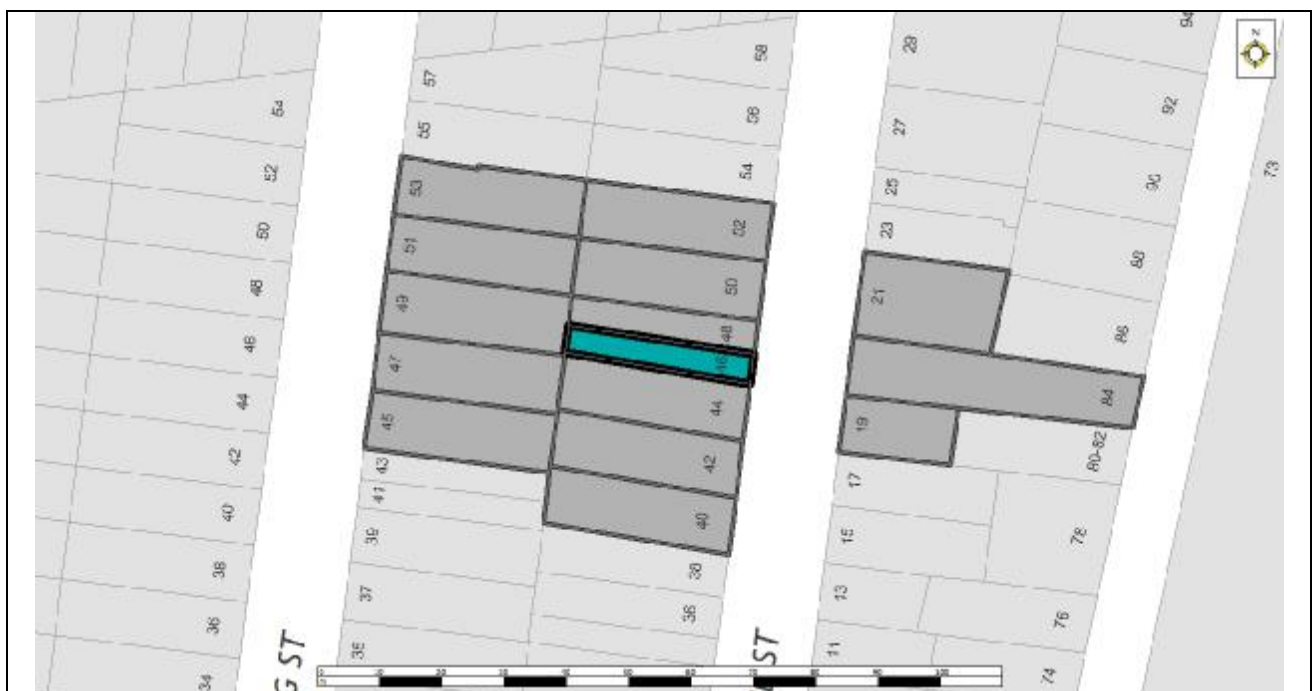




DEVELOPMENT ASSESSMENT REPORT

Application No.	DAREV/2017/1
Address	46 Gladstone Street, LILYFIELD NSW 2040
Proposal	Review of determination for alterations and additions to existing dwelling including two storey addition to rear and deck plus removal of tree in rear courtyard.
Date of Lodgement	8 February 2017
Applicant	A Burns
Owner	Asher Col & Dave McGuckin
Number of Submissions	Nil
Value of works	\$265,000
Reason for determination at Planning Panel	Recommendation of original application (refusal) confirmed.
Main Issues	<ul style="list-style-type: none"> • Stormwater Management/Overland flow and Inundation of dwelling. • Elevations and Materials
Recommendation	Refusal



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for review of determination for alterations and additions to existing dwelling including two storey addition to rear and deck plus removal of a tree in rear courtyard at 46 Gladstone Street, Lilyfield. The application was notified to surrounding properties and no submissions were received.

The main issues that have arisen from the application include:

- Stormwater Management/Overland flow and Inundation of dwelling; &
- Elevations and Materials.

The above issues are consistent with that of the original application which has not been adequately addressed thus the original determination (refusal) is confirmed.

2. Proposal

The proposal is detailed as follows -

- Ground Floor
 - Demolition of rear lean-to additions at the rear of dwelling
 - Construction of a new rear addition, containing kitchen, living, dining, laundry and bathroom.
 - Landscape works to rear courtyard including excavation and associated retaining walls and removal of tree.
- First Floor
 - Construct new bedroom with ensuite.

3. Site Description

The site is approximately 139.4sqm in area and has a frontage of 4.9m to Gladstone Street. The site is located on the western side of the street and is rectangular shaped. The site is legally known as Lot 1 in D.P 915707

The existing dwelling consists of a single storey masonry dwelling house. The rear of the site is oriented to the west. The northern side wall is set approximately 560mm from the northern side boundary. The southern side of the dwelling is built adjacent to the boundary and is attached to the southern neighbour No. 44 Gladstone Street. The dwellings do not share a party wall.

The site rises significantly from front to rear, rising by a total height of 4.6m across the 30m depth of the site.

The immediate context contains predominantly one and two storey terrace house, semi-detached and freestanding house forms detailed as follows;

Northern Neighbour - 48 Gladstone Street.

Contains a freestanding single storey dwelling, similar in proportion to 46 Gladstone Street. A development application has recently been approved to this dwelling, consisting of additions to the rear of the dwelling and an upper level addition.

Southern Neighbour - 44 Gladstone Street.

Contains a single storey dwelling, built to the northern boundary shared with the subject site. The cottage is double fronted, with a steeply pitched roof leading rising to a ridge.

The site is located within the distinctive neighbourhood of Catherine Street within the Gladstone Street Sub Neighbourhood.

The subject site is not a heritage item or located within a conservation area.

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

- Lemon Scented tea tree - rear courtyard and adjacent to the northern boundary of the subject site.
- Willow Myrtle - rear courtyard within north-western corner.

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
D/1999/450	Part demolition and construction of ground and 1st floor addition	Approved 16/02/1999
PREDA/2016/47	Alterations and additions, including a rear two storey addition.	Issued 01/04/2016

Surrounding properties

Application	Proposal	Decision & Date
PREDA/2016/2010	Alterations and additions, including a rear two storey addition.	Issued 1/04/2016
CDCP/2012/49	CDC demolition of existing dwelling	Approved 15/05/2012
D/2012/215	New two storey dwelling	Approved 14/08/2012

4(b) Application history

Not applicable

5. Section 82A Review

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

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

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

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

The subject application was determined on 30 January 2017. The request for review was received by Council on 8 February 2017. The review is required to be determined by 30 July 2017.

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

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

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

The Applicant has made amendments to stormwater provisions on the site in lieu of a 500mm setback (to facilitate an overland flow path) and supported by a revised hydraulic design. Accordingly, Council is satisfied the development as amended is substantially the same as the development described in the original application.

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

The application was advertised for a period of 14 days. The advertising period was between 20th February 2017 to 6th March 2017.

No objections were received during the advertising period.

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

No submissions received.

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

After reviewing the determination of the application, it is recommended that Council confirm the original determination of the application which was a refusal.

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

The original determination was made by a Team Leader and would have been able to be determined at an Officer level without the need to be reported to the Panel. However, the recommendation of the original application (refusal) is confirmed, thus the function of reviewing by the Inner West Planning Panel in accordance with section 82A of the Act is satisfied in accordance with the delegations.

6. Reasons for Refusal

The original development application was refused on 30 January 2017. The reasons for refusal have been consolidated into the following 'key' reason, followed with comments provided by the Applicant and response from Council:

1. Clause 6.4 - Storm water Management & E1.2.2 Managing Stormwater within the Site.

The Applicant contends that the proposed non-compliance with the Stormwater Management 500mm setback control is justifiable for the following reasons:

- *The proposed rear addition contains an internal width of 4.3m. The incorporation of a 500mm setback would reduce this internal dimension to 3.8m, dramatically compromising the amenity of the dwelling. It is noted that the minimum living room width under the apartment design guide (ADG) for 2-3 bedroom dwellings is 4.0m, indicating a generally acceptable minimum standard. Whilst the ADG does not apply to this project, it does indicate a reasonable level of amenity and compliance with the 500mm setback requirement would therefore significantly compromise amenity due to the excessively narrow living space.*
- *A hydraulic design has been submitted with the application providing twin oversized linear grates in the rear courtyard and two pipes connecting to the drainage system. A single pipe satisfies the reasonable performance criteria of capturing a 100 year ARI flow from the contributing catchment.*
- *Development consent was granted for the neighbouring property 48 Gladstone Street (D/2012/215) with a 250mm setback. It is noted that this approval was provided under the previous DCP, but nonetheless it is a recent example from the immediate context where a lesser setback than 500mm was deemed acceptable.*

Council Comment: As the proposal extends to northern side boundary, an overland flowpath is not available from the rear of the property through to Gladstone Street to cater for stormwater flows from the subject and uphill properties. In the event that the site drainage system becomes blocked or its capacity is exceeded, this may lead to inundation of the dwelling or redirection of stormwater runoff onto adjoining properties.

Note that a piped drainage solution as proposed in the stormwater drainage concept plans on does not address the above requirement and thus the Review is recommended for refusal consistent with the original determination

Furthermore, the rear courtyard must be lowered and/or the Kitchen/Living/Dining room raised sufficient to provide a minimum step of 150mm between the finished surface level of the courtyard and the adjacent internal floor levels. This area must also be graded towards the overland flowpath along the northern property boundary.

2. Clause 4.4 – Floor Space Ratio

The Applicant contends that the proposed non-compliance with the FSR development standard is justifiable for the following (summarised) reasons:

- *The site has significant depth, enabling a two storey addition to be located to the rear of the existing dwelling.*
- *The additional FSR can be accommodated without causing non-compliance with solar access controls.*
- *The proposed FSR is consistent with the immediate context and the wider Inner West LGA.*

Council Comment: Although Council generally agrees with the above justification to vary the FSR development standard, the departure is considered not to be well founded or supportable as the extensions (specifically that of the ground floor) will prevent an overland flow path to be created upon the property.

3. Clause C3.3 – Elevations and Materials

The Applicant contends that the proposed non-compliance with the requirements of the Clause is justifiable for the following reasons:

The proposed design incorporates weatherboard cladding, clearly responding to the predominance of timber framed weatherboard clad structures in the immediate context. The proposed vertical cladding with vertical joints set at 130mm spacing provides a fine level of detail and a human scale in the proportion of the proposed rear addition. The proposed rear addition is a highly articulated architectural response, incorporating a tapered roof and planter box set within the deep reveal of the upper level windows. The proposed glazing to the upper level provides a subtle degree of engagement between the public and private realm.

Council Comment: the extensive glazing to the front (eastern) elevation serves a stair only and it is considered that a smaller and vertically proportioned window is sufficient to maintain light and ventilation into this area of the dwelling. The large horizontally proportioned window is inconsistent with the prevailing vertical proportions of windows and the glazing to solid ratio of the surrounding streetscape character. Insufficient justification is provided by the Applicant to justify the extent of proposed glazing to this elevation and this reason for refusal is reaffirmed by Council in this instanced.

7. Assessment

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

7(a) Environmental Planning Instruments

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

- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Leichhardt Local Environmental Plan 2013

The following provides further discussion of the relevant issues:

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. LDCP 2013 provides controls and guidelines for remediation works. SEPP 55 requires that remediation works must be carried out in accordance with a Remediation Action Plan (RAP) as approved by the consent authority and any guidelines enforced under the Contaminated Land Management Act 1997.

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

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

A BASIX Certificate was submitted with the application.

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

An assessment has been made of the matters set out in Clause 20 of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. It is considered that the carrying out of the proposed development is generally consistent with the objectives of the Plan and would not have an adverse effect on environmental heritage, the visual environmental, the natural environment and open space and recreation facilities.

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

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

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition Requires Development Consent
- Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1
- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.4A – Floor Space Incentives for active street frontages
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 4.6 – Exceptions to development standards
- Clause 5.9 – Preservation of trees or vegetation
- Clause 5.9AA – Trees or vegetation not prescribed by development control plan
- Clause 6.1 – Acid Sulphate Soils
- Clause 6.2 – Earthworks
- Clause 6.4 – Stormwater management
- Clause 6.8 – Development in areas subject to aircraft noise

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

Standard (maximum)	Proposal	% of non-compliance	Compliance
Floor Space Ratio Required: Max 0.7:1	0.79:1 or 104.2sqm	58	No
Landscape Area Required: Min 15%	17% or 22sqm	Nil	Yes
Site Coverage Required: Max 60%	60% or 79sqm	Nil	Yes

The following provides further discussion of the relevant issues:

Clause 4.6 Exceptions to Development Standards

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

- Clause 4.4 – Floor Space Ratio

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

1. *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

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

2. *Development consent may be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.*

The applicant seeks development consent for alterations and additions to an existing dwelling that necessitates variation of:

- (a) 38.81m² or 58% to the development standard pursuant to Clause 4.4 – Floor space Ratio of Leichhardt Local Environmental Plan 2013

As discussed below in subclauses (3) and (4), it is considered that the contravention of these development standards is unacceptable in this instance.

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

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

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

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

Written request has been submitted by the applicant raising the following key issues seeking to justify the contravention of the standard:

- *In the context, the proposal will provide a compatible built outcome with less bulk and visual impact than the existing because the alterations are contained within the existing envelope and part of it is opened at the rear, thereby relieving visual bulk.*
- *The proposal will provide a good standard of residential amenity for the future occupants of the proposed dwelling on the subject site.*
- *The proposal provides a less intensive residential use to replace existing commercial uses within it, therefore, reducing on-street parking demand during business hours.*
- *The proposal will maintain an acceptable level of privacy for the adjoining neighbours.*
- *The proposal will cause no loss of views.*
- *The proposal will generate no adverse traffic or parking impacts.*
- *The proposed built form will have no adverse heritage or streetscape impacts.*

Whilst a written request has been provided by the Applicant, it is not supported in this case as the development proposal for the site does not include a satisfactory overland flow path for stormwater of the site or adjoining properties.

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*

- (a) *the consent authority is satisfied that:*
- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Secretary has been obtained.*

Whilst the applicant has addressed the matters required under Clause 4.6 Exceptions to development standards, it is considered not to be well founded in this instance as outlined above. The proposal results in a detrimental impact on the public interest and therefore does not satisfy the objectives of the development standard and General Residential zoning as:

- The proposal may result in any adverse impacts onto surrounding properties as inadequate drainage facilities are proposed for this development proposal.

The level of non-compliance sought does not exceed the assumed concurrence issued by the Secretary in this instance.

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

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

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

The proposed variation to the development standard would compromise the long term strategic outcomes of the planning controls to the extent that a negative public impact will result.

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

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

Clause 6.4 – Stormwater Management and E1.2.2 Managing Stormwater within the Site
The application is not supported for the following reason:

- It does not meet the objectives of Section E1.2.2 *Managing Stormwater within the Site* of LDCP 2013 (Controls C2, C4 and C7) due to the proposed additions blocking an existing overland flowpath through the site as a result of the extending to the northern property boundary and not providing a sufficient step up between the rear paved area and internal floor levels.

Discussion

The existing dwelling is set back from the northern property boundary, which protects the dwelling from inundation by providing an emergency overflow route for surface water in the event that the site drainage system fails. The drainage system can fail due to blockage of pits and pipes or when its design capacity is exceeded.

The proposed additions extend to the northern side boundary which would block the existing overland flowpath and create a trapped low point on the paved area at the rear of the dwelling. This would leave the dwelling susceptible to inundation and potentially have adverse impacts on adjoining properties due to redirection of surface waters. It is noted that the rear yard of the dwelling at 48 Gladstone Street is lower than the rear of the subject dwelling which would increase the risk of overflow being redirected into this property.

The rear additions need to be set back from the northern boundary to maintain the existing overland flowpath between the rear of the dwelling and the Gladstone Street frontage.

The stormwater drainage concept plans on Drawing Nos H01-H3 P1 prepared by Greenarrow Hydraulics dated 23 June 2016 are not consistent with the architectural plans as they show the proposed additions set back from the northern boundary, together with a resulting overland flowpath. The extent of the setback and the width of the overland flowpath are not specified on the plans. The submitted stormwater design would be acceptable in principle if the proposed additions were set back at least 500mm from the northern boundary.

However, on the basis that the submitted architectural plans show the proposed additions extending to the northern boundary, the stormwater drainage concept plans can only be considered on the basis that they rely on a piped drainage system in lieu of an overland flowpath. In this regard, the grated inlet pits would be prone to blockage either as a result of insufficient maintenance or simply due to waterborne debris carried by the stormwater during a significant storm event. The residents may not be aware of the importance of keeping the pits and pipes clean or they may not be at home to clear the drains during a storm event.

The applicant references a development approval on the adjoining property at 48 Gladstone Street in which alterations and additions were approved in 2012, under the previous DCP. In this case, a 250mm setback was approved for the overland flowpath; however, the previous DCP was less specific about the need for an overland flowpath in these circumstances. This approval at least confirms Council's longer term resolve to ensure overland flowpaths are provided for the protection of dwellings.

Since the current DCP 2013 was adopted in 2014, Council has consistently required a minimum width of 500mm for overland flowpaths. This width provides the required flow capacity and is considered the minimum width that reduces the blockage potential to an acceptable level. This width is also sufficient for residents to easily clean and maintain the area. Whilst a greater width would be desirable to further reduce the risk of blockage, this width has been adopted in recognition of the impact on the development potential of narrow properties such as these.

Further to the above, the applicant proposes to provide the rear paved area only 50mm below the internal floor level. Even with the overland flowpath, as discussed above, this is insufficient to ensure that stormwater will be directed to the overland flowpath in the event that the drainage system fails.

The 50mm step is also insufficient to achieve compliance with Section 3.1.2.3 of the Building Code of Australia for Class 1 buildings.

The rear courtyard needs to be lowered to provide a minimum step of 150mm between the courtyard and the adjacent internal floor levels. This area must also be graded towards the overland flowpath along the northern property boundary so that surface water will overflow in this direction.

5(b) Draft Environmental Planning Instruments

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

- Review of FSR's – Leichhardt Local Environmental Plan 2013

Review of Floor Space Ratio – Leichhardt Local Environmental Plan 2013

Standard (maximum)	Proposal	% of non compliance	Compliances
Floor Space Ratio Required: 0.9:1	0.71:1	N/A	Yes

The application satisfies the provisions of the above Draft Leichhardt Local Environment Plan 2013 (Housekeeping amendment).

5(c) Development Control Plans

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

Part	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	N/A
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	N/A
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	Yes
C1.15 Signs and Outdoor Advertising	N/A

C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	N/A
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
Suburb Profile	
C2.2.4.1 Catherine Street Distinctive Neighbourhood	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Acceptable
C3.3 Elevation and Materials	Acceptable subject to condition
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	N/A
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	
N/A	
Part D: Energy	
Section 1 – Energy Management	
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	
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	No
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	No
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	N/A

E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	N/A
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	
E1.3.2 Foreshore Risk Management	
Part F: Food	N/A
Part G: Site Specific Controls	N/A

The following provides discussion of the relevant issues:

Part C1.12 Landscaping

Whilst it is noted that the Lemon-scented Tea Tree was found to be of fair health, it does not meet with the requirements of a *Prescribed Tree* (as per C1.14.3 of the Controls) therefore, removal is supported. Given existing tree coverage, a replacement tree is not required.

With regard to the Willow-leaved Myrtle, it is to be protected in accordance with section 5 of the *Arboricultural Development Assessment Report* dated September 2016 and prepared by Paul Vezgoff of *Moore Trees Arboricultural Services* and with section 4 of AS4970—*Protection of Trees on Development sites*.

Part 3.2 Site Layout and Building Design

Building Location Zone

The ground floor aligns with No. 48 Gladstone Street and encroaches marginally with the equivalent of No.44 Gladstone Street. The first floor has been setback to the ground floor with incorporation of a 600mm planter box at the rear elevation of the first floor level. This reduces the bulk and scale of the extension and thus the technical non-compliance is considered acceptable.

Side Setbacks

Both the ground and first floor additions are set to both side boundaries with nil setback. This is inconsistent with the primary dwelling which is setback approx. 560mm from the northern boundary. The ground floor extension is required to be setback to the northern boundary a minimum 500mm to provide adequate overland flow path adjacent to northern boundary. Consequently the setback is considered inappropriate on planning grounds subject to adequate overland flow.

Part C3.3 Elevation and Materials

The proposed first floor, whilst setback from the front property boundary, includes a large horizontally proportioned window which is inconsistent with the prevailing vertical proportions of windows and the glazing to solid ratio of the surrounding streetscape character (Fig.1). In the event of an approval, a condition of consent could be adopted which reduces the extent of glazing in this front elevation to include two vertically proportioned windows to ensure the addition does not detract from the prevailing character.



Fig.1 Street elevation of proposal with excessive glazing to masonry ratio visible from Gladstone Street.

5(d) The Likely Impacts

The assessment of the Development Application demonstrates that the proposal will have an adverse impact on the locality where an overland flowpath is not available from the rear of the property through to Gladstone Street to cater for stormwater flows from the subject and uphill properties. In the event that the site drainage system becomes blocked or its capacity is exceeded, this may lead to inundation of the dwelling or redirection of stormwater runoff onto adjoining properties.

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

The site is zoned R1 – General Residential. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(f) Any submissions

The application was notified in accordance with Leichhardt Development Control Plan for a period of 14 days to surrounding properties. No submissions were received.

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.

Adequate stormwater measures not provided on site which is not in the public interest as inundation of adjoining properties may occur.

6 Referrals

6(a) Internal

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

- Development Engineer
- Landscape

6(b) External

The application was not required to be referred to any external bodies.

7. Section 94 Contributions

Section 94 contributions are not payable for the proposal.

8. Conclusion

The proposal does not comply with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013. The development will result in any significant impacts on the amenity of adjoining premises. The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

9. Recommendation

- A. The variation to Clause 4.4 Floor Space Ratio of Leichhardt Local Environmental Plan 2013 not be supported under the provisions of Clause 4.6 exceptions to development standards.
- B. That Council, as the consent authority pursuant to s82A(4A) of the Environmental Planning and Assessment Act 1979, confirm the original determination of D/2016/511 and refuse the Review Application No. DAREV/2017/1 for the review of determination for alterations and additions to existing dwelling including two storey addition to rear and deck plus removal of tree at 46 Gladstone Street, Lilyfield for the following reasons:

10. REASONS FOR REFUSAL

1. The proposal does not satisfy the following Clauses of the Leichhardt Local Environmental Plan 2013, pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979:
 - Clause 4.4 – Floor Space Ratio;
 - Clause 6.4 – Stormwater Management.
2. The proposal does not satisfy the following parts of the Leichhardt Development Control Plan 2013, pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979:
 - C3.3 – Elevations and Materials
 - E1.2.2 Managing Stormwater within the Site.
3. Insufficient information has been provided to allow an assessment of the environmental impacts of the development proposal in terms of stormwater drainage pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979.
4. The proposal is likely to result in adverse impacts on the streetscape character contrary to C3.3 Elevations and materials of Development Control Plan 2013 given the large extent and proportion of glazing within the front elevation of the first floor which is inconsistent and likely to detract from the prevailing character of the area.

5. Given the adverse impacts, the subject site is not considered suitable to accommodate the proposed development in its current form, pursuant to Section 79C (1)(c) of the Environmental Planning and Assessment Act 1979.
6. The proposal is not considered to be in the public interest, pursuant to Section 79C (1)(e) of the Environmental Planning and Assessment Act 1979.

Attachment A – Recommended conditions of consent 9 (DRAFT)

CONDITIONS OF CONSENT

1. Development must be carried out in accordance with Development Application No. DAREV/2017/13 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
1511-DA01 – Plans	Andrew Burns Architect	07.02.17
1511-DA02 – Sections/Elevations	Andrew Burns Architect	07.02.17
H-01/P1 - Cover Sheet & Site Plan	Green Arrow	23.06.16
H-02/P1 – Ground Floor & First Floor Plan	Green Arrow	23.06.16
H-03/P1 – Roof Plan & Details	Green Arrow	23.06.16
Document Title	Prepared By	Dated
Arboricultural Development Assessment Report	Moore Trees Arboricultural Services	30.09.16
BASIX Certificate No. A250226_05	Andrew Burns Architect	08.02.17

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

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

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

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

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

2. Consent is granted for the demolition on the property, subject to strict compliance with the following conditions:
 - a) The adjoining residents must be notified seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, site contact details/person, elements to be demolished and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.
 - b) Written notice is to be given to the Principal Certifying Authority for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the

demolisher. The following building inspections must be undertaken by the Principal Certifying Authority:

- i) A *pre commencement* inspection when all the site works are installed on the site and prior to demolition commencing.
- ii) A *final* inspection when the demolition works have been completed.

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

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

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

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

Tree/location	Approved works
Leptospermum petersonii (Lemon-scented Tea) located at the rear of the property.	Removal

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

4. The trees identified below are to be retained:

Tree/location
<i>Agonis flexuosa</i> (Willow-leaved Myrtle) located at the rear of the property.

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

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

5. Amended plans are to be submitted incorporating the following amendments:
- a) Glazing to the first floor eastern elevation is to be reduced to a centrally located single vertically proportioned window of similar dimensions (i.e length and width) and alignment to that of the ground floor eastern elevation.

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

6. The trees identified below are to be retained:

Tree/location
<i>Agonis flexuosa</i> (Willow-leaved Myrtle) located at the rear of the property.

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

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

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

8. As the site where the property is identified as located within ANEF 20-25 or greater, the development approved under this consent must meet the relevant provisions of Australian Standard AS 2021:2000 Acoustics – Aircraft noise intrusion – Building siting and construction.

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

9. Any air conditioning unit on the site must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the Protection of the Environment (Operations) Act 1997.

The system/s shall be operated as follows:

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

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

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

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

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

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

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

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

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

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

14. Highly reflective wall or roofing materials and glazing must not be used. Materials must be designed so as to not result in glare (maximum normal specular reflectivity of visible light 20%) or that causes any discomfort to pedestrians or neighbouring properties. Details of finished external surface materials, including colours and texture must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority.
15. If any excavation extends below the level of the base of the footings of a building on an adjoining property, the person causing the excavation:
 - a) Must preserve and protect the adjoining building from damage
 - b) Must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - c) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

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

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

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

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

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

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

18. A Soil and Water Management Plan must be provided prior to the issue of a Construction Certificate. The Soil and Water Management plan must designed to be compatible with the document *Planning for Erosion and Sediment Control on Single Residential Allotments or Managing Urban Stormwater–Soils & Construction Volume 1 (2004)* available at www.environment.nsw.gov.au and the Construction Management and Traffic Management Plan referred to in condition/s of this Development Consent and must address, but is not limited to the following issues:

- a) Minimise the area of soils exposed at any one time.
- b) Conservation of top soil.
- c) Identify and protect proposed stockpile locations.
- d) Preserve existing vegetation. Identify revegetation technique and materials.
- e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner.

- f) Control surface water flows through the site in a manner that:
 - i) Diverts clean run-off around disturbed areas;
 - ii) Minimises slope gradient and flow distance within disturbed areas;
 - iii) Ensures surface run-off occurs at non erodable velocities;
 - iv) Ensures disturbed areas are promptly rehabilitated.
- g) Sediment and erosion control measures in place before work commences.
- h) Materials are not tracked onto the road by vehicles entering or leaving the site.
- i) Details of drainage to protect and drain the site during works.

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

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

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

20. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan (where applicable):
- a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) The locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council.
 - iii) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
 - iv) A dedicated unloading and loading point within the site for construction vehicles, plant and deliveries.
 - v) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.

- b) Noise and vibration
During excavation, demolition and construction phases, noise & vibration generated from the site must be controlled. Refer to other conditions of this consent. If during excavation, rock is encountered, measures must be taken to minimise vibration, dust generation and impacts on surrounding properties. Refer to Environmental Noise Management Assessing Vibration: a technical Guideline (Department of Environment and Conservation, 2006) www.epa.nsw.gov.au for guidance and further information.
- c) Occupational Health and Safety
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.
- d) Toilet Facilities
During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site. Details must be shown on the plan.
- e) Traffic control plan(s) for the site
All traffic control plans must be in accordance with the Roads and Maritime Services publication "Traffic Control Worksite Manual"

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

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

21. A Waste Management Plan (WMP) is to be provided in accordance with **Part D – Waste – Development Control Plan 2013**. The Plan must address all issues identified in the DCP including but not limited to:
- a) Estimated volume (m³) or weight (t) of materials that are reused, recycled or removed from site.
 - b) On site material storage areas during construction.
 - c) Material and methods used during construction to minimise waste.
 - d) Nomination of end location of all waste and recycling generated from a facility authorised to accept the material type for processing or disposal and retention of waste dockets to be made available to Council Officer on request
 - e) A clear statement within the Waste Management Plan of responsibility for the transferral of waste and recycling bins within the property and

between floors where applicable to the collection point in accordance with DCP 2013.

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

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

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

Security Deposit (FOOT)	\$2075.50
Inspection fee (FOOTI)	\$219.00

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

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

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

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

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

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

- 23. A dilapidation report including a photographic survey of the following adjoining properties must be provided to Principal Certifying Authority prior to any demolition or works commencing on the site or the issue of a Construction

Certificate (whichever comes first). The dilapidation report must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property	Structures / Area
No 48 Gladstone Street	Southern elevation of dwelling adjacent to proposed works, including walls, ceilings, roof, structural members and other similar items.
No. 44 Gladstone Street	Northern elevation of dwelling adjacent to proposed works, including walls, ceilings, roof, structural members and other similar items.

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

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

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

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

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

24. Should works require any of the following on public property (footpaths, roads, reserves), an application shall be submitted and approved by Council prior to the commencement of the works associated with such activity or the Construction Certificate (whichever occurs first)
 - a) Work/Construction zone (designated parking for construction vehicles). – A Work Zone application

- b) A concrete pump across the roadway/footpath. – A Standing Plant permit
- c) Mobile crane or any standing plant – A Standing Plant Permit
- d) Skip bins other than those authorised by Leichhardt Council – Skip Bin Application
- e) Scaffolding/Hoardings (fencing on public land) – Scaffolding and Hoardings on Footpath Application
- f) Road works including vehicle crossing/kerb & guttering, footpath, stormwater provisions etc – Road works Application
- g) Awning or street verandah over footpath. – Road works Application
- h) Installation or replacement of private stormwater drain, utility service or water supply – Road Opening Permit

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

25. Upon installation of the required tree protection measures, an inspection of the site by the Project Arborist is required to verify that tree protection measures comply with all relevant conditions.

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

26. Prior to works commencing or release of a Construction Certificate (whichever occurs first), tree protection signage is to be attached to each tree protection zone, displayed in a prominent position and the sign repeated at 10 metre intervals or closer where the fence changes direction. Each sign shall contain in a clearly legible form (Lettering should comply with AS 1319-Safety signs for the occupational environment), the following information:

- a) Tree protection zone;
- b) This fence has been installed to prevent damage to the trees and their growing environment both above and below ground and access is restricted;
- c) Any encroachment not previously approved within the tree protection zone shall be the subject of an arborist's report;
- d) The arborist's report shall provide proof that no other alternative is available;
- e) The arborist's report shall be submitted to the Principal Certifying Authority for further consultation with Council; and
- f) The name, address and telephone number of the builder and project arborist.

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

submitted by the Project Arborist to the Principal Certifying Authority prior to the issue of any Construction Certificate.

27. To preserve the following tree/s no work shall commence nor shall a Construction Certificate be issued (whichever occurs first) until the trunk/s/branches are protected (in accordance with AS4970- *Protection of trees on development sites*) by the placement of 2 metres lengths of 50 x 100mm timbers spaced at 150mm centres and secured by wire/hoop strap over suitable protective padding material (i.e. underlay or carpet). The trunk/branch protection shall be maintained intact until the completion of all work on site.

Tree/location
<i>Agonis flexuosa</i> (Willow-leaved Myrtle) located at the rear of the property.

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

PRIOR TO THE COMMENCEMENT OF WORKS

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

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

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

- a) location of the building with respect to the boundaries of the site;

29. The site must be secured with temporary fencing prior to any works commencing.

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

Separate approval is required under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property. Approvals for hoardings, scaffolding

on public land must be obtained and clearly displayed on site for the duration of the works.

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

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

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

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

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

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

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

31. Any person or contractor undertaking works on public property must take out Public Risk Insurance with a minimum cover of ten (10) million dollars in relation to the occupation of, and approved works within public property. The Policy is to note, and provide protection for Leichhardt Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.
32. Prior to the commencement of works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
33. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form (available on Council's web page) and details of the appointed Principal Certifying Authority shall be submitted to Council.
34. Prior to the commencement of works, a sign must be erected in a prominent position on the site (for members of the public to view) on which the proposal is being carried out. The sign must state:
- a) Unauthorised entry to the work site is prohibited.
 - b) The name of the principal contractor (or person in charge of the site) and a telephone number at which that person may be contacted at any time for business purposes and outside working hours.

- c) The name, address and telephone number of the Principal Certifying Authority for the work.

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

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

DURING WORKS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40. In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the demolition, construction or operation/use of the development.
41. Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials

shall be immediately notified to the Council and the Principal Certifying Authority.

42. The development must be inspected at the following stages by the Principal Certifying Authority during construction:
- a) after excavation for, and prior to the placement of, any footings, and
 - b) prior to pouring any in-situ reinforced concrete building element, and
 - c) prior to covering of the framework for any floor, wall, roof or other building element, and
 - d) prior to covering waterproofing in any wet areas, and
 - e) prior to covering any stormwater drainage connections, and
 - f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
43. A copy of the approved plans and this consent must be kept on site for the duration of site works and in the case of any commercial or industrial premise for the duration of the use/trading. Copies shall be made available to Council Officer's upon request.
44. Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines discharged by gravity to the kerb and gutter of a public road.

Any existing component of the stormwater system that is to be retained must be checked and certified by a Licensed Plumber or qualified practicing Civil Engineer to be in good condition and operating satisfactorily.

If any component of the existing system is not in good condition and /or not operating satisfactorily, it must be upgraded.

45. Sedimentation controls, tree protection measures and safety fencing (where relevant) shall be maintained during works to ensure they provide adequate protection during the course of demolition, excavation and construction works. Materials must be stored in a location and manner to avoid material being washed to drains or adjoining properties.

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

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

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

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

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

47. If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly using a sharp and *fit for purpose tool*. The pruning shall be undertaken by a minimum Level 3 (AQF 3) qualified Arborist.

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

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

Schedule	
Tree/location	Time of Inspection
<i>Agonis flexuosa</i> (Willow-leaved Myrtle) located at the rear of the property.	<ul style="list-style-type: none"> • Directly following installation of protective measures, • During excavation within the <i>Tree Protection Zone</i>, • At project completion to verify that protection measures have been undertaken.

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

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

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

49. No tree roots of 30mm or greater in diameter located within the specified radius of the trunk(s) of the following, tree(s) shall be severed or injured in the process of any works during the construction period.

Schedule	
Tree/location	Radius in metres
<i>Agonis flexuosa</i> (Willow-leaved Myrtle) located at the rear of the property.	3.8

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

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

Schedule	
Tree/location	Radius in metres
<i>Agonis flexuosa</i> (Willow-leaved Myrtle) located at the rear of the property.	3.8

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

51. No activities, storage or disposal of materials taking place beneath the canopy of any tree protected under Council's Tree Management Controls at any time.
52. 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.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

53. A second Dilapidation Report including photos of any damage evident at the time of inspection must be submitted after the completion of works. A copy of this Dilapidation Report must be given to the property owners referred to in this Development Consent. The report must:
- Compare the post construction report with the pre-construction report required by these conditions,
 - Clearly identify any recent damage and whether or not it is likely to be associated with the development works including suggested remediation methods.

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

54. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.

A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a Licensed Plumber or qualified practicing

Civil Engineer that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards, must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

55. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.
56. An Occupation Certificate must be obtained prior to any use or occupation of the development or part thereof. The Principal Certifying Authority must ensure that all works are completed in accordance with this consent including all conditions.
57. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all works have been completed in accordance with the approved Waste Management Plan referred to in this development consent.

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

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

ONGOING CONDITIONS OF CONSENT

59. The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within seventy-two (72) hours of its application.
60. Any lighting of the premises shall be installed and maintained in accordance with Australian Standard AS 4282-1997: *Control of the Obtrusive Effects of Outdoor Lighting* so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if in the opinion of an Authorised Council Officer it is considered there to be have adverse effects on the amenity of the area.
55. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. Dwelling without the prior consent of the Council unless the change to another use is permitted as exempt or complying development under *Leichhardt Local Environment Plan 2013* or *State Environmental Planning policy (Exempt and Complying Codes) 2008*.

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

PRESCRIBED CONDITIONS

A. BASIX Commitments

Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

In this condition:

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

B. Building Code of Australia

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

C. Home Building Act

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

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

D. Site Sign

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

E. Condition relating to shoring and adequacy of adjoining property

- (1) For the purposes of [section 80A](#) (11) of [the Act](#), it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) protect and support the adjoining premises from possible damage from the excavation, and
 - (b) where necessary, underpin the adjoining premises to prevent any such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

NOTES

1. This Determination Notice operates or becomes effective from the endorsed date of determination
2. If you are dissatisfied with this determination, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the NSW Land and Environment Court within six (6) months of the original determination date.
3. 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.
4. Works or activities other than those approved by this Development Consent will require the submission of a new development application or an application to modify the consent under Section 96 of the *Environmental Planning and Assessment Act 1979*.
5. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
6. 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.

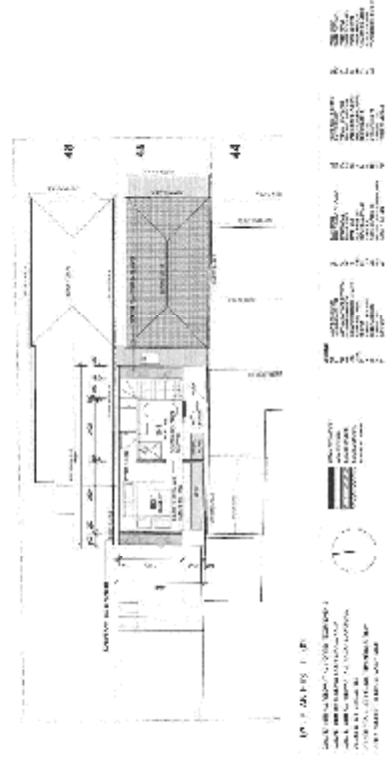
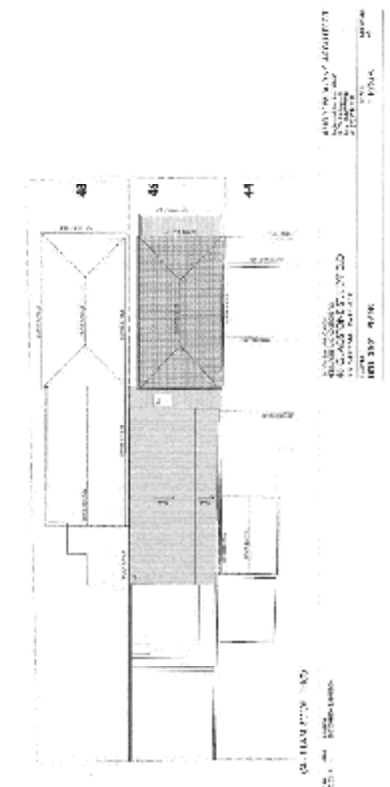
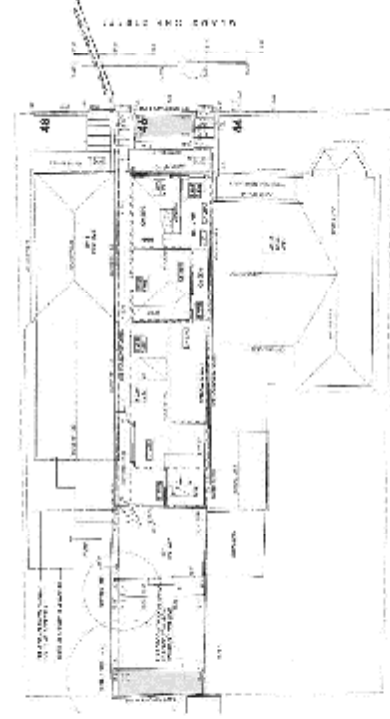
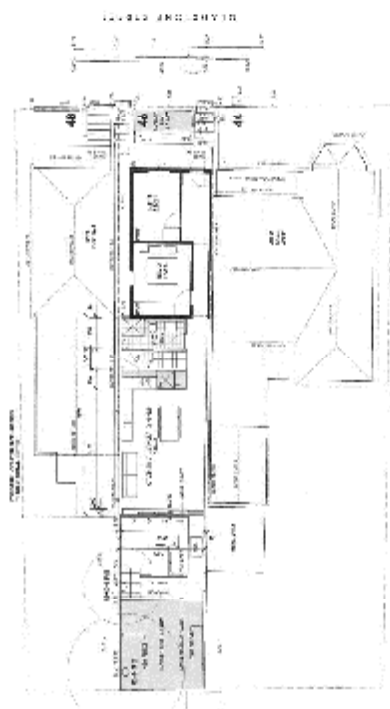
- b) Application for a Place of Public Entertainment. Further building work may be required for this use in order to comply with the Building Code of Australia.
 - c) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
 - d) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
 - e) Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
 - f) Application for Strata Title Subdivision if strata title subdivision of the development is proposed.
 - g) Development Application for demolition if demolition is not approved by this consent.
 - h) Development Application for subdivision if consent for subdivision is not granted by this consent.
 - i) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
7. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained.
8. You may need a permit before filling a new or renovated swimming pool which holds more than 10,000 litres of water. You are advised to contact Sydney Water on 132092 to obtain this permit.

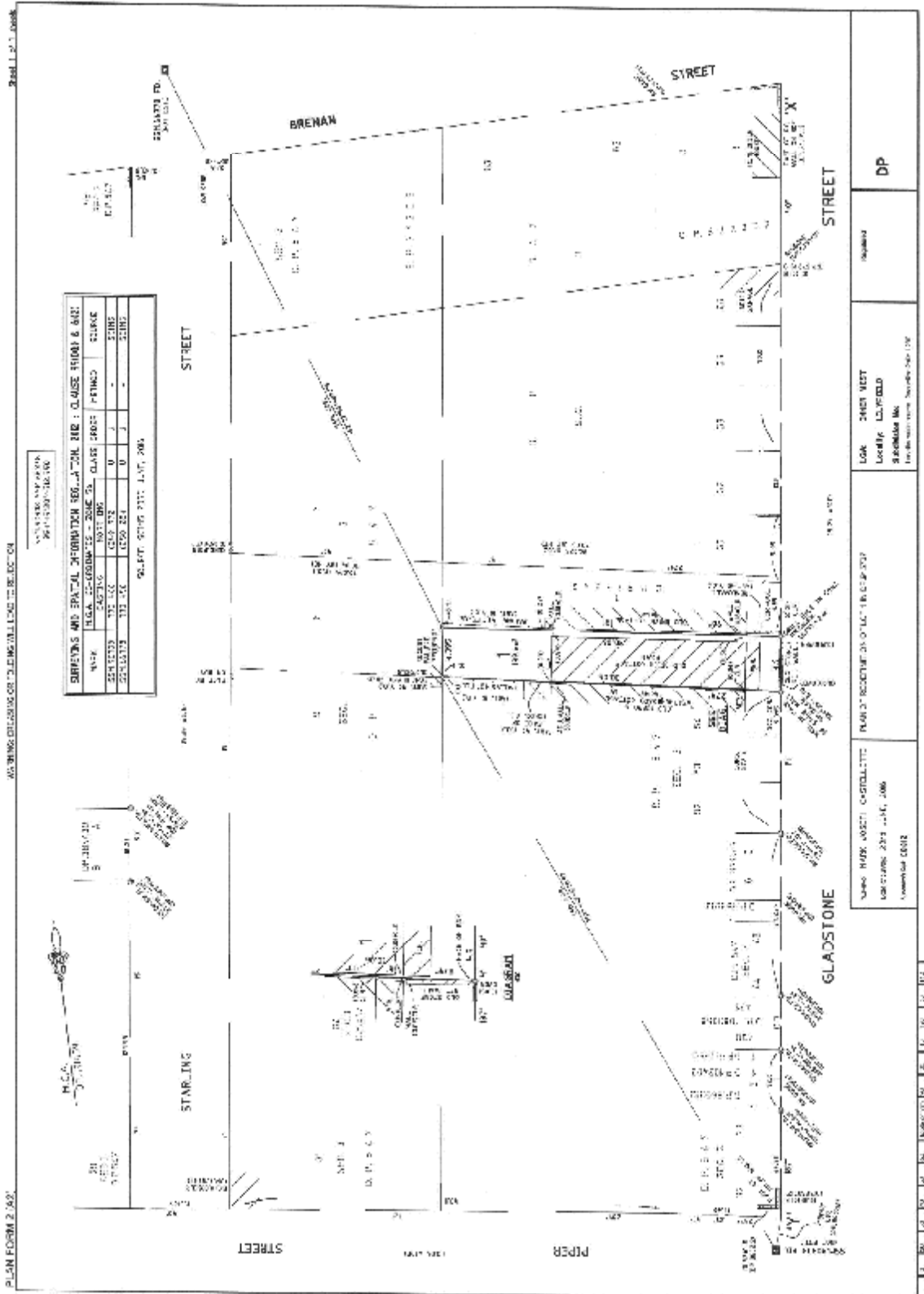
Attachment B – Plans of proposed development

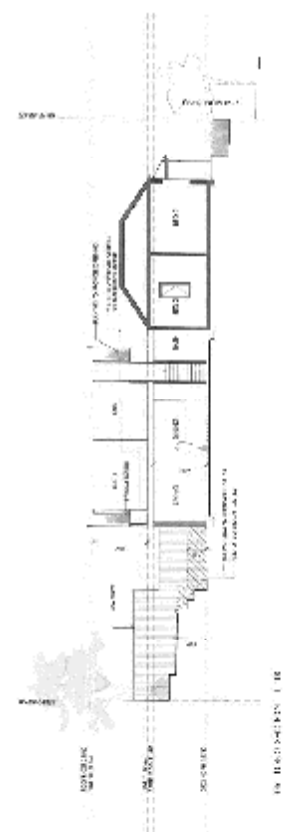


EXISTING CONDITIONS
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 The site is currently vacant and is bounded by...
 The site is currently vacant and is bounded by...

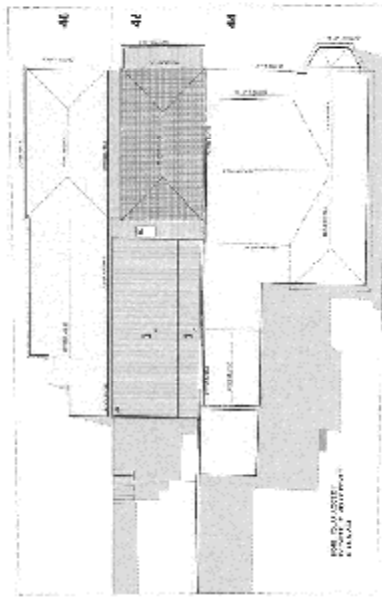
PROPOSED DEVELOPMENT
 The proposed development consists of...
 The proposed development consists of...
 The proposed development consists of...



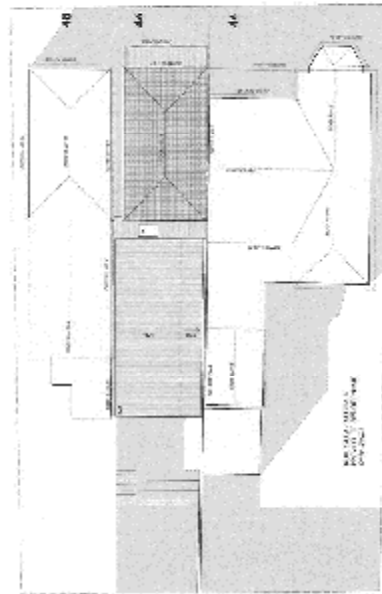




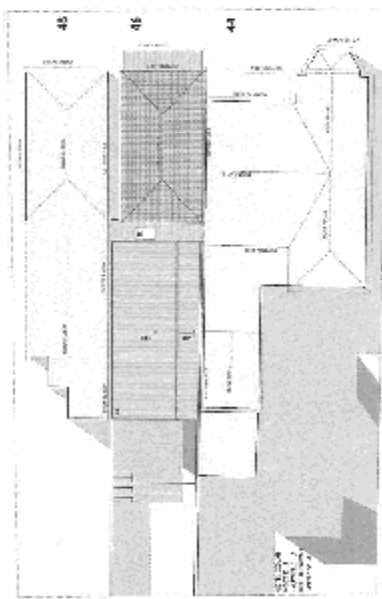
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<p>DESIGNER: [Name]</p>	<p>CLIENT: [Name]</p>
<p>SCALE: 1:100</p>	<p>DATE: [Date]</p>



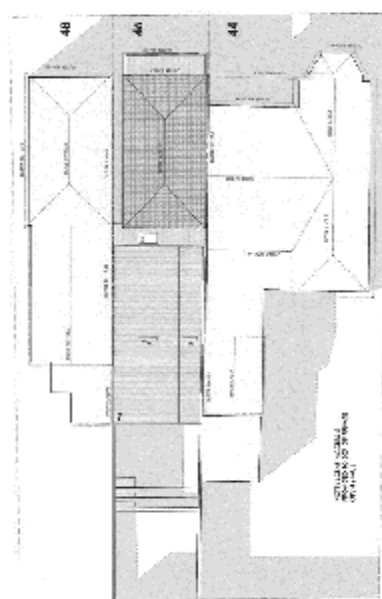
32-34A/35-37 PITTS ST SYDNEY NSW



32-34A/35-37 PITTS ST SYDNEY NSW



32-34A/35-37 PITTS ST SYDNEY NSW



32-34A/35-37 PITTS ST SYDNEY NSW

THE LOCAL GOVERNMENT OF SYDNEY
 OFFICE OF THE CITY ENGINEER
 100 GERRARD STREET NORTH SYDNEY
 NSW 1585
 TEL: (02) 9555 2200
 FAX: (02) 9555 2201
 WWW.SYDNEYNSW.GOV.AU

PROPOSED EXTENSION
 32-34A/35-37 PITTS ST
 SYDNEY NSW
 1585
 10/10/14

PROPOSED EXTENSION
 32-34A/35-37 PITTS ST
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