	<i>Eastern</i>

*must be treated with one of the following privacy treatments:*

- *have a minimum sill height of 1.6m above finished floor level. or*

- *be permanently fixed (that is windows are not to swing or lift open) with obscure glazing (not frosted film on clear glazing) to a height of 1.6 metres above finished floor level; or*
- *provided with fixed external louvers with a density of 75% and have no individual opening more than 30mm wide, and have a total area of all openings that is less than 30 per cent of the surface area of the screen and be made of durable materials. Where fixed louvered screens are used, the screen structure must be securely fixed. The louvers may tilt open from a closed position to an angle of 45 degrees in either a downward or upward position, depending on the sightlines that are to be restricted.*

*The treatment must ensure that the ventilation requirements of the Building Code of Australia are met. If one treatment cannot satisfy the requirements, an alternative in the list above is to be used.*

*Details must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority. The privacy measures must be maintained for the life of the building.*

The two new windows proposed in lieu of window W06 are setback 770mm from the eastern side boundary. These windows are inset in a way that prevents overlooking from these windows to the neighbouring balcony. The size and location of these windows are considered acceptable having regard to visual privacy.

It is noted that these windows will need to meet Fire Rating requirements given its location within 900mm of the boundary, however this can be addressed at the Construction Certificate stage of the development.

**5(c)(ii) Sydney Harbour Foreshores and Waterways Development Controls Plan 2005**

<b>SHFWDCP 2005</b>	<b>Compliance</b>
<b>1. Introduction</b>	Yes
<b>2. Ecological Assessment</b>	
2.2 General Aims	Yes
<b>3. Landscape Assessment</b>	
3.2 General Aims	Yes
<b>4. Design Guidelines for Water-Based and Land/Water Interface Developments</b>	N/A
<b>5. Design Guidelines for Land-Based Developments</b>	
5.1 Introduction	Yes
5.2 Foreshore Access	Yes
5.3 Siting of Buildings and Structures	Yes
5.4 Built Form	Yes
5.6 Planting	Yes

The proposed modifications will generally be consistent with the provisions of the SHFDWDCP 2005; it does not result in a significant departure from the approved development.

#### 5(d) The Likely Impacts

The assessment of the Modification Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

#### 5(e) The suitability of the site for the development

The site is zoned R1 – General Residential. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

#### 5(f) Any submissions

The application was notified in accordance with the Leichhardt Development Control Plan for a period of 14 days to surrounding properties. No submissions were received.

#### 5(g) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is not contrary to the public interest.

## 6 Referrals

### 6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Heritage Officer
- Development Engineer

### 6(b) External

The application was not required to be referred to any external bodies.

## 7. Section 7.11 Contributions

As the original Development Application involved demolition of a dwelling and construction of a larger dwelling, Section 7.11 contributions were payable for the proposal. This modification does not alter this requirement.

## 8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013.

The development will not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

## 9. Recommendation

That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to S4.55 of the *Environmental Planning and Assessment Act 1979*, grant consent to Modification Application No. M/2019/84 for internal and external changes, including: increase the floor area at the basement level; increases to rear setbacks and reductions to front setbacks; changes to window locations and sizes; and internal reconfiguration at 93 Louisa Road, Birchgrove, subject to the conditions listed in Attachment A below.



## Attachment A – Recommended Modified Conditions of Consent

### A. Condition 2 to be amended as follows:

2. Development must be carried out in accordance with Development Application No. D/2018/25 and the following plans and supplementary documentation, except where amended by the conditions of this consent.  
Development must be carried out in accordance with Development Application No. D/2018/25 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Demolition plan DA13	ESNH Design Pty Ltd	November 2017
<b>Basement floor plan 1705DA02B</b>	<b>ESNH Design Pty Ltd</b>	<b>March 2019</b>
<b>Lower ground floor plan 1705DA03A</b>	<b>ESNH Design Pty Ltd</b>	<b>March 2019</b>
<b>Upper ground floor plan 1705DA04C</b>	<b>ESNH Design Pty Ltd</b>	<b>March 2019</b>
<b>First floor plan 1705DA05B</b>	<b>ESNH Design Pty Ltd</b>	<b>March 2019</b>
<b>Roof terrace plan 1705DA06B</b>	<b>ESNH Design Pty Ltd</b>	<b>March 2019</b>
<b>Roof plan 1705DA07B</b>	<b>ESNH Design Pty Ltd</b>	<b>March 2019</b>
<b>Landscape Plan L-01-A</b>	<b>Space Landscape Designs</b>	<b>16 July 2019</b>
<b>North and West Elevations 1705DA08B</b>	<b>ESNH Design Pty Ltd</b>	<b>March 2019</b>
<b>South and East Elevations 1705DA09B</b>	<b>ESNH Design Pty Ltd</b>	<b>March 2019</b>
<b>Sections 1705DA10B</b>	<b>ESNH Design Pty Ltd</b>	<b>March 2019</b>
Pool Section Plan DA15	ESNH Design Pty Ltd	January 2018

Document Title	Prepared By	Dated
<b>BASIX Certificate 869219S_04</b>	<b>ESNH Design Pty Ltd</b>	<b>16 July 2019</b>
Landscape specifications L-02-A	Space Landscape Designs	23/04/18
Finishes Board DA13	ESNH Design Pty Ltd	November 2017
Waste Management Plan	Eugenia Harley	20.11.12
Geotechnical report No. 17/3401B	STS GGeoEnvironmental	December 2017
Remediation Action Plan	LG Consult	12/12/2017
Structural Engineers Report and Construction Methodology	Mance Arraj	1/12/2017

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

Where there is an inconsistency between approved elevations and floor plan, the elevation shall prevail.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

The existing elements (walls, floors etc.) shown to be retained on the approved plans shall not be removed, altered or rebuilt without prior consent of the consent authority.

Note: Carrying out of works contrary to the above plans and/ or conditions may invalidate this consent; result in orders, on the spot fines or legal proceedings.

This consent does not give approval to the construction of a swimming pool in the rear yard or the carrying out of any works to the existing stone seawall located to the rear of the site.

**(Modified by M/2019/84 on INSERT DATE)**

**B. Condition 5 to be amended as follows:**

5. To ensure reasonable privacy for the adjoining property, the following windows/glazing:

Window/glazing	Room	Elevation
<b>W06</b>	<b>Kitchen</b>	<b>Eastern</b>
W07	Lounge	Western
W13	Bedroom	Eastern

must be treated with one of the following privacy treatments:

- have a minimum sill height of 1.6m above finished floor level. or
- be permanently fixed (that is windows are not to swing or lift open) with obscure glazing (not frosted film on clear glazing) to a height of 1.6 metres above finished floor level; or
- provided with fixed external louvers with a density of 75% and have no individual opening more than 30mm wide, and have a total area of all openings that is less than 30 per cent of the surface area of the screen and be made of durable materials. Where fixed louvered screens are used, the screen structure must be securely fixed. The louvers may tilt open from a closed position to an angle of 45 degrees in either a downward or upward position, depending on the sightlines that are to be restricted.

The treatment must ensure that the ventilation requirements of the Building Code of Australia are met. If one treatment cannot satisfy the requirements, an alternative in the list above is to be used.

Details must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority. The privacy measures must be maintained for the life of the building.

**(Modified by M/2019/84 on INSERT DATE)**

**C. Condition 57 to be amended as follows:**

57. The following replacement trees must be planted:

Tree/species	Quantity	Location
In accordance with Landscape plan prepared by SPACE Landscape Designs Pty Ltd, Project No. 181544, dated 23/04/2018, <b>amended on 16 July 2019.</b> <b>Note: TL (1) which has been deleted from the front setback is to be planted in the location noted on the amended Landscape Plan, next to TR(2) in the rear private open space.</b>		

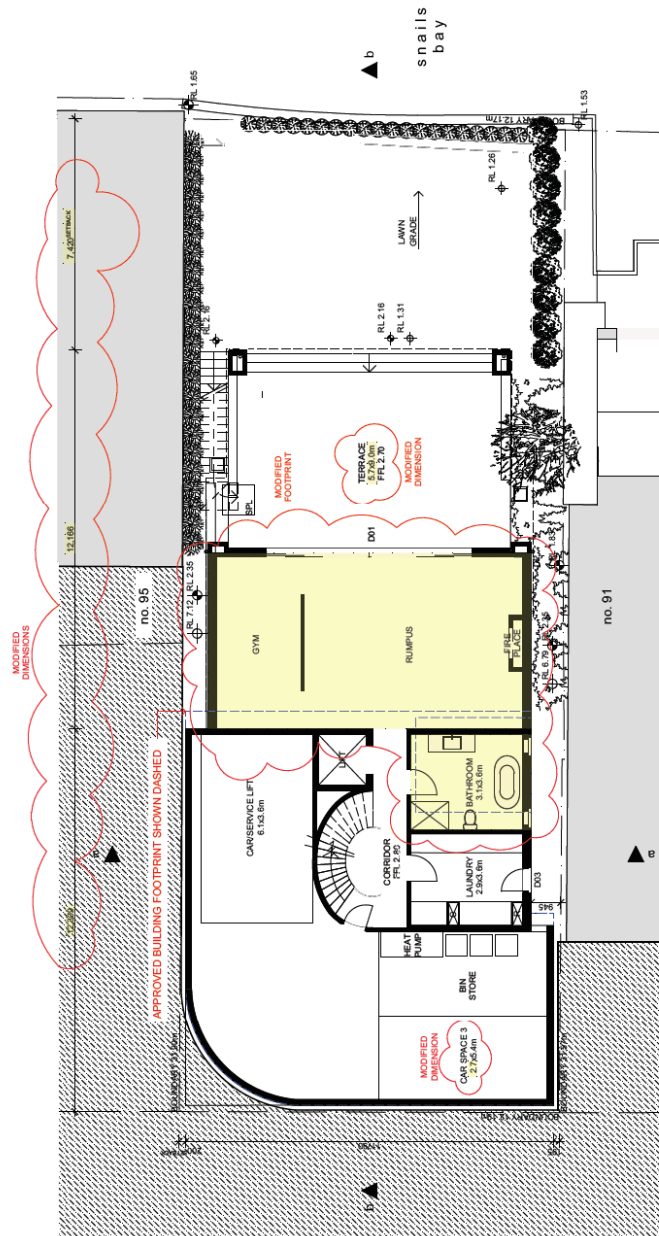
The minimum pot size at time of planting will be equivalent to 75 litre (min) containerised stock. The tree(s) is/are to conform to the AS 2303—*Tree Stock for Landscape Use*.

Council encourages the uses of replacement trees that are endemic to the Sydney Basin to increase biodiversity in the local environment and provide a natural food source for native birds and marsupials. Note: Any replacement tree species must not be a palm tree species or be a plant declared to be a noxious weed under the Noxious Weeds Act 1993 or tree species listed as an exempt species under Section C1.14 (Tree Management) of the Leichhardt Development Control Plan 2013.

**(Modified by M/2019/84 on INSERT DATE)**

Attachment B – Plans of Proposed Development

NOTE  
WORKS PROPOSED UNDER THIS APPLICATION ARE SHADDED YELLOW



**ESNH**  
DESIGN PTY LTD  
PO BOX 100  
ROSELAND NSW 2067  
T: 0418 487 314  
F: 0418 487 315  
ABN: 94 127 928 962  
ACN: 134379330

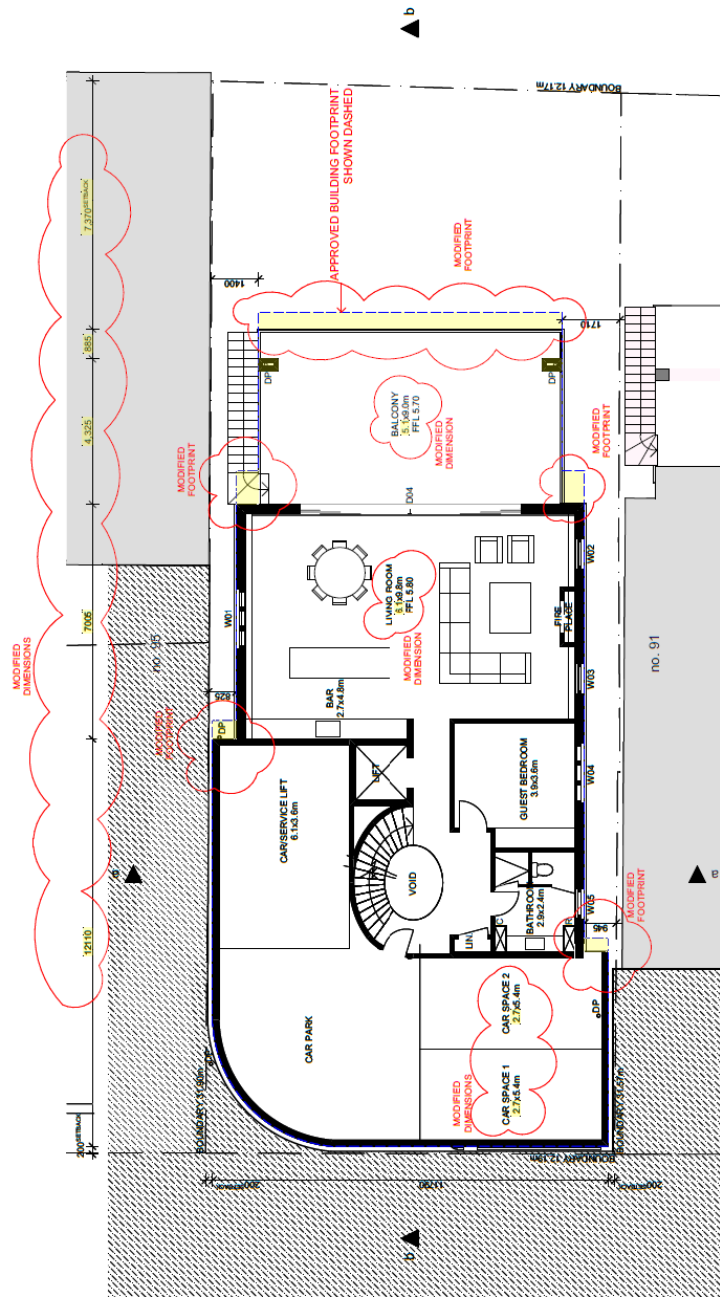
DWG NO. 1705DA02B  
SCALE 1:100  
DATE March 2019  
ISSUE Sect. 4.56 Appl.

**BILLOTTA HOUSE**  
93 LOUISA ROAD  
BIRCHGROVE

basement floor plan

**NOTE**  
WORKS PROPOSED UNDER THIS APPLICATION ARE SHADED YELLOW

**LEGEND**  
C CHUTE  
R SERVICES RISER



**ESNH**  
DESIGN PTY LTD  
PO BOX 100  
ROSEHILLS NSW 2057  
E: 02 93 88 73 56  
M: 04 12 328 567  
ABN 74 12 328 567  
ACN 13 437 530

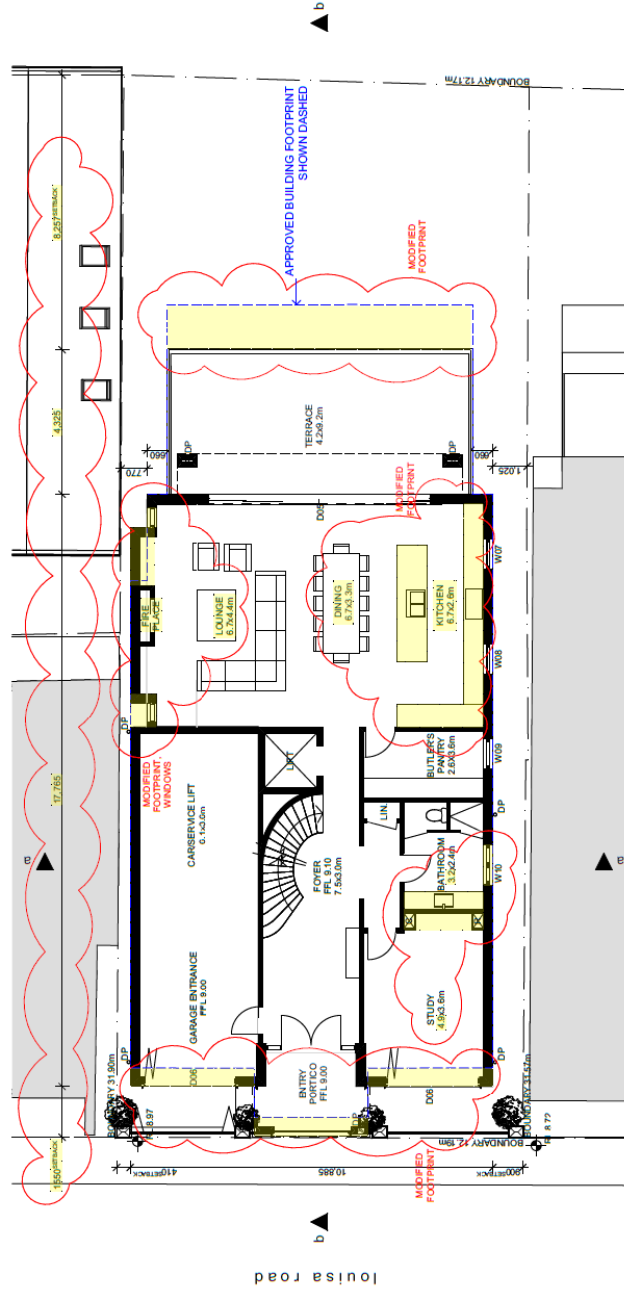
DWG NO. 1705DA03A  
SCALE 1:100  
DATE March 2019  
ISSUE Sect. 4.55 Atp1.

BILOTTA HOUSE  
93 LOUISA ROAD  
BIRCHGROVE

lower ground floor plan

NOTE  
WORKS PROPOSED UNDER THIS APPLICATION ARE SHADDED YELLOW

LEGEND  
C CHUTE  
R SERVICES/RISER



ESNH  
DESIGN PTY LTD  
1705DA04C  
1:100  
March 2019  
Sect. 4.55 Appl.

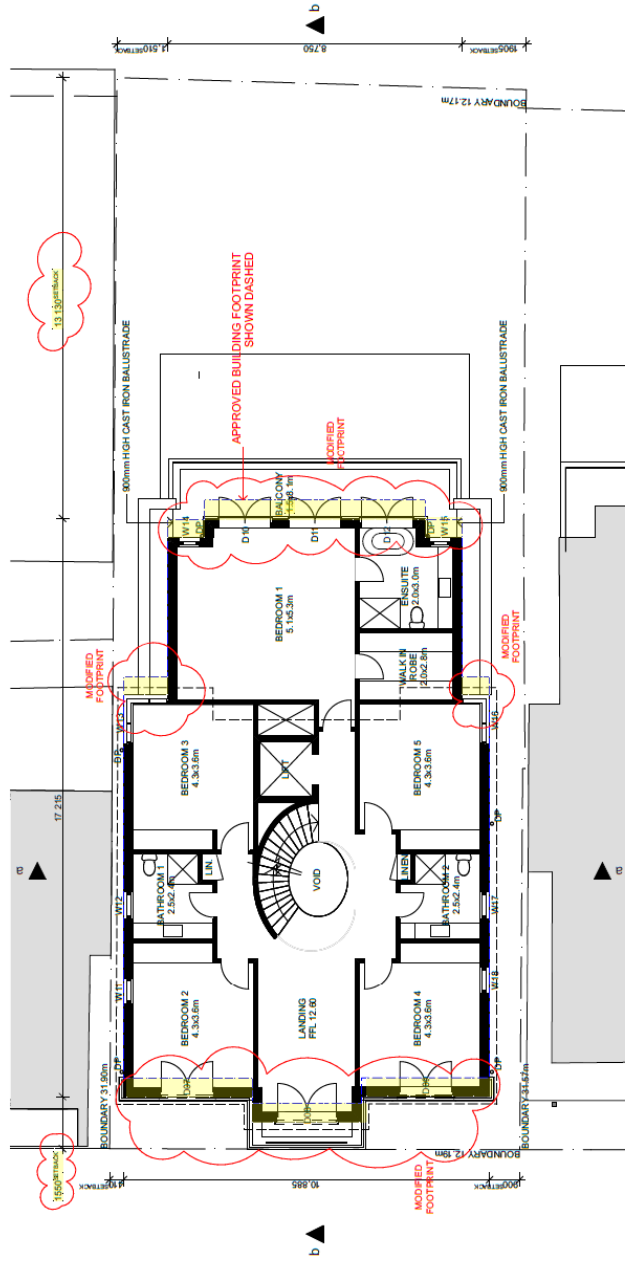


DWG NO. 1705DA04C  
SCALE 1:100  
DATE March 2019  
ISSUE Sect. 4.55 Appl.

upper ground floor plan option

BILOTTA HOUSE  
93 LOUISA ROAD  
BIRCHGROVE

**NOTE**  
WORKS PROPOSED UNDER THIS APPLICATION ARE SHADED YELLOW



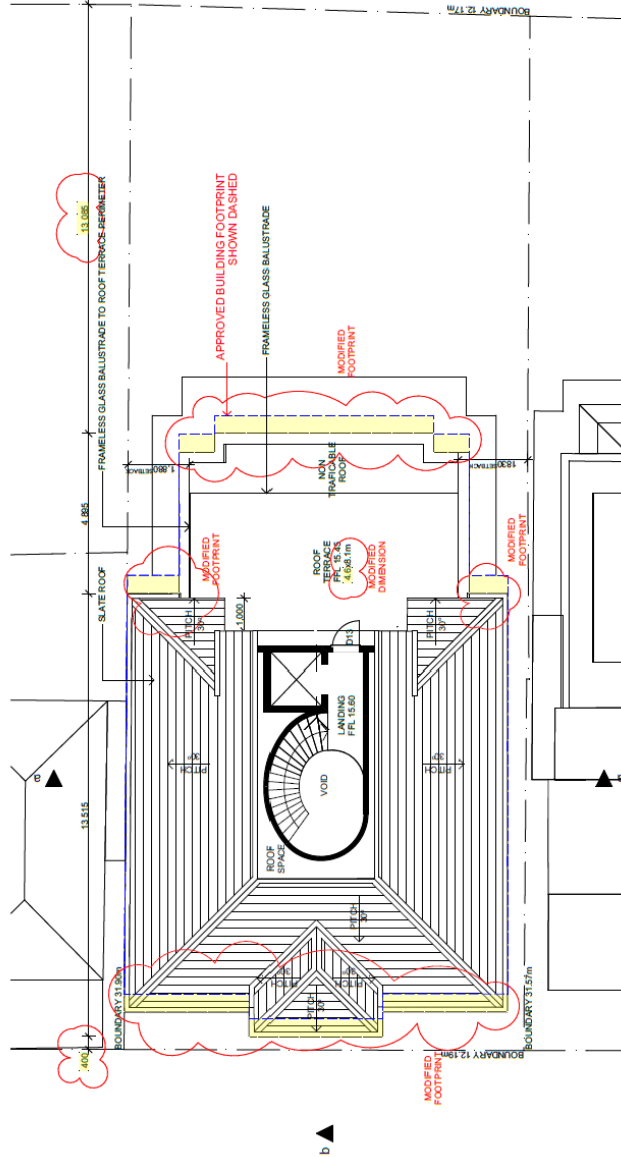
**ESNH**  
**DESIGN PTY LTD**  
P.O. Box 387  
Crows Nest NSW 1585  
Tel: 02 9439 3366  
Fax: 02 9439 3367  
E: [en@esnh.com.au](mailto:en@esnh.com.au)  
W: [www.esnh.com.au](http://www.esnh.com.au)  
ACN: 13437550

DWG NO. 1705DA16B  
SCALE 1:100  
DATE March 2019  
ISSUE Sect. 4.55 Appl.

first floor plan

**BILOTTA HOUSE**  
**93 LOUISA ROAD**  
**BIRCHGROVE**

**NOTE**  
WORKS PROPOSED UNDER THIS APPLICATION ARE SHAIRED YELLOW



**ESNH**  
DESIGN PTY LTD  
PO Box 4387  
Bentley NSW 2082  
Tel: 02 9387 8888  
E: enquiry@esnh.com.au  
ACN: 134339550



1705DA068  
SCALE 1:100  
March 2019  
Sect. 4.55 Appl.

DWG NO.  
SCALE  
DATE  
ISSUE

roof terrace plan

BILOTTA HOUSE  
93 LOUISA ROAD  
BIRCHGROVE



**BASIX COMMITMENTS**

CERTIFICATE NO. 8692185

**Swimming pool**  
The swimming pool must not have a volume greater than 30 kilolitres and is to be located outdoors.

**Roof**  
The roof must not contain open mezzanine area exceeding 25 square metres.

**Construction**  
The dwelling must not contain open outdoor, concrete floor - concrete slab on ground.

**External wall** - cavity brick

**Internal wall** - cavity brick

**Roof** - concrete slab on ground

**External wall** - cavity brick

**Internal wall** - cavity brick

**Roof** - concrete slab on ground

**External wall** - cavity brick

**Internal wall** - cavity brick

**Roof** - concrete slab on ground

**External wall** - cavity brick

**Internal wall** - cavity brick

**Roof** - concrete slab on ground

**External wall** - cavity brick

**Internal wall** - cavity brick

**Roof** - concrete slab on ground

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**External wall** - cavity brick

**Internal wall** - cavity brick

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**Internal wall** - cavity brick

**Roof** - concrete slab on ground

**External wall** - cavity brick

**Internal wall** - cavity brick

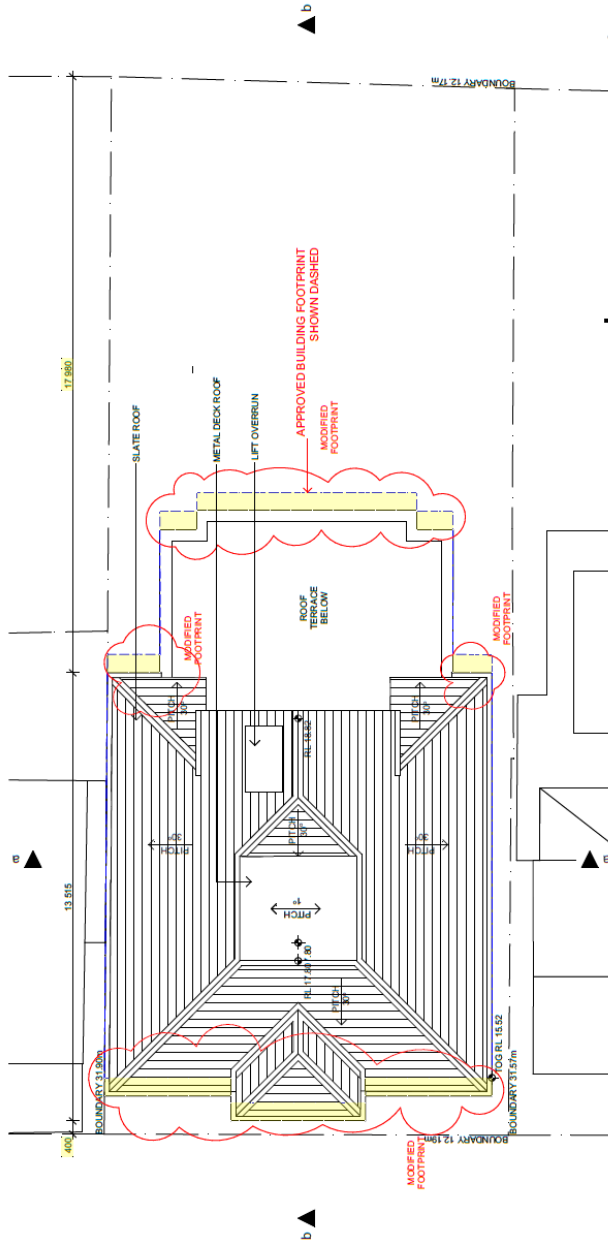
**Roof** - concrete slab on ground

**External wall** - cavity brick

**Internal wall** - cavity brick

**Roof** - concrete slab on ground

**Additional insulation required (R-Value)**  
 External wall - 1.5 (including construction) (down)  
 Internal wall - 0.25 (or 1.17 including construction)  
 Roof - 1.45 (sp) (roof 600 backed blanket (100 mm))  
 Slab - 0.25 (or 1.17 including construction)  
 Other specifications  
 Slab (slab absorbance > 0.70)



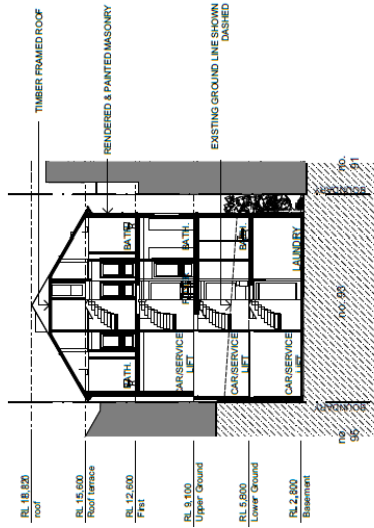
**ESNH**  
 DESIGN PTN LTD  
 1705DA/7B  
 March 2019  
 Sect. 4.55 Appl.  
 ACN 13437950

DWG NO. 1705DA/7B  
 SCALE 1:100  
 DATE March 2019  
 ISSUE Sect. 4.55 Appl.

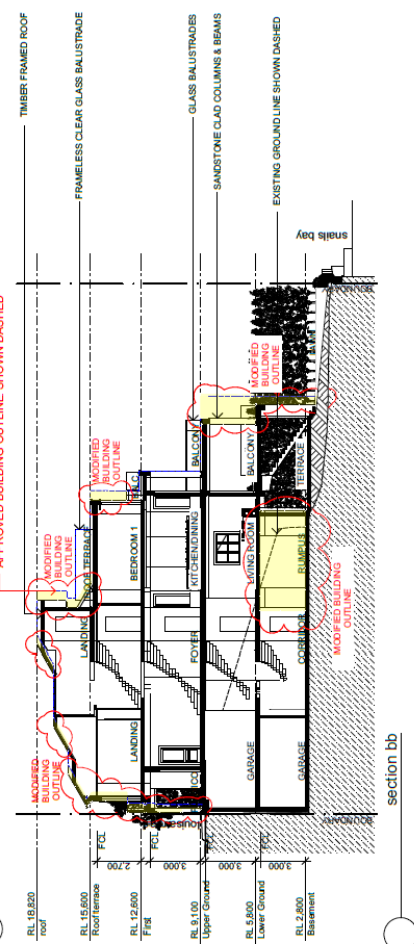
roof plan

BIOLLOTA HOUSE  
 93 LOUISA ROAD  
 BIRCHGROVE

NOTE  
WORKS PROPOSED UNDER THIS APPLICATION ARE SHADED YELLOW



section aa



section bb

**ESNH**  
DESIGN STUDIO  
P.O. Box 1337  
Roseville NSW 2057  
Tel: 02 9439 4444  
E: info@esnhd.com.au  
ABN: 74 127 388 007  
ACN: 134 97510

DWG NO. 1705 DA 10B  
SCALE 1:200  
DATE: March 2018  
ISSUE Sect: 4.55 Appl.

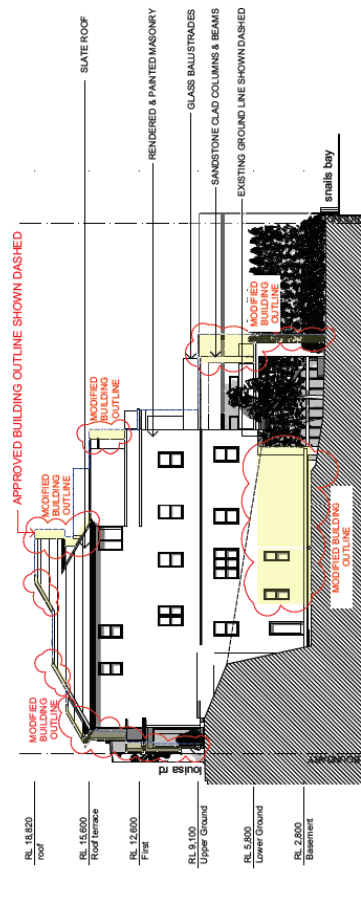
sections

BILOTTA HOUSE  
93 LOUISA ROAD  
BIRCH GROVE

**NOTE**  
WORKS PROPOSED UNDER THIS APPLICATION ARE SHADED YELLOW



front (north) elevation



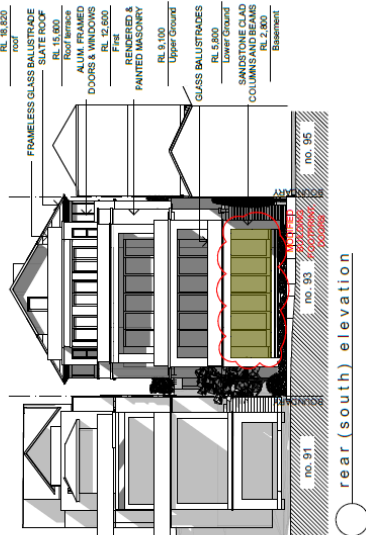
west elevation

**E S N H**  
DESIGN STUDIO  
P O BOX 1310  
ROSEVILLE NSW 2057  
t: 02 9439 4444  
e: info@esnhd.com.au  
ABN: 74 127 388 027  
ACN: 13 437 330

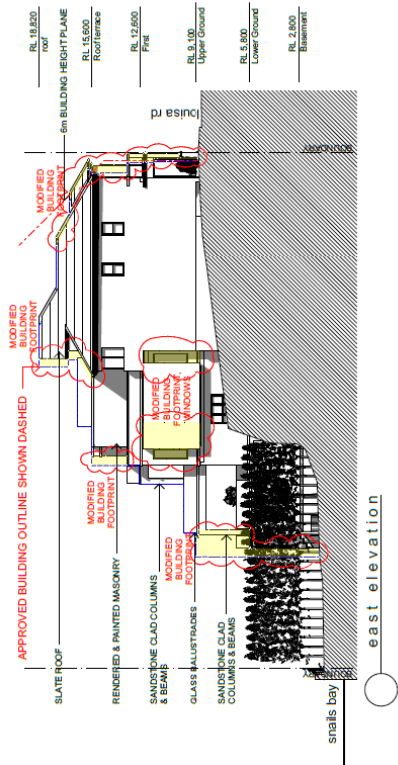
DWG NO. 1705DA08B  
SCALE 1:200(A3)  
DATE March 2019  
ISSUE Sect. 4.55 Appl.

elevations sheet 1 of 2

BILOTTA HOUSE  
93 LOUISA ROAD  
BIRCHGROVE



rear (south) elevation



east elevation

BILLOTTA HOUSE  
93 LOUISA ROAD  
BIRCHGROVE

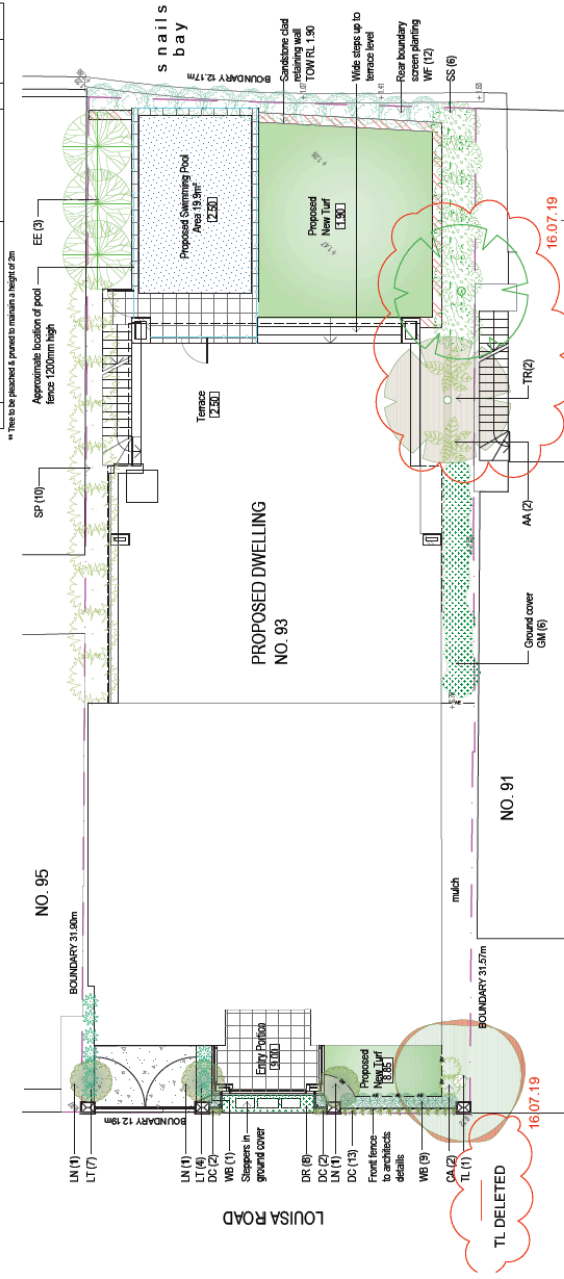
elevations sheet 2 of 2

**ESNH**  
DESIGN PTY LTD  
P.O. Box 287  
Merrimale NSW  
15118 437 266  
www.esnh.com.au  
ACN 114392500

17150A088  
DWG NO.  
SCALE  
DATE  
ISSUE

17150A088  
March 2019  
Sect. 4.55 Appl.

PROPOSED PLANT SCHEDULE			
KEY	BOTANICAL NAME	COMMON NAME	POT SIZE
TT	TREES		
EE	ELAEAGNUS SALICIFOLIA	OLIVE	45Lp
ER	ELAEAGNUS RETICULATUS	BULBERRY ASH	100Lp
LN	LAURUS NOBILIS MALES CHOICE	DRYER BAY TREE	25Lp
TL	TRISTANODIA LAURINA LUCIDUS	LUCIDUS WATER GUM	45Lp
SR	SHRUBS		
CA	CAJUPUT	WHITE CRESSA	1.5m
SP	SPYZZOAM AUSTRALIS PINKWALE	WINDSON LILLY PALLY	50
SS	SYZYGIUM AUSTRALIS SELECT FORM	SELECT FORM LILLY PALLY	4m
WT	WESTINGHOUSIA FRUTICOSA	WESTINGHOUSIA	200mm
WB	WESTINGHOUSIA FRUTICOSA PULSE BOX	AUSSELICIA WESTINGHOUSIA	100mm
AK	ACACIA SPERMATOPHYTES	BIRDS NEST FERN	2
DC	DIMELLA CHERILERA	RLIF FAKALLY	17
DR	DICHRONIA REPENS	ACREY WOOD	6
GR	GRASS	GRASS	100mm
LT	LOMANOPIA LONGIFOLIA TANKWA	TANKWA	0.8m
TT	TANKWA	TANKWA	11



LEGEND	
[Symbol]	BOUNDARY
[Symbol]	EXISTING LEVELS
[Symbol]	ALUMINIUM EDGE
[Symbol]	CONCRETE
[Symbol]	PROPOSED RETAINING WALL
[Symbol]	TURF
[Symbol]	PROPOSED LEVELS

DATE: 23/04/2019  
 SCALE: 1:100@A3  
 PROJECT NO: 181544

CLIENT: Mr Bilotta  
 ADDRESS: 83 Louisa Road, Birchgrove

DESIGNED BY: Mr Bilotta  
 DRAWN BY: Mr Bilotta

SPACE LANDSCAPE DESIGN  
 LA ANDSCAPE DESIGN

LANDSCAPE PLAN L-01

Rev. A

**Attachment C – Operational Development Consent of D/2018/25**

F Bilotta  
 C/- Esnh Design Pty Ltd  
 PO BOX 387  
 FORESTVILLE NSW 2087

Dear Sir/Madam

**PREMISES KNOWN AS: 93 LOUISA ROAD, BIRCHGROVE NSW 2041  
 APPLICATION NO: D/2018/25**

I refer to the Notice of Determination of Development Consent No. D/2018/25 for the above property issued on 4 December 2018

Condition 1 of the development consent was required to be satisfied prior to the consent becoming operational. It is advised that the information submitted on the following plans satisfies these conditions:

<b>Plan Reference</b>	<b>Drawn By</b>	<b>Dated</b>
Basement floor plan 1705DA02A	ESNH Design Pty Ltd	September 2018
Upper ground floor plan 1705DA04B	ESNH Design Pty Ltd	September 2018
First floor plan 1705DA05A	ESNH Design Pty Ltd	September 2018
Roof terrace plan 1705DA06B	ESNH Design Pty Ltd	September 2018
North and West Elevations 1705DA08B	ESNH Design Pty Ltd	September 2018
South and East Elevations 1705DA09B	ESNH Design Pty Ltd	September 2018
Section aa and Section bb 1705DA10B	ESNH Design Pty Ltd	September 2018

<b>Document Title</b>	<b>Prepared By</b>	<b>Dated</b>
Letter – Sydney Water Building Plan Approved – Subject to requirements	Greg Houston Plumbing Pty Ltd	13/11/18

These plans form part of the consent. The consent is operational from 4 December 2018.

I have enclosed an annotated copy of the conditions of consent for your information. If you require any further information please contact Denise Bengier between the hours of 8.30 a.m. to 10.00 a.m. Monday to Friday on 9392 5776

**Have you made a political donation?**

If you (or an associate) have made a political donation or given a gift to a Councillor, political party or candidate at the local government elections during the last two (2) years you may need to include with your application a full disclosure of this matter. For information go to Council's website at [www.leichhardt.nsw.gov.au/Political-Donations.html](http://www.leichhardt.nsw.gov.au/Political-Donations.html). If you have made a reportable donation, failure to provide a completed declaration with your application is an offence under the Environmental Planning and Assessment Act, 1979 for which you may be prosecuted.

Yours faithfully

A handwritten signature in black ink, appearing to be 'LM', written in a cursive style.

Luke Murtas  
MANAGER DEVELOPMENT ASSESSMENT

F Bilotta  
C/- Esnh Design Pty Ltd  
PO BOX 387  
FORESTVILLE NSW 2087

**NOTICE OF DETERMINATION OF  
DEVELOPMENT APPLICATION NO: D/2018/25  
Issued under the Environmental Planning and Assessment Act 1979  
(Section 4.18)**

**Annotated Copy – Operational Consent**

**Applicant Name:** F Bilotta

**Applicant Address:** C/- Esnh Design Pty Ltd  
PO BOX 387  
FORESTVILLE NSW 2087

**Land to be Developed:** **Lot 1 DP 770507, Lot 2 DP 770507, Lot 1 DP 972969,  
Lot 1 DP 947055  
93 Louisa Road, BIRCHGROVE NSW 2041**

**Proposed Development:** Demolition of existing dwelling and associated structures and remediation of site. Construction of a new dwelling with basement parking provided with a car lift and landscaping.

**Determination:** ***Approved Operational Consent***

**Date of Determination:** 12 June 2018

**Consent to Operate From:** ***4 December 2018***

**Consent to Lapse On:** 12 June 2023

The following conditions have been included in response to development considerations and to ensure a high standard of development having regard to the effect upon the environment.



**DEFERRED COMMENCEMENT – Satisfied 4 December 2018**

1. The following deferred commencement condition has been satisfied as of 4 December 2018.
  - a) [deleted]
  - b) Sydney Water Corporation approval shall be obtained for all works in the vicinity of the Sydney Water Corporation owned sewer pit and pipes on the site. A letter detailing Sydney Water Corporation approval and any conditions imposed shall be submitted and accepted by Council.
  - c) [deleted]
  - d) The eastern wall of the car/service lift is to be set back an additional 170mm further west so that it is setback 410mm from the eastern boundary and aligns with the eastern garage entrance/kitchen wall on the upper ground floor plan and eastern wall of the first floor to provide reasonable access to the western wall of the dwelling at 95 Louisa Road if required for maintenance.
  - e) The southern wall of the upper ground floor plan must be setback an additional 1 metre from the rear/southern boundary to align with the rear alignment of the upper ground level of 91 Louisa Road, Birchgrove.
  - f) The proposed rear facing first floor balcony is to be modified as follows:
    - i) The parts of the balcony to the east and west of the dwelling are not to be accessible. They shall either be converted to planter beds or a balustrade erected between the rear elevation of the dwelling and the southern edge of the balcony to prevent access to these areas.
    - ii) The central section of the balcony that extends approximately 2 metres from the rear elevation shall be cut back so that it aligns with the side sections and has a depth of approximately 1 metre to align with the first floor balcony at 91 Louisa Road, Birchgrove.
  - g) The southern balustrade of the Upper Ground floor rear facing “terrace” is to be in set approximately 1.5 metres from the rear/south to align with the balustrade of the adjoining property at this level at 91 Louisa Road, Birchgrove.
  - h) The trees proposed in the western setback must be relocated further east so that they are located in front of the proposed dwelling and do not block the public view corridor from Louisa Road to the water.
  - i) The finished floor level of all internal basement rooms shall be raised such that they are not less than RL2.8m AHD without raising the height of the building as a whole.
  - j) The level of the proposed terrace at basement level shall be raised to RL2.7m AHD without raising the height of the building as a whole.
  - k) The following design changes are required in the rear yard:
    - i) The proposed pool shall be deleted and replaced with lawn and/or landscaping.

- ii) The finished surface level of the proposed lawn and landscaping shall not exceed RL 1.5m AHD adjacent to the seawall.
  - iii) No retaining walls are permitted within 3.0m of the sea wall.
- l) The southern balustrade of the roof terrace is to be set back to align with the balustrade of the roof terrace of the adjoining dwelling house at 91 Louisa Road, Birchgrove.

The operational Development Consent will be issued by Council (in writing) after the applicant provides sufficient information to satisfy Council in relation to the conditions of the deferred commencement consent.

If the applicant fails to satisfy Council as to the above matters within 2 years from the date of determination this consent will lapse.

### CONDITIONS OF CONSENT

2. Development must be carried out in accordance with Development Application No. D/2018/25 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Demolition plan DA13	ESNH Design Pty Ltd	November 2017
Basement floor plan DA02	ESNH Design Pty Ltd	November 2017
Lower ground floor plan DA03	ESNH Design Pty Ltd	November 2017
Upper ground floor plan DA04A	ESNH Design Pty Ltd	April 2018
First floor plan DA05	ESNH Design Pty Ltd	November 2017
Roof terrace plan DA06A	ESNH Design Pty Ltd	April 2018
Roof plan DA07A	ESNH Design Pty Ltd	April 2018
Landscape Plan L-01-A	Space Landscape Designs	23/04/18
North and West Elevations DA08A	ESNH Design Pty Ltd	April 2018
South and East Elevations DA09A	ESNH Design Pty Ltd	April 2018
Section aa and Section bb DA10A	ESNH Design Pty Ltd	May 2018
Pool Section Plan DA15	ESNH Design Pty Ltd	January 2018

Document Title	Prepared By	Dated
BASIX Certificate 869219S	ESNH Design Pty Ltd	21/11/2017
Landscape specifications L-02-A	Space Landscape Designs	23/04/18
Finishes Board DA13	ESNH Design Pty Ltd	November 2017
Waste Management Plan	Eugenia Harley	20.11.12
Geotechnical report No. 17/3401B	STS GEnvironmental	December 2017
Remediation Action Plan	LG Consult	12/12/2017
Structural Engineers Report and Construction Methodology	Mance Arraj	1/12/2017

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

Where there is an inconsistency between approved elevations and floor plan, the elevation shall prevail.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

The existing elements (walls, floors etc.) shown to be retained on the approved plans shall not be removed, altered or rebuilt without prior consent of the consent authority.

Note: Carrying out of works contrary to the above plans and/ or conditions may invalidate this consent; result in orders, on the spot fines or legal proceedings.

This consent does not give approval to the construction of a swimming pool in the rear yard or the carrying out of any works to the existing stone seawall located to the rear of the site.

3. Consent is granted for the demolition of all built structures currently existing on the property, subject to strict compliance with the following conditions:

- a) The adjoining residents must be notified seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, site contact details/person, elements to be demolished and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.
- b) Written notice is to be given to the Principal Certifying Authority for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections must be undertaken by the Principal Certifying Authority:
  - i) A *pre commencement* inspection when all the site works are installed on the site and prior to demolition commencing.
  - ii) A *final* inspection when the demolition works have been completed.

**NOTE:** If Council is nominated as your Principal Certifying Authority 24-48 hours notice to carry out inspections is required. Arrangement for inspections can be made by phoning 9367 9222.

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: *Demolition of structures*.
- g) The hours of demolition work are limited to between 7:00am and 6:00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.

- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority.
- i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- j) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.
- k) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- m) Care must be taken during demolition to ensure that existing services on the site (i.e., sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense. Dial before you dig [www.1100.com.au](http://www.1100.com.au) should be contacted prior to works commencing.
- n) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
- o) Prior to demolition, a Work Plan must be prepared and submitted to the Principal Certifying Authority in accordance with the relevant provisions of Australian Standard 2601:2001 *Demolition of structures* by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- p) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
  - i) A WorkCover licensed contractor must undertake removal of all asbestos.
  - ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400 mm x 300 mm is to be erected in a visible position on the site to the satisfaction of Council.
  - iii) Waste disposal receipts must be provided to Council / Principal Certifying Authority as proof of correct disposal of asbestos laden waste.
  - iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
  - v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.

4. Remediation and validation of contaminated land must be carried out in accordance with State Environmental Planning Policy No. 55 – Remediation of land, the Contaminated Land Management Act 1997, Development Control Plan 2013 and the following documentation:

Document Title	Prepared By	Dated
Remediation Action Plan	Land and Groundwater Consulting Pty Ltd	12 December 2017

#### PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

5. To ensure reasonable privacy for the adjoining property, the following windows/glazing:

Window/glazing	Room	Elevation
W06	Kitchen	Eastern
W07	Lounge	Western
W13	Bedroom	Eastern

must be treated with one of the following privacy treatments:

- have a minimum sill height of 1.6m above finished floor level. or
- be permanently fixed (that is windows are not to swing or lift open) with obscure glazing (not frosted film on clear glazing) to a height of 1.6 metres above finished floor level; or
- provided with fixed external louvers with a density of 75% and have no individual opening more than 30mm wide, and have a total area of all openings that is less than 30 per cent of the surface area of the screen and be made of durable materials. Where fixed louvered screens are used, the screen structure must be securely fixed. The louvers may tilt open from a closed position to an angle of 45 degrees in either a downward or upward position, depending on the sightlines that are to be restricted.

The treatment must ensure that the ventilation requirements of the Building Code of Australia are met. If one treatment cannot satisfy the requirements, an alternative in the list above is to be used.

Details must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority. The privacy measures must be maintained for the life of the building.

6. In accordance with the provisions of the *Environmental Planning and Assessment Act 1979* construction works approved by this consent must not commence until:
- a) A Construction Certificate has been issued by Council or an Accredited Certifier. Either Council or an Accredited Certifier can act as the “Principal Certifying Authority.”
  - b) A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment.
  - c) At least two days notice, in writing has been given to Council of the intention to commence work.

The documentation required under this condition must show that the proposal complies with all Development Consent conditions and is not inconsistent with the approved plans, the Building Code of Australia and the relevant Australian Standards.

7. A contribution pursuant to the provisions of Section 7.11 of the *Environmental Planning and Assessment Act 1979* for the services detailed in column A and for the amount detailed in column B must be made to Council prior to the issue of a Construction Certificate:

Column A	Column B
Open space and recreation	\$6,829.00
Community facilities and services	\$1,043.00
<b>Total Contribution</b>	<b>\$7,872.00</b>

Payment will only be accepted in the form of cash, bank cheque or EFTPOS / Credit Card (to a maximum of \$10,000). It should be noted that personal cheques or bank guarantees cannot be accepted for Section 7.11 Contributions. Contribution Plans may be inspected on Council's website [www.leichhardt.nsw.gov.au](http://www.leichhardt.nsw.gov.au) or a copy purchased at the Customer Service counter in Council's Administration Centre, 7-15 Wetherill Street, Leichhardt, during business hours.

A receipt demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

8. Any air conditioning unit on the site must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the Protection of the Environment (Operations) Act 1997.

The system/s shall be operated as follows:

- a) Domestic air conditioners must not be audible in nearby dwellings between:
- i) 10:00pm to 7:00am on Monday to Saturday: and
  - ii) 10:00pm to 8:00am on Sundays and Public Holidays.
- b) At any other time the systems and associated equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background  $L_{A90, 15min}$  noise level, measured in the absence of the noise source/s under consideration by 5dB(A).

The source noise level shall be assessed as an  $L_{Aeq, 15min}$  and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

Air conditioning units must be installed in accordance with plans referenced in condition 1 or to satisfy provisions of the State Environmental Planning Policy (Exempt and Complying Codes) 2008.

Details demonstrating compliance with the requirements of this condition and the acoustic measures to be employed to achieve compliance with this condition are to be submitted for approval to the Principal Certifying Authority prior to the issue of any Construction Certificate.

9. The proposed structure(s) to be erected must stand wholly within the boundaries of the subject site (with the exception of any works to the sea wall covered by Condition 1). No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach onto adjoining properties or upon public property (with the exception of any works to the sea wall covered by Condition 1).

To ensure that the location of the building satisfies the provision of the approval, the footings and walls within one (1) metre of the property boundaries must be set out by / pegged out by a registered surveyor in accordance with the approved plans, prior to the issue of a construction certificate.

To ensure that the location of the building satisfies the provision of the approval, a check survey certificate shall be submitted to the Certifying Authority either prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, indicating the location of the building with respect to the boundaries of the site.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

10. In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more. The Long Service Levy is payable prior to the issue of a Construction Certificate.

Details demonstrating compliance are to be shown on the plans submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate

11. All plant and associated equipment must be located within the approved building envelope and is not be located on the roof. Details on the location of all plant and equipment must be consistent with the approved plans and provided prior to the issue of a Construction Certificate.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

12. Prior to the issue of a Construction Certificate, the Certifying Authority must be satisfied that all outdoor lighting is designed and positioned to minimise any detrimental impact upon the amenity of other premises and adjacent dwellings and that the outdoor lighting complies with the relevant provisions of Australian Standard AS 1158.3:2005 *Pedestrian area (Category P) lighting – Performance and design requirements* and Australian Standard AS 4282:1997 *Control of the obtrusive effects of outdoor lighting*.

13. If any excavation extends below the level of the base of the footings of a building on an adjoining property, the person causing the excavation:

- a) Must preserve and protect the adjoining building from damage
- b) Must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- c) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this condition, the allotment of land includes public property.

- 14. Prior to the issue of the Construction Certificate the Principal Certifying Authority is to ensure that the plans state that no high front gutters will be installed.
- 15. A Soil and Water Management Plan must be provided prior to the issue of a Construction Certificate. The Soil and Water Management plan must be designed to be compatible with the document Planning for Erosion and Sediment Control on Single Residential Allotments or Managing Urban Stormwater–Soils and Construction Volume 1 (2004) available at [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au) and the Construction Management and Traffic Management Plan referred to in condition/s of this Development Consent and must address, but is not limited to the following issues:
  - a) Minimise the area of soils exposed at any one time.
  - b) Conservation of top soil.
  - c) Identify and protect proposed stockpile locations.
  - d) Preserve existing vegetation. Identify revegetation technique and materials.
  - e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner.
  - f) Control surface water flows through the site in a manner that:
    - i) Diverts clean run-off around disturbed areas;
    - ii) Minimises slope gradient and flow distance within disturbed areas;
    - iii) Ensures surface run-off occurs at non erodable velocities;
    - iv) Ensures disturbed areas are promptly rehabilitated.
  - g) Sediment and erosion control measures in place before work commences.
  - h) Materials are not tracked onto the road by vehicles entering or leaving the site.
  - i) Details of drainage to protect and drain the site during works.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

- 16. The approved plans must be checked online with Sydney Water Tap In to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. A copy of this approval must be supplied with the Construction Certificate application. Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 132092.

The Certifying Authority must ensure that the appropriate approval has been provided prior to the issue of a Construction Certificate.



17. To ensure that adequate provision is made for ventilation of the building, mechanical and/or natural ventilation shall be provided.

The ventilation systems are to be designed, constructed and operated in accordance with the:

- The Building Code of Australia,
- Australian Standard AS 1668 Part 1 – 1998,
- Australian Standard AS 1668 Part 2 – 2012,
- Australian Standard 3666.1 – 2011,
- Australian Standard 3666.2 – 2011; and
- Australian Standard 3666.3 - 2011.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority prior to the release of a Construction Certificate. The system must be located in accordance with the approved plans and/or within the building envelope, design and form of the approved building. Any modifications to the approved plans required to house the system must be the subject of further approval from Council (the consent authority).

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

18. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan (where applicable):

- a) A plan view of the entire site and frontage roadways indicating:
- i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
  - ii) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
  - ii) The locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council.
  - iv) Location of any proposed crane and concrete pump and truck standing areas on and off the site (and relevant approvals from Council for plant on road).
  - v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
  - vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
  - vii) An on-site parking area for employees, tradespersons and construction vehicles as far as possible.
  - viii) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
  - ix) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
  - x) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be

designed by a Chartered Civil Engineer, with National Professional Engineering Registration (NPER) in the construction of civil works or a survey company of Registered Surveyors with “preliminary accreditation” from the Institution of Surveyors New South Wales Inc. or an accredited certifier.

- b) **Noise and Vibration**  
During excavation, demolition and construction phases, noise and vibration generated from the site must be controlled. If during excavation, rock is encountered, measures must be taken to minimise vibration, dust generation and impacts on surrounding properties. Refer to Environmental Noise Management Assessing Vibration: a technical Guideline (Department of Environment and Conservation, 2006) [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au) for guidance and further information. Advice should be obtained from a suitably qualified Geotechnical Engineer. .
- c) **Occupational Health and Safety**  
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.
- d) **Toilet Facilities**  
During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site. Details must be provided on plan.
- e) **Traffic control plan(s) for the site**  
All traffic control plans must be in accordance with the Roads and Maritime Services publication “Traffic Control Worksite Manual” and prepared by a suitably qualified person (minimum ‘red card’ qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of 4 weeks prior to the activity proposed being undertaken.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

- 19. Prior to issue of the Construction Certificate the applicant shall have a Geotechnical / Civil Engineering report prepared which addresses (but is not limited to) the following:
  - i. The type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs shall be related to Australian Height Datum.
  - ii. The appropriate means of excavation/shoring in light of point (i) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations/buildings shall be discussed and ameliorated.
  - iii. The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site).

- iv. The existing groundwater levels in relation to the basement structure, where influenced.
- v. Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by a suitably qualified consulting Geotechnical / Hydrogeological Engineer with previous experience in such investigations and reporting.

The report, satisfying the requirements of this condition, must be provided as part of the supporting documentation lodged with the Principal Certifying Authority for approval of the Construction Certificate application. The professional recommendations of the report shall be implemented in full during the relevant stages of excavation and construction.

- 20. The person acting on this consent shall submit to the Principal Certifying Authority a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the issue of a Construction Certificate.
- 21. A Foreshore Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided prepared / prior to the issue of a Construction Certificate. The Plan must be prepared / amended to make provision for the following:
  - a) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. Such recommendations must be consistent with the approved development. The flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The precautions shall include but not be limited to the following:
    - i) Types of materials to be used to ensure the structural integrity of the building and the sea wall to immersion and impact of velocity and debris.
    - ii) Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections.
    - iii) Flood warning signs/depth indicators for areas that may be inundated
    - iv) A flood evacuation strategy.
    - v) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.

All works must be designed to comply with the Standard for Construction of Buildings in Flood Hazard Areas in accordance with Section 3.10.3 of the Building Code of Australia. Note that some terms defined in this standard have equivalent meaning to terms used in Council's Development Control Plan as listed below.

<b>Building Code of Australia</b>	<b>of Development Control Plan 2013</b>
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<i>Defined flood level (DFL)</i>	<i>100 year Average Recurrence Interval flood level</i>
<i>Defined flood event (DFE)</i>	<i>100 year Average Recurrence Interval flood</i>
<i>Flood hazard level (FHL)</i>	<i>Foreshore Planning Level (FPL)</i>

- b) Specify the architectural and structural plans upon which the above recommendations have been incorporated.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

- 22. The approved Architectural plans shall be amended to incorporate the recommendations of the Foreshore Risk Management Plan prepared under Condition 22. The plans addressing the requirements of this condition must be provided prior to the issue of a Construction Certificate. The design must be prepared to make provision for the following:

- a) Specification of materials
- b) Waterproofing works, where applicable.

No changes to the external form or appearance of the development contrary to the approved plans shall occur except as identified by this condition and Condition 5. Any changes to such must be subject to separate approval in accordance with Section 4.55 of the Environmental Planning and Assessment Act.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

- 23. Engineering design plans prepared by a qualified practicing Structural Engineer must be prepared and incorporate the following recommendations of the Foreshore Risk Management Plan prepared under Condition 22.

The design must be prepared to make provision for the following:

- a) Structural integrity of all structures from immersion and/or impact of velocity and debris.
- b) Waterproofing works, where applicable.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

- 24. A stormwater drainage design prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be prepared/amended to make provision for the following:

- a) Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) by gravity to Snail's Bay.
- b) Comply with Council's Stormwater Drainage Code.
- c) Charged or pump-out stormwater drainage systems are not permitted.

- d) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
- e) An overland flowpath must be provided within the setback to the western site boundary between the Louisa Road frontage of the dwelling and Snail's bay. The front yard and driveway at the Louisa Road frontage must be graded so that bypass flows from the site drainage system are directed to the overland flowpath.
- f) A minimum 150mm step up must be provided between the finished surfaces of all external courtyards and the adjacent internal floor levels.
- g) All plumbing within the site must be carried out in accordance with Australian Standard *AS/NZS3500.3.2015 Plumbing and Drainage – Stormwater Drainage*.
- h) The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.
- i) Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.
- j) An inspection opening or stormwater pit must be installed inside the property adjacent to the boundary for all stormwater outlets.
- k) All redundant stormwater pipelines within the footpath area must be removed and the footpath and kerb reinstated.

The design must be certified as compliant with the terms of this condition by a suitably qualified Civil Engineer.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

25. An integrated structural and geotechnical engineering design and report must be prepared by a qualified practicing Structural and Geotechnical Engineer prior to the issue of a Construction Certificate. The design and report must be prepared/amended to make provision for the following:
- a) The basement must be of fully tanked construction and be entirely waterproofed.
  - b) The existing subsurface flow regime in the vicinity of the development must not be significantly altered as a result of the development.
  - c) Retaining walls must be entirely self-supporting in the event that excavation is undertaken within the road reserve adjacent to the property boundary to the depth of the proposed structure.
  - d) All components of the structure, including subsoil drainage, must be set back inside the property boundary.

- e) Any retaining walls must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment.
- f) Recommendations regarding method of excavation and construction, vibration emissions and identifying risks to existing structures or those on adjoining or nearby property.
- g) No adverse impact on surrounding properties or the adjacent road.
- h) Relevant geotechnical/subsurface conditions of the site, as determined by full geotechnical investigation.

The design must be certified as compliant with the terms of this condition by a suitably qualified Structural and Geotechnical Engineers.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

26. The vehicular crossing and driveway ramp to the site shall be designed to satisfy the ground clearance template (Figure C1) from AS/NZS 2890.1-2004 *Parking Facilities: Off-street car parking*. A long section, along both sides of the proposed vehicular crossing and ramp, drawn at a 1:20 natural scale, shall be submitted to and approved by Council before the issue of a Construction Certificate. The long section shall begin from the opposite kerb line of the adjacent road to a minimum of 3 metres into the property. The long section approved by Council shall define the Alignment Levels at the property boundary.
27. The design of the vehicular access and off street parking facilities must comply with Australian Standard AS/NZS2890.1-2004 *Parking Facilities – Off-Street Car Parking*. Details demonstrating compliance are to be provided prior to the issue of a Construction Certificate. The following specific issues must be addressed in the design:
- a) The floor/finished levels within the property must be adjusted to ensure that the levels at the boundary comply with the Alignment Levels issued with this consent.
  - b) The garage slab or driveway must rise within the property to be a minimum 230mm above the adjacent road gutter level. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.
  - c) A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
  - d) Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.
  - e) The garage including Garage Entrance and Car/Service Lift must have minimum clear internal dimensions of 6000 x 3000mm (length x width) and an door opening width of 2800mm to the driveway. The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not

encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004.

- f) The external form and height of the approved structures must not be altered from that depicted on the approved plans.

The design must be certified by a suitably qualified Civil Engineer as complying with the above requirements.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate and provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

- 28. The car lift and vehicular access design and specification must be certified by a suitably qualified Civil Engineer with NPER registration and be provided prior to the issue of a Construction Certificate as meeting the following requirements:
  - a) The car lift shall have the internal dimensions not less than shown on the approved plans or as amended by Condition 5.
  - b) A minimum of 2200mm headroom must be provided throughout the car lift
  - c) Ensure operating noise and vibration levels of the car lift are limited to acceptable levels in accordance within appropriate standards
  - d) Provide manufacturer specifications of the car lift
  - e) Provide operational details and maintenance plan of the entire car lift facility, demonstrating safe and functional access for all users, include details of safety protection systems for users and non-users.

**PRIOR TO WORKS COMMENCING OR ISSUE OF A CONSTRUCTION CERTIFICATE (WHICHEVER OCCURS FIRST)**

- 29. Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.
- 30. Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit (FOOT)	\$7,860
Inspection fee (FOOTI)	\$225

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

The inspection fee is required for Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.

The amount nominated is only current for the financial year in which the consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

- 31. A dilapidation report including a photographic survey of the following adjoining properties must be provided to Principal Certifying Authority prior to any demolition or works commencing on the site or the issue of a Construction Certificate (whichever comes first). The dilapidation report must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property
95 Louisa Road, Birchgrove
91 Louisa Road, Bircghrove

If excavation works are proposed the dilapidation report must report on the visible and structural condition of neighbouring structures within the zone of influence of the excavations. This zone is defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report is to be prepared by a practising Structural Engineer. All costs incurred in achieving compliance with this condition shall be borne by the applicant. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written correspondence from the owners of the affected properties or other evidence must be obtained and



submitted to the Principal Certifying Authority in such circumstances that demonstrates such documentation has been received. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

32. Prior to the commencement of works or issue of a Construction Certificate (whichever occurs first), a Noise and Vibration Management Plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to the Principal Certifying Authority.

The Plan is to identify amelioration measures to ensure the noise and vibration levels will be compliant with the relevant Australian Standards and Assessing Vibration: A technical guideline (available [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)). The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works. The Plan shall address, but not be limited to, the following matters:

- a) Identification of activities carried out and associated noise sources.
- b) Identification of potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment.
- c) Determination of appropriate noise and vibration objectives for each identified sensitive receiver.
- d) Noise and vibration monitoring, reporting and response procedures.
- e) Assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles.
- f) Description of specific mitigation treatments, management methods and procedures to be implemented to control noise and vibration during construction.
- g) Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency (consistent with conditions of this consent).
- h) Procedures for notifying residents of construction activities likely to affect their amenity through noise and vibration.
- i) Contingency plans to be implemented in the event of non-compliances and/or noise complaints.

33. An experienced suitably qualified and experienced Heritage Architect must be commissioned to assist and to provide advice on the following elements of the approved development, **and to oversee the following component of the project:**

**The salvaging of certain aspects of the historic fabric within the interior of the dwelling - unique pressed metal wall and ceiling linings in the bedrooms; and the front façade windows as recommended by the applicant's heritage consultant.**

Details of the engagement of the experienced Heritage Architect in accordance with this condition are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Prior to the issue of an Occupation Certificate the Heritage Architect is to certify that the works have been carried out in accordance with these requirements.

Details of the engagement of the experienced Heritage Architect and copy of the certification in accordance with this condition are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

34. Prior to the commencement of demolition or any works or issue of a Construction Certificate (whichever occurs first), the Principal Certifying Authority shall be satisfied that an **Archival Record, as recommended by the applicant's heritage consultant**, has been completed and 3 copies have been submitted to Council for the following properties:

**Address/Building**

**No.93 Louisa Road, Birchgrove.**

The report must be prepared by a suitably qualified and experienced heritage consultant, be consistent with the Heritage Office 'Photographic Recording Of Heritage Items Using Film Or Digital Capture' and must contain the following minimum requirements:

- a) Title page with subject, author, client, date, copyright etc.
- b) Statement of why the record was made
- c) Outline history of the item and associated sites, structures and people.
- d) Statement of heritage significance of the items in accordance with the Burra Charter and the Heritage Inventory.
- e) Inventory of archival documents related to the item and their location (eg company records, original drawings, photography), when available.
- f) Location plan showing relationship to surrounding geographical features, structures, roads etc. Include a north point.
- g) Floor plans/site plans cross-referenced to photographs and showing the order and orientation in which the photos were taken. Name the relevant features, structures and spaces. Show a north point.

- h) Photographic record, labelled and cross-referenced to floor / site plans and accompanied by informative catalogues and two copies of proof sheets. Images should include:
- View to and from the site (possible from four compass points)
  - Views showing relationships to other relevant structures, landscape features and movable items.
  - All external elevations.
  - Views of all external and internal spaces (e.g. courtyards, rooms, roof spaces etc).
  - External and internal detail (e.g. joinery, construction joints, decorative features, paving types etc).

Selected prints to give an overall picture of the item may be required. They should be mounted and labelled.

- i) Colour slides/archival quality prints. One set of slides mounted in archival stable slide pockets or 10.5 x 14.8cm prints on archival quality paper and archivally stable inks, clearly labelled and cross-referenced to base plans. Images should include:
- Views to and from the site and/or the heritage item.
  - Views and details of external and internal elements and colour schemes as appropriate.

Two (2) hard copies and one (1) electronic copy (including digital copies of images – not scanned copies) of the report must be submitted to Council; one of the hard copies shall contain negatives (if using film) or DVD with digital copies of photos (if using digital). A written acknowledgment from the Consent Authority (Leichhardt Council) must be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or commencement of works (whichever occurs first).

35. Site cranes and hoists may be erected within the boundaries of the site subject to compliance with the relevant provisions of Australian Standard AS 1418:2005 *Crane, hoists and winches*, Australian Standard AS 2549:1996 *Cranes (including hoists and winches)* and Australian Standard AS 2550:2002 *Cranes, hoists and winches*.

Cranes must not swing or hoist over any public property unless the relevant approval under Local Government Act 1993, Crown Lands Act 1989, or the Roads Act 1993 has been obtained prior to the commencement of works.

The use of the cranes and hoists must comply with the approved hours of construction and/or Roads Act approval. The cranes must not be illuminated outside approved working hours other than safety beacons required by the Civil Aviation Safety Authority. No illuminated signs are to be erected upon or displayed upon any crane.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate or works commencing (whichever occurs first).

36. Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:
- a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
  - b) A concrete pump across the roadway/footpath
  - c) Mobile crane or any standing plant
  - d) Skip bins
  - e) Scaffolding/Hoardings (fencing on public land)
  - f) Public domain works including vehicle crossing, kerb and guttering, footpath, stormwater, etc.
  - g) Awning or street verandah over footpath
  - h) Partial or full road closure
  - i) Installation or replacement of private stormwater drain, utility service or water supply

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities.

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity or issue of the Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

37. Council will not approve permanent anchors in the road reserve. Temporary anchors may be considered in shallow environments where they are to be removed during construction.

If you are seeking to use temporary anchors, you should make a request for approval for a Permit under Section 138 of the Roads Act 1993. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:

- a) Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross sectional details where appropriate.
- b) Demonstrate how the temporary anchors will be removed or immobilised replaced by full support from structures within the subject site by completion of the works.

- c) The report must be supported by suitable geotechnical investigations to the efficacy of all design assumptions.

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity or issue of the Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

#### **PRIOR TO THE COMMENCEMENT OF WORKS**

38. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form (available on Council's web page) and details of the appointed Principal Certifying Authority shall be submitted to Council.
39. Prior to the commencement of works, a sign must be erected in a prominent position on the site (for members of the public to view) on which the proposal is being carried out. The sign must state:
  - a) Unauthorised entry to the work site is prohibited.
  - b) The name of the principal contractor (or person in charge of the site) and a telephone number at which that person may be contacted at any time for business purposes and outside working hours.
  - c) The name, address and telephone number of the Principal Certifying Authority for the work.

Any such sign must be maintained while the work is being carried out, but must be removed when the work has been completed.

Photographic evidence demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority and Council for records purposes prior to the commencement of any onsite work.

40. The site must be secured with temporary fencing prior to any works commencing.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public property to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. Additionally an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property, where necessary.

Separate approval is required under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property. Approvals for hoardings, scaffolding on public land must be obtained and clearly displayed on site for the duration of the works.

Any hoarding, fence or awning is to be removed when the work is completed and must be maintained clear of any advertising.

41. The *Home Building Act 1989* requires that insurance must be obtained from an insurance company approved by the Department of Fair Trading prior to the commencement of works approved by this Development Consent.

A copy of the certificate of insurance must be submitted to the Certifying Authority prior to the works commencing.

If the work is to be undertaken by an owner-builder, written notice of their name and owner-builder permit number must be submitted to the Certifying Authority.

In all other cases, written notice must be given to the Certifying Authority of:

- a) the name and licence number of the principal contractor; and
- b) reasons why a certificate of insurance is not required.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

42. An Asbestos Survey prepared by a suitably qualified Occupational Hygienist shall be prepared for the premises. The Survey is to incorporate appropriate Asbestos removal and disposal methods in accordance with the requirements of WorkCover NSW, NSW Environmental Planning and Assessment Amendment (Asbestos) Regulation 2009 and NSW Environment Protection Authority, Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)] and conditions of this consent.

A copy of any WorkCover approval documents is to be included as part of the documentation.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to any works on site commencing or the issue of the Construction Certificate (whichever occurs first).

43. The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Application for Construction of Vehicle Crossing and Public Domain Works – Step 2' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

#### **DURING WORKS**

44. Alignment levels for the site at all pedestrian access locations shall match the existing back of footpath levels at the boundary.
45. Unless otherwise approved by Council, excavation, demolition, construction or subdivision work shall only be permitted during the following hours:
- a) 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
  - b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
  - c) at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

In the case that a standing plant or special permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving shall be limited to:

8:00 am to 12:00 pm, Monday to Saturday; and  
2:00 pm to 5:00 pm Monday to Friday.

The Proponent shall not undertake such activities for more than three continuous hours and shall provide a minimum of one 2 hour respite period between any two periods of such works.

“Continuous” means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

46. A copy of the approved plans and this consent must be kept on site for the duration of site works and in the case of any commercial or industrial premise for the duration of the use/trading. Copies shall be made available to Council Officer's upon request.
47. The development must be inspected at the following stages by the Principal Certifying Authority during construction:
  - a) after excavation for, and prior to the placement of, any footings, and
  - b) prior to pouring any in-situ reinforced concrete building element, and
  - c) prior to covering of the framework for any floor, wall, roof or other building element, and
  - d) prior to covering waterproofing in any wet areas, and
  - e) prior to covering any stormwater drainage connections, and
  - f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
48. Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.
49. All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent them from being dangerous to life or

property and in accordance with the design of a suitably qualified structural engineer.

If excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must:

- a) Preserve and protect the building from damage.
- b) If necessary, underpin and support the building in an approved manner.
- c) Give at least seven (7) days notice to the adjoining owner before excavating, of the intention to excavate within the proximity of the respective boundary.

In this condition, the allotment of land includes public property.

Any proposed method of support to any excavation adjacent to adjoining properties or any underpinning is to be designed by a Chartered Civil Engineer, with National Professional Engineering Registration (NPER) in the construction of civil/structural works. Copies of the design plans must be provided to the relevant adjoining property owner/s prior to commencement of such works. Prior to backfilling, any method of support constructed must be inspected by the designing Engineer with certification provided to all relevant parties.

50. Any soil proposed to be disposed off site must be classified, removed and disposed of in accordance with the *EPA Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-Liquid Wastes 1999* and the *Protection of the Environmental Operations Act 1997*.

Any soil, which fails to meet the criteria, is not to be disposed of off-site unless agreed to in writing by the NSW Environmental Protection Authority (EPA). Results of the testing are to be forwarded to Leichhardt Council and the Environmental Protection Authority (EPA) for acknowledgement before any off-site disposal and before proceeding with any construction works.

51. Building materials and machinery are to be located wholly on site unless separate consent (Standing Plant Permit) is obtained from Council/ the roads authority. Building work is not to be carried out on the footpath.

Construction materials and vehicles shall not block or impede public use of the footpath or roadway.

52. Construction material and vehicles shall not block or impede public use of footpaths or roadways.

53. The site must be appropriately secured and fenced at all times during works.

54. In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the demolition, construction or operation/use of the development.

55. Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.



56. Vibration caused by excavation and construction at any residence or structure outside the site must be limited to:
- a) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and
  - b) for human exposure to vibration, the evaluation criteria set out in the Environmental Noise Management Assessing Vibration: a Technical Guideline (Department of Environment and Conservation, 2006).

Vibratory compactors must not be used in the vicinity of residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified above.

57. The following replacement trees must be planted:

Tree/species	Quantity	Location
In accordance with Landscape plan prepared by SPACE Landscape Designs Pty Ltd, Project No. 181544, dated 23/04/2018.		

The minimum pot size at time of planting will be equivalent to 75 litre (min) containerised stock. The tree(s) is/are to conform to the AS 2303—*Tree Stock for Landscape Use*.

Council encourages the uses of replacement trees that are endemic to the Sydney Basin to increase biodiversity in the local environment and provide a natural food source for native birds and marsupials. Note: Any replacement tree species must not be a palm tree species or be a plant declared to be a noxious weed under the Noxious Weeds Act 1993 or tree species listed as an exempt species under Section C1.14 (Tree Management) of the Leichhardt Development Control Plan 2013.

58. No activities, storage or disposal of materials taking place beneath the canopy of any tree protected under Council's Tree Management Controls at any time.
59. No trees on public property (footpaths, roads, reserves etc) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

Prescribed trees protected by Council's Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent.

**PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

60. An Occupation Certificate must be obtained prior to any use or occupation of the development or part thereof. The Principal Certifying Authority must ensure that all works are completed in accordance with this consent including all conditions.
61. A second Dilapidation Report including photos of any damage evident at the time of inspection must be submitted after the completion of works. A copy of this Dilapidation Report must be given to the property owners referred to in this Development Consent. The report must:
- Compare the post construction report with the pre-construction report required by these conditions,

- Clearly identify any recent damage and whether or not it is likely to be associated with the development works including suggested remediation methods.

A copy must be lodged with Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate. Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issuing of any Occupation Certificate

62. A street number must be clearly displayed at the ground level frontage of the building prior to the issue of an Occupation Certificate. A separate application must be made to Council if new street numbers or a change to street numbers is required.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

63. All allotments involved in this proposal must be consolidated into one allotment. Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Evidence of registration shall be submitted to Council or the Principal Certifying Authority prior to the issue of an Occupation Certificate.

64. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious weed species and planting of canopy trees, have been undertaken in accordance with the approved landscape plan and/or conditions of Development Consent.

65. All letter boxes must be constructed and located in accordance with the relevant provisions of Australian Standard AS/NZS 4253:1994 *Mailboxes* and to Australia Post's satisfaction. Work is to be completed prior to the issue of any Occupation Certificate.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

66. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.

67. Prior to the release of an Occupation Certificate, the Principal Certifying Authority must be satisfied that the development complies with:

- the approved plans;
- BASIX certificate (where relevant),
- approved documentation (as referenced in this consent); and
- conditions of this consent.

68. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all works have been completed in accordance with the approved Waste Management Plan referred to in this development consent.

Proof of actual destination of demolition and construction waste shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

69. Any soil proposed to be disposed off site must be classified, removed and disposed of in accordance with the *EPA Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-Liquid Wastes 1999* and the *Protection of the Environmental Operations Act 1997*.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Occupation Certificate.

70. To ensure the development is constructed in accordance with the approved plans, a Check Survey prepared by a registered surveyor to Australian Height Datum (AHD) shall be prepared on completion of the building works. The survey shall be submitted to the Principal Certifying Authority who must be satisfied that the following are consistent and no higher or closer than that depicted on the approved plans prior to the issue of an Occupation Certificate.
- a) Level of the floor/terrace/lawn in relation to the levels on the site (all levels are to be shown relative to Australian Height Datum);
  - b) Ridge heights of the building and gutters.

Where there is a difference in the above RL's / dimensions /degree between that of the survey and the approved plans and the survey indicates the constructed development is larger/higher/closer than the approved development, an application under Section 4.55 of the Environmental Planning and Assessment Act 1979 shall be submitted to Council for consideration of the amendments.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

71. A validation report shall be prepared by a suitably qualified Environmental Consultant and be submitted to Council upon completion of remediation works and prior to the site being occupied. The validation report shall be prepared in accordance with relevant NSW Environment Protection Authority guidelines, including the guidelines 'Consultants Reporting on Contaminated Sites' and shall include :
- Description and documentation of all works performed
  - Results of validation testing and monitoring
  - Validation results if any imported fill was transferred to site
  - Demonstrate how all agreed clean-up criteria and relevant regulations have been satisfied

Confirmation and justification as to the suitability of the site for the proposed use and the potential for off site migration of any residual contaminates.

72. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious weed species and planting of canopy trees, have been undertaken in accordance with the approved landscape plan and/or conditions of Development Consent.
73. Light duty concrete vehicle crossing, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" must be reconstructed at the vehicular access location to match the new driveway and garage before the issue of the Occupation Certificate and at no cost to Council.

74. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all aspects of the foreshore risk management plan have been implemented in accordance with the approved design, conditions of this consent and relevant Australian Standards.

Certification by a qualified practicing Civil Engineer this condition has been complied with must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

75. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.

Works-as-executed plans of the stormwater drainage system, certified by a Registered Surveyor, together with certification by a qualified practicing Civil Engineer to verify that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards, shall be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

The works-as-executed plan(s) must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifying Authority stamped Construction Certificate plans.

The Plan must be prepared by a suitably qualified professional and provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

76. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.

Certification by a qualified practicing Civil Engineer that the vehicular access and off street parking facilities have been constructed in accordance the development consent and with relevant Australian Standards must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

77. Prior to issue of the Occupation Certificate the person acting on this consent shall obtain from Council a compliance Certificate(s) stating that all Road, Footpath, Vehicle Crossing and Public Domain Works on Council property required to be undertaken as a result of this development, including removal of rock anchors, have been completed satisfactorily and in accordance with Council approved plans and specifications.

78. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.

79. Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before the issue of the Occupation Certificate.

**ONGOING CONDITIONS OF CONSENT**

80. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. dwelling house without the prior consent of the Council unless the change to another use is permitted as exempt or complying development under *Leichhardt Local Environment Plan 2013* or *State Environmental Planning Policy (Exempt and Complying Codes) 2008*.

The use of the premises as a dwelling house is defined under the *Leichhardt Local Environmental Plan 2013*.

81. The canopy replenishment trees required by this consent are to be maintained in a healthy and vigorous condition until they attain a height of 6 metres whereby they will be protected by Council's Tree Management Controls. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species within 2 months.
82. The use of the premises shall not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage other premises.
83. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the Environment Protection Authority's Technical Guidelines for Assessing Vibration.
84. The public view corridor from Louisa Road to Snails Bay is to be maintained.
85. The Foreshore Risk Management Plan approved with the Occupation Certificate must be implemented and kept in a suitable location on site at all times.
86. The basement level terrace shall not be enclosed, walled or otherwise altered from the approved plans contrary to this consent without prior approval from Council.

**PRESCRIBED CONDITIONS****A. BASIX Commitments**

Under clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

In this condition:

- a) Relevant BASIX Certificate means:
- i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 4.55 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified);
- or

- ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

## **B. Building Code of Australia**

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

## **C. Home Building Act**

- 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given Leichhardt Council written notice of the following:
  - a) in the case of work for which a principal contractor is required to be appointed:
    - i) the name and licence number of the principal contractor, and
    - ii) the name of the insurer by which the work is insured under Part 6 of that Act, or
  - b) in the case of work to be done by an owner-builder:
    - i) the name of the owner-builder, and
    - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- 2) If arrangements for doing residential building work are changed while the work is in progress so that the information submitted to Council is out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

## **D. Site Sign**

- 1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - a) stating that unauthorised entry to the work site is prohibited;
  - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
  - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.

- 2) Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.

**E. Condition relating to shoring and adequacy of adjoining property**

- 1) For the purposes of section 4.17(11) of [the Act](#), it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - a) protect and support the adjoining premises from possible damage from the excavation, and
  - b) where necessary, underpin the adjoining premises to prevent any such damage.
- 2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

**NOTES**

1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. Section 8.2 of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, designated development or a complying development certificate. The request for review must be made within six (6) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. Furthermore, Council has no power to determine a review after the expiration of these periods. A decision on a review may not be further reviewed under Section 8.2.
3. If you are unsatisfied with this determination, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right of appeal to the Land and Environment Court within six (6) months of the determination date.
4. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.
5. Works or activities other than those approved by this Development Consent will require the submission of a new development application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.
6. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
7. This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a) Application for any activity under that Act, including any erection of a hoarding.
  - b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
  - c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
  - d) Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
  - e) Application for Strata Title Subdivision if strata title subdivision of the development is proposed.
  - f) Development Application for demolition if demolition is not approved by this consent.
  - g) Development Application for subdivision if consent for subdivision is not granted by this consent.
  - h) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
8. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained.
9. You may need a permit before filling a new or renovated swimming pool which holds more than 10,000 litres of water. You are advised to contact Sydney Water on 132092 to obtain this permit.

**Have you made a political donation?**

If you (or an associate) have made a political donation or given a gift to a Councillor, political party or candidate at the local government elections during the last two (2) years you may need to include with your application a full disclosure of this matter. For information go to Council's website at [www.leichhardt.nsw.gov.au/Political-Donations.html](http://www.leichhardt.nsw.gov.au/Political-Donations.html). If you have made a reportable donation, failure to provide a completed declaration with your application is an offence under the Environmental Planning and Assessment Act, 1979 for which you may be prosecuted.

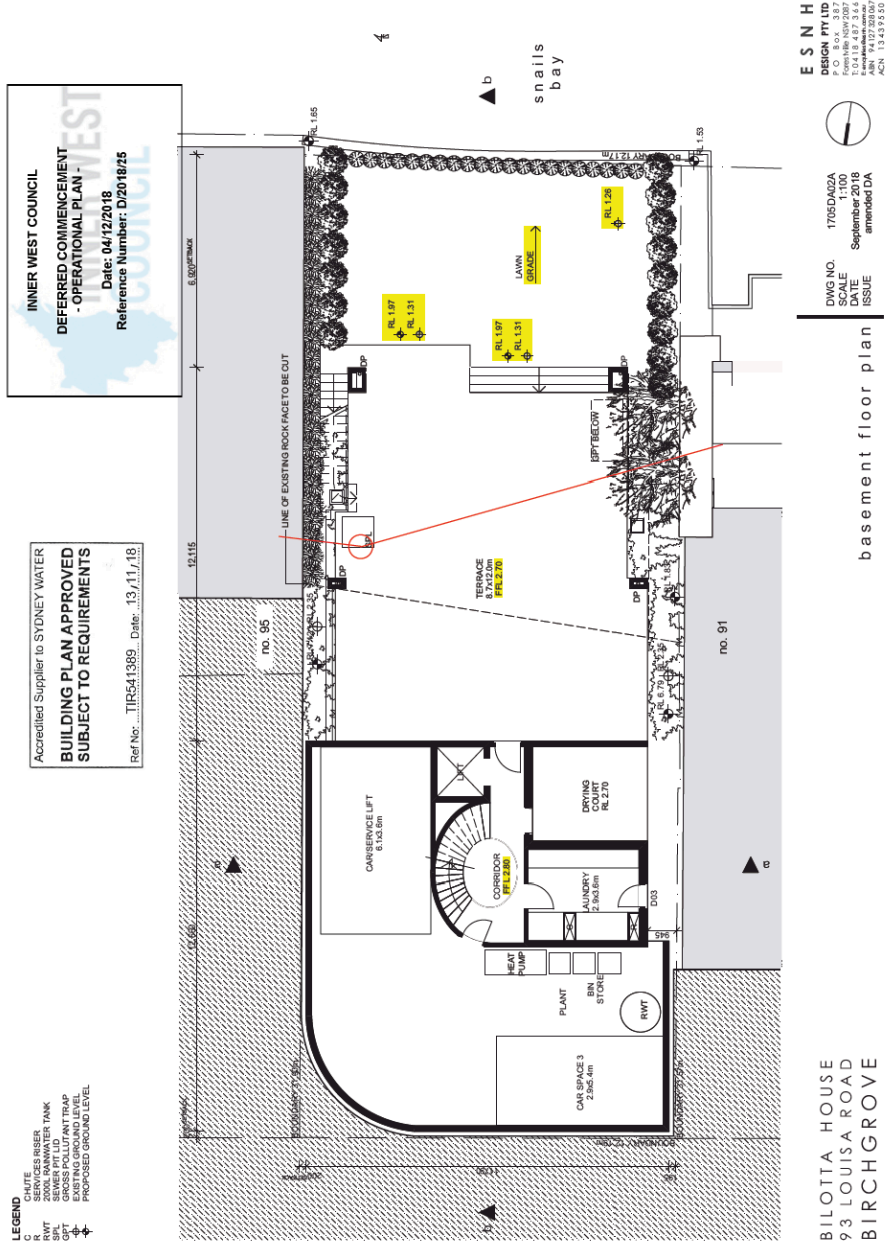
Yours sincerely



Luke Murtas  
MANAGER DEVELOPMENT ASSESSMENT

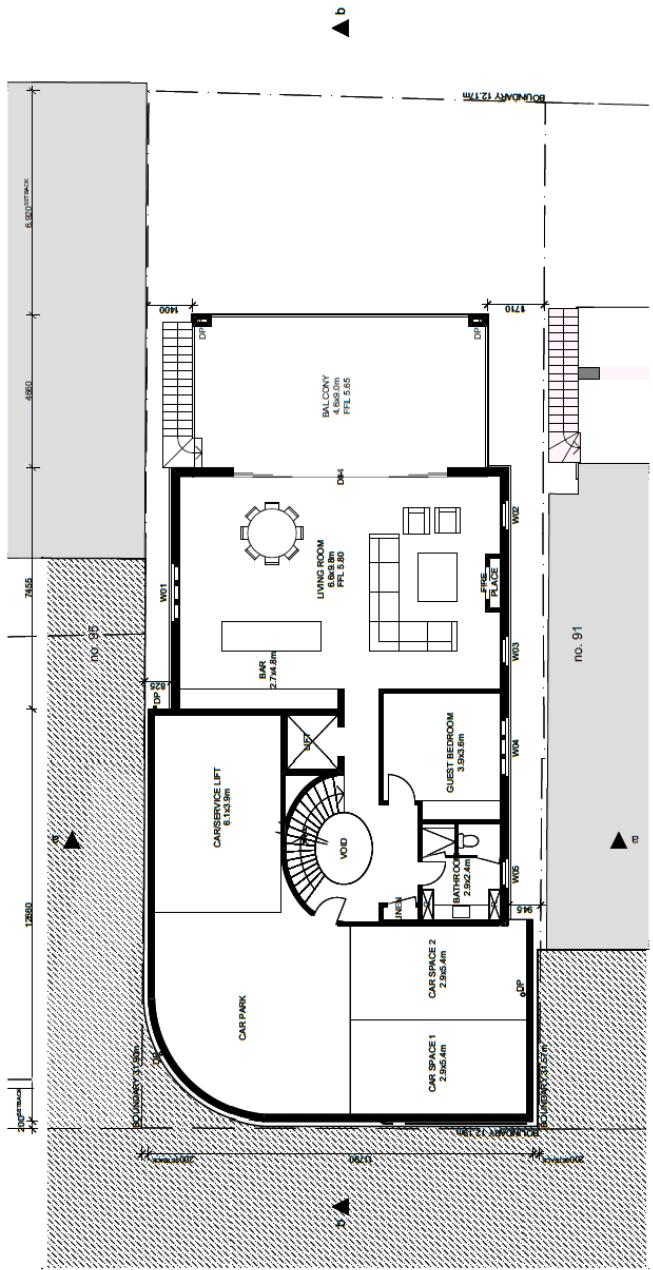


Attachment D – Original Approved Plans



INNER WEST COUNCIL  
 DEFERRED COMMENCEMENT  
 Date: 12/06/2018  
 Reference Number: D/2018/25  
 DEVELOPMENT CONSENT IS NOT  
 OPERATIONAL

LEGEND  
 CHUTE  
 SERVICES  
 RISER



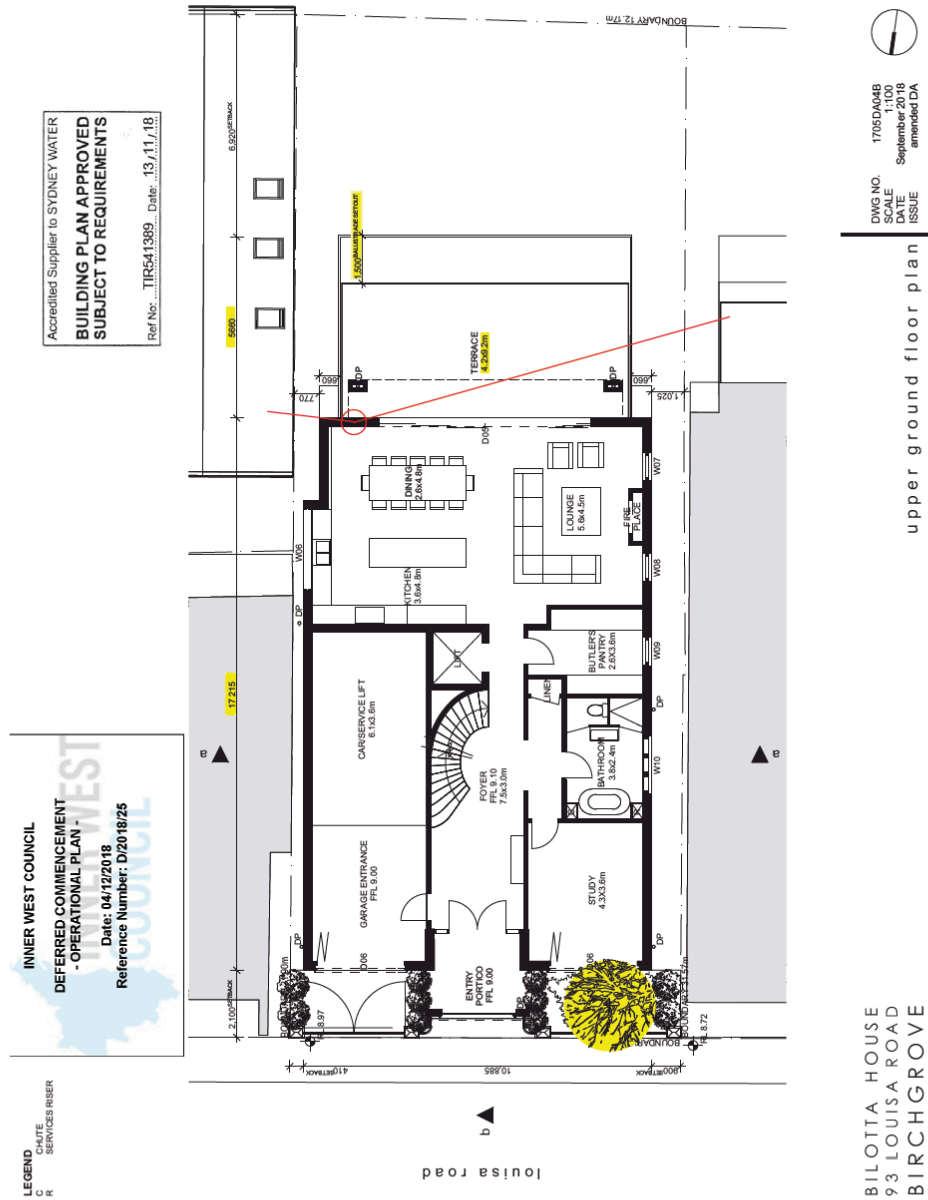
**E S N H**  
 DESIGN PTY LTD  
 P.O. Box 337  
 E.04118 457 346  
 A.B.N. 94172 280 007  
 A.C.N. 134397650



DWG NO. 1705 DM03  
 SCALE 1:100  
 DATE November 2017  
 ISSUE DA

lower ground floor plan

BILLOTTA HOUSE  
 93 LOUISA ROAD  
 BIRCHGROVE



Accredited Supplier to SYDNEY WATER  
**BUILDING PLAN APPROVED**  
 SUBJECT TO REQUIREMENTS  
 Ref No... TR541389... Date... 13/11/18

INNER WEST COUNCIL  
 DEFERRED COMMENCEMENT  
 - OPERATIONAL PLAN -  
 Date: 04/12/2018  
 Reference Number: D/2018/25

LEGEND  
 R  
 SERVICES RISER

**ESNH**  
 DESIGN PTY LTD  
 1705DA04B  
 1:100  
 September 2018  
 amended DA  
 T.O. 118 4 87 3 6 6  
 A.B.N. 94 027 258 007  
 A.C.N. 13 479 93 0

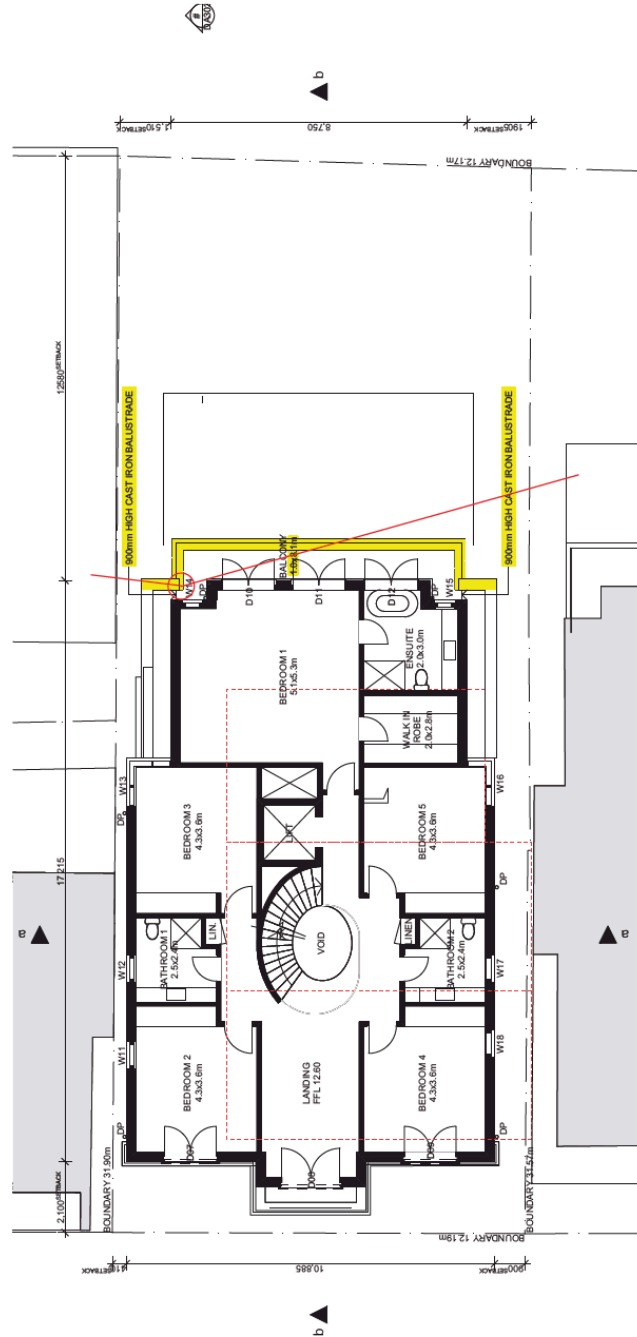
DWG NO. 1705DA04B  
 SCALE 1:100  
 DATE September 2018  
 ISSUE amended DA

upper ground floor plan

BILOTTA HOUSE  
 93 LOUISA ROAD  
 BIRCHGROVE



Accredited Supplier to SYDNEY WATER  
**BUILDING PLAN APPROVED**  
 SUBJECT TO REQUIREMENTS  
 Ref No: TIR541389 Date: 13/11/18



**ESNH**  
 DESIGN PTY LTD  
 17/05/2018  
 1:100  
 September 2018  
 amended DA

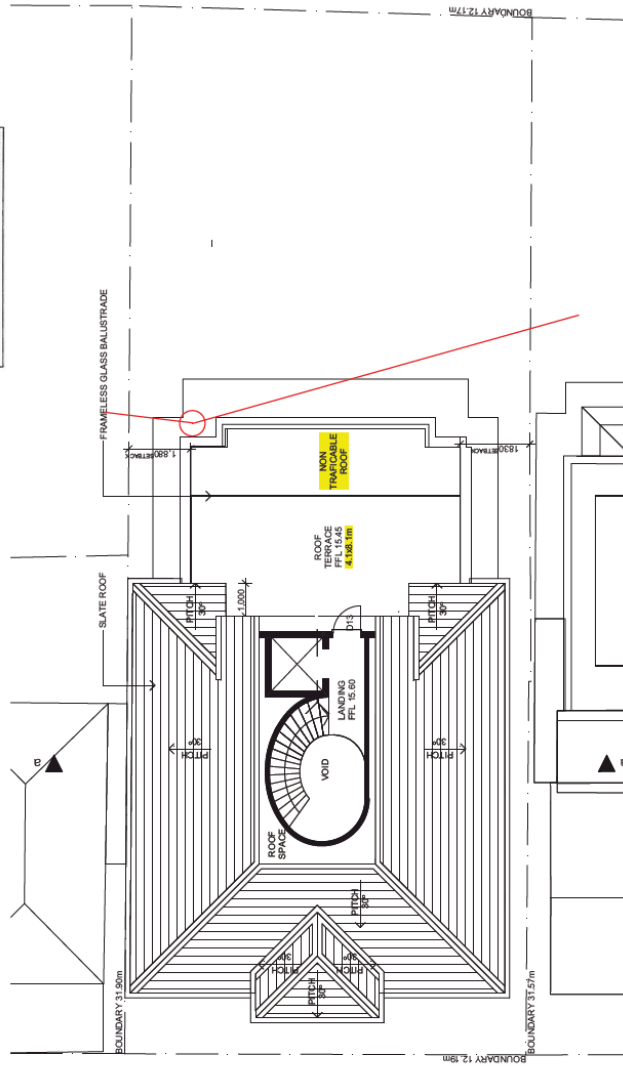
DWG NO. 1705DA05A  
 SCALE 1:100  
 DATE September 2018  
 ISSUE amended DA

first floor plan

BILLOTTA HOUSE  
 93 LOUISA ROAD  
 BIRCHGROVE

INNER WEST COUNCIL  
 DEFERRED COMMENCEMENT  
 - OPERATIONAL PLAN -  
 Date: 04/12/2018  
 Reference Number: D/2018/25

Accredited Supplier to SYDNEY WATER  
**BUILDING PLAN APPROVED  
 SUBJECT TO REQUIREMENTS**  
 Ref No: TIR541389 Date: 13/11/18



b ▲

**ESNH**  
 DESIGN PTY LTD  
 P.O. Box 1317  
 Forestville NSW 2087  
 Australia  
 Tel: 02 9550 2000  
 Fax: 02 9550 2007  
 ACN: 134374580

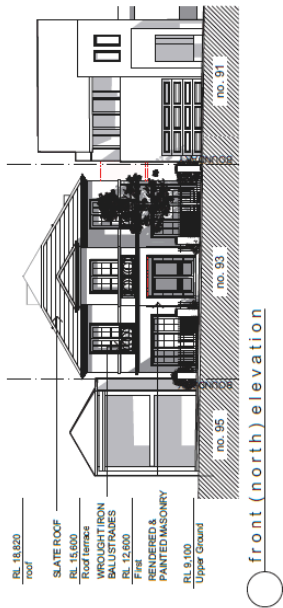


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 DATE 2018/09/16  
 ISSUE amended DA

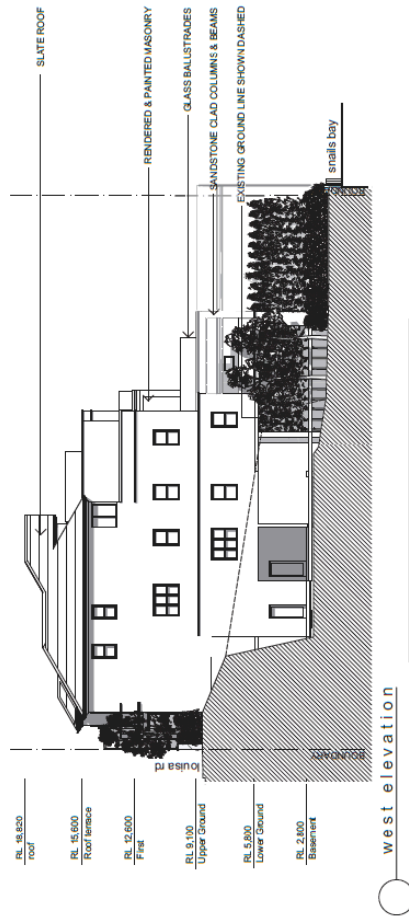
roof terrace plan

BILOTTA HOUSE  
 93 LOUISA ROAD  
 BIRCHGROVE

Accredited Supplier to SYDNEY WATER  
**BUILDING PLAN APPROVED**  
**SUBJECT TO REQUIREMENTS**  
 Ref No. TIRS41389... Date: 13/11/18



front (north) elevation



west elevation

**BILOTTA HOUSE**  
 93 LOUISA ROAD  
 BIRCHGROVE

INNER WEST COUNCIL  
 DEFERRED COMMENCEMENT  
 - OPERATIONAL PLAN -  
 Date: 04/12/2018  
 Reference Number: D2018/25

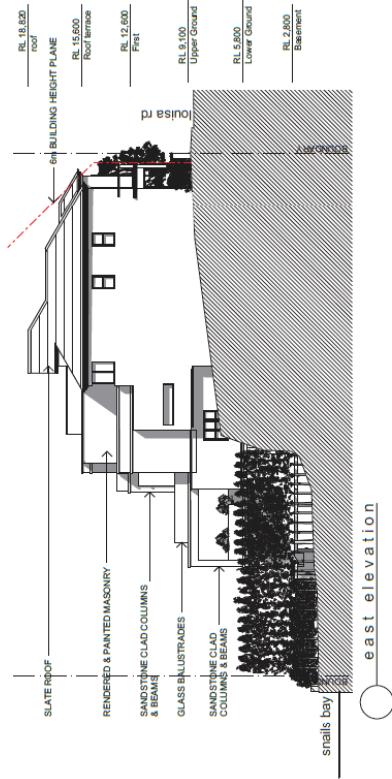
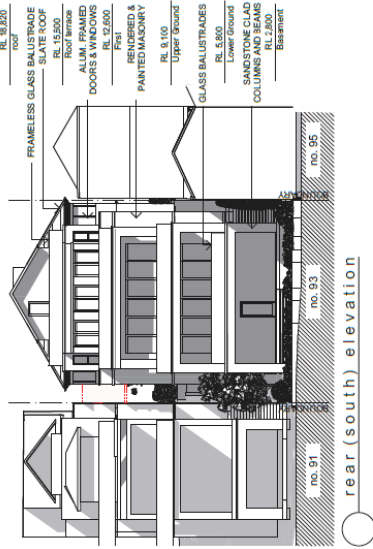
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 SCALE 1:200(A3)  
 DATE September 2018  
 ISSUE amended DA

**E S N H**  
**DESIGN PTY LTD**  
 P.O. Box 387  
 10418 4 ST 266  
 5/611 9/12/2007  
 ACH 13 432550

elevations sheet 1 of 2

Accredited Supplier to SYDNEY WATER  
**BUILDING PLAN APPROVED**  
**SUBJECT TO REQUIREMENTS**  
 Ref No: TIR541389 Date: 13/11/18

**INNER WEST COUNCIL**  
**DEFERRED COMMENCEMENT**  
**- OPERATIONAL PLAN -**  
 Date: 04/12/2018  
 Reference Number: D2018/25

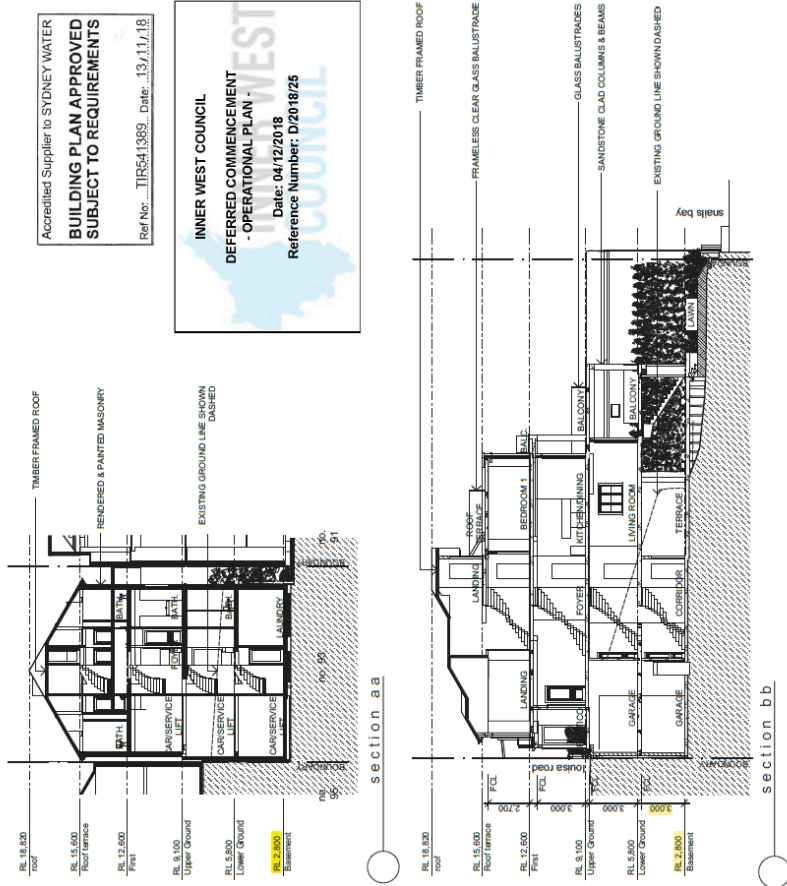


**ESNH**  
**DESIGN PTY LTD**  
 P.O. Box 317  
 From the NSW 207  
 Sydney NSW 1585  
 Australia  
 ACN: 131432510

DWG NO. 1705DA008  
 SCALE 1:200(A3)  
 September 2018  
 ISSUE amended DA

elevations sheet 2 of 2

**BILLOTTA HOUSE**  
**93 LOUISA ROAD**  
**BIRCHGROVE**



Accredited Supplier to SYDNEY WATER  
**BUILDING PLAN APPROVED**  
**SUBJECT TO REQUIREMENTS**  
 Ref No: TR541389, Date: 13/11/18

**INNER WEST COUNCIL**  
 DEFERRED COMMENCEMENT  
 - OPERATIONAL PLAN -  
 Date: 04/12/2018  
 Reference Number: D/2018/25

**ESNH**  
**DESIGN PTY LTD**  
 P.O. Box 387  
 1705 DA10B  
 1505 Louisa Road  
 September 2018  
 1 0418 437366  
 A NSW 1505  
 9410220807  
 ACN 13 43 95 50

DWG NO. 1705 DA10B  
 TITLE amended DA  
 DATE September 2018  
 ISSUE amended DA

**BILLOTTA HOUSE**  
 93 LOUISA ROAD  
 BIRCHGROVE