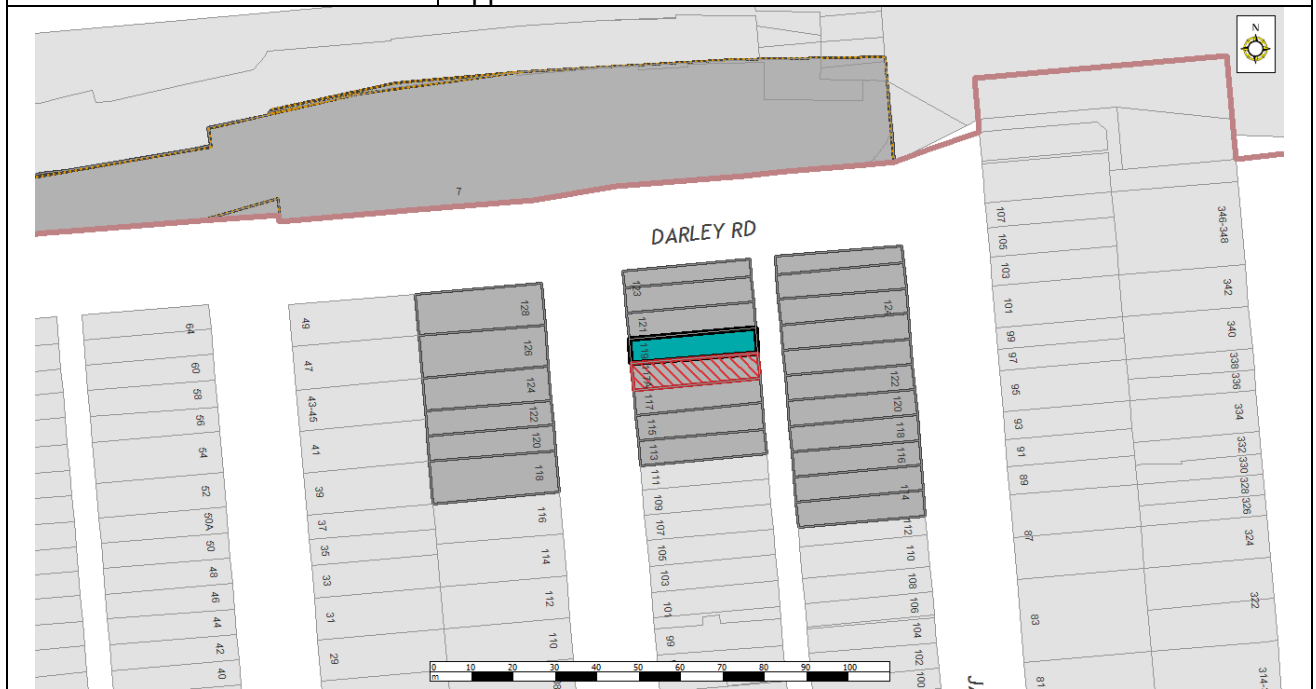




INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	D/2018/185
Address	119 Francis Street, LEICHHARDT NSW 2040
Proposal	Ground and first floor alterations and additions to existing dwelling-house, and associated works, including tree removal.
Date of Lodgement	16 April 2018
Applicant	C Bryant
Owner	Mr S Hadassin and Mrs M C Hadassin
Number of Submissions	Two
Value of works	\$192,000
Reason for determination at Planning Panel	Clause 4.6 variation exceeds officer delegation
Main Issues	Floor space ratio Retention of tree on neighbouring property
Recommendation	Approval



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

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, including tree removal at 119 Francis Street, Leichhardt. The application was notified to surrounding properties and two submissions were received.

The main issues that have arisen from the application include:

- Overshadowing;
- Additional floor space for a dwelling that already exceeds the development standard.

The non-compliances are acceptable given they do not result in adverse amenity or streetscape impacts and therefore the application is recommended for approval.

2. Proposal

Alterations and additions to an existing two storey terrace dwelling including:

- Repairs to paving and balustrade addition to ground floor front verandah and awning over rear door with green roof over;
- Erection of freestanding garden room with green roof, bike store in rear yard and bin store access from rear lane.
- Addition to rear at first floor for study off existing bedroom;

3. Site Description

The subject site is located on the eastern side of Francis Street, between Darley Road and William Street. The site consists of one allotment and is generally rectangular with a total area of 183.4 m² and is legally described as Lot 101 Sec 4 DP 1162.

The site has a frontage to Francis Street of 6.095 metres and a secondary frontage of 6.095m to the rear lane.

The site supports a two storey terrace dwelling. The adjoining properties support a group of 7 x two storey townhouses built over above ground parking to the south at 107-117a Francis Street and a single storey period era dwelling with detached garaged accessed from the rear lane to the north of the site at 121 Francis Street, Leichhardt.

The following trees are located on the site and within the vicinity.

- *Lagerstroemia indica* (Crepe Myrtle) located in rear property.
- *Nerium oleander* (Oleander) located in rear property.
- *Callistemon viminalis* (Weeping Bottlebrush) located in Nature strip.
- *Celtis sinensis* (Hackberry) located on adjoining property at 117A Francis Street, Leichhardt.

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
BA/1996/852		Approved – 3/12/1996
D/1998/125 M/1999/220 M/2001/217	First floor additions and ground floor renovations.	Approved – 13/2/1999

Surrounding properties

Application	Proposal	Decision & Date
BA/1997/970-976	Construction of new two storey dwelling above garage at 107-117a Francis Street, Leichhardt.	Approved 1998

4(b) Application history

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

Date	Discussion / Letter/ Additional Information
4 June 2018	Letter sent to applicant requesting additional information and amended plans as follows: <ul style="list-style-type: none"> - Limit construction to the subject site; - Comply with development standards/Clause 4.6 for non-compliance; - Reduce bulk and scale of proposal / comply with building location zone at ground floor level; - Ensure retention of tree in rear yard of 117a Francis St; and - Green roof maintenance report.
14 June 2018	Draft amendment submitted.
27 June 2018	Amended plans submitted retaining existing laundry and proposing free standing “garden room” in rear yard. Green roof maintenance report, 4.6 exception and shadow diagrams submitted.
16 July 2018	Root mapping submitted.

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 environment, the natural environment and open space and recreation facilities.

5(a)(iv) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The proposal involves the removal of one prescribed trees. No objection is posed to the removal of the Crepe Myrtle located in the rear yard.

A large *Celtis sinensis* (Hackberry) is located on the adjoining property, in close proximity to the boundary and the proposed works. A *root mapping* exercise conducted by Andrew Scales from *Naturally Trees*, dated 26/06/2018 confirmed that no significant structural roots of that tree would be affected by the proposed works.

Given the above, the application is supported subject to the applicant engaging the services of an *AQF level 5 Project Arborist* to oversee that all tree protection measures are implemented in accordance with Section 4 and Appendix 7 of the submitted *Arboricultural Impact Appraisal and Method Statement*, prepared by Andrew Scales from *Naturally Trees*, dated 27/03/2018. A condition of development consent is proposed to achieve this.

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

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

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition Requires Development Consent
- 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 4.6 – Exceptions to development standards
- Clause 6.1 – Acid Sulphate Soils

- Clause 6.2 – Earthworks
- Clause 6.4 – Stormwater management
- Clause 6.8 – Development in areas subject to aircraft noise

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

Standard (maximum)	Proposal	% of non compliance	Compliances
Floor Space Ratio 0.7:1 / 128.4 sqm max.	0.86:1 / 157m ²	22.5% / 28.9 m ²	No
Landscape Area 15% / 27.5 sqm min.	15% / 27.5m ²	N/A	Complies
Site Coverage 60% / 110 sqm max.	60% / 110m ²	N/A	Complies

The following provides further discussion of the relevant issues:

Clause 4.6 Exceptions to Development Standards

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

- Clause 4.4 – Floor Space Ratio

Clause 4.6(2) specifies that Development consent may be granted for development even though the development would contravene a development standard.

1. *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
2. *Development consent may be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.*

The application requests that development consent be granted for the development even though the proposal will contravene the maximum permissible floor space ratio development standard prescribed under Part 4 of Leichhardt Local Environmental Plan 2013.

Clause 4.4 of the Leichhardt Local Environmental Plan 2013 states that the maximum permissible floor space ratio for the site is 0.7:1. The existing dwelling has an FSR of 0.73:1 and it is proposed to increase this to 0.86:1. This would increase the non-compliance to 28.9 sqm.

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

A written request has been submitted by the applicant raising the following key issues seeking to justify the contravention of the standards:

- the proposal allows the current owners to stay in their community.
 - It matches the FSR of the 7 neighbours to the south of 0.86:1
 - Compliance with this standard is unreasonable as the existing dwelling does not comply with the standard. To meet this standard would require the reduction as built form, which is unreasonable.
 - the proposed built form is recessive behind the existing dwelling and does not impact the neighbourhood character. The proposal maintains the desired future character of the Helsarmel Laneways Sub Area by maintaining the "low scale service nature" of the rear laneway.
 - the proposal increases the landscaped area of the site - bringing the landscape area from a non-compliant 7% up to a compliant 15% by adding new gardens.
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Secretary has been obtained.*

Comment: The applicant has addressed the matters required under Clause 4.6 Exceptions to development standards, and it is considered to be well founded in this instance. The proposal will not result in a detrimental impact on the public interest and can satisfy the objectives of the development standard and General Residential zoning as demonstrated below:

- The proposal is compatible with the desired future character of the area in relation to building bulk, form and scale
- The proposal complies with the Landscaped Area and Site Coverage standards, providing a suitable balance between landscaped areas and the built form
- The siting of the building is within the building location zones where it can be reasonably assumed development can occur.
- The proposal does not result in significant adverse amenity impacts to the surrounding properties.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning and there is no public benefit in maintaining strict compliance with the standard.

- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

The granting of concurrence to the proposed variation of the development standard will not raise any issues of state or regional planning significance.

- (b) *the public benefit of maintaining the development standard, and*

The proposed variation to the development standard will not compromise the long term strategic outcomes of the planning controls to the extent that a negative public benefit will result. In this regard, there is no material public benefit to the enforcing of the development standards.

- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

No other matters are required to be considered before granting concurrence.

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	Complies
Part C	
C1.0 General Provisions	Complies
C1.1 Site and Context Analysis	Complies
C1.2 Demolition	Not applicable
C1.3 Alterations and additions	No
C1.4 Heritage Conservation Areas and Heritage Items	Not applicable
C1.5 Corner Sites	Not applicable
C1.6 Subdivision	Not applicable
C1.7 Site Facilities	Complies
C1.8 Contamination	Complies
C1.9 Safety by Design	Complies
C1.10 Equity of Access and Mobility	Not applicable
C1.11 Parking	Not applicable
C1.12 Landscaping	Complies
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 Rock Walls	Not applicable
C1.20 Foreshore Land	Not applicable
C1.21 Green Roofs and Green Living Walls	Complies
Part C: Place – Section 2 Urban Character	
Suburb Profile	
C2.2.3.4 Helsarmel distinctive neighbourhood, Leichhardt	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	Complies
C3.4 Dormer Windows	Not applicable
C3.5 Front Gardens and Dwelling Entries	Complies
C3.6 Fences	Not applicable
C3.7 Environmental Performance	Not applicable
C3.8 Private Open Space	Complies
C3.9 Solar Access	Complies
C3.10 Views	Complies
C3.11 Visual Privacy	Complies
C3.12 Acoustic Privacy	Complies
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	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	
E1.1.1 Water Management Statement	Complies
E1.1.2 Integrated Water Cycle Plan	Not applicable
E1.1.3 Stormwater Drainage Concept Plan	Complies
E1.1.4 Flood Risk Management Report	Not applicable
E1.1.5 Foreshore Risk Management Report	Not applicable
E1.2 Water Management	
E1.2.1 Water Conservation	Not applicable
E1.2.2 Managing Stormwater within the Site	Complies
E1.2.3 On-Site Detention of Stormwater	Not applicable
E1.2.4 Stormwater Treatment	Not applicable
E1.2.5 Water Disposal	Complies
E1.2.6 Building in the vicinity of a Public Drainage System	Not applicable
E1.2.7 Wastewater Management	Complies
E1.3 Hazard Management	
E1.3.1 Flood Risk Management	Not applicable
E1.3.2 Foreshore Risk Management	Not applicable
Part F: Food	
Not applicable	
Part G: Site Specific Controls	
Not applicable	

The following provides discussion of the relevant issues:

C1.3 Alterations and additions / C3.2 Site Layout and Building Design

The existing dwelling is a two storey building built to the southern boundary. It is proposed to extend the dwelling at first floor level with the extension being built to a height of 5.4 m with no setback to the southern boundary. The control requires a setback of approximately 1.5 metres for the southern wall given its height of 5.4 metres. The proposal has no setback and therefore does not comply with the numerical requirements. Notwithstanding, the non-compliance is considered to be acceptable for the following reasons:

- The proposal complies with the relevant Building Typology outlined Appendix B of the DCP;
- The pattern of development within the streetscape is not compromised.;
- The bulk and scale of the development has been minimised – the additions uses a flat roof rather than the higher pitched roof over the existing second floor;
- The proposal does not result in adverse amenity impacts for neighbours including solar access, privacy and bulk and scale.

C1.21 Green Roofs and Green Living Walls

The proposal includes a green roof over the “garden room” and the awning over the rear door of the dwelling. A submission received in response to notification of the proposal states that “*the proposed garden roof could be used as an extra living area which overlooks directly our back yard, limiting our privacy, increased noise and impacting on our outdoor living area*”.

This fear is unfounded, given the areas are for green roof only, with limited accessibility for maintenance purposes. This is reinforced by Condition 59 which states: *Access to the green roof is to be for maintenance purposes in accordance with the approved “Green Roof Statement*. Having vegetation on a roof rather than colourbond or similar will not result in privacy or other adverse impacts.

C3.9 Solar Access

The proposal does not result in additional overshadowing of main living room windows on adjoining properties. The following controls apply with respect to overshadowing of adjoining areas of private open space:

- C18 Where surrounding dwellings have east/west facing private open space, ensure solar access is retained for two and a half hours between 9am and 3pm to 50% of the total area (adjacent to living room) during the winter solstice.
- C19 Where surrounding dwellings currently receive less than the required amount of solar access to their private open space between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.

The proposal private open space of 117a Francis Street, does not receive the required amount of solar access during winter and thus no further reduction of solar access is permitted. While the proposal reduces the solar access of this private open space at 3pm, solar access provision overall is increased. It is noted that solar access is currently provided to a minimum of 1 sqm for three hours however this will be increased to four hours under the proposal. The replacement of the existing high boundary fence between the dwelling and the outdoor room will permit the additional solar access.

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

The application was notified in accordance with Part A3.3 of Leichhardt Development Control Plan 2013 for a period of 14 days to surrounding properties. A total of two submissions were received.

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

- Overshadowing of townhouses including yards at 117/117a Francis Street – see Section 5(c) – C3.9 – Solar access.
- Privacy implications of proposed roof garden– see Section 5(c) – C1.21 Green Roofs and Green Living Walls
- Tree removal – see Section 5(a)(iv) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

Issue: *The proposal has the capacity to affect the value of the property and rental income of 117 Francis Street.*

Comment: No evidence has been submitted to demonstrate this is likely to be the case. Given no significant adverse amenity impacts are likely to arise from the proposal as demonstrated in this report, this is unlikely to occur.

Issue: *We also request a review of work (?unapproved) already carried out between our properties. There has been roofing modifications erected, resulting in drainage from the dwelling 119 being directed onto our property 117a Francis Street.*

Comment: This matter has been forwarded to Compliance for investigation.

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.

- Development Engineer
- Landscape
- Health
- WestConnex Unit

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 the maximum permissible floor space ratio prescribed by Clause 4.4 in Leichhardt Local Environmental Plan 2013 as it is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and 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: D/2018/185 for Ground and first floor alterations and additions to existing dwelling-house, and associated works, including tree removal at 119 Francis Street, Leichhardt subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

1. The development must be carried out in accordance with plans and details listed below:

Plan Reference	Drawn By	Dated
East and North elevation DA-201-E	TRIAS	19.6.2018
West and South elevation DA-202-E	TRIAS	19.6.2018
Section A and Section B DA-203-E	TRIAS	19.6.2018
Section C DA-204-E	TRIAS	19.6.2018
Ground and First floor plan DA-104-J	TRIAS	19.6.2018
Roof Plan DA-105-C	TRIAS	19.6.2018

Document Title	Prepared By	Dated
BASIX Certificate A307690_02	TRIAS	19.6.2018
Root Investigation Statement	Naturally Trees	27.6.2018
Green Roof Statement	Trias	19.6.2018
Site Waste Minimisation and Management Plan	Casey Bryant	22.02.18

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

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

Tree/location	Approved works
<i>Lagerstroemia indica</i> (Crepe Myrtle) located in rear property.	Remove
<i>Nerium oleander</i> (Oleander) located in rear property.	Remove (exempt)

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

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

All tree work shall be undertaken by an experienced Arborist with a minimum qualification of Level 3 under the Australian Qualification Framework (AQF). The work shall be undertaken in accordance with AS4373 – 2007 'Pruning of amenity trees' and in compliance with the Safe Work Australia Code of Practice 'Guide to Managing Risks of Tree Trimming and Removal Work'.

DEMOLITION CONDITIONS

The following conditions are imposed to ensure compliance with relevant legislation and Australian Standards, and to ensure that the amenity of the neighbourhood is protected. A Construction Certificate is not required for Demolition.

3. 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.
4. Unless otherwise approved by Council, demolition works shall only be permitted between the hours of 7:00am to 5.00pm, Mondays to Fridays (inclusive) with no demolition permitted on Saturdays, Sundays or Public Holidays.
5. All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).
6. 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.
7. 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 docket must be retained by the person performing the work for at least 3 years and be submitted to Council on request.
8. All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.
9. Council and the Principal Certifying Authority (if Council is not the PCA) must be notified as soon as practicable if any information is discovered during demolition or construction work that has the potential to alter previous conclusions about site contamination.
10. The person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to include colour photographs and is to be submitted to the Certifying Authority's satisfaction, with a colour copy being provided to the property owner of the identified property, before work commences (including demolition), on the buildings on the adjoining property at 117a Francis Street, Leichhardt, if the consent of the adjoining property owner can be obtained. In the event that the consent of the adjoining property owner cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the PCA before work commences.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

11. Before the issue of any Construction Certificate amended plans must be submitted to the Certifying Authority's satisfaction indicating:
 - a) The new fence along the laneway boundary must be of lightweight construction such as paling or colorbond type.
 - b) The paved courtyard area under the rear awning must be lowered to 11.13 AHD to provide a 150mm step up between the rear courtyard and the internal rear room of the existing dwelling.
 - c) The uncovered courtyard / garden area directly connected to the doors of the garden room must be lowered to 11.35 AHD to provide a 150mm step up between the external area and the internal rear room of the existing dwelling.

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

12. The trees identified below are to be retained:

Tree/location
<i>Callistemon viminalis</i> (Weeping Bottlebrush) located in Nature strip.
All vegetation located on adjoining properties.

Details of the trees to be retained must be included on the Construction Certificate plans

13. The footings of the proposed rear addition will be isolated pier or pier and beam construction within the specified radius of the trunk(s) of the following tree(s).

Schedule	
Tree/location	Radius in metres
<i>Celtis sinensis</i> (Hackberry) located on adjoining property.	4m

The piers shall be located such that no roots of a diameter greater than 30mm will be severed or injured during the construction period. The beam(s) shall be of reinforced concrete or galvanised steel sections and placed in positions with the base of the beam being a minimum of 50mm above existing soil levels.

Structural details of the pier or pier and beam construction shall be submitted to the Principal Certifying Authority satisfying the above requirements prior to the release of a Construction Certificate.

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

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

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities.

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity or issue of the Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

15. The person acting on this consent shall submit to the Principal Certifying Authority a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the issue of a Construction Certificate.
16. Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.
17. Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit (FOOT)	\$2,605
Inspection fee (FOOTI)	\$225

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

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

18. A structural engineering report and plans that address the proposed works in the vicinity of the rear Laneway boundary, prepared by a qualified practicing Structural Engineer, must be provided prior to the issue of a Construction Certificate. The report and plans must be prepared/ amended to make provision for the following:
- a) All components of the retaining walls and structures, including subsoil drainage and footings, must be located entirely within the property boundary.
 - b) Retaining walls must be entirely self supporting in the event that excavation is undertaken within the road reserve adjacent to the property boundary to the depth of the proposed structure.
 - c) Any existing or proposed retaining walls that provide support to the road reserve must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment, based on a design life of at least 50 years.
 - d) Provide relevant geotechnical/ subsurface conditions of the site, as determined by full geotechnical investigation.

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

19. A stormwater drainage design prepared by a Licensed Plumber or qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be prepared/ amended to make provision for the following:
- a) Charged or pump-out stormwater drainage systems are not permitted.
 - b) Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter of a public road or directly into Council's piped drainage system.
 - c) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
 - d) An overland flowpath must be provided within the setback to the northern boundary between the rear of the dwelling and the Francis Street frontage. The rear courtyard must be graded so that bypass flows from the site drainage system are directed to the overland flowpath.
 - e) A minimum 150mm step up must be provided between all external finished surfaces and adjacent internal floor areas.
 - f) All plumbing within the site must be carried out in accordance with Australian Standard *AS/NZS 3500.3-2015 Plumbing and Drainage – Stormwater Drainage*
 - g) 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.

- h) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- i) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm.
- j) New kerb outlets in stone kerb shall be carefully cored through the existing kerb stone such that the kerb outlet is perpendicular (a 90° angle) with the gutter. The pipe under the footpath shall end 30mm within the kerb stone with mass concrete around the pipe connection to the kerb stone. Purpose made pipe fittings and bends or welded joints shall be used where necessary to align the discharge pipe with the kerb outlet. Non-compliance with this condition will result in loss of your security deposit.

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

- 20. In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the person acting on this consent must pay a long service levy at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more. The Long Service Levy must be paid before to the issue of a Construction Certificate.
- 21. The existing building must be upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke detection systems in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.
- 22. A Certificate prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction must be provided to the satisfaction of the Principal Certifying Authority before the issue of a Construction Certificate. The certificate shall also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.
- 23. The approved plans must be checked online with Sydney Water Tap In to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. A copy of this approval must be supplied with the Construction Certificate application. Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 132092.

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

- 24. Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit	Min \$2,100.00
Inspection fee	\$225.00

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

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

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

25. Sediment control devices must be constructed and maintained in proper working order to prevent sediment discharge from the construction site. Sediment control plans and specifications must be submitted to the Principal Certifying Authority before the issue of a Construction Certificate.
26. As the site where the property is identified as located within ANEF 20-25 or greater, the development approved under this consent must meet the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.

An acoustic report prepared by a suitably qualified person and accompanying plans demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority before the issue of a Construction Certificate.

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

27. To preserve the following tree/s no work shall commence nor shall a Construction Certificate be issued (whichever occurs first) until the trunk/s/branches are protected (in accordance with *AS4970-Protection of trees on development sites*) by the placement of appropriate lengths of 50 x 100mm timbers spaced at 150mm centres and secured by wire/hoop strap over suitable protective padding material (i.e. underlay or carpet). The trunk/branch protection shall be maintained intact until the completion of all work on site.

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

satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

BEFORE COMMENCING EXCAVATION AND/OR BUILDING WORK

- 28. A rigid and durable sign must be erected in a prominent position on the site, before work commences. The sign is to be maintained at all times until all work has been completed. The sign must include:
 - a) The name, address and telephone number of the PCA;
 - b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
 - c) A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.
- 29. A Construction Certificate must be obtained before commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.
- 30. 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.
- 31. Sediment control devices must be installed before the commencement of any work and must be maintained in proper working order to prevent sediment discharge from the construction site.
- 32. All street trees adjacent to the site must be protected at all times during demolition and construction. Details of the method(s) of protection of such trees must be submitted to and be approved by Council before commencing works.
- 33. All approved street tree protection measures must be installed prior to commencing any work and must be maintained for the duration of construction.

DURING WORKS

- 34. If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly using a sharp and *fit for purpose tool*. The pruning shall be undertaken by a minimum Level 5 (AQF 5) qualified Arborist.

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

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

Schedule	
Tree/location	Time of Inspection
All trees on adjoining properties and Council land	In accordance with appendix 7 of the submitted <i>Arboricultural Impact Appraisal and Method Statement</i> , prepared by Andrew

	Scales from <i>Naturally Trees</i> , dated 27/03/2018.
--	--

Recommendations to ensure the tree/s long term survival must be carried out immediately upon receipt of the report.

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

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

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

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

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

Schedule	
Tree/location	Radius in metres
<i>Celtis sinensis</i> (Hackberry) located on adjoining property.	4m

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

38. No activities, storage or disposal of materials taking place beneath the canopy of any tree protected under Council's Tree Management Controls at any time.
39. 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.

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

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

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

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

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

8:00am to 12:00pm, Monday to Saturday; and
2:00pm to 5:00pm Monday to Friday.

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

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

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

41. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.
42. The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council.
43. The works are required to be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another Certifying Authority.
44. 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, shall 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 Leichhardt Development Control Plan 2013. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled.
45. A certificate of survey from a registered land surveyor must be submitted to the PCA upon excavation of the footings and before the pouring of the concrete to verify that the structure will not encroach on the allotment boundaries.
46. The person acting on this consent must comply with the requirements of the Dividing Fences Act in respect to the alterations and additions to the boundary fences.
47. Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

48. You must obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA must notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within 2 days of the date of the Certificate being determined:
- a) A copy of the determination;
 - b) Copies of any documents that were lodged with the Occupation Certificate application;
 - c) A copy of Occupation Certificate, if it was issued;
 - d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
 - e) A copy of any missed inspections;
 - f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.
49. The Certifying Authority must be satisfied that each of the commitments listed in Aircraft Noise Assessment Report required by this Determination have been fulfilled before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate).
50. The Certifying Authority must be satisfied that each of the commitments listed in BASIX Certificate referred to in this Determination have been fulfilled before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate).
51. The Certifying Authority must apply to the Director-General for a BASIX Completion Receipt within 2 days of the issue of a final Occupation Certificate. Completion Receipts can be applied for at www.basix.nsw.gov.au.
52. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before the issue of an Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".
53. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.
- A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a Licensed Plumber or qualified practicing Civil Engineer that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards, must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
54. The existing stone kerb adjacent to the site is of local heritage value and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units before the issue of the Occupation Certificate. Non-compliance with this condition will result in loss of your security deposit.
55. 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.

56. 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.
57. A maintenance report must be prepared by a suitably qualified Landscape Architect or Landscape consultant and submitted to the Principal Certifying Authority prior to the release of an Occupation Certificate. The report must outline the care and maintenance strategy for the first two (2) years of the green roof and will include (at a minimum) the following detail:
- strategy for any leaks or weaknesses in the membrane;
 - watering in dry periods (if an irrigation system has not been connected to a water supply);
 - removal of weeds;
 - light fertilization with slow release complete fertilizers; and
 - the replacement of dead plants.

ONGOING CONDITIONS OF CONSENT

58. The landscaped green roof shall be maintained on an on-going basis and the approved maintenance report shall be implemented. Maintenance shall include watering in dry periods (if an irrigation system has not been connected to a water supply); removal of weeds, light fertilization with slow release complete fertilizers; and the replacement of dead plants.
59. Access to the green roof is to be for maintenance purposes in accordance with the approved "Green Roof Statement".
60. The garden room / outbuilding is ancillary to the residential use of the premises and is to be used by the permanent residents of the dwelling only. No approval is given for the use of the garden room / outbuilding as a self-contained dwelling or secondary dwelling. It shall not be separately leased.

PRESCRIBED CONDITIONS

A. BASIX Commitments

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

In this condition:

- Relevant BASIX Certificate means:
 - a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.

B. Building Code of Australia

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

C. Home Building Act

- 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given Leichhardt Council written notice of the following:
 - a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act, or
 - b) in the case of work to be done by an owner-builder:
 - i) the name of the owner-builder, and
 - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- 2) If arrangements for doing residential building work are changed while the work is in progress so that the information submitted to Council is out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

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

D. Site Sign

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

E. Condition relating to shoring and adequacy of adjoining property

- (1) For the purposes of section 4.17(11) of [the Act](#), it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) protect and support the adjoining premises from possible damage from the excavation, and
 - (b) where necessary, underpin the adjoining premises to prevent any such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

NOTES

1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. Section 8.2 of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, designated development or a complying development certificate. The request for review must be made within six (6) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. Furthermore, Council has no power to determine a review after the expiration of these periods. A decision on a review may not be further reviewed under Section 8.2.
3. If you are unsatisfied with this determination, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right of appeal to the Land and Environment Court within six (6) months of the determination date.
4. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.
5. Works or activities other than those approved by this Development Consent will require the submission of a new development application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.
6. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
7. This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):
 - a) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
 - b) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
 - c) Development Application for demolition if demolition is not approved by this consent.
 - d) Development Application for subdivision if consent for subdivision is not granted by this consent.
 - e) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.

8. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained.

Attachment B – Plans of proposed development

TRIAS

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Nominated Architect
Casey Bryant, NSW652 / VIC9129

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Compliance
Comply with all relevant authorities
Comply with Australian Standards
Comply with NCC
Use the code in mm
Use the code in mm
Use the code in mm
Use the code in mm
Use the code in mm
Use the code in mm

Legend
Existing wall
New framed wall
New solid wall
New concrete
New work shaded
Timber cladding
Brick
Concrete
Metal roofing

Date	Rev.	Description
21.02.19	A	Client Review
05.04.19	B	Client Review
06.04.19	C	Client Review
10.04.19	D	DA Submission
19.06.19	E	DA Amendment

Project
Alterations and Additions to
119 Francis St, Leichardt

Client
Christine and Saul Hecchin

Stages
Development Application (DA)
Not for construction

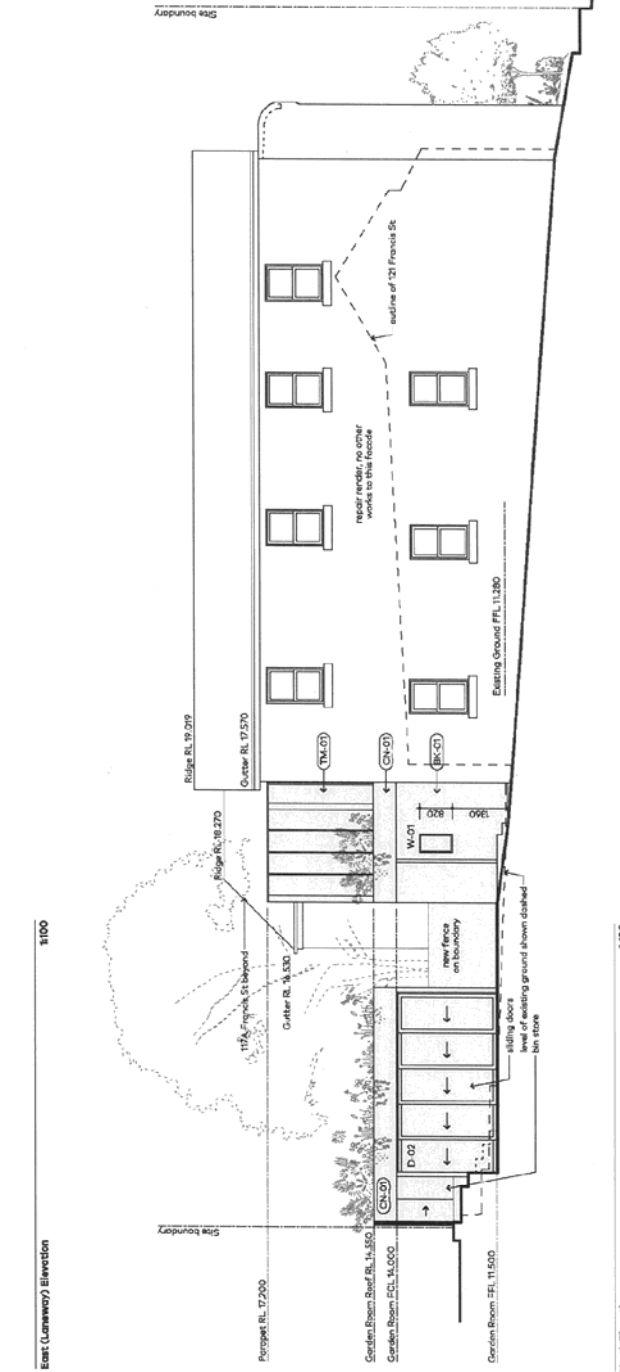
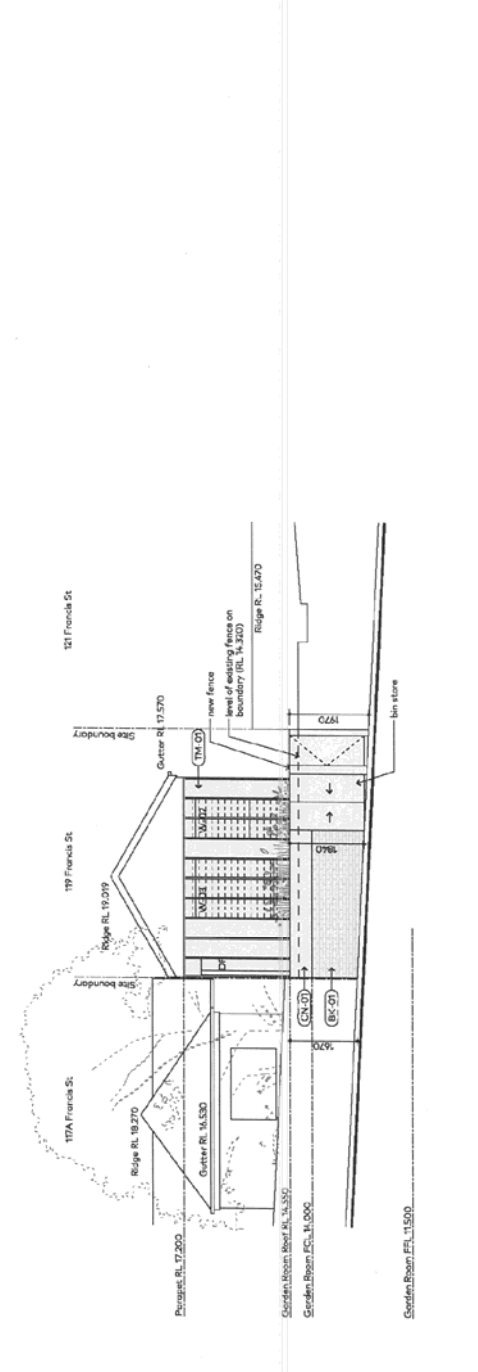
Scale
1:100 @ A3

North
North

Drawing
Elevation 1

Project No.
P172

Sheet
DA-201



TRIAS

Contact
E: studio@trias.com.au

Nominated Architect
Casper Bryant NSW6452 / VIC01819

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Compliance
Comply with all relevant authorities
Comply with NCC
Comply with Australian Standards
Do not scale from drawings
Newly established if discrepancy arise

Legend
Existing wall
New framed wall
New brick wall
New concrete
New work sketched
Timber cladding
Brick
Concrete
Metal roofing

(TM-01)
(BK-01)
(CN-01)
(MT-01)

Date	Rev.	Description
21.02.18	A	Client Review
05.04.18	B	Client Review
06.04.18	C	Client Review
10.04.18	D	DA Submittal
19.06.18	E	DA Amendment

Project
Alterations and Additions to
119 Francis St, Leichhardt

Client
Christine and Sevil Helesian

Status
Development Application (DA)
Not for construction

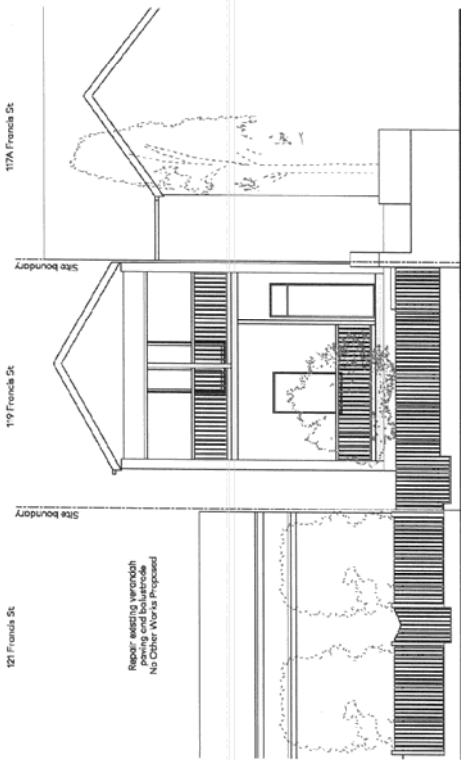
Scale
1:100 @ A3

North
North arrow symbol

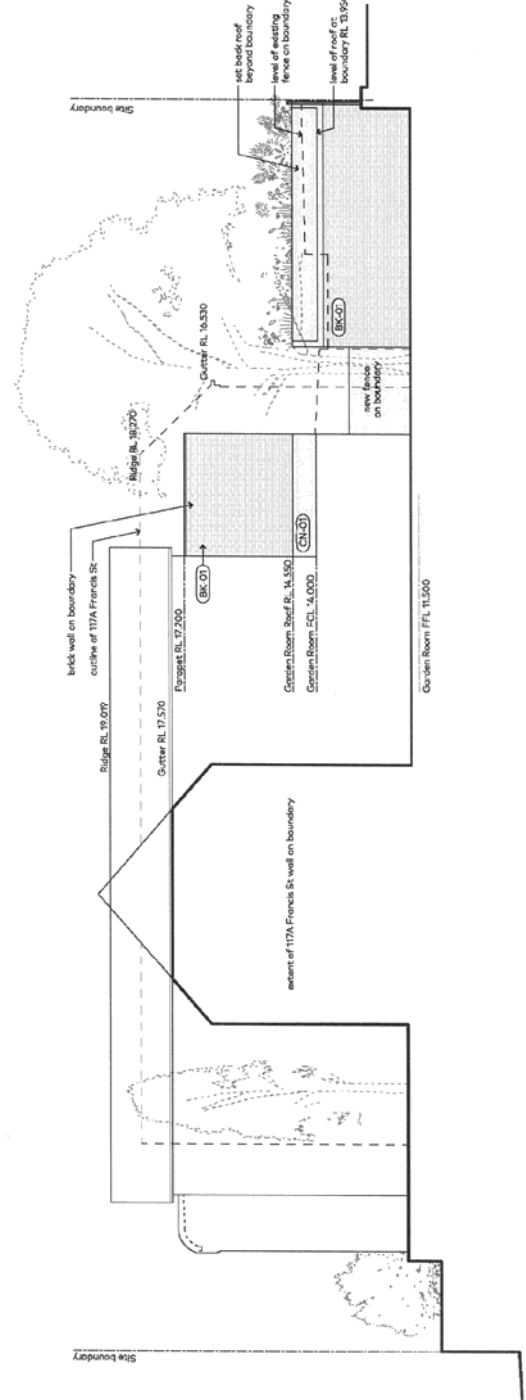
Drawing
Elevations 2

Project No.
P172

Sheet
DA_202



West (Francis Streets) Elevation
1:100



South Elevation
1:100

TRIAS

Contact
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Nominated Architect
Cathy Bryant NSM9552 / VIC18129

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Compliance
Comply with relevant authorities
Comply with NCC
Comply with Australian Standards
Do not use for any other purpose
Do not reuse for other drawings
Notify architect if discrepancy arises

Legend
Existing wall
New framed wall
New brick wall
New concrete
New work, stucco
Timber cladding
Brick
Concrete
Metal roofing

Date Rev. Description
21.02.18 A Client Review
05.04.18 B Client Review
06.04.18 C Client Review
10.04.18 D DA Submission
08.04.18 E Client Review
19.06.18 F DA Amendment

Project
Alterations and Additions to
119 Francis St, Leichhardt

Client
Christina and Saul Heussen

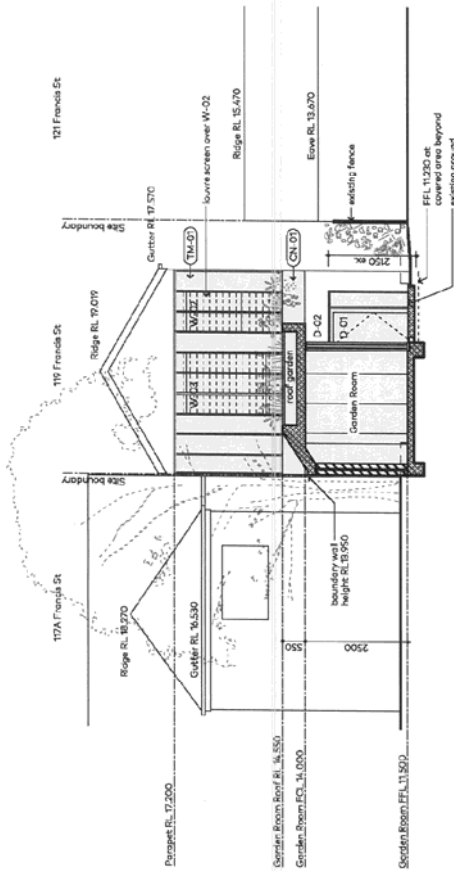
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Development Application (DA)
Not for construction

Scale
1:100 @ A3

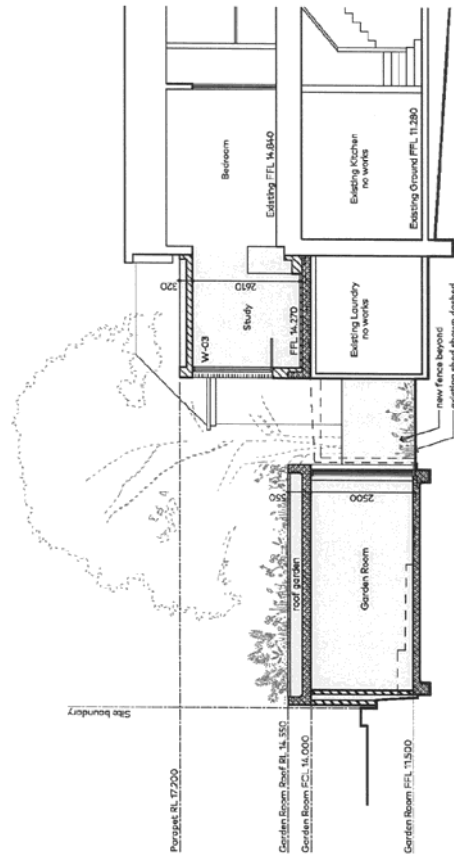
Drawing
Sections *

Project No.
PT122

Sheet
DA-203



Section A
1:100



Section B
1:100

TRIAS

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Nominated Architect
Covey Bryant NSW6682 / VIC16189

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Compliance
Comply with all relevant codes of practice
Comply with NCC
Comply with all relevant standards
Comply with all relevant codes of practice
Comply with all relevant codes of practice
Comply with all relevant codes of practice
Comply with all relevant codes of practice

Legend
Existing wall
New framed wall
New brick wall
New concrete
New work in situ
Timber cladding
Brick
Concrete
Metal roofing

Notes
1. Client Review
2. Client Review
3. Client Review
4. Client Review
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99. Client Review
100. Client Review

Project
Alterations and Additions to
119 Francis St, Leichhardt

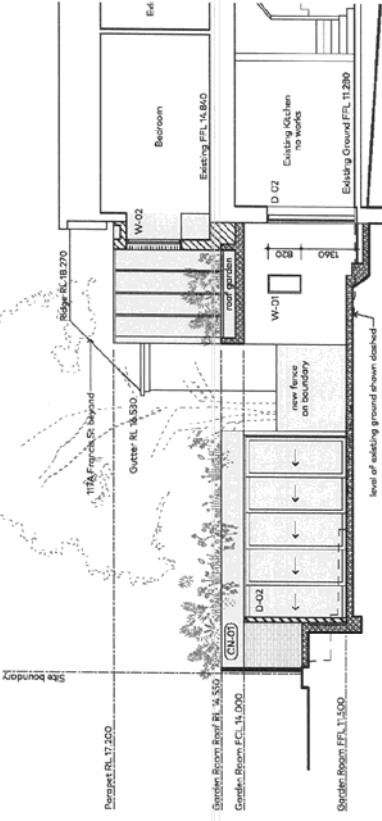
Client
Christina and Saul Hedeman

Status
Development Application (DA)
Not for construction

Scale
1:100@A3
North
N

Drawing
Sections 2

Project No.
P1722
Sheet
DA-204



Section C
1/100

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Nominated Architect
Casey Bryant NSWRA62/VIC19127

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Compliance

- Comply with NCC
- Comply with Australian Standards
- Do not scale from drawings
- New 7/1 (Urban) if necessary unless otherwise stated

Legend

- Existing wall
- New framed wall
- New brick wall
- New concrete
- New work sheeted
- Timber cladding
- Brick
- Concrete
- Metal roofing

Date	Rev.	Description
21.02.18	A	Client Review
10.04.18	B	DA Submission
19.06.18	C	DA Amendment

Project
Alterations and Additions to
117 Francis St, Leichhardt

Client
Christine and Saul Hecstain

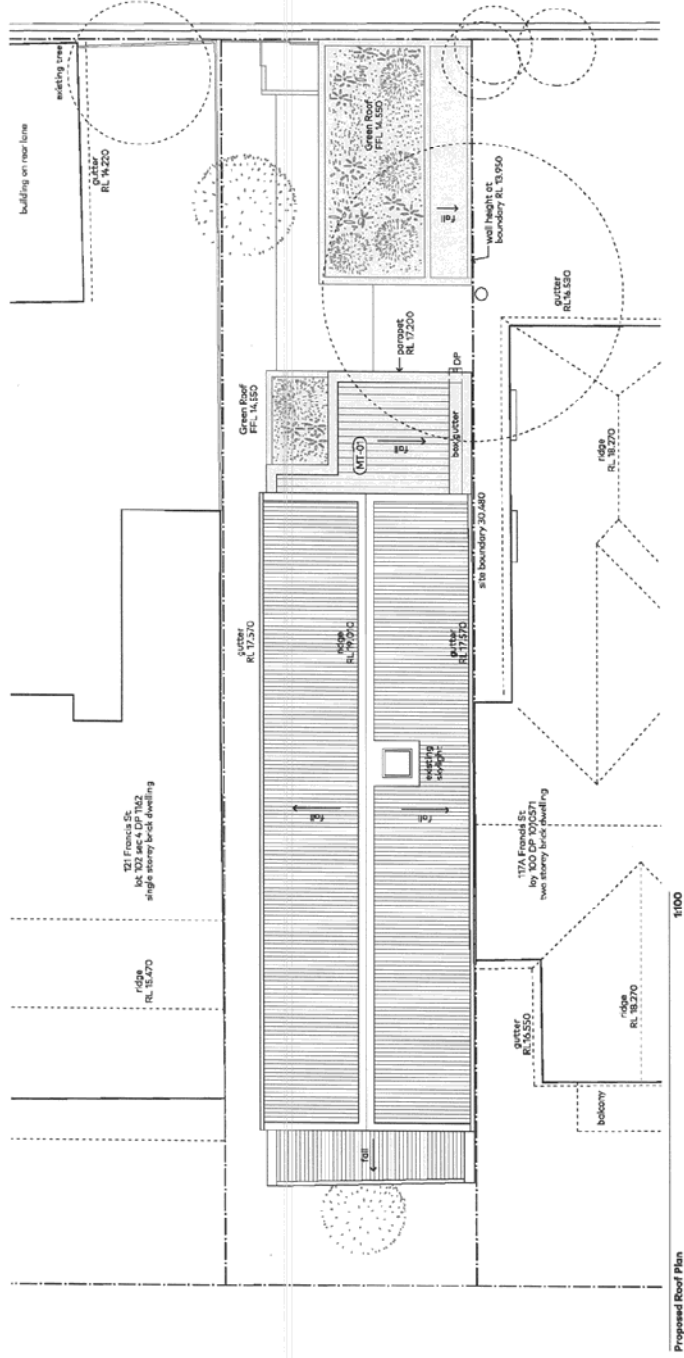
Status
Development Application (DA)
Not for construction

Scale
1:100 @ A3

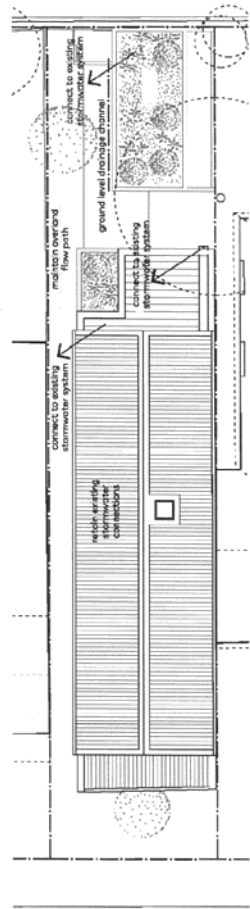
Drawing
Proposed Plans

Project No.
PT122

Sheet
DA-105



Proposed Roof Plan



Stormwater Drainage Concept Plan

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Compliance
Comply with all relevant authorities
Comply with NCC
Comply with all relevant standards
Dimensions in mm
Use figured dimensions only
Use figured dimensions only
Indicate structural / disciplinary areas

Legend
Existing wall
New formed wall
New brick wall
New concrete
New work shodded
Timber cladding
Brick
Concrete
Metal roofing

Date	Rev.	Description
05.04.18	B	Client Review
06.04.18	C	Client Review
06.04.18	D	Client Review
10.04.18	E	DA Submission
08.04.18	F	Client Review
11.04.18	G	Client Review
14.04.18	H	Client Review
16.04.18	I	Client Review
17.04.18	J	DA Amendment

Project
Alterations and Additions to
171 Francis St, Leichhardt

Client
Christine and Saul Housman

Status
Development Application (DA)
Not for construction

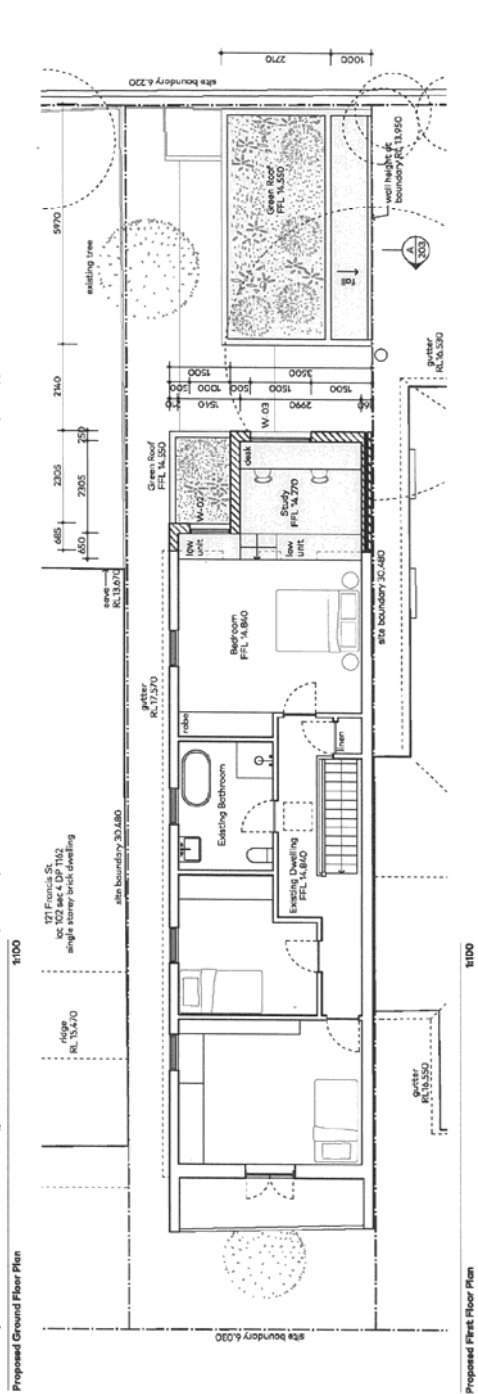
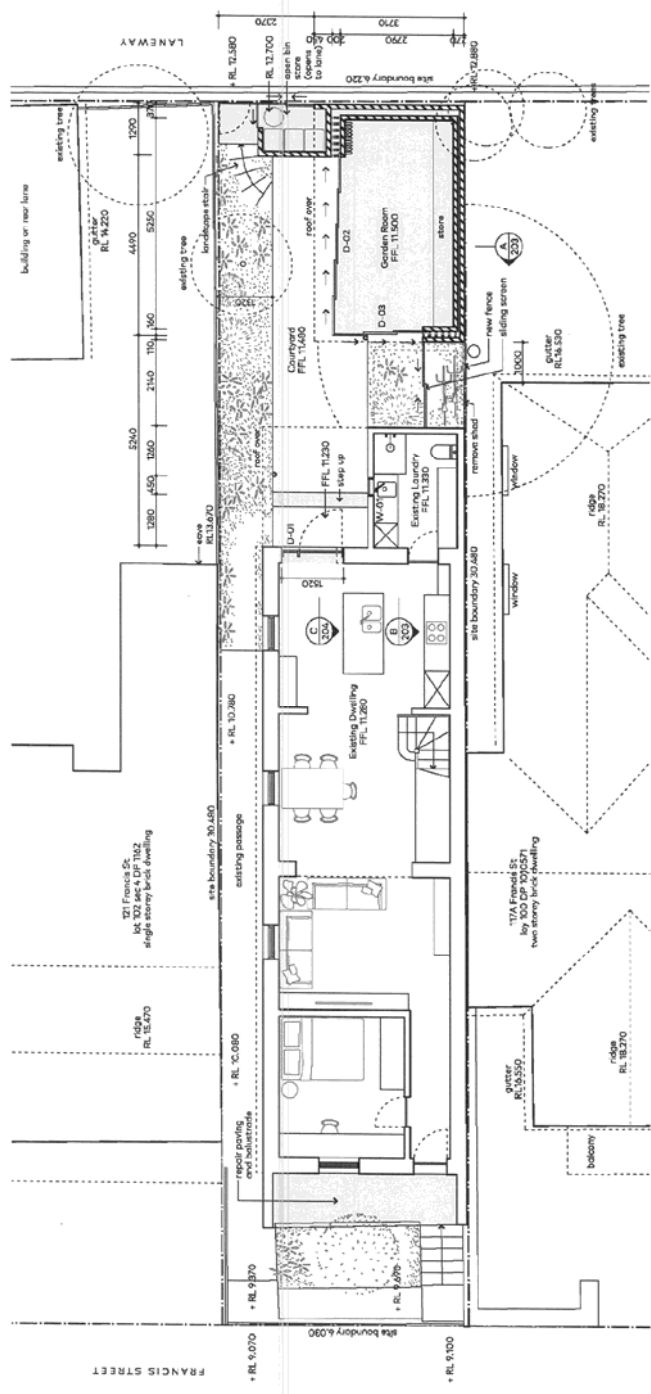
Scale
1:100@A3

North
N

Drawing
Proposed Plans

Project No.
P1722

Sheet
DA-10A



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Comply with all relevant authorities.
Comply with Australian Standards.
Comply with Victorian Planning Provisions.
Comply with all relevant council requirements.
Comply with all relevant building codes.
Comply with all relevant fire codes.
Comply with all relevant accessibility requirements.

Legend

- Existing wall
- New framed wall
- New brick wall
- New concrete
- New work shaded
- Timber cladding
- Blaze
- Concrete
- Metal roofing

Drawings

- 21.02.18 A Client Revise
- 05.04.18 B Client Revise
- 06.04.18 C Client Revise
- 10.05.18 D DA Submission
- 19.04.18 E DA Amendment

Project
Alterations and Additions to
79 Francis St, Leichhardt

Client
Christine and Stuart Hodgson

Status
Development Application (DA)
Not for construction

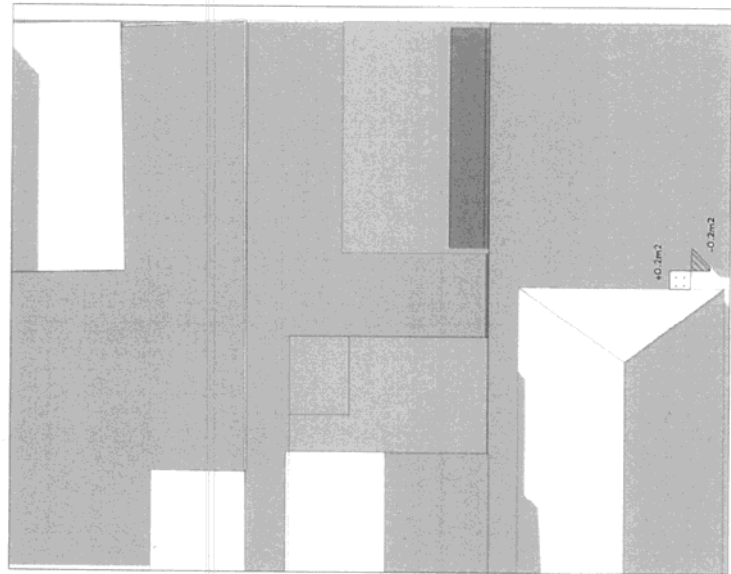
Scale
1:100 (A1)

North
North

Drawing
Shedding Sheet
Area 21, 0950

Project No.
P1772

Sheet
DA-301



Summary of Impacts on 117A Francis St

Time	Overlapping (m ²)	Reduction	Increase
9am	0.2m ²	0.2m ²	0.2m ²
10am	1.7m ²	1.7m ²	0.8m ²
11am	2.4m ²	2.4m ²	1.0m ²
12pm	3.0m ²	3.0m ²	3.6m ²
1pm	1.3m ²	1.3m ²	2.6m ²
2pm	-	-	0.7m ²
TOTAL	10.6m²		

Shaded areas of red reduction are shown in red. Areas of increase are shown in blue.

Shedding Proposed
June 21, 0950
11:00

Shedding Existing
June 21, 0950
11:00

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Nominated Architect
Cesary Bryant NSMP1662 / VIC1829

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Compliance
Comply with all relevant authorities
Comply with Australian Standards
Comply with Council requirements
Comply with all relevant codes of practice
Comply with all relevant industry standards
Comply with all relevant regulatory requirements
Comply with all relevant legislative requirements

Legend
Existing wall
New frame wall
New brick wall
New concrete
New work block
Timber cladding
Brick
Concrete
Metal roofing

Date Rev. Description
21.03.18 A Client Revise
05.04.18 B Client Revise
09.04.18 C Client Revise
10.04.18 D DA Submission
19.04.18 E DA Amendment

Project
Alterations and Additions to
753 Jones St, Leichhardt

Client
Cherstone and Subj. Regdston

Status
Development Application (DA)
Not for construction

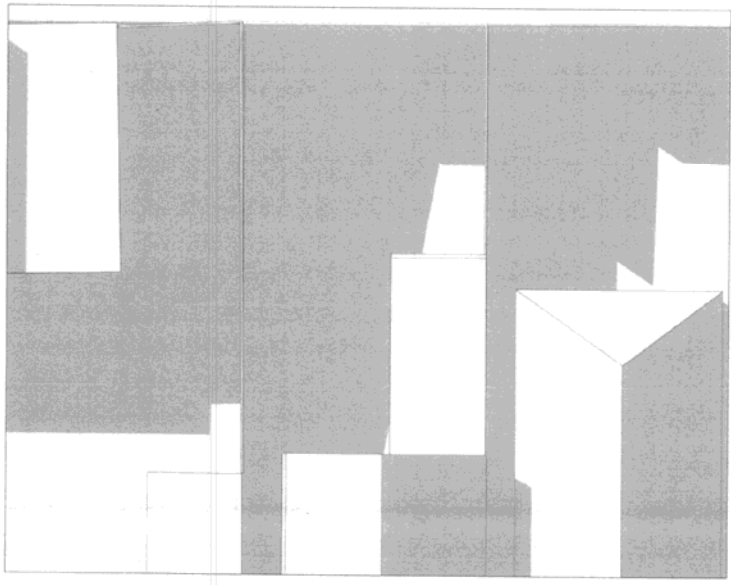
Scale
1:1000(A3)
North
North

Drawing
Shadow Study
June 21, 2018

Project No.
PT122
Sheet
DA.3/30



Shadows Proposed
June 21, 10:00
1:1000



Shadows Existing
June 21, 10:00
1:1000

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Nominated Architect
Casey Bryant, NSWWS / VICWPV

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Compliance
Compliance with all applicable codes and standards.
Compliance with all applicable codes and standards.
Compliance with all applicable codes and standards.
Compliance with all applicable codes and standards.

Legend

- Existing wall
- New brick wall
- New brick wall
- New concrete wall
- New work to be added
- Timber cladding
- Brick
- Concrete
- Metal roofing

Date **Rev.** **Description**

21.02.18	A	Client Brief
05.04.18	B	Client Brief
06.04.18	C	Client Brief
10.04.18	D	DA S. Approval
19.05.18	E	DA Amendment

Project
Aboriginal and Torres Strait Islander Cultural Centre
179 James St, Leichhardt

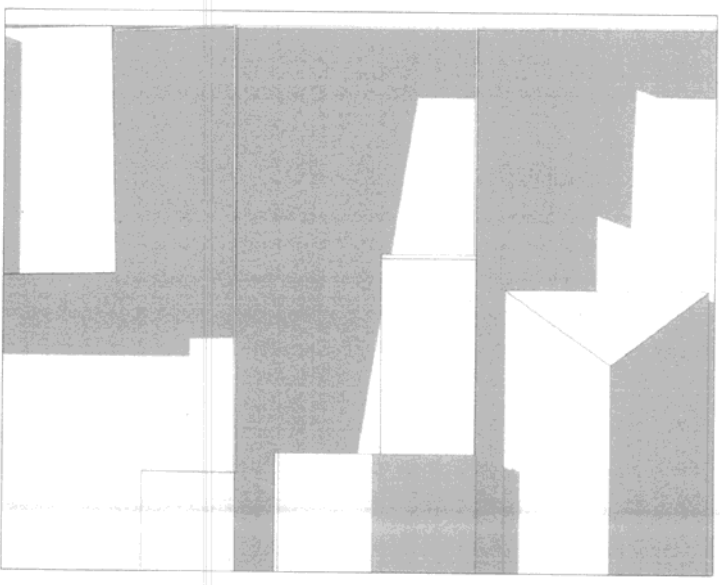
Client
Christiane and Spide Haberman

Status
Development Application (DA)
Not for construction

Scale **North**
1:1000A3

Drawing
Shadows Study
June 21, 11am

Project No. **Sheet**
PT72 (A4-B3)



Shadows Proposed
June 21, 11:00 1:100

Shadows Existing
June 21, 11:00 1:100

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Nominated Architect
Casper Bryant, NSWMS/ VCMR/29

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Compliance
Comply with all relevant authorities
Comply with Australian Standards
Comply with local council requirements
Comply with all relevant legislation
Notify architects of discrepancies

Legend

- Existing wall
- New proposed wall
- New brick wall
- New concrete
- New work public
- Proposed glazing
- Bay
- Column
- Mezzanine

Date Rev. Description

21/02/18	A	Client Brief
05/04/18	B	Client Brief
06/04/18	C	Client Brief
30/04/18	D	DA S1 Submission
19/05/18	E	DA Amendment

Project
Alterations and Additions to
171 Francis St, Leichhardt

Client
Christiana and Sud-Hobson

Status
Development Application (DA)
Not for construction

Scale
1:100 @ A3

Drawing
Shadows Study
June 21, 2020

Project No.
P1722

Sheet
DIA-30A



Shadows Existing
June 21, 2020 1:100



Shadows Proposed
June 21, 2020 1:100

Summary of Impacts on T17A Francis St

Minor increase to overshadowing caused by first floor add on
Cubic access must meet to 50% of required private open space (50m2)
Note: proposed provides 3 hours of solar access to 50% of the required private open space

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Nominated Architect
Cathy Bryant NSW9852 / VIC18129

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Compliance
Comply with all relevant authorities
Comply with NCC
Comply with applicable standards
Comply with all relevant codes of practice
Comply with all relevant laws and regulations
Comply with all relevant planning and development controls

Legend
Existing wall
New fire-rated wall
New brick wall
New concrete
New work abraded
Timber cladding
Brick
Concrete
Metal roofing

Date	Rev.	Description
21.02.18	A	Client Review
05.04.18	B	Client Review
06.04.18	C	Client Review
10.04.18	D	DA S. Submission
19.04.18	E	DA Amendment

Project
Alterations and Additions to
179 Frances St, Leichhardt

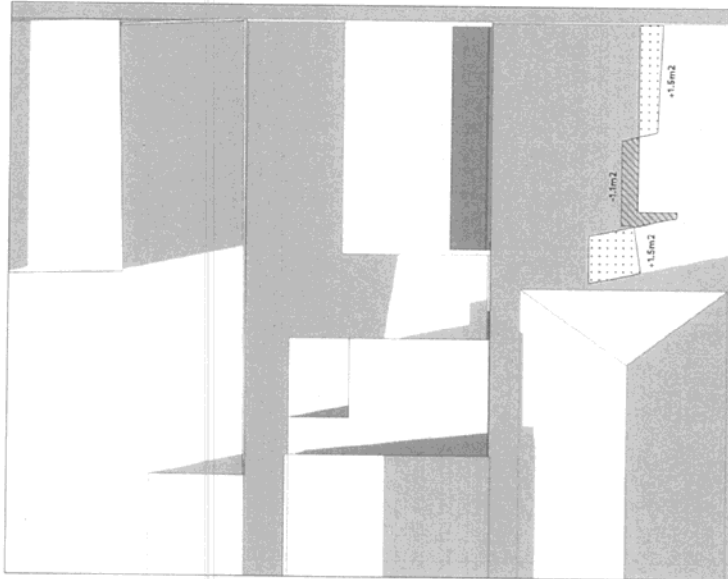
Client
Christiana and Sigal Hobbison

Status
Development Application (DA)
Not for construction

Scale
1:1000 A3
North
N

Drawing
Shadow Study
June 21, 18pm

Project No.
PT22
Sheet
7th of 8



Shadows Existing
June 21, 13:00
1:000

Shadows Proposed
June 21, 13:00
1:000

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Nominated Architect
Cassy Bryant: N200952 / AIC0179

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Compliance
Compliance with relevant authorities
Comply with Australian Standards
Do not build over setbacks
Do not build over boundaries
No prohibited uses
No prohibited alterations to existing structures

Legend

- Existing wall
- New framed wall
- New brick wall
- New concrete
- New masonry
- Timber cladding
- Roof
- Concrete
- Metal roofing

Date	Rev	Description
21.02.18	A	Client Brief
05.04.18	B	Client Brief
04.04.18	C	Client Brief
10.04.18	C	DA S. Imposition
19.05.18	E	DA Amendment

Project
Alterations and Additions to
193 James St, Leichhardt

Client
Christiana and Spud Hobson

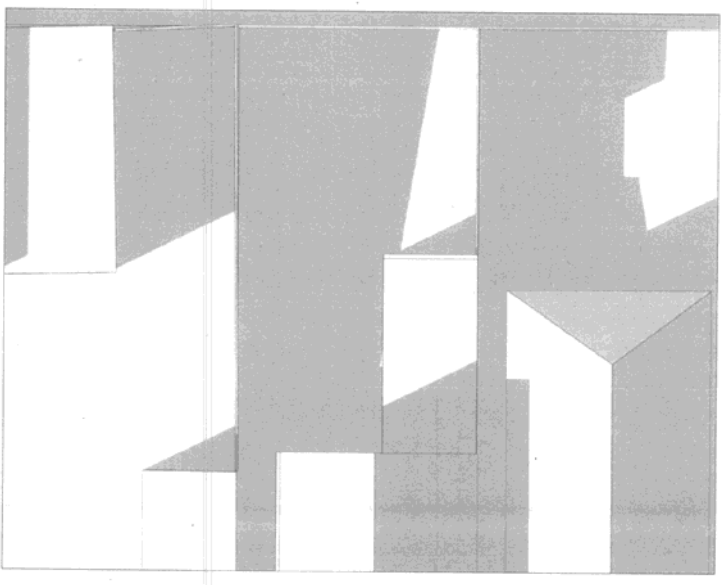
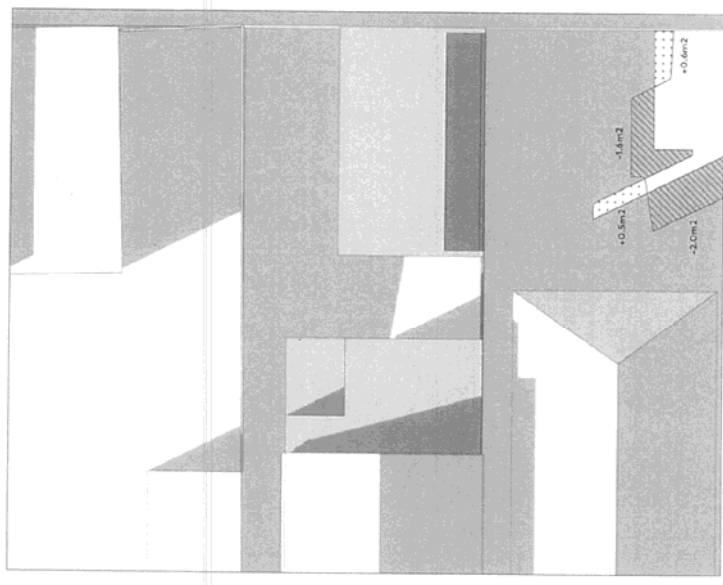
Status
Development Application (DA)
Apt for construction

Scale
1:100 (A3)

Drawing
Shadows Study
June 21, 2018

Project No.
P1722

Sheet
DA-30A



Shadows Existing
June 21, 16:00
1:100

Shadows Proposed
June 21, 14:00
1:100

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Nominated Architect
Clare Byrne, NSW6852 / VIC6799

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Compliance
Comply with all relevant authorities
Comply with NCC, when it applies
Comply with all other relevant standards
Comply with all relevant codes of practice
Comply with all relevant industry standards
Comply with all relevant regulatory requirements

Legend

Existing wall	—————
New framed wall	—————
New brick wall	—————
New concrete	—————
New work slabbed	—————
Timber cladding	
Brick	
Concrete	
Metal roofing	

Date Rev. Description

21/02/18	A	Client Review
05/04/18	B	Client Review
06/04/18	C	Client Review
10/04/18	D	DA S. Emission
19/06/18	E	DA Amendment

Project
Alterations and Additions to
177 Fines, 5, 5/1 Leachwood

Client
Christiane and Stu Holleman

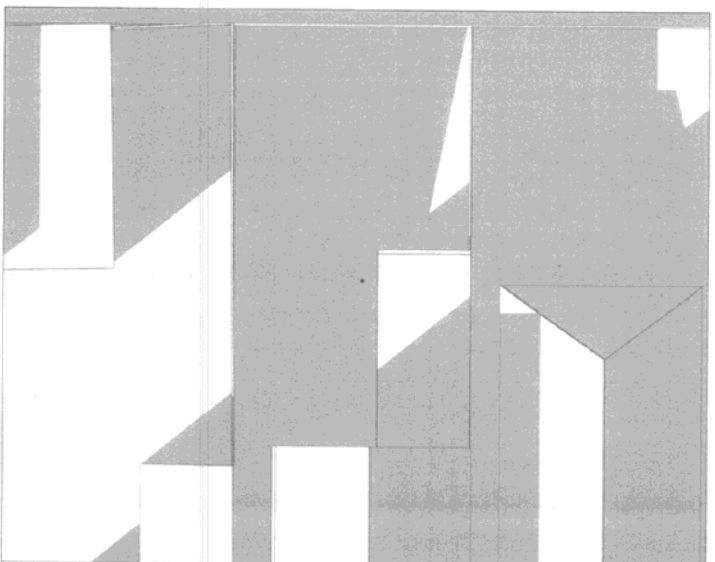
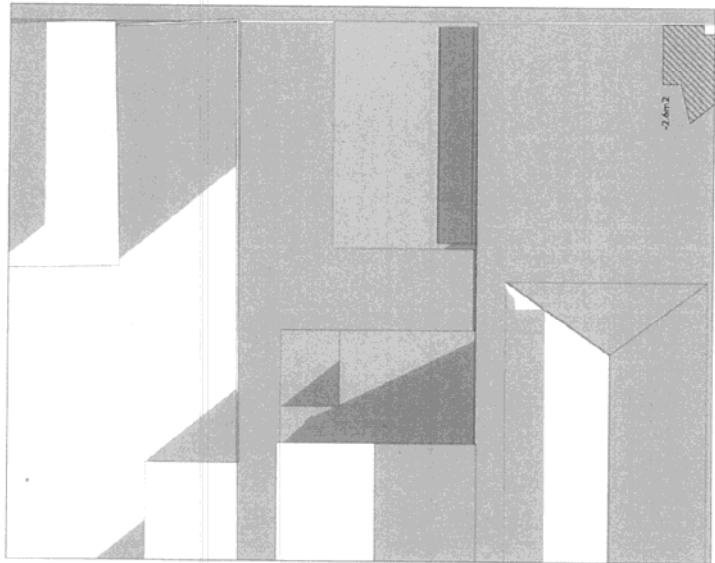
Status
Development Application (DA)
Not for construction

Scale
1:100 (A3)

Drawing
Shadow Study
June 21, 18pm

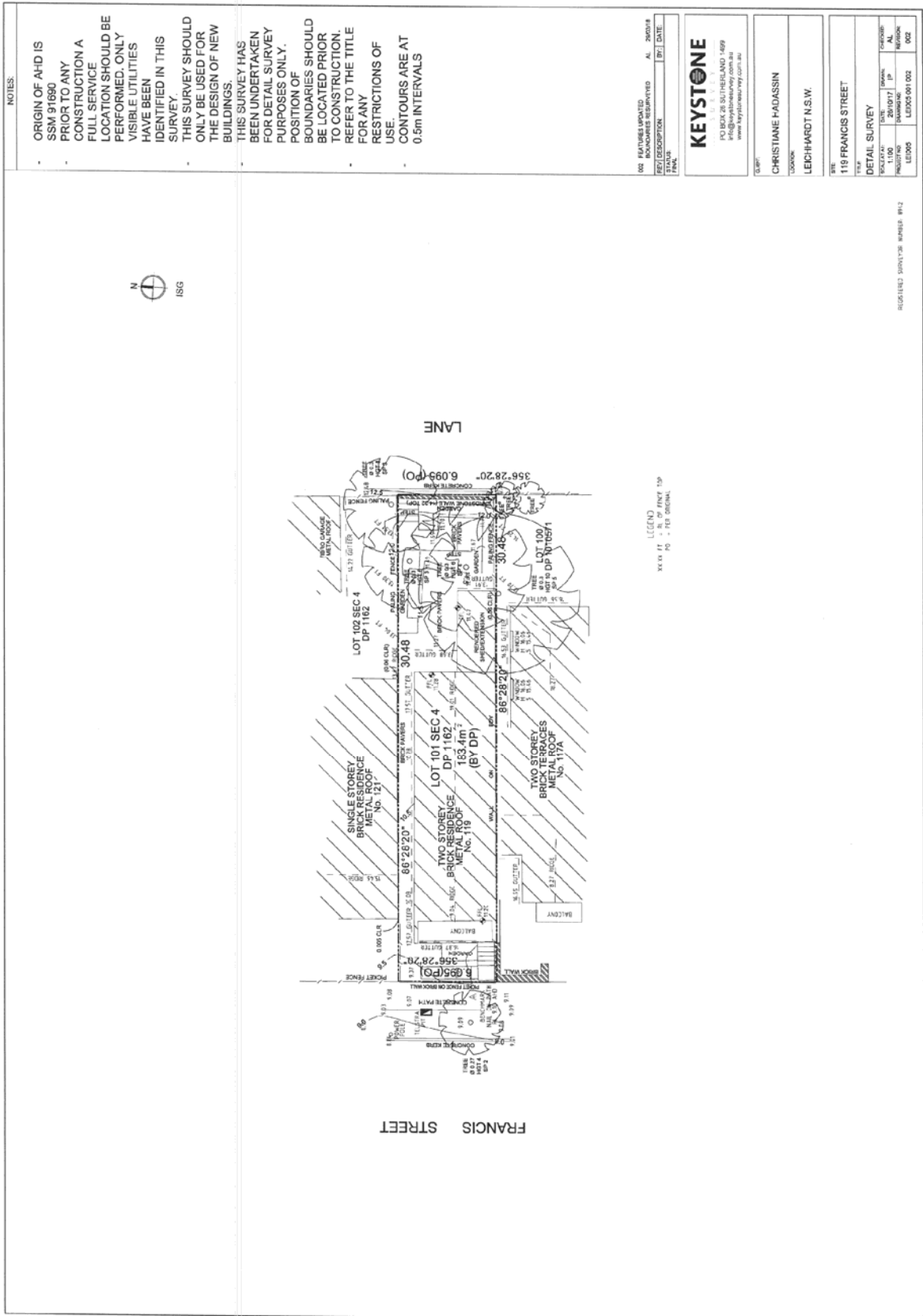
Project No.
89/22

Sheet
05A/01



Shadows Proposed
June 21, 18:00
1:100

Shadows Existing
June 21, 15:00
1:100



NOTES:

- ORIGIN OF AHD IS SSM 91680
- PRIOR TO ANY CONSTRUCTION A FULL SERVICE LOCATION SHOULD BE PERFORMED. ONLY VISIBLE UTILITIES HAVE BEEN IDENTIFIED IN THIS SURVEY
- THIS SURVEY SHOULD ONLY BE USED FOR THE DESIGN OF NEW BUILDINGS.
- THIS SURVEY HAS BEEN UNDERTAKEN FOR DETAIL SURVEY PURPOSES ONLY. POSITION OF BOUNDARIES SHOULD BE LOCATED PRIOR TO CONSTRUCTION. REFER TO THE TITLE FOR ANY RESTRICTIONS OF USE.
- CONTOURS ARE AT 0.5m INTERVALS

100 FEATURES UPDATED	AL	28/03/18
REVISED	BY	DATE
1	AL	28/03/18

KEYSTONE
 PO BOX 28 SUTHERLAND NSW 1489
 info@keystone.com.au
 www.keystone.com.au

DATE: 28/03/18
 SURVEYOR: CHRISTIANE MADASSIN
 LOCATION: LEICHHARDT N.S.W.

SITE		119 FRANCIS STREET	
TYPE		DETAIL SURVEY	
SCALE OF PLAN	DATE OF SURVEY	PROJECT NO.	LEDDOES
1:100	28/03/18	119	LEDDOES 001 002
PROJECT NO.	DATE OF SURVEY	PROJECT NO.	LEDDOES
119	28/03/18	119	LEDDOES 001 002

LEGEND
 XX AS IT - N. OF FINCL 1:50
 PO - FEI ORIGINAL

REGISTERED SURVEYOR NUMBER: 8912

Attachment C – Clause 4.6 Exceptions to Development Standards



INNER WEST COUNCIL



DEVELOPMENT APPLICATIONS EXCEPTIONS TO DEVELOPMENT STANDARDS PURSUANT TO CLAUSE 4.6 OF LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013

DEVELOPMENT APPLICATION DETAILS:

Address:	119 Francis St, Leichhardt
Proposed Development:	Alterations and Additions to a single dwelling

I wish to lodge a request to vary the following development standard for the reasons indicated:

WHAT IS THE STANDARD SOUGHT TO BE VARIED?

- Floor Space Ratio** – Clause 4.4 or 4.4A of LEP 2013
- Landscaped Area** – Clause 4.3A(3)(a) of LEP 2013
- Site Coverage** – Clause 4.3A(3)(b) of LEP 2013
- Subdivision Allotment size** – Clause 4.1 of LEP 2013
- Foreshore Building Area** – Clause 6.5 of LEP 2013
- Diverse Housing** – Clause 6.13 of LEP 2013

*D/2018/185
Amendments*

The purpose of the above standards is to ensure that the proposed works are compatible with the surrounding environment in terms of bulk, scale, amenity, streetscape, setting, transport and preserving the character of the building and surrounding conservation area and heritage items

Where an applicant wishes to vary a development standard, the application must be accompanied by a well-founded, written request which seeks to justify the contravention of the development standard by demonstrating:

- a. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case
- b. that there are sufficient environmental planning grounds to justify contravening the development standard.

Date..... *19 6 18*

Receipt No..... *1988836*

CS Officer..... *TA*

Amount..... *434.44*

What are the environmental planning grounds that justify contravening the development standard?

At 119 Francis St, the existing dwelling contains an FSR of 0.73:1, which is already a breach of the 0.7:1 control. The proposed alterations and additions increase this FSR to 0.86:1 by adding a new studio room and study to allow the current owners space to properly accommodate their family. The proposal is justified as it meets the objects of the EP&A Act 2017, specifically:

(c) *to promote the orderly and economic use and development of land* - the proposal allows the current owners to stay in their community and increases the diversity of housing types in the Inner West by providing for families. It also creates orderly development by matching the FSR of the 7 neighbours to the south (refer to drawing P1722-DA-106 for detail)

(g) *to promote good design and amenity of the built environment* - the proposal maximises amenity and usability of the dwelling. It uses careful design to mitigate impact on the immediate neighbours and the surrounding neighbourhood.

(h) *to promote the proper construction and maintenance of buildings* - the proposal is of high quality construction and will provide easier maintenance for the occupants, as well as facilitating the upgrade of the sites services and drainage.

Why is compliance with the standard unreasonable or unnecessary?

What are the special circumstances in this case?

(To answer consider whether a development that complies is unnecessary or unreasonable)

Compliance with this standard is unreasonable as the existing dwelling does not comply with the standard. This indicates that the standard is unnecessary on this site as the existing dwelling is able to maintain the neighbourhood character and amenity of the neighbouring dwellings despite its non-compliance. To meet this standard would require the reduction of built form, which is unreasonable. Further to this, the FSR of the 7 neighbours to the south of 119 Francis St contain an FSR of 0.86:1. This has been demonstrated on drawing P1722-DA-106 submitted with this DA. It is reasonable to allow this development pattern to continue - so long as the amenity of neighbours can be maintained.

Is the proposed development consistent with the objectives of the particular standard?

Is the proposal consistent with the objectives of the relevant zone?

The proposal meets the objectives of the Floor Space Ratio Clause as outlined in Leichhardt LEP 2013, namely:

(i) *is compatible with the desired future character of the area in relation to building bulk, form and scale* - the proposed built form is recessive behind the existing dwelling and does not impact the neighbourhood character. The proposal maintains the desired future character of the Helsarmel Laneways Sub Area by maintaining the "low scale service nature" of the rear laneway.

(ii) *provides a suitable balance between landscaped areas and the built form* - the proposal increases the landscaped area of the site - bringing the landscape area from a non-compliant 7% up to a compliant 15% by adding new gardens. In addition the proposal provides additional landscaping in the form of the proposed green roof.

(iii) *minimises the impact of the bulk and scale of buildings* - the proposal minimises its impacts by presenting a low scale and setback form to the southern neighbour that does not impact on that neighbours amenity. The proposal creates no increase in overshadowing and does not cause privacy impacts.