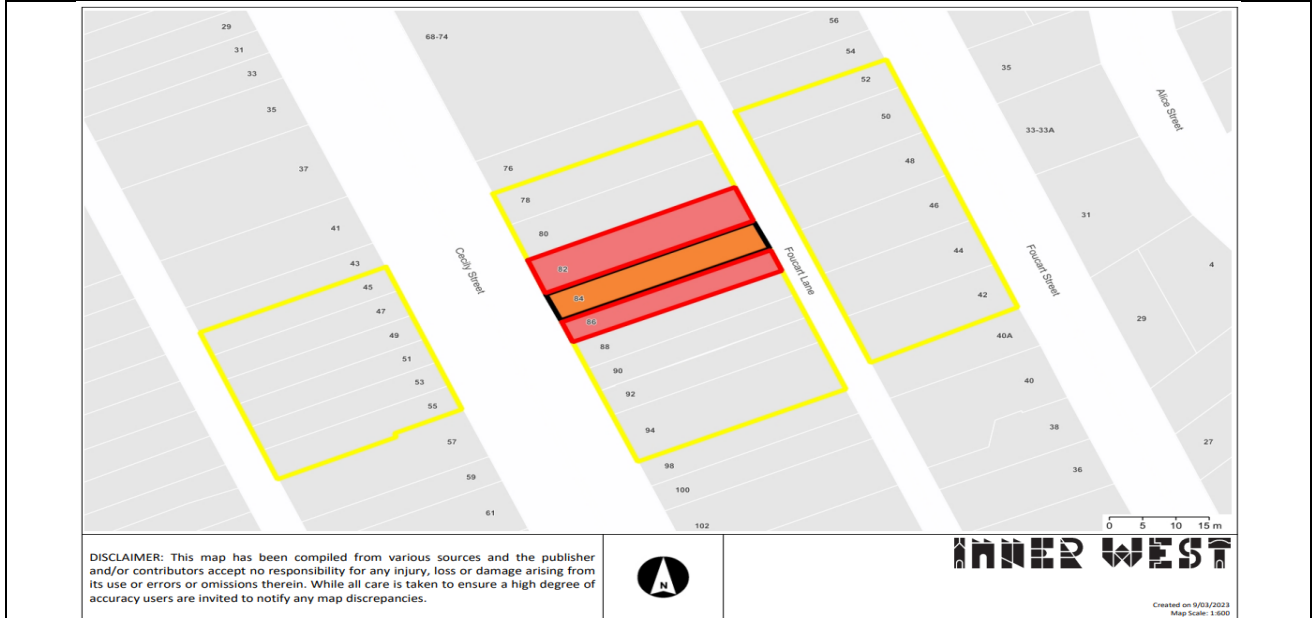




 DEVELOPMENT ASSESSMENT REPORT	
<b>Application No.</b>	DA/2022/0563
<b>Address</b>	84 Cecily Street LILYFIELD NSW 2040
<b>Proposal</b>	Alterations and additions to existing dwelling house
<b>Date of Lodgement</b>	19 July 2022
<b>Applicant</b>	Avenue One Design Pty Ltd
<b>Owner</b>	Mr Anthony R Barbaro
<b>Number of Submissions</b>	Initial: Two (2) After Renotification: Zero (0)
<b>Value of works</b>	\$650,000.00
<b>Reason for determination at Planning Panel</b>	4.6 variation exceeds 10%
<b>Main Issues</b>	<ul style="list-style-type: none"> <li>- Non-compliances with principal development standards</li> <li>- Inadequate Clause 4.6 request</li> <li>- Building location zone</li> <li>- Side boundary setbacks</li> <li>- Visual bulk and scale</li> <li>- Overshadowing</li> <li>- Visual privacy</li> </ul>
<b>Recommendation</b>	Refusal
<b>Attachment A</b>	Reasons for refusal
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Clause 4.6 Exception to Development Standards
<b>Attachment D</b>	Conditions in the event of an approval



LOCALITY MAP	
Subject Site	
Notified Area	
Objectors	
Supporters	

## 1. Executive Summary

This report is an assessment of the application submitted to Council for Alterations and additions to existing dwelling house at 84 Cecily Street LILYFIELD.

The application was notified to surrounding properties and two (2) submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- Variation to Floor Space Ratio development standard
- Variation to Landscaped Area development standard
- Variation to Site Coverage development standard
- Impacts on Heritage Conservation Area inconsistent with objectives under Section 5.10 of *IWLEP 2022* and Part C1.4 of LDCP 2013
- Bulk and scale impacts, and breaches to building location zone and side boundary setback controls inconsistent with objectives under Part C3.2 of LDCP 2013
- Private open space inconsistent with objectives under Part C3.8 of LDCP 2013
- Overshadowing impacts inconsistent with objectives under Part C3.9 of LDCP 2013
- Visual privacy impacts inconsistent with objectives under Part C3.11 of LDCP 2013

The non-compliances are not acceptable and therefore the application is recommended for refusal.

Further to the above, it should be noted that the submitted survey information and architectural plans contain drafting errors and do not contain sufficient detail for Council to undertake a comprehensive assessment of the application. Despite Council's requests for further information, the Applicant has not adequately addressed the following matters:

- The surveyor has included a note on the survey stating, "*no boundary survey has been undertaken*". Given boundary offsets are shown on the survey plan, Council has previously requested that the surveyor provides clarification as to how the offsets have been determined without the boundary being surveyed.
- The architectural drawings indicate the removal the existing lapped and capped timber paling fence and proposes changes the fence height. The survey information does not confirm the existing top of fence heights; therefore, it is unclear how existing top of fence heights have been determined.
- Council has identified that the submitted plans contain apparent drafting errors. The architectural drawings indicate that the proposal does not seek to demolish the existing freestanding wall located along the southern common boundary. However, the location of this wall, as depicted on the plans, is inconsistent with the location of the wall depicted on the survey plan.
- In accordance with Section 23(1) of the *Environmental Planning and Assessment Regulation 2021*:

*A development application may be made by—*

- (a) the owner of the land to which the development application relates,*  
*or*
- (b) another person, with the consent of the owner of the land.*

The proposed works rely on an existing encroaching wall to support the new additions. The adjoining landowners consent has not been provided for the proposed works relying on the wall for structural support. Further, the submitted plans have not demonstrate the new works will be constructed independently of the encroachment

and are not accompanied by a structural engineer's certificate outlining that the new works will not rely upon the encroaching wall for vertical or lateral support.

## 2. Proposal

The proposed development application seeks development consent for ground and first floor alterations and additions to the existing building comprising of the following works:

### Demolition

- Demolition of various internal and external wall of the existing building to accommodate new additions.
- Demolition of existing retaining walls and boundary fencing
- Demolition of existing ground floor deck

### Ground Floor

- New extension comprising open-plan living, kitchen and dining area.
- New bathroom and laundry.
- Outdoor alfresco area with barbeque area
- In fill rear yard with soil to be at level with new ground level extension.
- New boundary retaining walls and side privacy screening.

### First Floor

- First floor addition comprising:
  - 2 x bedrooms
  - 1 x ensuite
  - 1 x water closet
  - 1 x study

### Roof

- Install 3 x skylights on rear roof plane of main building
- New skillion roof located over new first floor level
- Install 2 x skylights and photovoltaic panels on skillion roof form

## 3. Site Description

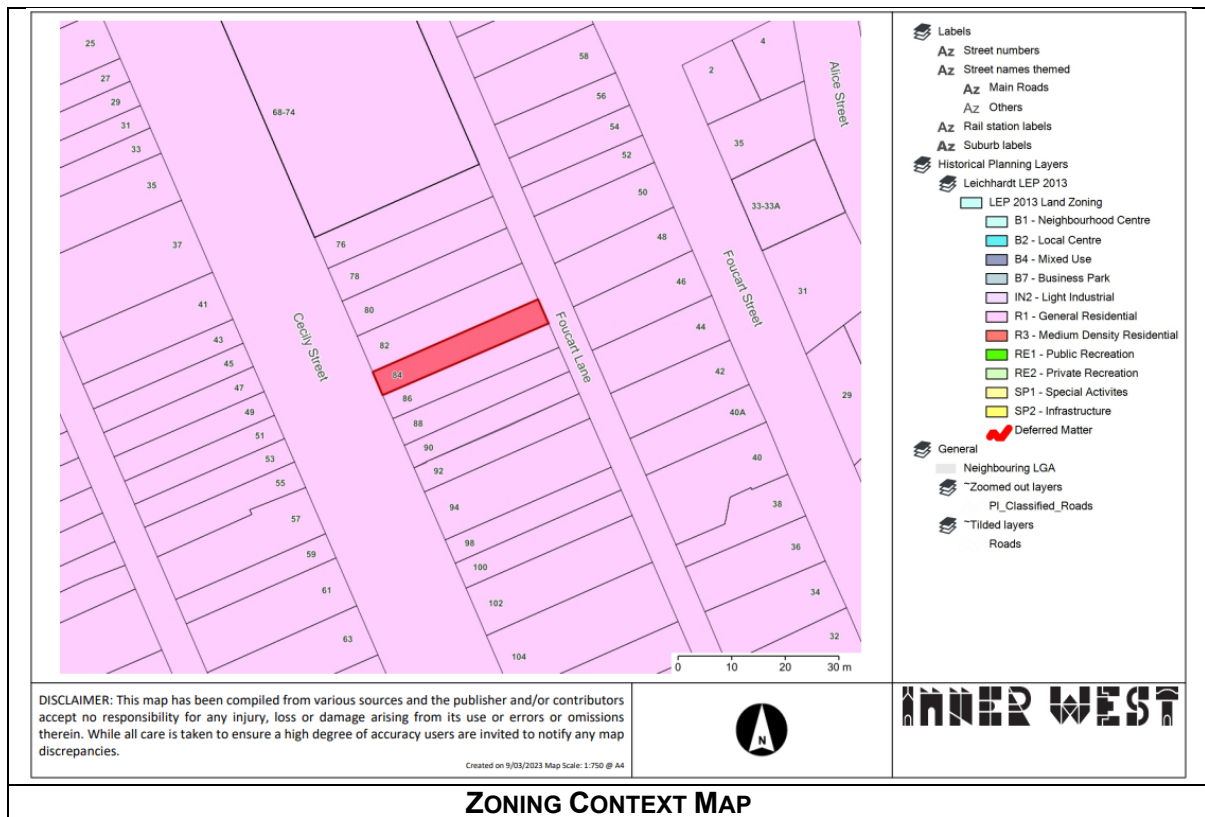
The subject site is located on the eastern side of Cecily Street, between O'Neill Street to the north and Joseph Street to the south. The site consists of one (1) allotment and is generally rectangular in shape with a total area of 163.5 sqm and is legally described as Lot 33 Section F in DP 1474, otherwise known as 84 Cecily Street, Lilyfield.

The site has a frontage to Cecily Street of 4.88 metres and a secondary frontage of 4.88 metres to Foucart Lane.

The site supports a single storey detached dwelling house. The adjoining properties support single storey dwelling houses.

The property is located within a conservation area. The subject site is located within the 20-25 ANEF Aircraft Noise Contour for Sydney Kingsford Smith Airport.

The subject site is not listed as a heritage item. The property is not identified as a flood prone lot.



## 4. Background

### 4(a) Site history

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

#### Subject Site

Application	Proposal	Decision & Date
BC/2005/211	Building Certificate	Approved, 05/12/2005
PDA/2021/0388	Pre-lodgement application for alterations and additions to existing dwelling, including garage with roof terrace.	Issued, 10/12/2021



## Surrounding properties

82 Cecily Street		
Application	Proposal	Decision & Date
CDCP/2021/0415	Complying Development Certificate, ground floor alterations	Completed, 26/08/2021
BC/2022/0023	Building Certificate for unauthorised works	Approved, 25/03/2022
BC/2022/0067	Building Certificate	Issued, 28/06/2022

86 Cecily Street		
Application	Proposal	Decision & Date
M/1998/13	Modify DA 97/540, Add wine cellar.	Approved, 20/01/1999
BA/1997/640	Building Application for alterations and Additions with second storey addition	Approved, 08/09/1997

## 4(b) Application history

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

Date	Discussion / Letter / Additional Information
10/08/2022 – 24/08/2022	Application notified.
31/10/2022	<p>Council wrote to the applicant requesting further information as follows:</p> <ul style="list-style-type: none"> <li>• Updated survey information.</li> <li>• Updated plans clearly annotated, coloured and labelled.</li> <li>• Adjoining owners consent for works outside property boundaries.</li> <li>• Amend proposal to comply and/or reduce extent of non-compliances with landscaped area, site coverage and floor space ratio development standards.</li> <li>• Request for updated Clause 4.6 exceptions to development standards requests for each development standard proposed to be varied.</li> <li>• Design changes to address impacts on Heritage Conservation Area.</li> <li>• Amendments to address building location zone and side boundary setback breaches and associated impacts.</li> <li>• Amendments to alleviate bulk and scale impacts from proposed works.</li> <li>• Amended private open space to comply with DCP minimum dimension requirements.</li> <li>• Revised shadow diagrams requested and design amendments to reduce overshadowing to no. 86 Cecily Street.</li> <li>• Amendments requested to address visual privacy impacts</li> <li>• Amended plans to delete proposed garage and roof terrace over the garage.</li> </ul>
21/11/2022	Applicant wrote to Council by email requesting extension to further information response deadline.
24/11/2022	Council wrote to the applicant by email advising the request for an extension was granted.
8/12/2022	The applicant provided a response to the additional information request via the NSW Planning Portal.

13/12/2022	Council wrote to the applicant by email the amended plans require renotification.
11/01/2023 – 27/01/2023	Application renotified.
25/01/2023	<p>Council wrote to the applicant by email requesting further information as follows:</p> <ul style="list-style-type: none"> <li>• Updated demolition plan clearly showing retained structures vs structure proposed for demolition.</li> <li>• Reduction in first floor building location zone.</li> <li>• Amended plans showing no significant changes to levels within the rear yard. The proposed levels must be consistent with the survey plan.</li> <li>• Amended plans showing new boundary fencing to be retained at current height or no higher than 1.8m measure from the existing ground level.</li> <li>• Revised shadow diagrams to accurately represent proposed overshadowing impacts.</li> <li>• Letter from registered surveyor demonstrating how boundary offsets have been determined.</li> <li>• Amendments to address non-compliances with landscaped area, site coverage and floor space ratio development standards.</li> <li>• Revised Clause 4.6 requests for each development standard to be varied.</li> </ul> <p>Council advised the applicant that if the issues raised were not satisfied the application would be assessed based on the current information submitted to Council.</p>
10/02/2023	The applicant provided a response to the additional information request.
21/02/2023	Council wrote to the applicant advising the response to Council's request had not adequately addressed the issues raised and that an assessment of the application will proceed based on the documentation submitted to Council on 8/12/2022.

## 5. Assessment

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

### 5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*

The following provides further discussion of the relevant issues:

**5(a)(i) State Environmental Planning Policy (Resilience and Hazards) 2021**

## Chapter 4 Remediation of land

Section 4.16 (1) of the SEPP requires the consent authority not consent to the carrying out of any development on land unless:

“(a) it has considered whether the land is contaminated, and  
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and  
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”

In considering the above, there is no evidence of contamination on the site.

There is also no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council's records. The land will be suitable for the proposed use as there is no indication of contamination.

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

A BASIX Certificate was submitted with the application and is satisfactory in this regard.

**5(a)(iii) Local Environmental Plans**Inner West Local Environmental Plan 2022

The *Inner West Local Environmental Plan 2022 (IWLEP 2022)* was gazetted on 12 August 2022. As per Section 1.8A – Savings provisions, of this Plan, as the subject application was made before the commencement of this Plan, the application is to be determined as if the *IWLEP 2022* had not commenced.

Section 4.15(1)(a)(i) of the *EPA Act 1979* requires consideration of any Environmental Planning Instrument (EPI), and Section 4.15(1)(a)(ii) also requires consideration of any EPI that has been subject to public consultation. The subject application was lodged on 19 July 2022, on this date, the *IWLEP 2022* was a draft EPI, which had been publicly exhibited and was considered imminent and certain.

Notwithstanding this, the amended provisions of the draft EPI do not alter the outcome of the assessment of the subject application.

Leichhardt Local Environmental Plan 2013 (LLEP 2013)

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

- Section 1.2 – Aims of the Plan
- Section 2.3 – Zone objectives and Land Use Table
- Section 2.7 – Demolition
- Section 4.3A – Landscaped areas for residential accommodation in Zone R1
- Section 4.4 – Floor Space Ratio
- Section 4.5 – Calculation of floor space ratio and site area

- Section 4.6 – Exceptions to development standards
- Section 5.10 – Heritage Conservation
- Section 6.1 – Acid Sulfate Soils
- Section 6.2 – Earthworks
- Section 6.4 – Stormwater management
- Section 6.8 – Development in areas subject to aircraft noise

Section 1.2 Aims of the Plan

Due to the concerns raised elsewhere in this report with respect to the adverse neighbouring amenity impacts and incompatibility with the existing pattern of development, the proposal does not comply with, nor has demonstrated compliance with the following provisions of Clause 1.2(2) of the LLEP 2013:

- (e) to protect and enhance the amenity, vitality and viability of Leichhardt for existing and future residents, and people who work in and visit Leichhardt,
- (l) to ensure that development is compatible with the character, style, orientation and pattern of surrounding buildings, streetscape, works and landscaping and the desired future character of the area,

Section 2.3 Land Use Table and Zone Objectives

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

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

The development is permitted with consent within the land use table.

As the proposal is not considered to be a satisfactory response to the existing pattern of development, and is not deemed to result in acceptable amenity outcomes and impacts to adjoining sites, the proposed development is not consistent with the following objectives of the R1 – General Residential zone:

- To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.
- To protect and enhance the amenity of existing and future residents and the neighbourhood.

As a result, the proposal is recommended for refusal.

Part 4 Principal Development Standards

The following table provides an assessment of the application against the relevant development standards under Part 4 of the LLEP 2013:

Standard	Proposal	non compliance	Complies
<b>Floor Space Ratio</b> Maximum permissible: 0.8:1 or 130.8sqm	0.89:1 144.7sqm	or 13.9sqm or 10.63%	No
<b>Landscape Area</b> Minimum permissible: 15% or 24.525sqm	6.49% 10.608sqm	or -13.917sqm or 56.75%	No
<b>Site Coverage</b> Maximum permissible: 60% or 98.1sqm	70.76% 115.7sqm	or 17.6sqm or 17.94%	No

Section 4.6 Exceptions to Development Standards

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

- Section 4.3A – Landscaped areas for residential accommodation in Zone R1
  - Section 4.3A (3)(a) – Landscaped Area
  - Section 4.3A (3)(b) – Site Coverage
- Section 4.4 – Floor Space Ratio

#### **Section 4.3A (3)(a) – Landscaped Area & Section 4.3A (3)(b) – Site Coverage**

As assessed, the application results in a variation to the Landscaped Area development standard under Section 4.3 (3)(a) of the *LLEP 2013* by 56.75% (-13.917sqm) and Site Coverage development standard under Section 4.3 (3)(b) of the *LLEP 2013* by 17.94% (17.6sqm).

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed departures to the development standards have been assessed against the objectives and provisions of Section 4.6 of the *LLEP 2013* below.

The Applicant has not provided a written request in accordance with Section 4.6(4)(a)(i) of the *LLEP 2013* to vary the Landscaped Area and Site Coverage development standards.

Therefore, the applicant has not demonstrated compliance with the Landscaped Area and Site Coverage development standards is unreasonable / unnecessary in the circumstances of the case, nor has the applicant demonstrated that there are sufficient environmental planning grounds to justify contravening the development standards.

Council is without power to endorse any variation in this instance.

Notwithstanding the above, it is considered the development is not in the public interest because it is inconsistent with the relevant objectives of the R1 – General Residential zone, in accordance with Section 4.6(4)(a)(ii) of the *LLEP 2013*, which are:

- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
- *To protect and enhance the amenity of existing and future residents and the neighbourhood.*

The departures from the Landscaped Area and Site Coverage development standards are inconsistent with the relevant zone objectives as:

- The bulk and scale of the proposal is inconsistent with the pattern of development in the neighbourhood, in particular immediately adjoining properties.
- The proposal does not provide landscaped area at levels compatible with adjoining properties, as the proposal seeks to raise and fill the rear yard ~640mm above the existing ground level.
- The proposal does not result in acceptable amenity outcomes for adjoining properties.

It is considered the development is not in the public interest because it is inconsistent with the relevant objectives of the Landscaped Area and Site Coverage development standards, in accordance with Section 4.6(4)(a)(ii) of the *LLEP 2013*, which are:

- *The objectives of this clause are as follows—*
  - *(c) to ensure that development promotes the desired future character of the neighbourhood,*

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

The proposal is inconsistent with the relevant Landscaped Area and Site Coverage development standards objectives for the following reasons:

- The bulk and scale of the proposal is not compatible with the pattern of development in the vicinity of the site and represents a style of development that is not in keeping with the desired future character of the area.
- The proposal does not result in a development that has a similar density to the immediate surrounding properties.
- The proposal does not provide compliant landscaped area and it is considered that there is no impediment to achieve compliance.

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

The proposal thereby fails to accord with the objective in Section 4.6(1)(b) and requirements of Section 4.6(3)(b) of the *LLEP 2013*. For the reasons outlined above, there are insufficient planning grounds to justify the departure from Landscaped Area and Site Coverage development standards and as a formal request for an exception under the provisions of Clause 4.6 of the *LLEP 2013* has not been provided, Council cannot consider the variation and it is recommended the Section 4.6 exception not be granted.

#### **Section 4.4 – Floor Space Ratio**

The applicant seeks a variation to the Floor Space Ratio (FSR) development standard under Section 4.4 of the *LLEP 2013* by 10.63% (13.9sqm).

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

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *LLEP 2013* below.

A written request has been submitted to Council in accordance with Section 4.6(4)(a)(i) of the *LLEP 2013* justifying the proposed contravention of the development standard which is replicated below:

- *In order to cater for the needs of the site with additional study and storage*
- *No significant views will be interrupted*
- *This development will not be adding a high level of bulk and scale to the neighbourhood.*
- *The proposed development does not provide negative impact on the streetscape character. - No significant views will be lost by the adjoining sites*
- *The FSR increase is largely due to the restricted site and heritage conservation zone*
- *The landscaped area for the site has been increased to facilitate the FSR*
- *The proposed development will be compatible with the desired future character of the area in relation to building bulk, form and scale*

The applicant's written rationale does not adequately demonstrate that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, or

that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is not in the public interest because it is inconsistent with the following relevant objectives of the R1 – General Residential zone, in accordance with Section 4.6(4)(a)(ii) of the *LLEP 2013*:

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

The proposal is inconsistent with the R1 – General Residential zone objectives for the following reasons:

- The bulk, scale, style, character, of the proposal is inconsistent with the pattern of development in the neighbourhood.
- The proposal does not provide compliant landscaped area.
- The proposal results in unacceptable amenity impacts.

It is considered the development is not in the public interest because it is inconsistent with the following relevant objectives of the FSR development standard, in accordance with Section 4.6(4)(a)(ii) of the *Leichhardt Local Environmental Plan 2013*:

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

The proposal is inconsistent with the FSR objectives for the following reasons:

- The proposal does not provide compliant Landscaped Area.
- The proposal results in excessive Site Coverage.
- The development represents an unsatisfactory departure from the suite of applicable planning controls.
- The proposed development is of a bulk and scale that will result in undue adverse amenity impacts on neighbouring properties.

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

The proposal thereby fails to accord with the objective in Section 4.6(1)(b) and requirements of Section 4.6(3)(b) of the *LLEP 2013*. For the reasons outlined above, there are insufficient planning grounds to justify the departure from the FSR development standard and it is recommended the Section 4.6 exception not be granted.

## 5(b) Draft Environmental Planning Instruments

None relevant.



## 5(c) Development Control Plans

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

<b>LDCP2013</b>	<b>Compliance</b>
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
<b>Part C</b>	
C1.0 General Provisions	No – see discussion
C1.1 Site and Context Analysis	No – see discussion
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	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	N/A
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	Yes
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	Yes
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.4.2 Nanny Goat Hill Distinctive Neighbourhood C2.2.4.2(a) Eastern Residential Sub Area	No – see discussion
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	No – see discussion
C3.2 Site Layout and Building Design	No – see discussion
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes

C3.7 Environmental Performance	Yes
C3.8 Private Open Space	No – see discussion
C3.9 Solar Access	No – see discussion
C3.10 Views	Yes
C3.11 Visual Privacy	No – see discussion
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
<b>Part C: Place – Section 4 – Non-Residential Provisions</b>	N/A
<b>Part D: Energy</b>	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	N/A
D2.5 Mixed Use Development	N/A
<b>Part E: Water</b>	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	
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	
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Yes
E1.2.4 Stormwater Treatment	N/A
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	N/A
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A
<b>Part F: Food</b>	N/A
<b>Part G: Site Specific Controls</b>	N/A

The following provides discussion of the relevant issues:

## Section 1 – General Provisions

### C1.0 General Provisions

For reasons discussed in this report, the proposal will result in unacceptable amenity impacts and fails to protect and enhance private amenity. In this regard, the proposal does not satisfy and has not demonstrated compliance with the following objective(s) of Part C1.0:

- *O4 Amenable: places and spaces provide and support reasonable amenity, including solar access, privacy in areas of private open space, visual and acoustic privacy, access to views and clean air.*
- *O6 Compatible: places and spaces contain or respond to the essential elements that make up the character of the surrounding area and the desired future character. Building heights, setbacks, landscaping and architectural style respond to the desired future character. Development within Heritage Conservation Areas or to Heritage Items must be responsive to the heritage significance of the item and locality.*

### C1.1 Site and Context Analysis

For reasons discussed in this report, the proposal is not considered to have satisfactorily taken into account the characteristics of the subject site and adjoining sites. In this regard, the proposal does not satisfy and has not demonstrated compliance with the following objective(s) of Part C1.1:

- *O1 To encourage property owners to ensure that the planning and design of their development takes into account:*
  - *a. existing site conditions on the site and adjacent and nearby properties;*
  - *d. the potential for amenity impacts such as overshadowing, loss of privacy, views or solar access;*
  - *f. the special qualities of the site and its context including urban design, streetscape and heritage considerations*

### C1.3 Alterations and Additions

The proposed development, as amended, has not been designed to address impacts on adjoining properties amenity and the Heritage Conservation Area. In this regard, the proposal does not satisfy and has not demonstrated compliance with the following objective(s) of Part C1.3:

- *To ensure that development:*
  - *c. makes a positive contribution to the desired future character of the streetscape and any heritage values associated with it;*
  - *d. is compatible with neighbourhood character, including prevailing site layout;*
  - *e. protects existing residential amenity, including the retention of adequate private open space and ensuring adequate sunlight, natural ventilation and privacy to the existing dwelling and surrounding dwellings;*

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

Due to the sites location in the Brennan's Estate Heritage Conservation Area the application was referred to Council's Heritage Specialist who has advised that the amended proposal

still seeks improvements which are not considered to be compatible with the setting of the building in the Heritage Conservation Area, as follows:

- The proposal seeks a cantilevered first floor level, which is inconsistent with existing forms of existing buildings in the Heritage Conservation Area. Given the cantilever will be visible from the rear lane, it is recommended for this element to be deleted.
- The projecting steel frame shading structure to the east (rear) elevation is visible from the public domain and does not appear as a sympathetic addition. It is recommended for the steel frame shading structure to be deleted.
- The proposed cladding to the first floor level of the rear addition should be laid horizontally, not vertically, and painted off white to complement the existing colour scheme.

Having regard to the above, the proposal fails to comply with the objectives and controls under Part C1.4 of the LDCP 2013.

### **Section 3 – Residential Provisions**

#### *C3.1 Residential General Provisions*

The proposed development would adversely affect the quality of living for the occupants of residential buildings adjoining the subject site. In this regard, the proposed development does not satisfy the following relevant objectives of the residential provisions:

- *O4 To ensure that all residential development is compatible with the scale, form, siting and materials of existing adjacent buildings.*
- *O7 To ensure that the amenity, including solar access and visual privacy, of the development and adjacent properties is not adversely impacted.*

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

This part of the LDCP 2013 encompasses two primary stipulations applicable in assessment of the proposal, this being building location zone and side boundary setbacks. Assessment of the proposed development in consideration of these provisions is carried out under the relevant sub-headings below.

##### *Building Location Zone*

Building location zone (BLZ) is the part of the subject site where it can be reasonably expected that a building can be located. The BLZ is determined by having regard to only the main building on the adjacent properties. The location of front fences or intervening walls, ancillary sheds, garages, external laundries, toilets or other structures on the site is not relevant in determining the BLZ.

Where an adjoining development has a front or rear setback that is clearly uncharacteristic of the general pattern of development within the street, consideration will be given to that general pattern in determining whether to permit a variation to the BLZ that would otherwise be determined based on the adjoining buildings alone.

In the circumstances of this case, the immediately adjoining property, located at no. 82 Cecily Street, is not considered appropriate in determining an appropriate BLZ on the subject site. Therefore, nos. 86, 88, and 90 are considered relevant in determining an appropriate BLZ (see figure 1).

Figure 1 below demonstrates the following:

- Red = Existing ground floor BLZ
- Green = Existing first floor BLZ
- Blue = Proposed ground floor BLZ
- Yellow = Proposed first floor BLZ

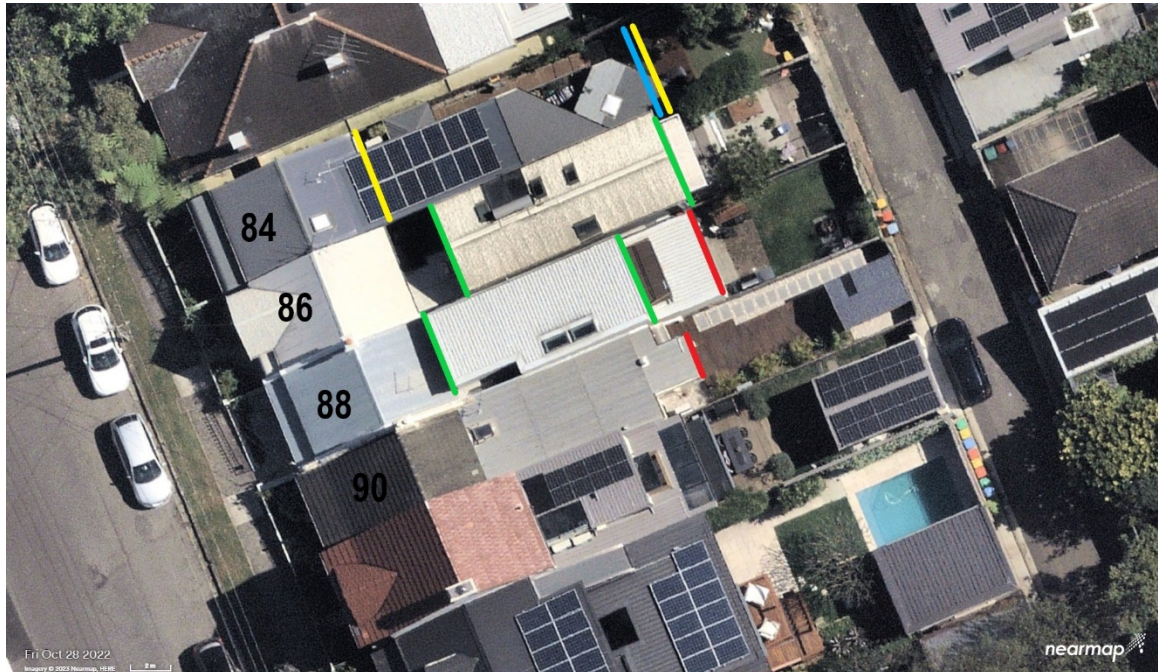


Figure 1: Existing and proposed BLZ

In consideration of the pattern of development within the street, the proposal seeks to establish a new BLZ at the ground level (rear) and first floor (front and rear).

In accordance with the requirements under Control C6 of Part C3.2 of LDCP 2013, the establishment of a new BLZ may be permitted where the proposal demonstrates:

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

Having regard to the controls of C6, it is considered that the siting of the first floor extension is unacceptable for the following reasons:

- The proposal has not been designed with an appropriate BLZ to protect amenity to adjacent properties (solar access, bulk and scale). Further, elements of the building



that project beyond the proposed BLZ (i.e. steel frame shading structure) exacerbate visual bulk impacts.

In summary, the proposed establishment of the first floor BLZ is unacceptable as it will not meet the BLZ tests outlined above.

#### *Side Boundary Setbacks*

Side walls are permitted to a maximum height of 2.8m before a setback from the side boundary is stipulated. The proposed development seeks to erect side walls ranging in height from ~5.5m – ~6.9m along the southern boundary and ~4.5m – ~6.07m along the northern boundary. Due to the narrow width of the allotment, proposed side walls do not comply with the side boundary setback requirements.

Despite the non-compliances, in accordance with C8 of Part C3.2 of LDCP 2013, Council may allow walls higher than that required by the side boundary setback controls above, to be constructed to side boundaries where:

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

In assessment of the application under C8, it is considered that the proposed wall heights of the proposed development are unacceptable for the following reasons:

- Amenity impacts (i.e. bulk and scale, overshadowing) have not been minimised.

In summary, the proposed departure from the side boundary setback graph is unacceptable in this instance.

Given the above, the proposed development is not considered acceptable having regard to the proposed setbacks and building location zone. As such, the proposal does not satisfy and has not demonstrated compliance with the following objective(s) of Part C3.2:

- *O3 To ensure that buildings are constructed within an appropriate Building Location Zone (BLZ) from the front and rear boundary to protect neighbourhood features such as streetscape, private open space, solar access and views.*
- *O4 To ensure that development:*
  - *c. complements the siting, scale and form of adjoining development; and*
  - *d. creates a high level of residential amenity for the site and protects existing or enhances residential amenity of adjoining sites in terms of visual and acoustic privacy, air circulation, solar access, daylight, outlook and views.*

#### *C3.8 Private Open Space*

The proposal seeks to raise the rear private open space (POS) ~680 mm above the ground level (existing). The proposal does not conform with C1 (a) under C3.8 of LDCP 2013, as the proposal is inconsistent with the location of private open space on adjoining properties. The proposed raised POS results in unacceptable privacy impacts for surrounding residential properties. Further, fence lines rising above the elevated POS to prevent overlooking, will

result in apparent bulk and unreasonable overshadowing impacts on neighbours. In this regard, the proposal does not satisfy and has not demonstrated compliance with the following objective(s) of Part C3.8:

- *O1 Private open space*
  - *(f) minimises visual and acoustic privacy impacts for surrounding residential properties.*

### *C3.9 Solar Access*

The submitted shadow diagrams do not accurately depict overshadowing caused by the proposed development. The submitted shadow diagrams suggest overshadowing caused by boundary fences will remain unchanged. However, elevation plans (Dwg. Nos. A300 L & A301 L) suggest new boundary walls are lower than existing boundary fences. It should also be noted, the survey submitted with the application has not confirmed existing top of fence heights and does not include RLs indicative of the topography of adjoining properties. As such, due to the absence of detailed survey information, Council is unable to independently verify the accuracy of the submitted shadow diagrams. Consequently, the absence of accurate shadow diagrams thwarts Council's ability to accurately quantify the overshadowing impact.

In this regard, the proposal has not demonstrated compliant solar access is maintained to neighbouring properties, as follows:

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

In any case the proposal is unable to satisfy the solar access provisions of LDCP 2013 with respect to protecting solar access to private open space of the adjoining properties and is therefore unable to be supported in this regard. Given the above, the proposal has not demonstrated compliance with the following objective(s) of Part C3.9:

- *O1 Development shall:*
  - *d. protect residential amenity for adjoining development;*
  - *f. minimise the degree of overshadowing to neighbouring properties.*

Concerns have also been raised in the submission received with regard to the impact of the development on light well, which is located to the south of the proposed works. Control C6 of Part C3.9 of the Leichhardt DCP 2013 reads as follows:

- *C6 – Light wells and/or courtyards may be used as a source of daylight, ventilation and/or outlook for dwellings, provided that another source of direct daylight is provided for main living rooms.*

*Note: Light-wells and courtyards, particularly those facing north onto a common side boundary, are vulnerable to impacts from development on adjacent northern property. Whilst Council will attempt to ensure reasonable access to daylight and ventilation for light-wells and/or courtyards, protection of direct sunlight is not stipulated, as it may often impose an unreasonable constraint on the development rights of a neighbouring property.*



In accordance with C6, the side lightwell cannot be reasonably protected from the loss of solar access with respect to its location immediately south of the proposed works. Further, the front BLZ has been designed to align with the front BLZ of no. 88 Cecily Street, which is in keeping with the pattern of development. However, for other reasons discussed throughout this report the application is recommended for refusal.

*C3.11 Visual Privacy*

Part C3.11 of the LDCP 2013 contains objectives and controls relating to protecting visual privacy.

*Openings and fenestrations*

The proposed development seeks to accommodate new openings and fenestrations, an assessment of the proposal has been carried out in the table below:

Identification / Type	Location	Assessment
<b>Ground Floor</b>		
D01 – Sliding door	North elevation	Dividing fencing is sufficient to prevent overlooking in accordance with C6.
W01 – Window	North elevation	Dividing fencing is sufficient to prevent overlooking in accordance with C6.
D02 – Bi-fold door	East elevation	Due to the slope of the land, which falls to the rear, D02 will be elevated. The window is recessed behind a fin wall to prevent sightlines over the southern boundary. However, no privacy screening is proposed to prevent sightlines over the northern boundary.
<b>First Floor</b>		
W03 – Window	North elevation	W03 is proposed with operable privacy screening. The screening should be fixed to ensure the privacy screening cannot tilt beyond 45 degrees from a closed position.
W04 – Window	North elevation	W04 is not proposed with any privacy treatments. Given the window is oriented towards a ground floor living room window at no. 82 Cecily Street. Privacy mitigation measures are deemed necessary.
W05 – Window	North elevation	W05 is not proposed with any privacy treatments. Given the window is oriented towards a ground floor living room window at no. 82 Cecily Street. Privacy mitigation measures are deemed necessary.
W06 – Window	West elevation	W06 faces a lightwell and does not pose an unacceptable visual privacy impact.
D03 – Bi-fold windows	East elevation	The bifold doors are rear facing and service a bedroom.

Having regard to the above, new openings and fenestrations will give rise to adverse visual privacy impacts and is unsatisfactory.

### *Private Open Space*

The proposal seeks to raise the rear yard. Proposed fencing / privacy screening shown on the submitted plans is not considered to be of an adequate height and block out density to prevent sightlines in accordance with control C1. Further, raising the fence to prevent overlooking would exacerbate bulk and scale impacts, and result in unreasonable overshadowing impacts. In this regard, the proposal does not satisfy the following objective of Part C3.8:

- *O1 Ensure spaces are designed with a high level of consideration to protecting visual privacy within the dwelling, in particular the main living room, and private open space of both the subject site and nearby residential uses.*

### 5(d) The Likely Impacts

The assessment of the Development Application demonstrates that the proposal will have an adverse impact on the locality in the following way:

- Floor Space Ratio;
- Setbacks and building location zone;
- Bulk and scale;
- Private open space;
- Solar access and overshadowing; and,
- Visual privacy.

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

It is considered that the proposal will have an adverse impact on the adjoining properties and therefore it is considered that the site is unsuitable to accommodate the proposed development.

### 5(f) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties.

Two (2) submissions were received in response to the initial notification.

Zero (0) submissions were received in response to renotification of the application.

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

- Non-compliance with zone objectives – see Part 5(a)
- Non-compliances with principal development standards – See Part 5(a)
- Inadequate Clause 4.6 request – See Part 5(a)
- The increase in visual bulk from the development – see Parts 5(a) & 5(c)
- Overshadowing impacts – see Part 5(c)
- Privacy implications – see Part 5(c)

In addition to the above issues, the submission(s) raised the following concerns which are discussed under the respective headings below:

Issue: *The submitted architectural drawings of the proposed alteration/addition to 84 Cecily Street misrepresent the layout of my adjoining property, 86 Cecily Street.*

Comment: The plans have been updated and survey information provided to reflect the side courtyard. However, it is noted that the plans contain drafting errors which have not been reflected in the revised set of plans requested by Council.

Issue: *Overshadowing impact on side courtyard.*

Comment: The impact of overshadowing on the side courtyard of no. 86 Cecily Street has been discussed under Part 5(c) of this assessment report.

### 5(g) 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 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.

In addition, the application was referred to Council's Development Engineer and Tree Assessment Officer. No objections have been raised from each respective referral body, subject to the imposition of appropriate conditions.

## 7. Section 7.11 Contributions/7.12 Levy

Section 7.12 levies are payable for the proposal.

The carrying out of the proposed development would result in an increased demand for public amenities and public services within the area. A condition requiring that contribution to be paid should be imposed on any consent granted.

## 8. Conclusion

The proposal generally does not comply with the aims, objectives and design parameters contained in *Leichhardt Local Environmental Plan 2013* and *Leichhardt Development Control Plan 2013*.

The development would result in significant impacts on the amenity of the adjoining properties and is not considered to be in the public interest.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

## 9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 *Leichhardt Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is not satisfied that compliance with the Floor Space Ratio, Landscape Area and Site Coverage development standards is unnecessary in the circumstance of the case and that there are insufficient environmental grounds to support the variation. The proposed development will not be in the public interest because the exceedance is inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, refuse Development Application No. DA/2022/0563 for alterations and additions to existing dwelling house. at 84 Cecily Street, LILYFIELD for the following reasons listed in Attachment A below

## Attachment A – Reasons for refusal

### REASONS FOR REFUSAL

1. The proposed development is inconsistent with and has not demonstrated compliance with the *Leichhardt Local Environmental Plan 2013*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*:
  - a. Clause 1.2 - Aims of the Plan
  - b. Clause 2.3 - Zone Objectives and Land Use Table
  - c. 4.3A - Landscaped areas for residential accommodation in Zone R1
  - d. Clause 4.4 - Floor Space Ratio
  - e. Clause 4.6 - Exceptions to development standards
2. The proposed development does not comply with Clause 4.3A (3)(a) of the *Leichhardt Local Environmental Plan 2013*, in that the proposed development does not provide a compliant landscaped area. Additionally, no written request has been submitted in accordance with Section 4.6(4)(a)(i) of the *Leichhardt Local Environmental Plan 2013* justifying the proposed contravention of the landscaped area development standard. In the absence of a written request, the consent authority cannot consider the proposed variation and is without power to approve such a development.
3. The proposed development does not comply with Clause 4.3A (3)(b) of the *Leichhardt Local Environmental Plan 2013*, in that the proposed development exceeds the maximum permitted site coverage. Additionally, no written request has been submitted in accordance with Section 4.6(4)(a)(i) of the *Leichhardt Local Environmental Plan 2013* justifying the proposed contravention of the site coverage development standard. In the absence of a written request, the consent authority cannot consider the proposed variation and is without power to approve such a development.
4. The proposed development is inconsistent with and has not demonstrated compliance with *Draft Inner West Local Environmental Plan 2020*, pursuant to Section 4.15(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*, having regard to:
  - a. Draft Clause 1.2 - Aims of Plan
  - b. Draft Clause 2.3 - Zone objectives and Land Use Table
5. The proposed development is inconsistent with the following provisions of the *Leichhardt Development Control Plan 2013*, pursuant to Section 4.15 (1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*:
  - a. Part c1.0 - General Provisions;

- b. Part C1.1 - Site and Context Analysis;
  - c. Part C1.3 - Alterations and Additions
  - d. Part C1.4 - Heritage
  - e. Part C3.1 - Residential General Provisions
  - f. Part C3.2 - Site Layout and Building Design
  - g. Part C3.8 - Private Open Space
  - h. Part C3.9 - Solar Access
  - i. Part C3.11 - Visual Privacy
6. The proposed development will result in adverse impacts on the built environment in the locality pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*.
  7. The proposal has not demonstrated that the site is suitable for the development pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
  8. The proposal has not demonstrated it is in the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*.
  9. The proposed development does not have owners consent for proposed encroachments to No. 86 Cecily Street. Owner's consent to which the development application relates has not been provided/obtained pursuant to Section 23(1) of the *Environmental Planning and Assessment Regulation 2021* and Section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979*.

Attachment B – Plans of proposed development

## ISSUE FOR DA APPROVAL

84 CECILY STREET, LILYFIELD, NSW

### DRAWING SCHEDULE

SHEET NO.	DRAWING NAME
A000	Title Sheet
A001	Broader site, Section, Corridor Plan
A101	Site Analysis Plan
A200	Context, Floor, Driveway
A201	Ground Floor, Program
A202	First Floor, Program
A203	Second Floor, Program
A204	External Program
A300	Sections, Program
A301	Overheading, Rain Water, Section
A302	Overheading, Rain Water, Section
A303	Overheading, Rain Water, Section
A304	Overheading, Rain Water, Section
A305	Overheading, Rain Water, Section
A306	Overheading, Rain Water, Section
A307	Overheading, Rain Water, Section
A308	Overheading, Rain Water, Section
A309	Overheading, Rain Water, Section

### EXTERNAL FINISHES & MATERIALS SELECTION

AREA	FINISH	IMAGE
CONCRETE BLOCK WALLS	FINISH POWDER COATED STEEL FRAME COLOUR: WHITE TO MATCH EXISTING	
EXTERIOR WALLS	FINISH LACQUERED WALL FINISH COLOUR: WHITE TO MATCH EXISTING	
EXTERIOR TIMBER FLOORING	FINISH NATURAL HARDWOOD CLADDING COLOUR: NATURAL	
EXTERIOR WINDOWS & DOORS	FINISH ALUMINIUM FRAME, POLYURETHANE COLOUR: CONCRETE	
TIMBER SCREENING	FINISH TIMBER BATTENS CONCEALED FIXED TO POWDER COATED STEEL FRAME FINISH COLOUR: NATURAL FINISH COLOUR: CONCRETE	
ROOFING, GUTTERS & DOWNPIPES	FINISH ALUMINIUM PRE-FINISHED COLOUR: WALLAZ	

#### BASIX NOTES

FOR THE PURPOSES OF BASIX, THIS DEVELOPMENT IS CLASSIFIED AS A 'RESIDENTIAL DEVELOPMENT'.

THE BASIX REPORT HAS BEEN PREPARED BY AN ACCREDITED BASIX DESIGNER.

THE BASIX REPORT IS A TECHNICAL DOCUMENT THAT PROVIDES DETAILED INFORMATION ON THE WATER SAVING, ENERGY SAVING AND GREENHOUSE GAS EMISSIONS SAVING MEASURES THAT HAVE BEEN INCORPORATED INTO THE DEVELOPMENT.

THE BASIX REPORT IS A TECHNICAL DOCUMENT THAT PROVIDES DETAILED INFORMATION ON THE WATER SAVING, ENERGY SAVING AND GREENHOUSE GAS EMISSIONS SAVING MEASURES THAT HAVE BEEN INCORPORATED INTO THE DEVELOPMENT.

#### CALCULATIONS

EXISTING AFFAS	5.01 M2
IC ALA-ALA	7.95 M2
FIRE FLOOR	7.95 M2
TOTAL AREA	15.91 M2
LANDSCAPE AREA	18.25 M2
TOTAL AREA	34.16 M2

#### AVENUE ONE DESIGN

AVENUE ONE DESIGN  
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REVISIONS

NO.	DESCRIPTION	DATE
1	ISSUE FOR DA APPROVAL	08/12/2022
2	REVISED FOR DA APPROVAL	10/01/2023
3	REVISED FOR DA APPROVAL	15/02/2023
4	REVISED FOR DA APPROVAL	15/03/2023
5	REVISED FOR DA APPROVAL	18/03/2023

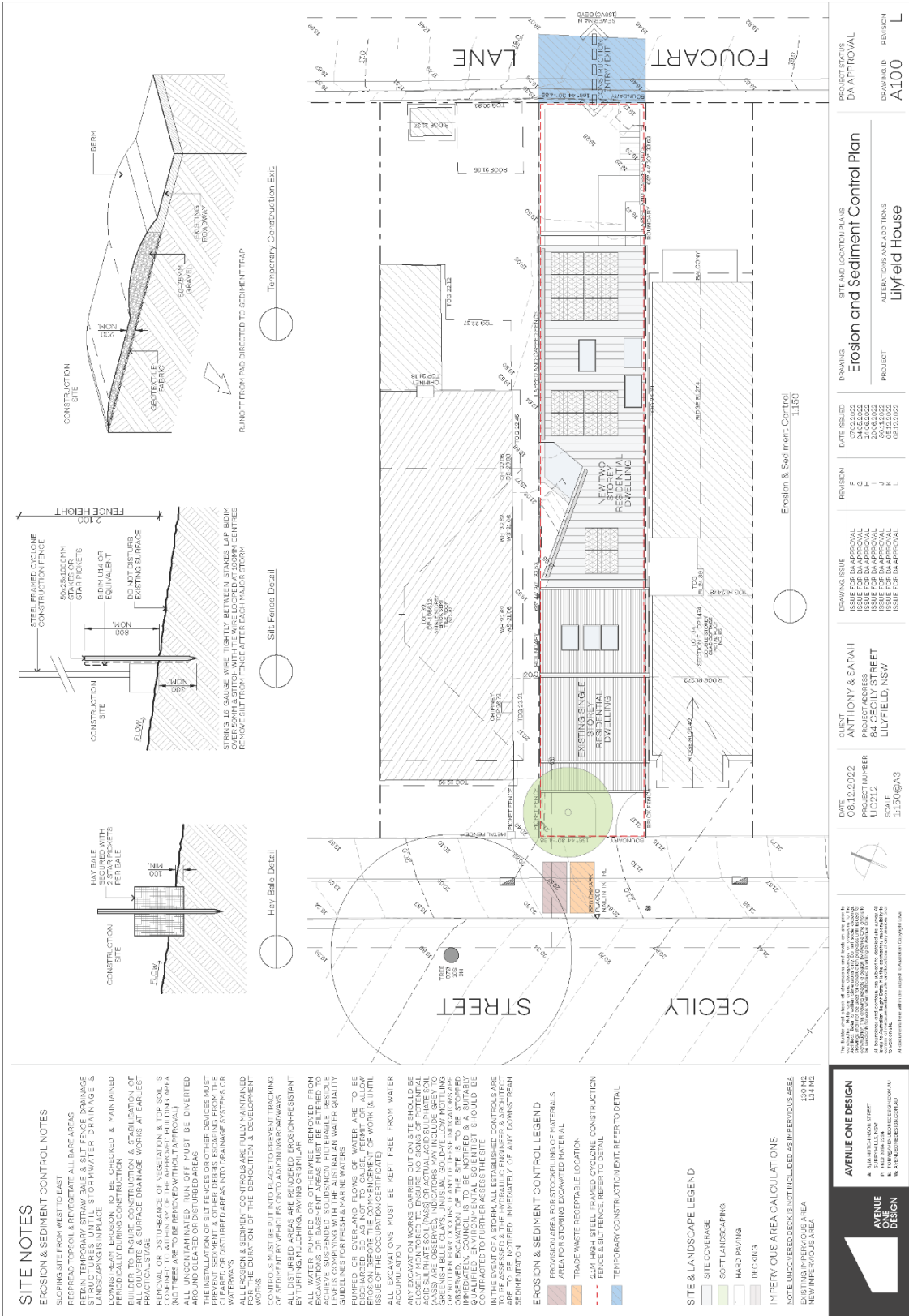
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DATE: 10/01/2023	CLIENT: ANTHONY & SARAH	PROJECT: 84 CECILY STREET, LILYFIELD, NSW	PROJECT NO.: 84 CECILY STREET, LILYFIELD, NSW
DATE: 15/02/2023	CLIENT: ANTHONY & SARAH	PROJECT: 84 CECILY STREET, LILYFIELD, NSW	PROJECT NO.: 84 CECILY STREET, LILYFIELD, NSW
DATE: 15/03/2023	CLIENT: ANTHONY & SARAH	PROJECT: 84 CECILY STREET, LILYFIELD, NSW	PROJECT NO.: 84 CECILY STREET, LILYFIELD, NSW
DATE: 18/03/2023	CLIENT: ANTHONY & SARAH	PROJECT: 84 CECILY STREET, LILYFIELD, NSW	PROJECT NO.: 84 CECILY STREET, LILYFIELD, NSW

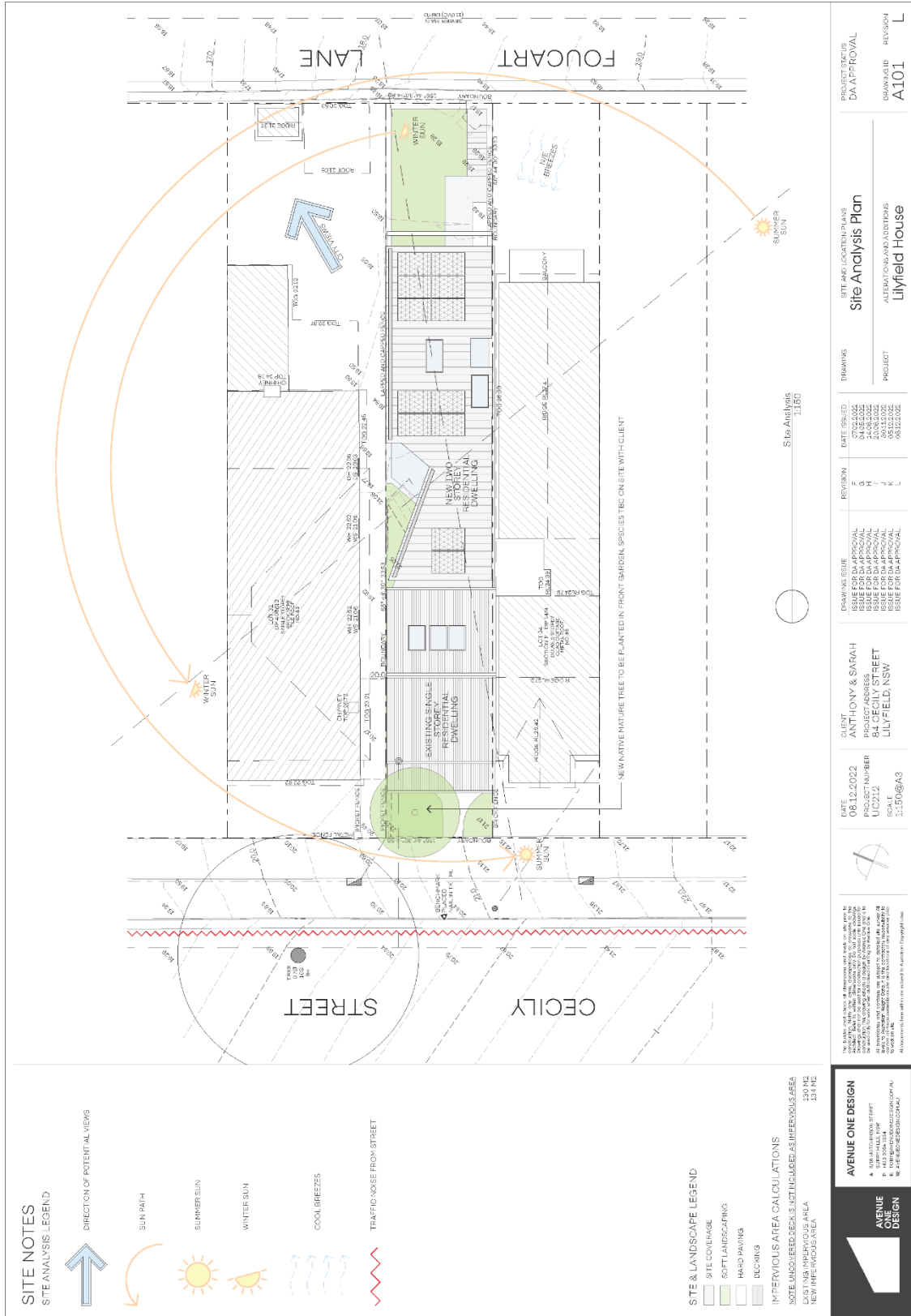
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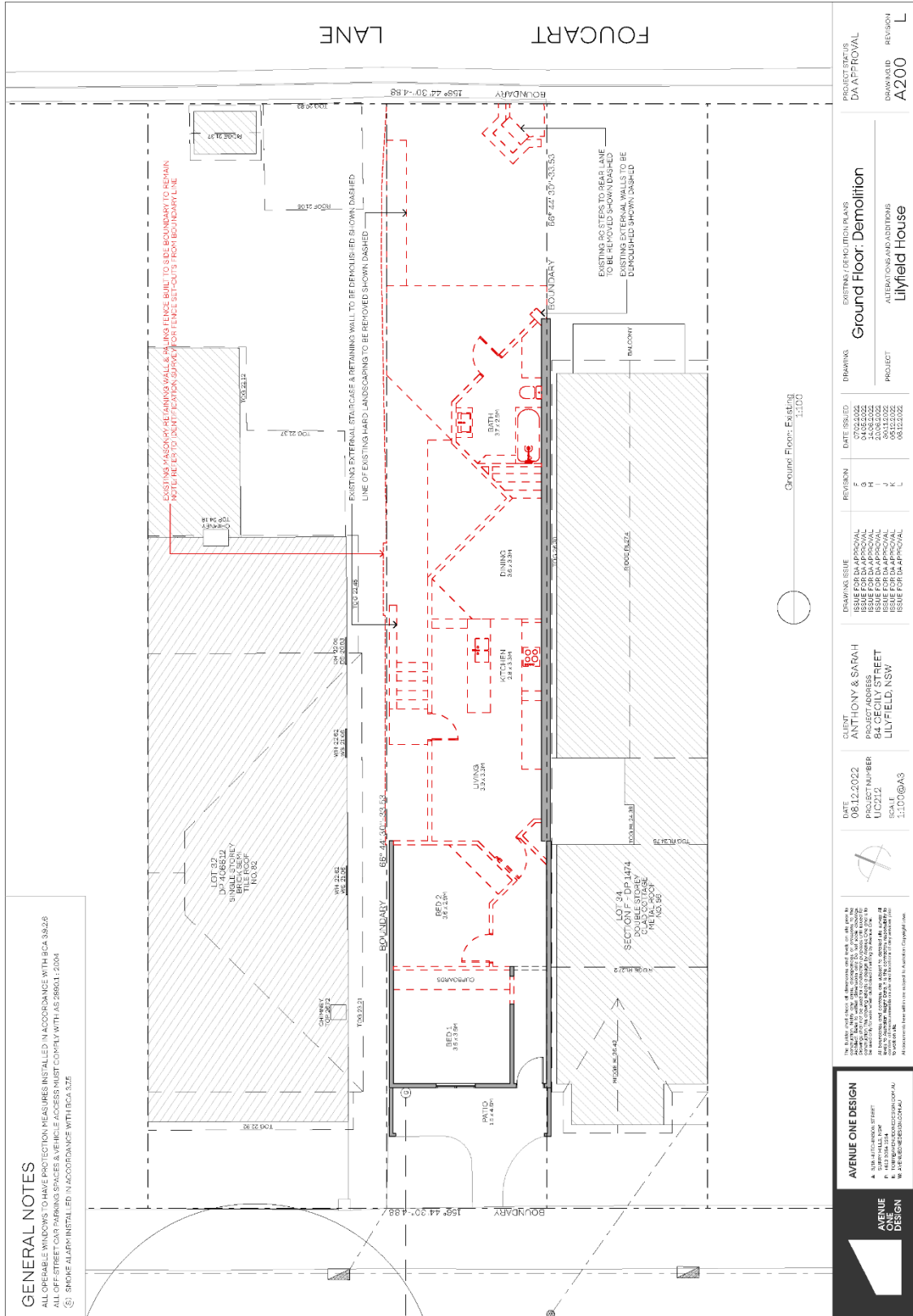
84 CECILY STREET, LILYFIELD, NSW

**Lilyfield House**







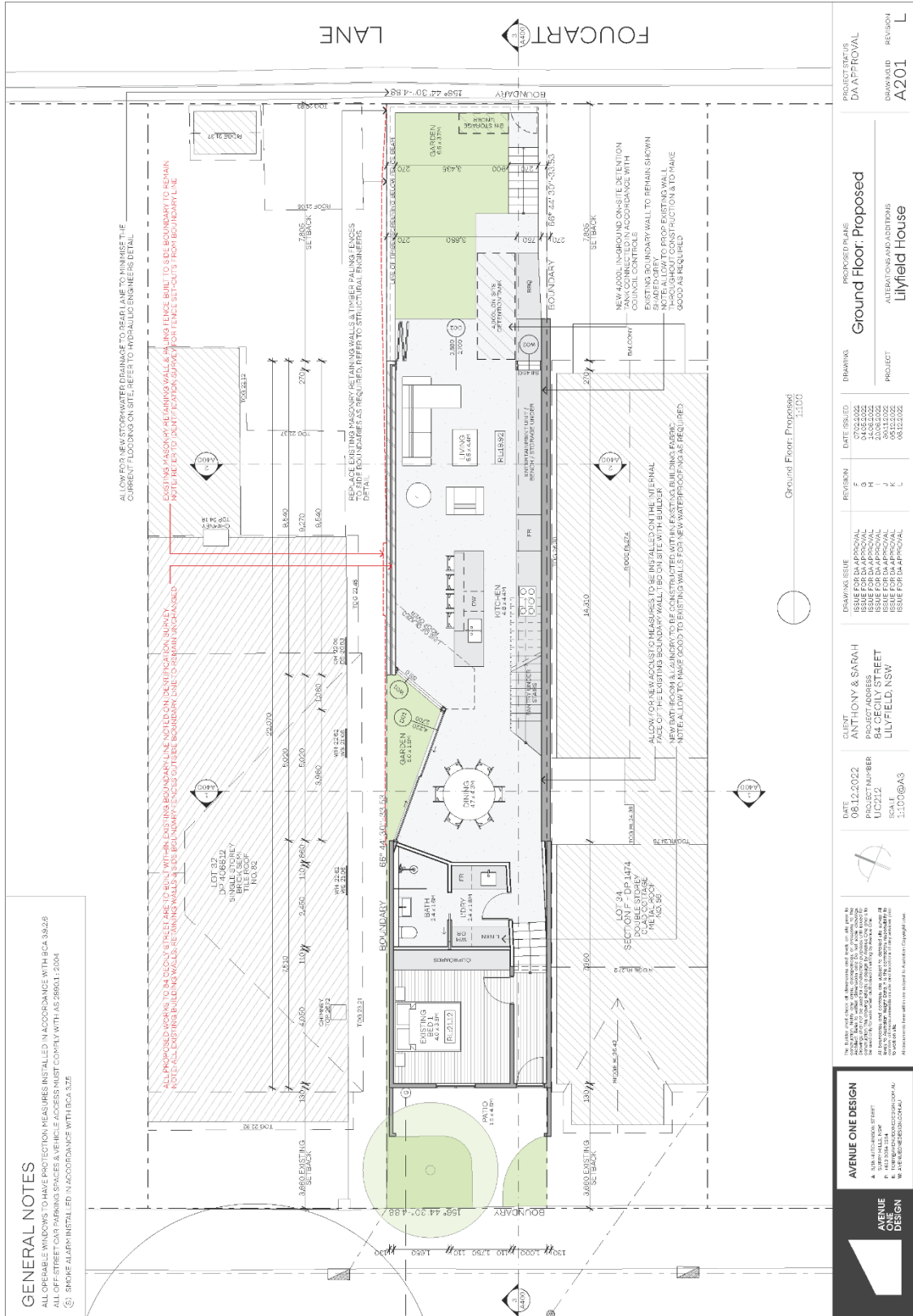


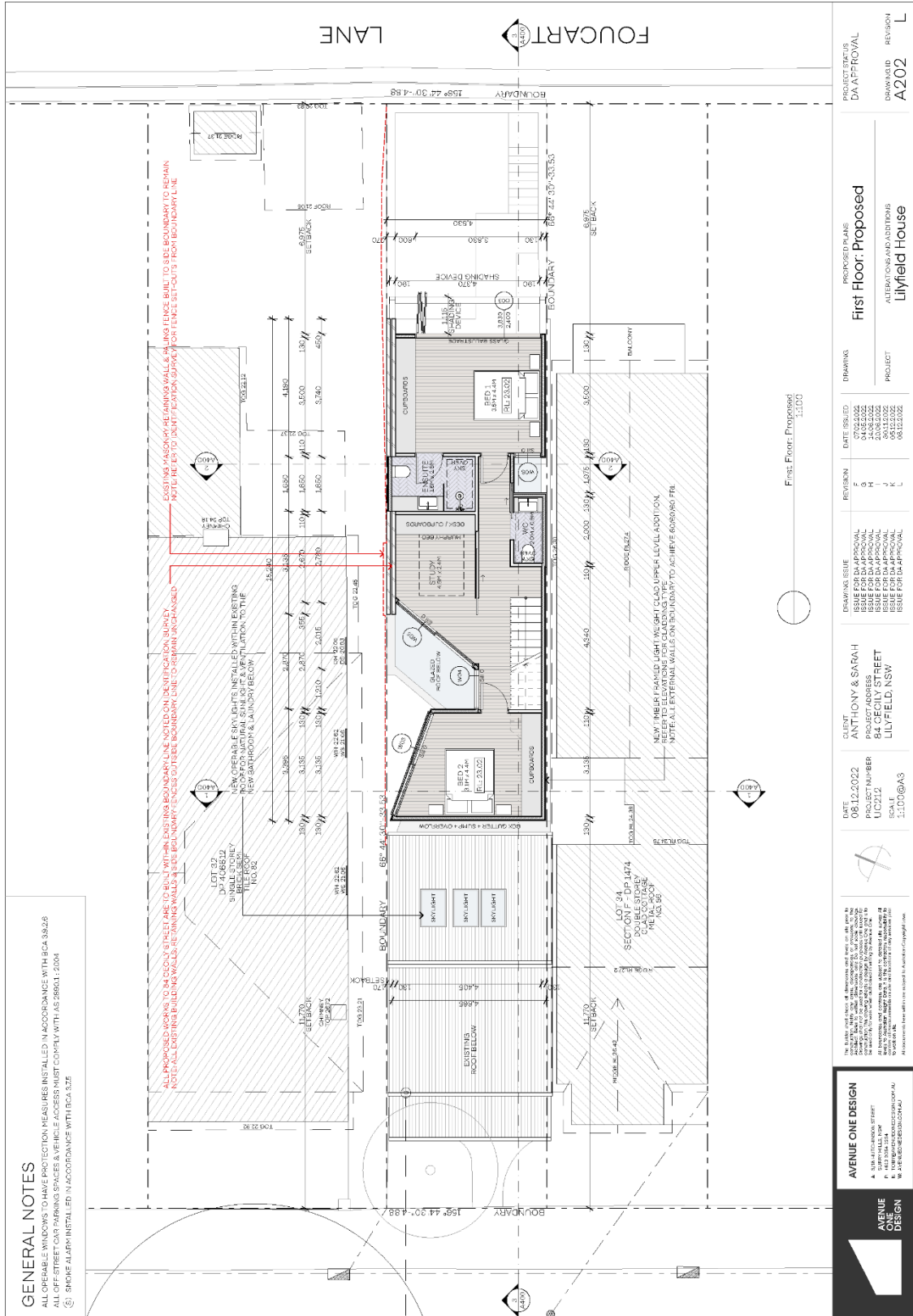
**GENERAL NOTES**

- ALL OPERABLE WINDOWS TO HAVE PROTECTION MEASURES INSTALLED IN ACCORDANCE WITH BCA 3.9.2.6
- ALL OFF-STREET CAR PARKING SPACES & VEHICLE ACCESS MUST COMPLY WITH AS 2860.1:2004
- SMOKE ALARMS INSTALLED IN ACCORDANCE WITH BCA 9.2.1

Ground Floor: Existing  
1:100

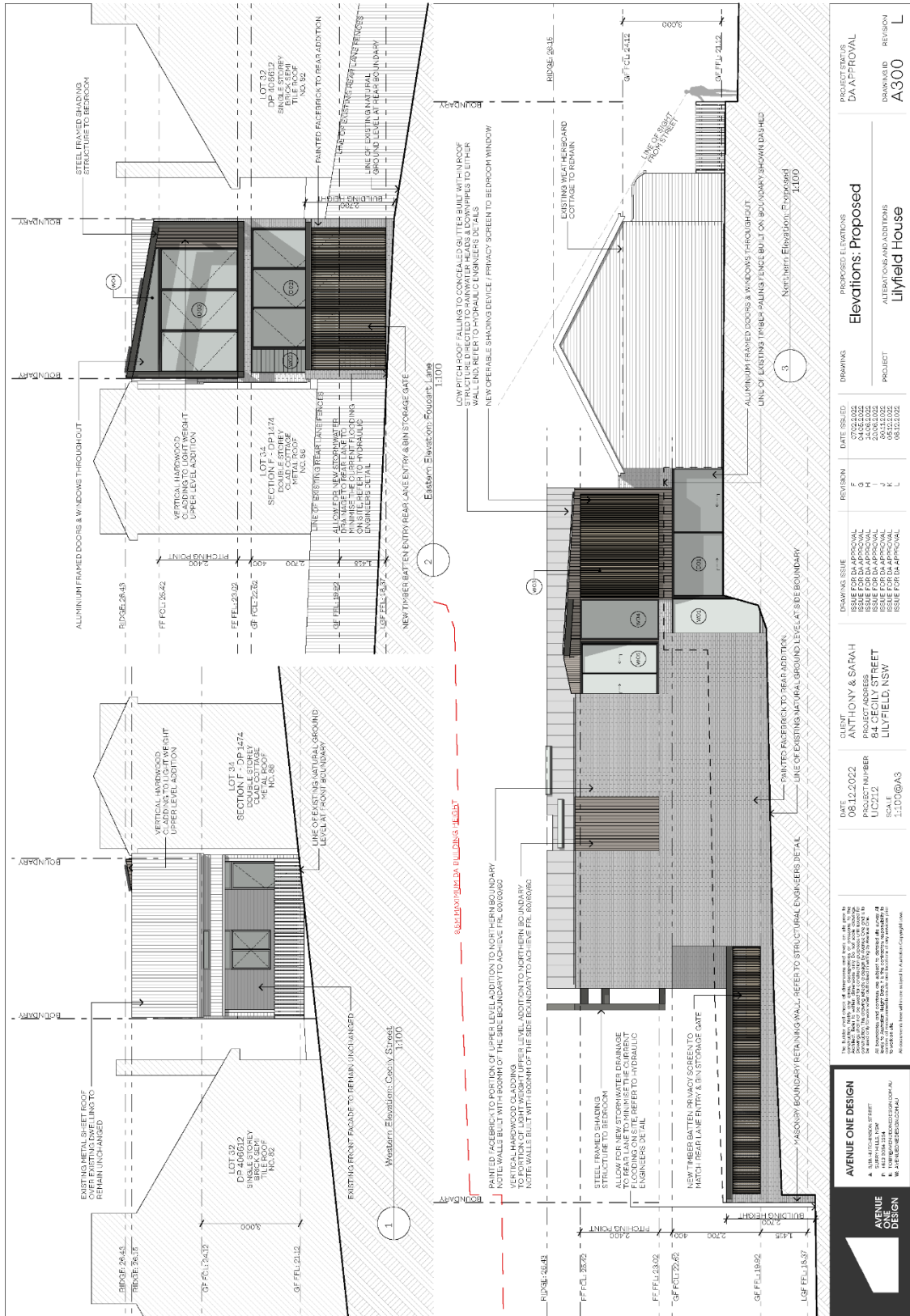
		<p><b>AVENUE ONE DESIGN</b></p> <p>A. 100% ARCHITECTURAL DESIGN                  B. 100% INTERIORS DESIGN                  C. 100% LANDSCAPE ARCHITECTURE                  D. 100% CIVIL ENGINEERING                  E. 100% STRUCTURAL ENGINEERING</p>	
<p><b>DATE</b> 08/12/2022</p> <p><b>PROJECT NUMBER</b> LUC212</p> <p><b>SCALE</b> 1:100 @ A3</p>	<p><b>CLIENT</b> ANTHONY &amp; SARAH</p> <p><b>PROJECT ADDRESS</b> 84 CECILY STREET LILYFIELD, NSW</p>	<p><b>DRAWING ISSUE</b></p> <p>ISSUE FOR DA APPROVAL                  ISSUE FOR DA APPROVAL                  ISSUE FOR DA APPROVAL                  ISSUE FOR DA APPROVAL                  ISSUE FOR DA APPROVAL</p>	<p><b>REVISION</b></p> <p>F H J K L</p>
<p><b>DATE ISSUED</b> 07/12/2022 08/12/2022 08/12/2022 08/12/2022 08/12/2022</p>	<p><b>DRAWINGS</b></p> <p>EXISTING / DEMOLITION PLANS</p> <p><b>Ground Floor: Demolition</b></p> <p>ASTRA CONSULTING SERVICES Lilyfield House</p>	<p><b>PROJECT STATUS</b> DA APPROVAL</p> <p><b>DRAWN BY</b> A200</p> <p><b>REVISION</b></p>	





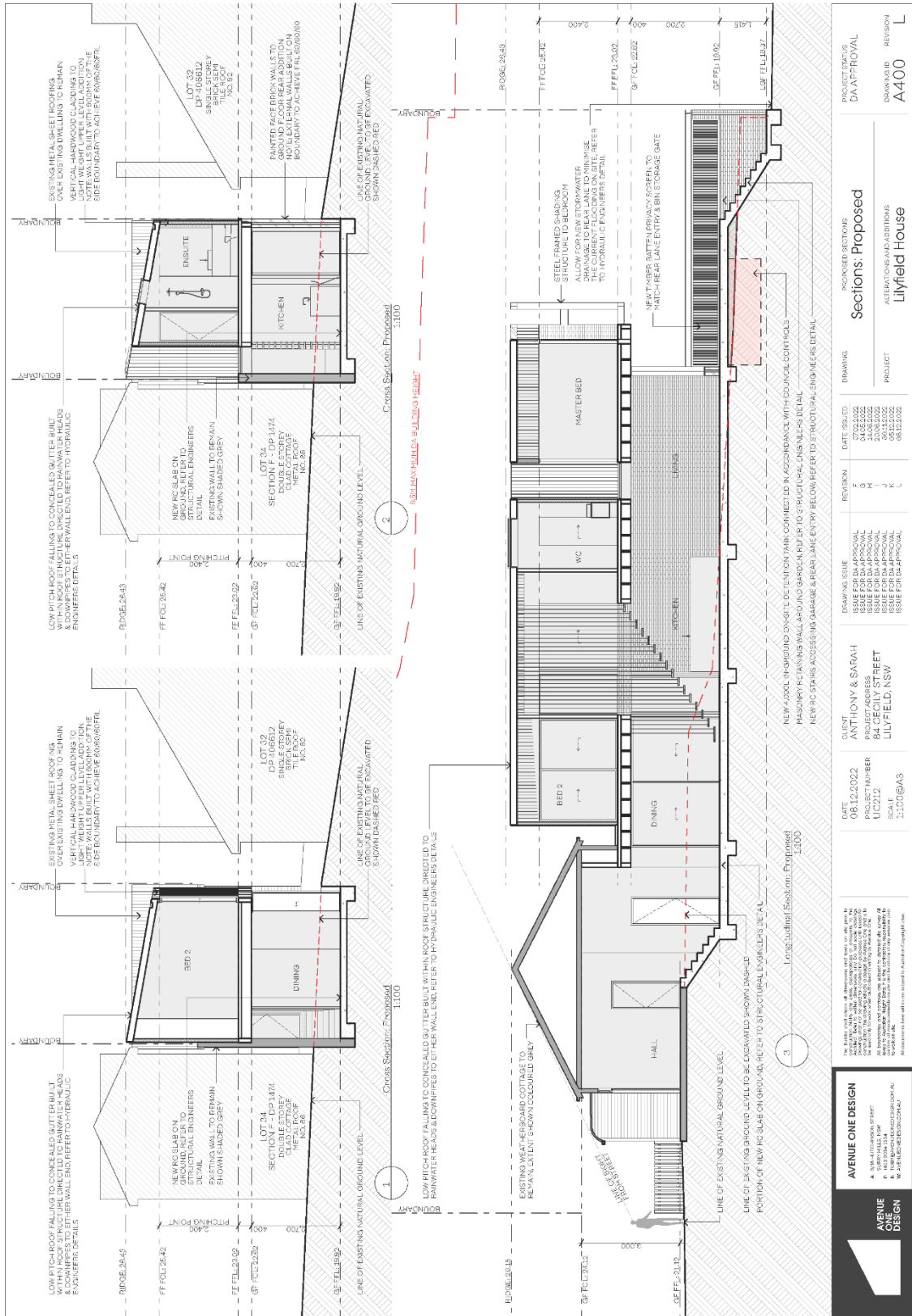




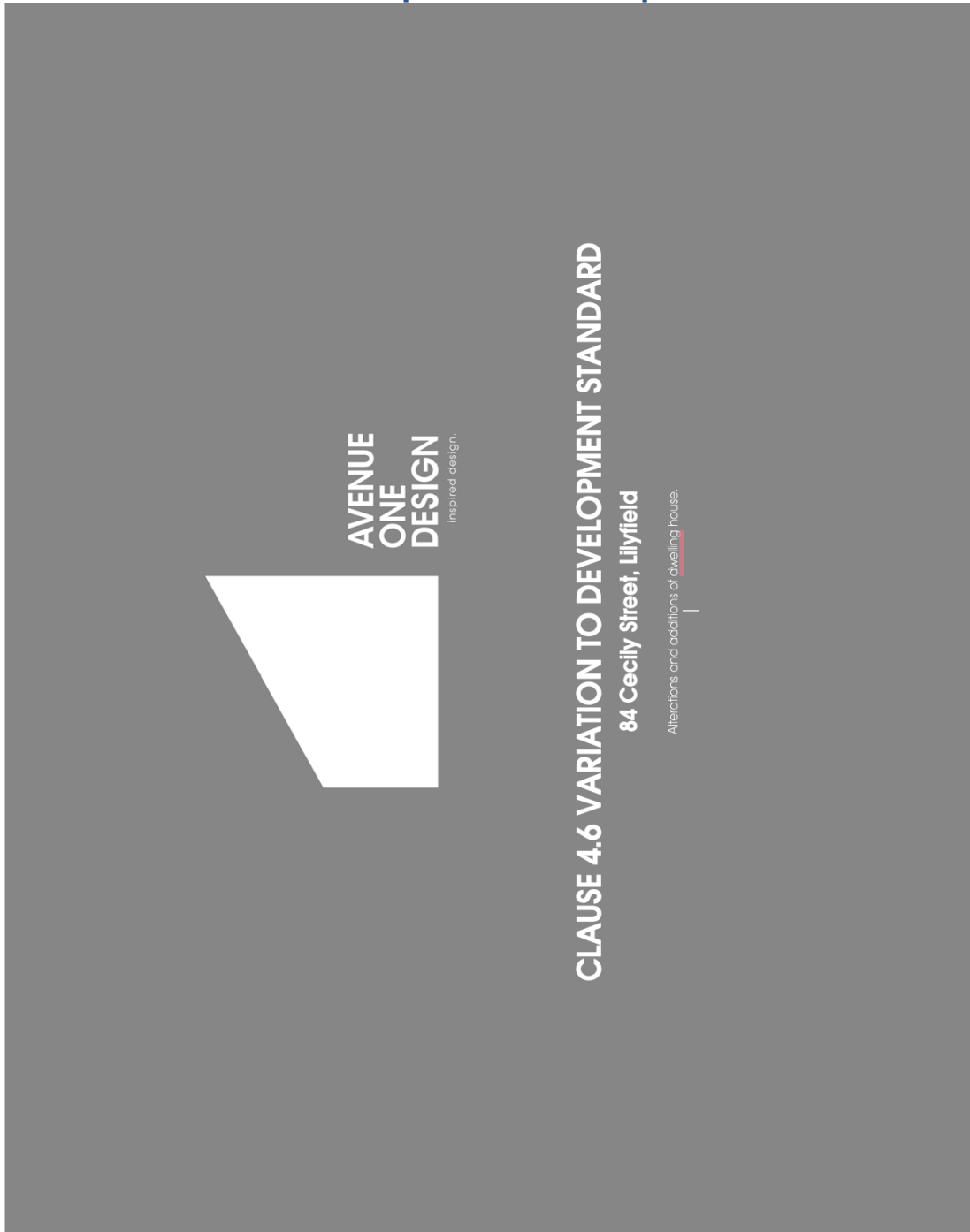








Attachment C- Section 4.6 Exception to Development Standards



**AVENUE ONE DESIGN**

**1. CLAUSE 4.6 VARIATION TO DEVELOPMENT STANDARD**

*Clause 4.6 exists within the Leichardt Local Environmental Plan 2013 and the standard instrument to allow for consideration of variations specific to development standards contained within the LEP. Given the large and varied demographic and topographic within NSW differing variations are allowed within LEP's to allow for exceptions of development standards.*

The objectives of a 4.6 Clause are as follows –

- a) *To provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- b) *To achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

*It is requested that a clause 4.6 variation at 84 Cecily Street, Lilyfield is considered by council when considering clause 4.4 Floor Space Ratio. The minor variation of the floor space ratio will result in an improved planning outcome when compared to the existing restriction of 0.80:1. The minor variation of 0.87:1 (12m) still allows the development to achieve the underlying purpose of the standard. It can be justified that the current relevant development standard is unreasonable in the current use of modern day living where the home also acts as place of work, with work from home now becoming common practice in modern living.*

*The variation demonstrates consistency with the objectives of the relevant Clause 4.4 FSR development standard of the Leichardt LEP 2013 to ensure that residential accommodation –*

- 1. *The objectives of this clause are as follows—*
  - (a) *to ensure that residential accommodation:*
    - (i) *is compatible with the desired future character of the area in relation to building bulk, form and scale, and*
    - (ii) *provides a suitable balance between landscaped areas and the built form, and*
    - (iii) *minimises the impact of the bulk and scale of buildings.*
- 2. *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map*
- 2.(A) *Despite subclause (2), the floor space ratio for development for a purpose other than residential accommodation on land in Zone R1 General Residential is not to exceed 1:1.*

CLAUSE 4.6 VARIATION TO DEVELOPMENT STANDARD – 84 Cecily Street, Lilyfield 1

AVENUE ONE DESIGN

1.1.1. 4.6 EXCEPTIONS TO DEVELOPMENT STANDARD

The application relies on a variation to this Standard, as established in this section. The variation is made against Clause 4.4 to Floor Space Ratio. In this instance, the variation relies on a Clause 4.6 exception to the Standard:

1. The objectives of this clause are as follows—
  - a. to provide an appropriate degree of flexibility in applying certain development standards to particular development,
  - b. to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
2. Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
3. Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—
  - a. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - b. that there are sufficient environmental planning grounds to justify contravening the development standard.
4. Development consent must not be granted for development that contravenes a development standard unless—
  - a. the consent authority is satisfied that—
    - i. the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and
    - ii. the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - b. the concurrence of the Planning Secretary has been obtained.
5. In deciding whether to grant concurrence, the Planning Secretary must consider—
  - a. whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and b. the public benefit of maintaining the development standard, and c. any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.
6. Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—
  - a. the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

CLAUSE 4.6 VARIATION TO DEVELOPMENT STANDARD – 84 Cecily Street, Lilyfield

**AVENUE ONE DESIGN**

b. the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard. Note— This Plan does not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential or Zone C3 Environmental Management.

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

This application therefore submits a written request, as detailed below, seeking to justify the contravention of this Standard. As defined above, the Standard in contravention and seeking variations is that of Clause 4.4.

The Floor Space Ratio applicable to the subject property is defined by the Floor Space Ratio Map Area 8, The Leichardt LEP 2013 as having a maximum ratio of 0.8:1. However as stated within subclause 4.4A Exceptions to Floor Space Ratio.

FSR For Site

Site Area: 164m<sup>2</sup>  
 Allowable FSR 0.8:1

The proposal is for alterations and additions for an existing two storey residential dwelling. The proposed FSR of 0.87:1 exceeds the required FSR requirements by 12m or 9%.

Site Area	164
Permissible Floor Space Ratio (FSR)	0.8:1
Proposed Floor Space Ratio (FSR)	0.87:1
Proposed Floor Space Ratio (FSR) (excluding garage)	0.87:1
Permissible Floor Area	131 m <sup>2</sup>

**AVENUE ONE DESIGN**

Proposed Floor Area	143m <sup>2</sup>
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*The non-compliance is minimum and does not reduce the amenity of the area, but simply provide a more appropriate and usable living style for the subject site, and provides additional living, dining and study spaces. Please refer to architectural set. The increased FSR is kept to a minimum whilst using the development potential of the subject site. Strict compliance with this standard would be unreasonable and unnecessary for the following reasons:*

- *In order to cater for the needs of the site with additional study and storage*
- *No significant views will be interrupted*
- *This development will not be adding a high level of bulk and scale to the neighbourhood.*
- *The proposed development does not provide negative impact on the streetscape character.*
- *No significant views will be lost by the adjoining sites*
- *The FSR increase is largely due to the restricted site and heritage conservation zone*
- *The landscaped area for the site has been increased to facilitate the FSR*
- *The proposed development will be compatible with the desired future character of the area in relation to building bulk, form and scale*

*In general, the development proposal of this particular site are considered to be acceptable, as it does not compete with the integrity or character of the surrounding area. The nature of the site, including its location, topography, zoning, and physical attributes make it an ideal candidate for the proposed development. Furthermore, as the proposal does not detract from the streetscape or the inherent nature of the residential area it is our assertion that this development application should be supported.*



**Attachment D – Conditions in the event of approval**

**CONDITIONS OF CONSENT**

**DOCUMENTS RELATED TO THE CONSENT**

**1. Documents related to the consent**

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

<b>Plan, Revision and Issue No.</b>	<b>Plan Name</b>	<b>Date Issued</b>	<b>Prepared by</b>
A000, Rev. L	Title Sheet	08/12/2022	Avenue One Design
A101, Rev. L	Site Analysis Plan	08/12/2022	Avenue One Design
A200, Rev. L	Ground Floor: Demolition	08/12/2022	Avenue One Design
A201, Rev. L	Ground Floor: Proposed	08/12/2022	Avenue One Design
A202, Rev. L	First Floor: Proposed	08/12/2022	Avenue One Design
A203, Rev. L	Roof Plan: Proposed	08/12/2022	Avenue One Design
A300, Rev. L	Elevations: Proposed	08/12/2022	Avenue One Design
A301, Rev. L	Elevations: Proposed	08/12/2022	Avenue One Design
A400, Rev. L	Sections: Proposed	08/12/2022	Avenue One Design

As amended by the conditions of consent.

**FEES**

**2. Security Deposit - Custom**

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

<b>Security Deposit:</b>	\$5,600.00
<b>Inspection Fee:</b>	\$350.00

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

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

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

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

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

**3. Section 7.12 (formerly section 94A) Development Contribution Payments**

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

*Assessment Act 1979 and in accordance with Former Leichhardt Local Government Area Section 7.12 Development Contributions Plan 2020.*

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

Payment amount\*:

\$6,500.00

\*Indexing of the Section 7.12 contribution payment:

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

Payment methods:

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

#### 4. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.

#### GENERAL CONDITIONS

**5. 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.

**6. Tree Protection**

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

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

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

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

The trees identified below are to be retained and protected in accordance with the conditions of consent or approved Tree Protection Plan throughout the development (note: tree numbers must correspond with approved Tree Protection Plan if conditioned) :

Tree No.	Botanical/Common Name	Location
1	<i>Lophostemon confertus</i> (Brush Box)	Road

Details of the trees must be included on all Construction Certificate plans and shall be annotated in the following way:

- a. Green for trees to be retained;
- b. Red for trees to be removed;

**7. Works to Trees**

Approval is given for the following works to be undertaken to trees on the site after the issuing of a Construction Certificate:

Tree/location	Approved works
2 x <i>Bambusa</i> spp. (Bamboo) - Rear	Removal
<i>Dyopsis lutescens</i> (Golden Cane Palm) - Rear	Removal

<i>Murraya paniculata</i> (Murraya) - Rear	Removal
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#### 8. Privacy

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

- a. W03 - The louvered screen must be securely fitted and may be able to be tilted open from a closed position to an angle of 45 degrees.
- b. W04 & W05 - Minimum sill height of 1.6 metres above floor level.

#### 9. Waste Management Plan

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

#### 10. Erosion and Sediment Control

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

#### 11. Works Outside the Property Boundary

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

#### 12. Balcony

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans indicating the erection of a privacy screen on the northern elevation of the ground floor alfresco having a minimum block out density of 75% and a height of 1.6 metres above the finished floor level of the alfresco.

#### 13. Design Change

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

- a. The vertical cladding proposed to the first floor level of the rear addition must be laid horizontally and must be painted off white to complement the existing colour

scheme. The elevations and the External Finishes & Materials Selection must be updated accordingly.

- b. The timber batten privacy screen/fencing shown on the eastern (rear lane) elevation and northern elevation have a 100% block out density.

#### **PRIOR TO ANY DEMOLITION**

##### **14. Hoardings**

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

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

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

##### **15. Dilapidation Report**

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

##### **16. Advising Neighbours Prior to Excavation**

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

**17. Construction Fencing**

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

**PRIOR TO CONSTRUCTION CERTIFICATE****18. Dilapidation Report – Pre-Development – Minor**

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

**19. Stormwater Drainage System – Minor Developments (OSD is not required)**

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

- a. The Stormwater Drainage Concept plan on Drawing No. SW01 prepared by HYTEN ENGINEERING and dated 18 July 2022, must be amended to comply with the following;
- b. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of a public road;
- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- d. Pipe and channel drainage systems must be designed to cater for the twenty (20) year Average Recurrence Interval (ARI) storm in the case of low and medium residential developments, the twenty (20) year ARI Storm in the case of high-density residential development and commercial and/or industrial developments and the fifty (50) year ARI Storm in the case of heavy industry. In all cases, the major event surface flow paths must be designed to cater for the one hundred (100) year ARI Storm;
- e. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage;
- f. To provide for adequate site drainage all roof and surface stormwater from the site and any catchment external to the site that presently drains to it, must be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a stormwater drainage system in accordance with the



- requirements of Council's DCP. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled;
- g. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
  - h. Drainage pipes must be laid at a minimum grade of 1%. Pipe diameter and invert level and pits' surface and invert level must be shown on the drainage plan;
  - i. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
  - j. As there is no overland flow/flood path available from the rear and central courtyards to the front and rear street frontage, the design of the sag pit and piped drainage system is to meet the following criteria:
    - 1. Capture and convey the 100 year Average Recurrence Interval flow from the contributing catchment assuming 80% blockage of the inlet and 50% blockage of the pipe;
    - 2. The maximum water level over the sag pit shall not be less than 150 mm below the floor level or damp course of the building; and
    - 3. The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.
  - k. A minimum 150 mm step up shall be provided between all external finished surfaces and adjacent internal floor areas;
  - l. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
  - m. No nuisance or concentration of flows to other properties;
  - n. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
  - o. The design plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
  - p. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
  - q. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
  - r. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 mm and a maximum section height and width of 100 mm or sewer grade uPVC pipe with a maximum diameter of 100 mm;
  - s. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;
  - t. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
  - u. No impact to street tree(s);

**20. Structural Certificate for retained elements of the building**

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

**21. Sydney Water – Tap In**

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

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

**22. Acoustic Report – Aircraft Noise**

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

**DURING DEMOLITION AND CONSTRUCTION****23. Construction Hours – Class 1 and 10**

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

**24. Survey Prior to Footings**

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

**PRIOR TO OCCUPATION CERTIFICATE****25. 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.

**26. Protect Sandstone Kerb**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any stone kerb, damaged as a consequence of the work that is the subject of this development consent, has been replaced.

**27. Certification of Tree Planting**

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

A minimum of one (1) x 75 litre size additional tree, which will attain a minimum mature height of six (6) metres, must be planted within the front setback of the property. It should not be planted less than 2.2m from a dwelling house or garage, and may not be planted less than 1m from other structures or services, allowing for future tree growth. The tree is to conform to AS2303—*Tree stock for landscape use*. Tree species listed on C7 Tree Minor Works of the DCP, Palms, fruit trees and species recognised to have a short life span will not be accepted as suitable replacements.

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

**28. Aircraft Noise –Alterations and Additions**

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

**ON-GOING****29. Bin Storage**

All bins are to be stored within the site.

**ADVISORY NOTES****Permits**

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

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

If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

**Insurances**

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the

works. The Policy must be valid for the entire period that the works are being undertaken on public property.

#### **Prescribed Conditions**

This consent is subject to the prescribed conditions of consent within Sections 69-86 of the *Environmental Planning and Assessment Regulations 2021*.

#### **Notification of commencement of works**

At least 7 days before any demolition work commences:

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

#### **Storage of Materials on public property**

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

#### **Toilet Facilities**

The following facilities must be provided on the site:

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

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

#### **Infrastructure**

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

**Other Approvals may be needed**

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

**Failure to comply with conditions**

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

**Other works**

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

**Obtaining Relevant Certification**

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

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent;  
or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

**Disability Discrimination Access to Premises Code**

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

**National Construction Code (Building Code of Australia)**

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

**Notification of commencement of works**

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

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

**Dividing Fences Act**

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

**Permits from Council under Other Acts**

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

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



- i. Installation or replacement of private stormwater drain, utility service or water supply.

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

#### **Noise**

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997*.

#### **Amenity Impacts General**

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

#### **Lead-based Paint**

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

#### **Dial before you dig**

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

#### **Useful Contacts**

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm <a href="http://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a>
Department of Fair Trading	13 32 20 <a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a>

		Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100	<a href="http://www.dialprior toyoudig.com.au">www.dialprior toyoudig.com.au</a>
Landcom	9841 8660	To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 131441	<a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Food Authority	1300 552 406	<a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government		<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a> <a href="http://www.diysafe.nsw.gov.au">www.diysafe.nsw.gov.au</a>
		Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555	<a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water	13 20 92	<a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>
Waste Service - Environmental Solutions	SITA 1300 651 116	<a href="http://www.wasteservice.nsw.gov.au">www.wasteservice.nsw.gov.au</a>
Water Efficiency Labelling and Standards (WELS)		<a href="http://www.waterrating.gov.au">www.waterrating.gov.au</a>
WorkCover Authority of NSW	13 10 50	<a href="http://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a>

Enquiries relating to work safety and asbestos removal and disposal.