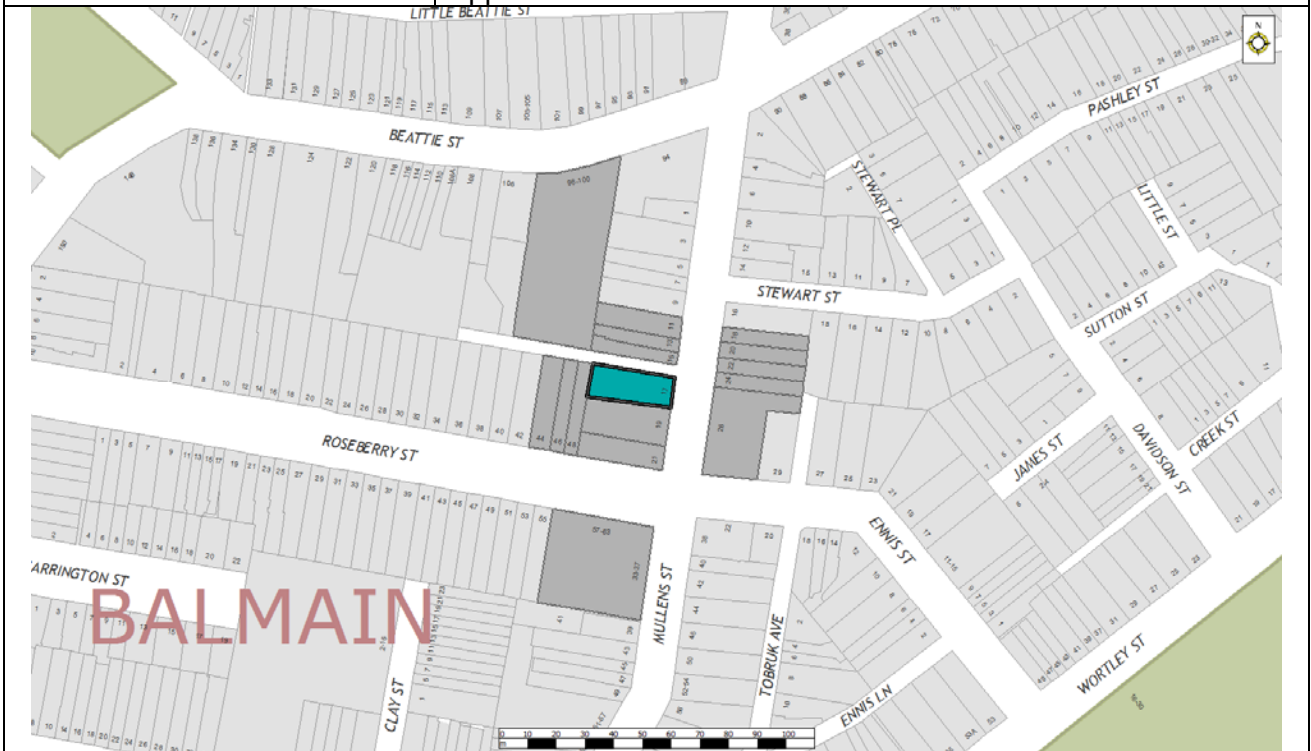




INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	M/2018/29 and M/2018/76
Address	17 Mullens Street, BALMAIN NSW 2041
Proposal	Modification of Development Consent D/2004/706 which approved alterations and additions and associated works. Modifications include: existing garage & carport demolished and replaced with new; amendments to residence involving new, amended and deleted openings, lowered roof at rear, and enlargement of upper level.
Date of Lodgement	21 February 2018 and 7 May 2018
Applicant	Mrs G Chakar and A & G Chakar
Owner	Mr A Chakar and Mrs G Chakar
Number of Submissions	Nil
Value of works	\$500,000
Reason for determination at Planning Panel	Exceeds officer delegation
Main Issues	Additional site coverage
Recommendation	Approval



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the two applications submitted to Council for the modification of Development Consent D/2004/706 which approved alterations and additions and associated works. Modifications include: existing garage & carport demolished and replaced with new tandem garage; amendments to residence involving new, amended and deleted openings, lowered roof at rear, and enlargement of upper level at 17 Mullens Street, Balmain. The application was notified to surrounding properties and no submissions were received.

The main issues that have arisen from the application include:

- Increased non-compliance with site coverage development standard.

The additional site coverage is acceptable as it is located between the previously existing garage/carport and the boundary fencing, does not reduce the amount of on site landscaping or result in adverse impacts in terms of streetscape or amenity; therefore the application is recommended for approval.

2. Proposal

M/2018/29

Retrospective consent for the following works is sought under M/2018/29:

- a. Demolition of the existing garage/carport and replacement with tandem garage including changing roof form from gable to hip at rear and lower roof by 380 mm and relocating walls to rear and side boundary,
- b. Blocking up kitchen windows on southern boundary, and
- c. Minor area to attic level added.

M/2018/76

Retrospective consent for the following works is sought under M/2018/76:

- a. Internal changes including retention of southern rather than northern hall wall,
- b. Minor external changes such as reducing size of external water feature and installing masonry wall adjacent to northern boundary fence and insertion of new window in western elevation of dining room.

These works will require changes to the following conditions:

- Amend Condition 1 to reflect amended plans.
- Delete Condition 12, 13 and 14 as these are superseded by BASIX.
- Amend Condition 19 to reflect current requirements for asbestos removal and demolition of fibro garage now proposed.

and the insertion of new conditions relating to the garage/crossover.

The feature wall on the northern boundary is the only structure that has not yet been erected.

3. Site Description

The subject site is located on the western side of Mullens Street, between Beattie Street and Roseberry Street. The site consists of one allotment and is generally rectangular with a total area of [area] m² and is legally described as [Lot 1 DP 778989].

The site has a frontage to Mullens Street of 11.105 m metres and a secondary frontage of approximately 28.38 m to the adjacent unnamed lane.

The works on the site are nearing completion. The site supports a dwelling that appears as single storey when viewed from Mullens Street but two storeys when viewed from the side lane and a tandem garage access from the lane.

The adjoining properties support a historic single storey weather board dwelling fronting Mullens Street to the south at 19 Mullens Street with a modern two storey addition behind. To the north of the site at 13/15 Mullens Street are heritage masonry semi-detached dwellings which present as single storey to the street, with a modern two storey addition to the rear of 13 Mullens Street.

The property is located within a heritage conservation area. Two mature trees are located on the site and are not affected by the proposal.

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
D/2004/706	Alterations and additions to an existing dwelling and associated works	Approved – 21 March 2010

Surrounding properties

19 Mullens Street, Balmain

Application	Proposal	Decision & Date
D/2011/318	Alterations and ground and first-floor additions to the existing single-storey dwelling and associated works, including new swimming pool. SEPP 1 objection in relation to landscaped area.	Approved - 3 August 2011

4(b) Application history

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

Date	Discussion / Letter/ Additional Information
<u>M/2018/29</u>	
13 April 2018	A longitudinal section through the garage was provided to Council.
2 May 2018	Site inspection undertaken / email from applicant on file providing amended floor plans, sections and elevation as requested at site inspection.
<u>M/2018/76</u>	
7 May 2018	second modification application lodged
<u>M/2018/29 and M/2018/76</u>	
20 June 2018	Email sent from applicant requesting confirmation of what further information is still sought
21 June 2018	Letter sent to applicant requesting submission of BASIX certificate and one set of plans that show all work approved under original consent coloured, while works proposed in each modification bubbled or otherwise notated to clearly identify these works. Details demonstrating

	compliance with AS/NZS 2890.1-2004 of the reconstructed garage and associated access were sought and payment of a reassessment fee of \$153.80
5 July 2018	Additional information including BASIX Certificate and amended plans submitted.
20 July 2018	Additional information including amended roof plan provided.

5. Assessment

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

5(a) Environmental Planning Instruments

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

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

The following provides further discussion of the relevant issues:

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. LDCP 2013 provides controls and guidelines for remediation works. SEPP 55 requires that remediation works must be carried out in accordance with a Remediation Action Plan (RAP) as approved by the consent authority and any guidelines enforced under the Contaminated Land Management Act 1997.

The site has not been used in the past for activities which could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with SEPP 55.

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

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

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

An assessment has been made of the matters set out in Clause 20 of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. It is considered that the carrying out of the proposed development is generally consistent with the objectives of the Plan and would not have an adverse effect on environmental heritage, the visual environmental, the natural environment and open space and recreation facilities.

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

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

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1
- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 5.10 – Heritage Conservation
- Clause 6.1 – Acid Sulphate Soils
- Clause 6.4 – Stormwater management

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

M/2018/29 includes amendments to the proposal that modifies the developments compliance with the development standards as follows:

Standard (maximum)	Proposal	% of non compliance	Compliances
Floor Space Ratio Maximum: 0.8:1 – 272.6 sqm	0.66:1 – 226.5 sqm	Not applicable	Complies
Landscape Area Minimum: 20% - 68.1 sqm	16.7% - 57 sqm	16.35%	No
Site Coverage Maximum: 60% - 204.4 sqm	67.6% - 25.8 sqm	12.6%	No

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

- Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1
- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1

The Land and Environment Court has held that there is power to modify a development application where the modification would result in a breach or further breach of a development standard without the need to lodge variation requests (in this case under Clause 4.6 of Leichhardt Local Environmental Plan 2013).

No reduction in the landscaped area is proposed under the modification. The increased site coverage proposed is a result of the walls of the garage being relocated to the side and rear boundaries to increase the internal space in the garage and to better utilise the site, avoiding inaccessible areas. Were an objection submitted for the proposal it would be have been supported for the following reasons:

- The proposed modifications will have acceptable impacts on the streetscape;
- The proposed modifications will result in no undue adverse amenity impacts on any neighbours in terms of height, bulk and scale, overshadowing and privacy impacts;
- The development complies with the floor space ratio development standard;
- The area covered by additional site coverage could not be used to increase landscaped area due to its narrow width.

In light of the above the proposed landscaped area and site coverage are considered acceptable.

5(b) Draft Environmental Planning Instruments

5(b)(i) State Environmental Planning Policy (Environment)

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until the 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bush land and Willandra lakes World Heritage Property. Changes proposed include consolidating the seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development would be consistent with the intended requirements within the Draft Environment SEPP.

5(c) Development Control Plans

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

Part	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Not applicable
B3.1 Social Impact Assessment	Not applicable
B3.2 Events and Activities in the Public Domain (Special Events)	Not applicable
Part C	
C1.0 General Provisions	Complies
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Complies
C1.4 Heritage Conservation Areas and Heritage Items	No
C1.5 Corner Sites	Yes
C1.6 Subdivision	Not applicable
C1.7 Site Facilities	Complies
C1.8 Contamination	Not applicable
C1.9 Safety by Design	Complies
C1.10 Equity of Access and Mobility	Not applicable
C1.11 Parking	No
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	Not applicable
C1.14 Tree Management	Complies
C1.15 Signs and Outdoor Advertising	Not applicable
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Not applicable
C1.17 Minor Architectural Details	Not applicable
C1.18 Laneways	Complies
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and	Not applicable

Rock Walls	
C1.20 Foreshore Land	Not applicable
C1.21 Green Roofs and Green Living Walls	Not applicable
Part C: Place – Section 2 Urban Character	
Suburb Profile	
C2.2.2.4 The Valley (Balmain) distinctive neighbourhood	Complies
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Complies
C3.2 Site Layout and Building Design	No
C3.3 Elevation and Materials	No
C3.4 Dormer Windows	Not applicable
C3.5 Front Gardens and Dwelling Entries	Not applicable
C3.6 Fences	Yes
C3.7 Environmental Performance	Not applicable
C3.8 Private Open Space	Yes
C3.9 Solar Access	Complies
C3.10 Views	Not applicable
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	Not applicable
C3.14 Adaptable Housing	Not applicable
Part C: Place – Section 4 – Non-Residential Provisions	Not applicable
Part D: Energy	Complies
Part E: Water	Complies
Part F: Food	Not applicable
Part G: Site Specific Controls	Complies

The following provides discussion of the relevant issues:

C1.4 Heritage Conservation Areas and Heritage Items / C3.3 Elevation and Materials

Substantial alterations to the existing cottage were approved under the original consent and the majority of the proposed design changes are to the approved new works. The proposed garage is slightly smaller than in the earlier application and the replacement of the carport and garage does not have a heritage impact. Likewise the alterations to the rear at first floor are primarily only visible from the lane and do not have a heritage impact, with the exception of the glass balustrade to the proposed rear Juliette balcony. The balustrade material is required to be altered to a more sympathetic form and material i.e. vertical timber or metal pickets (this is addressed via condition).

The modification is supported on heritage grounds subject to the conditions that require the existing windows on the south elevation that are proposed to be bricked up are to be bricked up using a different colour of brick so that it remains evident that there were once openings in this location. This change is sought as these windows are all that remains of the earlier cottage.

C1.11 Parking

No objection is raised in principle to the reconstruction of the garage / carport subject to the parking spaces and access complying with the current Australian Standards and Council's

boundary level requirements. It is noted however that the submitted documentation does not show the existing levels of the roadway gutter or demonstrate that the boundary levels are 150mm above the adjacent road gutter invert along each edge of the vehicular access. This has been addressed by conditions requiring this information to be provided to the PCA.

C3.2 Site Layout and Building Design

The existing development does not comply with the side setback control and the proposal does not increase existing non-compliance.

5(d) The Likely Impacts

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

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

The site is zoned R1 – General Residential. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(f) Any submissions

Each application was notified in accordance with Part A3.3 of Leichhardt Development Control Plan 2013 for a period of 14 days to surrounding properties. No submissions were received in response to the notification of the proposal.

5(g) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed. The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

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

- Heritage Officer
- Development Engineer
- Landscape

7. Section 7.11 Contributions

Section 7.11 contributions are not payable for the proposal.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. That the Inner West Local Planning Panel (IWLPP) approve a variation to site coverage prescribed by clause 4.3A(3)(b) in the Leichhardt Local Environmental Plan 2013 as it is satisfied that the proposed development would be in the public interest because it is consistent with the objectives of that particular standard and objectives for development within the zone
- B. That Council, as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, grant consent to Development Application No: M/2018/29 and M/2018/76 for Modification of Development Consent D/2004/706 which approved alterations and additions and associated works. Modifications include: existing garage & carport demolished and replaced with new; amendments to residence involving new, amended and deleted openings, lowered roof at rear, and enlargement of upper level at 17 Mullens Street, Balmain subject to the following.
- i) Condition 1 and 19 be amended to read as follows:
1. The development must be carried out in accordance with plans and details listed below:

Plan Reference	Drawn By	Dated
S96-05	Gurgica CHAKAR	4 July 2018
S96-06	Gurgica CHAKAR	4 July 2018
S96-07 – Roof Plan	Gurgica CHAKAR	19 July 2018
S96-08	Gurgica CHAKAR	19 July 2018
S96-09	Gurgica CHAKAR	4 July 2018
S96-10	Gurgica CHAKAR	4 July 2018
DA-11	GnA Design	22/11/2004
DA-12	GnA Design	22/11/2004
S96-add. 1-1	Gurgica CHAKAR	4 July 2018
S96-add. 1-2	Gurgica CHAKAR	4 July 2018

Document Title	Prepared By	Dated
BASIX Certificate A321123	Sustainability-Z Pty Ltd	3 July 2018

and details submitted to Council with the application for development consent and as amended by the following conditions.

[Condition 1 amended by M/2018/29 and M/2018/76 on date]

19. Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by Safework NSW. All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.

[Condition 19 amended by M/2018/29 and M/2018/76 on date]

- ii) The following additional conditions be added:
- 16A The design of the vehicular access and off street parking facilities must comply with Australian Standard AS/NZS2890.1-2004 *Parking Facilities – Off-Street Car Parking*. Details demonstrating compliance are to be provided prior to the issue

of a Construction Certificate. The following specific issues must be addressed in the design:

- a) The floor/finished levels within the property must be adjusted to ensure that the levels at the boundary are 150mm above the adjacent road gutter invert.
- b) The garage slab or driveway must rise within the property to be 170mm above the adjacent road gutter level. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.
- c) A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
- d) Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements. The long section shall show both existing surface levels and proposed surface levels.
- e) The garage / carport must have minimum clear dimensions of 11400 x 3000mm (length x width). The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004.
- f) The maximum gradients within the parking module must not exceed 1 in 20 (5%), measured parallel to the angle of parking and 1 in 16 (6.25%), measured in any other direction in accordance with the requirements of Section 2.4.6 of AS/NZS 2890.1-2004.
- g) The external form & height of the approved structures must not be altered from that depicted on the approved plans.

The design must be certified by a suitably qualified Civil Engineer as complying with the above requirements.

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

[Condition 16A added by M/2018/29 and M/2018/76 on date]

27A. Light duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" must be constructed at the vehicular access locations before the issue of the Occupation Certificate and at no cost to Council.

[Condition 27A added by M/2018/29 and M/2018/76 on date]

29A Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.

Certification by a qualified practising Civil Engineer that the vehicular access and off street parking facilities have been constructed in accordance the development consent and with relevant Australian Standards must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

[Condition 29A added by M/2018/29 and M/2018/76 on date]

29B Prior to issue of the Occupation Certificate the person acting on this consent shall obtain from Council a compliance Certificate(s) stating that all Road, Footpath, Vehicle Crossing and Public Domain Works on Council property required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.

[Condition 29B added by M/2018/29 and M/2018/76 on date]

29C Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before the issue of the Occupation Certificate.

[Condition 29C added by M/2018/29 and M/2018/76 on date]

29D You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.

[Condition 29D added by M/2018/29 and M/2018/76 on date]

iii). Conditions 12, 13, 14 be deleted:

~~12. Insulation—Energy Efficiency~~

~~To reduce both summer heat gain and winter heat loss, the proposed residential building(s) is to be insulated to achieve energy efficiency and thermal comfort. Insulation to the following R value standards is to be provided;~~

- ~~● R1.5 for roofs and ceilings (combined value)~~
- ~~● R1.0 for walls~~

~~Details are to be included in the specification submitted with the Construction Certificate.~~

[Condition 12 deleted by M/2018/29 and M/2018/76 on date]

~~13. Hot Water System~~

~~A heat pump hot water system or an energy efficient (minimum five star rated) gas hot water service shall be installed in a position that maximises its efficiency by minimising heat loss in pipe work. The service must be adequately sized to meet the anticipated maximum hot water demand of the dwelling. Where a pump is used to circulate water between tank and remote panels, any noise associated with the pump must not exceed 5dB at the property boundary.~~

~~Details to be submitted to Council or the accredited certifier prior the issue of a Construction Certificate.~~

[Condition 13 deleted by M/2018/29 and M/2018/76 on date]

14. Rainwater Tank

~~A rainwater tank is to be installed at the rear, and is to be designed and installed for outdoor and/or toilet usage.~~

~~The overflow for the rainwater tank shall be connected into a drainage line and conveyed to the street gutter, common drainage line or otherwise disposed of on site. Overflow must not be directed into a sewer pipe.~~

~~Tanks water supply taps are to be marked "tank water only — do not use for human consumption" unless a water purification system is also installed. It must also be maintained, as not to create a nuisance and both inlets and outlets must be protected against mosquito access by use of mesh or other mosquito barrier method.~~

~~The tank and any support structure must be set on a suitable, structurally sound, erosion resistant foundation. Any support structure elevating the tank above ground level must be in accordance with a design prepared by a practising structure engineer.~~

~~If a pump is installed it must not cause noise disturbance to neighbouring properties and should be weatherproofed and encased in sound insulation material. The tank must be covered or enclosed entirely to prevent children from wilfully or accidentally entering, climbing or falling into the tank.~~

~~The rainwater tank shall comply with AS/NZ 2179 1994 and AS2180 1986.~~

~~Details are to be submitted to the Council or the accredited certifier before the issue of a Construction Certificate.~~

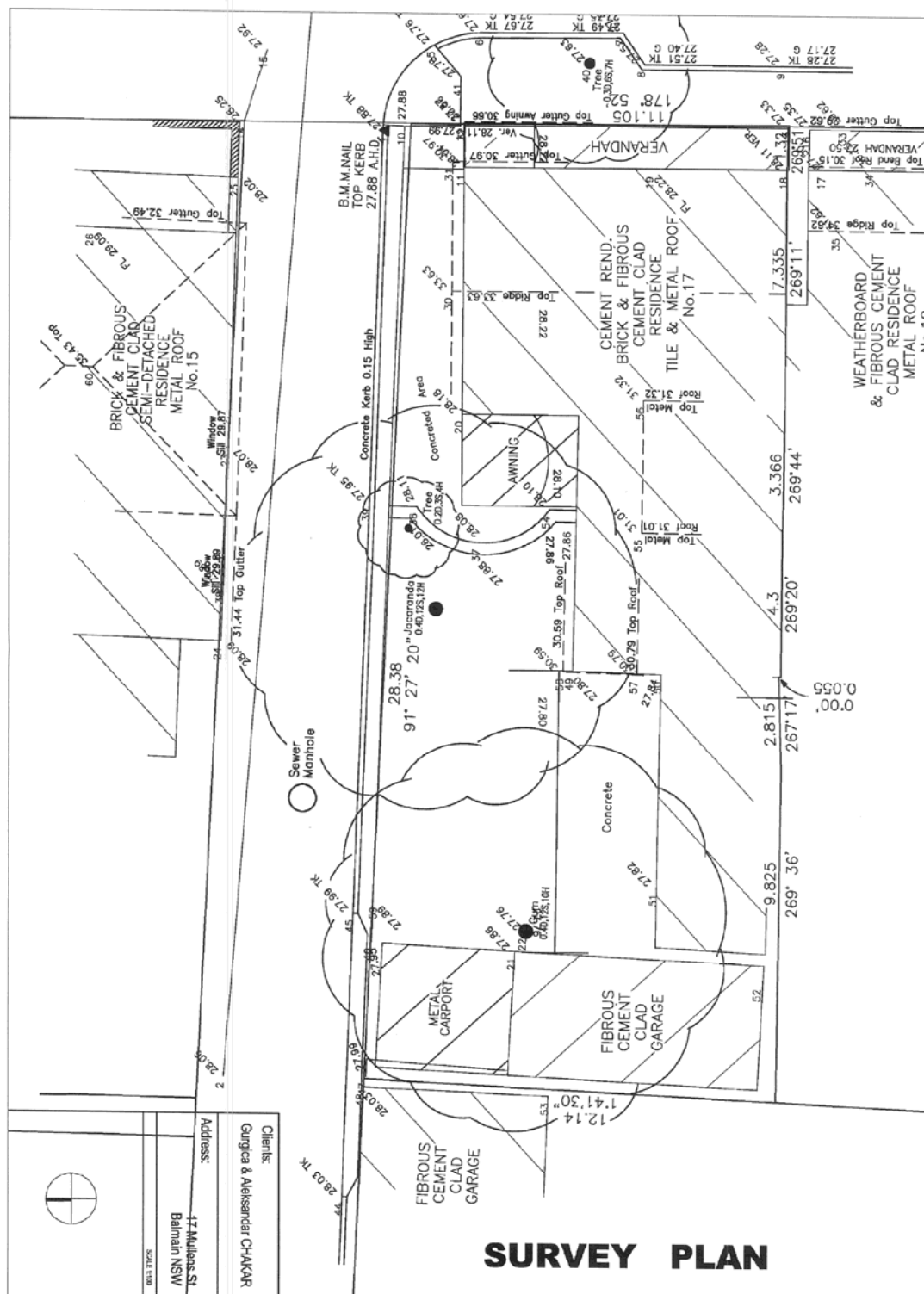
[Condition 14 deleted by M/2018/29 and M/2018/76 on date]

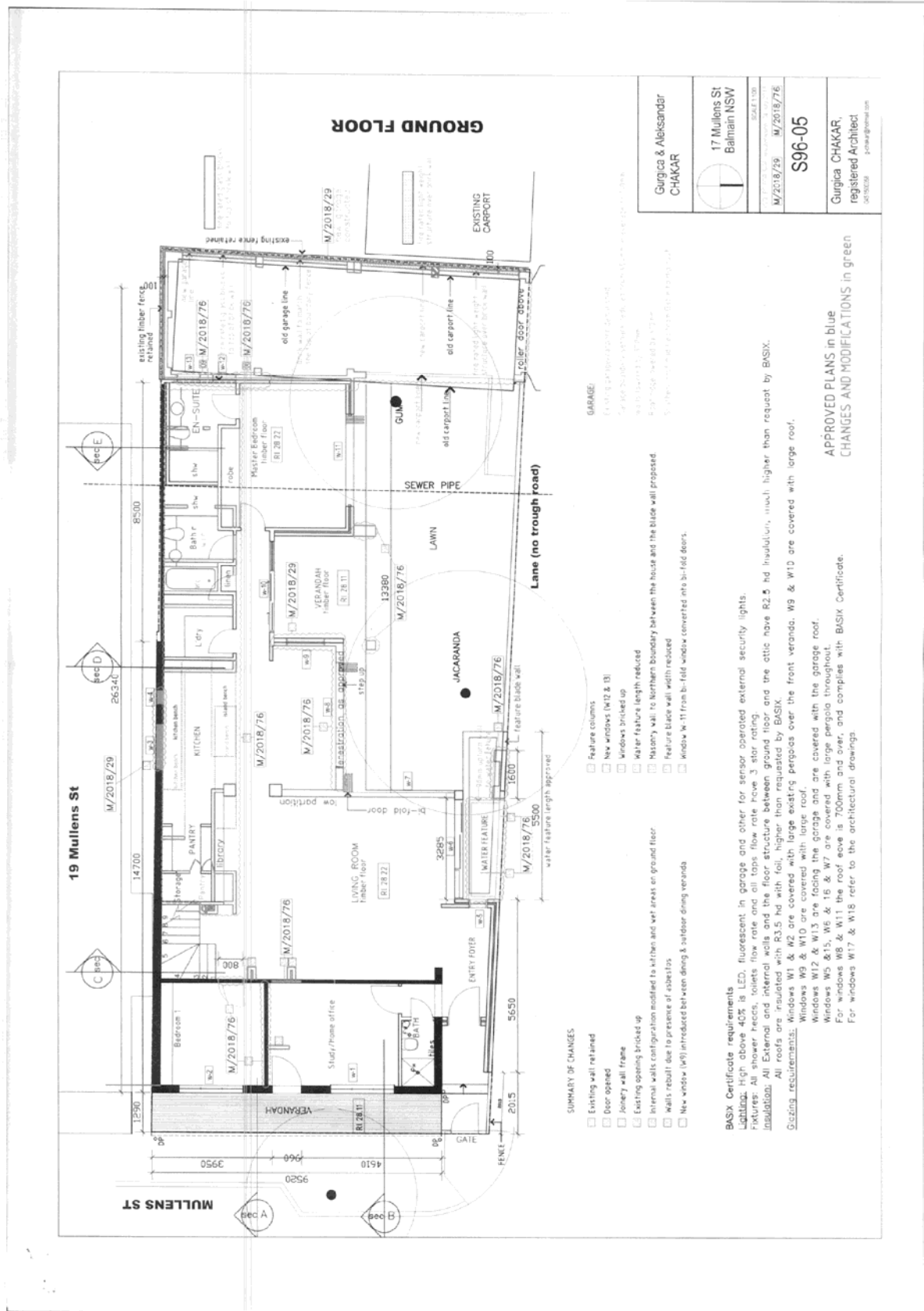
iv). The following additional advisory note be added:

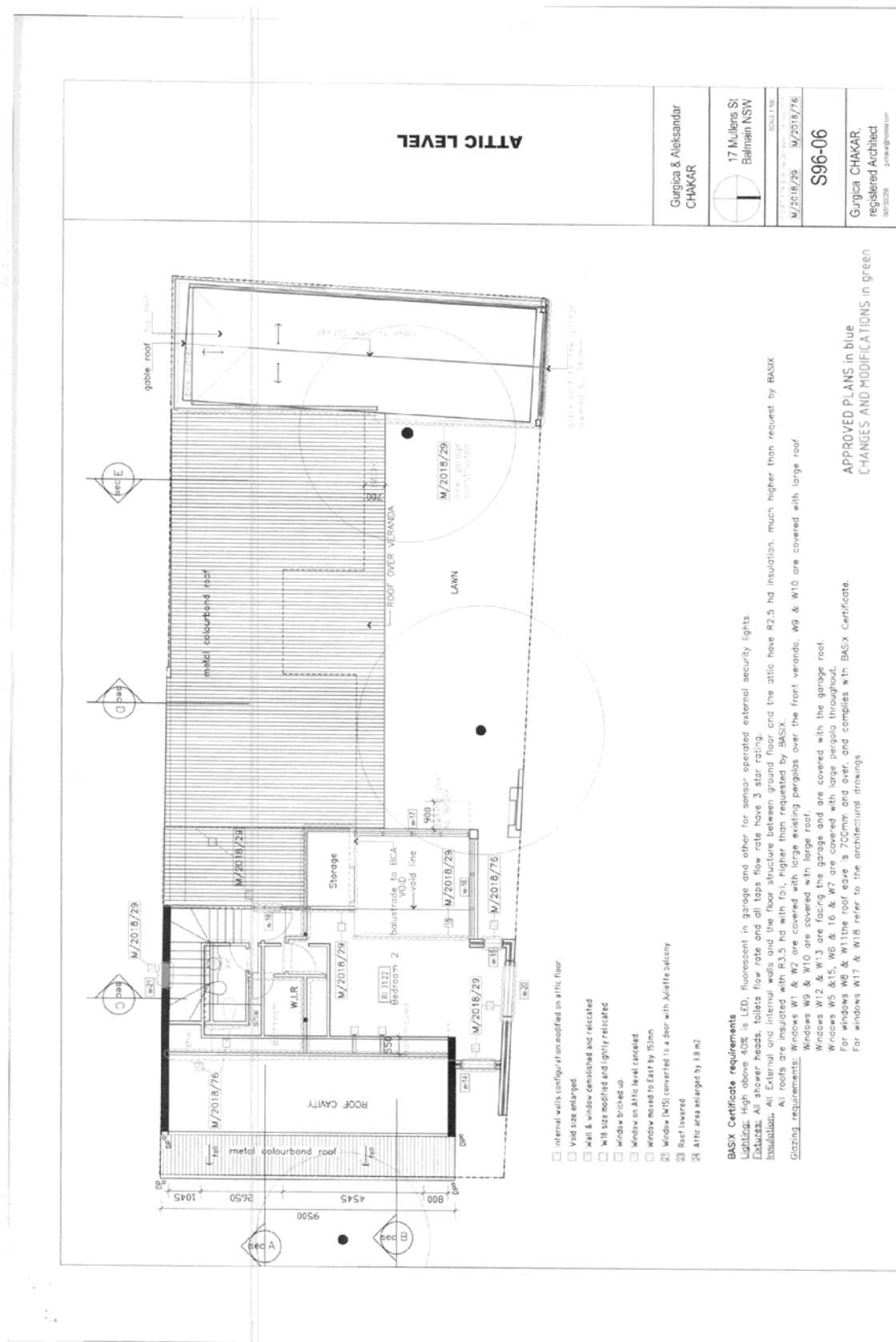
F You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.

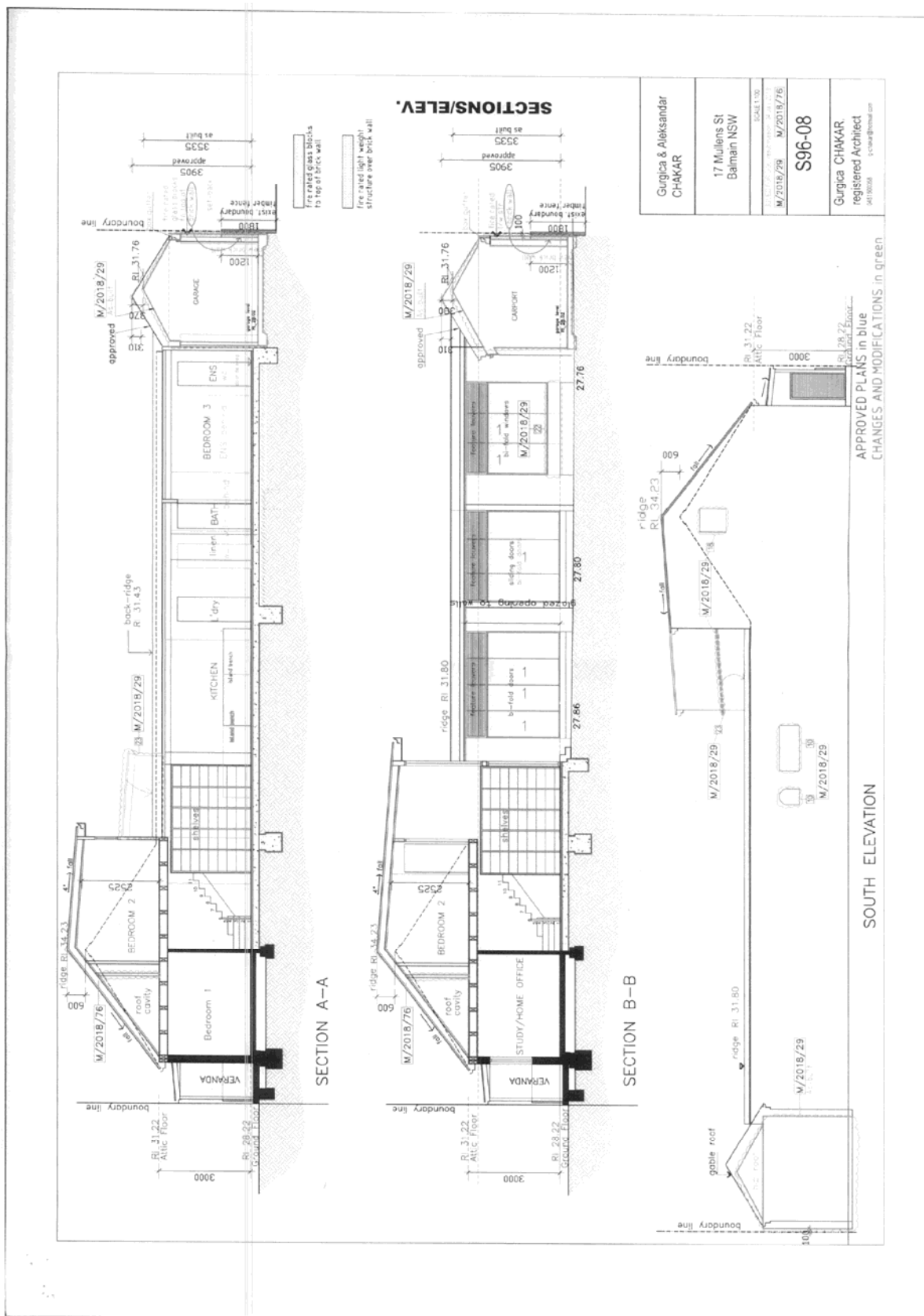
[Advisory Note F added by M/2018/29 and M/2018/76 on date]

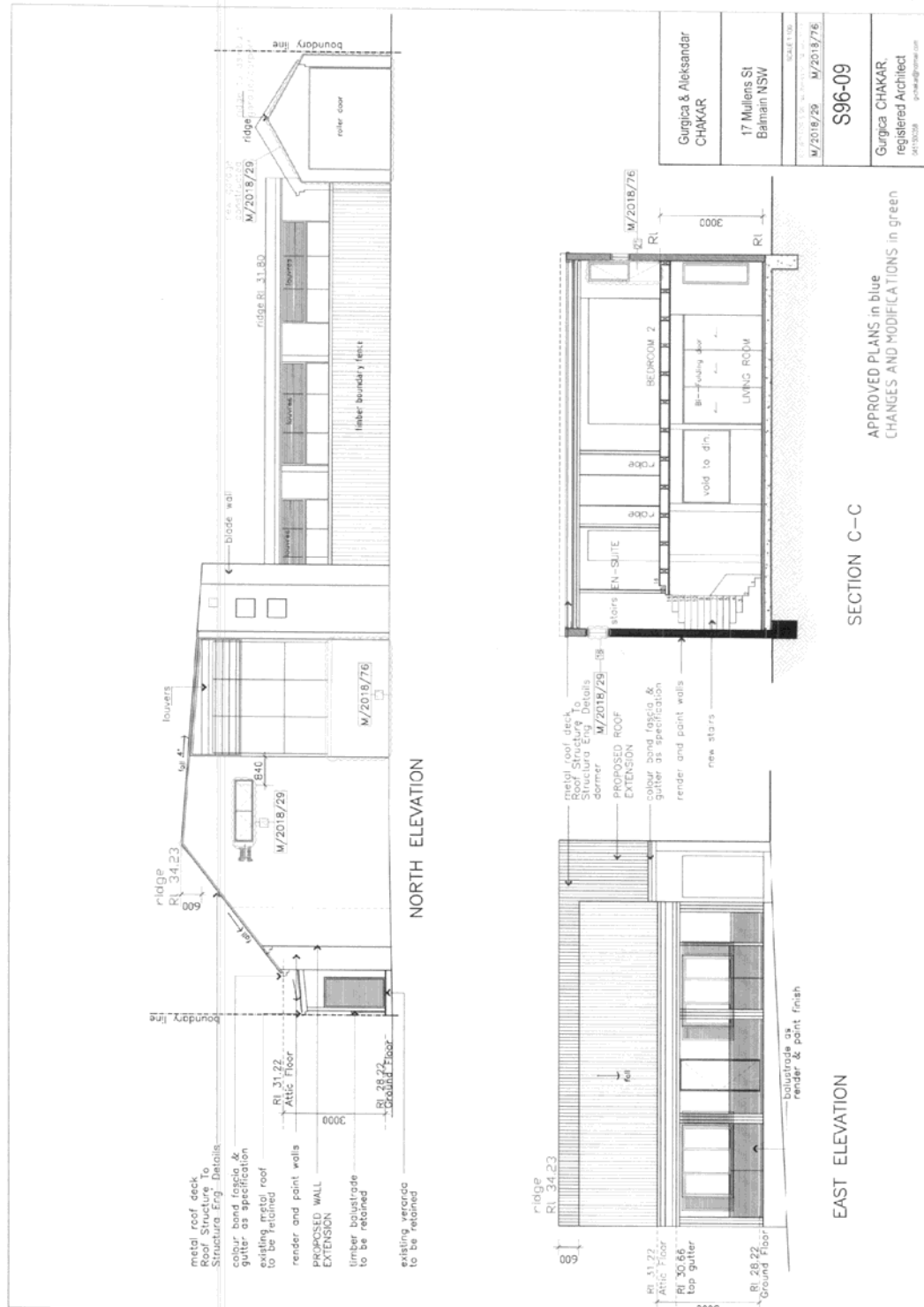
Attachment A – Plans of proposed development

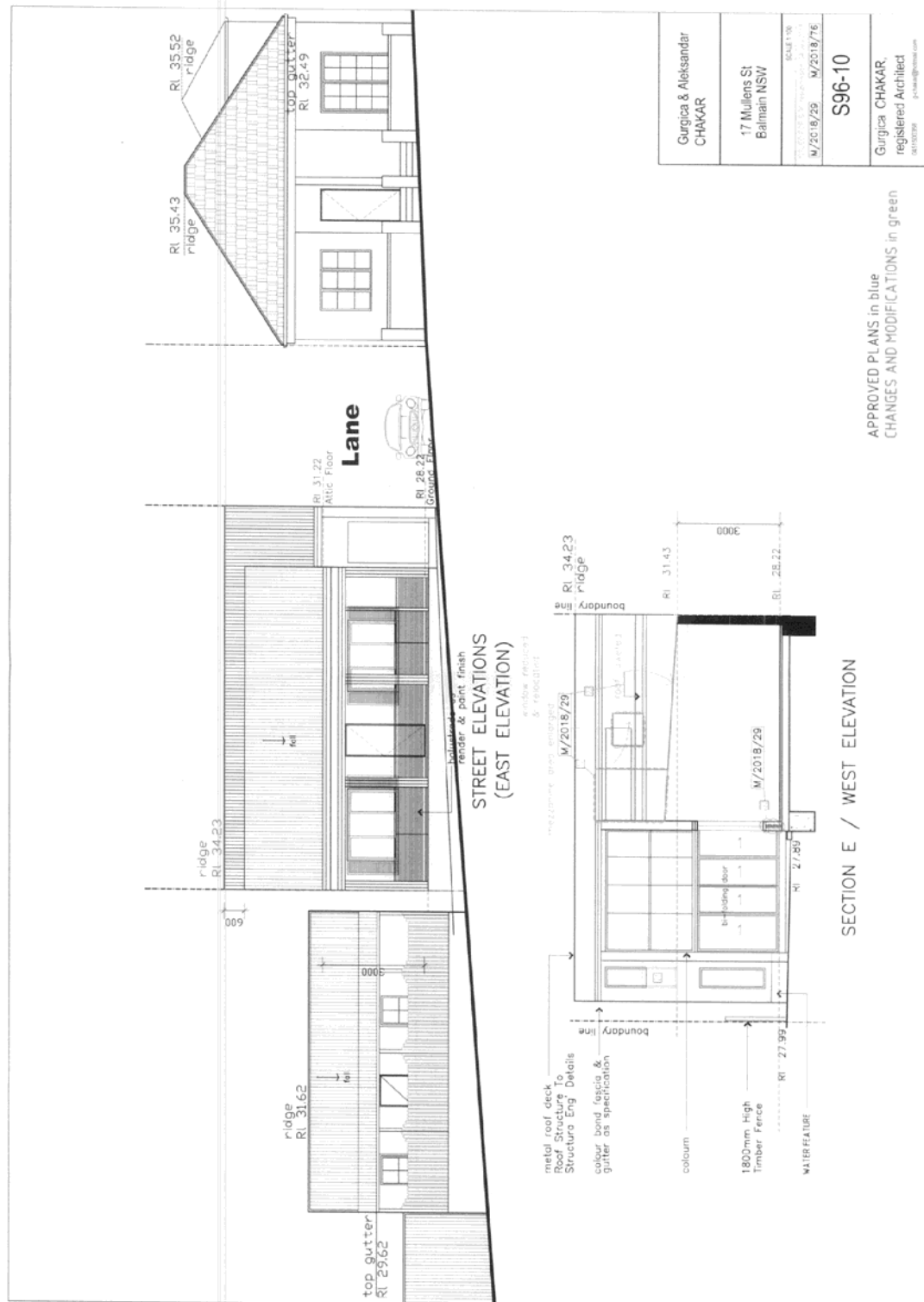




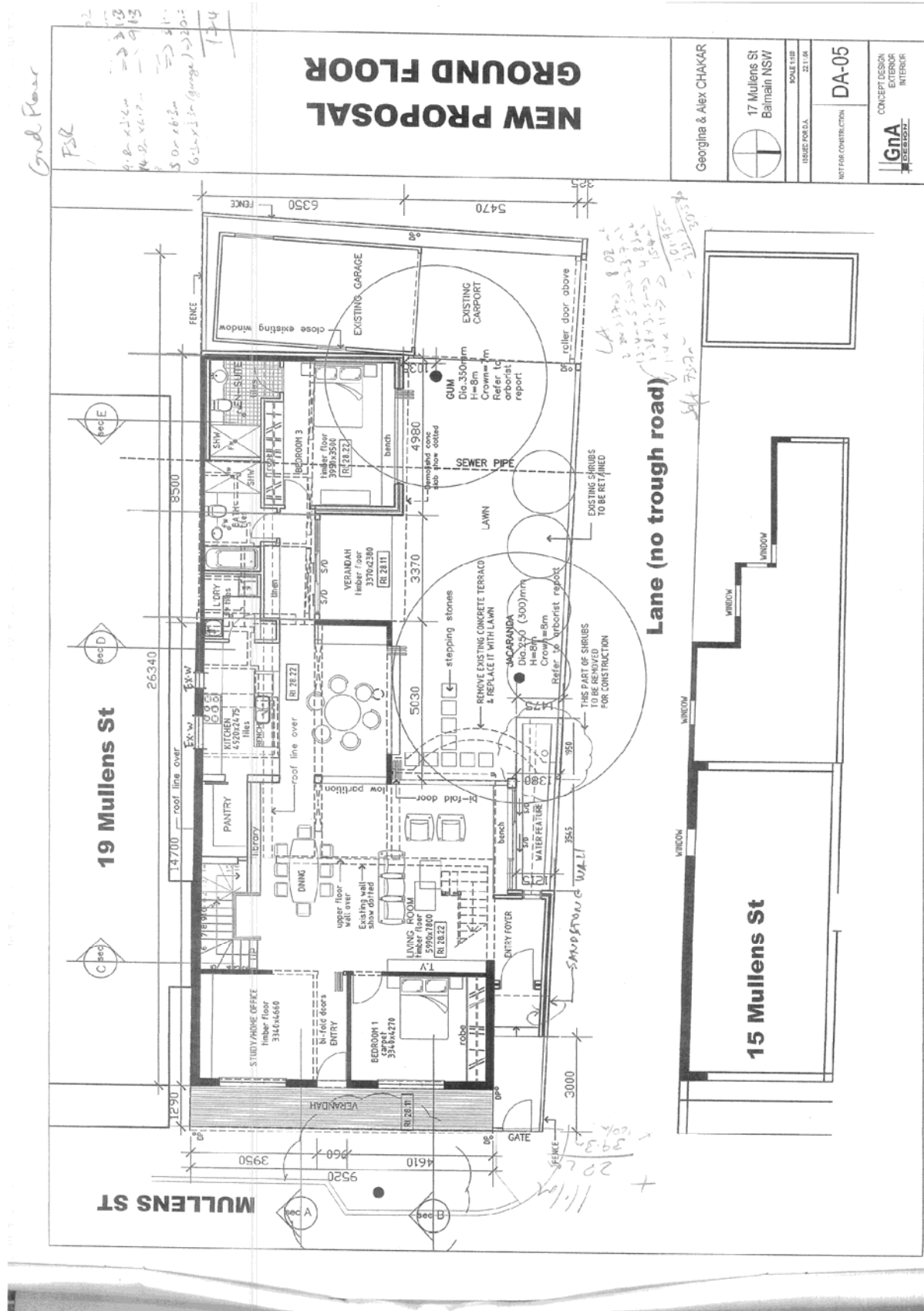


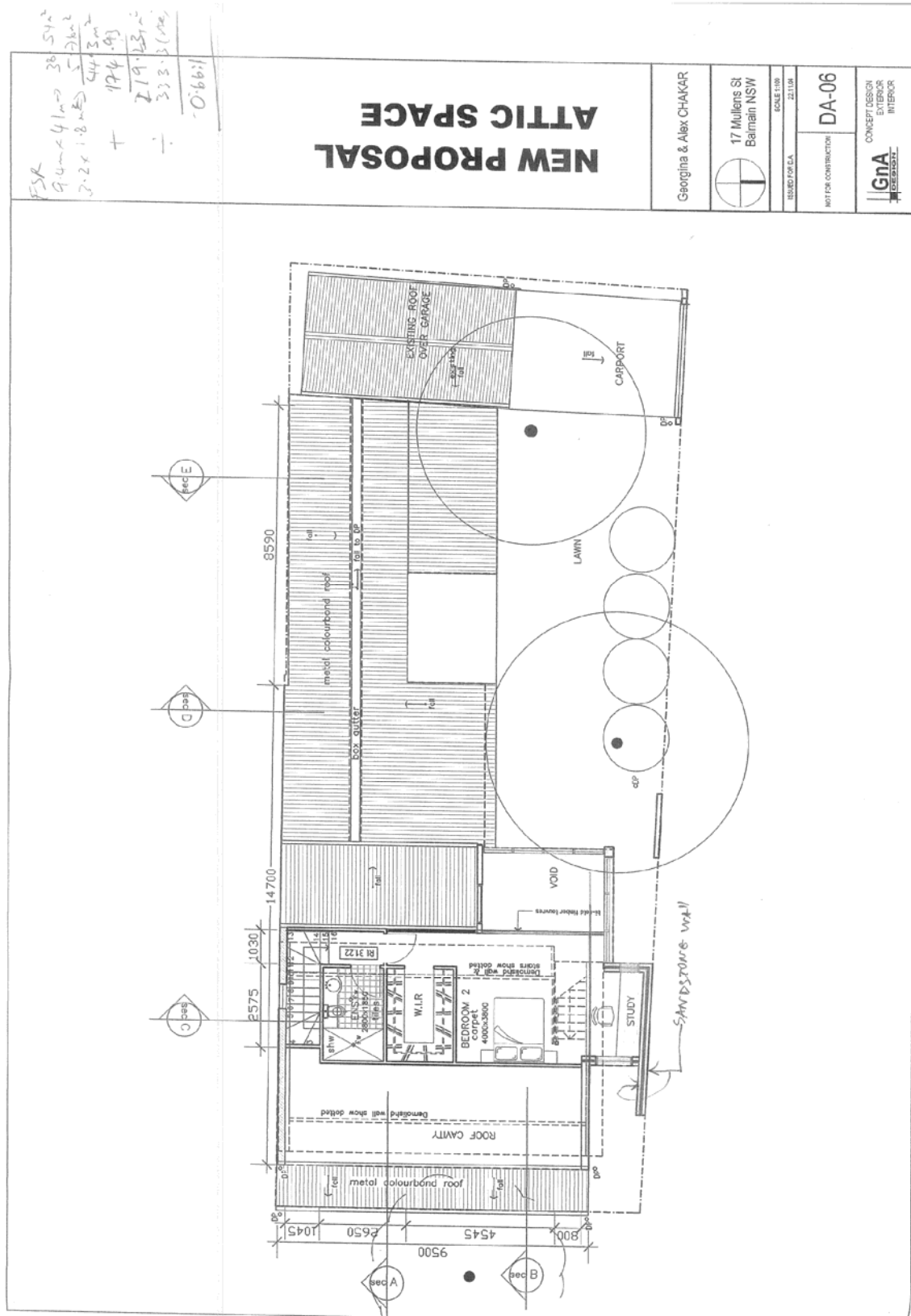


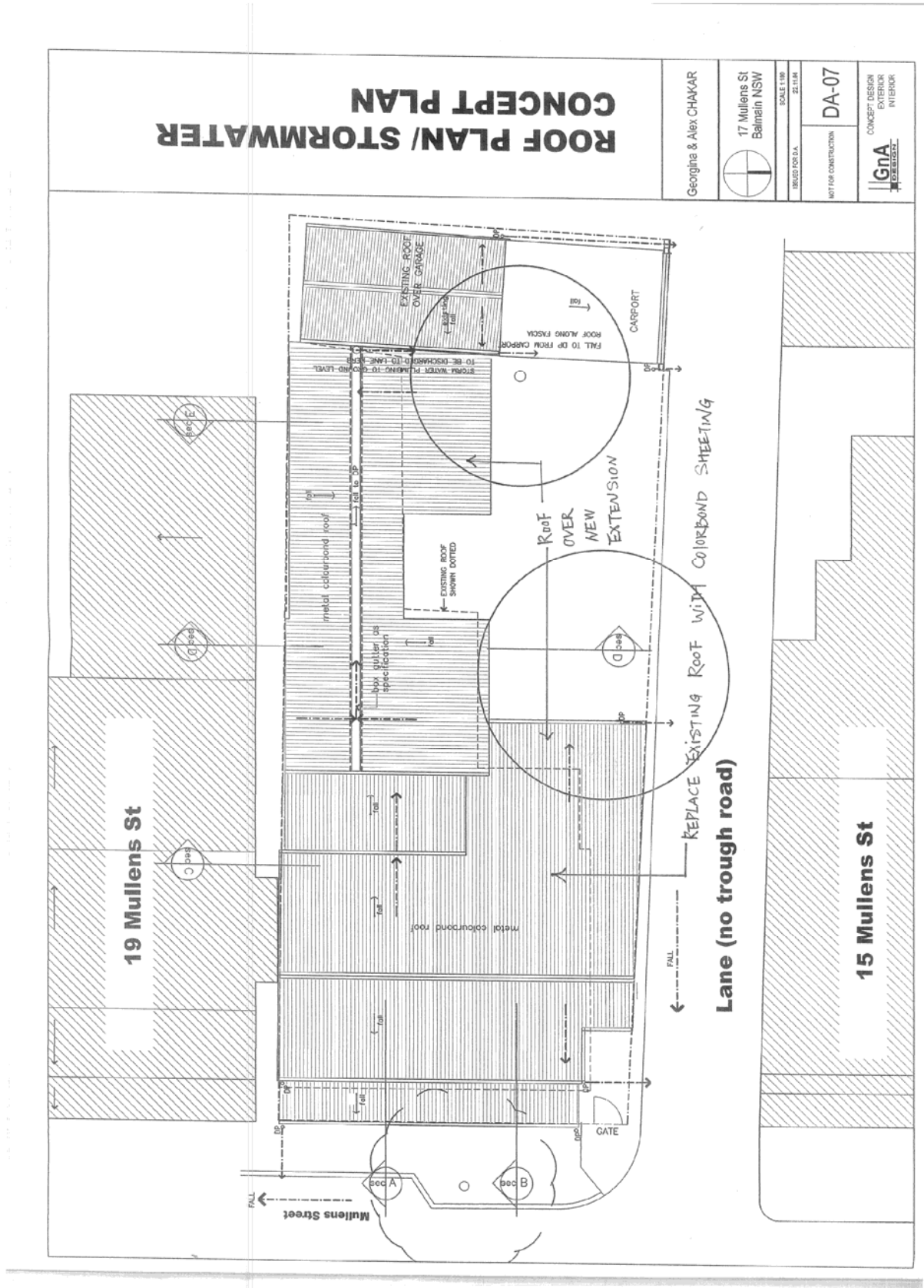


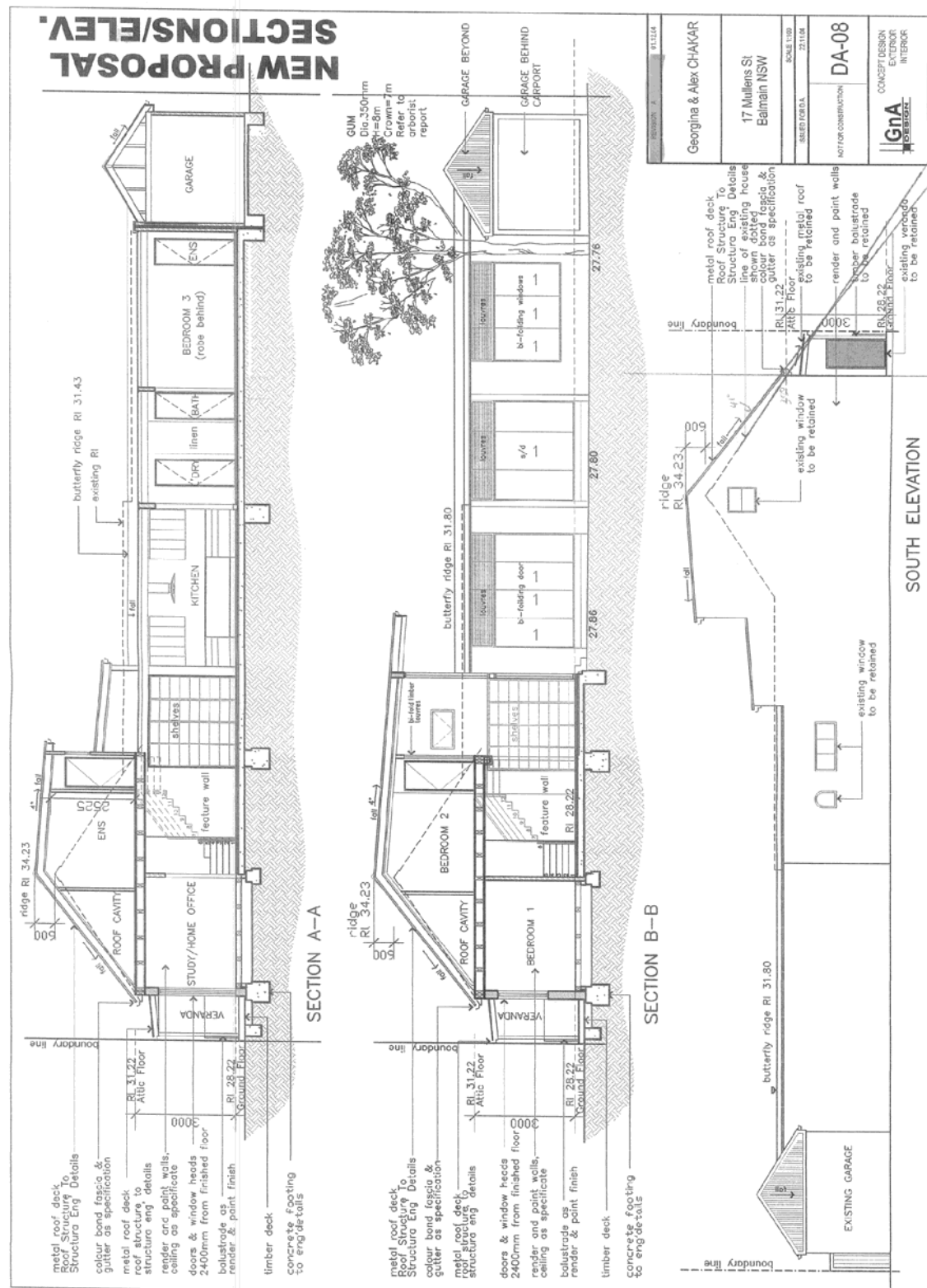


Attachment B – Plans of Approved Development









NEW PROPOSAL ELEVATIONS

