



INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA201800559
Address	14 Lackey Street, St Peters
Proposal	To demolish part of the premises and carry out ground, first and second floor additions including the provision of a roof terrace and to convert the premises into a dwelling house and use part of the ground floor as a home occupancy
Date of Lodgement	19 December 2018
Applicant	Jason Williams Architect
Owner	Mr Anthony James Schlosser
Number of Submissions	None
Value of works	\$613,920
Reason for determination at Planning Panel	Proposed variation to Floor Space Ratio exceeds officer delegations
Main Issues	Floor Space Ratio
Recommendation	Approval
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards



LOCALITY MAP

Subject Site		Objectors		
Notified Area		Supporters		

1. Executive Summary

This report relates to an application to demolish part of the premises and carry out ground, first and second floor additions including the provision of a roof terrace and to convert the premises into a dwelling house and use part of the ground floor as a home occupancy. The application was notified to surrounding properties and 1 submission was received.

The main issues that have arisen from the assessment of the application include:

- The development exceeds the maximum floor space ratio development standard under Clause 4.6 of the Marrickville Local Environmental Plan 2011.

The proposal generally complies with the aims, objectives and design parameters contained in Marrickville Local Environmental Plan 2011 (MLEP 2011) and Marrickville Development Control Plan 2011 (MDCP 2011), with the exception that the proposal exceeds the maximum floor space ratio development standard by 157.24sqm or 38.46%. A written request under Clause 4.6 of MLEP 2011 has been submitted by the applicant for the variation and the request is considered to be worthy of support.

The potential impacts to the surrounding environment have been considered as part of the assessment process. Any potential impacts from the development are considered to be acceptable given the context of the site and the desired future character of the precinct. The application is suitable for approval subject to conditions.

2. Proposal

Approval is sought to demolish part of the premises and carry out ground, first and second floor additions including the provision of a roof terrace and to convert the premises into a dwelling house and home occupancy and the following works are proposed:

- Conversion of existing warehouse to a single residential dwelling;
- Internal alterations to the existing building which includes demolition of elements of the ground floor, demolition of the first floor and attic;
- Addition of accessible roof terrace;
- Minor alterations to the external street façade including fencing and roofing; and
- Use part of the ground floor as a home occupation for the purpose of a ceramics studio

3. Site Description

The subject site is located on the southern side of Lackey Street, between Hutchinson Street and Applebee Street. The site consists of 1 allotment with a total area of 371.6 m² and is legally described as Lot 21, Section 5 in DP 111187.

The site has a frontage to Lackey Street of 12.19 metres. The site is adjoined by 12 Lackey Street to the east of the site which contains a 1 and 2 storey semi-detached brick dwelling and 16 Lackey Street which contains a single residence and detached studio which was part of an industrial conversion. The surrounding streetscape of Lackey Street consists mainly of two storey terrace houses and warehouse buildings.

The adjoining property at 16 Lackey Street was a two storey industrial building which was converted to a single residence with a detached studio at the front of the site. The application was approved on 28 June 2017 (DA201700136). The surrounding streetscape consists of a number of mixed developments including two storey dwelling houses, two and three storey warehouse buildings and Simpson Park. In the future it is expected that further

industrial conversions will occur within the vicinity of the site as the area is gentrifying, and large mixed use development to the east of the site are anticipated having regard to the B6 and B7 zonings applicable to neighbouring development.

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
DA201800047	To demolish part of the premises and carry out ground, first and second floor additions including the provision of a roof terrace and to convert the premises into a dwelling house.	Withdrawn due to a Targeted Phase 2 (intrusive) report and a Hazardous Building Materials Assessment report required.

Surrounding properties

Application	Proposal	Decision & Date
DA201700136 16 Lackey Street	To demolish part of the premises and carry out ground and first floor alterations and additions to convert the industrial building to a single residence and construct a detached studio at the front of the site	Approved 28 June 2017

4(b) Application history

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

Date	Discussion / Letter/ Additional Information
PDA201700159	Pre-development application advice issued for proposed ground, first and second floor additions including the provision of a roof terrace and to convert the premises into a dwelling house.

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
- Marrickville Local Environmental Plan 2011.

The following provides further discussion of the relevant issues:

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. MDCP 2011 provides controls and guidelines for remediation works. SEPP 55 requires the consent authority to be satisfied that the site is, or can be made, suitable for the proposed use prior to the granting of consent.

The applicant initially submitted a Preliminary Site Investigation as part of DA201800047 which identified that the site has been used in the past for activities which could have potentially contaminated the site, and having regard to its proposed residential use further testing of the site was warranted through the provision of a DSI and RAP where necessary.

A detailed site investigation prepared by Geo Environmental Engineering dated 10 December 2018 prepared for the subject application concludes that the site is suitable for the proposed residential use in its current state, and remediation is not required.

The application was referred to Council’s Environmental Health section who advised the proposal is acceptable subject to the imposition of conditions to safeguard any unexpected finds during construction and these conditions are included in the recommendation of this report.

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

A BASIX Certificate was submitted with the application indicating that the proposal achieves full compliance with the BASIX requirements. Appropriate conditions are included in the recommendation to ensure the BASIX Certificate commitments are implemented into the development.

5(a)(iii) Marrickville Local Environment Plan 2011 (MLEP 2011)

The application was assessed against the following relevant clauses of MLEP 2011:

- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition
- Clause 4.3 – Height of buildings
- Clause 4.4 – Floor space ratio
- Clause 4.6 – Exceptions to Development Standards
- Clause 6.5 – Development in areas subject to aircraft noise

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

Standard (maximum)	Proposal	% of non compliance	Compliance
Floor Space Ratio 1.10:1	1.52:1	38.46%	No
Height of Buildings 14 metres	10.4 metres	N/A	Yes

(vii) Clause 2.3 - Land Use Table and Zone Objectives

The property is zoned R1 - General Residential under the provisions of MLEP 2011. The proposed development, being for a dwelling house, is permissible with consent under the zoning provisions applying to the land. The development is considered acceptable having regard to the objectives of the R1 – General Residential zone.

It is noted that the plans provided indicate that a ceramics studio on the ground floor is to be used as a “home occupation” as defined by MLEP 2011. Home occupations are permitted without consent in the R1 - General Residential zone and are acceptable. A condition is included in the recommendation to ensure the proposed studio is used solely in conjunction with the dwelling house and is not expanded or adapted for any other purpose.

The development is acceptable having regard to the objectives for development in the zone under Marrickville Local Environmental Plan 2011.

(viii) Height (Clause 4.3)

The site is located in an area where the maximum height of buildings is 14 metres as indicated on the Height of Buildings Map that accompanies MLEP 2011. The development has a height of approximately 10.4 metres which complies with the height development standard.

(ix) Floor Space Ratio (Clause 4.4)

A maximum floor space ratio (FSR) of 1.1:1 applies to the land as indicated on the Floor Space Ratio Map that accompanies MLEP 2011. The development has a gross floor area (GFA) of 566sqm which equates to a FSR of 1.52:1 on the 371.6sqm site and contravenes the FSR development standard. The development results in a variation to the FSR development standard by 157.24sqm or 38.46%.

The development exceeds the maximum floor space ratio development standard prescribed under Clause 4.4 of MLEP 2011. The application was accompanied by a written submission in relation to the contravention of the development standard in accordance with Clause 4.6 of MLEP 2011.

(x) Clause 4.6 Exceptions to Development Standards

As outlined above, the proposal results in a variation to the maximum FSR development standard prescribed by Clause 4.4 of MLEP 2011 by 157.24sqm or 38.46%.

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

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the Marrickville Local Environmental Plan 2011.

A written request has been submitted to Council by the applicant in accordance with Clause 4.6(3) justifying the proposed contravention of the development standard which is summarised as follows:

- The proposal seeks to efficiently alter the former industrial building so as to create a residential land use which is consistent with the current zoning of the site. The

- provision of a home occupation (ceramics studio) is appropriate given the industrial character of the building and will allow an appreciation of the building's history;
- The existing building exceeds the maximum permitted FSR and the proposed development reduces the FSR of the existing building by 19sqm, bringing it closer to compliance with the maximum 1.1:1 permitted by Clause 4.4(2) of LEP 2011;
 - The proposed development reduces the existing FSR at the site and the proposal does not alter the bulk of the existing building rather, the DA seeks to treat the existing built form with contemporary design elements;
 - The proposed development will create a high quality built form which will transform the existing dilapidated warehouse into a high quality residential building, which will make a positive contribution to the locality;
 - The proposed alterations and additions retain the existing building envelope, with adjustments to the roof to create internal areas with high levels of amenity, suitable for the proposed residential use;
 - The proposal achieves a density and bulk which contributes to the amenity of the locality;
 - The development will retain most of the existing building and generally not involve any change to the existing building size or external building massing;
 - The proposed development does not alter the existing built form in terms of height, setbacks and general siting;
 - The proposal seeks to alter an existing building which exceeds the maximum permissible FSR which applies. To this end, the form and floor area of the existing building mean that without demolishing or substantially reducing the area of the building, compliance cannot be achieved;
 - The proposal seeks to convert the existing non-conforming industrial building into a permissible development, which demonstrates consistency with the zone objectives;
 - The proposal significantly improves the external appearance of the building and has a positive streetscape outcome; and
 - The proposal achieves a high level of internal amenity for the future occupants of the building.

The applicant's written rationale adequately demonstrates compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is in the public interest because it is consistent with the objectives of the R1 – General Residential zone, in accordance with Clause 4.6(4)(a)(ii) of MLEP 2011.

It is considered the development is in the public interest because it is consistent with the objectives of the floor space ratio development standard, in accordance with Clause 4.6(4)(a)(ii) of Marrickville Local Environmental Plan 2011 for the following reasons:

- The proposal seeks to alter an existing building which already exceeds the maximum permitted FSR;
- The proposal reduces the FSR of the existing building on the site, bringing it closer to compliance with the development standard;
- The proposal provides new residential accommodation to contribute to meeting the housing needs of the community;
- The proposed development incorporates a warehouse conversion which contributes to a general variety of housing types and densities in the locality;
- The proposal incorporates a home occupation (ceramics studio) which meets the working needs of the owner; and

- Given the zoning of the site, it is appropriate for the building to be converted for residential uses rather than for commercial or retail purposes.

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

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of MLEP 2011. For the reasons outlined above, there are sufficient environmental planning grounds to justify the departure from the floor space ratio development standard and it is recommended the Clause 4.6 exception be granted.

5(b) Draft Environmental Planning Instruments

Draft Marrickville Local Environmental Plan 2011 (Amendment 4) (the Draft LEP Amendment) was placed on public exhibition commencing on 3 April 2018 and accordingly is a matter for consideration in the assessment of the application under Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.

The amended provisions contained in the Draft LEP Amendment are not relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft LEP Amendment.

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Marrickville Development Control Plan 2011 (MDCP 2011).

Part of MDCP 2011	Compliance
Part 2.1 – Urban Design	Yes
Part 2.3 – Site and Context Analysis	Yes
Part 2.6 – Acoustic and Visual Privacy	Yes
Part 2.7 – Solar Access and Overshadowing	Yes
Part 2.9 – Community Safety	Yes
Part 2.10 – Parking	Yes
Part 2.11 – Fencing	Yes
Part 2.16 – Energy Efficiency	Yes
Part 2.18 – Landscaping and Open Spaces	Yes
Part 2.21 – Site Facilities and Waste Management	Yes
Part 2.23 – Acid Sulfate Soils	Yes
Part 2.24 – Contaminated Lands	Yes
Part 2.25 – Stormwater Management	Yes
Part 9 – Strategic Context	Yes

The following section provides discussion of the relevant issues:

1. Parking (Part 2.10)

Part 2.10 of MDCP 2011 requires one car parking space be provided for a dwelling house. 1 car parking space is provided. The proposal therefore complies with this requirement. The site contains an existing car parking area within the building with an existing driveway crossover.

A second car parking space could be provided in front of the roller shutter. The landscape plan submitted with the application identifies grass block permeable paving located at the front setback which ensures an adequate area of landscaping is achieved and to encourage this space to be used as open space rather than car parking.

Subject to the imposition of appropriate conditions, the development is reasonable having regard to the objectives and controls relating to parking as contained in MDCP 2011.

2. Landscaping and Open Spaces (Part 2.18.11.10)

Given the proposal involves a warehouse conversion, no minimum private open space or landscaped area requirements are specified by Control 31 of Part 2.18 of MDCP 2011. Notwithstanding, a level of private open space and landscaped area should be provided to ensure adequate amenity for residential occupants.

The landscape plan identifies that 65.4sqm of the total site area is retained as private open space.

The proposal includes a new garden bed located within the front setback and permeable grass block paving is provided to the front yard/ driveway.

A covered terrace is proposed on the first floor which is designed around the void which cuts through the centre of the building and a green wall is proposed on the western wall to provide a landscaped feature for the terrace. Two open courtyards are proposed at the rear of the first floor servicing bedroom 1 and bedroom 1 which are enclosed by walls but contain a glazed roof which is operable to allow for light and ventilation.

A new green roof on the second floor adjoining the new roof terrace is proposed. The green roof and terrace overlooks Lackey Street and activates the street frontage.

The proposed areas of private open space are well designed so that they are accessible from living areas, receive adequate solar access and are considered suitable to function as areas of private recreation for any future occupants of the development.

The application was referred to Council's Tree Management officer who raised no objections to the proposal subject to the imposition of appropriate conditions which includes the requirement to provide street tree planting. Those conditions are included in the recommendation.

Given the above the development is reasonable having regard to the objectives and controls relating to landscaping and open space as contained in MDCP 2011.

PART 4 – RESIDENTIAL DEVELOPMENT

Part 4 – Low Density Residential Development

(iv) Streetscape and Design (Part 4.1.5)

The proposed development satisfies the streetscape and design controls in MDCP 2011 in that:

- The development complements the uniformity and visual cohesiveness of the bulk, scale and height of the existing streetscape;
 - The proposal is a contemporary design that complements the character of the area;
- and

- The architectural treatment of the façade interprets and translates positive characteristics of the locality.

5(d) The Likely Impacts

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

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

The site is zoned R1 – General Residential under MELP 2011. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(f) Any submissions

The application was advertised, an on-site notice displayed on the property and resident/property owners in the vicinity of the property was notified in accordance with Council Notification Policy and 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.

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.

- Council's Tree Management Officer
- Council's Development Engineer
- Council's Environmental Health Officer
- Council's Building Surveyor

All internal Council Officers are generally supported of the application subject to the imposition of appropriate conditions which are included in the recommendation.

7. Section 7.11 Contributions

A Section 7.11 contribution of \$20,000.00 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014 and a condition requiring the above contribution to be paid has been included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in the relevant State Environmental Planning Policies (SEPPs), Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011.

The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 of *Marrickville Local Environmental Plan 2011*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. 201800559 to demolish part of the premises and carry out ground, first and second floor additions including the provision of a roof terrace and to convert the premises into a dwelling house and home occupancy at 15 Lackey Street, St Peters subject to the conditions listed in Attachment A below/for the following reasons.

Attachment A – Recommended conditions of consent

Attachment A – Recommended conditions of consent

GENERAL

1. The development must be carried out in accordance with plans and details listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by	Date Submitted
DA – 03ii, D	Demolition Plans	14 December 2018	Jason Williams, Architect	19 December 2018
DA – 04, E	Proposed Ground Floor Plan	14 December 2018	Jason Williams, Architect	19 December 2018
DA – 05, E	Proposed First Floor Plan	14 December 2018	Jason Williams, Architect	19 December 2018
DA – 06, E	Proposed Attic Floor Plan	14 December 2018	Jason Williams, Architect	19 December 2018
DA – 07, D	Proposed Roof Plan	14 December 2018	Jason Williams, Architect	19 December 2018
DA – 08, E	Area Calculations	14 December 2018	Jason Williams, Architect	12 April 2019
DA – 09, F	Section A	14 December 2018	Jason Williams, Architect	19 December 2018
DA – 10, F	Sections B and C	14 December 2018	Jason Williams, Architect	19 December 2018
DA – 11, D	West Elevation	14 December 2018	Jason Williams, Architect	19 December 2018
DA – 12, D	East Elevation	14 December 2018	Jason Williams, Architect	19 December 2018
DA – 13, D	North Elevation	14 December 2018	Jason Williams, Architect	19 December 2018
DA – 14, C	Materials and Finishes Schedule	14 December 2018	Jason Williams, Architect	19 December 2018
DA – 17, B	Proposed Landscape Plans	14 December 2018	Jason Williams, Architect	19 December 2018
A305728	BASIX Certificate	2 February 2018	Jason Williams, Architect	19 December 2018
8056 – Rev 01	Building Code of Australia Compliance Assessment Report	January 2018	AED Group Pty Ltd	19 December 2018

-	Hazardous Materials Survey Report	11 October 2018	Airsafe	19 December 2018
E14011PAD-RO2F	Stage 2 Detailed Site (Contamination) Investigation	10 December 2018	Geo-environmental Engineering	19 December 2018

and details submitted to Council on 19 December 2018 and 11 April 2019 with the application for development consent and as amended by the following conditions.

2. Where any plans and/or information forming part of a Construction Certificate issued in relation to this consent are inconsistent with:
 - a) the plans and/or information approved under this consent; or
 - b) any relevant requirements of this consent,

the plans, information and/or requirements of this consent (as the case may be) shall prevail to the extent of the inconsistency.

All development approved under this consent shall be carried out in accordance with the plans, information and/or requirements of this consent taken to prevail by virtue of this condition.

3. 1 off-street car parking space must be provided, paved and maintained at all times for the dwelling house in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 - Parking.
4. The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property.
5. All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).

BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

6. No work must commence until:
 - a) A PCA has been appointed. Where Council is appointed ensure all payments and paper work are completed (contact Council for further information). Where an Accredited Certifier is the appointed, Council must be notified within 2 days of the appointment; and
 - b) A minimum of 2 days written notice given to Council of the intention to commence work.
7. A Construction Certificate must be obtained before commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.
8. A Recycling and Waste Management Plan (RWMP) being prepared in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and submitted to and accepted by the PCA before work commences.
9. Sanitary facilities must be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet must be connected to the sewer, septic or portable chemical toilet before work commences.

Facilities must be located so that they will not cause a nuisance.

10. The person acting on this consent is responsible for arranging and meeting the cost of dilapidation reports prepared by a suitably qualified person. The reports are to include colour photographs and are to be submitted to the Certifying Authority's satisfaction, with a colour copy being provided to Council and the respective property owner(s) of the identified properties, before work commences, on the buildings on the adjoining properties at 12 Lackey Street and 16 Lackey Street, St Peters if the consent of the adjoining property owner(s) can be obtained. In the event that the consent of the adjoining property owner(s) cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the PCA before work commences.
11. The site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property, before work commences.
12. A rigid and durable sign must be erected in a prominent position on the site, before work commences. The sign is to be maintained at all times until all work has been completed. The sign must include:
 - a) The name, address and telephone number of the PCA;
 - b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
 - c) A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.
13. Sediment control devices must be installed before the commencement of any work and must be maintained in proper working order to prevent sediment discharge from the construction site.
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

15. 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.

BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

16. Evidence of payment of the building and construction industry Long Service Leave Scheme must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate. (The required payment can be made at the Council Offices).

NOTE: The required payment is based on the estimated cost of building and construction works and the long service levy rate, set by the Long Service Payments Corporation. The rate set by the Long Service Payments Corporation is currently of 0.35% of the cost of the building and construction work.

For more information on how to calculate the amount payable and where payments can be made contact the Long Services Payments Corporation.

http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm

17. a) This condition is imposed in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979.
- b) Before the issue of a Construction Certificate, the Council must be paid a monetary contribution of \$20,000.00 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014 ("CP").

The above contribution is the contribution applicable as at 11 April 2019.

***NB** Contribution rates under Marrickville Section 94/94A Contributions Plan 2014 are indexed quarterly (for the method of indexation refer to Section 2.15 of the Plan).

The indexation of the contribution rates occurs in the first week of the months of February, May, August and November each year, following the release of data from the Australian Bureau of Statistics.

(CONTRIBUTION PAYMENT REFERENCE NO. DC002570)

- c) The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:
- | | |
|-----------------------|-------------|
| Community Facilities | \$2,146.42 |
| Plan Administration | \$392.16 |
| Recreation Facilities | \$17,091.31 |
| Traffic Facilities | \$370.11 |
- d) A copy of the CP can be inspected at Council's offices at 2-14 Fisher Street, Petersham or online at <http://www.marrickville.nsw.gov.au>.
- e) The contribution must be paid either in cash, by unendorsed bank cheque (from an Australian Bank only), via EFTPOS (Debit only) or credit card*.

*NB A 1% credit card transaction fee applies to all credit card transactions.

18. Plans fully reflecting the selected commitments listed in BASIX Certificate submitted with the application for development consent must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

NOTE: The application for the Construction Certificate must be accompanied by either the BASIX Certificate upon which development consent was granted or a revised BASIX Certificate issued no earlier than 3 months before the date of lodgement of the application for the Construction Certificate. (Refer to Clause 6A of Schedule 1 to the Regulation).

- 19. The existing building must be upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke detection systems in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.
- 20. 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	\$3561.00
Inspection fee	\$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.

- 21. A plan detailing the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes, and proposed site levels together with hydrologic and hydraulic calculations being submitted to and accepted by Council before the issue of a Construction Certificate.
- 22. Noise attenuation measures must be incorporated into the development complying with Australian Standard 2021-2015 in relation to interior design sound levels, in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the proposed noise attenuation measures satisfy the requirements of Australian Standard 2021-2015. Plans fully reflecting the selected commitments must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.
- 23. A detailed plan showing clothes drying facilities in accordance with Part 2.21.3.1 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

24. A detailed plan showing the location and design of mailboxes in accordance with Part 2.21.3.3 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.
25. Lighting details of the entrance to the dwelling house must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.
26. A detailed plan of the green roof, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by the Certifying Authority before the issue of a Construction Certificate. The plan must include:
 - a) Location of existing and proposed structures, services and hard landscaping on the rooftop, roof fixings and other structural elements that may interrupt waterproofing, including cross-sectional details of all components;
 - b) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);
 - c) Details of the location, sizes and numbers of plants used, with reference to NATSPEC (if applicable) and with a preference for drought resistant local species;
 - d) Details of the soil media / substrate type and depth;
 - e) Details of installation methodology e.g. safety considerations for working at height, location of maintenance hooks (if applicable) transport of materials etc; and
 - f) Details of drainage and irrigation systems, including overflow provisions and water retention cells in the drainage layer (if applicable).
27. Before the issue of a Construction Certificate the following details must be submitted to the Certifying Authority's satisfaction:
 - a) Evidence the green roof has been assessed as part of the structural certification provided for the development; and
 - b) Evidence the green roof has been assessed as part of the waterproofing certification provided for the development.
28. The 1 *Leptospermum petersonii* (Lemon Scented Tea Tree) must be planted, at no cost to Council, in the nature strip in front the property along Lackey Street. The tree used must be a minimum seventy five (75) litre container size at the time of planting.

The species selection is in accordance with the Marrickville Street Tree Master Plan (MSTMP) 2014.

Tree supply and installation shall be in accordance with Part 6.4 of the MSTMP and the relevant planting detail.

The tree shall be planted by a qualified Arborist (minimum AQF Level 3).

Details of the species, planting location, pavement cut out, soil specification etc. must be included on the landscape and /or site plan prior to the issue of a Construction Certificate. Such plans must also contain details as to the location of power poles and overhead power lines, manholes, vehicular crossings, footpaths, subterranean services and the like.

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

The street tree shall be maintained for a period of 12 months. Maintenance includes weeding, control pest and disease, adequate water.

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

SITE WORKS

29. All excavation, demolition, construction, and deliveries to the site necessary for the carrying out of the development, must be restricted to between 7.00am to 5.30pm Mondays to Saturdays, excluding Public Holidays. Notwithstanding the above no work must be carried out on any Saturday that falls adjacent to a Public Holiday.
30. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.
31. The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council. The placement of waste storage containers in a public place requires Council approval and must comply with Council's Policy – 'Placement of Waste Storage Containers in a Public Place'.
32. The works are required to be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another Certifying Authority. The last inspection can only be carried out by the PCA. The critical stages of construction are:
 - a) after excavation for, and prior to the placement of, any footings;
 - b) prior to pouring any in-situ reinforced concrete building element;
 - c) prior to covering of the framework for any floor, wall, roof or other building element;
 - d) prior to covering waterproofing in any wet areas;
 - 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.
33. All demolition work must be carried out in accordance with the following:
 - a) compliance with the requirements of Australian Standard AS 2601 'The demolition of structures' with specific reference to health and safety of the public, health and safety of the site personnel, protection of adjoining buildings and protection of the immediate environment;
 - b) all works involving the demolition, removal, transport and disposal of material containing asbestos must be carried out by suitably qualified persons in accordance with the 'Worksafe Code of Practice for Removal of Asbestos' and the requirements of the WorkCover Authority of NSW and the Department of Environment, Climate Change and Water;
 - c) all building materials arising from the demolition must be disposed of in an approved manner in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and any applicable requirements of the Department of Environment, Climate Change and Water;
 - d) sanitary drainage, stormwater drainage, water, electricity and telecommunications must be disconnected in accordance with the requirements of the responsible authorities;
 - e) the generation of dust and noise on the site must be controlled;
 - f) the site must be secured to prohibit unauthorised entry;
 - g) suitable provision must be made to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way;
 - h) all trucks and vehicles associated with the demolition, including those delivering to or removing material from the site, must only have access to the site during work hours nominated by Council and all loads must be covered;
 - i) all vehicles taking materials from the site must be loaded wholly within the property unless otherwise permitted by Council;
 - j) no waste collection skips, spoil, excavation or demolition material from the site must be deposited on the public road, footpath, public place or Council owned property without the approval of Council; and

- k) the person acting on this consent must ensure that all contractors and sub-contractors associated with the demolition are fully aware of these requirements.
34. If the development involves an excavation that extends below the level of the base of the footings of a building on the adjoining allotments, including a public place such as a footway and roadway, the person acting on the consent, at their own expense must:
- protect and support the adjoining premises from possible damage from the excavation;
 - where necessary, underpin the adjoining premises to prevent any such damage. Where the proposed underpinning works are not "exempt development", all required consents shall be obtained prior to the required works commencing; and
 - at least 7 days' notice is given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

Where a dilapidation report has not been prepared on any building adjacent to the excavation, the person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to be submitted to and accepted by the PCA before works continue on site, if the consent of the adjoining property owner can be obtained.

Copies of all letter/s that have been sent via registered mail to the adjoining property owner and copies of any responses received shall be forwarded to the PCA before work commences.

35. To provide for adequate site drainage all roof and surface stormwater from the site and any catchment external to the site that presently drains to it, shall be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a stormwater drainage system in accordance with the requirements of Marrickville Council Stormwater and On Site Detention Code. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled.
36. If the proposed work is likely to cause obstruction of the public place and/or is likely to endanger users of the public place, a suitable hoarding or fence approved by Council must be erected between the work site and the public place.
37. A certificate of survey from a registered land surveyor must be submitted to the PCA upon excavation of the footings and before the pouring of the concrete to verify that the structure will not encroach on the allotment boundaries.
38. The person acting on this consent must comply with the requirements of the Dividing Fences Act in respect to the alterations and additions to the boundary fences.
39. 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.

BEFORE OCCUPATION OF THE BUILDING

40. You must obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA must notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within 2 days of the date of the Certificate being determined:
- A copy of the determination;
 - Copies of any documents that were lodged with the Occupation Certificate application;
 - A copy of Occupation Certificate, if it was issued;

- d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
 - e) A copy of any missed inspections;
 - f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.
41. The landscaping of the site must be carried out prior to occupation or use of the premises in accordance with the approved plan, and must be maintained at all times to Council's satisfaction.
42. a) Upon completion of the required noise attenuation measures referred to in the "Before the Issue of a Construction Certificate" Section of this Determination, and prior to the occupation of the dwelling house a report must be prepared and submitted to the Certifying Authority's satisfaction by an accredited Acoustics Consultant certifying that the final construction meets AS2021-2000 as set down in the subject condition of this consent. Such report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development; and
- b) Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate being prepared and submitted to Council in accordance with the requirements as set down in Part a) of this condition.
43. The Certifying Authority must be satisfied that each of the commitments listed in BASIX Certificate referred to in this Determination have been fulfilled before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate).
44. The Certifying Authority must apply to the Director-General for a BASIX Completion Receipt within 2 days of the issue of a final Occupation Certificate. Completion Receipts can be applied for at www.basix.nsw.gov.au.
45. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before the issue of an Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".
46. 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.
47. 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.
48. Any 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. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled. Non-compliance with this condition will result in loss of your security deposit.
49. A report prepared by a suitably qualified and experienced acoustic consultant shall be submitted to Council prior to an Occupation Certificate being issued for the development which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the *Protection of the Environment Operations Act*

1997, NSW Environment Protection Authority's Industrial Noise Policy and Noise Control Manual and conditions of Council's approval, including any recommendations of the acoustic report referenced in the conditions of the approval.

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

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

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

51. 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 the Occupation Certificate.
52. Before the issue of an Interim or Final Occupation Certificate, a street number and identifier of separate occupancies (if applicable) must be clearly displayed in a readily visible location (numbers having a height of not less than 75mm). If any new street numbers or change to street numbers (this includes unit and shop numbers) are required they must have the prior approval of council before being displayed.
53. Before the issue of an Occupation Certificate, a maintenance plan for the green roof is to be submitted and approved by the Principal Certifying Authority. The green roof maintenance plan is to be complied with during occupation of the property and a copy of the maintenance plan is to be kept on site at all times during construction and following completion and shall be produced to Council on request. The maintenance plan shall include as a minimum:
- Frequency and methodology of different maintenance requirements, including the removal of green waste;
 - Details of safety procedures;
 - Manufacturer's contact details and copies of manufacturers' typical details and specification; and
 - Copies of warranties and guarantees relating to all materials and plant used in construction.
54. The planting of street trees (within the nature strip) required by this consent shall be carried out prior to the release of an Occupation Certificate. The planting must be in accordance with the approved plan and
- Images and documentation confirming the tree and planting complies with the requirements of all relevant conditions must be prepared by the Arborist undertaking the site preparation and planting and shall be submitted to Council for approval.
 - The street trees must be maintained for a minimum period of 12 months commencing on the planting date. Maintenance includes, but is not limited to, watering, weeding, removal of rubbish from tree base, pruning and fertilising and pest and disease control.
 - At the completion of the 12 month maintenance period written approval must be obtained from Council's Tree Management Officer that the trees are healthy.
 - If the street tree requires replacement due to maintenance deficiencies during the 12 month maintenance period, the 12 month maintenance period will commence again from the date of the planting of the replacement tree.

USE OF THE BUILDING

55. The premises must be used exclusively as a single dwelling house and must not be adapted for use as a residential flat building or boarding house and must not be used for any industrial or commercial purpose.
56. That the use of the ceramic studio on the ground floor shall conform to the definition of a home occupation as prescribed by Marrickville Local Environmental Plan 2011 and must be used exclusively in association with the dwelling house on the property and must not be adapted for use for habitable purposes and must not be used for any industrial or commercial purpose.
57. The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the premises and plant and 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).

58. The use of the premises shall not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage other premises.

ADVISORY NOTES

- A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out.
- Contact "Dial Before You Dig" before commencing any building activity on the site.
- Useful Contacts

BASIX Information	☎ 1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	☎ 13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Before You Dig	☎ 1100 www.dialbeforeyoudig.com.au
Landcom	☎ 9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	☎ 131441 www.lspc.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro

www.diySAFE.nsw.gov.au

Information on asbestos and safe work practices.

NSW Office of Environment and Heritage

☎ 131 555

www.environment.nsw.gov.au

Sydney Water

☎ 13 20 92

www.sydneywater.com.au

Waste Service - SITA
Environmental Solutions

☎ 1300 651 116

www.wasteservice.nsw.gov.au

Water Efficiency Labelling and Standards (WELS)

www.waterrating.gov.au

WorkCover Authority of NSW

☎ 13 10 50

www.workcover.nsw.gov.au

Enquiries relating to work safety and asbestos removal and disposal.

Attachment B – Plans of proposed development



1 EXISTING STREET VIEW - LACKEY STREET

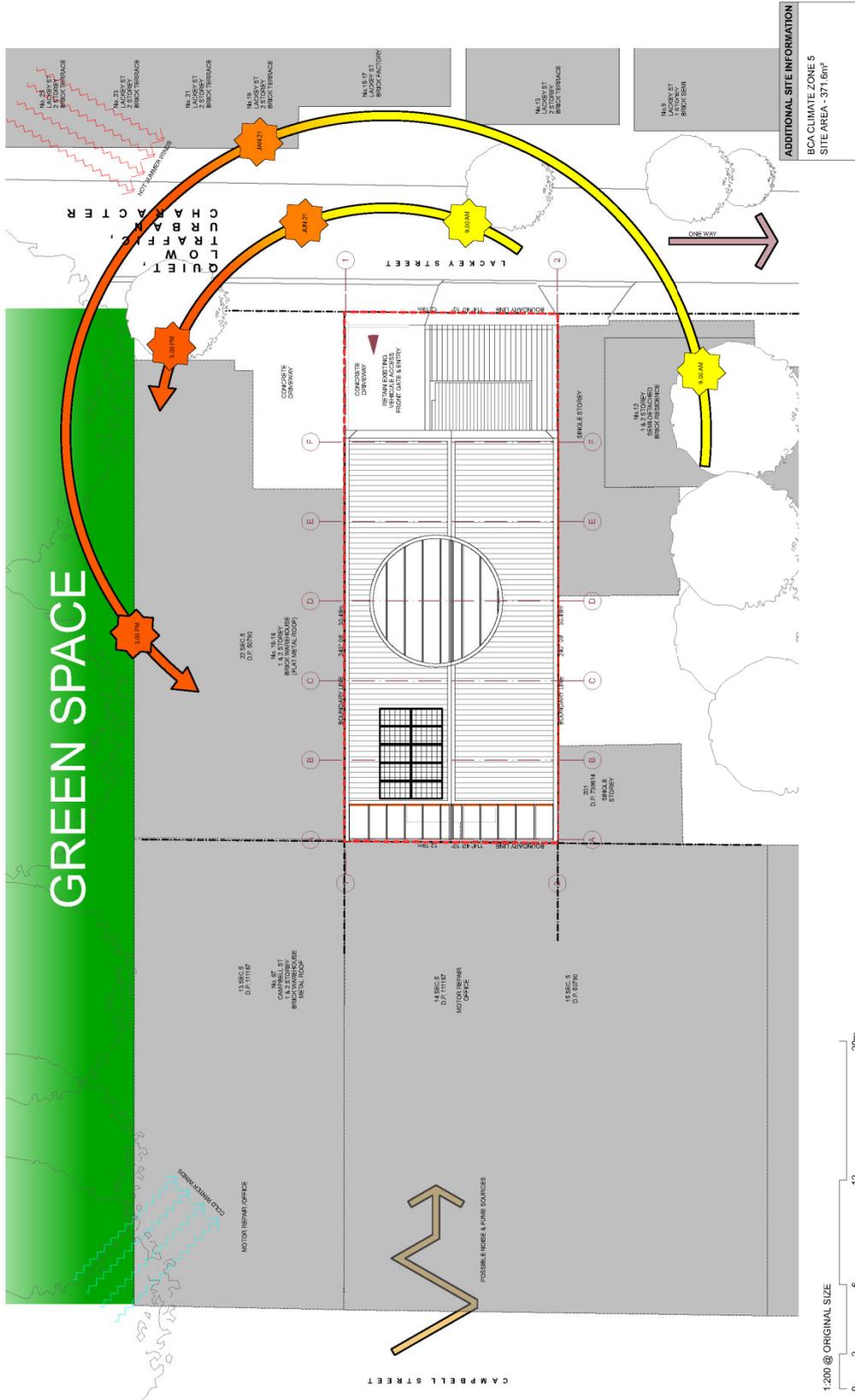


2 EXISTING

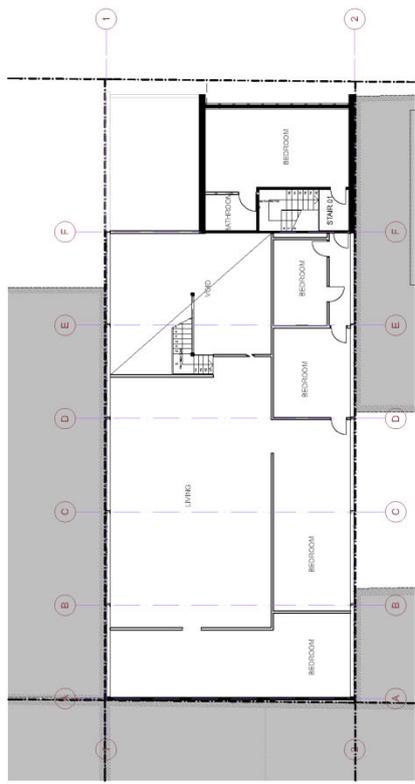


3 PROPOSED PERSPECTIVE

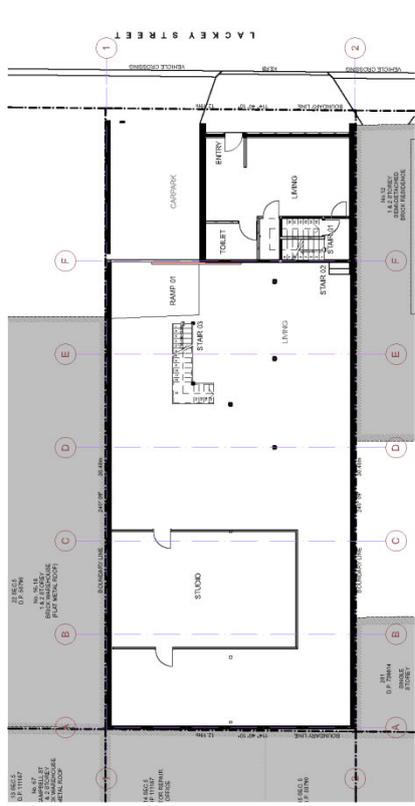
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DA - 01			Rev C	Date MAY 2018		



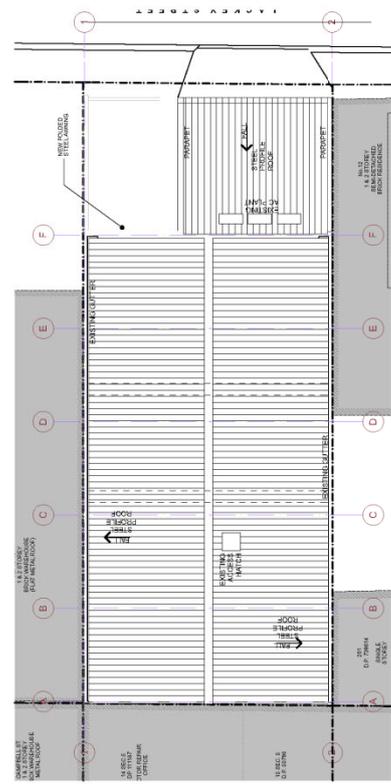
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<p>CLIENT Mr Tony Schlosser 14 Lackey Street St Peters, NSW 2044</p>		<p>DESCRIPTION DEVELOPMENT APPLICATION DARRENSUBMIT</p>		<p>DA - 02</p> <p>Rev C</p> <p>Date MAY 2018</p>		<p>ADDITIONAL SITE INFORMATION BCA CLIMATE ZONE 5 SITE AREA - 371.6m²</p>	



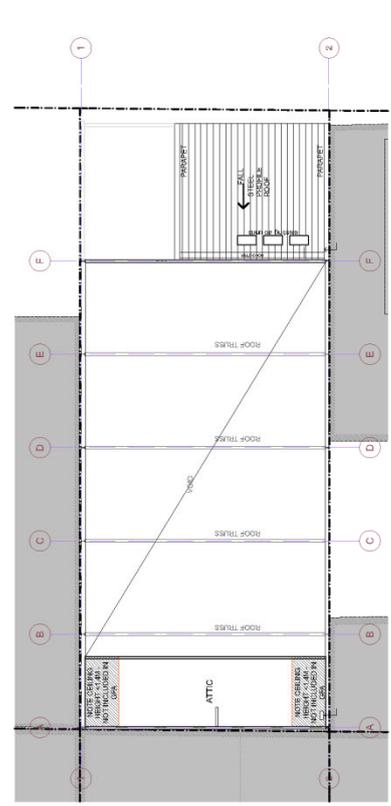
02 FIRST LEVEL 1:200



01 GROUND FLOOR 1:200



04 ROOF 1:200



03 ATTIC 1:200



A3
SHEET SIZE
CLEAN
Mr Tony Schlosser
14 Lackey Street
St Peters, NSW 2044



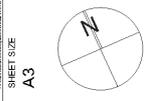
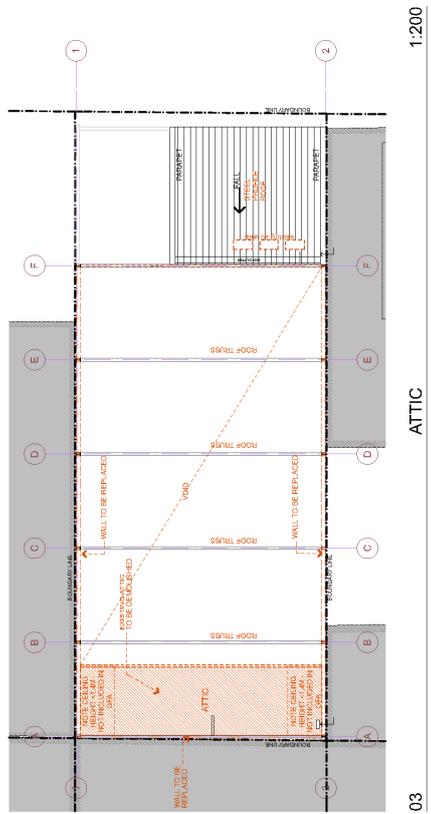
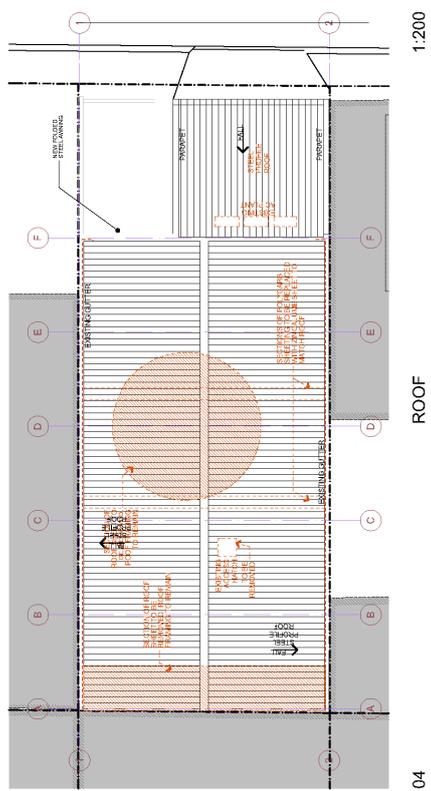
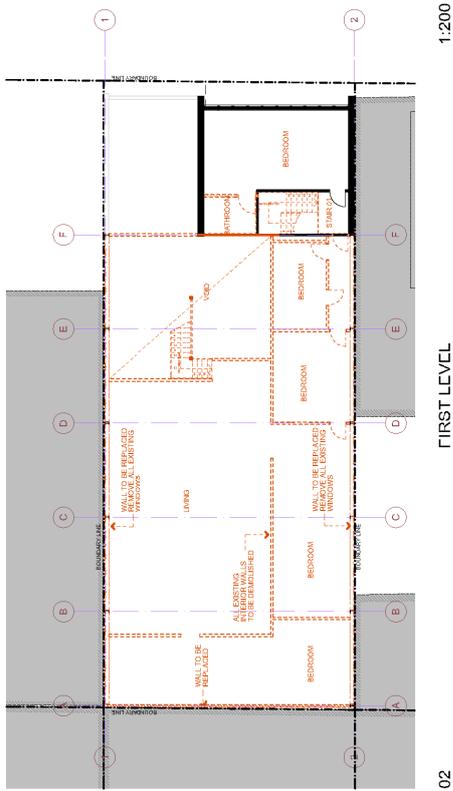
PROJECT
SCHLOSSER RESIDENCE
14 Lackey Street St Peters, NSW 2044
DEVELOPMENT APPLICATION
EXISTING PLANS
Project No. 004

DA - 031

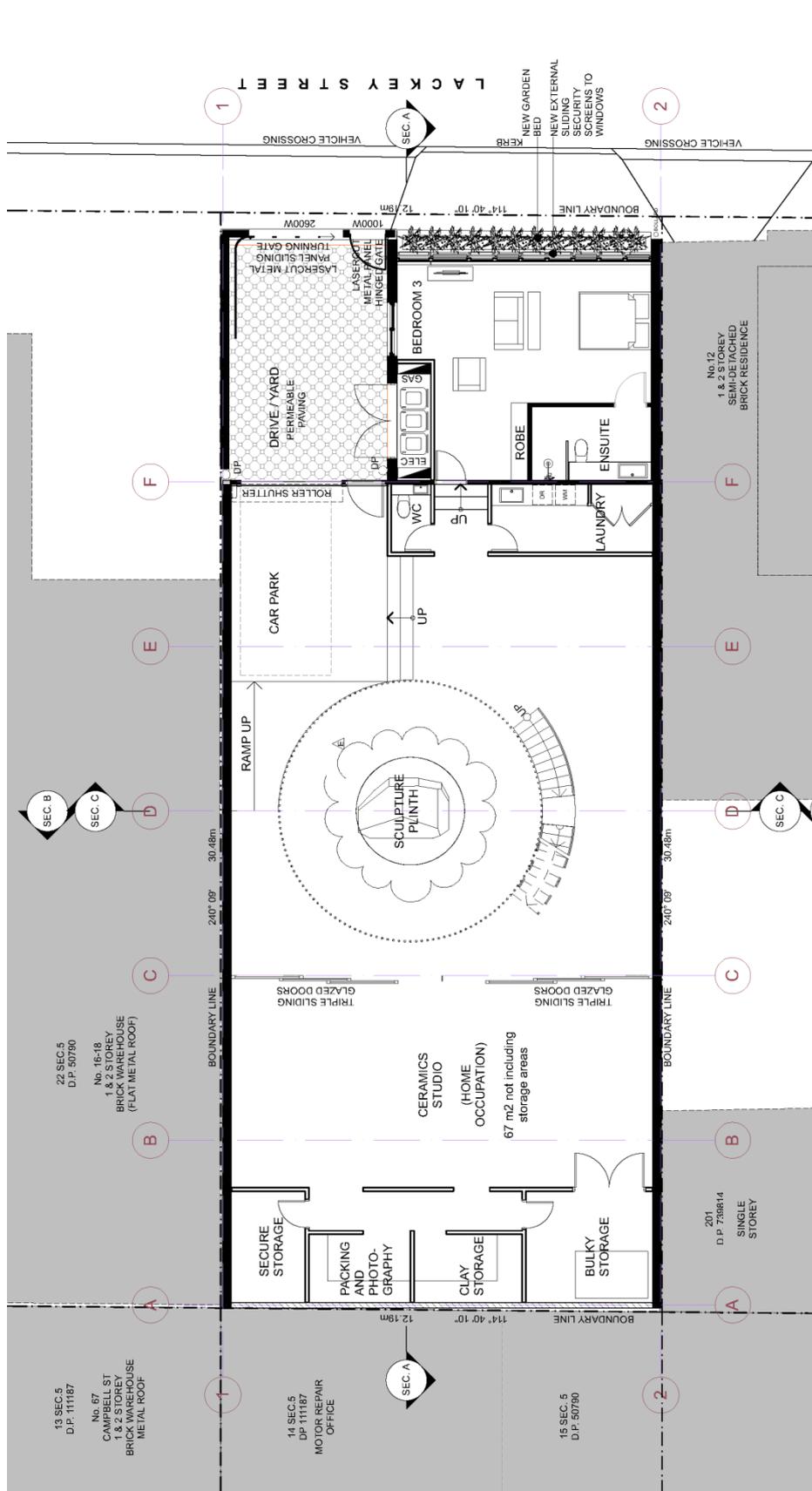
Rev D
Date MAY 2018

REVISION	DESCRIPTION	DATE	ARCHITECT
A	DRAFT DA	16.12.17	JASON WILLIAMS, ARCHITECT NSW4483 897
B	DEVELOPMENT APPLICATION	30.01.18	
C	DA RESUBMIT	14.12.18	

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ABBOTSFORD 2046 NSW



CLIENT Mr Tony Schlosser 14 Lackey Street St Peters, NSW 2044	PROJECT SCHLOSSER RESIDENCE 14 Lackey Street St Peters, NSW 2044 DEVELOPMENT APPLICATION DEMOLITION PLANS Project No. 004	REVISION A B C D	DESCRIPTION DEVELOPMENT APPLICATION DA/RF DA/REQUIREMENT	ARCHITECT JASON WILLIAMS, ARCHITECT NOVEMBER 1997	DATE 30.01.17 07.06.18 14.12.18
				ARCHITECT JASON WILLIAMS, ARCHITECT NOVEMBER 1997	DATE 30.01.17 07.06.18 14.12.18
DA - 03ii		Rev D	Date MAY 2018	T 0425 732 310 E architect@jasonwilliams.com.au UNIT 6, 56 ST ALBANS ST ABBOTSFORD 2046 NSW	



KEY

- EXISTING
- REPLACE
- NEW

PROJECT
 Mr Tony Schlosser
 14 Lackey Street
 St Peters, NSW 2044

DA - 04
 Rev E
 Date MAY 2018

SCHLOSSER RESIDENCE
 14 Lackey Street St Peters, NSW 2044
DEVELOPMENT APPLICATION
 PROPOSED GROUND FLOOR PLAN
 Project No. 004

ARCHITECT
 JASON WILLIAMS, ARCHITECT
 T 0425 732 310
 E architect@jasonwilliams@gmail.com
 UNIT 6, 56 ST ALBANS ST
 ABBOTSFORD 2046 NSW

REVISION

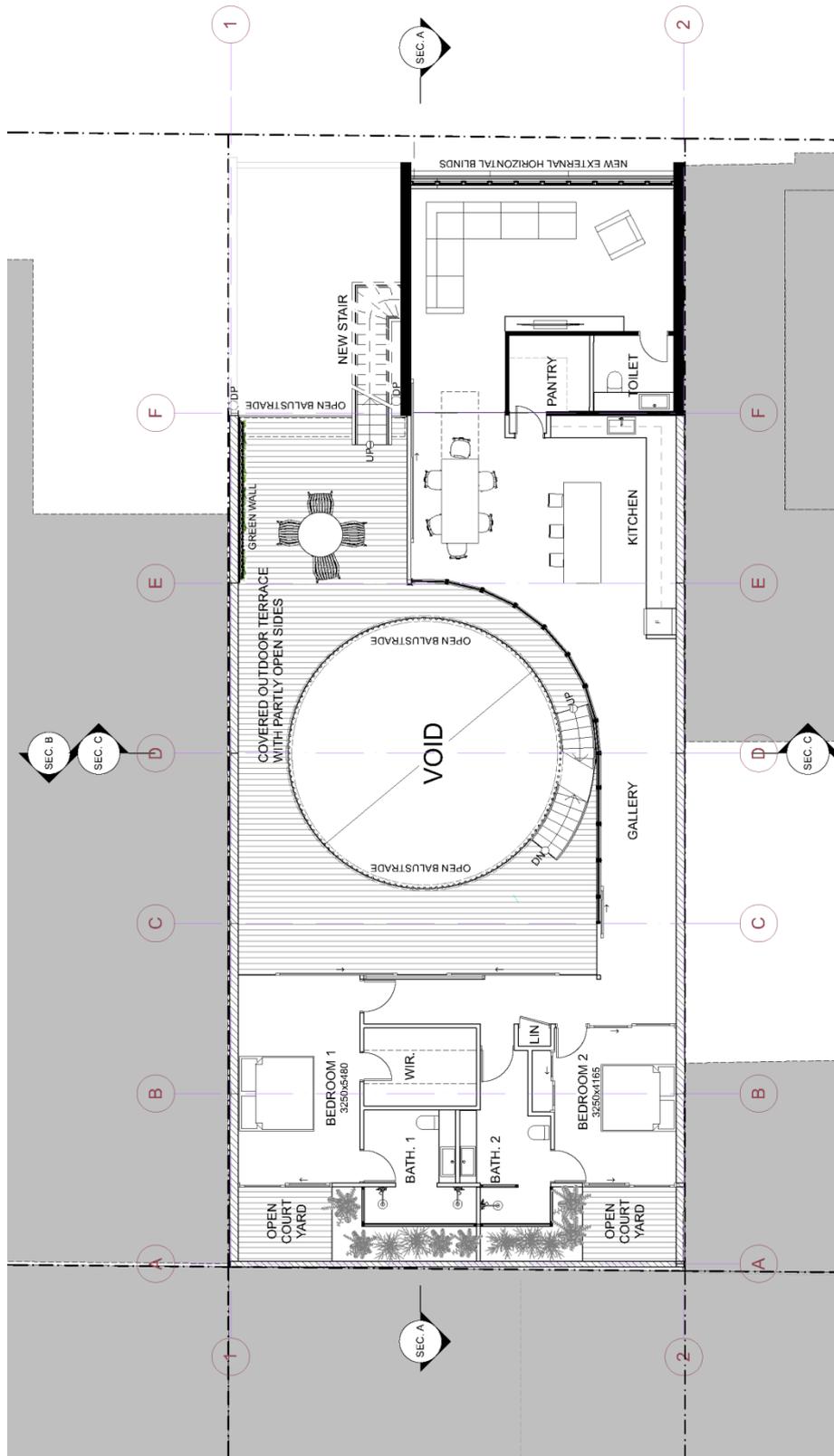
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B	DEVELOPMENT APPLICATION	30.01.18
C	DA REF	07.05.18
D	PUNYER DELETED	14.12.18
E		

DATE
 07.12.17
 30.01.18
 07.05.18
 14.12.18

DESCRIPTION
 CLIENT REVIEW
 DEVELOPMENT APPLICATION
 DA REF
 PUNYER DELETED

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SHEET SIZE
 A3



KEY

- EXISTING
- REPLACE
- NEW

1:100 @ ORIGINAL SIZE
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CLIENT
 Mr Tony Schlosser
 14 Lackey Street
 St Peters, NSW 2044

PROJECT
 SCHLOSSER RESIDENCE
 14 Lackey Street St Peters, NSW 2044
DEVELOPMENT APPLICATION
 PROPOSED FIRST FLOOR PLAN
 Project No. 004

DA - 05
 Rev E
 Date MAY 2018

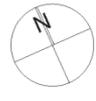
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B	DRAWING
C	DEVELOPMENT APPLICATION
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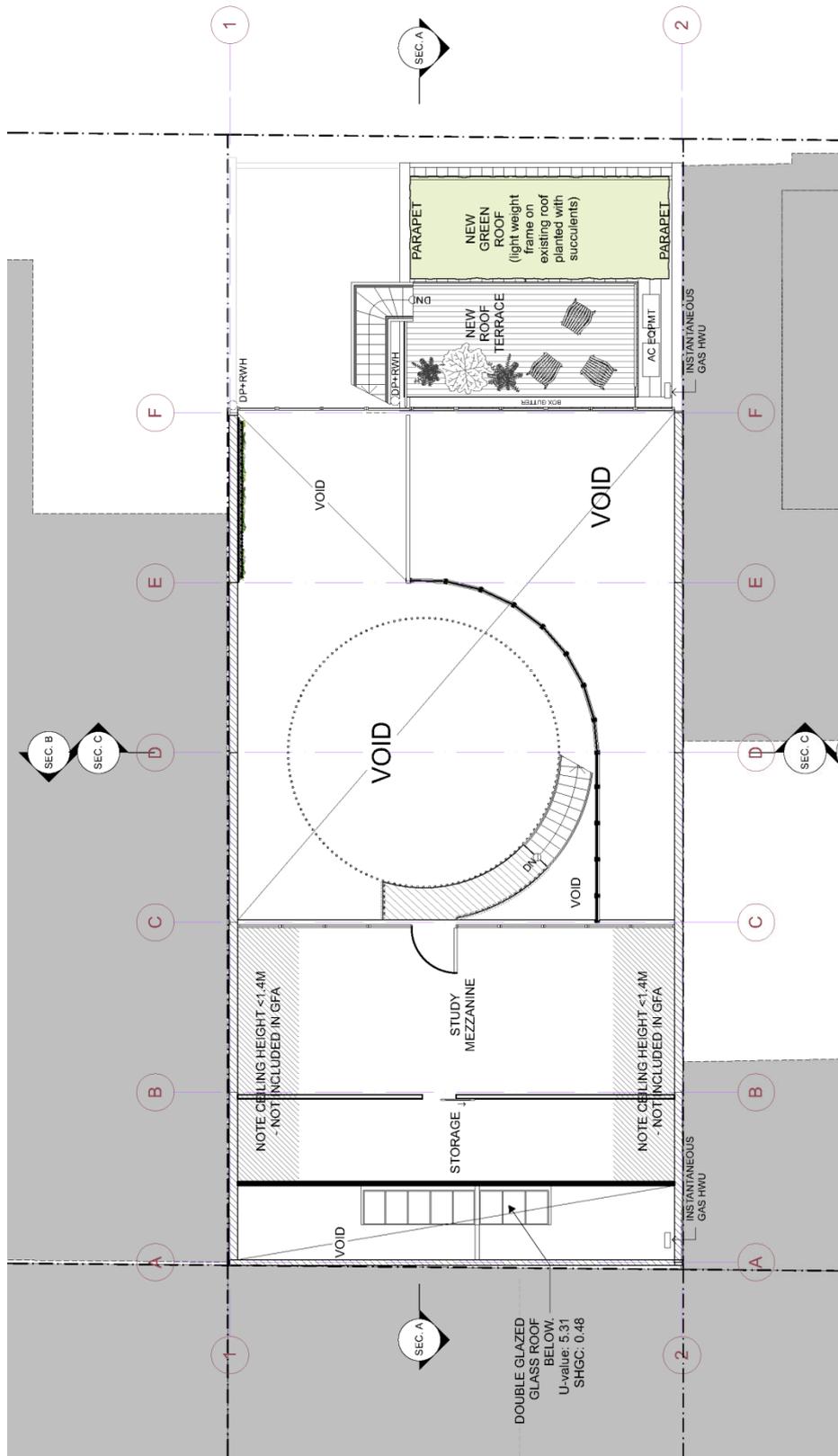
ARCHITECT
 JASON WILLIAMS, ARCHITECT
 NEWCASTLE NSW

DATE
 19.12.17
 30.01.18
 14.02.18
 14.12.18

T 0425 732 310
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UNIT 6, 56 ST ALBANS ST
 ABBOTSFORD 2046 NSW





KEY

- EXISTING
- REPLACE
- NEW

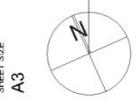
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PROJECT

SCHLOSSER RESIDENCE
 14 Lackey Street St Peters, NSW 2044
DEVELOPMENT APPLICATION
 PROPOSED ATTIC FLOOR PLAN
 Project No. 004

Mr Tony Schlosser
 14 Lackey Street
 St Peters, NSW 2044

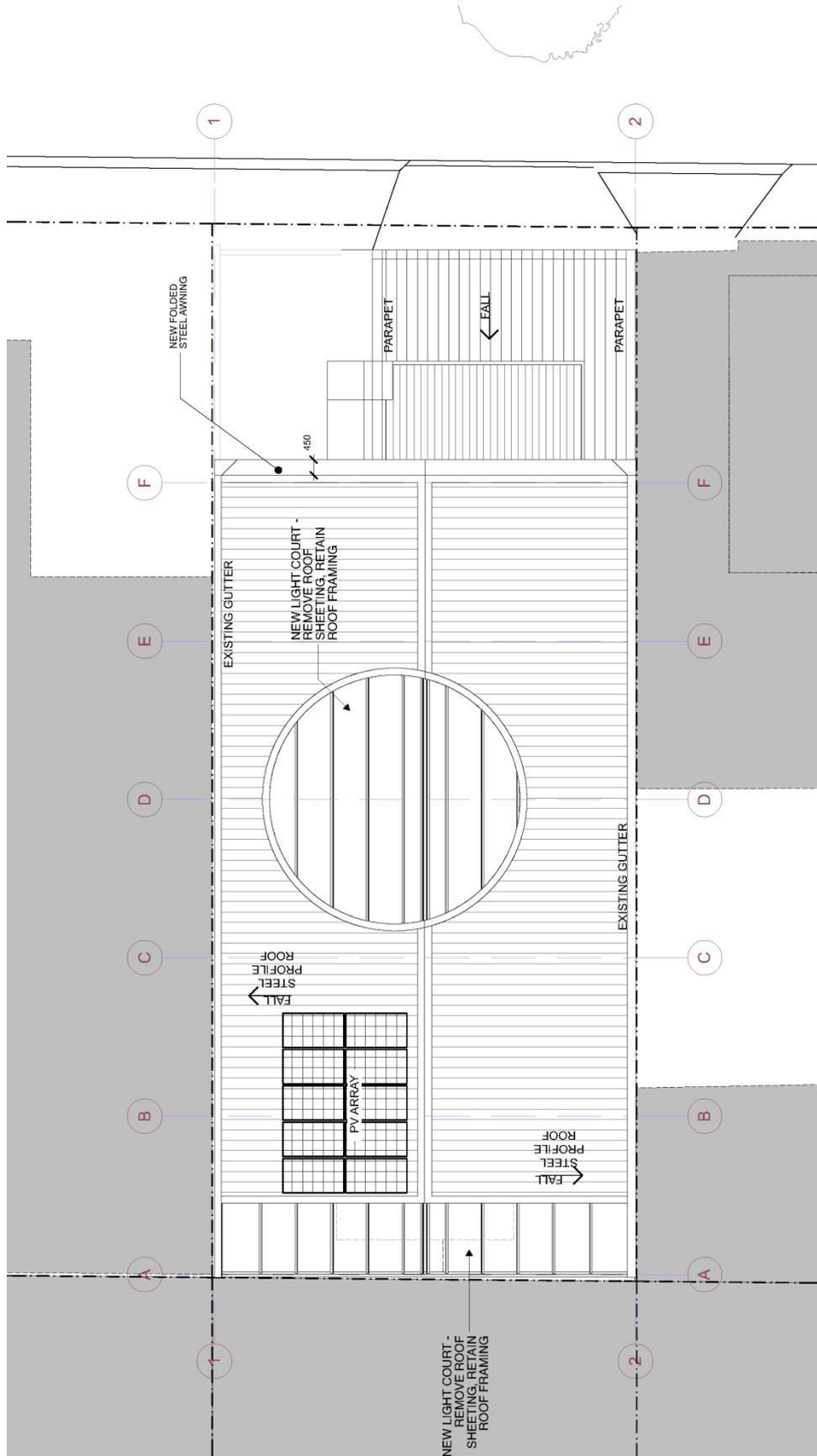


JASON WILLIAMS, ARCHITECT
REGISTERED ARCHITECT
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 E architect@jasonwilliams.com.au

DA - 06
 Rev E
 Date MAY 2018

REVISION	DESCRIPTION	DATE
A	CLIENT REVIEW	07.12.17
B	DEVELOPMENT APPLICATION	30.01.18
C	DA REF	07.05.18
D	DA RESUBMIT	14.12.18
E		

UNIT 6, 56 ST ALBANS ST
 ABBOTSFORD 2046 NSW



1:100 @ ORIGINAL SIZE



CLIENT: Mr Tony Schlosser
14 Lackey Street
St Peters, NSW 2044

PROJECT: SCHLOSSER RESIDENCE
14 Lackey Street St Peters, NSW 2044

DEVELOPMENT APPLICATION
PROPOSED ROOF PLAN
Project No. 004

DA - 07
Rev D
Date MAY 2018

DESCRIPTION: DRAFT DA
DRAFT DA
DA FOR DA RESUBMIT

REVISION: A
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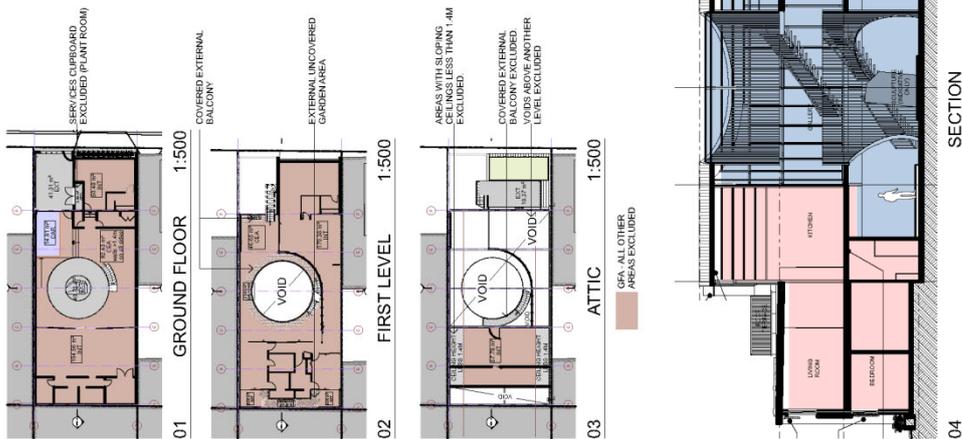
DATE: 16.12.17
07.05.18
14.12.18

ARCHITECT: JASON WILLIAMS, ARCHITECT
T 0425 732 310
E architect@jasonwilliams@gmail.com
UNIT 6, 56 ST ALBANS ST
ABBOTSFORD 2046 NSW

EXISTING		PROPOSED	
SITE AREA	371.6m ²	SITE AREA	371.6m ²
PERMISSIBLE FLOOR SPACE RATIO (FSR)	1.10:1	PERMISSIBLE FLOOR SPACE RATIO (FSR)	1.10:1
TOTAL PERMISSIBLE GROSS FLOOR AREA (GFA)	408.76m ²	TOTAL PERMISSIBLE GROSS FLOOR AREA (GFA)	408.76m ²
GROUND FLOOR AREAS		GROUND FLOOR AREAS	
INTERNAL AREA	308m ²	INTERNAL AREA	155m ²
OTHER AREAS	308m ²	EXTERNAL COVERED AREA	95m ²
EXTERNAL UNCOVERED AREA	41m ²	TOTAL GROUND FLOOR GFA	248m ²
LEVEL 01 AREAS		OTHER AREAS	82m ²
INTERNAL AREA	249m ²	EXTERNAL UNCOVERED AREA	3m ²
EXTERNAL UNCOVERED AREA	249m ²	CARPARK	15m ²
ATTIC AREAS		LEVEL 01 AREAS	
INTERNAL AREA	28m ²	INTERNAL AREA	170m ²
TOTAL ATTIC GFA	28m ²	EXTERNAL UNCOVERED AREA (with walls >1.4m)	10m ²
EXISTING TOTAL BUILDING GFA	585m ²	INTERNAL COVERED AREA	46m ²
EXISTING FSR	1.574:1	EXTERNAL BALCONIES & GARDENS	10m ²
FSR EXCEEDED BY	43.1%	TOTAL FIRST FLOOR GFA	260m ²
		ATTIC AREAS	
		INTERNAL AREA	58m ²
		OTHER AREAS	19m ²
		EXTERNAL UNCOVERED AREA	19m ²
		PROPOSED TOTAL BUILDING GFA	566m ²
		PROPOSED FSR	1.52:1
		FSR EXCEEDED BY	38.46%

The dictionary to the Mairackville LEP 2001 defines gross floor area as "the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

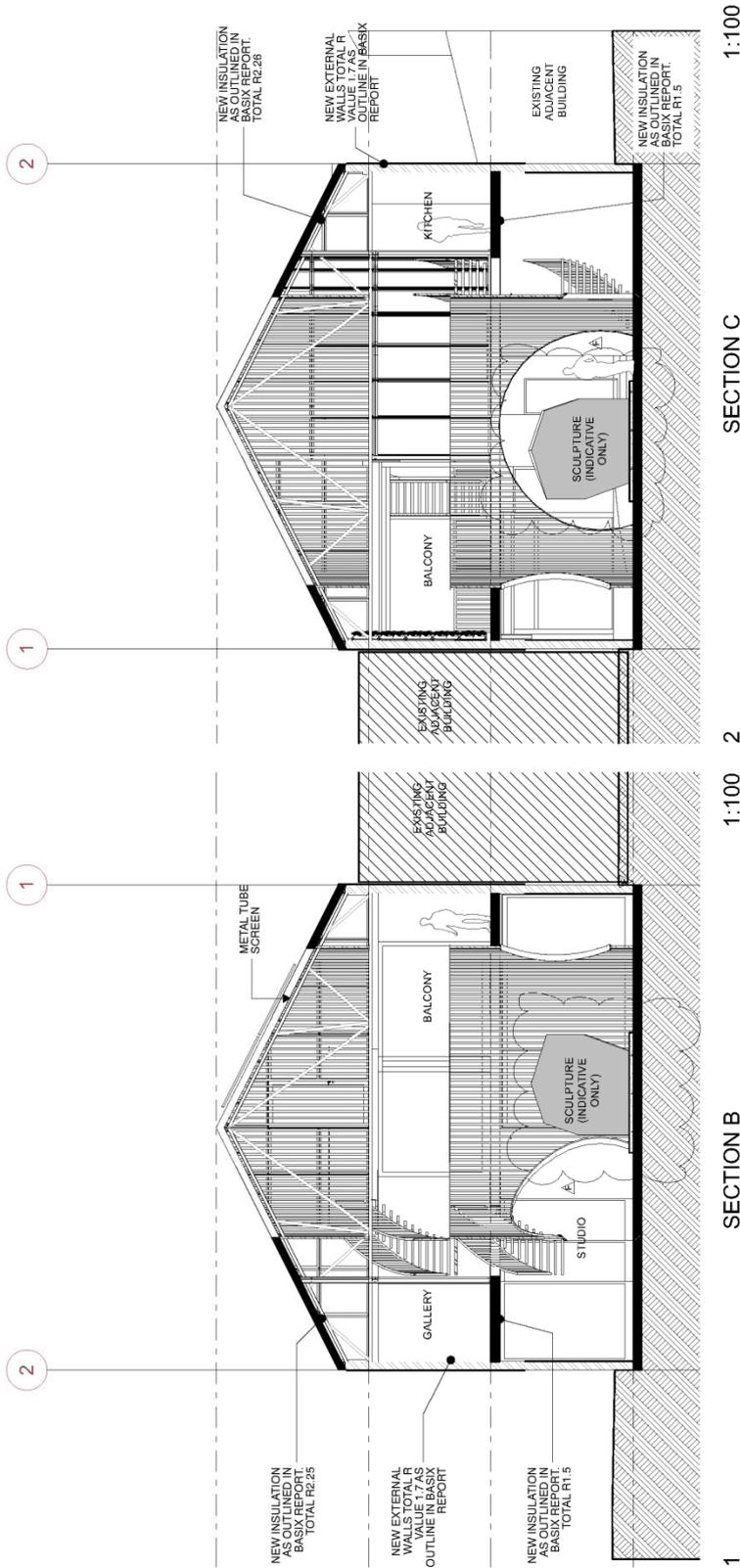
- (a) the area of a mezzanine, and
 - (b) habitable rooms in a basement or an attic, and
 - (c) any atria, auditorium, cinema, and the like, in a basement or attic,
- but excludes:
- (d) any area for common vertical circulation, such as lifts and stairs, and
 - (e) any basement;
 - (f) storage, and
 - (g) any area for common vertical circulation, such as lifts and stairs, and
 - (h) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
 - (i) car parking to meet any requirements of the consent authority (including access to it), and
 - (j) any space used for the loading or unloading of goods (including access to it), and
 - (k) terraces and balconies with outer walls less than 1.4 metres high, and
 - (l) voids above a floor at the level of a storey or storey above.



CLIENT Mr Tony Schlosser 14 Lackey Street St Peters, NSW 2044	PROJECT SCHLOSSER RESIDENCE 14 Lackey Street St Peters, NSW 2044 DEVELOPMENT APPLICATION AREA CALCULATIONS Project No. 004	ARCHITECT JASON WILLIAMS, ARCHITECT NUMBER 899	DATE DA REF 1 30.01.18 DA REF 2 07.08.18 DA REF 3 14.12.18
		REVISION A B C D E	DESCRIPTION DEVELOPMENT APPLICATION DA REF 1 DEVELOPMENT APPLICATION DA REF 2 DA REF 3
UNIT 6, 56 ST ALBANS ST ABBOTSFORD 2046 NSW		T 0425 732 310 E architect@jasonwilliams@gmail.com	

DA - 08

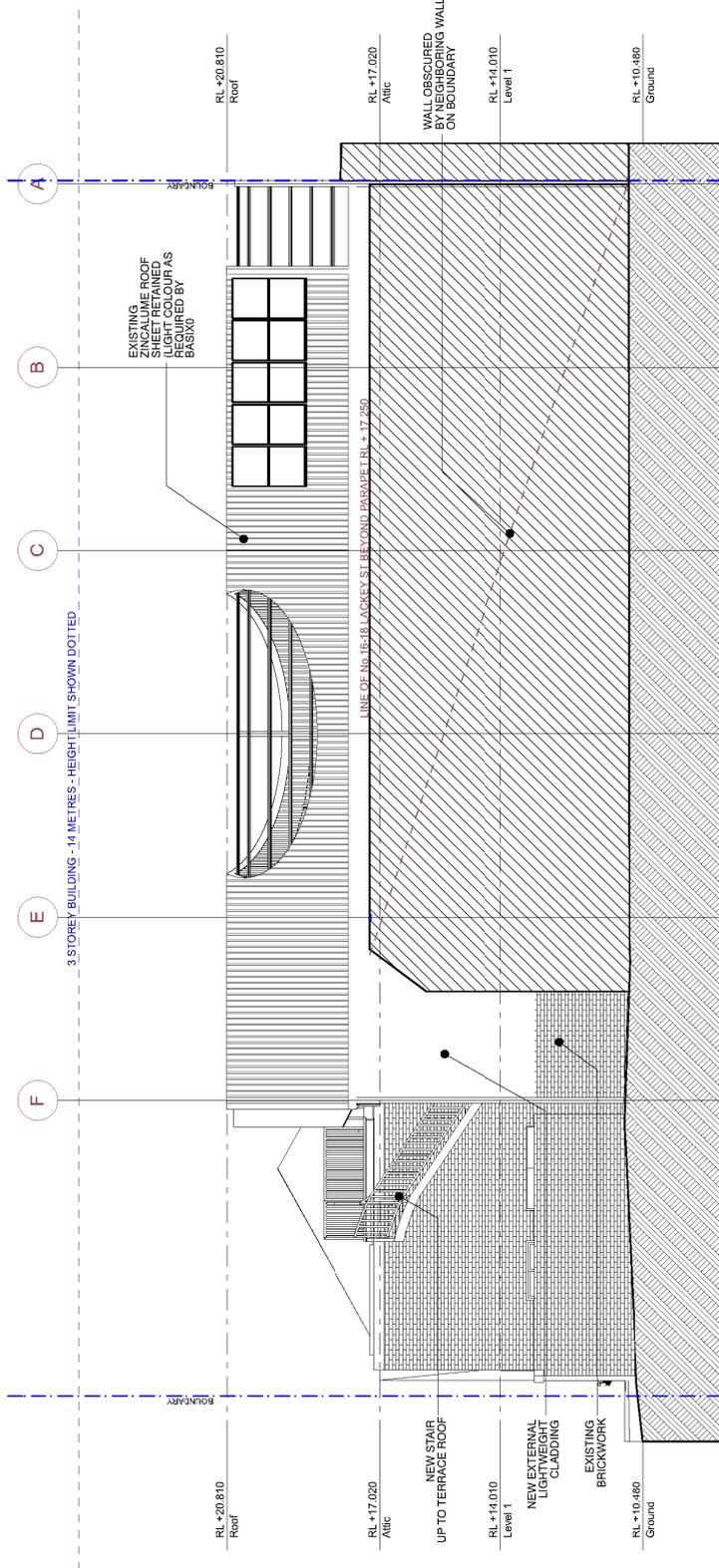
Rev E
Date MAY 2018



ALL WINDOWS TO BE MIN
 U-value: 7.63, SHGC: 0.75
 UNLESS NOTED OTHERWISE



<p>Mr Tony Schlosser 14 Lackey Street St Peters, NSW 2044</p>		<p>SCHLOSSER RESIDENCE 14 Lackey Street St Peters, NSW 2044 DEVELOPMENT APPLICATION SECTIONS B AND C Project No. 004</p>		<p>JASON WILLIAMS, ARCHITECT 14/25 732 310 E architect@jasonwilliams@gmail.com UNIT 6, 56 ST ALBANS ST ABBOTSFORD 2046 NSW</p>	
<p>DATE 07.12.17 19.01.18 30.01.18 16.07.18 14.12.18</p>		<p>DESCRIPTION CLIENT REVIEW DRAFT DA DEVELOPMENT APPLICATION PLANTER DETAIL PLANTER DELETED</p>		<p>ARCHITECT JASON WILLIAMS, ARCHITECT 14/25 732 310 E architect@jasonwilliams@gmail.com UNIT 6, 56 ST ALBANS ST ABBOTSFORD 2046 NSW</p>	
<p>REVISION A B C D E F</p>		<p>DA - 10 Rev F Date MAY 2018</p>		<p>DATE 07.12.17 19.01.18 30.01.18 16.07.18 14.12.18</p>	
<p>SHEET SIZE A3</p>		<p>PROJECT SCHLOSSER RESIDENCE 14 Lackey Street St Peters, NSW 2044 DEVELOPMENT APPLICATION SECTIONS B AND C Project No. 004</p>		<p>ARCHITECT JASON WILLIAMS, ARCHITECT 14/25 732 310 E architect@jasonwilliams@gmail.com UNIT 6, 56 ST ALBANS ST ABBOTSFORD 2046 NSW</p>	



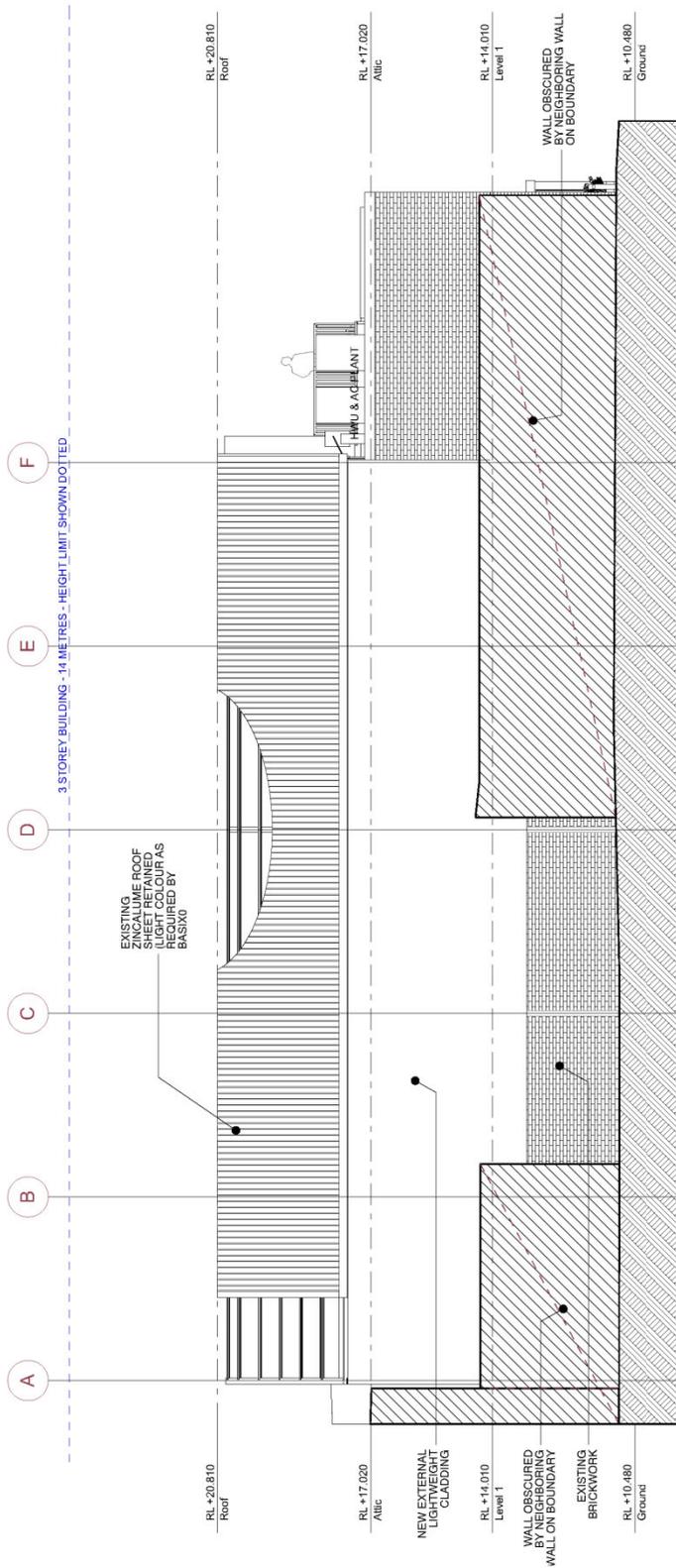
1:100

West Elevation

ALL WINDOWS TO BE MIN
U-value: 7.63, SHGC: 0.75
UNLESS NOTED OTHERWISE



Mr Tony Schlosser 14 Lackey Street St Peters, NSW 2044		SCHLOSSER RESIDENCE 14 Lackey Street St Peters, NSW 2044		JASON WILLIAMS, ARCHITECT NSW693897	
A3 SHEET SIZE		DEVELOPMENT APPLICATION West Elevation Project No. 004		ARCHITECT JASON WILLIAMS, ARCHITECT UNIT 6, 56 ST ALBANS ST ABBOTSFORD, 2046 NSW	
REVISION A B D		DESCRIPTION DRAFT DA DEVELOPMENT APPLICATION DA RESUBMIT		DATE 19.12.17 20.01.18 14.12.18	
DA - 11 Rev D Date MAY 2018		ALL WINDOWS TO BE MIN U-value: 7.63, SHGC: 0.75 UNLESS NOTED OTHERWISE		T 0425 732 310 E architect@jasonwilliams@gmail.com	



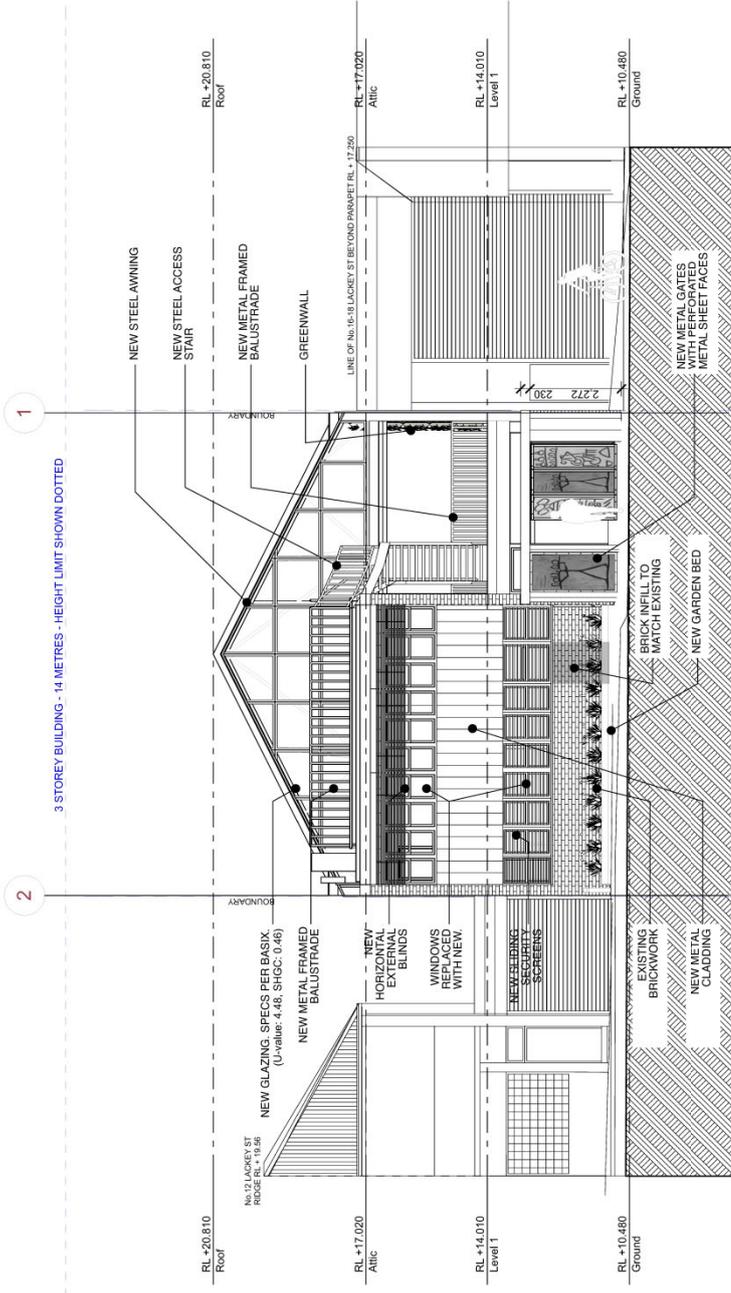
1:100

East Elevation

ALL WINDOWS TO BE MIN
 1.2M HIGH
 UNLESS NOTED OTHERWISE



Mr Tony Schlosser 14 Lackey Street St Peters, NSW 2044		SCHLOSSER RESIDENCE 14 Lackey Street St Peters, NSW 2044 DEVELOPMENT APPLICATION East Elevation Project No. 004		ARCHITECT JASON WILLIAMS, ARCHITECT <small>NSW 2046 NSW</small> T 0425 732 310 E architect@jasonwilliams@gmail.com
SHEET SIZE A3	CLIENT <small>14 Lackey Street St Peters NSW 2044</small>	REVISION A B C D	DESCRIPTION DEVELOPMENT APPLICATION DA REF: DA RESUBMIT	DATE 19.07.18 07.08.18 14.12.18
DA - 12 Rev D Date MAY 2018				

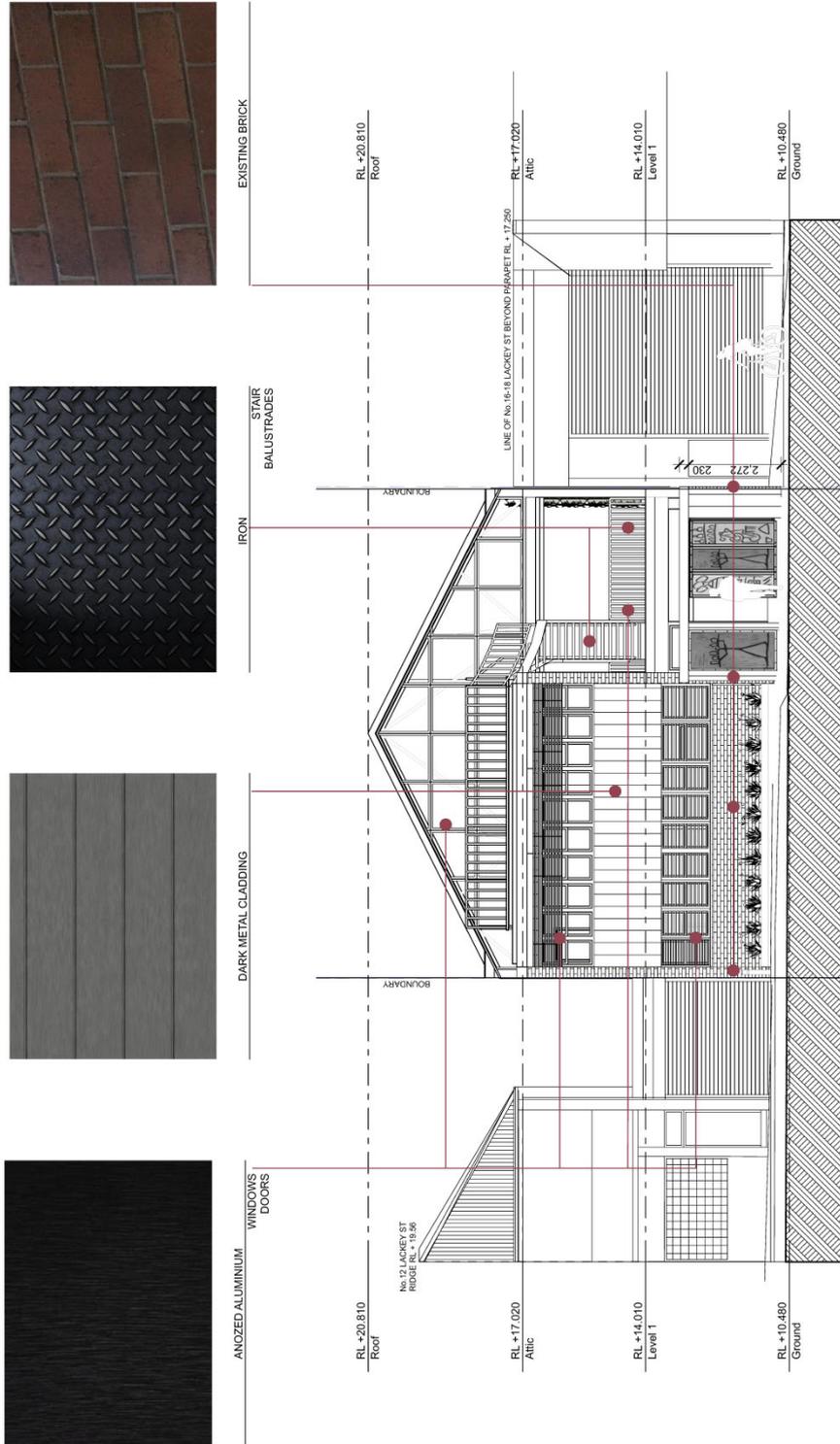


1 North Elevation 1:100

ALL WINDOWS TO BE MIN
U-value: 7.63, SHGC: 0.75
UNLESS NOTED OTHERWISE

1:100 @ ORIGINAL SIZE
0 1 3 6 10m

SHEET SIZE A3	CLIENT Mr Tony Schlosser 14 Lackey Street St Peters, NSW 2044	PROJECT SCHLOSSER RESIDENCE 14 Lackey Street St Peters, NSW 2044 DEVELOPMENT APPLICATION North Elevation Project No. 004	REVISION A B C D	DESCRIPTION DRAFT DA DA FOR DEVELOPMENT APPLICATION DA FOR DA RESUBMIT	DATE 18.12.17 07.06.18 14.12.18	ARCHITECT JASON WILLIAMS, ARCHITECT <small>NSW 14817</small>
	<p>DA - 13</p> <p>Rev D Date MAY 2018</p>			<p>T 0425 732 310 E architect@jasonwilliams@gmail.com</p>		<p>UNIT 6, 56 ST ALEANS ST ABBOTSFORD 2046 NSW</p>



1:100

East Elevation

1

1:100 @ ORIGINAL SIZE



PROJECT

SCHLOSSER RESIDENCE

14 Lackey Street St Peters, NSW 2044

DEVELOPMENT APPLICATION

MATERIALS AND FINISHES SCHEDULE

Project No. 004

CLIENT

Mr Tony Schlosser

14 Lackey Street
St Peters, NSW 2044

REVISION

REVISION	DATE	DESCRIPTION
A	20/04/18	DA DEVELOPMENT APPLICATION
B	07/05/18	DA RESUBMIT
C	14/12/18	DA RESUBMIT

DA - 14

Rev

Date

DATE

20/04/18
07/05/18
14/12/18

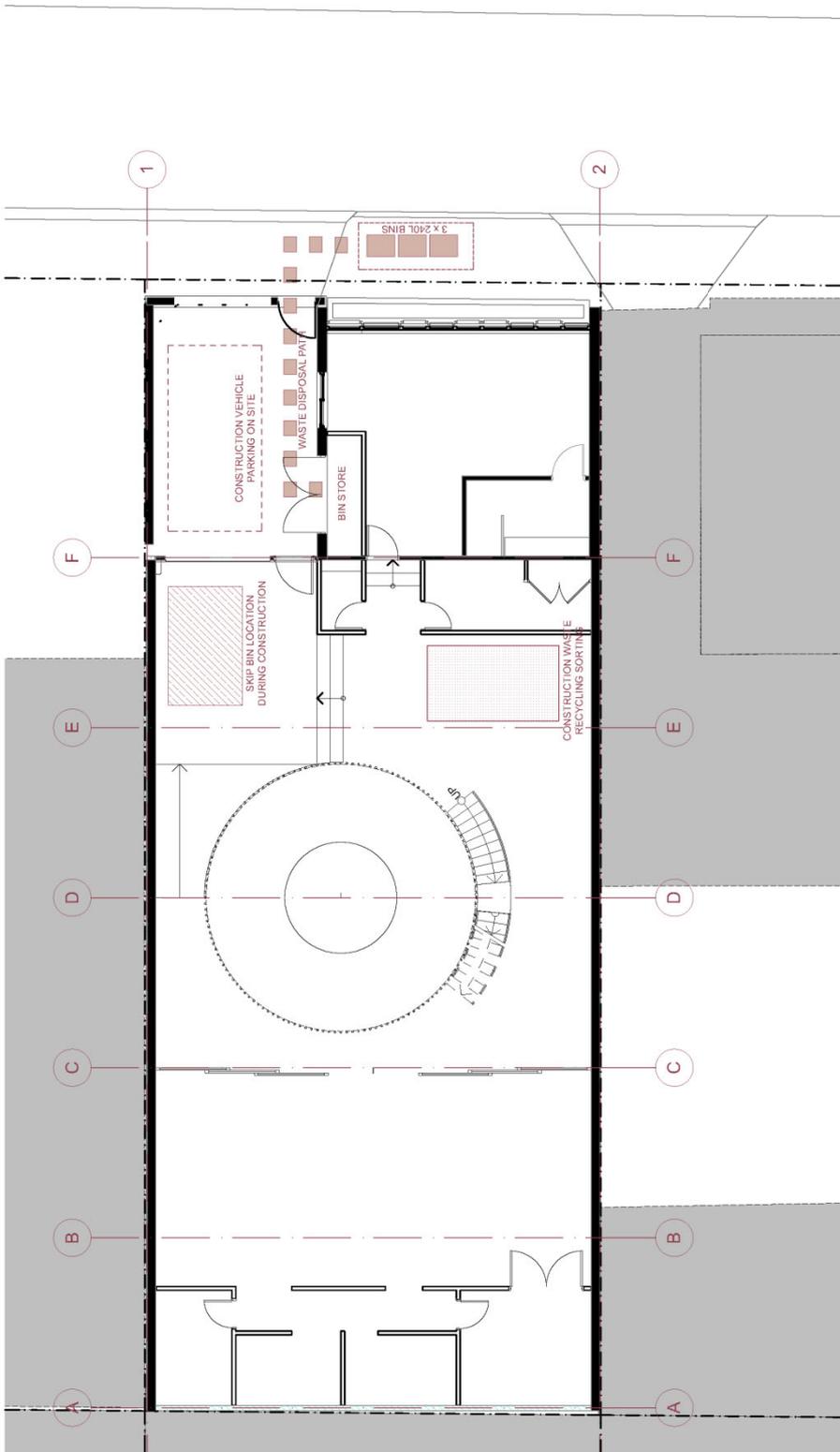
ARCHITECT

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NSW 6040 8897

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UNIT 6, 56 ST ALBANS ST
ABBOTSFORD 2046 NSW



1:100 @ ORIGINAL SIZE
 0 1 3 6 10m

PROJECT
 SCHLOSSER RESIDENCE
 14 Lackey Street St Peters, NSW 2044

CLIENT
 Mr Tony Schlosser
 14 Lackey Street
 St Peters, NSW 2044



REVISION
 A
 B
 C

DA - 15

Rev C
 Date MAY 2018

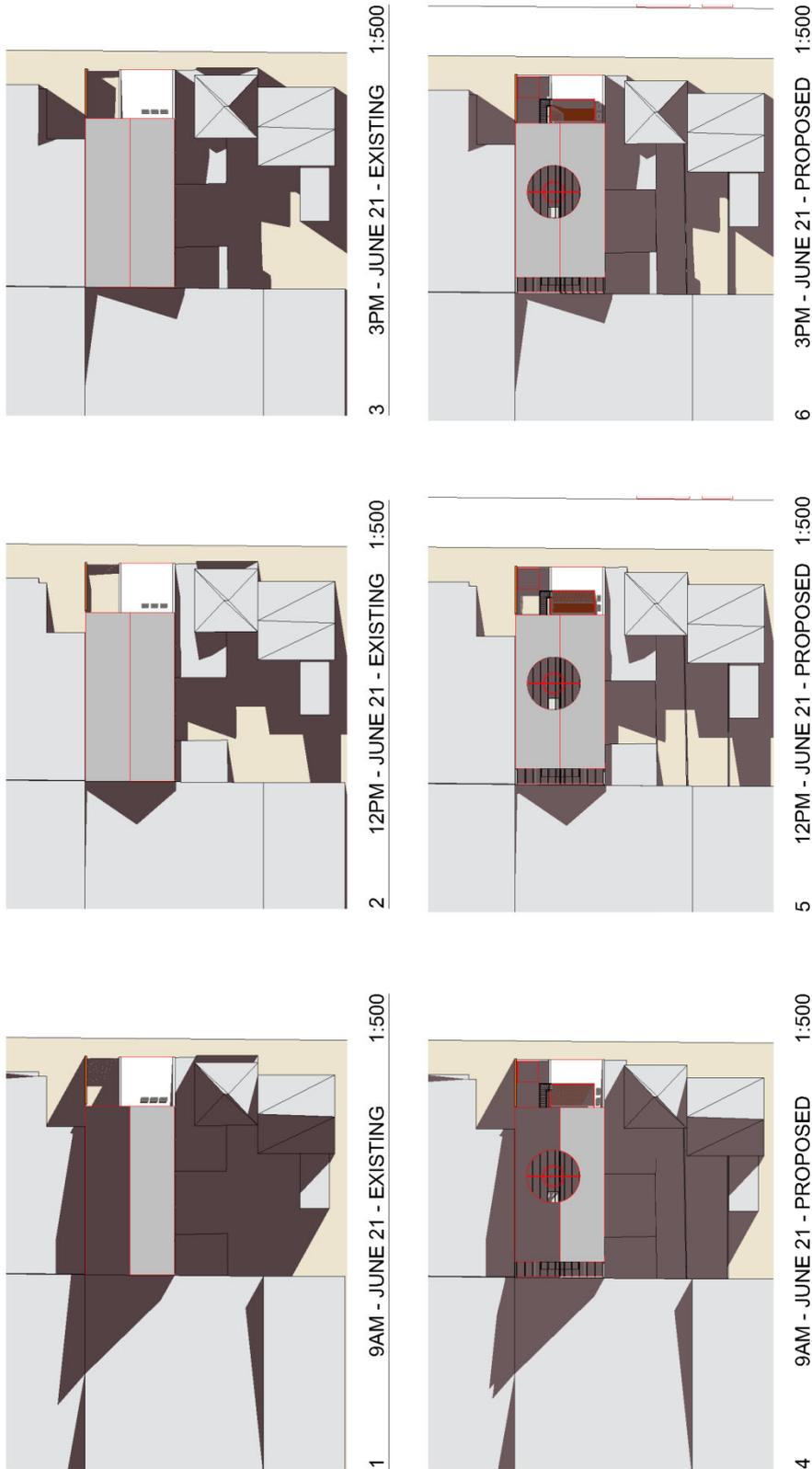
DESCRIPTION
 DEVELOPMENT APPLICATION
 DA REF
 DA RESUBMIT

DATE
 30.01.18
 07.06.18
 14.12.18

ARCHITECT
 JASON WILLIAMS, ARCHITECT
 NEWCASTLE NSW

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 E architect@jasonwilliams@gmail.com
 UNIT 6, 46 ST ALBANS ST
 ABBOTSFORD 2046 NSW

DEVELOPMENT APPLICATION
 SITE WASTE MANAGEMENT PLAN
 Project No. 004



<p>PROJECT</p> <p>SCHLOSSER RESIDENCE 14 Lackey Street St Peters, NSW 2044</p> <p>DEVELOPMENT APPLICATION SHADOWS WINTER SOLTICE</p> <p>Project No. 004</p>	<p>DATE</p> <p>14.12.18 20.01.19 07.05.19 14.12.19</p>	<p>ARCHITECT</p> <p>JASON WILLIAMS, ARCHITECT NSW4018 887</p> <p>T 0425 732 310 E architect@jasonwilliams@gmail.com</p> <p>UNIT 6, 85 ST ALBANS ST ABBOTSFORD 2046 NSW</p>
<p>CLIENT</p> <p>Mr Tony Schlosser 14 Lackey Street St Peters, NSW 2044</p>	<p>REVISION</p> <p>A B C D</p>	<p>DESCRIPTION</p> <p>DEVELOPMENT APPLICATION DA-PP DA-RESUBMIT</p>
<p>SHEET SIZE</p> <p>A3</p>	<p>DA - 16</p> <p>Rev D Date MAY 2018</p>	

CONCRETE GRASS BLOCK PERMEABLE PAVEMENT WITH SUCCULENT PLANTER DROUGHT TOLERANT GROUND COVER, EG: THYMUS VULGARIS

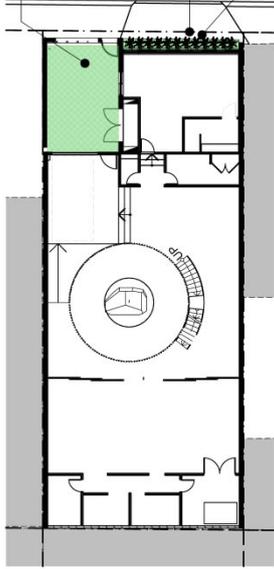



2

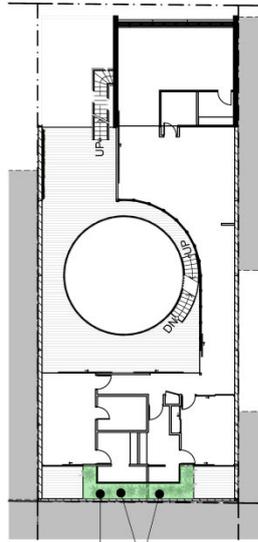
600 DEEP PLANTER WITH MINIMUM INTERNAL DIMENSION OF 500MM. SPRAY IRRIGATION SYSTEM TIMER

1:250

Ground - DA



1



1:250

Level 1 - DA

2

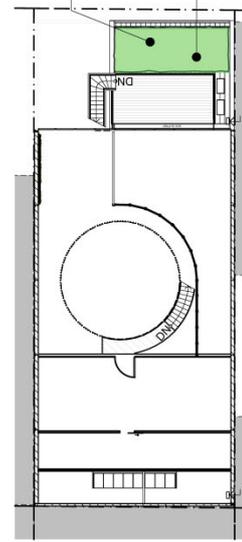
SUCCULENT TRAYS ON LIGHTWEIGHT POLYMER CONCRETE OVER EXISTING ROOF. PLANTATION NOT NECESSARY (DROUGHT TOLERANT)



4

1:250

Mezzanine - DA



3



600 DEEP PLANTER WITH MINIMUM INTERNAL DIMENSION OF 500MM. SPRAY IRRIGATION SYSTEM TIMER

PLANT SCHEDULE

REF	COMMON NAME	BOTANICAL NAME	MATURE HEIGHT (M)	MATURE SPREAD (M)	SUPPLY SIZE (L)
1.	JAPANESE MAPLE	ACER JAPONICUM	4	4	450MM
2.	FOX TAIL AGAVE	AGAVE ATTENUATA	1	1	250MM
3.	AGAVE	AGAVE COMMISURATA	1	1	250MM
4.	MIXTURE OF DIFFERENT SMALL SUCCULENT SPECIES	EG SEMPERVIVUM TECTORIUM, ECHINOPHYLLA PULVINATA, SEDUM SPP, ETC.	ALL LESS THAN 100MM MATURE HEIGHT.		

TOTAL LANDSCAPED AREA = 68.5 M²

1:100 @ ORIGINAL SIZE



SHEET SIZE

A3

CLIENT

Mr Tony Schlosser

PROJECT

SCHLOSSER RESIDENCE

14 Lackey Street St Peters, NSW 2044

DEVELOPMENT APPLICATION

PROPOSED LANDSCAPE PLANS

Project No. 004

REVISION

A

B

DA - 17

Rev B

Date MAY 2018

DESCRIPTION

REVIEW COURTYARD PLANTER DELETED

DATE

07.05.18

14.12.18

ARCHITECT

JASON WILLIAMS, ARCHITECT

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UNIT 6, 56 ST ALBANS ST

ABBOTSFORD 2046 NSW

Attachment C- Clause 4.6 Exception to Development Standards



REQUEST PURSUANT TO CLAUSE 4.6, FOR EXCEPTION TO COMPLIANCE WITH CLAUSE 4.4 OF MARRICKVILLE LOCAL ENVIRONMENTAL PLAN 2011

This Clause 4.6 Exception Submission has been prepared by Genevieve Slattery Urban Planning Pty Ltd on behalf of Mr. Tony Schlosser (the Applicant), in relation to Development Application No. DA201800559 for the property at No. 14 Lackey Street, St Peters (the site).

This Submission is made to Inner West Council in support of a Development Application (DA) which seeks consent to demolish part of the premises and carry out ground, first and second floor additions including the provision of a roof terrace and to convert the premises into a dwelling house with associated home occupation (ceramics studio).

This request has been prepared having regard to:

- Land and Environment Court of NSW judgment in Winten Property v North Sydney Council [2001];
- Land and Environment Court of NSW judgment in Wehbe v Pittwater Council [2007];
- Land and Environment Court of NSW judgments in Four2Five Pty Ltd v Ashfield Council [2015];
- NSW Department of Planning and Infrastructure's Varying Development Standards: A Guide 2015; and
- Land and Environment Court of NSW judgment in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.

1.0 WHAT IS THE CLAUSE TO BE VARIED?

1.1 Clause 4.4(2) of Marrickville Local Environmental Plan 2011

Clause 4.4(2) of LEP 2011 states:

"The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map."

The FSR map specifies a maximum building FSR of 1.1:1 at the site (see **Figure 1** below).

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DRUMMOYNE NSW 1470

P: 0402 206 923
E: genevieve@gsup.com.au

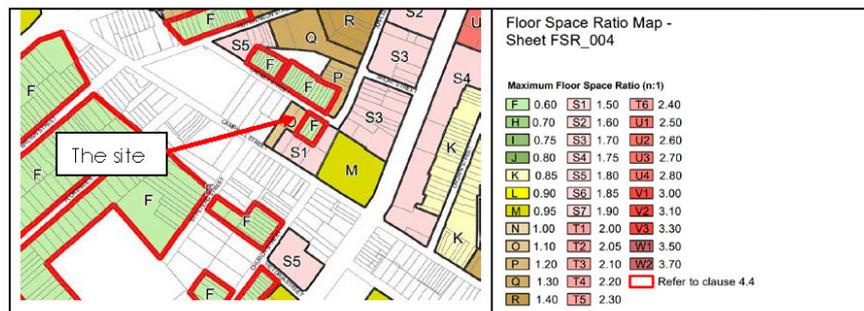


Figure 1: Extract from LEP 2011 FSR map

1.2 What is the extent of the non-compliance?

As outlined in the architectural documentation, the existing building has a Gross Floor Area (GFA) of 585m², which represents an FSR of 1.57:1. To this end, the existing building exceeds the maximum permitted FSR by 176.24m² or 43%.

The proposed alterations and additions retain the existing building envelope, with adjustments to the roof to create internal areas with high levels of amenity, suitable for the proposed residential use. The most significant change to the building is the incorporation of a large central circular void over a ground level courtyard. The void is open to the sky so as to achieve the form and essence of a balcony at Level 1 and attic level.

The proposed development reduces the GFA of the building by 19m², resulting in a total GFA of 566m² which represents an FSR of 1.52:1. The proposal exceeds the maximum FSR permitted by and a FSR exceeded by 157.24m² or 38.46%.

2.0 CLAUSE 4.6 OBJECTIVES

Clause 4.6 of LEP 2011 has the following objectives:

- (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."

As discussed below, it is considered appropriate to invoke the provisions of Clause 4.6 of LEP 2011, in order to achieve a positive planning outcome at the site.

3.0 CLAUSE 4.6(3) PROVISIONS

Clause 4.6(3) states that 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 the following:

- (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."*

The following discussion constitutes a written request seeking to justify the contravention of Clause 4.4 of LEP 2011.

4.0 CLAUSE 4.6(3)(a) - IS COMPLIANCE WITH THE STANDARD UNREASONABLE AND UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

4.1 R1 General Residential Zone objectives

The site is located within the R1 General Residential zone, where the following objectives apply:

- *"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 provide for retail premises in existing buildings designed and constructed for commercial purposes.*
- *To provide for office premises in existing buildings designed and constructed for commercial purposes or as part of the conversion of existing industrial or warehouse buildings."*

The proposed development is consistent with the abovestated zone objectives, as follows:

- it provides new residential accommodation to contribute to meeting the housing needs of the community;
- it incorporates a warehouse conversion which contributes to a general variety of housing types and densities in the locality;
- the proposal incorporates a home occupation (ceramics studio) which meets the working needs of the Applicant; and
- given the zoning of the site, it is appropriate for the building to be converted for residential uses rather than for commercial or retail purposes.

In this regard, the proposal meets the objectives of the zone, despite the non-compliance with Clause 4.4(2).

4.2 Clause 4.4 Objectives

The objectives of the FSR development standard in LEP 2011 are as follows:

- (a) *"to establish the maximum floor space ratio,*
- (b) *to control building density and bulk in relation to the site area in order to achieve the desired future character for different areas,*
- (c) *to minimise adverse environmental impacts on adjoining properties and the public domain."*

4.2.1 Objective (a): to establish the maximum FSR

LEP 2011 specifies a maximum FSR of 1.1:1 at the site. Critically, and as outlined above in **Section 1.2**, the existing building exceeds the maximum permitted FSR. To this end, while the maximum FSR control does indeed apply to the site, in considering a DA to alter the existing building, a merit-based approach to assessing the appropriateness of the FSR should be applied.

Importantly, and as discussed previously, the proposed development actually **reduces** the FSR of the existing building, bringing it closer to compliance with the maximum 1.1:1 permitted by Clause 4.4(2) of LEP 2011.

The proposal is considered not inconsistent with objective (a) of Clause 4.4(2) of LEP 2011.

4.2.2 Objective (b): to control building density and bulk in relation to the site area in order to achieve the desired future character for different areas

There is no stated desired future character for the locality. Notwithstanding, it can be assumed that the objective b seeks to ensure that new development achieves a density and bulk which contributes to the amenity of the locality. As outlined above the proposed development **reduces** the existing FSR at the site.

Furthermore, and having regard to the intent of objective (b), the proposal does not alter the bulk of the existing building. Rather, the DA seeks to treat the existing built form with contemporary design elements.

Furthermore, the SEE report accompanying the DA provides the following Building Design Statement, which explains the intent of the proposed works:

'The development is in character with the area and surroundings in terms of its function/use, height, size, bulk, appearance, architectural style, colour, materials, setbacks, fencing, landscaping.

The development will retain most of the existing building and generally not involve any change to the existing building size or external building massing. The only proposed addition to the exterior is a roof terrace on the street facing side of the building, which will not overlook private open space of neighbouring properties and will be setback four metres from the street boundary to minimise its impact.'

It is considered that the proposal is consistent with objective (b) of Clause 4.4(2) of LEP 2011.

4.2.3 Objective (c): to minimise adverse environmental impacts on adjoining properties and the public domain

Clause 4.15(1)(b) of the EP&A Act 1979 states that in determining a DA, the consent authority is to take into account:

“The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.”

Environmental impacts

Overshadowing

As discussed previously, the proposed development does not alter the existing built form in terms of height, setbacks and general siting and to this end, the status quo will be maintained in relation to solar access to neighbouring properties. This is reinforced by the shadow diagrams which accompanied the DA.

Visual privacy

The proposed development does not introduce any new openings into side or rear elevations, and will therefore not result in any opportunities for overlooking into neighbouring properties. Indeed, the proposal will improve visual privacy when compared to the existing situation as currently there are some high windows on the east elevation overlooking the neighbour from the first floor. The proposal seeks to remove and block these openings to prevent overlooking.

Furthermore, it is noted that maximising privacy was one of the main drivers associated with the inclusion of a central courtyard as any private open space on the perimeter of the building would potentially create impacts in relation to visual privacy.

Acoustic privacy

The proposed development incorporates a new residential use with home occupation (ceramics studio). Given the solid external side and rear walls and nature of the proposed uses, no acoustic privacy impacts are anticipated. Indeed, the proposed ceramic studio is located at the rear of ground floor level and is fully enclosed by sliding glazed doors and ceiling above. Furthermore, the nature of home occupations as defined below, will ensure that opportunities for acoustic impacts are mitigated:

“Home occupation means an occupation that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and that does not involve:

- (a) *the employment of persons other than those residents, or*
- (b) *interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or*
- (c) *the display of goods, whether in a window or otherwise, or*
- (d) *the exhibition of any signage (other than a business identification sign), or*
- (e) *the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,*

but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises."

Streetscape

As discussed previously, the proposal will have positive streetscape impacts as a result of the improvements which are proposed to the exterior of the existing building.

Traffic generation and parking

The proposal incorporates a single parking space within the front of the building at ground floor level in compliance with the numeric requirements of DCP 2011. The proposed residential dwelling will create less traffic and demand for car parking than the former industrial use. Furthermore, the site is well-located in relation to public transport and bicycle infrastructure such that no discernible impacts are anticipated in relation to traffic generation or demand for car parking in the locality.

The proposal is therefore considered to be consistent with objective (c) of Clause 4.4 of LEP 2011.

4.3 Would the underlying object or purpose of the standard be defeated or thwarted if compliance was required, such that compliance is unreasonable or unnecessary?

It is not considered that the underlying objective of the Standards is irrelevant to the proposal, however, as demonstrated herein, it is submitted that the proposal is able to achieve consistency with the intent of the Standard, despite the non-compliance, particularly given that the proposal reduces the existing FSR on the site and results in amenity improvements within and external to the site.

4.4 Has the development standard 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 and unreasonable?

It is not considered that the Standard has been virtually abandoned or destroyed by Council's actions, however, having regard to the particulars of

this Application, and the amenity gains resulting from the non-compliance, it is considered that flexibility in the application of the Standard is warranted.

4.5 Is compliance with development standard unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone?

The proposal seeks to alter an existing building which exceeds the maximum permissible FSR which applies. To this end, the form and floor area of the existing building mean that without demolishing or substantially reducing the area of the building, compliance cannot be achieved. Given the amenity gains resulting from the non-compliance, which is less than demonstrated by the existing building, it is considered that compliance is unreasonable and inappropriate in this instance.

5.0 CLAUSE 4.6(3)(b) - ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD?

5.1 What is the aspect or feature of the development that contravenes the development standard?

As discussed previously, the proposed alterations and additions result in a development which fails to comply with the FSR development standard. Importantly, the proposal reduces the extent of the non-compliance demonstrated by the existing building, through sensitive alterations and additions.

5.2 Why is contravention of the development standard acceptable?

Contravention of the development standard is considered acceptable for the following reasons:

- the proposal seeks to alter an existing building which already exceeds the maximum permitted FSR;
- the proposal reduces the FSR of the existing building on the site, bringing it closer to compliance with the development standard;
- the proposal seeks to convert the existing non-conforming industrial building into a permissible development, which demonstrates consistency with the zone objectives;
- the proposal significantly improves the external appearance of the building and has a positive streetscape outcome;
- the proposal achieves a high level of internal amenity for the future occupants of the building.

5.3 On what basis there are sufficient environmental planning grounds to justify contravening the development standard?**5.3.1 Clause 4.6(5)(A) - Matters of State or Regional Environmental Planning**

The proposed contravention of the Standard does not raise any matter of significance for State or regional environmental planning.

5.3.2 Clause 4.6(5)(B) - The Public Interest

Having regard to the acceptable environmental impacts, and the merits of the proposed development, it is considered that the public interest is being met by the proposed development, despite the non-compliance.

The proposed departure from the standard does not create any unreasonable adverse amenity or streetscape impacts, as discussed herein. Furthermore, the proposal is considered to meet the public interest, as it results in sensitively designed alterations and additions to an existing building which will provide a high level of amenity for its occupants in a form which enables the existing fabric to be retained and enjoyed both privately and by members of the public.

5.3.3 Clause 4.6(5)(C) - Any Other Matters Required To Be Considered

There are no other known matters required to be taken into consideration by the Director-General before granting concurrence.

As can be seen from the discussion herein, the proposed development is consistent with the objectives of the development standard and R1 General Residential zone pursuant to LEP 2011 despite the non-compliance with the FSR development standard.

It is considered that the proposal has adequately addressed the matters outlined in Section 4.6(3) – (5) of LEP 2011.

6.0 CONCLUSION

Having regard to the discussion contained herein, it is considered that the matters required to be addressed, pursuant to Clause 4.6 of LEP 2011, the five-part test established in the Land and Environment Court and the Varying Development Standards: A Guide, have been fully canvassed herein.

Having regard to the particulars of the proposal, as outlined above, it is considered that there would be no material benefit to requiring the proposal to comply with Clause 4.4(2) of LEP 2011 and on this basis, an exception to the Standard, pursuant to Clause 4.6 of LEP 2011, is considered well-founded, and worthy of Council's support.