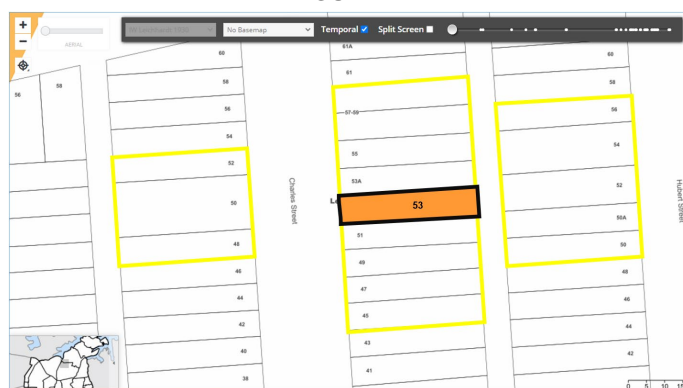




DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	DA/2022/0959
<b>Address</b>	53 Charles Street LEICHHARDT
<b>Proposal</b>	Substantial demolition and ground and first floor alterations and additions to existing dwelling house and associated works
<b>Date of Lodgement</b>	14 November 2022
<b>Applicant</b>	Mr Cameron J Campbell
<b>Owner</b>	Mr Cameron J Campbell and Mrs Alexandria A Campbell
<b>Number of Submissions</b>	Nil
<b>Value of works</b>	\$258,073.00
<b>Reason for determination at Planning Panel</b>	FSR variation exceeds 10% / Officer delegations
<b>Main Issues</b>	<ul style="list-style-type: none"> <li>▪ Non-compliances with Site Coverage and Floor Space Ratio development standards and inadequate Clause 4.6 Exceptions to Development Standards requests</li> <li>▪ Incompatibility with the desired future character</li> <li>▪ Inappropriate form, bulk and scale and design and appearance</li> <li>▪ Unsatisfactory on-site amenity outcomes</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>	Section 4.6 Exception to Development Standards
<b>Attachment D</b>	Conditions in the event of approval

FIGURE 1:



LOCALITY MAP

Subject Site		Objectors		
Notified Area		Supporters		

Note: Due to scale of map, not all objectors could be shown.

## 1. Executive Summary

This report is an assessment of the application submitted to Council for ground and first floor alterations and additions to existing dwelling house and associated works at 53 Charles Street Leichhardt.

The application was notified to surrounding properties and no submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- Variations to the Site Coverage and Floor Space Ratio development standards of the *Inner West Local Environmental Plan 2022* and inadequate Clause 4.6 Exceptions to development standards requests;
- Incompatibility with desired future character controls in terms of form, bulk, scale and design and appearance;
- Inappropriate form, bulk and scale as a result of breaches to the building envelope and side boundary setback controls contrary to Part C3.2 of LDCP 2013; and
- Unsatisfactory on-site amenity outcomes as a result of poor internal configuration to Bedroom 2, and lack of demonstrated compliance with the private open space and solar access controls of the DCP.

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

## 2. Proposal

The proposed development, as submitted, is for substantial demolition and ground and first floor alterations and additions to the existing dwelling house and associated works at 53 Charles Street, Leichhardt as follows:

### Demolition Works:

- Substantial demolition and removal of internal and external walls of the dwelling and only retaining the northern boundary wall and southern boundary wall of the existing dwelling and existing garage.
- Demolition of the front boundary fence and northern boundary fence.
- Removal of existing paving and landscaping at the front yard, side yard and central courtyard.
- Removal of two trees.

### Ground Floor:

- A new boundary wall to the north elevation to support the cantilevered first floor addition of the proposal.
- Reconfiguration of the ground floor to contain an expanded living/kitchen/dining footprint.
- Conversion of the existing kitchen area to a study area.
- Addition of a laundry area to the existing garage.
- Reinforcement of the boundary wall on the south-eastern elevation to support the cantilevered first-floor addition of the proposal.

First Floor:

- First floor addition consisting of
  - One (1) bedroom with an ensuite
  - Additional two (2) bedrooms
  - Additional bathroom
  - Green roof over the proposed dining and study areas

### 3. Site Description

The subject site being 53 Charles Street, Leichhardt is legally described as Lot 63 in Section 6 of DP1162. This site is located on the eastern side of Charles Street between Darley Road and William Street.

The subject site has street frontage access from Charles Street and rear lane access to an unnamed laneway situated between Charles Street to the west and Hubert Street to the east. The site is rectangular in shape with a width of 6.095 metres and a depth of 30.48m and has a total area of 183.4sqm.

The subject site contains a single storey dwelling with a parapet roof form and an open type of pergola over the front elevation and northern elevation. There is a double-car garage at the rear of the subject site accessed via the unnamed laneway. This double-car garage is proposed to be retained, with minor internal works to the laundry and storage area. The garage has internal access via the proposed study where the existing kitchen is currently located.

To the south of the subject site is a double-storey row of townhouses and the adjoining property to the north is a single-storey dwelling house.

This section of Charles Street predominantly contains attached, semi-detached and detached single-storey dwellings with pitched, gabled and hipped roofs, some of which have front verandahs protected by skillion-type or bullnose roof forms. Surrounding development also comprises double-storey dwellings, some of which have been recently updated. Cantilevered built forms are not characteristic of the street.

The subject site is zoned R1 General Residential under the *Inner West Local Environmental Plan 2022*. Please see Figure 2 below.

Figure 2: the subject site in dashed yellow is zoned R1 General Residential under the *IWLEP 2022*.

Source: NSW Planning, 08.05.2023.



## 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/2008/137	Unauthorised works to existing dwelling including replacement of front windows with French doors, removal of bullnose verandah and replacement with pergola. Replacement of external cladding with blue board, and fitting of bifold doors to rear elevation.	Approved 19.02.2009
PREDA/2008/141	Alterations & additions to existing dwelling, extension towards street & first floor addition comprising bedroom accommodation.	Advice Letter Issued 02.12.2008
PDA/2022/0179	Alterations and additions to existing dwelling-house and associated works  <u>Note:</u> The proposal was not amended in accordance with PDA advice	Advice Letter Issued 20.07.2022

## Surrounding Properties

Application	Proposal	Decision & Date
DA/2022/0844 – 58 Charles Street LEICHHARDT NSW 2040	Alterations and additions to existing residence. New first floor level with 2 bedrooms, 2 bathrooms and a study/family area. New landscaping.	Approved 01.05.2023
DA/2022/0279 – 44 Charles Street LEICHHARDT NSW 2040	Alterations and additions to existing dwelling-house, including to provide a first-floor addition	Approved 22.06.2022
DA/2021/0283 – 50 Charles Street LEICHHARDT NSW 2040	Demolition of existing structures and construction of two x two storey semi-detached dwellings each located on existing separate lots, and associated works including parking at the rear accessed via rear lane (Note: proposal involves removal of encroachments over Nos. 48 and 52 Charles Street)	Approved 27.05.2021

## 4(b) Application history

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

Date	Discussion / Letter / Additional Information
17.01.2023	<p>A Request for Further Information was issued raising the following concerns/requesting the following information and/or amendments to the proposed development.</p> <ul style="list-style-type: none"> <li>▪ Amend the proposed development to ensure compliance with Site Coverage and FSR development standards as prescribed by the <i>IWLEP 2022</i>.</li> <li>▪ Deletion of the cantilevered areas of the first-floor addition as this is inconsistent with the pattern of development of the streetscape and distinctive neighbourhood.</li> <li>▪ Provide a single-storey presentation to the streetscape and contain the first floor addition within / behind a compatible roof form which is consistent with the pattern of development on the street.</li> <li>▪ Retain the proposed BLZ and site boundary setbacks to the first-floor.</li> <li>▪ Amended shadow diagrams as a result of the recommended design changes.</li> </ul>
19.01.2023	The applicant requested an extension of time to respond to RFI.
24.01.2023	The applicant was granted an additional 21 days from the original expiration of the RFI. New RFI was 28.02.203.
02.03.2023	RFI response was followed up with applicant.
03.02.2023	Applicant was formally notified that the submitted development application will be assessed as submitted, due to the lack of response to the RFI.
06.03.2023	The Assessing Officer rang the applicant to follow up on response to RFI. Applicant confirmed RFI response will be provided by 10.03.2023.
11.03.2023	Applicant provided response to RFI. It is noted that the applicant did not undertake the requested design changes to comply with legislation and

Date	Discussion / Letter / Additional Information
	the relevant objectives and controls of the DCP. The applicant included a written response to the requested RFI.
13.04.2023	The applicant was requested to attend a face-to-face meeting for 20.04.2023, with Council Officers to discuss the submitted response to the RFI in an attempt to resolve outstanding design issues.
20.04.2023	<p>Council Officers met with the applicant who was advised as follows:</p> <ul style="list-style-type: none"> <li>▪ The cantilevered first floor cannot be supported as it introduces a new element to the streetscape.</li> <li>▪ The first floor addition is required to be provided within a compatible roof form and provide a single-storey presentation to the street.</li> <li>▪ Internal configuration required review to reduce the form and bulk of the first floor (particularly Bedroom 2);</li> <li>▪ Lack of compliance with private open space controls of DCP.</li> </ul> <p>At the meeting, the applicant was requested to confirm whether amended plans would be lodged or to assess the development application as resubmitted, and in which case it will be referred to the Panel for determination.</p>
26.04.2023	A follow up email was sent to the applicant to confirm way forward. The applicant advised to assess the application as re-submitted.

## 5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15(1)(a) 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 2 Coastal management

The SEPP aims to ensure that future coastal development is appropriate and sensitive to its coastal location and category.

The site is not categorised as a coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment, and a coastal use area.

The proposed development will not adversely affect any coastal processes or values.

## 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.

### **5(a)(iii) State Environmental Planning Policy (Biodiversity and Conservation) 2021**

## Chapter 2 Vegetation in non-rural areas

The protection/removal of vegetation identified under the SEPP and gives effect to the local tree preservation provisions of Council’s Tree Management DCP 2020.

The application seeks the removal of vegetation from within the site. The application was referred to Council’s Tree Management Officer whose comments are summarised as follows:

- The removal of two (2) Leyland Cypress trees, marked as T10 and T11 is consistent with control C7 of the former Inner West Council’s Tree DCP 2020.
- T3 to T9 are proposed to be retained and protected.
- Trees T15 to T22 on the adjoining property, to the north, at No. 53A Charles Street, are identified for removal. Council’s Urban Forest team supports this removal subject to the imposition of conditions including obtaining landowners consent prior to any works at the adjacent site.

However, in this instance, the removal of T15 through to T22 is not supported as these trees are located on the adjacent property. Consent to remove these trees will have to be applied for by the landowner of that adjoining property. Therefore, any conditions imposed to support the removal of trees T15 through to T22 will be deleted from any consent granted under this application.

Overall, whilst the removal of some trees are acceptable, the removal of trees on adjoining lots without owners consent cannot be supported/considered. In this regard the proposal is unsatisfactory.

### Chapter 6 Water Catchments

While the site is located in the Sydney Harbour Catchment, the site is not located in a foreshores and waterways area and raises no issues that will be contrary to the provisions of this part of the SEPP.

▪

#### **5(a)(iv) Inner West Local Environmental Plan 2022 (IWLEP 2022)**

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*:

- Section 1.2 - Aims of Plan
- Section 2.3 - Land Use Table and Zone Objectives
- Section 2.7 – Demolition requires development consent
- Section 4.3C – 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 5.21 – Flood planning
- Section 6.2 – Earthworks
- Section 6.3 – 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 inappropriate form, bulk and scale and design and appearance of the first-floor addition, and poor amenity outcomes on the site due to lack of demonstrated compliance with the private open space and solar access controls of the DCP, the proposal does not protect nor enhance the amenity, vitality and viability of the neighbourhood for existing and future residents. It also does not comply with, nor has demonstrated compliance with the following provisions of Section 1.2(2) of the *Inner West Local Environmental Plan 2022*:

- (h) *to prevent adverse social, economic and environmental impacts on the local character of Inner West,*
- (i) *to prevent adverse social, economic and environmental impacts, including cumulative impacts.*

#### Section 2.3 Land Use Table and Zone Objectives

The site is zoned R1 under the Inner West LEP 2022 and the proposed development is for a dwelling house which is defined as:

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

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

The proposed development is not considered to be a satisfactory response to the existing pattern of development and is not compatible with the character and style of surrounding



development and streetscape. The proposed development is also not deemed to result in acceptable amenity outcomes and impacts to the subject site.

Overall, the proposed development does not satisfy and is inconsistent with the following objectives of the R1 – General Residential zone:

- *To provide residential development that maintains the character of built and natural features in the surrounding area.*

As a result, the proposal is recommended for refusal.

Section 4 Principal Development Standards

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

Standard	Proposal	Non compliance	Complies
<b>Section 4.3C Landscape Area</b> Minimum permissible: 15% (27.51sqm)	24% (44.00sqm)	N/A	Yes
<b>Section 4.3C(3)(b) Site Coverage</b> Maximum permissible: 60% (110.04sqm)	71.27% (130.72sqm) <i>Existing:</i> 64.31% (118.0sqm)	23.48% (25.83sqm) <i>Existing:</i> 7.19% (8.0sqm)	No
<b>Section 4.4 Floor Space Ratio</b> Maximum permissible: 0.7:1 (128.38sqm)	0.90:1 (165.48sqm) <i>Existing:</i> 0.56:1 (103.62sqm)	28.90% (37.10sqm) <i>Existing: Complies</i>	No

Section 4.6 Exceptions to Development Standards

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

- Section 4.3C(3)(b) Site Coverage
- Section 4.4 Floor Space Ratio

The proposed development results in a Site Coverage of 71.27% or 130.72sqm which is a breach of 23.48% or 25.83sqm non-compliance.

The proposed Floor Space Ratio is 0.9:1 (165.48sqm) which is a breach or non-compliance of 28.9% or 37.1sqm.

Section 4.6(1)(b) and Section 4.6(2) of the *IWLEP 2022* allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

As such, the applicant seeks a variation to these sections of the *Inner West Local Environmental Plan 2022* under Section 4.6 of the *IWLEP 2022*.

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 *IWLEP 2022* below.

In accordance with Section 4.6(4)(a)(i) of the *IWLEP 2022*, the applicant provided the following justification for the contravention to the development standards;

- Is an orderly and economic use of residential land.
- Generally, maintains the site coverage. It is an existing condition.
- Increases the landscape area and meets compliance.
- Has an appropriate building envelope that is a transition between its neighbours.
- Has an appropriate building height that is compliant with LEP 2022.
- Is in character with the built form in the street.
- Protects amenity through mitigating overshadowing, overlooking and bulk and scale,

The above justification is noted to be submitted as the supporting statement for both Section 4.3C(3)(b) Site Coverage and Section 4.4 Floor Space Ratio non-compliances.

The applicant's written rationale does not adequately demonstrate that compliance with the development standards is unreasonable and unnecessary in the circumstances of the case, or that there are sufficient environmental planning grounds to justify contravening the development standards.

#### Section 4.3C(3)(b) Site Coverage and Section 4.4 Floor Space Ratio

Pursuant to Section 4.6(3) of the *IWLEP 2022*, it is considered that compliance with the development standard is not unreasonable nor unnecessary in the circumstances of the case and that the applicant has not demonstrated sufficient environmental planning grounds to justify contravening the development standard for the reasons discussed below.

It is also considered that the proposed 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 *IWLEP 2022*, which are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide residential development that maintains the character of built and natural features in the surrounding area.*

Having regard to the objectives of the zone the design of the proposed development results in the provision of a dwelling which is incompatible with the prevailing character of the street thereby failing to maintain the character of the surrounding area.

Further, it is considered that the development is not in the public interest because it is inconsistent with the relevant objectives of Section 4.3C Landscaped areas (site coverage) and the objectives of Section 4.4 Floor Space Ratio of the *IWLEP 2022* which are:

*Section 4.3C Landscaped Area (site coverage)*

- (a) *to provide landscaped areas for substantial tree planting and for the use and enjoyment of residents,*
- (b) *to maintain and encourage a landscaped corridor between adjoining properties,*
- (c) *to ensure that development promotes the desired character of the neighbourhood,*
- (d) *to encourage ecologically sustainable development,*
- (e) *to control site density,*
- (f) *to provide for landscaped areas and private open space.*

*Section 4.4 Floor Space Ratio*

- (a) *to establish a maximum floor space ratio to enable appropriate development density,*
- (b) *to ensure development density reflects its locality,*
- (c) *to provide an appropriate transition between development of different densities,*
- (d) *to minimise adverse impacts on local amenity,*
- (e) *to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.*

The departures are inconsistent with the objectives for the following reasons;

- The form, bulk and scale and design and appearance of the first-floor addition is inconsistent with the predominant pattern of development in the neighbourhood, introducing a new typology to the built environment which is inconsistent with future desired character and streetscape of the locality – that is, the proposal is a modern double storey dwelling with a pitched roof cantilevered first floor addition to the front elevation. This is inconsistent with the prevailing dwelling forms in the street comprising of single storey dwellings, or two storey dwellings with first floor located behind, or contained within, a compatible roof form, and that do not comprise cantilevered elements.
- As discussed later in this report, the building envelope of the proposed development is inconsistent with the requirements of the LDCP 2013.
- The proposal does not provide compliant private open space which receives adequate solar access and it is considered that there is no impediment/site constraint to achieving compliance or better on-site amenity outcomes.

- The development represents an unsatisfactory departure from a suite of applicable planning controls.

Pursuant to Section 4.6(4)(b) and Section 4.6(5) of the *IWLEP 2022*, the concurrence of the Planning Secretary may be assumed for matters dealt with by the Local Planning Panel.

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.

Section 5.21 – Flood Planning

The subject site is identified as a flood control lot. The design of the proposal is unlikely to affect the flood affectation of the subject site or adjoining properties and is considered to appropriately manage flood risk to life and the environment.

Section 6.8 – Development in areas subject to aircraft noise

The subject site is located within the ANEF 20-25 contour, and as such an Acoustic Report was submitted with the application.

The report indicates that the proposal is capable of complying with the requirements of C16.8 of *IWLEP 2022*. In the event that the proposed development is approved, a condition of consent would need to be imposed to ensure that the proposal will meet the relevant requirements of Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015, thereby ensuring the proposal’s compliance with the relevant provisions of Section 6.8 of the *IWLEP 2022*. Notwithstanding, the proposal is recommended for refusal for other reasons outlined in this report.

5(b) Development Control Plans

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

Leichhardt Development Control Plan 2013 (LDCP 2013)	Compliance
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
<b>Part C</b>	
C1.0 General Provisions	No – see discussion
C1.1 Site and Context Analysis	No – see discussion
C1.2 Demolition	No – see discussion

C1.3 Alterations and additions	No – see discussion
C1.7 Site Facilities	Yes
C1.12 Landscaping	Yes
C1.14 Tree Management	Yes
C1.18 Laneways	Yes
C1.21 Green Roofs and Green Living Walls	Yes
<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.3.4 Helsarmel Distinctive Neighbourhood	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	No – see discussion
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 discussions
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
<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
<b>Part E: Water</b>	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	Yes
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.5 Water Disposal	Yes
E1.3.1 Flood Risk Management	Yes

The following provides discussion of the relevant issues:

### *C1.0 General Provisions*

For reasons discussed in this report, the proposal will result in unsatisfactory amenity outcomes and fails to protect and enhance private amenity. Further, the proposed development is inconsistent with the desired future character of the locality and does not satisfy building envelope, setback, private open space and solar access controls in accordance with the relevant objectives and controls of the LDCP 2013. 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*

The proposed development is not considered to be well designed and does not appropriately consider context, scale, built form, density, streetscape and aesthetics. For these reasons and other 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. That is, the proposed first floor cantilever is out of context within the prevailing streetscape of the neighbourhood which is comprised of single storey dwellings and two storey dwellings with first floor located behind, or contained within, a compatible roof form, and that do not comprise cantilevered elements.

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;*
- 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, specifically the first-floor cantilevered section of the front elevation is not considered to have satisfactorily taken into account the characteristics of the subject site and adjoining sites or the wider streetscape. Further, the proposed works are not appropriately sited at the rear and will be clearly visible from the street and will breach the applicable building envelope control. The proposed development is not of a form which reduces scale and bulk and thereby fails to complement the adjoining buildings and the prevailing streetscape.

Additionally, the proposed development results in poor amenity outcomes to the subject site. This is attributed to Bedroom 2 of the first addition which proposes a 'snorkel' design layout which compromises the functionality and amenity of this room as well as the limited solar access achieved to the living room on the ground floor and rear private open space, as the proposal has failed to demonstrate that it meets the solar access requirements of the DCP, it is considered that having regard to the extensive demolition proposed, these amenity concerns could be improved through a more considered design.

In this regard, the proposal does not satisfy and has not demonstrated compliance with the following objective(s) and control(s) of Part C1.3:

*O1 To ensure that development:*

- a. complements the scale, form and materials of the streetscape including wall height and roof form;*
- b. where an alteration or addition is visible from the public domain it should appear as a sympathetic addition to the existing building;*
- 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;*

*C1 The overall form of alterations and additions shall:*

- a. have regard to the provisions within Appendix B – Building Typologies of this Development Control Plan;*
- b. be compatible with the scale, form and material of the existing dwelling and adjoining dwellings, including wall height and roof form;*
- d. maintain the integrity of the streetscape and heritage significance;*
- e. be considered from all public vantage points from which the additions will be visible; and*
- f. achieve the objectives and controls for the applicable desired future character*

*C12 Additions at first floor and above shall be of a scale and are to be located in a manner which:*

- a. maintains visual separation between the existing building and adjoining residential development; and*
- b. maintains setback patterns of surrounding development; and*
- c. will ensure that the addition does not dominate, but is sub-ordinate to the existing dwelling when viewed from the street.*

*C15 Appropriate roof forms for rear additions depend on the context of the site, and may include:*

- a. pitched in form to match the predominant roof forms of the original property and / or its context; or*
- b. boxed in form where not incongruous in the context, and where this approach reduces the visual impact of the addition, such that it is not overtly visible from the street; or*
- c. a hybrid of roof forms where the appearance of the addition from the street is not overtly visible and is compatible with the Appendix B – Building Typologies of this Development Control Plan.*

#### *C2.2.3.4 Helsarmel Distinctive Neighbourhood*

The proposed development is not consistent with the pattern of development that characterises the distinctive neighbourhood. The development, as proposed, is not sympathetic to the pattern of development in the locality, fails to maintain the low scale character of the street, and fails to be complimentary to nearby development having regard to architectural style, form and materials. Therefore, in this instance, the proposed development does not satisfy the following objectives and controls of C2.2.3.4 of the Leichhardt DCP 2013.

- O1 To facilitate development that is consistent with the Desired Future Character and Controls for the Distinctive Neighbourhood.*
- C1 Maintain the character of the Helsarmel Distinctive Neighbourhood by keeping development complementary in architectural style, form and materials.*
- C2 Maintain and enhance the predominant low scale 'cottage' character of the residential streets.*
- C9 Building wall height is to be a maximum of 3.6m, with the exception of development along Darley Road where there is potential for higher, more dense development, where a maximum building wall height of 6.0m shall apply.*

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

The proposed alterations and additions are not compatible with the established setting and character of the neighbourhood, and is of a form, bulk, scale, design and appearance that is also incompatible with existing developments and the desired future character of the locality.

The proposed additions would adversely affect the quality of living for the occupants of the proposed dwelling for the following reasons:

- Poor solar access to the dwelling, particularly the ground floor living areas and Bedroom 2. This will be discussed further in later sections of this report under Solar Access.

In this regard, the proposed development does not satisfy the following relevant objectives of the residential provisions:

- O3 To ensure that alterations, additions to residential buildings and new residential development are compatible with the established setting and character of the suburb and neighbourhood and compatible with the desired future character and heritage significance of the place and its setting.*
- 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 three primary stipulations applicable in assessment of the proposal, this being, Building Envelope, 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.

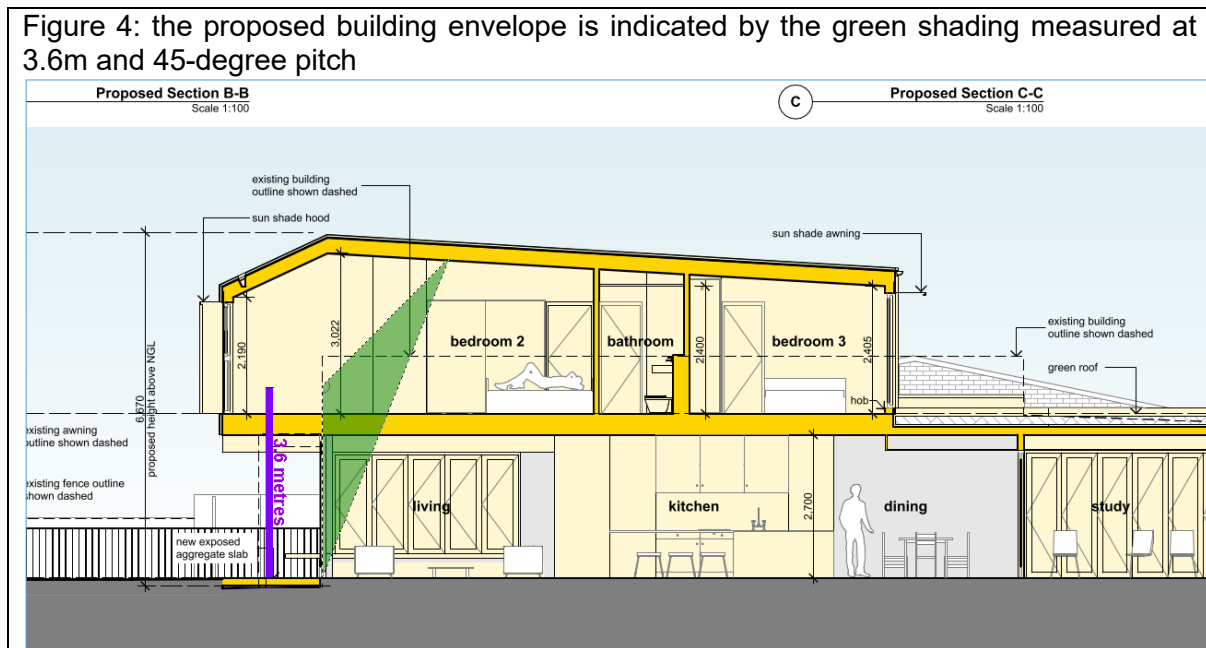


Building Envelope

As can be seen in Figure 4 below, the proposed development breaches the 3.6m and 45 degrees pitch, therefore the proposed development is inconsistent with Control C16 of C3.2 of the LDCP 2013. That is, building envelope controls has two components: wall height and roof control of 45-degree inclined plane from the top of the wall height. Pursuant to Control C9 of C2.2.3.4 of the LDCP 2013, the applicable building wall height to the subject site is 3.6m.

C16 The envelope has two height components:

- a. a wall height; and
- b. a roof control comprising of an inclined plane at 45 degrees from the top of the wall height.



Therefore, the proposed two storey addition breaches the building envelope as prescribed by the LDCP 2013.

Building Location Zone

The proposal does not entail any works that will alter the rear Building Location Zone (BLZ) on the ground floor or the first floor at the subject site and thereby complies with the BLZ established by adjoining properties.

Side Boundary Setbacks

The following compliance table assesses the proposed dwelling addition against the Side Boundary Setbacks Graph prescribed in this part of the DCP.

Wall	Height (m)	Required Setback (m)	Proposed Setback (m)	Compliant
North GF	3.2 – 3.6	0.23 – 0.46	0.0 – 0.0	No
North FF	5.7 – 6.4	1.67 – 2.09	0.0 – 0.6	No

South GF	3.1 – 3.2	0.17 – 0.23	0.0 – 0.0	No, but existing condition
South FF	5.8 – 6.2	1.73 – 1.96	0.0 – 0.0	No

Side walls are permitted to a maximum height of 2.8m before a setback from the side boundary is stipulated. As noted in the above table, the proposal results in breaches of the Site Boundary Setbacks Graph to both side boundaries. Pursuant to C8 of Part C3.2 of LDCP 2013 where a proposal breaches the Site Boundary Setbacks Graph Control C8 of this part of the DCP needs to be satisfied, of which and assessment is undertaken below.

**C8** 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;*

Comment:

The proposed development is inconsistent with the Building Typologies outlined within Appendix B – Building Typologies of the LDCP 2013.

- b. *the pattern of development within the streetscape is not compromised;*

Comment:

As discussed previously in this report, the proposed additions will compromise the pattern of development within the streetscape, by introducing a cantilevered first floor to the front elevation that is inconsistent in form, design and appearance with the streetscape. This is inconsistent with the predominant development and streetscape character of the neighbourhood and this control.

- c. *the bulk and scale of development is minimised by reduced floor to ceiling heights;*

Comment:

The ground floor floor-to-ceiling height as proposed is at minimum NCC requirements. However, the floor-to-ceiling height of some areas of the first floor addition containing bedrooms and bathrooms could be further reduced to the minimum NCC requirements of 2.4m as some areas provide for over 2.4m to 3.0m.

- d. *the potential impacts on amenity of adjoining properties, in terms of sunlight and privacy and bulk and scale, are minimised; and*

Comment:

The proposed development does not result in any undue adverse amenity impacts to adjoining properties by way of privacy and access to sunlight.

- e. *reasonable access is retained for necessary maintenance of adjoining properties.*

Comment:

The proposed changes will not cause any further obstruction to adjoining properties for maintenance purposes.

For reasons discussed above, the proposal is an unsatisfactory response to the side setback controls of this part of the DCP.

### *C3.3 Elevation and Materials*

The proposed development includes elevation and materials visible to the public domain consisting of vertically laid metal cladding of grey colour and large floor-to-ceiling glazing. This aspect of the proposal is also unacceptable as this results in a contemporary development which is out of character and unsympathetic to neighbouring developments and the locality, which detract from the character of the streetscape. While the proposal removes existing façade elements that are incompatible with the character of the locality, the replacement structure will introduce further incompatibility with the prevailing character and streetscape of the neighbourhood.

Overall, the roof forms, proportions, and arrangement of openings, and finishes and materials and colours, as proposed are incompatible with the prevailing in the streetscape and thus, this aspect of the proposal does not satisfy the following objectives and controls of this part of the DCP.

*O1 Building elevation and materials visible from the public domain:*

- a. complement the prevailing or desired future character of the neighbourhood, in particular responding to the vertical and horizontal rhythm of the streetscape;*

*C1 Building façades are:*

- a. divided into vertical bays consistent with the dimensions established by elements on adjoining development such as party walls and windows; and*
- b. divided into horizontal bandings that clearly delineate each storey and align with elements on adjoining development such as eaves, balconies, verandahs and roofs.*

*C3 Where alterations or additions are proposed, existing façade elements that are incompatible with the character of the building are to be removed.*

*C6 Elevations incorporate elements such as recesses, balconies and awnings.*

*C7 New buildings shall be designed to provide a high level of architectural and visual presentation to all elevations, avoiding blank, unarticulated side and rear elevations.*

*C9 Colour schemes are compatible with those prevailing in the street.*

*C11 Materials and finishes are compatible with those prevailing in the streetscape and the period of construction of the dwelling.*

### *C3.8 Private Open Space*

As the proposed development includes substantial demolition of the existing dwelling, it is viewed that there is scope to provide a compliant POS at the rear of the subject site, with a direct connection to the main living space and be of a size and dimensions that meet the provisions of this part of the DCP.

However, the proposed development does not provide a POS with a direct connection to the main living space (it is provided by the dining room). Further, the proposed POS does not have solar access from 9am to 3pm on 21 June as indicated by the submitted shadow diagrams as discussed in the Solar Access assessment below.

Therefore, it is considered that the proposed development is unable to satisfy the following objectives and controls of this part of the DCP:

O1 *Private open space:*

- b. *is of a size and dimensions that are useable and capable of accommodating a range of private recreation needs of residents;*
- c. *integrates with and is capable of serving as an outdoor extension of the dwelling's main living area;*
- d. *has access to desirable breezes, air circulation and sunlight;*

C1 *Private open space should be:*

- b. *has a minimum area of 16sqm and minimum dimension of 3m;*

*Note: the front setback will not be accepted as private open space.*

- c. *is connected directly to the principal indoor living areas; and*

*Notes:*

- iii. *Part C3.9 – Solar access of this Development Control Plan requires private open space to receive a minimum three (3) hours of direct sunlight over 50% of the required private open space between 9am and 3pm at the winter solstice.*

### **C3.9 Solar Access**

The subject site is a west/east (front/rear) orientation, and the following Solar Access Control applies:

O1 *Development shall:*

- a. *provide adequate sunlight to main living room and private open space;*
- b. *provide daylight to all habitable rooms;*

C2 *Where site orientation permits, new dwellings must be designed to maximise direct sunlight to the main living room and private open space.*

C4 *Private open space is to receive a minimum three hours of direct sunlight over 50% of the required private open space between 9am and 3pm at the winter solstice.*

C9 *New residential dwellings are to obtain a minimum of three (3) hours of direct sunlight to the main living room between 9am and 3pm during the winter solstice.*

The submitted shadow diagrams demonstrates solar access to the subject site and adjoining properties to the north and south on plan view for 9am, 12pm and 3pm for 21 June, and 3D hourly diagrams of sun view for 21 June.

The submitted shadow diagrams indicate that private open space of the subject site is in complete shadow from 9am to 3pm on 21 June. As the proposal includes the substantial demolition of the existing dwelling, and the construction of a new dwelling, Council is of the view that the subject site is capable of providing a POS with better solar access through careful design of the new build.

The 3D sun view illustrates that the main living room glazing achieves solar access at the following times in mid-winter

- 12pm to 1pm (first hour),
- 1pm to 2pm (second hour); and
- 2pm to 3pm (third hour)

However, the shadow diagrams do not demonstrate the self shadow cast by the cantilevered elements of the first floor addition and the true extent of solar access to the living room between 9am and 3pm in mid-winter.

Therefore, the application fails to demonstrate compliant solar access to the POS of the subject site and the living room glazing of the proposed dwelling as stipulated by the above-mentioned objectives and control. Therefore, for this reason and other reasons discussed throughout this report the application is recommended for refusal.

#### 5(c) The Likely Impacts

Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the assessment of the Development Application demonstrates that the proposal will have an adverse impact on the built environment and the locality in the following way:

- Introduction of a larger form of development that is uncharacteristic of, and is non-cohesive of the predominant form of development and desired future streetscape and character;
- Overdevelopment of the subject site through non-compliance Floor Space Ratio and Site Coverage
- Adverse visual form, bulk and scale;
- Non-compliant Site Boundary Setback; and
- Non-compliance / lack of demonstrated compliance with the solar access controls of the DCP to the subject site.

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

Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, It is considered that the proposal will have an adverse impact on the locality and is not in keeping with the overall function of the site. Further, for the reasons discussed throughout this report, the proposed development is therefore considered to be an overdevelopment of the subject site and is considered that the site is not suitable to accommodate the development as proposed.

#### 5(e) Any submissions

Pursuant to Section 4.15(1)(d) of the *Environmental Planning and Assessment Act 1979* and in accordance with Inner West Council's Community Engagement Framework, the application was notified from 23 November 2022 to 07 December 2022 to surrounding properties.

No submissions were received in response to the notification.

#### 5(f) The Public Interest

Pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, 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, and therefore the proposed development is recommended for refusal.

## 6 Referrals

### 6(a) Internal

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.

### 6(b) External

The application was referred to Ausgrid and no objections were raised.

## 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.

## 8. Conclusion

The proposal generally does not comply with, nor satisfies, the aims, objectives and design parameters contained in the *Inner West Local Environmental Plan 2022* and *Leichhardt Development Control Plan 2013*.

The development will result in incompatible and inconsistent development in the neighbourhood and significant impacts on the streetscape and is considered to be contrary to 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 Section 4.6 of the *Inner West Local Environmental Plan 2022*. 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 and Site Coverage development standards is unnecessary in the circumstance of the case and the Panel considers 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/2022/0959 for ground and first floor alterations and additions to existing dwelling house and associated works at 53 Charles Street, LEICHHARDT for the following reasons listed in Attachment A.

## Attachment A – Reasons for Refusal

1. The proposed development is inconsistent with and has not demonstrated compliance with the *Inner West Local Environmental Plan 2022*, pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, including:
  - a) Clause 1.2(2)(h) and (i) - Aims of Plan
  - b) Clause 2.1- Zone objectives and Land use table
  - c) Clause. 4.3C(3)(b) - Landscaped areas for residential accommodation in Zone R1 – Site Coverage
  - d) Clause. 4.4 - Floor Space Ratio
2. The applicant has not demonstrated under Clause 4.6 of *Inner West Local Environmental Plan 2022* that there are sufficient environmental planning grounds to justify contravening the Site Coverage and FSR development standards and the development is considered contrary to the objectives of the standards in its proposed form.
3. The proposed development is inconsistent with the Leichhardt Development Control Plan 2013, pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, including:
  - a) Part C1.0 - General Provisions
  - b) Part C1.1 - Site and Context Analysis
  - c) Part C1.3 - Alterations and Additions
  - d) Part C2.2.3.4 - Helsarmel Distinctive Neighbourhood
  - e) Part C3.1 0 - Residential General Provisions
  - f) Part C3.2 - Site Layout and Building Design
  - g) Part C3.3 - Elevation and Materials
  - h) Part C3.8 - Private Open Space
  - i) Part C3.9 - Solar Access
4. 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*.
5. 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*.
6. The proposal has not demonstrated it is in the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment At 1979*.

Attachment B - Plans of proposed development

53 Charles Street, Leichhardt  
alterations & additions

DA application

Client: Alex and Cameron Campbell



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A	16/09/22	DA application
B	31/03/22	amended DA application

drawn by	checked by
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PL_DB	CG

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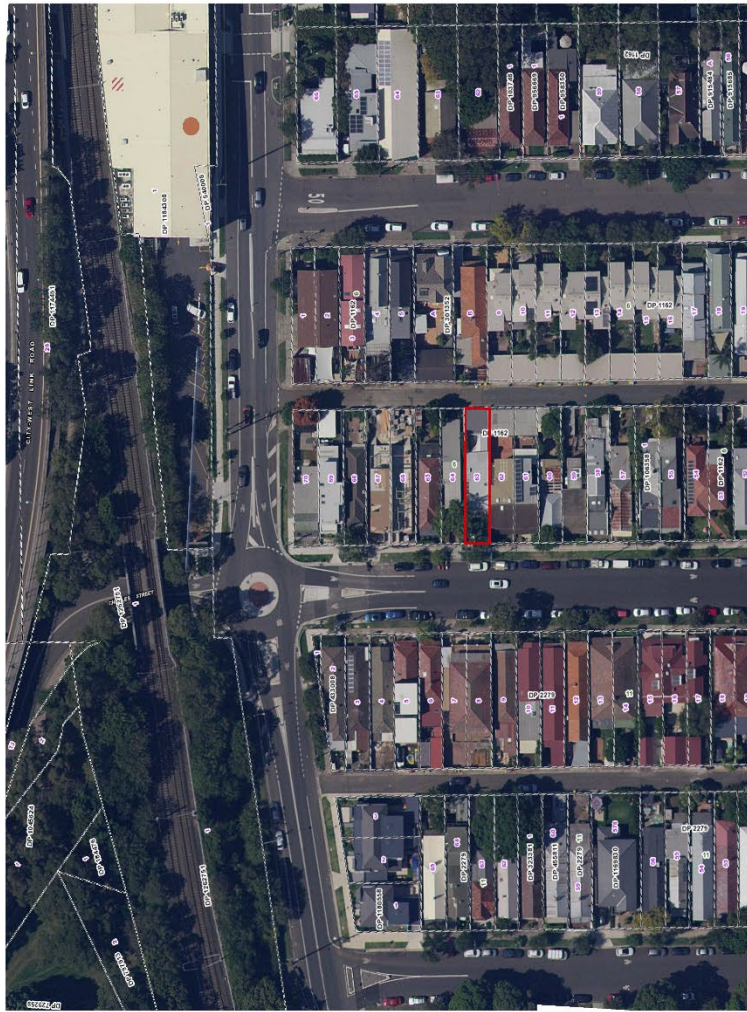
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DA-000 Cover Sheets	DA-000-01	Title Page
DA-100 Site Plans	DA-100-01	Location Plan
	DA-100-02	Site Plan
	DA-100-03	GFA and Site Coverage Diagram
DA-110 GA Plans	DA-110-01	Existing Ground Plan
	DA-110-02	Existing Roof Plan
	DA-110-11	Demolition Ground Plan
	DA-110-12	Demolition Roof Plan
	DA-110-21	Proposed Ground Floor Plan
	DA-110-22	Proposed First Floor Plan
	DA-110-23	Proposed Roof Plan
DA-210 GA Elevations	DA-210-01	Existing North & West Elevations
	DA-210-02	Existing South & East Elevations
	DA-210-11	Demolition North & West Elevations
	DA-210-12	Demolition South & East Elevations
	DA-210-21	Proposed North & West Elevations
	DA-210-22	Proposed South & East Elevations
DA-310 GA Sections	DA-310-01	Existing Sections
	DA-310-11	Demolition Sections
	DA-310-21	Proposed Sections
DA-720 Shadow Diagrams - Plans	DA-720-01	Shadow Diagram June 21 - 9am
	DA-720-02	Shadow Diagram June 21 - 12pm
	DA-720-03	Shadow Diagram June 21 - 3pm
DA-725 Shadow Diagrams - Sun Eye View	DA-725-01	Sun View Diagram June 21 - Sheet 1
	DA-725-02	Sun View Diagram June 21 - Sheet 2
	DA-725-03	Sun View Diagram June 21 - Sheet 3
DA-790 Landscape Diagram	DA-790-01	Proposed Landscape Diagram
DA-810 Supplementary Drawings	DA-810-01	Materials Board

**53 Charles Street**  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 RL 65 DP 1162  
 dwg no.  
**DA-000-01**  
 Cover Sheets  
**Title Page**

22008

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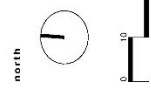
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 Leichhardt North Train Station within 100m of site  
 Recreation areas

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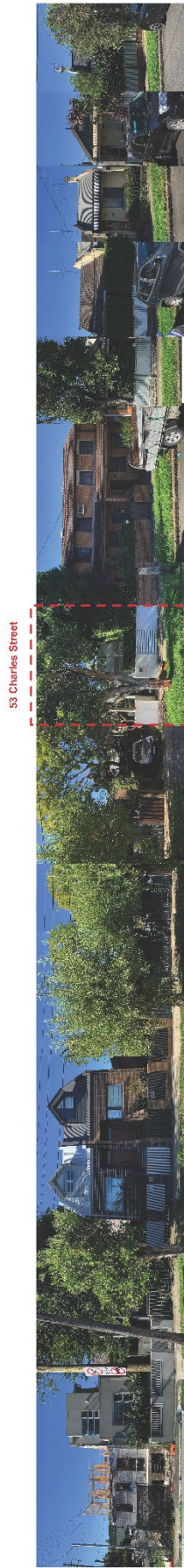
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**33 Charles Street**  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 65 DP 1162  
 dwg no. DA-100-01  
 Site Plans  
**Location Plan**

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2 Street Elevation



1 Site Plan & Analysis  
Scale 1:500

Legend:  
 Site Fall  
 Potential Privacy Issues  
 Prevailing Winds

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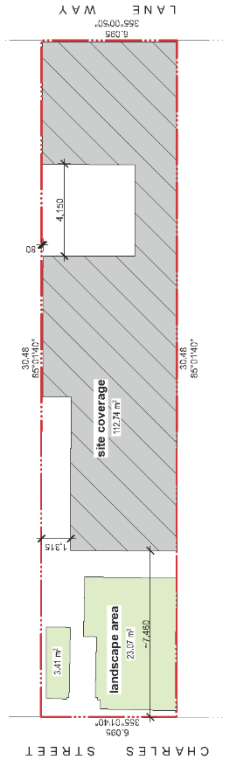
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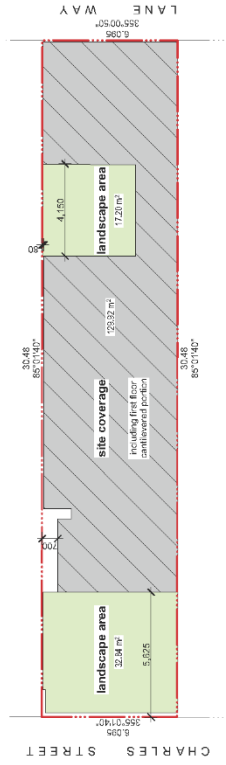
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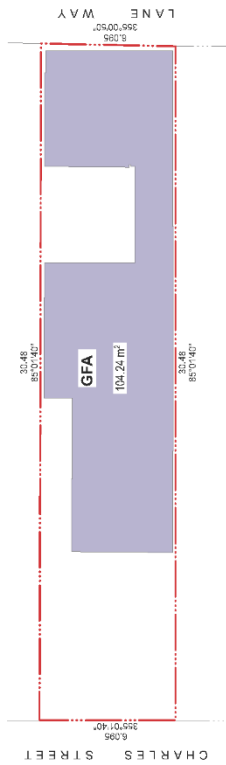
53 Charles Street  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. DA-100-02  
 Site Plans  
**Site Plan**  
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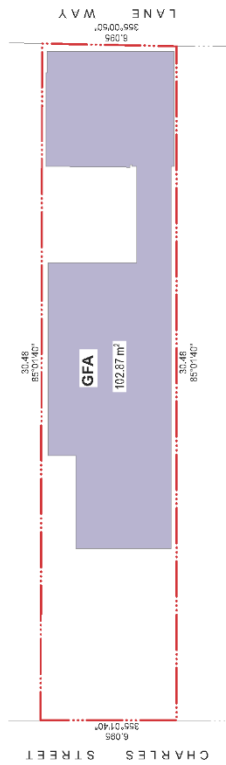
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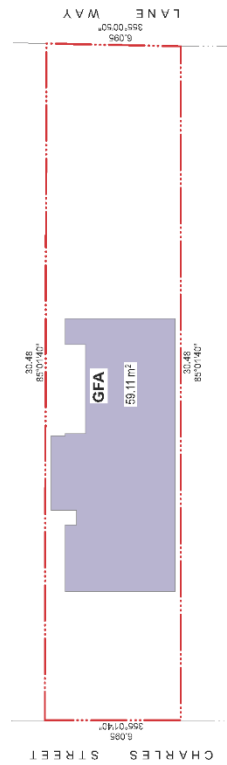
Proposed Site Coverage  
Scale 1:200



Existing GFA - Ground Floor  
Scale 1:200



Proposed GFA - Ground Floor  
Scale 1:200



Proposed GFA - First Floor  
Scale 1:200



Area Calculations  
(site area 183.4m<sup>2</sup>)

Control	Floor Area Max. FSR 0.7: 1 (128.38 m <sup>2</sup> )	Site Coverage Max. 60% X site area (Max. 110.04 m <sup>2</sup> )	Landscaped Area Min. 15% of site area (min. 27.51 m <sup>2</sup> )
Existing	104.24 m <sup>2</sup>	112.74 m <sup>2</sup>	26.46 m <sup>2</sup>
Proposed Ground Floor	102.87 m <sup>2</sup>	NO. 61.5%	NO. 14.4%
Proposed First Floor	59.11 m <sup>2</sup>	129.92 m <sup>2</sup>	50.04 m <sup>2</sup>
Proposed TOTAL	161.98 m <sup>2</sup>	70.8%	27.3%
Compliance	NO	NO	YES

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B 5/10/22 amended DA application

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A 16/02/22  
B 5/10/22

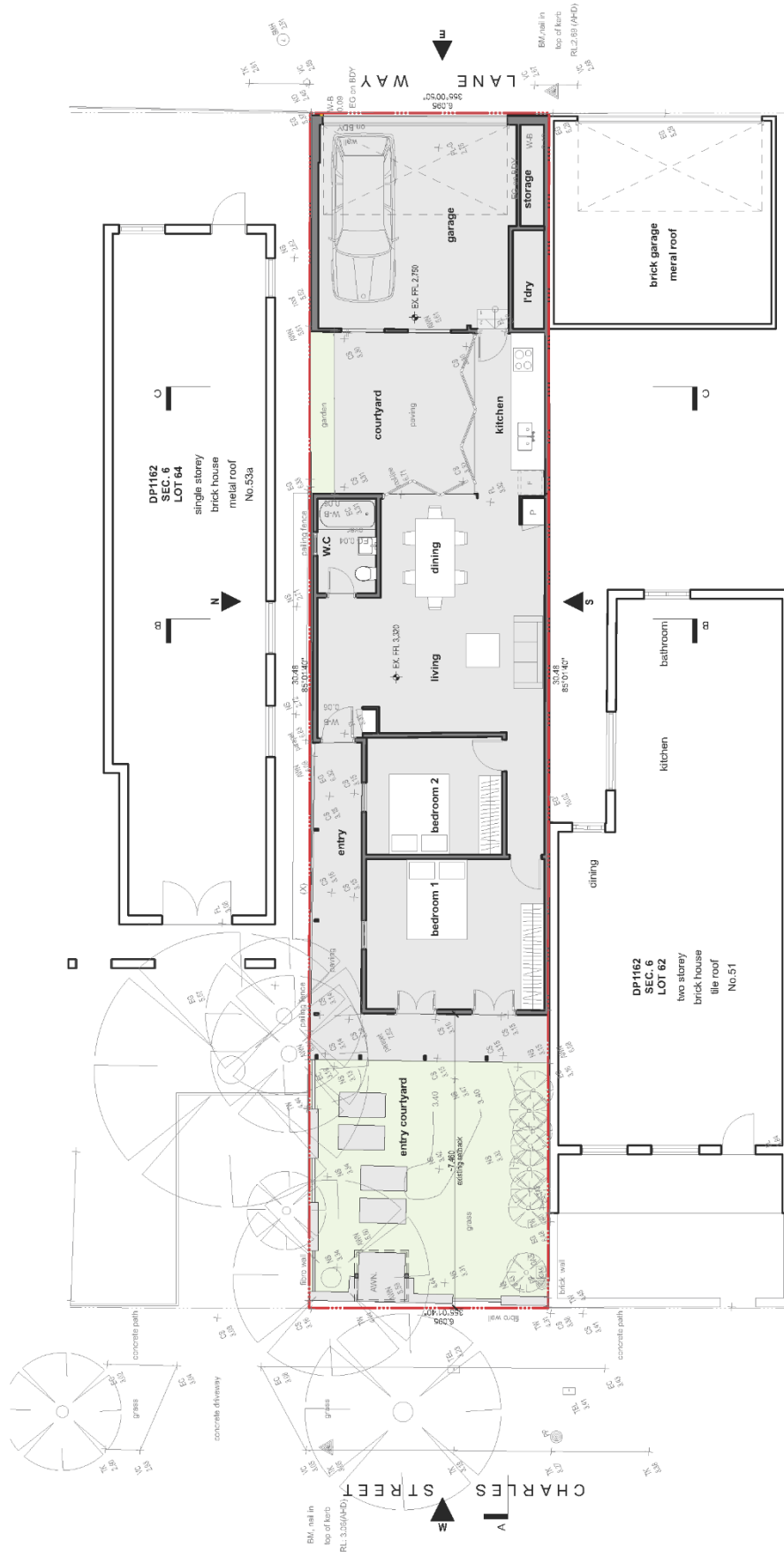
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for Alex and Cameron Campbell  
53 Charles Street Leichhardt NSW Australia  
lot 63 DP 1162  
dwg no. DA-100-03

Site Plans  
GFA and Site Coverage Diagram

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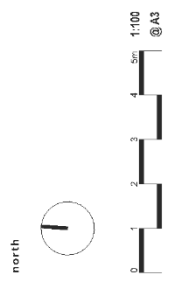




1 Existing Ground Floor Plan  
Scale 1:100

Legend:  Existing walls  Existing elements

**53 Charles Street**  
for Alex and Cameron Campbell  
53 Charles Street Leichhardt NSW Australia  
lot 63 DP 1162  
dwg no. **DA-110-01**  
CA Plans **Existing Ground Plan**  
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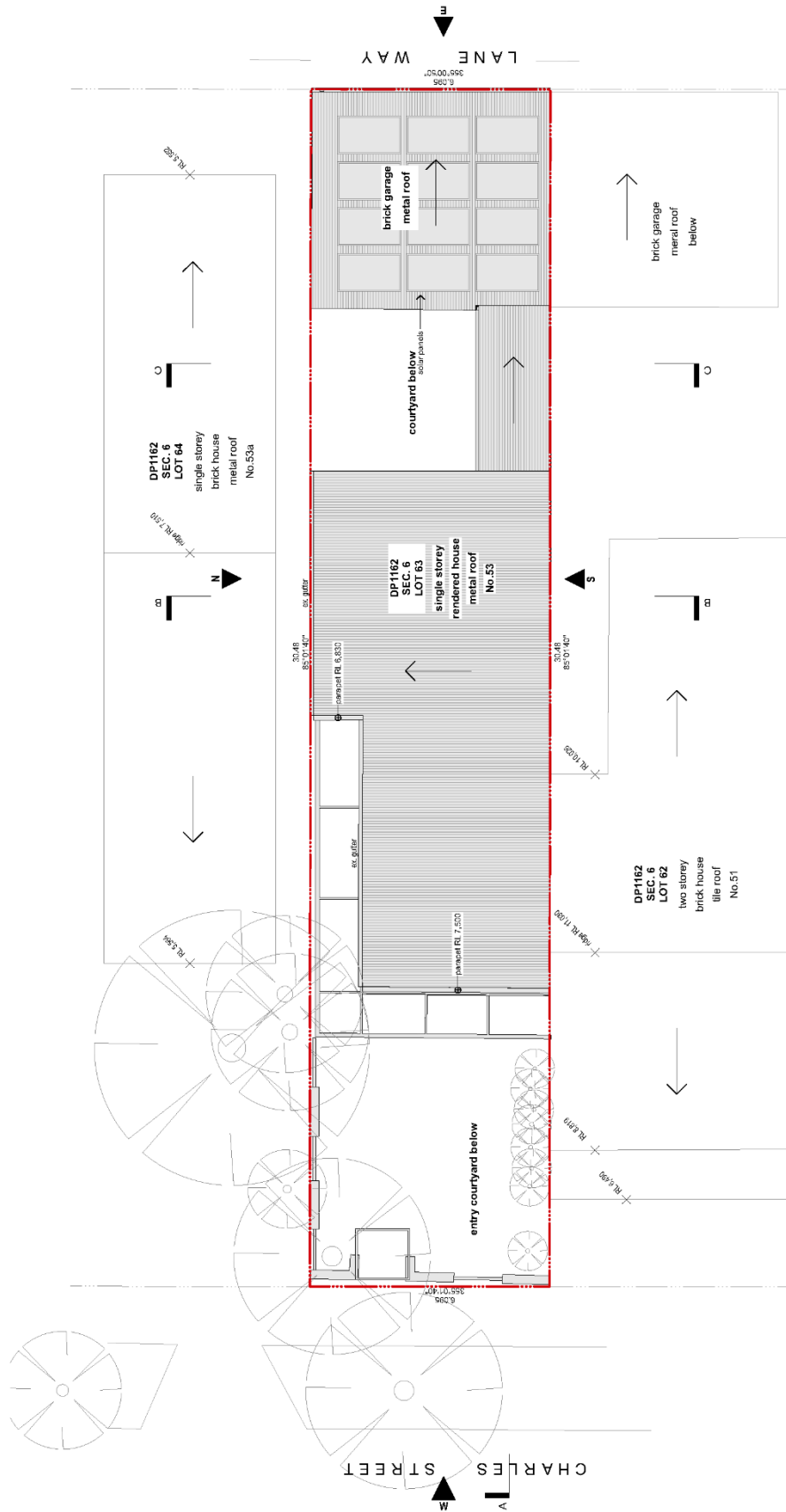
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DP1162 SEC. 6 LOT 62  
two storey brick house tile roof No.51

DP1162 SEC. 6 LOT 62  
two storey brick house tile roof No.51

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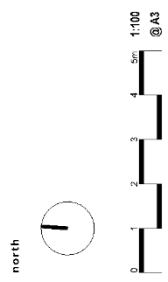


1 Existing Roof Plan  
Scale 1:100

Legend:  
 Existing walls  
 Existing elements

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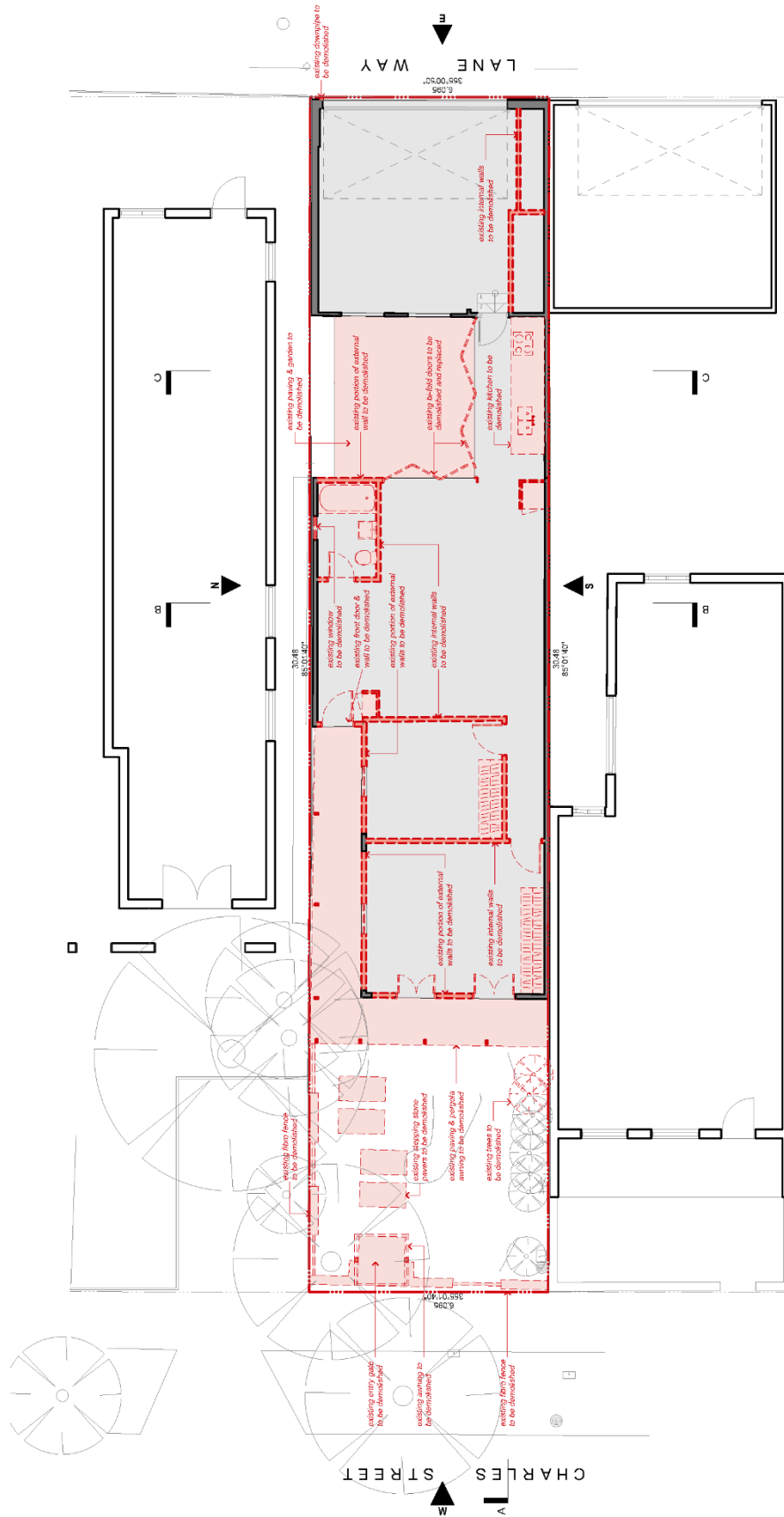
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**53 Charles Street**  
 for Alex and Cumeron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. **DA-110-02**  
 CA Plans  
**Existing Roof Plan**

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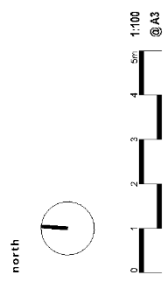
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1 Demolition Ground Floor Plan  
Scale 1:100

Legend:  
 Existing walls  
 Demolished walls  
 Existing elements  
 Demolished elements

53 Charles Street  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. DA-110-11  
 CA Plans  
 Demolition Ground Plan  
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 FOR APPROVAL  
 rev: A



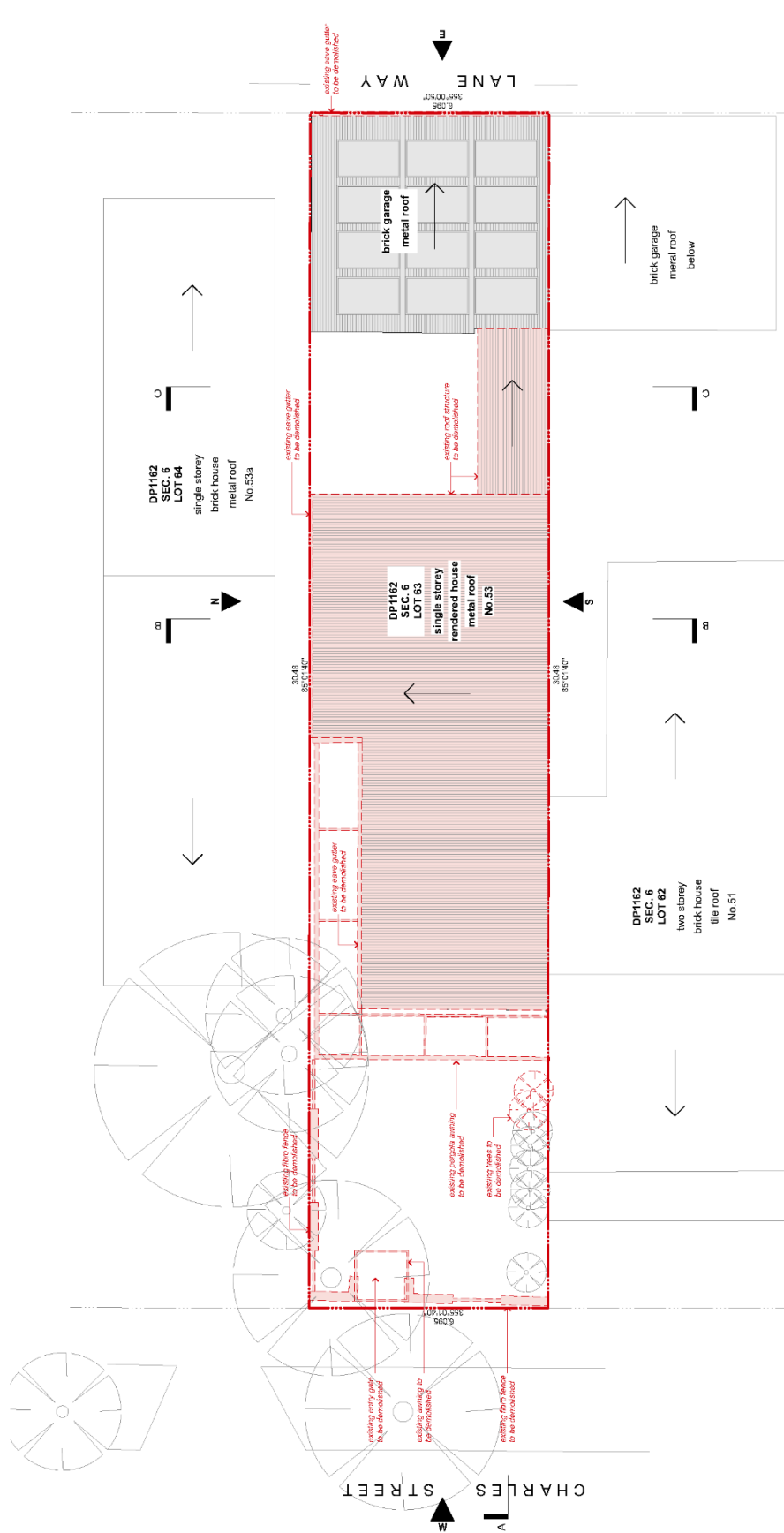
rev	date	revision notes	drawn by	checked by
A	5/10/22	amended DA application	PL DB	CG

GLYDE  
 suite 1, 504-512 Parramatta rd  
 Merrylands, 2040  
 M: 0414 336 436  
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**Demolition Roof Plan**  
Scale 1:100

**Legend:**  
 Existing walls: [Grey box]  
 Demolished walls: [Red dashed box]  
 Existing elements: [Grey box]  
 Demolished elements: [Red dashed box]

**53 Charles Street**  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. **DA-110-12**  
 CA Plans  
**Demolition Roof Plan**

**FOR APPROVAL**  
 rev: **A**

**rev date revision notes**  
 A 5/10/22 amended DA application

**drawn by checked by**  
 PL DB CG

**22008**

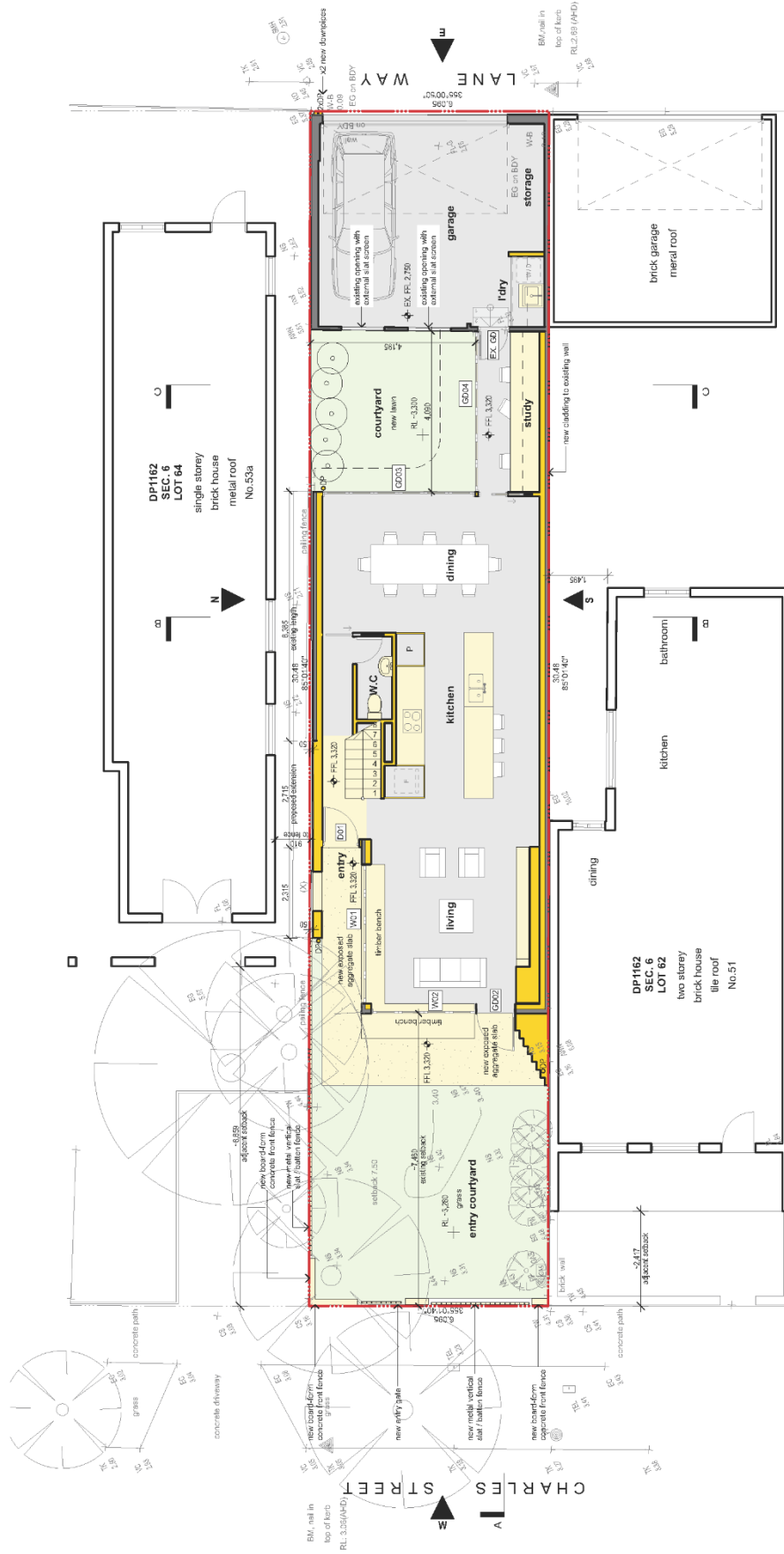
**GLYDE**  
 suite 1, 504-510 Parramatta rd  
 Merrylands, 2044  
 M: 02 8215 1839  
 T: 02 8215 1839  
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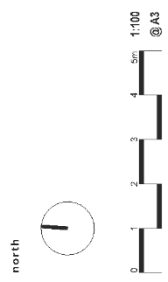
1:100  
 0 1 2 3 4 5m  
 @A3



1 Proposed Ground Floor Plan  
Scale 1:100

**Legend:**  
 Existing walls: [Grey outline]  
 Existing elements: [Grey fill]  
 Proposed walls: [Yellow outline]  
 Proposed elements: [Yellow fill]

**53 Charles Street**  
 for Alex and Cumeron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. DA-110-21  
 GA Plans  
**Proposed Ground Floor Plan**  
 FOR APPROVAL  
 rev: C

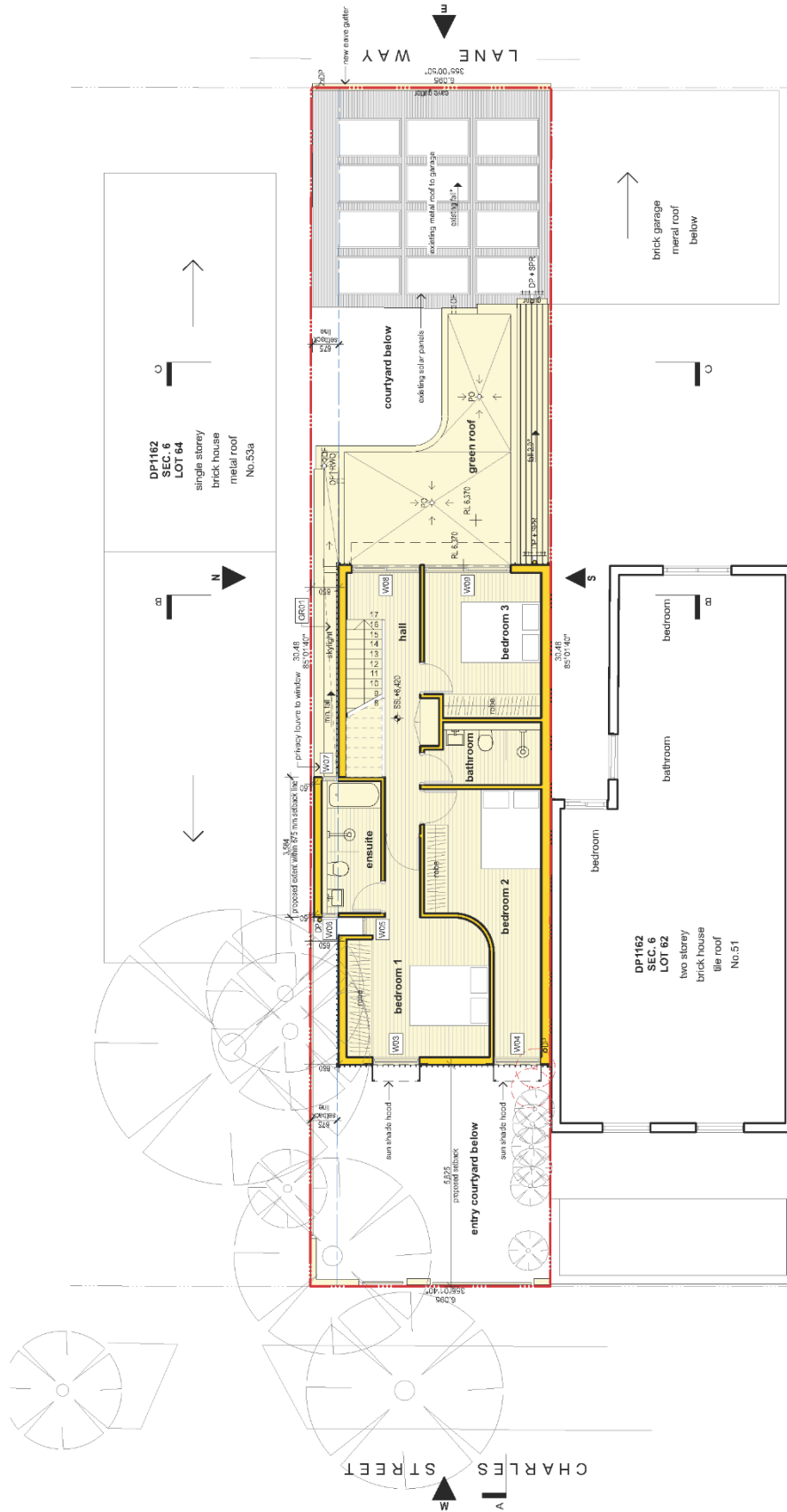


rev	date	revision notes	drawn by	checked by
A	16/02/22	DA application	PL DB	CG
B	5/10/22	amended DA application	PL DB	CG
C	2/11/22	boundary sheet to 53A	PL DB	CG

**GLYDE**  
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 M: 02 8215 1839  
 T: 02 8215 1838  
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 E: glyde@glyde.com.au  
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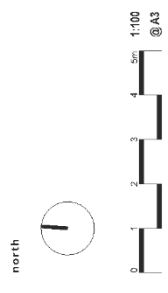




1 Proposed First Floor Plan Scale 1:100

Legend:  
 Existing walls  
 Existing elements  
 Proposed walls  
 Proposed elements

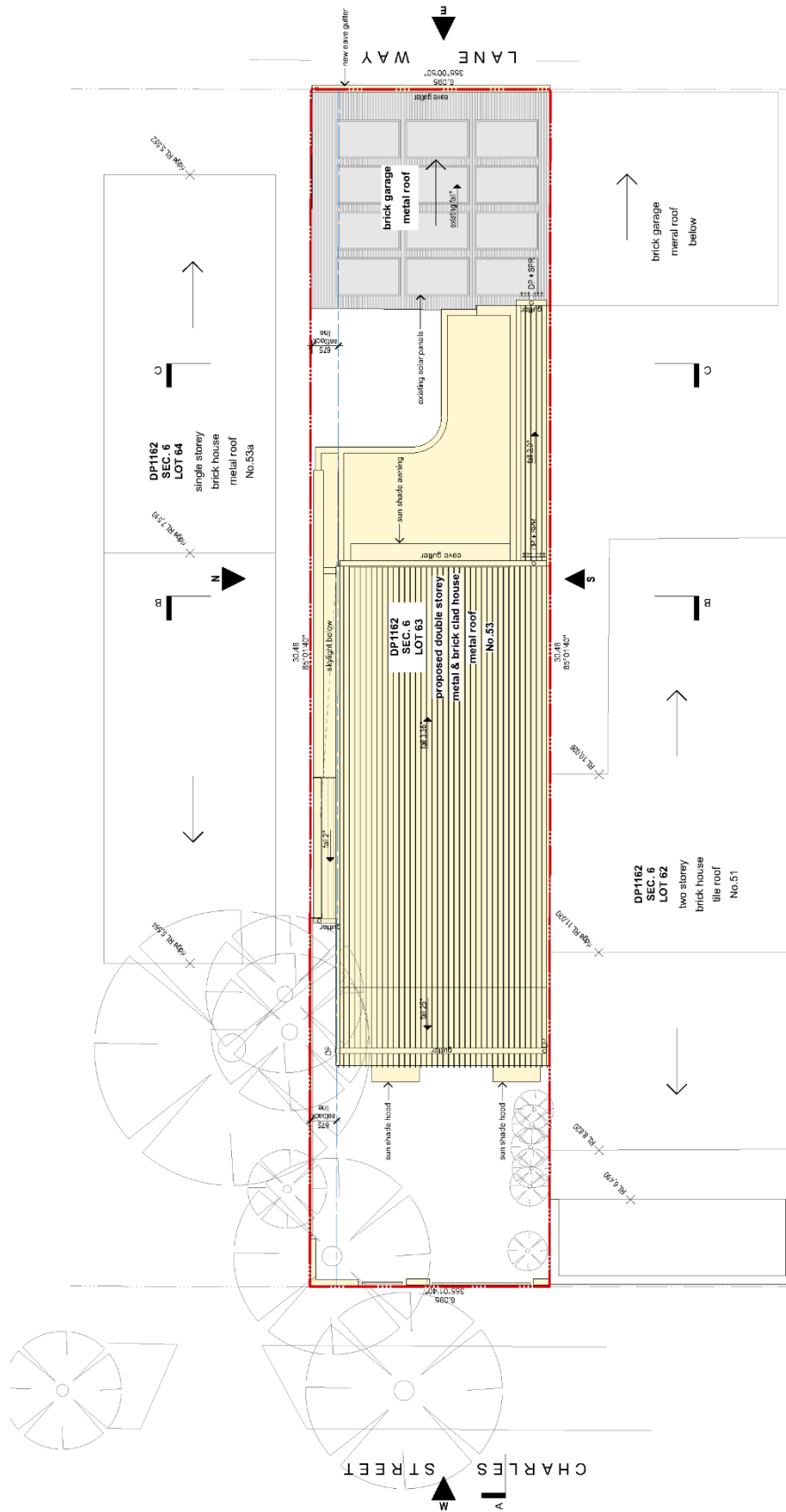
**53 Charles Street**  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. DA-110-22  
 C.A. Plans  
 FOR APPROVAL rev: C



rev	date	revision notes	drawn by	checked by
A	16/02/22	DA application	PL DB	CG
B	5/10/22	amended DA application	PL DB	CG
C	2/11/22	boundary sheet to 53A	PL DB	CG

**GLYDE**  
 suite 1, 504-512 Parramatta rd  
 Parramatta, 2015  
 T: 02 8215 1839  
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 g.lyde@glyde.com.au  
 glydebautovich.com.au

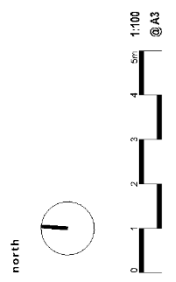
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1 Proposed Roof Plan  
Scale 1:100

- Legend:**
- Existing walls
  - Proposed walls
  - Existing elements
  - Proposed elements

**53 Charles Street**  
for Alex and Cameron Campbell  
53 Charles Street Leichhardt NSW Australia  
lot 63 DP 1162  
dwg no. **DA-110-23**  
CA Plans  
**Proposed Roof Plan**



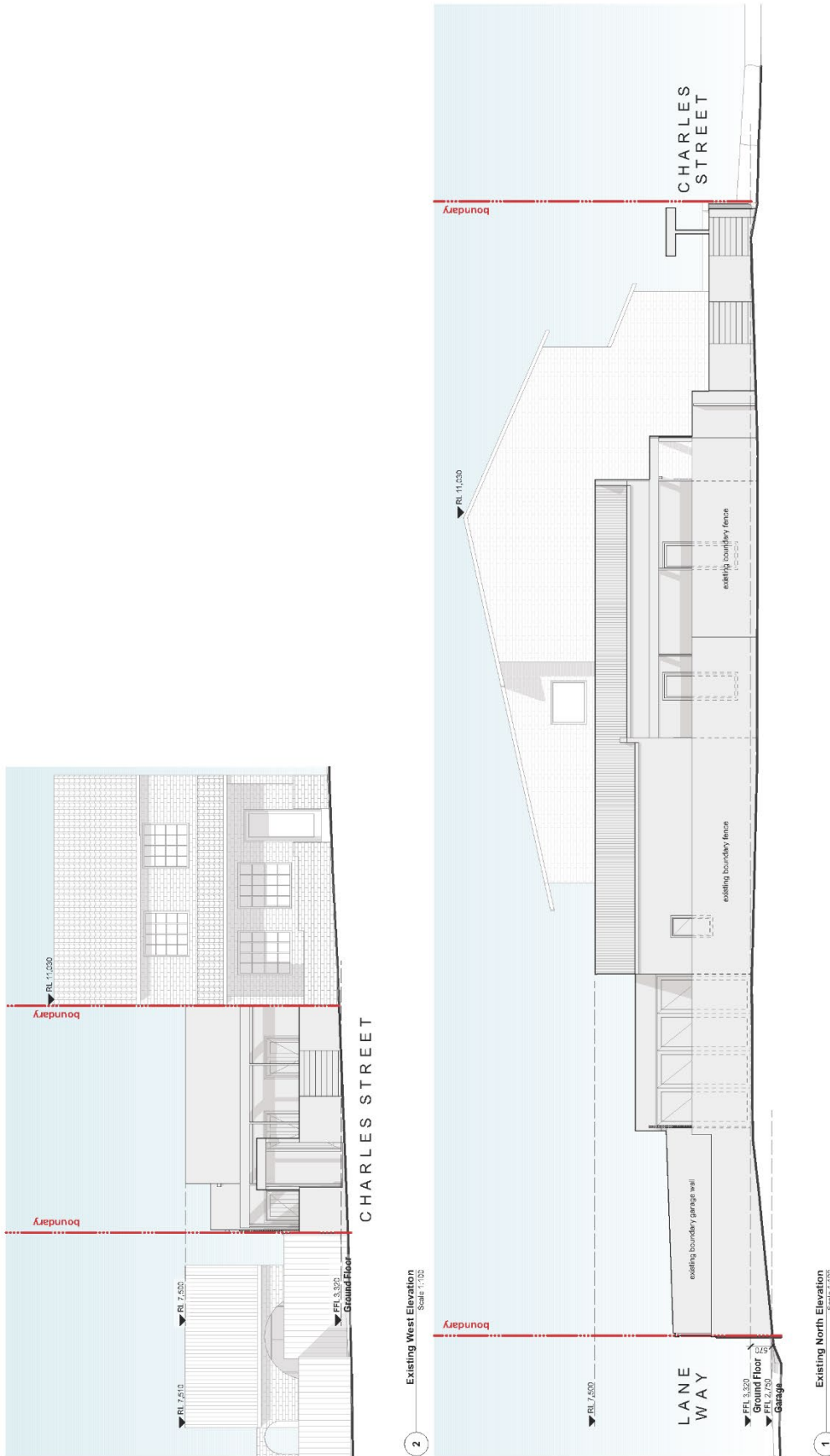
rev	date	revision notes	drawn by	checked by
A	16/022	DA application	PL DB	CG
B	5/1022	amended DA application	PL DB	CG

**GLYDE**  
sulla 1, 504, 512, parramatta rd  
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rev: **B**



Legend:  
Existing elements

**53 Charles Street**  
for Alex and Cameron Campbell  
53 Charles Street Leichhardt NSW Australia  
lot 63 DP 1162  
dwg no. **DA-210-01**

GLYDE  
suite 1, 504-512 Parramatta rd  
Parramatta, 2015  
M: 014 336 438  
T: 02 8216 1839  
A.B.N.: 27 227 626 896  
glyde@glyde.com.au  
glydebautovich.com.au

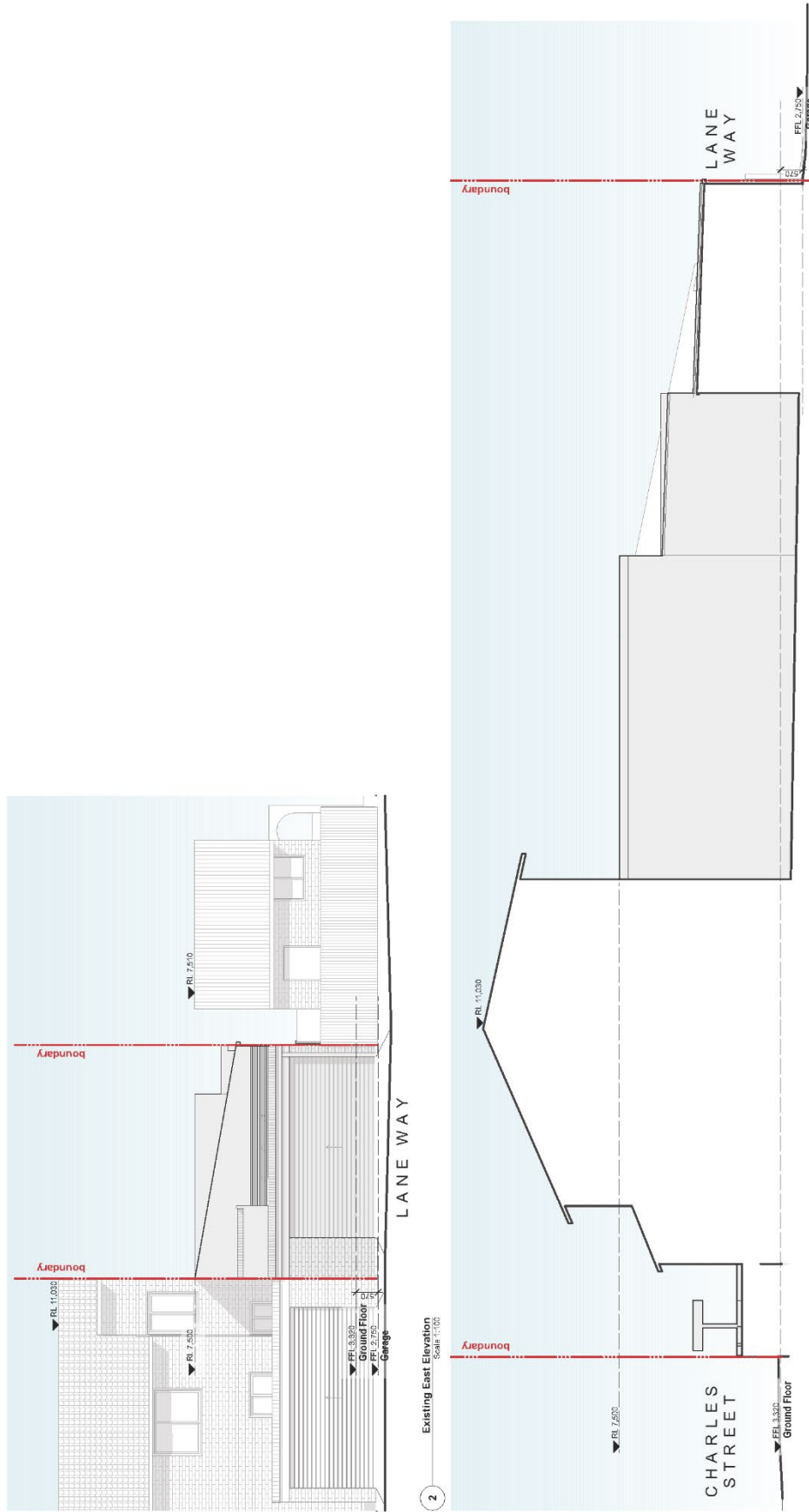
CA Elevations  
**Existing North & West Elevations**  
FOR APPROVAL  
rev: **B**



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Document Set ID: 37560362  
 Version: 1, Version Date: 23/03/2023

rev	date	revision notes	drawn by	checked by
A	16/022	DA application	PL DB	CG
B	5/1022	amended DA application	PL DB	CG

Legend: Existing elements

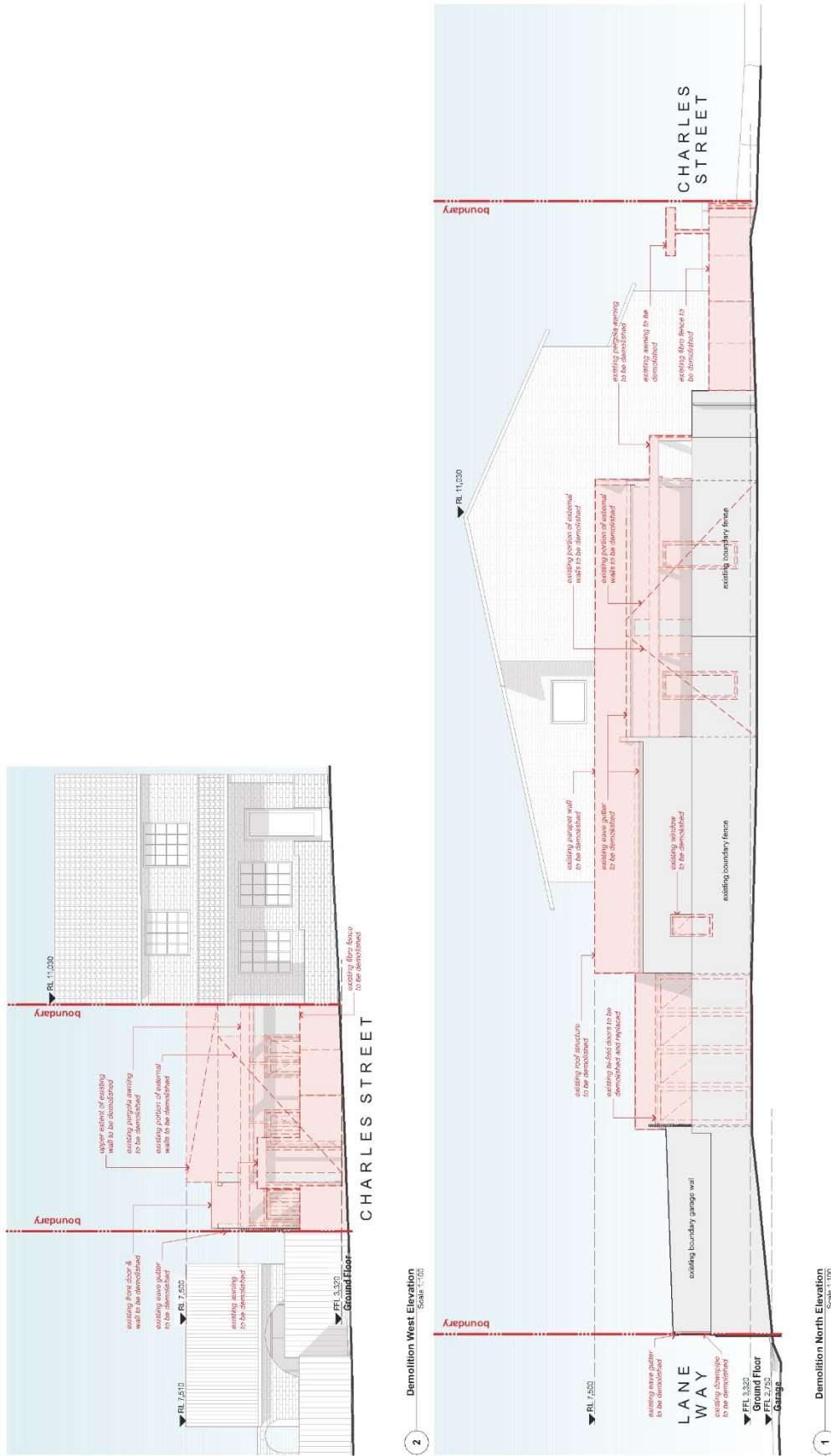
53 Charles Street  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. DA-210-02

CA Elevations  
 Existing South & East Elevations

22008  
 FOR APPROVAL rev: B

Scale 1:100 @ A3

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**GLYDE**

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 Merrylands, 2040  
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 T: 02 8218 1839  
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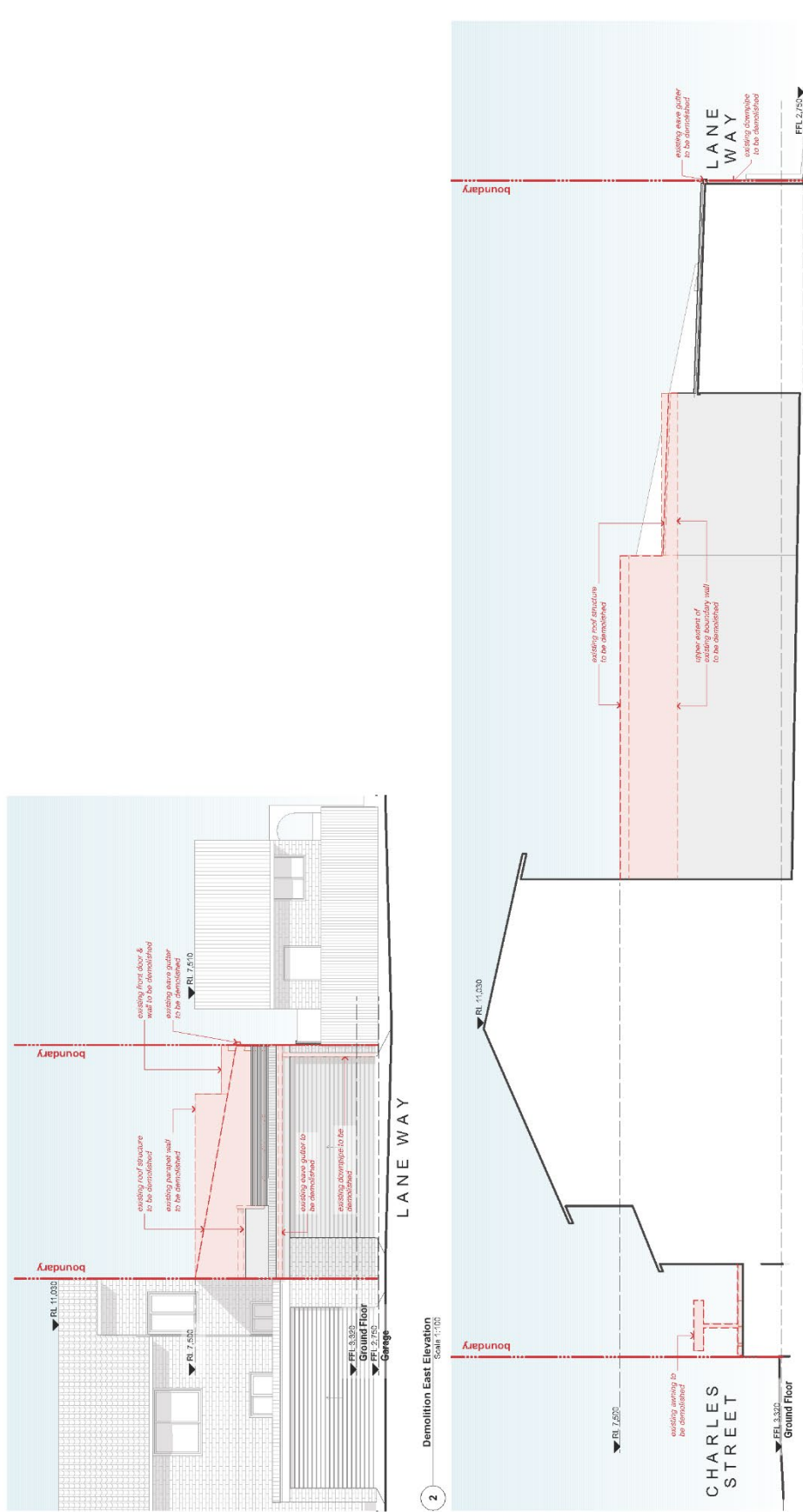
Document Set ID: 37560362  
 Version: 1, Version Date: 23/03/2023

rev date revision notes  
 A 5/10/22 amended DA application

drawn by checked by  
 PL DB CG

53 Charles Street  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. DA-210-11  
 CA Elevations  
 Demolition North & West Elevations

22008  
 FOR APPROVAL rev: A



Legend:  
 Existing elements  
 Demolished elements

53 Charles Street  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. DA-210-12

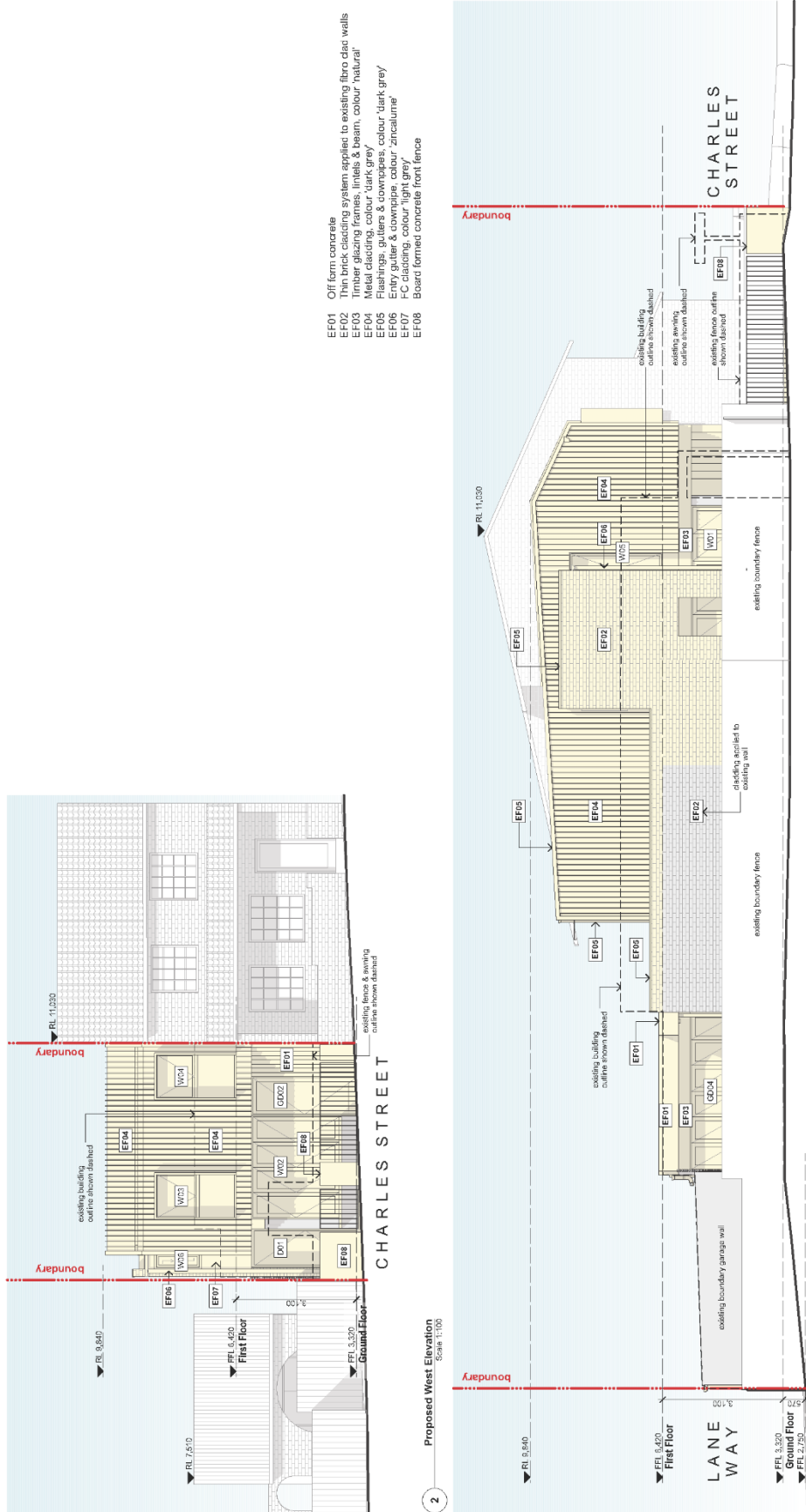
22008  
 CA Elevations  
 Demolition South & East Elevations  
 FOR APPROVAL rev: A

rev	date	revision notes	drawn by	checked by
A	5/10/22	amended DA application	PL DB	CG

GLYDE  
 suite 1, 504-512 Parramatta rd  
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 g@glyde.com.au  
 glydebautovich.com.au

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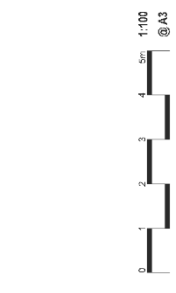
Document Set ID: 37560362  
 Version: 1, Version Date: 23/03/2023



- EF01 Off form concrete
- EF02 Thin brick cladding system applied to existing fibro daac walls
- EF03 Timber glazing frames, timels & beam, colour 'natural'
- EF04 Metal cladding, colour 'dark grey'
- EF05 Flashings, gutters & downpipes, colour 'dark grey'
- EF06 Entry gutter & downpipe, colour 'zincalume'
- EF07 C cladding, colour 'light grey'
- EF08 Board formed concrete front fence

- Existing elements
- Proposed elements
- Existing building outline

**53 Charles Street**  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. DA-210-21  
 CA Elevations  
**Proposed North & West Elevations**



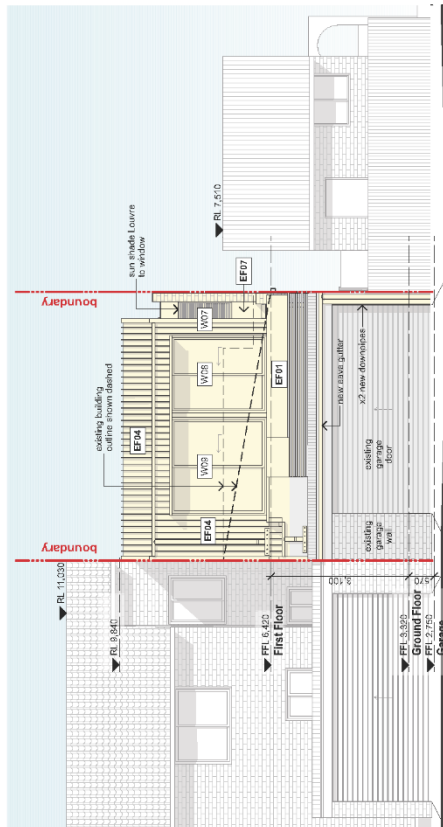
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A	16/02/22	DA application	PL DB	CG
B	5/10/22	amended DA application	PL DB	CG

GLYDE  
 suite 1, 504-512 Parramatta rd  
 Parramatta, 2015  
 M: 0414 336 438  
 T: 02 8216 1839  
 A.B.N.: 27 227 626 896  
 g.lyde@glyde.com.au  
 glydeautomotive.com.au

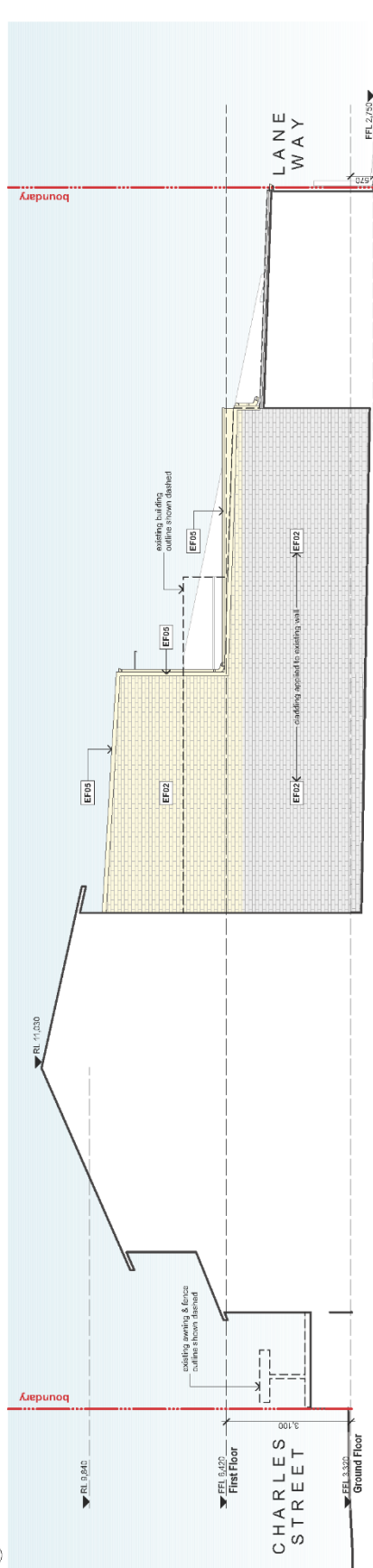
**BAUTOVICH**

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 Version: 1, Version Date: 23/03/2023

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 rev: B



2 Proposed East Elevation  
Scale 1:100



1 Proposed South Elevation  
Scale 1:100

- EF01 Off form concrete
- EF02 Thin brick cladding system applied to existing fibro daco walls
- EF03 Timber glazing frames, lintels & beam, colour 'natural'
- EF04 Metal cladding, colour 'dark grey'
- EF05 Flashings, gutters & downpipes, colour 'dark grey'
- EF06 Entry gutter & downpipe, colour 'zincalume'
- EF07 C cladding, colour 'light grey'
- EF08 Board formed concrete front fence

Legend:  
 Existing elements  
 Proposed elements  
 Existing building outline

**53 Charles Street**  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. DA-210-22  
 CA Elevations  
**Proposed South & East Elevations**

FOR APPROVAL rev: B

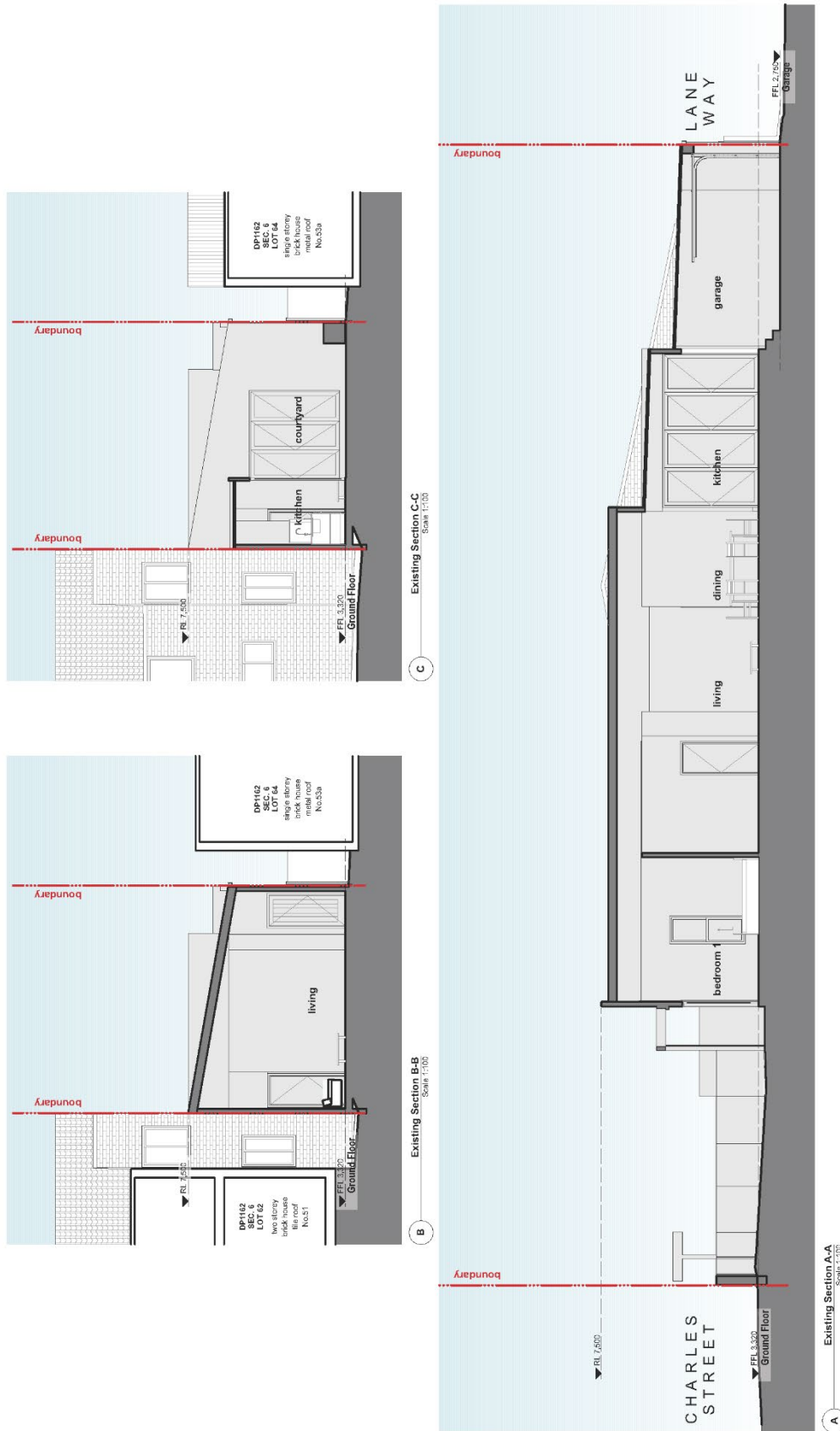


rev	date	revision notes	drawn by	checked by
A	16/022	DA application	PL DB	CG
B	5/1022	amended DA application	PL DB	CG

**GLYDE**  
 suite 1, 504-512 Parramatta rd  
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 glydebautovitch.com.au

**BAUTOVICH**





Legend:  
 Existing wall / floor / roof  
 Existing elements

22008  
**53 Charles Street**  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. **DA-310-01**  
 CA Sections  
**Existing Sections**

rev	date	revision notes	drawn by	checked by
A	16/02/22	DA application	DB	CG
B	5/10/22	amended DA application	DB	CG

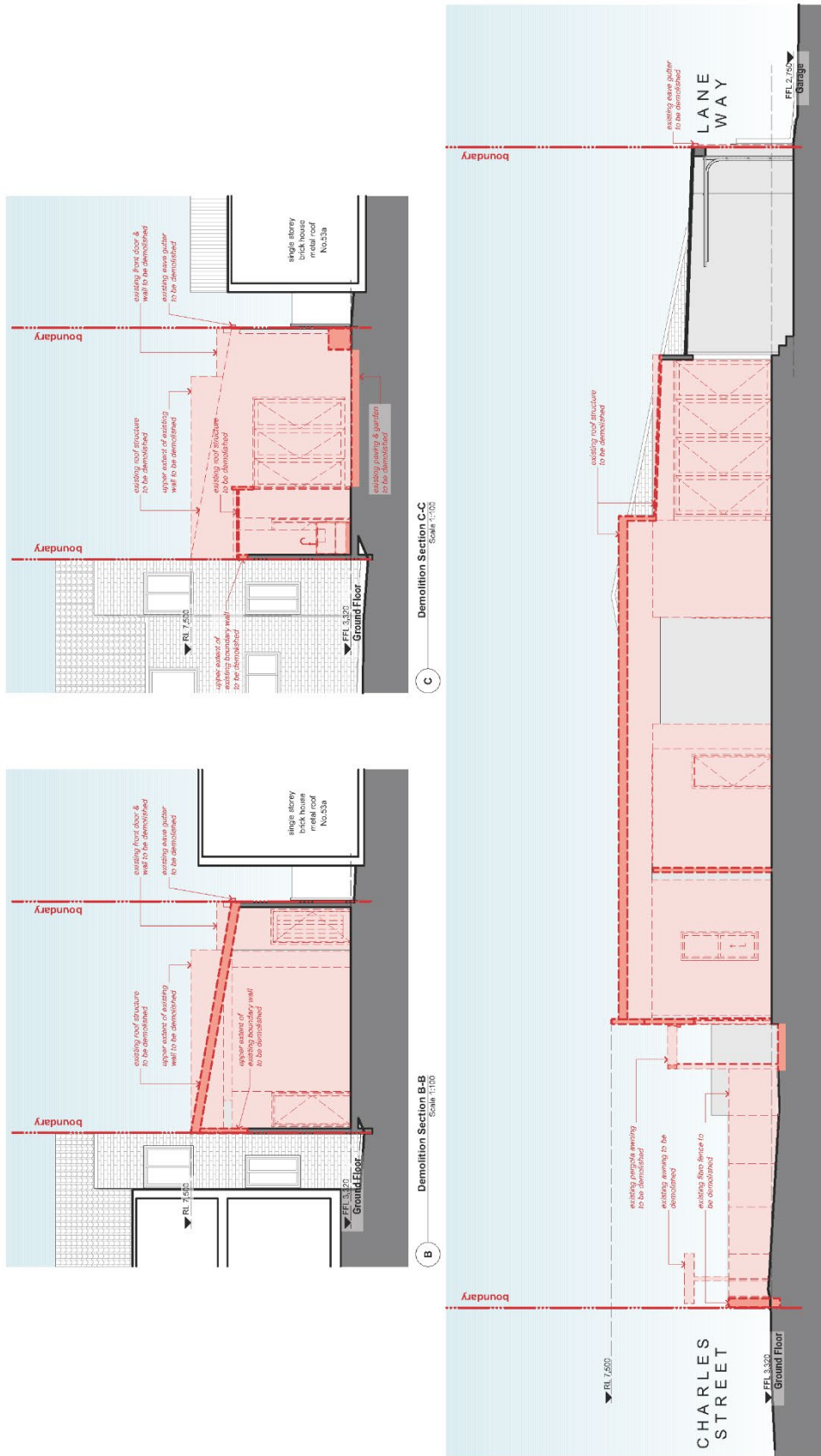
GLYDE  
 suite 1, 504-512 Parramatta rd  
 Parramatta, 2006  
 M: 0414 336 436  
 T: 02 8216 1839  
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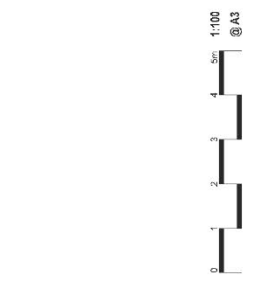
**Legend:**  
 Existing wall / floor / roof  
 Demolished wall / floor / roof  
 Existing elements  
 Demolished elements

**53 Charles Street**  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. DA-310-11

22008

CA Sections  
**Demolition Sections**

FOR APPROVAL  
 rev: A



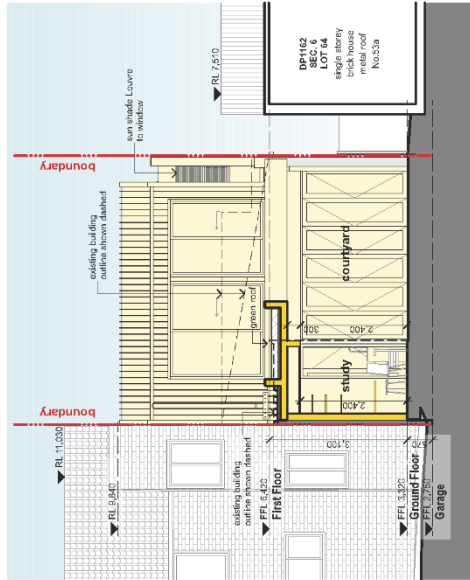
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A	5/10/22	amended DA application	DB	CG

GLYDE  
 suite 1, 504-512 Parramatta rd  
 Merrylands, 2040  
 M: 0414 336 436  
 T: 02 8216 1839  
 A.B.N.: 27 227 626 896  
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 glydebautovich.com.au

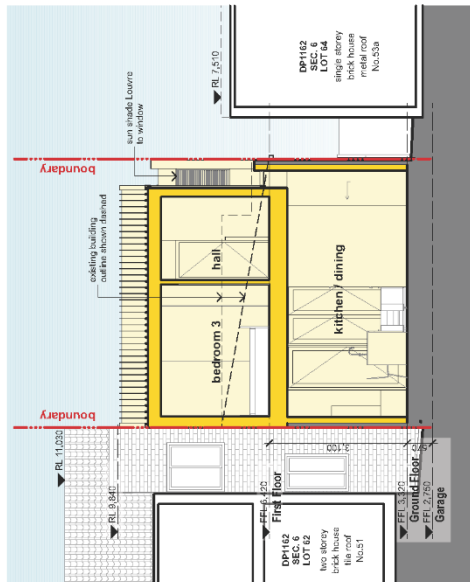
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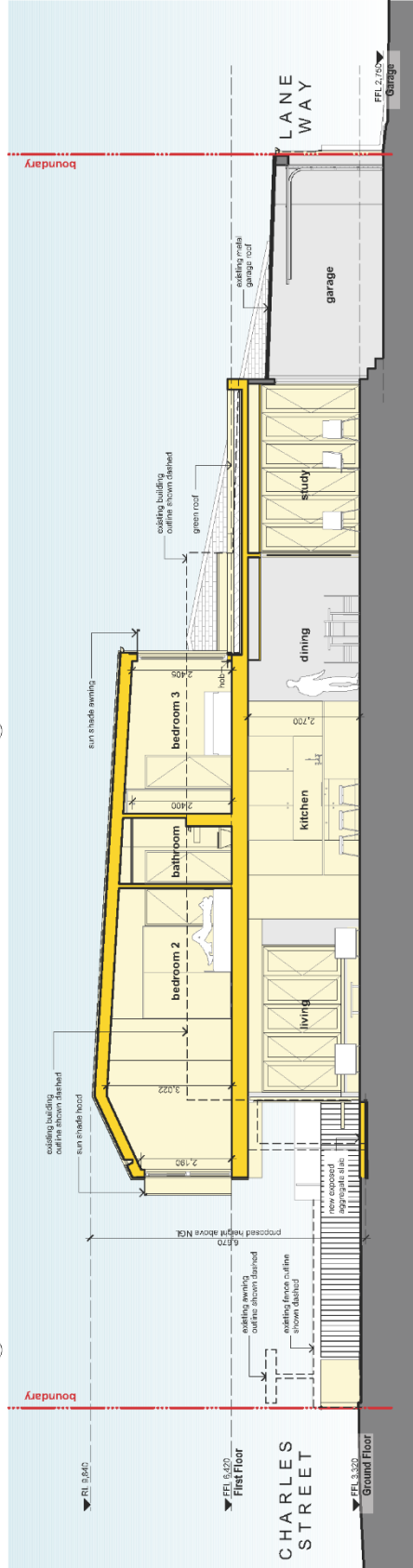
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Proposed Section C-C  
Scale: 1:100



Proposed Section B-B  
Scale: 1:100



Proposed Section A-A  
Scale: 1:100

- Legend:**
- Existing building outline
  - Existing wall / floor / roof
  - Existing elements
  - Proposed wall / floor / roof
  - Proposed elements

**GLYDE**  
 suite 1, 504-512 Parramatta rd  
 Parramatta, 2004  
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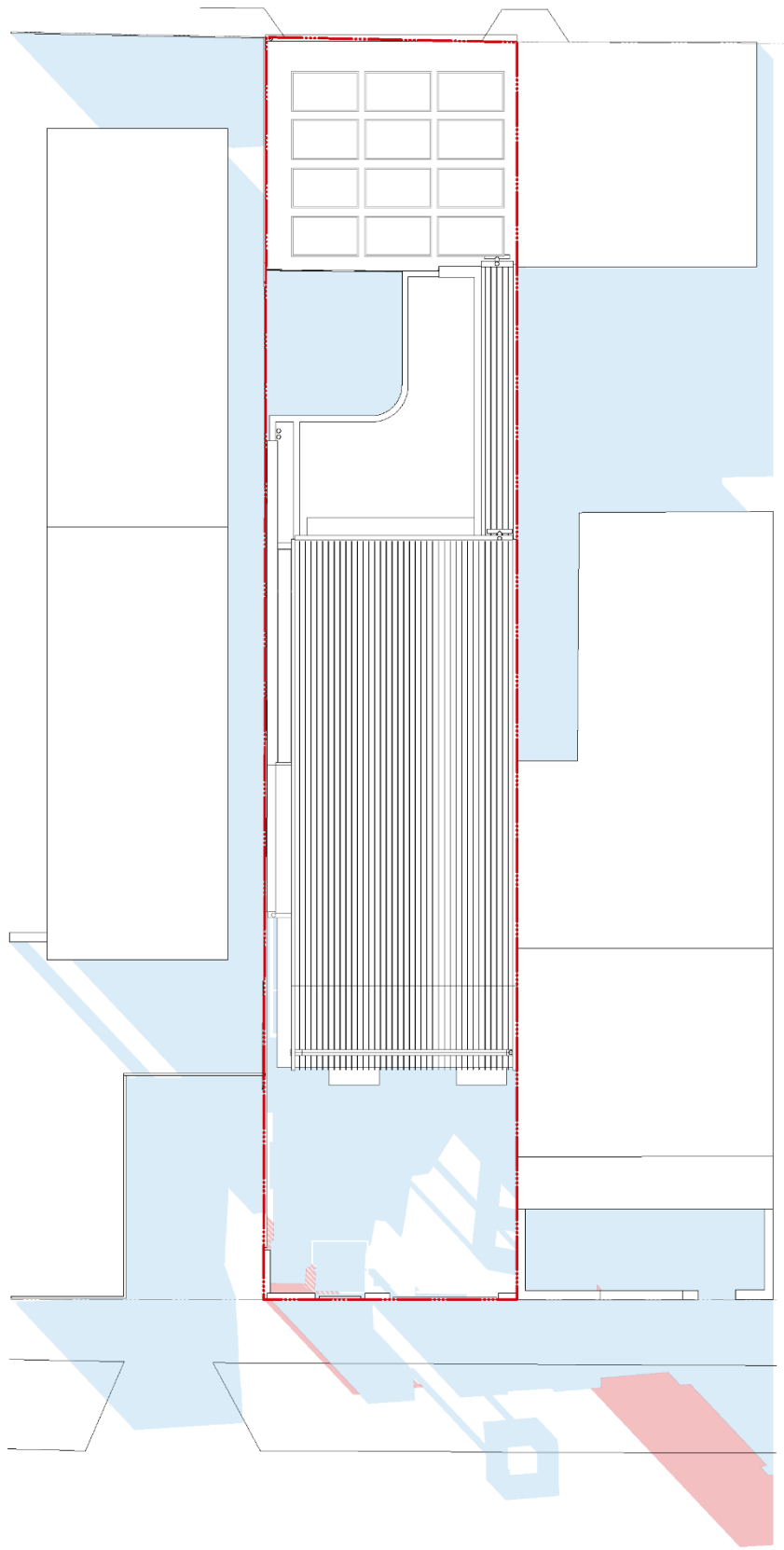
**53 Charles Street**  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. DA-310-21  
 CA Sections  
**Proposed Sections**

rev	date	revision notes	drawn by	checked by
A	16/022	DA application	DB	CG
B	5/1022	amended DA application	DB	CG

22008  
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 rev: B



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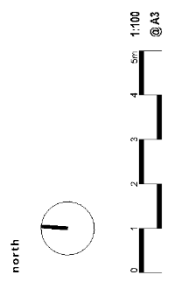
1 Shadows 21st June 9am  
Scale 1:100

Legend:  
■ Existing building shadows  
■ Proposed building shadows

**GLYDE**  
 suite 1, 504-512 Parramatta rd  
 Merrylands, 2040  
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rev	date	revision notes	drawn by	checked by
A	16/02/22	DA application	PL	CG
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**53 Charles Street**  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. DA-720-01

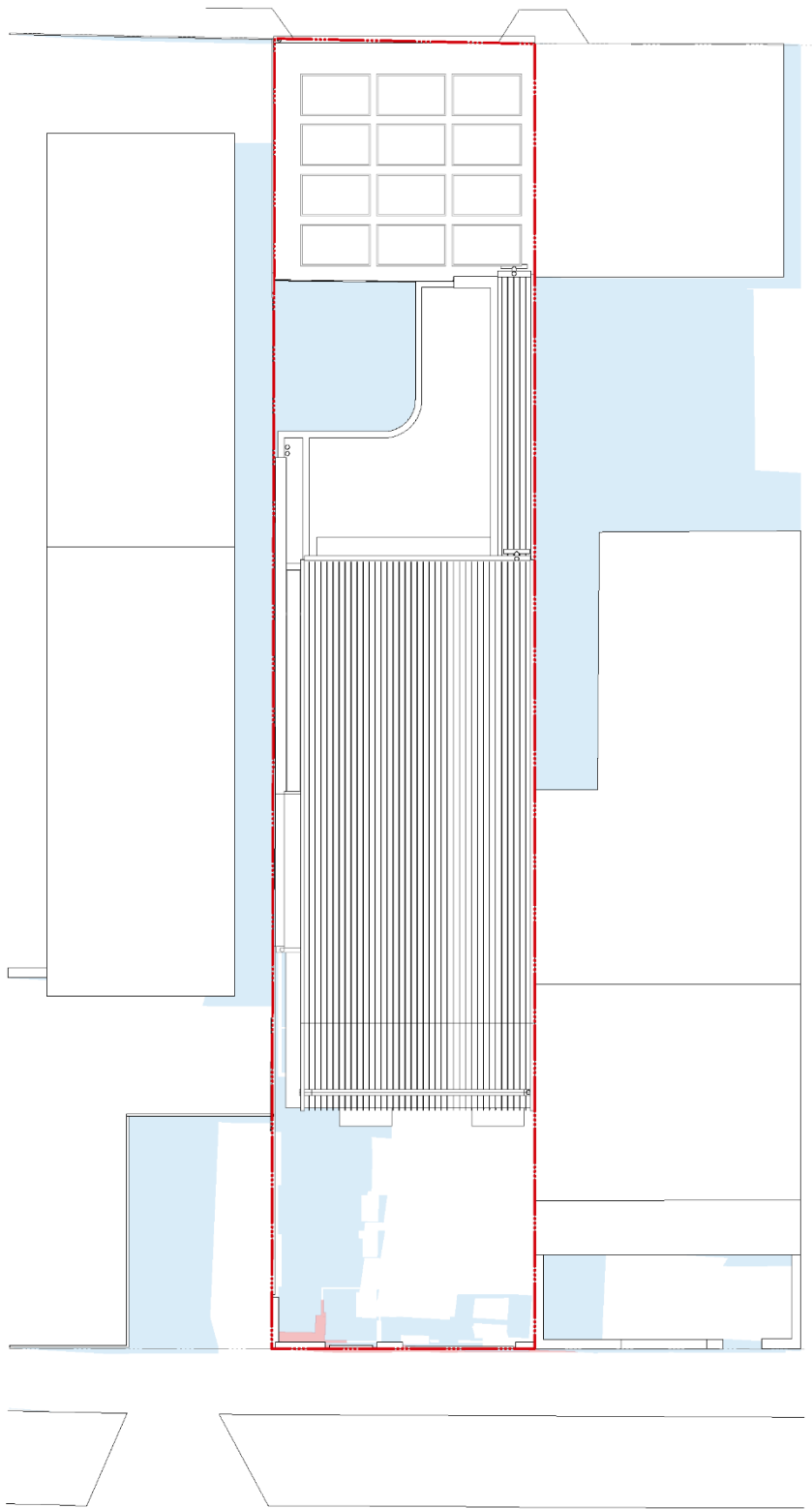


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Shadow Diagrams - Plans  
**Shadow Diagram June 21 - 9am**

22008



1 Shadows 21st June 12pm  
Scale 1:100

Legend:

Existing building shadows Proposed building shadows

**GLYDE**  
 suite 1, 504-512 Parramatta rd  
 Parramatta, 2015  
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rev	date	revision notes
A	16/02/22	DA application
B	5/10/22	amended DA application

drawn by PL PL  
 checked by CG CG

north



53 Charles Street  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. DA-720-02

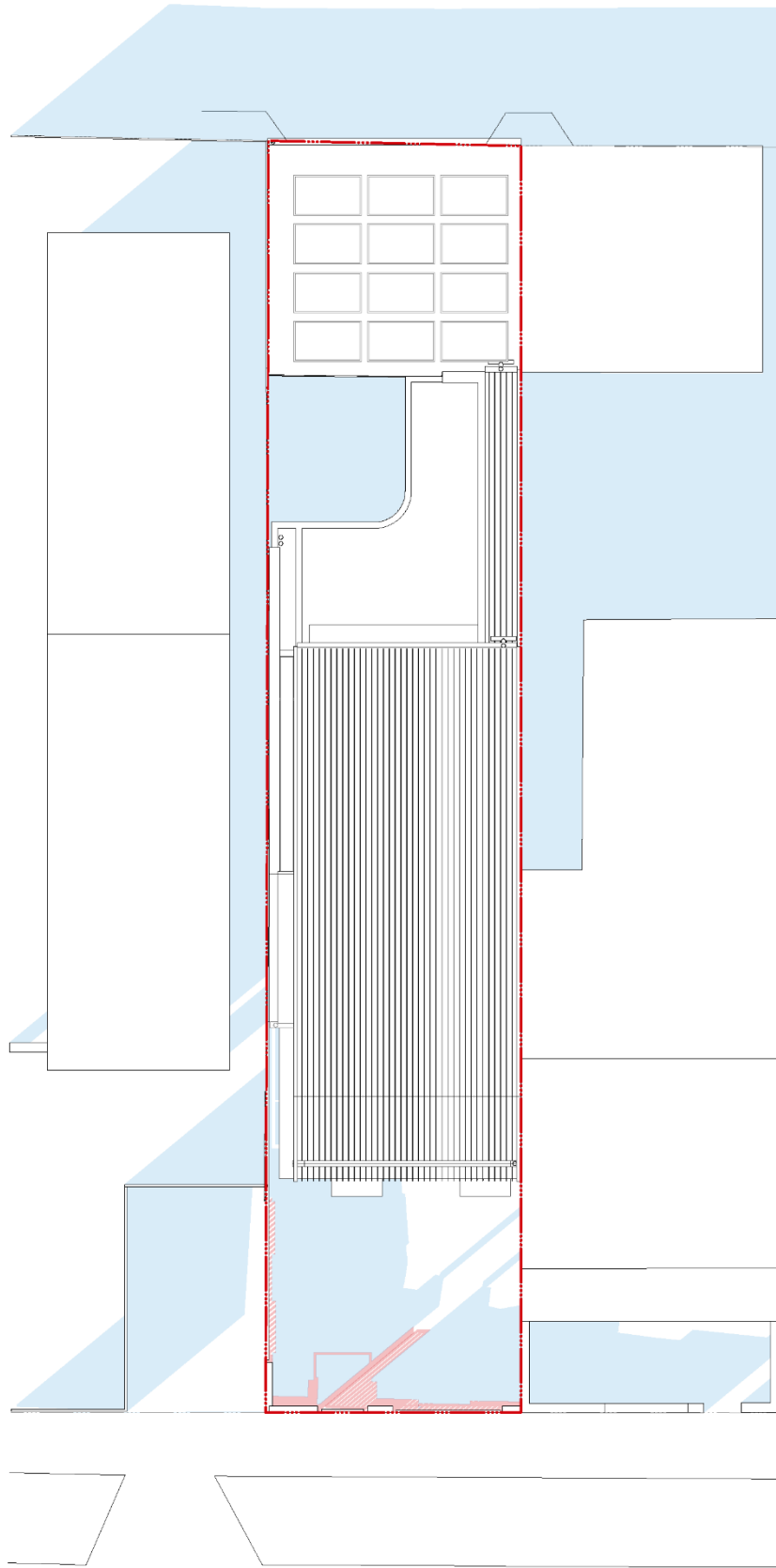
22008

Shadow Diagrams - Plans  
**Shadow Diagram June 21 - 12pm**  
 FOR APPROVAL rev: B

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**BAUTOVICH**



1 Shadows 21st June 3pm  
Scale 1:100

Legend:  
■ Existing building shadows  
■ Proposed building shadows

**GLYDE**  
 suite 1, 504-512 Parramatta rd  
 Merrylands, 2040  
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rev	date	revision notes	drawn by	checked by
A	16/02/22	DA application	PL	CG
B	5/10/22	amended DA application	PL	CG

**53 Charles Street**  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. DA-720-03

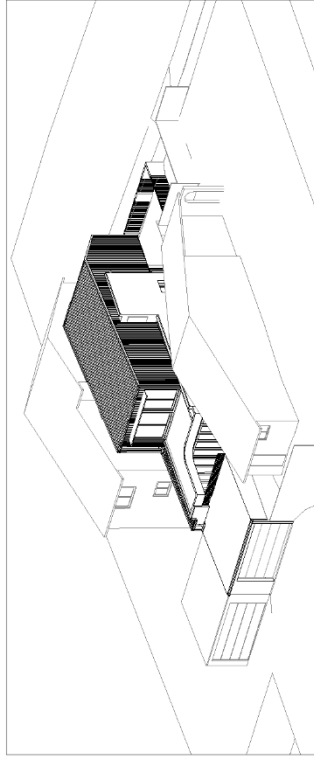
22008

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 rev: B

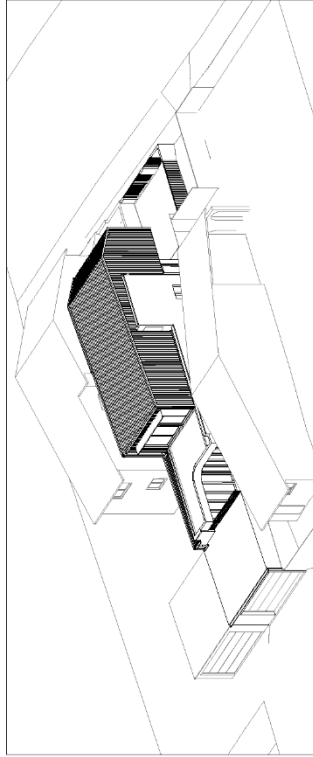
Shadow Diagrams - Plans  
**Shadow Diagram June 21 - 3pm**

1:100  
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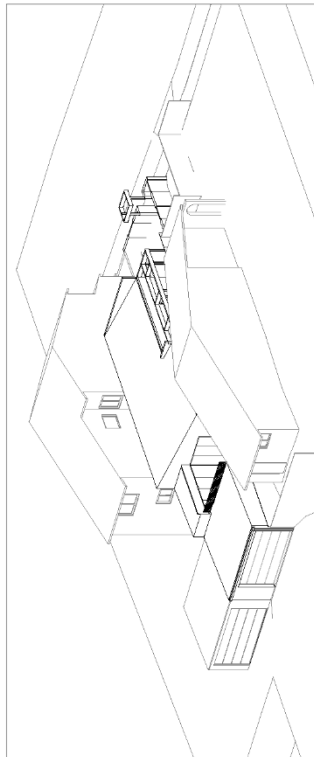
**BAUTOVICH**  
 Document Set ID: 37560362  
 Version: 1, Version Date: 23/03/2023



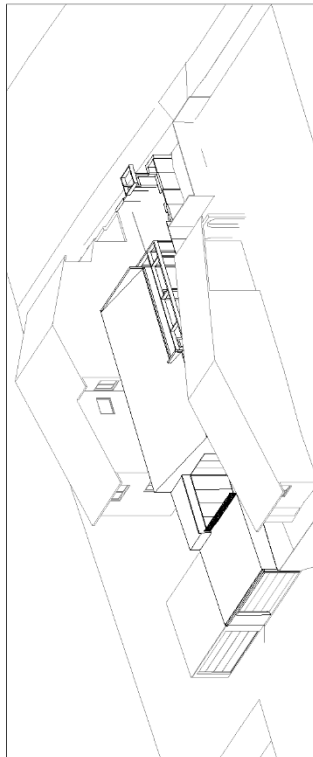
1 Existing Sun View - 21st June 9am



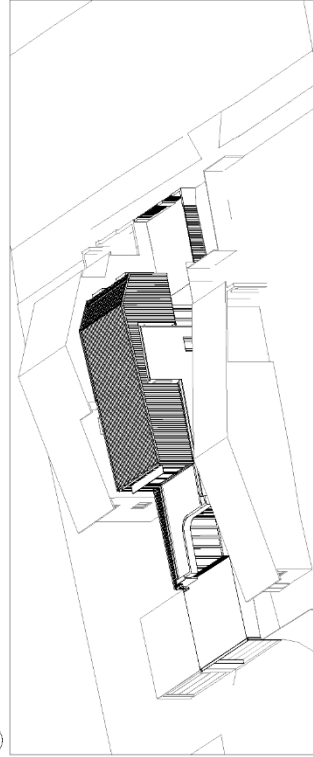
2 Proposed Sun View - 21st June 9am



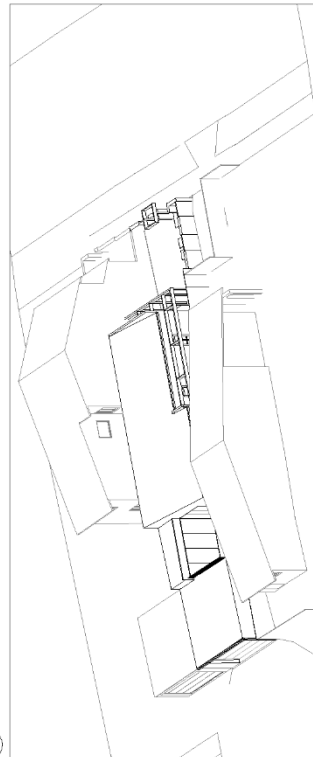
3 Existing Sun View - 21st June 10am



4 Proposed Sun View - 21st June 10am



5 Existing Sun View - 21st June 11am



6 Proposed Sun View - 21st June 11am

**POINT-OF-VIEW SUN SHADOWCASTING**  
 A 3D model is used to represent a "point-of-view" model. The model is positioned in the sky at different hours of the day during the summer months. The "spot" creates full sun at the hours designated, anything "out of spot" is in shade.

**GLYDE**  
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rev	date	revision notes
A	16/02/22	DA application
B	5/10/22	amended DA application

drawn by	checked by
DB	CG
DB	CG

53 Charles Street  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no.  
 DA-725-01

22008

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**POINT-OF-VIEW**  
**SUN SHADOWCASTING**  
 A sun shadowcasting model is required to represent a "point-of-view" in the sky at different hours of the day, during the summer months. The "spot" denotes full sun at the hours designated, anything "out of spot" is in shade.

22008  
**53 Charles Street**  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no.  
**DA-725-02**  
 Shadow Diagrams - Sun Eye View  
**Sun View Diagram June 21 - Sheet 2**  
 FOR APPROVAL rev: C

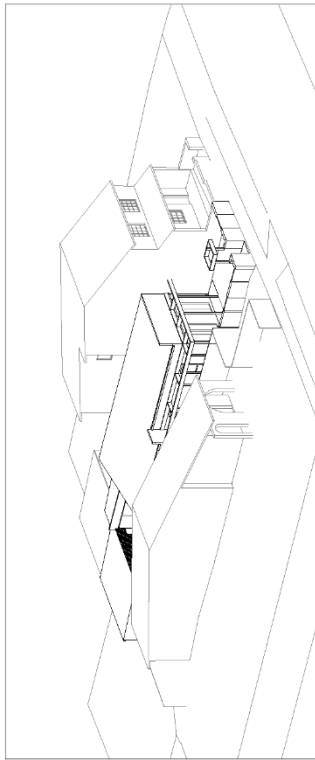
rev	date	revision notes	drawn by	checked by
A	16/02/22	DA application	DB	CG
B	5/10/22	amended DA application	DB	CG
C	7/3/23	additional sun view hours	DB	CG

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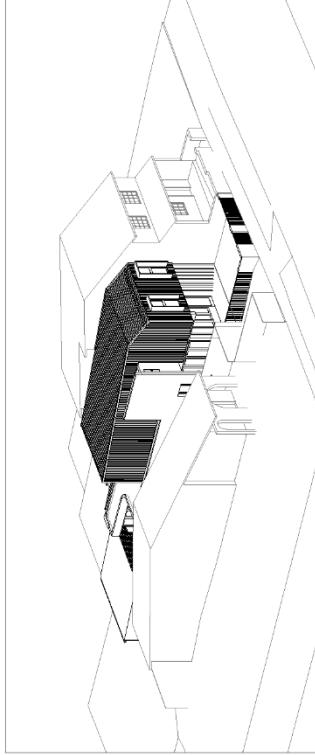
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 Version: 1, Version Date: 23/03/2023





13 Existing Sun View - 21st June 3pm



14 Proposed Sun View - 21st June 3pm

**POINT-OF-VIEW SUN SHADOWCASTING**  
 A 3D model is assigned to represent a "point-of-view" position in the sky at different hours of the day, during the hours of the day designated "sun" (shaded) and "no sun" (out of shot) is in shade.

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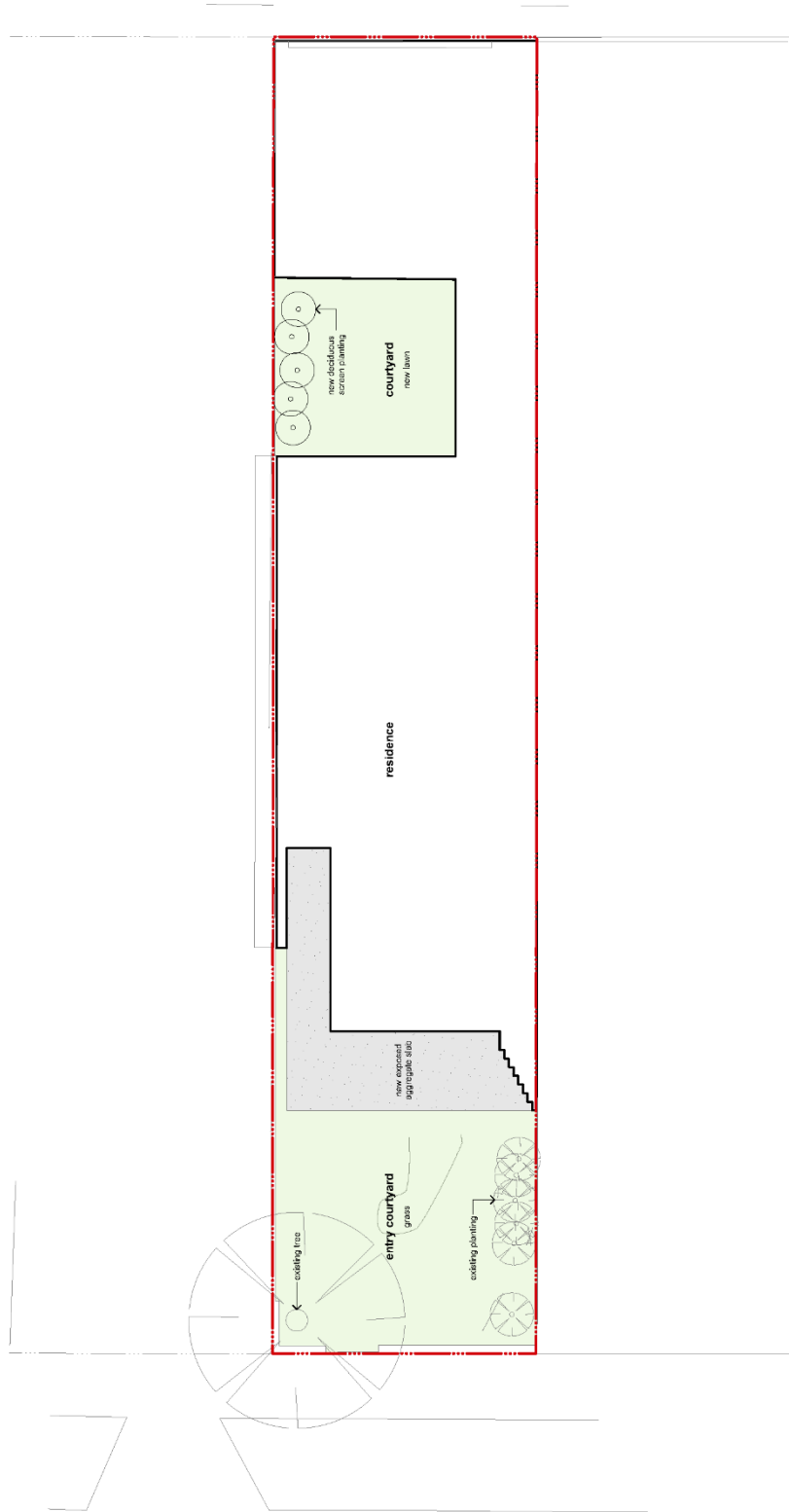
rev	date	revision notes
A	7/3/23	additional sun view hours

drawn by DB  
 checked by CG

53 Charles Street  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. DA-725-03

Shadow Diagrams - Sun Eye View  
 Sun View Diagram June 21 - Sheet 3  
 FOR APPROVAL rev: A

22008



1 Proposed Landscape Plan  
Scale: 1:100

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north



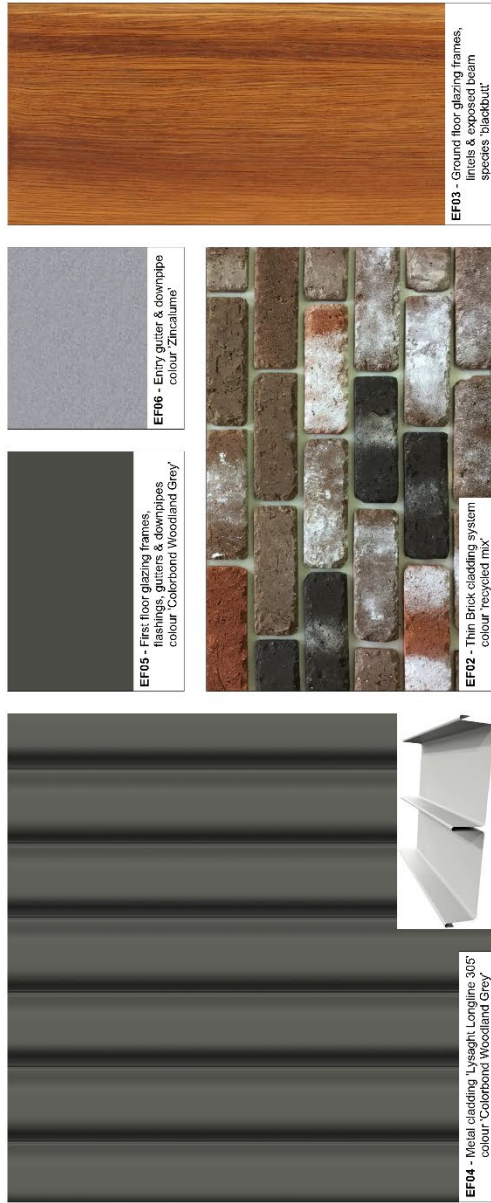
22008

**53 Charles Street**  
 for Alex and Cameron Campbell  
 53 Charles Street Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. DA-790-01

FOR APPROVAL  
 rev: B

Landscape Diagram  
**Proposed Landscape Diagram**

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rev	date	revision notes	drawn by	checked by
A	16/02/22	DA application	DB	CC
B	5/10/22	amended DA application	DB	CC

22008

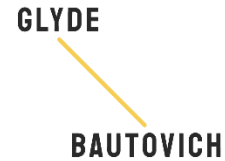
**53 Charles Street**  
 for Alex and Cameron Campbell  
 53 Charles Street, Leichhardt NSW Australia  
 lot 63 DP 1162  
 dwg no. **DA-810-01**

Supplementary Drawings  
**Materials Board**

FOR APPROVAL  
 rev: **B**

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## Attachment C – Section 4.6 Exception to Development Standards



12th September 2022

### INNER WEST LOCAL ENVIRONMENTAL PLAN 2022 Clause 4.6 Exceptions to Development Standards

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#### 1. INTRODUCTION

This is a formal request that has been prepared in accordance with Clause 4.6 of the *Inner West Local Environmental Plan 2022 (LEP 2022)* to justify a variation to the site coverage and floor space ratio development standards. This request relates to proposed alterations and addition to a dwelling located at 53 Charles Street Leichhardt.

The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying development standards to achieve outcomes for, and from, development. As the request demonstrates, a better planning outcome would be achieved by applying flexibility in the particular circumstances of this application.

Clause 4.6 requires that the consent authority be satisfied of three matters before granting consent(:

1. That the applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case [clause 4.6(3)(a);
2. That the applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard [clause 4.6(3)(b);
3. That 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 [clause 4.6(4)

It is significant to note that there are many dwellings within Charles Street that have similar site coverage areas.

#### 2. STANDARD TO BE VARIED

The standards to be varied are the site coverage and floor space ratio development standards which are set out in clause 4.3C and 4.4 respectively of LEP(2022). The objectives of the standards are set out below:

##### **4.3C Landscaped Areas for residential accommodation in zone R1:**

- (a) to provide landscaped areas for substantial tree planting and for the use and enjoyment of residents,
- (b) to maintain and encourage a landscaped corridor between adjoining properties,

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- (c) to ensure that development promotes the desired character of the neighbourhood,
- (d) to encourage ecologically sustainable development,
- (e) to control site density,
- (f) to provide for landscaped areas and private open space.

#### 4.4 Floor Space Ratio:

- (a) to establish a maximum floor space ratio to enable appropriate development density,
- (b) to ensure development density reflects its locality,
- (c) to provide an appropriate transition between development of different densities,
- (d) to minimise adverse impacts on local amenity,
- (e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.

The numerical value of the applicable site coverage is 116.40sqm and floor space ratio, 0.88:1.

### 3. EXTENT OF VARIATION

Clauses 4.3C(3) prescribes a maximum site coverage of 60%, which is 110.04sqm. The existing site coverage is 112.74sqm, a non-compliance of 2.5%. The proposed site coverage is 116.40sqm which equate to 63.4%, a non-compliance of 5.7%.

4.4(2B)(c) of LEP 2022 prescribes a maximum floor space ratio of 0.7:1 which is equivalent to 128.38sqm. The existing floor space ratio is 0.56:1 which is equivalent to 104.24sqm. The proposed floor space ratio is 0.88:1, equivalent to 161.98sqm. The extent of variation is 26.1%.

### 4. UNREASONABLE OR UNNECESSARY

This section of the request demonstrates why compliance with the development standards is unreasonable or unnecessary in the circumstances of the case as required by Clause 4.6(3)(a) of the LEP 2022.

The court has held that there are at least five different ways through which an applicant might establish that compliance with a development standard is unreasonable or unnecessary (*see Wehbe v Pittwater Council* [2007] NSWLEC 827). It is sufficient to demonstrate only one of these ways to satisfy clause 4.6(3)(a). Test 1 is most applicable in this case.

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The test is:

- 1. The objectives of the development standard are achieved notwithstanding the proposed variation.**

**Table 1:**

Achievement of objectives of Clause 4.3C *Landscaped Areas for residential accommodation in zone R1:*

Objective	Response
<i>(a) to provide landscaped areas for substantial tree planting and for the use and enjoyment of residents,</i>	The landscape areas are generally an existing condition in terms of footprint. There is a minor extension of the front patio of 600mm. The existing development does not comply the Landscape Area development standard due to excessive hard paving. The proposal utilises these existing areas and removes the hard paving, allowing for a marked increase in deep soil. The proposal satisfies this objective.
<i>(b) to maintain and encourage a landscaped corridor between adjoining properties,</i>	The footprint of the building is generally the same and there the landscaped areas generally the same. The middle courtyard is wholly deep soil to allow for a landscaped outlook from the living spaces. The proposal satisfies this objective.
<i>(c) to ensure that development promotes the desired character of the neighbourhood,</i>	The dwelling a typical example of a low density residential building typology found in the inner west LGA. The site cover is generally maintained with the exception of a small addition at the dwellings entry, where a skin of brickwork is located. The proposed two storey dwelling has an appropriate building envelope for the context and character of the local area. The proposal satisfies this objective.
<i>(d) to encourage ecologically sustainable development,</i>	The existing area of building to landscape area is non-compliant. However, the landscape area has significantly increase relative to the site area, as substantial paving will be removed as part of the proposal. This approach supports this objective.
<i>(e) to control site density,</i>	The proposal generally maintains an existing site coverage condition. This approach supports this objective.

**Table 2:**

Achievement of objectives of Clause 4.4 Floor Space Ratio:

Objective	Response
<i>(a) to establish a maximum floor space ratio to enable appropriate development density,</i>	The proposal has an appropriate building envelope for its context and transition in height between the single storey cottage to the north and two storey attached neighbour to the south. The proposal is in character with many residential types within the street which also have a comparable built form. The proposal satisfies this objective.
<i>(b) to ensure development density reflects its locality,</i>	As previously stated, the proposal has an appropriate bulk and scale for the locality which is comprised of variable residential building typologies of one and two storeys with variables materials and finishes.
<i>(c) to provide an appropriate transition between development of different densities,</i>	The proposal provides an appropriate transition between the attached two storey neighbour to the south and the single storey dwelling to the north. Charles Street is comprised of one and two storey development. The proposal satisfies this objective.

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<p>(d) to minimise adverse impacts on local amenity,</p>	<p>A pre-lodgment meeting established that the rear building line of the first floor, would be required to align with 51 Charles Street. The design was amended to reflect this advice and mitigate shadowing and bulk and scale impacts to this neighbour.</p> <p>The proposal has a single window on the northern boundary that is setback 673mm. A small amount of the external northern wall at first floor is nil setback for an ensuite bathroom. This wall interfaces with the southern side setback of the neighbour. If this neighbour was to develop it is likely that fenestration will be focused on the northern elevation and not the southern. The proposal mitigates any overlooking and privacy impacts. The proposal satisfies this objective.</p>
<p>(e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.</p>	<p>The proposal has increased the area of deep soil at the Charles Street frontage allowing for private open and deep planting. The middle courtyard has been retained and will be fully landscaped. The proposal satisfies this objective.</p>

**5. ENVIRONMENTAL PLANNING GROUNDS**

In *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, Preston CJ observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole.

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, Pain J observed that it is within the discretion of the consent authority to consider whether the environmental planning grounds relied on are particular to the circumstances of the proposed development on the particular site.

As discussed in Section 3, the element of the development which contravenes is the site coverage and the floor space ratio.

The environmental planning grounds to justify the departure of the Height of Building development standard are as follows:

The proposed development meets the relevant objects of the *Environmental Planning and Assessment Act 1979*. The proposal:

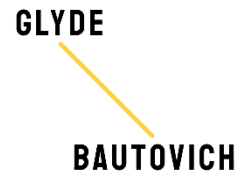
- Is an orderly and economic use of residential land,
- Generally, maintains the site coverage. It is an existing condition.
- Increases the landscape area and meets compliance.
- Has an appropriate building envelope that is a transition between its neighbours.
- Has an appropriate building height that is compliant with LEP 2022.
- Is in character with the built form in the street.
- Protects amenity through mitigating overshadowing, overlooking and bulk and scale,

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**6. THE PUBLIC INTEREST**

In this section it is explained how the proposed development will be in the public interest because it is consistent with the objectives for development within the zone in which the development is proposed to be carried out. The applicable zone for the development is the R1 General Residential zone.

In Section 4 it was demonstrated that the proposed development overall achieves the objectives of the development standards, notwithstanding the variation of the development standard.

Table 2: Consistency with the R1 zone

Objective	Discussion
To provide for the housing needs of the community	The proposed development is consistent with this objective as it maintains a residential use, providing housing for the community.
To provide for a variety of housing types and densities.	The proposal is consistent with this objective as it maintains and enhances the dwelling within the zone.
To enable other land uses that provide facilities or services to meet the day to day needs of residents.	This objective is not relevant to the proposal.
To provide residential development that maintains the character of built and natural features in the surrounding area.	The proposal enhances the built environment through significant improvement in the dwellings design while maintaining a subtly that allows the building to blends within the residential setting.

As demonstrated in the above table, the proposal is consistent with the objectives of the zone. In Section 4 it was demonstrated that the proposal is consistent with the objectives of the development standards. Accordingly, the proposal is in the public interest.

**7. CONCLUSION**

The consent authority can be satisfied that that the development achieves the objectives of the *Landscaped Areas for residential accommodation in zone R1* and *floor space ratio* development standards, and is consistent with the objectives of the zone notwithstanding non-compliance and therefore is in the public interest.

On this basis, it is appropriate to exercise the flexibility provided by clause 4.6 in the circumstances of this application.

Regards

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 Director  
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## Attachment D –Conditions of Consent in the event of an 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:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
22008 – DA-110-01 – Rev B	Existing Ground Floor Plan	05.10.2022	Glyde Bautovich
22008 – DA-110-02 – Rev B	Existing Roof Plan	05.10.2022	Glyde Bautovich
22008 – DA-110-11 – Rev A	Demolition Ground Plan	05.10.2022	Glyde Bautovich
22008 – DA-110-12 – Rev A	Demolition Roof Plan	05.10.2022	Glyde Bautovich
22008 – DA-110-21 – Rev C	Proposed Ground Floor Plan	02.11.2022	Glyde Bautovich
22008 – DA-110-22 – Rev C	Proposed First Floor Plan	02.11.2022	Glyde Bautovich
22008 – DA-110-23 – Rev B	Proposed Roof Plan	05.10.2022	Glyde Bautovich
22008 – DA-210-01 – Rev B	Existing North & West Elevations	05.10.2022	Glyde Bautovich
22008 – DA-210-02 – Rev B	Existing South & East Elevations	05.10.2022	Glyde Bautovich
22008 – DA-210-01 – Rev B	Existing North & West Elevations	05.10.2022	Glyde Bautovich
22008 – DA-210-11 – Rev A	Demolition North & West Elevations	05.10.2022	Glyde Bautovich
22008 – DA-210-12 – Rev A	Demolition North & West Elevations	05.10.2022	Glyde Bautovich
22008 – DA-210-21 – Rev B	Proposed North & West Elevations	05.10.2022	Glyde Bautovich
22008 – DA-210-22 – Rev B	Proposed South & East Elevations	05.10.2022	Glyde Bautovich
22008 – DA-310-01 – Rev B	Existing Sections	05.10.2022	Glyde Bautovich
22008 – DA-310-11 – Rev A	Demolition Sections	05.10.2022	Glyde Bautovich
22008 – DA-310-21 – Rev B	Existing Sections	05.10.2022	Glyde Bautovich
22008 – DA-810-01 – Rev B	Materials Board	05.10.2022	Glyde Bautovich
R220368 R1	Aircraft Noise Impact Assessment	10.06.2022	Rodney Stevens Acoustics

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
A473145	BASIX Certificate	16.09.2022	ESD Synergy
22116-WF Issue B	Flood Risk Management Report	25.08.2022	Horizon Engineers
22116-WF – Rev C – Sheet 1	Legend & Notes	13.09.2022	Horizon Engineers
22116-WF – Rev C – Sheet 1	Legend & Notes	13.09.2022	Horizon Engineers
22116-WF – Rev B – Sheet 2	Ground Floor Plan	13.09.2022	Horizon Engineers
22116-WF – Rev B – Sheet 3	First Floor Plan	13.09.2022	Horizon Engineers
22116-WF – Rev B – Sheet 4	Roof Plan	13.09.2022	Horizon Engineers
22116-WF – Rev B – Sheet 5	Stormwater Details	13.09.2022	Horizon Engineers
Arboricultural Impact Assessment		14.09.2022	Malcolm Bruce

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>	<b>\$2,800.00</b>
<b>Inspection Fee:</b>	<b>\$350.00</b>

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. 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.

**4. Section 7.11 Contribution**

In accordance with section 7.11 of the *Environmental Planning and Assessment Act 1979* and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), the following monetary contributions shall be paid to Council to cater for the increased demand for local infrastructure resulting from the development:

Contribution Category	Amount
Open Space & Recreation	\$8,759.00
Community Facilities	\$1,623.00
Transport	\$1,152.00
Plan Administration	\$112.00
Drainage	\$604.00
<b>TOTAL</b>	<b>\$12,251.00</b>

At the time of payment, the contributions payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:

$$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$$

Where:

Cpayment = is the contribution at time of payment

Cconsent = is the contribution at the time of consent, as shown above

CPIconsent = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being [insert CPI value] for the [insert latest quarter and year].

CPIpayment = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment

Note: The contribution payable will not be less than the contribution specified in this condition.

The monetary contributions must be paid to Council (i) if the development is for subdivision – prior to the issue of the subdivision certificate, or (ii) if the development is for building work – prior to the issue of the first construction certificate, or (iii) if the development involves both subdivision and building work – prior to issue of the subdivision certificate or first construction certificate, whichever occurs first, or (iv) if the development does not require a construction certificate or subdivision certificate – prior to the works commencing.

**It is the professional responsibility of the principal certifying authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.**

Council's Plan may be viewed at [www.innerwest.nsw.gov.au](http://www.innerwest.nsw.gov.au) or during normal business hours at any of Council's customer service centres.

Please contact any of Council's customer service centres on [insert email address and phone number] to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.

Once the invoice is obtained, payment may be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to [www.innerwest.nsw.gov.au/invoice](http://www.innerwest.nsw.gov.au/invoice); please note that a fee of 0.75 per cent applies to credit cards), (iii) in person (at any of Council's customer service centres), or (iv) by mail (make cheque payable to 'Inner West Council' with a copy of your remittance to PO Box 14 Petersham NSW 2049).

The invoice will be valid for 3 months. If the contribution is not paid by this time, please contact Council's customer service centres to obtain an updated invoice. The contribution amount will be adjusted to reflect the latest value of the Consumer Price Index (All Groups Index) for Sydney

**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
T1	<i>Melaleuca quinquenervia</i> (Broad-leaved Paperbark)	Front on Council controlled land
T2	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	Front yard
T3 - T9	<i>Cupressocyparis leylandii</i> (Leyland Cypress)	Front yard

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;
- c. Blue for trees to be pruned; and
- d. Yellow for trees to be transplanted.

**NOTE:** Reference should be made to the *Arboricultural Impact Assessment Report prepared by Malcolm Bruce, 10/11/22 for tree numbering and locations.*

**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
<i>Jacaranda mimosifolia</i> - Located front on adjacent property #53A	Pruning to specification Re: <i>Arborist Report, Malcom Bruce, 10/11/22.</i> If access is required over the boundary line to prune to AS4373 ' <i>Pruning of amenity trees</i> ' standards, the written approval from the owners of the site is also required.
<i>Cupressocyparis leylandii</i> (Leyland cypress) T3 - T9	Removal

The removal of any street tree approved by Council must include complete stump removal (to a minimum depth of 400mm) and the temporary reinstatement of levels so that no trip or fall hazards exist until suitable replanting occurs. These works must be completed immediately following the tree/s removal.

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

**8. 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.

**9. 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.

#### **10. Works Outside the Property Boundary**

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

#### **11. Ausgrid**

The applicant/developer should note the following comments below regarding any proposal within the proximity of existing electrical network assets.

Ausgrid Overhead Powerlines are in the vicinity of the development

The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.

Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.

The “as constructed” minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website at [www.ausgrid.com.au](http://www.ausgrid.com.au).

It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer’s cost.

Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances “Working Near Ausgrid Assets - Clearances”. This document can be found by visiting the following Ausgrid website: [www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries](http://www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries)

For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable.

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

#### **12. Hoardings**

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

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

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

### **13. 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.

### **14. Construction Fencing**

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

### **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 structures at Nos. 51 and 53A Charles Street, Leichhardt, to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

## **PRIOR TO CONSTRUCTION CERTIFICATE**

### **16. Dilapidation Report – Pre-Development – Minor**

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



**17. Stormwater Drainage System – Minor Developments (OSD is 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. 22116-WF revision (B) prepared by HORIZON ENGINEERS and dated 10 November 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. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- i. Inspection opening must be constructed on the upstream and downstream side of the drainage pipe laid under the floor slab;
- j. As there is no overland flow/flood path available from the front and rear centralcourtyards to the rear lane 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; and
- u. No impact to street tree(s).

#### 18. Flood Risk Management Plan

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Flood Risk Management Plan prepared and certified by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng). The Plan must be prepared/amended to make provision for the following:

- a. The plan must be generally in accordance with the recommendations of the Flood Risk Management Report prepared by HORIZON ENGINEERS and dated 10 November 2022;
- b. Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. Such recommendations must be consistent with the approved development. The flood impacts on the site must be assessed for the 100-year ARI and Probable Maximum Flood (PMF) storm events. The precautions must include but not be limited to the following:

- i. Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris;
    - ii. Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections;
    - iii. Flood warning signs/depth indicators for areas that may be inundated;
    - iv. A flood evacuation strategy; and
    - v. On-site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
  - c. All works must be designed to comply with the Standard for Construction of Buildings in Flood Hazard Areas in accordance with Section 3.10.3 of the Building Code of Australia. Note that some terms defined in this standard have equivalent meaning to terms used in Council's Development Control Plan as listed below:
    - i. Building Code of Australia;
    - ii. Defined flood level (DFL) 100-year Average Recurrence Interval flood level;
    - iii. Defined flood event (DFE) 100-year Average Recurrence Interval flood; and
    - iv. Flood hazard level (FHL) Flood Planning Level (FPL).

#### **19. Amended Architectural Plans to Reflect Flood Risk Management Plan**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended architectural plans that incorporate the recommendations of the Flood Risk Management Plan. The design must be prepared to make provision for the following:

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

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

#### **20. Engineering Design - Structural Engineer Plans and Certification**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans prepared and certified by a suitably qualified Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that incorporate the following recommendations of the Flood Risk Management Plan prepared by HORIZON ENGINEERS and dated 10 November 2022.

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

- a. Structural integrity of all structures from immersion and/or impact of velocity and debris; and

- b. Waterproofing works, where applicable.

#### **21. 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.

#### **22. 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*

#### **23. 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.

#### **24. Green Roofs, Walls and Facades Report**

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

**DURING DEMOLITION AND CONSTRUCTION****25. Tree Protection**

To protect the following tree/s, ground, trunk and branch protection must be installed prior to any works commencing in accordance with the approved *Tree Protection Plan* and/or with Council's *Development Fact Sheet—Trees on Development Sites*:

Tree No.	Botanical/Common Name/Location
T2	<i>Archontophoenix cunninghamiana</i> (Bangalow palm) - Located at front
T3 - T9	<i>Cupressocyparis leylandii</i> (Leyland Cypress) - Located at front

**26. Tree Protection Zone**

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

Tree No.	Botanical/Common Name	Radius in metres
2	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	2m
T3 - T9	<i>Cupressocyparis leylandii</i> (Leyland Cypress)	2m

**27. 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.

**28. 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**

### **29. 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.

### **30. 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.

### **31. 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 AQF5 Certificate of Horticulture or Arboriculture that:

- a. A minimum of 1 x 75 litre size additional tree, that will attain a minimum mature height of 6 metres, has been planted in a more suitable location within the property at a minimum of 1.5 metres from any boundary, 2.2m from any dwelling or garage wall and allowing for future tree growth. The tree is to conform to AS2303—*Tree stock for landscape*. Trees listed as exempt species from Council's Tree Management Controls, and species recognised to have a short life span will not be accepted as suitable replacements.

If the trees are found dead or dying before they reach the dimensions where they are protected by Council's Tree Management Controls, they must be replaced in accordance with this condition.

### **32. Aircraft Noise –Alterations and Additions**

Prior to the issue of any Occupation Certificate, the Principal Certifier must be provided with a report prepared and submitted by an accredited Acoustics Consultant certifying that the final construction meets AS2021-2015 with regard to the noise attenuation measures referred to in the "Before the Issue of a Construction Certificate" Section of this Determination. Such report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development.

Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a

further certificate being prepared and submitted to the Principal Certifier in accordance with this condition.

### **33. Verification and Maintenance of Green Roofs, Walls and Facades Works**

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

## **ON-GOING**

### **34. Bin Storage**

All bins are to be stored within the site.

### **35. Green Roofs, Walls and Facades Establishment**

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

### **36. Green Roof Ongoing Condition**

The green roof associated with Bed 3 and the hallway at the rear of the first-floor addition is not to be used, at any time, as a pseudo-recreational area or trafficable area.

## **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.

#### **Consent of Adjoining property owners**

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

#### **Arborists standards**

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



management of vegetation conflicting with such services. Contact the relevant Network Service Provider for further advice in this regard.

#### **Tree Protection Works**

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

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

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

#### **Prescribed Conditions**

This consent is subject to the prescribed conditions of consent within 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.

#### **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.

#### **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.

#### **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

[www.sydneywater.com.au](http://www.sydneywater.com.au)

Waste Service - SITA 1300 651 116  
Environmental Solutions

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

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

WorkCover Authority of NSW 13 10 50

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

Enquiries relating to work safety and asbestos removal and disposal.