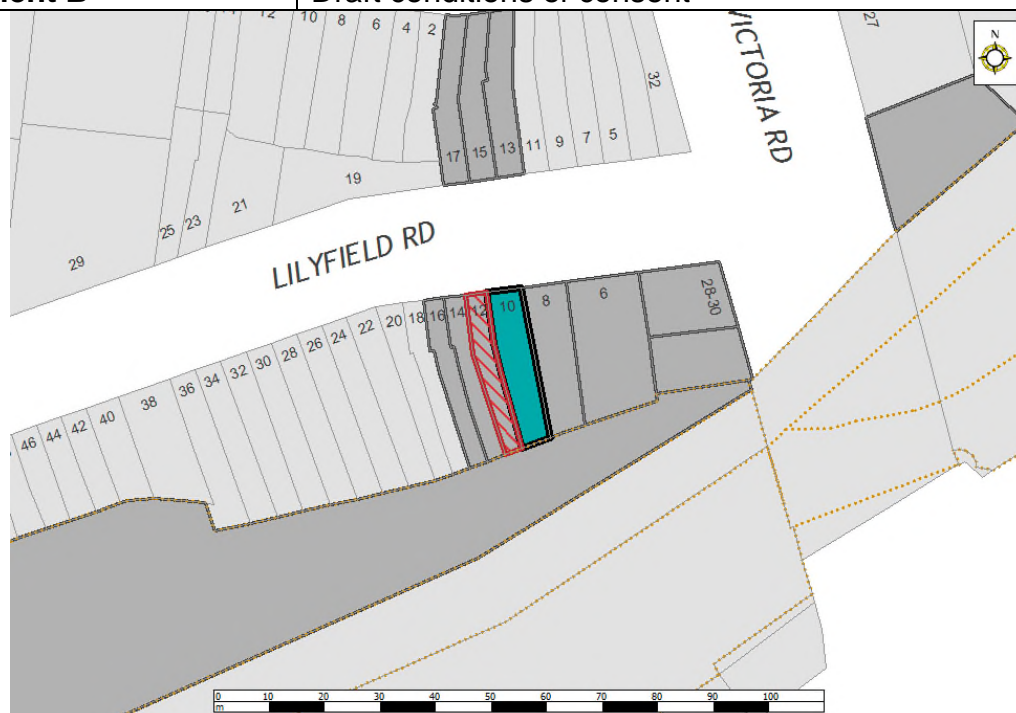




INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	DAREV/2017/14
Address	10 Lilyfield Road, ROZELLE NSW 2039
Proposal	Seeking a Review of D/2016/432 for alterations and additions to existing dwelling including ground and first floors and removal of 7 x palm trees. Review includes additions to existing laundry area at rear lower ground level.
Date of Receipt	10 March 2017
Applicant	Brookes Associates Architects
Owner	Mr E G Ngawaka and Mrs J A Ngawaka
Number of Submissions	Two (2) objections
Building Classification	1a
Reason for determination at Planning Panel	Exceeds officer delegation as there is no substantial change to the recommendation of the review.
Main Issues	Heritage/Streetscape
Recommendation	Refusal
Attachment A	Plans of proposal
Attachment B	Draft conditions of consent



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

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

1. PROPOSAL

This application seeks to review the determination of Development Application No. pursuant to the provisions of Section 82A of the Environmental Planning and Assessment Act, 1979 in the following way:

- Refusal of development application seeking alterations and additions to rear of existing terrace house.
- Review includes changes to the originally determined proposal including excavation under rear of dwelling to provide new enclosed laundry and WC at lower ground level; remove palm trees in rear yard; and internal replanning including new stair to lower ground floor.

The original Development Application was determined on 2 December 2016 by way of refusal.

2. SITE DESCRIPTION

The site is approximately 177m² in area and has a frontage of 6m to Lilyfield Road. The site is located on the southern side of the street.

The site presently accommodates a two-storey terrace house with an unenclosed rear undercroft containing a laundry. The subject dwelling comprises the eastern end terrace in a row of six similar dwellings to the west. The eastern adjoining property at 8 Lilyfield Road, comprises a recent two-storey detached terrace style infill dwelling on a new lot subdivided from 6 Lilyfield Road.

The site is located within the distinctive neighbourhood of Easton Park Rozelle.

The subject site is not a heritage item.

The site is located within a conservation area.

The site is partly located within the CBD Metro reservation.

3. SITE HISTORY

The following table outlines the development history of the subject site.

Date	Application Details
26/4/2016	PRED/2016/57 - Alterations and additions to existing dwelling including ground, first floor and second floor addition – Issued.
2/12/2016	D/2016/432 - Alterations and additions to existing dwelling including ground and first floors and removal of 7 x palm trees – Refused.

4. SECTION 82A REVIEW

Section 82A of the Environmental Planning and Assessment Act, 1979 allows an applicant to request Council to review the determination of an application. The review is to be carried out in accordance with the requirements discussed in the following.

A review of a determination cannot be carried out on a complying development certificate, or a determination in respect of designated development, or a determination in respect of integrated development, or a determination made by the council under section 116E in respect of an application by the Crown.

The subject application was not complying development, designated development, integrated development or an application made by the Crown.

A determination cannot be reviewed after the time limit for making of an appeal under Section 97 expires, being 6 months from the original determination.

The subject application was determined on 2 December 2016. The request for review was received by Council on 10 March 2017.

On 22 May 2017 the applicant lodged an appeal to the Court against the original determination of refusal. Consequently, the date of expiry to Review the original determination of 2 June 2017 is no longer applicable. The current Review application may now be determined by Council beyond that date.

The prescribed fee must be paid in connection with a request for a review.

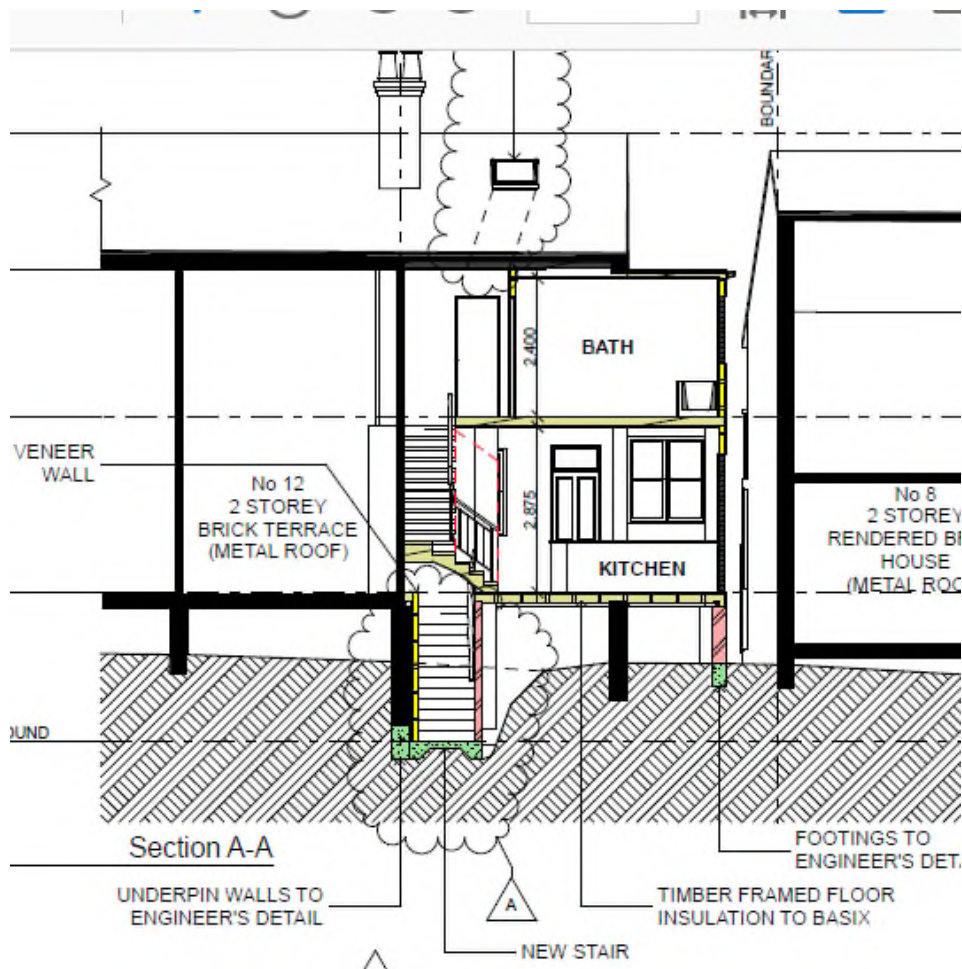
The applicant has paid the applicable fee in connection with the request for a review.

In requesting a review, the applicant may make amendments to the development described in the original application, provided that Council is satisfied that the development, as amended, is substantially the same as the development described in the original application.

The current S.82A Review generally includes the scope of the original development application, with the following additional works:

- Provide vertical double hung windows to the front elevation of the side additions.
- Provide an extension at the rear of the dwelling to provide an enclosed lower ground level including a laundry and WC. The dwelling currently has an unenclosed laundry area and WC in a portion of the new proposed enclosed area. An internal stair is proposed to provide access to this level.
- The existing laundry floor level has been lowered to achieve compliance with minimum ceiling height requirements of the Building Code of Australia.
- Alteration to ground floor level rear elevated deck to setback the western side of deck 900mm from boundary with 12 Lilyfield Road including deletion of the external stairs. Increase rearward depth of the deck by 0.305m from the previous proposed 2.395m to be 2.7m.
- Extend the lower ground floor western boundary wall by approximately 230mm.
- The lower ground floor alterations are indicated on drawings (see below) involve an extension to the footings of part of the adjacent existing Party Wall with 12 Lilyfield Road. It is noted that although party wall consent was provided to the original development application, the scope of the amendments to the design in the current Review application involve substantially more works to the wall including new excavation, floor slab and party wall footings. In this regard the S.82A drawings are unclear as to the full extent of works to, or affecting, the party wall. Although the new party wall footings are shown to extend across the

property boundary onto 12 Lilyfield Road, it is noted that no consent has been provided from the owners of 12 Lilyfield Road to lodgement of the S.82A Review.



- Minor change to the dimensions of one upper side window.
- A revised stormwater design has been provided.
- The Review intends that the existing skylight in rear roof plane be replaced only.

The review of determination has been notified in accordance with the regulations, if the regulations so require, or a development control plan, if the council has made a development control plan that requires the notification or advertising of requests for the review of its determinations.

The application was advertised for a period of 14 days. The advertising period was between 29 March 2017 and 12 April 2017.

A total of two (2) objections were received during the advertising period. The issues raised in these objections are discussed later in this report.

Consideration of any submissions made concerning the request for review within any period prescribed by the regulations or provided by the development control plan.

Issues raised in submissions are addressed at section 6.d) of this report.

As a consequence of a review, Council may confirm or change the determination.

After reviewing the determination of the application, it is recommended that Council confirm the original determination of the application which was by refusal. However, it is noted that reason for refusal No.2 for development application D/2016/432 (below) should be deleted from any determination of the current Review application, as this matter has been resolved in the submitted revised stormwater design.

2. *On-site drainage and stormwater control and management have not been satisfactorily resolved by the proposal, and hence, the proposal does not comply and / or has not demonstrated compliance with:*

- a) *Clause 6.4 of the Leichhardt Local Environmental Plan 2013 - Stormwater Management;*
- b) *The Objectives of Part E of the Leichhardt Development Control Plan 2013 – Water;*
- c) *Clause E1.1.3 of the Leichhardt Development Control Plan 2013 – Stormwater Drainage Concept Plan;*
- d) *Clause E1.2.2 of the Leichhardt Development Control Plan 2013 – Managing Stormwater within the Site; and*
- e) *Clause E1.2.5 of the Leichhardt Development Control Plan 2013 – Water Disposal.*

Furthermore an additional reason for refusal in regard to the lack of owner's consent of 12 Lilyfield Road should also be included as detailed in the recommendation.

The review must not be made by the person who determined the original but is to be made by another delegate of the council who is not subordinate to the delegate who made the determination. If the original determination was made by the Council then the review is also to be considered by the Council.

The original application was determined under Council officer delegation. The review of the application is reported to a Planning Panel meeting in accordance with the requirements of officer delegations in the case where the recommendation is not substantially altered from the original determination in a S.82A Review.

5. REASONS FOR REFUSAL

The original development application was refused on 2/12/2016. The reasons for refusal and discussion of how the proposed amendments address these reasons is as follows.

1. *The proposed alterations and additions will result in unnecessary loss of original building fabric and will adversely compromise the original form, scale, appearance and character of the existing building and will be out of character with the streetscape. The proposal will therefore be contrary to the following controls of the Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013, including:*
 - a) *Clause 1.2 of the Leichhardt Local Environmental Plan 2013 – Aims of the Plan;*

- b) *Clause 2.3 of the Leichhardt Local Environmental Plan 2013 – Zone Objectives and Land Use Table;*
- c) *Clause 5.10 of the Leichhardt Local Environmental Plan 2013 – Heritage Conservation;*
- d) *Clause C1.0 of the Leichhardt Development Control Plan 2013 – General Provisions;*
- e) *Clause C1.1 of the Leichhardt Development Control Plan 2013 – Site and Context Analysis;*
- f) *Clause C1.2 of the Leichhardt Development Control Plan 2013 – Demolition;*
- g) *Clause C1.3 of the Leichhardt Development Control Plan 2013 – Alterations and Additions;*
- h) *Clause C1.4 of the Leichhardt Development Control Plan 2013 – Heritage Conservation Areas and Heritage Items;*
- i) *Clause C2.2.5.2 of the Leichhardt Development Control Plan 2013 – Easton Park Distinctive Neighbourhood, Rozelle;*
- j) *Clause C3.1 of the Leichhardt Development Control Plan 2013 – Residential General Provisions;*
- k) *Clause C3.2 of the Leichhardt Development Control Plan 2013 – Site Layout and Building Design; and*
- l) *Clause C3.3 of the Leichhardt Development Control Plan 2013 – Elevation and Materials.*

Comment: The amended plans the subject of this S.82A review have not resolved the fundamental conflict with Councils planning controls relating to the conservation of contributory fabric within a Heritage Conservation Area. Consequently the above reason for refusal has not been resolved.

2. *On-site drainage and stormwater control and management have not been satisfactorily resolved by the proposal, and hence, the proposal does not comply and / or has not demonstrated compliance with:*

- a) *Clause 6.4 of the Leichhardt Local Environmental Plan 2013 - Stormwater Management;*
- b) *The Objectives of Part E of the Leichhardt Development Control Plan 2013 – Water;*
- c) *Clause E1.1.3 of the Leichhardt Development Control Plan 2013 – Stormwater Drainage Concept Plan;*
- d) *Clause E1.2.2 of the Leichhardt Development Control Plan 2013 – Managing Stormwater within the Site; and*
- e) *Clause E1.2.5 of the Leichhardt Development Control Plan 2013 – Water Disposal.*

Comment: The amended design the subject of the S.82A review has addressed previous issues with stormwater design. This reason for refusal of the original application is not applicable to the current Review.

3. *The proposal will result in significant non-compliance with the 0.5:1 floor space ratio development standard applicable to the site as prescribed in Clause 4.4 of the Leichhardt Local Environmental Plan 2013, and the Exception to the Development Standard pursuant to Clause 4.6 of the Leichhardt Local Environmental Plan 2013 is not deemed to be well founded.*

Comment: This matter is dealt with elsewhere in this report whereby it is considered that the case for variation of the development standard does not warrant support.

4. *The proposal will result in detrimental environmental impacts in the locality, pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979.*

Comment: The impact of the proposal on the contributory fabric of a building and impact on the relationship of same in the streetscape within the conservation area has not been significantly altered from the original development application and is not supported.

5. *The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979.*

Comment: The proposed alterations to the dwelling, which are visible at the side of the existing building from the street within the conservation area, renders this particular site unsuitable for the form of development proposed.

6. *The approval of this application is considered contrary to the public interest, pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979.*

Comment: Given the considerations within this report, the amended plans the subject of this S.82A review application fail to satisfy Council's suite of applicable planning controls and therefore, the proposal is not in the public interest.

6. SECTION 79C(1) ASSESSMENT

The following is a summary of the assessment of the application in accordance with Section 79C of the Environmental Planning and Assessment Act, 1979.

6(a)(i) 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
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Leichhardt Local Environmental Plan 2013

6(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.

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

A BASIX Certificate has been submitted with the S.82A Review application.

6(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 for the following reasons:

- The proposed works would not be overly visible from the harbour and is therefore considered acceptable with regard to the matters for consideration of the SREP.

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

The application was assessed against the following relevant clauses of the Leichhardt Local Environment 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 5.9 – Preservation of trees or vegetation
- Clause 5.9AA – Trees or vegetation not prescribed by development control plan
- Clause 5.10 – Heritage Conservation
- Clause 6.1 – Acid Sulphate Soils
- Clause 6.2 – Earthworks
- Clause 6.4 – Stormwater management

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

Standard	Proposal	% of non-compliance	Compliance
Floor Space Ratio Required: [0.5:1]	0.72:1	45%	NO
Landscape Area Required: 15%	35.7%	N/A	YES
Site Coverage Maximum: 60%	37.9%	N/A	YES

The following provides further discussion of the relevant issues:

Clause 1.2 – Aims of the Plan

It is considered that the proposed demolition of part of the original fabric of the building and location of the side addition is not satisfactory as it does not satisfy the following aims of the plan:

1.2 (2)(b) to minimise land use conflict and the negative impact of urban development on the natural, social, economic, physical and historical environment,

1.2 (2)(b) to identify, protect, conserve and enhance the environmental and cultural heritage of Leichhardt,

1.2 (2)(l) to ensure that development is compatible with the character, style, orientation and pattern of surrounding buildings, streetscape, works and landscaping and the desired future character of the area,

1.2 (2)(o) to prevent undesirable incremental change, including demolition, that reduces the heritage significance of places, conservation areas and heritage items,

As discussed further below in section 5.10 - *Heritage Conservation*, the building is considered to be contributory within the Conservation Area and the demolition of a section of the original portion of the original building and placement of the addition forward in the side passage location is not supported.

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 for residential development in Zone R1.

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 floor space ratio development standard prescribed under Part 4 of Leichhardt Local Environmental Plan 2013.

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.*

The applicant has submitted a written request outlining why compliance with the development standard is unnecessary and unreasonable in this case. The following justifications have been provided which have been considered by Council:

- Other buildings in the area have FSRs similar to or greater than the proposal and the proposed development will be compatible in that context. The proposed additions are for the most part within the existing building envelope and will not add significantly to bulk. The additions are designed to match the existing dwelling and fill in the gap between it and the blank side wall of the neighbour (No.8) and so will be consistent with the style of the existing building and compatible in scale and character with surrounding buildings, which are two-storeys. The built form will remain well-modulated to provide visual interest and reduce apparent bulk. The proposal represents contemporary development which is complementary to the existing streetscape that will maintain hipped and gabled roof forms and preserve the predominant scale and character consistent with Council's desired future character provisions.
- The proposal increases the provision of landscaped area and, as a result, is an acceptable balance between landscaped area and built form.
- The proposed additions are well modulated to reduce apparent bulk and are compatible in scale with the existing and surrounding buildings.
- The proposal will provide a compatible built outcome with minimal additional bulk or visual impact.
- The proposal will improve the dwelling's internal amenity.
- The proposal complies with most other applicable planning controls; that is, landscaped area, site coverage, setbacks, private open space and solar access to adjoining properties.
- The proposal will maintain good solar access to the subject site and surrounding properties.
- The proposal will maintain existing levels of privacy.

- The proposal will cause no loss of views.
 - The proposal will generate no adverse traffic or parking impacts.
 - The proposed built form will have no adverse heritage or streetscape impacts.
- (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.*

The applicant has not satisfactorily addressed the matters required under Clause 4.6 Exceptions to development standard, and the request is not considered to be well founded in this instance. Consideration of the proposed breach in light of the heritage design shortcomings of the proposal contained elsewhere in this report has concluded that the applicant's case for exception does not provide sufficient environmental planning grounds to justify a variation to the development standard.

The Secretary has provided concurrence.

- (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 would 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 would act to compromise the long term strategic outcomes of the planning controls to the extent that a negative public benefit will result. In this regard, the public benefit is better served in this instance in enforcing compliance with the current development standard.

- (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.

5.10 Heritage Conservation

The proposal in its current form is inconsistent with the objectives of this clause, as it does not allow for the conservation of contributory building elements within the conservation area. As discussed in detail elsewhere in this report, the loss of the original front portion of the dwelling wall and extension of the building toward the side boundary is unacceptable. It is therefore concluded that the proposal could be not supported on heritage grounds in its current form.

(a)(ii) Draft Environmental Planning Instruments

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

- Draft State Environmental Planning Policy (Coastal Management) 2016
- Review of FSR's – Leichhardt Local Environmental Plan 201

The following provides further discussion of the relevant issues:

State Environmental Planning Policy (Coastal Management) 2016

The application has been considered against the Draft SEPP for Coastal Management.

The subject site is not located within “the coastal zone” pursuant to Cl 5 of the draft SEPP, as identified on the map to the SEPP. Consequently, the draft SEPP is not applicable.

Planning Proposal - Leichhardt Local Environmental Plan 2013 - Review of Clause 4.4 - Floor Space Ratio for Residential Development in Zone R1

Standard (maximum)	Proposal	% of non - compliance	Compliance
Floor Space Ratio Rozelle - Lot size 150-299.9m ² - FSR 0.8:1	(128.3m ²) 0.725:1	N/A	Yes

The application satisfies the applicable draft Floor Space Ratio standard within the exhibited Planning Proposal to review clause 4.4 of Leichhardt Local Environmental Plan 2013.

(a)(iii) 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	N/A
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes

C1.2 Demolition	No
C1.3 Alterations and additions	No
C1.4 Heritage Conservation Areas and Heritage Items	No
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	Yes
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	Yes
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	N/A
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	Yes
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
Suburb Profile	
C2.2.5.2 Easton Park Distinctive Neighbourhood, Rozelle	No
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	No
C3.2 Site Layout and Building Design	No
C3.3 Elevation and Materials	No
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	N/A
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes

D2.3 Residential Development	Yes
D2.4 Non-Residential Development	N/A
D2.5 Mixed Use Development	N/A
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	
E1.2.1 Water Conservation	N/A
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	N/A
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	N/A
E1.3 Hazard Management	
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A
Part F: Food	
Section 1 – Food	N/A
F1.1 Food Production	N/A
F1.1.3 Community Gardens	N/A
Part G: Site Specific Controls	
Old Ampol land, Robert Street	N/A
Jane Street, Balmain	N/A
Old Balmain Power Station	N/A
Wharf Road Birchgrove	N/A
Anka Site – No 118-124 Terry Street Rozelle	N/A
233 and 233A Johnston Street Annandale	N/A

The following provides discussion of the relevant issues:

C1.2 Demolition

Consideration of the partial demolition of the original portion of the dwelling has been assessed and considered unsatisfactory as the development proposal would result in the loss of a portion of the original front two rooms within the building which is contrary to Councils heritage controls.

C1.3 Alterations and additions

The location of the proposed additions does not comply with Controls C8, C9, C11, C12, & C13 of the DCP, generally in regard to the proposed additions being

incompatible with streetscape and dominating the original built form of the dwelling in the conservation area.

C1.4 Heritage Conservation Areas and Heritage Items

The proposed additions do not comply with Controls C3 & C4 of the DCP regarding to the following specific requirements:

- 'a. not include the demolition of the internal walls and roof form, including any existing chimneys, of the front two rooms of the dwelling;*
- b. retain the major form, scale and materials of the existing structure as described in (a);*
- c. be for a rear addition which does not dominate the existing building or substantially change the relationship of the building to the street when viewed from the street;'*

Concern is raised regarding the extent of demolition proposed, which would reduce the integrity of this contributory building and the visual impact that the proposed side/rear addition would also have on this contributory building in the conservation area.

The subject property is located within the *Hornsey Street Conservation Area*. The statement of significance for the relevant conservation area notes that:

- *This area illustrates a number of layers of development from an early pre-suburban villa of 1876 to small scale tradesmen and workers' housing from the 1870s through to the 1930s.*
- *It is significant for its surviving development from the pre-World War II period (i.e. pre-1939).*
- *Demonstrates the close physical relationship between industry and housing (both middle class and workers') in nineteenth century cities.*

In terms of the maintenance of the identified heritage values of the area, the following is recommended:

"Avoid:

Alterations such as second-storey additions that change the shape of the building or original roof forms on the main part of the buildings."

The *Desired Future Character Controls* of the *Rozelle - Easton Park Distinctive Neighbourhood* include, in part, the following requirements:

- C1. Preserve the existing varied styles of housing with special regard to the modest scale and simple, unadorned nature of the architecture.*
- C3. Preserve the rhythm of the neighbourhood by maintaining the lot sizes, housing style and prevalence of hipped and pitched roofs. Preserve the established*

setbacks for each street [this is interpreted to include the established side setbacks between buildings which also contribute to the character of the street].

C4. *Preserve the consistency and simplicity in built form, style and materials of the neighbourhood.*

C5. *Maintain the existing roof forms, setbacks and fencing styles prevalent in each street.*

C12. *Maintain roof forms with pitched, gable or hipped roofs.*

C13. *The use of traditional timber, stone or masonry finishes, iron roofing and timber windows is encouraged.*

It is noted that the current proposal is similar to the originally determined development application. The only significant changes involve:

- Lowering the floor level in the lower ground level laundry area;
- Providing an internal stairway to the laundry;
- Redesign of the rear deck, including increasing its depth.

It is considered that the integrity and original form and historic character of the subject terrace building and row would be adversely impacted by the extent of the proposed demolition and the form/scale and location of the additional works. These works would infill an open side setback area of the site, which contributes to the character of the area by denoting the historic division between detached and attached terrace housing groups in the locality.

In this regard, it is noted that the sensitive modern infill development on the adjoining property at No.8 Lilyfield Road, has a setback of the portion of the building to the rear so as to achieve side setbacks typical of the locality and which presently exists on the subject site at No.10 Lilyfield Road (See photo below). This ensured that the mass of the new infill dwelling close to the front of the site was also sympathetic to the massing of the traditional terrace housing forms within the street.



No.8 Lilyfield Road – Recent infill development located next to the subject site (on right)

Heritage concerns with the proposed location of the addition and the extent of demolition to the primary form of the existing dwelling remain. These aspects of the proposal are contrary to the Council's Leichhardt DCP2013 heritage controls.

C1.14 Tree Management

It is proposed to remove the existing palm trees at the rear of the site. No objection is raised to the removal of the subject trees as they are exempt species, or are of no landscape significance.

Given that all trees will be removed, in order to account for the immediate loss of vegetation, any consent should require a condition requiring one semi-advanced specimen be planted at the rear of the property.

C2.2.5.2 Easton Park Distinctive Neighbourhood, Rozelle

The extent of demolition proposed does not satisfy Control C1 which requires preservation of the existing varied styles of housing with special regard to the modest scale and simple, unadorned nature of the architecture.

C3.1 Residential General Provisions

The proposed additions do not comply with Controls C1 which requires residential development to not have an adverse effect on:

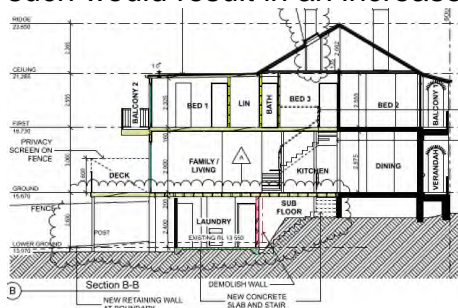
- 'a. the amenity, setting or cultural significance of the place, including the portion of the existing building to be retained; and*

- b. the relationship of any Heritage Item or Heritage Conservation Area to its place, setting and cultural significance,’
- and C2 requiring additions to an existing building are generally:
- located to the rear or the side of the existing building when viewed from the principal street frontage; and
 - subservient to the form of the existing building; and
 - maintain the form, fenestration, roof forms and chimneys of the existing building when viewed from the principal street frontage; and
 - of a design which is compatible with but does not compete with the architectural character of the existing building or the Building Typologies; and
 - of a scale, proportion (including proportion of doors and openings) and material which is compatible with the existing building.

C3.2 Site Layout and Building Design

The Side Setback control is breached to the western side boundary where the proposal is greater than 2.8m on the boundary. In this case, the breach would be up to 2.3m. The control is breached to the additions toward the eastern side boundary where the proposal results in a setback breach of 1.4m. The impact being a visibility of the side front portion of the additions in the streetscape which is contrary to Council’s desired heritage design outcomes.

Additionally, the Bedroom 1 ceiling height of less than 2.4m does not meet BCA requirements for habitable rooms. Concern is raised that to enable compliance with such would result in an increase to the height of the proposal.



C3.3 Elevation and Materials

The proposed use of *Surfmist* coloured metal roof sheeting (noted on samples board submitted with the original development application) is not supported due to its high reflectivity, resulting in loss of amenity to surrounding properties. This colour should be replaced with a darker shade, such as *Shale Grey/ Windspray/ Dune*, or the equivalent.

E1.2.2 Managing Stormwater within the Site

The amended architectural plans and stormwater plans demonstrate that all roof areas can be drained by gravity to the Lilyfield Road frontage via pipelines attached to the side of the dwelling. No objections are raised subject to conditions.

(a)(iv) Environmental Planning and Assessment Regulation 2000

The application has been assessed against the relevant clauses of the Environmental Planning and Assessment Regulation 2000. The application fully complies with the Environmental Planning and Assessment Regulation 2000.

(b) The likely environmental both natural and built environment, social and economic impacts in the locality

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

Adverse impact on Heritage Conservation Area

As discussed elsewhere in this report the proposal would have a negative impact on the existing original fabric of the building and result in an unsympathetic impact to the building when viewed from the street & the significance of the conservation area.

(c) The suitability of the site for the development

The site is zoned *R1 General Residential*. It is considered that the proposal will have an adverse impact on the adjoining properties and therefore it is considered that the site is unsuitable to accommodate the proposed development.

(d) Any submissions made in accordance with the Act or the regulations

The application was notified for a period of 14 days. The notification period was from 29 March 2017 to 12 April 2017. The notification of the application included:

- Letters sent to ten (10) properties.
- A site notice placed on the site.
- Listing under the notification section on Council's website.

Two (2) objections were received during the advertising period. The following information is provided in response to the issues raised in the objections.

Loss of views to No. 12 Lilyfield Road

The proposal will not result in loss of significant views from the rear of 12 Lilyfield Road. The proposed extension to the subject site involving a side wall extending approx. 2.6m beyond the existing rear wall alignment of the dwelling will act to remove some existing limited outlook to the south-east over the adjoining eastern properties toward Rozelle Bay, though no water views exist from No.12. The current outlook from both the lower rear deck and upper rear windows of that property are highly constrained by existing vegetation. Less restricted district views through vegetation exist to the south-west. However, views over the rear of the subject property and No.8 Lilyfield road are limited. (see photos below)



Above: Outlook from upper level rear window of 12 Lilyfield Road over the rear yard of the subject site.



Above: Outlook from rear deck of 12 Lilyfield Road over rear yard of subject site

Reduction in natural light to No. 12 Lilyfield Road

As the rear windows of 12 Lilyfield road face south, no loss of solar access results as a consequence of the proposed additions and it is considered that no significant diminution of existing light access will result from the proposed development.

Excessive bulk to No. 8 Lilyfield Road

The proposed additions do not extend beyond the rear alignment of the dwelling at 8 Lilyfield Road. There are no windows in the western wall of No.8 Lilyfield Road adjoining the subject site. Consequently, it is considered that the proposed rear additions would not constitute a highly visible visual bulk to the objector's property.

Loss of visual & acoustic privacy to rear yard and roof terrace of No. 8 Lilyfield Road.

The location of the ground level rear deck is at a similar level and location as an existing deck. This deck has been extended by 1m in the amended plans the subject

of the S.82A Review. Despite same, the deck is located behind the rear most side wall projection of 8 Lilyfield Road. As such, privacy impacts of this deck could be expected to be similar to that of the existing deck, albeit, with a greater usability inherent in the new deck design.

The ground floor level rear balcony is inset from both side boundaries with a width of 2.7x3.7m with the western edge setback 900mm from and following the angle of, the western side boundary of the site. The existing deck has dimensions of approx. 2.6mx3.6m. The rear edge of this new deck is positioned 2.8m rearward of the existing deck and 0.8m rearward of the existing deck stair landing. Despite the increase in rearward location on the site, the outlook from this deck is limited to the east by the existing side boundary wall of 8 Lilyfield Road which aligns with rear edge of the proposed deck.

The proposed first floor level balcony, having dimensions 2.2m x 1.3m replaces an existing full width balcony having a depth of 1.2m at this level. The rear edge of the proposed balcony is positioned approx. 2.7m rearward of the existing balcony edge so as to be 1.5m back from the rear alignment of the existing boundary wall of 8 Lilyfield Road.

Given the overlooking potential to the rear yard of the objectors property from the existing deck and balcony on the subject site, the changes proposed to the size and position of similar elements on the subject site under the current application are unlikely to result in significant loss of privacy to that property or other neighbouring properties.

The location of the upper level eastern side windows W6 & W7, serving a bathroom and a bedroom within the rear additions, would not cause adverse visual or acoustic privacy impacts to the rooftop observation deck of No.8 Lilyfield Road. This is due to both the requirement of a condition of consent for the roof terrace on 8 Lilyfield Road that it be fitted with high side privacy screens, which would eliminate any potential overlooking from the subject site, and also, the floor level of the proposed rear additions is significantly lower (1.87m) than that of the roof terrace approved on 8 Lilyfield Road.

Potential for the additions to result in mould and mildew to the dwelling at No. 8 Lilyfield Road. The proposed removal of the existing palm trees on the subject site would impact waterproof membrane beneath No.8 Lilyfield Road.

It is considered that the proposed form and location of the additions, proposed to be setback 900mm from the side boundary with the objectors property, are not such as would likely result in any water penetration or similar impacts than any other similar development.

(e) The public interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is contrary to the public interest.

6. SECTION 94 CONTRIBUTIONS

Section 94 contributions are not payable for the proposal.

7. INTERNAL REFERRALS

The application was referred to the following Council Officers:

Building
Drainage Engineer
Heritage Advisor

8. EXTERNAL REFERRALS

The original Development Application was referred to Transport for NSW for comment.

The Transport for NSW comments on the original development application were as follows:

'There are concerns about the potential impacts of the proposed development on the structural integrity and the safe, effective operation and maintenance of the CBO Metro as the proposed development is located within the proposed future rail corridor. The placing of any foundations, other structures and building loads in or near the proposed rail alignment would affect the structural integrity and operation of the CBO Metro.'

In this regard, TfNSW has undertaken an assessment of the additional information provided in accordance with the provisions outlined in the ISEPP and has decided to grant its concurrence to the proposed works (0/2016/432) subject to Council imposing the conditions listed in Attachment.

Should Council choose to not impose the conditions, then TfNSW concurrence has not been granted for the proposed development.

In the event that this development proposal is the subject of a Land and Environment Court appeal, Council's attention is drawn to Section 97A of the Environmental Planning and Assessment Act 1979 which requires Council to give notice of that appeal to a concurrence authority. TfNSW therefore requests Council comply with this requirement should such an event occur.'

Attachment:

'STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

CLAUSE 88 DEVELOPMENT WITHIN OR ADJACENT TO THE INTERIM RAIL CORRIDOR CBD METRO - 10 LILYFIELD ROAD, ROZELLE (D/2016/432)

- 1. The following items are to be submitted to TfNSW for review and endorsement prior to the issuing of a Construction Certificate:*

- a. *The design and construction of the basement levels and foundations for the approved development are to be completed to the satisfaction of TfNSW. Detailed design of the foundation system should be provided including all relevant levels and cross sectional drawings showing the proposed basement and footing excavation and structural design of sub ground support for the proposed foundations.*
2. *The Applicant is to submit to Council, for its records, copies of any certificates, drawings or approvals given to or issued by TfNSW.*
3. *TfNSW, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.'*

Given the scope and nature of the above requirements previously provided by TfNSW, given consideration of the minor changes to the originally referred development application proposed in the current S.82A Review application, the S.82A Review application was not referred to TfNSW for further comment.

9. CONCLUSION

This application has been assessed under Section 82A of the Environmental Planning and Assessment Act, 1979 and is considered to be unsatisfactory. Therefore the application is recommended for refusal for the reasons listed below.

It is considered that the proposed breach of the Floor Space Ratio development standard could not be supported whilst it contributed to the proposed bulk of the additions which involve partial demolition of the original front portion of the dwelling and a side addition forward of the existing rear wall of the second ground floor room, thereby compromising the original fabric & contribution of the dwelling in the conservation area. Further, it is considered that such a change to the design could not be effectively achieved by conditions of any consent.

10. RECOMMENDATION

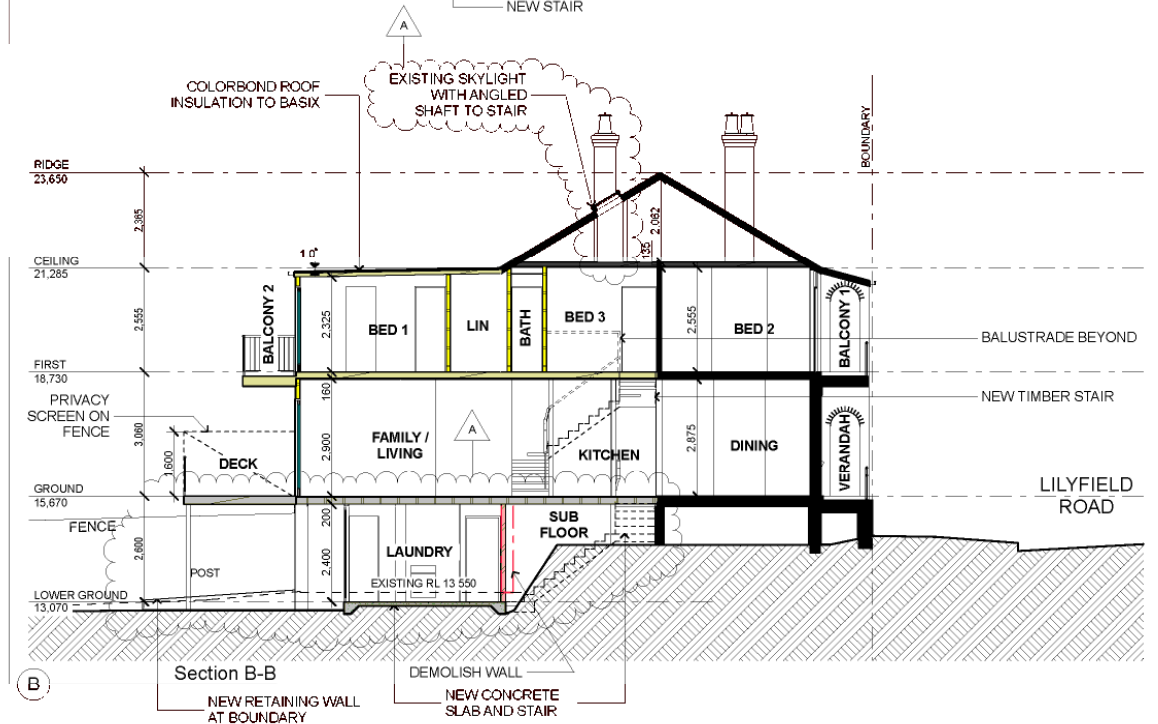
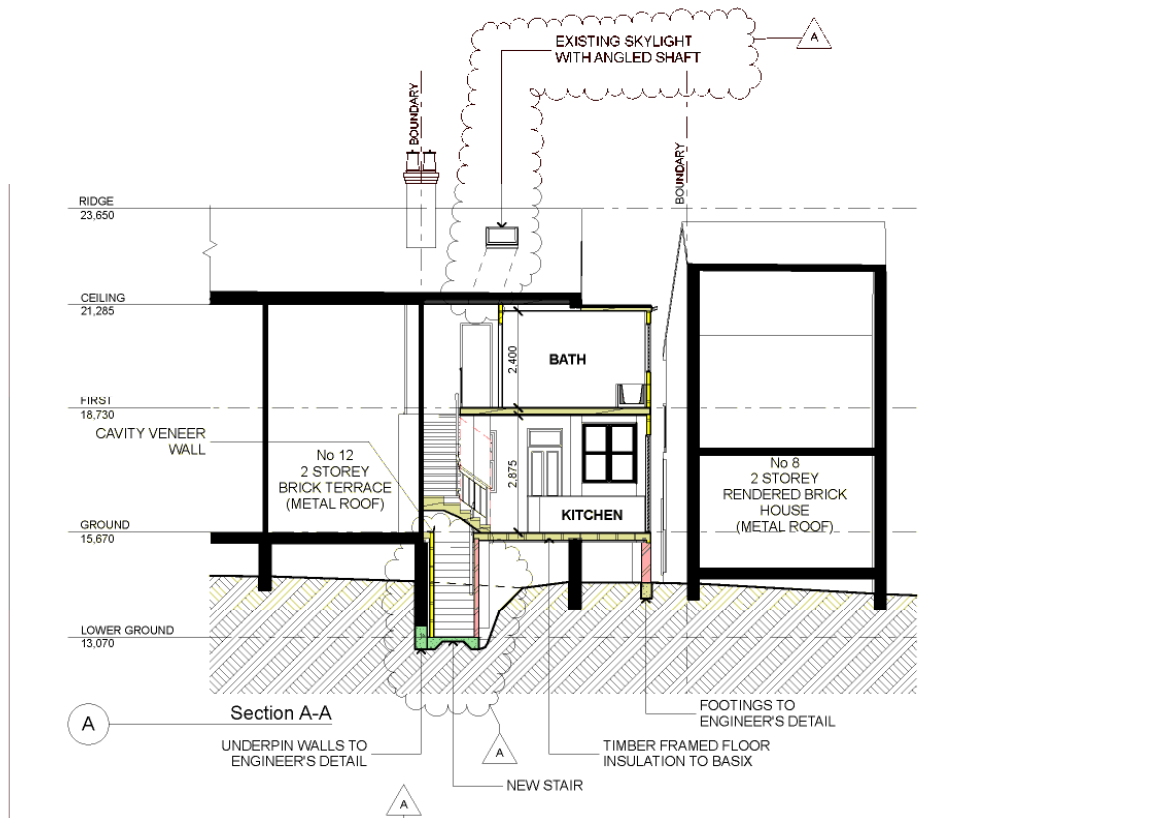
That Council as the consent authority pursuant to Section 82A of the Environmental Planning and Assessment Act, 1979 confirm the original determination of **refusal** Development Application No. D/2016/432 for the following reasons:

1. The consent of the owners of 12 Lilyfield Road to the lodgement of the S.82A Review application has not been provided, despite the amended drawings the subject of the S.82A Review proposing to carry out an extension to the footings of the party wall including new construction within 12 Lilyfield Road.
2. The proposed alterations and additions will result in unnecessary loss of original building fabric and will adversely compromise the original form, scale, appearance and character of the existing building and will be out of character with the streetscape. The proposal will therefore be contrary to the following

controls of the Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013, including:

- m) Clause 1.2 of the Leichhardt Local Environmental Plan 2013 – *Aims of the Plan*;
 - n) Clause 2.3 of the Leichhardt Local Environmental Plan 2013 – *Zone Objectives and Land Use Table*;
 - o) Clause 5.10 of the Leichhardt Local Environmental Plan 2013 – *Heritage Conservation*;
 - p) Clause C1.0 of the Leichhardt Development Control Plan 2013 – *General Provisions*;
 - q) Clause C1.1 of the Leichhardt Development Control Plan 2013 – *Site and Context Analysis*;
 - r) Clause C1.2 of the Leichhardt Development Control Plan 2013 – *Demolition*;
 - s) Clause C1.3 of the Leichhardt Development Control Plan 2013 – *Alterations and Additions*;
 - t) Clause C1.4 of the Leichhardt Development Control Plan 2013 – *Heritage Conservation Areas and Heritage Items*;
 - u) Clause C2.2.5.2 of the Leichhardt Development Control Plan 2013 – *Easton Park Distinctive Neighbourhood, Rozelle*;
 - v) Clause C3.1 of the Leichhardt Development Control Plan 2013 – *Residential General Provisions*;
 - w) Clause C3.2 of the Leichhardt Development Control Plan 2013 – *Site Layout and Building Design*; and
 - x) Clause C3.3 of the Leichhardt Development Control Plan 2013 – *Elevation and Materials*.
3. The proposal will result in significant non-compliance with the 0.5:1 floor space ratio development standard applicable to the site as prescribed in Clause 4.4 of the Leichhardt Local Environmental Plan 2013, and the Exception to the Development Standard pursuant to Clause 4.6 of the Leichhardt Local Environmental Plan 2013 is not deemed to be well founded.
 4. The proposal does not provide a compliant minimum 2.4m ceiling height within the rear upper bedroom as required under the Building Code of Australia.
 5. The proposal will result in detrimental environmental impacts in the locality, pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979.
 6. The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979.
 7. The approval of this application is considered contrary to the public interest, pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979.

Attachment A – Plans of Proposal

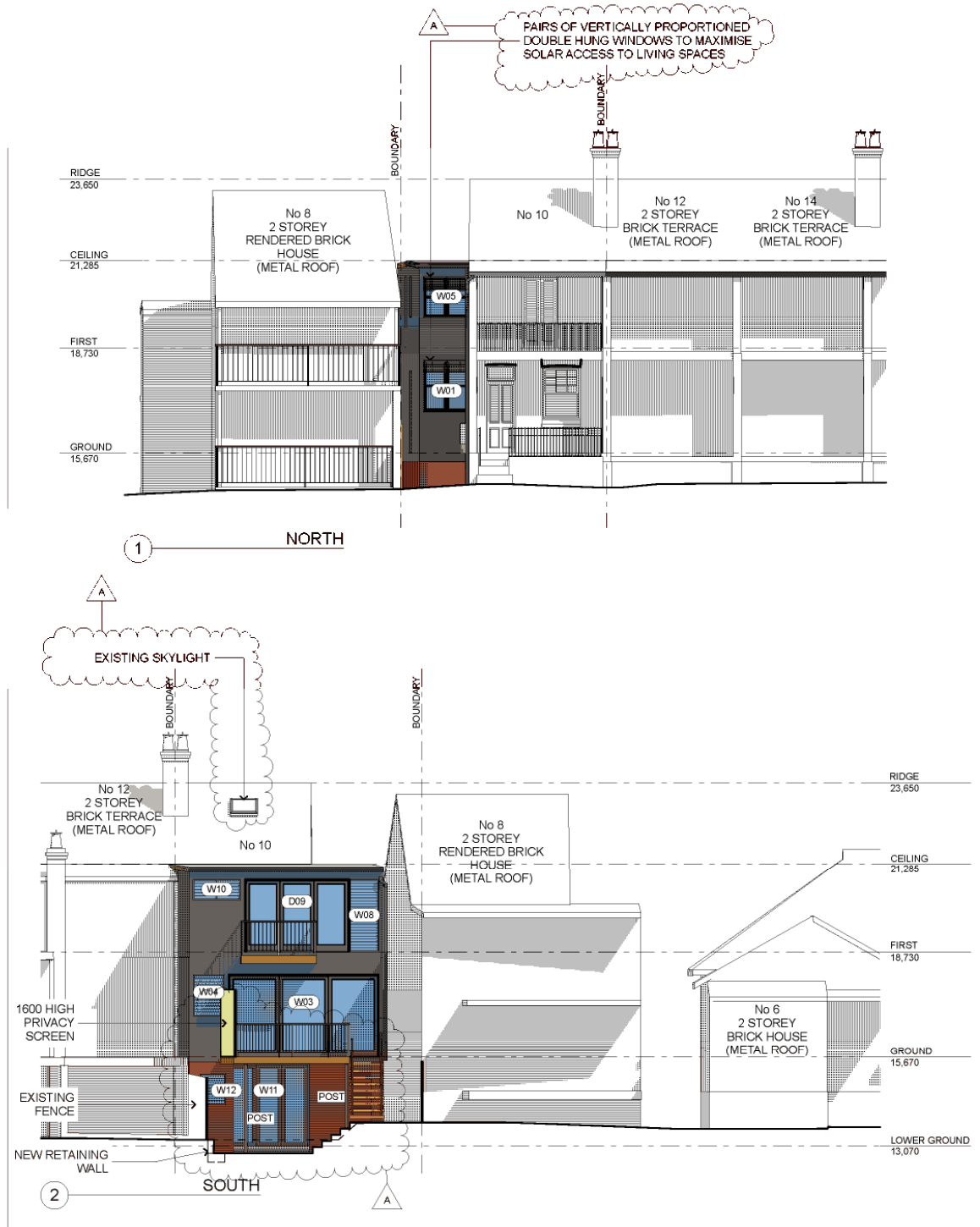


Project
ALTERATIONS AND ADDITIONS TO RESIDENCE
 At
10 LILYFIELD ROAD ROZELLE NSW 2039

Drawing
SECTIONS
 Client
JAIME & ELDON NGAWAKA

Scale 1:100 @ A3
 Date 22.02.2017
 Job No. 14511
 Drawn GGB
 Version 1
 Dwg No. S82A05
 Issue -
 © COPYRIGHT
 VERIFY DIMENSIONS ON SITE
 RL'S TO AHD

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 Christopher Brookes, Registered Architect 2381



NOTES:

- DOOR, WINDOW AND SKYLIGHT NUMBERS CORRESPOND WITH BASIX INITIATIVES

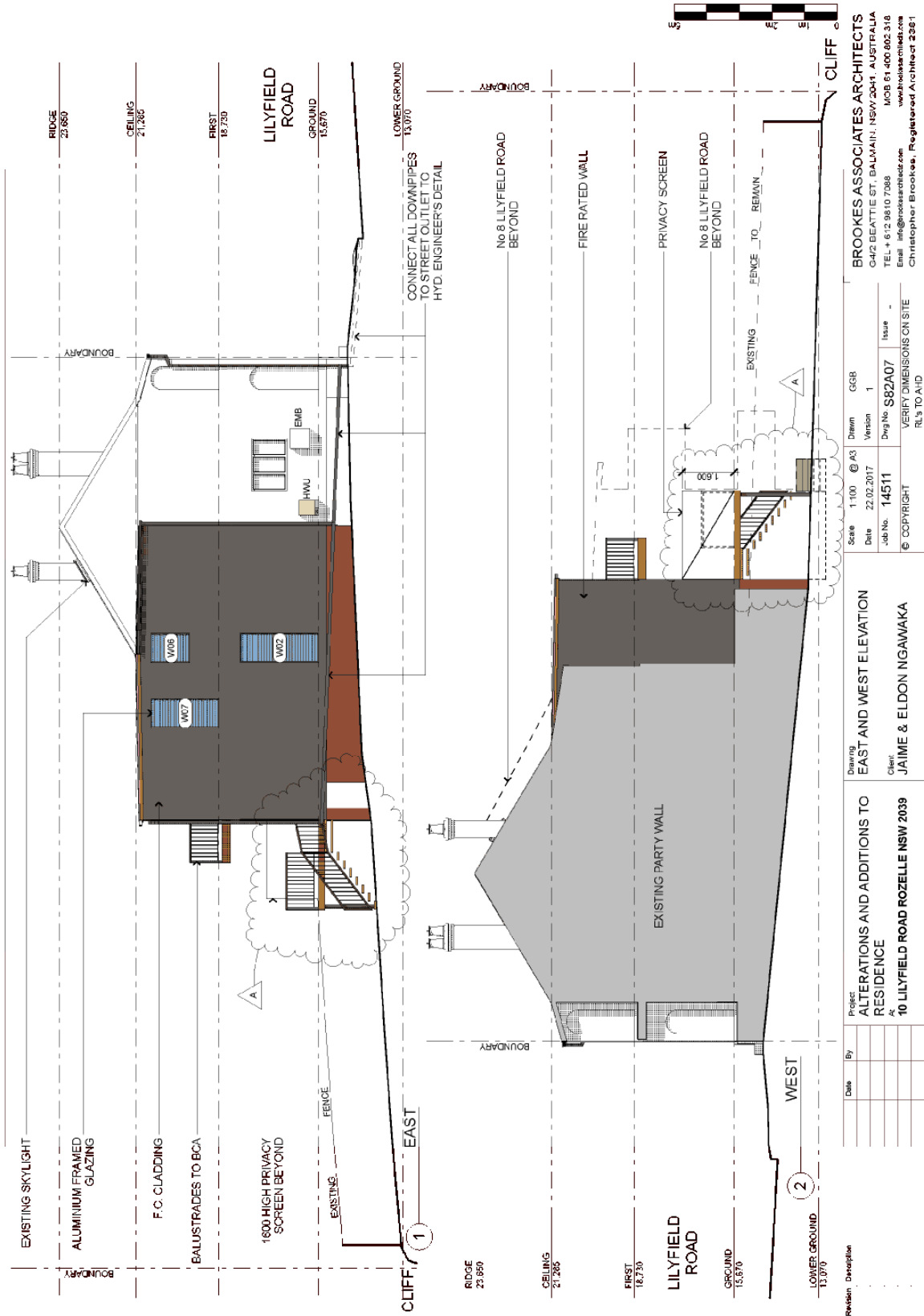


Project
ALTERATIONS AND ADDITIONS TO RESIDENCE
 At
 10 LILYFIELD ROAD ROZELLE NSW 2039

Drawing
NORTH AND SOUTH ELEVATIONS
 Client
 JAIME & ELDON NGAWAKA

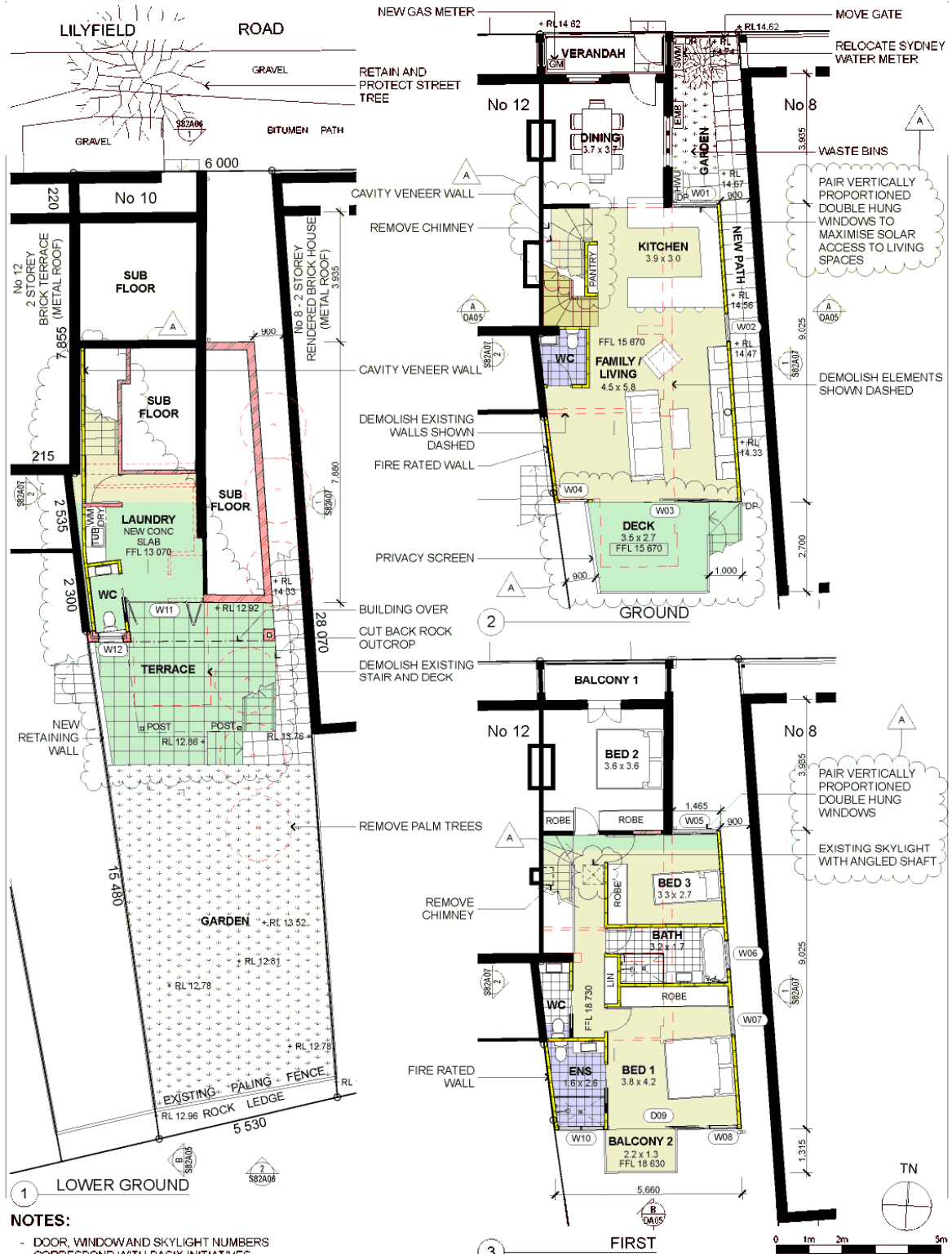
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 Date 22.02.2017 Version 1
 Job No. 14511 Dwg No. S82A06 Issue -
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Project		Scale		Drawn		GGB	
ALTERATIONS AND ADDITIONS TO RESIDENCE		1:100 @ A3		22.02.2017		1	
Client		Job No.		Date		Version	
JAIME & ELDON NGAWAKA		14511		22.02.2017		1	
10 LILYFIELD ROAD ROZELLE NSW 2039		Drawn No.		Issue		Drawn	
		S82A07		1		GGB	
		Verify Dimensions on Site		Verify Dimensions on Site		Verify Dimensions on Site	
		Copyright		Copyright		Copyright	
		RL's to AHD		RL's to AHD		RL's to AHD	

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NOTES:

- DOOR, WINDOW AND SKYLIGHT NUMBERS CORRESPOND WITH BASIX INITIATIVES

Project: ALTERATIONS AND ADDITIONS TO RESIDENCE AT 10 LILYFIELD ROAD ROZELLE NSW 2039
 Drawing: LOWER GROUND, GROUND & FIRST FLOOR PLANS
 Client: JAIME & ELDON NGAWAKA

Scale: 1:100 @ A3
 Date: 22.02.2017
 Job No: 14511

Drawn: GGB
 Version: 1
 Dwg No: S82A04
 Issue: -
 VERIFY DIMENSIONS ON SITE RL'S TO AHD

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AREA STATEMENT

SITE AREA	177.0m ²	
PERMISSIBLE FLOOR SPACE RATIO		
MAXIMUM	88.5m ²	0.5:1
EXISTING		
GROUND FLOOR	34.9m ²	
FIRST FLOOR	35.6m ²	
TOTAL	70.5m²	0.40:1
PROPOSED		
LOWER GROUND FLOOR	14.4m ²	
GROUND FLOOR	56.5m ²	
FIRST FLOOR	58.3m ²	
TOTAL	119.2m²	0.67:1
LANDSCAPE AREA		
MINIMUM (15% SITE AREA)	26.6m ²	15.0%
EXISTING	33.7m ²	19.0%
PROPOSED	63.8m ²	36.0%
SITE COVERAGE		
MAXIMUM (60% OF SITE AREA)	106.2m ²	60.0%
EXISTING	55.2m ²	31.2%
PROPOSED	72.0m ²	40.7%
PRIVATE OPEN SPACE		
MINIMUM 16 m ² AND 3 m DIMENSION		
EXISTING	79.3m ²	
PROPOSED	73.8m ²	

LEGEND

- GROSS FLOOR AREA
- LANDSCAPED AREA
- SITE COVERAGE
- PRIVATE OPEN SPACE

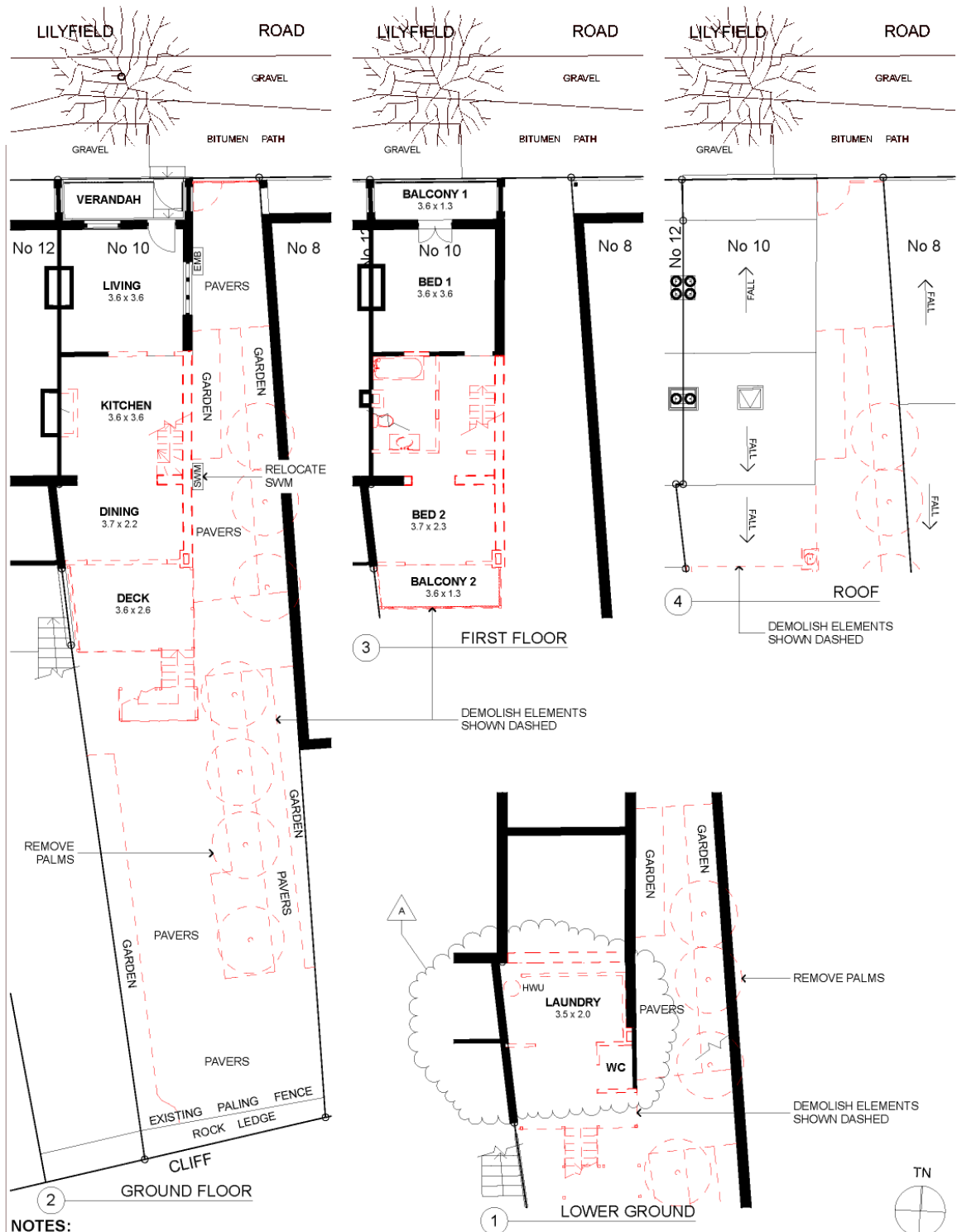
Project
**ALTERATIONS AND
 ADDITIONS TO RESIDENCE**
 At
 10 LILYFIELD ROAD ROZELLE
 NSW 2039

Drawing
**AREA DIAGRAM, AREA
 STATEMENT**
 Client
 JAIME & ELDON NGAWAKA

Scale 1:100 @ A3
 Date 22.02.2017
 Job No. 14511

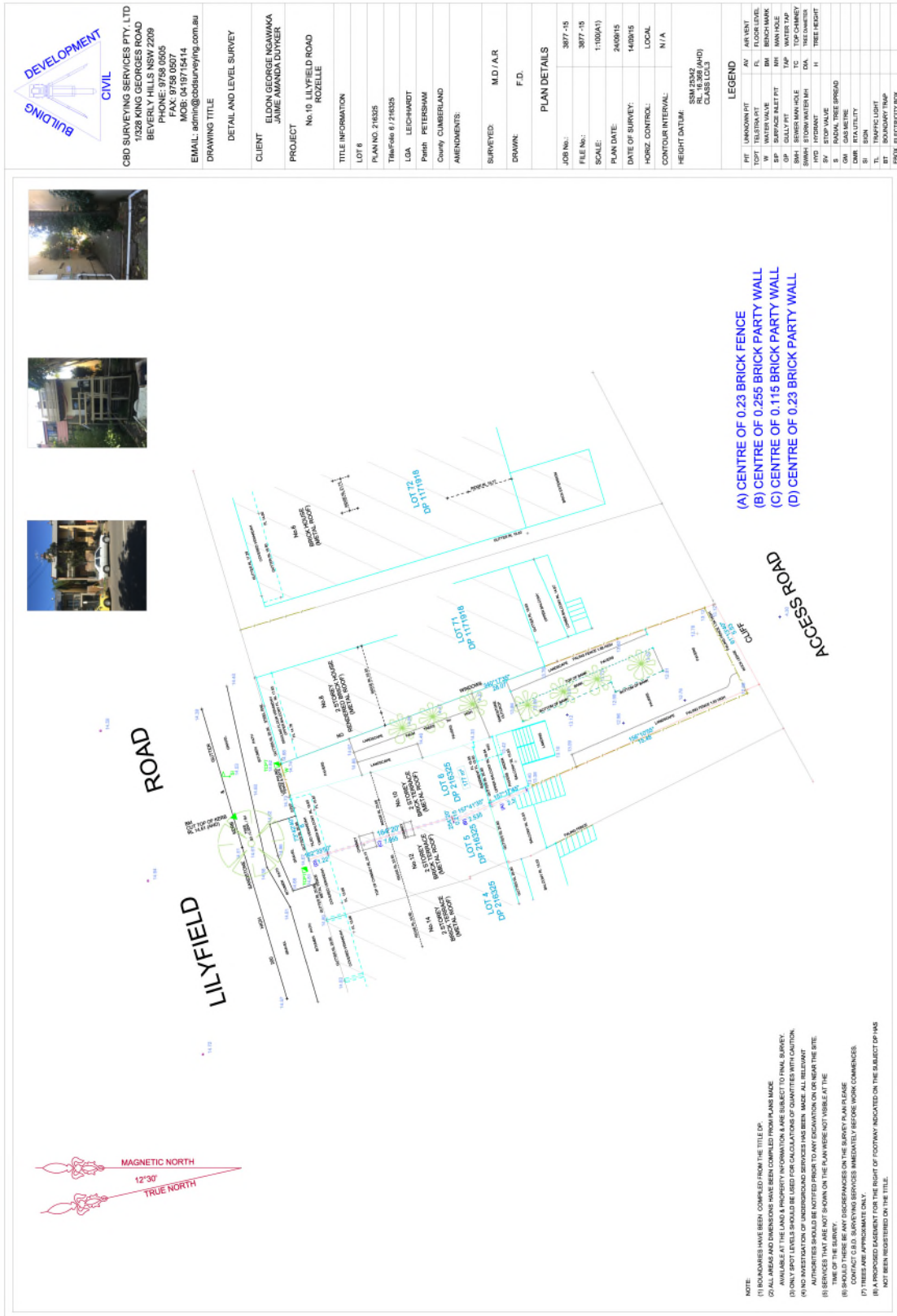
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 Version 1
 Dwg No. S82A02 Issue -
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 RL'S TO AHD

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 Christopher Brookes, Registered Architect 2381



NOTES:
 - DEMOLITION SHOWN IN RED IS DIAGRAMMATIC ONLY.
 CARRY OUT ALL DEMOLITION REQUIRED FOR THE WORKS

Project ALTERATIONS AND ADDITIONS TO RESIDENCE At 10 LILYFIELD ROAD ROZELLE NSW 2039	Drawing EXISTING FLOOR & DEMOLITION PLANS Client JAIME & ELDON NGAWAKA	Scale 1:100 @ A3	Drawn GGB	BROOKES ASSOCIATES ARCHITECTS G4/2 BEATTIE ST, BALMAIN, NSW 2041, AUSTRALIA TEL + 612 9810 7088 MOB 61 400 802 318 Email info@brookesarchitects.com www.brookesarchitects.com Christopher Brookes, Registered Architect 2381
		Date 22.02.2017	Version 1	
		Job No. 14511	Dwg No. S82A03	Issue -
		© COPYRIGHT VERIFY DIMENSIONS ON SITE RL'S TO AHD		



Attachment B – Conditions in the circumstance the application is approved

- Development must be carried out in accordance with Development Application No. **DAREV/2017/14** and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
S82A01	Brookes Associates Architects	22/2/2017
S82A03	Brookes Associates Architects	22/2/2017
S82A04	Brookes Associates Architects	22/2/2017
S82A05	Brookes Associates Architects	22/2/2017
S82A06	Brookes Associates Architects	22/2/2017
S82A07	Brookes Associates Architects	22/2/2017
Survey 3877-15	CBD Surveying Services Pty Ltd	24/9/2015
Document Title	Prepared By	Dated
BASIX Certificate No.255168_02	Brookes Associates Architects	10/3/2017

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

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

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

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

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

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

Elements	Location
Those elements of the existing dwelling specified on approved drawings to be demolished	Existing dwelling

Excluding the following elements which must be retained:

Elements to be retained	Location
All other elements	Site

- The adjoining residents must be notified seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, site contact details/person, elements to be demolished and be placed in the letterbox of every

premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.

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

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

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

by Council against the demolisher and/or owner for failure to comply with this condition.

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

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

Tree/location	Approved works
4x <i>Syagrus romanzoffianum</i> (Cocos Palm) located at the rear of the property.	Removal
2x <i>Archontophoenix cunninghamiana</i> (Bangalow Palm) located at the rear of the property.	Removal
1x <i>Schefflera actinophylla</i> (Umbrella Tree) located at the rear of the property.	Removal

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

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

4. Amended plans are to be submitted incorporating the following amendments:
- a) A work method statement to ensure that the existing dwelling structure remains structurally stable during demolition, excavation and construction phases of the building.

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.

5. 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) The design must be generally in accordance with the stormwater drainage concept plan on Drawing No. 14511 S82A01 prepared by Brookes ASSociates Architects and dated 22 February 2017.
 - 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. Charged or pump-out stormwater drainage systems are not permitted.
 - c) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.
 - d) An overland flowpath must be provided within the setback to the eastern boundary between the Lilyfield Road frontage and the rear of the dwelling.
 - e) A minimum 150mm step up must be provided between all external finished surfaces and adjacent internal floor areas, except where a reduced step is permitted under Section 3.1.2.3 (b) of the Building Code of Australia for Class 1 buildings

- f) All plumbing within the site must be carried out in accordance with Australian Standard *AS/NZS 3500.3-2003 Plumbing and Drainage – Stormwater Drainage*
- g) Plans must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff 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) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
- j) 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.
- k) Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.

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

6. Before the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that no proposed underground services (i.e. water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under Clause 5.9 of Leichhardt Local Environmental Plan 2013, located on the subject allotment and adjoining allotments.

A plan detailing the routes of these services and trees protected under the Local Environment Plan 2013 shall be prepared. Details demonstrating compliance are to be shown on the plans submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

7. The following replacement trees must be planted:

A minimum of 1 x 100 litre size additional tree, which will attain a minimum mature height of 8 metres, shall be planted in a suitable location within the property. The tree is to conform to AS2303—*Tree stock for landscape use*.

Details of the species and planting locations of the replacement plants must be included on the landscape plan and site plan prior to the issue of a Construction Certificate.

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

Council's Tree Management Controls, it must be replaced with the same species.

8. Prior to the issue of a Construction Certificate, a Structural Certificate must be provided to the Principal Certifying Authority. The Certificate must verify that the structural integrity of the existing "Party Walls" are adequate to accept the additional loads imposed thereon by the proposal. A copy of the Certificate must be provided to the consent authority and all owners of the party wall/s.
9. Any air conditioning unit on the site must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the Protection of the Environment (Operations) Act 1997.

The system/s shall be operated as follows:

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

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

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

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

10. Prior to the issue of the Construction Certificate the Principal Certifying Authority is to ensure that the plans state that no high front gutters will be installed.
11. In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979* construction works approved by this consent must not commence until:
 - a) A Construction Certificate has been issued by Council or an Accredited Certifier. Either Council or an Accredited Certifier can act as the "Principal Certifying Authority."

- b) A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment.
- c) At least two days notice, in writing has been given to Council of the intention to commence work.

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

12. The following requirements are to be incorporated into the development detailed on the Construction Certificate plans and provided prior to the issue of a Construction Certificate:
- a) No rainforest timbers or timbers cut from old growth forests are to be used in the construction of the development. Timbers to be used are to be limited to any plantation, regrowth or recycled timbers, or timbers grown on Australian Farms or State Forest Plantations.

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

13. In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more. The Long Service Levy is payable prior to the issue of a Construction Certificate.

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

14. Materials and finishes must be complementary to the predominant character and streetscape of the area, and any existing buildings & the period of construction of the buildings. New materials that are not depicted on the approved plans must not be used. Highly reflective wall or roofing materials and glazing must not be used. Materials must be designed so as to not result in glare (maximum normal specular reflectivity of visible light 20%) or that causes any discomfort to pedestrians or neighbouring properties. Details of finished external surface materials, including colours and texture must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority.
15. Existing unpainted brick surfaces are not to be painted, bagged or rendered but to remain as original brick work. The Construction Certificate plans must clearly depict all original brickwork with a notation that they are to remain unpainted to the satisfaction of the Principal Certifying Authority.
16. If any excavation extends below the level of the base of the footings of a building on an adjoining property, the person causing the excavation:

- a) Must preserve and protect the adjoining building from damage
- b) Must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- c) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

17. The following fire upgrading is required pursuant to Clause 94 of the *Environmental Planning and Assessment Regulation 2000*:

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

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

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

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

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

19. A Soil and Water Management Plan must be provided prior to the issue of a Construction Certificate. The Soil and Water Management plan must designed to be compatible with the document *Planning for Erosion and Sediment Control on Single Residential Allotments or Managing Urban Stormwater–Soils & Construction*

Volume 1 (2004) available at www.environment.nsw.gov.au and the Construction Management and Traffic Management Plan referred to in condition/s of this Development Consent and must address, but is not limited to the following issues:

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

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

20. The approved plans must be checked online with Sydney Water Tap In to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. A copy of this approval must be supplied with the Construction Certificate application. Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 132092.

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

21. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan (where applicable):
 - a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.

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

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

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

22. A Waste Management Plan (WMP) is to be provided in accordance with Part D – Waste – Development Control Plan 2013. The Plan must address all issues identified in the DCP including but not limited to:

- a) Estimated volume (m3) or weight (t) of materials that are reused, recycled or removed from site.
- b) On site material storage areas during construction.
- c) Material and methods used during construction to minimise waste.
- d) Nomination of end location of all waste and recycling generated from a facility authorised to accept the material type for processing or disposal and retention of waste dockets to be made available to Council Officer on request
- e) A clear statement within the Waste Management Plan of responsibility for the transferral of waste and recycling bins within the property and between floors where applicable to the collection point in accordance with DCP 2013.

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

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

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

Security Deposit (FOOT)	\$ 2,075.50
Inspection fee (FOOTI)	\$ 219.00

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

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

Should any of Council’s property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council’s assets or the environment at risk, Council may carry out any works necessary to repair the damage and/or remove the risk. The cost of these works will be deducted from the security deposit.

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

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

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

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

Property	Structures / Area
8 Lilyfield Road	Dwelling
12 Lilyfield Road	Dwelling

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

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

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

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

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

26. Should works require any of the following on public property (footpaths, roads, reserves), an application shall be submitted and approved by Council prior to the commencement of the works associated with such activity or the Construction Certificate (whichever occurs first)
- a) Work/Construction zone (designated parking for construction vehicles). – A Work Zone application
 - b) A concrete pump across the roadway/footpath. – A Standing Plant permit
 - c) Mobile crane or any standing plant – A Standing Plant Permit
 - d) Skip bins other than those authorised by Leichhardt Council – Skip Bin Application
 - e) Scaffolding/Hoardings (fencing on public land) – Scaffolding and Hoardings on Footpath Application
 - f) Road works including vehicle crossing/kerb & guttering, footpath, stormwater provisions etc – Road works Application
 - g) Awning or street verandah over footpath. – Road works Application
 - h) Installation or replacement of private stormwater drain, utility service or water supply – Road Opening Permit

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.

PRIOR TO THE COMMENCEMENT OF WORKS

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

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

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

- a) location of the building with respect to the boundaries of the site;
28. The site must be secured with temporary fencing prior to any works commencing.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public property to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property.

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

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

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

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

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

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

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

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

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

30. Any person or contractor undertaking works on public property must take out Public Risk Insurance with a minimum cover of ten (10) million dollars in relation to the occupation of, and approved works within public property. The Policy is to note, and provide protection for Leichhardt 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.
31. Prior to the commencement of works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
32. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form (available on Council's web page) and details of the appointed Principal Certifying Authority shall be submitted to Council.
33. Prior to the commencement of works, a sign must be erected in a prominent position on the site (for members of the public to view) on which the proposal is being carried out. The sign must state:
- a) Unauthorised entry to the work site is prohibited.

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

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

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

DURING WORKS

- 34. 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.
- 35. No trees on public property (footpaths, roads, reserves etc) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41. In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the demolition, construction or operation/use of the development.
42. 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.
43. The development must be inspected at the following stages by the Principal Certifying Authority during construction:
 - a) after excavation for, and prior to the placement of, any footings, and
 - b) prior to pouring any in-situ reinforced concrete building element, and
 - c) prior to covering of the framework for any floor, wall, roof or other building element, and
 - d) prior to covering waterproofing in any wet areas, and
 - e) prior to covering any stormwater drainage connections, and
 - f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
44. A copy of the approved plans and this consent must be kept on site for the duration of site works and in the case of any commercial or industrial premise for the duration of the use/trading. Copies shall be made available to Council Officer's upon request.
45. Sedimentation controls, tree protection measures and safety fencing (where relevant) shall be maintained during works to ensure they provide adequate protection during the course of demolition, excavation and construction works. Materials must be stored in a location and manner to avoid material being washed to drains or adjoining properties.

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

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

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

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

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

47. Prior to the issue of an Occupation Certificate, the Principle 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 Principle Certifying Authority prior to the issue of an Occupation Certificate.

48. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious weed species and tree planting, have been undertaken in accordance with the approved plan(s) and conditions of consent. A copy of an active Landscape management plan/contract for the maintenance of the landscaping for a period of not less than two years after the installation is to be provided prior to the issue of the Occupation Certificate.

49. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.

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

51. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all works have been completed in accordance with the approved Waste Management Plan referred to in this development consent.

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

52. Prior to the release of an Occupation Certificate, the Principal Certifying Authority must be satisfied that the development complies with:
- the approved plans;
 - BASIX certificate (where relevant),
 - approved documentation (as referenced in this consent); and
 - conditions of this consent.

ONGOING CONDITIONS OF CONSENT

53. The canopy replenishment trees required by this consent are to be maintained in a healthy and vigorous condition until they attain a height of 6 metres whereby they will be protected by Council's Tree Management Controls. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species within 2 months.
54. The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within seventy-two (72) hours of its application.
55. Any lighting of the premises shall be installed and maintained in accordance with Australian Standard AS 4282-1997: *Control of the Obtrusive Effects of Outdoor Lighting* so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if in the opinion of an Authorised Council Officer it is considered there to be have adverse effects on the amenity of the area.
56. The canopy replenishment trees required by this consent are to be maintained in a healthy and vigorous condition until they attain a height of 6 metres whereby they will be protected by Council's Tree Management Controls. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species within 2 months.
57. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. *Dwelling* without the prior consent of the Council unless the change to another use is permitted as exempt or complying development under *Leichhardt Local Environment Plan 2013* or *State Environmental Planning policy (Exempt and Complying Codes) 2008*.

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

PRESCRIBED CONDITIONS

A. BASIX Commitments

Under clause 97A of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments

listed in each relevant BASIX Certificate for the development are fulfilled. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

In this condition:

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

B. Building Code of Australia

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

C. Home Building Act

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

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

D. Site Sign

- 1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while to 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 80A (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 82A 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, integrated 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 82A.

3. If you are unsatisfied with this determination, Section 97 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 96 of the *Environmental Planning and Assessment Act 1979*.
6. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
7. This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):
 - a) Application for any activity under that Act, including any erection of a hoarding.
 - b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
 - c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
 - d) Development Application for demolition if demolition is not approved 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.

