



INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	D/2018/678
Address	9 Oxford Street, Rozelle
Proposal	Torrens title subdivision into two lots
Date of Lodgement	21 December 2018
Applicant	GK Wilson & Associates Pty Ltd
Owner	Martin Willis
Number of Submissions	None
Value of works	N/A
Reason for determination at Planning Panel	Minimum lot size and landscaped area breaches exceed officer delegations
Main Issues	Undersized lots, Landscaped area non-compliances
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plan of Proposed Subdivision
Attachment C	Clause 4.6 Exception to Development Standards – Subdivision
Attachment D	Clause 4.6 Exception to Development Standards – Landscaped Area
Attachment E	Clause 4.6 Exception to Development Standards – Site Coverage



LOCALITY MAP

Subject Site



Notified Area



N

1. Executive Summary

This report is an assessment of the application submitted to Council for Torrens title subdivision into two lots at 9 Oxford Street, Rozelle. 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 minimum lot size development standard prescribed in the Leichhardt Local Environmental Plan 2013 ;
- Non-compliance with Landscaped area development standard prescribed in the Leichhardt Local Environmental Plan 2013; and
- Non-compliance with Site Coverage development standard prescribed in the Leichhardt Local Environmental Plan 2013.

The non-compliances are acceptable given the surrounding prevailing subdivision pattern, the two existing approved semi-detached residences on the lot and the acceptable amenity outcomes. The application is recommended for approval, subject to the imposition of appropriate conditions.

2. Proposal

The proposal is to Torrens title subdivide the existing attached dual occupancy into two lots being 118.3m² (Lot 1 - 11 Oxford Street) and 136.4m² (Lot 2 – 9 Oxford Street). Both lots would follow the subdivision pattern presented along Oxford Street and Cambridge Street, Rozelle.

Photos of the subject site and the proposed subdivision plan are reproduced below:



Image 1: Existing Site (Oxford Street)

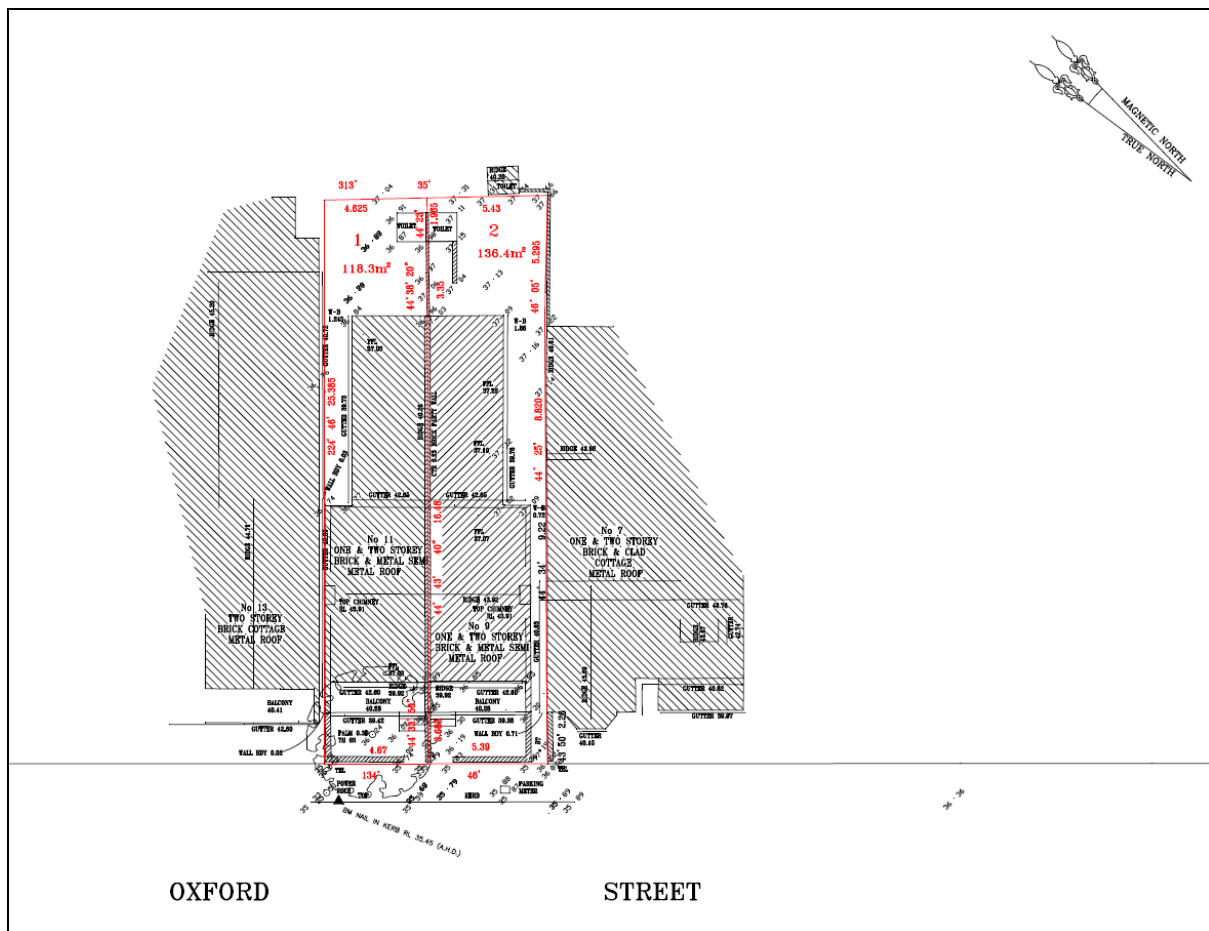


Image 2: Proposed Subdivision Plan

3. Site Description

The subject site is located on the north eastern side of Oxford Street, between Moodie Street and Darling Street, Rozelle. The site consists of 1 allotment and is generally rectangular in shape with a total area of 254.7m² and is legally described as Lot 50 DP 67774.

The site has a frontage to Oxford Street of 10.03 metres. The site is not affected by any easements or rights of way.

The site supports two X two storey semi-detached terrace dwellings. The surrounding streetscape consists mainly of single and two storey dwelling houses. The site is adjoined by 7 Oxford Street to the south east which contains a two storey dwelling and 13 Oxford Street to the north west which contains two storey terrace house.

The subject site is neither a heritage item or located within a conservation area. The property is not identified as a flood prone lot. There are no significant trees located on the site of within the immediate vicinity. The property is located in the vicinity of Local Heritage Item 1748 being 731-735 Darling Street, Rozelle.

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

Nil

Surrounding properties

Application	Proposal	Decision & Date
13 Oxford Street, Rozelle		
D/2008/41	D/2008/41	D/2008/41
D/2013/181	D/2013/181	D/2013/181

4(b) Application history

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

Date	Discussion / Letter / Additional Information
3 June 2019	Council made a formal additional information regarding Clause 4.6 Exceptions to Development Standards. Whilst a Clause 4.6 Request for Subdivision was originally submitted with the application, Council's calculations of other development standards varied from the applicants calculations. As such, a Clause 4.6 was required for Landscaped Area (Lots 1 & 2) and Site Coverage (Lot 1).
14 June 2019	The applicant submitted the requested documents.

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
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

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 granting it's consent.

The site has not been used in the past for activities that could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with SEPP 55 and the site is therefore suitable for the proposed residential use.

5(a)(ii) 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.

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 2.1 - Land use zones
Clause 2.3 – Zone objectives and land use table
Clause 2.6 – Subdivision – consent requirements
Clause 4.1 – Minimum subdivision lot size
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 6.1 – Acid sulfate soils
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 objectives of the zone include:

- *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 is for subdivision of land, which is development permitted with consent within the zone. For reasons discussed later in this report, 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:

Table 1 - Proposed Lot 1 (11 Oxford Street)

Standard (maximum)	Proposal	% of non compliance	Complies (Y/N)
Subdivision 200m2 min lot size	118.3m2	40.85%	No
Floor Space Ratio Required: [0.9:1] [106.47m2]	0.75:1 88.6+m2	-	Yes
Landscape Area Required: [15% Min] [17.75%]	*0%	*100%	No
Site Coverage Required [60% Max] [70.98]	64.38% 76.16m2	7.30%	No

*Applicants calculation

Table 2 -Proposed Lot 2 (9 Oxford Street)

Standard (maximum)	Proposal	% of non compliance	Complies (Y/N)
Subdivision 200m2 min lot size	136.4m2	31.80%	No
Floor Space Ratio Required: [0.9:1] [122.76m2]	0.64:1 86.875m2	-	Yes
Landscape Area Required: [15% Min] [20.46m2]	*0%	*100%	No
Site Coverage Required [60% Max] [81.84m2]	55.78% 76.08m2	-	Yes

*Applicants calculation

The proposed Torrens Title subdivision into two regular shaped allotments will be compatible with the orientation of adjoining and surrounding allotments and the lot sizes are compatible with those in close proximity to the site. Further, the resultant lots following subdivision will be adequate to accommodate an appropriate built form with each dwelling complying with floor space ratio whilst also providing for the housing needs of the community. The proposed lots will be compatible with the character of surrounding nearby lots within the Oxford Street and adjacent Cambridge Street streetscape. Overall, the proposed subdivision is considered acceptable with regard to the objectives of the R1 General Residential zone.

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 4.1 - Minimum subdivision lot size;
- Clause 4.3A(3)(a) - Landscaped areas for residential accommodation in Zone R1; and
- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1.

The following provides further discussion of the relevant issues:

Clause 4.1 – Minimum subdivision lot size

The minimum required lot size for Torrens Title subdivision is 200m². The proposal is for a two lot Torrens Title subdivision into lot sizes of 118.3m² (proposed Lot 1) and 136.4m² (proposed Lot 2). The applicant seeks a variation to the Minimum subdivision Lot size development standards under Clause 4.1 of the LLEP 2013 by 40.85% (81.7m²) for proposed Lot 1 (11 Oxford Street) and 31.8% (63.6m²) for proposed Lot 2 (9 Oxford Street).

The property contains two semi-attached dwellings with a side setback from the southern boundary of approximately 860mm and nil side setback to the northern boundary resulting in lots of different sizes and different frontage widths.

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 LLEP 2013.

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the Leichhardt local environmental plan justifying the proposed contravention of the development standard which is summarised as follows:

- It is both reasonable and plausible to consider that a semi-detached dual occupancy which was built approximately 100 years ago may be subdivided to create separate titles for each of the dwellings on the allotment;
- Many land parcels in close proximity and indeed the surrounding area consist of lots of similar or smaller areas;
- The proposal will not reduce the sites landscaped area and the proposal will not increase the building footprint as no physical alterations will be made; and
- The development is consistent with the aims and objectives of the zone.

The applicant's written rationale adequately demonstrates 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 zone in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt local environmental plan for the following reasons:

The relevant objectives of the R1 – General Residential zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *The 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.*

It is considered the development is in the public interest because it is consistent with the objectives of the Minimum subdivision lot size development standard, in accordance with Clause 4.6(4)(a)(ii) of the LLEP 2013 for the following reasons:

- a) to ensure that lot sizes are able to accommodate development that is consistent with relevant development controls,

- b) to ensure that lot sizes are capable of supporting a range of development types.

A review of the surrounding prevailing subdivision pattern has confirmed that the subdivision pattern is inconsistent throughout the area with many lots under 200sqm, as evidenced in tables 3 and 4 below:

Table 3 – Oxford Street - Lots under 200sqm (7 out of 32 lots)

Address	Site Area (as per GIS)
1 Oxford Street	80.478m ²
4 Oxford Street	185.731m ²
8 Oxford Street	124.903m ²
7A Oxford Street	128.617m ²
14 Oxford Street	129.691m ²
16 Oxford Street	157.110m ²
22 Oxford Street	142.607m ²

Table 4 – Cambridge Street Lots under 200sqm (22 out of 35 Lots)

Address	Site Area (as per GIS)
10 Cambridge Street	105.359m ²
11 Cambridge Street	182.552m ²
12 Cambridge Street	91.703m ²
13 Cambridge Street	156.797m ²
14 Cambridge Street	92.106m ²
15 Cambridge Street	155.152m ²
16 Cambridge Street	96.132m ²
17 Cambridge Street	152.140m ²
18 Cambridge Street	122.574m ²
19 Cambridge Street	163.267m ²
21 Cambridge Street	164.290m ²
23 Cambridge Street	160.779m ²
25 Cambridge Street	159.129m ²
27 Cambridge Street	167.022m ²
29 Cambridge Street	165.819m ²
35 Cambridge Street	164.756m ²
37 Cambridge Street	161.579m ²
41 Cambridge Street	161.467m ²
43 Cambridge Street	165.329m ²
45 Cambridge Street	158.483m ²
47 Cambridge Street	186.244m ²
49 Cambridge Street	131.420m ²



Image 3: Map of Surrounding Lots under 200sqm

There are 32 properties in Oxford Street and currently 7 properties are below the minimum subdivision size of 200m². Additionally, there are 35 properties in the adjoining Cambridge Street and currently 22 of these properties are below the minimum subdivision size.

Further to the above, the street and adjoining streets predominantly comprise of long, rectangular shaped lots, and the proposal will be consistent with this subdivision pattern.

As such, the proposed subdivision and existing dwelling on each lot will not be out of character with the diverse pattern of development in the immediate area including in terms of lot sizes, lot widths and shapes. The resultant lots following subdivision will be adequate to accommodate the existing built form with each dwelling complying with floor space ratio. Whilst the lots will not comply with the landscaped area and site coverage development standards, the existing built form for the sites will not alter and condition will be imposed requiring the provision of landscaped area at the rear of Lot 1.

The proposed subdivision is not considered to have any adverse impacts on the adjoining properties or in the immediate surrounding area and will be acceptable within the Oxford Streetscape.

In light of the above, the proposed Torrens title subdivision is considered acceptable as the proposal meets the objectives of Clause 4.1 in that the lot sizes are capable of supporting a range of development types.

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 LLEP 2013. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the minimum subdivision lot size development standard and it is recommended the Clause 4.6 exception be granted.

Clause 4.3A (3) (a) - Landscaped areas for residential accommodation in Zone R1; Area

The applicant seeks a variation to the Landscaped Area development standard under Clause 4.3A(3)(a) of the LLEP 2013 for Lots 1 & 2 by 100%.

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 LLEP 2013.

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the LLEP 2013 justifying the proposed contravention of the development standard which is summarised as follows:

- There is no reduction in landscaped area;
- Whilst the proposal does not comply with the standard, there is the possibility to remove some of the impervious area to create a high standard landscaped area which will contribute to the amenity of the site and locality; and
- The front yard is small with minimal setback from the boundary to the front of the building.

The applicant's written rationale adequately demonstrates compliance with the development standard is unreasonable 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 zone in accordance with Clause 4.6(4)(a)(ii) of the LLEP 2013 for the following reasons:

- *To provide for a variety of housing types and densities.*
- *The 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.*

It is considered the development is in the public interest because it is consistent with the objectives of the Landscaped Area development standard, in accordance with Clause 4.6(4)(a)(ii) of the LLEP 2013 plan for the following reasons:

- 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.*

The minimum required Landscaped area for both proposed lots is 15% being 17.75sqm (Lot 1) and 20.46sqm (Lot 2). Whilst the applicant has presented to Council that there is no provision of Landscaped area on each lot, access for site inspection could only be gained to proposed Lot 1 (11 Oxford Street). Satellite imagery shows that it is likely some landscaped

area is provided for proposed Lot 2 however Council nor the applicant have been unable to determine the actual area of landscaping.

Notwithstanding the above, the proposed lots have rear yard areas capable of providing landscaped areas further toward compliance to contribute to the amenity of the site and the local area. As such, appropriate conditions will be imposed on any consent requiring the following:

- a) An area of 2mx3.4m, located directly adjacent to the ground floor rear room of the primary dwelling on Lot 1 be of paved surface. The remaining area of rear yard between the rear boundary and the paved area be comprised of soft soil with grass and lawn.
- b) No further reduction to the existing landscaped area of Lot 2.

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 LLEP 2013. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Landscaped Area development standard and it is recommended the Clause 4.6 exception be granted.

Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1.

The applicant seeks a variation to the Site Coverage development standard under Clause 4.3A(3)(b) of the LLEP 2013 for Lot 1 by 7.3% (5.15sqm).

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 LLEP 2013 below.

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the LLEP 2013 justifying the proposed contravention of the development standard which is summarised as follows:

- The site coverage is maintained, the proposal also maintains the site's existing landscaped area and does not impact the character of Leichhardt's residential area;
- The proposal does not increase the site coverage and provides adequate and usable ground level open space for recreation and landscaping;
- The proposal does not increase the surface area of the existing buildings roof;
- The proposal does not increase the buildings footprint.

The applicant's written rational adequately demonstrates compliance with the development standard is unreasonable 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 zone in accordance with Clause 4.6(4)(a)(ii) of the LLEP 2013 for the following reasons:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *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.*

It is considered the development is in the public interest because it is consistent with the objectives of the Site Coverage development standard, in accordance with Clause 4.6(4)(a)(ii) of the LLEP 2013 which include:

- *to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,*
- *to maintain and encourage a landscaped corridor between adjoining properties,*
- *to ensure that development promotes the desired future character of the neighbourhood,*
- *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,*
- *to control site density,*
- *to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.*

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 LLEP 2013. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the Site Coverage development standard 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 SEPP – Environment

The proposal does not contravene the provisions in the Draft SEPP – Environment.

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	Not applicable
B3.1 Social Impact Assessment	Not applicable

B3.2 Events and Activities in the Public Domain (Special Events)	Not applicable
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Not applicable
C1.3 Alterations and additions	Not applicable
C1.4 Heritage Conservation Areas and Heritage Items	Not applicable
C1.5 Corner Sites	Not applicable
C1.6 Subdivision	No – See discussion
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Not applicable
C1.11 Parking	Not applicable
C1.12 Landscaping	Not applicable
C1.13 Open Space Design Within the Public Domain	Not applicable
C1.14 Tree Management	Not applicable
C1.15 Signs and Outdoor Advertising	Not applicable
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Not applicable
C1.17 Minor Architectural Details	Not applicable
C1.18 Laneways	Not applicable
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	Not applicable
C1.20 Foreshore Land	Not applicable
C1.21 Green Roofs and Green Living Walls	Not applicable
Part C: Place – Section 2 Urban Character	
C2.2.5.3 Callan Park Distinctive Neighbourhood	Yes – See discussion
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	Not applicable
C3.4 Dormer Windows	Not applicable
C3.5 Front Gardens and Dwelling Entries	Not applicable
C3.6 Fences	Not applicable
C3.7 Environmental Performance	Not applicable
C3.8 Private Open Space	Yes
C3.9 Solar Access	Not applicable
C3.10 Views	Not applicable
C3.11 Visual Privacy	Not Applicable
C3.12 Acoustic Privacy	Not Applicable
C3.13 Conversion of Existing Non-Residential Buildings	Not applicable
C3.14 Adaptable Housing	Not applicable
Part C: Place – Section 4 – Non-Residential Provisions	Not applicable
Part D: Energy	
Section 1 – Energy Management	Not applicable
Section 2 – Resource Recovery and Waste Management	Not applicable
D2.1 General Requirements	Not applicable
D2.2 Demolition and Construction of All Development	Not applicable

D2.3 Residential Development	Yes
D2.4 Non-Residential Development	Not applicable
D2.5 Mixed Use Development	Not applicable
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	
E1.1.1 Water Management Statement	
E1.1.2 Integrated Water Cycle Plan	Not applicable
E1.1.3 Stormwater Drainage Concept Plan	Not applicable
E1.1.4 Flood Risk Management Report	Not applicable
E1.1.5 Foreshore Risk Management Report	Not applicable
E1.2 Water Management	
E1.2.1 Water Conservation	Not applicable
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Not applicable
E1.2.4 Stormwater Treatment	Not applicable
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	Not applicable
E1.2.7 Wastewater Management	Not applicable
E1.3 Hazard Management	Not applicable
E1.3.1 Flood Risk Management	Not applicable
E1.3.2 Foreshore Risk Management	Not applicable
Part F: Food	Not applicable
Part G: Site Specific Controls	Not applicable

The following provides discussion of the relevant issues:

C1.12 – Landscaping

The proposed development does not meet objective O1 which requires on-site landscaped open space that contributes to the amenity of the residents and maximises vegetation. As such it is recommended a condition be imposed to provide plans indicating soft-landscaping to the rear of the site in accordance with the following:

- a) An area of 2mx3.4m, located directly adjacent to the ground floor rear room of the dwelling on Lot 1 is to be paved. The remaining area of the rear yard is to be soft landscaping.
- b) No further reduction to the existing soft landscaped area of Lot 2.

The proposal as conditioned will contribute to the amenity of residents and visitors and is acceptable having regard to landscaping.

C1.6 – Subdivision

The proposed Torrens title subdivision into two lots does not comply with Control C1 which states that the minimum lot size for dwellings is 200sqm. However as discussed above under the Leichhardt LEP 2013 assessment within Section 5(a)(ii) of this report the proposal is considered consistent with the prevailing immediate subdivision pattern and is considered acceptable in this instance.

C2.2.5.3 – Callan Park Distinctive Neighbourhood

Control C3 requires that the rhythm of the neighbourhood be preserved by maintaining the lot sizes. Although the existing lot size will not be “maintained”, it is not considered that the proposed subdivision of the existing lot will impact on the neighbourhood given that the dwelling is an existing attached dual occupancy development and the lot sizes are not out of character with the subdivision pattern of the area.

C3.8 – Private Open Space

The proposed lots comprise of private open space areas in excess of 16sqm with a minimum dimension of 3m. The proposal as submitted and as conditioned will provide suitable areas of private open space capable of accommodating the private recreation needs of residents and as such is acceptable having regard to private open space.

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.

Development Engineer – The application is supported subject to appropriate engineering conditions.

Building Surveyor – The application is supported subject to an appropriate 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/7.12 levies are not payable for the proposal.

8. Conclusion

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

The development will not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest. The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 *Leichhardt Local Environmental Plan 2013* 2013 in support of the contravention of the development standard for Clause 4.1 Minimum subdivision lot size, Clause 4.3A(3)(a) Landscape Area and Clause 4.3A(3)(b) Site Coverage. After considering the request, and assuming the concurrence of the Secretary, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental 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/2018/678 for Torrens title subdivision at 9-11 Oxford Street, Rozelle 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/2018/678 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Subdivision Plan, Plan No. 21662	G.K. Wilson & Associates	11/10/2018

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.

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

2. Prior to the issue of a Subdivision Certificate, the applicant shall submit an original plan of subdivision plus three (3) copies for Council’s endorsement and administration sheet. The following details shall also be submitted:
 - a) Evidence that all conditions of Development Consent D/2018/678 have been satisfied.
 - b) Evidence of payment of all relevant fees and contributions.
 - c) All surveyor’s or engineer’s certification required by the Development Consent.
3. 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 prior to the issue of a Subdivision Certificate.

4. Prior to the issue of a Subdivision Certificate, the Principal Certifying Authority must provide a survey plan showing that there are cross-easements of support provided to the party wall.
5. Prior to the issue of a Subdivision Certificate, the applicant shall provide plans indicating soft-landscaping to the rear of the site in accordance with the following:

- a) An area of 2mx3.4m, located directly adjacent to the ground floor rear room of the dwelling on Lot 1 is to be paved. The remaining area of the rear yard is to be soft landscaping.
- b) No further reduction to the existing soft landscaped area of Lot 2.

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

ADVISORY

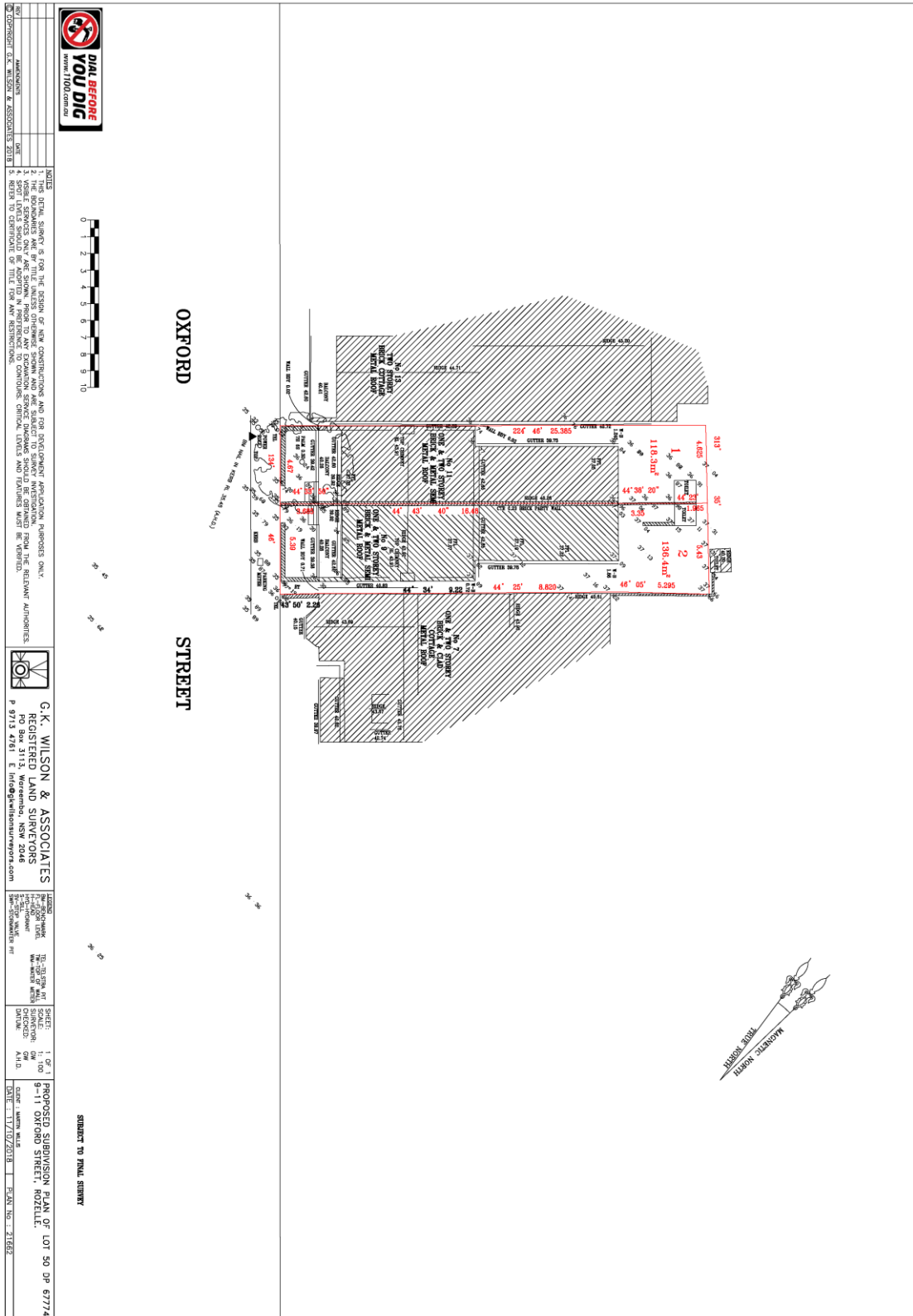
6. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.

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. 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.
6. Prior to the issue of the Subdivision 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 – Subdivision Plan



<p>SCALE: 1:1000</p> <p>1. THE DESIGN OF THIS SUBDIVISION IS FOR THE DESIGN OF NEW CONSTRUCTIONS AND FOR RECONSTRUCTION OF EXISTING CONSTRUCTIONS ONLY.</p> <p>2. THE DIMENSIONS ARE BY THE UNITS SHOWN AND ARE SUBJECT TO SURVEY VARIATION. SURVEY VARIATION SHALL BE INDICATED BY A NOTE.</p> <p>3. SPOT LEVELS SHOULD BE PROVIDED IN PRESENTATION TO COUNCIL. CRITICAL LEVELS AND FEATURES MUST BE VERIFIED.</p> <p>4. REFER TO COMMENT OF TITLE FOR ANY RESTRICTIONS.</p>	<p>G. K. WILSON & ASSOCIATES REGISTERED LAND SURVEYORS PO Box 313, Waverley, NSW 2046 P 9713 4781 E info@wilsonurveyors.com</p>
<p>DATE: 17/10/2018</p> <p>PROJECT: PROPOSED SUBDIVISION PLAN OF LOT 50 DP 8774</p> <p>CLIENT: MARTIN MILES</p> <p>PLAN NO: 21862</p>	<p>DATE: 17/10/2018</p> <p>PROJECT: PROPOSED SUBDIVISION PLAN OF LOT 50 DP 8774</p> <p>CLIENT: MARTIN MILES</p> <p>PLAN NO: 21862</p>

Attachment C- Clause 4.6 Exception to Development Standards - Subdivision

Statement of Environmental Effects

Property Address: 9 & 11 Oxford Street, Rozelle
Proposed: Torrens Title Subdivision to create 2 lots
Date: 10th December, 2018
Prepared by: G.K. Wilson & Associates
Prepared for: Martin Willis

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INTRODUCTION

This report has been prepared as a statement of environmental effects to accompany an application to council for the subdivision of Lot 50 DP 67774.

The subject property encompasses No. 9 and No. 11 Oxford Street, Rozelle and has a frontage to Oxford Street and comprises an area of 254.7m² by title.



SITE DETAILS

Site Location

The subject property is known as No. 9 & 11 Oxford Street, Rozelle.

Its property description is Lot 50 in DP 67774 and has a frontage to Oxford Street.

The subject title notes the following:

1. Land excludes minerals and is subject to reservations and conditions in favour of the Crown. These are more fully detailed in the Crown Grant.

Existing Development

The site contains two existing approved residences. Standing on the north western side of the lot is No. 11, a one and two storey brick semi-detached residence with a metal roof built circa 1920.

Upon the south eastern side of the lot is No. 9, a one and two storey brick semi-detached residence with a metal roof built circa 1920. A second storey addition was constructed in approximately 1978 as per the plans shown in Appendix A.

Surrounding Development

The site is abutted by residential lots to both the south east and north west. The lot to the south east contains a one and two storey brick and clad cottage with a metal roof. The adjoining lot to the north west contains a two storey brick cottage with a metal roof.

The land is in close proximity to Darling Street which is located to the south east at the end of Oxford Street.

Topography

The site slopes slightly to the western corner of the lot. Details of the site are shown on the survey site plan. This is attached in Appendix B of this document.

Utilities

The land is serviced for Electricity and Telstra. Each dwelling has separate connections. The land is connected to the Sydney Water supply network for both water and sewage. Once more, each dwelling has separate connections. Each dwelling is also billed separately for Council rates.

Zoning

The land is zoned R1 General Residential under the Leichhardt Local Environment Plan (LLEP) 2013.

Development Control Plans

The land is subject to the Leichhardt Development Control Plan (LDCP) 2013.

PROPOSED DEVELOPMENT

This section should be read in conjunction with the plans.

This application seeks consent to subdivide Lot 50 DP 67774 into 2 lots as outlined in the Plan of Proposed Subdivision attached as Appendix C.

The proposed lots would contain an area of 118.3m² (Lot 1) and 136.4 m² (Lot 2). Each of the existing semi-detached residences; both No. 9 and 11 would be contained in a separate lot. Both lots would have direct access to Oxford Street by means of existing walkways.

There is to be no construction, demolition or other physical changes made on site.

STATUTORY PLANNING CONTROLS

The land is affected by the Leichhardt Development Control Plan 2013.

Additionally, it is affected by the Leichhardt LEP 2013. Subdivision within the R1 General Residential zone is permitted, however the minimum lot size is set at 200m².

Leichhardt DCP 2013 Compliance Table

	Development Control	Compliance	Comment
C1	Minimum lot size		
	Except for strata subdivision of buildings, the minimum lot size for dwellings is 200sqm.	No	Clause 4.6 of LLEP 2013
C2	Subdivision pattern		
	New allotments shall be consistent with the prevailing subdivision pattern in the neighbourhood.	Yes	
C7	Urban infrastructure		
	Urban infrastructure such as water, sewerage and drainage is provided.	Yes	
C9	Each new allotment must be provided with a boundary to a public road	Yes	

Leichhardt LEP 2013 Standard Compliance Table

Clause	Development Standard	Compliance	Comment
4.1(1)	(a) to ensure that lot sizes are able to accommodate development that is consistent with relevant development controls,	Yes	
4.1(2)	Subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.	Yes	
4.1(3)	The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.	No	Clause 4.6 of LLEP 2013
4.3A(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	Yes	No physical changes to occur on site

	<p>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.</p>		
4.3A(2)	<p>This clause applies to development for the purpose of residential accommodation on land in Zone R1 General Residential.</p>	Yes	
4.3A(3)	<p>Development consent must not be granted to development to which this clause applies unless: (a) the development includes landscaped area that is at least 1 metre wide and comprises at least 10% of the site area, and (b) the site coverage does not exceed 60% of the site area.</p>	<p>No No – Lot 1 Yes – Lot 2</p>	<p><u>Landscaped Area</u> Lot 1 = 0% mostly impervious surface Lot 2 = 0% mostly impervious surface <u>Site Coverage</u> Lot 1 = 75.8m² hence 64% of prop. site area Lot 2 = 68.0m² hence 50% of prop. site area</p>
4.4(2)	<p>The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.</p>	No	See 4.4(2B)
4.4(2B)	<p>Despite subclause (2), the floor space ratio for development for the purpose of residential accommodation: (d) on land shown edged yellow on the Floor Space Ratio Map is not to exceed: (i) in the case of development</p>	Yes	<p><u>Floor Space Ratio</u> FSR Lot 1 = 0.58:1</p>

	on a lot with an area of less than 150 square metres—0.9:1		FSR Lot 2 = 0.5:1
4.6(1)	(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.	Yes	Clause 4.6 of LLEP 2013
4.6(3)	(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and (b) that there are sufficient environmental planning grounds to justify contravening the development standard.	Yes	

Non Compliance with Development Standards

The Leichhardt LEP 2013 contains in Clause 4.6 Exceptions to Development Standards, the ability to make application to vary development standards to particular development.

In this application and pursuant to the above clause, I am writing to seek an exception to the standard expressing that a subdivision that would create separate titles for each of the two dwellings comprising of a semi-detached dual occupancy is not to be permitted.

It is both reasonable and plausible to consider that a semi-detached dual occupancy which was built approximately 100 years, ago may be sub divided to create separate titles for each of the dwellings on the allotment. The only non compliance in this application is the resultant minimum lot area.

I therefore request consent to the development standard for the minimum area for this particular development.

The standard states that land to be subdivided must not to be less than the minimum size shown on the Lot Size Map in relation to that land. In this case, in the R1 General Residential zone, the minimum size is 200m². However, with the existing land parcel comprising of 254.7m² the resultant lot size for each new lot will be 118.3m² for No. 11 and 136.4 m² for No. 9.

Many land parcels in close proximity and indeed the surrounding area consist of lots of similar or smaller areas. An example of allotments of similar size containing semi-detached residences, can be found diagonally across Oxford Street to the west of the subject site known as at Lots A and B in DP 908854 and

immediately to the rear of proposed sub division in Cambridge Street Lots A, B, D, E in DP 928945. This example can be viewed in Appendix D.

It is apparent that there are multiple lots in the R1 zone that do not meet the minimum area standard. Examples of these allotments can be found in DP 542874 to the north east of Oxford Street in Cambridge Street and DP 532693, DP 908887 and DP 957250 to the west of Oxford Street in Park Street. This example is also displayed in Appendix D.

Also pursuant to the above clause, an exception is also requested to the standard stating that development consent must not be granted to development to which the landscaped area is not at least 1 metre wide and does not make up at least 15% of the site area.

The existing front and rear yards comprise both pervious and impervious surfaces but do not meet the definition of Landscaped Area as per the LLEP2013. However, there is the possibility to remove some of the impervious area to create a high standard landscaped area which will contribute to the amenity of the site and locality.

The proposal will not reduce the site's landscaped area as it is currently 0% and the proposal will not increase the building footprint as no physical alterations will be made.

The proposal meets all other requirements under the LEP and DCP and it is therefore suggested that this proposal meets *Clause 4.6(3)(b)* of the LEP - *that there are sufficient environmental planning grounds to justify contravening the development standard.*

I request that *Clause 4.6(1)(a)* - *to provide an appropriate degree of flexibility in applying certain development standards to particular development*, be considered and therefore request council support this non-compliance.

Is the development consistent with the Aims and Objectives of the Zone?

The objectives of the R1 General Residential Zone are:

- To provide for the housing needs of the community.
- To provide 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 complimentary to and compatible with the character, style, orientation and pattern of the 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 is in line with these objectives as no alteration to the existing physical environment is to occur.

ENVIRONMENTAL ASSESSMENT

Section 79C – Matters for consideration

In determining a development application, a consent authority is to take into consideration such of the following matters as are relevant to the development, the subject of the development application.

(a) The provisions of

- a. Any environmental planning instrument*
 - ii. Any Draft environmental planning instruments that have been placed on public exhibition*
 - iii. Any Development Control Plans*
 - iv. Any matters prescribed by the regulations*

b. The likely impact of the development including environmental impacts in both the natural and built environment and the social and economic impacts in the locality.

The matters of this nature have been described in the preceding section of this statement.

Visual and scenic impacts.

The subdivision will cause no visual or scenic impact as there will be no physical changes to the site.

Potential impact on Adjoining Properties

There is no potential impact on the adjoining properties as both existing dwellings will remain.

Social and environmental impact

Nil

Access

Each standing dwelling has a separate existing access way to Oxford Street.

Utilities

Power, telecommunications and water supply currently service both individual dwellings through separate connections whilst council rates are also billed separately.

Heritage

There are no heritage issues with this application.

Air Quality

No matters of concern.

Solar Access / Overshadowing

No change to approved existing buildings.

CONCLUSION

The preceding discussion indicates that the proposed two lot subdivision should be approved for the following reasons:

- The proposal will allow separate titles to be created for each of the two existing separate dwellings whilst having nil impact on the quality of residential living.
- With the exception of the discussed non-compliances, the proposal is compliant with all the relevant aspects in the LEP and DCP.
- The development will not require any construction, demolition or other physical alteration on site hence it will have no impact on adjoining lands.
- There are other semi-detached residences which have separate titles in the vicinity of the site.
- Subdivision of the dual occupancy would enable each dwelling to be owned by separate land owners which is consistent with the orderly and economic use of land.
- There is the opportunity to create high standard landscaped areas in both proposed lots.
- The proposal will have no social and environmental impacts.

It is therefore recommended that the proposed subdivision be approved.

Attachment D – Clause 4.6 Exception to Development Standards – Landscaped Area



INNER WEST COUNCIL Development Applications Exceptions to Development Standards

PURSUANT TO CLAUSE 4.6 OF LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013

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

Development Application Details:	
Address:	9 and 11 Oxford Street, Rozelle
Proposed Development:	Sub-Division of Existing Terrace Houses

Standard sought to be varied:	
<input type="checkbox"/>	Floor Space Ratio – Clause 4.4 or 4.4A of LEP 2013
<input checked="" type="checkbox"/>	Landscaped Area – Clause 4.3A(3)(a) of LEP 2013
<input type="checkbox"/>	Site Coverage – Clause 4.3A(3)(b) of LEP 2013
<input type="checkbox"/>	Subdivision Allotment size – Clause 4.1 of LEP 2013
<input type="checkbox"/>	Foreshore Building Area – Clause 6.5 of LEP 2013
<input type="checkbox"/>	Diverse Housing – 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"> a. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case b. that there are sufficient environmental planning grounds to justify contravening the development standard. 	



INNER WEST COUNCIL Development Applications Exceptions to Development Standards

What are the environmental planning grounds that justify contravening the development standard?
The cases referred to below have established that the environmental planning grounds must be particular to the circumstances of the proposed development on its site. The following environmental planning grounds are relevant:
<ul style="list-style-type: none"> • There is no reduction in landscaped area because the existing landscaped area is 0%, • Whilst the proposal does not comply with the standard, there is the possibility to remove some of the impervious area to create a high standard landscaped area which will contribute to the amenity of the site and locality. • The front yard is small with minimal setback from the boundary to the front of the building line
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)
Compliance with the standard is unreasonable or unnecessary in the circumstances because:
<ul style="list-style-type: none"> • The proposal does not reduce the site's existing landscaped area • the proposal does not increase the surface area of the existing building's roof • The proposal does not increase the buildings footprint.
The objectives of the development standard are achieved notwithstanding noncompliance with the standard as no physical alterations are to be made. The proposed development will achieve the objectives of standard 4.3a of the LEP notwithstanding numerical non-compliance.
Is the proposed development consistent with the objectives of the particular standard? Is the proposal consistent with the objectives of the relevant zone?
In my opinion, the proposal is consistent with the underlying objectives of the standard for reasons outlined earlier and is therefore considered to be in the public interest.
In relation to the objectives of the R1 Zone:
The implications of the proposal not complying with the landscaped area development standard of the Leichardt LEP, is local in scope and raises no matters of significance for State or regional planning. The circumstances of the case should be balanced against the usual presumption of public benefit in maintaining a development standard.
The landscaped area of the proposed development is justified as set out above. The variation sought will not affect any structure on the subject site or neighbouring amenity or the public domain.


INNER WEST COUNCIL
Development Applications
Exceptions to Development Standards

Applicant's signature:		Date:	14 / 06 / 2019
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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

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

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

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

Attachment E- Clause 4.6 Exception to Development Standards – Site Coverage



INNER WEST COUNCIL Development Applications Exceptions to Development Standards

PURSUANT TO CLAUSE 4.6 OF LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013

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

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Standard sought to be varied:	
<input type="checkbox"/>	Floor Space Ratio – Clause 4.4 or 4.4A of LEP 2013
<input type="checkbox"/>	Landscaped Area – Clause 4.3A(3)(a) of LEP 2013
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<input type="checkbox"/>	Subdivision Allotment size – Clause 4.1 of LEP 2013
<input type="checkbox"/>	Foreshore Building Area – Clause 6.5 of LEP 2013
<input type="checkbox"/>	Diverse Housing – 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"> a. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case b. that there are sufficient environmental planning grounds to justify contravening the development standard. 	

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

What are the environmental planning grounds that justify contravening the development standard?
The cases referred to below have established that the environmental planning grounds must be particular to the circumstances of the proposed development on its site. The following environmental planning grounds are relevant:
<ul style="list-style-type: none"> • There is no increase in existing site coverage. • The proposed sub-division remains consistent and is compatible with the existing site and desired current and future character of the area as nothing will change on the site – therefore having nil affect to the surrounds.
For the reasons set out above, the proposal will achieve a better planning outcome than a compliant development of the site.
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)
Compliance with the development standard is unreasonable or unnecessary in the circumstances because:
<ul style="list-style-type: none"> • The site coverage is maintained, the proposal also maintains the site's existing landscape area and does not impact the character of Leichhardt's residential area. • The proposal does not increase the site coverage and provides adequate and usable ground level open space for recreation & landscaping. • The proposal does not increase the surface area of the existing building's roof. • The proposal does not increase the buildings footprint.
The objectives of the development standard are achieved notwithstanding noncompliance with the standard.
The proposed development will achieve the objectives of standard 4.3A(3)(b) of the LEP notwithstanding numerical non-compliance.
Is the proposed development consistent with the objectives of the particular standard?
Is the proposal consistent with the objectives of the relevant zone?
In my opinion, the proposal is consistent with the underlying objectives of the standard for reasons outlined earlier and is therefore considered to be in the public interest.
In relation to the objectives of the R1 Zone:
The implications of the proposal not complying with the site coverage percentage development standard of the Leichhardt LEP is local in scope and raises no matters of significance for State or regional environmental planning. The circumstances of the case should be balanced against the usual presumption of public benefit in maintaining a development standard. The site coverage of the proposed development is retained.
The variation sought will enhance have no unreasonable impacts on neighbouring amenity or the public domain.


INNER WEST COUNCIL
Development Applications
Exceptions to Development Standards

Applicant's signature:		Date:	14 / 06 / 2019
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