

 DEVELOPMENT ASSESSMENT REPORT	
Application No.	MOD/2021/0329
Address	13 Jane Street BALMAIN NSW 2041
Proposal	Application under Section 4.55(2) of the Environmental Planning and Assessment Act 1979 to modify Determination No D/2018/535 which approved alterations and additions to a heritage listed dwelling-house and associated works, including new pool, now seeking various internal and external changes, including modifications to approved ground floor extension and rear cabana/outhouse, and new carport accessed via an easement across No. 11 Jane Street
Date of Lodgement	13 August 2021
Applicant	Brook Lane Property Group Pty Ltd
Owner	Ms Justine A McCarthy Mr Jason P Ockerby
Number of Submissions	Initial: 1
Value of works	\$1,079,500.00
Reason for determination at Planning Panel	Works to Heritage Item
Main Issues	Demolition of significant heritage fabric Overshadowing
Recommendation	Approval, subject to conditions
Attachment A	Recommended conditions of consent
Attachment B	Recommended conditions in the event the carport is approved as proposed.
Attachment C	Plans of proposed development
Attachment D	Statement of Heritage Significance
Attachment E	DA Conditions of consent
 <p>Figure 1: Locality Map</p>	
Subject Site 	Objectors   N
Notified Area 	Supporters 

1. Executive Summary

This report is an assessment of the application submitted to Council for Section 4.55(2) of the Environmental Planning and Assessment Act 1979 to modify Determination No D/2018/535, which approved alterations and addition to heritage listed dwelling-house and associated works, including new pool, seeking various internal and external changes, including modifications to approved ground floor extension and rear cabana/outhouse, and new carport accessed via an easement across No. 11 Jane Street at 13 Jane Street BALMAIN NSW 2041.

The application was notified to surrounding properties and 1 submission was received in response to notification.

The main issues that have arisen from the application include:

- Demolition of significant heritage fabric; and
- Overshadowing of neighbouring properties.

These issues, subject to recommended conditions, are acceptable given that the proposal will not result in adverse amenity impacts to surrounding properties and no adverse impacts to the significance of the heritage item.

2. Proposal

- Modifications to approved ground floor extension;
- Partial removal of existing outhouse wall for new kitchen;
- Modification to cabana/outhouse building;
- New covered carport at the rear accessed via a right of way via No. 11 Jane Street;
- Opening to existing internal wall for ground floor bedroom plus internal reconfiguration of ensuite and laundry;
- New opening to internal wall between ground floor living and dining room;
- Modifications to rear garden external works;
- Deletion of skylight to Level 1 bathroom; and
- Reinstatement of early cornicing and ceiling rose detail to ground floor living and dining rooms.

3. Site Description

The subject site is located on the western side of Jane Street, between Gladstone Street and Bradford Street. The site consists of one allotment and is generally rectangular in shape with a total area of 561.8sqm and is legally described as Lot 1 in DP 64178.

The site has a frontage to Jane Street of 11.67 metres. The subject site contains a Victorian Filigree semi-detached terrace dwelling. Jane Street is primarily residential with terrace housing. St Augustine's Church and Father John Therry Catholic Primary School is situated on the western side of Jane Street.

The pair of semi-detached terraces (11 and 13 Jane Street) were constructed in 1881, in the Victorian Filigree architectural style. The pair are almost identical with a medium pitched narrow eave hipped slate tiled roof with terracotta ridging.

The site is zoned R1 General Residential, is located within The Balmain East Heritage Conservation Area and contains a local heritage item known as 'Cairngorm' under the provisions of the *Leichhardt Local Environmental Plan 2013*.



Figure 2: Zoning Map

4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site.

Application	Proposal	Decision & Date
BA/1994/771	Alterations and additions	Approved 17/10/1995
T/2000/357	Removal of 1 x Jacaranda Tree at the front of the property.	Approved 27/10/2000
BC/2015/11	Building Certificate - Sale of Property	Approved 06/03/2015
D/2018/535	Part demolition and alterations and single storey addition to the rear of the existing heritage listed dwelling-house and associated works, including new pool in the rear garden, removal of trees and new fencing.	Approved 07/05/2019

4(b) Application history

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

Date	Discussion / Letter / Additional Information
09/11/2021	Council contacted the applicant, raising the following matters: <ul style="list-style-type: none"> Plans/swept paths analysis showing that the dimensions of the

	<p>easement/right of way over No. 11 Jane Street are not sufficient to access the proposed carport.</p> <ul style="list-style-type: none"> • Insufficient information provided to gain support for the proposed opening between the living and dining room. • Insufficient shadow diagrams. • Inadequate consent from the owners of No. 11 Jane Street.
17/09/2021	Council met with the applicant, architect and owner of No. 13 Jane Street to discuss the above-mentioned issues.
30/11/2021 and 10/12/2021	The applicant submitted additional information in response to the issues raised by Council.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 and 4.55 of the *Environmental Planning and Assessment Act 1979*.

5(a) Section 4.55 Modification Provisions

Under Section 4.55 (2) of the *Environmental Planning and Assessment Act, 1979* (The Act), the consent authority, when considering a request to modify a Determination must:

- Be satisfied that the development as modified is substantially the same development as the development for which consent was originally granted
- Consult with any relevant authority or approval body
- Notify the application in accordance with the regulations
- Consider any submissions made
- Take into consideration the matters referred to in Section 4.15 that are relevant to the development the subject of the modification application.

The development being modified is substantially the same development as the development for which consent was originally granted. No authorities or bodies were required to be consulted. The application was notified in accordance with the regulations and Council's notification policy. Submissions received during the notification and the relevant considerations under section 4.15 of The Act have been taken into consideration in the body of this report.

5(b) 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. LDCP 2013 provides controls and

guidelines for remediation works. *SEPP 55* requires the consent authority to be satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent. The site has not been used in the past for activities, which could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with *SEPP 55*.

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

No change to approved commitments proposed.

5(a)(iii) 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 modified proposal will require the removal of vegetation including a *Persea americana* (Avocado) located at the rear of the site where the carport is to be located. This species is on the Trees Minor Works list and, therefore, no objection is raised to its removal.

As such, the proposal is considered acceptable with regard to the Vegetation SEPP and Part C1.14 of the LDCP 2013, subject to the imposition of recommended conditions, which have been included in Attachment A.

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

It is noted that the subject site is not located within the foreshores and waterways area. 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 impact on environmental heritage, the visual environment, the natural environment and open space and recreation facilities.

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

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

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition
- Clause 4.3A – Landscaped areas for residential accommodation in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 5.10 – Heritage Conservation
- Clause 6.1 – Acid Sulfate Soils
- Clause 6.2 – Earthworks
- Clause 6.4 – Stormwater management
- Clause 6.5 – Limited development on foreshore area

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

The site is zoned LR1 under the *LLEP 2011*. The *LLEP 2013* defines the development as:

dwelling house means a building containing only one dwelling

The development is permitted with consent within the land use table. The development, subject to recommended conditions, is consistent with the objectives of the R1 zone.

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

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

Standard	Proposal	Complies
Floor Space Ratio Maximum permissible: 0.7:1 or 393.26sqm	0.47:1 or 263sqm	Yes
Landscape Area Minimum required: 20% or 112.36sqm	31.38% or 176.3sqm	Yes
Site Coverage Maximum permissible: 60% or 337.26sqm	46.76% or 262.7sqm	Yes

(iii) Clause 2.7 – Demolition

Clause 2.7 of the *LLEP 2013* states that the demolition of a building or work may be carried out only with development consent. The application seeks consent for demolition works. Council's standard conditions relating to demolition are already included in the original consent.

(iv) Clause 5.10 – Heritage Conservation

The subject property is listed as a heritage item; *Terrace and front fence, "Cairngorm", including interiors*, in Schedule 5 of the *LLEP 2013* (I252). It is a pair with the terrace at 11 Jane Street, which is also listed as a heritage item; *Terrace and front fence, "Rosebank", including interiors* (I251). The site is also located within the Balmain East Heritage Conservation Area (C3 in Schedule 5 of the *LLEP 2013*).

The proposed modifications are generally acceptable from a heritage perspective as most changes have a minimal impact on the heritage significance of "Cairngorm" and its interiors and will not detract from the heritage significance of the Balmain East Heritage Conservation Area, subject to the imposition of a recommended condition, which will ensure that the development is in accordance with this clause and the objectives and controls of the Leichhardt Development Control Plan 2013. Detailed comments are contained below in Section 5(d) of this report.

(v) Clause 6.1 – Acid Sulfate Soils

The lot is identified as Class 5 acid sulphate soils (ASS) and is within 500 metres of land classified as Class 1 and Class 2 ASS. However, no works are proposed below 5 metres Australian Height Datum and the proposed works are not likely to lower the watertable below 1 metre AHD on the adjacent Class 2 land.

(vi) Clause 6.2 – Earthworks

The proposal will not result in undue amenity impacts to surrounding properties, nor disruption of drainage patterns and Council's Development Engineer raised no concerns. Subject to Council's standard conditions which are already included in the original consent, the proposal is considered satisfactory with regard to this clause.

(vii) Clause 6.4 – Stormwater management

The proposal generally complies with this clause. Council's Development Engineer has assessed the proposal and raised no concerns, subject to conditions, which are included in Attachment A.

5(c) **Draft Environmental Planning Instruments**

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

5(c)(i) **Draft State Environmental Planning Policy (Environment) 2018**

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed modification is consistent with the intended requirements within the Draft Environment SEPP.

5(c)(ii) **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 the Leichhardt Development Control Plan 2013.

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

Part C	
C1.0 General Provisions	Yes, subject to conditions
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	N/A
C1.3 Alterations and additions	No – see discussion
C1.4 Heritage Conservation Areas and Heritage Items	No – see discussion
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	N/A
C1.8 Contamination	Yes
C1.9 Safety by Design	N/A
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	Yes – see discussion
C1.12 Landscaping	Yes – see discussion
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	Yes – see discussion
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	N/A – see discussion
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	No – see discussion
Part C: Place – Section 2 Urban Character	
C2.2.2.3: Gladstone Park Distinctive Neighbourhood	Yes
C2.2.2.3(a) Jane Street Sub Area	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes – see discussion
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	N/A
C3.6 Fences	N/A
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	No – see discussion
C3.10 Views	N/A
C3.11 Visual Privacy	Yes – see discussion
C3.12 Acoustic Privacy	Yes – see discussion
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	N/A
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes

D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	N/A
D2.5 Mixed Use Development	N/A
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Yes
E1.2.4 Stormwater Treatment	Yes
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A
Part F: Food	
	N/A
Part G: Site Specific Controls	
	N/A

The following provides discussion of the relevant issues:

C1.3 Alterations and Additions and C1.4 Heritage Conservation Areas and Heritage Items

The following summarises the comments provided by Council's Heritage Specialist:

Opening between existing living and dining rooms:

- The modification includes a proposed opening between the existing living and dining rooms on the ground floor. This will require demolition of a significant proportion of the wall between the rooms. Figure 9 in the HIS shows evidence of former door opening between the rooms. The 1969 floor plans for "proposed renovations to flats" (BA9189) shows a doorway between the existing living and dining rooms. It is unlikely the original configuration would have contained a doorway between these 2 rooms and the doorway shown in the 1969 plans is likely to date from the use of the dwelling as separate apartments. The proposed opening is not supported as it is excessive and will erode the original building fabric of the main front rooms and is to be deleted from proposed modification to ensure compliance with C2 of C1.4 of the LDCP 2013.

Modification to approved en-suite / laundry:

There are no concerns raised with regard to the approved ensuite and laundry on the ground floor. The modification to the configuration of the approved rooms will not result in any more of a heritage impact than the existing approval.

Demolition of wall between kitchen and proposed living:

The modification proposes to demolish what the HIS describes as “wall nibs” between the kitchen and living room. The original DA approved the relocation of the kitchen to the original location of the detached kitchen. As part of this approval, consent was granted for the existing openings to be maintained and joinery to be replaced with steel reveals, ensuring the retention of the southern wall of the original kitchen.

The kitchen block, and the subject wall, are visible in the 1888 Surveyor General’s map of the site which suggests that the wall is most likely original and dates from 1881 when the item was originally constructed. The proposed demolition of the “wall nibs” between the kitchen and living room is not supported as it is excessive and will erode the original building fabric of the item and should be deleted from proposed modification to ensure compliance with C2 of C1.4 of the LDCP 2013.

A doorway is also proposed between the proposed kitchen and cabana. This opening is not a good heritage outcome as it will erode the original building fabric of the item. A better outcome would be to relocate the proposed swimming pool or alter its shape and relocate the opening to the living room in the rear addition. Given the minor scale of the modification being a doorway, and at the rear of the item, the proposed opening is acceptable in this instance as it will result in a minor impact on the significance of the item.

Relocation of doorway between Master Bedroom and Robe:

It is proposed to relocate the approved doorway between Master Bedroom and Robe to accommodate a wardrobe to the north of the opening. This is generally acceptable as the 1969 plans show that the wall has been bricked up, where the opening is proposed. Therefore, this portion of the item has already been altered from its original.

Reinstate cornices and ceiling rose to dining room:

It is proposed to reinstate cornices and a ceiling rose to the dining room to match that in the living room. There are no concerns with this component as it is evident that the existing ceiling and cornices are not original and have been replaced.

Deletion of skylight over approved bathroom:

It is proposed to delete the skylight over the approved bathroom on level 1. This is a positive outcome as it will result in the retention of the original main roof form and the associated slate roof tiles.

Conversion of Storage and Pool Pump:

The modification proposes to convert the approved storage area and pool pump to a cabana. There are no concerns with this modification as it is associated with approved amendments to the 1994 approved rear wing addition (BA/1994/771).

Carport:

A carport is proposed in the rear garden, to the west of the proposed cabana. Vehicular access is proposed via a right of carriageway over No. 11. A storage area, pool pump and rainwater and OSD tank are proposed under the carport. The height of the carport is

proposed to be RL37.6. The height of the dining room addition is RL38.49, the kitchen is RL38.49 and RL36.45 for the proposed cabana.

The form of the proposed carport and off form concrete material is contemporary. This is generally acceptable because of the location of the carport to the rear of the site. This will ensure that views of both the heritage item and the carport from the public domain are limited, e.g., from Bradford Lane only.

It appears from the 1888 Surveyor General's map of the site that the original W.C. was located towards the rear of the site, in a similar location to the proposed carport. It is recommended that modified conditions of consent include a condition in respect to Historic Archaeology – Unexpected Findings, should unexpected archaeological deposits be found during the works that work must cease in the affected area(s) and the Office of Environment & Heritage must be notified.

The existing sandstone pillars either side of the existing entry from Bradford Lane are not original. The 1888 Surveyor General's Map of the site only shows a fence to the rear boundary, but does not include any solid structures, such as the sandstone retaining wall to the front of the property.

Recommendation

The proposed modification is generally acceptable from a heritage perspective as it will have a minimal impact on the heritage significance of "Cairngorm" and its interiors and will not detract from the heritage significance of the Balmain East Heritage Conservation Area, subject to the design changes and conditions outlined above and included in Attachment A, to ensure the development is in accordance with Clause 5.10 Objectives 1(a) and (b) in the *LLEP 2013* and the relevant objectives and controls in the *LDCP 2013*.

C1.11 Parking

The carport is located at the rear of the site and accesses, via the right of way over No. 11 Jane Street, from the laneway at the rear. Swept path diagrams have been provided and Council's Development Engineer has raised no objections, subject to recommended conditions, which have been included in Attachment A.

C1.14 Landscaping and C1.14 Tree Management

As outlined above, the removal of vegetation, including a *Persea americana* (Avocado), is supported by Council's Arborist noting that no replacement planting will be required as the DA consent requires four (4) native trees that will attain a height of 8m to be planted.

The proposal complies with the minimum required landscaped area development standard and the landscaped areas are adequate to support existing and new canopy trees.

C1.18 Laneways

Whilst the carport is accessed via the laneway at the rear, the subject site does not abut the laneway and no works are proposed adjacent to the laneway.

C1.21 Green Roofs and Green Living Walls

A maintenance report and structural details regarding the green roof/planter on the carport have not been provided. Whilst this could be readily addressed via conditions of consent, as

outlined below under Solar Access considerations under C3.9 of LDCP 2013 in this report, it is recommended to delete the proposed green roof via condition.

C3.2 Site Layout and Building Design

No change proposed with regard to the approved building location zone and no change proposed with regard to the building envelope.

It is proposed to increase the brick wall height of the cabana along the southern boundary, which has a nil setback, to 3 metres. Pursuant to C7, a setback of 0.1 metres is prescribed. However, the proposed wall height is considered acceptable as it satisfies the requirements for a variation with the prescribed side boundary setbacks of C8 for the following reasons:

- The proposed modifications are not contrary to the Building Typology Statements of Appendix B of the LDCP 2013;
- The proposal merely seeks to increase the height of the approved wall by approximately 560mm. As such, the pattern of development will not be compromised;
- The additional wall height will not result in undue bulk and scale impacts to No. 11 Jane Street as the additional height is minor.
- This part of the proposal will not result in adverse amenity impacts to adjoining properties, in terms of sunlight and privacy and the additional bulk and scale is minor.
- Access arrangements are retained for necessary maintenance of adjoining properties.

C3.9 Solar Access

The following solar access controls apply with regard to solar access to neighbouring dwellings private open space:

- C17 Where surrounding dwellings have north facing private open space, ensure solar access is retained for three hours between 9am and 3pm to 50% of the total area during the winter solstice.
- C19 Where surrounding dwellings currently receive less than the required amount of solar access to their private open space between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.

The shadow diagrams submitted by the applicant depict that the proposed carport will result in additional overshadowing of the private open space at No. 3, 5 and 7 Bradford Street, which, currently, do not receive the required amount of solar access. Whilst some of the additional shadows cast onto the private open space at No. 3 and/or No. 5 Bradford Street may fall within shadows cast by fencing between No. 3 and No. 5 Bradford Street, given that the shadow diagrams do not depict the boundary and boundary fencing between these two properties, this could not be established.

Given the above, the proposed development does not comply with C19 as solar access to neighbouring private open space is further reduced.

Pursuant to the reasonability assessment regarding solar access of the LDCP 2013 and the Planning Principle regarding sunlight established in *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082, in certain circumstances, a variation with the solar access controls may be supported. These are assessed in detail below.

- *The reasonableness of the development overall, in terms of compliance with other standards and controls concerned with the control of building bulk and having regard to the general form of surrounding development.*

Comment: The proposed development complies with all development standards. As outlined above, the non-compliance with the prescribed side boundary setback along the southern boundary is considered acceptable as this will not result in undue amenity impacts to neighbouring properties. In particular, it is noted that this wall will not result in additional overshadowing.

- *Site orientation*

Comment: The subject site is oriented east/west whilst the affected properties are oriented north/south. Whilst, generally, it can be difficult in these circumstances to retain all of the existing solar access of adjoining sites, as outlined below, it is considered that there are reasonable alternative design solutions that would eliminate additional overshadowing resulting from the proposed design.

- *The relative levels at which the dwellings are constructed.*

Comment: To enable access to the carport across No. 11 Jane Street, the finished floor level of the carport is approximately one (1) metre above the existing ground level. The carport, given the roof design and roof top garden/planter, has a height between 4.3 and 4.7 metres above ground level (existing). The floor to ceiling height of the carport is 2.6 metres, which exceeds the minimum required by 0.4 metres.

- *The degree of skill employed in the design to minimise impact and whether reasonably available alternative design solutions would produce a superior result.*

Comment: The pole and triangular section of the roof that is closest to the shared boundary with No. 7 Bradford Street (Figure 3) is causing the additional shadows onto the private open space at No. 7 Bradford Street. Whilst it is acknowledged that the width of the car parking space at the shared boundary with No. 11 Jane Street is required for vehicle manoeuvrability, it is not considered that the same area is required to be covered.

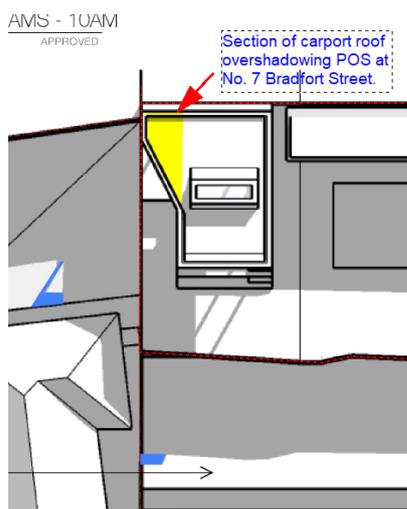


Figure 3: Section of carport roof overshadowing No. 7 Bradford Street.

The additional shadows cast onto the private open space at No. 3 and 5 Bradford Street is caused by the height of the carport, which could be eliminated by reducing the overall height by approximately 500mm. As outlined above, the proposed floor to ceiling height of 2.6 metres is unnecessary. Further, to support the depth of the green roof/planter, the roof of the carport has a thickness of 500mm, which is also considered to be unnecessary. By amending the design to a simple skillion roof without a green roof, the height of the carport can be readily reduced.

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

Comment: The site is located within a low to medium density area. As such, it can be reasonably expected to retain existing solar access of neighbouring private open space.

- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*

Comment: As depicted on the submitted shadow diagrams, the amount of sunlight lost is relatively low, ranging between 0.5sqm at 10am and 2.3sqm at 3pm, and the proposed development will retain the majority of the existing solar access of neighbouring properties' private open space.

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

Comment: The proposal does not satisfy the numerical guidelines for solar access of neighbouring private open space and as outlined previously; it is considered that the additional overshadowing could be readily eliminated by amending the design. The additional shadows are cast by the carport at the rear of the site, with the purpose to provide on-site, covered, parking. Amending the design to reduce the impact on neighbours will not result in additional construction cost and will not reduce the amenity of the subject site.

- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*

Comment: Whilst the private open space of the affected properties is relatively large, the proportion of these currently receiving sunlight is relatively low, significantly below the required 50%. Further, the additional shadows are cast onto areas that directly adjoin living areas.

- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

Comment: As outlined above, the submitted shadow diagrams do not depict all shadows cast by boundary fencing on adjoining sites, i.e., the boundary fencing between No. 3 and No.5 Bradford Street. Shadows cast by vegetation have not been included in the submitted shadow diagrams.

As outlined above, the additional shadows are cast by the roof of the proposed carport. In addition, the proposed green roof/planter, should dense vegetation be planted, could result in additional overshadowing to the already affected properties, which should be considered.

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.*

Comment: Based on the existing development and estimated site coverage of the affected properties, it is considered that the proposal would have a similar impact to neighbouring private open space should these properties be developed in the future.

The following solar access controls apply with regard to solar access to neighbouring glazing:

- C13 Where the surrounding allotments are orientated north/south and the dwelling has north facing glazing serving the main living room, ensure a minimum of three hours solar access is maintained between 9am and 3pm during the winter solstice.
- C15 Where surrounding dwellings currently receive less than the required amount of solar access to the main living room between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.

Based on the submitted shadow diagrams, it could not be established whether the proposal would result in additional shadows cast onto north facing glazing serving main living rooms on adjoining sites. However, given the above concerns regarding solar access of neighbouring private open space, it is recommended to amend the design of the carport, via condition, as outlined below. This would eliminate any additional overshadowing to neighbouring properties. With regard to the solar panels, it is noted that the location and height does not result in additional overshadowing of neighbouring private open space.

Recommended design change condition:

- The carport must be amended as follows:
 - The roof must be set back from the western boundary by, at least, 1.8 metres for the entire length.
 - The roof planter/green roof and splayed skylight must be deleted.
 - The overall height must be reduced by at least 500mm, the ridge, at any point, must not be higher than RL37.1.
 - The roof must be amended to a skillion roof form, either sloping down from north to south, or from east to west.

Notes:

- Solar panels that are not required to be deleted/removed to comply with this condition can be retained or deleted.

- The location, maximum height/RL and angle of the solar panels, as shown on the approved plans, must not be altered.

C3.11 Visual Privacy & C3.12 Acoustic Privacy

No new openings are proposed, and no change is proposed to the approved levels of private open space nor living areas. Whilst the finished floor level of the carport at the rear is approximately one (1) metre above the existing ground level, given the increase in height of the boundary wall at the rear, there will be no undue visual privacy impacts from this part of the proposed development. As such, the proposed modifications will not result in additional overlooking opportunities that are contrary to the controls of this part.

The proposed carport is not located adjacent to neighbouring bedroom windows and the development, as proposed to be modified, will not result in undue acoustic privacy impacts, subject to Council's standard conditions imposed on the DA consent, which will remain in place.

5(e) The Likely Impacts

The assessment of the 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 the Community Engagement Framework for a period of 14 days to surrounding properties.

One (1) submission from No. 9 Jane Street was received in response to the notification. It is noted that No. 9 Jane Street also has an easement over No. 11 Jane Street for vehicular access and parking. Whilst the submission, in principle, outlines that no objection is raised with regard to the built form of the proposed development, the following was requested in the submission:

- Conditions of consent to be imposed requiring that that:
 - The easement is kept clear of vehicles during construction and on-going use.
 - No building materials are kept on the easement.
 - That a dilapidation survey be undertaken prior to commencement on the electric gate, the cobblestones over the easement, the carport constructed on 11 Jane Street and the cross over between Bradford Lane and 11 Jane Street and any damage is rectified prior to the issue of an occupancy certificate.

Comments:

- The easement to access No. 13 Jane Street over No. 11 Jane Street is for vehicular access only. The easement does include that it can be used for parking. Other usage of the easement, including parking, is not a matter that can be considered under this application; it is a civil matter.

- Council's standard condition regarding storage of building materials has been imposed on the DA consent, which will remain in force. This condition requires that "Building materials and machinery are to be located wholly on site unless separate consent (Standing Plant Permit) is obtained from Council/ the roads authority". As such, a modified consent would not permit the storage of building materials on the easement.
- The requirement to prepare a dilapidation report of the dwelling house at No. 11 Jane Street was imposed on the DA consent. It is recommended to include the gate, driveway and carport at No. 11 Jane Street in this condition.

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.

- Heritage: Conditions provided
- Development Engineering: Conditions provided
- Urban Forest

6(b) External

N/A

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions/7.12 levies are not payable for the proposal. A condition requiring the payment of Section 7.12 levies was imposed on the DA consent.

8. Conclusion

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

That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to S4.55(2) of the *Environmental Planning and Assessment Act*

1979, grant consent to Modification Application No. MOD/2021/0329 to carry out various internal and external changes, including modifications to the approved ground floor extension and rear cabana/outhouse, and new carport accessed via an easement across No. 11 Jane Street at 13 Jane Street, Balmain, subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

Attachment A – Recommended modifications to conditions of consent

That the application under Section 4.55 of the *Environmental Planning and Assessment Act 1979* to modify Determination No. D/2018/535 be APPROVED and a modified Determination be issued with the following conditions being modified or added as follows:

1. Development must be carried out in accordance with Development Application No. D/2018/535 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
02-04B, Revision B – Site Plan	Studio Prineas	12/3/19
1051 Issue A – Site Analysis	David Mitchell Architects	12/07/2021
02-04B, Revision B – Ground Floor Plan	Studio Prineas	12/3/19
02-05B, Revision B – First Floor Plan	Studio Prineas	12/3/19
1101 Issue A – Ground Level Plan	David Mitchell Architects	12/07/2021
1102 Issue A – Ground Level Plan	David Mitchell Architects	12/07/2021
1103 Issue A – Level 1 Plan	David Mitchell Architects	12/07/2021
1104 Issue A – Level 1 Plan	David Mitchell Architects	12/07/2021
1105 Issue A – Level 1 Plan	David Mitchell Architects	12/07/2021
1201 Issue A – Section A	David Mitchell Architects	12/07/2021
1202 Issue A – Section A	David Mitchell Architects	12/07/2021
1203 Issue A – Section C	David Mitchell Architects	12/07/2021
1204 Issue A – Section D	David Mitchell Architects	12/07/2021
1301 Issue A – North Elevation	David Mitchell Architects	12/07/2021
1302 Issue A – North Elevation – Part	David Mitchell Architects	12/07/2021
1303 Issue A – South Elevation	David Mitchell Architects	12/07/2021
1304 Issue A – South Elevation - Part	David Mitchell Architects	12/07/2021
1306 Issue A – West Elevation	David Mitchell Architects	12/07/2021
02-06B, Revision C – South Elevation	Studio Prineas	12/3/19
02-07B, Revision B – West Elevation	Studio Prineas	12/3/19

02-10B, Revision B – Section A	Studio Prineas	12/3/19
02-11B, Revision B – Section B	Studio Prineas	12/3/19
02-12– Schedule of Materials & Finishes	Studio Prineas	18/09/2018
04-14A, Revision A – Sandstone Mapping	Studio Prineas	12/3/19
04-16 – Timber Paling Fence Details	Studio Prineas	25/02/2019
04-17 – Timber Balustrade Details	Studio Prineas	25/02/2019
06-01A – Revision A – Main Bathroom – Floorplan	Studio Prineas	12/3/19
06-02A - Revision A – Main Bathroom – Elevations 1	Studio Prineas	12/3/19
06-03A - Revision A – Main Bathroom – Elevations 2	Studio Prineas	12/3/19
06-04 - Revision A – Main Bathroom – Elevations 3	Studio Prineas	12/3/19
06-05A - Revision A – Main Bathroom – Elevations 4	Studio Prineas	12/3/19
06-06A - Revision A – Main Bathroom – Elevations 5	Studio Prineas	12/3/19
Document Title	Prepared By	Dated
Preliminary Geotechnical Investigation	assetgeo	31 January 2019
Arboricultural Impact assessment	Arboreport	23/08/18
Stormwater Plans	Prepared By	Dated
Drawing No. 91402/D1 Issue C - Stormwater Drainage Concept Plans	KNEE BONE & BRETТА Consulting	7 September 2018 19/07/2021
BASIX Certificate No. A323572	Efficient Living Ply Ltd	26 July 2018

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

Where there is an inconsistency between approved elevations and floor plan, the elevation shall prevail.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

The existing elements (walls, floors etc) shown to be retained on the approved plans shall not be removed, altered or rebuilt without prior consent of the consent authority.

Note: Carrying out of works contrary to the above plans and/ or conditions may invalidate this consent; result in orders, on the spot fines or legal proceedings.

(Condition amended under MOD/2021/0329 on INSERT DATE)

1A. Design Change

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

- a. That the opening proposed between the existing living and dining rooms on the ground floor has been deleted.
- b. That the proposed demolition of the “wall nibs” between the kitchen and living room has been deleted.
- c. The carport must be amended as follows:
 - i. The roof must be set back from the western boundary by, at least, 1.8 metres for the entire length.
 - ii. The roof planter/green roof and splayed skylight must be deleted.
 - iii. The overall height must be reduced by at least 500mm, the ridge, at any point, must not be higher than RL37.1.
 - iv. The roof must be amended to a skillion roof form, either sloping down from north to south, or from east to west.

Notes:

- Solar panels that are not required to be deleted/removed to comply with this condition can be retained or deleted.
- The location, maximum height/RL and angle of the solar panels, as shown on the approved plans, must not be altered.

(Condition added under MOD/2021/0329 on INSERT DATE)

- 2. Approval is given for the following works to be undertaken to trees on the site:

Tree/location	Approved works
<i>Robinia pseudoacacia</i> (Black Locust)	Front site
<i>Lauris nobilis</i> (Bay Tree)	Rear site
<i>Cupressus sempervirens</i> (Pencil Pine)	Rear site
<i>Persea americana</i> (Avocado)	Rear site

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved.

The approved works shall not be carried out unless this letter, or copy of it, is kept on the site. It shall be shown to any authorised Council Officer upon request.

All tree work shall be undertaken by an experienced Arborist with a minimum qualification of Level 3 under the Australian Qualification Framework (AQF). The work shall be undertaken in accordance with AS4373 – 2007 ‘Pruning of amenity trees’ and in compliance with 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) shall be undertaken by an approved Ausgrid contractor for the management of vegetation conflicting with such services. Please contact Ausgrid for further advice in this regard.

(Condition amended under MOD/2021/0329 on INSERT DATE)

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

7. Amended Stormwater Drainage Concept Plans (SDCP) must be submitted incorporating the following amendments:
- a) Stormwater Drainage Concept Plans (SDCP) on drawing No. 91402/D1 **Issue C** prepared by KNEE BONE & BRETТА Consulting and dated ~~7 September 2018~~ **19/07/2021** must be amended to incorporate On-site Stormwater Detention storage and/or On-site Stormwater Retention/ re-use facilities (OSD/OSR). The design must be amended to make provision for the following:
 - b) Drainage pipers under the floor slab must be laid straight with no bends. Inspection eyes must be provided on the upstream end of the side lines and on the upstream and downstream ends of the main line.
 - c) Drainage pipes must be laid at a minimum grade of 1%. All pipes' diameter and invert levels must be shown on the drainage plans.
 - d) The width and design levels of the overland flow path must be shown on the drainage plans. The overland flow path shall be designed with a minimum width of 500mm at 1% grade.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority's satisfaction prior to the issue of any Construction Certificate.

(Condition amended under MOD/2021/0329 on INSERT DATE)

25A. 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 (CEng) 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:

Plans are required, prepared by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng), demonstrating that the design of the vehicular access and off-street parking facilities comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking and the following specific requirements:

- a) ***The garage slab or driveway must then rise within the property to be 170mm above the adjacent road gutter level;***
- b) ***The longitudinal profile on both sides across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004;***

- c) *Longitudinal sections along each outer edge of the access and parking facilities, extending 3 metres into the Bradford Lane to be provided, demonstrating compliance with the above requirements;*
- d) *The car space must have minimum clear internal dimensions of 5.4m x 2.5m (length x width). The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004;*
- e) *A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors;*
- f) *A plan of the proposed vehicular access via Bradford Lane, drawn at a 1:100 scale, demonstrating that vehicle manoeuvrability for entry and exit to the parking space complies with swept paths from AS/NZS 2890.1:2004. The plan must include any existing on-street parking spaces and any physical obstacles if any;*
- g) *Driveway layback and gutter is to be reconstructed along the Bradford Lane at the rear of 11 and 13 Jane Street Balmain in accordance with Councils standard drawing R4, Vehicular Crossing and Layback. Council's standard drawings can be found via [https://www.innerwest.nsw.gov.au/develop/development-support/workswithin-roads\[1\]or-footpaths/public-domain-works-council-standard-drawings](https://www.innerwest.nsw.gov.au/develop/development-support/workswithin-roads[1]or-footpaths/public-domain-works-council-standard-drawings)*
- h) *Condition "c" above is to be constructed in the following manner and shown on the vehicular longitudinal section plans.*
- i) *The gutter invert is to be located 450mm from the rear property boundary towards Bradford Lane.*
- j) *Top of layback (At property boundary) is to be 110mm higher than the surface of Bradford Lane.*

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

(Condition added under MOD/2021/0329 on INSERT DATE)

25B. 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.

(Condition added under MOD/2021/0329 on INSERT DATE)

PRIOR TO WORKS COMMENCING OR ISSUE OF A CONSTRUCTION CERTIFICATE (WHICHEVER OCCURS FIRST)

- 28. Prior to the commencement of demolition works on the subject site or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee as detailed below must be 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.

Security Deposit (FOOT)	\$2,152.50
	\$2,254.00
Inspection fee (FOOTI)	\$230.65

	\$241.50
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Payment will be accepted in the form of cash, bank cheque or 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 Council to determine the condition of the adjacent road reserve & footpath prior to & 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, Council may carry out any works necessary to repair the damage and/or remove the risk. The cost of these works will be deducted from the security deposit.

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

The amount nominated is only current for the financial year in which the consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

(Condition amended under MOD/2021/0329 on INSERT DATE)

29. A dilapidation report including a photographic survey of the following adjoining properties must be provided to Principal Certifying Authority prior to any demolition or works commencing on the site or the issue of a Construction Certificate (whichever comes first). The dilapidation report must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property	Structures / Area
11 Jane Street	Dwelling House and all other structures and
15 Jane Street	Dwelling House, rock face and sandstone retaining wall
3 Bradford Street	Dwelling House, rock face and sandstone retaining wall
5 Bradford Street	Dwelling House, rock face and sandstone retaining wall

If excavation works are proposed the dilapidation report must report on the visible and structural condition of neighbouring structures within the zone of influence of the excavations. This zone is defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report is to be prepared by a practising Structural Engineer. All costs incurred in achieving compliance with this condition shall be borne by the applicant. A

copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written correspondence from the owners of the affected properties or other evidence must be obtained and submitted to the Principal Certifying Authority in such circumstances that demonstrates such documentation has been received. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

(Condition amended under MOD/2021/0329 on INSERT DATE)

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

65A. 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) Light duty concrete vehicle crossing(s) at the vehicular access location(s);*
- b) Other works subject to the Roads Act 1993 approval.*

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

(Condition added under MOD/2021/0329 on INSERT DATE)

65B. 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.

(Condition added under MOD/2021/0329 on INSERT DATE)

65C. Light Duty Vehicle Crossing

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that a light duty concrete vehicle crossing(s), in accordance with Council's

Standard crossing and footpath specifications and AUS-SPEC#2-“Roadworks Specifications” have been constructed at the vehicular access locations.

(Condition added under MOD/2021/0329 on INSERT DATE)

NOTES

11. 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.

Attachment B – Recommended conditions of consent in the event Panel wishes to approve the carport in its current form

Attachment A – Recommended modifications to conditions of consent

That the application under Section 4.55 of the *Environmental Planning and Assessment Act 1979* to modify Determination No. D/2018/535 be APPROVED and a modified Determination be issued with the following conditions/note being modified or added as follows:

1. Development must be carried out in accordance with Development Application No. D/2018/535 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

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1203 Issue A – Section C	David Mitchell Architects	12/07/2021
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1306 Issue A – West Elevation	David Mitchell Architects	12/07/2021
02-06B, Revision C – South Elevation	Studio Prineas	12/3/19
02-07B, Revision B – West Elevation	Studio Prineas	12/3/19

02-10B, Revision B – Section A	Studio Prineas	12/3/19
02-11B, Revision B – Section B	Studio Prineas	12/3/19
02-12– Schedule of Materials & Finishes	Studio Prineas	18/09/2018
04-14A, Revision A – Sandstone Mapping	Studio Prineas	12/3/19
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06-01A – Revision A – Main Bathroom – Floorplan	Studio Prineas	12/3/19
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06-03A - Revision A – Main Bathroom – Elevations 2	Studio Prineas	12/3/19
06-04 - Revision A – Main Bathroom – Elevations 3	Studio Prineas	12/3/19
06-05A - Revision A – Main Bathroom – Elevations 4	Studio Prineas	12/3/19
06-06A - Revision A – Main Bathroom – Elevations 5	Studio Prineas	12/3/19
Document Title	Prepared By	Dated
Preliminary Geotechnical Investigation	assetgeo	31 January 2019
Arboricultural Impact assessment	Arboreport	23/08/18
Stormwater Plans	Prepared By	Dated
Drawing No. 91402/D1 Issue C - Stormwater Drainage Concept Plans	KNEE BONE & BRETТА Consulting	7 September 2018 19/07/2021
BASIX Certificate No. A323572	Efficient Living Ply Ltd	26 July 2018

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

Where there is an inconsistency between approved elevations and floor plan, the elevation shall prevail.

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The existing elements (walls, floors etc) shown to be retained on the approved plans shall not be removed, altered or rebuilt without prior consent of the consent authority.

Note: Carrying out of works contrary to the above plans and/ or conditions may invalidate this consent; result in orders, on the spot fines or legal proceedings.

(Condition amended under MOD/2021/0329 on INSERT DATE)

1A. Design Change

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

- a. **That the opening proposed between the existing living and dining rooms on the ground floor has been deleted.**
- b. **That the proposed demolition of the “wall nibs” between the kitchen and living room has been deleted.**

(Condition added under MOD/2021/0329 on INSERT DATE)

2. Approval is given for the following works to be undertaken to trees on the site:

Tree/location	Approved works
<i>Robinia pseudoacacia</i> (Black Locust)	Front site
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Removal or pruning of any other tree (that would require consent of Council) on the site is not approved.

The approved works shall not be carried out unless this letter, or copy of it, is kept on the site. It shall be shown to any authorised Council Officer upon request.

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(Condition amended under MOD/2021/0329 on INSERT DATE)

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

7. Amended Stormwater Drainage Concept Plans (SDCP) must be submitted incorporating the following amendments:

- a) Stormwater Drainage Concept Plans (SDCP) on drawing No. 91402/D1 **Issue C** prepared by KNEE BONE & BRETТА Consulting and dated ~~7 September 2018~~ **19/07/2021** must be amended to incorporate On-site Stormwater Detention storage and/or On-site Stormwater Retention/ re-use facilities (OSD/OSR). The design must be amended to make provision for the following:

- b) Drainage pipers under the floor slab must be laid straight with no bends. Inspection eyes must be provided on the upstream end of the side lines and on the upstream and downstream ends of the main line.
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- d) The width and design levels of the overland flow path must be shown on the drainage plans. The overland flow path shall be designed with a minimum width of 500mm at 1% grade.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority's satisfaction prior to the issue of any Construction Certificate.

(Condition amended under MOD/2021/0329 on INSERT DATE)

25A. 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:

Plans are required, prepared 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), demonstrating that the design of the vehicular access and off-street parking facilities comply with Australian Standard AS/NZS 2890.1-2004 Parking Facilities – Off-Street Car Parking and the following specific requirements:

- a) *The garage slab or driveway must then rise within the property to be 170mm above the adjacent road gutter level;*
- b) *The longitudinal profile on both sides across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004;*
- c) *Longitudinal sections along each outer edge of the access and parking facilities, extending 3 metres into the Bradford Lane to be provided, demonstrating compliance with the above requirements;*
- d) *The car space must have minimum clear internal dimensions of 5.4m x 2.5m (length x width). The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004;*
- e) *A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors;*
- f) *A plan of the proposed vehicular access via Bradford Lane, drawn at a 1:100 scale, demonstrating that vehicle manoeuvrability for entry and exit to the*

- parking space complies with swept paths from AS/NZS 2890.1:2004. The plan must include any existing on-street parking spaces and any physical obstacles if any;*
- g) Driveway layback and gutter is to be reconstructed along the Bradford Lane at the rear of 11 and 13 Jane Street Balmain in accordance with Councils standard drawing R4, Vehicular Crossing and Layback. Council's standard drawings can be found via [https://www.innerwest.nsw.gov.au/develop/development-support/workswithin-roads\[1\]or-footpaths/public-domain-works-council-standard-drawings](https://www.innerwest.nsw.gov.au/develop/development-support/workswithin-roads[1]or-footpaths/public-domain-works-council-standard-drawings)*
 - h) Condition "c" above is to be constructed in the following manner and shown on the vehicular longitudinal section plans.*
 - i) The gutter invert is to be located 450mm from the rear property boundary towards Bradford Lane.*
 - j) Top of layback (At property boundary) is to be 110mm higher than the surface of Bradford Lane.*

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

(Condition added under MOD/2021/0329 on INSERT DATE)

25B. 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.

(Condition added under MOD/2021/0329 on INSERT DATE)

25C. Green Roof

Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with evidence from a qualified Structural Engineer and waterproofing specialist that the green roof over the carport at the rear is structurally sound and appropriately waterproofed.

(Condition added under MOD/2021/0329 on INSERT DATE)

25D. Green Roofs, Walls and Facades Report

Prior to the issue of Construction Certificate, the Certifying Authority is to be provided with a report prepared by a registered landscape architect or suitably qualified person demonstrating that the proposed landscape plan and details of any green roofs, wall and facades are consistent with Inner West Councils Green Roof, Walls and Facades Technical Guidelines including but not limited to using species selected from the suggested species list, water proofing and drainage.

PRIOR TO WORKS COMMENCING OR ISSUE OF A CONSTRUCTION CERTIFICATE (WHICHEVER OCCURS FIRST)

28. Prior to the commencement of demolition works on the subject site or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee as detailed below must be 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.

Security Deposit (FOOT)	\$2,152.50
	\$2,254.00
Inspection fee (FOOTI)	\$230.65
	\$241.50

Payment will be accepted in the form of cash, bank cheque or 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 Council to determine the condition of the adjacent road reserve & footpath prior to & 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, Council may carry out any works necessary to repair the damage and/or remove the risk. The cost of these works will be deducted from the security deposit.

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

The amount nominated is only current for the financial year in which the consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

(Condition amended under MOD/2021/0329 on INSERT DATE)

- 29. A dilapidation report including a photographic survey of the following adjoining properties must be provided to Principal Certifying Authority prior to any demolition or works commencing on the site or the issue of a Construction Certificate (whichever comes first). The dilapidation report must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property	Structures / Area
11 Jane Street	Dwelling House and all other structures and
15 Jane Street	Dwelling House, rock face and sandstone retaining wall
3 Bradford Street	Dwelling House, rock face and sandstone retaining wall
5 Bradford Street	Dwelling House, rock face and sandstone retaining wall

If excavation works are proposed the dilapidation report must report on the visible and structural condition of neighbouring structures within the zone of influence of the

excavations. This zone is defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report is to be prepared by a practising Structural Engineer. All costs incurred in achieving compliance with this condition shall be borne by the applicant. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written correspondence from the owners of the affected properties or other evidence must be obtained and submitted to the Principal Certifying Authority in such circumstances that demonstrates such documentation has been received. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

(Condition amended under MOD/2021/0329 on INSERT DATE)

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

65A. 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) Light duty concrete vehicle crossing(s) at the vehicular access location(s);***
- b) Other works subject to the Roads Act 1993 approval.***

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

(Condition added under MOD/2021/0329 on INSERT DATE)

65B. 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.

(Condition added under MOD/2021/0329 on INSERT DATE)

65C. Light Duty Vehicle Crossing

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

(Condition added under MOD/2021/0329 on INSERT DATE)

65D. Verification and Maintenance of Green Roofs, Walls and Facades Works

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority is to be provided with written evidence demonstrating that the works have been carried out in accordance with the Green Roofs, Walls and Facades Report that was submitted at Construction Certificate Stage and a maintenance plan that is consistent with the Inner West Councils Green Roof, Walls and Facades Technical Guidelines.

(Condition added under MOD/2021/0329 on INSERT DATE)

ONGOING CONDITIONS OF CONSENT**71A. Green Roofs, Walls and Facades Establishment**

The plantings within the Green Roofs, Walls and Facades as part of this consent are to be maintained in a healthy and vigorous condition for 12 Months from the issue of an Occupation Certificate. If any of the planting are found faulty, damaged, dying or dead within 12 months of the issue of an Occupation Certificate they must be replaced with the same species within one (1) month (up to 3 occurrences).

(Condition added under MOD/2021/0329 on INSERT DATE)

NOTES**11. 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.

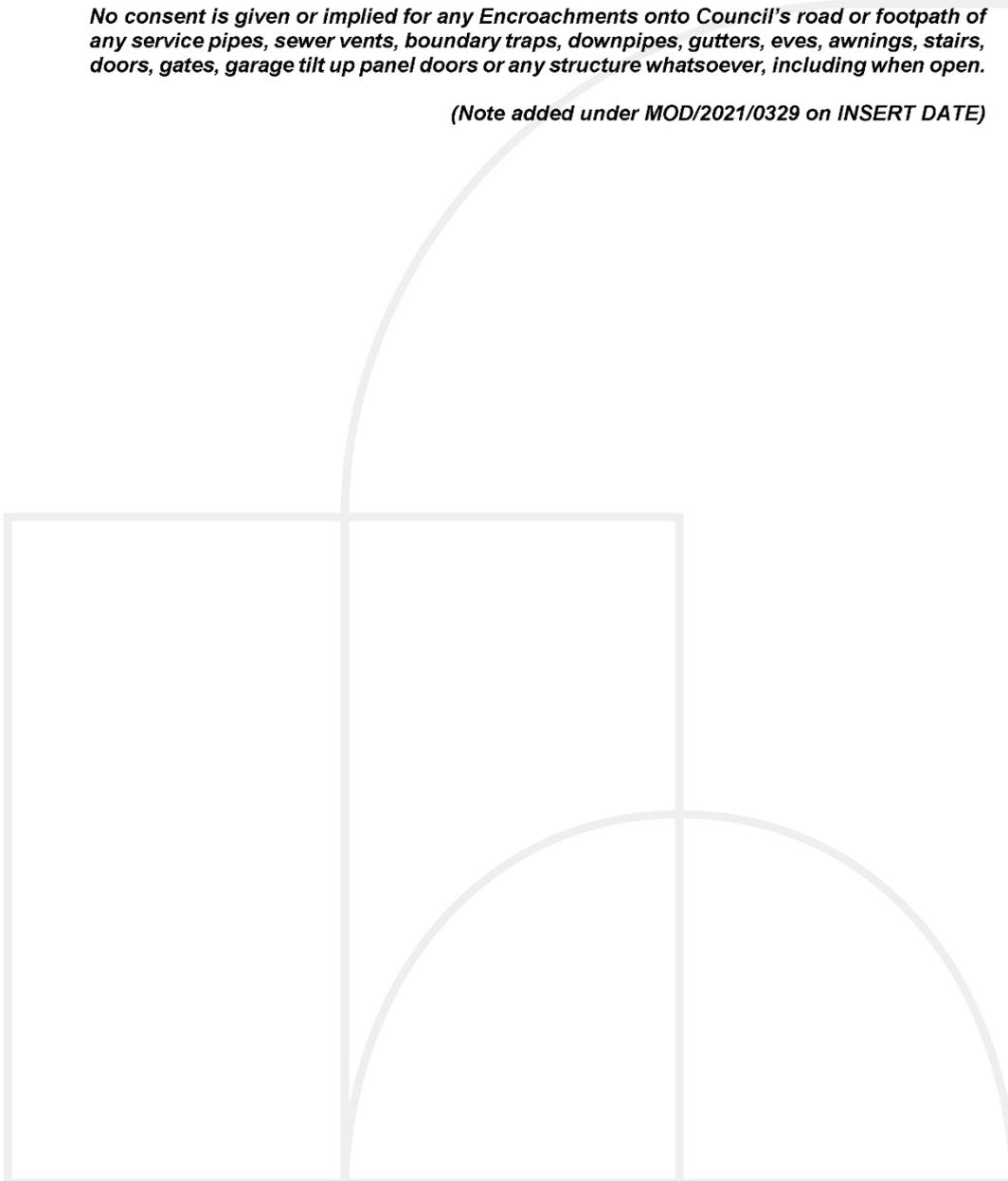
You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required 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.

(Note added under MOD/2021/0329 on INSERT DATE)



Attachment C – Plans

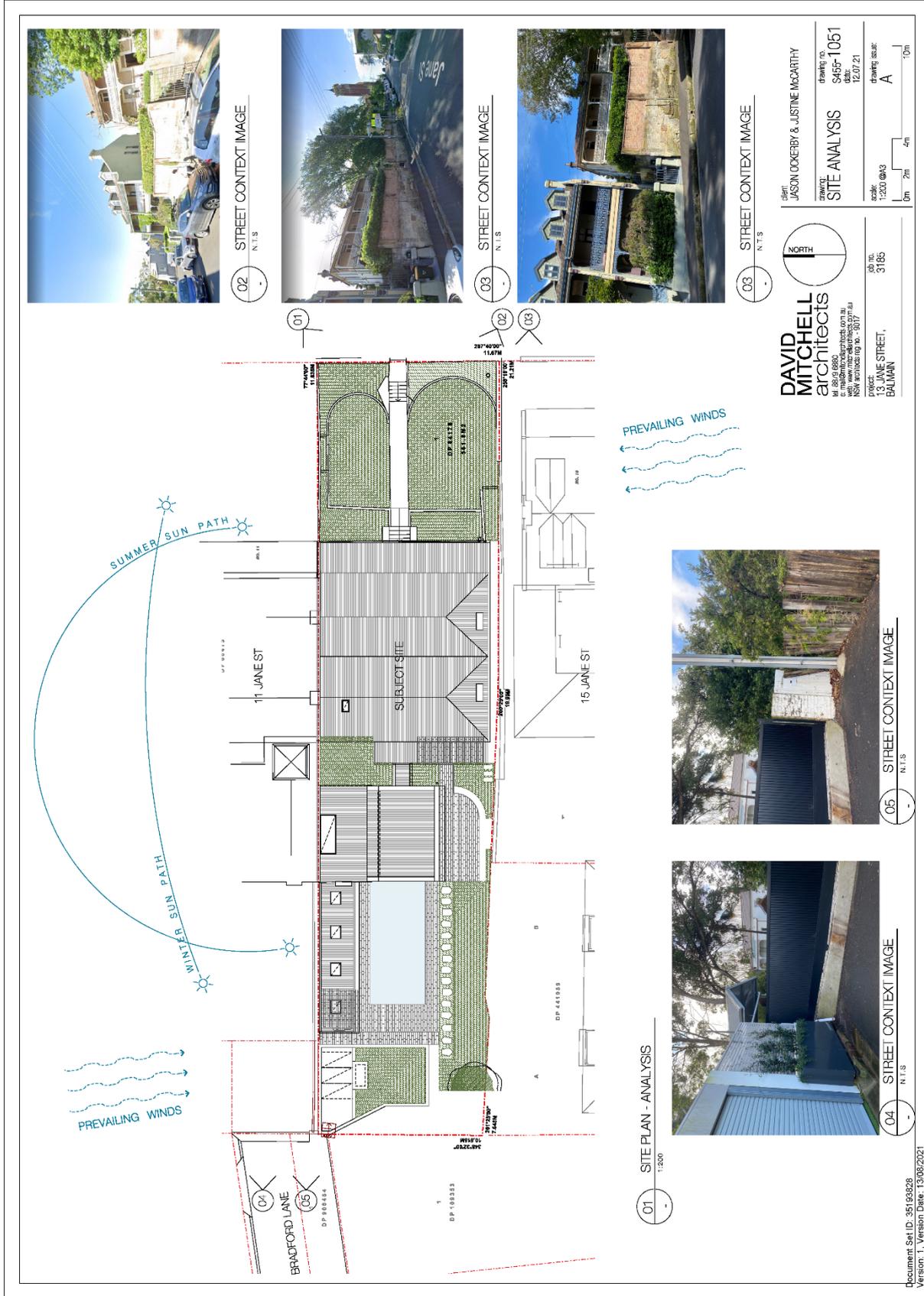
- S.455 ISSUE AMENDMENTS
JUNE 2021**
- 1 MINOR MODIFICATIONS TO APPROVED GROUND FLOOR EXTENSION
 - 2 PARTIAL REMOVAL OF EXISTING OUTHOUSE WALL FOR NEW KITCHEN
 - 3 MINOR MODIFICATION TO CABANA / OUTHOUSE BUILDING
 - 4 PROPOSED NEW COVERED EXTERNAL CARPORT
 - 5 PROPOSED OPENING TO EXISTING INTERNAL WALL FOR GROUND FLOOR BEDROOM
 - 6 PROPOSED OPENING TO INTERNAL WALL FOR LIVING / DINING
 - 7 MINOR MODIFICATIONS TO REAR GARDEN EXTERNAL WORKS
 - 8 DELETION OF SKYLIGHT THROUGH LEVEL 1 BATHROOM
 - 9 REINSTATEMENT OF ORIGINAL PLASTERBOARD CEILING TO GROUND FLOOR LIVING / DINING

**S 4.55 APPLICATION
ISSUE A**

DRAWING NUMBER	ISSUE	DRAWING NAME
DA-1001	A	COVER SHEET
DA-1051	A	SITE ANALYSIS PLAN
DA-1101	A	GROUND LEVEL PLAN
DA-1102	A	GROUND LEVEL PLAN
DA-1103	A	LEVEL PLAN
DA-1106	A	ROOF PLAN
DA-1201	A	SECTION
DA-1202	A	SECTION
DA-1203	A	SECTION
DA-1204	A	SECTION
DA-1301	A	ELEVATIONS - NORTH PART
DA-1302	A	ELEVATIONS - NORTH PART
DA-1303	A	ELEVATIONS - SOUTH PART
DA-1304	A	ELEVATIONS - SOUTH PART
DA-1305	A	ELEVATIONS - EAST
DA-1306	A	ELEVATIONS - WEST
DA-1501	A	SHADOW ANALYSIS - 9AM
DA-1502	A	SHADOW ANALYSIS - 10AM
DA-1503	A	SHADOW ANALYSIS - 11AM
DA-1504	A	SHADOW ANALYSIS - 12PM
DA-1505	A	SHADOW ANALYSIS - 1PM
DA-1506	A	SHADOW ANALYSIS - 2PM
DA-1507	A	SHADOW ANALYSIS - 3PM
DA-1601	A	CARPORT DETAILS
DA-1601	A	DEVELOPMENT CALCULATIONS

DAVID MITCHELL architects
 13 LANE STREET, BALMANN
 NSW 1585
 www.davidmitchellarchitects.com.au
 Tel: 02 9550 8811
 Fax: 02 9550 8812

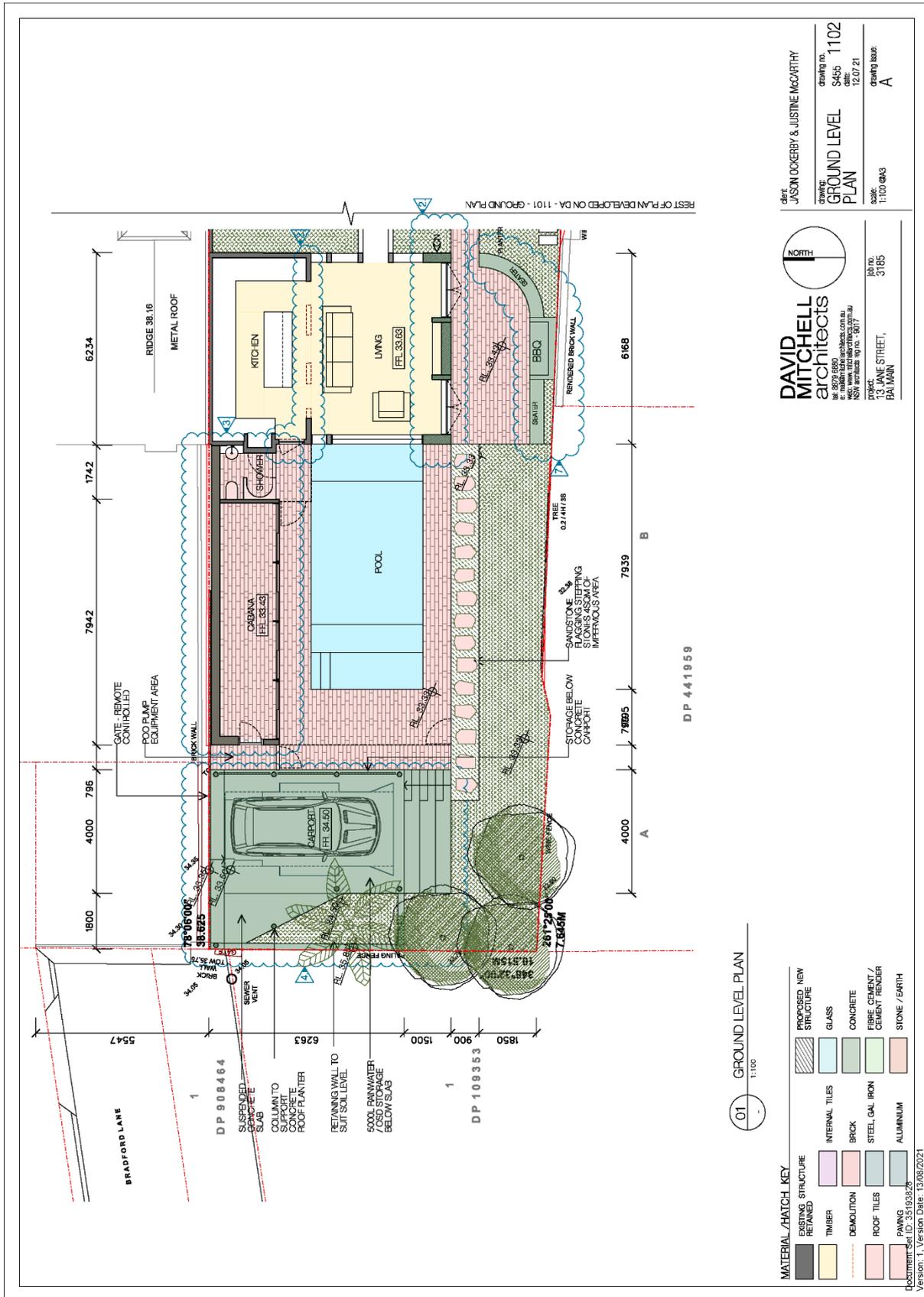
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 Drawing No: S455 1001
 Drawing Title: COVER SHEET
 Date: 12.07.21
 Scale: N.T.S.
 Drawing Issue: A

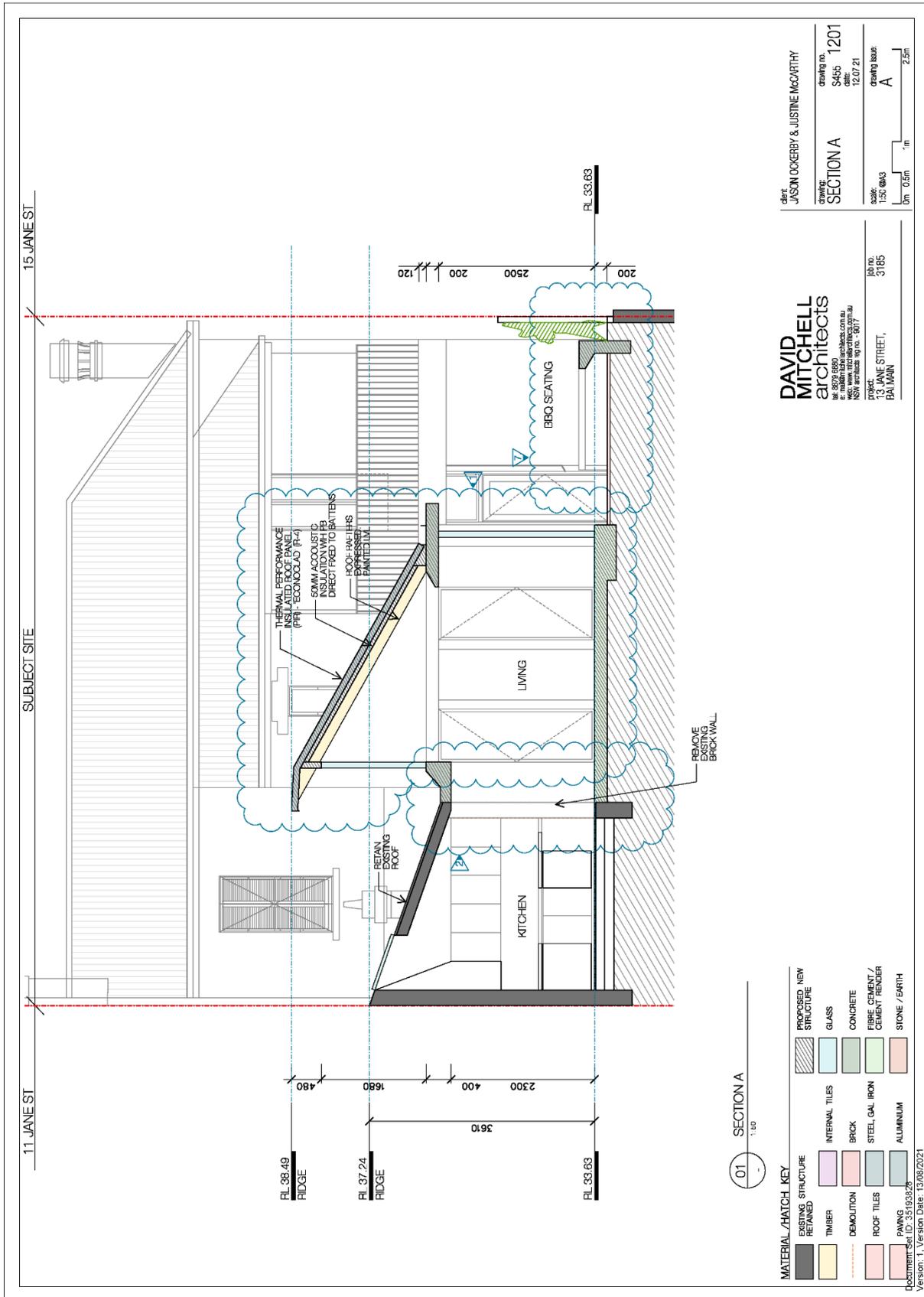


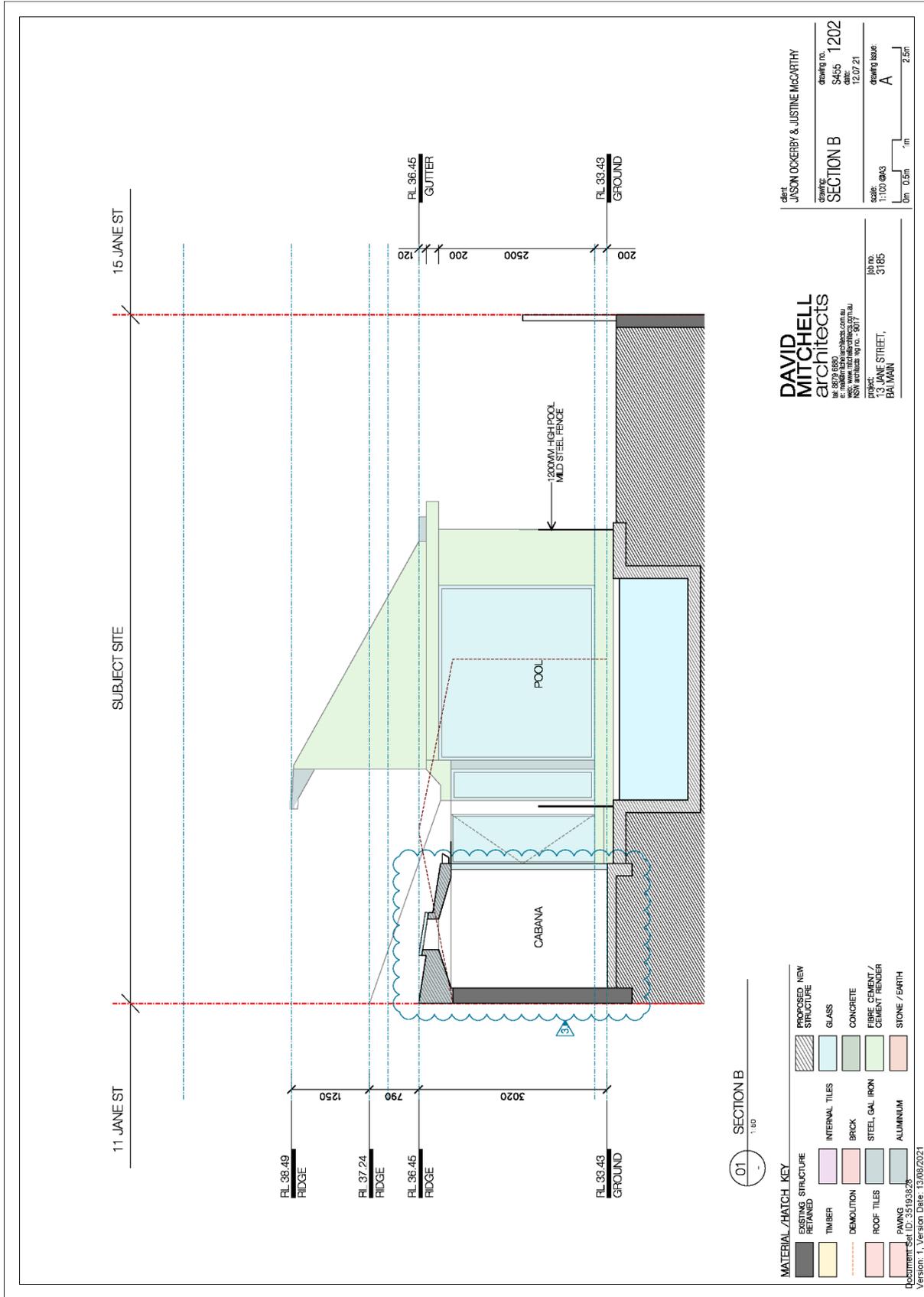
DAVID MITCHELL architects
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 Tel: (02) 9550 3017
 Fax: (02) 9550 3018

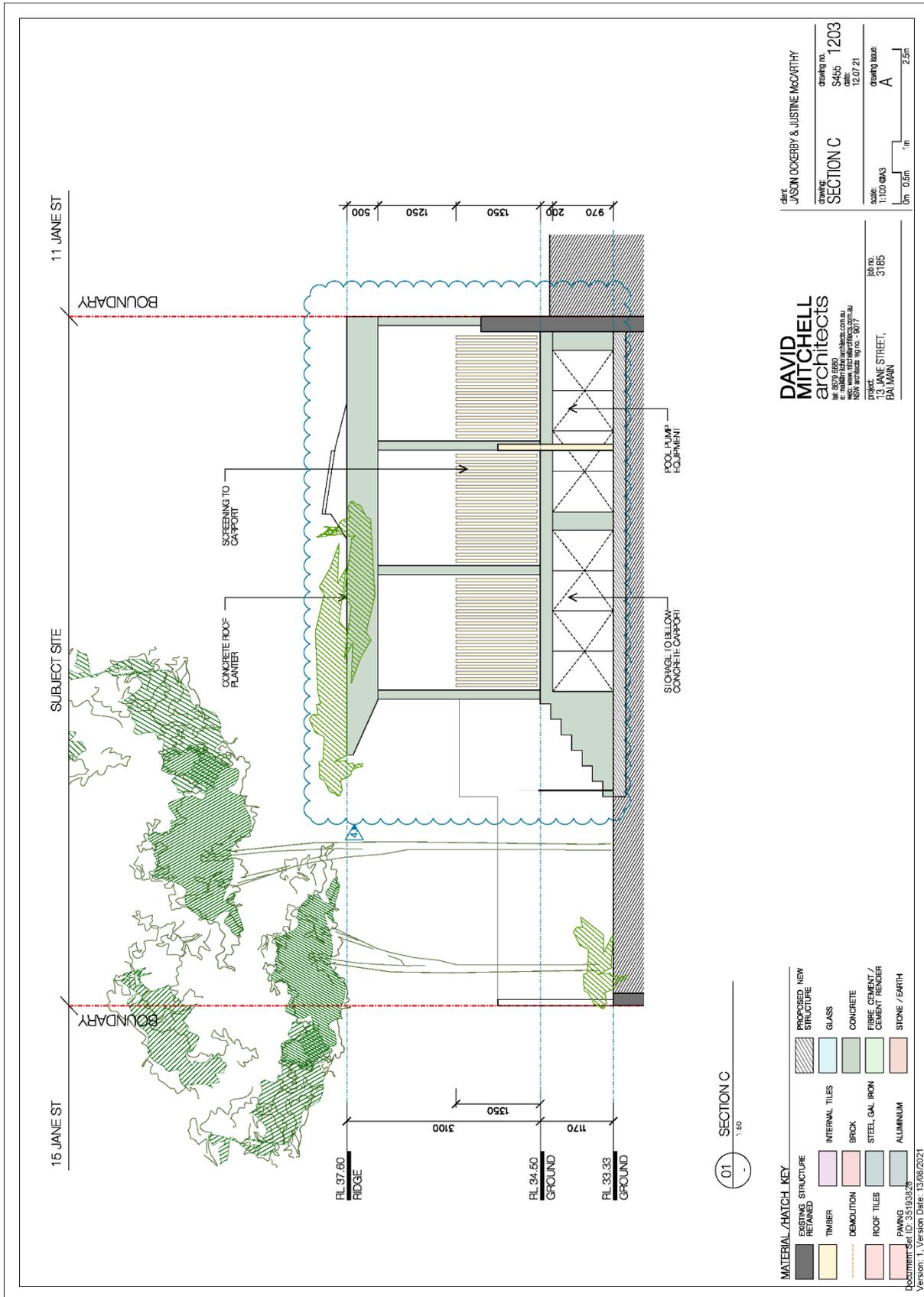
design: JASON LOCKERBY & JUSTINE MCCARTHY
 drawing no: S4657-1061
 drawing date: 12.07.21
 scale: 1:200 @ A3
 drawing scale: A
 sheet: 01 of 03

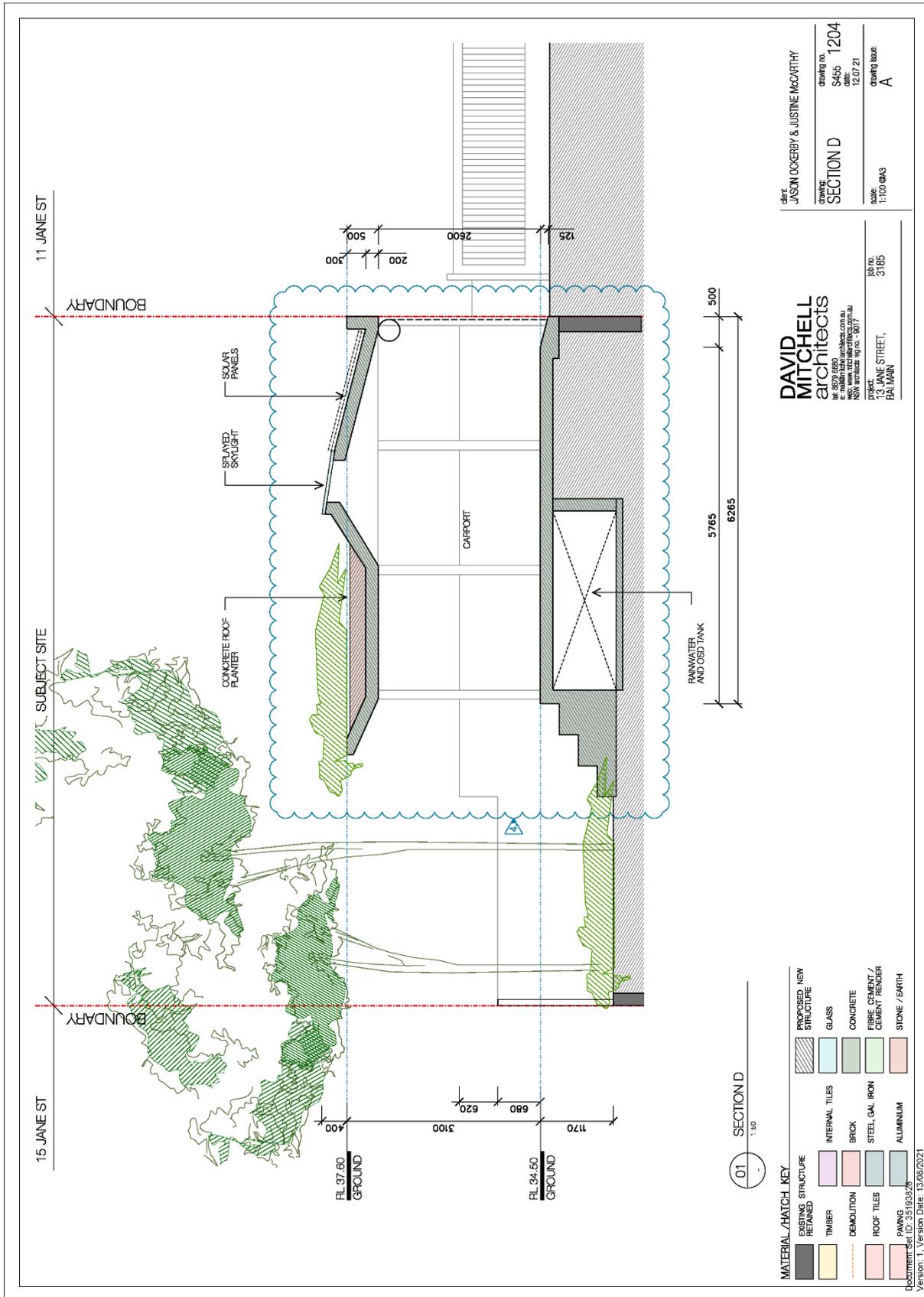
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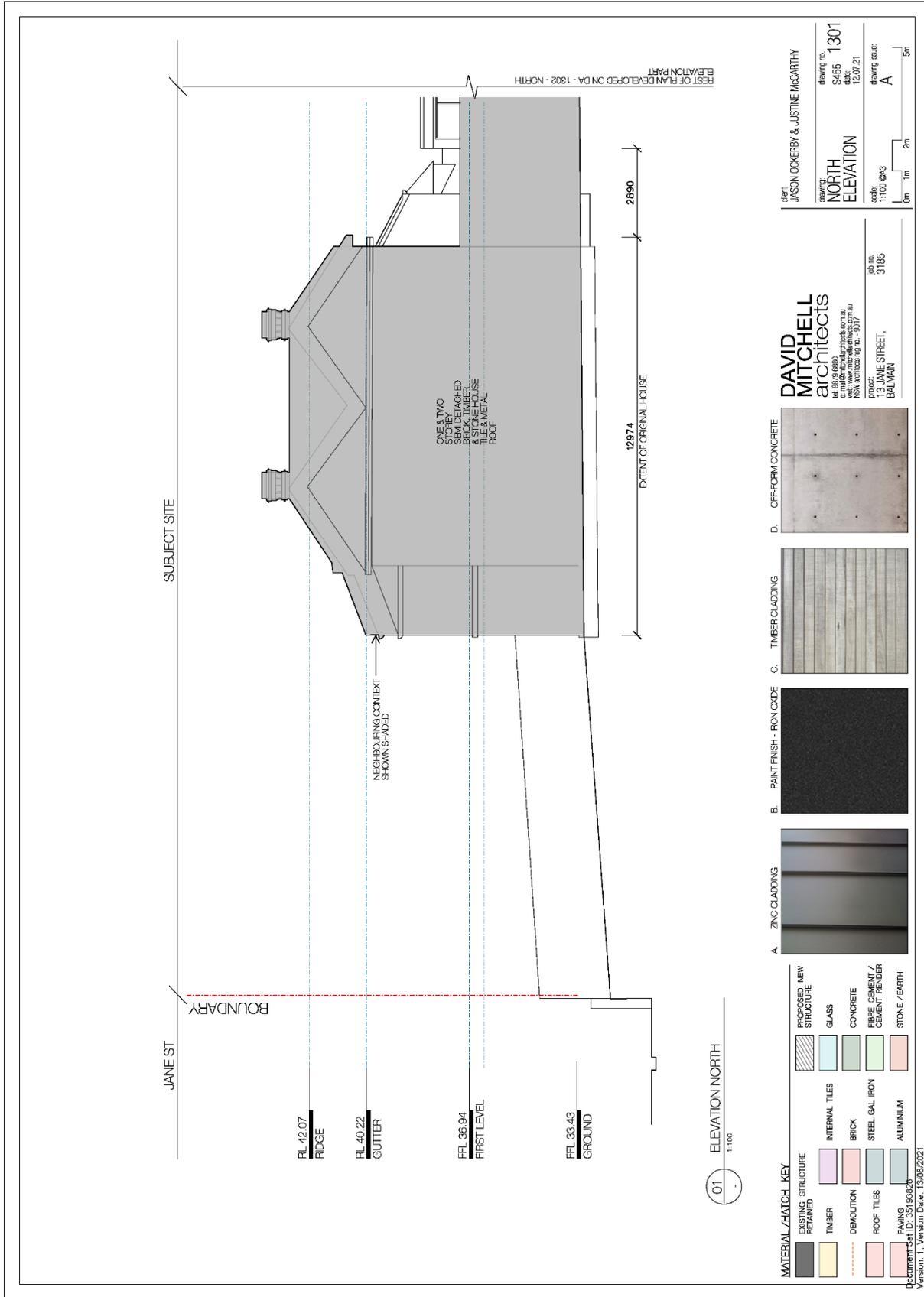


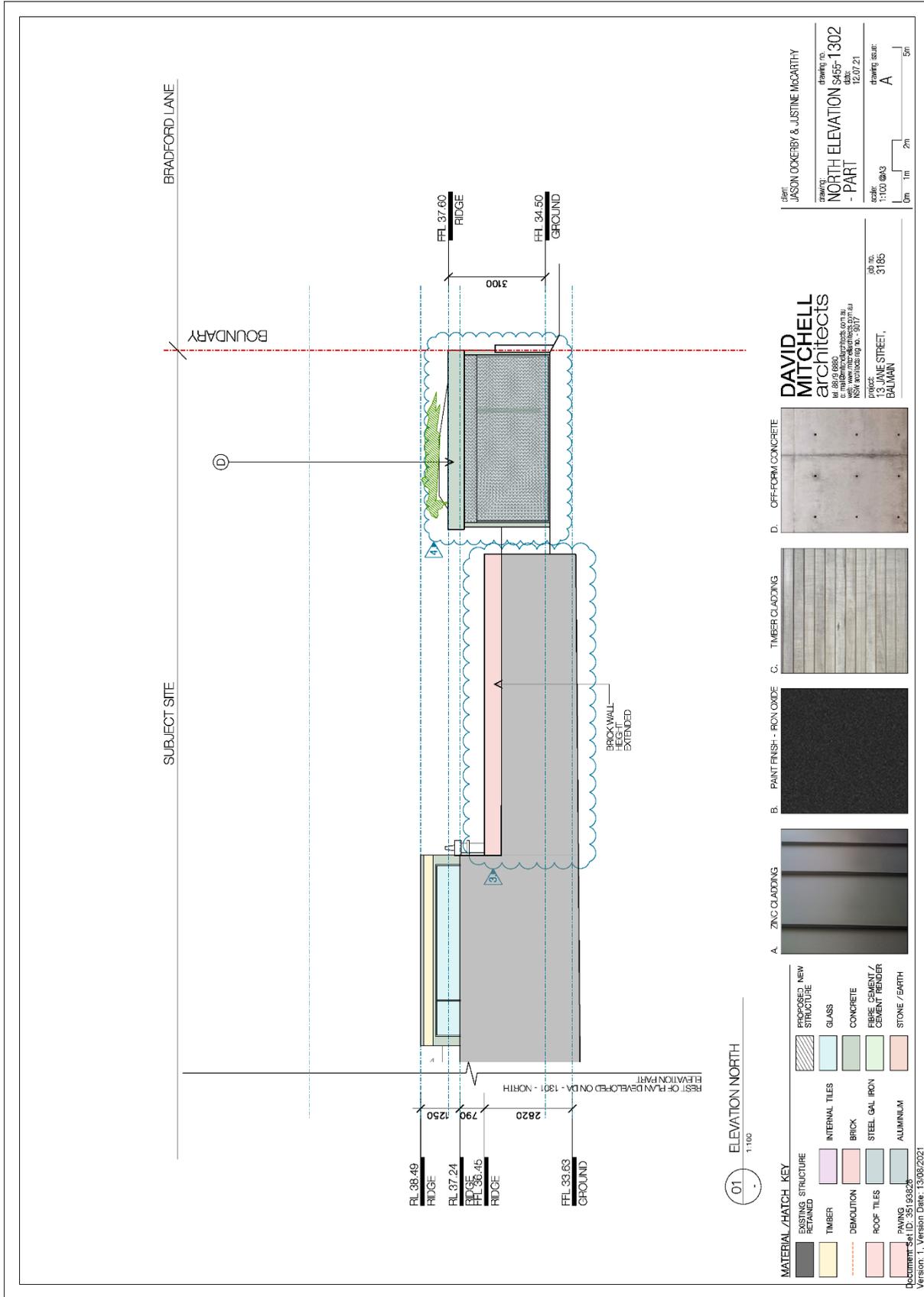


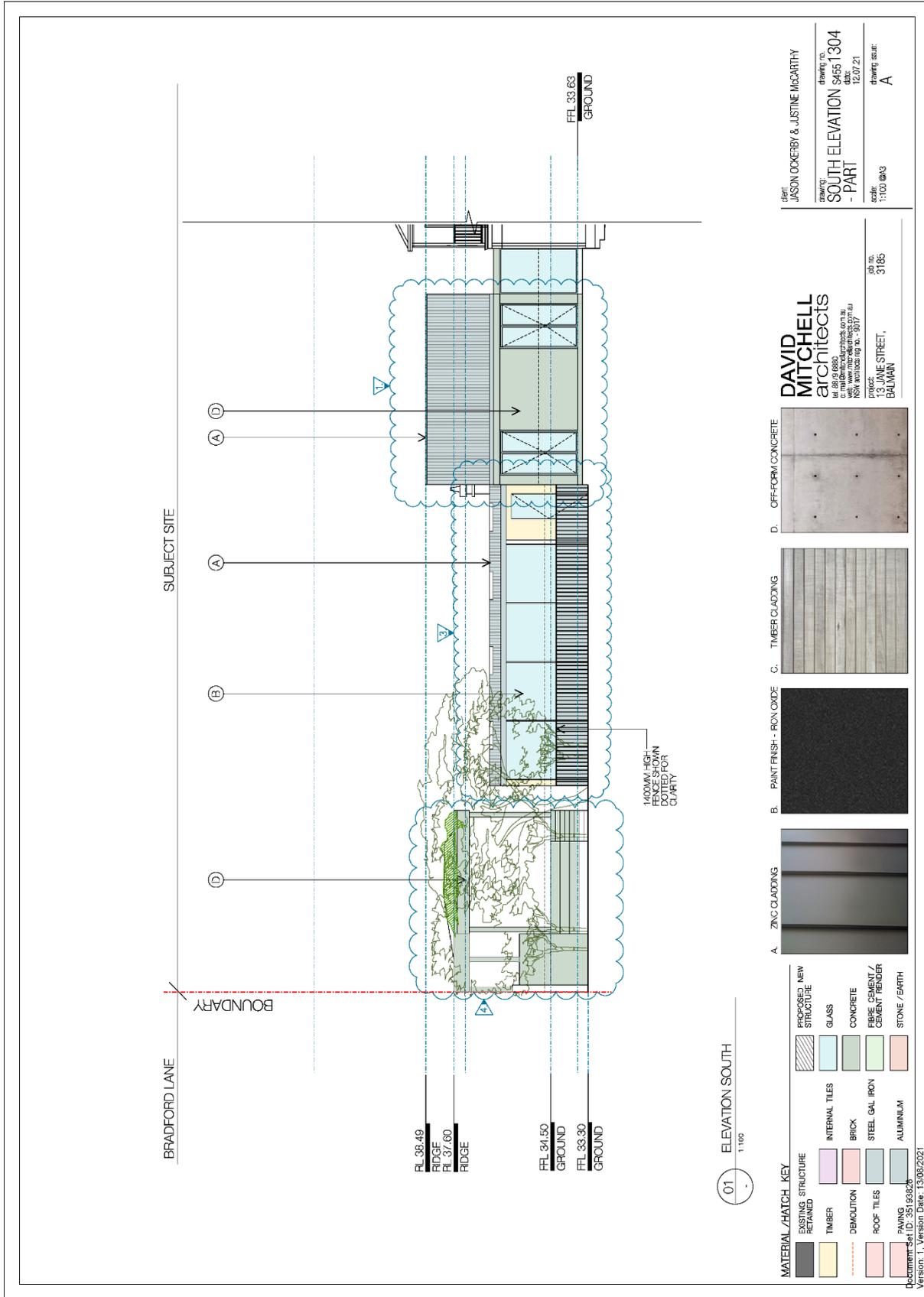


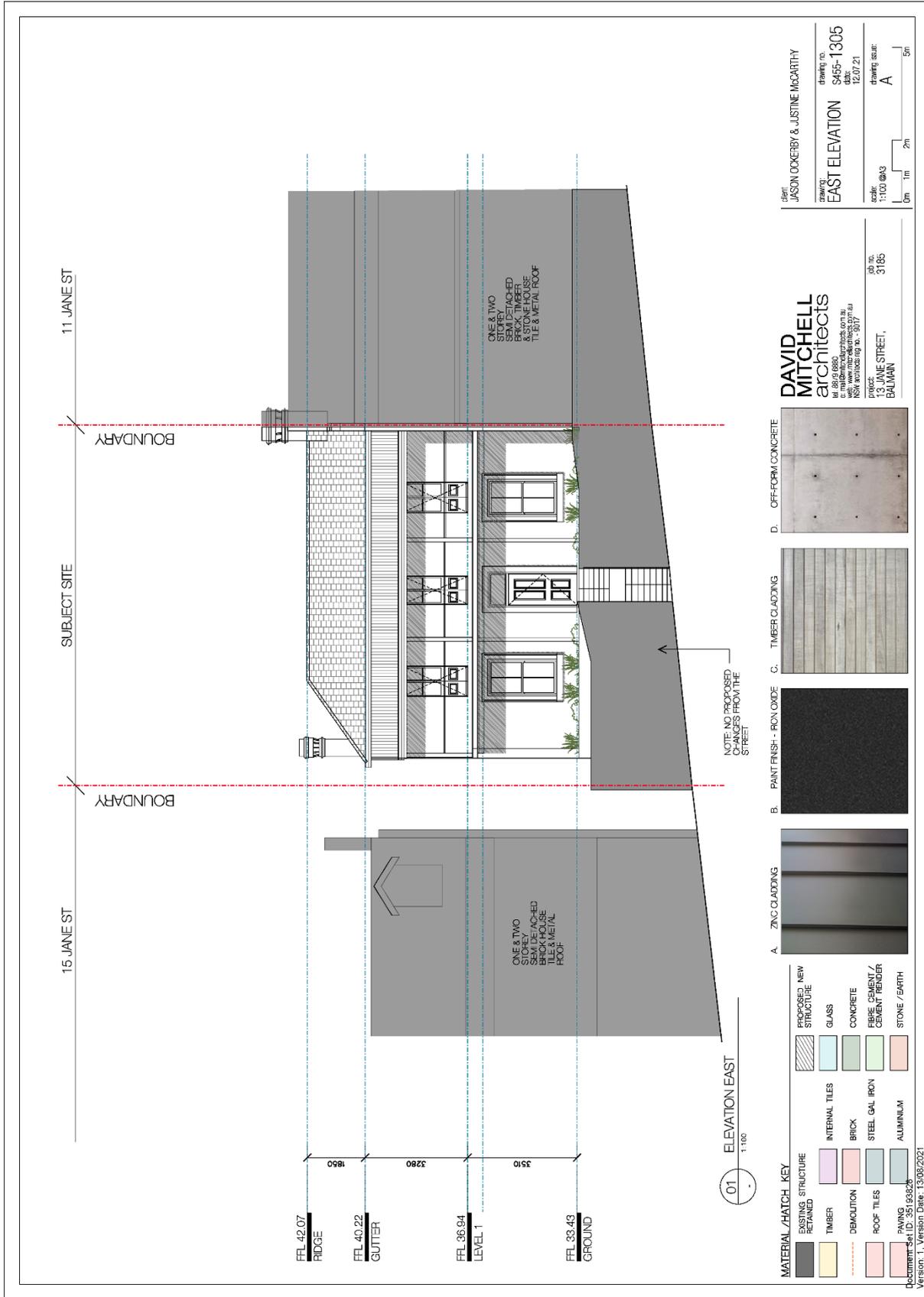


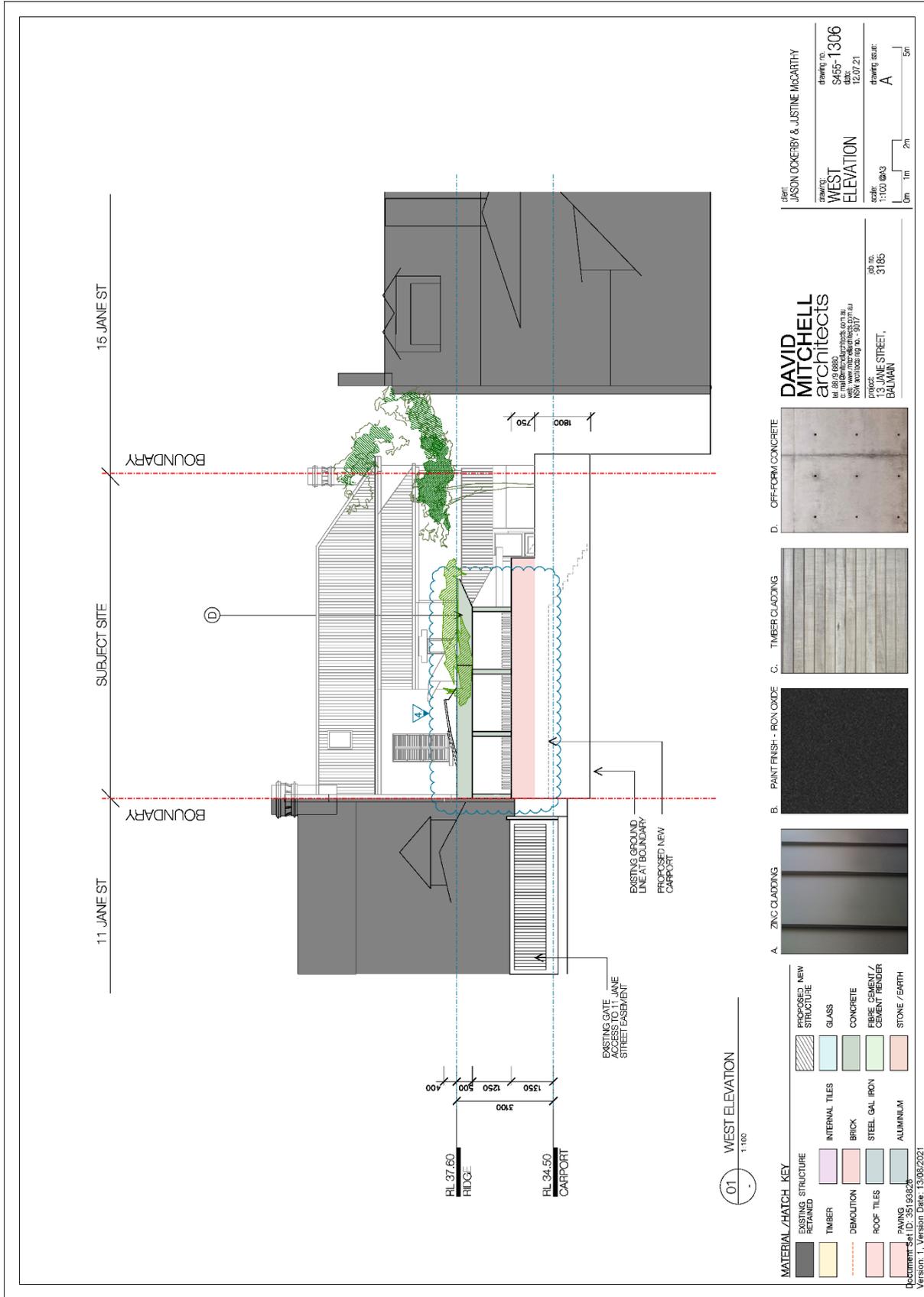


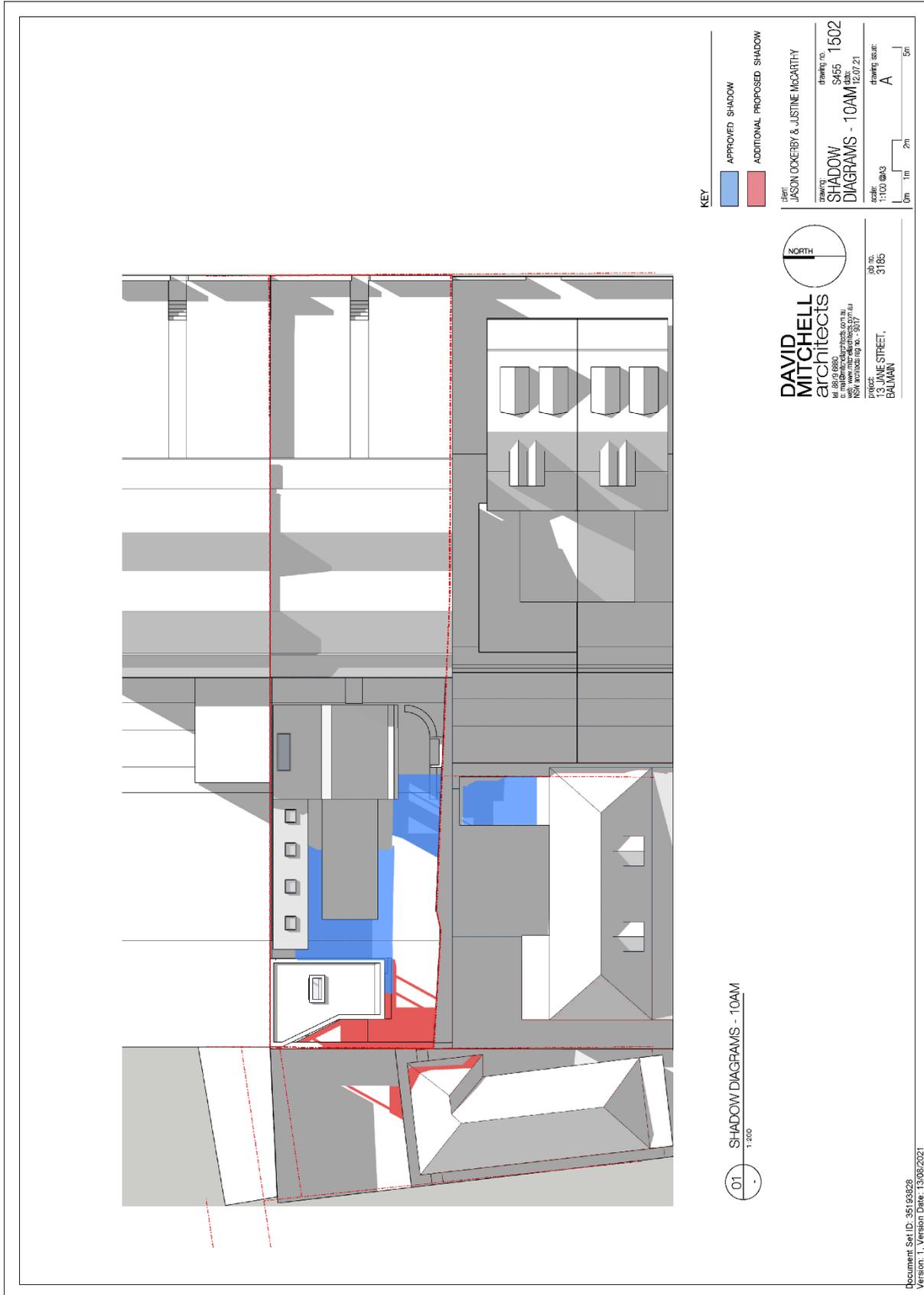




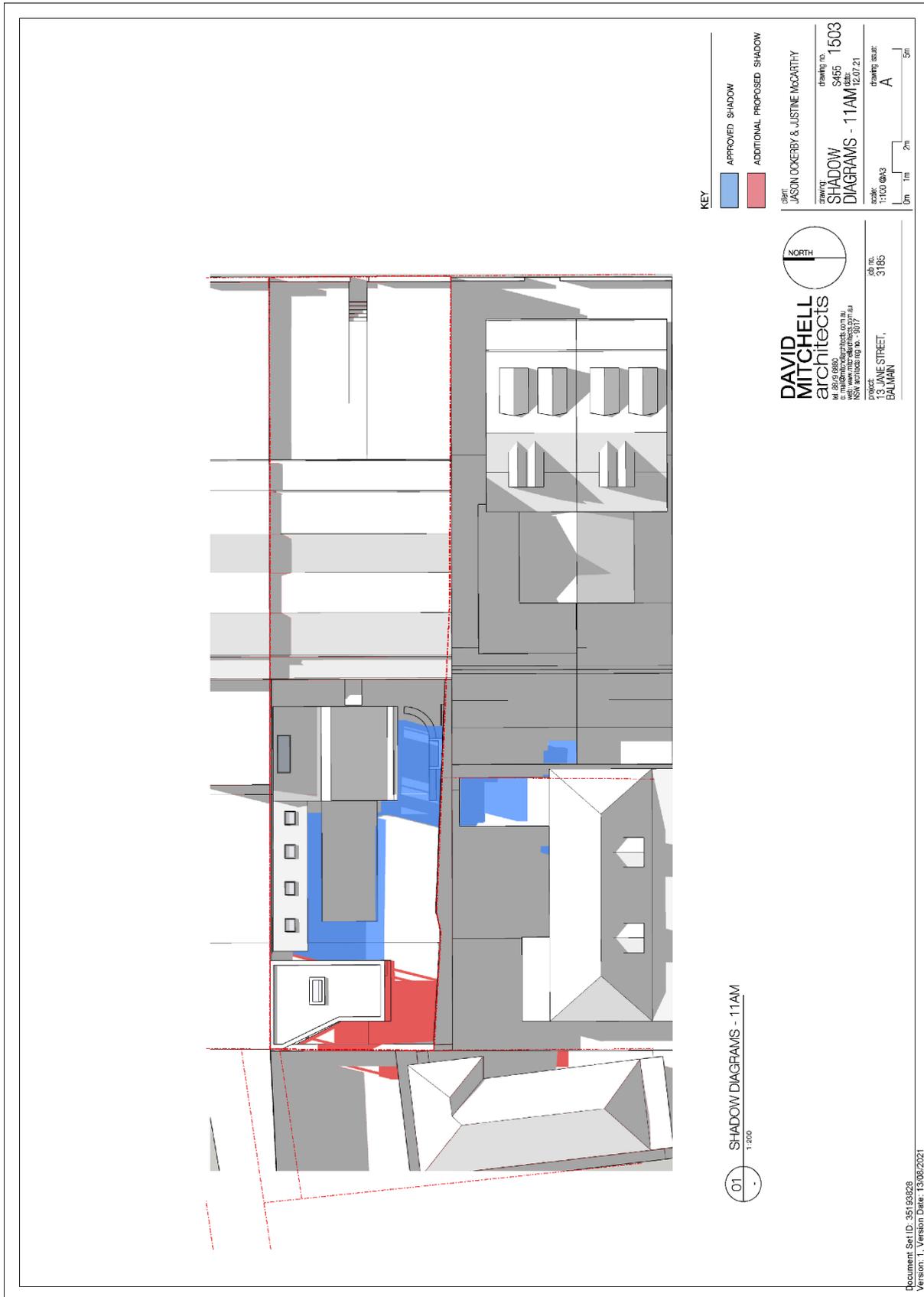


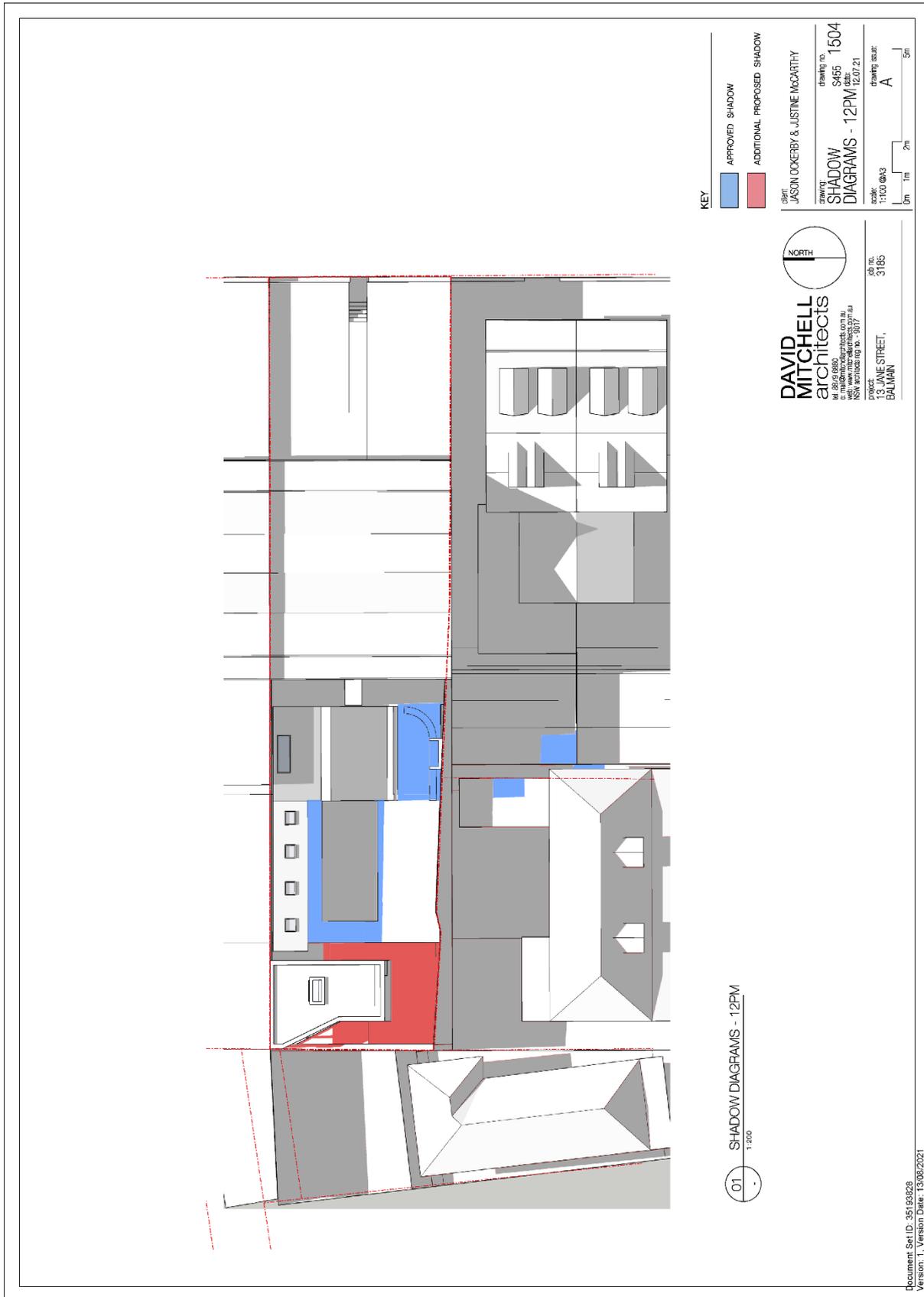


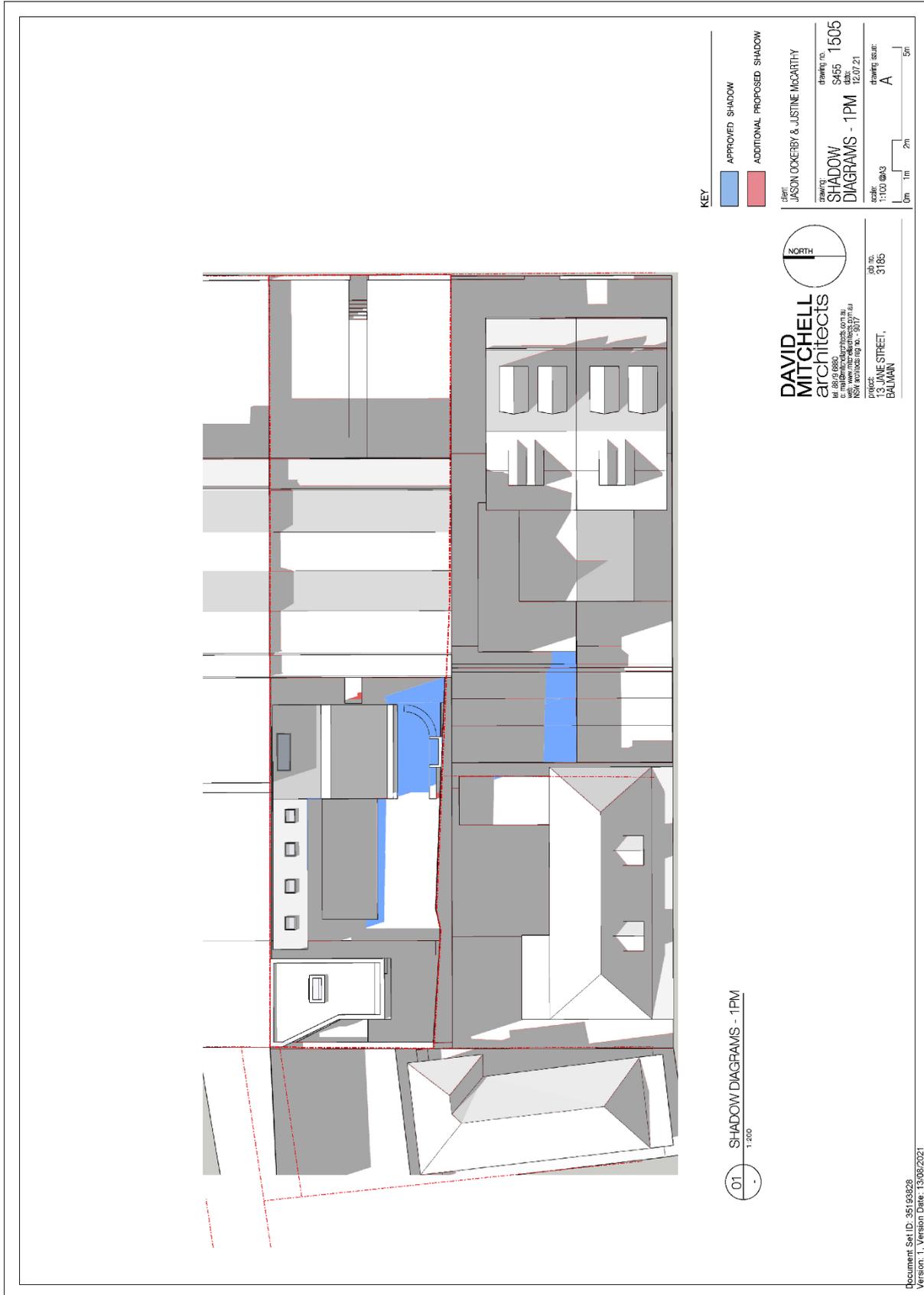


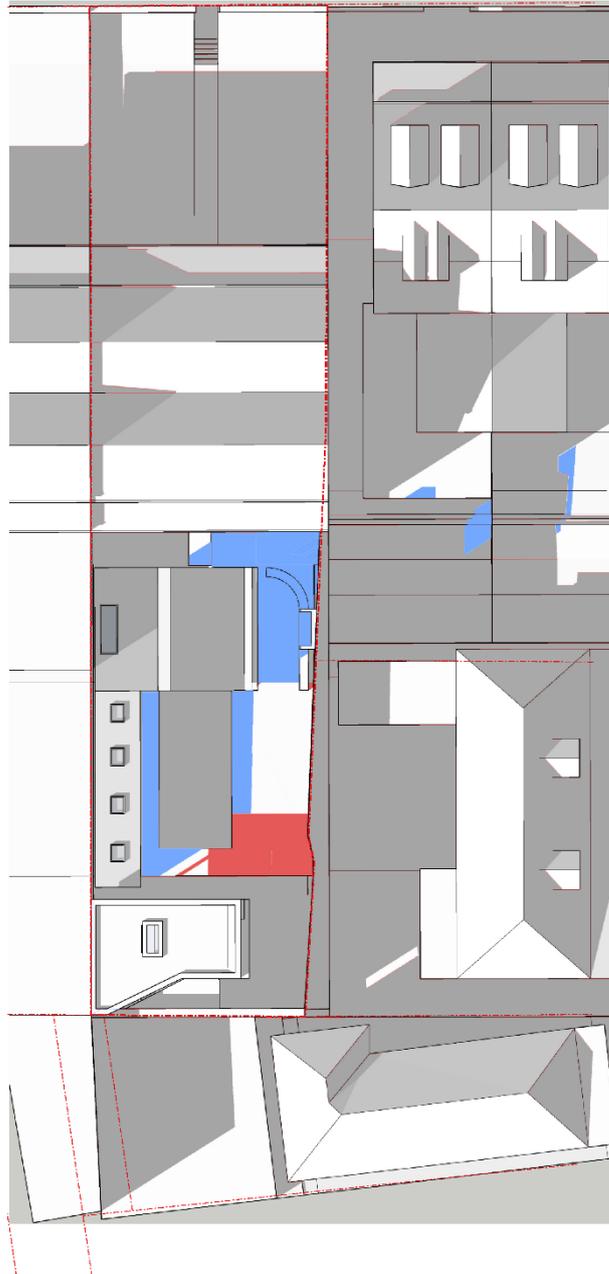


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Version: 1, Version Date: 13/08/2021









01 SHADOW DIAGRAMS - 2PM
1:200

KEY

- APPROVED SHADOW
- ADDITIONAL PROPOSED SHADOW

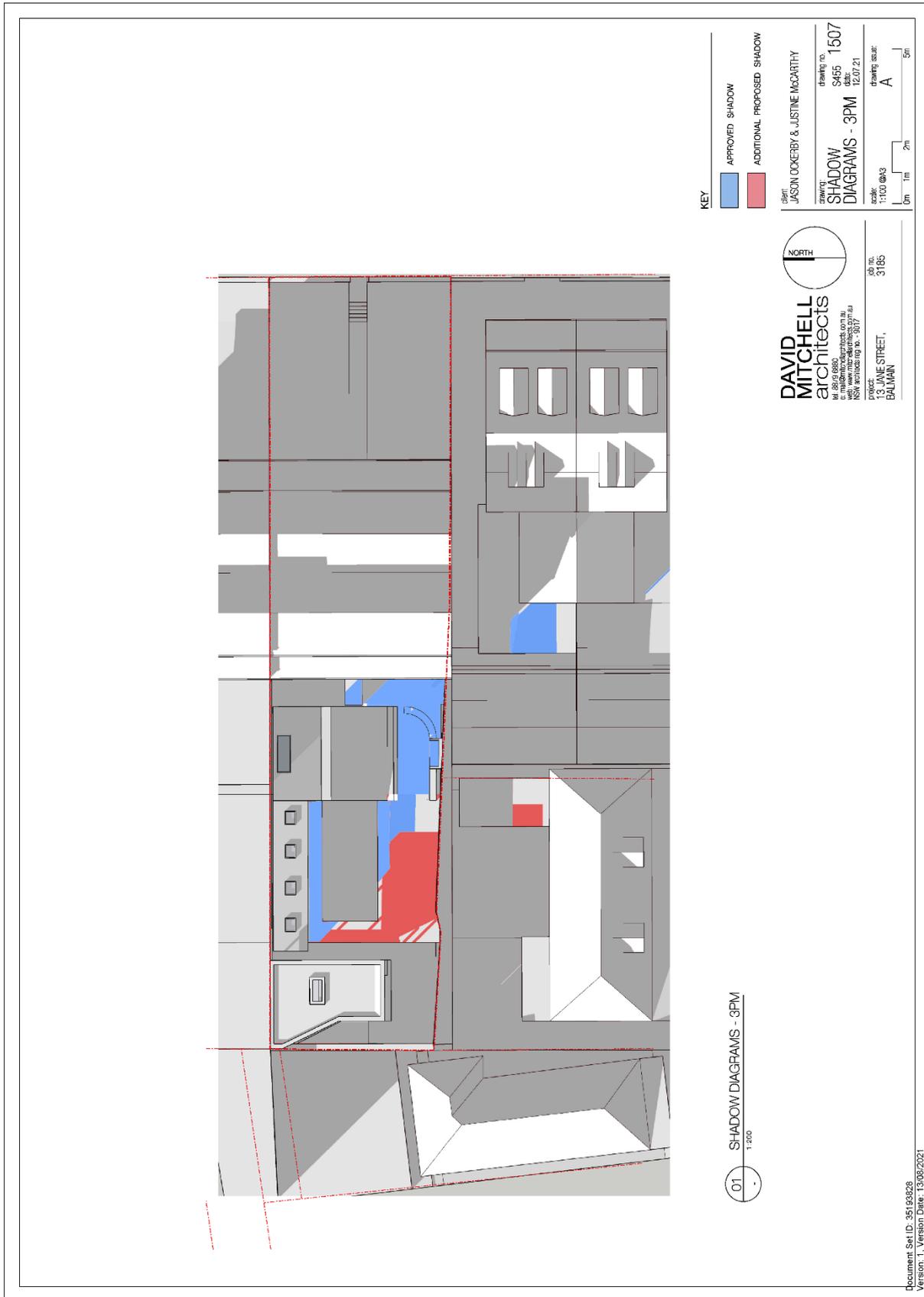
DRG: JASON LOCKERBY & JUSTINE MCCARTHY

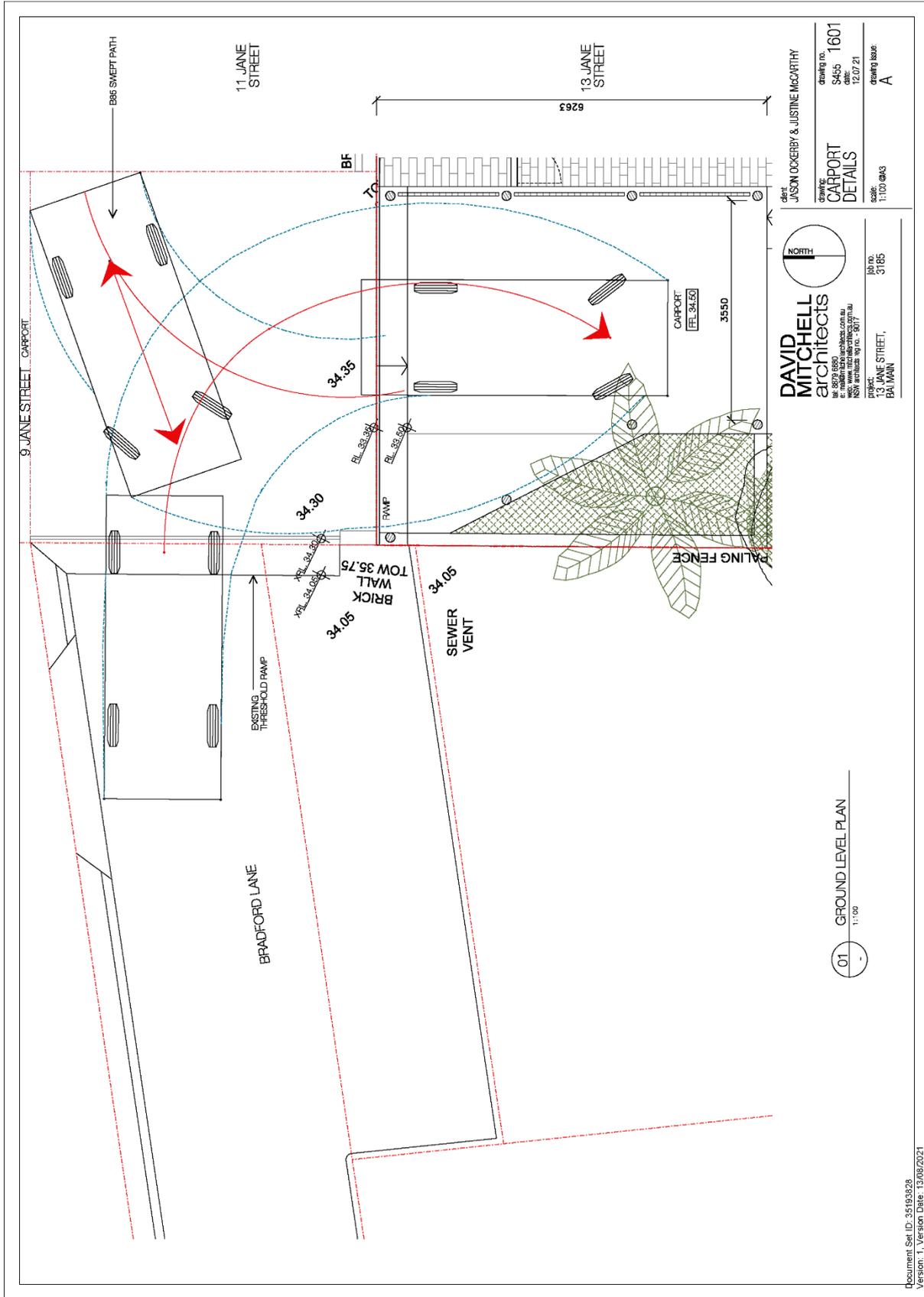
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DRAWING NO: S455 - 1506
DATE: 12.07.21

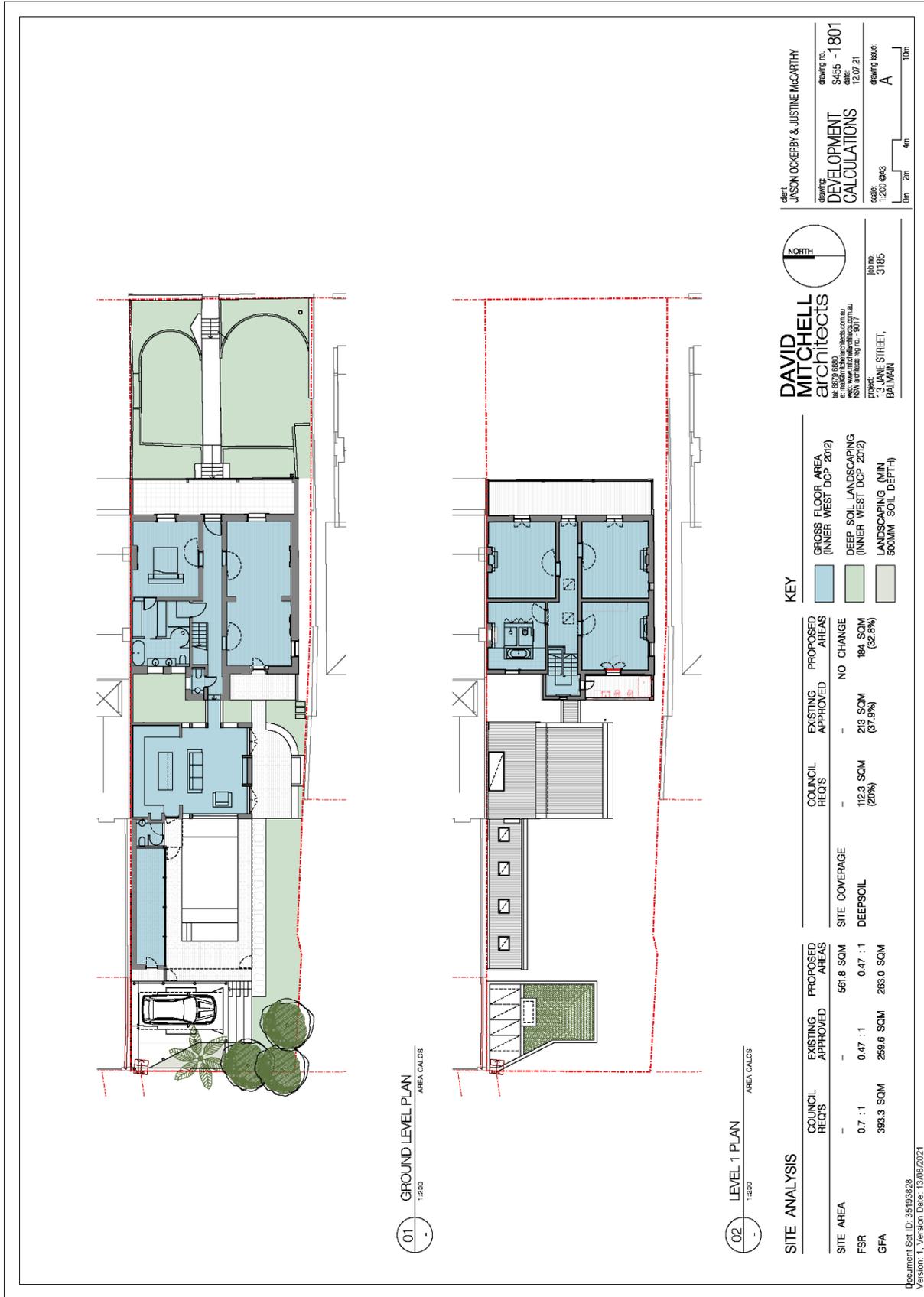
SCALE: 1:100 @ A3
0m 1m 2m 5m
DRAWING ISSUE: A

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Document Set ID: 35153528
Version: 1, Version Date: 13/08/2021







Attachment D – Statement of Heritage Significance

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Area 17 East Balmain Conservation Area

Landform

This area is noted for its dramatic rugged sandstone headland facing east into the harbour and towards the city, with sheer sandstone cliffs to a deep and steep waterfront.



Figure 17.1 East Balmain Conservation Area Map.

History

This area comprises the earliest land to be subdivided and developed in Balmain. Surgeon Balmain was granted 550 acres in 1800. He transferred it to fellow surgeon John Gilchrist in 1801. In 1836 Surveyor Armstrong subdivided the most eastern part of Gilchrist's land, the area closest by ferry to Sydney Town, into twenty-two 2-4-acre lots. They were put up for public auction in 1836 by Sydney merchant and land agent, Frank Farbury on behalf of the absentee landowner. Subdivision of the remainder of Gilchrist's land was suspended from 1841-1852 through disputes over his estate. For its first ten years, therefore, East Balmain was an isolated maritime suburb, accessed generally only by water.

The 1836 subdivision laid out three streets – Darling, along the top of the sandstone ridge, Johnson and Nicholson, setting the framework for Balmain today. Each lot had access to one of these streets and to the waterfront. They were advertised as waterside, dock and shipping properties in 'the Deptford of Sydney'.

Purchasers were merchants, boatbuilders, master mariners who needed the deep water frontages for their shipping activities; middle class professionals and civil servants who purchased the land for investment, for later resubdivision or to build their own villa; speculative builders such as Robert Blake who saw the peninsula as a marine retreat for gentlemen and proceeded to build villas in spacious grounds for that market. The early elegant villas, eg Hampton Villa, built of stone hewn from the allotment itself, or from land nearby,

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stood on the higher ground, and enjoyed fresh breezes and views of Sydney Town. Close to the waterfront and the shipbuilding activities were the houses of ship captains and merchants, often of timber or stone cut from their own land.

Subdivision of these allotments, either immediately, or after the 1840s slump, required new streets for access. Unaffected by the regulations of Sydney Town, they were made only as wide as was absolutely necessary, leaving as much land as possible for sale. In the 1860s small streets were cut through the sandstone to give access to an increasing number of industries along the waterfront. Associated industry followed – timber yards that served the wooden shipbuilding yards, tanneries that used the harbour for their effluent. Subdivision of the villa estates occurred through the 1840s and 1850s, often to pay off creditors. It led to the acceleration of small suburban allotments and suburban growth to serve the growing demand for both housing and industry, the latter having been pushed from the city by rising land values. Shops, pubs and a school grew at or near the intersection of the major streets, serving a growing population. There were pockets of infill development from 1910-1930s and by the 1940s East Balmain was fully built-up. After the 1960s, as the waterfront industries closed down through changing technology, waterfront sites were taken over by the Maritime Services Board for port activities or storage. From the 1970s these under-used parcels of land were turned into public waterfront parks.

Sources

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

Significant Characteristics

- Dramatic sandstone topography.
- Views down streets, between buildings and across the headland to harbour, harbour bridge and city. Main streets all end with dramatic city/harbour/industry views.
- Main streets all terminate at water or at cliff top.
- Many very narrow, steep minor streets and rights of way follow boundaries of the first twenty-two allotments.
- Sandstone steps cut into the bedrock transfer pedestrians between levels.
- Some dense stands of trees.
- Intermix of buildings – sandstone villas, sandstone, weatherboard and brick cottages and terraces, school, maritime industrial buildings, corner stores (former), shops and pub.
- Rare early buildings, mainly in timber and stone.
- Neighbourhood shops and pubs grouped around the Darling Street/Johnston and Nicholson Streets intersection.
- Low fences – some early iron palisade fences remain.

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- Sandstone kerbs and gutters.

Statement of Significance or Why the Area is Important

- One of a number of conservation areas which collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). The earliest developments here predate Leichhardt's main suburban growth with marine villas and cottages from the 1840s to modest-scale housing from 1870s through to the 1930s, and industry. It is significant for its surviving development from these periods.
- Demonstrates through the siting of recent public parks, the location of former waterfront industries. Through these parks and its remaining waterfront activities East Balmain can interpret Sydney's port history from the early 1840s, and the role of Balmain's deep water frontages in that story.
- Demonstrates through the line of its narrow streets the earliest subdivision sections of the large 550-acre Balmain grant.
- Demonstrates through its steps and cuttings the way in which early roads and pedestrian routes were forged out of the sandstone bedrock.
- Demonstrates through its mixture of sandstone villas and timber and brick cottages the major themes that formed this suburb – marine villa development and investment, port and waterfront activities, and the continuing layering of these developments.
- Through its remaining timber buildings it continues to demonstrate the nature of that major construction material in the fabric of early Sydney suburbs, and the proximity of the timber yards around the Balmain waterfront.
- It is of aesthetic significance for its dramatic sandstone landscape, closely related to the harbour, and clearly revealed below the modest scale of its nineteenth century and early twentieth century buildings. It stands in contrast with the nearby city where twentieth-century technology has forged an equally dramatic but very different man-made landscape.

Management of Heritage Values

Generally

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

Retain

- All residential or commercial structures pre-1939 belonging to the period of the growth of East Balmain.

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- All weatherboard buildings – now rare but typical of early development.
- All sandstone structures and cuttings – cottages and villas, schools, wharves/slipways, curbs and gutters, walls, bases to fences, steps.
- Unpainted face brick walls.
- All original plaster finishes to external walls. Reconstruct where necessary.
- All original architectural detail, and encourage replacement of lost elements, but only where evidence is available.
- All sandstone outcrops.
- Views between buildings from public places, especially views to the harbour.
- Trees, especially large figs which form such an important role in the landscape of the area, and views to the area from the harbour.

Avoid

- Demolition of any pre-1939 building unless the building has been so compromised that it can no longer evidence its history.
- Alteration to the form (shape) of these buildings, especially wall height or alterations to the roof over the main part of the house. Second-storey additions.
- Removal of plaster to external walls, where part of the original wall finish.
- Painting or plastering of face brick walls.
- Additional architectural detail for which there is no evidence, especially the addition of verandahs, and post-supported verandahs.
- Loss of any trees.
- Inappropriate high front brick/stone fences or walls, or new iron palisades on high brick bases.
- Interruption to the remaining sandstone kerbs and gutter.
- Widening of the narrow roads.
- Development that detrimentally affects views from the harbour, Harbour Bridge and the city to East Balmain, or disrupts its skyline when viewed from those places.

Notes

Because this area is very visible from the city and from the harbour and harbour bridge, special care is needed in dealing with changes which might alter public views from these places – scale, roof form and material colours are particularly important.

Care is needed for applications for change to any building in these areas. There are a number of very early buildings here, overlaid with later works, and

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restoration to reveal the original building could be possible in many cases. Many of the early stone houses were built by stonemason Cavill, and evidence of his work should be sought.

The Statement of Significance for 13 Jane Street, Balmain, sourced from Council's heritage database, is below:

No. 13 Jane Street is of local historic and aesthetic significance as a good and intact large Victorian Filigree style terrace (pair Nos 11-13) constructed in 1881. The building significantly retains its original form and character including stone base and facades and details, roof form and chimneys and open front verandah and balcony. The building is elevated to the street frontage and with the adjacent terrace, (No. 11) makes a positive contribution to the Jane Street streetscape.

Attachment E- Original Determination

**INNER WEST COUNCIL**

Contact: Eric Wong
Phone: 9392 5229

20 May 2019

Studio Prineas
504/19A Boundary St
RUSHCUTTERS BAY NSW 2011

**NOTICE OF DETERMINATION OF
DEVELOPMENT APPLICATION NO: D/2018/535
Issued under the Environmental Planning & Assessment Act 1979
(Section 4.18)**

Applicant Name:	Studio Prineas
Applicant Address:	504/19A Boundary St RUSHCUTTERS BAY NSW 2011
Land to be Developed:	Lot 1 DP 64178 13 Jane Street, BALMAIN NSW 2041
Proposed Development:	Part demolition and alterations and single storey addition to the rear of the existing heritage listed dwelling-house and associated works, including new pool in the rear garden and removal of trees and new fencing.
Determination:	Approval
Date of Determination:	7 May 2019
Consent to Operate From:	7 May 2019
Consent to Lapse On:	7 May 2024

The following conditions have been included in response to development considerations and to ensure a high standard of development having regard to the effect upon the environment.

CONDITIONS OF CONSENT

1. Development must be carried out in accordance with Development Application No. D/2018/535 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
02-01B, Revision B – Site Plan	Studio Prineas	12/3/19
02-04B, Revision B – Ground Floor Plan	Studio Prineas	12/3/19
02-05B, Revision B – First Floor Plan	Studio Prineas	12/3/19
02-06B, Revision C – South Elevation	Studio Prineas	12/3/19
02-07B, Revision B – West Elevation	Studio Prineas	12/3/19
02-10B, Revision B – Section A	Studio Prineas	12/3/19
02-11B, Revision B – Section B	Studio Prineas	12/3/19
02-12– Schedule of Materials & Finishes	Studio Prineas	18/09/2018
04-14A, Revision A – Sandstone Mapping	Studio Prineas	12/3/19
04-16 – Timber Paling Fence Details	Studio Prineas	25/02/2019
04-17 – Timber Balustrade Details	Studio Prineas	25/02/2019
06-01A - Revision A – Main Bathroom - Floorplan	Studio Prineas	12/3/19
06-02A - Revision A – Main Bathroom – Elevations 1	Studio Prineas	12/3/19
06-03A - Revision A – Main Bathroom – Elevations 2	Studio Prineas	12/3/19
06-04 - Revision A – Main Bathroom – Elevations 3	Studio Prineas	12/3/19
06-05A - Revision A – Main Bathroom – Elevations 4	Studio Prineas	12/3/19
06-06A - Revision A – Main Bathroom – Elevations 5	Studio Prineas	12/3/19
Document Title	Prepared By	Dated
Preliminary Geotechnical Investigation	assetgeo	31 January 2019
Arboricultural Impact assessment	Arboreport	23/08/18
Stormwater Plans	Prepared By	Dated
Drawing No. 91402/D1 - Stormwater Drainage Concept Plans	KNEE BONE & BRETТА Consulting	7 September 2018
BASIX Certificate No. A323572	Efficient Living Ply Ltd	26 July 2018

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

Where there is an inconsistency between approved elevations and floor plan, the elevation shall prevail.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

The existing elements (walls, floors etc) shown to be retained on the approved plans shall not be removed, altered or rebuilt without prior consent of the consent authority.

Note: Carrying out of works contrary to the above plans and/ or conditions may invalidate this consent; result in orders, on the spot fines or legal proceedings.

2. Approval is given for the following works to be undertaken to trees on the site:

Tree/location	Approved works
<i>Robinia pseudoacacia</i> (Black Locust)	Front site
<i>Lauris nobilis</i> (Bay Tree)	Rear site
<i>Cupressus sempervirens</i> (Pencil Pine)	Rear site

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved.

The approved works shall not be carried out unless this letter, or copy of it, is kept on the site. It shall be shown to any authorised Council Officer upon request.

All tree work shall be undertaken by an experienced Arborist with a minimum qualification of Level 3 under the Australian Qualification Framework (AQF). The work shall be undertaken in accordance with AS4373 – 2007 'Pruning of amenity trees' and in compliance with 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) shall be undertaken by an approved Ausgrid contractor for the management of vegetation conflicting with such services. Please contact Ausgrid for further advice in this regard.

3. Consent is granted for the demolition of the following currently existing on the property, subject to strict compliance with the following conditions:

Elements	Location
Structures associated with the existing dwelling	As indicated on the approved drawings.

- a) The adjoining residents must be notified seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, site contact details/person, elements to be demolished and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.

- b) Written notice is to be given to the Principal Certifying Authority for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections must be undertaken by the Principal Certifying Authority:
 - i) A *pre commencement* inspection when all the site works are installed on the site and prior to demolition commencing.
 - ii) A *final* inspection when the demolition works have been completed.

NOTE: If Council is nominated as your Principal Certifying Authority 24 - 48 hours notice to carry out inspections is required. Arrangement for inspections can be made by phoning 9367 9222.

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: *Demolition of structures*.
- g) The hours of demolition work are limited to between 7:00am and 6:00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority.
- i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- j) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.
- k) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.

- l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- m) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense. Dial before you dig www.1100.com.au should be contacted prior to works commencing.
- n) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
- o) Prior to demolition, a Work Plan must be prepared and submitted to the Principal Certifying Authority in accordance with the relevant provisions of Australian Standard 2601:2001 *Demolition of structures* by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- p) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
 - i) A WorkCover licensed contractor must undertake removal of all asbestos.
 - ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400 mm x 300 mm is to be erected in a visible position on the site to the satisfaction of Council.
 - iii) Waste disposal receipts must be provided to Council / Principal Certifying Authority as proof of correct disposal of asbestos laden waste.
 - iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
 - v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

- 4. In accordance with the provisions of the *Environmental Planning and Assessment Act 1979* construction works approved by this consent must not commence until:
 - a) A Construction Certificate has been issued by Council or an Accredited Certifier. Either Council or an Accredited Certifier can act as the "Principal Certifying Authority."
 - b) A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment.
 - c) At least two days notice, in writing has been given to Council of the intention to commence work.

The documentation required under this condition must show that the proposal complies with all Development Consent conditions and is not inconsistent with the approved plans, the Building Code of Australia and the relevant Australian Standards.

5. A privacy screen must be erected along the southern side of the first floor rear balcony and to have a 1 metre return on the western side. The privacy screen must:
 - a) be 1.6m high, measured from the floor level, and
 - b) have no individual opening more than 30mm wide, and
 - c) have a total area of all openings that is less than 25 per cent of the surface area of the screen; and
 - d) be permanently fixed and made of timber and have a colour finish that matches the wall colour of the existing dwelling.

Details must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority. The privacy measures must be maintained for the life of the building

6. To ensure reasonable privacy for the adjoining property, the following windows/glazing:

Window/glazing	Room	Elevation
G13	Ground Floor Study	Southern

must be treated with one of the following privacy treatments:

- have a minimum sill height of 1.6m above finished floor level. or
- be permanently fixed (that is windows are not to swing or lift open) with obscure glazing (not frosted film on clear glazing) to a height of 1.6 metres above finished floor level; or
- provided with fixed external louvers with a density of 75% and have no individual opening more than 30mm wide, and have a total area of all openings that is less than 30 per cent of the surface area of the screen and be made of durable materials. Where fixed louvered screens are used, the screen structure must be securely fixed. The louvers may tilt open from a closed position to an angle of 45 degrees in either a downward or upward position, depending on the sightlines that are to be restricted.

The treatment must ensure that the requirements of the Building Code of Australia are met. If one treatment cannot satisfy the requirements, an alternative in the list above is to be used.

Details must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority. The privacy measures must be maintained for the life of the building.

- 6A. The plans are to be amended to incorporate a traditional open palisade fence with a maximum height of 1.2m along the southern boundary from the front fenceline to the rear wall of the new study on the ground floor, and thereafter with 1.6m high timber paling fence.

The treatment must ensure that the requirements of the Building Code of Australia are met. Details must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority. The measures must be maintained for the life of the building.

7. Amended Stormwater Drainage Concept Plans (SDCP) must be submitted incorporating the following amendments:
 - a) Stormwater Drainage Concept Plans (SDCP) on drawing No. 91402/D1 prepared by KNEE BONE & BRETТА Consulting and dated 7 September 2018 must be amended to incorporate On-site Stormwater Detention storage and/or On-site Stormwater Retention/ re-use facilities (OSD/OSR). The design must be amended to make provision for the following:
 - b) Drainage pipers under the floor slab must be laid straight with no bends. Inspection eyes must be provided on the upstream end of the side lines and on the upstream and downstream ends of the main line.
 - c) Drainage pipes must be laid at a minimum grade of 1%. All pipes' diameter and invert levels must be shown on the drainage plans.
 - d) The width and design levels of the overland flow path must be shown on the drainage plans. The overland flow path shall be designed with a minimum width of 500mm at 1% grade.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority's satisfaction prior to the issue of any Construction Certificate.

8. A stormwater drainage design, incorporating separate On-site Stormwater Detention storage (OSD) and/or On-site Stormwater Retention/ re-use facilities (OSR), prepared by a qualified practicing Civil Engineer shall be provided prior to the issue of a Construction Certificate. The design must be prepared /amended to make provision for the following:
 - a) Stormwater runoff from all pervious and impervious areas of the site must be collected in a system of gutters, and pipelines and connected to the street gutter under gravity via OSD.
 - b) Charged or pump out system is not permitted.
 - c) The OSD tanks should be designed by an appropriately qualified civil engineer and be supported by calculations demonstrating that the post development flows for the 100 year Average Recurrence Interval (ARI) storm event from the site are restricted to the pre development flows for the 5 year ARI storm event.
 - d) The volume of on-site detention storage (OSD) can be reduced where On-site Stormwater Retention storage (OSR) facilities for rainwater reuse and/or stormwater reuse are proposed to service all toilets, laundries and outdoor usage. Where OSR is proposed in lieu of OSD, the offset shall be calculated at a rate of 1m³ from the OSD storage volume, for every 2.5m³ of OSR storage provided (up to a maximum OSD offset of 10m³).

- e) Dimensions and levels of the OSD and OSR, invert level and diameter of the inlet and outlet pipes, the invert level of the overflow pipe from the rainwater tank to OSD and details of the discharge control pit shall be shown on the drainage plans.
- f) The design must make provision for the natural flow of stormwater runoff from adjoining properties and trapped areas within the site, including landscaped areas.
- g) An overland flow path must be provided within the setback to the southern boundary between the rear of the dwelling and Jane Street frontage. The rear courtyard must be graded so that bypass flows from the site drainage system are directed to the overland flow path.
- h) A minimum 150mm step up must be provided between all external finished surfaces and adjacent internal floor areas.
- i) The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.
- j) Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.
- k) An inspection opening or stormwater pit must be installed inside the property adjacent to the boundary for all stormwater outlets.
- l) All redundant stormwater pipelines within the footpath area must be removed and the footpath and kerb reinstated.
- m) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm.
- n) Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.
- o) The 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.
- p) New kerb outlets in stone kerb shall be carefully cored through the existing kerb stone such that the kerb outlet is perpendicular (a 90° angle) with the gutter. The pipe under the footpath shall end 30mm within the kerb stone with mass concrete around the pipe connection to the kerb stone.
- q) Purpose made pipe fittings and bends or welded joints shall be used where necessary to align the discharge pipe with the kerb outlet.
- r) All plumbing within the site must be carried out in accordance with Australian Standard *AS/NZS3500.3.2015 Plumbing and Drainage – Stormwater Drainage*.

The design must be certified as compliant with the terms of this condition by a suitably qualified Civil Engineer.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

9. Before the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that no proposed underground services (i.e. water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, located on the subject allotment and adjoining allotments.

A plan detailing the routes of these services and trees protected under the State Environmental Planning Policy shall be prepared. Details demonstrating compliance are to be shown on the plans submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

10. The following replacement trees must be planted:

Tree/species	Quantity	Location
Native specimens capable of attaining a minimum mature height of 8m.	4	Rear site. Planting locations must consider privacy concerns along the southern boundary of the site.

The minimum container size of the new tree shall be 200 litres at the time of planting, and shall comply with AS 2303—*Tree Stock for Landscape Use*.

Council is to be notified when the replacement tree has been planted and an inspection arranged with Council's Tree Assessment Officer. If the replacement is found to be faulty, damaged, dying or dead prior to being protected under the Tree Management Controls of the Leichhardt Development Control Plan 2013, the replacement tree shall be replaced with the same species, which will comply with the criteria above.

Council encourages the uses of replacement trees that are endemic to the Sydney Basin to increase biodiversity in the local environment and provide a natural food source for native birds and marsupials. Note: Any replacement tree species must not be a palm tree species or be a plant declared to be a noxious weed under the Noxious Weeds Act 1993 or tree species listed as an exempt species under Section C1.14 (Tree Management) of the Leichhardt Development Control Plan 2013.

11. Prior to the issue of the Construction Certificate the builder in conjunction with or certified by a suitably qualified Civil engineer shall prepare a detailed work method statement including detailed specifications of the proposed method of excavation including the size, weight and power rating of plant and accessories, as well as appropriate hold points. to the satisfaction of the Principal Certifying Authority.

The design must be certified as compliant with the terms of this condition and adequate for the intended works by a suitably qualified Civil Engineer.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

12. A certificate prepared by a qualified Geotechnical Engineer must be provided prior to the issue of the Construction Certificate to the satisfaction of the Principal Certifying Authority. This is to certify the existing rock formations and substrate on the site are capable of:
- a) Withstanding the proposed loads to be imposed.
 - b) Withstanding the proposed excavation, including any shoring works that may be required to ensure stability of the excavation.
 - c) Providing protection and support of adjoining properties.
 - d) The provision of appropriate subsoil drainage during and upon completion of construction works.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

13. Prior to issue of the Construction Certificate the applicant shall have a Geotechnical/Civil Engineering report prepared which addresses (but is not limited to) the following:-
- a) The type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs shall be related to Australian Height Datum;
 - b) The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations/buildings shall be discussed and ameliorated;
 - c) The proposed method to temporarily and permanently support the excavation for the pool adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site);
 - d) The existing groundwater levels in relation to the pool structure, where influenced;
 - e) Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by a consulting geotechnical/hydrogeological engineer with previous experience in such investigations and reporting.

The report, satisfying the requirements of this condition, must be provided as part of the supporting documentation lodged with the Principal Certifying Authority for approval of the Construction Certificate application. The professional recommendations of the report shall be implemented in full during the relevant stages of excavation and construction.

14. Prior to the issue of a Construction Certificate, Architectural Plans accompanied by a Structural Certificate must be provided to the Principal Certifying Authority. The Certificate must verify that the architectural plans that are the subject of the Construction Certificate application do not rely on the Party Wall for lateral or vertical support and that additions are independently supported. A copy of the Certificate & plans must be provided to the consent authority and all owners of the party wall/s.
15. Any air conditioning unit on the site must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the Protection of the Environment (Operations) Act 1997.

The system/s shall be operated as follows:

- a) Domestic air conditioners must not be audible in nearby dwellings between:
 - i) 10:00pm to 7:00am on Monday to Saturday: and
 - ii) 10:00pm to 8:00am on Sundays and Public Holidays.
- b) At any other time the systems and associated equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A).

The source noise level shall be assessed as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

Air conditioning units must be installed in accordance with plans referenced in condition 1 or to satisfy provisions of the State Environmental Planning Policy (Exempt & Complying Codes) 2008.

Details demonstrating compliance with the requirements of this condition and the acoustic measures to be employed to achieve compliance with this condition are to be submitted for approval to the Principal Certifying Authority prior to the issue of any Construction Certificate.

16. The person acting on this consent shall submit to the Principal Certifying Authority a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the issue of a Construction Certificate.
17. In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy 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. The Long Service Levy is payable prior to the issue of a Construction Certificate.

Details demonstrating compliance are to be shown on the plans submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

18. Materials and finishes must be complementary to the predominant character and streetscape of the area, and any existing buildings & the period of construction of the buildings. The colour of the new metal deck skillion roof must be "Windspray" or "Wallaby". New materials that are not depicted on the approved plans must not be used. Highly reflective wall or roofing materials and glazing must not be used. Materials must be designed so as to not result in glare (maximum normal specular reflectivity of visible light 20%) or that causes any discomfort to pedestrians or neighbouring properties. Details of finished external surface materials, including colours and texture must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority.
19. If any excavation extends below the level of the base of the footings of a building on an adjoining property, the person causing the excavation:
 - a) Must preserve and protect the adjoining building from damage
 - b) Must, at least seven (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.
 - c) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this condition, the allotment of land includes public property.

20. The following fire upgrading is required pursuant to Clause 94 of the *Environmental Planning and Assessment Regulation 2000*:
 - The building is to be provided with smoke alarm system that complies with *AS3786-1993: Smoke Alarms* and the smoke alarms must be connected to the consumer mains electrical power supply and interconnected where there is more than one alarm with a stand-by (battery back-up) power supply. The smoke alarm system must be installed in suitable locations on or near the ceiling in accordance with Part 3.7.2 of the Building Code of Australia.

Amended plans and specifications demonstrating compliance with this condition must be submitted to the satisfaction of the Principal Certifying Authority with the application prior to the issuing of a for a Construction Certificate.

Note: Where an existing system complying with the above requirements is already installed in the building, evidence of this should be submitted with the application for a Construction Certificate.

21. A Certificate prepared by an appropriately qualified and 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 must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority. The certificate shall 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.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

22. A Soil and Water Management Plan must be provided prior to the issue of a Construction Certificate. The Soil and Water Management plan must be designed to be compatible with the document Planning for Erosion and Sediment Control on Single Residential Allotments or Managing Urban Stormwater–Soils & Construction Volume 1 (2004) available at www.environment.nsw.gov.au and the Construction Management and Traffic Management Plan referred to in condition/s of this Development Consent and must address, but is not limited to the following issues:

- a) Minimise the area of soils exposed at any one time.
- b) Conservation of top soil.
- c) Identify and protect proposed stockpile locations.
- d) Preserve existing vegetation. Identify revegetation technique and materials.
- e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner.
- f) Control surface water flows through the site in a manner that:
 - i) Diverts clean run-off around disturbed areas;
 - ii) Minimises slope gradient and flow distance within disturbed areas;
 - iii) Ensures surface run-off occurs at non erodable velocities;
 - iv) Ensures disturbed areas are promptly rehabilitated.
- g) Sediment and erosion control measures in place before work commences.
- h) Materials are not tracked onto the road by vehicles entering or leaving the site.
- i) Details of drainage to protect and drain the site during works.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

23. The approved plans must be checked online with Sydney Water Tap In 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. A copy of this approval must be supplied with the Construction Certificate application. Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 132092.

The Certifying Authority must ensure that the appropriate approval has been provided prior to the issue of a Construction Certificate.

24. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan (where applicable):
- a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) The locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council.
 - iii) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
 - iv) A dedicated unloading and loading point within the site for construction vehicles, plant and deliveries.
 - v) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
 - b) Noise and vibration
During excavation, demolition and construction phases, noise & vibration generated from the site must be controlled. Refer to other conditions of this consent. If during excavation, rock is encountered, measures must be taken to minimise vibration, dust generation and impacts on surrounding properties. Refer to Environmental Noise Management Assessing Vibration: a technical Guideline (Department of Environment and Conservation, 2006) www.epa.nsw.gov.au for guidance and further information.
 - c) Occupational Health and Safety
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.
 - d) Toilet Facilities
During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site. Details must be shown on the plan.
 - e) Traffic control plan(s) for the site
All traffic control plans must be in accordance with the Roads and Maritime Services publication "Traffic Control Worksite Manual"

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of 4 weeks prior to the activity proposed being undertaken.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

25. A Waste Management Plan (WMP) is to be provided in accordance with **Part D – Waste – Development Control Plan 2013**. The Plan must address all issues identified in the DCP including but not limited to:
- a) Estimated volume (m³) or weight (t) of materials that are reused, recycled or removed from site.
 - b) On site material storage areas during construction.
 - c) Material and methods used during construction to minimise waste.
 - d) Nomination of end location of all waste and recycling generated from a facility authorised to accept the material type for processing or disposal and retention of waste dockets to be made available to Council Officer on request
 - e) A clear statement within the Waste Management Plan of responsibility for the transferral of waste and recycling bins within the property and between floors where applicable to the collection point in accordance with DCP 2013.

All requirements of the approved Waste Management Plan must be implemented during the demolition, excavation and construction of the development.

PRIOR TO WORKS COMMENCING OR ISSUE OF A CONSTRUCTION CERTIFICATE (WHICHEVER OCCURS FIRST)

26. Prior to the commencement of works or issue of a Construction Certificate (whichever occurs first), a Noise and Vibration Management Plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to the Principal Certifying Authority.

The Plan is to identify amelioration measures to ensure the noise and vibration levels will be compliant with the relevant Australian Standards and Assessing Vibration: A technical guideline (available www.environment.nsw.gov.au). The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works. The Plan shall address, but not be limited to, the following matters:

- a) Identification of activities carried out and associated noise sources.
- b) Identification of potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment.
- c) Determination of appropriate noise and vibration objectives for each identified sensitive receiver.
- d) Noise and vibration monitoring, reporting and response procedures.
- e) Assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles.

- f) Description of specific mitigation treatments, management methods and procedures to be implemented to control noise and vibration during construction.
 - g) Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency (consistent with conditions of this consent).
 - h) Procedures for notifying residents of construction activities likely to affect their amenity through noise and vibration.
 - i) Contingency plans to be implemented in the event of non-compliances and/or noise complaints.
27. Upon installation of the required tree protection measures, an inspection of the site by the Principal Certifying Authority is required to verify that tree protection measures comply with all relevant conditions.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

28. Prior to the commencement of demolition works on the subject site or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee as detailed below must be 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.

Security Deposit (FOOT)	\$2,152.50
Inspection fee (FOOTI)	\$230.65

Payment will be accepted in the form of cash, bank cheque or 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 Council to determine the condition of the adjacent road reserve & footpath prior to & 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, Council may carry out any works necessary to repair the damage and/or remove the risk. The cost of these works will be deducted from the security deposit.

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

The amount nominated is only current for the financial year in which the consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

29. A dilapidation report including a photographic survey of the following adjoining properties must be provided to Principal Certifying Authority prior to any demolition or works commencing on the site or the issue of a Construction Certificate (whichever comes first). The dilapidation report must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property	Structures / Area
11 Jane Street	Dwelling House
15 Jane Street	Dwelling House, rock face and sandstone retaining wall
3 Bradford Street	Dwelling House, rock face and sandstone retaining wall
5 Bradford Street	Dwelling House, rock face and sandstone retaining wall

If excavation works are proposed the dilapidation report must report on the visible and structural condition of neighbouring structures within the zone of influence of the excavations. This zone is defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report is to be prepared by a practising Structural Engineer. All costs incurred in achieving compliance with this condition shall be borne by the applicant. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written correspondence from the owners of the affected properties or other evidence must be obtained and submitted to the Principal Certifying Authority in such circumstances that demonstrates such documentation has been received. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage arising from the works.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

30. Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall 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
- 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.

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity.

PRIOR TO THE COMMENCEMENT OF WORKS

31. The proposed structure(s) to be erected must stand wholly within the boundaries of the subject site. No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach onto adjoining properties or upon public property.

To ensure that the location of the building satisfies the provision of the approval, the footings and walls within one (1) metre of the property boundaries must be set out by or the location certified by a registered surveyor in accordance with the approved plans, prior to the commencement of works.

To ensure that the location of the building satisfies the provision of the approval, a check survey certificate shall be submitted to the Principal Certifying Authority either prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, indicating the:

- a) Location of the building with respect to the boundaries of the site;

32. The site must be 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 property 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. Additionally an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property, where necessary.

Separate approval is required under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property. Approvals for hoardings, scaffolding on public land must be obtained and clearly displayed on site for the duration of the works.

Any hoarding, fence or awning is to be removed when the work is completed and must be maintained clear of any advertising.

33. The *Home Building Act 1989* requires that insurance must be obtained from an insurance company approved by the Department of Fair Trading prior to the commencement of works approved by this Development Consent.

A copy of the certificate of insurance must be submitted to the Certifying Authority prior to the works commencing.

If the work is to be undertaken by an owner-builder, written notice of their name and owner-builder permit number must be submitted to the Certifying Authority.

In all other cases, written notice must be given to the Certifying Authority of:

- a) the name and licence number of the principal contractor; and
- b) reasons why a certificate of insurance is not required.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

34. Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall 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.
35. Prior to the commencement of works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
36. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form (available on Council's web page) and details of the appointed Principal Certifying Authority shall be submitted to Council.
37. Prior to the commencement of works, a sign must be erected in a prominent position on the site (for members of the public to view) on which the proposal is being carried out. The sign must state:
- a) Unauthorised entry to the work site is prohibited.

- b) The name of the principal contractor (or person in charge of the site) and a telephone number at which that person may be contacted at any time for business purposes and outside working hours.
- c) The name, address and telephone number of the Principal Certifying Authority for the work.

Any such sign must be maintained while the work is being carried out, but must be removed when the work has been completed.

Photographic evidence demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority and Council for records purposes prior to the commencement of any onsite work.

DURING WORKS

- 38. Building materials and machinery are to be located wholly on site unless separate consent (Standing Plant Permit) is obtained from Council/ the roads authority. Building work is not to be carried out on the footpath.

Construction materials and vehicles shall not block or impede public use of the footpath or roadway.

- 39. All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent them from being dangerous to life or property and in accordance with the design of a suitably qualified structural engineer.

If excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must:

- a) Preserve and protect the building from damage.
- b) If necessary, underpin and support the building in an approved manner.
- c) Give at least seven (7) days notice to the adjoining owner before excavating, of the intention to excavate within the proximity of the respective boundary.

Any proposed method of support to any excavation adjacent to adjoining properties or any underpinning is to be designed by a Chartered Civil Engineer, with National Professional Engineering Registration (NPER) in the construction of civil/structural works. Copies of the design plans must be provided to the relevant adjoining property owner/s prior to commencement of such works. Prior to backfilling, any method of support constructed must be inspected by the designing Engineer with certification provided to all relevant parties.

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

Schedule	
Tree/location	Time of Inspection

All trees located on adjoining property along northern boundary of site.	Monthly intervals throughout duration of works.
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Recommendations to ensure the tree/s long term survival must be carried out immediately upon receipt of the report.

Arborist - for the purpose of this condition a suitably qualified professional shall have as a minimum, Level 5 (Diploma) certification in Arboriculture under the Australian Qualification Framework (AQF).

Details demonstrating compliance with the requirements of this condition are to be submitted by the Arborist undertaking the works to the satisfaction of the Principal Certifying Authority.

- 41. Canopy and/or root pruning of the following tree(s) which is necessary to accommodate the approved building works shall be undertaken by, or supervised by, an experienced Arborist – for the purpose of this condition a suitably qualified professional shall have as a minimum, Level 5 (Diploma) certification in Arboriculture under the Australian Qualification Framework (AQF).

Schedule	
Tree/location	Approved works
All trees located on adjoining property along northern boundary of site.	Pruning

The person acting on this consent has approval under Council's Tree Management Controls to; prune the trees located on adjoining property along northern boundary of site to achieve a clearance of the structure. Pruning is limited to those branches that will come into direct contact the built structure and where branch diameter (at its point of attachment) does not exceed 40 mm. All pruning shall be carried out to sections 5, 6 and 7.3.3 of the Australian Standard AS4373—*Pruning of amenity trees*.

Where a tree's canopy or root system has developed across property boundaries, consent to undertake works on the tree does not permit a person acting on the consent to trespass on adjacent lands. Where access to adjacent land is required to carry out approved tree works, Council advises that the owners 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 shall meet the requirements of the *Access To Neighbouring Lands Act 2000* to seek access.

Details demonstrating compliance with the requirements of this condition are to be submitted by the Arborist undertaking the works to the satisfaction of the Principal Certifying Authority.

- 42. No tree roots of 30mm or greater in diameter located within the specified radius of the trunk(s) of the following, tree(s) shall be severed or injured in the process of any works during the construction period.

Schedule	
Tree/location	Radius in metres
All trees located on adjoining property along northern boundary of site.	5m

Details demonstrating compliance with the requirements of this condition are to be submitted by the Arborist undertaking the works to the satisfaction of the Principal Certifying Authority.

- 43. All excavation within the specified radius of the trunk(s) of the following tree(s) being hand dug:

Schedule	
Tree/location	Radius in metres
All trees located on adjoining property along northern boundary of site.	5m

Details demonstrating compliance with the requirements of this condition are to be submitted by the Arborist undertaking the works to the satisfaction of the Principal Certifying Authority.

- 44. The site must be appropriately secured and fenced at all times during works.
- 45. All fill used with the proposal shall be virgin excavated material (such as clay, gravel, sand, soil and rock) that is not mixed with any other type of waste and which has been excavated from areas of land that are not contaminated with human made chemicals as a result of industrial, commercial, mining or agricultural activities and which do not contain sulphate ores or soils.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority.

- 46. Unless otherwise approved by Council, excavation, demolition, construction or subdivision work shall only be permitted during the following hours:
 - a) 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
 - b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
 - c) at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

In the case that a standing plant or special permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving shall be limited to:

8:00 am to 12:00 pm, Monday to Saturday; and

2:00 pm to 5:00 pm Monday to Friday.

The Proponent shall not undertake such activities for more than three continuous hours and shall provide a minimum of one 2 hour respite period between any two periods of such works.

“Continuous” means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

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.

47. In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the demolition, construction or operation/use of the development.
48. Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.
49. The development must be inspected at the following stages by the Principal Certifying Authority during construction:
 - a) after excavation for, and prior to the placement of, any footings, and
 - b) prior to pouring any in-situ reinforced concrete building element, and
 - c) prior to covering of the framework for any floor, wall, roof or other building element, and
 - d) prior to covering waterproofing in any wet areas, and
 - e) prior to covering any stormwater drainage connections, and
 - f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
50. A copy of the approved plans and this consent must be kept on site for the duration of site works and in the case of any commercial or industrial premise for the duration of the use/trading. Copies shall be made available to Council Officer's upon request.
51. Sedimentation controls, tree protection measures and safety fencing (where relevant) shall be maintained during works to ensure they provide adequate protection during the course of demolition, excavation and construction works. Materials must be stored in a location and manner to avoid material being washed to drains or adjoining properties.

The requirements of the Soil and Water Management Plan must be maintained at all times during the works and shall not be removed until the site has been stabilised to the Principal Certifying Authority's satisfaction.

Material from the site is not to be tracked onto the road by vehicles entering or leaving the site. At the end of each working day any dust/dirt or other sediment shall be swept off the road and contained on the site and not washed down any stormwater pit or gutter.

The sediment and erosion control measures are to be inspected daily and defects or system failures are to be repaired as soon as they are detected.

52. 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 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.

53. No activities, storage or disposal of materials taking place beneath the canopy of any tree protected under Council's Tree Management Controls at any time.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

54. An Occupation Certificate must be obtained prior to any use or occupation of the development or part thereof. The Principal Certifying Authority must ensure that all works are completed in accordance with this consent including all conditions.

55. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious weed species and planting of canopy trees, have been undertaken in accordance with the approved landscape plan and/or conditions of Development Consent.

56. A second Dilapidation Report including photos of any damage evident at the time of inspection must be submitted after the completion of works. A copy of this Dilapidation Report must be given to the property owners referred to in this Development Consent. The report must:

- Compare the post construction report with the pre-construction report required by these conditions,
- Clearly identify any recent damage and whether or not it is likely to be associated with the development works including suggested remediation methods.

A copy must be lodged with Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate. Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

57. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that:

- a) Access to the pool/spa is restricted by a child resistant barrier in accordance with the regulations prescribed in the *Swimming Pools Act 1992*. The pool shall not be filled with water or be allowed to collect stormwater until the child resistant barrier is installed. The barrier is to conform to the requirements of Australian Standard AS 1926:2012

- b) Any mechanical equipment associated with the swimming pool and spa shall be located in a sound-attenuating container and positioned to minimise acoustic impacts on habitable rooms of surrounding properties. Prior to operation of the pool pump, the Principal Certifying Authority shall be satisfied that noise levels associated with the pool/spa pumping units shall not exceed 5dB(a) above the ambient background noise in any habitable room of adjoining properties. Evidence from a practising acoustical engineer demonstrating compliance with the above must be submitted to the Principal Certifying Authority prior to the operation of the pool pump or issue of an Occupation Certificate.
 - c) A high level overflow pipe has been provided from the back of the skimmer box to the filter backwash line discharging to the sewer. This line must not directly vent the receiving Sydney Water sewer. Evidence from the installer, indicating compliance with this condition must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
 - d) Permanently fixed water depth markers are to be clearly and prominently displayed on the internal surface above the water line at the deep and shallow ends on in-ground pools / spas and on the outside of aboveground pools / spas.
 - e) A durable cardiopulmonary resuscitation information poster sign authorised by the Life Saving Association is to be displayed in the pool / spa area in accordance with clause 10 of the *Swimming Pool Regulation 2008*.
58. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all works have been completed in accordance with the approved Waste Management Plan referred to in this development consent.

Proof of actual destination of demolition and construction waste shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

59. Prior to the release of an Occupation Certificate, the Principal Certifying Authority must be satisfied that the development complies with:
- the approved plans;
 - BASIX certificate (where relevant),
 - approved documentation (as referenced in this consent); and
 - conditions of this consent.
60. The existing sandstone kerb adjacent to the site is of local heritage value and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units before the issue of the Occupation Certificate.
61. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.

Works-as-executed plans of the stormwater drainage system, certified by a Registered Surveyor, together with certification by a qualified practicing Civil Engineer to verify that the drainage system has been constructed in accordance with the approved design and

relevant Australian Standards, shall be submitted and accepted by Council prior to the issue of an Occupation Certificate.

The works-as-executed plan(s) must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifying Authority stamped Construction Certificate plans

62. Prior to issue of the Occupation Certificate the person acting on this consent shall obtain from Council a compliance Certificate(s) stating that all Road, Footpath, Vehicle Crossing and Public Domain Works on Council property required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.
63. 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 shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.
64. The Operation and Management Plan for the On-site Detention and/or On-site Retention/re-use facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all time.
65. Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before the issue of the Occupation Certificate.

ONGOING CONDITIONS OF CONSENT

66. The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within seventy-two (72) hours of its application.
67. Any lighting of the premises shall be installed and maintained in accordance with Australian Standard AS 4282-1997: *Control of the Obtrusive Effects of Outdoor Lighting* so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if in the opinion of an Authorised Council Officer it is considered there to be have adverse effects on the amenity of the area.
68. Access to the swimming pool/spa must be restricted by fencing or other measures as required by the Swimming Pools Act, 1992 at all times

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

Pool plant and equipment must be installed and operated at all times so as not to cause "offensive noise" as defined by the Protection of the Environment Operations Act 1997. Domestic pool pumps and filters must not be audible in nearby dwellings between 8:00pm to 7:00am Monday to Saturday and 8:00pm to 8:00am Sundays and Public Holidays.

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

The disposal of backwash and/or the emptying of a swimming pool into a reserve, watercourse, easement or storm water drainage system is prohibited. These waters are to discharge via a permanent drainage line into Sydney Water's sewer via the filter/pump in accordance with Australian Standard Australian Standard AS 3500.2:2003 *Plumbing and drainage – Sanitary plumbing and drainage*. Permission is to be obtained from Sydney Water prior to the emptying of any pool to the sewer.

A resuscitation chart is to be displayed and maintained at all times.

69. The canopy replenishment trees required by this consent are to be maintained in a healthy and vigorous condition until they attain a height of 6 metres whereby they will be protected by Council's Tree Management Controls. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species within 2 months.
70. The canopy replenishment trees required by this consent are to be maintained in a healthy and vigorous condition until they attain a height of 6 metres whereby they will be protected by Council's Tree Management Controls. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species within 2 months.
71. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. Dwelling House without the prior consent of the Council unless the change to another use is permitted as exempt or complying development under *Leichhardt Local Environment Plan 2013* or *State Environmental Planning policy (Exempt and Complying Codes) 2008*.

The use of the premises as a Dwelling House, is defined under the *Leichhardt Local Environmental Plan 2013*.

PRESCRIBED CONDITIONS

A. BASIX Commitments

Under clause 97A of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

In this condition:

- a) Relevant BASIX Certificate means:
 - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 4.55

- of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
- ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and

- b) BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.

B. Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

C. Home Building Act

- 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given Leichhardt Council written notice of the following:
 - 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, or
 - 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.
- 2) If arrangements for doing residential building work are changed while the work is in progress so that the information submitted to Council is out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

D. Site Sign

- 1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.

- 2) Any such sign must be maintained while the building work or demolition work is being carried out, but must be removed when the work has been completed.

E. Condition relating to shoring and adequacy of adjoining property

- 1) For the purposes of section 4.17(11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - a) protect and support the adjoining premises from possible damage from the excavation, and
 - b) where necessary, underpin the adjoining premises to prevent any such damage.
- 2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

NOTES

1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. Section 8.2 of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, designated development or a complying development certificate. The request for review must be made within six (6) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. Furthermore, Council has no power to determine a review after the expiration of these periods. A decision on a review may not be further reviewed under Section 8.2.
3. If you are unsatisfied with this determination, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right of appeal to the Land and Environment Court within six (6) months of the determination date.
4. 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.
5. 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*.
6. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
7. 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.
 - g) Development Application for subdivision if consent for subdivision is not granted by this consent.
 - h) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
8. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained.
9. You may need a permit before filling a new or renovated swimming pool which holds more than 10,000 litres of water. You are advised to contact Sydney Water on 132092 to obtain this permit.
10. The kerb outlet and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of Vehicle Crossing and Public Domain Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

Have you made a political donation?

If you (or an associate) have made a political donation or given a gift to a Councillor, political party or candidate at the local government elections during the last two (2) years you may need to include with your application a full disclosure of this matter. For information go to Council's website at <https://www.innerwest.nsw.gov.au/about/reports-and-registers/political-donations>. If you have made a reportable donation, failure to provide a completed declaration with your application is an offence under the Environmental Planning and Assessment Act, 1979 for which you may be prosecuted.



Luke Murtas
MANAGER DEVELOPMENT ASSESSMENT