




 DEVELOPMENT ASSESSMENT REPORT	
Application No.	DA/2020/0635
Address	28 Merton Street ROZELLE NSW 2039
Proposal	Demolition of the existing dwelling house and construction of a new dwelling house, new double garage with studio above and terrace area under at rear, and associated works, including swimming pool and tree removal.
Date of Lodgement	06 August 2020
Applicant	Dalgliesh Ward & Associates Pty Ltd
Owner	Leo Raso
Number of Submissions	12 Total
Value of works	\$913,750.00
Reason for determination at Planning Panel	Number of submissions Clause 4.6 variations exceed 10%
Main Issues	Variation to Site Coverage development standard Variation to Floor Space Ratio development standard Adverse impact on Laneway and bulk and scale (studio above garage structure) View loss implications.
Recommendation	Approval with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 – Site Coverage
Attachment D	Clause 4.6 – Floor Space Ratio
Attachment E	Statement of Heritage Significance
	
LOCALITY MAP	
Subject Site 	Objectors 
Notified Area 	Supporters 

1. Executive Summary

This report is an assessment of the application submitted to Council for the demolition of the existing dwelling-house and construction of a new dwelling-house, new double garage with studio above and terrace area under at rear, and associated works, including swimming pool and tree removal at 28 Merton Street, Rozelle.

The application was notified to surrounding properties and 12 submissions were received in response. The main issues that have arisen from the assessment include:

- Variation to Site Coverage development standard
- Variation to Floor Space Ratio development standard
- Adverse impact on Laneway (studio above garage structure)
- View Loss implications.

Subject to the imposition of appropriate conditions, the proposal is acceptable given the prevailing pattern of development, wider character of the locality, and the proposal will result in acceptable impacts on surrounding properties, and hence, the application is recommended for approval.

2. Proposal

The application seeks consent for the demolition of the existing dwelling house and construction of a new dwelling house, new double garage with studio above and terrace area under at rear and associated works, including swimming pool and tree removal.

The dwelling house has been designed as having a traditional single storey form with front verandah and main hipped roof form with a pavillion style two storey cubic form rear section, and the front and rear sections separated by landscaped gardens at ground floor level.

At the rear and located to the laneway elevated above the site, it is proposed to construct a double garage with studio and bathroom above, and a covered terrace below the garage.

Between the dwelling-house and garage structure, an in-ground swimming pool is proposed.

New fencing and landscaping works also form part of the proposal.

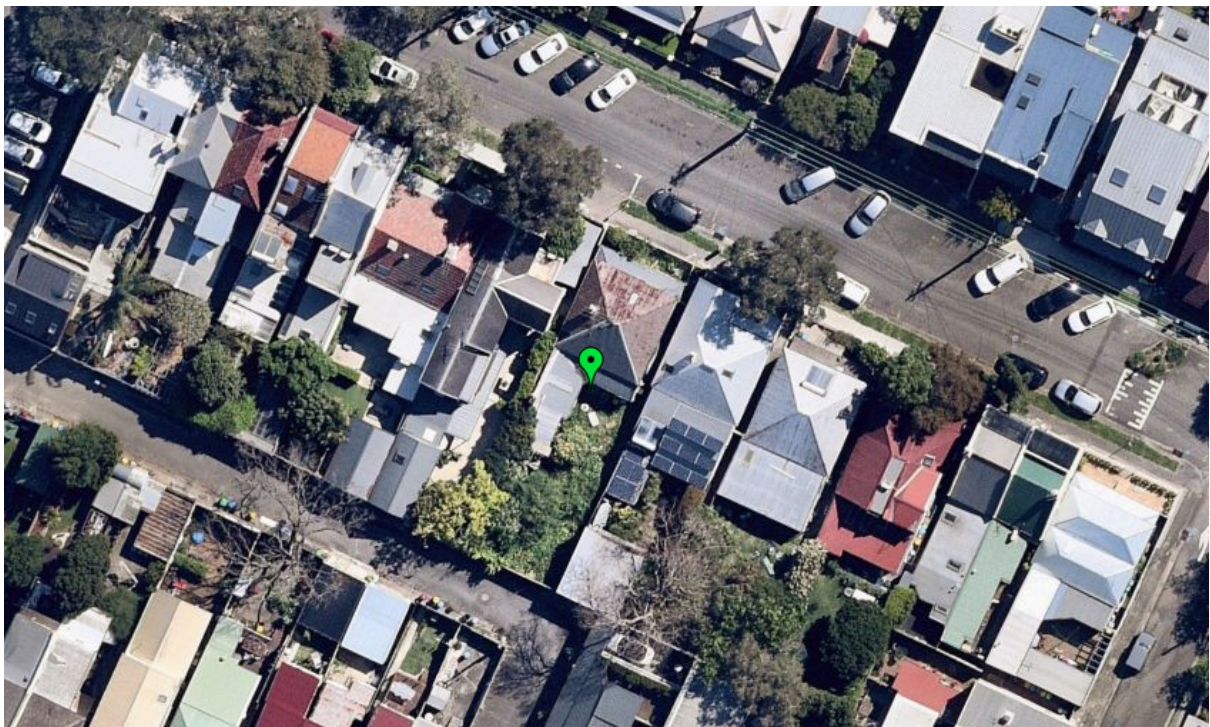
3. Site Description

The subject site is located on the south-western side of Merton Street, between Darling Street and Cross Street. The area of the site is approximately 278.2sqm and is legally described as Lot 11 Section P of Deposited Plan 119. The site is generally rectangular in shape, with a frontage of 9.145m to Merton Street and a Laneway frontage of 9.145 to the unnamed lane to the rear.

DA



Zoning of the subject site and neighbouring properties.



Aerial view of the subject site at 28 Merton Street, Rozelle

The site supports a single storey cottage. Adjoining the site to the east is a single storey cottage at 26 Merton Street. Adjoining the site to the west is a two storey dwelling at 30 Merton Street.

The property is located within a Heritage Conservation Area. The subject site is not listed as a heritage item nor is it in close proximity to an item. The property is not a flood control lot.

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
PDA/2020/0041	Demolition of existing dwelling, construction of a new two storey dwelling, and new garage and studio over above open courtyard to rear and associated works	Advice Issued 25 March 2020

Surrounding properties

26 Merton Street, Rozelle

Application	Proposal	Decision & Date
D/2004/451	Alterations and additions to the rear of an existing dwelling and enlargement of existing garage.	Approved 22/12/2004

30 Merton Street, Rozelle

Application	Proposal	Decision & Date
D/2008/481	Alterations and additions to existing dwelling including new garage at rear, ground floor addition, new window, shade sail and enlarging vehicle gateway.	Approved 24/03/2009
D/2014/218	Alterations and additions to the existing dwelling and garage, including a ground floor extension and new awnings.	Approved 20/06/2014
D/2017/489	Installation and use of eight (8) CCTV Security cameras on the site.	Approved 04/12/2017

4(b) Application history

Not applicable

5. Assessment

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

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Leichhardt Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. *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.

Council’s records indicate that the site has not been used in the past for activities which could have potentially contaminated the land. 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 satisfying the requirements of SEPP BASIX 2004.

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

The subject site is not within the Foreshores and Waterways Area.

5(a)(iv) 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 4.3A(3)(b) - Site Coverage 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 5.10 - Heritage Conservation
- Clause 6.1 - Acid Sulfate Soils
- Clause 6.2 - Earthworks
- Clause 6.4 - Stormwater management

Clause 2.3 - Land Use Table and Zone Objectives

The site is zoned R1 – General Residential and dwelling houses are permissible within this zone. The Objectives of the zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To improve opportunities to work from home.*

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

The development is consistent with the objectives of the LR1 zone.

Clause 4.3A and 4.4 – Development Standards

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

Standard	Proposal	non compliance	Complies
4.3A(3)(a) - Landscape Area Minimum permissible: 20% or 55.64sqm	25.70% or 71.5sqm	-	Yes
4.3A(3)(b) - Site Coverage Maximum permissible: 60% or 183.1sqm	65.82% or 183.1sqm	9.69% or 16.18sqm	No
4.4 - Floor Space Ratio Maximum permissible: 0.8:1 or 222.56sqm	0.93:1 or 259.16.sqm	16.45% or 36.6sqm	No

Notes:

- The FSR calculations above include the covered terrace and covered entry/breezeway as they are enclosed on 3 sides (with outer walls greater than 1.4m high), partially enclosed on the fourth elevation and contribute to building bulk. Given that the FSR definitions in the LEP don't specifically make exceptions for the above characteristics Councils has included these areas.
- As discussed in this report, the proposal is to be conditioned to delete the studio over the garage, which will reduce the FSR to approximately 0.86:1 or a 7.86% variation to the FSR development standard prescribed in Clause 4.4 of the LLEP2013.

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 for residential accommodation in Zone R1
- Clause 4.4 – Floor Space Ratio

Site Coverage

The applicant seeks a variation to the site coverage development standard under Clause 4.3A(3)(b) of the Leichhardt LEP by 9.69% or 16.18sqm.

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 plan justifying the proposed contravention of the development standard which is summarised as follows:

- *The proposal is for a maximum site coverage 65.8% (183.10m²) being a minor 9.69% (16.18m²) variation from the numerical development standard, pursuant to the LLEP2013 numerical development standard.*
- *The proposed development will have a density that is compatible with the scale of the surrounding local area, and will not have an adverse amenity impact to surrounding properties and the streetscape, in relation to significant additional overshadowing, visual impact from the bulk and scale, visual or acoustic privacy impacts, impacts to views, or traffic and parking impacts. Furthermore, the site coverage non-compliance will not have an adverse impact to internal amenity with regards to landscaping and deep soil zone, with the proposal providing for high-quality residential accommodation.*
- *Compliance with the Building Location Zone (BLZ), with the proposed development being compliant with established front and rear building alignment, plus existing side setbacks, ensures the proposed development provides a good level of building separation, access, landscaping, privacy, plus natural lighting and ventilation for both the proposed development and adjoining properties.*
- *Provision of a high level of internal amenity, being a significant improvement on existing, as demonstrated by compliance with key amenity criteria within the Leichhardt Development Control Plan 2013 (LDGP2013) for both the General Principles for Development, Residential Provisions, and Urban Character Distinctive Neighbourhood Provisions, including storey height, private open space, setbacks and BLZ, overshadowing, plus solar access and cross ventilation.*
- *A variety of new landscape and replacement plantings are proposed to enhance the appearance of the site, including front setback, recesses between two built forms, side boundaries, and rear backyard POS, plus roof garden planter boxes to the proposed garage. New and more suitable plantings will comprise a mixture a mixture of trees, shrubs, grasses and groundcovers, including one feature tree (Japanese Maple) within the rear backyard capable of reaching a mature height of 6m.*
- *Given outperformance of the landscaped deep soil area, and compliance with FSR, BLZ, and one and two-storey character of the surrounding local area, the proposal is not considered to be visually dominant and is consistent with the bulk and one and two-storey scale of development that is promoted by the zoning. The proposal represents a contemporary and desirable built form that will have a positive impact on the subject site and surrounding streetscape and will not have a significant environmental or adverse amenity impacts on to the adjoining neighbours and streetscape.*

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

The relevant objectives of the R1 General Residential Zone are as follows:

- *To provide for the housing needs of the community.*

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

Subject to the deletion of the studio over the garage, it is considered the development is in the public interest because it is consistent with the objectives of the R1 – General Residential zone, in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP for the following reasons:

- The proposal will provide additional housing for the community and contribute to the variety of housing types and densities of the area.
- The proposal is permissible development and compatible with surrounding land uses;
- The proposal will improve opportunities to work from home.
- The proposed development as condition will be compatible with the desired future character of the area in relation to building bulk, form and scale, and will have acceptable streetscape impacts to Merton Street.
- The proposal maintains a suitable balance between the existing landscaped areas and the built form and provides more than sufficient landscaped area and private open space on the site.
- The proposed dwellings are located adjacent to adjoining developments where it can be reasonably assumed that development can occur; and
- The proposal does not result in any adverse unacceptable amenity impacts to the surrounding properties.

The objectives of the Site Coverage development standard are as follows:

- *to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,*
- *to maintain and encourage a landscaped corridor between adjoining properties,*
- *to ensure that development promotes the desired future character of the neighbourhood,*
- *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,*
- *to control site density,*
- *to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.*

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 proposal provides more than sufficient landscaped areas that are suitable for tree planting and for the use and enjoyment of residents.
- As conditioned, the proposal will be consistent with the desired future character of the Valley “Rozelle” Distinctive Neighbourhood.
- The site coverage proposed will not prevent appropriate retention and absorption of surface drainage water on site.

- The proposal provides a suitable balance between landscaped areas, POS and built form.

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 applicable local environmental plan. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Clause 4.3A(3)(b) – Site Coverage and it is recommended the Clause 4.6 exception be granted.

Floor Space Ratio

The applicant seeks a variation to the floor space ratio development standard under Clause 4.4 of the Leichhardt LEP by 16.4% or 36.6sqm.

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:

- *When viewed from Merton Street, the dwelling will present as single storey with a substantially recessed 2nd storey.*
- *The streetscape diagram also shows that the house will be recessive when compared to the 2-storey dwelling immediately to the west of the site at No. 30 Merton Street. The proposed dwelling presents as being a modest dwelling which is compatible with other dwellings along both sides of Merton Street. There are no streetscape indicators which would suggest to the casual observer that the FSR would appear excessive nor incompatible with the surrounding locality.*
- *The building is set below the height of the ridge of the house to the north (30 Merton Street) and is slightly higher than the ridge of the house to the south (26 Merton Street) responding to the slope of the street. The two-storey presentation to the front and front verandah provide an easy fit into the streetscape where the height of buildings is largely single or two storeys. The new dwelling is an appropriate infill development that will fit well into the historic streetscape and is sympathetic to the current, built pattern of the area. The proposal is very well mannered in terms of the bulk and scale of its neighbours and the general scale of the one and two storey period and modern dwellings along Merton Street. On this basis, the additional FSR is not responsible for any heritage impacts.*
- *The excess FSR associated with the garage has no impact on views from any public or private vantage point. The compliant dwelling also reasonably maintains views towards the CBD from the western neighbouring dwelling at No. 30 Merton Street by limiting the front portion of the dwelling to being single storey in form.*
- *The proposed FSR variation is not responsible for any visual bulk impacts to neighbouring properties either side, nor across to the road to the north or across the rear lane to the south. The sensitive scale of the 1-2 storey built form does not generate any adverse or unreasonable visual bulk impacts whilst the siting of the development and its associated compatible front, side and rear setbacks also ensure that the FSR variation generates no adverse or unreasonable impacts from any primary living, balcony or private open space areas. It is reiterated that the portions of the FSR that Council consider to be included in the GFA calculation (which triggers the FSR variation and the need for this Clause 4.6) includes an undercroft area below the garage and the double garage. Neither of these aspects of the proposed built form generate any adverse or incompatible visual impacts.*

- *The additional FSR does not generate any adverse or unreasonable privacy impacts noting that all primary openings of the proposed dwelling and studio are to the street or rear yard. As outlined above, the FSR variation is due to the inclusion of the below lane level garage and the double garage, neither of which generate any privacy impacts.*

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

Subject to deletion of the studio above the garage, it is considered the development is in the public interest because it is consistent with the objectives of the R1 – General Residential zone, in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP as detailed above.

It is considered the development as conditioned is in the public interest because it is consistent with the objectives of the FSR development standard, in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP which are as follows:

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

As discussed in the sections below, the intent of the recommended condition is not to seek a reduced FSR for its own sake, but to improve the contextual fit of the building within the neighbourhood and reduce amenity impacts upon neighbouring properties. Council's assessment of the Clause 4.6 request is not contingent on the deletion of the studio, but maintains that the overall development is only consistent with the zone objectives and FSR objectives subject to the deletion of the studio.

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 Clause 4.4 – Floor Space Ratio and it is recommended the Clause 4.6 exception be granted.

Clause 5.10 – Heritage Conservation

The subject property at 28 Merton Street, Rozelle, is a contributory dwelling located within The Valley Heritage Conservation Area (C7 in Schedule 5 of the Leichhardt LEP 2013).

The Statement of Significance for The Valley Heritage Conservation Area is in the Leichhardt DCP 2013, which is available via the link below:

<https://www.innerwest.nsw.gov.au/develop/planning-controls/heritage-and-conservation/heritage-conservation-areas>

An assessment of the proposal against the heritage provisions of the Leichhardt LEP2013 has been carried out in Section 5(c) of this report. In summary, the proposal is generally acceptable from a heritage perspective although it will impact on the heritage significance of The Valley Heritage Conservation Area.

Appropriate conditions are provided for design changes to ensure the development is in accordance with Clause 5.10 Objectives 1(a) and (b) in the Leichhardt LEP 2013 and the relevant objectives and controls in the Leichhardt DCP 2013.

5(b) Draft Environmental Planning Instruments

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 particularly 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.

LDPC2013	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 – see discussion
C1.3 Alterations and additions	N/A
C1.4 Heritage Conservation Areas and Heritage Items	Yes – see discussion
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	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	Yes
C1.14 Tree Management	Yes – see discussion
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	No – see discussion

C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	No – see discussion
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
C.2.2.5.1 - The Valley “Rozelle” Distinctive Neighbourhood	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes – see discussion
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	No – see discussion
C3.10 Views	No – see discussion
C3.11 Visual Privacy	Yes – see discussion
C3.12 Acoustic Privacy	Yes – see discussion
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
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	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	Yes
E1.2.1 Water Conservation	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:

C1.2 Demolition, C1.4 Heritage Conservation Areas and Heritage Items, C1.19: Rock faces, rocky outcrops, cliff faces, steep slopes and rock walls and C.2.2.5.1: The Valley “Rozelle” Distinctive Neighbourhood.

As previously noted, the subject property is a contributory dwelling located within The Valley Heritage Conservation Area (C7 in Schedule 5 of the Leichhardt LEP 2013).

The application was referred to Council’s Heritage Officer who provided the following comments:

Demolition

The drawings prepared by Dalgliesh Ward Architects, dated 26 June 2020, the Heritage Impact Statement prepared by John Oultram, dated July 2020, the Structural Report prepared by Capital Engineering Consultants, dated 6 February 2020, and the Statement of Environmental Effects prepared by ABC Planning, dated August 2020, were reviewed as part of this assessment.

The proposal includes demolition of the existing dwelling and construction of a new dwelling, double garage with studio above and terrace area under to the rear, a swimming pool and removal of a tree.

Pre-DA advice was sought for the proposed demolition of existing dwelling, construction of a new two storey dwelling, and new garage and studio over above open courtyard to rear and associated works at 28 Merton Street, Rozelle, (PDA/2020/0041). The application was referred to Council’s heritage specialist who did not support the proposed demolition of the existing dwelling and stated it should be retained. The demolition of a c.1877 weatherboard dwelling, which is part of a group of four weatherboard cottages of a similar age, was not supported on heritage grounds as its demolition will impact on the significance of The Valley (Rozelle and Balmain) Heritage Conservation Area.

Based on the condition of the dwelling and, as stated in the HIS, the repair of the dwelling would require substantial replacement of original material which is extensive. The SEE includes an assessment made against the Planning Principle from Helou v Strathfield Municipal Council which is discussed below.

1. *What is the heritage significance of the conservation area?*

Comment: Provided in the HIS.

2. *What contribution does the individual building make to the significance of the conservation area?*

Comment: The significant characteristics of The Valley HCA include free standing timber single storey cottages, which this is one. The HIS summarises the significance of the existing dwelling by stating that the property would not meet any of the Heritage Manual criteria for identification as an item of local significance but could be considered a Contributory Item in the HCA, which is agreed.

3. *Is the building structurally unsafe?*

Comment: The Structural Report states the dwelling was in extremely poor and structurally inadequate condition. This was evident during a site inspection of the property on 13 August 2020. The Report states there has been aggressive termite activity within the floor structure, walls and roof frame, whereby the structural integrity of these elements have been heavily compromised and deems the dwelling to be structurally inadequate and unsafe.

Sections of the floor throughout the building were found to have depressions and were found to be inadequately supported by settled and displaced foundations. The Report states these are highly likely to be caused by a combination of deteriorated / rotten timber bearers and joists and unstable/inadequate foundations. Tree roots have uplifted sections of the floor and pathways affecting the structural integrity of the floor.

The Report states that sections of the external and internal walls were found to be out of plumb and have warped. Separation of the internal walls was noted and structural cracking, likely caused by inadequate foundations and deterioration of timber walls and floor members.

Sections of the roof were found to have sagged causing displacement of roof sheeting, roof capping, fascia beams and eaves gutters, likely caused by the extent of termite damage within the structural timber roof members.

Cracking found along the internal brickwork of the dwelling in the kitchen area and is structurally inadequate to support the roof, causing sagging and collapsed roof elements, likely caused by inadequate foundations and soil bearing capacity.

4. *If the building is or can be rendered structurally safe, is there any scope for extending or altering it to achieve the development aspirations of the applicant in a way that would have a lesser effect on the integrity of the conservation area than demolition?*

If the answer is yes, the cost of the necessary remediation/rectification works should be considered.

Comment: As stated in the SEE, both the HIS and Structural Report indicate that the dwelling is dilapidated and is structurally inadequate.

5. *Are these costs so high that they impose an unacceptable burden on the owner of the building? Is the cost of altering or extending or incorporating the contributory building into a development of the site (that is within the reasonable expectations for the use of the site under the applicable statutes and controls) so unreasonable that demolition should be permitted?*

Comment: The SEE states that it is considered that the costs of rectification of the building are extremely onerous and demolition would not be unreasonable in this instance.

6. *Is the replacement of such quality that it will fit into the conservation area?*

Comment: The proposal includes the rebuilding of the existing single storey dwelling with its hipped corrugated metal roof and timber weatherboards. It includes a verandah to the front with a skillion metal roof supported on timber posts with a metal palisade balustrade. There are glazed French doors each side of a glazed, central door in the front facade. The front portion of the dwelling will be set on a sandstone base using salvaged stone from the base walls and verandah of the existing dwelling.

The replacement dwelling will generally be consistent with the development controls in the LEP and DCP and will be compatible with the HCA and streetscape in terms of scale, materials, details, design, style and impact on streetscape (C1 of Part C1.2 of the DCP).

Based on the above assessment, the applicant has demonstrated that the existing contributory dwelling is structurally unsafe and cannot be reasonably repaired. Therefore, its demolition is acceptable in this instance.

In addition to the above heritage comments, the proposal was referred to Council's Building officer who provided the following comments:

The structural report, pest report and heritage referral all support the demolition of the existing dwelling due to the poor structural condition of the dwelling and the termite damage throughout the building as evidenced by the subject reports. No objection is raised to the demolition of the existing timber dwelling - pest treatment should be undertaken to eliminate any active termites and prevent spread of the termites to adjoining or the new dwelling. New dwelling to comply with the requirements of the NCC and any approval subject to conditions including a hazardous material report.

Infill development

Infill development must not overwhelm its context and should be consistent with the predominant scale of development in the vicinity, including height, relationship of floor to ceiling heights, dominant ridge line and massing (building volume and size), roof form, modelling of neighbouring properties and fenestration patterns.

C8 of Part C1.4 of the DCP requires that new development demonstrate respect for the form, scale and sitting of the immediate area. C9 of Part C1.4 of the DCP requires that new development comply with Part C Section 1.0; which requires that new development make a positive contribution to the character, scale, form, sitting, materials, colour and detailing within the streetscape.

Merton Street is a mix of single and 2 storey detached dwellings. The subject cottage is one of a group of four nineteenth century timber cottages and attached 2 storey terraces. Timber cottages continued to be built in the Balmain municipality after their construction had been banned in other municipalities.

Overall, the reconstruction of the existing dwelling to the front of the proposal is supported as it will ensure that a complementary single storey building form is retained to the front of the site. This is important to complement the streetscape character established by the row of 4 dwellings which contribute to the streetscape.

The overall form, height and setbacks of the new front portion will carry over the contributory elements of the existing dwelling. The setting back of the 2 storey portion is supported as it moves the bulk of the new dwelling away from the front of the site.

The form of the dwelling to the front does not include a chimney. The applicant is encouraged to include a chimney similar to, or a plainer version of, the existing chimney. This will ensure the replacement dwelling better complements the detail of the row of 4 dwellings the subject dwelling is part.

The proposal includes significant excavation of sandstone bedrock to the rear of the site to accommodate a covered terrace below the proposed garage. This is inconsistent with C1 of Part C1.19 a. and b. of the DCP which requires that development minimise on-site disturbance and locate buildings where the rock features are not located. It is recommended the terrace level be deleted from underneath the garage and that the proposal respond to the site topography.

Doors and windows in the north (front) and east elevations of the front portion of the dwelling must be vertically proportioned, employing traditional design (timber sash or French doors) and materials (timber frame). The applicant is encouraged to reinstate the 2 double hung sash timber windows in the front façade, to bedrooms 1 and 2, back in the front façade. The glazed, central door proposed in the front façade is to be replaced with a solid 4 panel door.

The existing sandstone retaining wall to the front boundary is to be retained and incorporated as part of the proposal to comply with C7 c. of Part C1.3 of the DCP. The proposed timber batten front fence and balustrading to the front verandah is to be replaced with a traditional timber picket fence no more than 1.2m high above the sandstone retaining wall and a timber balustrade to the verandah (C4 of Part C3.6 of the DCP).

The timber privacy battens to the north elevation of the rear 2 storey portion of the dwelling are not supported as they are not characteristic of materials and details that contribute to the HCA and are to be removed from the proposal.

The zincalume sheeting proposed in the gable ends of the proposed studio above the garage is to be replaced with horizontal timber weatherboard cladding or FC sheeting. The proposed roof garden planters with succulents are not supported as they are not characteristic of detailing the HCA and must be removed from the proposal.

The proposed Dulux Wayward Grey to the walls of the rear portion of the dwelling is to be replaced with Dulux Malay Grey to ensure the colour scheme is sympathetic to the HCA. A revised External Finishes Schedule will need to be submitted for consideration.

Recommendation

The proposal is generally acceptable from a heritage perspective as it will have an acceptable impact on the heritage significance of The Valley Heritage Conservation Area providing the design changes below are implemented to ensure the development is in accordance with Clause 5.10 Objectives 1(a) and (b) in the Leichhardt LEP 2013 and the relevant objectives and controls in the Leichhardt DCP 2013.

Note: The recommended design changes provided by the Heritage Officer are listed below with additional planning comments provided.

1. Demolition of the existing dwelling is acceptable in this instance.

2. It is recommended that the design of the replacement dwelling be amended to incorporate the following design changes:
 - a. delete the significant excavation of sandstone bedrock to the rear of the site by deleting the terrace level proposed underneath the garage;

Planners Comment: Pre-Development Application advice was sought under PDA/2020/0041 proposing the demolition of existing dwelling, construction of a new two storey dwelling, and new garage and studio over, above an open courtyard to the rear and associated works. The design proposed during PreDA included the same level of excavation proposed in the current Development Application to accommodate a courtyard/terrace at the rear of the site. The PreDA was referred to Council's Heritage Officer who did not comment on or object to the proposed excavation. The PreDA advice issued to the applicant did not object to the proposed excavation and recommended that the first floor studio above the garage be located under the garage in the location of the courtyard. Given that Council did not object to the proposed excavation works within the PreDA advice, the above recommendation will not be imposed on any consent.

- b. doors and windows in the north (front) and east elevations of the front portion of the dwelling must be vertically proportioned, employing traditional design (timber sash or French doors) and materials (timber frame);
 - c. large expanses of glass are not to be used in areas visible from the public domain, e.g. the windows to the bedrooms in the north elevation of the rear 2 storey portion of the dwelling. Dominancy must be given to masonry/solid elements rather than glazed areas;
 - d. the glazed, central door proposed in the front façade is to be replaced with a solid 4 panel door;
 - e. the existing sandstone retaining wall to the front boundary is to be retained and incorporated as part of the proposal; and
 - f. the proposed timber batten front fence and balustrading to the front verandah is to be replaced with a traditional timber picket fence no more than 1.2m high above the sandstone retaining wall and a timber balustrade to the verandah.
3. The following is to be deleted from the proposal:
 - a. the timber privacy battens to the north elevation of the rear 2 storey portion of the dwelling; and
 - b. the proposed roof garden planters with succulents above the garage.
5. A revised External Finishes Schedule will need to be submitted to the certifying authority in accordance with the following;
 - a. greys and blacks are not acceptable and must be avoided. The proposed Dulux Wayward Grey to the walls of the rear portion of the dwelling is to be replaced with Dulux Malay Grey.

- a. The zincalume sheeting proposed in the gable ends of the proposed studio above the garage is to be replaced with horizontal timber weatherboard cladding or FC sheeting.

Planners Comment: For reasons discussed later in this report, the proposed studio above the garage is not supported and a condition requiring its deletion is recommended to the panel. The condition proposes to delete the studio and replace with a simple skillion roof.

C1.11 Parking

Clause C1.11.1 provides general vehicle parking rates based on land use. The proposal is for a single dwelling land use and as such the following parking rates apply to the proposal:

Land Use	Resident Min	Resident Max	Visitor Min	Visitor Max
Single Dwelling House	Nil	2 spaces per dwelling house	Nil	Nil

A garage is proposed to the rear of the site access via the rear lane which is able to accommodate 2 spaces. Its internal measurements are 6.5m (width) x 6.0m (length). Clause C1.11.4 – *Minimum Car Parking Dimensions* of the LDCP 2013 states that the minimum dimensions for a single car space must be an unobstructed 6.0m length by 5.4m width.

As such, the proposed garage will comply with the relevant objectives and controls within Clause C1.11 of LDCP 2013. Standard engineering conditions will be imposed to ensure the garage complies with the Australian Standard AS 2890.1 Parking Facilities.

C1.12 Landscaping & C1.14 Tree Management

The application was referred to Council’s Landscape Officer who provided the following comments:

There are no objections to the proposal in general as trees on site do not meet with Council’s definition of a *Prescribed Tree* and therefore, are not protected under *Council’s Tree Management Controls*.

Given the existing stone wall along the western boundary, it is anticipated that a *Robinia pseudoacacia* 'Frisia' (Golden Robinia) located on adjoining property will be sufficiently protected from proposed works. However, due to the number of suckering specimens of the same species identified in the subject site, a *Project Arborist* has been conditioned to oversee all works within the TPZ of the subject tree in the event that tree roots have permeated beneath the wall.

The application is supported subject to the conditions provided.

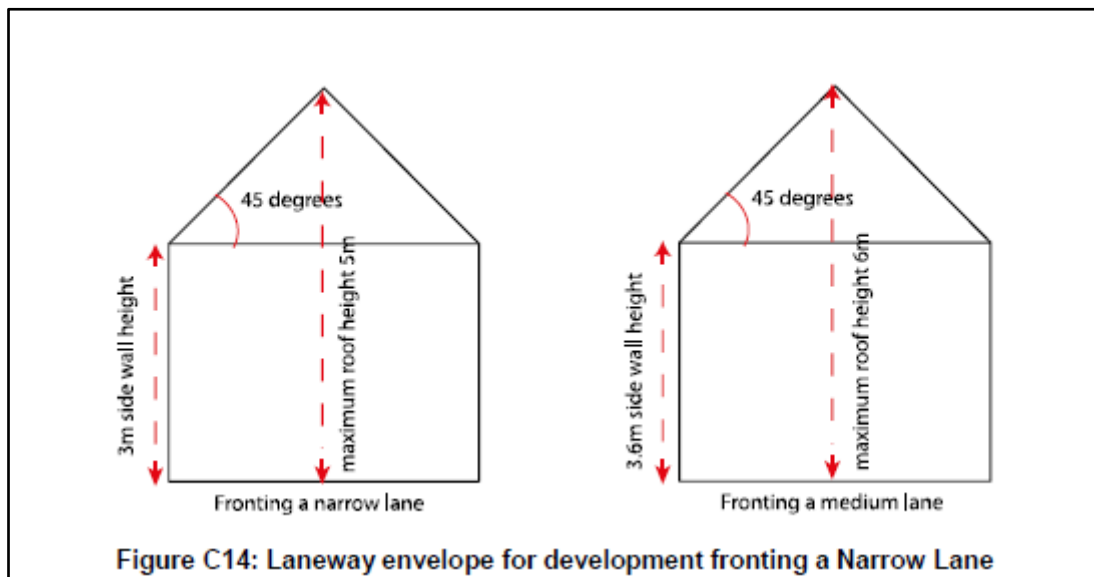
C1.18 Laneways

The unnamed Lane to the rear has a width of approximately 5.4m which classifies it as a Medium Lane under the LDCP 2013.

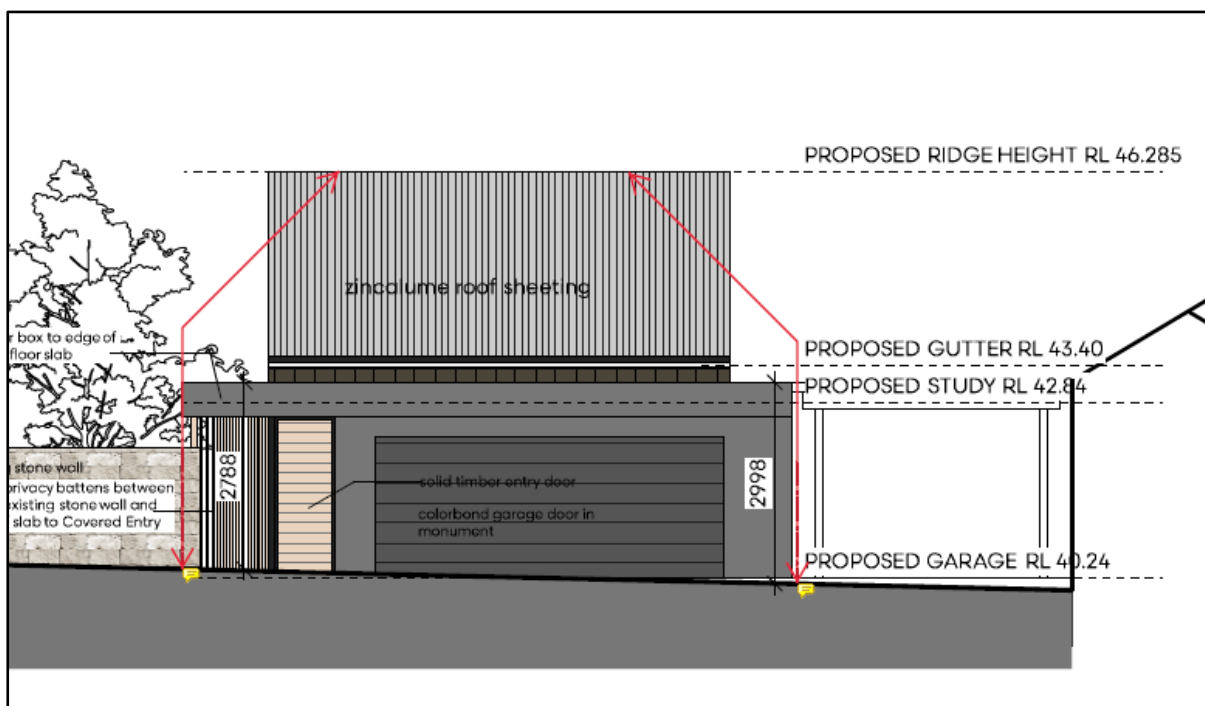
Control C6 states: Where fronting a Medium Lane, (refer to Table C11 Laneway hierarchy) development shall C6 comply with a laneway envelope that has:

- a. a maximum side wall height of 3.6m;
- b. a 45 degree building envelope taken from the top of the side wall; and

- c. a maximum roof height of 6m.



The image below shows the proposed garage/studio structure with the above controls overlaid.



The proposed garage/studio structure does not comply with the above controls as the studio portion of the structure will penetrate the applicable envelope.

Pre-Development Application advice provided under PDA/2020/0041 stated the following:

“The proposed rear structure must present as single story to the rear and as such, the studio above the garage will not be supported. It is recommended that the studio be re-located beneath the garage. The roof form of the garage should be sympathetic and match the predominant character of the laneway.”

The predominant character and building form presenting to the lane is single storey. Given the above and reasons discussed above and below in this report, the development as proposed is inconsistent with the following objectives and controls of the part:

- *O1 Development:*
 - (a) *respects the existing and desired future use, form and character of the laneway consistent with the laneway hierarchy as shown in Table C11 Laneway hierarchy;*
 - (b) *Achieves an appropriate level of amenity, access, security and landscaping;*
- *C4 Building adjacent to the laneway have a simple form and minimal façade detailing*
- *C9 The bulk and scale of development does not significantly diminish the dominance of the primary building on the same lot.*
- *C12 External wall are constructed in high quality materials and finishes which are compatible with fabric of the surrounding neighbourhood.*
- *C13 Roof forms are either hipped roofs, gabled roofs pitched from the side or skillion roofs located behind parapets where such development meets the laneway control envelope;*
- *C17 Sufficient on-site parking and manoeuvring space is provided without compromising the prevailing character, building form and setback of the laneway.*

Notwithstanding the above, it is considered that a design which presents a single storey to the street will be consistent with the above, and as such, it is recommended that a condition requiring the deletion of the first floor studio above the garage be imposed on the consent.

C3.2 Site Layout and Building Design

Building Location Zone

Image 1 below illustrates the established ground floor BLZ (yellow), established first floor (orange) of the adjoining properties. The approximate proposed ground and first floor BLZ (red) of the subject site is also shown.



Control C3 states the following:

Building Location Zone (BLZ) is the part of the subject site where it can be reasonably expected that a building can be located. The BLZ is determined by having regard to only the main building on the adjacent properties. The location of front fences or intervening walls, ancillary sheds, garages, external laundries, toilets or other structures on the site is not relevant in determining the BLZ. In order to respect the pattern of development and amenity of neighbouring properties, the BLZ is determined on a floor by floor basis (refer to Figure C128: Building Location Zone).

As shown above, the proposed rear ground floor BLZ comply given that the BLZ is less than the average BLZ of the adjoining properties and therefore within the acceptable BLZ limits specified in the LDCP 2013.

Given that the neighbouring property to the east (No. 26 Merton Street) is single storey, the proposed development will therefore establish a new first floor BLZ.

Pursuant to Clause C3.2 of the LDCP2013, where a proposal seeks to encroach outside or establish a new Building Location Zone, various tests need to be met. The proposal is considered to meet these tests as detailed below:

- b. 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;*

Comment: The proposed development as conditioned will have acceptable privacy, overshadowing and view loss implications.

- c. *the proposed development will be compatible with the existing streetscape, desired future character and scale of surrounding development;*

Comment: Subject to the deletion of the studio above the garage, the development is capable of being compatible with the existing streetscape, desired future character and scale of surrounding development and as such can satisfy this test.

- d. *the proposal is compatible in terms of size, dimensions, privacy and solar access of private open space, outdoor recreation and landscaping;*

Comment: The proposal complies with the landscaped area development standards. Whilst the proposal does not comply with the FSR and site coverage development standards, the covered terrace which does not technically qualify as landscaped area also contributes to the POS area at the rear. As such, it is considered that the proposal provides sufficient space for private open space and outdoor recreation. The proposal is considered to have a reasonable impact having regard to solar access. Incidentally, the included condition requiring the deletion of the studio will also bring the proposal into compliance with the FSR standard. As conditioned, the proposal is considered to be compatible and Leichhardt DCP2013.

- e. *retention of existing significant vegetation and opportunities for new significant vegetation is maximised; and*

Comment: No significant vegetation will be affected by the proposal.

- f. *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.*

Comment: The proposed ground and first floor have 2.7m floor-to-ceiling heights and is considered within this report to be appropriate for the development. A condition will be included on the consent requiring the WIR, ensuite and stair to be 2.1m so as to allow for reasonable level of view sharing. The proposal is sited towards the centre / rear of the dwelling, the bulk and scale of the development, particularly when viewed from the private open space of adjoining properties, is appropriate and acceptable. Given the above, the proposal as conditioned satisfies this test.

Side Setbacks

A technical non-compliance with the side setback control is noted, as outlined in the table below:

Dwelling-house				
Elevation	Proposed Wall Height (m)	Required setback (m)	Proposed setback (m)	Complies
Eastern Elevation	5.4 – 6.3	1.5 – 2	1 – 3.4	Partial Compliance
Western Elevation	6.0 – 6.6	1.8 – 2.1	0.3 – 2.2	Partial Compliance

Rear Garage / Studio				
Elevation	Proposed Wall Height (m)	Required setback (m)	Proposed setback (m)	Complies
Eastern Elevation	2.9 – 7.4	Nil – 2.6	Nil	Partial Compliance
Western Elevation	2.9 – 6.0	Nil – 1.8	Nil	Partial Compliance

Pursuant to control C8 of Clause C3.2 of the LDCP2013, where a proposal seeks a variation of the side setback control, various tests need to be met. These are discussed below:

- The development is an appropriate response to the streetscape (Merton Street) and will comply with the objectives and controls set out in the Valley “Rozelle” Distinctive Neighbourhood character controls. The proposed dwelling is considered to be in keeping with the surrounding context and the existing pattern of development in the area. The proposed rear garage/studio structure is considered to be out of character for the lane as it presents as 2-storey to the rear. A condition is recommended requiring the deletion of the first floor studio above the garage. As a result, the proposal will have acceptable impacts on the streetscape and the public domain;
- As conditioned, the bulk and scale of the development will be acceptable and the development is respectful of the pattern of development adjoining and in the street in terms of building alignments, setbacks (being located adjacent to adjoining built forms) and similar in overall height and scale.
- As conditioned, the proposal will have no undue adverse solar access impacts to the adjoining properties rear yards and will result in acceptable privacy and view loss implications.
- The proposal raises no issues about the on-going maintenance of adjoining sites.

In light of the above, the proposal as conditioned is considered to be satisfactory with respect to the intent and objectives of the side setback controls prescribed in this Clause and as such is recommended for approval.

C3.9 Solar Access

The subject site and the surrounding lots have an approximate 45 degree (north-east/south-west) orientation with POS areas located to the south.

The following solar access controls under Clause C3.9 apply to the proposal in relation to impacts to glazing on the surrounding sites.

- *C14 Where the surrounding allotments side boundary is 45 degrees from true north and therefore the allotment is not orientated north/south or east/west, glazing serving main living room shall retain a minimum of two hours of solar access between 9am and 3pm at 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.*

In addition, C3.9 also requires protection of solar access to private open spaces of adjoining properties. The subject site has north-south orientation, and therefore, the following solar access controls apply to the proposal in relation to solar access to private open spaces of affected properties:

- *C16 – Where surrounding dwellings have south facing private open space ensure solar access is retained for two hours between 9.00am and 3.00pm to 50% of the total area 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 during the winter solstice, no further reduction of solar access is permitted.*

The shadow diagrams provided are generally accurate in their depiction of the proposed impacts during the winter solstice period.

It is noted that no windows serving the living room of No. 30 Merton Street will be impacted by the proposal.

No. 26 Merton Street consists of a single storey cottage with a clerestory window that brings solar access from the north to the living/kitchen/dining room below. Given that the primary dwelling is a reconstruction of the existing dwelling to the front, overshadowing to the clerestory window will be consistent with the existing shadowing impact. No new shadows will impact the clerestory window and this window will receive solar access in excess of the minimum two hour requirement.

Given the above, the provided shadow diagrams illustrate that solar access will be obtained in excess of two hours to main living room glazing of adjoining dwellings.

The shadow diagrams also illustrate that No. 26 Merton Street currently receives less than the requisite amount of solar access to their private open space and that a further reduction of solar access to this area will occur due to the proposed development.

Assessing the impact of development on the solar access of neighbours:

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;*

Comment: Subject to the deletion of the studio above the garage, the proposed development will comply with the FSR and landscaped area development standards development standards. This amended form will be of an acceptable bulk and scale and will not be out of character having regard to adjoining properties.

- b. *site orientation;*

Comment: The subject and adjoining sites are oriented approximately 45 degrees from true north with south-west private open space. Given the orientation and small lot sizes, retaining solar access is particularly difficult with dwellings located to the south/southeast being particularly prone to overshadowing in the evening hours.

- c. *the relative levels at which the dwellings are constructed;*

Comment: Proposed and conditioned floor-to-ceiling heights are considered appropriate and roof heights are compatible with similar developments in close proximity to the site and Councils recommended Building Typologies.

- d. *the degree of skill employed in the design to minimise impact; and*

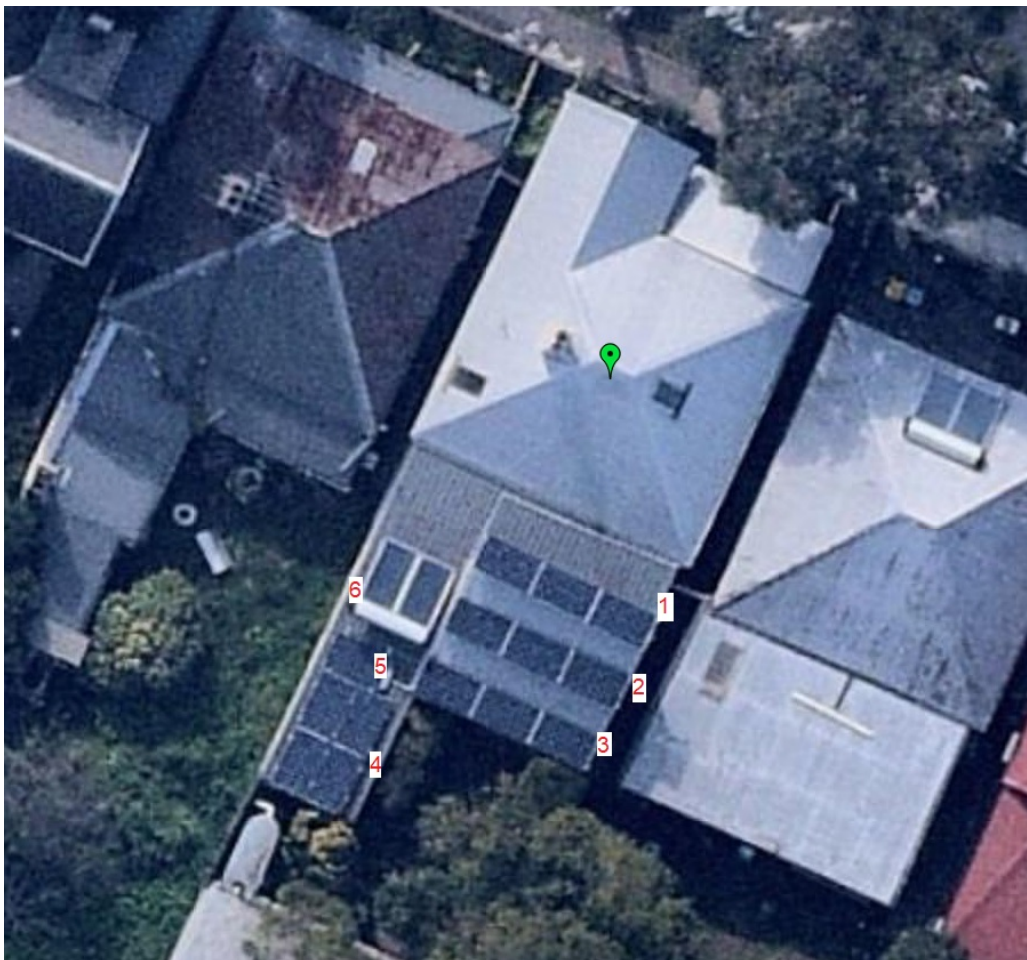
Comment: The development is sited adjacent to adjoining built structures / roof areas where a development can be reasonably expected to be carried out. Pre-DA advice was issued encouraging the reconstruction of the existing cottage in lieu of a completely 2-storey development to the front and this advice has been followed. Consistent with Council's Heritage advice, the two-storey portion of the development has been proposed behind the reconstructed single story cottage. Maximum heights are considered to be reasonable with the exception of the first floor studio above the garage which will be deleted through appropriate conditions.

- e. *whether reasonably available alternative design solutions would produce a superior result.*

Comment: It is considered in this report that an alternative design that is supportable and reasonable would not result in a superior result with regard to overshadowing of the POS of No. 26 Merton Street. An appropriate condition will be imposed requiring the first floor studio above the garage be deleted however it is noted that this change will not alter the overshadowing impact to the POS area.

Existing Solar Collectors (No. 26 Merton Street)

C8 – *Proposals for new development are to maintain solar access to existing solar collectors having regard to performance, efficiency, economic viability and reasonableness of their location. A development proposal may be required to be modified to protect solar access to existing solar collectors, where the development doesn't comply with the suite of controls in this Development Control Plan.*



Location of Solar Panels at No. 26 Merton Street, Rozelle

The solar panels in question are located on a single storey development south-east of the proposed two storey development and as such it is particularly difficult to completely protect them from overshadowing impacts.

The shadow diagrams illustrate the following impact to the panels:

- 9am – 11am – No overshadowing
- 12pm - Existing shadow to the hot water heater (6). Partial new shadow to the south-western most panels (4) & (5).

- 1pm - Existing shadow to the hot water heater (6). Proposed new shadow to the south-western most panels (4) & (5).
- 2pm - Existing shadow to the hot water heater (6) and partial shadowing to the western most panel on rows (1) and (2). Proposed new shadow to the western most panel on row (3).
- 3pm – Existing complete shadowing to rows (1), (2), (4), (5), (6) and new shadowing to row (3)

Given that the majority of panels will receive ample solar access between 9am – 1pm during the winter solstice, the proposal is considered to have an acceptable impact.

The proposal as conditioned is considered to reasonably satisfy the objectives, controls and various tests of LDCP 2013 having regard to solar access and as such is supported.

C3.10 Views

Two (2) objections have been received in relation to the loss of views.

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

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

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

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

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

The following images demonstrate some of the views of the city skyline currently available to surrounding properties, with the existing dwelling is outlined in red:



Image 1: Views from side first floor balcony of No. 30 Merton Street, Rozelle



Image 2: Location and sight line of view of 30 Merton Street, Rozelle



Image 3: Views from north-east corner first floor balcony of No. 30 Merton Street, Rozelle

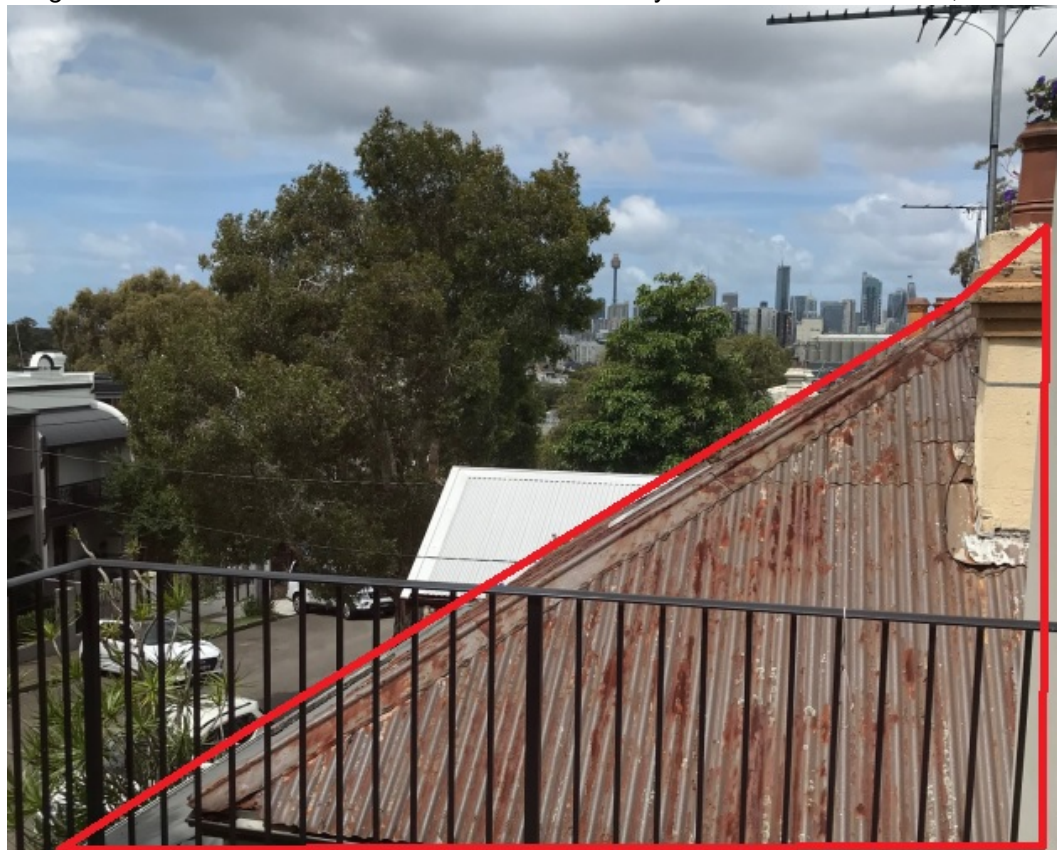


Image 4: Views from north-east corner first floor front balcony of 30 Merton Street, Rozelle



Image 5: Position/sightlines of views pictured (red). Additional view available from front-most balcony to skyline (orange) 30 Merton St.



Image 6: View from rear kitchen of 19 National Street, Rozelle



Image 7: Location and sightline of view from 19 National Street, Rozelle

View loss concerns have been raised by No. 30 Merton Street and Nos. 19 and 21 National Street, Rozelle. Whilst photos were not able to be retrieved from No. 21 National Street, it can be reasonably assumed that the views available would be similar to that of No. 19.

Having regard to the *Tenacity* principle:

a. *What views will be affected?*

No. 30 Merton Street, Rozelle

No. 30 Merton Street Annandale currently enjoys views to the Harbour Bridge and City Skyline. The views are obtained from various first floor balconies being: A front balcony, front-corner balcony and side balcony. Refer to Images 1-5 above which shows the location and sightlines of the views obtained. The proposed first floor behind reconstructed main roof form will result in a loss of view to the city skyline obtained only from the first floor side balcony (Images 1-2). Views obtained from the first floor front and corner balconies will be retained in full.

Nos. 19 and 21 National Street, Rozelle

No. 19 National Street, Rozelle currently enjoys partial views to the City Skyline. The views are obtained from the rear kitchen. Refer to images 6-7 above which shows the location and sightlines of the views obtained. The proposed buildings (first floor studio) would likely result in a loss of view to the city skyline obtained from the rear kitchen.

b. How are the views obtained and assessed?

No. 30 Merton Street, Rozelle

The views from 30 Merton Street rely on sightlines obtained from both sitting/standing positions across the side boundary.

Nos. 19 and 21 National Street, Rozelle

The views from 19 National Street rely on sightlines obtained from a standing position in the rear kitchen, across multiple side boundaries including No. 21 National Street and 26 Merton Street, Rozelle.

c. Where is the view enjoyed from etc?

No. 30 Merton Street, Rozelle

Given that the proposed built form fronting the street is essentially a replication of the existing single-storey cottage, with the height, and bulk including the hipped roof typology consistent with the existing built form on the site, views obtained from the first-floor front and corner balconies will be retained in full.

The first floor side balcony serves a first floor bedroom and as such is not considered to be a main living area. Whilst the view will be impacted, partial views will likely be retained to taller buildings including the Centre Point Tower, Crown Tower etc. The impact is considered to be moderate.

No. 19 Street, Rozelle

The view No. 19 Street, Rozelle is obtained from a kitchen. The view will partially be impacted by the proposed studio above the garage. The impact is considered to be moderate.

d. Is the proposal reasonable?

No. 30 Merton Street, Rozelle

The proposed development largely complies with the suite of objectives and controls applicable to the site. The proposed front setback is consistent with the existing front setback, and the building line of the adjoining properties to the east and west, while the side setbacks are consistent with the setback of the existing cottage. Furthermore, the proposed rear setback is greater than the rear BLZ of No. 30 Merton Street and is considered to satisfy the site, layout and building location reasonableness tests. The proposal does not result in any new shadowing to the POS of No. 30 Merton Street

The proposed bulk and scale of the dwelling is compatible with the size and shape of the allotment and is appropriate and acceptable given the context of the locality and will not appear out of character when viewed in the context of other buildings in the vicinity. An alternative design was lodged with Council for PreDA advice which consisted of a two-storey building form to the front and rear however this design did not satisfy streetscape, heritage and bulk and scale objectives and controls and as such could not be supported. Whilst it is acknowledged that the floor-to-ceiling heights of the proposal are not excessive, when considering the above view loss implications the floor-to-ceiling height of the first floor WIR/ensuite and stair could be reduced to 2.1m to retain as much of the City skyline view as possible from the first floor side balcony. As such, a recommended condition will be included on the consent requiring the floor-ceiling-height of the WIR/ensuite and adjacent stair to be reduced to 2.1m (resulting a reduction in height of this component of 500mm).

Subject to recommended conditions. the view loss implications are considered reasonable.

Notwithstanding the above, the proposed studio above garage is considered inconsistent and out of character for the unnamed lane and an appropriate condition will be included requiring its deletion. The deletion of the studio above the garage will not alter the proposed view loss impact to No. 30 Merton Street, Rozelle.

Nos. 19 and 21 National Street, Rozelle

As stated above, the proposed development largely complies with suite of objectives and controls applicable to the site. The first floor studio above garage is one aspect of the proposal which is not supported due to non-compliances having regard to heritage, bulk and scale and laneway controls. As stated throughout this report, an appropriate condition is recommended which requires its deletion. The deletion of the first floor studio is considered to resolve the view loss impacts to Nos. 19 and 21 National Street, Rozelle as it would present as single storey to the lane and reduce the bulk of the structure significantly.

C3.11 Visual Privacy

Clause C3.11 contains the relevant objectives and controls relating to visual privacy.

Ground Floor

All ground floor openings will be adequately screened by existing side boundary fencing/stone walls and are considered to not cause unreasonable visual privacy impacts.

First Floor Western Elevation

There are no windows proposed to the western elevation between No. 30 Merton Street and the subject site.

First Floor Eastern Elevation

The window serving the stair/link located on the first floor eastern elevation is to be replaced with a vertically proportioned windows, employing traditional design (timber sash or French doors) and materials (timber frame). As conditioned the proposed window will till look to the roof form of No. 26 Merton and will not cause any unreasonable impacts by way of visual privacy.

First Floor Northern Elevation

The windows serving the first floor master bedroom and bedroom located on the northern elevation are to be replaced with vertically proportioned windows, employing traditional design (timber sash or French doors) and materials (timber frame). The windows will look to the front main roof form of the subject site and are offset from any adjoining windows. As conditioned, the windows will have acceptable visual privacy impacts.

First Floor Southern Elevation

The windows on the first floor southern elevation will serve the master bedroom and ensuite. The windows will look to the rear of the property. It is acknowledged that sight lines will be available from the windows to the POS of the adjoining properties. The proposed windows include a batten screening device. Council will impose appropriate conditions to ensure the screening devices are fixed in accordance with Council's requirements.

Rear Structure

A metal batten screen will be provided between the top of the existing stone wall and soffit which extends the northern and western elevations. The window located on the northern elevation of the garage (refer to Dwg No. DA07) will serve the garage. Given the low-use nature of the garage and adjoining covered entry/breezeway the privacy screening is considered to adequately mitigate visual privacy impacts.

Balcony

A balcony is proposed to the northern wall of the proposed first floor master bedroom. The balcony is approximately 1.6m x 2.3m.

In accordance with Control C9 - Balconies at first floor or above at the rear of residential dwellings will have a maximum depth of 1.2m and length of 2m unless it can be demonstrated that due to the location of the balcony there will be no adverse privacy impacts on surrounding residential properties with the provision of a larger balcony. The balcony will be fixed with privacy battens, and as such, it is considered in this report that the balcony will have no adverse impacts on surrounding properties. An appropriate condition is recommended to ensure the screening devices are fixed in accordance with Councils requirements.

Subject to the imposition of appropriate conditions, the proposal will ensure adequate visual privacy levels are retained for the residents and users of surrounding buildings alike.

C3.12 Acoustic Privacy

The development maintains its existing general residential use and is unlikely to result in any impacts to acoustic privacy beyond a typical residential use in the residential zone. Further, appropriate conditions will be imposed regarding the control of noise levels and operating hours of pool pump equipment.

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 for a period of 14 days to surrounding properties.

Twelve (12) submissions were received in response to the initial notification.

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

- General Appearance of Addition - see Section 5(d) – C1.4 Heritage Conservation Areas and Heritage Items.

- Visual Privacy – see Section 5(d) – C3.11 Visual Privacy
- Building setbacks – see Section 5(d) – C3.2 Site Layout and Building Design
- Overshadowing – see Section 5(d) – Clause C3.9 – Solar Access

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

Issue – Bulk and Scale of Studio above Garage

“The proposed second story studio will tower over all the other structures near it on National Lane. In addition to being out of proportion with the neighbouring buildings and garages, I am concerned that it will set a precedent of allowing two story structures backing onto the lane”

“My only problem I have with this application is the Studio above the Garage. I feel the size of this studio is too high and will block out sunlight from my property”

“The imposing scale of the garage seems out of proportion to the rest of the back lane”

“I understand that a studio or home office adds value. However, in this case there appears to be room underneath the proposed garage (current a proposed terrace) which could accommodate additional living or working space without impinging on neighbours’ privacy, or community sunlight in public spaces.”

“the construction of the studio above the garage does not minimise the visual impact of the garage and is not in keeping with the local heritage, character and charm of the area.”

“the rear double garage and studio would rise 6.035m from the lane’s ground height, vastly dwarfing the current height of the back section of the property (the fence stands at 1.85m now) and those buildings directly next to it.”

“The proposed dwelling of the Double Garage and Studio combined with the covered terrace is a three storey detached building, its proportions of the two are at over 6 metres which is a great deal larger than both neighbouring properties detached garages. The proposed dwelling and design of the development will be entirely out of keeping with neighbouring property.”

“I strongly object to the scale of this proposal and in particular to the proposed double garage and studio above of it, both located at the rear of the property, on National Lane”

Comment

The objections are noted, Council does not support the proposed studio above the garage and has recommended its deletion.

Issue - Over-development

“The plans show that the proposal has crammed as much as possible within the site with the extension to the front, plus the inclusion of a pool, covered terrace, double garage and studio. Rozelle’s charm comes from its heritage and characterful cottages and open spaces. This over-developed proposal is in contrast to the local area and community”

Comment

Apart from the studio, the proposal is considered to provide a suitable balance between landscaped areas and built form. Whilst the proposal does not comply with the Site Coverage Development Standard, this is in part due to the pool provided on site.

Issue – Ambient Light

“Light and sun from our kitchen, living area and the whole length of our courtyard.”

Comment

Councils controls cannot protect ambient light. The submitted shadow diagrams show that new shadowing will only occur at 9am during the winter solstice to the rear of No. 30 Merton Street. Given the orientation and typography of the land, no new shadowing will occur to the kitchen living areas. Existing shadowing to the courtyard is noted given the large sandstone boundary wall. New shadowing occurs adjacent to the rear garage of No. 30 Merton and is not adjacent to living areas and as such it is considered acceptable on merit.

Issue – Privacy from front verandah.

“Originally and still standing is a timber vertical wall/screen. I think this was just an oversight as it serves no purpose for No. 28 not to have it.”

Comment

It is acknowledged that due to the setback character of the dwelling, sightlines will be available from the front verandah into the carport of No. 30 Merton Street. A condition will be imposed requiring a full length screen be provided on the western side of the proposed front verandah.

Issue – Garage Maneuverability

“The proposed garage which will be accessed from National Lane needs to be setback a minimum of 1 metre from the rear boundary to allow sight lines that facilitate manoeuvring into and out of the garage.”

Comment

The application has been referred to Councils engineers who support the proposed garage subject to standard engineering conditions which will be imposed on any consent granted to ensure compliances with the Australian Standards.

Issue – Light reflection (roof)

There will be a lot of reflection of light from the roofing of the studio Zinalume roof sheeting (studio)

Comment

Noted. The studio above the garage is recommended to be deleted. A condition is included requiring the roof to be replaced with a simple skillion roof.

Issue – Construction phase

“The quantity and size of construction vehicles in National Lane is also a concern.”

Comment

Appropriate conditions will be imposed regarding the construction phase of the development.

Issue – 2 Space Garage

“As a community which is well served by public transport, with more transport links planned in future, there is no call for two car spaces to be squeezed into the block”

Comment

Council's controls permit a maximum of 2 car spaces per single dwelling and the proposal complies with this control. The application was referred to Councils Engineering who supports the proposal subject to the imposition of standard engineering conditions.

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.

Urban Forests

Council's Urban Forests Officer reviewed the proposal and raised no objections to the application subject to appropriate conditions.

Engineering

Council's Engineer reviewed the proposal and raised no objection to the proposal proceeding subject to standard site drainage and stormwater control conditioning of the consent – see conditions in Attachment A.

Building Certification

No objection is raised to the demolition of the existing timber dwelling - pest treatment should be undertaken to eliminate any active termites and prevent spread of the termites to adjoining or the new dwelling.

Heritage

Council's Heritage Officer supports the proposed development subject to the imposition of appropriate conditions.

6(b) External

The application was referred to the following external bodies and issues raised in those referrals have been discussed in section 5 above.

Ausgrid

The application was referred to Ausgrid under Clause 45 of the State Environmental Planning Policy (Infrastructure) 2007. Ausgrid provided no formal response within the specified time frame and therefore can be concluded that the proposal will not have an impact.

7. Section 7.11 Contributions/7.12 Levy

Section 7.12 contribution levies are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$9,137.50 would be required for the development under the former Leichhardt Section 7.12 Development Contributions Plan 2020. A condition requiring this payment is included in the recommended conditions of consent.

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 as proposed and as conditioned will not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest.

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

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 to vary Clause 4.3A(3)(b) 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 consistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. The applicant has made a written request pursuant to Clause 4.6 to vary Clause 4.4 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 consistent with the objectives of the standard and of the zone in which the development is to be carried out.
- C. 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/2020/0635 for Demolition of the existing dwelling-house and construction of a new dwelling-house, new double garage with studio above and terrace area under at rear, and associated works, including swimming pool and tree removal. at 28 Merton 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
DA00	Site Analysis Plan	26 June 2020	Dalgliesh Ward and Associates
DA01	Site Plan	26 June 2020	Dalgliesh Ward and Associates
DA02	Ground Floor Plan	26 June 2020	Dalgliesh Ward and Associates
DA03	First Floor Plan	26 June 2020	Dalgliesh Ward and Associates
DA04	Studio Floor Plan	26 June 2020	Dalgliesh Ward and Associates
DA05	Excavation Plan	26 June 2020	Dalgliesh Ward and Associates
DA06	Section AA & Section BB	26 June 2020	Dalgliesh Ward and Associates
DA07	Sections 1 & 2	26 June 2020	Dalgliesh Ward and Associates
DA08	Section 3 & 4	26 June 2020	Dalgliesh Ward and Associates
DA09	East & West Elevations	26 June 2020	Dalgliesh Ward and Associates
DA10	North & South Elevations	26 June 2020	Dalgliesh Ward and Associates
DA11	Side Boundary/Fencing Details	26 June 2020	Dalgliesh Ward and Associates
DA14	Materials & Finishes	26 June 2020	Dalgliesh Ward and Associates

1107155S	BASIX Certificate	11 June 2020	Eco Certificates Pty Lt
20C13 (Pages 1-3)	Landscape Plan	09 June 2020	Stylish Gardens
-	Site Waste Minimisation and Management Plan	06 July 2020	Dalglish Ward
Dwg. D1-D6 Rev: C	Stormwater Management Plans	29 June 2020	Quantum Engineers
Rev C	Water Management Statement	29 June 2020	Quantum Engineers
-	Geotech Report	June 2020	STS Geotechnics
-	Arboricultural Impact Assessment	29 July 2020	Horticultural Management Services

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:

- a. The following amendments are required:
 - i. doors and windows in the north (front) and east elevations of the front portion of the dwelling must be vertically proportioned, employing traditional design (timber sash or French doors) and materials (timber frame);
 - ii. large expanses of glass are not to be used in areas visible from the public domain, e.g. the windows to the bedrooms in the north elevation of the rear 2 storey portion of the dwelling. Dominancy must be given to masonry/solid elements rather than glazed areas;
 - iii. the glazed, central door proposed in the front façade is to be replaced with a solid 4 panel door;
 - iv. the existing sandstone retaining wall to the front boundary is to be retained and incorporated as part of the proposal;

- v. the proposed timber batten front fence and balustrading to the front verandah is to be replaced with a traditional timber picket fence no more than 1.2m high above the sandstone retaining wall and a timber balustrade to the verandah;
 - vi. The proposed roof over the first floor walk in robe, ensuite and adjacent stair must be reduced by 500mm to a maximum height RL43.68; and
 - vii. The proposed floor-to-ceiling heights of the first floor walk in robe, ensuite and adjacent stair must be reduced to 2.1m accordingly.
- b. The following aspects of the proposal must be deleted:
- i. The studio and associated stair above the garage must be deleted from the proposal and replaced with a simple skillion roof behind parapet walls not exceed RL43.068AHD;
 - ii. The proposed roof garden planters with succulents above the garage; and
 - iii. the timber privacy battens to the north elevation of the rear 2 storey portion of the dwelling; and
- c. A revised External Finishes Schedule will need to be submitted to the certifying authority demonstrating the following:
- i. The proposed Dulux Wayward Grey to the walls of the rear portion of the dwelling is to be replaced with Dulux Malay Grey.

FEES

3. 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.

4. Section 7.11 (Former Section 94) Contribution

Prior to the issue of a Construction Certificate works written evidence must be provided to the Certifying Authority that a monetary contribution of \$15,978.00

The above contribution is the contribution applicable as at 17 November 2020

Local Infrastructure Type:	Contribution \$
Open Space and Recreation	\$13,859.00
Community Facilities and Services	2,119.00
TOTAL	15,978.00

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

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

Payment methods:

The required contribution must be paid either **by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions; cash (to a maximum of \$10,000).** It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. **Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a**

minimum of 2 business days for the invoice to be issued before payment can be accepted.

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

5. 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

6. Project Arborist

Prior to the commencement of any demolition or construction works within close proximity to protected trees a Project Arborist must be engaged for the duration of the site preparation, demolition, construction and landscaping to supervise works. Details of the Project Arborist must be submitted to the Certifying Authority before work commences.

7. Privacy

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

- a. The privacy screening is to be externally fixed with a minimum block out density of 75%.

Note: The louvers are to individual opening more than 30mm wide and a total area of opening that is less than 30% of the surface area of the screen and made of durable materials. Louvered screens must be securely fitted and may be able to be tilted open from a closed position to an angle of 45 degrees in a downward or upward position.

- b. A full length privacy screen must be fitted to the western side of the front verandah

8. Noise Levels and Enclosure of Pool/spa Pumping Units

Noise levels associated with the operation of the pool/spa pumping units must not exceed the background noise level (L90) by more than 5dBA above the ambient background within habitable rooms of adjoining properties. Pool plant and equipment must be enclosed in a sound absorbing enclosure or installed within a building so as not to create an offensive noise as defined under the *Protection of the Environment Operations Act 1997* and *Protection of the Environment Operations (Noise Control) Regulation 2008*.

Domestic pool pumps and filters must not be audible in nearby dwellings between 8:00pm to 7:00am Monday to Saturday and 8:00pm to 8:00am Sundays and Public Holidays.

9. 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.

10. 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.

11. Works Outside the Property Boundary

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

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 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. Stormwater Drainage System – Minor Developments (OSD is required)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention and/or on site retention/ re-use facilities (OSR/OSD), certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a. The stormwater drainage concept plan on Drawing No. 200165-SW/D2 prepared by QUANTUM ENGINEERS and dated 22 June 2020, must be amended to comply with the following;
- b. 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 Merton Street via the OSD/OSR tanks as necessary;
- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;

- d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage;
- e. 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;
- f. The plans, including supporting calculations, must demonstrate that the post development flows for the 100 year ARI storm are restricted to the pre development flows for the 5 year ARI storm event in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013 and the maximum allowable discharge to Council's street gutter limited to 15 litres/second (100year ARI);
- g. OSD may be reduced or replaced by on site retention (OSR) for rainwater reuse in accordance with the relevant DCP that applies to the land. Where this is pursued, the proposed on-site retention (OSR) tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation. Surface water must not be drained to rainwater tanks where the collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use;
- h. Where a combined OSD/OSR is proposed, only roof water is permitted to be connected to the OSD/OSR. The over flow from the storage tank must be connected under gravity to Merton Street. Stormwater outlet pipe and orifice plate at a lower level of the storage tank is not required.
- i. The volume of OSD/OSR shall not be less than 5000 L and depth of the OSD/OSR must comply with the confined space requirements;
- j. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks;
- k. Details of the 100-year ARI overflow route in case of failure\blockage of the drainage system must be provided;
- l. An overland flowpath must be provided within the setback to the north eastern side boundary between the rear of the dwelling and the Merton Street frontage. The rear courtyard must be graded so that bypass flows from the site drainage system are directed to the overland flowpath;
- m. As there is no overland flow/flood path available from the central courtyard to the Merton Street frontage, the design of the sag pit and piped drainage system is to meet the following criteria:
 - a. 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;
 - b. 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
 - c. The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.
- n. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas;

- o. The covered terrace must be fully tanked;
- p. Drainage pipes under floor slab and where access to the pipe is not available must be laid straight with no bends. Inspection openings must be provided on the upstream and downstream ends of the pipe.
- q. No nuisance or concentration of flows to other properties;
- r. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- s. 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;
- t. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- u. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- v. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
- w. Stormwater drainage must be located such that any waters leaving the pool must drain to pervious areas prior to potentially draining to the site stormwater drainage system;
- x. No impact to street tree(s).

18. Parking Facilities - Domestic

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

- a. The internal vehicle hardstand area must be redesigned such that the level at the boundary must match the invert level of the adjacent gutter plus 110mm at both sides of the vehicle entry. This will require the internal garage slab or hard stand area to be adjusted locally at the boundary to ensure that it matches the above-issued alignment levels.
- b. The garage slab or driveway must rise within the property to be 170mm above the adjacent road gutter level and higher than the street kerb and footpath across the full width of the vehicle crossing. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004;
- c. A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors;

- d. Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements;
- e. The garage/carport/parking space must have minimum clear internal dimensions of 6000 mm x 5400 mm (length x width) and a door opening width of 5300 mm at the street frontage. The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004;
- f. Where the drop adjacent to the end of the parking module(s) exceeds 600mm, structural barriers must be provided. Where the drop is between 150-600mm, wheel stops must be provided. These physical controls must be installed in accordance with the requirements of Section 2.4.5 of AS/NZS2890.1-2004. The design of structural barriers must be certified by a suitably qualified Civil Engineer with Chartered Engineer of Institution of Engineers Australia (CPEng) or Registered Professional Engineer of Professionals Australia (RPEng) qualifications;
- g. A plan of the proposed access and adjacent laneway, drawn at a 1:100 scale, demonstrating that vehicle manoeuvrability for entry and exit to the parking space complies with swept paths from AS/NZS 2890.1:2004. The plan must include any existing on-street parking spaces;
- h. The maximum gradients within the parking module must not exceed 1 in 20 (5%), measured parallel to the angle of parking and 1 in 16 (6.25%), measured in any other direction in accordance with the requirements of Section 2.4.6 of AS/NZS 2890.1-2004;
- i. The proposed pedestrian door to the garage must open outwards.

19. Changes to Levels

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

- a. A 150mm step up must be provided between the finished surface level of the external area and the finished floor level of the internal rooms.

20. Driveway Long Section - Dwelling

The vehicular crossing and driveway ramp to the site shall be designed to satisfy the ground clearance template (Figure C1) from AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking. A long section, along both sides of the proposed vehicular crossing and ramp, drawn at a 1:20 or 1:25 natural scale, shall be submitted to and approved by Council before the issue of a Construction Certificate. The long section shall begin from the centreline of the adjacent road to a minimum of 3 metres into the property. The long section approved by Council shall define the Alignment Levels at the property boundary. The long section shall show both existing surface levels and proposed surface levels with chainages. Plans must also show construction of kerb and gutter and footpath along the remainder of the frontage.

21. 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

22. Tree Protection

To protect the following tree, ground, trunk and branch protection must be installed prior to any works commencing in accordance with section 12.2 of the approved *Tree Management Plan*, prepared by *Horticultural Management Services* and with Council’s *Development Fact Sheet—Trees on Development Sites*:

Tree No.	Botanical/Common Name/Location
1	<i>Robinia pseudoacacia</i> 'Frisia' (Golden Robinia) located on adjoining property.

23. Inspections by Project Arborist

The trees to be retained must be inspected, monitored and treated by the Project Arborist during and after completion of development works to ensure their long-term survival. Regular inspections and documentation from the Project Arborist to the Certifying Authority are required at the following times or phases of work:

Tree No./ Botanical/ Common Name/ Location	Time of Inspection	Key stage/ Hold point
1. <i>Robinia pseudoacacia</i> 'Frisia' (Golden Robinia) located on adjoining property.	Prior to commencement of works	<ul style="list-style-type: none"> Inspection and sign off installation of tree protection measures.

	During Works	<ul style="list-style-type: none"> • Supervise all site preparation and demolition works within the TPZ; • Supervise all works inside or above the TPZ; • Supervise excavation for pool, trenching works, landscaping works and tree/planting replenishment within the TPZ; • Supervise all tree work.

Recommendations to ensure the tree/s long term survival must be carried out immediately upon receipt of the report.

24. Limited Root Pruning

No tree roots of 50mm or greater in diameter located within the specified radius of the trunk of the following tree must be severed or injured in the process of any works during the construction period:

Tree No.	Botanical/Common Name	Radius in metres
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1	<i>Robinia pseudoacacia</i> 'Frisia' (Golden Robinia) located on adjoining property.	2.5m
---	--	------

All excavation within the specified radius of the trunk of the following tree must be undertaken using either pneumatic or hydraulic tools only (e.g. *Airspade®* or hydro excavation) to a depth of one (1) metre under direct supervision of the Project Arborist and then by mechanical means as agreed by the Project Arborist. If tree roots less than 50mm diameter are required to be severed for the purposes of constructing the approved works, they must be cut cleanly using a sharp and *fit for purpose tool*. The pruning must be undertaken by a practicing Arborist.

25. 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.

26. 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

27. 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.

28. Protect Sandstone Kerb

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

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

30. Operation and Management Plan

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

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

31. No Weep Holes

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

32. Light Duty Vehicle Crossing

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that a light duty concrete vehicle crossing(s), in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" have been constructed at the vehicular access locations and kerb and gutter and concrete footpath constructed along the remainder of the frontage.

33. Certification of Tree Planting

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with evidence certified by a person holding a minimum qualification of AQF3 Certificate of Horticulture or Arboriculture that:

A minimum of 1 x 75 (L) litre size additional tree, which will attain a minimum mature height of six (6) metres, must be planted in a more suitable location within the property at a minimum of 1.5 metres from any boundary or structure and 2m from any dwelling or garage allowing for future tree growth. The tree is to conform to AS2303—*Tree stock for landscape use*. Trees listed as exempt species from Council's Tree Management Controls and species recognised to have a short life span will not be accepted as suitable replacements.

If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species (up to 3 occurrences). If the trees are found dead before they reach a height where they are protected by Council's Tree Management Controls, they must be replaced with the same species.

34. Project Arborist Certification

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with certification from the project arborist the requirements of the conditions of consent related to the role of the project arborist have been complied with.

ON-GOING

35. Operation and Management Plan

The Operation and Management Plan for the on-site detention and/or on-site retention/re-use facilities including Pumps for any internal reuse, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times. The on-site detention and/or on-site retention/re-use facilities including Pumps must be operational at all times.

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.

Construction of Vehicular Crossing

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

Arborists standards

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

Tree Protection Works

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

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.

Swimming Pools

Applicants are advised of the following requirements under the *Swimming Pools Act 1992*:

- a. The owner of the premises is required to register the swimming pool on the NSW State Government's Swimming Pool Register. Evidence of registration should be provided to the Certifying Authority.
- b. Access to the pool/spa is restricted by a child resistant barrier in accordance with the regulations prescribed in the. The pool must not be filled with water or be allowed to collect stormwater until the child resistant barrier is installed. The barrier is to conform to the requirements of Australian Standard AS 1926:2012.
- c. A high level overflow pipe has been provided from the back of the skimmer box to the filter backwash line discharging to the sewer. This line must not directly vent the receiving Sydney Water sewer. Evidence from the installer, indicating compliance with this condition must be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.
- d. Permanently fixed water depth markers are to be clearly and prominently displayed on the internal surface above the water line at the deep and shallow ends on in-ground pools / spas and on the outside of aboveground pools / spas.
- e. A durable cardiopulmonary resuscitation information poster sign authorised by the Life Saving Association is to be displayed in the pool / spa area in accordance with Clause 10 of the *Swimming Pool Regulation 2008*.
- f. Access to the swimming pool/spa must be restricted by fencing or other measures as required by the *Swimming Pools Act 1992* at all times.

All drainage, including any overland waters associated with the pool/spa, must be pipe-drained via the filter to the nearest sewer system in accordance with the requirements of Council & Sydney Water. No drainage, including overflow from the pool or spa must enter Council's stormwater system.

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.

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 Corporation Payments 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.diyasafe.nsw.gov.au

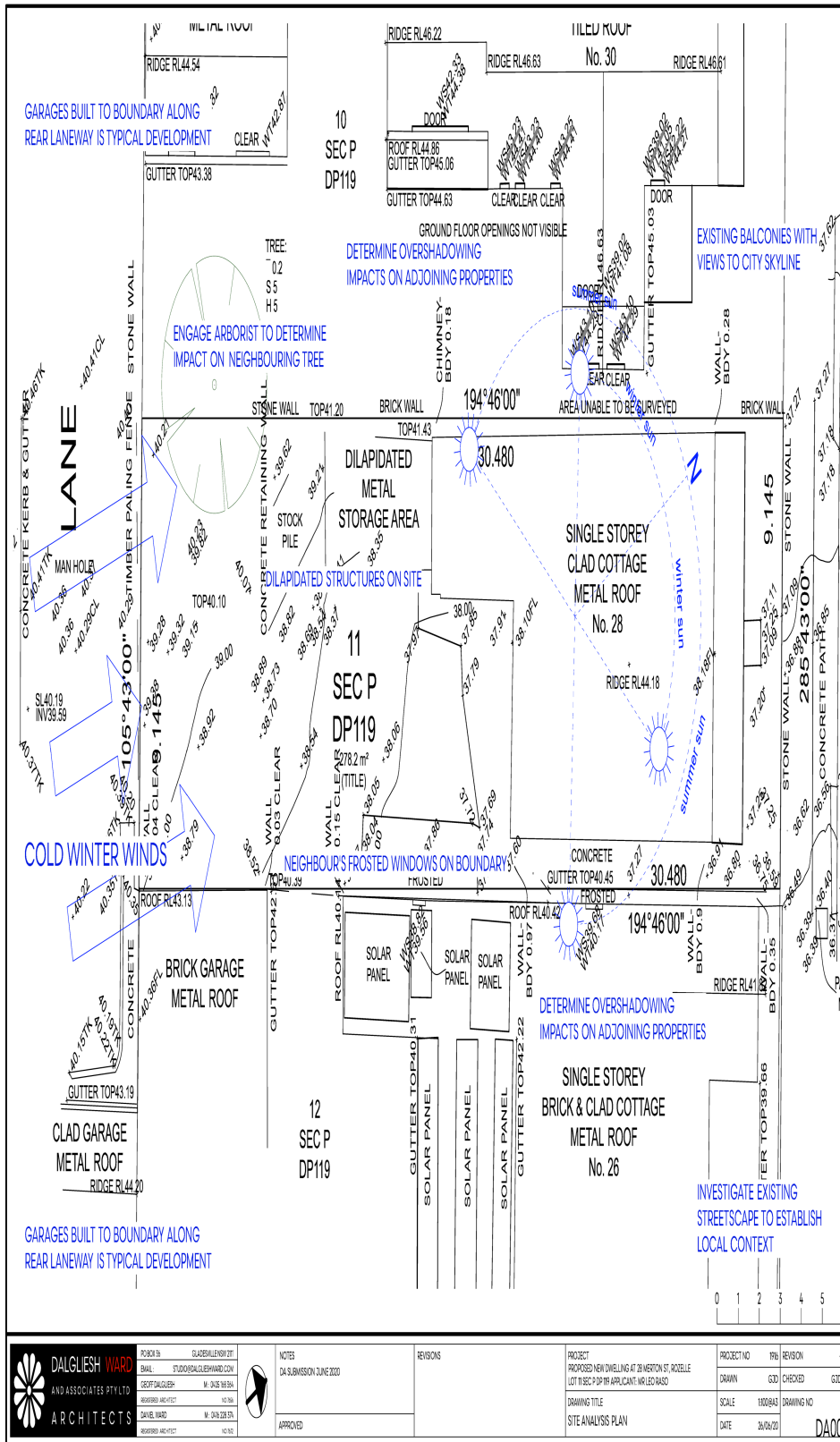
Information on asbestos and safe work practices.

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

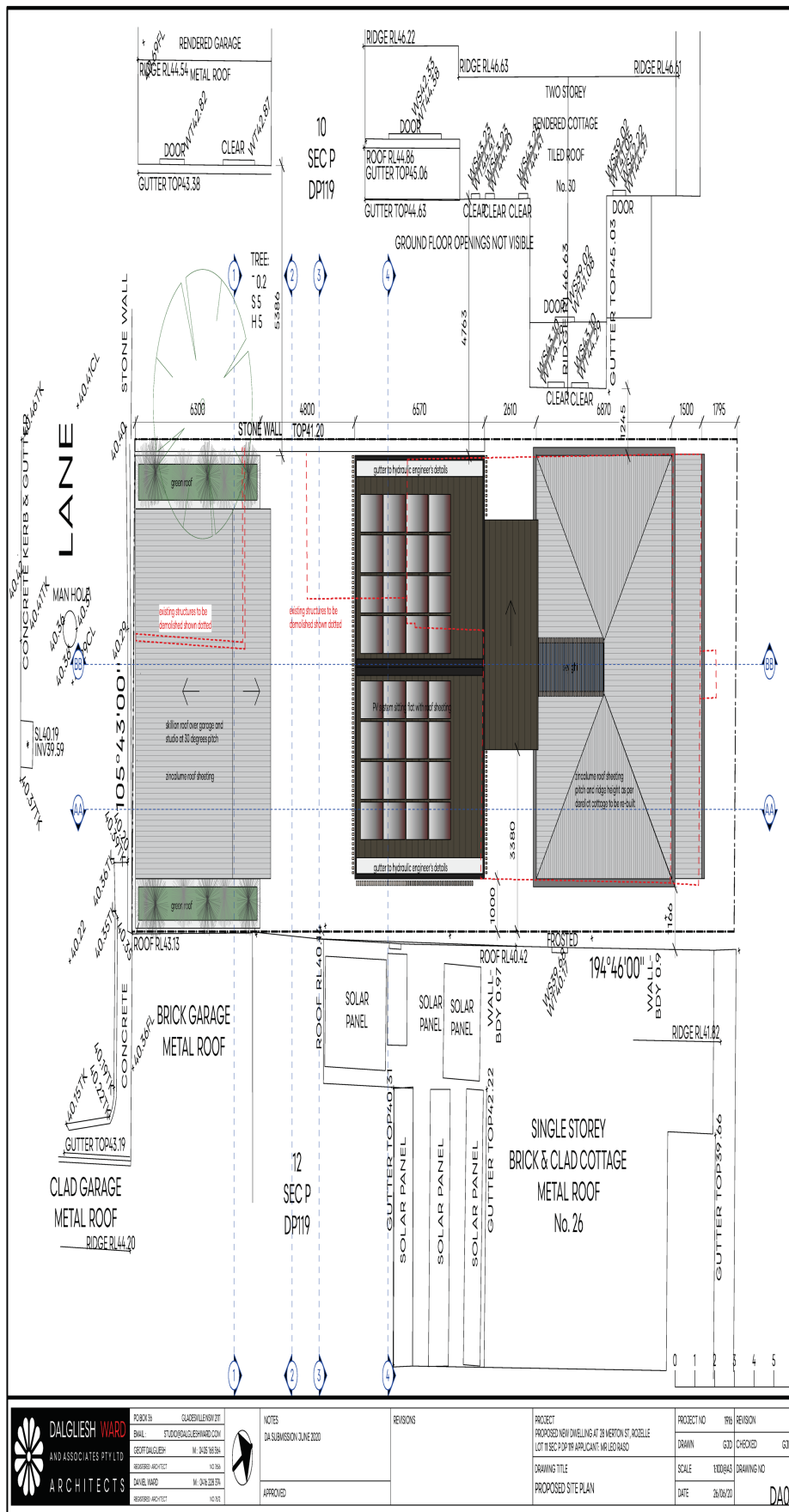
Sydney Water 13 20 92



Attachment B – Plans of proposed development



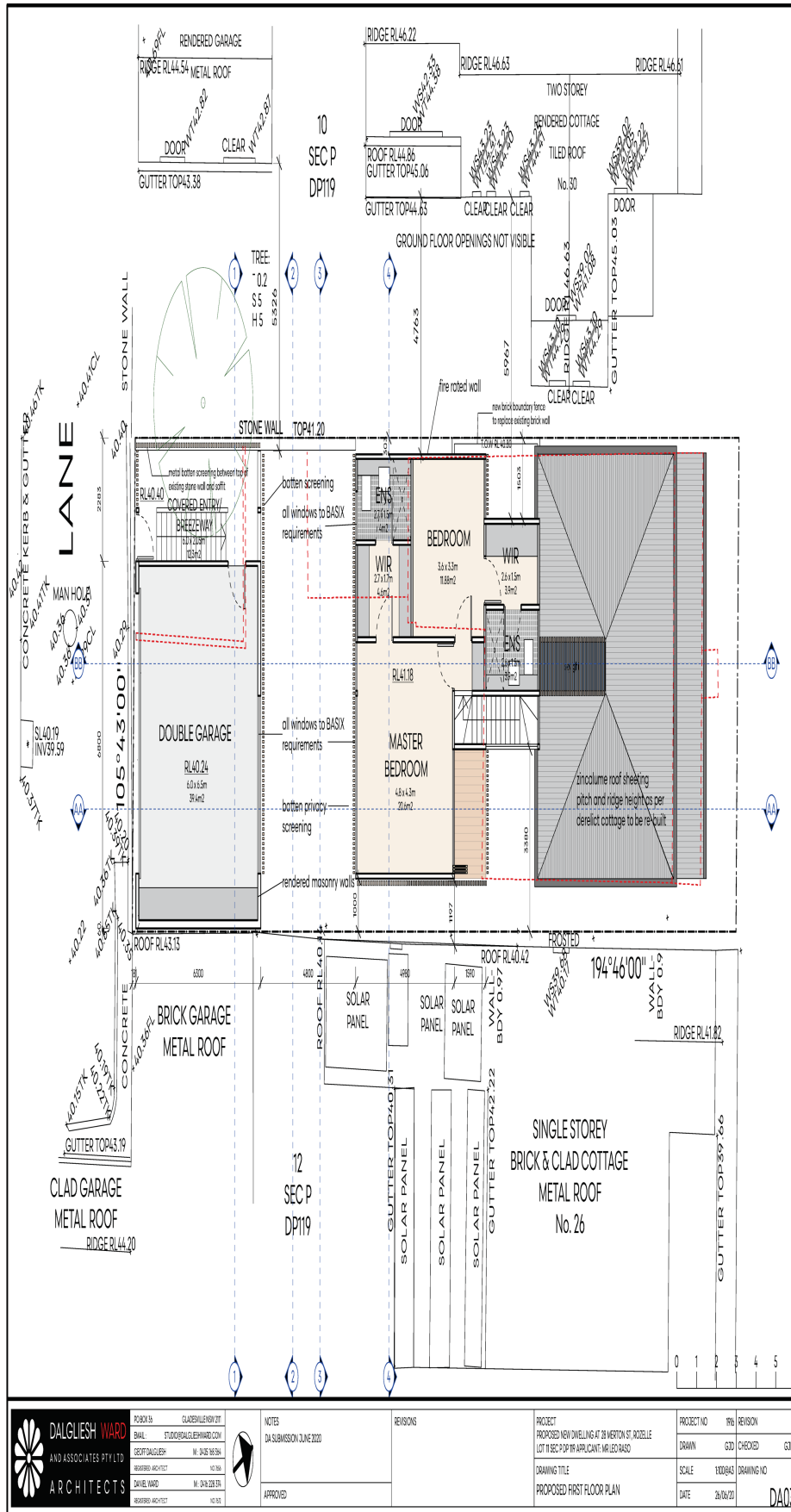
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	APPROVED:	PROJECT: PROPOSED NEW DWELLING AT 28 MERION ST, BOZELLE LOT 19 SEC P DP 198 APPLICANT: WAILED RASD DRAWING TITLE: SITE ANALYSIS PLAN	REVISIONS:	PROJECT NO: 1916 DRAWING NO: G30 SCALE: 1:100 DATE: 28/06/20 DACC



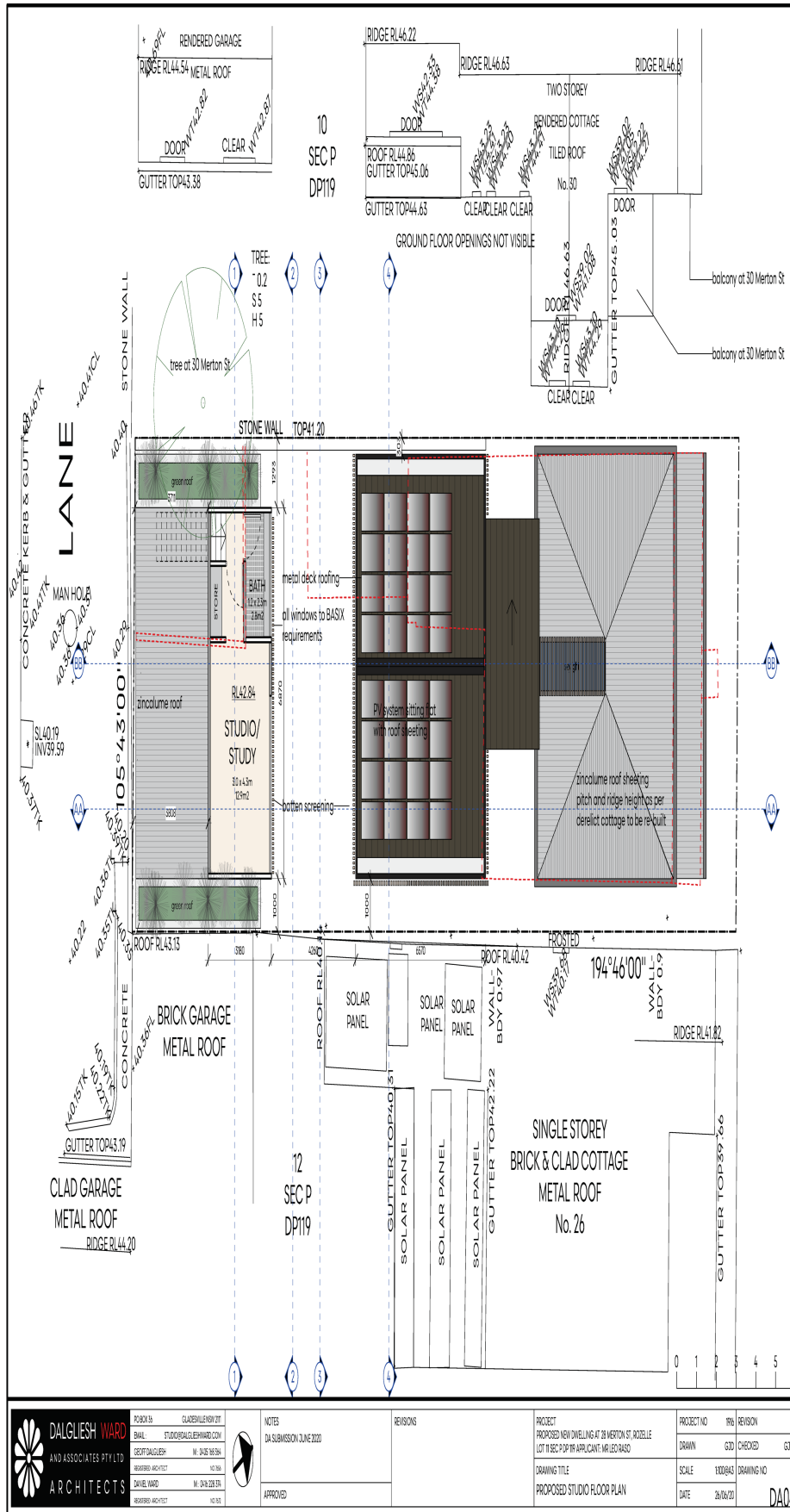
	P1303034 EMAIL: STUDIO@DALGLISHWARD.COM REGISTERED ARCHITECT M: 0425 96394 DAVID WARD M: 042 238 574 REGISTERED ARCHITECT 100 562	NOTES DA SUBMISSION 3 JUNE 2021 APPROVED:	REVISIONS	PROJECT PROPOSED NEW DWELLING AT 28 MARION ST, NOZELLE LOT 11 SEC P DP 119 APPLICANT MR LEO RASO DRAWING TITLE PROPOSED SITE PLAN	PROJECT NO. 1918 REVISION DRAWN GSD CHECKED GSD SCALE 1:100 (A3) DRAWING NO. DATE 26/04/2021 DA01	



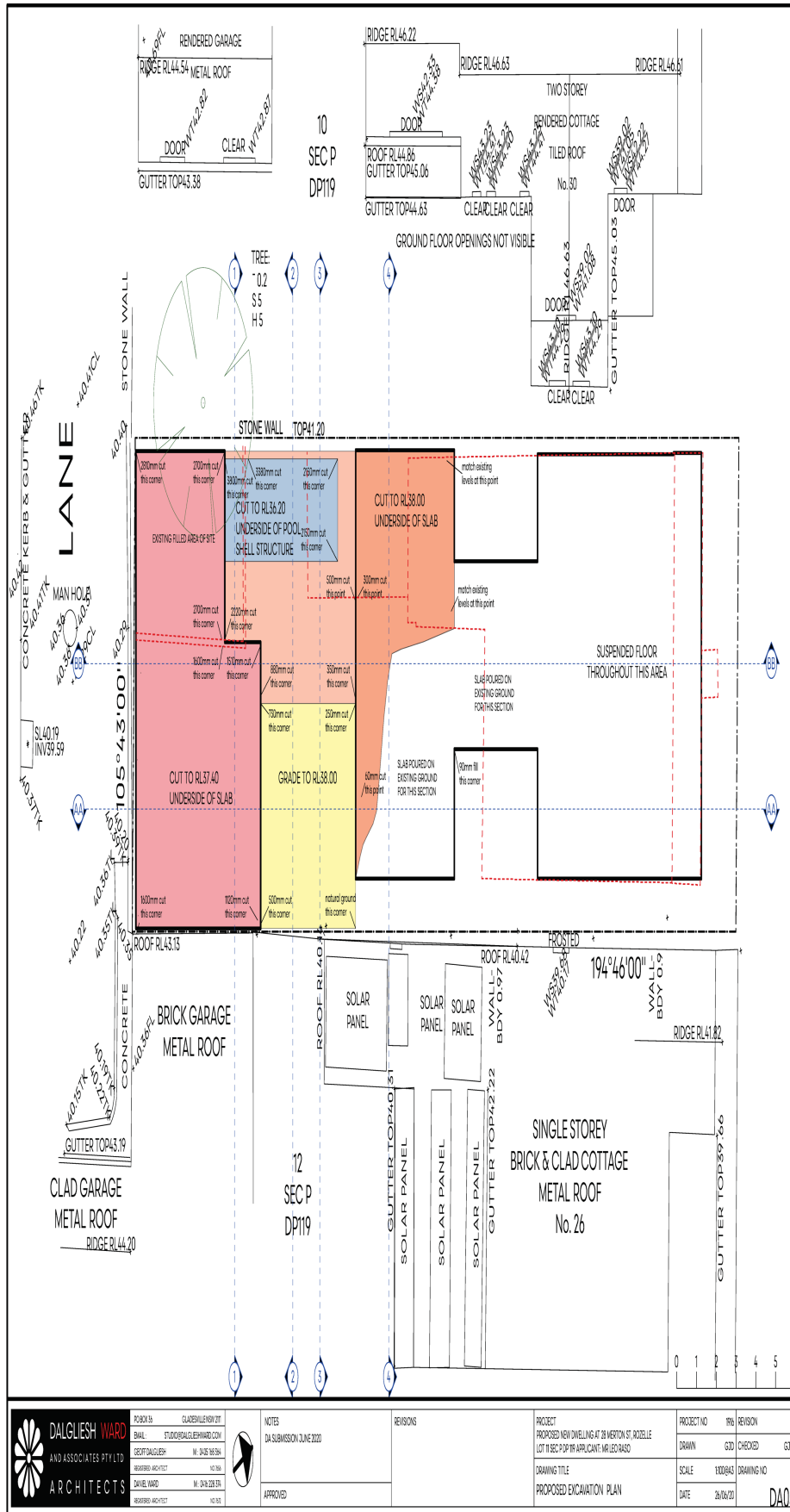
	PROJECT NO: 19030156 CLIENT: GLADEN VILLIERS PTY LTD EMAIL: STU@DALGUESHWARD.COM ARCHITECT: DAVID WARD REGISTERED ARCHITECT: 100764	NOTES: DA SUBMISSION 0 JUNE 2020 APPROVED:	REVISIONS:	PROJECT: PROPOSED NEW DWELLING AT 11 MERTON ST, ROZELLE LOT 11 SEC P DP 119 APPLICANT MR LEO RAGO DRAWING TITLE: PROPOSED GROUND FLOOR PLAN	PROJECT NO: 1916 REVISION: GSD CHECKED: GSD DRAWING NO: DA02 SCALE: 1:100 (843) DATE: 26/06/20
	PROJECT NO: 19030156 CLIENT: GLADEN VILLIERS PTY LTD EMAIL: STU@DALGUESHWARD.COM ARCHITECT: DAVID WARD REGISTERED ARCHITECT: 100764	NOTES: DA SUBMISSION 0 JUNE 2020 APPROVED:	REVISIONS:	PROJECT: PROPOSED NEW DWELLING AT 11 MERTON ST, ROZELLE LOT 11 SEC P DP 119 APPLICANT MR LEO RAGO DRAWING TITLE: PROPOSED GROUND FLOOR PLAN	PROJECT NO: 1916 REVISION: GSD CHECKED: GSD DRAWING NO: DA02 SCALE: 1:100 (843) DATE: 26/06/20



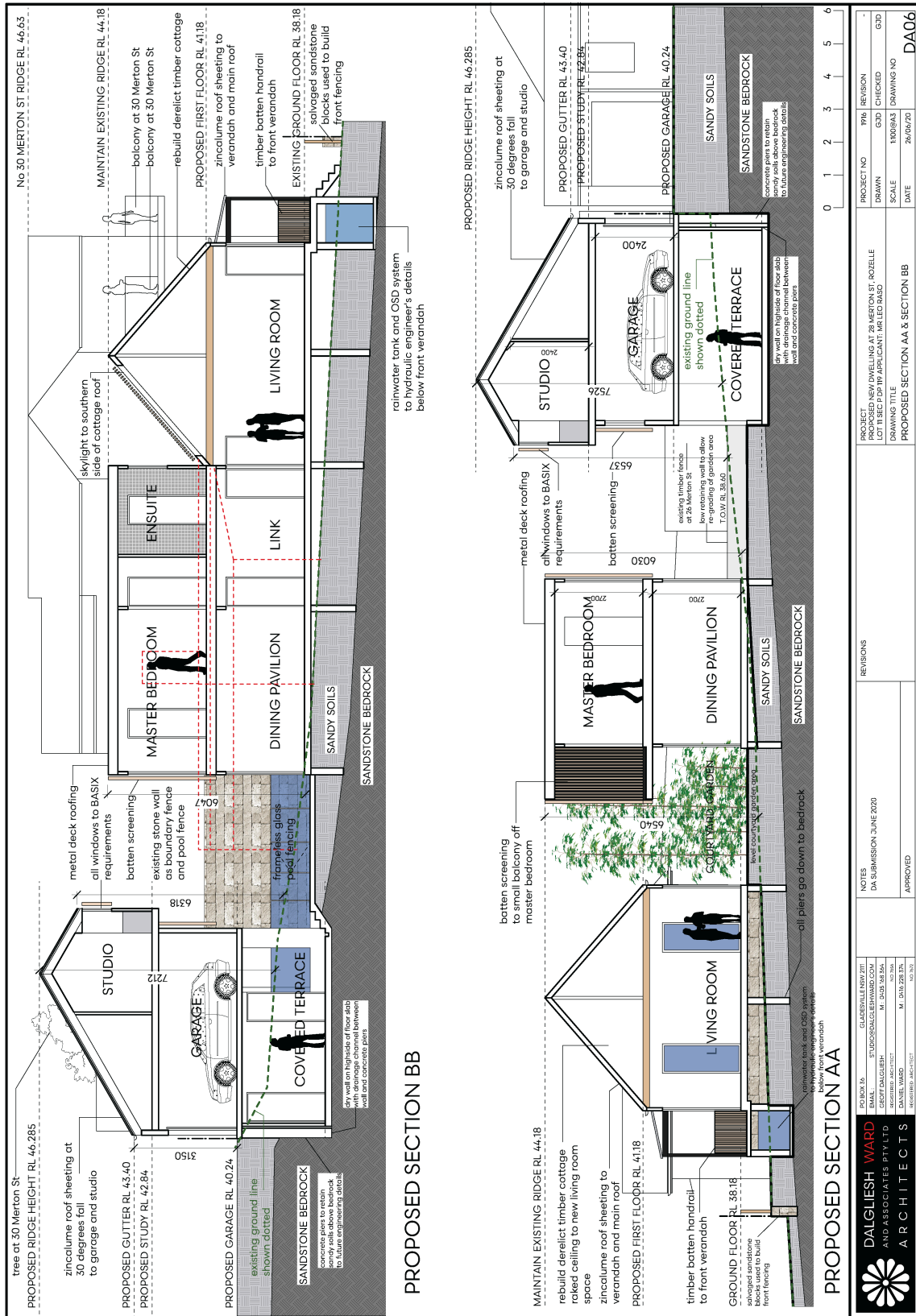
<p>DALGLIESH WARD AND ASSOCIATES PTY LTD ARCHITECTS</p>	PROJECT NO: 19030036 CLIENT: GLASER/LEWIS/ST EMAIL: STODOR@DALGLIESHWARD.COM ARCHITECT: DALGLIESH M: 3425 96394 DATE: 28/10/2021 ARCHITECT: WARD M: 3425 23837 ARCHITECT: WARD M: 3425 96394	NOTES: DA SUBMISSION (JUNE 2020) APPROVED:	REVISIONS:	PROJECT: PROPOSED NEW DWELLING AT 31 MERTON ST, ROZELLE LOTS 11 & 12 PDP BY APPLICANT MR LEO RAGO DRAWING TITLE: PROPOSED FIRST FLOOR PLAN	PROJECT NO: 19030036 REVISION: 1 DRAWN: GSD CHECKED: GSD SCALE: 1:100 (A3) DRAWING NO: DATE: 28/10/2021 DA03
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	DRAWING NO:				
	DATE: 28/10/2021				



<p>DALGLIESH WARD AND ASSOCIATES PTY LTD ARCHITECTS</p>	<p>PROJECT NO: 2020/03 CLIENT: CLARENCE/LEWIS PTY LTD EMAIL: STUDIO@DALGLIESHWARD.COM DESIGNED ARCHITECT: BEET DALGLIESH M. 0425 96394 DRAWN ARCHITECT: DAVID WARD M. 0425 238378 CHECKED ARCHITECT: M. 0425 96394</p>	<p>NOTES: DA SUBMISSION 3 JUNE 2020</p>	<p>REVISIONS</p>	<p>PROJECT: PROPOSED NEW DWELLING AT 30 MERTON ST, NOZELLE LOT 11 SEC P DP 119 APPLICANT MR LEO RAGO</p>	<p>PROJECT NO: 1918 REVISION: - DRAWN: GSD CHECKED: GSD</p>
	<p>APPROVED:</p>	<p>DRAWING TITLE: PROPOSED STUDIO FLOOR PLAN</p>	<p>SCALE: 1:100 (A3) DRAWING NO: - DATE: 26/04/20</p>	<p>DATE: 26/04/20</p>	<p>DATE: 26/04/20</p>



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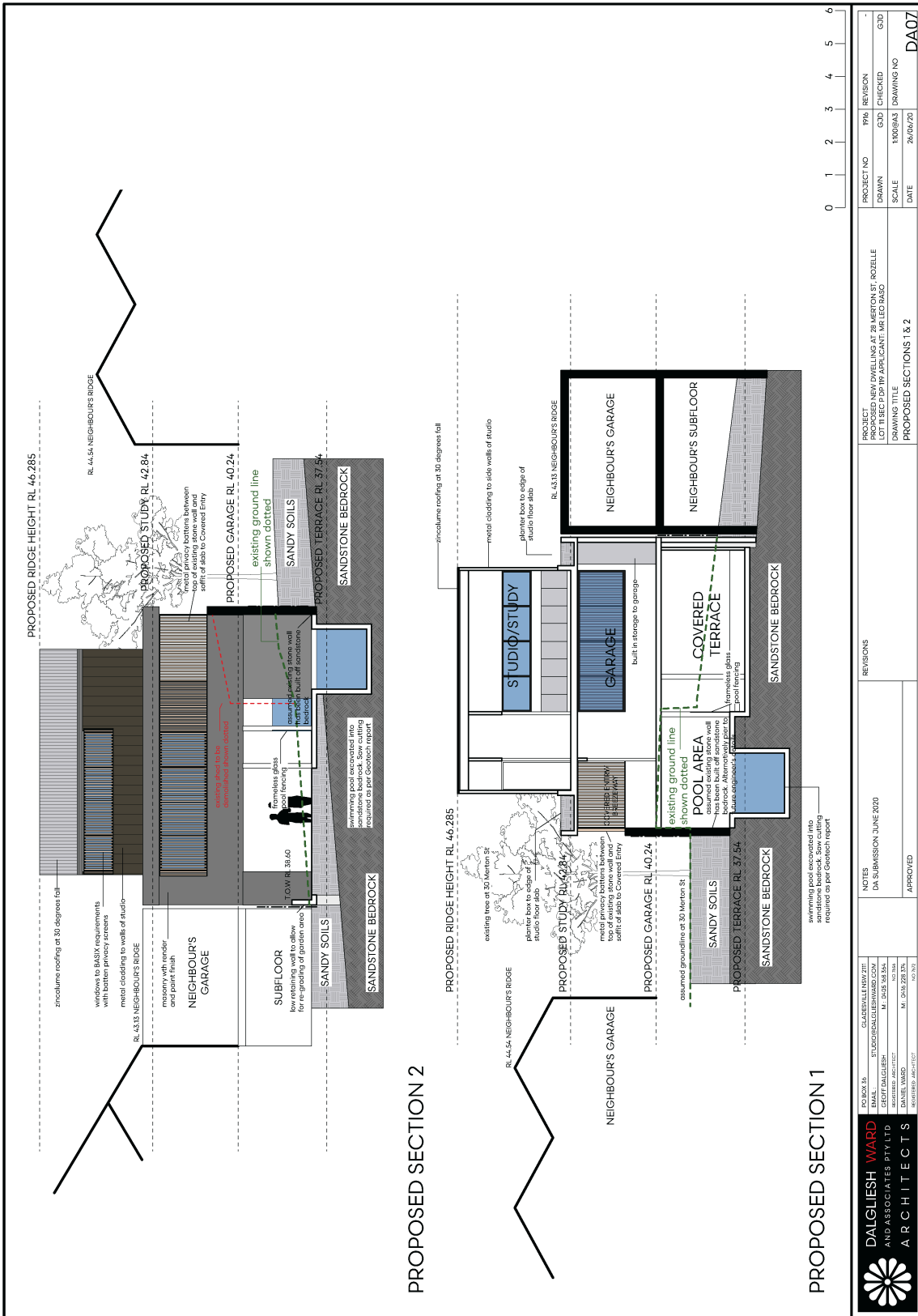
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DRAWN	GJD	CHECKED	GJD
SCALE	1:100	DRAWING NO	DA061

PROJECT	REVISIONS
DA SUBMISSION JUNE 2020	APPROVED
DA SUBMISSION JUNE 2021	APPROVED

DALGLIESH WARD
AND ASSOCIATES PTY LTD
ARCHITECTS

NO 30 MERTON ST
GLADEVILLE NSW 2711
TEL: 02 9238 1234
WWW.DALGLIESHWARD.COM.AU

PROJECT NO: 18008A3
DRAWN: GJD
CHECKED: GJD
DATE: 26/01/20

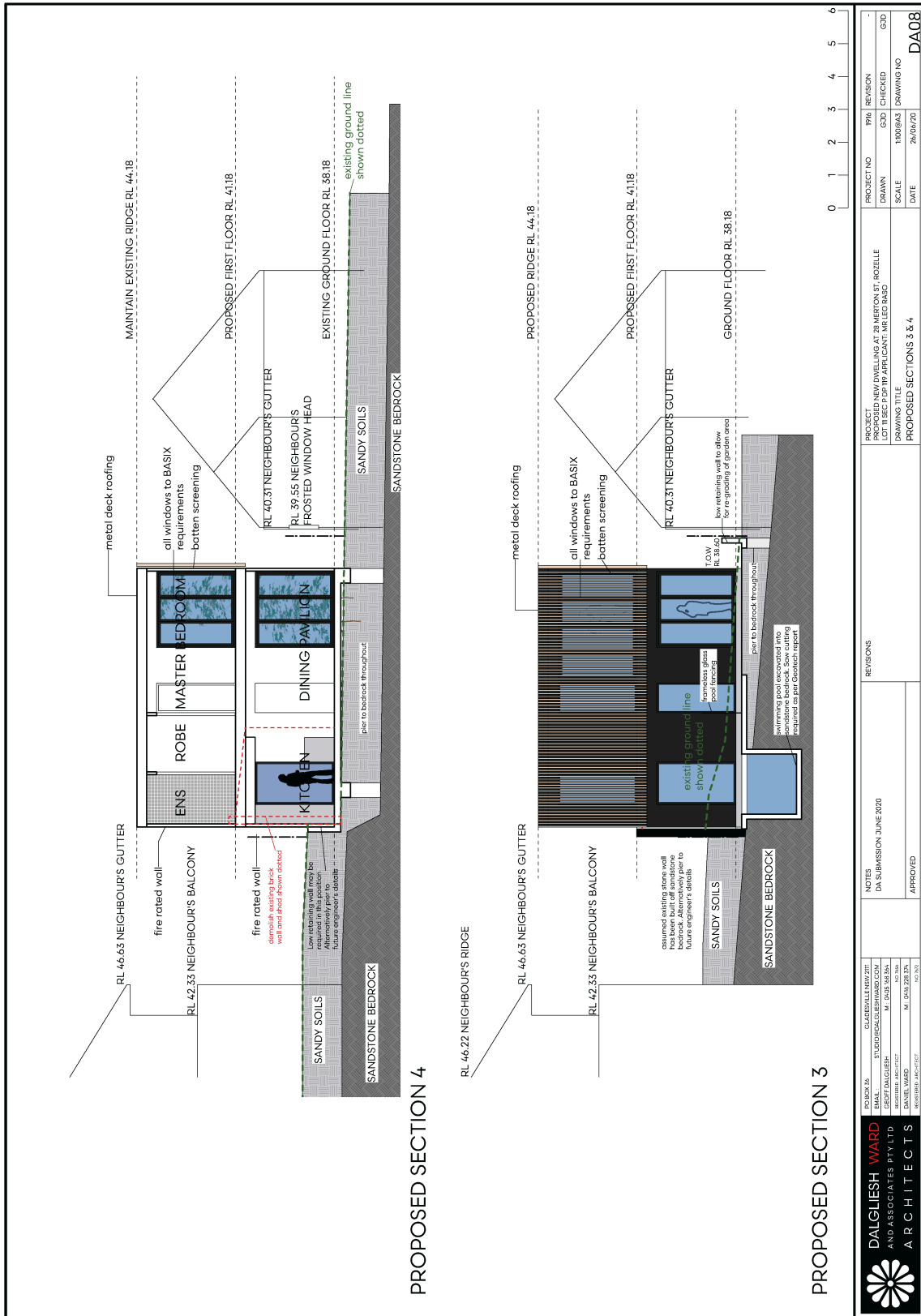


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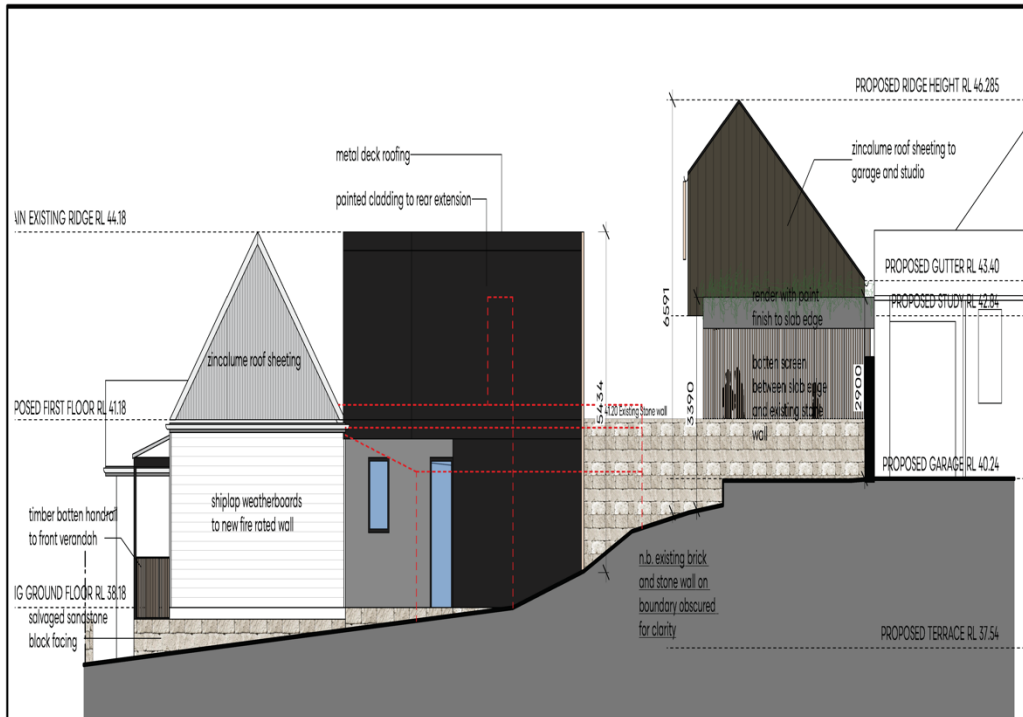
PROPOSED SECTION 2

PROPOSED SECTION 1

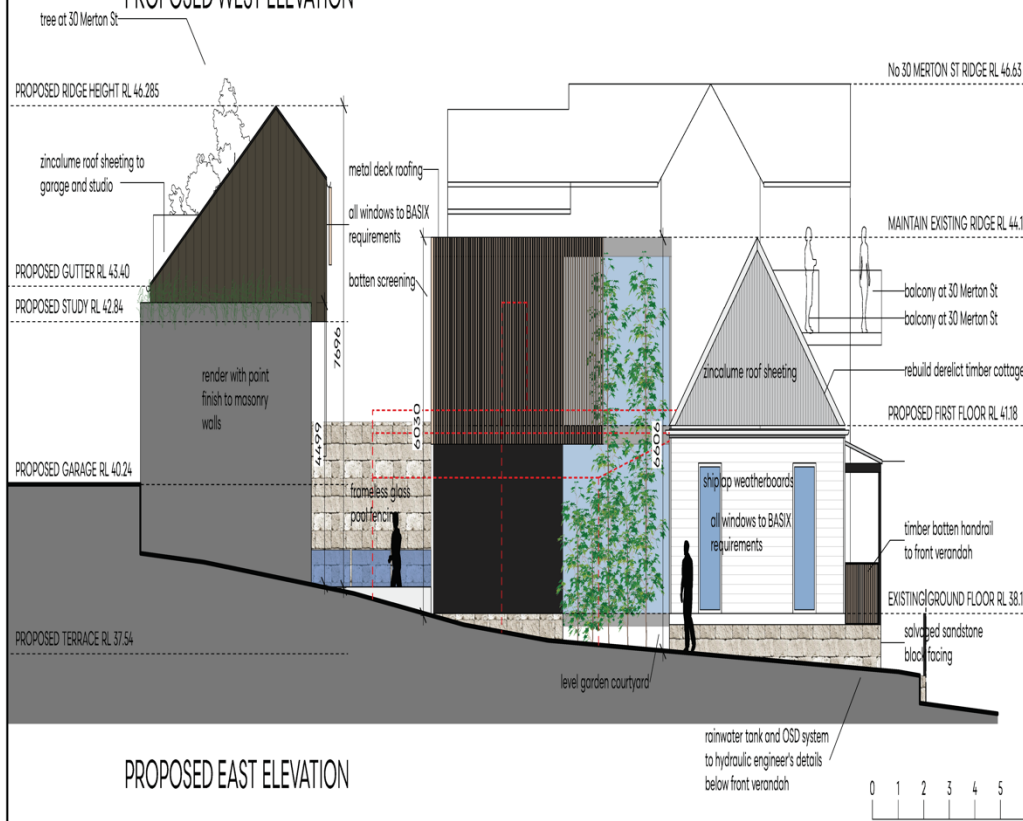
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	<p>PROPOSED SECTIONS 1 & 2</p>	<p>REVISIONS</p>	<p>NOTES DA SUBMISSION JUNE 2020 APPROVED</p>



<p>DALGUESH WARD AND ASSOCIATES PTY LTD ARCHITECTS</p>		<p>PROJECT NO: 19020A3 DRAWING NO: DA08</p>	
<p>PROJECT: DA SUBMISSION JUNE 2020</p>		<p>PROPOSED SECTIONS 3 & 4</p>	
<p>NOTES: DA SUBMISSION JUNE 2020</p>		<p>REVISIONS:</p>	
<p>APPROVED:</p>		<p>DATE: 26/07/20</p>	
<p>SCALE: 1:100</p>		<p>CHECKED: GJD</p>	
<p>REGISTERED ARCHITECT:</p>		<p>PROJECT NO: PH1</p>	
<p>REGISTERED ARCHITECT:</p>		<p>REVISION:</p>	
<p>REGISTERED ARCHITECT:</p>		<p>SCALE: 1:100</p>	
<p>REGISTERED ARCHITECT:</p>		<p>DATE: 26/07/20</p>	
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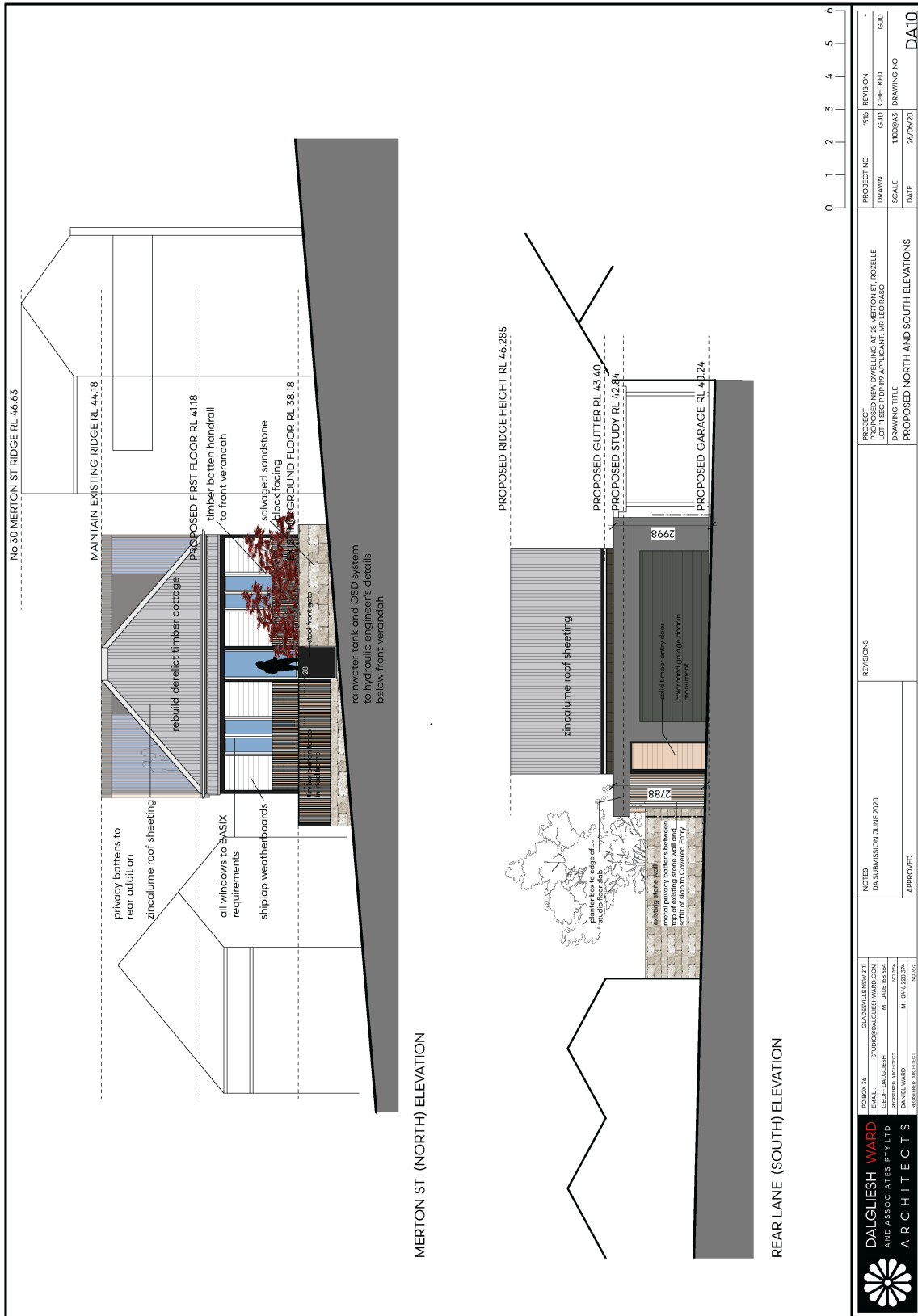


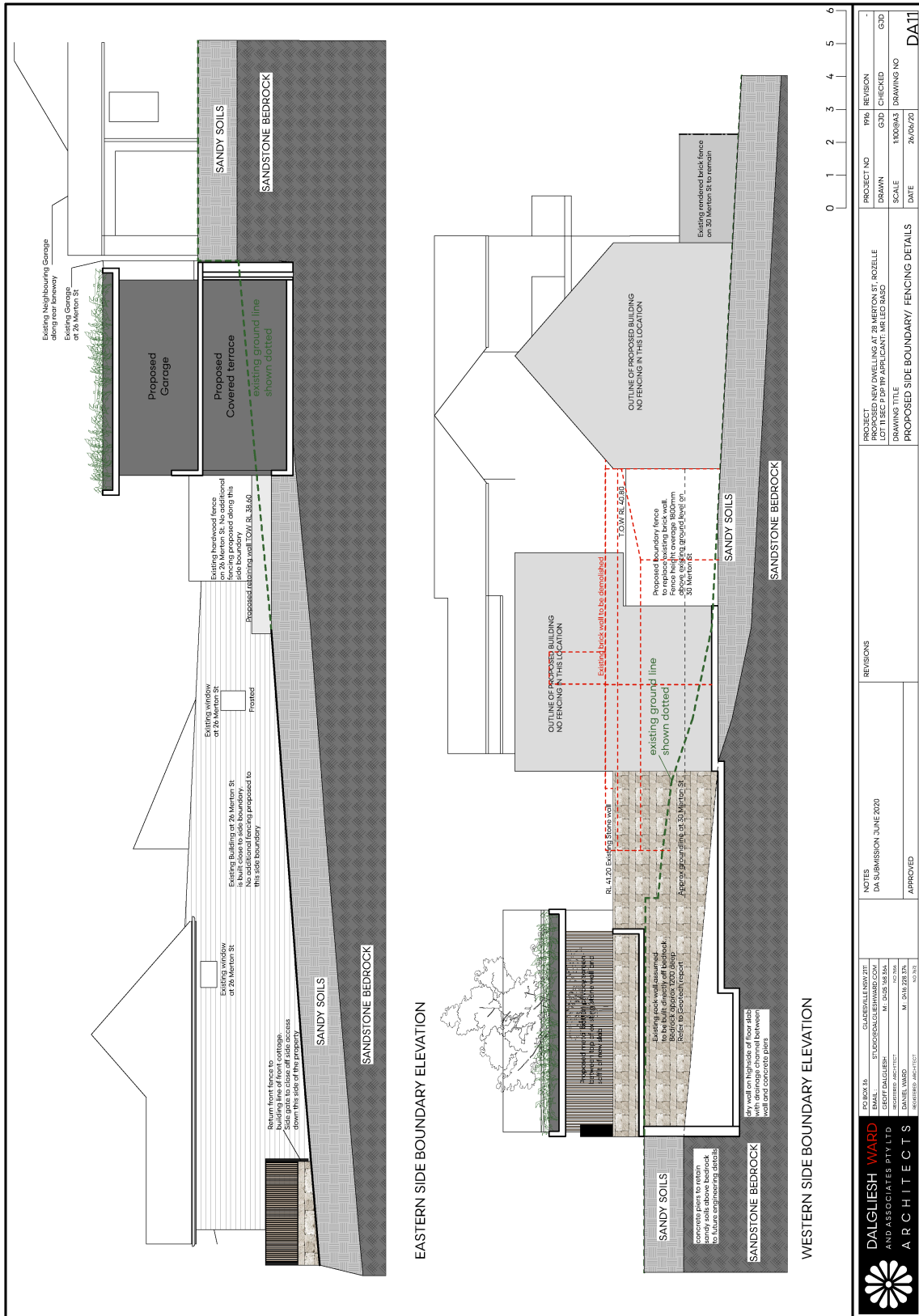
PROPOSED WEST ELEVATION



PROPOSED EAST ELEVATION

	PERSON IN CHARGE: GLADYSVILLE NEW 021 EMAIL: STUDIO@DALGLIESHWARD.COM GEOFF DALGLIESH M. 0435 368 564 REBECCA ARCHITECT M. 0419 228 376 DANIEL WARD M. 0419 228 376 REBECCA ARCHITECT M. 0419 228 376	NOTES: DA SUBMISSION JUNE 2020 APPROVED	REVISIONS	PROJECT: PROPOSED NEW DWELLING AT 78 MERTON ST, ROSELLE LOT 19 SEC 7 DP 789 APPLICANT: MR LEO BASO DRAWING TITLE: PROPOSED EAST AND WEST ELEVATIONS	PROJECT NO: 1916 DRAWN: GSD SCALE: 1:100 (BAS) DATE: 26/06/20	REVISION: CHECKED: GSD DRAWING NO: DA09
	APPROVED: [Signature]					





MERTON ST (NORTH) ELEVATION

PROPOSED FINISHES SCHEDULE

	Zincalume Roofing to front cottage and garage
	Shiplap weatherboards to front cottage in Dulux Diekru grey. Window architraves in Dulux Natural White. Window frames in dark grey powdercoat finish
	Salvage and clean existing sandstone blocks. Stones will be re-used for front fencing on Merton St and for exposed base course of cottage
	Weatherboards to cottage Woolsey Grey
	Rendered walls to garage and covered terrace areas
	Batten privacy screening to rear addition to provide a combination of privacy, light and ventilation Wayward Grey
	Walls of rear extension finished in Dulux Wayward Grey

PROPOSED FINISHES SCHEDULE

PROJECT NO	TPK	REVISION	0
DRAWN	GDD	CHECKED	0
SCALE	1:100	DRAWING NO	DA14
DATE	26/06/20	DRAWING NO	DA14

PROJECT: PROPOSED NEW DWELLING AT 76 MERTON ST, ROZELLE
LOT 11 SEC 101-10 APPLICANT: MR LEO SASO
DRAWING TITLE: PROPOSED EXTERNAL FINISHES SCHEDULE

NOTES: DA SUBMISSION JUNE 2020
APPROVED:

REVISIONS:

FOR BOX 59, CLAREVILLE NSW 2111
STUDIO/REGISTRATION NO. M. DASO 548 544
REGISTERED ARCHITECT
M. DASO 548 544
REGISTERED ARCHITECT

DALGUESH WARD
AND ASSOCIATES PTY LTD
ARCHITECTS

Attachment C- Clause 4.6 Exception to Development Standards – Site Coverage

Clause 4.6 - Site Coverage

28 Merton Street Rozelle

CLAUSE 4.6 TO CLAUSE 4.3A OF LEICHHARDT LEP 2013

EXCEPTIONS TO DEVELOPMENT STANDARDS

**LANDSCAPED AREAS FOR RESIDENTIAL ACCOMMODATION IN ZONE R1:
SITE COVERAGE VARIATION**

Demolition of the existing cottage and construction of a new dwelling house and new separate double garage with studio above, plus swimming pool

at

No. 28 Merton Street Rozelle

PREPARED BY

ABC PLANNING PTY LTD

August 2020

LEICHHARDT LEP 2013 - CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARDS

This Clause 4.6 variation request has been prepared to accompany the development application for demolition of the existing cottage and the construction of a part one/ part two-storey dwelling house containing four bedrooms, plus separate garage with undercroft and first floor studio at the rear of the site, at Lot 11 Section P in DP 119, commonly known as No. 28 Merton Street, Rozelle.

Clause 4.6 of the *Leichhardt Local Environmental Plan 2013* allows the consent authority to grant consent for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards.

This Clause 4.6 variation request takes into account the relevant aspects of the Land and Environment Court judgement from *Initial Action Pty Ltd v Woollahra Council [2017] NSWLEC 1734*, as revised by the NSW Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

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:
- (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 Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General 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 Director-General before granting concurrence.

Development Standard to be Varied

The proposal seeks a variation to the development standard contained within Clause 4.3A(3)(b) of the LLEP2013 – Landscaped Areas for Residential Accommodation in Zone R1 - Site coverage does not exceed 60% of the site area.

Pursuant to 4.3A(3)(b) of the LLEP2013, the site is subject to a maximum site coverage of 60% (166.92m²), with the proposal for a maximum site coverage 65.8% (183.10m²) being a minor 9.69% (16.18m²) variation from the numerical development standard.

It is noted, that the swimming pool comprising 10.83m² of site cover has been included in the site coverage calculation, which without the inclusion of the swimming pool would be 64.7% coverage (180.10m²), being a minor 7.90% (13.18m²) variation from the development standard. Whilst we do not consider that swimming pools are included in site cover calculations, the site cover calculations provided include the swimming pool area as requested by Council.

Justification for Contravention of the Development Standard

This written request is considered to justify the contravention of the development standard and addresses the matters required to be demonstrated by Clause 4.6(3), of which there are two aspects. Both aspects are addressed below:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

Assessment: It is considered that strict compliance with the development standard for site coverage on the site is unreasonable and unnecessary in the circumstances for the following reasons:

- The proposal is for a maximum site coverage 65.8% (183.10m²) being a minor 9.69% (16.18m²) variation from the numerical development standard, pursuant to the LLEP2013 numerical development standard.
- The proposal complies with the objectives of the development standard and the R1 General Residential zone, indicated in the assessment at Table 1. Furthermore, compliance with the development standard is unreasonable and unnecessary as it is in the public interest given it is consistent with the objectives for development within the zone.
- Notwithstanding the site coverage numeric departure, the proposed development will have a density that is compatible with the scale of the surrounding local area, and will not have an adverse amenity impact to surrounding properties and the streetscape, in relation to significant additional overshadowing, visual impact from the bulk and scale, visual or acoustic privacy impacts, impacts to views, or traffic and parking impacts. Furthermore, the site coverage non-compliance will not have an adverse impact to internal amenity with regards to landscaping and deep soil zone, with the proposal providing for high-quality residential accommodation.
- It is noted that an objective of the site coverage development standard is to control density, with the proposal being compliant with the FSR development standard, and compatible with the one and two-storey character of the surrounding local heritage area. In this regard, the proposed development has been amended to be a single-storey dwelling element at the street frontage in response to Council's Pre-DA advice (PDA2020/0041). The proposed amended design, with non-compliant site coverage provides a better outcome as the bulk and mass of the development is now located towards the centre and rear of the site, rather than to the street frontage, mitigating visual impact from height, bulk, and scale, while maintaining views for adjoining neighbours and the public domain in a reasonable manner.
- Compliance with the Building Location Zone (BLZ), with the proposed development being compliant with established front and rear building alignment, plus existing side setbacks,

ensures the proposed development provides a good level of building separation, access, landscaping, privacy, plus natural lighting and ventilation for both the proposed development and adjoining properties.

- Provision of a high level of internal amenity, being a significant improvement on existing, as demonstrated by compliance with key amenity criteria within the Leichhardt Development Control Plan 2013 (LDPC2013) for both the General Principles for Development, Residential Provisions, and Urban Character Distinctive Neighbourhood Provisions, including storey height, private open space, setbacks and BLZ, overshadowing, plus solar access and cross ventilation.
- The proposal outperforms the development standard for a minimum 20% (55.64m²) of the site to be provided as landscaped deep soil zone area, with the proposal for 26.7% (74.40m²) being an additional 18.76m², which accommodates an extensive landscaped setting and provides for stormwater infiltration.
- A variety of new landscape and replacement plantings are proposed to enhance the appearance of the site, including front setback, recesses between two built forms, side boundaries, and rear backyard POS, plus roof garden planter boxes to the proposed garage. New and more suitable plantings will comprise a mixture a mixture of trees, shrubs, grasses and groundcovers, including one feature tree (Japanese Maple) within the rear backyard capable of reaching a mature height of 6m.
- Given outperformance of the landscaped deep soil area, and compliance with FSR, BLZ, and one and two-storey character of the surrounding local area, the proposal is not considered to be visually dominant and is consistent with the bulk and one and two-storey scale of development that is promoted by the zoning. The proposal represents a contemporary and desirable built form that will have a positive impact on the subject site and surrounding streetscape, and will not have a significant environmental or adverse amenity impacts on to the adjoining neighbours and streetscape.

Despite the non-compliance, the proposal achieves the objectives of the development standard and the zoning, as demonstrated in the following table:

Table 1: Assessment against the Objectives of the Development Standard and Land Use zone.

Consistency with the objectives of the Landscaped Areas for Residential Accommodation in Zone R1 standard in the LEP	
Objectives	Assessment
4.3A(1)(a) <i>to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents</i>	<p>Complies.</p> <ul style="list-style-type: none"> • The proposal outperforms the development standard for a minimum 20% (55.64m²) of the site to be provided as landscaped deep soil zone area, with the proposal for 26.7% (74.4m²) being an additional 18.76m², which accommodates an extensive landscaped setting and provides for stormwater infiltration. • The provision of landscape plantings in the front setback supports a suitable streetscape outcome which is compatible with the heritage character of Merton Street. The proposal also provides for abundant landscaping to boundaries and the rear backyard POS, including roof garden planter boxes to the proposed garage. New plantings will consist of a mixture of trees, shrubs, grasses and groundcovers, including one feature tree (Japanese Maple) within the rear backyard capable of reaching a mature height of 6m.
4.3A(1)(b)	<p>Complies.</p> <ul style="list-style-type: none"> • A Landscape Plan, prepared by Stylish Gardens accompanies this application, which illustrates the extensive

<p><i>to maintain and encourage a landscaped corridor between adjoining properties</i></p>	<p>landscape plantings proposed for the site, which will contribute to providing opportunities for ecological connectivity with adjoining properties landscape plantings.</p>
<p><i>(c) to ensure that development promotes the desired future character of the neighbourhood</i></p>	<p>Complies.</p> <ul style="list-style-type: none"> The proposed dwelling house is permissible in the R1 General Residential zone, and complies with the FSR and Landscaped Area development standards. Furthermore, the proposal demonstrates a high degree of compliance with the applicable provisions of the DCP for Residential Development, and Urban Character Distinctive Neighbourhood Provisions. In this regard the proposal is considered to be consistent with the desired future character of the neighbourhood as required by the planning instruments.
<p><i>4.3A(1) (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</i></p>	<p>Complies.</p> <ul style="list-style-type: none"> The proposal outperforms the development standard for a minimum 20% (55.64m²) of the site to be provided as landscaped deep soil zone area, with the proposal for 26.7% (74.4m²) being an additional 18.76m², which accommodates an extensive landscaped setting and provides for stormwater infiltration. Stormwater will be collected via a series of stormwater pits, grates and gutters on the site and directed to an underground combined rainwater tank (4800 litres) and OSD tank (3120 litres), located within the front setback. The stormwater will subsequently discharge to the kerb inlet pit within Merton Street. The proposal is accompanied by Stormwater Management Plans, dated 22/06/2020 prepared by Quantum Engineers, which indicate the collection and disposal of stormwater in a controlled manner. Sustainability initiatives include photovoltaic panels and a 1 x 3120 litre rainwater re-use tank, with connection to landscape irrigation tap.
<p><i>4.3A(1) (e) to control site density</i></p>	<p>Complies.</p> <ul style="list-style-type: none"> Pursuant to Clause 4.4 (2b)(d) of the LLEP2013, the site is subject to a maximum FSR of 0.8:1, given the site is within land marked Area 7, and has a site area of 278.2m². The proposal is for an FSR of 0.78:1, and therefore complies with the development standard. The proposal is compliant with the BLZ, with the proposed development being compliant with established front and rear building alignment, plus existing side setbacks, ensures the proposed development provides a good level of building separation, access, landscaping, privacy, plus natural lighting and ventilation for both the proposed development and adjoining properties. The proposed height, bulk and scale of the development is not considered to be visually dominant in the streetscape and does not introduce a significant impact to neighbours in regard to privacy, overshadowing or views, and the visual bulk and scale of the development does not have a detrimental visual amenity impact onto the streetscape. In this regard, the proposal is considered to preserve the amenity of neighbouring properties in a reasonable manner, and is compatible with the heritage character of the surrounding area.

<p>4.3A(1) (f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.</p>	<p>Complies.</p> <ul style="list-style-type: none"> The proposal is for a rear backyard POS including covered paved area accessible from the kitchen/ dining room, plus landscaped rear backyard, with new swimming pool. Additional POS is provided in the form of an upper level balcony to the master bedroom, plus a verandah overlooking the street. The rear backyard POS exceeds the minimum 16m² area and minimum 3m dimension, with 28.5m² provided, and provides for a high-quality usable POS area with both hard and soft landscaping. The proposed front setback is consistent with the existing front setback, and the building line of the adjoining properties to the east and west, while the side setbacks are consistent with the setback of the existing cottage, and the rear setback is consistent with the adjoining properties to the east and west. In this regard, the proposal is consistent with the BLZ for the site.
<p>Consistency with the objectives of the R1 General Residential Zone</p>	
<p>Objectives</p>	<p>Assessment</p>
<ul style="list-style-type: none"> 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. 	<p>Complies.</p> <p>Notwithstanding the variation to the site coverage standard, the objectives of the zone are satisfied for reasons outlined below:</p> <ul style="list-style-type: none"> The proposed demolition and construction of a dwelling house is permissible in the R1 General Residential zone. The proposed four-bedroom dwelling provides for a variety of residential accommodation and housing choice, within a residential context. The first floor studio within the proposed garage provides opportunities to work from home. The new dwelling house generally comprises of two components, joined by a recessed element connecting the two built forms. The proposed built form fronting the street is essentially a replication of the existing dilapidated single-storey cottage, including the hipped roof typology, being consistent with the existing historical character of the site and surrounding local area, and the single-storey dwellings within the streetscape. A Landscape Plan, prepared by Stylish Gardens accompanies this application, which illustrates the extensive landscape plantings proposed for the site. The provision of landscape plantings in the front setback supports a suitable streetscape outcome which is compatible with the heritage character of Merton Street. The proposal also provides for abundant landscaping to boundaries and the rear backyard POS, including roof garden planter boxes to the proposed garage. New plantings will consist of a mixture of trees, shrubs, grasses and groundcovers, including one feature tree (Japanese Maple) within the rear backyard capable of reaching a mature height of 6m.

	<ul style="list-style-type: none"> The site coverage non-compliance will not have an adverse impact to surrounding properties or the streetscape in relation to significant additional overshadowing, visual impact from the bulk and scale, visual or acoustic privacy impacts, impacts to views, or traffic and parking impacts.
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Based on the above assessment, it is considered that strict compliance with the LEP site coverage standard is unreasonable and unnecessary in this instance.

(b) that there are sufficient environmental planning grounds to justify contravening the development standard

Assessment: The assessment under the unreasonable and unnecessary section of this Clause 4.6 variation demonstrates that there are sufficient environmental grounds to permit the variation in this instance.

In this regard, it is reiterated that the proposed site coverage variation is not responsible for any streetscape, overshadowing, privacy, view, heritage or visual bulk impacts. Furthermore, the site coverage non-compliance will not have an adverse impact to internal amenity with regards to landscaping and deep soil zone, with the proposal providing for high-quality residential accommodation.

On this basis, there are sufficient environmental grounds to permit the site coverage variation in this instance.

Other Matters for Consideration

4(a)(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

Assessment: The above assessment demonstrates that the proposed site coverage satisfies the objectives of the site coverage standard and the R1 General Residential zone.

Given that the proposal is consistent with the desired future character for the area nominated by the specific controls in the LEP and DCP, and that there are no adverse or unreasonable impacts to the broader community, it is considered that there are no public interest matters which would prevent a variation to the site coverage development standard.

Furthermore, it is considered that the variation does not raise any matters of public interest as there are no public views or detrimental streetscape outcomes associated with the site coverage variation.

The development is in the public interest given the proposed site coverage variation provides for the demolition of a dilapidated cottage and construction of new residential accommodation, that retains the heritage character presentation to the streetscape, in an accessible location, being in close proximity to public transport providing access to services and facilities located within local and major centres.

Given that the proposal is for the demolition of an existing dilapidated cottage and replacing with a high-quality dwelling house, there are no adverse or unreasonable impacts to the broader community, it is considered that there are no public interest matters which would prevent a variation to the site coverage control.

(5) In deciding whether to grant concurrence, the Director-General must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning

Assessment: The proposed site coverage allows for the orderly and economic use of land as envisaged by the *Environmental Planning and Assessment Act, 1979*.

The proposed site coverage allows for achievement of appropriate landscaping and infiltration of stormwater without compromising the desired future character of the area.

The proposed site coverage is therefore consistent with the State and Regional Policies.

Concurrence

The Secretary's concurrence under clause 4.6(4) of the LEP has been delegated to the Council by written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018. That concurrence may also be assumed by the Court pursuant to s39(6) of the Land and Environment Court Act.

(b) the public benefit of maintaining the development standard

Assessment: There is no public benefit in maintaining the site coverage standard given the limited amenity impacts associated with the development and the positive streetscape outcome that would arise from the redevelopment of the subject site.

(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

Assessment: There are not considered to be any additional matters to consider beyond those discussed above.

Conclusion

For reasons mentioned herein, this Clause 4.6 variation is forwarded in support of the development proposal at No. 28 Merton Street, and is requested to be looked upon favourably by the consent authority.

Attachment D- Clause 4.6 Exception to Development Standards – Floor Space Ratio

Without Prejudice Clause 4.6 - FSR

28 Merton Street Rozelle

WITHOUT PREJUDICE CLAUSE 4.6 VARIATION

CLAUSE 4.6 TO CLAUSE 4.4 OF LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013

EXCEPTIONS TO DEVELOPMENT STANDARDS – FSR VARIATION

Demolition of the existing cottage and construction of a new dwelling house, new separate double garage with studio above, plus swimming pool

at

28 MERTON STREET ROZELLE

PREPARED BY

ABC PLANNING PTY LTD

NOVEMBER 2020

LEICHHARDT LEP 2013 - CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARDS

This Without Prejudice Clause 4.6 variation request has been prepared to accompany the development application for demolition of the existing cottage and the construction of a part one/ part two-storey dwelling house containing four bedrooms, plus separate garage with undercroft and first floor studio at the rear of the site, at Lot 11 Section P in DP 119, commonly known as No. 28 Merton Street, Rozelle.

Clause 4.6 of the *Leichhardt Local Environmental Plan 2013* (LLEP2013) allows the consent authority to grant consent for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards.

This Clause 4.6 variation request takes into account the relevant aspects of the Land and Environment Court judgement from *Initial Action Pty Ltd v Woollahra Council [2017] NSWLEC 1734*, as revised by the NSW Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

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:*
- (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 Director-General has been obtained.*
- (5) *In deciding whether to grant concurrence, the Director-General 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 Director-General before granting concurrence.*

Development Standard to be Varied

Pursuant to Clause 4.4 (2b)(d) of the LLEP2013, the site is subject to a maximum FSR of 0.8:1, given the site is within land marked Area 7, and has a site area of 278.2m². The proposed FSR is a variation from the maximum permitted, having an FSR of 0.87:1 (GFA 241.52m²), being a variation of 8.52% above the development standard.

Justification for Contravention of the Development Standard

This written request is considered to justify the contravention of the development standard and addresses the matters required to be demonstrated by Clause 4.6(3), of which there are two aspects. Both aspects are addressed below:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

Assessment: It is considered that strict compliance with the development standard for FSR on the site is unreasonable and unnecessary in the circumstances for the following reasons:

- The proposal complies with the objectives of the development standard and the R1 General Residential zone, indicated in the assessment at **Table 1** below. Furthermore, compliance with the development standard is unreasonable and unnecessary as it is in the public interest given it is consistent with the objectives for the development within the zone.

Streetscape

- When viewed from Merton Street, the dwelling will present as single storey with a substantially recessed 2nd storey, as shown below (**Figure 1**).

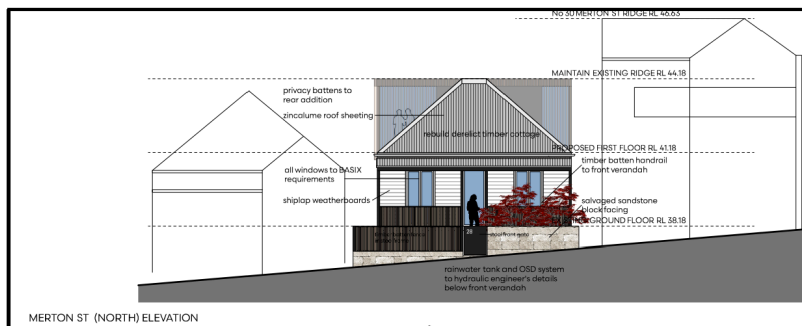


Figure 1: Streetscape elevation of subject site, showing the modest nature of the built form in the streetscape whilst also noting that the garage/undercroft area are not perceptible from the streetscape of Merton Street.

- The streetscape diagram also shows that the house will be recessive when compared to the 2-storey dwelling immediately to the west of the site at No. 30 Merton Street. The proposed dwelling presents as being a modest dwelling which is compatible with other dwellings along both sides of Merton Street. There are no streetscape indicators which would suggest to the casual observer that the FSR would appear excessive nor incompatible with the surrounding locality.

Given that Council asserts that the garage is to be included in the GFA calculations, and that the garage GFA is responsible for the FSR variation, it is considered that the dwelling house is thereby compliant. The garage is also concealed from the streetscape by the proposed dwelling which confirms that the FSR variation has no bearing on the consideration of streetscape. Rather, the proposed dwelling presents to the street as being compliant and suitably compatible with its surrounding context.

Heritage

- The proposed development is supported in relation to its setting in the heritage conservation area by respected heritage consultant John Oultram. Mr Oultram's heritage report demonstrates that the design, bulk, scale, and siting of the dwelling is appropriate in its setting.
- The building is set below the height of the ridge of the house to the north (30 Merton Street) and is slightly higher than the ridge of the house to the south (26 Merton Street) responding to the slope of the street. The two-storey presentation to the front and front verandah provide an easy fit into the streetscape where the height of buildings is largely single or two storeys. The new dwelling is an appropriate infill development that will fit well into the historic streetscape and is sympathetic to the current, built pattern of the area. The proposal is very well mannered in terms of the bulk and scale of its neighbours and the general scale of the one and two storey period and modern dwellings along Merton Street. On this basis, the additional FSR is not responsible for any heritage impacts.

Views

- The excess FSR associated with the garage has no impact on views from any public or private vantage point. The compliant dwelling also reasonably maintains views towards the CBD from the western neighbouring dwelling at No. 30 Merton Street by limiting the front portion of the dwelling to being single storey in form. The restriction of the front portion to a single storey scale allows for views to be maintained across the side boundary towards the front of the site which represents a reasonable and sympathetic design outcome (given that the Tenacity Planning Principle for View Sharing acknowledges that views across side boundaries are difficult to retain). It is noted that some views from the centrally located east-facing windows of No. 30 Merton Street will be affected, however, such windows would be affected by any reasonable and compliant form of development on the subject site as such windows are considered to be vulnerable to any reasonable form of development on the subject site. On this basis, the FSR variation is not responsible for any adverse view impacts.

Visual Bulk

- The proposed FSR variation is not responsible for any visual bulk impacts to neighbouring properties either side, nor across to the road to the north or across the rear lane to the south. The sensitive scale of the 1-2 storey built form does not generate any adverse or unreasonable visual bulk impacts whilst the siting of the development and its associated compatible front, side and rear setbacks also ensure that the FSR variation generates no adverse or unreasonable impacts from any primary living, balcony or private open space areas. It is reiterated that the portions of the FSR that Council consider to be included in the GFA calculation (which triggers the FSR variation and the need for this Clause 4.6) includes an undercroft area below the garage and the double garage. Neither of these aspects of the proposed built form generate any adverse or incompatible visual impacts.

Overshadowing

- The north-south orientation of the subject and adjoining sites and the modest 1-2 storey nature of the built form, along with its front, side and rear setbacks, reasonably maintain solar access to both adjoining properties either side and to the dwellings across the lane to the rear/south. On this basis, compliance with the overshadowing components of the DCP, confirm that the FSR variation does not generate any adverse or unreasonable shadow impact. It is reiterated that the FSR variation is generated by

Council's inclusion of the below lane level undercroft and the single storey garage form at the southern end of the site. Shadows from these aspects are minimal as they fall over the laneway/fencing and not to any living or private open space area. On this basis, the additional FSR is not responsible for any adverse shadow impacts.


Privacy

- The additional FSR does not generate any adverse or unreasonable privacy impacts noting that all primary openings of the proposed dwelling and studio are to the street or rear yard. As outlined above, the FSR variation is due to the inclusion of the below lane level garage and the double garage, neither of which generate any privacy impacts.

Despite the non-compliance, the proposal achieves the objectives of the development standard and the zoning, as demonstrated in the following table:

Table 1: Assessment against the Objectives of the Development Standard and Land Use zone.

Consistency with the objectives of the FSR standard in the LEP	
Objectives	Assessment
4.4 (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,	<p>Complies</p> <p>The proposed FSR variation does not generate any inconsistency with the FSR objective as the built form and scale will sit comfortably in its context along Merton Street as demonstrated by the streetscape image above and as confirmed in the accompanying heritage report by John Oultram. The part 1, part 2 storey scale of the dwelling house is considered to represent a sensitive and sympathetic design approach which suitably moderates between the scale of development either side. The proposed FSR variation is also associated with a development which outperforms the deep soil landscaping control of 20%, noting that 26.7% of the site will comprise deep soil planting. On this basis, it is considered that the proposed FSR variation is associated with a development which provides a suitable balance between landscaped areas and the built form, as desired by the objective. The proposed siting, setbacks and form are appropriate to the site and its context. The proposal is thereby considered to be consistent with the desired future character.</p> <p>The proposed distribution of FSR also minimises the impact of the bulk and scale of the dwelling by limiting the front portion to a single storey scale. This design response minimises view impacts from the 1st floor balcony at the front of the western neighbour at No. 30 Merton Street (Figure 2).</p>

	 <p>Figure 2: Subject site single-storey at the street frontage provides views of the CBD from front balcony for adjoining western neighbour at No. 30 Merton Street</p> <p>The shadow diagram analysis by the architect demonstrates that there is minimal impact to both properties either side.</p> <p>In this regard, the north-facing windows of No. 26 Merton Street will maintain more than 3 hours solar whilst 2.5-3 hours solar access is maintained to the solar panels of 26 Merton Street (9am to 11.30am) on June 21. Sunlight is also maintained for more than 3 hours to the private open space of No. 26 Merton Street. The shadow impact on No. 30 Merton Street is less given it is elevated above the subject site and contains a projecting wing on its eastern side which enjoys solar access from 9am to midday on June 21.</p> <p>On this basis, the proposed FSR variation does not generate any non-compliant shadow outcomes. It is also reiterated that the FSR variation is considered to be within the garage and undercroft below and such FSR does not generate any shadow impacts as demonstrated on the shadow diagrams.</p> <p>The FSR variation also does not generate any privacy impacts noting that all primary living areas are oriented to the street and to the central and rear yards.</p> <p>The above assessment has suitably demonstrated that the additional FSR does not generate any incompatibility with the surrounding area whilst also minimising amenity impacts to surrounding properties.</p>
<p>4.4 <i>(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.</i></p>	<p>Complies Not relevant as it only applies to non-residential development.</p>
<p>Consistency with the objectives of the R1 General Residential Zone</p>	
<p><i>1 Objectives of zone</i></p> <ul style="list-style-type: none"> • <i>To provide for the housing needs of the community.</i> 	<p>Complies The proposed demolition and construction of a dwelling house development is permissible in the R1 General Residential zone under LLEP2013.</p>

Without Prejudice Clause 4.6 - FSR

28 Merton Street Rozelle

<ul style="list-style-type: none"> • 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. 	<p>The proposal achieves the objectives of the zone by demolishing an outdated cottage dwelling house on the subject site to allow for the construction of contemporary residential accommodation in the form of a dwelling house.</p> <p>The design ensures that the proposal is consistent with the existing and anticipated future residential development surrounding the site, and provides for excellent internal amenity with improved sustainability whilst also preserving external amenity to surrounding properties in a reasonable manner.</p>
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Based on the above assessment, it is considered that strict compliance with the LEP FSR standard is unreasonable and unnecessary in this instance.

(b) that there are sufficient environmental planning grounds to justify contravening the development standard

Assessment: It is considered that there are sufficient environmental planning grounds to justify varying the FSR development standard, which include:

The points of justification in the assessment under “*unreasonable or unnecessary*” are also considered to constitute sufficient environmental grounds, including:

- Streetscape
- Visual Bulk
- Heritage
- View sharing
- Overshadowing
- Outperformance of landscaping requirements
- Visual Privacy
- High internal performance (the additional FSR does not compromise the internal amenity as it achieves excellent solar access, daylight, and ventilation)

Based on the above points, it is considered that there are sufficient environmental planning grounds to permit the FSR variation in this instance.

Other Matters for Consideration

4(a)(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

Assessment: The above assessment demonstrates that the proposed FSR satisfies the objectives of the FSR standard and the R1 General Residential zone.

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Furthermore, it is considered that the variation does not raise any matters of public interest as there are no public views or detrimental streetscape outcomes associated with the minor FSR variation.

The development is in the public interest given the proposed FSR variation allows for the provision of a dwelling house development comprising four bedrooms, plus separate garage with first floor studio at the rear of the site, with excellent internal amenity, in an accessible location, being in close proximity to public transport and local services.

Given that the proposal is consistent with the desired future character for the area nominated by the specific controls in the LEP and DCP, and that there are no adverse or unreasonable impacts to the broader community, it is considered that there are no public interest matters which would prevent a variation to the FSR control.

(5) In deciding whether to grant concurrence, the Director-General must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning

Assessment: The proposed FSR variation allows for the orderly and economic use of land as envisaged by the *Environmental Planning and Assessment Act, 1979*.

The proposed FSR allows for achievement of a compatible building envelope without creating a development with overbearing height, bulk, or scale, and without compromising the desired future character of the area.

The proposed FSR is therefore consistent with the State and Regional Policies, particularly urban consolidation principles which seek to provide additional height and density near transport and established services.

Concurrence

The Secretary's concurrence under clause 4.6(4) of the LEP has been delegated to the Council by written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018. That concurrence may also be assumed by the Court pursuant to s39(6) of the Land and Environment Court Act.

(b) the public benefit of maintaining the development standard

Assessment: There is no public benefit in maintaining the FSR standard given the limited amenity impacts associated with the development and the positive streetscape outcome that would arise from the redevelopment of the subject site.

(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

Assessment: It is not considered there are any additional matters to consider beyond those discussed above.

Conclusion

For reasons mentioned herein, this Clause 4.6 variation is forwarded in support of the development proposal at No. 28 Merton Street, Rozelle and is requested to be looked upon favourably by the consent authority.

Attachment E – Statement of Heritage Significance

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Area 12 The Valley (Rozelle and Balmain)

Landform

This conservation area comprises a large but tightly formed valley which falls south and east from the Darling Street ridge towards White Bay affording enclosed views to industrial workings of the port city in the bay.

It includes a number of subdivisions/part subdivisions around the highest land in the Leichhardt Municipality on either side of the Darling Street ridge and across Victoria Road. It includes land east of Wellington Street to White Bay. It also includes the civic buildings and the commercial zone of Rozelle on both sides of Victoria Road, the land east of the Darling Street ridge beyond the commercial zone, the civic and commercial buildings of Balmain retail centre, small groups of shops along Darling Street and the former retail area of Evans and Beattie Streets.

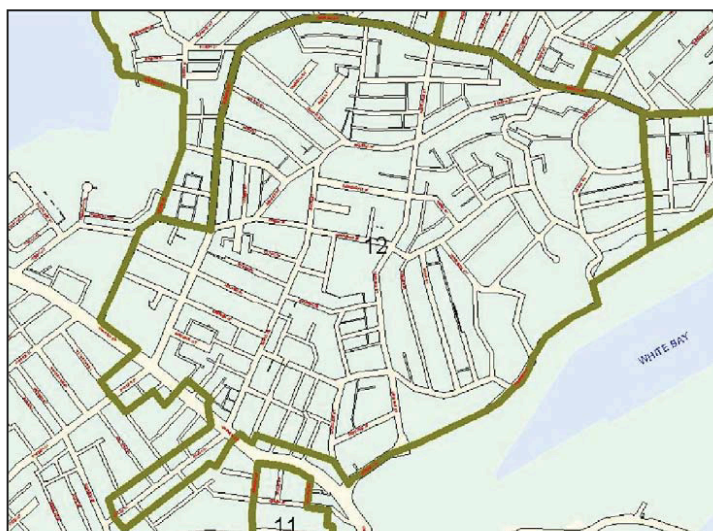


Figure 12.1 The Valley Conservation Area Map.

History

When sales of John Gilchrist's Balmain 550-acre grant were resumed in 1852, Surveyor Charles Langley subdivided the remaining acres into 46 (later 47) sections, using existing routes such as Darling Street, and other contour-hugging tracks, such as Beattie Street and Mullens Street to delineate the parcels. The sections were purchased over the next thirty years by wealthy investors, local speculators and builders.

The largest of the estates put together from Langley's subdivisions was the 19 acres of the Merton Estate purchased by piano importers Paling and Starling, druggists George and Frederick Elliott and estate agent Alfred Hancock. It occupied the land between Terry Street and Evans Street. It was subdivided by its owners into 197 allotments generally 30ft x 100ft with 50ft-wide grid

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pattern of roads, and was auctioned by local agent and developer, Alfred Hancock from 1874.

A miscellaneous collection of service and consumer trades servicing these new dwellings appeared along Evans Street in the 1870s making it the main commercial thoroughfare along the upper reaches of the Balmain peninsula.

By the 1880s the growth of industry, including noxious industry, in White Bay and along Whites Creek, made the south and east-facing slopes of the Darling Street ridge unattractive for a more affluent residential market. Those who could find employment in these industries would seek housing within walking distance, as public transport – then the horse drawn bus or later the steam tram – were too expensive. Canny speculators, such as Hancock (later Mayor of Balmain) sold to small builders who constructed very dense workers' housing for rentees or purchasers on small budgets. By 1891 a large part of this area had been built upon.

The arrival of the government-owned steam tram at the junction of Darling Street and Victoria Road in 1892, provided relatively more affluent residents along its route with transport to the city, and a greater choice of employment away from places within immediate walking distance from home. The advent of the tramway probably explains the major impetus to growth in the area particularly to the west of Evans Street, so that in the 1890s much of Terry, Wellington, Merton and Nelson Streets were built upon with one-storey brick semis, pairs or small groups of terraces (two to an allotment) and double-fronted single-storey houses (one to an allotment). Most of these buildings were constructed by local builders such as Robert Gordon, William Whitehorn and James Gibson, whose small-scale operations are indicated by the small groups of similar houses or terraces.

From the 1850s, Booth's Saw Mill on White Bay provided a cheap source of timber and weatherboards, promoting weatherboard houses as the norm for workers' housing throughout Balmain until brick terrace housing became prevalent in the late nineteenth century.

The extension of the steam tram service along Darling Street by 1900 encouraged shopkeepers to relocate there to catch the passing trade, and Evans Street was superseded as a commercial centre.

The Metropolitan Detail Survey Sydney Water Archive¹ suggests that almost all the land east of Wellington Street was built upon by 1905.

By 1907 the precinct was generally known as Rozelle.

Sources

Solling, M and Reynolds, P 1997, 'Leichhardt: on the margins of the city', *Leichhardt Historical Journal*, Vol. 22, Allen and Unwin.

Further information provided by Max Solling.

Significant Characteristics

- Contour hugging main roads – Evans, Beattie and Reynolds.

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- Outline of subdivisions, size and aspect of allotments, determined by route of main roads.
- Wider residential roads off Darling Street ridge, with grid subdivision pattern, but
- Generally narrow roads between main access roads.
- Narrow, often shallow allotments.
- Back lanes are rare.
- Dense urban environment.
- Continuous lines of buildings create sharply defined lineal spaces.
- Buildings stepped up and down hill, following the topography.
- Houses sited close to road near Darling Street ridge; and sited onto the road alignment nearer to White Bay.
- Small front gardens near Darling Street; there are fewer gardens towards White Bay.
- Tree planting is minimal except where wider main access roads provide enough room – Langley, Roseberry, Llewelyn and Reynolds Street.
- Large stands of trees in parks and open spaces.
- Small range of housing types: single-fronted, single-storey timber terraces, two-storey terraces, free-standing timber or stone single-storey cottages.
- Some larger villas on high land around Smith Street, and more generous terraces in similar locations.
- Scale predominantly limited to one or two storeys.
- Pubs with verandahs act as punctuation marks in the streetscape.
- Corner stores.
- Commercial premises (and former commercial premises) with attached dwellings along Evans and Darling Streets.
- Small industrial/warehouse buildings occur throughout the area.
- Variety of materials – large number of timber, plastered brick, some later (1890s+) face brick and a few stone buildings.
- Roof materials vary – iron is common, terracotta tiles, some slate.
- Stone retaining walls.
- Remnants of iron palisade fences define some street frontages.
- Suspended awnings to commercial facades along Darling and Evans Streets.
- Sandstone kerbs and gutters.

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Statement of Significance or Why the Area is Important

- One of a number of conservation areas which collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). This area is important for illustrating development for workers' and artisan housing particularly from 1871-1891 which forms the major element of its identity. It is significant for its surviving development from that period and the later infill development up to World War II (ie pre-1939).
- Retains evidence of all its layers of growth within that period from the late-1870s.
- Through its important collection of weatherboard buildings, including the now rare timber terraces, it continues to demonstrate the nature of this important/major construction material in the fabric of early Sydney suburbs, and the proximity of Booth's saw mill and timber yards in White Bay.
- Through the mixture of shops, pubs and industrial buildings it demonstrates the nature of a Victorian suburb, and the close physical relationship between industry and housing in nineteenth century cities before the advent of the urban reform movement and the separation of land uses.
- Demonstrates through the irregular pattern of its subdivision the small-scale nature of the spec builders responsible for the construction of the suburb.
- Demonstrates the nature of some private subdivisions before the introduction of the Width of Streets and Lanes Act of 1881 required roads to be at least one chain wide.

Maintenance of Heritage Values

Generally

This is a conservation area. Little change can be expected other than modest additions and discrete alterations. Buildings which do not contribute to the heritage significance of the area may be replaced with sympathetically designed infill.

Retain

- Existing width and alignment of streets: avoid chicanes which cut diagonally across the carriageway.
- Existing back lanes.
- All buildings pre-1939 and particularly all timber buildings
- All original plaster finishes to external walls - reconstruct where necessary.
- All original unplastered face brick walls.
- All original external architectural detail, decorative tiles, plaster mouldings, chimneys, roof ridges and finials, commercial signs etc.

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Encourage replacement of lost elements, but only where evidence is available.

- All remaining sandstone kerbs and gutters.
- All corner stores, corner pubs and industrial buildings within the residential areas, and encourage their restoration. Consider small-scale commercial or professional uses for these buildings, if original uses no longer operate, as a reference to their original uses.
- Street and park planting; reinstate where necessary

Avoid

- Amalgamation that might lead to a change in the densely developed streetscape.
- Demolition of any pre-1939 building, particularly those pre-1910.
- Demolition of any remaining timber building.
- Additional storeys above the existing form of the building.
- Posted-verandahs over footpaths to commercial premises where no evidence can be provided to support their reconstruction. Encourage restoration of verandahs where evidence exists.
- Removal of plaster to external walls, where part of the original construction. Removal of original architectural details.
- Additional architectural detail for which there is no evidence.
- Inappropriate fences such as high brick walls, new iron palisades on high brick bases.
- Interruption to the almost continuous kerb and gutter line.

Endnotes

- ¹ Scolling & Reynolds, p 81.
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