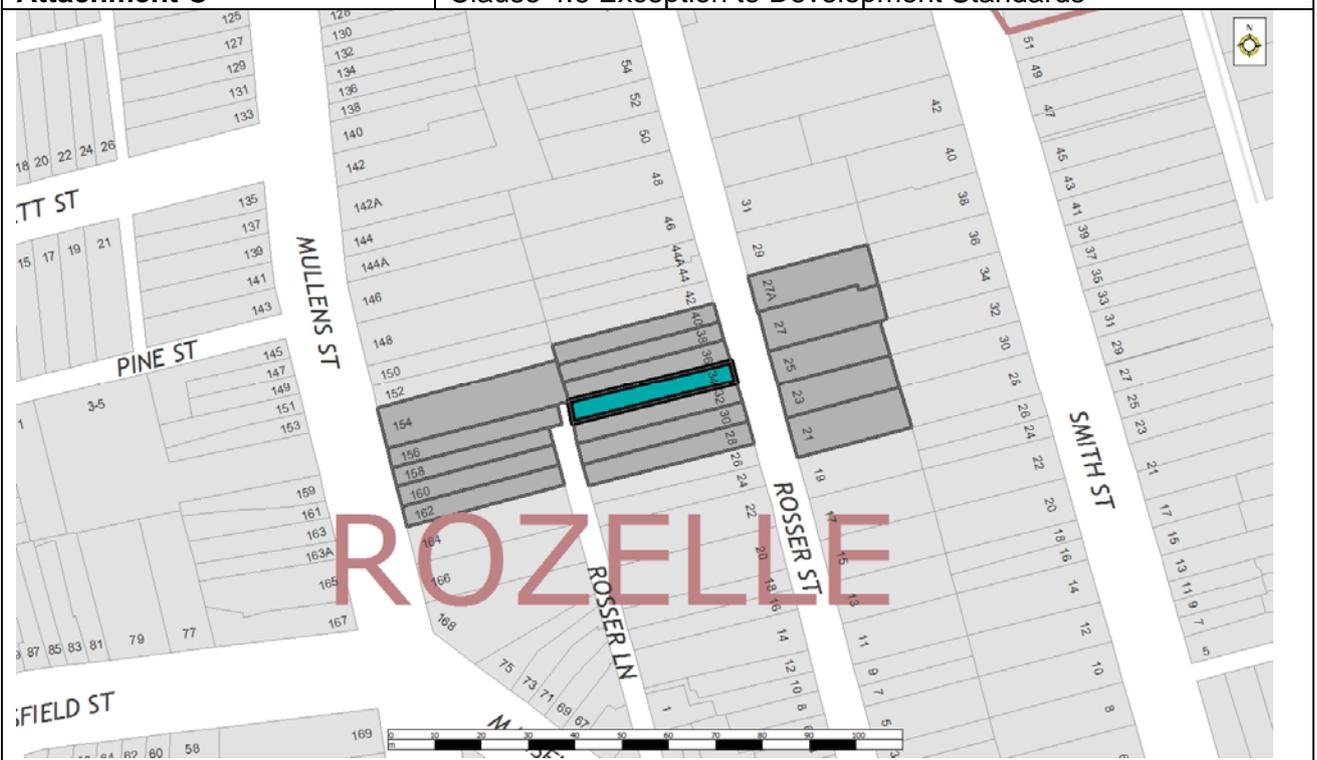




INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	D/2018/402
Address	34 Rosser Street, ROZELLE NSW 2039
Proposal	Proposed garage and terrace area over and plunge pool at rear of site, and associated works, including associated demolition, new fencing and stairs.
Date of Lodgement	2 August 2018
Applicant	Mr B M Mulheron
Owner	Mr B M Mulheron and Mrs J X Mulheron
Number of Submissions	Nil
Value of works	\$50,000
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		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for a proposed carport with a terrace area over and a plunge pool at rear of site, and associated works, including associated demolition, new fencing and stairs at 34 Rosser Street, Rozelle. 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-compliance, 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 removal of an existing rear raised deck and construction of a new partial above ground plunge pool, and rear carport with rooftop deck.

The pool has dimensions of 2.8m x 1.5m with a 0.15m setback to the southern boundary adjacent to a proposed 2.15m (RL18.82) high cement rendered and painted masonry boundary wall and abutting an adjoining boundary wall with a height of RL18.74 to RL19.94. A condition will be imposed requiring associated pool filter equipment to be located inside the carport or adjacent sub-floor within a soundproof box.

The carport rooftop deck has dimensions of 3.53m x 6m with 1.17m setback to the northern boundary, a 1.65m (RL18.82) high privacy screen along the northern side of the deck, a 0.95m wide link adjacent to the pool to the dwelling and stair access to the carport. The proposed deck and pool coping level is RL 17.17. A 1.1m high cement rendered balustrade is proposed along the western side of the deck facing Rosser Lane.

The proposed carport has dimensions of 3.3m x 6m and an overall wall height of 3.74m facing Rosser Lane. An open style steel picket fence 1.8m high facing Rosser Lane is proposed to the rear side passage. New landscaped areas at least 1m wide are proposed within the rear and front of the site in order to offset loss of landscaping from the parking area.

No change is proposed to the existing dwelling as a part of this proposal.

Extract of the proposed plans are shown in the figures below.

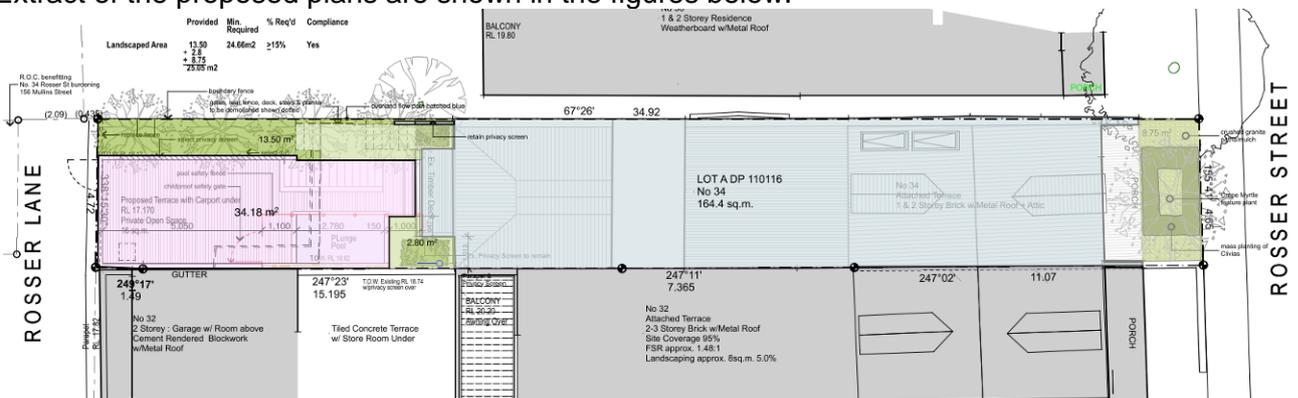


Figure 1: Proposed site plan at 34 Rosser Street Rozelle.

The site has a frontage to Rosser Street of 4.65m and a secondary frontage of 4.72m to Rosser Lane to the rear. The site benefits from an existing right of way of 2.44m and variable width over the rear of 156 Mullens Street, which remains an undedicated portion of Rosser Lane. This forms a contiguous section of paved bitumen at the northern dog-leg of Rosser Lane to allow rear vehicular access to the subject site.

The site supports a one and two storey semi-detached dwelling. The adjoining properties support one and two storey dwellings.

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

No trees are located on the site or within the vicinity. An aerial photo of the site is shown in the figure below.



Figure 5: Aerial Photo at 34 Rosser Street Rozelle.



Figure 6: Front (left) and rear (right) elevations at 34 Rosser Street Rozelle.

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/2018/68	Construction of a garage with terrace and roof garden over, and plunge pool at the rear of the site. The subject proposal is consistent with and satisfactorily responds to the Pre-DA advice provided.	Advice Letter Issued 16/5/2018
PREDA/2017/307,	Construction of a garage with terrace and roof garden over, and plunge pool at the rear of the site.	Advice Letter Issued 4/12/2017
D/2016/50,	Alterations and additions to the existing dwelling and outbuilding, including extensions at ground and lower ground floor levels to form one building. Variation to the Floor Space Ratio development standard.	Approved 29/4/2016
D/2015/244,	Alterations and additions to the existing dwelling, including rear extensions, incorporation of the currently detached outbuilding, roof-top terrace and swimming pool. Variations to Site Coverage and Floor Space Ratio development standards.	Withdrawn 15/7/2015
D/2012/456,	Alterations and additions to the existing dwelling, including extensions at lower ground, ground and first floor levels and an in ground swimming pool in the rear yard. SEPP 1 objections for Floor Space Ratio and Landscaped Area.	Withdrawn 18/10/2012
D/2012/318,	Alterations and additions to the existing dwelling including construction of a three-storey addition to the rear, in-ground swimming pool and outbuilding. SEPP 1 objection for Floor Space Ratio	Withdrawn 21/8/2012

Surrounding properties

Not applicable.

4(b) Application history

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

Date	Discussion / Letter/ Additional Information
23/10/18 & 24/9/2018	The Applicant provided Clause 4.6 requests to vary FSR and Site Coverage and additional detailed justification

18/9/2018	Council wrote to the Applicant requesting a Clause 4.6 variation request in relation to FSR along with FSR calculation diagrams and additional detailed justification for the Clause 4.6 request to vary Site Coverage
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5. Assessment

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

5(a) Environmental Planning Instruments

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

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

The following provides further discussion of the relevant issues:

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

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

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

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

The proposal does not constitute 'BASIX affected development' given the pool has a capacity of less than 40,000L and as such, a BASIX Certificate is not required.

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: [0.8:1 or 131.52sqm]	0.86:1 142sqm	7.5%	No
Landscape Area: 15%	15.23% 25.05sqm	N/A	Yes
Site Coverage: 60%	82.02% 134.85sqm	36.7%	No

Note: The proposal has existing site coverage of 69.9% (or 115.02sqm) and existing FSR of 0.86:1. The proposal involves a net increase of 19.83sqm site coverage in order to provide a covered car space and no change to existing FSR (given the covered car space is open-sided and not fully enclosed by external walls).

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 4.4 – Floor Space Ratio

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 82.02% (or 134.85sqm). Notwithstanding numerical non-compliance, the applicant contends that the proposed building satisfies the stated objectives given that:

- *The area below the structure is able to be landscaped or used for recreational purposes.*
- *The proposal is consistent with adjoining properties*
- *The elevated deck is necessary to achieve compliance with Council's Objectives and Controls under C3.8 Private Open Space with regards solar access and practical access, whilst proposed car space reduces demand for on street parking on Rosser Street thereby improving pedestrian access, where vehicles currently park upon the footpath.*
- *The proposal does not raise any overshadowing or privacy issues, and car parking can be provided directly off Rosser Lane, whilst the undercover car space can be utilised for recreational purposes as required under 4.3A(4)(c)(i) and adequate clearance of 2.2m-2.4m makes it fit for purpose for uses such as undercover children's play space.*
- *To achieve strict compliance with LEP2013 4.3A(4)(c)(i), the deck would have to be raised considerably resulting in non-compliance with numerous other objectives & controls within the LEP including overshadowing, loss of privacy, building bulk, potential loss of views. All of which are currently not an issue.*
- *Enables other land uses that provide facilities or services to meet the day to day needs of residents. e.g. on site car parking, a small swimming pool, compliant Private Open Space*
- *Provides housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
- *Protects and enhances the amenity of existing and future residents and the neighbourhood.*
- *The proposal is consistent with the existing development pattern on adjoining attached properties 28-32 Rosser Street that form a grouping of row houses.*
- *The remaining workers cottages in the group, Nos. 32-28 Rosser Street, are built boundary to boundary with full width garages on essentially a nil setback to the laneway.*
- *No.32 has 234sq.m. internal floor space, including a Studio over the Garage, and a site area of 158 sq.m representing a 1.48:1 FSR (by calculation), has no deepsoil planting and 100% Site Coverage.*

- Nos.30 & 28 are similar to No.32, but smaller cottages, with a stairwell/covered terrace and an open terrace respectively above their garages. Site Coverage of approximately 90%.
- No. 24 is similar to the aforementioned but with some landscaping evident in the aerial photograph. Site coverage of approximately 85%.
- Nos. 20a, 20b, & 18 are close to 100% site coverage having single car garages, with walled terraces over.
- Nos. 55-73 Mansfield Street with variable site coverage up to 100%.
- Of the 8 properties fronting Mullins Street with access to Rosser Lane, 4 have garages/ carports and 2 have dual hardstands.
- Improves the amenity and walkability of the neighbourhood by providing secure off street parking from the rear lane thereby reducing conflicts between cars and residents on Rosser Street, whilst maintaining/enhancing the heritage streetscape.

Clause 4.4 – Floor Space Ratio

The proposed development seeks to provide a FSR of 0.86:1 (or 142sqm). Notwithstanding numerical non-compliance, the applicant contends that the proposed building satisfies the stated objectives given that:

- *The non-compliance is pre-existing and the subject of a previous Council Approval i.e. the proposal itself does not generate any additional gross floor space.*
- *There are numerous precedents on Council's Record for properties being approved with FSR's well in excess of those required under LLEP2013 in Rozelle alone, not to mention Birchgrove and Balmain and whilst the adjoining properties in Rosser Street with laneway frontage all (except two who don't have level access), have garages approved prior to the implementation of LLEP2013 with rooftop terraces/private open space on nil setback, Nos. 30 & 32 adjoining being 2 storey with almost 100% site cover and FSR's well in excess of 1:1 FSR.*
- *These properties also exceed the site cover requirements, deficient in landscaping and some have excessive building bulk.*
- *In context the proposal is consistent with the existing and hence future built form and streetscape existing in the immediate area.*
- *There are no adverse amenity impacts on neighbouring properties arising from the proposal.*

(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 proposal is compatible with the existing residential character of the area in relation to building bulk, form and scale.
- The proposed covered car space in the form of a carport off Rosser Lane is considered reasonable noting that this is a typical form of development along this

section of Rosser Lane. The raised rear deck above the carport is also considered reasonable having regard to established pattern of development with raised terraces within adjoining properties along this section of Rosser Lane.

- To require deletion of the carport and deck would serve no practical purpose given an equivalent area of decking more than 2.4m above ground level would not contribute to site coverage as defined where the area below is able to be used for recreational purposes. Similarly, an equivalent area of hardstand would still be required for an open parking area.
- The proposal results in a greater internal amenity outcome for the occupants of the dwelling, provides a suitable covered parking space onsite, maintains adequate private open space and is located where it can be reasonably assumed a small pool can be constructed (wholly contained within 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 outcomes.
- The FSR and site coverage proposed will be compatible with the FSR and site coverage characteristic of the general pattern of development in the vicinity as shown in the aerial photo below.



Figure 7: Existing pattern of development along Rosser Lane adjoining 34 Rosser Street Rozelle.

5(b) Draft Environmental Planning Instruments

Draft State Environmental Planning Policy (Environment) 2018

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed

and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

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

5(c) Development Control Plans

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

Part	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	N/A
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	N/A
C1.3 Alterations and additions	N/A
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.5 Corner Sites	Yes
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	No – refer to discussion below
C1.12 Landscaping	N/A
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	Yes
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	No – refer to discussion below
Part C: Place – Section 2 Urban Character	
Suburb Profile	
C2.2.2.4 The Valley ‘Rozelle’ Distinctive Neighbourhood	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	N/A
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	N/A

C3.6 Fences	Yes
C3.7 Environmental Performance	N/A
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
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	Yes

The following provides discussion of the relevant issues:

C1.4 Heritage Conservation Areas and Heritage Items

The proposal backs on to Rosser Lane, which is characterised by roller doors and garages. The adjoining properties at 32 and 30 Rosser Street to the south contain two storey structures with garages. The proposed structure will sit below these with a one storey presence to the laneway. The proposal is considered to be sympathetic to the conservation area given there are no impacts to the existing dwelling and the other three houses within the group also have garages to the rear lane. Council's Heritage Officer has reviewed the proposal and raised no objections to the proposal as lodged. Therefore, the proposal is acceptable with respect to heritage.

C1.11 Parking

A plan of the proposed vehicle swept path for entry/exit into the garage has been provided. The swept path is based on a Rosser Lane width of 4700mm however the survey indicates that the laneway is only 4550mm width when the adjacent stone crossing is considered.

Based on this, the proposed garage door opening width should be increased to 3750mm to comply with the Leichhardt DCP2013 Section C1.11.5.

Therefore, a condition will be imposed requiring the carport door to be widened to 3.75m at the Rosser Lane frontage and the fence to be adjusted accordingly.

C1.18 Laneway

Control C5 requires a maximum wall height of 3m fronting a lane of 2.5m to 5m width. The existing lane is 4.9m wide from boundary to boundary. The proposed rear carport wall height is 3.74m as measured from the existing ground level of RL14.53. However, the 0.74m variation to the wall height control is considered acceptable given the immediate context of adjoining two storey structures fronting Rosser Lane at 32 and 30 Rosser Street and no adverse amenity, heritage or streetscape impacts. Therefore, the proposal is considered acceptable with respect to wall height and laneway appearance.

E1.2 Water Management

Calculations have been submitted to demonstrate that the increase in impervious area is less than 40m² and the work is minor in nature and therefore OSD is not required. 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 to proposal as lodged
- Development Engineer: 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 standards for 4.3A(3)(b) Site Coverage and 4.4 Floor Space Ratio. After considering the request, and assuming

the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standards 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 standards 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/2018/402 for proposed garage and terrace area over and plunge pool at rear of site, and associated works, including associated demolition, new fencing and stairs at 34 Rosser Street, ROZELLE NSW 2039 subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

1. Development must be carried out in accordance with Development Application No. 2018/402 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
DA01c, Site & Landscape Plan, Rev. C	Gordon Tench	18/7/2018
DA02c, Parking Floor Plan, Rev. C	Gordon Tench	6/3/2018
DA03c, Private Open Space / Pool Floor Plan, Rev. C	Gordon Tench	6/3/2018
DA10c, North Elevation, Rev. C	Gordon Tench	6/3/2018
DA11c, South Elevation, Rev. C	Gordon Tench	6/3/2018
DA12c, West Elevation, Rev. C	Gordon Tench	6/3/2018
DA13c, Longitudinal Section 1, Rev. C	Gordon Tench	6/3/2018
DA14c, Longitudinal Section 3, Rev. C	Gordon Tench	6/3/2018
DA15c, Longitudinal Section 2, Rev. C	Gordon Tench	6/3/2018
DA17c, Cross Section 4, Rev. C	Gordon Tench	6/3/2018

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.

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

Elements	Location
As indicated on the approved plans	Rearward of dwelling

- a) The adjoining residents must be notified seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, site contact details/person, elements to

be demolished and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.

- b) Written notice is to be given to the Principal Certifying Authority for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections must be undertaken by the Principal Certifying Authority:
- i) A pre commencement inspection when all the site works are installed on the site and prior to demolition commencing.
 - ii) A final inspection when the demolition works have been completed.

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

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: Demolition of structures.
- g) The hours of demolition work are limited to between 7:00am and 6.00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority.
- i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- j) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.

- k) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- m) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense. Dial before you dig www.1100.com.au should be contacted prior to works commencing.
- n) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
- o) Prior to demolition, a Work Plan must be prepared and submitted to the Principal Certifying Authority in accordance with the relevant provisions of Australian Standard 2601:2001 Demolition of structures by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- p) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
 - i) A WorkCover licensed contractor must undertake removal of all asbestos.
 - ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400 mm x 300 mm is to be erected in a visible position on the site to the satisfaction of Council.
 - iii) Waste disposal receipts must be provided to Council / Principal Certifying Authority as proof of correct disposal of asbestos laden waste.
 - iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
 - v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

- 3. 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. Amended plans are to be submitted incorporating the following amendments:
 - a) The Garage is to be widened to provide a door opening width of 3750mm at the Rosser Lane frontage and the rear fence is to be adjusted accordingly. No reduction of landscaping or increase in hardstand is permitted.
 - b) Associated pool filter equipment is to be located inside the carport or adjacent sub-floor within a soundproof box.

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.

- 5. 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.

6. 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.
7. 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.

8. 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.

9. 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.
10. 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.
11. 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.

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

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

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

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

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

14. 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.

15. 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.

16. 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.

17. The person acting on this consent shall submit to the Principal Certifying Authority a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the issue of a Construction Certificate.

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

- a) Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter of a public road.
- b) Charged or pump-out stormwater drainage systems are not permitted.

- c) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
- d) An overland flowpath must be provided along the northern side boundary between the rear of the dwelling and Rosser Lane frontage. The rear courtyard must be graded so that bypass flows from the site drainage system are directed to the overland flowpath.
- e) 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.
- f) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS 3500.3-2015 Plumbing and Drainage – Stormwater Drainage
- g) No nuisance or concentration of flows to other properties.
- h) The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.
- i) 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.
- j) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- k) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
- l) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height of 100mm and discharge to the gutter by the shortest possible route.
- n) 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.

19. Alignment levels for the site at all pedestrian access locations shall match the existing back of footpath levels at the boundary. For vehicular access off rear laneways the level at the boundary shall match the invert level of the adjacent gutter plus 110mm at both sides of the vehicle entry.

Note: This may require the internal site levels to be adjusted locally at the boundary to ensure that they match the above alignment levels. Failure to comply with this condition will result in vehicular access being denied.

20. The design of the vehicular access and off street parking facilities shall 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 shall be addressed in the design:
- a) The floor/finished levels within the property shall be adjusted to ensure that the levels at the boundary comply with the Alignment Levels issued with this consent.
 - b) The longitudinal profile across the width of the vehicle crossing shall comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.
 - c) A minimum of 2200mm headroom shall be provided throughout the access and parking facilities. Note that the headroom shall 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 shall be provided, demonstrating compliance with the above requirements.
 - e) The Garage shall have minimum clear internal dimensions of 6000 x 3700mm (length x width) and a door opening width of 3700mm at the street frontage. The dimensions shall be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004.
 - f) Where the drop adjacent to the end of the parking module(s) exceeds 600mm, structural barriers shall be provided. Where the drop is between 150-600mm, wheel stops shall be provided. These physical controls shall be installed in accordance with the requirements of Section 2.4.5 of AS/NZS2890.1-2004. The design shall be certified by a suitably qualified Civil Engineer with NPER registration with the Institution of Engineers Australia prior to the issue of the issue of a Construction Certificate.
 - g) The external form & height of the approved structures shall not be altered from that depicted on the approved plans.

The design shall 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.

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

21. 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.

22. A dilapidation report including a photographic survey of the following adjoining properties must be provided to Principal Certifying Authority prior to any demolition or works commencing on the site or the issue of a Construction Certificate (whichever comes first). The dilapidation report must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property	Structures / Area
32 Rosser Street	Rear garage and boundary wall in rear yard

If excavation works are proposed the dilapidation report must report on the visible and structural condition of neighbouring structures within the zone of influence of the excavations. This zone is defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report is to be prepared by a practising Structural Engineer. All costs incurred in achieving compliance with this condition shall be borne by the applicant. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written correspondence from the owners of the affected properties or other evidence must be obtained and submitted to the Principal Certifying Authority in such circumstances that demonstrates such documentation has been received. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage arising from the works.

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.

23. 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.

PRIOR TO THE COMMENCEMENT OF WORKS

24. 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.

25. 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.

26. 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.

- 27. Any person or contractor undertaking works on public property must take out Public Risk Insurance with a minimum cover of ten (10) million dollars in relation to the occupation of, and approved works within public property. The Policy is to note, and provide protection for Leichhardt Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.
- 28. 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.
- 29. 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.
- 30. Prior to the commencement of works, a sign must be erected in a prominent position on the site (for members of the public to view) on which the proposal is being carried out. The sign must state:
 - a) Unauthorised entry to the work site is prohibited.
 - b) The name of the principal contractor (or person in charge of the site) and a telephone number at which that person may be contacted at any time for business purposes and outside working hours.
 - c) The name, address and telephone number of the Principal Certifying Authority for the work.

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

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

- 31. The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor shall complete a 'Roadworks Application' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

DURING WORKS

- 32. 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.

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

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

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

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

34. The site must be appropriately secured and fenced at all times during works.
35. 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.

36. 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.

37. 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.
38. 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.
39. 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.

40. 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.
41. 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.

42. 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

43. 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.
44. A second Dilapidation Report including photos of any damage evident at the time of inspection must be submitted after the completion of works. A copy of this Dilapidation Report must be given to the property owners referred to in this Development Consent. The report must:
 - Compare the post construction report with the pre-construction report required by these conditions,
 - Clearly identify any recent damage and whether or not it is likely to be associated with the development works including suggested remediation methods.

A copy must be lodged with Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate. Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the

Principal Certifying Authority prior to the issuing of any Occupation Certificate

45. The following works shall be constructed:
- a) Light duty concrete vehicle crossing at the vehicular access location on Rosser Lane.
 - b) Concrete kerb and gutter across the remainder of the Rosser Lane frontage of the site.

All works shall be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications" before the issue of the Occupation Certificate and at no cost to Council.

46. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.

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

47. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.

Certification by a qualified practising Civil Engineer that the vehicular access and off street parking facilities have been constructed in accordance the development consent and with relevant Australian Standards shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

48. Prior to issue of the Occupation Certificate the person acting on this consent shall obtain from Council a compliance Certificate(s) stating that all Road, Footpath, Vehicle Crossing and Public Domain Works on Council property required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.

49. The existing stone kerb adjacent to the site is of local heritage value and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units before the issue of the Occupation Certificate. Non-compliance with this condition will result in loss of your security deposit.

50. 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.

51. 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.
52. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.
53. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that:
 - a) Access to the pool/spa is restricted by a child resistant barrier in accordance with the regulations prescribed in the *Swimming Pools Act 1992*. The pool shall not be filled with water or be allowed to collect stormwater until the child resistant barrier is installed. The barrier is to conform to the requirements of Australian Standard AS 1926:2012
 - b) Any mechanical equipment associated with the swimming pool and spa shall be located in a sound-attenuating container and positioned to minimise acoustic impacts on habitable rooms of surrounding properties. Prior to operation of the pool pump, the Principal Certifying Authority shall be satisfied that noise levels associated with the pool/spa pumping units shall not exceed 5dB(a) above the ambient background noise in any habitable room of adjoining properties. Evidence from a practising acoustical engineer demonstrating compliance with the above must be submitted to the Principal Certifying Authority prior to the operation of the pool pump or issue of an Occupation Certificate.
 - c) A high level overflow pipe has been provided from the back of the skimmer box to the filter backwash line discharging to the sewer. This line must not directly vent the receiving Sydney Water sewer. Evidence from the installer, indicating compliance with this condition must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
 - d) Permanently fixed water depth markers are to be clearly and prominently displayed on the internal surface above the water line at the deep and shallow ends on in-ground pools / spas and on the outside of aboveground pools / spas.
 - e) A durable cardiopulmonary resuscitation information poster sign authorised by the Life Saving Association is to be displayed in the pool / spa area in accordance with clause 10 of the *Swimming Pool Regulation 2008*.
54. 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.
55. 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

56. 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.
57. 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.
58. Access to the swimming pool/spa must be restricted by fencing or other measures as required by the Swimming Pools Act, 1992 at all times

Noise levels associated with pool/spa pumping units shall not exceed the background noise level (L90) by more than 5dBA above the ambient background within habitable rooms of adjoining properties. Pool plant and equipment shall be enclosed in a sound absorbing enclosure or installed within a building so as to not create an offensive noise as defined under the Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Noise Control) Regulation 2008.

Pool plant and equipment 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. Domestic pool pumps and filters must not be audible in nearby dwellings between 8:00pm to 7:00am Monday to Saturday and 8:00pm to 8:00am Sundays and Public Holidays.

All drainage, including any overland waters associated with the pool/spa, must be pipe-drained via the filter to the nearest sewer system in accordance with the requirements of Council & Sydney Water. No drainage, including overflow from the pool or spa shall enter Council's stormwater system.

The disposal of backwash and/or the emptying of a swimming pool into a reserve, watercourse, easement or storm water drainage system is prohibited. These waters are to discharge via a permanent drainage line into Sydney Water's sewer via the filter/pump in accordance with Australian Standard Australian Standard AS 3500.2:2003 *Plumbing and drainage – Sanitary plumbing and drainage*. Permission is to be obtained from Sydney Water prior to the emptying of any pool to the sewer.

A resuscitation chart is to be displayed and maintained at all times.

59. 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 to 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

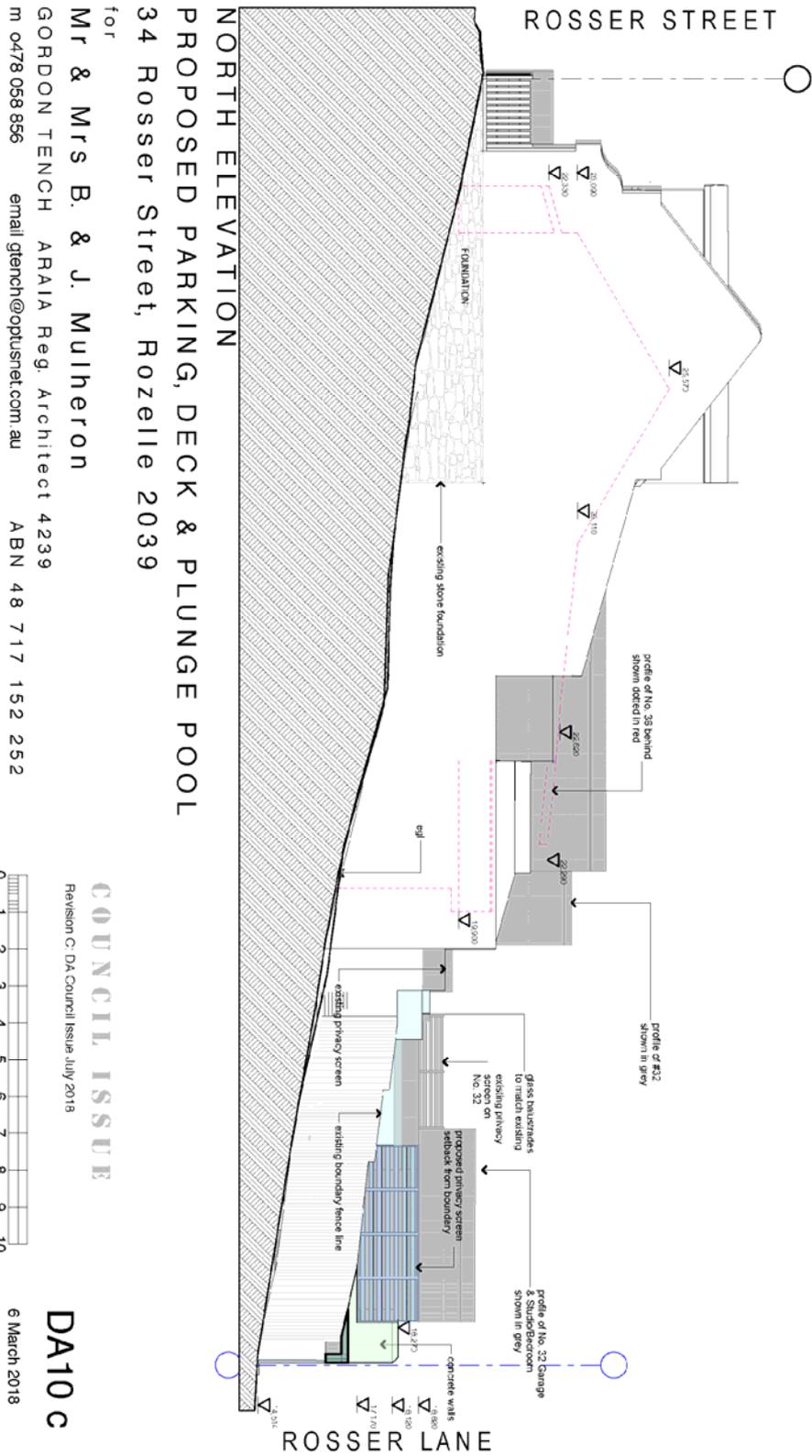
1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. Section 8.2 of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, 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.

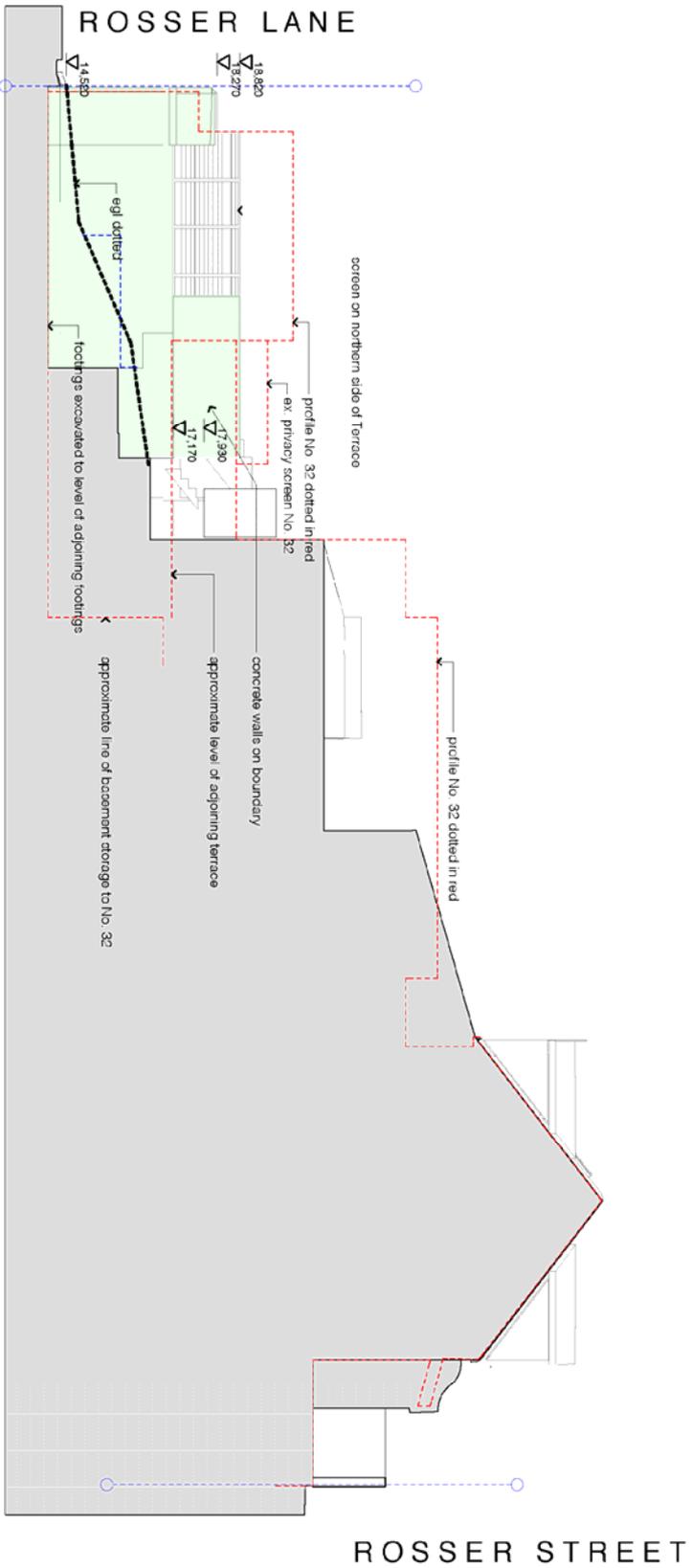
4. Failure to comply with the relevant provisions of *the Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.
5. Works or activities other than those approved by this Development Consent will require the submission 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.
9. You may need a permit before filling a new or renovated swimming pool which holds more than 10,000 litres of water. You are advised to contact Sydney Water on 132092 to obtain this permit.

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.

Attachment B – Plans of proposed development





SOUTH ELEVATION
PROPOSED PARKING, DECK & PLUNGE POOL
 34 Rosser Street, Rozelle 2039

for
Mr & Mrs B. & J. Mulheron
 GORDON TENCH ARAIA Reg. Architect 4239
 m 0478 058 856 email gtench@optusnet.com.au

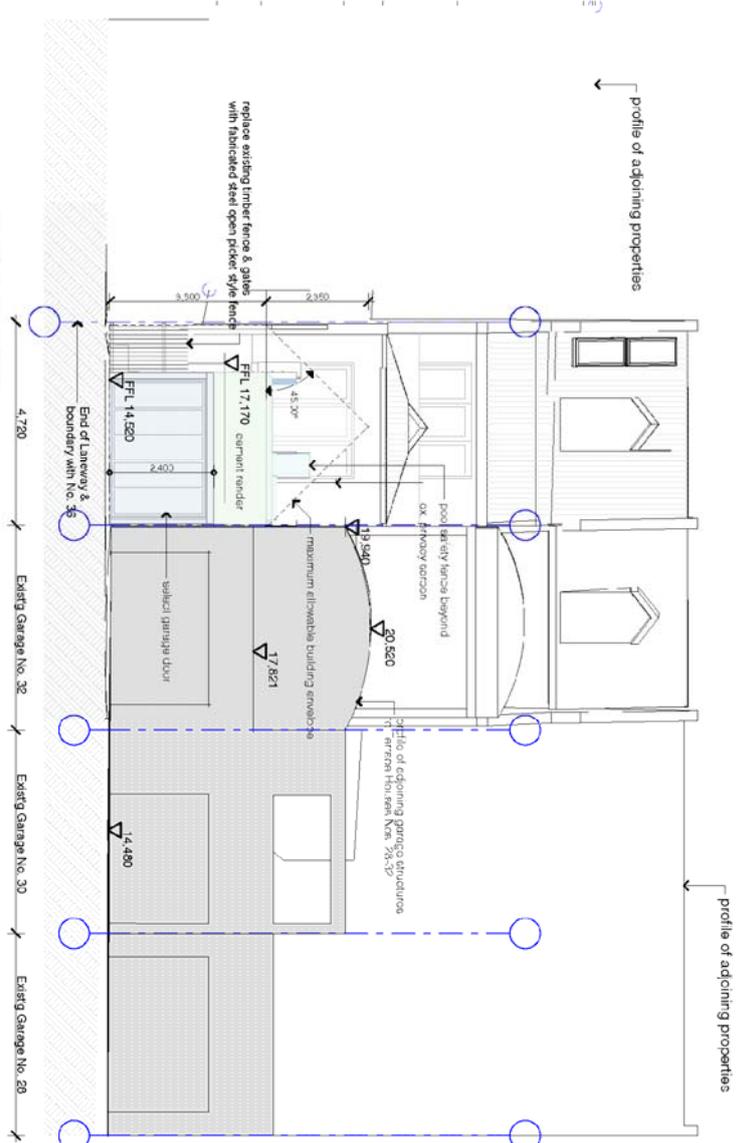
ABN 48 717 152 252

COUNCIL ISSUE
 C Revision Council Issue



DA11C

Issue 18 July 2018



WEST ELEVATION
PROPOSED PARKING, TERRACE & PLUNGE POOL
34 Rosser Street, Rozelle 2039

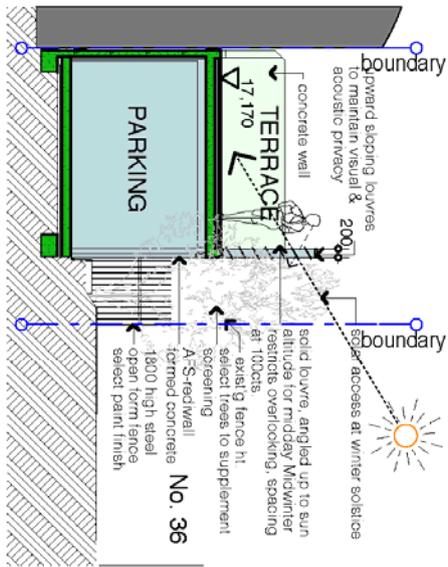
COUNCIL ISSUE
 Revision C: DA Council Issue July 2018

for
Mr & Mrs B. & J. Mulheron
 GORDON TENCH ARAIA Reg. Architect 4239
 m 0478 0568 856 email gtench@optusnet.com.au

ABN 48 717 152 252



DA12C
 6 March 2018



CROSS SECTION 4
PROPOSED PARKING, DECK & PLUNGE POOL
34 Rosser Street, Rozelle 2039

for
Mr & Mrs B. & J. Mulheron
 GORDON TENCH ARAIA Reg. Architect 4239
 m 0478 058 856 email gtench@optusnet.com.au

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 ABN 48 717 152 252

DA17C
 6 March 2018



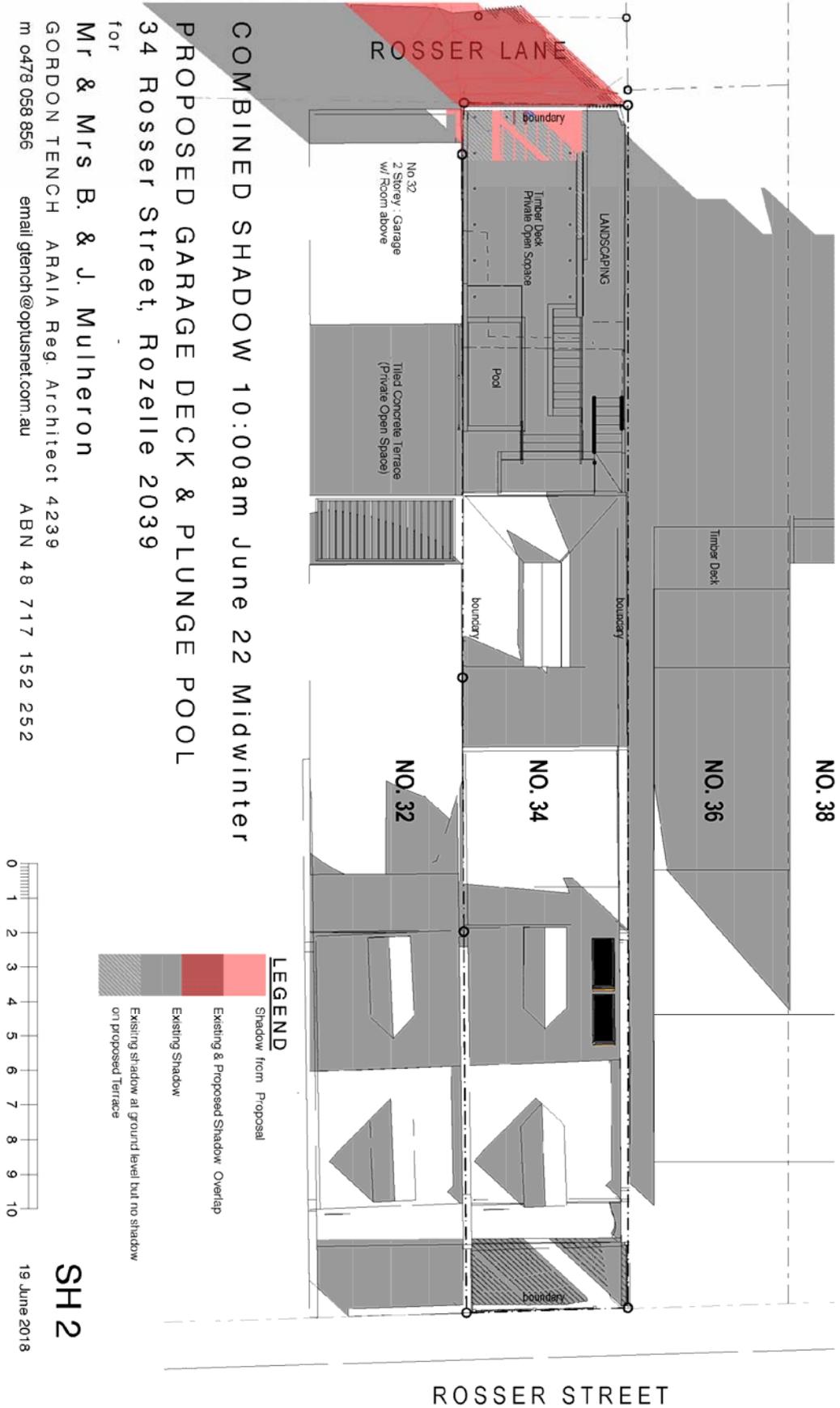
COMBINED SHADOW 9:00am June 22 Midwinter
 NB No shadow cast by proposal as it is engulfed by Existing Shadow

PROPOSED GARAGE DECK & PLUNGE POOL
 34 Rosser Street, Rozelle 2039

for
 Mr & Mrs B. & J. Mulheron
 GORDON TENCH ARAIA Reg. Architect 4239
 m 0478 0588 856 email gtench@optusnet.com.au ABN 48 717 152 252



SH 1
 19 June 2018

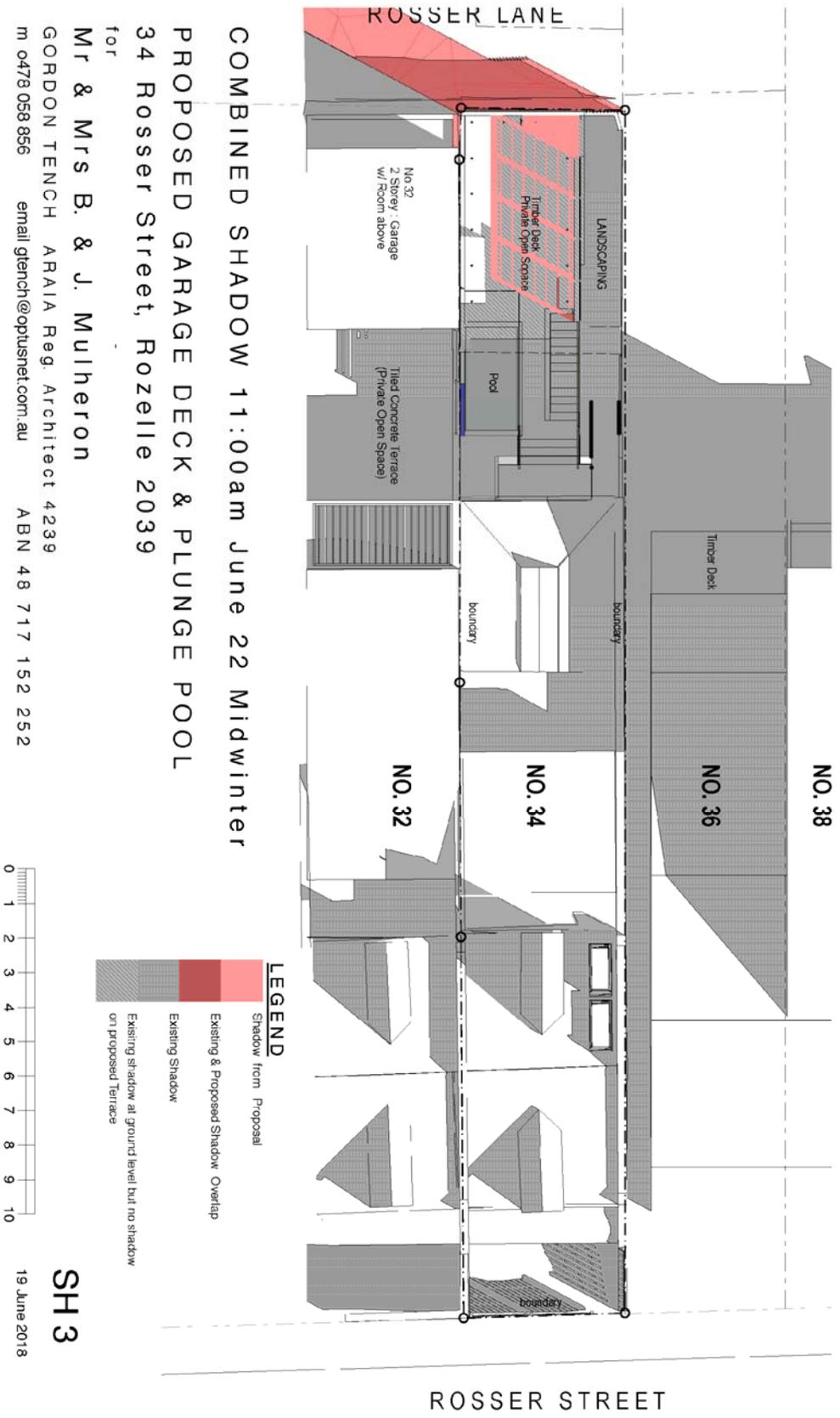


COMBINED SHADOW 10:00am June 22 Midwinter
 PROPOSED GARAGE DECK & PLUNGE POOL
 34 Rosser Street, Rozelle 2039

for
Mr & Mrs B. & J. Mulheron
 GORDON TENCH ARAIA Reg. Architect 4239
 m 0478 058 856 email glench@optusnet.com.au ABN 48 717 152 252

SH 2

19 June 2018



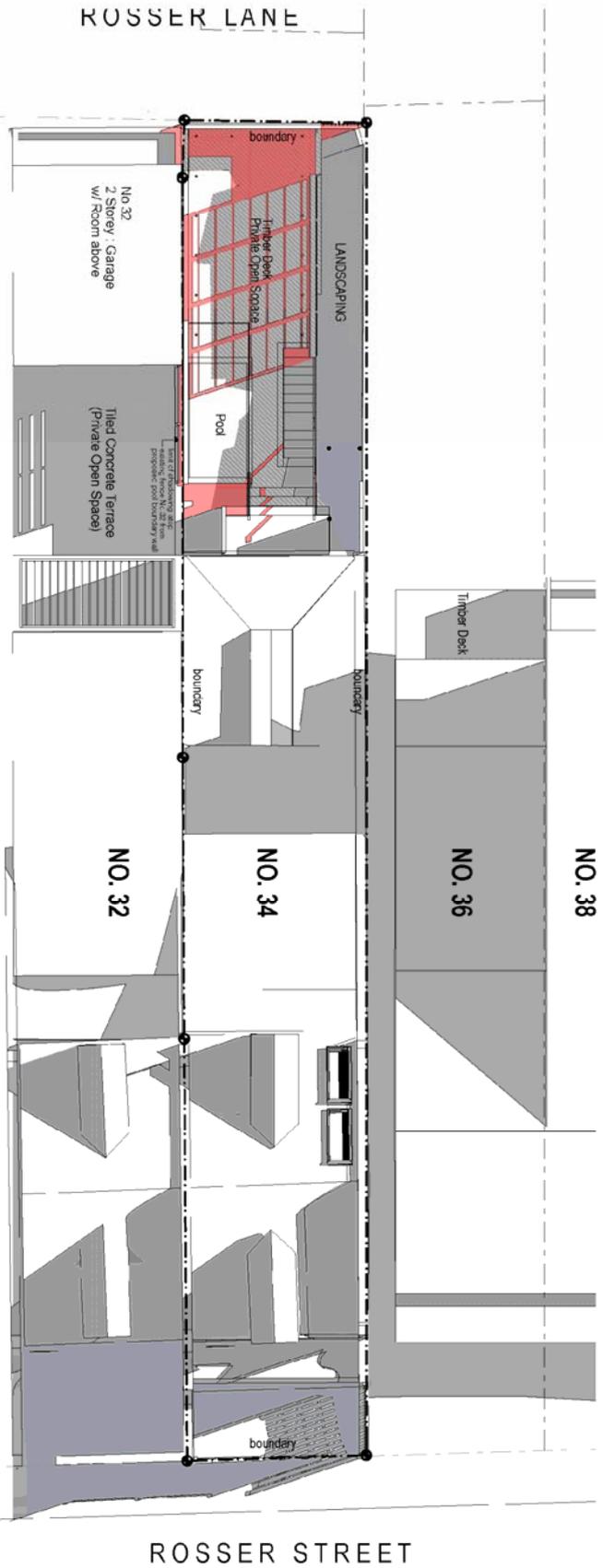
COMBINED SHADOW 11:00am June 22 Midwinter

PROPOSED GARAGE DECK & PLUNGE POOL
34 Rosser Street, Rozelle 2039

for
Mr & Mrs B. & J. Mulheron

GORDON TENCH ARAIA Reg. Architect 4239
m 0478 058 856 email gtench@optusnet.com.au ABN 48 717 152 252

SH3

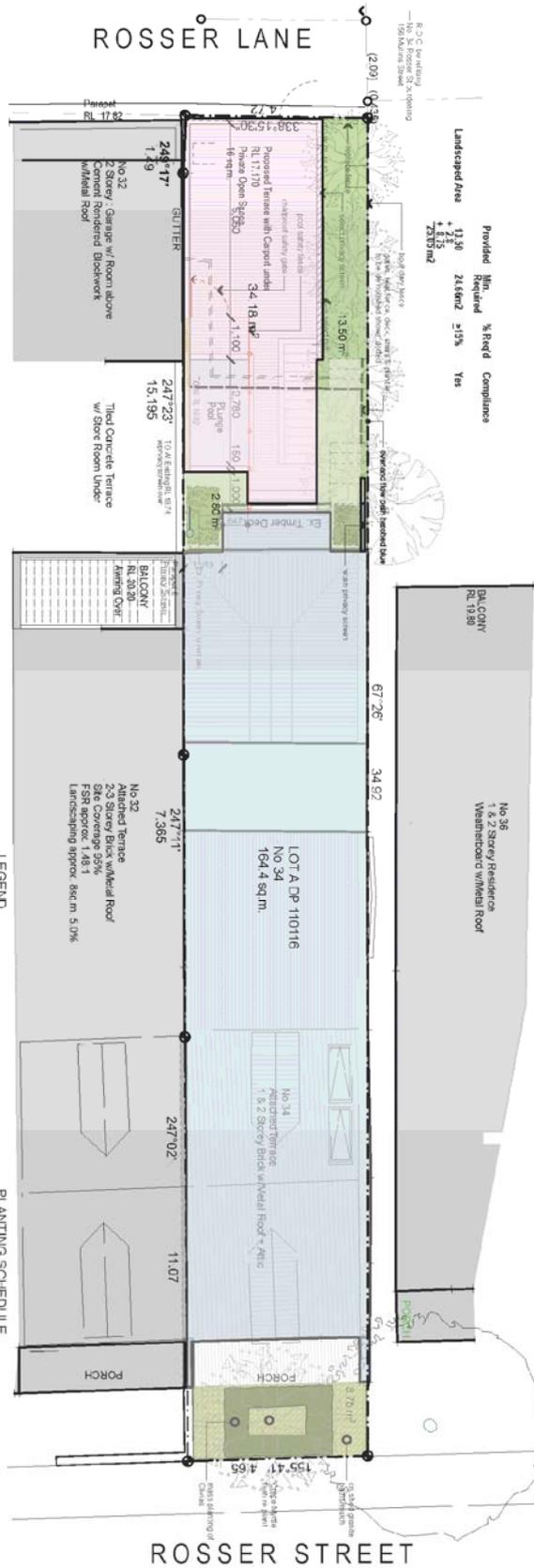


COMBINED SHADOW 2:00pm June 22 Midwinter
 PROPOSED GARAGE DECK & PLUNGE POOL
 34 Rosser Street, Rozelle 2039

for
 Mr & Mrs B. & J. Mulheron
 GORDON TENCH ARAIA Reg. Architect 4239
 m 0478 058 856 email gtench@optusnet.com.au ABN 48 717 152 252

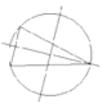
SH6

19 June 2018

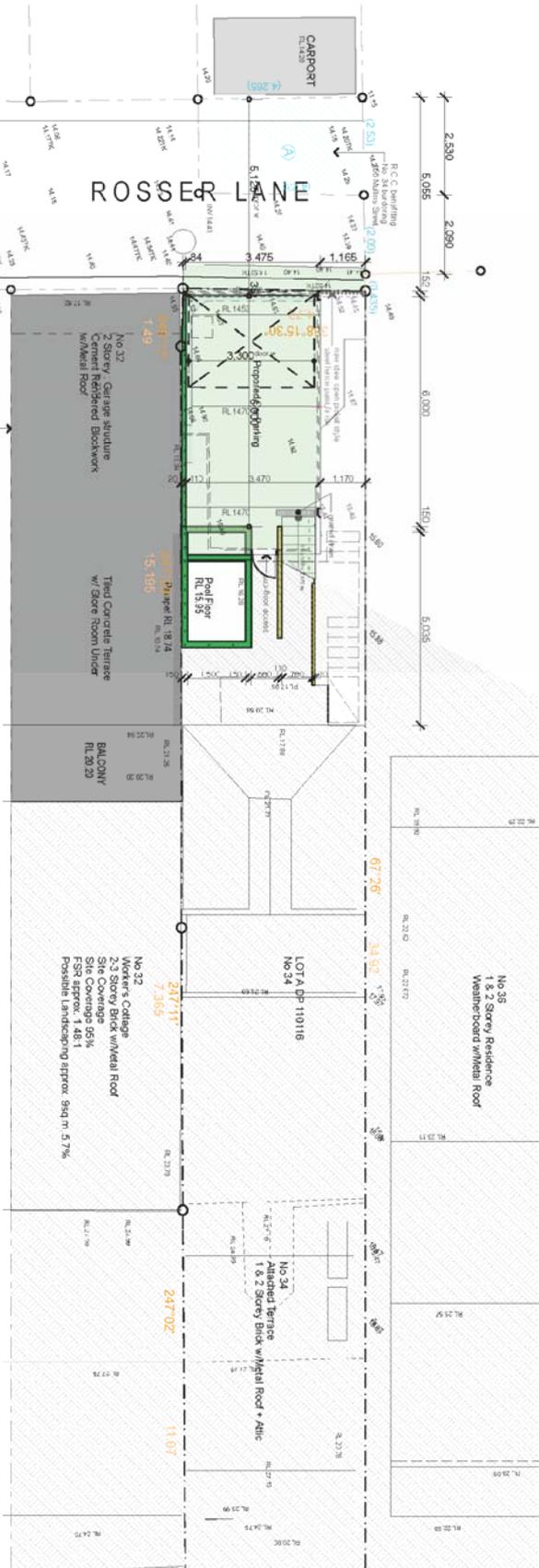


SITE & LANDSCAPE PLAN
PROPOSED CAR PARKING & PLUNGE POOL
 34 Rosser Street, Rozelle 2039

for
Mr & Mrs B. & J. Mulheron
 GORDON TENCH RAIA Reg. Architect 4239
 m 0478 058 856 email gtench@optusnet.com.au ABN 48 717 152 252



COUNCIL ISSUE
 Revision C. DA Council Issue July 2018
DA01C
 18 July 2018



**PARKING FLOOR PLAN RL14.52
PROPOSED GARAGE, DECK & PLUNGE POOL
34 Rosser Street, Rozelle 2039**

for
Mr & Mrs B. & J. Mulheron
GORDON TENCH ARAIA Reg. Architect 4239
m 0478 056 856 email gtench@optusnet.com.au ABN 48 717 152 252



COUNCIL ISSUE
Revision B: Drain added at base of stairs. May 2018
Revision C: DA Council Issue July 2018



DA02C
6 March 2018

AUTOTURN ONLINE

DRAWINGS | GET VEHICLES | HELP | MY ACCOUNT

34RosserRevisionBPreDACarport

Undo Redo

STANDARDS 2004 (AU_NZ):

X: 19.62
Y: 0.46

2m

Meters

TRANSSOFT SOLUTIONS

V2.0.0.80 ©2018 Terms of Use Privacy Support Feedback

Entry Forward B85 AS2890 TS2

AUTOTURN ONLINE

DRAWINGS | GET VEHICLES | HELP | MY ACCOUNT

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Undo Redo

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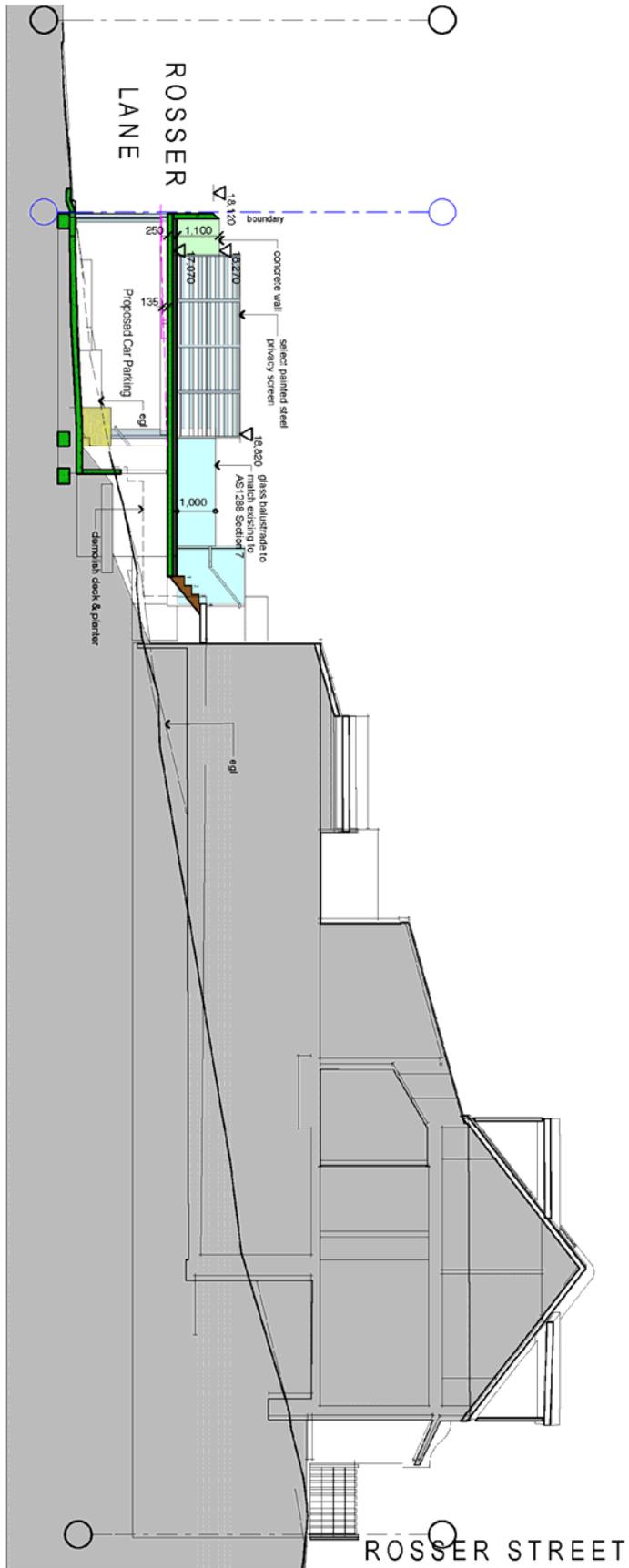
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STANDARDS B85

TRANSOFT SOLUTIONS

Exit Reverse B85 AS2890 TS2

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LONGITUDINAL SECTION 1
PROPOSED GARAGE DECK & PLUNGE POOL
 34 Rosser Street, Rozelle 2039

for
Mr & Mrs B. & J. Mulheron
 GORDON TENCH ARAIA Reg Architect 4239
 m 0478 058 856 email gtench@optusnet.com.au ABN 48 717 152 252

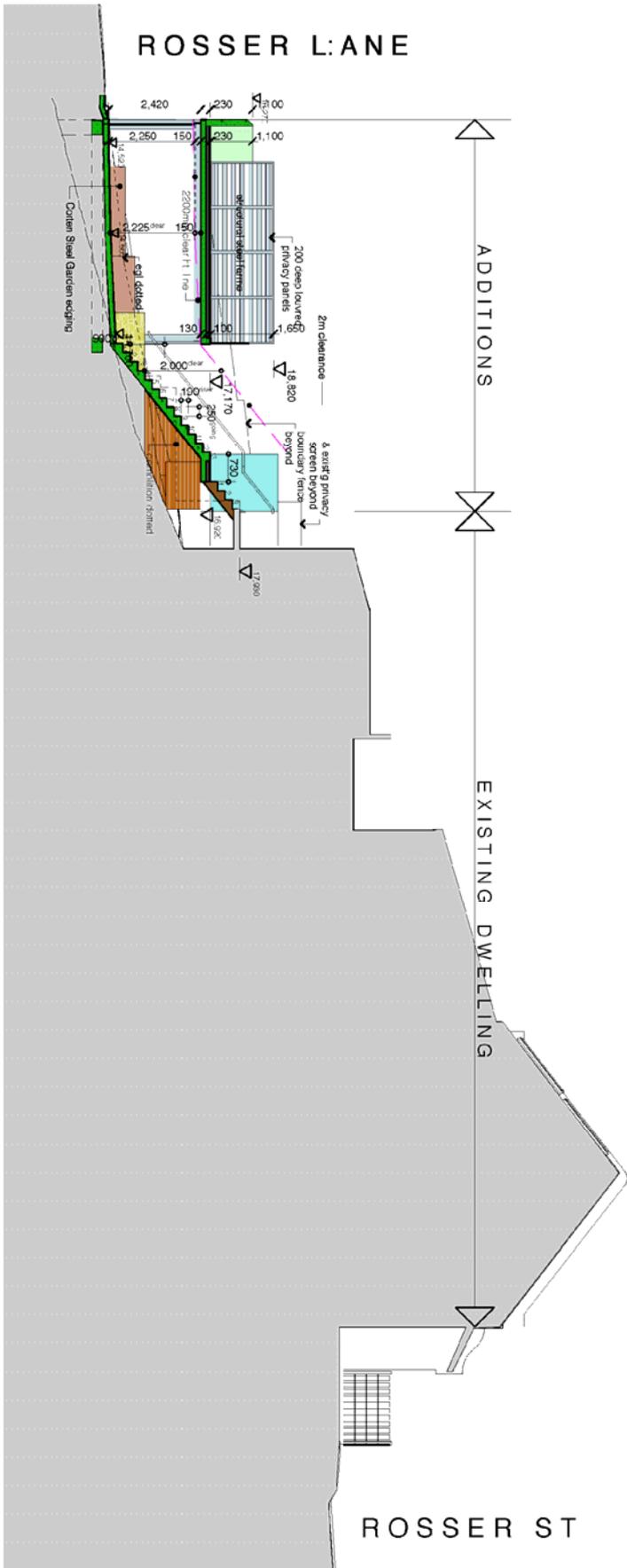
COUNCIL ISSUE

C July 2018 Council Issue



DA13C

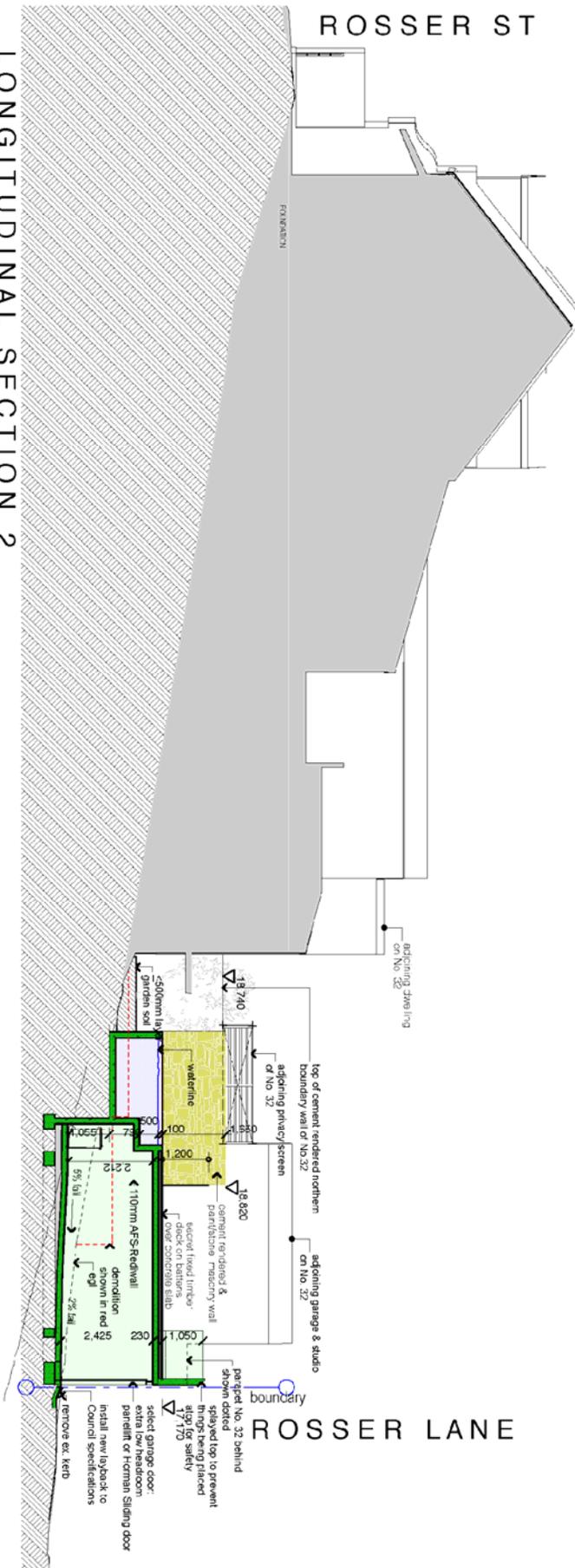
6 March 2018

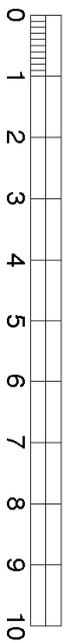
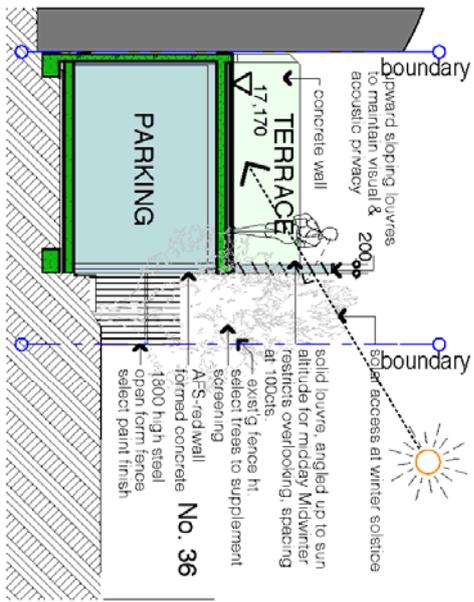


LONGITUDINAL SECTION 3
 PROPOSED GARAGE DECK & PLUNGE POOL
 34 Rosser Street, Rozelle 2039
 for
 Mr & Mrs B. & J. Mulheron
 GORDON TENCH ARAIA Reg. Architect 4239
 m 0478 058 856 email gtench@oplusnet.com.au ABN 48 717 152 252

COUNCIL ISSUE
 A 27/6/18 Additional Dimensions added.
 C July 2018 Car Parking modified, Council Issue

DA14 C
 6 March 2018





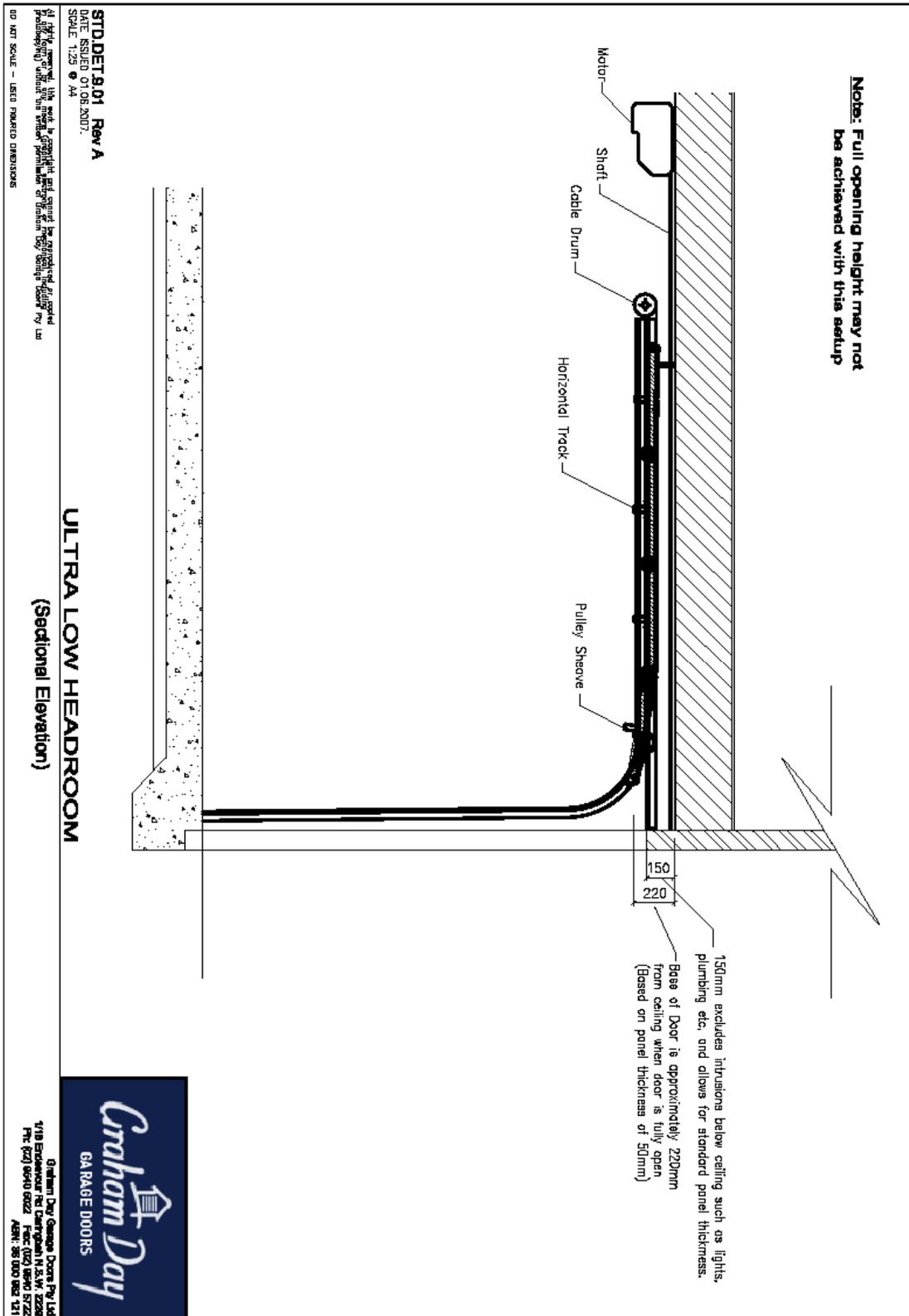
CROSS SECTION 4
PROPOSED PARKING, DECK & PLUNGE POOL
34 Rosser Street, Rozelle 2039

for
Mr & Mrs B. & J. Mulheron
 GORDON TENCH ARAIA Reg. Architect 4239
 m 0478 058 856 email gtench@optusnet.com.au

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 ABN 48 717 152 252

DA17C

6 March 2018



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:	34 Rosser Street, Rozelle 2039
Proposed Development:	Undercover parking with deck over & plunge pool including associated demolition.
I wish to lodge a request to vary the following development standard for the reasons indicated:	

WHAT IS THE STANDARD SOUGHT TO BE VARIED?	
<input checked="" type="checkbox"/>	Floor Space Ratio – Clause 4.4 or 4.4A of LEP 2013
<input type="checkbox"/>	Landscaped Area – Clause 4.3A(3)(a) of LEP 2013
<input type="checkbox"/>	Site Coverage – Clause 4.3A(3)(b) of LEP 2013
<input type="checkbox"/>	Subdivision Allotment size – Clause 4.1 of LEP 2013
<input type="checkbox"/>	Foreshore Building Area – Clause 6.5 of LEP 2013
<input type="checkbox"/>	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:	
<ul style="list-style-type: none"> 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. 	

<p>What are the environmental planning grounds that justify contravening the development standard?</p> <p>The non-compliance is pre-existing and the subject of a previous Council Approval. There are numerous precedents on Council's Record for properties being approved with FSR's well in excess of those required under LLEP2013 in Rozelle alone, not to mention Birchgrove and Balmain and whilst the adjoining properties in Rosser Street with laneway frontage all (except two who don't have level access), have garages approved prior to the implementation of LLEP2013 with rooftop terraces/private open space on nil setback, Nos. 30 & 32 adjoining being 2-storey with almost 100% site cover and FSR's well in excess of 1:1 FSR. These properties also exceed the site cover requirements, deficient in landscaping and some have excessive building bulk. In context the proposal is consistent with the existing and hence future built form and streetscape existing in the immediate area. There are no adverse amenity impacts on neighbouring properties arising from the proposal.</p> <p>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)</p> <p>Compliance is unnecessary as the non-compliance is a result of a previous Council Approval, i.e. the proposal itself does not generate any additional gross floor space.</p> <p>Refer attached Floor Space Calculation Sheet.</p> <p>The proposal is consistent with the bulk & scale of adjoining development.</p> <p>There are numerous precedents on Council Records for similar or even greater variations being approved.</p>
<p>Is the proposed development consistent with the objectives of the particular standard? Is the proposal consistent with the objectives of the relevant zone?</p> <p>Yes, the proposal is consistent with LLEP2013 Cl 4.4 (1)(a) viz.</p> <p>(i) compatible with the desired future character of the area in relation to building bulk, form and scale, and</p> <p>(ii) providing a suitable balance between landscaped areas and the built form, whilst</p> <p>(iii) minimising the impact of the bulk and scale of buildings,</p> <p>as well as the zone objectives primarily:</p> <ul style="list-style-type: none"> • Enables other land uses that provide facilities or services to meet the day to day needs of residents. e.g. on site car parking, a small swimming pool, compliant Private Open Space • Provides housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas. • Protects and enhances the amenity of existing and future residents and the neighbourhood.

FSR Calculations 34 Rosser St, Rozelle

Prepared for: Mr & Mrs B. & J. Mulheron

Prepared by:

Gordon Tench RAIA

Reg. Architect 4239

m 0478058856

ABN 48717152252

Email: gtench@optusnet.com.au

Date:

20 September 2018

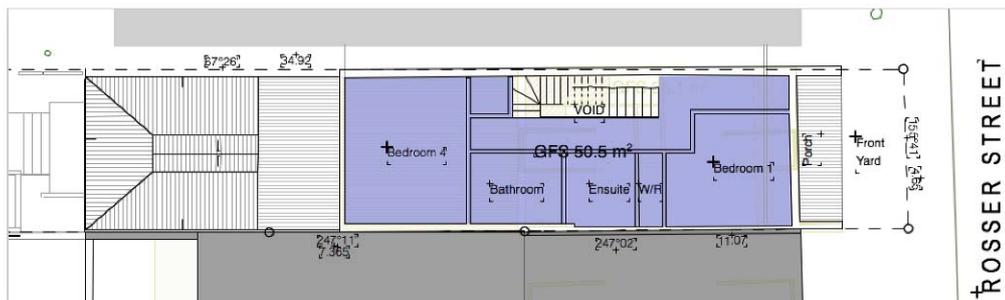
Council Reference:

D/2018/402

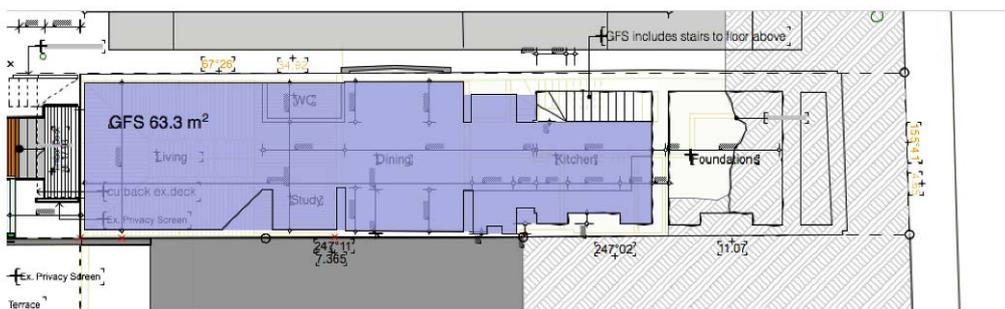
FLOOR LEVEL	GFS (sq.m.)	FSR per LEP2013	NOTE: Refer attached drawings
Ex. Lower Ground Floor	66.2		Includes stair to Ground Floor but excludes Foundation Space
Ex. Ground Floor	52.9		Includes stair to Attic but excludes Void to stair from below
Ex. Attic Floor Plan	22.9		Excludes floor space less than 1.4m in height & stair void Dormer windows excluded under DCP2013
Sub-Total Existing	142	0.86:1	All per definition under LLEP2013 & DCP2013
Site Area	164.4		By Title Deed & Survey
Proposed Additions Terrace, Pool & Parking	0		By definition under LLEP 2013 & The Standard Instrument No additional Floor Space is created by the proposal
Total Proposed	142	0.86:1	
Allowable FSR		0.8:1	under LLEP2013 Clause 4.4(2B)(c)(ii)
Variation sought		0.06:1 (+7.5%)	resulting from the existing floor space was approved under an earlier Development Consent. No further increase arises as a result of this proposal

EXISTING FLOOR PLANS

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GROUND FLOOR PLAN



LOWER GROUND FLOOR PLAN

S U M M A R Y

- Floor Space Calculations for Existing Residence based upon the latest Definition of Gross Floor Space included in Leichhardt LEP2013/DCp2013 and The Standard Template
- No Alterations are proposed to the Existing Dwelling
- No further increase in floor space is proposed
- All stairs have been included in the calculation of GFS
- Floor area does not include enclosed space with height less than 1.4m nor stair voids (i.e. Stairs are only included once)
- The proposed works including an open car space (i.e. a Carport that is not enclosed by bounding walls) and a Terrace not enclosed by walls greater than 1.4m) does not result in additional floor space hence no increase in Gross Floor Space arises as a result of the proposal
- Excess Floor Space is a result of a previous Council Approval
- The allowable floor space is exceeded by less than 10% (viz. 7.5%).
- A variation request under Clause 4.6 is sought for the pre-existing exceedance of the allowable FSR which is of a minimal nature and does not arise as a result of this proposal for completeness

Gordon Tench RAIA



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

DEVELOPMENT APPLICATION DETAILS:

Address:	34 Rosser Street, Rozelle 2039
Proposed Development:	Undercover parking with deck over & plunge pool including associated demolition.
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.

<p>What are the environmental planning grounds that justify contravening the development standard?</p> <p>Site Coverage under LLEP2013 is defined as; "the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage: (d) unenclosed balconies, decks, pergolas and the like. however a further test under 4.3A (4)(c) allows the exemption if under (i) it is 2.4 metres or more above ground level (existing), as measured from the underside of the structure and the area below the structure is able to be landscaped or used for recreational purposes. The proposal is consistent with adjoining properties The elevated deck is necessary to achieve compliance with Council's Objectives and Controls under C3.8 Private Open Space with regards solar access and practical access, whilst proposed car space reduces demand for on street parking on Rosser Street thereby improving pedestrian access, where vehicles currently park upon the footpath.</p> <p>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)</p> <p>The height issue arises due to the steeply sloping topography in the area as noted in the Heritage statement for the Smith Street Hill Conservation Area. The proposal does not raise any overshadowing or privacy issues, and car parking can be provided directly off Rosser Lane, whilst the undercover car space can be utilised for recreational purposes as required under 4.3A(4)(c)(i) and adequate clearance of 2.2m-2.4m makes it fit for purpose for uses such as undercover children's play space. Viewed externally from Rosser Lane the proposal complies with the clause. To achieve strict compliance with LEP2013 4.3A(4)(c)(i), the deck would have to be raised considerably resulting in non-compliance with numerous other objectives & controls within the LEP including overshadowing, loss of privacy, building bulk, potential loss of views. All of which are currently not an issue. There are numerous precedents on Council Record of Approved Exemptions for similar or even greater variations whilst adjoining properties (Nos. 28-32) already exceed the standard.</p> <p>Is the proposed development consistent with the objectives of the particular standard? Is the proposal consistent with the objectives of the relevant zone?</p> <p>Yes, the proposal is consistent with the Objectives of LLEP2013 Cl 4.4 (1)(a) viz. Yes. The proposal: i. is "compatible with the character, style, orientation and pattern of surrounding buildings, streetscape, works & landscaped areas" ii. provides "landscaped areas for the use and enjoyment of existing and future residents" iii. "protect(s) and enhance(s) the amenity of existing and future residents and the neighbourhood" iv. "provide(s) facilities to meet the day to day needs of residents" v. "provide(s) for the housing needs of the community" as well as the zone objectives primarily: • Enables other land uses that provide facilities or services to meet the day to day needs of residents. e.g. on site car parking, a small swimming pool, compliant Private Open Space Provides housing that is compatible with the character, style, orientation and pattern of</p>

Supplementary Information
D/2018/402

34 Rosser Street, Rozelle
for
B & J Mulheron

Page 1 of 7

- ✓ There are no objections arising from neighbour notification
- ✓ There are no adverse amenity impacts arising from the proposal
- ✓ Any excess FSR provisions are pre-existing & previously Council approved
- ✓ There is no additional floor space created as a result of the proposal as the car parking is undercover but not bounded by enclosing walls
- ✓ There are no heritage issues arising from the proposal, accordingly
- ✓ Council's Heritage Officer supports the application concluding the application is "Acceptable as lodged".

He advises in his report:

"Pre-DA advice was sought for the proposal which remains the same for this DA. The design for the Pre-DA was supported on heritage grounds and the heritage assessment concluded that the proposal is sympathetic to the conservation area and consistent with the aims and objectives of the LEP and DCP because:

- *The works occur in the rear yard and do not impact on the existing residence.*
- *The other three houses in this group already have a garage to the rear lane.*
- *The proposal encourages the protection, restoration, continued use and viability of buildings for their original purpose, in this case a dwelling.*
- *Makes an appropriate visual and physical distinction between the existing building and the new parts of the building.*
- *No alterations are proposed to the existing stone foundation, which coincides with the front portion of the residence."*

His recommendation that the proposal "can be supported from a heritage perspective as they are in accordance with Clause 5.10 Objectives 1(a) and (b) in the Leichardt LEP2013 and the relevant objectives and controls in the Leichardt DCP2013."

Supplementary Information for Exception to Development Standards Properties with access to Rosser Lane

Further to our Request for Exemptions, and submitted details of Precedents under LLEP2013 for both FSR & Site Coverage, we hereby submit additional information on properties with access to Rosser Lane as requested.

To aid in this we have included copies of mapping of same by way of Aerial Photographs, Street Map and Combined Overlay taken from the Lands Board SIX Maps website to aid in identification, and where publicly available we have attached floor plans to aid calculations.

The Subject Site **No. 34 Rosser Street** is shaded in yellow and outlined in red on each map.

The following properties facing Rosser Lane exhibit significant variations to FSR & Site Coverage under LLEP2013 as shown and are variable.

The remaining workers cottages in the group, **Nos. 32-28 Rosser Street**, are built boundary to boundary with full width garages on essentially a nil setback to the laneway.

No.32 : refer attached floor plans showing 234sq.m. internal floor space, including a Studio over the Garage, and a site area of 158 sq.m representing a 1.48:1 FSR (by calculation), has no deepsoil planting and 100% Site Coverage.

Supplementary Information
D/2018/402

34 Rosser Street, Rozelle
for
B & J Mulheron

Page 2 of 7

Nos.30 & 28 are similar to No.32, but smaller cottages, with a stairwell/covered terrace and an open terrace respectively above their garages. Site Coverage of approximately 90%.

No. 24 is similar to the aforementioned but with some landscaping evident in the aerial photograph. Site coverage of approximately 85%.

Nos. 20a, 20b, & 18 are close to 100% site coverage having single car garages, with walled terraces over. FSR unknown.

No.14 has a double garage with a walled landscaped roof terrace.
Site Coverage is approximately 85% as defined under the current LLEP2013.

No. 10 only has a single width pedestrian service passage to the laneway which looks to be shared with **No.12**.

Nos. 55-73 Mansfield Street with variable site coverage up to 100%.

Of the 8 properties fronting Mullins Street with access to Rosser Lane, 4 have garages/ carports and 2 have dual hardstands.

Gordon Tench RAIA
Reg Architect 4239
55 Ellesmere Road, Gymea Bay NSW 2227
M 0478 058 856
email: gtench@optusnet.com.au

Supplementary Information
D/2018/402

34 Rosser Street, Rozelle
for
B & J Mulheron

Page 3 of 7

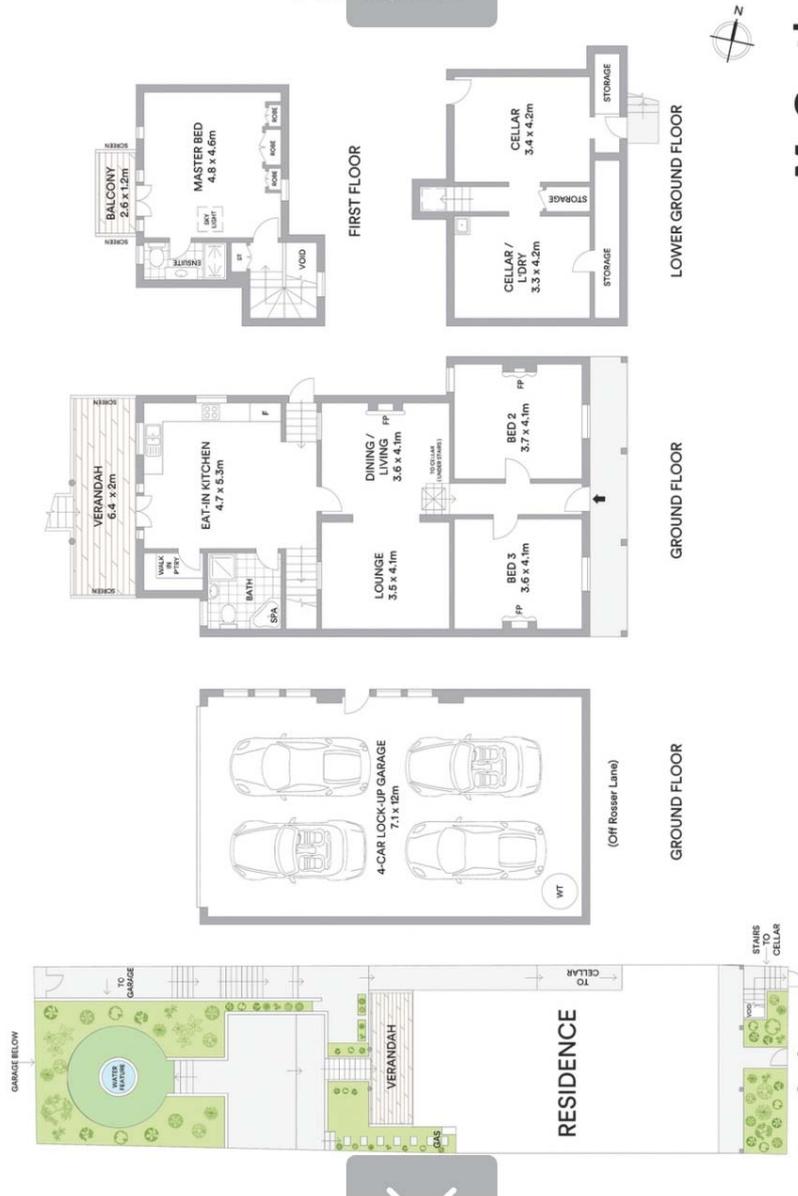
Listed August 2013



Supplementary Information
D/2018/402

34 Rosser Street, Rozelle
for
B & J Mulheron

Page 4 of 7



McGrath

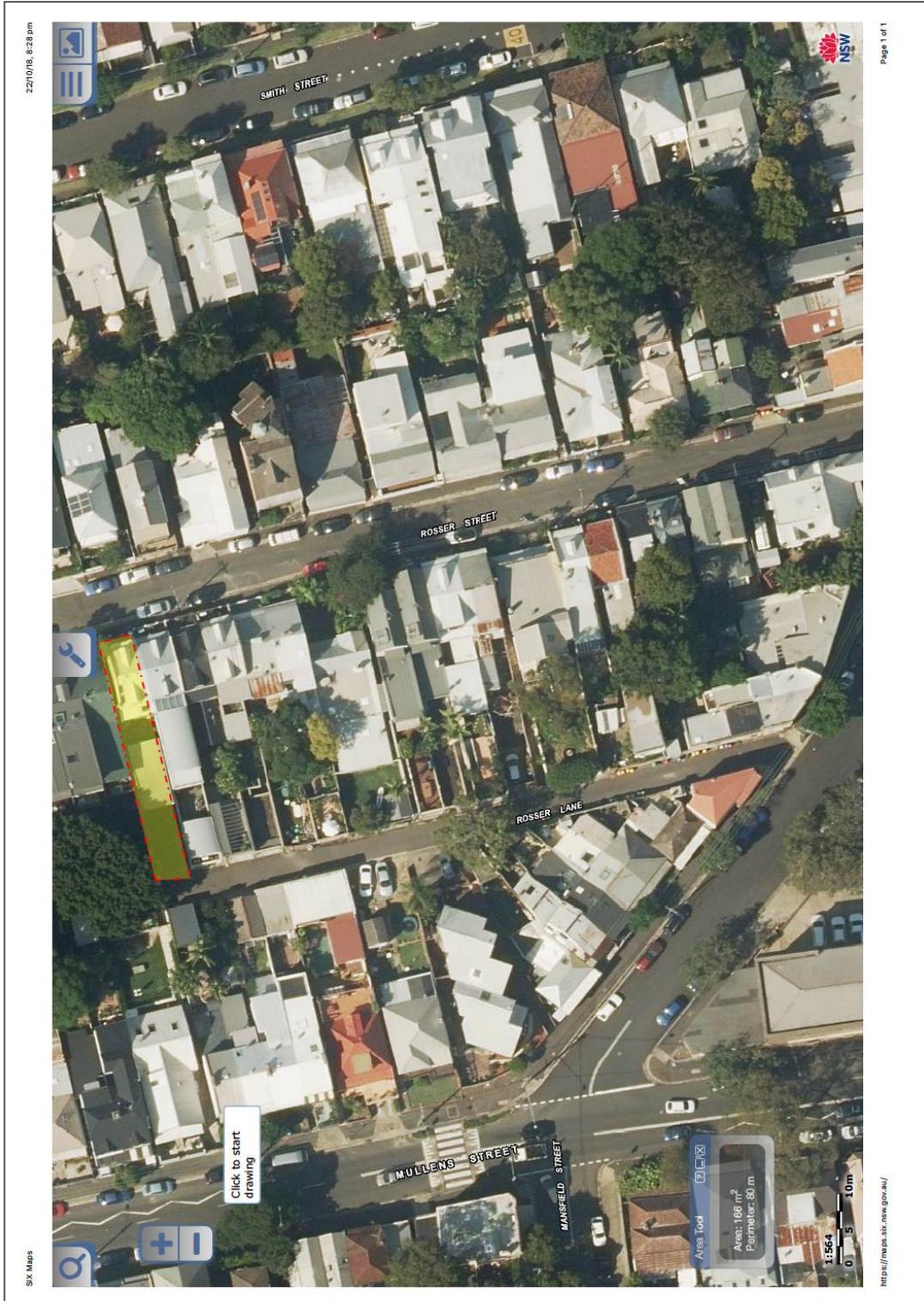
Scale in metres. Indicative only. All information contained herein is obtained from sources we believe to be accurate. We cannot guarantee its accuracy. Interested persons should make and rely on their own enquiries

Garage:	85.2 sq.m	
GFS:	104.2	Grnd Flr
	39.5	Lwr Grnd Flr
	30.5	1st Flr
Total	259.4	FSR 0.78:1 approx.
Site Cover: approx. 85% under LLEP2013		
Site Area approx. 331sq.m. Deepsoil Landscaping (6%) Approx. 20 sq.m.		

Supplementary Information
D/2018/402

34 Rosser Street, Rozelle
for
B & J Mulheron

Page 5 of 7



Supplementary Information
D/2018/402

34 Rosser Street, Rozelle
for
B & J Mulheron

Page 6 of 7

