

INNER WEST

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA/2020/0735
Address	44 Mullens Street BALMAIN NSW 2041
Proposal	Lower ground, ground and first floor alterations and Additions to existing dwelling house, and associated works, including new double garage and open space above to Tobruk Avenue and raising of rear garden level
Date of Lodgement	14 September 2020
Applicant	Christopher Jordan Architecture & Design
Owner	Mr Andrew JC Heather Ms Vera Heather
Number of Submissions	1 objection
Value of works	\$570,000.00
Reason for determination at Planning Panel	Clause 4.6 variation to Landscaped Area exceeds 10%
Main Issues	Site Coverage and Landscaped Area Variations; Earthworks; Building siting and design
Recommendation	Approval with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards



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 existing dwelling house at 44 Mullens Street, Balmain.

The application was notified to surrounding properties and 1 submission was received.

The main issues that have arisen from the application include:

- Site Coverage and Landscape Area variations;
- Earthworks; and
- Building siting and design.

The non-compliances are acceptable given no adverse impacts arise (subject to suitable conditions), and therefore, the application is recommended for approval.

2. Proposal

This application seeks consent for alterations and additions to an existing dwelling house including basement, ground floor and first floor additions, rear double garage, and raised rear terrace with associated site works, cut and fill, retaining walls, landscaping and fencing.

The basement level includes underground storage and plant with a subterranean access corridor to the rear double garage and internal stairs to the ground floor.

The ground floor level includes reinstatement of the front open verandah, retention of the front two bedrooms, new bathroom, laundry cupboard and new open space kitchen, living and dining and raised rear deck and landscaped terrace above the rear garage.

The first floor level includes retention of existing dormer bedroom, new roof link and new rear addition with bathroom, bedroom, master bedroom, ensuite and walk-in-robe.

The proposal involves excavation of approximately 1.5m to 2m depth under the rear portion of the dwelling to be demolished and fill within the rear yard of approximately 1.2m to 2.5m to match the roof terrace level above the garage. Fencing and privacy screens are proposed along the northern and southern sides of the raised rear yard and garage roof terrace.

3. Site Description

The subject site is located on the eastern side of Mullens Street, between Ennis Street and Reynolds Street. The site consists of one allotment and is generally rectangular in shape with a total area of 278.2sqm and is legally described as Lot 11 in DP 50.

The site has a frontage to Mullens Street of 9.145 metres and a rear frontage of approximate 9.145 metres to Tobruk Avenue.

The site presently accommodates a two storey dwelling. The adjoining properties consist of a one and two storey buildings.

The site is located within the distinctive neighbourhood of The Valley - Balmain.

The subject site is not a heritage item, nor located in the vicinity of any environmental heritage, but is located within a Heritage Conservation Area. The site is not identified as a flood control lot. The land is zoned R1 General Residential



Figure 1: Zoning Map

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
CDC/2021/0006	Remove internal fireplace and chimney breast	Approved 7/3/2021
D/2009/253 CC/2012/385	New garage and retaining wall to rear of property accessed from Tobruk Avenue	Approved 8/9/2009 CC issued 30/11/2012

Surrounding properties

42 Mullens Street

Application	Proposal	Decision & Date
PDA/2020/0299	Alterations and additions to existing dwelling-house, involving a new rear Level 1 balcony off bedroom and	Advice letter

	covered roof terrace accessed via the rear Level 1 balcony.	issued 29/9/2021
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46 Mullens Street

Application	Proposal	Decision & Date
PDA/2020/0299	Alterations and additions to existing dwelling-house, involving a new rear Level 1 balcony off bedroom and covered roof terrace accessed via the rear Level 1 balcony.	Advice letter issued 29/9/2021
M/2014/45	Section 96 application to modify D/2011/642 which approved demolition of the existing dwelling (retaining primary facade and front rooms) and construction of a new two-storey dwelling and a detached double garage with rooftop terrace. Modification entails changes to approved sliding private shutters to pivot mech, relocation of southern privacy screen of terrace, & increase depth of awning	Approved 22/5/2014
M/2013/21	Section 96 application to modify D/2011/642 which approved demolition of the existing dwelling (retaining primary facade and front rooms) and construction of a new two-storey dwelling and a detached double garage with rooftop terrace. Modifications entail extension of screen to the side boundaries and extend roof over landing.	Approved 2/4/2013
D/2011/642	Demolition of the existing dwelling (retaining primary facade and front rooms) and construction of a new two-storey dwelling and a detached double garage with rooftop terrace. SEPP No.1 objections for floor space ratio and landscaped area.	Approved 19/4/2012

4(b) Application history

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

Date	Discussion / Letter / Additional Information
24/12/2020	<p>The Applicant submitted amended plans deleting the high front fence and reinstating the original open front verandah and increasing the first floor rear setback by 500mm and additional information including an integrated geotechnical and structural engineering report, hourly shadow diagrams and revised calculation diagrams/Clause 4.6 requests addressing the issues raised.</p> <p>The amended proposal represents a lesser development to address issues raised by Council and as such, re-notification was not required under Council's Notification Policy.</p>
2/12/2020	<p>Council sent a letter to the applicant requesting additional information to address the following issues:</p> <ul style="list-style-type: none"> • Heritage impacts • Building siting and location • Solar access • Visual privacy • Site coverage variation

	<ul style="list-style-type: none"> • Landscaped area variation • Earthworks/structural impacts • Public submission
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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 not been used in the past for activities which could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with *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*

The subject site is not located within the foreshores and waterways area.

Leichhardt Local Environment Plan 2013 (LLEP 2013)

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

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 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 6.2 - Earthworks
- Clause 6.4 - Stormwater management

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:

dwelling house means a building containing only one dwelling

The development is permitted with consent within the zone. The development is consistent with the relevant objectives of the R1 zone.

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

Standard	Proposal	non compliance	Complies
Floor Space Ratio Maximum permissible: 0.9:1 or 250.4sqm	0.87:1 (242.8sqm)	N/A	Yes
Landscape Area Minimum permissible: 20% or 55.6sqm	0% (0sqm)*	100%*	No*
Site Coverage Maximum permissible: 60% or 166.9sqm	67% (187.2sqm)**	20.3sqm or 12.16%**	No**

NOTES:

* **A total Landscaped Area of 58.6sqm (21%) at least 1m wide and clear of any structures is proposed, which is an increase from the existing landscaped area of approximately 47.09sqm (16.9%), but none of the proposed Landscaped Area is included because the proposed external ground levels are greater than 500mm above existing ground level as per Clause 4.3A(4)(b)(ii).**

****The proposal seeks a reduction from the existing (approved) site coverage of 72.32% (201.2sqm), noting that the rear garage approved under D/2009/253 has been partly constructed.**

Clause 4.6 Exceptions to Development Standards

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

- Clause 4.3A(3)(a)(ii) – Landscaped Area
- Clause 4.3A(3)(b) – Site Coverage

The applicant seeks variations to the Landscaped Area and Site Coverage development standards under Clause 4.3A of LLEP 2013 by 100% (55.6sqm) and 12.16% (20.3sqm), respectively.

The same objectives are applicable to both development standards under Clause 4.3A of the LEP.

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 or unnecessary in this instance, the proposed exception to the development standards has been assessed against the objectives and provisions of Clause 4.6 of the Leichhardt LEP below.

A written request has been submitted to Council in accordance with Clause 4.6(3) of the Leichhardt LEP justifying the proposed contravention of the development standard which is summarised as follows:

Landscaped Area

- 1. The design of the development provides a desirable urban form that maintains the existing site as a single residence, and creates an increase to landscaped area and private open space. The alterations and additions reduce the building footprint and hence it is deemed unnecessary to meet the 20% required landscaping.*
- 2. The geotechnical investigations have found that the existing soil depth over bedrock is only about 250mm and therefore the existing site could be calculated as having 0% landscaped area. The existing soil depth does not support substantial vegetation.*
- 3. The site is not heritage listed but is located within a Conservation Area. The retention of the principle original structure of the building will be encouraged by Council.*
- 4. The proposed first floor addition has been sympathetically designed to consider the amenity and character of the surrounding neighbourhood.*
- 5. The proposed landscaped areas, while they do not strictly comply with council's definition of landscaped area because of the increased depth of fill actually results in the opportunity to plant larger plantings with canopy cover.*
- 6. The development does not itself create any adverse impact by way of privacy or bulk and scale that could be viewed by neighbours or those passing the site within the public domain.*
- 7. No additional amenity impacts arise as a result of the proposal.*
- 8. The development achieves the aims and objectives of LLEP 2013.*
- 9. The proposal satisfies the zone objectives.*
- 10. The proposal increases upon the existing landscaped area, providing landscaping to the front of the site to Beattie Street.*

Site Coverage

- 1. The proposal does not seek to increase the site coverage of the property, the proposal instead reduces the site coverage when compared to the existing situation. The design results in increased rear setbacks, substantially greater landscaped area and a larger area of private open space. The footprint of the primary building is substantially reduced and the garage effectively becomes a basement with a green roof supporting soil which*

will support lawn. Due to the scale of the proposed works it is deemed unnecessary to comply with the 60% site coverage control.

2. *The proposed works do not impact the amenity of the neighbouring properties or the surrounding area.*
3. *The retention of the principle original structure of the building will be encouraged by Council.*
4. *The extent to which the property does not comply with the standard of 60% site coverage is minimal – being only 5% over the control while the existing site coverage is 10% over the control.*
5. *The proposed landscaped area, which is 58.6sqm, is a 30% increase over the existing landscaped area and exceeds the minimum requirement.*
6. *The proposal satisfies the zone objectives*

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

The objectives of the Landscaped Area and Site Coverage development standards are as follows:

- *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.*

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

- The proposal provides Landscaped Areas that are suitable for substantial tree planting and for the use and enjoyment of residents;
- The proposal maintains and encourages a landscaped corridor between adjoining properties and is compatible with the desired future character;
- The proposal provides adequate retention and absorption of surface drainage water on the site;
- The proposal is of an acceptable density by way of complying with the Floor Space Ratio development standard, achieving compliant Landscaped Area if areas greater than 500mm above existing ground level could be included in the calculations, and a Site Coverage that is not out of character with the pattern of development in the street; and
- The proposal provides a suitable balance between private open space and built form.

The objectives of the R1 zone are as follows:

- *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.*

It is considered that 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 LLEP 2013 for the following reasons:

- The development provides for the housing needs of the community;
- The development as proposed and as conditioned provides housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and Landscaped Areas; and
- The development provides Landscaped Areas for the use and enjoyment of existing and future residents and does not result in any undue adverse amenity impacts.
- The proposed non-compliances will not result in any undue adverse amenity impacts on adjoining sites and improved on-site amenity outcomes.

The concurrence of the Planning Secretary may be assumed for matters dealt with by the Local Planning Panel.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the Leichhardt LEP. For the reasons outlined above, there are sufficient planning grounds to justify the departures from the Landscaped Area and Site Coverage development standards and it is recommended the Clause 4.6 exception be granted.

Heritage Conservation

The subject property is a contributory dwelling located within The Valley Heritage Conservation Area (C7 in Schedule 5 of the Leichhardt LEP 2013).

The Statement of Significance for The Valley Heritage Conservation Area is provided below:

- *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.*

Council's Heritage Advisor reviewed the proposal and provided the following comments:

The following heritage commentary is made in response to the revised architectural drawings dated 8 December 2020, and the Response Letter dated 23 December 2020, both prepared by Christopher Jordan. These drawings responded to the heritage commentary provided on 12 November 2020 in response to the original proposal, which was considered to be acceptable from a heritage perspective, subject to amendments. Commentary from the original heritage referral is reiterated below along with additional commentary in response to the revised drawings.

1. *It is recommended that the design be amended to incorporate the following design changes:*
 - a. *the proposed basement is to be deleted from the proposal;*

Comment: The basement was requested to be deleted because it is inconsistent with C1 of Part C1.19 of the DCP which states that development in proximity to rock is to be sympathetic and is to: a. minimise on-site disturbance; and b. locate buildings where the rock features are not located.

The Geotechnical report states that excavations of up to 2m depth are expected for the construction of the basement and that it is likely to be in sandstone bedrock.

The response from the applicant states the basement is not near any rock features and will not impact on the existing building or neighbouring buildings.

Part C2 b. of the DCP states that the excavation of rock may only be granted development consent in the following circumstances where excavation will not adversely affect the setting of the landscape element, including when viewed from areas of the public domain. As the excavation will not be visible from the public domain, it is generally acceptable in this instance.

- b. *the flat roof form of the rear addition is to be redesigned to a hipped roof form;*

Comment: The flat roof form has been retained. The link between the main roof form and the addition has a gable roof form. C15 a. of Part C1.3 of the DCP states that appropriate roof forms for rear additions depend on the context of the site, and may include pitched in form to match the predominant roof forms of the original property and / or its context.

There are examples of first floor rear additions in the vicinity with flat roof forms, including Nos. 38 and 46 Mullens Street. On this basis the flat roof form is acceptable, and given the physical separation of the addition away from the main roof form and located to the rear.

- c. *the fire place and chimney breast in the existing living area is to be retained and incorporated into the proposal;*

Comment: The fire place has not been retained. Though not a desired heritage outcome, its removal will not be visible from the public domain and will not impact on the significance of The Valley HCA.

- d. *the skylight proposed in northern roof plane of the main hipped roof form is to be deleted from the proposal;*

Comment: The response from the architect states the skylight will not be visible from the street. Though not a desired heritage outcome as it will result in further incremental change to the main roof form, visibility to the skylight from the public domain be minimal as the adjoining 2 storey dwelling at No. 42 will screen the skylight which will reduce the impact on the significance of The Valley HCA. Therefore, the proposed skylight can be retained.

- e. *The window to the proposed bathroom in the south elevation on the ground floor (W07), the window to the bathroom (W11) in the west elevation of the first floor addition and the window in the proposed link (W12) in the south elevation must be vertically proportioned, employing traditional design (timber sash) and materials (timber frame);*

Comment: The response from the architect states these windows will not be visible from the public domain. It is agreed that views to the W07 in the ground floor bathroom will be limited because of the narrow setback of the adjoining dwelling at No. 46. Window in the proposed link will be screened by the existing main hipped roof form.

However, the window to the bathroom (W11) in the west elevation of the first floor addition will be visible from the public domain, similarly to the first floor window in the west façade of the rear addition at No. 46. It is recommended a design change condition be included in the consent requiring the window to the bathroom (W11) in the west elevation of the first floor addition to be vertically proportioned, employing traditional design (timber sash) and materials (timber frame).

- f. *no changes are to be made to the dormer and its window in the west (front) elevation of the dwelling;*

Comment: The west elevation of the drawings includes an annotation “*New changes to existing front dormer window*”. The response from the architect states no changes are proposed to the front dormer.

- g. *the enclosed front verandah is to be removed and the traditional open front verandah reinstated;*

Comment: The enclosed front verandah has been removed which is a positive heritage outcome.

- h. *the high masonry fence to the front is to be removed and replaced with a 1.2m high timber picket fence;*

Comment: A low timber picket fence is proposed in the revised drawings, which is a positive heritage outcome.

- i. *large expanses of glass are not to be used in areas visible from the public domain, e.g. the east elevation of the rear addition. Openings must be vertically proportioned,*

employing traditional design (timber sash or French doors) and materials (timber frame). Dominancy must be given to masonry/solid elements rather than glazed areas. Blank unarticulated walls should also be avoided if visible from the public domain;

Comment: The first floor of the rear addition will be visible from Tobruk Avenue. It is recommended as a design change condition be included in the consent requiring that the first floor windows and doors in the east elevation of the rear addition must be vertically proportioned, employing traditional design (timber sash or French doors) and materials (timber frame).

- j. *the proposed external steel reveals to openings must be deleted from the proposal;*

Comment: The steel reveals are not characteristic to the HCA. The proposed external steel reveals to openings must be deleted from the proposal.

- k. *glazed balustrades are not supported for balconies. Balustrading above the garage and to the balcony off the master bedroom are to be vertically proportioned timber balustrading;*

Comment: A glass balustrade was proposed above the garage (east elevation) which will be clearly visible from the public domain. This is to be replaced with a vertical metal picket balustrade to complement that proposed adjacent to the master bedroom on the first floor.

2. *The applicant is encouraged to:*

- a. *retain the existing layout of rooms in the main building form and relocate the proposed staircase to the rear addition. Should partial demolition be required, 300mm wall nibs and bulkheads should be retained and incorporated into the proposal;*

Comment: The front 2 rooms have been retained. 300mm wall nibs have been retained.

- b. *reinstate the missing chimneys, using intact examples of original chimneys on Victorian cottages in the vicinity for designs;*

Comment: The chimneys have not been reinstated. The response from the architect states it is inappropriate to attempt to replicate a chimney that has been removed. This is not agreed with, as it would result in reinstating important historical detailing that has been removed.

3. *The following information must be provided to enable a proper heritage assessment:*

- a. *a roof plan showing the roof of the existing dwelling, the rear addition and the roof form of the connecting link to the attic space in the main roof form; and*
- b. *swap the annotation of the north and south elevations to correctly annotate the elevations;*

Comment: Roof plane provided. North and south elevations have been correctly labelled.

4. *The Materials & Finishes Schedule is to be updated in accordance with the following:*

- a. *the vertical timber cladding to the first floor rear addition must be amended to horizontally laid timber weatherboards; and*
- b. *a pre-coloured traditional corrugated steel shall be used for the roofing, finished in a colour equivalent to Colorbond colours "Windspray" or "Wallaby".*

Comment: The response from the architect states the addition is different to the original dwelling. The vertical timber cladding to the first floor rear addition is acceptable in this instance because it is physically separated from the main building form and is located to the rear, which will reduce visibility from the public domain. It is recommended be included in the consent requiring a pre-coloured traditional corrugated steel shall be used for the roofing, finished in a colour equivalent to Colorbond colours “Windspray” or “Wallaby”.

Accordingly, the proposal is acceptable from a heritage perspective as it will not detract from the heritage significance of The Valley Heritage Conservation Area in accordance with Clause 5.10 of LLEP 2013 and the relevant objectives and controls in the Leichhardt DCP 2013, subject to the following conditions:

1. Design change:
 - a. The window to the bathroom (W11) in the west elevation of the first floor addition and the first floor windows and doors in the east elevation of the rear addition must be vertically proportioned, employing traditional design (timber sash) and materials (timber frame).
 - b. The proposed external steel reveals to openings must be deleted.
 - c. The glass balustrade proposed above the garage (east elevation) is to be replaced with a vertical metal picket balustrade to complement that proposed adjacent to the master bedroom on the first floor.
2. The Materials & Finishes Schedule is to be updated with a pre-coloured traditional corrugated steel to be used for the roofing, finished in a colour equivalent to Colorbond colours “Windspray” or “Wallaby”.

Earthworks

The proposal involves excavation of approximately 2m depth under the rear portion of the dwelling to be demolished and fill within the rear yard of approximately 2.5m to match the roof terrace level above the rear garage. Suitable privacy screens are proposed along the northern and southern boundaries to prevent overlooking from the proposed external ground levels within the raised terrace and rear yard. The proposal does not result in any undue adverse overshadowing impacts.

An integrated Structural and Geotechnical Report prepared by a suitably qualified consultant was submitted as a part of the proposal demonstrating that no adverse structural, geotechnical or drainage impacts are expected to arise given the adjoining structures are not within the zone of influence of the proposed earthworks based on shallow existing topsoil of approximately 250mm and the underlying sandstone foundations. Suitable conditions in relation to the excavation, rock cutting and fill will be imposed, including noise and vibration controls and dilapidation reports.

5(b) Draft Environmental Planning Instruments

Draft State Environmental Planning Policy (Environment) 2018

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

October 2017 until 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

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

5(c) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979*.

The general intent of the Draft IWLEP 2020 is to harmonise the existing planning controls from Leichhardt, Marrickville and Ashfield into a consolidated LEP and as such, the assessment of the proposal remains generally consistent with the amended provisions contained in the Draft IWLEP 2020.

In addition, it is considered that the Draft IWLEP 2020 is not imminent or certain given the early stage of the planning proposal and as such, little if any weight can be applied to these draft provisions. Further, it is assumed that a savings provision will apply under the Draft IWLEP 2020 to ensure that applications lodged prior to any commencement of the IWLEP 2020 will continue to be assessed under the former provisions.

5(d) 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 B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	N/A
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	N/A
C1.3 Alterations and additions	Yes, subject to conditions – see discussions below
C1.4 Heritage Conservation Areas and Heritage Items	Yes, subject to conditions – see discussions below
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	Yes
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	Yes
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	Yes
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	Yes
C1.18 Laneways	Not applicable – the rear of the site fronts Tobruk Avenue
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	Yes
Part C: Place – Section 2 Urban Character	
C.2.2.2.4: The Valley “Balmain” Distinctive Neighbourhood	Yes, subject to conditions – see discussions below
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	No – see discussions below
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	No – see discussions below
C3.9 Solar Access	Yes – see discussions below
C3.10 Views	Yes
C3.11 Visual Privacy	Yes, subject to conditions – see discussions below
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes

E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	N/A
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	Yes
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A

The following provides discussion of the relevant issues:

C1.3 – Alterations and additions; C1.4 – Heritage Conservation Areas and Heritage Items; and C2.2.2.2 – The Valley “Balmain” Distinctive Neighbourhood

As detailed above under Clause 5.10 – Heritage Conservation of the LLEP 2013, the site is located in a Heritage Conservation Area. The alterations and additions and works, as proposed and as conditioned, will be of a form, size, scale, design and detail that will be compatible with or not detract from the existing dwelling-house, the streetscape, or the Heritage Conservation Area. In this regard, to minimise the proposed additions as viewed from the street, it is considered appropriate to impose a condition requiring the proposed cantilevered portion of the first floor addition to be deleted to maintain a 500mm setback to the southern side boundary in line with the existing ground floor side setback.

C3.2 Site Layout and Building Design

Building Location Zone

The proposed ground floor rear building line setback and first floor front building line setback complies with the Building Location Zone (BLZ) requirements, but a variation is proposed in relation to the first floor rear BLZ based on the average rear first floor building line setbacks of 42 and 46 Mullens Street.

The BLZ of 42 Mullens Street is not considered applicable to the subject site given the two-storey built form facing the street. Relevantly, the proposed first floor rear building line extends 1.2m past the rear BLZ of 46 Mullen Street, but is approximately 4m behind the first floor front BLZ of 46 Mullen Street.

In accordance with the requirements under Control C6 of Section C3.2 of LDCP 2013, which enables a variation to the required BLZ, the proposal is considered acceptable given it:

- Retains the main original roof form of the existing building, minimises visibility from the street, and thereby achieves a compatible bulk, form and scale (as conditioned) consistent with the existing and desired future character along this section of Mullens

Street, noting the large two-storey built form to the immediate south at 46 and 48 Mullens Street;

- Complies with the permitted FSR and building envelope, provides acceptable Site Coverage, Landscaped Area and private open space, and maintains reasonable ceiling heights with a smaller first floor footprint than the adjoining first floor areas of 42 and 46 Mullens Street; and
- Does not result in any undue adverse overshadowing, visual or acoustic privacy, or visual bulk amenity impacts (as conditioned).

Side Setbacks

A technical non-compliance with the Side Boundary Setbacks Graph as prescribed in Part C3.2 of the DCP is proposed as outlined in the following table:

Elevation	Proposed Wall Heights (m)	Required Setbacks (m)	Proposed setbacks (m)	Complies
Northern	2.85 -7.6	0.03-2.77	Nil	No
Southern	2.85-7.6	0.03-2.77	Nil-0.5	No

The proposal therefore seeks side setback non-variations relating to each side boundary. Subclause C8 of Part C3.2 of the DCP states that Council may allow for a departure from the side setback control where:

- the proposal is consistent with the relevant Building Typology Statement as outlined in Appendix B of the DCP;*
- the pattern of development in the streetscape is not compromised;*
- the bulk and scale is minimised by reduced floor to ceiling heights;*
- amenity impacts on adjoining properties are minimised and / or are acceptable; and*
- reasonable access is retained for necessary maintenance of adjoining properties.*

The proposed variation to the required setback is considered acceptable on merit given it:

- Retains the main original roof form of the existing building, minimises visibility from the street, and thereby achieves a compatible bulk, form and scale consistent with the existing and desired future character along this section of Mullens Street noting the large two-storey built form to the immediate south at 46 and 48 Mullens Street;
- Complies with the permitted FSR and building envelope, provides acceptable Site Coverage, Landscaped Area and private open space, and maintains reasonable ceiling heights;
- Reflects the existing 0m side setback to the north and 0.5m side setback (as conditioned) to the south; and
- Does not result in any undue adverse overshadowing, visual or acoustic privacy (as conditioned) or visual bulk amenity impacts.

C3.8 - Private Open Space

The proposed private open space meets the numerical area and dimension requirements and is directly connected to the ground floor living area, but is raised above existing ground level due to filling to match the landscaped roof terrace level above the rear garage.

However, the proposal is acceptable given the proposed garage roof terrace level and associated boundary wall height are consistent with the existing adjoining garage roof terrace and associated boundary wall/ fence height to the south at 46 Mullens Street, and suitable privacy screening is proposed along the northern and southern boundaries to ensure that no undue adverse amenity impacts in terms of visual and acoustic privacy arise to adjoining properties.

C3.9 Solar Access

The following solar access controls under C3.9 apply to the proposal in relation to impacts to glazing on the surrounding sites.

- *C12 Where the surrounding allotments are orientated east/west, main living room glazing must maintain a minimum of two hours solar access between 9am and 3pm during the winter solstice*
- *C18 Where surrounding dwellings have east/west facing private open space, ensure solar access is retained for two and a half hours between 9am and 3pm to 50% of the total area (adjacent to living room) during the winter solstice.*

As shown on the submitted shadow diagrams, the rear living room glazing of 46 Mullens Street will maintain at least two hours solar access up to 12pm through the translucent rear awning and at least 50% of the adjoining private open space will maintain 2.5 hours solar access between 9am to 3pm at midwinter. Therefore, the proposal is considered acceptable with respect to solar access.

C3.11 Visual Privacy

The following controls are applicable in C3.11 Visual Privacy

- *C1 Sight lines available within 9m and 45 degrees between the living room or private open space of a dwelling and the living room window or private open space of an adjoining dwelling are screened or obscured unless direct views are restricted or separated by a street or laneway.*
- *C4 Roof terraces will be considered where they do not result in adverse privacy impacts to surrounding properties. This will largely depend on the:*
 - *Design of the terrace;*
 - *The existing privacy of the surrounding residential properties;*
 - *Pre-existing pattern of development in the vicinity; and*
 - *The overlooking opportunities from the roof terrace.*
- *C7 New windows should be located so they are offset from any window (within a distance of 9m and 45 degrees) in surrounding development, so that an adequate level of privacy is obtained/retained where such windows would not be protected by the above controls (i.e. bathrooms, bedrooms).*
- *C9 Balconies at first floor or above at the rear of residential dwellings will have a maximum depth of 1.2m and length of 2m unless it can be demonstrated that due to the location of the balcony there will be no adverse privacy impacts on surrounding residential properties with the provision of a larger balcony.*
- *C10 Living areas are to be provided at ground floor level to minimise opportunities for overlooking of surrounding residential properties.*

As noted previously, the proposed raised ground floor levels and raised rear yard and garage roof terrace are considered acceptable given suitable privacy screening will be provided to the southern and northern boundaries and no adverse impacts arise to adjoining properties. Further, first floor openings are suitably offset and relate to bedrooms and ensuite which are considered low use rooms.

However, a condition will be imposed requiring the proposed first floor eastern (rear) ensuite window to be screened up to 1.6m above the finished floor level to maintain suitable privacy. Therefore, the proposal is considered acceptable with respect to visual privacy, subject to the imposition of appropriate conditions.

5(e) 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(f) 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(g) Any submissions

The application was notified in accordance with Council's policy for a period of 14 days to surrounding properties. One submission was received in response to the notification.

The following issues raised in submissions have been discussed in this report:

- Visual Privacy – see Section 5(d)
- Overshadowing – See Section 5(d)
- Bulk and scale – See Section 5(d)
- Excavation/structural impacts – See Section 5(a)(iii)

The grounds of objection raised have been satisfactorily addressed in the assessment or conditions and do not warrant refusal of the application.

5(h) 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.

- Engineering: No objections subject to conditions
- Landscaping: No objections subject to conditions
- Heritage: No objections subject to conditions

6(b) External

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

7. Section 7.11 Contributions/7.12 Levy

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$5,400.00 would be required for the development under the 'Former Leichhardt Local Government Area Section

7.12 Development Contributions Plan 2020'. A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in the relevant State Environmental Planning Policies, the 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 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 to vary the Landscaped Area and Site Coverage development standards in Clause 4.3A of the *Leichhardt Local Environmental Plan 2013*. After considering the request, 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 planning 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 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. DA/2020/0735 for Alterations and Additions to existing dwelling house at 44 Mullens Street BALMAIN NSW 2041 subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
01, Rev. B	Site / Roof Plan	8/12/2020	Christopher Jordan Architecture and Design
02, Rev. B	Storage & Garage Plan	8/12/2020	Christopher Jordan Architecture and Design
03, Rev. B	Ground Floor Plan	8/12/2020	Christopher Jordan Architecture and Design
04, Rev. B	First Floor Plan	8/12/2020	Christopher Jordan Architecture and Design
05, Rev. B	North & South Elevations	8/12/2020	Christopher Jordan Architecture and Design
06, Rev. B	East & West Elevations	8/12/2020	Christopher Jordan Architecture and Design
07, Rev. B	Sections A & B	8/12/2020	Christopher Jordan Architecture and Design
08, Rev. A	Sections C & D	8/12/2020	Christopher Jordan Architecture and Design
-	Schedule of Materials and Finishes	undated	Christopher Jordan Architecture and Design
-	Integrated Structural and Geotechnical Report	23/12/2020	Abvd design consulting structural and civil engineers
A362285_05	BASIX Certificate	27/7/2020	Christopher Jordan Architecture and Design

As amended by the conditions of consent.

DESIGN CHANGE

2. Design Change

The following design changes are to be implemented:

- a. The window to the bathroom (W11) in the west elevation of the first floor addition and the first floor windows and doors in the east elevation of the rear addition must be vertically proportioned, employing traditional design (timber sash) and materials (timber frame).
- b. The proposed external steel reveals to openings must be deleted.
- c. The glass balustrade proposed above the garage (east elevation) is to be replaced with a vertical metal picket balustrade to complement that proposed adjacent to the master bedroom on the first floor.
- d. The window to the bathroom (W7) in the south elevation of the ground floor is to be deleted given it is within 900mm of the southern boundary.
- e. The cantilevered portion of the first floor adjacent to the southern boundary is to be deleted to maintain a 500mm setback to the southern boundary in line with the existing

ground floor side setback. The internal configuration of the master bedroom, walk-in-robe and ensuite may be adjusted accordingly.

FEES

3. Security Deposit - Custom

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit:	\$2,209.00
Inspection Fee:	\$236.70

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

4. Section 7.12 (formerly section 94A) Development Contribution Payments

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that a monetary contribution to the Inner West Council has been paid, towards the provision of infrastructure, required to address increased demand for local services generated by additional development within the Local Government Area (LGA). This condition is imposed in accordance with Section 7.12 of the *Environmental Planning and Assessment Act 1979* and in accordance with *Former Leichhardt Local Government Area Section 7.12 Development Contributions Plan 2020*.

Note:

Copies of these contribution plans can be inspected at any of the Inner West Council Service Centres or viewed online at <https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions>

Payment amount*:
\$5,400.00

*Indexing of the Section 7.12 contribution payment:

The contribution amount to be paid to the Council is to be adjusted at the time of the actual payment in accordance with the provisions of the relevant contributions plan. In this regard, you are recommended to make contact with Inner West Council *prior to arranging your payment method* to confirm the correct current payment amount (at the expected time of payment).

Payment methods:

The required contribution must be paid either *by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions; cash (to a maximum of \$10,000).* It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. **Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.**

5. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more.

GENERAL CONDITIONS

6. Boundary Alignment Levels

Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary.

7. Tree Protection

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 Management 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.

Any public tree within five (5) metres of the development must be protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.

The trees identified below are to be retained and protected in accordance with the conditions of consent throughout the development :

Tree No.	Botanical/Common Name	Location
1	<i>Sapium sebiferum</i> (Chinese Tallowwood)	Road reserve.

8. Privacy

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans indicating Window 10 being amended in the following manner:

- a. Fixed and obscure glazing to a minimum level of 1.6 metres above the floor level.

9. Waste Management Plan

Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.

10. Erosion and Sediment Control

Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.

11. Standard Street Tree Protection

Prior to the commencement of any work, the Certifying Authority must be provided with details of the methods of protection of all street trees adjacent to the site during demolition and construction.

12. Works Outside the Property Boundary

This development consent does not authorise works outside the property boundaries on adjoining lands.

13. Parking Facilities

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans and certification by a suitably qualified Civil Engineer demonstrating that the design of the vehicular access and off-street parking facilities comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking and the following specific requirements:

- a. The garage slab or driveway must rise within the property to be 170mm above the adjacent road gutter level and higher than the street kerb and footpath across the full width of the vehicle crossing. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.
- b. A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
- c. Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided at a natural scale of 1:25, demonstrating compliance with the above requirements.
- d. The garage/parking space must have minimum clear internal dimensions of 6000 mm x 5400 mm (length x width) and a door opening width of 5300 mm at the street frontage. The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004.
- e. A plan of the proposed access and adjacent road, drawn at a 1:200 scale, demonstrating that vehicle manoeuvrability for entry and exit to the parking space complies with swept paths from AS/NZS 2890.1:2004. The plan must include any existing on-street parking spaces.

PRIOR TO ANY DEMOLITION**14. Hoardings**

The person acting on this consent must ensure the site is 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 roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.

Separate approval is required from the Council under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property.

15. Dilapidation Report

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the adjoining buildings at Nos. 42 and 46 Mullens Street, Balmain, to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

16. Advising Neighbors Prior to Excavation

At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

17. Construction Fencing

Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.

PRIOR TO CONSTRUCTION CERTIFICATE**18. Dilapidation Report – Pre-Development – Minor**

Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.

19. Stormwater Drainage System – Minor Developments (OSD is required)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention and/or on site retention/ re-use facilities (OSR/OSD), certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a. The stormwater drainage concept plan on Drawing No. 02300_201 revision (04) prepared by C & M CONSULTING ENGINEERS and dated 28 July 2020, must be amended to comply with the following;
- b. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any

- rainwater tank(s), by gravity to the kerb and gutter of Tobruk Avenue via the OSD/OSR tanks as necessary;
- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
 - d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage;
 - e. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
 - f. The plans, including supporting calculations, must demonstrate that the post development flows for the 100 year ARI storm are restricted to the pre development flows for the 5 year ARI storm event in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013 and the maximum allowable discharge to Council's street gutter limited to 15 litres/second (100year ARI);
 - g. OSD may be reduced or replaced by on site retention (OSR) for rainwater reuse in accordance with the relevant DCP that applies to the land. Where this is pursued, the proposed on-site retention (OSR) tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation. Surface water must not be drained to rainwater tanks where the collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use;
 - h. Details and dimensions of the OSD tank and OSR tank, the invert and top water level in the OSD and OSR and volume of the orage must be indicated on the drainage plans.
 - i. Where a combined OSD/OSR is proposed, only roof water is permitted to be connected to the OSD/OSR. The over flow from the storage tank must be connected under gravity to Tobruk Avenue;
 - j. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks;
 - k. Details of the 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided;
 - l. An overland flowpath must be provided within the setback to the southern side boundary between the rear of the dwelling and the Torbuk Avenue frontage.
 - m. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas;
 - n. The basement must be fully tanked.
 - o. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
 - p. No nuisance or concentration of flows to other properties;
 - q. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
 - r. Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
 - s. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
 - t. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
 - u. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm;

- v. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated; and
- w. No impact to street tree(s).

20. Structural Certificate for retained elements of the building

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

21. Sydney Water – Tap In

Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

Note: Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 13 20 92

22. Structural and Geotechnical Report

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an integrated structural and geotechnical report and structural plans that address the design of the proposed basement, prepared certified as compliant with the terms of this condition by a qualified practicing Structural and Geotechnical Engineer(s) who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng). The report and plans must be prepared/ amended to make provision for the following:

- a. The basement must be fully tanked to prevent the ingress of subsurface flows;
- b. Retaining walls must be entirely self-supporting in the event that excavation is undertaken within adjoining properties adjacent to the property boundary to the depth of the proposed structure;
- c. Any existing or proposed retaining walls that provide support to adjoining structures must be adequate to withstand the loadings that could be reasonably expected, based on a design life of not less than 50 years;
- d. All components of the basement, including footings, must be located entirely within the property boundary;
- e. No adverse impact on surrounding properties including Council's footpath and road;
- f. The existing subsurface flow regime in the vicinity of the development must not be significantly altered as a result of the development;
- g. Recommendations regarding the method of excavation and construction, vibration emissions and identifying risks to existing structures or those on adjoining or nearby property; and
- h. Provide relevant geotechnical/ subsurface conditions of the site, as determined by a full geotechnical investigation.

DURING DEMOLITION AND CONSTRUCTION**23. Materials & Finishes Schedule**

The Materials & Finishes Schedule is to be updated with a pre-coloured traditional corrugated steel to be used for the roofing, finished in a colour equivalent to Colorbond colours "Windspray" or "Wallaby".

24. Construction Hours – Class 1 and 10

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5:00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.

25. Survey Prior to Footings

Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.

PRIOR TO OCCUPATION CERTIFICATE**26. No Encroachments**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.

27. Protect Sandstone Kerb

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any damaged stone kerb has been replaced.

28. Works as Executed – Site Stormwater Drainage System

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that:

- a. The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards; and
- b. Works-as-executed plans of the stormwater drainage system certified by a Registered Surveyor, to verify that the drainage system has been constructed, OSD/OSR system commissioned and stormwater quality improvement device(s) and any pump(s) installed in accordance with the approved design and relevant Australian Standards have been submitted to Council. The works-as-executed plan(s) must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifier stamped Construction Certificate plans.

29. Operation and Management Plan

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an Operation and Management Plan has been prepared and implemented for the on-site detention and/or on-site retention/re-use facilities and stormwater quality improvement device(s) and pump(s). The Plan must set out the following at a minimum:

- a. The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners; and

- b. The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

30. No Weep Holes

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that any weep holes to Council road or footpath resulting from the building works have been removed.

31. Certification of Tree Planting

A minimum of 1 x 45L (L) litre size additional tree, which will attain a minimum mature height of six (6) metres, must be planted in a more suitable location within the property at a minimum of 1.5 metres from any boundary or structure and a minimum distance of 2m from the dwelling allowing for future tree growth. The tree is to conform to AS2303—*Tree stock for landscape use*. Trees listed as exempt species from Council's Tree Management Controls, and species recognised to have a short life span will not be accepted as suitable replacements.

If the replacement tree is found to be faulty, damaged, dying or dead within twelve (12) months of planting then it must be replaced with the same species (up to 3 occurrences). If the tree is found dead before it reaches a height where it is protected by Council's Tree Management Controls, it must be replaced with the same species.

ADVISORY NOTES

Permits

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- 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 veranda over the footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

Insurances

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

Prescribed Conditions

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

Notification of commencement of works

At least 7 days before any demolition work commences:

- a. the Council must be notified of the following particulars:
 - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - ii. the date the work is due to commence and the expected completion date; and
- b. a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

Storage of Materials on public property

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

Toilet Facilities

The following facilities must be provided on the site:

- a. Toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees; and
- b. A garbage receptacle for food scraps and papers, with a tight fitting lid.

Facilities must be located so that they will not cause a nuisance.

Infrastructure

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. 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 must be undertaken before occupation of the site.

Other Approvals may be needed

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

Failure to comply with conditions

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.

Other works

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Obtaining Relevant Certification

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;
or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

Disability Discrimination Access to Premises Code

The *Disability Discrimination Act 1992* (Commonwealth) and the *Anti-Discrimination Act 1977* (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

National Construction Code (Building Code of Australia)

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.

Notification of commencement of works

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

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

Dividing Fences Act

The person acting on this consent must comply with the requirements of the *Dividing Fences Act 1991* in respect to the alterations and additions to the boundary fences.

Permits from Council under Other Acts

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- 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; and
- 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. A lease fee is payable for all occupations.

Noise

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.

Amenity Impacts General

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

Construction of Vehicular Crossing

The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for *Construction of a Vehicular Crossing & Civil Works* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.

Lead-based Paint

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

Dial before you dig

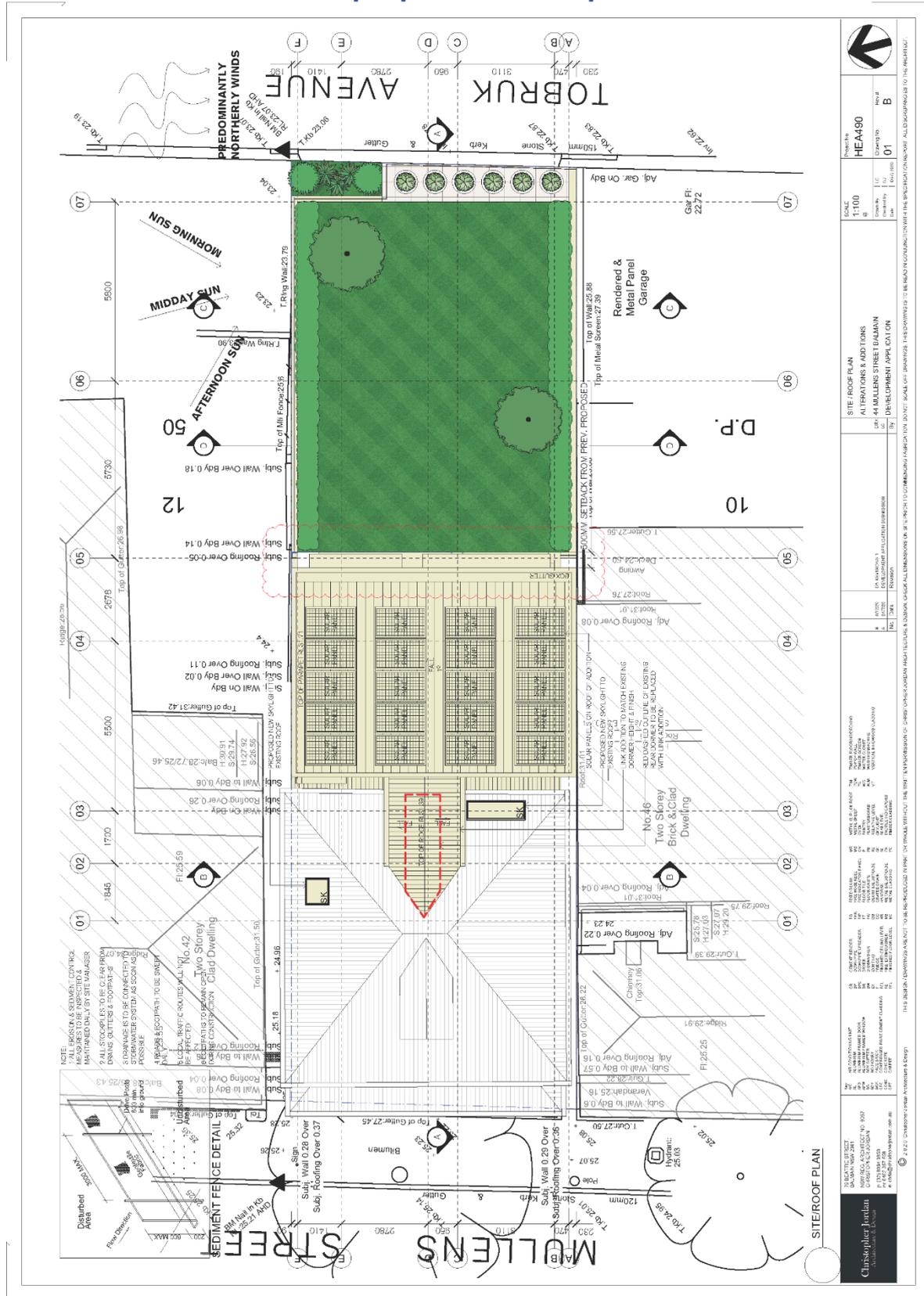
Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"

Long Service Payments Corporation	131441	www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406	www.foodnotify.nsw.gov.au
NSW Government		www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555	www.environment.nsw.gov.au
Sydney Water	13 20 92	www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	1300 651 116	www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)		www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50	www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

Attachment B – Plans of proposed development





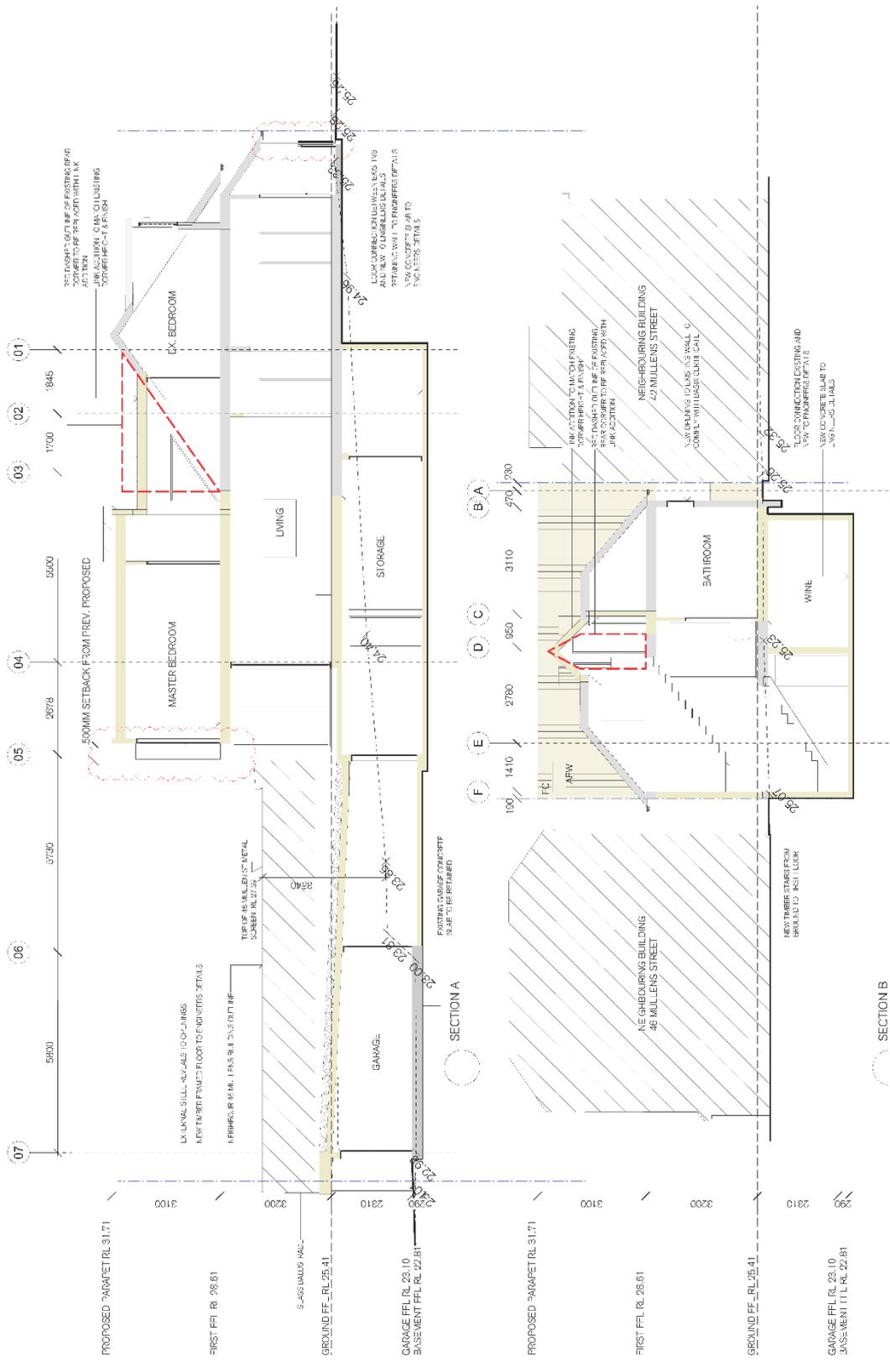
GROUND FLOOR PLAN
 ALTERATIONS & ADDITIONS
 44 MOLLENS STREET BALMAIN
 DEVELOPMENT APPLICATION

Project No: HEA490
 Scale: 1:100
 Date: 15/05/2019
 Drawn By: [Name]
 Checked By: [Name]

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 Architects & Design



PROPOSED 7646P/ET/RL 31.71

FIRST FFL RL 28.61

GROUND FF - RL 26.41

GARAGE FFL RL 23.10
BASEMENT FFL RL 22.81

PROPOSED 7646P/ET/RL 31.71

FIRST FFL RL 28.61

GROUND FF - RL 26.41

GARAGE FFL RL 23.10
BASEMENT FFL RL 22.81

NEIGHBOURING BUILDING 46 MULLENS STREET

FIRST FFL RL 28.61

GROUND FF - RL 26.41

GARAGE FFL RL 23.10
BASEMENT FFL RL 22.81

SECTION A

SECTION B

PROPOSED 7646P/ET/RL 31.71

FIRST FFL RL 28.61

GROUND FF - RL 26.41

GARAGE FFL RL 23.10
BASEMENT FFL RL 22.81

NEIGHBOURING BUILDING 46 MULLENS STREET

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PROPOSED 7646P/ET/RL 31.71

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NEIGHBOURING BUILDING 46 MULLENS STREET

FIRST FFL RL 28.61

GROUND FF - RL 26.41

GARAGE FFL RL 23.10
BASEMENT FFL RL 22.81

SCALE: 1:100
 DATE: 07/2024
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 PROJECT NO: HEA490
 SHEET NO: 07
 OF: 07

NO.	REVISION	DATE
1	ISSUED FOR PERMIT	07/2024
2	REVISED PER COMMENTS	08/2024

NO.	REVISION	DATE
1	ISSUED FOR PERMIT	07/2024
2	REVISED PER COMMENTS	08/2024

NO.	REVISION	DATE
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2	REVISED PER COMMENTS	08/2024

NO.	REVISION	DATE
1	ISSUED FOR PERMIT	07/2024
2	REVISED PER COMMENTS	08/2024

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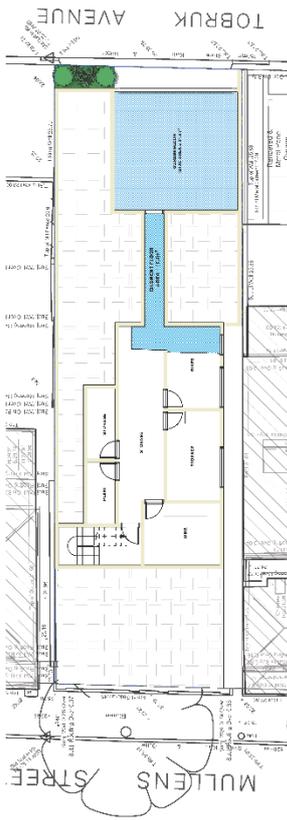


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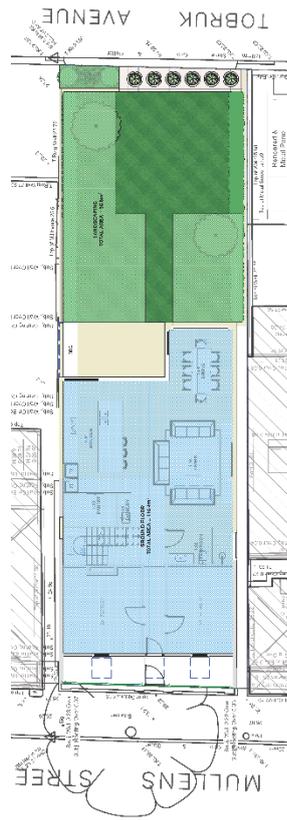


<p>Christopher Jordan Architects</p>	PROJECT ADDRESS: 44 MILLERS STREET BALMAIN BALMAIN NSW 1535 PHONE: 02 9550 1000 EMAIL: info@cjordan.com.au WEBSITE: www.cjordan.com.au	CLIENT: BALMAIN STREET BALMAIN DEVELOPMENT APPLICATION	SCALE: 1:100 DATE: 08/08/2023	SHEET NO: 08 OF: A
	PROJECT NO: HEA480	DESIGNER: Christopher Jordan Architects	CHECKED BY: [Signature]	DATE: 08/08/2023

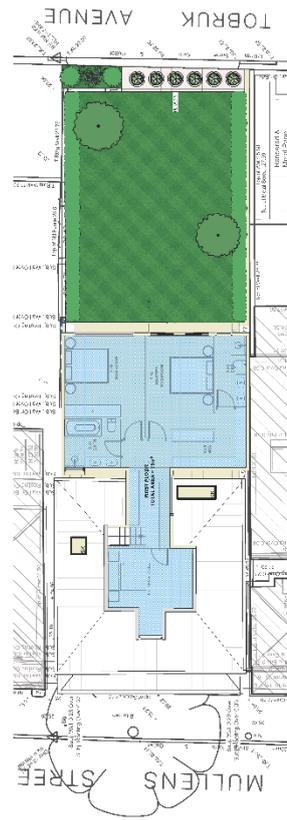
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GROUND FLOOR PLAN



GROUND FLOOR PLAN



FIRST FLOOR PLAN

SITE AREA	278.2m²
FSR (MAXIMUM)	0.9:1 (250.4m²)
EXISTING FLOOR AREAS	
GROUND	131.1m ²
FIRST	20.0m ²
TOTAL	151.1m²
FSR (EXISTING)	0.54:1 (151.1m²)
PROPOSED FLOOR AREAS	
GARAGE+BASEMENT	45.4m ²
GROUND	118.4m ²
FIRST	79m ²
TOTAL	242.8m²
FSR (PROPOSED)	0.87:1 (242.8m²)
LANDSCAPED AREA (MINIMUM)	20% (55.6m²)
LANDSCAPED AREA (PROPOSED)	21% (58.6m²)

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PROJECT NO: HEA490
 SCALE: 1:100
 DATE: 15/05/2023
 SHEET: 01 OF 01
 AREA: AREA02_A

FLOOR AREAS & ADDITIONS

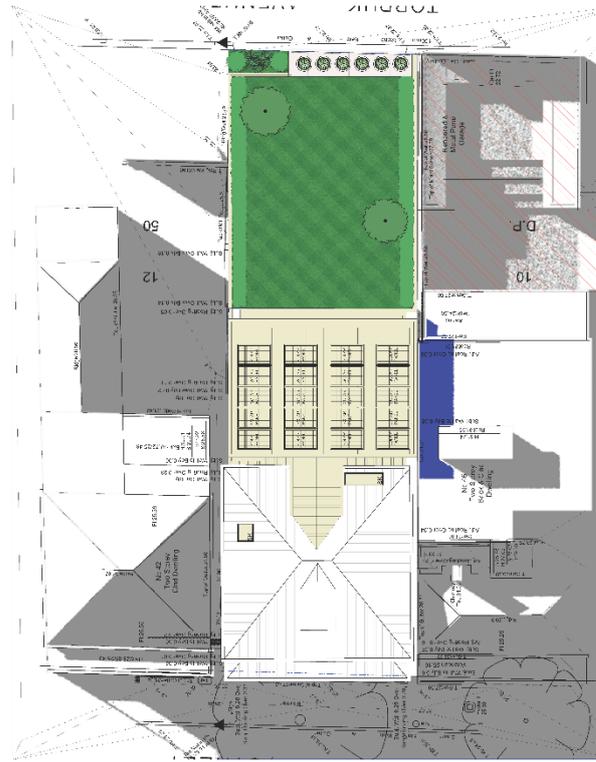
EXISTING FLOOR AREAS	151.1m ²
PROPOSED FLOOR AREAS	242.8m ²
TOTAL FLOOR AREAS	393.9m²

REDEVELOPMENT APPLICATION

By: [Signature]

NOTES:

- SEE ARCHITECT'S DRAWINGS FOR FURTHER DETAILS.
- ALL WORK TO BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
- THE CLIENT/ARCHITECT IS NOT RESPONSIBLE FOR ANY DELAYS OR COSTS INCURRED BY THE CONTRACTOR.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.



PRIVATE OPEN SPACE = 89.5MP
 DIRECT SUNLIGHT AVAILABLE = 34MF (38% OF PRIVATE OPEN SPACE)

LEGEND

- EXISTING SHADOWS
- PROPOSED SHADOWS
- PRIVATE OPEN SPACE - 46 MULLEN ST

SHADOW DIAGRAMS 9AM
 WINTER SOLSTICE 21 JUNE

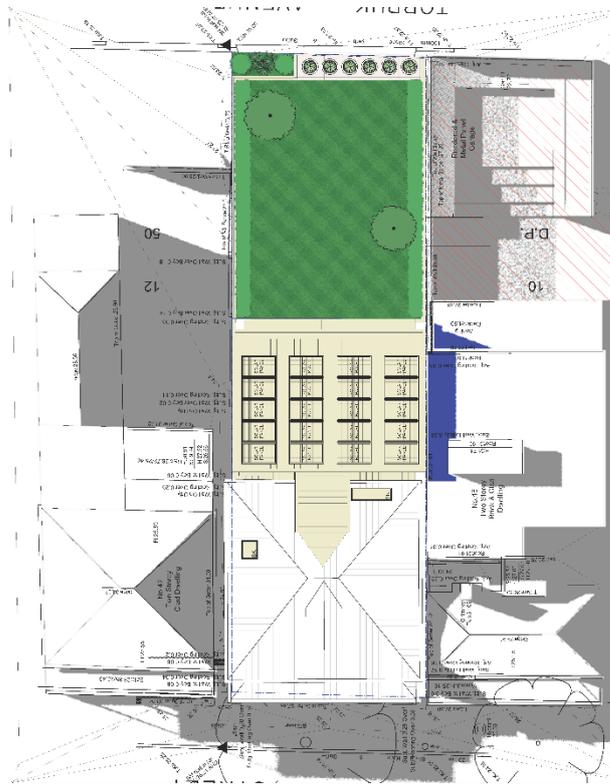
Christopher Jordan
 ARCHITECTURE
 11/11/2018
 11/11/2018
 11/11/2018

NO.	DESCRIPTION	DATE	BY	FOR
01	PRELIMINARY SHADOW DIAGRAMS	11/11/2018	CHRISTOPHER JORDAN	CLIENT
02	REVISIONS TO SHADOW DIAGRAMS	11/11/2018	CHRISTOPHER JORDAN	CLIENT
03	FINAL SHADOW DIAGRAMS	11/11/2018	CHRISTOPHER JORDAN	CLIENT

NO.	DESCRIPTION	DATE	BY	FOR
A	DEVELOPMENT APPLICATION	11/11/2018	CHRISTOPHER JORDAN	CLIENT
B	DEVELOPMENT APPLICATION	11/11/2018	CHRISTOPHER JORDAN	CLIENT
C	DEVELOPMENT APPLICATION	11/11/2018	CHRISTOPHER JORDAN	CLIENT
D	DEVELOPMENT APPLICATION	11/11/2018	CHRISTOPHER JORDAN	CLIENT

PROJECT NO: HEAM90
 SHEET NO: SH01
 DATE: 11/11/2018
 DRAWN BY: CHRIS JORDAN
 CHECKED BY: CHRIS JORDAN
 SCALE: AS SHOWN





PRIVATE OPEN SPACE = 89.5M²
 DIRECT SUNLIGHT AVAILABLE = 48.8M² (54.5% OF PRIVATE OPEN SPACE)

LEGEND

EXISTING SHADOWS

PROPOSED SHADOWS

PRIVATE OPEN SPACE - 46 MULLEN ST

SHADOW DIAGRAMS 10AM
 WINTER SOLSTICE 21 JUNE

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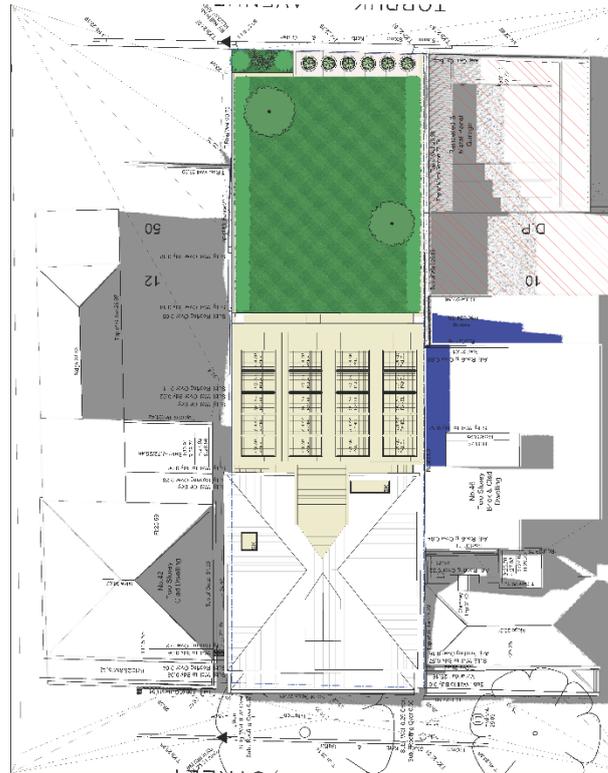
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SHADOW DIAGRAMS 10AM
 ALTERATIONS & ADDITIONS
 46 MULLEN STREET PARRAMATTA
 DEVELOPMENT APPLICATION
 No: 25/2020/DC/SHC2
 Date: 10/06/2020
 By: [Signature]

SCALE: 1:200
 Drawn By: LG
 Checked By: [Signature]

Project No: HEA490
 Revision: SHC2
 Date: 10/06/2020





PRIVATE OPEN SPACE = 89.5M²
 DIRECT SUNLIGHT AVAILABLE = 59.8M² (66.6% OF PRIVATE OPEN SPACE)

LEGEND

- EXISTING SHADOWS
- PROPOSED SHADOWS
- PRIVATE OPEN SPACE - 46 MULLEN ST

SHADOW DIAGRAMS 11AM
 WINTER SOLSTICE 21 JUNE

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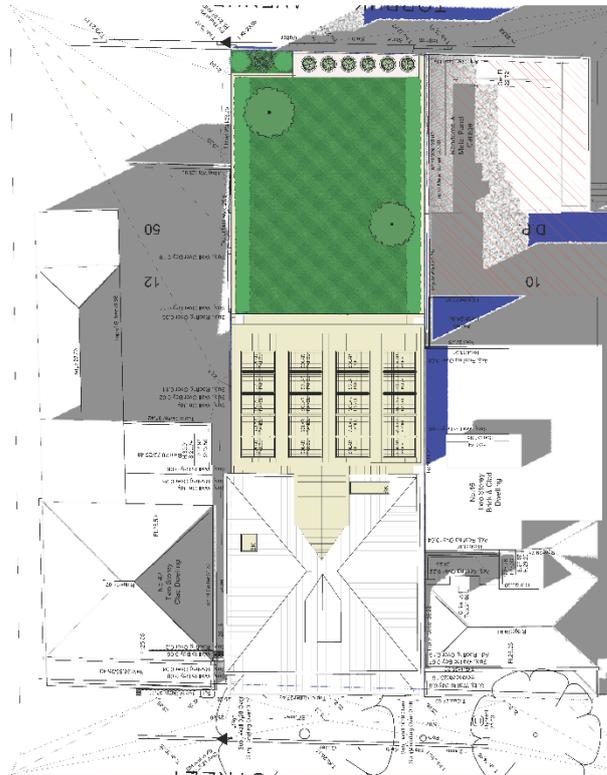
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DATE	12/03/2018
SCALE	1:200
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CHECKED BY	J. LEE
DATE	12/03/2018
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DATE	12/03/2018
SCALE	1:200
DRAWN BY	J. LEE
CHECKED BY	J. LEE
DATE	12/03/2018

NO.	1	DATE	12/03/2018	BY	J. LEE	DESCRIPTION
NO.	2	DATE	12/03/2018	BY	J. LEE	REVISION

SHADOW DIAGRAMS 11AM
 ALTERATIONS & ADDITIONS
 46 MULLEN STREET BALMAIN
 DEVELOPMENT APPLICATION

Project: HEA4490
 Drawing No: SH03
 Scale: 1:200
 Date: 12/03/2018

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PRIVATE OPEN SPACE = 89.5M²
 DIRECT SUNLIGHT AVAILABLE = 39.95M² (44% OF PRIVATE OPEN SPACE)

LEGEND

- EXISTING SHADOWS
- PROPOSED SHADOWS
- PRIVATE OPEN SPACE - 46 MULLEN ST

SHADOW DIAGRAMS IFM
 WINTER SOLSTICE 21 JUNE

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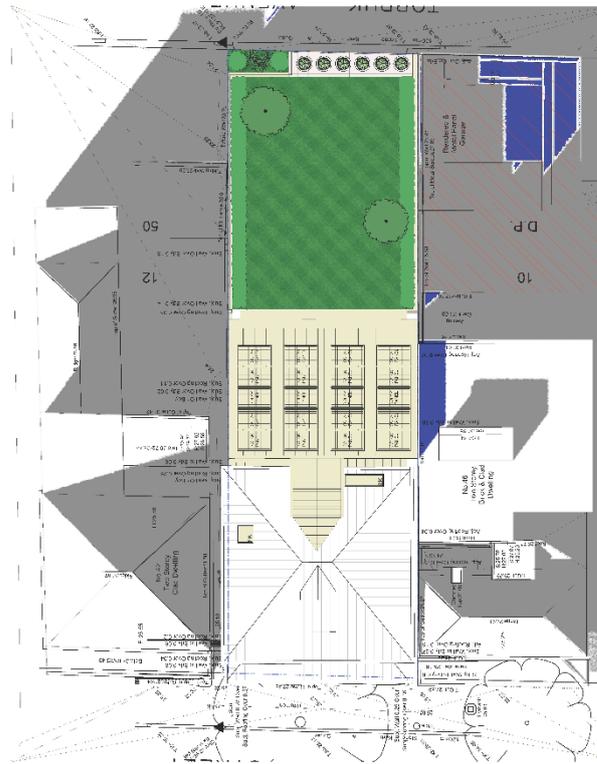
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3	22/10/2018	Issue for comment
4	29/10/2018	Issue for comment
5	05/11/2018	Issue for comment
6	12/11/2018	Issue for comment
7	19/11/2018	Issue for comment
8	26/11/2018	Issue for comment
9	03/12/2018	Issue for comment
10	10/12/2018	Issue for comment
11	17/12/2018	Issue for comment
12	24/12/2018	Issue for comment
13	31/12/2018	Issue for comment
14	07/01/2019	Issue for comment
15	14/01/2019	Issue for comment
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78	29/03/2020	Issue for comment
79	05/04/2020	Issue for comment
80	12/04/2020	Issue for comment
81	19/04/2020	Issue for comment
82	26/04/2020	Issue for comment
83	03/05/2020	Issue for comment
84	10/05/2020	Issue for comment
85	17/05/2020	Issue for comment
86	24/05/2020	Issue for comment
87	31/05/2020	Issue for comment
88	07/06/2020	Issue for comment
89	14/06/2020	Issue for comment
90	21/06/2020	Issue for comment
91	28/06/2020	Issue for comment
92	05/07/2020	Issue for comment
93	12/07/2020	Issue for comment
94	19/07/2020	Issue for comment
95	26/07/2020	Issue for comment
96	02/08/2020	Issue for comment
97	09/08/2020	Issue for comment
98	16/08/2020	Issue for comment
99	23/08/2020	Issue for comment
100	30/08/2020	Issue for comment

SHADOW DIAGRAMS IFM
 ALTERATIONS & ADDITIONS
 2/46 MULLEN STREET BALMAIN
 DEVELOPMENT APPLICATION

Scale	Project No.
1:200	HEA490
Drawn By: J.C.	Checked By: J.C.
Scale No: SH05	Scale: A



THIS DRAWING IS PROVIDED AS A GUIDE ONLY. IT IS NOT TO BE USED FOR CONSTRUCTION. THE DRAWING IS TO BE REPRODUCED ONLY WITH THE SPECIFICATION AND WITH THE APPROVAL OF THE ARCHITECT.



— PRIVATE OPEN SPACE = 88.5M²
 DIRECT SUNLIGHT AVAILABLE = 0M² (0% OF PRIVATE OPEN SPACE)

LEGEND

- EXISTING SHADOWS
- PROPOSED SHADOWS
- PRIVATE OPEN SPACE - 46 MULLEN ST

SHADOW DIAGRAMS 3PM
 WINTER SOLSTICE 21 JUNE

Christopher Jordan
 ARCHITECTURE

DATE: 21/06/2017
 PROJECT: 46 MULLEN STREET BALMAIN
 DRAWING NO: SH07
 SHEET NO: A

SHADOW DIAGRAMS 3PM
 ALTERATIONS & ADDITIONS
 46 MULLEN STREET BALMAIN
 DEVELOPMENT APPLICATION

Project No: HEA490
 Scale: 1:200
 Date: 21/06/2017
 Drawing No: SH07
 Sheet No: A



Attachment C- Clause 4.6 Exception to Development Standards

Christopher Jordan
Architecture & Design

Clause 4.6 Variation: LANDSCAPE

To Accompany
Development Application
For Alterations & Additions

44 MULLENS ST BALMAIN

4.6 Exceptions to development standards

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

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

(5) In deciding whether to grant concurrence, the Director-General must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

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

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

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

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

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

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

(a) a development standard for complying development,

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

(c) clause 5.4.

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The applicant requests a variation under Clause 4.6 to landscaped area standard contained under Clause 4.3A of LLEP 2013.

Any variation request must justify the need to vary the particular development standard by considering the following:

- *whether strict compliance with the standard, in the particular case, would be unreasonable or unnecessary and why, and*
- *demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard.*

Strict application of the landscaped area development standard is considered unreasonable and unnecessary in the circumstances of the case for the following reasons:

1. The design of the development provides a desirable urban form that maintains the existing site as a single residence, and creates an increase to landscaped area and private open space. The alterations and additions reduce the building footprint and hence it is deemed unnecessary to meet the 20% required landscaping.
2. The geotechnical investigations have found that the existing soil depth over bedrock is only about 250mm and therefore the existing site could be calculated as having 0% landscaped area. The existing soil depth does not support substantial vegetation.
3. The site is not heritage listed but is located within a Conservation Area. The retention of the principle original structure of the building will be encouraged by Council.
4. The proposed first floor addition has been sympathetically designed to consider the amenity and character of the surrounding neighbourhood.
5. The proposed landscaped areas, while they do not strictly comply with council's definition of landscaped area because of the increased depth of fill actually results in the opportunity to plant larger plantings with canopy cover.
6. The development does not itself create any adverse impact by way of privacy or bulk and scale that could be viewed by neighbours or those passing the site within the public domain.
7. No additional amenity impacts arise as a result of the proposal.
8. The development achieves the aims and objectives of LLEP 2013.
9. The proposal satisfies the zone objectives.
10. The proposal increases upon the existing landscaped area, providing landscaping to the front of the site to Beattie Street.

The relevant objectives are as follows and a comment is provided in relation to each objective demonstrating adequacy of the proposal and the requested variation:

(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,

The proposal provides a far greater soil depth than is existing on the site. Currently only approximately 250mm of fill covers the underlying bedrock. The existing landscaped area is unsuitable for substantial tree planting, while the proposal results in increased soil depth suitable for substantial tree planting. The proposed landscaped area also integrates better with the interior living spaces and with the green roof over the garage, providing a substantial area for outdoor living.

(b) to maintain and encourage a landscaped corridor between adjoining properties,

The proposal provides more opportunity for substantial planting than the existing conditions on the site, thereby increasing the opportunity for a landscaped corridor when other sites are redeveloped. Both neighbours currently have very little area which is landscaped.

(c) to ensure that development promotes the desired future character of the neighbourhood,

The proposal results in an excellent outcome providing increased amenity to an existing residence.

(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,

44 Mullens St Balmain

The increased soil depth will provide an increased sponge affect compared to the existing situation, and will result in a reduction of surface and subsurface flows.

(e) to control site density,

The proposal does not result in additional residences.

(f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.

The proposal has a smaller footprint than the existing dwelling and substantially increased area for substantial planting and private open space.

In order for council to consider a variation the proposal must be consistent with the zone objectives:

1 Objectives of zone

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

The subject proposal satisfies the stated residential objectives given that:

- The amenity is enhanced by the development due to the improved architectural presentation of the building.
- The proposal is compatible with the grain of development due to the retention of the original principle building, particularly the pitched roofs on Mullens St.
- Provision of increased passive and active recreational spaces for the dwelling - rear yard.
- The proposal will enhance the long term amenity of the neighbourhood, compatible with the desired character of the area yet sympathetic to its past use and heritage.

It is considered that the variation to the landscaped standard in this case is reasonable and should be accepted by council as the proposed development does not have an adverse impact on the surrounding environment and the design is within the guidelines outlined in the Leichhardt LEP 2013 and DCP.

Yours Sincerely,



Chris Jordan, Director

Christopher Jordan Architecture & Design

Page 3

Christopher Jordan
Architecture & Design

Clause 4.6 Variation: SITE COVERAGE

To Accompany
Development Application
For Alterations & Additions

44 Mullens St Balmain

4.6 Exceptions to development standards

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

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

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Director-General has been obtained.

(5) In deciding whether to grant concurrence, the Director-General must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

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

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

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

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

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44 Mullens St Balmain

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

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

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

The applicant requests a variation under Clause 4.6 to site coverage landscaped area standard contained under Clause 4.3A of LLEP 2013.

Any variation request must justify the need to vary the particular development standard by considering the following:

- *whether strict compliance with the standard, in the particular case, would be unreasonable or unnecessary and why, and*
- *demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard.*

Strict application of the site coverage development standard is considered unreasonable and unnecessary in the circumstances of the case for the following reasons:

1. The proposal does not seek to increase the site coverage of the property, the proposal instead reduces the site coverage when compared to the existing situation. The design results in increased rear setbacks, substantially greater landscaped area and a larger area of private open space. The footprint of the primary building is substantially reduced and the garage effectively becomes a basement with a green roof supporting soil which will support lawn. Due to the scale of the proposed works it is deemed unnecessary to comply with the 60% site coverage control.
2. The proposed works do not impact the amenity of the neighbouring properties or the surrounding area.
3. The retention of the principle original structure of the building will be encouraged by Council.
4. The extent to which the property does not comply with the standard of 60% site coverage is minimal – being only 5% over the control while the existing site coverage is 10% over the control.
5. The proposed landscaped area, which is 58.6sqm, is a 30% increase over the existing landscaped area and exceeds the minimum requirement.
6. The proposal satisfies the zone objectives.

The relevant objectives are as follows and a comment is provided in relation to each objective demonstrating adequacy of the proposal and the requested variation:

(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,

-The site contains adequate soft landscaped area (21%) which allows for the planting of trees. The proposal includes a substantial increase over the existing landscaped area.

(b) to maintain and encourage a landscaped corridor between adjoining properties,

- The proposal results in a larger landscaped corridor area.

(c) to ensure that development promotes the desired future character of the neighbourhood,

-The proposal promotes the desired future character of the area as it increases the amenity of the site.

(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,

- the proposal has an overall reduction in site coverage when consideration of all paved areas is included.

Larger planted areas are proposed and therefore stormwater runoff will be reduced from the site.

(e) to control site density,

-Existing site density is retained

(f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.

44 Mullens St Balmain

- the proposal substantially increases the landscaped area and private open space available on the site and both exceed minimum requirements.

(2) This clause applies to development for the purpose of residential accommodation on land in Zone R1 General Residential.

(3) Development consent must not be granted to development to which this clause applies unless:

- (a) the development includes landscaped area that comprises at least –
- (i) where the lot size is equal to or less than 235 square metres – 15% of the site area, or
 - (ii) where the lot size is greater than 235 square metres—20% of the site area, and
- The proposal increases the landscaped area to 21% of site area).

(b) the site coverage does not exceed 60% of the site area.

-The proposal does not seek to increase the site coverage of the property, it reduces the site coverage. Due to the minor non-compliance of the site coverage (5%), the proposal is deemed adequate.

The proposal demonstrates that the built form is compatible with the desired future character in the area. There is no potential for this development to have a jarring effect on the streetscape or landscaped area. There are no changes to the bulk and scale of the property.

In order for council to consider a variation the proposal must be consistent with the zone objectives:

1 Objectives of zone

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

The subject proposal satisfies the stated residential objectives given that:

- The amenity is enhanced by the development by creating better internal and external amenity with a substantial increase in private open space.
- The proposal is compatible with the grain of the surrounding development due to the retention of the existing façade and principle original roof form.
- The proposal will enhance the long term amenity of the neighbourhood, compatible with the desired character of the area yet sympathetic to its past use.
- The proposal increases the soft landscaped area which is 21% of site area.

It is considered that the minor variation to the site coverage standard in this case is reasonable and should be accepted by council as the proposed development does not have an adverse impact on the surrounding environment and the design is within the guidelines outlined in the Leichhardt LEP 2013 and DCP.

Yours Sincerely,



Christopher Jordan, Director