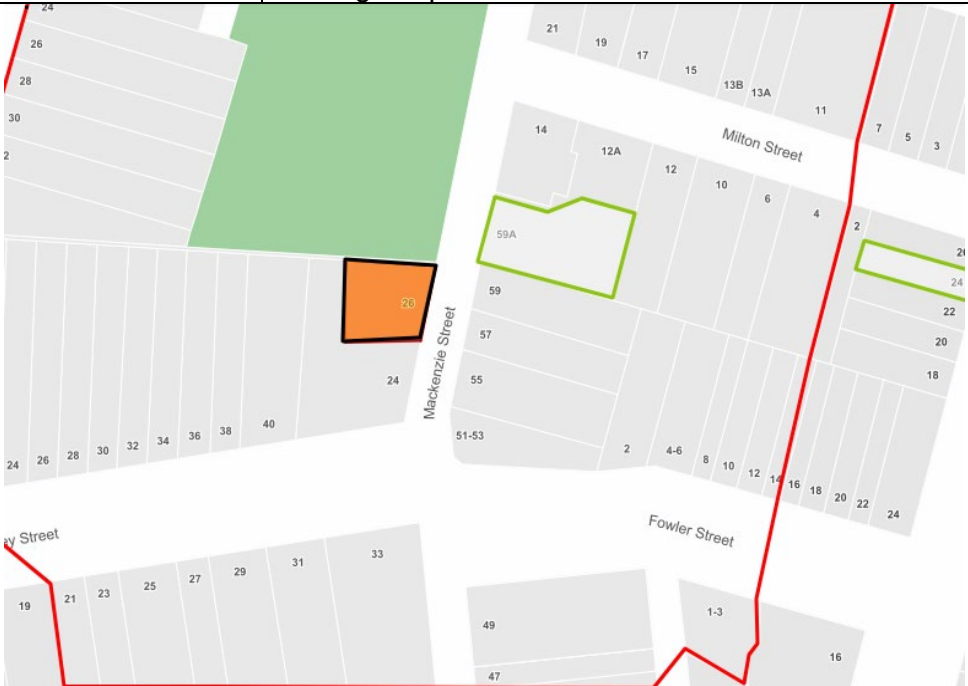





	
DEVELOPMENT ASSESSMENT REPORT	
<b>Application No.</b>	DA/2021/0499
<b>Address</b>	26 Mackenzie Street LEICHHARDT NSW 2040
<b>Proposal</b>	Alterations and additions for use of a warehouse building as a dwelling, and remediation of site
<b>Date of Lodgement</b>	17 June 2021
<b>Applicant</b>	Ms Elaine Roff
<b>Owner</b>	Mr Michael A Slezak Ms Amy L Corderoy
<b>Number of Submissions</b>	2 in Support
<b>Value of works</b>	\$630,000.00
<b>Reason for determination at Planning Panel</b>	Site Coverage and FSR variation exceeds 10%
<b>Main Issues</b>	Floor Space Ratio Heritage Conservation Obstruction of Right-of-Way
<b>Recommendation</b>	Approved with Conditions
<b>Attachment A</b>	Recommended conditions of consent
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Clause 4.6 Exception to Development Standards
<b>Attachment D</b>	Statement of Heritage Significance
<b>Attachment E</b>	Heritage Impact Statement
	
<b>LOCALITY MAP</b>	
Subject Site	
Notified Area	
Objectors	
Supporters	
	
Note: Due to scale of map, not all notified properties could be shown.	

## 1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to convert an existing warehouse/industrial building for use as a single dwelling house, and the remediation of the site at 26 Mackenzie Street Leichhardt.

The application was notified to surrounding properties and 2 submissions in support were received in response to the notification.

The main issues that have arisen from the application include:

- Breach of Maximum Site Coverage Development Standard.
- Breach of Maximum Floor Space Ratio Development Standard.
- Redesign to minimise adverse impacts on the Heritage Conservation Area.

The non-compliances are acceptable given that, subject to conditions specified in this report the proposal would not result in any significant adverse environmental impacts and therefore, the application is recommended for approval.

## 2. Proposal

It is proposed to carry out alterations and additions to convert an existing block masonry warehouse/industrial building for use as a single dwelling house. The proposal includes significant internal replanning of the building to use the ground level as living areas; and to extend the existing upper level mezzanine to contain 3 bedrooms, study and an external terrace in the south-eastern corner of the building. To accommodate the upper level spaces, a contemporary dormer roof extension is proposed to the northern side of the existing roof.

The proposal also includes the remediation of the non built areas of the site to enable conversion of these currently paved areas into landscaped area and private open space for the dwelling.

The proposal includes installation of roof top solar panels; a pop-out window element to the studio at upper level extending over the ROW, and clothes line within the ROW.

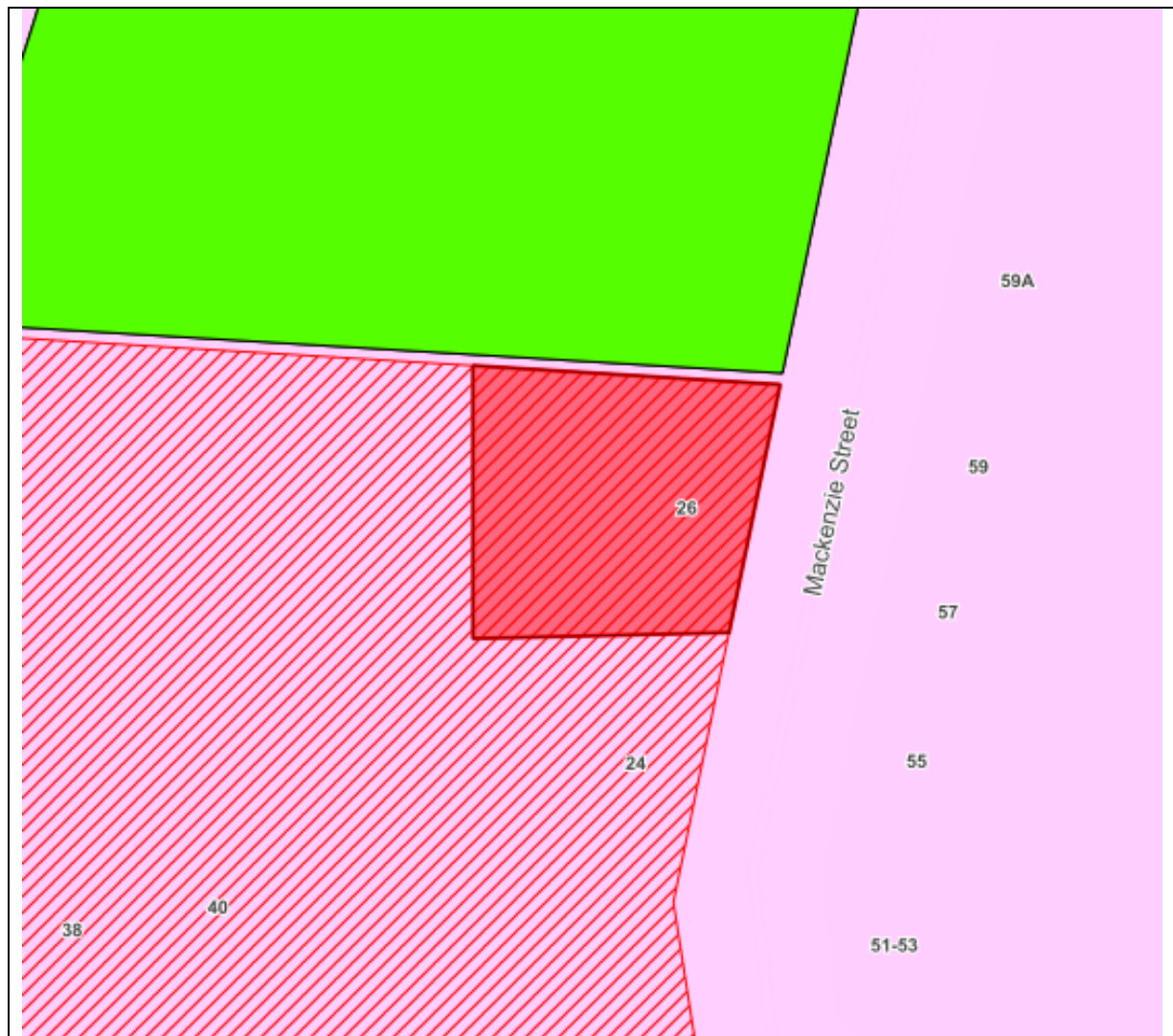
## 3. Site Description

The subject site is located on the western side of Mackenzie Street, between Stanley Street name and Milton Street. The site consists of one allotment and is generally rectangular in shape with a total area of 252.1sqm and is legally described as 26 Mackenzie Street Leichhardt.

The site has a frontage of 14.425 metres. The site is affected by a Right-of-Way 3.05m wide along the entire southern boundary of the site and abuts a 0.915 wide drainage reserve along the entire northern side boundary.

The site supports a warehouse/industrial building which includes an internal mezzanine level which is currently used as a dwelling. The adjoining properties support a mix of dwelling types being predominantly single and two storey detached dwelling houses.

The subject site is located within a heritage conservation area. The property is identified as a flood control lot. The site abuts 36<sup>th</sup> Battalion Park to the north which contains significant trees in proximity of the site.



## 4. Background

### 4(a) Site history

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

#### Subject Site

Application	Proposal	Decision & Date
PDA/2020/0452	Conversion of existing industrial building into a dwelling	22/12/2020 - Issued
D/2018/173	Alterations and additions to existing warehouse to allow conversion into residential use.	12/10/2018 - Approved
PREDA/2013/191	Alterations and additions to existing building and change of use from commercial to residential plus garage	17/03/2014 - Issued
BA 93/548	Factory building	13/10/93 - Approved

**Surrounding properties**

57 Mackenzie Street

Application	Proposal	Decision & Date
D/2014/249	Alterations and additions to existing dwelling including ground and first floor addition with first floor balcony, and new rear deck.	7/08/2014 - Approved

40 Stanley Street

Application	Proposal	Decision & Date
DA/2020/0930	Alterations and additions to the rear of an existing dwelling and addition of a rear deck	10/12/2020 - Approved

**4(b) Application history**

Not applicable

**5. Assessment**

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

**5(a) Environmental Planning Instruments**

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

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

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. LDGP2013 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. It is considered that the site will require remediation in accordance with *SEPP 55*.

A Detailed Site Investigation (DSI) and Remedial Action Plan (RAP) have been provided to address the management of contaminated groundwater onsite and the treatment and/or disposal of any contaminated soils and contamination issues. The contamination documents have been reviewed and found that the site can be made suitable for the proposed use after the completion of the RAP. The proposed method of remediation is considered satisfactory subject to conditions. To ensure that these works are undertaken, conditions are included in the recommendation that are consistent with Clause 7 of SEPP 55.

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

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

**5(a)(iii) 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, open space or recreation facilities.

**5(a)(iv) State Environmental Planning Policy (Vegetation in Non-Rural Areas) (Vegetation SEPP)**

*Vegetation SEPP* concerns the protection/removal of vegetation identified under the SEPP and gives effect to the local tree preservation provisions of Council's DCP.

The application does not seek the removal of vegetation from within the site or on Council land. The application was referred to Council's Tree Management Officer whose comments are summarised as follows:

The submitted Remedial Action Plan, prepared by EBG Environmental Geoscience, dated 11 May 2021, identifies the locations of remediation areas within the site. These areas will not impact on any trees within 5 metres of the proposal, including within 36th Battalion Park. Overall, the proposal is considered acceptable with regard to the *Vegetation SEPP* and Leichhardt DCP2013 subject to the imposition of conditions, which have been included in the recommendation of this report.

**5(a)(v) Leichhardt Local Environment Plan 2013**

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

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.5 - Additional permitted uses for land
- Clause 2.7 - Demolition
- Clause 4.3A - Landscaped areas for residential accommodation in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.4A - Exception to maximum floor space ratio for active street frontages
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 4.6 - Exceptions to development standards
- Clause 5.10 - Heritage Conservation
- Clause 5.21 - Flood Planning
- 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

- Clause 6.11 – Adaptive reuse of existing buildings in Zone R1

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

The site is zoned R1-Generral Residential under the *LLEP 2013*. The *LLEP 2013* defines the development as:

**dwelling house** means a building containing only one dwelling.

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

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

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

Standard	Proposal	Non compliance -	Complies
<b>Floor Space Ratio</b> Maximum permissible: 0.7:1 or 176.47sqm	1.02:1 or 257.5sqm	81.03sqm or 45.9%	No
<b>Landscape Area</b> Minimum permissible: 20% or 50.4sqm	20.23% or 51sqm	-	Yes
<b>Site Coverage</b> Maximum permissible: 60% or 96sqm	77.2% or 151.3sqm	43.3sqm or 28.7%	No

It is noted that the Site Coverage currently existing on the site is not proposed to be increased.

The site currently has no Landscaped Area as defined. The proposal involves removal of existing concrete slabs and remediation of the site so as to provide Landscaped Area compliant with the prescribed development standard.

The proposed enlargement of the existing internal mezzanine level within the building results in an increased breach of the maximum Floor Space Ratio development standard. It is noted that all additional gross floor area, with exception of the pop-out window [W02] serving the upper-level study, is contained within the existing building bulk.

Clause 4.6 Exceptions to Development Standards

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

- Clause 4.3A(3)(b) – Site Coverage

The applicant seeks a variation to the Site Coverage development standard under Clause 4.3A(3)(b) of the *Leichhardt LEP 2013* by 43.3sqm or 28.7%.

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

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

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

- *The existing warehouse building exceeds the maximum site coverage control. The extent of the proposed non-compliance is the same as that existing and is therefore considered acceptable for the site. Strict compliance with the site coverage control would also require substantial reconfiguration of the existing floor plate and would trigger additional remediation works which are otherwise unnecessary.*
- *The proposal does not seek to increase the existing breach any further.*
- *The existing and proposed site coverage exceedance does not contribute to any unreasonable overshadowing impacts onto the neighbouring property as the built form will remain consistent with that existing.*
- *The existing and proposed site coverage exceedance does not contribute to any amenity loss in terms of noise for neighbouring properties.*
- *The proposal will not alter the overall bulk and scale of the building.*
- *The non-compliance does not give rise to any adverse environmental impacts.*
- *The proposed development is consistent with the objectives of the development standard and the R1 General Residential Zone.*
- *Council previously approved a residential conversion under D/2018/173. The proposed Welsh & Major design has taken a different approach, retaining the majority of the existing building structure and character, with more subtle interventions, to retain the warehouse character of the building while creating a high-quality internal amenity.*
- *The proposal will make a positive contribution to the local character and provides a quality home for the owners.*

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

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

The relevant objectives of the R1 zone are:

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

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

- The proposed conversion of the warehouse /industrial building will provide for the housing needs of the residents of the dwelling and improve opportunities to work from home.

- The proposal provides adequate and compliant Landscaped Area where currently none is available.
- Subject to recommended conditions, the conversion of the building for use as a dwelling house will be compatible with the neighbourhood.

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

The relevant development standard objectives are:

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

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

- The amended proposal provides adequate and a compliant Landscaped Area.
- The development would not result in unsatisfactory amenity impacts on neighbouring properties.
- The proposal does not result in an increase in Site Coverage.

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 2013. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the Site Coverage development standard and it is recommended the Clause 4.6 exception be granted.

- Clause 4.4 – Floor Space Ratio

The applicant seeks a variation to the Floor Space Ratio development standard under Clause 4.4 of the Leichhardt LEP 2013 by 81.03sqm or 45.9%.

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 Leichhardt LEP 2013 below.

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

- *The existing warehouse building already exceeds the maximum FSR control of 0.7:1 and has done so for an extended period time. Strict compliance with the FSR control would require substantial reconfiguration of the existing lot and would reduce the residential amenity of the lot for existing and future residents.*

- *The proposed non-compliance is a result of the extension of the mezzanine level to include three new bedrooms which will facilitate the conversion from warehouse to residential use.*
- *The proposed mezzanine extension and associated bedrooms are located on the northern side of the development which adjoins the 36th Battalion Park and the FSR exceedance will have no impact on the privacy of the adjoining neighbour to the south.*
- *The proposed change of use will improve the acoustic privacy of adjacent properties.*
- *The proposal will result in a minor increase to the existing overshadowing. However, the increase is negligible as it will fall predominately on the roof of the neighbouring properties and not onto public open space.*
- *The building envelope is existing, and the proposed FSR exceedance will be within the existing building footprint.*
- *Council previously approved a residential conversion under D/2018/173. The current proposal retains the majority of the existing building structure and character to retain the warehouse character of the building while creating a high-quality internal amenity.*
- *The proposal will make a positive contribution to the local character and provides a quality home for the owners.*

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

It is considered the development is in the public interest because it is consistent with the objectives of the R1 zone which are:

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

The proposal is considered to be consistent with the zone objectives as it:

- Adapts an existing structure to accommodate a dwelling.
- Provides for new dwelling house in the area.
- Provides compliant Landscaped area and Private Open space for the dwelling.
- Would not result in significant environmental impacts on the area.

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 2013 for the following reasons:

The development standard objectives are:

*To ensure that residential accommodation-*

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

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

- The existing development on the site has an FSR of 0.9:1
- The increased gross floor area is proposed generally within the bulk of the existing warehouse/industrial building.
- The development would not result in unsatisfactory amenity impacts on neighbouring properties.
- The proposal provides new Landscaped Area on the site satisfying that development standard.
- The proposal provides for remediation of the site, and
- The proposal provides for improved amenity on the site and neighbourhood.

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 2013. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Floor Space Ratio and it is recommended the Clause 4.6 exception be granted.

#### 5.21 - Flood Planning

The site is identified as a flood control lot. The floor levels of the new dwelling are to be raised above the flood planning level. However, due to physical constraints posed by the existing building the floor levels are proposed to be less than 500mm above the FPL as is generally required.

The proposal is considered acceptable in regard to flood planning subject to conditions which are included in the recommendation.

#### 6.8 – Development in areas subject to aircraft noise

The site is located within the ANEF 25-30 footprint for Sydney Airport. An acoustic report has been submitted with application. Conditions are included in the recommendation of this report requiring compliance with the specified acoustic criteria.

#### Clause 6.11 – Adaptive reuse of existing buildings in Zone R1

The objectives of this clause are as follows—

- (a) to provide for the adaptive reuse of existing buildings for residential accommodation,*
- (b) to retain buildings that contribute to the streetscape and character of Leichhardt,*
- (c) to provide satisfactory amenity for future residents of the area,*
- (d) to ensure that development does not adversely affect the quality or amenity of existing buildings in the area.*

The proposal will retain the majority of the external walls of the existing building and subject to conditions, will result in a development that is compatible with the existing streetscape and the heritage conservation area. All floor area will be contained within the envelope of the existing building. Consequently, the proposal generally complies with this clause.

#### 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 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.

<b>LDCP2013</b>	<b>Compliance</b>
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	Yes
B3.2 Events and Activities in the Public Domain (Special Events)	Yes
<b>Part C</b>	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes – see discussion
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes – see discussion
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	Yes – see discussion
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	Yes
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	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
<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.3.3 – Piperston Distinctive Neighbourhood	Yes
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	No – see discussion
C3.3 Elevation and Materials	Yes

C3.4 Dormer Windows	Yes
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes – see discussion
C3.10 Views	Yes
C3.11 Visual Privacy	Yes – see discussion
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	Yes – see discussion
C3.14 Adaptable Housing	Yes
<b>Part C: Place – Section 4 – Non-Residential Provisions</b>	
C4.1 Objectives for Non-Residential Zones	N/A
C4.2 Site Layout and Building Design	N/A
C4.3 Ecologically Sustainable Development	N/A
C4.4 Elevation and Materials	N/A
C4.5 Interface Amenity	N/A
C4.6 Shopfronts	N/A
C4.7 Bulky Goods Premises	N/A
C4.8 Child Care Centres	N/A
C4.9 Home Based Business	N/A
C4.10 Industrial Development	N/A
C4.11 Licensed Premises and Small Bars	N/A
C4.12 B7 Business Park Zone	N/A
C4.13 Markets	N/A
C4.14 Medical Centres	N/A
C4.15 Mixed Use	N/A
C4.16 Recreational Facility	N/A
C4.17 Sex Services Premises	N/A
C4.18 Vehicle Sales or Hire Premises And Service Stations	N/A
C4.19 Vehicle Repair Station	N/A
C4.20 Outdoor Dining Areas	N/A
C4.21 Creative Industries	N/A
<b>Part D: Energy</b>	
Section 1 – Energy Management	
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	Yes
D2.5 Mixed Use Development	Yes
<b>Part E: Water</b>	
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	Yes
E1.1.5 Foreshore Risk Management Report	N/A

E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	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	Yes
E1.2.7 Wastewater Management	N/A
E1.3 Hazard Management	Yes
E1.3.1 Flood Risk Management	Yes – see discussion
E1.3.2 Foreshore Risk Management	N/A
<b>Part F: Food</b>	N/A
<b>Part G: Site Specific Controls</b>	N/A

The following provides discussion of the relevant issues:

#### C1.4 Heritage Conservation Areas and Heritage Items

The subject property at 26 Mackenzie Street, Leichhardt, is a contributory dwelling located within the Leichhardt Street/Stanley Street Heritage Conservation Area (11 in Schedule 5 of the Leichhardt LEP 2013). There are no listed heritage items in close proximity that would be adversely affected by the proposal.

The subject site is occupied by a two-storey warehouse building that is contributory to the heritage conservation area.

Advice provided in response to PreDA application PDA/2020/0452 by Council's heritage Officer was that the proposal was acceptable subject to the following amendments:

- *The angled openings proposed in the northern facade must be amended so they are vertically proportioned.*
- *The dormer roof forms above each of the bedrooms on the first floor are to be redesigned in accordance with the following:*
  - o *be formed with a lesser roof pitch than the main roof, sloping in the same direction ("butterfly" dormer forms are not permitted);*
  - o *be located at least 300mm below the ridge line measured on the slope of the roof;*
  - o *be set at least 500mm away from the edge of the roof*
- *The double height glazing proposed in the south façade of the living and void above is to be set back so it does not protrude any further east than the front façade of the neighbouring dwelling at No. 24 Mackenzie Street.*
- *The window to the south elevation of the study on the first floor is to be redesigned so it sits flush within the southern façade of the building.*
- *The additional row of solar panels proposed on the southern roof plane are to be relocated to the north roof plane of the existing roof form that will not be altered by the proposed dormer roof forms and are to be attached so they sit flush with the existing roof sheeting.*

Clause 5.10: Heritage Conservation from the Leichhardt LEP 2013; and Parts C1.3: Alterations and additions, C1.4: Heritage conservation areas and heritage items, and

C2.2.3.3 – Piperston Distinctive Neighbourhood of Leichhardt DCP2013 apply to the proposal.

The angled openings in the northern façade have not been amended. However, the proposed openings are appropriate and sympathetic to the HCA and raise no heritage concerns.

The dormer roof forms above each of the bedrooms on the first floor have been redesigned to ensure that more of the existing gable roof form remains legible and the dormer roof forms are sympathetic to the character of the HCA. The dormer forms are located greater than 300mm below the ridge line, are set greater than 500mm away from the edge of the roof; and have an appropriate pitch and form.

The proposed solar panels are not flush with the existing roof plane and a condition is included in the recommendation of this report requiring that they be fitted flush to the roof and relocated to the northern roof plane.

Window W06 still protrudes from the south elevation and a condition is included in the recommendation of this report requiring this window to be fitted flush to the existing side wall of the building.

The proposal is otherwise considered to be generally acceptable in terms of heritage design.

#### C1.8 Contamination

A detailed site investigation and Remedial Action Plan have been submitted with the application. It is intended to remediate those portions of the site that are currently paved and to be converted to Landscaped Area. The portion of the site located under the building is not proposed to be remediated.

The proposed remediation strategy is considered to be satisfactory, subject to conditions.

#### C1.11 Parking

A single dwelling house does not require the provision of on-site parking under the provisions of LDCP 2013. The application does not propose any on-site parking provision. The existing redundant vehicular crossover to the building is proposed to be deleted by condition.

The site also has a vehicular crossing providing access to an existing Right-of-Way within the southern side passage. This area will remain available for use as Landscaped Area associated with the proposed dwelling. However, as the existing ROW should not be obstructed, this area could not be used for parking. A condition is included in the recommendation requiring that the ROW is not to be obstructed at any time.

Further, it is considered that any encroachments onto the existing ROW by pipes, rainwater tank or any structure whatsoever that will reduce the width or obstruct access through the ROW should not be supported unless the ROW is extinguished, or its terms altered.

#### C3.2 Site Layout and Building Design

The existing building occupies the majority of the site and is constructed to both the northern and western boundaries. The building is not characteristic of other dwellings in the vicinity and does not relate to any building location zone. The proposal does not increase the

footprint of the building. No objection is raised to the retention of the existing front and rear setbacks of the building.

With exception of the proposed rooftop dormer forms, and a proposed pop-out window element W06 serving the upper-level study, the wall heights and building envelope representing the existing warehouse/ industrial building are not altered.

However, the proposed rooftop dormer forms would result in a technical breach of the side setback control of 0.75m at the northern boundary; and 1.5m to the western boundary. As the roof dormer forms are setback from the existing northern side wall of the building where it abuts 36th Battalion Park, the breach would have no significant environmental impact. The breach to the western (rear) boundary would result in additional visual bulk and morning overshadowing due to the equivalent increase in wall height of approx. 0.7m. It is noted that the existing building breaches both the side setback and 6m building envelope controls. As the impact of the proposed breaches is minimal, no objection is raised to the breaches.

### C3.9 Solar Access

The proposal would result in a minor increase in shadows as a result of the proposed rooftop dormer forms. However, the impact of the breach to neighbouring properties would be minimal with the increased shadow falling mainly to the roofs of 40 Stanley Street and 24 Mackenzie street between 9am and 12noon mid-winter and would have no significant environmental impact. It is noted that the significant portion of the increased shadow is caused by the proposed raised banks of solar panels on the southern plane of the roof. A condition is included to relocate these solar panels to be flush to the roof, including the northern roof plane.

### C3.11 Visual Privacy

The southern adjoining property at 24 Mackenzie Street, has an existing window located in the side wall of the dwelling which directly abuts the site boundary on the ROW. This window currently has a privacy screen fitted.

The recommendation includes a condition requiring the proposed pop-out window W06 to be altered to a flush window in this wall. Consequently, to maintain privacy to 24 Mackenzie Street it is considered that the deletion of the 'popout' window would necessitate the fitting of obscure glazing to a height of 1.6m above the FFL of the study.

### C3.13 Conversion of Existing Non-Residential Buildings

It is considered that the proposed adaptive reuse of the building satisfies the controls of this Part.

### E1.3.1 Flood Risk Management

The existing floor level is to be raised by 505mm within the ground floor for the living and dining area to achieve a freeboard of 300mm above the 100-year ARI flood event level. The freeboard is less than the standard 500mm freeboard. This is due to raising the internal floor further being limited by the existing structure. The reduced freeboard from 500mm to 300mm at this property is considered acceptable as the depth of overland flow is 250mm.

However, the existing floor in the proposed kitchen/storage/toilet and laundry area will be raised by 255mm, achieving only a 50 mm freeboard (above 100-year ARI). This is due to the existing reinforced concrete mezzanine level above the kitchen area.

To protect the kitchen area, it is proposed to construct a void between the existing external walls and the back of the kitchen area. In addition, the kitchen area has been proposed to be tanked. This will establish dry flood proofing for this lower section. The external walls to the existing building will be waterproofed to the height of the Probable Maximum Flood level.

The proposed solution of tanking the kitchen area is acceptable in the circumstances.

#### 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 Inner West Community Engagement Framework for a period of 14 days to surrounding properties.

Two (2) submissions were received in support of the application in response to the notification.

#### 5(h) The Public Interest

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

The proposal is not contrary to the public interest.

## 6 Referrals

#### 6(a) Internal

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

- Development Engineer
- Heritage Officer
- Urban Forest
- Environmental Health

#### 6(b) External

The application was not required to be referred externally.

## 7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions 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 total contribution of \$20,000.00 would be required for the development under the *Leichhardt Section 94 Contributions Plan*. 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

- A. The applicant has made written requests pursuant to Clauses 4.3A(3)(b) and 4.4 of the *Leichhardt Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variations. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2021/0499 for Alterations and additions to convert warehouse building for use as a single dwelling house, and remediation of the site at 26 Mackenzie Street, Leichhardt subject to the conditions listed in Attachment A below.

## Attachment A – Recommended conditions of consent

### CONDITIONS OF CONSENT

#### DOCUMENTS RELATED TO THE CONSENT

##### 1. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
DA00/A	Location Plan	27/5/2021	Welsh & Major Architects
DA01/A	Existing Site & Analysis Plan	27/5/2021	Welsh & Major Architects
DA02/A	Existing Ground Floor Plan	27/5/2021	Welsh & Major Architects
DA03/A	Existing Mezzanine Plan	27/5/2021	Welsh & Major Architects
DA04/A	Proposed Ground Floor Plan	27/5/2021	Welsh & Major Architects
DA05/A	Proposed Mezzanine Plan	27/5/2021	Welsh & Major Architects
DA06/A	Proposed Roof Plan	27/5/2021	Welsh & Major Architects
DA07/A	Proposed East Elevation	27/5/2021	Welsh & Major Architects
DA08/A	Proposed North Elevation	27/5/2021	Welsh & Major Architects
DA09/A	Proposed West Elevation	27/5/2021	Welsh & Major Architects
DA11/A	Proposed Section A	27/5/2021	Welsh & Major Architects
DA12/A	Proposed Section B	27/5/2021	Welsh & Major Architects
DA13/A	Waste Management Plan	27/5/2021	Welsh & Major Architects
532-C-01/C	Stormwater Drainage Concept Plan - Sheet 1	19/5/21	James Rose Consulting
532-C-02/B	Stormwater Drainage Concept Plan - Sheet 2	19/5/21	James Rose Consulting
532-20171018/2	Flood Risk Management Report	16/8/2018	James Rose Consulting
-	Flood Risk Management Statement	18/5/2021	James Rose Consulting
LA00/A	Landscape Plan	18/5/2021	Rosie Krauss Design
LA01/A	Landscape Plan	18/5/2021	Rosie Krauss Design
LA02/A	Landscape Plan	18/5/2021	Rosie Krauss Design

EBG-02656.02.18.Stage2.DSI	Detailed Site Investigation	19/3/2018	EBG Pty Ltd
EBG-02656.02.18.EMP	Environmental Management Plan	19/3/2018	EBG Pty Ltd
EBG-02882.03.21.RAP.R01	Remedial Action Plan	11/5/2021	EBG Pty Ltd
-	Heritage Impact Statement	April 2021	John Oultram Heritage & Design
-	Certification of Existing Structure	May 2021	Professor Max Irvine Engineers
A403884_03	BASIX Certificate	11/5/2021	Welsh & Major Architects
20210151.1/1702A/RO/RG	Aircraft Noise Intrusion Assessment	17/2/2021	Acoustic Logic

As amended by the conditions of consent.

### **DESIGN CHANGE**

#### **2. Design Change**

Prior to the issue of a Construction Certificate, the Principal Certifying Authority must be provided with plans showing:

- Solar panels to be deleted from the southern roof plane and relocated to the northern roof plane and fitted flush with the roof plane so as to have the same pitch and angle as the roof plane.
- That the new window W06 shall not protrude from the study on the first floor of the south elevation. It shall be replaced with a window set flush to the building wall and fitted with obscure glazing up to a height of 1.6m above the FFL of the study.
- That the proposed structures to be erected in the ROW comprising the pop-out window to the study, and clothes line shall be deleted.
- An overland flowpath must be provided within the setback to the southern side boundary between the rear of the dwelling and the Mackenzie Street frontage. The existing surface levels of the setback to the southern side boundary (between the rear of the dwelling and the Mackenzie Street frontage), wholly contained within the established ROW, must be graded to provide minimum required freeboard above the 100 year ARI flood event.
- The redundant vehicular crossing to the building façade must be removed and replaced by footpath, kerb and gutter. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone.

### **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.

<b>Security Deposit:</b>	\$6,627.00
<b>Inspection Fee:</b>	\$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 7.11 (Former Section 94) Contribution

Prior to the issue of a Construction Certificate works written evidence must be provided to the Certifying Authority that a monetary contribution of \$20,000 in accordance with Developer Contributions Plan No.1 – Open Space and Recreation; 'Developer Contributions Plan No.2 – Community Facilities and Services (2005); and Leichhardt Developer Contributions Plan – Transport and Access ("CP") has been paid to the Council.

The above contribution is the contribution applicable as at 14/8/2021.

The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:

Local Infrastructure Type:	Contribution \$
Open Space and Recreation	\$17,583.87
Community Facilities and Services	\$2,400.43
Bicycle Works	\$15.69
<b>TOTAL</b>	<b>\$20,000.00</b>

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

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

Payment methods:

The required contribution must be paid either *by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions; cash (to a maximum of \$10,000).* It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.

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

**5. Long Service Levy**

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more.

**GENERAL CONDITIONS****6. Contamination – Remedial Action Plan (No Site Auditor Engaged)**

The site is to be remediated and validated in accordance with the recommendations set out in the Remedial Action Plan, prepared by EBG Environmental Geoscience, reference EBG-02882.03.21.RAP.R01 dated 11 May 2021 the *Contaminated Land Management Act 1997* and the *State Environmental Planning Policy No 55*.

**7. 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 if not approved by Council to be different.

**8. Tree Protection**

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

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

Any public tree within five (5) metres of the development must be protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.

**9. Waste Management Plan**

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

**10. Erosion and Sediment Control**

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

**11. 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.

**12. Verification of Levels and Location**

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

**13. Works Outside the Property Boundary**

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

**PRIOR TO ANY DEMOLITION****14. 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.

**15. Dilapidation Report**

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

**16. 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.

**17. 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****18. Aircraft Noise – Acoustic Report (ANEF20-25 or Greater)**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an acoustic report that meets the relevant provisions of Australian Standard AS 2021:2000 Acoustics – Aircraft noise intrusion – Building siting and construction. The recommendations of the report are to be indicated on the architectural plans and / or specifications.

**19. 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.

**20. 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 on site

retention/ re-use facilities (OSR/OSD), certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a. The design must be generally in accordance with the stormwater drainage concept plan on Drawing No. 532-C-01, prepared by James Rose Consulting and dated 19/05/2021, as amended to comply with the following;
- b. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to Council's piped drainage system via the OSD/OSR tanks as necessary;
- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- d. Charged or pump-out stormwater drainage systems are not permitted, including for roof drainage;
- e. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- f. The plans, including supporting calculations, must demonstrate that the post development flows for the 100 year ARI storm are restricted to the pre development flows for the 5 year ARI storm event in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013 and the discharge to Council's system in accordance with E1.2.5 (C1);
- g. All proposed on-site retention tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation. Surface water must not be drained to rainwater tanks where the collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use;
- h. 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;
- i. Details of the 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided;
- j. An overland flowpath must be provided within the setback to the southern side boundary between the rear of the dwelling and the Mackenzie Street frontage. The existing surface levels of the setback to the southern side boundary (between the rear of the dwelling and the Mackenzie Street frontage), wholly contained within the established ROW, must be graded to provide minimum required freeboard above the 100 year ARI flood event;
- k. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
- l. No nuisance or concentration of flows to other properties;
- m. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- n. Plans must specify that any components of the existing system to be retained, if any, shall 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;
- o. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- p. New stormwater outlets or pipelines within the footpath area, that are to discharge to the Council's system must be designed in accordance with Council standard drawings;
- q. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
- r. No impact to street tree(s).
- s. Suit the alignment levels at the property boundary.

**21. Flood Compatible Fence**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans demonstrating that the proposed gate/fence at the property boundaries, including the gate/fence at the ROW and along the full Mackenzie Street frontage of the site, must be flood compatible with vertical elements that are no wider than 50mm and separated by no less than 90mm to allow floodwaters to flow through unimpeded.

**22. Flood Risk Management Plan**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Flood Risk Management Plan prepared and certified 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). The Plan must be prepared/amended to make provision for the following:

- a. The plan must be generally in accordance with the recommendations of the Flood Risk Management Statement prepared by James Rose Consulting and dated 18 May 2021;
- b. Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. Such recommendations must be consistent with the approved development. The flood impacts on the site must be assessed for the 100-year ARI and Probable Maximum Flood (PMF) storm events. The precautions must include but not be limited to the following:
  - i. Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris;
  - ii. Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections;
  - iii. Flood warning signs/depth indicators for areas that may be inundated;
  - iv. A flood evacuation strategy; and
  - v. On-site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
- c. All works must be designed to comply with the Standard for Construction of Buildings in Flood Hazard Areas in accordance with Section 3.10.3 of the Building Code of Australia. Note that some terms defined in this standard have equivalent meaning to terms used in Council's Development Control Plan as listed below:
  - i. Building Code of Australia;
  - ii. Defined flood level (DFL) 100-year Average Recurrence Interval flood level;
  - iii. Defined flood event (DFE) 100-year Average Recurrence Interval flood; and
  - iv. Flood hazard level (FHL) Flood Planning Level (FPL).

**23. Amended Architectural Plans to Reflect Flood Risk Management Plan**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended architectural plans that incorporate the recommendations of the Flood Risk Management Statement dated 18 May 2021 and prepared by James Rose Consulting. The design must be prepared to make provision for the following:

- a. Specification of materials; and
- b. Waterproofing works, where applicable.

No changes to the external form or appearance of the development contrary to the approved plans must occur except as identified by this condition. Any changes to such must be subject to separate approval.

**24. Engineering Design - Structural Engineer Plans and Certification**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans prepared and certified by a suitably qualified 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 incorporate the following recommendations of the Flood Risk Management Statement, dated 18 May 2021 and prepared by James Rose Consulting.

The design must be prepared to make provision for the following:

- a. Structural integrity of all structures from immersion and/or impact of velocity and debris; and
- b. Waterproofing works, where applicable.

#### **25. Overland Flow path**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer detailing hydrologic and hydraulic calculations for the overland flow path and the capacity of the existing system and measures necessary to protect the premises in a 1 in 100 year ARI storm event and the requirements of Council's Flood Planning Policy.

#### **26. External Catchment**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans prepared by a suitably qualified Civil Engineer that demonstrate adequate site drainage for all roof and surface stormwater from the site and any catchment external to the site that presently drains to it, must be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a stormwater drainage system in accordance with the requirements of Council's DCP. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled.

#### **27. Structural and Geotechnical Report**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an integrated structural report and structural plans that address the design of the proposed Raised Ground Floor, prepared certified as compliant with the terms of this condition by a qualified practicing Structural Engineer(s) who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng). The report and plans must be prepared/ amended to make provision for the following:

- a. The kitchen area must be fully tanked to prevent the ingress of flows;
- b. Any retaining walls must be entirely self-supporting in the event that excavation is undertaken within the road reserve adjacent to the property boundary to the depth of the proposed structure;
- c. No adverse impact on surrounding properties including Council's footpath and road;
- d. Recommendations regarding the method of excavation and construction, demolition and vibration emissions and identifying risks to existing structures or those on adjoining or nearby property;

#### **28. Flood Affected Site**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer that the works comply with the following specific requirements:

- a. All habitable floor levels shall be set in accordance with Flood Certificate issued by Council on 27 September 2017 and Flood Risk Management Statement, dated 18 May 2021 and prepared by James Rose Consulting. All structures below determined 100 year ARI Flood Level (m) AHD, must be constructed from flood compatible materials;
- b. All electrical equipment and wiring must be waterproofed or installed at or above determined 100 year ARI Flood Level (m) AHD;
- c. A structural engineer's certificate must be submitted stating that the proposed building has been designed to withstand the forces of flood water, debris and buoyancy up to the determined 100 year ARI Flood Level;

- d. The existing ground levels throughout the Right of Way (ROW) shall be adjusted to provide for a minimum required freeboard and not to alter the existing overland flow path. Details of all obstructions or changes in level within the overland flow paths must be detailed on the plan; and
- e. All fencing within the overland flow path must be of an open type so as to allow for the free flow of water throughout the site so as to maintain existing flows.

#### **29. Public Domain Works – Prior to Construction Certificate**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising 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) and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the *Roads Act 1993* incorporating the following requirements:

- a. The works along frontage of the site, inclusive of footpath paving, kerb and gutter and stormwater drainage works must be designed and reconstructed in accordance with the Council's Standard Drawings and Specifications;
- b. The removal of redundant double vehicular crossing fronting the site;
- c. New concrete footpath and kerb and gutter along the frontage of the site. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location as determined by the Council Engineer;
- d. Longitudinal section along the back of footpath and front of footpath showing existing and proposed levels and gradients extending 5 metres either side of the area of works. Note, the cross fall of the footpath shall be generally consistent with the footpath on Mackenzie Street to the north and south of the site
- e. Cross sections showing existing and proposed levels are to be provided along the property frontage at a minimum distance of every 5m, and at all pedestrian and vehicular access locations. Note, the maximum cross fall of the footpath must not exceed 2.5%. The approved plans by Council shall set the alignment levels at the property boundary.
- f. Connection of the private drainage system to Council's piped drainage system must be at a stormwater drainage pit at a level 300mm above the invert of the outgoing pipe.

All works must be completed prior to the issue of an Occupation Certificate.

#### **30. 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.

#### **31. 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*

**32. 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****33. Contamination – New Evidence**

Any new information revealed during demolition, remediation or construction works that have the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Certifying Authority.

**34. Imported Fill Materials**

All imported fill on the site shall be validated as Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM), in accordance with NSW Environment Protection Authority guidelines, 'Consultants Reporting on Contaminated Sites' (August 2011) to ensure the imported fill is suitable for the proposed land use.

All fill imported onto the site shall be validated by either one or both of the following methods:

- a. Imported fill be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- b. Sampling and analysis of the fill material be conducted in accordance with NSW Environment Protection Authority's Sampling Design Guidelines (September 1995).

**35. Tree Protection Zone**

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

Location	Botanical/Common Name	Radius in metres
36th Battalion Park Boundary	<i>Eucalyptus botryoides</i> (Bangalay)	2 m. north side of trunk 3 m. 3 sides.

**36. 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.

**37. 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****38. Contamination – Disposal of Soil**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a validation report confirming that all off site disposal of soil has been classified, removed and

disposed of in accordance with the NSW DECC Waste Classification Guidelines, Part 1: Classifying Waste (EPA 2014), Protection of the Environment Operations (Waste) Regulation 2014 and the *Protection of the Environmental Operations Act 1997*.

#### **39. Contamination – Validation (Site Audit Statement Required)**

Prior to the issue of an Occupation Certificate, the Principal Certifier and Council must be provided with a Section A Site Audit Statement prepared by a NSW Environment Protection Authority accredited Site Auditor.

The Site Audit Statement must confirm that the site has been remediated in accordance with the Remedial Action Plan and clearly state that the site is suitable for the proposed use.

#### **40. Public Domain Works**

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

- a. The redundant double vehicular crossing to the site must be removed and replaced by footpath, kerb and gutter. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone;
- b. The existing concrete footpath across the frontage of the site must be reconstructed. The works shall include all necessary footpath reconstruction beyond the property frontage to allow for a smooth transition to the existing footpath levels;
- c. Longitudinal section along the back and front of footpath, showing existing and proposed levels and gradients, extending 5 metres either side of the area of works. Note, the cross fall of the footpath shall be generally consistent with the footpath on Mackenzie Street to the north and south of the site; and
- d. Other works subject to the *Roads Act 1993* approval.

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

#### **41. 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.

#### **42. Protect Sandstone Kerb**

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

#### **43. 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 (WAE) plan(s) of the stormwater drainage system certified by a Registered Surveyor, have been submitted to Council. The WAE plan(s) shall verify that the drainage system has been constructed, OSD/OSR system commissioned and any stormwater quality improvement device(s) and pump(s) installed are in

accordance with the approved design and relevant Australian Standards. The WAE 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.

#### **44. Operation and Management Plan**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that an Operation and Management Plan has been prepared by a suitably qualified and experienced professional and that the plan has been implemented for the on-site detention and on-site retention/re-use facilities and any 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.

#### **45. Flood Risk Management Plan - Certification**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a qualified practising 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 all aspects of the flood risk management plan have been implemented in accordance with the approved design, conditions of this consent and relevant Australian Standards.

#### **46. Light Duty Vehicle Crossing**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the redundant vehicular crossing to the site has been reconstructed as per the approval issued by Council for required footpath paving, kerb, and gutter works in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications". Where the kerb in the vicinity of the redundant crossing is predominately stone, the replacement kerb must also be in stone.

#### **47. Arborist Certification**

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with certification from an AQF Level 5 Arborist that the requirements of the conditions of consent related to the landscape plan and tree protection have been complied with.

#### **48. 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.

#### **49. Smoke Alarms - Certification of upgrade to NCC requirements**

Prior to the issue of any Occupation Certificate, the Principal Certifier is required to be satisfied the existing building has been upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke alarm systems.

**ON-GOING****50. Noise General**

The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.

**51. Flood Risk Management Plan**

The Flood Risk Management Plan approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

**52. Right of Way**

The ROW shall not be used for the parking of vehicles at any time.

**53. Tree Establishment**

The tree/s planted as part of this consent is/are to be maintained in a healthy and vigorous condition for 12 months from the issue of an Occupation Certificate. If any of the tree/s is/are found faulty, damaged, dying or dead within 12 months of the issue of an Occupation Certificate it/they must be replaced with the same species within one (1) month (up to 3 occurrences).

**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.

**Public Domain and Vehicular Crossings**

The vehicular crossing and/or footpath works are required to be constructed by your contractor. You or your contractor must complete an application for *Design of Vehicle Crossing and Public Domain Works – Step 1* form and *Construction of Vehicle Crossing and Public Domain Works – Step 2* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. 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 at no cost to Council.

Any damage caused during construction to Council assets on the road reserve or on Council or Crown land must be repaired at no cost to Council.

Any driveway crossovers or other works within the road reserve must be provided at no cost to Council.

No consent is given or implied for any Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, eaves, awnings, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever, including when open.

**Consent of Adjoining property owners**

This consent does not authorise the applicant, or the contractor engaged to do the tree works to enter a neighbouring property. Where access to adjacent land is required to carry out approved tree works, Council advises that the owner's consent must be sought. Notification is the responsibility of the person acting on the consent. Should the tree owner/s refuse access to their land, the person acting on the consent must meet the requirements of the *Access To Neighbouring Lands Act 2000* to seek access.

**Arborists standards**

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

**Tree Protection Works**

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

**Tree Pruning or Removal (including root pruning/mapping)**

Removal or pruning of any tree (that would require consent of Council) on the site is not approved and must be retained and protected in accordance with Council's *Development Fact Sheet—Arborist Reports*.

**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 <a href="http://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a>
Department of Fair Trading	13 32 20 <a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a> Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 <a href="http://www.dialprior toyoudig.com.au">www.dialprior toyoudig.com.au</a>
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	131441 <a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Food Authority	1300 552 406 <a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government	<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a> <a href="http://www.diysafe.nsw.gov.au">www.diysafe.nsw.gov.au</a> Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water	13 20 92 <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>
Waste Service - SITA Environmental Solutions	1300 651 116 <a href="http://www.wasteservice.nsw.gov.au">www.wasteservice.nsw.gov.au</a>

Water Efficiency Labelling and Standards (WELS) [www.waterrating.gov.au](http://www.waterrating.gov.au)

WorkCover Authority of NSW 13 10 50

[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

Enquiries relating to work safety and asbestos removal and disposal.

#### **Asbestos Removal**

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m<sup>2</sup> of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

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

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

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

## Attachment B – Plans of proposed development



## DEVELOPMENT APPLICATION

for the adaptive fitout and use of a  
warehouse building for a dwelling

at  
26 Mackenzie Street, Leichhardt NSW 2040

for  
Amy Corderoy & Michael Szeak

Project Reference No. 2015

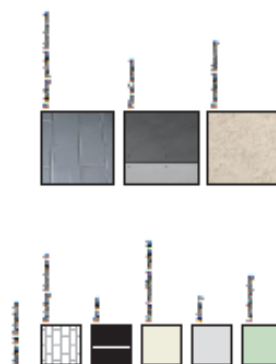
DA00 / Issue A  
27 May 2021

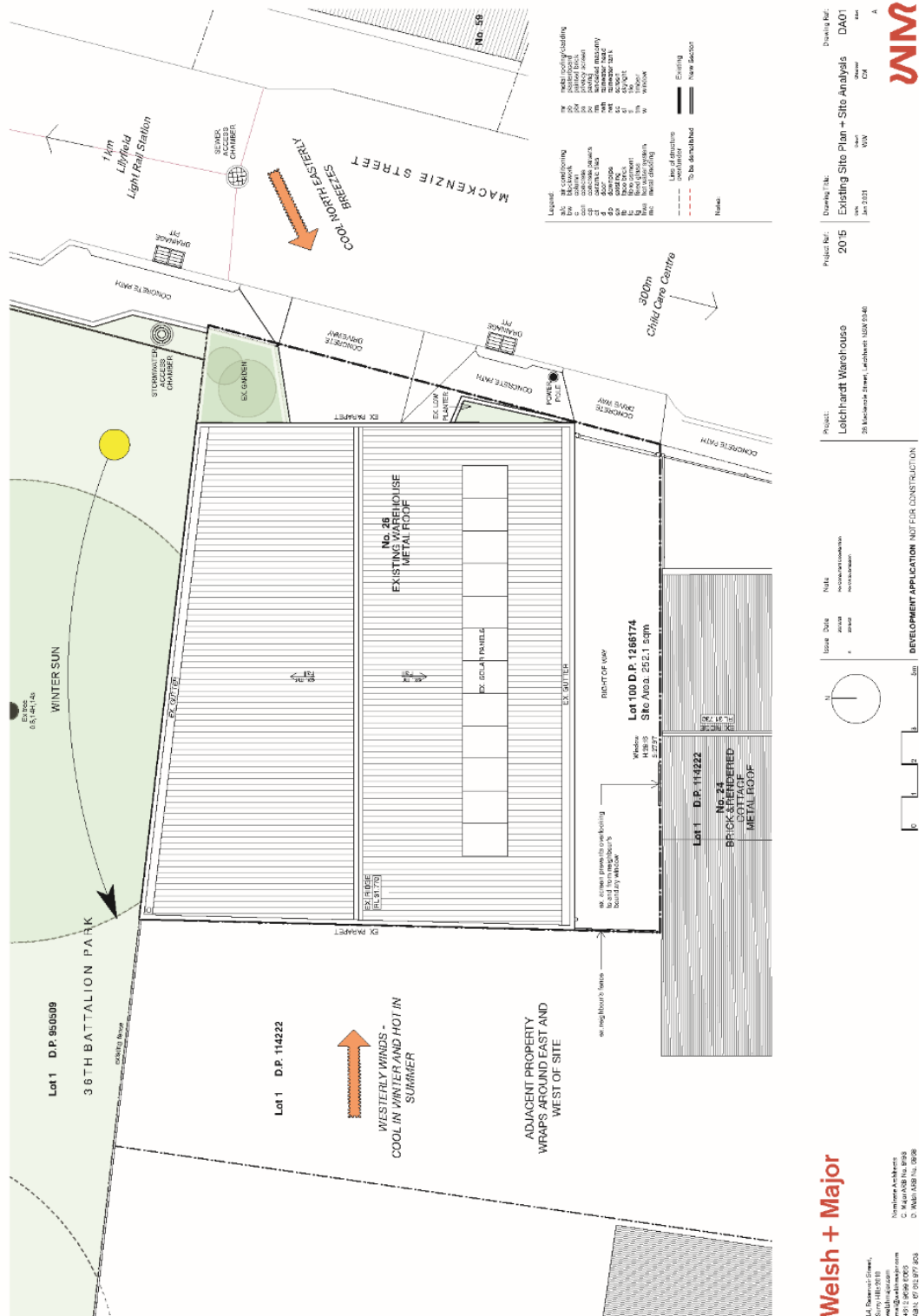


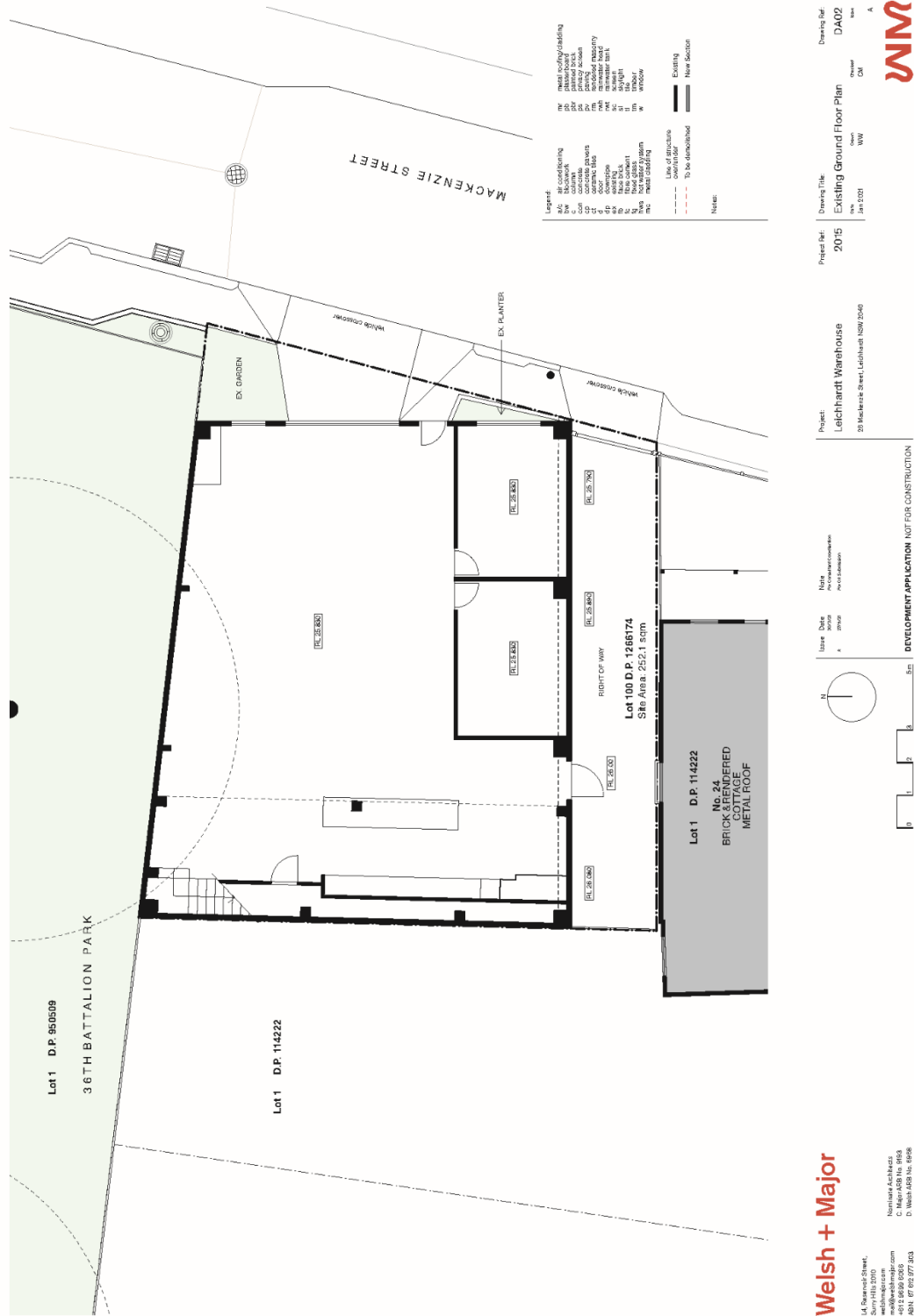
1 Location Plan  
NTS

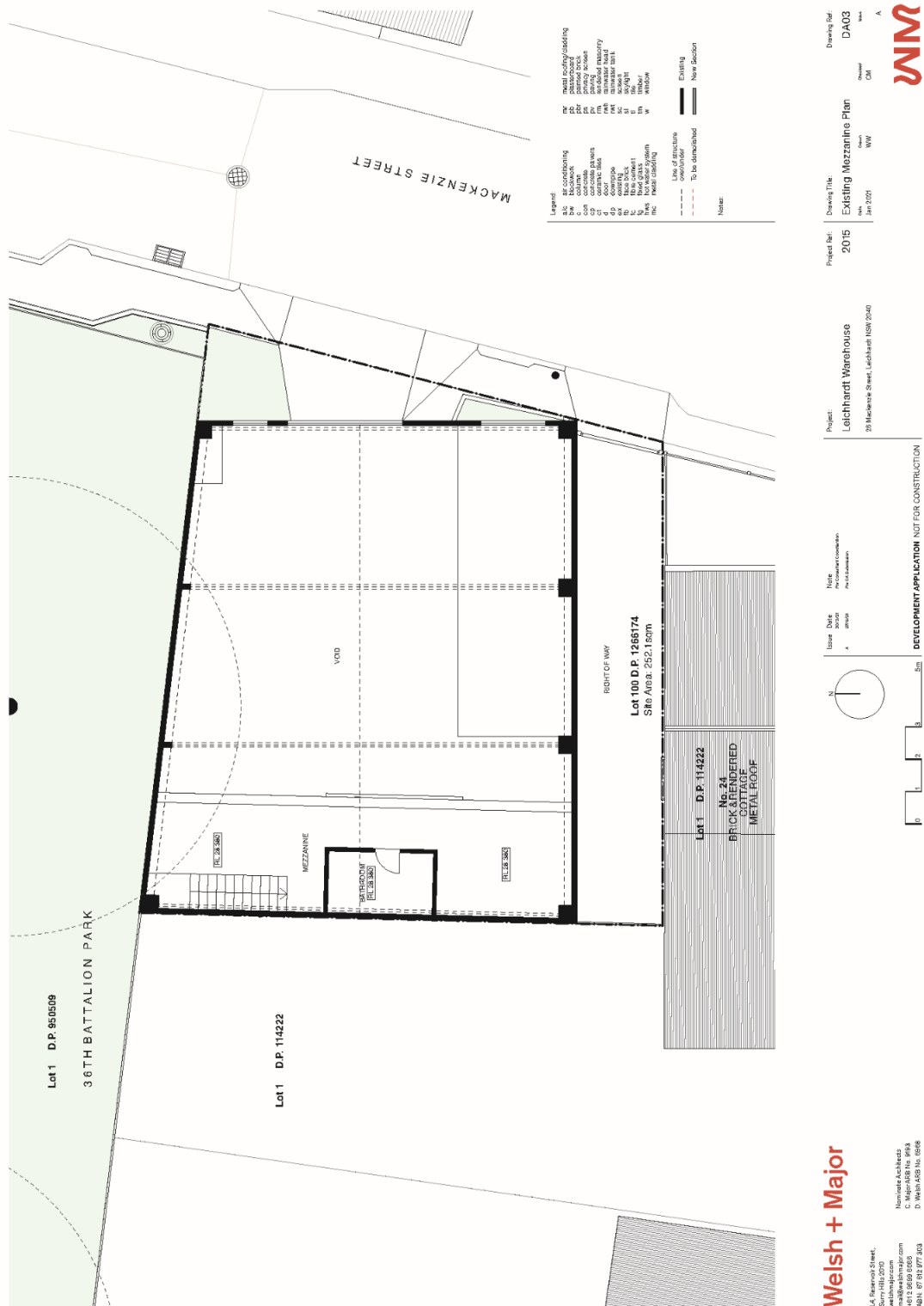
Welsh + Major

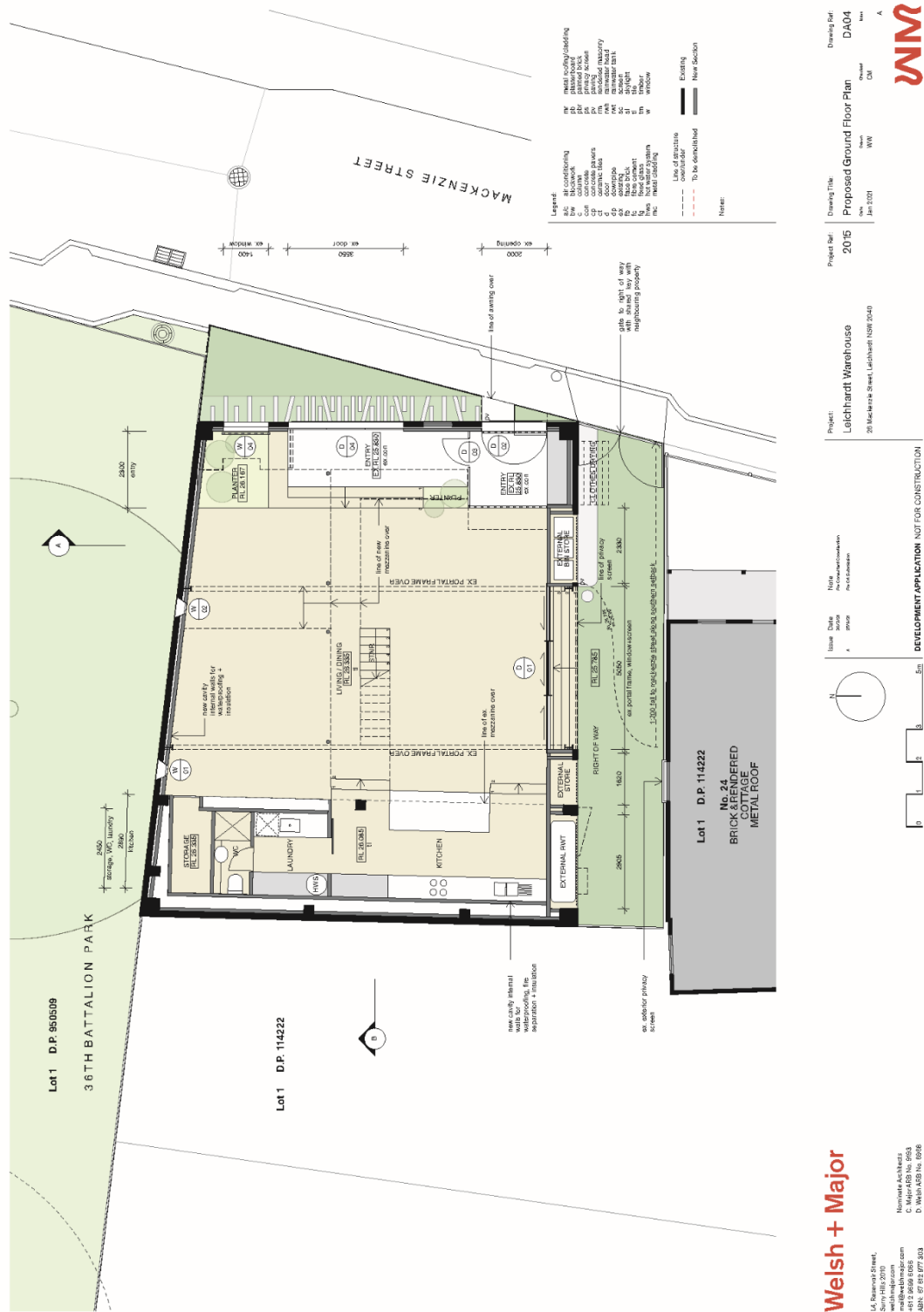
Colour	Plan	Area (m <sup>2</sup> )	Notes
01.01	Proposed Ground Floor Area	11.01	Proposed Ground Floor Area
01.02	Proposed Living Dining	11.02	Proposed Living Dining
01.03	Proposed Kitchen	11.03	Proposed Kitchen
01.04	Proposed Bedroom	11.04	Proposed Bedroom
01.05	Proposed Bathroom	11.05	Proposed Bathroom
01.06	Proposed Hallway	11.06	Proposed Hallway
01.07	Proposed Staircase	11.07	Proposed Staircase
01.08	Proposed Terrace	11.08	Proposed Terrace
01.09	Proposed Garden	11.09	Proposed Garden
01.10	Proposed Driveway	11.10	Proposed Driveway
01.11	Proposed Parking	11.11	Proposed Parking
01.12	Proposed Fencing	11.12	Proposed Fencing
01.13	Proposed Retaining Wall	11.13	Proposed Retaining Wall
01.14	Proposed Landscaping	11.14	Proposed Landscaping
01.15	Proposed Other	11.15	Proposed Other

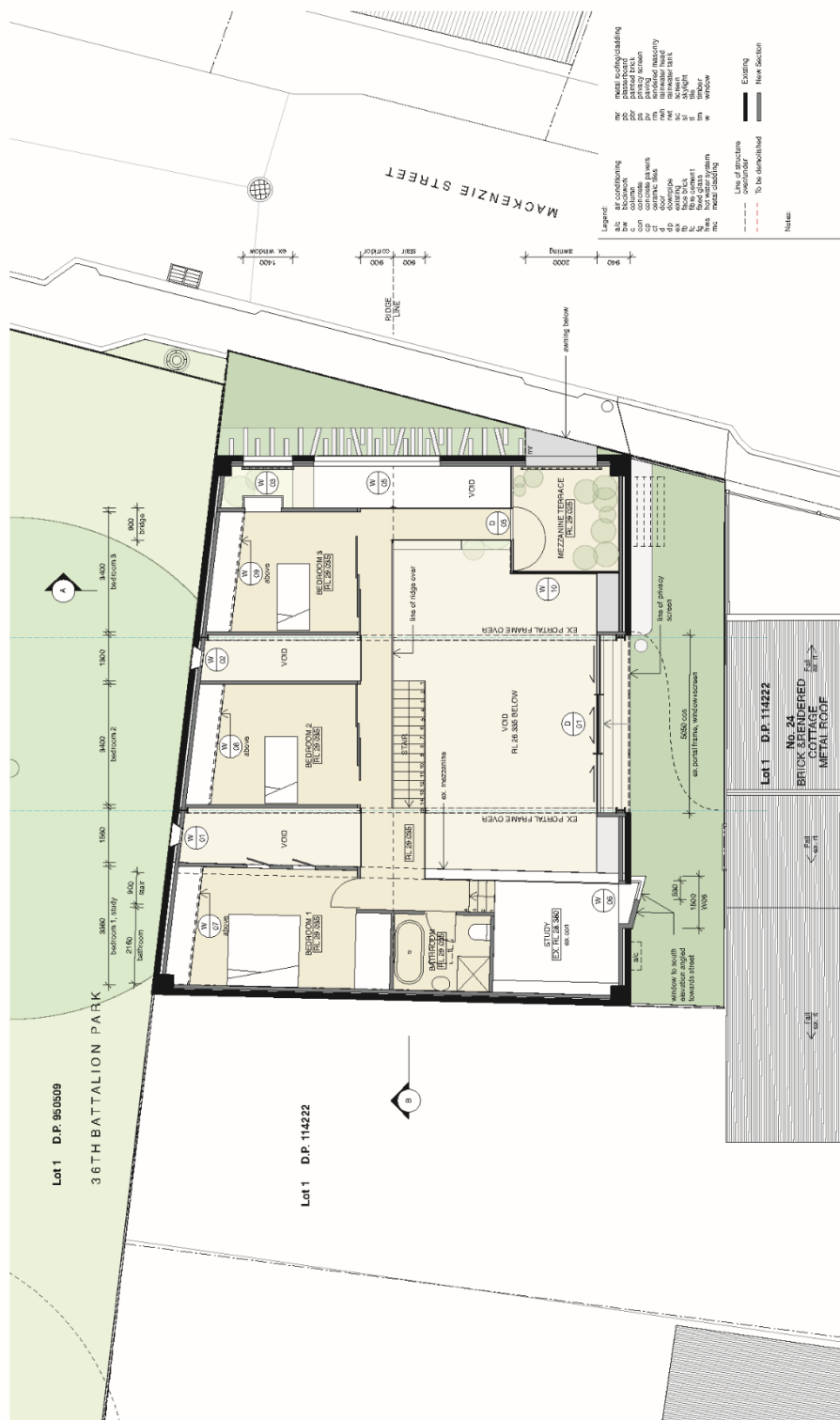












**Welsh + Major**

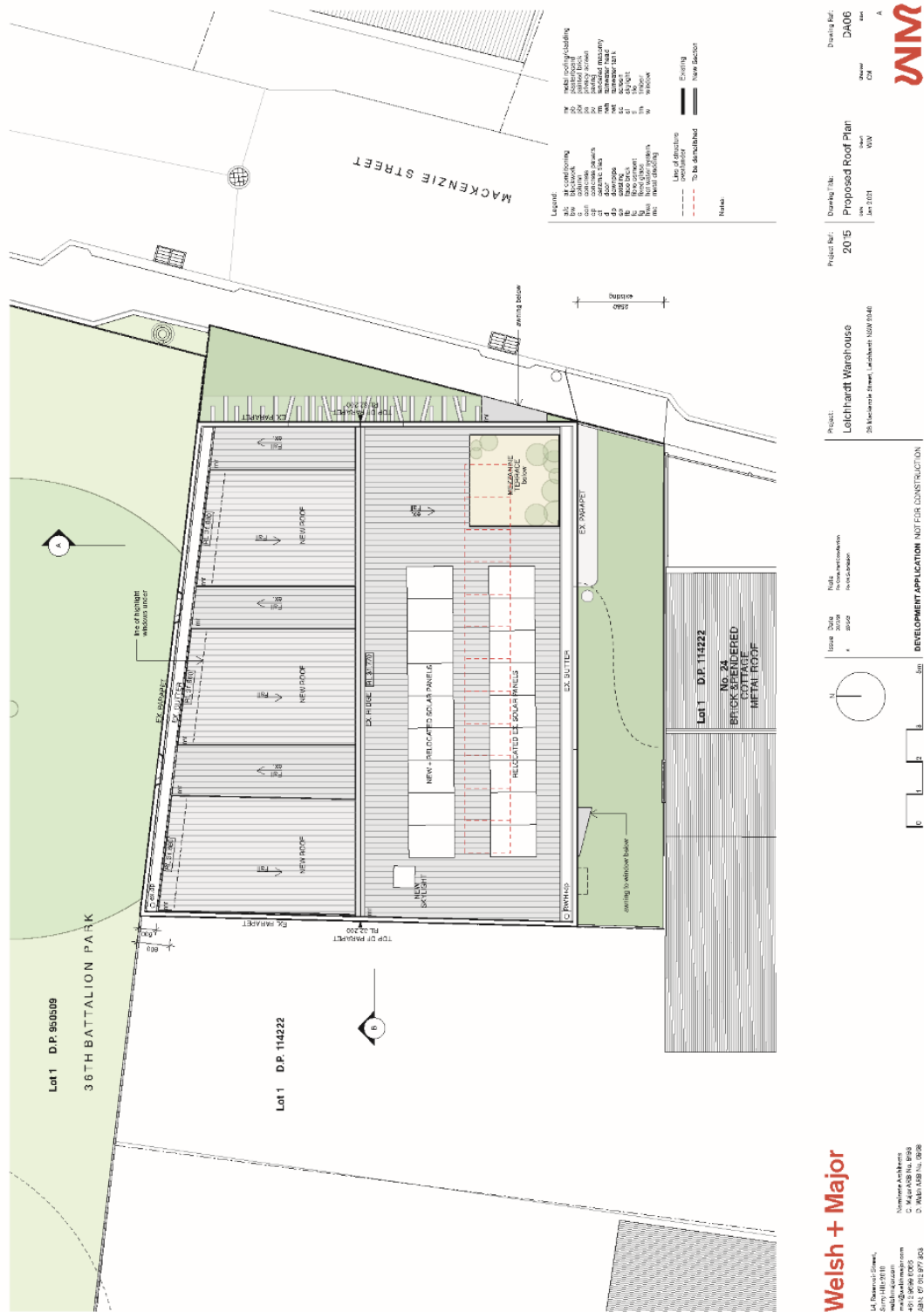
LA Reservoir Street,  
Sunny Hills 2010  
wethin@jrc.com  
mail@wethin@jrc.com  
4512 9650 8066  
4511 07 662 977 303

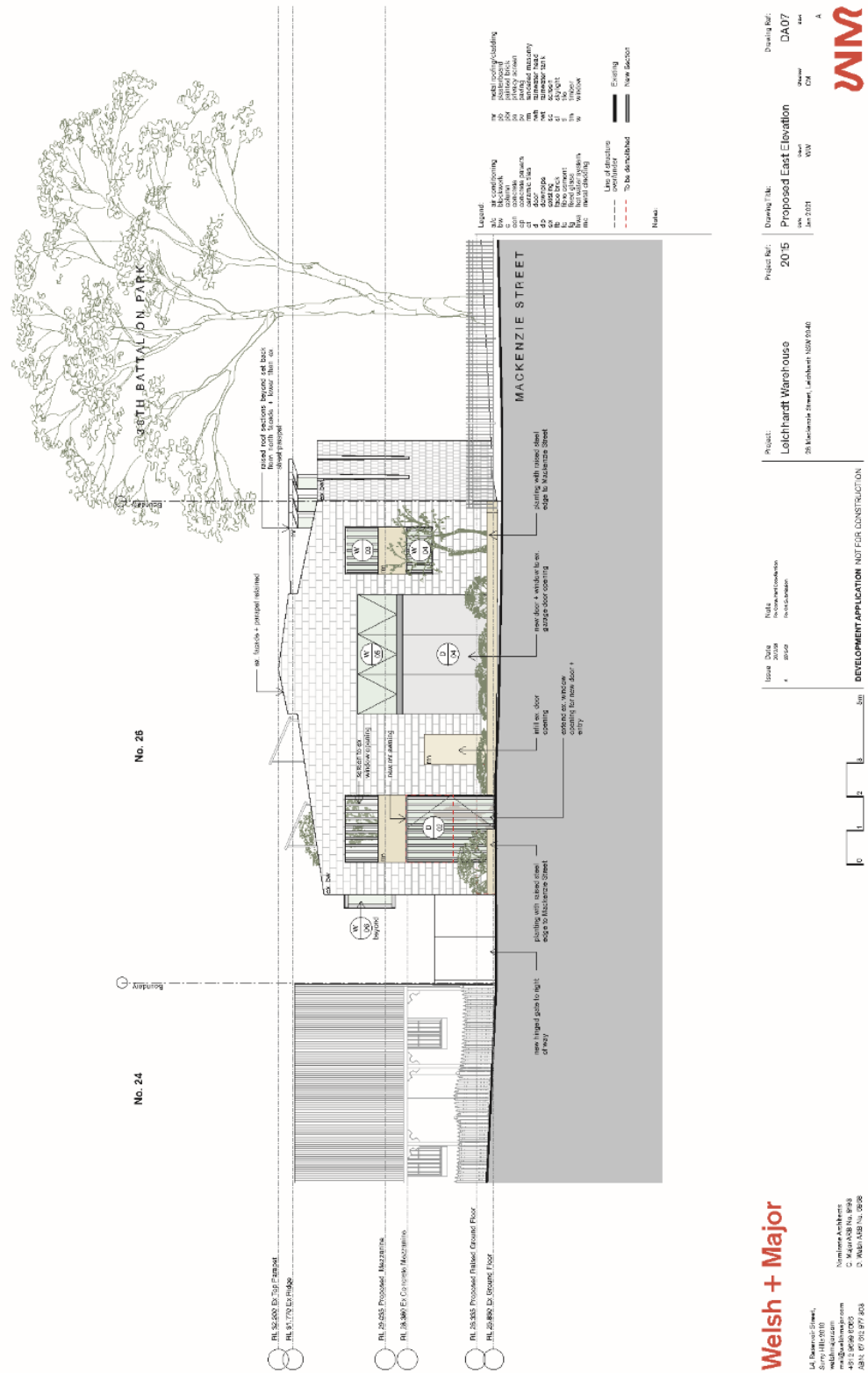
Issue	Date	Name
	3/27/02	Joe Constantino/Construction
#	275420	Joe-Gil Construction

Project:  
Leichhardt Warehouse  
26 Macleanzie Street, Leichhardt NSW 2040

Project Ref: 2015  
Drawing Title: Proposed Mezzanine Plan

Drawing Ref: **DA05**  
 Checked: **CM** Issue: **A**







## Welsh + Major

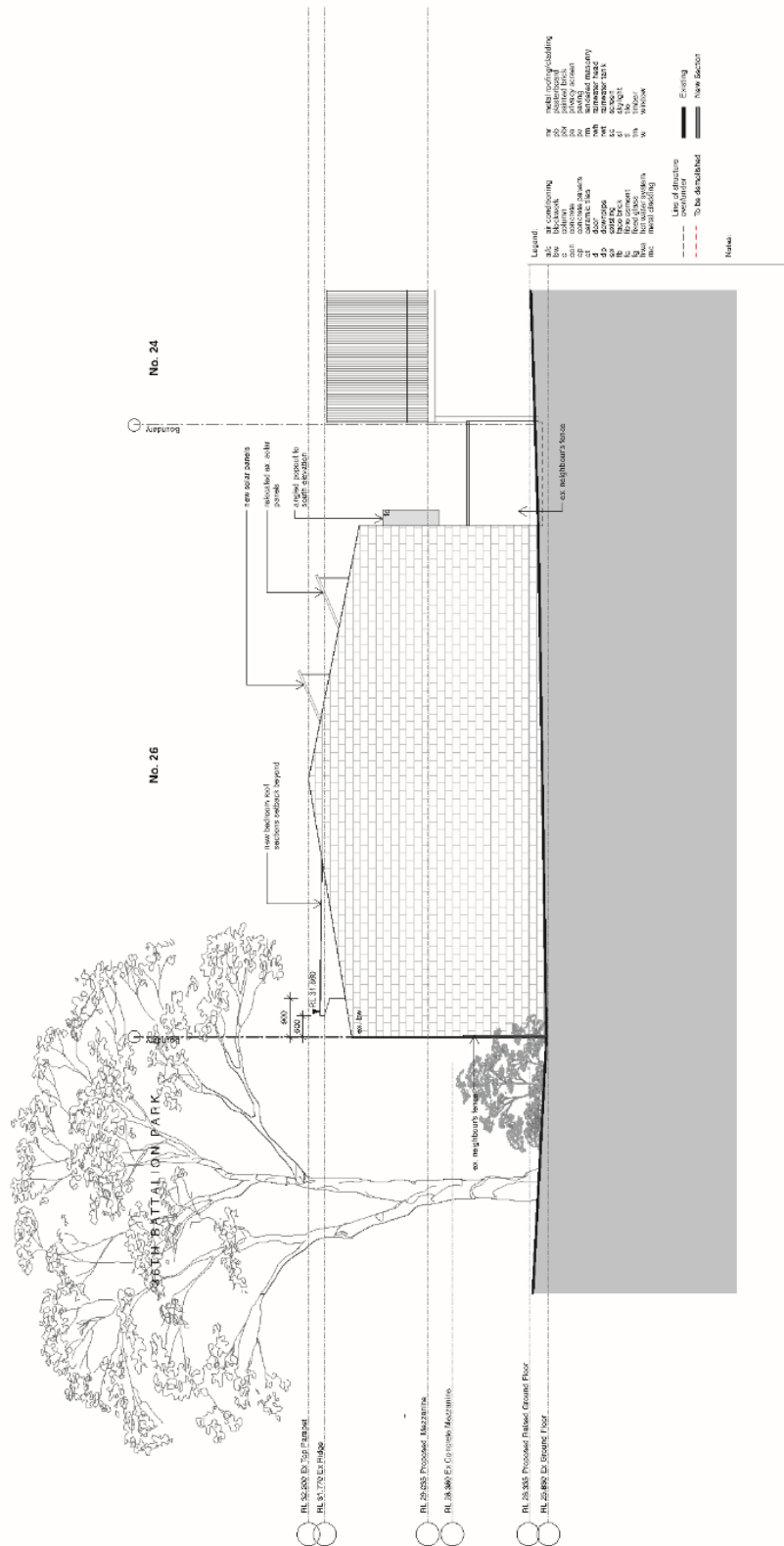
L4, Riverside Street,  
Surry Hills 2010  
seetha@ozcom  
ma@seetha.com  
431 2 9646 6705  
A911 07 012 977 403

Issue	State	Notes
4	2013/08	100% complete for the 45 buildings

Project:  
**Leichhardt Warehouse**  
26 Macdonald Street, Leichhardt NSW 2040

Project Ref: 2015  
 Drawing Title: Proposed North Elevation  
 Date: Jan 2 2021  
 User: NWN

Drawing Ref: **DA08**  
 Drawing Title: **DA08**  
 Drawing Date: **DA08**  
 Drawing Author: **DA08**  
 Drawing Reviewer: **DA08**  
 Drawing Status: **DA08**  
 Drawing Version: **DA08**  
 Drawing Description: **DA08**  
 Drawing Notes: **DA08**  
 Drawing Comments: **DA08**  
 Drawing History: **DA08**  
 Drawing Changes: **DA08**  
 Drawing Approval: **DA08**  
 Drawing Signature: **DA08**  
 Drawing Stamp: **DA08**  
 Drawing Markings: **DA08**  
 Drawing Dimensions: **DA08**  
 Drawing Materials: **DA08**  
 Drawing Assembly: **DA08**  
 Drawing Disassembly: **DA08**  
 Drawing Maintenance: **DA08**  
 Drawing Repair: **DA08**  
 Drawing Replacement: **DA08**  
 Drawing Removal: **DA08**  
 Drawing Installation: **DA08**  
 Drawing Operation: **DA08**  
 Drawing Use: **DA08**  
 Drawing Storage: **DA08**  
 Drawing Transport: **DA08**  
 Drawing Disposal: **DA08**  
 Drawing Safety: **DA08**  
 Drawing Hazards: **DA08**  
 Drawing Risks: **DA08**  
 Drawing Controls: **DA08**  
 Drawing Procedures: **DA08**  
 Drawing Instructions: **DA08**  
 Drawing Guidelines: **DA08**  
 Drawing Standards: **DA08**  
 Drawing Specifications: **DA08**  
 Drawing Requirements: **DA08**  
 Drawing Constraints: **DA08**  
 Drawing Assumptions: **DA08**  
 Drawing Dependencies: **DA08**  
 Drawing Interactions: **DA08**  
 Drawing Relationships: **DA08**  
 Drawing Connections: **DA08**  
 Drawing Interfaces: **DA08**  
 Drawing Components: **DA08**  
 Drawing Subsystems: **DA08**  
 Drawing Modules: **DA08**  
 Drawing Packages: **DA08**  
 Drawing Libraries: **DA08**  
 Drawing Frameworks: **DA08**  
 Drawing Tools: **DA08**  
 Drawing Languages: **DA08**  
 Drawing Platforms: **DA08**  
 Drawing Environments: **DA08**  
 Drawing Configurations: **DA08**  
 Drawing Settings: **DA08**  
 Drawing Parameters: **DA08**  
 Drawing Variables: **DA08**  
 Drawing Constants: **DA08**  
 Drawing Defaults: **DA08**  
 Drawing Overrides: **DA08**  
 Drawing Extensions: **DA08**  
 Drawing Plugins: **DA08**  
 Drawing Add-ons: **DA08**  
 Drawing Integrations: **DA08**  
 Drawing Connectors: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Drivers: **DA08**  
 Drawing Controllers: **DA08**  
 Drawing Executors: **DA08**  
 Drawing Services: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: **DA08**  
 Drawing Transformers: **DA08**  
 Drawing Adapters: **DA08**  
 Drawing Wrappers: **DA08**  
 Drawing Decorators: **DA08**  
 Drawing Facades: **DA08**  
 Drawing Gateways: **DA08**  
 Drawing Proxies: **DA08**  
 Drawing Mediators: <



**Welsh + Major**

LA, Riverside Street,  
 Sunny Hills 9010  
[info@lajmag.com](mailto:info@lajmag.com)  
 424.2.9049.6003  
 FAX: 424.2.977.803

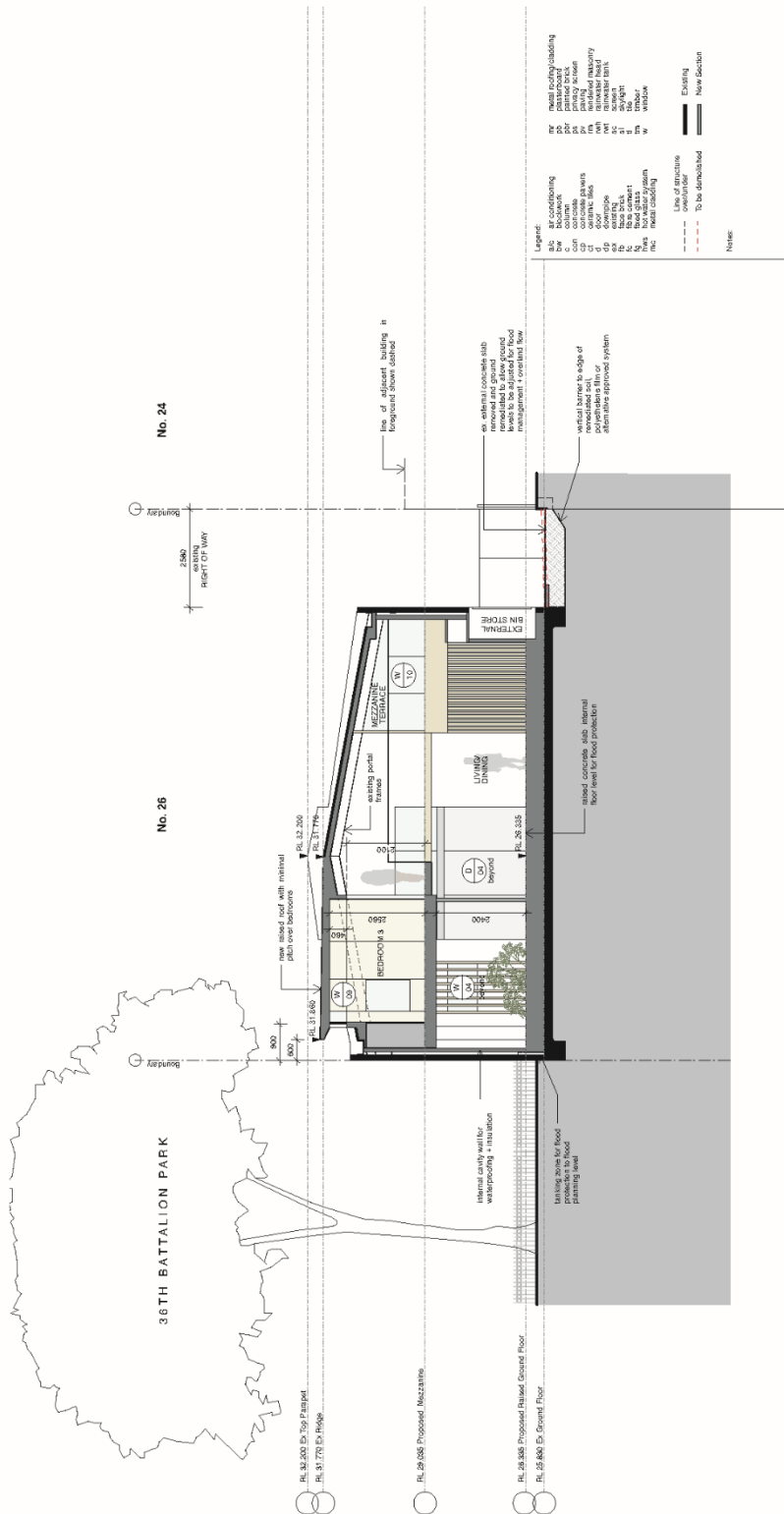
Nonlinear Ashtech  
 C. Major ASB No. 998  
 D. Major ASB No. 0808

Issue	July	Price	\$5.00
	2003/08		
		For US Subscriptions	
4			

Project:  
**Leichhardt Warehouse**  
25 Macleanzie Street, Leichhardt NSW 2040

Drawing Title: **Proposed West Elevation**  
 Drawing No.: **2015**  
 Project No.: **DA09**  
 Date: **Jan 2021**  
 Client: **WW**  
 Designer: **CR**  
 Scale: **A**  



**Welsh + Major**

L4 Riverside Street,  
Berrig NSW 2570  
02 6352 2010  
m@welshmajor.com  
+61 2 6559 0305  
AS/NZS 1910:2011

Nominated Architects  
for the Leichhardt Warehouse  
D. Welsh AS/NZS No. 10108

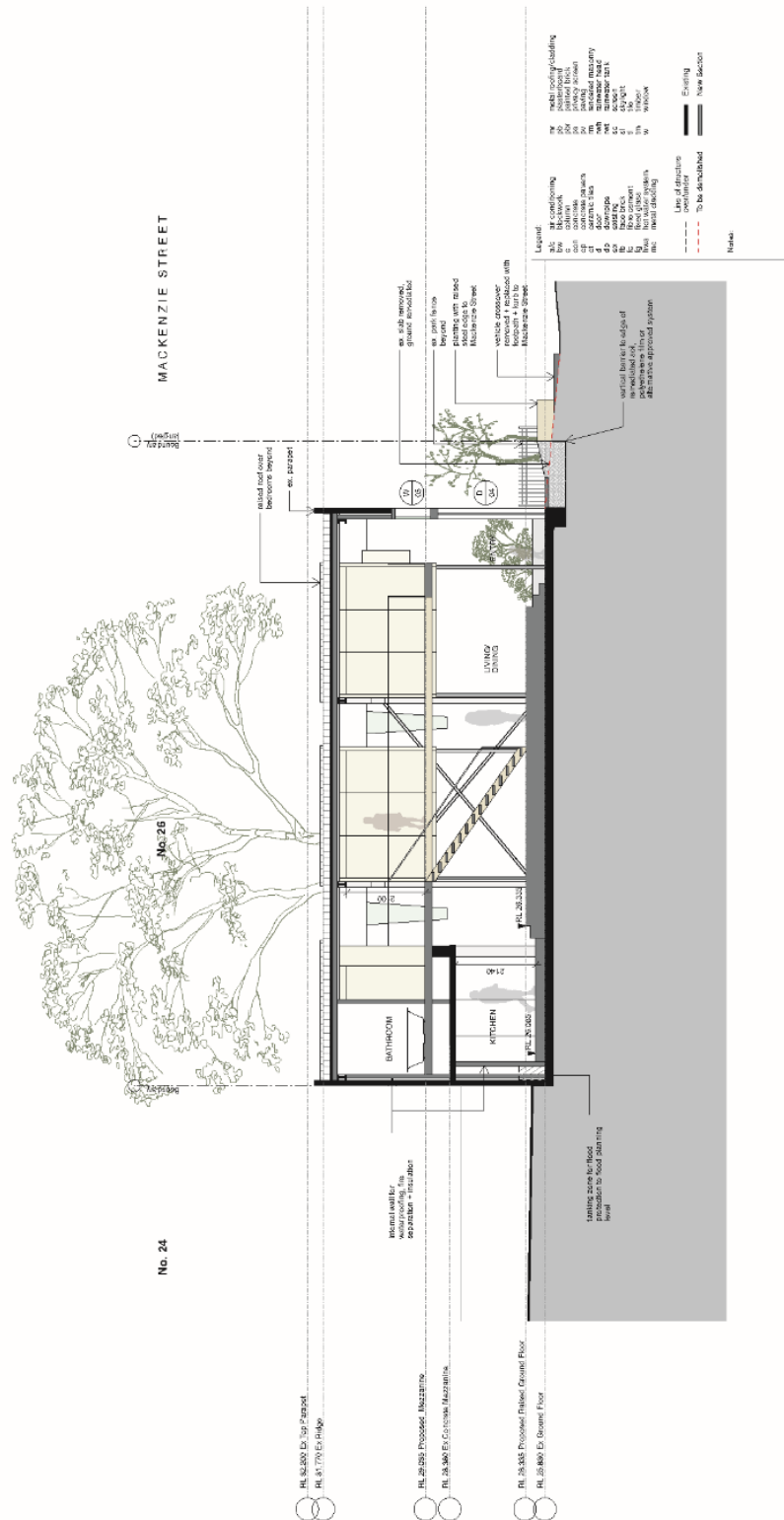
Project Ref: 2015  
Project: Leichhardt Warehouse  
20 Mackenzie Street, Leichhardt NSW 1540

Issue Date Name  
A 20/01/2015 Project Architect  
D. Welsh

Drawing Title  
Proposed Section A  
Date: Jan 2021  
Author: WW

Drawing Ref: DA11  
Sheet: A





Welsh + Major

Let: Resources Group,  
40/41 Pitt Street  
Sydney NSW 2000  
Tel: 02 9251 1234  
Fax: 02 9251 1235  
Email: info@welshmajor.com  
Web: www.welshmajor.com

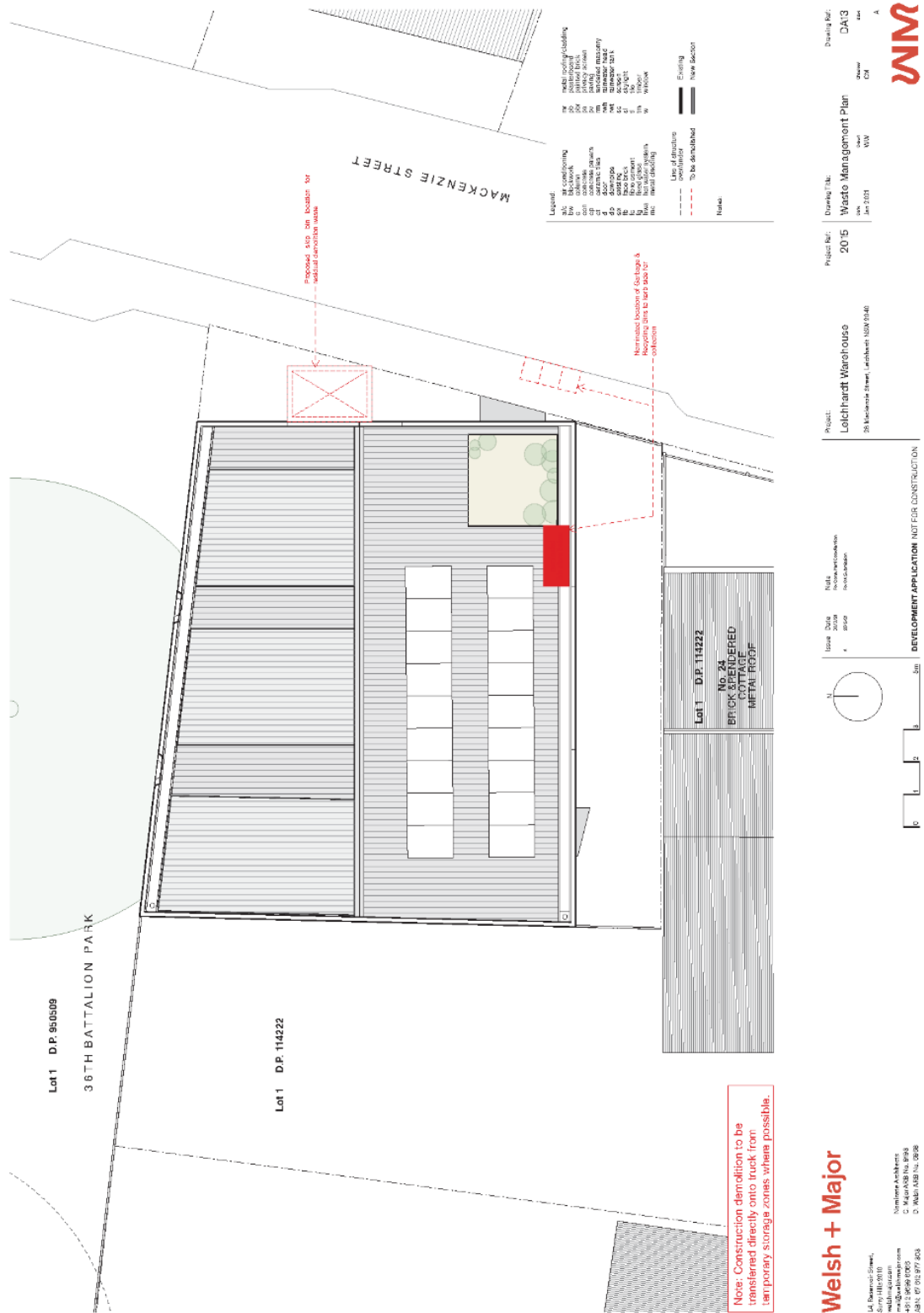
Issue Date  
4 2016  
Rules  
4 2016  
Development Application NOT FOR CONSTRUCTION

Project:  
Lalshard Warehouse  
28 Mackenzie Street, Lalshard NSW 2146

Project Ref:  
2016  
Drawing Title:  
Proposed Section B

Drawing Ref:  
DA12  
Author:  
CM  
Date:  
Jan 2016  
Scale:  
A





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

**ANGEL PLACE  
LEVEL 8, 123 PITT STREET  
SYDNEY NSW 2000**

URBIS.COM.AU  
Urbis Pty Ltd  
ABN 50 105 256 228

The General Manager  
Inner West Council  
PO Box 14  
Petersham NSW 2049

31 May 2021

Dear Council,

## **CLAUSE 4.6 VARIATION REQUEST – FLOOR SPACE RATIO - 26 MACKENZIE STREET, LEICHHARDT**

### **1. INTRODUCTION**

This clause 4.6 variation request seeks to amend the floor space ratio (FSR) control for the site under the *Leichhardt Local Environmental Plan 2013* (LLEP 2013). This request seeks consent for a FSR ratio of 1.02.8:1 which exceeds the FSR control for the site of 0.7:1 by 82.73sqm and the current site GFA by 36.2sqm. The proposed non-compliance is a result of the extension of the mezzanine level to include three new bedrooms which will facilitate the conversion from warehouse to residential use. The proposed mezzanine extension is located largely within the building envelope will not increase the overall bulk and scale of the site.

This request has been prepared in accordance with clause 4.6 of LLEP 2013. This letter includes the following sections:

- Site description;
- Variance precedents;
- Proposed variation;
- Clause 4.6 Assessment; and
- Conclusion.

This letter should be read in conjunction with the Statement of Environmental Effects Report prepared by Urbis and submitted with this application.

Clause 4.6 Request - FSR



## 2. SITE DESCRIPTION

The site is located at 26 Mackenzie Street, Leichhardt, legally described as Lot 100 in Deposited Plan 1266174. The site is located within the R1 General Residential Zone and is surrounded by predominantly low residential land uses and tree lined streets. The site area is 252.1sqm.

The site is bound by 36<sup>th</sup> Battalion Park to the North (side), Mackenzie Street to the east (front) and residential properties to the south (side) and west (rear).

As illustrated in Figure 1 below, the site is currently occupied by a 1990's warehouse building.

The site is in the Leichhardt Street/Stanley Street Heritage Conservation Area and is within the Piperston Distinctive Neighbourhood Urban Character Locality.

Figure 1 The Site



Source: Urbis

## 3. PROPOSED DEVELOPMENT

The proposal seeks consent for the adaptive fit out and use of a warehouse building for a dwelling. The proposed works are summarised as follows:

### Ground Flood:

- Construction of a new building entrance to include an extended foyer area.
- Construction of a kitchen, laundry and toilet facilities.

Clause 4.6 Request - FSR

2



- Construction of an internal wall to all perimeter walls for waterproofing and insulation.
- New internal garden area in the north eastern corner of the ground floor.
- Construction of a new door along the southern boundary to the right of way area.
- Additional windows on the northern and southern boundaries to enable entry of natural light into the habitable spaces which currently experience limited solar access.
- Increasing the floor level of the ground 300mm above the 100 year ARI flood level to improve the site's flood resistance.

**Mezzanine Level:**

- Extension of the mezzanine level to include three bedrooms.
- Retain and upgrade of the existing bathroom.
- Construction of mezzanine terrace in south eastern corner.
- Provision of new windows on the northern and southern elevations and reconfiguration of windows on the eastern elevation.
- Relocation of staircase from western side to the centre of the dwelling.

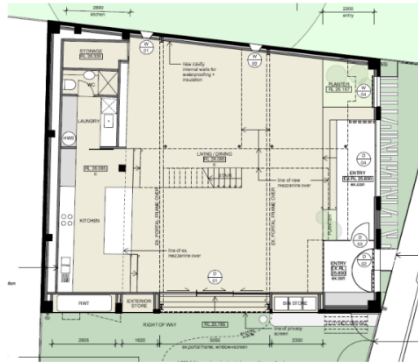
**Roof:**

- New raised roof sections above the proposed bedrooms between the existing steel portal structure.
- New roofing and skylight
- Additional solar panels and relocation of those existing.

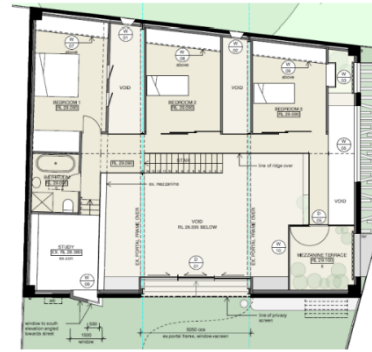
The proposed ground floor and mezzanine floor plans are illustrated in **Figure 2** below.



Figure 2 Proposed Floor Plans



Picture 1 Ground Floor



Picture 2 Mezzanine

Source: Welsh &amp; Major

### 3.1. DEVELOPMENT STANDARD

In accordance with Clause 2B(c)(ii) of the LLEP 2013, the site is subject to a maximum Floor Space Ratio (FSR) of 0.7:1. Clause 2B(c)(ii) of the LLEP 2013 is replicated below:

***(2B) Despite subclause (2), the floor space ratio for development for the purpose of residential accommodation—***

***(c) on land shown edged brown on the Floor Space Ratio Map is not to exceed—***

*(i) in the case of development on a lot with an area of less than 150 square metres—0.8:1, or*

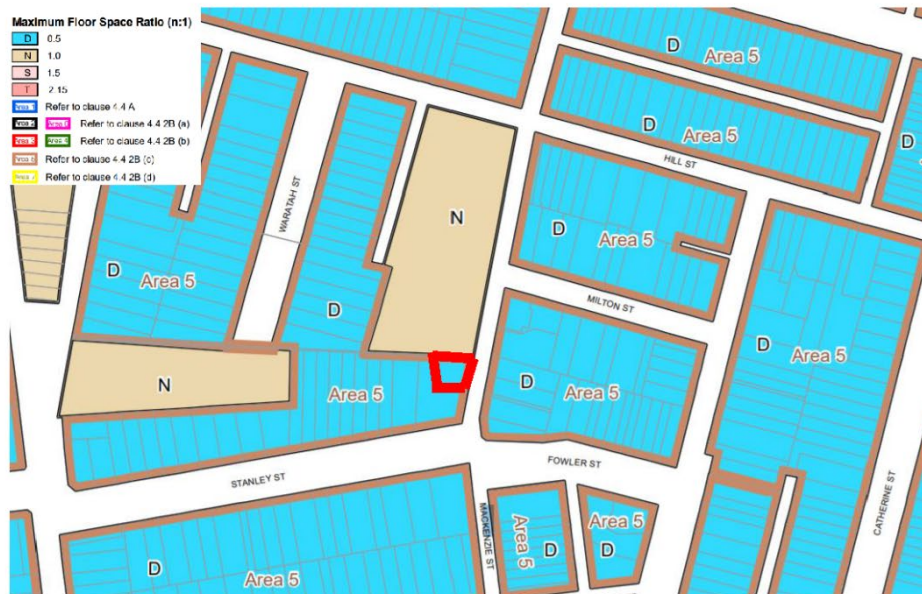
***(ii) in the case of development on a lot with an area of 150 square metres or more but less than 300 square metres—0.7:1, or***

*(iii) in the case of development on a lot with an area of 300 square metres or more but less than 450 square metres—0.6:1, or*

*(iv) in the case of development on a lot with an area of 450 square metres or more—0.5:1, or*



Figure 3 LLEP 2013 FSR Control



Source: Urbis

### 3.2. PROPOSED VARIATION

As detailed in **Section 3.1** above, the maximum FSR ratio for the proposal is 0.7:1. The existing warehouse use has an FSR of 0.88:1.

The proposal seeks an FSR of 1.028:1 which exceeds the existing site GFA by 36.2sqm and the maximum site GFA by 82.73sqm.

### 4. ASSESSMENT OF CLAUSE 4.6 VARIATION

The following sections of the report provide a comprehensive assessment of the request to vary the development standard relating to the floor space ratio development standard in accordance with clause 4.4 of the LLEP 2013.

Detailed consideration has been given to the following matters within this assessment:

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

The following sections of the report provide detailed responses to the key questions required to be addressed within the above documents and clause 4.6 of the LEP.



#### 4.1. IS THE PLANNING CONTROL A DEVELOPMENT STANDARD THAT CAN BE VARIED?

The floor space ratio control prescribed under Clause 4.4 of the LLEP 2013 is a development standard capable of being varied under Clause 4.6 of LLEP 2013.

The development standard is not excluded from the operation of Clause 4.6 as it is not listed within Clause 4.6(6) or Clause 4.6(8) of LLEP 2013.

#### 4.2. IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE? – CLAUSE 4.6(3)(A)

The common way in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary is detailed in the 'five-part test' outlined in the *Wehbe v Pittwater* [2007] NSWLEC 827.

It is not considered necessary for an application to need to establish all of the tests or 'ways' a development standard is unreasonable or unnecessary. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

This development is justified against the first, third and fourth of the *Wehbe* tests as set out below.

Compliance with the development standard is considered unreasonable and unnecessary in the circumstance of the application based on the following:

- **Test 1: The objectives of the standard are achieved notwithstanding non-compliance with the standard**

The specific objectives of the floor space ratio development standard as specified in clause 4.4 of the LLEP 2013 are detailed in **Table 1** below. An assessment of the consistency of the proposed development with each of the objectives is also provided.

The assessment demonstrates that the proposed variation is consistent with the objectives of the development standard.

Table 1 Assessment of Consistency with Clause 4.4 Objectives

Objective	Assessment
<p>(a) to ensure that residential accommodation—</p> <p>(i) is compatible with the desired future character of the area in relation to building bulk, form and scale, and</p> <p>(ii) provides a suitable balance between landscaped areas and the built form, and</p>	<p>The proposed fit out and use involves minor alterations to the existing facades. However, the overall bulk and scale of the building will remain consistent with that existing and is therefore compatible with the existing and future desired character of the area.</p> <p>The proposal includes significant improvements to the existing landscaped areas of the site</p>



Objective	Assessment
<i>(iii) minimises the impact of the bulk and scale of buildings</i>	which will improve the overall balance between the built form and landscaped areas.  Council previously approved D/2018/173 which included an FSR of 0.92:1 which exceeds the maximum permitted FSR for the site for residential use.
<i>(b) to ensure that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale.</i>	The proposal will enable the conversion of a former warehouse building into a residential premises which is a compatible land use for the zone and locality in which the site is located.

- **Test 2: The underlying objectives or purpose of the standard is not relevant to the development and therefore compliance is unnecessary**

Not relied upon.

- **Test 3: The underlying objective or purpose of the standard would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable**

The existing warehouse building already exceeds the maximum FSR control of 0.7:1 and has done so for an extended period time. Strict compliance with the FSR control would require substantial reconfiguration of the existing lot and would reduce the residential amenity of the lot for existing and future residents.

- **Test 4: The development standard has been virtually abandoned or destroyed by council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable**

The existing floor space ratio exceeds the maximum control of 0.7:1. Council previously approved a development with a FSR exceedance. It would be unreasonable or unnecessary to require compliance with the control, having regard to the existing development context, previously approved development and the nature of the proposed alterations additions within the existing building envelope.

The existing site FSR is 0.88:1 and constitutes a GFA of 223sqm. The proposal seeks to increase the FSR to 1.028:1 resulting in a GFA of 259.2sqm. The proposal will increase the site GFA by 36.2sqm and will exceed the maximum GFA for the site by 82.73sqm. The increase is relatively minor increase and will have negligible environmental impact. Furthermore, the proposed increase in GFA is wholly within the existing approved envelope.

As outlined above, Council have demonstrated the virtual abandonment of the control through the issue of the past approvals such as D/2018/173 which approved an FSR of 0.92:1 and a GFA of 232sqm.

- **Test 5: the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that**



land and that compliance with the standard is in circumstances of the case would also be unrealistic or unnecessary

Not relied upon.

### **4.3. ARE THERE ANY SUFFICIENT PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD? – CLAUSE 4.6 (3)(B)**

Clause 4.6(3)(b) of the LLEP 2013 states that a proposed variation to a development standard must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard.

In view of the circumstances of this case, strict compliance with Clause 4.4 of the LLEP is considered to be both unnecessary and unreasonable on the following environmental planning grounds:

- The building in its current form breaches the maximum floor space ratio control.
- The proposed mezzanine extension and associated bedrooms is located on the northern side of the development which adjoins the 36<sup>th</sup> Battalion Park. As such, the FSR exceedance will have no impact on the privacy of the adjoining neighbour to the south.
- The proposed change of use to a more sensitive land use (as compared to previous non-residential land uses) will unquestionably improve the aural amenity for adjacent landowners. As such, the non-compliance will not give rise to any adverse acoustic impact for neighbouring properties.
- The proposal will result in a minor increase to the existing overshadowing. However, the increase is negligible as it will fall predominately on the roof of the neighbouring properties and not onto public open space. As such, the FSR exceedance will have no material impact on the solar access of the adjoining properties.
- The proposed FSR exceedance is a result of the extension of the internal mezzanine area to include three new bedrooms.
- The building envelope is existing, and the proposed FSR exceedance will be entirely within the existing building footprint.
- The proposed development is consistent with the objectives of the development standard (clause 4.4) and the R1 General Residential Zone.
- Council previously approved a residential conversion under D/2018/173. The proposed Welsh & Major design has taken a different approach, retaining the majority of the existing building structure and character, with more subtle interventions, to retain the warehouse character of the building while creating a high-quality internal amenity.
- The proposal will make a positive contribution to the local character and provides a quality home for the owners.

In conclusion, there are sufficient environmental planning grounds to justify contravening the FSR development standard.



#### 4.4. HAS THE WRITTEN REQUEST ADEQUATELY ADDRESSED THE MATTERS IN SUB-CLAUSE (3)? – CLAUSE 4.6 (4)(A)(I)

Clause 4.6(4)(a)(i) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

Each of the sub-clause (3) matters are comprehensively addressed in this written request, including detailed consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. The written request also provides sufficient environmental planning grounds, including matters specific to the proposal and the site, to justify the proposed variation to the development standard.

#### 4.5. IS THE PROPOSED DEVELOPMENT IN THE PUBLIC INTEREST? – CLAUSE 4.6 (4)(B)(II)

Clause 4.6(4)(a)(ii) states development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied the proposal will be in the public interest because it is consistent with the objectives of the development standard and the objectives for the zone.

The following table (**Table 2**) demonstrates that the proposed exceedance is consistent with the overarching objectives of the R1 General Residential Zone.

Table 2 Assessment with Objectives of R1 General Residential Zone

Objective	Proposal
<i>To provide for the housing needs of the community</i>	The proposal will enable the conversion of a former warehouse building into a residential premise with a high standard of amenities for future residents.
<i>To provide for a variety of housing types and densities</i>	The proposal converts a warehouse into a dwelling suitable for a family. This is a unique housing opportunity. The site is unique and contributes to the distinctive character of the surrounding streetscape.
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents</i>	N/A
<i>To improve opportunities to work from home</i>	The proposal will improve the overall amenity of the building and provide 'work from home'



Objective	Proposal
	facilities in the form of the study for future residents.
<i>To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas</i>	The proposal will facilitate the conversion of a warehouse building into a residential premise. The site is distinct and will continue to contribute to the overall character and style of the Mackenzie Streetscape.
<i>To provide landscaped areas for the use and enjoyment of existing and future residents</i>	The proposal provides an increase in landscaped areas at the site which will improve the overall appearance of the site to the public domain and create a better balance between the built elements and landscaped in comparison to that existing. The proposal complies with the LEP landscaped area development standard.
<i>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</i>	N/A
<i>To protect and enhance the amenity of existing and future residents and the neighbourhood</i>	The proposal will improve the appearance of the building façade to the public domain and improve amenity of the site for residents. However, the overall style of the site will remain consistent with that existing and is compatible with the overall future and existing character of the surrounding neighbourhood.

#### **4.6. HAS THE CONCURRENCE OF THE PLANNING SECRETARY BEEN OBTAINED? – CLAUSE 4.6 (4)(B) AND CLAUSE 4.6(5)**

The Secretary can be assumed to have concurred to the variation under Department of Planning Circular PS 18–003 'Variations to development standards', dated 21 February 2018. This circular is a notice under 64(1) of the *Environmental Planning and Assessment Regulation 2000*.

The Secretary can be assumed to have given concurrence as the matter will be determined by an independent hearing and assessment panel or a Sydney district or regional planning panel in accordance with the Planning Circular.

The matters for consideration under clause 4.6(5) are considered below.



▪ **Clause 4.6(5)(a) – does contravention of the development standard raise any matter of significance for State or regional environmental planning?**

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

▪ **Clause 4.6(5)(b) - is there a public benefit of maintaining the planning control standard?**

The proposed development achieves the objectives of the Floor Space Ratio Standard and the land use zone objectives despite the technical non-compliance. The variation has been demonstrated to be appropriate and supportable in the circumstances of the case. Maintaining compliance with the development standard will result in the loss of an opportunity to provide a land use compatible with its locality.

There is no material benefit associated with strict adherence to the development standard and there is no compelling reason or public benefit derived from maintenance of the standard.

▪ **Clause 4.6(5)(c) – are there any other matters required to be taken into consideration by the Secretary before granting concurrence?**

Concurrence can be assumed, however, there are no known additional matters that need to be considered within the assessment of the clause 4.6 variation request prior to granting concurrence, should it be required.

## 5. CONCLUSION

The proposed development seeks approval for a variation to the maximum FSR development standard contained within the LLEP 2013 to enable the fit out and use of a former warehouse building as a residential premise. It is noted that the existing building exceeds the FSR control of 0.7:1 by 36.2sqm and the proposal seeks to increase this exceedance by an additional 46.53sqm.

Compliance with the FSR development standard is unreasonable and unnecessary in the circumstances of the proposal and sufficient environmental planning grounds have been established to justify contravening the standard. The proposal will improve the overall amenity of the building for existing and future residential tenants.

Furthermore, the proposed development is consistent with the objectives of the FSR development standard and achieves the R1 General Residential zone objectives.

The proposal is in the public interest and the proposed clause 4.6 variation request to the maximum FSR development standard prescribed in clause 4.4 of the LSLEP 2013 is well founded and should be supported by Council as it will improve the overall amenity of the site and appearance to the public domain.

## Attachment D – Statement of Heritage Significance



**ANGEL PLACE  
LEVEL 8, 123 PITT STREET  
SYDNEY NSW 2000**

URBIS.COM.AU  
Urbis Pty Ltd  
ABN 50 105 256 228

31 May 2021

The General Manager  
Inner West Council  
PO Box 14  
Petersham NSW 2049

To whom it may concern,

### **CLAUSE 4.6 REQUEST - SITE COVERAGE FOR RESIDENTIAL DEVELOPMENT IN R1 ZONE - 26 MACKENZIE STREET, LEICHHARDT**

#### **1. INTRODUCTION**

This clause 4.6 variation request seeks to amend the maximum site coverage control for the site required in accordance with Clause 4.3A(3)(B) of the *Leichhardt Local Environmental Plan 2013* (LLEP 2013). This request seeks to exceed the 60% maximum site coverage control by 17.2%. The proposal will provide 77.2% site coverage.

This request has been prepared in accordance with clause 4.6 of LLEP 2013. This letter includes the following sections:

- Site description;
- Variance precedents;
- Proposed variation;
- Clause 4.6 Assessment; and
- Conclusion.

This letter should be read in conjunction with the Statement of Environmental Effects Report prepared by Urbis and submitted with this application.

#### **2. SITE DESCRIPTION**

The site is located at 26 Mackenzie Street, Leichhardt, legally described as Lot 100 in Deposited Plan 1266174. The site is located within the R1 General Residential Zone and is surrounded by predominantly low residential land uses and tree lined streets. The site area is 252.1sqm.

The site is bound by 36<sup>th</sup> Battalion Park to the North (side), Mackenzie Street to the east (front) and residential properties to the south (side) and west (rear).

As illustrated in **Figure 1** below, the site is currently occupied by a 1990's warehouse building.

Clause 4.6 Request - Site Coverage



The site is in the Leichhardt Street/Stanley Street Heritage Conservation Area and is within the Piperston Distinctive Neighbourhood Urban Character Locality.

Figure 1 The Site



Source: Urbis

### 3. PROPOSED DEVELOPMENT

The proposal seeks consent for the adaptive fit out and use of a warehouse building for a dwelling. The proposed works are summarised as follows:

#### Ground Flood:

- Construction of a new building entrance to include an extended foyer area.
- Construction of a kitchen, laundry and toilet facilities.
- Construction of an internal wall to all perimeter walls for waterproofing and insulation.
- New internal garden area in the north eastern corner of the ground floor.
- Construction of a new door along the southern boundary to the right of way area.
- Additional windows on the northern and southern boundaries to enable entry of natural light into the habitable spaces which currently experience limited solar access.
- Increasing the floor level of the ground 300mm above the 100 year ARI flood level to improve the site's flood resistance.

Clause 4.6 Request - Site Coverage

2



#### Mezzanine Level:

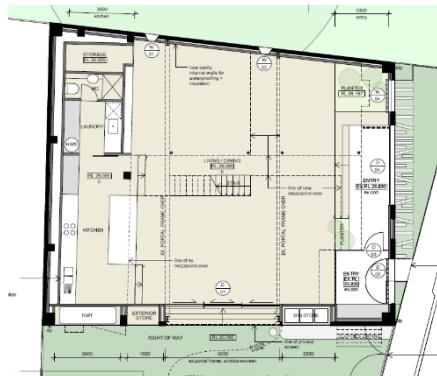
- Extension of the mezzanine level to include three bedrooms.
- Retain and upgrade of the existing bathroom.
- Construction of mezzanine terrace in south eastern corner.
- Provision of new windows on the northern and southern elevations and reconfiguration of windows on the eastern elevation.
- Relocation of staircase from western side to the centre of the dwelling.

#### Roof:

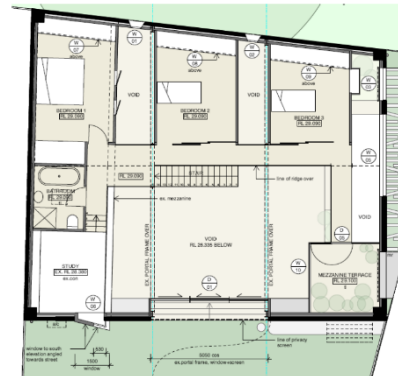
- New raised roof sections above the proposed bedrooms between the existing steel portal structure.
- New roofing and skylight
- Additional solar panels and relocation of those existing.

The proposed ground floor and mezzanine floor plans are illustrated in **Figure 2** below.

Figure 2 Proposed Floor Plans



Picture 1 Ground Floor



Picture 2 Mezzanine

Source: Welsh & Major



### 3.1. DEVELOPMENT STANDARD

In accordance with Clause 4.3A(3)(B) the maximum site coverage for the site is 60% as outlined below:

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

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

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

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

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

### 3.2. PROPOSED VARIATION

As detailed in the Statement of Environmental Effects accompanying this Development Application, the proposed site coverage 77.2% (194.6sqm) which is the same as existing. The proposed site coverage exceeds the maximum site coverage stipulated by the LLEP 2013 of 60% by 17.2%.

## 4. ASSESSMENT OF CLAUSE 4.6 VARIATION

The following sections of the report provide a comprehensive assessment of the request to vary the development standards relating to the Site Coverage development standard in accordance with clause 4.3(A)(3)(b) of the LLEP 2013.

Detailed consideration has been given to the following matters within this assessment:

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

The following sections of the report provides detailed responses to the key questions required to be addressed within the above documents and clause 4.6 of the LEP.

### 4.1. IS THE PLANNING CONTROL A DEVELOPMENT STANDARD THAT CAN BE VARIED?

The site coverage control prescribed under Clause 4.3(A)(3)(b)) of the LLEP 2013 is a development standard capable of being varied under Clause 4.6 of LLEP 2013.

The development standard is not excluded from the operation of Clause 4.6 as it is not listed within Clause 4.6(6) or Clause 4.6(8) of LLEP 2013.



#### 4.2. IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE? – CLAUSE 4.6(3)(A)

The common way in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary is detailed in the 'five-part test' outlined in the *Wehbe v Pittwater* [2007] NSWLEC 827.

It is not considered necessary for an application to need to establish all of the tests or 'ways' a development standard is unreasonable or unnecessary. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

This development is justified against the first, third and fourth of the *Wehbe* tests as set out below.

Compliance with the development standard is considered unreasonable and unnecessary in the circumstance of the application based on the following:

- **Test 1: The objectives of the standard are achieved notwithstanding non-compliance with the standard**

The specific objectives of the site coverage development standard as specified in clause 4.3(A)(3)(b) of the LLEP 2013 are detailed in **Table 1** below. An assessment of the consistency of the proposed development with each of the objectives is also provided.

The assessment demonstrates that the proposed variation is consistent with the objectives of the development standard.

Table 1 Assessment of Consistency with Clause 4.3(A) Objectives

Objective	Assessment
<i>(a) to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,</i>	The proposal provides 50.5sqm of landscaped area which exceeds that existing by 43.8sqm. As such, non-compliance with the site coverage control does not reduce the ability of the development site to achieve the relevant landscaped provisions nor does it reduce the overall amenity of the site. The proposal complies with the LEP landscaped area development standard.
<i>(b) to maintain and encourage a landscaped corridor between adjoining properties,</i>	Despite the non-compliance, the proposal retains the existing right of way and landscaped area to the south of the property.
<i>(c) to ensure that development promotes the desired future character of the neighbourhood,</i>	The existing building and site coverage is retained, promoting the character of the locality and heritage conservation area.



Objective	Assessment
(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,	The proposal will improve the flood resistant capacity of the site by providing additional OSD and upgrading the existing stormwater drainage system. Strict compliance with the site coverage control would minimise opportunities for ESD on site.
(e) to control site density,	The proposal does not seek to increase the existing site coverage exceedance. The 77.2% site coverage is existing and has been previously approved by Council. As such, the existing site coverage is considered acceptable and compatible with the existing and desired future character of the site and surrounding locality. The proposal increases the FSR but it is all internal and provides improved internal amenity rather than increasing density.
(f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.	The proposal results in an increase in the overall landscaped area provision.

- **Test 2: The underlying objectives or purpose of the standard is not relevant to the development and therefore compliance is unnecessary**

Not relied upon.

- **Test 3: The underlying objective or purpose of the standard would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable**

The existing warehouse building exceeds the maximum site coverage control of 60% by 17.2%. The extent of the proposed non-compliance is the same as that existing and is therefore considered acceptable for the site. Strict compliance with the site coverage control would also require substantial reconfiguration of the existing floor plate and would trigger additional remediation works which are otherwise unnecessary.

- **Test 4: The development standard has been virtually abandoned or destroyed by council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable**

The proposed site coverage is consistent with that existing being 77.2%. The existing and proposed site coverage control has been previously approved by Council and is therefore considered compatible with the site.



As such Council have demonstrated the virtual abandonment of the control through the issue of the past approvals.

- **Test 5: the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard is in circumstances of the case would also be unrealistic or unnecessary**

Not relied upon.

#### **4.3. ARE THERE ANY SUFFICIENT PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD? – CLAUSE 4.6 (3)(B)**

Clause 4.3(A)(3)(b) of the LLEP 2013 states that a proposed variation to a development standard must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard.

In view of the circumstances of this case, strict compliance with Clause 4.3(A)(3)(b) of the LLEP is both unnecessary and unreasonable on the following environmental planning grounds:

- The building in its current form breeches the maximum site coverage control. The proposal does not seek to increase the existing breach any further.
- The existing and proposed site coverage exceedance does not contribute to any unreasonable overshadowing impacts onto the neighbouring property as the built form will remain consistent with that existing.
- The existing and proposed site coverage exceedance does not contribute to any amenity loss in terms of noise for neighbouring properties.
- The proposal will not alter the overall bulk and scale of the site. The development will remain consistent with surrounding buildings which are of a similar scale and nature.
- The non-compliance does not give rise to any adverse environmental impacts.
- The proposed development is consistent with the objectives of the development standard (clause 4.4) and the R1 General Residential Zone.
- Council previously approved a residential conversion under D/2018/173. The proposed Welsh & Major design has taken a different approach, retaining the majority of the existing building structure and character, with more subtle interventions, to retain the warehouse character of the building while creating a high-quality internal amenity.
- The proposal will make a positive contribution to the local character and provides a quality home for the owners.

In conclusion, there are sufficient environmental planning grounds to justify contravening the site coverage development standard.



#### 4.4. HAS THE WRITTEN REQUEST ADEQUATELY ADDRESSED THE MATTERS IN SUB-CLAUSE (3)? – CLAUSE 4.6 (4)(A)(I)

Clause 4.6(4)(a)(i) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

Each of the sub-clause (3) matters are comprehensively addressed in this written request, including detailed consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. The written request also provides sufficient environmental planning grounds, including matters specific to the proposal and the site, to justify the proposed variation to the development standard.

#### 4.5. IS THE PROPOSED DEVELOPMENT IN THE PUBLIC INTEREST? – CLAUSE 4.6 (4)(B)(II)

Clause 4.6(4)(a)(ii) states development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied the proposal will be in the public interest because it is consistent with the objectives of the development standard and the objectives for the zone.

The following table (**Table 2**) demonstrates that the proposed exceedance is consistent with the overarching objectives of the R1 General Residential Zone.

Table 2 Assessment with Objectives of R1 General Residential Zone

Objective	Proposal
<i>To provide for the housing needs of the community</i>	The proposal will enable the conversion of a former warehouse building into a residential premises with a high standard of amenities for future residents.
<i>To provide for a variety of housing types and densities</i>	The proposal converts a warehouse into a dwelling suitable for a family. This is a unique housing opportunity. The site is unique and contributes to the distinctive character of the surrounding streetscape.
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents</i>	N/A
<i>To improve opportunities to work from home</i>	The proposal will improve the overall residential amenity of the building and enable ongoing



Objective	Proposal
	'work from home' facilities in the form of the study for existing and future residents.
<i>To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas</i>	The proposal and subsequent non-complying site coverage will enable the ongoing use of the distinctive site which contributes to the overall character and style of the Mackenzie Streetscape.
<i>To provide landscaped areas for the use and enjoyment of existing and future residents</i>	The proposal provides a significant increase in landscaped areas at the site which will improve the overall appearance of the site to the public domain and create a better balance between the built elements and landscaped in comparison to that existing.
<i>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</i>	N/A
<i>To protect and enhance the amenity of existing and future residents and the neighbourhood</i>	The proposed fit out and use will improve the appearance of the building façade to the public domain, by providing additional landscaping to soften the bulk of the elevation. However, the overall style of the site will remain consistent with that existing and is compatible with the overall future and existing character of the surrounding neighbourhood.

#### 4.6. HAS THE CONCURRENCE OF THE PLANNING SECRETARY BEEN OBTAINED? – CLAUSE 4.6 (4)(B) AND CLAUSE 4.6(5)

The Secretary can be assumed to have concurred to the variation under Department of Planning Circular PS 18–003 'Variations to development standards', dated 21 February 2018. This circular is a notice under 64(1) of the *Environmental Planning and Assessment Regulation 2000*.

The Secretary can be assumed to have given concurrence as the matter will be determined by an independent hearing and assessment panel or a Sydney district or regional planning panel in accordance with the Planning Circular.



The matters for consideration under clause 4.6(5) are considered below.

▪ **Clause 4.6(5)(a) – does contravention of the development standard raise any matter of significance for State or regional environmental planning?**

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

▪ **Clause 4.6(5)(b) - is there a public benefit of maintaining the planning control standard?**

The proposed development achieves the objectives of Clause 4.6(4)(a)(ii) and the land use zone objectives despite the technical non-compliance. The variation has been demonstrated to be appropriate and supportable in the circumstances of the case. Maintaining compliance with the development standard will result in the loss of an opportunity to provide a land use compatible with its locality.

There is no material benefit associated with strict adherence to the development standard and there is no compelling reason or public benefit derived from maintenance of the standard.

▪ **Clause 4.6(5)(c) – are there any other matters required to be taken into consideration by the Secretary before granting concurrence?**

Concurrence can be assumed, however, there are no known additional matters that need to be considered within the assessment of the clause 4.6 variation request prior to granting concurrence, should it be required.

## 5. CONCLUSION

The proposed development seeks approval for a variation to the maximum site coverage development standard contained within Clause 4.6(4)(a)(ii) of the LLEP 2013 to enable the fit out and use of a former warehouse building into a residential premise. It is noted that the existing warehouse exceeds the site coverage control by 17.2% and the proposal does not seek to increase this exceedance.

Compliance with the site coverage development standard is unreasonable and unnecessary in the circumstances of the proposal and sufficient environmental planning grounds have been established to justify contravening the standard. The proposed alterations and additions will improve the overall amenity of the building for existing and future residential tenants.

Furthermore, the proposed development is consistent with the objectives of Clause 4.6(4)(a)(ii) development standard and achieves the R1 General Residential zone objectives.

The proposal is in the public interest and the proposed clause 4.6 variation request to the maximum site coverage development standard prescribed in Clause 4.6(4)(a)(ii) of the LSLEP 2013 is well founded and should be supported by Council as it will enable the continued delivery of social services to the community.

## Attachment E – Heritage Impact Statement

PROPOSED ALTERATIONS AND ADDITIONS

TO

**26 MACKENZIE STREET,  
LEICHHARDT, NSW**

**HERITAGE IMPACT STATEMENT**



Prepared by:

John Oultram Heritage & Design  
Level 2, 386 New South Head Road,  
Double Bay NSW 2028

T: (02) 9327 2748

E: [heritagedesign@bigpond.com](mailto:heritagedesign@bigpond.com)

Prepared for:

Amy Corderoy and Michael Slezak

April 2021

© John Oultram Heritage & Design

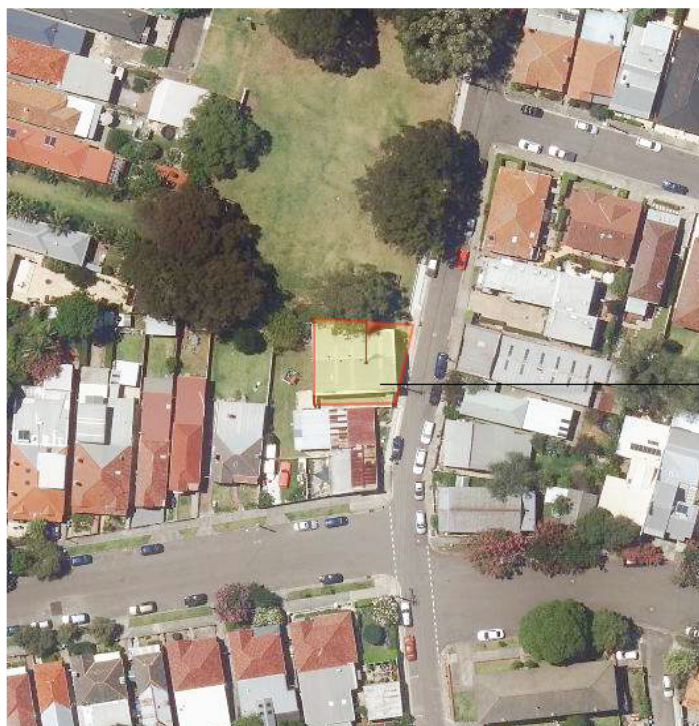
## 1.0 INTRODUCTION

### 1.1 THE BRIEF

The following report has been prepared to accompany a development application for alterations and additions to the existing warehouse at 26 Mackenzie, Leichhardt, NSW. The report has been prepared on behalf of Amy Corderoy and Michael Slezak, the owners of the property.

### 1.2 THE STUDY AREA

The study area is Lot 1 in DP 114234 at Leichhardt, Parish of Petersham and County of Cumberland (Figure 1.1)



26 MACKENZIE STREET

Figure 1.1 The Study Area shaded

Source: Six Maps

### 1.3 LIMITATIONS AND TERMS

The report only addresses the European significance of the place. The terms *fabric*, *conservation*, *maintenance*, *preservation*, *restoration*, *reconstruction*, *adaptation*, *compatible use* and *cultural significance* used in this report are as defined in the Australia ICOMOS *Burra Charter*.

26 MACKENZIE STREET, LEICHHARDT

HERITAGE IMPACT STATEMENT

---

#### 1.4 METHODOLOGY

This report was prepared in accordance with the *NSW Heritage Manual* "Statements of Heritage Impact", "Assessing Heritage Significance Guidelines" and the Inner West Council guidelines for the preparation of heritage impact statements. The philosophy adopted is that guided by the Australia ICOMOS Burra Charter 2013.

#### 1.5 AUTHORS AND ACKNOWLEDGMENTS

This report, including all diagrams and photographs, was prepared by John Oultram of John Oultram Heritage & Design, unless otherwise noted. Historical research was prepared by Nicholas Jackson. John Oultram Heritage & Design was established in 1998 and is on the NSW Heritage Office list of heritage consultants.

JOHN OULTRAM HERITAGE &amp; DESIGN

3

## 2.0 HISTORICAL DEVELOPMENT

### 2.1 PIPER'S PIPERSTON

The property is located within part of the 165 acres granted to Captain John Piper in 1811 by Governor Macquarie. Piper (1773-1851) was an officer in the NSW Corps and had arrived in Sydney in 1792. Promoted to the rank of captain in 1800, he spent much of his early years in the colony at Norfolk Island. In 1813 he was appointed to the highly lucrative position of collector of customs, and with the ready flow in built Henrietta Villa on Point Piper. Henrietta Villa, completed in 1822, was arguably the progenitor of the trophy home in Australia.

Meanwhile, at his land in present day Leichhardt the grant was named Piperston. It comprised the area between Balmain Road and to the boundary with Johnston's Annandale at Whites Creek. Piper added to this land holding by purchasing James Darbyshire's 30 acres in 1820, Prentice's 100 acres in 1822, and Thomas Bigger's 30 acres by 1822. In about 1812 Piper took on another 270 acres at Leichhardt that had been granted to his brother Hugh in 1811 (known as Macquarie Gift). Altogether, John Piper came to possess 595 acres at Leichhardt by the early 1820s that collectively was known as Piperston. Piper's land holding represented about 60 per cent of the total land area of the municipality of Leichhardt.<sup>1</sup>

Piper experienced financial difficulties in the 1830s, a decade when many of his compatriots did surprisingly well, and was forced to sell assets to pay his mounting list of creditors. The banking crisis of the early 1840s proved troublesome for most of the landed in the colony, and was the final straw in Piper's mixed fortunes with his estate been sequestered in 1842. The subject property was located in Lot 6 of the 1842 sale of Piperston.

<sup>1</sup> Reynolds, P. 'Leichhardt: Flood's Estate', *Leichhardt Historical Journal* 22

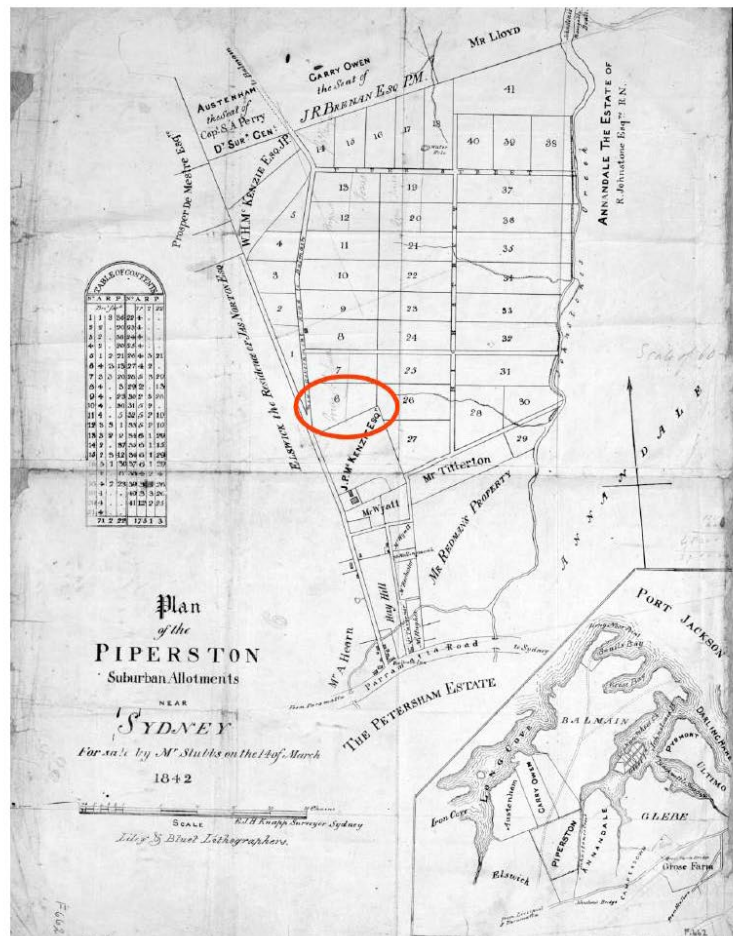


Figure 2.1 Plan of the Piperston suburban allotments near Sydney for sale by Mr. Stubbs on the 14 of March 1842. E.J.H. Knapp was the surveyor. Circled is the approximate location of present day Mackenzie and Stanley streets within the Piperston estate

Source: National Library of Australia

## 2.2 NO. 26 MACKENZIE STREET

By the late 1870s land on the west side of Mackenzie Street and to the north of Stanley Street (not formed until 1898) was owned by James Window.<sup>2</sup> The property probably originally comprised about one acre and extended west to Balmain Road, and on the death of James in 1878 the eastern portion passed to his son George. George died there in 1887,<sup>3</sup> and the property passed to James Jesse Window.<sup>4</sup>

By a survey dated 1892 the Windows possessed a cottage fronting Mackenzie Street. The north boundary of the Windows' property was defined by an open, channelled drain, but otherwise the area was vacant of other developments.

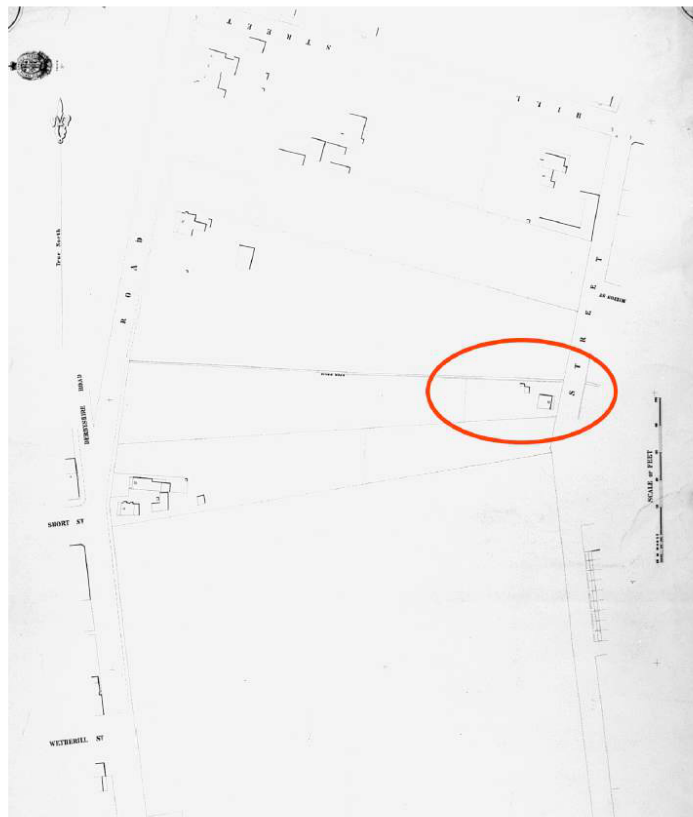


Figure 2.2 Detail from Leichhardt Sheet 27 of the Lands Department series of detailed surveys of metropolitan Sydney. The sheet is dated 1892. Circled is Window's cottage fronting Mackenzie Street

Source: State Library of New South Wales

<sup>2</sup> Funeral, *Sydney Morning Herald*, 29/5/1887

<sup>3</sup> Funeral, *Sydney Morning Herald*, 26/11/1887

<sup>4</sup> Torrens Title Vol. 954 Fol. 30

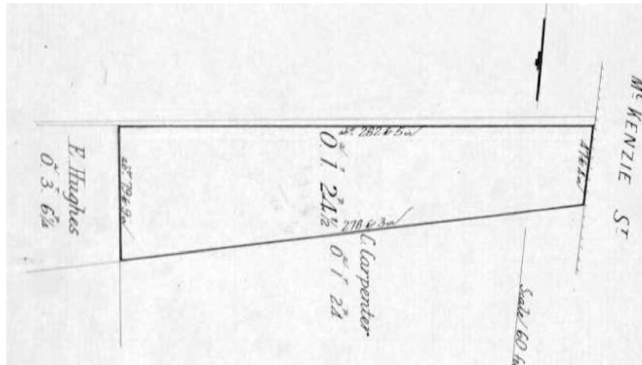


Figure 2.3 Sketch survey of the Window family's property fronting Mackenzie Street by 1890.

Source: Land and Property Information (Vol. 954 Fol. 30)

James J Window died in 1912, and the eastern half of the property was conveyed to estate agent William Richard Ainsworth.<sup>5</sup> The conveyance probably included the cottage, however with the loss of rate valuation books for this period it is now impossible to determine.

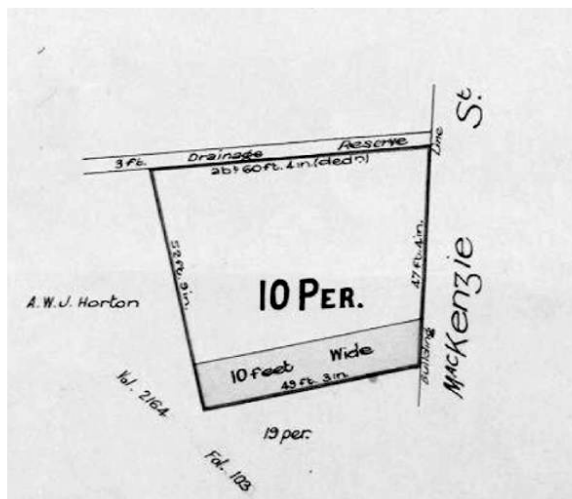


Figure 2.4 Sketch survey of the Ainsworth's property fronting Mackenzie Street purchased in 1912. This conveyance formed the existing title of No. 26 Mackenzie Street.

Source: Land and Property Information (Vol. 2257, Fol. 53)

<sup>5</sup> Torrens Title Dealing 26851

In 1914 Ainsworth conveyed the property to Sidney George Pearse, a marine storekeeper.<sup>6</sup> Pearse operated his marine dealership from the property for he was listed in *Sands' Directory* in 1915 at 26a Mackenzie Street. Again, with the loss of rate valuation books for this period it is now impossible to determine if Pearse was operating from the cottage or a new development, but given the later history more likely from the cottage.

Between 1920 and 1934 ownership changed frequently with conveyances to box manufacturer Malcolm McKinnon in 1920,<sup>7</sup> importer Charles Ashworth Sprent in 1921,<sup>8</sup> engineer Ray Bevan in 1926, and finally in 1934 to garage proprietors Henry May and his son.<sup>9</sup> None of these owners were listed in *Sands' Directory* for the 1920s as occupying the Mackenzie Street address, and listed were John Skinner for 1920, fruiterer P Silver in 1925, and William Henricks in 1930.

By aerial photography of 1943 the property had been developed with the building of a substantial structure of non-residential appearance, and approximately similar to the footprint of the building seen today. Therefore, it would seem the building in its first form (if not later rebuilt) was built in the mid 1930s for the garage proprietors Henry May and his son.



Figure 2.5 The roof form of the development on No. 26 Mackenzie Street in 1943.

Source: Land and Property Information

<sup>6</sup> Torrens Title Dealing A130874

<sup>7</sup> Torrens Title Dealing A657698

<sup>8</sup> Torrens Title Dealing A745791

<sup>9</sup> Torrens Title Dealing C308658

The use of the garage probably continued until 1962 when the property was leased to Sterling Plastics Pty Ltd.<sup>10</sup> The existing frontage and the whole structure, date from after a conveyance in 1972 to Creinasco Concrete Pty Ltd.<sup>11</sup>

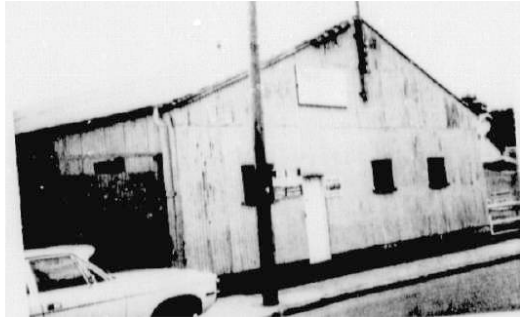


Figure 2.6 The early building in 1973

Source: Leichhardt Council File 4736

The building was rebuilt after a fire in 1992<sup>12</sup>. A development application (DA473/92) for the erection of an industrial building and use as a sign writing business was approved by Leichhardt Council in May 1993. The design appears to have been amended and a revised design was approved in 1994 under DA93/548

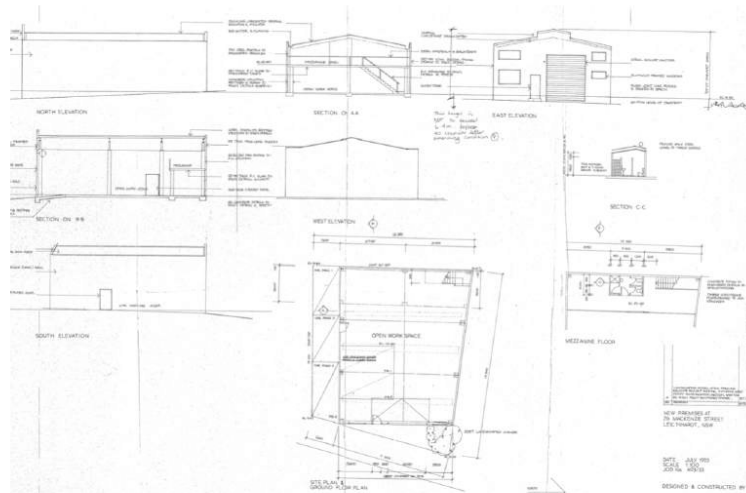


Figure 2.7 Original drawing for the rebuilding of 26 Mackenzie Street Leichhardt by Proline dated July 1993

Source: Leichhardt Council DA 93/548

<sup>10</sup> Torrens Title Dealing J94266

<sup>11</sup> Torrens Title Dealing M581648

<sup>12</sup> Reported from then owner in real estate article Sydney Morning Herald 20 June 2015

### 3.0 PHYSICAL DESCRIPTION

An inspection of the property was carried out by John Oultram in October 2017 to ascertain its layout, condition and intactness from its original construction. The current plan is shown in Figure 3.1.

26 MacKenzie Street is a single storey, late Twentieth Century warehouse set close to its lot boundaries on a trapezoidal site to the west side of the street. The building is of no discernible style.

The building is in painted, concrete block with a gabled, metal roof with alsonite skylights. There is a stepped, sloping parapet to the street with a central, roller shutter door with aluminium windows and a timber entrance door.

Internally the building has a single space with service areas to the west under a small mezzanine and stair. The floor is in concrete and the walls in painted concrete blocks. The roof is the exposed roof sheeting supported on a steel structure.

Mackenzie Street is a quiet, largely residential street lined with single and two storey houses from the late Victorian period onwards with some commercial buildings and later infill development. To the south is a single storey, Federation cottage. To the north is the 36<sup>th</sup> Battalion Park.

Figures 3.2 – 3.8

HERITAGE IMPACT STATEMENT



Plan as existing

Source: Architect

11

26 MACKENZIE STREET, LEICHHARDT

HERITAGE IMPACT STATEMENT



Figure 3.2 26 Mackenzie Street, Leichhardt  
Front elevation



Figure 3.3 26 Mackenzie Street, Leichhardt  
South elevation



Figure 3.4 26 Mackenzie Street, Leichhardt  
North elevation



Figure 3.5 26 Mackenzie Street, Leichhardt  
North and rear elevation

26 MACKENZIE STREET, LEICHHARDT

HERITAGE IMPACT STATEMENT



Figure 3.6 26 Mackenzie Street, Leichhardt  
Houses to the south



Figure 3.7 26 Mackenzie Street, Leichhardt  
Houses and development opposite



Figure 3.8 26 Mackenzie Street, Leichhardt  
Interior

26 MACKENZIE STREET, LEICHHARDT

HERITAGE IMPACT STATEMENT

#### 4.0 HERITAGE LISTINGS & CONTROLS

##### 4.1 NATIONAL TRUST

The property is not classified on the Register of the National Trust of Australia (NSW).

##### 4.2 HERITAGE NSW OF THE NSW DEPARTMENT OF PREMIER AND CABINET

###### 4.2.1 State Heritage Register

Under the Heritage Act 1977 (as amended), the NSW Heritage Council, administered by Heritage NSW of the NSW Department of Premier and Cabinet, maintains the State Heritage Register (SHR), a register of items and places that are considered to have heritage significance at a state level. The subject property is not listed on the Register.

###### 4.2.2 State Heritage Inventory

Heritage NSW also compiles the State Heritage Inventory (SHI), a collated database of all places listed on statutory heritage lists, including Local Environmental Plans. The subject property is not listed on the Inventory.

##### 4.3 LOCAL AUTHORITY

The local authority for the area is the Inner West Council (formerly Leichhardt Council).

The property is not listed as a heritage item in Schedule 5 Part 1 of the *Leichhardt Local Environmental Plan 2013* (as amended) (LEP) but is within the Leichhardt Street/ Stanley Street Heritage Conservation Area (C11).

The property is in the vicinity of a heritage item:

REF	ADDRESS	ITEM	RANKING
I657	90 Hill Street	Former corner shop and residence, including interiors.	Local

The heritage provisions in the LEP relating to development in a conservation area and in the vicinity of a heritage item would apply.

Development would also be the subject of Council's *Leichhardt Development Control Plan 2013* (DCP) that contains detailed heritage objectives and controls for development in conservation areas<sup>13</sup>.

<sup>13</sup> The Council was recently amalgamated and the Leichhardt controls will apply until new controls are gazetted

26 MACKENZIE STREET, LEICHHARDT

HERITAGE IMPACT STATEMENT



Figure 4.1 Leichhardt Local Environmental Plan 2013 – Heritage Map HER\_005

Source: Inner West Council

## 5.0 DISCUSSION OF SIGNIFICANCE

### 5.1 HISTORIC SIGNIFICANCE

#### 5.1.1 Historical Development

The site has an interesting development history though the current building dates from the 1990s when the former warehouse/factory the site was redeveloped for the current building.

Prior to this the site was developed for a garage/warehouse in the 1930s that replaced an earlier dwelling on the site. The earlier building was constructed in the late 1800s possibly for James Window on a much larger site that was subdivided in 1912 to the current allotment.

The site was originally part of the large land grant to Captain John Piper in 1811 that was known as Piperston. The land was later subdivided and sold.

The current building is representative of the modern redevelopment of the area and replaced earlier commercial buildings.

#### 5.1.2 Historical Associations

The place has no historical associations of note.

### 5.2 AESTHETIC SIGNIFICANCE

The building is a nondescript example of a single storey, late Twentieth Century warehouse/office with no features of note.

### 5.3 SOCIAL SIGNIFICANCE

The place is unlikely to have special associations with any particular group.

### 5.4 TECHNICAL/SCIENTIFIC SIGNIFICANCE

There were previous buildings on the site (including a garage/warehouse and a single storey cottage) but the scale of the later development would likely preclude their being any underground remains. The place has no known archaeological potential and the property is of no technical merit.

### 5.5 SUMMARY

Based on the above we consider that the property would not meet any of the Heritage Division criteria for identification as a place of local significance and could not be considered to be contributory element in the conservation area.

## 6.0 THE CURRENT PROPOSALS

### 6.1 CURRENT PROPOSALS

The current owners would like to alter the building to allow its conversion to a residence. The proposals are shown in Drawings Nos. 2015 DA 00 to DA 14 dated March 2021 and prepared by Welsh + Major Architects.

The proposals include:

#### 6.1.1 Ground Floor

- Demolition of internal walls and fittings
- Demolition of stair
- Internal reconfiguration and linings
- Infill of the front door opening
- New glazing to the front
- Replacement of the side panel brickwork with double height, operable glazing
- New windows to the north
- New stair

The internal ground floor will be raised to address flooding issues with internal steps. The new glazing to the south is inset from the external wall and has stores each side set into the wall plane. The entry area has a double height void and the window to the mezzanine is set in an angled projection.

The roller shutter doors to the front will be replaced with new doors with highlight glazing above. The windows each side of the current entry door will be replaced with screened windows connecting spandrels. The current entry door will be infilled.

The rear wall will remain blank.

#### 6.1.2 Mezzanine Floor

- New floor level
- New bedrooms and bathrooms
- New mezzanine garden
- New openings to the south
- Reconfiguration of the roof
- New solar panels
- New opening to the mezzanine garden

The roof will be raised slightly over the new accommodation to the upper floor to form north-facing highlights with the current parapet walls and eaves retained. The side windows are vertically proportioned, set above head height and are V shaped with splayed reveals.

#### 6.1.3 External works

- New landscaped garden to front
- Replacement of the drive with landscaping

## 7.0 IMPACT OF THE PROPOSED DEVELOPMENT

### 7.1 GENERALLY

26 Mackenzie Street is a nondescript, late Twentieth Century office/warehouse that is of no heritage significance. It replaced a former warehouse on the site that in turn replaced a late Victorian house but no evidence of these former structures remains.

The proposed works are largely internal and will convert the building to a single residence with some improvements to the front façade and the setting of the building.

### 7.2 USE

The area is largely residential and the current use of the site dates from the Inter War years when the former dwelling on the site was demolished to make way for a garage/warehouse. A commercial use is a little anachronistic in this area that is largely residential and the proposed use for a high quality residence will provide for a better fit into the local area and reflects the original use of the site. The retention of the external walls will signal the current use.

### 7.3 DEMOLITIONS

The current structure is of no significance and has no features of note. Complete demolition would not be out of the question but the proposals will retain the existing walls and partly remove the roof structure to allow for highlights and balconies within the building footprint.

The building has no significant fabric and the level of demolition is limited largely to the current internal walls and the retention of the external walls will signal the former use.

Other demolitions relate to new openings to connect the house to the south garden and provide new doors and windows. The building is very robust and the works retain a strong balance of solid over void.

### 7.4 ALTERATIONS

The interior will be reconfigured to allow for the new use with a largely open plan at the ground floor with a cellular arrangement to the upper floor with connecting voids.

The current openings to the street will be replaced with new glazing and new windows. The proposals maintain an entry point to the street. There are new openings to the south where a side garden is proposed with major opening being in glazed, sliding panels inset into the façade with fabric. The treatment to the glazing will be contemporary but retains a strong balance of solid over void with the operable screens being solid. The other elements to this side will be largely solid.

There are small openings to the north elevation but these are vertically proportioned and high set and are minor changes to the façade.

The works to the front elevation will improve its presentation to the street and signal the change of use. This will be amplified by the introduction of garden to the front improving the local streetscape and softening what is quite a hard-edged building.

Part of the space will be opened to the sky by the removal of the roof to the southeast corner to provide for a mezzanine garden with internal windows to allow light to the first floor bedrooms.

Part of roof to the north will be raised slightly over the first floor rooms to allow for highlights but the highlights are low set. The building has parapet to the street and the change to the roof is not extensive, is low set and will not be highly visible from the front. The majority of the roof will remain is.

Considering the low significance of the building, we consider that the works are largely neutral as they will retain the current form of the building but will improve its presentation to the street and the surrounding conservation area.

#### 7.5 EXTERNAL WORKS

The front and side hardstands will be replaced with garden that will significantly improve the presentation of the building to the street and allow a good level amenity to the development. It will also improve the rather poor presentation of the building to the street and surrounding conservation area.

#### 7.6 LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013

##### 7.6.1 Impact on the Conservation Area

The property is within the Leichhardt Street/ Stanley Street Heritage Conservation Area (C11) but the current building is relatively modern and makes no contribution to the area. The listing sheet for the area (SHI 5063209) contains no information and no statement of significance.

The primary form of the building will be retained and the front elevation will be improved by the replacement of the utilitarian detail to the openings. Otherwise the works are largely internal. Only small openings are proposed to the north elevation fronting the park and the works will have little impact on the presentation of the building. The modern, wall mural will be retained.

We consider that the proposal will have a limited and acceptable impact on the conservation area.

##### 7.6.2 Impact on Heritage Items in The Vicinity

There is a heritage item at 90 Hill Street, a two storey, late Victorian shop/residence. The listing sheet for the property (SHI 1940684) contains a statement of significance:

*No. 90 Hill Street is of local historic and aesthetic significance as a representative example of a late Victorian period former corner shop and residence constructed sometime between c. 1860s and 1888. Despite replacement of fabric, alterations and additions the building retains its overall form and character, particularly rendered and painted brick facades, splayed corner, main hipped roof form and chimney, skillion roofed two storey rear wing ground floor shopfront openings and associated timber surround, and pattern of openings including splayed shop and separate residence ground floor entries. The building occupies a corner site and is a prominent feature of this section of Hill Street*

The subject site is some way from the item and has no historical connection to it. It has no visual relationship to the item being set well to the south of the item with intervening development between. The proposals largely retain the current form of the warehouse and the changes are mainly internal.

We consider that the proposals will have no impact on the setting or significance of the item.

26 MACKENZIE STREET, LEICHHARDT

HERITAGE IMPACT STATEMENT

## 7.7 LEICHHARDT DEVELOPMENT CONTROL PLAN 2013 (DCP)

Controls for development in conservation areas are shown in Section C1.3 and C1.4 of the DCP and the proposals are assessed against the relevant controls below.

	Objective/Control	Comment
	General	
C1.3	Alterations and Additions	
C6	The overall form of alterations and additions shall	
(a)	have regard to the provisions within Appendix B – Building Typologies of this Development Control Plan	The building was constructed in the 1990s and falls outside of the characteristic building period identified in Section 12 of Appendix B (1880s – 1930s)
		The proposals retains the whole of the external walls with changes to the fenestration and roof in the manner of Design Approach No. 1
(b)	be compatible with the scale, form and material of the existing dwelling and adjoining dwellings, including wall height and roof form	The wall heights will be retained
(c)	retain any building and streetscape consistencies which add positively to the character of the neighbourhood (e.g. architectural details, continuous rows of dwellings, groups of similar dwellings, or the like)	N/A
(d)	maintain the integrity of the streetscape and heritage significance; and	Complies. The streetscape presentation will be improved
(e)	be considered from all public vantage points from which the additions will be visible; and	Complies
(f)	achieve the objectives and controls for the applicable desired future character	Complies
C5	New materials and fenestrations of alterations and additions shall be compatible with the existing building	Complies
C11	Alterations and additions above ground floor level	
(a)	comply with the appropriate provisions within Appendix B – Building Typologies of this Development Control Plan	See above
(b)	maintain setback patterns within surrounding development	Complies. The changes are largely within the existing envelope
(c)	be subordinate to the existing building so that the additions do not dominate the building from the public domain	Complies. The changes are largely within the existing envelope.
	Roof forms for alterations and additions	
C15	Appropriate roof forms for rear additions depend on the context of the site, and may include	The highlight roof to the first floor retains the majority of the roof as is
C1.4	Heritage Conservation Areas and Heritage Items	
C1	Development maintains the characteristics and is consistent with the objectives and controls for the relevant building type contained in Appendix B – Building Typologies of this Development Control Plan.	See above
C2	The fabric of an existing building is to be the subject of appropriate conservation practices including:	The building is of no significance and has no significant fabric
(d)	retention of the original cladding material of original roofs where viable	The roof cladding is modern

JOHN OULTRAM HERITAGE &amp; DESIGN

20

26 MACKENZIE STREET, LEICHHARDT

HERITAGE IMPACT STATEMENT

	Objective/Control	Comment
	<i>Roof forms and materials</i>	
C6	<i>Within Heritage Conservation Areas, whole roof forms should be retained where possible and roofs of additions should be subservient to the main roof (in scale, form, location &amp; materials). Changes to the form of the existing roof or extension of the ridge cannot be supported</i>	The building is of no significance and has no significant fabric. The proposed changes to the roof are not highly visible from the street

#### 7.7.1 Piperston Distinctive Neighbourhood

Controls for specific areas and precincts are contained in Section C2.2 of the DCP. The subject property is in the Piperston Distinctive Neighbourhood in Section C2.2.3.3 of the DCP. The DCP notes the significant character of the area:

*...the predominant scale and character of dwellings in this precinct, consisting of mostly single storey Victorian and Federation-style dwellings, with more significant development in appropriate areas.*

The subject building is from the 1990s and makes no contribution to the conservation area.

C2.2.3.3	<i>Piperston Distinctive Neighbourhood</i>	
C1	<i>Maintain the character of the area by keeping development complementary in architectural style, form and material.</i>	The form and detail of the current building will be largely retained with the fenestration changes signalling the new use
C2	<i>Maintain and enhance the scale and character of existing dwellings, consisting of mostly single storey Federation-style dwellings and two storey Victorian terraces</i>	Complies. The scale of the building will be maintained
C9	<i>Preserve the consistency of the subdivision pattern in this area</i>	Complies. There is no change to the lot boundaries
C15	<i>Neighbourhood shops or buildings originally designed for non-residential use may have a maximum building wall height of 7.2m to incorporate a parapet</i>	Complies

We consider that the proposal meets the heritage objectives and controls in the DCP.

26 MACKENZIE STREET, LEICHHARDT

HERITAGE IMPACT STATEMENT

## 8.0 SUMMARY

### 8.1 SUMMARY

Overall the proposals are a well-considered approach to upgrading and adaptively converting to residential use a very modest, 1990s warehouse. The works are largely internal and retain the overall form of the building with changes to the fenestration to improve the presentation of the building to the street and signal the proposed change of use.

The proposals will improve the presentation of the property to the street and its contribution to the conservation area. The proposals will have no impact on the setting or significance of the heritage item in the vicinity and are in accordance with the heritage objectives and controls in the DCP.

In heritage terms, we would recommend that the proposals be approved.



JOHN OULTRAM

26 MACKENZIE STREET, LEICHHARDT

HERITAGE IMPACT STATEMENT

**9.0 APPENDIX – OWNERS 1899-1970S**

Auto Folio 1/114234 (Source: Land and Property Information)

Year	Owner
1811	17th October CROWN GRANT Parish of Petersham 165 acres John Piper
Prior titles not searched	
1890	2nd January CERTIFICATE OF TITLE Vol. 954 Fol. 30 1 perch 24 & 1/2 roods George Window, Leichhardt, labourer
1899	27th April Dealing 9579 Transfer James Jesse Window Elizabeth James, wife of Peter James Emily James, wife of John James
Not dated	Dealing 26851 Transfer of part William Richard Ainsworth
1912	28th May CERTIFICATE OF TITLE Vol. 2257 Fol. 53 10 perches William Richard Ainsworth, Leichhardt, estate agent
1914	1st September Dealing A130874 Transfer Sidney George Pearse, Leichhardt, marine storekeeper
1916	20th January Dealing A225900 Lease John Kenney Savage, Leichhardt, carterer
1920	31st December Dealing A657698 Transfer Malcolm McKinnon, Leichhardt, box manufacturer
1921	19th May Dealing A745791 Transfer Charles Ashworth Spreat, Sydney, importer Eva Noeline Nives, Sydney, spinster
1926	3rd November Dealing B429536 Transfer Ray Bevan, Annandale, manufacturer James Gosper Dodimead, Annandale, engineer
1927	28th October Dealing B801509 Transfer Ray Bevan, Stanmore, engineer
1934	27th December Dealing C308658 Transfer Henry May, Leichhardt, garage proprietor Henry May (junior), Leichhardt, garage proprietor
1955	23rd September CERTIFICATE OF TITLE Vol. 7027 Fol. 205 10 perches Henry May, Leichhardt, garage proprietor Richard May, Leichhardt, garage proprietor

26 MACKENZIE STREET, LEICHHARDT

HERITAGE IMPACT STATEMENT

Year	Owner
1955	28th September Dealing G342229 Notice of Death of Henry May
1960	29th April Dealing H412044 Transfer Evelyn May, Five Dock, widow
1961	10th February Dealing H726956 Transfer Keith Newland, Leichhardt, garage proprietor
1962	1st June Dealing J94266 Lease Sterling Plastics Pty Ltd
1967	2nd June Dealing K768597 Lease Sterling Plastics Pty Ltd
1972	16th November Dealing M581648 Transfer Creinasco Concrete Pty Ltd
1972	5th October Dealing M951141 Transfer Brian Baker, Miranda, sheet metal worker Warren Baker, Miranda, electrician
1973	5th December Dealing N617847 Transfer Vincent Frederick Dowling, Leichhardt, signwriter, and wife Georgina
	Auto Folio 1/114234 not searched