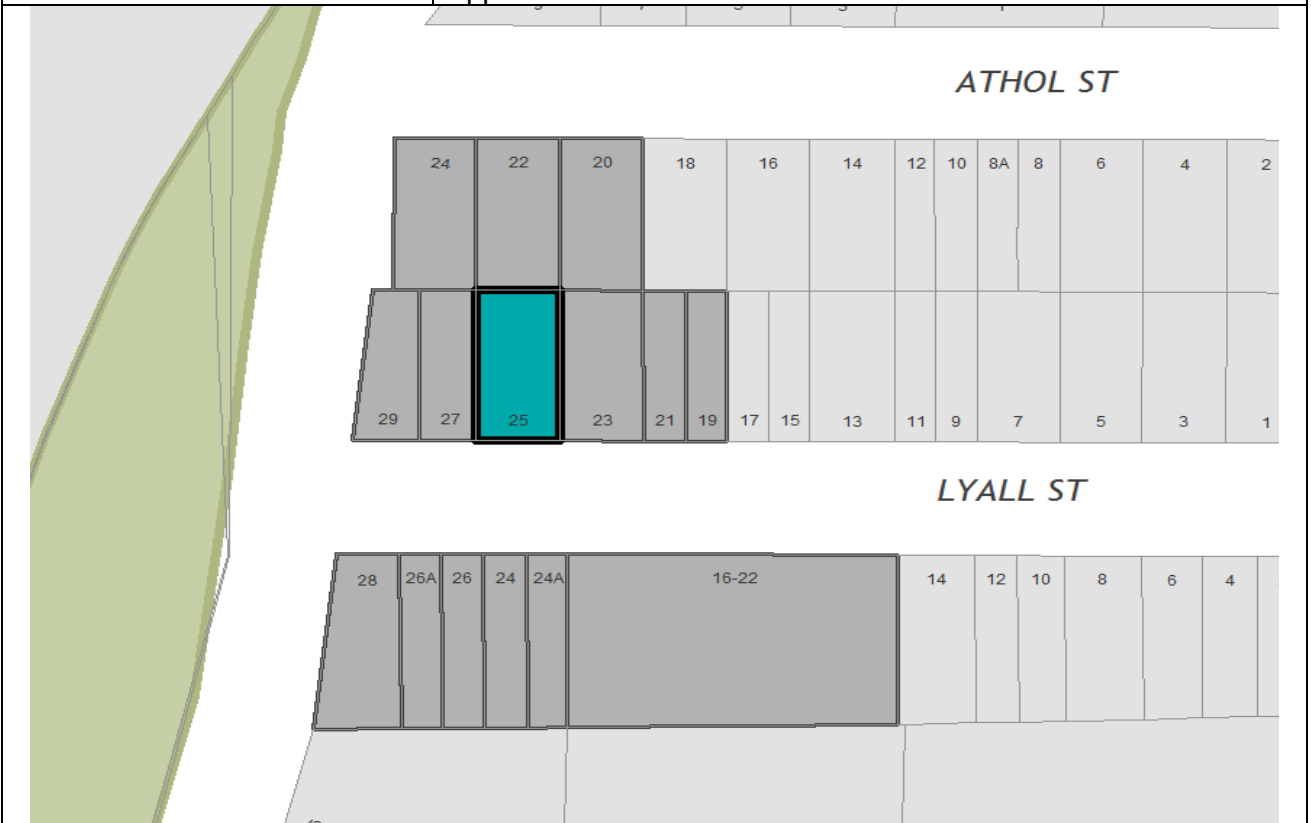




# INNER WEST COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	M/2018/6
<b>Address</b>	25 Lyall Street, LEICHHARDT
<b>Proposal</b>	D/2015/545 approved Construction of attached two storey dual occupancy. Proposed modifications include external and internal changes including the provision of a parking space for the western dwelling.
<b>Date of Lodgement</b>	18-Jan-2018
<b>Applicant</b>	Mr R Moncada
<b>Owner</b>	Mr R Moncada
<b>Number of Submissions</b>	Nil
<b>Value of works</b>	\$643,700
<b>Reason for determination at Planning Panel</b>	Clause 4.6 variation
<b>Main Issues</b>	Nil
<b>Recommendation</b>	Approval



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

## 1. Executive Summary

This report is an assessment of the application submitted to Council for modifications to the approved attached two storey dual occupancy at 25 Lyall Street, Leichhardt. The application was notified to surrounding properties and no submissions received.

The amended design, which included a redesign of the front portion of the dwellings and the removal of the parking space of the eastern dwelling, is considered to have appropriately addressed the issues raised during the assessment and the application is recommended for approval.

## 2. Proposal

The original development application approved the construction of an attached two story dual occupancy.

D/2015/545 approved two dwellings on a single allotment, the proposed car parking space was not supported as the on-site parking space for Dwelling 1 (western dwelling) was located on the pedestrian entry path from the street to the front door, raising safety concerns for pedestrians. In addition, this car space restricts the opportunity for landscaping forward of the front building line of Dwelling 1 resulting in an unacceptable visual impact. Therefore, a condition was recommended to delete the car space and driveway crossing.

The modification application originally sought internal and external changes to the approved two story dual occupancy including provision of parking space for each dwelling additional front and rear balconies and increase of gross floor area at the first floor level. This include the proposal of a steep roof pitch (approximately 55 degrees) setting back approximately 1.8 metres from the front boundary which results in front dormer windows that with maximum ridge heights of 6 metres above the ground level. The approved development has a roof pitch of 45 degrees that is setback approximately 3 metres from the front boundary.

The amended proposal, which is the subject of this report, was notified between 17th May 2018 to 31st May 2018, entailed the following changes:

Changes in the design include:

- Changes to the roof form to a lower pitch (35 degrees) and the first floor setting back further from the front boundary.
- Front dormers lowered to have a maximum ridge height of 5.6 metres above ground level. (D/2015/545 approved dormers that were had a maximum ridge height approximately 5.4 metres above ground level.)
- Redesign of the front entries.
- Additional floor area at the front portion of the eastern dwelling in lieu of the proposed car space for the eastern dwelling resulting in one additional car parking space to the western dwelling.
- Deletion of the proposed front balconies, resulting in additional balconies to the rear only.

This assessment report is based on the amended design.

### 3. Site Description

The subject site is located on the northern side of Lyall Street, between Flood and Darley street. The site consists of one allotment and is generally rectangular in shape with a total area of 326.94 m<sup>2</sup> and is legally described as Lot 21 DP 1558.

The site has a frontage to Lyall Street of 12.19 metres. The site currently is a vacant site. The adjoining properties support two storey developments to the west and to the south (across the road) and a single storey dwelling to the east.

### 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
D/2015/545	Construction of attached two storey dual occupancy with an off-street parking space for Dwelling 1. The application relies on an exception to the Floor Space Ratio development standard.	Approved 30-Aug-2016

##### Surrounding properties

Application	Proposal	Decision & Date
D/2007/165	<b>27 Lyall Street</b> Demolish existing house and out buildings. Subdivision into (2) lots. Construct attached 2 storey dwellings.	Approved 16-Jul-2007

#### 4(b) Application history

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

Date	Discussion / Letter/ Additional Information
13 April 2018	A letter requesting the application to be withdrawn with the following issues: <ul style="list-style-type: none"> <li>• Issues in relation to proposed car parking</li> <li>• Issues in relation to proposed front entry to the dwelling</li> <li>• Issues in relation to the roof design at the front portion of the building and a further breach of the FSR as a result in this change of roof design.</li> </ul>
23 April 2018	Meeting with the applicant and architect. Outlined that significant changes will be required.
11 May 2018	Amended design submitted to council. <p>Changes in the design include:</p> <ul style="list-style-type: none"> <li>• Changes to the roof form to a lower pitch (35 degrees) and the</li> </ul>

	<p>first floor setting back further from the front boundary.</p> <ul style="list-style-type: none"> <li>• Front dormers lowered to have a maximum ridge height of 5.6 metres above ground level. (D/2015/545 approved dormers that were had a maximum ridge height approximately 5.4 metres above ground level.)</li> <li>• Redesign of the front entries.</li> <li>• Additional floor area at the front portion of the eastern dwelling in lieu of the proposed car space for the eastern dwelling resulting in one additional car parking space to the western dwelling.</li> <li>• Deletion of the proposed front balconies, resulting in additional balconies to the rear only.</li> </ul>
17th May 2018 to 31st May 2018	The amended design was re-notified.

## 5A. SECTION 4.55 ASSESSMENT

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

The development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).

The original application approved two x two storey dwellings on a single lot. The proposed modifications, will involve external and internal changes including the provision of a off-street car parking space, will still result in a development that is for two x two storey dwellings on a single lot and therefore is considered to be substantially the same .

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

No concurrence with any external bodies are required.

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

The application was advertised for two periods of 14 days. The first notification period was between 25th January 2018 - 8th February 2018. The second advertising period was between 17th May 2018 to 31st May 2018.

No objections were received during the advertising periods.

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

No objections were received .

## 5. Assessment

The following is a summary of the assessment of the application in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

### 5(a) Environmental Planning Instruments

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

- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The following provides further discussion of the relevant issues:

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

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

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

#### 5(a)(ii) Leichhardt Local Environment Plan 2013 (LLEP 2013)

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

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition Requires Development Consent
- Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1
- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.4A – Floor Space Incentives for active street frontages
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 6.1 – Acid Sulphate Soils
- Clause 6.2 - Earthworks
- Clause 6.4 – Stormwater management

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

Standard (maximum)	Proposal	% of non compliance	Compliances
<b>Floor Space Ratio</b> Required: [0.6:1]	0.74:1 343 m2	24%	No
<b>Landscape Area</b>	26% 84 m2	Not Applicable	Yes
<b>Site Coverage</b>	159 m2	Not Applicable	Yes

#### Clause 4.4 – Floor Space Ratio

The proposal will result in an additional gross floor area (approximately 33 sqm) which will result in a further breach of the Floor Space Ratio to 0.74:1 (24% breach).

Pursuant to *Gann & Anor v Sutherland Shire Council* [2008] NSWLEC 157, the Land and Environment Court has held that there is power to modify a development application where the modification would result in a breach or further breach of development standards without the need to lodge variation requests (in this case under Clause 4.6 of the LLEP2013 – Exceptions to Development Standards). Notwithstanding the above, had a Clause 4.6 Exceptions to Development Standards request been lodged, seeking Council's consent to vary the floor space ratio standard, the request would have been supported in this instance for the following reasons:

- The amended proposal is compatible within its immediate context and is considered to be an acceptable development in terms of building bulk, form and scale.
- The proposed development when viewed from the street and adjoining properties is considered acceptable.
- The proposal complies with the Landscaped Area and Site Coverage standards, providing a suitable balance between landscaped areas and the built form.
- The proposal does not result in any significant additional adverse amenity impacts upon the surrounding properties.

### **5(a)(iii) Draft Environmental Planning Instruments**

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

- Draft State Environmental Planning Policy (Coastal Management) 2018

#### Draft State Environmental Planning Policy (Coastal Management) 2018

The application has been considered against the Draft SEPP for Coastal Management.

The subject site is not located within "the coastal zone" pursuant to CI 5 of the draft SEPP, as identified on the map to the SEPP. Consequently, the draft SEPP is not applicable.

#### Draft State Environmental Planning Policy (Environment)

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

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

**5(a)(iv) Development Control Plans**

The application has been assessed against the relevant Development Control Plans listed below:

<b>Part</b>	<b>Compliance</b>
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	N/A
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
<b>Part C</b>	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	N/A
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	N/A
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	N/A
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	Yes
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	Yes
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
<b>Part C: Place – Section 2 Urban Character</b>	
Suburb Profile	
C2.2.3.2 West Leichhardt Distinctive Neighbourhood, Leichhardt The North Residential Sub Area – Section C2.2.3.2(b)	Yes
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	Yes
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A

<b>Part D: Energy</b>	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
<b>Part E: Water</b>	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Yes
E1.2.4 Stormwater Treatment	Yes
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	Yes
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A
<b>Part F: Food</b>	
Section 1 – Food	N/A
F1.1 Food Production	N/A
F1.1.3 Community Gardens	N/A

The application satisfies the provisions of the above Development Control Plan. With regard to certain specific provisions the following comments apply:

C1.11 Parking

In D/2015/545, the proposed car parking space was not supported as the on-site parking space for Dwelling 1 (western dwelling) was located on the pedestrian entry path from the street to the front door, raising safety concerns for pedestrians. In addition, this car space restricted the opportunity for landscaping forward of the front building line of Dwelling 1 resulting in an unacceptable visual impact. Therefore, a condition was recommended to delete the car space and driveway crossing.

The modification originally sought to amend the application to provide parking space for each dwelling and changes to external built form and internal layout changes. As there is insufficient space to provide both pedestrian access and a parking space for the eastern dwelling, only the parking on the western dwelling located on the south-west portion of the site would be supported.

The amended drawings include a redesign of the building to provide one parking space only which is satisfactory. However, there is some inconsistency in the documentation where the stormwater plans and the show a driveway for the eastern dwelling and the proposed



driveway profiles are not acceptable. These issues will be addressed by conditions in a later section of the report.

#### C1.12 Landscaping

As the design had been amended significantly, the landscaped plan that was submitted as part of this modification application is no longer consistent with the current amended proposal. A condition will be recommended that requires the landscaped plan to be amended to be consistent with the approved site and floor plans.

#### C2.2.3.2 – West Leichhardt Distinctive Neighbourhood (C2.2.3.2(b) - North Residential Sub Area) and C3.5 Front Gardens and Dwelling Entries

The West Leichhardt Distinctive Neighbourhood Controls require that development preserve and enhance the predominant scale and character in the area, while allowing contemporary development that contributes to the character and identity of the neighbourhood.

Control C10 sets a building envelope of 3.6m, unless an alternative building envelope is prescribed in the applicable sub area. Control C4 permits a 6.0m building envelope in the sub area but this only applies along Darley Road.

The proposed modifications include changes to the roof form and location of the first additions will continue to satisfy the 3.6m building envelope control. It will present to the street in a similar form and scale as the neighbouring dwellings (to the west) on No. 27 and 27A Lyall Street. The proposed development is considered to be satisfactory having regard to the Urban Character objectives and provisions of the LDCP 2013.

The amended proposal had relocated the main entries to the southern elevation and had satisfactorily addressed the issues raised on the council letter dated 13 April 2018 in relation front entry to the dwellings (the original design proposed front entries on the western and eastern elevations which was considered to be contrary to the controls under C5 of C3.5 Front Garden).

### **Part C – Section 3**

#### C3.2 Site Layout and Building Design

The proposed modifications results in variation to the building location zone in the following way:

- The adjoining properties to the east of the proposed site are currently single storey only and therefore the proposed works will establish a new building location zone on first floor level.
- A variation to the front alignment at ground floor level.

Pursuant to the provisions of this Clause, the establishment of a new building location zone can be considered where the proposed development addresses the issues in C5 of this part:

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

- e. *the height of the development has been kept to a minimum to minimise visual bulk and scale, as viewed from adjoining properties, in particular when viewed from the private open space of adjoining properties.*

It is considered that the proposed building location zone for the first floor level can be supported for the following reasons:

- The proposed change in front alignment will not result in adverse impacts to adjoining properties in relation to solar access, visual and acoustic privacy and have no impacts in regards to loss of significant views.
- The amended proposal is considered to be acceptable in regards to compatibility with the existing streetscape.

### Side Setback

The proposed modifications will result in a development that is closer to the side boundaries compared to the originally approved development where it was previous setback 1 metre from the western and eastern boundaries. The proposed modifications propose a 900mm setback to the western and eastern boundaries. A technical non-compliance with the side setback control on the proposed modifications as outlined in the following table:

Elevation	Proposed Maximum Wall Height (m)	Required setback (m)	Proposed setback (m)	Difference (m)
Eastern	6.3	2.02	0.9	1.12
Western	6.3	2.02	0.9	1.12

Control C7 under this part states that Council may allow walls higher than that required by the side boundary setback controls where:

- The development is consistent with relevant Building Typology Statements as outlined within Appendix B – Building Typologies of this Development Control Plan;*
- The pattern of development within the streetscape is not compromised;*
- The bulk and scale of development is minimised by reduced floor to ceiling heights;*
- The potential impacts on amenity of adjoining properties, in terms of sunlight and privacy and bulk and scale, are minimised; and*
- Reasonable access is retained for necessary maintenance of adjoining properties.*

It is considered that this variation can be supported on merit for the following reasons:

- It is considered the proposal will have acceptable streetscape impacts and consequently the pattern of development within the streetscape is not compromised.
- The proposed development is considered to be reasonable in regards to solar access and visual privacy and there are no issues raised in regards to the obstruction of significant views.
- There are no changes to existing access arrangements.

### C3.9 Solar Access

The site is aligned north (rear)/south (front) and the internal living areas and private open space of the proposed development will receive adequate direct sunlight &/or natural daylight between 9am and 3pm on the winter solstice.

Due to the orientation of the site, the proposed development will allow for at least 3 hours solar access to be maintained to the private open space and internal living area of neighbouring properties (Nos. 23 & 27) between 9am and 3pm during the winter solstice.

### C3.11 Visual Privacy

In regards to the proposed new windows at first floor level, the windows are not associated with living areas or private open spaces (the first floor windows are associated with bedrooms and bathrooms on both dwellings), therefore C1 is not applicable, but C7 and C8 as reproduced below is applicable:

*C7 New windows should be located so they are offset from any window (within a distance of 9m and 45 degrees) in surrounding development, so that an adequate level of privacy is obtained/retained where such windows would not be protected by the above controls (i.e. bathrooms, bedrooms).*

*C8 Glazing to proposed bathrooms must be designed to ensure that they provide privacy to the subject bathroom, through the provision of obscure glazing or screening.*

In regards to the potential impacts to the No.27 Lyall Street from the proposed first floor windows, it is considered that the proposed first floor windows (which has a sill height of approximately 1.3 metres) on the western elevation of No. 25 Lyall Street has potential sightlines into the first floor bedroom window of No. 27 Lyall Street from the proposed western dwelling. In this regard, the western windows of bedroom 1, bathroom and the first two windows associated with bedroom 2 should be amended to be of obscure glazing. This will be addressed by the recommendation of a new condition, refer to condition 4A in a later section of the report.

In relation to potential impacts to No. 23 Lyall Street, the existing ground floor windows on the western elevation of 23 Lyall Street have a maximum head height of RL8.74. As the proposed eastern windows of the eastern dwelling has a sill height of approximately RL10.00 and the distance separating these windows is approximately 1.3 metres, there are no sightlines from bedroom 2 of the eastern dwelling that is within 45 degrees to the subject windows of the eastern elevation of No. 23 Lyall Street.

The proposed new rear balconies have internal dimensions of 3417mm x 800mm (compared to the previously approved rear Juliet balconies which were 3000mm x 150mm in size) and given the depth of the balconies is smaller than the 1200mm depth specified in C9, it is considered that the proposed balconies are acceptable as the balconies are similar in impacts to the specified 2m x 1.2m balconies that is allowed under C9 of this part.

### 5(d) The Likely Impacts

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

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

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

### 5(f) Any submissions

The application was advertised for two periods of 14 days. The first notification period was between 25th January 2018 - 8th February 2018. The second advertising period was between 17th May 2018 to 31st May 2018. No submissions were received.

### 5(g) The Public Interest

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

The proposal is not contrary to the public interest.

## 6 Referrals

### 6(a) Internal

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

- Development Engineer

### 6(b) External

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

## 7. Section 94 Contributions

As the Gross floor area of the dwellings had been increased to 110sqm (western dwelling) and 135 sqm (eastern dwelling) respectively, the contribution levy required will be different to the originally approved development.

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

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

In this instance the consent authorises the erection of two (2) dwellings, and hence Council may not impose a condition that requires payment in excess of \$40,000.

The following Section 94 contributions are payable for the proposal inclusive of credit from an existing dwelling:

The following Section 94 contributions are payable for the proposal:

*Open Space & Recreation*

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

*Community Facilities & Services*

• Two (2) dwellings 106m <sup>2</sup> – 160 m <sup>2</sup> @ \$3,945.00	per dwelling	\$7,890.00
• Less credit for one (1) dwelling 53 m <sup>2</sup> - 106 m <sup>2</sup>	@ \$2947.00 per dwelling	-\$2947.00
<b>Total</b>		<b>\$4,943.00</b>

*Transport and access, Works & Facilities***LATM**

• LATM for one dwelling 86 m <sup>2</sup> to 120 m <sup>2</sup> and one dwelling 120m <sup>2</sup>	Total	\$294.43
• Less LATM credit for one (1) dwelling 86 m <sup>2</sup> to 120 m <sup>2</sup>	@ \$159.48 per dwelling	-\$159.48

**LATM Total      \$134.95**

**Access to Balmain Peninsula**

• One dwelling 86 m <sup>2</sup> to 120 m <sup>2</sup> and one dwelling 120m <sup>2</sup>	\$1513.75
• Less credit for one (1) dwelling 86 m <sup>2</sup> to 120 m <sup>2</sup>	-\$819.95

**Access to Balmain Peninsula Total      693.80**

• Bicycle works for One dwelling 86 m <sup>2</sup> to 120 m <sup>2</sup> and one dwelling 120m <sup>2</sup> +	\$59.48
• Less Bicycle works credit for one (1) 86 m <sup>2</sup> to 120 m <sup>2</sup>	-\$34.13

**Bike Total      \$25.35**

**NET      \$38,136.10**

Accordingly, the relevant condition will be amended.

**8. Conclusion**

The proposal generally complies with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is considered suitable for approval subject to the imposition of appropriate conditions.

## 9. RECOMMENDATION

That Council as the consent authority pursuant to Section 4.55 of the Environmental Planning and Assessment Act, 1979 modify Development Consent No. D/2015/545 in the following way:

### A. Conditions are to be amended to read as follows:

- Development must be carried out in accordance with Development Application No. D/2015/545 and as amended by M/2018/6, the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Drawing No: S96 01, Amendment B - Roof Plan	NS Studio	11/05/18
Drawing No: S96 02, Amendment B - Ground Floor Plan	NS Studio	11/05/18
Drawing No: S96 03, Amendment B - First Floor Plan	NS Studio	11/05/18
Drawing No: S96 04, Amendment B - Sections	NS Studio	11/05/18
Drawing No: S96 05, Amendment B - Elevations North + East	NS Studio	11/05/18
Drawing No: S96 06, Amendment B - Elevations South + West	NS Studio	11/05/18
Drawing No: S96 06, Amendment A - Finishes Schedule	NS Studio	18/01/18
Landscape Plan – Dwg No: LP01 (Issue D)	Matthew Higginson Landscape Architecture Pty Ltd	14.12.2017
Stormwater Plans	Prepared By	Dated
Drawing No 15-260 D3 Revision I	Portes Project & Services Pty Ltd	25-06-2018
Drawing No 15-260 D4 Revision H	Portes Project & Services Pty Ltd	25-06-2018
Document Title	Prepared By	Dated
BASIX Certificate No: 888856M_02	Australian Energy Efficiency Certificate	05 July 2018

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

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

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

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

Note: Carrying out of works contrary to the above plans and/ or conditions may invalidate this consent; result in orders, on the spot fines or legal proceedings. **(Condition modified by M/2018/6 date insert date)**

3. Amended plans are to be submitted incorporating the following amendments:
  - a) ~~The parking bay to the western dwelling (Dwelling 1) must be deleted. The sliding gate must be replaced by a picket fence or similar to match the presentation of the eastern dwelling (Dwelling 2). The redundant vehicle crossing at the western side of the frontage is to be closed (refer to Condition 8 below).~~ **(Condition deleted by M/2018/6 date insert date)**
  - c) ~~The front entrance door of the western dwelling (Dwelling 1) is to be repositioned so that it faces towards Lyall Street to match the eastern dwelling (Dwelling 2).~~ **(Condition deleted by M/2018/6 date insert date)**
  - d) The front fence is to be no higher than 1.2m (when measured from the finished footpath level at any point) and be constructed of materials at spacing that allows a 50% transparency rate.
  - e) The parking bay, driveway and any references a parking bay or driveway to the eastern dwelling shall be deleted. **(Condition added by M/2018/6 date insert date)**
  - f) The landscape plan to be amended to be consisted with the approved floor and site plans. **(Condition added by M/2018/6 date insert date)**

Details demonstrating compliance with the requirements of this condition are to be marked on the plans and be submitted to the Principal Certifying Authority's satisfaction prior to the issue of any Construction Certificate.

4. A contribution pursuant to the provisions of Section 94 of the *Environmental Planning and Assessment Act 1979* for the services detailed in column A and for the amount detailed in column B must be made to Council prior to the issue of a Construction Certificate:

Contribution Plan	Contribution
Open Space	\$32,339.00
Community Facilities	\$4,943.00
Local Area Traffic Management	\$134.95
Access to Balmain Peninsula	\$693.80
Bicycle	\$25.35
<b>Total</b>	<b>\$38136.10</b>

Payment will only be accepted in the form of cash, bank cheque or EFTPOS / Credit Card (to a maximum of \$10,000). It should be noted that personal cheques or bank guarantees cannot be accepted for Section 94 Contributions. Contribution Plans may be inspected on Council's website [www.leichhardt.nsw.gov.au](http://www.leichhardt.nsw.gov.au) or a copy purchased at the Customer Service counter in Council's Administration Centre, 7-15 Wetherill Street, Leichhardt, during business hours.

A receipt demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate. **(Condition modified by M/2018/6 date insert date)**

6. A stormwater drainage design, incorporating on site stormwater detention/ retention facilities (OSD/OSR), prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be prepared/ amended to make provision for the following:

- a) The design must generally be in accordance with the stormwater drainage concept plan on the following drawings prepared by Portes Civil & Structural Engineers:
- Drawing No 15-260 D3 Revision I dated 25-06-2018
  - Drawing No 15-260 D4 Revision H dated 25-06-2018
- (Condition modified by M/2018/6 date insert date)**
- b) All plumbing within the site must be carried out in accordance with relevant provisions of Australian Standard AS/NZS 3500.3-2015 Plumbing and Drainage – Stormwater Drainage. **(Condition modified by M/2018/6 date insert date)**
- c) The proposed rainwater tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation.
- d) The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.
- e) Overflow pipeline(s) must be provided for any rainwater tank(s) to discharge by gravity to the Council drainage system. Where OSD facilities are required by this consent, the overflow pipelines must be discharged by gravity to the OSD storage tank(s).
- f) An overland flowpath must be provided within the setbacks to the side boundaries boundary between the Lyall Street frontage and the rear of the dwelling.
- A minimum 150mm step up must be provided between all external finished surfaces and adjacent internal floor areas, except where a reduced step is permitted under Section 3.1.2.3 (b) of the Building Code of Australia for Class 1 buildings.
- g) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.
- h) Stormwater must be discharged by gravity to the kerb and gutter of a public road or to Council's piped drainage system.
- i) All redundant stormwater pipelines within the footpath area must be removed and the footpath and kerb reinstated.
- j) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm.
- k) Only a single point of discharge is permitted to the kerb and gutter, per property, per frontage of the site.
- l) Where OSR is proposed, the rainwater tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation.
- m) Surface water must not be drained to rainwater tanks where the collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use. **(Condition added by M/2018/6 date insert date)**



- n) The parking bay, driveway and any references a parking bay or driveway to the eastern dwelling shall be deleted. **(Condition added by M/2018/6 date insert date)**
- o) All underground water tanks shall comply with all relevant Australian Standards including AS2865, AS3500, AS3600 and AS3996. **(Condition added by M/2018/6 date insert date)**
- p) Any underground tanks below decks shall have their access openings accessible directly from the surface of the deck. **(Condition added by M/2018/6 date insert date)**
- n) Charged or pump-out stormwater drainage systems are not permitted. **(Condition added by M/2018/6 date insert date)**

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

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

8. The following works must be constructed:

- a) Light duty concrete vehicle crossing at the vehicular access location to the western dwelling shall be reconstructed.
- b) Reconstruction of the concrete kerb and gutter and concrete footpath and grass verge for the full frontage of the Lyall Street frontage.

The works shall include all necessary adjustments as required by Council to suit the levels either side of the property and comply with the Alignment Levels issued with this consent.

All works shall be constructed in accordance with Council’s standards and specifications and AUS-SPEC#2-“Roadworks Specifications” and to Council’s satisfaction before the issue of the Occupation Certificate and at no cost to Council. **(Condition modified by M/2018/6 date insert date)**

**B. The following additional conditions be added:**

4A. To ensure reasonable privacy for the adjoining property, the following windows/glazing:

Western Dwelling:

Window/glazing	Room	Elevation
First two window closest to street frontage associated with Bedroom 2	Bedroom 3	Western
First floor bathroom window	First floor Bathroom	Western

All western windows associated Bedroom 3	Bedroom 3	Western
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must be treated with one of the following privacy treatments:

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

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

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

7. The design of the vehicular access and off street parking facilities must comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking. Details demonstrating compliance are to be provided prior to the issue of a Construction Certificate. The following specific issues must be addressed in the design:
  - a) The floor/finished levels within the property must be adjusted to ensure that the levels at the boundary comply with the Alignment Levels issued with this consent.
  - b) The driveway must rise within the property to be 260mm above the adjacent road gutter level. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.
  - c) A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
  - d) Longitudinal sections along both sides of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.
  - e) The parking space must have minimum clear internal dimensions of 6000 x 3500mm (length x width) and a door opening width of 2400mm at the street frontage.
  - f) A pedestrian entry that is separate from the vehicle entry shall be provided from the street.

- g) Vehicular access to the eastern dwelling shall not be permitted.
- h) The external form & height of the approved structures must not be altered from that depicted on the approved plans.

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

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate. **(Condition added by M/2018/6 date insert date)**

- 7A. Full detailed construction plans and specifications for all works within the road reserve, including long sections along both sides of the proposed vehicular crossing and ramp, footpath cross sections at a minimum distance of every 4m and at all pedestrian and vehicular access locations, and long sections at the property boundary and gutter shall be submitted to Council for approval under Section 138 of the Roads Act 1993 before the issue of a Construction Certificate. The sections and long sections shall continue a minimum of 6 metres either side of the property frontage.

The vehicular crossing and driveway ramp to the site shall be designed to satisfy the ground clearance template (Figure C1) from AS/NZS 2890.1-2004 *Parking Facilities: Off-street car parking*. A long section, along both sides of the proposed vehicular crossing and ramp, drawn at a 1:20 natural scale, shall be submitted to and approved by Council before the issue of a Construction Certificate. The long section shall begin from the centreline of the adjacent road to a minimum of 3 metres into the property.

The plans approved by Council shall define the Alignment Levels at the property boundary. **(Condition added by M/2018/6 date insert date)**

- 8A. The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Application for Construction of Vehicle Crossing and Public Domain Works – Step 2' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works. **(Condition added by M/2018/6 date insert date)**
- 51A. 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. **(Condition added by M/2018/6 date insert date)**
- 51B. 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. **(Condition added by M/2018/6 date insert date)**

**C. The following conditions be deleted:**

- ~~7. An application must be made to Council for the issue of a Levels Certificate. The certificate, issued by Council, must be provided prior to the issue of a Construction Certificate.~~

~~The certificate specifies the surface levels in the road reserve adjacent to the property that must be used as the basis for the design of vehicle or pedestrian accesses, finished floor levels, fences, vents and any structures in the vicinity of the property boundary.~~

~~The Levels Certificate may specify levels in the adjacent road reserve to be changed from those existing. **(Condition deleted by M/2018/6 date insert date)**~~

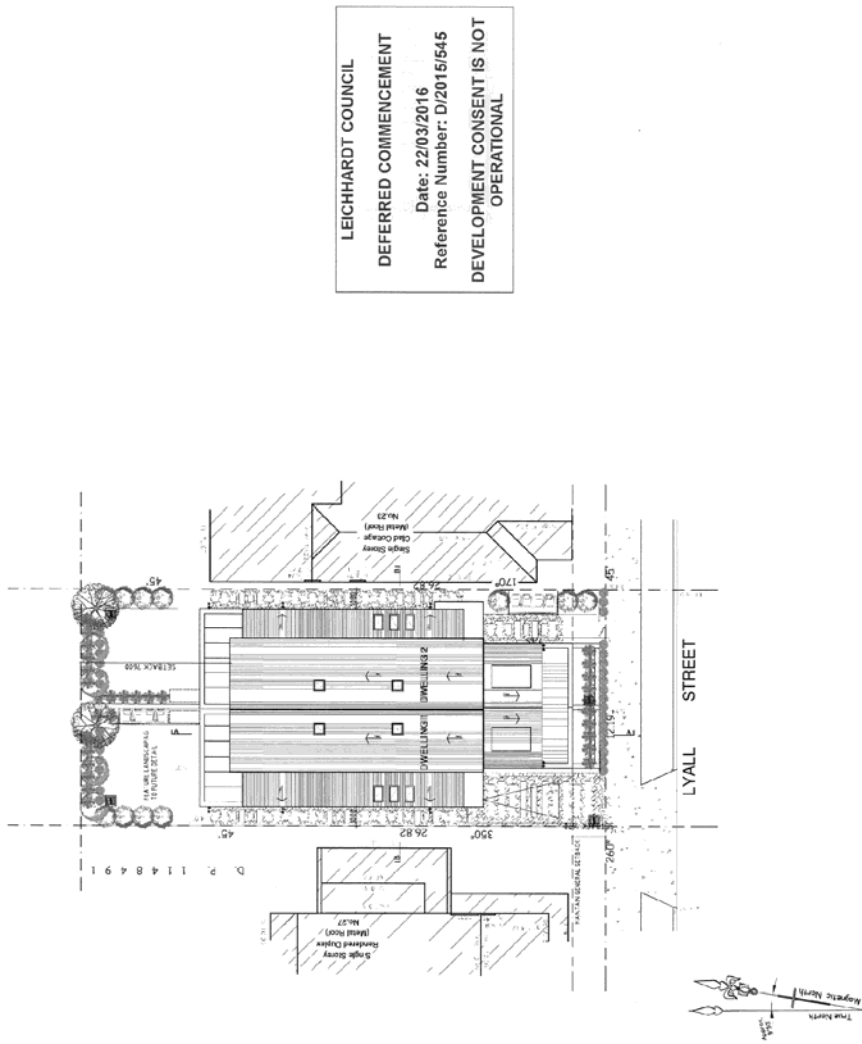










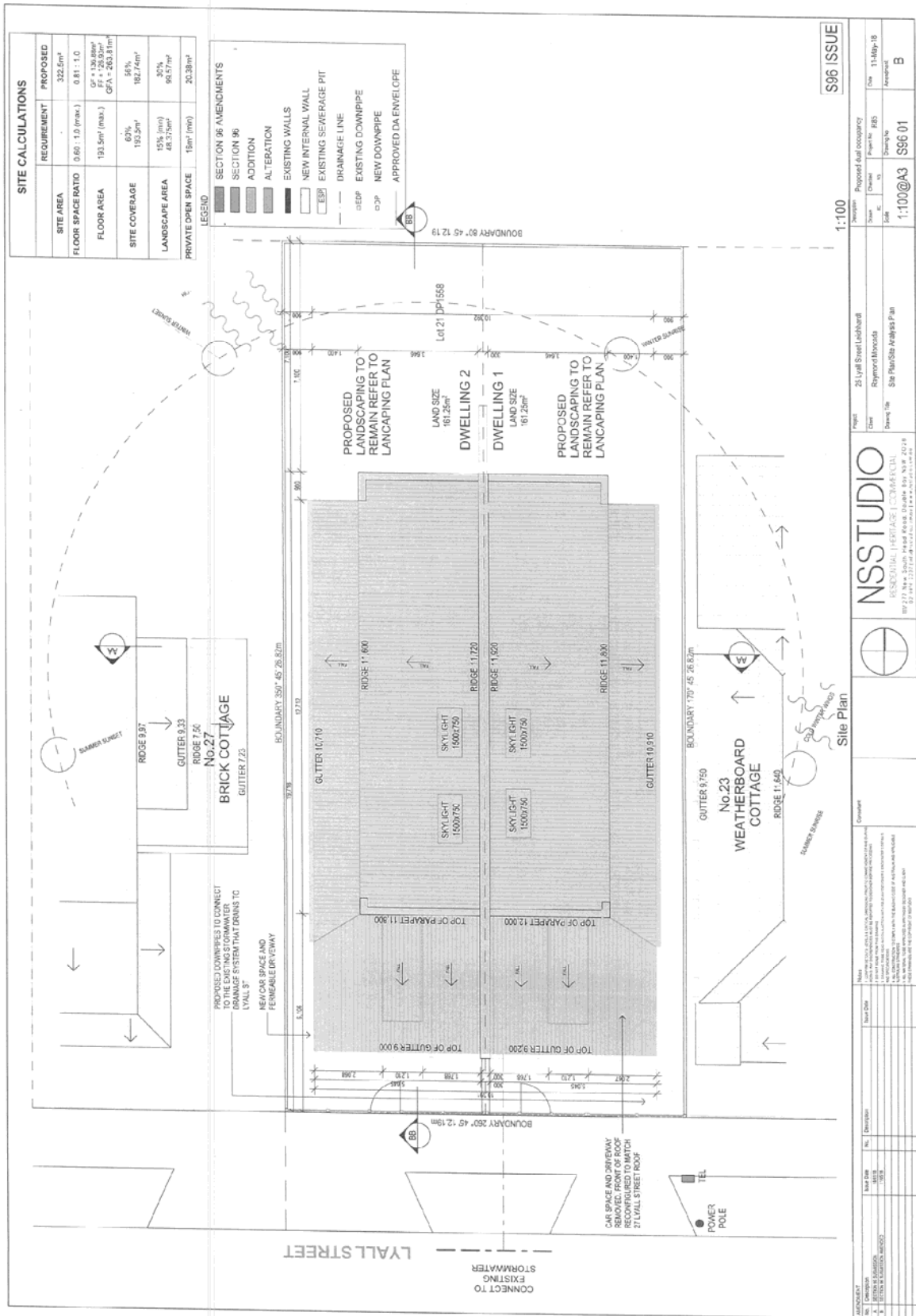


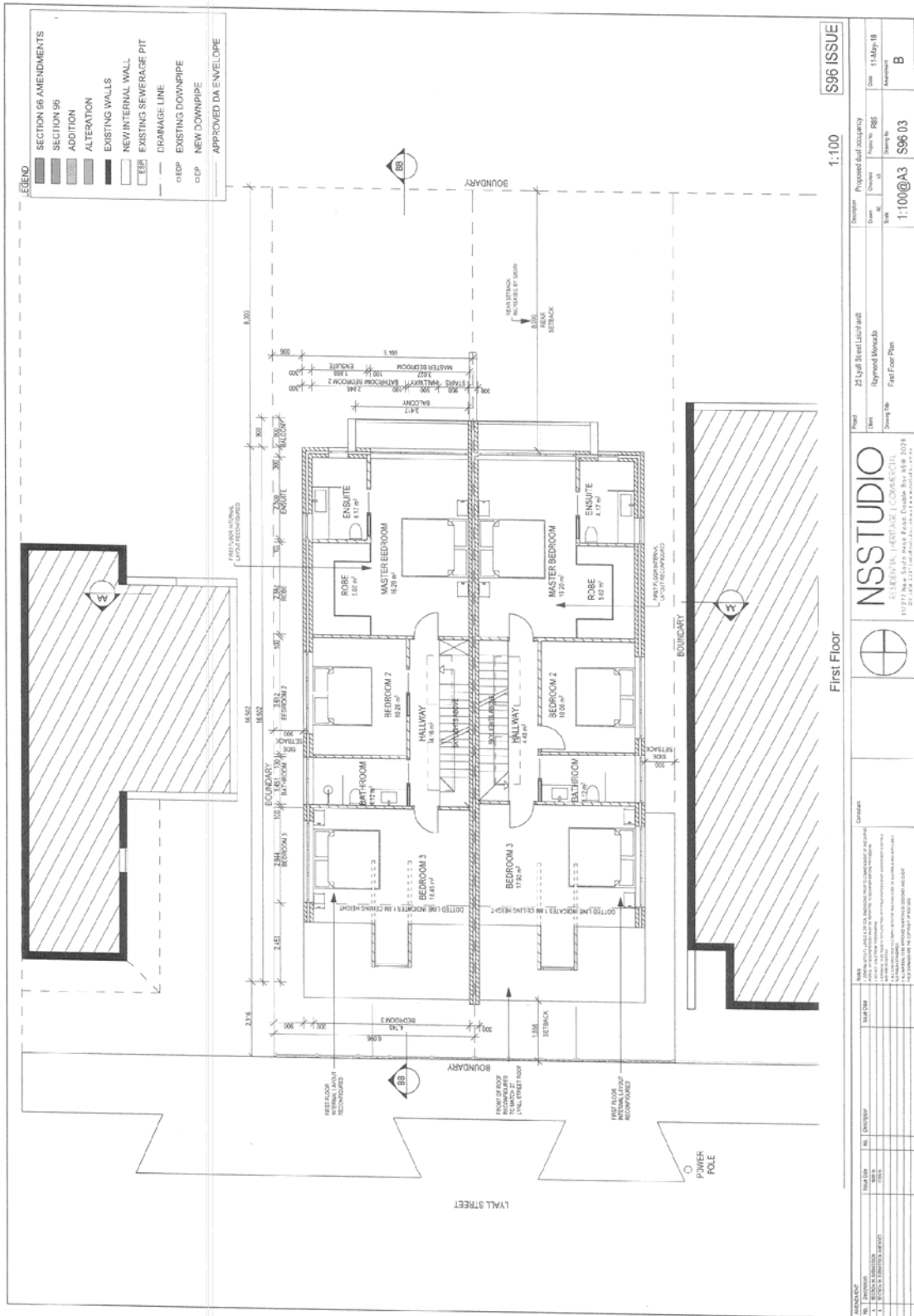
LEICHHARDT COUNCIL  
 DEFERRED COMMENCEMENT  
 Date: 22/03/2016  
 Reference Number: D/2015/545  
 DEVELOPMENT CONSENT IS NOT  
 OPERATIONAL

INNER WEST COUNCIL  
 DEFERRED COMMENCEMENT  
 - OPERATIONAL PLAN -  
 Date: 30/8/2016  
 Reference Number: D/2015/545

<p>Drawn: J. Hine                  Proposed Site Plan</p>	<p>Project:                  AMENDED DEVELOPMENT APPLICATION                  PROPOSED 2 x 2 BEDROOM ATTACHED DWELLINGS                  No. 25 LYALL STREET, LEICHHARDT LOT 21 IN DP 1598</p>	<p>Client:                  25/11/15</p>	<p>Scale:                  1:100</p>
<p>Drawn: J. Hine                  Checked: J. Hine                  Date: 22/03/2016</p>	<p>Project:                  AMENDED DEVELOPMENT APPLICATION                  PROPOSED 2 x 2 BEDROOM ATTACHED DWELLINGS                  No. 25 LYALL STREET, LEICHHARDT LOT 21 IN DP 1598</p>	<p>Client:                  25/11/15</p>	<p>Scale:                  1:100</p>







<b>PROJ. NO.</b> 22/14/11 Street Launchpad <b>PROJ. NAME</b> Raymond Mousds <b>PROJ. TYPE</b> First Floor Plan		<b>DATE</b> 11-May-18 <b>APP. NO.</b> S96.03 <b>APP. DATE</b> B	
<b>CLIENT</b> NSSTUDIO 117/117 Macquarie Street, Sydney NSW 2028 Tel: 02 9231 1234 Fax: 02 9231 1235		<b>SCALE</b> 1:100@A3 <b>ISSUE</b> S96 ISSUE	
<b>REVISIONS</b> 1. 11/05/18 - 11/05/18 - 11/05/18 2. 11/05/18 - 11/05/18 - 11/05/18		<b>COMMENTS</b> 1. ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SPECIFIED. 2. ALL WALLS ARE 100MM THICK UNLESS OTHERWISE SPECIFIED. 3. ALL DOORS ARE 2000MM HIGH UNLESS OTHERWISE SPECIFIED. 4. ALL WINDOWS ARE 1200MM HIGH UNLESS OTHERWISE SPECIFIED.	

