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CAMPBELLTOWN CITY COUNCIL



27 February 2019

MEETING NOTICE

Campbelltown City Council Local Planning Panel

The meeting of the Campbelltown City Council Local Planning Panel will be held electronically on **Wednesday, 27 February 2019.**

MEETING AGENDA

1. ACKNOWLEDGEMENT OF LAND

I would like to acknowledge the Traditional Custodians, the Dharawal people, whose Lands we are now meeting on. I would like to pay my respects to the Dharawal Elders, past and present and all other Aboriginal people who are here today.

2. APOLOGIES

3. DECLARATIONS OF INTEREST

4. REPORTS

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- 4.1 Demolition of existing structures and construction of two semi-detached dwellings - 44 Brenda Street, Ingleburn

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Recommendations of the Panel

The reports are presented to the Local Planning Panel for its consideration, advice and determination if the report is for a development application. As there have been no submissions received this meeting will be held electronically.

The panel's recommendation/determination will become public by 4.30pm on Friday 29 February 2019.

Information

Should you require information about the panel or any item listed on the agenda, please contact Council's City Development Division on 4645 4575 between 8.30am and 4.30pm.

The following report is referred to the Local Planning Panel Panel for its consideration and recommendation.

Lindy Deitz
General Manager

4. REPORT

4.1 Demolition of existing structures and construction of two semi-detached dwellings - 44 Brenda Street, Ingleburn

Community Strategic Plan

Objective	Strategy
1 Outcome One: A Vibrant, Liveable City	1.8 - Enable a range of housing choices to support different lifestyles

Referral Criteria

The development application is required to be reported to the panel as the requested clause 4.6 variation to the minimum qualifying site area in clause 4.1c of the Campbelltown Local Environment Plan 2015 is more than 10 percent.

Executive Summary

- An application was lodged on 20 February 2018 for the demolition of the existing dwelling and construction of two x semi-detached dwellings at 44 Brenda Street, Ingleburn.
- The subject site is located within an established low-density residential environment.
- The proposed development generally complies with the Campbelltown Local Environmental Plan 2015 (CLEP 2015) and the Campbelltown (Sustainable City) Development Control Plan 2015.
- The proponent requests a 36.77 percent variation to the minimum qualifying site area in clause 4.1c of CLEP 2015.
- The application was notified for 14 days on 26 March 2018 to nearby and adjoining neighbours and no submissions were received.
- It is recommended to the panel that the application be approved, subject to the recommended conditions of consent detailed in attachment 1.

Officer's Recommendation

That development application 522/2018/DA-M for the demolition of the existing dwelling and construction of two x semi-detached dwellings at 44 Brenda Street, Ingleburn, be approved, subject to the conditions detailed in attachment 1 of this report.

Purpose

To assist the panel in its determination of the subject application in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*.

Property Description	Lots 9 and 10 Section K DP 1703, 44 Brenda Street,, Ingleburn
Application No	522/2018/DA-M
Applicant	Ms Elena Igeska
Owner	Ms Elena Igeska and Ms Angelina Igeska
Provisions	State Environmental Planning Policy Building Sustainability Index: (BASIX) 2004 Campbelltown Local Environmental Plan 2015
Non-Statutory	Campbelltown '2017/2027' Community Strategic Plan Campbelltown (Sustainable City) Development Control Plan 2015
Date Received	20 February 2018

History

There has been no prior development history at the subject site.

The development application was lodged with Council on 20 February 2018 for the demolition of the existing dwelling and construction of two x semi-detached dwellings at 44 Brenda Street, Ingleburn.

The Site and Surrounding Locality

The site comprises of two existing allotments, legally described as Lots 9 and 10 in Section K in Deposited Plan 1703. Each allotment has an area of 221.3sqm (total site area 442.6sqm) and a frontage of 6.705 metres to Brenda Street (total site frontage 13.41m). The site is located on the eastern side of Brenda Street, with access gained from the site's street frontage. Current improvements on the site include a single storey fibro dwelling, detached carport along the site's north-western boundary, along with a fibro outbuilding and awning in the south-eastern corner of the site. There are also a number of trees on site that are proposed for removal to facilitate the proposed development.

The site is situated within the established residential area of Ingleburn. Surrounding development comprises a mix of low and medium density residential development, including dwellings, attached dwellings, dual occupancies and multi dwelling housing.

The Proposal

The development application proposes the demolition of the existing dwelling, removal of 18 trees and the construction of two semi-detached double-storey dwellings.

Both dwellings are symmetrical in their internal layouts, in the form of a downstairs kitchen, a combined living/dining area, laundry, toilet, attached single garage and a north-facing living room that faces onto Brenda Street. The first floor comprises of a bathroom and four

bedrooms, with bedroom one possessing an ensuite, walk-in robe and a balcony that faces onto Brenda Street.

Report

1. Vision

Campbelltown 2017-2027 Community Strategic Plan

This document establishes a set of strategic directions to guide decision making and development outcomes. These directions are broad in nature and form a prelude to a new statutory town plan for the City.

The 2017-2027 Community Strategic Plan is a vision statement of broad town planning intent for the longer term future of the City of Campbelltown that contributes to the community objectives of:

- A vibrant, liveable city
- A respected and protected natural environment
- A thriving, attractive city
- A successful city

The development application has been assessed with regard to the desired outcomes and objectives identified within Campbelltown 2017-2027. It is considered that the proposed development is generally consistent with the long term vision for the Campbelltown and Macarthur Region having regard to the proposed density, character and impact on adjoining development and the locality.

2. Planning Provisions

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP) requires a BASIX Certificate to accompany development applications for dwellings.

A BASIX Certificate detailing the BASIX commitments applicable to the development have been provided for each dwelling:

- Certificate number: 894993S (Lot 9), issued 22 January 2018
- Certificate number: 895007S (Lot 10), issued 22 January 2018

The commitments have been detailed on the development plans and a condition of development consent has been recommended to ensure the implementation of these commitments prior to the issue of an occupation certificate.

2.2 Campbelltown Local Environmental Plan 2015

The subject site is zoned R2 Low Density Residential under the provisions of Campbelltown Local Environmental Plan 2015 (CLEP 2015). The development comprises of two semi-detached dwellings.

A semi-detached dwelling is defined in the CLEP 2015 as:

A dwelling that is on its own lot of land and is attached to only one other dwelling

Development for the purpose of a semi-detached dwelling is permissible with consent in the R2 land use zone.

Following is a discussion of the relevant provisions of the CLEP 2015.

Clause 2.7 Demolition requires development consent

Clause 2.7 provides that the demolition of a building or work may be carried out only with development consent. Consent is sought of the demolition of an existing dwelling, carport, fibro outbuilding and awning as part of this development application.

Clause 4.1c Minimum qualifying site area and lot size for certain residential and child care centre development in residential zones

Clause 4.1c(2) provides that development consent may be granted to development for the purpose of a semi-detached dwelling in the R2 Low Density Residential zone, if the area of the lot is equal to or greater than 700sqm.

The development is proposed across the site's two existing lots, with a combined area of 442.6sqm; a deficit in the minimum qualifying site area by 257.4sqm.

A variation to this development standard has been sought in accordance with the provisions of clause 4.6 and is discussed below.

Clause 4.3 Height of Buildings

Pursuant to the provisions of clause 4.3 a maximum building height of 9 metres is applicable to the site. The development proposes a maximum building height of 6.73 metres, in compliance with this clause.

Clause 4.3A Height restrictions for certain residential accommodation

Clause 4.3A stipulates that development for the purposes of a semi-detached dwelling must not be higher than two storeys. The proposed semi-detached dwellings are two storeys in height.

Clause 4.4 Floor Space Ratio

Pursuant to the provisions of Clause 4.4 a maximum floor space ratio (FSR) of 0.6:1 is applicable to the site. As the two lots are existing; the FSR has been calculated individually for each lot:

Dwelling No.	GFA (sqm)	Site Area (sqm)	FSR
1 (Lot 9)	131.95	221.3	0.596:1
2 (Lot 10)	131.88	221.3	0.596:1

Table 1: FSR Calculations

Clause 4.6 Exceptions to development standards

Clause 4.6 provides that development consent may, subject to this clause, be granted for development even though the development would contravene a development standard. The development contravenes the following development standards:

- Clause 4.1C(2): The site maintains a total area of 442.6sqm; 257.4sqm less than the required qualifying site area of 700sqm for a semi-detached dwelling in the R2 zone. This equates to a 36.77 percent variation deficit from the 700sqm qualifying lot size.

The applicant has submitted a formal Clause 4.6 variation request for the abovementioned contraventions of the development standards, refer to attachment 3.

Clause 4.6		Campbelltown Local Environmental Plan 2015	
Subclause	Requirement	Response	Complies
(3)	Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:	The applicant has provided a written request to vary the minimum qualifying lot size for semi-detached dwellings in Clause 4.1C (2).	
	(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	Compliance with the abovementioned development standards is considered unreasonable in the circumstances of the case. The two (2) lots are existing, and are readily capable of facilitating the semi-detached dwelling development.	Yes
	(b) that there are sufficient environmental planning grounds to justify contravening the development standard.		
(4)	Development consent must not be granted for development that contravenes a development standard unless:		
	(a) the consent authority is satisfied that: (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	Council is satisfied that the applicant's written request has adequately addressed subclause (3).	Yes

Clause 4.6		Campbelltown Local Environmental Plan 2015	
Subclause	Requirement	Response	Complies
	(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and	The objectives of Clause 4.1C are maintained and the development is generally consistent with the requirements of the DCP. Similar proposals, have been approved by Council. The proposed development is therefore in the public interest.	Yes
	(b) the concurrence of the Secretary has been obtained.	Council has delegation	-

Table 2: Clause 4.6 Assessment

Clause 5.9 Preservation of trees or vegetation

Clause 5.9 relevantly provides that a person must not remove any tree or other vegetation to which the Campbelltown (Sustainable City) Development Control Plan 2015 (Sustainable City DCP) applies without development consent.

Confirmation has been sought from Council's Senior Environmental Officer who confirmed that the eighteen trees marked for removal are not vegetation prescribed by the Sustainable City DCP. Regardless, development consent has been sought as part of this application for the removal of 18 trees, in which conditions have been incorporated into the development consent pertaining to trees permitted for removal, and protection measures required during the construction phase.

Clause 5.10 Heritage conservation

The structures to be demolished are not heritage items and therefore the heritage conservation provisions of the CLEP are not applicable.

Clause 7.10 Essential services

Clause 7.10 provides that development consent must not be granted to development unless Council is satisfied that services that are essential for the development are available or that adequate arrangements have been made to make them available when required.

The site is readily serviced by water, electricity, sewer and telecommunication services. The development demonstrates the ability to cater for stormwater drainage and vehicular access from Brenda Street.

2.3 Campbelltown (Sustainable City) Development Control Plan 2015

Campbelltown (Sustainable City) Development Control Plan (the Sustainable City DCP) is the relevant development control plan for the site and development type.

The development has been assessed against the relevant provisions of Part 2 (Requirements Applying to all Types of Development) and Part 3 (Low and Medium Density Residential Development and Ancillary Residential Structures) of the Sustainable City DCP.

Volume 1 Part 2 – Requirements applying to all types of development

General design requirements with regard to possible environmental impacts of the development are outlined in Part 2 of the Sustainable City DCP.

Campbelltown (Sustainable City) Development Control Plan 2015			
Control	Requirement	Proposed	Complies
2.2 Site Analysis	A Site Analysis Plan shall be lodged with the development application for all development involving the construction of a building and the Torrens title subdivision of land.	A Site Analysis Plan has been submitted.	Yes
2.4.1 Rain Water Tanks	In addition to satisfying BASIX, residential development is encouraged to provide a rain water tank for new buildings.	A BASIX Certificate has been provided for each of the dwellings which detail the BASIX commitments for the attached dwelling development.	Yes
	Above ground water tanks shall be located behind the primary or secondary building line.	A rainwater tank has been provided for each dwelling. The rainwater tanks have been located within the rear setback for each dwelling, behind the primary building line.	Yes
2.4.3 Natural Ventilation	The design of new buildings shall be encouraged to maximise opportunities for cross flow ventilation, where practical, thus minimising the need for air conditioning.	The design of the dwellings encourage cross flow ventilation with the placement of windows, the entry door and the rear sliding door.	Yes
2.4.5 BASIX	BASIX Certificate is required	A BASIX Certificate has been provided for both dwellings.	Yes
2.5 Landscaping	Landscape Concept Plan is required	A Landscape Plan has been provided. The landscape design enhances the visual character of the development and adds character to the streetscape.	Yes
	The Landscape Concept Plan shall illustrate mature height, spread of species, trees to be removed/retained and shall be prepared by a suitably qualified person.	All of the aforementioned information is demonstrated on the submitted landscape plan.	Yes
	Landscaping shall maximise the use of locally indigenous and other drought tolerant native plants and avoid the use of invasive species.	Satisfactory – Majority of plantings proposed are contained within council's Native Gardening Guide.	Yes

Campbelltown (Sustainable City) Development Control Plan 2015			
Control	Requirement	Proposed	Complies
2.7 Erosion and Sediment Control	An Erosion and Sediment Control Plan (ESCP) shall be prepared and submitted with a development application proposing construction and/or activities involving the disturbance of the land surface.	Erosion and Sediment Control details have been provided on the Site Plan. A condition of consent has been recommended requiring the installation of erosion and sediment control measures prior to the commencement of works.	Yes
2.9 Demolition	<p>A development application involving demolition shall be considered having regard to the following information:</p> <ul style="list-style-type: none"> • a detailed work plan prepared by a suitably qualified person, in accordance with AS2601-2001- The Demolition of Structures (as amended); • details of the licensed demolition contractor engaged to carry out the work (including name, address and building licence number); • a hazardous materials report that lists details of methods to prevent air, noise and water pollution and the escape of hazardous substances into the public domain; • details of any asbestos or other hazardous substances to be removed from the site and/or damaged during demolition; and • a dilapidation report where any demolition work is to be undertaken within the zone of influence of any other structure. 	Demonstration of compliance with these provisions prior to any demolition commencing is recommended as a standard condition of development consent.	Yes

Campbelltown (Sustainable City) Development Control Plan 2015			
Control	Requirement	Proposed	Complies
2.10.3 Stormwater Drainage	A stormwater Drainage Concept Plan shall be prepared by a suitably qualified person, and submitted with all development applications, involving construction (except for internal alterations/fitouts), demonstrating to Council how the stormwater will be collected and discharged from the site.	A Stormwater Plan has been submitted demonstrating that the development is able to drain via gravity to Brenda Street.	Yes
2.15 Waste Management	A detailed WMP is required to address waste management during the construction and on-going phases of the development	A Waste Management Plan has been provided.	Yes

Table 3: Sustainable City DCP Part 2 Assessment

Volume 2 Part 3 – Low and Medium Density Residential Development and Ancillary Residential Structures

Campbelltown (Sustainable City) Development Control Plan 2015			
Control	Requirement	Proposed	Complies
3.4.1 Building Form and Character	Building design (including facade treatment, massing, roof design and entrance features), setbacks and landscaping shall complement the scale of development, and the desired future character of the residential neighbourhoods.	Several of the properties along Brenda Street and in surrounding streets on similar sized allotments have undergone redevelopment/ are in the process of being redeveloped and the character of the street is currently a mix of older single storey dwellings and newer dwellings and medium density development. The dwellings are of a design and scale that does not offend the current streetscape, whilst also responding to the future desired character of the neighbourhood.	Yes
	On-site parking areas shall be designed and sited to reduce the visual prominence of garage doors and external parking spaces as viewed from the street or other public place.	Each dwelling has been provided with a single car garage and hardstand car parking space. The garage doors maintain the minimum 6 metre front setback and have been sited and designed to integrate with the dwelling, rather than be a visually dominant feature of the proposed dwellings.	Yes

Campbelltown (Sustainable City) Development Control Plan 2015			
Control	Requirement	Proposed	Complies
	Garage doors facing a public street shall not be wider than 50 percent of the width of the building's facade fronting the street.	The garage doors are around 36.4 percent of the width of the building's façade.	Yes
	No bathroom, ensuite, toilet or laundry windows shall face the primary street of an allotment.	No bathroom, ensuite, toilet or laundry windows face Brenda Street.	Yes
3.4.1.2 Building Height	The height of development shall not result in any significant loss of amenity (including loss of solar access and visual and acoustic privacy) to adjacent properties and public places.	The development maintains a maximum building height of 6.73m. First floor bedroom windows on the side boundaries of the dwellings maintain minimum 1.5 metre sill heights, to reduce visual and acoustic privacy impacts on adjacent properties. Shadow diagrams submitted with the application demonstrate that the development achieves adequate solar access for adjacent properties.	Yes
3.4.2 Car Parking and Access	The minimum dimensions of any required parking space shall be 2.5 metres x 5.5 metres. If the car parking space adjoins a vertical edge which is 100mm or higher, the minimum width of the car parking space shall be 2.7 metres.	Each dwelling is provided with a car parking space in front of the garage, each space complies with the minimum dimensions of 5.5m x 2.5m.	Yes
	The minimum internal dimension of an enclosed garage shall be 3 metres x 6 metres.	Both garages maintain a minimum internal dimension of 3m x 6m.	Yes
	Transitional grades shall comply with AS2890.1 (as amended) Parking Facilities - Off-Street Car Parking.	The driveways have been designed to comply with the transitional grades in AS2890.1.	Yes
	The minimum width of the driveway at the street kerb shall be 2.5 metres where the driveway provides access for one dwelling.	Each driveway maintains a width of 2.57m at the street kerb.	Yes
	Driveways shall be designed and located perpendicular to the road.	Driveways have all been designed perpendicular to Brenda Street.	Yes

Campbelltown (Sustainable City) Development Control Plan 2015			
Control	Requirement	Proposed	Complies
3.4.3.2 Visual Privacy	No window of a habitable room or balcony shall directly face a window of another habitable room, balcony or private open space (POS) of another dwelling located within 6 metres of the proposed window or balcony unless appropriately screened.	The living room windows along the side boundaries on the ground floor of the dwellings are appropriately screened by the 1.8m high boundary fence. Windows for first floor habitable rooms (particularly the side-facing bedroom two) for both dwellings have been recommended to provide sill heights or fixed translucent glazing for any part of the window within 1.7 metres of the finished floor level.	Yes
	Notwithstanding Clause 3.4.3.2a) any window of a living room located on an upper level shall: <ul style="list-style-type: none"> • be offset by 2 metres to limit views between windows and balconies; or • have a sill height 1.7 metres above the floor level; or • be splayed to avoid direct views between windows; or • have fixed translucent glazing in any part of the window within 1.7 metres of the floor level. 	Satisfactory	Yes
3.4.4 Solar Access	Living areas shall generally have a northerly orientation.	The living areas, where possible, generally have a northerly orientation.	Yes
	A minimum 20sqm fixed area of the required private open space shall receive three hours of continuous direct solar access on 21 June, between 9.00am and 3.00pm, when measured at ground level.	A minimum 20sqm fixed area of POS for each dwelling receives at least 3 hours solar access between 9am-12pm.	Yes
	Development shall have appropriate regard to the impact on solar access to useable private open space and living areas, solar collectors and clothes drying areas of adjoining residential development.	Shadow diagrams have been provided which demonstrate that the proposed development does not adversely impact the POS areas of adjoining residential development.	Yes

Campbelltown (Sustainable City) Development Control Plan 2015			
Control	Requirement	Proposed	Complies
	Building siting shall take into consideration the range of factors that impact on solar access including slope of land, vegetation and existing building and other structures.	The dwellings have been sited having regard to the topography of the site and existing vegetation.	Yes
3.5.1 Fencing	Residential fencing along the rear and side boundaries shall be: <ul style="list-style-type: none"> • located behind the primary street building line; • a maximum 2.1 metres in height (excluding retaining walls); and • a maximum 1.8 metres in height, if adjoining a secondary street. 	A condition of consent has been recommended identifying acceptable fencing materials and heights.	Yes
3.6.4.1 General Requirements for Semi-detached Dwellings – Zone R2	Each lot of land for each attached dwelling shall have a minimum width of 7.5 metres measured along the side boundaries at a distance of 5.5 metres from the primary street boundary unless each individual allotment is in existence prior to the commencement date of the CLEP 2015.	Each of the existing lots maintains a minimum width of 6.705 metres measured along the side boundaries at a distance of 5.5 metres. Each of the individual lots was in existence prior to the commencement date of the CLEP 2015.	Yes
	With any development application involving the construction of a building wall on a boundary, the creation of an easement for access and maintenance on the adjoining land may be required.	A condition of consent has been recommended to address the provision of easements.	Yes

Campbelltown (Sustainable City) Development Control Plan 2015			
Control	Requirement	Proposed	Complies
3.6.4.2 Setbacks for Semi-detached Dwellings – Zone R2	<p>Semi-detached dwellings shall be setback a minimum of:</p> <ul style="list-style-type: none"> • 5.5 metres from the primary street boundary; • 6.0 metres from the primary street boundary for the garage or the undercover parking space; • 0.9 metres from any side boundary, for the part of the building that is not attached to the other dwelling; • 3 metres from the rear boundary for any part of the building that is up to 4.5 metres in height from ground level (existing); and • 8 metres from the rear boundary for any part of the building that is higher than 4.5 metres from ground level (existing). 	<p>The development maintains the following setbacks:</p> <p>Primary street:</p> <ul style="list-style-type: none"> • Lot 9: 5.72m. • Lot 10: 4.81m. <p>Garage:</p> <ul style="list-style-type: none"> • Lot 9: 7.3m. • Lot 10: 6.4m. <p>Side:</p> <ul style="list-style-type: none"> • Lot 9: 0.9m for dwelling, 0 setback garage. • Lot 10: 0.9m for dwelling, 0 setback garage. <p>Rear:</p> <ul style="list-style-type: none"> • Lot 9 ground floor: 7m. • Lot 9 first floor: 8m. • Lot 10 ground floor: 12.35m. • Lot 10 first floor: 13.25m. 	No, justified where non-compliant
3.6.4.3 Car Parking Rates for Semi-detached Dwellings – Zone R2	Each dwelling that is part of a semi-detached dwelling development shall be provided with of minimum of one (1) single garage.	Each dwelling is provided with a single car garage.	Yes

Campbelltown (Sustainable City) Development Control Plan 2015			
Control	Requirement	Proposed	Complies
3.6.4.4 Private Open Space for Semi-detached Dwellings – Zone R2	<p>Each dwelling shall be provided with an area of private open space that:</p> <ul style="list-style-type: none"> • is located behind the primary building setback; • has a minimum area of 60sqm; • has a minimum width of 3 metres; • includes a minimum levelled area of (5x5)sqm; • has a minimum unfragmented area of 40sqm; • has an internal living room directly accessible to the outdoor private open space areas; and • satisfies solar access requirements contained in section 3.4.4. 	Each dwelling is provided with an area of POS within the rear setback that has a minimum area of 60sqm and a minimum width of 3m. The POS of each dwelling maintains a levelled area with minimum dimensions 5m x 5m and an unfragmented area of 40sqm. The POS area for each dwelling is accessed via sliding doors from the indoor living rooms. Each POS area also achieves the relevant solar access requirements.	Yes
3.6.4.5 Presentation to Public Streets for Semi-detached Dwellings – Zone R2	Where a development involves the construction of an additional dwelling to create a semi-detached dwelling, the existing dwelling (where it is proposed to be retained) shall be renovated to match the colour, material, texture and architectural style of the proposed building so as to create a harmonious development.	No existing dwellings are proposed to be retained under the development proposal.	Yes
3.6.4.6 Landscaping and Deep Soil Planting for Semi-detached	A development application for a semi-detached dwelling shall include a detailed landscape plan prepared by a suitably qualified person.	A landscape plan has been provided.	Yes

Campbelltown (Sustainable City) Development Control Plan 2015			
Control	Requirement	Proposed	Complies
Dwellings – Zone R2	A semi-detached dwelling shall satisfy the following provisions relating to deep soil planting: <ul style="list-style-type: none"> no more than 30 percent of the area forward of any building line shall be surfaced with impervious materials; and a minimum of 20 per cent of the total site area shall be available for deep soil planting. 	Impervious area forward of building line: <ul style="list-style-type: none"> Lot 9: 38.98 percent. Lot 10: 39.34 percent. Area available for deep soil planting: <ul style="list-style-type: none"> Lot 9: 30.8 percent. Lot 10: 31.7 percent 	No, justified where non-compliant
3.6.4.7 Waste Bin Requirements for Semi-detached Dwellings – Zone R2	Space shall be allocated behind the primary and secondary building lines and out of public view to store the following: <ul style="list-style-type: none"> a 140 litre bin; and two 240 litre bins. 	Bin storage areas have been provided along the side boundaries, behind the primary building line, out of public view.	Yes
3.6.4.8 Site Services for Semi-detached Dwellings – Zone R2	The location, design and construction of utility services shall satisfy requirements of the relevant servicing authority and Council.	Conditions of consent have been recommended to ensure the design and construction of any required utility services satisfies the requirements of the servicing authority and Council.	Yes
	Adequate provision shall be made available for all essential services (i.e. water, sewerage, electricity, gas, telephone, internet and stormwater drainage).	The site is readily serviced by essential services. Conditions of consent have been recommended to ensure that adequate provision is made for all essential services, prior to the issue of an Occupation Certificate.	Yes
	All site services shall be placed underground.	No aboveground services have been proposed.	Yes
	All communication dishes, antennae and the like shall be located to minimise visual prominence.	A condition of development consent has been recommended.	Yes

Table 4: Sustainable City DCP Part 3 Assessment

The proposal demonstrates compliance with the above DCP controls, except for the following:

- Primary street setback – Lot 10
- Side setbacks
- Maximum impervious area forward of the building line

Primary Street Setback – Lot 10

The minimum primary street setback required for semi-detached dwelling is 5.5 metres, under Part 3.6.4.2 of the SCDCP 2015. The dwelling proposed to be constructed upon Lot 10 will have a first floor primary street setback of 4.81m, with a shortfall of compliance by 0.69 metres. The non-compliance is deemed to be acceptable on merit, primarily due to the functioning of the cantilever balcony as building articulation. The ground floor utilises a primary street setback of 6.25 metres, which is comfortably compliant with the control.

The objectives relating to semi-detached dwellings are contained in Control 3.6.4 of the DCP and state as follows:

- Encourage quality-designed semi-detached dwellings that make a positive contribution to the streetscape and amenity of the neighbourhood
- Ensure that semi-detached dwellings offer a high standard of amenity for its occupants and maintains the amenity of adjoining residents

The proposal is a form of residential development which is compatible with the desired future character of the locality, with the first floor projection in the form of a cantilever balcony considered to be particularly consistent with the first objective for semi-detached dwelling development. Furthermore, a variation to the DCP control will not result in the proposed development becoming inconsistent with any objectives of the R2 zone, especially since the development will be compatible with the character of the living area and is of a domestic scale. As such, the variation is considered acceptable for the aforementioned reasons, despite the numeric non-compliance.

Side Setbacks

The minimum side setback required for a semi-detached dwelling is 0.9 metres, under Part 3.6.4.2 of the SCDCP 2015. Both dwellings subject of the development application will have a zero lot side setback at the ground floor which adjoins 42 and 46 Brenda Street respectively. Subject to recommended conditions which require neighbour consent to be obtained from the adjoining property at 42 Brenda Street (since 46 Brenda St has a zero lot boundary) for the creation of a maintenance and access easement, the variations can be considered to be acceptable on merit.

The zero lot walls for both dwellings are of the garages, where there will be no windows which enable overlooking. There are no habitable rooms that may be regularly occupied with a zero setback. As such, potential concerns such as those of an acoustic nature are limited. The design of the garages also enables occupants to traverse between the front and rear of the allotment with ease, due to door access at both ends of the garage. Therefore, the functioning of a side setback is maintained despite the provision of zero-lot walls on both side boundaries.

In addition to the above, considering that the variation will result in overshadowing and that the variation ensures the development maintains consistency with the objectives for semi-detached dwelling development under the SCDCP 2015 and the objectives of the R2 zone under the CLEP 2015, the variation is considered acceptable for the aforementioned reasons, despite the numeric non-compliance.

Maximum impervious area

Part 3.6.4.6 of the SCDCP 2015 requires that no more than 30 percent of the area forward of any building line shall be surfaced with impervious materials. Both allotments subject of this development proposal will possess approximately 39 percent of the area forward of the building line surfaced with impervious materials.

Both allotments have frontages of 6.71 metres to Brenda Street, with a total site frontage of 13.42 metres. The landscape plan has demonstrated that aside from the proposed driveways, that the front setback has maximised the utilisation of areas available for deep soil planting. With consideration of the small frontage that the site possesses, it is not practical to decrease the impervious area forward of the building line to enable compliance with the control, since the only impervious area forward of the building line is the hardstand area for driveway access. As such, the variation is considered acceptable as enforcing compliance with the control could only occur if a sealed driveway was not provided.

3. Planning Assessment

3.1 Impacts on the natural and built environment

Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* requires Council to assess the development's potential impacts on the natural and built environment, as well as potential social and economic impacts.

The key matters for consideration when considering the development's potential impact on the natural and built environment is as follows:

- Vegetation removal
- Demolition and construction
- Solar access
- Built form

Vegetation Removal

The development has proposed the removal of 18 trees on site to facilitate the proposal. Council's Senior Environmental Officer has advised that consent is given for the removal of trees T1-9 and T11-12 (noting that Tree 10 is on the neighbouring property at 42 Brenda Street) as per the revised Arboricultural Impact Assessment (NSW Tree Services, dated 26 November 2018). A condition of consent has been recommended for the proponent to offset the removal of the trees on site at a ratio of a minimum of 1:1 as per Campbelltown's Development Control Plan (DCP) Section 11.3.6 – Tree Replacement. Therefore, 18 native trees are required to be planted on the subject site.

Demolition and Construction

The demolition and construction phases of the development have the potential to generate short term environmental impacts through the generation of dust, noise and vibration. Conditions of consent have been recommended to manage the demolition works, including the installation of erosion and sediment control measures prior to works commencing on site.

Solar Access

The shadow diagrams submitted with the development application demonstrate that due to the orientation of the lots and the design of the dwellings, the development does not have any unreasonable impacts on the solar amenity of the adjacent lots or on the useable private open space of the development.

Built Form

The design of the dwellings include visual articulation through variations in the setbacks of the dwellings will project towards the street frontage. The differentiation of external finishes that are applied to the garage and entry doors enables each dwelling to be distinguished. The design of the development offers a point of difference from the existing redeveloped lots along Brenda Street. The streetscape is currently in the process of transitioning to a more contemporary urban area through the gradual redevelopment of sites and the proposal is similar to other development in the neighbourhood.

3.2 Social, economic and environmental impacts

Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* requires the consent authority to assess the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

Having regard to social and economic impacts generated by the development, the semi-detached dwellings are contributing to the provision of affordable housing within the Ingleburn locality, to meet the housing needs of the local community. The demolition and construction phases of the development will have minor flow on economic benefits for the locality, through the generation on employment.

3.3 Site Suitability

Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* requires the consent authority to assess the suitability of the site for the proposed development.

The proposed semi-detached dwellings are permissible with consent in the R2 land use zone and are consistent with the objectives of the zone. The site comprises of two existing allotments which are readily capable of accommodating the development, and are considered suitable for the development.

The development is similar in nature, scale and appearance to those that have been approved and constructed nearby over the preceding years.

3.4 The Public Interest

Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979* requires the consent authority to consider the public interest when dealing with a development application. The development is providing affordable housing stock to meet the housing needs of the local community. The demolition and construction phase of the development will generate positive economic benefits through the generation of employment. The development is considered to be in the public interest.

4. Public Participation

Section 4.15(1)(d) of the *Environmental Planning and Assessment Act 1979* requires the consent authority to consider submissions made to the proposal. The application was notified to surrounding property owners from 26 March 2018 to 9 April 2018. No submissions were received.

5. Conclusion

The development application for the demolition of the existing dwelling and construction of two x semi-detached dwellings at 44 Brenda Street, Ingleburn has been assessed against the relevant matters for consideration within the relevant environmental planning legislation and Council's development control plan.

The development's impacts on the natural and built environment are considered to be reasonable, subject to management of potential issues during the demolition and construction phases, including noise and dust. Further, the dwelling design is consistent with existing redeveloped lots along Brenda Street.

The development is similar in nature, scale and appearance to those that have been approved and constructed nearby over several years and the site is therefore considered suitable for the development.

With due reference to the matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and the issues raised throughout the report, it is considered that the proposed development is generally consistent with the relevant planning legislation and policies and is therefore recommended for approval subject to the conditions detailed in attachment 1.

Attachments

1. Recommended Conditions of Consent (contained within this report)
2. Clause 4.6 Variation Request (contained within this report)
3. Plans (contained within this report)
4. Floor Plans (due to privacy reasons) (distributed under separate cover)

Reporting Officer

Executive Manager Urban Centres

ATTACHMENT 1
522/2018/DA-M
Recommended Conditions of Consent

GENERAL CONDITIONS

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land.

For the purpose of these conditions, the term 'applicant' means any person who has the authority to act on or benefit of the development consent.

1. Approved Development

The development shall be carried out in accordance with the approved plans and documents prepared by Pagano Architects dated 31.08.18, and all associated documentation supporting this consent, except as modified in red by Council and / or any conditions within.

2. Amended Plans

The development is to incorporate the following amendments and the amended plans are to be submitted to the Principal Certifying Authority, for approval, prior to the issuing of a Construction Certificate:

- All adjoining land owner's consent at 42 Brenda Street are to approve the location of the proposed easement for maintenance and access 0.9m wide along the site's side property boundary.

Should owner's consent not be provided, the garage and the living room on Lot 9 shall be amended so that the garage wall will achieve a 0.9 metre setback to the boundary.

3. Building Code of Australia

All building work must be carried out in accordance with the provisions of the *Building Code of Australia*. In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

4. Contract of Insurance (residential building work)

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This clause does not apply:

- a. To the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4) of that regulation, or
- b. To the erection of a temporary building.

5. Notification of Home Building Act 1989 Requirements

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notice of the following information:

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being Council) has given Council written notification of the updated information.

6. Landscaping

The provision and maintenance of landscaping shall be in accordance with the approved landscape plan containing Council's approved development stamp, with modifications if required to satisfy condition 12, including the engagement of a suitably qualified landscape consultant/ contractor for landscaping works. The landscape design shall incorporate a significant portion of native, low water demand plants consistent with BASIX requirements.

7. External Finishes

The external finishes shall be in accordance with the approved plans and the schedule of finishes submitted with this application. Any proposed alterations to these finishes are considered to be a modification to the development consent and require separate approval by Council.

8. Fencing

A 1.8 metre high fence shall be erected on the site's side and rear boundaries behind the front building alignment and between each required courtyard at the sole cost of the developer. 'Colorbond' style metal fences that face a public space are not permitted.

9. Switchboards/Utilities/Air Conditioning Units

Switchboards, air conditioning units, garbage storage areas and storage for other utilities shall not be attached to the front elevations of the building or side elevations that can be seen from a public place.

10. Driveway

The gradients of driveways and manoeuvring areas shall be designed in accordance with *Australian Standard AS 2890.1: 2004*. In this regard the driveways must have a maximum longitudinal grade of 5% (1 in 20) and maximum cross fall of 6.25% (1 in 16) to provide an off-street parking space.

The finishes of the paving surfaces are to be non-slip.

11. Shoring and Adequacy of Adjoining Property

If the development referred to in this development consent involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must at the person's own expense:

- a. Protect and support the adjoining premises from possible damage from the excavation, and
- b. Where necessary, underpin the adjoining premises to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

12. Tree Permitted for Removal

Consent is granted for 18 trees to be removed from the subject site, in accordance with the revised Arboricultural Impact Assessment (NSW Tree Services, dated 26 November 2018).

The proponent is required to offset for the removal of the trees on site at a ratio of a minimum of 1:1 as per Campbelltown's Development Control Plan (DCP) Section 11.3.6 – Tree Replacement. Therefore, 18 native trees are required to be planted on the subject site.

13. Tree Protection Measures

For the protection of T10, an exclusion zone, identified by a tree protection fencing on the proponents site during works, is to be established at a 3.5m distance from the tree. This exclusion zone means that there is to be no grading, no construction and no underground services to be installed in this area, and the fence is to be signposted with a "Tree Protection Zone" sign to alert contractors of this area

The fenced area (exclusion zone) on the proponents site is to be mulched to a minimum 150mm, to serve as ground protection during works. Mulch must comply with AS 4454-2003 Composts, soil conditioner and mulches.

14. Rain Water Tank(s)

Rain water tank/s shall be installed on site for the collection and storage of stormwater for irrigation and reuse purposes (eg the flushing of toilets), in accordance with the approved plans.

15. Construction Certificate

Prior to the commencement of any works that require a construction certificate:

- a. the applicant shall obtain a construction certificate for the particular works;
- b. the applicant shall appoint a principal certifying authority; and
- c. the private certifying authority shall notify Council of their appointment no less than two days prior to the commencement of any works.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions of consent must be complied with prior to the issue of a construction certificate by either Campbelltown City Council or an accredited certifier. All necessary information to comply with the following conditions of consent must be submitted with the application for a construction certificate.

16. Easement for Access & Maintenance

Subject to adjoining land owner's consent stipulated in condition 2 of this development consent, provision must be made to maintain and access all zero lot walls constructed on adjoining property boundaries. In this regard, an easement for access and maintenance must be created in favour of the property to be developed burdening Lot 8 SEC K DP 1703.

The Principal Certifying Authority must ensure that documents relative to the creation of the easement be lodged with the Land and Property Information NSW prior to issue of the Construction Certificate, with Registration being effected prior to issue of the Occupation Certificate. All costs associated with creation of easements being borne by the applicant. The easement for access and maintenance must have the wording and meaning provided in Part 5 of Schedule 8 of the Conveyancing Act 1919.

17. Utility Servicing Provisions

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall obtain a letter from both the relevant electricity authority and the relevant telecommunications authority stating that satisfactory arrangements have been made to service the proposed development.

Note: The applicant should also contact the relevant water servicing authority to determine whether the development will affect the authorities water or sewer infrastructure.

18. Geotechnical Report

Prior to Council or an accredited certifier issuing a construction certificate, a geotechnical report prepared by a NATA registered lab shall be submitted which indicates that the land will not be subject to subsidence, slip, slope failure or erosion where excavation and/or filling exceeds 900mm in depth or identified as filled land.

19. Soil and Water Management Plan

Prior to Council or an accredited certifier issuing a construction certificate, a detailed soil and water management plan shall be submitted for approval.

20. Classification of Residential Lots (Development with dwelling construction)

Prior to the principal certifying authority issuing a construction certificate for any dwellings approved under this consent, all residential lots are to be individually classified in accordance with guidelines contained in the Australian Standard for Residential Slabs and Footings - AS2870.1996 (as amended).

All slabs and footings shall be designed in accordance with the relevant site classifications and recommendations resulting from a geotechnical investigation of the site. The designing structural engineer shall certify that the design of all slabs and footings is in accordance with the geotechnical investigation and soil classification for the site.

21. Stormwater Management Plan (Development)

Prior to Council or an accredited certifier issuing a construction certificate, a plan indicating all engineering details and calculations relevant to site regrading and the collection and disposal of stormwater from the site, building/s and adjacent catchment, shall be submitted to the Principle Certifying Authority. The design must be prepared to comply with Campbelltown Councils Engineering Design Guide for Development (as amended) to make provision for the following:

- a) Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow

pipelines from any rainwater tank(s) by gravity to the kerb and gutter of Brenda Street.

- b) Charged lines are only permitted to drain roof water directly to the rainwater tank no other charged or pump-out stormwater drainage systems are permitted.
- c) A grated clean out pit must be provided at a minimum one metre off the nadir of the charged drainage system. A sealed screw cap must be provided on the charged line inlet to the clean out pit to allow periodic cleaning of the charged line. A 5 mm diameter drip hole must be provided in the screw cap to drain the charged line. The clean out pit must be connected to the site stormwater drainage system and be located so that any surcharge during maintenance will not affect buildings on the site or outside the site.
- d) The roof drainage system must be fitted with measures to prevent leaves entering the charged lines.
- d) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
- e) An overland flowpath must be provided within the setback to the southwestern boundary of lot 5 Section L DP 1703 between the rear of the dwelling and Carinda Street frontage. The rear yards of the three lots, excepting the area between the buildings of houses 1 and 2, must be graded so that overland flow and bypass flows from the site drainage system are directed to the overland flowpath.
- f) A minimum 150mm step up must be provided between all external finished surfaces and adjacent internal floor areas, except where a reduced step is permitted under Section 3.1.2.3 (b) of Volume 2 of the National Construction Code for Class 1 buildings.
- g) A trench drain must be provided at the Brenda Street boundary of each lot for the full width of each of the vehicle crossings in accordance with Regulation 19 of the Roads Regulations 2008.
- f) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS 3500.3-2015 Plumbing and Drainage – Stormwater Drainage.
- g) All retaining walls on site must be provided with subsoil drainage connected to the site stormwater system. All subsoil drainage lines must be shown on the stormwater design plan.
- h) An inspection opening or stormwater pit must be installed inside each property, adjacent to the boundary, for all stormwater outlets.
- j) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm. A kerb adaptor that is compliant with Councils standard drawing SD-R06 must be provided.
- k) Only a single point of discharge is permitted to the kerb and gutter, per frontage of each lot. The kerb connection must comply with Councils standard drawing SD-R06 kerb roof water outlet and kerb adaptor.

The design must be prepared and certified by a Professional Engineer as defined in Volume 2 of the Building Code of Australia (National Construction Code) and be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

22. Work on Public Land

Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall obtain written approval from Council for any proposed work on public land. Inspection of this work shall be undertaken by Council at the applicant's expense.

23. Section 94A Developer Contribution - Community Facilities and Services

Prior to Council or an accredited certifier issuing a Complying Development Certificate or a Construction Certificate (or where a Construction Certificate is not required, a Subdivision Certificate), the applicant shall provide a receipt for the payment to Council of a community facilities and services contribution in accordance with the provisions of the *Campbelltown City Council Section 94A Development Contributions Plan*.

For the purposes of calculating the required S94A contribution, where the value of the total development cost exceeds \$100,000, the applicant is required to include with the application for the respective certificate, a report setting out a cost estimate of the proposed development in accordance with the following:

- where the value of the proposed development is greater than \$100,000 but less than \$500,000, provide a Cost Summary Report by a person who, in the opinion of the Council, is suitably qualified to provide a Cost Summary Report (Cost Summary Report Template 1). All Cost Summaries will be subject to indexation on a quarterly basis relative to the *Consumer Price Index - All Groups (Sydney)* where the contribution amount will be based on the indexed value of the development applicable at the time of payment; or
- where the value of the proposed development is \$500,000 or more, provide a detailed development cost report completed by a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors (Quantity Surveyors Estimate Report Template 2). Payment of contribution fees will not be accepted unless the amount being paid is based on a Quantity Surveyors Estimate Report (QS Report) that has been issued within 90 days of the date of payment. Where the QS Report is older than 90 days, the applicant shall provide an updated QS Report that has been indexed in accordance with clause 25J(4) of the Environmental Planning and Assessment Regulation 2000 to ensure quarterly variations in the *Consumer Price Index All Group Index Number for Sydney* have been incorporated in the updated QS Report.

Copies of the Cost Summary Report - Template 1 and the Quantity Surveyors Estimate Report - Template 2 are located under "Developer Contributions" on Council's web site (www.campbelltown.nsw.gov.au) or can be collected from Council's Planning and Environment Division during normal business hours.

On calculation of the applicable contributions, all amounts payable will be confirmed by Council in writing.

Payment of Section 94A Developer Contributions will only be accepted by way of Cash, Credit Card or Bank Cheque issued by an Australian bank. Payment by any other means will not be accepted unless otherwise approved in writing by Council.

Note: This condition is only applicable where the total development value exceeds \$100,000.

24. Telecommunications Infrastructure

- a. If the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first; and

- b. The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.

25. Sydney Water

Prior to Council or an accredited certifier issuing a construction certificate, the approved plans must be submitted to Sydney Water via the Sydney Water Tap In service, to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easements, and if any requirements need to be met.

An approval receipt will be issued if the building plans have been approved. The approval receipt shall be submitted to the Principal Certifying Authority prior to issue of a construction certificate.

The Sydney Water Tap In service can be accessed at www.sydneywater.com.au.

PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. These conditions are to be complied with prior to the commencement of any works on site.

26. Erosion and Sediment Control

Prior to the commencement of any works on the land, adequate/approved erosion and sediment control measures shall be fully installed/implemented.

27. Erection of Construction Sign

Prior to the commencement of any works on the land, a sign/s must be erected in a prominent position on the site:

- a. Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours
- b. Stating that unauthorised entry to the work site is prohibited
- c. Pollution warning sign promoting the protection of waterways (issued by Council with the development consent)
- d. Stating the approved construction hours in which all works can occur
- e. Showing the name, address and telephone number of the principal certifying authority for the work.

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

28. Toilet on Construction Site

Prior to the commencement of any works on the land, toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part thereof. Each toilet provided must be a standard flushing toilet and be connected to:

- a. A public sewer, or
- b. If connection to a public sewer is not practicable, to an accredited sewage management facility approved by Council, or

- c. If connection to a public sewer or an accredited sewage management facility is not practicable, to some other management facility approved by Council.

29. Trade Waste

Prior to the commencement of any works on the land, a trade waste facility shall be provided on-site to store all waste pending disposal. The facility shall be screened, regularly cleaned and accessible to collection vehicles.

30. Vehicular Access during Construction

Prior to the commencement of any works on the land, a single vehicle/plant access to the site shall be provided, to minimise ground disturbance and prevent the transportation of soil onto any public road system. Single sized aggregate, 40mm or larger placed 150mm deep, extending from the kerb and gutter to the property boundary, shall be provided as a minimum requirement.

31. Public Property

Prior to the commencement of any works on site, the applicant shall advise Council of any damage to property which is controlled by Council which adjoins the site, including kerbs, gutters, footpaths, and the like. Failure to identify existing damage may result in all damage detected after completion of the development being repaired at the applicant's expense.

32. Demolition Works

Demolition works shall be carried out in accordance with the following:

- a. Prior to the commencement of any works on the land, a detailed demolition work plan designed in accordance with Clause 1.7.3 of Australian Standard AS 2601-2001 – The Demolition of Structures, prepared by a suitably qualified person with suitable expertise or experience, shall be submitted to and approved by Council and shall include the identification of any hazardous materials, method of demolition, precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- b. Prior to commencement of any works on the land, the demolition Contractor(s) licence details must be provided to Council.
- c. The handling or removal of any asbestos product from the building/site must be carried out by a NSW Work Cover licensed contractor irrespective of the size or nature of the works. Under no circumstances shall any asbestos on site be handled or removed by a non-licensed person. The licensed contractor shall carry out all works in accordance with NSW Work Cover requirements.
- d. An appropriate fence preventing public access to the site shall be erected for the duration of demolition works
- e. Immediately prior to the commencement of the demolition or handling of any building or structure that contains asbestos, the applicant shall request that the principal certifying authority attend the site to ensure that all appropriate safety measures are in place. The applicant shall also notify the occupants of the adjoining premises and Workcover NSW prior to the commencement of any works.

33. Fencing

An appropriate fence preventing public access to the site shall be erected for the duration of construction works.

34. Geotechnical Reference

Prior to the commencement of any works, a certificate prepared by the designing structural engineer certifying that the design is in accordance with the geotechnical investigation of the site shall be submitted to the PCA. The designing structural engineer shall also nominate a site classification in accordance with *AS2870 – Residential Slabs and Footings*.

DEVELOPMENT REQUIREMENTS DURING CONSTRUCTION

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. These conditions are to be complied with during the construction of the development on site.

35. Construction Work Hours

All work on site shall only occur between the following hours:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 5.00pm
Sunday and public holidays	No Work.

36. Erosion and Sediment Control

Erosion and sediment control measures shall be provided and maintained throughout the construction period, in accordance with the requirements of the manual – *Soils and Construction (2004) (Bluebook)*, the approved plans, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sedimentation control devices shall remain in place until the site has been stabilised and revegetated.

Note: On the spot penalties up to \$8,000 will be issued for any non-compliance with this requirement without any further notification or warning.

37. Work Zones

All loading, unloading and other activities undertaken during construction shall be accommodated on the development site.

Where it is not practical to load, unload or undertake specific activities on the site during construction, the provision of a 'Work Zone' external to the site may be approved by Council following an application being submitted to Council's Traffic Unit outlining the proposal for the work zone. The application is required to be made prior to the commencement of any works and is to include a suitable 'Traffic / Pedestrian Management and Control Plan' for the area of the work zone that will be affected. All costs of approved traffic / pedestrian control measures, including relevant fees, shall be borne by the applicant.

38. Protection of Existing Trees

During construction, tree T10 shall be protected in accordance with condition 13.

All trees that are to be retained are to be protected by fencing, firmly staked within the drip line/ canopy of the tree and maintained during the duration of the works. The area within the fencing must not be used for stockpiling of any material, nor for vehicle or pedestrian convenience.

All useable shrubs shall be salvaged for re-use, either in log form, or as woodchip mulch for erosion control or garden beds or site rehabilitation. Non-salvable materials such as roots and stumps shall be disposed of to a waste management centre or other approved form.

39. Dust Nuisance

Measures shall be implemented to minimise wind erosion and dust nuisance in accordance with the requirements of the manual – *'Soils and Construction (2004) (Bluebook)*. Construction areas shall be treated/ regularly watered to the satisfaction of the principal certifying authority.

40. Excess Material

All excess material is to be removed from the site. The spreading of excess material or stockpiling on site will not be permitted without prior written approval from Council.

41. Public Safety

Any works undertaken in a public place are to be maintained in a safe condition at all times in accordance with AS 1742.3. Council may at any time and without prior notification make safe any such works Council considers to be unsafe, and recover all reasonable costs incurred from the applicant.

42. Compliance with Council Specification

All design and construction work shall be in accordance with:

- a. Council's Specification for Construction of Subdivisional Road and Drainage Works (as amended);
- b. Council's Campbelltown Engineering Design Guide for Development (as amended);
- c. Soils and Construction (2004) (Bluebook); and
- d. Relevant Australian Standards and State Government publications.

43. Works in the Public Area

The applicant must bear the cost of construction of the following works:

- a) Provision of a reinforced concrete footpath crossing and layback at the entrance to each property, in accordance with Council's Residential Vehicle Crossing Specification and the Campbelltown City Councils Engineering Guide for Development (as amended). A separate application for this work, which will be subject to a crossing inspection fee and inspections by Council, must be lodged with Council prior to pouring the concrete. Where necessary, conduits shall be provided under the footpath crossing, in accordance with the relevant service authority's requirements.
- b) Reconstruction of the concrete footpath for the remainder of the Brenda Street frontage of the sites in accordance with levels/advice obtained from Council, and in accordance with Council's Specification for Construction of Subdivisional Road and Drainage Works (as amended) and the design requirements detailed in Campbelltown Councils Engineering Design Guide for Development (as amended) to the satisfaction of Council. Areas not concreted shall be topsoiled and turfed. The concrete footpath and grassed verge formation may need to be extended beyond the site boundaries, to provide an acceptable transition to the existing footpath levels.
- c) Closure of the redundant vehicle crossing at the Brenda Street frontage of the site.
- d) Laying of private drainage lines from the Brenda Street boundary of the sites and connection to the kerb and gutter of Brenda Street in accordance with this Consent.

Note: The cost of adjustment or relocation of any public utility service shall be borne by the owner/applicant. Where the finished levels of the new works will result in changes to the existing surface levels, the cost of all necessary adjustments or transitions beyond the above scope of works shall be borne by the owner/applicant.

44. Associated Works

The applicant shall undertake any works external to the development, that are made necessary by the development, including additional road and drainage works or any civil works directed by Council, to make a smooth junction with existing work.

45. Demolition Work/Plan

All work shall be completed in accordance with the approved demolition work plan designed in accordance with clause 1.7.3 of *Australian Standard A52601-2001 The Demolition of Structures*.

46. Completion of Construction Works

Unless otherwise specified in this consent, all construction works associated with the approved development shall be completed within 12 months of the date of the notice of the intention to commence construction works under Section 81A of the Act.

In the event that construction works are not continually ongoing, the applicant shall appropriately screen the construction site from public view with architectural devices and landscaping to Council's written satisfaction.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the issue of an occupation certificate by either Campbelltown City Council or an accredited principal certifying authority. All necessary information to comply with the following conditions of consent must be submitted with the application for an occupation certificate.

Note: Under this subheading, for the purpose of issuing an occupation certificate, any reference to "occupation certificate" shall also be taken to mean "interim occupation certificate".

47. Section 73 Certificate

Prior to the principal certifying authority issuing an occupation certificate (or subdivision certificate, whichever shall occur first), a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Early application for the certificate is suggested as this can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator.

For help either visit www.sydneywater.com.au > Building and developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate.

48. Completion of External Works Onsite

Prior to the principal certifying authority issuing an occupation certificate, all external works, repairs and renovations detailed in the schedule of treatment/finishes, landscaping, driveways, fencing and retaining walls to be completed to the satisfaction of the principal certifying authority.

49. Final Inspection – Works as Executed Plans

Prior to the principal certifying authority issuing an occupation certificate the applicant shall submit to Council two copies of a work as executed plan, certified by a qualified surveyor, which is in accordance with Council's Specification for Construction of Subdivisional Road and Drainage Works (as amended) and the requirements detailed in the Campbelltown City Engineering Design Guide for Development (as amended).

50. Restoration of Public Roads

Prior to the principal certifying authority issuing an occupation certificate, the restoration of public road and associated works required as a result of the development shall be carried out by Council and all costs shall be paid by the applicant.

51. Public Utilities

Prior to the principal certifying authority issuing an occupation certificate, any adjustments to public utilities, required as a result of the development, shall be completed to the satisfaction of the relevant authority and at the applicant's expense.

52. House Numbers

Prior to the principal certifying authority issuing an occupation certificate all house numbers shall be stencilled onto the kerb at appropriate locations with black letters/numbers 75mm high on a white background using approved pavement marking grade paint.

53. Work on Public Land Compliance Certificate

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall obtain a compliance certificate from Council approving all the works carried out in public area.

54. Council Fees and Charges

Prior to the principal certifying authority issuing an occupation certificate, the applicant shall obtain written confirmation from Council that all applicable Council fees and charges associated with the development have been paid in full. Written confirmation will be provided to the applicant following Council's final inspection and satisfactory clearance of the public area adjacent the site.

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, other relevant Council Policy/s and other relevant requirements. This information does not form part of the conditions of development consent pursuant to Section 4.17 of the Act.

Advice 1. Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires you to:

- a. Obtain a construction certificate prior to the commencement of any works. Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 4645 4000.
- b. Nominate a principal certifying authority and notify Council of that appointment prior to the commencement of any works.

- c. Give Council at least two days notice prior to the commencement of any works.
- d. Have mandatory inspections of nominated stages of the construction inspected.
- e. Obtain an occupation certificate before occupying any building or commencing the use of the land.

Advice 2. Smoke Alarms

From 1 May 2006 all NSW residents must have at least one working smoke alarm installed on each level of their home. This includes owner occupier, rental properties, relocatable homes and any other residential building where people sleep.

The installation of smoke alarms is required to be carried out in accordance with AS 3786. The licensed electrical contractor is required to submit to the Principal Certifying Authority a certificate certifying compliance with AS 3000 and AS 3786.

Advice 3. Covenants

The land upon which the subject building is to be constructed may be affected by restrictive covenants. Council issues this approval without enquiry as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this permit. Persons to whom this permit is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.

Advice 4. Inspection within Public Areas

All works within public areas are required to be inspected at all stages of construction and approved by Council prior to the principal certifying authority releasing the Occupation Certificate.

Advice 5. Adjustment to Public Utilities

Adjustment to any public utilities necessitated by the development is required to be completed prior to the occupation of the premises and in accordance with the requirements of the relevant Authority. Any costs associated with these adjustments are to be borne by the applicant.

Advice 6. Salinity

Please note that Campbelltown is an area of known salinity potential. As such any salinity issues should be addressed as part of the construction certificate application. Further information regarding salinity management is available within *Campbelltown (Sustainable City) DCP - Volumes 1 and 3 (as amended)*.

Advice 7. Asbestos Warning

Should asbestos or asbestos products be encountered during construction or demolition works you are advised to seek advice and information prior to disturbing the material. It is recommended that a contractor holding an asbestos-handling permit (issued by Work Cover NSW), be engaged to manage the proper disposal and handling of the material. Further information regarding the safe handling and removal of asbestos can be found at:

www.environment.nsw.gov.au
www.nsw.gov.au/fibro
www.adfa.org.au
www.workcover.nsw.gov.au

Alternatively, call Work Cover Asbestos and Demolition Team on 8260 5885.

Advice 8. Rain Water Tank

It is recommended that water collected within any rainwater tank as part of the development be limited to non-potable uses. NSW Health recommends that the use of rainwater tanks for drinking purposes not occur where a reticulated potable water supply is available.

Advice 9. Dial before you Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before you dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

Advice 10. Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any persons interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.

END OF CONDITIONS

Appendix C Clause 4.6 Variation to Clause 4.1C Minimum qualifying site area and lot size for certain residential and centre based child care facility development in residential zones

**CLAUSE 4.6 VARIATION TO CLAUSE 4.1C – MINIMUM QUALIFYING SITE AREA
AND LOT SIZE FOR CERTAIN RESIDENTIAL AND CENTRE-BASED CHILD
CARE FACILITY DEVELOPMENT ON RESIDENTIAL ZONES OF THE
CAMPBELLTOWN LOCAL ENVIRONMENTAL PLAN 2015**

1. Introduction

This submission seeks a variation to Clause 4.1C of the Campbelltown Local Environmental Plan 2015, which relates to minimum qualifying site area and lot size for certain residential and centre base child care facility development on residential zones.

This submission has been prepared with regard to a development application seeking the demolition of all existing structures and the construction of two semi-detached dwellings at No. 44 Brenda Street, Ingleburn.

As detailed in this written request for a variation to Clause 4.1C being a development standard under the Campbelltown LEP 2015, the proposed development meets the requirements prescribed under Clause 4.6 of the Campbelltown LEP 2015.

This submission is made under Clause 4.6 of the Campbelltown LEP 2015 – Exceptions to development standards. Clause 4.6 states the following:

“4.6 Exceptions to development standards

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for a development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Director-General has been obtained.*
- (5) *In deciding whether to grant concurrence, the Director-General must consider:*
 - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.*

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

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

Note. *When this Plan was made it did not include all of these zones.*

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

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

- (a) a development standard for complying development,*
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
- (ba) clause 4.1D, 4.2A, 4.2B or 4.2C*
- (c) clause 5.4,*
- (ca) clause 6.2".*

The use of Clause 4.6 to enable an exception to this development control is appropriate in this instance and the consent authority may be satisfied that all requirements of Clause 4.6 have been satisfied in terms of the merits of the proposed development and the content in this Clause 4.6 variation request report.

Clause 4.6 Exceptions to development standards establishes the framework for varying development standards applying under a local environmental plan. Subclause 4.6(3)(a) and 4.6(3)(b) requires that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating that:

4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

4.6(3)(b) that there is sufficient environmental planning grounds to justify contravening the development standard.

In addition, 4.6(4)(a)(i) and (ii) requires that development consent must not be granted to a development that contravenes a development standard unless the:

the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

The Environmental Planning Instrument to which these variations relate to is the Campbelltown LEP 2015.

The development standard to which this variation relates to is Clause 4.1C – Minimum qualifying site area and lot size for certain residential and centre-based child care facility development in residential zones, which reads as follows:

(1) *The objectives of this clause are as follows:*

- (a) *to achieve planned residential densities in certain zones,*
- (b) *to achieve satisfactory environmental and infrastructure outcomes,*
- (c) *to minimise any adverse impact of development on residential amenity,*
- (d) *to minimise land use conflicts.*

(2) *Development consent may be granted to development for a purpose specified in the table to this clause on land in a zone listed beside the purpose, if the area of the lot is equal to or greater than the area specified in Column 3 of the table.*

(3) *Development consent may be granted to the subdivision of land in a zone that is specified in the table to this clause for a purpose listed beside the zone, if the area of the lot to be created is equal to or greater than the area specified in Column 4 of the table.*

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Dwelling house</i>	<i>Zone R2 Low Density Residential</i>	<i>500 square metres</i>	<i>500 square metres</i>
<i>Dual occupancy</i>	<i>Zone R2 Low Density Residential</i>	<i>700 square metres</i>	<i>300 square metres</i>
<i>Semi-detached dwelling</i>	<i>Zone R2 Low Density Residential</i>	<i>700 square metres</i>	<i>300 square metres</i>
<i>Attached dwelling</i>	<i>Zone R2 Low Density Residential</i>	<i>1,000 square metres</i>	<i>300 square metres</i>
<i>Multi dwelling housing</i>	<i>Zone R2 Low Density Residential</i>	<i>1,000 square metres</i>	<i>300 square metres</i>
<i>Centre-based child care facilities</i>	<i>Zone R2 Low Density Residential or Zone R3 Medium Density Residential</i>	<i>800 square metres</i>	<i>N/A</i>
<i>Residential flat buildings</i>	<i>Zone R4 High Density Residential</i>	<i>1,200 square metres</i>	<i>1,200 square metres</i>

With respect to Clause (2), the table above nominates a minimum lot size of 700m² for the purposes of semi-detached dwellings in the R2 Low Density Residential Zone. The subject site however comprises of two separate allotments each measuring 224.8m² or an overall site area of 449.6m². The overall site area therefore falls short of the standard by 250.4m².

With regards to Clause (3), Column 4 above prescribes a minimum lot size of 300m² for each lot resulting from the subdivision of land acknowledging that a semi-detached dwelling is required to be located on its own allotment. As detailed above, the subject site has already been subdivided into two lots each measuring 224.8m². Each existing lot thus falls short of the control by 75.2m².

A written justification is therefore required for the proposed variation in accordance with Clause 4.6 of the Campbelltown LEP 2015.

2. Extent of Non-Compliance

As noted above, Clause 4.1C(2) provides that development consent may be granted to development for the purpose of a semi-detached dwelling in the R2 Low Density Residential zone, if the area of the lot is equal to or greater than 7000m².

The development is proposed across three existing lots, with a combined area of 449.6m²; representing a shortfall of 250.4m² as per Column 3 above.

Further each existing lot measures 224.8m², being 75.2m² deficient as per Column 4 above.

3. Is Compliance With the Development Standard Unreasonable or Unnecessary in the Circumstances of the Case?

The proposed variation from the development standard is assessed against the required tests in Clause 4.6. In addition, in addressing the requirements of Clause 4.6(3), the accepted five possible approaches for determining whether compliances are unnecessary or unreasonable established by the NSW Land and Environment Court in *Wehbe vs Pittwater Council (2007) LEC 827* are considered.

In the matter of *Four2Five*, the Commissioner stated within the judgement the following, in reference to a variation:

"...the case law developed in relation to the application of SEPP 1 may be of assistance in applying Clause 4.6. While Wehbe concerned an objection under SEPP 1, in my view the analysis is equally applicable to a variation under Clause 4.6 where Clause 4.6 (3)(a) uses the same language as Clause 6 of SEPP 1."

In the decision of *Wehbe vs Pittwater Council (2007) LEC 827*, Preston CJ summarised the five (5) different ways in which an objection under SEPP 1 has been well founded and that approval of the objection may be consistent with the aims of the policy. The five possible ways are as set out below:

First	<i>The most commonly invoked way is to establish that compliance with the development standards is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.</i>
	<i>The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. If the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary and unreasonable.</i>
Second	<i>A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary. (not applicable)</i>
Third	<i>A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable. (not applicable)</i>
Fourth	<i>A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable. (not applicable)</i>
Fifth	<i>A fifth way is to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that</i>

<i>"compliance with the standard in that case would also be unreasonable or unnecessary. (not applicable)"</i>
--

In respect of Clause 4.1C, the first method is invoked.

The objectives supporting the minimum qualifying site and lot size control identified in Clause 4.1C are discussed below. Consistency with the objectives and the absence of any environmental impacts, would demonstrate that strict compliance with the standards would be both unreasonable and unnecessary in this instance.

The discussion provided below demonstrates how the proposal is consistent with the objectives of Clause 4.1C.

(1) The objectives of this clause are as follows:

- (a) to achieve planned residential densities in certain zones,*
- (b) to achieve satisfactory environmental and infrastructure outcomes,*
- (c) to minimise any adverse impact of development on residential amenity,*
- (d) to minimise land use conflicts.*

The site is located within an established residential area that has been the subject of redevelopment in recent years, with a number of semi-detached dwellings and dual occupancies having been constructed. This is demonstrated in part in the photographs below.



The adjoining semi-detached dwellings at No. 46 and 46A Brenda Street (2602/2010/DA-82A).



An example of semi-detached dwellings at No. 50 and 50A Brenda Street (928/2005/DA-M).

6



Another example of semi-detached dwellings at No. 25 and 25A Brenda Street (640/2014/CDCPDW).



Another example of semi-detached dwellings at No. 14 and 14A and No. 16 and 16A Brenda Street.



Another example of attached dwellings at No. 63 Brenda Street (219/2011/DA-M/A).

Considerable effort has gone into designing the built form to be varied in its presentation particularly with regards to materials, to provide for visual interest and to modulate bulk and scale as viewed from the adjoining sites. The proposed density is considered to be compatible with the context of the site and its surrounds.

The proposal maintains a landscaped setting to Brenda Street including a mix of shrubs and tree plantings. To the rear, the majority of the private open space area will comprise of deep soil planting. In this respect, the proposal respects the environmental outcomes expected of an urban environment. In terms of infrastructure, the proposed dwellings are in keeping with the scale and

density of nearby development and will not unduly impose upon established infrastructure in the area.

As discussed within the submitted Statement of Environmental Effects, significant consideration has been given to the amenity of adjoining properties and the public domain. The proposed dwellings are to be constructed of a variety of materials and finishes, to ensure the proposed development will be a positive contribution to the streetscape and not negatively impact adjoining properties. The site will not pose any adverse impact in terms of privacy with living areas located at ground level.

The site is located within an existing residential area and accordingly will not result in any land use conflicts.

The proposed development meets the objectives of Clause 4.1C of the Campbelltown LEP 2015.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard. As demonstrated, the objectives of the standard have been achieved.

4. Are there Sufficient Environmental Planning Grounds?

The assessment above demonstrates that the resultant environmental impacts of the proposal will be satisfactory.

The proposed variation with respect to Clause 4.1C(2) is 250.4m², acknowledging a 700m² site requirement.

The proposed variation with respect to Clause 4.1C(3) is 75.2m², given a 300m² subdivision standard.

In the first instance, it is important to note that the subject site already comprises of two allotments. There is no further subdivision proposed under this application. In addition, based on Council's lot size maps a minimum lot size of 180m² applies, which the proposal satisfies through the provision of 2 x 224.8m² lots.

It is understood that a similar variation was sought by No. 42 Carinda Street, Ingleburn where a development application was sought to demolish existing structures, removal of three trees and construction of attached dwelling at 42 Carinda Street, Ingleburn.

The application (3750/2016/DA-M) was determined as part of the 13th of June 2017 Council meeting, where Council resolved to approve the application and permit the requested variation to Clause 4.1C of CLEP15. Further the minutes of the meeting state,

"4. That a housekeeping amendment to the Campbelltown Local Environmental Plan 2015 be commenced, to provide a savings provision for Clause 4.1C(2) to allow for the development of the existing narrow lots within the R2 Low Density Residential land use zone of Ingleburn as referred to in the map at attachment 10.

5. That an amendment to the Campbelltown Local Environmental Plan 2015 be considered to facilitate the development of existing narrow lots within the R2 land use zone for the purpose of attached dwellings, consistent with the previous planning controls that were in place prior to the commencement of the Campbelltown Local Environmental Plan 2015".

As identified in the figure below, the subject site is located within the map referenced at point 4.



Figure 1 Map taken from Ordinary Council Meeting 13th June 2016 regarding Item 8.2

The proposed development is considered to be consistent with the development approved at No. 42 Carinda Street, Ingleburn in terms of both built form and allotment size. In view of the motion carried by the Councillors, the proposed development is also in keeping with the desired character of the area.

Reference is also made to Figure 2 below which provides for aerial mapping of the local area. It is evident in the image below that development along Brenda Street is characterised by smaller allotments, with narrow frontages. This is further evidenced through the prevalence of semi-detached dwellings in proximity to the subject site. The proposed development is considered to be consistent with this character.



Figure 2: Aerial Map, SIX Maps

Notwithstanding the numerical non-compliance sought with respect to site area, the proposed built form clearly demonstrates the ability of the site to be developed for the purposes of semi-

detached dwellings without comprising the amenity of adjoining site and providing a high-quality development for the future residents.

It is considered that there are sufficient environmental planning grounds to justify a variation to the standard.

In this case, strict compliance with Clause 4.1C in the Campbelltown LEP 2015 is unnecessary and unreasonable.

5. Is the Variation in the Public Interest?

Clause 4.6 states that the development consent must not be granted for development that contravenes a development standard unless the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is to be carried out.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard under Part 4.

The development as proposed will be in the public interest as it is consistent with the objectives of Clause 4.1C.

The building contextually has regard to its surrounding properties and provides sufficient open space and landscaping for the amenity of future residents.

Furthermore, it is important to also consider the objectives of the R2 Low Density Residential zone in relation to the development, which are as follows:

Zone R2 Low Density Residential

Objectives of zone

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To enable development for purposes other than residential only if that development is compatible with the character of the living area and is of a domestic scale.*
- *To minimise overshadowing and ensure a desired level of solar access to all properties.*
- *To facilitate diverse and sustainable means of access and movement.*

In response to the above the following is provided:

The proposal will provide for the housing needs of the community through the introduction of two new dwellings on the site. The proposed built form is in keeping with the character of local development, particularly along Brenda Street where there is a prevalence of semi-detached dwellings.

There are no other land uses proposed on the site.

The proposal solely seeks a residential use on the site.

Both the living areas and private open space of the proposed dwellings, as well the adjoining sites, will achieve a reasonable level of solar access following the proposed development.

The proposed development will not alter access and movement.

The proposed development therefore meets the objectives of the zone.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standards, noting the development will be in the public interest.

6. Public Benefit of Maintaining the Standard

It is considered that the public benefit will not be undermined by varying the standard. The proposal provides for a high quality dual occupancy in keeping with the residential zoning.

The proposal provides for the orderly and economic development of the site. Given the site's orientation, location and context it is considered that the site is well suited for the development.

The development is well articulated and designed.

The development is generally consistent with the current planning controls.

It is not considered that the variation sought raises any matter of significance for State or regional environmental planning.

Under the above, it is considered that the public is not impacted in any way by maintaining the standard.

7. Is the Variation Well Founded?

It is considered that this has been adequately addressed in Parts 4 and 5 of this submission. In summary, this Clause 4.6 Variation is well founded as required by Clause 4.6 of the Campbelltown LEP 2015 in that:

- Compliance with the development standards would be unreasonable and unnecessary in the circumstances of the development;
- There are sufficient environmental planning grounds to justify the departure from the standards;
- The development meets the objectives of the standard to be varied (Clause 4.1C) and objectives of the R2 Low Density Residential zoning of the land;
- The proposed development is in the public interest and there is no public benefit in maintaining the standard;
- The breach does not raise any matter of State or Regional Significance; and
- The development submitted aligns with the predominantly residential nature of the neighbourhood.

Based on the above, the variation is considered to be well founded.

8. General

Clause 4.6 also states that:

“(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2

Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

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

Note. *When this plan was made it did not include all these zones.*

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

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

(a) a development standard for complying development,

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

(ba) clause 4.1D, 4.2A, 4.2B or 4.2C

(c) clause 5.4,

(ca) clause 6.2".

This variation does not relate to the subdivision of land in the stated land use zones. The variation sought is not contrary to subclause (6).

Should the exception to the development standard sought under this submission be supported by Council, the Council must retain a record of the assessment of this submission.

The development proposed is not complying development.

A BASIX certificate has been prepared in relation to the proposed development and is submitted under a separate cover.

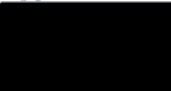
Clauses 4.1D, 4.2A, 4.2B, 4.2C, 5.4 and 6.2 is not applicable in this instance.

9. Conclusion

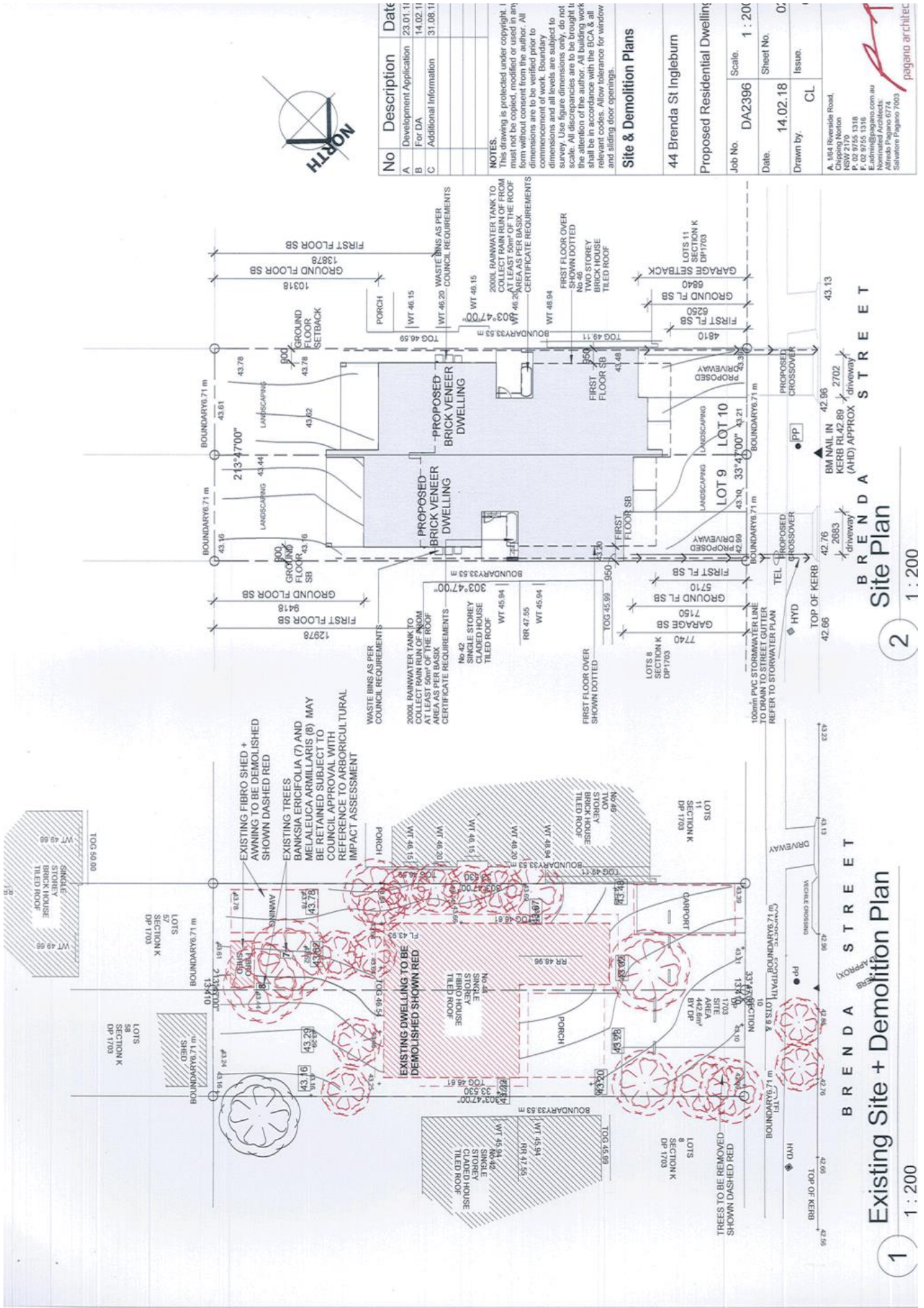
The proposal does not strictly comply with Clause 4.1C of the Campbelltown LEP 2015. Nevertheless, having evaluated the likely effects arising from this non-compliance, we are satisfied that the objectives of Clause 4.6 of the Campbelltown LEP 2015 are satisfied as the breach to the controls does not create any adverse environmental impacts.

Consequently, strict compliance with this development standard is unreasonable and unnecessary and that the use of Clause 4.6 of the Campbelltown LEP 2015 to vary this development control is appropriate in this instance.

Based on the above, it is sensible to conclude that strict compliance with Clause 4.1C is not necessary and that a better outcome is achieved for this development by allowing flexibility in the application.

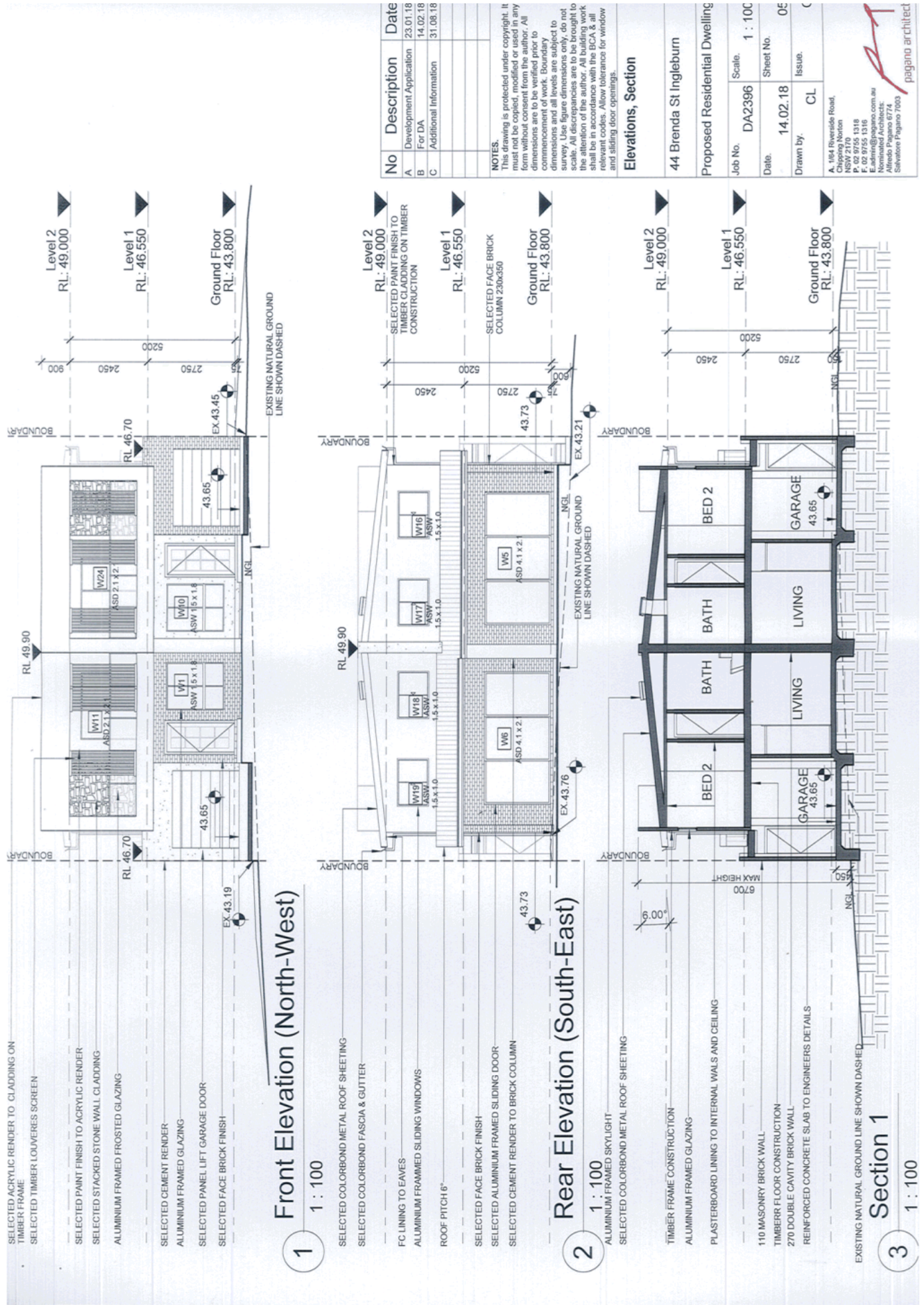


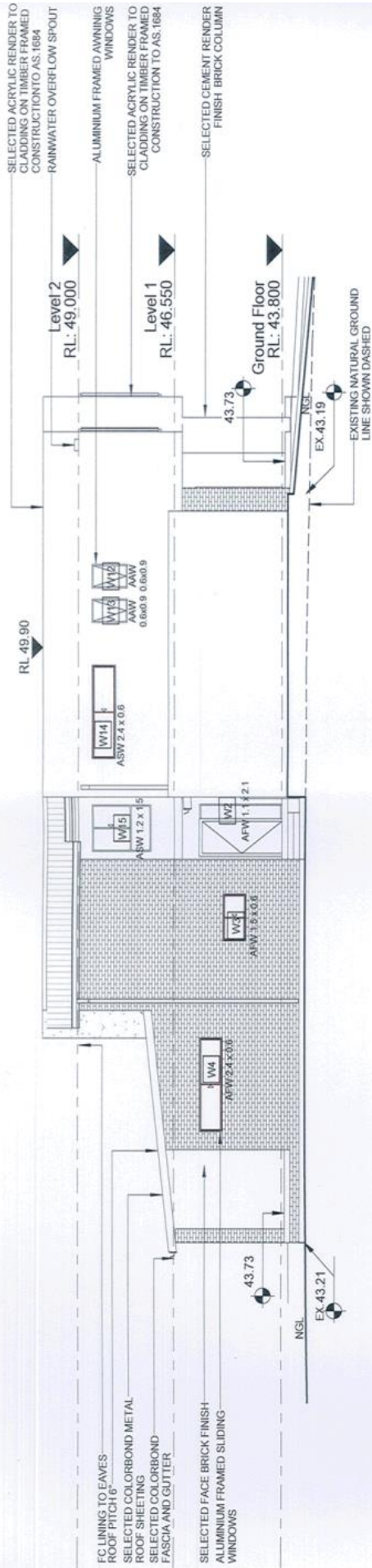
Melissa Rodrigues
GAT & Associates
Plan 3188



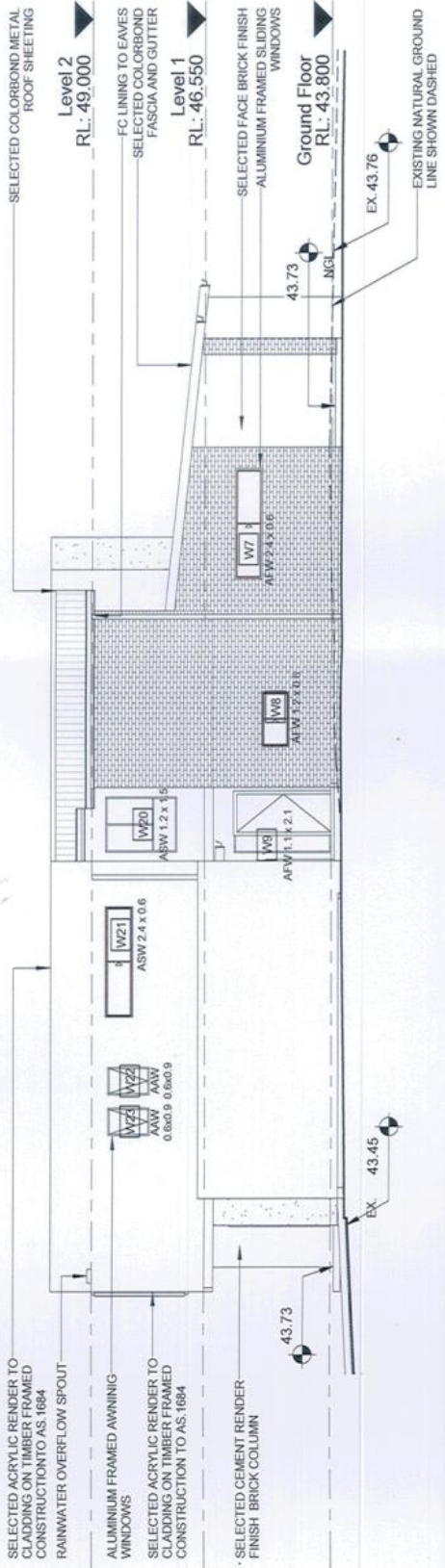
2 1 : 200
Site Plan

1 1 : 200
Existing Site + Demolition Plan





1 North-East Elevation
1 : 100



2 South-West Elevation
1 : 100

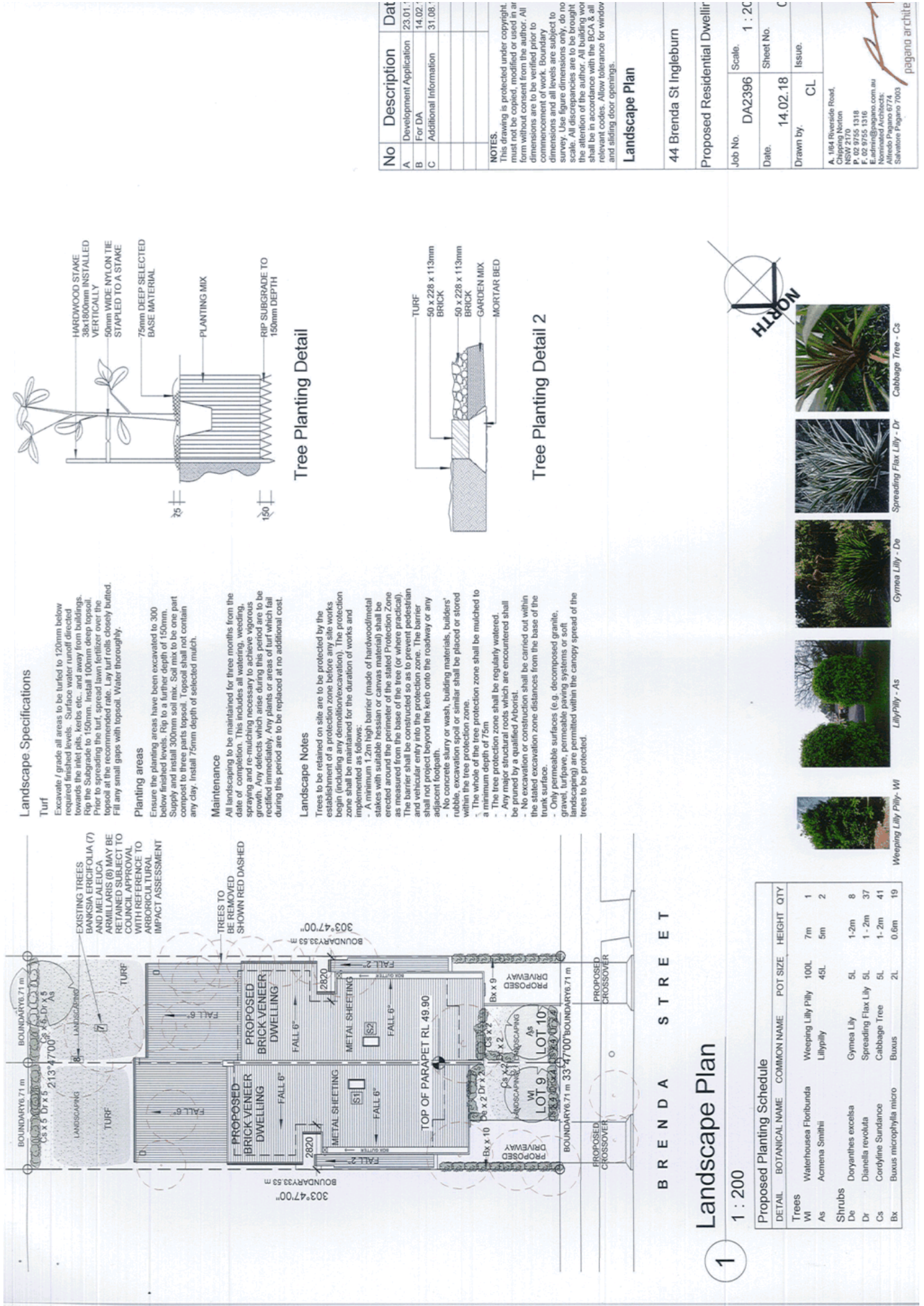
No	Description	Date
A	Development Application	23.01.18
B	For DA	14.02.18
C	Additional Information	31.08.18

NOTES:
This drawing is protected under copyright. It must not be copied, modified or used in any form without consent from the author. All dimensions are to be verified prior to commencement of work. Boundary dimensions and all levels are subject to survey. Use figure dimensions only, do not scale. All discrepancies are to be brought to the attention of the author. All building work shall be in accordance with the BCA & all relevant codes. Allow tolerance for window and sliding door openings.

Side Elevation
44 Brenda St Ingleburn
Proposed Residential Dwelling

Job No: DA2396
Scale: 1 : 100
Date: 14.02.18
Sheet No: 06
Drawn by: CL
Issue: C

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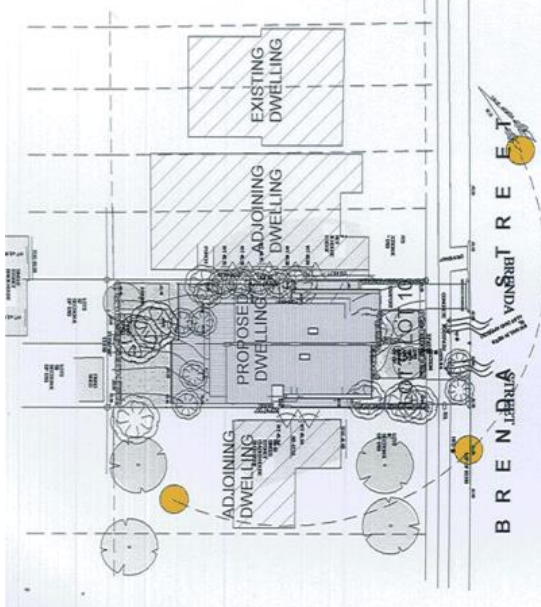


Streetscape

5

KEY:

	TREE
	DWELLING
	CONTOURS
	SUNPATH
	NOISE INTO SITE
	ADJOINING WINDOWS



Site Analysis Diagram

1

1 : 500

No	Description	Date
A	Development Application	23.01
B	For DA	14.02
C	Additional Information	31.08

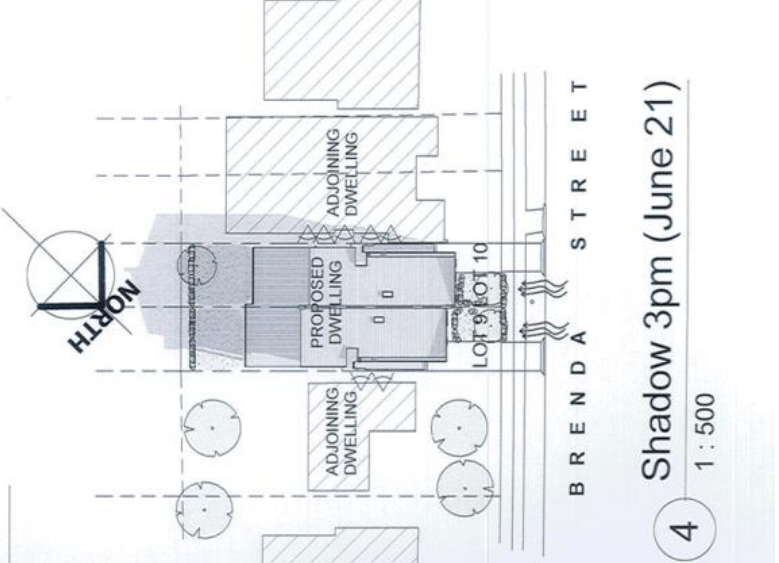
NOTES:
This drawing is protected under copyright and must not be copied, modified or used in any form without consent from the author. All dimensions are to be verified prior to commencement of work. Boundary dimensions and all levels are subject to survey. Use figure dimensions only, do not scale. All discrepancies are to be brought to the attention of the author. All building work shall be in accordance with the BCA & all relevant codes. Allow tolerance for wind and sliding door openings.

Shadow Diagrams, Site Analysis, Streetscape
44 Brenda St Ingleburn

Proposed Residential Dwelling

Job No. DA2396 Scale. 1 : 5
Date. 14.02.18 Sheet No.
Drawn by. CL Issue.

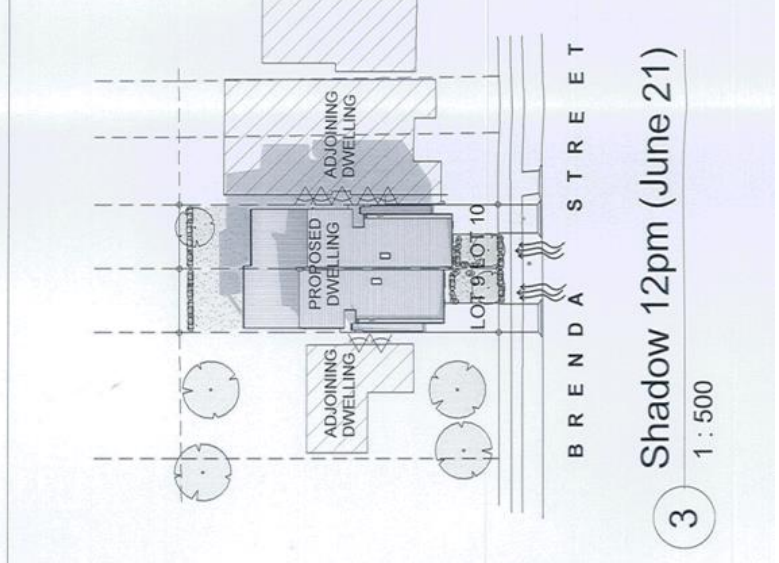
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Shadow 3pm (June 21)

4

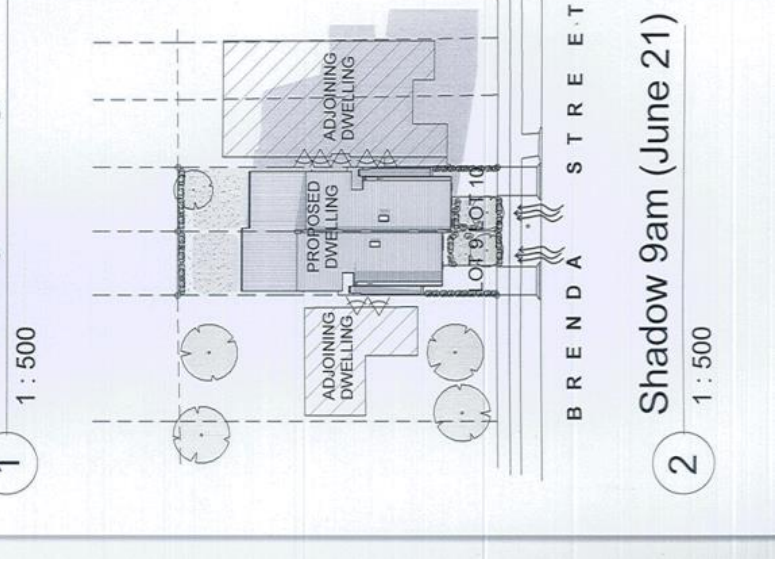
1 : 500



Shadow 12pm (June 21)

3

1 : 500



Shadow 9am (June 21)

2

1 : 500