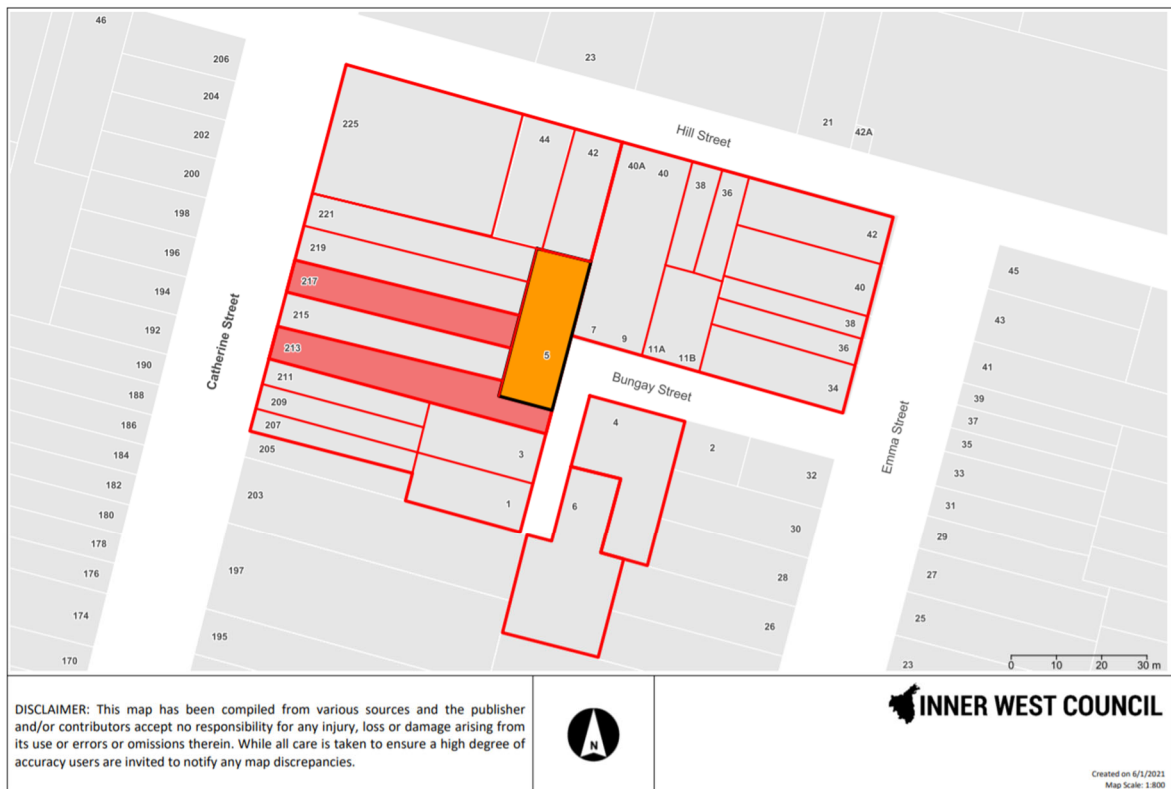






INNER WEST

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA/2021/0038
Address	5A Bungay Street LEICHHARDT NSW 2040
Proposal	First floor addition to existing single storey dwelling
Date of Lodgement	22 January 2021
Applicant	Anne Colville
Owner	Mr Kavi R Ramnani
Number of Submissions	Three (3)
Value of works	\$300,000.00
Reason for determination at Planning Panel	Clause 4.6 variation exceeds 10%
Main Issues	Floor Space Ratio
Recommendation	Approval with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards – Landscaped areas for residential accommodation in Zone R1
Attachment D	Clause 4.6 Exception to Development Standards – Floor Space Ratio



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for a first-floor addition to an existing single storey dwelling at 5A Bungay Street, Leichhardt.

The application was notified to surrounding properties and three (3) submissions were received in response.

The main issues that have arisen from the assessment include:

- Floor Space Ratio variation exceeds 10%

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

2. Proposal

The proposal involves a first floor addition to the existing single storey dwelling on the site and involves the following components:

- Demolition of the existing roof;
- Retention of the ground floor layout and facade including parapet;
- New front entry door and closure of the existing access door;
- New first floor addition to accommodate three (3) bedrooms, a bathroom, study and balcony;
- Landscaping works within the rear courtyard and side passage; and,
- Solar panels and skylights to new roof.

No changes are proposed to the existing footprint of the dwelling, access arrangements, or the existing strata plan.

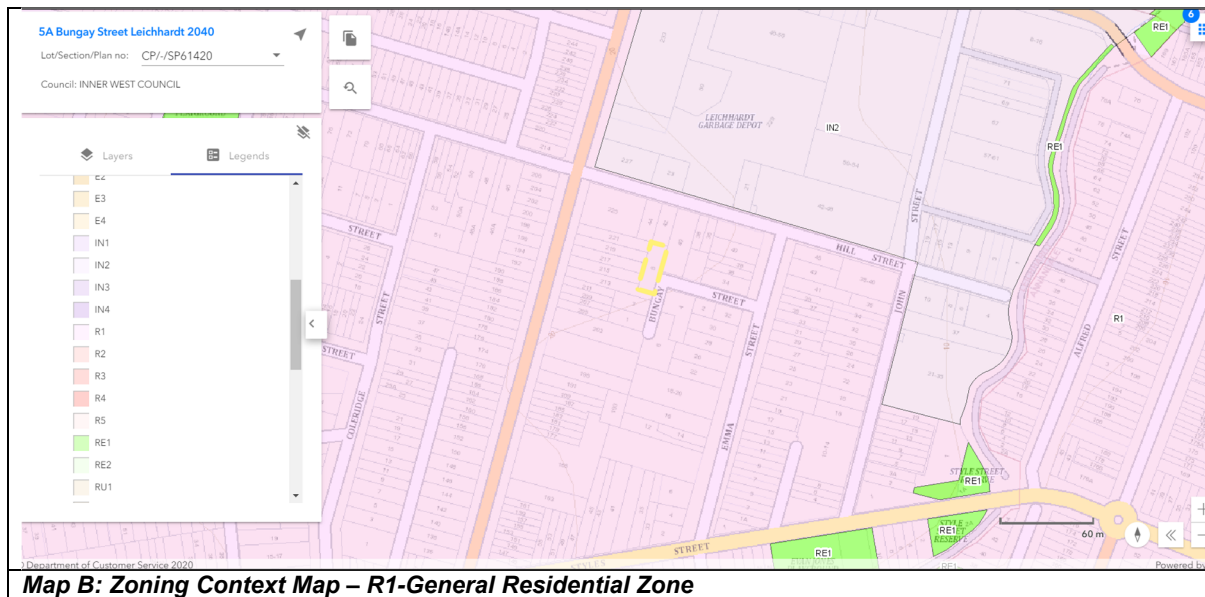
3. Site Description

The subject site is located on the western side of Bungay Street, between Catherine Street and Emma Street. The site consists of two allotments and is generally rectangularly shaped with a total area of 327 sqm and is legally described as Lot 1 in SP 61420.

The site has a frontage to Bungay Street of 30.53 metres. The site is affected by an easement to permit encroaching over the adjacent right of way of 0.1m wide.

The site supports a single storey brick and weatherboard dwelling. The adjoining properties support one and two storey brick and weatherboard dwellings.

The subject site is not listed as a heritage item and is not located within a conservation area. The property is not identified as a flood prone 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
OCP/2018/192	Final Occupation Certificate - Strata Scheme 5 Bungay Street LEICHHARDT NSW 2040	25/06/2018
CCPMOD/2018/139	<u>5 Bungay Street, Leichhardt</u> Section 96 Modification - internal and external amendments including windows and overhangs to approved development	Approved: 22/05/2018 Private Certifier
M/2015/133	<u>5 Bungay Street, Leichhardt</u> Modify D/2010/380 by internal and external amendments including to windows and overhangs to approved development.	Approved: 10/09/2015
M/2011/46	<u>5 Bungay Street, Leichhardt</u> Modification of Development Consent D/2010/380 which approved alterations and additions to the existing dwelling including a new first floor. Modifications include the provision of a screen above the existing wall adjacent to the northern boundary in-lieu of compliance with Condition 2(b) of the consent	Refused: 09/08/2011
D/2010/380	<u>5 Bungay Street, Leichhardt</u> Alterations and additions to the existing dwelling including a new first floor.	Approved: 08/02/2011
DA/203/1997	INDUSTRIAL BUILDING/ARTIST/STUDIO APARTMENTS WITH STRATA SUBDIVISION	05/11/1997
BA/1997/97302	Alterations to existing factory building to convert to 2 residential units - 97/302	23/11/1997

Surrounding properties

Not applicable

4(b) Application history

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

Date	Discussion / Letter / Additional Information
13 April 2021	Council forwarded the applicant a request for additional information letter which raised the following issues: <ul style="list-style-type: none"> • Non-compliance with Site Coverage, Landscaped Area and Floor Space Ratio (FSR) Development Standards • Clause 4.6 Exception Request • Privacy – living areas at first floor • Shadow Diagrams • Inconsistencies with SEE and Architectural Drawings • View Loss • Contamination • Acoustic Report
04 May 2021	Applicant submitted additional information as per Council's request.

5. Assessment

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

5(a) Environmental Planning Instruments

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

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

The following provides further discussion of the relevant issues:

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

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

The site has been used in the past for activities which could have potentially contaminated the site. However, the site does not require remediation as remediation was undertaken in accordance with *SEPP 55* as part of D/2010/380.

The Validation Report prepared by *Gutteridge Haskins & Davey* which was submitted as part of the application confirms that the site has been made suitable for residential use as part of the previous development consent on the site as the conclusion states:

“Results of the validation testing indicated that fill material impacted with PAHs and PCBs had been removed from the site, and that the site is now suitable for medium density residential development.”

Overall, the proposal is considered acceptable with regard to compliance with the requirements of SEPP55.

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

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

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

An assessment has been made of the matters set out in Division 2 Matters for Consideration of the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. It is considered that the carrying out of the proposed development is generally consistent with the relevant matters for consideration of the Plan and would not have an adverse effect on environmental heritage, the visual environment, the natural environment or open space and recreation facilities.

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

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

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

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

Standard	Proposal	Non - compliance	Complies
Floor Space Ratio Maximum permissible: 0.6:1 / 196.2sqm	1:1 / 326.34sqm	66.32% / 130.12sqm	No

Landscape Area Minimum permissible: 20% / 65.4sqm	9.63% / 31.50sqm	51.85% / 34sqm	No (Existing non-compliance which is being reduced)
Site Coverage Maximum permissible: 60% / 196.2sqm	61.93% / 202.5sqm	3.21% / 6.3sqm	No (Existing but unchanged)

(ii) Clause 4.6 Exceptions to Development Standards

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

- Clause 4.3A - Landscaped areas for residential accommodation in Zone R1
- Clause 4.4 – Floor Space Ratio

Clause 4.3A - Landscaped areas for residential accommodation in Zone R1

The applicant seeks a variation to the Landscaped Area Development Standard under Clause 4.3A of the Leichhardt LEP by 51.85% (34sqm).

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

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

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

- The proposal significantly enhances occupant amenity and makes more efficient use of the site.
- The proposal will have no adverse impact on streetscape or neighbour amenity.
- The proposal will provide improved opportunities to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents, maintain the existing spatial relief and landscaped corridors between the site and its neighbours, maintain the retention and absorption of surface drainage water on site and limit any change to the existing ground floor level of the site.
- The circumstances in this case, are that the landscaped area marginally increases while the site cover remains consistent with the existing situation, the peculiarities of the building being a former warehouse, and the fact that the minor departure to both standards makes no difference to the way in which the site and surrounds will be viewed in regards to overall site coverage or landscaped within the context of this neighbourhood.

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

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

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

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

Having regard to these objectives, the following is noted:

- a) The proposed additions provide residential accommodation which is compatible with the character, pattern of development and streetscape of the neighbourhood.
- b) The non-compliance for this proposed development will provide a satisfactory streetscape character and maintaining a high level of amenity and privacy for the subject property and adjoining properties.
- c) The proposal maintains solar access to living areas and private open space areas of the subject property and adjoining properties.
- d) The proposal has been designed to minimise adverse impacts to surrounding properties, the environment and the public domain.
- e) The proposal will allow increased opportunities for working from home.

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

The objectives of the Landscaped Area development standard are as follows:

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

Having regard to these objectives, the following is noted:

- a) The proposal provides residential accommodation which is compatible with the character, pattern of development and streetscape of the neighbourhood.
- b) The relationship between the landscaped areas on the site and the built form will not change dramatically, however it is noted that the site coverage for the site remains unchanged and the soft landscaping on the site is being improved.
- c) Due to the nature of the site, the landscaped areas for this dwelling and the immediate neighbour within the strata plan are within courtyards within the outer walls of the building. Both courtyards are located directly off the living areas of the dwellings and

have provided adequate outdoor space since the original approval was issued for the use of the building as residential use over 20 years ago.

- d) The proposal seeks to increase the width of the planters within 5A so that suitable drought tolerable natives can be provided to meet the requirements of the Development Standard.

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

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

Clause 4.4 – Floor Space Ratio

The applicant seeks a variation to the Floor Space Ratio Development Standard under Clause 4.4 of the Leichhardt LEP by 66.32% (130.12sqm).

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

- The area of the proposed first floor accounts for the additional gross floor area and no changes are proposed to the ground floor layout of the site or site coverage.
- The site is already developed as a single dwelling as part of an existing strata plan and is connected to services. The other dwelling within the strata is two storeys in height, as are the majority of surrounding dwellings.
- The area of additional floor space proposed will meet the anticipated needs for the foreseeable future and in this case, the proposal will adequately achieve floorspace to serve the needs of a small family unit with flexibility to suit different family units while providing space and flexibility to work from home.
- The proposal significantly enhances occupant amenity and makes more efficient use of the site, without any perceivable building bulk, height or scale that is incompatible with surrounding development.
- The proposal will have no adverse impact on streetscape or neighbour amenity.
- The subject land is located within a locality where most of the buildings are of comparable or greater bulk, scale, height and density.

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

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

Having regard to the zoning objectives, the following is noted:

- a) The proposed additions provide residential accommodation which is compatible with the character, pattern of development and streetscape of the neighbourhood.
- b) The non-compliance for this proposed development will provide a satisfactory streetscape character and maintaining a high level of amenity and privacy for adjoining properties.
- c) The proposal maintains solar access to living areas and private open space areas of adjoining properties.

- d) The proposal has been designed to minimise adverse impacts to surrounding properties, the environment and the public domain.
- e) The proposal will allow increased opportunities for working from home.

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

The objectives of the Floor Space Ratio development standard are as follows:

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

Having regard to these objectives, the following is noted:

- a) The proposal provides residential accommodation which is compatible with the character, pattern of development and streetscape of the neighbourhood.
- b) The proposed additions enhance the amenity of the subject site without adversely impacting neighbouring amenity.
- c) The bulk and scale of the development is suitable for the intended use of the site for residential purposes and the additional area sought under this variation will be inconceivable to the observer given the context of the site amongst developments of similar or greater bulk and scale in the immediate vicinity.
- d) The relationship between the landscaped areas on the site and the built form will not change dramatically, however it is noted that the site coverage for the site remains unchanged and the soft landscaping on the site is being improved.
- e) The proposed additional floorspace is in keeping with the overall development and bulk and scale and land use intensity of the surrounding sites.

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

(iii) Clause 6.8 - Development in areas subject to aircraft noise

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

5(b) [Draft Environmental Planning Instruments](#)

There are no relevant Draft Environmental Planning Instruments.

5(c) [Draft Inner West Local Environmental Plan 2020 \(Draft IWLEP 2020\)](#)

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

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

5(d) Development Control Plans

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

LDCP2013	Compliance
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	N/A
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes - see discussion
C1.4 Heritage Conservation Areas and Heritage Items	N/A
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes – refer to discussion under Section 5(a)
C1.9 Safety by Design	N/A
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	N/A
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	N/A
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	N/A
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
C2.2.3.3 Piperston Distinctive Neighbourhood	Yes - see discussion
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	N/A
C3.6 Fences	N/A
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes - see discussion
C3.10 Views	Yes - see discussion
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	N/A
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	N/A
D2.5 Mixed Use Development	N/A
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	Yes
E1.2.1 Water Conservation	N/A
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Yes
E1.2.4 Stormwater Treatment	N/A
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	N/A
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A

The following provides discussion of the relevant issues:

C1.3 – Alterations and additions and C2.2.3.3 Piperston Distinctive Neighbourhood

The alterations and additions, as proposed, will be of a form, size, scale, design and detail that will be compatible with the existing dwelling-house and the adjoining dwelling on the same site at No. 5 Bungay Street and, will not detract from the streetscape or prevailing pattern of development along Bungay Street. The proposed additions are appropriately sited and will not result in adverse or undue amenity impacts to adjoining properties (refer to discussion below).

C3.2 Site Layout and Building Design**Building Location Zone (BLZ)**

No changes are proposed to the ground floor footprint of the existing dwelling; however, a new first floor addition is proposed which would establish a new building location zone and result in a variation under this Clause.

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

- The height of the first floor has been kept to a minimum, to minimise visual bulk and scale, as viewed from adjoining properties, in particular when viewed from the private open space of adjoining properties;
- The height of the first floor has been designed to match the height of the adjoining two storey dwelling at No. 5 Bungay Street which is part of the same strata scheme;
- The proposal improves soft landscaping on the site and reduces the existing Landscaped Area Development Standard variation on the site;
- The proposal complies with the solar access controls the LDCP2013 and has been designed to minimise any potential amenity impacts on adjoining properties in terms of privacy;
- The proposed development is a sympathetic addition to the existing streetscape and is compatible with the desired future character and scale of surrounding development; and,
- The proposal provides sufficient private open space areas and landscaping.

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

Side Setbacks

The proposed wall height along the southern boundary of approximately 5.5m requires greater setbacks than the 1.3m setback proposed at the first floor and will therefore result in a technical breach to the side setback controls.

The test prescribed under this Clause is satisfied and the side setbacks acceptable in this instance, for the following reasons:

- The height of the first floor has been kept to a minimum, employing minimal floor to ceiling heights, to minimise visual bulk and scale, as viewed from adjoining properties, in particular when viewed from the private open space of adjoining properties;
- The height of the first floor has been designed to match the height of the adjoining two storey dwelling at No. 5 Bungay Street which is part of the same strata scheme;
- The proposal complies with the solar access controls the LDCP2013 and has been designed to minimise any potential amenity impacts on adjoining properties in terms of privacy;
- The proposed development is a sympathetic addition to the existing streetscape and, is compatible with the desired future character and scale of surrounding development; and,
- Reasonable access is provided to each side boundary for maintenance.

Building Envelope

The streetscape and neighbourhood controls prescribed in part C2.2.3.3 *Piperston Distinctive Neighbourhood* of the LDCP2013 prescribe a maximum building wall height of 7.2m for buildings originally designed for non-residential use.

The proposed additions are complimentary in form, scale and design with the adjoining dwelling on the same site at No. 5 Bungay Street and immediately adjacent dwellings along Bungay Street and have been designed to comply with the envelope controls prescribed under this Clause.

In this regard the proposed development is considered acceptable.

C3.9 Solar Access

The following solar access controls apply:

- *C12 – Where the surrounding allotments are orientated east/west, main living room glazing must maintain a minimum of two hours solar access between 9am and 3pm during the winter solstice.*
- *C13 – Where the surrounding allotments are orientated north/south and the dwelling has north facing glazing serving the main living room, ensure a minimum of three hours solar access is maintained between 9am and 3pm during the winter solstice.*
- *C16 Where surrounding dwellings have south facing private open space ensure solar access is retained for two hours between 9am and 3pm to 50% of the total area during the winter solstice.*
- *C18 Where surrounding dwellings have east/west facing private open space, ensure solar access is retained for two and a half hours between 9am and 3pm to 50% of the total area (adjacent to living room) during the winter solstice.*

The proposal will result in some minor additional overshadowing to the private open space of a neighbouring property at No. 2/4 Bungay Street, Leichhardt. The additional overshadowing account for 1.5sqm at 2pm and 1.8sqm at 3pm in mid-winter.

As confirmed by the shadow diagrams submitted, this adjoining property will retain the requisite two hours of solar access to 50% of their private open space in mid-winter and hence, any additional overshadowing caused by the proposal is not considered to be adverse or contrary to the provisions of this Clause.

Potential additional overshadowing at other times of a day in mid-winter would fall within the adjacent right of way, Bungay Street and front setback of No. 3 Bungay Street which contains a hardstand parking space. Any potential overshadowing to these areas is not considered adverse as it will not affect the amenity of adjoining properties. Furthermore, overshadowing to these areas is not protected under this Clause and would therefore be unreasonable grounds for refusal.

In conclusion, any additional overshadowing caused by the proposal to neighbouring properties is not considered to be unreasonable and the proposal complies with the objectives and controls of this Clause.

C3.10 Views

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

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

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

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

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

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

The following controls are applicable:

- *C1 – New development should be designed to promote view sharing (i.e. minimise view loss to adjoining and adjacent properties and/or the public domain while still providing opportunities for views from the development itself).*
- *C2 – Design solutions must respond graphically to the site analysis outcomes through the use of plans, elevations, photographs and photomontages to demonstrate how view sharing is to be achieved and illustrate the effect of development on views. In some cases, reasonable development may result in the loss of views, but new development must not significantly obstruct views.*
- *C3 – Development shall be designed to promote view sharing via:
 - a. appropriately addressing building height, bulk and massing;*
 - b. including building setbacks and gaps between buildings;*
 - c. minimise lengthy solid forms;*
 - d. minimise floor to ceiling heights and use raked ceilings in hipped / gabled roof forms where appropriate, especially in upper floors;*
 - e. splay corners; and*
 - f. use open materials for balustrades, balconies, decks, fences, car ports and the like.**

Impact to No. 213 Catherine Street

The property at No. 213 Catherine Street currently enjoys views of the city skyline and Centre Point Tower. The views are obtained from a rear window at the ground floor. The proposed additions will result in some minor view loss of the city skyline and Centre Point Tower from the rear window of this adjoining property (refer to Figure A).

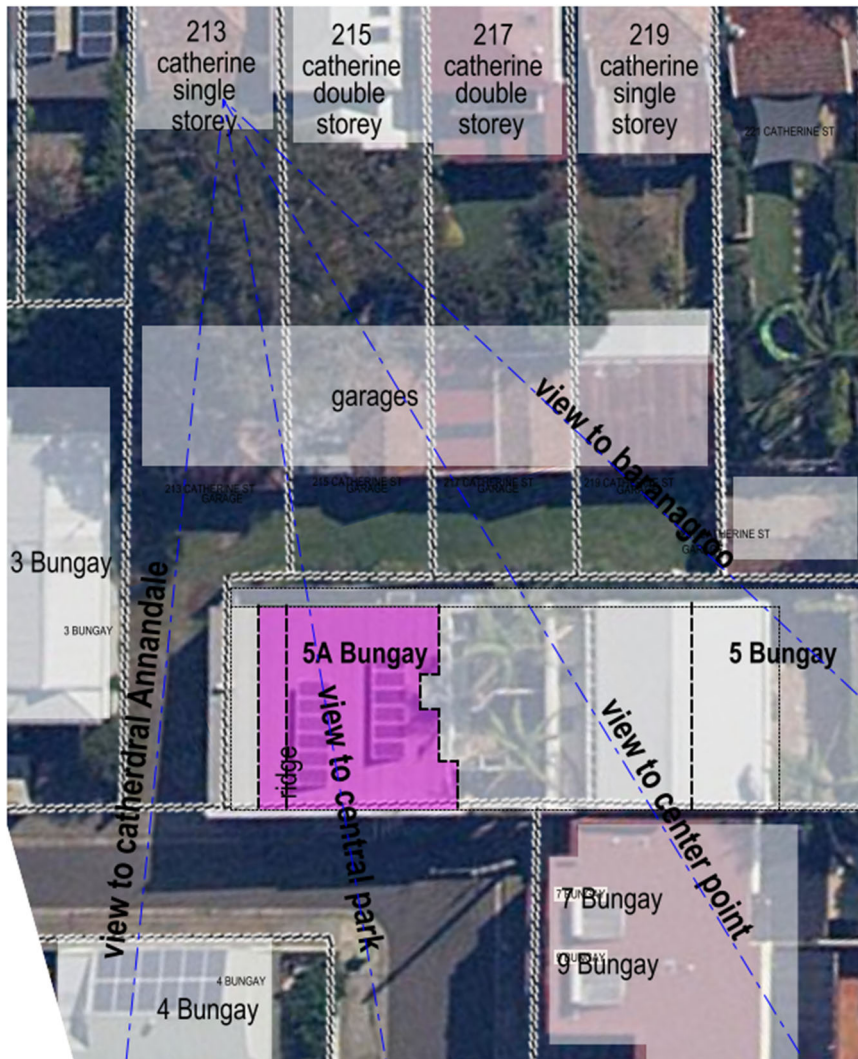
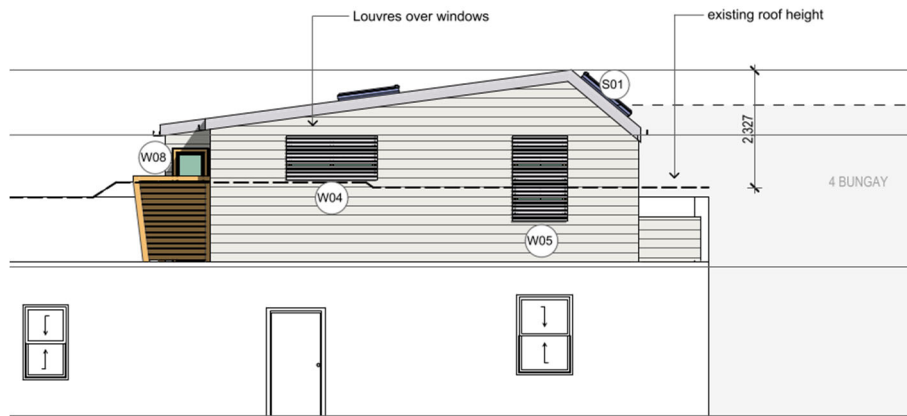


Figure A: View lines from No. 213 Catherine Street across the subject site.



Figure B: View from existing roof of the dwelling at No.5a Bungay Street.



WEST ELEVATION

Figure C: Western Elevation of the proposed additions illustrating the increase in height compared with the existing roof height of the dwelling.

Assessment

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

As outlined in C3.10, generally it is more difficult to protect views across side and rear boundaries. The views from No. 213 Catherine Street rely on an aspect across a number of properties including the subject site, across the rear garage of the property itself and through the large adjoining tree at No. 215 Catherine Street.

Figure B. shows the view from the existing roof of No. 5a Bungay Street looking East at RL 28.98. The views from No. 213 Catherine Street are obtained from the ground floor at RL24.50 and any potential views taken from this location would be the same if not worse than that shown in Figure B. These views are also distant and partial and therefore these impacts are not considered significant enough to justify the proposal being refused.

Given the increase in height of the building form is 2.327m (refer to Figure C), and the proposed additions have been designed with minimal floor to ceiling heights and a pitched roof form, it is also considered that the proposal has been skilfully designed to minimise view loss impacts.

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

Therefore, it is considered that the proposal in its current form is satisfactory as the design adequately minimises the view loss impacts. As such, the proposal is considered to satisfy the *Tenacity* Planning Principle and Council's DCP and is recommended for approval.

5(e) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

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

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

5(g) Any submissions

The application was notified in accordance with Leichhardt Development Control Plan 2013 for a period of 14 days to surrounding properties. A total of three (3) submissions were received.

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

- Compliance with development standards - see section 5(a)(vi).
- Height, bulk and scale (BLZ, setback and envelope compliance) - see section 5(d).
- Views - see section 5(d).

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

Issue: No off-street parking provided

Comment: The parking requirement for residential development under the Leichhardt DCP 2013 is nil, and as such off-street parking is not a requirement for development consent.

Issue: Errors with the information contained within the statement of environmental effects.

Comment: Noted, however, notwithstanding any errors contained within this document, an assessment of the application has found that the proposal is generally acceptable and complies with the LLEP2013 and LDCP2013.

Issue: Errors with the labelling of dwellings on drawings.

Comment: Noted, however, notwithstanding any errors contained within the drawings, a site history has been undertaken under Part 4 of this report and the plans have been updated accordingly in response to Council's request for information. An assessment of the application has found that the proposal is generally acceptable and complies with the LLEP2013 and LDCP2013.

Issue: "Is the secondary rear access intended to be maintained? If there is an intent to maintain the current rear entrance to the site, the application needs to address this including evidence of council support."

Comment: It is unclear whether either property (No.5 and No.5a Bungay Street) have legal access to the existing rear passage from the adjacent right of way. A condition of consent is to be included on any future consent requiring the rear gate/access to be removed and replaced with a boundary fence unless evidence is provided demonstrating that the subject site has legal access from the rear of the site to the right of way for pedestrian access.

Issue: Impact of the development on the amenity (privacy, solar access) of the adjacent private right of way, which is used as a recreational space for properties fronting Catherine Street.

Comment: Irrespective of how the adjacent right of way is currently being used, it is a right of way for access to garages for those properties which front Catherine Street, and is not considered private open space which could be impacted by the proposed development. All areas of private open space which are contained within these respective property's site boundaries will not be impacted by the proposal and it is unreasonable to refuse the application on the basis of potential amenity impacts to a right of way for access to parking facilities.

5(h) The Public Interest

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

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

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

- Development Engineer - No objections to proposal, subject to conditions being imposed.

6(b) External

The application was not required to be referred externally.

7. Section 7.11 Contributions/7.12 Levy

Section 7.12 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 \$3,000.00 would be required for the development under *Former Leichhardt Section 7.12 Contributions Plan 2020*. A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Leichhardt Local Environmental Plan 2013* and *Leichhardt Development Control Plan 2013*.

The development will not result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest.

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

9. Recommendation

The applicant has made written request pursuant to Clause 4.6 to vary Clauses 4.3A and 4.4 of the *Leichhardt Local Environmental Plan 2013*. After considering the requests, and assuming the concurrence of the Secretary, the Panel is satisfied that compliance with the standard is unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standards and of the zone in which the development is to be carried out.

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/2021/0038 for first floor addition to existing single storey dwelling at 5A Bungay Street LEICHHARDT NSW 2040 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
DA05B	Ground Floor Plan	04/05/2021	Anne Colville Architect
DA06B	New Upper Floor Plan	04/05/2021	Anne Colville Architect
DA07B	Roof Plans	04/05/2021	Anne Colville Architect
DA08B	North & South Elevations	04/05/2021	Anne Colville Architect
DA09B	West and East Elevations	04/05/2021	Anne Colville Architect
DA010B	Section AA	04/05/2021	Anne Colville Architect
DA015B	Finishes	04/05/2021	Anne Colville Architect
21042801J_R0	Aircraft noise intrusion assessment	28/04/2021	Telematrix
Certificate number: A395876	BASIX Certificate	29/10/2020	Anne Colville Architect

As amended by the conditions of consent.

DESIGN CHANGE

2. Rear Access over Right of Way

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence demonstrating that the subject site, including No. 5 and No. 5a Bungay Street,

Leichhardt, has legal access from the rear of the site to the adjacent right of way for pedestrian access to Bungay Street. If adequate evidence cannot be provided, the Certifying Authority must be provided with amended plans demonstrating that the rear gate which opens onto the adjacent right of way has been removed and replaced with an appropriate fence to match the existing rear boundary fence.

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:	2,209.00
Inspection Fee:	\$236.70

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

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

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

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

The amount nominated is only current for the financial year in which the initial 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 7.12 (formerly section 94A) Development Contribution Payments

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that a monetary contribution to the Inner West Council has been paid, towards the provision of infrastructure, required to address increased demand for local services generated by additional development within the Local Government Area (LGA). This condition is imposed in accordance with Section 7.12 of the *Environmental Planning and Assessment Act 1979* and in accordance with *Former Leichhardt Local Government Area Section 7.12 Development Contributions Plan 2020*.

Note:

Copies of these contribution plans can be inspected at any of the Inner West Council Service Centres or viewed online at <https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions>

Payment amount*:

\$ 3,000.00

*Indexing of the Section 7.12 contribution payment:

The contribution amount to be paid to the Council is to be adjusted at the time of the actual payment in accordance with the provisions of the relevant contributions plan. In this regard, you are recommended to make contact with Inner West Council *prior to arranging your payment method* to confirm the correct current payment amount (at the expected time of payment).

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.**

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. Boundary Alignment Levels

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

7. Waste Management Plan

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

8. Erosion and Sediment Control

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

9. Standard Street Tree Protection

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

10. Works Outside the Property Boundary

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

PRIOR TO ANY DEMOLITION

11. Hoardings

The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.

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

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

12. Dilapidation Report

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of the adjoining properties at No. 3 Bungay Street, Leichhardt and No. 5 Bungay Street, Leichhardt to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

13. Advising Neighbors Prior to Excavation

At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

14. Construction Fencing

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

PRIOR TO CONSTRUCTION CERTIFICATE

15. Dilapidation Report – Pre-Development – Minor

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

16. Stormwater Drainage System – 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. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of a public road via the OSD/OSR tanks as necessary;
- b. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- c. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage;
- d. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- e. 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);
- f. 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;
- g. 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;
- 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 Bungay Street.
- i. Details of the 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided;
- j. As there is no overland flow/flood path available from the rear and central courtyards to the Bungay 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.
- k. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
 - l. Details of external catchments currently draining to the site must be included on the plans. Existing natural overland flows from external catchments may not be blocked or diverted, but must be captured and catered for within the proposed site drainage system. Where necessary an inter-allotment drainage system must be incorporated into the design;
 - m. No nuisance or concentration of flows to other properties;
 - n. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
 - o. 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;
 - p. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
 - q. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
 - r. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 mm and a maximum section height and width of 100 mm or sewer grade uPVC pipe with a maximum diameter of 100 mm;
 - s. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;
 - t. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
 - u. No impact to street tree(s).

17. Structural Certificate for retained elements of the building

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above

requirements without result in demolition of elements marked on the approved plans for retention.

18. Sydney Water – Tap In

Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

Note: Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 13 20 92

19. Acoustic Report – Aircraft Noise

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

DURING DEMOLITION AND CONSTRUCTION

20. Construction Hours – Class 1 and 10

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

21. Survey Prior to Footings

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

PRIOR TO OCCUPATION CERTIFICATE

22. No Encroachments

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

23. Protect Sandstone Kerb

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

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

25. 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.

26. Aircraft Noise –Alterations and Additions

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

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

ON-GOING**27. Operation and Management Plan**

The Operation and Management Plan for the on-site detention and/or on-site retention/re-use facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site 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.

Prescribed Conditions

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

Notification of commencement of works

At least 7 days before any demolition work commences:

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

Storage of Materials on public property

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

Toilet Facilities

The following facilities must be provided on the site:

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

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

Infrastructure

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

Other Approvals may be needed

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

Failure to comply with conditions

Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

Other works

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Obtaining Relevant Certification

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;

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

Disability Discrimination Access to Premises Code

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

National Construction Code (Building Code of Australia)

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

Notification of commencement of works

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

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

Dividing Fences Act

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

Permits from Council under Other Acts

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in

accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

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

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

Noise

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

Amenity Impacts General

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

Lead-based Paint

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

Dial before you dig

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

Useful Contacts

BASIX Information 1300 650 908 weekdays 2:00pm - 5:00pm
www.basix.nsw.gov.au

Department of Fair Trading 13 32 20
www.fairtrading.nsw.gov.au
 Enquiries relating to Owner Builder Permits and Home Warranty Insurance.

Dial Prior to You Dig 1100
www.dialprior toyoudig.com.au

Landcom 9841 8660
 To purchase copies of Volume One of "Soils and Construction"

Long Service Corporation Payments 131441
www.lspc.nsw.gov.au

NSW Food Authority 1300 552 406
www.foodnotify.nsw.gov.au

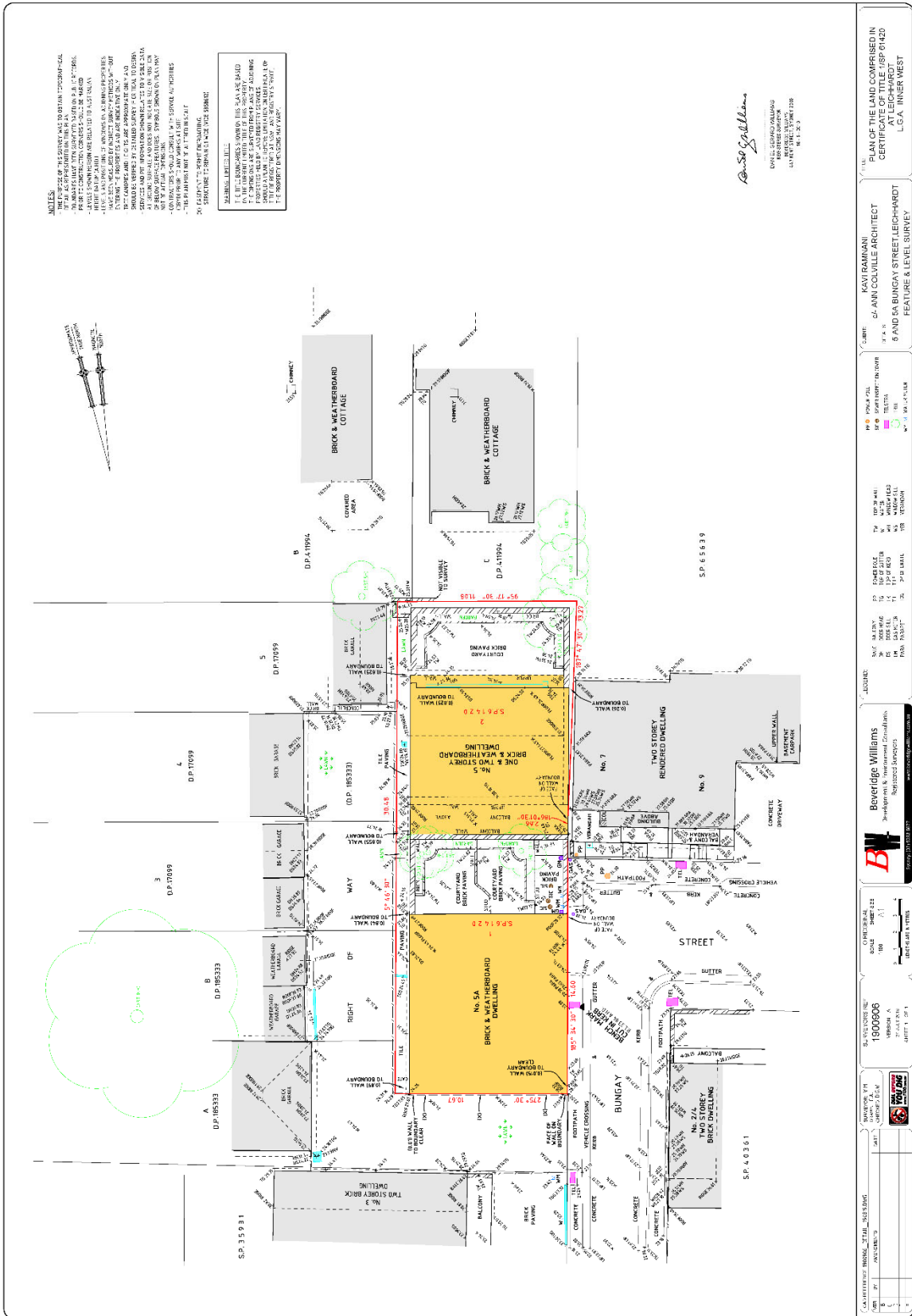
NSW Government
www.nsw.gov.au/fibro
www.diySAFE.nsw.gov.au
 Information on asbestos and safe work practices.

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

Sydney Water 13 20 92



Attachment B – Plans of proposed development



NOTES:

1. THE PURPOSE OF THIS DRAWING IS TO OBTAIN TECHNICAL APPROVALS FROM THE LOCAL COUNCIL AND THE STATE GOVERNMENT FOR THE PROPOSED DEVELOPMENT.

2. THIS DRAWING IS A PRELIMINARY DESIGN AND IS SUBJECT TO APPROVAL BY THE LOCAL COUNCIL AND THE STATE GOVERNMENT.

3. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE LOCAL COUNCIL'S DEVELOPMENT CONTROL REGULATIONS AND THE STATE GOVERNMENT'S BUILDING REGULATIONS.

4. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE LOCAL COUNCIL'S DEVELOPMENT CONTROL REGULATIONS AND THE STATE GOVERNMENT'S BUILDING REGULATIONS.

5. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE LOCAL COUNCIL'S DEVELOPMENT CONTROL REGULATIONS AND THE STATE GOVERNMENT'S BUILDING REGULATIONS.

6. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE LOCAL COUNCIL'S DEVELOPMENT CONTROL REGULATIONS AND THE STATE GOVERNMENT'S BUILDING REGULATIONS.

7. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE LOCAL COUNCIL'S DEVELOPMENT CONTROL REGULATIONS AND THE STATE GOVERNMENT'S BUILDING REGULATIONS.

8. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE LOCAL COUNCIL'S DEVELOPMENT CONTROL REGULATIONS AND THE STATE GOVERNMENT'S BUILDING REGULATIONS.

9. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE LOCAL COUNCIL'S DEVELOPMENT CONTROL REGULATIONS AND THE STATE GOVERNMENT'S BUILDING REGULATIONS.

10. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE LOCAL COUNCIL'S DEVELOPMENT CONTROL REGULATIONS AND THE STATE GOVERNMENT'S BUILDING REGULATIONS.

GENERAL NOTES:

1. ALL DIMENSIONS ARE IN METRES UNLESS OTHERWISE STATED.

2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE STATED.

3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE STATED.

4. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE STATED.

5. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE STATED.

6. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE STATED.

7. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE STATED.

8. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE STATED.

9. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE STATED.

10. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE STATED.

Beveridge Williams
 DWELLING DESIGN & ARCHITECTURE
 50/51 BUNGAY STREET, LEICHHARDT
 NSW 1585

PROJECT INFORMATION

PROJECT NO: 1900806
 SHEET NO: 1/1
 DATE: 10/10/2023

CLIENT

65 ANNY COLVILLE ARCHITECT
 5 AND 6A BUNGAY STREET, LEICHHARDT
 FEATURE & LEVEL SURVEY

DESIGNER

Beveridge Williams
 50/51 BUNGAY STREET, LEICHHARDT
 NSW 1585

SCALE

1:100

DATE

10/10/2023

PROJECT NO

1900806

SHEET NO

1/1

DATE

10/10/2023

PROJECT NO

1900806

SHEET NO

1/1

DATE

10/10/2023

All work copyright of the Architect. Refer any discrepancies to the Architect. Check dimensions on site before commencing work. All work to be completed in accordance with the consultation with consultants drawings.

5A BUNGAY ST LEICHHARDT DEVELOPMENT APPLICATION

DRAWING NO.	DESCRIPTION
18K - DA01B	INDEX
18K - DA02B	SITE ANALYSIS
18K - DA03B	SITE PLAN
18K - DA04B	EXISTING PLANS
18K - DA05B	GROUND FLOOR PLAN
18K - DA06B	NEW UPPER FLOOR
18K - DA07B	ROOF PLANS
18K - DA08B	NORTH & SOUTH ELEVATIONS
18K - DA09B	WEST & EAST ELEVATIONS
18K - DA10B	SECTION AA
18K - DA11B	LANDSCAPE PLAN
18K - DA12B	FSR CALCULATIONS
18K - DA13B	FSR
18K - DA14B	SITE COVERAGE
18K - DA15B	FINISHES
18K - DA16B	SIGHT LINES
18K - DA17B	PERSPECTIVES
18K - DA18B	SHADOW 9am
18K - DA19B	SHADOW 10am
18K - DA20B	SHADOW 11am
18K - DA21B	SHADOW 12pm
18K - DA22B	SHADOW 1pm
18K - DA23B	SHADOW 2pm
18K - DA24B	SHADOW 3pm
18K - DA25B	BASIX



ANNE COLVILLE

B ARCH 06/AD.DIP.IND.DES. F.R.A.I.A. REG. NO.3614 2 TOONGARAH RD, WAVERTON NSW 2060 PH: 985 5603 MOB: 0407435860

ARCHITECT



RAMNANI HOUSE
5A BUNGAY ST, LEICHHARDT
NSW 2040

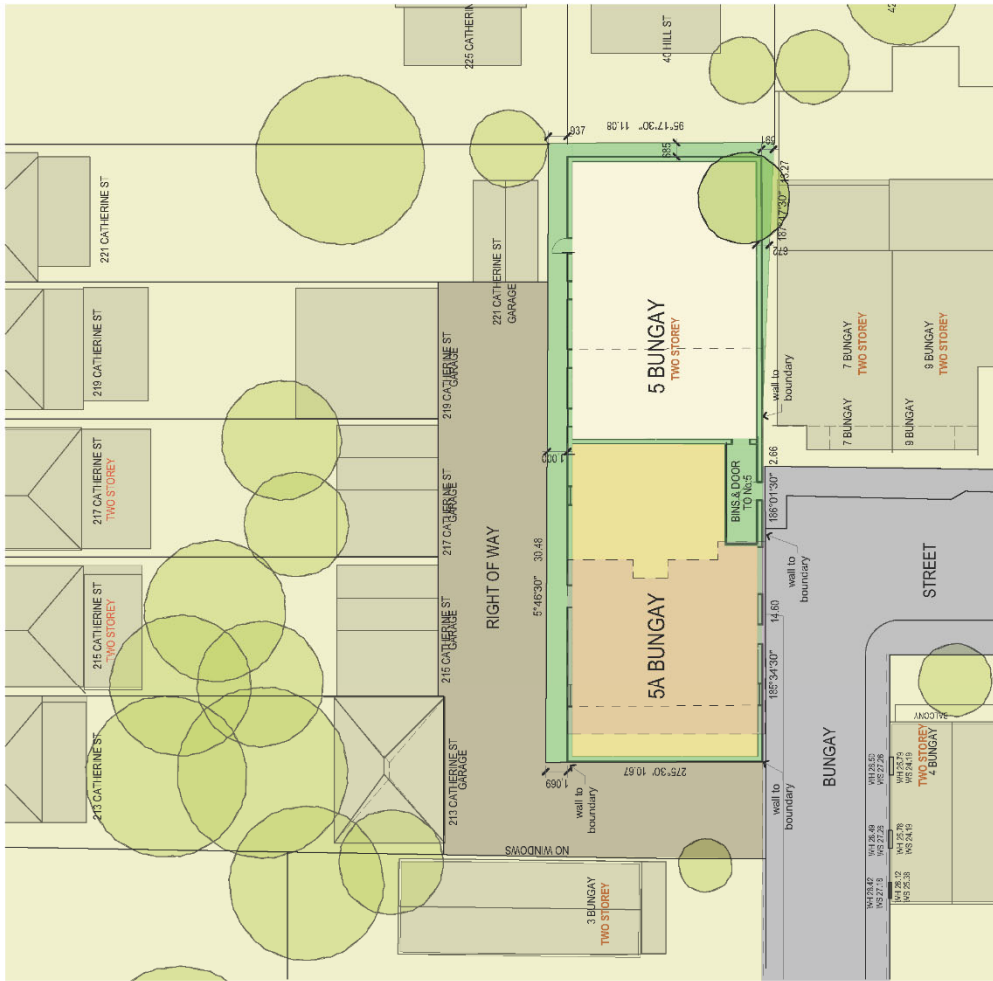
INDEX

Scale: 1/4


Draw No: 18K - DA01B
Date: 09/03/21

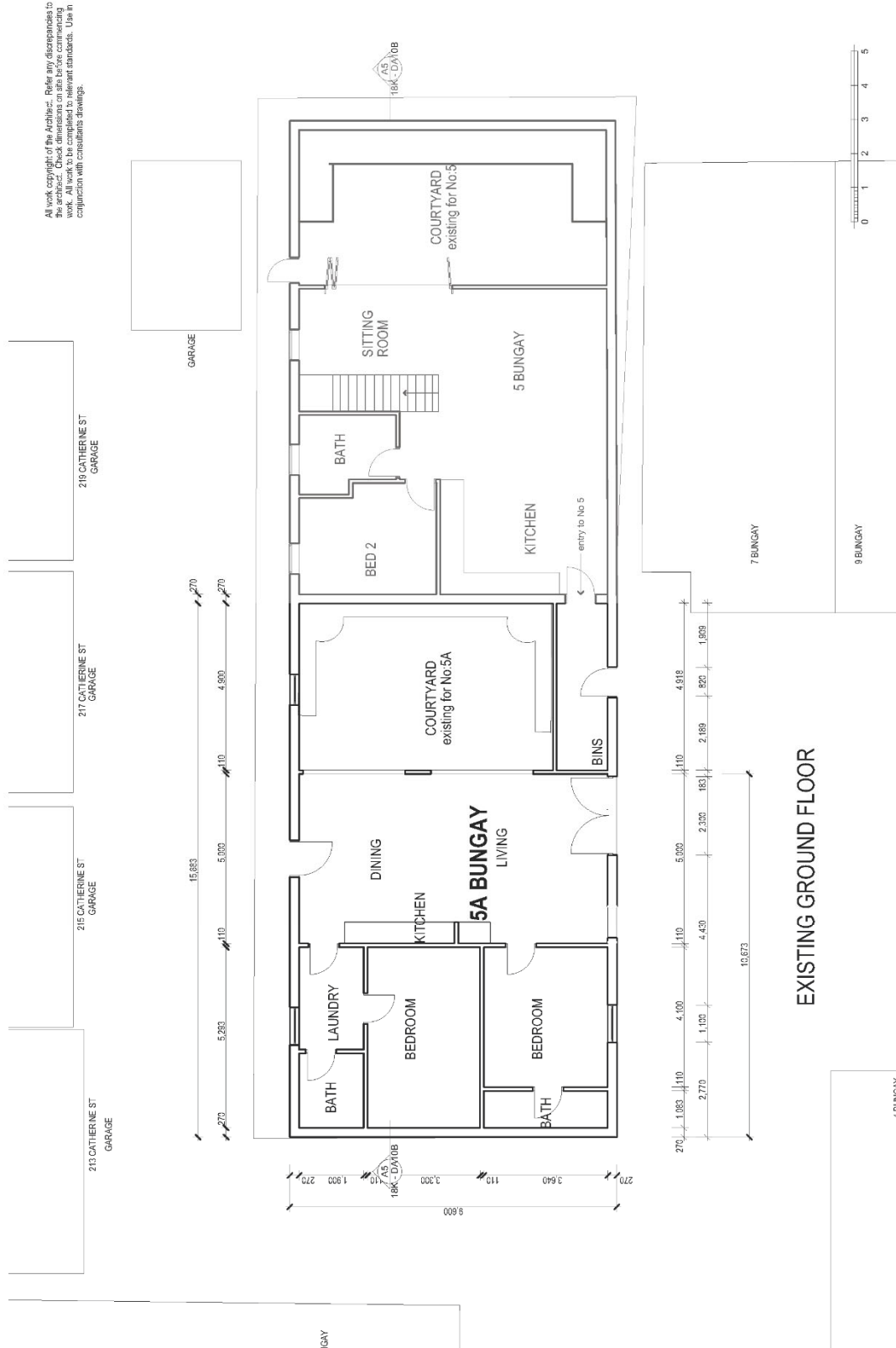
All work copyright of the Architect. Refer any discrepancies to the architect. Check dimensions on site before commencing construction. All work to be done in accordance with current standards. Use in conjunction with consultants drawings.

	RIGHT OF WAY
	NEIGHBOURING PROPERTIES
	SITE
	COMMON AREA
	No 5 BUNGAY
	UPPER LEVEL ADDITION



SITE PLAN

	SITE PLAN Scale: 1:200 Draw No: 18K-DAG68 Date: 4/5/2021
	RAMINANI HOUSE 5A BUNGAY ST, LEICHHARDT NSW 2040
ARCHITECT PH: 9955 5603 MOB: 0407435080	ANNE COLVILLE B ARCH GRAD, DIP, IND, DES, F.R.A.I.A. REG NO 3514 2 TOONGARAH RD, WAVERTON NSW 2060



All work copyright of the Architect. Refer any discrepancies to the architect. Check dimensions on site before commencing construction. All work to be done in accordance with current standards. Use in conjunction with consultants drawings.

EXISTING PLANS
 Scale: 1:100
 Draw No: 18K-DW48
 Date: 4/5/2021

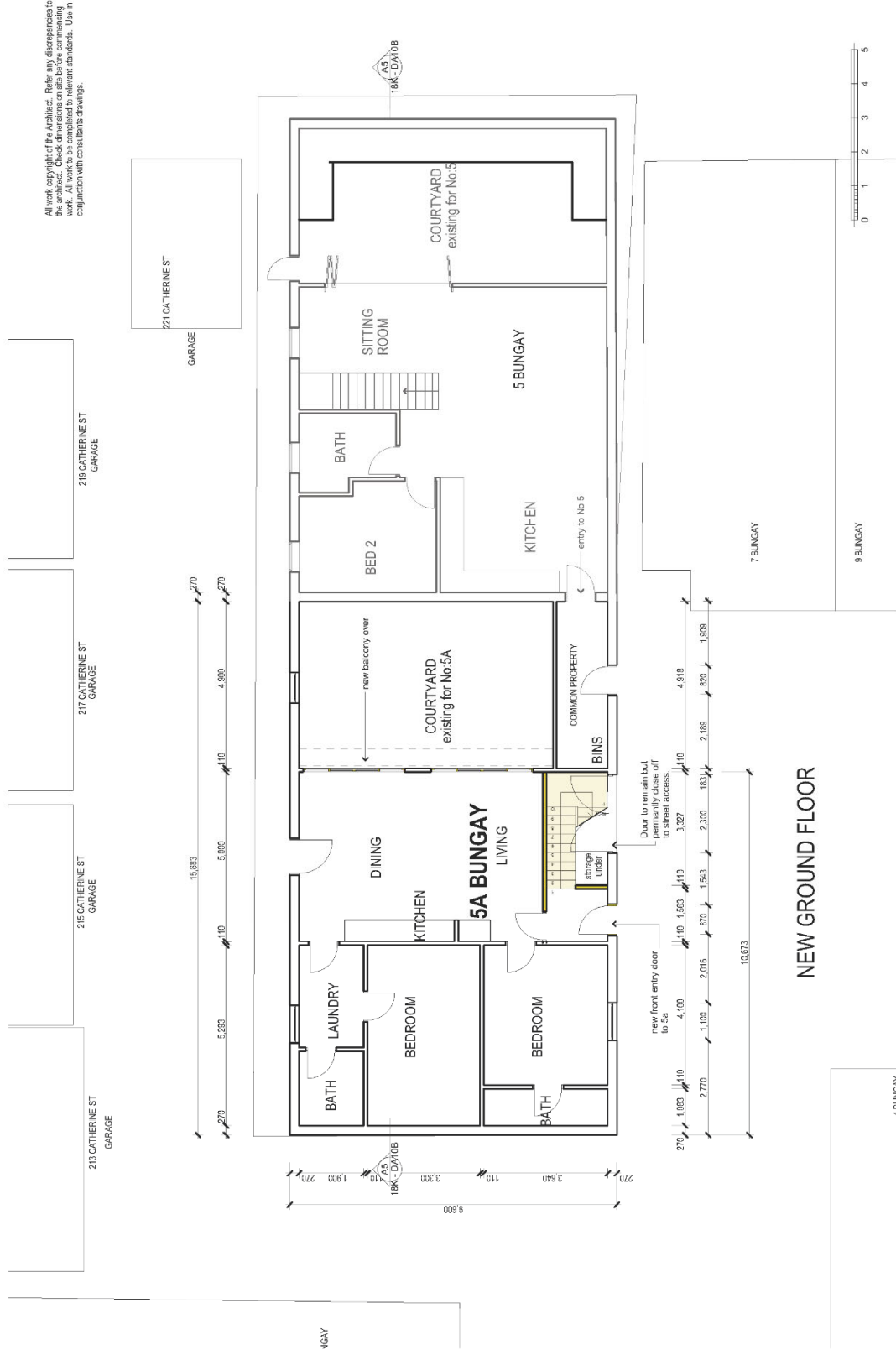
RAMINANI HOUSE
 5A BUNGAY ST, LEICHHARDT
 NSW 2040



ARCHITECT

2 TOONGARAH RD, WAVERTON NSW 2060
 PH: 9955 5603 MOB: 0407435080

ANNE COLVILLE
 B ARCH GRAD, DIP. IND. DES. F.R.A.I.A. REG NO 3514



All work copyright of the Architect. Refer any discrepancies to the architect. Check dimensions on site before commencing work. All work to be carried out in accordance with current standards. Use in conjunction with consultants drawings.


	ARCHITECT	GROUND FLOOR PLAN
	ANNE COLVILLE B ARCH GRAD, DIP, IND, DES, F.R.A.I.A. REG NO 3514 2 TOONGARAH RD, WAVERTON NSW 2080 PH: 9955 5603 MOB: 0407435080	Scale: 1:100 Draw No: 18K-DAG5B Date: 4/5/2021
RAMINANI HOUSE 5A BUNGAY ST, LEICHHARDT NSW 2040		



All work copyright of the Architect. Refer any discrepancies to the architect. Check dimensions on site before commencing construction. All work to be done in accordance with the relevant building standards. Use in conjunction with consultants drawings.

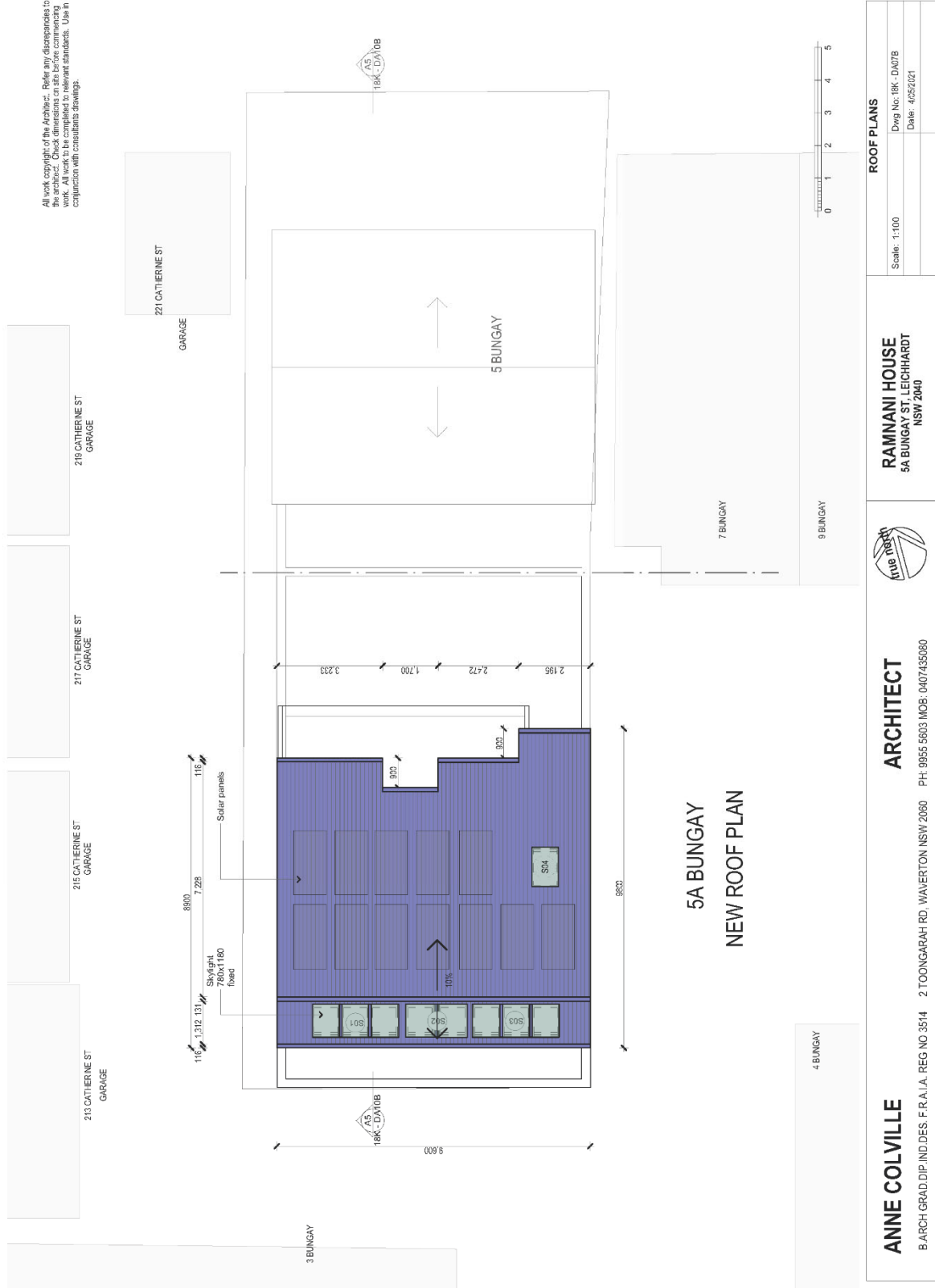
ANNE COLVILLE
 B ARCH GRAD.DIP.IND.DES. F.R.A.I.A. REG NO 3514 2 TOONGARAH RD, WAVERTON NSW 2060 PH: 9955 5603 MOB: 0407435080

ARCHITECT

 **RAMINANI HOUSE**
 5A BUNGAY ST. LEICHHARDT NSW 2040

NEW UPPER FLOOR
 Scale: 1:100 Draw No: 18K-D0688 Date: 4/5/21/21

All work copyright of the Architect. Refer any discrepancies to the architect. Check dimensions on site before commencing construction. All work to be done in accordance with current standards. Use in conjunction with consultants drawings.



ROOF PLANS

Scale: 1:100	Draw No: 18K - D067B
	Date: 4/5/21/21

RAMINANI HOUSE
5A BUNGAY ST. LEICHHARDT
NSW 2040

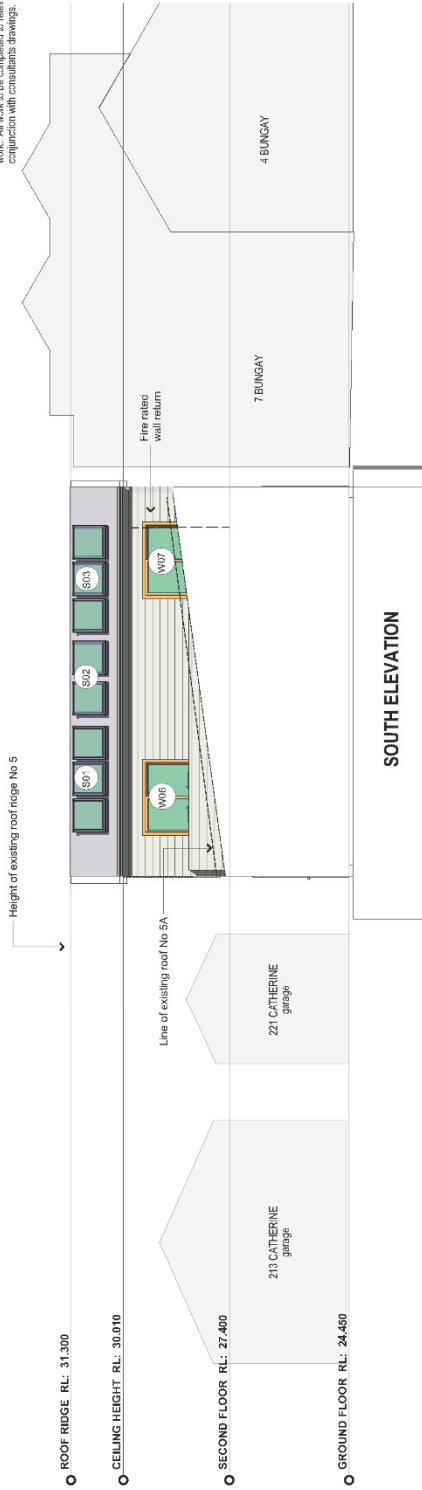


ARCHITECT

2 TOONGARAH RD, WAWERTON NSW 2060 PH: 9955 5603 MOB: 0407435080

ANNE COLVILLE
B ARCH GRAD.DIP.IND.DES. F.R.A.I.A. REG NO 3514

All work copyright of the Architect. Refer any discrepancies to the architect. Check dimensions on site before commencing construction. All work to be completed in accordance with current standards. Use in conjunction with consultants drawings.



SOUTH ELEVATION

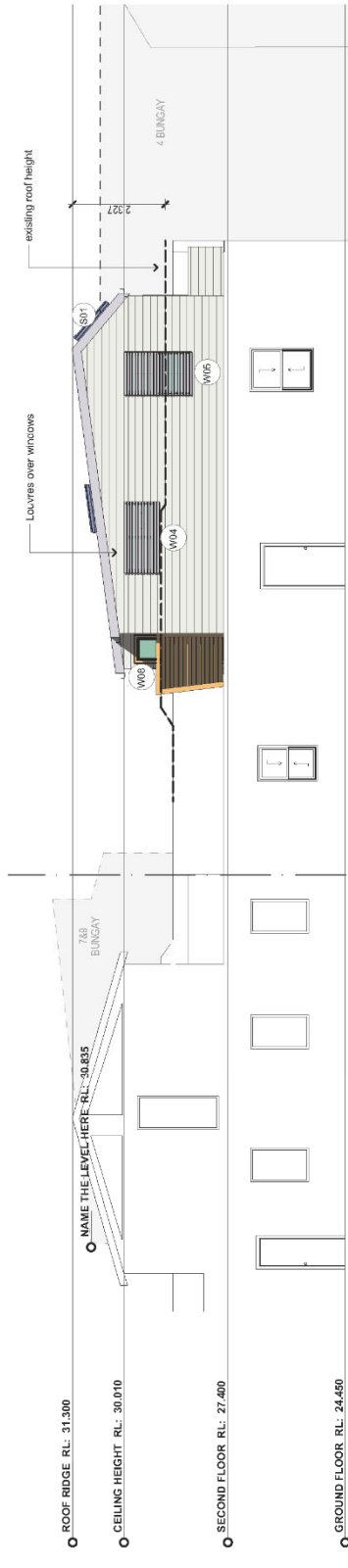


NORTH ELEVATION

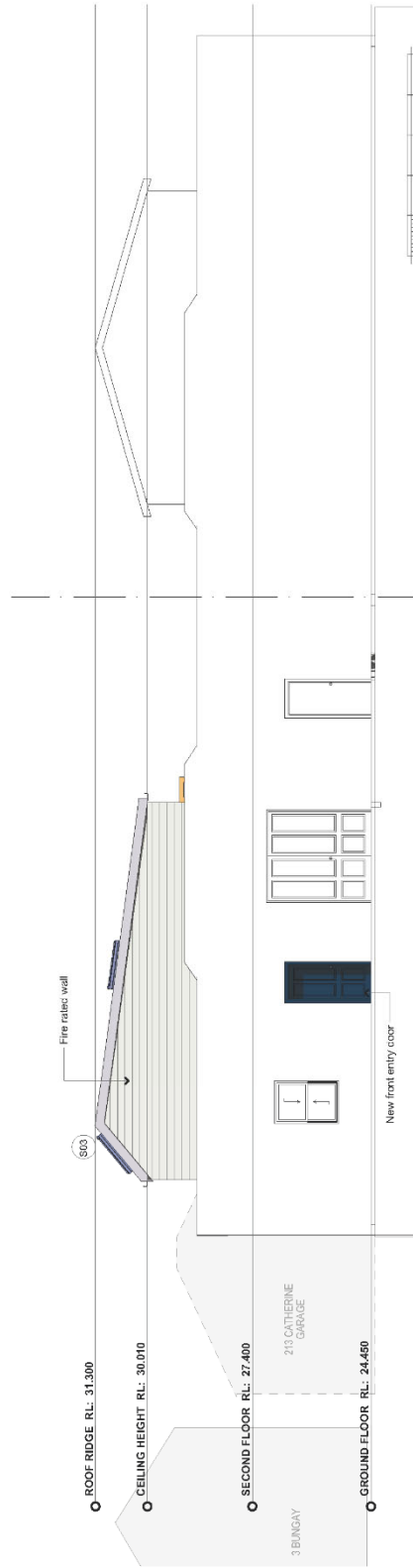


<p>ANNE COLVILLE B ARCH GRAD.DIP.IND.DES. F.R.A.I.A. REG NO 3514 2 TOONGARAH RD, WAVERTON NSW 2060 PH: 9955 5603 MOB: 0407435080</p>	<p>ARCHITECT</p>	<p>RAMINANI HOUSE 5A BUNGAY ST. LEICHHARDT NSW 2040</p>	<p>NORTH & SOUTH ELEVATIONS</p>
			<p>Scale: 1:100 Draw No: 18K-D0688 Date: 4/5/21/21</p>

All work copyright of the Architect. Refer any discrepancies to the architect. Check dimensions on site before commencing construction. All work to be done in accordance with current standards. Use in conjunction with consultants drawings.



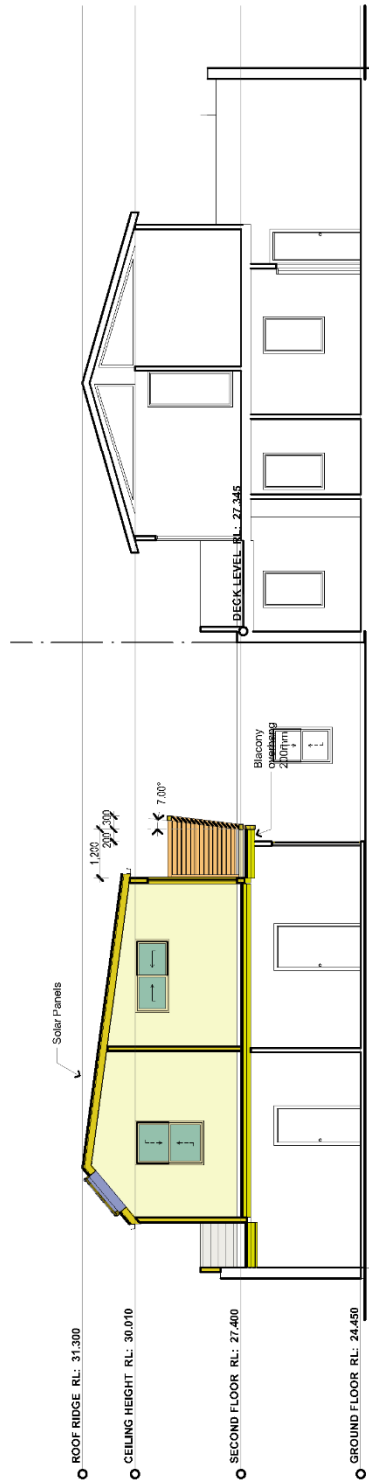
WEST ELEVATION



EAST ELEVATION

<p>ANNE COLVILLE B ARCH GRAD.DIP.IND.DES. F.R.A.I.A. REG NO 3514 2 TOONGARAH RD, WAVERTON NSW 2060 PH: 9955 5603 MOB: 0407435080</p>	<p>ARCHITECT</p>	<p>RAMINANI HOUSE 5A BUNGAY ST. LEICHHARDT NSW 2040</p>	<p>Scale: 1:100</p>
			<p>WEST & EAST ELEVATIONS</p>
		<p>Draw No: 18K - D0688</p>	<p>Date: 4/5/21/21</p>

All work copyright of the Architect. Refer any discrepancies to the architect. Check dimensions on site before commencing work. All work to be done in accordance with current standards. Use in conjunction with consultants drawings.



PROPOSED ADDITION
5A BUNGAY

EXISTING SECTION
5 BUNGAY

SECTION A-A

ANNE COLVILLE

B ARCH GRAD.DIP.IND.DES. F.R.A.I.A. REG NO 3514

ARCHITECT

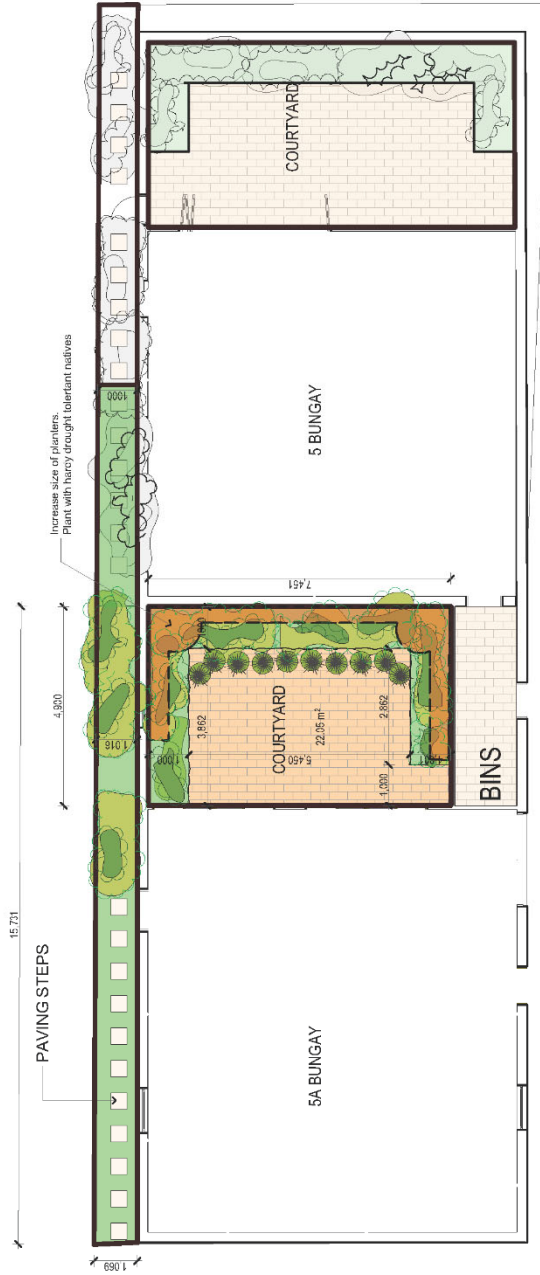
2 TOONGARAH RD, WAVERTON NSW 2060 PH: 9955 5603 MOB: 0407435080

RAMNANI HOUSE
5A BUNGAY ST, LEICHHARDT
NSW 2040

Scale: 1:100

SECTION AA
Draw No: 18K-DAY08
Date: 4/25/21


All work copyright of the Architect. Refer any discrepancies to the architect. Check dimensions on site before commencing any work. All work to be done in accordance with current standards. Use in conjunction with consultants drawings.



LANDSCAPE CALCULATIONS

OPEN HARD AREAS	SOFT AREAS	SOFT AREAS	SOFT AREAS
- 5A Courtyard 22.05m ²	over 1m wide	under 1m wide	SOFT AREAS 5A COURTYARD
- 5 Courtyard 23.51m ²	- 5A 30.71m ²	- 5A nil	Planter box
- Bin and No:5 Entry 7m ²	- 5 17.6m ²	- 5 9.32	- existing under 1m wide = 7m ²
TOTAL = 52.56m²	TOTAL = 48.31	TOTAL = 9.3	- proposed 1m wide = 14.3m ²



ANNE COLVILLE B ARCH GRAD.DIP.IND.DES. F.R.A.I.A. REG NO 3514	ARCHITECT 2 TOONGARAH RD, WAVERTON NSW 2060 PH: 9955 5603 MOB: 0407435080		RAMNANI HOUSE 5A BUNGAY ST. LEICHHARDT NSW 2040
		LANDSCAPE PLAN	
		Scale: 1:100	Draw No: 18K-DAT1B
			Date: 4/5/21/21

All work copyright of the Architect. Refer any discrepancies to the architect. Works commenced on site before commencing work under this contract. All work to be completed in accordance with the contract documents. See in conjunction with consultant's drawings.

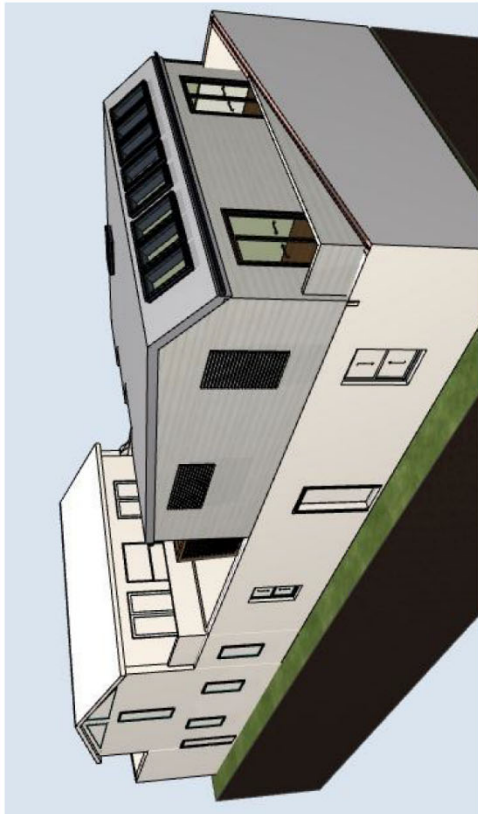
**NEW UPPER FLOOR
TO MATCH EXISTING
EXTERIOR TO NO 5A
IN COLOUR AND TYPE**



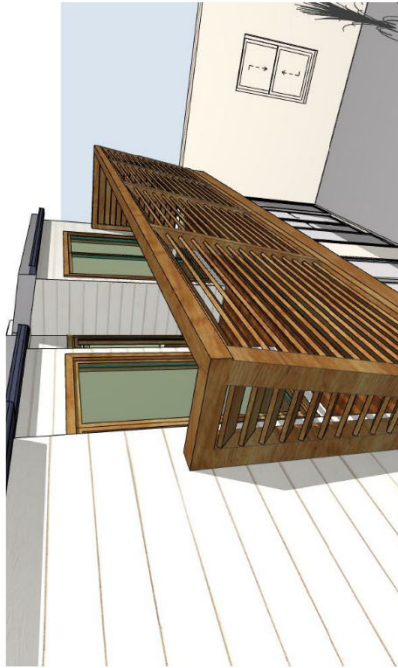
**EXISTING PAINTED
BRICK FACADE REMAINS**

FINISHES	Scale:	Draw No: 18K_10458
		Date: 4/05/2021
RAMINANI HOUSE 5A BUNGAY ST, LEICHHARDT NSW 2040		
ARCHITECT PH: 9956 5030 MOB: 0437435080		
ANNE COLVILLE B.ARCH GRAD.DIP.IND.DES. F.R.A.I.A. REG NO 3814 2 TOONGARAH RD, WAVERTON NSW 2160		

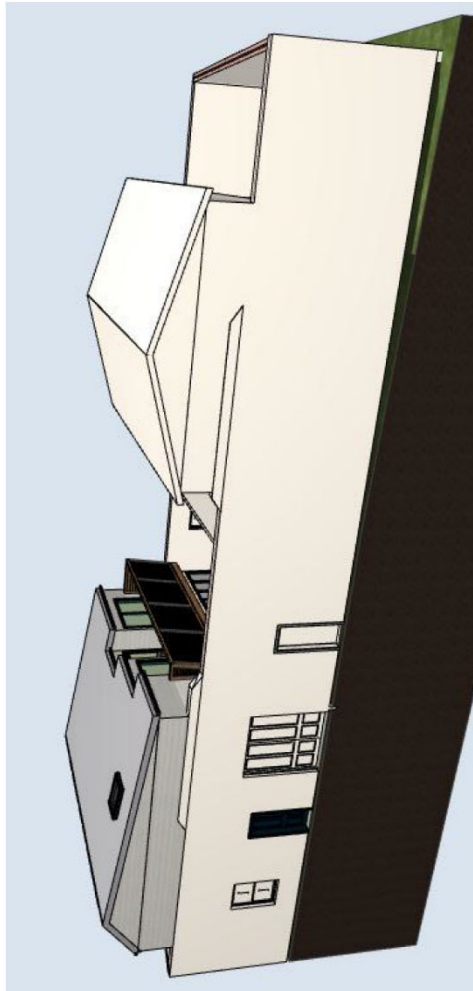
All work copyright of the Architect. Refer any discrepancies to the architect. These drawings are to be used for information only and are not to be used for construction without the consent of the architect in conjunction with consultants drawings.



VIEW OF STRATA FROM WEST



VIEW OF BALCONY FROM NORTH EAST

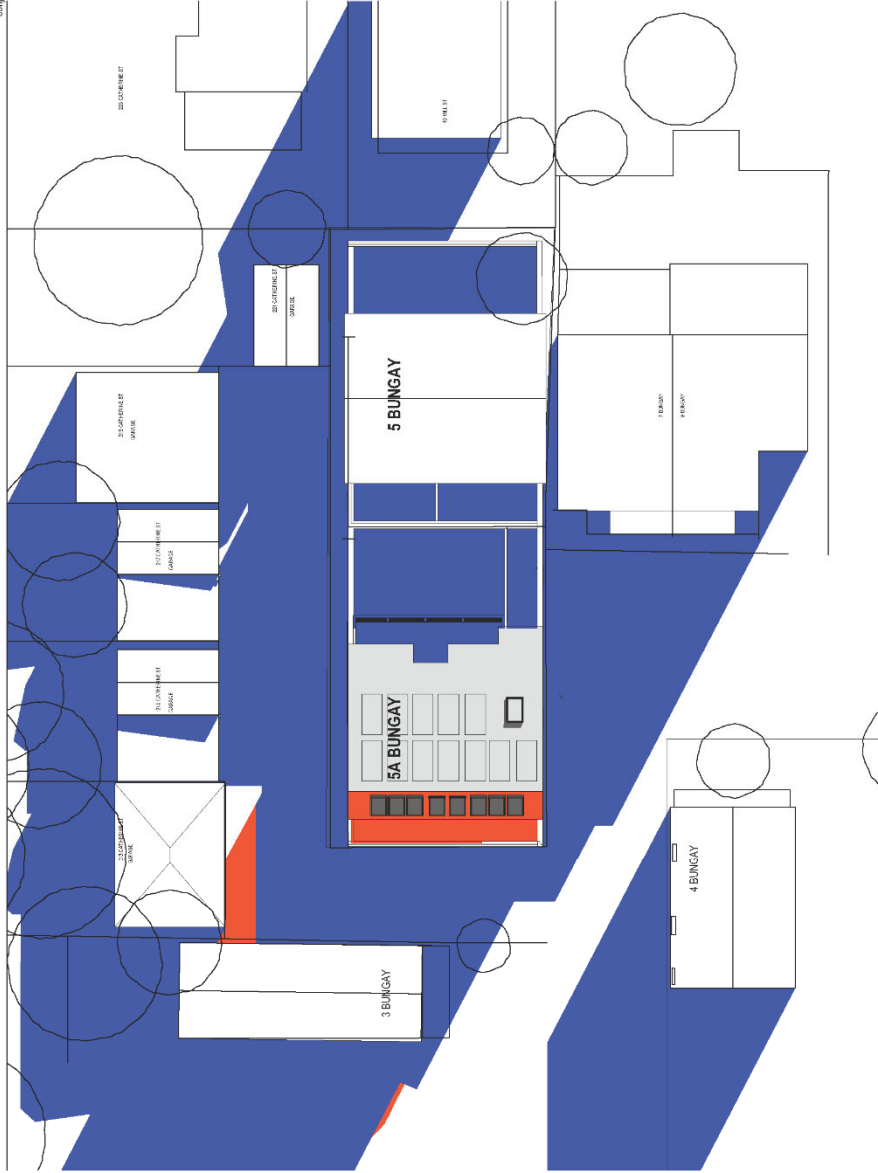


VIEW OF STRATA FROM EAST

ANNE COLVILLE B ARCH GRAD DIP IND DES F.R.A.I.A. REG NO 3514 2 TOONGARAH RD, WAVERTON NSW 2080 PH: 9555 5603 MOB: 040745080	ARCHITECT	RAMNANI HOUSE 5A BUNGAY ST, LEICHHARDT NSW 2040	Scale:
			Date: 05/02/21

PERSPECTIVES

All work copyright of the Architect. Refer any discrepancies to the architect. Check dimensions on site before commencing work. All work to be done in accordance with current standards. Use in conjunction with consultants drawings.



9am JUNE 21st

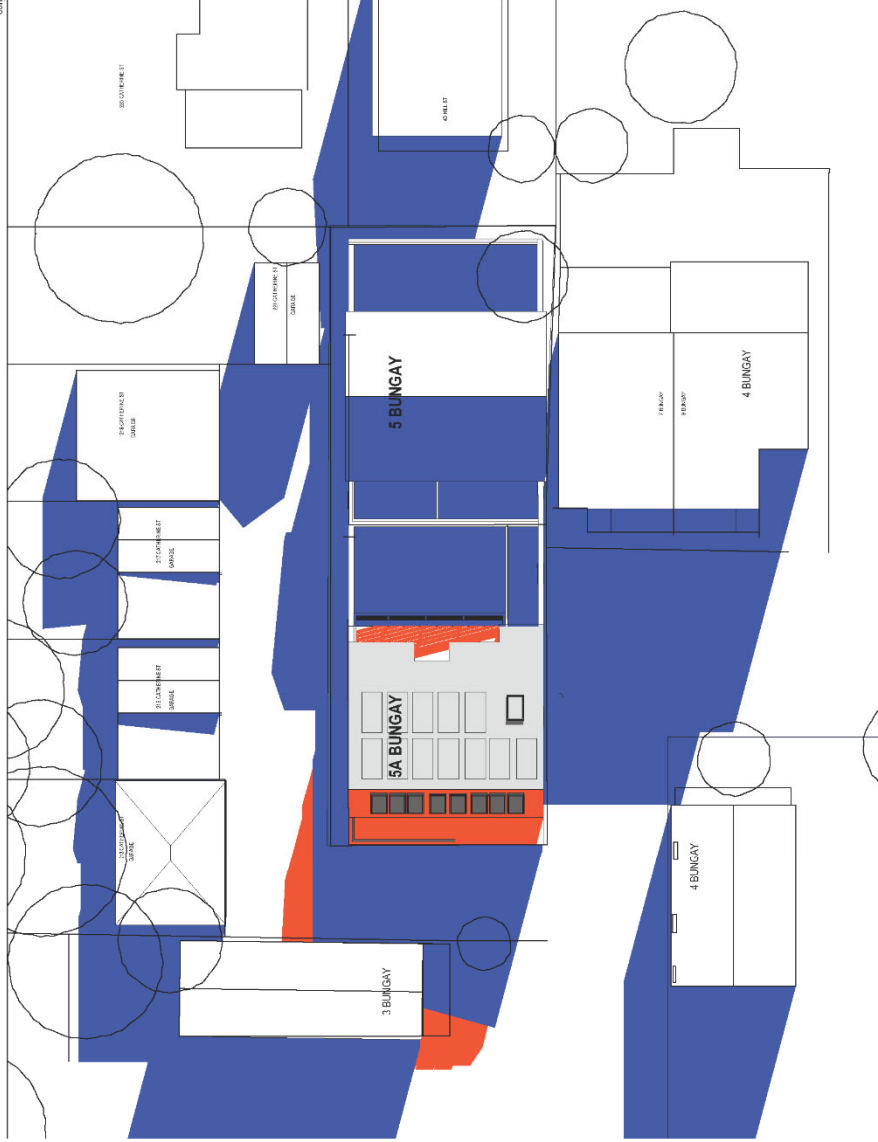
EXISTING SHADOWS



ADDITIONAL SHADOWS

SHADOW 9am	
Scale: 1:200	Draw No: 18K-D488
Date: 4/5/21/21	
RAMNANI HOUSE 5A BUNGAY ST. LEICHHARDT NSW 2040	ARCHITECT ANNE COLVILLE B ARCH GRAD, DIP. IND. DES. F.R.A.I.A. REG NO 3514 2 TOONGARAH RD, WAVERTON NSW 2060 PH: 9955 5603 MOB: 0407435080

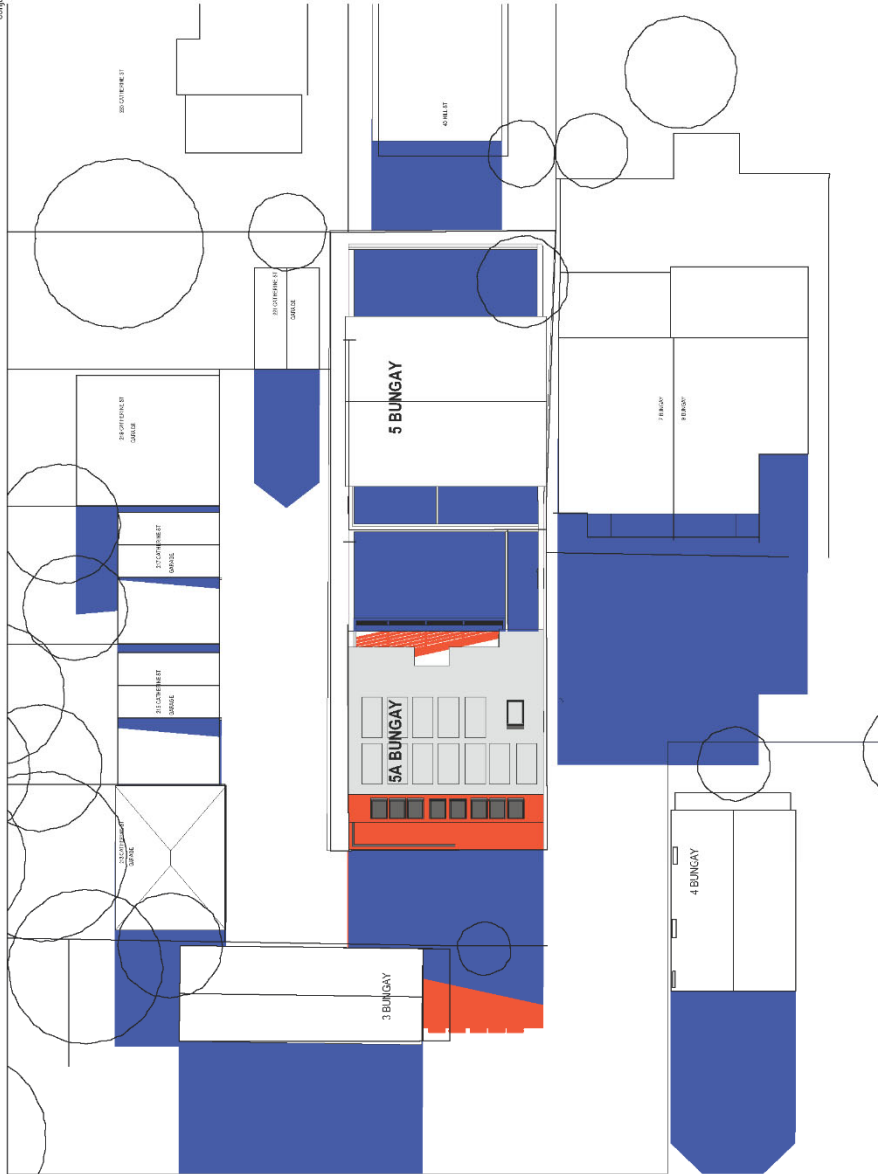
All work copyright of the Architect. Refer any discrepancies to the architect. Check dimensions on site before commencing construction. All work to be done in accordance with the current standards. Use in conjunction with consultants drawings.



■ EXISTING SHADOWS
 ■ ADDITIONAL SHADOWS
 10am JUNE 21st
 SHADOW 10am

<p>ANNE COLVILLE B ARCH GRAD.DIP.IND.DES. F.R.A.I.A. REG NO 3514</p>	<p>ARCHITECT PH: 9955 5603 MOB: 0407435080</p>	<p>RAMNANI HOUSE 5A BUNGAY ST. LEICHHARDT NSW 2040</p>
<p>Scale: 1:200</p>		<p>SHADOW 10am</p>
<p>2 TOONGARAH RD, WAVERTON NSW 2060</p>		<p>Draw No: 18K-DAY08</p>
<p>2 TOONGARAH RD, WAVERTON NSW 2060</p>		<p>Date: 4/5/21/21</p>

All work copyright of the Architect. Refer any discrepancies to the architect. Check dimensions on site before commencing construction. All work to be done in accordance with the current standards. Use in conjunction with consultants drawings.



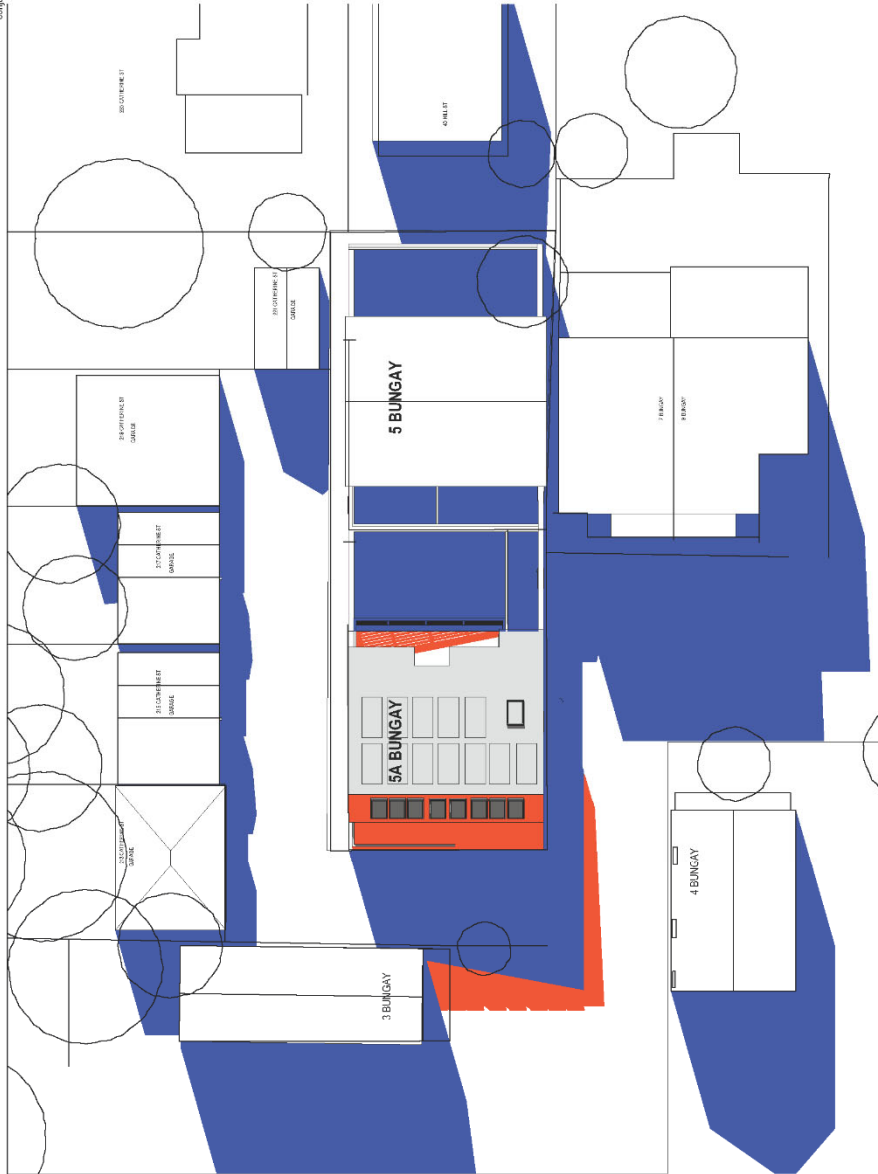
■ EXISTING SHADOWS

■ ADDITIONAL SHADOWS

11am JUNE 21st

<p>ANNE COLVILLE B ARCH GRAD, DIP, IND, DES. F.R.A.I.A. REG NO 3514</p>	<p>ARCHITECT PH: 9955 5603 MOB: 0407435080</p>	<p>RAMNANI HOUSE 5A BUNGAY ST, LEICHHARDT NSW 2040</p>	<p>Scale: 1:200</p>
			<p>SHADOW 11am Draw No: 18K - D0208 Date: 4/5/2021</p>

All work copyright of the Architect. Refer any discrepancies to the architect. Check dimensions on site before commencing construction. All work to be done in accordance with the Australian Standards. In consultation with consultants drawings.



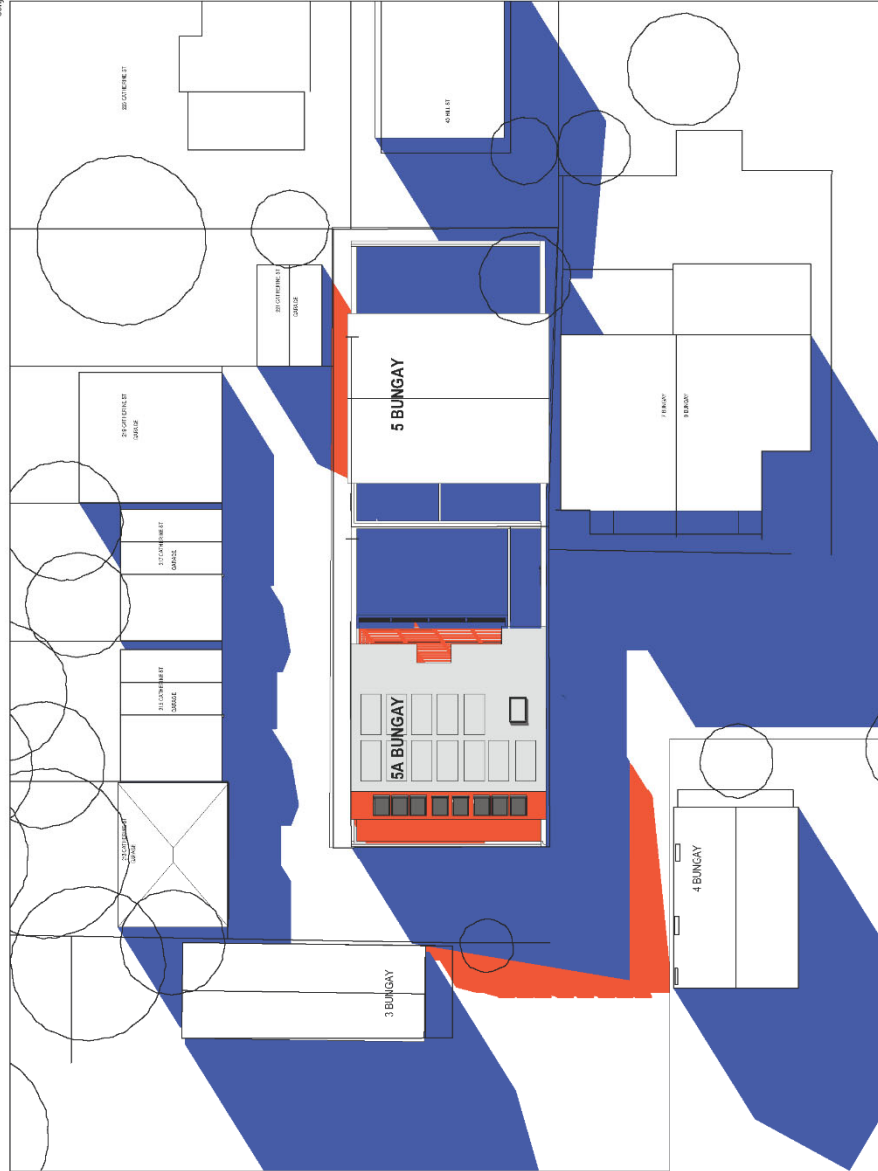
12pm JUNE 21st

■ EXISTING SHADOWS ■ ADDITIONAL SHADOWS

■ EXISTING SHADOWS ■ ADDITIONAL SHADOWS

SHADOW 12pm	
Scale: 1:200	Draw No: 18K-DG21B
	Date: 4/25/21
RAMNANI HOUSE 5A BUNGAY ST, LEICHHARDT NSW 2040	
ARCHITECT	
ANNE COLVILLE B ARCH GRAD, DIP, IND, DES, F.R.A.I.A. REG NO 3514	2 TOONGARAH RD, WAVERTON NSW 2060 PH: 9955 5603 MOB: 0407435080

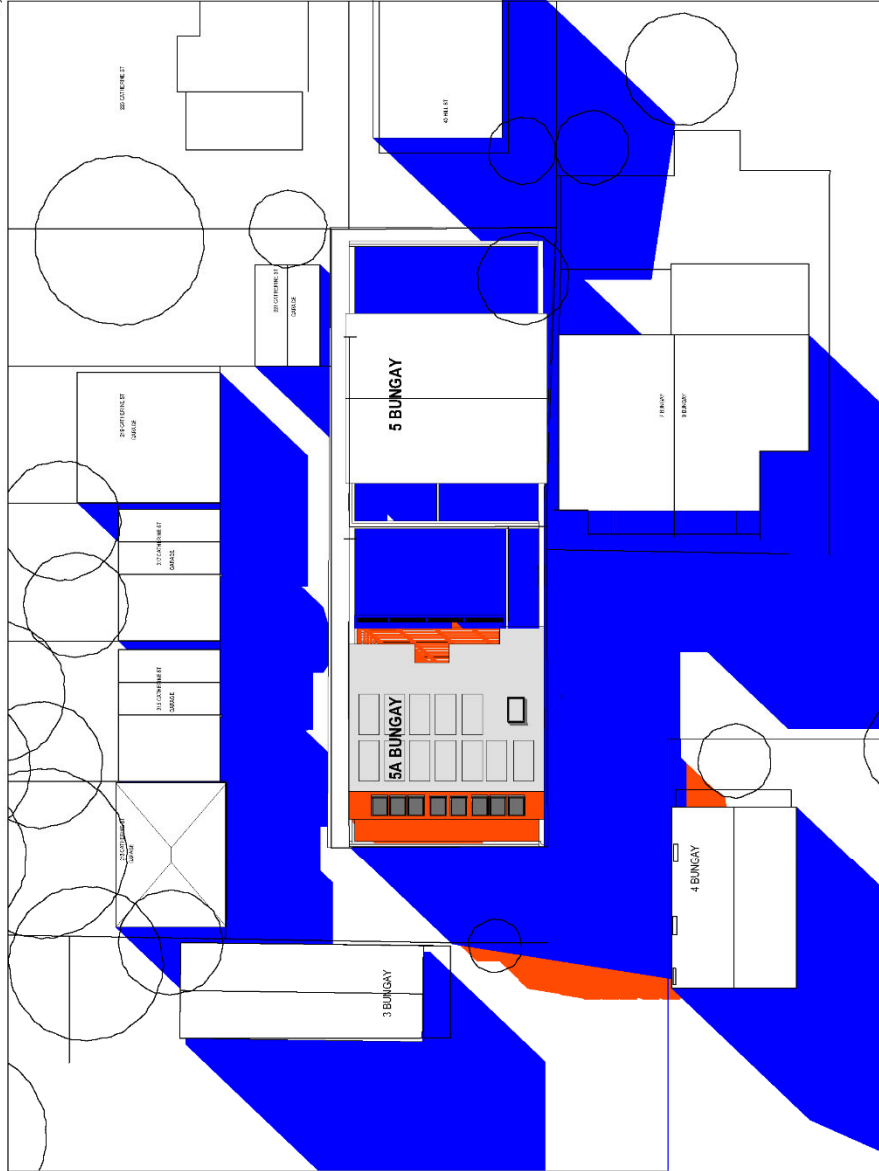
All work copyright of the Architect. Refer any discrepancies to the architect. Check dimensions on site before commencing construction. All work to be done in accordance with the relevant standards. Use in conjunction with consultants drawings.



EXISTING SHADOWS **ADDITIONAL SHADOWS** 1pm JUNE 21st

ANNE COLVILLE B ARCH GRAD,DIP,IND,DES. F.R.A.I.A. REG NO 3514	ARCHITECT PH: 9955 5603 MOB: 0407435080	RAMNANI HOUSE 5A BUNGAY ST, LEICHHARDT NSW 2040	Scale: 1:200
			SHADOW 1pm Draw No: 18K-D022B Date: 4/5/21/21

All work copyright of the Architect. Refer any discrepancies to the architect. Check dimensions on site before commencing construction. All work to be done in accordance with the Australian Standards. Use in conjunction with consultants drawings.



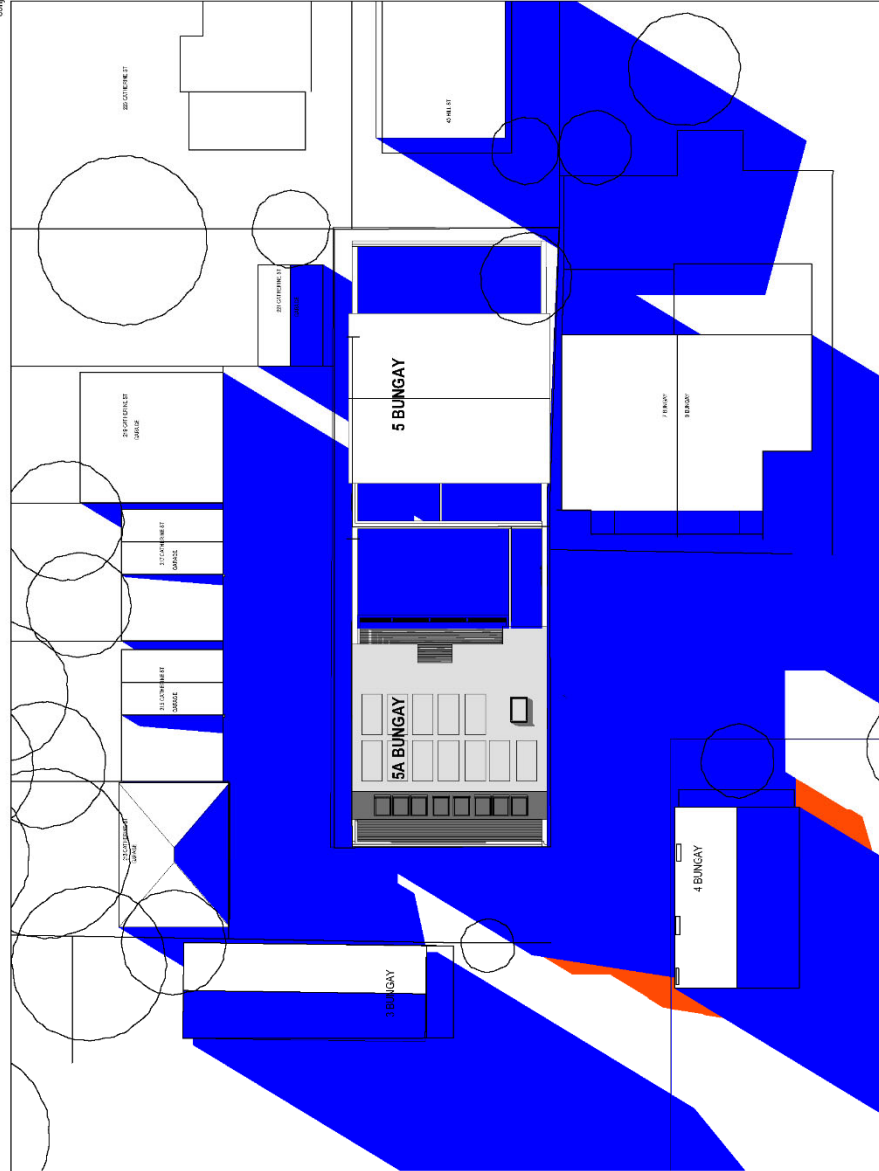
2pm JUNE 21st

ADDITIONAL SHADOWS

EXISTING SHADOWS

SHADOW 2pm	
Scale: 1:200	Draw No: 184 - D238
Date: 4/5/2021	
RAMINANI HOUSE 5A BUNGAY ST, LEICHHARDT NSW 2040	ARCHITECT ANNE COLVILLE B ARCH GRAD, DIP, IND, DES, F.R.A.I.A. REG NO 3514 2 TOONGARAH RD, WAVERTON NSW 2060 PH: 9955 5603 MOB: 0407435080

All work copyright of the Architect. Refer any discrepancies to the architect. Check dimensions on site before commencing construction. All work to be done in accordance with the Australian Standards. Use in conjunction with consultants drawings.



3pm JUNE 21st

ADDITIONAL SHADOWS

EXISTING SHADOWS

	<p>RAMINANI HOUSE 5A BUNGAY ST. LEICHHARDT NSW 2040</p>	<p>SHADOW 3pm Draw No: 18K-D/248 Date: 4/25/21</p>
	<p>ARCHITECT</p>	
<p>ANNE COLVILLE B ARCH GRAD, DIP, IND, DES. F.R.A.I.A. REG NO 3514</p>	<p>2 TOONGARAH RD, WAVERTON NSW 2060 PH: 9955 5603 MOB: 0407435080</p>	

**Attachment C- Clause 4.6 Exception to Development Standards -
Landscaped Areas**



**Request to Breach *Clause 4.3A Landscaped areas
for residential accommodation in Zone R1 Control*
Pursuant to Clause 4.6 of Leichhardt Local
Environmental Plan 2013**

INGHAM PLANNING PTY LTD

1

1. Introduction

Clause 4.6 of Leichhardt Local Environmental Plan 2013 (LLEP 2013) allows for flexibility in the application of certain development standards to achieve *"better outcomes for and from development by allowing flexibility in particular circumstances"*.

The subject land at 5A Bungay Street, Leichhardt is located within an area where the minimum landscaped area and maximum site cover is prescribed as detailed in Clause 4.3A of LLEP 2013. In the case of the subject land, the minimum landscaped area is 20% and the maximum site cover is 60%. The proposal does not alter the existing site cover which is 61.5% of the total site area. This is marginally over the 60% requirement. The landscaped area of the site is 14.3% of the site area and is improved when compared to the existing development due to planters being extended in width to accommodate increased vegetation. Due to the constraints of this site, the landscaped areas must be contained in planters above the slab as the slab cannot be penetrated. The site cover exceeds the maximum requirement by 1.5% which equates to less than 5sqm and the landscaped area falls below the minimum requirement by 5.7% or 18.6sqm.

As the proposed development does not meet the minimum landscape area and maximum site cover as prescribed in Clause 4.3A of LLEP 2013, a request to contravene these development standards must be made under Clause 4.6 of the LEP.

The site is one lot within a two lot strata. The lot area of 5A is 127sqm. The landscaped area of this lot is 29.3sqm which equates to a landscaped area of over 20% (where a similar lot size would require 15% of the site area). When considered on this basis, the proposal complies.

2. The relevant development standard

Clause 4.3A of LLEP 2013 identifies the subject site, having a site area of 327sqm, requiring a landscaped area of 20% (where the lot size is greater than 235 square metres). The maximum site cover is 60% of the site area.

The maximum site cover and minimum landscaped area requirements are development standards and may be varied pursuant to Clause 4.6 of LLEP 2013, which allows for exceptions to development standards. This submission pursuant to Clause 4.6 of LLEP 2013 requests a variation to the site cover and landscaped area development standards prescribed under Clause 4.3A of LLEP 2013.

A detailed plan showing how the landscape area and site cover has been calculated forms part of the latest submission back to Council in response to Council's request for further additional information. This accompanies other requested information including a set of detailed shadow diagrams which show the movement of proposed (and existing) shadows and relationship with adjacent properties and a view analysis diagram which shows that views of properties will not be affected by the subject proposal.

INGHAM PLANNING PTY LTD



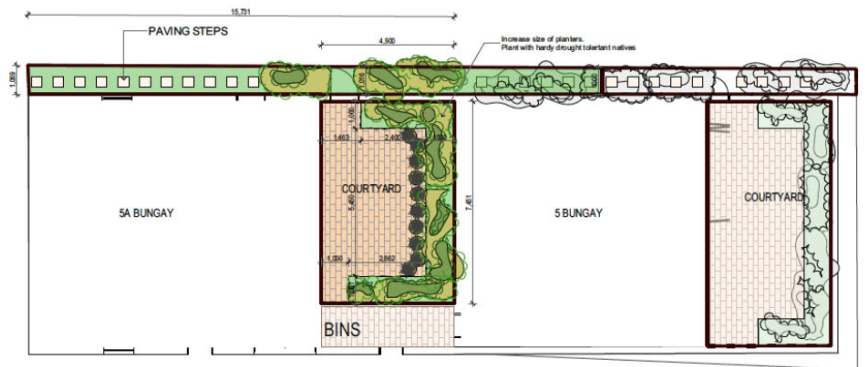
Figure 1: The site from Bungay Street. Site Cover and Landscaped Area are not apparent from outside the site due to the nil setback to the street.

3. Requested variation to the standard

The proponent seeks approval to allow a development with a site cover of 61.5% and landscaped area of 14.3% of the site area. The site cover exists and cannot be achieved without the demolition of part of the existing building. The landscaped area has been slightly improved upon the existing situation by the proposed deeper planters in the courtyard of No. 5A. Refer to Figure 1 Below. Site Cover is shown in Figure 2.

INGHAM PLANNING PTY LTD

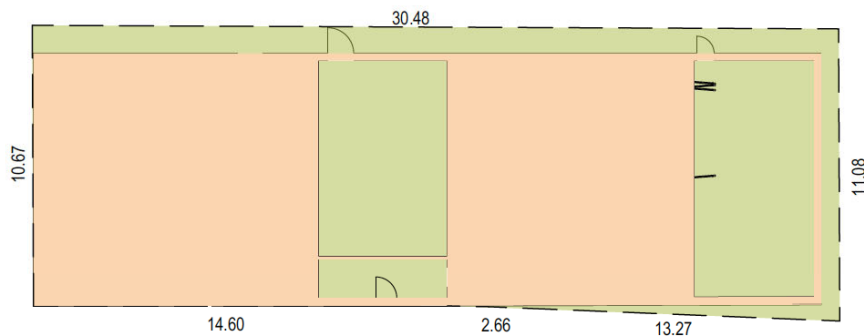
3



LANDSCAPE CALCULATIONS

OPEN HARD AREAS	SOFT AREAS over 1m wide	SOFT AREAS under 1m wide
- 5A Courtyard 28.09m ²	- 5A 29.3m ²	- 5A nil
- 5 Courtyard 23.51m ²	- 5 17.6m ²	- 5 9.32
- Bin and No:5 Entry 7m ²		
TOTAL = 58.6m ²	TOTAL = 46.9	TOTAL = 9.3

FIGURE 1 – Extract of Plans – landscaped area of site



No: 5 & 5A COMBINED inc Common
 site area: 327M²
 developed land: 201.22M²
 undeveloped land: 125.78M²

NOTES
 Footprint calculated from the outside edge of the external perimeter walls, plus outside edge of freestanding external walls.

FIGURE 2 – Extract of Plans – Site Cover

4. Requirements of clause 4.6 – Exceptions to development standards

The relevant parts of Clause 4.6 of Leichhardt LEP 2013 are:

- 4.6 *Exceptions to development standards*
 (1) *The objectives of this clause are as follows—*

INGHAM PLANNING PTY
LTD

4

-
- (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 Planning Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Planning Secretary must consider—
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- Note—
When this Plan was made it did not include any of these zones.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following—
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
 - (c) clause 5.4.
-

INGHAM PLANNING PTY LTD

5

The relevant matters are addressed below in Sections 5 and 6 below.

The purpose of this written request is to satisfy (3)(a) and (b) above and to demonstrate that the consent authority is able to conclude that (4)(a)(ii) and 5(a) and (b) is satisfied. In preparing this request, regard has been had to the document: "Varying development standards: A Guide (August 2011)" prepared by the NSW Department of Planning & Infrastructure and relevant Land Environment Court judgements including the recent judgements of *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245 and by Chief Judge Preston CJ in *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118 and *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61.

5. Compliance with the development standard is unreasonable or unnecessary

It is considered that enforcing compliance would be unreasonable and unnecessary in this case, for the following reasons.

The proposal achieves the objectives of the landscape and site cover control.

The objectives of the clause 4.3A of LLEP 2013 are as set out below:

3A Landscaped areas for residential accommodation in Zone R1

(1) *The objectives of this clause are as follows—*

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

The proposal achieves the above objectives as detailed in the following assessment.

- (a) *to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,*

Due to the nature of the site, the landscaped areas for this dwelling and its immediate neighbour within the strata plan are within courtyards within the outer walls of the building. Both courtyards are located directly off the living areas of the dwellings and have provided adequate outdoor space since the original approval was issued for the use of the building as residential use over 20 years ago. The courtyard space of No5A is north facing and is well used. It is open space and provides light into the subject dwelling.

INGHAM PLANNING PTY LTD

6

This proposal seeks to increase the width of the planters within 5A so that suitable drought tolerable natives can be used. Due to the layout of the building with central courtyards, trees would need to be substantial in height to assist in reducing the bulk and scale of this building.

- (b) *to maintain and encourage a landscaped corridor between adjoining properties,*

The site is unusual and provides an informal landscaped space around it on two sides due to the presence of a landscaped ROW. The ROW is grassed and planted and provides for an informal communal space. The proposal and the slight deficiency in the landscaped area will not affect this corridor.

The lack of fencing between the subject building and the ROW leads the causal observer to believe that this open space is part of the strata lot provides the setting of the building within a landscaped space. In terms of the site cover deficiency, the site benefits from this ROW as it is viewed on a larger site than technically on title due to the ROW.

- (c) *to ensure that development promotes the desired future character of the neighbourhood,*

As discussed above and within the submitted SEE, the proposed development has been designed to respect and reflect the desired character of the locality and in this case, particularly the existing character of the street and landscaped ROW which wraps around the side and rear of the site. As discussed above, this ROW also provides adequate spatial separation from all adjacent neighbours as the ROW is approximately 5 metres wide and the dwellings are then set back behind garages which line the ROW. Also as discussed within the SEE and as detailed within the latest set of plans to the Council, the proposal will not have adverse effects upon the ongoing residential amenity of any nearby property or land user.

- (d) *to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction*

This has been marginally increased by additional soft landscaped area. The ROW will be maintained around the site. The proposed first floor does not reduce the ability to comply with this objective when compared to the existing situation.

- (e) *to control site density,*

The proposal to increase the density of the site has no relationship with the retention of the existing site cover, which exceeds the control by 1.5%, and retention of landscaped area (which will be slightly increased by the proposal).

INGHAM PLANNING PTY LTD

7

(f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.

There is no change to the site cover or area allocated to landscaped area on the ground floor.

On the basis of the above assessment, the proposal is consistent with the objectives of Clause 4.4 of LLEP 2013.



Figure 4: There is no change to the existing ROW which serves as the landscaped corridor between the properties (subject site to the right)

INGHAM PLANNING PTY
LTD

8



Figure 6: The lack of fencing does not present the observer with an indication as to which site benefits from the ownership or use the ROW and the subject site benefits from this situation as it derives spatial setback from this space in the same way as this land being on title.

The proposal achieves the objectives of the R1 General Residential Zone

The zone objectives of the R1 General Residential Zone are noted and commented upon, as follows:

Zone R1 General Residential

1 Objectives of zone

- 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.

INGHAM PLANNING PTY LTD

9

- *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 proposal achieves the applicable objectives of the R1 Zone, in that:

- The non-compliance for this proposed development will provide a satisfactory streetscape character and maintaining a high level of amenity and privacy for adjoining properties.
 - The form of the building has been designed to integrate with existing residential development in the area.
 - The proposal maintains solar access to living areas and private open space areas of adjoining properties.
 - The proposed dwelling is in keeping with the residential nature of the streetscape and minimises conflict.
 - The proposal has been designed to minimise adverse impacts to surrounding properties, the environment and the public domain.
 - The proposal contributes to housing needs within the Inner West.
 - The new floor space will provide superior outcome for occupants in terms of increased amenity without compromising the amenity of neighbours.
 - The proposal will allow increased opportunities for working from home.
 - The proposal will provide for a well-considered architectural response to the site and its constraints. It will provide an enhanced residential amenity for the occupants, by providing both internal and external spaces and facilities more in tune with contemporary living expectations. An assessment of the proposal indicates that it is low impact in its response to the site and its surrounds and will not result in any significant adverse environmental effects to the subject land, to any surrounding property or to the surrounding environment. It will result in a residential development which will sit comfortably within its surrounds.
 - The proposal meets contemporary housing needs while at the same time maintaining compatibility with the established general residential environment, of mainly single dwellings, which exhibits a variety of architectural styles including both traditional homes and more contemporary developments.
-

INGHAM PLANNING PTY LTD

10

- The locality comprises a mix of architectural styles including many older homes, homes which have had substantial alterations and additions and newer contemporary homes. This in turn provides a variety of housing types within the immediate vicinity. The proposal is consistent with the mixed of architectural styles within this street and wider neighbourhood. Refer to the photos of the surrounding streetscape which have been provided in the submitted SEE.
- The proposal will maintain the existing land use pattern of predominantly residential uses.

Compliance would result in poorer planning outcomes

One of the objectives of Clause 4.6 is to allow better outcomes to be achieved. In this case a better planning outcome is achieved by allowing a breach of the applicable standards as the site cover cannot be decreased to comply unless part of the existing building is demolished and the landscaped area has been marginally increased.

Lack of impact

As noted in the above discussion and in the Statement of Environmental Effects accompanying the DA, despite the existing numerical non-compliances, the streetscape and the environmental and visual qualities of the locality and amenity of surrounding properties will be substantially maintained.

The proposed dwelling is accompanied by shadow diagrams which demonstrate that there will not be any overshadowing which adversely affects the amenity of any surrounding property. The additional floor space has no impact on neighbour privacy, solar access, views or outlook.

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

As detailed in Sections 4 and 5 of this Clause 4.6 submission, the proposal significantly enhances occupant amenity and makes more efficient use of the site, without any perceivable building bulk, height or scale that is incompatible with surrounding development. The proposal will have no adverse impact on streetscape or neighbour amenity.

The subject land is located within a locality where most of the buildings are of comparable or greater bulk, scale, height and density. The desirability of making efficient use of land and providing enhanced occupant amenity, at a density and intensity that is effectively no different from, or less than the prevailing housing density and form, is sufficient justification to contravene the development standard. Further, the small numerical non-compliances results in no increase in environmental impacts compared to a fully numerically compliant scheme which complies with landscaped area and site cover.

INGHAM PLANNING PTY LTD

11

Council must also be satisfied that the proposal meets the objectives of the standard and the objectives of the subject zone. As discussed above the proposal meets the objectives of the landscaped area and site cover standards and in this clause 4.6 submission, it is also demonstrated that the proposal meets the objectives of the R1 zone.

Also in acting in the Secretary's concurrence role, Council 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.*

In relation to (a), the proposed breach is minor and is not of any State or regional significance.

In relation to (b), there is no public benefit from maintaining the standard as there is no material impact on the public or private domain and the proposal seeks to make no other change to other relevant planning controls as there is no change to site cover or landscaped areas. The proposal provides for a building that will be compatible with the established built form and density in the locality.

While Council has generally consistently applied the landscape and site cover standards, Council has also applied this standard with some flexibility in the application of this standard, in the R1 zone.

The circumstances applying in this case, are:

the minor extent of the departure from the landscaped and site cover standards which do not decrease but have the landscape area marginally increasing while the site cover remains consistent with the existing situation, the peculiarities of the building being a former warehouse, and the fact that the minor departure to both standards makes no difference to the way in which the site and surrounds will be viewed in regards to overall site coverage or landscaped within the context of this neighbourhood.

These circumstances ensure that no undesirable precedent is created, and the integrity of the subject development standard is maintained.

As noted above, strict enforcement of the numerical standard control would not result in a more desirable planning outcome and in this case, strict application of the standard would not be in the public interest.

In relation to (c), there are no other matters that require consideration.

INGHAM PLANNING PTY LTD

12

Conclusion

The existing improvements on the subject land exceed the maximum permitted site cover of 60% by 1.5% and do not meet the landscaped area requirements of 20% of site area.

Notwithstanding the numerical non-compliances, the proposed development outcome is generally consistent with Council's development controls and results in a satisfactory streetscape character and maintaining a high level of amenity and privacy for adjoining properties. The proposal will provide improved opportunities to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents, maintain the existing spatial relief and landscaped corridors between the site and its neighbours, maintain the retention and absorption of surface drainage water on site and limit any change to the existing ground floor level of the site.

The relevant objectives of the standard are considered to be met by the proposed development as outlined above. The proposal is consistent with the objectives of the R1 General Residential Zone being a relatively low impact residential development that will not have an adverse impact on the aesthetic values of the area. The proposed development maintains the scale and character of the locality and will not detrimentally affect the scenic quality of the area. It is considered that there are sufficient environmental planning grounds to vary the standard.

Based on the above considerations, the proposed minor variations to the development standards are acceptable based on the particular circumstances of the proposed development. It is considered that approval of the application will not compromise the interests of the public, given the relevant objectives of the zone and the standard are met by the proposal despite its numerical non-compliance with the development standards.

Requiring strict numerical compliance is unreasonable and unnecessary in this case, as it would not result in any significant benefits in relation to urban design, streetscape, neighbourhood character, residential density, or residential amenity.

Some flexibility with respect to the application of the controls is appropriate in order to provide enhanced occupant amenity and facilitate a more efficient use of the subject land, within a general residential environment.

There is no planning reason in this case, to justify strictly applying the minimum landscape and maximum site cover numerical standards as the site cover cannot achieve compliance without the demolition of part of the existing building and the configuration of the building is within the boundary walls, therefore the site cover and landscaped areas are not readily apparent from outside the site. On the contrary, a better planning outcome is achieved that is consistent with the objectives of the R1 Zone and the objectives of the development standards as a slight improvement in landscaped area is achieved. The requested variations to the development standards for the subject land is appropriate and worthy of support.

Leonie Derwent
Ingham Planning Pty Ltd, April 2021

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



**Request to Breach the Clause 4.4 Maximum Floor
Space Ratio Control Pursuant to
Clause 4.6 of Leichhardt Local Environmental
Plan 2013**

INGHAM PLANNING PTY LTD

1

1. Introduction

Clause 4.6 of Leichhardt Local Environmental Plan 2013 (LLEP 2013) allows for flexibility in the application of certain development standards to achieve "*better outcomes for and from development by allowing flexibility in particular circumstances*".

The subject land at 5A Bungay Street, Leichhardt is located within an area where the maximum permitted floor space ratio (FSR) is prescribed as detailed in Clause 4.4 of LLEP 2013. In the case of the subject land, the maximum FSR is 0.6:1. The proposal results in an assessable gross floor area of 309.16m², resulting in an FSR of 0.94:1, which exceeds allowable FSR by approximately 35%.

As the proposed development exceeds the maximum permitted FSR prescribed in Clause 4.4 of LLEP 2013, a request to contravene this development standard must be made under Clause 4.6 of the LEP.

2. The relevant development standard

The Floor Space Ratio Map to Clause 4.4 of LLEP 2013 identifies the subject site within an area where a maximum FSR of 0.6:1 applies.

The maximum FSR requirement is a development standard and may be varied pursuant to Clause 4.6 of LLEP 2013, which allows for exceptions to development standards. This submission pursuant to Clause 4.6 of LLEP 2013 requests a variation to the FSR development standard prescribed under Clause 4.4 of LLEP 2013. The proposed FSR, which has been calculated as shown in submitted plans to Council is 309.16sqm or 0.94:1.

A detailed plan showing how the FSR has been calculated forms part of the latest submission back to Council in response to Council's request for further additional information. This accompanies other requested information including a set of detailed shadow diagrams which show the movement of proposed (and existing) shadows and relationship with adjacent properties and a view analysis diagram which shows that views of properties will not be affected by the subject proposal.

3. Requested variation to the standard

The proponent seeks approval to allow approximately 113sqm metres of assessable gross floor area (GFA), over the maximum for the site which will increase FSR on the site to 0.94:1. The area of the proposed first floor accounts for all of this additional area and no changes are proposed to the ground floor layout of the site, site cover or landscaped areas.

The site is already developed as a single dwelling as part of an existing strata plan and is connected to services. The other dwelling within the strata is two storeys in height, as are the majority of surrounding dwellings. The area of additional floor space proposed will meet the anticipated needs for the foreseeable future and in this case, the proposal will adequately achieve floorspace to serve the needs of a small family unit with flexibility to suit different family units while providing space and flexibility to work from home.

INGHAM PLANNING PTY
LTD

2

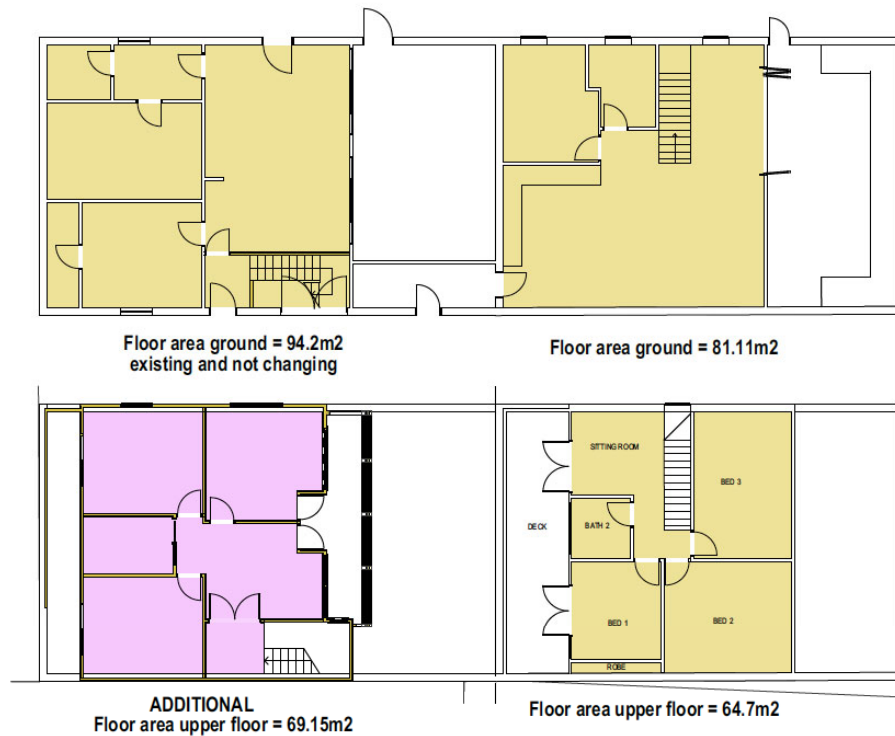


FIGURE 1 – Extract of SEE

4. Requirements of clause 4.6 – Exceptions to development standards

The relevant parts of Clause 4.6 of Leichhardt LEP 2013 are:

- 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*

INGHAM PLANNING PTY LTD

3

- (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 Planning Secretary has been obtained.
 - (5) In deciding whether to grant concurrence, the Planning Secretary must consider—
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.
 - (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—
 - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- Note—
When this Plan was made it did not include any of these zones.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
 - (8) This clause does not allow development consent to be granted for development that would contravene any of the following—
 - (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
 - (c) clause 5.4.

The relevant matters are addressed below in Sections 5 and 6 below.

The purpose of this written request is to satisfy (3)(a) and (b) above and to demonstrate that the consent authority is able to conclude that (4)(a)(ii) and 5(a) and (b) is satisfied. In preparing this request, regard has been had to the document: "Varying development standards: A Guide (August 2011)" prepared by the NSW Department of Planning & Infrastructure and relevant Land Environment Court judgements including the recent judgements of *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245 and by Chief Judge Preston CJ in *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118 and *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61.

INGHAM PLANNING PTY LTD

4

5. Compliance with the development standard is unreasonable or unnecessary

It is considered that enforcing compliance would be unreasonable and unnecessary in this case, for the following reasons.

The proposal achieves the objectives of the FSR control.

The objectives of the maximum FSR control in clause 4.4 of LLEP 2013 are as set out below:

4.4 Floor space ratio

(1) The objectives of this clause are as follows:

(a) to ensure that residential accommodation:

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

(ii) provides a suitable balance between landscaped areas and the built form, and

(iii) minimises the impact of the bulk and scale of buildings,

The proposal achieves the above objectives as detailed in the following assessment.

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

The bulk and scale of the development are suitable for the intended use of the site for residential purposes and the additional area sought under this variation will be inconceivable to the observer given the context of the site amongst developments of similar or greater bulk and scale in the immediate vicinity. Such development includes the terrace houses that are located at the front of the site when approaching the site along Bungay Street and which are raised above ground level, giving the appearance of dwellings of two storey appearance over a basement level. The proposal does not adversely affect nearby dwelling by way of overshadowing or privacy impact.

- (b) *(ii) provides a suitable balance between landscaped areas and the built form,*

The relationship between the landscaped areas on the site and the built form will not change dramatically as the site has its landscaped areas within the boundary walls of the site. At the moment, it is unknown to the casual observer as to where the open space is located however the proposed first floor, which will sit some 2.3 metres above the existing parapet will be balanced by the spatial relief which is created by the uncovered courtyard space which sits to the north of the dwelling. We note that the site cover and landscaped areas of the site do not change as a result of this proposal.

INGHAM PLANNING PTY LTD

5

In addition, this site is unusual in that it is surrounded on three sides by a road (Bungay Street) or by the 5 metre wide, landscaped ROW and gardens within this space, which provide both spatial relief and the benefit of immediately adjacent landscaped areas. The lack of fencing between the subject building and the ROW leads the causal observer to believe that this open space is part of the strata lot provides the setting of the building within a landscaped space.

(c) *(iii) minimises the impact of the bulk and scale of buildings*

As discussed above and within the submitted SEE, the proposed development has been designed to respect and reflect the desired character of the locality and in this case, particularly the existing character of the street and landscaped ROW which wraps around the side and rear of the site. As discussed above, this ROW also provides adequate spatial separation from all adjacent neighbours as the ROW is approximately 5 metres wide and the dwellings are then set back behind garages which line the ROW. Also as discussed within the SEE and as detailed within the latest set of plans to the Council, the proposal will not have adverse effects upon the ongoing residential amenity of any nearby property or land user.

The proposed additional floorspace is in keeping with the overall development and bulk and scale and land use intensity of the surrounding sites. The area is zoned for residential development and despite the request for additional floorspace, the proposal and continuing use of the site as a family home is commensurate with the capacity of existing and planned infrastructure as envisaged by the Council.

On the basis of the above assessment, the proposal is consistent with the objectives of Clause 4.4 of LLEP 2013.

The proposal achieves the objectives of the R1 General Residential Zone

The zone objectives of the R1 General Residential Zone are noted and commented upon, as follows:

Zone R1 General Residential

1 Objectives of zone

- 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.
-

INGHAM PLANNING PTY LTD

6

- *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 proposal achieves the applicable objectives of the R1 Zone, in that:

- The non-compliance for this proposed development will provide a satisfactory streetscape character and maintaining a high level of amenity and privacy for adjoining properties.
 - The form of the building has been designed to integrate with existing residential development in the area.
 - The proposal maintains solar access to living areas and private open space areas of adjoining properties.
 - The proposed dwelling is in keeping with the residential nature of the streetscape and minimises conflict.
 - The proposal has been designed to minimise adverse impacts to surrounding properties, the environment and the public domain.
 - The proposal contributes to housing needs within the Inner West.
 - The new floor space will provide superior outcome for occupants in terms of increased amenity without compromising the amenity of neighbours.
 - The proposal will allow increased opportunities for working from home.
 - The proposal will provide for a well-considered architectural response to the site and its constraints. It will provide an enhanced residential amenity for the occupants, by providing both internal and external spaces and facilities more in tune with contemporary living expectations. An assessment of the proposal indicates that it is low impact in its response to the site and its surrounds and will not result in any significant adverse environmental effects to the subject land, to any surrounding property or to the surrounding environment. It will result in a residential development which will sit comfortably within its surrounds.
 - The proposal meets contemporary housing needs while at the same time maintaining compatibility with the established general residential environment, of mainly single dwellings, which exhibits a variety of architectural styles including both traditional homes and more contemporary developments.
 - The locality comprises a mix of architectural styles including many older homes, homes which have had substantial alterations and additions and newer contemporary homes. This in turn provides a variety of housing types within the immediate vicinity. The proposal is consistent with the mixed of architectural styles within this street and wider neighbourhood. Refer to the
-

INGHAM PLANNING PTY LTD

7

photos of the surrounding streetscape which have been provided in the submitted SEE.

- The proposal will maintain the existing land use pattern of predominantly residential uses.

Compliance would result in poorer planning outcomes

One of the objectives of Clause 4.6 is to allow better outcomes to be achieved. In this case a better planning outcome is achieved by allowing a breach of the applicable maximum FSR control to provide additional floorspace which is commensurate with the other dwelling within the strata plan. The layout, height and form are consistent with the other dwelling while the height, roof form and bulk and scale are commensurate with surrounding development.

The significant increase in occupant amenity, with no material impact on the streetscape, building bulk or neighbour amenity, more than offsets the exceedance of the maximum FSR prescribed for the site

Lack of impact

As noted in the above discussion and in the Statement of Environmental Effects accompanying the DA, despite the FSR numerical non-compliance, the streetscape and the environmental and visual qualities of the locality and amenity of surrounding properties will be substantially maintained.

The proposed dwelling is accompanied by shadow diagrams which demonstrate that there will not be any overshadowing which adversely affects the amenity of any surrounding property. The additional floor space has no impact on neighbour privacy, solar access, views or outlook.

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

As detailed in Sections 4 and 5 of this Clause 4.6 submission, the proposal significantly enhances occupant amenity and makes more efficient use of the site, without any perceivable building bulk, height or scale that is incompatible with surrounding development. The proposal will have no adverse impact on streetscape or neighbour amenity.

The subject land is located within a locality where most of the buildings are of comparable or greater bulk, scale, height and density. The desirability of making efficient use of land and providing enhanced occupant amenity, at a density and intensity that is effectively no different from, or less than the prevailing housing density and form, is sufficient justification to contravene the development standard. Further, the numerical non-compliance results in no increase in environmental impacts compared to a fully numerically compliant FSR.

INGHAM PLANNING PTY LTD

8

Council must also be satisfied that the proposal meets the objectives of the standard and the objectives of the subject zone. As discussed above the proposal meets the objectives of the FSR standard and in this clause 4.6 submission, it is also demonstrated that the proposal meets the objectives of the R1 zone.

Also in acting in the Secretary's concurrence role, Council 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.*

In relation to (a), the proposed breach is minor and is not of any State or regional significance.

In relation to (b), there is no public benefit from maintaining the standard as there is no material impact on the public or private domain and the proposal seeks to make no other change to other relevant planning controls as there is no change to site cover or landscaped areas. The proposal provides for a building that will be compatible with the established built form and density in the locality.

While Council has generally consistently applied FSR standards, Council has also applied this standard with some flexibility in the application of this standard, in the R1 zone. This is particularly apparent within the Leichhardt area of the Inner West where the FSRs are less than the areas of Rozelle and Balmain.

The circumstances applying in this case, such as the minor extent of the departure from the FSR standard, the peculiarities of the building being a former warehouse, the fact that the additional FSR makes no contribution to the established bulk, scale and density in the locality, ensure that no undesirable precedent is created, and the integrity of the subject development standard is maintained.

As noted above, strict enforcement of the numerical standard control would not result in a more desirable planning outcome and in this case, strict application of the standard would not be in the public interest.

In relation to (c), there are no other matters that require consideration.

Conclusion

The proposed dwelling on the subject land exceeds the maximum permitted FSR of 0.6:1. The proposed gross floor area results in an approximate exceedance of approximately 113sqm or around 35% above the FSR control, increasing FSR to 0.94:1. The additional GFA is architecturally designed and results in no loss of amenity to any surrounding neighbour. The first floor form is consistent with many similar developments in the immediate area.

Notwithstanding the numerical non-compliance, the proposed development outcome is generally consistent with Council's development controls and results

INGHAM PLANNING PTY LTD

9

in a bulk, height and scale that is compatible with and in some cases less than, existing built form in the locality. The proposed dwelling is viewed in the same general visual context as many of the more contemporary developments which are located further to the east along Bungay Street. It is therefore in character with the prevailing built form.

The relevant objectives of the standard are considered to be met by the proposed development as outlined above. Despite the non-compliance, it is considered that the proposed development is in harmony with the bulk and scale of the surrounding buildings with minimal amenity impacts on adjoining and nearby properties. Therefore, the proposal satisfies the objectives of the development standard. The proposal is consistent with the objectives of the R1 General Residential Zone being a relatively low impact residential development that will not have an adverse impact on the aesthetic values of the area.

The proposed development maintains the scale and character of the locality and will not detrimentally affect the scenic quality of the area. It is considered that there are sufficient environmental planning grounds to vary the standard.

Based on the above considerations, the proposed variation to the development standard is acceptable based on the particular circumstances of the proposed development. It is considered that approval of the application will not compromise the interests of the public, given the relevant objectives of the zone and the standard are met by the proposal despite its numerical non-compliance with the development standard.

Requiring strict numerical compliance is unreasonable and unnecessary in this case, as it would not result in any significant benefits in relation to urban design, streetscape, neighbourhood character, residential density, or residential amenity.

Some flexibility with respect to the application of the maximum FSR control is appropriate in order to provide enhanced occupant amenity and facilitate a more efficient use of the subject land, within a general residential environment.

There is no planning reason in this case, to justify strictly applying the maximum FSR numerical standard. On the contrary, a better planning outcome is achieved that is consistent with the objectives of the R1 Zone and the objectives of the maximum FSR development standard. The requested variation to the maximum FSR development standard for the subject land is appropriate and worthy of support.

Leonie Derwent
Ingham Planning Pty Ltd
April 2021