



INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	M/2018/115
Address	12-14 Gladstone Street, Lilyfield
Proposal	Modification of Development Consent D/2009/281 involving additional store room and toilet to the rear of the existing media room
Date of Lodgement	27 June 2018
Applicant	Advance Building Brokers
Owner	Mr C W Quinlan
Number of Submissions	One
Value of works	\$40,000
Reason for determination at Planning Panel	Floor Space Ratio exceeds officer delegations
Main Issues	Floor space ratio exceeds permissible ratio Unauthorised works
Recommendation	Approval
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Original approved plans (D/2009/281)
Attachment D	Original conditions of consent (D/2009/281)



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for modification of Development Consent D/2009/281 involving an additional store room and toilet to the rear of the existing media room at 12-14 Gladstone Street, Lilyfield. The application was notified to surrounding properties and one submission was received.

The main issues that have arisen from the application include:

- Floor space ratio proposed is 0.92:1 which exceeds the permissible FSR of 0.8:1.
- Unauthorised demolition and excavation works have occurred prior to the DA lodgement.

The FSR non-compliance is acceptable given there are no adverse amenity impacts to surrounding properties and therefore the application is recommended for approval.

2. Proposal

The proposal is to amend the originally approved development application which gave approval for alterations and additions resulting in a 3 storey dwelling above a ground floor double garage at street level. The amendment is to provide a store room and toilet behind the existing media room at first floor level. The additional floor space proposed is approximately 16m² and requires some excavation works behind the existing rear wall of the media room. Unauthorised demolition and excavation works have already occurred, however no building works have taken place. The demolition work includes cutting through the rear wall of the existing media room.



Figure 1 – Demolition works to rear wall of media room



Figure 2 – Unauthorised excavation works behind media room

3. Site Description

The subject site is located on the western side of Gladstone Street, between Piper Street and Brenan Street. The site consists of one allotment and is generally rectangular in shape with a total area of 274.5m² and is legally described as Lot 37 Sec 3 DP 547.

The site has a frontage to Gladstone Street of 9.145 metres and falls steeply from the rear of the site to Gladstone Street. The site contains a double garage and pedestrian entrance at street level and a 3 storey dwelling house above stepping back from the garage level.

The adjoining property to the south is a two storey dwelling above a double garage at street level. To the north is a single storey in appearance dwelling house set up high on the site with a single garage at street level.

The subject site is not a heritage item or located within a conservation area and is not identified as a flood prone lot. There are no significant trees located on the subject site.



Figure 3– Existing dwelling

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
D/2009/281	Alterations and additions to existing residence including additions to level 1 and level 3, infill to level 2, terrace and reconfigured windows throughout.	Approved 10.11.2009
CC/2010/134	Alterations and additions to existing residence including additions to level 1 and level 3, infill to level 2, terrace and reconfigured windows throughout.	Approved Private Certifier 4.5.2010
OC/2011/64	Interim Occupation Certificate	Approved Private Certifier 21.6.2011
OCP/2015/85	Final Occupation Certificate	Issued Private Certifier 4.3.2015

Surrounding properties

10 Gladstone Street, Lilyfield

Application	Proposal	Decision & Date
CDCP/2016/151	Alterations and additions to dwelling house and garage.	Approved Private Certifier 28.9.2016

16 Gladstone Street, Lilyfield

Application	Proposal	Decision & Date
T/2015/124	Removal of one Erythrina x sykesii (Coral Tree) from the front of the property.	Approved 25.1.2016

4(b) Application history

Prior the current application being submitted the following occurred.

Date	Action
16.2.2018	Penalty infringement notice issued by Council for unauthorised building works (DWS – 4742878)
16.2.2018	Stop work order issued for unauthorised excavation and demolition works

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

Date	Discussion / Letter/ Additional Information
September 2019	Council requested applicant provide amended plans that reflected the actual existing building
27.9.2018	Amended plans submitted
October 2018	Council requested applicant that amended plans still not satisfactory as they did not reflect actual existing building.
17.10.2018	Further amended plans submitted that accurately reflect the existing building.

5A. Section 4.55 Assessment

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

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

The original application approved alterations and additions to create a three storey dwelling above a garage level. The proposed modifications are to extend the lowest level of the dwelling by extending underneath the floor above and do not perceptibly increase the bulk and scale of the dwelling. The additions will not be visible from the street or neighbouring properties and therefore the proposed additions are considered to be substantially the same development as that originally granted.

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

No concurrence with any external bodies was required.

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

The application was advertised for a period of 14 days between 12th July 2018 - 26th July 2018.

One submission was received.

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

One submission was received which is addressed below under Section 5(f) of this report.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.55 of the Environmental Planning and Assessment Act 1979.

5(a) Environmental Planning Instruments

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

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

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. LDGP 2013 provides controls and guidelines for remediation works. SEPP 55 requires the consent authority to be satisfied that the site is or can be made suitable for the proposed use.

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

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

As the cost of works is less than \$50,000, a BASIX Certificate was not required.

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

An assessment has been made of the matters set out in Clause 20 of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. It is considered that the carrying out of the proposed development is generally consistent with the objectives of the Plan and would not have an adverse effect on environmental heritage, the visual environment, the natural environment and open space and recreation facilities.

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

The application was assessed against the following relevant clauses of the Leichhardt Local Environment 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 – Landscaped areas for residential accommodation 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 6.1 – Acid sulfate soils
 Clause 6.2 – Earthworks
 Clause 6.4 – Stormwater management
 Clause 6.8 – Development in areas subject to aircraft noise

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

Standard (maximum)	Proposal	% of compliance	non	Compliances
Floor Space Ratio Permissible: 0.8:1	0.92:1 254.45m ²	15.87% (34.85m ²)		No
Landscape Area Required 20%	23.85% 65.46m ²	N/A		Yes
Site Coverage Maximum 60%	51.13% 140.34m ²	N/A		Yes

The following provides further discussion of the relevant issues:

Clause 2.7 Demolition requires development consent

Demolition works including demolishing part of the rear wall of the existing media room to create doorways to the proposed toilet and store room have been carried out without development consent. Council's compliance section issued a stop work order as detailed above under Section 4(b) of this report.

Clause 4.6 Exceptions to Development Standards

As outlined in the table above, the proposal results in a breach of Floor Space Ratio development standard.

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

- The proposal is compatible within its immediate context and is considered to be an acceptable development as it does not add any building bulk given its location.
- The proposed additions are not visible from the street and adjoining properties and are therefore considered acceptable.
- The proposal complies with the Landscaped Area and Site Coverage standards, providing a suitable balance between landscaped areas and the built form.
- The proposal does not result in any significant additional adverse amenity impacts upon the surrounding properties.
- The proposal is considered acceptable with regard to the objectives of the R1 General Residential zone
- The proposal is considered acceptable with regard to the objectives of Clause 4.4 Floor Space Ratio

Clause 6.2 Earthworks

Development consent was not sought for earthworks to undertake excavation works behind the rear wall of the media room where the proposed storeroom and toilet are to be located. Council's compliance section issued a stop work order as detailed above under Section 4(b) of this report.

5(b) Draft Environmental Planning Instruments

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

- State Environmental Planning Policy - Environment

The proposed modification raises no issues with regard to the above draft instrument.

5(c) Development Control Plans

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

Part	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Not applicable
B3.1 Social Impact Assessment	Not applicable
B3.2 Events and Activities in the Public Domain (Special Events)	Not applicable

Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Not applicable
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Not applicable
C1.5 Corner Sites	Not applicable
C1.6 Subdivision	Not applicable
C1.7 Site Facilities	Yes
C1.8 Contamination	Not applicable
C1.9 Safety by Design	Not applicable
C1.10 Equity of Access and Mobility	Not applicable
C1.11 Parking	Not applicable
C1.12 Landscaping	Not applicable
C1.13 Open Space Design Within the Public Domain	Not applicable
C1.14 Tree Management	Not applicable
C1.15 Signs and Outdoor Advertising	Not applicable
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Not applicable
C1.17 Minor Architectural Details	Not applicable
C1.18 Laneways	Not applicable
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	Not applicable
C1.20 Foreshore Land	Not applicable
C1.21 Green Roofs and Green Living Walls	Not applicable
Part C: Place – Section 2 Urban Character	
C2.2.4.1 Catherine Street Distinctive Neighbourhood & Gladstone Street Sub Area (C2.2.4.1(d))	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	Not applicable
C3.4 Dormer Windows	Not applicable
C3.5 Front Gardens and Dwelling Entries	Not applicable
C3.6 Fences	Not applicable
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Not applicable
C3.10 Views	Not applicable
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	Not applicable
C3.14 Adaptable Housing	Not applicable
Part C: Place – Section 4 – Non-Residential Provisions	Not applicable
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes

D2.3 Residential Development	Yes
D2.4 Non-Residential Development	Not applicable
D2.5 Mixed Use Development	Not applicable
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Not applicable
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	Not applicable
E1.1.5 Foreshore Risk Management Report	Not applicable
E1.2 Water Management	
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Not applicable
E1.2.4 Stormwater Treatment	Not applicable
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	Not applicable
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	Not applicable
E1.3.1 Flood Risk Management	Not applicable
E1.3.2 Foreshore Risk Management	Not applicable
Part F: Food	Not applicable
Part G: Site Specific Controls	Not applicable

5(d) The Likely Impacts

The assessment of the Modification 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 the Leichhardt Local Environmental Plan 2013 for a period of 14 days to surrounding properties. A total of one submission was received.

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

Issue: The plans are not sufficient to allow an assessment

Comment: The submitter was emailed a copy of the plans for them to review. And no further response or issues were raised.

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 not required to be referred to other internal sections/officers within Council.

6(b) External

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

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. 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 Modification of Development Consent D/2009/281 involving additional store room and toilet to the rear of the existing media room, subject to the condition below in Attachment A.

Attachment A – Recommended conditions of consent

1. Development must be carried out in accordance with Development Application No. D/2009/281 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Plan No.	Drawn By	Dated
Proposed Ground Floor Plan	A05 A	Network Design Management	17 September 2009
Proposed Level 1 Floor Plan	A06 A	Network Design Management	17 September 2009
Proposed Level 2 Floor Plan	A07 A	Network Design Management	17 September 2009
Proposed Level 3 Floor Plan	A08 A	Network Design Management	17 September 2009
Proposed Roof Plan	A09 A	Network Design Management	17 September 2009
Proposed Sections & South Elevations	A10 A	Network Design Management	17 September 2009
Proposed Elevations	A11 A	Network Design Management	17 September 2009
Proposed Elevations	A12 A	Network Design Management	17 September 2009
Waste Management Plan	A14	Network Design Management	28 July 2009
Document Title		Prepared By	Dated
Waste Management Plan		Applicant	28 July 2009
BASIX Certificate No. A62460		Applicant	28 July 2009

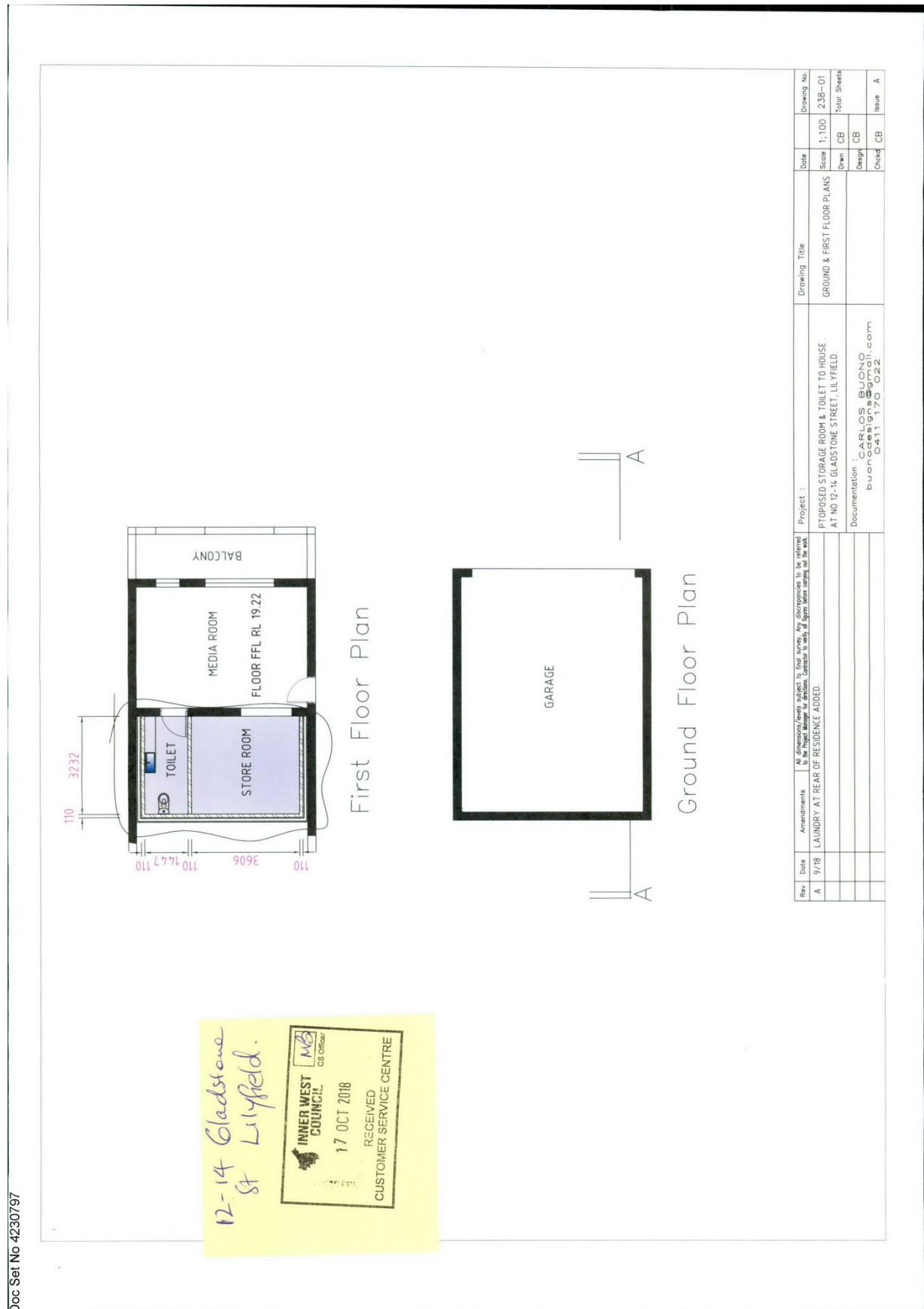
Except where modified by:

Plan Reference	Drawn By	Dated
Dwg No. 238-01 Issue A Ground & First floor plans	Carlos Buono	9/18
Dwg No. 238-07 Issue A Section A-A	Carlos Buono	9/18

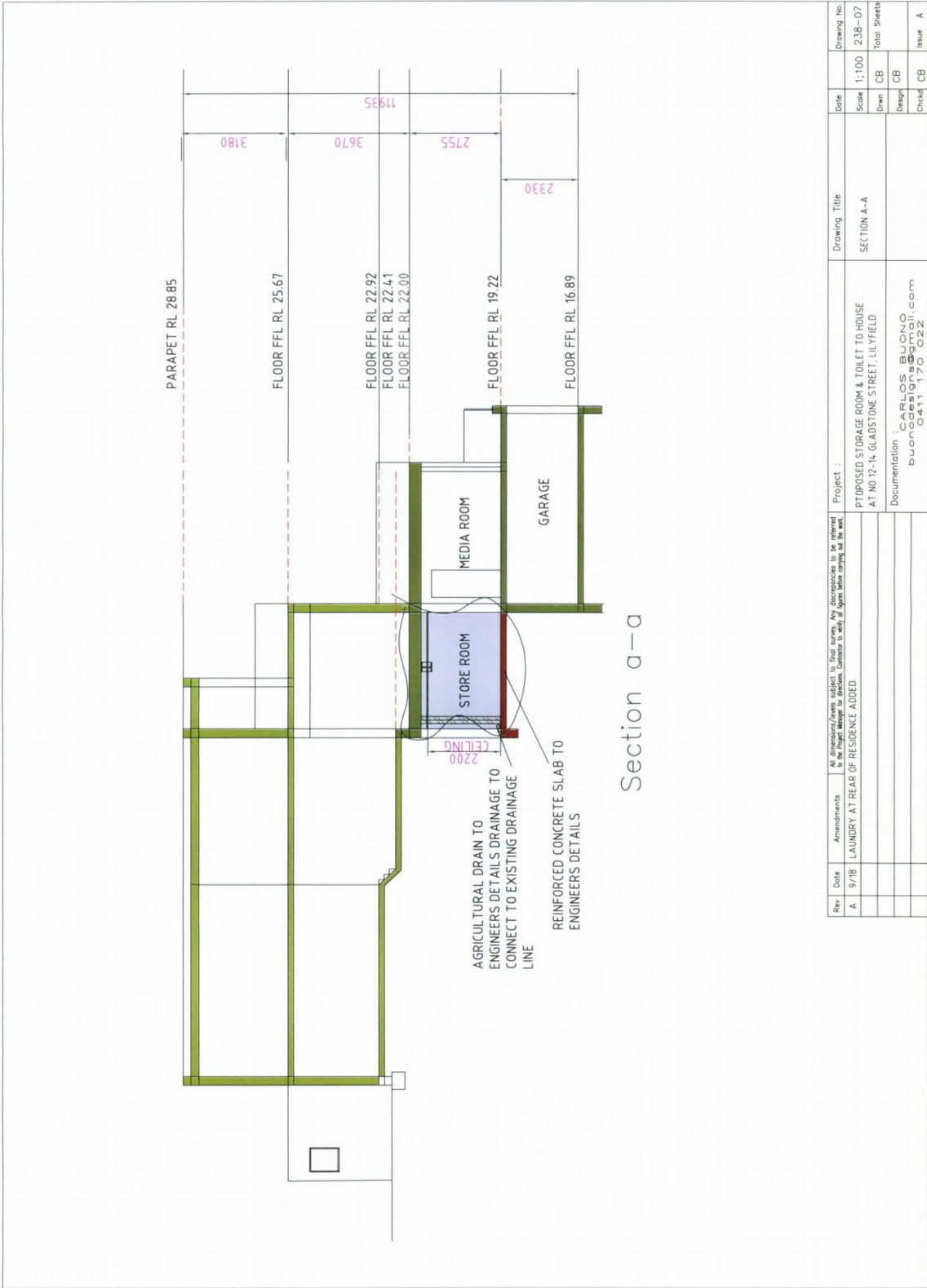
In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

(Condition modified by M/2018/115 dated 12 February 2019)

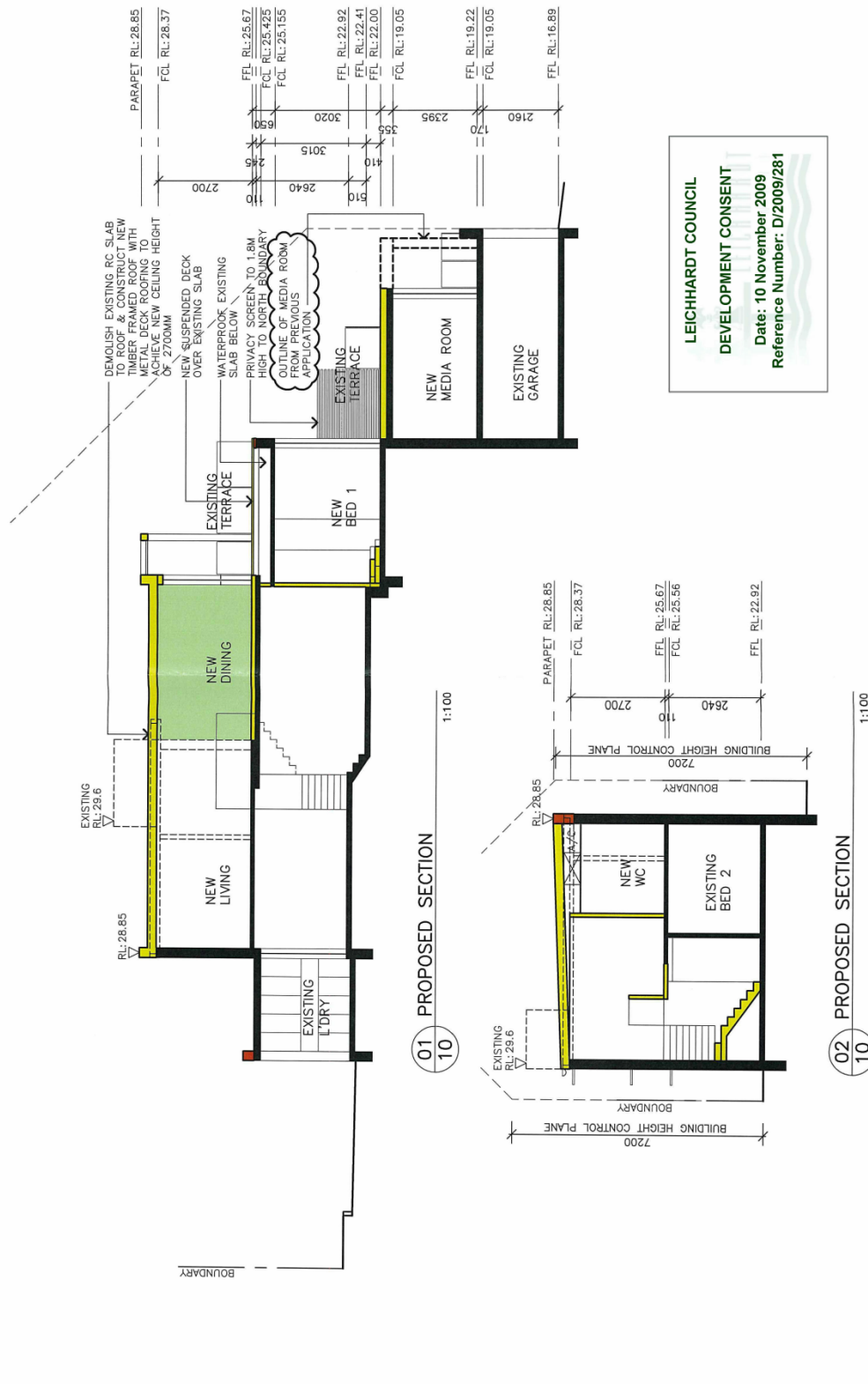
Attachment B – Plans of proposed development



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Attachment C – Original approved plans (D/2009/281)



12-14 GLADSTONE STREET, LILYFIELD
PROPOSED ALTERATIONS AND ADDITIONS
for MR SHAUN ELLIOTT

BASIX NOTES

- MIN R2.5 INSULATION TO ALL CEILINGS & FLOORING TO ALL NEW ROOFS
- MAX. WOOD, WOOD, W17 & DO2 TO HAVE U-VALUE OF 3.7 & SHGC OF 0.47
- DO3 TO HAVE U-VALUE OF 4.48 AND SHGC OF 0.46
- ALL OTHER WINDOWS TO HAVE U-VALUE OF 7.13 & SHGC OF 0.75

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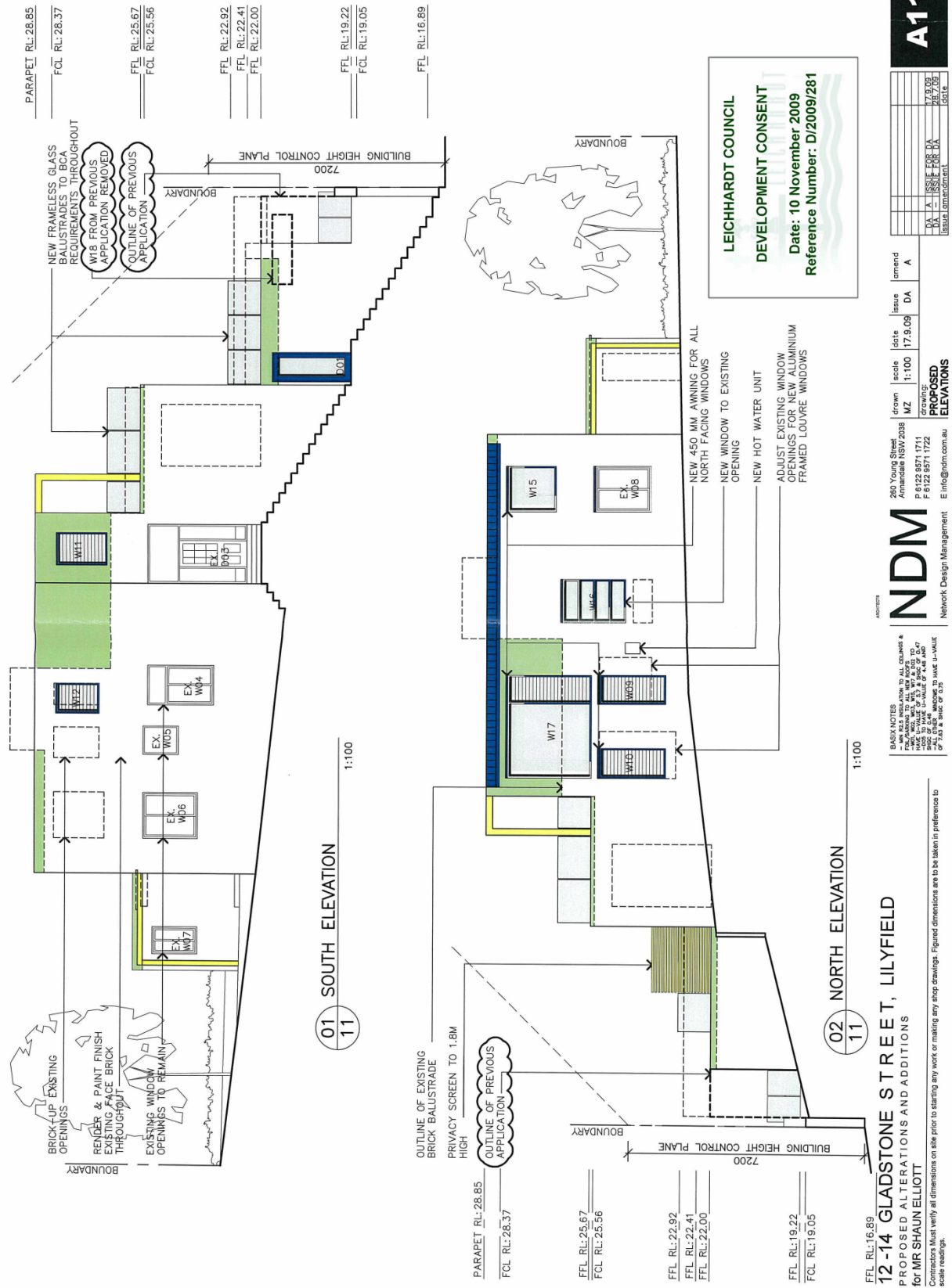
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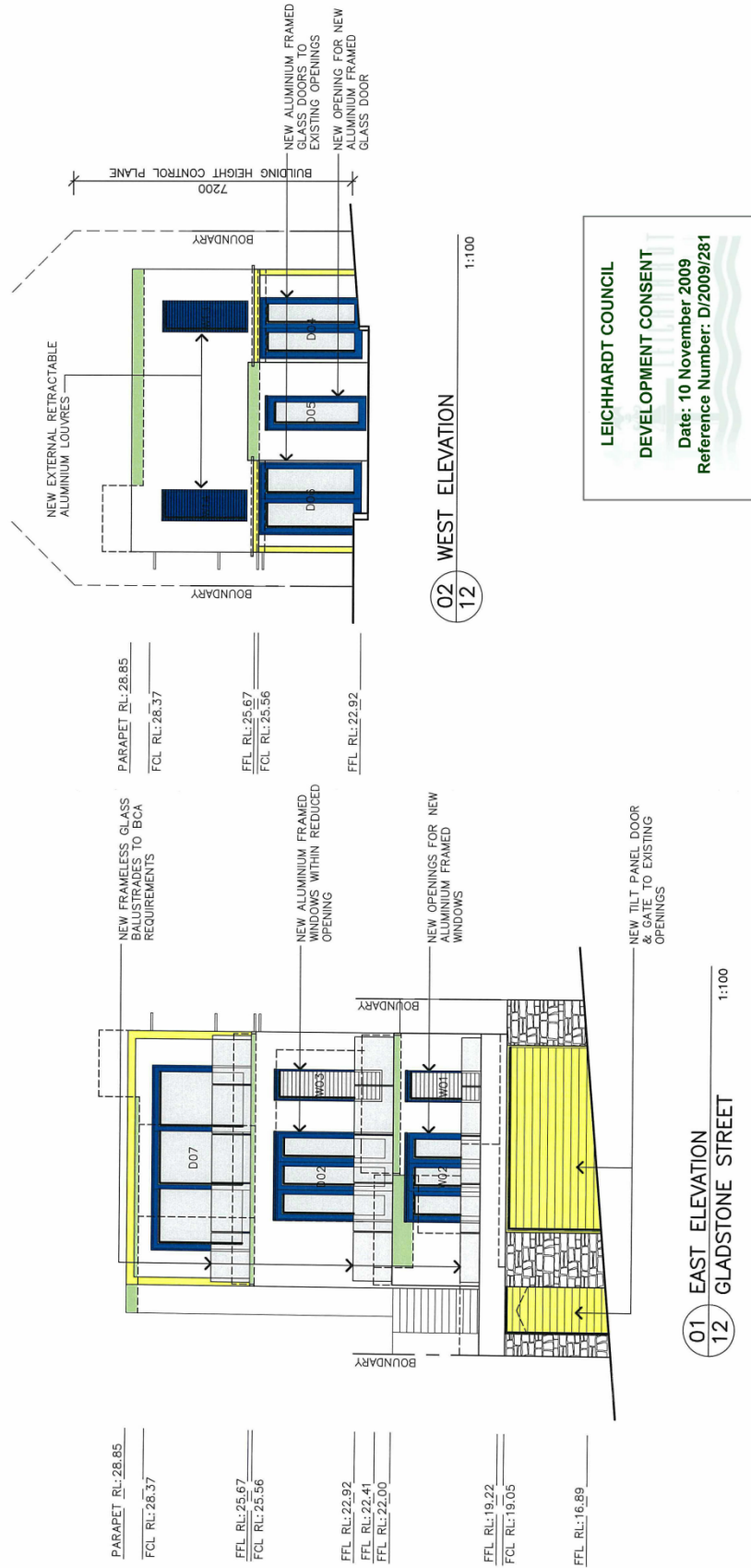
drawing:
**PROPOSED SECTIONS &
 SOUTH ELEVATIONS**

amend	A
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DA	A	ISSUE FOR DA	17.9.09
P	-	ISSUE FOR DA	28.7.09
		issue amendment	date

A10





12-14 GLADSTONE STREET, LILYFIELD PROPOSED ALTERATIONS AND ADDITIONS for MR SHAUN ELLIOTT

Contractors Must verify all dimensions on site prior to starting any work or making any shop drawings. Figured dimensions are to be taken in preference to scale readings.

ARCHITECT

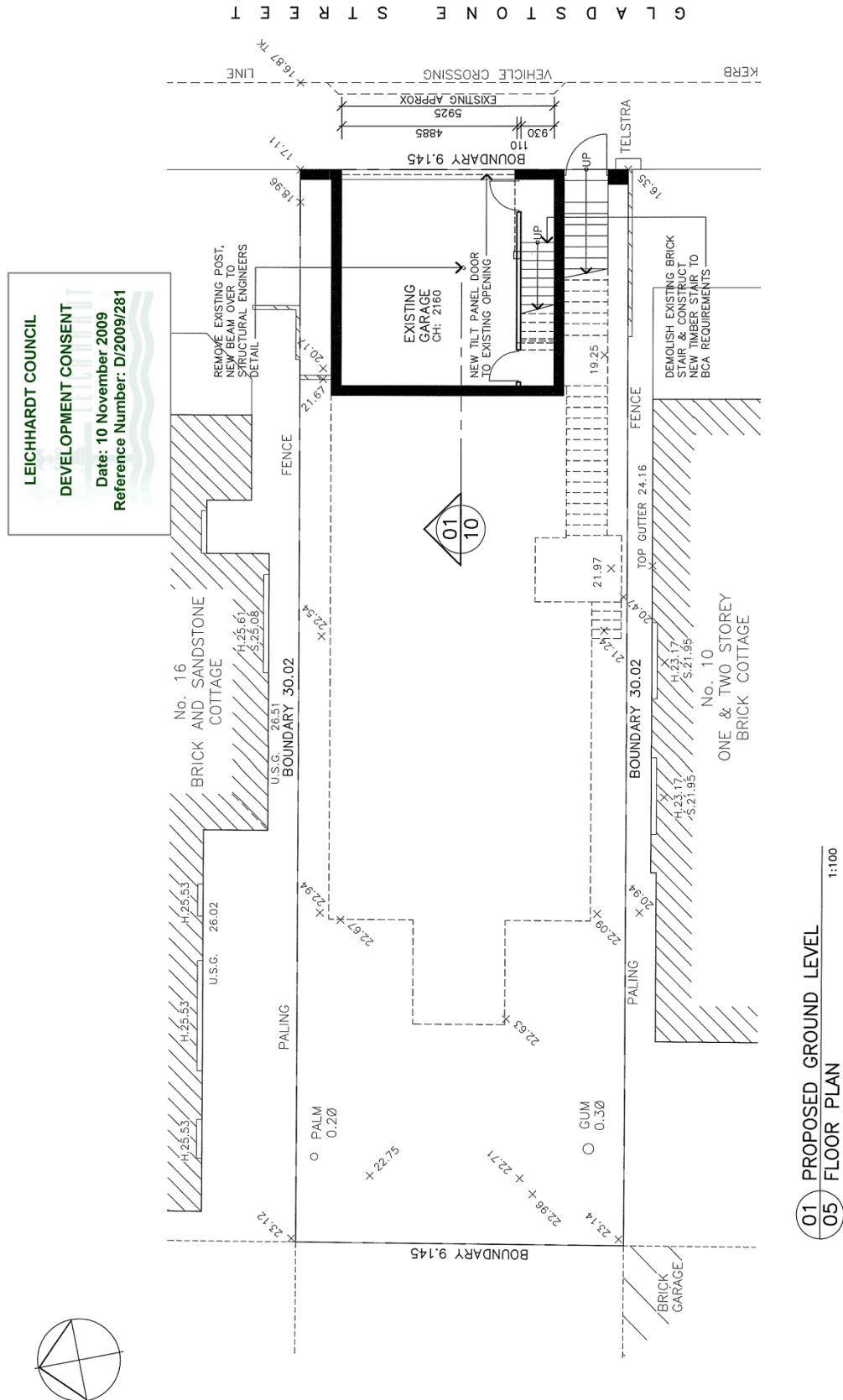
NDM
Network Design Management
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**PROPOSED
ELEVATIONS**

drawn: MZ
scale: 1:100
date: 17.9.09
issue: DA
demand: A

issue: DA
demand: A
date: 17.9.09
scale: 1:100
drawn: MZ
scale: 1:100
date: 17.9.09
issue: DA
demand: A

A12



12-14 GLADSTONE STREET, LILYFIELD
PROPOSED ALTERATIONS AND ADDITIONS
for MR SHAUN ELLIOTT

ARCHITECTS

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MZ	1:100	17.9.09	DA	A

drawing:

**PROPOSED GROUND
FLOOR PLAN**

260 Young Street
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NDM
Network Design Management

01

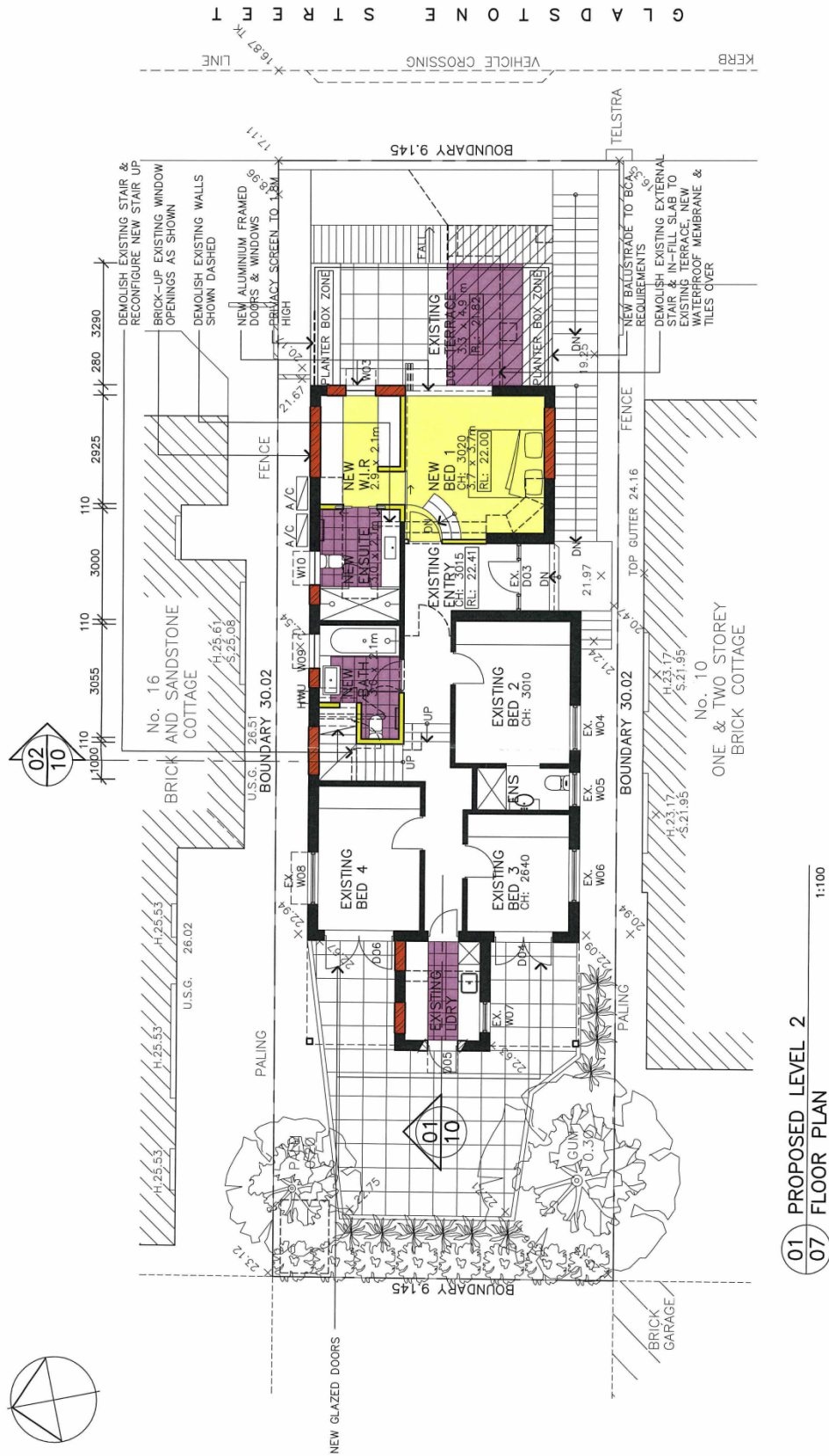
PROPOSED GROUND LEVEL

05

FLOOR PLAN

1:100

Contractors Must verify all dimensions on site prior to starting any work or making any shop drawings. Figured dimensions are to be taken in preference to scale readings.



12-14 GLADSTONE STREET, LILYFIELD
PROPOSED ALTERATIONS AND ADDITIONS
for MR SHAUN ELLIOTT

Contractors Must verify all dimensions on site prior to starting any work or making any shop drawings. Figured dimensions are to be taken in preference to scale readings.

References

NDM

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PROPOSED
FLOOR PLAN

FLOOR F

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PLAN

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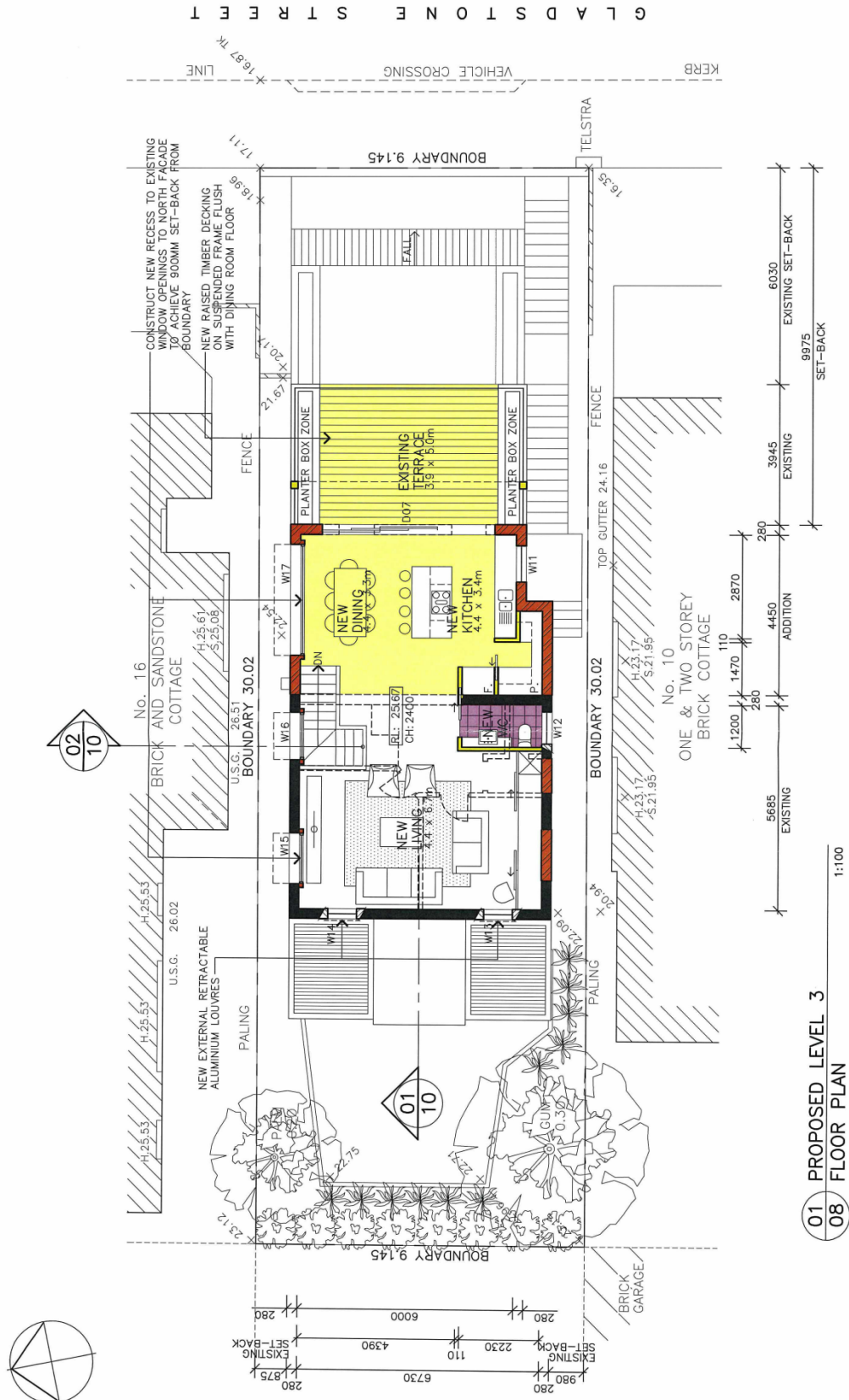
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20.7.09	
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12-14 GLADSTONE STREET, LILYFIELD
PROPOSED ALTERATIONS AND ADDITIONS
for MR SHAUN ELLIOTT

BASIX NOTES

- MIN R2.5 INSULATION TO ALL CEILINGS & FOL/SKED TO ALL NEW ROOFS
- W01, W02, W03, W15, W17 & D02 TO HAVE U-VALUE OF 5.7 & SHGC OF 0.47
- D05 TO HAVE U-VALUE OF 4.48 AND SHGC OF 0.46
- ALL OTHER WINDOWS TO HAVE U-VALUE OF 7.63 & SHGC OF 0.75

NDM
ARCHITECTS
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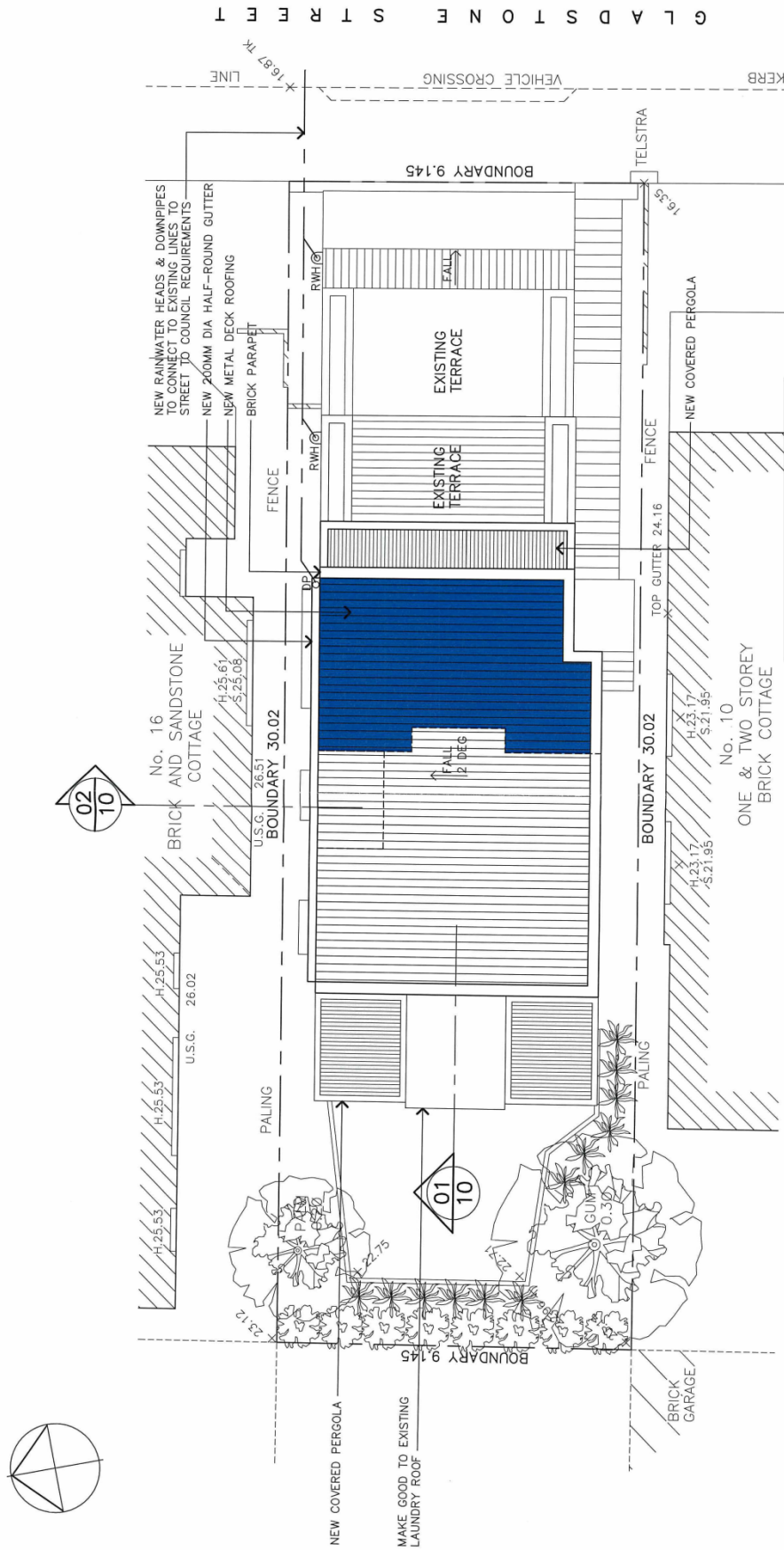
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drawing:
**PROPOSED LEVEL 3
 FLOOR PLAN**

Issue	amend
DA	A

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A08



01	PROPOSED ROOF PLAN	
09	& STORMWATER CONCEPT PLAN	1:100

LEICHHARDT COUNCIL
DEVELOPMENT CONSENT
Date: 10 November 2009
Reference Number: D/2009/20

12-14 GLADSTONE STREET, LILYFIELD

**PROPOSED ALTERATIONS AND ADDITIONS
for MR SHAUN ELLIOTT**

Contractors Must verify all dimensions on site prior to starting any work or making any shop drawings. Figured dimensions are to be taken in preference to scale readings.

BASIX NOTES

- MIN R2.5 INSULATION TO ALL CEILINGS & EXTERIOR WALLS
- INSULATE ALL NEW ROOFS TO HAVE U-VALUE OF 0.7
- HAVE U-VALUE OF 0.7 & SHGC OF 0.47 FOR NEW WINDOWS
- SHGC TO HAVE U-VALUE OF 0.46 AND SHGC TO HAVE U-VALUE OF 0.46
- ALL OTHER WINDOWS TO HAVE U-VALUE OF 7.53 & SHGC OF 0.75

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drawn	scale	date
MZ	1:100	17.9

drawing:
**PROPOSED ROOF
PLAN**

issue	amend
DA	A

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A09

Attachment D – Original conditions of consent (D/2009/281)

CONDITIONS OF CONSENT

1. Development must be carried out in accordance with Development Application No. D/2009/281 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Plan No.	Drawn By	Dated
Proposed Ground Floor Plan	A05 A	Network Design Management	17 September 2009
Proposed Level 1 Floor Plan	A06 A	Network Design Management	17 September 2009
Proposed Level 2 Floor Plan	A07 A	Network Design Management	17 September 2009
Proposed Level 3 Floor Plan	A08 A	Network Design Management	17 September 2009
Proposed Roof Plan	A09 A	Network Design Management	17 September 2009
Proposed Sections & South Elevations	A10 A	Network Design Management	17 September 2009
Proposed Elevations	A11 A	Network Design Management	17 September 2009
Proposed Elevations	A12 A	Network Design Management	17 September 2009
Waste Management Plan	A14	Network Design Management	28 July 2009
Document Title		Prepared By	Dated
Waste Management Plan		Applicant	28 July 2009
BASIX Certificate No. A62460		Applicant	28 July 2009

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

2. In accordance with the provisions of Section 81A 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 "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, the Building Code of Australia and the relevant Australian Standards.

- 3. Amended plans are to be submitted incorporating the following amendments:
 - a) The north-facing Windows W15, W16 and W17 to the living and dining rooms at Level 3 shall be shown to comply with the fire separation requirements of the Building Code of Australia.
 - b) The glazed balustrading proposed to the terrace areas at Levels 1, 2 and 3 shall be deleted and replaced with balustrading of either timber pickets or iron palisades to the same height with 50% transparency.
 - c) The awning to the street elevation of the additions at Level 3 shall be reduced in height by 500mm and reduced in width across the terrace from the northern boundary by 700mm and from the southern boundary by 600mm. The posts on the northern and southern ends of the awning shall be deleted. The awning shall be shown to retain the same depth as shown on the approved plans
 - d) The additions at Level 3 shall be reduced in length from the street elevation by 700mm.
 - e) All works associated with the additions must be adequately insulated in accordance with the noise transmission provisions of the Building Code of Australia, in order to minimise any acoustic noise from the use of the development to the adjoining properties.
 - f) The proposed awnings on the western elevation at Level 2 shall be shown to be reduced in depth to no greater than 900mm.
 - g) The parapet shall be shown to not exceed RL28.63

The amendments are to be provided prior to the issue of a Construction Certificate.

- 4. Consent is granted for the demolition of portions of the existing walls on the subject property, as indicated on the approved plans, subject to strict compliance with the following conditions:
 - a) The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence 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 Council / 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 Council / 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: Council requires 24 hours notice to carry out inspections. Arrangement for inspections can be made by phoning (02) 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 Office, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the plans will be stamped indicating that no further requirements are necessary.
- 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 5.30pm 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 Department of Environment and Climate Change NSW.
- 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.
- 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 Council / 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 / 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.
5. 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 to the value of \$2018 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.

Payment will be accepted in the form of cash, bank cheque or EFTPOS/credit card (to a maximum of \$10,000).

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.

An inspection fee of \$193 to determine the condition of the adjacent road reserve is also required to be paid to Council prior to the commencement of demolition works on the site or a Construction Certificate being issued for works approved by this development consent (whichever occurs first). A request for release of the security may be made to the Council after all construction work has been completed and an 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.

6. 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) The design must be generally in accordance with the stormwater drainage concept plan on Drawing No A09 prepared by NDM and dated 28 July 2009
 - b) Stormwater runoff from all roof and paved areas within the property, must be collected in a system of gutters, pits and pipelines and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of a public road.
 - c) Plans must specify that any components of the existing system to be retained must be checked during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development, and be replaced or upgraded if required.

- d) 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.
 - e) All plumbing within the site must be carried out in accordance with relevant provisions of Australian Standard AS/NZS 3500.3-2003 Plumbing and Drainage – Stormwater Drainage.
 - f) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
 - g) All redundant stormwater pipelines within the footpath area must be removed and the footpath and kerb reinstated.
 - h) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm.
 - i) Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.
7. The height of the building must not exceed RL 28.85 (AHD) to the parapet of the building. Details must be provided prior to the issue of a Construction Certificate to the satisfaction of the Certifying Authority.
8. A landscape plan prepared by a qualified Landscape Architect or Landscape Consultant must be provided prior to the issue of a Construction Certificate. The plan must include:
- a) Location of all proposed and existing planting delineating existing trees to be retained, removed or transplanted.
 - b) A detailed planting schedule including species by botanical and common names, quantities, pot sizes and estimated size at maturity.
 - c) At least 85% of the plantings must be native species from the Sydney locale.
 - d) At least one tree capable of a height of four (4) metres.
 - e) Details of planting procedure.
 - f) Details of earthworks including mounding, retaining walls, and planter boxes.
 - g) A landscape maintenance strategy for the owner / occupier to administer over a twelve (12) month establishment period.
 - h) Details of drainage and watering systems.

- i) Details of screen plantings to the planter boxes to the northern and southern sides of the terrace areas at Level 2 and Level 3 to a mature height of 1.6 metres.
9. 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 0.0035 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.
10. Materials and finishes, where not specified on the approved plans or by the conditions of this Development Consent, must be complementary to the character and streetscape of the area. Highly reflective roofing materials must not be used. 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 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. All plant and associated equipment must be located within the approved building envelope and is not be located on the roof. Details on the location of all plant and equipment must be provided prior to the issue of a Construction Certificate.
13. To ensure reasonable privacy for the adjoining properties, Windows W09, W10, W11, W12, W13 and W14 must have a minimum sill height of 1.6m above finished floor level. Alternatively, the window/s may be permanently fixed to this height (that is windows are not to swing or lift open) with obscure glazing provided ventilation requirements of the Building Code of Australia are met or must be provided with permanently fixed external privacy screens which are 75% obscure, angle-adjustable, non-retractable blades and made of durable materials. Details must be provided prior to the issue of a Construction Certificate to the satisfaction of the Certifying Authority.

14. Fire Safety upgrading where building works proposed

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

- (a) The building is to be provided with either a smoke alarm system that complies with AS 3786-1993 / Amendment 4 – 2004: Smoke Alarms or a smoke alarm system that is listed in the Scientific Services Laboratory Register of Accredited Products – Fire Protection Systems. The smoke alarm system must be installed in suitable locations on or near the ceiling in accordance with Part 3.7.2.3 of the Building Code of Australia 1996 (Housing Provisions). The smoke alarm system must be connected to the mains electrical power supply and must have a stand-by (battery backup) power supply.

Amended plans and specifications demonstrating compliance with this condition must be submitted to the certifying authority with the application for a Construction Certificate.

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

- 15. A Certificate prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposal additional, or altered structural loads must be provided prior to the issue of a Construction Certificate to the satisfaction of the certifying authority.
- 16. 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 compatible with the Construction Management and Traffic Management Plan referred to in condition 18 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.
 - j) A durable sign, available from Council must be erected during the works in a prominent location on site, warning of penalties should appropriate measures required by the Soil and Water Management Plan not be maintained.
17. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Service Centre 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. Plans will be appropriately stamped. For Quick Check agent details please refer to the web site www.sydneywater.com.au see Building Developing and Plumbing then Quick Check or telephone 132092.

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

18. 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:
- 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) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
 - iii) The locations of proposed work zones in the frontage roadways.
 - iv) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
 - v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
 - vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.

- vii) An on-site parking area for employees, tradespersons and construction vehicles as far as possible.
 - viii) 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.
 - ix) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
 - x) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a Chartered Civil Engineer, with National Professional Engineering Registration (NPER) in the construction of civil works or a survey company of Registered Surveyors with "preliminary accreditation" from the Institution of Surveyors New South Wales Inc. or an accredited certifier.
- b) Construction Noise
During excavation, demolition and construction phases, noise generated from the site must be controlled.
 - 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.
 - e) Traffic control plan(s) for the site
All traffic control plans must be in accordance with the Roads and Traffic Authority publication "Traffic Control Worksite Manual" and prepared by a suitably qualified person (minimum 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.
- 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.
19. The design of the roof drainage gutter system must comply with the Building Code of Australia and the Australian Standard AS/NZS3500.3:2003 Plumbing and Drainage: Stormwater Drainage. Details demonstrating compliance are to be provided prior to the issue of a Construction Certificate. The following specific issues must be addressed in the design:

- a) To comply with the Performance requirement of P2.21(c) of the Building Code of Australia, the drainage system for the disposal of surface water must –
 - (i) convey surface water to an appropriate outfall; and
 - (ii) avoid the entry of water into a building; and
 - (iii) avoid water damaging the building.
- b) The roof drainage system is designed so that any overflow during heavy rain periods is prevented from flowing back into the building. Even in heavy rain downpours a slotted gutter may be inadequate. A spring-clip gutter system may not be a suitable method. Installation in accordance with the manufacturer's specification may not meet the Building Code of Australia requirements. This is to ensure that the roof drainage system complies with Part 3.5.2.4(d) of the Building Code of Australia.
- c) Where high-fronted gutters are installed, provision must be made to avoid any overflow back into the roof or building structure by incorporating overflow measures or the like. This is to ensure that the roof drainage system complies with Part 3.5.2.4 (d) of the Building Code of Australia.
- d) The roof drainage system must comply with the continuous overflow measures for eaves and gutters as set out in Clause 3.5 and Appendix G of Australian Standard AS/NZS3500.3:2003 Plumbing and Drainage: Stormwater Drainage.

PRIOR TO THE COMMENCEMENT OF WORKS

20. Site cranes and hoists may be erected within the boundaries of the site subject to compliance with the relevant provisions of Australian Standard AS 1418:2005 *Crane, hoists and winches*, Australian Standard AS 2549:1996 *Cranes (including hoists and winches)* and Australian Standard AS 2550:2002 *Cranes, hoists and winches*.

Cranes must not swing or hoist over any public property unless the relevant approval under Local Government Act 1993, Crown Lands Act 1989, or the Roads Act 1993 has been obtained prior to the commencement of works.

The use of the cranes and hoists must comply with the approved hours of construction. The cranes must not be illuminated outside approved working hours other than safety beacons required by the Civil Aviation Safety Authority. No illuminated signs are to be erected upon or displayed upon any crane.

21. The proposed structure(s) to be erected must stand wholly within the boundaries of the allotment. 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 boundaries must be set out by a registered surveyor 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;
- b) level of the floor in relation to the levels on the site (all levels are to be shown relative to Australian Height Datum);
- c) site coverage of the buildings on the site.

22. The site must be secured and fenced prior to works commencing. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons on public property.

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.

Separate approval is required to erect a hoarding or temporary fence 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.

23. 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.

If Council is nominated as the Principal Certifying Authority then a copy of the certificate of insurance must be submitted to Council 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 Council.

In all other cases, written notice must be given to Council of:

- a) the name and licence number of the principal contractor and
- b) the name of the insurer by which the work is insured under Part 6 of the Home Building Act 1989.

If arrangements for doing the residential work are changed while the work is in progress, further work must not be carried out unless the Certifying Authority has given Council written notice of the updated information.

This condition does not apply in relation to Crown building work that is certified, in accordance with Section 116G of the Environmental Planning and Assessment Act 1979, to comply with the technical provisions of the State's building laws.

24. 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.
25. 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.
26. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form and details of the appointed Principal Certifying Authority shall be submitted to Council.
27. An application for any of the following on public property (footpaths, roads, reserves) shall be submitted and approved by Council prior to the commencement of works.
 - a) Construction zone.
 - b) A pumping permit.
 - c) Mobile crane.
 - c) Skip bins other than those authorised by Leichhardt Council.
28. Prior to the commencement of works, a sign must be erected in a prominent position on the site 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 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.

DURING WORKS

29. Building materials and machinery are to be located wholly on site.
30. All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent them from being dangerous to life or property and in accordance with the design of a structural engineer.

If an 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.
31. The site must be appropriately secured and fenced at all times during works.
32. All fill used with the proposal shall be virgin excavated material (such as clay, gravel, sand, soil and rock) that is not mixed with any other type of waste and which has been excavated from areas of land that are not contaminated with human made chemicals as a result of industrial, commercial, mining or agricultural activities and which do not contain sulphate ores or soils.
33. Excavation, building or subdivision work must be restricted to the hours of 7:00am to 5:30pm Monday to Friday inclusive, 7:00am to 1:00pm Saturday. Work is not be carried out on Sunday or Public Holidays.
34. The development must be inspected at the following stages by the Principal Certifying Authority during construction:
 - a) At the commencement of the building work, and
 - b) After excavation for, and prior to the placement of, any footings, and
 - c) Prior to pouring any in-situ reinforced concrete building element, and
 - d) Prior to covering of the framework for any floor, wall, roof or other building element, and
 - e) Prior to covering waterproofing in any wet areas, and
 - f) Prior to covering any stormwater drainage connections, and

- g) After the building work has been completed and prior to any occupation certificate being issued in relation to the building by the Principal Certifying Authority.
- 35. 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.
- 36. A copy of the approved plans must be kept on site for the duration of site works and be made available upon request.
- 37. Where any works are proposed in the public road reservation, the following applications must be made to Council, as applicable:
 - a) For installation or replacement of private stormwater drainage lines or utility services, including water supply, sewerage, gas, electricity, etc. an application must be made for a *Road Opening Permit*.
 - b) For construction/reconstruction of Council infrastructure, including vehicular crossings, footpath, kerb and gutter, stormwater drainage, an application must be made for a *Roadworks Permit*.

Note: Private stormwater drainage is the pipeline(s) that provide the direct connection between the development site and Council's stormwater drainage system, or street kerb and gutter.

- 38. Construction material and vehicles shall not block or impede public use of footpaths or roadways.
- 39. The requirements of the Soil and Water Management Plan must be maintained at all times during the works and any measures required by the Soil and Water Management Plan shall not be removed until the site has been stabilised to the Principal Certifying Authority's satisfaction.

Material from the site is not be tracked into 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.

- 40. No trees on public property (footpaths, roads, reserves etc) are to be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works unless specifically approved in this consent.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

- 41. 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 compliance with the approved Construction Certificate plans and all conditions of this Development Consent.

42. 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.

43. Prior to the issue of an Occupation Certificate, a registered surveyor must provide certification of the height of the building to the satisfaction of the Principal Certifying Authority.
44. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious weed species, have been undertaken in accordance with the approved landscape plan and conditions of Development Consent.
45. All letter boxes must be constructed and located in accordance with the relevant provisions of Australian Standard AS/NZS 4253:1994 *Mailboxes* and to Australia Post's satisfaction. Work is to be completed prior to the issue of an Occupation Certificate.
46. A street number must be clearly displayed at the ground level frontage of the building prior to the issue of an Occupation Certificate. A separate application must be made to Council if new street numbers or a change to street numbers is required.
47. 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.

ONGOING CONDITIONS OF CONSENT

48. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. dwelling, without the prior consent of the Council unless the change to another use is permitted as exempt development under *Leichhardt Development Control Plan 35 – Exempt and Complying Development*.

The use of the premises as a dwelling is defined under the *Leichhardt Local Environmental Plan 2000* as follows:

Dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

49. 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. Domestic air conditioners must not be audible in nearby dwellings between 10:00pm to 7:00am on Monday to Saturday and 10:00pm to 8:00am on Sundays and Public Holidays.

NOTES

- A. This Determination Notice operates or becomes effective from the endorsed date of consent.
- B. Section 82A 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, integrated development or a complying development certificate. The request for review must be made within twelve (12) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. A decision on a review may not be further reviewed under Section 82A.
- C. If you are unsatisfied with this determination, Section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right of appeal to the Land and Environment Court within twelve (12) months of the determination date.
- D. 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.
- E. 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 96 of the *Environmental Planning and Assessment Act 1979*.
- F. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
- G. 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) Development Application for demolition if demolition is not approved by this consent.
 - e) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
- H. 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.