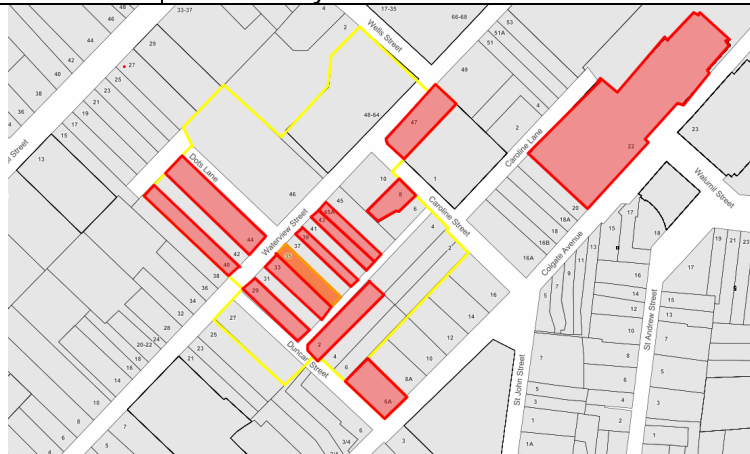






INNER WEST

DEVELOPMENT ASSESSMENT PANEL REPORT

Application No.	MOD/2023/0430
Address	35 Waterview Street BALMAIN NSW 2041
Proposal	Section 4.55(2) Modification of Development Consent DA/2021/0124, as last modified by MOD/2022/0247, which approved demolition of rear section of existing residence, refurbishment of existing brick building at front of site, and addition of three level rear extension. The subject modification application seeks the following: <ul style="list-style-type: none"> a. Permit a bi-fold fence/gate to the rear boundary fronting Jagers Lane spanning the width of the property. b. The addition of a privacy screen to the south-western end of the elevated ground floor rear terrace similar to that already approved on the north-eastern end of the terrace.
Date of Lodgement	15 December 2023
Applicant	Olo & Co Pty Ltd
Owner	Mr Huw L Davies Ms Iona M Steinle
Number of Submissions	Sixteen (16)
Cost of works	\$500,000.00
Reason for determination at Planning Panel	<ul style="list-style-type: none"> • Amendment to condition imposed by Planning Panel • Number of submissions exceed Officer delegations
Main Issues	<ul style="list-style-type: none"> • Bi-fold gate access and concerns that the gate potentially facilitates future parking to the rear accessed via Jagers Lane
Recommendation	Approval with conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Conditions of Development Consent – DA/2022/0247 as modified by MOD/2022/0247



LOCALITY MAP

Subject Site		Objectors		↑ N 
Notified Area		Supporters		

Note: Two (2) objectors didn't give their addresses and due to scale of map, one (1) supporter could not be shown.

1. Purpose of Report

This report has been prepared in response to correspondence from the applicant dated 7 June 2024 which raised concern relating to errors in the original Inner West Council Local Planning Panel (IWLPP) report listed at Item 7 for consideration at the IWLPP meeting of 18 June 2024. In this regard, the primary concern raised in the applicant's correspondence was that the original IWLPP report carried out an assessment of the proposal on the basis that car parking remained proposed to the rear laneway, when parking, which was originally proposed at lodgement of the subject Modification Application, was deleted as part of an amended proposal submitted in the NSW Planning Portal on 19 March 2024 in response to a Council Request for Information letter dated 28 February 2024. This amended proposal submitted on 19 March 2024 in response to Council's RFI was accompanied by:

- Amended plans which depicted:
 - Retention of approximately 2m wide concrete sleepers at the rear of the site as depicted on the stamped approved plans to DA/2021/0124 and MOD/2022/0247 (to DA/2021/0124), in-lieu of concrete sleepers extending the majority of the width of the rear yard, with resultant increased Landscaped Area provision;
 - Ramp access adjacent to, and extending the full width of, the rear boundary as depicted on the stamped approved plans to DA/2021/0124 and MOD/2022/0247; and
 - Full site width bi-fold fence/gate to Jaggars Lane (no change from originally proposed under this Modification Application); and
- An amended Statement of Environmental Effects (SEE) outlining that parking was no longer sought at the rear of the property.

The applicant's correspondence of 7th June 2024 also raised the following matters in response to the original IWLPP report:

- Reference in the report to proposed internal changes, claiming that the internal modifications were approved on a previous modification to DA/2021/0124 dated 16 December 2022 (Council's reference being MOD/2022/0247); and
- The original approval noted a mature tree was required, however it never stated that it was required in the rear garden. This modification depicts the tree located in the front garden, and as noted in the amended SEE, the landscape contractor advised that, due to the large trees in both the adjoining properties, there was not enough sun to establish a tree in the rear garden and the front would be better, which is where it has been planted.

This report reassesses the proposal based on the amended plans and further information received in the Planning Portal on 19 March 2024 and also responds to the matters outlined in the applicant's submission dated 7 March 2024.

2. Executive Summary

This report is an assessment of the application to modify a consent submitted to Council under Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* to modify Determination No DA/2021/0124, as last modified by MOD/2022/0247, which approved demolition of rear section of existing residence, refurbishment of existing brick building at front of site, and addition of three level rear extension. The proposed changes are as follows;

- a. Provide a bi-fold fence/gate extending the entire width of the site opening onto Jaggery Lane at the rear of the site and amend Condition 18b which originally required the rear boundary fence to remain, but could include a gate with a maximum width of 1.5 metres; and
- b. The addition of a privacy screen to the south-western end of the elevated ground floor rear terrace similar to that already approved on the north-eastern end of the terrace.

* Note: The plans under assessment also show the following changes:

- Minor amendments and reconfiguration works to the internal floor layouts on the basement and ground floors compared to the stamped approved plans under MOD/2022/0247 dated 16 December 2022; and
- Relocation of proposed canopy tree planting to the front garden from the rear yard.

The application was notified to surrounding properties and sixteen (16) submissions were received in response to the initial notification.

The main issues that have arisen from the application were as follows:

- Bi-fold gate access and concerns that the gate potentially facilitates future parking to the rear yard accessed via Jaggery Lane.

Subject to recommended conditions to delete the proposed bi-fold fence/gate to the rear laneway frontage, the proposal is acceptable, and can be supported, and hence, the application is recommended for approval.

3. Proposal

Section 4.55(2) Modification of Development Consent DA/2021/0124, as last modified by MOD/2022/0247, which approved demolition of rear section of existing residence, refurbishment of existing brick building at front of site, and addition of three level rear extension, at 35 Waterview Street, Balmain, seeking the following changes as listed as 'Requested modifications' noted in the revised SEE:

- a. Bi-fold panelled fence/gate to rear laneway

The bi-fold panelled access gate is of powder coated aluminium finish in a mid-grey colour with a height of 1.8m to the rear laneway known as Jaggery Lane. The access gate extends the entire width of the rear boundary.

The applicant specifically seeks to amended Condition 18b of DA/2021/0124 as last modified by MOD/2022/0247 ("the consent") to allow for a bi-folding fence/gate. Condition 18, which contains two specific design change requirements, reads as follows:

18. Amended Architectural Plans to Delete Proposed Garage/Carspace

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended architectural plans that incorporate the following recommendation:

- a) The proposed garage/car space must be deleted. Plans on Drawing No. DA1-23 prepared by OLLO & Co and dated June 2021 indicate that manoeuvring clearance for vehicles turning from Duncan Street to Jagger Lane is not available.*
- b) The associated rear roller door is also to be deleted and the rear boundary fence is to remain, which can include a gate, with a maximum width of 1.5 metres.*

b. Privacy screen

The installation of a timber privacy screen on the south-western side of the elevated ground floor rear terrace, similar to the screening that has been approved on the north-eastern side of the terrace. The height is 1800mm and the same length / depth as the screen approved on the north-eastern side of the terrace i.e. extending its full length / depth.

Other changes identified on the plans and /or in the amended SEE include:

c. Internal changes / reconfiguration

The plans under assessment also show minor amendments and reconfiguration works to the internal floor layouts on the basement and ground floors compared to the stamped approved plans under MOD/2022/0247. These changes include the adjustment of the laundry and toilet on the basement level and the redesign of the kitchen on the ground floor.

d. New canopy tree relocated to the front garden from the rear garden.

Works already carried out.

The applicant has installed the bi fold fence/gate (currently located behind a timber paling fence presenting / fronting Jaggars Lane) and the timber privacy screen to the south-western side of the elevated ground floor terrace.



Image 1 – Bi-fold gate



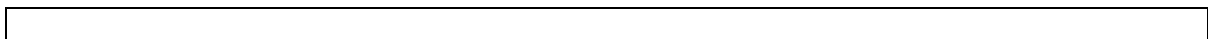
Image 2 – Timber privacy screen

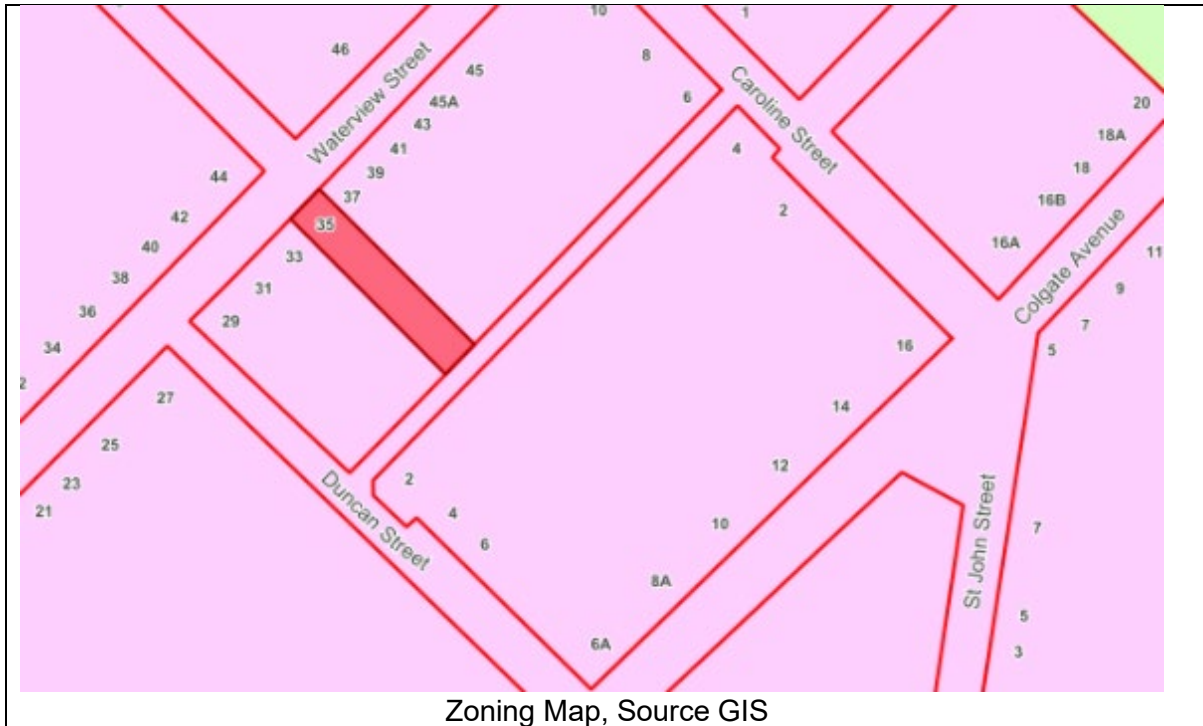
4. Site Description

The subject site is located on the south-eastern side of Waterview Street, between Duncan Street and Caroline Street. The site is generally rectangular in shape with a total area of 190m² and is legally described as Lot 1 in DP 1253271. The site has a frontage to Waterview of 6.095 metres and a secondary frontage of approximate 6.435 metres to the rear Jagger Lane.

The site presently accommodates a three-storey detached dwelling house.

The property is located within the Waterview Heritage Conservation Area and is not flood affected. Surrounding land uses are predominantly single and two (2) storey dwelling houses.





5. Background

Subject Site

Application	Proposal	Decision & Date
MOD/2022/0247	Section 4.55(2) modification to DA/2021/0124 which approved Demolition of rear section of existing residence. Refurbishment of existing brick building at front of site and addition of three level rear extension. Modification entails relocation of solar panels, relocation of laundry, new entry door, new awning over 1st floor windows, relocate air con unit and material change to ground and 1st floor boundary walls	Approved 16 th December 2022
DA/2021/0124	Demolition of rear section of existing residence. Refurbishment of existing brick building at front of site and addition of three level rear extension.	Approved – Local Planning Panel Approved 9 th November 2021
PDA/2020/0300	Alterations and additions	Follow-up Advise Issued
PREDA/2019/205	Alterations and additions to existing dwelling-house, garage and terrace over at rear and associated works.	Advise Issued 20 th January 2020

DA/2021/0124

This Development Application sought to approve the demolition of rear section of existing residence and refurbishment of existing brick building at front of site and addition of three level rear extension. This application proposed parking at the rear of the site accessed via a double roller door to the rear lane.

The Inner West Local Planning Panel approved the application with a design change condition removing the parking space at the rear of the property and amending the double roller door to a rear boundary fence which can include a gate, with a maximum width of 1.5 metres.

The resolution of the Panel read, in part as follows:

3. *That condition 18(b) be amended to read:*

“The associated rear roller door is also to be deleted and the rear boundary fence is to remain, which can include a gate, with a maximum width of 1.5 metres.”

As a result of this resolution, Condition 18 of the consent reads as follows:

18. Amended Architectural Plans to Delete Proposed Garage/Carspace

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended architectural plans that incorporate the following recommendation:

- a. The proposed garage/car space must be deleted. Plans on Drawing No. DA1-23 prepared by OLLO & Co and dated June 2021 indicate that manoeuvring clearance for vehicles turning from Duncan Street to Jagger Lane is not available,*
- b. The associated rear roller door is also to be deleted and the rear boundary fence is to remain, which can include a gate, with a maximum width of 1.5 metres.*

MOD/2022/0247

This modification entailed relocation of solar panels, relocation of laundry, new entry door, new awning over first floor windows, relocation of air conditioning unit and material change to ground and first floor boundary walls. This modification approved a change in the boundary fence to Jagers Lane, constructed out of timber and with a 1.5m wide gate in accordance with Condition 18(b) of the consent. This modification also removed the proposed parking from the original DA in accordance with Condition 18(a) of the consent, however, showed retention of the approximately 2m wide concrete sleepers at the rear of the site, and the ramp access adjacent to the rear boundary, as depicted on the stamped plans to DA/2021/0124.

Surrounding Properties

Application	Proposal	Decision & Date
MOD/2023/0137 4 Caroline Street, Balmain.	Modification to approved works inclusive of the following: deletion of deferred commencement condition relating to car access to lane, changes to internal layout, new pool, new basement home theatre and utility room, changes to external works at 4 Caroline Street, Balmain.	Deferred commencement – Local planning panel 12 th September 2023
DA/2022/0322 4 Caroline Street, Balmain.	Alterations and additions to dwelling including ground and first floor, plus car stacker and landscaping at 4 Caroline Street, Balmain.	Deferred commencement – Local planning panel 13 th December 2022
DA/2019/309	Tree removal @ 37 Waterview Street	Approved - 6/9/19
DA/451/1997	New Dwelling @ 33 Waterview Street	Approved - 19/03/98

Application History

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

Date	Discussion / Letter / Additional Information
28 th February 2024	<p>Council requested additional information to resolve several issues including:</p> <p><u>Parking</u></p> <ul style="list-style-type: none">• Concern was raised to the applicant regarding the safe and adequate access to and from the proposed car space and into and out of Jaggars Lane. In this regard, insufficient manoeuvring clearance for vehicles turning from Duncan Street to Jagger Lane is not available. It was therefore recommended that the proposal for carparking be removed from all architectural plans and the rear yard shown as Landscaped Area. <p><u>Proposed Gate</u></p> <ul style="list-style-type: none">• It was requested that all details of the proposed gate be removed from the architectural plans and be amended to show compliance with Condition 18(b) of DA/2021/0124 which reads as follows: <p><i>“The associated rear roller door is also to be deleted and the rear boundary fence is to remain, which can include a gate, with a maximum width of 1.5 metres.”</i></p>
19th March 2024	<p>The applicant submitted amended plans and was accompanied by an amended Statement of Environmental Effects carrying out the following changes:</p> <ul style="list-style-type: none">• Deletion of proposed parking from the proposal (however the proposed bi-fold fence/gate to the rear laneway is retained); and• Removal of additional concrete sleepers (from those approved) and retention of approved landscaping in the rear setback. <p>The amended plans and accompanied SEE are the subject of this report. The amendments carried out result in a reduced or lesser development, and hence, did not require renotification in accordance with Council’s Community Engagement Strategy.</p>

6. Section 4.55 Modification of Consent

The following is a summary of the assessment of the application in accordance with Section 4.55 of the *Environmental Planning and Assessment Act 1979 (EPA Act 1979)*.

Section 4.55(2)

Section 4.55(2) of the *EPA Act 1979* allows a consent authority to modify a development consent granted by it, if:

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) *it has notified the application in accordance with—*
 - (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

In considering the above:

- The essence of the development as modified is substantially the same as the original consent.
- Does not require concurrence or General Term of Agreement from any approval body.
- The application was notified to persons who made a submission against the original application sought to be modified.
- Submissions received have been considered.

Section 4.55(3)

In consideration of Section 4.55(3) of the *EPA Act 1979* the consent authority has considered the following reasons given by the determination authority for the granting of the original consent:

- The proposal, with the exception of the bi-fold fence/gate to the rear laneway frontage, generally complies with the aims, objectives and design parameters contained in the relevant environmental planning instruments and development controls plans.
- The proposal will not result in any significant or undue adverse impacts on the amenity of the adjoining properties or the streetscape and is in the public interest; and
- The proposal is considered suitable for approval subject to the required deletion of the proposed bi-fold fence/gate to the rear laneway.

It is considered that the modified proposal has considered the aforementioned reasons that the original development consent was granted.

7. Assessment

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

A. Environmental Planning Instruments

The application has been assessed and the following provides a summary of the relevant Environmental Planning Instruments.

Inner West Local Environmental Plan 2022 (IWLEP 2022)

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*.

Part 1 – Preliminary

Section	Proposed	Compliance
Section 1.2 Aims of Plan	<p>The site is zoned R1 General Residential, and the proposed works, which are associated with a dwelling house, are permissible development in the zone.</p> <p>Subject to recommended conditions to delete the proposed bi-fold fence/gate to the rear laneway frontage, the proposal is consistent with the relevant Aims of the Plan as follows.</p> <ul style="list-style-type: none"> • The proposal conserves and maintains the natural, built and cultural heritage of Inner West; • The proposal encourages walking, cycling and use of public transport through appropriate intensification of development densities surrounding transport nodes; • The proposal encourages diversity in housing to meet the needs of, and enhance amenity for, Inner West residents; 	Yes, as conditioned

Part 2 – Permitted or Prohibited Development

Section	Proposed	Compliance
Section 2.3 Zone Objectives and Land Use Table	<p>The application, which seeks modifications to approved alterations and additions to a dwelling house, and dwelling houses are permissible development with consent in the zone.</p> <p>The proposal is consistent with the zone objectives, subject to the retention of condition 18 and deletion of the proposed full length panelled rear gate</p>	Yes

Part 4 – Principal Development Standards

Section	Proposed		Compliance
Section 4.3C (3)(a) Landscaped Area	Minimum	15% (28.5sqm required)	Yes *
	Proposed	23.46% or 44.6m2 *	
		* No change from existing - see below	

Section	Proposed	Compliance
Section 4.3C (3)(b) Site Coverage	The proposed modification will not alter the approved Site Coverage	Yes
Section 4.4 Floor Space Ratio	Maximum	0.9:1 (or 171sqm permitted)
	Proposed	0.88:1 or 168.5sqm
Section 4.5 Calculation of Floor Space Ratio and Site Area	The Site Area and Floor Space Ratio for the proposal has been calculated in accordance with the section.	Yes

* Note: The Landscaped Area calculation above has been calculated on the basis that parking is no longer proposed. As discussed in further detail below, to ensure that parking access is not attempted to the rear of the site where the landscape area is located, the proposed bi-fold fence/gate to the rear boundary is recommended to be deleted.

Part 5 – Miscellaneous Provisions

Section	Compliance	Compliance
Section 5.10 Heritage conservation	<p>The subject site is located in the Waterview HCA. The site is not heritage listed, the site is located within the vicinity of the following heritage items:</p> <ul style="list-style-type: none"> • House, including interiors at 27 Waterview Street, Balmain (I345); • House, “Balmoral”, including interiors at 46 Waterview Street, Balmain (I346); and • House, “Louisaville”, including interiors at 2 Wells Street, Balmain (350). <p>The proposal has been considered against the relevant streetscape and heritage controls of the <i>IWLEP 2022</i> and Leichhardt Development Control Plan 2013 (LDCP 2013), including inter-alia:</p> <ul style="list-style-type: none"> • This part of the LEP; • The following Sections of the LDCP 2013: <ul style="list-style-type: none"> ○ Part C1.3: <i>Alterations and Additions</i>; ○ Part C1.4: <i>Heritage Conservation Areas and Heritage Items</i>; ○ Part C.2.2.2.5: Mort Bay Distinctive Neighbourhood, C2.2.2.5(b): Campbell Street Hill Sub Area; and ○ Part C3.3: <i>Elevation and Materials</i>. <p>The modification includes construction of a new privacy screen to the elevated ground floor rear terrace, and the introduction of a bi fold gate installed along Jagers Lane, these are the only changes of any potential streetscape and heritage impacts. While the bi-fold gates are not supported to ensure no parking access is</p>	Yes

Section	Compliance	Compliance
	<p>attempted from the rear of the site (see assessment throughout this report), these changes do not result in unacceptable or adverse streetscape and heritage impacts.</p> <p>The proposed privacy screen will be of a siting, form, size, scale, design, appearance and detail that will be compatible with, and / or will not detract from the existing building, the streetscape, Heritage Conservation Area or any nearby environmental heritage, and will satisfy the relevant streetscape and heritage controls of this part of the LEP and those contained in the LDCP 2013.</p>	

B. Development Control Plans

Summary

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

LDCP2013	Compliance
Part B: Connections	Yes
Part C	
C1.0 General Provisions	Yes, as conditioned
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	Yes – see discussion
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	N/A
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	No parking is sought as amended – see discussion
C1.12 Landscaping & C1.14 Tree Management	Yes – see discussion
C1.13 Open Space Design Within the Public Domain	N/A
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	Yes – see discussion
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	
C.2.2.2.5: Mort Bay Distinctive Neighbourhood, C2.2.2.5(b): Campbell Street Hill Sub Area	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes, as conditioned
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	N/A
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes – see discussion
C3.9 Solar Access	Yes – see discussion
C3.10 Views	Yes
C3.11 Visual Privacy	Yes – see discussion
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	Yes
Part D: Energy	Yes
Part E: Water	Yes

Leichhardt Development Control Plan 2013 (LDCP 2013)

The application was assessed against the following relevant parts of the Leichhardt Development Control Plan 2013 (LDCP 2013).

Part C – Section 1 – General Provisions

Control	Proposed / Discussion	Compliance
C1.0 General Provisions	Subject to deletion of the proposed bi-fold fence/gate to the rear laneway frontage as conditioned, the proposal will comply with the relevant provisions and objectives of this part of the DCP.	Yes, as conditioned
C1.3 Alterations and Additions & C1.4 Heritage Conservation Areas and Heritage Items	The proposed alterations and additions to the dwelling house will not result in any unacceptable or adverse streetscape and heritage impacts and acceptable amenity impacts on adjoining properties. The internal changes proposed relate to the reconfiguration of internal spaces and thereby bear no external amenity impacts and are considered acceptable.	Yes
C1.11 Parking	The applicant has deleted parking from the amended proposal under assessment, however, seeks to provide bi-fold fence/gate to Jaggars Lane extending the full width of	See discussion

Control	Proposed / Discussion	Compliance
	<p>the laneway frontage. In the amended SEE, the applicant has provided the following justification (in part) for the bifold fence changes:</p> <ul style="list-style-type: none"> • <i>“As part of this modification, we are requesting that a panelled bi-fold fence/gate be installed to allow access into the undercroft storage in the rear yard for building tools and equipment required for the building owner’s profession. The proposed panelled bi-fold fence/gate would be the same height as a fence and gate (as approved), 1800mm and the full width of the rear of the site and resemble the look of a paling fence...</i> • <i>...The Owner has had his own building company for over 30 years and requires access to the rear yard to drop off and pick up equipment such as ladders, large tool boxes etc. in order to carry out his daily projects. The storage area in the undercroft of the rear yard for 35 Waterview Street is one level below the street level, therefore making it very difficult to access the storage area from Waterview Street. The original DA application was made for a wider door with an accessible entry at the side, this was refused and the existing front door and adjoining passage is far too narrow to manoeuvre large items....</i> • <i>...The provision of a bi-folding fence/gate would improve accessibility into the property by allowing larger objects to be carried through the larger opening, rather than having to winch items over the fence, there-by preventing possible accidents and would also allow the process of loading and unloading quicker and therefore not blocking the lane way.”</i> <p>While the above is noted, Condition 18b of the consent allowed for provision of a 1.5m wide access gate to be provided in the rear boundary fence. A 1.5m wide gate is considered generous for a pedestrian access and wide enough to facilitate pedestrian access for existing and future occupants of the site from the rear lane and associated with the approved residential dwelling use of the premises.</p> <p>Further to the above, and given that the proposal seeks to retain the 2m wide concrete sleepers at the rear of the site and ramp access adjacent to, and extending the full width of, the rear boundary as depicted on the stamped approved plans to DA/2021/0124 and MOD/2022/0247, concern is raised that, by authorising the proposed bi-fold fence extending the entire width of the Jaggars Lane frontage via this application, there is nothing preventing existing and future residents of the site attempting to park vehicles at the</p>	

Control	Proposed / Discussion	Compliance
	<p>rear of the property. Parking provision at the rear of the subject site is not viable for the following reasons:</p> <ul style="list-style-type: none"> • Jagers Lane is very narrow, being only 3.1m wide, with encroachments of fencing, vegetation, utility poles and gutters further restricting the width. This makes it very difficult to access the lane with a vehicle from Duncan Street. • Manoeuvring of a B85 vehicle is not possible from Duncan Street. The existing bollard which protects a power pole and existing vegetation would need to be removed to allow for access. Even if the bollard was removed, a B85 access to the lane would still be difficult and require precision driving every time a vehicle accessed the lane. Due to its narrow width the chance of conflict between vehicles and adjacent fences, vegetation and utility poles would be high. • Due to the narrow width of the lane, vehicles entering and leaving the site without incidence will be difficult with the chance of conflict between vehicles and adjacent fences, vegetation and utility poles again being high. • There are also safety concerns regarding access off Jagers Lane by vehicles. Due to its narrow width Jagers Lane is mainly just used by pedestrians. This is confirmed by the submissions received from adjacent residents. The width of the laneway is inadequate to be shared by both vehicles and pedestrians simultaneously as there is no safe passing opportunity resulting in an unsafe environment for pedestrians. <p>Given the above, and given parking has been removed from the amended proposal, Condition 18a of the consent is recommended to be amended to read as follows:</p> <p><i>a. The bifold fence / gate to the Jagers Lane boundary is not approved and is to be deleted. A timber fence and pedestrian gate to a height of 1.8m, with the pedestrian gate not exceeding a width of 1.5 metres, is to be provided to the Jagers Lane frontage.</i></p>	
<p>C1.12 Landscaping & C1.14 Tree Management</p>	<p>The proposal has removed reference to proposed “new canopy tree” planting at the rear as shown on the current stamped approved plans, and shown the tree now planted in the front garden.</p> <p>In this regard, the amended SEE states that:</p> <p><i>In accordance with Conditions 23 & 28 of the DA, a 75 litre tree has to be planted. This tree was originally shown on the DA drawings in the rear yard, however, it was decided and</i></p>	<p>Yes</p>

Control	Proposed / Discussion	Compliance
	<p><i>agreed with the qualified landscaper that a large tree would be best suited in the front garden, to give shade to the front of the property from the harsh western sun. Plus the rear garden does not receive much sun due to the large trees in both No.33 and No.37; to establish a tree in such a shaded spot would be difficult. The tree is now planted in the front yard and the certification has gone to the Certifier.”</i></p> <p>Conditions 23 and 28 read as follows:</p> <p>“23. Certification of Tree Planting</p> <p><i>Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with evidence certified by a person holding a minimum qualification of AQF3 Certificate of Horticulture or Arboriculture that:</i></p> <p><i>One (1) x 75 litre size tree/s, which will attain a minimum mature height of six (6) metres, has been planted in a suitable location within the property at a minimum of 2 metres from the building with allowance made for future tree growth. The tree is to conform to AS2303—Tree stock for landscape use. Trees listed as exempt species from Council’s Tree Management Controls, palms, fruit trees and species recognised to have a short life span will not be accepted as suitable replacements.</i></p> <p><i>If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species (up to 3 occurrences). If the trees are found dead before they reach a height where they are protected by Council’s Tree Management Controls, they must be replaced with the same species.</i></p> <p>28. Tree Establishment</p> <p><i>The tree/s planted as part of this consent is/are to be maintained in a healthy and vigorous condition for 12 months from the issue of an Occupation Certificate. If any of the tree/s is/are found faulty, damaged, dying or dead within 12 months of the issue of an Occupation Certificate it/they must be replaced with the same species within one (1) month (up to 3 occurrences).”</i></p> <p>The applicant’s correspondence to Council on 7th June 2024 also provided the following commentary regarding required canopy tree planting:</p> <p><i>“...The original approval noted a mature tree was required, it never stated that it was required in the rear garden.”</i></p>	

Control	Proposed / Discussion	Compliance
	<p>The above is noted, notwithstanding that there is more space in the rear garden for canopy tree planting.</p> <p>Having regard to the above, as the original conditions did not explicitly require the tree planting at the rear of the site, its relocation to the front raises no amenity impacts and will continue to satisfy the objectives of these parts of the DCP.</p>	
C1.18 Laneways	The lane at the rear of the property is a narrow lane and the proposal involves no new building structures (e.g. garages / studios) on the rear laneway.	Yes

Part C – Section 2 – Urban Character

Control	Proposed / Discussion	Compliance
C.2.2.2.5: Mort Bay Distinctive Neighbourhood, C2.2.2.5(b): Campbell Street Hill Sub Area	The modification proposal is acceptable as it will not detract from the distinctive neighbourhood character	Yes

Part C – Section 3 – Residential Provisions

Control	Proposed / Discussion	Compliance
C3.8 Private Open Space	The proposal results in private open space (POS) area with a minimum dimension of 3.8m (greater than 3m) and a total area of 22sqm (greater than 16m) and accessed of the living area, located on the first floor, and therefore satisfies the control. No change proposed to POS to that approved with DA/2021/0124.	Yes
C3.9 Solar Access	<p>The only modification sought that will potentially result in overshadowing impacts is the proposed privacy screen to be erected to the south-western end of the elevated ground floor rear terrace.</p> <p>The subject site is orientated between north/south and east/west, and the only immediate adjoining property potentially impacted by the modification (i.e. privacy screen) in terms of overshadowing is the property to the south-west at No. 33 Waterview Street. The proposed privacy screen is adjacent to an existing adjoining structure on the boundary, and any additional shadows cast by the screen will fall within existing shadows cast. The proposal will not result in any undue adverse loss of light or overshadowing to the rear POS of No. 33 Waterview Street.</p>	Yes
C3.11 Visual Privacy	The proposed installation of the privacy screen on the south-western side of the elevated ground floor rear terrace, similar to that approved on the north-eastern side of the	Yes

Control	Proposed / Discussion	Compliance
	<p>terrace, would be a metal frame with timber palings erected to a height of 1800mm.</p> <p>The proposed screening is of a height and depth that is adequate to screen any existing or future direct view lines into the rear of adjoining properties, including No. 33 Waterview Street.</p>	

C. The Likely Impacts

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development, subject to recommended conditions, will not have significant adverse environmental, social or economic impacts upon the locality.

D. The Suitability of the Site for the Development

The proposal, as conditioned, is of a nature in keeping with the overall function of the site. The premises are in a residential surrounding and amongst similar uses to that proposed.

E. Submissions

The application was notified in accordance with Council's Community Engagement Strategy between 3 January 2024 to 25 January 2024.

A total of sixteen (16) submissions were received in response to the initial notification.

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

- Suitability of rear lane for car use – see assessment above, including under Part C 1.11 – Parking of the LDCP 2013;
- Parking to the rear of the site - see assessment above, including under Part C 1.11 – Parking of the LDCP 2013; and
- Increased overshadowing from proposed privacy screen - see assessment above under Part C3.9 – Solar Access of the LDCP 2013.

Further issues raised in the submissions received are discussed below:

Concern	Comment
Illegal works	An enforcement order was issued to the applicant to rectify the unauthorised works that have commenced on the site. This was completed to Council's satisfaction in January 2024 (EPA/2023/0131).

F. 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, as conditioned, raises no issues that will be contrary to the public interest.

8. Section 7.11 / 7.12 Contributions

The proposed modifications would not trigger any changes to the contributions as they appear on the current consent.

9. Referrals

The following internal referrals were made, and their comments have been considered as part of the above assessment:

- Development Engineer.

10. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and *Leichhardt Development Control Plan 2013*.

The development, as conditioned to delete the rear bi-fold gate access, will not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest.

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

11. Recommendation

That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, to grant consent to Modification Application No. MOD/2023/0430 at 35 Waterview Street, Balmain NSW 2041 subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

A. Amend Conditions 1 and 18 to read as follows:

1. Documents related to the consent

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

Dwg No, Issue No and Revision	Plan Name	Date Issued	Prepared by
DA.MOD1.09C	Site Plan	18/03/2024	Ollo & Co
DA.MOD1.01C	Garden Level + Ground Floor	18/03/2024	Ollo & Co
DA.MOD.02B	First Floor + Roof	23/10/22	Ollo & Co
DA.MOD1.03C	Elevations Front + Rear	18/03/2024	Ollo & Co
DA.MOD1.04C	Elevations	18/03/2024	Ollo & Co
DA.MOD1.08C	Section AA	18/03/2024	Ollo & Co
	Finishes Board Colours and Materials		

(Condition Amended - MOD/2023/0430 – 18 June 2024)

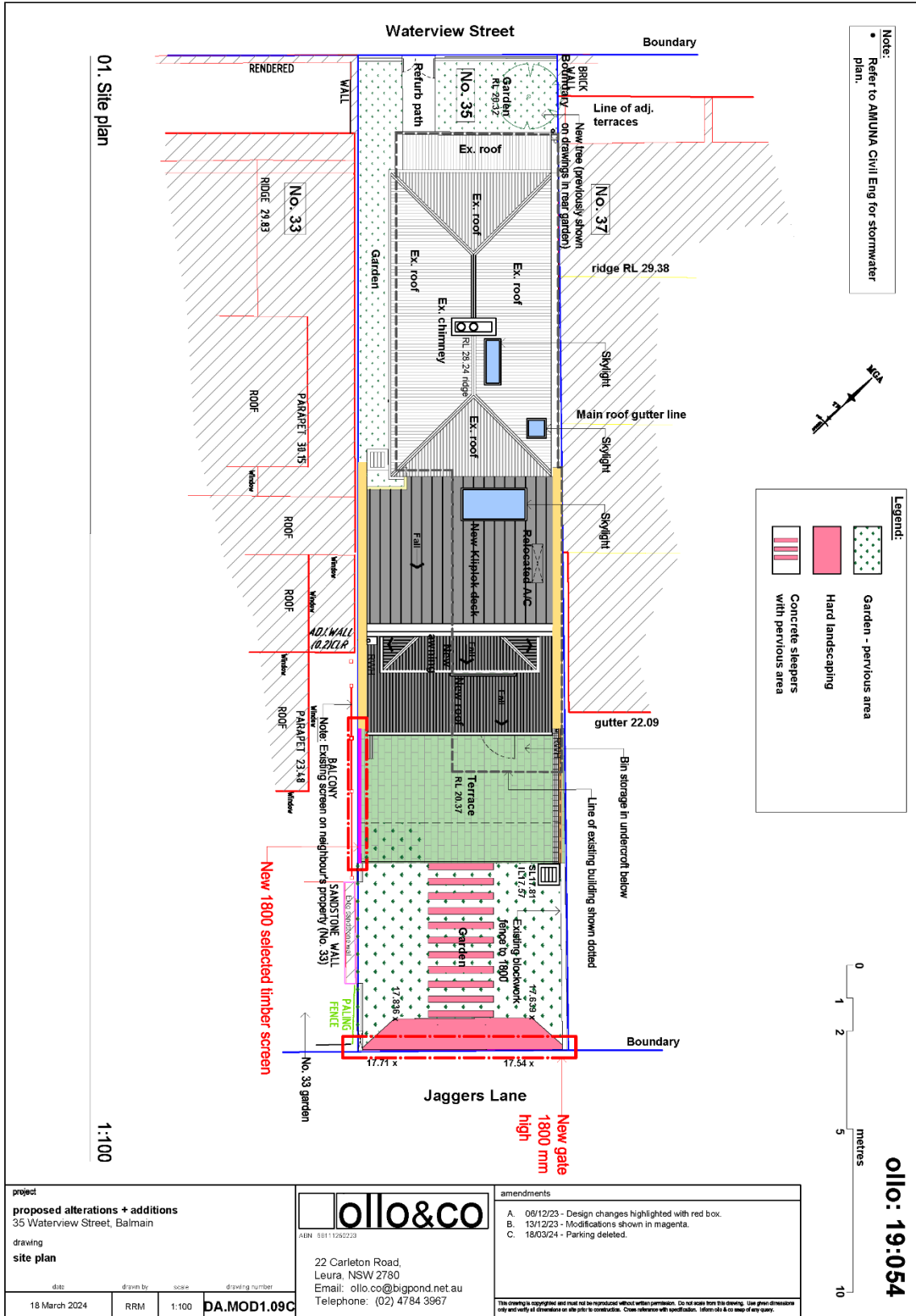
18. Amended Architectural Plans

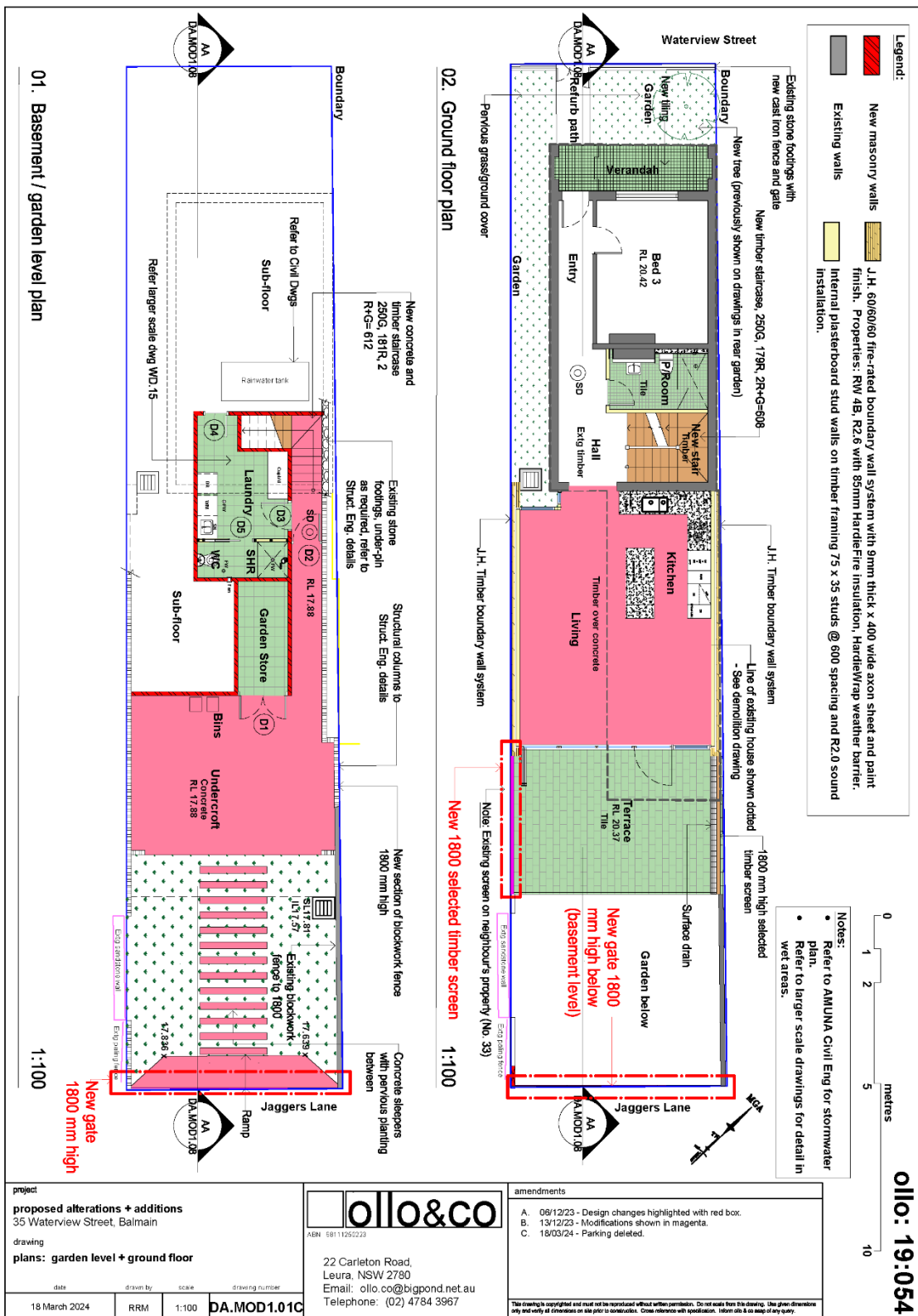
Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended architectural plans that incorporate the following amendments:

- a. The bifold fence / gate to the Jagers Lane boundary is not approved and is to be deleted. A timber fence and pedestrian gate to a height of 1.8m, with the pedestrian gate not exceeding a width of 1.5 metres, is to be provided to the Jagers Lane frontage.

(Condition Amended - MOD/2023/0430 – 18 June 2024)

Attachment B – Plans of proposed development





ollo: 19:054

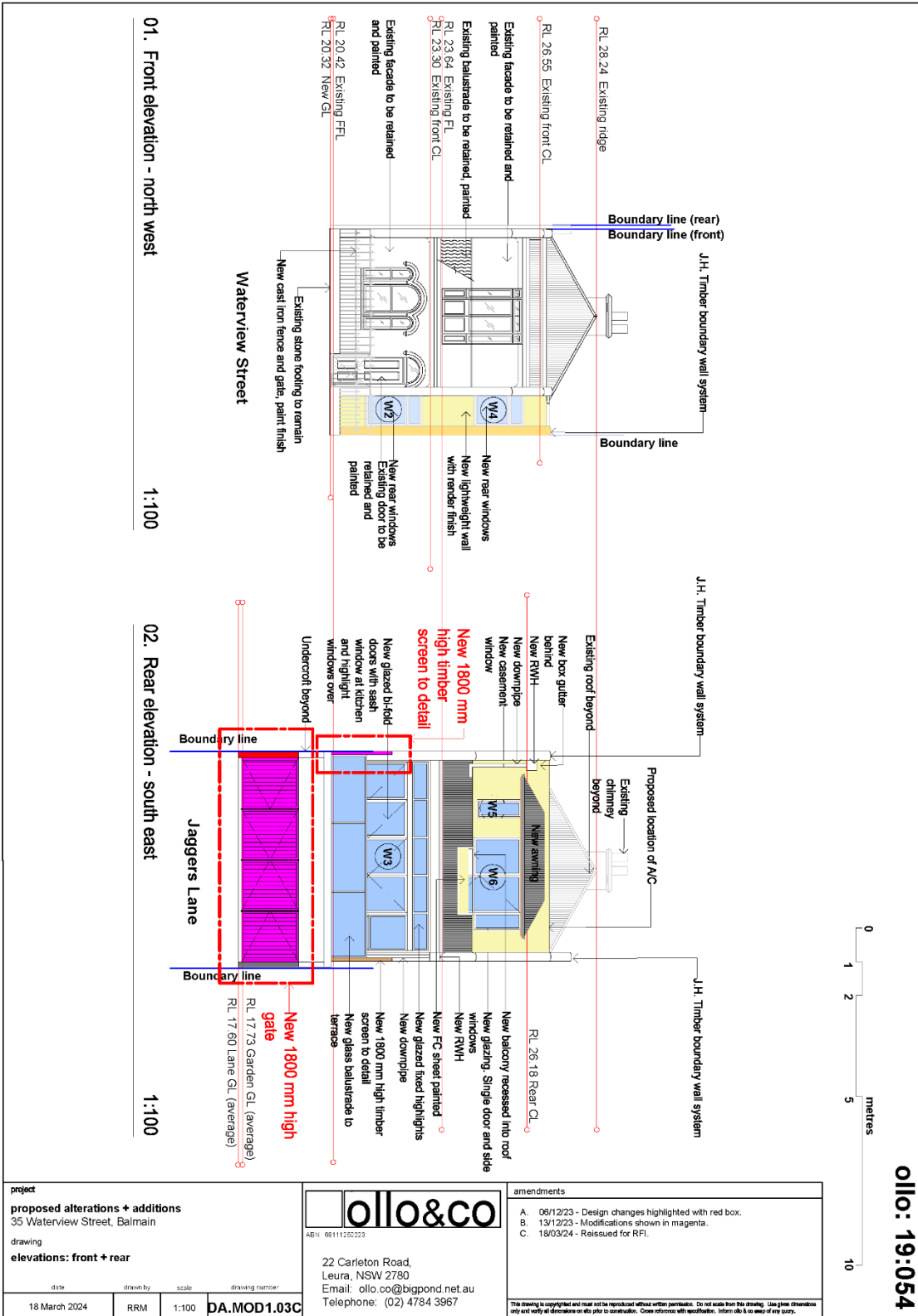
01. Basement / garden level plan

02. Ground floor plan

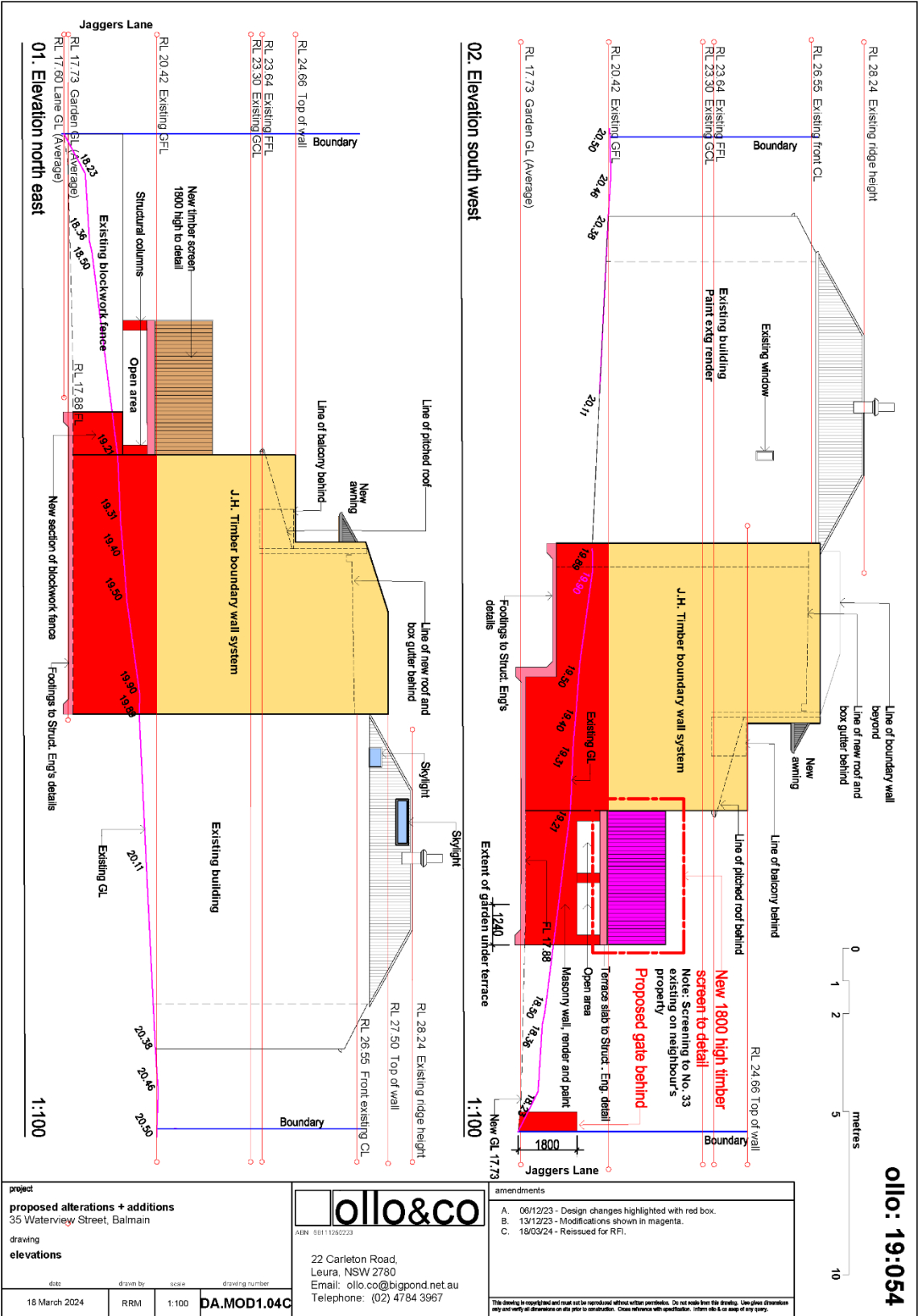
project			
proposed alterations + additions 35 Waterview Street, Balmain			
drawing			
plans: garden level + ground floor			
date	drawn by	scale	drawing number
18 March 2024	RRM	1:100	DA.MOD1.01C

ollo&co
 ABN 591123223
 22 Carleton Road
 Laura, NSW 2780
 Email: ollo.co@bigpond.net.au
 Telephone: (02) 4784 3967

amendments	
A.	09/12/23 - Design changes highlighted with red box.
B.	13/12/23 - Modifications shown in magenta.
C.	18/03/24 - Parking deleted.
<small>This drawing is copyright and must not be reproduced without written permission. Do not scale from this drawing. Use green dimensions only and verify all dimensions on the site to accommodate. Cross-reference with specifications. Refer site & as map of any type.</small>	



project proposed alterations + additions 35 Waterview Street, Balmain drawing elevations: front + rear		ABN: 6811120223 22 Carleton Road, Leura, NSW 2780 Email: ollo.co@bigpond.net.au Telephone: (02) 4784 3967	amendments A. 06/12/23 - Design changes highlighted with red box. B. 13/12/23 - Modifications shown in magenta. C. 18/03/24 - Reissued for RFI.
date 18 March 2024	drawn by RRM		scale 1:100



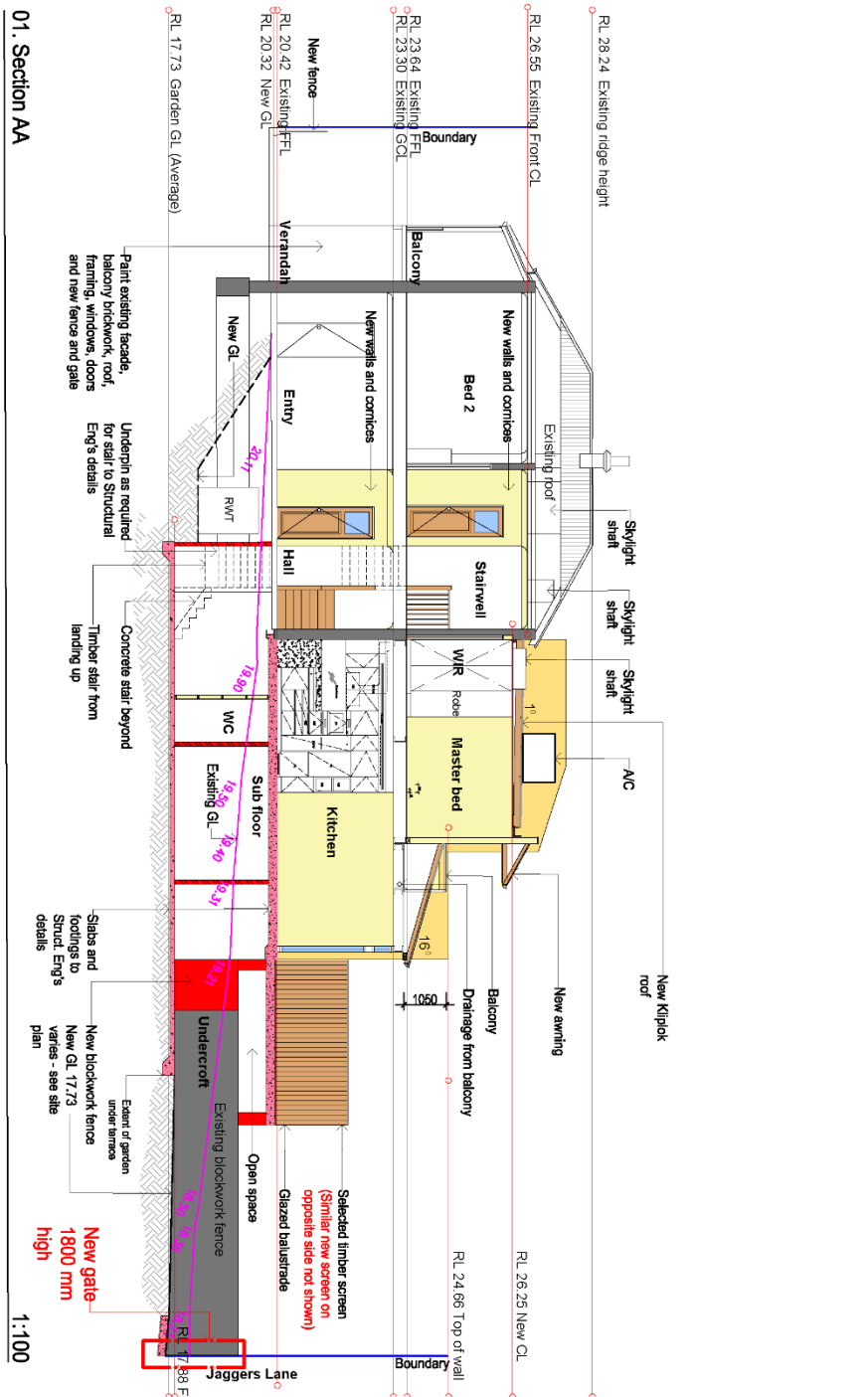
ollo: 19:054

project proposed alterations + additions 35 Waterview Street, Balmain			
drawing elevations			
date	drawn by	scale	drawing number
18 March 2024	RRM	1:100	DA.MOD1.04C

ollo & co
AEN 88111292223

22 Carleton Road,
 Leura, NSW 2780
 Email: ollo.co@bigpond.net.au
 Telephone: (02) 4784 3967

amendments A. 06/12/23 - Design changes highlighted with red box. B. 13/12/23 - Modifications shown in magenta. C. 18/03/24 - Reissued for RFI.	
<small>This drawing is copyrighted and must not be reproduced without written permission. Do not scale from this drawing. Use gives dimensions only and verify all dimensions on site prior to construction. Check reference with specification. Inform ollo & co asap of any query.</small>	



01. Section AA

<p>project proposed alterations + additions 35 Waterview Street, Balmain</p>		<p>ABN: 6811120223</p> <p>22 Carleton Road, Leura, NSW 2780 Email: ollo.co@bigpond.net.au Telephone: (02) 4784 3967</p>		<p>amendments</p> <ul style="list-style-type: none"> A. 06/12/23 - Design changes highlighted with red box. B. 13/12/23 - Modifications shown in magenta. C. 18/03/24 - Reissued for RFI. <p><small>This drawing is copyrighted and must not be reproduced without written permission. Do not scale from this drawing. Use 2 view dimensions only and verify all dimensions on the site to be constructed. Cross reference with specifications. Inform olo & co any of the above.</small></p>
<p>drawing section AA</p>	<p>date 18 March 2024</p>	<p>drawn by RRM</p>	<p>scale 1:100</p>	<p>drawing number DA.MOD1.08C</p>

Conditions of Development Consent – DA/2022/0247 as modified by MOD/2022/0247



NOTICE OF DETERMINATION - APPROVAL

Issued under Section S4.55 of the Environmental Planning and Assessment Act 1979

Development Application No.	DA/2021/0124
Applicant	Ollo & Co Pty Ltd
Land to be developed	35 Waterview Street BALMAIN NSW 2041
Approved development	Demolition of rear section of existing residence. Refurbishment of existing brick building at front of site and addition of three level rear extension
Cost of development	\$500,000.00
Determination	This S4.55(2) modification application was determined by Delegation to Staff and was granted consent subject to the conditions attached.
Other Approvals	Before commencing <i>building work</i> or <i>subdivision work</i> , a relevant Construction Certificate must be obtained from Council or an Accredited Certifier. Council must be appointed the Principal Certifier for any <i>subdivision work</i> under the Act.
Date of Development Consent:	9 November 2021
Date of Modification of Consent:	16 December 2022
Modification Number:	MOD/2022/0247

Inner West Council
innerwest.nsw.gov.au
02 9392 5000

council@innerwest.nsw.gov.au
PO Box 14, Petersham NSW 2049

Reasons for conditions

To protect the environmental amenity of the area and the public interest.

Right of appeal

If you are dissatisfied with this decision, Section 8.9 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court in accordance with the timeframes set out in [Section 8.10](#) of the *Environmental Planning and Assessment Act 1979*. In addition to the above, third party appeal rights are set out in the *Environmental Planning and Assessment Act 1979* and may be applicable.

Section 8.2 of the *Environmental Planning and Assessment Act 1979* provides that the applicant may request the Council to review the determination. Section 8.2 does not apply to complying development, designated development, a determination made by Council under Section 4.2 in respect of Crown applications, or a decision that is already subject to a Section 8.2 review.

For further information please contact **Iain Watt** on **02 9392 5043** or iain.watt@innerwest.nsw.gov.au.



Eric Wong
Senior Assessment Planner

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

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

Drawing Number	Plan Name	Date Issued	Prepared by
DA1-05B DA.MOD.09B	Site Plan Site Plan	27/06/21 23/10/22	Olo & Co Olo & Co
DA1-01B DA.MOD.01B	Garden Level + Ground Floor Garden Level + Ground Floor	27/06/21 23/10/22	Olo & Co Olo & Co
DA1-02B DA.MOD.02B	First Floor + Roof First Floor + Roof	27/06/21 23/10/22	Olo & Co Olo & Co
DA1-03B DA.MOD.03B	Elevations Front + Rear Elevations Front + Rear	27/06/21 23/10/22	Olo & Co Olo & Co
DA1-04B DA.MOD.04B	Elevations Side Elevations Side	27/06/21 23/10/22	Olo & Co Olo & Co
DA1-07B DA.MOD.08B	Section AA Section AA	27/06/21 23/10/22	Olo & Co Olo & Co
	Finishes Board Colours and Materials		

As amended by the conditions of consent.

(Amended – 16 December 2022 – MOD/2022/0247)

DESIGN CHANGE

2. Design Change

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

- a. ~~The solar panels proposed on the north east roof plane of the main roof form are to be relocated to the roof over the rear addition, and are to sit flush with the roof plane.~~**
- b. The roof form for first floor addition including master bedroom is of skillion design. The roof shall begin below and be independent of the eave and gutter of existing primary roof at the rear and be angled down towards the rear of the property.
- c. A skylight may be installed onto the rear roof addition, of a maximum size of 2sqm.
- d. No new opening to the south-west elevation and no associated pathway in the landscaped area.**
- e. The boundary walls approved with DA/2021/0124 have not increases in height. The South-West elevation in association with master bed must remain a maximum RL of 26.55.**
- f. That new roofing material must comprise of either heritage barrel rolled traditional corrugated galvanised steel or pre-coloured traditional corrugated steel similar to Custom Orb in a colour equivalent to Colorbond’s “Windspray”, “Shale Grey”, “Jasper” or “Wallaby.**

(Amended – 16 December 2022 – MOD/2022/0247)

FEES

3. Security Deposit - Custom

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

Security Deposit:	\$2,254
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Inspection Fee:	\$241.50
------------------------	----------

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

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

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

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

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

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

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

Note:

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

Payment amount*:

\$5,000.00

*Indexing of the Section 7.12 contribution payment:

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

Payment methods:

The required contribution must be paid either **by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions; cash (to a maximum of \$10,000))**. It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. **Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.**

5. Long Service Levy

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

GENERAL CONDITIONS

6. Tree Protection

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

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

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

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

7. Boundary Alignment Levels

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

8. Waste Management Plan

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

9. Erosion and Sediment Control

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

10. Works Outside the Property Boundary

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

PRIOR TO ANY DEMOLITION

11. Hoardings

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

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

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

12. Dilapidation Report

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by

a suitably qualified person. The report is required to include colour photographs of all the adjoining properties (33 and 37 Waterview Street) to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

13. Advising Neighbours Prior to Excavation

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

14. Construction Fencing

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

PRIOR TO CONSTRUCTION CERTIFICATE

15. Dilapidation Report – Pre-Development – Minor

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

16. Stormwater Drainage System – Minor Developments (OSD is required)

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

- a. The stormwater drainage concept plan on Drawing No. DA1-12 prepared by Olo & Co. and dated January 2021, must be amended to comply with the following;
- b. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of a public road;
- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage;

- e. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks;
- f. As there is no overland flow/flood path available from the front portion of the site, the design of the sag pit and piped drainage system is to meet the following criteria:
 - 1. Capture and convey the 100 year Average Recurrence Interval flow from the contributing catchment assuming 80% blockage of the inlet and 50% blockage of the pipe;
 - 2. Drain as much of the front surface and roof area as possible to Water view Street under gravity;
 - 3. No roof area shall be connected Pit 1
 - 4. Avoid any pipe bends under the building
 - 5. The maximum water level over the sag pit shall not be less than 150mm below the floor level or damp course of the building; and
- g. No nuisance or concentration of flows to other properties;
- h. Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
- i. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- j. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 mm and a maximum section height and width of 100 mm or sewer grade uPVC pipe with a maximum diameter of 100 mm;
- k. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;
- l. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
- m. No impact to street tree(s).

17. Front Fence

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with details of the front fence retaining wall at the Waterview Street frontage of the site to be designed in such a way that any necessary sub soil drainage system installed behind the wall discharges to the site stormwater drainage system and all components of the wall are fully within the property boundary. No weep holes are permitted to Councils footpath.

18. Amended Architectural Plans to Delete Proposed Garage/Carspace

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended architectural plans that incorporate the following recommendation:

- a. The proposed garage/car space must be deleted. Plans on Drawing No. DA1-23 prepared by OLLO & Co and dated June 2021 indicate that manoeuvring clearance for vehicles turning from Duncan Street to Jagger Lane is not available,
- b. The associated rear roller door is also to be deleted and the rear boundary fence is to remain, which can include a gate, with a maximum width of 1.5 metres.

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

19. Structural Certificate for retained elements of the building

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

20. Sydney Water – Tap In

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

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

DURING DEMOLITION AND CONSTRUCTION

21. Construction Hours – Class 1 and 10

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

22. Survey Prior to Footings

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

PRIOR TO OCCUPATION CERTIFICATE

23. Certification of Tree Planting

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

One (1) x 75 litre size tree/s, which will attain a minimum mature height of six (6) metres, has been planted in a suitable location within the property at a minimum of 2 metres from the building with allowance made for future tree growth. The tree is to conform to AS2303—*Tree stock for landscape use*. Trees listed as exempt species from Council's Tree Management Controls, palms, fruit trees and species recognised to have a short life span will not be accepted as suitable replacements.

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

24. No Encroachments

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

25. Protect Sandstone Kerb

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

26. Works as Executed – Site Stormwater Drainage System

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a suitably qualified Civil Engineer who holds current Chartered Engineer

qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that:

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

27. Operation and Management Plan

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

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

ON-GOING

28. Tree Establishment

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

29. Operation and Management Plan

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

ADVISORY NOTES

Consent of Adjoining property owners

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

Tree Protection Works

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

Tree Pruning or Removal (including root pruning/mapping)

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

Permits

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

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

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

Insurances

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

Prescribed Conditions

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

Notification of commencement of works

At least 7 days before any demolition work commences:

- a. the Council must be notified of the following particulars:
 - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - ii. the date the work is due to commence and the expected completion date; and
- b. a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

Storage of Materials on public property

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

Toilet Facilities

The following facilities must be provided on the site:

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

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

Infrastructure

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

Other Approvals may be needed

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

Failure to comply with conditions

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

Other works

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

Obtaining Relevant Certification

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

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

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

National Construction Code (Building Code of Australia)

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

Notification of commencement of works

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

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

Dividing Fences Act

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

Permits from Council under Other Acts

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

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip bins;
- e. Scaffolding/Hoardings (fencing on public land);

- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street verandah over footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

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

Noise

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

Amenity Impacts General

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

Lead-based Paint

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

Dial before you dig

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

Useful Contacts

BASIX Information

1300 650 908 weekdays 2:00pm - 5:00pm

Department of Fair Trading		www.basix.nsw.gov.au 13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig		1100 www.dialprior toyoudig.com.au
Landcom		9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments	131441 www.lspc.nsw.gov.au
NSW Food Authority		1300 552 406 www.foodnotify.nsw.gov.au
NSW Government		www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage		131 555 www.environment.nsw.gov.au
Sydney Water		13 20 92 www.sydneywater.com.au
Waste Service Environmental Solutions	- SITA	1300 651 116 www.wasteservice.nsw.gov.au

Water Efficiency Labelling and Standards (WELS) www.waterrating.gov.au

WorkCover Authority of NSW 13 10 50

www.workcover.nsw.gov.au

Enquiries relating to work safety and asbestos removal and disposal.