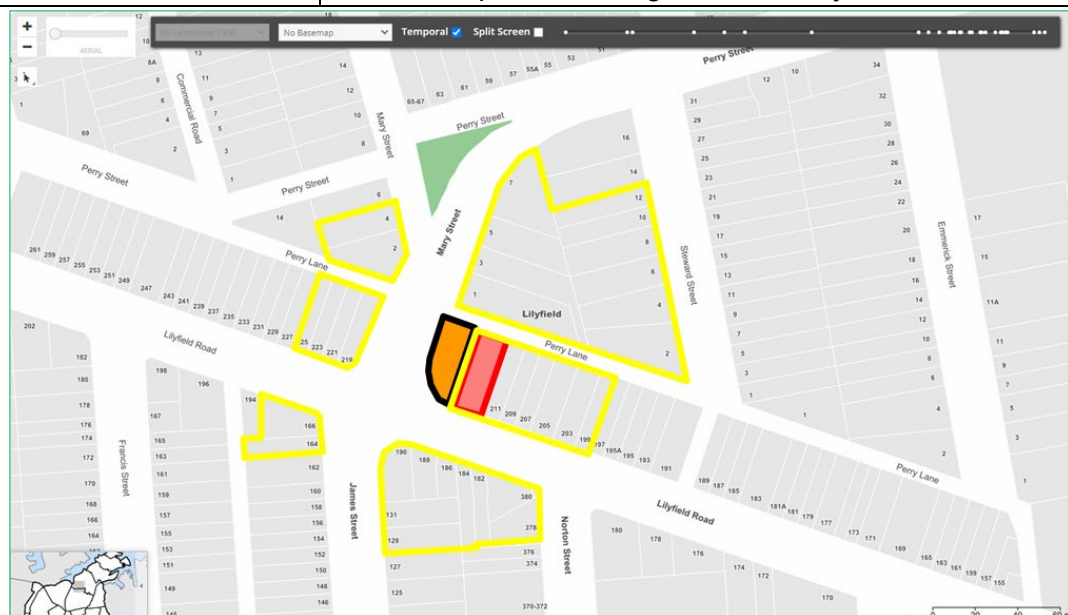





INNER WEST

DEVELOPMENT ASSESSMENT PANEL REPORT

Application No.	REV/2024/0014
Address	2/215 Lilyfield Road LILYFIELD NSW 2040
Proposal	Section 8.2 Review of DA/2023/0565 determined on 13/02/2024, for alterations and additions to an existing single bedroom apartment unit including new stairs to upper level bedroom on new second floor, roof modifications, and other associated works, review involves amended plans.
Date of Lodgement	19 June 2024
Applicant	David Springett
Owner	Ms Jennifer M Madz Mr Warren M Briggs Logan Creative Pty Ltd
Number of Submissions	Initial: 0
Cost of works	\$103,400.00
Reason for determination at Planning Panel	DA previously refused by the IWLPP
Main Issues	Streetscape
Recommendation	Approval with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Report for DA/2023/0565
Attachment D	Minutes of panel meeting - 13 February 2024



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area				

1. Executive Summary

This report is an assessment of the application submitted to Council under Section 8.2 of the *Environmental Planning and Assessment Act 1979 (EP and A Act 1979)* to review DA/2023/0565 determined on 13 February 2024, for alterations and additions to an existing single bedroom apartment unit including new stairs to upper level room on the second floor, roof modifications and other associated works at 2/215 Lilyfield Road LILYFIELD.

The s.8.2 Review involves amended plans reducing the size of the proposed new upper level addition.

The application was notified to surrounding properties and 1 submission was received in response to the notification.

The main issues that have arisen from the application include:

- Streetscape
- Bulk

The non-compliances identified in this report are considered acceptable and therefore the application is recommended for approval.

Pursuant to section 8.10(1) of the *EP & A Act 1979* this section 8.2 Review must be determined by 15 August 2024, being six months from the date the determination of the original development application was notified to the applicant.

2. Proposal

The application seeks to carry out alterations and additions to an existing two storey mixed-use building comprising 4 strata lots. Two lots comprise ground level commercial lots with two upper-level residential lots.

The proposed addition comprises the construction of a new upper-level bedroom above the existing unit 2 dwelling which currently comprises a studio dwelling on the first floor of the building. Works include provision of a new internal staircase linking the existing dwelling to the new upper-level bedroom, with associated roof modifications and works.

3. Site Description

The subject site is located on the north-eastern corner of the intersection of Lilyfield Road and Mary Street and James Street Lilyfield. The site area is approximately 325.9sqm and the site is legally described as Lot 0 in SP 84252.

The site has a primary frontage to Lilyfield Road with and rear frontage to Perry Lane. An existing two-storey mixed use development is located on the site. Unit 2 has a pedestrian

access from the Mary Street elevation of the building and is legally described as Lot 4 in SP84252.

The site has a frontage to Lilyfield Road of approximately 15.6 metres and a secondary frontage of approximately 20.9 metres to Mary Street.

The adjoining properties support a mix of single and two-storey dwelling houses, terraces and shop-top housing.

The subject site is not within a Conservation Area or listed as a heritage item. The property is located adjacent a Landscape Heritage Item comprising the street trees within the Lilyfield Road reserve and a Ficus hillii tree at the intersection of Mary and Perry Streets

The property is identified as being located within the ANEF 20-25 Noise Exposure Footprint for Kingsford Smith airport.



4. Background

Site history

The following outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Application	Proposal	Decision & Date
DA/48/1998	Alterations and additions	Approved 3/12/1998
D/2008/257	Strata subdivision into 4 lots	Approved 29/8/2008
D/2008/586	Change Unit 2 from office to residential	Approved 12/2/2009
D/2009/118	Bicycle shop	Approved 16/7/2009
CDC/2017/161	Use shop 1 as Photography studio	Approved 6/10/2017

PDA/2022/0029	Alterations and additions to existing building to provide an additional level associated with Unit 2	Issued on 2/3/2022
DA/2023/0565	Alterations and additions to existing single bedroom apartment unit including new stairs to upper-level room on the second floor, roof modifications, and other associated works.	Refused IWLPP 13/2/2024

Application history

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

Date	Discussion / Letter / Additional Information
9/7/2024	Request for information issued
19/7/2024	Additional information submitted
23/7/2024	Additional information submitted

5. Section 8.2 Review

The application was lodged under Section 8.2 of the *Environmental Planning and Assessment Act 1979 (EP & A Act 1979)*.

An application for alterations and additions to an existing single bedroom apartment unit including new stairs to upper-level room on the second floor, roof modifications, and other associated works was refused by the Inner West Local Planning Panel) under Development Application No. DA/2023/0565 on 13 February 2024 for the following reasons:

1. The proposal does not satisfy Section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979 in the following manner:
 - a. The proposal is inconsistent with the Inner West Local Environmental Plan 2022 as follows:
 - i. Section 1.2 - Aims of the Plan: aims (g), (h) and (i), where the proposed height, bulk and scale of the addition will have an adverse impact on the streetscape and Distinctive Neighbourhood in which the site is located, particularly due to the development being inconsistent with the predominant form, height and scale of buildings characteristic of this part of Lilyfield Road and adjacent streets.
 - ii. Section 2.3 - Zone Objectives for Zone E1 Local Centre, as the proposal does not enhance the unique sense of place offered by Inner West local centres by ensuring buildings display architectural and urban design quality and contribute to the desired character and cultural heritage of the locality.
 - iii. Section 4.4 - Floor Space Ratio: Objectives (1)(a)(b)(c), as it does not provide an appropriate density which reflects the locality and transition between

- developments and Objectives (1)(d) and(e) and it does not minimise adverse impacts on local amenity.
- iv. Section 4.4A – Exception to maximum floor space ratio for active street frontages, specifically Sub-section (3)(c) is not satisfied as the proposal is not compatible with the desired future character of the locality.
 - v. Section 4.6 - Exceptions to Development Standards, as the proposal fails to satisfy the objectives of the E1 Local Centre in accordance with Section 4.6(3)(a) and (b), and the requirements of section 4.6(3)(b) of the LEP with particular respect to streetscape / response to local character, height, bulk and scale and amenity impacts and outcomes.
 - vi. Section 6.13 – Residential Accommodation in Business Zones, as the proposal is inconsistent with Section 6.13(3)(c) as it fails to comply with the desired future character of the locality.
2. The proposal is inconsistent with the Leichhardt Development Control Plan 2013 as follows:
- a. *Part 1.0 - General Provisions*: Objective O6, as it does not respond the existing and desired future character of the surrounding area.
 - b. *Part C1.1 - Site and Context Analysis*: Objective O1 (a) and (f), as the existing site conditions on the site and at adjoining properties have not been adequately taken into consideration.
 - c. *Part C1.3 - Alterations and Additions*: Objectives O1(a)-(f) and Control C1(a) and (c)-(f), as it does not preserve the character of the streetscape, will not be compatible with its setting nor the desired future character of the distinctive neighbourhood, does not have regard to the Building Typologies of the DCP and results in adverse amenity impacts. The proposed addition interferes with the characteristics stepped form of the side wall adjoining 213 Lilyfield Road.
 - d. *Part C1.5 – Corner Sites* Objectives O1(a)-(c) and Controls C1(a) and (b), C2-C4 and C5(e) and (f), as the addition will be highly visible from various street frontages and is not compatible with the single and two storey forms and scales that predominate these streetscapes and will have intrusive and adverse visual impacts when viewed from the adjoining residence at No. 213 Lilyfield Road.
 - e. *Part C2.2.4.3 – Leichhardt Park Distinctive Neighbourhood*: Objective O1, and Controls C1 and C11, as the proposal is not considered to be consistent with the desired future character controls as it will not result in a development of a consistent building form that is compatible with the single and two storey forms that predominate in the area, and the proposed addition will further breach the maximum building height of 7.2m by proposing a 10.6m wall height to the eastern boundary.
 - f. *Part C3.2 – Site Layout and Building Design*: Controls C6 and C8 are not satisfied with regard to Building Location Zone and Side Boundary Setbacks.
3. The proposal has not demonstrated that the site is suitable for the development pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.

4. The proposal is not considered to be in the public interest pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.
5. The proposed plans are inconsistent with the existing building.

The applicant is seeking review of the determination of refusal of the development application.

The Review application is supported by plans and documentation that have been amended from those forming part of the original development application. The changes are summarised as follows:

- The east wall to the stairwell is now setback from the eastern side boundary wall.
- The roof line over the stairs has been lowered to follow the slope of the stairwell.
- The floor area the proposed new upper level bedroom has been reduced.

The following is an assessment of the amendments with regard to each reason for refusal:

1. Inconsistency with the *Inner West Local Environmental Plan 2022*:

- i. *Section 1.2 - Aims of the Plan: aims (g), (h) and (i), where the proposed height, bulk and scale of the addition will have an adverse impact on the streetscape and Distinctive Neighbourhood in which the site is located, particularly due to the development being inconsistent with the predominant form, height and scale of buildings characteristic of this part of Lilyfield Road and adjacent streets.*

Comment: The proposal has been amended so as to reduce the bulk of the addition so as to satisfactorily reduce the bulk and visibility of the additions within the streetscape. In this regard, the additions would not be highly visible when viewed from the nearby road intersection. It is noted that the additions would still be visible from vantage points to the north-west of the site in Mary Street.

- ii. *Section 2.3 - Zone Objectives for Zone E1 Local Centre, as the proposal does not enhance the unique sense of place offered by Inner West local centres by ensuring buildings display architectural and urban design quality and contribute to the desired character and cultural heritage of the locality.*

Comment: As the visibility of the additions within the streetscape have been reduced, the additions would not have a significant visual impact on the desired character of the local centre or locality.

- iii. *Section 4.4 - Floor Space Ratio: Objectives (1)(a)(b)(c), as it does not provide an appropriate density which reflects the locality and transition between developments and Objectives (1)(d) and(e) and it does not minimise adverse impacts on local amenity.*

Comment: The proposal has been amended to reduce the bulk of the addition so as to not be highly visible within the immediate vicinity of the site thereby maintaining the existing transition from the two-storey mixed use form to the neighbouring mixed residential forms. Consequently, the proposal is not contrary to the Objectives of the Floor Space Ratio development standard.

iv. *Section 4.4A – Exception to maximum floor space ratio for active street frontages, specifically Sub-section (3)(c) is not satisfied as the proposal is not compatible with the desired future character of the locality.*

Comment: The amended and reduced bulk of the proposal is now considered to be compatible with the desired future character of the locality, thereby satisfying the provisions of this section. Consequently, the applicable maximum Floor Space Ratio for the development is 1.5:1 and the proposal complies with that standard.

v. *Section 4.6 - Exceptions to Development Standards, as the proposal fails to satisfy the objectives of the E1 Local Centre in accordance with Section 4.6(3)(a) and (b), and the requirements of section 4.6(3)(b) of the LEP with particular respect to streetscape / response to local character, height, bulk and scale and amenity impacts and outcomes.*

Comment: The amended proposal is considered to satisfy the provisions of section 4.4 of the LEP. Consequently, the provisions of clause 4.4A apply to the development and the proposal complies with the applicable maximum 1.5:1 Floor Space Ratio. Therefore, consideration of clause 4.6 does not apply to the amended proposal.

vi. *Section 6.13 – Residential accommodation in Zones E1, E2 and MU1, as the proposal is inconsistent with Section 6.13(3)(c) as it fails to comply with the desired future character of the locality.*

Comment: The amended proposal is considered to be consistent with the desired character of the area in relation to its bulk, form, uses and scale and therefore section 6.13(3)(c).

2. *Inconsistency with the Leichhardt Development Control Plan 2013:*

a. *Part 1.0 - General Provisions: Objective O6, as it does not respond the existing and desired future character of the surrounding area.*

Comment: The amended proposal is considered to satisfy the provisions of Part 1.0 - General Provisions: Objective O6 of the DCP which reads: *Compatible: places and spaces contain or respond to the essential elements that make up the character of the surrounding area and the desired future character. Building*

heights, setbacks, landscaping and architectural style respond to the desired future character.

The proposal has been amended so as to reduce the bulk so as to satisfactorily reduce the visibility of the additions within the streetscape and the adjoining properties, particularly to the east of the site, including the adjoining property 213 Lilyfield Road. The amended additions would not be highly visible, though any addition above the existing building form would be visible from vantage points in Mary Street further to the north-west of the site. As such, the amended proposal is considered compatible in the circumstances.

- b. Part C1.1 - Site and Context Analysis: Objectives O1 (a) existing site conditions on the site and adjacent and nearby properties; and (f) the special qualities of the site and its context including urban design, streetscape and heritage considerations; as the existing site conditions on the site and at adjoining properties have not been adequately taken into consideration.*

Comment: The amended proposal is considered to satisfy the provisions of *Objectives O1 (a) and (f)* of the DCP due to the relocation of the addition away from the eastern boundary of the site and roof. The amended addition would be compatible with existing site conditions and its context. The amended additions would not be highly visible or result in adverse amenity impacts to neighbouring properties.

- c. Part C1.3 - Alterations and Additions: Objectives O1(a)-(f) and Control C1(a) and (c)-(f), as it does not preserve the character of the streetscape, will not be compatible with its setting nor the desired future character of the distinctive neighbourhood, does not have regard to the Building Typologies of the DCP and results in adverse amenity impacts. The proposed addition interferes with the characteristics stepped form of the side wall adjoining 213 Lilyfield Road.*

Comment: It is considered that the amended proposal satisfies the provisions of *Part C1.3 - Alterations and Additions: Objectives O1(a)-(f) and Control C1(a), (c)-(f)*, of the DCP due to the relocation of the addition away from the eastern boundary of the site and roof. It is considered that the amended addition would not be highly visible in the immediate vicinity of the site, nor result in significant adverse impacts to the streetscape, or be contrary to the desired future character of the area.

- d. Part C1.5 – Corner Sites Objectives O1(a)-(c) and Controls C1(a) and (b), C2-C4 and C5(e) and (f), as the addition will be highly visible from various street frontages and is not compatible with the single and two storey forms and scales that predominate these streetscapes and will have intrusive and adverse visual impacts when viewed from the adjoining residence at No. 213 Lilyfield Road.*

Comment: The amended proposal is considered to satisfy the provisions of *Part C1.5 – Corner Sites Objectives O1(a)-(c) and Controls C1(a) and (b), C2-C4 and C5(e) and (f)*, of the DCP due to the relocation of the addition away from the eastern boundary of the site and roof thereby reducing its visibility in the context of the site. Further, the amended addition would no longer be perceptible from 213 Lilyfield Road.

- e. *Part C2.2.4.3 – Leichhardt Park Distinctive Neighbourhood: Objective O1, and Controls C1 and C11, as the proposal is not considered to be consistent with the desired future character controls as it will not result in a development of a consistent building form that is compatible with the single and two storey forms that predominate in the area, and the proposed addition will further breach the maximum building height of 7.2m by proposing a 10.6m wall height to the eastern boundary.*

Comment: The amended proposal is considered to satisfy the provisions of *Part C2.2.4.3 – Leichhardt Park Distinctive Neighbourhood: Objective O1, and Controls C1 and C11* due to the relocation of the addition away from the eastern boundary of the site and roof. The amended addition is located away from the eastern side of the existing roof of the building and from the southern front parapet wall so as to reduce its visibility. The eastern side boundary wall is not proposed to be raised. The amended addition would result in a breach of the 7.2m Building Envelope control by between approximately 0.8m-1.3m due to the curvature of the existing southern (Lilyfield Road) façade of the building. Despite this, the addition would not be highly visible in Lilyfield Road due to its setback behind the existing front parapet wall. The amended proposal does not propose raising the height of the eastern side boundary wall. Rather, the addition is setback from the eastern boundary of the site, the form of the addition steeping up as the distance from the boundary increases thereby minimising its visibility.

- f. *Part C3.2 – Site Layout and Building Design: Controls C6 and C8 are not satisfied with regard to Building Location Zone and Side Boundary Setbacks.*

Comment: The provisions of clause C3.2 of the DCP do not apply as the proposal involves works to an existing mixed-use development in the E1 - Local Centre zone. As such, Part C4.2 of the DCP applies to the development with respect to Site Layout and Building Design. The proposed addition, as a new level on the existing building, would result in a technical breach of the front and rear Building Location Zones at that level as there is no adjoining site with a similar level. Consequently, the proposal would establish the Building Location Zones at this level.

As a mixed-use development in the E1 - Local Centre zone the side setback controls for residential development do not apply. Rather, the building is currently constructed to the side boundaries and the proposed amended additions are considered to be consistent with Controls C6 and C9 of Part C4.2 of the DCP, which read:

- C6 Where additional storeys are proposed, the front wall is setback from the existing parapet to minimise its visibility from the street.
- C9 Where on corner sites, development reinforces the visual prominence of corner sites by its built form, massing and architectural merit.

3. The proposal has not demonstrated that the site is suitable for the development pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.

Comment: The amended proposal demonstrates that the site is suitable for the development pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 due to the relocation of the addition away from the eastern boundary of the site and roof and the associated reduction in visibility of the addition and there being no significant adverse amenity impacts to neighbouring properties.

4. The proposal is not considered to be in the public interest pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

Comment: It is considered that the amended proposal has demonstrated that it is in the public interest.

5. The proposed plans are inconsistent with the existing building.

Comment: It is considered that due to the reduction in the apparent bulk and visibility of the amended addition, the proposal would not be inconsistent with the existing building.

6. 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.

State Environmental Planning Policies (SEPPs)

SEPP (Resilience and Hazards) 2021

Chapter 4 Remediation of land

Section 4.6(1) of the *Resilience and Hazards SEPP* requires the consent authority not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

In considering the above, there is no evidence of contamination on the site.

There is also no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council's records. The land will be suitable for the proposed use as there is no indication of contamination.

SEPP (Sustainable Buildings) 2022

The applicant has included a BASIX Certificate as part of the lodgment of the application lodged within 3 months of the date of the lodgment of this application in compliance with the *EP & A Regulation 2021*.

SEPP (Transport and Infrastructure) 2021

Chapter 2 Infrastructure of the *Transport and Infrastructure SEPP*.

Development with frontage to classified road

In considering Section 2.119(2) of the *Transport and Infrastructure SEPP*:

Existing vehicular access to the site is provided via the rear laneway. The proposal does not involve any change to vehicular access. Therefore, the proposal will not adversely impact the safety, efficiency, and ongoing operation of the classified road.

Impact of road noise or vibration on non-road development

The impacts of traffic noise or vehicle emissions have been considered and suitable measures to ameliorate potential traffic noise or vehicle emissions are required to be implemented by way of noise attenuation for aircraft noise as identified elsewhere in this report. Subject to the dwelling being acoustically treated for aircraft noise the proposal would be satisfactory with regard to road noise associated with the classified road.

SEPP (Biodiversity and Conservation) 2021

Chapter 6 Water Catchments

Section 6.6 under Part 6.2 of the *Biodiversity and Conservation SEPP* provides matters for consideration which apply to the proposal. The subject site is located within the designated hydrological catchment of the Sydney Harbour Catchment and is subject to the provisions contained within Chapter 6 of the above *Biodiversity Conservation SEPP*.

It is considered that the proposal remains consistent with the relevant general development controls under Part 6.2 of the *Biodiversity Conservation SEPP* and would not have an adverse effect in terms of water quality and quantity, aquatic ecology, flooding, or recreation and public access.

Inner West Local Environmental Plan 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 proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> • The proposal encourages development that demonstrates efficient and sustainable use of energy and resources in accordance with ecologically sustainable development principles, • 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

Part 2 – Permitted or prohibited development

Section	Proposed	Compliance
Section 2.3 Zone objectives and Land Use Table	<ul style="list-style-type: none"> ▪ The application proposes alterations and additions to Shop-top Housing. Shop-top Housing is permissible with consent in the E1 Local Centre zone. ▪ The proposal is consistent with the relevant objectives of the zone, being: <ul style="list-style-type: none"> • To enable residential development that contributes to a vibrant and active local centre 	Yes

Section	Proposed	Compliance
	<p>and is consistent with the Council's strategic planning for residential development in the area.</p> <ul style="list-style-type: none"> To enhance the unique sense of place offered by Inner West local centres by ensuring buildings display architectural and urban design quality and contributes to the desired character and cultural heritage of the locality. 	
Section 2.7 Demolition requires development consent	<p>The proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> Minor demolition works are proposed to the existing building which are permissible with consent; and Standard conditions are recommended to manage impacts which may arise during demolition. 	Yes

Part 4 – Principal development standards

Section	Proposed		Compliance
Section 4.4A Exception to maximum floor space ratio for active street frontages	Maximum	1.5:1 or 488.85sqm	Yes
	Proposed	1.45:1 or 473.8sqm	
	Variation	-	
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

Part 5 – Miscellaneous provisions

Section	Compliance	Compliance
Section 5.10 Heritage conservation	<p>The proposed development is not a heritage listed item nor is it within a Heritage Conservation Area. However, it is abutting a Landscape Item of Heritage [11200] being, Street trees - Avenue of Brush Box and 1 <i>Brachychiton</i>, in Lilyfield Road.</p> <p>However, it is abutting a Landscape Item of Heritage [11202] being, Street trees - <i>Ficus hillii</i> tree at the intersection of Mary and Perry Streets.</p> <p>The proposed development will not have any adverse impact on the street trees and would not detract from their significance or setting or result in adverse impacts on them.</p>	Yes

Part 6 – Additional local provisions

Section	Proposed	Compliance
Section 6.1 Acid sulfate soils	<ul style="list-style-type: none"> The site is identified as containing Class 5 acid sulfate soils. The proposal is considered to adequately satisfy this section as the application does not propose any works that would result in any significant adverse impacts to the watertable. 	Yes
Section 6.3 Stormwater Management	<ul style="list-style-type: none"> The development does not alter existing stormwater provision to the site. 	Yes
Section 6.8 Development in areas subject to aircraft noise	<ul style="list-style-type: none"> The site is located within the ANEF 25-30 contour. The proposal is capable of satisfying this section as an Acoustic Report has been submitted with application. Suitable conditions are recommended to ensure that the proposal will meet the relevant requirements of Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015. 	Yes
Section 6.13 Residential accommodation in Zones E1, E2 and MU1	<ul style="list-style-type: none"> For the reasons discussed in this report the amended proposal is considered to be compatible with the desired future character of the locality in relation to height, bulk, form and scale. Therefore, it is consistent with this section. 	Yes

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).

LDCP 2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	N/A
B2.1 Planning for Active Living	N/A
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes

C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.5 Corner Sites	Yes
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	N/A
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	No
C1.12 Landscaping	N/A
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	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. The proposal does not result in any impact to the laneway.
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
C2.2.4.3 Leichhardt Park Distinctive Neighbourhood	No. See Discussion
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	N/A
C3.3 Elevation and Materials	N/A
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	N/A
C3.6 Fences	N/A
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	No – see discussion
C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A

Part C: Place – Section 4 – Non-Residential Provisions	
C4.1 Objectives for Non-Residential Zones	Yes
C4.2 Site Layout and Building Design	Yes
C4.3 Ecologically Sustainable Development	Yes
C4.4 Elevation and Materials	Yes
C4.5 Interface Amenity	Yes
C4.6 Shopfronts	N/A
C4.7 Bulky Goods Premises	N/A
C4.8 Child Care Centres	N/A
C4.9 Home Based Business	N/A
C4.10 Industrial Development	N/A
C4.11 Licensed Premises and Small Bars	N/A
C4.12 B7 Business Park Zone	N/A
C4.13 Markets	N/A
C4.14 Medical Centres	N/A
C4.15 Mixed Use	No – see discussion
C4.16 Recreational Facility	N/A
C4.17 Sex Services Premises	N/A
C4.18 Vehicle Sales or Hire Premises And Service Stations	N/A
C4.19 Vehicle Repair Station	N/A
C4.20 Outdoor Dining Areas	N/A
C4.21 Creative Industries	N/A
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.5 Mixed Use Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	N/A
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	N/A
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	N/A
E1.2.1 Water Conservation	N/A
E1.2.2 Managing Stormwater within the Site	N/A
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	N/A
E1.2.5 Water Disposal	N/A
E1.2.6 Building in the vicinity of a Public Drainage System	N/A

E1.2.7 Wastewater Management	N/A
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A
Part F: Food	N/A
Part G: Site Specific Controls	N/A

Leichhardt Development Control Plan 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

Consideration of non-compliances

C1.11 Parking

The proposal does not comply with the on-site parking requirements of this control C.11.1 of Leichhardt Development Control Plan 2013. Having regard to the relevant objectives of the control, in considering a variation the following is noted:

The development would effectively change the dwelling from a bedsit dwelling to a one-bedroom dwelling. Consequently, a one-bedroom dwelling would require the provision of 0.33 parking space.

No parking is provided for the existing studio dwelling. The site is located adjacent a classified road close to both regular public transport including both bus (30m/80m) and light rail services (<200m). The provision of additional on-site parking is precluded by the current form of development on the site.

Given the minor breach, which will not have any significant environmental impact, flexibility in the implementation of the parking control is considered warranted and an exception to this control is considered satisfactory in the circumstances.

Part C – Section 2 – Urban Character

Control	Proposed / Discussion	Compliance
C2.2.4.3 Leichhardt Park Distinctive Neighbourhood	<ul style="list-style-type: none"> The proposal would result in a breach of the applicable 7.2m Building Envelope Control to the Lilyfield Road frontage by up to 1.3m. Despite this breach, the proposed addition would not be highly visible in the streetscape as it would be largely obscured by the existing roof parapet from view to the south and west. The addition would be setback from the eastern 	No

Control	Proposed / Discussion	Compliance
	<p>side boundary by between 0.25 to 1.4m thereby reducing its visibility significantly when viewed from the east. The additions would be visible from positions 50m distant in Mary Street to the north-west of the site.</p> <ul style="list-style-type: none"> • With exception of the above breach the proposal is considered to be satisfactory with regard to the Distinctive Neighbourhood controls under this part and a variation to the control is considered to be justified in the circumstances of the case. 	

Part C – Section 3 – Residential Provisions

Consideration of non-compliances

C3.8 Private Open Space

The proposal does not comply with the requirements of controls C3, C4 and C5 within this Part of the Leichhardt Development Control Plan 2013. In considering a variation the following is noted:

The proposal does not include provision of private open space contrary to controls C3, C4 and C5. However, it is noted that the existing dwelling does not include any private open space. Further, given the location and small size of Unit 2, the provision of private open space is not considered viable. The alteration to the building necessary to provide this may result in impacts contrary to the objectives to the control, particularly objective *f.*, which seeks to minimise visual and acoustic privacy impacts for surrounding residential properties. The continued non-provision of private open space in this instance is supported.

C4.15 Mixed Use

The existing bed-sit dwelling does not have private open space. This is not in accordance with Control C8(e) of this Part which requires compliance with *Part C3.8 - Private open space*. The proposed additions would not introduce private open space. In the circumstances, involving only a minor change to a one-bedroom dwelling, the continuance of the existing situation is considered reasonable as the introduction of private open space may result in external amenity impacts not currently associated with the dwelling.

C. The Likely Impacts

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

D. The Suitability of the Site for the Development

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

E. Submissions

The application was required to be notified in accordance with Council’s Community Engagement Strategy between 9 July 2024 to 30 July 2024.

A total of one (1) submission was received in response to the initial notification.

Issues raised in the submission received is discussed below:

Concern	Comment
<p>The application does not provide sight lines demonstrating that the amended additions would have no visual impact on the front courtyard of 213 Lilyfield Road.</p> <p>Application should demonstrate no impact on adjoining neighbours if as the existing building is already in breach of the wall height and FSR controls.</p>	<p>It is considered that the information submitted with the application adequately identifies the location of the addition with regard to the boundary with 213 Lilyfield Road and that the amended form of the proposed development would have no significant visual impact to the front courtyard of 213 Lilyfield Road. In this regard, the proposed additions would become visible at a point within the front yard of 213 Lilyfield Road located approximately 6.2m from the side boundary wall of 215 Lilyfield Road, at a standing position height of 1.6m above ground level. This represents the point of the additions become visible from within 213 Lilyfield Road. Due to the stepped side boundary wall height and the setback/sloping roof of the additions, the visibility of the majority of the addition walls would not be visible from within 213 Lilyfield Road. That portion of the additions that would be visible from the eastern side of the front yard of 213 Lilyfield Road is considered satisfactory in the circumstances of the case.</p>



View from front yard of 213 Lilyfield Road toward subject site

It is noted that the existing and proposed development on the subject site has been assessed as not breaching the applicable FSR control.

It is noted that the breach of the 7.2m building envelope control under Part C2.2.4.3 *Leichhardt Park Distinctive Neighbourhood* has been assessed as being satisfactory for a mixed-use development in the E1 - Local Centre zone. The proposal has also been assessed as being generally satisfactory with the relevant provisions of *Part C: Place - Section 4 - Non-Residential Provisions* of the DCP.

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.

This has been achieved in this instance.

7. Section 7.11 Contributions

Section 7.11 contributions are payable for the proposal as a result of the change of the existing studio dwelling to a 1-bedroom dwelling through the introduction of a new upper level bedroom as documented.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$9,245.00 would be required for the development under the Inner West Local Infrastructure Contributions Plan 2023.

A condition requiring that contribution to be paid is included in the recommendation.

8. Referrals

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

- Development Engineer
- Building Certification

Comment: The Building Certification officer did not identify any issues with the proposal.

9. 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 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.

10. Recommendation

- A. 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*, grant consent to Application No. REV/2024/0014 for Section 8.2 Review of DA/2023/0565 determined on 13 February 2024, for alterations and additions to the existing single bedroom apartment unit including new stairs to upper level bedroom on the second floor, roof modifications, and other associated works, at 2/215 Lilyfield Road, Lilyfield subject to the conditions listed in Attachment A below

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

GENERAL CONDITIONS

	Condition
1.	<p>Boundary Alignment Levels</p> <p>Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary unless levels are otherwise approved by Council via a S138 approval.</p> <p>Reason: To allow for pedestrian and vehicular access.</p>
2.	<p>Stormwater Drainage System – Simple</p> <p>Stormwater runoff from proposed new or altered roof areas may be discharged to the existing site drainage system.</p> <p>Any existing component of the stormwater system that is to be retained, including any absorption trench or rubble pit drainage system, must be checked and certified by a Licensed Plumber or qualified practising Civil Engineer to be in good condition and operating satisfactorily.</p> <p>If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road.</p> <p>Reason: To ensure adequate disposal of stormwater.</p>
3.	<p>Permits</p> <p>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:</p> <ul style="list-style-type: none"> • 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; • A concrete pump across the roadway/footpath; • Mobile crane or any standing plant; • Skip Bins; • Scaffolding/Hoardings (fencing on public land); • Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.; • Awning or street veranda over the footpath; • Partial or full road closure; and • Installation or replacement of private stormwater drain, utility service or water supply. <p>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</p>

	<p>submitted and approved by Council prior to the commencement of the works associated with such activity.</p> <p>Reason: To ensure works are carried out in accordance with the relevant legislation.</p>																																								
4.	<p>Insurances</p> <p>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.</p> <p>Reason: To ensure Council assets are protected.</p>																																								
5.	<p>Documents related to the consent</p> <p>The development must be carried out in accordance with plans and documents listed below:</p> <table border="1"> <thead> <tr> <th>Plan, Revision and Issue No.</th> <th>Plan Name</th> <th>Date Issued/Received</th> <th>Prepared by</th> </tr> </thead> <tbody> <tr> <td>DA01/E</td> <td>Existing Ground Floor Plan</td> <td>10/5/2024</td> <td>Paragrid</td> </tr> <tr> <td>DA02/E</td> <td>Existing First Floor Plan</td> <td>10/5/2024</td> <td>Paragrid</td> </tr> <tr> <td>DA03/E</td> <td>Proposed Floor Plans</td> <td>10/5/2024</td> <td>Paragrid</td> </tr> <tr> <td>DA04/E</td> <td>Proposed Roof & Stormwater Concept Plan</td> <td>10/5/2024</td> <td>Paragrid</td> </tr> <tr> <td>DA06/E</td> <td>Proposed Elevations</td> <td>10/5/2024</td> <td>Paragrid</td> </tr> <tr> <td>DA07/E</td> <td>Proposed Elevation</td> <td>10/5/2024</td> <td>Paragrid</td> </tr> <tr> <td>DA08/E</td> <td>Proposed Section & Streetscape Analysis</td> <td>10/5/2024</td> <td>Paragrid</td> </tr> <tr> <td>DA013/E</td> <td>3D View & Materials Schedule</td> <td>10/5/2024</td> <td>Paragrid</td> </tr> <tr> <td>DA014/E</td> <td>Construction & Waste Management Plan</td> <td>10/5/2024</td> <td>Paragrid</td> </tr> </tbody> </table>	Plan, Revision and Issue No.	Plan Name	Date Issued/Received	Prepared by	DA01/E	Existing Ground Floor Plan	10/5/2024	Paragrid	DA02/E	Existing First Floor Plan	10/5/2024	Paragrid	DA03/E	Proposed Floor Plans	10/5/2024	Paragrid	DA04/E	Proposed Roof & Stormwater Concept Plan	10/5/2024	Paragrid	DA06/E	Proposed Elevations	10/5/2024	Paragrid	DA07/E	Proposed Elevation	10/5/2024	Paragrid	DA08/E	Proposed Section & Streetscape Analysis	10/5/2024	Paragrid	DA013/E	3D View & Materials Schedule	10/5/2024	Paragrid	DA014/E	Construction & Waste Management Plan	10/5/2024	Paragrid
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	DA016/C	RFI Elevation	-	10/5/2024	Paragrid
	DA018/C	LPP Response	-	10/5/2024	Paragrid
	A463515	BASIX Certificate		13/4/2023	Paragrid Pty Ltd
	2022/453.2	BCA Report		March 2023	CoCert
	20230601.2/1707A/R0/EM	Updated Aircraft Noise Intrusion Assessment		17 July 2024	Acoustic logic
	As amended by the conditions of consent.				
	Reason: To ensure development is carried out in accordance with the approved documents.				
6.	Residential Flat Buildings – Air Conditioning Systems				
	Where units or dwellings are provided with separate individual air conditioning systems, these must be located so they are not visible from the street.				
	Reason: To protect the visual amenity of the neighbourhood.				
7.	Works Outside the Property Boundary				
	This development consent does not authorise works outside the property boundaries on adjoining lands.				
	Reason: To ensure works are in accordance with the consent.				
8.	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.				
	Reason: To protect pedestrian safety.				
9.	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 <i>Environmental Planning and Assessment Act 1979</i> .				
	Reason: To ensure compliance with legislative requirements.				
10.	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.				
	Reason: To ensure compliance with legislative requirements.				

<p>11.</p>	<p>Notification of commencement of works</p> <p>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:</p> <ul style="list-style-type: none"> a. In the case of work for which a principal contractor is required to be appointed: <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> 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. <p>Reason: To ensure compliance with legislative requirements.</p>
<p>12.</p>	<p>Lead-based Paint</p> <p>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.</p> <p>Reason: To protect human health.</p>
<p>13.</p>	<p>Dial before you dig</p> <p>Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.</p> <p>Reason: To protect assets and infrastructure.</p>
<p>14.</p>	<p>Asbestos Removal</p> <p>Hazardous and industrial waste arising from the use must be removed and / or transported in accordance with the requirements of the NSW Environment Protection Authority (EPA) and the New South Wales WorkCover Authority.</p> <p>Reason: To ensure compliance with the relevant environmental legislation.</p>
<p>15.</p>	<p>Bin Storage - Residential</p> <p>All bins are to be stored within the property. Bins are to be returned to the property within 12 hours of having been emptied.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected.</p>

BUILDING WORK
BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition					
16.	<p>Security Deposit - Custom</p> <p>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.</p> <p>Security Deposit:</p> <table border="1" style="width: 100%;"> <tr> <td style="width: 60%;">Security Deposit:</td> <td style="text-align: right;">\$3,119.00</td> </tr> <tr> <td>Inspection Fee:</td> <td style="text-align: right;">\$389.90</td> </tr> </table> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>Reason: To ensure required security deposits are paid.</p>	Security Deposit:	\$3,119.00	Inspection Fee:	\$389.90
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Inspection Fee:	\$389.90				
17.	<p>Dilapidation Report – Pre-Development – Minor</p> <p>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.</p> <p>Reason: To ensure Council assets are protected.</p>				

18.	<p>Long Service Levy</p> <p>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 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.</p> <p>Reason: To ensure the long service levy is paid.</p>
19.	<p>Structural Certificate for retained elements of the building</p> <p>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.</p> <p>Reason: To ensure the structural adequacy of the works.</p>
20.	<p>Sydney Water – Tap In</p> <p>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.</p> <p>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.</p> <p>Reason: To ensure relevant utility and service provides requirements are provided to the certifier.</p>
21.	<p>Acoustic Report – Aircraft Noise</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans detailing the recommendations of an acoustic report prepared by a suitably qualified Acoustic Engineer demonstrating compliance of the development with the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.</p> <p>Reason: To ensure all noise attenuation is in accordance with the relevant Australian Standard.</p>

BEFORE BUILDING WORK COMMENCES

	Condition
22.	<p>Hoardings</p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>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.</p> <p>Separate approval is required from the Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property.</p> <p>Reason: To ensure the site is secure and that the required permits are obtained if enclosing public land.</p>
23.	<p>Waste Management Plan</p> <p>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.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
24.	<p>Standard Street Tree Protection</p> <p>Prior to the commencement of any work, the Certifying Authority must be provided with details of the methods of protection of all street trees adjacent to the site during demolition and construction.</p> <p>Reason: To protect and retain trees.</p>
25.	<p>Dilapidation Report</p> <p>Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of the identified property, 213 Lilyfield Road, 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.</p> <p>Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>

26.	<p>Construction Fencing</p> <p>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.</p> <p>Reason: To protect the built environment from construction works.</p>
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DURING BUILDING WORK

	Condition
27.	<p>Advising Neighbours Prior to Excavation</p> <p>At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, reasonable notice must be provided to the owner of the adjoining allotment of land including particulars of the excavation.</p> <p>Reason: To ensure surrounding properties are adequately notified of the proposed works.</p>
28.	<p>Construction Hours – Class 2-9</p> <p>Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:</p> <p>7:00am to 6.00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm); 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and at no time on Sundays or public holidays.</p> <p>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.</p> <p>In the case that a standing plant or special out of hours 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.</p> <p>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.</p> <p>Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving must be limited to 8:00am to 12:00pm, Monday to Saturday; and 2:00pm to 5:00pm Monday to Friday.</p> <p>The person acting on this consent must not undertake such activities for more than three continuous hours and must 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.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>

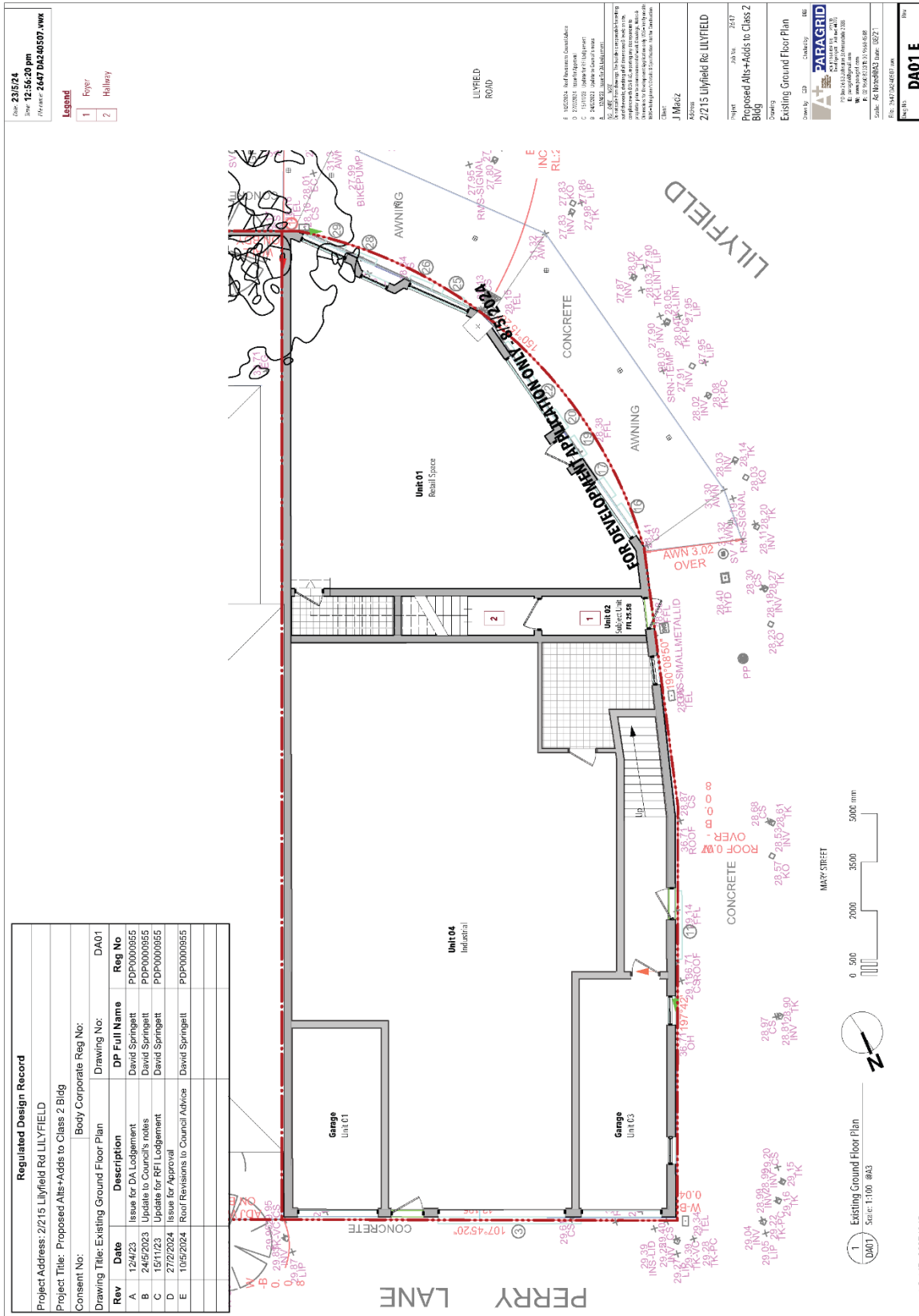
BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

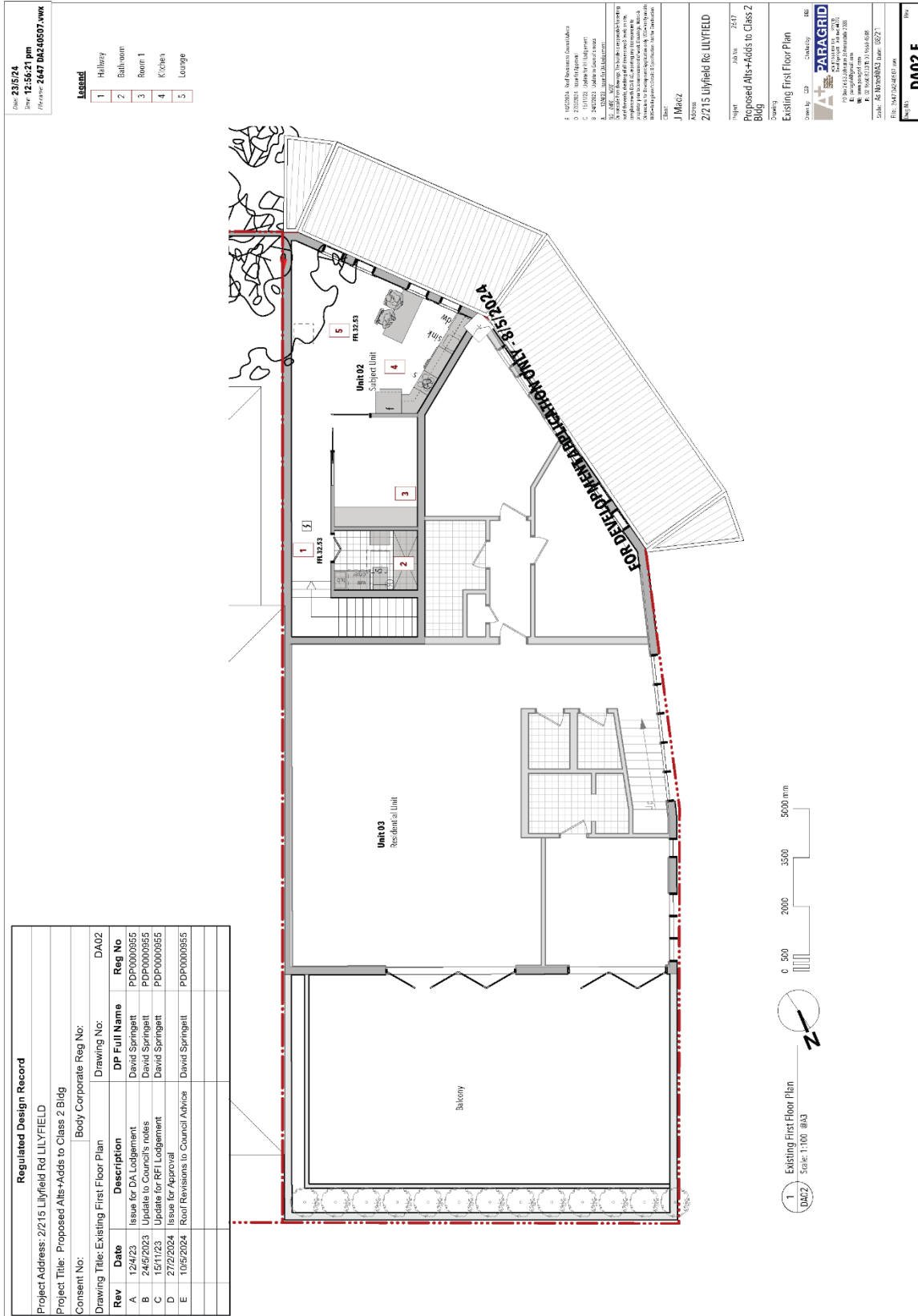
	Condition
29.	<p>No Encroachments</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.</p> <p>Reason: To maintain and promote vehicular and pedestrian safety.</p>
30.	<p>Protect Sandstone Kerb</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any stone kerb, damaged as a consequence of the work that is the subject of this development consent has been replaced.</p> <p>Reason: To ensure Council assets are protected.</p>
31.	<p>Aircraft Noise –Alterations and Additions</p> <p>Prior to the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), the Principal Certifier must be provided with a report from a suitably qualified person demonstrating that each of the commitments listed in Aircraft Noise Assessment Report required by this consent has been satisfied.</p> <p>Reason: To ensure all noise attenuation is in accordance with the relevant Australian Standard.</p>
32.	<p>Smoke Alarms - Certification of upgrade to NCC requirements</p> <p>Prior to the issue of any Occupation Certificate, the Principal Certifier is required to be satisfied the existing building has been upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke alarm systems.</p> <p>Reason: To ensure compliance with the National Construction Code (Building Code of Australia).</p>
33.	<p>Dilapidation Report</p> <p>Prior to the issue of an Occupation Certificate, the Certifying Authority and owners of identified properties must be provided with a second colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of the identified property 213 Lilyfield Road 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.</p> <p>Reason: To determine potential construction impacts.</p>

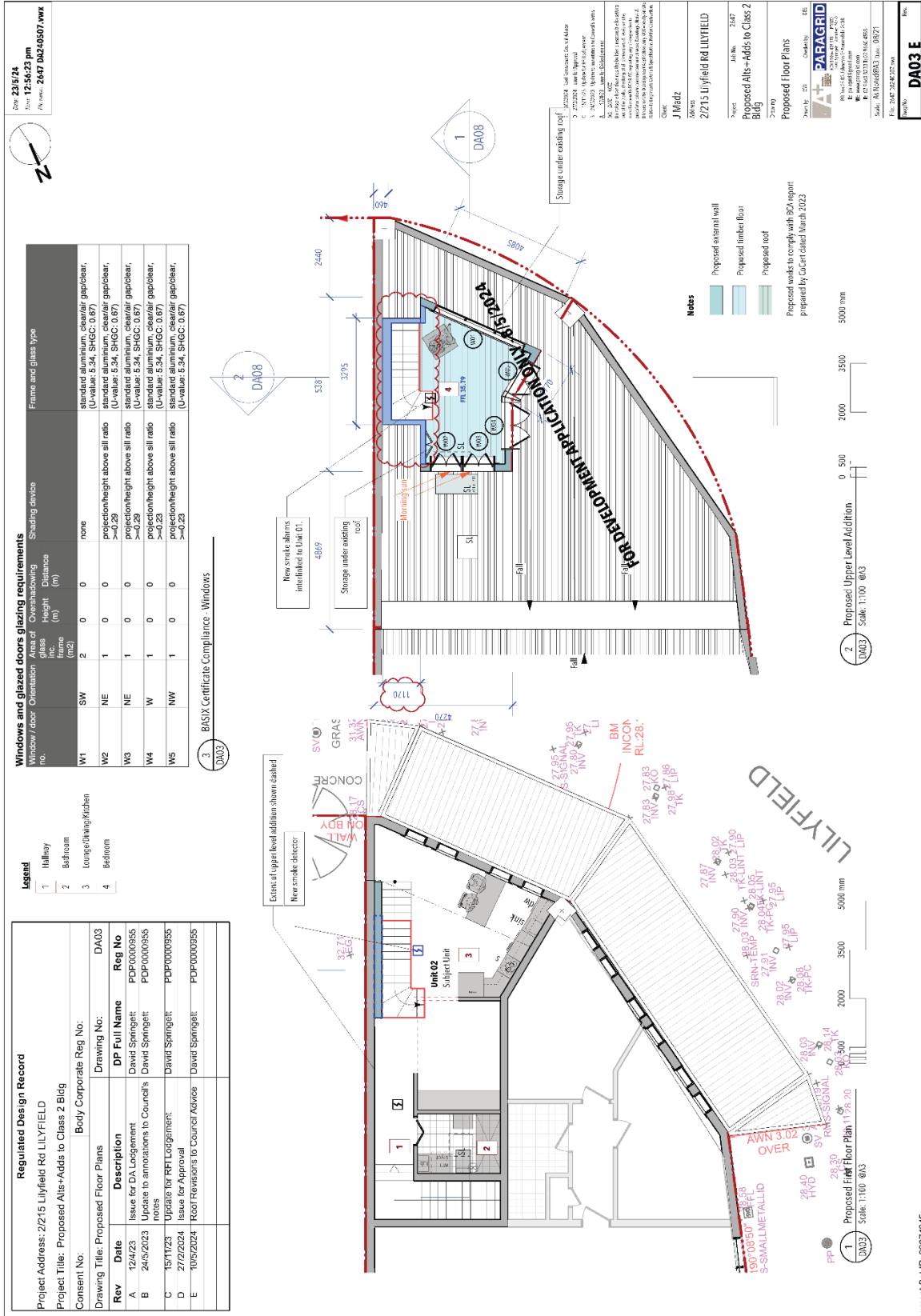
**DEMOLITION WORK
BEFORE DEMOLITION WORK COMMENCES**

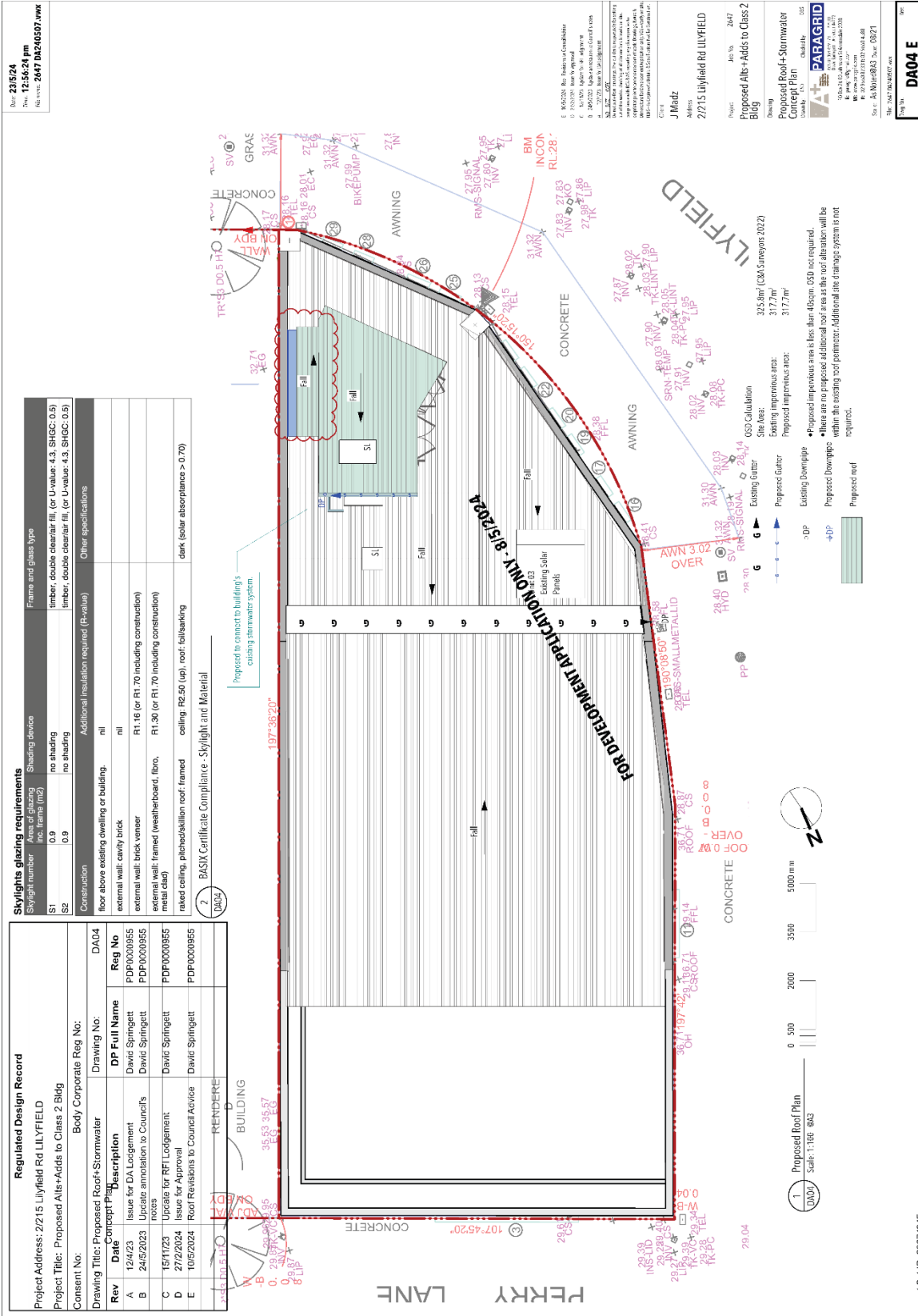
	Condition
34.	<p>Hoardings</p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council 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.</p> <p>Separate approval is required from the Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property.</p> <p>Reason: To ensure the site is secure and that the required permits are obtained if enclosing public land.</p>

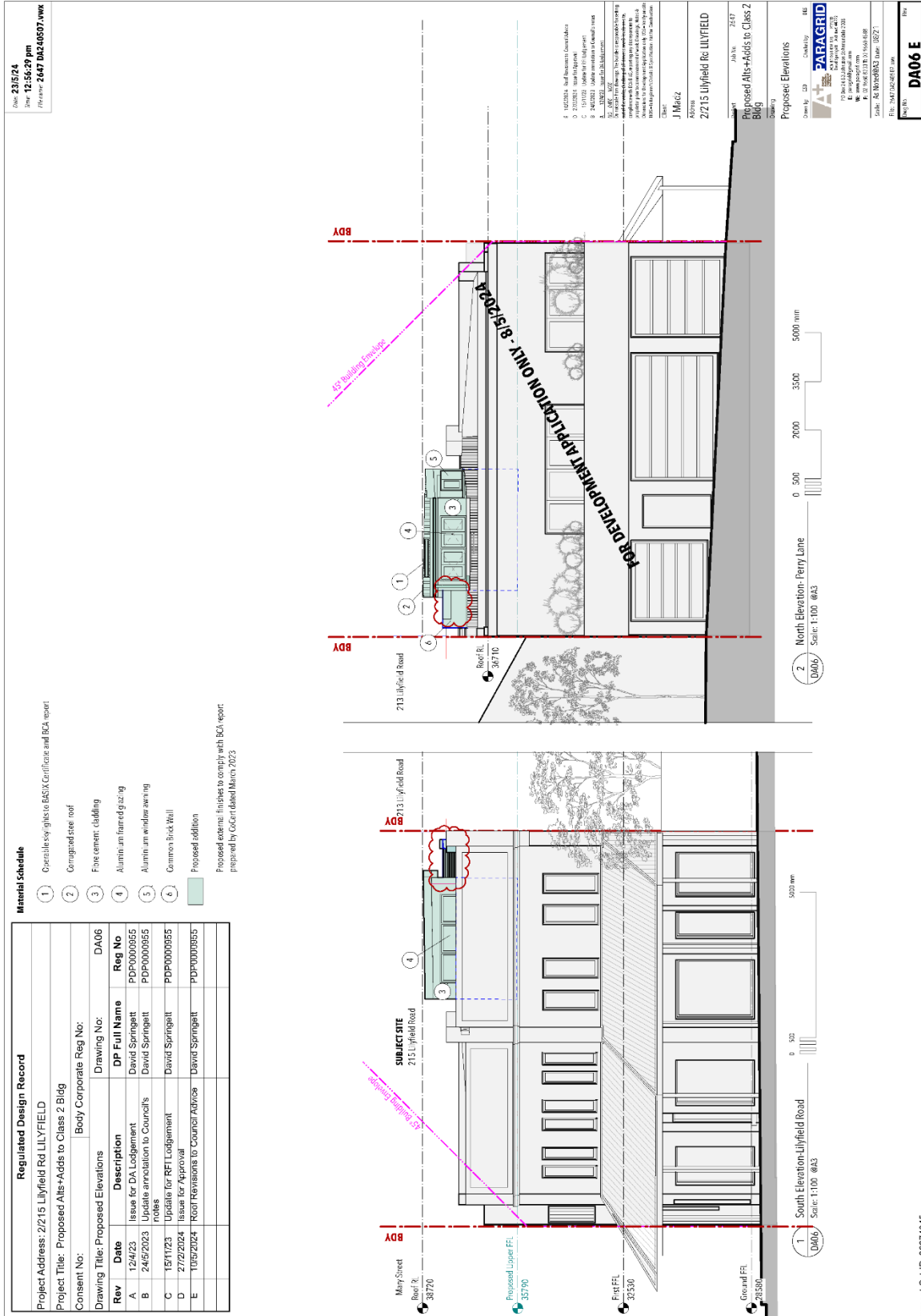
Attachment B – Plans of proposed development

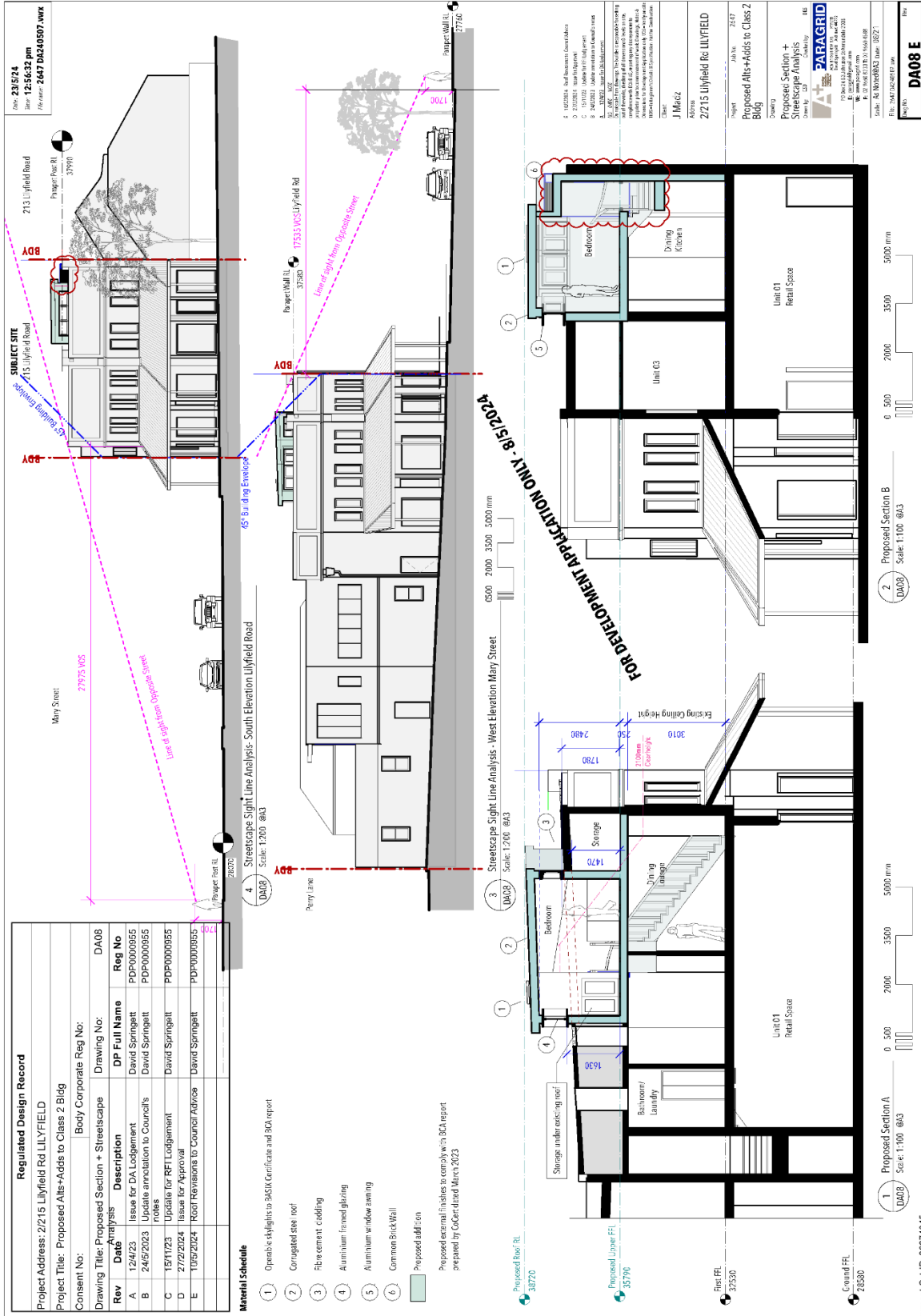




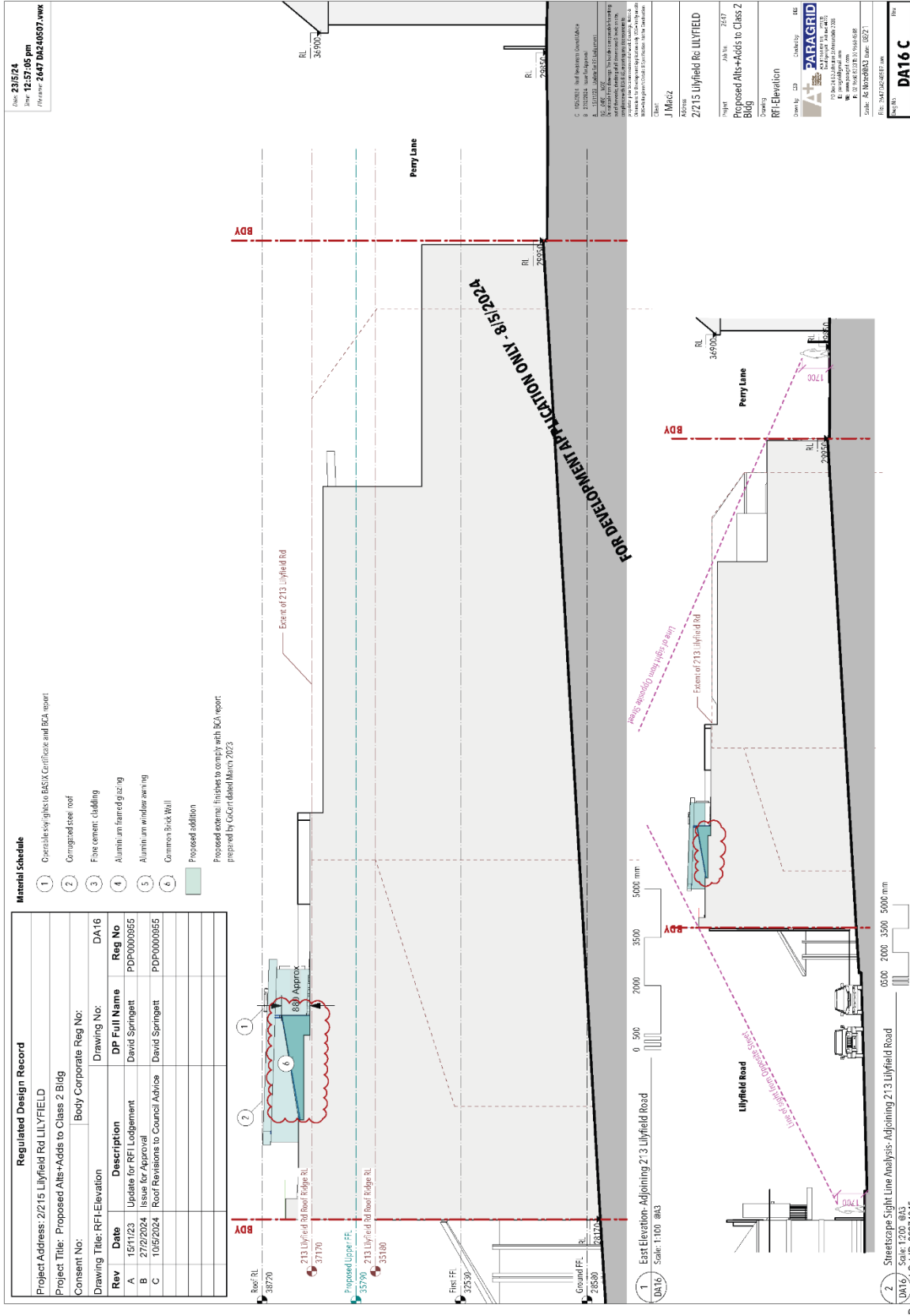


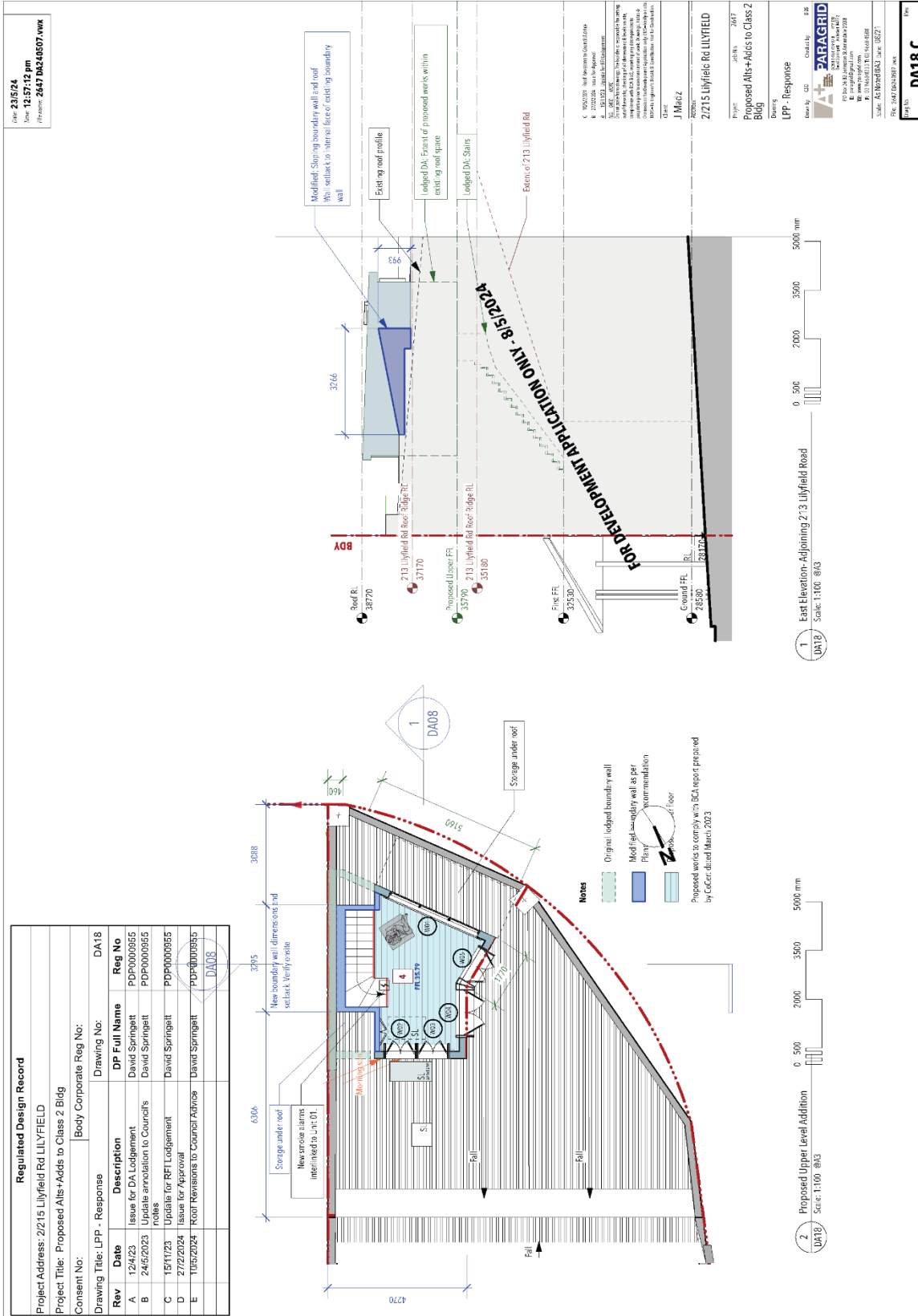






Document Set ID: 39374845
 Version: 1, Version Date: 09/07/2024





Date: 23/6/24
 Time: 12:57:12 pm
 Filename: 2447 DA240507.mwk

Regulated Design Record			
Rev	Date	Description	Rev No
A	12/4/23	Issue for DA Lodgement	PDP0000565
B	24/5/2023	Update annotation to Council's notes	PDP0000565
C	15/11/23	Update for RFL Lodgement	PDP0000565
D	27/2/2024	Issue for Approval	PDP0000565
E	10/5/2024	ROD Revisions to Council Advice	PDP0000565

Drawing Title: LPP - Response
 Drawing No: DA18
 Project Address: 2215 Lilyfield Rd LILYFIELD
 Project Title: Proposed Alterations to Class 2 Bldg
 Consent No: Body Corporate Reg No:

Modified: Sloping boundary wall and roof
 Who retreats to: Internal face of existing boundary wall

Existing roof profile

Lodged DA: Eminent of proposed veranda within existing roof space

Lodged DA: Stairs

Extent of 213 Lilyfield Rd

Ref RL: 38770
 213 Lilyfield Rd Roof: Ridge RL: 37170
 Proposed Upper FL: 35700
 213 Lilyfield Rd Roof: Ridge RL: 35180
 TYPIC FL: 33330
 Ground FL: 28580

FOR DEVELOPMENT APPLICATION ONLY - 8/1/2024

2215 Lilyfield Rd LILYFIELD

Project: 2447
 Proposed Alterations to Class 2 Bldg
 Drawing: LPP - Response
 Date: 23/6/24
 Author: J.M.
 Checker: J.M.
 Designer: J.M.
 Project Manager: J.M.
 Client: J.M.
 Scale: As Noted/DA240507.mwk

Notes

- Original lodged boundary wall
- Modified boundary wall as per recommendation
- Plan
- Profile
- Roof floor


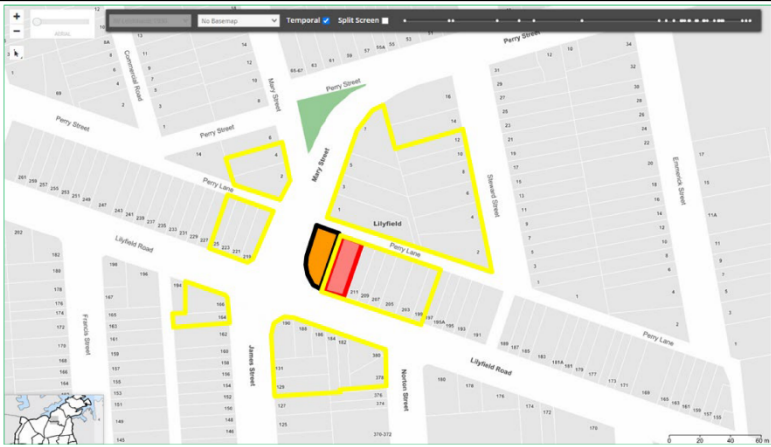




Proposed works to comply with BCA report prepared by CoCcr: dated March 2023

1 DA18
 East Elevation-Adjoining 213 Lilyfield Road
 Scale: 1:100 @0.3

2 DA18
 Proposed Upper Level Addition
 Scale: 1:100 @0.3

Document Set ID: 36974645
 Version: 1, Version Date: 09/07/2024

Attachment C – Assessment Report & Determination DA/2023/0565

 DEVELOPMENT ASSESSMENT REPORT	
Application No.	DA/2023/0565
Address	2/215 Lilyfield Road LILYFIELD NSW 2040
Proposal	Part demolition, and alterations and additions to an existing residential studio apartment unit to provide for an upper level room addition on the second floor and associated works
Date of Lodgement	18 July 2023
Applicant	Ms Jennifer M Madz Paragrid Pty Ltd
Owner	Ms Jennifer M Madz
Number of Submissions	One (1)
Value of works	\$94,000.00
Reason for determination at Planning Panel	Section 4.6 variation exceeds 10%
Main Issues	<ul style="list-style-type: none"> • Variation to Floor Space Ratio development standard • Incompatibility with the streetscape and inconsistency with pattern of development and desired future character controls • Excessive and unsatisfactory height, bulk and scale • Adverse amenity impacts
Recommendation	Refusal
Attachment A	Reasons for refusal
Attachment B	Draft conditions of consent (in the event the Panel resolves to approve the application)
Attachment C	Plans of proposed development
Attachment D	Section 4.6 Exception to Development Standard
	
LOCALITY MAP	
Subject Site	 Objectors  N ↑
Notified Area	 Supporters 

1. Executive Summary

This report is an assessment of the application submitted to Council for part demolition, and alterations and additions to an existing residential studio apartment unit to provide for an upper level room addition on the second floor and associated works at 2/215 Lilyfield Road Lilyfield.

The application was notified to surrounding properties and one (1) submission was received in opposition of the proposed development, in response to the initial notification.

The main issues that have arisen from the application include:

- Variation to Floor Space Ratio development standard applicable to the site;
- Incompatibility with the streetscape and inconsistency with pattern of development and desired future character controls;
- Excessive and unsatisfactory height, bulk and scale; and
- Adverse amenity impacts.

The non-compliances are considered unacceptable for reasons discussed in this report, the proposal is recommended for refusal.

2. Proposal

The proposal seeks consent for part demolition, and alterations and additions to an existing residential studio apartment unit to provide for an upper level room addition on the second floor and associated works to Unit 2 at 215 Lilyfield Road, Lilyfield.

The existing unit has a small living/kitchen area with a bedroom alcove and a bathroom. The proposal involves the part demolition of the building and roof and construction of a new second floor room projecting above and outside the existing roof form with a floor area of 15sqm. The room will be an addition to existing Unit 2 and is nominated as a bedroom on the plans. A new internal stair will connect the existing living room to the roof top room. The room will be setback from the Lilyfield Road parapet wall by 1.8m and the roof line of the new room will be up to 1.3m above the existing roof line.

The external finishes of the addition will be:

- Corrugated steel roof sheeting (Basalt or similar).
- Horizontal FC weatherboard cladding (Shale grey or similar)
- Window frames and awning - powdercoated aluminium (Basalt or similar); and
- Fire rated boundary wall (rendered painted brick to match existing grey).

3. Site Description

The subject site is Unit 2 at 215 Lilyfield Road, Lilyfield NSW 2040. It is legally described as Lot 2 in SP84252. The subject site is a corner lot, bound by Lilyfield Road to the south, Mary Street to the west and Perry Lane to the north - see Figure 1.

The subject site contains a mixed-use development with commercial use on the ground floor with Unit 1 occupied by Siempre Photography, and at the rear is Unit 4 containing a workshop and two garages. The ground floor provides access entrance to Unit 3 and Unit 2 on the first floor. The subject site's main street

frontage is to Lilyfield Road - See Figure 2. The existing structure has a double-storey presentation when viewed from all frontages.

The subject site is not heritage listed. However, it is adjacent heritage listed street trees, I1200, Street trees—avenue of Brush Box and 1 Brachychiton under Schedule 5 of the Inner West LEP 2022. The site is not located within a Heritage Conservation Area.

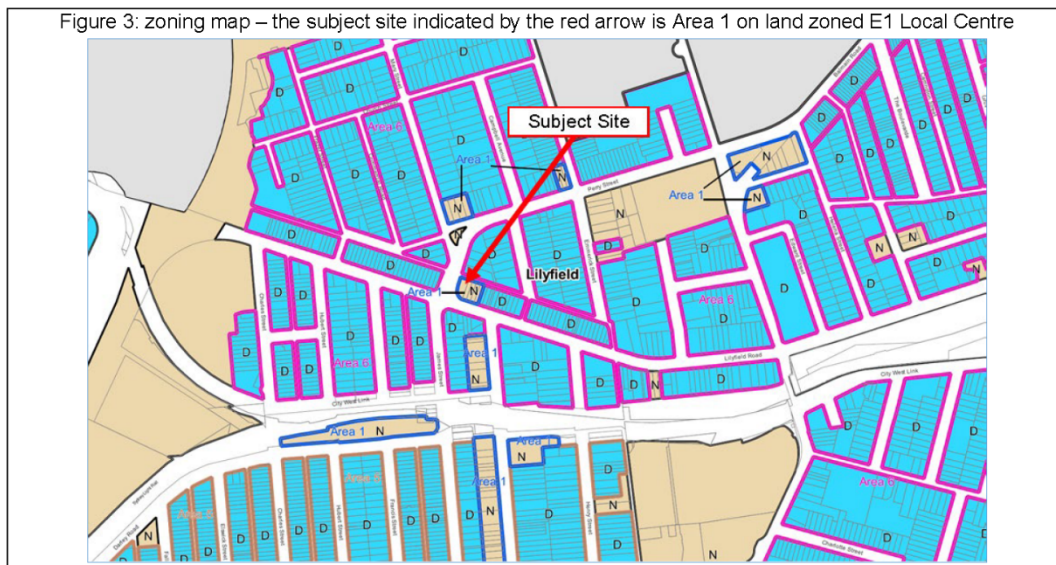
The site is zoned E1 Local Centre under the Inner West LEP 2022 - see Figure 3.

Figure 1: the subject site is marked in red border



Figure 2: street frontage of the subject site taken from the corner of James Street/Mary Street and Lilyfield Road.





4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

Application	Proposal	Decision & Date
PDA/2022/0029	Alterations and additions to existing building to provide an additional level associated with Unit 2	Issued on 02.03.2022
DA/2023/0565	Alterations and additions to existing single bedroom apartment unit including new stairs to upper-level room on the second floor, roof modifications, and other associated works	Subject DA under assessment

Council advice issued under PDA/2022/0029 for a similar proposal to the current application was that the proposal for a second floor addition was not supportable and should not be pursued.

4(b) Application history

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

Date	Discussion / Letter / Additional Information
24/10/2023	<p>Council issued request to withdraw correspondence raising the following concerns:</p> <ul style="list-style-type: none"> Non-compliance with the FSR development standard applicable to the site as prescribed in Section 4.4A of the <i>IWLEP 2022</i>

Date	Discussion / Letter / Additional Information
	<ul style="list-style-type: none"> • Adverse impacts and incompatibility with streetscape and inconsistency with applicable desired future character controls; • Inadequate plans.
16/11/2023	<p>The applicant provided a response to Council's correspondence questioning Council's FSR calculations and reaffirming that the proposal was consistent with Council's desired future character controls . An additional elevation (missing from the original architectural set) was not provided.</p> <p>The application was not withdrawn as requested and the applicant did not address the concerns raised in Council's correspondence. On this basis, the assessment of the proposal has proceeded.</p>

5. Assessment

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

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *Inner West Local Environmental Plan 2022*

The following provides further discussion of the relevant issues:

5(a)(i) *State Environmental Planning Policy (Building Sustainability Index) 2004*

The applicant has included a BASIX Certificate as part of the lodgment of the application (lodged within 3 months of the date of the lodgment of this application) in compliance with the *EP&A Regulation 2021*.

5(a)(ii) *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*:

- Section 1.2 – Aims of Plan
- Section 2.3 – Land Use Table and Zone Objectives
- Section 4.4 – Floor Space Ratio
- Section 4.4A – Exception to maximum floor space ratio for active street frontages
- Section 4.5 – Calculation of floor space ratio and site area
- Section 4.6 – Exceptions to development standards
- Section 5.10 – Heritage conservation
- Section 6.1 – Acid sulfate soils
- Section 6.3 – Stormwater management
- Section 6.8 – Development in areas subject to aircraft noise
- Section 6.13 – Residential accommodation in business zones

Clause 1.2 – Aims of Plan

As discussed later in this report, the proposal:

- Will have an adverse impact on the streetscape and Distinctive Neighbourhood in which the site is located, particularly due to the development being inconsistent with the predominant forms, heights and scale characteristic of this part of Lilyfield Road and adjacent streets; and
- Is considered to be of an unsatisfactory height, bulk and scale.

Therefore, the proposal is contrary to the following objectives under Clause 1.2 of the *IWLEP 2022*:

- (g) *to create a high quality urban place through the application of design excellence in all elements of the built environment and public domain,*
- (h) *to prevent adverse social, economic and environmental impacts on the local character of Inner West,*
- (i) *to prevent adverse social, economic and environmental impacts, including cumulative impacts.*

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

Clause 2.3 - Land Use Table and Zone Objectives

The subject site is located in the E1 Local Centre zoning. The objectives of the E1 zone are as follows:

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*
- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To provide employment opportunities and services in locations accessible by active transport.*
- *To provide retail facilities and business services for the local community commensurate with the centre's role in the local centres hierarchy.*
- *To ensure Inner West local centres are the primary location for commercial and retail activities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To enhance the unique sense of place offered by Inner West local centres by ensuring buildings display architectural and urban design quality and contributes to the desired character and cultural heritage of the locality.*

As discussed in sections above and later in this report, the proposed second floor structure extending above the roof line and above the parapet roof form of the existing building, is considered to be of a form, height and scale that is incompatible with the existing building and is inconsistent with the desired future character of the area with resultant adverse impacts on the Distinctive Neighbourhood in which the site is located. In this regard:

- While the proposed first floor addition to Unit 2 has been setback from the Lilyfield and Mary Street frontages, concern is raised that the addition will remain visible when viewed from Lilyfield Road and

Mary and Perry Streets. It presents an incompatible bulk and scale within the locality of the site and is inconsistent with the desired future character of the area. Furthermore, the proposal will further breach the maximum wall height of the existing building.

- The proposed first floor addition to Unit 2 will result in a three storey development that is out of character with the overwhelmingly single and two storey streetscapes in which the site is located. Given the above, the proposed development is considered to be incompatible with the scale of surrounding development and the desired future character of the neighbourhood.

Furthermore, given that the site is located at a prominent corner, any additional level will be visible from the public domain and it is considered that there are no alternative solutions for such an addition.

Therefore, it is considered to be inconsistent with the following objectives identified above:

- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council’s strategic planning for residential development in the area.
- To enhance the unique sense of place offered by Inner West local centres by ensuring buildings display architectural and urban design quality and contributes to the desired character and cultural heritage of the locality.

Having regard to the above, the application is recommended for refusal.

Section 4.4 Floor Space Ratio and Section 4.4A – Exception to maximum floor space ratio for active street frontages

The following table provides an assessment of the application against the applicable FSR development standard prescribed in Section 4.4 of the *IWLEP 2022*:

Standard	Existing	Proposal	Proposed Non compliance	Complies
Maximum permissible FSR: 1:1 or 325.9 sqm	1.39:1 or 453.3sqm	1.44:1 or 468.2 sqm	142.3 sqm or 44%	No

The applicant has submitted in the Statement of Environment Effects and Section 4.6 *Exceptions to Development Standards* variation request that the FSR applicable to the site under Section 4.4A of the *IWLEP 2022* is 1.5:1 and should be applied to the proposal, however, it should be noted that an FSR of 1:1 applies to the subject site under Section 4.4, and it only increases to 1.5:1 if the proposal satisfies the provisions of Clause 4.4A(3) reproduced below, with particular reference to Clause 4.4A(3)(c) in bold text:

- (3) *The maximum floor space ratio for a building on land to which this clause applies is 1.5:1 if the consent authority is satisfied the building—*
- (a) *will have an active street frontage, and*
 - (b) *is mixed use development that includes residential accommodation, and*
 - (c) ***is compatible with the desired character of the area in relation to its bulk, form, uses and scale.***

As discussed previously and later in this report, the proposed three storey scale and form will be visible from Lilyfield Road and Mary and Perry Streets and is not considered to be of a form, height and scale that is

compatible with the overwhelmingly single and two storey streetscapes in which the site is located. Therefore, it is considered that an FSR of 1:1 should apply to the site, and not the 1.5:1 FSR development standard that is only applicable if Section 4.4A(3) is wholly satisfied. Given the concerns raised above and in this report, the proposed fails to achieve the precondition of Section 4.4A(3)(c) under the *IWLEP 2022* to enable a FSR of 1.5:1 to be applied, and hence, an FSR of 1:1 is deemed to apply in this instance.

The applicant has submitted Section / Clause 4.6 *Exceptions to Development Standards* request “in the event that Council staff are not satisfied that the proposal is compatible with the desired character of the area”. The clause 4.6 variation request is considered below:

Section 4.6 – Exceptions to Development Standards

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

- Section 4.4A – Floor Space Ratio

Section 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *IWLEP 2022* below.

A written request has been submitted to Council in accordance with Section 4.6(4)(a)(i) of the *IWLEP 2022* justifying the proposed contravention of the development standard which is summarised as follows:

- *The existing building already exceeds the FSR of 1:1 and a minor increase from 1.39:1 to 1.43:1 will not result in an inappropriate development density.*
- *The existing building is already different from the surrounding built form, most of which is located in a less dense residential zone. The existing building with its parapet form and large windows is a perfectly reasonable built form, especially given its location of a prominent corner.*
- *The existing building is a stand-alone two storey shop top building on a corner site. It is not a site that provides a transition between development of different densities.*
- *The proposal has no adverse impacts on local amenity.*
- *The proposal will not affect the trees on the adjoining property or footpath.*
- *The amended design that sets the room back from the front parapet has the result that the room will not overbear the public domain.*
- *The existing building already has a higher scale than the existing streetscape and the new room will have no perceptible change to the streetscape.*

The applicant's written rationale does not adequately demonstrate compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, and nor has it demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

Pursuant to Section 4.6(3) of the *IWLEP 2022*, it is considered that compliance with the development standard is not unreasonable nor unnecessary in the circumstances of the case and that the applicant has not demonstrated sufficient environmental planning grounds to justify contravening the development standard for the reasons discussed below.

It is also considered that the proposed development is not in the public interest because it is inconsistent with the following relevant objectives of the E1 Local Centre zone zoning, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* as outlined above:

- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
- To enhance the unique sense of place offered by Inner West local centres by ensuring buildings display architectural and urban design quality and contributes to the desired character and cultural heritage of the locality.

It is considered that the development is not in the public interest because it is inconsistent with the relevant the objectives of Section 4.4 Floor Space Ratio of the *IWLEP 2022* as follows:

- (a) to establish a maximum floor space ratio to enable appropriate development density,
- (b) to ensure development density reflects its locality,
- (c) to provide an appropriate transition between development of different densities,
- (d) to minimise adverse impacts on local amenity,
- (e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.

The proposal is inconsistent with the objectives of the zone and the objectives of the development standard, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

- The variation of 44% is an overdevelopment of the subject site and is therefore inconsistent with Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*;
- The subject site is located on a prominent corner with proposed second floor visible from the public domain especially from across the different corners and street frontages and is incompatible with the desired future character of the area in relation to building bulk, form and scale;
- The proposal is incompatible with the character, style, orientation and pattern of surrounding buildings and streetscapes which are overwhelmingly single and two storey forms and scales;
- The proposed development is clearly visible from the eastern property at No. 213 Lilyfield Road, and results in adverse visual bulk and scale on this adjoining residence.
- The proposed development will not provide an appropriate transition between developments of different densities.
- The proposal will not minimise adverse impacts on the locality.

The proposal therefore fails to comply with the objective of section 4.6(1)(b) and requirements of Section 4.6(3)(a) and Section 4.6(3)(b) of the *IWLEP 2022*. For the reasons outlined above, there are insufficient planning grounds to justify the departure from Section 4.4 Floor Space Ratio development standard and it is recommended the section 4.6 exception be rejected.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. Council may assume the concurrence of the Director-General under the Planning Circular PS 18-003 issued in February 2018 in accordance with section 4.6(4)(b) of the Local Environmental Plan.

Accordingly, the proposal is not considered to have satisfied this section of the *IWLEP 2022*, and for this and other reasons, the application is recommended for refusal.

Section 5.10 – Heritage conservation

The proposed development is not a heritage listed item nor is it within a Heritage Conservation Area. However, it is abutting a heritage listed street trees, I1200, street trees—avenue of Brush Box and 1 *Brachychiton*.

The proposed development will not have any adverse impact on the street trees and would not detract from their significance or setting or result in adverse impacts on them.

Section 6.13 – Residential accommodation in E1, E2 and MU1

For reasons discussed above and later in this report, the proposed development is considered to be incompatible with the desired future character of the locality in relation to height, bulk, form and scale. Therefore, it is inconsistent with Section 6.13(3)(c) of the *IWLEP 2022*, as follows:

(3) *Development consent must not be granted to development for the purposes of residential accommodation on land to which this clause applies unless the consent authority is satisfied the building—*

(c) is compatible with the desired character of the area in relation to its bulk, form, uses and scale.

5(b) Development Control Plans

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

LDCP2013	Compliance
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
Part C	
C1.0 General Provisions	No – see discussion
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	No – see discussion
C1.5 Corner Sites	No – see discussion
C1.7 Site Facilities	Yes
C1.11 Parking	Yes
C1.18 Laneways	Yes

Part C: Place – Section 2 Urban Character	
C2.2.4.3 Leichhardt Park Distinctive Neighbourhood	No – see discussion
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	No – see discussion
C3.2 Site Layout and Building Design	No – see discussion
C3.3 Elevation and Materials	Yes
C3.5 Front Gardens and Dwelling Entries	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	No, but existing situation which is not changing
C3.9 Solar Access	Yes – see discussion
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
Part C: Place – Section 4 – Non-Residential Provisions	
No change is proposed which alters the existing non-residential provisions of the mixed-use building.	
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	Yes
D2.5 Mixed Use Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
Appendix B – Building Typologies	
No – see discussion	

The following provides discussion of the relevant issues:

C1.0 – General Provisions

Due to the streetscape and form, height, bulk and scale, pattern of development and visibility concerns raised in this report, the proposal does not satisfy and / or has not demonstrated compliance with the following objectives of Part C1.0:

- *O6 Compatible: places and spaces contain or respond to the essential elements that make up the character of the surrounding area and the desired future character. Building heights, setbacks, landscaping and architectural style respond to the desired future character. Development within Heritage Conservation Areas or to Heritage Items must be responsive to the heritage significance of the item and locality.*

C1.1 – Site and Context Analysis

The proposed development is not considered to be well designed and does not appropriately consider context, scale, built form, density, streetscape and aesthetics. For these reasons and other reasons discussed in this report, the proposal is not considered to have satisfactorily taken into account the characteristics of the subject site and adjoining sites. That is, the proposed second floor addition and resultant increase in roof height and bulk and scale visible from the public domain and adjoining property to the east at No. 213 Lilyfield Road, are out of context with the existing structure and within the prevailing streetscape of the surrounding nearby streets and locality / context.

In this regard, the proposal does not satisfy and / or has not demonstrated compliance with the following objective(s) of Part C1.1 of the LDCP 2013:

- *O1 To encourage property owners to ensure that the planning and design of their development takes into account:*
 - a. *existing site conditions on the site and adjacent and nearby properties;*
 - f. *the special qualities of the site and its context including urban design, streetscape and heritage considerations*

C1.3 – Alterations and Additions

Due to the streetscape and desired future character, and height, bulk and scale concerns raised previously in this report, the proposal is considered to be inconsistent with the following objectives and controls contained in this part of the DCP.

- *O1 To ensure that development:*
 - a. *complements the scale, form and materials of the streetscape including wall height and roof form;*
 - b. *where an alteration or addition is visible from the public domain it should appear as a sympathetic addition to the existing building;*
 - c. *makes a positive contribution to the desired future character of the streetscape and any heritage values associated with it;*
 - d. *is compatible with neighbourhood character, including prevailing site layout;*
 - e. *protects existing residential amenity, including the retention of adequate private open space and ensuring adequate sunlight, natural ventilation and privacy to the existing dwelling and surrounding dwellings;*
 - f. *maintains views and glimpses from the public domain to natural and built elements that contribute to local character and sense of place;*
- *C1 The overall form of alterations and additions shall:*

- a. *have regard to the provisions within Appendix B – Building Typologies of this Development Control Plan;*
- c. *retain any building and streetscape consistencies which add positively to the character of the neighbourhood (e.g. architectural details, continuous rows of dwellings, groups of similar dwellings, or the like);*
- d. *maintain the integrity of the streetscape and heritage significance;*
- e. *be considered from all public vantage points from which the additions will be visible; and*
- f. *achieve the objectives and controls for the applicable desired future character*

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

C1.5 Corner Sites

The following objectives and controls contained in this part of the DCP apply to the proposal:

- *O1 Development on corner sites:*
 - a. *respects the visually prominent role of corner sites;*
 - b. *is compatible with the adjoining buildings; and*
 - c. *clearly delineates between old and new buildings.*
- *C1 Development shall:*
 - a. *address each street frontage; and*
 - b. *not include large expanses of featureless walls.*
- *C2 Development extending to two distinct streetscapes shall vary the scale and form between each frontage to complement the predominant character and scale of that streetscape.*
- *C3 Where a variation in scale from surrounding buildings is proposed, a transitional element is to be provided, in order to blend the two scales.*

Note: some buildings were originally designed to strengthen the visual prominence of corners, in particular former two storey corner shops. In such instances, this original building form should be respected, with the transitional element providing a step down to adjoining lower scale buildings.
- *C4 Building elements including wall height, roof form and front setback and architectural features including balconies, awnings, verandahs, parapets and dormers are to be compatible in scale with the streetscape.*
- *C5 The development does not have an adverse impact on surrounding properties, the streetscape or public domain by way of:*
 - e. *urban design;*
 - f. *being inconsistent with desired future character;*

The proposed development is considered inconsistent and contrary to the above objectives and controls for the following reasons:

- The proposed second floor will be visible from the public domain and the street frontages of Lilyfield Road and Mary and Perry Street and is not compatible with the single and two storey forms and scale that predominate these streetscapes as well as on Lilyfield Road;
- The proposal will be erected to the eastern boundary with a wall height of over 10m with resultant intrusive and adverse visual impacts when viewed from the front of the adjoining residence at No. 213 Lilyfield Road - see Figure 4.

Figure 4: existing featureless wall of the structure at No. 215 Lilyfield Road, as viewed from the adjoining property to the east, No. 213 Lilyfield Road. Source: No. 213 Lilyfield Road neighbour submission.



- The alternative to relocate the second floor level away from the eastern boundary and the front elevation of Lilyfield Road, will also result in an addition that will be more visible from the public domain. The existing structure has a wall height of 9.6m on the eastern boundary which is higher than the maximum 7.2m wall height prescribed under Part 2.2.4.3 Leichhardt Distinctive Neighbourhood. The development proposes a 10.4m wall height which further breaches the prescribed maximum wall height.

Overall, the proposed development is inconsistent with the objectives and controls and is therefore recommended for refusal.

C2.2.4.3 Leichhardt Park Distinctive Neighbourhood

The Distinctive Neighbourhood is residential in character with small pockets of commercial properties and corner shops scattered throughout. The objective and controls which apply to the subject site and the proposed development are as follows:

- *O1 To facilitate development that is consistent with the Desired Future Character and Controls for the Distinctive Neighbourhood.*
- *C1 Maintain the character of the area by keeping development consistent in architectural style, building form and materials.*
- *C11 Neighbourhood shops or buildings originally designed for a non-residential use may have a 7.2m maximum building wall height in order to incorporate a parapet.*

The proposal is not considered to be consistent with the desired future character controls as it will not result in a development of a consistent building form that is compatible with the single and two storey forms that predominate the area, and the proposed addition will further breach the maximum building height of 7.2m by proposing a 10.6m wall height to the eastern boundary. A breach of 3.2 metres from the prescribed

controls is considered an excessive non-compliance which has adverse impacts to surrounding development.

The proposal is inconsistent with the objectives and controls prescribed above.

C3.1 Residential General Provisions

The proposal does not achieve the residential general provisions of this part of the LDCP 2013, as the proposed addition does not respond appropriately to the existing and desired future character of the existing and surrounding buildings and is not of a design which is compatible with the existing building including its scale, bulk, and form, results in adverse amenity impacts on the adjoining residence at No. 213 Lilyfield Road and significantly breaches the applicable FSR development standard.

In this regard, the proposed development does not satisfy the following relevant objectives of the residential provisions:

- O3 To ensure that alterations, additions to residential buildings and new residential development are compatible with the established setting and character of the suburb and neighbourhood and compatible with the desired future character and heritage significance of the place and its setting.
- O4 To ensure that all residential development is compatible with the scale, form, siting and materials of existing adjacent buildings.
- O5 To ensure that all residential development is consistent with the density of the local area as established by the Inner West LEP 2022.
- C1 Residential development is not to have an adverse effect on:
 - a. the amenity, setting or cultural significance of the place, including the portion of the existing building to be retained; and
- C2 Additions to an existing building are generally:
 - b. subservient to the form of the existing building;
 - d. of a design which is compatible with but does not compete with the architectural character of the existing building or the Building Typologies.

C3.2 – Site Layout and Building Design

Building Location Zone

Pursuant to Control C3 of this part of the DCP:

Where an adjoining development has a front or rear setback that is clearly uncharacteristic of the general pattern of development within the street, consideration will be given to that general pattern in determining whether to permit a variation to the BLZ that would otherwise be determined based on the adjoining buildings alone.

The proposed development will create a new second floor BLZ which is inconsistent with the BLZ established by the adjoining property to the east. Control C6 is triggered and assessed as follows:

- C6 *In the event of any proposed variation to the BLZ the onus is on the applicant to demonstrate that the proposed building is consistent with the pattern of development in the immediate locality (usually taken as the same street) and that:*

- a. *amenity to adjacent properties (i.e. sunlight, privacy, views) is protected and compliance with the solar access controls of this Development Control Plan is achieved;*

Comment: As previously noted, concern is raised regarding the visual bulk and scale impacts of the proposal when viewed from No. 213 Lilyfield Road. The proposal raises no issues relating to solar access, privacy and access to views considerations.

- b. *the proposed development will be compatible with the existing streetscape, desired future character and scale of surrounding development;*

Comment: As previously established, the proposal will not be compatible with the existing streetscape, desired future character and scale of surrounding development.

- c. *the proposal is compatible in terms of size, dimensions privacy and solar access of private open space, outdoor recreation and landscaping;*

Comment: The proposal raises no issue in this regard.

- d. *retention of existing significant vegetation and opportunities for new significant vegetation is maximised; and*

Comment: The proposal raises no issue in this regard.

- e. *the height of the development has been kept to a minimum to minimise visual bulk and scale, as viewed from adjoining properties, in particular when viewed from the private open space of adjoining properties.*

Comment: As mentioned earlier, the proposed development will create adverse visual height, bulk and scale when viewed from No. 213 Lilyfield Road.

Given the above, it has not been demonstrated that the new BLZ proposed is acceptable as the controls under Control C6 have not been satisfied.

Site Boundary Setback

Control C7 of this part of the DCP requires that any wall height over and above 2.8m must be setback from the side boundary in accordance with Figure C129: side boundary setbacks graph of this part of the DCP. It also notes that:

Setbacks must be applied to the different walls of the building depending on their individual height. Higher sections of walls should be further setback from boundaries than lower portions of the same wall. For example, the first floor of a dwelling should be setback further than the ground floor below.

The assessment of the second floor addition is applied to the eastern elevation and below is the compliance table of the proposed development under the Side boundary Setbacks Graph prescribed in this part of the DCP.

Elevation	Proposed Wall Height (m)	Required Setback (m)	Proposed Setback (m)	Compliant
East Third Floor	9.9 – 10.4	4.10 – 4.39	0.00 – 0.00	No

In accordance with Control C8 of this part of the DCP, Council may allow walls higher than that required by the side boundary setback controls above, to be constructed to side boundaries where:

- a. *the development is consistent with relevant Building Typology Statements as outlined within Appendix B – Building Typologies of this Development Control Plan;*

Comment: As noted below, the proposal does not meet the controls in the applicable Building Typology Statement in Appendix B of the DCP.

- b. *the pattern of development within the streetscape is not compromised;*

Comment: As noted previously, the proposed second floor addition will be inconsistent with the pattern of development in the street and adjacent streets.

- c. *the bulk and scale of development is minimised by reduced floor to ceiling heights;*

Comment: The second floor addition is proposed to have floor-to-ceiling heights of 2.6m which are not kept to the minimum 2.4m required for a bedroom under the NCC.

- d. *the potential impacts on amenity of adjoining properties, in terms of sunlight and privacy and bulk and scale, are minimised; and*

Comment: As mentioned earlier, the proposed development will create adverse visual height, bulk and scale when viewed from No. 213 Lilyfield Road.

- e. *reasonable access is retained for necessary maintenance of adjoining properties.*

Comment: No change to the existing access for neighbouring properties.

The assessment against Control C8 demonstrates that the proposed new wall height to the east elevation is unacceptable and does not satisfy the relevant tests.

C3.9 Solar Access

The proposed development will not have any additional overshadowing impacts to the subject site or any immediately adjoining properties, specifically No. 213 Lilyfield Road. Any overshadowing cast occurs from 12pm and is cast over Lilyfield Road.

The development is compliant in this regard.

Appendix B – Building Typologies

Section 10 – Corner Shops

Due to the streetscape and form, height, bulk and scale, pattern of development and visibility concerns as well as amenity concerns raised previously in this report, the proposal does not satisfy and = has not demonstrated compliance with the following controls of this part of the DCP:

- *C1 Development shall:*
 - a. *retain and enhance the original characteristics of corner shops; and*
- *C2 Vertical additions are:*
 - b. *not to detract from the appearance of the building along the secondary street;*
 - c. *not to detract from the amenity of adjoining properties*

5(c) The Likely Impacts

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

- Will result in a development that is incompatible with the predominant built forms in the area;
- Will result in a development that is incompatible with the desired future character of the area; and
- Will result in excessive height, bulk and scale impacts on the immediate adjoining residential property at No. 213 Lilyfield Road.

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

It is considered that the proposal will have an adverse impact on the adjoining properties and the existing streetscape and will be out of character in form, height, bulk and scale with the predominant built context in the area, and therefore, it is considered that the site is unsuitable to accommodate the proposed development. Therefore, the proposal is inconsistent with Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.

5(e) Any submissions

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

One (1) submission was received in response to the initial notification.

The submission raised concerns regarding bulk and scale, and setback of the proposal when viewed from the front yard of No. 213 Lilyfield Road. This concern was discussed in the body of the report.

It also raised concerns regarding the use of the rooftop as a terrace. No rooftop access has been proposed as part of this development.

5(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 approval of the application, which is contrary to numerous relevant planning controls, would be contrary to the public interest.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers:

- Building Certification – no objections subject to the proposal meeting the requirements of the NCC.
- Development Engineers – conditions imposed in the event of an approval.

6(b) External

The application did not require to be referred any external bodies.

7. Section 7.11 Contributions/7.12 Levy

Neither Section 7.11 Contribution nor Section 7.12 Levies are applicable to the proposal under the Inner West Local Infrastructure Contribution Plan 2023..

8. Conclusion

Overall, the proposal does not comply with the aims, objectives and design parameters contained in the *Inner West Local Environmental Plan 2022* and the *Leichhardt Development Control Plan 2013*.

The development will result in adverse impacts on the adjoining premises/properties and the streetscape and is considered to be contrary to public interest.

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

9. Recommendation

- A. The applicant has made a written request pursuant to Section 4.6 of the *Inner West Local Environmental Plan 2022*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is not satisfied that compliance with the Floor Space Ratio standard is unnecessary in the circumstance of the case and the Panel is not satisfied that there are sufficient environmental grounds to support the variation. The proposed development is not considered to be in the public interest because the exceedance is inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.

- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, refuse Development Application No. DA/2023/0565 for part demolition, and alterations and additions to an existing residential studio apartment unit to provide for an upper level room addition on the second floor and associated works at 2/215 Lilyfield Road Lilyfield for the following reasons.

Attachment A – Reasons for Refusal

1. The proposal does not satisfy Section 4.15(1)(a) of the *Environmental Planning and Assessment Act 1979* in the following manner:
 - a. The proposal is inconsistent with the *Inner West Local Environmental Plan 2022* as follows:
 - i. Section 1.2 - *Aims of the Plan*: aims (g), (h) and (i), where the proposed height, bulk and scale of the addition will have an adverse impact on the streetscape and Distinctive Neighbourhood in which the site is located, particularly due to the development being inconsistent with the predominant form, height and scale of buildings characteristic of this part of Lilyfield Road and adjacent streets.
 - ii. Section 2.3 - *Zone Objectives for Zone E1 Local Centre*, as the proposal does not enhance the unique sense of place offered by Inner West local centres by ensuring buildings display architectural and urban design quality and contribute to the desired character and cultural heritage of the locality.
 - iii. Section 4.4 - *Floor Space Ratio*: Objectives (1)(a)(b)(c), as it does not provide an appropriate density which reflects the locality and transition between developments and Objectives (1)(d) and(e) and it does not minimise adverse impacts on local amenity.
 - iv. Section 4.4A – *Exception to maximum floor space ratio for active street frontages*, specifically Sub-section (3)(c) is not satisfied as the proposal is not compatible with the desired future character of the locality.
 - v. Section 4.6 - *Exceptions to Development Standards*, as the proposal fails to satisfy the objectives of the E1 Local Centre in accordance with Section 4.6(3)(a) and (b), and the requirements of section 4.6(3)(b) of the LEP with particular respect to streetscape / response to local character, height, bulk and scale and amenity impacts and outcomes.
 - vi. Section 6.13 – *Residential Accommodation in Business Zones*, as the proposal is inconsistent with Section 6.13(3)(c) as it fails to comply with the desired future character of the locality.
2. The proposal is inconsistent with the Leichhardt Development Control Plan 2013 as follows:
 - a. Part 1.0 - *General Provisions*: Objective O6, as it does not respond the existing and desired future character of the surrounding area.
 - b. Part C1.1 - *Site and Context Analysis*: Objective O1 (a) and (f), as the existing site conditions on the site and at adjoining properties have not been adequately taken into consideration.
 - c. Part C1.3 - *Alterations and Additions*: Objectives O1(a)-(f) and Control C1(a) and (c)-(f), as it does not preserve the character of the streetscape, will not be compatible with its setting nor the desired future character of the distinctive neighbourhood, does not have regard to the Building Typologies of the DCP and results in adverse amenity impacts.

- d. Part C1.5 – *Corner Sites* Objectives O1(a)-(c) and Controls C1(a) and (b), C2-C4 and C5(e) and (f), as the addition will be highly visible from various street frontages and is not compatible with the single and two storey forms and scales that predominate these streetscapes and will have intrusive and adverse visual impacts when viewed from the adjoining residence at No. 213 Lilyfield Road.
 - e. Part C2.2.4.3 – *Leichhardt Park Distinctive Neighbourhood*: Objective O1, and Controls C1 and C11, as the proposal is not considered to be consistent with the desired future character controls as it will not result in a development of a consistent building form that is compatible with the single and two storey forms that predominate in the area, and the proposed addition will further breach the maximum building height of 7.2m by proposing a 10.6m wall height to the eastern boundary.
 - f. Part C3.2 – *Site Layout and Building Design*: Controls C6 and C8 are not satisfied with regard to Building Location Zone and Side Boundary Setbacks.
3. The proposal has not demonstrated that the site is suitable for the development pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
 4. The proposal is not considered to be in the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*.

Attachment D - Minutes of Panel Meeting

IWLPP1206/24 Agenda Item 10	DA/2023/0565
Address:	2/215 Lilyfield Road Lilyfield
Description:	Part demolition, and alterations and additions to an existing residential studio apartment unit to provide for an upper level room addition on the second floor and associated works.
Applicant:	Ms Jennifer M Madz and Paragrid Pty Ltd

The following people addressed the meeting in relation to this item:

- David Springett
- Bruce Threlfo
- Jennifer Madz

DECISION OF THE PANEL

- A. The applicant has made a written request pursuant to Section 4.6 of the *Inner West Local Environmental Plan 2022*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is not satisfied that compliance with the Floor Space Ratio standard is unnecessary in the circumstance of the case and the Panel is not satisfied that there are sufficient environmental grounds to support the variation. The proposed development is not considered to be in the public interest because the exceedance is inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, refuse Development Application No. DA/2023/0565 for part demolition, and alterations and additions to an existing residential studio apartment unit to provide for an upper level room addition on the second floor and associated works at 2/215 Lilyfield Road, LILYFIELD.

The panel has had regard to the E1 zoning provisions and planning controls in the DCP.

The Panel supports the findings contained in the Assessment Report and endorses the reasons for refusal as listed below subject to the following additional reasons:

1. The proposal does not satisfy Section 4.15(1)(a) of the *Environmental Planning and Assessment Act 1979* in the following manner:
 - a. The proposal is inconsistent with the *Inner West Local Environmental Plan 2022* as follows:
 - i. Section 1.2 - *Aims of the Plan*: aims (g), (h) and (i), where the proposed height, bulk and scale of the addition will have an adverse impact on the streetscape and Distinctive Neighbourhood in which the

site is located, particularly due to the development being inconsistent with the predominant form, height and scale of buildings characteristic of this part of Lilyfield Road and adjacent streets.

- ii. Section 2.3 - *Zone Objectives for Zone E1 Local Centre*, as the proposal does not enhance the unique sense of place offered by Inner West local centres by ensuring buildings display architectural and urban design quality and contribute to the desired character and cultural heritage of the locality.
 - iii. Section 4.4 - *Floor Space Ratio: Objectives (1)(a)(b)(c)*, as it does not provide an appropriate density which reflects the locality and transition between developments and Objectives (1)(d) and (e) and it does not minimise adverse impacts on local amenity.
 - iv. Section 4.4A – *Exception to maximum floor space ratio for active street frontages*, specifically Sub-section (3)(c) is not satisfied as the proposal is not compatible with the desired future character of the locality.
 - v. Section 4.6 - *Exceptions to Development Standards*, as the proposal fails to satisfy the objectives of the E1 Local Centre in accordance with Section 4.6(3)(a) and (b), and the requirements of section 4.6(3)(b) of the LEP with particular respect to streetscape / response to local character, height, bulk and scale and amenity impacts and outcomes.
 - vi. Section 6.13 – *Residential Accommodation in Business Zones*, as the proposal is inconsistent with Section 6.13(3)(c) as it fails to comply with the desired future character of the locality.
2. The proposal is inconsistent with the Leichhardt Development Control Plan 2013 as follows:
- a. Part 1.0 - *General Provisions: Objective O6*, as it does not respond the existing and desired future character of the surrounding area.
 - b. Part C1.1 - *Site and Context Analysis: Objective O1 (a) and (f)*, as the existing site conditions on the site and at adjoining properties have not been adequately taken into consideration.
 - c. Part C1.3 - *Alterations and Additions: Objectives O1(a)-(f) and Control C1(a) and (c)-(f)*, as it does not preserve the character of the streetscape, will not be compatible with its setting nor the desired future character of the distinctive neighbourhood, does not have regard to the Building Typologies of the DCP and results in adverse amenity impacts. The proposed addition interferes with the characteristics stepped form of the side wall adjoining 213 Lilyfield Road.
 - d. Part C1.5 – *Corner Sites Objectives O1(a)-(c) and Controls C1(a) and (b), C2-C4 and C5(e) and (f)*, as the addition will be highly visible from various

street frontages and is not compatible with the single and two storey forms and scales that predominate these streetscapes and will have intrusive and adverse visual impacts when viewed from the adjoining residence at No. 213 Lilyfield Road.

- e. Part C2.2.4.3 – *Leichhardt Park Distinctive Neighbourhood*: Objective O1, and Controls C1 and C11, as the proposal is not considered to be consistent with the desired future character controls as it will not result in a development of a consistent building form that is compatible with the single and two storey forms that predominate in the area, and the proposed addition will further breach the maximum building height of 7.2m by proposing a 10.6m wall height to the eastern boundary.
 - f. Part C3.2 – *Site Layout and Building Design*: Controls C6 and C8 are not satisfied with regard to Building Location Zone and Side Boundary Setbacks.
3. The proposal has not demonstrated that the site is suitable for the development pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
 4. The proposal is not considered to be in the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*.
 5. The proposed plans are inconsistent with the existing building.

The decision of the panel was unanimous.