






# INNER WEST

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	D/2019/287
<b>Address</b>	163 Catherine Street, LEICHHARDT NSW 2040
<b>Proposal</b>	Subdivision into 2 lots and adaptive re-use of existing industrial building resulting in a dwelling on each newly created lot
<b>Date of Lodgement</b>	31 July 2019
<b>Applicant</b>	Brenchley Architects
<b>Owner</b>	Mr F D Bordignon and Mr S D Bordignon
<b>Number of Submissions</b>	Three (3)
<b>Value of works</b>	\$1,372,360
<b>Reason for determination at Planning Panel</b>	Clause 4.6 variation exceeds officer delegation
<b>Main Issues</b>	Floor Space Ratio
<b>Recommendation</b>	Approval with Conditions
<b>Attachment A</b>	Recommended conditions of consent
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	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 subdivision into 2 lots and adaptive re-use of an existing industrial building resulting in a dwelling on each newly created lot at 163 Catherine Street, Leichhardt. The application was notified to surrounding properties and three submissions were received.

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

- Floor Space Ratio variation exceeds 10%

The non-compliance is acceptable given that the proposed increase in FSR will have no significant adverse amenity impacts to the adjoining properties or impacts on the public domain, and therefore the, application is recommended for approval.

## 2. Proposal

The proposal involves subdivision of the site at No. 163 Catherine Street, Leichhardt, a change of use from industrial to residential accommodation and alterations to the existing industrial building on the site to create two new dwelling houses. The extent of works proposed includes:

### Ground Floor

- New entrance doors with covered pergolas and associated staircases leading to each dwelling;
- New planted verge to Catherine Street;
- New party wall;
- Modifications to existing vehicle crossings;
- New OSD stormwater tanks;
- Addition of a rumpus room, two bathrooms, laundry and three bedrooms (for each dwelling) utilising the existing slab; and,
- Demolition of the rear and sides of the building to accommodate internal vented light wells.

### First Floor

- Demolition of the front portion of the building to accommodate two new terraces and covered entrances to each dwelling; and,
- Addition of a new first floor which includes a master bedroom, ensuite and walk in robe, kitchen, dining and living room (for each dwelling).

### Roof

- Demolition of the roof to accommodate the new first floor and a roof terrace for each dwelling; and,
- New skylights.

## 3. Site Description

The subject site is located on the eastern side of Catherine Street, between Hill Street and Styles Street. The site consists of one allotment and is rectangular in shape with a total area of 614sqm and is legally described as D.P. 877690.

The site has a frontage to Catherine Street of 12.165 metres.

The site supports an existing single storey industrial brick building with a sheet metal roof. The adjoining properties support one and two storey residential dwellings.

The subject site is not listed as a heritage item or located within a heritage conservation area. The property is not identified as a flood prone lot.

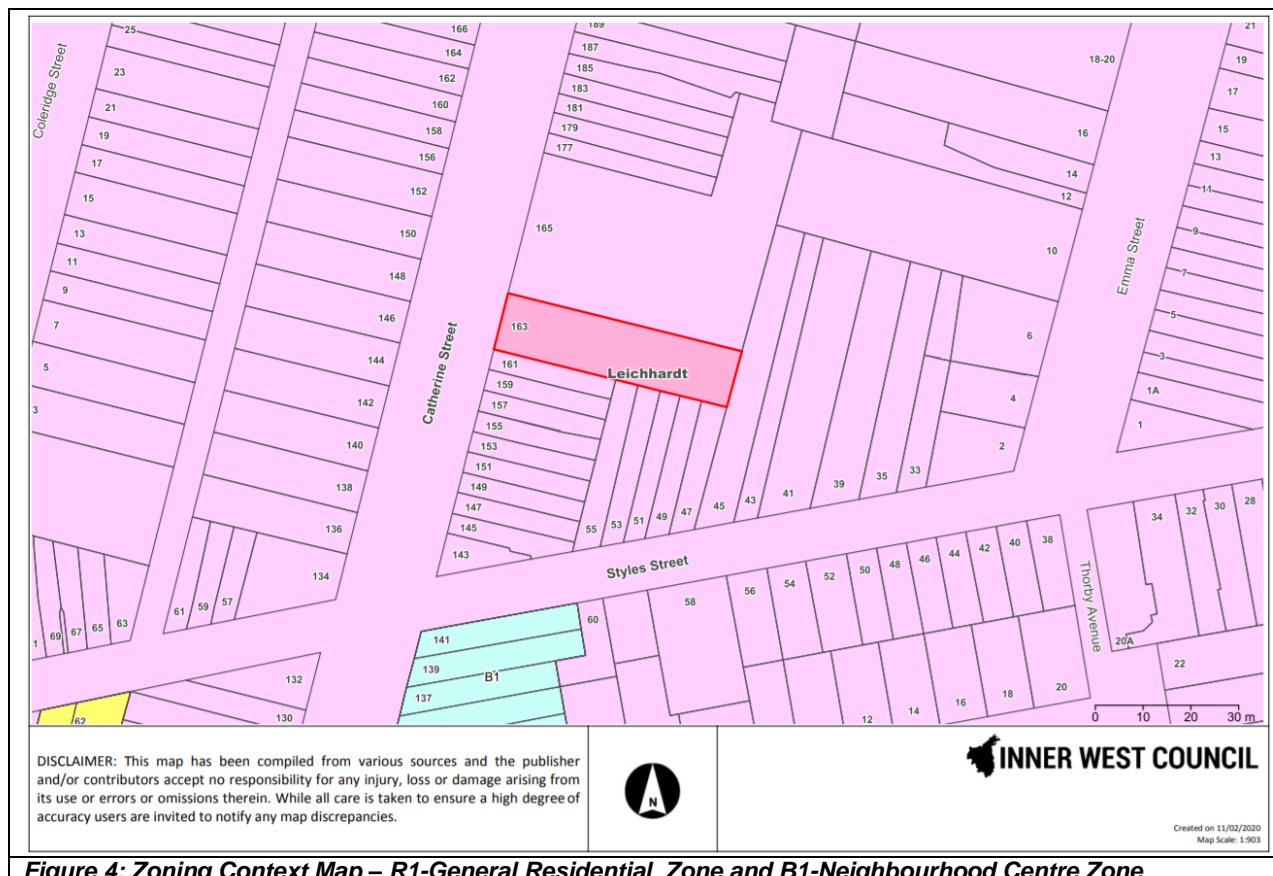


Figure 4: Zoning Context Map – R1-General Residential Zone and B1-Neighbourhood Centre Zone

## 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
BC/2015/73	Replacement of existing air intake & exhaust ducts associated with spray booth to existing car repair business	Approved – 02/09/2016
PREDA/2018/325	Change of use to residential - current commercial premises to be adapted to form 2 attached dwellings	Advice Letter Issued – 19/02/2019

#### Surrounding properties

161 Catherine Street, Leichhardt

Application	Proposal	Decision & Date
D/2000/222	Attic addition to existing dwelling	Approved – 02/11/2000

	including dormer window to street frontage.	
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Strata Scheme, 165 Catherine Street, Leichhardt

Application	Proposal	Decision & Date
DA/451/1995	Erection of 5 single storey townhouses & 11 two storey townhouses over basement parking for 27 cars	Refused – 09/02/1996
DA/140/1997	Erect 14 townhouses	Approved under appeal – 11/06/1997

#### 4(b) Application history

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

Date	Discussion / Letter / Additional Information
3.12.2019	Applicant submitted additional information as per Council's request
11.11.2019	Council forwarded the applicant a request for additional information letter which entailed the following: <ul style="list-style-type: none"> <li>• Updated plans demonstrating that the proposed parking spaces would achieve compliance with AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking</li> <li>• An updated Stormwater Concept plan incorporating OSD/OSR and demonstrating how stormwater will be managed on the site; and,</li> <li>• Updated plans to include acoustic attenuation of the first floor terraces.</li> </ul>

## 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*
- *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 the consent authority to be satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent.

The site has 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*.

A Detailed Site Investigation (DSI) has been provided to address the management of contaminated groundwater onsite and the treatment and/or disposal of any contaminated soils and contamination issues prior to determination. The contamination documents have been reviewed and found that the site is suitable for the proposed use. To ensure that these works are undertaken, it is recommended that conditions are included in the recommendation in accordance with Clause 7 of *SEPP 55*.

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

A BASIX Certificate was submitted with the application and will be referenced in any consent granted.

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

The subject site is not within the Foreshores and Waterways Area, therefore no assessment under the Plans is required.

*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 2.6 - Subdivision
- Clause 2.7 - Demolition
- Clause 4.1 - Minimum subdivision lot size
- Clause 4.3A - Landscaped areas for residential accommodation 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 6.1 - Acid Sulfate Soils
- Clause 6.4 - Stormwater management
- Clause 6.8 - Development in areas subject to aircraft noise
- Clause 6.11 – Adaptive reuse of existing non-residential buildings in Zone R1

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

The site is zoned R1 – General Residential under the *LLEP 2011*. The *LLEP 2013* defines the development as semi-detached dwellings and the development is permitted with consent within the land use table. The development is consistent with the objectives of the R1 – General Residential zone.

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

**Lot 1**

Standard (maximum)	Proposal	% of non compliance	Compliances
<b>Subdivision</b> (200sqm)	304.6sqm	N/A	Yes
<b>Floor Space Ratio</b> (0.6:1)	1.24:1 377sqm	106.29%	No
<b>Landscape Area</b> (20%)	Nil	100%	No (Existing non-compliance which is unchanged)
<b>Site Coverage</b> (60%)	85.63%	42.72%	No(Existing non-compliance which is being reduced)

**Lot 2**

Standard (maximum)	Proposal	% of non compliance	Compliances
<b>Subdivision</b> (200sqm)	308.7sqm	N/A	Yes
<b>Floor Space Ratio</b> (0.6:1)	1.22:1 377sqm	103.55%	No
<b>Landscape Area</b> (20%)	Nil	100%	No (Existing non-compliance which is unchanged)
<b>Site Coverage</b> (60%)	84.49%	40.82%	No (Existing non-compliance which is being reduced)

Clause 4.6 Exceptions to Development Standards

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

- Clause 4.4 – Floor Space Ratio

The applicant seeks a variation to the Floor Space Ratio development standard under Clause 4.4 of the Leichhardt Local Environmental Plan by 106.29% (191.80 sqm) for Lot 1 and 103.55% (194.26 sqm) for Lot 2.

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

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

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the Leichhardt Local Environmental Plan justifying the proposed contravention of the development standard which is summarised as follows:

- The proposed dwelling floor layout maximises the provision of external open space areas which are functional and useable. In the event that the development was redesigned to comply with the FSR standard, there would be no material gains to any nearby properties in terms of a reduction in impacts, as the proposal is generally

consistent with the DCP building envelope controls and meets the requirements of the DCP in relation to overshadowing, overlooking and general overbearing impacts;

- The proposed contravention of the maximum FSR development standard is considered acceptable as it enables the adaptive reuse of the existing building, resulting in two (2) new dwelling houses which are configured in a manner which ensures they are useable and functional and incorporate sufficient space to meet contemporary amenity requirements. Compliance with the FSR standard could be achieved, however this would necessitate deleting internal floor area, which would not discernibly alter the proposed building envelope and would have no benefits in terms of reducing environmental impacts, when compared to the existing building on the site; and,
- It is considered that on the basis that the proposal meets the objectives of the development standard and zone despite the non-compliance with the FSR standard, and having regard to the lack of amenity benefits arising from the proposed adaptive reuse, it is considered that the non-compliance is acceptable.

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

The relevant objectives of the R1 – General Residential zone are outlined below:

- *To provide for the housing needs of the community.*
- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
- *To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.*
- *To protect and enhance the amenity of existing and future residents and the neighbourhood*

The objectives of the FSR development standard, as set out in the LLEP 2013, are outlined below:

- a) to ensure that residential accommodation:**
  - (i) is compatible with the desired future character of the area in relation to building bulk, form and scale, and*
  - (ii) provides a suitable balance between landscaped areas and the built form, and*
  - (iii) minimises the impact of the bulk and scale of buildings.*

Having regard to these objectives, the following is noted:

- The objective of the Floor Space Ratio standard is to ensure residential accommodation is compatible with the desired future character of the area in relation to building bulk, form and scale.
- The additional GFA is to accommodate a new first floor for each dwelling with a slight increase in height of 1.43m that is considered to have minimal adverse privacy and streetscape impacts.

It is considered the development is in the public interest because it is consistent with the objectives of the R1 – General Residential zone and the objectives of the FSR development standard, in accordance with Clause 4.6(4)(a)(ii) of the LLEP 2013 for the following reasons:

- The proposed development is compatible with the desired future character of the area in relation to building bulk, form;

- The proposal maintains a suitable balance between open space areas and the built form and provides sufficient private open space on the site;
- The additional floor space will comply with the Building Location Zone where it can be reasonably assumed that development can occur; and,
- The proposal does not result in any adverse unacceptable amenity impacts to the surrounding properties.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. The concurrence of the Planning Secretary may be assumed for matters dealt with by the Local Planning Panel.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the Leichhardt Local Environmental Plan. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the Floor Space Ratio development standard] and it is recommended the Clause 4.6 exception be granted.

Clause 6.8 - Development in areas subject to aircraft noise

An Acoustic Report has been submitted to Council and is referenced in the recommended consent conditions.

Clause 6.11 – Adaptive reuse of existing non-residential buildings in Zone R1

The proposal has been assessed under this Clause and the development is not considered to be adaptive reuse for the following reasons:

- The proposed new first floor and additional floor space is not contained wholly within the roof form and envelope of the existing building; and,
- The proposal does not retain the form, fabric and architectural features of the existing building.

5(b) Draft Environmental Planning Instruments

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

- Draft SEPP – Environment

The proposal does not contravene the provisions in the Draft SEPP – Environment.

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.

LDCP2013	Compliance
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	N/A
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A



<b>Part C</b>	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes – see discussion
C1.4 Heritage Conservation Areas and Heritage Items	N/A
C1.5 Corner Sites	N/A
C1.6 Subdivision	Yes – see discussion
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes – see discussion
C1.9 Safety by Design	N/A
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	Yes
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	N/A
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	N/A
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.3.3 Piperston Distinctive Neighbourhood	Yes
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes – see discussion
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	N/A
C3.8 Private Open Space	Yes – see discussion
C3.9 Solar Access	Yes – see discussion
C3.10 Views	Yes – see discussion
C3.11 Visual Privacy	Yes – see discussion
C3.12 Acoustic Privacy	Yes – see discussion
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
<b>Part C: Place – Section 4 – Non-Residential Provisions</b>	N/A
<b>Part D: Energy</b>	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes

D2.4 Non-Residential Development	No
D2.5 Mixed Use Development	No
<b>Part E: Water</b>	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	N/A
E1.1.1 Water Management Statement	N/A
E1.1.2 Integrated Water Cycle Plan	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	Yes
E1.2.1 Water Conservation	N/A
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Yes
E1.2.4 Stormwater Treatment	N/A
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	N/A
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A
<b>Part F: Food</b>	
<b>Part G: Site Specific Controls</b>	

The following provides discussion of the relevant issues:

**C1.3 Alterations and additions**

The streetscape controls prescribed in this part of the LDCP2013 seek to ensure first floor additions are of a scale and are to be located in a manner which:

- Maintains visual separation between the existing building and adjoining residential development; and
- Maintains setback patterns of surrounding development; and
- Will ensure that the addition does not dominate, but is subordinate to the existing dwelling when viewed from the street.

Further, the site is located in the Piperston Distinctive Neighbourhood where a maximum wall height of 7.2m applies. The proposed additions will not breach the envelope controls due to their siting, being located to the rear with a lower overall height compared to the pitched roof of the existing building.

Given the properties context, where two storey buildings along Catherine Street are not usual, and dwellings have a predominantly single storey presentation to the street, the proposal will not be out of character with the pattern of development in the street. Further:

- The proposed additions are contained behind the existing roof form and are not visible from Catherine Street;
- The proposal will comprise of roof forms, proportions to openings and finishes and materials that will complement, and that will not detract from, the existing and adjoining buildings; and

- The siting of the addition ensures that potential amenity on adjoining properties, including in terms of visual bulk and scale impacts, particularly when viewed from rear private open areas, are minimised.

In light of the above considerations, the proposed alterations and additions are considered acceptable.

### **C1.6 Subdivision**

As discussed in previous sections, the proposed subdivision of the site results in two lots with site areas of 308.7sqm and 304.6sqm, which complies with the minimum subdivision requirements. In addition, the new lots are consistent with the prevailing pattern of development and subdivision pattern in the neighbourhood.

### **C1.8 Contamination**

Refer to Section 5(a) (i) for discussion.

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

#### **Siting and Building Envelope**

See assessment above under Clause C1.3 of the LDCP2013 – for reasons discussed above, the proposed rear first floor additions are considered acceptable.

#### **Building Location Zone (BLZ)**

The proposed rear first floor additions extend beyond the established first floors on adjacent properties to the south, which share the same east/west lot alignment as the subject site. Given these adjoining properties are approximately half the length of the subject site; it would be unreasonable in this instance for the proposal to comply with the rear alignment of other first floors in the immediate vicinity.

However, the test prescribed under this Clause is satisfied and the BLZ variation acceptable in this instance, for the following reasons:

- The height of the development has been kept to a minimum to minimise visual bulk and scale, as viewed from adjoining properties, in particular when viewed from the private open space of adjoining properties;
- The proposal complies with the solar access controls the LDCP2013 and has been designed to minimise any potential amenity impacts on adjoining properties in terms of privacy and views;
- The proposed development is a sympathetic addition to the existing streetscape, and is compatible with the desired future character and scale of surrounding development; and,
- The proposal provides sufficient private open space areas for each dwelling.

As a result, it is considered that the proposal is satisfactory having regard to the BLZ controls.

#### **Side Setbacks**

The proposal will not result in any breach of the side setback control adjacent to a boundary shared with an adjoining property.

### **C3.8 Private Open Space**

The private open space controls prescribed in this part of the LDCP2013 seek to ensure that areas of private open space for dwelling houses are located on the ground floor, have a minimum area of 16sqm, minimum dimension of 3sqm and are connected to principal living areas.

The provision of above ground private open space is considered acceptable in this instance given the site constraints, the adjoining two storey dwellings to the north and given that a superior amenity outcome is achieved to each dwelling.

It should be noted that additional acoustic treatment has been incorporated to ensure that the proposal minimises any potential acoustic impacts to surrounding residents (refer to sections below). In this regard, the proposal complies with the objectives of this Clause and is considered acceptable.

### **C3.9 Solar Access**

The design does not result in additional overshadowing impacts to the rear private open space areas or living areas of adjoining properties. The proposal results in some minor overshadowing to a hallway window at No. 49 Style Street at 9am in mid-winter.

The solar access controls prescribed in this part of the LDCP2013 seek to protect north-facing windows which service living rooms. As such, the additional overshadowing is not considered to be unreasonable and the proposal complies with the objectives and controls of this Clause.

### **C3.10 Views**

One objection was received in relation to the loss of views.

Council considers the *Tenacity* Planning Principle steps in its assessment of reasonable view sharing:

*“a. What views will be affected? In this Plan, a reference to views is a reference to water views and views of significant landmarks (e.g. Sydney Harbour, Sydney Harbour Bridge, ANZAC Bridge and the City skyline including features such as Centre Point Tower). Such views are more highly valued than district views or views without significant landmarks.*

*b. How are the views obtained and assessed? Views from private dwellings considered in development assessment are those available horizontally to an observer standing 1m from a window or balcony edge (less if the balcony is 1m or less in depth).*

*c. Where is the view enjoyed from? Views enjoyed from the main living room and entertainment areas are highly valued. Generally it is difficult to protect views from across side boundaries. It is also generally difficult to protect views from other areas within a residential building particularly if views are also available from the main living room and entertainment areas in the building concerned. Public views are highly valued and will be assessed with the observer standing at an appropriate point in a public place.*

*d. Is the proposal reasonable? A proposal that complies with all development standards (e.g. building height, floor space ratio) and planning controls (e.g. building setbacks, roof pitch etc) is more reasonable than one that breaches them.”*

The following controls are applicable:

*C1 New development should be designed to promote view sharing (i.e. minimise view loss to adjoining and adjacent properties and/or the public domain while still providing opportunities for views from the development itself).*

*C2 Design solutions must respond graphically to the site analysis outcomes through the use of plans, elevations, photographs and photomontages to demonstrate how view sharing is to be achieved and illustrate the effect of development on views. In some cases, reasonable development may result in the loss of views, but new development must not significantly obstruct views.*

*C3 Development shall be designed to promote view sharing via:*

- a. appropriately addressing building height, bulk and massing;*
- b. including building setbacks and gaps between buildings;*
- c. minimise lengthy solid forms;*
- d. minimise floor to ceiling heights and use raked ceilings in hipped / gabled roof forms where appropriate, especially in upper floors;*
- e. splay corners; and*
- f. use open materials for balustrades, balconies, decks, fences, car ports and the like.*

#### Impact to No. 161 Catherine Street

The property at 161 Catherine currently enjoys views of the city skyline and Centre Point Tower. The views are obtained from the rear window of a first floor bedroom. Refer to figures (A and B) below: the shaded area is the approximate proposed building form. The proposed buildings will result in some minor view loss of the city skyline and Centre Point Tower from the first floor bedroom.

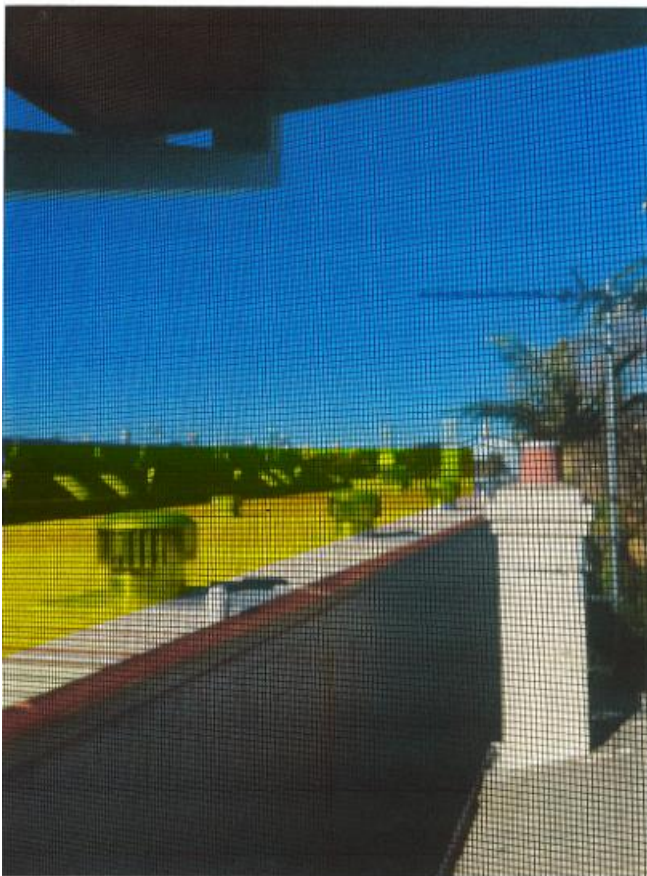


Figure A: View from rear first floor bedroom of No. 161 Catherine Street (a)



Figure B: View from rear first floor bedroom of No. 161 Catherine Street (b)

### Assessment

The proposal in its current form will result in some minor loss of views to the city skyline and Centre Point Tower.

As outlined in C3.10, generally it is more difficult to protect views across side and rear boundaries. The views from 161 Catherine Street rely on an aspect across a number of properties including the subject site. These views are also distant and partial and therefore these impacts are not considered significant enough to justify the proposal being refused.

Given the increase in height of the building form is 1.43m, and the proposed additions have been designed with minimal floor to ceiling heights and a pitched roof form, it is also considered that the proposal has been skilfully designed to minimise view loss impacts.

As discussed in earlier sections of the report, the proposal complies with Building Envelope, BLZ and Side Boundary Setback controls, in addition to solar access and privacy controls.

Therefore, it is considered that the proposal in its current form is satisfactory as the design does minimise the view loss impacts. It is not considered that an alternative, more skilful or sympathetic design could improve view sharing between neighbours. As such, the proposal satisfies the *Tenacity* Planning Principle and Council's DCP and is accordingly recommended for approval.

### **C3.11 Visual Privacy and C3.12 Acoustic Privacy**

The proposed alterations and additions to the existing building will result in two new dwellings with living rooms and adjacent private open space/terrace at the first floor and a roof terrace.

The provision of living areas and private open space at the first floor is considered acceptable in this instance given terraces will be enclosed, there are no direct sight lines to adjoining properties or between the dwellings and any additional noise generated from these areas will be captured by an acoustic wall and awning along each side boundary.

As discussed previously, given the adjoining two storey dwellings to the north, a superior amenity outcome is achieved to each dwelling by pursuing first floor living areas and private open space at the front of the site, rather than at the rear.

It is noted that a number of properties to the south raised concern with acoustic and visual privacy and the new roof terraces. The LDCP2013 takes into consideration the following test when assessing roof terraces:

*Roof terraces will be considered where they do not result in adverse privacy impacts to surrounding properties. This will largely depend on the:*

- a. design of the terrace;*
- b. the existing privacy of the surrounding residential properties;*
- c. pre-existing pattern of development in the vicinity; and*
- d. the overlooking opportunities from the roof terrace.*

The proposed roof terrace to the south is set back approximately 2.5m from the side boundary and the rear yards of adjoining properties along Style Street and also set back approximately 20m from the first floors of adjacent properties along Catherine Street. It is also noted that a privacy screen is proposed along the full length of the terrace at a height of 1.7m which is in excess of Council's minimum requirements under C3.11. Given the overall height of the terrace in relation to adjoining properties in addition to the proposed privacy screen, it is considered that the design of the terrace will not facilitate direct sight lines to adjacent properties to the south and will achieve an adequate level of privacy in accordance with this Clause.

Finally, it is noted that privacy concerns were raised from the adjacent property to the rear at 45 Style Street regarding the demolition of a portion of the existing rear boundary wall and sight lines from the proposed master bedroom. Although this adjoining property currently does not have a first floor or windows along this shared boundary at a height which would facilitate direct sight lines, the master bedroom windows of each of the proposed dwellings is set back 3.6m from the rear boundary and the rear boundary wall would be at a height of 1.6m above the proposed floor level of this room; mitigating any potential overlooking.

As such, the proposal would achieve compliance with the controls and objectives of these Clauses and it is considered that an adequate level of visual and acoustic separation is achieved between the subject dwellings and adjacent properties.

In light of the above considerations, the proposal is considered acceptable.

#### 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 Leichhardt Development Control Plan 2013 / for a period of 14 days to surrounding properties. A total of three (3) submissions were received.

The following issues raised in submissions have been discussed in this report:

- Impact on city views currently benefiting the first floor bedroom of 161 Catherine Street – see 5(c)

- Visual and acoustic privacy implications from the new roof terrace – 161 Catherine Street first floor bedroom –see 5(c)
- Visual and acoustic privacy implications – 45 Styles Street - see 5(c)
- Visual privacy implications – 43 Styles Street - see 5(c)

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

Issue: Proposal would negatively impact the complying development plans of the neighbouring property at No. 45 Styles Street.

Comment: It is unreasonable for prospective complying development plans on the adjoining site to preclude development on the subject site. The proposal complies with the relevant provisions of the LLEP2103 and LDPC2013, as discussed above and is supported on merit. Irrespective of this, there appears reasonable scope for a first floor addition to still be achieved on this adjoining site.

Issue: Non-compliance with Section 12 – Warehouses and Factories.

Comment: The proposal seeks to convert an existing industrial building into two residential dwellings and as such, this section of the Leichardt DCP 2013 is not relevant.

Issue: Unclear what is proposed for the rear boundary wall and view loss concerns to No. 43 Styles Street from potentially rebuilding this wall.

Comment: A portion of the existing rear boundary wall is to be demolished and will not impact any existing views benefiting No. 43 Styles Street, given this adjoining property is one storey and given there is no additional height being proposed along this boundary.

### 5(g) The Public Interest

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

The proposal is not contrary to the public interest.

## 6 Referrals

### 6(a) Internal

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

- Development Engineer - No objections to proposal, subject to conditions being imposed.
- Environmental Health - No objections to proposal, subject to conditions being imposed.
- Landscape/Urban Forests - No objections to proposal, subject to conditions being imposed.

### 6(b) External

The application was not required to be referred externally.

## 7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are payable for the proposal.



The carrying out of the development would result in an increased demand for public amenities and public services within the area. A financial contribution would be required for the development under Leichhardt Section 94 Contributions Plans as follows:

<b>Contribution Plan</b>	<b>Contribution</b>
Open space and recreation	\$32,569.22
Community facilities and services	\$4,271.16
Local area traffic management	\$225.67
<b>TOTAL</b>	<b>\$37,066.05</b>

A condition requiring that contribution to be paid is included in the recommendation.

## 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 the adjoining properties and the streetscape and is considered to be in the public interest.

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 of the *Leichhardt Local Environmental Plan 2013* to vary Clause 4.4 Floor Space Ratio of the *Leichhardt Local Environmental Plan 2013*.

After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.

- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. D/2019/287 for subdivision into 2 lots and adaptive re-use of existing industrial building resulting in a dwelling on each newly created lot at 163 Catherine Street, Leichhardt, subject to the conditions listed in Attachment A below.

## Attachment A – Recommended conditions of consent

### Conditions of Consent

#### Fees

#### Planning

##### 1. Section 7.11 (Former Section 94) Contribution

Prior to the issue of a Construction Certificate written evidence must be provided to the Certifying Authority that a monetary contribution of \$37,066.05 in accordance with Developer Contributions Plan No.1 – Open Space and Recreation; 'Developer Contributions Plan No.2 – Community Facilities and Services (2005); and Leichhardt Developer Contributions Plan – Transport and Access ("CP") has been paid to the Council.

The above contribution is the contribution applicable as at 15 January 2019.

The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:

Contribution Plan	Contribution
Open space and recreation	\$32,569.22
Community facilities and services	\$4,271.16
Local area traffic management	\$225.67
<b>TOTAL</b>	<b>\$37,066.05</b>

A copy of the CP can be inspected at any of the Inner West Council Services Centres or viewed online at:

<https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions>

The contribution must be paid either in cash, by unendorsed bank cheque (from an Australian Bank only), via EFTPOS (Debit only) or credit card\*.

\*NB A 0.75% credit card transaction fee applies to all credit card transactions.

##### 2. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid 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.

**3. Security Deposit - Standard**

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit:	\$2,152.50
Inspection Fee:	\$230.65

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

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

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

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

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

[General Conditions](#)

[Planning](#)

**4. Documents related to the consent**

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
Drawing No.: 2018-	Site and Roof Plan	Nov 2019	Brenchley Architects

031-A00			
Drawing No.: 2018-031-A01	Floor Plans	Nov 2019	Brenchley Architects
Drawing No.: 2018-031-A02	Elevation/Section (a)	Nov 2019	Brenchley Architects
Drawing No.: 2018-031-A03	Elevation/Section (b)	Nov 2019	Brenchley Architects
4589R001.J.G190528	Aircraft Noise Intrusion Assessment Report	31 May 2019	Acousticdynamics
BASIX Certificate No.: A348802	Basix Certificate	08 July 2019	Expressrate Pty Ltd
	Schedule of Finishes	Nov 2019	Brenchley Architects
Drawing No. C003 Rev D	Stormwater Plan (a)	2 December 2019	CHRISP Consulting
Drawing No. C004 Rev C	Stormwater Plan (b)	2 December 2019	CHRISP Consulting
Drawing No. C005 Rev C	Stormwater Plan (c)	2 December 2019	CHRISP Consulting

As amended by the conditions of consent.

**5. Waste Management Plan**

Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.

**6. Erosion and Sediment Control**

Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.

**7. Standard Street Tree Protection**

Prior to the commencement of any work, the Certifying Authority must be provided with details of the methods of protection of all street trees adjacent to the site during demolition and construction.

#### **8. Verification of Levels and Location**

Prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, the Principal Certifier must be provided with a survey levels certificate prepared by a Registered Surveyor indicating the level of the slab and the location of the building with respect to the boundaries of the site to AHD.

#### **9. Boundary Alignment Levels**

Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary.

#### **10. Works Outside the Property Boundary**

This development consent does not authorise works outside the property boundaries on adjoining lands.

#### **11. Tree Protection**

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 Management 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.

Any public tree within five (5) metres of the development must be protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.

#### **12. Asbestos Survey**

Prior to any demolition or the issue of a Construction Certificate (whichever occurs first), the Certifying Authority must provide an asbestos survey to Council. The survey shall be prepared by a suitably qualified Occupational Hygienist and is to incorporate appropriate asbestos removal and disposal methods in accordance with the requirements of SafeWork NSW.

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

### Prior to any Demolition

#### Planning

##### **13. Dilapidation Report**

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the adjoining properties to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

##### **14. Advising Neighbors Prior to Excavation**

At least 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.

##### **15. Construction Fencing**

Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.

##### **16. Hoardings**

The person acting on this consent must ensure the site is 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 roads or Council controlled lands 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. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.

Separate approval is required from the Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property.

### Prior to Construction Certificate

#### Planning

**17. Structural Certificate for retained elements of the building**

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a 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. The certificate must 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.

**18. Sydney Water – Tap In**

Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program 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.

*Note: Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 132092.*

**19. Acoustic Report – Aircraft Noise**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans detailing the recommendations of an acoustic report prepared by a suitably qualified Acoustic Engineer demonstrating compliance of the development with the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.

**20. Concealment of Plumbing and Ductwork**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans detailing the method of concealment of all plumbing and ductwork including stormwater downpipes within the outer walls of the building so they are not visible.

**21. Dilapidation Report – Pre-Development – Minor**

Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.

**22. Parking Facilities - Domestic**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans and certification by a suitably qualified Civil Engineer demonstrating that the design of the vehicular access and off-street parking facilities comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking and the following specific requirements:

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- a) The garage slab or crest of the access ramp must rise within the property to be 170mm above the adjacent road gutter level and higher than the street kerb and footpath across the full width of the vehicle crossing. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.
- b) A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
- c) Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided at a natural scale of 1:25, demonstrating compliance with the above requirements.
- d) The garage/parking space must have minimum clear internal dimensions of 6000mm x 3000 mm (length x width). The dimensions must 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.
- e) A plan of the proposed access and adjacent road, drawn at a 1:200 scale, demonstrating that vehicle manoeuvrability for entry and exit to the parking space complies with swept paths from AS/NZS 2890.1:2004. The plan must include any existing on-street parking spaces.
- f) The maximum gradients within the parking module must not exceed 1 in 20 (5%), measured parallel to the angle of parking and 1 in 16 (6.25%), measured in any other direction in accordance with the requirements of Section 2.4.6 of AS/NZS 2890.1-2004.

Note that the levels of the adjacent road surface can have a significant bearing on the final floor and roof levels of the proposed parking facilities. It is critical that the site survey undertaken for the development includes all relevant surface levels out to the road centreline, and includes kerb alignments on both sides of the road.

### **23. Storm water Drainage System – Minor Developments (OSD is required)**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating On site Stormwater Detention storage and/or On site Stormwater Retention/ re-use facilities (OSD/OSR), certified by a suitably qualified Civil Engineer. The Stormwater Drainage Concept Plan on drawing No. 1907/C03-C05 prepared by CHRISP CONSULTING and dated 2 December 2019 must be amended to comply with the following specific requirements:

- a) All stormwater drainage being designed in accordance with the provisions of the Australian Rainfall and Runoff (ARR), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP.



- b) Stormwater runoff from pervious and impervious areas of the proposed dwelling must be collected and discharged under gravity via OSD to Catherine Street. Separate drainage system must be provided for each lot.
- c) Charged or pump-out stormwater drainage systems are not used including for roof drainage.
- d) The plans, including supporting calculations, must demonstrate that the post development flows for the 100 year ARI storm are restricted to the pre development flows for the 5 year ARI storm event in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013 and the maximum allowable discharge to Council's street gutter limited to 15 litres/second (100year ARI);
- e) The volume of the OSD can be reduced where on-site retention (OSR) facilities for rainwater reuse and/or stormwater reuse are proposed to service all toilets, laundries and outdoor usage. Where OSR is proposed in lieu of OSD, the offset shall be calculated at a rate of 1m<sup>3</sup> from the OSD storage volume, for every 2.5m<sup>3</sup> of OSR storage provided (up to a maximum OSD offset of 10m<sup>3</sup>). Offsets for larger OSD storage must be supported by detailed calculations demonstrating compliance with the objectives of Leichhardt Council's DCP.
- f) Details and dimensions of the OSD tank and OSR tank, the invert and top water level in the OSD and OSR and details of the discharge control device including calculation of rates of discharge and volume of storage must be indicated on the drainage plans.
- g) Where a combined OSD/OSR is proposed, only roof water is permitted to be connected to the OSD/OSR. The over flow from the storage tank must be connected under gravity to Catherine Street. Stormwater outlet pipe at a lower level of the storage tank is not required.
- h) The bin storage area shall be shown on the plans, the bins must not cause obstruction to vehicular or pedestrian access to the site.
- i) Drainage pipes must be laid at a minimum grade of 1%. All pipes' diameter and invert level and pits surface and invert level must be shown on the amended drainage plans.
- j) The location and levels of the OSD/OSR and downpipe connections must be shown on plan and elevation.
- k) 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;
- l) A 150mm step up shall be provided between the finished surface level of the external areas and the finished floor level of the internal room.
- m) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.

- n) Only a single point of discharge is permitted to the kerb and gutter, per frontage of each site.
- o) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.

### During Demolition and Construction

#### Planning

#### **24. Construction Hours – Class 1 and 10**

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5:00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.

#### **25. Survey Prior to Footings**

Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.

#### **26. Contamination – Retention of Ground Slab**

This consent only permits the fit-out and use of the premises with the retention of the existing ground slab. Intrusive ground excavations and/or works that may compromise the integrity of the existing ground slab covering the site are not approved, and existing ground slabs and hardstand areas must be retained and maintained in their original form.

Should any ground slab or hardstand area be damaged or disturbed, an appropriately qualified Environmental Consultant must inspect the site immediately and determine whether any potential contaminants have been disturbed. If preventative works need to be undertaken, a written statement prepared by a qualified Environmental Consultant must be provided to Council detailing the outcome of this investigation and associated works.

### Prior to Occupation Certificate

#### Planning

#### **27. Aircraft Noise –Alterations and Additions**

Prior to the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), the Principal Certifier must be provided with a report from a suitably qualified person demonstrating that each of the commitments listed in Aircraft Noise Assessment Report required by this consent has been satisfied.

Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate being prepared and submitted to the Principal Certifier in accordance with this condition.

#### **28. No Encroachments**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.

#### **29. Parking Signoff – Minor Developments**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with certification from a qualified practising Civil Engineer that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.

#### **30. Works as Executed – Site Storm water Drainage System**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with Certification by a suitably qualified Civil Engineer that:

- a) The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.
- b) Works-as-executed plans of the stormwater drainage system certified by a Registered Surveyor, to verify that the drainage system has been constructed, OSD/OSR system commissioned and stormwater quality improvement device(s) and any pump(s) installed in accordance with the approved design and relevant Australian Standards have been submitted to Council. The works-as-executed plan(s) must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifying Authority stamped Construction Certificate plans.

#### **31. Operation and Management Plan**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with an Operation and Management Plan has been prepared and implemented for the on-site detention and/or on-site retention/re-use facilities and stormwater quality improvement device(s) and pump(s). The Plan must set out the following at a minimum:

- a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
- b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

### **32. No Weep Holes**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with evidence that any weep holes to Council road or footpath resulting from the building works have been removed.

### **33. Civil Engineer Verification**

Prior to the issue of a Subdivision Certificate, the Principal Certifying Authority must be provided with written verification from a suitably experienced Civil Engineer, stating that all stormwater drainage and related work has been and constructed in accordance with the approved plans.

## **Prior to Subdivision Certificate**

### **Planning**

#### **34. Section 73 Certificate**

Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided with the Section 73 Certificate. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

#### **35. Separate Stormwater**

Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided with details, endorsed by a practising stormwater engineer demonstrating separate drainage systems to drain each proposed lot.

## **Advisory notes**

### **Planning**

#### **Prescribed Conditions**

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

#### **Notification of commencement of works**

At least 7 days before any demolition work commences:

- a) the Council must be notified of the following particulars:

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- i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
  - ii. the date the work is due to commence and the expected completion date; and
- b) a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

**Storage of Materials on public property**

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

**Toilet Facilities**

The following facilities must be provided on the site:

- a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
- b) a garbage receptacle for food scraps and papers, with a tight fitting lid.

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

**Infrastructure**

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. 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 must be undertaken before occupation of the site.

**Contamination – New Evidence**

Any new information revealed during demolition, remediation or construction works that have the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Certifying Authority.

**Storage of Hazardous and Dangerous Goods**

Dangerous and hazardous goods must be stored in accordance with NSW WorkCover requirements and AS1940-2004, The Storage and Handling of Flammable and Combustible Liquids.

**Transport of Hazardous and Dangerous Goods**

Hazardous and industrial waste arising from the use must be removed and / or transported in accordance with the requirements of the NSW Environment Protection Authority (EPA) and the New South Wales WorkCover Authority.

**Asbestos Removal**

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A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m<sup>2</sup> of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

Removal of friable asbestos material must only be undertaken by a contractor that holds a current AS1 Friable Asbestos Removal Licence.

Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2005. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

**Other Approvals may be needed**

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

**Failure to comply with conditions**

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.

**Other works**

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*.

**Obtaining Relevant Certification**

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.

#### **Disability Discrimination Access to Premises Code**

The *Disability Discrimination Act 1992* (Commonwealth) and the *Anti-Discrimination Act 1977* (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

#### **National Construction Code (Building Code of Australia)**

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.

#### **Notification of commencement of works**

Residential building work within the meaning of the [Home Building Act 1989](#) must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

- 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,
- 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.

#### **Dividing Fences Act**

The person acting on this consent must comply with the requirements of the *Dividing Fences Act 1991* in respect to the alterations and additions to the boundary fences.

#### **Permits from Council under Other Acts**

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:

- a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
- b) A concrete pump across the roadway/footpath
- c) Mobile crane or any standing plant
- d) Skip Bins
- e) Scaffolding/Hoardings (fencing on public land)
- f) Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
- g) Awning or street veranda over the footpath
- h) Partial or full road closure
- i) Installation or replacement of private stormwater drain, utility service or water supply

If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

#### **Chartered/Registered Engineer**

An engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng).

#### **Public Domain**

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 must be at no cost to Council

Any damage caused during construction to Council assets on the road reserve or on Council or Crown land must be repaired at no cost to Council.

No consent is given or implied for any Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, eaves, awnings, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever, including when open.



**Insurances**

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

**Noise**

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.

**Amenity Impacts General**

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

**Consent of Adjoining property owners**

This consent does not authorise the applicant, or the contractor engaged to do the tree works to enter a neighbouring property. Where access to adjacent land is required to carry out approved tree works, Council advises that the owner's consent must be sought. Notification is the responsibility of the person acting on the consent. Should the tree owner/s refuse access to their land, the person acting on the consent must meet the requirements of the *Access To Neighbouring Lands Act 2000* to seek access.

**Arborists standards**

All tree work must be undertaken by a practicing Arborist. The work must be undertaken in accordance with AS4373—*Pruning of amenity trees* and the Safe Work Australia Code of Practice—*Guide to Managing Risks of Tree Trimming and Removal Work*. Any works in the vicinity of the Low Voltage Overhead Network (including service lines—pole to house connections) must be undertaken by an approved Network Service Provider contractor for the management of vegetation conflicting with such services. Contact the relevant Network Service Provider for further advice in this regard.

**Tree Protection Works**

All tree protection for the site must be undertaken in accordance with Council's *Development Fact Sheet—Trees on Development Sites* and AS4970—*Protection of trees on development sites*.

**Tree Pruning or Removal**

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved and must be retained and protected

**Fire Safety Certificate**

The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

- a) Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
- b) Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

**Construction of Vehicular Crossing**

The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of a Vehicular Crossing & Civil Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.

**Lead-based Paint**

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

**Asbestos Removal**

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m<sup>2</sup> of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

19 of 22

Removal of friable asbestos material must only be undertaken by a contractor that holds a current AS1 Friable Asbestos Removal Licence.

Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2005. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

**Dial before you dig**

Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

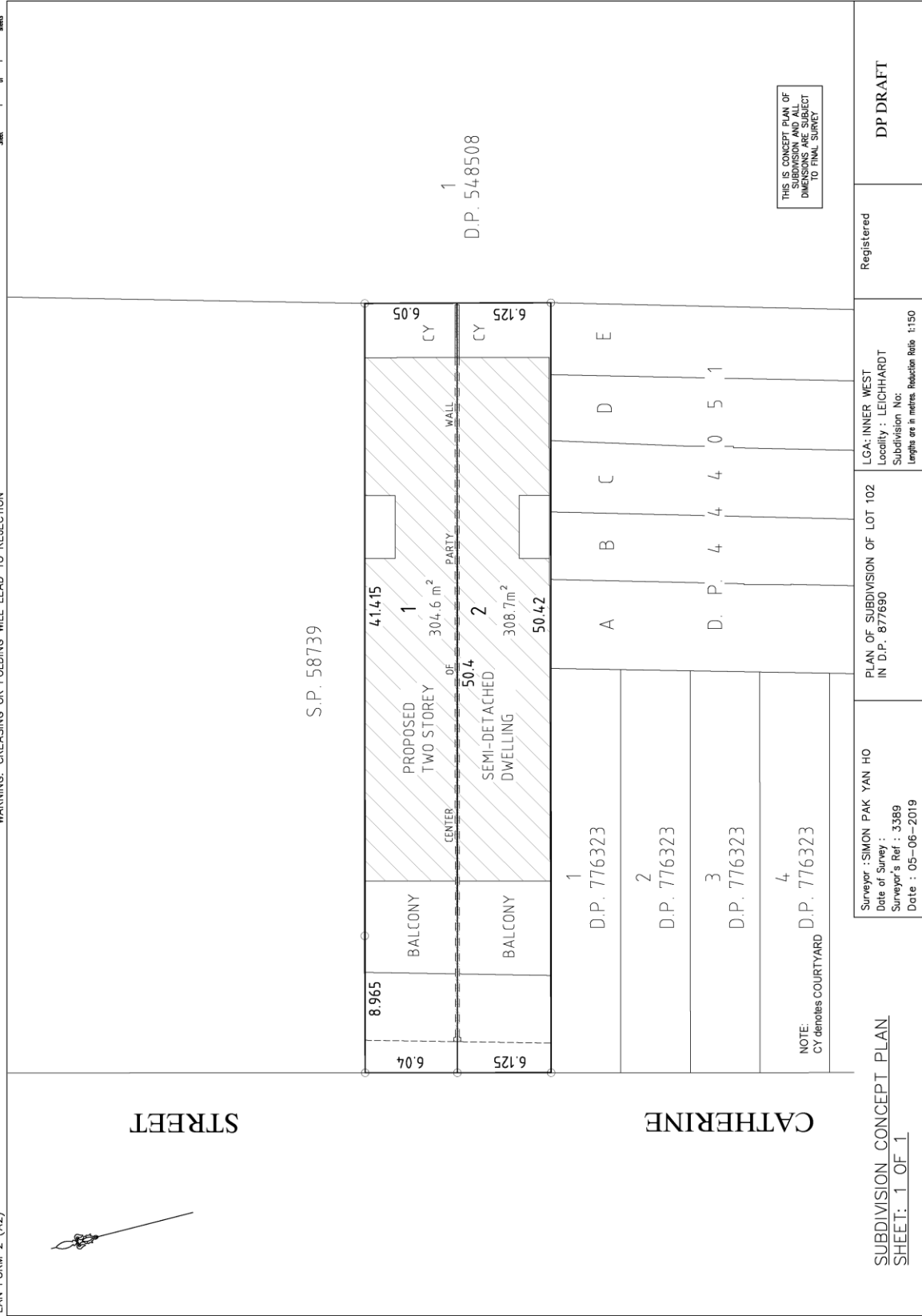
**Useful Contacts**

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm  <a href="http://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a>
Department of Fair Trading	13 32 20  <a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a>  Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100  <a href="http://www.dialprior toyoudig.com.au">www.dialprior toyoudig.com.au</a>
Landcom	9841 8660  To purchase copies of Volume One of "Soils and Construction"

Long Service Payments Corporation	131441	<a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Food Authority	1300 552 406	<a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government		<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a> <a href="http://www.diysafe.nsw.gov.au">www.diysafe.nsw.gov.au</a> Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555	<a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water	13 20 92	<a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>
Waste Service - SITA Environmental Solutions	1300 651 116	<a href="http://www.wasteservice.nsw.gov.au">www.wasteservice.nsw.gov.au</a>
Water Efficiency Labelling and Standards (WELS)		<a href="http://www.waterrating.gov.au">www.waterrating.gov.au</a>
WorkCover Authority of NSW	13 10 50	<a href="http://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a> Enquiries relating to work safety and asbestos

removal and disposal.





PLAN FORM 2 (A2)

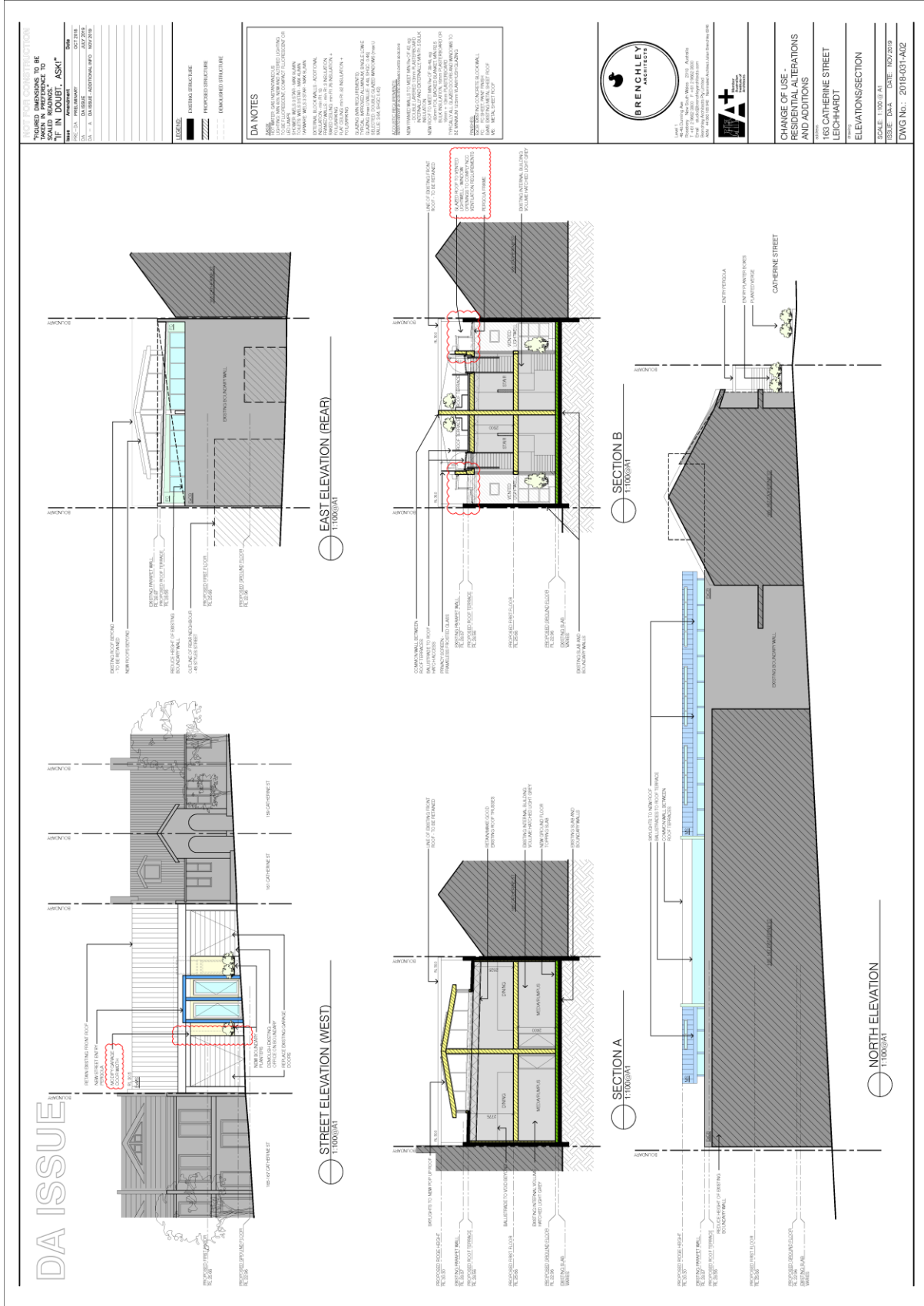
WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

Sheet 1 of 1 sheets

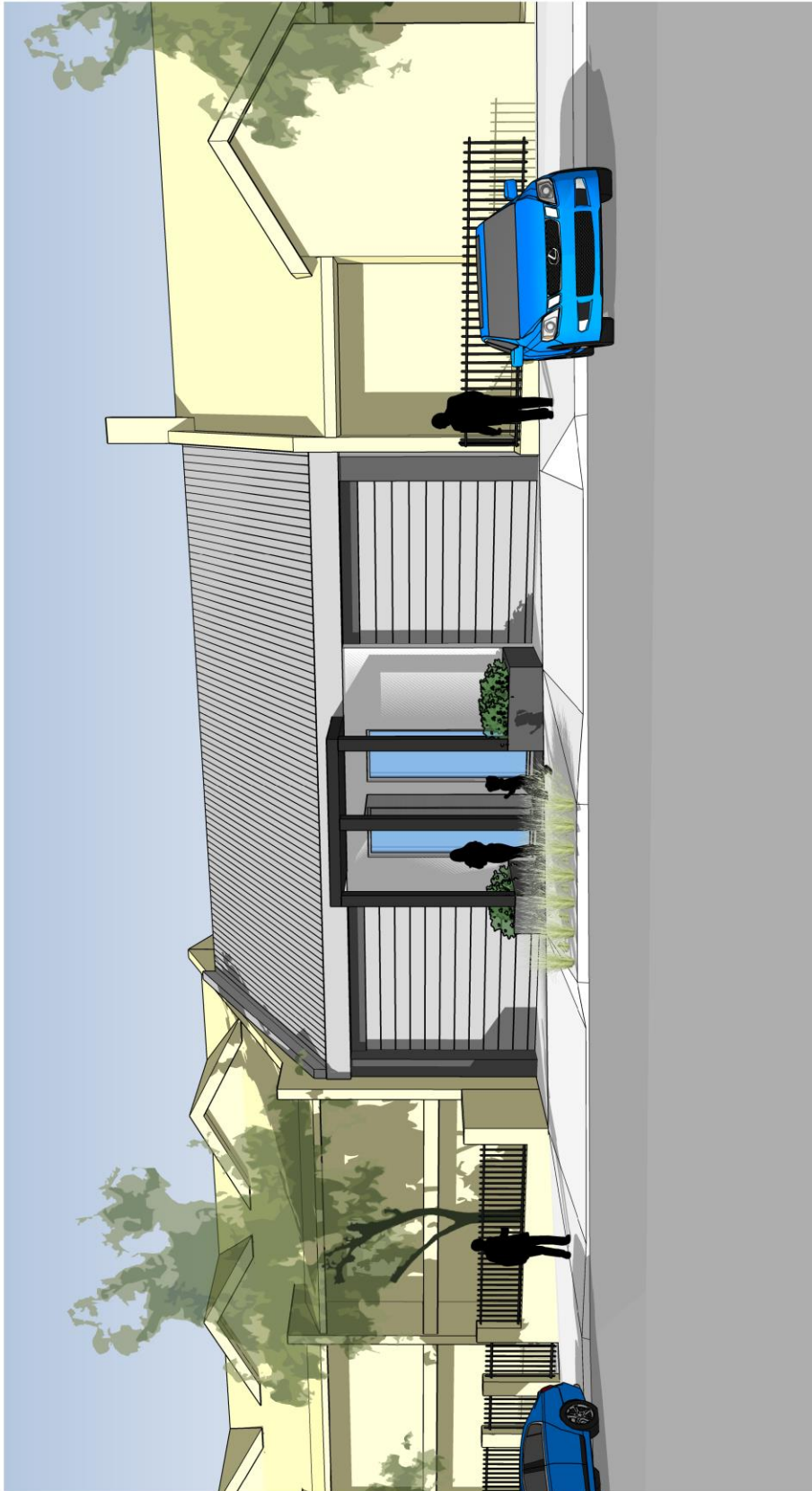












163 CATHERINE ST., LEICHHARDT  
JULY 2019

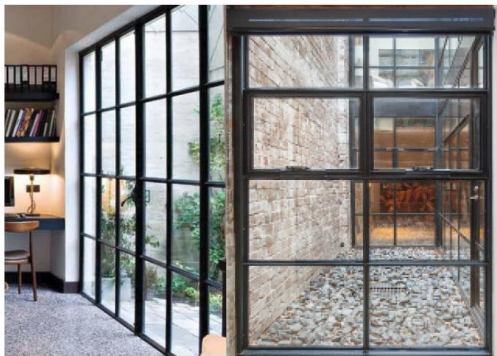
# external finishes



FC SHEET WALL CLADDING



METAL SHEET ROOFING



BLACK FRAMED GLAZING/LIGHTWELL - COURTYARDS



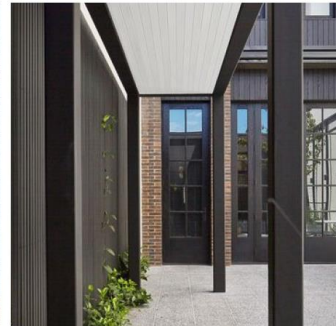
INTERNAL TERRACE AND PLANTING



CLERESTORY WINDOWS



RETAIN EXISTING GARAGE ENTRIES AND PITCHED ROOF



BLACK FRAMED ENTRY PERGOLA

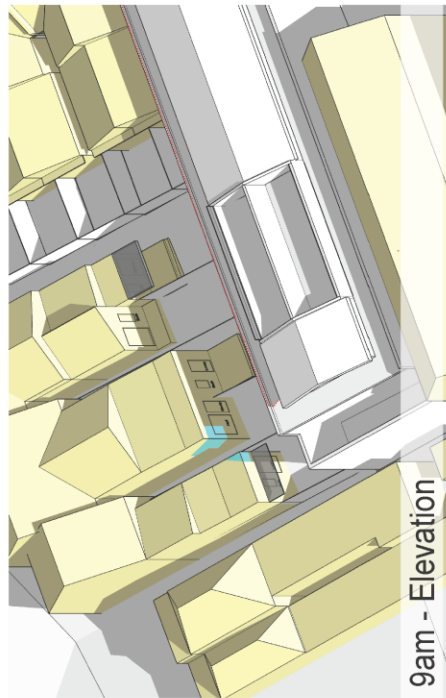
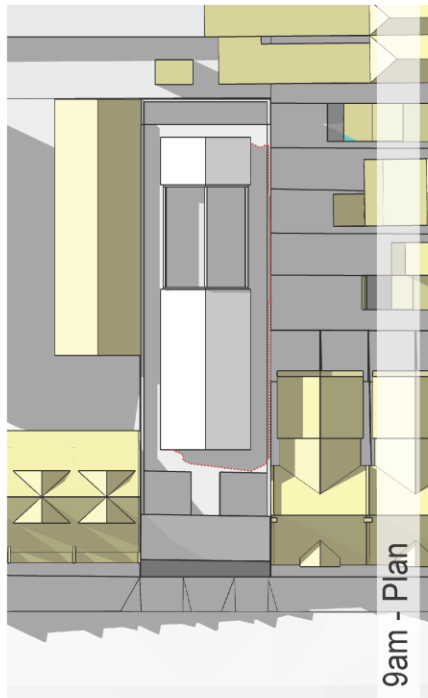
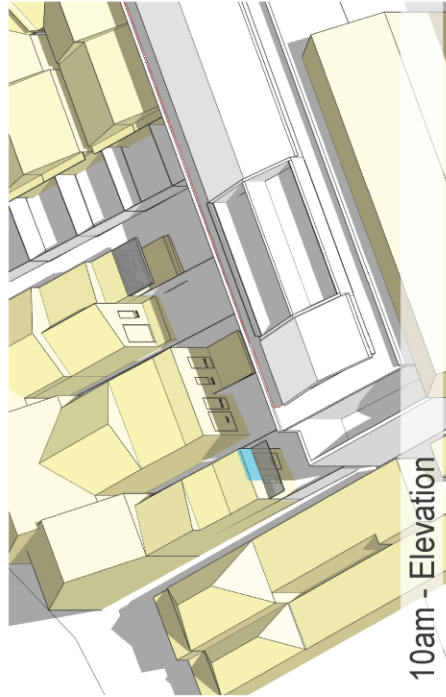
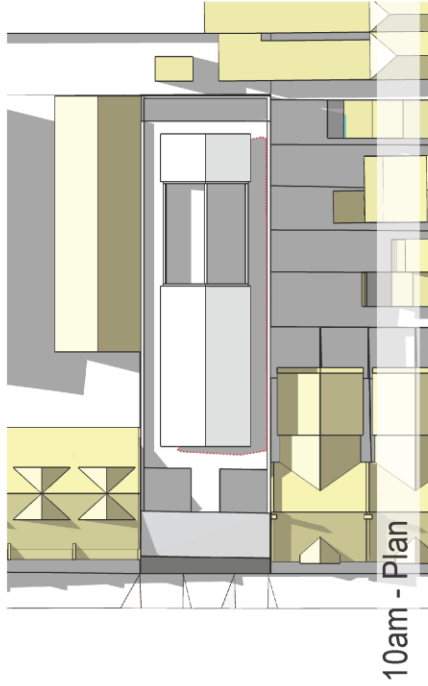


163 CATHERINE ST LEICHHARDT



RESIDENTIAL ALTERATIONS AND ADDITIONS

Level 1, 46-48 Dunning Avenue  
Rosebery NSW 2015 Australia  
t: +61 2 3662 3800  
e: studio@brechleyarchitects.com  
www.brechleyarchitects.com  
Julian Brechley 6246



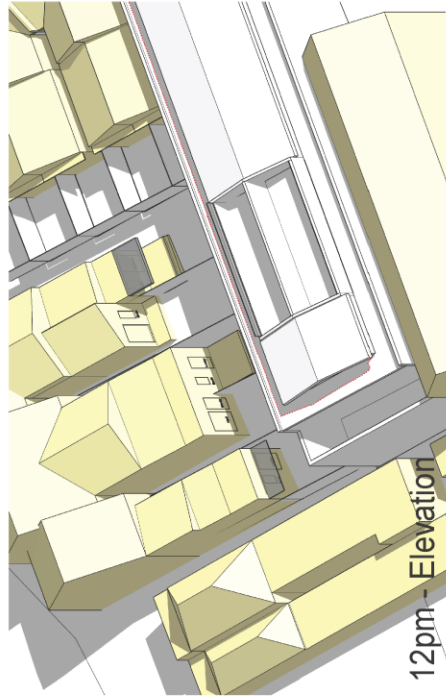
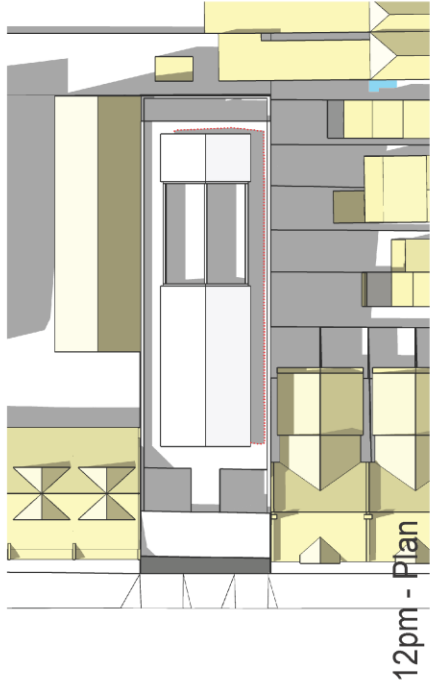
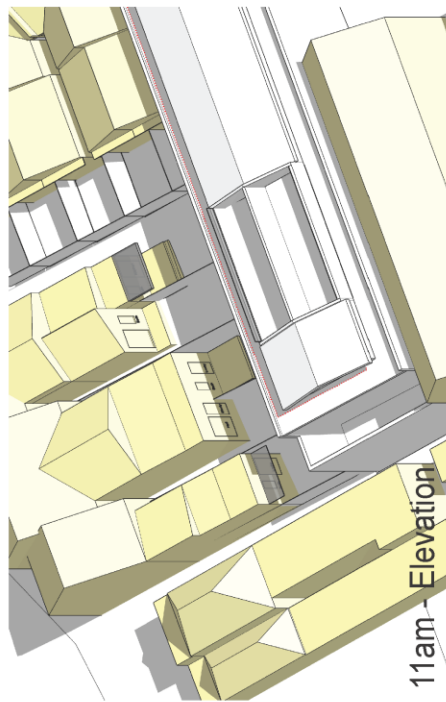
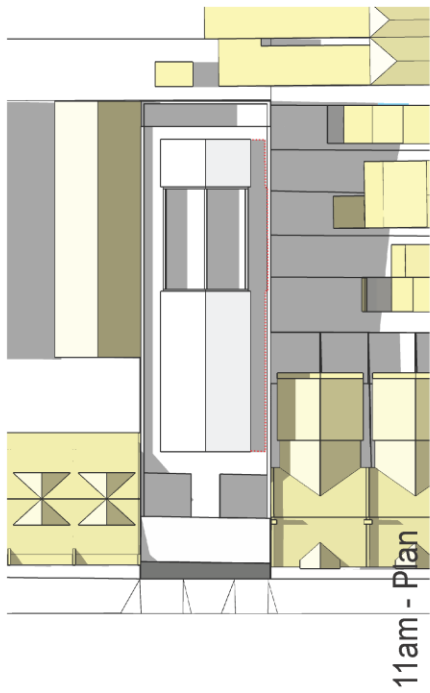
163 Catherine St. LEICHHARDT

MAY 2019



JUNE 22ND SHADOWS

- EXISTING SHADOWS
- PROPOSED SHADOWS WITHIN EXISTING SHADOWS OF SUBJECT SITE
- REDUCED/REMOVED SHADOWS



JUNE 22ND SHADOWS

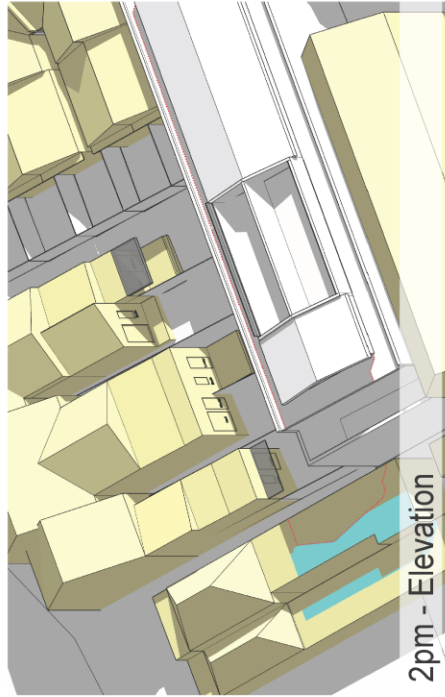
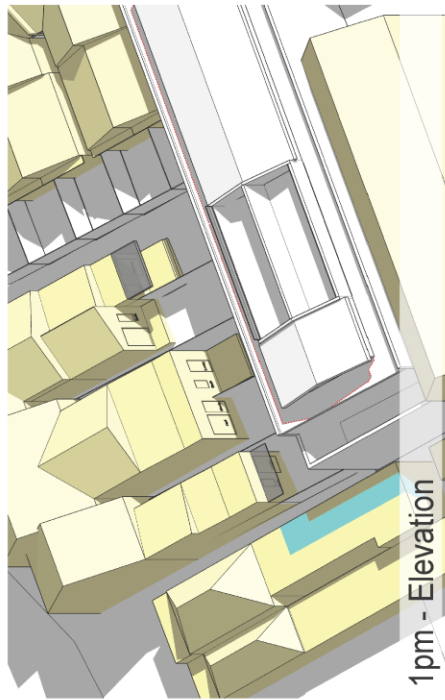
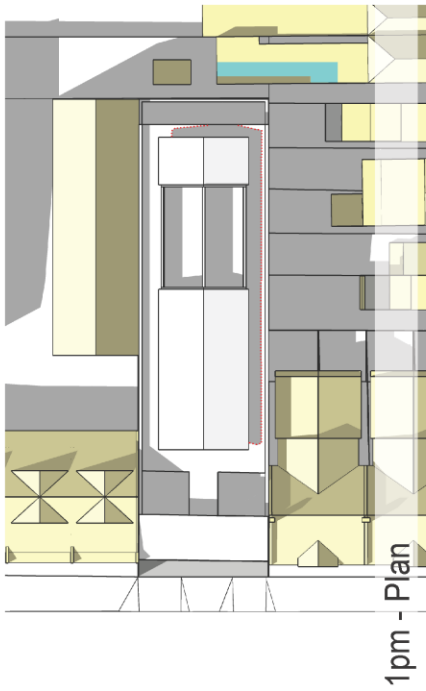
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163 Catherine St. LEICHHARDT

MAY 2019





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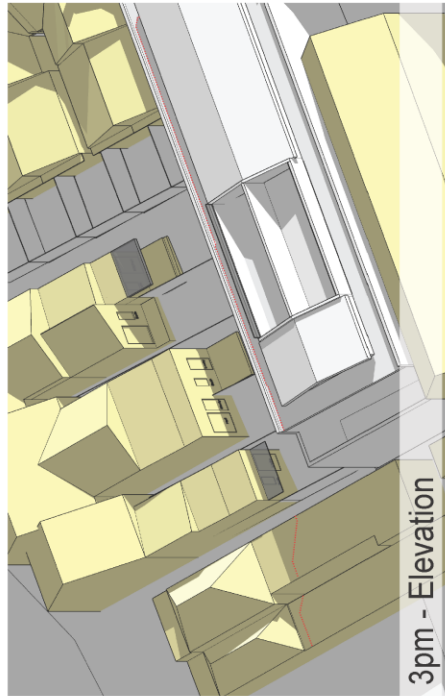


163 Catherine St. LEICHHARDT

MAY 2019







JUNE 22ND SHADOWS

- EXISTING SHADOWS
- PROPOSED SHADOWS WITHIN EXISTING SHADOWS OF SUBJECT SITE
- REDUCED/REMOVED SHADOWS



163 Catherine St. LEICHHARDT  
MAY 2019



**Revision Schedule**

Issue:	Description:	By:	Date:
B	Submission Plans	JS	06/05/19
C	Arch: Gardens	JS	16/05/19
D	Arch: Planters	JS	20/06/19
E	Arch: Planters	JS	08/07/19

Drafted: JS  
Scale: 1:200  
Reference: LP 01

Sheet: 2 of 6

Designed by:  
**Julian Saw**  
Diploma of Horticulture  
(Landscape Design)

General Notes:  
1. See Architects drawings for site levels.  
2. Plants are to be installed as per the manufacturer's specifications.  
3. The plan is to be used only and not for construction purposes.

**Legend**

- Tiled Areas
- Planting Areas
- Existing Trees To Be Retained

Click Here to View Our Plant Profiles!

Client: **Serge Boragnon**

Client Signatures:

- 
- 

Job No. **190127**

Drawing: **Ground Floor Landscape Plan**

Address: **163 Catherine St  
Leichhardt**

Council: **Inner West**

**DappleDesigns**  
Ph: 0437 043 112  
www.dappledesigns.com.au

Click Here to View Our Plant Profiles!

Any existing trees are to be protected in accordance with councils Tree Protection Detail

**Revision Schedule**

Issue:	Description:	By:	Date:
B	Submission Plans	JS	06/05/19
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D	Arch: Planters	JS	20/06/19
E	Arch: Planters	JS	08/07/19

Drafted: JS  
Scale: 1:200  
Reference: LP 01

Sheet: 3 of 6

Designed by:  
**Julian Saw**  
Diploma of Horticulture  
(Landscape Design)

**General Notes:**  
 1. General notes to drawings for site levels, setbacks and extent of cut and fill.  
 2. This plan shall be read in conjunction with the Hydraulic Engineering Report.  
 3. All relevant Australian standards are to be adhered to.  
 4. This plan is to be read in conjunction with the manufacturer's specifications.  
 5. This plan is indicative only and not for construction purposes.

**Legend**

- Tiled Areas
- Planting Areas
- Existing Trees To Be Retained

Client: **Serge Bordignon**

Client Signatures:  
1.  
2.

Job No. **190127**

Drawing: **First Floor Landscape Plan**

Address: **163 Catherine St Leichhardt**

Council: **Inner West**

**DappleDesigns**

Ph: 0437 043 112  
www.dappledesigns.com.au

Any existing trees are to be protected in accordance with councils Tree Protection Detail

Revision Schedule		
Issue:	Description:	By: Date:
B	Submission Plans	JS 06/05/19
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E	Arch: Planters	JS 08/07/19

Drafted: JS  
Scale: 1:200  
0 1 2 3 4 5 6 7 8 9 10

Sheet: 1 of 6  
Reference: LP 01

Designed by:  
**Julian Saw**  
Diploma of Horticulture  
(Landscape Design)

General Notes:  
1. See all drawings for site levels, setbacks and extent of cut and fill.  
2. This plan is to be read in conjunction with the Hydraulic Engineering Report.  
3. All relevant Australian standards are to be adhered to.  
4. All materials to be used are to be specified as per the manufacturer's recommendations.  
5. This plan is indicative only and not for construction purposes.

[Click Here to View Our Plant Profiles!](#)

Client: **Serge Bordignon**

Client Signatures:  
1.  
2.

Job No. **190127**

Drawing: **Mood Board**

Address: **163 Catherine St  
Leichhardt**

Council: **Inner West**

**DappleDesigns**  
Ph: 0437 043 112  
www.dappledesigns.com.au

Revision Schedule	
Issue:	Description: By: Date:
B	Submission Plans JS 06/05/19
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E	Arch: Planters JS 08/07/19

Drafted:	Scale: 1:200
Sheet:	4 of 6
Reference:	LP 01

Designed by:  
**Julian Saw**  
 Diploma of Horticulture  
 (Landscape Design)

**General Notes:**

- See architect drawings for site levels.
- This plan shall be read in conjunction with the hydraulic Engineer's drawings.
- See standard notes to be attached to manufacturer/engineer specifications.
- Any structural items are to be installed as per the manufacturer/engineer specifications.
- This plan is submitted only for use for construction purposes.

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Client: **Serge Bordignon**

Client Signatures:

- 
- 

Job No. **190127**

Drawing: **Roofplan**  
 Landscape Plan

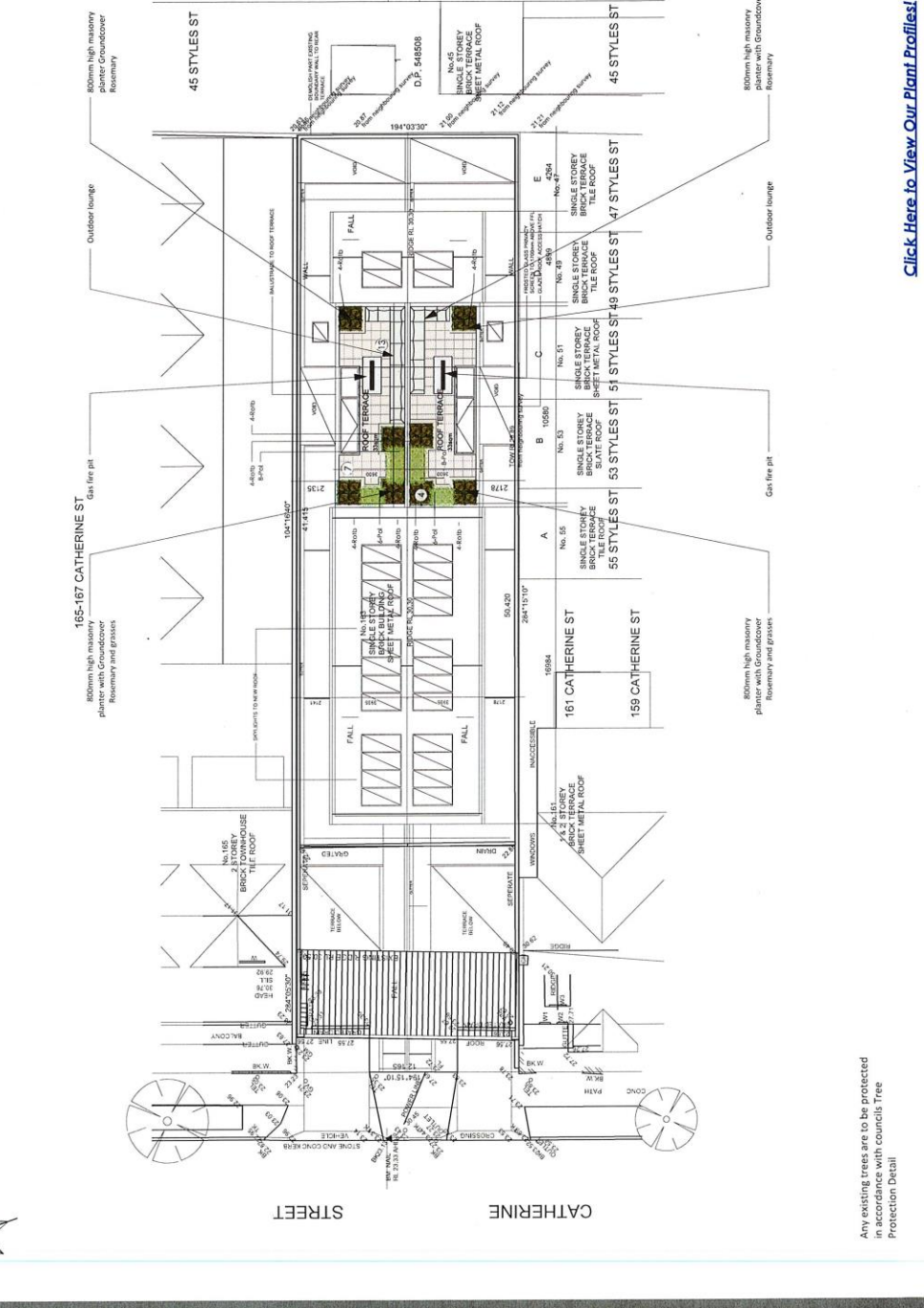
Address: **163 Catherine St**  
 Leichhardt

Council: **Inner West**

**DappleDesigns**  
 Ph: 0437 043 112  
 www.dappledesigns.com.au

- Legend**
- Tiled Areas
  - Planting Areas
  - Existing Trees To Be Retained



Click Here to View Our Plant Profiles!

Any existing trees are to be protected in accordance with councils Tree Protection Detail

LANDSCAPE SPECIFICATION		REVISION SCHEDULE				
<p><b>COMPLETION</b> SITE IS TO BE CLEARED OF ANY SURPLUS MATERIALS AND DEBRIS PRIOR TO PRACTICAL COMPLETION. WORK IS TO BE COMPLETED TO THE SATISFACTION OF COUNCILS GUIDELINES AND ANY DA CONDITIONS</p> <p><b>MAINTENANCE PERIOD</b> A 12 MONTH MAINTENANCE PERIOD FROM THE DATE OF PRACTICAL COMPLETION WILL APPLY. DURING THIS TIME THE CONTRACTOR MUST BE RESPONSIBLE FOR RECTIFYING ANY DEFECTIVE WORK. DURING THE MAINTENANCE PERIOD THE FOLLOWING ACTIVITIES ARE TO BE UNDERTAKEN:</p> <p>a) <b>REPLACEMENTS:</b> ANY PLANTS/TREES THAT HAVE DIED SHALL BE REPLACED WITH THE SAME SPECIES AND SIZE AS INDICATED ON THIS PLAN. THE SPECIMENS MUST BE IN GOOD HEALTH AND FREE FROM PESTS AND DISEASES.</p> <p>b) <b>WATERING:</b> REGULAR WATERING OF PLANTS IS REQUIRED. PLANTS SHOULD BE WATERED TWICE A WEEK WITHIN 2 MONTHS OF PLANTING AND DURING DRY PERIODS. LESS FREQUENT WATERING IS REQUIRED ONCE PLANTS ARE ESTABLISHED AND DURING PERIODS OF RAIN. THE CONTRACTOR/OWNER SHOULD USE THEIR DISCRETION.</p> <p>c) <b>GARDEN BEDS:</b> GARDEN AREAS SHOULD BE REGULARLY WEEDED AND MULCH TOPPED UP IF REQUIRED. NO BARE SOIL IS TO BE PRESENT AND SPECIFIED DEPTHS MAINTAINED.</p> <p>d) <b>LAWN AREAS:</b> LAWN AREAS SHALL BE MOWN REGULARLY (AT LEAST ONCE A WEEK IN GROWING SEASON) IN ORDER TO MAINTAIN A HEALTHY LAWN. LAWN AREAS SHOULD BE WATERED REGULARLY AND TOPPED UP OVER GARDEN AREAS. ANY DEAD AREAS OF LAWN OCCURRING DURING THE MAINTENANCE PERIOD, ARE TO BE REPLACED WITH THE TURF VARIETY SPECIFIED IN THE PLAN.</p> <p>e) <b>PRUNING:</b> ADEQUATE HORTICULTURAL PRUNING METHODS SHOULD BE USED ON PLANTS AS BECOMES NECESSARY. ANY HEDGES ARE TO BE TRIMMED REGULARLY, DEAD AND DANGEROUS TREE BRANCHES PRUNED AND LIGHT PRUNING OF SHRUBS TO PROMOTE THICK FOLIAGE COVER.</p> <p>f) <b>MANUFACTURERS:</b> ONCE PLANTS ARE DELIVERED TO THE SITE, ALL MANUFACTURERS' INSTRUCTIONS FOR ALL GARDEN BEDS ONCE PER MONTH, DYNAMIC CUTTER OR SIMILAR SHOULD BE APPLIED TO ALL LAWN AREAS TWICE A YEAR, ONCE IN MID SPRING AND ONCE IN EARLY SUMMER. WATER THOROUGHLY AFTER EACH APPLICATION OF FERTILISER.</p>		<p>Issue: Description: By: Date:</p> <p>B Submission Plans JS 06/05/19</p> <p>C Arch: Gardens JS 16/05/19</p> <p>D Arch: Planters JS 20/06/19</p> <p>E Arch: Planters JS 08/07/19</p> <p>Drafted: JS Scale: 1:200 0 5 10 15 20 25 30 35 40</p> <p>Sheet: Reference: LP 01</p> <p>5 of 6</p> <p>Designed by: <b>Julian Saw</b> <b>Diploma of Horticulture</b> <b>(Landscape Design)</b></p> <p>General Notes: 1. General Notes: Callouts for site levels, setbacks and extent of cut and fill. 2. This plan will be read in conjunction with the Hydraulic Engineering Report. 3. All relevant Australian standards are to be adhered to. 4. Any materials to be used are to be specified as per the manufacturer's engineering specifications. 5. This plan is indicative only and not for construction purposes</p>				
<p><b>LANDSCAPE SPECIFICATION</b></p> <p><b>TREE PROTECTION</b> TREES TO BE RETAINED SHALL BE PROTECTED DURING SITE WORKS AND TREE PROTECTION BARRIERS INSTALLED ACCORDING TO TREE PROTECTION DETAILS. NO EXCAVATION OR CHANGE IN SOIL LEVEL SHOULD TAKE PLACE AROUND THE BASE OF SUCH TREES. ANY ARBORIST REPORT MUST BE ADHERED TO AND TREE PROTECTION ZONES MAINTAINED WHERE APPLICABLE.</p>		<p>Client Signatures: 1. 2.</p> <p>Job No. <b>190127</b></p> <p>Drawing: <b>Plant List/Specification</b> Address: <b>163 Catherine St</b> <b>Leichhardt</b> Council: <b>Inner West</b></p> <p><b>DappleDesigns</b> Ph: 0437 043 112 www.dappledesigns.com.au</p>				
PLANT LIST		<p><a href="#">Click Here to View Our Plant Profiles!</a></p> <p>Client: <b>Serge Bordignon</b></p>				
TYPE	SYMBOL BOTANIC NAME	COMMON NAME	MATURE HEIGHT X WIDTH	NATIVE?	QTY	POT SIZE
<b>TREES</b>						
Bg	BAMBUUSA TEXTILIS VAR. GRACILIS	SLENDER WEAVER BAMBOO	TRIMMED TO 4M TALL	NO	8	300LR
Pc	PYRUS CALLERYANA 'CAPITAL'	CAPITAL PEAR	1.1M X 3M	NO	4	75LR
Re	RHAPIS EXCELSA	LADY PALM	2M X 1.5M	NO	2	25LR
Fl	FIGUS LYRATA	FIDDLE LEAF FIG	4M X 2M	NO	1	50LR
<b>SHRUBS</b>						
Bj	BUXUS JAPONICA	JAPANESE BOX (BALLS)	TRIMMED UP TO 1M	NO	8	200MM
Fy	FIGUS LYRATA 'BAMBINO'	BAMBINO FIDDLE LEAF FIG	1M X 0.6M	NO	4	300MM
Rop	RHAPHIOLEPIS 'ORIENTAL PEARL'	INDIAN HAWTHORN	1M X 1M	NO	16	300MM
RR	ROSA RUGOSA	RUGOSA ROSE	1M X 1M	NO	13	200MM
<b>GROUNDCOVERS &amp; PERENNIALS</b>						
Ct	CERASTIUM TOMENTOSUM	SNOW IN SUMMER	0.2M X 0.75M	NO	12	140MM
Dsf	DICHONDRA SILVER FALLS	KIDNEY WEED	0.15M X 0.5M	YES	44	140MM
Rotb	ROSMARINUS OFFICINALIS 'PROSTRATE'	GROUNDCOVER ROSEMARY	0.3M X 1M	NO	32	200MM
<b>GRASSES &amp; STRAP LEAF PLANTS</b>						
Lik	LOMANDRA LONGIFOLIA 'TANIKA'	TANIKA	0.75M X 0.75M	YES	38	140MM
Pol	POA LABILLARDIERI	TUSsock GRASS	0.8M X 0.8M	YES	28	140MM
<b>FERNS &amp; CYCADS</b>						
Bc	BLECHNIUM CARTILAGINEUM	GRISTLE FERN	1M X 1M	YES	60	200MM

Revision Schedule

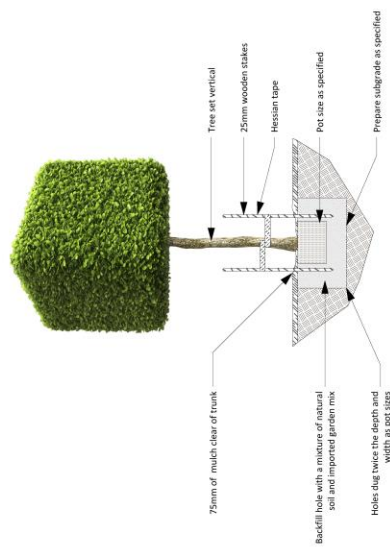
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Drafted: JS  
 Scale: 1:200  
 0 1 2 3 4

Sheet: 6 of 6  
 Reference: LP 01

Designed by:  
**Julian Saw**  
 Diploma of Horticulture  
 (Landscape Design)

General Notes:  
 1. See all drawings for site levels, setbacks and extent of cut and fill.  
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DETAILS  
 1. SPECIMENS ARE TO BE IN GOOD HEALTH AND FREE FROM PESTS AND DISEASES  
 2. WATER THOROUGHLY AFTER PLANTING

○ STREET TREE PLANTING DETAIL  
 SCALE 1:40

[Click Here to View Our Plant Profiles!](#)

Client: **Serge Bordignon**

Client Signatures:  
 1.  
 2.

Job No. **190127**

Drawing: **Construction Details**

Address: **163 Catherine St  
 Leichhardt**

Council: **Inner West**



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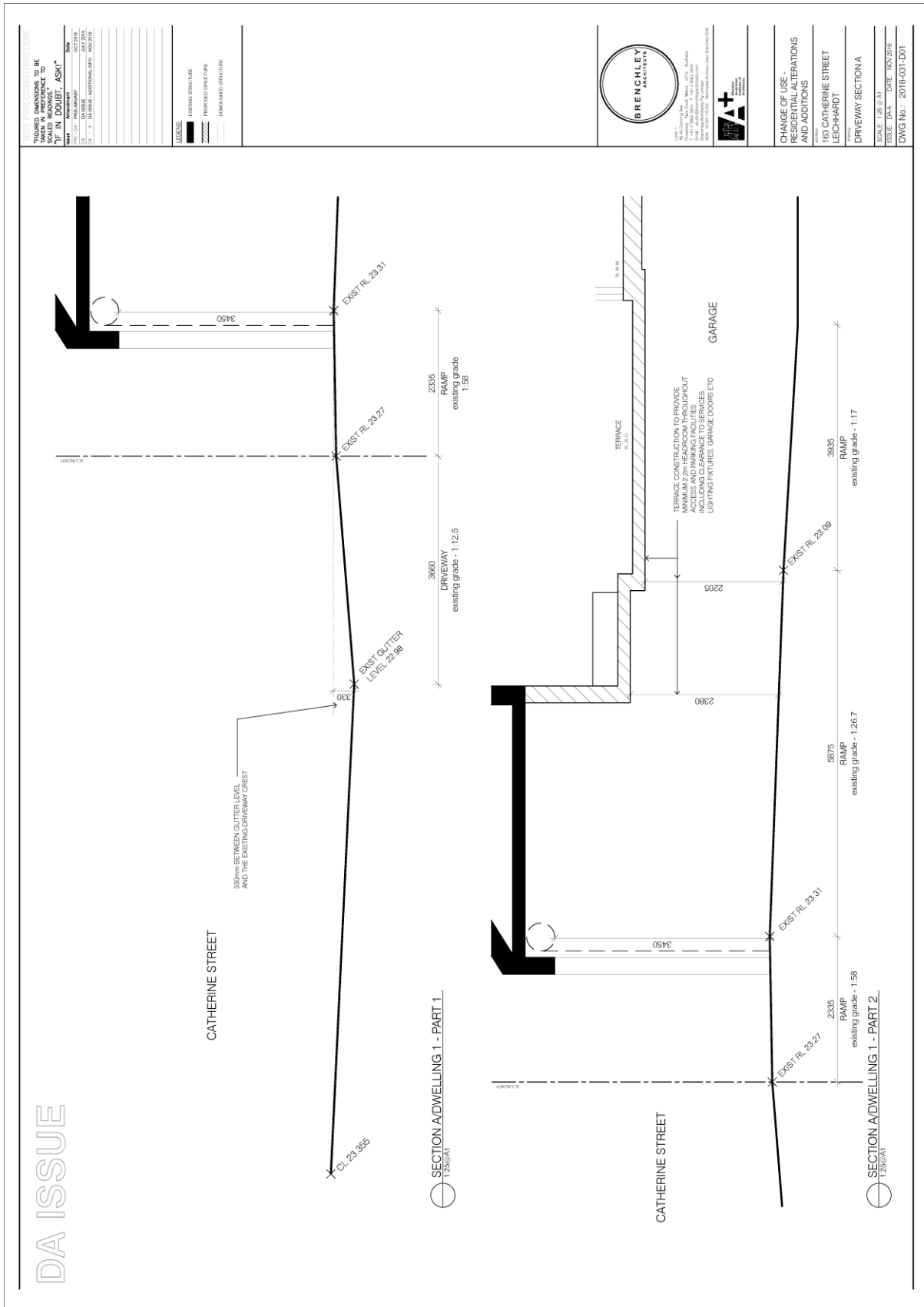


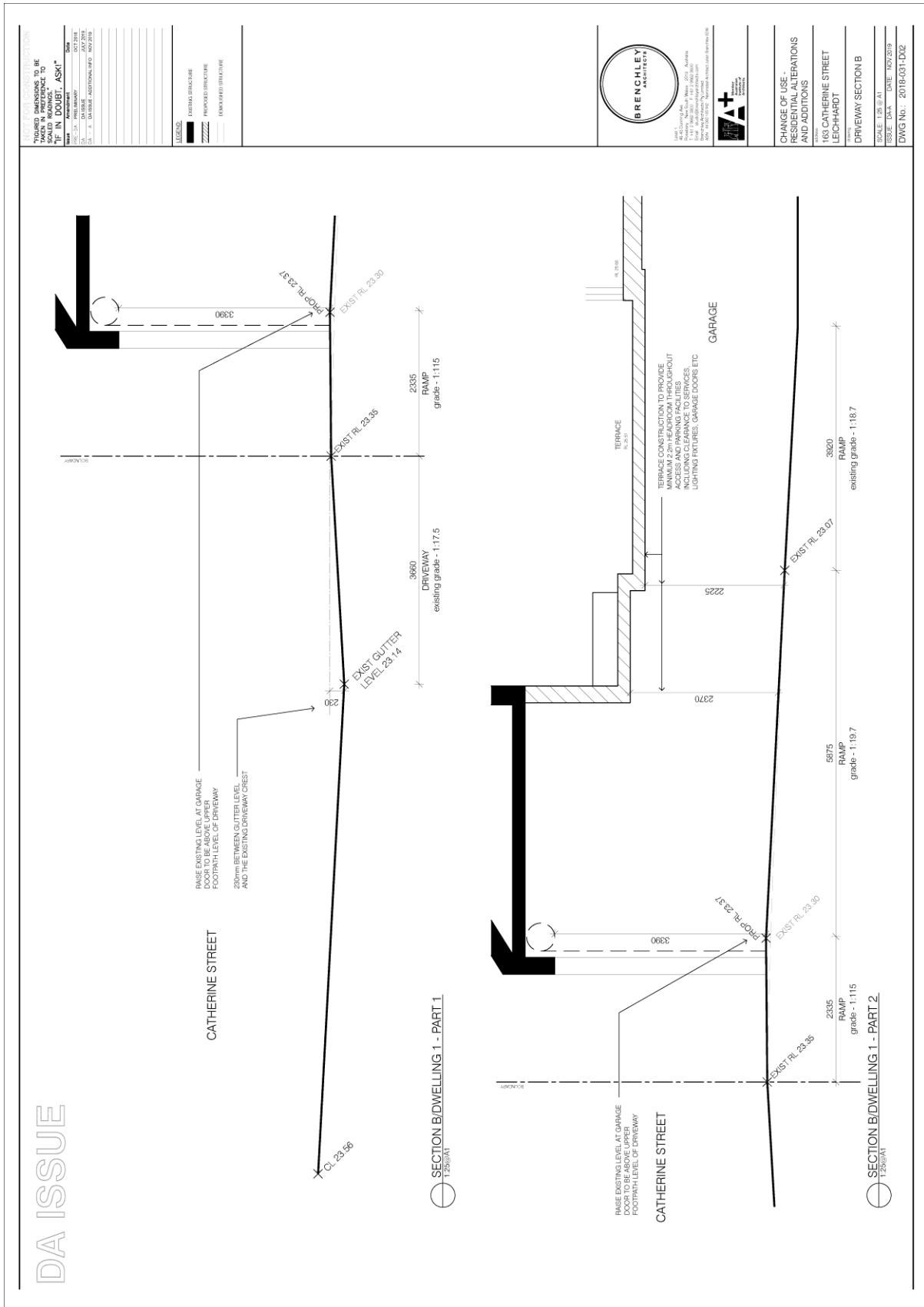




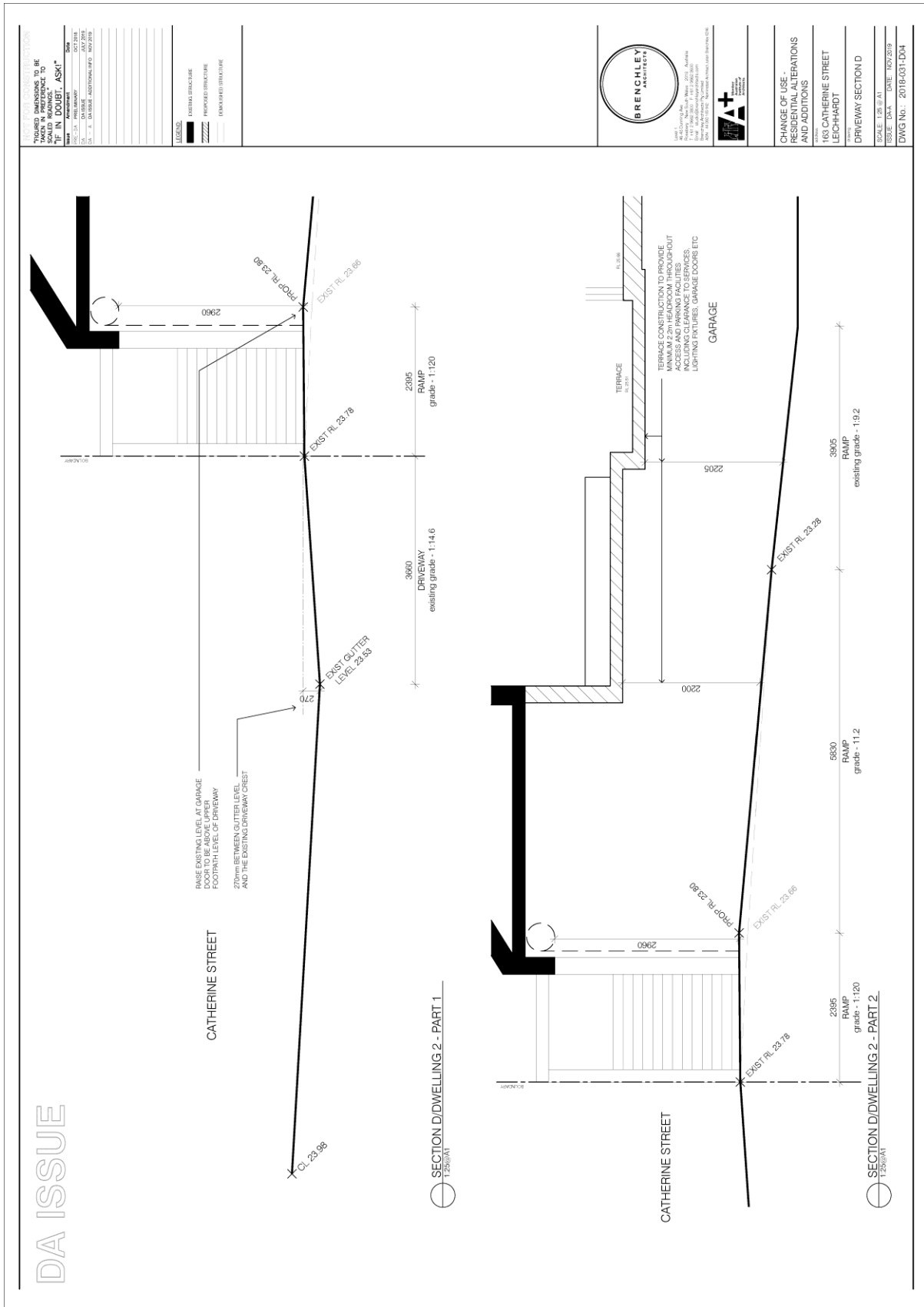














## Attachment C- Clause 4.6 Exception to Development Standards



### **REQUEST PURSUANT TO CLAUSE 4.6, FOR EXCEPTION TO COMPLIANCE WITH CLAUSE 4.4(2B)(c)(iv) of LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013**

This Clause 4.6 Exception Submission has been prepared by Genevieve Slattery Urban Planning Pty Ltd on behalf of Brenchley Architects (the Applicants), in relation to a Development Application for the property at No. 163 Catherine Street, Leichhardt (the site).

This Submission is made to Inner West Council in support of a Development Application (DA) for subdivision of the site into two (2) allotments and adaptive reuse of the existing industrial building resulting in a new dwelling on each newly created allotment.

This request has been prepared having regard to:

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

#### **1.0 WHAT IS THE CLAUSE SOUGHT TO BE VARIED?**

##### **1.1 Clause 4.4(2B)(c)(iv) of Leichhardt Local Environmental Plan 2013**

The existing building has a Gross Floor Area (GFA) of 539m<sup>2</sup> and an FSR of 0.87:1.

Since the site currently has an area of more than 450m<sup>2</sup>, pursuant to Clause 4.4(2B)(c)(iv) of LEP 2013 the current development is permitted a maximum FSR of 0.5:1. The existing building therefore exceeds the maximum permitted FSR standard by 232m<sup>2</sup> or 83.1%.

The proposal incorporates subdivision resulting in two (2) new allotments, Lot 1 having an area of 304.6m<sup>2</sup> and Lot 2 having an area of 308.7m<sup>2</sup>. Pursuant to Clause 4.4(2B)(c)(iii) of LEP 2013, each of the proposed new allotments is permitted a maximum Floor Space Ratio (FSR) of 0.6:1.

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## 1.2 What is the extent of the non-compliance?

The proposed development results in two (2) new dwellings, each with a GFA of 303m<sup>2</sup> and an FSR of 0.99:1 on Lot 1 and 0.98:1 on Lot 2.

The proposed development therefore exceeds the maximum permitted by Clause 4.4(2B)(c)(iv) by:

- 120.24m<sup>2</sup> or 65.8% on Lot 1; and
- 117.78m<sup>2</sup> or 63.6m<sup>2</sup> on Lot 2.

## 2.0 CLAUSE 4.6 OBJECTIVES

Clause 4.6 of LEP 2013 has the following objectives:

- (a) *“to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.”*

As discussed below, it is considered appropriate to invoke the provisions of Clause 4.6 of LEP 2013, in order to achieve a positive planning outcome at the site.

## 3.0 CLAUSE 4.6(3) PROVISIONS

Clause 4.6(3) states that development consent must not be granted for development that contravenes a Development Standard unless the consent authority has considered a written request from the Applicant that seeks to justify the contravention of the development standard by demonstrating the following:

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

The following discussion constitutes a written request seeking to justify the contravention of Clause 4.4 of LEP 2013.

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

### 4.1 Clause 4.4 Objectives

The objectives of Clause 4.4 of LEP 2013 are as follows:

- (a) *“to ensure that residential accommodation:*
  - (i) *is compatible with the desired future character of the area in relation to building bulk, form and scale, and*

- (ii) provides a suitable balance between landscaped areas and the built form, and
- (iii) minimises the impact of the bulk and scale of buildings,
- (b) to ensure that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale."

(a) (i) to ensure that residential accommodation is compatible with the desired future character of the area in relation to building bulk, form and scale

The proposed development is compatible with the desired future character of the area in relation to bulk, form and scale as:

- the proposed development incorporates adaptive reuse of the existing building on the site and the additional FSR will not be readily apparent from the public domain;
- the proposed development will essentially maintain the status quo with the existing building in terms of its bulk and scale;
- the proposal is consistent with the Controls for development in the Piperston Distinctive Locality, as outlined in **Table 1** below;
- the proposal is consistent with the Controls for alterations and additions to suggested approach 3 for alterations and additions to factories and warehouses, as outlined below in **Table 2**; and
- the proposal is consistent with relevant Controls at Part C1.3 of LDCP 2013, as outlined in **Table 3**.

**Table 1:** discussion of the Piperston Distinctive Neighbourhood Controls

CONTROL	RESPONSE
C1 Maintain the character of the area by keeping development complementary in architectural style, form and material.	<p><b>Complies</b></p> <p>As discussed throughout this report, the proposal will generally maintain the form and character of the existing building, when viewed from Catherine Street. Proposed works will complement the existing building and its contribution to the streetscape and local area.</p>
C2 Promote land uses and urban design that enhances and contributes to the character and identity of the neighbourhood whilst protecting Heritage Items and Heritage Conservation Areas that combine to help create that character.	<p><b>Complies</b></p> <p>Catherine Street is identified as a Heritage Item – Landscape. There are no other heritage items or conservation areas in the immediate vicinity.</p> <p>The proposal will contribute to the amenity and character of the Catherine Street landscape by providing new landscaping at the front of the site and maintaining the existing form, scale and openings within the front façade. The proposed removal of the existing entry addition and replacement with a new lightweight entry pergola will have</p>

Clause 4.6 Submission - FSR

163 Catherine Street, Rozelle

29 July 2019

CONTROL	RESPONSE
	positive streetscape outcomes.
C3 Maintain and enhance the predominant scale and character of dwellings in this precinct, consisting of mostly single storey Victorian and Federation-style dwellings, with more significant development in appropriate areas.	<b>Complies</b> The proposal maintains an apparent single storey scale to Catherine Street and the existing scale of development at the rear of the site, as viewed from neighbouring properties, will be generally as per the existing situation.
C4 Encourage mixed use of commercial buildings to incorporate residential living above or where permissible, to the rear of the buildings.	N/A The proposal seeks to convert an existing non-conforming use to a residential use, which is consistent with the zoning of the site and the character of the locality.
C5 Promote commercial businesses along Catherine and Styles Street suitable to residential areas, which have a low noise and vehicle impact.	N/A The proposal seeks to convert an existing non-conforming use to a residential use, which is consistent with the zoning of the site and the character of the locality.
C6 Promote commercial businesses, which have higher vehicle and noise impact along Parramatta Road.	<b>Complies</b> The proposal will remove the existing non-conforming land use, which has the potential for adverse amenity impacts on nearby properties, and replace it with a residential use, which is consistent with the zoning of the site and the character of the locality.
C7 Retain the existing scale and traditional shopfront presentation of buildings along Catherine and Styles Streets.	N/A
C8 Encourage appropriate signage consistent with the established signage type, mainly under awning, fascia, window signs and hamper signs.	N/A
C9 Preserve the consistency of the subdivision pattern in this area.	<b>Complies</b> The proposed two (2) lot subdivision is consistent with the subdivision pattern in the area.
C10 Maintain the predominant service and access character of the rear lanes in the Piperston Distinctive Neighbourhood.	N/A
C11 Maintain existing views created by stepping with the contours along the east/west streets.	<b>Complies</b> The proposal will not have any impacts on known view corridors.
C12 Maintain the prevalence of street trees in addition to mature and visually significant trees on private land.	<b>Complies</b> The proposal does not impact on any street trees and proposes a range of new planting around the site.
C13 Enhance and promote the viability and potential for neighbourhood and local provision shops on the corner of Catherine and Styles Streets and along Parramatta Road.	<b>Complies</b> The provision of additional residential accommodation will have a potential positive impact on the demand for local and neighbourhood shops in the locality.
C14 Building wall height is to be a maximum of 3.6m, unless an alternative	<b>Complies</b> The proposal maintains the existing front

CONTROL	RESPONSE
maximum building wall height is prescribed within the relevant Sub Area.	building wall height.
C15 Neighbourhood shops or buildings originally designed for non-residential use may have a maximum building wall height of 7.2m to incorporate a parapet.	<b>Complies</b> The proposal maintains the existing front building wall height.
C16 With the exception of Whites Creek Lane, development of dwellings fronting onto laneways shall be discouraged.	N/A
C17 Signs above awnings will not be supported. C18 Development is to be consistent with any relevant Sub Area objective(s) and condition(s).	N/A

**Table 2:** compliance with Controls relating to alterations and additions to factories and warehouses in Appendix 1 of DCP 2013

CONTROL	RESPONSE
<p>C1 Development shall:</p> <p>(a) ensure that alterations and additions to a warehouse or factory do not compromise their structural integrity;</p> <p>(b) retain the significant fabric and building elements;</p> <p>(c) contribute to the streetscape and character of the municipality; and</p> <p>(d) maintain the contribution that warehouses make to area character through their characteristic form, massing, scale and proportions.</p>	<p><b>Complies</b> A structural certificate accompanied the approved DA confirming that the proposal is acceptable in structural terms.</p> <p><b>Complies</b> The site is not a heritage item however elements which contribute to the character of the existing building are proposed to be retained.</p> <p><b>Complies</b> The proposed development will have positive streetscape impacts, as discussed throughout this report.</p> <p><b>Complies</b> The proposed development maintains the form, massing, scale and proportions of the existing building on the site, with new works not readily apparent from the public domain.</p>
C2 The scale and form of the factory or warehouse is to be retained.	<b>Complies</b> As discussed throughout this report, the apparent scale and form of the existing building as viewed from the public domain and adjoining properties will be generally maintained.
C3 Lightweight balconies, canopies and sun shading devices may be affixed to the facades so long as there is a clear distinction between the original fabric and the contemporary	<b>Complies</b> The proposed entry pergola at the front of the site is lightweight and allows a clear distinction between existing and

CONTROL	RESPONSE
addition and they don't detract from the original industrial character of the building.	proposed new fabric. The existing character of the building is maintained.
C4 The robust masonry form of the building is to remain visually dominant.	<b>Complies</b> The proposal maintains the existing rendered/painted masonry walls of the building.
C5 The rhythm of openings is to be respected. Two smaller openings may be combined where there is no removal of original significant elements.	<b>Complies</b> Existing openings within the front elevation are maintained. No new openings are provided in the side or rear elevations.
C6 Existing painted signs that contribute to the buildings significance and to the streetscape character are to be retained.	N/A
C7 Vertical additions are only possible for flat roofed buildings which are well set back behind a parapet and with a horizontal profile in keeping with the simple building form and strong parapet line.	<b>Complies</b> The proposal incorporates popup roof elements, as discussed elsewhere, which are well set back from the parapets and maintain a simple horizontal form, as can be seen in the elevations accompanying this DA.
C8 Decorative roof elements that undermine the strong horizontal parapet line are strongly discouraged.	<b>Complies</b> No decorative roof elements are proposed. The existing strong horizontal parapet lines are maintained.
C9 Contemporary additions should be distinguishable from the original fabric.	<b>Complies</b> The proposed new elements are clearly distinguished from existing fabric, by way of materiality and physical separation.
C10 Sawtooth roof profiles must not be altered.	N/A

**Table 3:** compliance with Controls at Part C1.3 of DCP 2013

CONTROL	RESPONSE
<p><b>General provisions</b></p> <p>C1 The overall form of alterations and additions shall:</p> <p>a. have regard to the provisions within Appendix B – Building Typologies of this Development Control Plan;</p> <p>b. be compatible with the <i>scale, form and material</i> of the existing <i>dwelling</i> and adjoining <i>dwelling</i>s, including wall height and roof form;</p>	<p><b>Complies.</b></p> <p>The proposed alterations and additions have been designed having regard to the Design Approach for alterations to factories and warehouses – see discussion following in <b>Table 2</b> above.</p> <p><b>Complies</b></p> <p>The proposed development maintains the existing apparent height of the existing building, at the front and rear, with the proposed roof popups not visible from the public domain. The proposed development is considered to</p>

CONTROL	RESPONSE
<p>c. retain any building and streetscape consistencies which add positively to the character of the neighbourhood (e.g. architectural details, continuous rows of <i>dwellings</i>, groups of similar <i>dwellings</i>, or the like);</p> <p>d. maintain the integrity of the streetscape and heritage significance; and</p> <p>e. be considered from all public vantage points from which the additions will be visible; and</p> <p>f. achieve the objectives and controls for the applicable desired future character</p>	<p>maintain the status quo in terms of the relationship of the existing building with adjoining dwellings.</p> <p><b>Complies</b> The proposal retains the essential character and form of the existing building and enhances the contribution that it makes to the streetscape within which it is located.</p> <p><b>Complies</b> The proposed development is acceptable in streetscape terms.</p> <p><b>Complies</b> The proposed new works will not be apparent from any public vantage points.</p> <p><b>Complies</b> See <b>Table 1</b> above.</p>
<p>C2 Development shall preserve the consistency in architectural detail and form of continuous rows of attached <i>dwellings</i>, or groups of similar <i>dwellings</i>.</p>	<p><b>Complies</b> The proposal maintains consistency with the adjoining residential development.</p>
<p>C3 For end terraces / buildings, new works should be setback a minimum of 500mm from the end side wall to retain the historic form as it presents to the public domain.</p>	<p>N/A as the site is not an end terrace/building.</p>
<p>C4 Where buildings contain original form or detail which has been compromised, the integrity of the original form and detail should be enhanced, rather than being justification for further compromise. Note: This may include missing architectural detail and enclosed verandahs.</p>	<p><b>Complies</b> The site does not have particular historic value however the proposal retains the existing front pitched roof and garage openings, which contribute to the streetscape and internally, it is proposed to retain the existing roof trusses, for amenity purposes.</p>
<p>C5 New materials and fenestrations of alterations and additions shall be compatible with the existing building.</p>	<p><b>Complies</b> The proposed materials and works are compatible with the existing building.</p>
<p>C6 The <i>reconstruction</i> of posted verandahs is encouraged where consistent with the architectural style of the building and suitable evidence of original verandahs is on that property.</p>	<p>N/A</p>
<p><b>For alterations and additions to the front of</b></p>	

CONTROL	RESPONSE
<p><b>existing dwellings</b>                      C7 Alterations and/or additions to the front of an existing <i>dwelling</i> must ensure that important elements of the original character of the building and its setting are retained, restored or reconstructed, where it contributes to the desired future character, including but not limited to:</p> <ul style="list-style-type: none"> <li>a. balconies and verandahs;</li> <li>b. front gardens and landscaping;</li> <li>c. fences and walls;</li> <li>d. fenestration;</li> <li>e. roof forms.</li> </ul> <p><i>Note: Refer to Building Typologies within Appendix B of this Development Control Plan for information about the type of building.</i></p>	<p>N/A</p>
<p><b>For alterations and additions to the side of existing dwellings</b>                      C8 Alterations and additions to the side of an existing <i>dwelling</i> (where that <i>dwelling</i> is currently setback from the side property boundary), must:</p> <ul style="list-style-type: none"> <li>a. endeavour to minimise visibility from the street;</li> <li>b. retain the predominant and desired future character of the street;</li> <li>c. ensure compliance with the remaining suite of controls within this Development Control Plan relating to residential development where relevant; and</li> <li>d. when located on the ground floor, the alterations and additions shall be:                             <ul style="list-style-type: none"> <li>i. setback a minimum of 1 metre from the front wall of the existing <i>dwelling</i>; and</li> <li>ii. have minimum ceiling heights and a roof form which is subordinate to the existing <i>dwelling</i>, to ensure the additions do not detract from the detached nature of the <i>dwelling</i>.</li> </ul> </li> </ul> <p><i>Note: Ground floor side additions which include provision for parking are to comply with Part C Section 1.11 – Parking of this Development Control Plan</i></p>	<p>N/A</p>
<p><b>For alterations and additions to the rear of an existing dwelling– on any level</b>                      C9 Alterations or additions to the rear of an existing building are to:</p> <ul style="list-style-type: none"> <li>a. be of a building height that</li> </ul>	<p>N/A</p>



CONTROL	RESPONSE
<p>complies with the objectives and controls of the Site Layout and Building Design Part C3.2 of this Development Control Plan;</p> <p>b. maintain an area of useable <i>private open space</i> in accordance with Part C Section 3.8 – Private Open Space of this Development Control Plan;</p> <p>c. be of minimum visibility from the street (refer to <i>Figure C1</i>);</p> <p>d. comply with any other relevant residential development controls within this Development Control Plan.</p>	
<p>C10 Where rear additions are visible from the public domain due to street layout or topography, maintaining original roof form is preferred and new additions are to be sympathetic to that original roof.</p>	<p>N/A</p>
<p>C11 Alterations and additions <b>above ground floor level</b> shall:</p> <p>a. comply with the appropriate provisions within Appendix B – Building Typologies of this Development Control Plan;</p> <p>b. maintain setback patterns within surrounding development;</p> <p>c. be subordinate to the existing building so that the additions do not dominate the building from the public domain.</p>	<p><b>Complies</b> The proposed development is consistent with Design Approach alterations and additions to factories and warehouses, as discussed above in <b>Table 2</b>.</p>
<p>C12 Additions at <b>first floor and above</b> shall be of a <i>scale</i> and are to be located in a manner which:</p> <p>a. maintains visual separation between the existing building and adjoining residential development; and</p> <p>b. maintains setback patterns of surrounding development; and</p> <p>c. will ensure that the addition does not dominate, but is sub-ordinate to the existing <i>dwelling</i> when viewed from the street.</p>	<p>N/A</p>
<p>C13 Any first floor and above additions to the side of the <i>dwelling</i> will not be supported where they detract from the detached or semi-detached nature of the streetscape or the existing <i>dwelling</i>. <i>Note: where an existing side setback exists, consideration of access for people and equipment for future maintenance and construction should occur,</i></p>	<p>N/A</p>

CONTROL	RESPONSE
<p><i>particularly if the side setback is the only point of access to the rear of the site.</i></p> <p>C14 Any first floor and above additions attached to the rear of the existing roof form is to:</p> <p>a. be subordinate to that roof form;</p> <p>    I. where attached to the existing roof form, be set 300mm below the ridgeline;</p> <p>    II. enable the original roof form to be apparent from the public domain by:</p> <ul style="list-style-type: none"> <li>• setting the additions back from the external face of the existing side roof plane (so the gable, hip or original parapet roof form is retained); or</li> <li>• comprising a rear sub roof linking the existing roof to additions that appear as a separate roof form to that of the existing <i>dwelling</i>. Any proposed link must be set 300mm below the existing ridgeline.</li> </ul>	<p><b>Complies</b></p> <p>The proposed popup roof elements are not attached to the existing front roof form. The significant front pitched roof form will maintain visual prominence to the public domain, with the new elements not visible from Catherine Street.</p>
<p><b>Roof forms for alterations and additions</b></p> <p>C15 Appropriate roof forms for rear additions depend on the context of the site, and may include:</p> <p>a. pitched in form to match the predominant roof forms of the original property and / or its context; or</p> <p>b. boxed in form where not incongruous in the context, and where this approach reduces the visual impact of the addition, such that it is not overtly visible from the street; or</p> <p>c. a hybrid of roof forms where the appearance of the addition from the street is not overtly visible and is compatible with the Appendix B – Building Typologies of this Development Control Plan.</p> <p>C16 Where roof links are proposed to connect the original roof space to the new addition, they are to:</p> <p>a. be of minimal scale and proportion (up to a maximum of 50% of the rear roof plane) and are to provide a link only. Roof links which span the whole rear roof</p>	<p><b>Complies</b></p> <p>The proposal maintains the existing simple pitched roof form at the front of the site so as to maintain the existing streetscape presentation and relationship with adjoining dwellings.</p> <p>The proposed rear popup roof element incorporates a pitched form, as is characteristic of the area and will not be visible from the public domain.</p> <p>The proposed development is consistent with Design Approach for factories and warehouses, as discussed above in <b>Table 2</b>.</p> <p>N/A</p>

CONTROL	RESPONSE
<p>b. plane will not be supported; preserve the unity of the row, preserve chimneys and traditional scale and proportion in the street;</p> <p>c. not raise the roof ridge for the purpose of an internal room's compliance with the Building Code of Australia; and</p> <p>d. be located below the original ridge line, including clerestory roofs.</p> <p>C17 Original front verandah roofs are generally to:</p> <p>a. remain separate from the main roof slope; and</p> <p>b. reconstruct original form and detail where there is evidence that a front verandah was a part of the original building (evidence is often found in the fabric of the blade wall or similar).</p>	<p>N/A</p>

Furthermore, the proposal has been designed having regard to the provisions of Clause 6.11 of LLEP 2013 which relate to the adaptive reuse of existing buildings in the R1 zone.

The objectives of Clause 6.11 are as follows:

- (a) *“to provide for the adaptive reuse of existing buildings for residential accommodation,*
- (b) *to retain buildings that contribute to the streetscape and character of Leichhardt,*
- (c) *to provide satisfactory amenity for future residents of the area,*
- (d) *to ensure that development does not adversely affect the quality or amenity of existing buildings in the area.”*

Clause 6.11(3) states that:

*“Development consent must not be granted to the change of use to residential accommodation of a building on land to which this clause applies that was constructed before the commencement of this clause unless the consent authority is satisfied that:*

- 1. *the development will not adversely affect the streetscape, character or amenity of the surrounding area, and*
- 2. *the development will retain the form, fabric and features of any architectural or historic feature of the existing building, and*

3. *any increase in the floor space ratio will be generally contained within the envelope of the existing building."*

The proposed development has been designed having regard to the objectives and controls at Clause 6.11 of LEP 2013 as discussed in the following sections.

(a) the development will not adversely affect the streetscape, character or amenity of the surrounding area

As discussed previously, the site is located within a predominantly residential area.

**Figure 1** below shows the existing development on the site in its immediate context.



**Figure 1:** View of the existing development on the site looking east from Catherine Street

**Figure 2** below provides a 3D representation of the streetscape presentation of the proposed development in its immediate context.



**Figure 2:** 3D render showing the proposed development within the Catherine Street streetscape (source: Brenchley Architects)

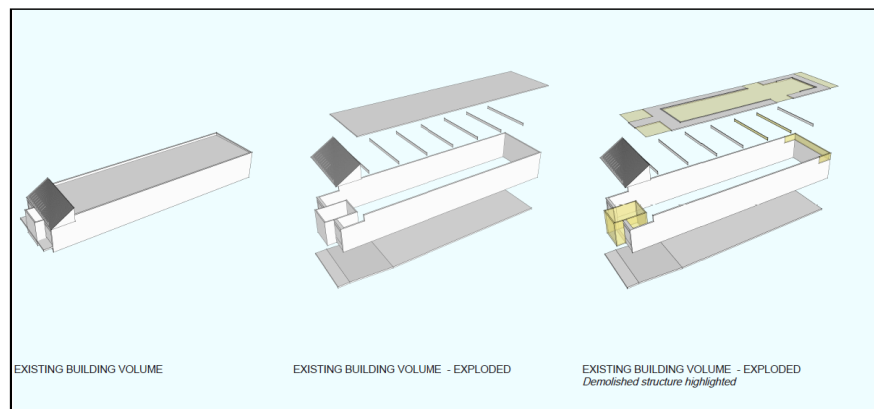
**Figure 2** shows that the proposal will have a positive streetscape outcome arising from the deletion of the existing entry element and replacement with a new entry pergola and entry doors to each dwelling.

The proposal retains the existing pitched roof form, which maintains consistency with the characteristic roof forms evident in the immediate vicinity. The proposal also maintains the form and character of the existing building with proportions which are consistent with the locality. New landscaping clearly denotes the provision of two (2) dwellings, which sit comfortably in the context.

On this basis, the proposal is considered to be acceptable with regard to Clause 6.11(3)(a) of LEP 2013.

*(b) the development will retain the form, fabric and features of any architectural or historic feature of the existing building.*

**Figure 3** below provides a graphic representation of existing fabric which is proposed to be removed. As can be seen, it is clear that the proposal will generally retain the existing fabric on the site.



**Figure 3:** graphical representation of existing fabric to be retained/removed (source: Brenchley Architects)

The proposal also generally retains the existing built form, as is evidenced in the architectural plans accompanying this DA. As discussed previously, all new habitable areas are contained within the existing fabric. The proposal incorporates roof popups containing skylights which are provided for amenity purposes. It is noted that these elements could be deleted and a skillion roof form retained within the existing parapet heights, however it is considered preferable to incorporate the minor roof protrusion, given that these are not visible from the public domain and will therefore not alter the streetscape presentation of the existing building in terms of bulk, scale, architecture and the like.

Furthermore, the proposed development **reduces** the existing overshadowing impacts of development on the site, to the benefit of neighbouring properties.

The existing building is not a heritage item and as such does not incorporate any fabric of particular historic value. Notwithstanding, and as can be seen in **Figure 9** above, the proposal retains the existing roof trusses, which are proposed to be exposed within the new dwellings. The existing front pitched roof form, which has streetscape value, is also proposed to be retained.

On this basis, the proposal is considered to be acceptable with regard to Clause 6.11(3)(b) of LEP 2013.

*(c) any increase in the floor space ratio will be generally contained within the envelope of the existing building*

The proposed development increases the FSR of the existing building, as the existing building contains only a single storey of accommodation, with extensive floor to ceiling heights, as is the norm with industrial buildings.

The proposed development maintains the existing ground floor level slab and incorporates a new first floor level. As can be seen from the sections accompanying this DA, the existing skillion roof has a fall from south to north, such that the dwelling on the northern side of the site has minimum floor to ceiling heights of 2.525m (in part). It is for this reason that the proposed discrete roof popups incorporating skylights, are proposed. These elements contribute to the achievement of additional opportunities for light and ventilation and provide additional internal volume, for amenity purposes.

The roof popups could be deleted and replaced with a skillion roof form, set within the existing parapets, however clause 6.11(3)(c) of LEP 2013 requires additional floorspace to be **generally contained** within the existing envelope. It is considered that the additional floorspace is consistent with this requirement, and that the popups are provided for additional amenity. The protruding elements are not visible from the public domain and will not be readily apparent from neighbouring properties, due to their location within the centre of the development and the height of the existing parapet walls.

The proposed development **reduces** the existing overshadowing impacts on neighbouring properties at 9am and 10am on 21 June.

On the basis of the preceding discussion, it is considered that the proposal is consistent with and acceptable with regard to Clause 6.11(3)(c) of LEP 2013.

Furthermore, the proposal is consistent with the objectives of Clause 6.11, as follows:

- the proposal involves the adaptive reuse of the existing building at the site, to provide for two (2) new residential dwellings (objective a);
- the proposal retains the existing building on the site, which is considered to make a valuable contribution to the Catherine Street streetscape and the varied character of the Leichhardt LGA (objective b); and
- the proposed development improves the streetscape presentation of the existing building and will have no unreasonable impacts in relation to neighbouring properties in terms of visual or acoustic privacy. The proposal will reduce the overshadowing impacts associated with the existing building, to the benefit of local residents, as discussed throughout this report (objectives c and d).

Having regard to the discussion above, it is considered that the proposal is consistent with objective (a)(i) despite the non-compliance with the FSR development standard.

(a)(ii) to ensure that residential accommodation provides a suitable balance between landscaped areas and the built form

The proposed development increases the provision of landscaped areas (although they do not meet the definition in LLEP 2013 as planting is contained in planter boxes and pots) when compared to the existing situation. This improves the balance between landscaped areas and built

form and ensures that a high level of internal and external amenity is achieved at the site.

The proposal provides planting in the following locations:

- in the public domain adjacent to the front of the site;
- adjacent to the entry paths to the proposed front doors fronting onto Catherine Street;
- in ground level courtyards off the bedrooms in each dwelling at ground floor level;
- in the primary area of private open space at the western end of first floor level; and
- around the proposed roof terraces.

The proposed landscape design incorporates a large deciduous tree in the rear of both proposed dwellings. Additional planting is proposed at the front of the site and in the nature strip adjoining the site, to provide further amenity for the future occupants as well as passers-by.

Having regard to the discussion above, it is considered that the proposal is consistent with objective (a)(ii) despite the non-compliance with the FSR development standard.

(a) (iii) to ensure that residential accommodation minimises the impact of the bulk and scale of buildings

As discussed above in **Tables 1 to 3** inclusive, the proposed development is generally consistent with the controls applicable to the type of development proposed at the site.

The proposed bulk and scale are generally consistent with that which currently exists on the site and in terms of presentation to the streetscape, will be commensurate with the existing development on the site, as can be seen in **Figures 1 and 2** above.

Shadow diagrams accompany this DA. The diagrams show that the proposal will not create any new overshadowing in relation to nearby properties, and will in fact result in a **reduction** of existing shadow impacts at 9am and 10am on 21 June, compared to the existing situation.

Having regard to the discussion above, it is considered that the proposal is consistent with objective (a)(iii) despite the non-compliance with the FSR development standard.

(b) to ensure that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale

On the basis that this DA relates to residential development, objective (b) is not applicable.



#### 4.2 R1 General residential zone objectives

The site is located in the R1 General Residential zone. The proposal for alterations and additions to the existing dwelling house is permissible with consent in the zone.

The objectives of the R1 zone are as follows:

- *"To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To improve opportunities to work from home.*
- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
- *To provide landscaped areas for the use and enjoyment of existing and future residents.*
- *To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.*
- *To protect and enhance the amenity of existing and future residents and the neighbourhood."*

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

- the proposal provides two (2) new dwellings, to contribute to meeting the housing needs of the community;
- the proposal will contribute to the variety and diversity of housing types and densities provided within the LGA;
- the proposal incorporates flexible internal layouts, such that there are opportunities for working from home;
- the proposed development results in two (2) new allotments which are consistent with the orientation and size of allotments evident in the vicinity;
- the proposed new dwellings are located within the existing building. They are oriented to Catherine Street, consistent with the streetscape and the appearance of the existing building to the public domain will be improved and result in public domain benefits;
- the proposal provides a range of private open spaces within each proposed dwelling, which include a range of landscaping in raised planter boxes and pots, to maximise amenity; and
- the proposal has no unreasonable adverse amenity impacts in relation to nearby properties in terms of visual and acoustic privacy or overshadowing.

To this end, the proposal is consistent with the objectives of the zone despite the non-compliance with the FSR development standard.

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

It is not considered that the underlying objective of the Standards is irrelevant to the proposal, however, as demonstrated herein, it is submitted that the proposal is able to achieve consistency with the intent of the Standard, despite the non-compliance.

**4.4 Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable?**

It is not considered that the Standard has been virtually abandoned or destroyed by Council's actions, however, having regard to the particulars of this Application, the streetscape and public domain benefits associated with the proposal to adaptive reuse (rather than demolish) the existing building, it is considered that flexibility in the application of the Standard is warranted.

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

The current environmental character of the of the particular parcel of land is one characterised by an industrial building, which is inconsistent with the form and function of development typically anticipated within a residential zone. Given the historic and aesthetic values of the existing building, and having regard to environmental sustainability, it is considered preferable to adaptively reuse the existing building, rather than demolish and rebuild new development in its place. To this end, the character of the existing building, and the adaptive reuse provisions at Clause 6.11 of LEP 2013 require an appropriate balance between retaining existing fabric and achieving a high level of residential amenity.

On the basis of these conditions, it is considered that compliance with the development standards is unreasonable or inappropriate.

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

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

As discussed previously, the proposed adaptive reuse results in a development which fails to comply with the FSR development standard.

## 5.2 Why is contravention of the development standard acceptable?

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

- the proposed dwelling floor layout maximises the provision of external open space areas which are functional and useable. In the event that the development was redesigned to comply with the FSR standard, there would be no material gains to any nearby properties in terms of a reduction in impacts, as the proposal is generally consistent with the DCP building envelope controls and meets the requirements of the DCP in relation to overshadowing, overlooking and general overbearing impacts; and
- the proposed contravention of the maximum FSR development standard is considered acceptable as it enables the adaptive reuse of the existing building, resulting in two (2) new dwelling houses which are configured in a manner which ensures they are useable and functional and incorporate sufficient space to meet contemporary amenity requirements. Compliance with the FSR standard could be achieved, however this would necessitate deleting internal floor area, which would not discernibly alter the proposed building envelope and would have no benefits in terms of reducing environmental impacts, when compared to the existing building on the site.

It is considered that on the basis that the proposal meets the objectives of the development standard and zone despite the non-compliance with the FSR standard, and having regard to the lack of amenity benefits arising from the proposed adaptive reuse, it is considered that the non-compliance is acceptable

## 5.3 On what basis there are sufficient environmental planning grounds to justify contravening the development standard?

### 5.3.1 Clause 4.6(5)(A) - Matters of State or Regional Environmental Planning

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

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

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

The proposed departure from the standards allows the maintenance of the existing built form on the site, along with its adaptive reuse in order to provide new dwellings within an existing building which adds to the character and amenity of the local area.

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

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

As can be seen from the discussion herein, the proposed development is consistent with the objectives of the development standard and R1 General Residential zone pursuant to LEP 2013 despite the non-compliance with the FSR development standard.

It is considered that the proposal has adequately addressed the matters outlined in Section 4.6(3) – (5) of LEP 2013.

**6.0 CONCLUSION**

Having regard to the discussion contained herein, it is considered that the matters required to be addressed, pursuant to Clause 4.6 of LEP 2013, the five-part test established in the Land and Environment Court and the Varying Development Standards: A Guide, have been fully canvassed herein.

Having regard to the particulars of the proposal, as outlined above, it is considered that there would be no material benefit to requiring the proposal to comply with Clause 4.4 of LEP 2013 and on this basis, an exception to Clause 4.4(2B)(c)(iv) of Leichhardt LEP 2013 is considered well-founded, and worthy of Council's support.