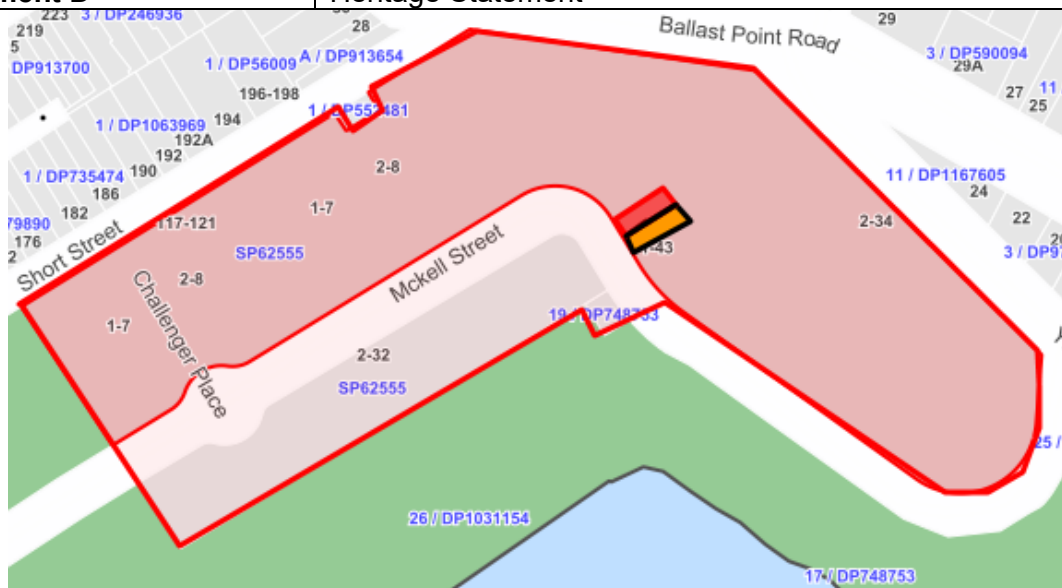


INNER WEST

DEVELOPMENT ASSESSMENT REPORT

Application No.	D/2019/423
Address	23-25 McKell Street Birchgrove NSW 2041
Proposal	Alterations and Additions to two existing terraces, combining them into one residence. Construction of new interior spaces, lift and roof top terrace.
Date of Lodgement	1 November 2019
Applicant	Shayne Fergent C/- Those Architects
Owner	Shayne Fergent
Number of Submissions	One (1) in objection
Value of works	\$615,750.00
Reason for determination at Planning Panel	Clause 4.6 variation exceeds officer delegation
Main Issues	FSR breach Heritage Conservation Tree removal
Recommendation	Approval with conditions
Attachment A	Recommend Conditions of Approval
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards
Attachment D	Heritage Statement



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to an existing dwelling at 23 and 25 McKell Street, Birchgrove. The application was notified to surrounding properties and one (1) submission was received.

The main issues that have arisen from the application include:

- Privacy impacts
- FSR

The above matters are acceptable given that they can be addressed by the imposition of appropriate conditions and therefore the application is recommended for approval.

2. Proposal

The proposal is for the consolidation of terraces known as no. 23 and No. 25 McKell Street to be converted into one dwelling. Besides the internal reconfiguration and the addition of a lift shaft, the dwelling's form remains relatively untouched as read from the exterior. There is a minor fenestration change to both the front and rear elevation with an extension to the existing third storey to accommodate the lift shaft and new stair. A new rear roof top deck is also proposed.

3. Site Description

The overall site is a multi-dwelling, residential redevelopment of former shipping terminal land undertaken by the NSW Department of Housing and Public Works. The site was privatised under a Strata Scheme referred to as 1-43 McKell Street, Birchgrove. The site has an area of 17,230sqm. It occupies the area bound by McKell Street, Yeend Street, Ballast Point Road and Short Street and includes Challenger Place and Lizzie Webber Place.

The specific lots (Lot 52 & 53 in SP62555) within the overall site that are the subject of this application have a combined 257.68sqm in area and a frontage of approximately 8.5 metres to McKell Street. The site currently accommodates two three storey townhouses, with similar townhouses located in the row.

The overall site is not a heritage item however it is located within a conservation area. The site is identified as a flood control lot and is zoned R1 General Residential under the Leichhardt Local Environmental Plan 2013.

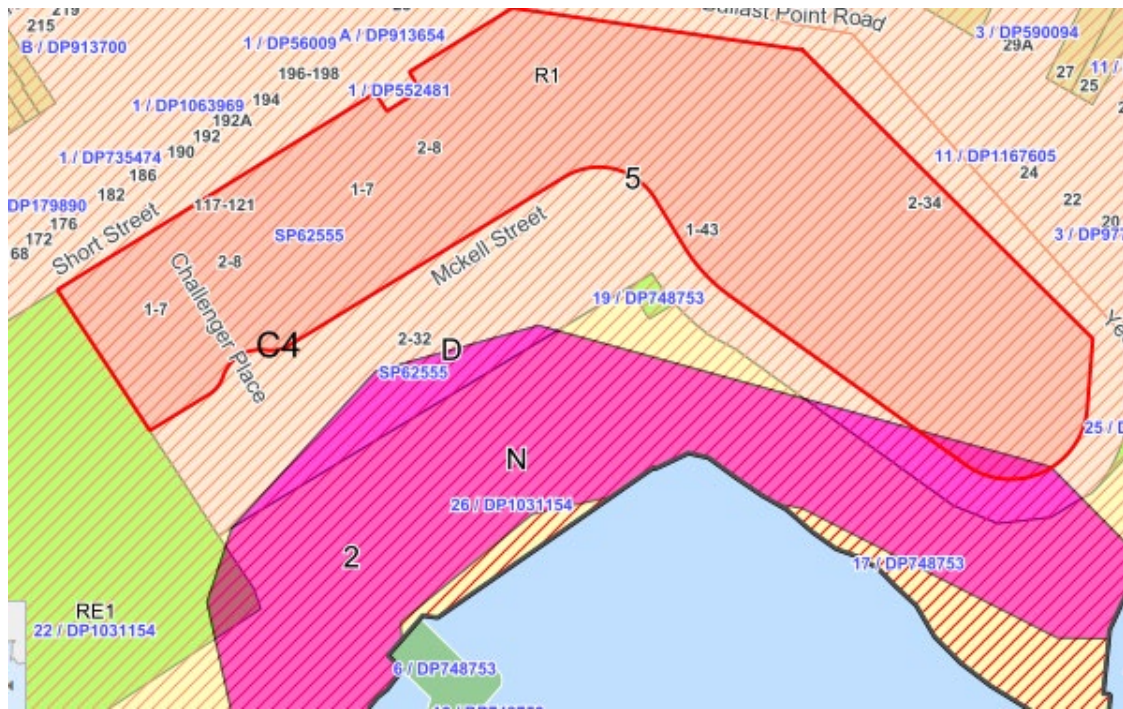


Fig 1: R1 – General Residential Zone and Heritage Conservation Area

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
PREDA/2019/97	Alterations and additions to a row of attached terraces. Two terraces are to be amalgamated as one dwelling and the third terrace to be renovated as single dwelling.	Issued 30/06/2019

5. Assessment

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

5(a) Environmental Planning Instruments

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

- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Leichhardt Local Environmental Plan 2013
- Draft Inner West Local Environmental Plan 2020

The following provides further discussion of the relevant issues:

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 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.

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

A BASIX Certificate was submitted with the application and is satisfactory.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

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

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 2.6 – Subdivision Requirements
- Clause 2.7 – Demolition Requires Development Consent
- Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1
- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 4.6 – Exceptions to development standards
- Clause 5.9 – Preservation of trees or vegetation
- Clause 5.10 – Heritage Conservation
- Clause 6.1 – Acid Sulphate Soils
- Clause 6.4 – Stormwater management

The site is zoned R1 General Residential and the proposed *multi dwelling housing* is permissible with consent within the zone. The proposal generally satisfies the objectives of the R1 zone.

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

NB – The calculations below are relative to the development site, which is 257.68sqm. This is the individual strata lot upon which the affected townhouses are located, but does not include the overall allotment, which is very large at approximately 17,230sqm.

LLEP 2013 Development Standard	Proposal (sqm)	Proposal ratio / %	Compliance	% of Non-compliance
Floor Space Ratio – 0.9:1	224.73sqm	0.87:1	Yes	N/A
Landscaped Area – Min. 20% of site area	63.64sqm	No change	N/A	N/A
Site Coverage – Max. 60% of site area	143.6sqm	No Change	N/A	N/A

The following provides further discussion of the relevant issues:

Clause 4.6 Exceptions to Development Standards

As outlined in the table above, the proposal complies with the applicable development standards if calculated for the individual strata lots upon which it is situated. However, the LEP does not distinguish strata lots as development allotments for this purpose.

Council's records indicate that the overall "parent" parcel, at approximately 17,150sqm, had a compliant floor space ratio of approximately 0.696:1 when it was originally approved. However, over time, many DA and CDC (and potentially even unauthorised or exempt developments) have increased this floor space ratio to a point where it exceeds the LEP development standard.

Although it is not known by exactly how much the overall strata development exceeds the standard by given its multi-unit nature and fragmented ownership, Council and the proponent agree that the development will require a Clause 4.6 request to contravene the development standard for floor space ratio in Clause 4.4 of the LEP.

A written request has been submitted by the applicant in accordance with Clause 4.6(3) seeking to justify the contravention of the standard, as discussed below.

Clause 4.4 – Floor Space Ratio

The applicant seeks an increase to the existing FSR by a relatively minor amount (in real terms) of 16.8sqm, which will result in a contravention of the FSR development standard of 0.9:1 under Clause 4.4 of the LLEP 2013.

A written request has been submitted to Council in accordance with Clause 4.6(3) of the LLEP 2013 justifying the proposed contravention of the FSR development standard which is summarised as follows:

- *There have been numerous modifications to the dwellings associated with the estate, and our understanding is that this has resulted in an increase in gross floor area.*
- *While there is no record of a current FSR for the estate it can be assumed that an additional 16.8sqm will result in an overall FSR exceeding the maximum 0.9:1 FSR identified in this clause. The applicant therefore relies upon Clause 4.6 of LLEP 2013 for a variation to this standard.*
- *the development is largely contained within the existing building envelope.*
- *the proposal does not result in adverse impacts on neighbouring properties or the streetscape.*

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

It is considered the development is not contrary to the public interest because it is will be 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)(i) and (ii) of the LLEP 2013 for the following reasons:

- The additional increase to existing FSR is numerically minor, and the outward effect of the additional built form will not be readily perceived from the public domain. The amended building also provides no change to the McKell Street frontage.
- The proposed development is compatible with the desired future character of the area in relation to building bulk, form and scale and does not give rise to adverse heritage or streetscape impacts.
- The balance between landscaped areas and the built form is compatible with other developments in the locality and will not detrimentally impact on the character of the locality or the amenity of residents.
- The proposal does not impact on the residential amenity of nearby properties and increases opportunities for housing diversity in the locality.

The concurrence of the Secretary of the Department of Planning may be assumed for matters dealt with by Local Planning Panels.

The proposal is satisfactory having regard to accord to the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the LLEP 2013. For the reasons outlined above, there are considered sufficient grounds to justify the contravention to the FSR development standard and it is recommended that the Clause 4.6 exception be granted.

5(b) Draft Environmental Planning Instruments

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

- Inner West Local Environmental Plan 2020

The proposal is not substantially affected by the provisions of the draft IWLEP, which is not considered imminent or certain in any case. As such, the proposal is acceptable having regard to the draft Plan.

5(c) Development Control Plans

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

Part	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	N/A

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	Yes
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandas 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
Part C: Place – Section 2 Urban Character	
Suburb Profile	
C2.2.2.6 Birchgrove Distinctive Neighbourhood	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	Yes
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	N/A
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	N/A
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	N/A
D2.5 Mixed Use Development	N/A
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	N/A
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	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	Yes
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	Yes
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A
Part F: Food	N/A
Part G: Site Specific Controls	N/A

The following provides discussion of the relevant issues:

C1.14 Tree Management

The proposed landscape plan is supported. The site inspection revealed two large trees in the rear, *Alnus jorullensis* (Evergreen Alder) and a large *Eucalypt spp* (Likely *Eucalyptus microcorys*, Qld Tallowwood) located in the rear of either lot. Both can be seen to be providing significant canopy coverage to the site. These trees are not indicated on the plan to be removed and will be conditioned to be protected.

C3.2 Site Layout and Building Design

There is a minor breach of BLZ where the lift shaft and stair well is proposed to be located. Assessment of environmental impacts, overshadowing and privacy are negligible. The lift shaft and stair well are not high use areas and there are no substantial overlooking or overshadowing impacts arising from their installation.

C3.3 Elevation and Materials

Subject to appropriate conditions, the materials and finishes are acceptable in their context. It is recommended that the applicant be required to maintain existing colours and that the balustrade members are to be vertical timber or metal pickets and not glass.

C3.11 Visual Privacy

To ensure a reasonable amount of privacy from the proposed roof deck to the Eastern residences, it is recommended that the terrace is reduced by 50% in size and located only over the former residence of No. 23 McKell Street. This will ensure reduction of overlooking and protection from the existing gable roof. The revised design should include the gable roof to extend to the lightwell on the Western side of the site (former No. 25 McKell Street)

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 LDGP2013 for a period of 14 days to surrounding properties. A total of one (1) submission was received.

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

Visual Privacy– see Section 5(c) – C3.11

In relation to the location and noise level of the proposed lift, this lift is internal and not external, and should pose no issues pertaining to noise, subject to appropriate conditions.

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.

Heritage Officer

Supported subject to conditions.

Stormwater Engineer

Supported subject to conditions.

7. Section 7.11 Contributions

Section 7.11 contributions are not payable for the proposal.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013. The development will not result in any significant impacts on the amenity of adjoining premises, the natural environment or the streetscape. The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 to contravene Clause 4.4 Floor Space Ratio of the *Leichhardt Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary, 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/2019/423 for Alterations and Additions to two existing terraces, combining them into one residence, with construction of new interior spaces, lift and roof top terrace to an existing dwelling at 23 and 25 McKell Street, Birchgrove subject to the conditions listed in Attachment A below.

Attachment A - conditions of consent

CONDITIONS OF CONSENT

FEES

1. Security Deposit - Custom

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.

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.

GENERAL CONDITIONS

3. Design Change

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:

- a. New balustrades are to be either vertical timber or metal pickets. Glazed balustrades are not acceptable.
- b. The terrace is to be reduced in size. The existing North West roof gable is to be retained and extend to the atrium. The terrace is to be located to the South East only with a maximum width of the proposed lift well and stair. Any proposed balustrade needs to comply with part (a) of this condition as above.
- c. The following trees are to be retained:

Botanical/Common Name	Location
Eucalypt spp (Likely <i>Eucalyptus microcorys</i> , Qld Tallowwood)	Rear back yard existing dwelling known as 23 McKell Street
<i>Alnus jorullensis</i> (Evergreen Alder)	Rear back yard of existing dwelling known as 25 McKell Street

4. 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.

5. Stormwater Drainage System – Simple

Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, down pipe, pits and pipelines discharged by gravity to the existing site drainage system.

The proposed connection of stormwater runoff from the development site to rolling kerb in McKell Street, indicated on Stormwater Drainage Concept Plan No. H-DA-01, revision (B) prepared by itm design and dated 8 October 2019 is not permitted.

Any existing component of the stormwater system that is to be retained, including any absorption trench or rubble pit drainage system, must be checked and certified by a Licensed Plumber or qualified practising Civil Engineer to be in good condition and operating satisfactorily.

If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road.

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.

6. 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
DA.03 Rev E	demolition ground floor	25/9/2019	Those Architects
DA.04 Rev E	demolition first floor	25/9/2019	Those Architects
DA.05 Rev E	demolition second floor	25/9/2019	Those Architects
DA.06 Rev E	demolition roof plan	25/9/2019	Those Architects
DA.07 Rev E	Site Plan	25/9/2019	Those Architects
DA.08 Rev E	Ground floor Plan	25/9/2019	Those Architects
DA.09 Rev E	First Floor Plan	25/9/2019	Those Architects
DA.10 Rev E	Second Floor Plan	25/9/2019	Those Architects
DA.11 Rev E	Roof Plan	25/9/2019	Those Architects
DA.12 Rev E	Section AA	25/9/2019	Those Architects
DA.13 Rev E	Section BB	25/9/2019	Those Architects
DA.14 Rev E	Street elevation	25/9/2019	Those Architects
DA.15 Rev E	Rear elevation	25/9/2019	Those Architects
LP.01 Rev E	Landscape Plan	25/9/2019	Those Architects
A356842	BASIX Certificate	10/9/2019	Efficient Living P/L

As amended by the conditions of consent.

7. 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.

8. 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.

9. 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.

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 the subject site or 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.

The trees identified below are to be retained and protected in accordance with the conditions of consent or approved Tree Protection Plan throughout the development (note: tree numbers must correspond with approved Tree Protection Plan if conditioned) :

Botanical/Common Name	Location
Eucalypt spp (Likely <i>Eucalyptus microcorys</i> , Qld Tallowwood)	Rear back yard existing dwelling known as 23 McKell Street
<i>Alnus jorullensis</i> (Evergreen Alder)	Rear back yard of existing dwelling known as 25 McKell Street

Details of the trees must be included on all Construction Certificate plans and shall be annotated in the following way:

- a. Green for trees to be retained;

PRIOR TO ANY DEMOLITION

12. 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.

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 (27 and 21 McKell Street) 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.

PRIOR TO CONSTRUCTION CERTIFICATE

16. 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.

17. Party Walls

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with Architectural Plans accompanied by a Structural Certificate which verifies that the architectural plans do not rely on the Party Wall for lateral or vertical support and that additions are independently supported. A copy of the Certificate & plans must be provided to all owners of the party wall/s.

18. 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.

19. 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 13 20 92

DURING DEMOLITION AND CONSTRUCTION

20. 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.

21. 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.

22. Tree Protection Zone

To protect the following tree/s, no work must commence until its/their Protection Zone is fenced off at the specified radius from the trunk/s to prevent any activities, storage or the disposal of materials within the fenced area in accordance with Council’s *Development Fact Sheet—Trees on Development Sites*. The fence/s (including existing boundary fencing) must be maintained intact until the completion of all demolition/building work on site.

Botanical/Common Name	Location
Eucalypt spp (Likely <i>Eucalyptus microcorys</i> , Qld Tallowwood)	Rear back yard existing dwelling known as 23 McKell Street
<i>Alnus jorullensis</i> (Evergreen Alder)	Rear back yard of existing dwelling known as 25 McKell Street

PRIOR TO OCCUPATION CERTIFICATE

23. No Encroachments

Prior to the issue of an Occupation Certificate, the Principal Certifier 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.

24. Protect Sandstone Kerb

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any damaged stone kerb has been replaced.

25. Dilapidation Report – Post-Development

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a second Dilapidation Report addressing the public infrastructure identified in approved predevelopment dilapidation report, including a photographic survey, structural condition and CCTV inspections which was compiled after the completion of works. As the report details public infrastructure, a copy is to be furnished to Council at the same time.

ADVISORY NOTES**Colours and materials**

Colours and materials must match the existing colours and materials.

Permits

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; and
- 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.

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.

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:
 - 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.

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; or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

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 verandah over footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. A lease fee is payable for all occupations.

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.

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.

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.

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 www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	131441 www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diysafe.nsw.gov.au

Information on asbestos and safe work practices.

NSW Office of Environment and Heritage 131 555
www.environment.nsw.gov.au

Sydney Water 13 20 92
www.sydneywater.com.au

Waste Service - SITA Environmental Solutions 1300 651 116
www.wasteservice.nsw.gov.au

Water Efficiency Labelling and Standards (WELS) www.waterrating.gov.au

WorkCover Authority of NSW 13 10 50
www.workcover.nsw.gov.au

Enquiries relating to work safety and asbestos removal and disposal.

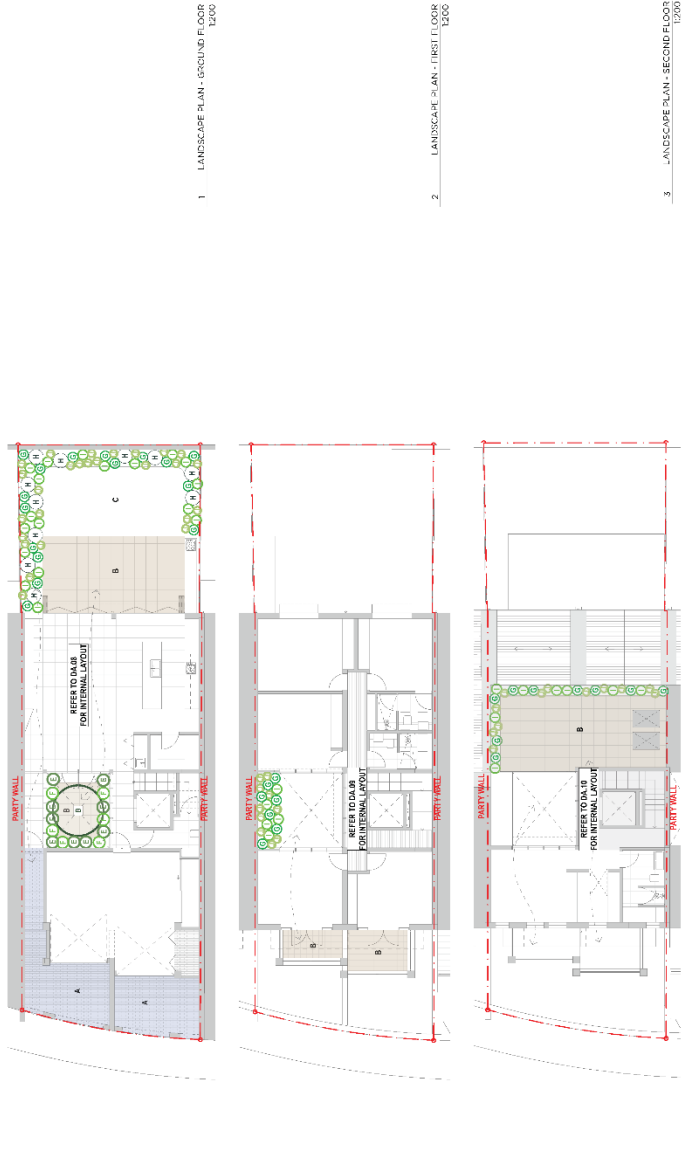
Street Numbering

If any new street numbers or change to street numbers (this includes unit and shop numbers) are required, a separate application must be lodged with and approved by Council's GIS Team before being displayed.

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*.

REASONS FOR REFUSAL



1 LANDSCAPE PLAN - GROUND FLOOR
1:200

2 LANDSCAPE PLAN - FIRST FLOOR
1:200

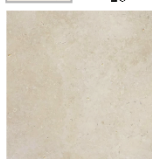
3 LANDSCAPE PLAN - SECOND FLOOR
1:200



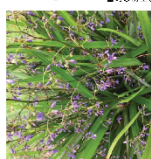
BRICK PAVING
QUANTITY: 28.26 m²



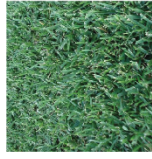
GREEN JOHN
QUANTITY: 100 plants
SPREAD: 0.80 m
SPREAD: 0.80 m
SIZE: 200mm



LIMESTONE PAVERS
QUANTITY: 15.00 m²



BLUE FLAX LILY
QUANTITY: 10 plants
SPREAD: 0.30 m
SPREAD: 0.30 m
SIZE: 200mm



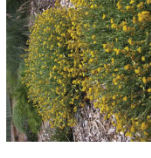
BUFFALO GRASS
QUANTITY: 26.00 m²



MATOURI BAY
QUANTITY: 10 plants
SPREAD: 1.00 m
SPREAD: 1.00 m
SIZE: 200mm



FRASER ISLAND APPLE
QUANTITY: 10 plants
SPREAD: 4.00 m
SPREAD: 4.00 m
SIZE: 800mm



YELLOW BUTTONS
QUANTITY: 10 plants
SPREAD: 2.00 m
SPREAD: 2.00 m
SIZE: 200mm



BLUE FESCUE
QUANTITY: 10 plants
SPREAD: 1.50 m
SPREAD: 1.50 m
SIZE: 200mm



YARENA
QUANTITY: 10 plants
SPREAD: 1.00 m
SPREAD: 1.00 m
SIZE: 200mm

NOTES:
1. ALL PLANTING TO BE INSTALLED BY THE CONTRACTOR.
2. ALL PLANTING TO BE INSTALLED IN ACCORDANCE WITH THE LANDSCAPE PLAN.
3. ALL PLANTING TO BE INSTALLED IN ACCORDANCE WITH THE LANDSCAPE PLAN.
4. ALL PLANTING TO BE INSTALLED IN ACCORDANCE WITH THE LANDSCAPE PLAN.
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9. ALL PLANTING TO BE INSTALLED IN ACCORDANCE WITH THE LANDSCAPE PLAN.
10. ALL PLANTING TO BE INSTALLED IN ACCORDANCE WITH THE LANDSCAPE PLAN.

REVISION	DATE	DESCRIPTION
1	12/11/2023	ISSUED FOR TENDERS
2	12/11/2023	ISSUED FOR TENDERS
3	12/11/2023	ISSUED FOR TENDERS

THOSE ARCHITECTS	THOSE ARCHITECTS
THOSE ARCHITECTS	THOSE ARCHITECTS
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PROJECT NO.	PROJECT NO.
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SYMBOL	DATCHMENT	APPROXIMATE PERCENTAGE	PERCENTAGE
	ROOF AND PAVED	23.0%	18.2%
	UNDISTURBED	76.9%	81.8%
TOTAL		100.0%	100.0%

SYMBOL	DATCHMENT	APPROXIMATE PERCENTAGE	PERCENTAGE
	ROOF AND PAVED	33.0%	19.2%
	UNDISTURBED	67.0%	80.8%
TOTAL		100.0%	100.0%

GENERAL NOTES:

- SEE STORMWATER MANAGEMENT PLAN FOR DETAILED INFORMATION.
- ALL DIMENSIONS TO FACE UNLESS OTHERWISE SPECIFIED.
- CONSTRUCTION TO BE ACCORDANCE WITH THE LATEST EDITIONS OF THE SYDNEY LOCAL GOVERNMENT ENGINEERING STANDARDS.
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- CONSTRUCTION TO BE ACCORDANCE WITH THE LATEST EDITIONS OF THE SYDNEY LOCAL GOVERNMENT ENGINEERING STANDARDS.

SEDIMENTATION CONTROL DURING CONSTRUCTION

CLIENT: **LEGEND & ANDREW**

PROJECT: **28 - 28 MCKELL STREET BIRCHGOVE NSW 1500**

ARCHITECT: **THOSE ARCHITECTS**

DRAWING NO: **PLD-02**

SCALE: **1:200**

DATE: **15/07/2023**

SEDIMENTATION CONTROL DURING CONSTRUCTION

SYMBOL	DATCHMENT	APPROXIMATE PERCENTAGE	PERCENTAGE
	ROOF AND PAVED	23.0%	18.2%
	UNDISTURBED	76.9%	81.8%
TOTAL		100.0%	100.0%

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GENERAL NOTES:

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SEDIMENTATION CONTROL DURING CONSTRUCTION

CLIENT: **LEGEND & ANDREW**

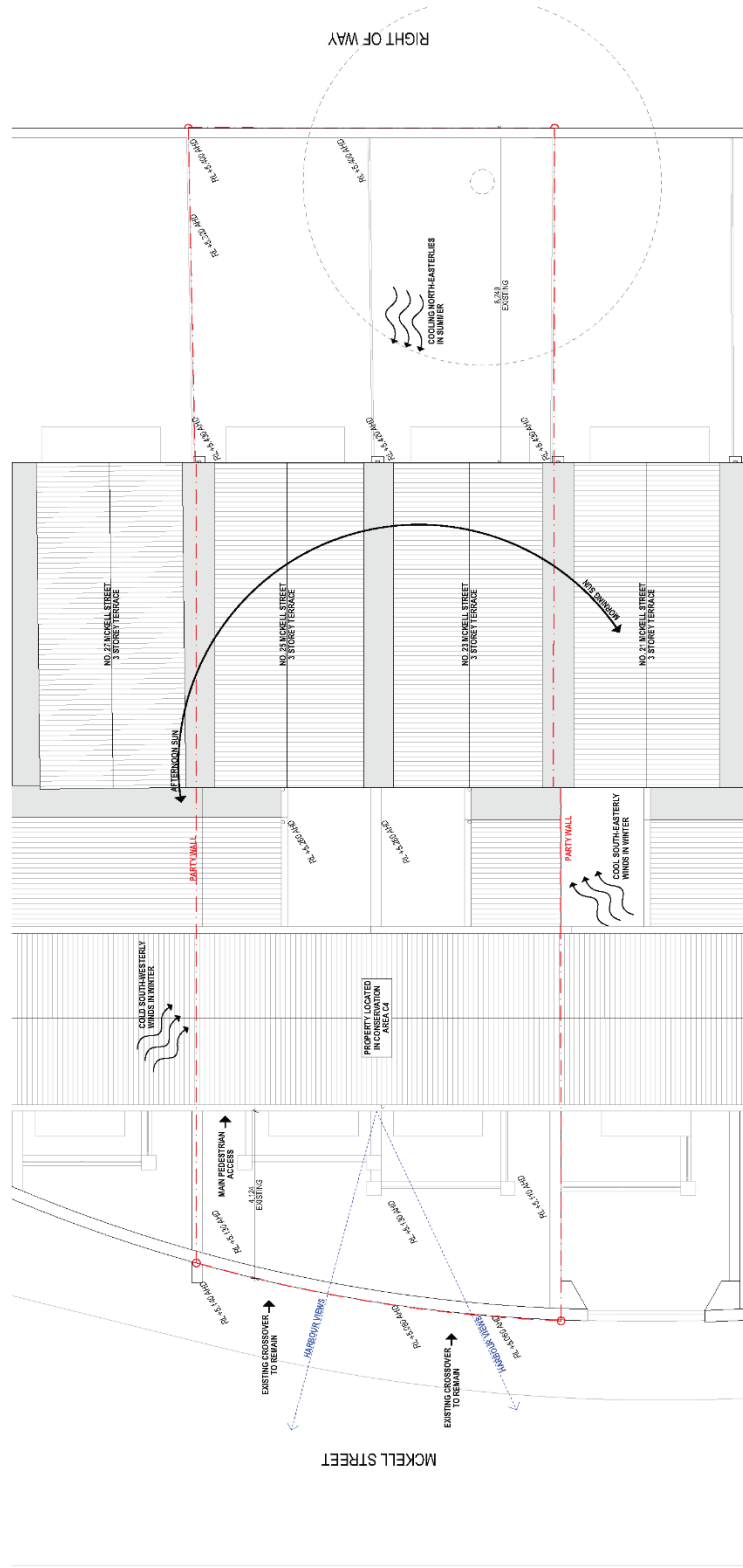
PROJECT: **28 - 28 MCKELL STREET BIRCHGOVE NSW 1500**

ARCHITECT: **THOSE ARCHITECTS**

DRAWING NO: **PLD-02**

SCALE: **1:200**

DATE: **15/07/2023**



1
SITE ANALYSIS
1:100

LEGEND

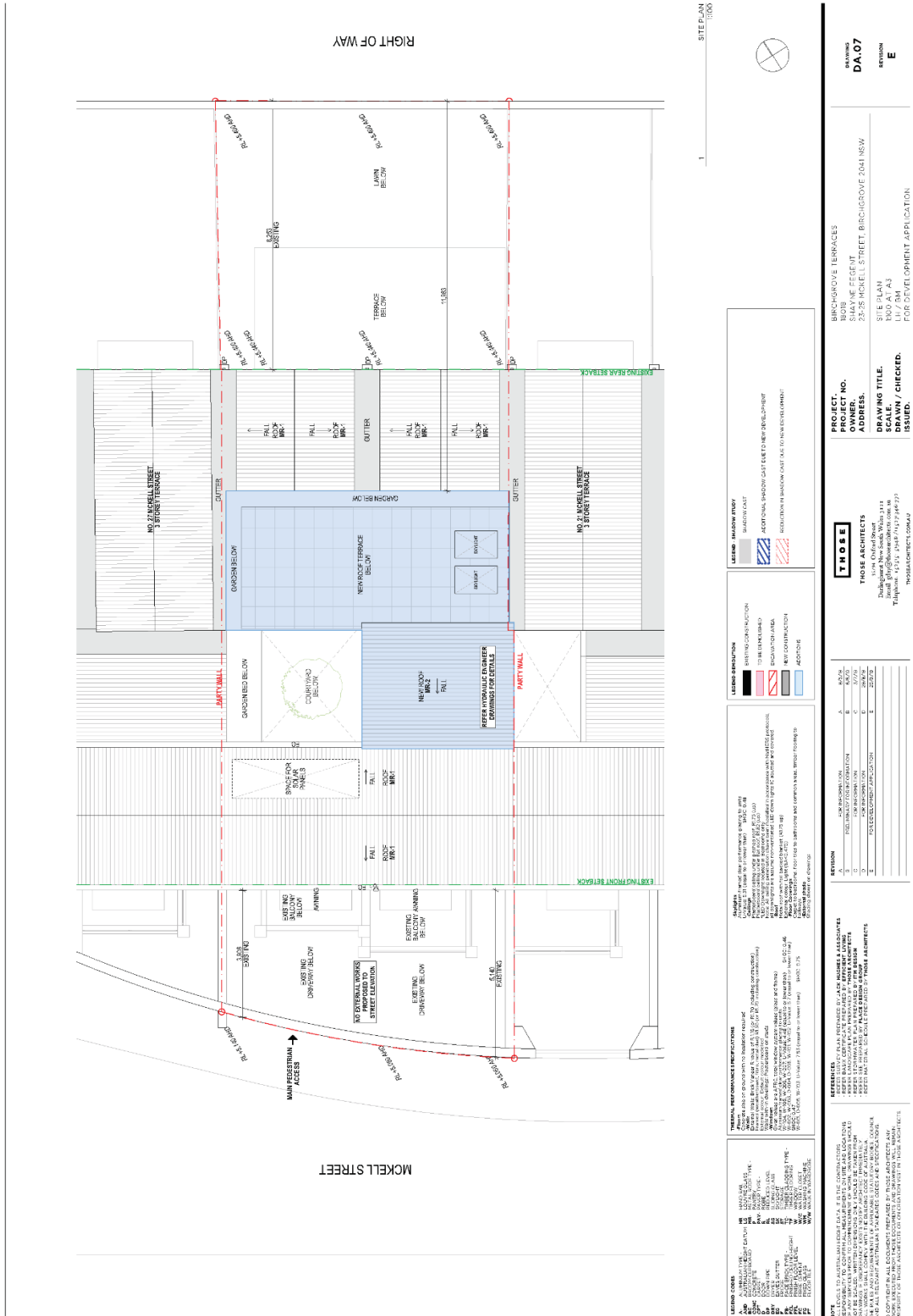
- HEAVY SHADOW STUDY: SHADOW CAST, ADDITIONAL SHADOW CAST DUE TO NEW DEVELOPMENT, ADDITIONAL SHADOW CAST DUE TO EXISTING DEVELOPMENT
- LEADER REVISIONS: EXISTING CONSTRUCTION, TO BE DEMOLISHED, EXISTING AREA, NEW CONSTRUCTION, ADDITION
- PERFORMANCE INDICATORS: PARTIAL PERFORMANCE INDICATORS (PPEI) - REPAIRS TO EXISTING CONSTRUCTION, REPAIRS TO EXISTING CONSTRUCTION TO BE DEMOLISHED, REPAIRS TO EXISTING CONSTRUCTION TO BE DEMOLISHED, REPAIRS TO EXISTING CONSTRUCTION TO BE DEMOLISHED, REPAIRS TO EXISTING CONSTRUCTION TO BE DEMOLISHED
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1800 A1 A3
DRAWN / CHECKED: [Name]
DATE: [Date]

PROJECT INFO: PROJECT NO. [Number], PROJECT NAME [Name], OWNER [Name], ADDRESS [Address]

LEGEND: SHEET A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z

REVISIONS: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100



STEEL PLAN 1/100



LEGEND

LEADER SYMBOLS

- SHADOW CAST
- ADDITIONAL SHADOW CAST DUE TO NEW DEVELOPMENT
- ADDITIONAL SHADOW CAST DUE TO EXISTING DEVELOPMENT

LEGEND

LEGEND

- EXISTING CONSTRUCTION
- TO BE DEMOLISHED
- CONSTRUCTION AREA
- REV. CONSTRUCTION
- ADDITION

LEGEND

LEGEND

- CONCRETE BELOW
- ROOF
- ROOF
- ROOF

LEGEND

LEGEND

- CONCRETE BELOW
- ROOF
- ROOF
- ROOF

NOTES

1. ALL WORK TO BE COMPLETED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL BUILDING REGULATIONS 2011 (AS AMENDED) AND THE NSW BUILDING DEVELOPMENT REGULATIONS 2015 (AS AMENDED).

2. ALL WORK TO BE COMPLETED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL BUILDING REGULATIONS 2011 (AS AMENDED) AND THE NSW BUILDING DEVELOPMENT REGULATIONS 2015 (AS AMENDED).

3. ALL WORK TO BE COMPLETED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL BUILDING REGULATIONS 2011 (AS AMENDED) AND THE NSW BUILDING DEVELOPMENT REGULATIONS 2015 (AS AMENDED).

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5. ALL WORK TO BE COMPLETED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL BUILDING REGULATIONS 2011 (AS AMENDED) AND THE NSW BUILDING DEVELOPMENT REGULATIONS 2015 (AS AMENDED).

6. ALL WORK TO BE COMPLETED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL BUILDING REGULATIONS 2011 (AS AMENDED) AND THE NSW BUILDING DEVELOPMENT REGULATIONS 2015 (AS AMENDED).

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8. ALL WORK TO BE COMPLETED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL BUILDING REGULATIONS 2011 (AS AMENDED) AND THE NSW BUILDING DEVELOPMENT REGULATIONS 2015 (AS AMENDED).

9. ALL WORK TO BE COMPLETED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL BUILDING REGULATIONS 2011 (AS AMENDED) AND THE NSW BUILDING DEVELOPMENT REGULATIONS 2015 (AS AMENDED).

10. ALL WORK TO BE COMPLETED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL BUILDING REGULATIONS 2011 (AS AMENDED) AND THE NSW BUILDING DEVELOPMENT REGULATIONS 2015 (AS AMENDED).

PROJECT NO.
DA.07

OWNER.
BIRCHGROVE TERRACES

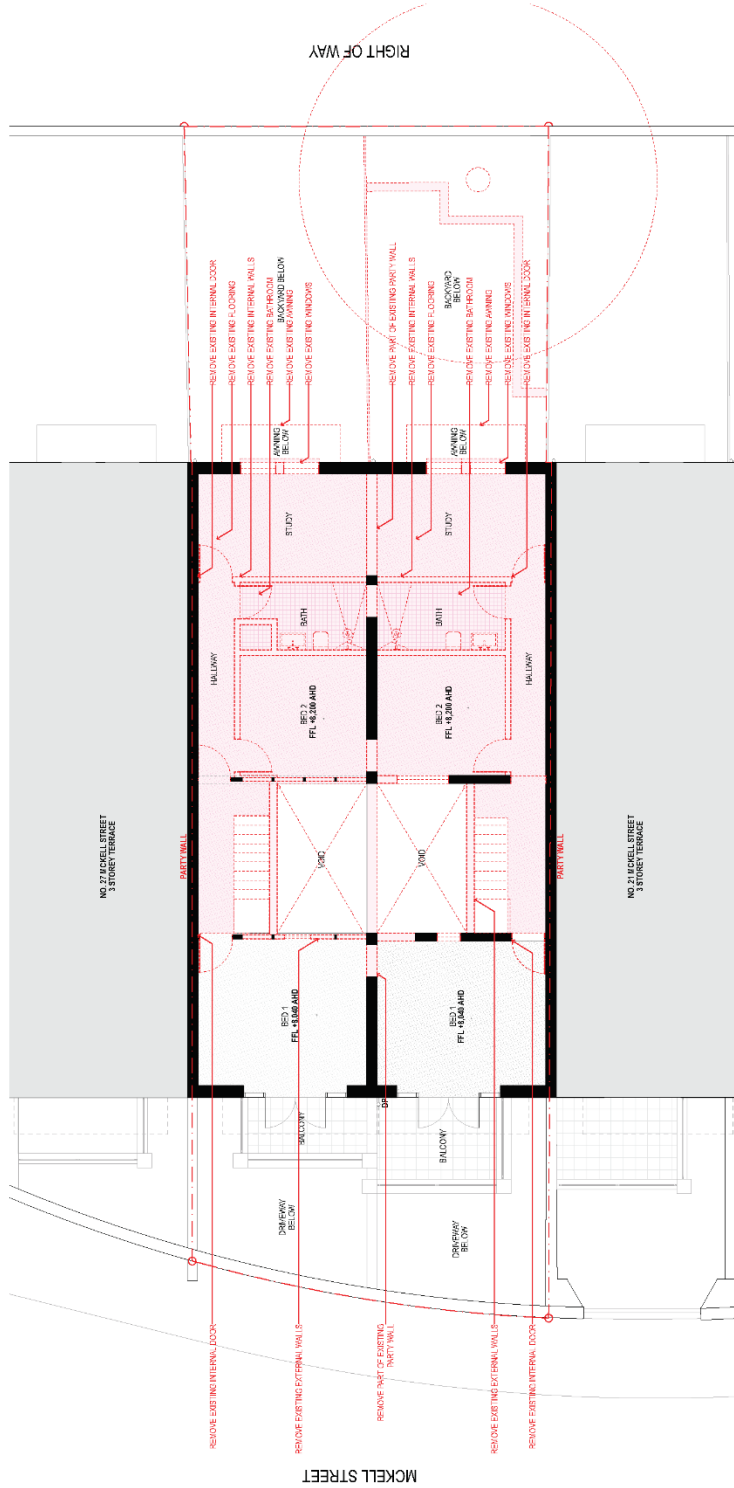
ADDRESS.
314/316 MCKELL STREET, BIRCHGROVE NSW

DRAWING TITLE.
SITE PLAN

SCALE.
1:100 (A3)

DRAWN / CHECKED.
[Signature] / [Signature]

DATE.
15/09/2023



1 DEMOLITION PLAN - FIRST FLOOR
1:100

LEGEND

EXISTING CONSTRUCTION

- EXISTING CONSTRUCTION
- TO BE DEMOLISHED
- DEMOLITION AREA
- NEW CONSTRUCTION
- ADDITION

LETTER SHADOW STUDY

- SHADOW CAST
- ADDITIONAL SHADOW CAST DUE TO NEW DEVELOPMENT
- ADDITIONAL SHADOW CAST DUE TO EXISTING DEVELOPMENT

NOTES

1. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS 2011 AND THE NSW BUILDING ACT 1993.

2. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW DEVELOPMENT CONTROL REGULATIONS 2008 AND THE NSW DEVELOPMENT ACT 1995.

3. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW PLANNING ACT 2009 AND THE NSW PLANNING REGULATIONS 2008.

4. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW ENVIRONMENTAL PLANNING ACT 2009 AND THE NSW ENVIRONMENTAL PLANNING REGULATIONS 2008.

5. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW FIRE SAFETY ACT 2002 AND THE NSW FIRE SAFETY REGULATIONS 2002.

6. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW ELECTRICAL ACT 1997 AND THE NSW ELECTRICAL REGULATIONS 2007.

7. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW WATER ACT 1994 AND THE NSW WATER REGULATIONS 2007.

8. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW LAND USE AND PLANNING ACT 1995 AND THE NSW LAND USE AND PLANNING REGULATIONS 2008.

9. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW HERITAGE ACT 1993 AND THE NSW HERITAGE REGULATIONS 2007.

10. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW ANTI-CORRUPTION ACT 2003 AND THE NSW ANTI-CORRUPTION REGULATIONS 2003.

11. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW CRIMINAL JUSTICE ACT 1988 AND THE NSW CRIMINAL JUSTICE REGULATIONS 1988.

12. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW CIVIL LIABILITY ACT 2002 AND THE NSW CIVIL LIABILITY REGULATIONS 2002.

13. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW CONSUMER PROTECTION ACT 2001 AND THE NSW CONSUMER PROTECTION REGULATIONS 2001.

14. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW CONTRACTS ACT 1997 AND THE NSW CONTRACTS REGULATIONS 1997.

15. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW EVIDENCE ACT 1907 AND THE NSW EVIDENCE REGULATIONS 1907.

16. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW FINANCIAL SERVICES ACT 2000 AND THE NSW FINANCIAL SERVICES REGULATIONS 2000.

17. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW HEALTH ACT 1993 AND THE NSW HEALTH REGULATIONS 1993.

18. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW INDUSTRY ACT 1996 AND THE NSW INDUSTRY REGULATIONS 1996.

19. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW INSURANCE ACT 1997 AND THE NSW INSURANCE REGULATIONS 1997.

20. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW LABOR RELATIONS ACT 1996 AND THE NSW LABOR RELATIONS REGULATIONS 1996.

21. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW LAND ACQUISITION ACT 1986 AND THE NSW LAND ACQUISITION REGULATIONS 1986.

22. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW LAND USE AND PLANNING ACT 1995 AND THE NSW LAND USE AND PLANNING REGULATIONS 2008.

23. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW LAND USE AND PLANNING ACT 1995 AND THE NSW LAND USE AND PLANNING REGULATIONS 2008.

24. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW LAND USE AND PLANNING ACT 1995 AND THE NSW LAND USE AND PLANNING REGULATIONS 2008.

25. ALL WORK TO BE DONE IN ACCORDANCE WITH THE NSW LAND USE AND PLANNING ACT 1995 AND THE NSW LAND USE AND PLANNING REGULATIONS 2008.

THOSE ARCHITECTS

THOSE ARCHITECTS
10/100 Pitt Street Sydney NSW 2000
Tel: (02) 9231 1111
Fax: (02) 9231 1112
Email: info@thosearchitects.com.au
Website: www.thosearchitects.com.au

PROJECT NO. BIRMGROVE TERRACES
OWNER. SHAYNE REEVE
ADDRESS. 21-25 MCKELL STREET, BIRMGROVE NSW
DRAWING TITLE. DEMOLITION PLAN - FIRST FLOOR
SCALE. 1:100 AT A3
DRAWN / CHECKED. E
ISSUED. 11/10/2023

REVISION

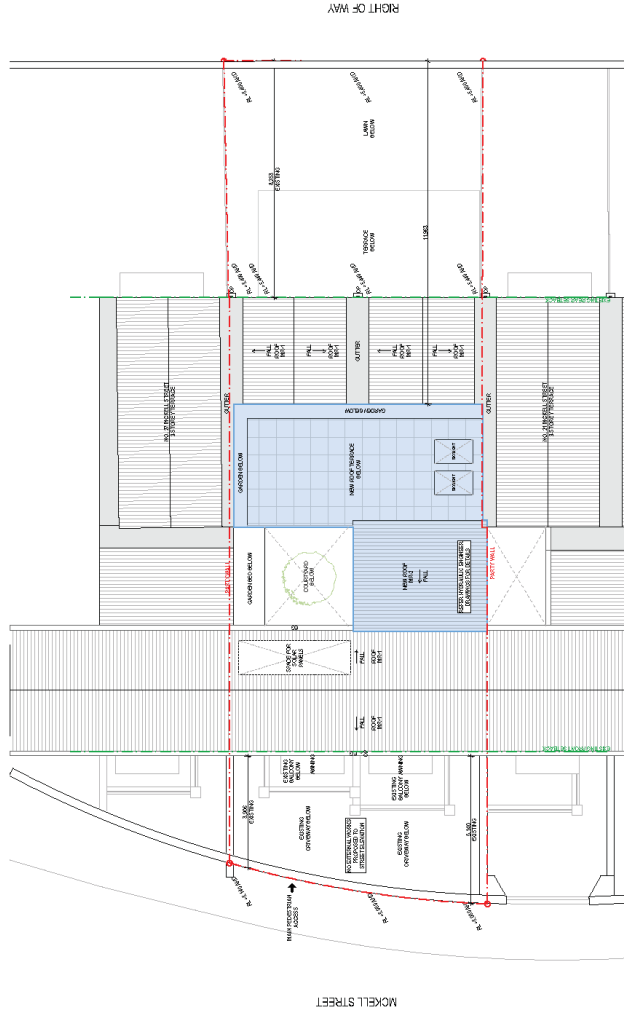
NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT APPLICATION	11/10/2023
2	REVISED PERMIT APPLICATION	11/10/2023
3	REVISED PERMIT APPLICATION	11/10/2023
4	REVISED PERMIT APPLICATION	11/10/2023
5	REVISED PERMIT APPLICATION	11/10/2023



REAR ELEVATION
1:1000

<p>LEGEND</p> <ul style="list-style-type: none"> EXISTING CONSTRUCTION TO BE DEMOLISHED RECONSTRUCTION AREA NEW CONSTRUCTION ADDITION 	<p>LEGEND</p> <ul style="list-style-type: none"> SHADOW CAST ADDITIONAL SHADOW CAST ELEMENTS REQUIRED ADDITIONAL SHADOW CAST FOR TERRACE
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<p>LEGEND</p> <ul style="list-style-type: none"> ADDITIONAL SHADOW CAST FOR TERRACE 																
<p>REVISION</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>ISSUED FOR APPROVAL</td> <td>15/07/2024</td> </tr> <tr> <td>2</td> <td>REVISED</td> <td>15/07/2024</td> </tr> <tr> <td>3</td> <td>REVISED</td> <td>15/07/2024</td> </tr> <tr> <td>4</td> <td>REVISED</td> <td>15/07/2024</td> </tr> </tbody> </table>	NO.	DESCRIPTION	DATE	1	ISSUED FOR APPROVAL	15/07/2024	2	REVISED	15/07/2024	3	REVISED	15/07/2024	4	REVISED	15/07/2024	<p>NOTES</p> <p>1. ALL WORK TO BE COMPLETED IN ACCORDANCE WITH THE LOCAL GOVERNMENT'S REQUIREMENTS.</p> <p>2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.</p> <p>3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL SERVICES AND UTILITIES AT ALL TIMES.</p> <p>4. THE CONTRACTOR SHALL PROTECT ALL EXISTING STRUCTURES AND UTILITIES.</p> <p>5. THE CONTRACTOR SHALL MAINTAIN THE SITE AT ALL TIMES.</p> <p>6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.</p>
NO.	DESCRIPTION	DATE														
1	ISSUED FOR APPROVAL	15/07/2024														
2	REVISED	15/07/2024														
3	REVISED	15/07/2024														
4	REVISED	15/07/2024														
<p>PROJECT INFORMATION</p> <p>PROJECT NO. BIRCHGROVE TERRACES OWNER SHAYNE FEGENT ADDRESS 22-28 MCKELL STREET BIRCHGROVE NSW DRAWING TITLE REAR ELEVATION SCALE 1:100 A3 DRAWN / CHECKED BY [Name] DATE 15/07/2024</p>																
<p>THOSE ARCHITECTS</p> <p>THOSE ARCHITECTS 22/25-27/28 MCKELL STREET BIRCHGROVE NSW 1511 PH: (02) 9539 4499 WWW.THOSEARCHITECTS.COM.AU</p>																



1 SITE PLAN
1:200



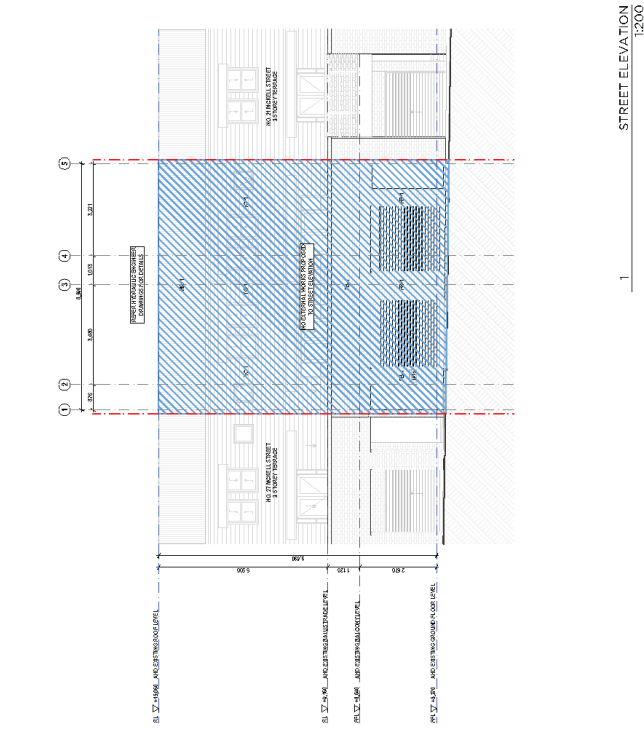
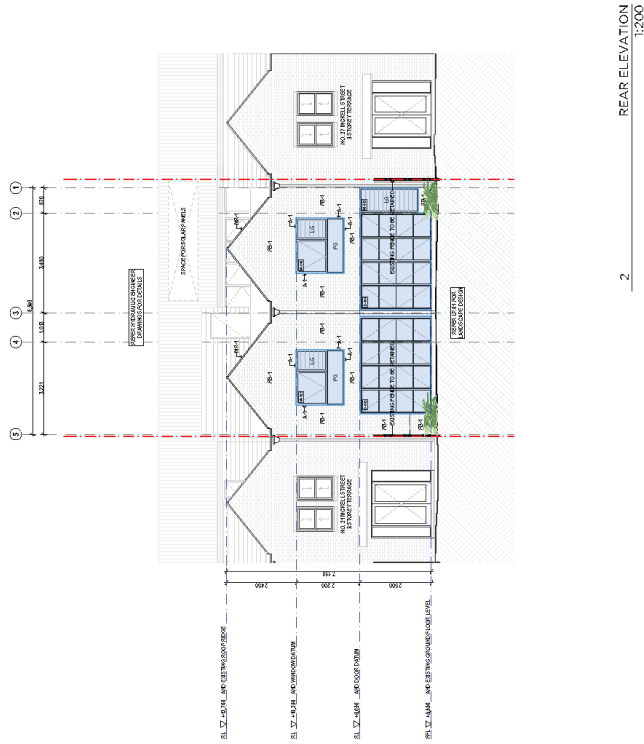
NOTE
 REFERENCE TO AUSTRALIAN METRIC DATA, IS THE CONTRACTORS RESPONSIBILITY TO CONFIRM ALL MEASUREMENTS ON SITE AND LOCATIONS OF ANY SERVICES PRIOR TO COMMENCEMENT OF WORK. DRAWINGS SHOULD BE USED AS A GUIDE ONLY. ANY DISCREPANCY BETWEEN THE DRAWINGS AND THE ACTUAL SITUATION ON SITE SHOULD BE IMMEDIATELY REPORTED TO THE ARCHITECT. THE ARCHITECT IS NOT RESPONSIBLE FOR THE RULES AND REQUIREMENTS OF APPLICABLE STATUTORY BODIES, COUNCIL AND ALL RELEVANT AUSTRALIAN STANDARDS CODES AND SPECIFICATIONS.
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 Telephone: 15 5515 51948 / 15 71346772
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PROJECT: BIRCHGROVE TERRACES
PROJECT NO.: 18018
OWNER: SHAYNE FEGENT
ADDRESS: 23-25 MCKELL STREET, BIRCHGROVE 2041 NSW
DRAWING TITLE: NEIGHBOUR NOTIFICATION PLAN 01
SCALE: 1:200 AT A4
DRAWN / CHECKED: LH / BM
ISSUED: FOR DEVELOPMENT APPLICATION

DRAWING
NNP-01
REVISION
E

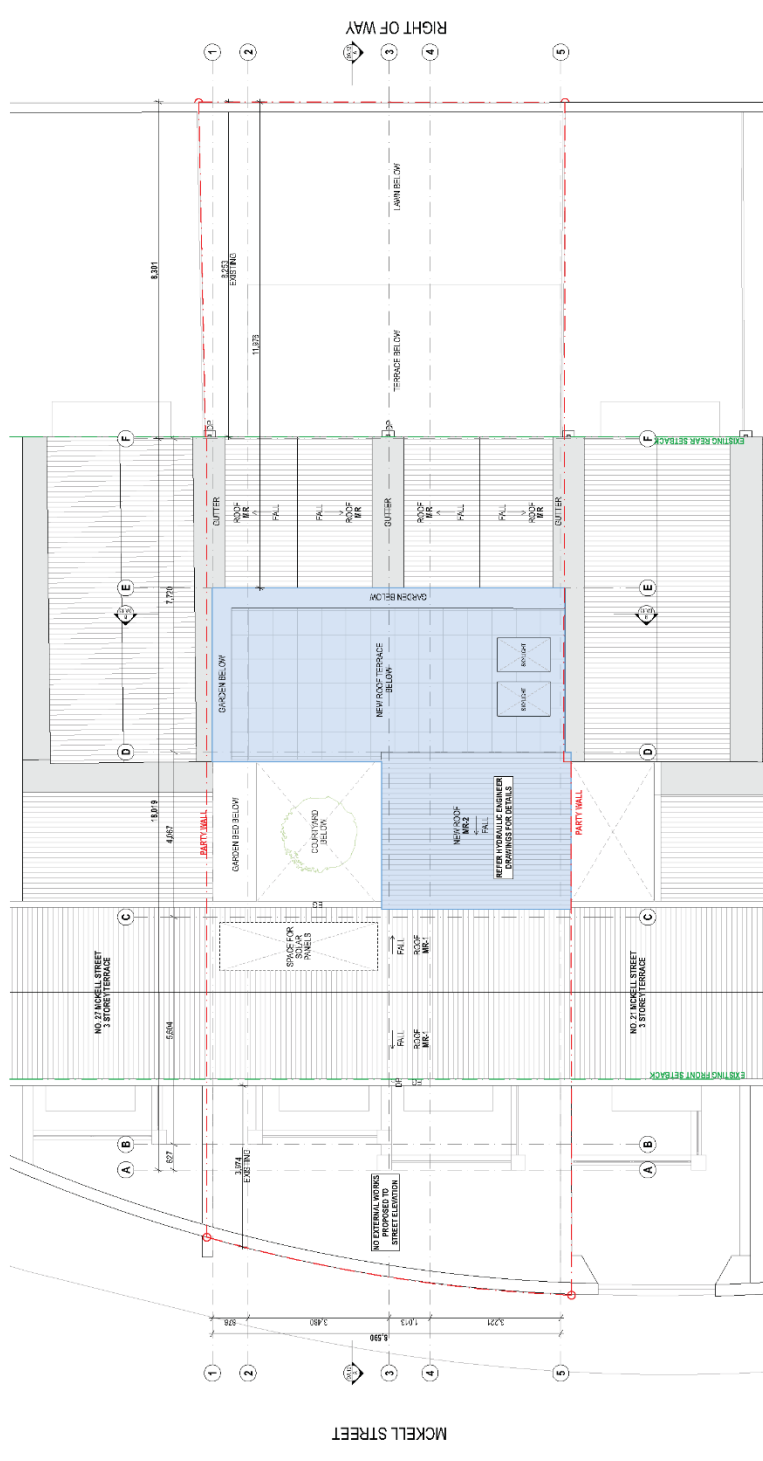


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 Email: goby@thosearchitects.com.au
 Telephone: 61 5 515 5 1948 / 61 2 91346773
 THOSEARCHITECTS.COM.AU

PROJECT: BIRCHGROVE TERRACES
PROJECT NO. 18018
OWNER: SHAYNE FEGENT
ADDRESS: 23-25 MCKELL STREET, BIRCHGROVE 2041 NSW
DRAWING TITLE: NEIGHBOUR NOTIFICATION PLAN 02
SCALE: 1:200 AT A4
DRAWN / CHECKED: LH / BM
ISSUED: FOR DEVELOPMENT APPLICATION

DRAWING
NNP.02
REVISION
E



ROOF PLAN 1:1000

LEGEND

GENERAL NOTES:

1. ALL WORK TO BE IN ACCORDANCE WITH THE CURRENT BUILDING REGULATIONS AND ALL APPLICABLE STANDARDS.
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THOSE ARCHITECTS

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 10/100 STAMFORD STREET
 SYDNEY NSW 2010
 TEL: (02) 9231 1111
 FAX: (02) 9231 1112
 WWW.THOSEARCHITECTS.COM.AU

PROJECT NO. BIRCHGROVE TERRACES
OWNER. SHAYNE FEEGANT
 22-25 MCKELL STREET, BIRCHGROVE NSW
DRAWING TITLE. PROPOSED ROOF PLAN
SCALE. 1:100 AT A3
DRAWN / CHECKED. J.L.G. / J.L.G.
ISSUED. FOR DEVELOPMENT APPLICATION

REVISION

NO.	DESCRIPTION	DATE
1	ISSUED FOR DEVELOPMENT APPLICATION	10/10/2023
2	FOR DEVELOPMENT APPLICATION	10/10/2023
3	FOR DEVELOPMENT APPLICATION	10/10/2023
4	FOR DEVELOPMENT APPLICATION	10/10/2023
5	FOR DEVELOPMENT APPLICATION	10/10/2023



FIRST FLOOR PLAN
1:100

LEGEND

LEGEND COMB:

- 1. EXISTING WALL
- 2. NEW WALL
- 3. EXISTING WINDOW
- 4. NEW WINDOW
- 5. EXISTING DOOR
- 6. NEW DOOR
- 7. EXISTING STAIR
- 8. NEW STAIR
- 9. EXISTING BALCONY
- 10. NEW BALCONY
- 11. EXISTING TERRACE
- 12. NEW TERRACE
- 13. EXISTING DRIVEWAY
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- 50. NEW DRIVEWAY BELOW

LEGEND SHADOW STUDY:

- 1. SHADOW CAST
- 2. ADDITIONAL SHADOW CAST DUE TO NEW DEVELOPMENT
- 3. ADDITIONAL SHADOW CAST DUE TO EXISTING DEVELOPMENT

LEGEND SHADOW STUDY:

- 1. EXISTING SHADOW STUDY
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- 3. ADDITIONAL SHADOW STUDY DUE TO NEW DEVELOPMENT
- 4. ADDITIONAL SHADOW STUDY DUE TO EXISTING DEVELOPMENT

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- 3. ADDITIONAL SHADOW STUDY DUE TO NEW DEVELOPMENT
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THOSE ARCHITECTS

THOSE ARCHITECTS
10/100 ST. JOHN ST. SYDNEY NSW 2000
Tel: (02) 9239 9999
www.thosearchitects.com.au

PROJECT NO.: BIRCHGROVE TERRACES
OWNER: SHAYNE FEEGANT
ADDRESS: 22-28 MCKELL STREET, BIRCHGROVE NSW
DRAWING TITLE: PROPOSED FIRST FLOOR
SCALE: 1:100 A1 A3
DRAWN / CHECKED: E
DATE: 11/06/2024

REVISIONS:

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT APPLICATION	11/06/2024

LEGEND SHADOW STUDY:

- 1. SHADOW CAST
- 2. ADDITIONAL SHADOW CAST DUE TO NEW DEVELOPMENT
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LEGEND SHADOW STUDY:

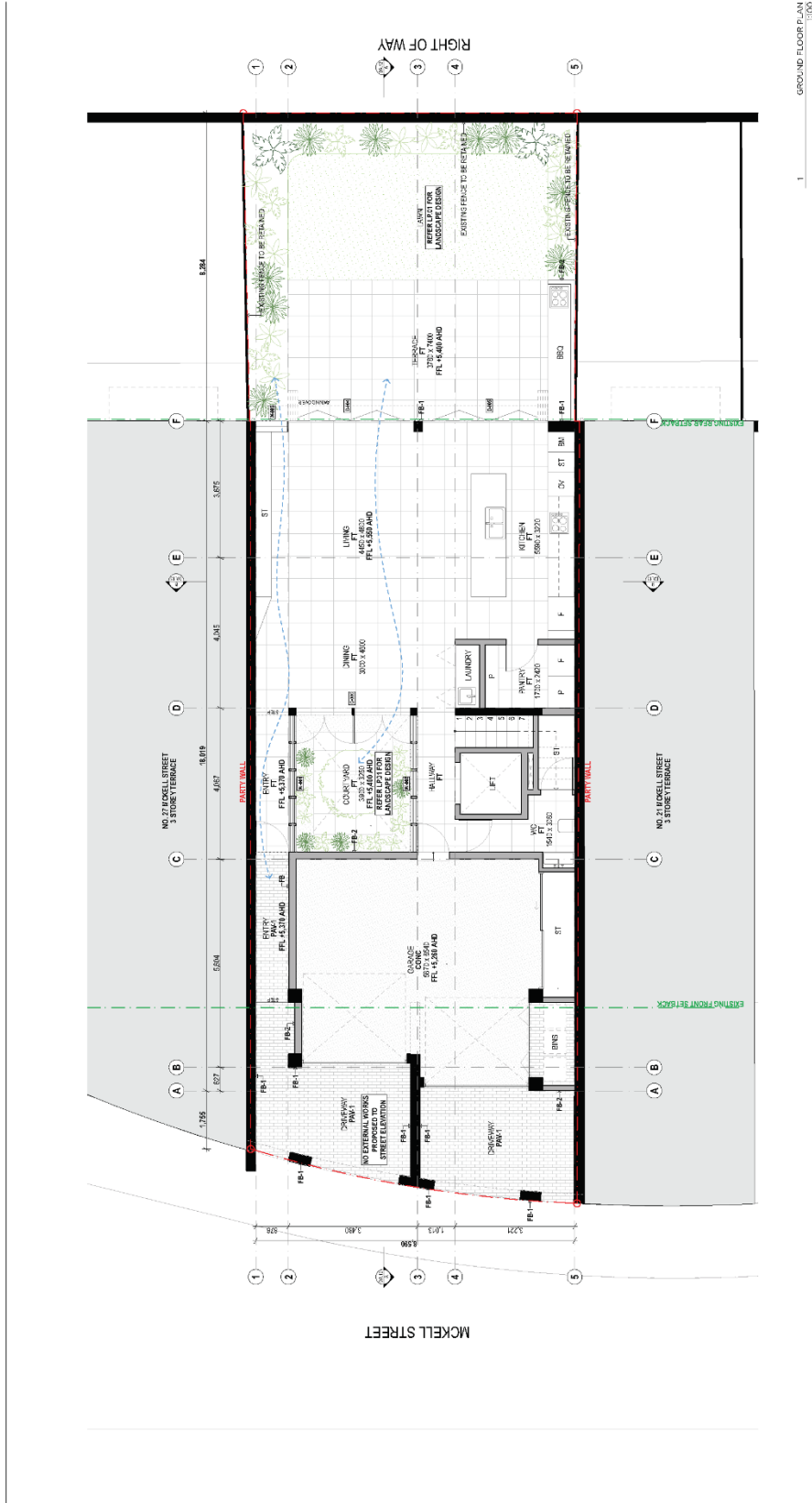
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<p>LEGEND COMB:</p> <p>EXISTING CONSTRUCTION CONSTRUCTION TO BE DEMOLISHED NEW CONSTRUCTION</p>	<p>LEGEND SHADOW STUDY:</p> <p>SHADOW CAST ADDITIONAL SHADOW CAST DUE TO NEW DEVELOPMENT ADDITIONAL SHADOW CAST DUE TO EXISTING DEVELOPMENT</p>	<p>LEGEND SHADOW STUDY:</p> <p>EXISTING CONSTRUCTION CONSTRUCTION TO BE DEMOLISHED NEW CONSTRUCTION</p>	<p>LEGEND SHADOW STUDY:</p> <p>SHADOW CAST ADDITIONAL SHADOW CAST DUE TO NEW DEVELOPMENT ADDITIONAL SHADOW CAST DUE TO EXISTING DEVELOPMENT</p>	<p>REVISION:</p> <table border="1"> <tr> <th>NO.</th> <th>REVISION</th> <th>DATE</th> </tr> <tr> <td>1</td> <td>CONSTRUCTION</td> <td>6/20/20</td> </tr> <tr> <td>2</td> <td>CONSTRUCTION</td> <td>6/20/20</td> </tr> <tr> <td>3</td> <td>CONSTRUCTION</td> <td>6/20/20</td> </tr> <tr> <td>4</td> <td>CONSTRUCTION</td> <td>6/20/20</td> </tr> <tr> <td>5</td> <td>CONSTRUCTION</td> <td>6/20/20</td> </tr> </table>	NO.	REVISION	DATE	1	CONSTRUCTION	6/20/20	2	CONSTRUCTION	6/20/20	3	CONSTRUCTION	6/20/20	4	CONSTRUCTION	6/20/20	5	CONSTRUCTION	6/20/20	<p>REVISION:</p> <p>1. CONFIRMATION 2. CONFIRMATION 3. CONFIRMATION 4. CONFIRMATION 5. CONFIRMATION</p>	<p>LEGEND COMB:</p> <p>EXISTING CONSTRUCTION CONSTRUCTION TO BE DEMOLISHED NEW CONSTRUCTION</p>
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<p>T H O S E</p> <p>THOSE ARCHITECTS Dulwich Park, Dulwich NSW Dulwich Park Architects Dulwich Park Architects Pty Ltd Telephone: (02) 9315 7740 www.thosearchitects.com.au</p>																								
<p>PROJECT NO. / OWNER: BIRCHGROVE TERRACES SHAYNE FEEGENT 22-58 MCKELL STREET, BIRCHGROVE NSW</p>																								
<p>DRAWING TITLE: PROPOSED GROUND FLOOR 1:100 AT A3 SCALE, DRAWN / CHECKED, DATE, DEVELOPER/PERMIT APPLICATION</p>																								
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SECOND FLOOR PLAN
1:100

LEGEND

GENERAL NOTES:

- ALL WORK TO BE ACCORDING TO THE CURRENT AUSTRALIAN STANDARDS AND CODES OF PRACTICE.
- THESE DRAWINGS ARE THE PROPERTY OF THOSE ARCHITECTS AND ARE NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF THOSE ARCHITECTS.
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LEGEND SYMBOLS:

- EXISTING CONSTRUCTION
- TO BE DEMOLISHED
- RECONSTRUCTION AREA
- NEW CONSTRUCTION
- ADDITIONAL

LEGEND SHADING STUDY:

- SHADOW CAST
- ADDITIONAL SHADOW CAST DUE TO NEW DEVELOPMENT
- ADDITIONAL SHADOW CAST DUE TO EXISTING DEVELOPMENT

LEGEND DIMENSIONS:

DESCRIPTION	A	B	C	D	E	F
OVERALL DIMENSION	18.819	4.687	5.864	11.958	4.016	8.324
EXISTING DIMENSION	18.819	4.687	5.864	11.958	4.016	8.324
TO BE DEMOLISHED DIMENSION						
RECONSTRUCTION DIMENSION						
NEW CONSTRUCTION DIMENSION						

LEGEND FINISHES:

FINISH	DESCRIPTION
1	CONCRETE
2	PLASTER
3	PAINT
4	WOOD
5	GLASS
6	ROOFING
7	LANDSCAPE

THOSE ARCHITECTS

THOSE ARCHITECTS
 1/100 AT 3/3
 11/11/11, 11/11/11, 11/11/11
 11/11/11, 11/11/11, 11/11/11

PROJECT NO.: BIRCHGROVE TERRACES
OWNER: SHAYNE FEEGANT
ADDRESS: 22-28 MCKELL STREET, BIRCHGROVE NSW
DRAWING TITLE: PROPOSED SECOND FLOOR
SCALE: 1:100 AT 3/3
DRAWN / CHECKED: [NAME]
ISSUED: [DATE]

REVISIONS:

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT APPLICATION	11/11/11
2	ISSUED FOR PERMIT APPLICATION	11/11/11
3	ISSUED FOR PERMIT APPLICATION	11/11/11
4	ISSUED FOR PERMIT APPLICATION	11/11/11
5	ISSUED FOR PERMIT APPLICATION	11/11/11



SECTION AA
1
1:100

LEGEND

LEGEND - SHADOW STUDY

- SHADOW CAST
- ADDITIONAL SHADOW CAST DUE TO NEW DEVELOPMENT
- ADDITIONAL SHADOW CAST DUE TO EXISTING DEVELOPMENT

LEGEND - RESOLUTION

- EXISTING CONSTRUCTION
- TO BE DEMOLISHED
- RECONSTRUCTION AREA
- NEW CONSTRUCTION
- ADDITION

NOTES

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GENERAL PERFORMANCE INDICATORS

1. THE BUILDING SHALL BE DESIGNED TO MEET THE REQUIREMENTS OF THE NATIONAL BUILDING REGULATIONS 2011.

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PROJECT NO. BIRCHGROVE TERRACES
OWNER. SHAYNE REGENT
ADDRESS. 22-28 MCKELL STREET, BIRCHGROVE NSW
DRAWING TITLE. SECTION AA
SCALE. 1:100 AT A3
DRAWN / CHECKED. L116 DEVELOPMENT APPLICATION
ISSUED.

THOSE ARCHITECTS
 Those Architects
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REVISION	DESCRIPTION	A	B	C	D	E	F
1	ISSUED FOR PERMIT APPLICATION						
2	REVISED PERMIT APPLICATION						
3	REVISED PERMIT APPLICATION						
4	REVISED PERMIT APPLICATION						
5	REVISED PERMIT APPLICATION						

NOTES

1. THE BUILDING SHALL BE DESIGNED TO MEET THE REQUIREMENTS OF THE NATIONAL BUILDING REGULATIONS 2011.

2. THE BUILDING SHALL BE DESIGNED TO MEET THE REQUIREMENTS OF THE NATIONAL BUILDING REGULATIONS 2011.

3. THE BUILDING SHALL BE DESIGNED TO MEET THE REQUIREMENTS OF THE NATIONAL BUILDING REGULATIONS 2011.

4. THE BUILDING SHALL BE DESIGNED TO MEET THE REQUIREMENTS OF THE NATIONAL BUILDING REGULATIONS 2011.

5. THE BUILDING SHALL BE DESIGNED TO MEET THE REQUIREMENTS OF THE NATIONAL BUILDING REGULATIONS 2011.

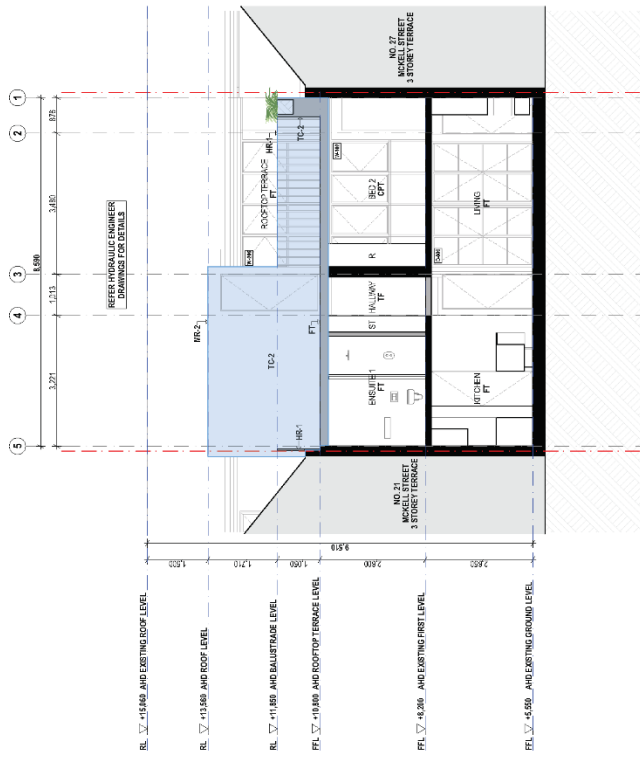
6. THE BUILDING SHALL BE DESIGNED TO MEET THE REQUIREMENTS OF THE NATIONAL BUILDING REGULATIONS 2011.

7. THE BUILDING SHALL BE DESIGNED TO MEET THE REQUIREMENTS OF THE NATIONAL BUILDING REGULATIONS 2011.

8. THE BUILDING SHALL BE DESIGNED TO MEET THE REQUIREMENTS OF THE NATIONAL BUILDING REGULATIONS 2011.

9. THE BUILDING SHALL BE DESIGNED TO MEET THE REQUIREMENTS OF THE NATIONAL BUILDING REGULATIONS 2011.

10. THE BUILDING SHALL BE DESIGNED TO MEET THE REQUIREMENTS OF THE NATIONAL BUILDING REGULATIONS 2011.



SECTION B5
1:100

LEGEND

EXISTING CONSTRUCTION
TO BE DEMOLISHED
RENOVATION AREA
NEW CONSTRUCTION
ADDITION

LEGEND SHADOW STUDY

SHADOW CAST
ADDITIONAL SHADOW CAST DUE TO NEW DEVELOPMENT
ADDITIONAL SHADOW CAST DUE TO EXISTING DEVELOPMENT

GENERAL PERFORMANCE INSTRUCTIONS

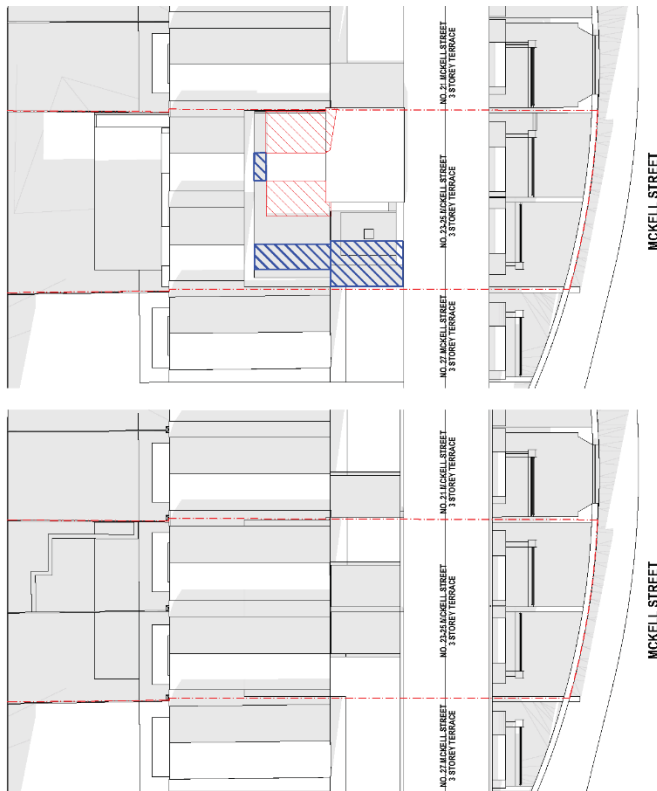
ALL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS (NBR) AND THE NATIONAL FIRE BRANCH REGULATIONS (NFB).
ALL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL ELECTRICAL REGULATIONS (NER).
ALL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL PLUMBING REGULATIONS (NPR).
ALL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL MECHANICAL REGULATIONS (NMR).
ALL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL TILING REGULATIONS (NTR).
ALL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL PAINTING REGULATIONS (NPR).
ALL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL FLOORING REGULATIONS (NFR).
ALL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL ROOFING REGULATIONS (NRR).
ALL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL GLAZING REGULATIONS (NGR).
ALL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL JOINERY REGULATIONS (NJR).
ALL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL CARPETING REGULATIONS (NCR).
ALL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL CURTAINING REGULATIONS (NCR).

LEGEND

CONSTRUCTION
EXISTING CONSTRUCTION
TO BE DEMOLISHED
RENOVATION AREA
NEW CONSTRUCTION
ADDITION

REVISION	
A	6/2/26
B	6/2/26
C	6/2/26
D	6/2/26
E	25/2/26

<p>THOSE ARCHITECTS Thosé Architects 12/121, York Street, Sydney, NSW Tel: 02 9550 7777 thosearchitects.com.au</p>	<p>PROJECT NO. BIRCHGROVE TERRACES SHAYNE FEAGENT 22-28 MCKELL STREET, BIRCHGROVE NSW SECTION B5</p>
<p>OWNER: DRAWN / CHECKED: SCALE: 1:100 AT A3 LEG DEVELOPMENT APPLICATION</p>	<p>DRAWING TITLE: DRAWING NO. SECTION B5 DRAWN / CHECKED: SCALE: 1:100 AT A3 LEG DEVELOPMENT APPLICATION</p>



2 - PLAN 2: JUNE PROPOSED SHADOWS

1 - PLAN 1: JUNE EXISTING SHADOWS

LEGEND - CONSTRUCTION

- EXISTING CONSTRUCTION
- TO BE DEMOLISHED
- RECONSTRUCTION AREA
- NEW CONSTRUCTION
- ADDITION

LEGEND - SHADOW STUDY

- SHADOW CAST
- ADDITIONAL SHADOW CAST DUE TO NEW DEVELOPMENT
- ADDITIONAL SHADOW CAST DUE TO EXISTING DEVELOPMENT

LEGEND - EVOLUTION

- ADDITIONAL SHADOW CAST DUE TO NEW DEVELOPMENT
- ADDITIONAL SHADOW CAST DUE TO EXISTING DEVELOPMENT

LEGEND - SHADOW STUDY

- SHADOW CAST
- ADDITIONAL SHADOW CAST DUE TO NEW DEVELOPMENT
- ADDITIONAL SHADOW CAST DUE TO EXISTING DEVELOPMENT

LEGEND - CONSTRUCTION

- EXISTING CONSTRUCTION
- TO BE DEMOLISHED
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- NEW CONSTRUCTION
- ADDITION

LEGEND - SHADOW STUDY

- SHADOW CAST
- ADDITIONAL SHADOW CAST DUE TO NEW DEVELOPMENT
- ADDITIONAL SHADOW CAST DUE TO EXISTING DEVELOPMENT

LEGEND - CONSTRUCTION

- EXISTING CONSTRUCTION
- TO BE DEMOLISHED
- RECONSTRUCTION AREA
- NEW CONSTRUCTION
- ADDITION

LEGEND - SHADOW STUDY

- SHADOW CAST
- ADDITIONAL SHADOW CAST DUE TO NEW DEVELOPMENT
- ADDITIONAL SHADOW CAST DUE TO EXISTING DEVELOPMENT

LEGEND - CONSTRUCTION

- EXISTING CONSTRUCTION
- TO BE DEMOLISHED
- RECONSTRUCTION AREA
- NEW CONSTRUCTION
- ADDITION

LEGEND - SHADOW STUDY

- SHADOW CAST
- ADDITIONAL SHADOW CAST DUE TO NEW DEVELOPMENT
- ADDITIONAL SHADOW CAST DUE TO EXISTING DEVELOPMENT

LEGEND - CONSTRUCTION

- EXISTING CONSTRUCTION
- TO BE DEMOLISHED
- RECONSTRUCTION AREA
- NEW CONSTRUCTION
- ADDITION

LEGEND - SHADOW STUDY

- SHADOW CAST
- ADDITIONAL SHADOW CAST DUE TO NEW DEVELOPMENT
- ADDITIONAL SHADOW CAST DUE TO EXISTING DEVELOPMENT

LEGEND - CONSTRUCTION

- EXISTING CONSTRUCTION
- TO BE DEMOLISHED
- RECONSTRUCTION AREA
- NEW CONSTRUCTION
- ADDITION

LEGEND - SHADOW STUDY

- SHADOW CAST
- ADDITIONAL SHADOW CAST DUE TO NEW DEVELOPMENT
- ADDITIONAL SHADOW CAST DUE TO EXISTING DEVELOPMENT



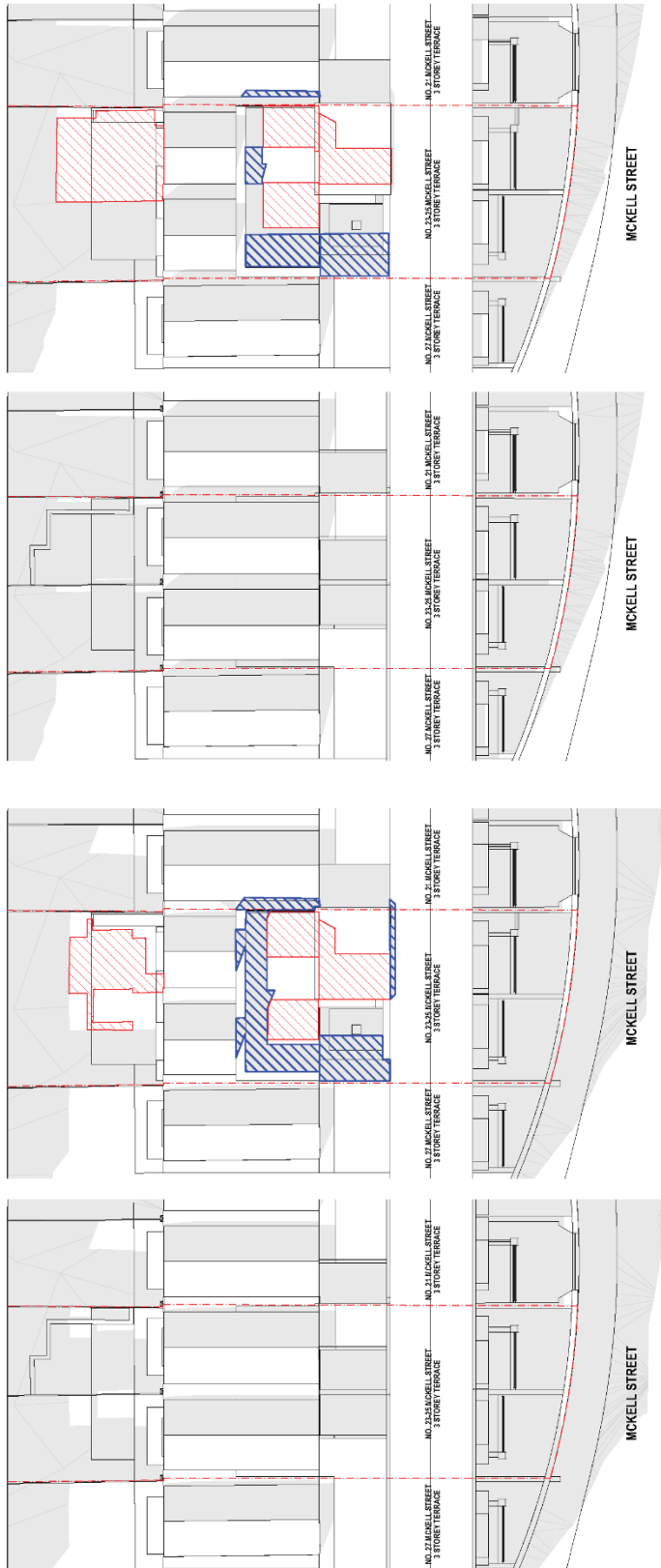
PROJECT NO. BIRCHGROVE TERRACES
OWNER. SHAYNE FEEGENT
ADDRESS. 22-28 MCKELL STREET, BIRCHGROVE QLD NSW
DRAWING TITLE. SHADOW DIAGRAMS - 21 JUNE 3PM
SCALE. 1:500
DRAWN / CHECKED. SM / E
ISSUED. FOR DEVELOPMENT APPLICATION

THOSE ARCHITECTS
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 www.thosearchitects.com.au

REVISION	DATE	DESCRIPTION
1	06/26	FOR INFORMATION
2	07/02	FOR INFORMATION
3	08/08	FOR INFORMATION
4	22/02	FOR INFORMATION

NOTES:
 1. THESE SHADOWS ARE PREPARED BY THOSE ARCHITECTS AND SHOULD BE USED AS A GUIDE ONLY.
 2. SHADOWS ARE BASED ON A SUN ALTITUDE OF 15 DEGREES AT 3PM ON 21 JUNE.
 3. SHADOWS ARE BASED ON A SUN ALTITUDE OF 15 DEGREES AT 3PM ON 21 JUNE.
 4. SHADOWS ARE BASED ON A SUN ALTITUDE OF 15 DEGREES AT 3PM ON 21 JUNE.
 5. SHADOWS ARE BASED ON A SUN ALTITUDE OF 15 DEGREES AT 3PM ON 21 JUNE.
 6. SHADOWS ARE BASED ON A SUN ALTITUDE OF 15 DEGREES AT 3PM ON 21 JUNE.

DISCLAIMER:
 THOSE ARCHITECTS ACCEPTS NO LIABILITY FOR ANY LOSS OR DAMAGE CAUSED BY THE USE OF THESE SHADOWS. THE SHADOWS ARE PROVIDED AS A SERVICE TO OUR CLIENTS AND SHOULD NOT BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF THOSE ARCHITECTS.



1 - 10M 2/1 JUNE EXISTING SHADOWS 2 - 10M 2/1 JUNE PROPOSED SHADOWS 3 - 25M 2/1 JUNE EXISTING SHADOWS 4 - 25M 2/1 JUNE PROPOSED SHADOWS

LEGEND - COLOURS

HEAVY SHADING: EXISTING SHADOWS
 LIGHT SHADING: PROPOSED SHADOWS
 RED HATCHING: EXISTING CONSTRUCTION
 BLUE HATCHING: PROPOSED CONSTRUCTION
 GREEN HATCHING: EXISTING SHADOW CAST
 RED HATCHING: PROPOSED SHADOW CAST

LEGEND - SHADING STUDY

SHADOW CAST: EXISTING SHADOW CAST
 SHADOW CAST: PROPOSED SHADOW CAST

LEGEND - EVOLUTION

EXISTING CONSTRUCTION: RED HATCHING
 TO BE DEMOLISHED: RED HATCHING
 EXISTING AREA: GREY HATCHING
 TO BE RECONSTRUCTED: RED HATCHING
 NEW CONSTRUCTION: BLUE HATCHING
 ADDITIVE: LIGHT BLUE HATCHING

NOTES

1. ALL DRAWINGS TO BE MADE IN ACCORDANCE WITH THE AUSTRALIAN STANDARDS FOR DRAWING PRACTICE (AS 1100).

2. ALL DIMENSIONS TO BE GIVEN IN METRES UNLESS OTHERWISE STATED.

3. ALL DIMENSIONS TO BE GIVEN TO THE CENTRE OF THE LINE UNLESS OTHERWISE STATED.

4. ALL DIMENSIONS TO BE GIVEN TO THE FACE OF THE LINE UNLESS OTHERWISE STATED.

5. ALL DIMENSIONS TO BE GIVEN TO THE CENTRE OF THE LINE UNLESS OTHERWISE STATED.

6. ALL DIMENSIONS TO BE GIVEN TO THE FACE OF THE LINE UNLESS OTHERWISE STATED.

7. ALL DIMENSIONS TO BE GIVEN TO THE CENTRE OF THE LINE UNLESS OTHERWISE STATED.

8. ALL DIMENSIONS TO BE GIVEN TO THE FACE OF THE LINE UNLESS OTHERWISE STATED.

9. ALL DIMENSIONS TO BE GIVEN TO THE CENTRE OF THE LINE UNLESS OTHERWISE STATED.

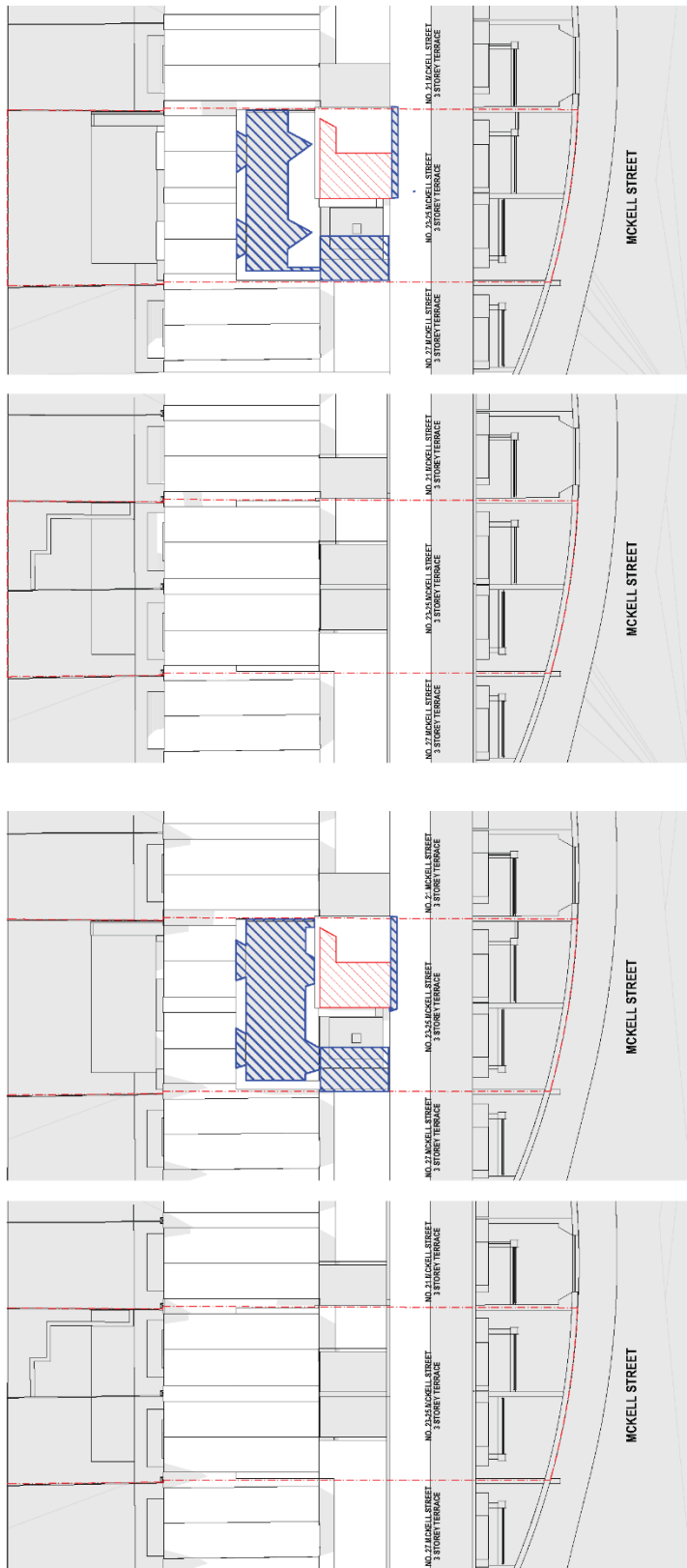
10. ALL DIMENSIONS TO BE GIVEN TO THE FACE OF THE LINE UNLESS OTHERWISE STATED.

PROJECT INFORMATION

PROJECT NO.: BIRCHGROVE TERRACES
 OWNER: SHAYNE FEEGITT
 ADDRESS: 22-28 MCKELL STREET, BIRCHGROVE QLD NSW
 DRAWING TITLE: SHADOW DIAGRAMS - 2/1 JUNE 10M + 25M
 SCALE: 1:100
 DRAWN / CHECKED: J. SMITH / J. SMITH
 ISSUED: FOR DEVELOPMENT APPLICATION

THOSE ARCHITECTS

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 BIRCHGROVE QLD 4209
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1 - 9AM 21 JUNE EXISTING ELEVATIONS 2 - 9AM 21 JUNE PROPOSED ELEVATIONS 3 - 10AM 21 JUNE EXISTING ELEVATIONS 4 - 10AM 21 JUNE PROPOSED ELEVATIONS

LEGEND

EXISTING CONSTRUCTION

- EXISTING CONSTRUCTION
- TO BE DEMOLISHED
- RECONSTRUCTION AREA
- NEW CONSTRUCTION
- ADDITION

LEGEND - SHADOW STUDY

- SHADOW CAST
- ADDITIONAL SHADOW CAST DUE TO NEW DEVELOPMENT
- ADDITIONAL SHADOW CAST DUE TO PROPOSED DEVELOPMENT

LEGEND

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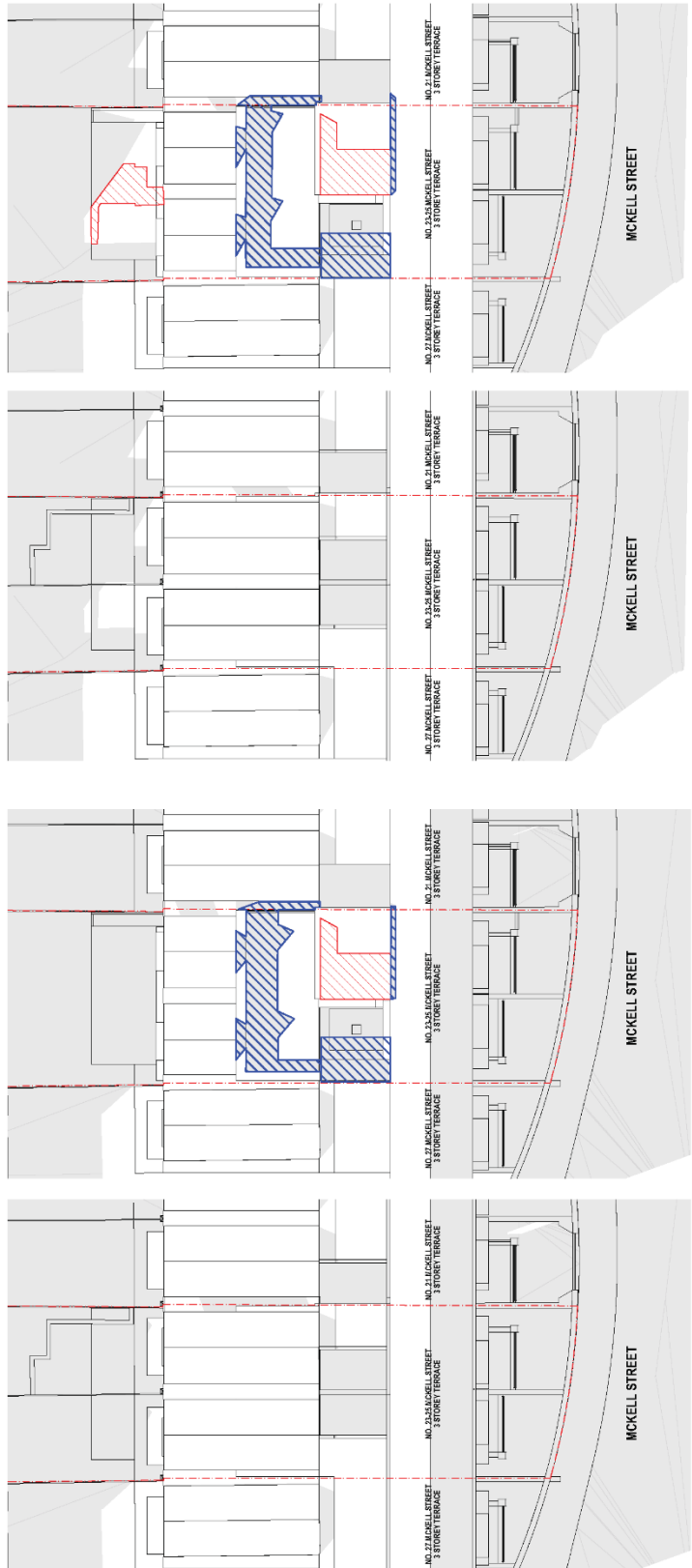
THOSE ARCHITECTS

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 28/28 MCKELL STREET, BIRCHGROVE QLD 4150
 Telephone: 07 3251 7700
 Email: info@thosearchitects.com.au

PROJECT NO. BIRCHGROVE TERRACES
OWNER. SHAYNE FEEGHT
ADDRESS. 28-28 MCKELL STREET, BIRCHGROVE QLD 4150

DRAWING TITLE. SHADOW DIAGRAMS - 21 JUNE 9AM + 10AM
SCALE. 1:100
DRAWN / CHECKED. SHAYNE FEEGHT / SHAYNE FEEGHT

DRAWING NO. DA.16
REVISION E



1. 11AM 21 JUNE EXISTING ELEVATIONS 2. 11AM 21 JUNE PROPOSED ELEVATIONS 3. 12PM 21 JUNE EXISTING ELEVATIONS 4. 12PM 21 JUNE PROPOSED ELEVATIONS

LEGEND - COLOURS

HEAVY SHADING

LEGEND - SHADING STUDY

LEGEND - EVOLUTION

LEGEND - PERFORMANCE INDICATORS

LEGEND - SHADING STUDY

LEGEND - EVOLUTION

NOTES

GENERAL PERFORMANCE INDICATORS

LEGEND - SHADING STUDY

LEGEND - EVOLUTION

LEGEND - SHADING STUDY

LEGEND - EVOLUTION

PROJECT NO. BIRCHGROVE TERRACES

OWNER. SHAYNE FEEGENT

ADDRESS. 27-31 MCKELL STREET, BIRCHGROVE QLD NSW

DRAWING TITLE. SHADOW DIAGRAMS - 21 JUNE 11AM + 12PM

SCALE. 1:100 (SEE DRAWING FOR SCALE)

DRAWN / CHECKED. [Signature]

Attachment C- Clause 4.6 Exception to Development

place
design
group.

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Waterloo, NSW 2017 Australia

Phone +61 2 9290 3300
sydney@placedesigngroup.com
placedesigngroup.com

23-25 Mckell Street,
Birchgrove NSW 2041

Variation to Clause 4.4 Floor
Space Ratio

Prepared for Shayne Fegent

1 Introduction

This Clause 4.6 variation request has been prepared by Place Design Group on behalf of Shayne Fegent in relation to the development application at 23-25 Mckell Street, Birchgrove (**the site**). This request is made pursuant to the provisions of Clause 4.6 Leichhardt Local Environment Plan 2013 (LLEP 2013) to vary Clause

This Clause 4.6 Variation has been submitted to assess the non-compliance of the proposed development with Clause 4.4 Floor Space Ratio Leichhardt Local Environment Plan 2013 (LLEP 2013) and has been prepared in accordance with the requirements of Clause 4.6 of the LLEP 2013.

As the site is part of a strata subdivision for an existing housing estate there are no records of the existing overall Floor Space Ratio (FSR). Despite the proposed development not increasing the building footprint or Floor Space Ratio it can be assumed that there is a noncompliance with this Clause.

It is strongly highlighted, that if FSR was calculated based on lot entitlement the proposed development achieves compliance.

The proposed development is for alterations and extensions to an existing dwelling and will make no changes to the existing site cover or Floor Space Ratio, thereby maintaining the current non-compliance. The request is considered to have no detrimental impacts arising as a result of the proposed

Clause 4.6 and the relevant Development Standard. The following sections of the report provide an assessment of the request to vary the Development Standard relating to "Floor Space Ratio" in accordance with Clause 4.6 of LLEP 2013. Consideration has been given to the following matters within this assessment:

- Varying Development Standards: A Guide, prepared by the Department of Planning and Infrastructure dated August 2011; and
- Relevant planning principles and judgements issued by the Land and Environment Court.

2 Exception to Development Standard

Clause 4.6 of the LLEP 2013 includes provisions that allow for exceptions to Development Standards in certain circumstances. The objectives of Clause 4.6 are listed within the LEP as:

- (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.*

Clause 4.6 provides flexibility in the application of planning provisions by allowing the Consent Authority to approve a development application that does not comply with certain Development Standards, where it can be shown that flexibility in the particular circumstances of the case would achieve better outcomes for the development.

In determining whether to grant consent for development that contravenes a Development Standard, Clause 4.6(3) requires that the Consent Authority consider a written request from the applicant, which demonstrates that:

Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

There are sufficient environmental planning grounds to justify contravening the development standard.

Furthermore, the Consent Authority must be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone, and the concurrence of the Secretary has been obtained. The proposed non-compliance in FSR has been assessed against the objectives of the zone and Development Standard in **Section 3**.

The assessment of the proposed variation has been undertaken in accordance with the requirements of the LLEP 2013, Clause 4.6(3) Exceptions to Development Standards in the assessment below:

3 Compliance with the Development Standard is unreasonable or unnecessary in the circumstances of the case

In the Wehbe judgement Preston CJ set out five ways in which a variation to a development standard can be supported as follows:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has 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;
5. The zoning of the land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Consideration (1) requires a demonstration that the objectives of the development standard are achieved notwithstanding noncompliance in the standard. The compliance of the proposed development with the objectives of the development standard in Clause 4.4 of the LLEP 2013 is demonstrated in Table 2 below.

Objectives	
To ensure that residential accommodation: <ul style="list-style-type: none"> (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, 	The proposed development will not increase the existing FSR. The dwelling is located within an established multi dwelling housing development that contains residential accommodation of similar size. The proposed development will maintain the appearance of bulk and scale in accordance with the surrounding development. If the FSR provisions were to be calculated on lot entitlement of 287m ² the proposed development would achieve compliance with the FSR standard.
To ensure that non-residential development is compatible with the desire future character of the area in relation to building bulk, form and scale.	N/A

Despite the technical departure from the relevant FSR standard the proposed development remains consistent with the objectives of Clause 4.4 of the LLEP 2013 and therefore it is demonstrated that strict compliance with the landscaping standard in this instance is

unreasonable and unnecessary.

Consideration (2) *'the underlying objective of the purpose of the standard is not relevant to the development and therefore compliance is unnecessary'* is relevant to this application. The underlying objective of the standard is to maintain bulk and scale, to not create overbearing development. The proposed development is for alterations to an existing built form and does not make any increases to the building envelope. There are no changes to the height or site cover of the proposed development, thereby maintaining the existing bulk and scale.

Consideration (4), in which a variation can be sought is *'The development standard has 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'*

The development standard for FSR has virtually been abandoned within the immediate multi dwelling development.

Examples of development that has been approved in the immediate area where FSR requirements have been exceeded include:

- 27 Mckell Street, Birchgrove (DA/2012/487): FSR of 1.43:1 (allowable 1.0:1)
- 1 Yeend Street, Birchgrove (DA/2012/2220: FSR of 0.98 (allowable of 0.9:1)
- 2 Lizzie Webber Place, Birchgrove (D/2019/43) FSR of 1.15:1 (allowable of 1.0:1)

4 Consistent with the Objectives of the Zone

Clause 4.6(4)(a)(ii) requires that such a request must establish that the proposed contravention is consistent with the objectives of the Development Standard and the objectives of the Zone. An assessment of the proposed development against the relevant objectives has been provided below:

Further, it is considered that the proposal will remain consistent with the objectives of the R1 zone as summarised in **Table 3** below

Objectives	Compliance with Objective
To provide for the housing needs of the community.	The proposed alterations and addition will continue to provide for housing needs for the community.
To provide for a variety of housing types and densities.	The proposed development seeks to adapt the existing development to more modern living through the inclusion of additional room.
To enable other land uses that provide facilities or services to meet the day to day needs of residents	N/A
To improve opportunities to work from home	The proposed development will provide for additional living area that will allow for more opportunities to work
To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.	The proposed development will reinstate materials that are consistent with the adjoining townhouses, ensuring that that the proposed alteration and additions are compatible with the existing locality.
To provide landscaped areas for the use and enjoyment of existing and future residents.	The proposed development will provide suitable landscaping at the rear of the development to ensure it will provide an appropriate balance between built form and landscaping. The proposed landscaping complied with the prescribed LEP requirement for landscaping in R1 zone.
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.	N/A
To protect and enhance the amenity of existing and future residents and the neighbourhood.	The proposed development will continue to provide for suitable housing within a residential area.

5 Sufficient Environmental Planning Ground to justify contravening the Development Standard

The proposed variation to the Development Standard Clause 4.4 under the LLEP 2013 is considered well founded on the basis that:

- The proposed development will maintain the existing building envelope, not resulting in a built form that will impeded on existing setbacks or result in an increase in height;
- The proposed FSR is consistent with surrounding development in the multi dwelling development, that have sought for alterations to the built form to provide for additional living area;
- The proposed development maintains the existing site cover, providing a suitable balance between landscaped areas and the built form;
- The siting of the building is within the building location zones when it can be reasonably assumed development can occur; and
- The proposal does not result in any adverse amenity impacts to the surrounding properties.

6 Grounds for Consideration

In deciding whether to grant concurrence, subclause (5) requires that the Secretary consider:

1. Whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
2. The public benefit of maintaining the development standard, and
3. Any other matters required to be taken into consideration by the Secretary before granting concurrence.

The proposal has been assessed against the relative criteria below:

Would non-compliance raise any matter of significance for State or regional planning?

The proposed non-compliance with the development standard will not raise any matter of significance for State or regional environmental planning. It has been demonstrated that the proposed variation is appropriate based on the specific circumstances of the case and would be unlikely to result in an unacceptable precedent for the assessment of other development proposals.

Is there a public benefit of maintaining the development standard?

In this instance, there is not a public benefit in maintaining the development standard. The site sits within an existing multi dwelling housing which is currently non compliant with the FSR provisions that has previously been developed and maintain community expectations.

Are there any other matters required to be taken into consideration by the Secretary before granting concurrence?

There are no additional matters that need to be considered within the assessment of the Clause 4.6 Request.

7 Conclusion

It is requested that Council supports the proposed variation to Clause 4.4 FSR of LLEP 2013 for the following reasons:

- The FSR is consistent and will adhere to the objectives of the Development Standard and Zone;
- Compliance with the Development Standard is unreasonable and unnecessary as the proposed increase in FSR will not be seen from the Mckell streetscape. In addition, the proposal will not result in an increase in site cover;
- There are sufficient environmental planning ground to justify contravening the Development Standard;
- The existing will not result in an unreasonable environmental impact; and
- There is no public benefit in maintaining the strict compliance with the Development Standard.

Overall, it is considered that the proposed variation is considered appropriate and can be supported under the provisions of Clause 4.6 of LLEP 2013.

The logo for Place Design Group, featuring the words "place", "design", and "group." stacked vertically in a white, lowercase, sans-serif font. The background of the entire page is a vibrant red with abstract geometric shapes and a pattern of fine white lines in the upper left corner.

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sydney@placedesigngroup.com
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23-25 Mckell Street,
Birchgrove NSW 2041

Variation to Clause 4.3A
Landscaping

Prepared for Shayne Fegent

1 Introduction

This Clause 4.6 variation request has been prepared by Place Design Group on behalf of Shayne Fegent in relation to the development application at 23-25 Mckell Street, Birchgrove (**the site**). This request is made pursuant to the provisions of Clause 4.6 Leichardt Local Environmental Plan 2013 (LLEP 2013) to vary Clause 4.3A, which states:

(3) Development consent must not be granted to development to which this clause applies unless—

(a) the development includes landscaped area that comprises at least—

(i) where the lot size is equal to or less than 235 square metres—15% of the site area, or

(ii) where the lot size is greater than 235 square metres—20% of the site area, and

(b) the site coverage does not exceed 60% of the site area.

As the site is part of a strata subdivision for an existing housing estate there are no records of the existing overall landscaped area and site coverage. While there is no record of a current landscaped areas and site covered for the estate it can be assumed that that there is a noncompliance with this Clause.

The proposed development is for alterations and extensions to an existing dwelling and will make no changes to the existing site cover or landscaping requirements, thereby maintaining the current non-compliant. The request is considered to have no detrimental impacts arising as a result of the proposed

Clause 4.6 and the relevant Development Standard. The following sections of the report provide an assessment of the request to vary the Development Standard relating to "Landscaped Area for residential accommodation in R1 Zone" in accordance with Clause 4.6 of LLEP 2013. Consideration has been given to the following matters within this assessment:

- Varying Development Standards: A Guide, prepared by the Department of Planning and Infrastructure dated August 2011; and
- Relevant planning principles and judgements issued by the Land and Environment Court.

2 Exception to Development Standard

Clause 4.6 of the LLEP 2013 includes provisions that allow for exceptions to Development Standards in certain circumstances. The objectives of Clause 4.6 are listed within the LEP as:

- (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.*

Clause 4.6 provides flexibility in the application of planning provisions by allowing the Consent Authority to approve a development application that does not comply with certain Development Standards, where it can be shown that flexibility in the particular circumstances of the case would achieve better outcomes for the development.

In determining whether to grant consent for development that contravenes a Development Standard, Clause 4.6(3) requires that the Consent Authority consider a written request from the applicant, which demonstrates that:

Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

There are sufficient environmental planning grounds to justify contravening the development standard.

Furthermore, the Consent Authority must be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone, and the concurrence of the Secretary has been obtained. The proposed non-compliance in landscaping has been assessed against the objectives of the zone and Development Standard in **Section 3**.

The assessment of the proposed variation has been undertaken in accordance with the requirements of the LLEP 2013, Clause 4.6(3) Exceptions to Development Standards in the assessment below:

3 Compliance with the Development Standard is unreasonable or unnecessary in the circumstances of the case

In the Wehbe judgement Preston CJ set out five ways in which a variation to a development standard can be supported as follows:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has 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;
5. The zoning of the land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Consideration (1) requires a demonstration that the objectives of the development standard are achieved notwithstanding noncompliance in the standard. The compliance of the proposed development with the objectives of the development standard in Clause 4.3A of the LLEP 2013 is demonstrated in Table 2 below.

Objectives	
To provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,	The proposed development will provide 64.46m ² or 22.6% of landscaping for the lot entitlement. The proposed development will include a mix of native shrubs suitable with the climate. The proposed landscaping will be located in the rear courtyard, internal courtyard and within a planter on the second floor creating a suitable contrast with the built form.
To maintain and encourage a landscaped corridor between adjoining properties,	The proposed development is retaining the existing footprint of the townhouse unit
to ensure that development promotes the desired future character of the neighbourhood	The site sits within an established form of development. The proposed alterations and additions are designed to be in keeping with the desired future character of the neighborhood. The proposed development does not make any changes to the building footprint providing suitable space for landscaping to soften the existing dwelling.
to encourage ecologically sustainable	The proposed development will sit within the existing



Table 2 Objectives of Clause 4.3A	
Objectives	
development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water,	building envelope. The proposed development provides suitable landscaping to the rear which will retain and absorb surface drainage water.
To control site density,	The site is part of an established townhouse development. The proposed development will therefore not seek to increase the density.
To limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.	The proposed development will not increase the site cover. The proposed development provides for suitable landscaping within the rear.

Despite the technical departure from the relevant Landscaping standard the proposed development remains consistent with the objectives of Clause 4.3A of the LLEP 2013 and therefore it is demonstrated that strict compliance with the landscaping standard in this instance is unreasonable and unnecessary.

Consideration (2) *'the underlying objective of the purpose of the standard is not relevant to the development and therefore compliance is unnecessary'* is relevant to this application. The underlying objective of the standard are to control development to ensure that the propose built form is compatible with the desired future character and provides for the amenity to residents. The proposed development will provide suitable landscaping within the immediate vicinity. Furthermore, no changes are made to the existing site cover.

Consideration (4), in which a variation can be sought is *'The development standard has 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'*

The development standard for landscaping and site coverage has virtually been abandoned within the immediate multi dwelling development.

The proposed landscaping and site coverage exceedance is in accordance with the original approval.

4 Consistent with the Objectives of the Zone

Clause 4.6(4)(a)(ii) requires that such a request must establish that the proposed contravention is consistent with the objectives of the Development Standard and the objectives of the Zone. An assessment of the proposed development against the relevant objectives has been provided below:

Further, it is considered that the proposal will remain consistent with the objectives of the R1 zone as summarised in **Table 3** below

Objectives	Compliance with Objective
To provide for the housing needs of the community.	The proposed alterations and addition will continue to provide for housing needs for the community.
To provide for a variety of housing types and densities.	The proposed development will retain the multi dwelling housing type and will soften the built form through landscaping.
To enable other land uses that provide facilities or services to meet the day to day needs of residents	N/A
To improve opportunities to work from home	The proposed development will provide for landscaping that will provide an improved amenity where residents work from home.
To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.	The proposed development will reinstate materials that are consistent with the adjoining townhouses, ensuring that that the proposed alteration and additions are compatible with the existing locality.
To provide landscaped areas for the use and enjoyment of existing and future residents.	The proposed development will provide suitable landscaping at the rear of the development to ensure it will provide an appropriate balance between built form and landscaping. The proposed development provides for 22.6% of the lot entitlement as landscaping which would be compliant with the standard if it was based on the lot entitlement.
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.	N/A
To protect and enhance the amenity of existing and future residents and the neighbourhood.	The proposed development will continue to provide for suitable housing within a residential area.

5 Sufficient Environmental Planning Ground to justify contravening the Development Standard

The proposed variation to the Development Standard Clause 4.3A under the LLEP 2013 is considered well founded on the basis that:

- Have no detrimental impacts on both the natural and built environments;
- Have no detrimental social or economic impacts
- Be suitable for the site; and
- Be in the public interest

6 Grounds for Consideration

In deciding whether to grant concurrence, subclause (5) requires that the Secretary consider:

1. Whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
2. The public benefit of maintaining the development standard, and
3. Any other matters required to be taken into consideration by the Secretary before granting concurrence.

The proposal has been assessed against the relative criteria below:

Would non-compliance raise any matter of significance for State or regional planning?

The proposed non-compliance with the development standard will not raise any matter of significance for State or regional environmental planning. It has been demonstrated that the proposed variation is appropriate based on the specific circumstances of the case and would be unlikely to result in an unacceptable precedent for the assessment of other development proposals.

Is there a public benefit of maintaining the development standard?

In this instance, there is not a public benefit in maintaining the development standard. The proposed development is not increasing the existing site cover. The proposed development seeks to provide a diversity in housing stock within the locality that will benefit residents.

Are there any other matters required to be taken into consideration by the Secretary before granting concurrence?

There are no additional matters that need to be considered within the assessment of the Clause 4.6 Request.

7 Conclusion

It is requested that Council supports the proposed variation to Clause 4.3A for the following reasons:

- The proposed development does not alter the existing building envelope. The site cover is existing;
- There are sufficient environmental planning ground to justify contravening the Development Standard; and
- There is no public benefit in maintaining the strict compliance with the Development Standard.

Overall, it is considered that the proposed variation is considered appropriate and can be supported under the provisions of Clause 4.6 of LLEP 2013.

Attachment D- Heritage Statement

Heritage Statement extracted from SOE prepared by Place Design Group dated 26/09/2019

(Section 5.6)

Heritage 5.6

The subject site is located within the Town on Waterview Heritage Conservation Area. As detailed in the Godden Mackay Logan1 overview, the area 'is located around a small creek that enters Waterview Bay. The area is generally sheltered and included flat low lying land the bay.'

Furthermore, the area is characterised by the following:

- Very narrow straight streets, most of which lead down to Morts Bay.
- Clusters of small maritime activities end the view down some streets.
- Buildings generally sited close to street, defining edge of narrow roads.
- Varied streetscape comprising dense post-1870s housing.
- two-storey terraces and single and double-fronted detached cottages; the occasional large early villa, industrial buildings, shops and commercial buildings.
- Variety of building materials and finishes: rendered brick, face brick, weatherboard, stone.
- Roofs mostly of iron or terracotta tiles.
- Sandstone kerbs and gutters mostly uninterrupted by driveway access.

The existing dwelling houses forms part of the Mort Bay development which consists of 121 apartments and townhouse buildings in a variety architectural sub-type based on the minimalist graphic style of the 1980/1990's. The proposed development will preserve the front façade ensuring that the Mckell streetscape is maintained.

Furthermore, the Godden Mackay Logan2 overview of the Waterview Conservation Area, states that Council should preserve the following:

- All pubs, preferable as public houses, or in related activities (boarding houses etc) or as smallscale commercial uses.
- All pre-1939 buildings, especially timber buildings, and all their architectural details. Replacement of lost detail, based only on evidence, should be encouraged.
- Original finishes, particularly rendered brick houses.
- All remaining sandstone kerbs and gutters.

To this end, the proposed design will conserve the heritage significance of the immediate locality. Therefore, the proposed development will not result in any undue impacts to the Heritage Conservation Area.