

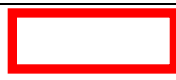
	
DEVELOPMENT ASSESSMENT REPORT	
Application No.	DA/2020/0546
Address	3 Emily Street ROZELLE NSW 2039
Proposal	Construction of a new 2 storey dwelling
Date of Lodgement	14 July 2020
Applicant	Guy Richards
Owner	Ms Alison M Moore Mr Guy C Richards
Number of Submissions	Nil
Value of works	\$484,550.00
Reason for determination at Planning Panel	Clause 4.6 variations exceeds 10% - Floor Space Ratio
Main Issues	Non-compliance with floor space ratio standard Building fenestration and materials/finishes
Recommendation	Approval with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards
	
LOCALITY MAP	
Subject Site	
Notified Area	

1. Executive Summary

This report is an assessment of the application submitted to Council for construction of a new 2 storey dwelling at 3 Emily Street, Rozelle.

The application was notified to surrounding properties. No submissions were received in response to notification.

The main issues that have arisen from the application include:

- Non-compliance with Floor Space Ratio development standard
- Non-compliance with Site Coverage development standard

The non-compliances are acceptable subject to conditions including changes to the proposed upper level fenestration and materials/finishes. Therefore, the application is recommended for approval.

2. Proposal

The DA proposes the following works:

- Erection of a two-storey dwelling house in the same form as previously approved by the Inner West Planning Panel on 12 December 2017 under D/2017/366. That approval involved alterations and additions to an existing dwelling house to create a two-storey residence. That development consent was invalidated as a result of excessive demolition carried out during construction works whereby the existing dwelling was demolished to allow for the construction of new footings/slab.
- The current application involves a new dwelling with essentially an identical built form to that previously approved in D/2017/366, with the only significant change being the upper level of the dwelling is now proposed to be clad with vertical *enseam* metal cladding. The ground floor level is still proposed to have horizontal *weathertex* cladding.

3. Site Description

The subject site is located on the western side of Emily Street, between Alfred Street and Evans street. The site consists of 1 allotment and is generally rectangular with a total area of 84.9 m² (as per survey) and is legally described as Lot 1 in DP 945606.

The site has a frontage to 3.66 metres to Emily Street. The site is affected by a number of easements - 1. Easement for access (A) Right of Way A89586 in DP945606 and 2. Proposed easement for overhanging gutter (B) in DP848732.

The site previously contained a single storey dwelling which has been demolished. The site currently contains building works including footings. The adjoining properties support a single storey timber dwelling to the south, a brick garage to the north that is associated with No.48A Denison Street which a two-storey dwelling with a primary street frontage to Denison Street; and a two-storey dwelling to the west.

The subject site is not listed as a heritage item. The property is not located within a conservation area nor is it identified as a flood prone lot.



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

Application	Proposal	Decision & Date
PREDA/2013/74	Alterations and additions to the existing dwelling including construction of a new first floor.	22-Aug-2013 (advice issued)
PREDA/2016/112	Alterations and additions including second floor addition	03-Aug-2016 (Issued)
D/2017/366	Alterations and additions to the existing dwelling house to create a two-storey residence.	12-December-2017 (Approved by IWPP)

Application	Proposal	Decision & Date
D/2006/205	<u>50 Denison Street</u> Alterations and additions to existing dwelling.	11-Jul-2006 (Approved)
D/2016/125	<u>52 Denison Street</u> Demolish rear single storey and construct new single storey addition to rear of dwelling. Construct new front balcony.	04-May-2016 (Approved)
M/2016/130	<u>52 Denison Street</u> Demolish rear single storey and construct new single storey addition to rear of dwelling. Construct new front balcony. S96(1) Modification to remove condition 4a	21-Jul-2016 (Approved)

4(b) Application history

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

Date	Discussion / Letter / Additional Information
15/9/2020	Request for information: <ul style="list-style-type: none"> • CI4.6 variation requests required • Revised BASIX Certificate • Plans & elevations conflict re: RLs & windows on boundary/ survey/ encroachments
6/10/2020	Information submitted.

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 (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy No. 55-Remediation of Land*
- *Leichhardt Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. LDCP 2013 provides controls and guidelines for remediation works. *SEPP 55* requires the consent authority to be satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent.

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

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

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

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

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

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.7 - Demolition
- Clause 4.3A - Landscaped areas for residential accommodation in Zone R1

Clause 4.4 – Floor Space Ratio
 Clause 4.5 - Calculation of floor space ratio and site area
 Clause 4.6 - Exceptions to development standards
 Clause 6.1 - Acid Sulfate Soils
 Clause 6.2 - Earthworks
 Clause 6.4 - Stormwater management
 Clause 6.8 - Development in areas subject to aircraft noise

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

The site is zoned R1 under the *LLEP 2011*. The *LLEP 2013* defines the development as:

‘dwelling house means a building containing only one dwelling.’

The development is permitted with consent within the zone. The development is consistent with the objectives of the R1 zone.

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

Standard	Proposal	non compliance	Complies
Floor Space Ratio Maximum permissible: 0.9:1 or 76.41sqm	1.26:1 107.2sqm	or 30.79sqm or 40.3%	No
Landscape Area Minimum permissible: 15% or 12.735sqm	18.5% or 15.7sqm	-	Yes
Site Coverage Maximum permissible: 60% or 50.94sqm	75.97% 64.5sqm	or 13.56sqm or 26.62%	No

Clause 4.6 Exceptions to Development Standards

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

- Clause 4.3A(3)(b) – Site Coverage

The applicant seeks a variation to the Site Coverage development standard under Clause 4.3A of the Leichhardt LEP 2013 by 26.62% or 13.56sqm.

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

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

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

- The proposal achieves the objectives of Clause 4.3A as the development provides sufficient landscaped area in accordance with the numerical requirements that ensures a high level of streetscape amenity.
- The development achieves a suitable balance between the built form, the natural environment and private open space.
- The submitted Architectural Plans demonstrate that the additional site coverage will not result in adverse overshadowing, privacy or amenity issues for surrounding properties.
- The proposed variation is very minor in nature when considering the size of the allotment and the location and orientation of dwellings that surround the subject site.
- As there is no perceived impact on the streetscape character of the area or the amenity of adjoining properties beyond that of a compliant proposal.
- The variation to the site coverage control remains as existing and as approved on the site by consent D/2017/366 and will not be changed or increased due to the proposal.
- The proposed variation will not detrimentally impact on the amenity of adjoining properties.

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

It is considered the development is in the public interest because it is consistent with the objectives of the R1 zone, in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP for the following reasons:

The relevant objectives of the R1 zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
- *To provide landscaped areas for the use and enjoyment of existing and future residents.*
- *To protect and enhance the amenity of existing and future residents and the neighbourhood.*

The proposed breach would not be inconsistent with zone objectives given:

- The proposal provides adequate and compliant Landscaped Area.
- The site area is small and significantly constrained with regard to the erection of a dwelling, providing for contemporary housing needs.
- The proposed dwelling would be compatible with the character, style, orientation and pattern development in the vicinity.
- Approval for an essentially identical dwelling was granted by way of consent D/2017/366 in December 2017.

It is considered the development is in the public interest because it is consistent with the objectives of the Site Coverage development standard, in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP for the following reasons:

The relevant development standard objectives are:

- (a) *to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,*
- (b) *to maintain and encourage a landscaped corridor between adjoining properties,*
- (c) *to ensure that development promotes the desired future character of the neighbourhood,*
- (d) *to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water,*

- (e) to control site density,*
- (f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.*

The proposal is considered to be consistent with these objectives for the following reasons:

- The proposal satisfies provides adequate and compliant Landscaped Area.
- The development would not result in unsatisfactory amenity impacts on neighbouring properties.

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

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

- Clause 4.4 – Floor Space Ratio

The applicant seeks a variation to the Floor Space Ratio development standard under Clause 4.4 of the Leichhardt LEP 2013 by 40.3% or 30.79sqm.

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

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

- The non-compliance for this proposed development is minor in nature, while providing a satisfactory streetscape character and maintaining a high level of amenity and privacy for adjoining properties.
- The form of the building from the street frontage has been designed to integrate with existing residential development in the area.
- The dwelling provides for a reasonable level of solar access to living areas and private open space areas of adjoining properties.
- The dwelling is in keeping with the residential nature of the streetscape and minimises conflict.
- The proposal has been designed to minimise adverse impacts to surrounding properties, the environment and the public domain.
- The proposal contributes to housing needs within the Inner West.

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

It is considered the development is in the public interest because it is consistent with the objectives of the R1 zone, as set out above.

It is considered the development is in the public interest because it is consistent with the objectives of the Floor Space Ratio development standard, in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP for the following reasons:

The development standard objectives are:

To ensure that residential accommodation—

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

The proposal is considered to be consistent with the Development Standard objectives for the following reasons:

- The proposed dwelling would be compatible with the desired future character of the area in terms of form, materials and bulk.
- The proposal satisfies the Landscaped Area development standard.
- The development would not result in unsatisfactory amenity impacts on neighbouring properties.

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

5(b) Draft Environmental Planning Instruments

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

- Draft Inner West Local Environmental Plan 2020

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

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

5(c) Development Control Plans

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

LDCP2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	n/a
B3.2 Events and Activities in the Public Domain (Special Events)	n/a
Part C	
C1.0 General Provisions	Yes

C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	n/a
C1.4 Heritage Conservation Areas and Heritage Items	n/a
C1.5 Corner Sites	n/a
C1.6 Subdivision	n/a
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
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, Verandahs and Awnings	n/a
C1.17 Minor Architectural Details	No – See discussion
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	
Easton Park Rozelle distinctive neighbourhood	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	No – See discussion
C3.2 Site Layout and Building Design	No – See discussion
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	n/a
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	No – See discussion
C3.10 Views	Yes
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	n/a
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	n/a
D2.5 Mixed Use Development	n/a

Part E: Water	
Section 1 – Sustainable Water and Risk Management	
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	n/a
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	n/a
E1.2.4 Stormwater Treatment	n/a
E1.2.5 Water Disposal	n/a
E1.2.6 Building in the vicinity of a Public Drainage System	n/a
E1.2.7 Wastewater Management	n/a
E1.3 Hazard Management	n/a
E1.3.1 Flood Risk Management	n/a
E1.3.2 Foreshore Risk Management	n/a

The following provides discussion of the relevant issues:

C1.17 Architectural Details

The proposal does not satisfy controls C1 & C2 as the submitted survey *11537detail rev.4* by CMS Surveyors dated May 2020 indicates that the development involves encroachments of the existing portion of the building slab onto Council's road reserve and adjoining land comprising a right-of-way between the subject site and 1 Emily Street. The submitted survey identifies the need for a redefinition survey to be undertaken to precisely identify the site boundaries.

Consequently, it is recommended that a redefinition survey is obtained and that any remaining structures on the site identified as encroaching onto adjoining properties or Council's road reserve are removed.

C3.1 Residential General Provisions

The proposal is acceptable from an urban design perspective as it will not detract from the Easton Park Distinctive Neighbourhood or streetscape providing the following design changes are implemented to ensure the development is in accordance with Objectives 1(a) and (b) in the Leichhardt LEP 2013 and the relevant objectives and controls in the Leichhardt DCP 2013.

1. Design change:
 - a. Window openings visible from the street, such as the first floor windows in the east elevation (Emily Street) should be vertically proportioned rectangular windows, employing traditional design (timber sash) and materials (timber frame);
 - b. The front fence is to be a 1.2m high timber picket or metal palisade fence;

2. A revised External Finishes Schedule will need to be submitted for consideration and include the following:
 - a. a pre-coloured traditional corrugated steel shall be used for the roofing, finished in a colour equivalent to Colorbond colours “Windspray” or “Wallaby”; and
 - b. the wall cladding is to be horizontally laid timber weatherboards, or an FC sheeting with a similar appearance and coloured “Off White” to match the front ground floor of the dwelling.

Suitable conditions are included in the recommended consent.

C3.2 Site Layout and Building Design

Building Location Zone

The upper level of the dwelling establishes a new building location zone at that level. This can be considered where the proposed development addresses the issues in C5 of this part:

- a. *amenity to adjacent properties (i.e. sunlight, privacy, views) is protected and compliance with the solar access controls of this Development Control Plan is achieved;*
- b. *the proposed development will be compatible with the existing streetscape, desired future character and scale of surrounding development;*
- c. *the proposal is compatible in terms of size, dimensions, privacy and solar access of private open space, outdoor recreation and landscaping;*
- d. *retention of existing significant vegetation and opportunities for new significant vegetation is maximised; and*
- e. *the height of the development has been kept to a minimum to minimise visual bulk and scale, as viewed from adjoining properties, in particular when viewed from the private open space of adjoining properties.*

The proposed additions would result in reasonable solar access impacts to surrounding properties. The proposed development complies with visual privacy controls of the DCP and there are no issues raised with regard to view impacts. It is considered that the proposed development would have acceptable impacts in respect of bulk and scale.

The Building Location Zone is the same as that of the previous dwelling on the site as approved with alterations and additions (D/2017/366).

The proposed rear building location for the upper level is considered satisfactory in the particular circumstances.

Side Setbacks –

The proposal breaches the side setback control by 2.0m to the northern side boundary and by 1.8m to the southern side boundary. However, the setbacks are those of the previous dwelling on the site with alterations and additions as approved by consent D/2017/366.

Control C7 allows for breaches where:

- a. *The development is consistent with relevant Building Typology Statements as outlined within Appendix B – Building Typologies of this Development Control Plan;*
- b. *The pattern of development within the streetscape is not compromised;*
- c. *The bulk and scale of development is minimised by reduced floor to ceiling heights;*
- d. *The potential impacts on amenity of adjoining properties, in terms of sunlight and privacy and bulk and scale, are minimised; and*
- e. *Reasonable access is retained for necessary maintenance of adjoining properties.*

The proposed dwelling will result in reasonable solar access impacts to surrounding properties. The proposed development complies with visual privacy controls of the DCP and there are no issues regarding view loss. It is considered that the amended design will have acceptable bulk and scale impacts.

Given the form of the development is essentially identical to that previously approved in D/2017/366, the form of development has been accepted as suitable for the site under Councils current planning controls and therefore the breaches are considered satisfactory in this case.

C3.9 Solar Access

Note: The following assessment of shadow impacts is identical to that for the previously approved development under D/2017/366 which has essentially identical bulk to the current proposal.

The subject site has an east-west orientation.

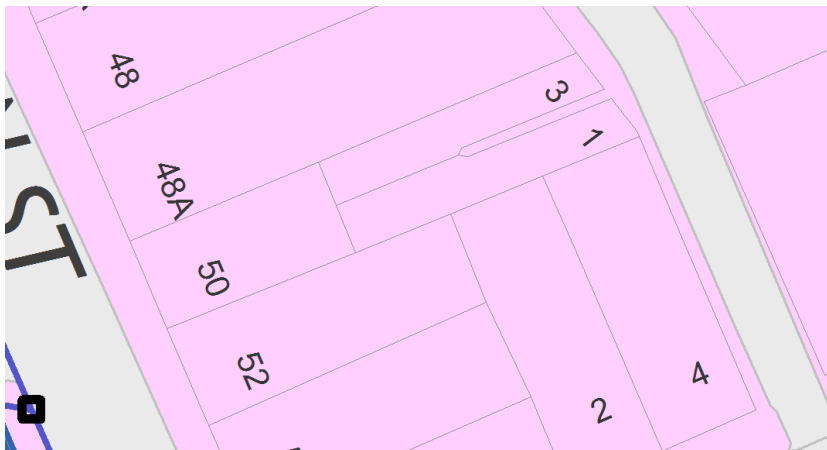
- Neighbouring Living Room Glazing
- *C12 – Where the surrounding allotments are orientated east/west, main living room glazing must maintain a minimum of two hours solar access between 9am and 3pm during the winter solstice.*
- *C15 – Where surrounding dwellings currently receive less than the required amount of solar access to the main living room between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.*

It is noted that shadow diagrams in elevation were provided with the previously approved application D/2017/366 indicating impact to 1 Emily Street at Winter Solstice. These shadow diagrams were indicate that the window on the northern elevation of that property was already entirely in shadow. Therefore, as the current proposal is essentially identical to that previously approved in D/2017/366, there is no additional overshadowing impact to the side glazing in 1 Emily Street.

Solar access will be retained to the rear windows of 52 Denison Street from 11am to 1pm thereby satisfying the solar access requirements.

- Impacts to Neighbouring Private Open Space

The subject site has an East-West orientation, as does No.1 Emily Street, No.50 Denison Street and No.52 Denison Street. The subdivision pattern in the immediate surroundings is not consistent, with inconsistent lot sizes and lot orientation.



The following solar access controls apply in relation to solar access to private open spaces of affected properties:

- *C17 - Where surrounding dwellings have north facing private open space, ensure solar access is retained for three hours between 9am and 3pm to 50% of the total area during the winter solstice.*
- *C18 - Where surrounding dwellings have east/west facing private open space, ensure solar access is retained for two and a half hours between 9am and 3pm to 50% of the total area (adjacent to living room) during the winter solstice.*
- *C19 - Where surrounding dwellings currently receive less than the required amount of solar access to their private open space between 9am and 3pm to during the winter solstice, no further reduction of solar access is permitted.*

In assessing the reasonableness of solar access impact to adjoining properties, and in particular, in any situation where controls are sought to be varied, Council will also have regard to the ease or difficulty in achieving the nominated controls having regard to:

- a. the reasonableness of the development overall, in terms of compliance with other standards and controls concerned with the control of building bulk and having regard to the general form of surrounding development;*
- b. site orientation;*
- c. the relative levels at which the dwellings are constructed;*
- d. the degree of skill employed in the design to minimise impact; and*
- e. whether reasonably available alternative design solutions would produce a superior result.*

The shadow diagrams submitted indicate that there will not be any additional shadows at 1 Emily Street as any additional shadows will be within the existing shadows in mid-winter. The adjoining properties at No.50 and No.52 Denison Street will be impacted. The proposal would result in the following impacts to the adjoining properties:

50 Denison Street

The private open space of No.50 Denison Street is heavily overshadowed by 48A Denison Street and does not receive substantial solar access at present. The proposed development results in additional overshadowing of 2m² at 9am reducing to 0.1 m² at 10am.

Given the site constraints of the small lot, it is considered that there is no feasible alternative design solution that could be utilised to address this issue. On balance, it is considered that the solar access impact is reasonable in the circumstances.

52 Denison Street

As demonstrated on the shadow diagrams, No.52 Denison Street does not receive solar access to 50% of its private space at any point in time at the winter solstice and the proposal will result in additional overshadowing between 10am and 2pm.

Given the irregular subdivision pattern where the rear boundary of No. 52 Denison Street extends approximately 8 metres beyond the boundaries shared by 50 Denison Street and 1 & 3 Emily Street, it would be difficult to achieve a development that would result in no additional overshadowing of the private open space at No. 52 Denison Street. It is considered that as the proposal retains solar access to at least 20.6m² of the subject private open space for 4 hours between 10am and 2pm, the impacts are considered reasonable given the small size lot, narrow width and orientation.

2 Alfred Street

The only additional overshadowing that would occur is at 2pm. Given the area of additional overshadowing generated would be onto an area of that site which is less than 3 metres in width (and thus does not constitute private open space), it is considered that the proposal does not result in additional overshadowing to 2 Alfred Street.

4 Alfred Street

The only additional overshadowing that would occur is at 2pm which results in an additional 2.6 m² of overshadowing. The impact is considered to be minor given that the private open space at 4 Alfred Street would retain solar access to at least 24m² between 9am and 1pm.

Conclusion

While the proposal will result in some additional overshadowing impacts to the surrounding properties, on balance, it is considered that the solar access impacts proposed are reasonable given the site constraints including orientation, small size lot with narrow width, and with surrounding sites having an irregular subdivision pattern.

5(e) 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(f) The suitability of the site for the development

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

5(g) Any submissions

The application was notified in accordance with Leichhardt Development Control Plan 2013 for a period of 14 days to surrounding properties. No submissions were received in response to notification.

5(h) The Public Interest

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

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

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

- Development Engineer
- Urban Forest
- Heritage

6(b) External

The application was not required to be referred externally.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions / 7.12 levies 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 the adjoining premises/properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 of *Leichhardt Local Environmental Plan 2013* to vary the development standards contained in clauses 4.3A and 4.4. After considering the requests, and assuming the concurrence of the Secretary, the Panel is satisfied that compliance with the standards is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variations. 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. DA/2020/0546 for construction of a new 2 storey dwelling at 3 Emily Street, Rozelle NSW 2039 subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. 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
1312-1/13-E	Floor Plans	Sept 2020	CHD Design
1312-1/13-D	South & North Elevations	June 2020	CHD Design
1312-1/13-F	East - Emily Street Elevation	Sept 2020	CHD Design
1312-1/13-E	Rear Elevation	Sept 2020	CHD Design
1312-8/13-E	Site Plan & Section B-B	Jun 2020	CHD Design
1312-9/13-F	Section A-A	Sept 2020	CHD Design
1312-1/13-E	BASIX Commitments	Sept 2020	CHD Design
100/A	Stormwater Plan - Cover Page	24-6-2020	CHD Design
101/A	Stormwater Plan - General Notes	24-6-2020	CHD Design
102/A	Stormwater Design - Site Plan	24-6-2020	CHD Design
103/A	Stormwater - Detailed Sections	24-6-2020	CHD Design
1140779S	BASIX Certificate	28-9-2020	Contemporary Home Design

As amended by the conditions of consent.

DESIGN CHANGE

2. Design Change

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

- a. A redefinition survey shall be obtained for the subject site to confirm boundary locations and the extent of any encroachments over Council land and adjoining sites.
- b. All works must be setback such that they are fully located within the property boundaries. Encroachments into adjoining or Council lands by any structures including awnings, fences and doors are not permitted.
- c. Window openings visible from the street, including the first floor windows in the east elevation (Emily Street) are to be vertically proportioned rectangular windows, employing traditional design (timber sash) and materials (timber frame).
- d. The front fence is to be a 1.2m timber picket fence painted in Dulux Vivid White, or similar.

FEES**3. Security Deposit**

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:	\$2,209.00
Inspection Fee:	\$236.70

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.

4. 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**5. Boundary Alignment Levels**

Alignment levels for the site at the boundary must match the existing adjacent top of kerb levels plus 2% footpath cross fall.

6. Works Outside the Property Boundary

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

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. Verification of Levels and Location

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

10. General Condition

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with an amended External Finishes Schedule which is to be amended in accordance with the following:

- a) A pre-coloured traditional corrugated steel shall be used for the roofing, finished in a colour equivalent to Colorbond colours "Windspray" or "Wallaby" and
- b) The wall cladding is to be horizontally laid timber weatherboards, or an FC sheeting with a similar appearance and coloured "Off White".

PRIOR TO ANY DEMOLITION**11. 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.

12. Dilapidation Report

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

13. 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.

14. 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

15. 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.

16. Stormwater Drainage System

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of a public road;
- b. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's Leichhardt DCP2013;
- c. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage;
- d. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- e. As there is no overland flow/flood path available from the rear and central courtyards to the Emily Street frontage, the design of the sag pit and piped drainage system is to meet the following criteria:
 1. Capture and convey the 100 year Average Recurrence Interval flow from the contributing catchment assuming 80% blockage of the inlet and 50% blockage of the pipe;
 2. The maximum water level over the sag pit shall not be less than 150mm below the floor level or damp course of the building; and
 3. The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands/roof area.
- f. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas;
- g. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
- h. No nuisance or concentration of flows to other properties;
- i. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- j. The design plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
- k. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;

- l. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- m. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm;
- n. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;
- o. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
- p. All components of the stormwater drainage system, excluding the kerb outlet pipeline within Emily Street, must be fully located within the property boundaries. Encroachment into neighbouring private property is not permitted.

17. 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

18. Acoustic Report – Aircraft Noise

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

DURING DEMOLITION AND CONSTRUCTION

19. 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.

20. 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.

PRIOR TO OCCUPATION CERTIFICATE

21. Public Domain Works

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* including:

- a. The existing footpath across the frontage of the site must be reconstructed as concrete footpath from back of kerb to the property boundary;
- b. Other works subject to the *Roads Act 1993* approval.

All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications".

22. 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.

23. Protect Sandstone Kerb

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

24. Footpath Repair

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that concrete footpath, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" have been constructed across the frontage of the site.

25. Works as Executed – Site Stormwater Drainage System

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

- a. The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards;
- b. All stormwater pits and pipes are located fully within the property boundaries other than the kerb outlet pipeline; and
- c. Works-as-executed plans of the stormwater drainage system certified by a Registered Surveyor, to verify that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards have been submitted to Council. The works-as-executed plan(s) must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifier stamped Construction Certificate plans.

26. Aircraft Noise –Alterations and Additions

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

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

ADVISORY NOTES

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.

Disability Discrimination Access to Premises Code

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

National Construction Code (Building Code of Australia)

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

Notification of commencement of works

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

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor; and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder; and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Dividing Fences Act

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

Permits from Council under Other Acts

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

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street 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.

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.

Asbestos Removal

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m² of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

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

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

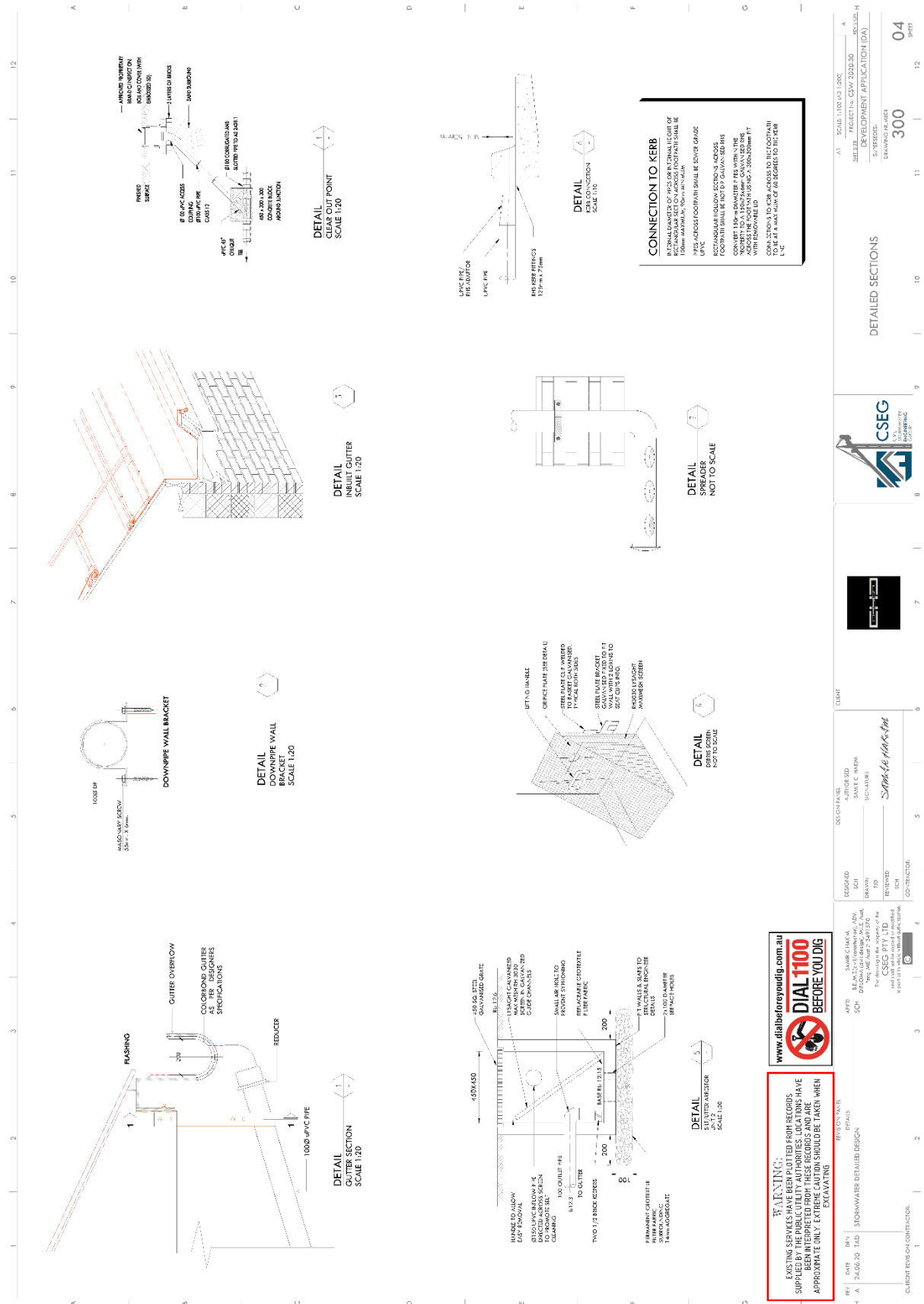
All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2014. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

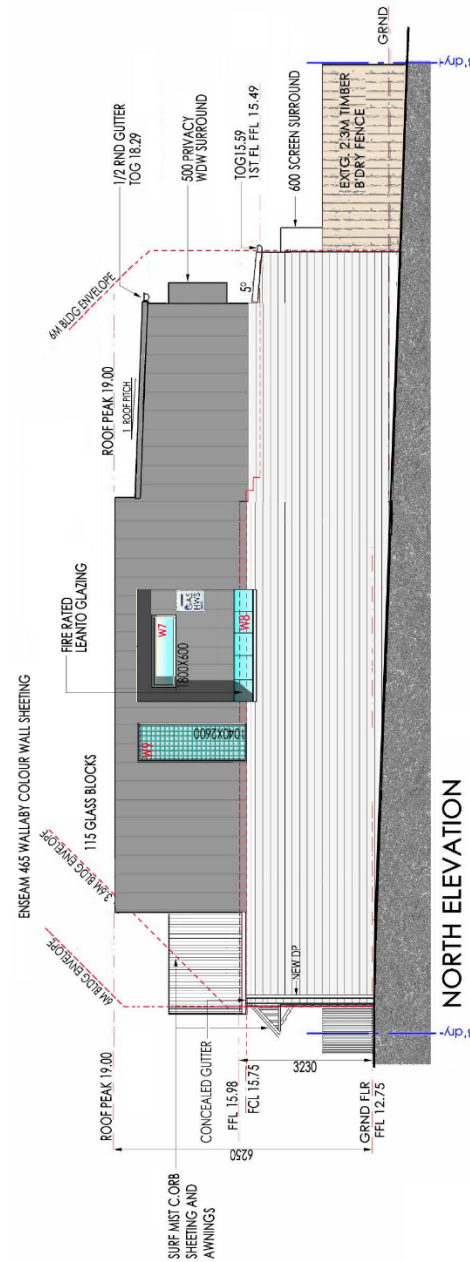
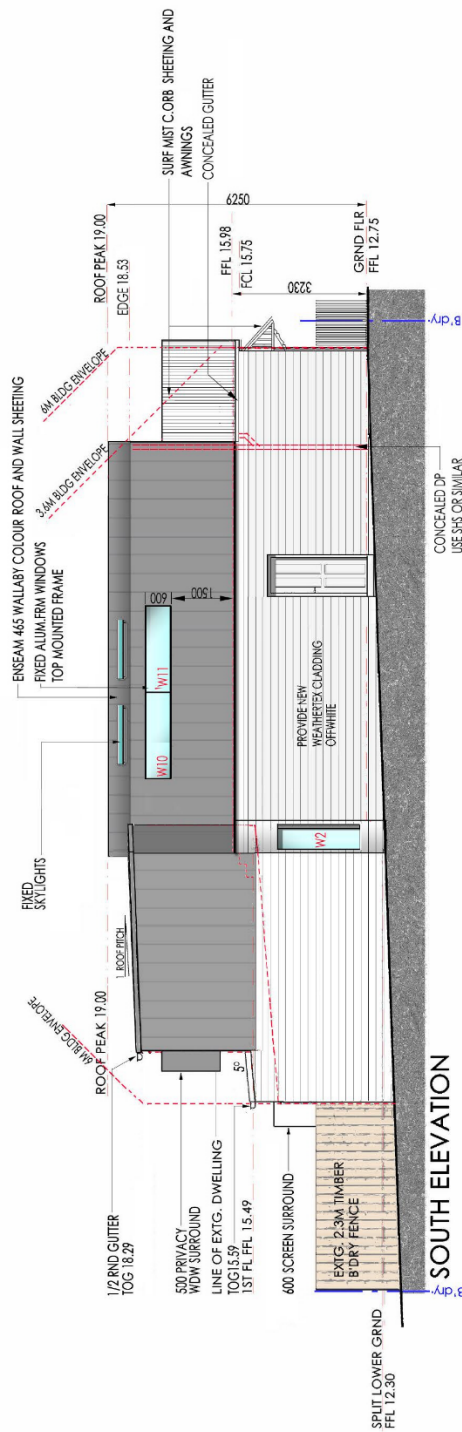
Attachment B – Plans of proposed development



PAGE 439



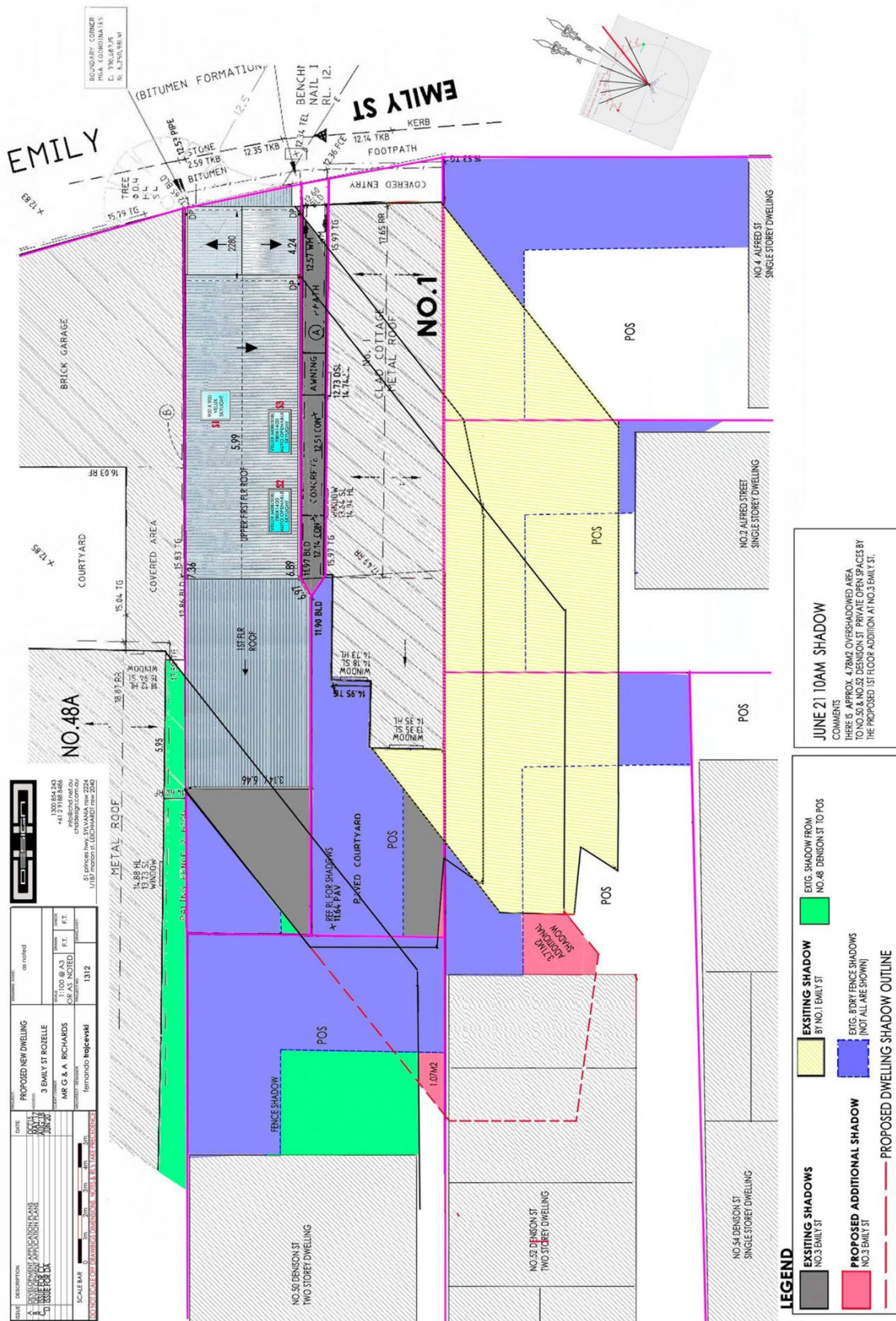


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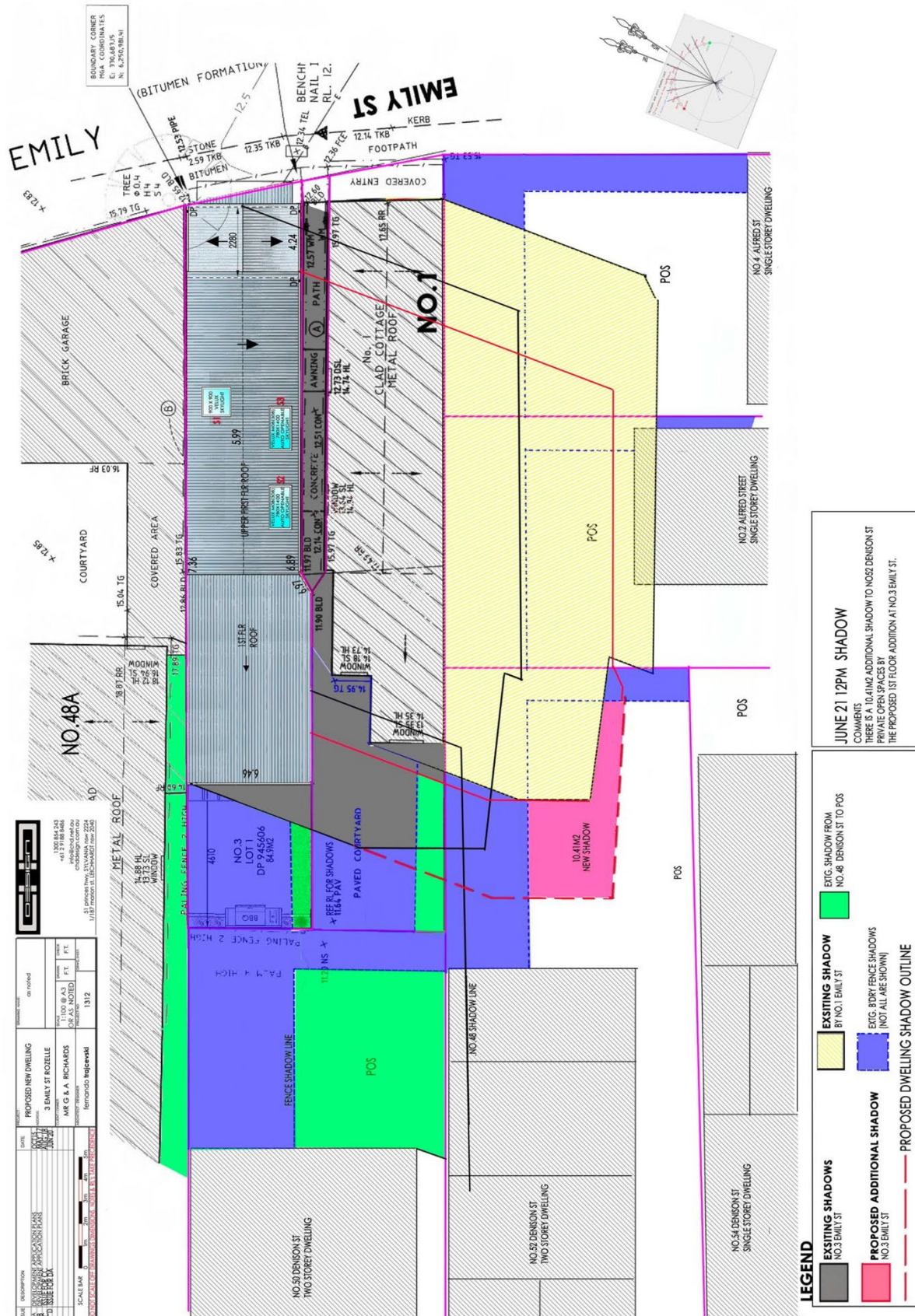
1300 854 243
+61 2 9188 8486
info@chd.net.au
chddesign.com.au
51 princes hwy, SYLVANIA NSW 2224
1/187 marion st, LEICHHARDT NSW 2040






















1ST FLOOR WALL FRAME FRL

FIL	SYSTEM	WALL LININGS	STUD DEPTH mm	THERMAL
Report Option	#		Cavity Infill (Refer to Section 6)	R _{wa} R _{wa}
60-00-00 FAN 500	CSR 901	Exposure, W/L, Sty • 1 x 16mm PYRICHICK Res-plasterboard • 1 x 16mm PYRICHICK Res-plasterboard 	42	3.0 2.8
		• 1 x 16mm PYRICHICK Res-plasterboard	TYPICAL WALL THICKNESS mm	163

ISSUE	DESCRIPTION	DATE
A	DEVELOPMENT APPLICATION PLANS	OCT 17
B	AMENDED DA PLANS	OCT 17
C	ISSUE FOR DA	JUN 20
F	AMENDED DA	SEPT 20

SCALE BAR

0 200 400 600

FEET

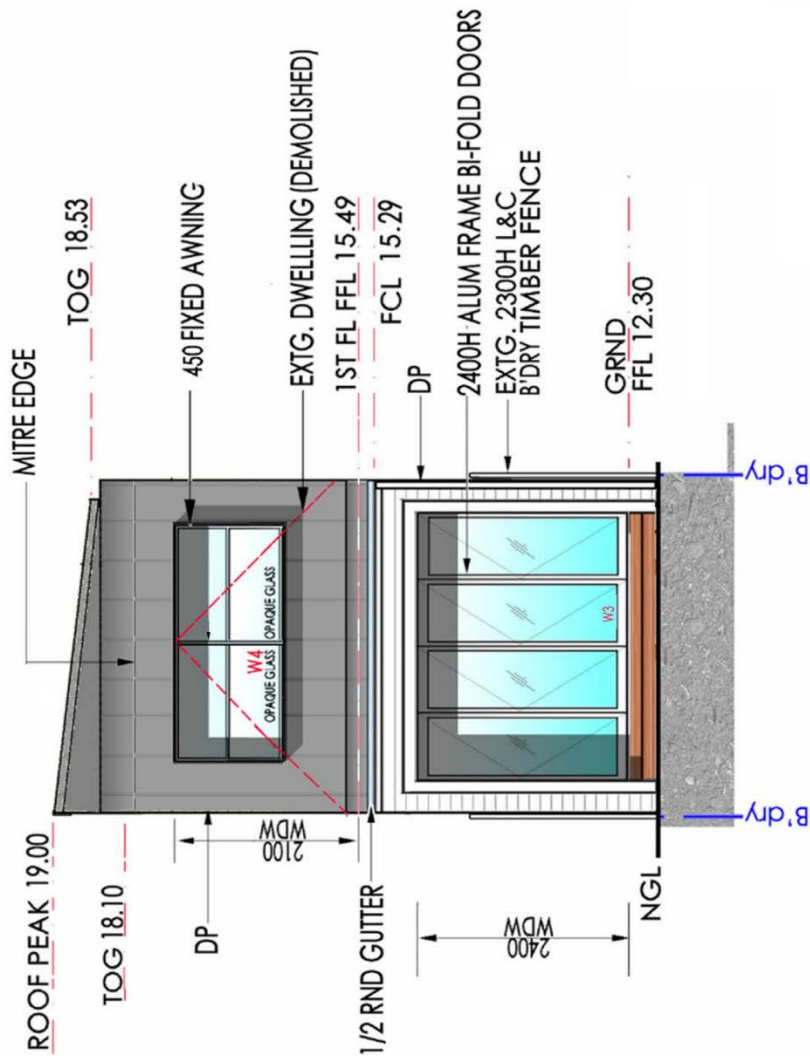
DO NOT SCALE OFF DRAWINGS: DIMENSIONS, NOTES & ALL TAKE PRECEDENCE

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contemporary home design

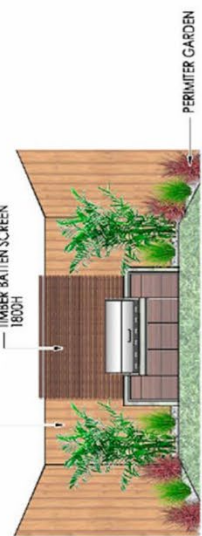
architecture • interior design • project management


10000 Suite 17187 meadow at LECHARD NSW 2040
office • 185 rocky point rd RANGGANG NSW 2217
mobile 0433 243 243 0433 CHD CHD
fax 1300 854 243 CHD
toll free (02) 8590 4666
email: info@chd.net.au
www.chd.net.au



REAR ELEVATION

1:50 @ A3



					
1300 841 2145 +61 2 91 88 5456 info@richardson.com.au cheesetech.com.au					
31 pittsview st, SYDNEY NSW 2224 1/12/2019 11:48:40AM NSW 2224					
REVISIONS					
ISSUE	DESCRIPTION	DATE	PROJECT	PROPOSED NEW DWELLING	AS NOTED
A	DEVELOPMENT APPLICATION PLANS	08/05/20	3 EMILY ST ROZELLE		
B	DEVELOPMENT APPLICATION PLANS	08/05/20	MR G & A RICHARDS		
C	DEVELOPMENT APPLICATION PLANS	08/05/20	Fernando Rajcecki		
D	DEVELOPMENT APPLICATION PLANS	08/05/20			
E	AMENDED DA	08/05/20			
SCALE BAR		0 1m 2m 3m 4m 5m			
DO NOT SCALE DRAWINGS DIMENSIONS, NOTES & DETAILS PRECEDENCE					
SCALE		1:100 @ A3	OR AS NOTED	1312	1/13
PROJECT NO.		1312	1/13		



1300 854 243
+61 2 9786 8866
info@icwpl.com.au
chris@icwpl.com.au
51 Alfred Street, Sydney NSW 1585
1/187 MURDOCH STREET, SYDNEY NSW 2240



		1300 854 243 +61 2 9188 8486 info@chd.net.au chd@design.com.au 51 princes hwy, SYLVANIA NSW 2224 1/187 motion st, LEICHHARDT NSW 2040	
PROJECT: PROPOSED NEW DWELLING ADDRESS: 3 EMILY ST ROZELLE CLIENT: MR G & A RICHARDS ARCHITECT: fernando trajcevi		SCALE BAR: 0 1m 2m 3m 4m 5m NORTH POINT: 	
DATE: 10/11/2020 ISSUE: 1:100 @ A3 OR AS NOTED		CHECK: F.T. DRAWN: F.T. PROJECT NO: 1312 1/13	
DO NOT SCALE OFF DRAWINGS DIMENSIONS. NOTE & B.T. TAKE PRECEDENCE			

Attachment C- Clause 4.6 Exception to Development Standards

CLAUSE 4.6 VARIATION STATEMENT

CONSTRUCTION OF NEW TWO STOREY
DWELLING HOUSE
DA2020/0546

3 EMILY STREET ROZELLE NSW 2039

INTRODUCTION

This Clause 4.6 Variation Statement has been prepared to support a Development Application for the construction of a two storey Dwelling House at 3 Emily Street, Rozelle. The purpose of this statement is to address a variation to Clause 4.3A *Landscaped Areas* and Clause 4.4 *Floor Space Ratio* of the Leichhardt Local Environmental Plan 2013.

The non-compliances are the direct result of the architectural styling of the proposed dwelling. The dwelling has been designed with consideration given to the existing topography on the site and the desired future residential streetscape character. The variation to the site coverage control is existing on the site and will not be changed or increased due to the proposed works. The proposed variation to the floor space ratio control is minor in nature and will not detrimentally impact on the amenity of future adjoining properties given the articulated design and varied roof form, adequate side and rear setbacks and sufficient landscaping and private open space. The dwelling has been appropriately orientated on the site to allow for a reasonable level of solar access to living areas and private open space areas of adjoining properties.

LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013

Clause 4.3A of the Leichhardt Local Environmental Plan 2013 (LLEP 2013) requires that 15% of the site is landscaped area and that site coverage does not exceed 60% of the site area. The proposed development at 3 Emily Street, Rozelle, provides 17.86m² of landscaped area (21%) however has a total site coverage of 76.07%.

Clause 4.4 of the LLEP 2013 requires the floor space ratio on any land is not to exceed the floor space ratio on the Floor Space Ratio Map. The site is subject to a 1:1 floor space ratio and the proposed dwelling house has a floor space ratio of 1.20:1.

In this instance, the variation to site coverage and floor space ratio relies on Clause 4.6 *Exception to Development Standards* of the LLEP 2013 as set out below.

Clause 4.6 Exceptions to Development Standards

- 1) The objectives of this clause are as follows—
 - a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- 2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- 3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—
 - a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - b) that there are sufficient environmental planning grounds to justify contravening the development standard.

- 4) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—
 - c) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - d) that there are sufficient environmental planning grounds to justify contravening the development standard.
- 5) Development consent must not be granted for development that contravenes a development standard unless—
 - a) the consent authority is satisfied that—
 - i. the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - ii. the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - b) the concurrence of the Planning Secretary has been obtained.
- 6) In deciding whether to grant concurrence, the Planning Secretary must consider—
 - a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - b) the public benefit of maintaining the development standard, and
 - c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.
- 7) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if –
 - a) The subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - b) The subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. When this Plan was made it did not include all of these zones.

- 7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- 8) This clause does not allow development consent to be granted for development that would contravene any of the following—
 - a) a development standard for complying development,
 - b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated,
 - c) clause 5.4.

The objective of Clause 4.6 is understood to be a measure to ensure that the dwelling does not have an unreasonable impact on adjoining properties or the streetscape by way of overshadowing, overlooking or visual bulk.

This document therefore establishes the written request to Inner West Council as referred to in Clause 4.6(3) in relation to the proposals minor breach in site coverage and floor space ratio and demonstrates that the proposal will not adversely impact on the streetscape. The assessment below has been prepared in accordance with the NSW Department of Planning and Infrastructure's guidelines on how to prepare Clause 4.6 Variation Statements.

CLAUSE 4.6 VARIATION

1. What is the name of the environmental planning instrument that applies to the land?

Leichhardt Local Environmental Plan 2013

2. What is the zoning of the land and what are the objectives of the zone?

The site is zoned R1 – General Residential under the LLEP 2013. The objectives of the R1 zone are set out below.

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

Response:

The development achieves the objectives of the R1 zone by providing low-impact residential development that contributes to the housing needs of the community. The design of the development is sympathetic of adjoining properties and is in keeping with the residential characteristic of the streetscape. Sufficient landscaping is provided on the site to enhance the well-maintained landscape setting of the locality.

3. What is the development standard being varied?

The development standards being varied are Clause 4.3.A *Landscape areas for residential accommodation in zone R1* and Clause 4.4 *Floor Space Ratio*.

Clause 4.3A(3) states the following:

- (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.

Clause 4.4 states the following:

- (2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*
- (2A) *Despite subclause (2), the floor space ratio for development for a purpose other than residential accommodation on land in Zone R1 General Residential is not to exceed 1:1.*

4. What are the objectives of the development standard?

The objectives of **Clause 4.3A** are set out below.

- a) to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,
- b) to maintain and encourage a landscaped corridor between adjoining properties,
- c) to ensure that development promotes the desired future character of the neighbourhood,
- d) to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water,
- e) to control site density,
- f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.

Response:

The proposal achieves the objectives of Clause 4.3A as the development provides sufficient landscaped area in accordance with the numerical requirements that ensures a high level of streetscape amenity. The development achieves a suitable balance between the built form, the natural environment and private open space.

The submitted Architectural Plans demonstrate that the additional site coverage will not result in adverse overshadowing, privacy or amenity issues for surrounding properties. The proposed variation is very minor in nature when considering the size of the allotment and the location and orientation of dwellings that surround the subject site.

As there is no perceived impact on the streetscape character of the area or the amenity of adjoining properties beyond that of a compliant proposal, the dwelling is considered to be able to meet the objectives of Clause 4.3A despite the non-compliance.

The objectives of **Clause 4.4** are set out below.

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

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

Response

The proposal achieves the objectives of Clause 4.4 as the final development is in keeping with the desired future character of the area and is sympathetic of the prevailing built form characteristics and landscape design of the streetscape. The development has been sensitively designed to maintain a high level of privacy on the site and for adjoining properties through appropriate setback distances and the careful placement of doors and windows.

5. What is the numeric value of the development standard in the environmental planning instrument?

The subject site has a maximum site coverage of 60% and a maximum floor space ratio of 1:1.

6. How do the existing and proposed numeric values relate to the development standard? What is the percentage variation?

The development proposes a site coverage of 76.07% which represents a variation of 21.13% to the site coverage control. The breach in site coverage is existing on the site and will not be increased due to the proposal.

The development also proposes a floor space ratio of 1.20:1 which represents a variation of 16.37%. The breach in floor space ratio is a result of the architectural design achieving the built form potential of the site without compromising the landscape and private open space areas or the amenity of adjoining properties.

7. Matters to be considered under Clause 4.6 of the relevant EPI

The following table provides a summary of the key matters for consideration under Clause 4.6 of the Leichhardt Local Environmental Plan 2013. A comment is provided against each matter demonstrating how compliance is achieved.

Requirement / Subclause of Clause 4.6	Comment
1) The objectives of this clause are as follows: a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.	It is key to note that the objectives of the clause are to provide flexibility in applying development standards in that in so doing a better planning outcome ensues.
2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does	The site coverage standard described under Clause 4.3A and the floor space ratio standard described under Clause 4.4 are not expressly excluded from the operation this clause.

not apply to a development standard that is expressly excluded from the operation of this clause.	
<p>3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:</p> <ul style="list-style-type: none"> a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and b) that there are sufficient environmental planning grounds to justify contravening the development standard. 	<p>This written request seeks to justify the variation by demonstrating that both (a) and (b) are achieved.</p>
<p>4) Development consent must not be granted for development that contravenes a development standard unless:</p> <ul style="list-style-type: none"> a) the consent authority is satisfied that: <ul style="list-style-type: none"> i. the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and ii. the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and b) the concurrence of the Director-General has been obtained. 	<p>This written request addresses all requirements of subclause (3).</p> <p>As demonstrated in this statement, the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for the zone.</p> <p>Concurrence is assumed but is a matter to be determined by the consent authority.</p>
<p>5) In deciding whether to grant concurrence, the Director-General must consider:</p> <ul style="list-style-type: none"> a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and 	<p>Contravention of the development standard is not considered to raise any matter of significance for State or regional environmental planning.</p> <p>The proposed building height will not impact the public benefit.</p>

b) the public benefit of maintaining the development standard, and c) any other matters required to be taken into consideration by the Director-General before granting concurrence.	
6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if.....	Not applicable.
7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).	This is a matter for the determining authority.
8) This clause does not allow development consent to be granted for development that would contravene any of the following....	Not applicable.

8. How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?

Strict compliance with the maximum site coverage and floor space ratio controls is considered unreasonable and unnecessary for the following reasons:

- 1) The proposed site coverage of 76.07% is existing on the site and will not be changed or increased due to the proposal.
- 2) The dwelling has been sensitively designed to respond to the natural features and topography of the site to minimise excavation.
- 3) The additional floor area contributes positively to the architectural design of the development and helps to achieve the development potential of the site and provide a dwelling house suited for modern family living.
- 4) The submitted Architectural Plans demonstrate that the additional site coverage and floor space will not result in adverse overshadowing, privacy or amenity issues for surrounding properties as appropriate orientation, building articulation and setback distances have been incorporated into the design.
- 5) The cumulative effect on broader sites in this location will not be altered, as the proposal will not result in visual or acoustic impacts on adjoining properties

9. Are there sufficient environmental planning grounds to justify contravening the development standard?

The Statement of Environmental Effects (SEE) prepared for this Development Application provides a holistic environmental planning assessment of the proposed development and concludes that there are sufficient environmental planning grounds to support the development. There is justification throughout the SEE and accompanying documentation to support the proposed site coverage and floor space ratio variations and contend that the outcome is appropriate on environmental planning grounds.

Specific environmental grounds to justify the breach of the development standard are summarised as follows:

- 1) The non-compliance for this proposed development is minor in nature, while providing a satisfactory streetscape character and maintaining a high level of amenity and privacy for adjoining properties.
- 2) The intention of the proposed works and outcome is considered entirely reasonable. In general, the form of the building as experienced from the primary street frontage has been designed to integrate seamlessly with residential development in the area.
- 3) The dwelling has been appropriately orientated on the site to allow for a reasonable level of solar access to living areas and private open space areas of adjoining properties.

10. Is the proposed development, despite the contravention to the development standard, in the public interest?

The development is considered to be in the public interest as it successfully achieves the objectives of the R1 – General Residential zone and the relevant Aims of the Plan as identified under the Leichhardt Local Environmental Plan 2013 (set out below).

1. Relevant Aims of Plan:

- (b) to minimise land use conflict and the negative impact of urban development on the natural, social, economic, physical and historical environment,
- (d) to promote a high standard of urban design in the public and private domains,
- (f) to maintain and enhance Leichhardt's urban environment,
- (j) to ensure an adequate supply of land and housing to facilitate—
 - i. (employment and economic opportunities, and
 - ii. the provision of goods and services that meet the needs of the local and subregional population,
- (l) to ensure that development is compatible with the character, style, orientation and pattern of surrounding buildings, streetscape, works and landscaping and the desired future character of the area,
- (m) to ensure that development provides high quality landscaped areas in residential developments,

Response:

The proposal achieves the above aims in the following ways:

- 1) The dwelling is in keeping with the residential nature of the streetscape and has been sensitively designed to respond to the existing topography of the site to minimise conflict between the built form and the natural environment.
- 2) The proposal has been sensitively designed to minimise any adverse impacts to surrounding properties, the environment or the public domain through appropriate orientation, setbacks distances and an articulated built form that reduces overall bulk and massing when viewed from the streetscape.
- 3) The proposal contributes to the housing needs within the Inner West Local Government Area.

It is therefore demonstrated that the application is entirely tenable and reasonable in its variation to this standard. It is also noted that the variation is considered suitable in the current context of the area and for the desired future character of Rozelle.

CONCLUSION

This Clause 4.6 Variation Statement is well founded as it demonstrates, as required by Clause 4.6 of the Leichhardt Local Environmental Plan 2013, that:

- 1) Compliance with the development standard would be unreasonable and unnecessary in the circumstances.
- 2) There are sufficient environmental planning grounds to justify the contravention and the proposal is considered to result in a positive planning outcome.
- 3) The development meets the objectives of the development standard and the objectives of the R1 – General Residential, notwithstanding the variations.
- 4) The proposed development is in the public interest and there is no public benefit in maintaining the standard.
- 5) The contravention does not raise any matter of State or Regional Significance.