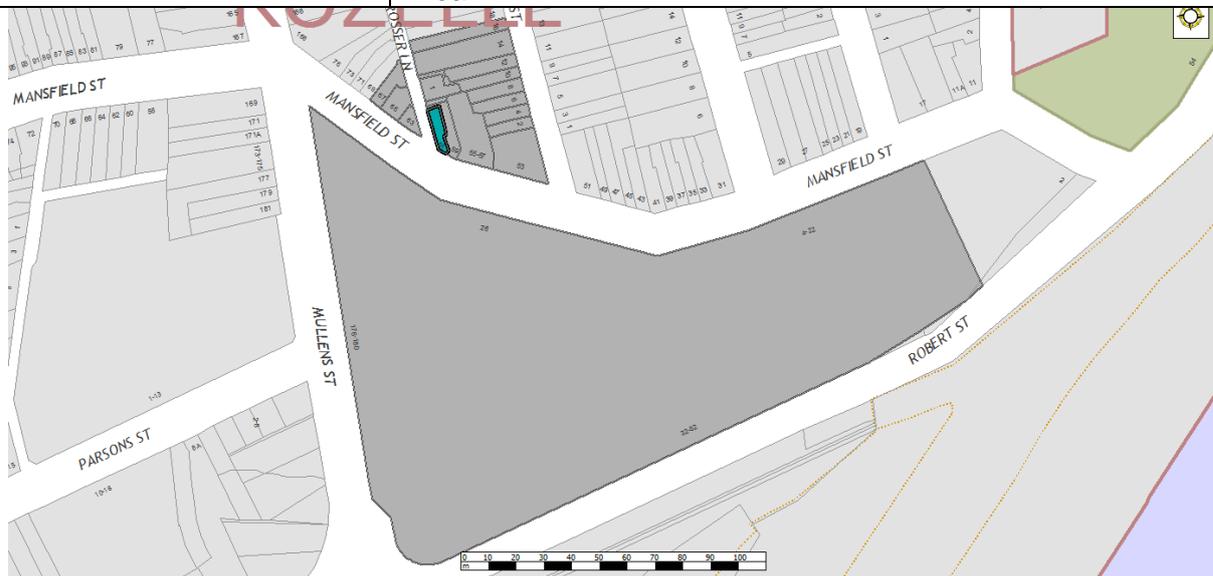




INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	D/2018/612
Address	61 Mansfield Street Rozelle
Proposal	Alterations and additions to existing dwelling-house, including first floor addition.
Date of Lodgement	20-Nov-2018
Applicant	Milestone
Owner	Hulbala Pty Ltd
Number of Submissions	Nil
Value of works	\$135,000
Reason for determination at Planning Panel	Clause 4.6 variation to Floor Space Ratio exceeds 10%
Main Issues	Lack of amenity and inadequate area to private open space, Bulk and scale impacts to adjoining property; Impact to contributory building in a heritage conservation area, Extent of variation to Floor Space Ratio, Extent of breach to Building Location Zone.
Recommendation	Approval
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards
Attachment D	Statement of Heritage Significance of Heritage Conservation Area



LOCALITY MAP

Subject Site		Objectors		
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to existing dwelling house, including first floor addition at 61 Mansfield Street Rozelle. The application was notified to surrounding properties and no submissions received.

The main issues that have arisen from the application include:

- Lack of amenity and inadequate area to private open space to subject dwelling;
- Bulk and scale impacts to adjoining property;
- Impact to contributory building in a heritage conservation area;
- Substantial variation to Floor Space Ratio; and
- Substantial breach to Building Location zone.

The non-compliances are acceptable subject to conditions. Therefore the application is recommended for Approval.

2. Proposal

Ground Level

- Demolition of part of the existing roof at the ground floor.
- Demolition of internal walls, doors, stairs to provide an opening living plan.

Proposed First Floor Level

- Demolition of the existing timber deck and roof, internal wall, door and stairs.
- Proposed new bedroom, bathroom and enclosed terrace.
- Proposed new skylight to the existing metal roof of bedroom 2.
- Proposed minimum one hour fire resistant wall along the eastern party wall.

An amended design was submitted on 21 May 2019 and the assessment of this report is based on this amended design.

The amended design consists of the following changes:

- The northern elevation of the first floor addition had been set back 3.84 metres from the northern boundary and changes to location and size of windows associated with the first floor bedroom on the northern and western elevation.
- WC2 had been removed from the proposal and Bed 2 converted to an ensuite for the first floor bedroom.
- The enclosed terrace had been amended to become an open terrace approximately 3.8 m² in size.

The amendments were not required to be re-notified as the amendments will result in a lesser development and therefore the amended plans lodged did not require re-notification as they were considered to fall within Control C5. Section A3.13 - Specific Circumstances Where Notification Is Not Required of the Leichhardt Development Control Plan 2013, which does not require the re-notification of amended plans to an undetermined application which, inter alia, constituted a lesser development having been proposed in order to address concerns raised by Council.

3. Site Description

The subject site is located at the property known as No. 61 Mansfield Street, Rozelle and is legally described as Lot 1 DP 575903. The site is located on the corner of Mansfield Street and Rosser Lane. The site is irregular in shape with a total area of 64.1 m (by survey). The

site has a primary frontage to Rosser Lane of 14.625m and a second frontage to Mansfield Street of 3.36m. The site is relatively flat in topography.

The site accommodates a modest dwelling house with a rear deck at the first floor. There is no landscaped area, nor trees within the subject site.

The site is located at the southern edge of a well-established residential area within the R1 General Residential Zone. The surrounding streetscape (to the north, west and east of the subject site) is characterised by a diverse mix of dwellings including one and two storey terraces, semi-detached and detached dwellings in a variety of architectural styles and forms. There is considerable variation between building forms in relation to the height and mass, roof form and facade treatment.

The IN2 Light Industrial Zone is located on the opposite side of Mansfield Street to the south of the subject site.

The existing dwelling house is not a heritage item, however, the site is located within The Valley Heritage Conservation Area.

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
BA 20407	Deck & Railway	Disapproved

Surrounding properties

Application	Proposal	Decision & Date
BA 21885	<u>59 Mansfield Street, Rozelle</u> Additions to dwelling	9/12/83

4(b) Application history

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

Date	Discussion / Letter / Additional Information
6 March 2019	Request to withdraw letter
20 March 2019	Confirmation from applicant that the application will not be withdrawn
21 May 2019	Amended Plans submitted

5. Assessment

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

5(a) Environmental Planning Instruments

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

- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- State Environmental Planning Policy (Coastal Management) 2018
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Leichhardt Local Environmental Plan 2013

The following provides further discussion of the relevant issues:

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. LDCP 2013 provides controls and guidelines for remediation works. SEPP 55 requires the consent authority to be satisfied that the site is, or can be made, suitable for the proposed use prior to the granting of consent.

The proposal seeks to continue the existing residential use of the land. Therefore, it is considered that the site will not require remediation in accordance with SEPP 55. On this basis, the site is considered suitable for residential use.

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

The proposal was accompanied by a valid BASIX Certificate.

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

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

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.5 - Additional permitted uses for land
- Clause 2.7 - Demolition
- Clause 4.3 - Height of buildings
- Clause 4.3A - Landscaped areas for residential accommodation in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 4.6 - Exceptions to development standards
- Clause 5.3 – Development near zone boundaries
- Clause 5.4 - Controls relating to miscellaneous permissible uses
- Clause 5.10 - Heritage Conservation
- Clause 6.1 - Acid Sulfate Soils
- Clause 6.2 - Earthworks
- Clause 6.3 - Flood Planning
- Clause 6.4 - Stormwater management

(i) Clause 2.3 - Land Use Table and Zone Objectives

The site is zoned R1 General Residential under the *LLEP 2013*. The LEP defines the development as: “*Dwelling House*”, which is a permissible use within the zone with consent. The development is consistent with the objectives of the R1 General Residential zone.

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

Standard	Proposal	non compliance	Complies
Floor Space Ratio Maximum permissible: 0.9:1 or 57.7 sqm	1.35:1 (86.8 sqm)	50.5%	No
Landscape Area Minimum permissible: 15% or 9.6sqm	0% (0sqm)	100%*	No*
Site Coverage Maximum permissible: 60% or 38.5 sqm	100% or (64.1sqm)	40%*	No*

* There is currently 0% landscaped area available and the site coverage is already at 100% of the site area and therefore the proposal will not result in any further breaches of the Landscaped Area or Site Coverage development standards.

Clause 4.6 Exceptions to Development Standards

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

- Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1
- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio

The applicant seeks a variation to the Floor Space Ratio development standard under Clause 4.4 – Floor Space Ratio of the applicable Local Environmental Plan by 50.5% (29 sqm). The applicant also seeks to retain the existing variations to the Landscaped Area and Site Coverage development standards.

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

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the applicable Local Environmental Plan below.

A written request has been submitted to Council in accordance with Clause 4.6 of the applicable Local Environmental Plan justifying the proposed contravention of the development standards which is summarised as follows:

- The proposed development will maintain the existing full site coverage outcome of the subject site and only seeks to demolish an upper level rear deck to improve the overall visual impact of the dwelling and provide an improved internal amenity.
- The proposed development will have a built form and scale compatible with the surrounding development.
- The proposed residential dwelling will provide improved internal amenity and will preserve amenity for the residents of surrounding properties.
- The proposal will enable the provision of private open space area (the proposed enclosed terrace at first floor) for the refurbished dwelling which is of high quality and amenity. Importantly this area can now be accessed by all occupants within the dwelling.
- The nil landscaped area and full site coverage is an existing situation of the subject site. The proposal will maintain existing site conditions.

- The proposed enclosed terrace at the first floor provides quality private open space for the occupants of the dwelling.
- The proposed development whilst non-compliant with the Council's numerical minimum landscaped area, maximum site coverage and maximum floor space ratio control, achieves compliance with the objectives of Clause 4.3A and Clause 4.4.
- There are no significant adverse amenity impacts on the neighbouring properties at 59 Mansfield Street to the east and 1 Rosser Lane to the north as a result of this non-compliance.

Subject to recommended conditions to address heritage issues, the applicant has adequately demonstrated that strict compliance with the development standards is unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

Subject to the recommended conditions, the non-compliance with the FSR development standard is not contrary to the public interest because it is consistent with the objectives of the R1 zone and the Floor Space Ratio development standard (reproduced below), in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

Objectives of the R1 General Residential zone

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To improve opportunities to work from home.*
- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
- *To provide landscaped areas for the use and enjoyment of existing and future residents.*
- *To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.*
- *To protect and enhance the amenity of existing and future residents and the neighbourhood.*

4.4 Floor space ratio

- (1) *The objectives of this clause are as follows:*
 - (a) *to ensure that residential accommodation:*
 - (i) *is compatible with the desired future character of the area in relation to building bulk, form and scale, and*
 - (ii) *provides a suitable balance between landscaped areas and the built form, and*
 - (iii) *minimises the impact of the bulk and scale of buildings,*
 - (b) *to ensure that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale.*

As discussed in more detail in Section 5 of the report, the proposed development will not result in any adverse impacts in regards to the solar access, there will not be a loss of significant views and the application will comply with visual privacy controls. Therefore the amenity of the existing and future residents and the neighbourhood are not adversely impacted.

The proposed development will have acceptable impacts in regards to bulk and scale and is of a form that is compatible to the desired future character, existing streetscape and scale of developments in the locality.

The retention of the existing breaches to the Site Coverage and Landscaped Area development standard is not contrary to the public interest because it is consistent with the objectives of the Site Coverage and Landscaped Area development standards (reproduced below) and those for the R1 zone (above).

4.3A Landscaped areas for residential accommodation in Zone R1

- (1) *The objectives of this clause are as follows:*
- (a) *to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,*
 - (b) *to maintain and encourage a landscaped corridor between adjoining properties,*
 - (c) *to ensure that development promotes the desired future character of the neighbourhood,*
 - (d) *to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water,*
 - (e) *to control site density,*
 - (f) *to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.*

in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

Historically, the subject site was a commercial premise before being converted to a residential dwelling. The existing building is already built to the boundaries and given that the small size of the lot and the existing built form being contributory to the Heritage Conservation Area, compliance with the development standards in relation to Site Coverage and Landscaped Area could not be achieved. As the proposal will provide a private open space that have adequate amenity and can be used for recreational purposes, the variation to these standards can be supported.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the applicable local environmental plan. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the Floor Space Ratio, Landscaped Area and Site Coverage development standards and it is recommended the Clause 4.6 exceptions be granted.

Clause 5.10 - Heritage Conservation

The subject site is not listed as a heritage item on the Leichhardt LEP 2013. It is a contributory item to 'The Valley Heritage Conservation Area' (C7). It is not located in close proximity of listed heritage items that would be affected by the proposal. The amended proposal in its current form is satisfactory on streetscape and heritage grounds subject to conditions. Refer to section 5(c) for a more detailed discussion on heritage conservation.

5(b) Draft Environmental Planning Instruments

Draft State Environmental Planning Policy (Environment) 2018

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed

and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development would be consistent with the intended requirements within the Draft Environment SEPP.

5(c) Development Control Plans

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

LDCP2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	N/A
C1.3 Alterations and additions	Yes, subject to conditions – see discussion
C1.4 Heritage Conservation Areas and Heritage Items	Yes, subject to conditions – see discussion
C1.5 Corner Sites	Yes, subject to conditions – see discussion
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	N/A
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	N/A
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	N/A
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	Yes
C1.18 Laneways	N/A
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A

Part C: Place – Section 2 Urban Character	
C2.2.5.1 The Valley ‘Rozelle’ Distinctive Neighbourhood <i>Smith Street Sub Area – Section C2.2.5.1(b)</i>	Yes, subject to conditions
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	No, see discussion
C3.3 Elevation and Materials	Yes, subject to conditions
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	N/A
C3.6 Fences	N/A
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	No, see discussion
C3.9 Solar Access	No, see discussion
C3.10 Views	Yes
C3.11 Visual Privacy	Yes, see discussion
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	N/A
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	N/A
D2.5 Mixed Use Development	N/A
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	N/A
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	Yes
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A
Part F: Food	N/A

Part G: Site Specific Controls

N/A

The following provides discussion of the relevant issues:

C1.3 Alterations and additions, C1.4 Heritage Conservation Areas and Heritage Items, C1.5 Corner Sites and C2.2.5.1 The Valley 'Rozelle' Distinctive Neighbourhood Smith Street Sub Area – Section C2.2.5.1(b)

The subject site is not listed as a heritage item in the Leichhardt LEP 2013. It is a contributory item to 'The Valley Heritage Conservation Area' (C7). It is not located in close proximity of listed heritage items that would be affected by the proposal. The subject site is part of The Valley (Rozelle) Distinctive Neighbourhood of the Leichhardt LEP 2013, within the Smith Street Hill sub area.

The subject site is a corner building built mostly of stone to the ground floor with later additions above in brickwork to the first floor, with remnants of the early render to the first floor façade to Mansfield Street showing early signage. Prior to the 1900s, it was used as a furniture warehouse that was possibly previously internally connected to No.59 Mansfield street (front room has evidence of an early blocked door). A hand-painted sign including the word 'Drink' can be read on the top of the front elevation, possibly dating from the early Federation era.

Liaison with the local studies historian has highlighted that 59-61 Mansfield Street was a former furniture warehouse "Farmer Fred furniture warehouse" up until 1898 when Fred Farmer died and that Council rated it as a single building together with 59-61 in 1908. It was mostly used as a confectioner shop across 1920s-1930s (Sands).



Figure 1: Current photograph of this building



Figure 2: internal views of this item, showing blocked up openings

It was initially developed as part of allotment 7 of Section 10 of the Balmain Estate.



Figure 3: Subdivision plan available from the State Library of NSW, ref. c027590104

When it was turned into a residential building, the front shop window was infilled, the corner door was blocked and internal changes led to the creation of a dwelling with new staircase and first floor rear terrace. An early fireplace was visible to the ground floor rear wing of no.61. Old building plans relative to No.59 Mansfield show changes occurring in 1983 and 1992, when no. 59 was added on and the its front shop window partially infilled with timber.



Figure 4: views of the front room at ground floor with the previous link to no.59 (bookshelf), the infilled front shopwindow and the entrance door to the right.

The main concerns with this application are the structural integrity of the building walls at ground floor level which are proposed to be removed to create open plan living areas, and the loss of significant early fabric. Given this, it is recommended that the creation of new openings is removed from the plans and that it only affects brick walls. For example, opening up between the kitchen and the dining area is appropriate but opening up of the wall between the dining and the living room is not, due to the extent of stonewall and the loss of significant fabric. Removal of the internal fireplace will also adversely affect significant fabric and must be avoided.

The internal staircase is not original and its removal is supported, however the new staircase should be designed as a reversible element independent of the existing building – e.g. with a 100mm gap from the eastern boundary wall and not attached to the stonewall. This would ensure the structural integrity of the stone wall and the retention of early changes to the building such as former openings. Similarly, the first floor terrace is later fabric and its removal will not adversely affect the conservation area.

While being a contributory to a heritage conservation area, its high level of intactness both internally and externally and its streetscape presentation and its being an early conversion of a former industrial building for residential use may qualify for individual heritage listing. For this reason, some of the heritage conditions listed below try to minimise loss of fabric and adverse impact.

In relation to the first floor, it is recommended that the new addition is setback to retain the legibility of the stone quoins to the wall, which is a particular feature of this building, and to avoid causing damage to the quoins. The first floor addition also needs to be not higher than the lowest point of the existing parapet separated by a box gutter.

A proposed paint colour for the new addition has not been clearly spelled out in the updated drawings. It is recommended that a schedule of finishes and colours is requested with clear brand and colour code to fully assess its impact.

Skylights must be of a low profile and have simple, unobtrusive detailing to avoid adverse visual impact and be non-reflective. The frame colour must match the surrounding roof.

It is also recommended not to render over stonework both internally and externally and to retain the painted sign 'drink' to the front elevation.

Subject to conditions addressing the above which are recommended to be imposed on any consent granted, the proposal will have acceptable streetscape/heritage impacts and satisfies the provisions and objectives of Clause C1.3 Alterations and additions, C1.4 Heritage Conservation Areas and Heritage Items, C1.5 Corner Sites and C2.2.5.1 The Valley 'Rozelle' Distinctive Neighbourhood Smith Street Sub Area – Section C2.2.5.1(b) of the Leichhardt DCP 2013.

C3.2 Site Layout and Building Design



Figure 5: Aerial photo of subject site and adjoining sites.

Building Location Zone (BLZ)

Control C5 requires the BLZ of a corner site to be determined by the location of the building on the adjacent property that most resembles the orientation, frontage width and site layout of the subject site. The two storey dwelling at 59 Mansfield Street and has a rear alignment at first floor level which is setback approximately 5.3 metres from the north-eastern corner of the boundaries of No. 61 Mansfield Street. (See image below)



Figure 6: View from rear yard of adjoining property at 59 Mansfield Street

The amended proposal proposed a further setback from the rear boundary where the northern floor of the first floor addition will be located approximately 3840 mm. The resultant first floor addition and associated Fire rated wall will extend approximately 1.5mm beyond the rear elevation of No. 59 Mansfield Street and approximately 300mm beyond the existing first floor blade wall associated with the first floor balcony of No. 59 Mansfield Street.

As discussed in more detail in a later section of the report, the proposed development is considered to be reasonable in regards to solar access. The proposal will comply with the visual privacy controls and there are no issues raised in regards to the obstruction of significant views. It is considered that the proposed development will have acceptable impacts in regards to bulk and scale when viewed from the private open space of No. 59 Mansfield Street.

Subject to conditions in relation to materials and finishes, it is considered to be of a form that is compatible to the existing streetscape, desired future character and scale of developments in the locality.

In light of the above, the proposed building locations for the first floor levels are considered appropriate in the circumstances.

Side Setback

A technical non-compliance with the setback control is noted as outlined in the following table:

Elevation	Proposed Maximum Wall Height (m)	Required setback (m)	Proposed setback (m)	Difference (m)
Eastern	6.4	2.1	0.2	1.9
Southern	6.4	2.1	0.2	1.9

It is considered that this variation can be supported on merit for the following reasons:

- It is considered that subject to conditions in relation to materials and finishes, the proposed additions will be compatible with the pattern of development within the existing streetscape and Heritage Conservation Area.
- The proposed development is considered to be reasonable in regards to solar access, proposal will comply with the visual privacy controls and there are no issues raised in regards to the obstruction of significant views.
- As the proposed addition will only extend approximately 300mm beyond the existing blade wall at the first floor level of No. 59 Mansfield Street and therefore the bulk and scale impacts are considered to be acceptable.

C3.8 Private Open Space and C3.9 Solar Access

The following controls are applicable in regards to C3.8 Private Open Space:

For Dwelling houses, semi attached and attached dwellings, dual occupancies

C1 Private open space should be:

a. located at ground level consistent with the location of private open space on the surrounding properties and the siting controls within this Development Control Plan;

b. has a minimum area of 16sqm and minimum dimension of 3m;

Note: the front setback will not be accepted as private open space.

c. is connected directly to the principal indoor living areas; and

d. where ground level is not accessible due to the existing constraints of the site and/or existing development, above ground private open space will be considered.

For Shop top housing, Residential flat buildings and Mixed use development (residential component only)

C3 Private open space comprises a minimum 8sqm deck or balcony with a minimum dimension of 2m directly accessible from the principal living areas.

C4 Private open space is designed to ensure the privacy of the occupants of the subject dwelling, surrounding residential properties and other dwellings within the development.

C5 Private open space that is located overlooking the public domain must be designed to ensure appropriate levels of visual privacy to the space and ensure it will be suitable for passive recreation by the residents.

And the following solar access controls are applicable to private open space:

All development

C2 Where site orientation permits, new dwellings must be designed to maximise direct Sunlight to the main living room and private open space.

C3 Windows and openings shall be appropriately located, sized and shaded to reduce summer heat load and to maximise entry of sun in winter.

C4 Private open space is to receive a minimum three hours of direct Sunlight over 50% of the required private open space between 9am and 3pm at the winter solstice.

C5 All habitable rooms shall have access to natural daylight regardless of provision of skylights or similar.

As the subject site was a commercial premise when it was originally constructed and adapted to be used as a residential premise in the past, it is accepted that a private open space at ground floor level would not be possible. Given the small lot size and the site constraints in relation to bulk and scale impacts to the adjoining property at 59 Mansfield Street, the proposed private open space is considered acceptable in this instance as it is sited in a location that despite its size, will receive a reasonable amount of solar access.

The following controls of C3.9 are applicable in regards to potential solar access impacts to No. 59 Mansfield Street:

Retaining solar access to neighbouring dwellings main living room glazing

C13 Where the surrounding allotments are orientated north/south and the *dwelling* has north facing glazing serving the main living room, ensure a minimum of three hours solar access is maintained between 9am and 3pm during the winter solstice.

C15 Where surrounding *dwellings* currently receive less than the required amount of solar access to the *main living room* between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.

Retaining solar access to neighbouring dwellings private open space

C17 Where surrounding *dwellings* have north facing private open space, ensure solar access is retained for three hours between 9am and 3pm to 50% of the total area during the winter solstice.

C19 Where surrounding *dwellings* currently receive less than the required amount of solar access to their *private open space* between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.

The shadow diagrams do not accurately indicate the ground floor northern glazing of No. 59 Mansfield Street nor does the shadow diagrams demonstrate that the adjoining properties receive the required amount of solar access under C13. However, as the amended design currently proposes a first floor rear elevation that only extends 300mm beyond the existing blade wall of No. 59 Mansfield Street, the proposal will result in acceptable impacts to No. 59 Mansfield in regards to impacts to the north-facing glazing and the private open space.

C3.11 Visual Privacy

The following control is applicable in regards to visual privacy:

C1 Sight lines available within 9m and 45 degrees between the living room or private open space of a dwelling and the living room window or private open space of an adjoining dwelling are screened or obscured unless direct views are restricted or separated by a street or laneway. Measures for screening or obscuring will include one or more of the following:

- a. offsetting of opposing windows so that they do not directly face one another;*
- b. offset windows from directly facing adjoining balconies and private open space of adjoining dwellings;*
- c. screening of opposing windows, balconies and private open space with fixed louvered screens, window hoods, shutters;*
- d. reduced window areas, subject to compliance with the Building Code of Australia;*
- e. window sills at or above 1.6m above the finished floor level;*
- f. use of fixed, obscure glass, subject to adequate ventilation complying with the Building Code of Australia;*
- g. consistent orientation of buildings;*
- h. using floor level in design to minimise direct views; and*

- i. *erection of screens and fencing to limit sightlines including dividing fences, privacy screens, projecting blade screens.*

C7 New windows should be located so they are offset from any window (within a distance of 9m and 45 degrees) in surrounding development, so that an adequate level of privacy is obtained/retained where such windows would not be protected by the above controls (i.e. bathrooms, bedrooms).

The proposed new windows on the first floor level are associated with bedrooms and are not located within 9 metres with windows on the adjacent properties and therefore the windows does not required to be screened or obscured. The proposed first floor terrace area will overlook the street and therefore complies with C1.

5(d) The Likely Impacts

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

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

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

5(f) Any submissions

The application was notified in accordance Leichhardt Development Control Plan 2013 for a period of 14 days to surrounding properties. No submissions were received.

5(g) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

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

- Heritage – Amended plans have be reviewed by the heritage advisor and is acceptable subject to conditions.

6(b) External

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

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are not payable for the proposal.

8. Conclusion

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

The development will not result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest. / The development would result in significant impacts on the amenity of the adjoining premises/properties and the streetscape and is not considered to be in the public interest.

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

9. Recommendation

- A. The applicant has made written requests pursuant to Clause 4.6 of the *Leichhardt Local Environmental Plan 2013*. After considering the requests, and assuming the concurrence of the Secretary, the Panel is satisfied that compliance with the development standards for Floor Space Ratio, Landscaped Area and Site Coverage is unnecessary in the circumstance of the case and that there are sufficient environmental planning grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. D/2018/612 for alterations and additions to existing dwelling-house, including first floor addition at 61 Mansfield Street subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

1. Development must be carried out in accordance with Development Application No. D/2018/612 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
DA00, Issue B – Cover Page	GSBN Studio	17.05.19
DA01, Issue B – Site and Roof Plan	GSBN Studio	17.05.19
DA02, Issue B – Plans – Existing/Demolition	GSBN Studio	17.05.19
DA03, Issue B – Sections & Elevations – Existing/Demolition	GSBN Studio	17.05.19
DA04, Issue B – Plans – Proposed	GSBN Studio	17.05.19
DA05, Issue B – Elevations – Proposed	GSBN Studio	17.05.19
DA06, Issue B – Sections – Proposed	GSBN Studio	17.05.19
DA07, Issue B – External finishes schedule	GSBN Studio	17.05.19
DA08, Issue B – Site Analysis Plan	GSBN Studio	17.05.19
Document Title	Prepared By	Dated
BASIX Certificate No. A329292	GSBN Studio	05 November 2018
Stormwater Plans	Prepared By	Dated
DA09, Issue B - Stormwater Concept Plan	GSBN Studio	17.05.19

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

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

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

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

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

2. Consent is granted for the demolition of the following currently existing on the property, subject to strict compliance with the following conditions:

Elements	Location
Structures associated with the existing dwelling	As indicated on the approved drawings.

- a) The adjoining residents must be notified seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, site contact details/person, elements to be demolished and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.
- b) Written notice is to be given to the Principal Certifying Authority for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections must be undertaken by the Principal Certifying Authority:
 - i) A *pre commencement* inspection when all the site works are installed on the site and prior to demolition commencing.
 - ii) A *final* inspection when the demolition works have been completed.

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

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: *Demolition of structures*.
- g) The hours of demolition work are limited to between 7:00am and 6:00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover

New South Wales and the Environmental Protection Authority.

- i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- j) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.
- k) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- m) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense. Dial before you dig www.1100.com.au should be contacted prior to works commencing.
- n) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
- o) Prior to demolition, a Work Plan must be prepared and submitted to the Principal Certifying Authority in accordance with the relevant provisions of Australian Standard 2601:2001 *Demolition of structures* by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- p) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
 - i) A WorkCover licensed contractor must undertake removal of all asbestos.
 - ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400 mm x 300 mm is to be erected in a visible position on the site to the satisfaction of Council.
 - iii) Waste disposal receipts must be provided to Council / Principal Certifying Authority as proof of correct disposal of asbestos laden

waste.

- iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
- v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

3. In accordance with the provisions of the *Environmental Planning and Assessment Act 1979* construction works approved by this consent must not commence until:
 - a) A Construction Certificate has been issued by Council or an Accredited Certifier. Either Council or an Accredited Certifier can act as the "Principal Certifying Authority."
 - b) A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment.
 - c) At least two days notice, in writing has been given to Council of the intention to commence work.

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

4. Amended plans are to be submitted incorporating the following amendments:
 - a) The ground floor internal stonewall between dining and living area and internal fireplace is to be retained.
 - b) The new staircase to have a 100mm gap from the eastern boundary wall and not attached to the stonework to ensure the structural integrity of the stone wall and the retention of evidence of early changes to the building such as former openings
 - c) The proposed works is to be setback to retain the legibility of the stone quoins to the wall of the north-western corner of the existing first floor bedroom, which is a particular feature of this building, and to avoid causing damage to the quoins
 - d) The first floor addition to be not higher than the lowest point of the existing parapet separated by a box gutter

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

5. Prior to the issue of a Construction Certificate, the Certifying Authority must be

provided with Colour Scheme and plans certified from a suitably qualified Heritage Consultant indicating:

- a) External paint colours that have hue and tonal relationships with other contributory items within the streetscape context and be consistent with the matching terraces/dwellings within the same group/row. Existing unpainted brick, stone surfaces and rock outcrops are not to be painted, bagged or rendered but to remain as original brick and stone work.
 - b) The painted sign 'drink' to the front elevation must be retained and conserved.
6. Prior to the issue of a Construction Certificate, the Principal Certifying Authority must verify that any skylights are parallel to the roof plane, are non-reflective and use a frame colour that is the same the surrounding roof colour.
 7. Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans showing that the interiors and the existing exterior walls are not be painted or rendered over the stonework.
 8. Prior to the issue of a Construction Certificate, a Structural Certificate must be provided to the Principal Certifying Authority. The Certificate must verify that the structural integrity of the existing "Party Walls" are adequate to accept the additional loads imposed thereon by the proposal. A copy of the Certificate must be provided to the consent authority and all owners of the party wall/s.
 9. A Certificate prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority. The certificate shall also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

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

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

The system/s shall be operated as follows:

- a) Domestic air conditioners must not be audible in nearby dwellings between:
 - i) 10:00pm to 7:00am on Monday to Saturday: and
 - ii) 10:00pm to 8:00am on Sundays and Public Holidays.
- b) At any other time the systems and associated equipment shall not give rise to a sound pressure level at any affected premises that exceeds the

background $L_{A90, 15\text{min}}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A).

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

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

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

11. Prior to the issue of the Construction Certificate the Principal Certifying Authority is to ensure that the plans state that no high front gutters will be installed.
12. In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more. The Long Service Levy is payable prior to the issue of a Construction Certificate.

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

13. If any excavation extends below the level of the base of the footings of a building on an adjoining property, the person causing the excavation:
 - a) Must preserve and protect the adjoining building from damage
 - b) Must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - c) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

14. The following fire upgrading is required pursuant to Clause 94 of the *Environmental Planning and Assessment Regulation 2000*:
 - The building is to be provided with smoke alarm system that complies with *AS3786-1993: Smoke Alarms* and the smoke alarms must be connected to

the consumer mains electrical power supply and interconnected where there is more than one alarm with a stand-by (battery back-up) power supply. The smoke alarm system must be installed in suitable locations on or near the ceiling in accordance with Part 3.7.2 of the Building Code of Australia.

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

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

15. The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. For Quick Check agent details please refer to the web site <http://www.sydneywater.com.au/SW/plumbing-building-developing/building/quick-check-agents/index.html>

The Principal Certifying Authority must ensure the Quick Check agent/Sydney Water has appropriately stamped the plans prior to the issue of a Construction Certificate.

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

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

generated from the site must be controlled. Refer to other conditions of this consent. If during excavation, rock is encountered, measures must be taken to minimise vibration, dust generation and impacts on surrounding properties. Refer to Environmental Noise Management Assessing Vibration: a technical Guideline (Department of Environment and Conservation, 2006) www.epa.nsw.gov.au for guidance and further information.

- c) Occupational Health and Safety
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.
- d) Toilet Facilities
During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site. Details must be shown on the plan.
- e) Traffic control plan(s) for the site
All traffic control plans must be in accordance with the Roads and Maritime Services publication "Traffic Control Worksite Manual"

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

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

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

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

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

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

Security Deposit (FOOT)	\$2152.00
Inspection fee (FOOT)	\$230.65

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

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

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

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

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

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

- 19. A dilapidation report including a photographic survey of the following adjoining properties must be provided to Principal Certifying Authority prior to any demolition or works commencing on the site or the issue of a Construction Certificate (whichever comes first). The dilapidation report must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property	Structures / Area
59 Mansfield Street, Rozelle	Dwelling House

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

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

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

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

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

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

- g) Awning or street verandah over footpath. – Road works Application
- h) Installation or replacement of private stormwater drain, utility service or water supply – Road Opening Permit

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

PRIOR TO THE COMMENCEMENT OF WORKS

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

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

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

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

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

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

Separate approval is required under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property. Approvals for hoardings, scaffolding on public land must be obtained and clearly displayed on site for the duration of the works.

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

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

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

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

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

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

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

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

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

Photographic evidence demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority

and Council for records purposes prior to the commencement of any onsite work.

DURING WORKS

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

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

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

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

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

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

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

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

32. Unless otherwise approved by Council, excavation, demolition, construction or subdivision work shall only be permitted during the following hours:
- a) 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);

- b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
- c) at no time on Sundays or public holidays.

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

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

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

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

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

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

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

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

- 33. In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the demolition, construction or operation/use of the development.
- 34. Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.
- 35. The development must be inspected at the following stages by the Principal Certifying Authority during construction:
 - a) after excavation for, and prior to the placement of, any footings, and
 - b) prior to pouring any in-situ reinforced concrete building element, and

- c) prior to covering of the framework for any floor, wall, roof or other building element, and
 - d) prior to covering waterproofing in any wet areas, and
 - e) prior to covering any stormwater drainage connections, and
 - f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
36. A copy of the approved plans and this consent must be kept on site for the duration of site works and in the case of any commercial or industrial premise for the duration of the use/trading. Copies shall be made available to Council Officer's upon request.
37. Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines discharged by gravity to the kerb and gutter of a public road.

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

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

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

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

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

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

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

Prescribed trees protected by Council's controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed

during works unless specific approval has been provided under this consent.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

40. An Occupation Certificate must be obtained prior to any use or occupation of the development or part thereof. The Principal Certifying Authority must ensure that all works are completed in accordance with this consent including all conditions.
41. A second Dilapidation Report including photos of any damage evident at the time of inspection must be submitted after the completion of works. A copy of this Dilapidation Report must be given to the property owners referred to in this Development Consent. The report must:
 - Compare the post construction report with the pre-construction report required by these conditions,
 - Clearly identify any recent damage and whether or not it is likely to be associated with the development works including suggested remediation methods.

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

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

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

43. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.
44. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all works have been completed in accordance with the approved Waste Management Plan referred to in this development consent.

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

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

ONGOING CONDITIONS OF CONSENT

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

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

PRESCRIBED CONDITIONS**A. BASIX Commitments**

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

In this condition:

- a) Relevant BASIX Certificate means:
 - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 4.55 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.

B. Building Code of Australia

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

C. Home Building Act

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

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

D. Site Sign

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

E. Condition relating to shoring and adequacy of adjoining property

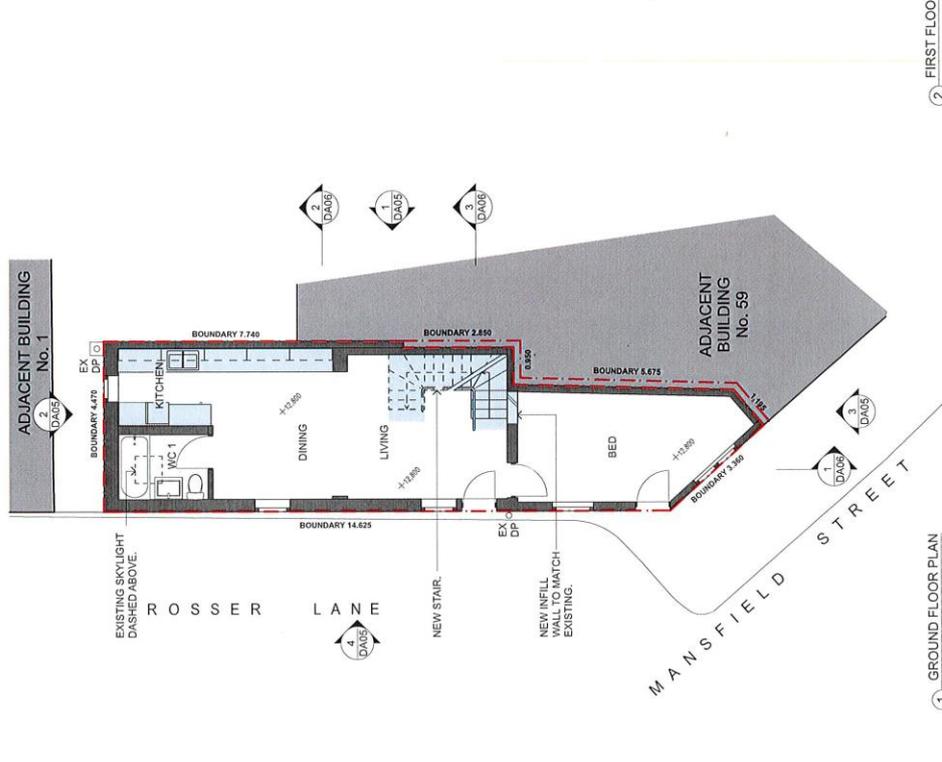
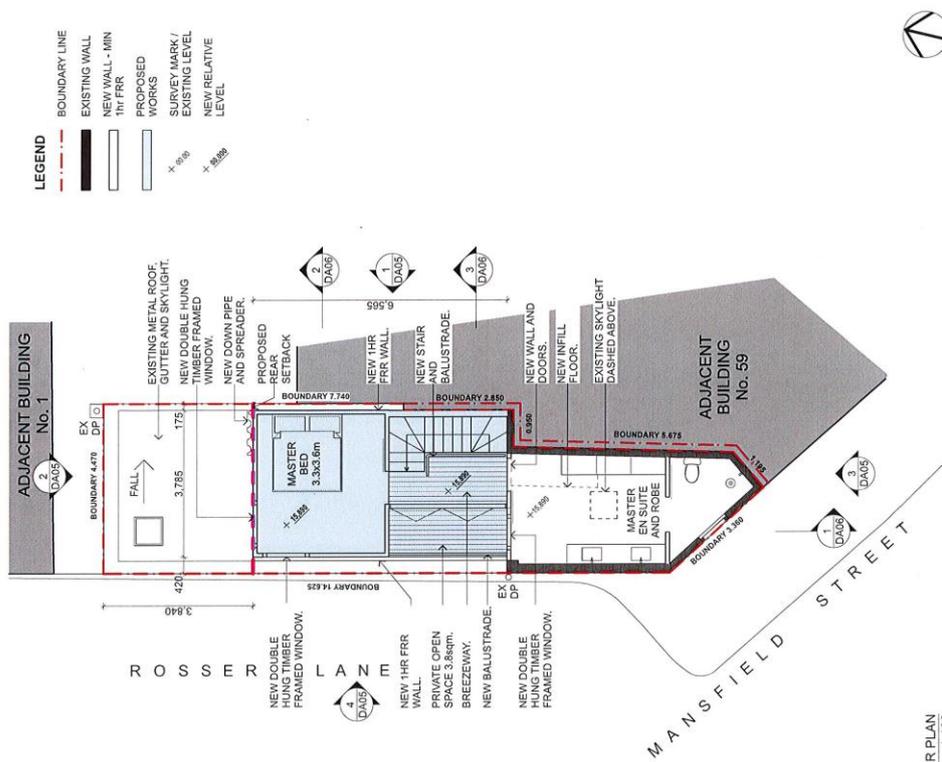
- 1) For the purposes of section 4.17(11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - a) protect and support the adjoining premises from possible damage from the excavation, and
 - b) where necessary, underpin the adjoining premises to prevent any such damage.

- 2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

NOTES

1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. Section 8.2 of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, designated development or a complying development certificate. The request for review must be made within six (6) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. Furthermore, Council has no power to determine a review after the expiration of these periods. A decision on a review may not be further reviewed under Section 8.2.
3. If you are unsatisfied with this determination, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right of appeal to the Land and Environment Court within six (6) months of the determination date.
4. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.
5. Works or activities other than those approved by this Development Consent will require the submission of a new development application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.
6. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
7. This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):
 - a) Application for any activity under that Act, including any erection of a hoarding.
 - b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
 - c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
 - d) Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
 - e) Application for Strata Title Subdivision if strata title subdivision of the development is proposed.
 - f) Development Application for demolition if demolition is not approved by this consent.
 - g) Development Application for subdivision if consent for subdivision is not granted by this consent.

- h) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
- 8. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained.



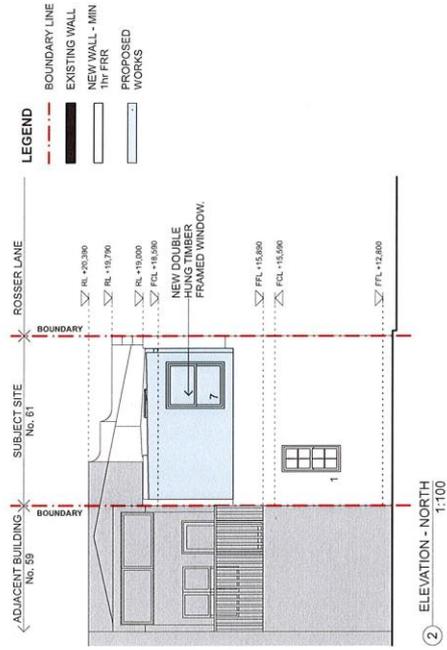
- LEGEND**
- BOUNDARY LINE
 - EXISTING WALL
 - NEW WALL - MIN THR FRR
 - PROPOSED WORKS
 - SURVEY MARK / EXISTING LEVEL
 - NEW RELATIVE LEVEL



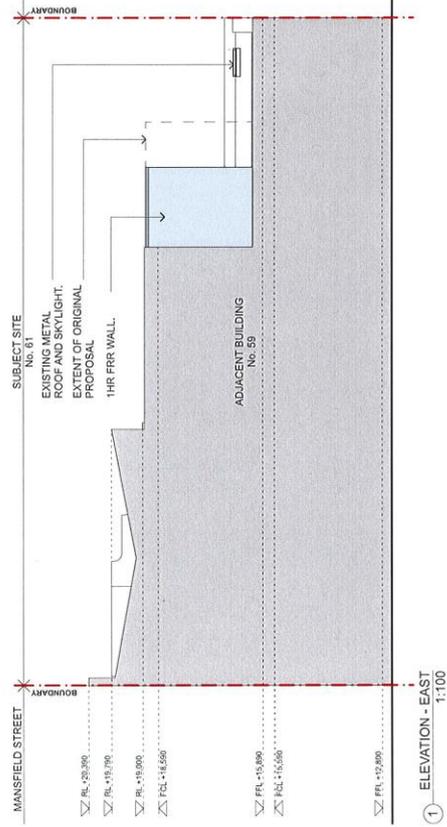
② FIRST FLOOR PLAN 1:100

① GROUND FLOOR PLAN 1:100

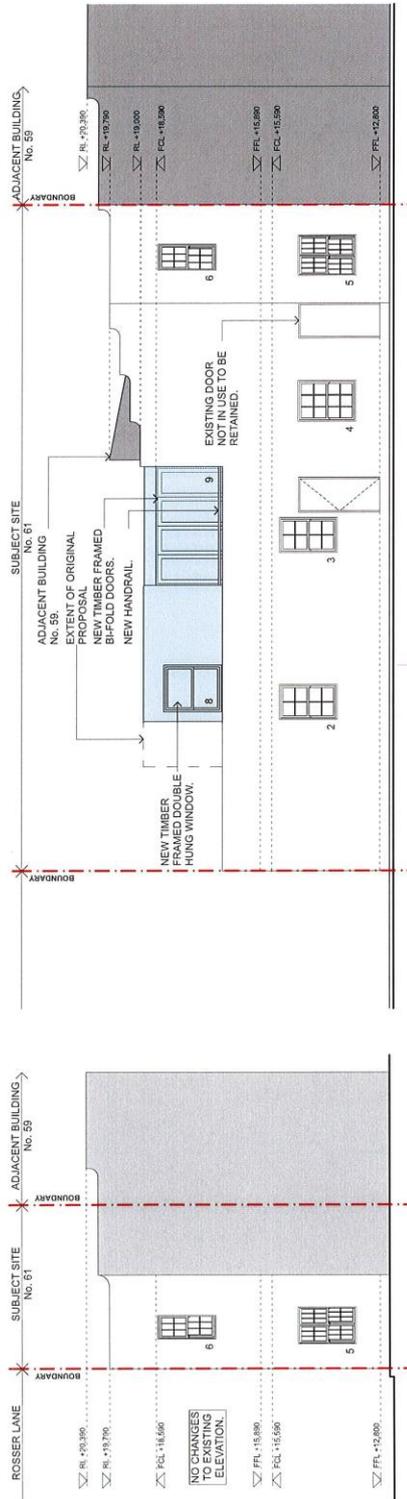
<p>Project: ROZELLE 61 MANSFIELD STREET ROZELLE, 2039</p> <p>Project no: 1806</p> <p>Drawn: ABN</p> <p>Checked: RS</p> <p>Date: 20/5/19</p> <p>Scale: 1:100 @ A3</p> <p>Scale bar: 0m 1m 2m 3m 4m 5m</p> <p>Sheet: DA04</p> <p>Block: B</p>	<p>Sheet title: PLANS - PROPOSED</p>
	<p>Notes:</p> <p>All work to be done in accordance with the approved plans and specifications. The contractor is responsible for obtaining all necessary permits and approvals. The contractor is to ensure that all work is completed in accordance with the approved plans and specifications. The contractor is to ensure that all work is completed in accordance with the approved plans and specifications. The contractor is to ensure that all work is completed in accordance with the approved plans and specifications.</p>



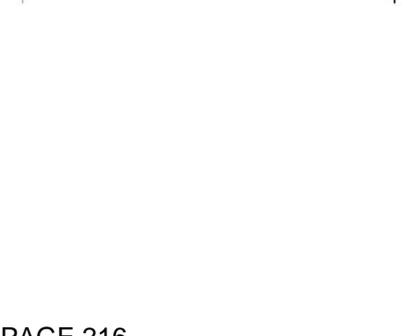
② ELEVATION - NORTH
1:100



① ELEVATION - EAST
1:100



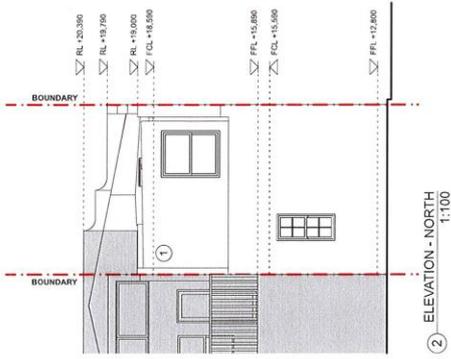
④ ELEVATION - WEST
1:100



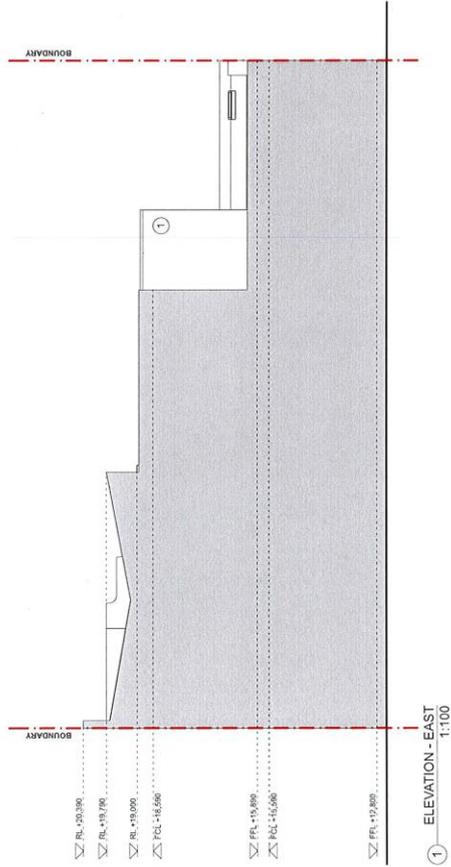
③ ELEVATION - SOUTH
1:100

<p>GS BN IO</p> <p>17/05/19 A. 09.1.18 Issue for DA Submission 1:100 (Scale)</p>	<p>Release to Council Issue for DA Submission 1:100 (Scale)</p>	<p>Project no 1806</p>	<p>Drawn ABN</p>	<p>Checked RS</p>	<p>Date 17/5/19</p>	<p>Scale 1:100 @ A3</p>	<p>Sheet DA05</p>	<p>Issue B</p>
<p>ELEVATIONS - PROPOSED</p>								

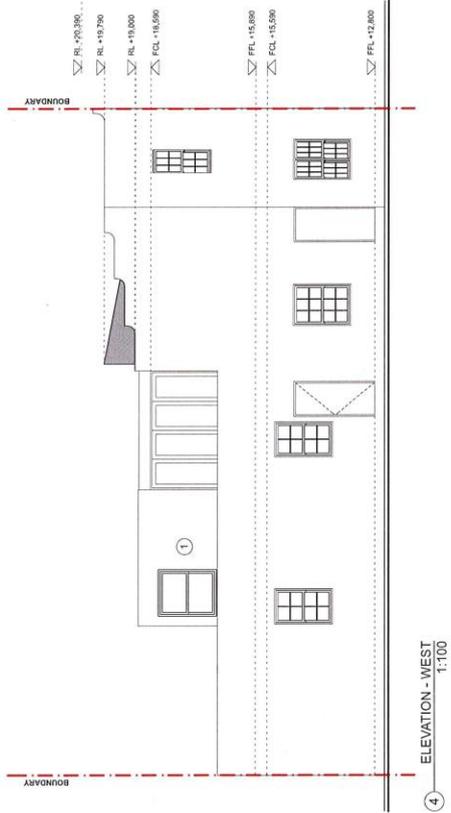
FIBRE CEMENT SHEET
 TRADITIONAL PAINT FINISH
 (INDICATIVE SHOWN)



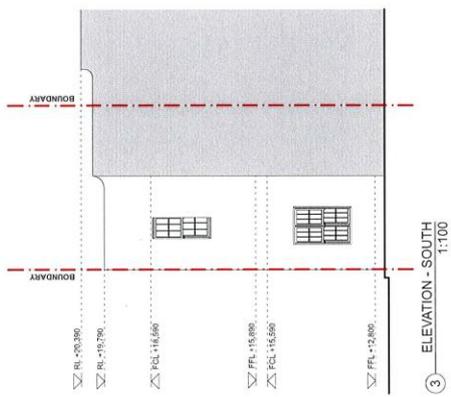
2 ELEVATION - NORTH
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1 ELEVATION - EAST
 1:100



4 ELEVATION - WEST
 1:100

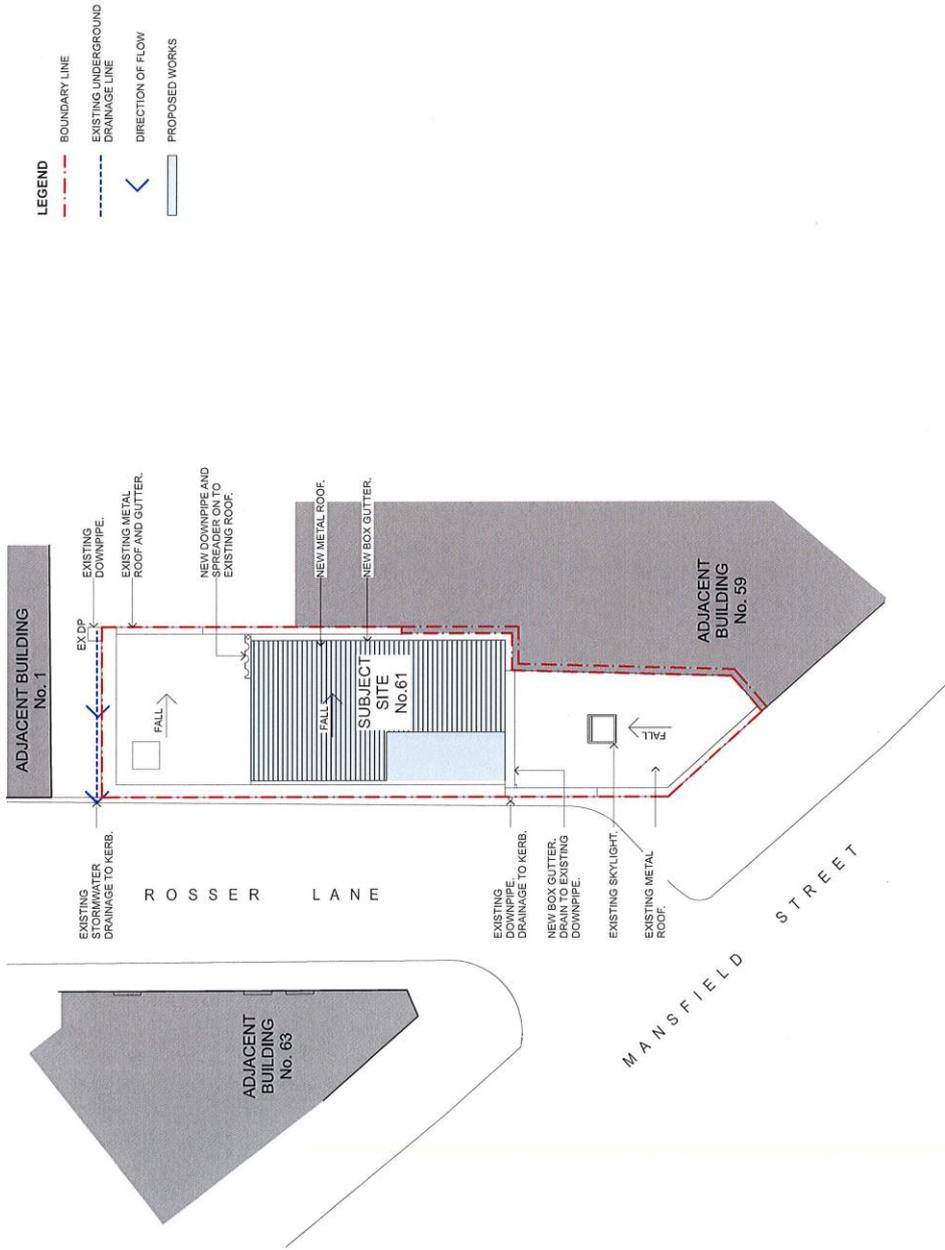


3 ELEVATION - SOUTH
 1:100

<p>GS BN</p>	<p>17/05/19 Revision to Council A. 05.1.15 Issue for DA Submission (Refer to 19/05/19)</p>	<p>1806</p>	<p>ABN</p>	<p>RS</p>	<p>17/5/19</p>	<p>1:100 @ A3</p>	<p>0m 1m 2m 3m 4m 5m</p>	<p>DA07</p>	<p>B</p>	<p>Project no</p>	<p>Project</p>	<p>Street Use</p>
										<p>61 MANSFIELD STREET, ROZELLE, 2039</p>	<p>ROZELLE</p>	<p>EXTERNAL FINISHES SCHEDULE</p>



<p>Notes:</p> <p>1. THIS SITE ANALYSIS PLAN IS FOR INFORMATION ONLY AND DOES NOT CONSTITUTE AN OFFER OF ANY SERVICE OR PRODUCT. THE CLIENT IS ADVISED THAT THE CLIENT SHOULD CONSULT WITH A PROFESSIONAL ENGINEER OR ARCHITECT FOR THE DESIGN OF ANY PROPOSED WORKS AND OBTAIN THE NECESSARY APPROVALS FROM ANY RELEVANT AUTHORITIES.</p> <p>Copyright © 2019 GSD&P</p> <p>This work is covered by copyright and is not to be reproduced or copied in any form without the prior written permission of GSD&P. Any breach, whether intentional or unintentional, of these terms and conditions shall be deemed to be a breach of the copyright and the copyright owner shall be entitled to take such action as may be necessary to enforce its rights in the work.</p>	
<p>Project no: 1806</p> <p>Drawn: ABN</p> <p>Checked: RS</p> <p>Date: 17/5/19</p> <p>Scale: 1:200 @ A3</p>	<p>Project: ROZELLE</p> <p>61 MANSFIELD STREET, ROZELLE, 2039</p> <p>Sheet title: SITE ANALYSIS PLAN</p>
<p>17/05/19 A. 05.1.19</p> <p>Revised to Council Issues for DA Submission</p>	<p>GS BN STUDIO</p> <p>17/05/19 A. 05.1.19</p>



<p>GS BN</p> <p>© 2019 GSD Licence: 0000 2000 000 000 000 000 000 000 000 000</p>	<p>Project: ROZELLE 61 MANSFIELD STREET, ROZELLE, 2039</p>	<p>Scale: 1:100 @ A3</p>	<p>Sheet: DA09</p>	<p>Issue: B</p>
	<p>Project No: 1806</p> <p>Drawn: ABN</p> <p>Checked: RS</p> <p>Date: 17/5/19</p>	<p>Scale Bar: 0m 1m 2m 3m 4m 5m</p>	<p>Scale: 1:100 @ A3</p>	<p>Sheet: DA09</p>

Attachment C- Clause 4.6 Exception to Development Standards

**CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS - LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013****ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING INCLUDING DEMOLITION OF REAR DECK AT FIRST FLOOR LEVEL****61 MANSFIELD STREET, ROZELLE (LOT 1 DP 575903)****MAY 2019****1. Introduction**

The subject site (site) is located at 61 Mansfield Street, Rozelle and is legally described as Lot 1 DP 575903. The site has a total site area of 64.1m² and located on the corner of Mansfield Street and Rosser Lane. This Clause 4.6 Exceptions to Development Standards relates to Clause 4.3A(3)(a) Minimum Landscaped Area, 4.3A(3)(b) Maximum Site Coverage and 4.4 Maximum Floor Space Ratio (FSR) outlined within Leichhardt Local Environmental Plan 2013 (LEP 2013). This Clause 4.6 Exceptions to Development Standards request accompanies a development application (DA) to Inner West Council (Council) for the alterations and additions to the existing dwelling including demolition of rear deck at first floor level.

This is an updated Clause 4.6 Exceptions to Development Standards request to accompany the revised design to the first level of the subject dwelling.

2. Details of Current and Proposed Landscaped Area, Site Coverage and FSRClause 4.3A(3)(a) Minimum Landscaped Area

A minimum landscaped area of 9.62m² applies to the site under Clause 4.3A(3)(a) of LEP 2013 as follow:

“(i) where the lot size is equal to or less than 235 square metres—15% of the site area”.

There is no existing landscaped area within the subject site and the proposed development will maintain the existing outcome and will not result in any landscaped area.

Clause 4.3A(3)(b) Maximum Site Coverage

A maximum site coverage of 60% applies to the site under Clause 4.3A(3)(b) of LEP 2013.

The subject site is currently being fully occupied by the existing dwelling and the proposal will maintain this existing situation.

Clause 4.4(2B)(d) Floor Space Ratio (FSR)

A maximum floor space ratio of 0.9:1 applies to the site under Clause 4.4(2B)(d) of LEP 2013 as follow:

“(d) on land shown edged yellow on the Floor Space Ratio Map is not to exceed:

(i) in the case of development on a lot with an area of less than 150 square metres—0.9:1, or

(ii) in the case of development on a lot with an area of 150 square metres or more but less than 300 square metres—0.8:1, or

(iii) in the case of development on a lot with an area of 300 square metres or more—0.7:1.”

The proposed FSR will be 1.31:1. The current existing FSR of the dwelling is 1.06:1.

The proposal provides for the refurbishment of the existing dwelling to create a master bedroom and associated en suite along with a new open terrace at the first floor to provide additional living spaces of an improved amenity. The site is located close to public transport, public recreation areas and retail shops and commercial services.

This proposal results in variations of the LEP 2013 development standards relating to the minimum landscaped area standard required by Clause 4.3A(3)(a), maximum site coverage standard required by 4.3A(3)(b) and maximum floor space ratio standard required by Clause 4.4. In response to the proposed non-compliances, the following Clause 4.6 Variation Request is provided.

This Clause 4.6 Variation has been prepared in accordance with the judgement of Justice Pain in *Four2Five Pty Ltd v Ashfield Council (2015) NSWLEC90* and with reference to Morris C, in *SARM Architects Pty Ltd v Wollongong City Council [2015] NSWLEC 1101* which states:

"Preston CJ, in Wehbe v Pittwater Council [2007] NSWLEC 827, established a number of ways of determining whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. The most common approach is to establish that compliance with the objectives of the control is achieved notwithstanding non-compliance with the particular standard".

This Variation is well founded and is worthy of support by Council Officers. An assessment of the proposed variations against the requirements of Clause 4.6 is provided below.

3. What are the Objectives of Clause 4.6 and is the proposal consistent with them?

The objectives of Clause 4.6 of LEP 2013 are:

- (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."

As outlined in the assessment below, that the proposed variations are consistent with the objectives of Clause 4.6 of LEP 2013. These variations allow flexibility in the application of the minimum landscaped area, maximum site coverage and maximum floor space ratio development standards by allowing the proposed residential development to proceed resulting in additional living spaces and an overall improved layout for the dwelling.

4. Are the standards to be varied Development Standards to which Clause 4.6 applies?

Clause 4.3A(3)(a), Clause 4.3A(3)(b) and Clause 4.4 is in Part 4 "Principal Development Standards" of LEP 2013. The wording of Clause 4.3A(3)(a), Clause 4.3A(3)(b) and Clause 4.4 are consistent with previous decisions of the NSW Land & Environment Court in relation to matters which constitute development standards. It is noted that Clause 4.6 does not contain a provision which specifically excludes the application of Clause 4.3A(3)(a), Clause 4.3A(3)(b) and Clause 4.4. On this basis Clause 4.3A(3)(a), Clause 4.3A(3)(b) and Clause 4.4 are development standards for which Clause 4.6 applies.

5. Are compliance with the Development Standards unreasonable or unnecessary in the circumstances of this case?

Compliance with the requirements of Clause 4.3A(3)(a), Clause 4.3A(3)(b) and Clause 4.4 is both unreasonable and unnecessary in the circumstances of this case for the following reasons:

- The proposed development will maintain the existing full site coverage outcome of the subject site and only seeks to demolish an upper level rear deck to improve the overall visual impact of the dwelling and provide an improved and larger internal amenity.
- The proposed development will have a built form and scale compatible with the surrounding development.
- The proposed residential dwelling will provide improved internal amenity and will preserve amenity for the residents of surrounding properties.
- The proposal will enable the provision of private open space area (the proposed open terrace at first floor) for the refurbished dwelling which is of high quality and amenity. Importantly this area can now be accessed by all occupants within the dwelling.
- The proposed development will provide a positive visual impact within the heritage conservation area.

There are no unreasonable environmental or amenity impacts on any nearby residents which will arise as a result of maintaining the nil landscaped area within the subject site, maintaining full site coverage and the FSR being exceeded in this case.

6. Are there sufficient environmental planning grounds to justify contravening the Development Standard?

The decision in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 indicates that merely showing that the development achieves the objectives of the development standard will be insufficient to justify that a development is unreasonable or unnecessary in the circumstances of the case for the purposes of an objection under Clause 4.6. The case also demonstrates that the requirement in Clause 4.6(3)(b) of LEP 2013 to justify that there are sufficient environmental planning grounds for the variation, requires identification of grounds particular to the circumstances of the proposed development and not simply grounds that apply to any similar development on the site or in the vicinity.

A contravention of the development standard is justified on environmental planning grounds on the consideration of the following:

- The nil landscaped area and full site coverage is an existing situation of the subject site. The proposal will maintain existing site conditions.
- The proposed open terrace at the first floor provides quality private open space for the occupants of the dwelling.
- The proposed development whilst non-compliant with the Council's numerical minimum landscaped area, maximum site coverage and maximum floor space ratio control, achieves compliance with the objectives of Clause 4.3A and Clause 4.4.
- There are no significant adverse amenity impacts on the neighbouring properties at 59 Mansfield Street to the east and 1 Rosser Lane to the north as a result of this non-compliance.

7. Is the proposed development 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?

The proposal is consistent with the objectives of the development standard in LEP 2013 and for development in the R1 General Residential Zone under LEP 2013. The proposed development is in the public interest as it is compliant with the zone objectives and the objectives of the particular standard (Clause 4.3A and Clause 4.4 in LEP 2013).

The objectives for development in Zone R1 General Residential are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To improve opportunities to work from home.*
- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
- *To provide landscaped areas for the use and enjoyment of existing and future residents.*
- *To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.*
- *To protect and enhance the amenity of existing and future residents and the neighbourhood."*

The proposal will meet the objectives for development in the R1 General Residential Zone for the following reasons:

- Provides both improved internal layout and additional living spaces that will meet the needs of the community within an inner city context.

- Is compatible with the character and style of surrounding buildings and the mixed architectural styles and varied built form of dwellings on the streetscape.
- It will preserve the amenity of surrounding properties.

Clause 4.3A outlines the following relevant objectives for the landscaped areas for residential accommodation in Zone R1 controls in LEP 2013:

- *“(a) to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,*
- *(b) to maintain and encourage a landscaped corridor between adjoining properties,*
- *(c) to ensure that development promotes the desired future character of the neighbourhood,*
- *(d) to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water,*
- *(e) to control site density,*
- *(f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.”*

Clause 4.4 outlines the following relevant objectives for the floor space ratio controls in LEP 2013:

- *“(f) The objectives of this clause are as follows:*
- *(a) to ensure that residential accommodation:*
- *(i) is compatible with the desired future character of the area in relation to building bulk, form and scale, and*
- *(ii) provides a suitable balance between landscaped areas and the built form, and*
- *(iii) minimises the impact of the bulk and scale of buildings,*
- *(b) to ensure that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale.”*

The proposal maintains existing site conditions relating to site coverage and no opportunity for landscaping. This proposal which seeks to demolish the unsightly rear upper deck and roof and replace it with a high quality addition which provides an overall improved streetscape presentation.

8. Whether contravention of the Development Standards raise any matter of significance for State or Regional environmental planning.

The proposed contravention of the standard does not raise any matters of significance for State or Regional environmental planning.

9. Why there is no public benefit in maintaining the development standards in this circumstance?

The proposal will not result in any unreasonable adverse environmental impacts upon the amenity of the adjoining properties in terms of solar access, privacy and visual amenity, and satisfies the objectives of LEP 2013 and achieves consistency with the desired future character provisions within C2.2.5.1 The Valley 'Rozelle' Distinctive Neighbourhood of DCP 2013.

Council's refusal to permit the proposed variations to the minimum landscaped area, maximum site coverage and maximum floor space ratio in this instance would not be in the public interest given the small site area and the absence of any significant detrimental environmental impacts attributable to the proposed non-compliances.

10. Conclusion

Based upon the preceding assessment contained in this submission, a variation of the minimum landscaped area, maximum site coverage and maximum floor space ratio controls as required by Clause 4.3A(3)(a), Clause 4.3A(3)(b) and Clause 4.4 of the Leichhardt LEP 2013 is acceptable and strict adherence to a minimum landscaped area of 15%, maximum site coverage of 60% and maximum floor space ratio of 0.9:1 is not reasonable nor necessary in the circumstances. Variations to the development standards are therefore considered to be acceptable on planning merit and environmental planning grounds under Clause 4.6 of LEP 2013.

Attachment D – Statement of Heritage Significance

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Area 12 The Valley (Rozelle and Balmain)

Landform

This conservation area comprises a large but tightly formed valley which falls south and east from the Darling Street ridge towards White Bay affording enclosed views to industrial workings of the port city in the bay.

It includes a number of subdivisions/part subdivisions around the highest land in the Leichhardt Municipality on either side of the Darling Street ridge and across Victoria Road. It includes land east of Wellington Street to White Bay. It also includes the civic buildings and the commercial zone of Rozelle on both sides of Victoria Road, the land east of the Darling Street ridge beyond the commercial zone, the civic and commercial buildings of Balmain retail centre, small groups of shops along Darling Street and the former retail area of Evans and Beattie Streets.

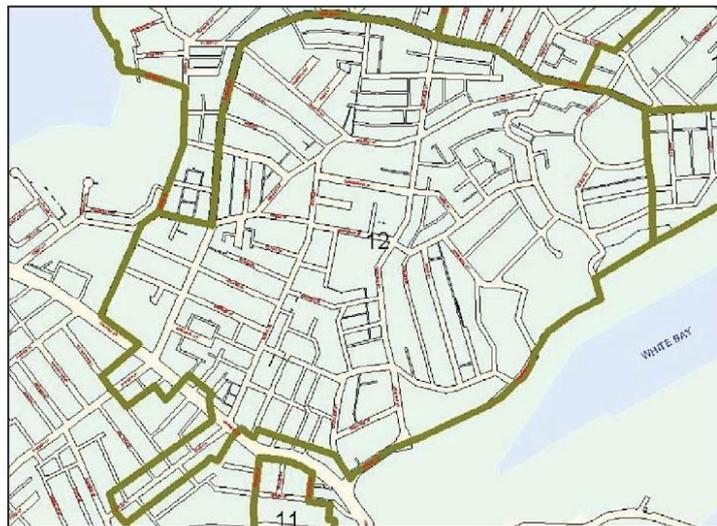


Figure 12.1 The Valley Conservation Area Map.

History

When sales of John Gilchrist's Balmain 550-acre grant were resumed in 1852, Surveyor Charles Langley subdivided the remaining acres into 46 (later 47) sections, using existing routes such as Darling Street, and other contour-hugging tracks, such as Beattie Street and Mullens Street to delineate the parcels. The sections were purchased over the next thirty years by wealthy investors, local speculators and builders.

The largest of the estates put together from Langley's subdivisions was the 19 acres of the Merton Estate purchased by piano importers Paling and Starling, druggists George and Frederick Elliott and estate agent Alfred Hancock. It occupied the land between Terry Street and Evans Street. It was subdivided by its owners into 197 allotments generally 30ft x 100ft with 50ft-wide grid

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pattern of roads, and was auctioned by local agent and developer, Alfred Hancock from 1874.

A miscellaneous collection of service and consumer trades servicing these new dwellings appeared along Evans Street in the 1870s making it the main commercial thoroughfare along the upper reaches of the Balmain peninsula.

By the 1880s the growth of industry, including noxious industry, in White Bay and along Whites Creek, made the south and east-facing slopes of the Darling Street ridge unattractive for a more affluent residential market. Those who could find employment in these industries would seek housing within walking distance, as public transport – then the horse drawn bus or later the steam tram – were too expensive. Canny speculators, such as Hancock (later Mayor of Balmain) sold to small builders who constructed very dense workers' housing for renters or purchasers on small budgets. By 1891 a large part of this area had been built upon.

The arrival of the government-owned steam tram at the junction of Darling Street and Victoria Road in 1892, provided relatively more affluent residents along its route with transport to the city, and a greater choice of employment away from places within immediate walking distance from home. The advent of the tramway probably explains the major impetus to growth in the area particularly to the west of Evans Street, so that in the 1890s much of Terry, Wellington, Merton and Nelson Streets were built upon with one-storey brick semis, pairs or small groups of terraces (two to an allotment) and double-fronted single-storey houses (one to an allotment). Most of these buildings were constructed by local builders such as Robert Gordon, William Whitehorn and James Gibson, whose small-scale operations are indicated by the small groups of similar houses or terraces.

From the 1850s, Booth's Saw Mill on White Bay provided a cheap source of timber and weatherboards, promoting weatherboard houses as the norm for workers' housing throughout Balmain until brick terrace housing became prevalent in the late nineteenth century.

The extension of the steam tram service along Darling Street by 1900 encouraged shopkeepers to relocate there to catch the passing trade, and Evans Street was superseded as a commercial centre.

The Metropolitan Detail Survey Sydney Water Archiveⁱ suggests that almost all the land east of Wellington Street was built upon by 1905.

By 1907 the precinct was generally known as Rozelle.

Sources

Solling, M and Reynolds, P 1997, 'Leichhardt: on the margins of the city', *Leichhardt Historical Journal*, Vol. 22, Allen and Unwin.

Further information provided by Max Solling.

Significant Characteristics

- Contour hugging main roads – Evans, Beattie and Reynolds.

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- Outline of subdivisions, size and aspect of allotments, determined by route of main roads.
- Wider residential roads off Darling Street ridge, with grid subdivision pattern, but
- Generally narrow roads between main access roads.
- Narrow, often shallow allotments.
- Back lanes are rare.
- Dense urban environment.
- Continuous lines of buildings create sharply defined lineal spaces.
- Buildings stepped up and down hill, following the topography.
- Houses sited close to road near Darling Street ridge; and sited onto the road alignment nearer to White Bay.
- Small front gardens near Darling Street; there are fewer gardens towards White Bay.
- Tree planting is minimal except where wider main access roads provide enough room – Langley, Roseberry, Llewelyn and Reynolds Street.
- Large stands of trees in parks and open spaces.
- Small range of housing types: single-fronted, single-storey timber terraces, two-storey terraces, free-standing timber or stone single-storey cottages.
- Some larger villas on high land around Smith Street, and more generous terraces in similar locations.
- Scale predominantly limited to one or two storeys.
- Pubs with verandahs act as punctuation marks in the streetscape.
- Corner stores.
- Commercial premises (and former commercial premises) with attached dwellings along Evans and Darling Streets.
- Small industrial/warehouse buildings occur throughout the area.
- Variety of materials – large number of timber, plastered brick, some later (1890s+) face brick and a few stone buildings.
- Roof materials vary – iron is common, terracotta tiles, some slate.
- Stone retaining walls.
- Remnants of iron palisade fences define some street frontages.
- Suspended awnings to commercial facades along Darling and Evans Streets.
- Sandstone kerbs and gutters.

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Statement of Significance or Why the Area is Important

- One of a number of conservation areas which collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). This area is important for illustrating development for workers' and artisan housing particularly from 1871-1891 which forms the major element of its identity. It is significant for its surviving development from that period and the later infill development up to World War II (ie pre-1939).
- Retains evidence of all its layers of growth within that period from the late-1870s.
- Through its important collection of weatherboard buildings, including the now rare timber terraces, it continues to demonstrate the nature of this important/major construction material in the fabric of early Sydney suburbs, and the proximity of Booth's saw mill and timber yards in White Bay.
- Through the mixture of shops, pubs and industrial buildings it demonstrates the nature of a Victorian suburb, and the close physical relationship between industry and housing in nineteenth century cities before the advent of the urban reform movement and the separation of land uses.
- Demonstrates through the irregular pattern of its subdivision the small-scale nature of the spec builders responsible for the construction of the suburb.
- Demonstrates the nature of some private subdivisions before the introduction of the Width of Streets and Lanes Act of 1881 required roads to be at least one chain wide.

Maintenance of Heritage Values

Generally

This is a conservation area. Little change can be expected other than modest additions and discrete alterations. Buildings which do not contribute to the heritage significance of the area may be replaced with sympathetically designed infill.

Retain

- Existing width and alignment of streets: avoid chicanes which cut diagonally across the carriageway.
- Existing back lanes.
- All buildings pre-1939 and particularly all timber buildings
- All original plaster finishes to external walls - reconstruct where necessary.
- All original unplastered face brick walls.
- All original external architectural detail, decorative tiles, plaster mouldings, chimneys, roof ridges and finials, commercial signs etc.

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Encourage replacement of lost elements, but only where evidence is available.

- All remaining sandstone kerbs and gutters.
- All corner stores, corner pubs and industrial buildings within the residential areas, and encourage their restoration. Consider small-scale commercial or professional uses for these buildings, if original uses no longer operate, as a reference to their original uses.
- Street and park planting; reinstate where necessary

Avoid

- Amalgamation that might lead to a change in the densely developed streetscape.
- Demolition of any pre-1939 building, particularly those pre-1910.
- Demolition of any remaining timber building.
- Additional storeys above the existing form of the building.
- Posted-verandahs over footpaths to commercial premises where no evidence can be provided to support their reconstruction. Encourage restoration of verandahs where evidence exists.
- Removal of plaster to external walls, where part of the original construction. Removal of original architectural details.
- Additional architectural detail for which there is no evidence.
- Inappropriate fences such as high brick walls, new iron palisades on high brick bases.
- Interruption to the almost continuous kerb and gutter line.

Endnotes

- ¹ Solling & Reynolds, p 81.
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