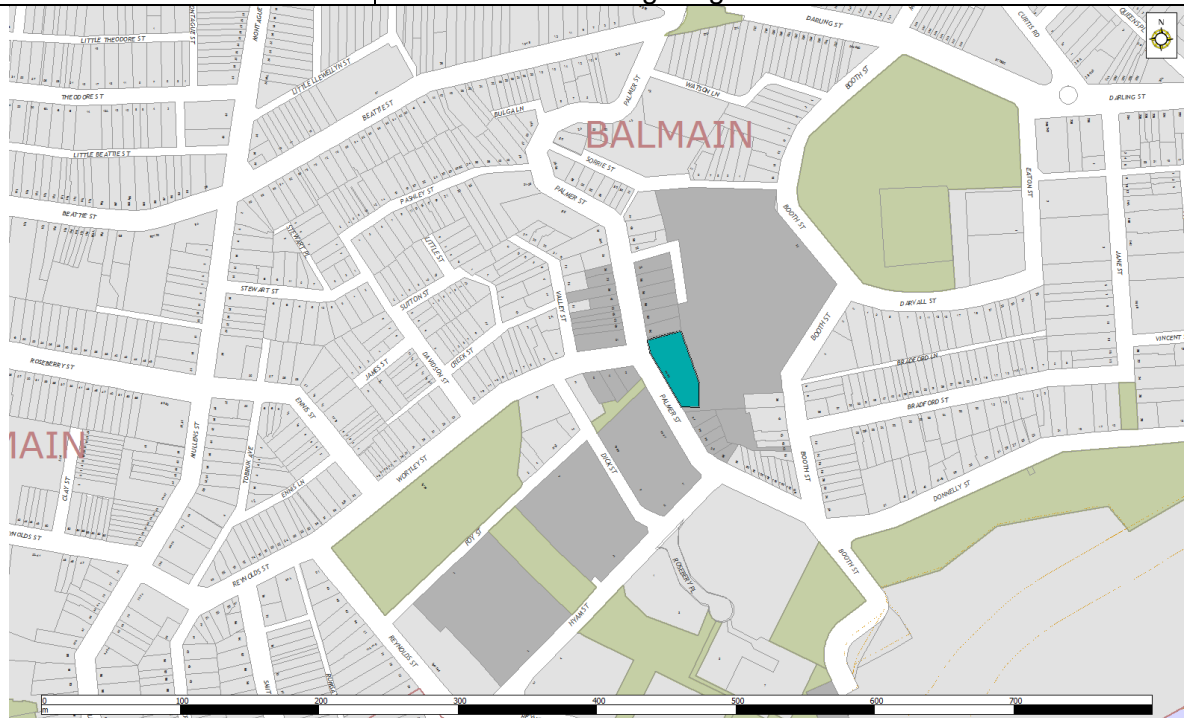




# INNER WEST COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	D/2019/61
<b>Address</b>	80 Palmer Street, Balmain (Part of strata development known as 66-82 Palmer Street, Balmain)
<b>Proposal</b>	Alterations and additions to existing dwelling within residential flat building, including new attic level with dormer addition.
<b>Date of Lodgement</b>	15 February 2019
<b>Applicant</b>	M Dower
<b>Owner</b>	M Dower and W Naufahu
<b>Number of Submissions</b>	Nil
<b>Value of works</b>	\$78,000
<b>Reason for determination at Planning Panel</b>	Clause 4.6 variation to Floor Space Ratio exceeds 10%
<b>Main Issues</b>	Floor Space Ratio
<b>Recommendation</b>	Approved with Conditions
<b>Attachment A</b>	Recommended conditions of consent
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Clause 4.6 Exception to Development Standards
<b>Attachment D</b>	Statement of Heritage Significance



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

## 1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to an existing dwelling within a residential flat building, including new attic level with dormer addition at 80 Palmer Street, Balmain which is part of the strata property known as 66-82 Palmer Street, Balmain. The application was notified to surrounding properties and no submissions were received.

The main issues that have arisen from the application include:

- Non-compliance with Floor Space Ratio
- Non-compliance with diverse housing requirements

The non-compliances are acceptable given there are no significant impacts to surrounding properties and acceptable streetscape / heritage impacts, and therefore, the application is recommended for approval.

## 2. Proposal

The proposal is to create an additional lounge room within the roof space over bedrooms 2, 3, entry area and the bathroom/laundry of unit 80. Unit 80 is currently a 3 bedroom unit. The new lounge room will be on the same floor level as the main bedroom for unit 80. Unit 80 is a two level unit at 5<sup>th</sup> floor of the development which also has a basement garage. Unit 80 has a double parking space within the basement. The proposal includes providing a skillion dormer style roof projection from the existing roof on the western side of the room and a new window on the eastern elevation. The size of the new room is 30m<sup>2</sup> and includes a "bridge" walkway to connect over an internal void within the apartment. On the roof of the skillion dormer, 12 solar panels are proposed to be installed which are virtually flush with the roof. It is understood that the solar panels will be used to power the common area lights of the building.

## 3. Site Description

The subject site is located on the eastern side of Palmer Street, between Hyam and Wortley Streets. The overall site, being 66-82 Palmer Street, consists of one allotment, DP1006912 and is an irregular shape with a total area of 1175 sqm. The building on site is a strata development SP 726418.

The site has a frontage to Palmer Street of 54.49 metres. The site supports a residential flat building consisting of 7 apartments with basement car parking. The apartments vary in height with buildings of 2 to 5 storeys staggered over the site. The adjoining properties to the development known as 66-82 Palmer Street support, to the north, a dwelling house which is two storey with an additional attic level contained in a steeply pitched roof form, to the south, a single storey dwelling house. To the rear of the site (east) is the Balmain Hospital site. There are some trees on the site as well as large sandstone outcrops. There is also a tree on the adjoining Balmain Hospital site however there are no trees in close proximity to the proposed works.

The subject site is not listed as a heritage item, however, the overall property being 66-82 Palmer Street is adjacent to heritage items. The property is located within a conservation area. The property is not identified as a flood prone lot. Heritage items adjacent or in the vicinity are as follows:

- I279 – 60 Palmer Street – Local Item – House, including interiors
- I280 – 62 Palmer Street – Local Item – House, including interiors
- I281 – 64 Palmer Street (adjacent) – Local Item – House, including interiors

- I138 – 37 Booth Street – State Item – Balmain Hospital – Main Building, including interiors
- I139 – 37 Booth Street (adjacent) – Local Item – Balmain Hospital complex, including interiors
- I140 - 39 Booth Street – Local Item – House, including interiors



Figure 1: View of development known as 66-82 Palmer Street looking from northern end of the building.



Figure 2: view of development known as 66-82 Palmer Street looking from southern end of the building.





Figure 3: Location of proposed addition

## 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

##### 66-82 Palmer Street, Balmain

Application	Proposal	Decision & Date
D/2000/455	SEPP 55 - Remediation and Excavation of the existing site, provision of basement car park with access off Palmer Street and erection of 5 level building containing seven (7) residential units and strata subdivision	Approved Operational Consent 13.6.2002.
SC/2004/6	Subdivision Certificate – Strata subdivision into 7 residential units	Approved 2.4.2004.
T/2006/377	Removal of 1 x tree	Refused 16.7.2007.

##### 80 Palmer Street, Balmain

Application	Proposal	Decision & Date
PreDA/2017/49	Alterations and additions to existing dwelling including attic room.	Advice Issued 10.5.2017

#### Surrounding properties

##### 64 Palmer Street, Balmain

Application	Proposal	Decision & Date
D/2010/10	Alterations and additions to existing dwelling.	Approved 9.3.2010
M/2010/145	Section 96 to modify D/2010/10 which approved alterations and additions to	Approved in part 30.11.2010

	existing dwelling. Modification seeks to delete condition 17 which requires the closure of the existing vehicle crossing.	
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84 Palmer Street, Balmain

No recent applications.

37 Booth Street, Balmain – Balmain Hospital

Application	Proposal	Decision & Date
D/2001/651	To erect security boom gates and bollard/s to existing hospital car parks.	Approved 22.4.2002
CDC/2003/20	Installation of fire alarm	Approved 10.4.2003
CDC/2007/45	Complying Development Certificate	Approved 5.10.2007

#### 4(b) Application history

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

Date	Discussion / Letter / Additional Information
26.4.2019	<p>Council requested the following additional information:</p> <ul style="list-style-type: none"> <li>• Strata consent to lodgement of application.</li> <li>• Additional plans including northern elevation, roof details including drainage, details of solar panels.</li> <li>• Clause 4.6 exceptions required for FSR and Diverse housing.</li> </ul>
3.5.2019	<p>Amended plans and additional information submitted to address the above requirements in Council’s letter dated 3.5.2019. The amended plans were not required to be renotified. The amended plans and information form the subject of this report.</p>

### 5. Assessment

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

#### 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*
- *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 site has previously been remediated and no excavation works are proposed as part of the works. Accordingly, the proposal is considered to satisfy the requirements of SEPP 55.

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

A BASIX Certificate was submitted with the application and will be referenced in any consent granted.

**5(a)(iii) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

An assessment has been made of the matters set out in Division 2 Matters for Consideration of the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. It is considered that the carrying out of the proposed development is generally consistent with the relevant matters for consideration of the Plan and would not have an adverse effect on environmental heritage, the visual environment, the natural environment and open space and recreation facilities.

**5(a)(iv) Leichhardt Local Environment Plan 2013 (LLEP 2013)**

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

Clause 1.2 - Aims of the Plan  
Clause 2.3 - Zone objectives and Land Use Table  
Clause 2.6 - Subdivision  
Clause 2.7 - Demolition  
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 5.10 - Heritage Conservation  
Clause 6.1 - Acid Sulfate Soils  
Clause 6.4 - Stormwater management  
Clause 6.13 - Diverse housing

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

The site is zoned R1 General Residential under the *LLEP 2013*. The *LLEP 2013* defines the development as:

***“Residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing”***

The development is permitted with consent within the land use table. The development is consistent with the objectives of the R1 General Residential zone.

(iii) Clause 5.10 – Heritage Conservation

The site is located within The Valley Heritage Conservation Area and the overall site being 66-82 Palmer Street is adjoined by a number of Heritage Items as previously detailed above under Section 3 of this report. Council’s heritage advisor has advised that the existing building is a contemporary residential complex that is neutral to the conservation area. The proposed alterations and additions are considered to satisfy the objectives of the clause in that they are not considered to have any impact on the conservation area or surrounding nearby heritage items.

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

Standard	Proposal	Degree of non compliance	Complies
<b>Floor Space Ratio</b> Maximum permissible: 0.7:1 or 822.5 sqm	0.86:1 or 1014 sqm	192.18 sqm or 23.37%	No
<b>Landscape Area</b> Minimum permissible: 20% or 235 sqm	34.75% or 408.35 sqm	N/A	Yes
<b>Site Coverage</b> Maximum permissible: 60% or 705 sqm	55.49% or 652 sqm	N/A	Yes
<b>Diverse Housing</b>			
Min 25% of dwellings studio or 1 bed	0% (i.e. 0 dwellings)	100%	No
Max 30% of dwellings at least 3 bedrooms	57% (i.e. 4 of 7 dwellings)	27.1%	No

Clause 4.6 Exceptions to Development Standards

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

- Clause 4.4 – Floor Space Ratio
- Clause 6.13 - Diverse housing

**Floor Space Ratio**

The applicant seeks a variation to the Floor Space Ratio development standard under Clause 4.4 by 23.37% (192.18m<sup>2</sup>) of the Leichhardt Local Environmental Plan 2013.

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(4)(a)(i) of the applicable Local Environmental Plan justifying the proposed contravention of the development standard which is summarised as follows:

Floor Space Ratio

- The non-compliance is attributable to spaces or areas within the existing building, in particular 2 x car parking spaces and stairs. The additional floor space is provided generally within the roof space of the existing building and does not result in any unreasonable visual scale and bulk.
- A requirement to comply with the standard would not result in any material difference in the building’s performance with respect to its appearance, its impact on the existing building, the amenity of residents in the immediate locality, the existing occupants, streetscape and the conservation area.
- The proposal is compatible with the desired future character in relation to building bulk, form and scale as it remains largely the same. It provides a suitable balance between landscaped area and built form, as this does not change. It provides for the

housing needs of the community. It provides for a variety of housing types. It may provide an opportunity to work from home. The proposal is consistent with and compatible with surrounding buildings. The landscaped areas is available for the enjoyment of occupants. The amenity is protected.

The applicant's written rationale adequately demonstrates that compliance with the development standard is unreasonable / unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is in the public interest because it is consistent with the objectives of the R1 General Residential zoning, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

- The relevant R1 General Residential zone objectives are:
  - To provide for the housing needs of the community.
  - To provide for a variety of housing types and densities.
  - 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 protect and enhance the amenity of existing and future residents and the neighbourhood.
- The proposal is considered consistent with the R1 residential zone objectives as it will provide for the housing needs of the occupants and varies the housing type available whilst not impacting on the character of the building or impacting on the amenity of other surrounding residents and uses.

It is considered the development is in the public interest because it is consistent with the objectives of the Floor Space Ratio development standard, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

- Floor Space Ratio objectives
  - (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 is consistent with the Floor Space Ratio development standard as it utilises existing roof space and is therefore considered compatible within the area. Building within the existing roof from also minimises the bulk and scale of the addition. The proposal does not alter landscaped area or site coverage which are compliant with the development standards.

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 Leichhardt Local Environmental Plan 2013. For the reasons outlined above, there are sufficient planning grounds to justify the departure from floor space ratio development standard and it is recommended the Clause 4.6 exception be granted.



### Diverse housing

The applicant seeks a variation to the Diverse Housing requirements of a minimum of 25% studio/1 bed apartments and a maximum of 30% 3 or more bedroom apartments under Clause 6.13 as detailed in the table above of the Leichhardt Local Environmental Plan 2013.

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(4)(a)(i) of the applicable Local Environmental Plan justifying the proposed contravention of the development standard which is summarised as follows:

#### Diverse Housing

- This clause applies to development when proposing the erection of a building comprising 4 dwellings; the proposal is for alterations and additions to one dwelling, not for the erection of a building with 4 dwellings.
- It would be unreasonable to apply this clause as it suggests that one applicant is responsible for the entire building group. This infers that the owner of 80 Palmer Street is responsible for altering the mix of dwelling types; which is not possible or practicable as the owner of 80 Palmer Street does not own the other dwellings in the building group. To expect so would be an extreme and unreasonable burden on one property owner.
- The proposal is a modest alteration and addition to an existing roof void. The proposal is compatible with the desired future character of the locality in relation to building bulk, form and scale. It provides a suitable balance between landscaped area and built form, as these do not change. It provides for the housing needs of the community. It provides for a variety of housing types and may provide an opportunity to work from home. The amenity is protected.

The applicant's written rationale adequately demonstrates that compliance with the development standard is unreasonable / unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is in the public interest because it is consistent with the objectives of the R1 General Residential zoning, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

- The relevant R1 General Residential zone objectives are:
  - To provide for the housing needs of the community.
  - To provide for a variety of housing types and densities.
  - 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 protect and enhance the amenity of existing and future residents and the neighbourhood.
- The proposal is considered consistent with the R1 residential zone objectives as it will provide for the housing needs of the occupants and varies the housing type

available whilst not impacting on the character of the building or impacting on the amenity of other surrounding residents and uses.

It is considered the development is in the public interest because it is consistent with the objectives of the Diverse Housing, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

- Diverse housing requirements
  - (1) The objectives of this clause is to ensure the provision of a mix of dwelling types in residential flat buildings and mixed use development that includes shop top housing.
  - (2) This clause applies to development for the purpose of a residential flat building or a mixed use development that includes shop top housing but only if the development includes at least 4 dwellings.
  - (3) Development consent must not be granted to development to which this clause applies unless:
    - (a) at least 25% of the total number of dwellings forming part of the development will included self-contained studio dwellings or one bedroom dwellings, or both, and
    - (b) no more than 30% of the total number of dwellings forming part of the development will including dwellings with at least 3 bedrooms.
- The proposal is for alterations and additions to an existing residential flat building development which does not have the required provision of dwelling mix. The proposal does not currently alter the existing dwelling mix. The proposal does however provide an opportunity if needed in the future for the new lounge room to be a further bedroom which would provide further variety to the existing dwelling mix within the development. It is considered that the proposal is acceptable with regard to the Diverse housing objective.

The contravention of the Diverse Housing requirements 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 Leichhardt Local Environmental Plan 2013. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Diverse Housing requirements and it is recommended the Clause 4.6 exception be granted.

### 5(b) Draft Environmental Planning Instruments

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

- Draft Environment State Environmental Planning Policy

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of the natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until 31 January 2018.

This consolidated SEPP proposes to provide a single set of planning provisions for catchments, waterways, bushland and protected areas. Changes proposed include consolidating seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

The proposal is consistent with the provisions of 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.

<b>LDCP2013</b>	<b>Compliance</b>
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
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
<b>Part C</b>	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	N/A
C1.3 Alterations and additions	Yes – see discussion
C1.4 Heritage Conservation Areas and Heritage Items	Yes– see discussion
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	N/A
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	Yes
C1.12 Landscaping	N/A
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	N/A
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	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
<b>Part C: Place – Section 2 Urban Character</b>	
The Valley Balmain Distinctive Neighbourhood	Yes
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	N/A
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	Yes – see discussion
C3.5 Front Gardens and Dwelling Entries	N/A
C3.6 Fences	N/A
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes

C3.10 Views	Yes
C3.11 Visual Privacy	Yes – see discussion
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
<b>Part C: Place – Section 4 – Non-Residential Provisions</b>	N/A
<b>Part D: Energy</b>	
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
<b>Part E: Water</b>	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	
E1.1.1 Water Management Statement	Yes
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	
E1.2.1 Water Conservation	N/A
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	N/A
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	N/A
E1.3 Hazard Management	
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A
<b>Part F: Food</b>	N/A
<b>Part G: Site Specific Controls</b>	
Insert specific control if relevant	N/A

The following provides discussion of the relevant issues:

C1.3 - Alterations and additions; C1.4 – Heritage conservation areas and heritage items; and C3.4 – Dormer Windows

Council’s Heritage Advisor has advised that, although the development is located within “The Valley Heritage Conservation Area, the existing building is a contemporary residential complex that is neutral to the heritage conservation area. The proposed dormer is set back from Palmer Street, is set down from the top of the subject roof and is set in from the southern end of this section of roof therefore the original roof form will still be able to be read. It is noted that there is another room with balcony at the same level on the northern end of the building and therefore the additions are not out of keeping with the existing building and will not affect any heritage item in close proximity to the site.

The proposal is not considered contrary to relevant objectives and controls of C1.3 Alterations and additions; C1.4 Heritage conservation areas and heritage items and C3.4 Dormer Windows noting that the majority of the controls are not relevant to the subject building. The proposed addition is considered to sit well within the existing building form given that it is utilising existing roof space and will utilise materials that are the same or similar to the existing building.

### C3.11 - Visual Privacy

The proposed windows on the western elevation will not overlook existing internal courtyards within the development due to the height of the additions and the angle and line of view which will be obstructed by the existing roof line. The proposed windows on the eastern elevation to the rear will not result in any direct sight lines into windows in adjoining buildings.

Accordingly, the proposal is considered to comply with the objectives and controls of C3.11.

#### 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 with 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 – No objections to proposal.

### 6(b) External

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



## 7. Section 7.11 Contributions

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

## 9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.4 Floor space ratio and Clause 6.13 Diverse Housing 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 standards is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variations. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standards 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/2019/61 for alterations and addition to existing dwelling within residential flat building, including new attic level with dormer addition at 80 Palmer Street, Balmain 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/2019/61 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Dwg 01 Version A Site Plan only	McPhee Architects	7/02/19
Dwg 10 Version B Proposed plans & sections	McPhee Architects	29/04/19
Dwg 11 Version B Proposed elevations	McPhee Architects	29/04/19
Document Title	Prepared By	Dated
BASIX A288857_02	Wharton Plans	7 February 2019

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

**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 9367 9222.

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: *Demolition of structures*.
- g) The hours of demolition work are limited to between 7:00am and 6:00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority.
- 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](http://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. Any air conditioning unit on the site must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the Protection of the Environment (Operations) Act 1997.

The system/s shall be operated as follows:

- a) Domestic air conditioners must not be audible in nearby dwellings between:
  - i) 10:00pm to 7:00am on Monday to Saturday; and
  - ii) 10:00pm to 8:00am on Sundays and Public Holidays.
- b) At any other time the systems and associated equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background  $L_{A90, 15min}$  noise level, measured in the absence of the noise source/s under consideration by 5dB(A).

The source noise level shall be assessed as an  $L_{Aeq, 15min}$  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.

4. 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.
5. 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.

6. The following requirements are to be incorporated into the development detailed on the Construction Certificate plans and provided prior to the issue of a Construction Certificate:
  - a) No rainforest timbers or timbers cut from old growth forests are to be used in the construction of the development. Timbers to be used are to be limited to any plantation, regrowth or recycled timbers, or timbers grown on Australian Farms or State Forest Plantations.

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

7. 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.

8. Materials and finishes must be complementary to the predominant character and streetscape of the area, and any existing buildings & the period of construction of the buildings. New materials that are not depicted on the approved plans must not be used. Highly reflective wall or roofing materials and glazing must not be used. Materials must be designed so as to not result in glare (maximum normal specular reflectivity of visible light 20%) or that causes any discomfort to pedestrians or neighbouring properties. Details of finished external surface materials, including colours and texture must be



provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority.

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. 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](http://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.

- 11. 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)**

- 12. Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee 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 and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit (FOOT)	\$2,152.50
Inspection fee (FOOT)	\$230.65

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

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

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

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

The amount nominated is only current for the financial year in which the 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.

#### **PRIOR TO THE COMMENCEMENT OF WORKS**

13. Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:
  - a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
  - b) A concrete pump across the roadway/footpath
  - c) Mobile crane or any standing plant
  - d) Skip bins
  - e) Scaffolding/Hoardings (fencing on public land)
  - f) Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
  - g) Awning or street verandah over footpath
  - h) Partial or full road closure
  - i) Installation or replacement of private stormwater drain, utility service or water supply

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities.

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity.

14. The building 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.

15. 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.

16. Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.
17. 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.

18. 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.
19. 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**

20. 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.
21. The building site must be appropriately secured and fenced at all times during works.
22. 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.

23. 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.
24. 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.
25. 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.
26. 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.
27. 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.

28. 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**

29. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.
30. 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.
31. 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.

32. 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.

#### **SUBDIVISION**

33. Evidence that an amended strata plan has been submitted to the NSW Land Registry is to be provided to Council and the PCA prior to the issue of an Occupation Certificate.

#### **ONGOING CONDITIONS OF CONSENT**

34. 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.
35. 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.

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

**B. Building Code of Australia**

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

**C. Home Building Act**

- 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 to building work or demolition work is being carried out, but must be removed when the work has been completed.

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

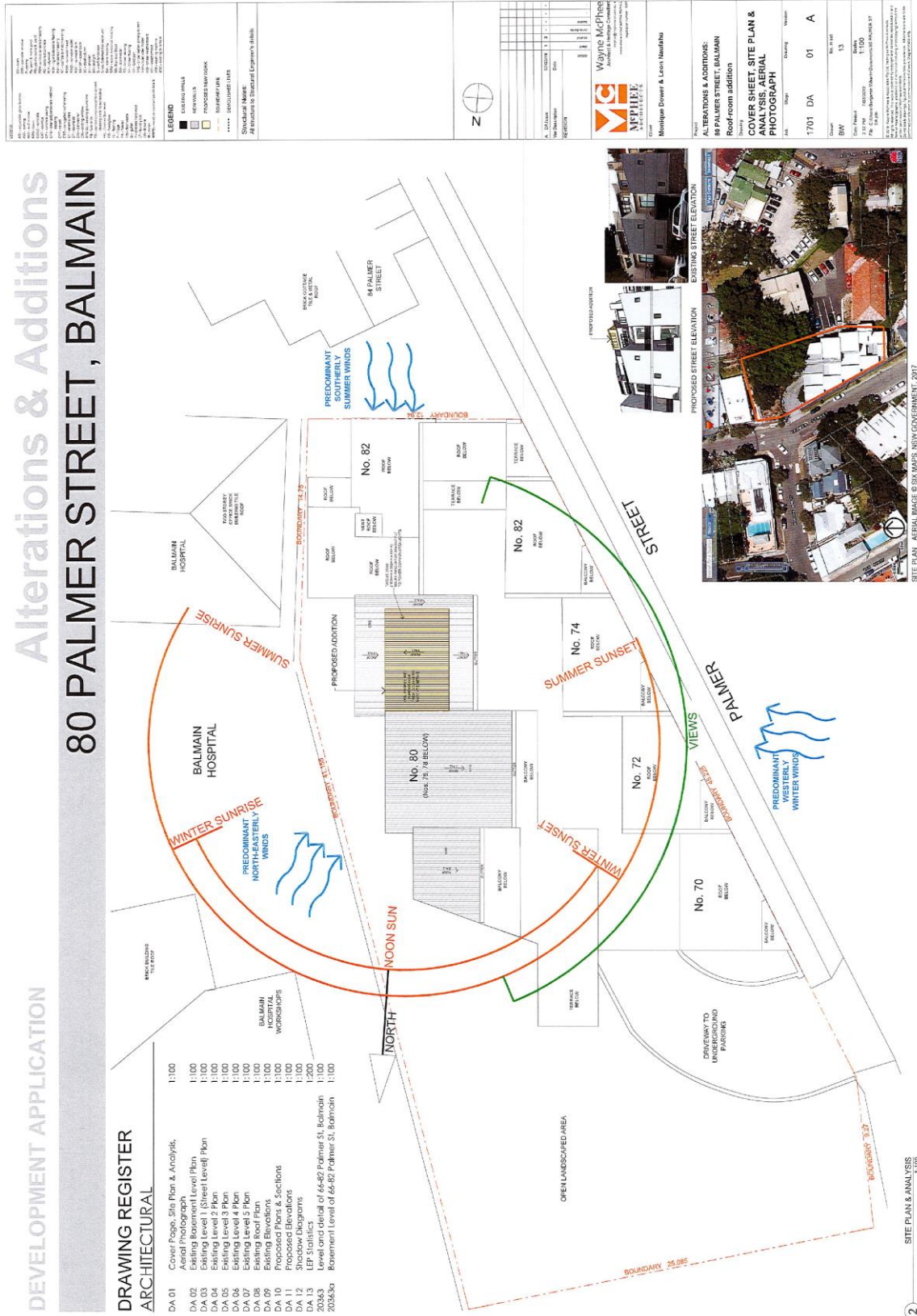
- (1) For the purposes of section 4.17(11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent 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):

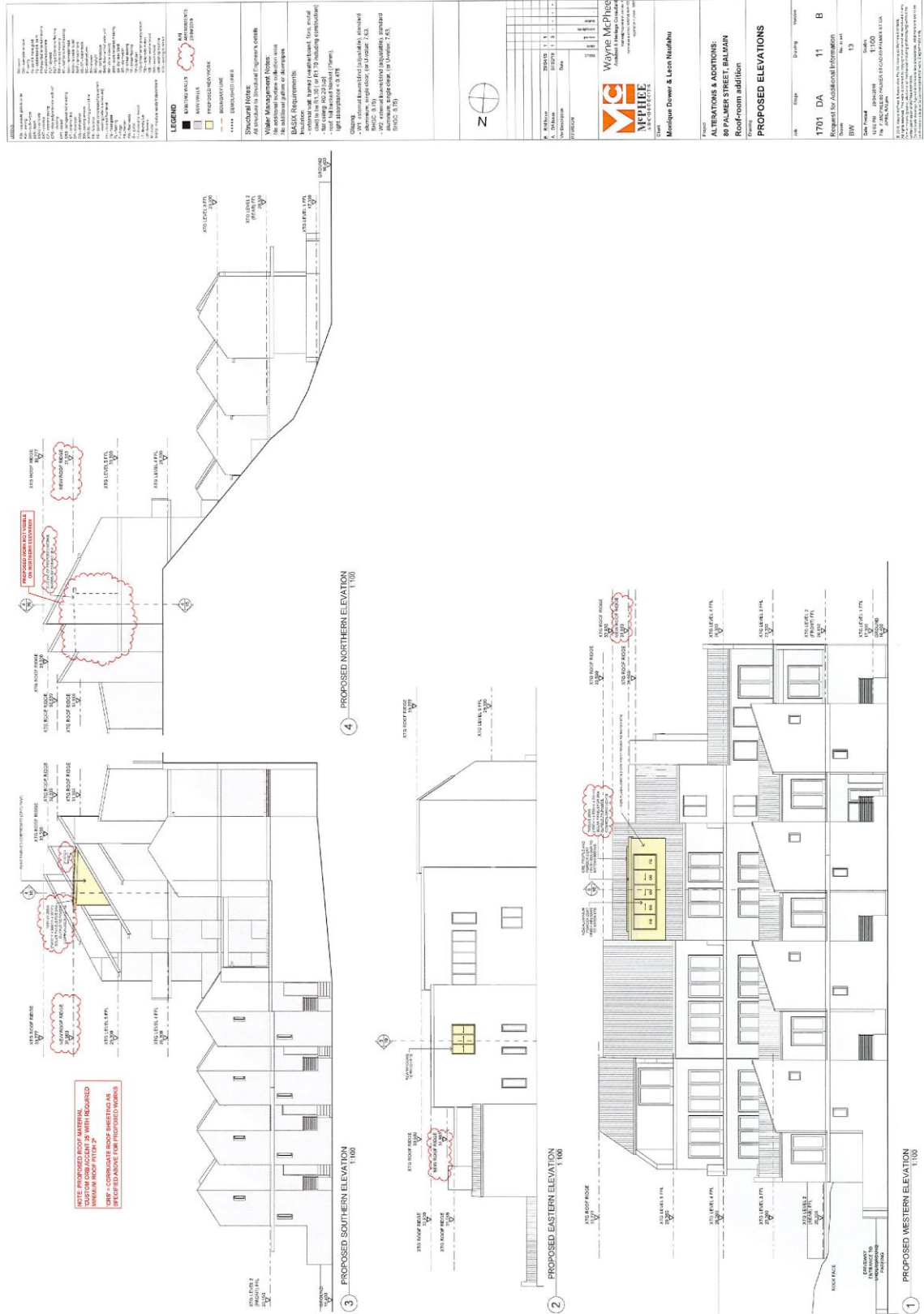
- a) Application for any activity under that Act, including any erection of a hoarding.
  - b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
  - c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
  - 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.

Attachment B – Plans of proposed development











Attachment C- Clause 4.6 Exception to Development Standards



**INNER WEST COUNCIL**  
**Development Applications**  
**Exceptions to Development Standards**

PURSUANT TO CLAUSE 4.6 OF LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013

<b>About this form:</b>	Use this form to request a variation to a development standard for a Development Application.
<b>How to complete:</b>	<ol style="list-style-type: none"> <li>1. Ensure that all fields have been filled out correctly.</li> <li>2. Please print clearly.</li> <li>3. Once completed, please refer to the lodgement details section for further information.</li> </ol>

Development Application Details:	
<b>Address:</b>	80 PALMER STREET, BALMAIN
<b>Proposed Development:</b>	ALTERATIONS AND ADDITIONS TO A DWELLING

Standard sought to be varied:	
<input checked="" type="checkbox"/>	<b>Floor Space Ratio</b> – Clause 4.4 or 4.4A of LEP 2013
<input type="checkbox"/>	<b>Landscaped Area</b> – Clause 4.3A(3)(a) of LEP 2013
<input type="checkbox"/>	<b>Site Coverage</b> – Clause 4.3A(3)(b) of LEP 2013
<input type="checkbox"/>	<b>Subdivision Allotment size</b> – Clause 4.1 of LEP 2013
<input type="checkbox"/>	<b>Foreshore Building Area</b> – Clause 6.5 of LEP 2013
<input checked="" type="checkbox"/>	<b>Diverse Housing</b> – Clause 6.13 of LEP 2013
<p>The purpose of the above standards is to ensure that the proposed works are compatible with the surrounding environment in terms of bulk, scale, amenity, streetscape, setting, transport and preserving the character of the building and surrounding conservation area and heritage items</p>	
<p>Where an applicant wishes to vary a development standard, the application must be accompanied by a well-founded, written request which seeks to justify the contravention of the development standard by demonstrating:</p>	
<ol style="list-style-type: none"> <li>a. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case</li> <li>b. that there are sufficient environmental planning grounds to justify contravening the development standard.</li> </ol>	

# INNER WEST COUNCIL

## Development Applications Exceptions to Development Standards

FSP:

What are the environmental planning grounds that justify contravening the development standard?

The non compliance is attributable to spaces or areas within the existing building, in particular 2x car parking spaces and stairs. The additional floor space is provided generally within the roof space of the existing building and does not result in any unreasonable visual scale and bulk

Why is compliance with the standard unreasonable or unnecessary?

What are the special circumstances in this case?

(To answer consider whether a development that complies is unnecessary or unreasonable)

A requirement to comply with the standard would not result in any material difference in the building's performance with respect to its appearance, its impact on the existing building, the amenity of residents in the immediate locality, the existing occupants, streetscape and the conservation area.

Is the proposed development consistent with the objectives of the particular standard?

Is the proposal consistent with the objectives of the relevant zone?

The proposal is compatible with the desired future character in relation to building bulk form and scale as it remains largely the same. It provides a suitable balance between landscaped area and built form, as this does not change. It provides for the housing needs of the community. It provides for a variety of housing types. It may provide an opportunity to work from home. The proposal is consistent with and compatible with surrounding buildings. The landscaped area is available for the enjoyment of occupants. The amenity is protected.



**INNER WEST COUNCIL**

**Development Applications  
Exceptions to Development Standards**

DIVERSE  
HOUSING =

**What are the environmental planning grounds that justify contravening the development standard?**

It is noted that clause 6.13 (2) states =  
 "This clause applies to development for the purpose of a residential flat building or a mixed development that includes shop top housing but only if the development includes at least 4 dwellings"  
 This clause applies to development when proposing the erection of a building comprising 4 dwellings; our proposal is for alterations and additions to one dwelling, not for the erection of a building with 4 dwellings. Therefore, this clause does not apply.

**Why is compliance with the standard unreasonable or unnecessary?**

**What are the special circumstances in this case?**

(To answer consider whether a development that complies is unnecessary or unreasonable)

It would be unreasonable to apply this clause, as it suggests that one applicant is responsible for the entire building group. This infers that the owner of 80 Palmer Street is responsible for altering the mix of dwelling types; which is not possible or practicable as the owner of 80 Palmer Street does not own the other dwellings in the building group. To expect so would be an extreme and unreasonable burden on one property owner

**Is the proposed development consistent with the objectives of the particular standard?**

**Is the proposal consistent with the objectives of the relevant zone?**

The proposal is a modest alteration and addition to an existing roof void. The proposal is compatible with the desired future character of the locality in relation to building bulk form and scale. It provides a suitable balance between landscaped area and built form, as these do not change. It provides for the housing needs of the community. It provides for a variety of housing types and may provide an opportunity to work from home. The amenity is protected.



## INNER WEST COUNCIL

### Development Applications Exceptions to Development Standards

<b>Applicant's signature:</b>		<b>Date:</b>	/ /
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#### Privacy statement

Application forms and/or names and addresses of people making an application is information that is publicly available. In accordance with section 18(1)(b) of the *Privacy and Personal Information Protection Act 1998 (NSW)*, you are advised that all application forms received by Council will be placed on the appropriate Council file and may be disclosed to Councillors, Council officers, consultants to Council or members of the public. Pursuant to the provisions of the *Government Information (Public Access) Act 2009*, Council is obliged to allow inspection of its documents, including any application you make. However, should you wish for your contact details to be suppressed, please indicate on this application form.

#### Instructions for applicants

This form must be lodged with your Development Application. Both an electronic and hard copy should be provided.

Lodging an application requires a completed application form.

All relevant information and the payment of the required fee (where a fee applies).

Application will be checked at lodgement to ensure the required information is provided.

**Incomplete/illegible applications will not be accepted and will be returned to you.**

**Lodge by email:** [council@innerwest.nsw.gov.au](mailto:council@innerwest.nsw.gov.au)

**Lodge in person:** Inner West Council's Customer Service Centres:

- Ashfield – 260 Liverpool Road Ashfield.
- Leichhardt – 7-15 Wetherill Street Leichhardt.
- Petersham – 2-14 Fisher Street Petersham.

**Opening hours:** Monday-Friday, 8:30am-5:00pm

[www.innerwest.nsw.gov.au/ContactUs](http://www.innerwest.nsw.gov.au/ContactUs)

**Cashiering:** 8:30am-4:30pm.

**Lodge by mail:** Inner West Council, PO Box 14, Petersham NSW 2049




**INNER WEST COUNCIL**  
**Development Applications**  
**Exceptions to Development Standards**

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Date:		Activity Fee: Advertising/Notification Fee: <b>TOTAL:</b>	
Activity Number:		Cashier code:	
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## 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.

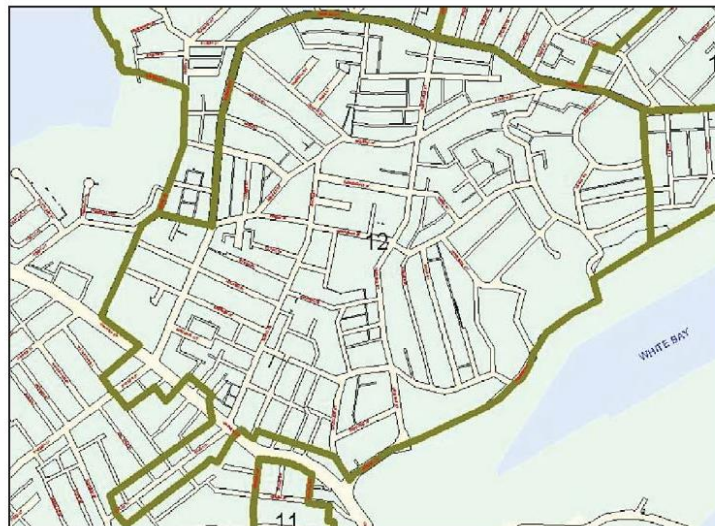


Figure 12.1 The Valley Conservation Area Map.

#### 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 Archive<sup>i</sup> 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

- <sup>1</sup> Solling & Reynolds, p 81.
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