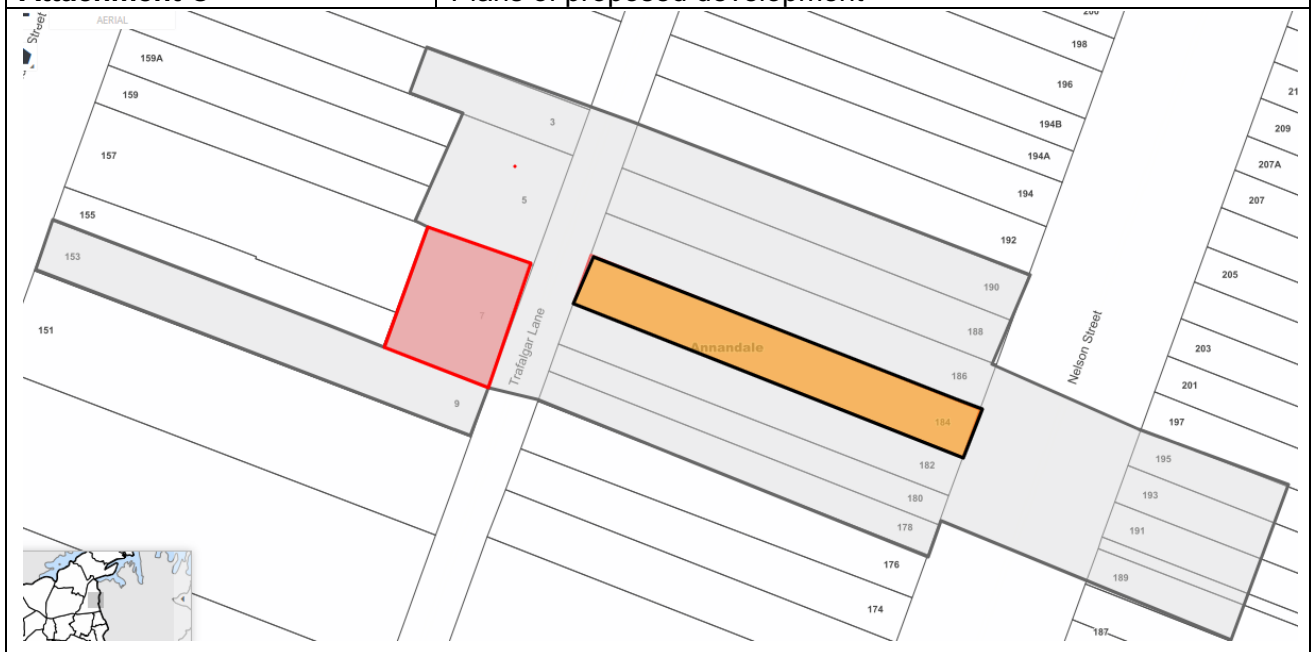


INNER WEST

DEVELOPMENT ASSESSMENT REPORT

Application No.	M/2020/3
Address	184 Nelson Street ANNANDALE NSW 2038
Proposal	Modification of Development Consent D/2015/592 seeking to delete Condition 2(f) to allow retention of the shower in the ensuite bathroom within the studio
Date of Lodgement	10 January 2020
Applicant	Mr Jonathan H Davis
Owner	Mr Jonathan H Davis
Number of Submissions	1 submission in objection.
Value of works	Nil
Reason for determination at Planning Panel	Modification seeks to remove a condition imposed by the Leichhardt Local Planning Panel on the 12 th July 2016.
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Conditions of Consent (D/2015/592 as last modified by DAREV/2018/21)
Attachment C	Plans of proposed development



LOCALITY MAP

Subject Site		Objectors		<p>N</p>
Notified Area		Supporters		

Note: Due to scale of map, not all objectors could be shown.

1. Executive Summary

This report is an assessment of the application submitted to Council for Modification of Development Consent D/2015/592 which approved alterations and additions to garage, including to provide for a first floor studio at 184 Nelson Street, Annandale. The proposal seeks consent for the following:

- Delete Condition 2(f) to allow retention of the shower in the en-suite bathroom within the studio

The condition currently reads as follows:

f) The shower in the en-suite bathroom within the studio is to be deleted.

The proposal is considered to satisfy the aims and controls of the Leichhardt Local Environmental Plan (LLEP 2013) and Leichhardt Development Control Plan 2013 (LDCP 2013) and is recommended for approval.

2. Proposal

The proposed modification seeks to retain the proposed shower in the en-suite bathroom within the studio, by deleting condition 2(f) which was imposed by the Leichhardt Local Planning Panel.

3. Site Description

The site is approximately 366.7m² in area and the rear boundary fronting Trafalgar Lane is 6.885m wide. Vehicular access is from the lane and the existing garage accommodates 2 vehicles. The site is located on the eastern side of Trafalgar Lane.

There is a cross fall (down from north to south) across the site at the laneway boundary of approximately 600mm (7.5% gradient). The floor of the existing garage is split level to account for this cross fall – i.e. 1 car space within the garage is at RL 14.28 and the other is at RL 13.94.

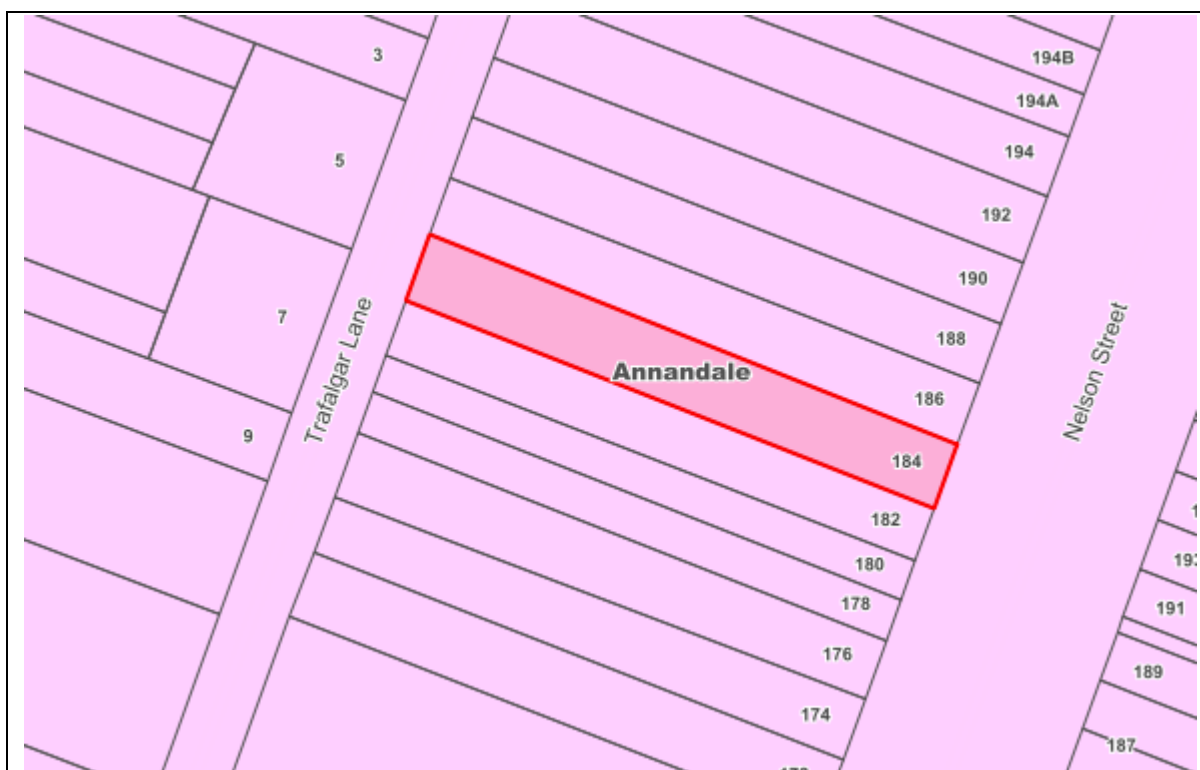
Other development on this site is a part single storey/part 2 storey, semi-detached dwelling house.

The immediate locality contains a range of different types of residential buildings as well as older light industrial buildings fronting onto Trafalgar Lane.

The subject site is not a heritage item however is located within the Annandale Heritage Conservation Area (C1). No significant trees or vegetation are affected by the proposed development.

The site is zoned R1 *General Residential* pursuant to Local Environmental Plan 2013.

The site is not identified as a flood control lot.



R1 – General Residential 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
DAREV/2018/21	Review of Determination of Condition 2(a) which requires that the steel beam shown at first floor level to be deleted or set behind external wall cladding, plus correct determination to reflect consent issued under M/2017/53 which deleted Conditions 3, 6, 19, 20, 42 and 43.	Approved 9/4/2019
M/2018/159	Modification of Development Consent D/2015/592 which approved alterations and additions to garage, including to provide for a first floor studio. Consent is sought for various modifications, including: maintain existing beam at first floor uncladded; change louvred windows to western elevation to clear glass and full opening; restrict external sun louvres to 35 degree maximum opening; amend hot water unit; and add door between garage and studio stairs.	Approved 6/11/2018

M/2017/53	S96 modification of D/2015/592 which approved alterations and additions to garage, including to provide for a first floor studio. Modification seeks amendments to conditions.	Approved 6/4/2017
M/2016/157	Section 96 application to modify D/2015/592 which approved alterations and additions to garage including first floor studio. Application seeks to delete conditions 2 a (required the deletion of the steel beam), e (window sill to 1600mm as amended plans have been included to incorporate such requirement), and h (required rear windows to be fixed and obscure as amended plans incorporate revised windows).	Approved 4/11/2016
D/2015/592	Alterations and additions to garage, including to provide for a first floor studio	Approved 12/7/2016

Surrounding properties

Application	Proposal	Decision & Date
D/2006/374 – 186 Nelson Street	Alterations and additions to existing dwelling including new first floor and new double garage to Trafalgar Lane.	Approved 5/6/2007
M/2015/228 – 188 Nelson Street	Section 96 modification of D/2013/598 which approved alterations and additions to the existing dwelling with new detached garage/studio and swimming pool. Modification seeks to alter Condition No. 2 in relation to the required first floor rear setback, garage door width and wall and ridge heights and also seeks changes to approved windows/skylights, the internal layout and materials and finishes.	Approved 10/5/2016
D/2013/598 – 188 Nelson Street	Alterations and additions to existing dwelling including new first floor, garage with studio above and swimming pool.	Approved 14/8/2014
D/2012/414 – 188 Nelson Street	Alterations and addition to the existing dwelling, including construction of a new first floor level, detached outbuilding comprising a double garage with first floor studio, landscaping works and swimming pool.	Refused 31/8/2012
D/2018/643 – 182 Nelson Street	Demolition of an existing garage and construction of a two storey secondary dwelling with garage	Approved 9/5/2019

5. S4.15 and S4.55(1a) Assessment

The following is an assessment of the application under the provisions of Section 4.15 and 4.55(1a) of the Environmental Planning and Assessment Act 1979.

Under Section 4.55 of the Environmental Planning and Assessment Act, 1979, Council, when considering a request to modify a Determination, must:

- a) be satisfied that the development as modified is of minimal environmental impact and is substantially the same development as the development for which consent was originally granted;

Comment: The proposal does not entail any significant environmental impacts. The development remains substantially the same in form and character as that for which consent was originally granted.

- b) consult with any relevant authority or approval body

Comment: No such consultation was required.

- c) notify the application in accordance with the regulations;

Comment: The application was notified in accordance with the regulations and in accordance with Council's notification requirements.

- d) consider any submissions made.

Comment: One submission of objection was received and is addressed in Section 5(f) of this report.

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*
- *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

The provisions of SEPP 55 were considered in the original application assessment.

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

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

An assessment has been made of the matters set out in Division 2 Matters for Consideration of the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. It is considered that the carrying out of the proposed development is generally consistent with the relevant matters for consideration of the Plan.

5(a)(iii) *Leichhardt Local Environment Plan 2013 (LLEP 2013)*

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

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.5 - Additional permitted uses for land
- Clause 4.3A - Landscaped areas for residential accommodation in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 5.10 - Heritage Conservation

Clause 2.3 - Land Use Table and Zone Objectives

The site is zoned R1 - *General Residential* under the *Leichhardt Local Environmental Plan 2013*. The proposal remains permissible in the zone and is consistent with the applicable objectives of the zone.

Clause 4.3A & 4.4 – Development Standards

The following table is the summary assessment of the proposal against the development standards of the *Leichhardt Local Environmental Plan 2013* as included in the assessment report for D/2015/592.

Note: The amended proposal does not alter the calculated figures.

The area of the site is **366.7m²**

LLEP 2013 Development Standard	Permitted/ Required	Proposed m ²	Proposed ratio or %	Compliance	Non-compliance
Floor Space Ratio Maximum permissible 0.6 :1	220m ² (0.6:1)	237m²	0.65:1	No *	17m² (7.7%)
Landscaped Area minimum 20% of site area	73m ² (20%)	73m ²	20%	Yes	N/A

Site Coverage maximum 60% of site Area	220m ² (60%)	203m ²	55.4%	Yes	N/A
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- * - A written submission seeking a variation to the Floor Space Ratio development standard was considered to be well founded in the evaluation and determination of D/2015/592.

This proposed modified application continues to be satisfactory having regard to the provisions of the Leichhardt Local Environmental Plan 2013 (LLEP 2013).

Clause 5.10 - Heritage Conservation

The subject property at 184 Nelson Street, Annandale, is located within the Annandale Heritage Conservation Area (C1 in Schedule 5 of the Leichhardt LEP 2013) and the Nelson Street Distinctive Neighbourhood (C2.2.1.6 in the Leichhardt DCP 2013). The site not listed as a heritage item, nor is it in the vicinity of any heritage items.

Due to the nature of the proposed modification to reinstate the internal shower within the approved studio, it is considered that there will be no heritage impacts as the proposed works are all internal and will not be visible from the public domain.

5(b) Draft Environmental Planning Instruments

The following Draft Environmental Planning Instrument has been considered in the assessment of the application:

- Draft Inner West Local Environmental Plan 2020

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979*.

The amended provisions contained in the Draft IWLEP 2020 are not relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

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
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	N/A
B3.1 Social Impact Assessment	N/A

B3.2 Events and Activities in the Public Domain (Special Events)	N/A
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	N/A
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.7 Site Facilities	N/A
C1.8 Contamination	N/A
C1.9 Safety by Design	N/A
C1.10 Equity of Access and Mobility	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	Yes
Part C: Place – Section 2 Urban Character	
C2.2.1.6 Nelson Street Distinctive Neighbourhood C2.2.1.6(a) Nelson Street Laneways Sub Area	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.9 Solar Access	Yes
C3.11 Visual Privacy	Yes– see discussion
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A

The application satisfies the relevant provisions of the Development Control Plan. Comments relating to certain specific provisions of the DCP which were included in the assessment report for the original DA remain relevant to this modification application.

Discussion on issues concerned with C3.11 – *Visual Privacy* are included below in this report in response to the concerns raised by neighbours.

C3.11 – Visual Privacy

The following privacy control are applicable to the proposed modification.

C1 - *Sight lines available within 9m and 45 degrees between the living room or private open space of a dwelling and the living room window or private open space of an adjoining dwelling are screened or obscured unless direct views are restricted or separated by a street or laneway.*

The proposed shower within the first floor studio will satisfy the relevant privacy controls under this clause as external privacy louvers and window 1 of the original DA has been removed by way of condition. In addition, as the shower window is separated by a laneway as mentioned in C1 of the Clause, the proposal will comply with the privacy clause of the LDCP2013.

It is noted that Council planning staff originally supported the shower and bathroom within the studio, subject to conditions as it has addressed privacy and overlooking impacts and concerns raised by the rear neighbour, only for the shower to be removed via condition by the (then) Leichhardt Local Planning Panel.

As a result, the proposed modification to delete condition 2(f) to retain the proposed shower within the studio is not considered to result in any undue adverse privacy impacts to surrounding properties and 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

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

5(f) Any submissions

The application was notified in accordance with Council's Notification requirements for a period of 14 days to surrounding properties.

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

- Privacy implications from the new shower and bathroom within the rear first floor studio above the existing garage – see Section 5(c) under C3.11 – Visual Privacy.

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

Issue: Potential Secondary Dwelling

"The modification does conflict with the intent or purpose of the original Condition 2(f). This condition was not arbitrary and was determined after a considerable review process, to minimise the risk of the studio being able to be used as a separate dwelling. As far as this risk is concerned the risk has not lessened and therefore the Condition 2(f) should be maintained. In addition, the studio is able to be privately and securely accessed from Trafalgar Lane by the simple locking of a door connection between the garage and Studio access stair. The return of the potential for the Studio to be used as a separate dwelling, with or without the appropriate BCA/NCC classification, will have substantial environmental and social impact on the surrounding development and will significantly alter the intent of the DA approval. The application has not demonstrated any adequate safeguards as to the control of the ongoing use of the site".

Comment: The proposed modification to include the shower in the studio does not classify the structure as a secondary dwelling. Also, the original approved consent imposed an on-going condition to ensure the studio above the garage was not to be used as a secondary dwelling.

It is also to be noted that similar developments where a shower and bathroom approved within a studio is not unusual in the LGA.

Issue: Short Term Leasing

“With a shower and separate entrance, we are certain the studio will be used as a separate dwelling on a short-term basis. The Applicant is well aware of short-term letting as 184 Nelson Street has been listed on Airbnb for over a year now:

https://www.airbnb.com.au/rooms/21729737?source_impression_id=p3_1580260003_o1GrL4VXIbEYhg92”

Comment: As previously mentioned in this Report, the rear studio is not classified as a secondary and is conditioned accordingly. Any breaches with the condition of consent will need to be enforced by Council’s Compliance team as a separate matter.

Issue: Amended Plans

“Have drawings been submitted to Council as condition of approval? The drawings to be updated under conditions for approval which were to include the removal of kitchen bench and sink cannot be found on Council website”.

Comment: As per the conditions of consent, amended plans must be presented to the Certifying Authority prior to the release of a Construction Certificate. The applicants have not applied for a Construction Certificate to date.

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 proposed modification is not contrary to the public interest.

6 Referrals

6(a) Internal

It was not necessary to refer this application to any Council specialists for advice.

6(b) External

The application was not required to be referred to any external authority for comment.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11/ 7.12 levies are not payable for the proposal.

8. Conclusion

The proposed modification 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 or the natural environment and is considered to be in the public interest.

9. Recommendation

- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.55 of the *Environmental Planning and Assessment Act 1979*, grant consent to Application No. M/2020/3 for Modification of Development Consent D/2015/592 seeking to delete Condition 2(f) to allow retention of the shower in the en-suite bathroom within the studio at 184 Nelson Street ANNANDALE NSW 2038 subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

ATTACHMENT A – RECOMMENDED CONDITIONS OF CONSENT

2. Amended plans are to be submitted incorporating the following amendments:
- a) ~~Steel beam shown at first floor level to be deleted or set behind external wall cladding.~~
(Condition deleted by DAREV/2018/21 on 9 April 2019)
 - b) External wall finish being a rendered smooth flush finish with no externally expressed panel joints.
 - c) Maximum roof RL to be 19.94.
 - d) Window W01 on the first floor and associated external louvre on the West Elevation to be deleted.
 - e) Windows W04 and W05 on the East elevation to have a minimum sill height of 1600mm above the finished floor level of the Studio.
 - f) ~~The shower in the on-suite bathroom within the studio is to be deleted.~~
(Condition deleted by M/2020/3 on INSERT DATE)
 - g) All new external colours including window, doors and wall (including exposed steel beam to roof fascia), to be similar to existing colours on comparable substrates. Colour of external louvre to match window frame colour.
 - h) External solid louvres (e.g. timber or aluminium) are to be installed to cover the full frame of windows W02 and W03 on the western (rear) elevation. These louvres are to be restricted so as to open a maximum of 35° and when open to the maximum extent are to have a complete overlap of the bottom and top of blades to prevent looking out horizontally.
(Condition amended by M/2018/159 on 16 November 2018)
 - i) The air conditioning unit located on the roof is to be relocated so that it is not visible from a person standing in Trafalgar Lane. If this cannot be achieved then it is to be deleted.
(Condition added by M/2018/159 on 16 November 2018)

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

(Condition amended by M/2018/159 on 16 November 2018 and DAREV/2018/21 on 9 April 2019)

Attachment B – Conditions of Consent (D/2015/592 as last modified by DAREV/2018/21)

ATTACHMENT B – ORIGINAL CONDITIONS OF CONSENT

- Development must be carried out in accordance with Development Application No. D/2015/592 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Dwg No: 992.SA1 Site Analysis Plan	Ross Morton Sundesign	Undated
Dwg No: 992.1/4C Site Plan	Ross Morton Sundesign	05.09.2018
Dwg No: 992.2/4C Ground Floor Plan, First Floor Plan, Roof Plan	Ross Morton Sundesign	05.09.2018
Dwg No: 992.3/4C Elevations – West, South, East & North, Sections A-A & B-B	Ross Morton Sundesign	05.09.2018
Dwg No: 992.4/4C Detail	Ross Morton Sundesign	Undated
Dwg No: 992.SL1 Cross Section	Ross Morton Sundesign	20.07.2016
Dwg No: 992.SL2 Site Plan	Ross Morton Sundesign	20.07.2016
Document Title	Prepared By	Dated
Statement of Environmental Effects	Burrell Threlfo Pagan Pty Ltd	October 2015
BASIX Certificate No: A229447_03	Ross Morton Sundesign	07.09.2018
Waste Management Plan	Prepared for Mr. J. Davis	10.09.2015

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

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

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

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

Note: Carrying out of works contrary to the above plans and/ or conditions may invalidate this consent; result in orders, on the spot fines or legal proceedings.

(Condition amended by M/2018/159 on 16 November 2018)

- Amended plans are to be submitted incorporating the following amendments:

- a) ~~Steel beam shown at first floor level to be deleted or set behind external wall cladding.~~
(Condition deleted by DAREV/2018/21 on 9 April 2019)
- b) External wall finish being a rendered smooth flush finish with no externally expressed panel joints.
- c) Maximum roof RL to be 19.94.
- d) Window W01 on the first floor and associated external louvre on the West Elevation to be deleted.
- e) Windows W04 and W05 on the East elevation to have a minimum sill height of 1600mm above the finished floor level of the Studio.
- f) The shower in the en-suite bathroom within the studio is to be deleted.
- g) All new external colours including window, doors and wall (including exposed steel beam to roof fascia), to be similar to existing colours on comparable substrates. Colour of external louvre to match window frame colour.
- h) External solid louvres (e.g. timber or aluminium) are to be installed to cover the full frame of windows W02 and W03 on the western (rear) elevation. These louvres are to be restricted so as to open a maximum of 35° and when open to the maximum extent are to have a complete overlap of the bottom and top of blades to prevent looking out horizontally.
(Condition amended by M/2018/159 on 16 November 2018)
- i) The air conditioning unit located on the roof is to be relocated so that it is not visible from a person standing in Trafalgar Lane. If this cannot be achieved then it is to be deleted.
(Condition added by M/2018/159 on 16 November 2018)

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

(Condition amended by M/2018/159 on 16 November 2018 and DAREV/2018/21 on 9 April 2019)

3. ~~The design of the vehicular access and off street parking facilities must be amended to address the relevant provisions of Australian Standard AS/NZS 2890.1-2004 Parking Facilities - Off Street Car Parking. The following specific issues must be addressed in the design:~~
- a) ~~The width of the garage door opening to Trafalgar Lane must be reduced to 3500mm, measured from the southern extent of the existing door opening.~~

~~The existing vehicle crossing is required to be reduced in width to align with the reduced garage door opening, with kerb and gutter and footpath constructed across the extent of the redundant portion of the vehicle crossing. The level of the new footpath at the boundary is to be 170mm above the adjacent road gutter level.~~

~~The floor level of the garage at the base of the new internal stairway must be raised to be one step up from the new footpath level in Trafalgar Street after the redundant portion of the vehicle crossing has been closed, as above.~~

- ~~b) A minimum of 2200mm Headroom must be provided throughout the access and parking facilities. Note that Headroom must be measured to 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, demonstrating compliance with the above requirements.~~
- ~~d) Where the drop adjacent to the end of the parking module(s) exceeds 600mm, structural barriers must be provided. Where the drop is between 150-600mm, wheel stops must be provided.~~

~~The above physical controls must be installed in accordance with the requirements of Section 2.4.5 of AS/NZS 2890.1-2004.~~

~~The design must be certified by a suitably qualified Civil Engineer with NPER registration with the Institution of Engineers Australia and be provided prior to the issue of a Construction Certificate~~

~~**[Condition 3 deleted by M/2017/53 on 6 April 2017 and is re-deleted by DAREV/2018/21 on 9 April 2019]**~~

4. As the site where the property is identified as located within ANEF 20-25 or greater, the development approved under this consent must meet the relevant provisions of Australian Standard AS 2021:2000 Acoustics – Aircraft noise intrusion – Building siting and construction.

An acoustic report prepared by a suitably qualified person and accompanying plans demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

5. Consent is granted for the demolition on the property as described on the approved plans, subject to strict compliance with the following conditions:
 - a) The adjoining residents must be notified seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, site contact details/person, elements to be

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

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

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

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: *Demolition of structures*.
- g) The hours of demolition work are limited to between 7:00am and 6:00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority.
- i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.

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

- v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.
6. The applicant must bear the cost of construction of the following works:
- a) ~~Closer of the redundant portion of the vehicle crossing and construction of concrete kerb and gutter and concrete infill footpath at the Trafalgar Lane frontage of the site.~~

~~Development Consent does NOT give approval to undertake any works on Council property. An application must be made to Council for a Roadworks Permit under Section 138 of the Roads Act 1993 for approval to construct these works.~~

~~The Roadworks Permit must be provided prior to the issue of a Construction Certificate.~~

~~These works must be constructed in accordance with the conditions of the Roadworks Permit and be completed prior to the issue of an Occupation Certificate.~~

~~Note: The cost of adjustment or relocation of any public utility service shall be borne by the owner/applicant. Where the finished levels of the new works will result in changes to the existing surface levels, the cost of all necessary adjustments or transitions beyond the above scope of works shall be borne by the owner/applicant.~~

~~[Condition 6 deleted by M/2017/53 on 6 April 2017 and is re-deleted by DAREV/2018/21 on 9 April 2019]~~

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

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

The system/s shall be operated as follows:

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

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

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

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

8. In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979* construction works approved by this consent must not commence until:
 - a) A Construction Certificate has been issued by Council or an Accredited Certifier. Either Council or an Accredited Certifier can act as the "Principal Certifying Authority."
 - b) A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment.
 - c) At least two days notice, in writing has been given to Council of the intention to commence work.

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

9. The following requirements are to be incorporated into the development detailed on the Construction Certificate plans and provided prior to the issue of a Construction Certificate:
 - a) No rainforest timbers or timbers cut from old growth forests are to be used in the construction of the development. Timbers to be used are to be limited to any plantation, regrowth or recycled timbers, or timbers grown on Australian Farms or State Forest Plantations.

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

10. In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate

of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more. The Long Service Levy is payable prior to the issue of a Construction Certificate.

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

11. New materials that are not depicted on the approved plans must not be used. Highly reflective wall or roofing materials and glazing must not be used. Materials must be designed so as to not result in glare (maximum normal specular reflectivity of visible light 20%) or that causes any discomfort to pedestrians or neighbouring properties. Details of finished external surface materials, including colours and texture must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority.
12. ~~If any excavation extends below the level of the base of the footings of a building on an adjoining property, the person causing the excavation:~~
 - ~~a) Must preserve and protect the adjoining building from damage~~
 - ~~b) Must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.~~
 - ~~c) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.~~

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

[Condition 12 deleted by M/2017/53 on 6 April 2017 and is re-deleted by DAREV/2018/21 on 9 April 2019]

13. The following fire upgrading is required pursuant to Clause 94 of the *Environmental Planning and Assessment Regulation 2000*:
 - The building is to be provided with smoke alarm system that complies with AS3786-1993: *Smoke Alarms* and the smoke alarms must be connected to the consumer mains electrical power supply and interconnected where there is more than one alarm with a stand-by (battery back-up) power supply. The smoke alarm system must be installed in suitable locations on or near the ceiling in accordance with Part 3.7.2 of the Building Code of Australia.

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

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

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

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

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

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

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

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

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

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

17. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan (where applicable):

- a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) The locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council.
 - iii) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
 - iv) A dedicated unloading and loading point within the site for construction vehicles, plant and deliveries.
 - v) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
- b) Noise and vibration

During excavation, demolition and construction phases, noise & vibration generated from the site must be controlled. Refer to other conditions of this consent. If during excavation, rock is encountered, measures must be taken to minimise vibration, dust generation and impacts on surrounding properties. Refer to Environmental Noise Management Assessing Vibration: a technical Guideline (Department of Environment and Conservation, 2006) www.epa.nsw.gov.au for guidance and further information.

- c) Occupational Health and Safety
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.
- d) Toilet Facilities
During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site. Details must be shown on the plan.
- e) Traffic control plan(s) for the site
All traffic control plans must be in accordance with the Roads and Maritime Services publication "Traffic Control Worksite Manual"

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

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

- 18. A stormwater drainage design prepared by a Licensed Plumber or qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be prepared/ amended to make provision for the following:
 - a) Stormwater runoff from the roof of the Studio must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter in Nelson Street.
 - b) A minimum 150mm step up must be provided between all external finished surfaces and adjacent internal floor areas, except where a reduced step is permitted under Section 3.1.2.3 (b) of the Building Code of Australia for Class 1 buildings.
 - c) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS 3500.3-2003 Plumbing and Drainage – Stormwater Drainage

- d) Plans must specify that any components of the existing system to be retained must be checked during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development, and be replaced or upgraded if required.
 - e) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
 - f) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
 - g) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm.
 - h) Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.
19. ~~An application must be made to Council for the issue of a Levels Certificate. The certificate, issued by Council, must be provided prior to the issue of a Construction Certificate.~~
- ~~The certificate specifies the surface levels in the road reserve adjacent to the property that must be used as the basis for the design of vehicle or pedestrian accesses, finished floor levels, fences, vents and any structures in the vicinity of the property boundary.~~
- ~~The Levels Certificate may specify levels in the adjacent road reserve to be changed from those existing.~~
- [Condition 19 deleted by M/2017/53 on 6 April 2017 and is re-deleted by DAREV/2018/21 on 9 April 2019]**
20. ~~The design of the vehicular access and off street parking facilities must be amended to address the relevant provisions of Australian Standard AS/NZS 2890.1 2004 Parking Facilities – Off Street Car Parking. The following specific issues must be addressed in the design:~~
- a) ~~The floor/finished levels within the property must be adjusted to ensure that the levels at the boundary are 110mm above the adjacent road gutter invert for the full width of the vehicle crossing. The longitudinal profile 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 Headroom must be measured to 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, demonstrating compliance with the above requirements.~~

~~The design must be certified by a suitably qualified Civil Engineer with NPER registration with the Institution of Engineers Australia and be provided prior to the issue of a Construction Certificate.~~

[Condition 20 deleted by M/2017/53 on 6 April 2017 and is re-deleted by DAREV/2018/21 on 9 April 2019]

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

21. Prior to the commencement of demolition works on the subject site or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit to the value of \$2,800 must be paid to Council to cover the costs associated with the road, footpath and drainage works required by this consent.

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

A request for release of the security may be made to the Council after all construction work has been completed.

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.

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

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

PRIOR TO THE COMMENCEMENT OF WORKS

23. The proposed structure(s) and all plant and machinery (including air-conditioning) to be erected or installed must stand wholly within the boundaries of the subject site. No portion of the proposed structure or plant and machinery (including air-conditioning), including gates and doors during opening and closing operations, shall encroach onto or overhang adjoining properties or upon public property.

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

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

- a) Location of the building with respect to the boundaries of the site.
(Condition amended by M/2018/159 on 16 November 2018)

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

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

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

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

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

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

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

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

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

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

26. Any person or contractor undertaking works on public property must take out Public Risk Insurance with a minimum cover of ten (10) million dollars in relation to the occupation of, and approved works within public property. The Policy is to note, and provide protection for Leichhardt Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.
27. Prior to the commencement of works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
28. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form (available on Council's web page) and details of the appointed Principal Certifying Authority shall be submitted to Council.
29. Prior to the commencement of works, a sign must be erected in a prominent position on the site (for members of the public to view) on which the proposal is being carried out. The sign must state:
- a) Unauthorised entry to the work site is prohibited.
 - b) The name of the principal contractor (or person in charge of the site) and a telephone number at which that person may be contacted at any time for business purposes and outside working hours.
 - c) The name, address and telephone number of the Principal Certifying Authority for

the work.

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

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

DURING WORKS

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

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

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

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

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

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

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

contain sulphate ores or soils.

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

34. Excavation, demolition, construction or subdivision work shall only be permitted during the following hours:
- a) 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
 - b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
 - c) at no time on Sundays or public holidays.

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

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

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

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

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

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

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

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

35. In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or

minimise any harm to the environment that may result from the demolition, construction or operation/use of the development.

36. Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.
37. The development must be inspected at the following stages by the Principal Certifying Authority during construction:
 - a) after excavation for, and prior to the placement of, any footings, and
 - b) prior to pouring any in-situ reinforced concrete building element, and
 - c) prior to covering of the framework for any floor, wall, roof or other building element, and
 - d) prior to covering waterproofing in any wet areas, and
 - e) prior to covering any stormwater drainage connections, and
 - f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
38. A copy of the approved plans and this consent must be kept on site for the duration of site works and in the case of any commercial or industrial premise for the duration of the use/trading. Copies shall be made available to Council Officer's upon request.
39. Sedimentation controls, tree protection measures and safety fencing (where relevant) shall be maintained during works to ensure they provide adequate protection during the course of demolition, excavation and construction works. Materials must be stored in a location and manner to avoid material being washed to drains or adjoining properties.

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

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

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

40. No trees on public property (footpaths, roads, reserves etc) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

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

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

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

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

~~**[Condition 42 deleted by M/2017/53 on 6 April 2017 and is re-deleted by DAREV/2018/21 on 9 April 2019]**~~

43. ~~Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with the Roadworks Permit issued by Council.~~

~~Written notification from Council that the works approved under the Roadworks Permit have been completed to its satisfaction and in accordance with the conditions of the Permit, must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.~~

~~**[Condition 43 deleted by M/2017/53 on 6 April 2017 and is re-deleted by DAREV/2018/21 on 9 April 2019]**~~

44. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.
45. An Occupation Certificate must be obtained prior to any use or occupation of the development or part thereof. The Principal Certifying Authority must ensure that all works are completed in accordance with this consent including all conditions.

46. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all works have been completed in accordance with the approved Waste Management Plan referred to in this development consent.

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

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

ONGOING CONDITIONS OF CONSENT

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

The Studio is not to be used as a separate dwelling.

The use of the property as a Dwelling House is defined under the *Leichhardt Local Environmental Plan 2013*.

PRESCRIBED CONDITIONS

A. BASIX Commitments

Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. The Certifying Authority

must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

In this condition:

- a) Relevant BASIX Certificate means:
 - (i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - (ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.

B. Building Code of Australia

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

C. Home Building Act

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

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

D. Site Sign

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

E. Condition relating to shoring and adequacy of adjoining property

- (1) For the purposes of section 80A (11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) protect and support the adjoining premises from possible damage from the excavation, and
 - (b) where necessary, underpin the adjoining premises to prevent any such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

NOTES

1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. Section 82A of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, designated development, integrated

development or a complying development certificate. The request for review must be made within six (6) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. Furthermore, Council has no power to determine a review after the expiration of these periods. A decision on a review may not be further reviewed under Section 82A.

3. If you are unsatisfied with this determination, Section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right of appeal to the Land and Environment Court within six (6) months of the determination date.
4. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.
5. Works or activities other than those approved by this Development Consent will require the submission of a new development application or an application to modify the consent under Section 96 of the *Environmental Planning and Assessment Act 1979*.
6. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
7. This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):
 - a) Application for any activity under that Act, including any erection of a hoarding.
 - b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
 - c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
 - d) Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
 - e) Application for Strata Title Subdivision if strata title subdivision of the development is proposed.
 - f) Development Application for demolition if demolition is not approved by this consent.
 - g) Development Application for subdivision if consent for subdivision is not granted by this consent.

- h) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
- 8. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained.

Attachment C - Plans of proposed development

BASIX SCHEDULE				MINIMUM REQUIREMENTS			
THIS PLAN CONFORMS WITH BASIX CERTIFICATE NO. A22947_03							
FIXTURES	SHOWERS	TAPS	TOILETS	WATER RATING			
INTERNAL WALL WITH GARAGE OVER GARAGE WALL	NIL	3 STAR	3 STAR	FLAT ROOF			
SUSPENDED FRAMED FLAT- AAC VENER	NIL	NIL	EXTERNAL GARAGE WALL	FLAT CEILING			
INSULATION (INCLUDING CONSTRUCTION)	NIL	NIL	R1.70	Celling, R1.98			
HOT WATER	INSTANTANEOUS GAS						
WATER	MINIMUM 40% NEW OR ALTERED LIGHTS FITTED WITH FLUORESCENT OR LED LAMPS.						
LIGHTING	MEDIUM (door absorbance 0.475 - 0.70)						
ROOF							

NOTES:

STORMWATER DRAINAGE
Connect to existing stormwater drainage to Council's Street gutter drainage system.

SEWER DRAINAGE
Connect to existing sewer and waste water to Sydney Water sewer main.

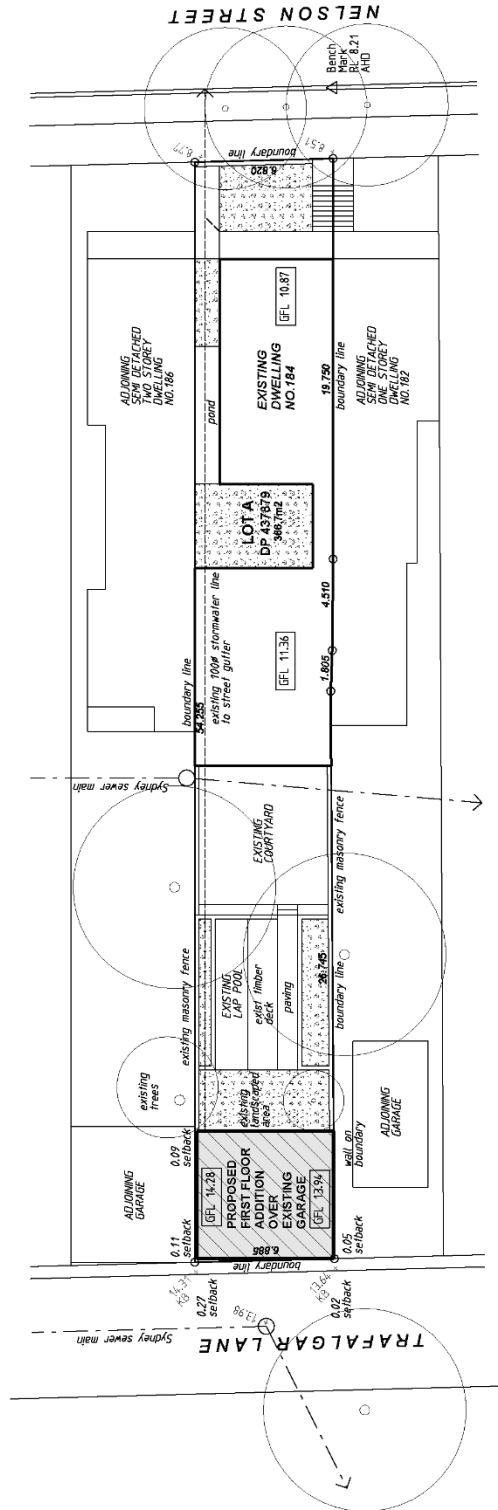
SEDIMENT CONTROL DURING CONSTRUCTION
Sediment control barrier to Council's specifications if required.

SURVEY LEVELS
Levels and contours to Australian Height Datum.

TERMITE CONTROL
Chemical or physical barrier to be installed in accordance with Australian Standard AS 3660.

CALCULATIONS

Site Area	366.7m ²
Existing Floor Space (Ground Floor)	198m ² (0.54:1)
Existing Floor Space (Garage)	352 (0.96:1)
Proposed Floor Space (Existing Studio)	237m ² (0.65:1)
Site Cover (House)	203m ² (55.4%)
(Garage)	140 (38.2%)
(Pool)	43 (11.7%)
(Front Open Space)	8 (2.2%)
(Green Silt Area)	145m ² (39.6%)
Parking	73m ² (19.9%)



SECTION 4.55 AMENDMENTS (Shown Coloured Red)

A1. Maintain existing beam at first floor level uncladded.
 A2. Skylights added.
 A3. Change louvre windows to clear glass and full opening.
 A4. Resitict external sun louvres to 35 degree max. opening.
 A5. Delete electric hot water unit and adjoining stud wall divider.
 A6. Delete instantaneous hot water unit to be installed.
 A7. Add door between garage and studio stairs. (0/2)
 A7. Airconditioning Unit added.

SITE PLAN 1:200

C	SECTION 4.55 AMENDMENTS	5.9.2018
B	Construction Certificate	16.8.2018
A	Amended Elevations. Window W01 deleted.	27.7.2016
AMENDMENTS		

A3 scale 1:200 0 2m 4m 6m

Verify all dimensions, levels and existing conditions on site before commencement of work.
 All structural sizes and specifications to engineers certification.
 All measurements in millimetres u.o.o.

ROSS MORTON SUNDESIGN
 7 Teylers Road, Dural, NSW 2158
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 (02) 9653 9779 F
 rossmorton@sundesign.com.au

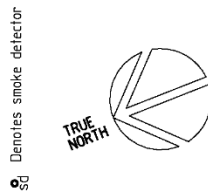
PROPOSED FIRST FLOOR STUDIO ADDITION TO EXISTING DETACHED GARAGE AT 184 NELSON STREET, ANNANDALE.

10.9.2015
992.1/4C

MATERIAL LEGEND		WINDOW SCHEDULE		FINISHES SCHEDULE	
	New brick veneer wall		Alumin Flyscreen to window.		Garage Ceiling
	Timber framed wall		GLASS		Roof Plumbing
	Existing block wall		SASH		Skirting
	Framed wall		LOUVRE		Internal Doors
	Insulation bats or blanket		ROOF		External Doors
			FRAME		Plumbing
			SIZE		W+F Tiling
			Deleted		
			W01		
			W02		
			W03		
			W04		
			W05		
			SL1		
			SL2		

WINDOW SCHEDULE		FINISHES SCHEDULE	
	Floor tiles		Existing concrete
	Wet-area floor or wall tiles		18mm thick structural particleboard
	Timber decking		75mm H-beel PowerPanel with teacocut finish or equivalent
	Roof tiles		70x45 timber stud
			Soundboard plasterboard wall/ceiling
			Enriched Gypsum board
			Treads + riser
			Stainless steel railing
			Kiln-dried steel decking to manufacturers specifications (Insulation blanked under (where existing if possible))

WINDOW SCHEDULE		FINISHES SCHEDULE	
	New brick veneer wall		Garage Ceiling
	Timber framed wall		Roof Plumbing
	Existing block wall		Skirting
	Framed wall		Internal Doors
	Insulation bats or blanket		External Doors
			Plumbing
			W+F Tiling



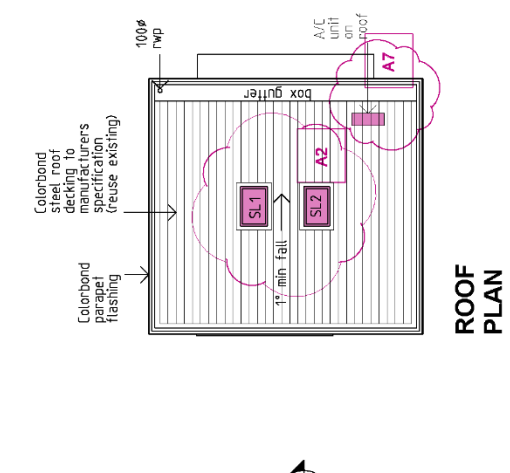
DOOR SCHEDULE

D01 2040x820 Symonite cladding similar to existing house door including Samingo vinyl paint finish.

D02 2040x820 Hollow flush aluminium with paint finish.

D03 2040x720 Double glazed opaque glass with aluminium anodised frame with lock.

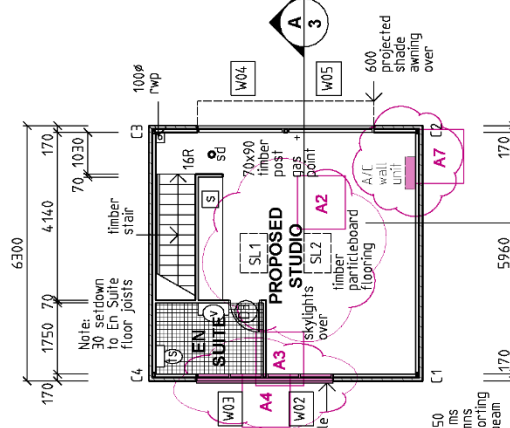
NOTE:
ALL NEW EXTERNAL COLOURS INCL WINDOWS, DOORS AND WALLS INCL EXPOSED STEEL BEAM TO ROOF FA TO BE SIMILAR TO EXISTING COLOUR COMPARABLE SUBSTRATES, COLOUR EXTERNAL LOUVRE TO MATCH WIND COLOUR.



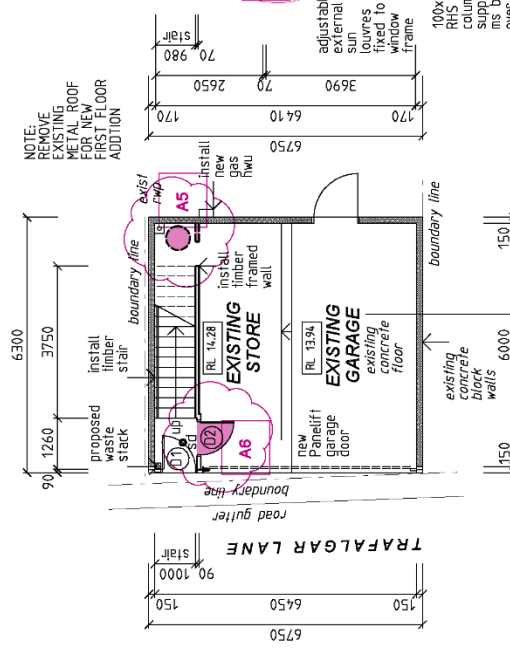
ROOF PLAN

SECTION 4.55 AMENDMENTS (Shown Coloured Red) SHOWN ON THIS SHEET

A2. Skylights added.
 A3. Change louvre windows to clear glass and full opening.
 A4. Restrict external sun louvres to 35 degree max. opening.
 A5. Delete electric hot water unit and adjoining stud wall divider. (Gas instantaneous hot water unit to be installed.)
 A6. Add door between garage and studio stairs. (D2)
 A7. Airconditioning Unit added.



FIRST FLOOR PLAN



GROUND FLOOR PLAN

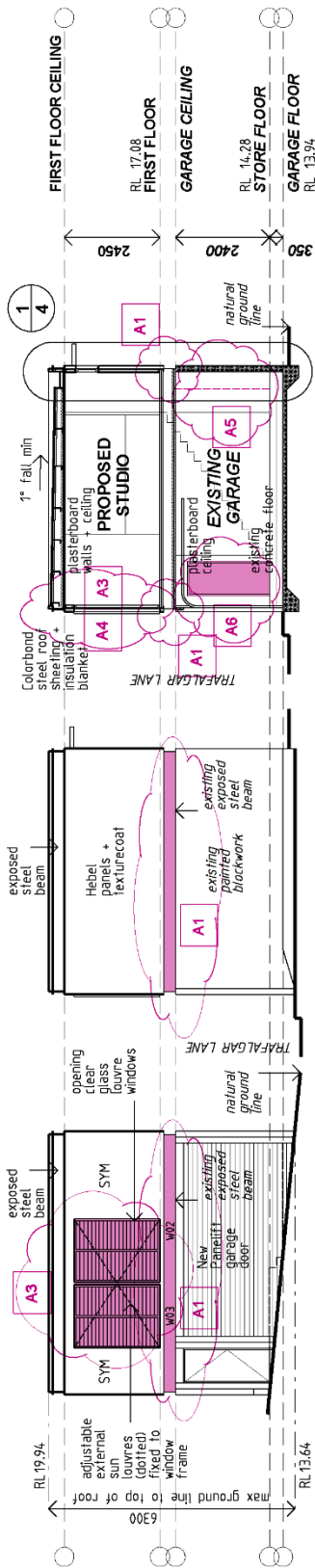
992.214C

184 NELSON STREET, ANNANDALE

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 (02) 9853 9779 F
 sundesign@bigpond.com

REFER NOTES DRAWING NO.1.

A3 scale 1:100 0 1m 2m 3m



SECTION A-A

SOUTH ELEVATION

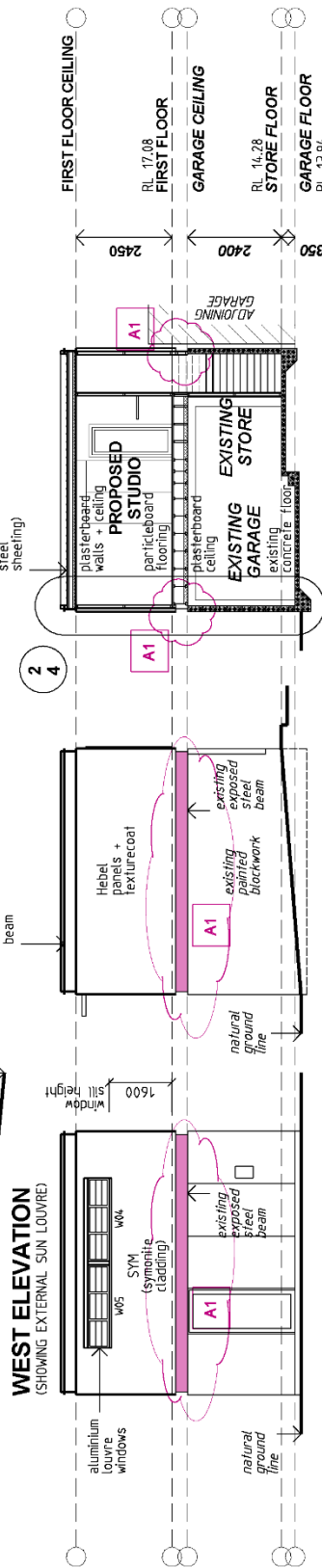
WEST ELEVATION

EAST ELEVATION

SECTION 4.55 AMENDMENTS (Shown Coloured Red)
 SHOWN ON THIS SHEET

- A1. Maintain existing beam at first floor level uncladded.
- A2. Change louvre clear height to 2500mm.
- A3. Retain external sun louvers to existing max opening.
- A4. Delete electric hot water unit and adjoining stud wall divider.
- A5. (Gas instantaneous hot water unit to be installed.)
- A6. Add door between garage and studio stairs. (022)

Colombond
 steel roof
 cladding +
 insulation
 blanket
 (reuse
 existing
 steel
 sheeting)



SECTION B-B

NORTH ELEVATION

WEST ELEVATION
 (SHOWING EXTERNAL SUN LOUVRE)

EAST ELEVATION

AMENDMENTS	
A	Amended elevations. Window W01 deleted. 29.7.2016

REFER NOTES DRAWING NO.1.

A3 scale 1:100 0 1m 2m 3m

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184 NELSON STREET, ANNANDALE

992.3/4C