



INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	D/2019/202
Address	55 Church Street, LILYFIELD NSW 2040
Proposal	Demolition of existing dwelling-house and construction of 2X2 storey semi-detached dwellings with parking spaces and associated works, including landscaping and tree removal, fencing works, and Torrens title subdivision into 2 lots.
Date of Lodgement	4 June 2019
Applicant	T Polvere
Owner	Velopo Nominees Pty Ltd
Number of Submissions	4 objections
Value of works	\$900,000
Reason for determination at Planning Panel	Clause 4.6 variation exceeds officer delegation
Main Issues	Lot Size, Solar Access, Amenity Impacts, Site Layout and Building Design, Streetscape Appearance
Recommendation	Refusal
Attachment A	Draft conditions (if not refused)
Attachment B	Proposed Plans



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for demolition of the existing dwelling-house and construction of 2 X 2 storey semi-detached dwellings with garages and associated works, including landscaping and tree removal, fencing works, and Torrens title subdivision into 2 lots at 55 Church Street, Lilyfield. The application was notified to surrounding properties and four submissions were received.

The main issues that have arisen from the application include:

- Lot Size Variation
- Solar Access
- Visual Bulk Amenity Impacts
- Site Layout and Building Design
- Streetscape Appearance

The non-compliances are not acceptable given the proposed lot size variation does not satisfactorily accommodate residential development that is consistent with relevant development controls, including excessive building bulk, inadequate solar access, adverse visual bulk and streetscape impacts, and inconsistency with the desired future character. Therefore, the proposed Clause 4.6 request to vary the minimum lot size development standard is not considered to be well-founded and the application is recommended for refusal.

2. Proposal

The proposal involves demolition of existing structures, subdivision to create two lots with an area of 173sqm each. The proposal (as amended) provides two x two storey semi-detached dwellings, being House A with four bedrooms and House B with three bedrooms, and each generally with two bathrooms and rumpus room on the first floor; ground floor kitchen, living and dining area and separate laundry and toilet; and ground floor courtyard and semi-enclosed single car space with access off Frazer Street. New fencing and landscaping works are proposed to soften the appearance of the development.

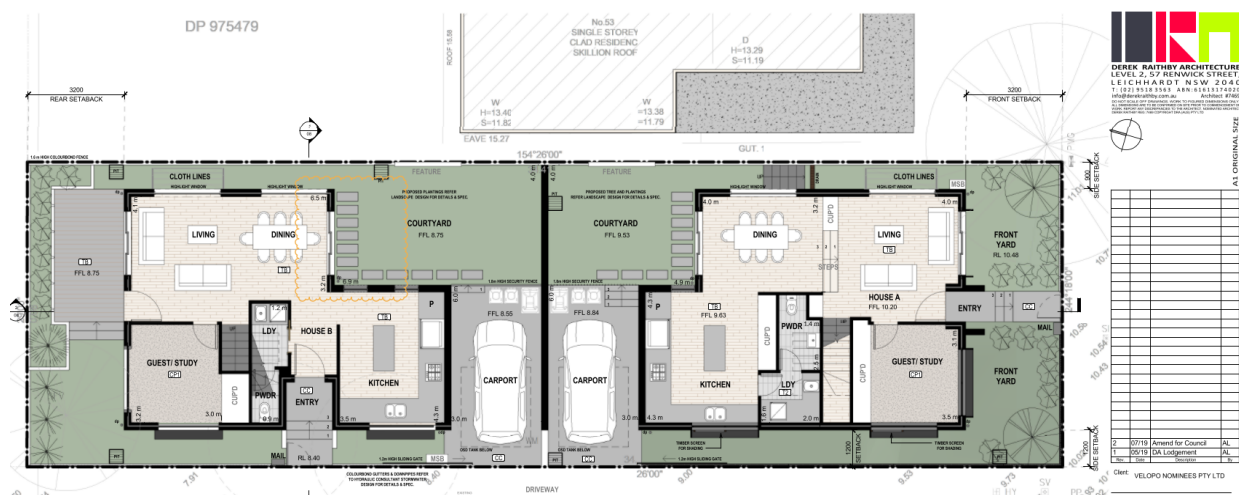


Figure 1: Proposed ground floor at No. 55 Church Street.

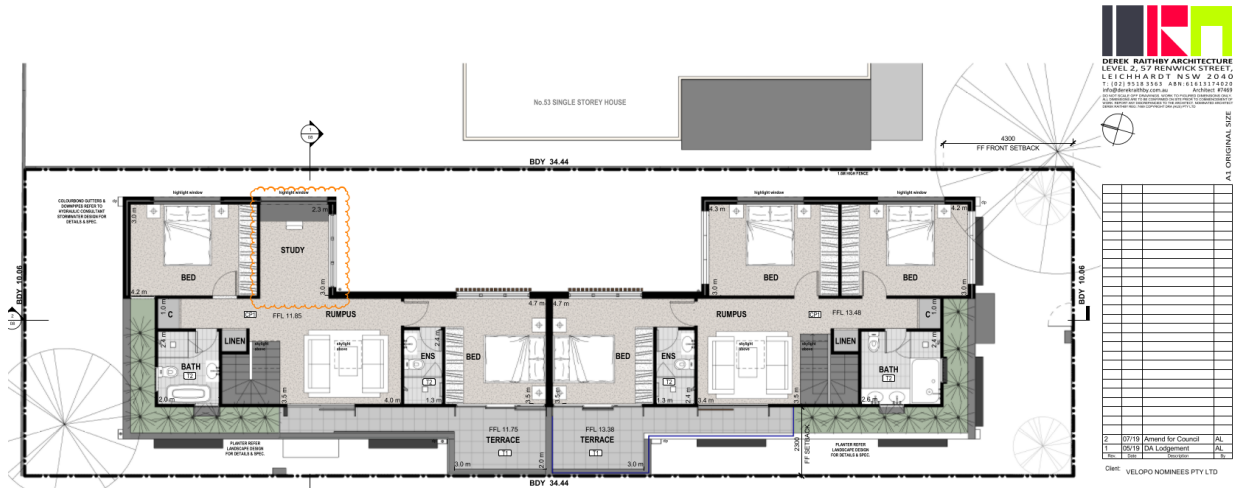


Figure 2: Proposed first floor at No. 55 Church Street.

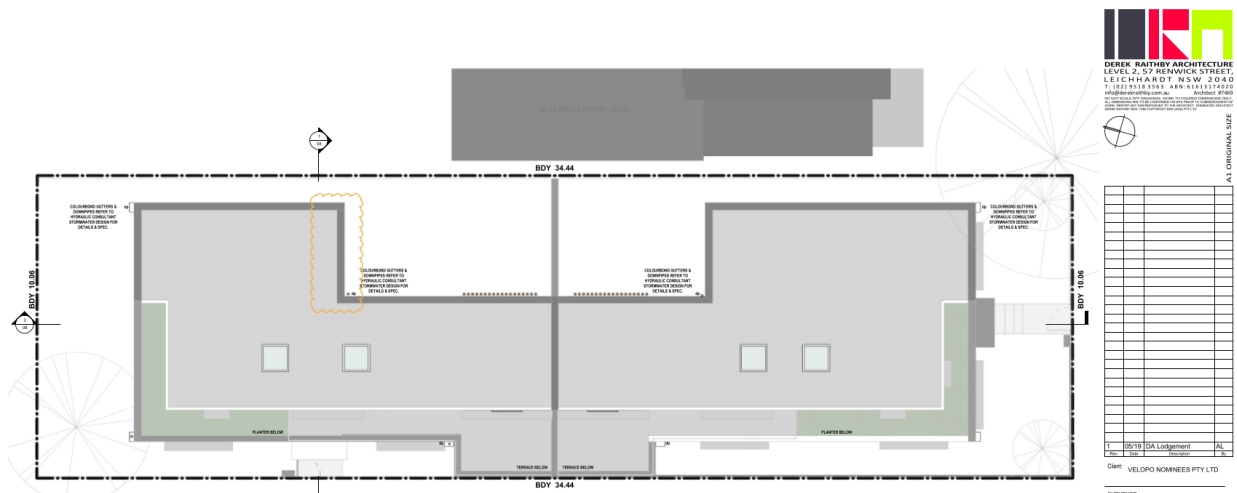


Figure 3: Proposed roof level at No. 55 Church Street.

3. Site Description

The subject site is located on the northern side of Church Street, between Frazer Street and Mary Street. The site consists of one allotment and is rectangular in shape with a total area of 346.3sqm and is legally described as Lot 18 DP 975479.

The site has a frontage to Church Street of 10.06 metres and a secondary frontage of approximate 34.44 metres to Frazer Street.

The site supports a single storey brick dwelling and detached carport. The adjoining properties support one and two storey dwellings.

The subject site is not listed as a heritage item and is not located within a conservation area. The land is not identified as a flood prone lot.

The following trees are located on the site and within the vicinity.

- 2 x Plumeria rubra to the rear of the site adjacent to the western Frazer Street frontage
- Banksia integrifolia in vicinity within front setback of 53 Church Street



Figure 4: Aerial Photo at 55 Church Street Lilyfield.



Figure 5: Existing view looking north-east towards 55 Church Street Lilyfield.

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
D/2018/546	Demolition of existing dwelling-house and construction of 2X2 storey semi-detached dwellings with garages and associated works, including landscaping and tree removal, fencing works, and Torrens title subdivision into 2 lots.	Withdrawn 2/5/2019
PREDA/2018/182	Demolition of existing single storey dwelling and garages and construction of 2 x 2 storey semi detached dwelling and garages	Advice Letter issued 19/9/2018
NOTE: the subject proposal does not satisfactorily respond to the concerns raised in the Pre-DA advice letter issued.		

Surrounding properties

No relevant application history.

4(b) Application history

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter/ Additional Information
26/7/2019	Following discussion with the applicant that the proposal was did not satisfactorily address the issues raised in the previous withdrawn DA and the Pre-DA advice, the applicant submitted amended plans resulting in improved solar access for proposed House B. However, the proposal as amended remains non-compliant with Council's solar access, lot size and building layout and design controls, which is considered unacceptable for a new development on an unconstrained site

5. 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 (Vegetation in Non-Rural Areas) 2017
- State Environmental Planning Policy (Coastal Management) 2018
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Leichhardt Local Environmental Plan 2013

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) as approved by the consent authority and any guidelines enforced under the Contaminated Land Management Act 1997.

The proposal seeks to continue the existing residential use of the land. Therefore, it is considered that the site will not require remediation in accordance with SEPP 55. On this basis, the site is considered suitable for residential use.

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

The proposal was accompanied with a valid BASIX Certificate.

5(a)(iii) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The proposal involves the removal of existing trees on site and consent is sought as a part of the subject application. The proposed tree removal and replacement landscaping is discussed under Section 5(c) of this Report.

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

The subject site is not located within the coastal zone and as such, these provisions are not applicable.

5(a)(v) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject site is not within the Foreshores and Waterways Area.

5(a)(vi) 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 2.6 – Subdivision Requirements
- Clause 2.7 – Demolition Requires Development Consent
- Clause 4.1 – Minimum subdivision Lot size
- 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 6.1 – Acid Sulphate Soils
- Clause 6.4 – Stormwater management
- Clause 6.8 – Development in areas subject to aircraft noise

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

Standard (maximum)	Proposal	% of non compliance	Compliances
Minimum Lot Size Permitted: [200m ²]	Lot 1: 173sqm Lot 2: 173sqm	13.5% 13.5%	No
Floor Space Ratio Permitted: [0.8:1]	Lot 1: 0.793:1 Lot 2: 0.7:1	N/A	Yes
Landscape Area: 15%	Lot 1: 41%* Lot 2: 45.2%*	N/A	Yes
Site Coverage: 60%	Lot 1: 57.29% Lot 2: 57.6%	N/A	Yes

***The Applicant's Landscape Area calculation includes the alfresco and patio areas and side setbacks less than 1m in width that would not constitute Landscape Area (as defined). Council calculates landscape areas of 58.11sqm (33.5%) on Lot 1 and 38.4sqm (22.19%) on Lot 2.**

The following provides further discussion of the relevant issues:

Clause 1.2 Aims of Plan

By virtue of the excessive bulk and scale, inadequate solar access and adverse streetscape and visual bulk impacts, the proposal is considered to be inconsistent with the following aims of the Plan:

- (d) to promote a high standard of urban design in the public and private domains,*
- (e) to protect and enhance the amenity, vitality and viability of Leichhardt for existing and future residents, and people who work in and visit Leichhardt,*
- (f) to maintain and enhance Leichhardt's urban environment*
- (l) to ensure that development is compatible with the character, style, orientation and pattern of surrounding buildings, streetscape, works and landscaping and the desired future character of the area,*
- (m) to ensure that development provides high quality landscaped areas in residential developments,*

Clause 2.3 Zone objectives and Land Use Table

The proposal is considered to be inconsistent with the following objectives of the R1 General Residential zone:

- To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
- To provide landscaped areas for the use and enjoyment of existing and future residents.*
- To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.*
- To protect and enhance the amenity of existing and future residents and the neighbourhood.*

Clause 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standard/s:

- Clause 4.1 – Minimum subdivision Lot size

The applicant seeks a variation to the Minimum Lot Size development standard under Clause 4.1 of Leichhardt Local Environmental Plan (LLEP) 2013 by 13.5% (27sqm).

Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the applicable local environmental plan below.

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of LLEP 2013 justifying the proposed contravention of the development standard which is summarised as follows:

Clause 4.1 – Minimum Lot Size

- Notwithstanding numerical non-compliance, the applicant contends that the proposed lot sizes satisfy the stated objectives given that:
 - *The proposal achieves adequate solar access;*
 - *The proposal meets the requirements for private open space;*
 - *The proposal provides adequate parking;*
 - *The proposal meets the key numerical compliance with FSR, Site Coverage and soft landscaping;*
 - *Approval of the proposed subdivision lot sizes will not impact on the proposals ability to:*
 - *achieve an appropriate balance between development and*
 - *management of the environment that will be ecologically sustainable,*
 - *socially equitable and economically viable;*
 - *minimising adverse impacts of development;*
 - *protect and enhance the amenity of residents;*
 - *protect and enhance the natural and built environment; and*
 - *meet the future housing needs of the population in the LGA.*
 - *Clause 4.4 of Leichhardt LEP 2013 has provisions for FSR in the case of development on a lot with areas ranging from less than 150m² to over 450m². This would suggest that the locality of the subject land has existing lots less than 200m² and/or council expects to approve lots that are less than 200m². Given Council's LEP has provisions that accommodate and recognise the existence of lots that depart from the standard it can be assumed that Council's own actions indicate that strict compliance with the subdivision standard can be considered unnecessary and unreasonable. Council has previously granted approval to lots less than the development standard and so it can be expected that simply non-compliance with the minimum lot size standard should not be sufficient reason to refuse the application.*

The applicant's written rationale does not adequately demonstrate compliance with the development standard is unreasonable / unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard as demonstrated below.

- The proposal is not considered to be compatible with the desired future character of the area in relation to building bulk, form and scale.
- The proposed lots are not able to accommodate development that is consistent with relevant development controls, including excessive building bulk thereby not providing

a suitable balance between landscaped areas and the built form or minimising the impact of bulk and scale of buildings on the streetscape or adjoining properties.

- The siting of the building is not within the building location zones, side setbacks, and envelope where it can be reasonably assumed development can occur.
- The proposal does not comply with the solar access requirements for private open space areas resulting in an unacceptable amenity outcome.
- The proposal results in adverse amenity impacts to the surrounding properties in terms of visual bulk.
- Council's FSR controls have recently been amended to increase the applicable FSR as lot size decreases under LLEP 2013. This reflects a specific strategic planning objective to have FSR controls that more closely resemble the existing form, scale and density of residential development on existing small lots under LLEP 2013 given the high occurrence and extent of variation requests under the former FSR controls. However, this does not suggest the minimum 200sqm lot size standard has been abandoned by Council. The proposed creation of new lots that are less than the minimum lot size results in an increase to the bulk, form and scale of development expressed in terms of maximum FSR (from 0.7:1 to 0.8:1), as well as minimum landscaped area (from 20% to 15%), than would otherwise be permitted on the existing site area and similar adjoining properties. Further, the proposed lot sizes and layout are not consistent with the prevailing pattern of subdivision along this section of Church Street, which all are generally rectangular in shape with areas in excess of 200sqm. Accordingly, the proposed variation to minimum lot size is considered to exacerbate the inconsistency of the proposal in terms of building bulk, form and scale with the existing pattern of development along this section of Church Street.

It is considered the development is not in the public interest because it is inconsistent with the following relevant objectives of the R1 General Residential zone in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan:

- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
- *To provide landscaped areas for the use and enjoyment of existing and future residents.*
- *To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.*
- *To protect and enhance the amenity of existing and future residents and the neighbourhood.*

It is considered the development is not in the public interest because it is inconsistent with the following objectives of the Minimum Subdivision Lot Size development standard, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan:

Clause 4.1 – Minimum Lot Size

- (a) *to ensure that lot sizes are able to accommodate development that is consistent with relevant development controls,*
- (b) *to ensure that lot sizes are capable of supporting a range of development types.*

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. Council may assume the concurrence of the Director-General under the Planning Circular PS 18-003 issued in February 2018 in accordance with Clause 4.6(4)(b) of the applicable local environmental plan.

5(b) Draft Environmental Planning Instruments

Draft State Environmental Planning Policy (Environment) 2018

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development would be consistent with the intended requirements within the Draft Environment SEPP.

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Leichhardt Development Control Plan 2013.

Part	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	N/A
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
Part C	
C1.0 General Provisions	No
C1.1 Site and Context Analysis	No
C1.2 Demolition	Yes
C1.3 Alterations and additions	N/A
C1.4 Heritage Conservation Areas and Heritage Items	N/A
C1.5 Corner Sites	No – see discussion
C1.6 Subdivision	No – see discussion
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	Yes
C1.12 Landscaping	No – see discussion
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	Yes
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	N/A
Part C: Place – Section 2 Urban Character	
Suburb Profile	
C2.2.4.3(d) Iron Cove Backdrop Sub Area, Leichhardt Park	No – see discussion

Distinctive Neighbourhood, Lilyfield	
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	No
C3.2 Site Layout and Building Design	No – see discussion
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	No – see discussion
C3.9 Solar Access	No – see discussion
C3.10 Views	No – see discussion
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
Part C: Place – Section 4 – Non-Residential Provisions	N/A
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	N/A
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	Yes
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A

The following provides discussion of the relevant issues:

C1.5 – Corner Sites

Controls C2 and C4 require development to be compatible with the predominant character and scale of each streetscape. In this instance, the desired future character as expressed under the Leichhardt Park Distinctive Neighbourhood controls is to promote the consistent rhythm in the residential streetscapes created by regular allotment sizes, regular side setbacks, the predominance of hipped and gabled roof forms and the predominance of low

scale detached dwellings with 3.6m building wall heights measured from each street frontage. The proposal provides a bulky two-storey form across the majority of the length of the site (81%), significantly in excess of the permitted building envelope.

Control C5 requires that development does not have an adverse impact on surrounding properties, the streetscape or public domain by way of amenity, solar access, views, privacy, urban design, and being inconsistent with the desired future character. The proposed variations to building location zone, side setbacks, 3.6m building wall height and envelope controls result in excessive bulk and scale, inadequate solar access, and adverse streetscape and visual bulk impacts.

C1.6 – Subdivision

The proposal is considered to be inconsistent with the objective to create lots of sufficient area and dimensions to accommodate residential development that is consistent with the controls in the Development Control Plan. In addition, the proposal is considered to be contrary to Control C2, which requires new allotments to be consistent with the prevailing subdivision pattern, noting the regular north (rear) to south (front) alignment of rectangular lots along this section of Church Street.

C1.12 – Landscaping

The proposal is not considered to achieve objectives O1(a) to “enhance the visual setting of buildings”, (b) to contribute to the distinct landscape character within the neighbourhood” and (j) to “encourage the retention and enhancement of green corridors” given the non-compliant siting and design of the proposal.

C2.2.4.3(d) Iron Cove Backdrop Sub Area, Leichhardt Park Distinctive Neighbourhood

The proposal is not considered to satisfy the following controls:

- *C1 Maintain the character of the area by keeping development consistent in architectural style, building form and materials.*
- *C2 Maintain and enhance the predominant low scale cottage character of the residential streets.*
- *C4 Promote the consistent rhythm in the residential streetscapes created by the regular allotment sizes, regular side setbacks, the predominance of detached dwellings and the predominance of hipped and gabled roof forms.*
- *C7 Preserve and enhance sharing of views from private land.*
- *C10 Maximum building wall height of 3.6m applies unless an alternative building wall height is prescribed under the Sub Area controls.*

C3.2 Site Layout and Building Design

Building Location Zone (BLZ)

Control C5 requires the BLZ of a corner site to be determined by the location of the building on the adjacent property that most resembles the orientation, frontage width and site layout of the subject site. The single storey dwelling at 53 Church Street has a front setback of 6.6m and rear setback of 14.4m. In this instance, the proposal varies the ground floor BLZ with front and rear setbacks of 3.2m, and seeks to establish a new first floor BLZ with front and rear setbacks of 3.2m.

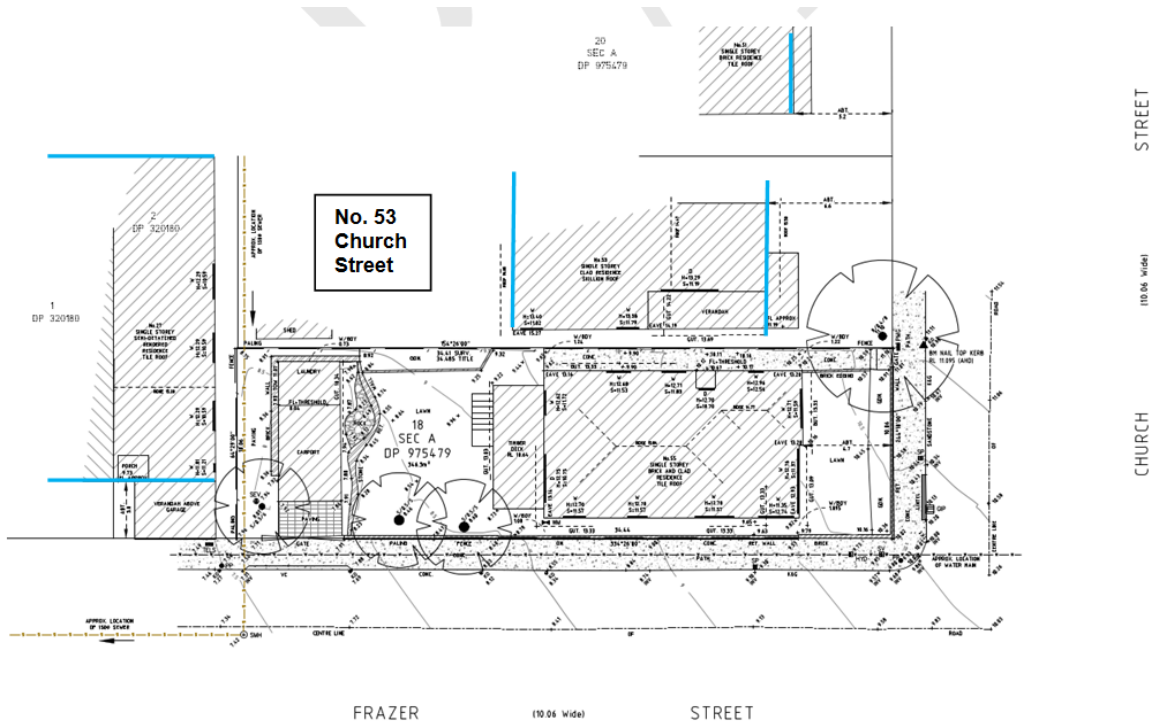


Figure 6: Existing pattern of development. The blue lines indicate ground floor BLZ.

Whilst Control C6 enables a variation to the BLZ, it is considered that the applicant has not satisfactorily demonstrated that the proposed building is consistent with the pattern of development in the immediate locality (usually taken as the same street) and that:

- a. amenity to adjacent properties (i.e. sunlight, privacy, views) is protected and compliance with the solar access controls of this Development Control Plan is achieved;
- b. the proposed development will be compatible with the existing streetscape, desired future character and scale of surrounding development;
- c. the proposal is compatible in terms of size, dimensions privacy and solar access of private open space, outdoor recreation and landscaping;
- d. retention of existing significant vegetation and opportunities for new significant vegetation is maximised; and
- e. the height of the development has been kept to a minimum to minimise visual bulk and scale, as viewed from adjoining properties, in particular when viewed from the private open space of adjoining properties.

In consideration of the above, the siting of the proposal is not in a location where development could be readily assumed given the context of the area.

Side Setback

The following table indicates compliance with the Side Boundary Setback Graph –

Elevation	Proposed Wall Height (m)	Required setback (m)	Proposed setback (m)	Difference (m)
Eastern	6.0	1.84	0.9	0.94
Western	5.8	1.73	0-1.2	1.73-0.53

Council’s DCP allows for a variation to the wall height for the required setback, provided the proposal demonstrates compliance with the relevant Building Typology; pattern of development is not compromised; the bulk and scale is minimised; and amenity impacts are minimised; and reasonable access is retained for maintenance.

The proposal is not considered acceptable for the following reasons:

- The proposed new dwellings will establish a first floor building location zone that results in adverse amenity impacts upon the surrounding properties in terms of visual bulk;
- The proposal does not comply with Council's building location zone, wall height and building envelope controls;
- The proposal will not provide a compatible area of private open space and outdoor recreation with an acceptable level of solar access for the occupants;
- The proposal is not considered to be compatible with the scale and character of surrounding development.

C3.8 Private Open Space

Control C1 requires private open space to be located at ground level consistent with the location of private open space on the surrounding properties and the siting controls with the Development Control Plan that is connected directly to the principal indoor living area. The non-compliant siting and design of the proposal results in inadequate primary private open space areas that does not achieve compliance with Council's solar access controls. The proposed private open space is considered to result in a poor amenity outcome for the development, which is unacceptable for a new development on an unconstrained site.

C3.9 Solar Access

The subject site and adjoining properties are orientated north-south, which requires a minimum of 3 hours solar access to 50% of the private open space and living rooms to be maintained between 9am to 3pm at midwinter. Whilst the proposal does not result in any unacceptable adverse overshadowing impacts to adjoining properties, inadequate solar access is provided to the private open space area of House A with only 1 hour of solar access to 50% of the required private open space between 9am to 3pm at midwinter. This is considered unacceptable for a new development on an unconstrained site given it is a result of poor site planning and building design, where a reduced scale of development could otherwise provide significantly improved solar access and better internal amenity.

C3.10 Views

The proposal has not been accompanied by a detailed site analysis to establish that it does not result in any unreasonable view loss from adjoining properties and opposite on Church Street as raised in public submissions and that the development has been designed to promote view sharing via:

- a. appropriately addressing building height, bulk and massing;*
- b. including building setbacks and gaps between buildings;*
- c. minimise lengthy solid forms;*
- d. minimise floor to ceiling heights and use raked ceilings in hipped / gabled roof forms where appropriate, especially in upper floors;*
- e. splay corners; and*
- f. use open materials for balustrades, balconies, decks, fences, car ports and the like.*

In particular, any view loss as viewed from adjoining properties is not considered to promote reasonable view sharing and will not be supported given the excessive bulk and scale of the proposal.

5(d) The Likely Impacts

The assessment of the application demonstrates that the proposal will have an adverse impact on the locality in terms of heritage and bulk and scale.

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

The site is zoned R1 General Residential. It is considered that the proposal is an overdevelopment of the site and will have an adverse impact on the adjoining properties and therefore it is considered that the site is unsuitable to accommodate the proposed development.

5(f) Any submissions

The application was notified in accordance with Council's Policy for a period of 14 days to surrounding properties. A total of 4 submissions were received.

The following issues raised in submissions have been discussed in this report:

- Desired Future Character – see Sections 5(a)(vi) and 5(c)
- Height, Density, Bulk and Scale – see Sections 5(a)(vi) and 5(c)
- Inadequate Private Open Space and Landscaping – see Section 5(c)
- Adverse Amenity Impacts (Visual Privacy, Overshadowing, and View Loss) – see Section 5(c)
- Car Parking and Traffic – see Section 5(c)

Whilst the proposal is considered acceptable with respect to overshadowing and car parking, the remaining objections raised are valid concerns that warrant refusal of the application.

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 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.

- Landscaping: No objections subject to conditions
- Development Engineer: No objections subject to conditions

6(b) External

The application was not referred to any external bodies.

7. Section 7.11 Contributions

Section 7.11 contributions are payable for the development if the proposal is determined by grant of consent.

The carrying out of the proposed development would result in an increased demand for public amenities and public services within the area. A financial contribution would be required for the development under Leichhardt Section 94 Contributions Plans as follows:

Open Space & Recreation

• Two (2) dwellings 106m ² - 160m ² @ \$25,811.00 per dwelling	\$51,622.00
• Less credit for one (1) dwelling 53m ² – 160m ² @ \$19,283 per dwelling	- \$19,283.00
Total	\$32,339.00

Community Facilities & Services

• Two (2) dwellings 106m ² – 160m ² @ \$3,945.00 per dwelling	\$7,890.00
• Less credit for one (1) dwelling 106m ² – 160m ² @ \$2,947.00 per dwelling	-\$2,947.00
Total	\$4,943.00

Transport and access, Works & Facilities

• LATM for two (2) dwellings >120m ² @ \$227.32 per dwelling	\$454.61
• Less LATM credit for one (1) dwelling 86m ² to 120m ² @ \$227.32 per dwelling	- \$227.32
LATM Total	\$227.32
• Light Rail for two (2) dwellings > 120m ² @ \$34.13 per dwelling	\$37.80
• Less Bicycle works credit for one (1) dwelling 86m ² to 120m ² @ \$18.90 per dwelling	-\$18.90
Light Rail Total	\$18.90
• Bicycle works for two (2) dwellings > 120m ² @ \$34.13 per dwelling	\$68.26
• Less Bicycle works credit for one (1) dwelling 86m ² to 120m ² @ \$34.13 per dwelling	-\$34.13
Bicycle Total	\$34.13
Total	\$280.35
NET	\$37,562.35

Pursuant to the Ministerial Direction on Local Infrastructure Contributions dated 3 March 2011:

- (2) *A council (or planning panel) must not grant development consent (other than for development on land identified in Schedule 2) subject to a condition under section 94 (1) or (3) of the Environmental Planning and Assessment Act 1979 requiring the payment of a monetary contribution that:*
- (a) *in the case of a development consent that authorises one or more dwellings, exceeds \$20000 for each dwelling authorised by the consent, or*
- (b) *in the case of a development consent that authorises subdivision into residential lots, exceeds \$20 000 for each residential lot authorised to be created by the development consent.*

In this instance, any consent granted would authorise the erection of two dwellings (notwithstanding a credit is given for the existing dwelling), and hence any monetary contribution would be capped at \$40,000. As the proposed condition requires payment of

\$37,562.35, the Direction is complied with. A condition requiring that contribution to be paid should be imposed on any consent granted.

8. Conclusion

This application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act, 1979 and is considered to be unsatisfactory. The proposal fails on key threshold issues and does not comply with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013. The development will result in adverse impacts in terms of heritage and bulk and scale. The application is considered unsupportable and refusal of the application is recommended.

9. Recommendation

- A. The applicant has made a written request to vary Clause 4.1 Minimum Lot Size pursuant to Clause 4.6 of the Leichhardt Local Environmental Plan 2013. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is not satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will not be in the public interest because the exceedance is inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, refuse the Development Application No. D/2019/202 for demolition of existing dwelling-house and construction of 2 x 2 storey semi-detached dwellings with garages and associated works, including landscaping and tree removal, fencing works, and Torrens title subdivision into 2 lots at 55 Church Street, LILYFIELD NSW 2040 for the following reasons.
 1. The proposed development is inconsistent and / or has not demonstrated compliance with the Leichhardt Local Environmental Plan 2013, pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979:
 - a) Clause 1.2 of the Leichhardt Local Environmental Plan 2013 – Aims of the Plan;
 - b) Clause 2.3 – Zone objectives and Land use Table;
 - c) Clause 4.1 – Minimum Subdivision Lot Size;
 - d) Clause 4.6 – Exceptions to development standards; and
 2. The proposed development cannot be approved as it breaches the Minimum Subdivision Lot Size of 200sqm by 13.5% as stipulated by Clause 4.1, and the Clause 4.6 request to vary this standard under Leichhardt Local Environmental Plan 2013 is not considered to be well-founded.
 3. The proposed development is inconsistent and / or has not demonstrated compliance with the following provisions of Leichhardt Development Control Plan 2013, pursuant to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979:
 - a) Clause C1.0 – General Provisions;
 - b) Clause C1.1 – Site and Context Analysis;
 - c) Clause C1.5 – Corner Sites;
 - d) Clause C1.6 – Subdivision;

- e) Clause C1.12 – Landscaping;
 - f) Clause C2.2.4.3 – Leichhardt Park Distinctive Neighbourhood;
 - g) Clause C3.1 – Residential General Provisions;
 - h) Clause C3.2 – Site Layout and Building Design;
 - i) Clause C3.8 – Private Open Space;
 - j) Clause C3.9 – Solar Access; and
 - k) Clause C3.10 – Views.
4. The proposal will result in adverse environmental impacts in the locality, pursuant to Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979.
5. The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979.
6. The public submissions raised valid grounds of objection and approval of this application is considered contrary to the public interest, pursuant to Section 4.15 (1)(d) and (e) of the Environmental Planning and Assessment Act 1979.

Attachment A – Draft Conditions

CONDITIONS OF CONSENT

1. Development must be carried out in accordance with Development Application No. 2019/202 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By		Dated
Dwg. No. 02, Demolition Plan, Issue 1	Derek Architecture	Raithby	May 2019
Dwg. No. 03, Ground Floor Plan, Issue 2	Derek Architecture	Raithby	July 2019
Dwg. No. 04, First Floor Plan, Issue 2	Derek Architecture	Raithby	July 2019
Dwg. No. 05, Roof Plan, Issue 1	Derek Architecture	Raithby	July 2019
Dwg. No. 06, Elevation South & East, Issue 2	Derek Architecture	Raithby	July 2019
Dwg. No. 07, Elevation North & West, Issue 1	Derek Architecture	Raithby	May 2019
Dwg. No. 08, Sections, Issue 1	Derek Architecture	Raithby	May 2019
Dwg. No. 13, Finishes Schedule, Issue 1	Derek Architecture	Raithby	May 2019
Dwg. No. SV1, Subdivision Plan, Issue 1	Derek Architecture	Raithby	May 2019
Document Title	Prepared By		Dated
Arboricultural Impact Assessment	Emma Paling		Undated
BASIX Certificate	Damian O'Toole		31 May 2019

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.

2. Consent is granted for the demolition of existing structures 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 Council.

- 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 (ie, 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 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.

3. Approval is given for the following works to be undertaken to trees on the site:

Tree/location	Approved works
2x <i>Plumeria acutifolia</i> (Frangipani) located along the western boundary of the site.	Transplant.

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved.

4. The trees identified below are to be retained:

Tree/location
1x <i>Plumeria acutifolia</i> (Frangipani) located along the western boundary of the site.

Details of the trees to be retained must be included on the Construction Certificate plans

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

5. 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.

6. The architectural plans shall be amended to address the following:
 - a) Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that the land owner has dedicated splay to provide for sight-distance for vehicles and pedestrians at intersections. Splays must be created at property corners. The size of the splay(s) must be 2mx2m at street and street corner.

Any existing features of the site that encroach upon the required splay corners must be allowed to remain as such until the feature is demolished as part of future development.

7. As the site where the property is identified as located within ANEF 20-25 or greater, the development approved under this consent must meet the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.

An acoustic report prepared by a suitably qualified person and accompanying plans demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the 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 & 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. 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.
10. The following requirements are to be incorporated into the development detailed on the Construction Certificate plans and provided prior to the issue of a Construction Certificate:
 - a) No rainforest timbers or timbers cut from old growth forests are to be used in the construction of the development. Timbers to be used are to be limited to any plantation, regrowth or recycled timbers, or timbers grown on Australian Farms or State Forest Plantations.

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

11. 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.

12. Materials and finishes must be complementary to the predominant character and streetscape of the area, and any existing buildings & the period of construction of the buildings. New materials that are not depicted on the approved plans must not

be used. Highly reflective wall or roofing materials and glazing must not be used. Materials must be designed so as to not result in glare (maximum normal specular reflectivity of visible light 20%) or that causes any discomfort to pedestrians or neighbouring properties. Details of finished external surface materials, including colours and texture must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority.

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. 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 & Construction Volume 1 (2004) available at 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.

- 15. The approved plans must be submitted to a Sydney Water Quick Check agent 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. For Quick Check agent details please refer to the web site <http://www.sydneywater.com.au/SW/plumbing-building-developing/building/quick-check-agents/index.html>

The Principal Certifying Authority must ensure the Quick Check agent/Sydney Water has appropriately stamped the plans 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.

- 16. 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) 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.
 - iii) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
 - iv) A dedicated unloading and loading point within the site for construction vehicles, plant and deliveries.
 - v) 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.
- b) Noise and vibration
During excavation, demolition and construction phases, noise & vibration generated from the site must be controlled. Refer to other conditions of this consent. 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 for guidance and further information.
- 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 shown on the 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"

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.

- 17. A Waste Management Plan (WMP) is to be provided in accordance with **Part D – Waste – Development Control Plan 2013**. The Plan must address all issues identified in the DCP including but not limited to:
 - a) Estimated volume (m³) or weight (t) of materials that are reused, recycled or removed from site.
 - b) On site material storage areas during construction.
 - c) Material and methods used during construction to minimise waste.
 - d) Nomination of end location of all waste and recycling generated from a facility authorised to accept the material type for processing or disposal and retention of waste dockets to be made available to Council Officer on request
 - e) A clear statement within the Waste Management Plan of responsibility for the transferral of waste and recycling bins within the property and between floors where applicable to the collection point in accordance with DCP 2013.

All requirements of the approved Waste Management Plan must be implemented during the demolition, excavation and construction of the development.

- 18. The architectural plans are to be amended to provide a minimum 150mm step up between the finished surfaces of all external areas the and adjacent internal floor levels.
- 19. 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.

20. Stormwater Drainage Concept Plan on drawing No. C-3363-02 prepared by Kazarovski & Partners and dated 29 May 2019 must be amended to comply with the requirements of Part E: (Water) of Council's DCP 2013 and make provision to address the following:
- a) Stormwater runoff from pervious and impervious surfaces of the development 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 the kerb and gutter in Frazer Street via on-site Stormwater Detention storage (OSD).
 - b) Design of the (OSD) must be supported by calculations demonstrating that the post development flows for the 100 year Average Recurrence Interval (ARI) storm event from the site are restricted to the pre development flows for the 5 year ARI storm event.
 - c) The volume of the OSD can be reduced where On-site Stormwater Retention facilities ((OSR) for rainwater reuse and/or stormwater reuse are proposed to service all toilets, laundries and outdoor usage. Where OSR is proposed in lieu of OSD, the offset shall be calculated at a rate of 1m^3 from the OSD storage volume, for every 2.5m^3 of OSR storage provided (up to a maximum OSD offset of 10m^3). Offsets for larger OSD storage must be supported by detailed calculations demonstrating compliance with the objectives of Leichhardt Council's DCP.
 - d) Charged or pump-out stormwater drainage systems are not permitted.
 - e) An overland flow path must be provided through the carports and outside the building envelope. The rear of the sites must be graded so that bypass flows from the site drainage system are directed to the overland flow path.
 - f) The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design shall include the collection of such waters and discharge to the Council drainage system.
 - g) A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas. The surface ground levels outside the building envelope, including the courtyard must be lowered to meet this condition.
 - h) Dimensions of the OSD/OSR, details of the outlet from the OSD/OSR and access over the storages must be shown on the plan and cross section to an appropriate scale.
 - i) Connection of the outlet conduit for unit (A) to the street gutter shown on the SDCP is not accepted, the outlet conduit must be laid at an angle not smaller than 45 degrees to the perpendicular to the street gutter.
 - j) The outlet conduit for unit (B) must be connected to a junction pit and then continued along the boundary inside the property to junction pit

(2).

- k) New kerb outlets in stone kerb shall be carefully cored through the existing kerb stone such that the kerb outlet is perpendicular (a 90° angle) with the gutter. The pipe under the footpath shall end 30mm within the kerb stone with mass concrete around the pipe connection to the kerb stone.
- l) Purpose made pipe fittings and bends or welded joints shall be used where necessary to align the discharge pipe with the kerb outlet.

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

Amended plans shall be submitted to and approved by Council before the issue of a Construction Certificate.

All plumbing within the site must be carried out in accordance with Australian Standard *AS/NZS3500.3.2015 Plumbing and Drainage – Stormwater Drainage.*

21. 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 garage slab or driveway must rise within the property to be 170mm above the adjacent road gutter level. The longitudinal profile across the width of the vehicle crossing shall comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.
- b) 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.
- c) The garage parking space shall have minimum clear internal dimensions of 6000mm x 3000mm (length x width) and a minimum door opening width of 2800mm at the street frontage. The dimensions shall 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.

22. A contribution pursuant to the provisions of Section 94 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	\$32,339.00
Community facilities and services	\$4,943.00
Local area traffic management	\$227.32
Light Rail	\$18.90

Bicycle works	\$34.13
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The total contribution is: \$37,562.35

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 94 Contributions. Contribution Plans may be inspected on Council's website www.leichhardt.nsw.gov.au or a copy purchased at the Citizen Service 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.

23. Before the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that no proposed underground services (i.e. water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, located on the subject allotment and adjoining allotments.

A plan detailing the routes of these services and trees protected under the State Environmental Planning Policy shall be prepared. 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.

24. The following trees must be transplanted and successfully established elsewhere within the site:

Tree/species	Quantity	Location
1x <i>Plumeria acutifolia</i> (Frangipani) located along the western boundary of the site.	1	In accordance with Landscape Plan set, prepared by OCULUS Landscape Architects, dated 21/05/2019.

The applicant is to pay for all costs associated with the transplanting of the abovementioned trees to a suitable alternate location on the site. The transplantation must be supervised by a qualified Arborist. A *Transplantation Methods Statement* detailing the following points is to be prepared by an AQF Level 5 Arborist and must be provided prior to the issue of a Construction Certificate:

- i) Pre-transplantation schedule of works.
- ii) Preparation of transplantation site.
- iii) Transplantation method.
- iv) Post-transplantation after care and duration.

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.

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

- 25. Prior to the commencement of demolition works on the subject site or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee as detailed below 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.

Security Deposit (FOOT)	\$2,152.50
Inspection fee (FOOT)	\$230.65

Payment will be accepted in the form of cash, bank cheque or 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 & footpath prior to & 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, Council may carry out any works necessary to repair the damage and/or remove the risk. The cost of these works will be deducted from the security deposit.

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.

- 26. Should works require any of the following on public property (footpaths, roads, reserves), an application shall be submitted and approved by Council prior to the commencement of the works associated with such activity or the Construction Certificate (whichever occurs first)
 - a) Work/Construction zone (designated parking for construction vehicles). – A Work Zone application

- b) A concrete pump across the roadway/footpath. – A Standing Plant permit
- c) Mobile crane or any standing plant – A Standing Plant Permit
- d) Skip bins other than those authorised by Leichhardt Council – Skip Bin Application
- e) Scaffolding/Hoardings (fencing on public land) – Scaffolding and Hoardings on Footpath Application
- f) Road works including vehicle crossing/kerb & guttering, footpath, stormwater provisions etc – Road works Application
- g) Awning or street verandah over footpath. – Road works Application
- h) Installation or replacement of private stormwater drain, utility service or water supply – Road Opening Permit

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.

27. To preserve the following tree/s and avoid soil compaction, no work shall commence nor shall a Construction Certificate be issued (whichever occurs first) until temporary measures to avoid soil compaction (e.g. rumble boards or similar as specified in Section 4.5.3 of AS4970—*Protection of trees on development sites*) beneath the canopy of the following tree/s is/are installed:

Tree/Location
<i>Banksia integrifolia</i> (Costal Banksia) located on adjoining property.

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 by the Project Arborist to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

28. To preserve all overhanging branches from trees on adjoining properties, no work shall commence nor shall a Construction Certificate be issued (whichever occurs first) until the trunk/s/branches are protected (in accordance with AS4970-*Protection of trees on development sites*) by the placement of appropriate lengths of 50 x 100mm timbers spaced at 150mm centres and secured by wire/hoop strap over suitable protective padding material (i.e. underlay or carpet). Branch/trunk protection must be restricted to the boundary of the subject site. The trunk/branch protection shall be maintained intact until the completion of all work on site.

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 by the Project Arborist to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

PRIOR TO THE COMMENCEMENT OF WORKS

29. The proposed structure(s) to be erected must stand wholly within the boundaries of the subject site. No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach onto adjoining properties or upon public property.

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 or the location certified by a registered surveyor in accordance with the approved plans, prior to the commencement of works.

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

- a) Location of the building with respect to the boundaries of the site.

30. 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.

31. 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.

32. Any person or contractor undertaking works on public property must take out Public Risk Insurance with a minimum cover of ten (10) million dollars in relation to the occupation of, and approved works within public property. The Policy is to note, and provide protection for Leichhardt 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.
33. Prior to the commencement of works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
34. 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.
35. 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.

36. 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.
37. The person acting on this consent shall apply for a Work Zone along the site

frontage for construction vehicles. A minimum of 2 months should be allowed for the processing of the application.

DURING WORKS

38. 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.

39. 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.

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.

40. The site must be appropriately secured and fenced at all times during works.
41. All fill used with the proposal shall be virgin excavated material (such as clay, gravel, sand, soil and rock) that is not mixed with any other type of waste and which has been excavated from areas of land that are not contaminated with human made chemicals as a result of industrial, commercial, mining or agricultural activities and which do not contain sulphate ores or soils.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority.

42. 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.

43. 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.
44. 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.
45. 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.
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. Sedimentation controls, tree protection measures and safety fencing (where relevant) shall be maintained during works to ensure they provide adequate protection during the course of demolition, excavation and construction works. Materials must be stored in a location and manner to avoid material being washed to drains or adjoining properties.

The requirements of the Soil and Water Management Plan must be maintained at all times during the works and shall not be removed until the site has been stabilised to the Principal Certifying Authority's satisfaction.

Material from the site is not to be tracked onto the road by vehicles entering or leaving the site. At the end of each working day any dust/dirt or other sediment shall be swept off the road and contained on the site and not washed down any stormwater pit or gutter.

The sediment and erosion control measures are to be inspected daily and defects or system failures are to be repaired as soon as they are detected.

48. If tree roots <25mm in diameter are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly using a sharp and *fit for purpose tool*. The pruning shall be undertaken by a minimum Level 3 (AQF 3) qualified Arborist.

Details demonstrating compliance with the requirements of this condition are to be submitted by the Project Arborist undertaking the works to the satisfaction of the Principal Certifying Authority

49. The trees to be retained shall be inspected, monitored and treated by Project Arborist during and after completion of development works to ensure their long term survival. Regular inspections and documentation from the Project Arborist to the Principal Certifying Authority are required at the following times or phases of work:

Schedule	
Tree/location	Time of Inspection

<p><i>Banksia integrifolia</i> (Costal Banksia) and <i>Pittosporum undulatum</i> (Native Daphne) located in the front property of No. 53 Church St.</p> <p>2x <i>Plumeria acutifolia</i> (Frangipani) located along the western boundary of the site.</p>	<ul style="list-style-type: none"> • Directly following installation of protective fencing, • During transplantation and associated site preparation works. • During excavation within the <i>Tree Protection Zone</i>, • At any time fencing is required to be altered, • At project completion to verify that protection measures have been undertaken. <p>Tree protection measures must be undertaken in accordance with submitted Arboricultural Impact Assessment, prepared by Emma Paling and section 4 of AS4970—<i>Protection of trees on development sites</i>.</p>
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Recommendations to ensure the tree/s long term survival must be carried out immediately upon receipt of the report.

Project Arborist - for the purpose of this condition a suitably qualified professional shall have as a minimum, Level 5 (Diploma) certification in Arboriculture under the Australian Qualification Framework (AQF).

Details demonstrating compliance with the requirements of this condition are to be submitted by the Project Arborist undertaking the works to the satisfaction of the Principal Certifying Authority.

- 50. No tree roots of 25mm or greater in diameter located within the specified radius of the trunk(s) of the following, tree(s) shall be severed or injured in the process of any works during the construction period.

Schedule	
Tree/location	Radius in metres
<i>Banksia integrifolia</i> (Costal Banksia) located on adjoining property.	5.5m
<i>Pittosporum undulatum</i> (Native Daphne) located on adjoining property.	2.5m

Details demonstrating compliance with the requirements of this condition are to be submitted by the Project Arborist undertaking the works to the satisfaction of the Principal Certifying Authority.

- 51. All excavation within the specified radius of the trunk(s) of the following tree(s) being hand dug to a depth of 1 metre under supervision of the project arborist and then by mechanical means as agreed by the Project Arborist:

Schedule	
Tree/location	Radius in metres
<i>Banksia integrifolia</i> (Costal Banksia) located on adjoining property.	5.5m
<i>Pittosporum undulatum</i> (Native Daphne) located on adjoining property.	2.5m

Details demonstrating compliance with the requirements of this condition are to be submitted by the Project Arborist undertaking the works to the satisfaction of the Principal Certifying Authority.

52. 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 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

53. 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.
54. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.
55. 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.

56. 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.
57. 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.

58. Light duty concrete vehicle crossings, in accordance with Council's Standard

crossing and footpath specifications and AUS-SPEC#2-“Roadworks Specifications” shall be constructed at the vehicular access locations before the issue of the Occupation Certificate and at no cost to Council.

59. All redundant vehicular crossings to the site shall be removed and replaced by kerb and gutter and footpath paving in accordance with Council’s Standard crossing and footpath specifications and AUS-SPEC#2-“Roadworks Specifications” before the issue of the Occupation Certificate and at no cost to Council. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council’s Engineer) the replacement kerb shall also be in stone.
60. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall 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 practising Civil Engineer that the vehicular access and off street parking facilities have been constructed in accordance the development consent and with relevant Australian Standards shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

61. 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 and accepted by Council 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.

62. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that an Operation and Management Plan has been prepared and implemented for the on-site detention and/or on-site retention/re-use facilities. The Plan must set out the following at a minimum:

- a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
- b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

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.

63. 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 have been completed satisfactorily and in accordance with Council approved plans and specifications.

64. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. It is responsibility of applicant's contractor to verify location of the utility services with the relevant service authority. 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.
65. Alignment levels for the site at all pedestrian and vehicular access locations shall match the existing back of footpath levels at the boundary. For vehicular access off rear laneways the level at the boundary shall match the invert level of the adjacent gutter plus 110mm/150mm at both sides of the vehicle entry.
66. 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.

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

67. Prior to the issue of a Subdivision Certificate, the applicant shall submit an original plan of subdivision plus three (3) copies for Council's endorsement and administration sheet. The following details shall also be submitted:
 - a) Evidence that all conditions of this Development Consent have been satisfied.
 - b) Evidence of payment of all relevant fees and contributions.
 - c) The 88B instrument plus six (6) copies.
 - d) A copy of the final Occupation Certificate issued for the development.
 - e) All surveyor's or engineer's certification required by the Development Consent.
 - f) A copy of the Section 73 Compliance Certificate issued by Sydney Water.

All parking spaces and common property, including visitor car parking spaces and on-site detention facilities must be included on the final plans of subdivision and allocated in accordance with the approved plans.

68. A Registered Surveyor shall provide certification that all services (eg drainage, stormwater, water supply, gas, electricity, telephone) as constructed are contained within each lot or within appropriate easements to accommodate such services. The certification is to be provided prior to the issue of a Subdivision Certificate.

ONGOING CONDITIONS OF CONSENT

69. The Operation and Management Plan for the on-site detention and/or on-site retention/re-use facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.
70. The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within seventy-two (72) hours of its application.
71. Any lighting of the premises shall be installed and maintained in accordance with Australian Standard AS 4282-1997: *Control of the Obtrusive Effects of Outdoor Lighting* so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if in the opinion of an Authorised Council Officer it is considered there to be have adverse effects on the amenity of the area.
72. 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.
73. 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*.

PRESCRIBED CONDITIONS

A. BASIX Commitments

Under clause 97A of the Environmental Planning & 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 & 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 the 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.

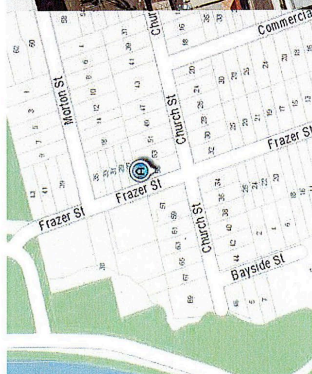
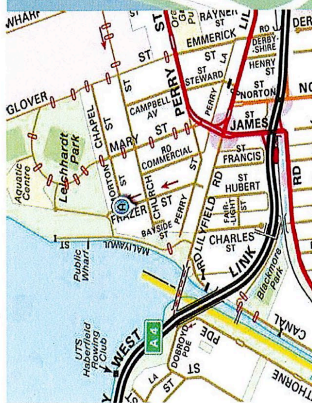
NOTES

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.

Attachment B – Plans of proposed development

RESIDENTIAL DEVELOPMENT
55 CHURCH STREET, LILYFIELD
LOT 18 / SECTION A / DP 975479



AERIAL PHOTOGRAPH (maps.scs.nsw.gov.au)

AERIAL PHOTOGRAPH (maps.scs.nsw.gov.au)

STREET DIRECTORY (www.streetdirectory.com.au)

STREET DIRECTORY (www.streetdirectory.com.au)

ARCHITECTURAL DRAWINGS

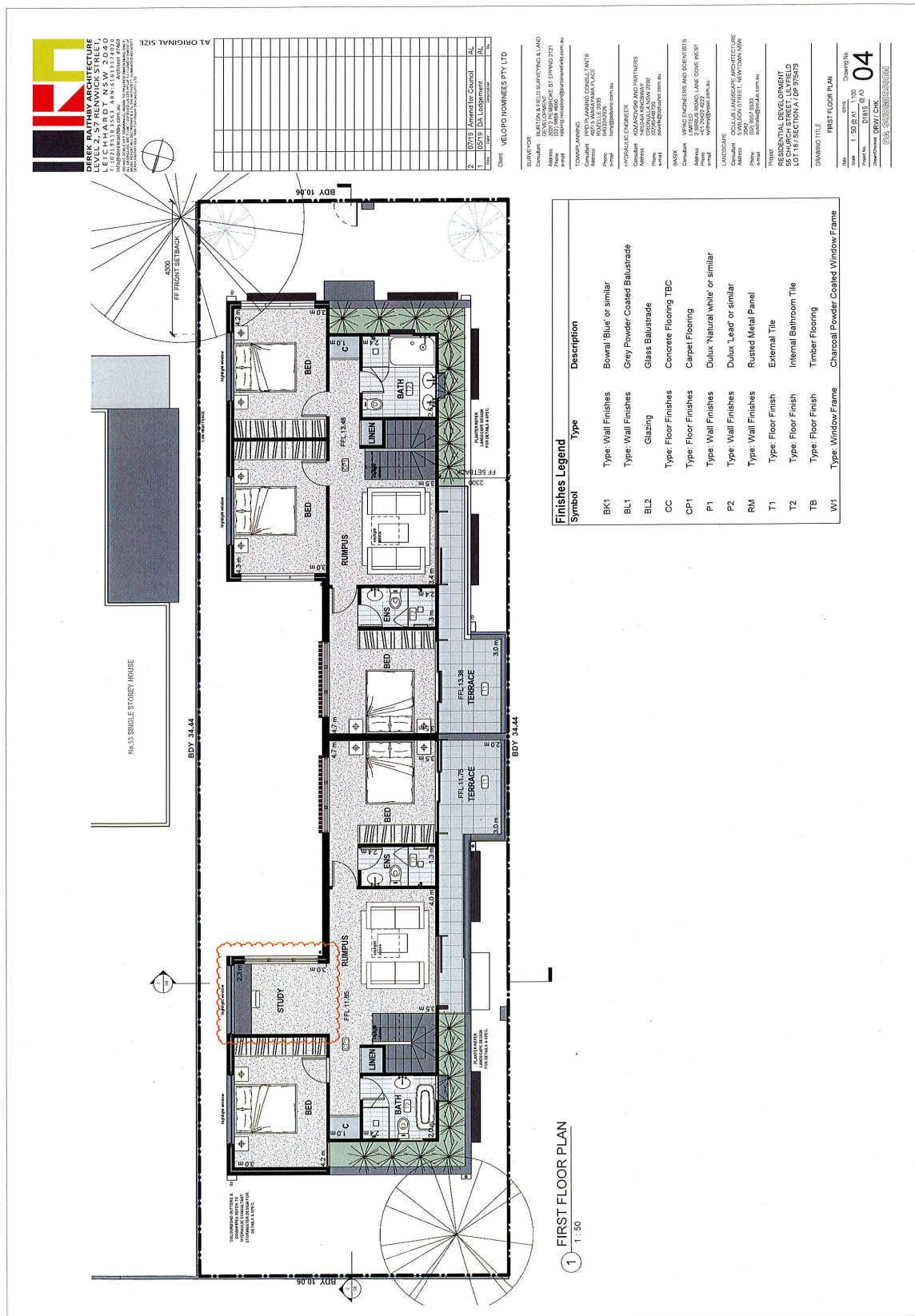
NO.	DWG#	TITLE	SCALE	ISSUE	DATE
D115	01	COVER SHEET	1	07/19	
D1	01	SITE ANALYSIS PLAN	2	05/19	
02	01	DEMOLITION PLAN	1	07/19	
03	01	GROUND FLOOR PLAN	2	07/19	
04	01	1ST FLOOR PLAN	2	07/19	
05	01	ROOF PLAN	1	05/19	
06	01	ELEVATION SOUTH & EAST	2	07/19	
07	01	ELEVATION NORTH & WEST	2	02/19	
08	01	ARTIST IMPRESSION	1	05/19	
09	01	SHADOW DIAGRAM (JUNE)	1	05/19	
10	01	SHADOW DIAGRAM (MARCH)	1	05/19	
11	01	SHADOW DIAGRAM (SEPTEMBER)	1	05/19	
12	01	FINISHES SCHEDULE	1	05/19	
13	01	CALCULATION - LANDSCAPING AREA	2	07/19	
14	01	SCHEMATIC LANDSCAPING PLAN	2	05/19	
15	01	SCHEMATIC LANDSCAPING PLAN	2	05/19	
16	01	SCHEMATIC LANDSCAPING PLAN	2	05/19	
17	01	SCHEMATIC LANDSCAPING PLAN	2	05/19	
18	01	SOLAR ACCESS STUDY - PROPOSED JUNE	1	05/19	
19	01	SUBDIVISION PLAN	2	07/19	

BASIX NOTES

- (REFER TO BASIX CERTIFICATE FOR COMPLETE DETAILS & REQUIREMENTS)
1. ALL BATHROOM SHOWERHEADS MUST BE MIN. 3 STAR RATED.
 2. TOILET FLUSHING SYSTEMS TO BE 4 STAR & ALL TAPS TO BE MIN. 5 STAR RATED.
 3. ALL WATER HEATING SYSTEMS TO BE 4 STAR RATED.
 4. ALTERNATIVE WATER SOURCE.
 5. ALL WATER HEATING SYSTEMS TO BE 4 STAR RATED.
 6. INDIVIDUAL FAN DUCTED TO PACKAGE OR ROOF TO BE INSTALLED IN EACH BEDROOM AREA.
 7. ALL FAN DUCTS TO BE INSTALLED IN EACH BEDROOM AREA.
 8. ALL LEAKY TAP REPAIR AND MAINTENANCE TO BE INSTALLED IN EACH BEDROOM AREA.
 9. ALL ELECTRIC OVERHEADS TO BE INSTALLED IN MATCHEN.
 10. ALL ELECTRIC OVERHEADS TO BE INSTALLED IN MATCHEN.
 11. ALL ELECTRIC OVERHEADS TO BE INSTALLED IN MATCHEN.
 12. ALL ELECTRIC OVERHEADS TO BE INSTALLED IN MATCHEN.
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 18. ALL ELECTRIC OVERHEADS TO BE INSTALLED IN MATCHEN.
 19. ALL ELECTRIC OVERHEADS TO BE INSTALLED IN MATCHEN.







DEREK RATHBY ARCHITECTURE
 41/51-53 WILSON ST
 LEICHHARDT NSW 2040
 P 61 621 83 33 55
 F 61 621 83 33 96
 WWW.DRRA.COM.AU

VELOPO NOMINEES PTY LTD
 11/21 WILSON ST
 LEICHHARDT NSW 2040
 P 61 621 83 33 55
 F 61 621 83 33 96
 WWW.VELOPO.COM.AU

NO	REVISION	DATE	DESCRIPTION
1	AS PER DDA	12/10/2021	AS PER DDA
2	AS PER DDA	12/10/2021	AS PER DDA

VELOPO NOMINEES PTY LTD
 Director: STEVEN J. KELLY
 Director: JENNIFER L. KELLY
 Director: ANDREW J. KELLY
 Director: ALAN J. KELLY
 Director: JESSICA A. KELLY
 Director: KYLE J. KELLY
 Director: SHARON L. KELLY
 Director: STEVEN J. KELLY
 Director: JENNIFER L. KELLY
 Director: ANDREW J. KELLY
 Director: ALAN J. KELLY
 Director: JESSICA A. KELLY
 Director: KYLE J. KELLY
 Director: SHARON L. KELLY

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 Address: 20/11 WILSON ST LEICHHARDT NSW 2040
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LANDSCAPE
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 Email: info@paulhodge.com.au

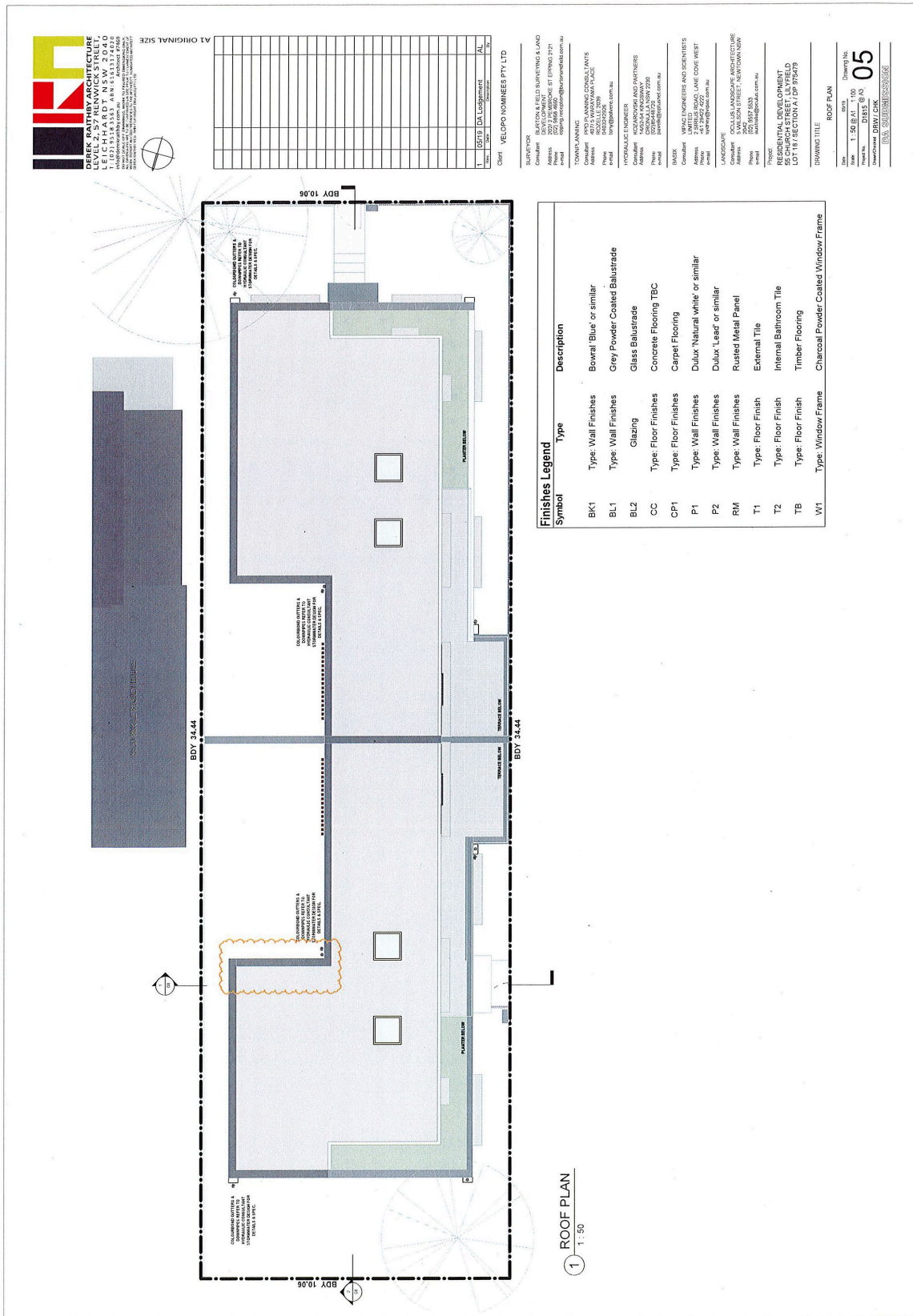
ELECTRICAL ENGINEER
 Address: 20/11 WILSON ST LEICHHARDT NSW 2040
 Phone: 02 9550 6000
 Email: info@paulhodge.com.au

DRAWING TITLE
 FIRST FLOOR PLAN

Scale: 1:50
 Drawing No: 04
 Date: 12/10/2021
 Drawing No: 04
 Project No: 210011201120112011
 Drawing No: 04

Symbol	Type	Description
BK1	Type: Wall Finishes	Bowl 'Blue' or similar
BL1	Type: Wall Finishes	Grey Powder Coated Balustrade
BL2	Glazing	Glass Balustrade
CC	Type: Floor Finishes	Concrete Flooring TBC
CP1	Type: Floor Finishes	Carpet Flooring
P1	Type: Wall Finishes	Dulux 'Natural white' or similar
P2	Type: Wall Finishes	Dulux 'Lead' or similar
RM	Type: Wall Finishes	Rusted Metal Panel
T1	Type: Floor Finish	External Tile
T2	Type: Floor Finish	Internal Bathroom Tile
TB	Type: Floor Finish	Timber Flooring
W1	Type: Window Frame	Charcoal Powder Coated Window Frame

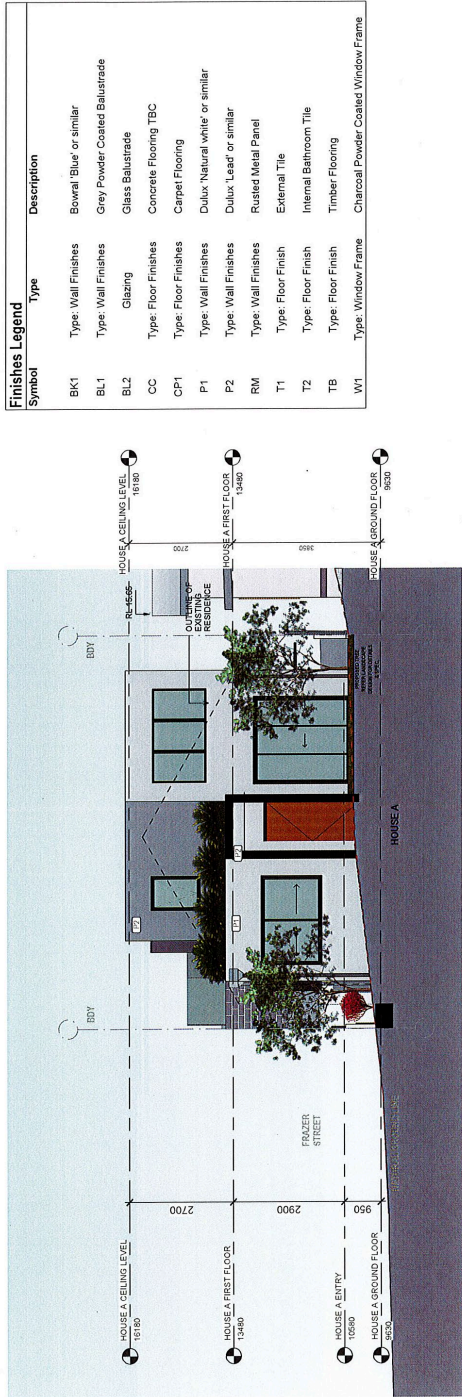
1:50
FIRST FLOOR PLAN



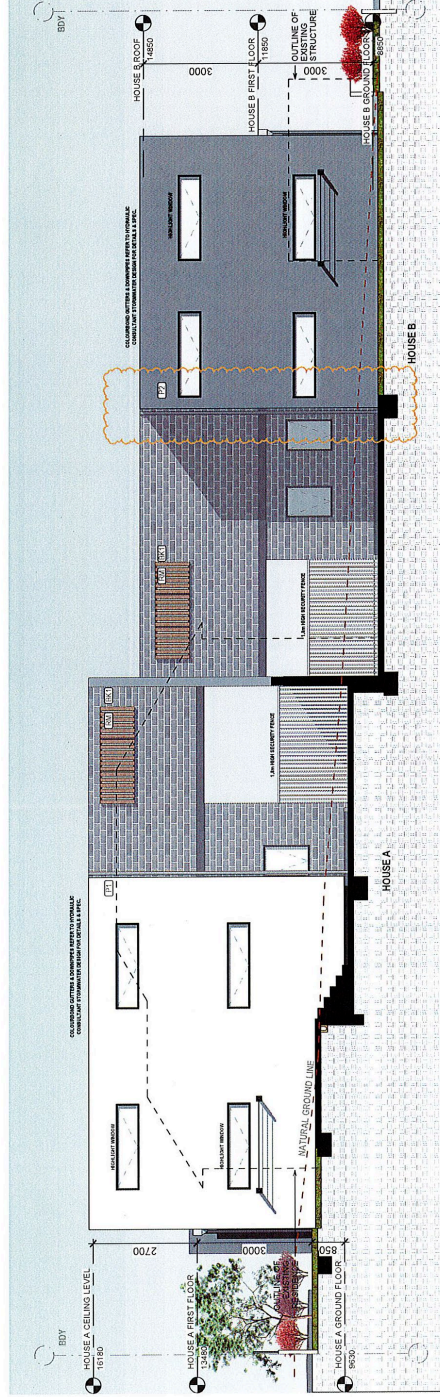


DEREK RATHBY ARCHITECTURE
 11/11-11/13 LEICHHARDT NSW 2040
 PHONE: 02 9551 8888 FAX: 02 9551 8899
 EMAIL: d.rathby@drarch.com.au
 www.drarch.com.au

Symbol	Type	Description
BK1	Type: Wall Finishes	Bowl 'Blue' or similar
BL1	Type: Wall Finishes	Grey Powder Coated Balustrade
BL2	Glazing	Glass Balustrade
CC	Type: Floor Finishes	Concrete Flooring 'TBC
CP1	Type: Floor Finishes	Carpet Flooring
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T1	Type: Floor Finish	External Tile
T2	Type: Floor Finish	Internal Bathroom Tile
TB	Type: Floor Finish	Timber Flooring
WT	Type: Window Frame	Charcoal Powder Coated Window Frame



1 SOUTH ELEVATION
1:50



2 EAST ELEVATION
1:50

VELOPO NOMINEES PTY LTD
 CONSULTOR
 Address: 207/105 WILSON ST (FIRING 2) PT
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LANDSCAPE ARCHITECTURE
 CONSULTOR
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RESIDENTIAL DEVELOPMENT
 CONSULTOR
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 Email: d.rathby@drarch.com.au

DRAWING TITLE: ELEVATION SOUTH & EAST
 Scale: 1:50 (B1) 1:100 (P1)
 Date: 06/03/2024
 Drawn: DRWY/CHK
 Checked: DRWY/CHK



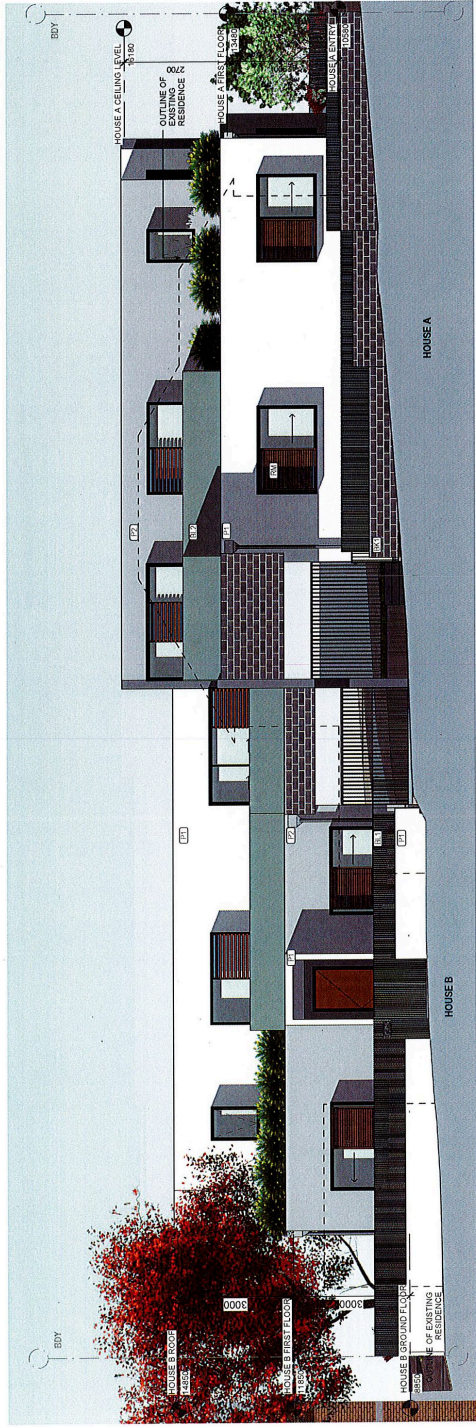
DEREK RATHBY ARCHITECTURE
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 www.derekathby.com.au

NO.	REVISION	DATE	BY	CHKD
1	ISSUE FOR TENDERS			
2	ISSUE FOR DA Lodgement			
3	ISSUE FOR CONSTRUCTION			
4	ISSUE FOR ASSESSMENT			
5	ISSUE FOR APPROVAL			
6	ISSUE FOR CONSTRUCTION			
7	ISSUE FOR ASSESSMENT			
8	ISSUE FOR APPROVAL			
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17	ISSUE FOR APPROVAL			
18	ISSUE FOR CONSTRUCTION			
19	ISSUE FOR ASSESSMENT			
20	ISSUE FOR APPROVAL			

Symbol	Type	Description
BK1	Type: Wall Finishes	Bowl 'Blue' or similar
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T1	Type: Floor Finish	External Tile
T2	Type: Floor Finish	Internal Bathroom Tile
TB	Type: Floor Finish	Timber Flooring
WT	Type: Window Frame	Charcoal Powder Coated Window Frame



1 NORTH ELEVATION
1:50



2 WEST ELEVATION
1:50

CLIENT: VELOPO NOMINEES PTY LTD

SUBCONTRACTOR:
 DELVONKORP BUILDING AND LAND DEVELOPMENT PTY LTD
 Address: 1/100-1/101 WILSON STREET, LEICHHARDT NSW 2040
 Phone: (02) 9518 3269
 Email: info@delvoncorp.com.au

TOWN PLANNING:
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 Email: info@kozandpartners.com.au

BLANK:
 CONSULTANT: NAVE ENGINEERS AND SCIENTISTS
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 Email: info@nave.com.au

LANDSCAPE:
 CONSULTANT: LANDSCAPE ARCHITECTURE
 Address: 1/100-1/101 WILSON STREET, LEICHHARDT NSW 2040
 Phone: (02) 9518 3269
 Email: info@landscape.com.au

REPORT:
 PROJECT: ENVIRONMENTAL DEVELOPMENT
 55 CHURCH STREET, ALLYFIELD
 LOT 19 SECTION A / DP 97479

DRAWING TITLE:
 ELEVATION NORTH & WEST

Scale:
 Date: 1:50 (8/17/2024) 1:50 (8/17/2024)
 Drawn by: DBR @ AS
 Checked by: DBR @ AS
 Drawn by: DBR @ AS
 Checked by: DBR @ AS

