



INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	D/2018/239
Address	24 Little Darling Street, BALMAIN NSW 2041
Proposal	Part demolition and alterations and additions to existing dwelling-house.
Date of Lodgement	9 May 2018
Applicant	DMA Architects
Owner	Ms L R White
Number of Submissions	Nil
Value of works	\$199,600
Reason for determination at Planning Panel	Clause 4.6 variation exceeds officer delegation
Main Issues	Site Coverage
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 is an assessment of the application submitted to Council for part demolition and alterations and additions to existing dwelling-house at 24 Little Darling Street, Balmain. The application was notified to surrounding properties and no submissions were received.

The main issues that have arisen from the application include:

- Site Coverage

Notwithstanding the above non-compliances, the proposal is acceptable given the existing pattern of surrounding development and its acceptable amenity impacts, and therefore, the application is recommended for approval.

2. Proposal

The proposal involves partial demolition of the rear of the dwelling and rear ground floor alterations and additions to provide a single ground floor level of RL44.47 matching the existing level at the front of the dwelling.

The ground floor addition involves a 0.869m extension rearward of the existing rear ground floor building line and maintains the existing 0m side setbacks at the rear of the building to the eastern and western boundaries with 2.4m high boundary walls.

The proposal seeks to reconfigure the internal dining, kitchen, bathroom and laundry layout to allow better accessibility for the occupants. The rear roof form incorporates 4 skylights and clerestory windows to improve access to natural light. No changes are proposed to the front two rooms of the existing dwelling and the whole of primary original roof form is to be retained.

The rear paved courtyard is proposed to be replaced with a smaller stepped rear deck and an increased landscaped area of 20.82sqm. No works are proposed within the front setback or the adjoining right of way to Little Darling Street.

An extract of the proposed plan is shown in the figure below.

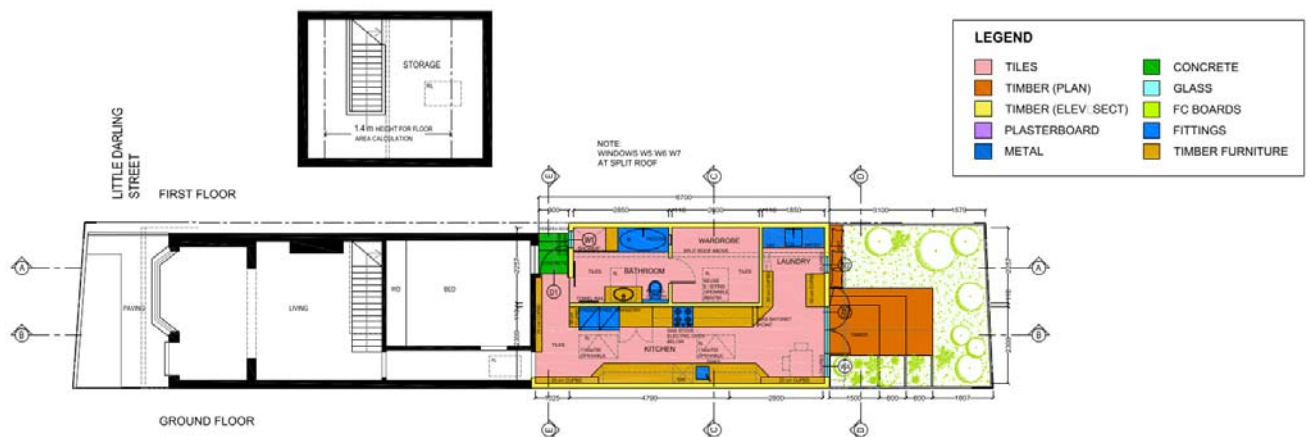


Figure 1: Proposed ground floor plan at 24 Little Darling Street.

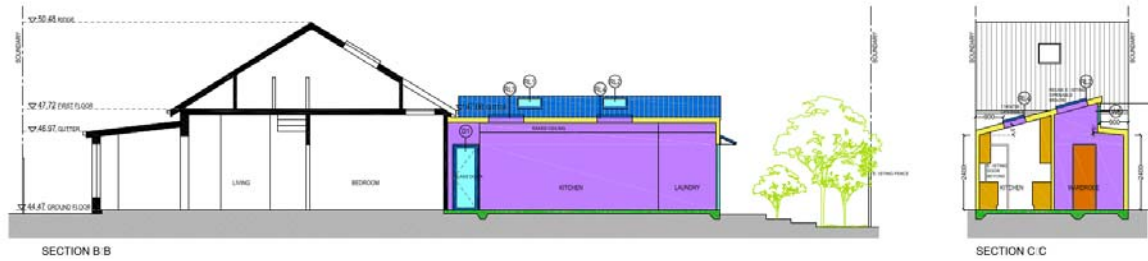


Figure 2: Proposed sections at 24 Little Darling Street.

3. Site Description

The subject site is located on the southern side of Little Darling Street, at the western termination of the street. The site consists of one allotment and is generally rectangular in shape with a total area of 135.2sqm and is legally described as Lot A DP 438672.

The site does not have direct frontage to the street and relies upon an existing right of footway and carriageway of 3.169m and variable width to Little Darling Street over the front setback of the adjoining property at 26 Little Darling Street.

The site supports an existing single storey detached dwelling with attic level. The adjoining properties support one and two storey dwellings and nearby by non-residential uses.

The subject site is not listed as a heritage item, but is located in a heritage conservation area and is in the vicinity of adjoining heritage items to the immediate north and west. The property is not identified as a flood prone lot.

The subject site does not contain any trees, but is in the vicinity of adjoining trees to the south as shown in the aerial photo below.



Figure 3: Aerial photo of 24 Little Darling Street Balmain

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
PREDA/2017/343	Alterations to rear of dwelling comprising New bathroom, walk in robe, laundry, kitchen and landscaping. The proposal satisfactorily responds to the Pre-DA advice provided.	Issued 11/1/2018

Surrounding properties

Not applicable.

4(b) Application history

Not applicable

5. Assessment

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

5(a) Environmental Planning Instruments

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

- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- State Environmental Planning Policy (Coastal Management) 2018
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Leichhardt Local Environmental Plan 2013

The following provides further discussion of the relevant issues:

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

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

The proposal was accompanied with a Preliminary Site Investigation prepared by Alliance Geotechnical Pty Ltd. This report confirmed the ongoing residential use of the land since the 1930's with no potentially contaminating activities taking place and found no evidence of

contamination following a site inspection. Therefore, it is considered that the site will not require remediation in accordance with SEPP 55. On this basis, the site is considered suitable for residential use.

Council's Environmental Health section have raised no objections to the proposal subject to a condition requiring an asbestos survey to be carried out prior to any demolition works, which will be imposed as a part of any approval.

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

A BASIX Certificate was submitted with the application.

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

The proposal does not involve any tree removal.

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

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

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

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

5(a)(vi) Leichhardt Local Environment Plan 2013 (LLEP 2013)

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

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition Requires Development Consent
- Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1
- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 4.6 – Exceptions to development standards
- Clause 5.10 – Heritage Conservation
- Clause 6.1 – Acid Sulphate Soils
- Clause 6.4 – Stormwater management

The site is zoned R1 General Residential under the Leichhardt Local Environmental Plan 2013 and the proposal is permissible in the zone and is consistent with the planning objectives for the area in the Leichhardt Local Environmental Plan.

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

Standard (maximum)	Proposal	% of non compliance	Compliances
Floor Space Ratio: [1:1 or 135.2sqm]	0.71:1 96.54sqm	N/A	Yes

Landscape Area: 15%	15.4% 20.82sqm	N/A	Yes
Site Coverage: 60%	69.7% 94.25sqm	16.18%	No

Note: The proposal has existing site coverage of 67.24% or 90.9sqm. While the proposed ground floor additions result in a 3.34sqm increase to site coverage, there is an increase in landscaped area and a net reduction in impervious area given the removal of the rear awning.

The following provides further discussion of the relevant issues:

Clause 4.6 Exceptions to Development Standards

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

- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1

Clause 4.6(2) specifies that Development consent may be granted for development even though the development would contravene a development standard.

1. *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
2. *Development consent may be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.*

Comment: As discussed below in subclauses (3) and (4), it is considered that the contravention to the development standard is acceptable in this instance.

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment: The 'key' reasons submitted by the applicant as justification to the contravention of the standards are:

Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1

The proposed development seeks to provide a site coverage of 69.7% (or a dwelling of 94.25sqm). Notwithstanding numerical non-compliance, the applicant contends that the proposed building satisfies the stated objectives given that:

- *The site coverage is increased from 67.24% to 69.7% of the site area. This represents a 2.46% increase.*
- *The increase results from the owner suffering from multiple sclerosis and having to relocate some of her belongings from an attic storage area to a proposed walk-in-robe.*

- *The site area of 135.2sqm is small and it is considered justifiable to contravene the standard.*
 - *Compliance is unreasonable and unnecessary because of the owner's health needs... [to] maintain the owner's quality of life.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*

Comment: The applicant has addressed the matters required under Clause 4.6 Exceptions to development standards, and it is considered to be well founded in this instance. The proposal will not result in a detrimental impact on the public interest and can satisfy the objectives of the development standard/s and General Residential zoning as demonstrated below:

- The provision of “adaptable housing” to allow for dwellings to be altered as the needs of occupants change over time (e.g. inability to access first floor attic storage due to deteriorating health or mobility) is a valid environmental planning ground.
- The proposal is compatible with the existing residential character of the area in relation to building siting, bulk, form and scale.
- The proposal results in an increase to onsite landscaped area and overall reduction from existing impervious area, providing an acceptable balance between landscaped areas and the built form.
- The proposal does not result in any undue adverse amenity impacts to the surrounding properties.
- Despite the variations, the proposal results in superior on-site amenity and accessibility outcomes.
- The proposal complies with FSR and landscaped area, and the site coverage proposed will not be out of character with the site coverage characteristic of the general pattern of development in the vicinity as shown in the aerial photo below.

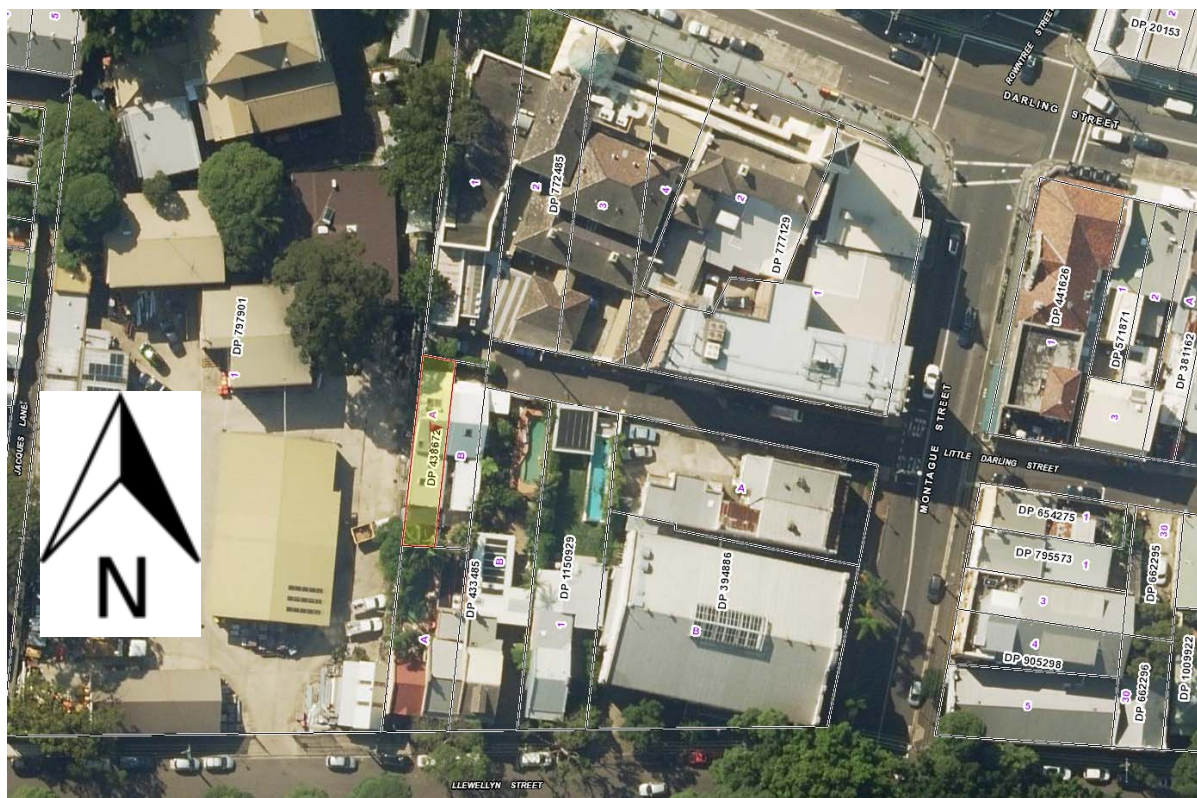


Figure 3: Aerial photo indicating existing pattern of development adjoining 24 Little Darling Street Balmain

5(b) Draft Environmental Planning Instruments

Draft State Environmental Planning Policy (Environment) 2018

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

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

5(c) Development Control Plans

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

Part	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes

Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	Yes
C1.12 Landscaping	Yes
Part C: Place – Section 2 Urban Character	
Suburb Profile	
C2.2.2.4 The Valley ‘Balmain’ Distinctive Neighbourhood, Balmain	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	No – refer to discussion below
C3.3 Elevation and Materials	Yes
C3.6 Fences	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
Part C: Place – Section 4 – Non-Residential Provisions	N/A
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	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
E1.2.5 Water Disposal	Yes

The following provides discussion of the relevant issues:

C1.4 Heritage Conservation Areas and Heritage Items

The proposed ground floor rear addition retains the primary original roof form and is subservient to the original built form. Council's Heritage Officer has reviewed the proposal and raised no objections subject to conditions relating to the materials and finishes of the new roof. Therefore, the proposal is acceptable with respect to heritage.

C1.12 Landscaping

The proposed removal of the existing rear courtyard paving and garden retaining wall involves works in the vicinity of adjoining trees to the south in order to provide an increased landscaped area and reduce the extent of existing impervious area. Council's Landscape Officer has reviewed the proposal and raised no objections subject to suitable conditions requiring a Project Arborist to oversee the works and ensure the implementation of suitable measures to protect adjoining trees. However, it is noted that the proposal does not warrant the planting of a canopy tree given no tree removal is proposed and limited available site area. Therefore, the proposal is considered acceptable with respect to landscaping.

C3.2 Site Layout and Building Design

The ground floor addition provides a 4.679m rear setback and maintains the existing 0m side setbacks to the eastern and western boundaries with 2.4m high boundary walls.

While the proposed side setbacks comply, the proposal technically breaches the ground floor rear Building Location Zone (BLZ) by 0.75m given the adjoining site to the east has a 5.4m ground floor rear BLZ setback.

In assessment of the application under C6 which enables a variation or establishment of a new Building Location Zone, it is considered that the siting of the ground floor addition is acceptable for the following reasons:

- Amenity to adjacent properties (i.e. sunlight, privacy, views) is protected and compliance with the solar access controls of the LDCP2013 is achieved;
- The proposed development will be compatible with the existing streetscape and desired future character for the area;
- The proposed ground floor addition does not have any impacts on on-site open space provision;
- The proposed ground floor does not involve removal of any significant vegetation nor prevents opportunities for planting of new significant vegetation; and
- 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.

E1.2 Water Management

The proposal seeks to maintain a similar footprint to the dwelling-house which extends boundary to boundary at the rear of the site. Given this is an existing situation and the side passageway way is covered, the provision of an overland flowpath is not considered necessary in this instance. Therefore, the proposal is considered satisfactory subject to standard site drainage and stormwater control conditions.

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 notified in accordance with Council's Policy for a period of 14 days to surrounding properties. No submissions were received.

5(g) The Public Interest

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

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers:

- Heritage Officer: No objections subject to condition for roof materials and finishes to comprise either heritage barrel rolled traditional corrugated galvanised steel or pre-coloured traditional corrugated galvanised steel in a colour equivalent to Colorbond's "Windspray" or "Wallaby."
- Development Engineer: No objections subject to conditions
- Landscape: No objections subject to conditions
- Health: No objections subject to conditions

6(b) External

The application was not required to be referred externally.

7. Section 7.11 Contributions

Section 7.11 contributions are not payable for the proposal.

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

- A. The applicant has made a written request pursuant to Clause 4.6(3) of the LEP in support of the contravention of the development standard for 4.3A(3)(b) Site Coverage. 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, 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: D/2018/239 for Part demolition and alterations and additions to existing dwelling-house at 24 Little Darling Street, BALMAIN NSW 2041 subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

- Development must be carried out in accordance with Development Application No. 2018/239 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
A01, Proposed Floor and Roof Plans	DMA Architects	12/3/2018
A02, Proposed Sections	DMA Architects	12/3/2018
A03, Proposed Elevations and Section	DMA Architects	12/3/2018
A04, Existing Floor Plans	DMA Architects	12/3/2018
A05, Existing Floor Plans	DMA Architects	12/3/2018
Document Title	Prepared By	Dated
BASIX Certificate	DMA Architects	12/3/2018

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.

- Consent is granted for the demolition of the following currently existing on the property, subject to strict compliance with the following conditions:

Elements	Location
Rear roof, floor, walls, awning, and courtyard paving and retaining walls	Rearward of the southern bedroom wall

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

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

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: Demolition of structures.
- g) The hours of demolition work are limited to between 7:00am and 6.00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority.
- i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- j) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.
- k) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- m) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense. Dial before you dig www.1100.com.au should be contacted prior to works commencing.
- n) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
- o) Prior to demolition, a Work Plan must be prepared and submitted to the Principal Certifying Authority in accordance with the relevant provisions of Australian Standard 2601:2001 Demolition of structures by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

- p) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
- i) A WorkCover licensed contractor must undertake removal of all asbestos.
 - ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400 mm x 300 mm is to be erected in a visible position on the site to the satisfaction of Council.
 - iii) Waste disposal receipts must be provided to Council / Principal Certifying Authority as proof of correct disposal of asbestos laden waste.
 - iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
 - v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

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

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

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

The system/s shall be operated as follows:

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

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

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

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

5. Prior to the issue of the Construction Certificate the Principal Certifying Authority is to ensure that the plans state that no high front gutters will be installed.
6. The following requirements are to be incorporated into the development detailed on the Construction Certificate plans and provided prior to the issue of a Construction Certificate:
 - a) No rainforest timbers or timbers cut from old growth forests are to be used in the construction of the development. Timbers to be used are to be limited to any plantation, regrowth or recycled timbers, or timbers grown on Australian Farms or State Forest Plantations.

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

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

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

8. New roofing material is to comprise of either heritage barrel rolled traditional corrugated galvanised steel or pre-coloured traditional corrugated galvanised steel in a colour equivalent to Colorbond's "Windspray" or "Wallaby."

Materials and finishes must be complementary to the predominant character and streetscape of the area, and any existing buildings & the period of construction of the buildings. New materials that are not depicted on the approved plans must not be used. Highly reflective wall or roofing materials and glazing must not be used. Materials must be designed so as to not result in glare (maximum normal specular reflectivity of visible light 20%) or that causes any discomfort to pedestrians or neighbouring properties. Details of finished external surface materials, including colours and texture must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority.

9. The existing unpainted brick surfaces are not to be painted, bagged or rendered but to remain as original brick work. The Construction Certificate plans must clearly depict all original brickwork with a notation that they are to remain unpainted to the satisfaction of the Principal Certifying Authority.
10. If any excavation extends below the level of the base of the footings of a building on an adjoining property, the person causing the excavation:
 - a) Must preserve and protect the adjoining building from damage
 - b) Must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - c) The owner of the adjoining allotment of land is not liable for any part of the cost of

work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

11. The following fire upgrading is required pursuant to Clause 94 of the *Environmental Planning and Assessment Regulation 2000*:

- The building is to be provided with smoke alarm system that complies with *AS3786-1993: Smoke Alarms* and the smoke alarms must be connected to the consumer mains electrical power supply and interconnected where there is more than one alarm with a stand-by (battery back-up) power supply. The smoke alarm system must be installed in suitable locations on or near the ceiling in accordance with Part 3.7.2 of the Building Code of Australia.

Amended plans and specifications demonstrating compliance with this condition must be submitted to the satisfaction of the Principal Certifying Authority with the application prior to the issuing of a for a Construction Certificate.

Note: Where an existing system complying with the above requirements is already installed in the building, evidence of this should be submitted with the application for a Construction Certificate.

12. A Soil and Water Management Plan must be provided prior to the issue of a Construction Certificate. The Soil and Water Management plan must designed to be compatible with the document Planning for Erosion and Sediment Control on Single Residential Allotments or Managing Urban Stormwater–Soils & Construction Volume 1 (2004) available at www.environment.nsw.gov.au and the Construction Management and Traffic Management Plan referred to in condition/s of this Development Consent and must address, but is not limited to the following issues:

- a) Minimise the area of soils exposed at any one time.
- b) Conservation of top soil.
- c) Identify and protect proposed stockpile locations.
- d) Preserve existing vegetation. Identify revegetation technique and materials.
- e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner.
- f) Control surface water flows through the site in a manner that:
 - i) Diverts clean run-off around disturbed areas;
 - ii) Minimises slope gradient and flow distance within disturbed areas;
 - iii) Ensures surface run-off occurs at non erodable velocities;
 - iv) Ensures disturbed areas are promptly rehabilitated.
- g) Sediment and erosion control measures in place before work commences.
- h) Materials are not tracked onto the road by vehicles entering or leaving the site.
- i) Details of drainage to protect and drain the site during works.

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

13. The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. For Quick Check agent details please refer to the web site <http://www.sydneywater.com.au/SW/plumbing-building-developing/building/quick-check-agents/index.html>

The Principal Certifying Authority must ensure the Quick Check agent/Sydney Water has appropriately stamped the plans prior to the issue of a Construction Certificate.

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

14. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan (where applicable):
- a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) The locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council.
 - iii) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
 - iv) A dedicated unloading and loading point within the site for construction vehicles, plant and deliveries.
 - v) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
 - b) Noise and vibration
During excavation, demolition and construction phases, noise & vibration generated from the site must be controlled. Refer to other conditions of this consent. If during excavation, rock is encountered, measures must be taken to minimise vibration, dust generation and impacts on surrounding properties. Refer to Environmental Noise Management Assessing Vibration: a technical Guideline (Department of Environment and Conservation, 2006) www.epa.nsw.gov.au for guidance and further information.
 - c) Occupational Health and Safety
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.
 - d) Toilet Facilities
During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site. Details must be shown on the plan.
 - e) Traffic control plan(s) for the site
All traffic control plans must be in accordance with the Roads and Maritime Services publication "Traffic Control Worksite Manual"

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

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

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

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

16. A stormwater drainage design prepared by a Licensed Plumber or qualified practising Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be prepared/ amended to make provision for the following:
- a) Stormwater runoff from all roof within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter of a public road.

Roof and paved areas that cannot reasonably be drained by gravity to the street may be directed to an appropriately located and sized absorption system, subject to the roof areas being drained via a suitably sized rainwater tank and the feasibility and design of the absorption system being certified by a qualified practising Geotechnical Engineer.
 - b) The drainage of any roof and surface areas that cannot drain to the street must be designed to cause no concentration of flows or nuisance to downstream properties.
 - c) Charged or pump-out stormwater drainage systems are not permitted.
 - d) Plans must specify that any components of the existing system to be retained must be checked during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development, and be replaced or upgraded if required.
 - e) All plumbing within the site must be carried out in accordance with Australian Standard *AS/NZS 3500.3-2015 Plumbing and Drainage – Stormwater Drainage*

- f) Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.
- g) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- h) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
- i) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm.
- j) Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.

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

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

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

- 17. Prior to the commencement of demolition works on the subject site or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee as detailed below must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works.

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

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

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

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, Council may carry out any works necessary to repair the damage and/or remove the risk. The cost of these works will be deducted from the security deposit.

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

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

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating

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

18. Should works require any of the following on public property (footpaths, roads, reserves), an application shall be submitted and approved by Council prior to the commencement of the works associated with such activity or the Construction Certificate (whichever occurs first)
- a) Work/Construction zone (designated parking for construction vehicles). – A Work Zone application
 - b) A concrete pump across the roadway/footpath. – A Standing Plant permit
 - c) Mobile crane or any standing plant – A Standing Plant Permit
 - d) Skip bins other than those authorised by Leichhardt Council – Skip Bin Application
 - e) Scaffolding/Hoardings (fencing on public land) – Scaffolding and Hoardings on Footpath Application
 - f) Road works including vehicle crossing/kerb & guttering, footpath, stormwater provisions etc – Road works Application
 - g) Awning or street verandah over footpath. – Road works Application
 - h) Installation or replacement of private stormwater drain, utility service or water supply – Road Opening Permit

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

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

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

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

PRIOR TO THE COMMENCEMENT OF WORKS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23. Any person or contractor undertaking works on public property must take out Public Risk Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within public property. The Policy is to note, and provide protection for Leichhardt Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.
24. Prior to the commencement of works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
25. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form (available on Council's web page) and details of the appointed Principal Certifying Authority shall be submitted to Council.

26. Prior to the commencement of works, a sign must be erected in a prominent position on the site (for members of the public to view) on which the proposal is being carried out. The sign must state:
- Unauthorised entry to the work site is prohibited.
 - The name of the principal contractor (or person in charge of the site) and a telephone number at which that person may be contacted at any time for business purposes and outside working hours.
 - The name, address and telephone number of the Principal Certifying Authority for the work.

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

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

DURING WORKS

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

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

28. All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent them from being dangerous to life or property and in accordance with the design of a suitably qualified structural engineer.

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

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

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

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

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

31. Unless otherwise approved by Council, excavation, demolition, construction or subdivision work shall only be permitted during the following hours:
- a) 7:00 am to 6:00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
 - b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
 - c) at no time on Sundays or public holidays.

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

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

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

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

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

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

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

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

32. In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the demolition, construction or operation/use of the development.
33. 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.
34. The development must be inspected at the following stages by the Principal Certifying Authority during construction:
- a) after excavation for, and prior to the placement of, any footings, and

- b) prior to pouring any in-situ reinforced concrete building element, and
- c) prior to covering of the framework for any floor, wall, roof or other building element, and
- d) prior to covering waterproofing in any wet areas, and
- e) prior to covering any stormwater drainage connections, and
- f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

35. A copy of the approved plans and this consent must be kept on site for the duration of site works and in the case of any commercial or industrial premise for the duration of the use/trading. Copies shall be made available to Council Officer's upon request.

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

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

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

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

37. If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly using a sharp and *fit for purpose tool*. The pruning shall be undertaken by a minimum Level 5 (AQF 5) qualified Arborist.

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

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

Schedule	
Tree/location	Time of Inspection
All vegetation from adjoining properties	Duration of excavation works in rear of site

Recommendations to ensure the tree/s long term survival must be carried out immediately upon receipt of the report.

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

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

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

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

- 40. No tree roots of 30mm or greater in diameter located within the specified radius of the trunk(s) of the following, tree(s) shall be severed or injured in the process of any works during the construction period.

Schedule	
Tree/location	Radius in metres
All vegetation from adjoining properties	5m

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

- 41. All excavation within the specified radius of the trunk(s) of the following tree(s) being hand dug:

Schedule	
Tree/location	Radius in metres
All vegetation from adjoining properties	5m

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

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

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

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

- 44. An Occupation Certificate must be obtained prior to any use or occupation of the development or part thereof. The Principal Certifying Authority must ensure that all works are completed in accordance with this consent including all conditions.
- 45. 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.

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. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.
48. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all works have been completed in accordance with the approved Waste Management Plan referred to in this development consent.

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

49. Prior to the release of an Occupation Certificate, the Principal Certifying Authority must be satisfied that the development complies with:
 - the approved plans;
 - BASIX certificate (where relevant),
 - approved documentation (as referenced in this consent); and
 - conditions of this consent.

ONGOING CONDITIONS OF CONSENT

50. The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within seventy-two (72) hours of its application.
51. Any lighting of the premises shall be installed and maintained in accordance with Australian Standard AS 4282-1997: *Control of the Obtrusive Effects of Outdoor Lighting* so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if in the opinion of an Authorised Council Officer it is considered there to be have adverse effects on the amenity of the area.
52. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. dwelling house without the prior consent of the Council unless the change to another use is permitted as exempt or complying development under *Leichhardt Local Environment Plan 2013* or *State Environmental Planning policy (Exempt and Complying Codes) 2008*.

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

PRESCRIBED CONDITIONS**A. BASIX Commitments**

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

In this condition:

- a) Relevant BASIX Certificate means:
 - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 4.55 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.

B. Building Code of Australia

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

C. Home Building Act

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

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

D. Site Sign

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

E. Condition relating to shoring and adequacy of adjoining property

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

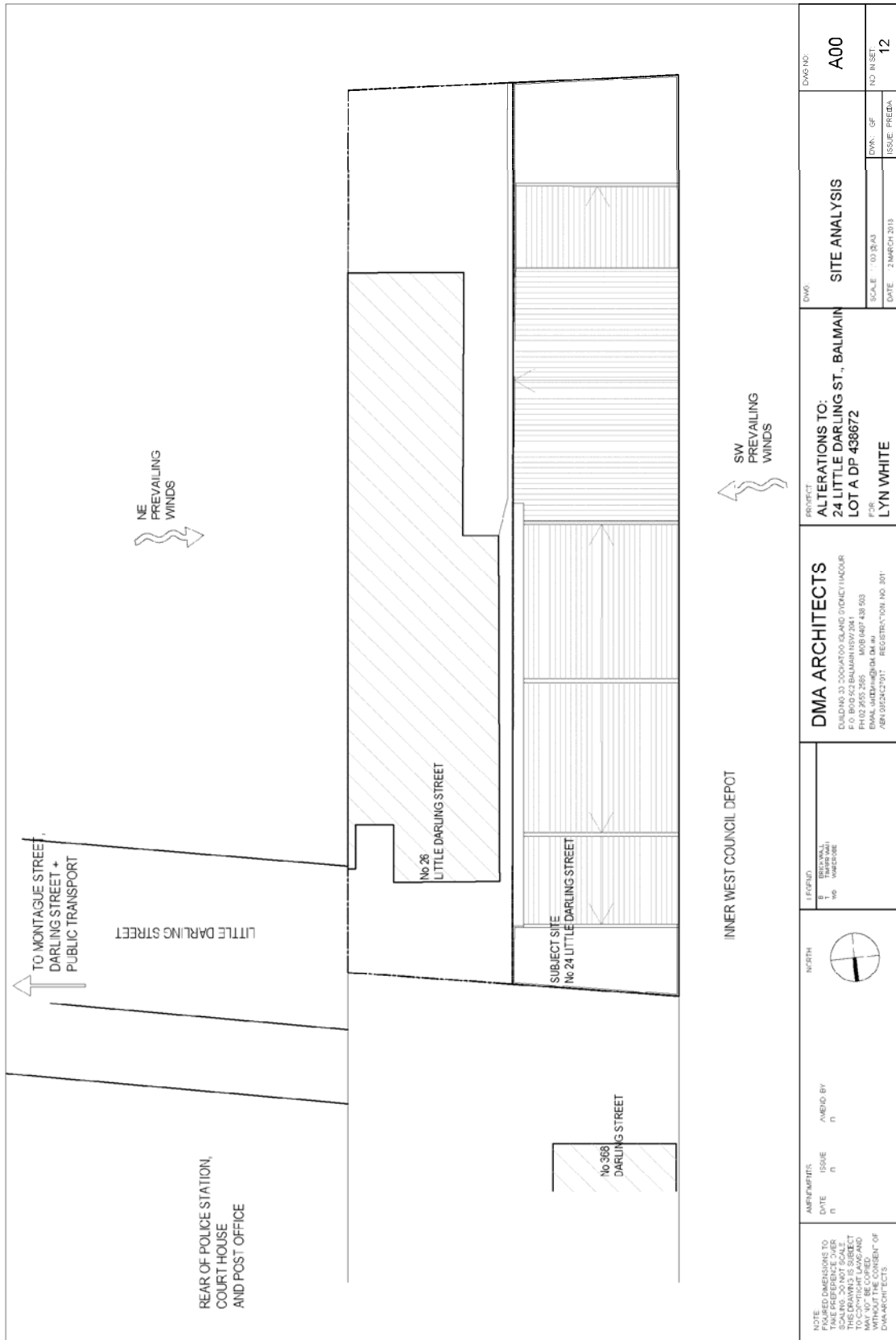
NOTES

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

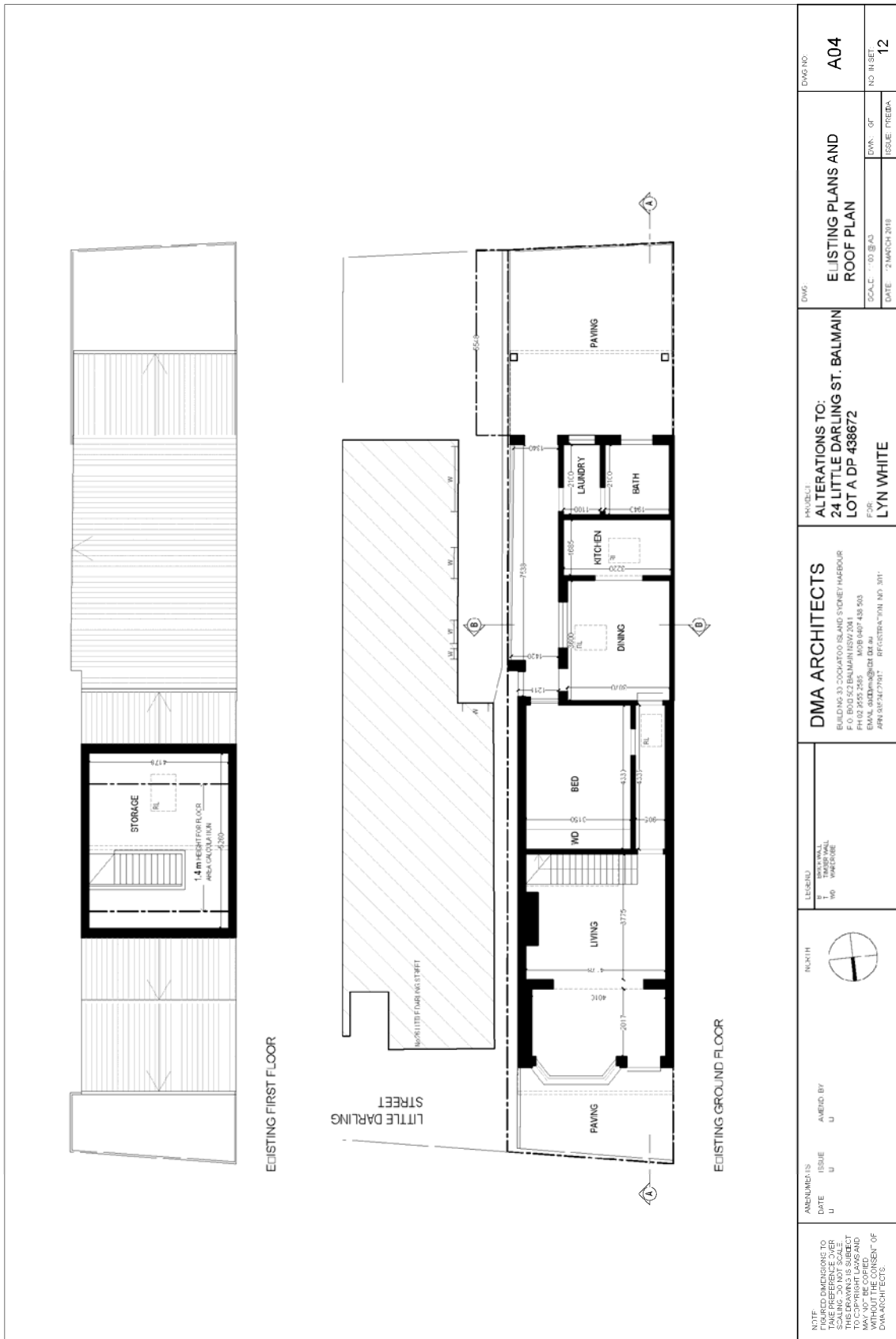
6. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
7. This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):
 - a) Application for any activity under that Act, including any erection of a hoarding.
 - b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
 - c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
 - d) Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
 - e) Application for Strata Title Subdivision if strata title subdivision of the development is proposed.
 - f) Development Application for demolition if demolition is not approved by this consent.
 - g) Development Application for subdivision if consent for subdivision is not granted by this consent.
 - h) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
8. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained.

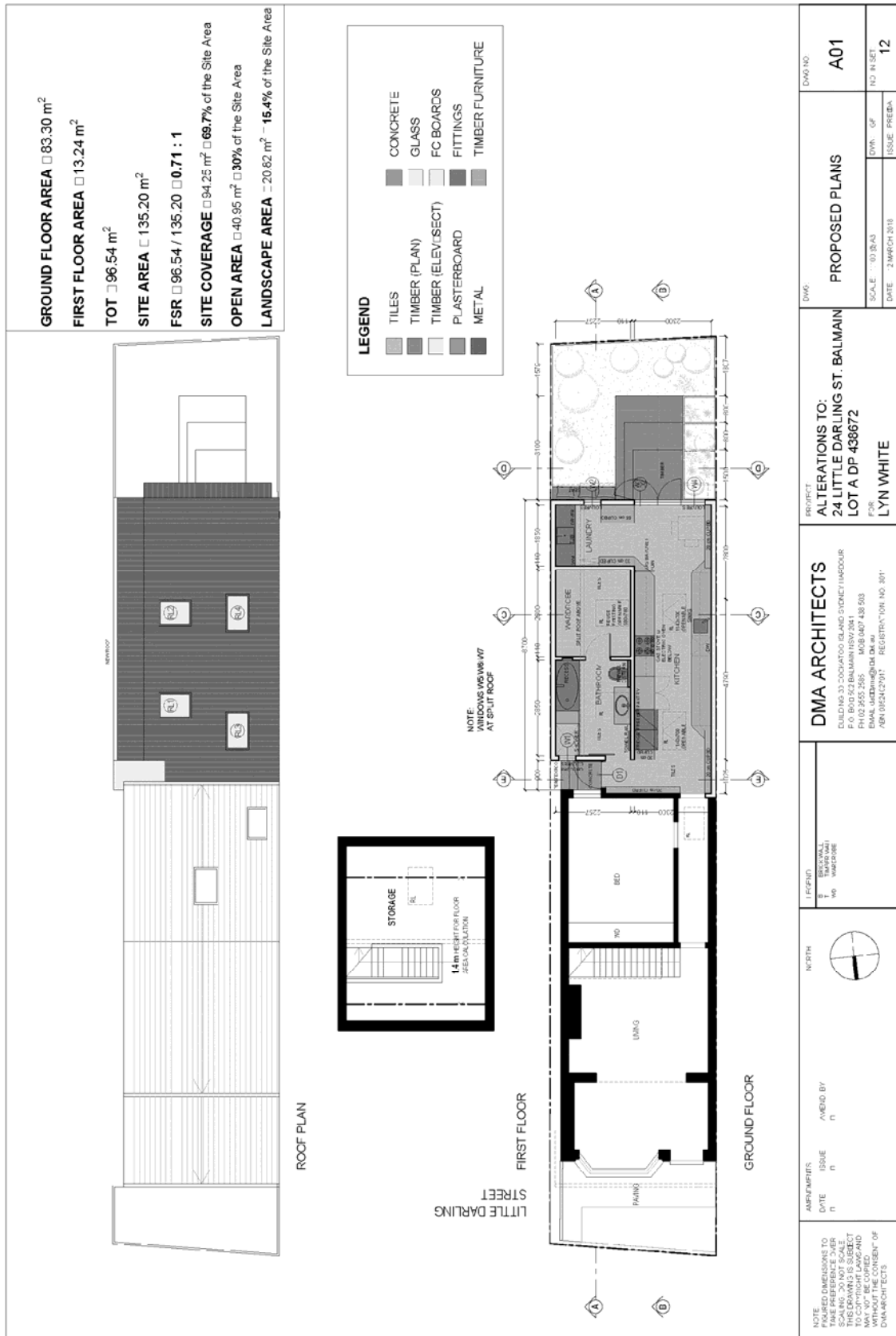
Have you made a political donation?

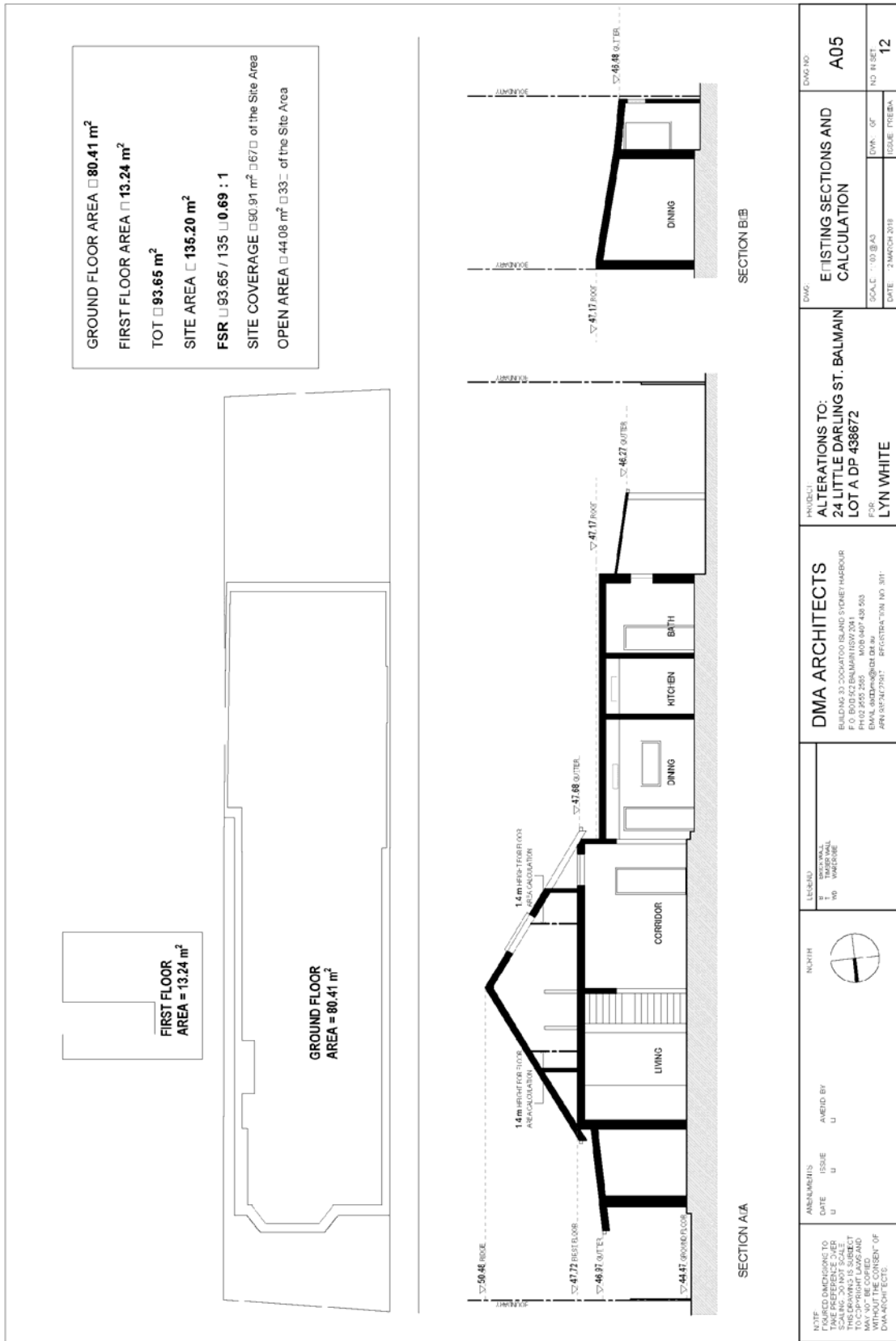
If you (or an associate) have made a political donation or given a gift to a Councillor, political party or candidate at the local government elections during the last two (2) years you may need to include with your application a full disclosure of this matter. For information go to Council's website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

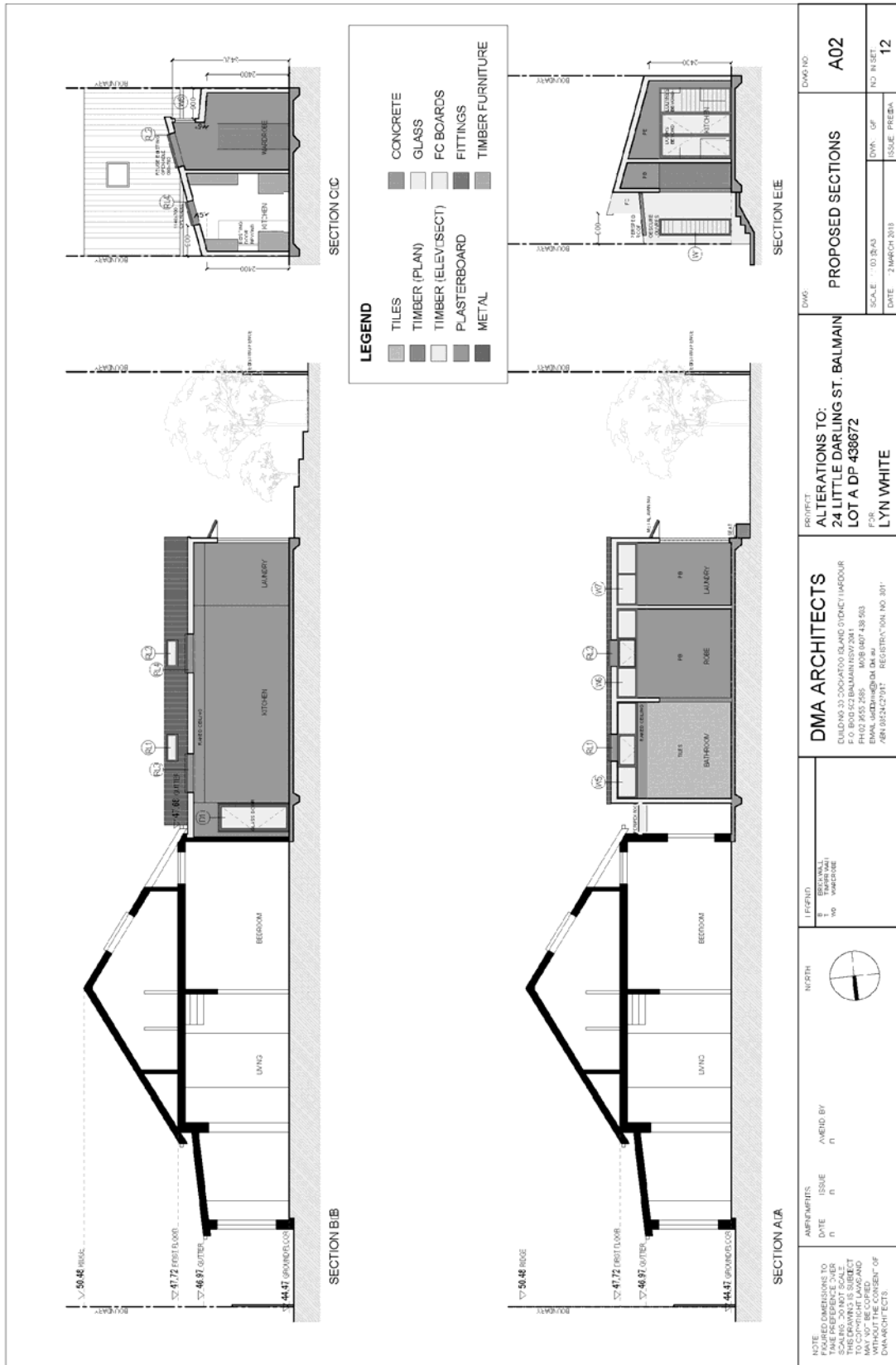


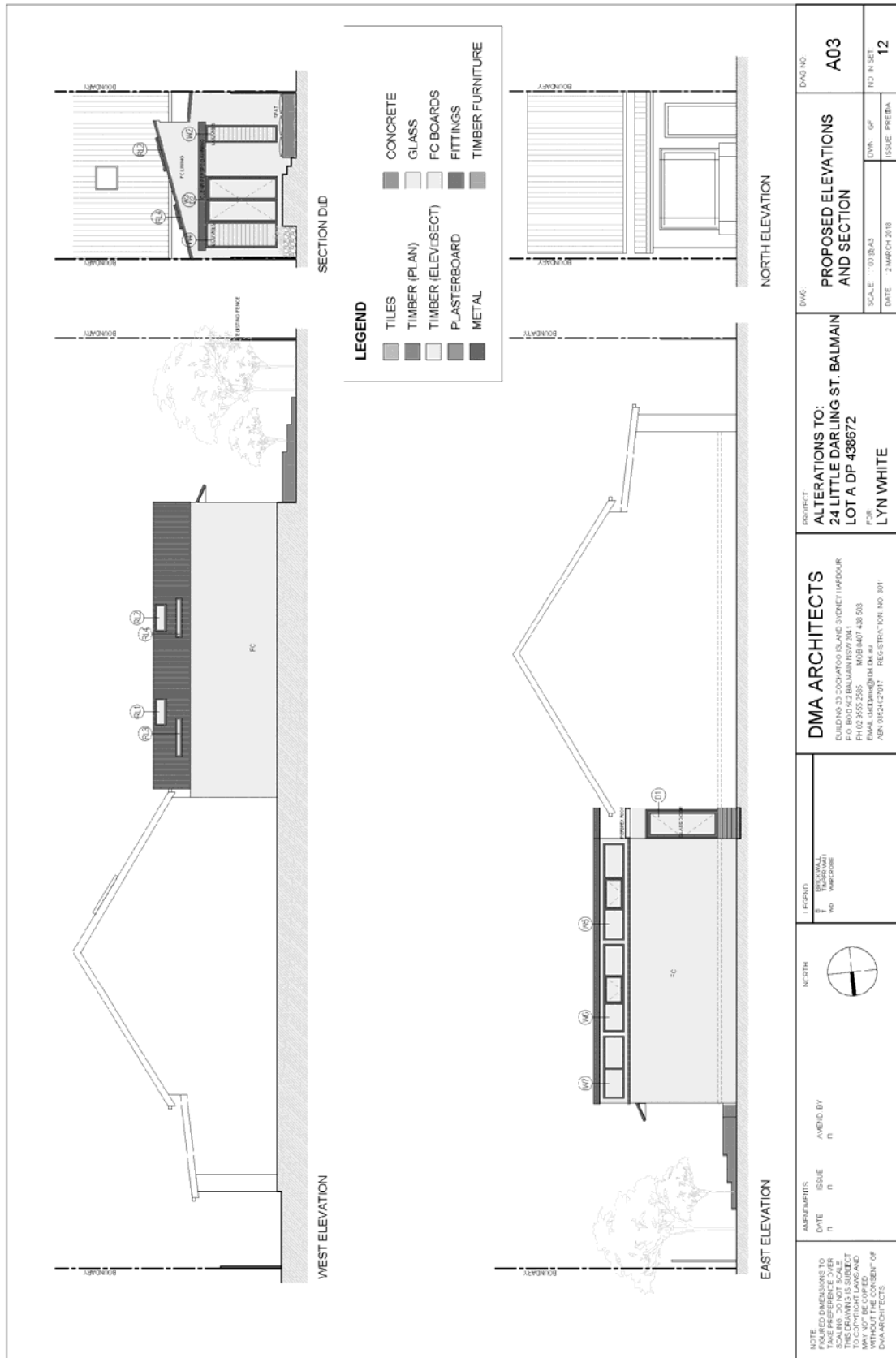
NOTE: PLANNED DIMENSIONS TO TAKE PRECEDENCE OVER DIMENSIONS SHOWN ON THIS DRAWING. THIS DRAWING IS SUBJECT TO CONFIRMATION LATER AND WITHOUT THE CONSENT OF DMA ARCHITECTS.	AMENDMENTS	DATE	ISSUE	AMEND BY	DATE	ISSUE	AMEND BY		
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IF FEELING UNWELL, PLEASE CONTACT YOUR ARCHITECT FOR ASSISTANCE.	NORTH		DRAWING NO.		REVISION NO.		VERSION		
DMA ARCHITECTS 65/65 DUNDAS STREET BALMAIN NSW 1510 P.O. BOX 52 BALMAIN NSW 1510 PH: 02 9557 2885 M: 02 9557 438 503 EMAIL: info@dma.com.au /65105243701 REGISTRATION NO. 3011				PROJECT: ALTERATIONS TO: 24 LITTLE DARLING ST., BALMAIN LOT A DP 438672 FOR: LYN WHITE				DWG NO: A00 NO IN SET: 12	
SCALE: 1:100				DATE: 2 MARCH 2015				ISSUE: PRELIM	

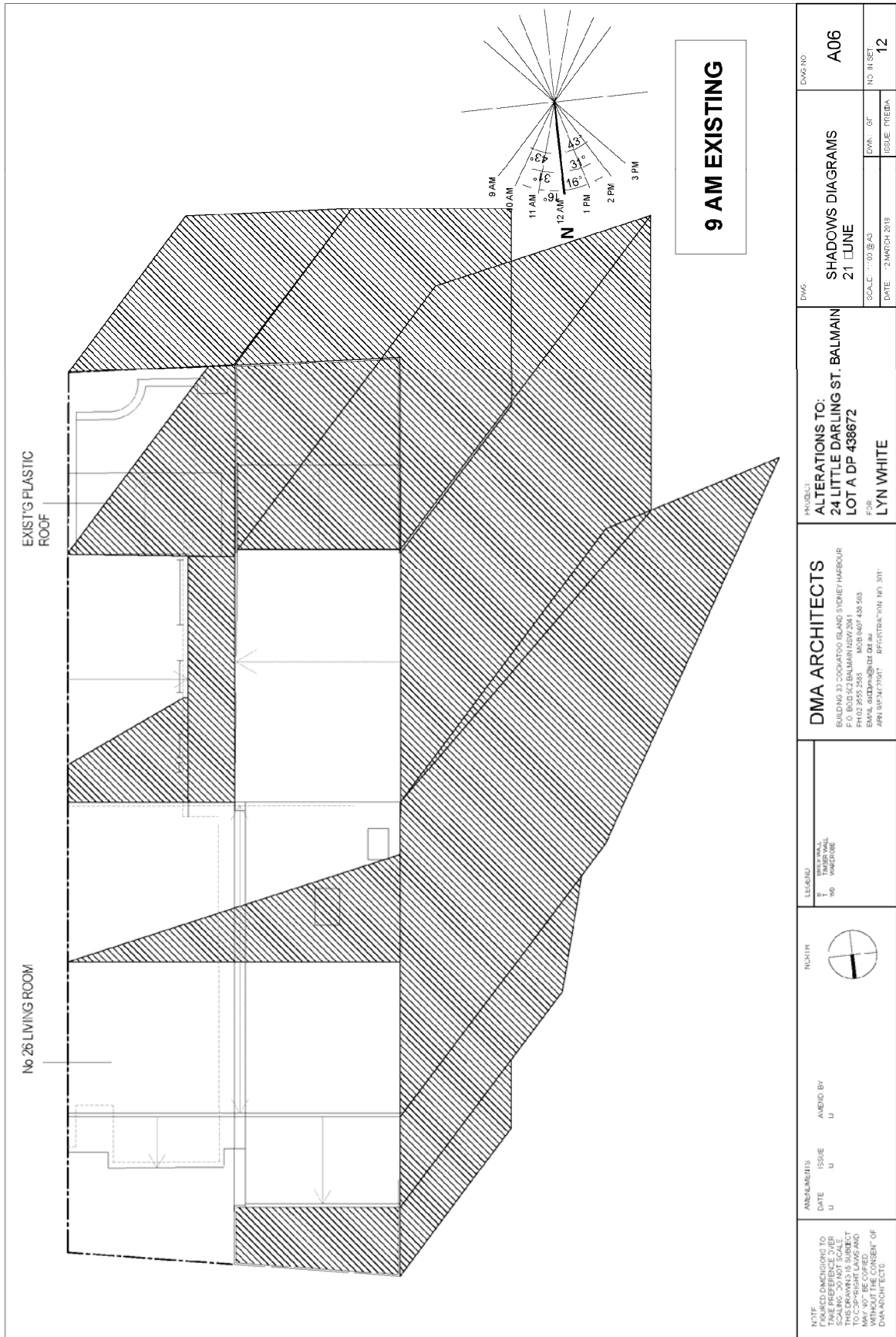






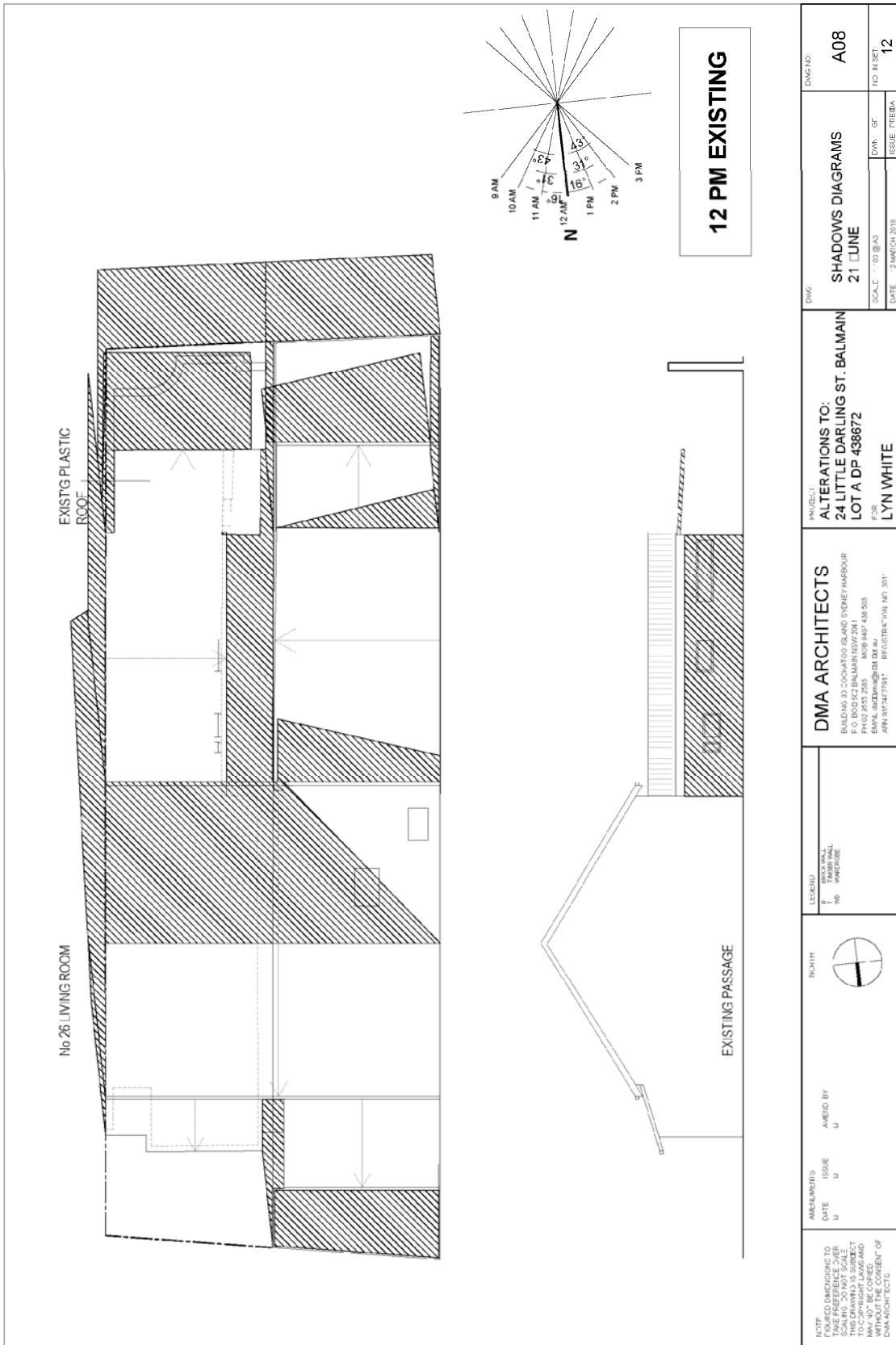




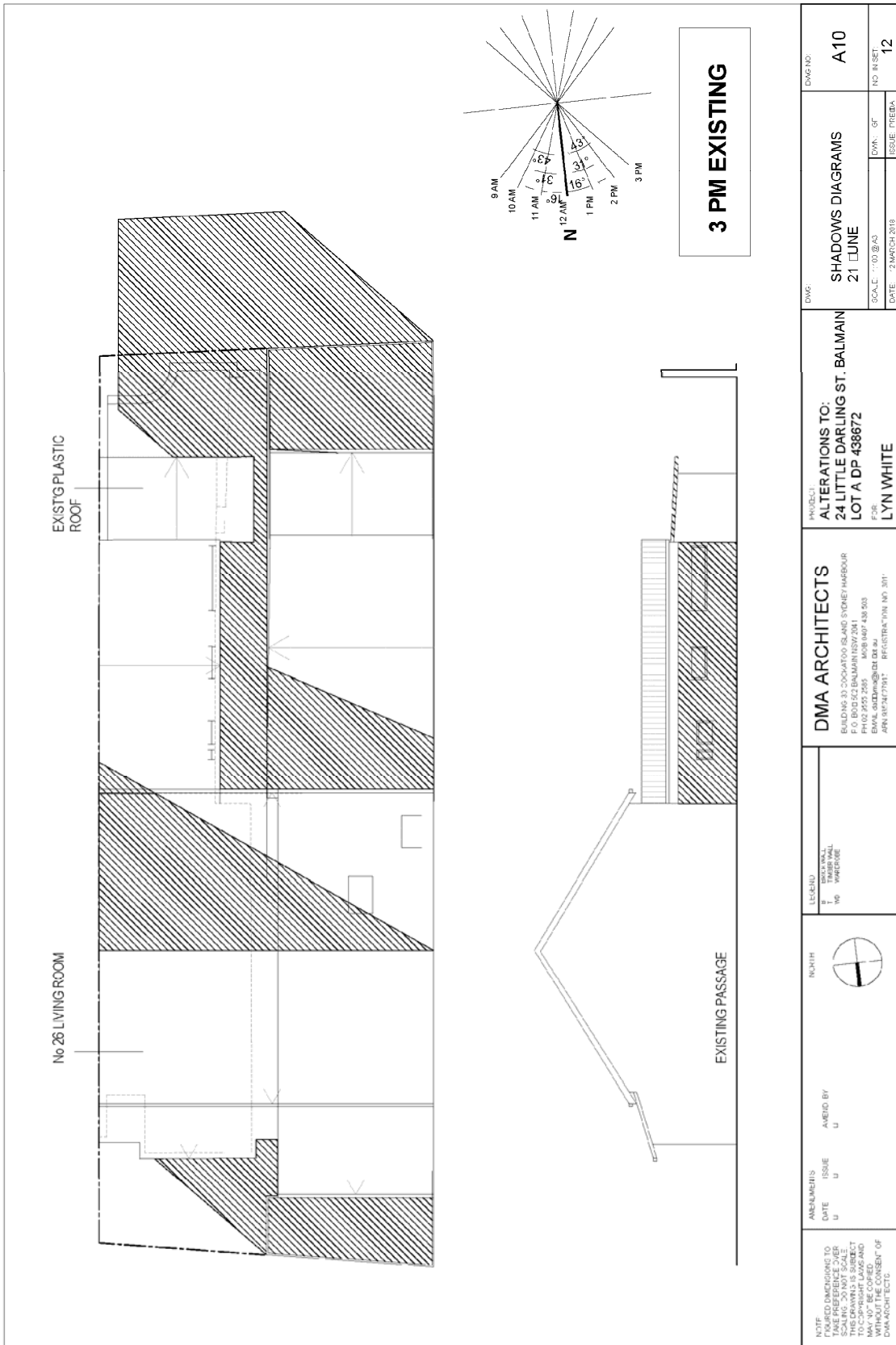


9 AM EXISTING

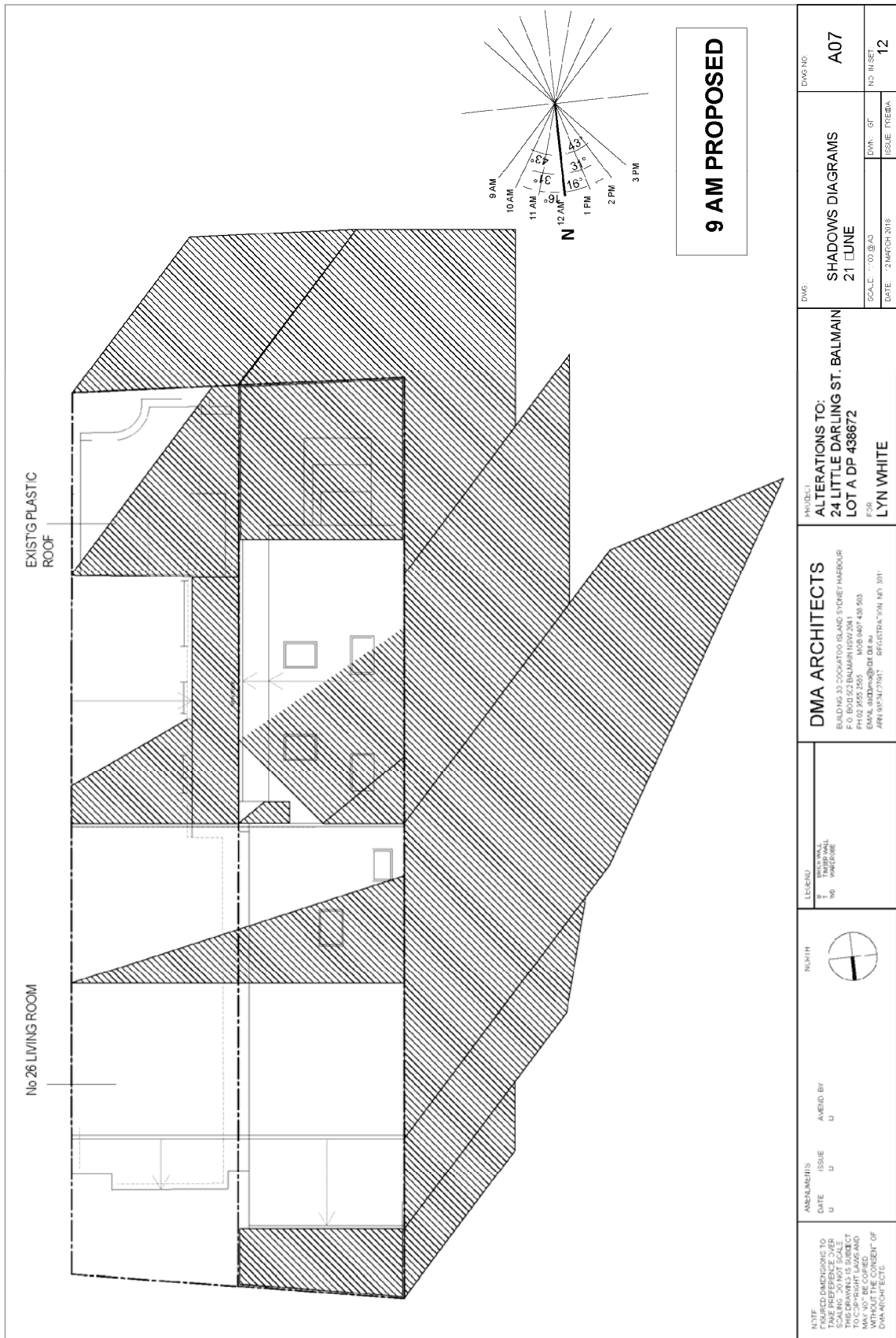
NOTIFY ENGINEERS TO TAKE PREFERENCE OVER SCALING. DO NOT SCALE. THIS DRAWING IS NOT TO COPYRIGHT LAWS AND MAY NOT BE COPIED WITHOUT THE CONSENT OF DMA ARCHITECTS.	ANNOTATIONS DATE U ISSUE U AVOID BY U	NORTH 	LEGEND H BRICK WALL NO WAREHOUSE	DMA ARCHITECTS BUILDING 30 COOKHARTOOL ISLAND SYDNEY HARBOUR P.O. BOX 102 BALMAIN NSW 2041 PH: (02) 9550 4000 EMAIL: dma@dma.com.au ABN: 957472957 REGISTRATION NO: 3011	PROJECT: ALTERATIONS TO: 24 LITTLE DARLING ST. BALMAIN LOT A DP 438672 FIRM: LYN WHITE	DWG: SHADOWS DIAGRAMS 21 JUNE	DWG NO: A06
	DATE: 2 MARCH 2018 SCALE: 1:100 @ A3 NO. IN SET: 12 ISSUE: TFEEDA						



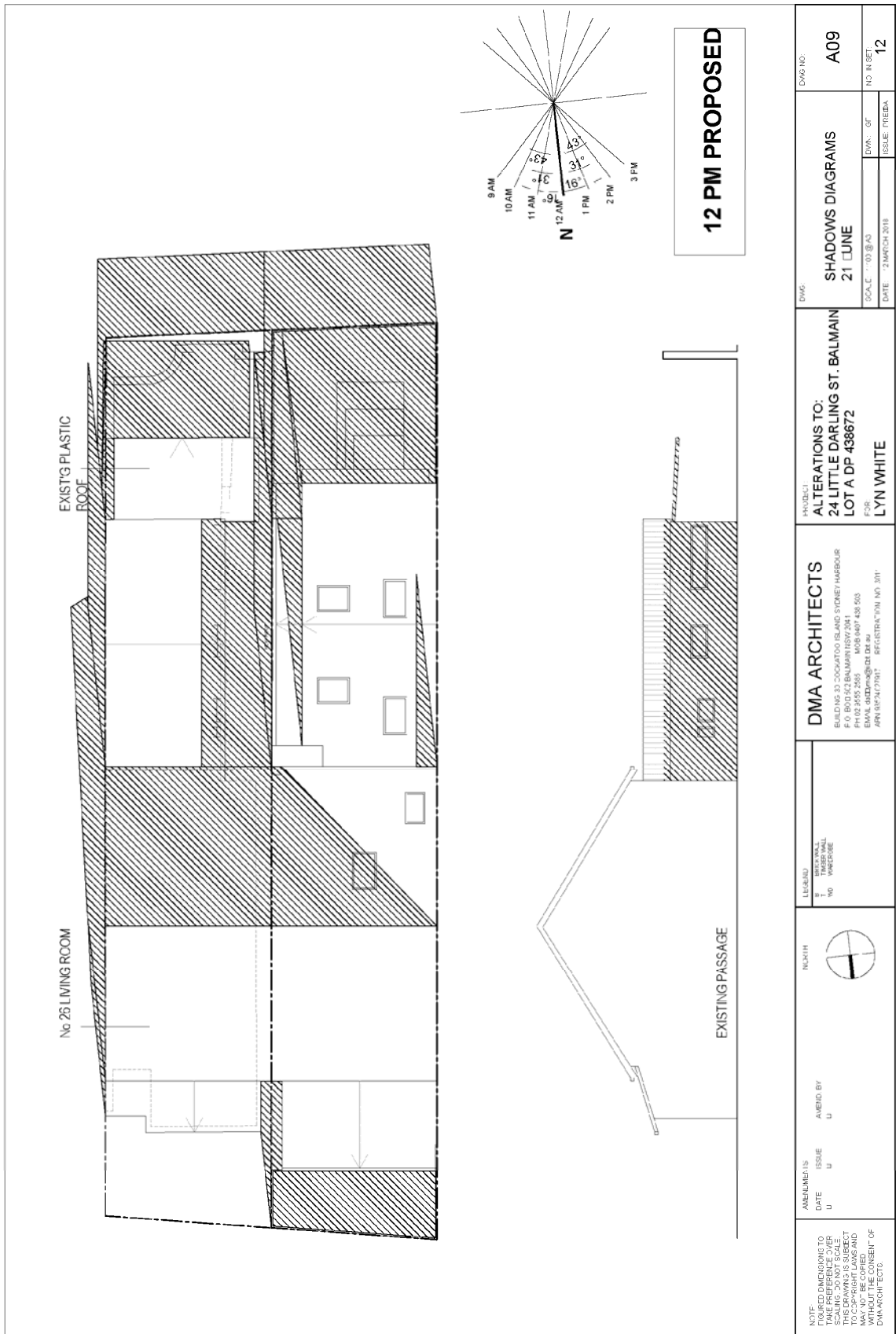
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	SCALE: 1:100 @ A3 DATE: 2 MARCH 2019							



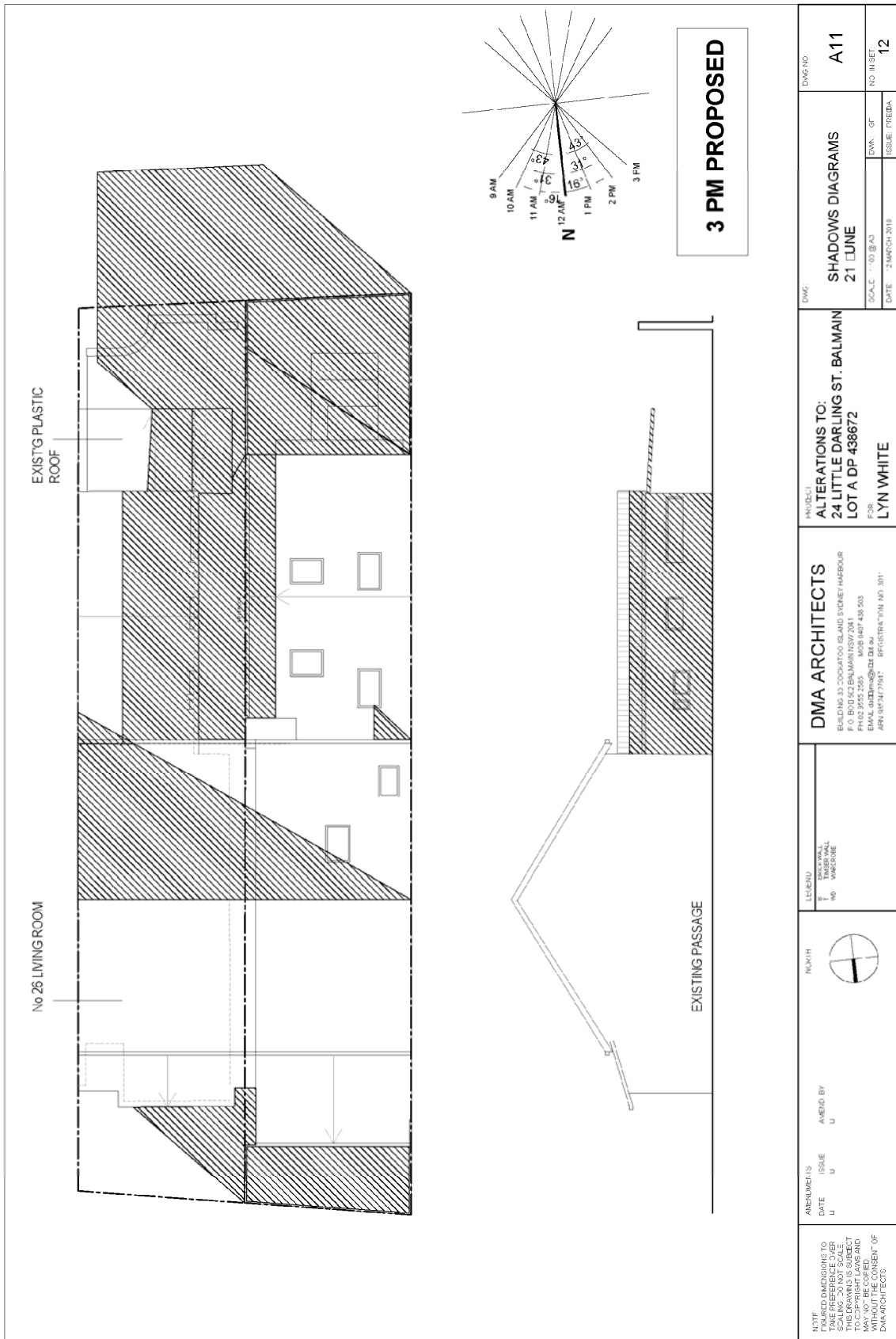
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	SCALE: 1:100 @ A3 DATE: 23 MARCH 2018		DWG: _____ DWA: _____ ISSUE: (REDA)					

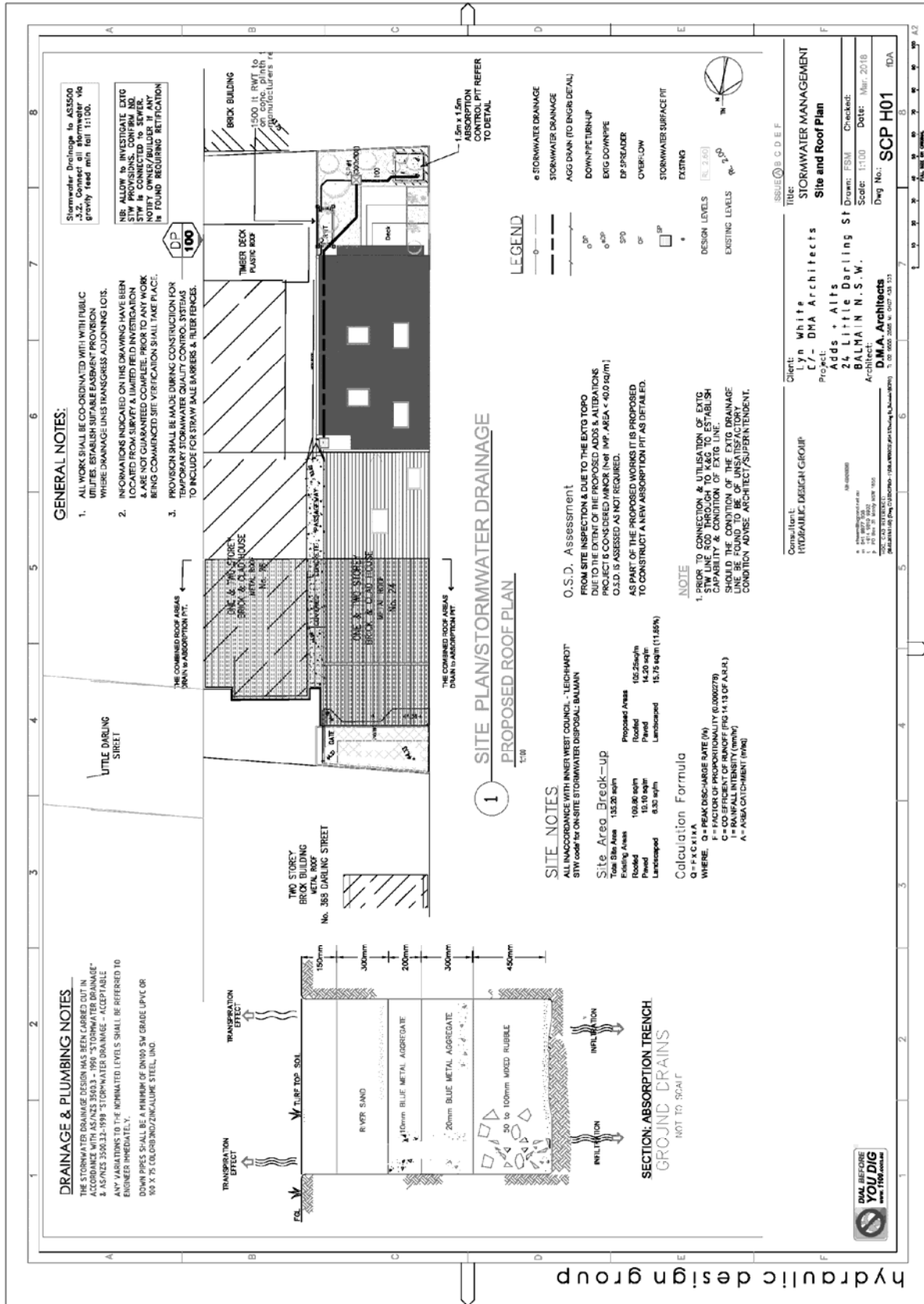


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	SCALE: 1:100 S.A.3 DATE: 23 MARCH 2018									



NOTE: FIGURED DIMENSIONS TO FACE UNLESS NOTED OTHERWISE. THIS DRAWING IS SUBJECT TO THE LOCAL PLANNING PANEL'S APPROVAL AND WITHOUT THE CONSENT OF DMA ARCHITECTS.	AMENDMENTS DATE: U ISSUE: U	DRAWN BY: U	NORTH 	LEGEND T TIMBER WALL W WINDOW	PROJECT: ALTERATIONS TO: 24 LITTLE DARLING ST. BALMAIN LOT A DP 438672 FOR: LYN WHITE	DMA ARCHITECTS BUILDING 30 COOKS ROAD ISLAND STONEY HARBOUR F.O. BOX 62 BALMAIN NSW 2041 PH 02 9555 2565 MOB 0407 438 503 EMAIL: dma@dma.com.au APPROVAL: 17/01/2018 #11010101/19/1/1/1	DWG: SHADOWS DIAGRAMS 21 LUNE	DWG NO: A09
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Attachment C – Clause 4.6 Exception to Development Standards



**DEVELOPMENT APPLICATIONS
EXCEPTIONS TO DEVELOPMENT STANDARDS**
PURSUANT TO CLAUSE 4.6 OF LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013

DEVELOPMENT APPLICATION DETAILS:

Address:	24 LITTLE DARLING STREET, BALMAIN
Proposed Development:	ALTERATIONS TO THE REAR OF THE PROPERTY COMPRISING A NEW BATHROOM, WALK-IN ROBE, LAUNDRY + KITCHEN. REMOVAL OF PAVING TO THE REAR YARD TO INCREASE THE LANDSCAPED AREA.
I wish to lodge a request to vary the following development standard for the reasons indicated:	

WHAT IS THE STANDARD SOUGHT TO BE VARIED?

- Floor Space Ratio – Clause 4.4 or 4.4A of LEP 2013
- Landscaped Area – Clause 4.3A(3)(a) of LEP 2013
- Site Coverage – Clause 4.3A(3)(b) of LEP 2013
- Subdivision Allotment size – Clause 4.1 of LEP 2013
- Foreshore Building Area – Clause 6.5 of LEP 2013
- Diverse Housing – Clause 6.13 of LEP 2013

The purpose of the above standards is to ensure that the proposed works are compatible with the surrounding environment in terms of bulk, scale, amenity, streetscape, setting, transport and preserving the character of the building and surrounding conservation area and heritage items

Where an applicant wishes to vary a development standard, the application must be accompanied by a well-founded, written request which seeks to justify the contravention of the development standard by demonstrating:

- a. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case
- b. that there are sufficient environmental planning grounds to justify contravening the development standard.

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

CONTRAVENING THE DEVELOPMENT STANDARD IS JUSTIFIABLE FOR THE FOLLOWING REASONS:

- THE SITE COVERAGE IS INCREASED FROM 67.24% TO 69.7% OF THE SITE AREA. THIS REPRESENTS A 2.46% INCREASE.
- THE INCREASE RESULTS FROM THE OWNER SUFFERING FROM MULTIPLE SCLEROSIS AND HAVING TO RELOCATE SOME OF HER BELONGINGS FROM AN ATTIC STORAGE AREA TO A PROPOSED WALK-IN ROBE.
- THE SITE AREA OF 135.2 m² IS SMALL AND IT IS CONSIDERED JUSTIFIABLE TO CONTRAVENE THE STANDARD.

Why is compliance with the standard unreasonable or unnecessary?
What are the special circumstances in this case?
 (To answer consider whether a development that complies is unnecessary or unreasonable)

COMPLIANCE WITH THE STANDARD IS UNREASONABLE AND UNNECESSARY BECAUSE OF THE OWNER'S HEALTH NEEDS AS DESCRIBED ABOVE.
 THESE PRESENT SPECIAL CIRCUMSTANCES THAT WOULD MAINTAIN THE OWNER'S QUALITY OF LIFE.

Is the proposed development consistent with the objectives of the particular standard?
Is the proposal consistent with the objectives of the relevant zone?

YES, THE PROPOSED DEVELOPMENT IS CONSISTENT WITH THE OBJECTIVES OF THE STANDARD.

YES, THE PROPOSAL IS CONSISTENT WITH THE OBJECTIVES OF THE RELEVANT ZONE.