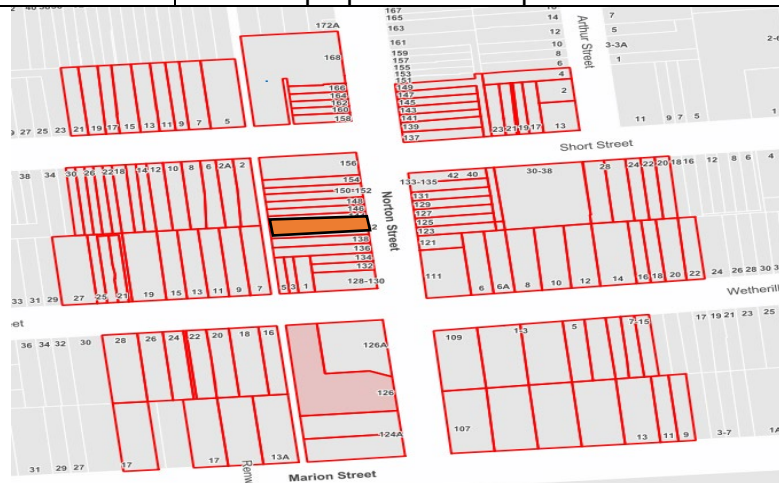




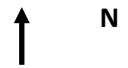
 DEVELOPMENT ASSESSMENT REPORT	
Application No.	MOD/2020/0298
Address	140-142 Norton Street LEICHHARDT NSW 2040
Proposal	Section 4.55(2) Modification of Development Consent seeking various internal and external changes, including internal reconfiguration, changes to unit sizes, central courtyard amendments, relocated bike parking to basement and roof changes
Date of Lodgement	28 August 2020
Applicant	Lamton P/L C/O Design Delta Architects
Owner	Lamtom Pty Ltd
Number of Submissions	Nil
Value of works	\$2,476,811.00
Reason for determination at Planning Panel	Change to design change condition imposed by Panel for Development to which <i>State Environmental Planning Policy No 65</i> applies and is 4 storeys in height
Main Issues	Internal Amenity; Parking and Access
Recommendation	Approval
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
	
LOCALITY MAP	
Subject Site	
Notified Area	
Objectors	
Supporters	
	

1. Executive Summary

This report is an assessment of the application submitted to Council for Section 4.55(2) Modification of Development Consent seeking various internal and external changes, including internal reconfiguration, changes to unit sizes, central courtyard amendments, relocated bike parking to basement and roof changes at 140-142 Norton Street Leichhardt.

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

The main issues that have arisen from the application include:

- Internal Amenity
- Parking and Access

The proposal is acceptable, subject to suitable conditions, given it is consistent with the objectives of the zone, provides an acceptable level of internal amenity and does not result in any adverse streetscape, heritage, traffic or amenity impacts. Therefore, the application is recommended for approval.

2. Proposal

The proposal involves modifications to the deferred commencement approval under D/2019/321 for part demolition and alterations and additions to existing building to provide for a part-three and part-four storey mixed use building comprising commercial tenancy to Norton Street and eight units, with lower ground / basement level accommodating parking accessed via the rear lane.

The following modifications are proposed as outlined by the Applicant:

- *Reduce the size of unit 2 to a 46sqm studio, retain unit 1 as a 54sqm 1-bedroom unit, and minor adjustments to remaining units.*
- *Reconfigure the central courtyard and voids and allocate private entry courtyards adjacent to Units 1, 2, 3, 4, 7 and 8.*
- *Remove BBQ and reduce the communal open space area on Level 1 to approximately 15sqm.*
- *Provide an open screen and perforated garage door to rear parking area at lower ground/basement level.*
- *Reconfigure the ground floor residential entry and commercial layout.*
- *Increases to overall roof height by 630mm and lift overrun by 1.48m.*
- *Landscaping planter box details and location of fire hydrant/building services provided.*

Accordingly, it is proposed to delete the deferred commencement conditions given these matters have been satisfactorily address in the amended plans and allow an operational consent as well as update Condition 4 to reference the amended plans.

3. Site Description

The subject site is located on the western side of Norton Street, between Marlborough Street and Carlisle Street. The site consists of two allotments and is generally rectangular in shape with a total area of 414 sqm and is legally described as Lot 1, DP 223016 and Lot C, DP300939.

The site has a frontage to Norton Street of 9.92 metres and a rear frontage of approximately 9.62 metres to the unnamed lane.

The site supports an existing one and two storey commercial building. The adjoining properties support one and two storey mixed use buildings.

The subject site is not listed as a heritage item, but is located within a conservation area. The property is not identified as a flood prone lot. The land is zoned B2 Local Centre as indicated in the figure below.

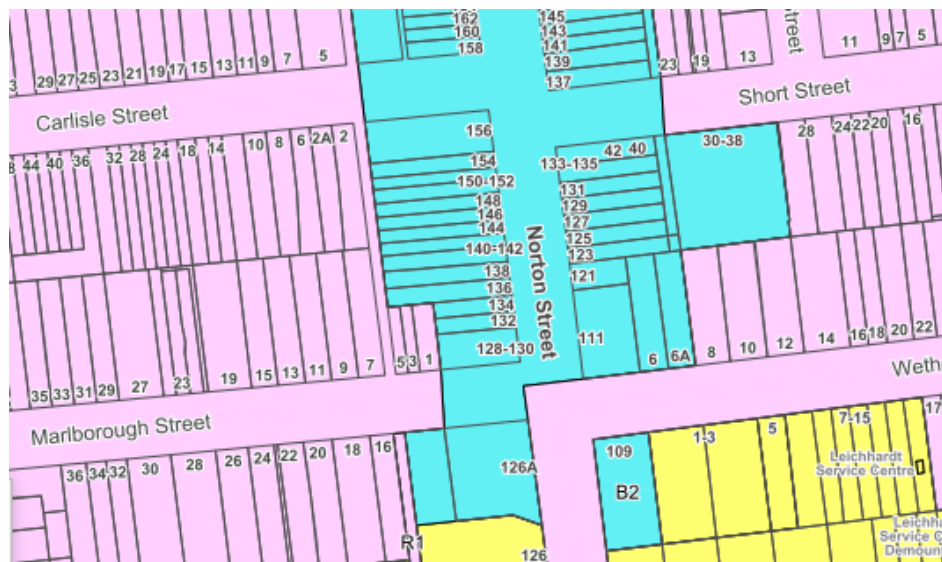


Figure 1: Zoning Map



Figure 2: Aerial Photo



Figure 3: View of 140-142 Norton Street looking west

4. Background

4(a) Site history

Application	Proposal	Decision & Date
D/2019/321	Part demolition and alterations and additions to existing building to provide for a part-three and part-four storey mixed use building comprising commercial tenancy to Norton Street and eight units, with lower ground/ basement level accommodating parking accessed via the rear lane	Approved by IWLPP 9 June 2019

4(b) Application history

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

Date	Discussion / Letter / Additional Information
10/11/2020 & 17/12/2020	<p>Additional information and amended plans provided by the applicant to address the issues raised.</p> <p>The amended plans incorporate the following changes:</p> <ul style="list-style-type: none"> Increased communal open space area on Level 1. Revised parking layout. <p>In addition, the applicant provided a SEPP 65 design verification statement and revised longitudinal section demonstrating proposed access to light and air for the bedroom window of Unit 1.</p> <p>The amendments constitute a lesser development to address issues raised by Council and as such, re-notification was not required.</p>
6/11/2020 & 10/12/2020	<p>Council wrote to the applicant requesting further information to address the following issues:</p> <ul style="list-style-type: none"> Internal amenity (Unit 1 bedroom window relies on lightwell) Reduction in communal open space SEPP 65 design verification statement Parking layout

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.55 and 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. 65—Design Quality of Residential Apartment Development*.
- *Leichhardt Local Environmental Plan (LLEP) 2013*.

The following provides further discussion of the relevant issues:

5(a)(i) ***State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development***

The development is subject to the requirements of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65). SEPP 65 prescribes nine design quality principles to guide the design of residential apartment development and to assist in assessing such developments. The principles relate to key design issues including context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.

A statement from a qualified Architect was submitted with the application verifying that they designed, or directed the design of, the development. The statement also provides an explanation that verifies how the design quality principles are achieved within the modified design and demonstrates, in terms of the Apartment Design Guide (ADG), how the objectives in Parts 3 and 4 of the guide have been achieved.

The development is considered to be acceptable having regard to the nine design quality principles.

The proposal as modified incorporates suitable design changes to satisfactorily address deferred commencement conditions A to F with respect to the size of Units 1 and 2, natural cross ventilation, privacy, security, communal open space and internal amenity.

Apartment Design Guide

The Apartment Design Guide (ADG) contains objectives, design criteria and design guidelines for residential apartment development. In accordance with Clause 6A of the SEPP certain requirements contained within LDCP2013 do not apply. In this regard the objectives, design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail.

The following provides further discussion of the relevant issues:

Communal and Open Space

The ADG prescribes the following requirements for communal open space:

- Communal open space has a minimum area equal to 25% of the site.

- Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).

Comment: The approved communal open space area on Level 1 was approximately 40sqm (or 9.6%). The proposed communal open space on Level 1 is approximately 15sqm in size, which is approximately 3.6% of the site area. However, additional private courtyards of 7.5sqm to 8sqm (totalling 31sqm) have been provided to proposed Units 3, 4, 7 and 8 from the adjacent communal open space on Level 1, which is considered an acceptable offset and provides an adequate passive common area with seating with improved internal amenity for the occupants.

Having considered the constraints of the site and the nature of the proposal as a mixed-use development where it is not possible to utilise the ground floor level for communal open space, and given the private open space areas for each unit exceed minimum requirements and the site’s excellent proximity to local recreational areas, services and facilities within walking distance, it is considered that a variation to the communal open space requirement is acceptable in this instance.

Therefore, the proposal is considered acceptable with respect to communal open space and deferred commencement condition B has been satisfactorily addressed.

Visual Privacy/Building Separation

The ADG prescribes the following minimum required separation distances from buildings to the side and rear boundaries:

Building Height	Habitable rooms and balconies	Non-habitable rooms
Up to 12 metres (4 storeys)	6 metres	3 metres
Up to 25 metres (5-8 storeys)	9 metres	4.5 metres
Over 25 metres (9+ storeys)	12 metres	6 metres

The ADG prescribes the following minimum required separation distances from buildings within the same site:

Up to four storeys/12 metres

Room Types	Minimum Separation
Habitable Rooms/Balconies to Habitable Rooms/Balconies	12 metres
Habitable Rooms to Non-Habitable Rooms	9 metres
Non-Habitable Rooms to Non-Habitable Rooms	6 metres

Comment: As the proposal is up to 4 storeys in height, the controls up to 4 storeys are applicable. The adjoining buildings consist of mixed-use developments to the north and south of the property, and as the proposed development is proposed to be built to the boundaries, the proposal does not provide the separation as specified above. Having considered the nature of the developments on the adjoining properties where dwellings are located at first floor level, it is considered that the separation distances can be supported subject to visual privacy impacts being adequately addressed.

The proposal as modified maintains compliant separation distances between units within the site. The rear balconies to the rear lane maintain a rear setback of 6m and incorporate 1.5m high privacy screens to the northern and southern sides. A blank wall is proposed on the northern boundary to maintain visual privacy to the north. The open corridor on Level 2

maintains a 2m to 2.6m setback to the southern boundary, which is considered acceptable given 1.5m high privacy screens are provided.

Therefore, the proposal is considered acceptable with respect to visual privacy and deferred commencement condition C has been satisfactorily addressed.

Solar and Daylight Access

The ADG prescribes the following requirements for solar and daylight access:

- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter.
- A maximum of 15% of apartments in a building receive no direct sunlight between 9.00am and 3.00pm at mid-winter.

Comment: A total of 7 units (87.5%) achieve at least 2 hours solar access to living rooms and private open space between 9am and 3pm at mid-winter, while Unit 1 achieves 1.5 hours solar access.

Natural Ventilation

The ADG prescribes the following requirements for natural ventilation:

- At least 60% of apartments are naturally cross ventilated in the first 9 storeys of the building. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.
- Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.

Comment: The approved development provided a total of 6 units (75%) with natural cross ventilation, noting that the eastern bedroom openings of Units 1 and 2 were reliant on a lightwell and required to be deleted. The proposal as modified provides larger open lightwell/voids to Units 1 and 2 and as such, the proposal (as modified) is considered acceptable with respect to natural ventilation.

Therefore, the proposal is considered acceptable with respect to natural ventilation and deferred commencement condition A has been satisfactorily addressed.

Ceiling Heights

The ADG prescribes the following minimum ceiling heights:

Minimum Ceiling Height	
Habitable Rooms	2.7 metres
Non-Habitable	2.4 metres
For 2 storey apartments	2.7 metres for main living area floor 2.4 metres for second floor, where its area does not exceed 50% of the apartment area
Attic Spaces	1.8 metres edge of room with a 30 degree minimum ceiling slope
If located in mixed used area	3.3 for ground and first floor to promote future flexibility of use

Comment: A minimum 2.7m ceiling height is maintained for each unit and 2.8m ceiling height is provided for the ground floor commercial unit. While the ground and first floor do not provide a 3.3m ceiling height to promote future flexibility in a mixed use area, this is considered acceptable given it reflects the ceiling height of the existing ground floor commercial use to be retained.

Apartment Size

The ADG prescribes the following minimum apartment sizes:

Apartment Type	Minimum Internal Area
Studio apartments	35m ²
1 Bedroom apartments	50m ²
2 Bedroom apartments	70m ²
3 Bedroom apartments	90m ²

Note: The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.

Comment: Each unit complies with the minimum internal area requirements for studios, 1-bedroom and 2-bedroom apartments.

Apartment Layout

The ADG prescribes the following requirements for apartment layout requirements:

- Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.
- Habitable room depths are limited to a maximum of 2.5 x the ceiling height.
- In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8 metres from a window.
- Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).
- Bedrooms have a minimum dimension of 3 metres (excluding wardrobe space).
- Living rooms or combined living/dining rooms have a minimum width of:
 - 3.6 metres for studio and 1 bedroom apartments.
 - 4 metres for 2 and 3 bedroom apartments.
- The width of cross-over or cross-through apartments are at least 4 metres internally to avoid deep narrow apartment layouts.

Comment: Each unit complies with the minimum apartment layout and dimension requirements.

Private Open Space and Balconies

The ADG prescribes the following sizes for primary balconies of apartments:

Dwelling Type	Minimum Area	Minimum Depth
Studio apartments	4m ²	-
1 Bedroom apartments	8m ²	2 metres
2 Bedroom apartments	10m ²	2 metres
3+ Bedroom apartments	12m ²	2.4 metres

Note: The minimum balcony depth to be counted as contributing to the balcony area is 1 metres.

The ADG also prescribes for apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3 metres.

Comment: Each unit complies with the minimum balcony area and depth requirements.

Common Circulation and Spaces

The ADG prescribes the following requirements for common circulation and spaces:

- The maximum number of apartments off a circulation core on a single level is 8.

Comment: No more than 4 apartments are proposed off a circulation core on a single level.

Storage

The ADG prescribes the following storage requirements in addition to storage in kitchen, bathrooms and bedrooms:

Apartment Type	Minimum Internal Area
Studio apartments	4m ³
1 Bedroom apartments	6m ³
2 Bedroom apartments	8m ³
3+ Bedroom apartments	10m ³

Note: At least 50% of the required storage is to be located within the apartment.

Comment: Each unit complies with the minimum storage requirements.

5(a)(ii) *Leichhardt Local Environment Plan 2013 (LLEP 2013)*

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

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 4.4 – 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 5.10 - Heritage Conservation
- Clause 6.8 - Development in areas subject to aircraft noise
- Clause 6.11A – Residential Accommodation in Zone B1 and Zone B2
- Clause 6.13 - Diverse housing

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

Standard	Proposal	non compliance	Complies
Floor Space Ratio Maximum permissible: 1.5:1 or 621 sqm	1.45:1 or 601sqm	N/A	Yes

Clause 4.4A Exception of Maximum Floor Space Ratio for Active Street Frontages

The proposal is considered to satisfy the requirements for a maximum FSR of 1.5:1 given the building:

- will have an active street frontage where the ground floor of the building facing the street is used for a purpose other than residential accommodation;
- comprises mixed use development (including residential accommodation); and
- achieves compatibility with the desired future character of the area in relation to its bulk, form, uses and scale.

Clause 5.10 Heritage Conservation

The subject property at 140-142 Norton Street, Leichhardt, is located within the Whaleyborough Heritage Conservation Area (C13 in Schedule 5 of the Leichhardt LEP 2013). The site is in the vicinity of the heritage listed Royal Hotel, including interiors, at 156 Norton Street, Leichhardt (I682).

The Statement of Significance for the Whaleyborough Heritage Conservation Area is provided below:

- *One of a number of conservation areas which collectively illustrate the nature of Sydney’s early suburbs and Leichhardt’s suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). This area is significant for its surviving development from the 1880s and 1890s, which gives it its particular identity. All allotments appear to have been taken up and built upon probably by the late 1930s.*
- *Through its wide roads, its important mixture of cottages, terraces and shops, mostly dating from the 1880s–1890s, and the form and materials of its construction this area provides an interesting built example of late nineteenth century economics where pressures for denser and cheaper accommodation have overlaid the original spacious suburban intentions.*
- *With the adjoining Excelsior Estate subdivision to the south, its roads, lanes and subdivision pattern defined the layout of central Leichhardt.*
- *It demonstrates through its range of external finishes (first plaster, then brown face brick and blue-face brick) the increasing sophistication in brick making from the 1880s.*

The existing building is a late 20th century building, which is not considered to be a contributory building to the conservation area.

Council’s Heritage Advisor provided the following comments:

The drawings, dated 7 August 2020, and the Cover Letter, dated 13 August 2020, both prepared by DesignDelta Architects, were reviewed as part of this assessment.

The proposed modification seeks to implement the amendments as required in the deferred commencement condition for D/2019/321.

As stated in the Cover Letter, the proposed changes do not alter the approved form of the building or the main façade to Norton Street. The minor modifications proposed to the central courtyard will not be visible from the public domain.

Deferred commencement condition F. required:

“The western elevation of the basement level must be infilled with a solid wall with a roller door entry to the basement parking”.

The applicant proposes an open screen and perforated garage door instead of a solid wall and roller door to maximise daylight and ventilation and to maintain visual security. Mechanical engineering advice also suggested the wall be perforated to avoid the need for mechanical exhausting. Based on the above, and that the perforated garage door will appear more solid from the laneway, this is acceptable in this instance.

The proposed modification is acceptable from a heritage perspective as it is in accordance with the deferred commencement requirements for D/2019/321, will not detract from the heritage significance of the Whaleyborough Heritage Conservation Area and is in accordance with Clause 5.10 Objectives 1(a) and (b) in the Leichhardt LEP 2013 and the relevant objectives and controls in the Leichhardt DCP 2013.

Assessment Officer Comment: Accordingly, deferred commencement condition F may be deleted as the amended plans satisfactorily address the previous heritage concerns raised.

Clause 6.13 Diverse Housing

The proposal provides 6 studio or one-bedroom dwellings and 2 x two-bedroom dwellings, which complies with the diverse housing requirements where at least 25% of the total number of dwellings are self-contained studio or one-bedroom dwellings and no more than 30% of dwellings contain 3 or more bedrooms.

5(b) 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*.

It is noted that the general intent of the Draft IWLEP 2020 is to harmonise the existing planning controls from Leichhardt LEP 2013, Marrickville LEP 2011, and Ashfield LEP 2013 into a consolidated LEP and as such, the proposal is generally consistent with the amended provisions contained in the Draft IWLEP 2020.

In addition, it is considered that the Draft IWLEP 2020 is not highly imminent or certain and as such, little if any weight can be applied to these draft provisions. Further, it is assumed that a savings provision will apply under the Draft IWLEP 2020 to ensure that applications lodged prior to any commencement of the IWLEP 2020 will continue to be assessed under the former provisions.

5(c) Development Control Plans

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

LDCP2013	Compliance
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Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	Yes
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	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	Yes
C1.12 Landscaping	N/A
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	Yes
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Yes
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	Yes
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	
C2.2.3.5 Leichhardt Commercial Distinctive Neighbourhood, Norton Street – Centro Sub-Area	Yes – see discussion
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	N/A
C3.6 Fences	N/A
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Refer to SEPP 65
C3.9 Solar Access	Refer to SEPP 65
C3.10 Views	Yes
C3.11 Visual Privacy	Refer to SEPP 65
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	Yes

Part C: Place – Section 4 – Non-Residential Provisions	
C4.1 Objectives for Non-Residential Zones	Yes
C4.2 Site Layout and Building Design	Yes
C4.3 Ecologically Sustainable Development	Yes
C4.4 Elevation and Materials	Yes
C4.5 Interface Amenity	Yes
C4.6 Shopfronts	Yes
C4.7 Bulky Goods Premises	N/A
C4.8 Child Care Centres	N/A
C4.9 Home Based Business	N/A
C4.10 Industrial Development	N/A
C4.11 Licensed Premises and Small Bars	N/A
C4.12 B7 Business Park Zone	N/A
C4.13 Markets	N/A
C4.14 Medical Centres	N/A
C4.15 Mixed Use	Yes
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	Yes
D2.5 Mixed Use Development	Yes
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	Yes
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Yes
E1.2.4 Stormwater Treatment	Yes
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A
Part F: Food	N/A
Part G: Site Specific Controls	N/A

C1.11 Parking

No changes were proposed to the overall parking provision originally approved and as such, Council's previous engineering conditions remain applicable.

However, given the amended plans incorporate the deletion of Car Spaces 5 and 6 as per conditions 28 and 31, these conditions will be updated accordingly as provided below:

Condition 28. Changes to Design

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

- ~~a. Parking Spaces Car 05 and Car 06 must be deleted as they do not meet the requirements of AS2890.1:2004.~~
- b. *Parking Space Car 04 must be allocated as a Visitor Parking Space for persons with a disability.*
- c. *Parking Space Car 03 must be allocated as an employee parking space only for the retail component of the development.*
- d. *Parking Spaces Car 01 and Car 02 must be allocated as a resident parking spaces for exclusive use by a single residential unit.*

Condition 31. Parking Facilities

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans and certification by a suitably qualified Civil Engineer demonstrating that the design of the vehicular access and off-street parking facilities comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking, AS/NZS 2890.3-2015 Parking facilities: Bicycle Parking, AS/NZS 2890.6-2009 Parking facilities: Off-street parking for people with disabilities and the following specific requirements:

- a) *The internal vehicle hardstand area must be redesigned such that the level at the boundary must match the invert level of the adjacent gutter plus 110mm at both sides of the vehicle entry. This will require the internal garage slab or hard stand area to be adjusted locally at the boundary to ensure that it matches the above-issued alignment levels.*
- b) *The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.*
- c) *A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.*
- d) *Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.*
- e) *The parking spaces must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004.*
- f) *The maximum gradients within the parking module must not exceed 1 in 20 (5%), measured parallel to the angle of parking and 1 in 16 (6.25%), measured in any other direction in accordance with the requirements of Section 2.4.6 of AS/NZS 2890.1-2004.*
- ~~g) *Parking Spaces Car 05 and Car 06 must be deleted as they do not meet the requirements of AS/NZS2890.1-2004.*~~

- h) *Parking Space Car 04 must be allocated as a Visitor Parking Space for persons with a disability as per AS/NZS 2890.6-2009. Where the shared area is within a trafficable area, it must not be marked as per AS/NZS 2890.6-2009.*
- i) *Clear sightlines at the vehicular access to pedestrians and vehicles within the rear lane.*
- j) *The external form and height of the approved structures must not be altered from the approved plans.*

Therefore, it is considered that the proposal is acceptable subject to conditions.

5(d) Section 4.55 Modification Provisions

Under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, the consent authority, when considering a request to modify a Determination must:

- a) Be satisfied that the development as modified is substantially the same development as the development for which consent was originally granted
- b) Consult with any relevant authority or approval body
- c) Notify the application in accordance with the regulations
- d) Consider any submissions made
- e) Take into consideration the matters referred to in Section 4.15 that are relevant to the development the subject of the modification application.

The development being modified is substantially the same development as the development for which consent was originally granted. No authorities or bodies were required to be consulted. The application was notified in accordance with the regulations and Council's notification policy. Any submissions received during the notification period will form part of a supplementary report

The relevant considerations under section 4.15 of the Act have been taken into consideration in the body of this report.

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 the regulations and Council's notification policy. No submissions were received by Council.

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.

- Heritage: No objections
- Development Engineer: No objections subject to conditions
- Waste Management: No objections
- Building: No objections

6(b) External

No external referrals were necessitated as part of the application.

7. Section 7.11 Contributions

Section 7.11 contributions have been conditioned on the original consent and remain unchanged as a part of the proposed modification.

8. Conclusion

The proposed modification generally complies with the aims, objectives and design parameters contained in SEPP 65, *Leichhardt Local Environmental Plan 2013* and Leichhardt Development Control Plan 2013.

The development will not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest

The application is considered suitable for the issue of a deferred commencement consent subject to the imposition of appropriate terms and conditions.

9. Recommendation

- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.55 of the *Environmental Planning and Assessment Act 1979*, approve Modification Application No. MOD/2020/0298 for various internal and external changes, including internal reconfiguration, changes to unit sizes, central courtyard amendments, relocated bike parking to basement and roof changes at 140-142 Norton Street Leichhardt subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

- A. Delete the following deferred commencement conditions and make the consent operational:

~~Amended plans and details are to be submitted to Council incorporating the following:~~

- ~~A. The ground Courtyard level to be extended to be same size as units 1 and 2 with the size of units 1 and 2 to be reduced accordingly.~~
- ~~B. The BBQ area is to be deleted on Level 1 and additional private courtyards with 1.5m privacy screens and lockable gates to be allocated to proposed Units 3 and 4 from the adjacent communal open space to the west of the central void and stairs. The extent of planter boxes adjacent to Units 3 and 4 and the central void may be adjusted or deleted as necessary.~~
- ~~C. Minimum 1.5m high privacy screens are to be provided to the northern and southern sides of all rear balconies.~~
- ~~D. Landscaping planting and details prepared by a suitably qualified Landscape Architect are to be provided for the proposed planter boxes in accordance with Section C1.12 of Leichhardt Development Control Plan 2013.~~
- ~~E. The ground floor plan must include a location to accommodate building services, e.g. fire hydrant, adjacent to the eastern residential entry.~~
- ~~F. The western elevation of the basement level must be infilled with a solid wall with a roller door entry to the basement parking.~~

~~Evidence of the above matter(s) must be submitted to Council within 2 years otherwise the Consent will not operate.~~

[Conditions deleted under MOD/2020/0298 on INSERT DATE]

- B. Amend the following conditions to read as follows:

4. Documents related to the consent

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

Plan, Drawing No. (Dwg. No.) and Issue	Plan Name	Date Issued	Prepared by
Site / Roof Plan, Dwg. A02, Rev. B	Site / Roof Plan	16/12/2019	Design Delta Architects
Site / Roof Plan, Dwg. A02, Rev. B	Site / Roof Plan	10/11/2020	Design Delta Architects

Basement Floor Plan, Dwg. A10, Rev. B	Basement Floor Plan	16/12/2019	Design Delta Architects
Basement Floor Plan, Dwg. A10, Rev. D	Basement Floor Plan	17/12/2020	Design Delta Architects
Ground Floor Plan, Dwg. A11, Rev. B	Ground Floor Plan	16/12/2019	Design Delta Architects
Ground Floor Plan, Dwg. A11, Rev. B	Ground Floor Plan	10/11/2020	Design Delta Architects
Level 1 Plan, Dwg. A12, Rev. B	Level 1 Plan	16/12/2019	Design Delta Architects
Level 1 Plan, Dwg. A12, Rev. C	Level 1 Plan	10/11/2020	Design Delta Architects
Level 2 Plan, Dwg. A13, Rev. B	Level 2 Plan	16/12/2019	Design Delta Architects
Level 2 Plan, Dwg. A13, Rev. B	Level 2 Plan	10/11/2020	Design Delta Architects
East Elevation, Dwg. A20, Rev. B	East Elevation	16/12/2019	Design Delta Architects
East Elevation, Dwg. A20, Rev. B	East Elevation	7/8/2020	Design Delta Architects
West Elevation, Dwg. A21, Rev. B	West Elevation	16/12/2019	Design Delta Architects
West Elevation, Dwg. A21, Rev. C	West Elevation	17/12/2020	Design Delta Architects
North & South Elevations, Dwg. A22, Rev. B	North & South Elevations	16/12/2019	Design Delta Architects
North & South Elevations, Dwg. A22, Rev. B	North & South Elevations	7/8/2020	Design Delta Architects
Courtyard Elevations, Dwg. A24, Rev. B	Courtyard Elevations	16/12/2019	Design Delta Architects
Courtyard Elevations, Dwg. A24, Rev. B	Courtyard Elevations	7/8/2020	Design Delta Architects
Longitudinal Section, Dwg. A25, Rev. B	Longitudinal Section	16/12/2019	Design Delta Architects

Longitudinal Section, Dwg. A25, Rev. C	Longitudinal Section	17/12/2020	Design Delta Architects
Cross Sections, Dwg. A26, Rev. B	Cross Sections	16/12/2019	Design Delta Architects
Cross Sections, Dwg. A26, Rev. B	Cross Sections	7/8/2020	Design Delta Architects
<i>External Finishes, Dwg. A00B, Rev. B</i>	<i>External Finishes</i>	<i>16/12/2019</i>	<i>Design Delta Architects</i>
Certificate No. 1017070M_03	BASIX	2/1/2020	Max Brightwell
L01/1, Rev. A	Landscape Plan	5/8/2020	Michael Siu
<i>Structural Certificate</i>	<i>Structural Certificate</i>	<i>12/7/2019</i>	<i>Luke Tsougranis and Associates</i>

As amended by the conditions of consent, including the deferred commencement conditions. The Architectural Plans shall prevail in terms of any consistency between plans, including between the Stormwater Concept Plans and Landscape Plans referenced above.

[Condition modified under MOD/2020/0298 on INSERT DATE]

28. Changes to Design

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

- a) ~~Parking Spaces Car 05 and Car 06 must be deleted as they do not meet the requirements of AS2890.1:2004.~~
- b) Parking Space Car 04 must be allocated as a Visitor Parking Space for persons with a disability.
- c) Parking Space Car 03 must be allocated as an employee parking space only for the retail component of the development.
- d) Parking Spaces Car 01 and Car 02 must be allocated as a resident parking spaces for exclusive use by a single residential unit.

[Condition modified under MOD/2020/0298 on INSERT DATE]

31. Parking Facilities

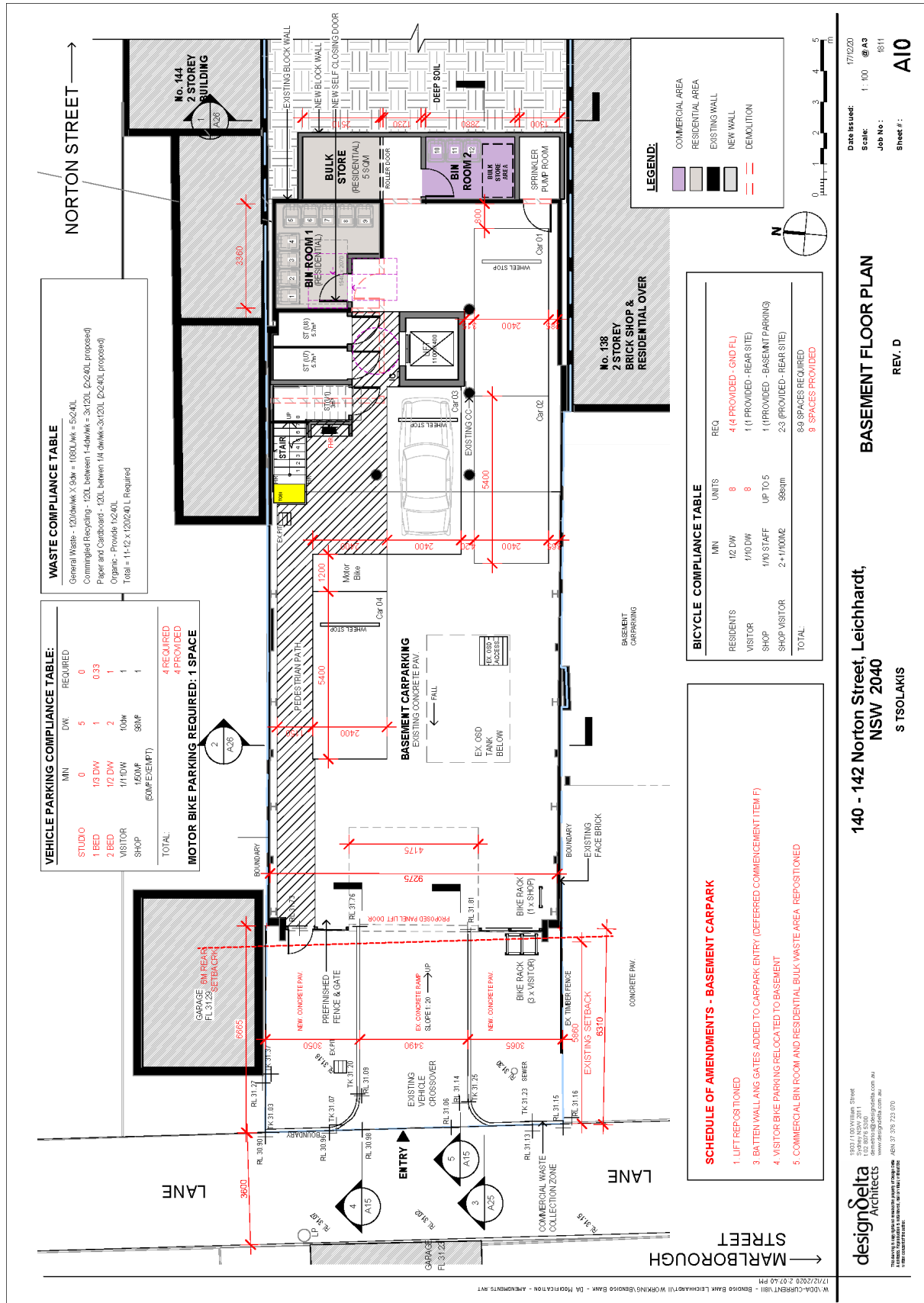
Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans and certification by a suitably qualified Civil Engineer demonstrating that the design of the vehicular access and off-street parking facilities comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking, AS/NZS 2890.3-2015 Parking facilities: Bicycle Parking, AS/NZS 2890.6-2009 Parking facilities: Off-street parking for people with disabilities and the following specific requirements:

- a) The internal vehicle hardstand area must be redesigned such that the level at the boundary must match the invert level of the adjacent gutter plus 110mm at both sides of the vehicle entry. This will require the internal garage slab or hard stand area to be adjusted locally at the boundary to ensure that it matches the above-issued alignment levels.
- b) The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.
- c) A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.

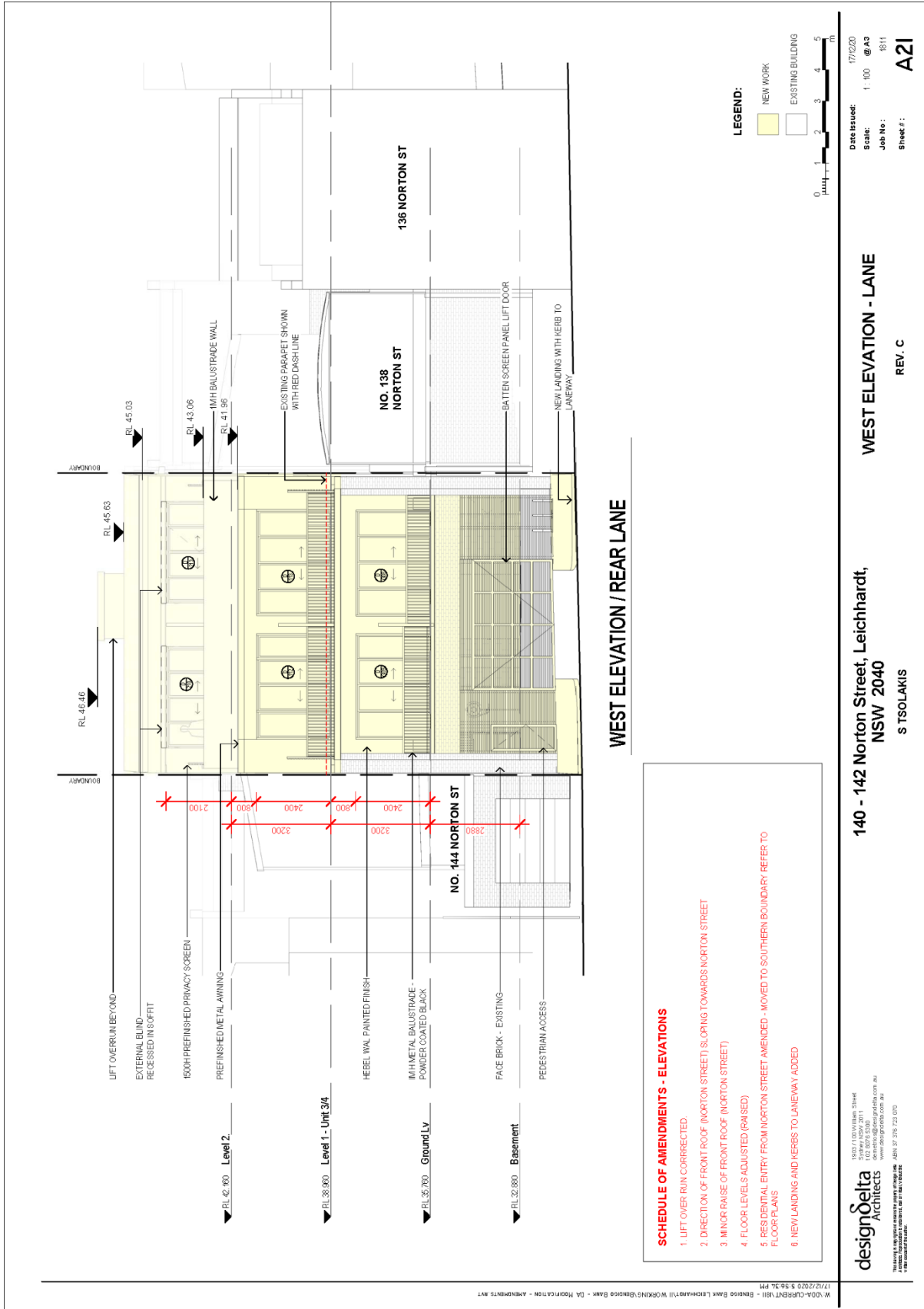
- d) *Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.*
- e) *The parking spaces must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004.*
- f) *The maximum gradients within the parking module must not exceed 1 in 20 (5%), measured parallel to the angle of parking and 1 in 16 (6.25%), measured in any other direction in accordance with the requirements of Section 2.4.6 of AS/NZS 2890.1-2004.*
- ~~g) **Parking Spaces Car 05 and Car 06 must be deleted as they do not meet the requirements of AS/NZS2890.1-2004.**~~
- h) *Parking Space Car 04 must be allocated as a Visitor Parking Space for persons with a disability as per AS/NZS 2890.6-2009. Where the shared area is within a trafficable area, it must not be marked as per AS/NZS 2890.6-2009.*
- i) *Clear sightlines at the vehicular access to pedestrians and vehicles within the rear lane.*
- j) *The external form and height of the approved structures must not be altered from the approved plans.*

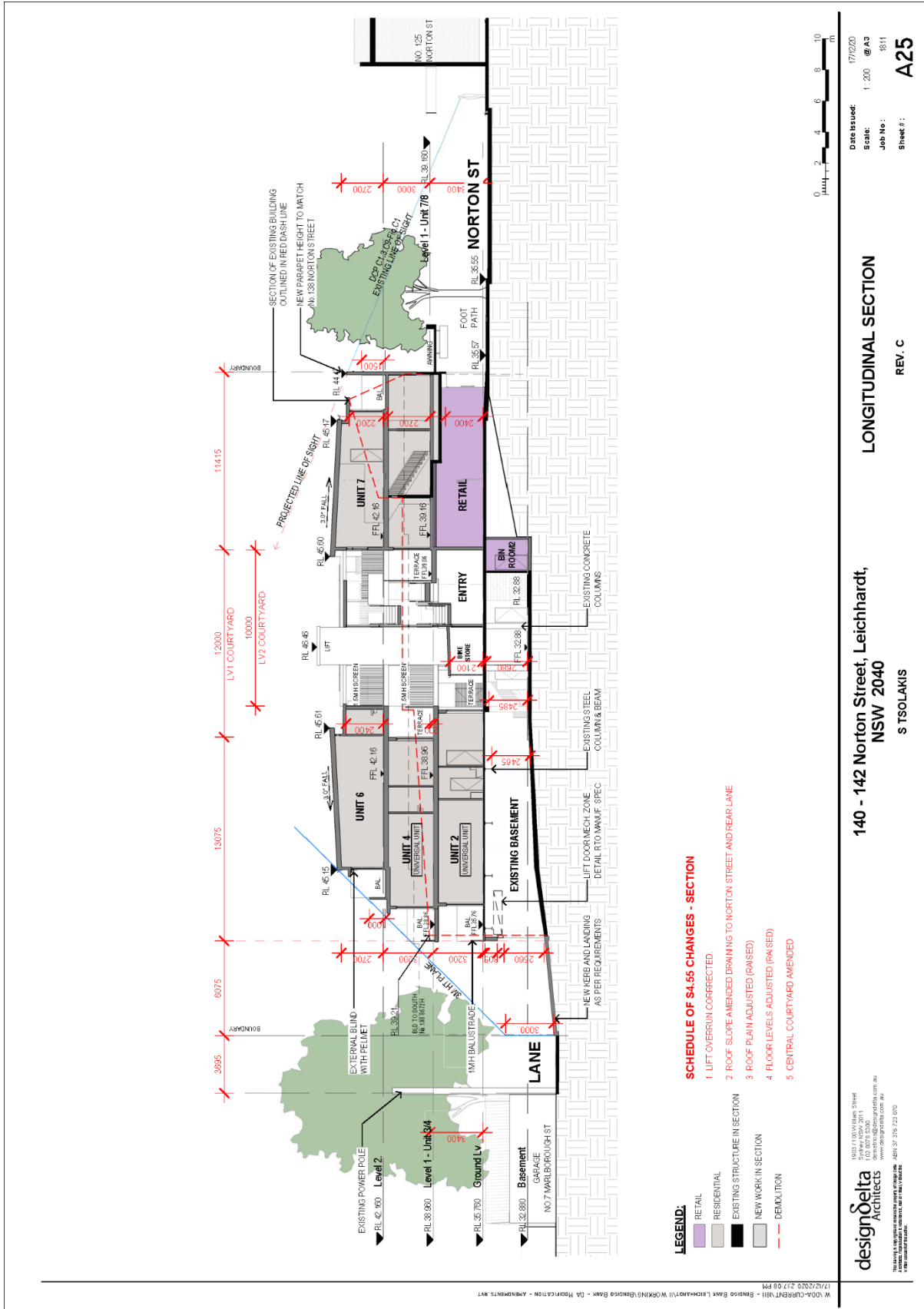
[Condition modified under MOD/2020/0298 on INSERT DATE]

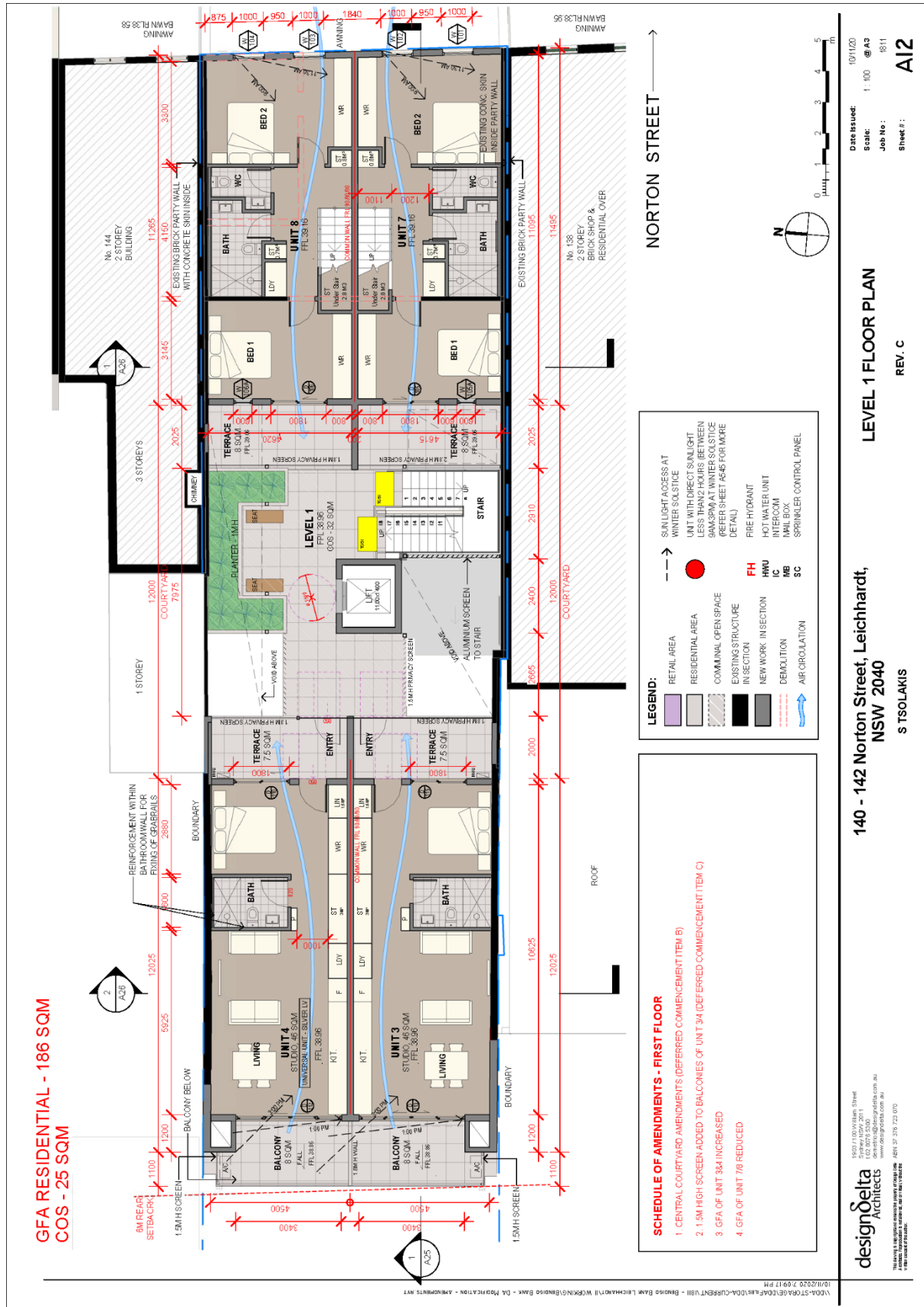
Attachment B – Plans of proposed development



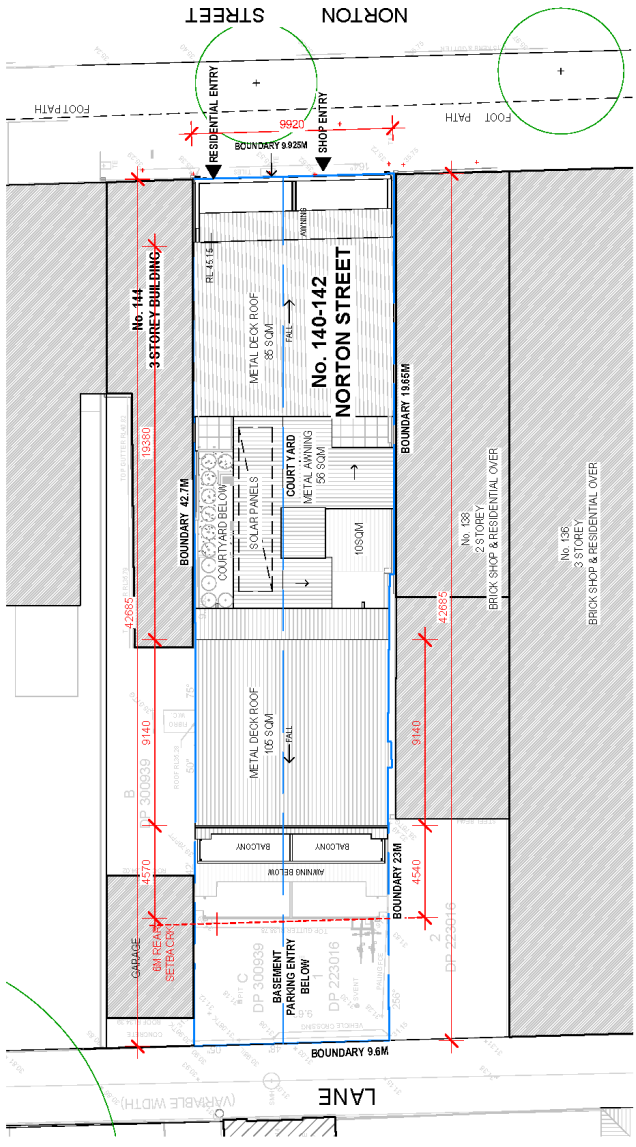
BASEMENT FLOOR PLAN
 REV. D
140 - 142 Norton Street, Leichhardt, NSW 2040
 S TSOLAKIS
 designDelta Architects
 1901 FREDERICK STREET
 SYDNEY NSW 2011
 PH: 02 9550 9999
 WWW.DESIGNDelta.COM.AU
 17/12/2020 2:07:40 PM - BENTON & BOWLES ARCHITECTS
 17/12/2020 17/12/20
 Scale: 1:100 @ A3
 Job No: 1811
 Sheet #: A10





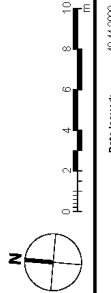


SITE INFORMATION	
TOTAL SITE AREA:	414 MF
FSR:	
LEP PERMISSIBLE	1.0 : 1
FSR WITH 0.5 BONUS	1.5 : 1
EXISTING	1.03 : 1
PROPOSED	1.45 : 1
GFA - PERMISSIBLE:	621 MF (WITH BONUS)
GFA - EXISTING: (UNIT MF)	
BASIMENT	18
GROUND FL	346
FIRST FL	62
TOTAL:	426 (FSR 1.03:1)
GFA - PROPOSED: (UNIT MF)	
RETAIL:	99
RESIDENTIAL:	
NO. 1 (1 BED)	456
NO. 2 (STUDIO-UNIVERSAL)	54
NO. 3 (STUDIO)	46
NO. 4 (STUDIO-UNIVERSAL)	16
NO. 5 (STUDIO)	16
NO. 6 (STUDIO)	46
NO. 7 (STUDIO)	7
NO. 8 (2 BED)	86
NO. 8 (2 BED)	86
ENTRY & LOBBY (STORAGE - BSMT FL)	40
	5
TOTAL:	600
	(FSR 1.45:1)
COS - COMMUNAL OPEN SPACE: (UNIT MF)	
1ST FL	25
2ND FL	30
TOTAL:	55



UNIT NO.	INTERIOR	COMMON AREA
UNIT 1 (1BED)	3	2
UNIT 2 (STUDIO)	4	3
UNIT 3 (STUDIO)	4.6	
UNIT 4 (STUDIO)	4.6	
UNIT 5 (STUDIO)	4	
UNIT 6 (STUDIO)	4	
UNIT 7 (2BED)	4.3	5.7
UNIT 8 (2BED)	4.3	5.7

ROOF AREA:	
EXISTING ROOF AREA:	340 SQM
PROPOSED METAL ROOF AREA:	272 SQM
IMPERVIOUS PAVING:	REMAIN



Date Issued: 10/11/2020
 Scale: 1:200 @A3
 Job No: 1811
 Sheet #: A02

SITE / ROOF PLAN
 REV. B

140 - 142 Norton Street, Leichhardt,
 NSW 2040
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