





 DEVELOPMENT ASSESSMENT REPORT	
Application No.	DA/2020/0477
Address	85 Hill Street LEICHHARDT NSW 2040
Proposal	Boundary realignment of two existing Torrens title lots, and construction of two X two storey semi-detached dwellings
Date of Lodgement	23 June 2020
Applicant	Blu Print Designs Pty Ltd
Owner	Ms Marta Levanec James Ardagna Santo Ardagna
Number of Submissions	One
Value of works	\$680,000.00
Reason for determination at Planning Panel	Minimum lot size variation exceeds officer delegations
Main Issues	Undersized lots
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards
	
LOCALITY MAP	
Subject Site	
Notified Area	
Objectors	
Supporters	
	 N

1. Executive Summary

This report is an assessment of the application submitted to Council for boundary realignment of two existing Torrens title lots, and construction of two X two storey semi-detached dwellings at 85 Hill Street, Leichhardt.

The application was notified to surrounding properties and one (1) submission was received.

The main issues that have arisen from the application include:

- Minimum subdivision lot size under 200sqm.
- Potential amenity impacts.

The non-compliance with the minimum lot size is acceptable given the surrounding prevailing subdivision pattern wider character of the locality, and the proposal will result in no undue adverse amenity impacts on adjoining properties, and hence, the application is recommended for approval.

2. Proposal

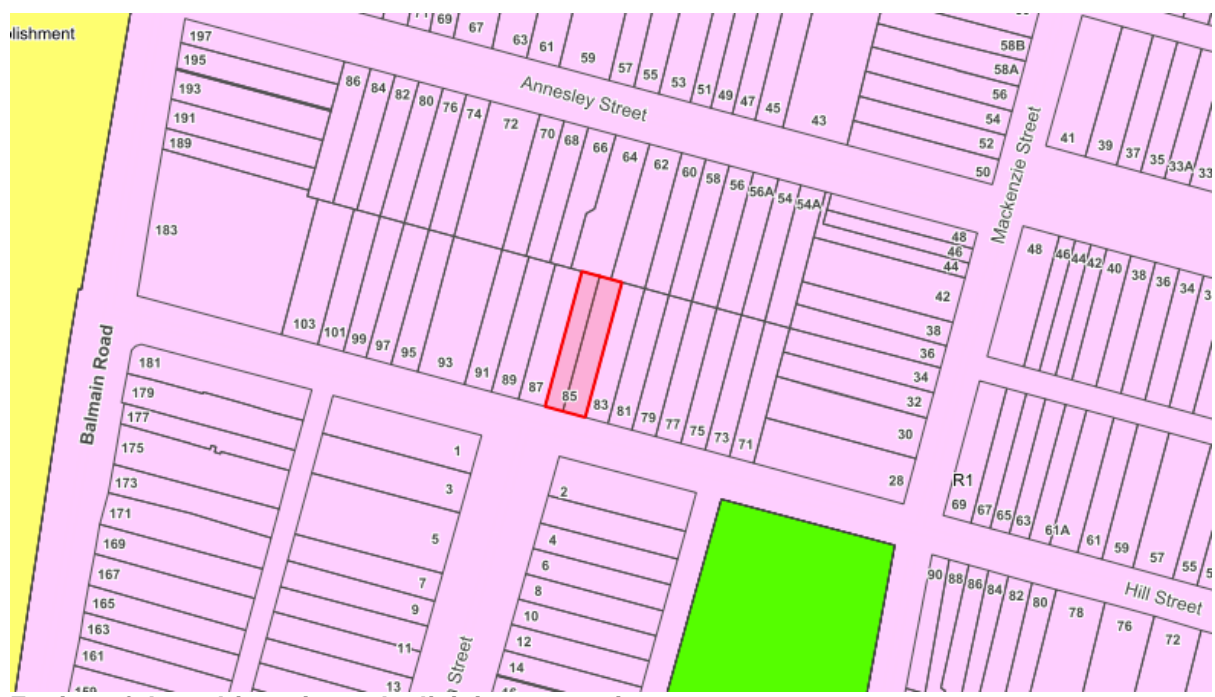
The application seeks consent for the boundary realignment of two existing Torrens title lots, and the construction of a two storey semi-detached dwelling on each lot. The proposed Torrens title subdivision will result in Lot 85A (western lot) having a total area of 178.3sqm and Lot 85 (eastern lot) having a total area of 178.3sqm. The proposed semi-detached dwellings are two-storey storeys in scale with pitched roofs. The side profiles of the front of the dwellings have been designed to appear as gable ends. The roof consists of one (1) front dormer per dwelling and the overall design of the front elevation results in the dwellings appearing as single storey to the street.

The dwellings have an identical (mirrored) internal layout. The proposed ground floor comprises of a rumpus, bathroom, laundry, kitchen, dining and living room. The proposed first floor comprises of three (3) bedrooms with an ensuite to the master and one (1) bathroom. An alfresco and landscaped area is provided adjacent to living room at the rear of the property.

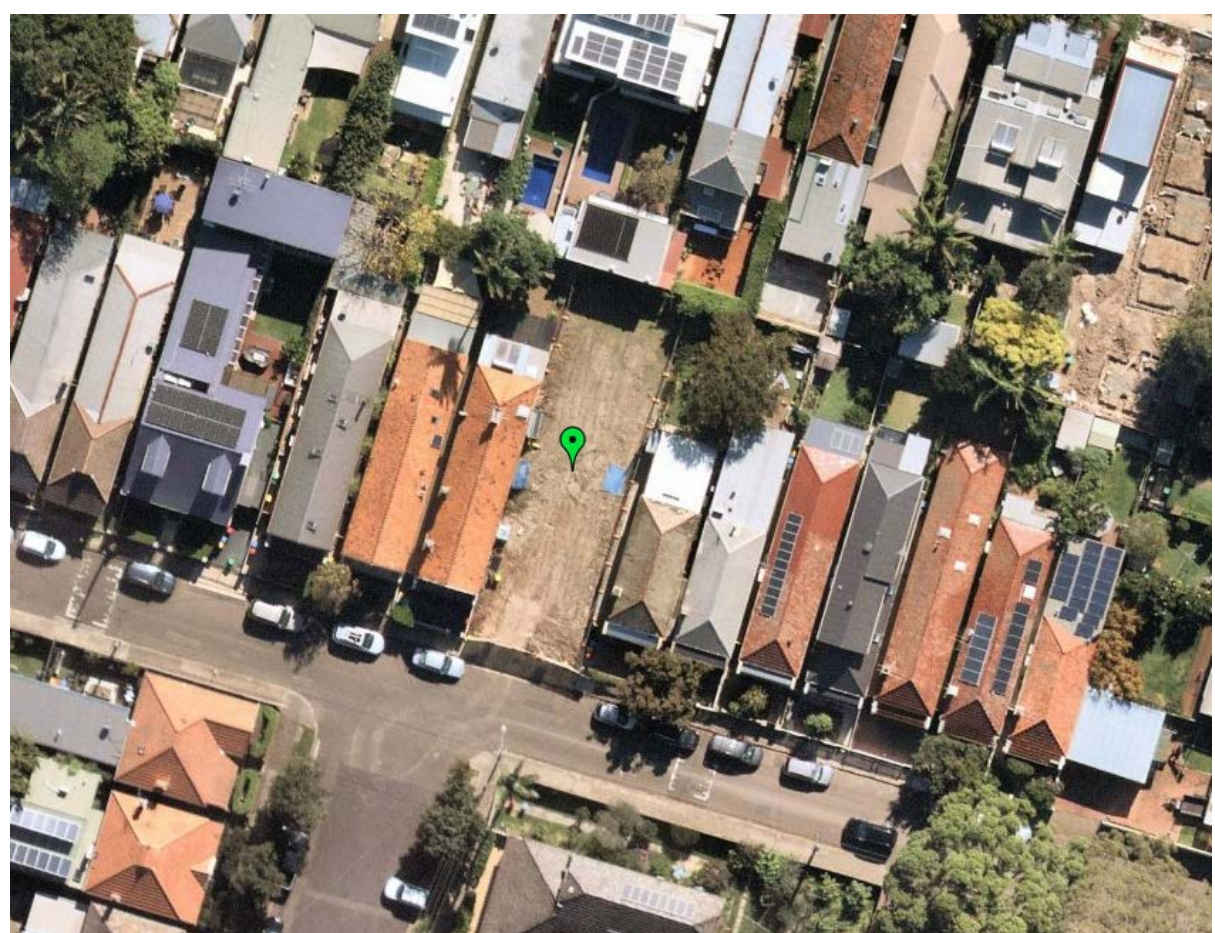
3. Site Description

The subject site (existing) is located on the northern side of Hill Street between Balmain Road and Mackenzie Street. The site consists of Lot 4 (western lot) and Lot 5 (eastern lot) of DP3656 and is generally rectangular in shape.

The total area of Lot 4 (existing) is approximately 144.6sqm with a frontage of 4.265m to Hill Street. The total area of Lot 5 (existing) is approximately 211.9sqm with a frontage of 6.25 to Hill Street. The total area of the site is 356.5sqm.



Zoning of the subject site and adjoining properties.



The subject site is currently vacant. The adjoining properties to the east and west support single storey dwelling houses. The subject site is zoned R1 – General Residential and is not listed as a Heritage Item nor within a Heritage Conservation Area, however is located in close proximity to Heritage Item No. 1657 (90 Hill Street Leichhardt). The property is not identified as a flood prone lot.

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
PREDA/2020/0073	Demolition of existing structures, tree removal, re-subdivision into two Torrens title allotments and construction of two new dwellings on each lot	Advice Letter Issued – 15 April 2020
CDCP/2020/0050	Demolition of the existing dwelling and associated structures	24 February 2020

Surrounding properties

Not applicable

4(b) Application history

Not applicable

5. Assessment

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

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Coastal Management) 2018*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *Leichhardt Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. *SEPP 55* requires the consent authority to be satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent.

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

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

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

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

The subject site is not within the Foreshores and Waterways Area.

Leichhardt Local Environment Plan 2013 (LLEP 2013)

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

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.5 - Additional permitted uses for land
- Clause 2.6 - Subdivision
- Clause 2.7 - Demolition
- Clause 4.1 - Minimum subdivision lot size
- Clause 4.3A(3)(a) - Landscaped areas for residential accommodation in Zone R1
- Clause 4.3A(3)(b) - Site Coverage for residential accommodation in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.4A - Exception to maximum floor space ratio for active street frontages
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 4.6 - Exceptions to development standards
- Clause 5.4 - Controls relating to miscellaneous permissible uses
- Clause 5.10 - Heritage Conservation
- Clause 6.1 - Acid Sulfate Soils
- Clause 6.2 - Earthworks
- Clause 6.4 - Stormwater management
- Clause 6.8 - Development in areas subject to aircraft noise

The following tables provide an assessment of the application against the development standards:

Table 1 -Proposed Lot 85 (Eastern Lot)

Standard (maximum)	Proposal	% of non compliance	Compliance
Subdivision 200m ² min lot size	178.3	10.85% 21.7sqm	No
Floor Space Ratio Required: [0.7:1] [124.8m ²]	0.7:1 124.3m ²	-	Yes
Landscape Area Required: [15% Min] [26.74m ²]	35% 62.3	-	Yes
Site Coverage Required [60% Max] [106.98m ²]	42.79% 76.3m ²	-	Yes

Table 2 - Proposed Lot 85a (Western Lot)

Standard (maximum)	Proposal	% of non compliance	Compliance
Subdivision 200m ² min lot size	178.3	10.85%	No
Floor Space Ratio Required: [0.7:1] [124.8m ²]	0.7:1 124.3m ²	-	Yes
Landscape Area Required: [15% Min] [26.74m ²]	35% 62.4	-	Yes
Site Coverage Required [60% Max] [106.98m ²]	42.79% 76.3m ²	-	Yes

(i) Clause 2.3 - Land Use Table and Zone Objectives

The site is zoned R1 – General Residential under the *LLEP 2011* and dwelling-houses are permissible in the zoning.

The Objectives of the zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To improve opportunities to work from home.*
- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
- *To provide landscaped areas for the use and enjoyment of existing and future residents.*
- *To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.*
- *To protect and enhance the amenity of existing and future residents and the neighbourhood.*

Subject to recommended conditions, the development is consistent with the objectives of the R1 – General Residential zone.

Clause 4.1 – Minimum subdivision lot size

The minimum required lot size for Torrens subdivision is 200m². The proposal is for the boundary realignment of the existing Torrens title subdivision of existing Lots 4 and 5 of 85 Hill Street into Lots No. 85a and No. 85 being 178.3m² each.

The existing property has undergone recent demolition works as part of a CDC, and as such, is currently vacant.

A review of the surrounding subdivision pattern has confirmed that there are numerous Lots under 200sqm as evidenced in the tables below:

Table 3 – Hill Street - Lots under 200sqm

Address	Site Area
79 Hill Street	198.13 m ²
83 Hill Street	193.29 m ²
85 Hill Street (Lot 5)	189.22 m²
85 Hill Street (Lot 4)	150.91 m²
99 Hill Street	199.40 m ²

Table 4 – Mackenzie Street Lots under 200sqm

Address	Site Area
44 Mackenzie Street	150.88 m ²
46 Mackenzie Street	130.53 m ²
48 Mackenzie Street	148.25 m ²

Table 5 – Annesley Street Lots under 200sqm

Address	Site Area
54 Annesley Street	194.66 m ²
58 Annesley Street	198.04 m ²
82 Annesley Street	199.17 m ²



Image 1: Map of Surrounding Lots under 200sqm

There are 11 surrounding properties below the minimum subdivision size of 200m².

The proposed subdivision and proposed developments on each lot will not be out of character with the diverse subdivision pattern in the immediate area including in terms of lots sizes, lot widths and shapes. The resultant lots following boundary realignment will be adequate to accommodate an appropriate built form, with each dwelling complying with floor space ratio, landscaped area and site coverage standards. The proposed subdivision is not considered to have any adverse impacts on the adjoining properties or in the immediate

surrounding area, and subject to recommended conditions, will have acceptable streetscape impacts.

In light of the above, the proposed boundary realignment and Torrens title subdivision is considered acceptable as the proposal meets the objectives of Clause 4.1 in that the lot sizes are capable of supporting a range of development types.

Clause 4.6 Exceptions to Development Standards

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

- Clause 4.1 - Minimum subdivision lot size

The applicant seeks a variation to the minimum subdivision lot size development standard under Clause 4.1 of the Leichhardt LEP by 10.85% or 21.7sqm per site.

Clause 4.6 allows the contravention of development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

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

A written request has been submitted to Council in accordance with Clause 4.6(3) of the Leichhardt LEP justifying the proposed contravention of the development standard which is summarised as follows:

- The existing layout of the site includes a constrained lot that is smaller (144.62m²) than the minimum lot size standard and is inconsistent with the prevailing cadastral layout of Hill Street. The small area and narrow width (4.265m) of the lot would result in a compromised dwelling, that would be inconsistent with the streetscape and would create inappropriate internal amenity for the intended occupants. The boundary realignment will increase the size of this lot to 178.3m² and increase the width of the lot to 5.267m, thereby allowing the construction of a standard dwelling that is typical of the local area with improved internal amenity.
- The proposed boundary realignment and resulting reconfigured allotments divides the property evenly along its longer boundary, creating two even independent lots, and orientates each dwelling to the street similar to the street context. This is consistent with the orientation, width, area and shape of the prevailing subdivision pattern along the northern side of Hill Street.
- A semi-detached dwelling development is a permissible use under the R1 Zoning. This will provide additional housing opportunities that are compatible with the streetscape and the capacity of existing infrastructure and utilities. The proposal is therefore consistent with the relevant objectives in the R1 Zone.
- The site area, shape, orientation and dimensions of each lot are capable of supporting a modern 4 bedroom house, with natural light to each room, appropriate level of landscaping, adequate private open space and suitable vehicular access arrangement.
- The proposal provides superior amenity to each dwelling in regard to solar access, natural day light to each room, privacy and internal area.
- The resulting development on each lot is compliant with Council's built form development controls, and in particular is consistent with the desire future character controls established for the Piperston Distinctive Neighbourhood (Part C2.2.3.3).
- As demonstrated in the submitted Statement of Environmental Effects, the compliance of the resulting development with Council's built form controls ensures

the proposal does not result in any unreasonable amenity impacts upon adjoining properties.

- The proposal provides generous landscape areas and private open space area in excess of council's controls, and as evident within existing properties along the northern side of Hill Street.

The applicant's written rationale adequately demonstrates compliance with the development standard is unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is in the public interest because it is consistent with the objectives of the R1, in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP for the following reasons:

- The proposal will provide additional housing for the community and contribute to the variety of housing types and densities of the area.
- The proposal is permissible development and compatible with surrounding land uses;
- The proposal will improve opportunities to work from home.
- The proposed development is compatible with the desired future character of the area in relation to building bulk, form and scale, and subject to conditions, will have acceptable streetscape impacts on Hill Street.
- The proposal maintains a suitable balance between the existing landscaped areas and the built form and provides more than sufficient landscaped area and private open space on the site.
- The proposed dwellings are located adjacent to adjoining developments where it can be reasonably assumed that development can occur; and
- The proposal does not result in any adverse unacceptable amenity impacts to the surrounding properties.
- The variation of minimum subdivision lot size will allow for improved lot sizes over the existing compromised lot sizes at No. 85 Hill Street, and as such, will improve the consistency of the prevailing character of the area.
- The reconfigured allotments and proposed dwellings under this application are considered appropriate in the context of the surrounding development.

Given the above, the proposed subdivision will not be inconsistent with the following objectives of the R1 General Residential Zone as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To improve opportunities to work from home.*
- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
 - *To provide landscaped areas for the use and enjoyment of existing and future residents.*
 - *To protect and enhance the amenity of existing and future residents and the neighbourhood.*

Further to the above, it is considered the development is in the public interest because it is consistent with the objectives of the Minimum subdivision lot size development standard, in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP for the following reasons:

- The re-subdivision of the lots will not result in a development that is incompatible with the prevailing subdivision pattern or the pattern of surrounding development.

- Despite the non-compliance of the minimal lot size development standard, the proposal will comply with the Floor Space Ratio, Site Coverage and Landscaped area development standards.
- Despite the non-compliance, the proposed subdivision will provide adequate amenity to the proposed new dwellings.

Given the above, the proposal is not inconsistent with the objectives of Minimum Lot Size standard which is as follows:

- (a) to ensure that lot sizes are able to accommodate development that is consistent with relevant development controls,
- (b) to ensure that lot sizes are capable of supporting a range of development types.

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

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the Leichhardt LEP. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Clause 4.1 being the minimum subdivision lot size, and it is recommended the Clause 4.6 exception be granted.

Clause 6.8 - Development in areas subject to aircraft noise

The proposal includes the erection of two new dwellings within the ANEF 25-30 Contour. An Acoustic Report has been submitted to Council and compliance with its recommendations will be a requirement of any consent granted.

5(b) Draft Environmental Planning Instruments

There are no relevant Draft State Environmental Planning Instruments.

5(c) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979*.

The amended provisions contained in the Draft IWLEP 2020 are not relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the Draft IWLEP 2020.

5(d) Development Control Plans

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

LDCP2013	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	N/A
C1.3 Alterations and additions	N/A
C1.4 Heritage Conservation Areas and Heritage Items	N/A
C1.5 Corner Sites	N/A
C1.6 Subdivision	Yes – see discussion
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	N/A
C1.12 Landscaping	Yes – see discussion
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	Yes – see discussion
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	N/A
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
C2.2.3.3 Piperston Distinctive Neighbourhood	Yes – See discussion
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes – see discussion
C3.3 Elevation and Materials	Yes – see discussion
C3.4 Dormer Windows	Yes – see discussion
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 – see discussion
C3.10 Views	N/A
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	
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Yes
E1.1.3 Stormwater Drainage Concept Plan	N/A
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	N/A
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	N/A
E1.2.3 On-Site Detention of Stormwater	Yes
E1.2.4 Stormwater Treatment	N/A
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	Yes
E1.2.7 Wastewater Management	N/A
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A

The following provides discussion of the relevant issues:

C1.6 – Subdivision

The objectives of C1.6 – Subdivision, are as follows:

Development:

- a. *creates lots of sufficient area and dimensions to accommodate residential development that is consistent with the controls in this Development Control Plan;*
- b. *creates lots that are consistent with the surrounding prevailing subdivision pattern and where possible, new street networks should have an east-west orientation;*
- c. *incorporates significant natural landscape features;*
- d. *facilitates safe, convenient and comfortable movement, particularly for pedestrians and cyclists;*
- e. *creates high quality public open space where relevant;*
- f. *provides a high level of safety and security;*
- g. *is provided with appropriate infrastructure, and where appropriate, ecologically sustainable infrastructure;*
- h. *enables lots to achieve a high level of energy efficiency.*

It is noted that the proposed Torrens title subdivision (boundary realignment) does not comply with Control C1 which states that the minimum lot size for dwellings is 200sqm. Notwithstanding, the proposed development will comply with the intent of objective O1 of the Clause for the following reasons:

- The re-subdivided lots will result in a development that is compatible with the surrounding area.
- Despite the non-compliance of the minimal lot size requirement, the proposal will comply with the Floor Space Ratio, Site Coverage and Landscaped area

development standards and allows a residential development that, subject to conditions, is consistent with the other controls within Leichhardt DCP 2013.

- Despite the non-compliance, the proposed subdivision will provide adequate amenity for the new dwellings.
- The proposal will have acceptable impacts on the safety of pedestrians and cyclists, noting that the development does not propose off-street parking in accordance with the nil provision for parking in the LDCP 2013.

Given the above, the proposal is considered acceptable in this instance.

C1.12 Landscaping and C1.14 Tree Management

The application was referred to Council's Urban Forests team who provided the following comments:

"There are no objections to the application in general as no trees were assessed to be negatively impacted by the proposal. The applicant is encouraged to incorporate a more diverse palette of canopy tree species in the landscape that will attain a minimum mature height of 6m."

As such an appropriate condition will be imposed on any consent requiring a minimum of 4 x 75 (L) litre sized canopy tree which will attain a minimum mature height of six (6) metres be planted in accordance with submitted Landscape Planting Plan, prepared by Michael Siu.

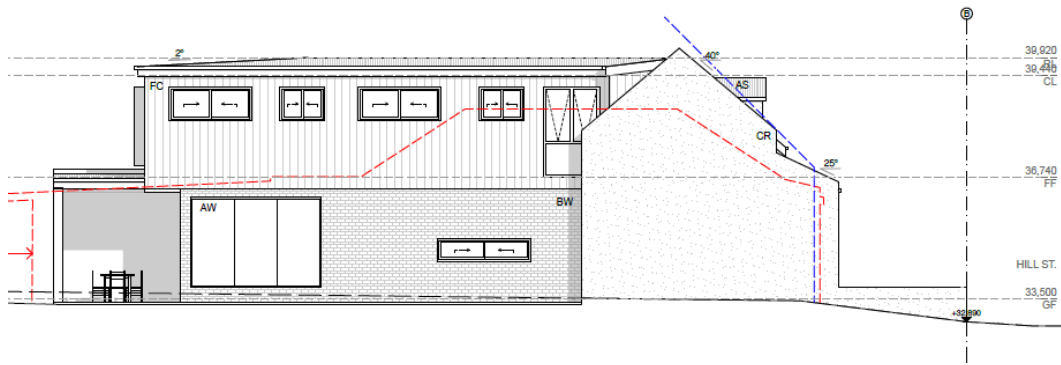
The proposal will be conditioned in accordance with the above. The application is considered satisfactory having regard to Landscaping and Tree Management.

C2.2.3.3 Piperston Distinctive Neighbourhood, C3.3 Elevation and Materials and C3.4 Dormer Windows

As stated in the LDCP 2013, it is difficult to identify a single main architectural form in the Piperston Distinctive Neighbourhood area, as there is a profusion of bungalow and cottage style developments, terraced houses, three storey flat buildings as well as random groupings of workers' cottages. As such, the streetscape and neighbourhood controls prescribed in this part of the LDCP2013 seek to ensure development:

- Maintain the character of the area by keeping development complementary in architectural style, form and material.
- Maintain and enhance the predominant scale and character of dwellings in this precinct, consisting of mostly single storey Victorian and Federation-style dwellings, with more significant development in appropriate areas.
- Preserve the consistency of the subdivision pattern;
- Adopt a maximum front building wall height of 3.6m.

The proposal will comply with the building siting and envelope controls as the primary dwelling structures are in accordance with the maximum building wall height specified in the Piperston Neighbourhood, being 3.6m front wall height and 45 degree roof height as indicated by the dotted blue line on Image 1 below.



It is noted that the front dormer articulation will protrude the envelope and this is acceptable in accordance with the notes within the LDCP 2013 which state that “*Minor architectural details such as chimneys, dormer windows, gables and sub-gables can penetrate the envelope.*”

While two storey buildings along Hill Street are not usual, dwellings have a predominantly single storey presentation to the street. The development as proposed and as conditioned will not be out of character with the pattern of development in the street for the following reasons:

- The proposal presents to the street as single storey with pitched roofs comprising front dormers (see below for design change recommendations) consistent with the appearance other dwellings in the street and distinctive neighbourhood;
- The first floor elements are setback, behind the front verandah and front pitched roofs of each dwelling which reduce the visual dominance of the upper level and maintain a single storey appearance from Hill Street;
- The side elevations of the dwellings will provide a high level of architectural quality, visual interest and articulation through the inseting of development after bedroom 3 on the first floor, which lend the front most portion of the side elevations to appear to gable end with a more contemporary form to the rear;
- The proposal will comprise of roof forms, proportions to openings and finishes and materials that will complement, and that will not detract from, the existing and adjoining buildings; and
- The siting of the dwellings ensure that potential amenity on adjoining properties, including in terms of visual bulk and scale impacts, particularly when viewed from rear private open areas, are minimised.

The development proposes one single dormer per dwelling to the front elevation. Whilst a single dormer (per dwelling) is supported, it is considered that the proposed dormers should be vertically in proportioned consistent with other openings to the front elevation and those of front dormers characteristic of the streetscape and wider area. As such, a condition will be included requiring the height of dormers to be increased so that they are vertically proportioned – in this regard, the following design change condition is recommended:

Vertically Proportioned Dormers

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following amendments to front facing dormers:

- The dimensions of the dormer windows have a height of [1.5m] x the width of the dormer, as measured from the head of the window to the bottom of the sill; and*
- The maximum height of the top of the dormer must be 300mm below the principal roof ridge should also have a set-up from eaves gutter in most cases.*

In light of the above considerations, the proposed dwellings as lodged and as conditioned are considered acceptable on streetscape grounds and will not detract from the streetscape or the heritage item in the vicinity.

C3.2 Site Layout and Building Design

Siting

The front verandah and wall alignments are stepped between the front verandah and wall alignments of neighbours, and hence, the siting of the dwellings are deemed to be appropriate and acceptable.

Building Envelope

See assessment above under Clause C2.2.3.3 of the LDCP2013 – for reasons discussed above, the proposed new dwellings are considered acceptable regarding building envelope considerations.

Building Location Zone

Image 2 below illustrates the established ground floor BLZ (yellow) of the adjoining property, the proposed ground floor BLZ (orange) and the proposed first floor BLZ (red) of the subject site.

The image also illustrates the approximate location of the proposed front BLZ (green) of the subject site.



Image 2: Subject and adjoining site Building Location Zone
Control C3 states the following:

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

of neighbouring properties, the BLZ is determined on a floor by floor basis (refer to Figure C128: Building Location Zone).

As shown above, the proposal will comply with front BLZ (green) being the average of the front setbacks of the adjoining properties.

The proposed rear ground floor BLZ will also comply given that the BLZ is less than the average and therefore within the acceptable BLZ limits specified in the LDCP 2013.

Given that the adjoining properties are single storey, the development will therefore establish a new first floor BLZ. Pursuant to Control C6 of Clause C3.2 of the LDCP2013, where a proposal seeks to encroach outside or establish a new Building Location Zone, various tests need to be met. The proposal is considered to meet these tests as detailed below:

- a) Amenity to adjacent properties (i.e. sunlight, privacy, views) is reasonably protected and compliance with the solar access controls of the LDCP 2013 is achieved;
- b) The proposed development will be compatible with the existing streetscape and desired future character and scale for the area;
- c) Whilst the development does not comply with the minimum subdivision lot size, it has been demonstrated that the proposal is compatible, complying with FSR, site coverage, landscaping, privacy, solar access and POS controls of the Leichhardt LEP2013 and Leichhardt DCP2013.
- d) The proposed development does not prevent opportunities for planting of new significant vegetation; and
- e) The scale of the development is acceptable, proposing a single storey form to the street, and ensuring that the higher portions of the dwellings are setback from the side boundaries and the dwellings are located adjacent to adjoining built forms in an effort to minimise the visual bulk and scale of the development as viewed from adjoining properties, in particular when viewed from the private open space of adjoining properties.

Given the above, the proposal is considered acceptable with respect to the objectives and controls of the Clause regarding BLZ.

Side Setback Control

A technical non-compliance with the side setback control is noted, as outlined in the table below:

Elevation	Wall height (m)	Required Setback (m)	Proposed Setback (mm)	Complies (Y / N)
Western Elevation	4-6m	0.69-1.47m	0-900mm	No
Eastern Elevation	3.5-6m	0.4-1.47m	0-900mm	No

Pursuant to control C8 of Clause C3.2 of the LDCP2013, where a proposal seeks a variation of the side setback control graph, various tests need to be met. These tests are assessed below:

- The development is an appropriate response to the streetscape and will comply with the objectives and controls set out in the Piperston Distinctive Neighbourhood character controls. The proposal is considered to be keeping in context with the existing pattern of development in the area. As a result, the proposal will have acceptable impacts on the streetscape and the public domain;
- The bulk and scale of the development is acceptable, with higher portions of the dwellings being setback from the boundaries, and the development is respectful of the

pattern of development adjoining and in the street in terms of building alignments, setbacks (being located adjacent to adjoining built forms) and overall height and scale.

- The proposal will have no undue adverse solar access impacts to the adjoining properties rear yards and will result in acceptable privacy implications and no view loss implications.
- The proposal raises no issues having regard to the on-going maintenance of adjoining sites.

In light of the above, the proposal is considered to be satisfactory with respect to the intent and objectives of the side setback controls prescribed in this Clause.

C3.9 Solar Access

The subject site and the surrounding lots have a north-south orientation with POS areas located on the northern side. The following controls under Clause C3.9 apply to new dwellings:

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

The following solar access controls under Clause C3.9 apply to the proposal in relation to impacts to glazing on the surrounding sites.

- *C13 Where the surrounding allotments are orientated north-south and the dwelling has north facing glazing serving the main living room, ensure a minimum of three hours solar access is maintained between 9am and 3pm during the winter solstice.*
- *C15 Where surrounding dwellings currently receive less than the required amount of solar access to the main living room between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.*

In addition, C3.9 also requires protection of solar access to private open spaces of adjoining properties. The subject site has north-south orientation, and therefore, the following solar access controls apply to the proposal in relation to solar access to private open spaces of affected properties:

- *C17 Where surrounding dwellings have north facing private open space, ensure solar access is retained for three hours between 9am and 3pm to 50% of the total area during the winter solstice.*
- *C19 Where surrounding dwellings currently receive less than the required amount of solar access to their private open space between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.*

The shadow diagrams provided are generally accurate in their depiction of the proposed impacts during the winter solstice period. The provided shadow diagrams illustrate that solar access will be obtained for a minimum of 3 hours to main living room glazing of the new dwellings.

The shadow diagrams also illustrate that solar access will be retained in excess of 3 hours to the living room glazing and 50% of the total POS area of Nos. 83 and 87 Hill Street between 9am to 3pm during the winter solstice period. As such the proposal will comply with the objectives and controls of the Clause.

5(e) The Likely Impacts

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

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

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

5(g) Any submissions

The application was notified in accordance with Leichhardt Development Control Plan for a period of 14 days to surrounding properties.

One (1) submission was received in response to the initial notification.

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

- Minimum subdivision lot size – see Section 5(d) – Clause C1.6 Subdivision
- Overshadowing – see Section 5(d) – Clause C3.9 – Solar Access

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

Issue – Extent of Demolition

“The existing house on 85 Hill Street has been demolished. When this occurred, the dividing brick wall between 85 Hill Street and 83 Hill Street was also demolished and consequently the side gate of 83 Hill Street was also demolished as it was attached to the wall. This has created a privacy and security issue, particularly with numerous construction workers accessing 85 Hill Street during the construction period.”

Comment

The demolition works were undertaken as part of Complying Development Certificate, and as such, are not a matter for consideration under this Development Application. Any matters regarding dividing fences are considered a civil matter between the relevant parties (the owners of the subject and adjoining properties) and guided by the provisions within the Dividing Fences Act 1991 No 72, noting that the landscape plans (to be referenced in any consent) notates a 1.8m lightweight fence to the side and rear boundaries at the rear of the site. Further, the site will be required to be secured and fenced during construction to prevent unauthorised access via conditions of consent.

Issue - Privacy

“Noting that the proposed development will have windows on both levels along the eastern wall, this creates an issue of privacy. Potentially the owner of 83 Hill Street may develop the existing property creating a two level dwelling with windows along its western wall. It should further be noted that there were no windows on the eastern side of 85 Hill Street with the previous dwelling.”

omment

It is noted that there are five (5) windows on the first floor eastern elevation. The four (4) rear most windows will have a minimum sill height of 1.6m and as such will comply with the objectives and controls of Clause C3.11 – Visual Privacy.

The front most window is vertically proportioned and will serve a stairwell - this window will be partially screened by the proposed side wall. Given that the window will serve a stairwell and is partially screened, the visual privacy impacts are considered to be minimal, and as such, the proposal is considered acceptable.

Issue – Parking

“Noting the scale of the development which will potentially impact and limit car parking availability in the immediate vicinity, how will this be addressed in the Council’s approval process?”

Comment

The development proposes no off-street parking in accordance with the objectives and controls of Clause C1.11 – Parking. It is noted that the existing dwelling before the CDC demolition of the site utilised the western lot as a driveway with crossing and garage. Given that there are no parking spaces proposed on either site, on-street parking will be improved. A condition will be imposed required any redundant driveway crossings to be replaced with appropriate kerb and guttering.

5(h) The Public Interest

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

The proposal is not contrary to the public interest.

6 Referrals**6(a) Internal**

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

Urban Forests

Councils Urban Forests Officer reviewed the proposal and raised no objections to the application in general as no trees were assessed to be negatively impacted by the proposal.

Engineering

Council’s Engineer reviewed the proposal and raised no objection to the proposal proceeding subject to standard site drainage and stormwater control conditioning of the consent – see conditions in Attachment A

6(b) External

The application was referred to the following external bodies and issues raised in those referrals have been discussed in section 5 above.

Ausgrid

The application was referred to Ausgrid under Clause 45 of the State Environmental Planning Policy (Infrastructure) 2007. Ausgrid provided no formal response within the specified time frame and therefore can be concluded that the proposal will not have an impact.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contribution levies are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$40,000.00 would be required for the development under Leichhardt Section 7.11 Contributions Plan 2014 as follows:

Contribution Plan	Contribution
Open space and recreation	\$34,394.00
Community facilities and services	\$5,256.94
Local area traffic management	\$302.92
Bicycle	\$45.48
TOTAL	\$40,000.00

A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Leichhardt Local Environmental Plan 2013* and *Leichhardt Development Control Plan 2013*.

The development as proposed and as conditioned will not result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 of the *Leichhardt Local Environmental Plan 2013* to vary Clause 4.1 Minimum subdivision lot size of the *Leichhardt Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2020/0477 for boundary realignment of two existing Torrens title lots, and the construction of a two storey semi-detached dwelling on each lot at 85 Hill Street LEICHHARDT NSW 2040 subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
DA01 Rev C	Site and Roof Plan	23 May 2020	Blu Print Designs
DA02 Rev C	Subdivision Plan	23 May 2020	Blu Print Designs
DA03 Rev C	Ground Floor Plan	23 May 2020	Blu Print Designs
DA04 Rev C	First Floor Plan	23 May 2020	Blu Print Designs
DA05 Rev C	South and North Elevations	23 May 2020	Blu Print Designs
DA06 Rev C	West and East Elevations	23 May 2020	Blu Print Designs
DA07 Rev C	Sections	23 May 2020	Blu Print Designs
L01/1 - K25008	Landscape Planting Plan	6 May 2020	Blu Print Designs
-	Schedule of Materials and Finishes	26 June 2020	-
1103001M	BASIX Certificate	26 May 2020	Greenworld Architectural Drafting
20200483.1/2205A/R0/GK	Aircraft Noise Intrusion Assessment	22 May 2020	Acoustic Logic
-	Waste Management Plan	22 May 2020	Anthony Charbel

As amended by the conditions of consent.

FEES

2. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more.

3. Security Deposit - Standard

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

Security Deposit:	\$8,299
Inspection Fee:	\$236.70

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

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

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

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

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

4. Section 7.11 (Former Section 94) Contribution

Prior to the issue of a Construction Certificate or issue of a Subdivision Certificate (which ever occurs first) written evidence must be provided to the Certifying Authority that a monetary contribution of \$40,000.00 has been paid to the Council.

The above contribution is the contribution applicable as at 09 October 2020.

The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:

Local Infrastructure Type:

Local Infrastructure Type:	Contribution \$
Open space and recreation	\$34,394.00
Community facilities and services	\$5,256.94
Local area traffic management	\$302.92
Bicycle	\$45.48
TOTAL	\$40,000.00

A copy of the CP can be inspected at any of the Inner West Council Services Centres or viewed online at:

<https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions>

The contribution must be paid either in cash, by unendorsed bank cheque (from an Australian Bank only), via EFTPOS (Debit only) or credit card*. Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.

*NB A 0.75% credit card transaction fee applies to all credit card transactions.

GENERAL CONDITIONS

5. Design Change

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following amendments to front facing dormers:

- a. The dimensions of the dormer windows have a height of [1.5m] x the width of the dormer, as measured from the head of the window to the bottom of the sill; and
- b. The maximum height of the top of the dormer must be 300mm below the principal roof ridge should also have a set-up from eaves gutter in most cases.

6. Boundary Alignment Levels

Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary.

7. Waste Management Plan

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

8. Erosion and Sediment Control

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

9. Standard Street Tree Protection

Prior to the commencement of any work, the Certifying Authority must be provided with details of the methods of protection of all street trees adjacent to the site during demolition and construction.

10. Works Outside the Property Boundary

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

PRIOR TO ANY DEMOLITION

11. Hoardings

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

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

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

12. Dilapidation Report

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

13. Advising Neighbors Prior to Excavation

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

14. Construction Fencing

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

PRIOR TO CONSTRUCTION CERTIFICATE**15. Stormwater Drainage System – OSD is required**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention and/or on site retention/ re-use facilities (OSR/OSD), certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged via the OSD/OSR tanks, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of Hill Street . Separate drainage system must be provided for each site;
- b. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's Leichhardt DCP2013;
- c. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage;
- d. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- e. The plans, including supporting calculations, must demonstrate that the post development flows for the 100 year ARI storm are restricted to the pre development flows for the 5 year ARI storm event in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013 and the maximum allowable discharge to Council's street gutter limited to 15 litres/second (100year ARI);
- f. OSD may be reduced or replaced by on site retention (OSR) for rainwater reuse in accordance with the relevant DCP that applies to the land by providing a 4000L OSR tank on each lot. Where this is pursued, the proposed on-site retention (OSR) tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation. Surface water must not be drained to rainwater tanks where the collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use;
- g. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks;

- h. Details of the 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided;
- i. As there is no overland flow/flood path available from the rear and central courtyards to the Hill Street frontage, the design of the sag pit and piped drainage system is to meet the following criteria:
 - a. Capture and convey the 100 year Average Recurrence Interval flow from the contributing catchment assuming 80% blockage of the inlet and 50% blockage of the pipe.
 - b. The maximum water level over the sag pit shall not be less than 150mm below the floor level or damp course of the building.
 - c. The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands/roof areas.
- j. Details of external catchments currently draining to the site must be included on the plans. Existing natural overland flows from external catchments may not be blocked or diverted, but must be captured and catered for within the proposed site drainage system. Where necessary an inter-allotment drainage system must be incorporated into the design;
- k. No nuisance or concentration of flows to other properties;
- l. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- m. Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
- n. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- o. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- p. 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 maximum section height and width of 100mm;
- q. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;
- r. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
- s. Water quality filtration basket(s) with screening bag or similar primary treatment device(s) must be installed on the site stormwater drainage system such that all water entering the site stormwater drainage system is filtered by the device(s).

16. Sydney Water – Tap In

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

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

DURING DEMOLITION AND CONSTRUCTION

17. Construction Hours – Class 1 and 10

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

18. Survey Prior to Footings

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

PRIOR TO OCCUPATION CERTIFICATE**19. Public Domain Works**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* including:

- a. The redundant vehicular crossing to the site must be removed and replaced by kerb and gutter and footpath. As the kerb in the vicinity of the redundant crossing is predominately stone the replacement kerb must also be in stone;
- b. Repair of any damaged or defective concrete footpath;
- c. Kerb outlets must be carefully core drilled in accordance with Council standard drawings; and
- d. Other works subject to the *Roads Act 1993* approval.

All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications".

20. No Encroachments

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.

21. Protect Sandstone Kerb

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any damaged stone kerb has been replaced.

22. Works as Executed – Site Stormwater Drainage System

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a suitably qualified Civil Engineer that:

- a. The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards; and
- b. Works-as-executed plans of the stormwater drainage system certified by a Registered Surveyor, to verify that the drainage system has been constructed, OSD/OSR system commissioned and stormwater quality improvement device(s) and any pump(s) for internal reuse installed in accordance with the approved design and relevant Australian Standards have been submitted to Council. The works-as-executed plan(s) must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifier stamped Construction Certificate plans.

23. Operation and Management Plan

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an Operation and Management Plan has been prepared and implemented for the on-site detention and/or on-site retention/re-use facilities and stormwater quality improvement device(s) and pump(s). The Plan must set out the following at a minimum:

- a. The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners; and
- b. The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

24. Redundant Vehicle Crossing

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that all redundant vehicular crossings to the site have been removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications". Where the kerb in the vicinity of the redundant crossing is predominantly stone the replacement kerb must also be in stone.

25. Certification of Tree Planting

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

- A minimum of 4 x 75 (L) litre sized canopy trees, which will attain a minimum mature height of six (6) metres, must be planted in accordance with submitted *Landscape Planting Plan*, prepared by Michael Siu, DWG No. L01/1-K25008, dated 6/05/2020 at a minimum of 1.5 metres from any boundary or structure and 2m from any dwelling or garage allowing for future tree growth. The tree is to conform to AS2303—*Tree stock for landscape use*. Trees listed as exempt species from Council's Tree Management Controls, and species recognised to have a short life span will not be accepted as suitable replacements.

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

26. Aircraft Noise –Alterations and Additions

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

Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate being prepared and submitted to the Principal Certifier in accordance with this condition.

27. Easements, Restrictions on the Use of Land and Positive Covenants

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that Easements, Restrictions on the Use of Land and Positive Covenants under Section 88B or 88E, whichever is relevant to the subject development, of the *Conveyancing Act 1919*, has been created on the title of the property detailing the following :

- a. Restrictions on the Use of Land related to on Site Stormwater Detention System or retention system;
 - b. Positive Covenant related to on-site stormwater detention or retention system;
- The wording in the Instrument must be in accordance with Councils Standard wording.

PRIOR TO SUBDIVISION CERTIFICATE**28. Separate Stormwater**

Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided with details, endorsed by a practising stormwater engineer demonstrating separate drainage systems to drain each proposed lot.

29. Section 73 Certificate

Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided with the Section 73 Certificate. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

ON-GOING**30. Operation and Management Plan**

The Operation and Management Plan for the on-site detention and/or on-site retention/re-use and/or stormwater quality improvement devices and/or Pump facilities for internal reuse, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

ADVISORY NOTES**Permits**

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

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

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

Prescribed Conditions

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

Notification of commencement of works

At least 7 days before any demolition work commences:

- a. the Council must be notified of the following particulars:
 - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and

- ii. the date the work is due to commence and the expected completion date; and
- b. a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

Storage of Materials on public property

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

Toilet Facilities

The following facilities must be provided on the site:

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

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

Infrastructure

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

Other Approvals may be needed

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

Failure to comply with conditions

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

Other works

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

Obtaining Relevant Certification

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

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

- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

National Construction Code (Building Code of Australia)

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

Notification of commencement of works

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

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

Dividing Fences Act

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

Permits from Council under Other Acts

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

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

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

Noise

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

Construction of Vehicular Crossing

The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for *Construction of a Vehicular*

Crossing & Civil Works form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.

Dial before you dig

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

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	131441 www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diySAFE.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 www.environment.nsw.gov.au
Sydney Water	13 20 92 www.sydneypwater.com.au
Waste Service - SITA Environmental Solutions	1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

Easement and Covenant Process

The following documents must be submitted to Council as part of the Easement and Covenant process and requirements, for the site on-site detention/on-site retention/reuse facilities (OSD/OSR) and stormwater quality improvement devices (SQIDS):

a. Work-As-Executed Plans

A "Work-as-Executed" plan prepared and signed by a Registered Surveyor must be submitted to the Council's Development Assessment Engineer at the completion of the works showing the location of the detention basin and SQIDS with finished surface levels, contours at 0.2-metre intervals and volume of storage available. Also, the outlet pipe from the detention basin to its connection to the Council's drainage system must be shown together with the following information: location; pipe diameter; gradient; pipe material, i.e. PVC or RCP etc.; pits sizes; orifice size; trash screen at orifice; emergency overflow dimensions and RL; all

buildings (including floor levels) and finished ground and pavement surface levels and full details of SQIDS.

b. Engineer's Certificate

A qualified practising Civil Engineer must certify on the completion of drainage works in respect of:

- c. The soundness of the storage structure;
- d. The capacity of the detention storage;
- e. The emergency overflow system being in place;
- f. The works being constructed in accordance with the Development Application Consent and Council's Stormwater Management DCP/Code;
- g. The freeboard from maximum water surface level to the finished floor and garage levels are at or above the minimum required in Council's Stormwater Management DCP/Code;
- h. Basement car park pumps are class one zone two; and
- i. OSR pumps and SQIDS have been installed and commissioned.

c. Restriction-As-To-User

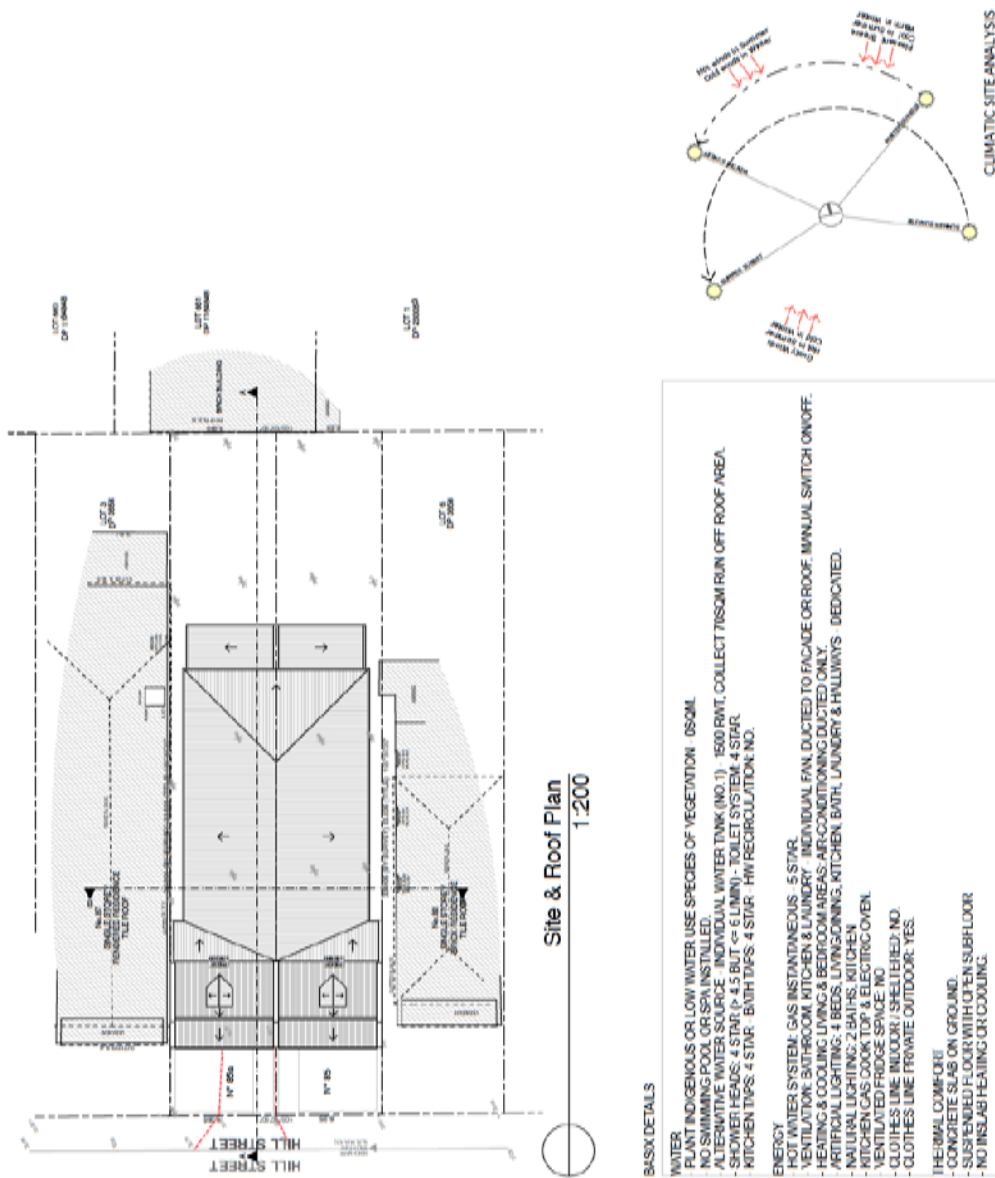
A "Restriction-as-to-User" must be placed on the title of the subject property to indicate the location and dimensions of the detention area and stormwater quality improvement device(s) (SQIDS). This is to ensure that works, which could affect the function of the stormwater detention system and SQIDS, must not be carried out without the prior consent in writing of the Council.

Such restrictions must not be released, varied or modified without the consent of the Council.

A typical document is available from Council's Development Assessment Engineer.

d. A Maintenance Schedule.

Attachment B – Plans of proposed development



Site & Roof Plan
1:200

BASIC DETAILS

- WATER
 - PLANT INDIGENOUS OR LOW WATER USE SPECIES OF VEGETATION - OSQM
 - NO SWIMMING POOL OR SPA INSTALLED.
 - ALTERNATIVE WATER SOURCE - INDIVIDUAL WINTER TANK (NO. 1) - 1500 LITRE. COLLECT 76SQM RUN OFF ROOF AREA.
 - SHOWER HEADS: 4 STAR (P < 4.5 BUT <= 6 L/MIN) - TOILET SYSTEM: 4 STAR.
 - KITCHEN TAPS: 4 STAR - BATH TAPS: 4 STAR - HW RECIRCULATION: NO.
- ENERGY
 - HOT WATER SYSTEM: GAS INSTANTANEOUS - 5 STAR
 - VENTILATOR: SWITCH ON FIT OPEN & 1 UNDER
 - INDIVIDUAL FAN DUCTED TO FACADE OR ROOF. MANUAL SWITCH ON/OFF.
 - NATURAL LIGHTING: 1 BEDS LIVING/DINING, KITCHEN, BATH, LAUNDRY & HALLWAYS - DEDICATED.
 - NATURAL LIGHTING: 2 BATHS, KITCHEN
 - KITCHEN GAS COOK TOP & ELECTRIC OVEN
 - VENTILATED FROGE SPACE: NO
 - CLOTHES LINE IN DOOR / SHELTERED: NO
 - CLOTHES LINE FRONT: OUTDOOR: YES.
- THERMAL COMFORT
 - CONCRETE SLAB ON GROUND.
 - SUSPENDED FLOOR WITH OPEN SUB FLOOR
 - NO INSULATION OR COOLING.



PROPERTY DETAILS	
Property Address	85 Hill Street Leichhardt
Title Reference	479/3655
Site Area	355.6 m ²
LOCAL ENVIRONMENTAL PLAN INFORMATION	
Local Planning	R1 - General Residential
Height	NA
FSR	0.78:1
Min. Lot Size	200 m ²
Permitted	NA
Local Restriction Application	NA
Local Restriction Application Date	NA
Acid Sulfate Soil	CLASS 5
Aspect Note	25 ANEF
CALCULATIONS	
Site Area	355.6 m ²
	NSW
	N 85a
	178.3 m ²
	178.3 m ²
FSR	30.5 m ² = 0.28 : 1
Permitted	124.8 m ² = 0.79 : 1
Proposed	NSW / N 85a
	OF
	IF
	53.1 m ²
	52.2 m ²
TOTAL	124.3 m ² = 0.79 : 1
FOF	
Required	NSW / N 85a
Proposed	NSW / N 85a
	16.0 m ² @ min 3m Wide
	67.5 m ²
LANDSCAPE	
Required	NSW / N 85a
Proposed	NSW / N 85a
	26.7 m ² = 15% of Site Area
	50.0 m ²
SEAL COVERAGE	
Required	NSW / N 85a
Proposed	NSW / N 85a
	137.0 m ² = 68% of Site Area
	72.9 m ²

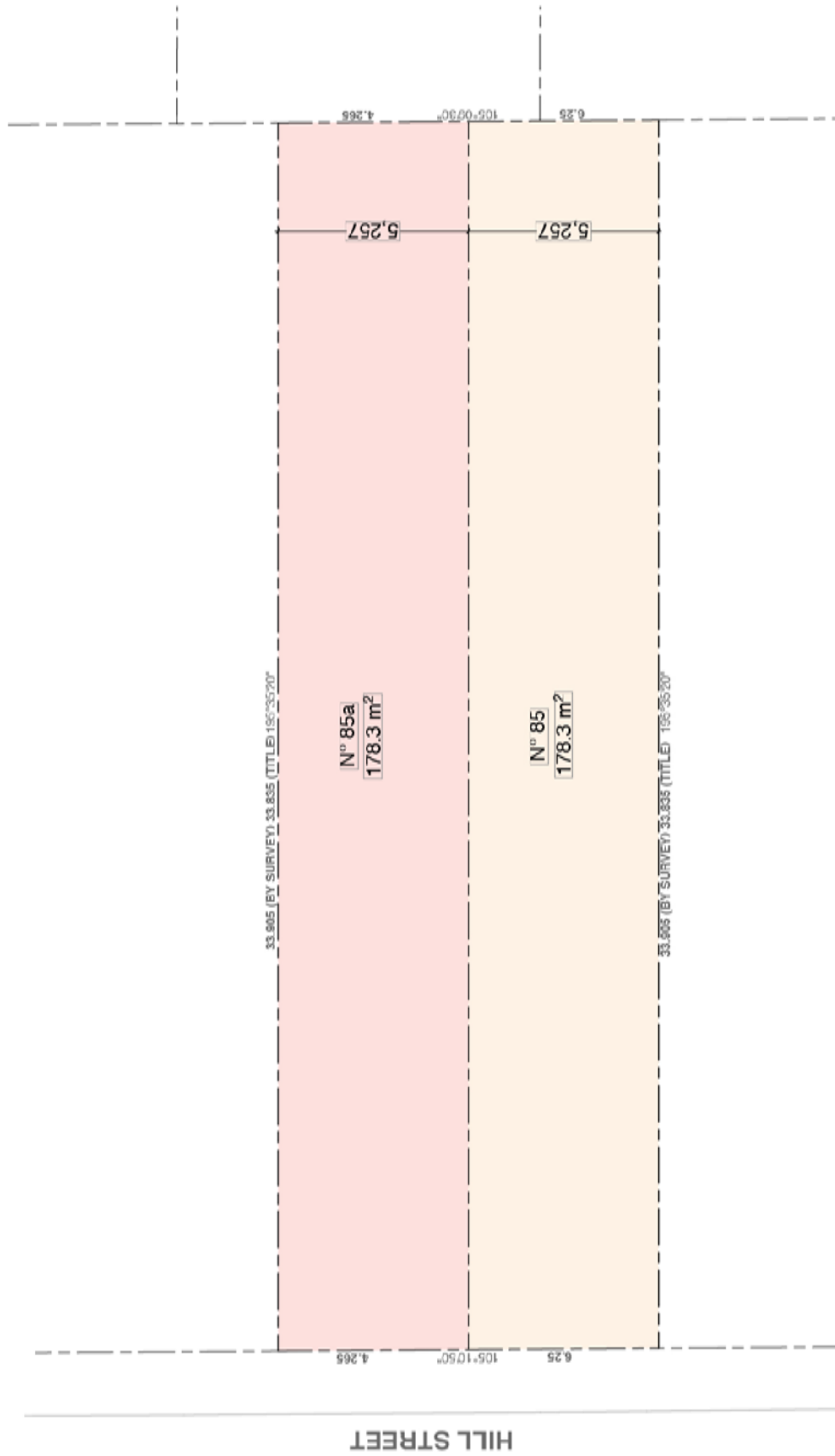


85 Hill Street Leichhardt Location Plan

Name	Description	Date
A	Pre-Application	10-10-2021
B	Concept Review	27-10-2021
C	Development Approval	28-10-2021

Title	Site & Roof Plan
Project	Development - commercial
Client	M L&A Pty Ltd
Drawn	2021/10/28
Scale	1:1000

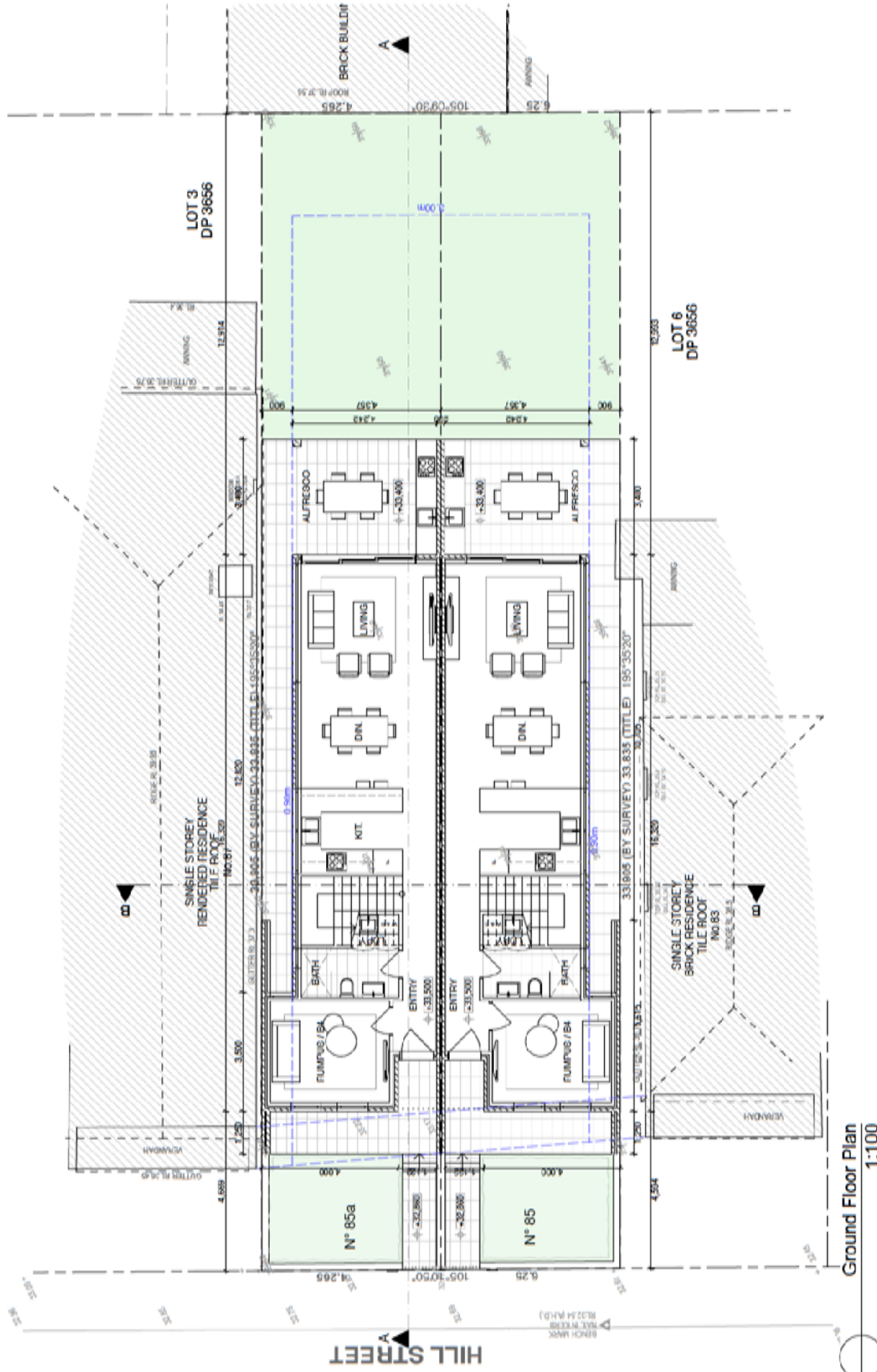
Material	Code	Description
AS - ALUMINUM ROOF SHEETING	SC - STONE CLADDING	PW - PAVED WALKWAY
TT - TERRAZZO ROOF TILE	TC - TIMBER CLADDING	AD - ALUMINUM DOOR
CT - CONCRETE ROOF TILE	TR - TIMBER WINDOW	AC - FRAME CURB
BW - FACE BRICK WORK	AW - ALUMINUM WINDOW	AL - ALUMINUM BALUSTRADE
OK - CLADDING RENDER	GR - GLASS BLOCKS	SB - STONE BALUSTRADE



Subdivision Plan
1:100

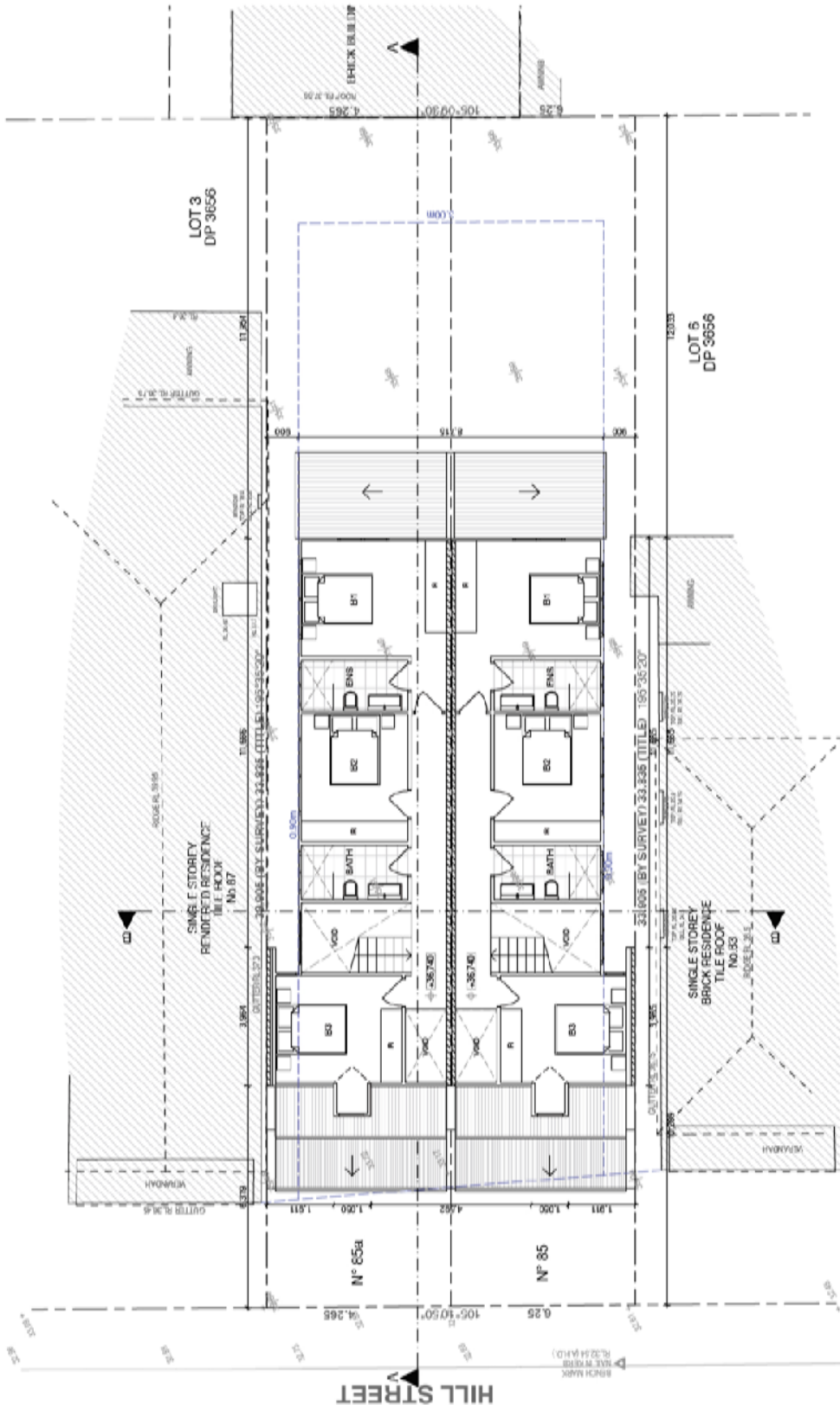
<p>AP - ALUMINUM ROOF SHEETING TT - TERRAZZOTA ROOF TILE CT - CONCRETE ROOF TILE BR - FACE BRICK WORK CR - CONCRETE RENDER</p>	<p>FR - FRAMED WINDOW AC - ALUMINUM DOOR FC - FIBRE CONCRETE AL - ALUMINUM BALUSTRADE SB - STEEL BALUSTRADE</p>	<p>FR - FRAMELESS GLASS BALUSTRADE CF - GLASS FRAMED BALUSTRADE S - SMART DETECTOR W - NEW WINDOW D - NEW DOOR</p>	<p>THE WORK IS TO BE COMPLETED IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA. THE PLANNING AND CONSTRUCTION REQUIREMENTS ARE TO BE COMPLIED WITH. THE WORK IS TO BE COMPLETED IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA. THE PLANNING AND CONSTRUCTION REQUIREMENTS ARE TO BE COMPLIED WITH. THE WORK IS TO BE COMPLETED IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA. THE PLANNING AND CONSTRUCTION REQUIREMENTS ARE TO BE COMPLIED WITH.</p>	<p>Issue Description A - For Application B - Consultant Review C - Development Application</p>	<p>Date 21-12-2020 21-12-2020 23-12-2020</p>	<p>Title: Project: Client: Date: Scale:</p>	<p>Assignment No: 1515/0143</p>	<p>DMC C</p>
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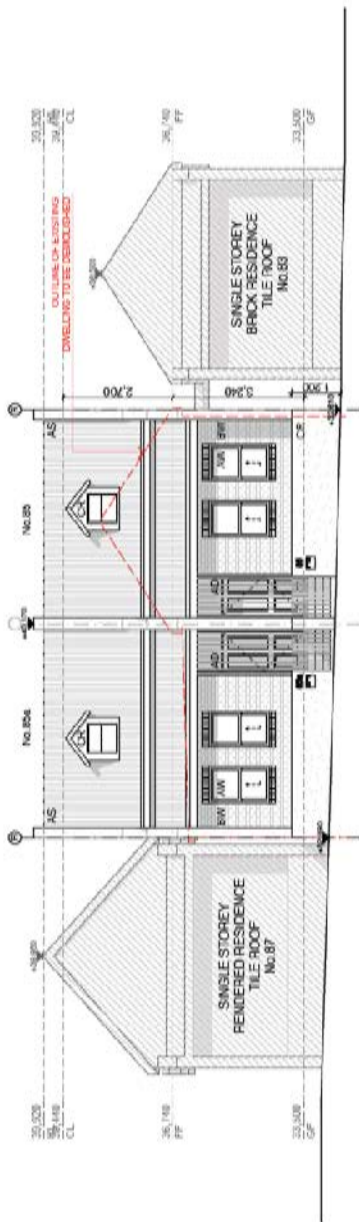
Ground Floor Plan
1:100

AS - ALUMINUM ROOF SHEETING	SC - STONE CLADDING	FW - FIXED WINDOW	PS - FRAMELESS GLASS BALUSTRADE	<p>THIS DOCUMENT IS THE PROPERTY OF BLU POINT DESIGNS AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF BLU POINT DESIGNS. THE USER OF THIS DOCUMENT AGREES TO HOLD BLU POINT DESIGNS HARMLESS FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THIS DOCUMENT.</p>	<p>Issue Description</p> <p>A - Plan to Approve</p> <p>B - Consultant Review</p> <p>C - Development Application</p>	<p>Issue</p> <p>A - Plan to Approve</p> <p>B - Consultant Review</p> <p>C - Development Application</p>	<p>Title</p> <p>Project: 81 Hill Street Licensed Hotel</p> <p>Client: M. Jambouly</p> <p>Date: 20/08/2023</p> <p>Scale: 1:100 (A0)</p>	<p>BLU POINT DESIGNS</p> <p>10/11 St George Street, New York, NY 10003, USA</p> <p>10/11 St George Street, New York, NY 10003, USA</p>	<p>DA03</p> <p>C</p>
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First Floor Plan
1:100

Legend	AE - ALUMINUM ROOF SHEETING SC - STONE CLADDING TT - TERRAZZO/ROOF TILE CT - CONCRETE ROOF TILE BK - FACE BRICK WORK CR - CORNET RENDER FW - FIXED WINDOW AC - ALUMINUM DOOR TC - TIMBER CLADDING TW - TIMBER WINDOW AW - ALUMINUM WINDOW OS - GLASS BLOCK FB - FRAMED GLASS BALUSTRADE GP - GLASS FRAMED BALUSTRADE S - SMOKE DETECTOR PC - FIRE CEILING AL - ALUMINUM BALUSTRADE SS - STEEL BALUSTRADE M - NEW WINDOW N - NEW DOOR D - NEW DOOR
Notes	1. THIS PLAN IS TO BE CONSIDERED AS THE MAIN PLAN FOR THE PROPOSED WORK. 2. ALL DIMENSIONS ARE IN METRES UNLESS OTHERWISE SPECIFIED. 3. THIS PLAN IS TO BE CONSIDERED AS THE MAIN PLAN FOR THE PROPOSED WORK. 4. ALL DIMENSIONS ARE IN METRES UNLESS OTHERWISE SPECIFIED.
Materials	FB - FRAMED GLASS BALUSTRADE GP - GLASS FRAMED BALUSTRADE S - SMOKE DETECTOR PC - FIRE CEILING AL - ALUMINUM BALUSTRADE SS - STEEL BALUSTRADE M - NEW WINDOW N - NEW DOOR D - NEW DOOR
Scale	1:100
Project Details	Title: 1st Floor Plan Project: 1st Floor Plan Client: M. Smith Date: 20/10/2010 Scale: 1:100
Company	 P DESIGN INC. 40/40 WILSON ST, SYDNEY NSW 1570 Australia Tel: 61 (0) 2 9550 2222 Fax: 61 (0) 2 9550 2223 Email: info@pdesign.com.au Website: www.pdesign.com.au

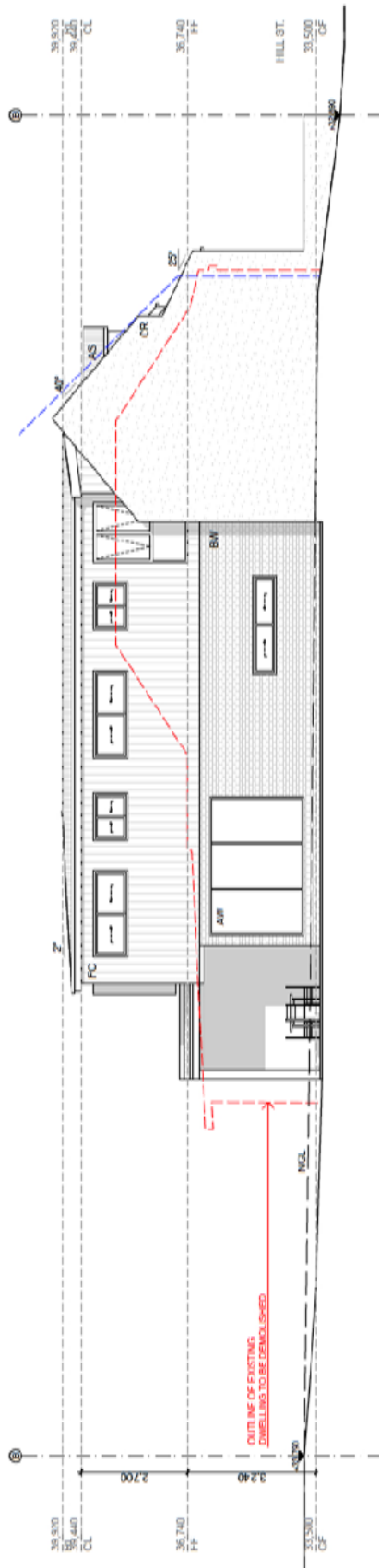


South Elevation - Hill Street
1:100

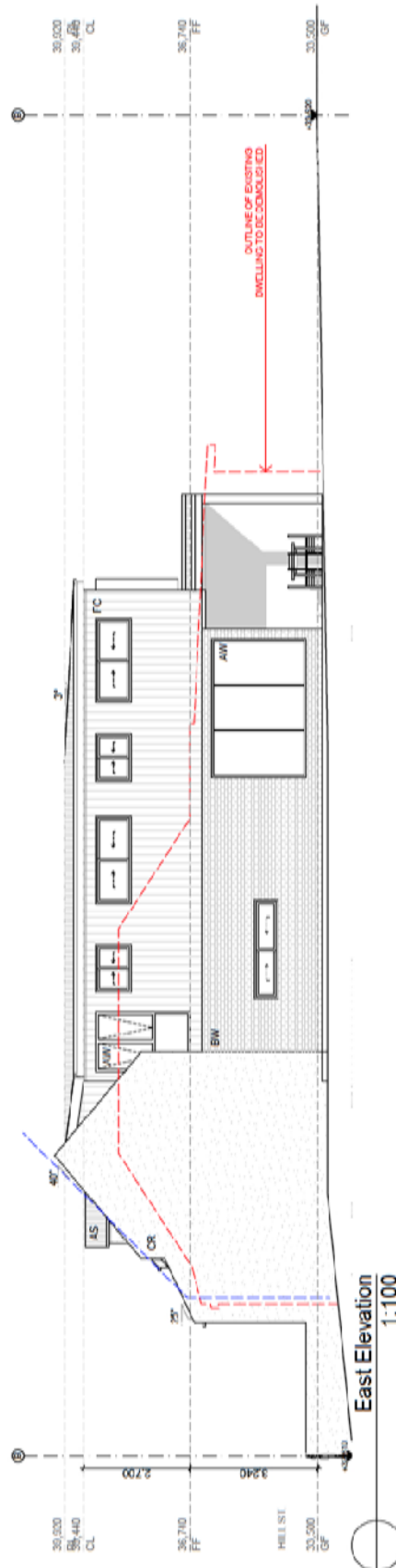


North Elevation
1:100

AN - ALUMINIUM KICK BOARDING TT - TERRAZZOTA ROOF TILE CT - CONCRETE ROOF TILE BW - FACE BRICK WORK BK - CEMENT RENDER	SC - SILVER CLADDING TW - TIMBER WINDOW AW - ALUMINIUM WINDOW GB - GLASS BLOCK	FW - FIBRO RENDER AD - ALUMINIUM DOOR FC - FIBRE CEMENT AL - ALUMINIUM BALUSTRADE SF - STEEL BALUSTRADE	HW - HORIZONTAL SLAT BALUSTRADE GF - GLASS FRAMED BALUSTRADE S - SHOCK DETECTOR N - NEW WINDOW H - NEW DOOR	Issue / Description A - 20/05/2020 B - 22/05/2020 C - 23/05/2020	Title: Project: Client: Designer: Scale:	Date & with Details: In the form of a contract with: at: Date: Scale:
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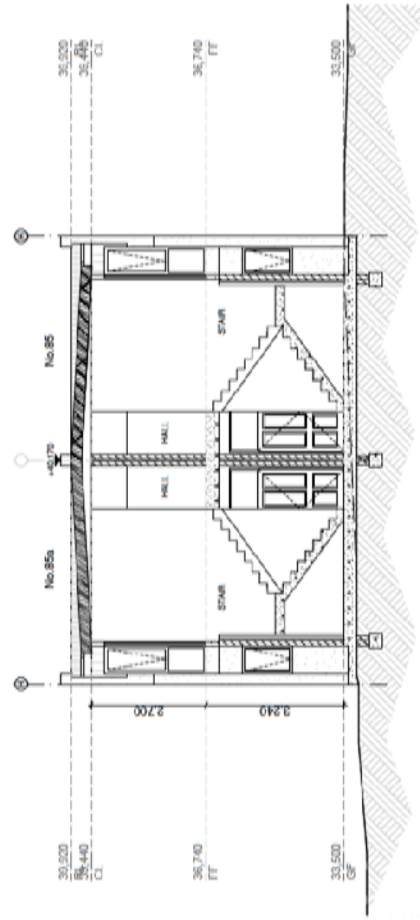
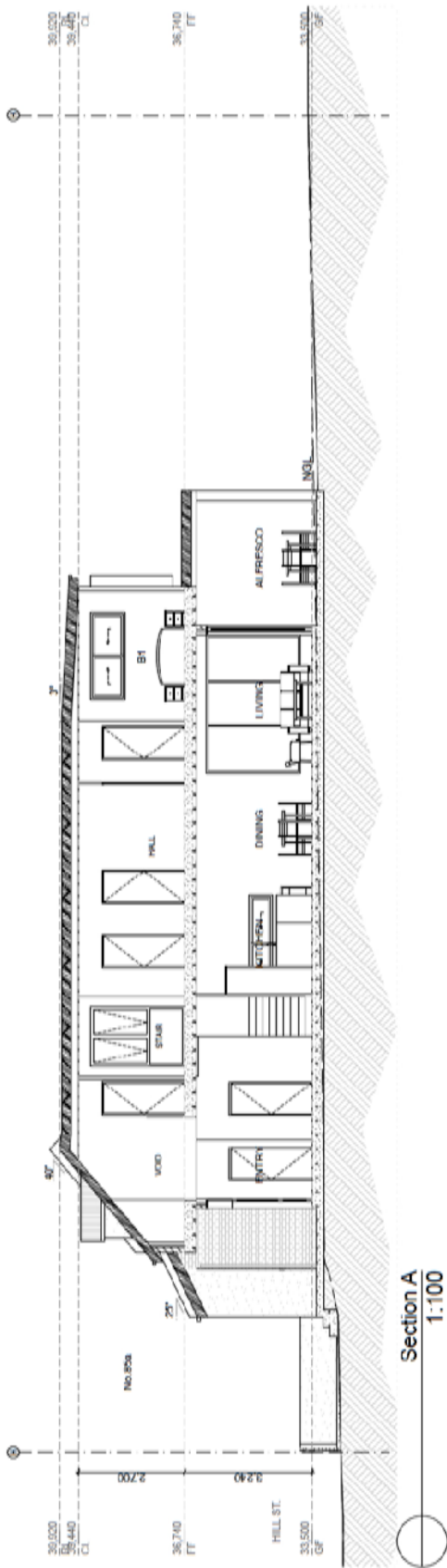


West Elevation
1:100



East Elevation
1:100

<p>AS - ALUMINUM ROOF SHEETING TT - TERRACOTTA ROOF TILE CT - CONCRETE ROOF TILE BW - FACE BRICK WORK CR - CEMENT RENDER</p>	<p>SC - STONE CLADDING TC - TIMBER CLADDING TW - TIMBER WINDOW AW - ALUMINUM WINDOW GR - GLASS BLOCKS</p>	<p>FW - FIXED WINDOW AD - ALUMINUM DOOR FC - FRAME CURTAIN AL - ALUMINUM BALUSTRADE SR - STEEL BALUSTRADE</p>	<p>FD - FRAMELESS GLASS BALUSTRADE GF - GLASS FRAMED BALUSTRADE S - SMOKE DETECTOR N - NEW WINDOW D - NEW DOOR</p>	<p>THE WORK IS TO BE COMPLETED IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL COUNCIL. THESE DRAWINGS AND SPECIFICATIONS SHALL BE USED AS A GUIDE ONLY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND MATERIALS TO BE USED ON SITE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL COUNCIL.</p>	<p>Name: Description A: Pre-Design B: Consultation C: Design/Approval</p>	<p>Date: 21-08-2020 21-08-2020 21-08-2020</p>	<p>Title: Project: Client: User: Scale:</p>	<p>West & East Elevations 2019 West, Lakeland NSW M. 1000 1000 2019 1000 1000 1:100 @ A0</p>	<p>DWG C</p>
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AS - ALUMINUM ROOF SHEETING BC - STONE CLADDING TT - TERRAZZED ROOF TILE TC - TIMBER CLADDING CT - CONCRETE ROOF TILE TR - TIMBER WINDOW BW - FACE BRICK WORK AW - ALUMINUM WINDOW CR - CONCRETE FRENCH GB - GLASS BLOCKS		PW - FIXED WINDOW AD - ALUMINUM DOOR FC - FIBRE CEMENT AL - ALUMINUM BALUSTRADE SB - STEEL BALUSTRADE		FS - FRAMELESS GLASS BALUSTRADE GP - GLASS FRAMED BALUSTRADE S - SMOKE DETECTOR IN - NEW WINDOW D - NEW DOOR		THIS DRAWING IS TO BE USED ONLY BY THE BUILDING OFFICE OF AUSTRALIA. THE BUILDING OFFICE OF AUSTRALIA IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS DRAWING. THE BUILDING OFFICE OF AUSTRALIA IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS DRAWING. THE BUILDING OFFICE OF AUSTRALIA IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS DRAWING. THE BUILDING OFFICE OF AUSTRALIA IS NOT RESPONSIBLE FOR THE ACCURACY OF THIS DRAWING.		Issue Description A - For Approval B - Consultant Review C - Development Application	Date 20-11-2023 21-11-2023 22-11-2023	Title Project: 6108 Street, Lakeland NSW Client: Mr. Mark Kenny Date: 20th Nov 2023 Scale: 1:100 @ A/C	Section: Section C	DWG/P
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Attachment C- Clause 4.6 Exception to Development Standards



26.05.2020

Clause 4.6 - Variation Request

Minimum Lot Size Development Standard (Clause 4.1 of Leichhardt LEP 2013)

85 Hill Street, Leichhardt

1. Introduction

This Variation Statement has been in support of a development application for the redevelopment of 85 Hill Street, Leichhardt, and seeks to vary clause 4.1 of Leichhardt Local Environmental Plan 2013 (Leichhardt LEP 2013) in relation to minimum lot size.

This Statement has been prepared in accordance with clause 4.6 – Exceptions to Development Standards of the Leichhardt LEP 2013, and the NSW Department of Planning and Infrastructure (DP&I) "Varying development standards: A Guide", August 2011.

2. Development Standard to be varied

The development standard to be varied is clause 4.1 of *Leichhardt LEP 2013* relating to minimum lot size

Clause 4.1 - Minimum subdivision lot size

(1) The objectives of this clause are as follows—

- (a) to ensure that lot sizes are able to accommodate development that is consistent with relevant development controls,
- (b) to ensure that lot sizes are capable of supporting a range of development types.

(2) This clause applies to a subdivision of any land shown on the [Lot Size Map](#) that requires development consent and that is carried out after the commencement of this Plan.

(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.

(4) This clause does not apply in relation to the subdivision of any land—

- (a) by the registration of a strata plan or strata plan of subdivision under the [Strata Schemes Development Act 2015](#), or
- (b) by any kind of subdivision under the [Community Land Development Act 1989](#).

The minimum lot size for the site is 200m²

3. Proposed Development

The application seeks approval from Council to undertake a boundary realignment of the existing two (2) Torrens title lots, and the construction of a two (2) storey semi-detached dwelling on each lot.

The boundary realignment will create the following:

- **Lot 85a** – Area of 178.3m², with a lot width of 5.257m fronting Hill Street.
- **Lot 85** – Area of 178.3m², with a lot width of 5.257m fronting Hill Street.

4. Principles of Exceptions to Development Standards

Clause 4.6 provides a nexus to enable the flexibility of development standards where it is demonstrated that the proposed variation to a development standard may, in some circumstances, achieve the underlying purpose of the standard as much as one which complies. If the development is not only consistent with the underlying purpose of the standard, but also with the broader planning objectives for the locality, strict compliance with the standard can be deemed to be unreasonable and unnecessary and Council could approve an exception.

It is noted that the NSW Department of Planning and Infrastructure (DP&I) provides guidance on how to prepare clause 4.6 variations in the form of "Varying development standards: A Guide August 2011". This written request to vary the standard is based on the DP&I guide, in particular Appendix 3 which provides a template for and "Application Form to vary a development standard".

The following has been prepared in accordance with this Guide:

4.1. What is the name of the environmental planning instrument that applies to the land?

The *Leichhardt Local Environmental Plan 2013* (Leichhardt LEP 2013)

4.2. What is the zoning of the land?

The land is zoned R1 – General Residential under *Leichhardt Local Environmental Plan 2013*.

4.3. What are the Objectives of the zone?

The Objectives of the R1 – General Residential Zone are:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To improve opportunities to work from home.
- To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.
- To provide landscaped areas for the use and enjoyment of existing and future residents.
- To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.
- To protect and enhance the amenity of existing and future residents and the neighbourhood.

4.4. What is the development standard being varied?

The development standard being varied is the minimum lot size.

4.5. Under what Clause is the development standard listed in the environmental planning instrument?

The development standard is listed under clause 4.1 of the *Leichhardt LEP 2013*.

4.6. What are the Objectives of the development standard?

Clause 4.1 - Minimum subdivision lot size

- (1) The objectives of this clause are as follows—
 - (a) to ensure that lot sizes are able to accommodate development that is consistent with relevant development controls,
 - (b) to ensure that lot sizes are capable of supporting a range of development types.
- (2) This clause applies to a subdivision of any land shown on the [Lot Size Map](#) that requires development consent and that is carried out after the commencement of this Plan.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.
- (4) This clause does not apply in relation to the subdivision of any land—
 - (a) by the registration of a strata plan or strata plan of subdivision under the [Strata Schemes Development Act 2015](#), or
 - (b) by any kind of subdivision under the [Community Land Development Act 1989](#).

4.7. What is the numeric value of the development standard in the environmental planning instrument?

The numeric value of the development standard is 200m²

4.8. What is the proposed numeric value of the development standard in your development application?

The maximum numeric value proposed is provided in the Table below:

Lot 85a	178.3m ² Site Area
Lot 85	178.3m ² Site Area

4.9. What is the percentage variation (between your proposal and the environmental planning instrument)?

The percentage variation is 10.85% (21.7m²) per site.

5. Proper application of Clause 4.6

Clause 4.6 of Leichhardt LEP 2013 provides:

- 1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- 2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- 3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- 4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*
- 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*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*
- 6) - 8) ...

Clause 4.6 has five requirements as follows:

1. There must be a written request from the applicant that seeks to justify the contravention of the standard (clause 4.6(3)).
2. That written request must seek to justify contravention of the standard by demonstrating that:
 - Compliance with the development standard is unreasonable or unnecessary in particular circumstances of the case (clause 4.6(3)(a)); and

- That there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)).
3. The consent authority must consider the written request.
 4. The consent authority must be satisfied that:
 - The written request as adequately addressed the matters that are required to be demonstrated, i.e. compliance is unreasonable and unnecessary and sufficient environmental planning grounds (clause 4.6(4)(a)(i)).
 - The development is 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 grounds (clause 4.6(4)(a)(ii)).
 5. Concurrence to the variation must have been obtained from the Director-General grounds (clause 4.6(4)(b)).

It should be noted that steps 1 and 2 are matters for the applicant. Steps 3 and 4 are matters for the consent authority. Step 5 is a matter for the Director-General, however in this case the Director-General has issued a blanket concurrence to variations to development standards where the variation is made pursuant to an environmental planning instrument which contains clause 4.6 in the form contained in the standard template or in similar terms.

Assistance on the approach to justifying a development standard variation is found in certain defining decisions of the NSW Land and Environment Court, in particular the judgements for:

- *Wehbe v Pittwater Council* [2007] NSWLEC 827
- *Four2FivePtyLtd v Ashfield Council* [2015] NSWLEC 1009
- *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386
- *Moskovich v Waverley Council* [2016] NSWLEC 1015
- *Zhang and anor v Council of the City of Ryde* [2016] NSWLEC 1179.

6. Assessment of the Proposed Variation under Clause 4.6

This Variation Request has been prepared against the following relevant Steps in reference to clause 4.6:

- Step 1 – The written request
- Step 2 – Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3))
- Step 3 – The proposed development will be in the public interest because it is consistent with the objectives of the development standard and objectives for development within the zone (clause 4.6(4))

STEP 1

6.1. Step 1 – The written Request

This document constitutes the written request to the application which seeks to justify contravention of the standard.

STEP 2

6.2. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a));

The judgment in *Wehbe v Pittwater Council* [2007] NSWLEC 827 identified five ways that could be applied to establish whether compliance is unreasonable or unnecessary. These are discussed below:

1. *Compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard*

As set out below, the proposed development will achieve the objectives of the development standard notwithstanding numerical non-compliance.

The objectives of the minimum lot size standard are set out in clause 4.1, and reproduced in Part 4.6 of this Variation.

(a) to ensure that lot sizes are able to accommodate development that is consistent with relevant development controls,

As shown on the submitted architectural plans, the resulting lots have an adequate site area, shape and dimensions that is capable of supporting a modern four (4) bedroom dwelling house. The resulting dwelling houses achieve superior amenity including natural light and privacy to each room, generous internal dimensions and areas that are suitable for modern living standards, and appropriate level of landscaping and private open space area.

Each dwelling includes:

- Four (4) bedrooms of adequate internal dimensions and space to accommodate a double bed, side tables and generous wardrobe space.
- Bathroom at ground and first floor level.
- Ensuite bathroom serving the main bedroom.
- Unobstructed open plan living, dining and kitchen of adequate internal dimensions, shape and space to accommodate a kitchen island, 6-seat table and 3-piece lounge, with direct access to a private open space area.
- A covered alfresco area including outdoor 6-seat table and outdoor cooking facilities.
- Laundry, outdoor drying facilities and site facilities.

As further shown in the submitted Statement of Environmental Effects, the resulting development on each lot complies the following Council development controls:

- Floor Space Ratio development standard.
- Landscape area development standard.
- Site Coverage development standard.
- Front building wall height control.
- Building Location Zone control.
- Private open space area control.
- Solar access control.

Overall, the resulting lot and proposed development is deemed adequate to accommodate development that is consistent with the zoning of the site and consistent with the relevant development controls.

(b) to ensure that lot sizes are capable of supporting a range of development types.

The proposed width, area, shape and orientation of the lots are consistent with the existing cadastral pattern along this side of Hill Street. The proposed lots are capable to support a semi-detached dwelling that is consistent with the existing development type along Hill Street

2. *The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*

This contention is not applicable to the proposal.

3. *The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*

This contention is not applicable to the proposal.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*

This contention is not applicable to the proposal, though the circumstances of the site are similar to the recently approved Clause 4.6 Variation Statement by Council under D/2019/413.

5. *"the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

This contention is not applicable to the proposal.

6.3. *Is there sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)).*

Yes. In the circumstances of the case, there are sufficient planning grounds to justify contravening the development standard being:

- The existing cadastral layout of the site includes a constrained lot that is smaller (144.62m²) than the minimum lot size standard and is inconsistent with the prevailing cadastral layout of Hill Street.

The small area and narrow width (4.265m) of the lot would result in a compromised dwelling, that would be inconsistent with the streetscape and would create inappropriate internal amenity for the intended occupants.

The boundary realignment will increase the size of this lot to 178.3m² and increase the width of the lot to 5.267m, thereby allowing the construction of a standard dwelling that is typical of the local area with improved internal amenity.

- The proposed boundary realignment and resulting reconfigured allotments divides the property evenly along its longer boundary, creating two even independent lots, and orientates each dwelling to the street similar to the street context. This is consistent with the orientation, width, area and shape of the prevailing subdivision pattern along the northern side of Hill Street.
- A semi-detached dwelling development is a permissible use under the R1 Zoning. This will provide additional housing opportunities that are compatible with the streetscape and the capacity of existing infrastructure and utilities. The proposal is therefore consistent with the relevant objectives in the R1 Zone.
- The site area, shape, orientation and dimensions of each lot are capable of supporting a modern 4 bedroom house, with natural light to each room, appropriate level of landscaping, adequate private open space and suitable vehicular access arrangement.
- The proposal provides superior amenity to each dwelling in regard to solar access, natural day light to each room, privacy and internal area.

- The resulting development on each lot is compliant with Council's built form development controls, and in particular is consistent with the desired future character controls established for the Piperston Distinctive Neighbourhood (Part C2.2.3.3).
- As demonstrated in the submitted Statement of Environmental Effects, the compliance of the resulting development with Council's built form controls ensures the proposal does not result in any unreasonable amenity impacts upon adjoining properties.
- The proposal provides generous landscape areas and private open space area in excess of council's controls, and as evident within existing properties along the northern side of Hill Street.

For the reasons set out above, the proposal will achieve a better planning outcome than a compliant development of the site.

STEP 3

6.4. Will the proposed development be in the public interest because it is consistent with the objectives of the development standard?

The objectives of development standard are:

Clause 4.1 - Minimum subdivision lot size

- (a) to ensure that lot sizes are able to accommodate development that is consistent with relevant development controls,
- (b) to ensure that lot sizes are capable of supporting a range of development types.

An assessment against these objectives is provided in Section 6.2.

Even though the proposal results in a non-compliance with the development standard, as demonstrated above, the proposal is considered consistent with the objectives of the development standard, and is in the public interest.

6.5. Will the proposed development be in the public interest because it is consistent with the objectives of the zone?

The Objectives of the R1 General Density Residential Zone are:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To improve opportunities to work from home.
- To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.
- To provide landscaped areas for the use and enjoyment of existing and future residents.
- To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.
- To protect and enhance the amenity of existing and future residents and the neighbourhood.

The proposal is consistent with the zone objectives for the following reasons:

- In regards to dot points 1 and 2, the semi-detached dwellings resulting from the subdivision is a low density form of development that will provide increase home ownership opportunities within the community that is compatible with the subdivision and urban pattern of Hill Street.

The proposal will provide housing variety in the form of a new modern larger sized 4 bedroom house which is in demand within the local area given the increasing household size of the local area containing couples with children, and the overall shortfall in comparison to the remainder of the Inner West LGA. The proposal provides housing variety to meet the housing needs of the community (Figure 1). (Source: Australian Bureau of Statistics, Census of Population and Housing, 2016 - www.abs.gov.au for Inner West Council).

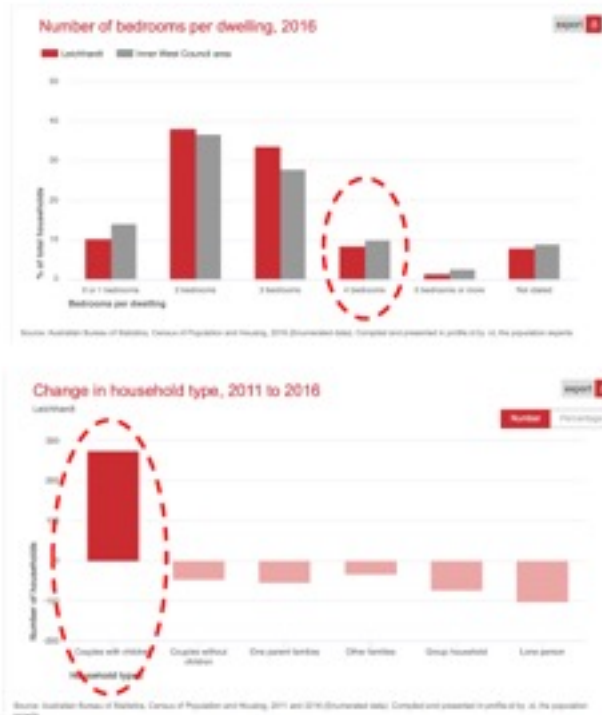


Figure 1: Increasing demographic trend of Leichhardt and the associated demand for larger 4 bedroom homes.

- Dot points 3 and 4 are not applicable to the proposal.
- In regard to dot point 5, the resulting development on each lot comprises the following elements that are compatible with the character of the local streetscape:
 - A single storey semi-detached dwelling form.
 - A pitched roof that complies with the front wall envelope control of the Piperston Distinctive Neighbourhood character area.
 - The front façade and building form fits within the 3.6m Building Wall height control (Control C14 under Part C2.2.3.3 of LDCP 2013).
 - A lower verandah roof element over the front door.

- A clearly identifiable front entry gate, path and front door.
- A landscaped front yard, with the opportunity to include a tall canopy tree.
- Face brick, metal and cement render material within the front building façade.
- Vertically proportioned window openings.
- In regards to dot point 6, the proposal provides landscape and private open space areas that are in excess of Council's DCP controls.
- In regards to dot point 7, the reconfigured allotments are consistent with the orientation, width, area and shape of the prevailing subdivision pattern along the northern side of Hill Street.
- In regards to dot point 8, as outlined in the submitted Statement of Environmental Effects Report, the proposed redevelopment of each lot protects the amenity of the adjoining lots in regards to visual and acoustic privacy, overshadowing and bulk & scale impacts.

7. Conclusion

It is requested that council supports the proposed variation to Clause 4.1 of Leichhardt LEP 2013 for the following reasons:

1. Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
2. There are sufficient environmental planning grounds to justify contravening the development standard.
3. The proposed development is the logical provision of built form across the site, the streetscape and surrounding locality.
4. No unreasonable environmental impacts are introduced as a result of the proposal.
5. There is no public benefit in maintaining strict compliance with the standards.
6. The proposed development is in the public interest.
7. Overall, the boundary realignment will increase the size and width of Lot 4 to allow the construction of a standard dwelling that is typical of the local area with improved internal amenity. The retention of a constrained lot under the existing cadastral layout of the site with a resulting compromised dwelling and poor internal amenity is unreasonable.

Given the above justification provided above this Clause 4.6 Variation is well founded and should be favourably considered by Council.