






INNER WEST

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA/2021/0841
Address	115 Short Street BIRCHGROVE NSW 2041
Proposal	Demolition of existing dwelling and construction of a new multi level dwelling, carport to rear and associated works, including tree removal
Date of Lodgement	13 September 2021
Applicant	Whiting Architects
Owner	Ms Belinda J Ainsworth
Number of Submissions	Initial: 3
Value of works	\$1,300,000.00
Reason for determination at Planning Panel	Clause 4.6 variation exceeds 10%
Main Issues	<ul style="list-style-type: none"> • Variation to Landscaped Area, Site Coverage and Floor Space Ratio development standards • Adverse streetscape and heritage impacts • Unsatisfactory response to desired future character controls • Unsatisfactory on-site amenity outcomes • Adverse amenity impacts to adjoining properties • Inadequate tree planting • Site suitability
Recommendation	Refusal
Attachment A	Plans of proposed development
Attachment B	Clause 4.6 Exception to Development Standards
Attachment C	Statement of Heritage Significance
Attachment D	Recommended conditions of consent in case the application is approved



Figure 1: Locality Map

Subject Site		Objectors		
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for Demolition of existing dwelling and construction of a new multi level dwelling, carport to rear and associated works, including tree removal at 115 Short Street BIRCHGROVE NSW 2041.

The application was notified to surrounding properties and three (3) submissions were received in response to the initial notification.

The main issues that have arisen from the assessment include:

- Adverse impact on Heritage Conservation Area and unsatisfactory response to desired future character controls.
- Adverse amenity impacts – bulk and scale, overshadowing.
- Unsatisfactory on-site amenity outcomes, including private open space controls.
- Unsatisfactory tree replenishment planting.
- Breaches with the Landscaped Area, Site Coverage and Floor Space Ratio development standards.

The development is situated on a prominent corner overlooking Mort Bay and represents a unique opportunity for an appropriate infill development within the Town of Waterview Heritage Conservation Area that results in acceptable amenity outcomes. The proposal is considered unsatisfactory with respect to its impacts on the Heritage Conservation Area and its on-site and off-site amenity outcomes. During the assessment of the application, given the substantive issues with respect to the proposal, Council requested that the applicant redesign and submit amended plans. In response to Council's request for redesign, Council was advised that amended plans would not be submitted. Refusal is recommended.

2. Proposal

The application seeks consent for the demolition of existing dwelling and construction of a new multi-level dwelling with a carport at the rear, accessed via Bay Street. The proposed dwelling comprises of the following:

Ground floor

- Carport
- 2 bedrooms
- Rumpus
- Bathroom

First Floor

- Kitchen
- Living
- Dining
- Balcony

Second Floor

- Bedroom/study
- Ensuite
- Bathroom

3. Site Description

The subject site is located on the southern side of Short Street at the intersection of Short and Bay Street. The site area is approximately 228.6sqm and is legally described as Lot 1 of DP 543492. The site is irregular in shape, with an approximately frontage of 10.3m to Short Street and a splayed secondary frontage of approximately 9.8m to Bay Street.

The site supports a 2-storey dwelling addressing Short Street as single-storey with a 2 storey form to the rear, following the topography of the land. Adjoining the site to the south-west is a pair of 2 and 3 storey terraces. Adjoining the site to north-east is a vacant lot zoned for public recreation, located on the corner of Short and Bay Street.

The subject site is not listed as a heritage item; however, it is located within a Heritage Conservation Area. The closest heritage item in the vicinity is Heritage Item 1523 at 31 Cameron Street (on the corner of Short and Cameron Streets). The property is not identified as a flood prone lot.

The following trees are located on the site:

- One (1) Large Cedrus deodara (Deodar Cedar) located in the front setback along Short St; and
- One (1) Ficus benjamina (Weeping Fig) located in the rear of the site



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
DA/2020/0375	Demolition of existing dwelling and construction of a new multi-level dwelling with parking at rear and associated works.	10/11/2020 Refused (IWLPP)
PREDA/2019/181	Demolition and construction of a new three level dwelling-house, and associated works, including associated parking and tree removal.	05/12/2019 Issued
PREDA/2012/49	Alterations and addition to existing dwelling including addition of second storey.	25/05/2012 Issued

Note: It is considered that the proposal did not satisfactorily address the issues raised during PDA/2019/181 and refused DA/2020/0375 in relation to, *inter alia*:

- Streetscape, Heritage & Design.
- Distinctive Neighborhood Character.
- Building Siting.
- Bulk and Scale.
- Amenity impacts – solar access and views.
- Tree Management.

Surrounding properties

No recent relevant history.

4(b) Application history

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

Date	Discussion / Letter / Additional Information
13/09/2021	Application lodged
06/01/2021	<p>Council wrote to the applicant, requesting amendments to the proposed development and additional information in relation to the following matters:</p> <ul style="list-style-type: none"> • Non-compliance with development standards, which is not supported. • No Clause 4.6 written request submitted for the proposed variation with the Landscaped Area development standard. • Unsympathetic design from a heritage perspective. • Non-compliance with solar access controls. • Non-compliance with side boundary setback, private open space and landscaped open space controls. • Insufficient landscaped area to support required tree planting. • Inadequate architectural plans. • Inadequate Landscape Plan/Tree Planting Plan <p>In addition, Council advised the applicant of solar access and view loss issues raised in submissions received and requested that these matters are addressed when responding to the request for additional information.</p>

Council and the applicant's planner and architect discussed the issues raised on several occasions.

The architect advised Council that they would not submit amended plans.

As such, the initially submitted plans and information submitted to Council form the basis of this report.

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 (Affordable Rental Housing) 2009*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Leichhardt Local Environmental Plan 2013 (Leichhardt LEP 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.

Council's records indicate that 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 satisfying the requirements of SEPP BASIX 2004.

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

The site is not located within the foreshores and waterways area, a Strategic Foreshore site or listed as an item of environmental heritage under the *SREP (SHC) 2005*. As such, only the aims of the plan are applicable, and the proposal is consistent with these aims.

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

Vegetation SEPP concerns the protection/removal of vegetation identified under the SEPP and gives effect to the local tree preservation provisions of Council's DCP.

The application seeks the removal of the following trees from within the site:

- *Cedrus deodara* (Deodar Cedar)
- *Ficus benjamina* (Weeping Fig)

Whilst Council's Tree Management Officer, subject to conditions (which are included in Attachment A), supports the proposed tree removal, the application is recommended for refusal.

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

The application was assessed against the following relevant clauses of *the Leichhardt LEP 2013*:

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone Objectives and Land Use Table
- Clause 2.7 – Demolition
- Clause 4.3A - Landscaped areas for Residential Accommodation in Zone R
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 - Calculation of Floor Space Ratio and Site Area
- Clause 4.6 - Exceptions to Development Standards
- Clause 5.10 - Heritage Conservation
- Clause 6.1 - Acid Sulfate Soils
- Clause 6.2 – Earthworks
- Clause 6.4 - Stormwater Management

(i) Clause 2.1 – Aims of the Plan

Due to the concerns raised elsewhere in this report with respect to development standard breaches, adverse streetscape and heritage impacts and incompatibility with the existing pattern of development, unsatisfactory on-site and off-site amenity outcomes, the proposal does not comply, or has not demonstrated compliance, with the following provisions of Clause 1.2 of the *Leichhardt LEP 2013*:

- (a) to ensure that development applies the principles of ecologically sustainable development,
- (b) to minimise land use conflict and the negative impact of urban development on the natural, social, economic, physical and historical environment,
- (c) to identify, protect, conserve and enhance the environmental and cultural heritage of Leichhardt,
- (d) to promote a high standard of urban design in the public and private domains,
- (e) to protect and enhance the amenity, vitality and viability of Leichhardt for existing and future residents, and people who work in and visit Leichhardt,
- (f) to maintain and enhance Leichhardt's urban environment,
- (k) to protect and enhance—
 - (i) views and vistas of Sydney Harbour, Parramatta River, Callan Park and Leichhardt and Balmain civic precincts from roads and public vantage points, and

- (ii) views and view sharing from and between private dwellings
- (l) to ensure that development is compatible with the character, style, orientation and pattern of surrounding buildings, streetscape, works and landscaping and the desired future character of the area,
- (m) to ensure that development provides high quality landscaped areas in residential developments,
- (n) to protect, conserve and enhance the character and identity of the suburbs, places and landscapes of Leichhardt, including the natural, scientific and cultural attributes of the Sydney Harbour foreshore and its creeks and waterways, and of surface rock, remnant bushland, ridgelines and skylines,
- (o) to prevent undesirable incremental change, including demolition, that reduces the heritage significance of places, conservation areas and heritage items,
- (t) to ensure that development responds to, conserves, protects and enhances the natural environment, including terrestrial, aquatic and riparian habitats, bushland, biodiversity, wildlife habitat corridors and ecologically sensitive land,
- (v) to ensure that existing landforms and natural drainage systems are protected.

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

The site is zoned R1 – General Residential under the *Leichhardt LEP 2011*. The *Leichhardt LEP 2013* defines the development as:

“dwelling house means a building containing only one dwelling”

Whilst the development is permitted with consent within the land use table, as outlined in detail elsewhere in his report, the proposal is considered to be incompatible with the streetscape, Heritage Conservation Area and pattern of development in the area. The proposal also results in poor amenity outcomes on the site, proposes an inadequate landscape design, and adverse bulk and scale and overshadowing impacts on adjoining properties.

As such, the proposed development is not consistent with the following objectives of the R1 zone:

- 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.

(iii) Clause 4.3A – Landscaped areas for residential accommodation in Zone R1, and Clause 4.4 – Floor Space Ratio

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

Standard	Proposal	Non-compliance	Complies
Floor Space Ratio Maximum permissible: 0.9:1 or 205.74sqm	1.01:1 or 231.1sqm	12.33% or 25.36sqm	No
Landscape Area Minimum permissible: 15% or 34.29sqm	14.35% or 32.8sqm	4.35% or 1.5sqm	No

Site Coverage					
Maximum permissible:	60%	or	74.32%	or	23.87%
137.16sqm			169.9sqm		32.74sqm
					No

(iv) Clause 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standards of the *Leichhardt LEP 2013*:

- Clause 4.3A(3)(a) – Landscaped Area 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 4.3A(3)(a) – Landscaped Area

A minimum Landscaped Area of 15% or 34.29sqm applies to the site.

In accordance with Clause 4.3A(4) of the LLEP 2013, Landscaped Area calculations are subject to the following:

- (b) any area that—
- (i) has a length or a width of less than 1 metre, or
 - (ii) is greater than 500mm above ground level (existing),
- is not to be included in calculating the proportion of landscaped area.

As such, portions of the triangular Landscaped Areas at the rear of the site cannot be included in Landscaped Area calculations.

Pursuant to Clause 4.6(3) of the LLEP 2013,

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.

No such written request had been provided in relation to the breach with the Landscaped Area development standard.

On this basis alone, the application is unsupportable.

Clause 4.3A(3)(b) – Site Coverage

The applicant seeks a variation to the Site Coverage development standard under Clause 4.3A(3)(b) of the *Leichhardt LEP 2013* by 23.87% or 32.74sqm.

Clause 4.6 allows Council to vary 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 2013* below.

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the *Leichhardt LEP 2013* justifying the proposed contravention of the development standard, which is summarised as follows:

- The proposal complies with the Landscaped Area development standard.
- The Landscaped Areas complement the built form and provide adequate on-site amenity.
- The site context limits meaningful landscaping.
- The proposal building footprint is appropriate.
- The area of permeable surfaces and landscaping is increased to 26% to promote surface drainage.
- No change in site density.
- Proposal complies with the Landscaped Area development standard and adequate areas of private open space are provided.
- Proposal is consistent with other development in the area.
- The proposal is consistent with the zone objectives.

The applicant's written rationale has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, or that there are sufficient environmental planning grounds to justify contravening the development standard.

The objectives of the R1 General Residential 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.

It is considered that the development is not in the public interest because it is not consistent with the objectives of the R1 zone, in accordance with Clause 4.6(4)(a)(ii) of the *Leichhardt Local Environment Plan 2013* for the following reasons:

- The proposal does not provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.
- The proposal does not provide adequate landscaped areas for the use and enjoyment of existing and future residents.
- The proposal does not protect and enhance the amenity of existing and future residents and the neighbourhood.

The objectives of the Site Coverage development standard are as follows:

- To provide Landscaped Areas that are suitable for substantial tree planting and for the use and enjoyment of residents,
- To maintain and encourage a landscaped corridor between adjoining properties,
- To ensure that development promotes the desired future character of the neighbourhood,
- To encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water,
- To control site density,
- To limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.

It is considered that the development is not in the public interest because it is not consistent with the objectives of the site coverage development standard, in accordance with Clause 4.6(4)(a)(ii) of the *Leichhardt Local Environment Plan 2013* for the following reasons:

- The proposed Site Coverage results in Landscaped Areas that are not suitable for substantial tree planting and for the use and enjoyment of residents.
- The proposal is not consistent with the desired future character of the area.
- The proposal does not maximise the retention and absorption of surface drainage.
- The proposal does not comply with relevant standards and controls concerned with Landscaped Areas and areas of private open space.

The proposal, therefore, does not accord with the objective of Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the LLEP 2013 and for the reasons outlined above, the Clause 4.6 exception request is not supported.

Clause 4.4 – Floor Space Ratio

The applicant seeks a variation to the Floor Space Ratio development standard under Clause 4.4 of the *Leichhardt LEP 2013* by 12.33% or 25.36sqm.

Clause 4.6 allows Council to vary 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 Local Environment Plan 2013* below.

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the *Leichhardt LEP 2013* justifying the proposed contravention of the development standard which is summarised as follows:

- The proposal is compatible with the desired future character.
- The proposed bulk is subservient to the neighbouring pair of terraces.
- The proposed development promotes view sharing.
- The proposed materials are consistent, and sympathetic, with other development within the HCA.
- The proposal provides a suitable balance between landscaped areas and the built form, noting that “a total landscaped area of 60.06m² is provided with an area of

34.74m² (15.2%) meeting criteria of cl 4.3A(3) of the LLEP 2013 and thus the 15% control”.

- Building location zone is consistent with surrounding development.
- Bulk and scale impacts are minimised.
- The proposal is consistent with the zone objectives.

The applicant’s written rationale has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, or that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered that the development is not in the public interest because it is not consistent with the objectives of the R1 zone (as outlined above), in accordance with Clause 4.6(4)(a)(ii) of the *Leichhardt Local Environment Plan 2013* for the following reasons:

- The proposal does not provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.
- The proposal does not provide adequate landscaped areas for the use and enjoyment of existing and future residents.
- The proposal does not protect and enhance the amenity of existing and future residents and the neighbourhood.

The relevant objectives of the Floor Space Ratio development standard are as follows:

- to ensure that residential accommodation:
 - is compatible with the desired future character of the area in relation to building bulk, form and scale, and
 - provides a suitable balance between landscaped areas and the built form, and
 - minimises the impact of the bulk and scale of buildings,

It is considered that the development is not in the public interest because it is not consistent with the objectives of the floor space ratio development standard, in accordance with Clause 4.6(4)(a)(ii) of the *Leichhardt Local Environment Plan 2013* for the following reasons:

- The proposal is not compatible with the desired future character of the area.
- The proposal does not provide a suitable balance between Landscaped Areas and the built form. In particular, noting the non-compliance with the Landscaped Area and Site Coverage development standards.
- Visual bulk and scale of the building has not been minimised.

The proposal, therefore, does not accord with the objective of Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the LLEP 2013 and for the reasons outlined above, the Clause 4.6 exception request is not supported.

- Clause 5.10 Heritage Conservation

The subject site is located within the Town of Waterview Heritage Conservation Area (C4 in Schedule 5 of the LLEP 2013).

The Statement of Significance for the Town of Waterview Heritage Conservation Area can be found in Attachment A.

An assessment of the proposal against the heritage provisions of the *Leichhardt LEP 2013*, and Leichhardt DCP 2013, has been carried out elsewhere in this report.

In summary, the design, building alignments, roof form, elevational treatment and materials and finishes are inconsistent with the established pattern and character of development along Short Street and in the area. As such, the proposal will result in a development that is detrimental to the Heritage Conservation Area and contrary to the provisions and objectives of Clause 5.10 Objectives 1(a) and (b) of the LLEP 2013, which seek to conserve the heritage significance of Heritage Conservation Areas, including settings and views.

- Clause 6.1 Acid Sulfate Soils

The site is identified as containing Class 5 Acid Sulfate Soils (ASS) and the site is within 500 metres of land containing class 2 ASS. The proposed works will not lower the watertable below 1 metre AHD and no works are proposed below 5 metres Australian Height Datum. As such, the proposed works are considered to not disturb, expose or drain acid sulfate soils.

- Clause 6.2 Earthworks

Excavation up to a depth of approximately three (3) metres below the existing ground level is proposed to accommodate some of the proposed ground floor. Council's Development Engineer raised no objections to the proposed excavation, subject to conditions, which have been included in Attachment A.

However, it is noted that, as outlined elsewhere in this report, Council's Heritage Advisor raised concerns regarding the proposed excavation of the sandstone.

- Clause 6.4 Stormwater management

The proposal generally complies with this clause. Council's Development Engineer has assessed the proposal and raised no concerns, subject to conditions, which are included in Attachment A.

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.

The Draft IWLEP 2020 contains amendments to the objectives of Clause 4.4 Floor Space Ratio, and it is considered that the proposal is not consistent with following of these:

- (a) to appropriately regulate the density of development, built form and land use intensity based on the capacity and location of existing and planned infrastructure,
- (b) to ensure that development is compatible with the desired future character,
- (d) to minimise adverse environmental and amenity impacts on adjoining properties, the public domain, heritage conservation areas and heritage items,
- (e) to provide a suitable balance between landscaping, open space, and built form to increase the tree canopy and to protect the use and enjoyment of private properties and public domain.

5(c) Development Control Plans

The application has been assessed, and the following provides a summary of the relevant provisions of the 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	No – see discussion
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	No – see discussion
C1.3 Alterations and additions	N/A
C1.4 Heritage Conservation Areas and Heritage Items	No – see discussion
C1.5 Corner Sites	No – see discussion
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	Yes
C1.12 Landscaping	No – 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	No – see discussion
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
C.2.2.2.5: Mort Bay Distinctive Neighbourhood	No – see discussion
C2.2.2.5(c) Upper Slopes Sub Area	No – see discussion
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	No – see discussion
C3.2 Site Layout and Building Design	No – see discussion
C3.3 Elevation and Materials	No – see discussion
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	No – see discussion
C3.9 Solar Access	No – see discussion
C3.10 Views	No – see discussion

C3.11 Visual Privacy	Yes – see discussion
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	
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	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	N/A
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	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

The following provides discussion of the relevant issues:

Clause C1.0 General Provisions

As discussed elsewhere in this report, the proposal is considered to be incompatible with the streetscape and heritage conservation area. The proposal will result in on and off-site amenity impacts with regard to private open space, solar access, tree management and overshadowing. Therefore, it is considered to be inconsistent with the following objectives of this part:

- O3 Adaptable: places and spaces support the intended use by being safe, comfortable, aesthetically appealing, economically viable and environmentally sustainable and have the capacity to accommodate altered needs over time.

- O4 Amenable: places and spaces provide and support reasonable amenity, including solar access, privacy in areas of private open space, visual and acoustic privacy, access to views and clean air.
- O6 Compatible: places and spaces contain or respond to the essential elements that make up the character of the surrounding area and the desired future character. Building heights, setbacks, landscaping and architectural style respond to the desired future character. Development within Heritage Conservation Areas or to Heritage Items must be responsive to the heritage significance of the item and locality.

C1.2 Demolition

Whilst, in principle, the demolition of the existing building is supportable, as outlined throughout this report, the proposed replacement building is considered to be an unsympathetic and uncharacteristic addition within the Heritage Conservation Area in terms of scale, materials, details, design style and impact on streetscape. In addition, the proposed building is not consistent with the development controls contained within the *Leichhardt LEP 2013* and *Leichhardt DCP 2013*.

Given the above, the proposal is considered to not inconsistent with the following objectives of this part:

- O3 To ensure that where demolition of a Heritage Item or buildings in a Heritage Conservation Area is deemed appropriate, that the replacement building:
 - a. meets the desired future character of the area;
 - c. is consistent with the objectives contained in the *Leichhardt Local Environmental Plan 2013* and this Development Control Plan.

C1.4 Heritage Conservation Areas and Heritage Items, C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls, C.2.2.2.5 Mort Bay Distinctive Neighbourhood and C2.2.2.5(c) Upper Slopes Sub Area, C3.3 Elevations and Materials

As previously noted, the subject property is located within the Town of Waterview Heritage Conservation Area (C4 in Schedule 5 of the *Leichhardt LEP 2013*) and is not listed as a heritage item.

The application was referred to Council's Heritage Officer who provided the following comments.

PDA advice was sought for the proposed demolition of the existing dwelling and construction of a 3 level dwelling and associated works including parking and tree removal at 115 Short Street, Birchgrove, (PREDA/2019/181). The application was referred to Council's Heritage Specialist who supported the demolition of the existing 1980s dwelling as it is considered a neutral building within the Town of Waterview HCA. It does not contribute to the heritage significance of the HCA or the streetscape. The replacement dwelling was not supported, and it was stated it must be redesigned to be compatible with the HCA and streetscape in respect to scale, design, details and materials (C1 c. iv. of Section C1.2 and C8 and C9 of Section C1.4 of the DCP).

*A DA for the demolition of existing dwelling and construction of a new multi level dwelling with parking at rear and associated works at the subject site (DA/2020/0375) was refused by the Local Planning Panel because it was inconsistent and / or did not demonstrated compliance with the *Leichhardt LEP 2013*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, in particular Part 5.10: Heritage Conservation, amongst other Parts of the LEP.*

The proposal was also inconsistent and did not demonstrate compliance with the provisions of Part C1.0 - General Provisions, Part C1.4 – Heritage Conservation Areas and Heritage Items, Part Clause C1.5 - Corner Sites, Part Clause C1.11 Parking, Part Clause C1.19 – Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls, Part C.2.2.2.5: Mort Bay Distinctive Neighbourhood, Part C3.3 - Elevation and Materials, Part C3.5 - Front Gardens and Dwelling Entries and Part C3.6 – Fences, amongst others from the Leichhardt DCP 2013, pursuant to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979.

The previous proposal was not supported from a heritage perspective (comments provided in relation DA/2020/0375 have been included further below) and the following alternatives were offered to the applicant.

The proposed infill dwelling is recommended to be redesigned in accordance with the following:

- (i) The width and the detail of the front façade must be amended to respect the characteristic width of dwellings and terraces in the Short Street streetscape;*
- (ii) Bedroom 3, the basement storage and one third of the northern section of the floor area of the rumpus room must be deleted from the ground floor level to retain the sandstone;*
- (iii) The roof form must be redesigned to either hipped or gable, or a combination of both, or a skillion roof form concealed behind a parapet wall;*
- (iv) Add a front verandah to the west (Short Street) elevation under a separate skillion roof at a complimentary depth and roof pitch to other front verandahs within the streetscape;*
- (v) Circular patterns and perforated brickwork must be deleted from the proposal.*
- (vi) Large expanses of glass are not to be used in areas visible from the public domain, e.g. in the north, east and west elevations. Openings must be vertically proportioned, employing traditional design (timber sash or French doors) and materials (timber frame). Dominancy must be given to masonry/solid elements rather than glazed areas.*
- (vii) A revised finishes schedule is recommended to be submitted in accordance with the following:*
 - a. Materials, finishes, textures and colours must be with the colour schemes of contributory dwellings within the streetscape. Whites, greys and blacks are not acceptable and must be avoided. Light, warm, earthy, tones are to be used; and*
 - b. A pre-coloured traditional corrugated steel shall be used for the roofing, finished in a colour equivalent to Colorbond colours “Windspray” or “Wallaby”.*

None of the above suggestions have been added to the revised design. Amendments include:

- Reduced building height by 600mm;*
- Deleted the lift;*
- Setting the dwelling 900mm off the western boundary;*
- Set the southern façade 420mm back from the Bay Street boundary;*
- Decreased the floor area on the ground, first and second floors;*
- Increased setbacks of the bedroom 1 on the second floor; and*
- Provided some vertical proportion to the first floor windows in the northern elevation.*

Therefore, the proposal still needs to be redesigned in accordance with the above to ensure it is complimentary to the character of the streetscape and the Town of Waterview HCA and the desired future character of the area. The proposal is not acceptable from a heritage

perspective as it will detract from the heritage significance of the Town of Waterview Heritage Conservation Area as it is not 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.

Given the above, the application is recommended for refusal.

Heritage Comments provided for proposed development under DA/2020/0375

Pre-DA advice was sought for the proposed demolition of existing dwelling and construction of a 3 level dwelling and associated works including parking and tree removal at 115 Short Street, Birchgrove (PREDA/2019/181). The application was referred to Council's heritage specialist whose assessment concluded the proposal was not acceptable and provided the following comments. Additional commentary is provided in respect to the proposal submitted with this DA.

1. *The proposed infill dwelling must be redesigned in accordance with the following:*

- a. *The built form must be simple in style and in materials;*

Comment: *The proposed style and materials for the infill dwelling are not compatible with the HCA and streetscape in respect to scale, design, details and materials (C1 c. iv. of Section C1.2 and C8 and C9 of Section C1.4 of the DCP).*

- b. *Floor to ceiling heights should complement those established within the street, particularly the adjoining terrace at 113 Short Street;*

Comment: *The height of the structure over the entry has been increased marginally to RL26.705 (an increase of 5mm), yet the height of the main building form has been lowered 295mm from that previously proposed. This is generally acceptable as it provides a transition from the height of the neighbouring terrace to the undeveloped land to the north east.*

- c. *The width must respect the established widths of existing dwellings in Short Street;*

Comment: *The width of the west (streetscape) elevation will present to the street with horizontal detailing, rather than vertical. The width and the detail of the front façade must be amended to respect the characteristic width of dwellings and terraces in the Short Street streetscape.*

- d. *The dwelling must step down with the topography of the site and minimise excavation of the sandstone outcrop;*

Comment: *The section drawing illustrates a large amount of excavation of sandstone is proposed to enable bedroom 3, approximately one third of the area of the rumpus room, the bathroom and basement storage on the ground level. Bedroom 3, the basement storage and one third of the northern section of the floor area of the rumpus room must be deleted from the ground floor level to retain the sandstone, to ensure the proposal is consistent with C1 a. and b. of Section C1.19 of the DCP.*

- e. *The roof form must be either hipped or gable, or a combination, or a skillion roof form concealed behind a parapet wall;*

Comment: No change. The above must still be redesigned to ensure the roof of the infill dwelling complies with C7 and C17 of Section C2.2.2.5 of the DCP.

f. The sunken courtyard proposed to the front must be deleted;

Comment: Deleted.

g. The proposal must include a front verandah to Short Street under a separate skillion roof at a complimentary depth and roof pitch to other front verandahs within the streetscape;

Comment: No change.

h. Openings in the front façade must complement the established pattern within the streetscape;

Comment: No change.

i. Arched openings may be considered. Circular patterns and perforated brickwork must be deleted from the proposal.

Comment: The arched opening over the entry structure is acceptable. Circular patterns and perforated brickwork must be deleted from the proposal.

j. Large expanses of glass are not to be used in areas visible from the public domain. Openings must be vertically proportioned, employing traditional design (timber sash or French doors) and materials (timber frame). Dominancy must be given to masonry/solid elements rather than glazed areas; and

Comment: Large expanses of glass are proposed in the north, east and west elevations. The above comment still stands.

k. The roof deck must be deleted from the proposal.

Comment: Deleted.

2. A revised colours and materials schedule will need to be submitted for consideration with the following amendments:

a. The Materials, finishes, textures and colours must be appropriate to the historic context and of the original contributory buildings within the streetscape; and

Comment: Concrete screed in modern grey is proposed for the exterior finishes, which is not acceptable as it is not a complementary material or finish to the Town of Waterview HCA. Concrete wall with brick pattern in off white and open brick in off white are also not acceptable as they are not characteristic of the character of the HCA.

Materials, finishes, textures and colours must be with the colour schemes of contributory dwellings within the streetscape. Whites, greys and blacks are not acceptable and must be avoided. Light, warm, earthy, tones are to be used. A revised finishes schedule will need to be submitted with the above amendments for consideration.

- b. A pre-coloured traditional corrugated steel shall be used for the roofing, finished in a colour equivalent to Colorbond colours “Windspray” or “Wallaby”.

Comment: Not provided.

The following information must be provided with the future application:

3. A full set of architectural drawings including demolition plans of the existing dwelling and plans and elevations showing the proposed dwelling in context with at least the adjoining dwelling at 113 Short Street; and

Comment: The “existing floor plan” provided shows the footprint of the existing dwelling. This is generally acceptable from a heritage perspective as the existing dwelling is a contemporary dwelling that has no heritage significance. The west elevation shows the proposed dwelling in the context of the adjoining terraces at 111 and 113 Short Street.

4. A Heritage Impact Statement, including a statement of significance for the existing dwelling.

Comment: Provided.”

The concerns raised by Council’s Heritage Advisor propose that the following elements of the design are unsatisfactory:

- a. The proposed bulk, scale and design of the infill dwelling is not compatible with the HCA and streetscape;
- b. The characteristics of the front façade, including width and detailing and horizontal detailing are not consistent with the HCA and streetscape;
- c. The extent of excavation of the sandstone is inconsistent with the objectives and controls of Clause C1.19;
- d. The proposed flat roof form;
- e. Elevational treatment, including the proposed large expanses of glass and non-traditional design, do not complement the established pattern within the streetscape

Further to the above, due to the narrowness and confined landscaped areas, there is limited scope to provide any future substantial planting on the site for a tree that is able to be protected under Council’s Tree Management controls due to the proposal’s excessive FSR and site coverage.

Given the above, it is considered that the bulk, scale, form, materials, landscaping and general design and appearance of the proposed infill development will result in a development that is detrimental to the Town of Waterview Heritage Conservation Area and contrary to the provisions and objectives of the heritage-specific Clauses of the Leichhardt DCP 2013.

C1.5 Corner Sites

Due to the streetscape, heritage and amenity concerns raised in this report, the proposal is considered to be contrary to the following objectives and controls of this part:

- O1 Development on corner sites:
 - a. respects the visually prominent role of corner sites; and

- b. is compatible with the adjoining buildings;
- C4 Building elements including wall height, roof form and front setback and architectural features including balconies, awnings, verandahs, parapets and dormers are to be compatible in scale with the streetscape.
- C5 The development does not have an adverse impact on surrounding properties, the streetscape or public domain by way of:
 - a. amenity;
 - b. solar access;
 - c. views;
 - d. privacy;
 - e. urban design;
 - f. being inconsistent with desired future character; and
 - g. shall be constructed of high quality materials and finishes.

For this and other reasons, the proposal is recommended for refusal.

C1.12 Landscaping and C1.14 Tree Management

Concern is raised that there will be no scope for substantial planting to be provided on the site to contribute to the streetscape and enhance the visual setting of the development and that will allow future protection under Part C1.14 of the Leichhardt DCP 2013 due to the proposal's excessive FSR and Site Coverage and lack of adequate, and consolidated, Landscaped Areas. Given the above, the proposal is considered to be contrary to the following objectives and controls of Part C1.12 of the Leichhardt DCP 2013:

- O1 Development includes on-site landscaped open space that:
 - a. enhances the visual setting of buildings;
 - b. contributes to the distinct landscape character within the neighbourhoods and preserves, retains and encourages vegetation and wildlife that is indigenous to the municipality and Sydney;
- f. is compatible with the heritage significance of the place;
- g. contributes to the amenity of the residents and visitors; and
- j. is designed to encourage the retention and enhancement of green corridors.
- C4 Provide for the retention of existing and/or planting of additional canopy trees.
- C8 Structures are to be designed to accommodate existing and future root growth.
- C10 New dwellings, single or multi-unit, shall be planted with tree(s) capable of achieving a mature height and form appropriate to the setting of the site and the proposed development.

Council's Arborist advised that

The removals of a Cedrus deodara (Deodar Cedar) located in the front setback and a Ficus benjamina (Weeping Fig) located in the rear are supported subject to adequate replenishment planting.

The Landscape Plan, prepared by Whiting Architects, dated 3/05/20201, showing a medium sized tree in a planter is not supported. A Tree Planting Plan prepared by a qualified Landscape Architect is required prior to CC demonstrating that there is sufficient above and below ground space for an advanced 200L size tree to establish and reach maturity in its location. The tree will require a minimum of 25-35m³ available soil volume.

As outlined elsewhere in this report, Council requested to provide a Tree Planting Plan, prepared by a qualified Landscape Architect, demonstrating that there is sufficient above and below ground space for the above-mentioned required tree. No additional information

has been provided to demonstrate that an adequate replacement tree can be planted on the site. As such, the proposal is considered to be contrary to the following objectives and controls of Part C1.14 of the Leichhardt DCP 2013:

- O3 To protect trees within and adjacent to development sites and to ensure that all new development provides an opportunity for existing and new trees to grow.
- O4 To manage the urban landscape so trees continue to make a significant contribution to its quality, character and amenity.
- O7 Encourage private property owners to plant new trees and replace inappropriate trees in order to meet Council’s tree canopy targets.
- C11 The following minimum tree planting requirements are required for any new development sites:

Property Size:	Number of trees to be planted
Less than 300m2	minimum of one (1) tree.
exceed 300m2	minimum of two (2) trees

Tree container size and mature tree height will be determined by Council and will generally be based on available land space and land zoning canopy targets, a preference is placed on advanced container sizes.

- C12 All development proposals must be designed to maintain or improve the urban forest values of the site by minimising the impact on tree/s and planting compensatory tree/s for tree/s that are proposed for removal. This requirement applies to Council owned trees and trees on private or other property and adjoining land.

For this and other reasons, the proposal is recommended for refusal.

C3.1 Residential General Provisions

As discussed elsewhere in this report, the proposal is considered to be incompatible with other development within the heritage conservation area and will result in adverse amenity impacts on adjoining properties. Therefore, it is considered that the proposal is not consistent with the following objectives of this part:

- O3 To ensure that alterations, additions to residential buildings and new residential development are compatible with the established setting and character of the suburb and neighbourhood and compatible with the desired future character and heritage significance of the place and its setting.
- O4 To ensure that all residential development is compatible with the scale, form, siting and materials of existing adjacent buildings.
- O5 To ensure that all residential development is consistent with the density of the local area as established by the Leichhardt Local Environmental Plan 2013.
- O7 To ensure that the amenity, including solar access and visual privacy, of the development and adjacent properties is not adversely impacted

C3.2 Site Layout and Building Design

Site Capacity

As outlined elsewhere in this report, the proposed infill development is considered to be an unsympathetic addition within the HCA, not being consistent with the desired future character of the area. In addition, the proposed landscaped open space is insufficient.

Side Boundary Setbacks

Elevation	Proposed Maximum Wall Height (m)	Required setback (m)	Proposed setback (m)	Compliance
North-East	~ 3.5 – 8.7	0.4 – 3.4	0 – 1.8	Partial compliance
South-West	~ 6.2 – 9.4	2 – 3.8	0.9	No

Control C8 under this part states that Council may allow walls higher than that required by the side boundary setback controls where:

- *The development is consistent with relevant Building Typology Statements as outlined within Appendix B – Building Typologies of this Development Control Plan;*
- *The pattern of development within the streetscape is not compromised;*
- *The bulk and scale of development is minimised by reduced floor to ceiling heights;*
- *The potential impacts on amenity of adjoining properties, in terms of sunlight and privacy and bulk and scale, are minimised; and*
- *Reasonable access is retained for necessary maintenance of adjoining properties.*

It is considered that the proposal is not acceptable in relation to the impacts to the Heritage Conservation Area, and consequently, the pattern of development within the streetscape would be compromised. Further, as discussed later in this report, the proposed development will result in adverse and unacceptable amenity impacts.

Landscaped Open Space

C9 outlines the following:

Development shall:

- Include soft landscape area in both the front and rear of the site where consistent with the BLZ controls;
- Ensure that the area of soft landscaping is consolidated to support significant landscaping and tree planting; and
- Include landscaped open space as part of private open space at the rear of the site. Landscaped areas are to be designed to incorporate privacy, solar access, protection from the wind and so that the amenity of adjoining properties as well as the streetscape is retained.

As outlined elsewhere in this report, the proposal does not comply with the Landscaped Area development standard and the proposed Landscaped Areas are not consolidated to support significant landscaping and new tree planting. In addition, as outlined in detail elsewhere in this report, the proposal is contrary to private open space controls, noting that the principal private open space does not include any landscaping.

Building Height and the Building Envelope

C1 of Part C2.2.2.5 outlines the following:

Maintain the single storey scale and form over most of the slope from Darling Street to the bay, applying a 3.6m maximum building wall height, except on dominant corners, where 6m may be appropriate, particularly with parapet forms. Pitched roofs are appropriate, generally using custom orb profile steel. Timber buildings should generally be extended with light frame structures and cladding rather than masonry.

Given that the site is a corner allotment that adjoins a public park, the building envelope must be applied to both street frontages and along the north-eastern side. The proposal, if the 6m wall height is applied, breaches the prescribed building envelope.

Given the above, the proposal is considered to be inconsistent with the following objectives of this part:

- O1 To ensure adequate separation between buildings for visual and acoustic privacy, solar access and air circulation.
- O2 To ensure the character of the existing dwelling and/or desired future character and established pattern of development is maintained.
- O4 To ensure that development:
 - a. reinforces the desired future character and distinct sense of place of the streetscape, neighbourhood and Leichhardt;
 - b. emphasises the street and public domain as a vibrant, safe and attractive place for activity and community interaction;
 - c. complements the siting, scale and form of adjoining development; and
 - d. creates a high level of residential amenity for the site and protects existing or enhances residential amenity of adjoining sites in terms of visual and acoustic privacy, air circulation, solar access, daylight, outlook and views.

For this and other reasons, the proposal is recommended for refusal.

C3.8 Private Open Space

C1 states that for dwelling houses, private open space (POS) should be:

- a. located at ground level consistent with the location of private open space on the surrounding properties and the siting controls within this Development Control Plan;
- b. has a minimum area of 16sqm and minimum dimension of 3m;
- c. is connected directly to the principal indoor living areas; and
- d. where ground level is not accessible due to the existing constraints of the site and/or existing development, above ground private open space will be considered.

The principal POS is located on the first floor at the rear. Whilst an additional, smaller, POS is proposed along the north-eastern boundary, this POS does not comply with C(a) and C(b) as it is not consistent with the location of POS on adjoining properties and the POS does not have minimum dimensions of 3m. In addition, an open brick fence is proposed adjacent to this open space, which is considered to result in poor on-site amenity.

Given the site constraints, namely the topography of the land, whilst Council could consider (additional) above ground private open space, given that the proposal is for a complete demolition and infill development where the site will be unconstrained following demolition works, it is considered that a compliant POS area could be provided at ground level.

An appropriate POS area has not been provided under the current scheme due to the proposal's excessive FSR and site coverage.

The proposal does not provide sufficient POS and, as such, the proposal is recommended for refusal.

C3.9 Solar Access

The subject and surrounding sites have a north-south orientation. As such, the following solar access controls apply with regard to neighbouring properties:

- *C14 Where the surrounding allotments side boundary is 45 degrees from true north and therefore the allotment is not orientated north/south or east/west, glazing serving main living room shall retain a minimum of two hours of solar access between 9am and 3pm at the winter solstice.*
- *C15 Where surrounding dwellings currently receive less than the required amount of solar access to the main living room between 9.00am and 3.00pm during the winter solstice, no further reduction of solar access is permitted.*
- *C16 Where surrounding dwellings have south facing private open space ensure solar access is retained for two hours between 9.00am and 3.00pm 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 9.00am and 3.00pm during the winter solstice, no further reduction of solar access is permitted.*

The shadow diagrams provided are generally accurate in the depiction of the additional shadows cast by the proposed development. However, the window on the adjoining site, along the shared boundary, at No. 113 Short Street has not been depicted on the submitted shadow diagrams. Further, the submitted elevation shadow diagrams only show proposed, not existing, shadows cast onto the neighbouring wall. Whilst the applicant argues that this window, currently, does not receive the required amount of solar access, this could not be confirmed. As such, a comprehensive assessment against Control C14 could not be conducted.

Based on a review of the submitted survey, which depicts this window, and documentation/plans provided by the owner of No. 111 and No. 113 Short Street, it is evident that this window will be completely overshadowed by the proposed development during the winter solstice. The owner of No. 113 Short Street outlined, and provided photographs, that this window is servicing the internal living areas and that this window is the only source of direct sunlight to these rooms. As such, unless this window is already completely in shadow between 9am and 3pm during the winter solstice, the proposal does not comply with the aforementioned controls concerned with solar access to neighbouring living room glazing.

With regard to solar access to neighbouring POS, the shadow diagrams illustrate that solar access to the POS at No. 113 Short Street receives less than the required amount of solar access between 9.00am and 3.00pm during the winter solstice and the proposal results in additional overshadowing, which is contrary to Control C19.

Given that not all shadows cast by structures on neighbouring sites have been depicted, e.g., fence shadows between No. 111 and No. 113 Short Street, a comprehensive assessment of solar access of the POS at No. 111 Short Street could not be conducted.

When assessing the impact of the proposed development on the solar access of neighbours, the following must be considered:

LDCP 2013

In assessing the reasonableness of solar access impact to adjoining properties, and in particular, in any situation where controls are sought to be varied, Council will also have regard to the ease or difficulty in achieving the nominated controls having regard to:

- a) *the reasonableness of the development overall, in terms of compliance with other standards and controls concerned with the control of building bulk and having regard to the general form of surrounding development;*
- b) *site orientation;*
- c) *the relative levels at which the dwellings are constructed;*
- d) *the degree of skill employed in the design to minimise impact; and*
- e) *whether reasonably available alternative design solutions would produce a superior result.*

For reasons discussed elsewhere in this report, it is considered that the proposal has failed to satisfy any of the above tests, in particular, noting the non-compliance with all development standards, variation with side boundary setback and building envelope controls. With regard to point (c) above, it is noted that the applicant argues that the additional overshadowing to neighbouring POS is “a direct result of orientation and topography as opposed to an unreasonable design”. Given the non-compliance with all development standards and other controls concerned with building siting, Council disagrees with this statement.

Planning principle regarding sunlight established in **The Benevolent Society v Waverley Council** [2010] NSWLEC 1082.

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

Comment: The site is located within a low to medium density area. As such, there is a reasonable expectation that neighbouring dwellings will retain an adequate level of sunlight.

- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*

Comment: Given the significant non-compliance with all development standards and other issues

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal’s design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

Comment: The proposal does not comply with various numerical guidelines.

- *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.*

Comment: Given the lack of information provided, this could not be assessed in detail.

- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*

Comment: The POS at the neighbouring properties is relatively large and most of the additional shadows are cast towards the centre and rear. However, the area adjoining the living areas at these properties are already overshadowed. As such, it is considered that retaining solar access towards the rear of the POS is important to maintain on-site amenity for these properties.

- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

Comment: As outlined above, the submitted shadow diagrams do not depict all shadows cast by structures on adjoining sites.

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.*

Comment: Given that the site is located within a HCA and adjoining sites contain contributory buildings, it is considered that the area will not undergo substantial change.

Given the above, and due to the compounding issues discussed elsewhere in this report, the proposal is recommended for refusal as the proposal is not consistent with the following objectives of this part:

O1 Development shall:

- a. provide adequate sunlight to main living room and private open space;*
- c. provide a high level of amenity;*
- d. protect residential amenity for adjoining development;*
- e. increase energy efficiency; and*
- f. minimise the degree of overshadowing to neighbouring properties.*

C3.10 Views

Based on a review of the submitted view line analysis, streetscape imagery and a photograph provided by a neighbour (Figure 3), the proposal will result in the loss of some existing City skyline views obtained from neighbouring properties. Whilst the majority of existing views would be maintained, given that the proposal does not comply with the development standards and other planning controls, e.g., building setbacks and building envelope, the proposal is considered to be unreasonable and, as such, the proposal is considered to be inconsistent with this part of the DCP and the Planning Principle regarding views established in **Tenacity Consulting v Warringah Council** [2004] NSWLEC 140.



Figure 3: Image provided by neighbour at No. 122 Short Street.

C3.11 Visual Privacy

The proposed first floor balcony does not comply with C9, which outlines that

Balconies at first floor or above at the rear of residential dwellings will have a maximum depth of 1.2m and length of 2m unless it can be demonstrated that due to the location of the balcony there will be no adverse privacy impacts on surrounding residential properties with the provision of a larger balcony.

However, the applicant submitted an overlooking plan that depicts that there will be no overlooking, within 9 metres and 45 degrees between this balcony and neighbouring private open space.

The proposed principal living areas are located on the first floor, which is contrary to Control C10. However, there will be no adverse privacy impacts as a result of this part of the proposal.

Notwithstanding, the application is recommended for refusal.

5(d) The Likely Impacts

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

- Adverse impact on Heritage Conservation Area and unsatisfactory response to desired future character controls.
- Adverse amenity impacts – POS, overshadowing and views.
- Unsatisfactory on-site amenity outcomes, including private open space controls.
- Unsatisfactory tree replenishment planting.
- Breaches with all development standards.

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

It is considered that the proposal will have an adverse impact on the adjoining properties and, therefore, it is considered that the site is unsuitable to accommodate the proposed development.

5(f) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties.

Three (3) submissions were received in response to the initial notification.

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

- Solar access to window on north-eastern boundary at No. 113 Short Street.
- Solar access to private open space at No. 113 and No. 11 Short Street.
- View Loss of City skyline.
- Side boundary setbacks.

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

Issue: Planting along proposed driveway may impact views currently enjoyed from adjoining properties.

Comment: Council has no controls to limit planting of vegetation and maximum height of vegetation. However, it is noted that the application is recommended for refusal.

Issue: Potential noise impact from air-conditioning units and light spill

Comment: Council's standard conditions regarding amenity impacts could be readily imposed with any consent granted to ensure that there are no adverse amenity impacts that are contrary to applicable policies concerned with this matter. These have been included in Attachment A should the IWLPP members approve the application.

Issue: Views of tree line, parks, and open space

Comment: Views of tree lines, parks and open space are not protected under the Leichhardt DCP 2013. Notwithstanding, as outlined elsewhere in this report, *inter alia*, due to view impacts, the proposal is recommended for refusal.

Issue: General impact on daylight

Comment: Access to daylight is not protected under the Leichhardt DCP 2013, only access to direct sunlight/solar access is protected. In this regard, it is noted that properties to the north will not be impacted by the proposal with regard to solar access and overshadowing.

5(g) The Public Interest

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

The proposal is 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.

- a. Heritage – Not supported. Issues raised previously have not been adequately resolved.
- b. Engineer – Conditions provided
- c. Urban Forest – Conditions provided

6(b) External

The application was referred to the following external body:

- a. Ausgrid – No objections. Advisory note regarding overhead powerlines provided.

7. Section 7.11 Contributions/7.12 Levy

Section 7.12 levies would be payable for the proposal.

The carrying out of the proposed development would result in an increased demand for public amenities and public services within the area. A condition requiring that contribution to be paid should be imposed on any consent granted.

8. Conclusion

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

The development will result in unsatisfactory streetscape and is an unsatisfactory and is not considered to be in the public interest.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

9. Recommendation

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*, refuse Development Application No. DA/2021/0841 for *Demolition of existing dwelling and construction of a new multi level dwelling, carport to rear and associated works, including tree removal* at 115 Short Street BIRCHGROVE NSW 2041 for the following reasons:

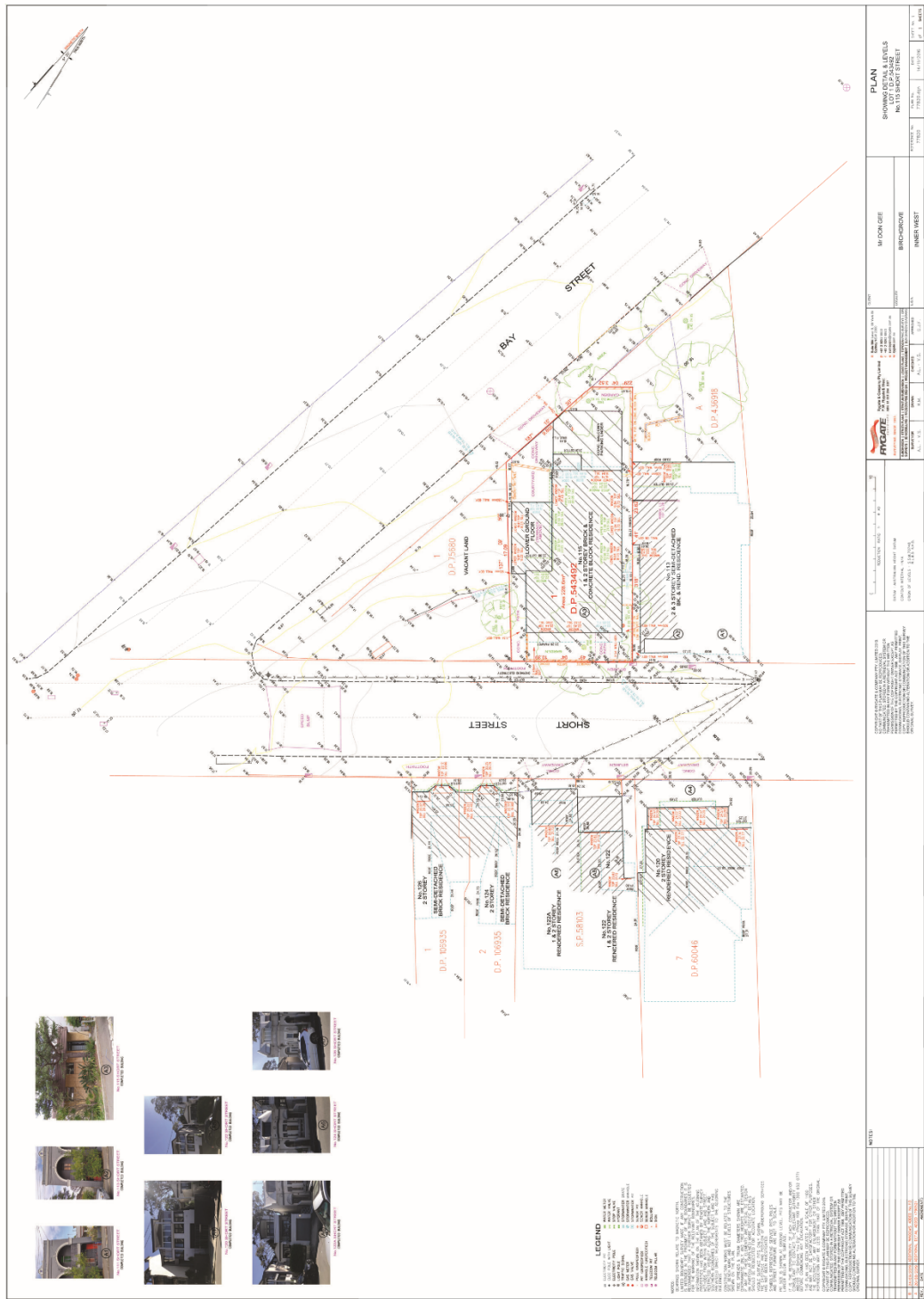
1. The proposed development is inconsistent with Clause 1.2 – *Aims of the Plan* - of the *Leichhardt Local Environmental Plan 2013* as the proposal will result in adverse impacts on the streetscape and desired future character, adverse on-site and neighbouring amenity impacts, noting that the proposed development is inconsistent with the following aims of this clause:
 - a. to ensure that development applies the principles of ecologically sustainable development,
 - b. to minimise land use conflict and the negative impact of urban development on the natural, social, economic, physical and historical environment,
 - c. to identify, protect, conserve and enhance the environmental and cultural heritage of Leichhardt,
 - d. to promote a high standard of urban design in the public and private domains,

- e. to protect and enhance the amenity, vitality and viability of Leichhardt for existing and future residents, and people who work in and visit Leichhardt,
 - f. to maintain and enhance Leichhardt's urban environment,
 - k. to protect and enhance—
 - i. views and vistas of Sydney Harbour, Parramatta River, Callan Park and Leichhardt and Balmain civic precincts from roads and public vantage points, and
 - ii. views and view sharing from and between private dwellings
 - l. to ensure that development is compatible with the character, style, orientation and pattern of surrounding buildings, streetscape, works and landscaping and the desired future character of the area,
 - m. to ensure that development provides high quality landscaped areas in residential developments,
 - n. to protect, conserve and enhance the character and identity of the suburbs, places and landscapes of Leichhardt, including the natural, scientific and cultural attributes of the Sydney Harbour foreshore and its creeks and waterways, and of surface rock, remnant bushland, ridgelines and skylines,
 - o. to prevent undesirable incremental change, including demolition, that reduces the heritage significance of places, conservation areas and heritage items,
 - t. to ensure that development responds to, conserves, protects and enhances the natural environment, including terrestrial, aquatic and riparian habitats, bushland, biodiversity, wildlife habitat corridors and ecologically sensitive land,
 - v. to ensure that existing landforms and natural drainage systems are protected.
2. The proposed development is inconsistent with the zone objectives of the R1 Zone prescribed in Clause 2.3 of the *Leichhardt Local Environmental Plan 2013* as the proposal will result in adverse streetscape and amenity impacts, noting that the proposed development is inconsistent with the following zone objectives:
- 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.
3. The proposal does not comply with the Landscaped Area and Site Coverage development standards within Clauses 4.3A(3)(a) and 4.3A(3)(b) of the *Leichhardt Local Environmental Plan 2013* or the Floor Space Ratio development standard within Clause 4.4 of the *Leichhardt Local Environmental Plan 2013*.
4. The submitted Clause 4.6 variations to Site Coverage and Floor Space Ratio do not provide sufficient environmental planning grounds to justify the variations and are not considered in the public interest, being inconsistent with objectives of the Site Coverage and Floor Space Ratio development standards of Clauses 4.3A(3)(b) and 4.4 and the objectives of the R1 Zone as prescribed in the *Leichhardt Local Environmental Plan 2013*.
5. A Clause 4.6 variation to the proposed variation to the Landscaped Area development standard prescribed in Clause 4.3A(3)(a) of the *Leichhardt Local Environmental Plan 2013* has not been provided.

6. The proposed development is inconsistent with the objectives of the Floor Space Ratio development standard within Clause 4.4 of the Draft Inner West Local Environmental Plan 2020, which has the weight of being imminent and certain.
7. The proposed development is not consistent with the objectives 1(a) and 1(b) within Clause 5.10 – *Heritage Conservation* - of the *Leichhardt Local Environmental Plan 2013*, as the proposed development would result in a development that is detrimental to the Heritage Conservation Area, which seek to conserve the heritage significance of Heritage Conservation Areas, including settings and views.
8. The proposal is inconsistent with the applicable Objectives O3, O4, and O6 of Part C1.0 – *General Provisions* - of the Leichhardt Development Control Plan 2013.
9. The proposal does not comply with the Controls C1(c) and C1(iv) of Part C1.2 – *Demolition* - of the Leichhardt Development Control Plan 2013 and is inconsistent with the applicable Objective O3 of the Leichhardt Development Control Plan 2013 as the proposed infill development is an unsympathetic and uncharacteristic addition within the Heritage Conservation Area in terms of scale, materials, details, design style and impact on streetscape and the proposed building is not consistent with the development controls contained within the *Leichhardt Local Environmental Plan 2013* and Leichhardt Development Control Plan 2013.
10. The proposal does not comply with the Controls C8 and C9 of Part C1.4 – *Heritage Conservation and Heritage Items* - of the Leichhardt Development Control Plan 2013 and is inconsistent with the applicable Objectives O1(a), O1(c), O1(d), O1(e), O1(f) and O1(g).
11. The proposal does not comply with the Controls C1(a) and C1(b) of Part C1.19 - *Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls* - of the Leichhardt Development Control Plan 2013 and is inconsistent with the applicable Objectives O1 and O2.
12. The proposal does not comply with the Controls C1, C7 and C17 of Part C2.2.2.5 - *Mort Bay Distinctive Neighbourhood* of the Leichhardt Development Control Plan 2013 and is inconsistent with the applicable Objective O1.
13. The proposal does not comply with the controls C4 and C5 of Part C1.5 – *Corner Sites* - of the Leichhardt Development Control Plan 2013 and the applicable Objectives O1(a) and O1(b).
14. The proposal does not comply with the Controls C4, C8, and C10 within Part C1.12 – *Landscaping* – of the Leichhardt Development Control Plan 2013 and Controls C11 and C12 within Part C1.14 – *Tree Management* - of the Leichhardt Development Control Plan 2013 and is inconsistent with the applicable Objectives O1(a), O1(b), O1(f), O1(g), and O1(j) within Part C1.12 and Objectives O3, O4, and O7 within Part C1.14.
15. The proposal is inconsistent with the applicable Objectives O3, O4, O5, and O7 of Part C3.1 – *Residential General Provisions* - of the Leichhardt Development Control Plan 2013.
16. The proposal does not comply with Controls C7, C8, C9 and C11-C20 within Part C3.2 – *Site Layout and Building Design* - of the Leichhardt Development Control Plan 2013 and is inconsistent with the applicable Objectives O1, O2, O4(a), O4(b), O4(c) and O4(d).

17. The proposal does not comply with Controls C1(a), C1(b), C1(c) and C1(d) within Part C3.8 – *Private Open Space* - of the Leichhardt Development Control Plan 2013 and is inconsistent with the applicable Objectives O1(b) and O1(c).
18. The proposal does not comply with controls C14, C15, C16 and C19 within Part C3.9 – *Solar Access* - of the Leichhardt Development Control Plan 2013 and is inconsistent with the applicable Objectives O1(a), O1(c), O1(d), O1(e), and O1(f).
19. The proposal does not comply with Control C1, C2 and C3(a) within Part C3.10 – *Views* - of the Leichhardt Development Control Plan 2013 and is inconsistent with the applicable Objective O2.
20. The proposal would result in adverse environmental impacts on the built environment in the locality pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*.
21. The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 4.15 (1)(c) of the *Environmental Planning and Assessment Act 1979*.
22. The approval of this application is considered contrary to the public interest, pursuant to Section 4.15 (1)(d) and (e) of the *Environmental Planning and Assessment Act 1979*.

Attachment A – Plans of proposed development



115 SHORT STREET
BIRCHGROVE

DRAWING LIST

PAGE NO.	DRAWING TITLE	SCALE	REV.	ISSUE	PAGE NO.	DRAWING TITLE	SCALE	REV.
A001	EXISTING SITE PLAN	1:200	-	DA-APPLICATION	A000	SHADOW CALCULATIONS	NA	A
A002	EXISTING GROUND FLOOR PLAN	1:100	-	DA-APPLICATION	A001	EXISTING SHADOW DIAGRAM - 9AM	1:200	-
A003	EXISTING ELEVATIONS - NORTH STREETSCAPE - SOUTH	1:100	-	DA-APPLICATION	A002	EXISTING SHADOW DIAGRAM - 10AM	1:200	-
A004	EXISTING ELEVATIONS - EAST - WEST	1:100	-	DA-APPLICATION	A003	EXISTING SHADOW DIAGRAM - 11AM	1:200	-
A010	GROUND FLOOR DEMOLITION PLAN	1:100	-	DA-APPLICATION	A004	EXISTING SHADOW DIAGRAM - 12M	1:200	-
A100	PROPOSED SITE PLANSITE ANALYSIS	1:200	A	DA-APPLICATION	A005	EXISTING SHADOW DIAGRAM - 1PM	1:200	-
A101	PROPOSED GROUND FLOOR PLAN	1:100	A	DA-APPLICATION	A006	EXISTING SHADOW DIAGRAM - 2PM	1:200	-
A102	PROPOSED FIRST FLOOR	1:100	A	DA-APPLICATION	A007	EXISTING SHADOW DIAGRAM - 3PM	1:200	-
A103	PROPOSED SECOND FLOOR	1:100	A	DA-APPLICATION	A008	PROPOSED SHADOW DIAGRAM - 9AM	1:200	A
A104	PROPOSED ROOF PLAN	1:100	A	DA-APPLICATION	A009	PROPOSED SHADOW DIAGRAM - 10AM	1:200	A
A105	PROPOSED LANDSCAPE PLAN	1:100	A	DA-APPLICATION	A010	PROPOSED SHADOW DIAGRAM - 11AM	1:200	A
A200	PROPOSED ELEVATIONS - SOUTH	1:100	A	DA-APPLICATION	A011	PROPOSED SHADOW DIAGRAM - 12M	1:200	A
A201	PROPOSED ELEVATIONS - NORTH	1:100	A	DA-APPLICATION	A012	PROPOSED SHADOW DIAGRAM - 1PM	1:200	A
A202	PROPOSED ELEVATIONS - WEST/STREETSCAPE	1:100	A	DA-APPLICATION	A013	PROPOSED SHADOW DIAGRAM - 2PM	1:200	A
A300	PROPOSED ELEVATIONS - EAST	1:100	A	DA-APPLICATION	A014	PROPOSED SHADOW DIAGRAM - 3PM	1:200	A
A301	SWEEP PATH DIAGRAM	1:100	A	DA-APPLICATION	A015	PROPOSED SHADOW ELEVATION - 9AM	1:100	A
A800	PROPOSED SECTION	1:100	A	DA-APPLICATION	A016	PROPOSED SHADOW ELEVATION - 10AM	1:100	A
A801	PROPOSED OVERLOOKING PLANS	1:100	A	DA-APPLICATION	A017	PROPOSED SHADOW ELEVATION - 11AM	1:100	A
A810	PROPOSED 3D VIEWS	-	-	DA-APPLICATION	A018	PROPOSED SHADOW ELEVATION - 12M	1:100	A
A811	PROPOSED VIEW LINES	-	-	DA-APPLICATION	A020	PROPOSED SHADOW ELEVATION - 2PM	1:100	A

AREA ANALYSIS

TOTAL SITE AREA	229.56m ²
EXISTING	
EX GROUND FLOOR	14.85m ²
EX FIRST FLOOR	108.26m ²
EX SECOND FLOOR	88.52m ²
PROPOSED GROSS FLOOR AREA	209.66m ²
EXISTING BALCONIES	46.07m ²
EXISTING CARPORT	29.37m ²
EXISTING SITE COVERAGE	150.12m ² (67%)
EX HARD SURFACES	41.86m ²
EX IMPERVIOUS AREA	194.08m ² (85%)
EXISTING LANDSCAPED AREA	34.50m ² (15%)
EXISTING FLOOR SPACE RATIO	0.82 : 1 (208.86m ²)
PROPOSED	
PROPOSED GROUND FLOOR	84.77m ²
PROPOSED FIRST FLOOR	82.09m ²
PROPOSED SECOND FLOOR	51.56m ²
PROPOSED GROSS FLOOR AREA	218.42m ²
PROPOSED BALCONY	23.12m ²
PROPOSED VERANDAH	2.54m ²
PROPOSED CARPORT	41.83m ²
PROPOSED SITE COVERAGE	167.70m ² (73%)
PROPOSED HARD SURFACES	60.00m ²
PROPOSED IMPERVIOUS AREA	166.52m ² (73%)
PROPOSED LANDSCAPED AREA	34.74 (15.2%)
TOTAL LANDSCAPED AREA	69.24m ² (30%)
PROPOSED FLOOR SPACE RATIO	1.04 : 1 (218.01m ²)

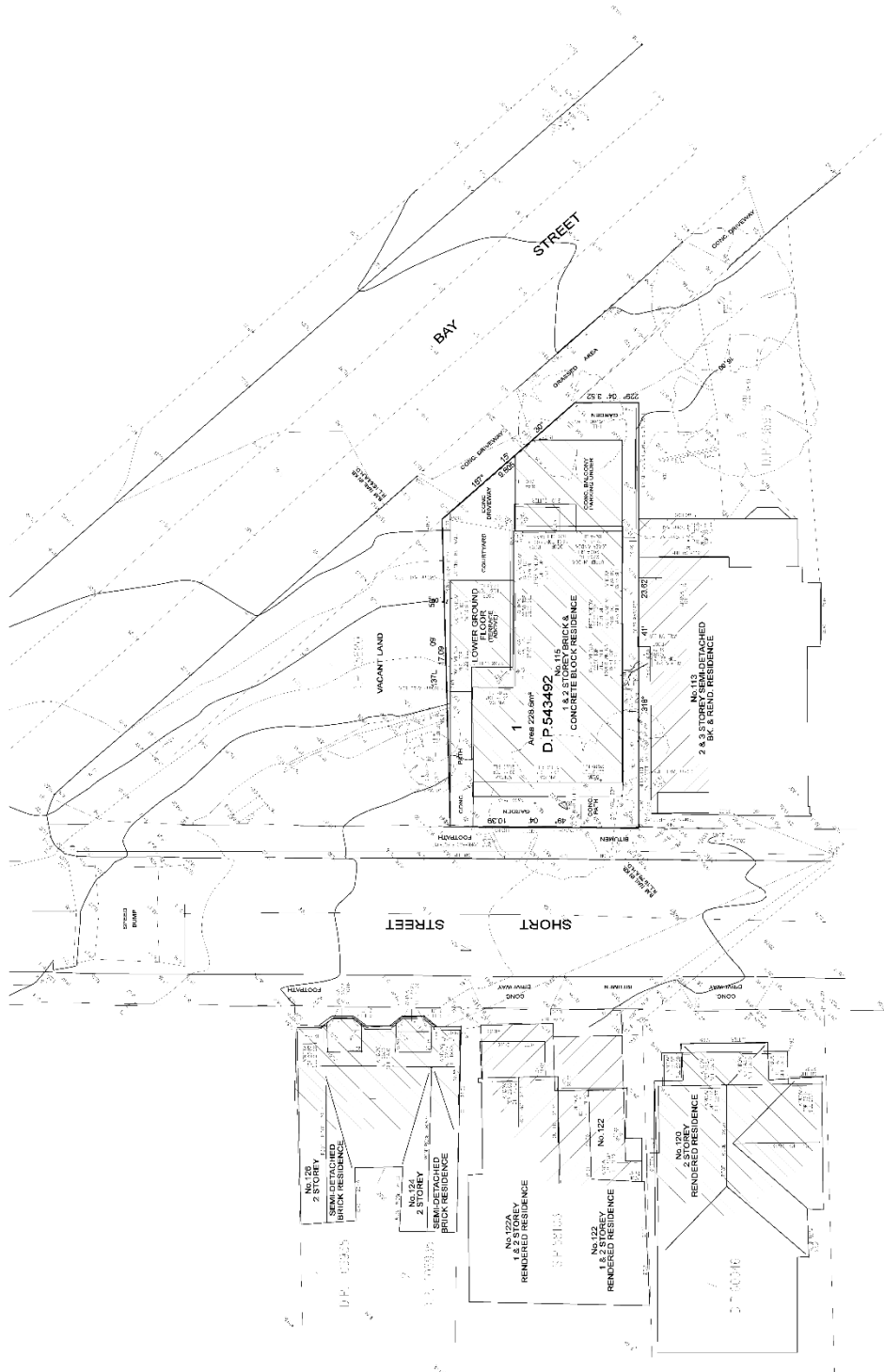
LAND SURVEY

PERFORMED BY: PETER A
COMPANY PTY LTD. (REGISTERED LAND SURVEYORS
18, 88 YORK ST SYDNEY NSW PH: 02 8325 8600
LEVELS SHOWN ARE TO AUSTRALIAN HEIGHT
DRAWN SURVEY DATE: 16/12/2015. REF: NC 77420



DRAWING	DIMING/LIST + AREA ANALYSIS	CLIENT	LINDY ANSWORTH 115 SHORT STREET BIRCHGROVE, NSW 2041
SCALE	NA @ A3	PROJECT	DA APPLICATION
DRAWN	JS	PAGE NO.	REV
CHECKED	SW	BIRCHGROVE A000 A	
DATE	02.05.2021		

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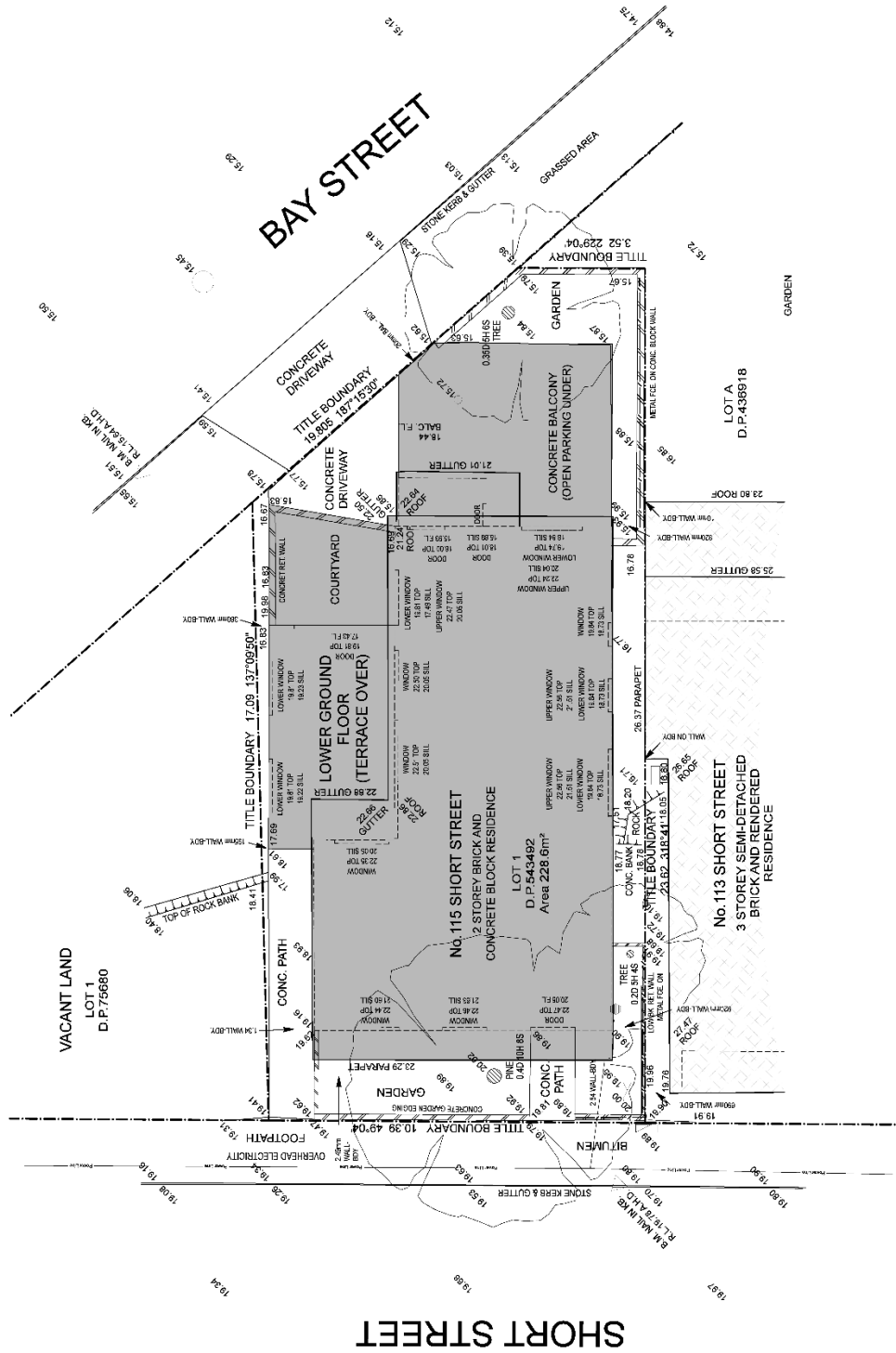
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DRAWING	EXISTING SITE PLAN	CLIENT	LINDY ANSWORTH 115 SHORT STREET BIRCHGROVE, NSW 2041
SCALE	1:200 @ A3	DA APPLICATION	
DRAWN	JS	PROJECT	BIRCHGROVE
CHECKED	SW	PAGE NO.	A001
DATE	20.01.2021	REV	

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1 EXISTING SITE PLAN
A001 SCALE 1:200 @ A3

Document Set ID: 35287307
Version: 1, Version Date: 06/09/2021



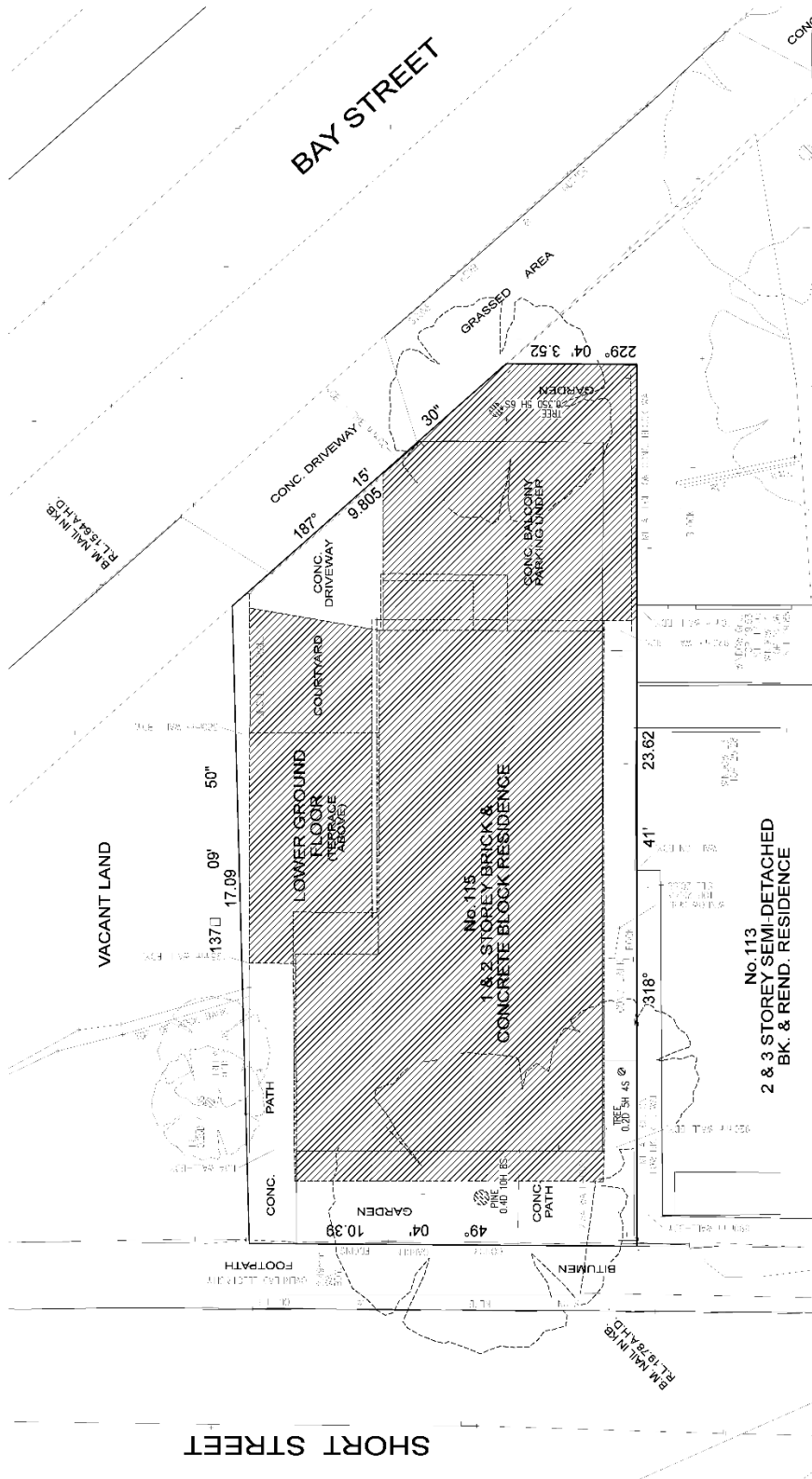
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DRAWINGS	EXISTING FLOOR PLAN	CLIENT	LINDY ANSWORTH 115 SHORT STREET BIRCHGROVE NSW 2041
SCALE	1:100 @ A3	PROJECT	DA APPLICATION
DRAWN	JS	DATE	20.01.2021
CHECKED	SW	PAGE NO.	A002
DATE	20.01.2021	REV	-

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1 EXISTING FLOOR PLAN
A002 SCALE 1:100 @ A3

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DRAWING	DEMOLITION PLAN	CLIENT	LAND/ANSNORTH
SCALE	1:100 @ A3	ADDRESS	115 SHORT STREET BIRCHGROVE, NSW 2041
DRAWN	JS	DA APPLICATION	
CHECKED	SW	PROJECT	BIRCHGROVE
DATE	20/01/2021	PAGE NO.	A010
		REV	-

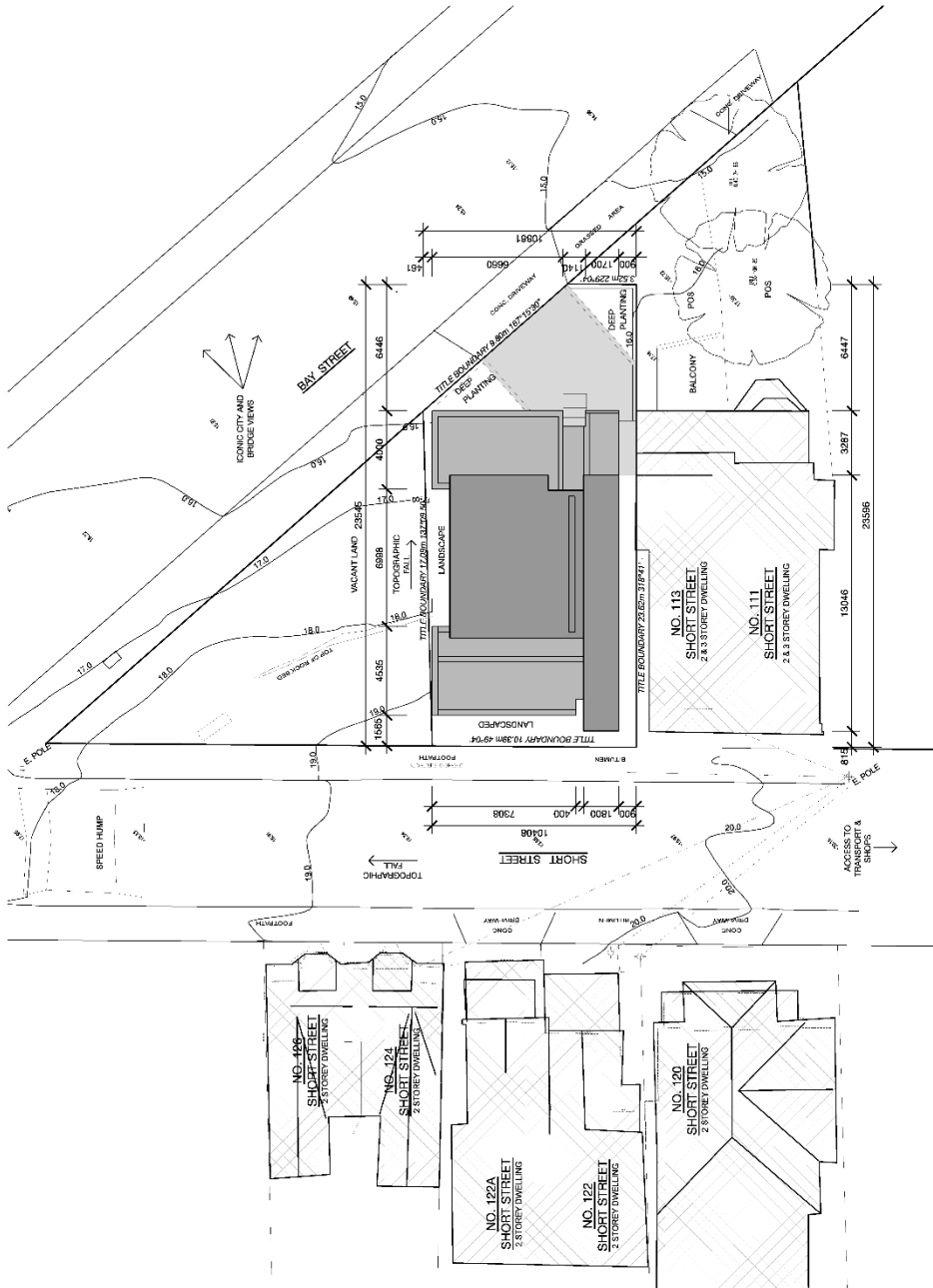
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1 DEMOLITION PLAN
A010 SCALE 1:100 @ A3

Document Set ID: 35237907
Version: 1, Version Date: 03/09/2021

AREA ANALYSIS

TOTAL SITE AREA	228.56m ²
EXISTING	
EX GROUND FLOOR	14.65m ²
EX FIRST FLOOR	108.29m ²
EX SECOND FLOOR	86.50m ²
PROPOSED GROSS FLOOR AREA	208.96m ²
EXISTING BALCONIES	46.67m ²
EXISTING CARPORT	29.37m ²
EXISTING SITE COVERAGE	132.19m ² (57%)
EX HARD SURFACES	41.86m ²
EX IMPERVIOUS AREA	194.08m ² (85%)
EXISTING LANDSCAPED AREA	34.60m ² (15%)
EXISTING FLOOR SPACE RATIO	0.62:1 (29.66m ²)
PROPOSED:	
PROPOSED GROUND FLOOR	84.77m ²
PROPOSED FIRST FLOOR	82.89m ²
PROPOSED SECOND FLOOR	51.15m ²
PROPOSED GROSS FLOOR AREA	238.01m ²
PROPOSED BALCONY	25.12m ²
PROPOSED VERANDAH	23.50m ²
PROPOSED CARPORT	41.63m ²
PROPOSED SITE COVERAGE	157.70m ² (69%)
PROPOSED HARD SURFACES	00.00m ²
PROPOSED IMPERVIOUS AREA	188.58m ² (74%)
PROPOSED LANDSCAPED AREA	34.74 (15.2%)
TOTAL LANDSCAPED AREA	69.34m ² (30%)
PROPOSED FLOOR SPACE RATIO	1.04:1 (238.01m ²)



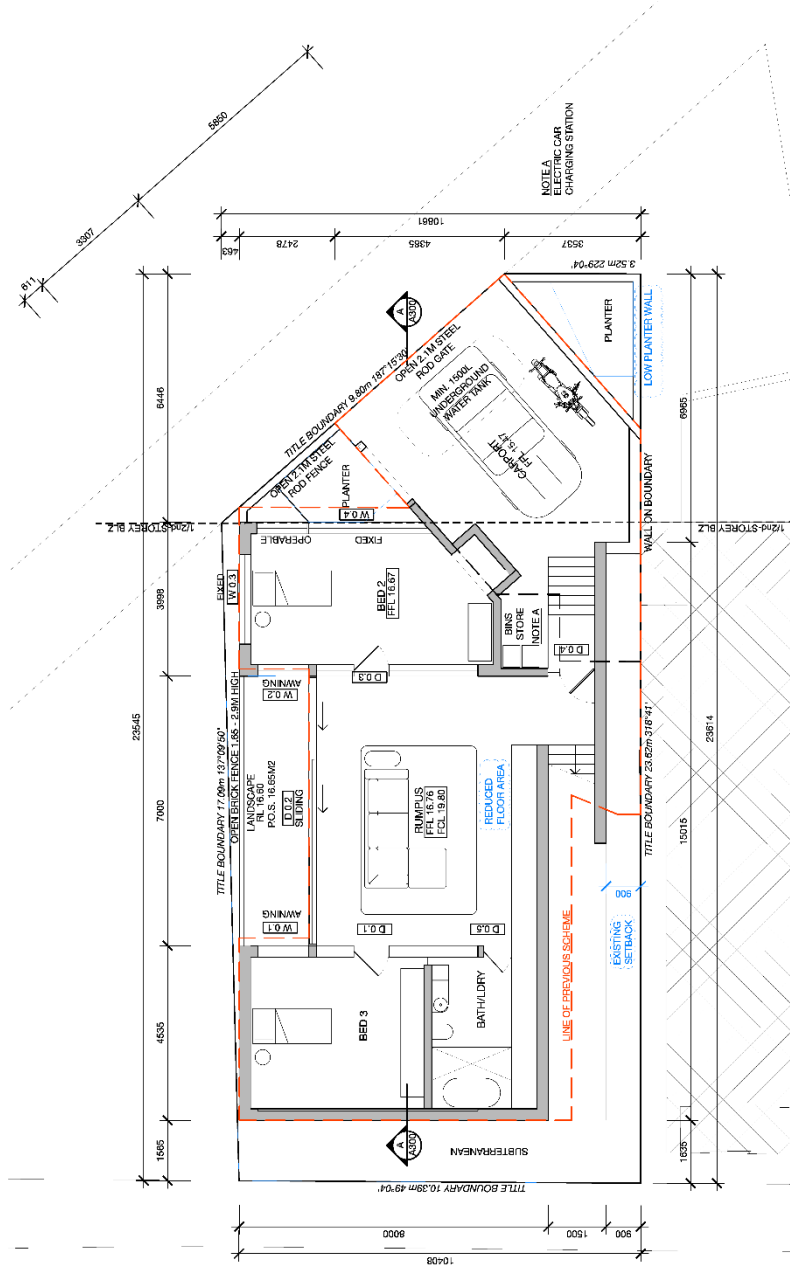
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DRAWING	PROPOSED SITE PLAN/SITE ANALYSIS	CLIENT	DA APPLICATION
SCALE	1:200 @ A3	ADDRESS	115 SHORT STREET BIRCHGROVE, VIC 3011
DATE	03.03.2021	PROJECT	BIRCHGROVE
CHECKED	SW	PAGE NO.	A100
DATE	03.03.2021	REV	A

1 PROPOSED SITE PLAN/SITE ANALYSIS
A100 SCALE 1:200 @ A3

Document Set ID: 35267307
Version: 1, Version Date: 09/09/2021

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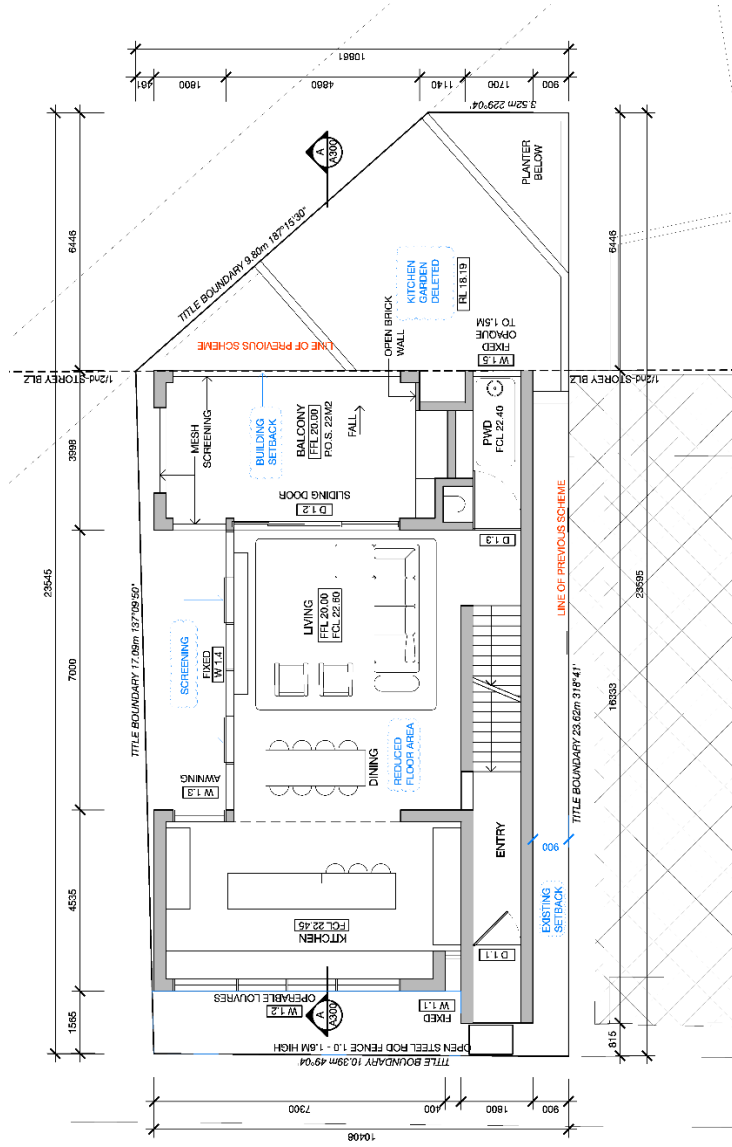
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DRAWING	PROPOSED GROUND FLOOR PLAN	CLIENT	LINDY ANSWORTH 115 SHARPE STREET BIRCHGROVE, NSW 2041
SCALE	1:100 @ A3	DA APPLICATION	
DRAWN	JS	PROJECT	BIRCHGROVE
CHECKED	SW	PAGE NO.	A101
DATE	03.05.2021	REV	A

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1 PROPOSED GROUND FLOOR PLAN
A101 SCALE 1:100 @ A3

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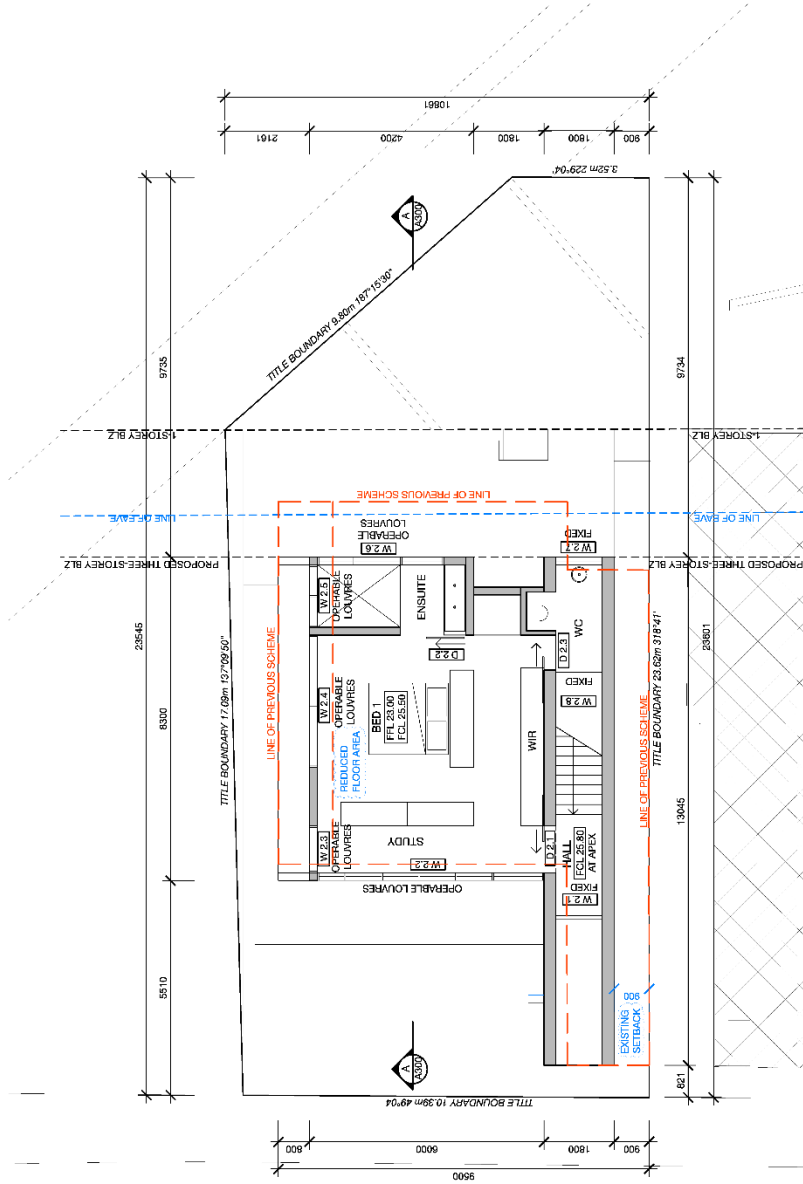
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DRAWING	PROPOSED FIRST FLOOR PLAN	CLIENT	LINDY 48NSWORTH
SCALE	1:100 @ A3	ADDRESS	115 CLAYTON STREET BIRCHGROVE, NSW 2041
DATE	06.05.2021	PROJECT	BIRCHGROVE
DATE	06.05.2021	DA APPLICATION	
DATE	06.05.2021	PAGE NO.	A102
DATE	06.05.2021	REV	A

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1 PROPOSED FIRST FLOOR PLAN
A102 / SCALE 1:100 @ A3

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Version: 1, Version Date: 06/05/2021



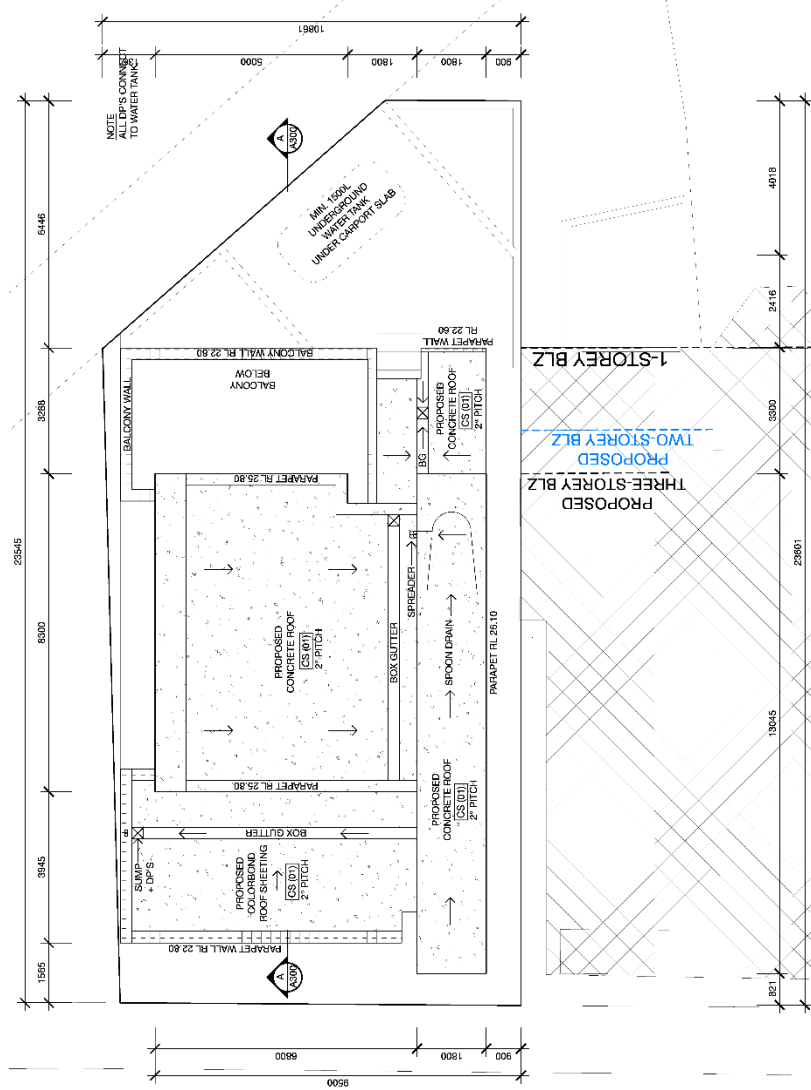
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DRAWING	PROPOSED SECOND FLOOR PLAN	CLIENT	LINDY ANSWORTH
SCALE	1:100 @ A3	ADDRESS	115 SHORT STREET BIRCHGROVE NSW 2041
DRAWN	JS	PROJECT	DA APPLICATION
CHECKED	SW		BIRCHGROVE
DATE	03.06.2021	PAGE NO.	REV
		A103	A

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1 PROPOSED SECOND FLOOR PLAN
A103 SCALE 1:100 @ A3

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Version: 1, Version Date: 09/03/2021



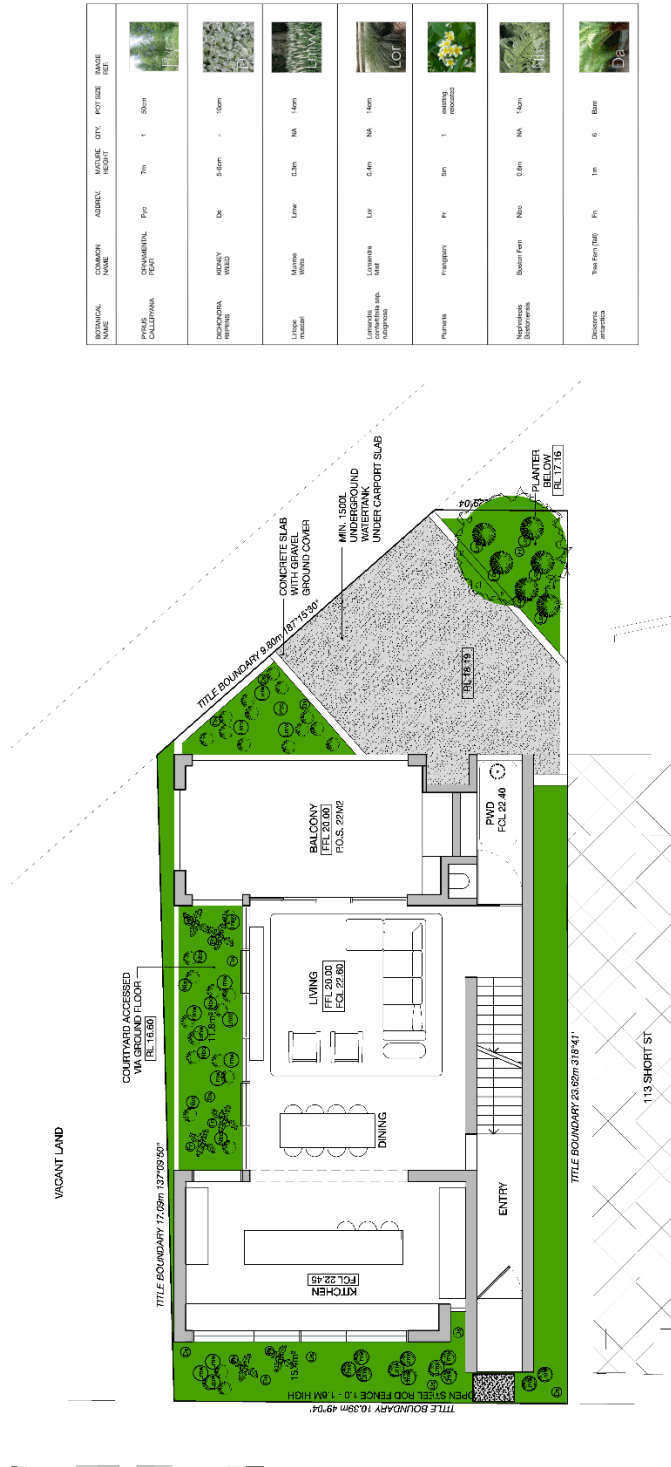
DRAWING	PROPOSED ROOF PLAN	C.L.D.T.	LINDY ANSWORTH
ADDRESS	115 SHURT STREET BIRCHGROVE, NSW 2041		
SCALE	1:100 @ A3	PROJECT	BIRCHGROVE
DRAWN	JS	PAGE NO.	A104
CHECKED	SW	REV	A
DATE	03.05.2021		

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1 PROPOSED ROOF PLAN
A104 / SCALE 1:100 @ A3

Document Set ID: 35287307
Version: 1, Version Date: 06/09/2021

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NATURAL MATERIAL	COMMON NAME	ASSEMBLY	SCALE HEIGHT	CITY	POT SIZE	IMAGE REF
Grass	Commonwealth Fescue	7m	1	NSW	30cm	[Image]
Decorative	Wendy Wield	0.5m	-	NSW	10cm	[Image]
Grass	Marrubi White	1.5m	NA	NSW	14cm	[Image]
Decorative	Lamaria	0.4m	NA	NSW	14cm	[Image]
Decorative	Phacelia	0.5m	1	NSW	14cm	[Image]
Decorative	Negundo	0.5m	NA	NSW	14cm	[Image]
Decorative	Thunbergia	1m	6	NSW	14cm	[Image]

All dimensions are shown to be verified prior to commencement of construction and are subject to the Architect's interpretation.

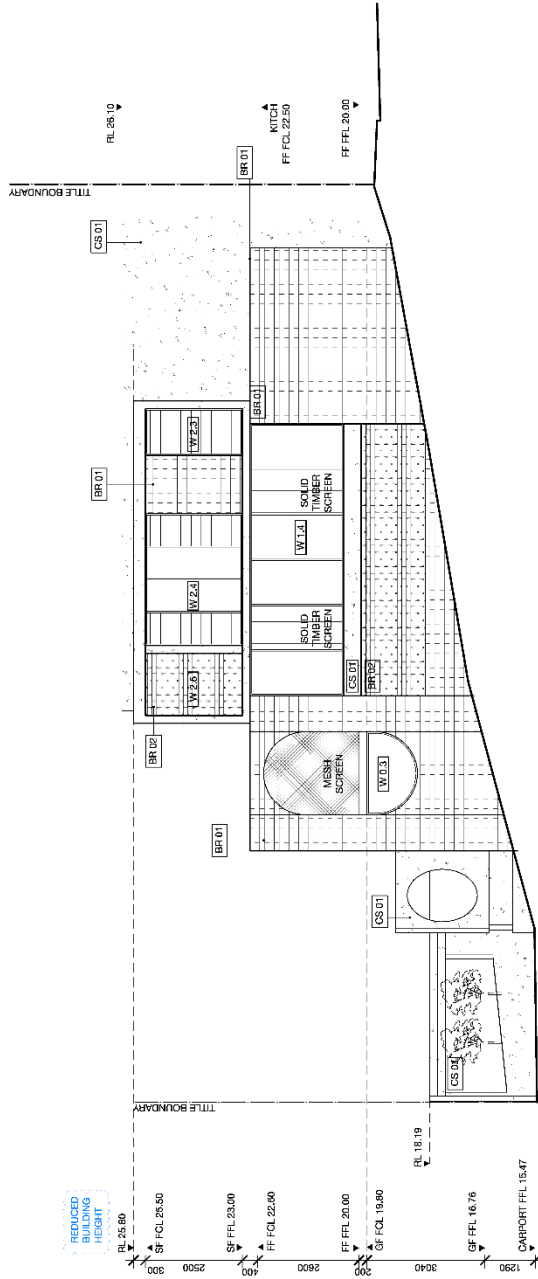
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1 PROPOSED LANDSCAPE PLAN
A105/ SCALE 1:100 @ A3

DRAWING	PROPOSED LANDSCAPE PLAN	CLIENT	LINDY ANSIVORTI
SCALE	1:100 @ A3	ADDRESS	113 SHORT STREET BIRCHGROVE, NSW 2641
DRAWN	JIS	PROJECT	DA APPLICATION
CHECKED	SW	PROJECT	BIRCHGROVE
DATE	06.05.2021	PAGE NO.	A105
		REV	A

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Version: 1, Version Date: 09/09/2021



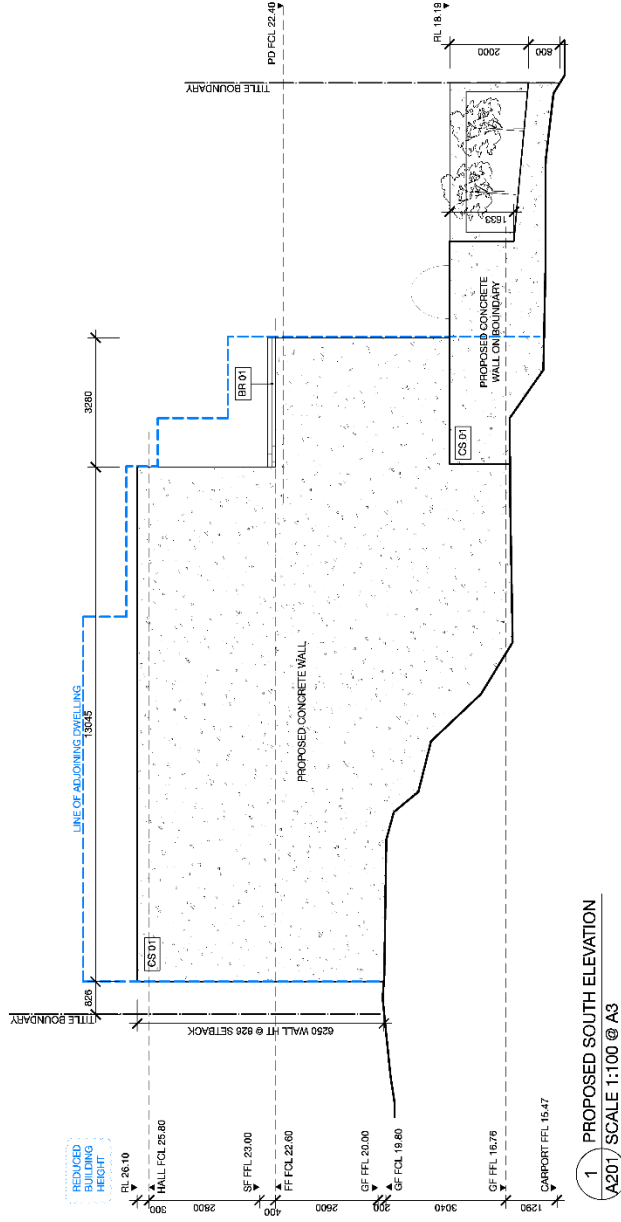
1 PROPOSED NORTH ELEVATION
A200 / SCALE 1:100 @ A3

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DRAWING	PROPOSED NORTH ELEVATION	CLIENT	LINDYANSWORTHILL
SCALE	1:100 @ A3	ADDRESS	115 SHORT STREET BIRCHGROVE NSW 2041
DRAWN	JB	PROJECT	DA APPLICATION
CHECKED	SW	PAGE NO.	A200
DATE	03.05.2021	REV	A

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Version: 1, Version Date: 05/09/2021

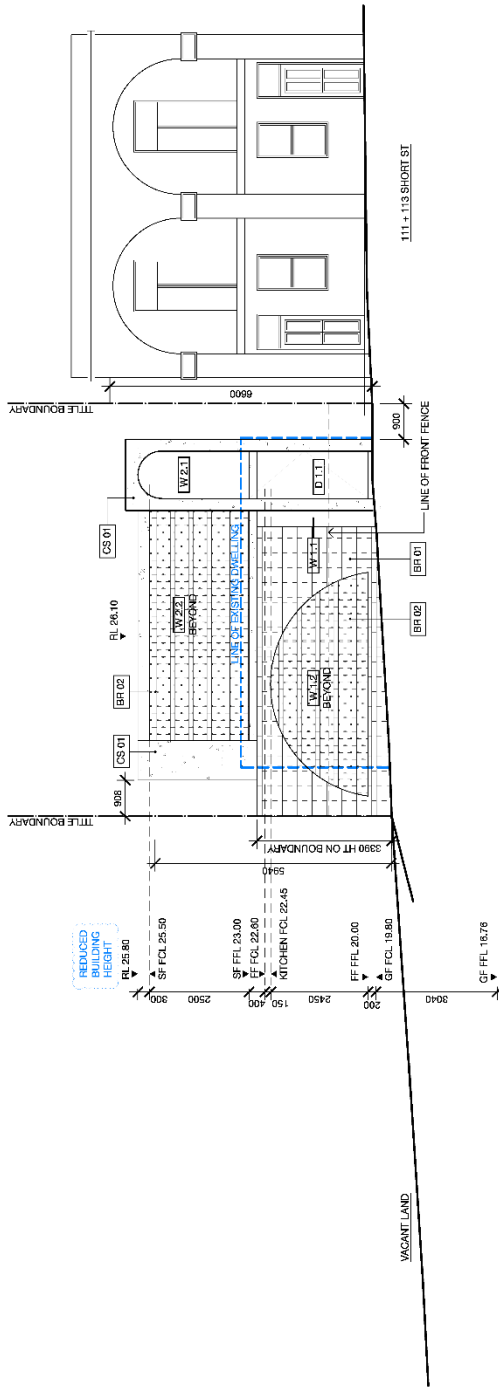


1 PROPOSED SOUTH ELEVATION
A201 SCALE 1:100 @ A3

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DRAWING	PROPOSED SOUTH ELEVATION	CLIENT	LINDY ANSBWORTH BIRCHGROVE, NSW 2041
SCALE	1:100 @ A3	ADDRESS	115 SHORT STREET BIRCHGROVE, NSW 2041
DRAWN	JS	PROJECT	DA APPLICATION
CHECKED	SW	PACKAGE	BIRCHGROVE A201
DATE	03.05.2021	REV	A

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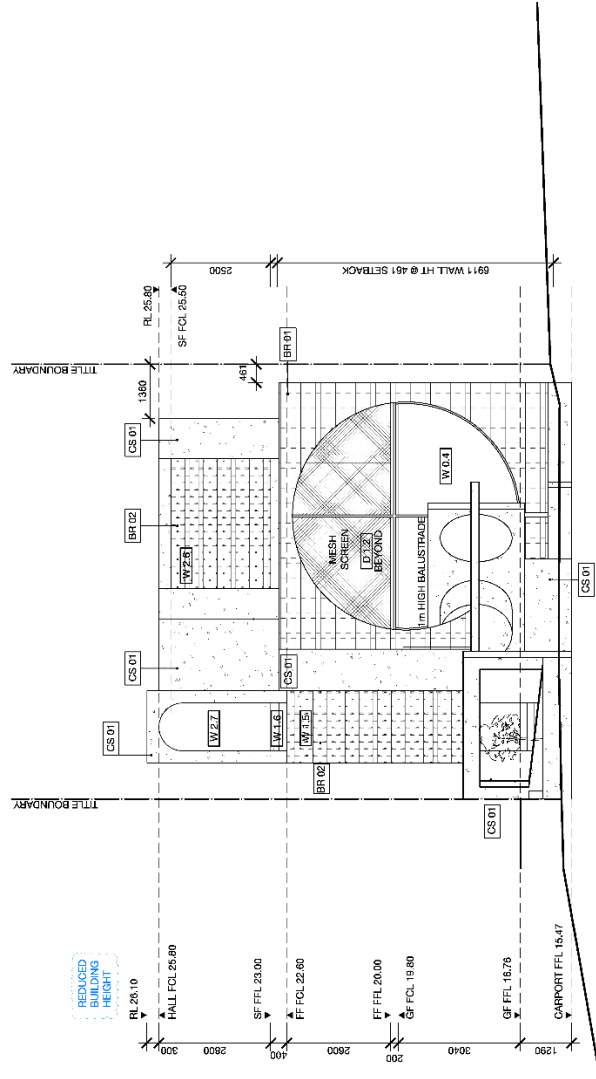
1 PROPOSED WEST/STREETSCAPE ELEVATION
A202 / SCALE 1:100 @ A3

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DRAWING	PROPOSED WEST/STREETSCAPE ELEVATION	CLIENT	LINDY ANSWORTH 115 SKIOTT STREET BIRCHGROVE NSW 2041
SCALE	1:100 @ A3	PROJECT	DA APPLICATION BIRCHGROVE
DRAWN	JS	DATE	06/09/2021
CHECKED	SW	PAGE NO.	A202
DATE	06/09/2021	REV	A

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Document Set ID: 35287907
Version: 1, Version Date: 06/09/2021

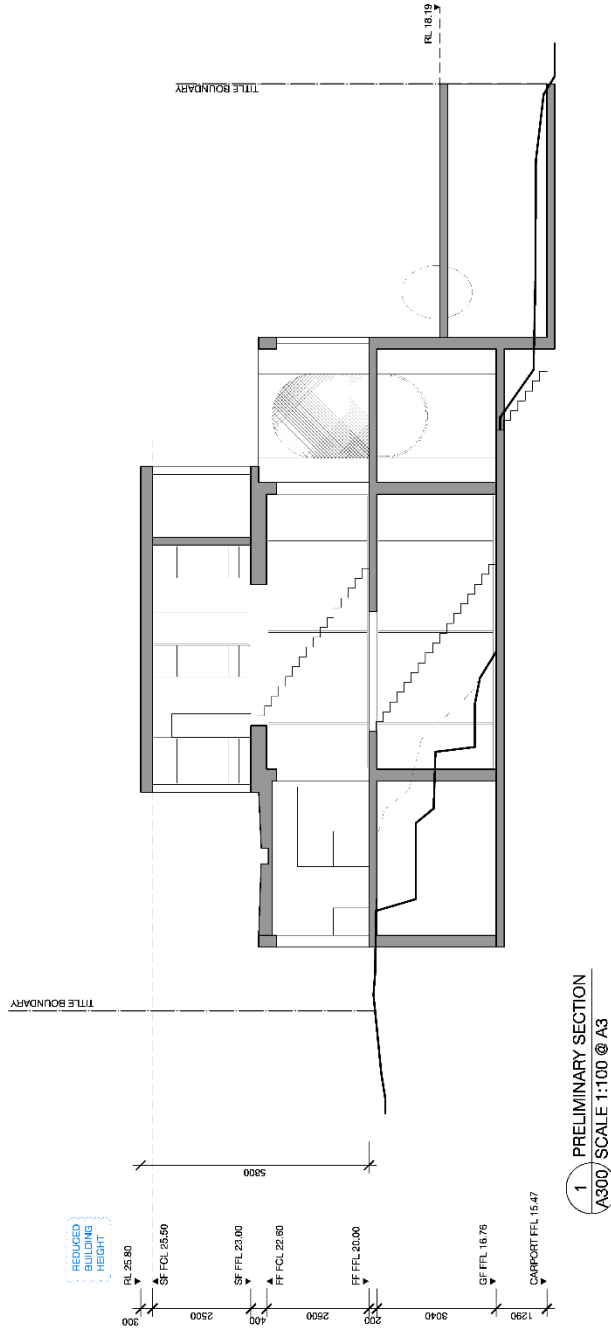


1 PROPOSED EAST ELEVATION
A203 SCALE 1:100 @ A3

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DRAWING	PROPOSED EAST ELEVATION	CLIENT	LINDY ANSBORTH
SCALE	1:100 @ A3	ADDRESS	116 SHORT STREET BIRCHGROVE, NSW 2041
DRAWN	JS	DA APPLICATION	
CHECKED	SW	PROJECT	BIRCHGROVE
DATE	03.05.2021	PAGE NO.	A203
		REV	A

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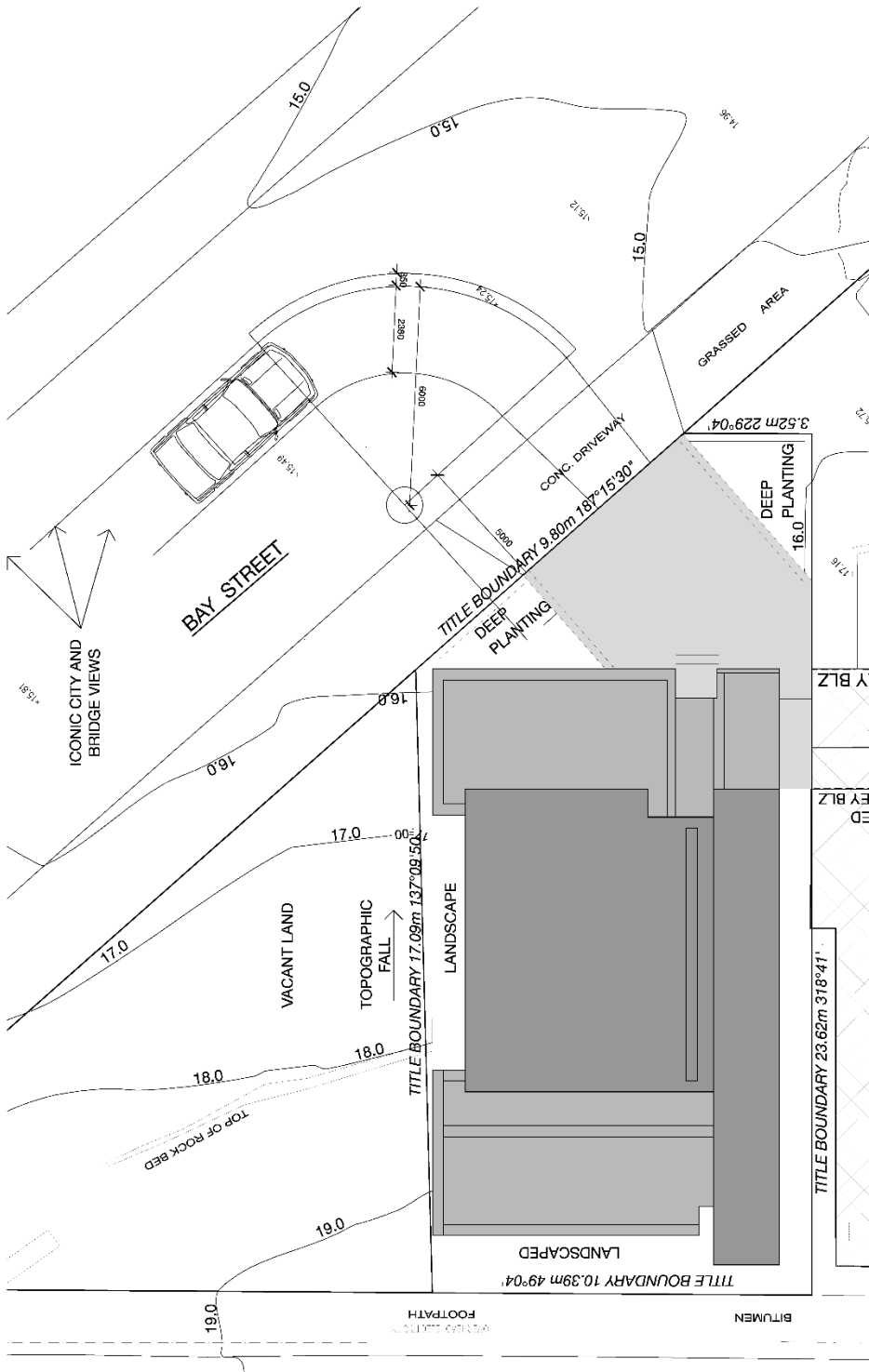
1 PRELIMINARY SECTION
A300 / SCALE 1:100 @ A3

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DRAWING	PRELIMINARY SECTION	CLIENT	LINDY ANSCHUTZ
SCALE	1:100 @ A3	ADDRESS	115 SHURT STREET BIRCHGROVE, NSW 2041
DATE	03.02.2021	PROJECT	DA APPLICATION BIRCHGROVE
CHECKED	SW	PAGE NO.	A300
DATE	03.02.2021	REV	A

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Version: 1, Version Date: 09/09/2021



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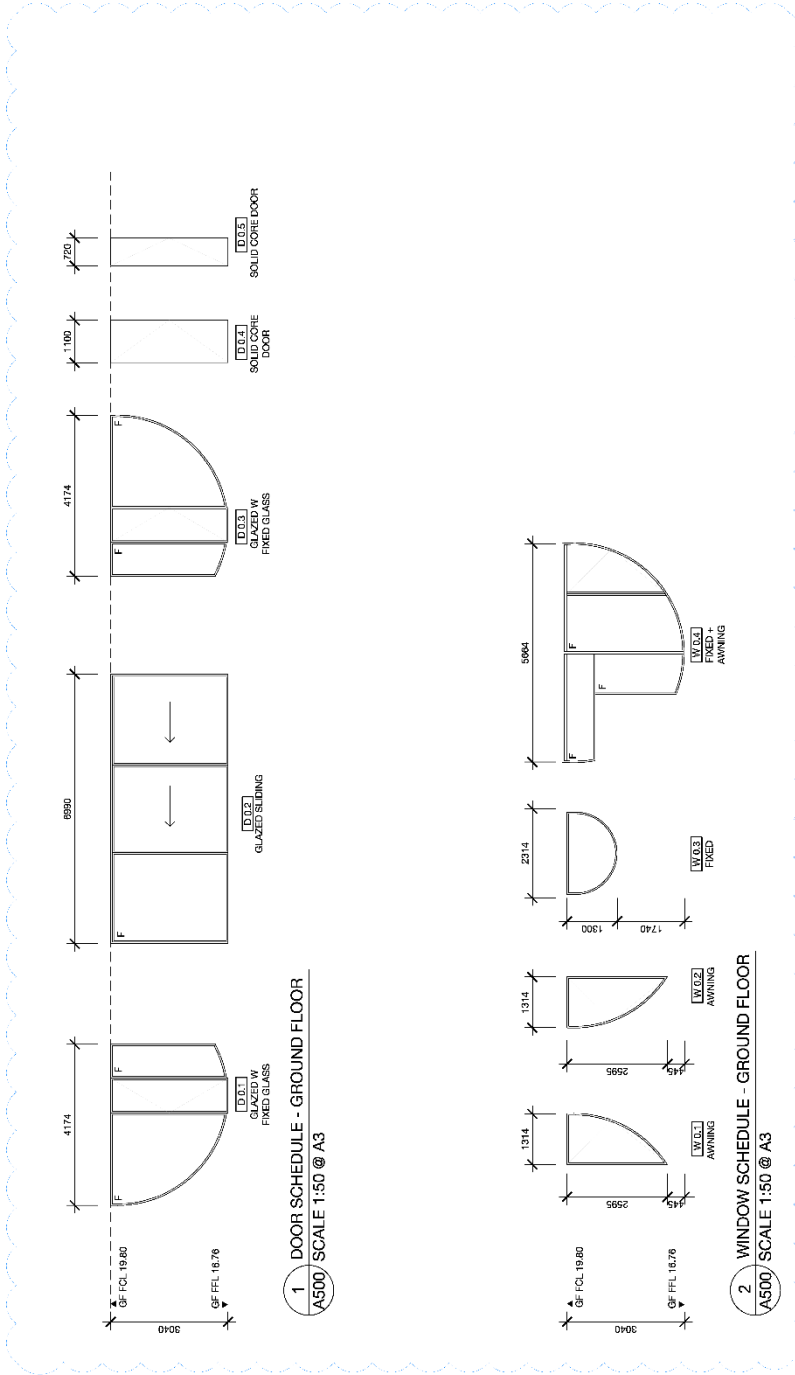
CLIENT	LINDY ANSWORTH
ADDRESS	115 GUY STREET BIRCHGROVE NSW 2041
DA APPLICATION	BIRCHGROVE
PROJ. NO.	A307
PAGE NO.	A

DRAWING	SWEET PATH DIAGRAM
SCALE	1:100 @ A3
DRAWN	JS
CHECKED	SW
DATE	03.05.2021

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1 SWEET PATH DIAGRAM
A307 SCALE 1:100 @ A3

Document Set ID: 3628/7507
Version: 1, Version Date: 09/09/2021

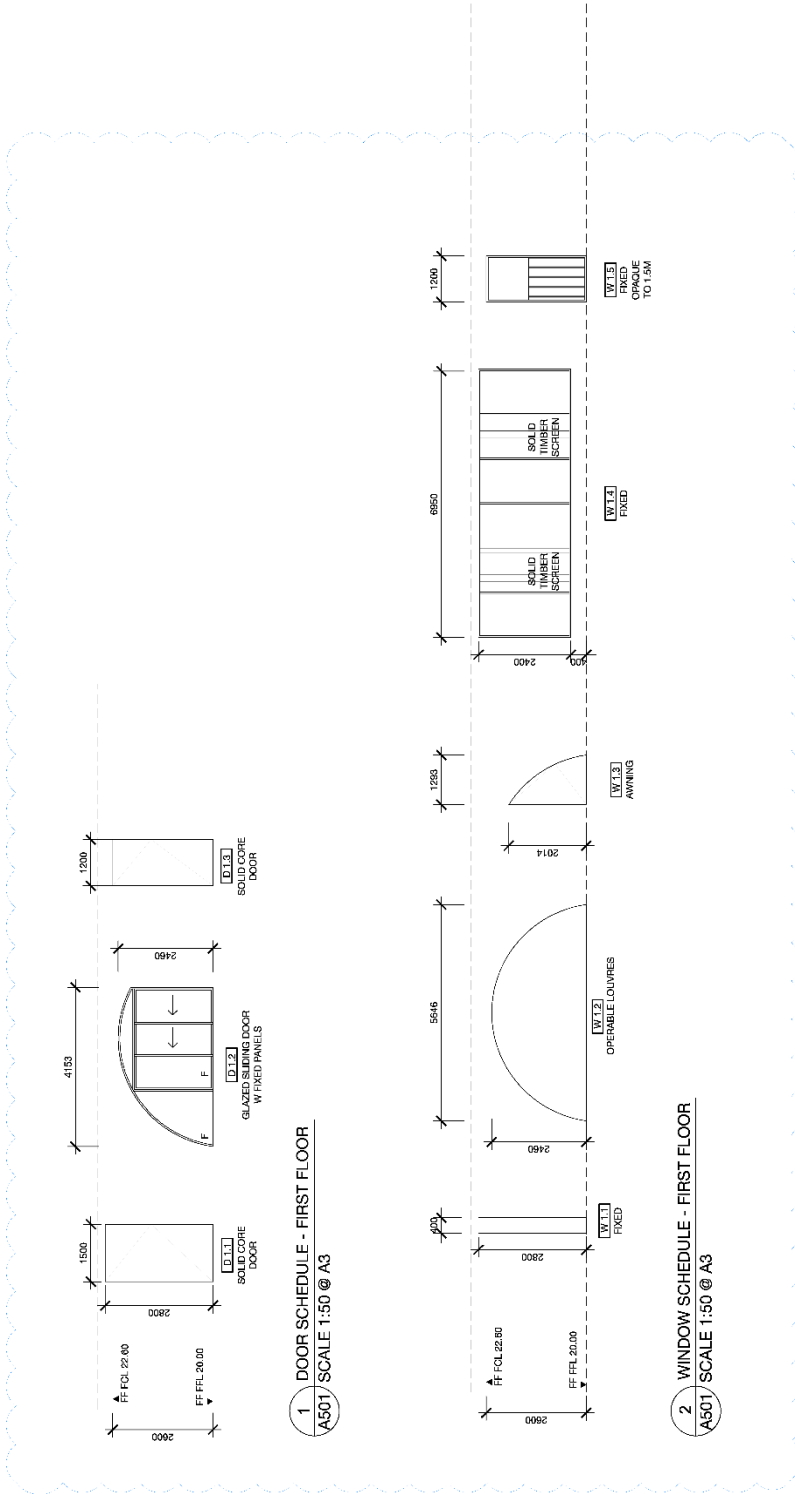


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DRAWING	DOOR / WINDOW / SCHEDULE	CLIENT	LINDY ANSWORTH 115 GILBERT STREET BIRCHGROVE, NSW 2041
SCALE	1:50 @ A3	DA APPLICATION	
DRAWN	JIS	PROJECT	BIRCHGROVE
CHECKED	SW	DATE	09.05.2021
DATE	09.05.2021	PAGE NO.	A500
		REV	A

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 Version: 1, Version Date: 09/05/2021

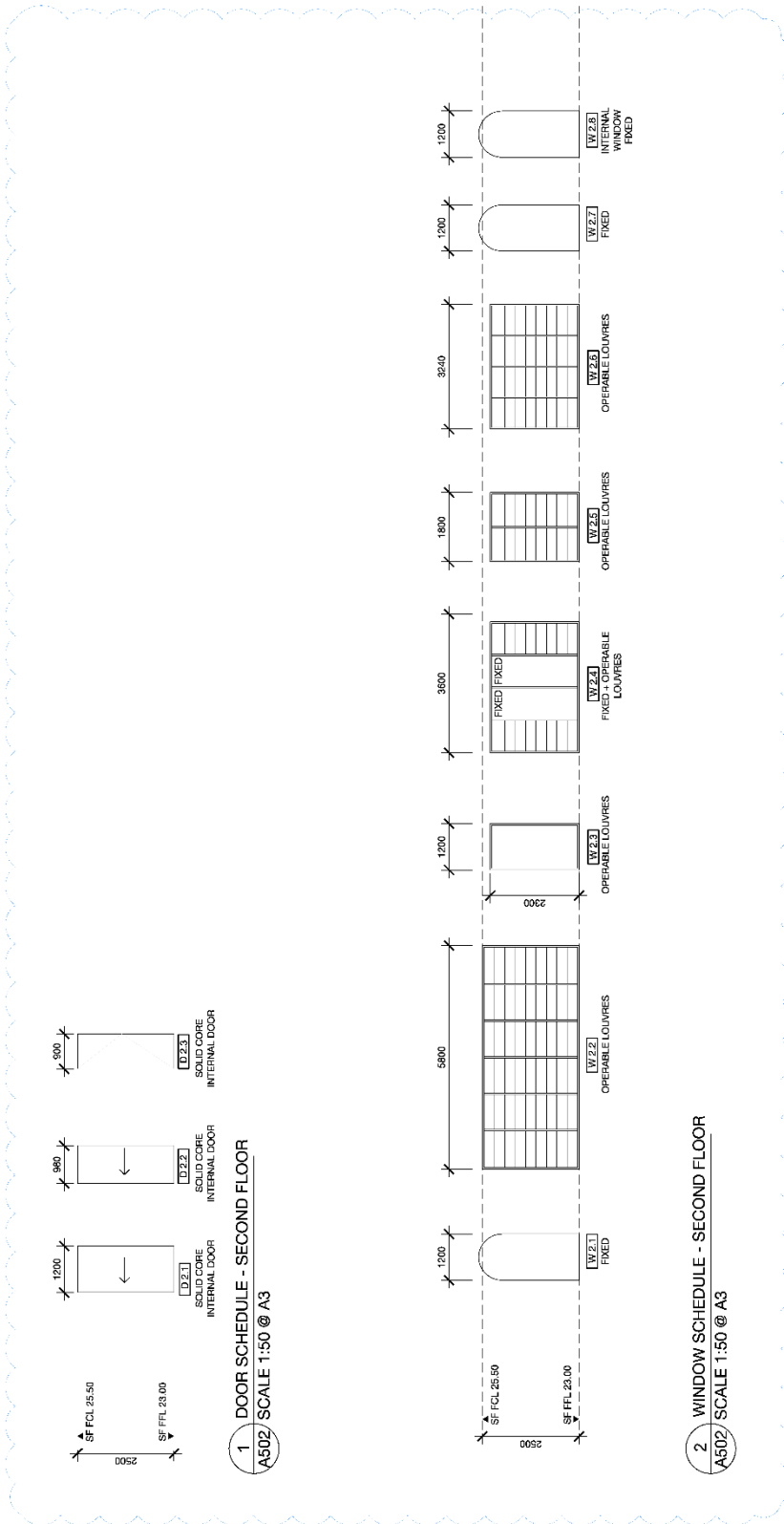


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DRAWING	DOOR / WINDOW SCHEDULE	CLIENT	LINDY ANSMWORTH 115 SHORT STREET BIRCHGROVE, NSW 2041
SCALE	1:50 @ A3	DA APPLICATION	
DRAWN	JS	PROJECT	BIRCHGROVE
CHECKED	SW	PAGE NO.	A501
DATE	03.05.2021	REV	A

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 Version: 1, Version Date: 06/09/2021



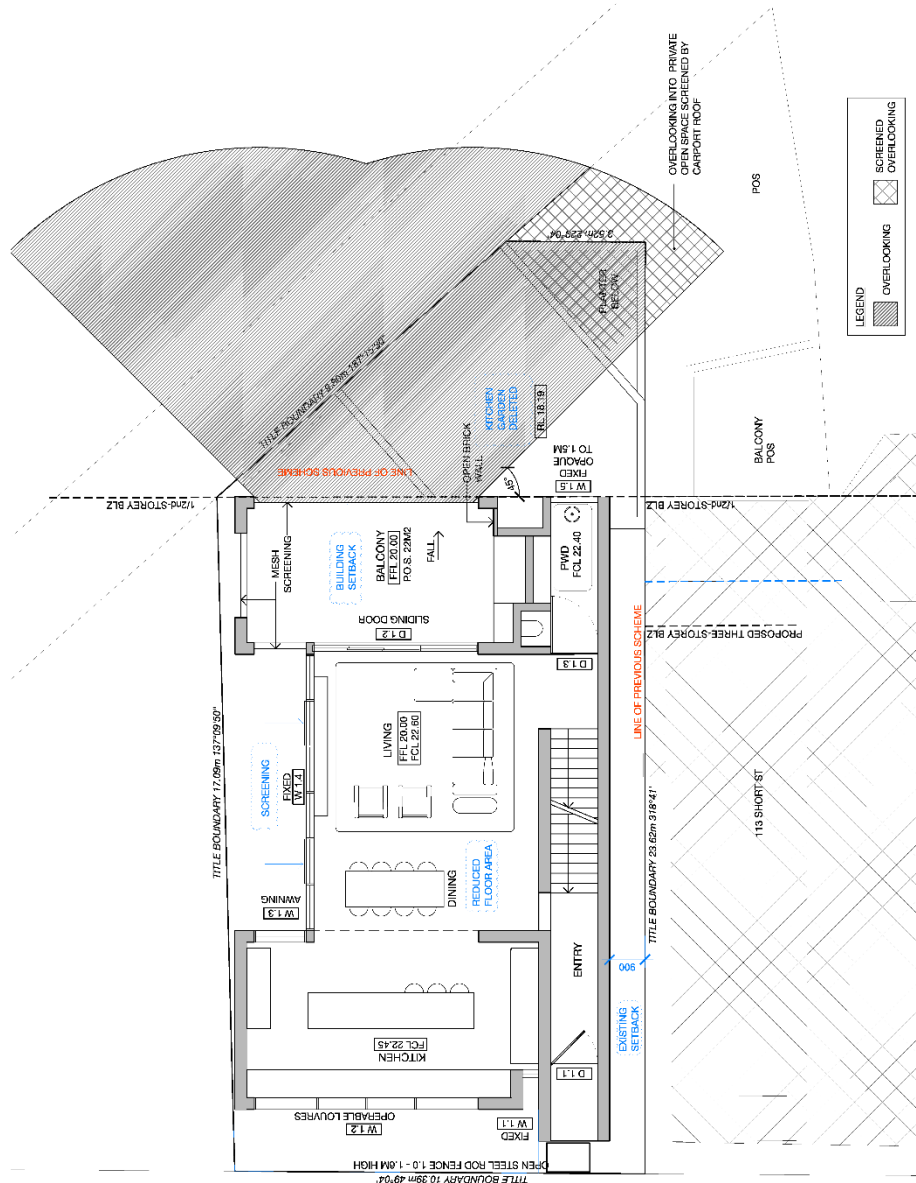
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DRAWING	DOOR/WINDOW SCHEDULE	CLIENT	LINDY ANSWORTH 116 SPOKE STREET BIRCHGROVE NSW 2041
SCALE	1:50 @ A3	PROJECT	DA APPLICATION
DRAWN	JS	FACE NO.	A502
CHECKED	SW	REV	A
DATE	03.05.2021		

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Version: 1, Version Date: 09/09/2021



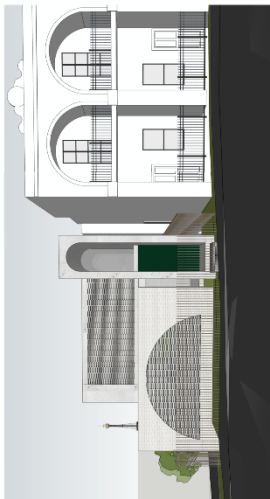
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1 PROPOSED OVERLOOKING PLAN
A800 / SCALE 1:100 @ A3

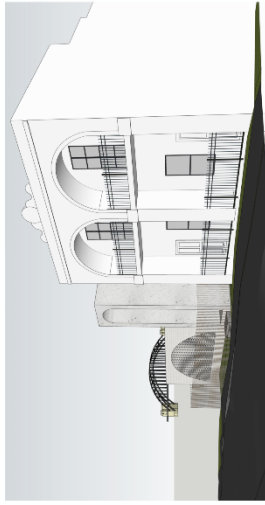
DRAWING	PROPOSED OVERLOOKING PLAN	CLIENT	LINDY ANSWORTH
SCALE	1:100 @ A3	ADDRESS	115 SHORT STREET BIRCHGROVE, NSW 2061
DRAWN	JS	PROJECT	DA APPLICATION
CHECKED	SW	PROJECT	BIRCHGROVE
DATE	03.05.2021	PAGE NO.	A800
		REV	A

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Document Set ID : 35287907
Version : 1, Version Date : 03/05/2021



ELEVATIONS



OBLIQUE VIEWS

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DRAWING	PROPOSED 3D VIEWS	CLIENT	LINDY ANSWORTH 115 SMART STREET BIRCH GROVE NSW 2041
SCALE	JS	DA APPLICATION	
DRAWN	SW	PROJECT	BIRCHGROVE
CHECKED	20.01.2021	PAGE NO.	AB10
DATE		REV	

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1 PROPOSED 3D VIEWS
AB10

Document Set ID: 3527/307
Version: 1, Version Date: 06/09/2021

Image 2: View from centre of ground floor front verandah at No. 122 Short Street



EXISTING



AMENDED PROPOSAL – Views of the city maintained



Image 2: View from centre of ground floor front verandah at No. 122 Short Street

IMAGE REFERENCE

Image 3: View from centre of first floor front Balcony at No. 118 Short Street



EXISTING



AMENDED PROPOSAL – Views of the harbour bridge maintained



Image 3: View from centre of first floor front Balcony at No. 118 Short Street

IMAGE REFERENCE

Image 4: View from centre of ground floor front verandah at No. 118 Short Street



EXISTING



AMENDED PROPOSAL – Views of the harbour bridge maintained



Image 4: View from centre of ground floor front verandah at No. 118 Short Street

IMAGE REFERENCE

1 PROPOSED VIEW LINES
A811

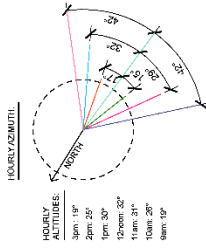
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DRAWING	PROPOSED VIEW LINES	CLIENT	LINDY ANSICORITI
SCALE	-	ADDRESS	115 SHORT STREET BIRCHGROVE, NSW 2041
DRAWN	JS	PROJECT	DA APPLICATION
CHECKED	SW	PROJECT	BIRCHGROVE
DATE	21/01/2021	PAGE NO.	A811
		REV	-

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Document Set ID: 35281907
Version: 1, Version Date: 09/09/2021



SUN ROSE
WINTER SOLSTICE - 21 JUNE

- EXISTING 9am SHADOW
- PROPOSED 9am SHADOW
- EXISTING 10am SHADOW
- PROPOSED 10am SHADOW
- EXISTING 11am SHADOW
- PROPOSED 11am SHADOW
- EXISTING 12noon SHADOW
- PROPOSED 12noon SHADOW
- EXISTING 1pm SHADOW
- PROPOSED 1pm SHADOW
- EXISTING 2pm SHADOW
- PROPOSED 2pm SHADOW
- EXISTING 3pm SHADOW
- PROPOSED 3pm SHADOW

Existing	9am		10am		11am		12pm		1pm		2pm		3pm	
	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	
SPDS (m ²)	64.79	86.50	56.24%	31.23	48.20%	20.54	31.70%	21.08	32.54%	5.11	7.89%	7.37	11.38%	
115 Short St	51.70	11.58	22.40%	16.90	32.69%	14.90	28.82%	5.97	11.55%	1.21	2.34%	1.69	2.86%	
113 Short St	74.46	41.70	56.02%	43.16	58.37%	40.00	53.72%	27.16	36.48%	2.16	2.80%	1.79	2.40%	

Proposed	9am		10am		11am		12pm		1pm		2pm		3pm	
	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	Solar Access (m ²) %	
SPDS (m ²)	33.10	10.60	32.02%	6.07	18.34%	4.23	12.78%	3.17	9.58%	2.15	6.50%	0.37	1.12%	
Diff. Access	-31.69	-25.9	-24.51%	-25.16	-23.66%	-18.31	-18.92%	-17.91	-22.96%	-2.96	-1.39%	-7	-10.26%	
115 Short St	51.70	10.24	19.81%	14.67	28.38%	10.34	20.00%	1.27	2.46%	0.00	0.00%	1.10	2.13%	
Diff. Access	-41.54	-1.94	-2.54%	-2.23	-4.51%	-4.58	-8.82%	-4.7	-8.09%	-1.21	-2.31%	-0.58	-4.76%	
111 Short St	74.46	38.95	52.31%	40.53	54.43%	36.75	49.36%	22.44	30.14%	2.16	2.80%	1.79	2.40%	
Diff. Access	-2.75	-3.69%	-2.63	-3.83%	-3.25	-4.30%	-4.72	-6.34%	0.00	0.00%	0.00	0.00%		

All comments and requests to be provided to the architect within 10 business days of the date of this report. Omissions or discrepancies to be notified to the architect.

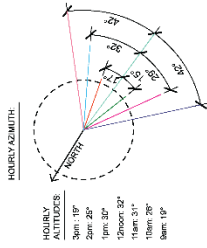
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DRAWING: OVERSHADOWING CALCULATIONS
 CLIENT: LINSEY ANSWORTH
 ADDRESS: 115 SHORT STREET, BIRCHGROVE, NSW 2811

SCALE: AS SHOWN
 DRAWN: JLS
 CHECKED: SW
 DATE: 03.05.2021

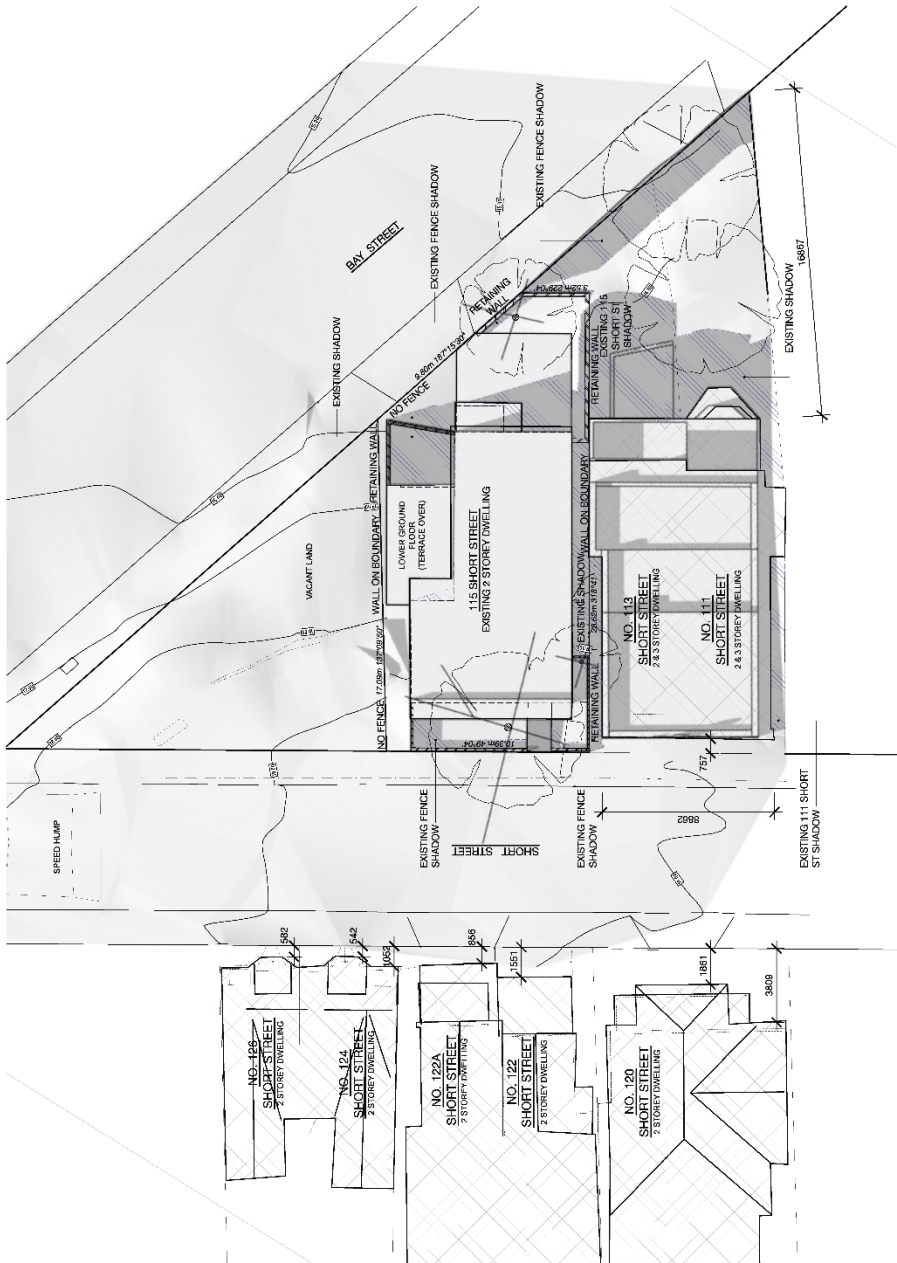
TOWN PLANNING
 PROJECT: BIRCHGROVE
 PAGE NO: A300
 REV: A

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- SUN ROSE**
WINTER SOLSTICE - 21 JUNE
- EXISTING 9am SHADOW
 - PROPOSED 9am SHADOW
 - EXISTING 10am SHADOW
 - PROPOSED 10am SHADOW
 - EXISTING 11am SHADOW
 - PROPOSED 11am SHADOW
 - EXISTING 12noon SHADOW
 - PROPOSED 12noon SHADOW
 - EXISTING 1pm SHADOW
 - PROPOSED 1pm SHADOW
 - EXISTING 2pm SHADOW
 - PROPOSED 2pm SHADOW
 - EXISTING 3pm SHADOW
 - PROPOSED 3pm SHADOW

9am	10am	11am	12noon	1pm	2pm	3pm
64.79	51.70	41.70	30.00	22.40%	16.50	12.54%



1 EXISTING OVERSHADOWING PLAN - 21 JUNE: 9AM
A901 SCALE 1:200 @ A3

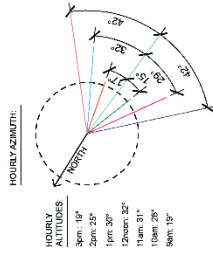
DRAWING	EXISTING OVERSHADOWING PLAN	CLIENT	LINDY ANSWORTH
DATE	21 JUNE 2020	ADDRESS	115 SHORT STREET BIRCHGROVE NSW 2041
SCALE	1:200 @ A3	PROJECT	TOWN PLANNING
DRAWN	JS	PROJECT	BIRCHGROVE
CHECKED	SW	PAGE NO.	REV
DATE	21.12.2020	A801	-

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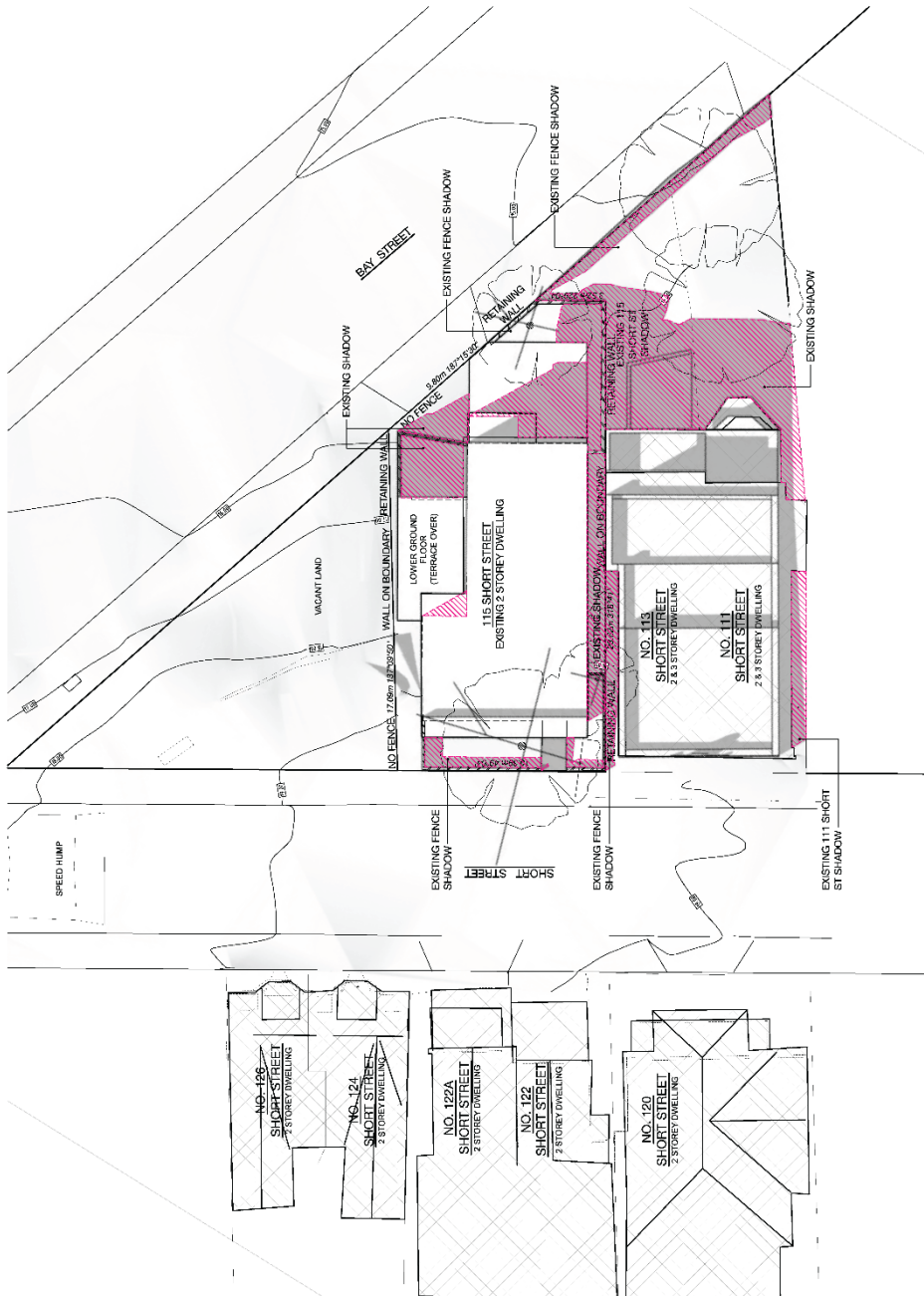
Document Set ID: 35257907
Version: 1, Version Date: 09/09/2021



SUN ROSE
WINTER SOLSTICE - 21 JUNE

- EXISTING 8am SHADOW
- PROPOSED 8am SHADOW
- EXISTING 9am SHADOW
- PROPOSED 9am SHADOW
- EXISTING 10am SHADOW
- PROPOSED 10am SHADOW
- EXISTING 11am SHADOW
- PROPOSED 11am SHADOW
- EXISTING 12noon SHADOW
- PROPOSED 12noon SHADOW
- EXISTING 1pm SHADOW
- PROPOSED 1pm SHADOW
- EXISTING 2pm SHADOW
- PROPOSED 2pm SHADOW
- EXISTING 3pm SHADOW
- PROPOSED 3pm SHADOW

10m	Bulb	SPCS (m ²)	Account (m ²)	%
115 Short St	64.79	31.23	48.20%	
113 Short St	51.70	16.80	32.69%	
111 Short St	74.48	43.46	58.37%	

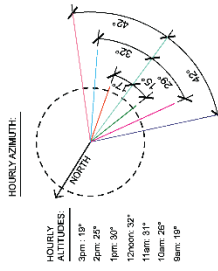


1 EXISTING OVERSHADOWING PLAN - 21 JUNE: 10AM
A902 SCALE 1:200 @ A3

DRAWING	EXISTING OVERSHADOWING PLAN	CLIENT	LINDY ANSMORPH
SCALE	1:200 @ A3	ADDRESS	115 SHORT STREET BIRCHGROVE, NSW 2041
DRAWN	JS	TOWN PLANNING	
CHECKED	SW	PROJECT	BIRCHGROVE
DATE	21.12.2020	PAGE NO.	A902
		REV	-

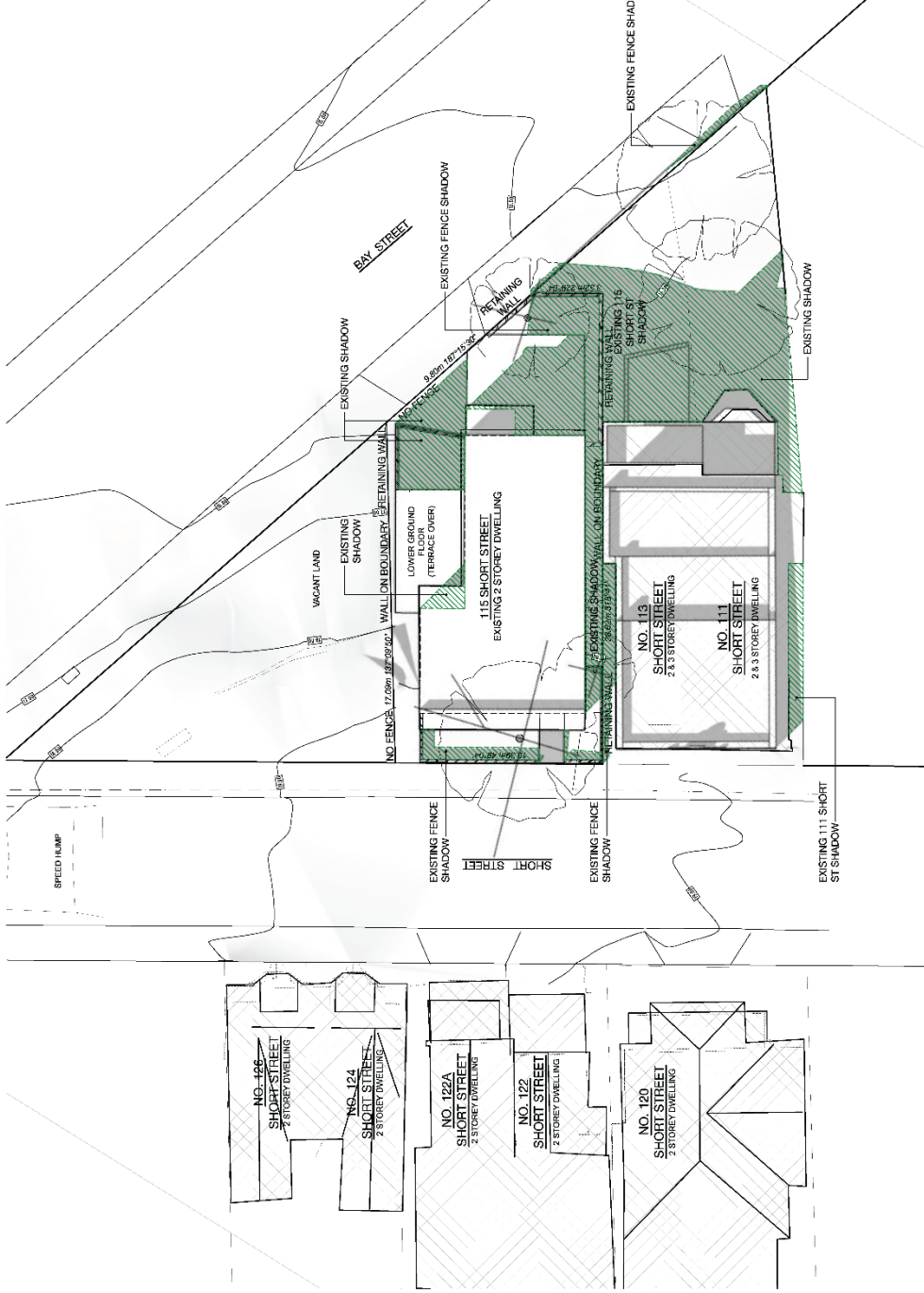
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- SUNRISE WINTER SOLSTICE - 21 JUNE**
- EXISTING 9am SHADOW
 - PROPOSED 9am SHADOW
 - EXISTING 10am SHADOW
 - PROPOSED 10am SHADOW
 - EXISTING 11am SHADOW
 - PROPOSED 11am SHADOW
 - EXISTING 12noon SHADOW
 - PROPOSED 12noon SHADOW
 - EXISTING 1pm SHADOW
 - PROPOSED 1pm SHADOW
 - EXISTING 2pm SHADOW
 - PROPOSED 2pm SHADOW
 - EXISTING 3pm SHADOW
 - PROPOSED 3pm SHADOW

Existing	11am Solar Access (m ²)	11am Solar Access (%)
115 Short St	64.79	20.54 / 31.70%
113 Short St	51.70	14.90 / 28.85%
111 Short St	74.46	40.00 / 53.72%



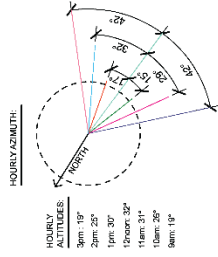
1 EXISTING OVERSHADOWING PLAN - 21 JUNE: 11AM
A903 / SCALE 1:200 @ A3

DRAWING	EXISTING OVERSHADOWING PLAN	CLIENT	LINDY AINSWORTH
DATE	21 JUNE - 11AM	ADDRESS	113 SHORT STREET BIRCHGROVE NSW 2041
SCALE	1:200 @ A3	PROJECT	TOWN PLANNING
DRAWN	JS	CHECKED	SW
DATE	21.12.2020	PAGE NO.	A903
		REV	-

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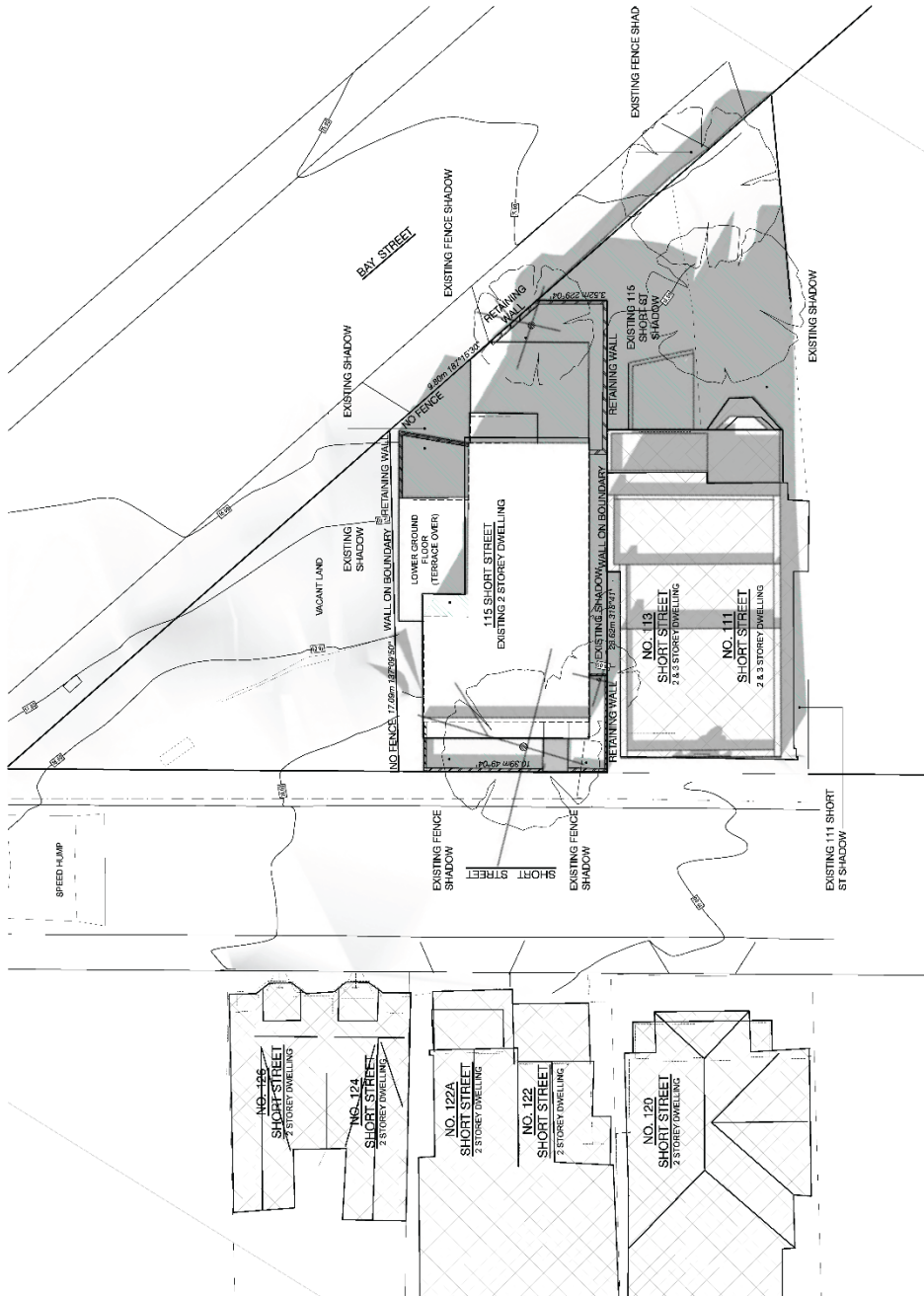
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SUN RISE
WINTER SOLSTICE - 21 JUNE

- EXISTING 9am SHADOW
- PROPOSED 9am SHADOW
- EXISTING 10am SHADOW
- PROPOSED 10am SHADOW
- EXISTING 11am SHADOW
- PROPOSED 11am SHADOW
- EXISTING 12noon SHADOW
- PROPOSED 12noon SHADOW
- EXISTING 1pm SHADOW
- PROPOSED 1pm SHADOW
- EXISTING 2pm SHADOW
- PROPOSED 2pm SHADOW
- EXISTING 3pm SHADOW
- PROPOSED 3pm SHADOW

Existing	12m Solar Access (m ²) %
113 Short St	84.73 21.08 32.54%
113 Short St	51.70 5.97 11.56%
111 Short St	74.46 27.16 36.48%

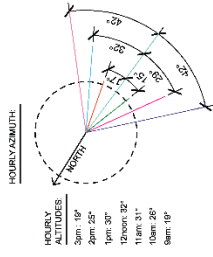


1 EXISTING OVERSHADOWING PLAN - 21 JUNE: 12PM
A904 SCALE 1:200 @ A3

DRAWING: EXISTING OVERSHADOWING PLAN
 CLIENT: LINDY JANSWORTH
 ADDRESS: 115 SHORT STREET BIRCHGROVE NSW 2084
 PROJECT: TOWN PLANNING
 PROJECT: BIRCHGROVE
 SCALE: 1:200 @ A3
 DRAWN: JS
 CHECKED: SW
 DATE: 21.12.2020
 PAGE NO.: A904
 REV: -

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- SUN ROSE
WINTER SOLSTICE - 21 JUNE**
- EXISTING 9am SHADOW
 - EXISTING 9am SHADOW
 - EXISTING 10am SHADOW
 - PROPOSED 10am SHADOW
 - EXISTING 11am SHADOW
 - PROPOSED 11am SHADOW
 - EXISTING 12noon SHADOW
 - PROPOSED 12noon SHADOW
 - EXISTING 1pm SHADOW
 - PROPOSED 1pm SHADOW
 - EXISTING 2pm SHADOW
 - PROPOSED 2pm SHADOW
 - EXISTING 3pm SHADOW
 - PROPOSED 3pm SHADOW

Existing	1pm	Solar Access (m ²)	%
115 Short St	64.79	5.11	7.88%
119 Short St	51.70	1.21	2.34%
111 Short St	74.46	2.16	2.80%



1 EXISTING OVERSHADOWING PLAN - 21 JUNE, 1PM
A905 SCALE 1:200 @ A3

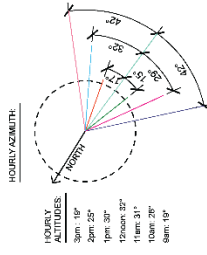
DRAWING	EXISTING OVERSHADOWING PLAN	CLIENT	LINDY ANSWORTH
SCALE	1:200 @ A3	ADDRESS	115 SHORT STREET BIRCHGROVE, NSW 2614
DRAWN	JS	PROJECT	TOWN PLANNING
CHECKED	SW	DATE	21.12.2020
DATE	21.12.2020	FACE NO.	REV
		A905	-

All dimensions and areas to be checked on site. Dimensions or discrepancies to be noted in the Architect's report.

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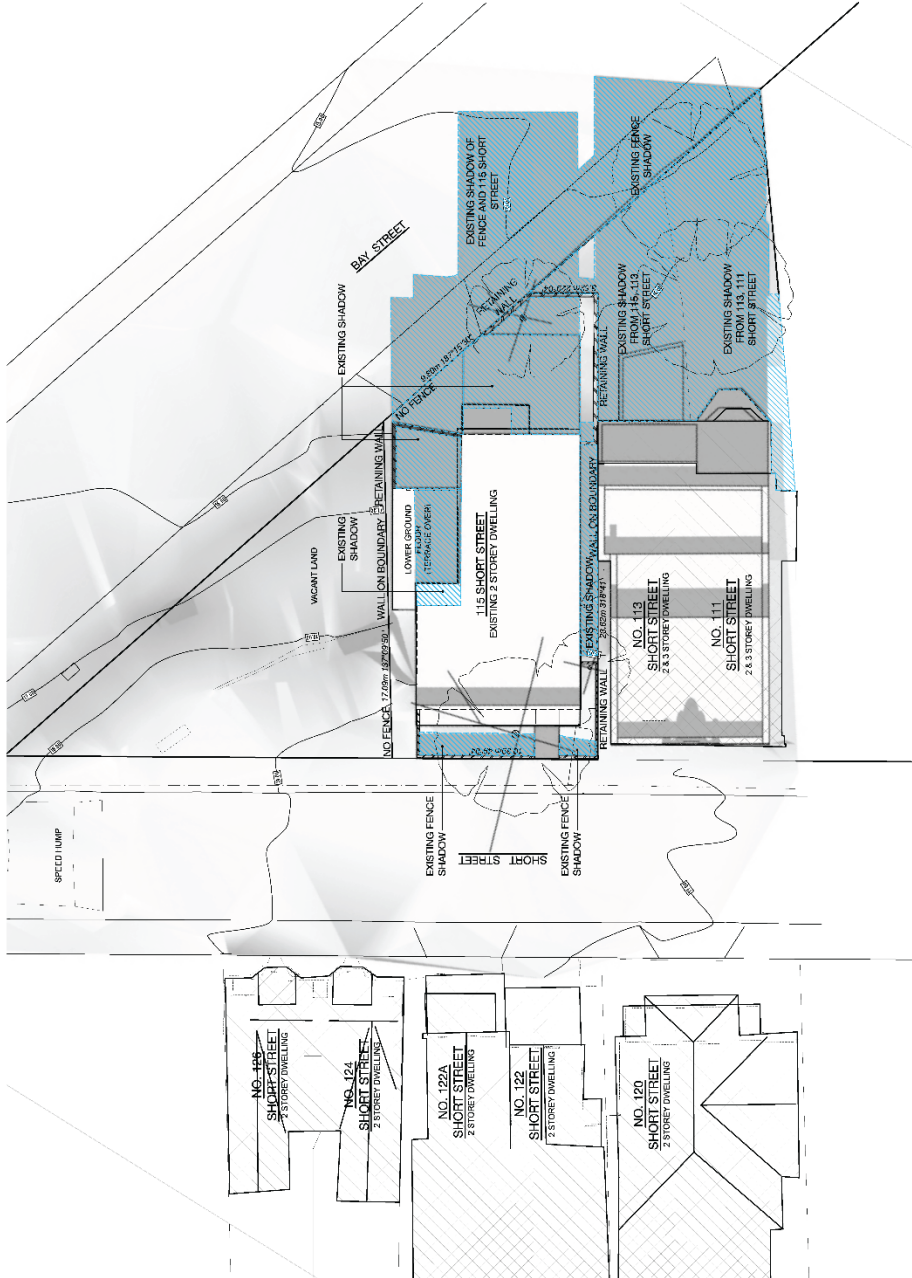
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Document Set ID: 36287907
Version: 1, Version Date: 09/09/2021



- HOURLY ALTITUDES:**
- 3am: 19°
 - 2am: 25°
 - 1pm: 30°
 - 12noon: 32°
 - 11am: 31°
 - 10am: 29°
 - 9am: 19°
- SUN/ROSE WINTER SOLSTICE - 21 JUNE**
- EXISTING 9am SHADOW
 - PROPOSED 9am SHADOW
 - EXISTING 10am SHADOW
 - PROPOSED 10am SHADOW
 - EXISTING 11am SHADOW
 - PROPOSED 11am SHADOW
 - EXISTING 12noon SHADOW
 - PROPOSED 12noon SHADOW
 - EXISTING 1pm SHADOW
 - PROPOSED 1pm SHADOW
 - EXISTING 2pm SHADOW
 - PROPOSED 2pm SHADOW
 - EXISTING 3pm SHADOW
 - PROPOSED 3pm SHADOW

Existing	2pm Solar	2pm Solar Area (m ²)	%
115 Short St	64.79	7.37	11.38%
113 Short St	51.70	1.48	2.88%
111 Short St	74.46	1.79	2.40%



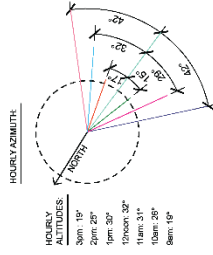
1 EXISTING OVERSHADOWING PLAN - 21 JUNE: 2PM
A906 / SCALE 1:200 @ A3

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DRAWING	EXISTING OVERSHADOWING PLAN	CLIENT	LINDY ANBURNWORTH
SCALE	1:200 @ A3	ADDRESS	115 SHORT STREET BIRCHGROVE, NSW 2041
DRAWN	JS	PROJECT	TOWN PLANNING
CHECKED	SW	PROJECT	BIRCHGROVE
DATE	21.12.2020	PAGE NO.	A906
		REV	-

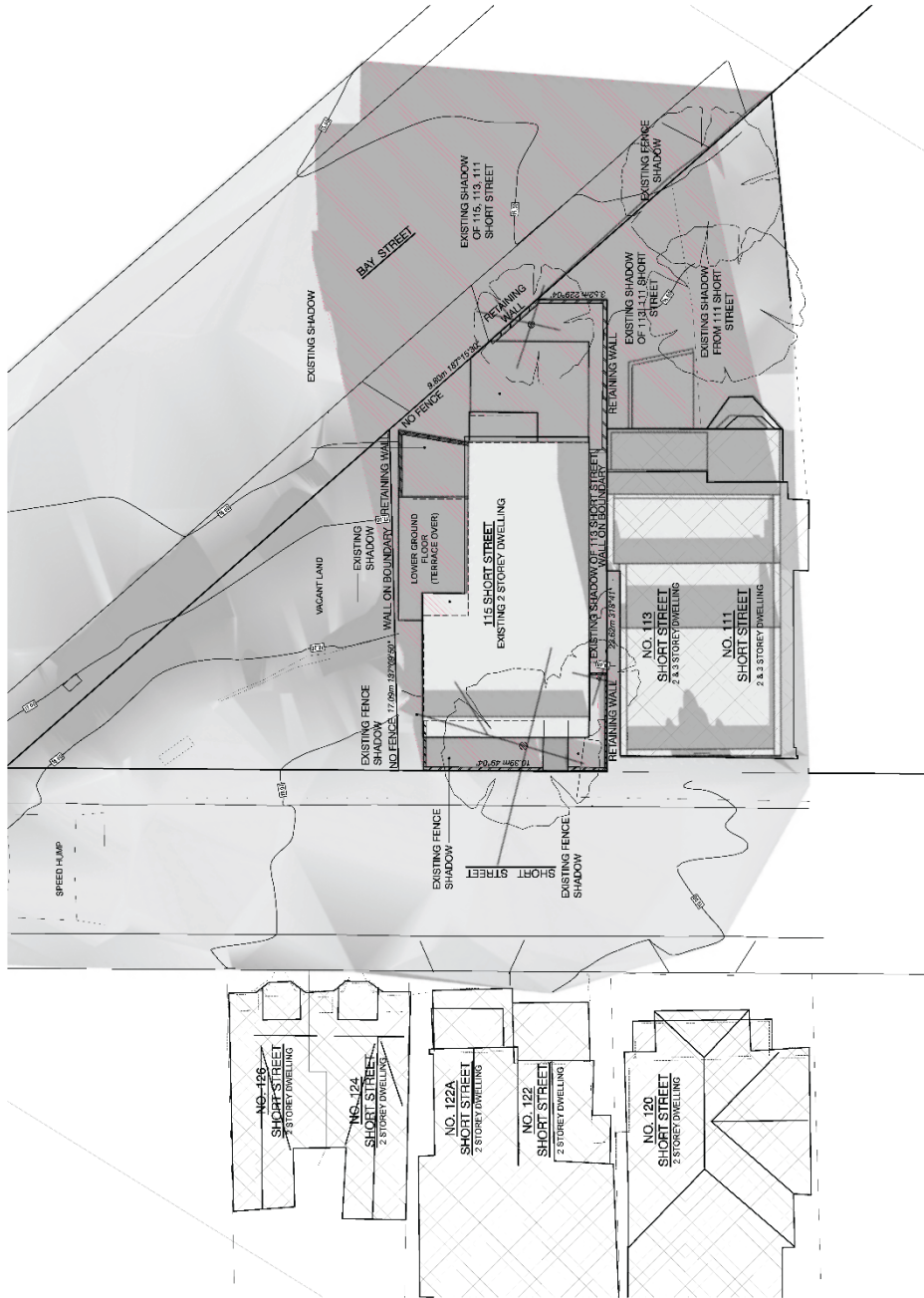
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SUN ROSE
WINTER SOLSTICE - 21 JUNE

- EXISTING 9am SHADOW
- PROPOSED 9am SHADOW
- EXISTING 10am SHADOW
- PROPOSED 10am SHADOW
- EXISTING 11am SHADOW
- PROPOSED 11am SHADOW
- EXISTING 12noon SHADOW
- PROPOSED 12noon SHADOW
- EXISTING 1pm SHADOW
- PROPOSED 1pm SHADOW
- EXISTING 2pm SHADOW
- PROPOSED 2pm SHADOW
- EXISTING 3pm SHADOW
- PROPOSED 3pm SHADOW

Existing	30m	30m
	Spots (m ²)	Spots (m ²) %
115 Short St	64.79	0.00%
113 Short St	51.70	0.00%
111 Short St	74.48	60.86%



1 EXISTING OVERSHADOWING PLAN - 21 JUNE: 3PM
A907 SCALE 1:200 @ A3

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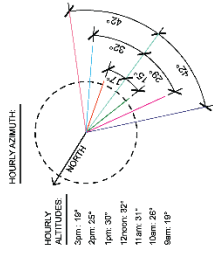
DRAWING	SCALE	DRAWN	CHECKED	DATE
EXISTING OVERSHADOWING PLAN 21 JUNE: 3PM	1:200 @ A3	JS	SW	21.12.2020

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CLIENT: LINDY ANSWORTH
ADDRESS: 118 SHORT STREET, BIRCHGROVE, NSW 2041

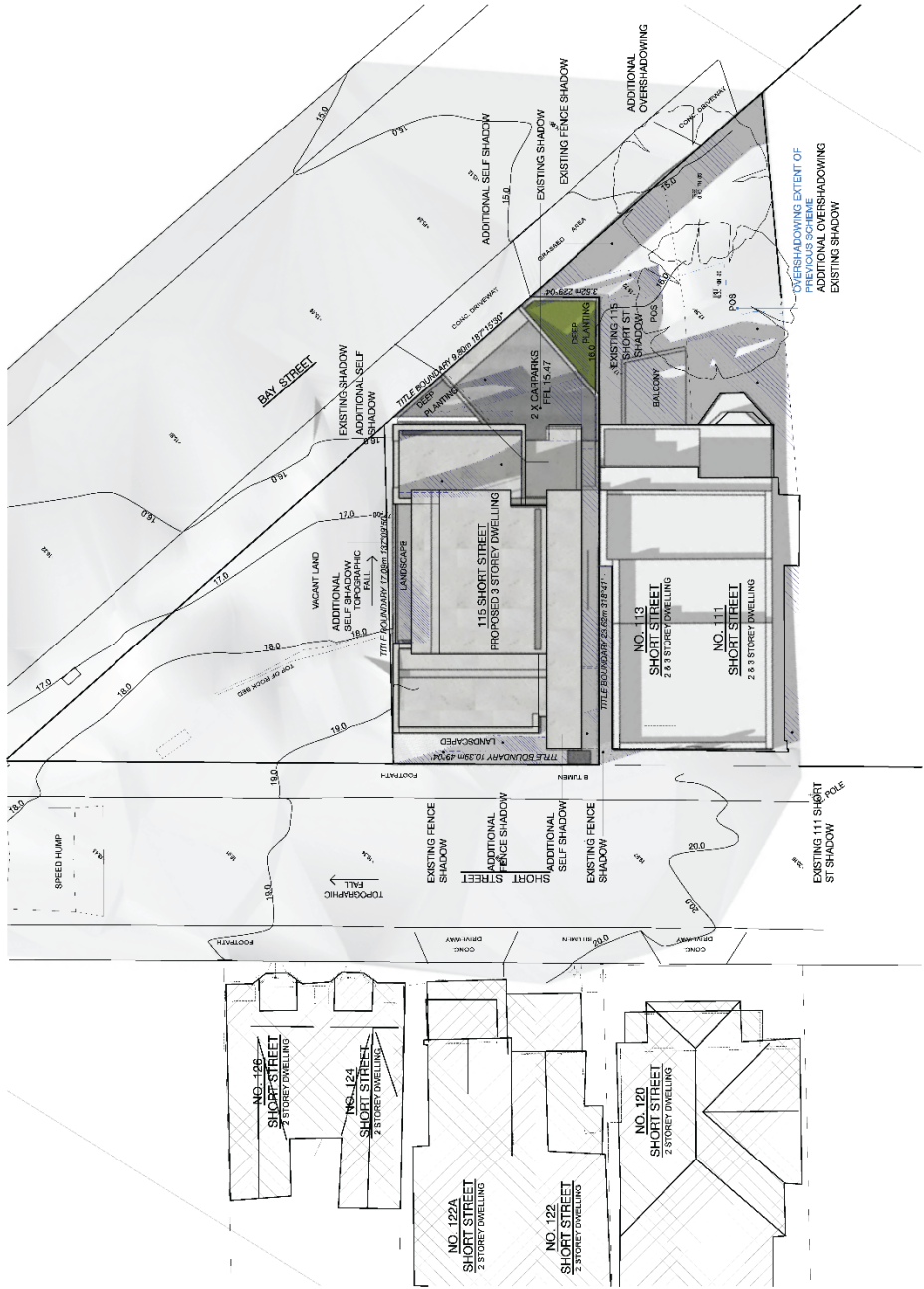
PROJECT: TOWN PLANNING
PROJECT: BIRCHGROVE

PAGE NO: A907
REV: -



- EXISTING 9am SHADOW
- PROPOSED 9am SHADOW
- EXISTING 10am SHADOW
- PROPOSED 10am SHADOW
- EXISTING 11am SHADOW
- PROPOSED 11am SHADOW
- EXISTING 12noon SHADOW
- PROPOSED 12noon SHADOW
- EXISTING 1pm SHADOW
- PROPOSED 1pm SHADOW
- EXISTING 2pm SHADOW
- PROPOSED 2pm SHADOW
- EXISTING 3pm SHADOW
- PROPOSED 3pm SHADOW

Proposed	9am	3pm	Area (sq m)	%
T115 Short St	35.10	10.80	32.02%	
Differences	-41.68	25.9	-24.51%	
T113 Short St	10.24	51.70	19.81%	
Differences	1.34	-2.59%		
T111 Short St	74.46	38.95	52.31%	
Differences	-2.75	-3.89%		



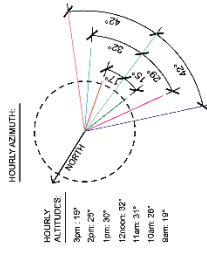
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DRAWING	PROPOSED OVERSHADOWING PLAN	CLIENT	LINDY ANSWORTH
SCALE	1:200 @ A3	ADDRESS	115 SHORT STREET BIRCHGROVE, NSW 2611
DRAWN	JS	PROJECT	TOWN PLANNING
CHECKED	SW	DATE	03.06.2021
DATE		REV	A

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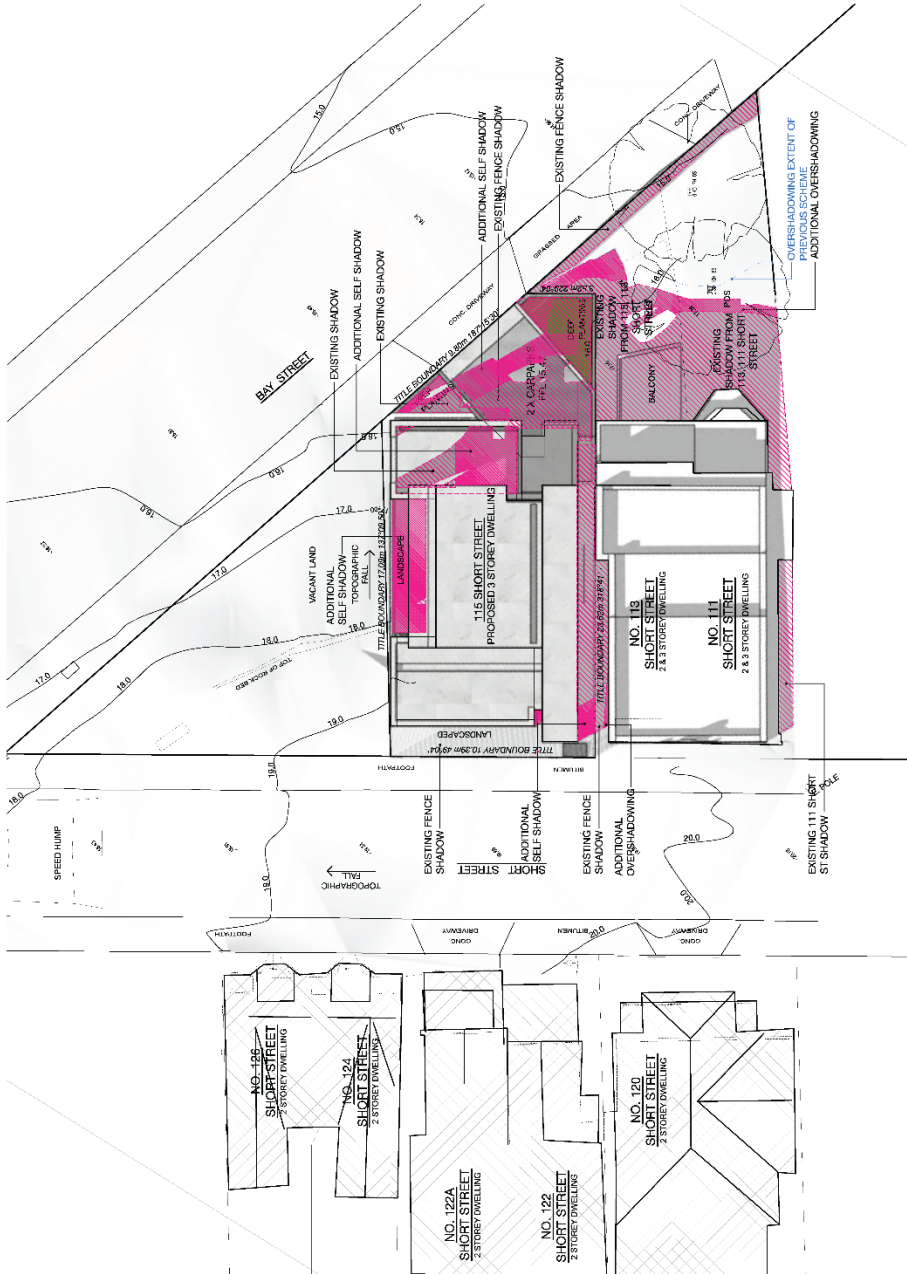
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Version: 1, Version Date: 09/09/2021



- SUN ROSE**
WINTER SOLSTICE - 21 JUNE
- EXISTING 9am SHADOW
 - PROPOSED 9am SHADOW
 - EXISTING 10am SHADOW
 - PROPOSED 10am SHADOW
 - EXISTING 11am SHADOW
 - PROPOSED 11am SHADOW
 - EXISTING 12noon SHADOW
 - PROPOSED 12noon SHADOW
 - EXISTING 1pm SHADOW
 - PROPOSED 1pm SHADOW
 - EXISTING 2pm SHADOW
 - PROPOSED 2pm SHADOW
 - EXISTING 3pm SHADOW
 - PROPOSED 3pm SHADOW

Proposed	10am	
	SPOS (m ²)	Access (m ²) %
115 Short St	33.10	6.07 18.24%
Directions	-31.69	-35.16 -29.89%
118 Short St	51.70	14.67 28.38%
Directions	7.23	-4.31%
111 Short St	77.68	40.83 54.03%
Directions	-2.80	-3.83%



1 PROPOSED OVERSHADOWING PLAN - 21 JUNE: 10AM
A909 SCALE 1:200 @ A3

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DRAWING: PROPOSED OVERSHADOWING PLAN
DATE: 21 JUNE - 10AM

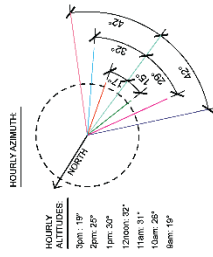
CLIENT: LINDY ANNE ROTH
ADDRESS: 115 SHORT STREET BIRCHGROVE, NSW 2041

SCALE: 1:200 @ A3
DRAWN BY: SW
CHECKED BY: SW
DATE: 03.02.2021

PROJECT: TOWN PLANNING
PROJECT: BIRCHGROVE
PAGE NO: A909
REV: A

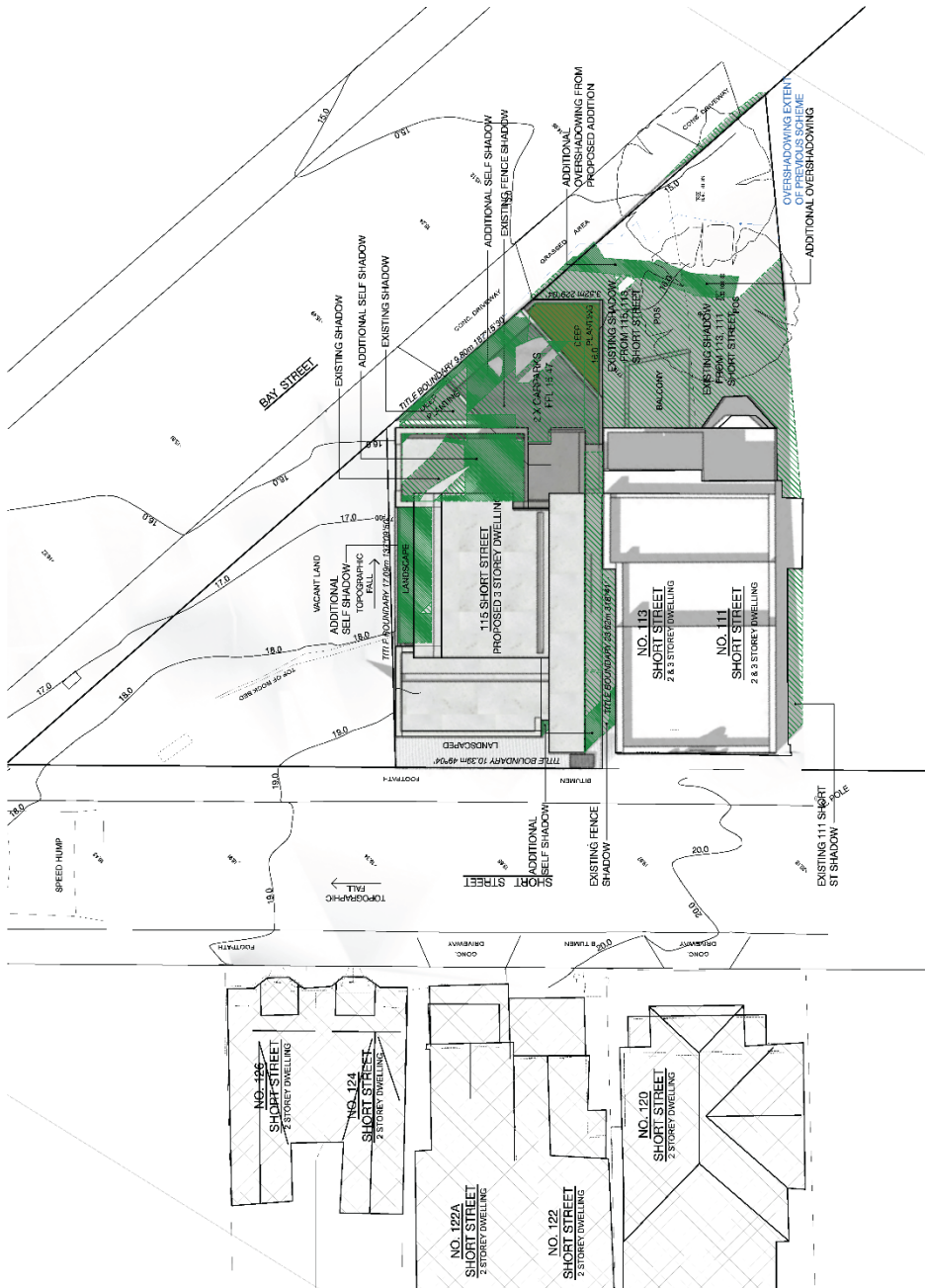
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Version: 1, Version Date: 09/09/2021



- SUN/ROSE WINTERSOLSTICE - 21 JUNE**
- EXISTING 9am SHADOW
 - PROPOSED 9am SHADOW
 - EXISTING 10am SHADOW
 - PROPOSED 10am SHADOW
 - EXISTING 11am SHADOW
 - PROPOSED 11am SHADOW
 - EXISTING 12noon SHADOW
 - PROPOSED 12noon SHADOW
 - EXISTING 1pm SHADOW
 - PROPOSED 1pm SHADOW
 - EXISTING 2pm SHADOW
 - PROPOSED 2pm SHADOW
 - EXISTING 3pm SHADOW
 - PROPOSED 3pm SHADOW

Item	Solar Access (m ²)	%
115 Short St	33.10	4.23 12.78%
113 Short St	51.70	10.34 20.00%
111 Short St	74.46	36.75 49.86%
Difference	-16.31	-18.82%
Difference	-4.96	-8.82%
Difference	-3.25	-4.89%



All dimensions and details to be verified prior to commencement of work. Dimensions are approximate to be used as a guide only.

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DRAWING PROPOSED OVERSHADOWING PLAN
21 JUNE - 11AM

CLIENT LINDY ANSWORTH
115 SHORT STREET
BIRCHGROVE, NSW 2041

SCALE 1:200 @ A3

DRAWN JS

CHECKED SW

DATE 03.05.2021

TOWN PLANNING

PROJECT BIRCHGROVE

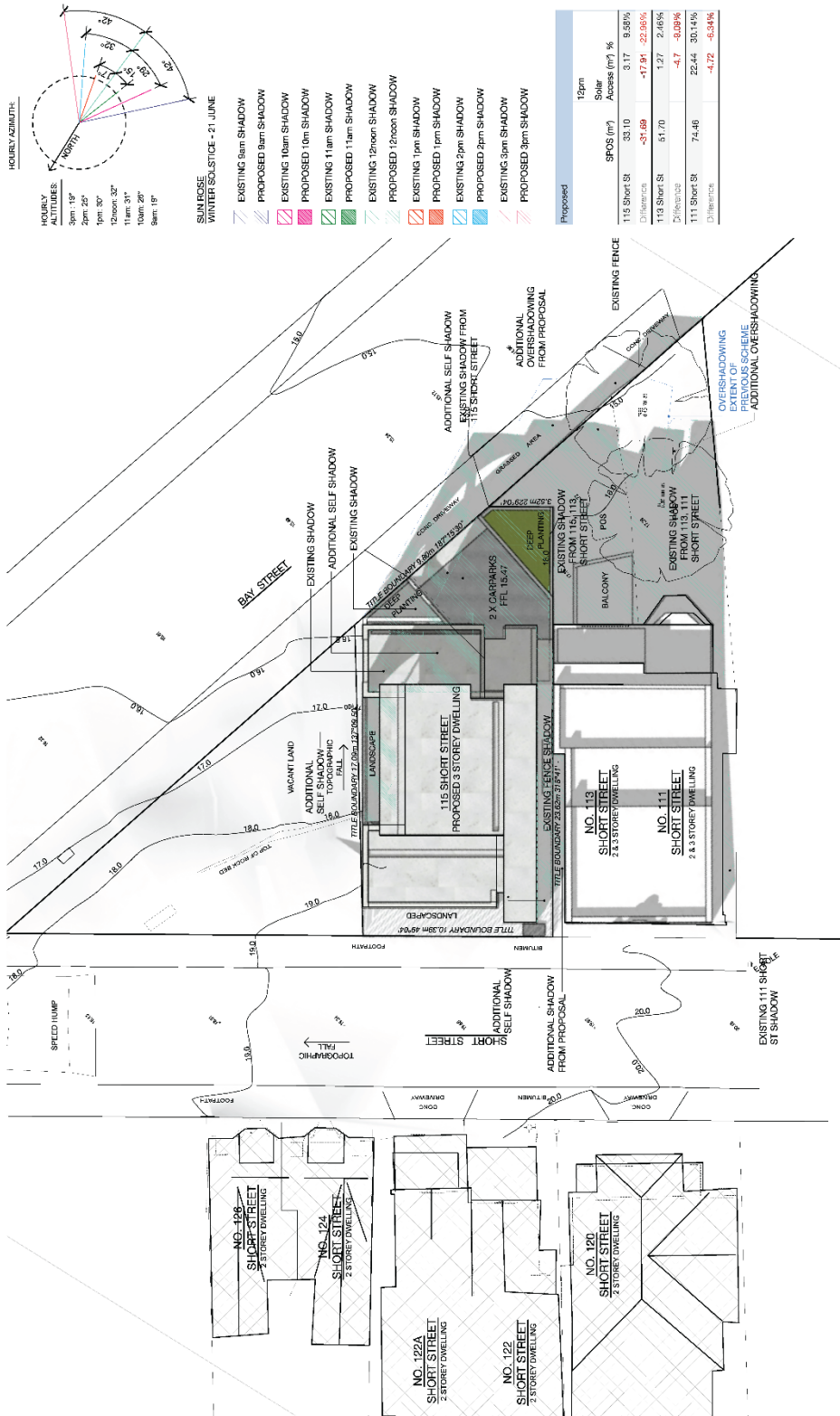
PAGE NO. A910

REV A

1 PROPOSED OVERSHADOWING PLAN - 21 JUNE: 11AM
A910 SCALE 1:200 @ A3

Document Set ID: 35287907
Version: 1, Version Date: 09/09/2021

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DRAWING: PROPOSED OVERSHADOWING PLAN
CLIENT: LINDY ANSWORTH
ADDRESS: 115 SHORT STREET, BIRCH-GROVE, NSW 2041

SCALE: 1:200 @ A3
DRAWN: JS
CHECKED: SW
DATE: 03.06.2021

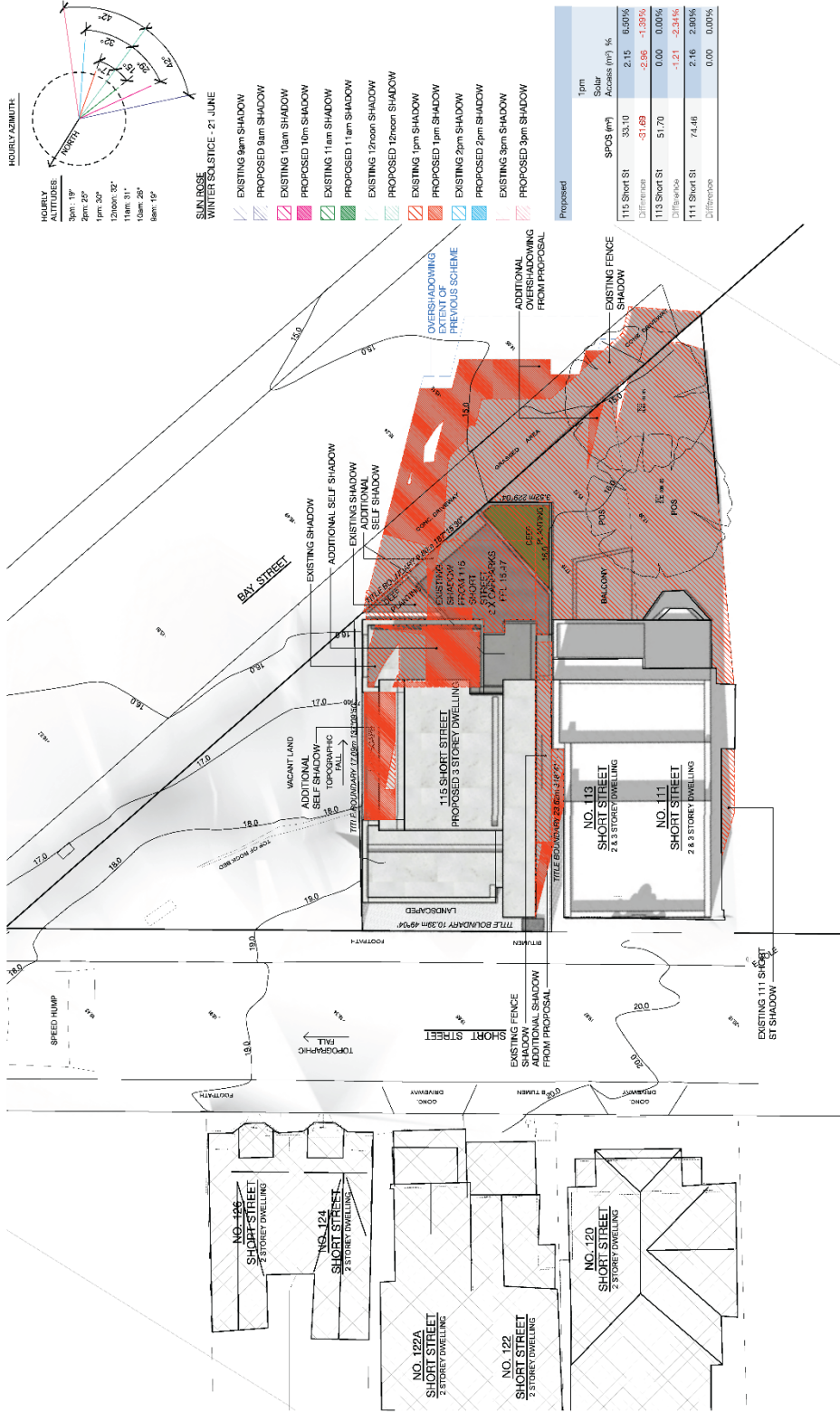
PROJECT: TOWN PLANNING
PROJCT: BIRCH-GROVE
PAGE NO: A911
REV: A

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1 PROPOSED OVERSHADOWING PLAN - 21 JUNE: 12PM
A911 SCALE 1:200 @ A3

Document Set ID: 35287907
Version: 1, Version Date: 05/09/2021



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PROPOSED OVERSHADOWING PLAN
 21 JUNE - 1PM

CLIENT: LINDY ANSWORTH
 ADDRESS: 115 SHORT STREET
 BIRCHGROVE, NSW 2041

PROJECT: TOWN PLANNING
 BIRCHGROVE

SCALE: 1:200 @ A3
 DRAWN: JS
 CHECKED: SW
 DATE: 03.05.2021

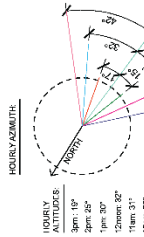
PAGE NO. REV
 A912 A

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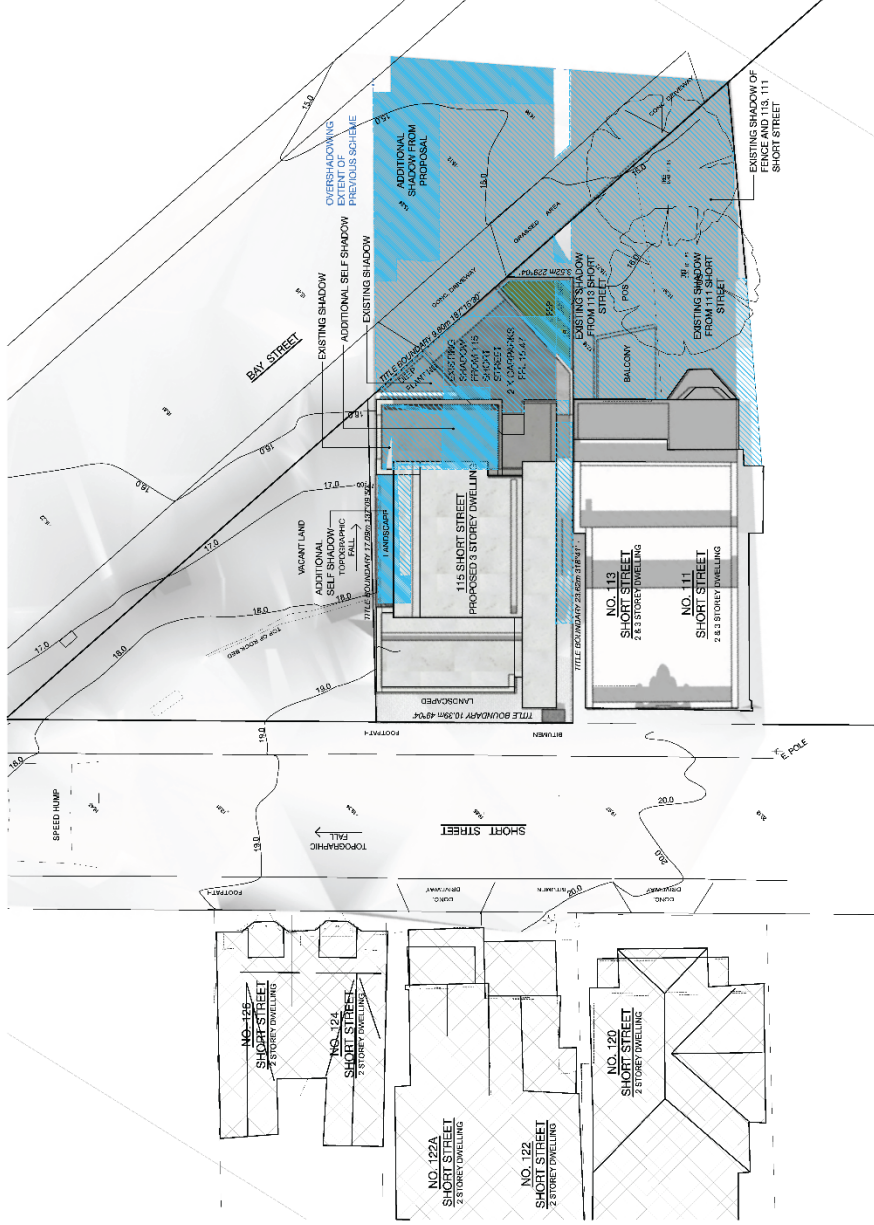
1 PROPOSED OVERSHADOWING PLAN - 21 JUNE: 1PM
 A912 SCALE 1:200 @ A3

Document Set ID: 35287907
 Version: 1, Version Date: 09/09/2021



- SUN ROSE WINTERSOLSTICE - 21 JUNE**
- EXISTING SUM SHADOW
 - PROPOSED SUM SHADOW
 - EXISTING 10am SHADOW
 - PROPOSED 10am SHADOW
 - EXISTING 11am SHADOW
 - PROPOSED 11am SHADOW
 - EXISTING 12noon SHADOW
 - PROPOSED 12noon SHADOW
 - EXISTING 1pm SHADOW
 - PROPOSED 1pm SHADOW
 - EXISTING 2pm SHADOW
 - PROPOSED 2pm SHADOW
 - EXISTING 3pm SHADOW
 - PROPOSED 3pm SHADOW

	2pm	3pm	Sum	Shade	Access (m ²)	%
115 Short St	33.10	0.37	1.12%			
Difference	-51.66	-7	-10.28%			
113 Short St	51.70	1.10	2.18%			
Difference	-0.59	-0.75%				
111 Short St	74.46	1.78	2.40%			
Difference	0.00	0.00%				



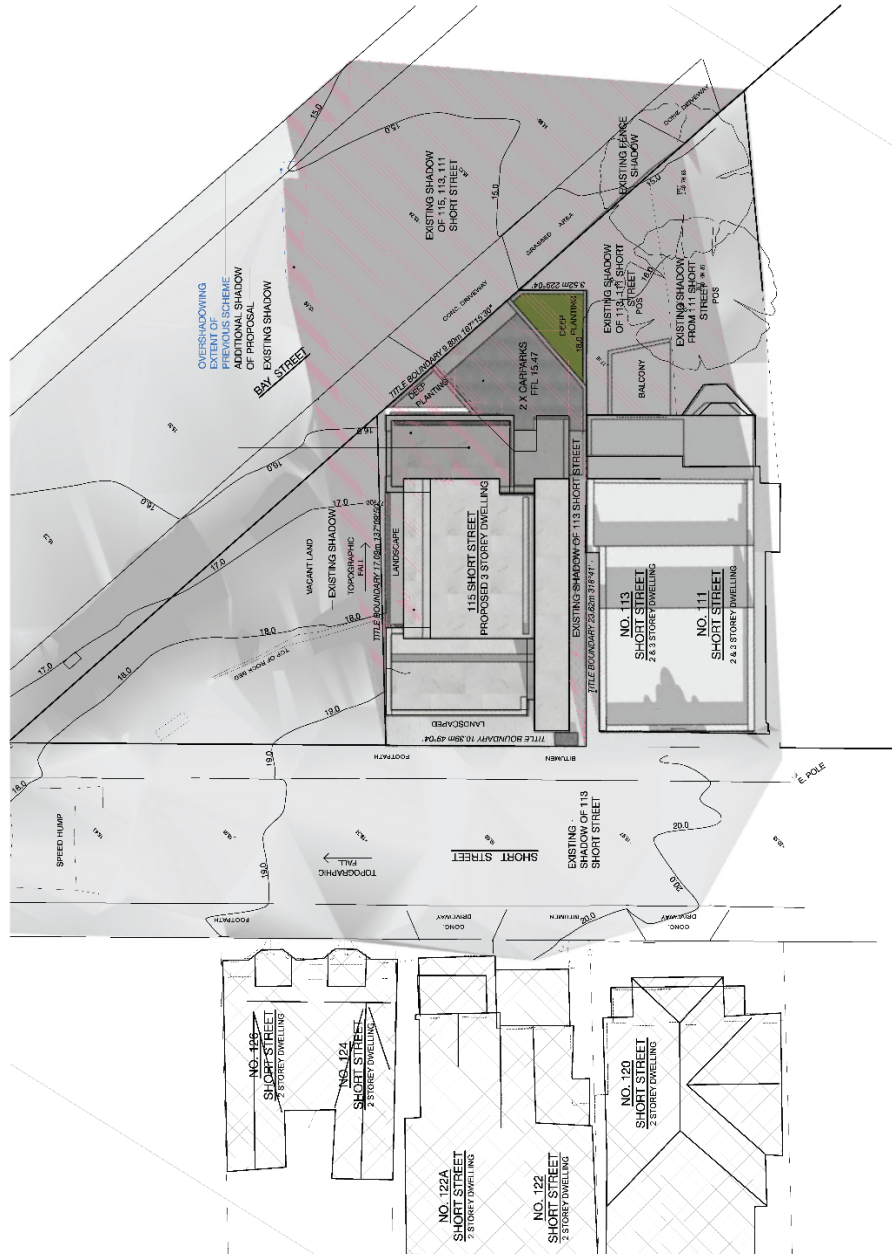
1 PROPOSED OVERSHADOWING PLAN - 21 JUNE: 2PM
A913 / SCALE 1:200 @ A3

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DRAWING	TOWN PLANNING	CLIENT	LINDY ANSWORTH
SCALE	1:200 @ A3	ADDRESS	115 SHORT STREET BIRCHGROVE, NSW 2041
DRAWN	JIS	PROJECT	BIRCHGROVE
CHECKED	SW	PAGE NO.	A913
DATE	06.05.2021	REV	A

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Proposed	3pm	Solar Access (m ²)	%
115 Short St	33.10	0.00	0.00%
113 Short St	-31.89	0.00	0.00%
111 Short St	51.70	0.00	0.00%
Difference	74.46	45.39	60.96%
Difference		0.00	0.00%

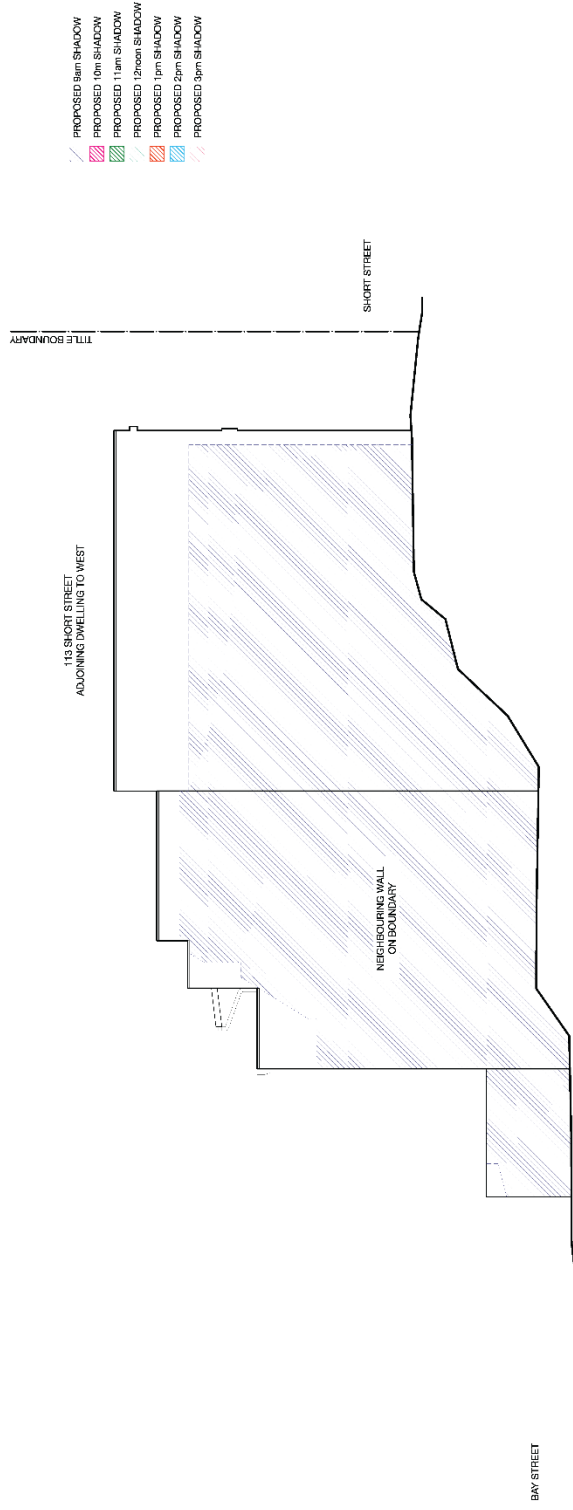
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DRAWING	EXISTING OVERSHADOWING PLAN - 1:200 @ A3	CLIENT	LINDY ANSWORTH
SCALE	1:200 @ A3	ADDRESS	115 SHORT STREET BIRCH-GROVE, NSW 2041
DRAWN	JIS	TOWN PLANNING PROJECT	BIRCH-GROVE
CHECKED	SW	PAGE NO.	A814
DATE	08.05.2021	REV	A

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1 EXISTING OVERSHADOWING PLAN - 21 JUNE: 3PM
A814 / SCALE 1:200 @ A3

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Version 1, Version Date: 06/09/2021



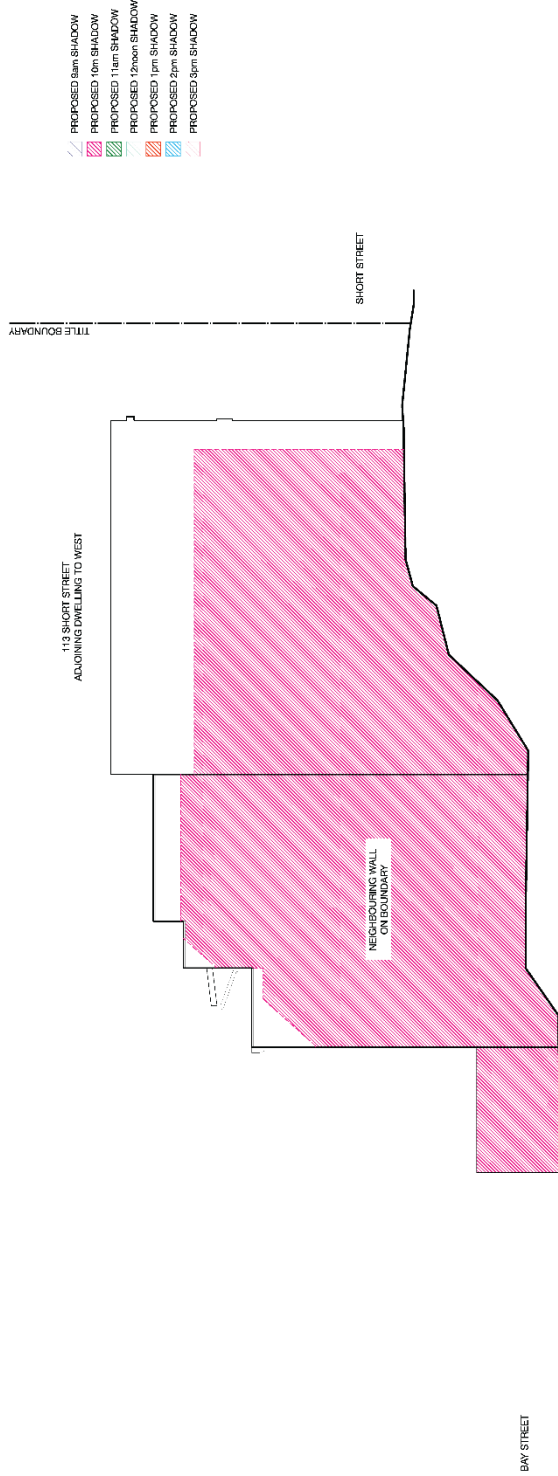
1 PROPOSED SHADOW ELEVATION
 113 SHORT STREET - 21 JUNE 9AM
 A915 SCALE 1:100 @ A3

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DRAWING	PROPOSED SHADOW ELEVATION - THE SHEDDLEBERRY BUILDING	CLIENT	LINDY ANSWORTH BIRCHGROVE NSW 2041
SCALE	1:100 @ A3	ADDRESS	113 SHORT STREET BIRCHGROVE NSW 2041
DRAWN	JS	PROJECT	TOWN PLANNING
CHECKED	SW	PROJECT	BIRCHGROVE
DATE	03.06.2021	PAGE NO.	REV
		A915	A

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 Version: 1, Version Date: 09/03/2021



1 113 SHORT STREET - 21 JUNE 10AM
 A816 / SCALE 1:100 @ A3

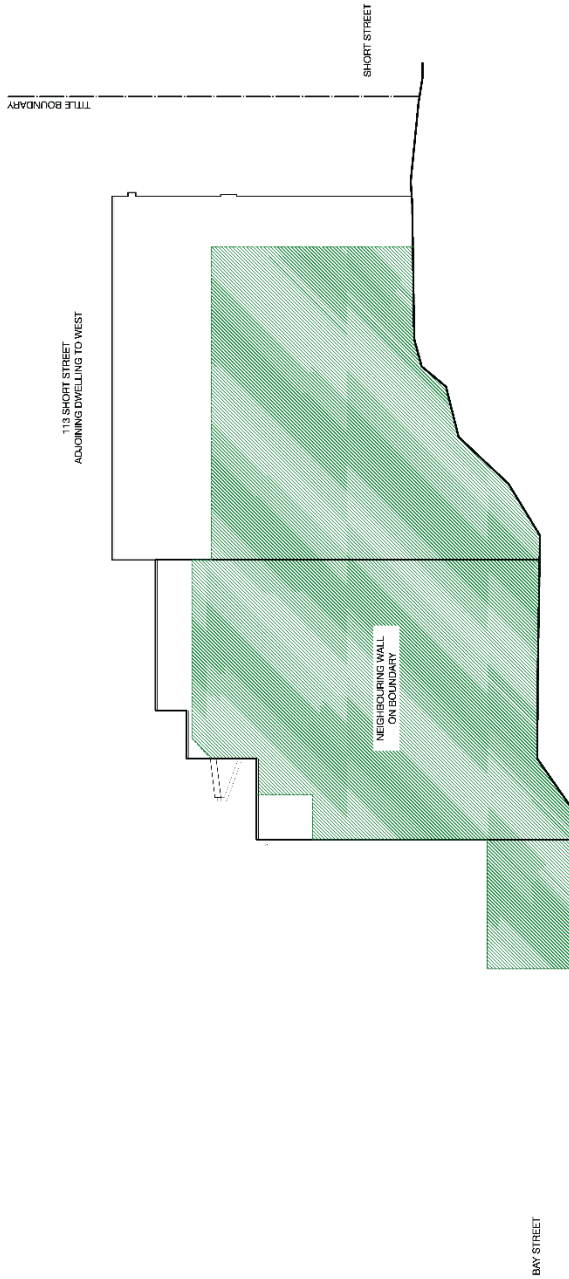
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DRAWING	PROPOSED SHADOW ELEVATION 113 SHORT STREET - 21 JUNE 10AM	CLIENT	LINDY ANSWORTH 113 SHORT STREET BIRCHGROVE, NSW 2041
SCALE	1:100 @ A3	PROJECT	TOWN PLANNING BIRCHGROVE
DRAWN	JS	PAGE NO.	A816
CHECKED	SW	REV	A
DATE	03.06.2021		

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Document Set ID: 35287907
 Version: 1, Version Date: 08/09/2021

- PROPOSED 8mm SHADOW
- PROPOSED 10mm SHADOW
- PROPOSED 11mm SHADOW
- PROPOSED 12mm SHADOW
- PROPOSED 14mm SHADOW
- PROPOSED 16mm SHADOW
- PROPOSED 20mm SHADOW
- PROPOSED 3mm SHADOW



PROPOSED SHADOW ELEVATION
 1 113 SHORT STREET - 21 JUNE 11AM
 A917 SCALE 1:100 @ A3

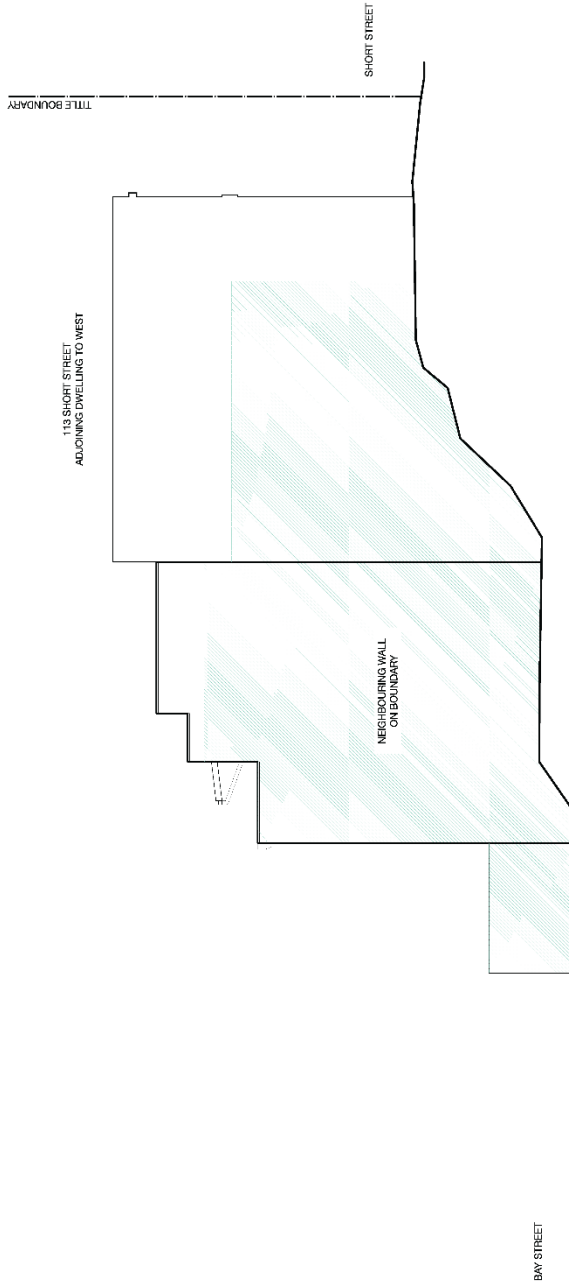
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DRAWING	PROPOSED SHADOW ELEVATION	CLIENT	LINDY ANBERGTH
SCALE	1:100 @ A3	ADDRESS	113 SHORT STREET
DATE	03.02.2021	PROJECT	TOWN PLANNING
CHECKED	SW	PROJECT	BIRCHGROVE
DATE	03.02.2021	PAGE NO.	79/17
		REV	A

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- PROPOSED 8m SHADOW
- PROPOSED 10m SHADOW
- PROPOSED 11m SHADOW
- PROPOSED 12m SHADOW
- PROPOSED 15m SHADOW
- PROPOSED 20m SHADOW
- PROPOSED 30m SHADOW



1
A918

PROPOSED SHADOW ELEVATION
113 SHORT STREET - 21 JUNE 12PM
SCALE 1:100 @ A3

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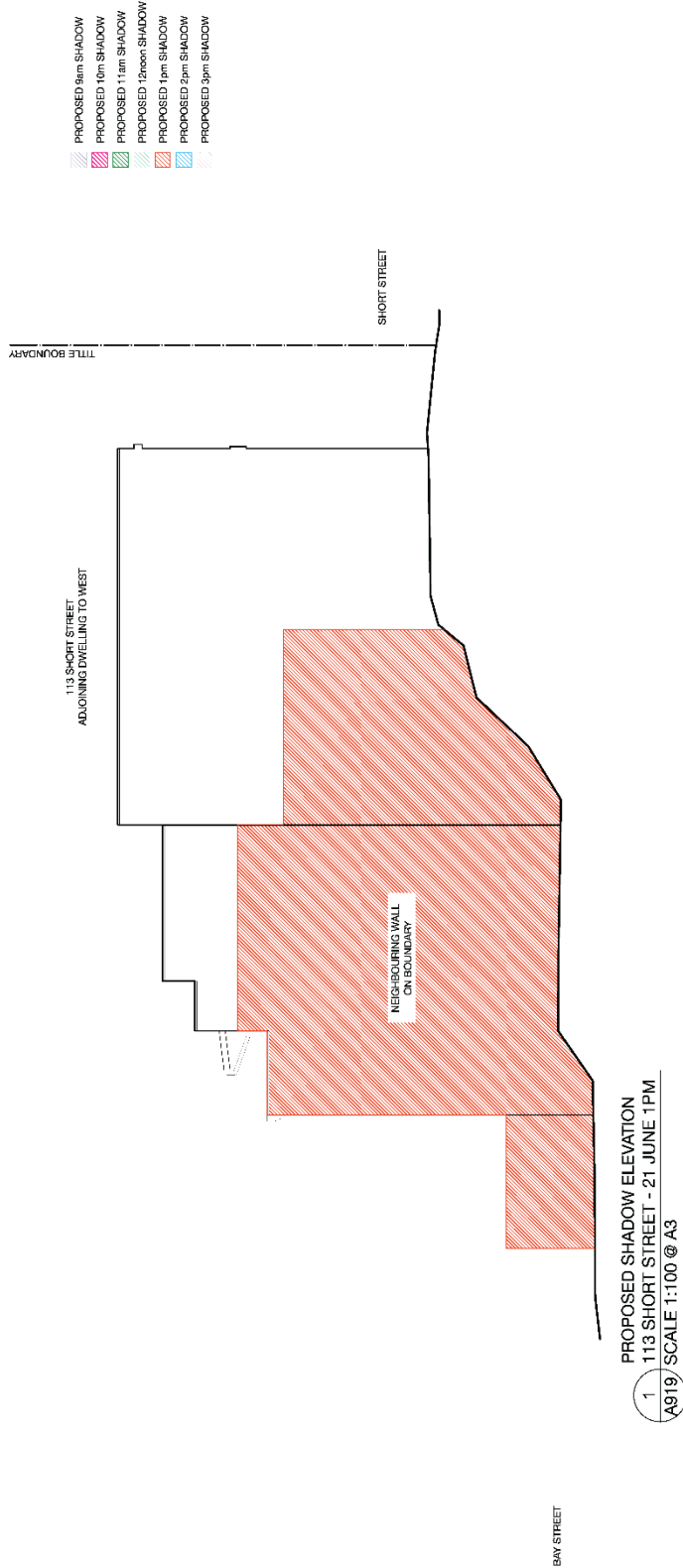
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DRAWING	PROPOSED SHADOW ELEVATION	CLIENT	LINDY ANSWORTH
	113 SHORT STREET - 21 JUNE 12PM	ADDRESS	115 SHORT STREET BIRCHGROVE, NSW 2041
SCALE	1:100 @ A3	PROJECT	TOWN PLANNING
DRAWN	JS		BIRCHGROVE
CHECKED	SW	PAGE NO.	A918
DATE	03.05.2021	REV	A

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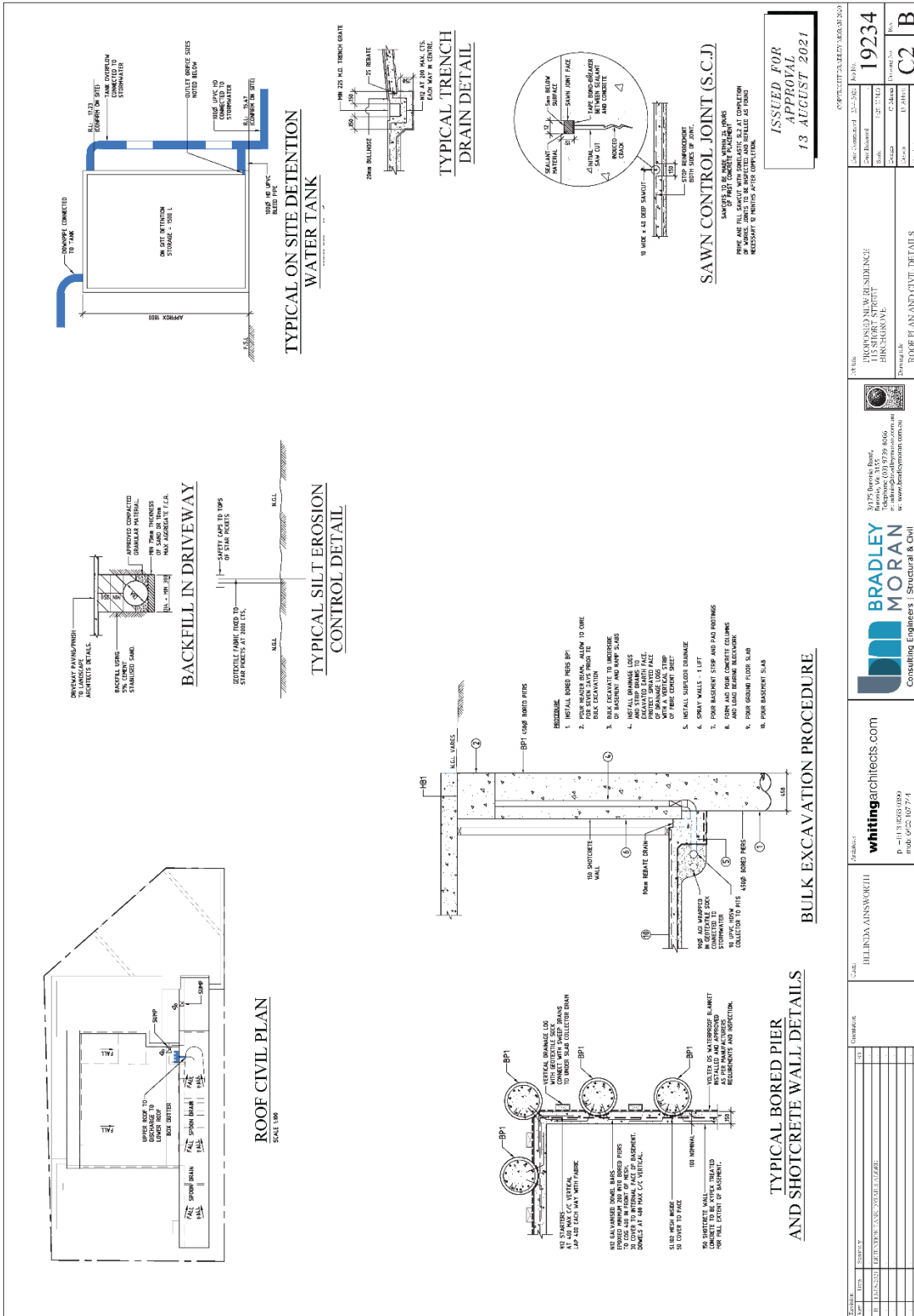
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DRAWING	PROPOSED SHADOW ELEVATION 113 SHORT STREET - 21 JUNE 1PM	CLIENT	LINDY ANSWORTH 113 SHORT STREET BIRCHGROVE, NSW 2041
SCALE	1:100 @ A3	PROJECT	TOWN PLANNING BIRCHGROVE
DRAWN	JS	PAGE NO.	REV
CHECKED	SW	A919	A
DATE	03.05.2021		

All dimensions and details to be checked against the relevant work. Variations or discrepancies to be notified to the Architect.

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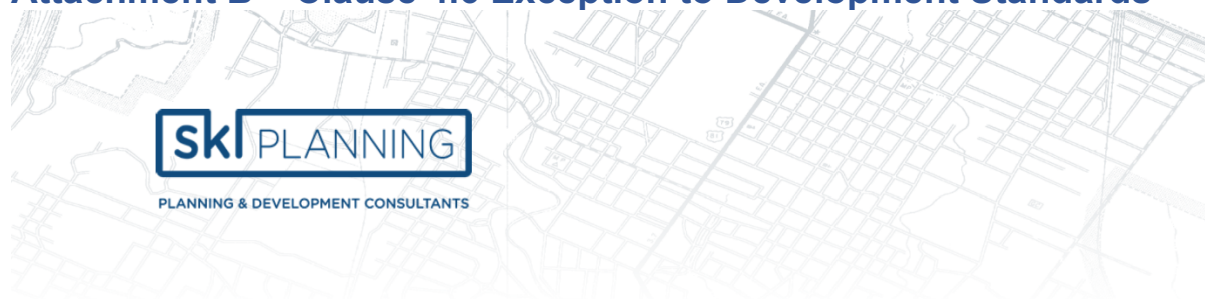
WHITING ARCHITECTS

Finishes Schedule

Project Birchgrove
 Address 115 Short Street
 Birchgrove
 Phase DA application
 Revisor A 18.03.2021

Code	Image Reference	•BrandName •Colour •Finish •Description	•Application •Size •Location •Substrate	Install	•Sealer •Maintenance	•Supplier •Supplied by •Installed by	Revision
CS01		Alternative Surfaces X-Bond Polished Bond Modern Grey X-Crete 400 Matt Sealer Concrete screed	Site application NA External walls Concrete Panels	Trowel on application - installation as per manufacturers spec's	Ref: manufacturers recommendation Ref: manufacturers recommendation	Alternative Surfaces 37-39 Northern Road Heidelberg West VIC 3081 03 9427 1100 Supply - Builder Install - Manufacturer	
BR01		Selected off white brick OR concrete finish with brick pattern Off White - TBC	Site application NA External Walls Concrete Panels	TBC	Ref: manufacturers recommendation Ref: manufacturers recommendation	TBC Supply - Builder Install - Manufacturer	
BR02		Brick Off White - TBC TBC Open Brick	Site application NA External Walls NA	TBC	Ref: manufacturers recommendation Ref: manufacturers recommendation	TBC Supply - Builder Install - Manufacturer	
PF01		Aged Bronze TBC Aluminum Window/Door Frames	Factory NA All door and window frames NA	TBC	Ref: manufacturers recommendation Ref: manufacturers recommendation	TBC Supply - Builder Install - Manufacturer	

Attachment B – Clause 4.6 Exception to Development Standards



APPENDIX A

Clause 4.6 Variation Request to Clause 4.3A - Landscaped areas for residential accommodation in Zone R1 of the Leichhardt Local Environmental Plan 2013

Demolition of existing dwelling and associated structures on site and construction of a new multi-level dwelling with carport to the rear accessed from Bay Street and associated landscaping

115 Short Street, Birchgrove
(Lot 1 DP 54392)

August 2021



1 INTRODUCTION

This variation request has been prepared pursuant to Clause 4.6 of Leichhardt Local Environmental Plan 2013 (LLEP 2013) and considers several key New South Wales Land and Environment Court (NSW LEC) planning principles and judgements that have refined the manner in which variations to development standards are required to be approached. The development application in question relates to demolition of an existing dwelling and associated structures on site and construction of a new multi-level dwelling with carport to the rear accessed from Bay Street and associated landscaping at 115 Short Street, Birchgrove.

2 PROPOSED VARIATION

Clause 4.3(A) of the LLEP 2013 relates to landscaped areas for residential accommodation in Zone R1. The proposed development complies with landscaped area though subclause 3(b) introduces site coverage:

(b) the site coverage does not exceed 60% of the site area.

Proposed development provides a site coverage of 167.7m² (73.3%) which represents a non-compliance and variation of 18.3% to the 60% provision.

For reference site coverage as defined within the dictionary of the LLEP 2013 is as follows:

site coverage means the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage -

- (a) any basement,*
- (b) any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,*
- (c) any eaves,*
- (d) unenclosed balconies, decks, pergolas and the like.*

Subclause 4.3(A)(4)(c) does provides a slight amendment in application of site coverage as follows:

- (c) any deck or balcony or the like (whether enclosed or unenclosed) is not to be included in calculating the site coverage if -*
 - (i) it is 2.4 metres or more above ground level (existing), as measured from the underside of the structure and the area below the structure is able to be landscaped or used for recreational purposes, or*
 - (ii) the finished floor level is 500mm or less above ground level (existing).*

3 CLAUSE 4.6 ASSESSMENT

3.1.1 Clause 4.6(1) - Objectives

Clause 4.6(1) outlines objectives that underly the clause as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*



- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Reference is made to *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 in which Preston CJ ruled that there is no provision that requires compliance with the objectives of the clause and that cl 4.6 does not give substantive effect to the objectives of the clause in cl 4.6(1)(a) or (b). It was also noted that in particular, neither cl 4.6(3) nor (4) expressly or impliedly requires that development that contravenes a development standard “achieve better outcomes for and from development”.

Given the above the remaining considerations of clause 4.6 form the basis for which the consent authority is to be satisfied that the request for variation of the development standard is acceptable.

3.1.2 Clause 4.6(2) - Development Consent May be Granted

Clause 4.6(2) provides that *...’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’.*

Site coverage is a development standard as defined in Section 1.4 of the Environmental Planning and Assessment Act 1979 to which exceptions can be granted under cl 4.6. It is not expressly excluded.

3.1.3 Clause 4.6(3) - Consent Authority to Consider Written Submission

Clause 4.6(3) provides that *...’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’.*

This report and information within, constitute a written request for the purposes of cl 4.6(3) and the following subsections address the justifications required under that subclause.

3.1.4 Clause 4.6(4) - Consent Authority is to be Satisfied

Clause 4.6(4) provides that *...’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’.

Each of the abovementioned matters has been addressed individually under the following subheadings.

3.1.4.1 Clause 4.6(4)(a)(i) Written Request to Address Matters Required by 4.6(3)

Clause 4.6(3) requires the applicant to justify contravention of 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’.*

With respect to clause 4.6(3)(a) the common ways in which an Applicant may demonstrate that compliance with a development standard is unreasonable or unnecessary are listed in the ‘five-part test’ outlined by Preston CJ in *Wehbe v Pittwater* [2007] NSWLEC 827. In this respect an applicant does not need to establish all of the tests or ‘ways’, rather it may be sufficient to establish only one, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way. The five possible ways are as set out below:

First	<i>The objectives of the standard are achieved notwithstanding non-compliance;</i>
Second	<i>The underlying objective or purpose of the standard not relevant to the development and therefore compliance is unnecessary;</i>
Third	<i>The underlying object of purpose be defeated or thwarted if compliance was required and therefore compliance is unreasonable;</i>
Fourth	<i>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;</i>
Fifth	<i>The zoning of the particular land unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary.</i>

With respect to the subject application, the first way is utilised with objectives underlying the site coverage development standard contained within clause 4.3A(1) of the LLEP 2013 addressed as follows:

- (a) to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,*

Comment - Notwithstanding site coverage non-compliance, a total landscaped area of 60.06m² is provided with an area of 34.74m² (15.2%) meeting criteria of cl 4.3A(3) of the LLEP 2013 and thus the 15% control. Areas of soft landscaping and planting are provided to the Short Street and Bay Street frontages of the site as well as the northeast elevation of the dwelling which is oriented towards the reserve. The landscape concept is considered to complement built form and will facilitate a desirable level amenity to residents.

- (b) to maintain and encourage a landscaped corridor between adjoining properties,*



Comment - Site context is noted in that allotments are generally narrow in width with built form built close and if not constructed to the side boundary alignments which limits the provision of meaningful landscape. The proposed development provides an appropriate footprint and one that facilitates landscape adjacent to side setbacks as well as a small courtyard forward that will also promote a desirable interface.

(c) to ensure that development promotes the desired future character of the neighbourhood,

Comment - Proposed development is consistent with desired future character. Specifically, with respect to site coverage, the building location zone is consistent with adjoining built form and a landscaped interface provided to the three (3) external boundaries of the site that are visible from the public domain.

(d) to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water,

Comment - The proposed development promotes absorption of surface drainage water through increasing permeable surface / landscaped area from 34.5m² (15.1%) as existing to 60.06m² (26%). A detailed stormwater drainage design prepared by a consultant engineer also accompanies the submission.

(e) to control site density,

Comment - The proposed development does not seek to increase density of the site and relates only to the demolition of the existing single dwelling and construction of a new single dwelling.

(f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.

Comment - As previously outlined the proposed development provides an appropriately landscape setting and one that complies with the minimum requirement. With respect to private open space, several areas are incorporated and observe compliance with C3.8 of the Leichhardt Development Control Plan 2013 as demonstrated within the SEE.

With respect to clause 4.6(3)(b) the above is considered to demonstrate that the resultant environmental impacts of the proposed development are acceptable. The proposed development provides an appropriate building footprint and one that is both consistent with existing built form and envisaged by the required building location zone. The proposed built form does not represent an overdevelopment of the site with landscaped area exceeding that required with suitable areas of private open space also facilitated.

3.1.4.2 Clause 4.6(4)(a)(ii) Written Request to Address Matters Required by 4.6(3)

As discussed by Preston CJ in Initial Action, if the development is consistent with the objectives of the development standard and the objectives of the zone, the consent authority can be satisfied that the development will be in the public interest. Objectives of the site coverage standard have been previously addressed with objectives of the R1 General Residential Zone outlined and addressed below.



Zone Objective	Comment
<ul style="list-style-type: none"> To provide for the housing needs of the community. 	Redevelopment of the site promotes housing needs of the community.
<ul style="list-style-type: none"> To provide for a variety of housing types and densities. 	Proposed development relates only to a single dwelling though redevelopment provides a more versatile floor plan.
<ul style="list-style-type: none"> To enable other land uses that provide facilities or services to meet the day to day needs of residents. 	N/A - Development relates only to the construction of a residential dwelling house
<ul style="list-style-type: none"> To improve opportunities to work from home. 	Dwelling provides a larger floor plan and greater amenity for occupants that promotes opportunity to work from home.
<ul style="list-style-type: none"> To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas. 	Dwelling is compatible with the existing built form that surrounds also noting its location within the Town of Waterview Heritage Conservation Area.
<ul style="list-style-type: none"> To provide landscaped areas for the use and enjoyment of existing and future residents. 	Areas of landscape provided to the front and rear yard provide for a desired level of amenity for future residents.
<ul style="list-style-type: none"> 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. 	N/A - Subdivision not proposed.
<ul style="list-style-type: none"> To protect and enhance the amenity of existing and future residents and the neighbourhood. 	The proposed development does not result in any adverse or unreasonable impacts in terms of privacy, solar access or view loss.

As detailed the site coverage variation does not contravene any of the zone objectives.

3.1.4.3 Clause 4.6(b) Concurrence of the Secretary.

Planning Circular (PS 18-003) dated 21 February 2018 provides that concurrence can be assumed when a Local Planning Panel (LPP) is the consent authority where a variation exceeds 10% or is to a non-numerical standard, because of the greater scrutiny that the LPP process and determinations are subject to.

Accordingly, concurrence of the Secretary can therefore be assumed in this case.

3.1.5 Clause 4.6(5) - Concurrence Considerations

Clause 4.6(5) provides that ...'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 Secretary before granting concurrence'.

N/A - As detailed above, concurrence of the secretary can be assumed in this instance.



3.1.6 Clause 4.6(6) - Subdivision of Certain Land

Clause 4.6(6) provides that ...'Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if -

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. When this Plan was made it did not include any of these zones'.

N/A - Development does not seek subdivision and is located in zone R1 General Residential.

3.1.7 Clause 4.6(7) - Keeping of Records

Clause 4.6(7) provides that ...'After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3)'.

Inner West Council does have a register of Clause 4.6 variations that is publicly available. Should this application be supported it would be added to the register along with specific factors as required.

3.1.8 Clause 4.6(8) - Exclusions from use of Clause 4.6

Clause 4.6(8) provides that ...'this clause does not allow development consent to be granted for development that would contravene any of the following -

- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
- (c) clause 5.4'.

N/A - The proposed development does not contravene any of the stated considerations.

4 CONCLUSION

The proposed development does not strictly comply with site coverage prescribed by Clause 4.3A(3)(b) of LLEP 2013. Having regard to the assessment provided above, it is our opinion that relevant considerations are appropriately addressed and no adverse environmental impacts created.

Consequently, strict compliance with the development standard is unreasonable and unnecessary in this instance and that the use of Clause 4.6 of LLEP 2013 to vary the control is appropriate.



APPENDIX B

Clause 4.6 Variation Request to Clause 4.4 - Floor Space Ratio of the Leichhardt Local Environmental Plan 2013

Demolition of existing dwelling and associated structures on site and construction of a new multi-level dwelling with carport to the rear accessed from Bay Street and associated landscaping

115 Short Street, Birchgrove
(Lot 1 DP 54392)

August 2021



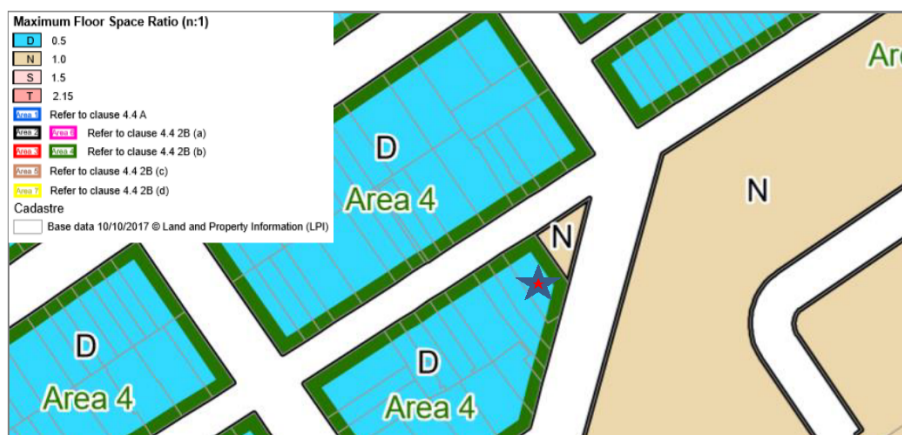
1 INTRODUCTION

This variation request has been prepared pursuant to Clause 4.6 of Leichhardt Local Environmental Plan 2013 (LLEP 2013) and considers several key New South Wales Land and Environment Court (NSW LEC) planning principles and judgements that have refined the manner in which variations to development standards are required to be approached. The development application in questions relates to demolition of an existing dwelling and associated structures on site and construction of a new multi-level dwelling with carport to the rear accessed from Bay Street and associated landscaping at 115 Short Street, Birchgrove.

2 PROPOSED VARIATION

Clause 4.4(2) of the LLEP 2013 refers to the Floor Space Ratio (FSR) Map with the subject site located within Area 4 'D' illustrated below with reference made to clause 4.4(2B) which provides the following.

Despite subclause (2), the floor space ratio for development for the purpose of residential accommodation-
(b) on land shown edged red or green on the FSR Map is not to exceed -
(ii) in the case of development on a lot with an area of 150m² or more but less than 300m² - 0.9:1



Clause 4.5(2) of LLEP 2013 defines FSR as ...*'The floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area'*.

The dictionary of LLEP 2013 defines gross floor area as follows:

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes -

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,



but excludes -

- (d) any area for common vertical circulation, such as lifts and stairs, and*
- (e) any basement -
 - (i) storage, and*
 - (ii) vehicular access, loading areas, garbage and services, and**
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and*
- (h) any space used for the loading or unloading of goods (including access to it), and*
- (i) terraces and balconies with outer walls less than 1.4 metres high, and*
- (j) voids above a floor at the level of a storey or storey above.*

The proposed development provides a total gross floor area of 238.01m², equating to an FSR of 1.04:1 (representing a non-compliance of 32.29m² and variation of 15.69% to the 0.9:1 standard).

3 CLAUSE 4.6 ASSESSMENT

3.1.1 Clause 4.6(1) - Objectives

Clause 4.6(1) outlines objectives that underly the clause as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Reference is made to *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 in which Preston CJ ruled that there is no provision that requires compliance with the objectives of the clause and that cl 4.6 does not give substantive effect to the objectives of the clause in cl 4.6(1)(a) or (b). It was also noted that in particular, neither cl 4.6(3) nor (4) expressly or impliedly requires that development that contravenes a development standard “achieve better outcomes for and from development”.

Given the above the remaining considerations of clause 4.6 form the basis for which the consent authority is to be satisfied that the request for variation of the development standard is acceptable.

3.1.2 Clause 4.6(2) - Development Consent May be Granted

Clause 4.6(2) provides that ... ‘*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*’.

FSR is a development standard as defined in Section 1.4 of the Environmental Planning & Assessment Act 1979 to which exceptions can be granted under cl 4.6. It is not expressly excluded from operation.



3.1.3 Clause 4.6(3) - Consent Authority to Consider Written Submission

Clause 4.6(3) provides that *...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'.*

This report and information within, constitute a written request for the purposes of cl 4.6(3) and the following subsections address the justifications required under that subclause.

3.1.4 Clause 4.6(4) - Consent Authority is to be Satisfied

Clause 4.6(4) provides that *...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'.*

Each of the abovementioned matters has been addressed individually under the following subheadings.

3.1.4.1 Clause 4.6(4)(a)(i) Written Request to Address Matters Required by 4.6(3)

Clause 4.6(3) requires the applicant to justify contravention of 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'.*

With respect to clause 4.6(3)(a) the common ways in which an Applicant may demonstrate that compliance with a development standard is unreasonable or unnecessary are listed in the 'five-part test' outlined by Preston CJ in *Wehbe v Pittwater* [2007] NSWLEC 827. In this respect an applicant does not need to establish all of the tests or 'ways', rather it may be sufficient to establish only one, although if more are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way. The five possible ways are as set out below:

First	<i>The objectives of the standard are achieved notwithstanding non-compliance;</i>
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Second	<i>The underlying objective or purpose of the standard not relevant to the development and therefore compliance is unnecessary;</i>
Third	<i>The underlying object of purpose be defeated or thwarted if compliance was required and therefore compliance is unreasonable;</i>
Fourth	<i>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;</i>
Fifth	<i>The zoning of the particular land unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary.</i>

With respect to the subject application, the first way is utilised with objectives underlying the floor space ratio development standard contained within clause 4.4(1) of the LLEP 2013 addressed as follows:

- (a) *to ensure that residential accommodation -*
 - (i) *is compatible with the desired future character of the area in relation to building bulk, form and scale, and*

Comment - The proposed development remains compatible with the desired future character of the area, representing a sympathetic contemporary infill within the Town of Waterview Heritage Conservation Area.

Proposed bulk is subservient to the neighbouring Victorian terrace pair with overall height approximately 1.37m below and building location zone largely mirrored though noting that a greater setback is provided to Short Street with the massing of the upper level reduced in an attempt to provide view sharing. The building is also considered to effectively respond to the site topography, adopting a stepped form.

Specifically, with respect to design, key elements provided to primary facades being arched openings were viewed as responding appropriately to the local context and character by the heritage consultant as was the low-pitched skillion roof form concealed behind a parapet feature.

Proposed materials which consist of face brick and render rely on their natural colours and character and respond appropriately to the traditional working-class character of the conservation area, where selection and employment of materials was traditionally very limited. Glass balustrades are not employed.

- (ii) *provides a suitable balance between landscaped areas and the built form, and*

Comment - The proposed development provides the desired balance between landscaped area and built form. Notwithstanding FSR non-compliance, a total landscaped area of 60.06m² is provided with an area of 34.74m² (15.2%) meeting criteria of cl 4.3A(3) of the LLEP 2013 and thus the 15% control. Areas of soft landscaping and planting are provided to the Short Street and Bay Street frontages of the site and also adjacent to the reserve to the north east.

- (iii) *minimises the impact of the bulk and scale of buildings,*

Comment - Building location zone is consistent with surrounding development and considered to minimise any adverse impact from bulk and scale. The context of the site is also noted with street frontage and a



reserve provided to three (3) elevations with adjoining built form adjacent to the south west elevation built close to the boundary with little interface (provided with only one window opening). As previously outlined the upper level floor plan of the building has been minimised and directly reduces both the perceived bulk and scale of the dwelling through providing articulation and promotes view sharing.

(b) to ensure that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale.

Comment - N/A noting that the proposed development relates only to residential accommodation.

With respect to clause 4.6(3)(b) the above demonstrates that the environmental impacts of the proposed development is acceptable notwithstanding non-compliance with the FSR development standard. The proposed development provides a bulk and scale and design that effectively responds to the site context, constraints, and existing built form. Impacts upon amenity i.e. privacy, solar access and view loss are also limited, noting also the detailed discussion provided within the SEE.

The non-compliance is also quantified such that whilst additional gross floor area equates to 32.29m², the ground floor plan which is contained below Short Street and partially below the natural ground level of the adjoining reserve has a total area of 94.77m². It is not considered to adversely add to bulk and scale which is considered to fit very well contextually noting the prominent bookend positioning of the site.

3.1.4.2 Clause 4.6(4)(a)(ii) Written Request to Address Matters Required by 4.6(3)

As discussed by Preston CJ in Initial Action, if the development is consistent with the objectives of the development standard and the objectives of the zone, the consent authority can be satisfied that the development will be in the public interest. Objectives of the FSR development standard have been previously addressed with objectives of the R1 General Residential Zone outlined and addressed below.

Zone Objective	Comment
<ul style="list-style-type: none"> To provide for the housing needs of the community. 	Redevelopment of the site promotes housing needs of the community.
<ul style="list-style-type: none"> To provide for a variety of housing types and densities. 	Proposed development relates only to a single dwelling though redevelopment does provide a more versatile floor plan.
<ul style="list-style-type: none"> To enable other land uses that provide facilities or services to meet the day to day needs of residents. 	N/A - Development relates only to the construction of a residential dwelling house
<ul style="list-style-type: none"> To improve opportunities to work from home. 	Dwelling provides a larger floor plan and greater amenity for occupants that promotes opportunity to work from home.
<ul style="list-style-type: none"> To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas. 	Dwelling is compatible with the existing built form that surrounds, noting also its location within the Town of Waterview Heritage Conservation Area.
<ul style="list-style-type: none"> To provide landscaped areas for the use and enjoyment of existing and future residents. 	Areas of landscape provided to the front and rear yard provide for a desirable level of amenity for future residents.



<ul style="list-style-type: none"> 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. 	N/A - Subdivision not proposed.
<ul style="list-style-type: none"> To protect and enhance the amenity of existing and future residents and the neighbourhood. 	The proposed development does not result in any adverse or unreasonable impacts in terms of privacy, solar access or view loss.

As detailed the FSR variation does not contravene any of the zone objectives.

3.1.4.3 Clause 4.6(b) Concurrence of the Secretary.

Planning Circular (PS 18-003) dated 21 February 2018 provides that concurrence can be assumed when a Local Planning Panel (LPP) is the consent authority where a variation exceeds 10% or is to a non-numerical standard, because of the greater scrutiny that the LPP process and determinations are subject to.

Accordingly, concurrence of the Secretary can therefore be assumed in this case.

3.1.5 Clause 4.6(5) - Concurrence Considerations

Clause 4.6(5) provides that *...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 Secretary before granting concurrence*’.

N/A - As detailed above, concurrence of the secretary can be assumed in this instance.

3.1.6 Clause 4.6(6) - Subdivision of Certain Land

Clause 4.6(6) provides that *...Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if -*

- (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

Note. When this Plan was made it did not include any of these zones’.

N/A - Development does not seek subdivision and is located in zone R1 General Residential.

3.1.7 Clause 4.6(7) - Keeping of Records



Clause 4.6(7) provides that ...'After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3)'.

Inner West Council does have a register of Clause 4.6 variations that is publicly available. Should this application be supported it would be added to the register along with specific factors as required.

3.1.8 Clause 4.6(8) - Exclusions from use of Clause 4.6

Clause 4.6(8) provides that ...'this clause does not allow development consent to be granted for development that would contravene any of the following -

- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
- (c) clause 5.4'.

N/A - The proposed development does not contravene any of the stated considerations.

4 CONCLUSION

The proposed development does not strictly comply with floor space ratio prescribed by Clause 4.4 of LLEP 2013. Having regard to the assessment provided above, it is our opinion that relevant considerations are appropriately addressed and no adverse environmental impacts created.

Consequently, strict compliance with the development standard is unreasonable and unnecessary in this instance and that the use of Clause 4.6 of LLEP 2013 to vary the control is appropriate.

Attachment C – Statement of Heritage Significance

Attachment D – Statement of Heritage Significance

Godden Mackay Logan

Area 15 Town of Waterview Conservation Area

Landform

The land in this conservation area is located around a small creek (known as Curtis Waterhole) that enters Waterview Bay (now Morts Bay) at its most western point. The area is generally sheltered and includes flat low-lying land near the bay (where Morts Dock was built) rising south to higher land along Darling Street and west to the prominent knoll of Dock Road and Bates Street.

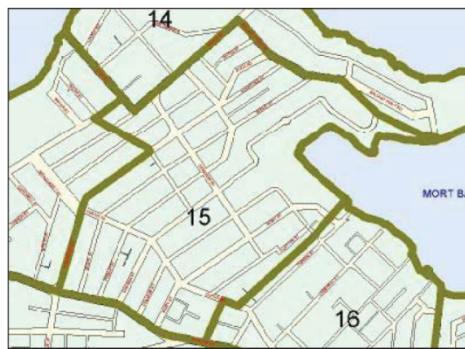


Figure 15.1 Town of Waterview Conservation Area Map.

History

The area that was later developed by Thomas Mort as the Town of Waterview included land originally purchased from Gilchrist's Balmain Estate in 1836 by Curtis and Lamb. In 1854 these two lots at the eastern end of the bay were purchased by Captain Rowntree and Thomas Holt for a slipway and dry dock. Thomas Mort was impressed with the sheltered bay and joined them in the enterprise.

Mort also accepted the transfer of most of the land around the dock area and commissioned Surveyor FH Reuss to lay out a township of 700 modest residential allotments. Initially Mort sought to provide rental accommodation near the dock to attract skilled labour and he indicated that a building society might be formed to assist purchasers, probably so that there would always be a pool of skilled workers living nearby. Allotments were 1/2 chain (33ft) wide with depths ranging from 84-109 feet, but subsequent resubdivision to allow two houses (terrace or semi) on one allotment occurred at the time of building and produced many smaller parcels. There were no back lanes for night soil disposal.

Small groups of similar houses suggest the area was constructed by small-scale building contractors, or by individual owner/builders.

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Mort purchased more land adjoining the original township and after his death in 1877 his trustees continued the dense subdivision and development of this area in response to the growth of Morts Dock Industries and the building boom of the 1880s.

It took forty years from 1857 for the town to be fully occupied. Just over half the allotments had been sold by 1878, but by 1896 the streets created within Mort's Town - Mort, Church, Phillip, Short, College, Rowntree, Curtis, Spring and Cameron Streets - were filled with an assortment of houses, 796 in all, 396 of brick, 348 of weatherboard, 51 of stone and one of iron. Small groups of corner shops and pubs served the community.

By 1861 the dock was leasing facilities to other maritime activities, and it developed its own associated engineering industries. Morts Dock and Engineering Co grew rapidly to become the largest private employer in Australia in a variety of maritime and engineering industries. During the 1940s it built corvettes, frigates and a floating dock. Economic fluctuations affecting the dock also affected its workers. The dock, the Town of Waterview and its pubs were the site of the beginnings of the urban labour movement. The dock closed in 1958; the site was levelled and used as a container terminal. More recently, the land was developed for residential purposes by the Department of Housing.

Sources

Solling, M and Reynolds, P 1997, 'Leichhardt: on the margins of the city', *Leichhardt Historical Journal*, Vol. 22, Allen and Unwin.

Reynolds, P 1985, 'The first 22 lots - an overview: Suburbanisation in Balmain', *Leichhardt Historical Journal*, Vol. 14.

Further research by Max Solling.

Significant Characteristics

- Regular street pattern made up of wider streets (about 50ft wide) marking the boundaries of the township (Rowntree, Mort, Curtis and Cameron Streets) or giving access to the dock (Church Street) with narrower streets filling the remainder.
- Lack of back lanes.
- A very regular streetscape resulting from:
 - regular width allotments of 33ft (or half 33ft) giving rise to uniform densely developed streets of single or double -fronted houses/terraces;
 - use of limited range of building materials - either rendered brick or painted weatherboard;
 - face brick houses of post c1890 and the fifty-odd stone buildings are noticeable for their different building materials; and
 - remarkably intact collection of single and two-storey attached and detached dwellings, many of them weatherboard.

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- Density of pubs.
- Corner stores and small groups of stores and pubs at some cross roads.

Statement of Significance or Why the Area is Important

- 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, through the form and fabric of its houses, corner shops and pubs, its street layout and allotment shapes, demonstrates a remarkably intact area of early workers' housing from 1850s to 1890s with later infill development prior to World War II (ie pre-1939). It is significant for its surviving development prior to World War II.
- Demonstrates through the density of pubs (and former pubs) within the township area its close association with the growth of the urban labour movement. A number of these pubs are of national heritage significance for their historical and enduring social values as part of the history of unionism and of the Ships Painters and Dockers Union in particular.
- Demonstrates, through the nature of its housing, the important role played by Morts Dock as a magnet for workers and the location of their housing.
- Demonstrates, through its rendered and painted brickwork, the nature of construction in Sydney before the ready availability of hard pressed, face bricks.
- Demonstrates the work of Surveyor Reuss.
- Associated with prominent local entrepreneurs and land developers, some of whom were aldermen of Council.
- Demonstrates, with Bodalla Village on the New South Wales south coast, the role of Thomas Mort in providing 'appropriate' housing for his employees.

Management of Heritage Values

Generally

This is a conservation area. Little change can be expected other than modest additions and discrete alterations. Buildings which do not contribute to the heritage significance of the area may be replaced with sympathetically designed infill.

Retain

- All pubs, preferably as public houses, or in related activities (boarding houses etc) or as small-scale commercial uses.
- All pre-1939 buildings, especially timber buildings, and all their architectural details. Replacement of lost detail, based only on evidence, should be encouraged.
- Original finishes, particularly rendered brick houses.

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- All remaining sandstone kerbs and gutter.

Avoid

- Diagonally placed chicanes, and other works that diminish the straight line of the original road layout.
- Alterations that change the shape (form) of the pubs - particularly the removal of verandahs or the creation of new verandahs for which there is no historical evidence.
- Alterations that change the shape of the building or original roof forms on the main part of the buildings.
- Removal of original detail. (Encourage restoration from evidence.)
- Additions of details not part of the original fabric of the building.
- Interruption to the almost continuous kerb and gutters.

Attachment D – Recommended conditions of consent in case the application is approved

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
A001	Existing Site Plan	20/02/2021	Whiting Architects
A002	Existing Floor Plan	20/02/2021	Whiting Architects
A010	Demolition Plan	20/02/2021	Whiting Architects
A100 Rev A	Proposed Site Plan/Site Analysis	03/05/2021	Whiting Architects
A101 Rev A	Proposed Ground Floor Plan	03/05/2021	Whiting Architects
A102 Rev A	Proposed First Floor Plan	03/05/2021	Whiting Architects
A103 Rev A	Proposed Second Floor Plan	03/05/2021	Whiting Architects
A104 Rev A	Proposed Roof Plan	03/05/2021	Whiting Architects
A105 Rev A	Proposed Landscape Plan	03/05/2021	Whiting Architects
A200 Rev A	Proposed North Elevation	03/05/2021	Whiting Architects
A201 Rev A	Proposed South Elevation	03/05/2021	Whiting Architects
A202 Rev A	Proposed West/Streetscape Elevation	03/05/2021	Whiting Architects
A203 Rev A	Proposed East Elevation	03/05/2021	Whiting Architects
A300 Rev A	Preliminary Section	03/05/2021	Whiting Architects
Revision A	Finishes Schedule	18.03.2021	Whiting Architects
19234 C1 Rev B	Civil Plan	13/08/2021	Bradley Moran
1099971S_03	BASIX	17/08/2021	Eco Certificates

As amended by the conditions of consent.

FEES

2. Security Deposit - Custom

Prior to the commencement of demolition works or prior to the 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:	\$2254.00
Inspection Fee:	\$241.50

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.

3. Section 7.12 (formerly section 94A) Development Contribution Payments

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that a monetary contribution to the Inner West Council has been paid, towards the provision of infrastructure, required to address increased demand for local services generated by additional development within the Local Government Area (LGA). This condition is imposed in accordance with Section 7.12 of the *Environmental Planning and Assessment Act 1979* and in accordance with the *Former Leichhardt Local Government Area Section 7.12 Development Contributions Plan 2020*.

Note:

Copies of these contribution plans can be inspected at any of the Inner West Council Service Centres or viewed online at <https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions>

Payment amount*:

\$13,000.00

*Indexing of the Section 7.12 contribution payment:

The contribution amount to be paid to the Council is to be adjusted at the time of the actual payment in accordance with the provisions of the relevant contributions plan. In this regard, you are recommended to make contact with Inner West Council *prior to arranging your payment method* to confirm the correct current payment amount (at the expected time of payment).

Payment methods:

The required contribution must be paid either *by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions; cash (to a maximum of \$10,000)*. It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. **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.

4. 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.

GENERAL CONDITIONS

5. 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.

6. Tree Protection

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

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

Any public tree within five (5) metres of the development must be protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.

7. Works to Trees

Approval is given for the following works to be undertaken to trees on the site after the issuing of a Construction Certificate:

Tree/location	Approved works
<i>Cedrus deodara</i> (Deodar Cedar) Front	Remove
<i>Ficus benjamina</i> (Weeping Fig) Rear	Remove

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved and shall be retained and protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

8. 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 (RWMP) in accordance with the relevant Development Control Plan.

9. 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.

10. 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.

11. Works Outside the Property Boundary

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

PRIOR TO ANY DEMOLITION

12. 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.

13. 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 the adjoining property at No. 113 Short Street 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.

14. Advising Neighbours 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.

15. 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

16. Dilapidation Report – Pre-Development – Minor

Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.

17. Stormwater Drainage System – Minor Developments (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. The stormwater drainage concept plan on Drawing No. C1 revision (A) prepared by BRADLEY MORAN Consulting Engineers and dated 13 August 2021, must be amended to comply with the following;
- b. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of a public road/directly to Council's piped drainage system via the OSD/OSR tanks as necessary;
- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage;
- e. 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;
- f. 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);
- g. 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. 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;
- h. 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;
- i. Where a combined OSD/OSR is proposed, only the roof water is permitted to be connected to the storage tank. The overflow from the rainwater tank can be connected under gravity to the kerb and gutter of a public road. A discharge control device will not be required;
- j. Details of the 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided;
- k. An overland flow path must be provided within the setback to the western side boundary between the front of the dwelling and the Bay Street frontage. The front courtyard must be graded so that bypass flows from the site drainage system are directed to the overland flow path
- l. As there is no overland flow/flood path available from the central courtyards to the Bay 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 150 mm below the floor level or damp course of the building; and
 - c. The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.

- m. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas;
- n. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
- o. 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;
- p. No nuisance or concentration of flows to other properties;
- q. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- r. 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;
- s. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- t. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- u. 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 4.0 mm and a maximum section height and width of 100 mm or sewer grade uPVC pipe with a maximum diameter of 100 mm;
- v. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;
- w. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
- x. Stormwater drainage must be located such that any waters leaving the pool must drain to pervious areas prior to potentially draining to the site stormwater drainage system;
- y. No impact to street tree(s).

18. Parking Facilities - Domestic

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

- a. The garage slab or driveway must rise within the property to be 170mm above the adjacent road gutter level and higher than the street kerb and footpath across the full width of the vehicle crossing. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004;
- b. 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;
- c. 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;
- d. The garage/carport/parking space must have minimum clear internal dimensions of 6000 mm x 3000 mm (length x width) and a door opening width of 2800 mm at the street frontage for a single car space and of 6000 mm x 5400 mm (length x width) and a door opening width of 5300 mm at the street frontage for a double car space. The dimensions must be exclusive of obstructions such as walls, doors and columns,

except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004;

- e. A plan of the proposed access and adjacent laneway, drawn at a 1:100 scale, demonstrating that vehicle manoeuvrability for entry and exit to the parking space complies with swept paths from AS/NZS 2890.1:2004. The plan must include any existing on-street parking spaces;
- 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; and
- g. The external form and height of the approved structures must not be altered from the approved plans.

19. Amended Architectural Plans to Reflect Dimensions of the Garage/Car Space

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended architectural plans that incorporate the recommendations of the Flood Risk Management Plan. The design must be prepared to make provision for the following:

- a. 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; The headroom must be shown on elevation of the garage/car port;
- b. The garage/carport/parking space must have minimum clear internal dimensions of 6000 mm x 3000 mm (length x width) and a door opening width of 2800 mm at the street frontage for a single car space and of 6000 mm x 5400 mm (length x width) and a door opening width of 5300 mm at the street frontage for a double car space. The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004;
- c. An overland flow path must be provided within the setback to the western side boundary between the front of the dwelling and the Bay Street frontage. The width and levels of the overland flow path must be shown on the plan.

No changes to the external form or appearance of the development contrary to the approved plans must occur except as identified by this condition. Any changes to such must be subject to separate approval.

20. Structural and Geotechnical Report

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an integrated structural and geotechnical report and structural plans that address the design of the proposed basement, prepared certified as compliant with the terms of this condition by a qualified practicing Structural and Geotechnical Engineer(s) who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng). The report and plans must be prepared/ amended to make provision for the following:

- a. The basement must be fully tanked to prevent the ingress of subsurface flows;
- b. Retaining walls must be entirely self-supporting in the event that excavation is undertaken within the road reserve adjacent to the property boundary to the depth of the proposed structure;
- c. Any existing or proposed retaining walls that provide support to the road reserve must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment, based on a design life of not less than 50 years;

- d. All components of the basement, including footings, must be located entirely within the property boundary;
- e. No adverse impact on surrounding properties including Council's footpath and road;
- f. The existing subsurface flow regime in the vicinity of the development must not be significantly altered as a result of the development;
- g. Recommendations regarding the method of excavation and construction, vibration emissions and identifying risks to existing structures or those on adjoining or nearby property; and
- h. Provide relevant geotechnical/ subsurface conditions of the site, as determined by a full geotechnical investigation.

21. Changes to Levels

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

- a. A 150 mm step up must be provided between the finished surface level of the external area and the finished floor level of the internal rooms.

22. Tree Planting Plan 106

A detailed tree planting plan, drawn to scale, by a Landscape Architect or Landscape Designer, must be submitted to and approved by Council. The plan must include:

- a. Location of existing and proposed structures on the site including, but not limited to: existing and proposed trees, paved areas and planted areas;
- b. Details of any earthworks, changes to existing grade and soil depths including mounding and retaining walls and planter boxes (if applicable). The minimum soil depths for planting on slab must be 1000mm for trees;
- c. Location, numbers, type and supply of trees, with reference to AS2303:2018—*Tree stock for landscape use* (if applicable);
- d. One (1) new tree must be included in the design. The trees species must attain a minimum mature height of six (6) metres and canopy spread of 4 - 5 metres. Trees listed as exempt species from Council's Tree Management Controls, palms, fruit trees and species recognised to have a short life span are not acceptable in satisfaction of this condition;
- e. It must be demonstrated that there is sufficient soil volume to allow maturity to be achieved (refer to Council's *Development Fact Sheet—Trees on Development Sites* for further information).
- f. New trees must be appropriately located away from existing buildings and structures to allow maturity to be achieved without restriction.
- g. Details of planting specification and maintenance programme.

23. Structural Certificate for retained elements of the building

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

24. 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

25. 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.

26. 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

27. 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. Light duty concrete vehicle crossing(s) at the vehicular access location(s);
- b. The redundant vehicular crossing to the site must be removed and replaced by kerb and gutter and footpath. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone; and
- c. 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".

28. 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.

29. Protect Sandstone Kerb

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any stone kerb, damaged as a consequence of the work that is the subject of this development consent, has been replaced.

30. 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 who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) 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) 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.

31. 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.

32. 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.

33. Parking Signoff – Minor Developments

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.

34. 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:

One (1) x 200 litre size tree, which will attain a minimum mature height of six (6) metres, has been planted in a suitable location within the property and allowing for future tree growth, as per the submitted Tree Planting Plan. The tree is to conform to AS2303—*Tree stock for landscape use*. Trees listed as exempt species from Council's Tree Management Controls, palms, fruit trees and species recognised to have a short life span are 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.

ON-GOING

35. Operation and Management Plan

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

36. Tree Establishment

The tree/s planted as part of this consent is/are to be maintained in a healthy and vigorous condition for 12 months from the issue of an Occupation Certificate. If any of the tree/s is/are found faulty, damaged, dying or dead within 12 months of the issue of an Occupation Certificate it/they must be replaced with the same species within one (1) month (up to 3 occurrences).

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.

Insurances

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

Public Domain and Vehicular Crossings

The vehicular crossing and/or footpath works are required to be constructed by your contractor. You or your contractor must complete an application for *Design of Vehicle Crossing and Public Domain Works – Step 1* form and *Construction of Vehicle Crossing and Public Domain Works – Step 2* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

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

Any damage caused during construction to Council assets on the road reserve or on Council or Crown land must be repaired at no cost to Council.

Any driveway crossovers or other works within the road reserve must be provided at no cost to Council.

No consent is given or implied for any Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, eaves, awnings, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever, including when open.

Consent of Adjoining property owners

This consent does not authorise the applicant, or the contractor engaged to do the tree works to enter a neighbouring property. Where access to adjacent land is required to carry out approved tree works, Council advises that the owner's consent must be sought. Notification is the responsibility of the person acting on the consent. Should the tree owner/s refuse access to their land, the person acting on the consent must meet the requirements of the *Access To Neighbouring Lands Act 2000* to seek access.

Arborists standards

All tree work must be undertaken by a practicing Arborist. The work must be undertaken in accordance with AS4373—*Pruning of amenity trees* and the Safe Work Australia Code of Practice—*Guide to Managing Risks of Tree Trimming and Removal Work*. Any works in the vicinity of the Low Voltage Overhead Network (including service lines—pole to house connections) must be undertaken by an approved Network Service Provider contractor for the management of vegetation conflicting with such services. Contact the relevant Network Service Provider for further advice in this regard.

Tree Protection Works

All tree protection for the site must be undertaken in accordance with Council's *Development Fact Sheet—Trees on Development Sites* and AS4970—*Protection of trees on development sites*.

Tree Pruning or Removal (including root pruning/mapping)

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved and must be retained and protected in accordance with Council's *Development Fact Sheet—Arborist Reports*.

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.

Disability Discrimination Access to Premises Code

The *Disability Discrimination Act 1992* (Commonwealth) and the *Anti-Discrimination Act 1977* (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

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.

Amenity Impacts General

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises

and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

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.

Lead-based Paint

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

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.

Street Numbering

If any new street numbers or change to street numbers (this includes unit and shop numbers) are required, a separate application must be lodged with and approved by Council's GIS Team before being displayed.

Overhead Powerlines

Safe work NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The "as constructed" minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, www.ausgrid.com.au

It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

"Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site."