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DEVI	ELOPMENT ASSESSMENT REPORT	
Application No.	D/2016/221	
Address	66 Lilyfield Road, ROZELLE NSW 2039	
Proposal	Alterations and Additions to existing dwelling including	
	additions to first floor, ground floor and lower ground floor	
	plus modifications to rear garden and side passage including	
	removal of trees.	
Date of Lodgement	20 May 2016	
Applicant	M Haerewa	
Owner	Ms M M Haerewa	
Number of Submissions	Nil	
Value of works	\$500,000	
Reason for determination	Clause 4.6 variation exceeds officer delegation	
at Planning Panel		
Main Issues	Clause 4.6 variation to Floor Space Ratio	
Recommendation	Approval	
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Locality Map	)			
Subject Site		Objectors		<b>↑</b>
Notified Area		Supporters		

## 1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to an existing dwelling including additions to the first floor, ground floor and lower ground floor plus modifications to rear garden and side passage including removal of trees at 66 Lilyfield Road, ROZELLE NSW 2039.

The application was notified to surrounding properties and no submissions were received.

The main issues that arose during the assessment of the application include:

- Limiting the extent of excavation below the primary terrace form and the area (m<sup>2</sup>) of the associated lower ground floor.
- Lowering the finished level of the rear garden area to provide an overland flow path to the rear boundary.
- Lowering the proposed roof over the proposed 1<sup>st</sup> floor bedroom addition.
- Roofing material has been amended to be corrugated steel sheeting.
- External colours have been provided.
- Additional information concerning trees and vegetation has been submitted including a letter from the owner of 68-72 Lilyfield Road giving landowner's consent to the removal of a small Crepe Myrtle tree on the western boundary

The existing dwelling is small with a gross floor area of 84m<sup>2</sup> and an FSR of 0.66:1. The proposed development will add a further 42.5m<sup>2</sup> of floor area which will result in a FSR of 1:1. This will exceed the 0.5:1 development standard by 100%. This non-compliance is acceptable given the small lot size, the modest size of the additions and that the additions will be at the rear and will not be readily visible from the public domain. Therefore, the application is recommended for approval.

#### 2. Proposal

The proposed development is for alterations and additions to an existing dwelling, which is at the western end of a row of two storey attached terrace dwellings.

The proposed work is all located at the rear of the existing dwelling and involves: -

- A 1<sup>st</sup> floor addition (additional bedroom),
- Internal modifications on the ground floor to reconstruct and to slightly enlarge the kitchen and reconstruct the external deck,
- A new lower ground floor living area with laundry and bathroom, which will involve excavation and modifications to rear yard, and demolition of an existing outside toilet.
- The removal of an existing Crepe Myrtle tree which is partly over the boundary with the adjoining property to the west (68-72 Lilyfield Road) and 2 small Dragon trees

## 3. Site Description

The subject site is located on the southern side of Lilyfield Road, between Victoria Road and Gordon Street. The rear boundary adjoins the former Rozelle freight rail

corridor that is now part of the Sydney Metro future extension of the Inner West Light Rail (Sydney Regional Environmental Plan No. 26 – City West). All the rail corridor land is identified as flood affected but the subject site is not.

The site is generally rectangular with a total area of 128.7m<sup>2</sup> and is legally described as Lot 1 DP 220405.

The site has a frontage to Lilyfield Road of 5.205 metres.

The site is zoned R1 *General Residential* pursuant to Local Environmental Plan 2013.

The site supports a two storey relatively intact, rendered masonry Victorian era terrace with a metal roof and a timber extension at the rear. The adjoining properties to the east are similar 2 storey brick terraces. The adjoining property to the west is a light industrial complex (68-72 Lilyfield Road).

The subject site is not listed as a heritage item and is not within the vicinity of a heritage item; but it is located within the *Hornsey Street Heritage Conservation Area* (C19).

It is proposed to remove 3 of the 5 existing trees in the rear yard. Comments from Council's Landscape Officer are included later in this report; in summary, no objections are raised against the removal of these trees.

## 4. Background

#### 4(a) Site history

## **Subject Site**

There is no development history pertaining to the subject site relevant to the evaluation of this application.

**Surrounding properties** 

Application	Proposal	Decision & Date
D/2006/16	<b>68-76 Lilyfield Road</b> – Alterations and	28.09.2006
(M/2008/122)	additions to the existing building including a	(15.07.2008)
	new level of car parking.	
	The approved modification was to change	
	the use of the approved caretaker's unit to	
	office space.	

## 4(b) Application history

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

Date	Discussion / Letter/ Additional Information
20.05.2016	Application lodged with Council.
14.06.2016	The application was considered at a meeting of the Referral
	Panel.
20.06.2016	Notification of the application concluded. No submissions received.
20.06.2016	Mr. Mark Ozinga ( <i>Transport NSW</i> ) verbally advised that at the

	location of the subject site the Sydney Metro will be underground and unless any proposed excavation was in the order of 2 metres deep (or more), he did not wish to have the application referred to him for review, comment or conditions.
23.06.2016	<ol> <li>Letter sent to the applicant requesting:-         <ol> <li>The submitted plans are unclear as to the extent of demolition proposed to the sub floor walls of the primary terrace form. The footprint of the basement excavation proposed is to be set behind the rear wall of the primary form. Details are to be provided as to any new or enlarged openings in the rear wall of the primary terrace form at ground and first floor level.</li> <li>The proposed lower floor addition will only be supported if the surface flow path is available for surface flow to be directed away from the dwelling. It appears that it is proposed to lower levels in the rear yard; and accordingly, amended plans and sections must be provided showing all works including any proposed retaining walls and fences and the relationship to the adjoining properties.</li> <li>Any lowering of the rear yard levels is to address and clearly document any heritage impacts, (i.e. impact on any rock face or stone retaining walls). The excavation of any significant rock face or stone retaining wall is unlikely to be supported on heritage grounds.</li> <li>The roof of rear addition to be set below and retain eaves and gutter of rear roof plane to main terrace form.</li> <li>All new external colours to be provided. The profile of new roof sheeting is to be similar to profile of traditional corrugated steel roof sheet.</li> </ol> </li> </ol>
19.09.2016	The applicant submitted additional information.
13.10.2016	The additional information was considered at a further Referral Panel meeting.
08.11.2016	The applicant submitted a revised BASIX certificate.

#### 5. 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.

#### 5(a) Environmental Planning Instruments

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

- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The following provides further discussion of the relevant issues:

## 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.

There is no information indicating that this site has 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.

# State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A revised BASIX Certificate (No. A246248-02 dated 07.11.2016) was submitted with the application and as such the requirements of the SEPP have been met.

## State Environmental Planning Policy (Infrastructure) 2007

## Rail Corridors (Clause 85-87)

SEPP Infrastructure provides guidelines for development immediately adjacent to rail corridors including excavation in, above or adjacent to rail corridors. Clause 87 of the Infrastructure SEPP relates to the impact of rail noise or vibration on non-rail development, and for development for a building for residential use, requires appropriate measures are incorporated into such developments to ensure that certain noise levels are not exceeded.

Council's GIS identifies this property as affected by the Sydney Metro. On 20 June 2016, the author of this report spoke on the telephone with:

Mark Ozinga (T: (02) 8202 2198)
Principal Manager Land Use Planning & Development
Freight, Strategy & Planning Division
Transport for NSW

Mr. Ozinga stated that the Sydney Metro at the location of the subject site will be underground and unless any proposed excavation was in the order of 2 metres deep (or more), he did not wish to have the application referred to him for review, comment or conditions.

## • 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.

# 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 4.5 Calculation of floor space ratio and site area
- Clause 4.6 Exceptions to development standards
- Clause 5.9 Preservation of trees or vegetation
- Clause 5.10 Heritage Conservation
- Clause 6.1 Acid Sulphate Soils
- Clause 6.2 Earthworks
- Clause 6.3 Flood Planning
- Clause 6.4 Stormwater management

The site area is 128.7m<sup>2</sup>. The following table provides an assessment of the application against the relevant development standards of LLEP 2013:

Standard (maximum)	Proposal	% of non- compliance	Complies
Floor Space Ratio Required: [0.5:1]	1:1 <b>*</b> 126.5m <sup>2</sup>	100%	No
Landscape Area Required: [15%]	15.5% 20m <sup>2</sup>	N/A	Yes
Site Coverage Required [60%]	50.2% 64.6m <sup>2</sup>	N/A	Yes

<sup>\* -</sup> The applicant's architect calculates the GFA of the completed development as 126.5m<sup>2</sup>. The author's calculation from the submitted plans is 131.1m<sup>2</sup>. The difference is 4.6m<sup>2</sup>. Notwithstanding it is reasonable to consider the proposed FSR of the development as being 1:1.

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 standard/s:

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.
- 3. Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant has submitted a Cl 4.6 variation request presenting the following arguments in support of the FSR variation: -

- The proposal achieves high levels of residential amenity for the proposed development and maintains compliant levels of solar access to adjoining dwellings.
- The alterations and additions to the existing dwelling are at the rear of the dwelling, behind the original roof ridge line.
- The existing dwelling exceeds the maximum Floor Space Ratio (Existing GFA: 84.0 m2 – FSR: 0.66:1)
- The FSR of the proposed addition is comparable with other dwellings in the immediate locality, in the same terrace group (which are estimated to range from 0.66:1 to 1.2:1)
- The existing site area is under the current LEP minimum requirement, but is a subdivision area that is common to the locality.
- The development complies with the Site Coverage standard
- The development exceeds the required Landscaped Area standard
- The properties on the northern side of Lilyfield Road include substantial developments (apartments and extremely large houses) and, immediately to the west there is commercial and industrial development
- At the rear of the property, and along the south side of Lilyfield Road, is a state rail corridor and goods handling yards, where there can be no impact from the development of the existing terrace house at 66 Lilyfield Road.
- To the west of the property, and along the side boundary, is an industrial zone with extensive car parking directly adjacent to No. 66, where there can be no impact from the development of the existing terrace house at 66 Lilyfield Road
- The proposal is in keeping with surrounding dwellings, with comparable land area, in the locality
- The small FSR increase has no impact on the amenity of surrounding properties, or the locality

- The development maintains compliance with the objectives of the housing standard
- The non-compliance is not contrary to any matter of state or regional planning significance.
- Compliance with the standard is considered unreasonable and unnecessary in the circumstances of this application
- (4) Development consent must not be granted for development that contravenes a development standard unless:
  - (a) the consent authority is satisfied that:
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - (b) the concurrence of the Secretary has been obtained.

The variations to the development standard has been considered under Clause 4.6 Exceptions to Development Standards, and it is well founded in this instance. The proposal will not result in a detrimental impact on the public interest and can satisfy the objectives of the development standard and the zoning as demonstrated below:

- The alterations and additions to the rear of the building are in keeping with the bulk and scale of surrounding residential development.
- The proposal is consistent with the prevailing character of the area.
- The proposed development does not result in any unreasonable loss of amenity for neighbouring properties in terms of overshadowing, loss of privacy or loss of views.
- The proposed site improvements will increase the level of amenity for future occupants, as the rear courtyard private open space is connected directly to the principal indoor living areas.
- The siting of the building is within the building location zone (BLZ) where it can be reasonably expected that development can occur.

The Secretary has provided concurrence.

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

The granting of concurrence to the proposed variation of the development standard 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 will not compromise the long term strategic outcomes of the planning controls to the extent that a negative public benefit will result. In this regard, there is no material public benefit to the enforcing of the development standards.

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

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

# 5(b) Draft Environmental Planning Instruments

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

-Draft Leichhardt Local Environment Plan 2013 (Housekeeping amendment) 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	Yes
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.12 Landscaping	Yes
C1.14 Tree Management	Yes
	Yes
Part C: Place – Section 2 Urban Character	
Suburb Profile	
C2.2.5 – Rozelle Distinctive Neighbourhood	Yes
(C2.2.5.2 – Easton Park Distinctive Neighbourhood)	
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	Yes
C3.7 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
	Yes

Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required with	Yes
Development Applications	
E1.1.1 Water Management Statement	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.2.2 Managing Stormwater within the Site	Yes

The following provides discussion of the relevant issues:

## C1.3 Alterations and additions

The addition is located behind the ridge over the rear part of the existing dwelling and this is consistent with Council's usual requirements.

# C2.2.5.2 - Easton Park Distinctive Neighbourhood

"The original development pattern was based on industrial uses that were originally along the foreshores and later also occupied filled estuaries. Two major developments occurred within the area at the end of the 1800s: the introduction of electric trams on Darling Street and Victoria Road, and the reclamation of estuary land for the Rozelle rail marshalling yards."

It is considered that the proposed development will satisfy the relevant controls defining the Desired Future Character of the area, in particular:

- C1 Preserve the existing varied styles of housing with special regard to the modest scale and simple, unadorned nature of the architecture.
- C4 Preserve the consistency and simplicity in built form, style and materials of the Neighbourhood.

# C3.2 Site layout and building Design

The rear setback of the proposed first floor addition will be a minimum of 13.0m (irregular rear boundary line).

There are examples of first floor additions to neighbouring dwellings along this side of Lilyfield Road and the rear Building Location Zone of the proposed development will be comparable with No. 62 Lilyfield Road – refer to Photo below taken from the small balcony at the rear of the existing attic bedroom on the subject site looking east towards the upper level rear balcony and rear wall of No.62:-



It is considered that the proposed development will be in character with the established pattern of development in this locality; and will provide adequate separation between buildings for visual and acoustic privacy, solar access and air circulation.

### C3.8 Private Open Space

The rear yard provides the private open space for this dwelling. This is an area of approximately  $40\text{m}^2$ , with a minimum dimension of approximately 5.5m. This satisfies Control C1 which requires a minimum of  $16\text{m}^2$  with a minimum dimension of 3m. This area will be accessible from the living areas of the dwelling and will be suitable for passive recreation activities by residents.

The proposed development will not alter the existing pattern of shadowing over the rear yard of the subject site.

## C3.9 Solar Access

The proposed alterations and additions will not significantly alter the existing pattern of shadowing over the subject site or neighbouring properties.

The site is aligned generally north (front)/south (rear) and the proposed alterations and additions will not unreasonably add to the existing overshadowing of the living areas or rear open space areas of the adjoining dwelling at 64 Lilyfield Road.

#### C3.10 Views

The proposed development will not unduly affect the views or outlook enjoyed from neighbouring residential properties. These views are directly to the south and are over Blackwattle Bay and the surrounding district – refer to the Photo below:-



## C3.11 Visual Privacy

The proposed first floor addition is for the purposes of an additional bedroom, which is a low activity room. The additional rear facing windows off this room are not considered to unduly impact on the visual privacy of the private open space of the adjoining neighbour at 64 Lilyfield Road given:-

- 1. The separation distance between the new windows and the neighbour's rear yard
- 2. Plus the extent of roof area beyond the proposed windows on the subject site and the neighbour's property.

Refer to Photo below which shows the location of the new bedroom cross-hatched and the neighbour's rear yard at the top of the frame.



Page 345 of 584

# 5(d) The Likely Impacts

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

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

The site is zoned R1 – *General Residential*. 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 LDCP 2013 for a period of 14 days from 6 June to 20 June 2016 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.

The proposal is not contrary to the public interest.

#### 6 Referrals

## 6(a) Internal

#### **Engineers:**

The amended plans demonstrate that the rear yard and boundary wall are designed with an opening to allow for surface flows within the rear courtyard to drain away from the dwelling to the adjacent rail corridor.

No further objections are raised, subject to conditions requiring all roof areas and the ground flood deck surface to be drained by gravity to the kerb and gutter in Lilyfield Road.

#### Landscape:

There are currently five trees at the rear of the property with three being directly affected by the proposal.

Tree 1 is a small Crepe Myrtle located at the rear of the property on a small portion of land owned by the adjacent land owner. Whilst the tree meets with the requirements of a prescribed tree, its retention should not be viewed as a constraint on the development therefore removal is supported.

There are also two small Dragon Trees proposed for removal. Again, whilst the trees meet with the requirements of a prescribed tree, their retention should not be viewed as a constraint on the development therefore removal is supported.

Due to existing site constraints, replacement planting is not feasible.

The remaining trees are to be protected in accordance with Section 5 of the Arboricultural Impact Assessment dated 9 September 2016 and prepared by Hayden Coulter of The Ents Tree Consultancy and section 4 of AS4970—Protection of trees on development sites.

## **Heritage**

The amended plans are generally satisfactory. The application is supported on heritage grounds subject to conditions.

The recommended conditions relate to the retention of the historic character of the dwelling. In particular, the unpainted western elevation wall and chimney shown in the image below.

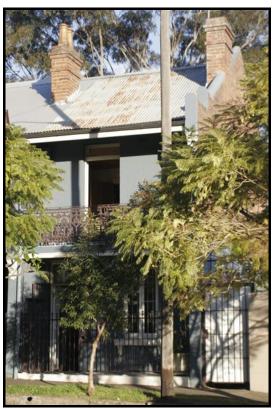


Image Courtesy of www.ksouhouse.com

Conditions also seek to ensure any new balustrading to the rear addition comprises of sympathetic vertical timber or metal pickets (as appears to be indicated on the submitted amended plans) and the wall and replacement/new roof colours are to be altered to more sympathetic lighter tones/colours than what is proposed.

#### 6(b) External

The application did not require any formal referrals.

#### 7. Section 94 Contributions

Section 94 contributions are not payable for the proposal

#### 8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is considered suitable for approval subject to the imposition of appropriate conditions.

#### 9. Recommendation

That Council, as the consent authority pursuant to s80 of the Environmental Planning and Assessment Act 1979, grant consent to Development Application No: D/2016/221 for Alterations and Additions to existing dwelling including additions to first floor, ground floor and lower ground floor plus modifications to rear garden and side passage including removal of trees at 66 Lilyfield Road, ROZELLE NSW 2039 subject to the conditions listed in Attachment A below.

# Attachment A – Recommended conditions of consent

1. Development must be carried out in accordance with Development Application No. D/2016/221 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Dwg No: DA01 - Revision B	Howard K Smith &	19.08.2016
Site/Roof Plan	Associates Pty Ltd	19.06.2016
Dwg No: DA02 – Revision B	Howard K Smith &	19.08.2016
Lower Ground Floor Plan	Associates Pty Ltd	19.06.2010
Dwg No: DA03 – Revision B	Howard K Smith &	19.08.2016
Ground Floor Plan	Associates Pty Ltd	19.06.2010
Dwg No: DA04 – Revision B	Howard K Smith &	19.08.2016
First Floor Plan	Associates Pty Ltd	19.00.2010
Dwg No: DA05 – Revision B	Howard K Smith &	19.08.2016
Attic Floor Plan	Associates Pty Ltd	19.00.2010
Dwg No: DA06 – Revision A	Howard K Smith &	12.05.2016
North Elevations	Associates Pty Ltd	12.03.2010
Dwg No: DA07 – Revision B	Howard K Smith &	19.08.2016
South Elevation	Associates Pty Ltd	19.00.2010
Dwg No: DA08 – Revision B	Howard K Smith &	19.08.2016
West Elevation	Associates Pty Ltd	19.00.2010
Dwg No: DA09 – Revision B	Howard K Smith &	19.08.2016
East Elevation	Associates Pty Ltd	19.00.2010
Dwg No: DA10 – Revision B	Howard K Smith &	19.08.2016
Long Section	Associates Pty Ltd	15.00.2010
Dwg No: DA11 – Revision A	Howard K Smith &	
Façade Detail, Colour	Associates Pty Ltd	19.08.2016
Selection		
Dwg No: LL110-H01 – Issue 1	Clapham Design	08.05.2016
Existing Ground Floor Plan	Services	00.00.2010
Dwg No: LL110-H02 – Issue 1		
Revision B	Clapham Design	29.08.2016
Proposed Stormwater	Services	_0.000.0
Drainage		
Document Title	Prepared By	Dated
Statement of Environmental	Howard K Smith &	May 2016
Effects	Associates Pty Ltd	
Water Management Statement	Clapham Design Services	25.04.2016
Arboricultural Impact	The Ents Consultancy	09.09.2016
Assessment	THE LINS CONSULTANCY	03.03.2010
Planter & Retaining Wall	Tinslay Consulting	23.08.2016
Details – Dwg No. CM2/2	Engineers	23.00.2010
BASIX Certificate No:	Howard K Smith &	07.11.2016
A246248_02	Associates Pty Ltd	01.11.2010
Geotechnical Site Investigation	Crozier Geotechnical	23.11.2015
Construction Methodology	Tinslay Consulting	11.05.2016
Statement	Engineers	11.00.2010

Waste Management Plan	Howard K Smith & Associates Pty Ltd	12.05.2016
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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.

#### PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

- 2. Consent is granted for the demolition on the property as described on the approved plans, 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.

<u>Note</u>: 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.
- 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.
- I) 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 (i.e., 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. Prior to the issue of a Construction Certificate, a Structural Certificate must be provided to the Principal Certifying Authority. The Certificate must verify that the structural integrity of the existing "Party Walls" are adequate to accept the additional loads imposed thereon by the proposal. A copy of the Certificate must be provided to the consent authority and all owners of the party wall/s.
- 4. 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<sub>Aeq</sub>, <sub>15min</sub> 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.

- 5. 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.
- 6. 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.

- 7. 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.

8. 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.

- 9. Materials and finishes must be complementary to the predominant character and streetscape of the area, and any existing buildings & the period of construction of the buildings. New materials that are not depicted on the approved plans must not be used. Highly reflective wall or roofing materials and glazing must not be used. In this regard, the proposed re-roofing and additional roofing on the subject site shall comprise of either "Gull Grey" traditional corrugated galvanised steel or pre-coloured traditional corrugated galvanised steel in a colour equivalent to Colorbond colour "Windspray" or "Wallaby" which are suitable modern equivalents of traditional roofing in the Leichhardt Municipality. Similarly, the paint colours for the walls that are to be re-painted shall comprise of more sympathetic lighter tones (with the exception of the proposed Murobond "smart white" colour which is satisfactory). In this regard, the darkness/tone of the proposed wall colour should be equivalent to Murobond colours - "Paper"; "Paper Bag"; "Pale Green"; "Oxide"; "Obelisk"; "Ochre"; "Organza" or other similar toned colours. Finally, the additional balustrading to the rear additions shall comprise of either vertical timber or metal pickets as indicated on the submitted plans. 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.
- 10. The existing unpainted brick surfaces (including the western side elevation and chimney) are not to be painted, bagged or rendered but to remain as original brick work. The Construction Certificate plans must clearly depict all original brickwork with a notation that they are to remain unpainted to the satisfaction of the Principal Certifying Authority.
- 11. 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.

- 12. The following fire upgrading is required pursuant to Clause 94 of the *Environmental Planning and Assessment Regulation 2000*:
  - The building is to be provided with smoke alarm system that complies with AS3786-1993: Smoke Alarms and the smoke alarms must be connected to the consumer mains electrical power supply and interconnected where there is more than one alarm with a stand-by (battery back-up) power supply. The smoke alarm system must be installed in suitable locations on or near the ceiling in accordance with Part 3.7.2 of the Building Code of Australia.

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

<u>Note</u>: 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.

13. 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.

- 14. 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 erodible 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.

15. 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.

- 16. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. It is to be a requirement of this Plan that the rear access from the unnamed lane to the properties fronting Victoria Road is not to be impeded at any time. 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.

- 17. A stormwater drainage design prepared by a qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be prepared/ amended to make provision for the following:
  - a) The design must be generally in accordance with the stormwater drainage concept plan on the following drawings:
    - Drawing No. LL110-H01 Issue 1 prepared by Clapham Design Services and dated 8 May 2016
    - Drawing No. LL110-H02 Issue 1 Revision B prepared by Clapham Design Services and dated 29 August 2016

- b) Stormwater runoff from all roof areas within the property and the ground floor deck must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter of a public road or directly into Council's piped drainage system. Charged or pump-out stormwater drainage systems are not permitted.
- c) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
- d) The rear courtyard must be graded so that bypass flows from the site drainage system are directed away from the dwelling. A minimum 150mm step up must be provided between all external finished surfaces and adjacent internal floor areas.
- e) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS 3500.3-2003 Plumbing and Drainage Stormwater Drainage
- f) Plans must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- g) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- h) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
- i) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm.
- j) Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.

The design must be certified as compliant with the terms of this condition by a suitably qualified Civil Engineer.

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

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

Tree/location	Approved works
Lagerstroemia indica (Crepe Myrtle)	Removal
located at the rear of the property	
2x Dracena sp. (Dragon Tree) located at	Removal
the rear of the property	

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

19. The trees identified below are to be retained:

Tree/location
2x Archontophoenix cunninghamiana (Bangalow Palm) located
at the rear of the property.

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

20. Paving works within the specified radius of the trunk(s) of the following tree(s) will be of a type and construction to ensure that existing water infiltration and gaseous exchange to the tree(s) root system is maintained.

Schedule		
Tree/location	Radius in metres	
2x Archontophoenix cunninghamiana	2	
(Bangalow Palm) located at the rear		
of the property.		

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. **Note:** A plan detailing the paving shall be submitted to the Principal Certifying Authority to address the above requirements prior to the issue of a Construction Certificate.

21. 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.

22. 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.

Schedule		
Tree/location	Radius in metres	
2x Archontophoenix cunninghamiana	2	
(Bangalow Palm) 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 by the Project Arborist to the Principal Certifying Authority prior to the issue of any Construction Certificate.

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

23. 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 to the value of \$2,015.00 must be paid to Council to cover the costs associated with the road, footpath and drainage works required by this consent.

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee.

A request for release of the security may be made to the Council after all construction work has been completed.

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.

24. 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
64 Lilyfield Road	Whole Building

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.

<u>Note</u>: 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.

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

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

#### PRIOR TO THE COMMENCEMENT OF WORKS

26. 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;
- 27. 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.

28. 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.

- 29. 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.
- 30. 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.
- 31. 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.
- 32. 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**

33. 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.

34. 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.

- 35. The site must be appropriately secured and fenced at all times during works.
- 36. 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.

- 37. 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.

- 38. 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.
- 39. 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.
- 40. 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.

- 41. 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.
- 42. 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.

43. 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.

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 satisfaction of the Principal Certifying Authority

44. 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	
2x Archontophoenix cunninghamiana (Bangalow Palm) located at the rear of the property.	<ul> <li>Directly following installation of protective measures,</li> <li>During excavation within the <i>Tree Protection Zone</i>,</li> <li>At project completion to verify that protection measures have been undertaken.</li> </ul>	

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

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 satisfaction of the Principal Certifying Authority.

45. 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	
2x Archontophoenix	2	
cunninghamiana (Bangalow		
Palm) located at the rear of the		
property.		

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

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

Schedule		
Tree/location	Radius in metres	
2x Archontophoenix	2	
cunninghamiana (Bangalow		
Palm) located at the rear of the		
property.		

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

- 47. 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.
- 48. 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

- 49. 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.

- 50. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that an Operation and Management Plan has been prepared and implemented for the on-site retention/re-use facilities. The Plan must set out the following at a minimum:
  - a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
  - b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

The Plan must be prepared by a suitably qualified professional and provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

- 51. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.
- 52. 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.

- 53. 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.
- 54. Prior to the issue of an Occupation Certificate, the Principle Certifying Authority must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.
  - A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a qualified practicing Civil Engineer that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards, must be provided to the Principle Certifying Authority prior to the issue of an Occupation Certificate.
- 55. 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

- 56. 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.
- 57. 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.
- 58. The premises shall not be used for any purpose other than that stated in the Development Application, (i.e. Dwelling House) 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 House is defined under the *Leichhardt Local Environmental Plan 2013.*
- 59. The Operation and Management Plan for the on on-site retention/re-use facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

### 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:

- 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

- 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:
  - 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

- 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;
  - 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.
- Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.

# E. Condition relating to shoring and adequacy of adjoining property

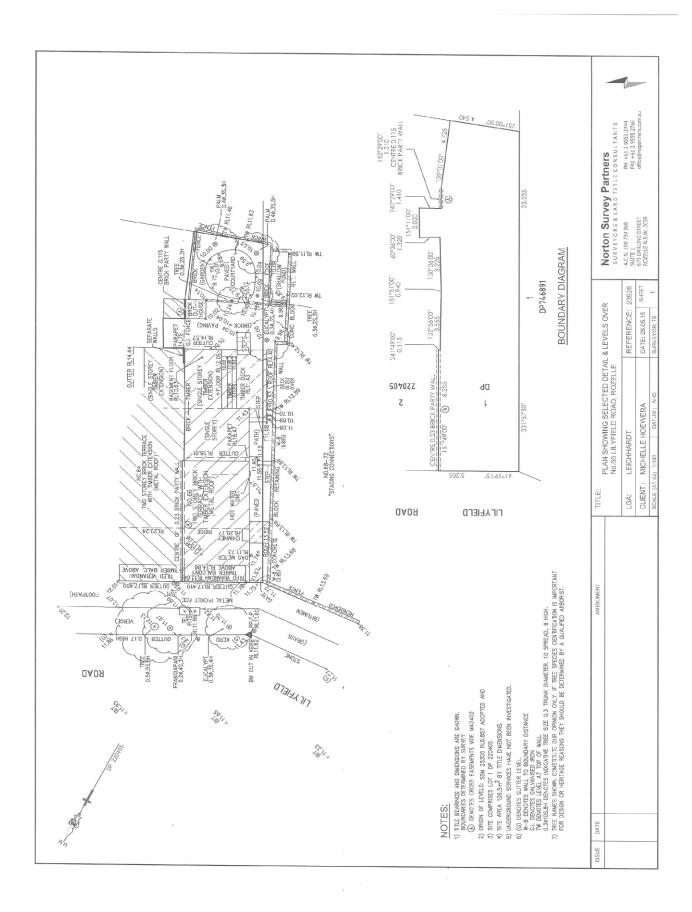
- (1) For the purposes of section 80A (11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent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

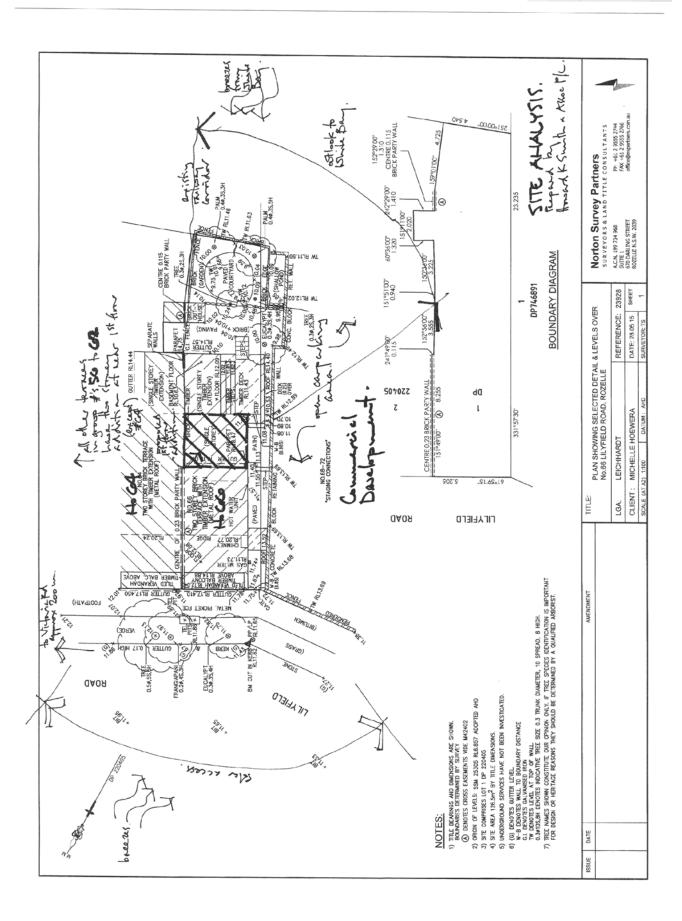
### NOTES

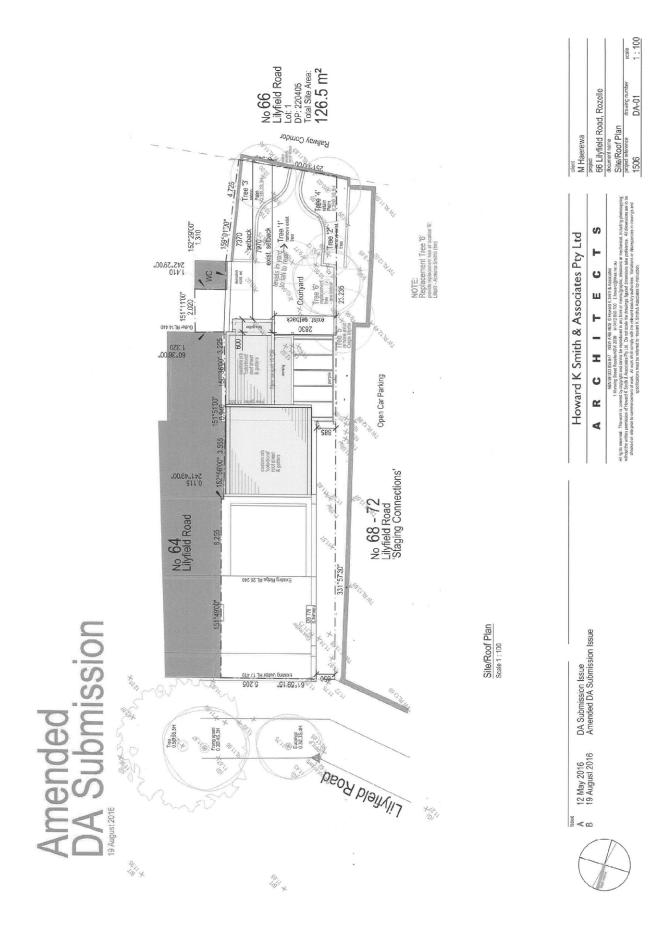
- 1. This Determination Notice operates or becomes effective from the endorsed date of consent.
- 2. Section 82A of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, designated development, integrated development or a complying development certificate. The request for review must be made within six (6) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. Furthermore, Council has no power to determine a review after the expiration of these periods. A decision on a review may not be further reviewed under Section 82A.
- 3. If you are unsatisfied with this determination, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right of appeal to the Land and Environment Court within six (6) months of the determination date.
- 4. Failure to comply with the relevant provisions of the Environmental Planning and Assessment Act 1979 and/or the conditions of this consent may result in the serving of penalty notices or legal action.
- 5. Works or activities other than those approved by this Development Consent will require the submission of a new development application or an application to modify the consent under Section 96 of the *Environmental Planning and Assessment Act 1979.*
- 6. This decision does not ensure compliance with the *Disability Discrimination Act* 1992. Applicants should investigate their potential for liability under that Act.
- 7. This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):
  - a) Application for any activity under that Act, including any erection of a hoarding.
  - b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979.*
  - c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979.*
  - d) Development Application for demolition if demolition is not approved by this consent.
  - e) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.

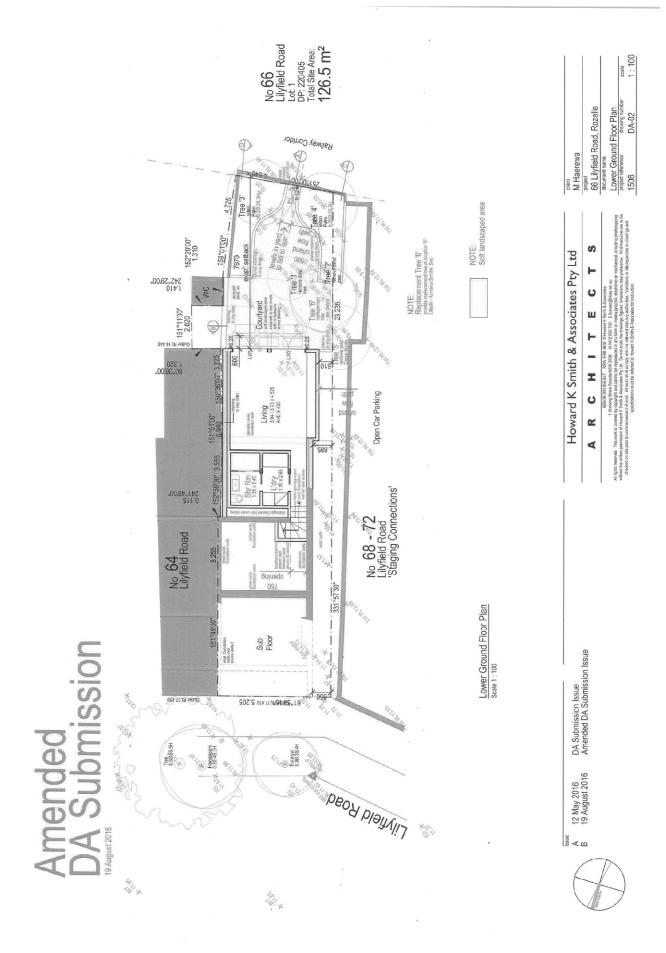
8. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained.

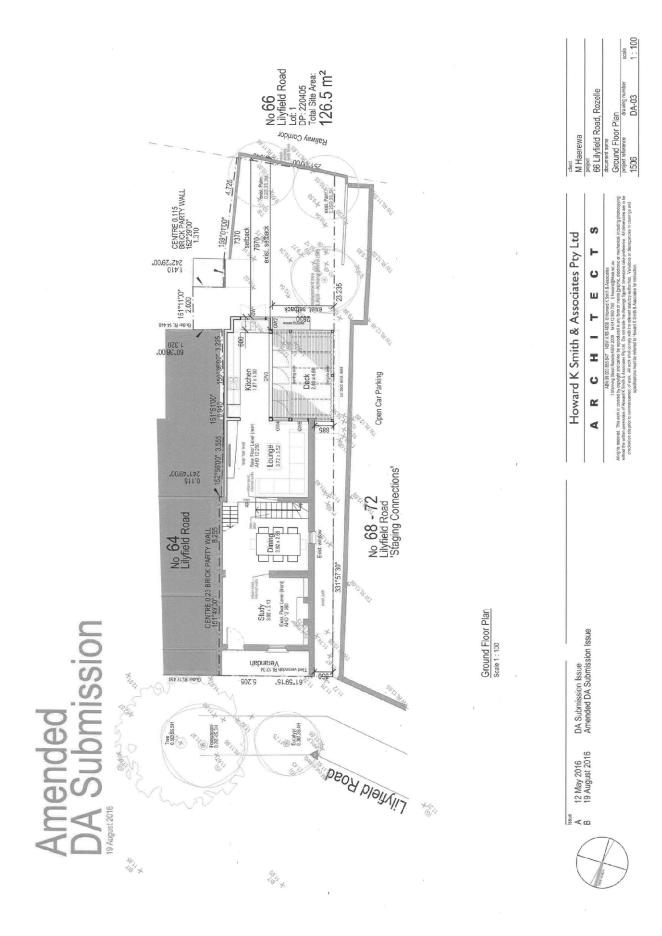
# Attachment B - Plans of proposed development

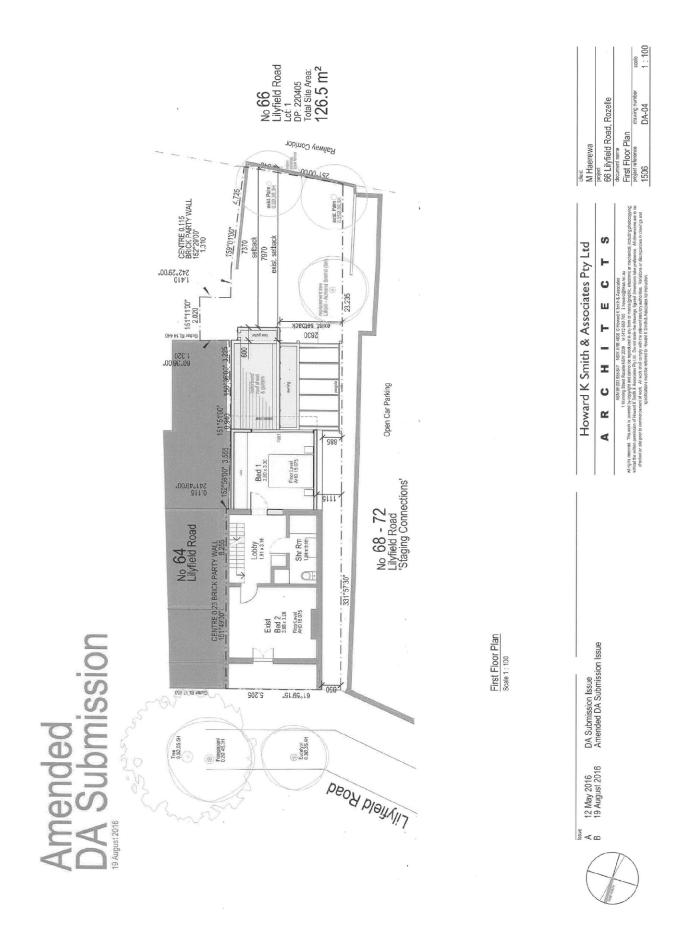


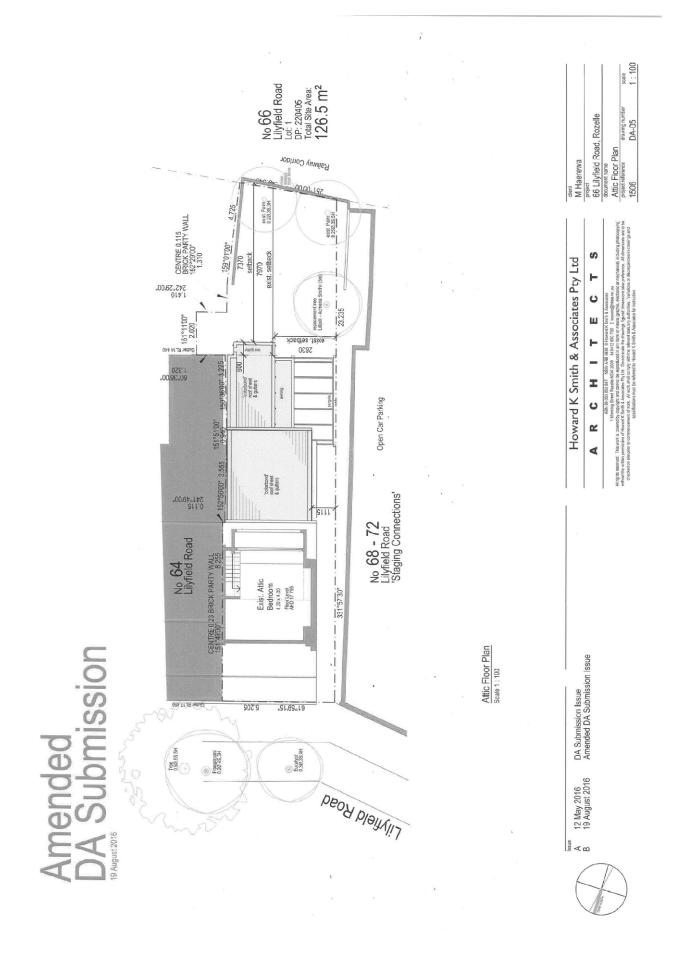


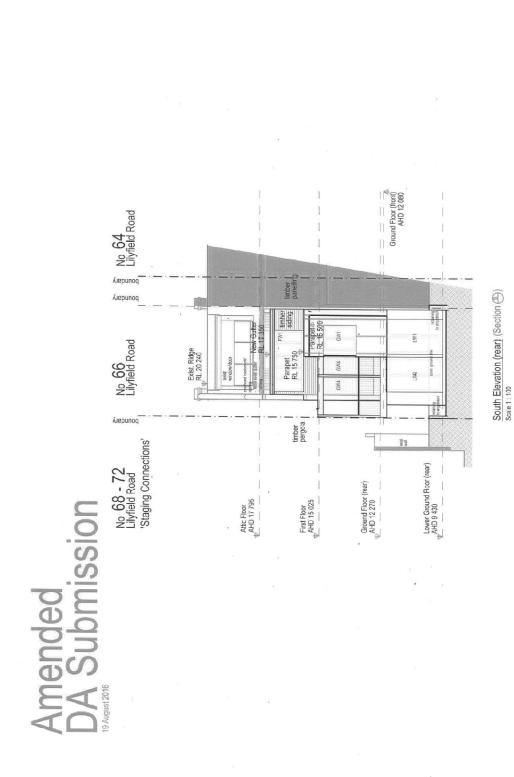




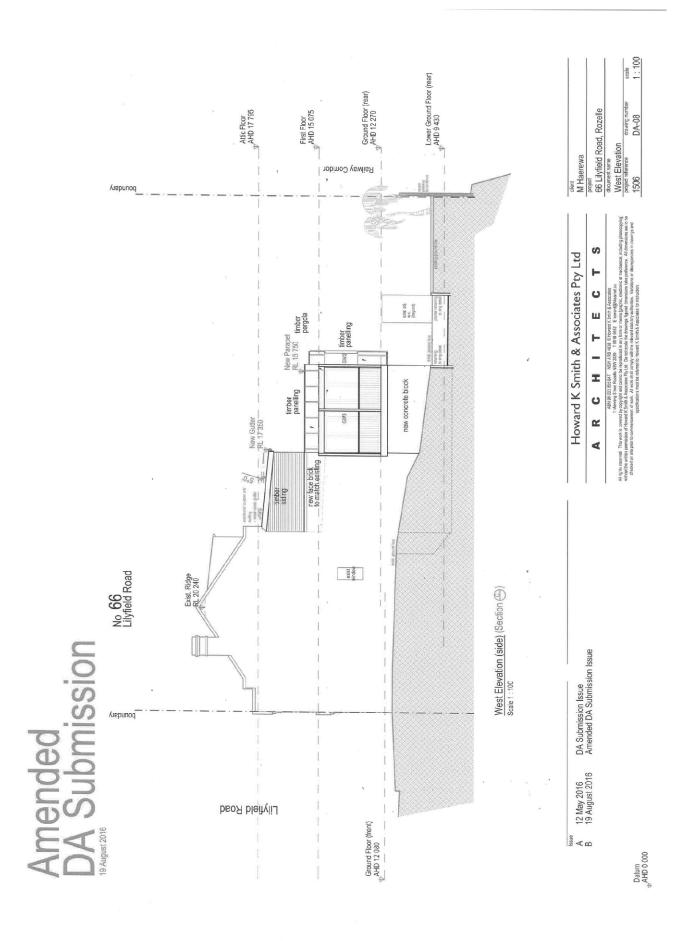


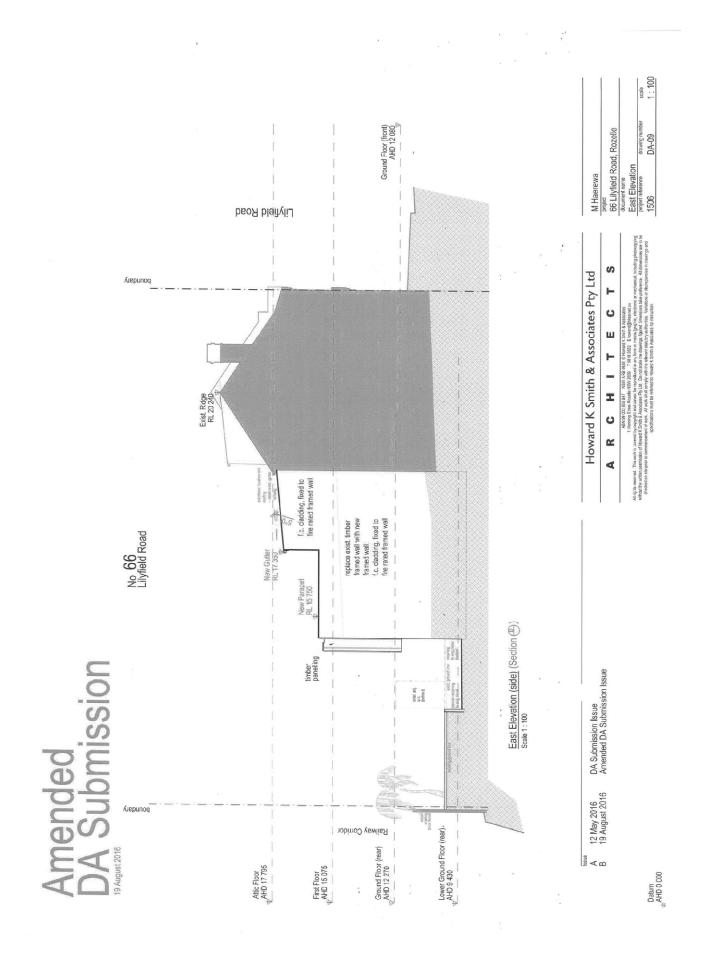


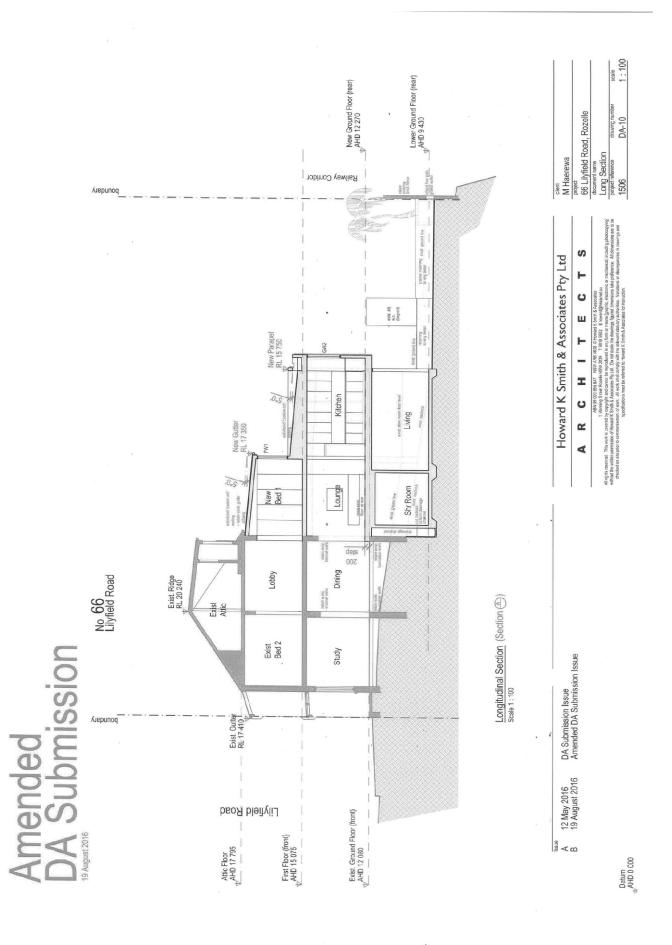


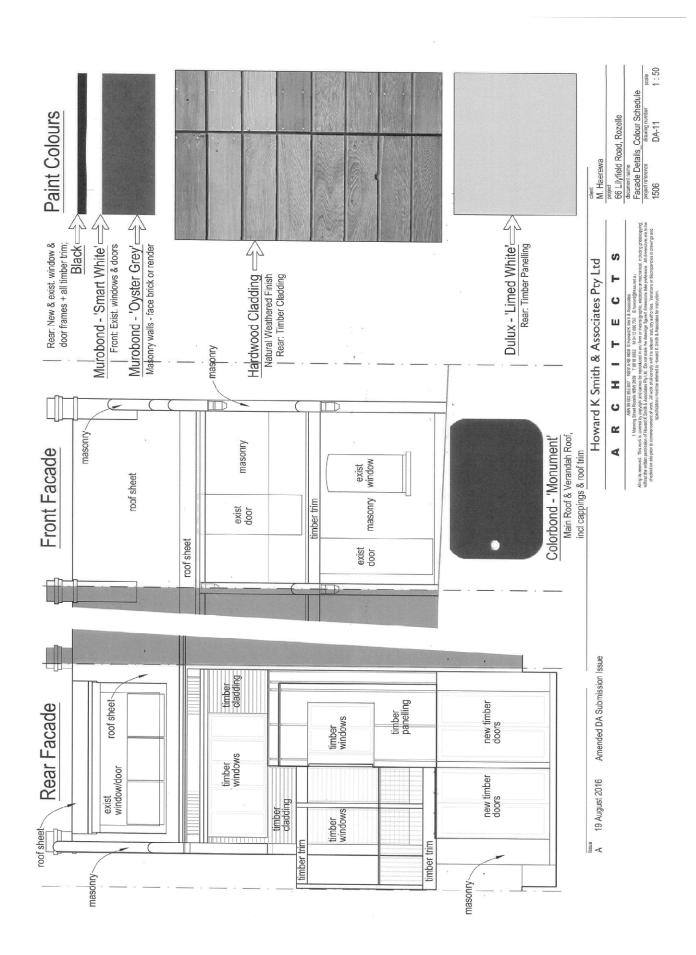


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Page 385 of 584

