



INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	D/2018/473
Address	25 Maida Street, Lilyfield
Proposal	Alterations and additions to existing dwelling including new first floor
Date of Lodgement	7 September 2018
Applicant	Fiona Pickett-Hears Design
Owner	A White
Number of Submissions	Nil
Value of works	\$228,640.00
Reason for determination at Planning Panel	Clause 4.6 variation exceeds officer's delegation
Main Issues	<ul style="list-style-type: none"> • FSR variation greater than 10% • Non-sympathetic attic addition
Recommendation	Refusal
Attachment A	Recommended reasons for refusal
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards
Attachment D	Standard Conditions



LOCALITY MAP

Subject Site		Objectors		
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of an application submitted to Council for alterations and additions to the existing dwelling including new first floor at 25 Maida Street, Lilyfield. The application was notified to surrounding properties and no submissions were received.

The main issues that have arisen from the application include:

- FSR variation proposed greater than 10%;
- Non-compliance with the bulk and scale provisions of the Leichhardt Development Control Plan 2013;
- Non-compliance with the desire future character of the Nanny Goat Hill Distinctive Neighbourhood.

Given the issues raised in this report, particularly in relation to the FSR exceedance, bulk and scale impacts the application is recommended for refusal in its current form.

2. Proposal

The proposed development is for alterations and additions to the existing dwelling including a new first floor addition. Details of the proposal are as follows:

- Reconfiguration of the ground floor including the deletion of a bedroom to accommodate a new staircase and music room;
- Construction of a new first floor addition to accommodate a new master bedroom with walk in wardrobe, two bedrooms and new bathroom.
- New glazing proposed at the front elevation (to guest bedroom/ playroom) and side elevation (highlight window to bathroom).

3. Site Description

The subject site is located on the north-western side of Maida Street, between Alberto Street to the north and Grove Street to the south. The site is a single allotment and is rectangular with a total area of 175.1m² and is legally described as Lot 1 in DP 925870. The site has a frontage to Maida Street of approximately 6.3m and a depth of 27.4m. The subject site is relatively flat with a gentle fall of approximately 280mm from north-west (rear) to south-east (front).

The subject site supports a single storey house. The local immediate area consists of a variety of low density single and two storey dwelling houses, and a four storey red brick residential flat building located three lots to the east of the subject site.

In a regional context, the site is located approximately 200m east of the Callan Park State Heritage site and 700m north of Lilyfield light rail station.

The subject site is not located within a Heritage Conservation Area and is not identified as a flood control lot.

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
D/2001/724	Alterations and additions to existing dwelling.	Approved 15/06/2011

Surrounding properties

There are no recent planning determinations at 23 Maida Street, Lilyfield.

27 Maida Street, Lilyfield

Application	Proposal	Decision & Date
M/2008/176	Section 96 modification to development consent D/2006/738 which approved first floor additions to an existing single storey house. Modification seeks to alter the size of the approved water tank from 2000L to 1100L.	Approved 28/08/2008
D/2006/738	First floor additions to an existing single storey house.	Approved 28/03/2007
D/1999/373	Alterations and additions to existing single storey dwelling comprising a new 1st floor consisting of a study, bedroom and ensuite	Refused 26/10/1999

4(b) Application history

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

Date	Discussion / Letter/ Additional Information
3/12/2018	Correspondence sent to the applicant requesting the application be withdrawn for the following reasons: <ul style="list-style-type: none"> The proposal resulted in a variation to the FSR development standard of 16% (22.4m²), although a Clause 4.6 was provided the variation requested was not supported; The proposal does not comply with the Building Location Zone requirements on the ground and first floor as well as the side setback provisions resulting in adverse bulk and scale impacts at the front and rear elevations; The first floor addition does not preserve nor enhance to the rhythm of the residential streetscape and contributes to unnecessary bulk at the front elevation, this is contrary to the objectives of the Nanny Goat Hill distinctive Neighbourhood.
11/01/2019	Correspondence received from the applicant advising that they wish to pursue the application.

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

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

The following provides further discussion of the relevant issues:

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 the consent authority to be satisfied that the site is, or will be made, suitable for the proposed use prior to granting consent.

The site has not been used in the past for activities which could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with SEPP 55.

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

A BASIX Certificate was submitted with the application demonstrating commitment to building sustainability and will be referenced as part of any consent issued.

State Environmental Planning Policy (vegetation in Non-Rural Areas) 2017

No trees are to be removed as part of the proposal, appropriate conditions have been recommended the Lemon and Frangipani Tree located at the boundary with 23 Maida Street are protected during the construction process. In addition, Councils Landscape Officer noted that due to the poor condition of the Golden Robinia tree, it is recommended that to be removed and replaced with suitable planting.

5(a)(i) Leichhardt Local Environmental Plan (LLEP 2013)

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

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition Requires Development Consent
- 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 – Exemptions to development standards

(i) Clause 1.2 Aims of the Plan

The proposed development is not considered to sufficiently satisfy the following aims of the plan:

- (b) *To minimise land use conflict and the negative impact of urban development on the natural, social, economic, physical and historical 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;*

Comment: The proposed development, namely the first floor addition is not supported as it does not preserve nor enhance the rhythm of the residential streetscape and contributes to unnecessary bulk at the front elevation and when viewed from the rear of the adjoining dwellings. No objection is raised to the proposed internal reconfiguration of the ground floor. Accordingly, the application is inconsistent with the aims of the plan and is recommended for refusal

(ii) Clause 2.3 – Zone objectives and Land Use Table

The site is located within the R1 – General Residential zone. One of the objectives of the zone is:

- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*

The proposed alterations to the dwelling, namely the first floor addition, are not deemed to adequately satisfy this objective. The proposed addition has not been designed to minimise visual bulk impacts at the front or rear elevation of the dwelling.

To minimise bulk and maintain design continuity along the Maida Street streetscape, neighbouring dwellings have maintained a portion of their original roof forms and setback their respective first floors further to the rear.

(iii) Clause 4.3A(3)(a) – Landscaped Area, Clause 4.4 – Floor Space Ratio and Clause 4.5

The following table provides an assessment of the application against the development standards for 25 Maida Street:

Standard (maximum)	Proposal	% of non compliance	Compliances
Floor Space Ratio Permissible: 0.8:1 (140m ²)	162.5m ²	22.4m ² (16%)	No
Landscape Area 15% (26.3m ²)	14.6m ² (8.3%)	11.6m ² (44.4%)	No – existing. Acceptable.
Site Coverage Permissible 60% (105m ²)	103m ² (59%)	N/A	Yes

The subject site in its current form has a FSR of 0.49:1 (86.1m²) – which is compliant with the Development Standard. The proposed development as amended seeks to vary the FSR Development Standard of the LLEP 2013 by 22.4m² or 16%.

Clause 4.6 of the LLEP 2013 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the applicable local environmental plan justifying the proposed contravention of the FSR and landscaped area development standards which is summarised as follows:

Floor Space Ratio:

- *The subject site is 175.1m² which is less than the minimum lot size 200m² prescribed under the LLEP 2013 and as such is defined as undersized;*
- *The minimum lot size in combination with the maximum floor space ratio, model the anticipated bulk and scale of future built form does not exceed the allowable gross floor area for a site which achieves the minimum lot size of 200m².*
- *The proposal is limited to a first floor addition therefore no variation is sought to the site coverage or landscaped area development standard;*

- *The proposed design utilises existing architectural lines to guide the siting of the additional floor area; sensibly distributing bulk with legible methodology. The consequential form resulting in a dwelling which is congruous with surrounding developments, incorporating relative building height, comparative setbacks and architectural expressions to minimise the impact of the first floor addition;*
- *The additional density proposed contributes to the diversity in housing choice within the local area;*
- *The dwelling is designed to satisfy the growing needs of a family, ensuring their needs are fulfilled in place, to avoid the need to relocate outside of the community;*
- *The rooms located on the first floor are modest in size and reflective of present and anticipated accommodation needs reasonably expected in a residential context;*
- *Strict compliance with the floor space ratio control would be of numeric benefit alone and likely produce an awkward transition between the existing and proposed components of the dwelling.*

The objectives of the FSR Development Standard, in accordance with Clause 4.6(4)(a)(ii) of the LLEP 2013 are to ensure that residential accommodation:

- is compatible with the desired future character of the area in relation to building bulk, form and scale, and*
- provides a suitable balance between landscaped areas and the built form, and*
- minimises the impact of the bulk and scale of buildings,*

The proposal as amended is not in the public interest as it does not satisfy the objectives of the Development Standard for the following reasons:

- The proposed development, namely the first floor addition is not compatible with the existing dwelling or desired future character of the area in terms of bulk;
- The variation proposed does not result in a superior design for the subject site, an alternative solution can be achieved that is sympathetic to the existing dwelling and streetscape. This can be achieved by incorporating additional articulation at the front, rear and side setbacks to minimise the visual bulk and scale of the development from the front and rear. Designs similar to that prevalent within the street can be achieved on the subject site, this includes retaining a portion of the main roof form, increased setbacks and minimal ceiling heights.

The proposal does not satisfy the objectives in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the LLEP 2013. For the reasons outlined above, there are insufficient planning grounds to justify the departure from FSR Development Standard and it is not supported.

Landscaped Area:

- *The proposed development does not seek to further reduce the existing non-compliant permeable landscaped areas on the subject site.*

The proposed exception to the development standard has been assessed against the objectives development standard itself, and the applicable zone, as extracted from the Local Environmental Plan, below:

The proposed development is within R1 – General Residential Zone and the objectives of the zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To improve opportunities to work from home.*
- *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.

The proposed development is not consistent with the above objectives in that:

- The proposal is not compatible with the desired future character of the Nanny Goat Hill area in relation to building bulk, form and scale;
- The proposal, namely the first floor addition is not sympathetic to the existing dwelling or the surrounding dwelling along the Maida Street streetscape;
- The minimum lot size development standard is not indicative of an ideal lot size within the LGA but rather sets controls for subdivision if the objectives of the clause are satisfied. As such, the subject site does not enjoy special consideration as ‘undersized’;
- The existing dwelling has adequate internal amenity to satisfy the needs of the residents and a revised first floor addition that is modest in scale and is sympathetic to the existing streetscape can be accommodated on the site to improve the internal amenity of the dwelling.

The drawings below (provided by the applicant) illustrate the relationship of the proposed building with its neighbours, showing the over-scaled nature of the proposed addition:

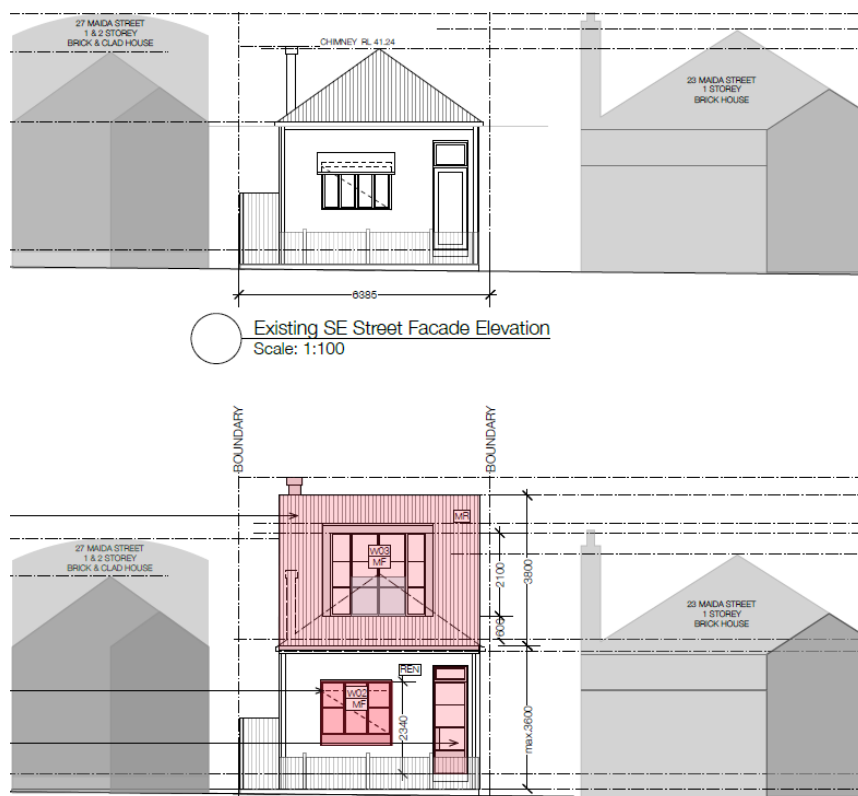


Figure 1: existing and proposed street elevations



Figure 2: existing and proposed rear elevations

The objectives of the Landscaped Area Development Standard, in accordance with Clause 4.3A of the LLEP 2013 to ensure that there is a suitable balance between the built form and landscaped areas for residential accommodation. The proposal does not seek to vary the existing non-compliant landscaped areas on the subject site, as such an assessment against the appropriate provisions is not warranted.

5(b) Draft Environmental Planning Instruments

There are no relevant Draft Environmental Planning Instruments.

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	Not applicable
B3.1 Social Impact Assessment	Not applicable
B3.2 Events and Activities in the Public Domain (Special Events)	Not applicable
Part C	
C1.0 General Provisions	No
C1.1 Site and Context Analysis	No

C1.2 Demolition	Yes
C1.3 Alterations and additions	No
C1.4 Heritage Conservation Areas and Heritage Items	Not applicable
C1.5 Corner Sites	Not applicable
C1.6 Subdivision	Not applicable
C1.7 Site Facilities	Yes
C1.8 Contamination	Not applicable
C1.9 Safety by Design	Not applicable
C1.10 Equity of Access and Mobility	Not applicable
C1.11 Parking	Not applicable
C1.12 Landscaping	No - acceptable
C1.13 Open Space Design Within the Public Domain	Not applicable
C1.14 Tree Management	Yes
C1.15 Signs and Outdoor Advertising	Not applicable
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Not applicable
C1.17 Minor Architectural Details	Not applicable
C1.18 Laneways	Not applicable
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	Not applicable
C1.20 Foreshore Land	Not applicable
C1.21 Green Roofs and Green Living Walls	Not applicable
Part C: Place – Section 2 Urban Character	
C2.2.4.2 Nanny Goat Hill Distinctive Neighbourhood	No
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	No
C3.2 Site Layout and Building Design	No
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	Not applicable
C3.5 Front Gardens and Dwelling Entries	Not applicable
C3.6 Fences	Not applicable
C3.7 Environmental Performance	Not applicable
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	Not applicable
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	Not applicable
C3.14 Adaptable Housing	Not applicable
Part C: Place – Section 4 – Non-Residential Provisions	
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
D2.4 Non-Residential Development	Not applicable
D2.5 Mixed Use Development	Not applicable
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	Refer to BASIX
E1.1.2 Integrated Water Cycle Plan	Not applicable
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	Not applicable
E1.1.5 Foreshore Risk Management Report	Not applicable
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Not applicable
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Not applicable
E1.2.4 Stormwater Treatment	Not applicable
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	Not applicable
E1.2.7 Wastewater Management	Not applicable
E1.3 Hazard Management	Not applicable
E1.3.1 Flood Risk Management	Not applicable
E1.3.2 Foreshore Risk Management	Not applicable
Part F: Food	Not applicable
Part G: Site Specific Controls	Not applicable

The following provides discussion of the relevant issues:

C1.0 General Provisions

The proposal, specifically the first floor addition, is not considered to satisfy Objective O6 as the works are not in character with the existing dwelling or surrounding streetscape. The first floor works do not comply with the site layout and building design controls which require the articulation of new works to ensure that the established building pattern is maintained without compromising the amenity of the neighbouring properties. In addition, the proposal contributes to unnecessary bulk at the front and rear of the dwelling which is contrary to the Nanny Goat Hill Distinctive Neighbourhood controls.

C1.3 Alterations and additions

The proposal, namely the first floor addition, does not comply with Controls C1, C2, C9, C12 and C15 as the additions are neither sympathetic to the existing dwelling, prevailing streetscape or desired future character of the distinctive neighbourhood. The proposal is not considered to be consistent with the following objectives of DCP 2013 as the proposal does not:

- a. complements the scale, form and materials of the streetscape including wall height and roof form
- b. where an alteration or addition is visible from the public domain it should appear as a sympathetic addition to the existing building;
- c. make a positive contribution to the desired future character of the streetscape and any heritage values associated with it;
- d. is compatible with neighbourhood character, including prevailing site layout

C2.2.4.2 Nanny Goat Hill Distinctive Neighbourhood

The proposed development is inconsistent with the desired future character of the area, specifically controls C1 and C5, which seeks to preserve a consistent rhythm of residential streetscapes including dominant roof forms.

C3.1 Residential General Provisions

Given the FSR breach, bulk and scale concerns raised in this assessment the proposal is not compliant with the following objectives of the general residential provisions of the LDCP 2013:

- *Subclause O3, to ensure that alterations, additions to residential buildings and new residential development are compatible with the established setting and character of the suburb and neighbourhood and compatible with the desired future character and heritage significance of the place and its setting;*
Comment: The proposal, namely the first floor, is not sympathetic in design to the existing dwelling nor is it compatible with the desired future character of the Nanny Goat Hill neighbourhood, namely in terms of its visual bulk and scale within the Maida Street streetscape context nor when viewed from the POS areas of the adjoining properties.

- *Subclause O4, to ensure that all residential development is compatible with the scale, form, siting and materials of existing adjacent buildings; and*
Comment: The gable style first floor addition with front dormer window is excessive in scale and has not been designed with consideration to the site layout and building controls of the LDCP 2013. There are no dwellings within Maida Street that have a front dormer window as significant in scale as to that proposed for the subject site. Although Maida Street consists of a variety of single and two storey dwelling types, as previously stated dwelling houses with first floor additions generally have preserved a portion of the existing roof form and setback the first floor addition further to the rear. Examples of these type of additions can be found at 15, 16, 18, 20, 22, 27 and 28 Maida Street.

- *Subclause O5, to ensure that all residential development is consistent with the density of the local area as established by the Leichhardt Local Environmental Plan 2013.*
Comment: The proposal does not comply with the maximum allowable FSR or minimum landscaped area for the subject site. A Clause 4.6 request relating to FSR was provided with the application and is found to be unacceptable however there is no objection to maintaining the existing variation to the landscaped area development standard (refer to assessment at Part 5(a)(v) of this report).

C3.2 Site Layout and Building Design

No changes are proposed to the existing ground floor footprint, as such the ground floor of the dwelling will maintain a nil and 1m setback to the north-east and south-west side boundaries respectively and a 1.7m and 5.7m setback to the front and rear boundaries respectively. The first floor addition is to be setback 1.3m from the ground floor front building line and 3m from the front boundary. In addition, the first floor is to be setback 850mm from the rear building line of the ground floor and 6.6m from the rear boundary. The first floor seeks to continue the existing nil and 1m side setback at the north-east and south west boundaries respectively.

The proposed development, namely the first floor addition has not demonstrated compliance nor and adequate justification against the side setback and building location zone (BLZ) requirements. A detailed assessment of these is as follows:

Side setbacks:

The new first floor addition will breach the side setback provisions at both the north-east and south-west side boundaries. In this regard, the following table outlines the location / extent of proposed side setback breaches:

Elevation	Wall height	Required setback	Proposed setback	Complies
North-east (adjacent to 23 Maida Street)	7.36m	2.6m	1.1m	No
South-west (adjacent to 27 Maida Street)	7.36m	2.6m	Nil	No

Pursuant to Clause C3.2 C7 of the LDCP2013, where a proposal seeks a variation of the side setback control graph, various tests need to be met. These tests are assessed below:

- ***The development is consistent with relevant Building Typology Statements as outlined within Appendix B – Building Typologies of the LDCP2013 and complies with streetscape and desired future character controls.***

Comment: Not acceptable. Dwelling houses have a variety of defining characteristics and as such a can have a mix of roof forms, setbacks and open space areas. Additions to dwelling houses are encouraged to be sympathetic to the existing built form, adhere to the desired future character of the area and be designed so as not to dominate the form of the original building.

The first floor addition will predominantly be positioned directly above the ground floor, with the inclusion of minor setbacks at the front and rear elevations. A gable style addition with a large dormer window at the Maida Street elevation is proposed which is atypical in the neighbourhood. The roof ridge is setback 4.2m from the front building line, as such the front portion of the gable will have a steep slope to the ground floor of approximately 45 degrees. This style of gable roof form is out of context along the Maida Street frontage. Given the style of roof and side setbacks proposed, the first floor addition has not been articulated to comply with C1, C2, and C3 of Section 3 of the Building Typologies for Houses.

- ***The pattern of development is not adversely compromised.***

Comment: Not acceptable. The proposal has been designed contrary to the pattern of development encouraged within the Nanny Goat Hill Distinctive Neighbourhood and does not comply with the Building Location Zone requirements at the front and rear elevations.

- ***The bulk and scale of the development has been minimised and is acceptable.***

Comment: Not acceptable. The first floor addition has not been articulated with consideration to the residential provisions of the LDCP 2013. The gable style roof, front dormer window, FSR exceedance, high ground floor ceilings and limited side, front and rear setbacks contribute to excessive and unnecessary bulk of the overall proposal.

- ***The proposal is acceptable with respect to applicable amenity controls e.g. solar access, privacy and access to views.***

Comment: Not acceptable. As the first floor addition seeks to predominantly match the existing side setbacks of the ground floor this will create sheer blank walls that will be visually dominate when viewed from the side and rear of the adjoining properties at 23 and 27 Maida Street respectively.

The proposal has not taken into consideration of the visual dominance and sense of enclosure from the existing site context from the adjoining properties. It is noted that the first floor bedroom windows proposed at the rear and south-western side elevations are proportionately scaled so as not to impede the visual privacy of the neighbouring property.

The shadow diagrams provided with the application illustrate that the proposed development will not adversely overshadow the adjoining property at 27 Maida Street, however clarification was requested regarding the additional impacts to the north east facing windows of the affected dwelling.

The proposal does not unduly obstruct adjoining properties for maintenance purposes.

Comment: Acceptable. The existing dwellings at 23 and 27 Maida Street are setback approximately 2.3m and 700m respectively from the shared side boundaries with the

subject site, as such the side setback proposed are not likely to unduly obstruct the maintenance of the neighbouring properties.

Building Location Zone (BLZ):

First floor additions for dwelling located on the north-western side of Maida Street area varied with most having a front setback of either 7m or 10m and an average 10m setback from the rear boundary. The new first floor addition will breach the BLZ requirements at both the front and rear setbacks, in this regard pursuant to Clause C3.2 C6 of the LDCP 2013 where a proposal seeks a variation of the BLZ requirements various test need to be met. These tests are assessed below.

- ***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;***

Comment: Acceptable. Refer to comments in relation to the side setback test within this assessment report.

- ***The proposed development will be compatible with the existing streetscape, desired future character and scale of surrounding development;***

Comment: Not acceptable. As previously discussed, the first floor addition is excessive in scale and is not compatible with the existing dwelling and will detract from the Maida Street streetscape. As the existing dwelling house is set forward 2.4m and 550mm from 23 and 27 Maida Street respectively, any first floor addition should have an increased front setback so that it is not located forward of the average building alignment. As the first floor addition will predominantly be positioned directly above the ground floor the visual bulk impacts from the Maida Street elevation will be further exacerbated. Refer to comments in relation to the side setback test within this assessment report.

- ***The proposal is compatible in terms of size, dimensions privacy and solar access of private open space, outdoor recreation and landscaping;***

Comment: Acceptable. The existing private open space area to the rear of the existing dwelling is to be maintained – the new first floor addition will not adversely overshadow this area.

- ***Retention of existing significant vegetation and opportunities for new significant vegetation is maximised; and***

Comment: Not acceptable. Although the proposed development does not seek to reduce the already non-compliant permeable landscaped areas on the subject site, additional landscaped area can be accommodated on the subject site by reducing the amount of paving retained at the rear.

- ***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***

Comment: Not acceptable. As previously discussed, the first floor addition has been designed with limited articulation at the front, rear and side elevations of the proposal resulting in an excessive addition particularly when viewed from the adjoining properties. Refer to comments in relation to the side setback test within this assessment report.

Building Envelope:

In addition to the desired future character provisions and the existing site context Clause C3.2 C15 and C16 of the LDCP 2013 provides guidance for building envelopes at the front elevation for dwelling houses. The proposed development seeks to maintain a 3.6m wall height at the front elevation as such the building envelope is measured at a 45 degree angle – no encroachments are permitted. Contrary to the applicable controls, the proposed master bedroom dormer window protrudes 2.4m from the building envelope zone thus creating unnecessary bulk at the Maida Street elevation. As previously discussed, the roof form and

dormer window proposed are not prevalent with the Maida Street streetscape and as such is not supported.

Given the above assessment the proposal is not supported as it has not demonstrated compliance with the appropriate side setback, BLZ and building envelope tests which assist in articulating works to the built form of dwelling houses – these include C1, C3, C6, C7, C8, C15 and C16.

C3.4 Dormer Windows

A dormer window is proposed at the front elevation to improve the internal amenity of the master bedroom. As previously noted, the dormer window is not positioned within the building envelope parameters and contribute to the excessive bulk and scale of the development from the Maida Street streetscape on this basis it is not supported. In addition, the proposed width (2.8m) is greater than 25% of the roof width – contrary to that permitted under C8 of this part. A contemporary first floor addition without a dormer window can be accommodated on the subject site that has been suitable articulated from the side, front and rear boundaries and allows for natural light and ventilation to penetrate the new addition.

5(d) The Likely Impacts

Given the FSR breach, bulk and scale concerns raised in this assessment the Development Application demonstrates that the proposal will have an adverse impact on the locality.

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

The site is zoned R1 – General Residential. It is considered that the proposal, specifically the attic additions, will have an adverse impact on the on the locality 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 the Leichhardt Development Control Plan 2013 for a period of 14 days to surrounding properties. No submissions were received.

5(g) The Public Interest

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

Approval of the proposal would not be in 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.

- Landscape Officer: The plans provided with the application illustrate that no trees are to be removed as part of the proposal, appropriate conditions have been recommended the Lemon and Frangipani Tree located at the boundary with 23 Maida Street are protected during the construction process. In addition, it was noted that due to the poor condition of the Golden Robinia tree, it is recommended that it be removed and replaced with suitable planting.

- Development Engineer: No objection to the proposed development subject to recommended conditions.

7. Section 7.11 Contributions

Section 7.11 contributions are not payable for the proposal.

8. Conclusion

The proposal does not comply with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013, Leichhardt Development Control Plan 2013 and other relevant Environmental Planning Instruments. The development is considered to result in an unnecessary breach to the FSR development standard and has been designed contrary to the design parameters for the Nanny Goat Hill Distinctive Neighbourhood.

A first floor addition is not unachievable on the site but the proposal displays a disregard for the applicable key development standards, site layout and building design considerations which apply to the land. The application is considered unsupportable and in view of the circumstances, and hence, refusal of the application is recommended.

9. Recommendation

1. The applicant has made a written request pursuant to Clause 4.6 of the Leichhardt Local Environmental Plan 2013 to vary the development standard for Clause 4.4 Floor Space Ratio. 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 or that there are sufficient environmental grounds, and that the proposed development would be not 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.
2. 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/2018/473 for the following reasons:
3. The proposal does not satisfy the following Clauses of the Leichhardt Local Environmental Plan 2013, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979:
 - i) Clause 1.2 – Aims of Plan
 - ii) Clause 2.3 – Zone objectives and Land Use Table
 - iii) Clause 4.4 – Floor Space Ratio
 - iv) Clause 4.5 – Calculation of floor space ratio and site area
 - v) Clause 4.6 – Exemptions to Development Standards
4. The proposal does not satisfy the following Parts of the Leichhardt Development Control Plan 2013, pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979:
 - i) Part C – Section 1 – C1.0 General Provisions
 - ii) Part C – Section 1 – C1.1 Site Context and Analysis
 - iii) Part C – Section 1 – C1.3 – Alterations and Additions
 - iv) Part C – Section 2 – C2.2.4.2 Nanny Goat Hill Distinctive Neighbourhood
 - v) Part C – Section 3 – C3.1 – Residential General Provisions
 - vi) Part C – Section 3 – C3.2 – Site Layout and Building Design
 - vii) Part C – Section 3 – C3.4 – Dormer Windows

5. The proposal is considered to result in adverse environmental impacts on the built environment pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979.
6. The proposal is not considered suitable for the site in its current form pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
7. The proposal is not considered to be in the public interest pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

Attachment A – Recommended reasons for refusal

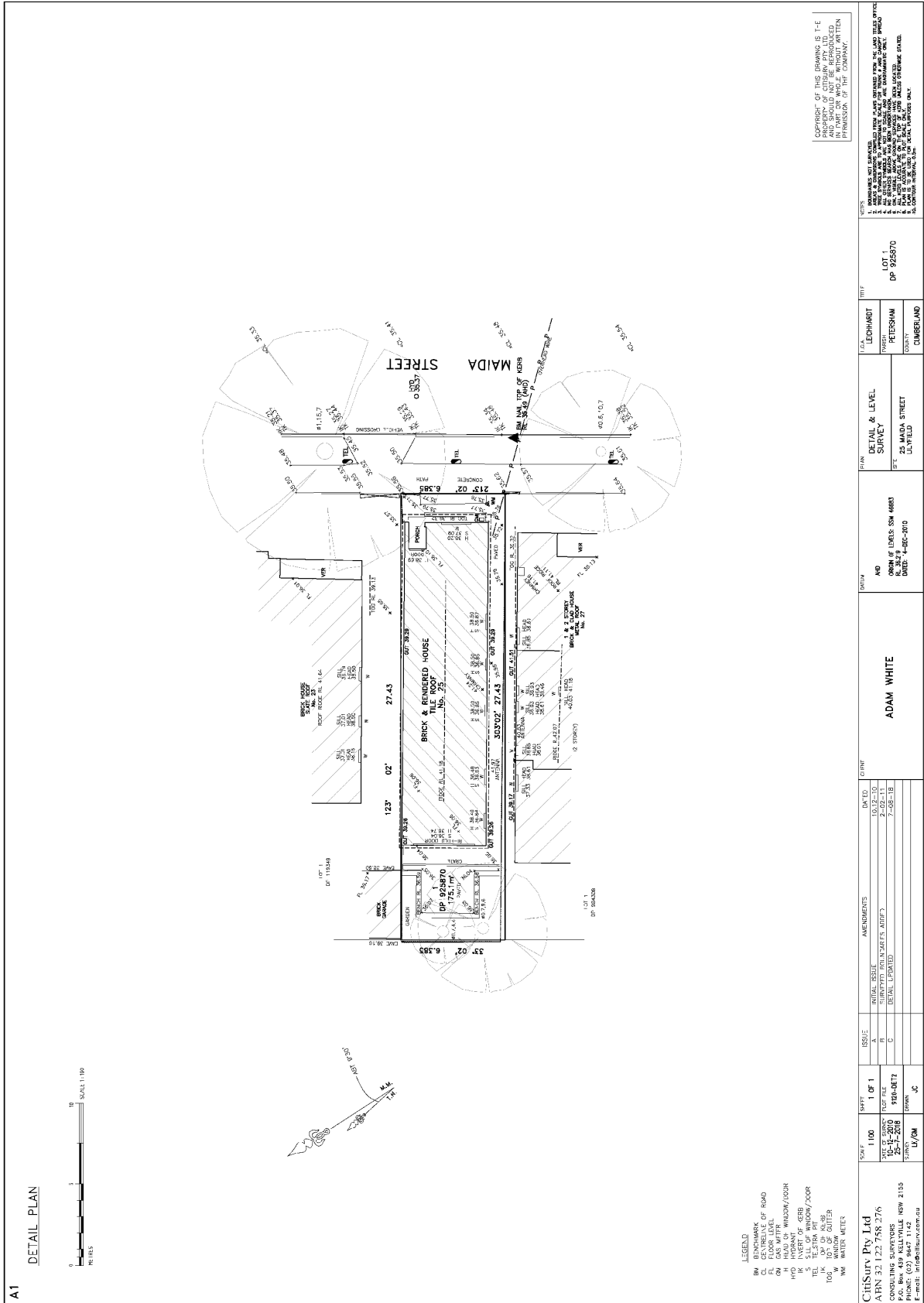
REASONS FOR REFUSAL

1. The applicant has made a written request pursuant to Clause 4.6 of the Leichhardt Local Environmental Plan 2013 to vary the development standard for Clause 4.4 Floor Space Ratio. 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 or that there are sufficient environmental grounds, and that the proposed development would be not 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.
2. The proposal does not satisfy the following Clauses of the Leichhardt Local Environmental Plan 2013, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979:
 - i) Clause 1.2 – Aims of Plan
 - ii) Clause 2.3 – Zone objectives and Land Use Table
 - iii) Clause 4.4 – Floor Space Ratio
 - iv) Clause 4.5 – Calculation of floor space ratio and site area
 - v) Clause 4.6 – Exemptions to Development Standards
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 - ii) Part C – Section 1 – C1.1 Site Context and Analysis
 - iii) Part C – Section 1 – C1.3 – Alterations and Additions
 - iv) Part C – Section 2 – C2.2.4.2 Nanny Goat Hill Distinctive Neighbourhood
 - v) Part C – Section 3 – C3.1 – Residential General Provisions
 - vi) Part C – Section 3 – C3.2 – Site Layout and Building Design
 - vii) Part C – Section 3 – C3.4 – Dormer Windows
4. The proposal is considered to result in adverse environmental impacts on the built environment pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979.
5. The proposal is not considered suitable for the site in its current form pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
6. The proposal is not considered to be in the public interest pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

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.

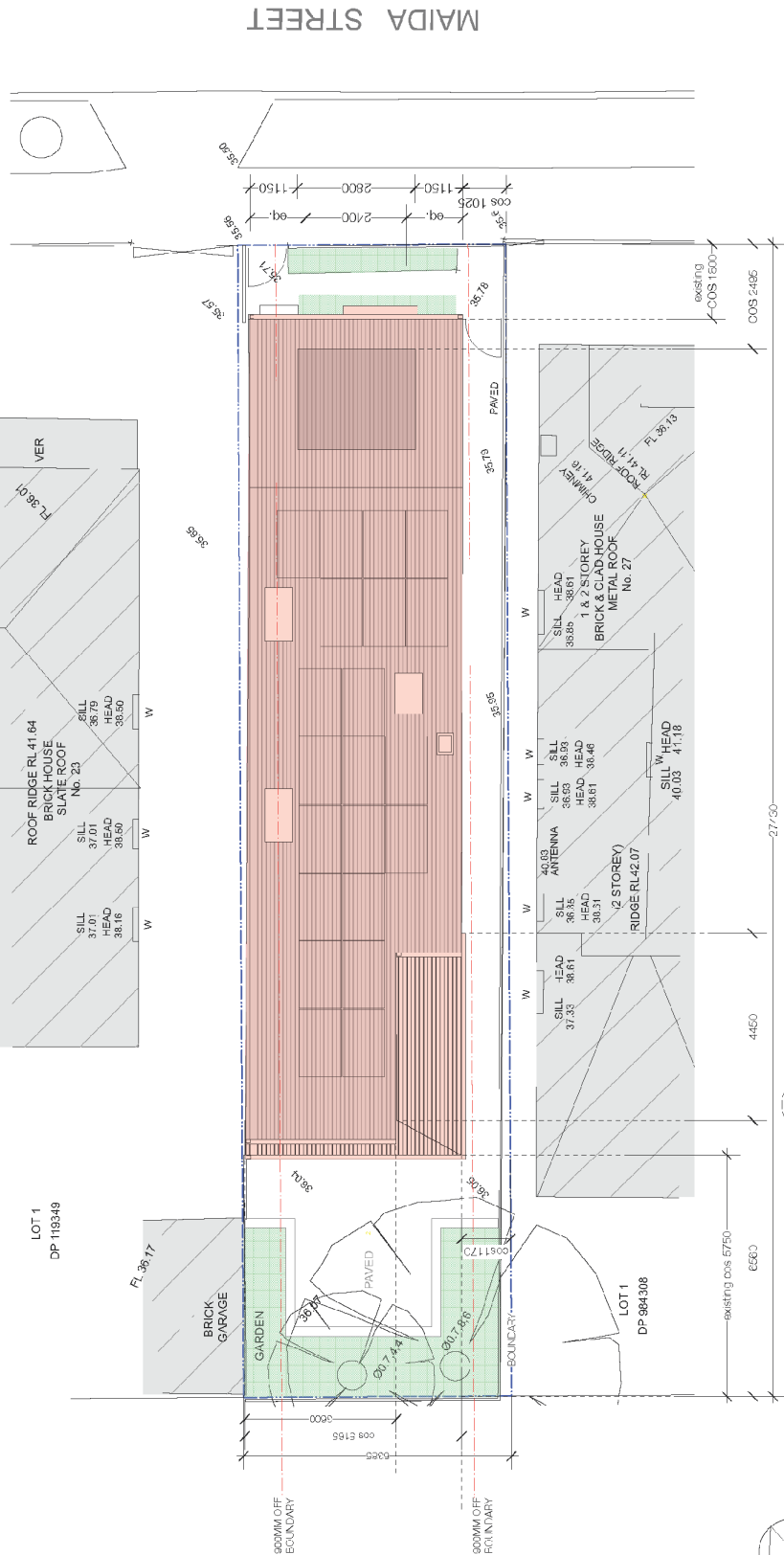
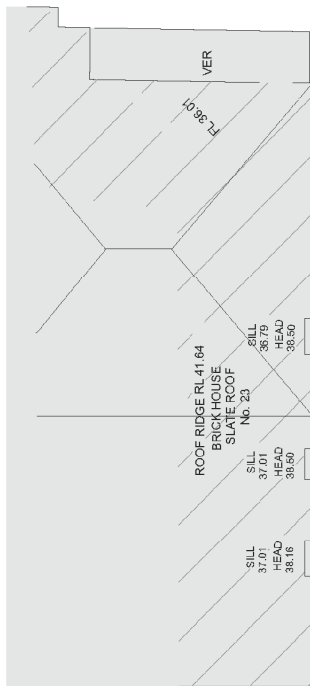
Attachment B – Plans of proposed development



SITE COVERAGE Site Area: 175.1 sqm
 Leichhardt LEP 2013 Maximum Site Coverage 60%
 Existing Site coverage: 102.3sqm / 58%
 Proposed site coverage: 102.3sqm / 58% UNCHANGED

LANDSCAPED AREA
 Leichhardt LEP 2013 Minimum Landscaped Area (15% of site area): 26sqm
 Existing Landscaped Area: 14.6 sqm
 Proposed Landscaped Area: 14.6 sqm UNCHANGED

FLOOR SPACE RATIO
 General Residential Zone (R1) Leichhardt LEP 2013 0.8:1
 Existing Floor Area: 23.7sqm
 Proposed Floor Area: 23.7sqm
 Local Proportionate Floor Area: 156.2sqm
 Proposed FSR (0.91:1) refer to clause 4.6 statement



SITE PLAN

DA.02A

date: APRIL 2017
 scale: noted @ 1:50
 drawn by: E. Phipps
 checked by: FPH

client: Adam & Julia White
 project: ALTERATIONS & ADDITIONS
 project address: 25 MAIDA STREET LILYFIELD LOT1 DP 828970

revisions/issue: 9/1/19 Issue for DA
 REVA 03.10 Issue for DA, updated survey.

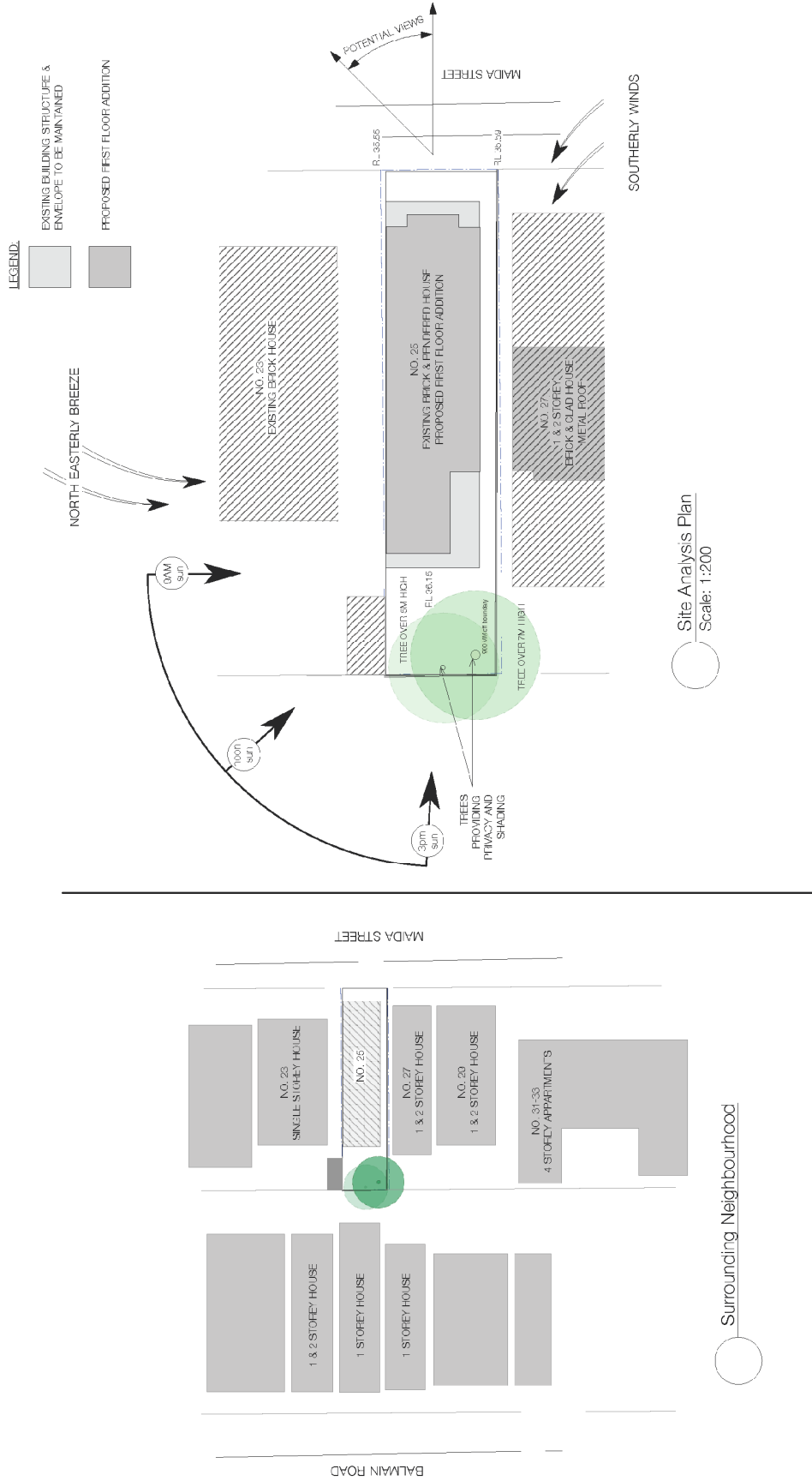
All work to be carried out in accordance with BCA, SAA Codes and Council conditions. Measurements in mm unless otherwise noted. Use figured dimensions, do not use text dimensions. All drawings to be read in conjunction with the specification, schedules and Structural Engineer's detail drawing & specification.

34 Maida Street
 Lilyfield NSW 2040
 T 0402 007 219
 E fhipps@gmail.com

fiona pickett/ heaps

Site Plan
 Scale: 1:100

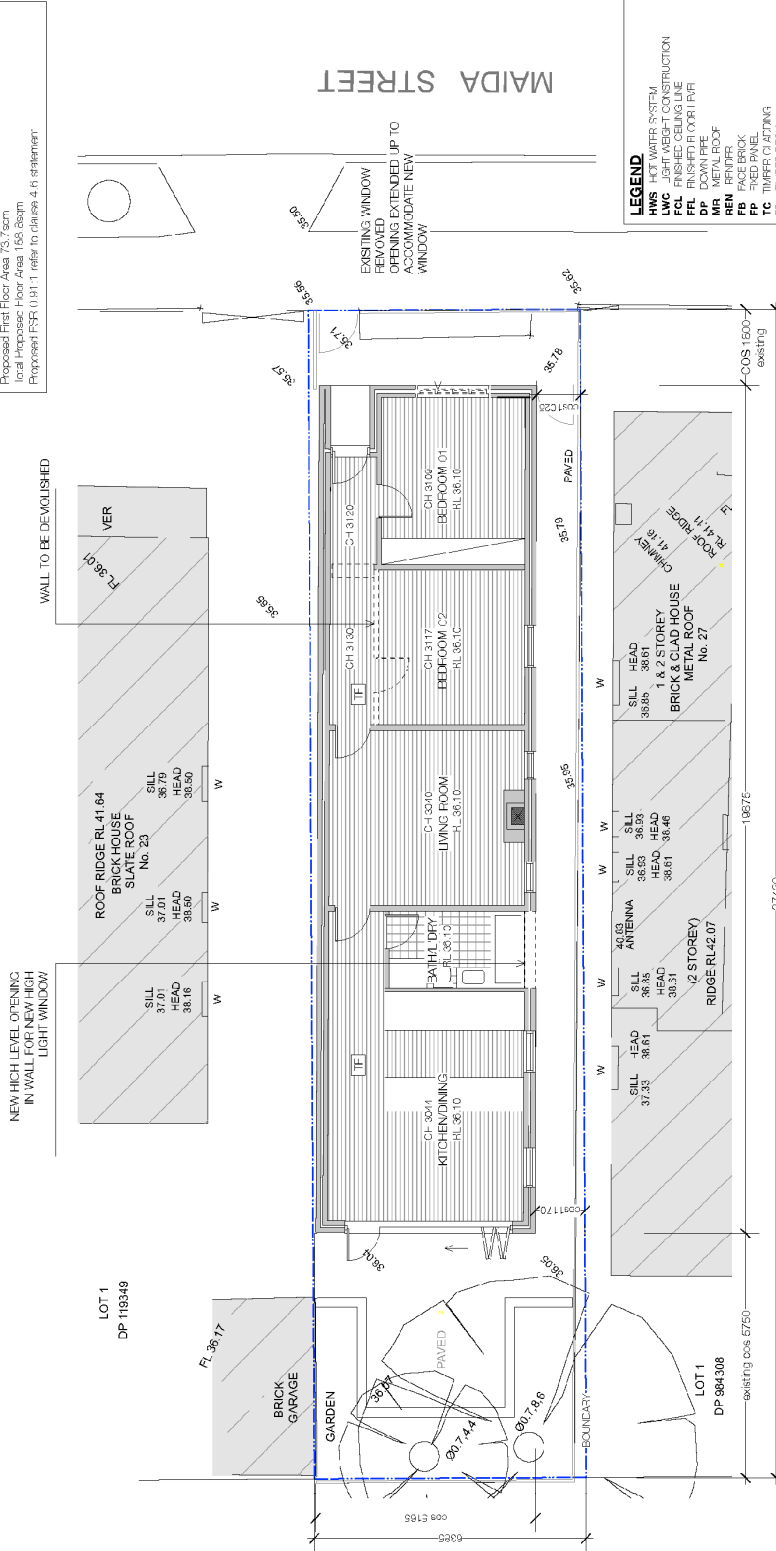




SITE ANALYSIS

<p>34 Malca Street Liverpool NSW 2170 U: 02 942 131 21 E: fhp@fhp.com.au</p> <p>fiona pickett/ heaps</p>	<p>All work to be carried out in accordance with BCA, SAA Codes and Council conditions. Measurements in mm unless otherwise noted. Use figured dimensions, do not scale drawings. Site measure and check before starting work. Refer all discrepancies/enquiries to the Architect/Designer. All drawings to be read in conjunction with the Specification, Schedules and Structural Engineer's detail drawing & specification.</p>	<p>revisions/issue 9, 07 18 issue for DA</p>	<p>client project project address</p> <p>Adm & Julie White 25 MADA STREET LILYFIELD LOT 1 DP 625870</p>	<p>date scale issue drawn by checked by</p> <p>MARCH 2018 record @ 1/3 DA FPH DA.01</p>
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SITE COVERAGE Site Area: 176.1sqm
 Lechardt LEP 2013, Maximum Site Coverage 60%
 Existing Site coverage: 102.3sqm / 58%
 Proposed site coverage: 102.3sqm / 58%
LANDSCAPED AREA
 Lechardt LEP 2013, Minimum Landscaped Area (16% of site area): 28sqm
 Existing Landscaped Area: 14.0 sqm
 Proposed Landscaped Area: 14.0 sqm
FLOOR SPACE RATIO
 Lechardt LEP 2013, Maximum FSR: 14.6 sqm UNIC-HANDED
 (General Residential Zone F1 Leichhardt LEP 2013 0.8:1;
 Existing Floor Area 96.1sqm (FSR 0.49:1)
 Proposed Ground Floor Area 68.1 sqm
 Proposed First Floor Area 73.7sqm
 Local Proposed Floor Area 165.8sqm
 Proposed FSR (0.81:1 refer to clause 4.6 statement)



LEGEND

- HMS HOT WATER SYSTEM
- HC FINISHED CEILING LINE
- FCL FINISHED FLOOR LINE
- DF DOWN PIPE
- MR METAL ROOF
- FB FACE BRICK
- FP FINE PANEL
- TC TIMBER CLADDING
- TD TIMBER DECK
- TL TILED FLOOR
- TDR TIMBER FRAME DOOR/WINDOW
- AL ALUMINIUM FRAME DOOR/WINDOW
- S SKYLIGHT
- CT FLOOR TILE

EXISTING FLOOR PLAN

APRIL 2017
 Adam & Julia White
 DP 92870
 A.01A

client: Adam & Julia White
 project: ALTERATIONS & ADDITIONS
 project address: 25 MAIDA STREET ULLYELFIELD LOT1 DP 92870

date: APRIL 2017
 issue: 01
 drawn by: FPW
 checked by: FPW

All work to be carried out in accordance with BCA, SAA Codes and Council scale drawings. Site measure and check before starting work. Refer all discrepancies/enquiries to the Architect/Designer. All drawings to be read in conjunction with the specification, schedules and Structural Engineer's detail drawing & specification.

REGISTERED
 9.7.18 issue for DA
 REVA 6.8.18 issue for DA, updated survey.

24 Maida Street
 Ulliyel NSM 2043
 T 0422 00 7219
 E fheap@pickett.com



fiona pickett/heaps

RANK CERTIFICATE A31824
 POTENTIAL SYSTEM and references

INSULATION REQUIREMENTS
 All external walls, including concrete, stone, brick, masonry, and solid concrete, shall be insulated to the requirements of the Building Code of Australia (BCA) or Australian Standard AS/NZS 4854.1, as applicable. Insulation shall be installed in accordance with the manufacturer's instructions. The insulation shall be installed in accordance with the manufacturer's instructions. The insulation shall be installed in accordance with the manufacturer's instructions.

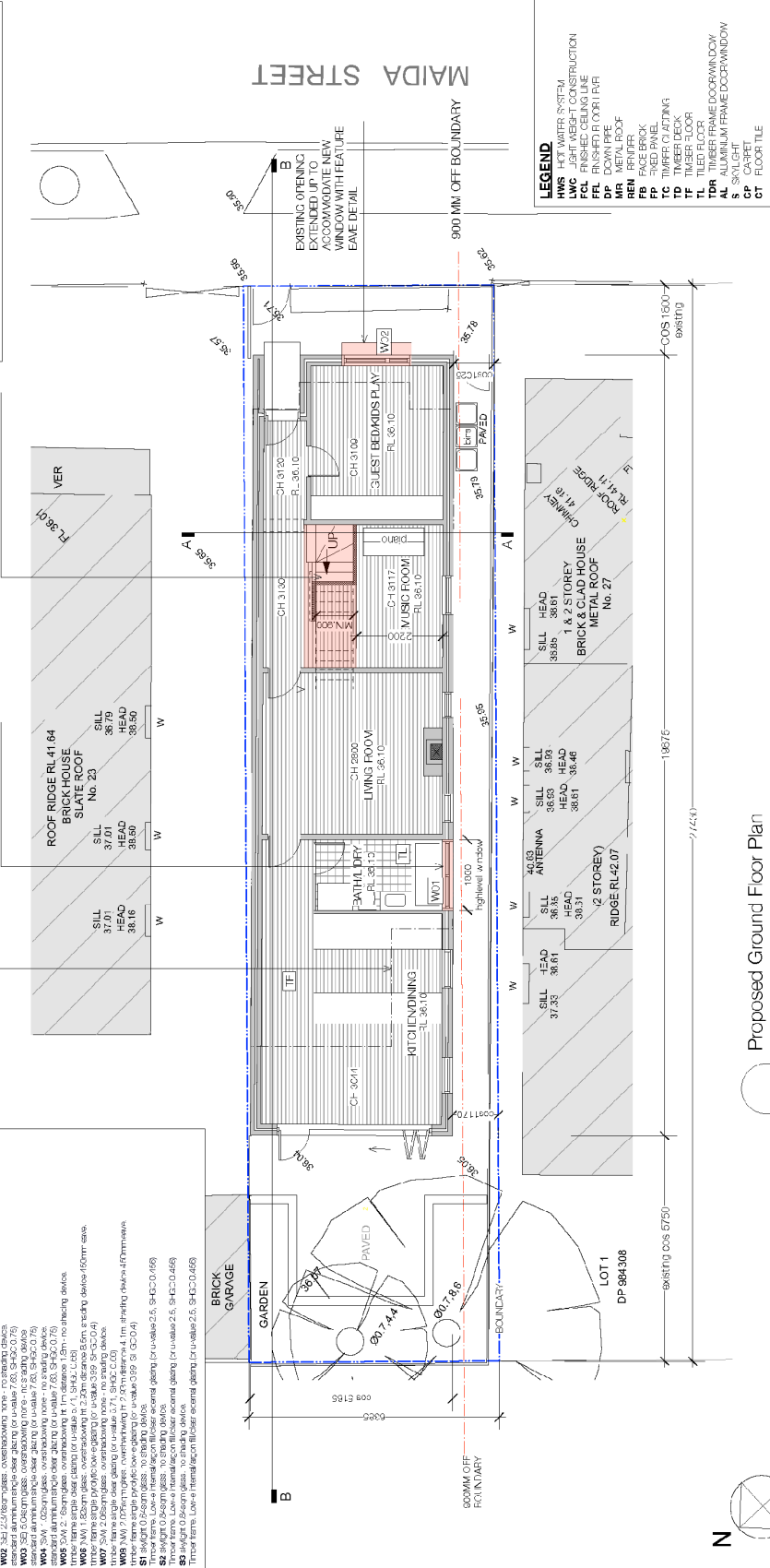
GLAZING REQUIREMENTS
 All windows, including aluminium, timber, and composite windows, shall be insulated in accordance with the requirements of the Building Code of Australia (BCA) or Australian Standard AS/NZS 4854.2, as applicable. Insulation shall be installed in accordance with the manufacturer's instructions. The insulation shall be installed in accordance with the manufacturer's instructions. The insulation shall be installed in accordance with the manufacturer's instructions.

GLAZING REQUIREMENTS (continued)
 All windows, including aluminium, timber, and composite windows, shall be insulated in accordance with the requirements of the Building Code of Australia (BCA) or Australian Standard AS/NZS 4854.2, as applicable. Insulation shall be installed in accordance with the manufacturer's instructions. The insulation shall be installed in accordance with the manufacturer's instructions. The insulation shall be installed in accordance with the manufacturer's instructions.

SITE COVERAGE Site Area: 1776.1sqm
 Lechardt LEP 2013, Maximum Site Coverage 60%
 Existing Site coverage: 102.3sqm / 5.8%
 Proposed site coverage: 102.3sqm / 5.8% UINC-HANSEED

LANDSCAPED AREA
 Lechardt LEP 2013 Minimum Landscaped Area (15% of site area): 266.4sqm
 Existing Landscaped Area: 14.0 sqm
 Proposed Landscaped Area: 14.6 sqm UINC-HANSEED

FLOOR SPACE RATIO
 (General Residential Zone F1 Lechardt LEP 2013, 0.8:1)
 Existing Floor Area 361.1sqm (RSFO 49.1)
 Proposed Ground Floor Area 73.7sqm
 Proposed First Floor Area 73.7sqm
 Local Hepsease - Floor Area 155.8sqm
 Proposed RSFO 0.81:1 refer to clauses 4, 6, 8, 11, 13, 14



LEGEND

- HMS HOT WATER SYSTEM
- BC CONCRETE WALL
- FC FINISHED CEILING LINE
- FLL FINISHED FLOOR LINE
- DF DOWN PIPE
- MR METAL ROOF
- FB FACE BRICK
- FB FINISHED PANEL
- TC TIMBER CLADDING
- TP TIMBER PLANK
- TP TIMBER PLANK
- TL TILED FLOOR
- TDR TIMBER FRAME DOOR/WINDOW
- AL ALUMINIUM FRAME DOOR/WINDOW
- SC SCHED
- CT CONCRETE FLOOR TILE

PROPOSED GROUND FLOOR PLAN

date: APRIL 2017
 issue: DRAWING 4/03
 drawn by: DPH
 checked by: FPH

client: Adam & Julia White
 project: ALTERATIONS & ADDITIONS
 project address: 25 MAIDA STREET LIC/FIELD LOT1 DP 92870

responsible for:
 9/18 issue for DA
 REVA 6.8.18 issue for DA, updated survey.

All work to be carried out in accordance with BCA, SAA Codes and Council scale drawings. Site measure and check before starting work. Refer all discrepancies/enquiries to the Architect/Designer. All drawings to be read in conjunction with the specification, schedules and Structural Engineers' detail drawing & specification.

fiona pickett/ heaps
 34 Maids Street
 Lilyfield NSW 2040
 P 0422 001 279
 E fheapsgmail.com

A.02A

BANK CERTIFICATE A01824
INSULATION SYSTEM - see information
INSULATION REQUIREMENTS
 All work to be carried out in accordance with BCA, SAA Codes and Council conditions for work to be carried out in accordance with the scale drawings. Site measure and check before starting work. Refer all discrepancies/enquiries to the Architect/Designer. All drawings to be read in conjunction with the specification, schedule and Structural Engineer's detail drawing & specification.

ROOFING REQUIREMENTS
 Roof waterproofing specifications must be as per AS/NZS 4001 - 4:2007 (or EN 12546) for rainwater collection.
 For all waterproofing of buildings, the roof must be tested to AS/NZS 4001 - 4:2007 (or EN 12546) for rainwater collection.
 For all waterproofing of buildings, the roof must be tested to AS/NZS 4001 - 4:2007 (or EN 12546) for rainwater collection.

GLAZING REQUIREMENTS
 All glazing must be in accordance with AS/NZS 2204 - 2:2007 (or EN 12600) for rainwater collection.
 For all glazing, the glazing must be tested to AS/NZS 2204 - 2:2007 (or EN 12600) for rainwater collection.

WIND REQUIREMENTS
 All wind resistant construction must be in accordance with AS/NZS 4001 - 4:2007 (or EN 12546) for rainwater collection.
 For all wind resistant construction, the construction must be tested to AS/NZS 4001 - 4:2007 (or EN 12546) for rainwater collection.

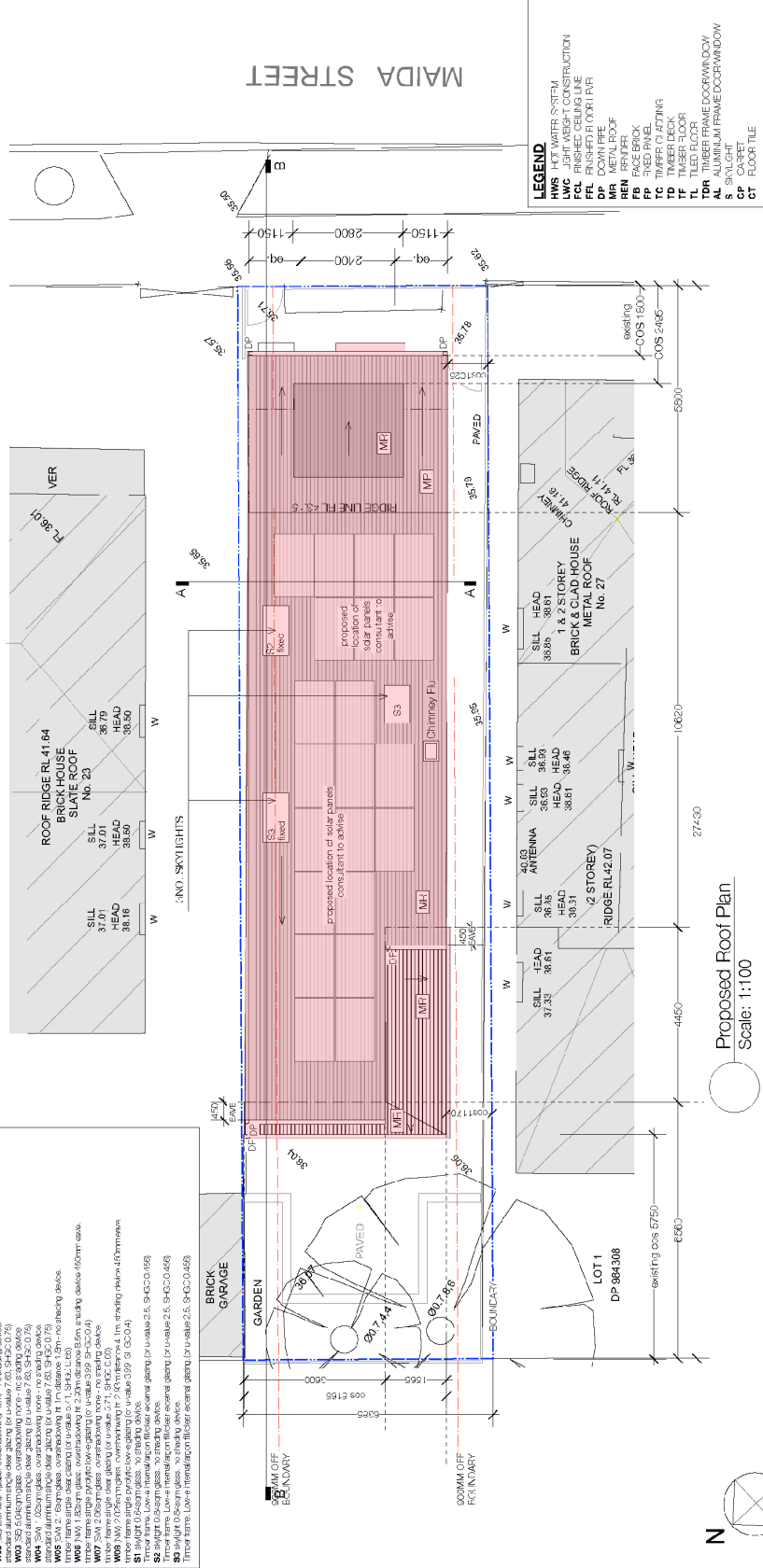
WATER REQUIREMENTS
 All water resistant construction must be in accordance with AS/NZS 4001 - 4:2007 (or EN 12546) for rainwater collection.
 For all water resistant construction, the construction must be tested to AS/NZS 4001 - 4:2007 (or EN 12546) for rainwater collection.

WIND AND WATER RESISTANT CONSTRUCTION
 All wind and water resistant construction must be in accordance with AS/NZS 4001 - 4:2007 (or EN 12546) for rainwater collection.
 For all wind and water resistant construction, the construction must be tested to AS/NZS 4001 - 4:2007 (or EN 12546) for rainwater collection.

WIND AND WATER RESISTANT CONSTRUCTION
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WIND AND WATER RESISTANT CONSTRUCTION
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 For all wind and water resistant construction, the construction must be tested to AS/NZS 4001 - 4:2007 (or EN 12546) for rainwater collection.

SITE COVERAGE Site Area: 176.1sqm
 Leachard LEP 2013 Maximum Site Coverage 60%
 Existing Site coverage: 102.3sqm / 58%
 Proposed Site coverage: 102.3sqm / 58%
LANDSCAPED AREA
 Existing landscaped area: 14.6 sqm
 Proposed landscaped area: 14.6 sqm
FLOOR SPACE RATIO
 Existing Floor Area 36.1sqm (FSFO 46.1)
 Proposed Floor Area 73.7sqm
 Total Impervious Floor Area: 156.0sqm
 Proposed FFR: 0.81:1 (refer to clause 4.6 of the plan)



LEGEND
 HWS HOT WATER SYSTEM
 LWC LIGHT WEIGHT CONSTRUCTION
 FL FINISHED FLOOR FINISH
 DP DOWN PIPE
 MR METAL ROOF
 REN ROOF BRICK
 FR FRAMED PANEL
 TC TIMBER CLADDING
 TD TIMBER DECK
 TLF TILE FLOOR
 TDR TIMBER FRAME DOOR/WINDOW
 AL ALUMINUM FRAME DOOR/WINDOW
 S SKYLIGHT
 CT FLOOR TILE

PROPOSED ROOF PLAN
 date: APRIL 2017
 issue: DA
 drawn by: FPH
 checked by: FPH
A.04A

client: Adam & Julia White
 project: ALTERATIONS & ADDITIONS
 project address: 25 MAIDA STREET LICFIELD LOT1 DP 925870

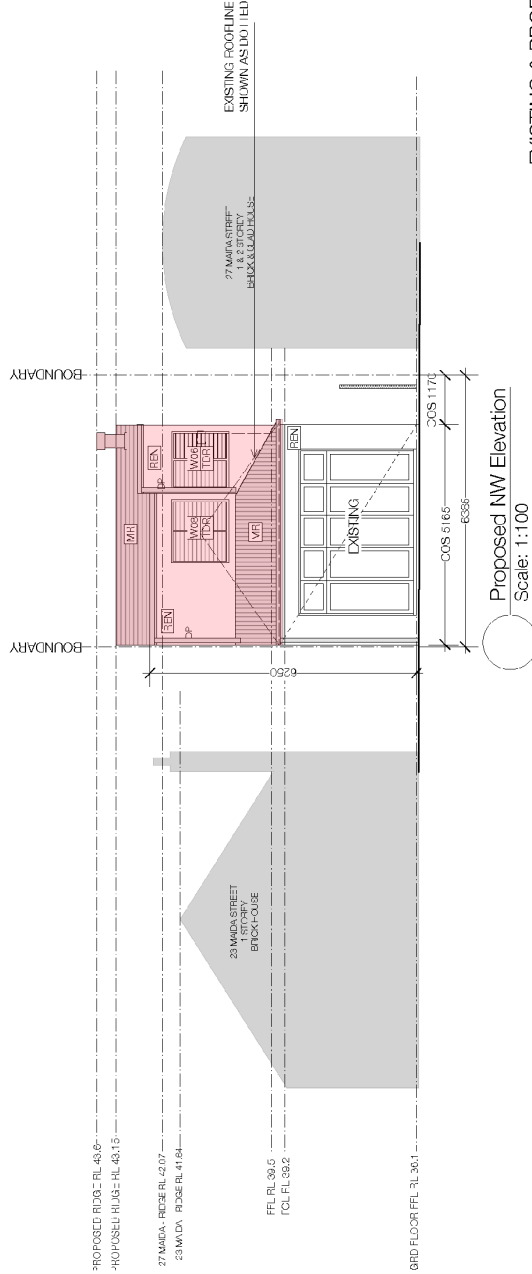
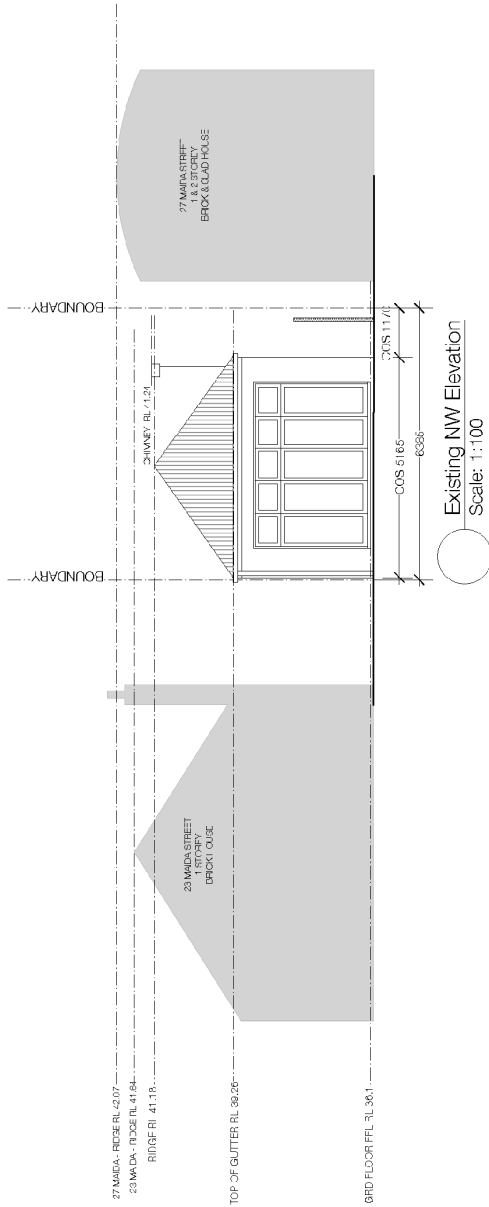
responsible: 9.7.18 issue for DA
 REVA 6.8.18 issue for DA, updated survey

34 Maida Street
 Licfield NSW 2040
 0402 07 218
 E: pfp@pickett-heaps.com

pickett-heaps

LEGEND

- NWS HOLD WAH SYSTEM
- LWC LIGHT WEIGHT CONSTRUCTION
- FCL FINISHED CEILING LINE
- FLL FINISHED FLOOR LEVEL
- WAL WALL
- MIR METAL ROOF
- REN RENOVATION
- FB FACE BRICK
- FP FINE PANELING
- TP TRIM PANELING
- TD TIMBER DECK
- TF TIMBER FLOOR
- TL TYPED CORR
- TD TIMBER FRAME DOOR/WINDOW
- AW ALUMINUM FRAME DOOR/WINDOW
- S SKYLIGHT
- CP CARPET
- CT FLOOR TILE



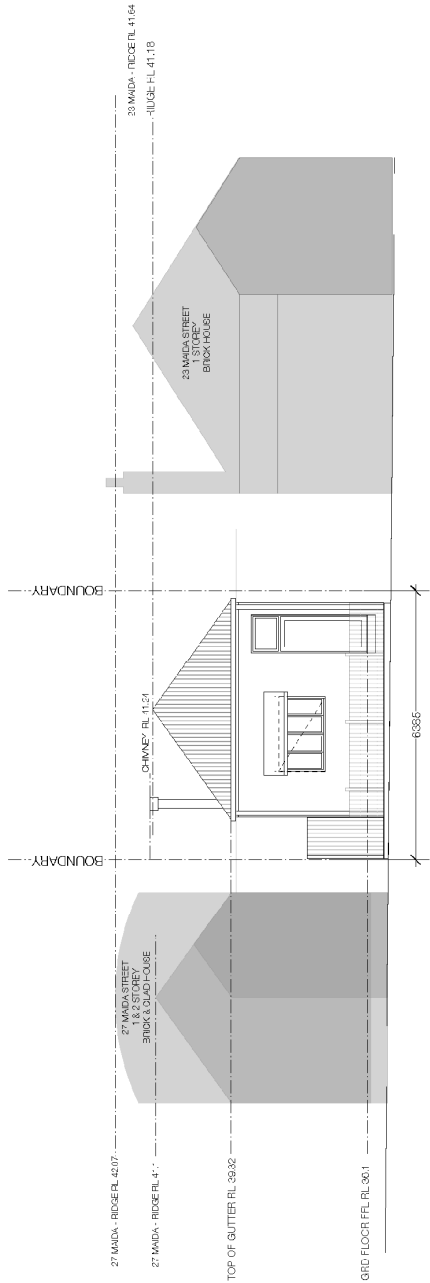
EXISTING & PROPOSED NW ELEVATION

<p>fiona pic-ketty heaps</p> <p>34 Madia Street Lilyfield NSW 2040 P 0422 007 219 E fheap@gmail.com</p>	<p>All work to be carried out in accordance with BCA, SAA Codes and Council requirements. Do not scale drawings. Site measure and check before starting work. Refer all discrepancies/enquiries to the Architect/Designer. All drawings to be read in conjunction with the specification, schedules and Structural Engineer's detail drawing & specification.</p>	<p>RESUBMITTED 9 07 18 Issue for DA REVA 4.8 18 Issue for DA updated survey.</p>	<p>client project project address</p>	<p>Adam & Julia White ALTERATIONS & ADDITIONS 23 MADIA STREET LILYFIELD LOT1 DP 928870</p>	<p>date APRIL 2017</p>
					<p>issue DA 01/13</p> <p>drawn by FPH</p> <p>checked by FPH</p>

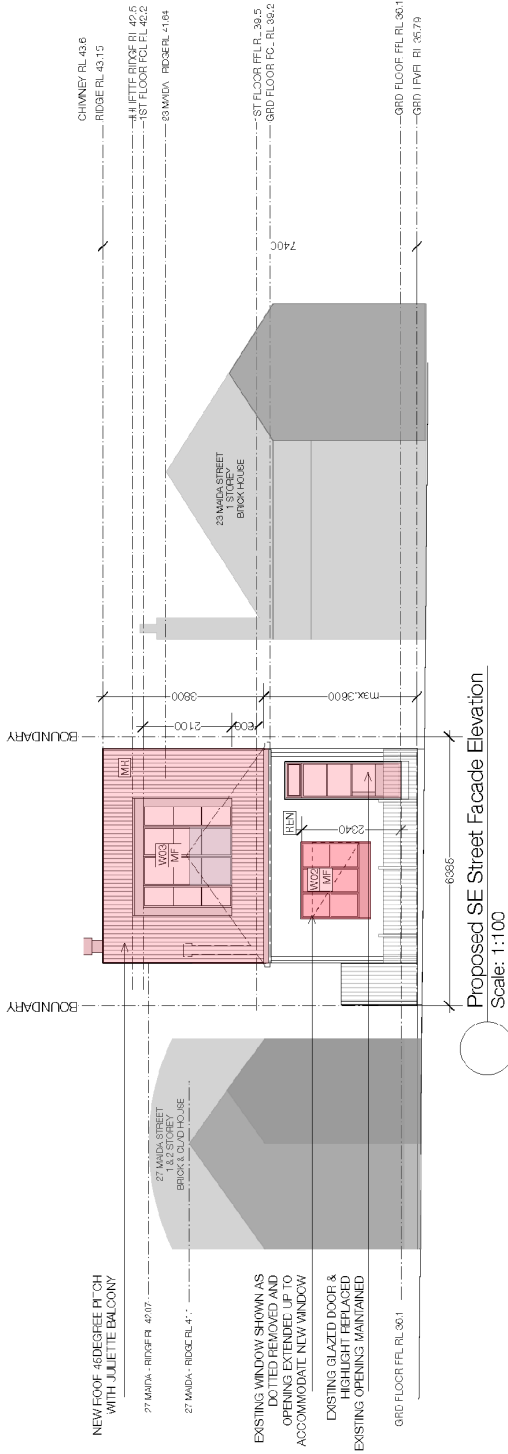
B.04A

LEGEND

HWS	HOT WATER SYSTEM
LWC	LIGHT WEIGHT CONSTRUCTION
FCL	FINISHED CEILING LINE
FPL	FINISHED FLOOR LEVEL
MR	METAL ROOF
REN	RENDER
FB	FACE BRICK
TC	TIMBER CLADDING
TD	TIMBER DECK
TL	TYPED TOP LINE DOOR/WINDOW
AL	ALUMINUM FRAME DOOR/WINDOW
S	SKYLIGHT
CP	CAP
CT	FLOOR TILE



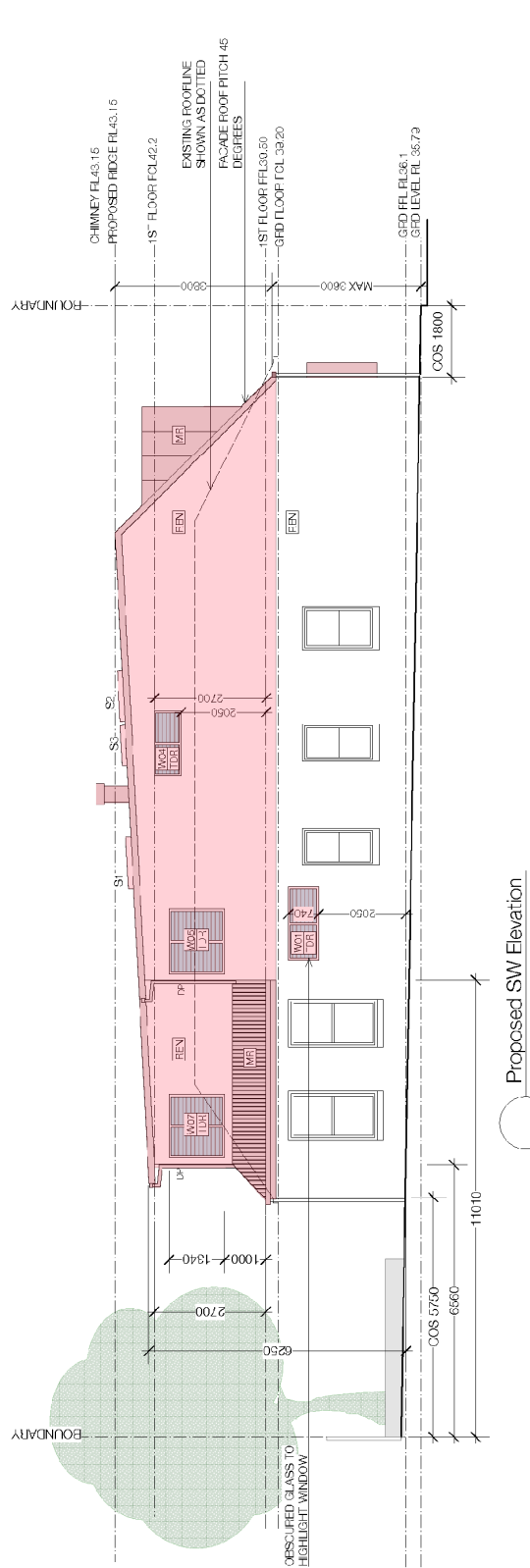
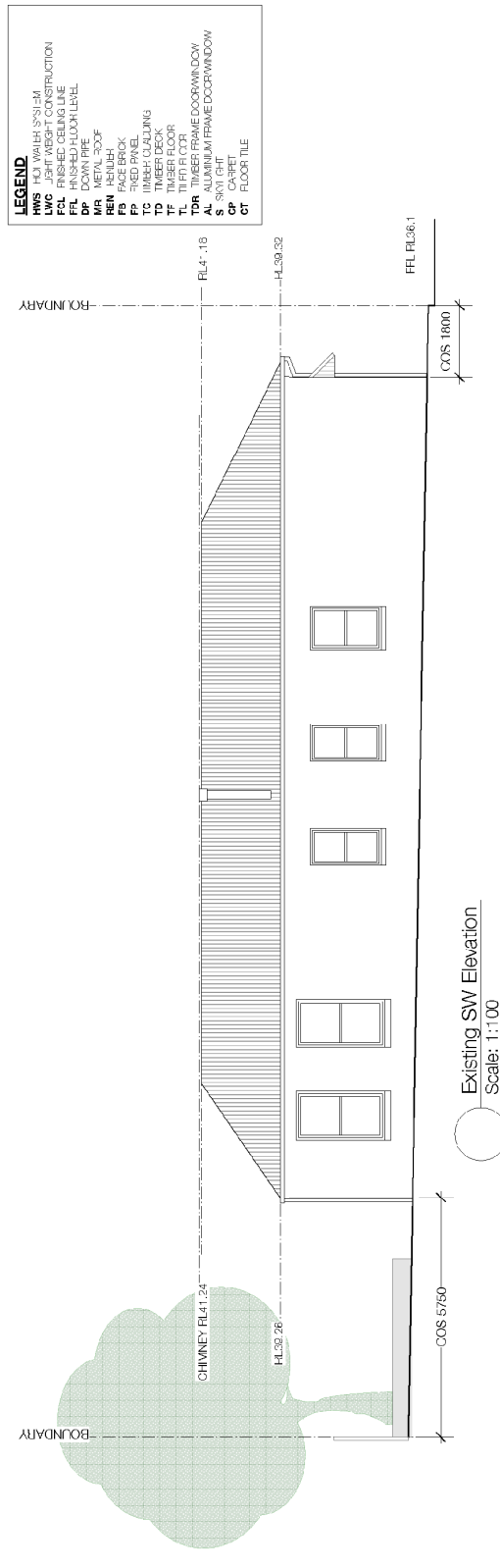
Existing SE Street Facade Elevation
Scale: 1:100



Proposed SE Street Facade Elevation
Scale: 1:100

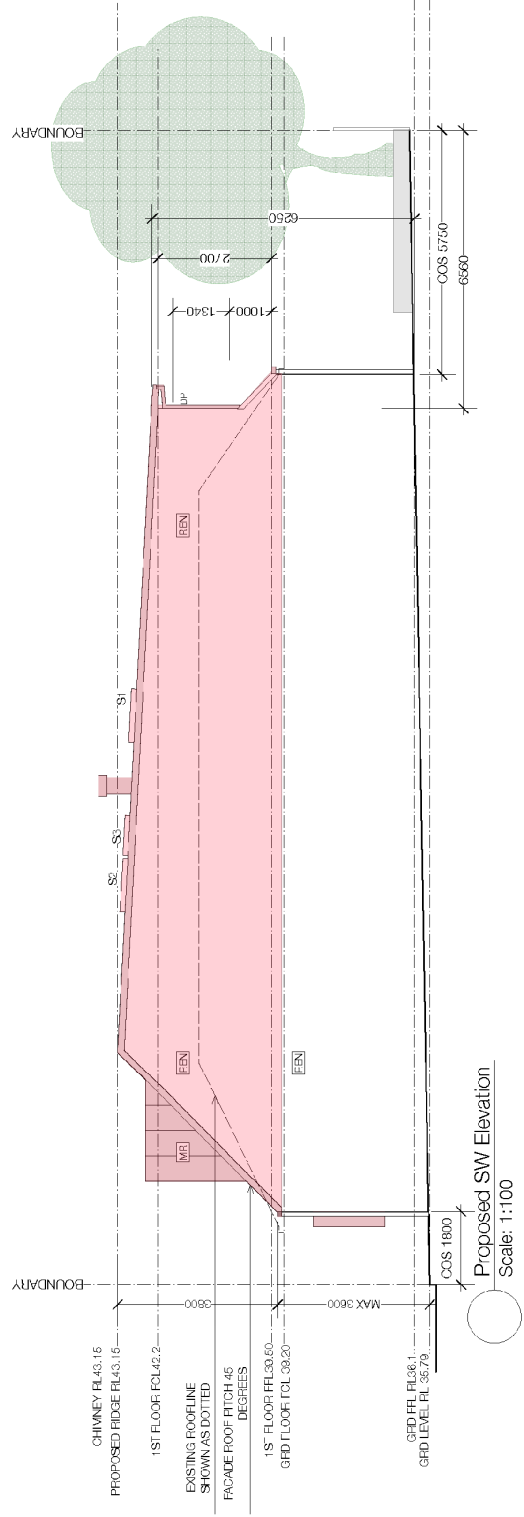
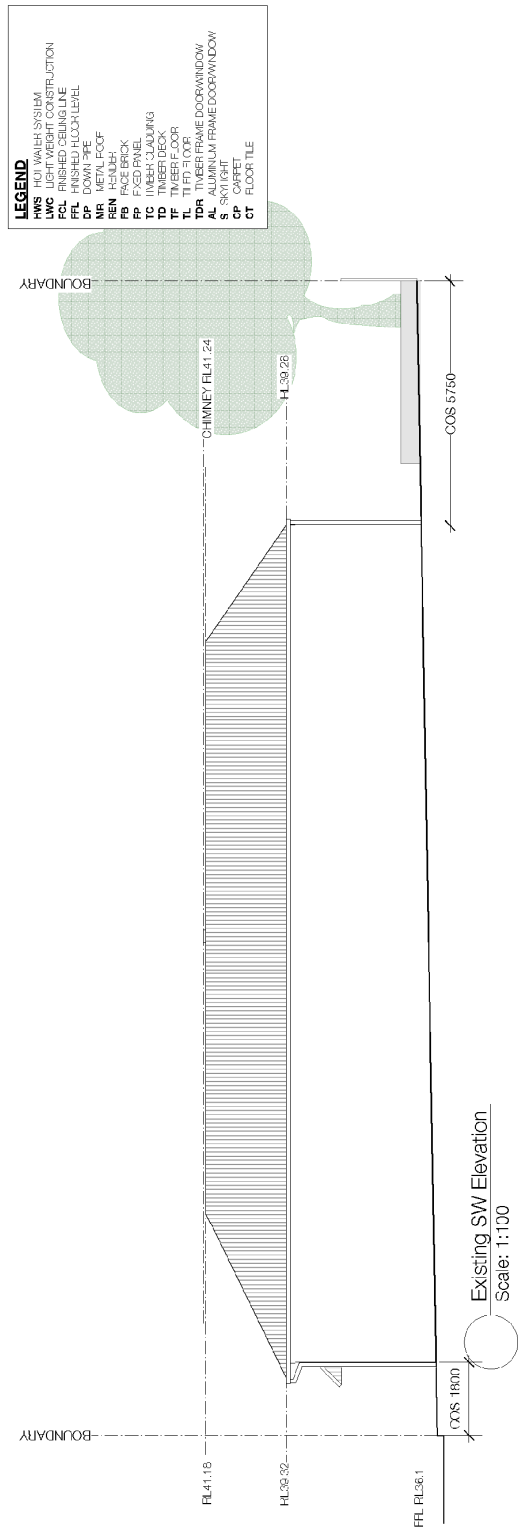
EXISTING & PROPOSED STREET ELEVATION

<p>fiona pickett/heaps</p> <p>34 Meads Street Lilyfield NSW 2040 T 02 92 00 219 E fheaps@gmail.com</p>	<p>All work to be carried out in accordance with ECA, SAA Codes and Council conditions. Measurements in mm unless otherwise noted. Use figured dimensions, do not scale drawings. Site measure and check before setting work. Refer all discrepancies to the Engineer. All work to be carried out in accordance with the Engineer's detail drawing & specification.</p>	<p>client: Adam & Julia White project: ALTERATIONS & ADDITIONS project address: 23 MAIDA STREET LILYFIELD LOT 1 DP 8629870</p>	<p>date: APRIL 2017 scale: not set issue: DA drawn by: FPH checked by: FPH</p>	<p>B.01A</p>
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EXISTING & PROPOSED SW ELEVATION

<p>fiona pickett/ heaps</p> <p>34 Maids Street Lilyfield NSW 2040 T 0402 001 219 E fheap@p@gmail.com</p>	<p>All work to be carried out in accordance with BCA, SAA Codes and Council specifications for DA applications for DA. REVA. 6 91 18 issue for DA update survey.</p> <p>Scale drawings site measure and check before starting work. Refer all discrepancies to the Architect/Designer. All drawings to be read in conjunction with the specification, schedules and Structural Engineer's detail drawing & specification</p>	<p>client project project address</p> <p>Adam & Julia White ALTERATIONS & ADDITIONS 25 MAIDA STREET LILYFIELD LOT11 DP 92870</p>	<p>date scale date drawn by checked by</p> <p>APRIL 2017 1:100 JAW FPH FPH</p>	<p>B.02A</p>



LEGEND

- HWS HOT WATER SYSTEM
- LWC LIGHT WEIGHT CONSTRUCTION
- FCL FINISHED CEILING LINE
- FSL FINISHED SKYLINE
- FPL FINISHED FLOOR LEVEL
- DMR DOWN PITCH
- MR METAL ROOF
- REN RENOVATION
- FB FACE BRICK
- FR FACE RENDER
- TC TIMBER CLADDING
- TD TIMBER DECK
- TF TIMBER FLOOR
- TL TIMBER LINING
- TR TRIM
- AL ALUMINIUM FRAME DOOR/WINDOW
- S SKYLIGHT
- CP CARPET
- CT FLOOR TILE

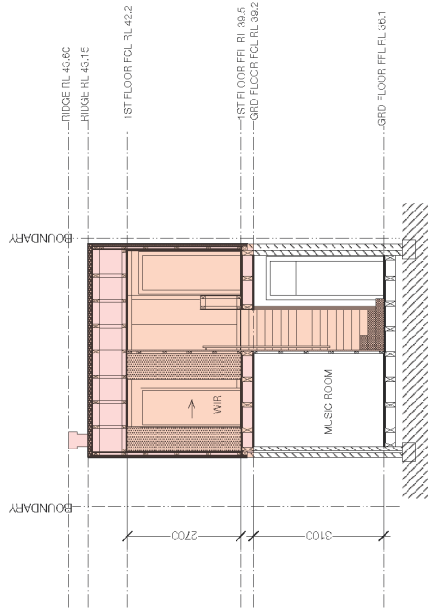
EXISTING & PROPOSED NE ELEVATION

<p>fiona pickett/heaps 34 Meids Street Lilyfield NSW 2140 T 0422 001 219 E fheap@gnail.com</p>	<p>All work to be carried out in accordance with BCA, SAA Codes and Council specifications. All work to be carried out in accordance with the relevant code of practice. The contractor is to ensure that all work is carried out in accordance with the relevant code of practice. The contractor is to ensure that all work is carried out in accordance with the relevant code of practice. The contractor is to ensure that all work is carried out in accordance with the relevant code of practice.</p>	<p>Project address 25 MADDA STREET LILYFIELD/ LOT1 DP 925870</p>	<p>client Adm & Julia White ALTERATIONS & ADDITIONS 25 MADDA STREET LILYFIELD/ LOT1 DP 925870</p>	<p>date APRIL 2017 scale 1:100 drawn by FPH checked by FPH</p>
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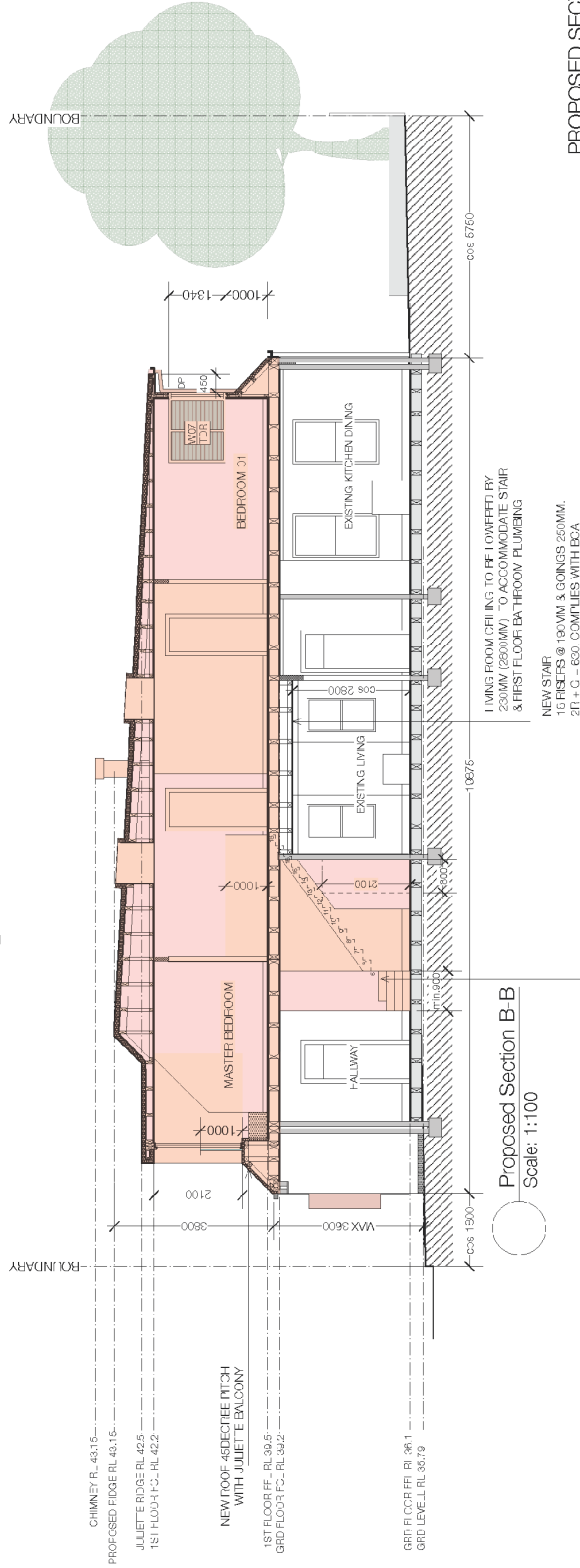
B.03A

LEGEND

- HWS HULL WALL SYSTEM
- LWC LIGHT WEIGHT CONSTRUCTION
- FCL FINISHED CEILING LINE
- FLR FINISHED FLOOR LEVEL
- DP DOWN PIPE
- WR METAL ROOF
- REN RENOVATION
- FB FACE BRICK
- PA PAVEMENT
- TC TIMBER CLADDING
- TD TIMBER DECK
- TF TIMBER FLOOR
- TR TRIM
- TDR TIMBER FRAME DOOR/WINDOW
- AL ALUMINUM FRAME DOOR/WINDOW
- S SKY LIGHT
- CP CARPET
- GT FLOOR TILE

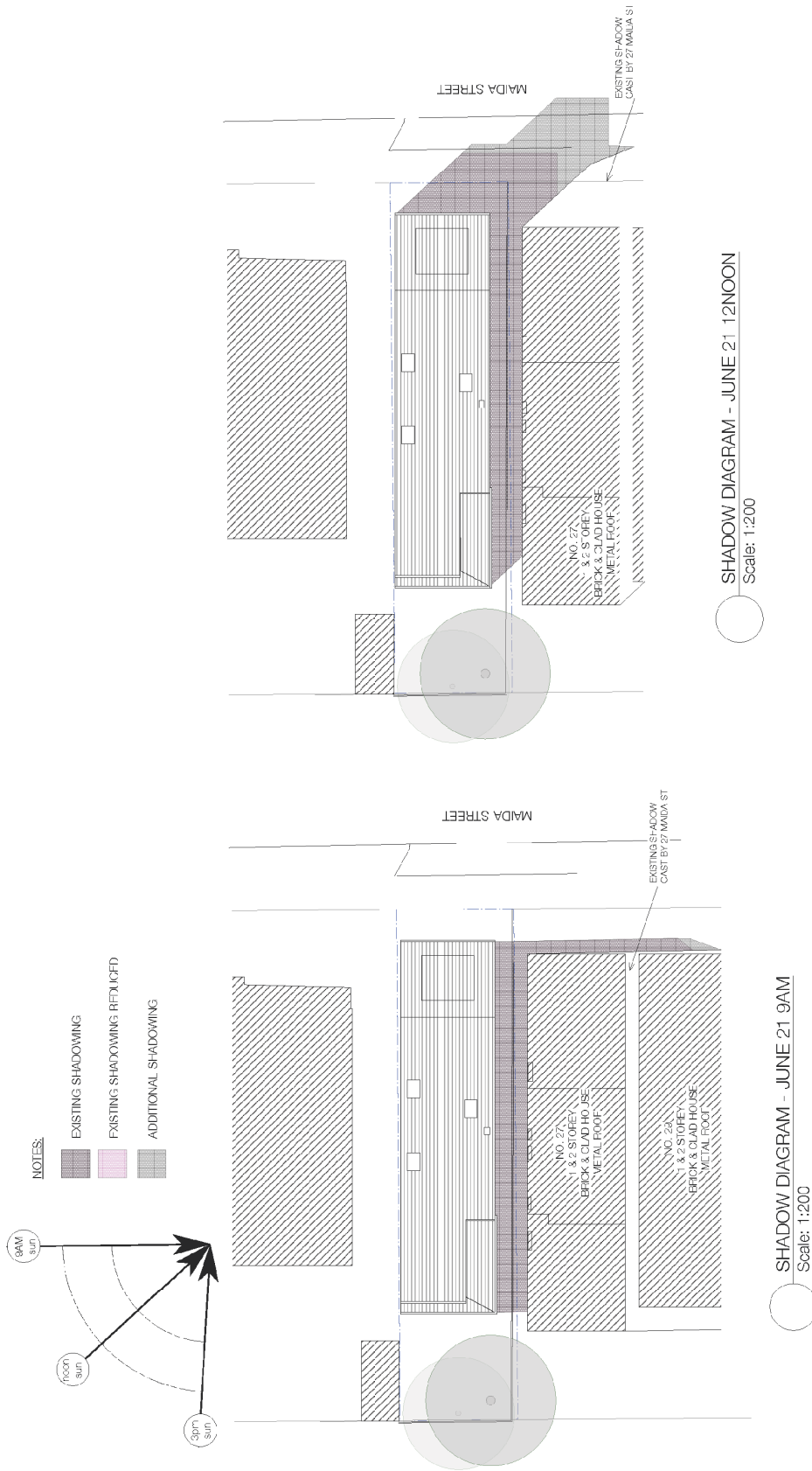


Proposed Section A-A
Scale: 1:100



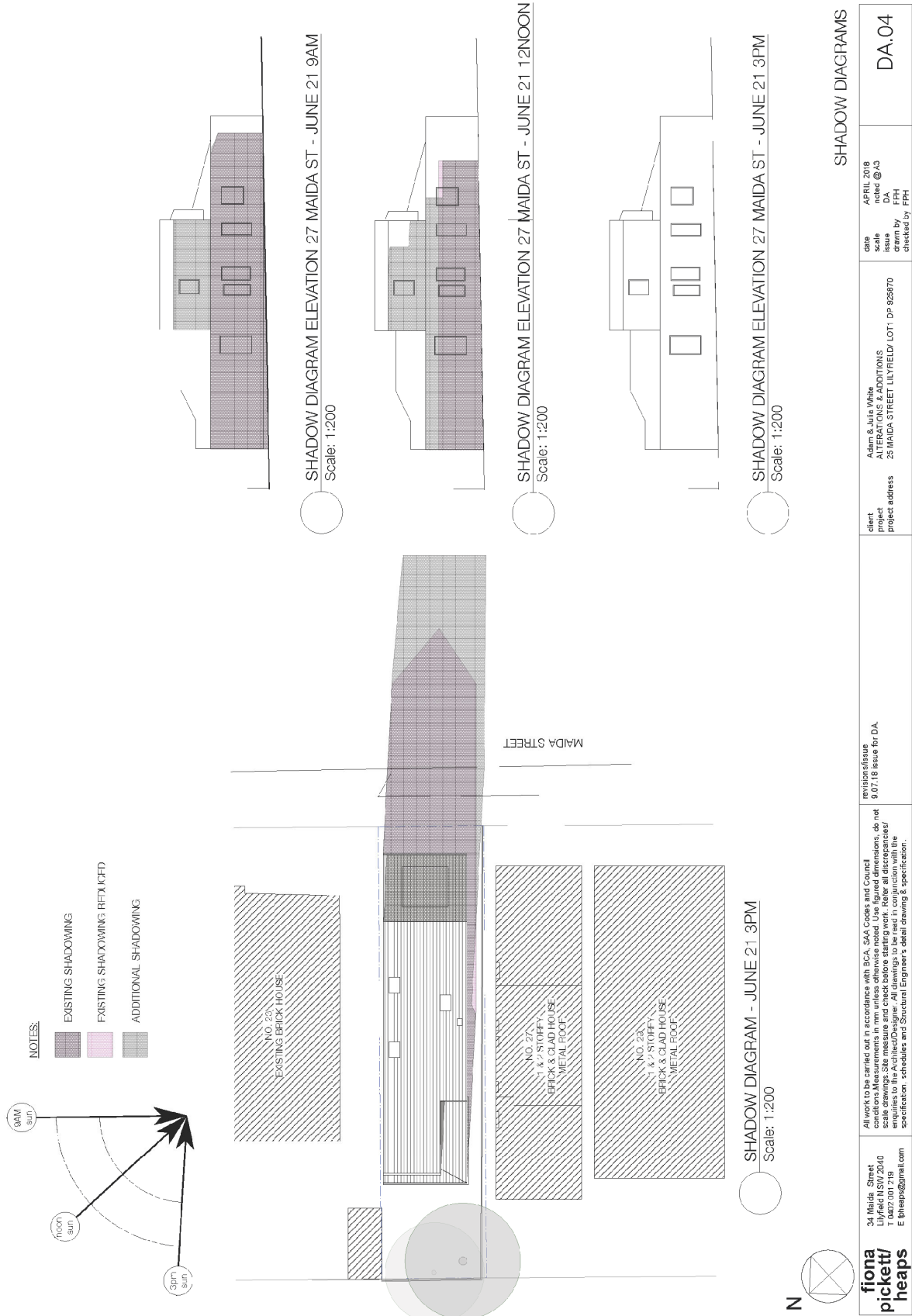
PROPOSED SECTIONS

fiona pickett/heaps 34 Meida Street Lilyfield NSW 2040 P 0422 007219 E fheap@smail.com	All work to be carried out in accordance with BCA, SAA Codes and Council scale drawings. Site measure and check before starting work. Refer all discrepancies/ enquiries to the Architect/Designer. All drawings to be read in conjunction with the specification, schedules and Structural Engineer's detail drawing & specification.	RESUBMISSION 6/07/18 issue for DA REVA 6.9.18 issue for DA updated survey.	client Adam & Julia White project ALTERATIONS & ADDITIONS 25 MANDA STREET LILYPOLD LOT1 DP 925870	date APRIL 2017 issue DA drawn by FPJ checked by FPJ	B.05A



<p>34 Maida Street Lilyfield NSW 2040 T 0422 001 719 E fheapd@gmail.com</p> <p>fiona pickett/ heaps</p>	<p>All work to be carried out in accordance with BCA, SAA Codes and Council requirements. Do not scale drawings. Site measure and check before starting work. Refer all discrepancies/enquiries to the Architect/Designer. All drawings to be read in conjunction with the specification, schedules and Structural Engineer's detail drawing & specification.</p>	<p>revisions 9/17/18 issue for DA.</p> <p>client Adm & Julia White ALTERATIONS & ADDITIONS 25 MAIDA STREET LILYFIELD/ LOT: DP 928870</p>	<p>date APRIL 2018</p> <p>scale As per DA</p> <p>drawn by EFP</p> <p>checked by EFP</p> <p>DA.03</p>
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SHADOW DIAGRAMS

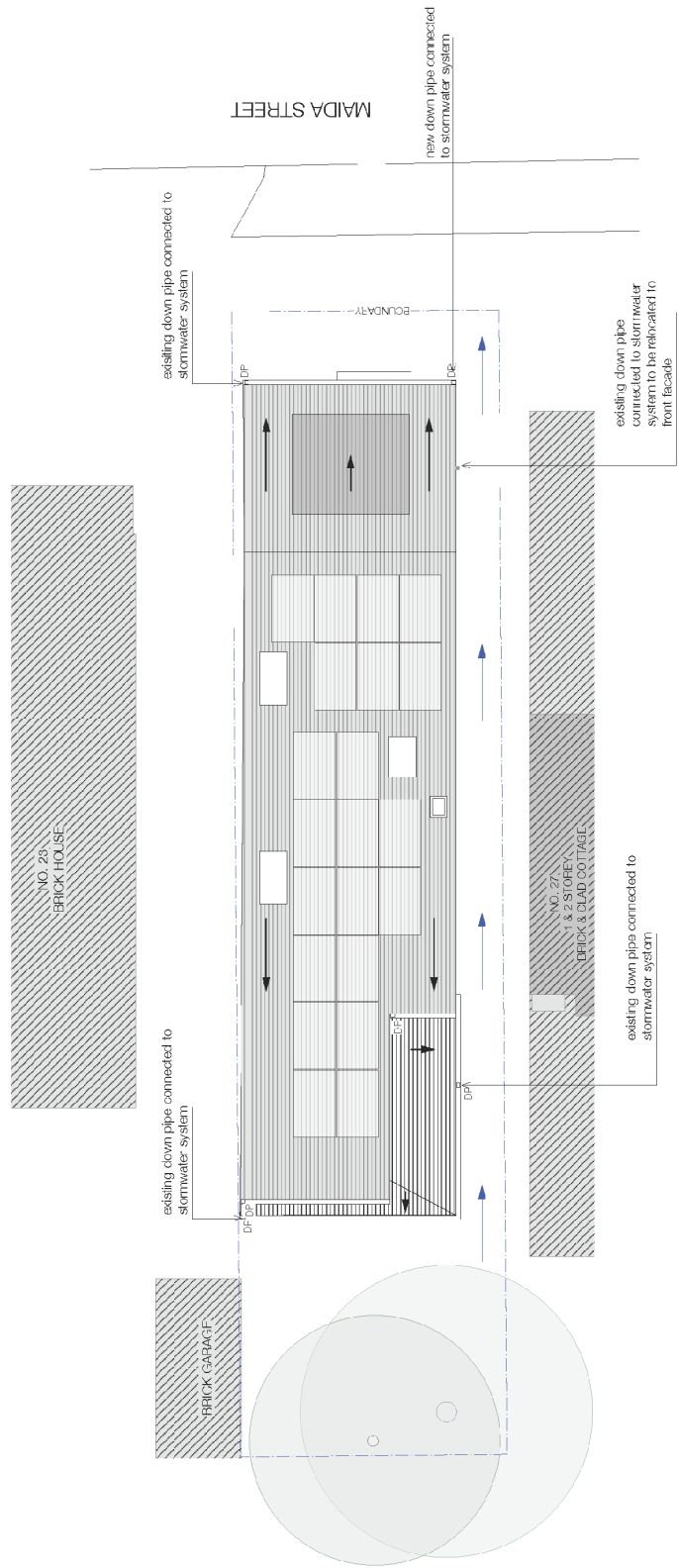


<p>34 Maida Street Lilyfield NSW 2040 P: 02 9550 2118 E: bhrop@gmail.com</p> <p>fiona picketty heaps</p>	<p>All work to be carried out in accordance with BCA, SAA, Codes and Council conditions. Measurements in place otherwise noted. Use floor dimensions, do not scale drawings. Site measure and check before starting work. Refer all discrepancies/enquiries to the Architect/Designer. All drawings to be read in conjunction with the specification, schedules and Structural Engineers' detail drawing & specification.</p>	<p>revision/issue 9.07.18 issue for DA.</p>	<p>client project project address</p> <p>Adam & Julia White ALTERATIONS & ADDITIONS 25 MAIDA STREET LILYPOLY LOT1 DP 928870</p>	<p>date issue drawn by checked by</p> <p>APRIL 2018 DA FPH FPH</p>	<p>DA.04</p>
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LEGEND:

OVERLAND FLOW PATH

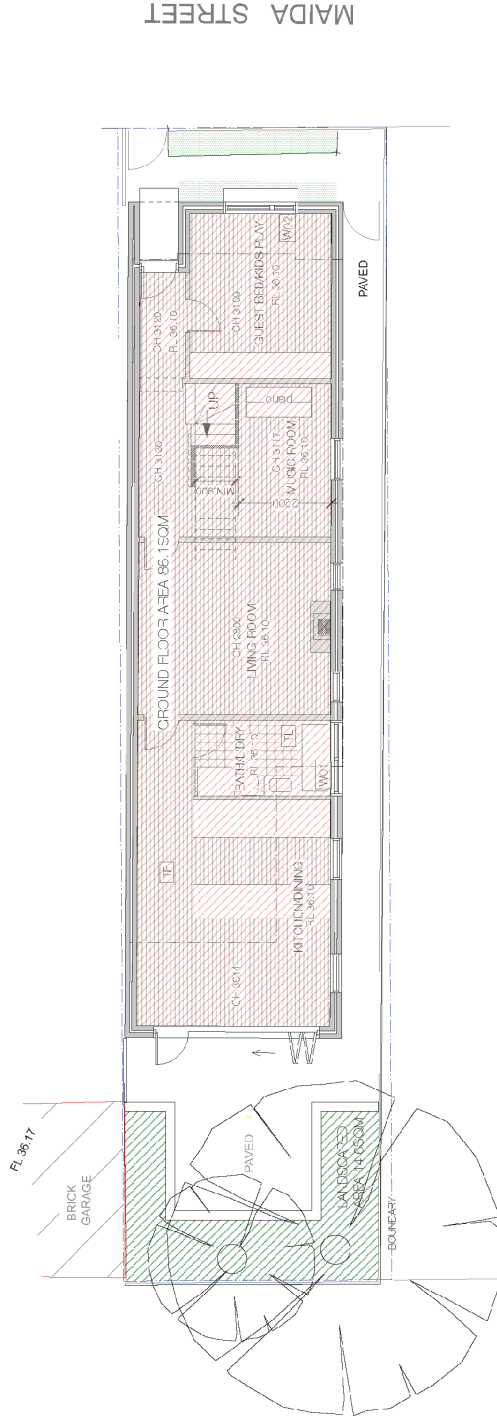
STORMWATER DESIGN WILL COMPLY WITH AS/NZS 3500.3 STORMWATER & DRAINAGE SOLUTIONS. STORMWATER DESIGN WILL COMPLY WITH AS/NZS 3500.2 STORMWATER & DRAINAGE SOLUTIONS - ACCEPTABLE SOLUTIONS.



Stormwater Concept Plan
Scale: 1:100

<p>24 Maida Street Lilyfield NSW 2040 T 0432 071 219 E fheap@p@gmail.com</p> <p>fiona pickett/ heaps</p>	<p>All work to be carried out in accordance with BCA, SAA Codes and Council conditions. Measurements in mm, unless otherwise noted. Use figured dimensions, do not round. Dimensions to be used in conjunction with the Engineer's detail drawing & specification.</p> <p>revision/issue 0.07.18 issue for DA</p>	<p>client project project address</p> <p>client project project address</p> <p>client project project address</p>	<p>date scale drawn by checked by</p> <p>APRIL 2017 1:100 @ A3 fheap FFH</p>
		<p>STORMWATER CONCEPT PLAN</p> <p>DA.05</p>	

SITE COVERAGE Site Area: 175.1sqm
 Maximum Site Coverage: 60%
 Existing Site Coverage: 102.3sqm / 58%
 Proposed site coverage: 117.4sqm / 67%
LANDSCAPED AREA
 Leitchfield LEP 2013 Minimum Landscaped Area (1.6% of site area): 28sqm
 Existing Landscaped Area: 14.6 sqm
FLOOR SPACE RATIO
 Existing Floor Area: 96.1sqm (FSR0.48:1)
 Proposed Floor Area: 96.1sqm
 Proposed Gross Floor Area: 73.7sqm
 Total Proposed Floor Area: 104.8sqm
 Proposed FSR 0.31:1 refer to clause 4.6 statement:



Proposed Ground Floor Plan
 Scale: 1:100

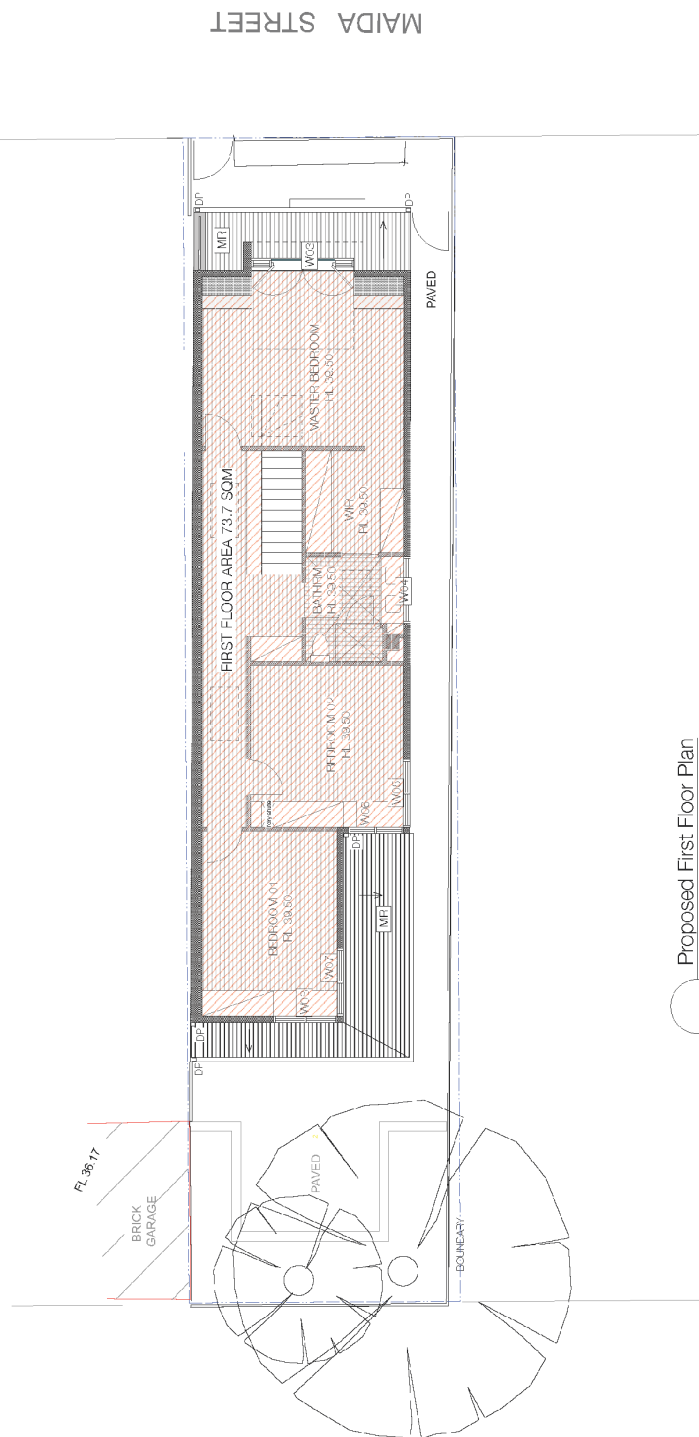
CALCULATIONS - GROUND FLOOR PLAN

client project project address	Adam & Julia White ALTERATIONS & ADDITIONS 25 MADA STREET LICFIELD LOT 1 DP 929870	date scale prepared by drawn by checked by	APRIL 2017 1:100 D FPH DA.06
restrictions 0.31 FSR for DA	All work to be carried out in accordance with BCA, SAA Codes and Council scale drawings. Site measure and check before starting work. Refer all discrepancies/enquiries to the Architect/Designer. All drawings to be read in conjunction with the specification, schedules and Structural Engineer's detail drawing & specification.		
34 Maida Street Licfield NSW 2040 T 0402 001 219 E fiona@fpma.com			

SITE COVERAGE Site Area: 775 sqm
 Existing LEP 2013 Minimum Site Coverage 60%
 Existing Site Coverage: 100.3sqm /59%
 Proposed Site Coverage: 117.3sqm /74% LINC-HA-VFFD

LANDSCAPED AREA
 Existing LEP 2013 Minimum Landscaped Area (16% of site area): 26sqm
 Existing Landscaped Area: 14.6 sqm
 Proposed Landscaped Area: 14.6 sqm UNCL ANSCD

FLOOR SPACE RATIO
 Existing Floor Space Ratio (FSR) 0.46:1
 Proposed Floor Space Ratio: 0.8:1
 Proposed Floor Area: 164.1sqm
 Total Proposed Floor Area: 164.1sqm
 Proposed FSR 0.91:1 refer to clause 4.6 statement:



Proposed First Floor Plan
 Scale: 1:100

CALCULATIONS - FIRST FLOOR PLAN

date: APRIL 2017
 scale: not set @ N3
 issue: DA
 drawn by: FFH
 checked by: FFH

client: Adam & Julia White
 project: ALL TERRACES & ADDITIONS
 project address: 25 MADA STREET CLIFFIELD LOT1 DP 628970

responsible: 6.9.18 issue for DA

All work to be carried out in accordance with BCA, SAA Codes and Council conditions. Measurements in mm unless otherwise noted. Use **boxed** dimensions, do not scale drawings. Site measure and check before starting work. Refer all discrepancies/enquiries to the Architect/Designer. All drawings to be read in conjunction with the specification, schedules and Structural Engineer's detail drawing & specification.

34 Mada Street
 Lilyfield NSW 2040
 P: 02 9550 1111
 E: fhp@fpah.com

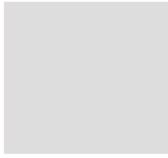
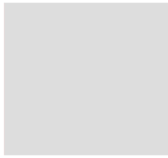
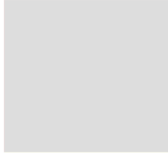


**fiona
 pickett/
 heaps**

25 MAIDA STREET LILYFIELD

ISSUE FOR DA

FINISHES SCHEDULE

Finishes Schedule has been designed to be complimentary to the predominant character and streetscape of the area.

Location	Finish	Colour	photo	Notes
Light weight walls First Floor	Paint Finish	Colour : Dulux Natural White		
Existing Brickwalls	Render & Paint Finish	Colour : Dulux Natural White		
Western First Floor eaves	Paint Finish	Colour : Dulux Natural White		
New Windows & Doors	Metal Frame	Colour : black / Monument		
New Roof to west	Zinc/colourbond	Dark Grey		

fiona pickett/heaps design

Attachment C- Clause 4.6 Exception to Development Standards

Annexure A – Cl. 4.6 Variation Statement

March 2018

Clause 4.4 – Floor Space Ratio
Leichhardt Local Environmental Plan 2013

Cl.4.6 – Statement of Variation

Clause 4.4 of Leichhardt Local Environmental Plan 2013 (LLEP 2013) assigns the requirements for maximum floor space ratio. These requirements are illustrated by the Floor Space Ratio map. The subject site is marked 'D' on the Floor Space Ratio map and therefore a maximum floor space ratio (FSR) of 0.5:1 applies to the land.

However, pursuant to subclause (2B) the site is shown as 'Area 6' and edged in pink on the Floor Space Ratio map. The proposed development involves alterations and additions to an existing dwelling house, constituting 'residential accommodation', and as such the floor space ratio is subject to the controls contained within (2B)(a)(ii). The sub-clause provides that in the case of a site defined as 'Area 6' and edged in pink on the Floor Space Ratio map, an increased floor space ratio may be applicable. Being that the site area is greater than 150sqm but less than 300sqm, the maximum floor space ratio for the site is increased to 0.8:1.

The proposed development has a FSR of 0.9:1, exceeding the maximum gross floor area of the land by 18.77sqm, which constitutes a variation of 13%.

It should be noted, that the subject site has a site area of 175.1sqm and a site width of only 6.385m. The subject site is marked 'B' on the Lot Size map contained within the LLEP 2013. The minimum lot size prescribed by LLEP 2013 for land marked 'B' is 200sqm. The subject site is less than the minimum lot size prescribed by LLEP 2013.

Clause 4.4 is a development standard and a variation to a development standard can be established pursuant to clause 4.6 of LLEP 2013. The objectives and provisions of clause 4.6 are as follows:

- (1) The objectives of this clause are as follows:*
- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless:*
- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Secretary has been obtained.*
- (5) In deciding whether to grant concurrence, the Secretary must consider:*
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) the public benefit of maintaining the development standard, and*
 - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- Note. When this Plan was made it did not include any of these zones.*
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:*
- (a) a development standard for complying development,*
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (c) clause 5.4."*

These matters are considered overleaf.

A1.0 Is the Variation in the Public Interest

Cl.4.6(4)(a)(ii)

Variation to a development standard is considered in the public interest where it can be shown that the proposed development is consistent with the objectives of that development standard and the overarching objectives of the relevant zone.

The objectives of Clause 4.4 Floor Space Ratio state:

- "(a) to ensure that residential accommodation:*
- (i) is compatible with the desired future character of the area in relation to building bulk, form and scale, and*
 - (ii) provides a suitable balance between landscaped areas and the built form, and*
 - (iii) minimises the impact of the bulk and scale of buildings,*
- (b) to ensure that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale"*

A proposed variation to the floor space ratio on this site will result in a development, which satisfies the relevant objectives of the development standard. This is demonstrated by the following:

(a)(i) to ensure that residential accommodation is compatible with the desired character of the area in relation to building bulk, form and scale

The subject site comprises a total site area that is less than the minimum lot size defined by LLEP 2013. The minimum lot size in combination with the maximum floor space ratio, model the anticipated bulk and scale of future built form. Whilst the proposed gross floor area amounts to a total of 158.8sqm and exceeds the maximum floor space ratio prescribed by the LLEP 2103, it does not exceed the allowable gross floor area for a site which achieves the minimum lot size of 200sqm. The variation is consistent with the expected bulk and scale of existing and desired development.

(a)(ii) to ensure that residential accommodation provides a suitable balance between landscaped areas and the built form, and

The proposed development contains the additional floorspace to the first floor of the existing dwelling. The prevailing landscaped area and site coverage is unchanged by the proposed design. Current landscaped areas are distributed in the front and rear setbacks and are proportionate in size to the dwelling's footprint. The proposal respects the existing balance of built form and landscape area by

acknowledging the site constraints posed by an undersized allotment and alleviating need to further encroach upon limited landscaped spaces by concentrating gross floor area to the first floor only.

(a)(iii) to ensure that residential accommodation minimises the impact of the bulk and scale of buildings

The proposed design utilises existing architectural lines to guide the siting of the additional floor area; sensibly distributing bulk with legible methodology. The consequential form resulting in a dwelling which is congruous with surrounding developments, incorporating relative building height, comparative setbacks and architectural expressions to minimise the impact of the first floor addition.

(b) to ensure that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale

Not applicable. The proposed development is residential in nature.

The relevant objectives of the R1 – General Residential zone state:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To improve opportunities to work from home.
- 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.

A proposed variation to the floor space ratio on this site will result in a development, which satisfies the relevant objectives of the R1 – General Residential zone. Whilst marginal, the additional density contributes to the diversity in housing choice within the local area. The dwelling is designed to satisfy the growing needs of a family, ensuring their needs are fulfilled in place, to avoid the need to relocate outside of the community.

The proposed development is consistent with the objectives of the development standard and the R1 – General Residential zone. Strict adherence with the FSR development standard would not be of public benefit. A variation to the FSR

development standard would not result in an unacceptable environmental impact that would render this proposal appropriate. The merits of this proposal prevail over the numerical non-compliance with the FSR development standard. A variation to the development standard pertaining to Floor Space Ratio is well founded and acceptable in this instance.

A2.0 Compliance with the development standard would be unreasonable and unnecessary

Cl.4.6(3)(a)

Where an application seeking a variation to a development standard has been made to the Land and Environment Court, the Court established a Planning Principal to determine whether the variation was well-founded. In *Wehbe v Pittwater Council* [2007] NSW LEC 827, Chief Judge Preston advised that the requirement to demonstrate that an objection was well-founded could be satisfied through the utilisation of the five part test. The development proposal satisfies this test in the following ways.

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard*

The proposed development represents a minor variation (13% or 18.77sqm) to the development standard of 0.8:1. The proposed first floor additions reference the architectural features of the existing detached dwelling, maintaining the hipped roof alignment and modernising period architectural attributes. The additional bulk and scale contained to the first floor, preserves consistency and contextual appropriateness apparent in adjacent residential development. Particular attention is drawn to the subtle transition of the new additions to the existing built form, through use of complementary building finishes and materials, utilisation of the existing dwelling's existing footprint and nil reduction in landscaped areas. The additional density does not obscure important landscape features and maintains an appropriate relationship between the existing character of the area.

2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

The site is identified as an undersized lot, being only 175.1sqm in area; not achieving the minimum lot size of 200sqm defined by the Lot Size map contained within LLEP 2013. If the development standard of 0.8:1 were applied to a site which achieved the minimum lot size of 200sqm, a

maximum gross floor area of 160sqm would be expected on this site. The proposal provides a high-quality development with a gross floor area of 158.8sqm, less than the expected gross floor area relevant to the development standard.

3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

The minor variation to the development standard does not result in a dwelling with an undesirable presentation or detrimental impact in terms of building bulk or scale. Rather, strict compliance with the floor space ratio control would be of numeric benefit alone and likely produce an awkward transition between the existing and proposed components of the dwelling. This would result in a reduced ability for the alterations and additions to read as an inclusive part of the existing dwelling. This requisite would impart a less than satisfactory relationship with surrounding dwellings and the existing character of the area.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary or unreasonable;*

Council has demonstrated a relaxation of strict compliance with the FSR development standard for dwellings located on undersized allotments to support sustainable communities, diverse housing typologies and modern improvements that enrich the amenity of aging dwellings.

5. *The compliance with the development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land.*

The subject site is constrained by virtue of its site area, narrow lot width, topography and the building alignment of the existing detached dwelling. Such constraints limit opportunities for a design alternative that will maintain the cohesion of the dwelling whilst also encompassing environmental sensitivity and social function. The proposal is a suitable

response to balance the needs of the occupants without compromising social links, community connectivity, the internal amenity of the dwelling or external amenity of neighbouring dwellings in terms of a reduction in privacy, equitable access to light and air or view sharing

A3.0 Sufficient Environmental Planning Grounds to Justify Contravention

Cl.4.6(3)(b)

The proposal represents a building density, which is compatible with the character of the neighbourhood. Contained to the first floor only, the alterations and additions preserve the integrity of the dwelling and ensure the streetscape appearance remains sympathetically augmented. The proposed development compacts the floor area of the first floor additions, creating maximum separation between adjacent dwellings and enabling sufficient rear setbacks to ensure the perpetuity of existing landscaped areas. The rooms located on the first floor are modest in size and reflective of present and anticipated accommodation needs reasonably expected in a residential context.

Insisting upon strict compliance with the FSR development standard would not result in any planning or environmental benefit that would markedly enhance privacy, provide more equitable access to light and air, increase landscaping or capability for view sharing.

The proposed development is a high-quality design, with a considered concept and layout that appropriately responds to the surrounding residential context and its natural, sloping topography. A reduction in gross floor area to comply with the development standard would not represent a perceptible change in the proposed building footprint, overshadowing or building setbacks. Rather strict compliance, would result in a reduction in the numeric gross floor area with no built form or functional benefit. The contravention is suitable in this instance and a variation to the development standard is well founded and acceptable.

A4.0 Conclusion

The proposed variation achieves the underlying purpose of the development standard as much as a development which complies. The development is not only consistent with the underlying purpose of the standard, but also the broader planning objectives for the locality. As such, strict compliance with the FSR is deemed to be unreasonable and unnecessary and a variation of 0.9:1 on this site is worthy of favourable consideration.

CL. 4.6 VARIATION STATEMENT

CLAUSE 4.3A LANDSCAPED AREAS - LEICHHARDT LEP 2013

Development Application Details**Address: 25 MAIDA STREET, LILYFIELD / Lot1 DP 925870****Proposed Development: Alterations & Additions****Variation Statement**

The subject site totals 175.1sqm in area. Pursuant to Cl.4.3A(3)(a)(i) consent may only be granted where the development includes landscaped area of (at least) 15% of the site area on lots equal to or less than 235sqm. Accordingly, the subject site is required to provide not less than 26.27sqm of landscaped area to comply with the prescribed development standard.

However, the proposed alterations and additions do not affect or modify the existing building footprint. The non-compliance is not the result of the proposed works and is a pre-existing condition, undisturbed by the proposal.

Why is compliance with the standard unreasonable or unnecessary?

- The proposed development does not alter the building footprint or landscaped area.
- The subject site is limited by its narrow lot width, and the siting of the existing dwelling on the site. Compliance would limit the amenity of the dwelling by the owners.
- The subject site utilises the rear garden and has 2 established, that provide shading and privacy.
- Drainage issues have been address with the installation of stormwater drain to the paved rear courtyard.

What are the special circumstances in this case?

- The proposed alterations and additions do not affect or modify the existing building footprint.
- The non-compliance is not the result of the proposed works and is a pre-existing condition, undisturbed by the proposal.
- The narrow lot width of the subject site
- The site is further limited by the siting of the existing dwelling.

25 MAIDA STREET LILYFIELD - CL 4.6 LANDSCAPED AREA / 1

CL. 4.6 VARIATION STATEMENT

CLAUSE 4.3A LANDSCAPED AREAS - LEICHHARDT LEP 2013

Is the proposed development consistent with the objectives of the particular standard? The proposed development is consistent with the objectives of the particular standard, in that it provides:

- Drainage issues have been address with the installation of stormwater drain to the paved rear courtyard.
- The building footprint is unchanged.
- Existing rear garden provides a provision for landscaped area and private open space is unchanged.

What are the environmental planning grounds that justify contravening the development standard?

A detailed assessment of the proposal has been included in the Statement of Environmental Effects, which outlines the minimal impact that the proposed development has on the surrounding areas, as well as how it is consistent with the relevant objectives and controls of the LLEP 2013 and LDCP 2013.

Accordingly, it is considered that the proposed non-compliance with Landscaped Areas achieves the objectives of the development standard, maintains the low density residential character of the area and is appropriate in the context of the surrounding properties.

Conclusion

The Proposed Development does not affect the existing Building Footprint nor the existing landscaped area. The non-compliance is not the result of the proposed works and is a pre-existing condition, undisturbed by the proposal. Strict adherence of the development standard would not be of public benefit. Variation to the development standard would not result in an unacceptable environmental impact. Therefore strict compliance to the Landscape requirements of the Leichhardt LEP 2013 is deemed to be unreasonable and unnecessary.

Attachment D- Standard Conditions

CONDITIONS OF CONSENT

- Development must be carried out in accordance with Development Application No. D/2018/473 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Site Plan, Drawing No. DA.02A	Fiona Pickett-Heaps	6/9/2018
Proposed Roof Plan, Drawing no. A.04A	Fiona Pickett-Heaps	6/9/2018
Existing/Demolition Plan, Drawing No. A.01A	Fiona Pickett-Heaps	6/9/2018
Proposed Ground Floor Plan, Drawing No. A.02A	Fiona Pickett-Heaps	6/9/2018
Proposed First Floor Plan, Drawing No. A.03A	Fiona Pickett-Heaps	6/9/2018
Existing and Proposed NW Elevation, Drawing No. B.04A	Fiona Pickett-Heaps	6/9/2018
Existing and Proposed SE Elevation, Drawing No. B.01A	Fiona Pickett-Heaps	6/9/2018
Existing and Proposed SW Elevation, Drawing No. B.02A	Fiona Pickett-Heaps	6/9/2018
Existing and Proposed NE Elevation, Drawing No. B.03A	Fiona Pickett-Heaps	6/9/2018
Proposed Sections, Drawing No. B.05A	Fiona Pickett-Heaps	6/9/2018
Stormwater Concept Plan, Drawing No. DA.05	Fiona Pickett-Heaps	9/07/2018
Finishes Schedule	Fiona Pickett-Heaps	No date
Document Title	Prepared By	Dated
Statement of Environmental Effects	Bricks Sticks Straw Urban Planners	March 2018
Site Waste Minimisation And Management Plan	Fiona Pickett-Heaps	5/06/2018
Water Management Statement	Fiona Pickett-Heaps	No date
BASIX Certificate No. A316188_02	Fiona Pickett-Heaps	8/07/2018
Detail & Level Survey	CituSurv Pty Ltd	7/08/2018

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 the following currently existing on the property, subject to strict compliance with the following conditions:
- a) The adjoining residents must be notified seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, site contact details/person, elements to be demolished and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.
 - b) Written notice is to be given to the Principal Certifying Authority for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections must be undertaken by the Principal Certifying Authority:
 - i) A *pre commencement* inspection when all the site works are installed on the site and prior to demolition commencing.
 - ii) A *final* inspection when the demolition works have been completed.
- NOTE:** If Council is nominated as your Principal Certifying Authority 24 - 48 hours notice to carry out inspections is required. Arrangement for inspections can be made by phoning 9367 9222.
- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
 - d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
 - e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
 - f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: *Demolition of structures*.
 - g) The hours of demolition work are limited to between 7:00am and 6:00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
 - h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority.
 - i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
 - j) During demolition, public property (footpaths, roads, reserves etc) must be

clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.

- k) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- m) Care must be taken during demolition to ensure that existing services on the site (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.

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

3. 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.

4. 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.

5. 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.

6. 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.
7. 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.

8. A Certificate prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority. The certificate shall also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

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.

9. 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.

10. 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.

11. 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.

12. 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.

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

13. Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

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

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

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

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

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

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

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

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

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

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

15. 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
16. Approval is given for the following works to be undertaken to trees on the site:

Tree/location	Approved works
<i>Robinia pseudoacacia</i> "Frisia" (Golden Robinia) Rear	Remove tree

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

17. The trees identified below are to be retained:

Tree/location

<i>Tibouchina lepidota</i> 'Alstonville' (Tibouchina) Rear
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To ensure the tree's ongoing viability no further lopping or reduction pruning to contains its spread is approved

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

18. To preserve the following tree/, no work shall commence until the rear/raised garden bed is fenced off to prevent any activities, storage or the disposal of materials within the fenced area.

The fence/s shall be maintained intact until the completion of all demolition/building work on site:

Tree/location	Radius in m.
<i>Tibouchina lepidota</i> 'Alstonville' (Tibouchina) Rear	1.5 metres

A minimum 1.8m high barrier (Chain wire mesh panels, plywood or wooden paling fence panels: refer to AS4687-*Temporary fencing and hoardings* for fencing requirements) shall be erected around the perimeter of the stated Protection Zone as measured from the base of the tree (or where practical). Shade cloth or similar should be attached to reduce the transport of dust, other particulate matter and liquids into the protected area. Fence posts and supports should have a diameter greater than 20mm and be located clear of roots.

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 Council.

19. Prior to works commencing or release of a Construction Certificate (whichever occurs first), tree protection signage is to be attached to the rear tree protection zone, displayed in a prominent position. The sign shall contain in a clearly legible form (lettering should comply with AS 1319-*Safety signs for the occupational environment*), the following information:

- a) Tree protection zone;
- b) This fence has been installed to prevent damage to the trees and their growing environment both above and below ground and access is restricted;
- c) Any encroachment not previously approved within the tree protection zone shall be the subject to advice from council.
- d) The name, address and telephone number of the builder.

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.

20. The following tree must be planted:

A minimum of 1 x 75 litre size tree, which will attain a minimum mature height of 6 metres, shall be planted in a suitable location within the property at a minimum of 1.5 m. from any boundary or structure. The tree is to conform to AS2303—*Tree stock for landscape use*.

Tree species endemic to the Sydney Basin that could be considered are *Banksia integrifolia* (Coastal banksia), *Hymenosporum flavum* (Native Frangipani) or *Corymbia eximia* 'Nana' (Dwarf Yellow Bloodwood).

Note: Any replacement tree species must not be a palm or tree species listed as an exempt species under Inner West (Leichhardt) Council's Development Control Plan (DCP) 2013.

Details of the species, pot size and planting location must be submitted to Council for approval.

If the replacement tree is found to be faulty, damaged, dying or dead within twelve (12) months of planting it must be replaced with the same species.

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

- a) Charged or pump-out stormwater drainage systems are not permitted.
- b) Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter of a public road or directly into Council's piped drainage system.
- c) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
- d) An overland flowpath must be provided within the setback to the southern boundary between the rear of the dwelling and Maida Street frontage. The rear courtyard must be graded so that bypass flows from the site drainage system are directed to the overland flowpath.
- e) All plumbing within the site must be carried out in accordance with Australian Standard *AS/NZS 3500.3-2015 Plumbing and Drainage – Stormwater Drainage*
- f) Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.
- g) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- h) All redundant pipelines within footpath area must be removed and

footpath/kerb reinstated.

- i) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height of 100mm and discharge to the gutter by the shortest possible route..
- j) 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. Purpose made pipe fittings and bends or welded joints shall be used where necessary to align the discharge pipe with the kerb outlet. Non-compliance with this condition will result in loss of your security deposit.
- k) Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.

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

PRIOR TO THE COMMENCEMENT OF WORKS

22. 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;

23. 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.

24. 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.

25. Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.
26. 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.
27. 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.
28. 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.

DURING WORKS

29. 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.

30. 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.

31. The site must be appropriately secured and fenced at all times during works.
32. 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.

33. 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.

- 34. 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.
- 35. 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.
- 36. 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.

- 37. 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.

- 38. 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.

- 39. Canopy pruning of the following tree which is necessary to accommodate the approved building works shall be undertaken by an AQF Level 3 arborist.

Schedule	
Tree/location	Approved works
<i>Plumeria sp.</i> (Frangipani) No 23	Reduction prune

Pruning is limited to those branches that will come into direct contact with the built structure and where branch diameters (at its point of attachment) do not exceed 50 mm. All pruning shall be carried out to sections 5, 6 and 7.3.3 of the Australian Standard AS4373—*Pruning of amenity trees*.

Where a tree's canopy has developed across property boundaries, consent to undertake works on the tree does not permit a person acting on the consent to trespass on adjacent lands. Where access to adjacent land is required to carry out approved tree works, Council advises that the owner's consent must be sought. Notification is the responsibility of the person acting on the consent. Should the tree owner/s refuse access to their land, the person acting on the consent shall meet the requirements of the *Access To Neighbouring Lands Act 2000* to seek access.

Details demonstrating compliance with the requirements of this condition are to be submitted to Council.

- 40. No trees on public property (footpaths, roads, reserves etc) are to be removed or

damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

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

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

41. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.
42. 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.
43. 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.

44. 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.

A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a Licensed Plumber or qualified practicing Civil Engineer that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards, must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

45. The existing stone kerb adjacent to the site is of local heritage value and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units before the issue of the Occupation Certificate. Non-compliance with this condition will result in loss of your security deposit
46. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.
47. 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.

48. Prior to the release of an Occupation Certificate, the Principal Certifying Authority

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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.

ONGOING CONDITIONS OF CONSENT

49. 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.
50. 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.
51. The canopy replenishment tree required by this consent is to be maintained in a healthy and vigorous condition until it attains a height of 6 metres whereby they will be protected by Council's Tree Management Controls. If the tree is found faulty, damaged, dying or dead it shall be replaced with the same species within 2 months.
52. 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 96 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.