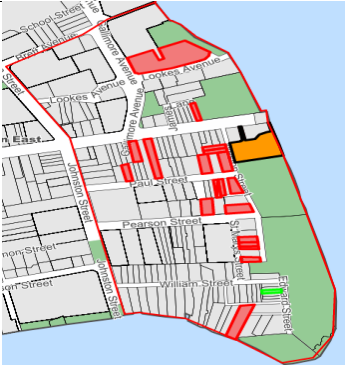





 DEVELOPMENT ASSESSMENT REPORT				
Application No.	MOD/2021/0433			
Address	2-8 Weston Street BALMAIN EAST NSW 2041			
Proposal	Modify approval for restaurant as follows: amend Conditions 12(e), 55, 65, and 66 of Development Consent D/2015/299 (as modified), relating to the Plan of Management, approved operating hours, bicycle parking provision, and waste disposal. Also, satisfy Condition 12(e) relating to parking and patron travel patterns and seeks to renew the trial extended operating hours of the venue for a further five (5) years			
Date of Lodgement	13 October 2021			
Applicant	Bill Drakopoulos			
Owner	Inner West Council			
Number of Submissions	Initial: 14 After Renotification: 0			
Value of works	\$352,000.00			
Reason for determination at Planning Panel	<ul style="list-style-type: none"> Number of submissions received Inner West Council is the owner of the subject site and is leased to the applicant. 			
Main Issues	<ul style="list-style-type: none"> Trial period was impacted by Covid-19 lockdown, therefore traffic flow and patronage are not reflective of "normal activities" pre-Covid. Traffic movement Parking shortage/problems Self-assessment of parking and patronage survey is not robust Noise generated Hours of waste disposal/collection 			
Recommendation	Approved with Conditions			
Attachment A	Proposed Conditions of Consent – Notice of Determination			
Attachment B	Statement of Support. This document includes Attachments C to F.			
Attachment C	Plan of Management			
Attachment D	Patrons Travel Survey			
Attachment E	Heritage Impact Statement			
Attachment F	Acoustic Impact Statement			
				
LOCALITY MAP				
Subject Site		Objectors		N 
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council to modify development consent D/2015/299 approved on 23 August 2016. That approval was for the adaptive reuse of Fenwicks stone building as a licenced cafe with gallery space including associated accessibility improvements, public toilet facilities, new access path and reconfiguration of car parking in Illoura Reserve. The modification application the subject of this report seeks to amend Conditions 12(e), 55, 65, and 66 of Development Consent D/2015/299 (as modified), which relates to the Plan of Management, approved operating hours, bicycle parking provision, and waste disposal; satisfy Condition 12(e) relating to parking and patron travel patterns; and renew the trial period of the extended operating hours of the venue for a further five (5) years at 2-8 Weston Street BALMAIN EAST NSW 2041.

The application was notified to surrounding properties and 14 submissions were received in response to the initial notification. Zero (0) submissions were received in response to re-notification of the application. The modification application was re-notified to widen the distribution list.

The main issues that have arisen from the application include:

- Traffic and parking problems.
- Noise generated by the operation of the restaurant.
- The 12-month trial period was impacted by Covid-19 lockdown and closures and therefore, the trial period is not a true indication of normal trading.
- The patron and travel surveys are self-reported without substantive evidence to indicate the numbers provided are true and factual.

The proposal is recommended for approval subject to the imposition of conditions of consent.

2. Proposal

Details of the proposed modification to D/2015/299 includes the following:

- Deletion of Condition 12 (e) regarding patron travel and parking survey requirements as the applicant seeks this condition to have been satisfied.
- Amend Condition 55 by extending the period of extended trading hours for both internal and external dining areas for another five (5) years.
- Deletion of Condition 65 regarding bicycle parking provisions due to low demand.
- Deletion of Condition 66 regarding waste disposal and collection as this is a repetition of Condition 57.

3. Site Description

The subject site is located on the eastern side of Weston Street at the end of Darling Street. Weston Street is situated between Darling Street and Paul Street, Balmain East. The subject site is located along the western foreshore of the Parramatta River with the Darling Street Ferry Wharf located north-east of the subject site while Illoura Reserve abuts the subject site

on the southern boundary. Located on the western boundary of the subject site are low density residential dwellings, some of which are heritage listed items.

The subject site at 2-8 Weston Street, Balmain East consists of The Fenwick building, a heritage listed item, which has three allotments, legally known as 1/DP83357, 1/DP722968, and 1/DP89648. The subject site is irregularly shape with an approximate 11.5m frontage on Weston Street with the rear boundary fronting Illoura Reserve with an approximate length of 49m, and an approximate total area of 1481m². The Fenwick's front elevation overlooks the harbour foreshore.

As previously mentioned, The Fenwick is a heritage listed item on the State Heritage Register (SRH No.: 01396) under the *Heritage Act 1977* and under Schedule 5 of the Leichhardt Local Environmental Plan 2013, (item I492). It is also located in Balmain East Distinctive Neighbourhood (C2.2.2.2) of the Leichhardt Development Control Plan 2013.

The subject site is not a flood control lot but is identified as a foreshore inundation lot. There are no trees of significance within proximity of the subject site. However, as mentioned earlier, it abuts Illoura Reserve to the south which is a Heritage Landscape Item.

The subject site is zoned RE1 Public Recreation under the Leichhardt Local Environmental Plan 2013. Please see Figure 2 below. Restaurants or cafes are permissible development with consent in areas zoned RE1 Public Recreation.

Figure 2: the subject site in dashed yellow is zoned RE1 Public Recreation. Source: NSW Planning Portal, 18 February 2022.



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
D/2015/299	Adaptive reuse of Fenwicks stone building as a licenced cafe with gallery space including associated accessibility improvements, public toilet facilities, new access path and reconfiguration of car parking in Illoura Reserve.	Approved by Council on 23/08/2016
MOD/ <u>2020</u> /0174	Modify hours of operation of restaurant to allow evening use	Approved by Local Planning Panel on 08 December 2020
MOD/ <u>2021</u> /0174	Modify approved restaurant operation to permit outdoor shade umbrellas, coffee cart, garbage store and various operational requirements such as mechanical/cooling installations	Lodged 10 May 2021; under separate assessment
MOD/2021/0433	Modify approval for restaurant as follows: amend Conditions 12(e), 55, 65, and 66 of Development Consent D/2015/299 (as modified), relating to the Plan of Management, approved operating hours, bicycle parking provision, and waste disposal. Also, satisfy Condition 12(e) relating to parking and patron travel patterns and seeks to renew the trial extended operating hours of the venue for a further five (5) years	Lodged 13 October 2021; the subject of this modification development application.

4(b) Application history

Not applicable

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 (Coastal Management) 2018*

- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

The following provides further discussion of the relevant issues:

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. Leichhardt Development Control 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 been used in the past for activities which could have potentially contaminated the site. The proposed development is for the deletion and/or modification of certain conditions of consent. It is considered that the proposed modification will not require remediation in accordance with *SEPP 55*.

5(a)(ii) *State Environmental Planning Policy (Coastal Management) 2018 (SEPP 64)*

The subject site is not captured within the coastal wetlands or littoral rainforest area map but is located within coastal environment area and coastal use area under the provisions of the Coastal Management SEPP. The proposed development seeks to modify and/or delete conditions of consent and no building works or additional seats are proposed as part of this modification proposal and as such the proposal as modified will remain compliant with the aims of the Policy.

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

The proposed modification does not include any physical works to the existing building or surrounds.

The waterway adjoining the site is zoned W1 Maritime Waters. The proposed modification does not include any physical works and the existing approval for the adaptive reuse of The Fenwick is positioned above mean high water mark (MHW) and therefore do not involve any works within a designated zoned area of SREP 2005.

The proposal does not fall within the definition of land-based development (i.e. boat sheds, reclamation works, sea walls, swimming pools and water front access stairs) of land/water interface development and therefore does not require consent pursuant to Clause 5(1) SREP 2005.

The proposed modification and/or deletion of conditions of consent would not have an adverse effect on environmental heritage, the visual environmental, the natural environment and open space and recreation facilities and as such will remain compliant with the aims of the Policy.

(i) Clause 2 – Aims of the Plan

The proposal is considered to be consistent with the aims of this Plan as the works the subject of the modification will promote public usage of the building and its surrounds whilst not adversely impacting onto the waterway or foreshore area of the harbour.

(ii) Clause 21 - Biodiversity, ecology and environment protection

The proposal will not adversely impact onto the water quality of the adjoining harbour.

(iii) Clause 22 - Public access to, and use of, foreshores and waterways

Existing public access along and to the foreshore will be maintained.

(iv) Clause 24 - Interrelationship of waterway and foreshore uses

The proposed modification involves amendments to existing conditions attached to a heritage listed building that does not involve physical works to the building, nor does it involve any works within the adjacent waterway. The proposal is not likely to affect or cause any conflicts with waterway activities along this section of the harbour.

(v) Clause 25 - Foreshore and waterways scenic quality

The site is located at the northern end of Illoura Reserve along the Balmain East foreshore. The proposed modification will not impact and will largely maintain the scenic quality of the foreshore.

(vi) Clause 26 - Maintenance, protection and enhancement of views

The proposed modification would not result in any significant impact on views to, and from, the waterway.

This DA was not required to be referred to the Foreshores and Waterways Advisory Committee pursuant to Clause 29.

5(a)(iv) *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 5.10 – Heritage Conservation
- Clause 6.5 – Limited development on foreshore area
- Clause 6.6 – Development on foreshore must ensure access

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

The site is zoned RE1 Public Recreation under the Leichhardt Local Environmental Plan 2013 (LLEP 2013). The proposed modification is largely to an approved restaurant with an attached art space which is permissible development with consent under LLEP 2013.

The proposed modification are amendments to and deletion of certain conditions of consent. As such, the modification proposal does not seek to intensify the occupancy of the existing restaurant, nor hinder the use of the public recreational areas and is largely consistent with the objectives of land zoned RE1 Public Recreation.

(ii) Clause 5.10 – Heritage Conservation

The Fenwick is listed as an item of an environmental heritage state significance and listed under the State Heritage Register (SHR No.: 01396) under the *Heritage Act 1977* and is also listed under Schedule 5 (Item No.: 1492) of the Leichhardt Local Environmental Plan 2013. Further, it is listed on the National Trust Heritage Register. It is also captured under Balmain East Heritage Conservation Area of the LEP, and is located within the Balmain East Distinctive Neighbourhood under the Leichhardt Development Control Plan 2013.

The subject site is within proximity of a number of other heritage items, including the former Shipwright's Arms at 10 Darling Street Balmain, the interiors of 12 Darling Street Balmain, 2 Paul Street, Balmain and Illoura Reserve to the south is listed as a landscaped item.

The proposed modification will not impact on the conservation of the environmental heritage of The Fenwick or surrounds; it will be able to maintain the heritage significance of The Fenwick and surrounding heritage items. The proposal does not include any demolition or alteration or intensification to the existing item and no excavation is proposed which may disturb any archaeological artefacts. Therefore, the proposal is considered to be consistent with the objectives of this clause.

(iii) Clause 6.5 – Limited Development on Foreshore Area

The proposed modification does not include any physical works that will impact on the natural foreshore process, and neither will it have any significant and adverse effect on the amenity of the foreshore area. Therefore, the proposed modification largely satisfies the provisions and matters for consideration of this clause.

(iv) Clause 6.6 – Development on the Foreshore Must Ensure Access

The proposed modification will not impact on the continued access to and from public land, above mean high water mark, along the foreshore and other open space. The proposed modification satisfies the provisions and matters for consideration of this clause.

Overall, the proposed modification is considered to satisfy the provisions of the relevant clauses, as discussed above, of the Leichhardt Local Environmental Plan, 2013.

5(b) Draft Environmental Planning Instruments

There are no relevant Draft Environmental Planning Instruments.

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 amended provisions contained in the Draft IWLEP 2020 are not relevant to the assessment of the application. Under the Draft IWLEP 2020 the subject site will remain as a listed heritage item. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

5(d) Development Control Plans

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

LDCP2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes – see discussion in Section 5(g)
Part C: Place – Section 1 General Provisions	
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.7 Site Facilities	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	No, but subject to conditions imposed is acceptable. See discussion.
C1.13 Open Space Design Within the Public Domain	Yes
C1.20 Foreshore Land	Yes
Part C: Place – Section 2 Urban Character	
C2.2.2 Balmain East Distinctive Neighbourhood	Yes
Part C: Place – Section 4 – Non-Residential Provisions	
C4.5 Interface Amenity	No, but subject to conditions imposed is acceptable. See discussion.
C4.11 Licensed Premises and Small Bars	Yes
C4.20 Outdoor Dining Areas	Yes

Part C: Place – Section 1 General Provisions**C1.11 Parking**

The subject site and its street networks have constrained parking availability due to the heritage status of the subject site and many surrounding properties including park lands. Therefore, there is very limited scope to provide on-site car parking at The Fenwick. The application also received a number of neighbour submissions which centres around parking problems exacerbated by The Fenwick's extended trading hours.

While parking issues are of concern the subject site is well serviced by public transport including the ferry wharf and buses. The applicant has also submitted tables indicating the result of patrons' travel patterns for a period of three (3) months. This is in accordance with Conditions of Consent 12 (e). The submitted tables indexed patron travel modes to primarily be, and in order of frequent usage: uber/taxi; then public transport; followed by car usage; and then walking. It is noted that substantive evidence demonstrating who undertook and how the surveys were conducted was not submitted as part of this modification proposal.

Additionally, the 12-month trial period in which The Fenwick should have been operating was impacted by the Covid-19 pandemic lockdown. Thus, this trial period and submitted survey results are not a true indication of high peak season and low peak season as would normally be experienced by a restaurant idyllically located along a Sydney Harbour foreshore.

Thus, it is recommended that condition 12 (e) is amended to allow a further 18 months trial period of the extended trading hours. It is also recommended that the applicant engage a professional and certified traffic surveyor to undertake a study of parking impacts. It is recommended the surveyor is to make a conclusion if there is a direct correlation to the parking demands within the study area and The Fenwick's extended trading hours, ergo The Fenwick's patrons' demand on parking. The study area is recommended to include all streets and laneways in a 300m radius of the subject site (excluding the waterways). Please see Figure 4. This is largely consistent with the distribution area of the neighbour notification. Please see Figure 5. It is recommended that this is to be undertaken at intervals of at least 4 times x a month for 18 months including Friday and Saturday evenings.

The deletion of Condition 65 with regard to bicycle rack is largely supported due to its apparent low usage.

Figure 4: contained within the blue radial circle is proposed study area which is 300m radius from the subject site.

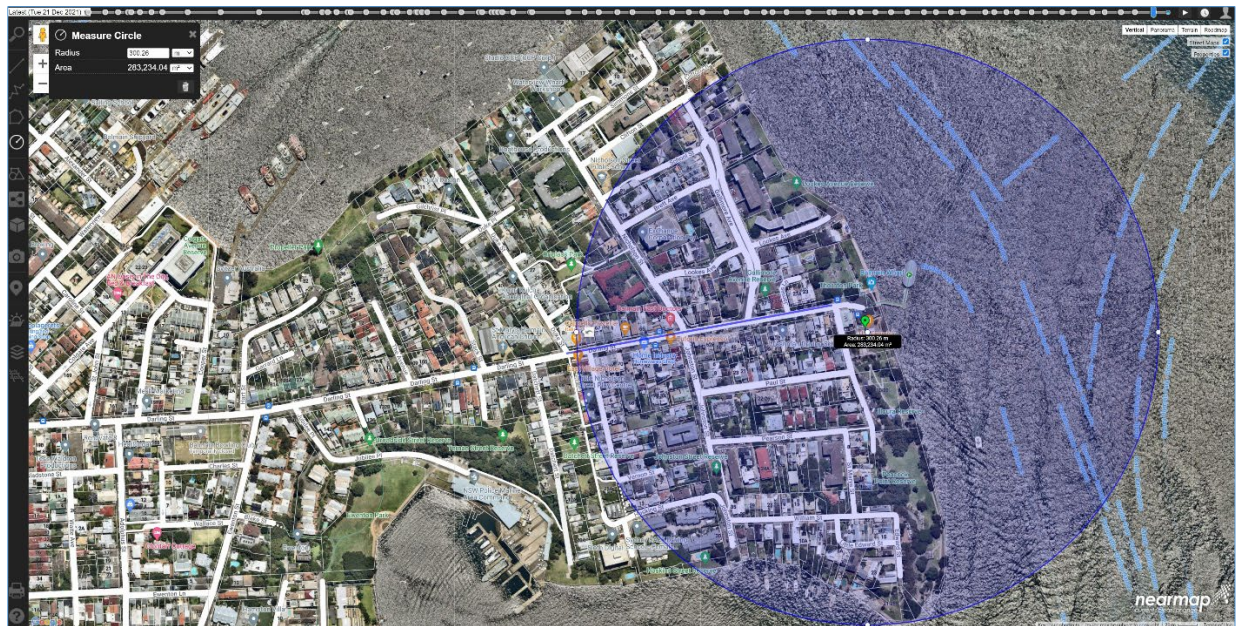
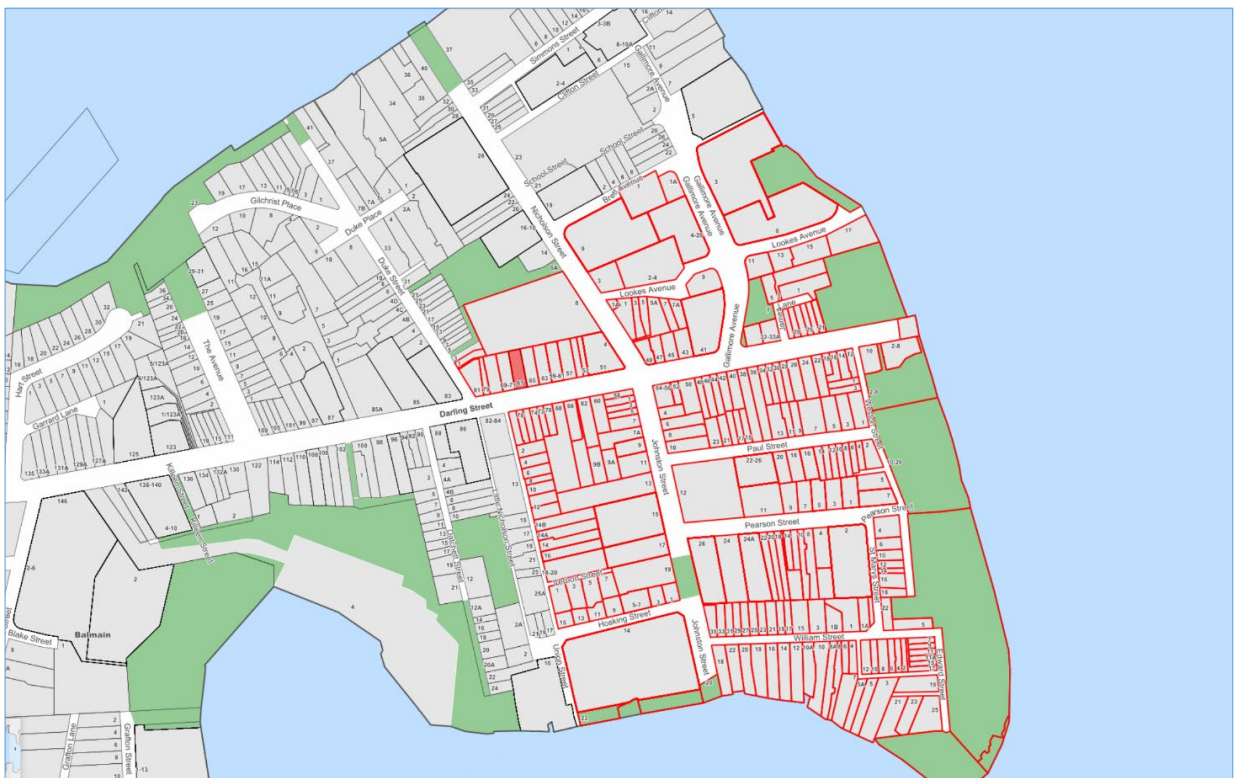


Figure 5: Notification area marked in red borders.



Part C: Place – Section 4 – Non-Residential Provisions**C4.5 Interface Amenity**

The objectives of this Part of the LDCP 2013 are as follows:

“To ensure that development does not impact the surrounding area or cause unreasonable nuisance to any other use by way of:

- a) noise;*
- b) odour;*
- c) vibration;*
- d) overshadowing; and*
- e) overly bulky or overbearing development that significantly reduces outlook or privacy”*

Noise controls of this part of the DCP notes that *“noise generating activities have the potential to cause adverse amenity impacts, and include activities such vehicle access and servicing, mechanical plant and equipment and areas where people congregate”*.

One of the issues raised by the submissions is the noise generated during waste collection, which often occurs between “2am, 4am” (*sic*).

The proposed modification includes the deletion of Condition 66 which is a repetition of Condition 57. See Conditions 57 and 66 below.

57 *Commercial waste and recyclable material generated by the premises must be collected between the hours 8am and 9pm only.*

66 *Waste Disposal*

8:00am to 9:00pm 7 days per week.

It is also noted that Condition 12 (c) also reflects this same condition however, flexibility is added where it is emphasised (***bold/italics/underlined***) as shown below.

12c) *Recycling and Waste Collection*

*The sorting and/or collection of waste and recycling must only not occur after 6pm **unless it can be done in a manner that does not have adverse acoustic impacts on surrounding properties or tenancies.***

Council’s Health – Internal team assessed the proposed modification and provided conditions with regard to Recycling and Waste Collection. This condition is copied below.

Commercial Waste/Recycling Collection

The collection of waste and recycling must only occur between 7:00am and 8:00pm weekdays and 9:00am and 5:00pm weekends and public holidays, to avoid noise disruption on the surrounding area.

Garbage and recycling must not be placed on the street for collection more than one (1) hour before the scheduled collection time. Garbage bins and containers are to be removed from the street within one (1) hour after collection.

Therefore, it is recommended that Condition 12 (c), Condition 57 and Condition 66 are all deleted as the condition imposed by Health – Internal is sufficient to address the aspect of commercial waste and recycling collection.

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 the Community Engagement Framework on 11 November 2021 to 23 December 2021 and 26 October 2021 and 15 November 2021 to surrounding properties.

An overall 14 submissions were received in response to the notification periods. The notification area can be found in Figure 5 above. Found earlier in Figure 1 are the premises which have provided a submission.

The following issues were raised and have been discussed in this report:

- Traffic movement and parking shortage
- Survey method undertaken
- Duration of trial period
- Hours of and noise generated during waste collections
- Deletion of Condition 12 (e)

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

Issue:

Ceding of public control of public land to private enterprise and commercial interest versus public interest

Comment:

The subject site is leased by Inner West Council to a private enterprise. The leasing of Council-owned land is outside the scope of this assessment process. However, this assessment process is to ensure that the commercial operation of the private enterprise is regulated and managed to appropriately protect both public interests and private enterprise. Subject to conditions of consent, the modification development application is considered acceptable.

Issue:

Disorderly conduct and noise

Comment:

Concerns are raised that disorderly conduct including littering and noise generated by patrons and staff, are evident during The Fenwick's operating hours. The submitted Plan of Management, which incorporates the recommendations made in the Noise Impact Assessment report, is considered to sufficiently address noise and patron behaviour (while at the premises, including when leaving the premises).

Patrons' behaviour when they are not on the premises are outside the scope of this assessment.

Overall, the proposed modifications are considered acceptable as the submitted Plan of Management and the existing imposed conditions sufficiently addresses the management of patrons onsite.

Issue:

Littering

Comment:

Public littering within the adjoining park falls outside the scope of the proposal and the assessment of the application.

Issue:

Increased footprint of the operation

Comment:

The proposed modification development will not increase the footprint of The Fenwick's footprint of operation. Further, Condition 64 (a) limits The Fenwick's capacity to a maximum occupancy of 80 persons/seats inclusive of all external seating which has a maximum of 24 persons/seats. This condition is maintained as part of this assessment and is not amended by this modification development.

Issue:

Reduced access from Weston Street to the foreshore.

Comment:

The proposed modification does not include any works that will reduce public access from Weston Street to the foreshore area. The outdoor dining area is given consent under a previous modification, and this would have been appropriately assessed, and conditioned as necessary, under that application.

Issue:

Increased use of and reduced access to the public toilets.

Comment:

The matter raised is outside the scope of this modification application. Additionally, the proposed modification is unlikely to increase the demand on existing public amenities which was not already considered as part of an assessment process in previous development applications.

Issue:

Covid concerns

Comment:

NSW Health's Public Health Orders with regard to Covid-19 will always have precedence over any commercial operations. The operators are subject to comply with NSW Health's guidelines with regard to safely operating throughout the pandemic.

Issue:

Proposed modification is inconsistent with the zoning of the site under the Leichhardt LEP 2013 and the classification as community land under the Local Government Act 1993.

Comment:

A Plan of Management is in place to ensure that The Fenwick and its operations are regulated and consistent with the needs of the business and the wider community. Further, Clause 24 of the *Local Government Act 1993* allows:

"a council may provide goods, services and facilities, and carry out activities, appropriate to the current and future needs within its local community and of the wider public, subject to this Act, the regulations and any other law".

Restaurants and cafes are permissible development with consent in areas zoned RE1 Public Recreation under Leichhardt LEP 2013 and, this includes food and drink premises. These are considered services, facilities and activities appropriate to meet the current and future needs of the community and the wider public.

Thus, The Fenwick and its services are considered to be types of services and facility appropriate for the provision of entertainment and economic activity to benefit the local and wider community.

Issue:

Inner West Planning Panel to determine application

Comment:

This modification development application is to be assessed by the Inner West Planning Panel.

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.

Subject to the imposition of conditions of consent, the proposal is not considered to be contrary to public interest.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals are discussed below.

Internal Referral	Comments
Development Engineering	Comments received.
Health – Internal	Conditions provided*.
Waste Management Commercial	No objections to this modification. The Plan of Management September 2021 outlines the ongoing waste management procedures. Health may have standard allocated collection times they may wish to impose.

* Planner Comment: some of the recommended conditions by Health – Internal are already imposed. However, Conditions 67 & 68 are to be added.

6(b) External

The application is not required to be referred externally, nor is it required to gain any General Terms of Agreement from any consent authorities as part of an integrated development application process.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions/7.12 levies are not payable for the proposal.

8. Conclusion

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

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

The application is considered suitable for approval subject to the imposition of appropriate conditions. Specifically, it is recommended that the following modifications are made to MOD/2020/0174:

9. Recommendation

- A. 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. MOD/2021/0433 for Modify approval for restaurant as follows: amend Conditions 12(e), 55, 65, and 66 of Development Consent D/2015/299 (as modified), relating to the Plan of Management, approved operating hours, bicycle parking provision, and waste disposal at 2-8 Weston Street, Balmain East subject to the conditions listed in Attachment A below.

Attachment A – Proposed Conditions of Consent - Notice of Determination

CONDITIONS OF CONSENT

1. Development must be carried out in accordance with Development Application No. D/2015/299 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
1418 Cover Sheet	Welsh+Major	November 2014
1418 Dwg No. DA 01 Issue C Site Plan (also referred to as Issue D)	Welsh+Major	9/10/2015
1418 Dwg No. DA 02 Issue C Roof Plan (also referred to as issue D)	Welsh+Major	9/10/2015
1418 Dwg No. DA 03 Issue D Ground Floor Plan(also referred to as issue E)	Welsh+Major	9/10/2015
1418 Dwg No. DA 04 Issue C First Floor Plan (also referred to as issue D)	Welsh+Major	9/10/2015
1418 Dwg No. DA 05 Issue C Section AA (also referred to as issue D)	Welsh+Major	9/10/2015
1418 Dwg No. DA 06 Issue C Section BB (also referred to as issue D)	Welsh+Major	9/10/2015
1418 Dwg No. DA 07 Issue C South Elevation (also referred to as issue D)	Welsh+Major	9/10/2015
1418 Dwg No. DA 08 Issue C North Elevation(also referred to as issue D)	Welsh+Major	9/10/2015
1418 Dwg No. DA 09 Issue C West Elevation (also referred to as issue D)	Welsh+Major	9/10/2015
1418 Dwg No. DA 10 Issue C East Elevation (also referred to as issue D)	Welsh+Major	9/10/2015
DA 01 Accessible Walkway Concept	Leichhardt Council	2.12.14
DA 02 Sections Finish	Leichhardt Council	2.12.14
DA-01 Tree Planting Concept	Leichhardt Council	11.05.15
Proposed Angle Parking Dwg.No. A1-838	Leichhardt Council	4 December 2015
Survey Plan REF 23900 Over 6-8 Weston Street	Norton Survey Partners	11-7-14
Survey Plan Illoura Reserve Job Ref 34430DT	Lockley Land Title Solutions	11-11-2011
Stormwater Drainage Plans Rev A	Meinhardt	2.12.14
Document Title	Prepared By	Dated
Arborist Report	Sydney Metro Tree Services	Nov 2014
Heritage Impact Statement Fenwick's Stone Building	City Plan Services	23/11/15
Heritage Impact Statement Proposed Works Illoura Reserve East Balmain	Musecape	26/1/2016
Archaeological Assessment	Casey & Lowe	May 2016
Site Waste Minimisation &Management Plan	Julian Oon	Undated
BCA Compliance Report	Environet Consultancy Pty Ltd	Dec 2014
Accessibility Report	Accessibility Solutions (NSW) Pty Ltd	2 nd Dec 2014
Noise Impact Assessment	Acoustic logic	26/5/2015
Traffic & Parking Impact Assessment	Mc Laren Traffic Engineering	20 April 2015
Construction Environmental Management	Consara	22 May 2015

Plan		
Summary of Environmental Condition and Assessment of Suitability	Consara	22 May 2015
Interpretive Signage Balmain Foreshore	Deuce Design	19/7/2013

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

2. The proposed development shall comply with following conditions attached to Section 60 Approval issued by the Office of Heritage dated 7 July 2016.
 - a) SHADE STRUCTURES
No shade structures are approved as part of this application. A separate approval under the provisions of the Heritage Act is required for any shade structures.
 - b) ARCHAEOLOGY
 - i) All archaeological works shall be in accordance with the approved research design and methodology outlined in Archaeological Impact Assessment, Research Design and s60 Documentation, 2-8 Weston Street and Illoura Reserve, Balmain, prepared by Casey and Lowe, dated May 2016 and revised in June 2016.
 - ii) This archaeological approval does not cover the removal of any State significant relics. This approval covers the archaeological monitoring and salvage of locally significant relics only.
 - iii) If substantial, intact State significant relics are discovered during works they must be left undisturbed in-situ and works must be re-designed around them.
 - iv) The Heritage Council of NSW or its Delegate must be informed in writing of the start of the archaeological investigation at least five (5) days prior to the commencement of, and within five (5) days of the completion of on-site archaeological work.
 - v) The Applicant must ensure that if substantial intact archaeological deposits and/or State significant relics not identified in 'Archaeological Impact Assessment, Research Design and s60 Documentation, 2-8 Weston Street and Illoura Reserve, Balmain, prepared by Casey and Lowe, May 2016 and revised in June 2016 are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.
 - vi) The applicant must ensure that the nominated Excavation Director, Dr Nadia Iacono is present at the site supervising all excavation activity likely to expose relics.
 - vii) The Applicant must ensure that the nominated Excavation Director, Dr Nadia Iacono takes adequate steps to record in detail relics, structures and features discovered on the site during the archaeological works in accordance with current best practice. This work must be undertaken in accordance with the NSW Heritage Office guidelines, 'How to Prepare Archival Records of Heritage Items' (1998) and 'Guidelines for Photographic Recording of Heritage Items' (2006).
 - viii) The Applicant is responsible for the safe-keeping of any relics recovered from the site. The Applicant must ensure that the nominated Excavation Director cleans, stabilises, labels, analyses, catalogues and stores any artefacts recovered from the site in a way that allows them to be retrieved according to both type and provenance.
 - ix) The Applicant must ensure that a final excavation report is prepared by the nominated Excavation Director, to publication standard, within one (1) year of the completion of the field based archaeological activity unless an extension of time or other variation is approved by the Heritage Council of NSW. Further copies of the report should be lodged with the local library

and/or another appropriate local repository in the area in which the site is located.

- x) Should any Aboriginal objects be uncovered by the work, excavation or disturbance of the area is to stop immediately and the Office of Environment & Heritage (Enviroline 131 555) is to be notified in accordance with Section 89A of the National Parks and Wildlife Act, 1974 (NPW Act). Aboriginal objects in NSW are protected under the NPW Act. Unless the objects are subject to a valid Aboriginal Heritage Impact Permit, work must not recommence until approval to do so has been provided by the Office of Environment & Heritage.
- c) **NOMINATED HERITAGE CONSULTANT**
 - i) A heritage consultant is to provide advice on the detailed design, undertake on-site heritage inductions and inspect the demolition and removal of material to ensure that no significant fabric or elements are damaged or removed.
 - ii) A landscape heritage consultant with experience in cultural landscapes is to provide advice on the detailed design of Illoura Reserve, undertake on-site heritage inductions, identify significant plantings, and inspect the demolition and removal of material to ensure that no significant fabric or elements are damaged or removed.
 - iii) All work shall be carried out by suitably qualified tradespeople with practical experience in conservation and restoration of similar heritage items, structures and materials. The nominated heritage consultant shall be consulted prior to the selection of appropriate tradespeople.
- d) **SITE PROTECTION & WORKS**
 - i) Significant building fabric and elements are to be protected during the works from potential damage. Protection systems must ensure historic fabric is not damaged or removed.
 - ii) Significant trees are to be protected during the works from potential damage. Tree Protection Zones must be established to ensure significant trees are not damaged or removed. Any aboriginal management required must be carried out by trained arborists with appropriate experience in cultural landscapes.
 - iii) The installation of new services shall be carried out in such a manner as to minimise damage to or removal of historic fabric and shall not obscure historic features.
- e) **COMMENCEMENT OF WORKS**

This approval shall be void if the activity to which it refers is not physically commenced within five years after the date of the approval or within the period of consent specified in any relevant development consent granted under the Environmental Planning and Assessment Act 1979, which occurs first.

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

- 3. In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979* construction works approved by this consent must not commence until:
 - a) A Construction Certificate has been issued by Council or an Accredited Certifier. Either Council or an Accredited Certifier can act as the "Certifying Authority."
 - b) A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment.

- c) At least two days notice, in writing has been given to Council of the intention to commence work.

The documentation required under this condition must show that the proposal complies with all Development Consent conditions, the Building Code of Australia and the relevant Australian Standards.

- 3A. Prior to release of a Construction Certificate confirmation of the appointment of the Heritage Consultant (referred to in condition 2) is to be received.
- 4. Pursuant to Clause 94 of the *Environmental Planning and Assessment Regulation 2000* new work is required to be brought into conformity with the Building Code of Australia. Plans and specifications demonstrating conformity are to be provided prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility.
- 5. Materials and finishes must closely match the original finishes and materials of the building. Highly reflective roofing materials must not be used. Details demonstrating compliance with this requirement must be provided prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility to the satisfaction of the Certifying Authority.
- 6. Consent is granted for the demolition of minor elements associated with the existing building, subject to strict compliance with the following conditions:
 - a) The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.
 - b) Written notice is to be given to Council / Certifying Authority for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections must be undertaken by Council / Certifying Authority:
 - i) A *pre commencement* inspection when all the site works are installed on the site and prior to demolition commencing.
 - ii) A *final* inspection when the demolition works have been completed.

NOTE: Council requires 24 hours notice to carry out inspections. Arrangement for inspections can be made by phoning 93679222.

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Office, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with

Sydney Water's requirements, the plans will be stamped indicating that no further requirements are necessary.

- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: *Demolition of structures*.
- g) The hours of demolition work are limited to between 7:00am and 6:00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Department of Environment and Climate Change NSW.
- i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- j) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.
- k) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- m) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense.
- n) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
- o) Prior to demolition, a Work Plan must be prepared and submitted to Council / Certifying Authority in accordance with the relevant provisions of Australian Standard 2601:2001 *Demolition of structures* by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- p) Following demolition activities, soil must be tested by a person with suitable expertise to ensure the soil lead levels are below acceptable health criteria for residential areas. Full certification is to be provided for approval by the Principal Certifying Authority prior to the commencement of building works.
- q) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
 - i) A WorkCover licensed contractor must undertake removal of all asbestos.

- ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400 mm x 300 mm is to be erected in a visible position on the site to the satisfaction of Council.
- iii) Waste disposal receipts must be provided to Council / Certifying Authority as proof of correct disposal of asbestos laden waste.
- iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
- v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works

7. A total of one (1) car parking space for use by persons with a disability must be provided as part of the total car parking requirements.

All details must be prepared in accordance with Australian Standard AS/NZS 2890.1:2004 *Parking Facilities – Off street car parking* and the relevant provisions of Australian Standard 1428.1:2001 *Design for Access and Mobility – General requirements for access - New building work* and Australian Standard 1428.4:2002 *Design for Access and Mobility – Tactile indicators*.

8. The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assessed as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

An acoustic report prepared by a suitably qualified and experienced acoustic consultant shall be provided to the satisfaction of the Principal Certifying Authority demonstrating that noise and vibration from the operation of the premises including the use, plant and equipment will satisfy the stipulated criteria above and relevant provisions of the Protection of the Environment Operations Act 1997 and Regulations and relevant state and local policies and guidelines. Recommendations must be consistent with the approved plans.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility/lift.

9. The LA_{10} * noise level emitted from the premises must not exceed the background noise level in any octave band centre frequency (31.5Hz– 8k Hz inclusive) by more than 5dB between 7:00 am and 12:00 midnight at the boundary of any affected residence.

The LA_{10} * noise level emitted from the premises must not exceed the background noise level in any octave band centre frequency (31.5Hz – 8k Hz inclusive) between 12:00 midnight and 7:00am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the premises must not be audible within any habitable room in any residence between the hours of 12:00 midnight and 7:00am.

For the purposes of this condition, the LA10 can be taken as the average maximum deflection of the noise emission from the licensed premises or restaurant.

Details of the acoustic measures to be employed to achieve compliance with this condition must be provided prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility/lift. Such measures must be in accordance with the approved acoustic report and plans.

10. The premises are to be designed, constructed and operated in accordance with the:

- Food Act 2003
- Food Regulation 2010
- Australia and New Zealand Food Standards Code
- Australian Standard AS 4674 – 2004 (Design, construction and fit-out of food premises)
- Australian Standard AS 1668 Part 1 – 1998
- Australian Standard AS 1668 Part 2 – 2012; and
- Building Code of Australia

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility/lift.

11. There are to be no emissions or discharges from the premises which will give rise to an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.

Emission control equipment shall be provided in the mechanical exhaust system serving the appliances, to effectively minimise the emission of odours, vapours and oils. Details of the proposed emission control equipment must be provided in the relevant plans and specifications for the Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility and shall be positioned away from nearby residential properties where possible.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility.

12. A Plan of Management is to be provided to Council prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility/lift. The Plan of Management is to cover (but is not limited to) the following issues:

- Ensure compliance with the relevant conditions of approval,
- Minimise the potential impact of the operation of the premises on nearby residents,
- Effectively minimise and manage anti-social behaviour,
- Minimise noise emissions and associated nuisances,
- Effectively manage and respond to resident complaints,
- Ensure responsible service of alcohol and harm minimisation, and
- Patron conductivity and security.

a) Security Management

The plan must specify security patrol, surveillance and other security and response methods and security management of the public and private domain within and surrounding the site.

No signage visible from the public domain is to be installed that advertises directly or indirectly, the gaming machines on site.

b) Patron Management

Patrons must be prevented from removing glass, opened cans, bottles or alcohol from the premises (except from any approved bottle shop).

Signs must be placed in clearly visible positions within the premises requesting patrons upon leaving to do so quickly and quietly, having regard to the amenity of the area.

A sign detailing the maximum number of persons permitted in the premises, in letters not less than 25mm, must be displayed at the main front entrance of the premises within the building.

The management/licensee is responsible for the control of noise and litter generated by patrons of the premises and must ensure that patrons leave the vicinity of the premises in an orderly manner to the satisfaction of Council. If so directed by Council, the management/licensee is to employ private security staff to ensure that this condition is complied with.

No automatic teller machines are permitted to be installed in the same room in single level premises and on the same floor in multi level premises containing gaming machines.

c) Recycling and Waste Collection

~~The sorting and/or collection of waste and recycling must only not occur after 6pm unless it can be done in a manner that does not have adverse acoustic impacts on surrounding properties or tenancies.~~

(Condition 12c is amended under MOD/2021/0433).

d) Public Entertainment

Details of how public entertainment will be managed to ensure minimal impacts on surrounding properties including acoustic impacts, parking and traffic. Details of sound limiters and/or acoustic provisions including management of patrons, closing of doors and windows etc. Such entertainment must be carried out in accordance with any approved acoustic reports & traffic reports identified within this consent.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility/lift.

e) The Plan of Management be amended to include the requirement that the applicant monitor/~~study~~ the parking impacts of the proposal on the local street networks ~~for a further 18-months. The applicant is to engage a qualified and certified traffic surveyor to undertake this study. The study is to correlate the impacts of The Fenwick's patrons' demand on parking and parking availability within the study area. The study area is to include all streets and laneways in a 300m radius of the subject site (excluding the waterways). This is to be undertaken at intervals of at least 4 x a month for 18 months which will include but not limited to evenings Friday and Saturday. during the 12-month trial. In addition, the applicant should investigate the (transport) modal split of the patrons during the 12-month trial period.~~

(Condition 12e is amended under MOD/2021/0433).

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

Act 1997. Domestic air conditioners must not be audible in nearby dwellings between 10:00pm to 7:00am on Monday to Saturday and 10:00pm to 8:00am on Sundays and Public Holidays.

Details of the acoustic measures to be employed to achieve compliance with this condition must be provided prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility/lift.

14. All plant and associated equipment must be located within the approved building envelope and is not be located on the roof. Details on the location of all plant and equipment must be provided prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility/lift.
15. A Soil and Water Management Plan must be provided prior to the issue of any Construction Certificate. The Soil and Water Management plan must be compatible with the Construction and Site Management Plan referred to in condition 16 of this Development Consent and must address, but is not limited to the following issues:
 - a) Minimise the area of soils exposed at any one time.
 - b) Conservation of top soil.
 - c) Identify and protect proposed stockpile locations.
 - d) Preserve existing vegetation. Identify revegetation technique and materials.
 - e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner.
 - f) Control surface water flows through the site in a manner that:
 - i) Diverts clean run-off around disturbed areas;
 - ii) Minimises slope gradient and flow distance within disturbed areas;
 - iii) Ensures surface run-off occurs at non erodable velocities;
 - iv) Ensures disturbed areas are promptly rehabilitated.
 - g) Sediment and erosion control measures in place before work commences.
 - h) Materials are not tracked onto the road by vehicles entering or leaving the site .
 - i) Details of drainage to protect and drain the site during works.
 - j) A durable sign, available from Council must be erected during the works in a prominent location on site, warning of penalties should appropriate measures required by the Soil and Water Management Plan not be maintained.
16. Prior to the issue of any Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan:
 - a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
 - iii) The locations of proposed work zones in the frontage roadways.
 - iv) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
 - v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.

- vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 - vii) An on-site parking area for employees, tradespersons and construction vehicles as far as possible.
 - viii) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
 - ix) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
 - x) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a Chartered Civil Engineer, with National Professional Engineering Registration (NPER) in the construction of civil works or a survey company of Registered Surveyors with "preliminary accreditation" from the Institution of Surveyors New South Wales Inc. or an accredited certifier.
- b) Construction Noise
During excavation, demolition and construction phases, noise generated from the site must be controlled.
 - c) Occupational Health and Safety
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.
 - d) Toilet Facilities
During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site.
 - e) Traffic control plan(s) for the site
All traffic control plans must be in accordance with the Roads and Traffic Authority publication "Traffic Control Worksite Manual" and prepared by a suitably qualified person (minimum 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.

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

- 17. A Certificate prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposal additional, or altered structural loads must be provided prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility to the satisfaction of the certifying authority.
- 18. An Access Management Plan must be provided prior to the issue of any Construction Certificate. Details of the Access Management Plan must include:
 - a) Access to the building for people with disabilities.
 - b) Sanitary facilities for people with disabilities. Such facilities must be accessible to all persons working in or using the building.

- c) One motor vehicle parking space within the Illoura Reserve car park for the exclusive use of people with disabilities.
19. Prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility/lift, the Certifying Authority must be satisfied that all outdoor lighting including lighting of the public toilets is designed and positioned to minimise any detrimental impact upon the amenity of other premises and adjacent dwellings and that the outdoor lighting complies with the relevant provisions of Australian Standard AS 1158.3:2005 *Pedestrian area (Category P) lighting – Performance and design requirements* and Australian Standard AS 4282:1997 *Control of the obtrusive effects of outdoor lighting*.
20. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Service Centre 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. Plans will be appropriately stamped. For Quick Check agent details please refer to the web site www.sydneywater.com.au see Building Developing and Plumbing then Quick Check or telephone 132092.
- The Certifying Authority must ensure the Quick Check agent/Sydney Water has appropriately stamped the plans prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility/lift.
21. Details and location of the proposed garbage room and the on street collection area are to be provided prior to the issue of a Construction Certificate for works to the Fenwick Building and the new toilets/kitchen facility/lift. Rooms used for the storage of garbage and rooms used for the washing and storage of garbage receptacles are to be constructed of solid material, cement rendered and trowelled to a smooth even surface and subject to the following requirements:
- a) The floor must be of impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room.
 - b) Garbage rooms must be vented to the external air by natural or mechanical ventilation.
22. A stormwater drainage design prepared by a Civil Engineer must be provided prior to the issue of any Construction Certificate. The design must be prepared/ amended to make provision for the following:
- a) The design must be generally in accordance with the stormwater drainage plan on Drawing No. 113251-00-MIE010 prepared by Meinhardt and dated 2 December 2014.
 - b) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS 3500.3-2003 Plumbing and Drainage – Stormwater Drainage
 - c) Plans must specify that any components of the existing system to be retained must be checked 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.
23. An engineering design of the reconstruction of the existing carpark in Illoura Reserve must be prepared by a qualified practicing Civil Engineer, generally in accordance with Drawing No A1-838 prepared by Leichhardt Council dated October 2014.

The design must be approved by Council under Section 138 of the Roads Act 1993 prior to the issue of a Construction Certificate for these works.

24. A landscape plan generally in accordance with the Tree Planting Concept is to be prepared by a qualified Landscape Architect or Landscape Consultant and must be approved by Council prior to the issue of any Construction Certificate. The plan must include:
- a) Location of all proposed and existing planting delineating existing trees to be retained, removed or transplanted.
 - b) A detailed planting schedule including species by botanical and common names, quantities, pot sizes and estimated size at maturity.
 - c) Any new soft landscaping shall be plant species appropriate to the locality to meet the following:
 - Known to be part of the original landscape design for the parklands;
 - Environmentally sustainable;
 - Non-invasive.
 - d) Surface finishes and colours of the car park and pedestrian path be chosen from a colour palette to minimise visual impact when viewed from public domain.
 - e) Details of planting procedure.
 - f) Details of earthworks including mounding and retaining walls
 - g) A landscape maintenance strategy for the owner / occupier to administer over a twelve (12) month establishment period.
 - h) Details of drainage and watering systems.
25. The trees identified below are to be retained:
- a) Bangalay (*Eucalyptus botryoides*);
 - b) Swamp mahogany (*Eucalyptus robusta*);
 - c) Swamp mahogany (*Eucalyptus robusta*);
 - d) Brushbox (*Lophostemon confertus*).

Details of the trees to be retained must be included on the landscape plan prior to the issue of any Construction Certificate.

PRIOR TO COMMENCEMENT OF WORKS

26. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form and details of the appointed Principal Certifying Authority shall be submitted to Council.
27. Prior to the commencement of works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
28. Prior to the commencement of works, a sign must be erected in a prominent position on the site on which the erection or demolition of a building is being carried out. The sign must state:
- a) Unauthorised entry to the work site is prohibited.

- b) The name of the principal contractor (or person in charge of the site) and a telephone number at which that person may be contacted at any time for business purposes and outside working hours.
- c) The name, address and telephone number of the Certifying Authority for the work.

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

29. The site must be secured and fenced prior to works commencing. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons on public property.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public property to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property.

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

Any hoarding, fence or awning is to be removed when the work is completed.

30. Trees 1, 2, 3 and 4 shall require trunk protection during construction works including the establishment of Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) and be implemented in accordance with the Arborist Report prepared by Sydney Metro Tress Services dated November 2014. If any retained tree is damaged a qualified Arborist should be contacted as soon as possible. The Arborist will recommend remedial action so as to reduce any long term adverse effect on the tree's health.

DURING WORKS

31. Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.
32. Excavation, building or subdivision work must be restricted to the hours of 7:00am to 5:30pm Monday to Friday inclusive, 7:00am to 1:00pm Saturday. Work is not be carried out on Sunday or Public Holidays.
33. A copy of the approved plans must be kept on site for the duration of site works and be made available upon request.
34. The development site must be inspected at the following stages during construction:
- a) At the commencement of the building work, and
 - b) Prior to covering any stormwater drainage connections, and
 - c) After the building work has been completed and prior to any occupation certificate being issued in relation to the building
34. 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.

35. The requirements of the Soil and Water Management Plan must be maintained at all times during the works and any measures required by the Soil and Water Management Plan shall not be removed until the site has been stabilised to the Principal Certifying Authority's satisfaction.
36. No trees on public property (footpaths, roads, reserves etc) are to be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works unless specifically approved in this consent.
37. Measures shall be taken to ensure that during construction there is no runoff or spillage of concrete, adhesives or other waste from the site that might have a negative impact on the place or other adjoining areas.
38. Any arboricultural management during the proposed works should only be carried out by trained arborists with extensive experience in significant cultural landscapes. All work should be carried out in accordance with Australian Standard AS4373 Pruning of Amenity Trees.

PRIOR TO THE ISSUE OF OCCUPATION CERTIFICATE

39. An Occupation Certificate must be obtained prior to any use or occupation of the development or part thereof. The Principal Certifying Authority must ensure that all works are completed in compliance with the approved Construction Certificate plans and all conditions of this Development Consent.
- 40A. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be satisfied that a Fire Safety Certificate for all essential fire or other safety measures has been completed.
- 40B. Prior to the issue of an Occupation Certificate the nominated Heritage Consultant is to certify that the work has been carried out in accordance with this approval.
41. A report prepared by a suitably qualified and experienced acoustic consultant shall be submitted to Council prior to an Occupation Certificate being issued for the development which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority's Industrial Noise Policy and Noise Control Manual and conditions of Council's approval, including any recommendations of the acoustic report referenced in the conditions of the approval.

Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Occupation Certificate.
42. Any soil proposed to be disposed off site must be classified, removed and disposed of in accordance with the *EPA Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes 1999* and the *Protection of the Environment Operations Act 1997*.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Occupation Certificate.
43. Food premises notification shall be obtained from the NSW Food Authority prior to commencement of business operations /issue of an Occupation Certificate and a copy of the notification shall be submitted to the Principal Certifying Authority. Notification can be completed on the NSW Health Department's website at www.foodnotify.nsw.gov.au

Prior to the commencement of business operations/issue of an Occupation Certificate the owner of the business is to complete and submit Council's food business registration form which can be obtained from Council's website at www.leichhardt.nsw.gov.au. Evidence of registration must be submitted to the Principal Certifying Authority.

Should Council be the nominated Principal Certifying Authority, then the applicant shall notify Council not less than forty-eight (48) hours prior to the proposed occupation of the premises to arrange for a final compliance inspection.

The applicant shall not operate the food premises until an Occupation Certificate has been issued.

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

44. A validation report shall be prepared by a suitably qualified Environmental Consultant and be submitted to Council upon completion of remediation works and prior to the site being occupied. The validation report shall be prepared in accordance with relevant NSW Environment Protection Authority guidelines, including the guidelines 'Consultants Reporting on Contaminated Sites' and shall include:
- Description and documentation of all works performed
 - Results of validation testing and monitoring
 - Validation results if any imported fill was transferred to site
 - Demonstrate how all agreed clean-up criteria and relevant regulations have been satisfied

Confirmation and justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants.

45. To ensure that adequate provision is made for the treatment of waste water from the premises, floor plans accompanying the Occupation Certificate application shall include provision for a Sydney Water approved grease trap.

The grease trap installation shall service all commercial sections of the development and be designed, constructed and operated in accordance with:

- Australian Standard AS 3500; and
- National Plumbing & Drainage Code

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

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

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

47. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that the reconstruction of the existing carpark in Illoura Reserve has been completed.

Written notification from the Leichhardt Council Manager – Parks and Assets, that the works have been completed to its satisfaction must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

ONGOING CONDITIONS OF CONSENT

48. The L_{A10} noise level emitted from the premises, measured between the hours of 7am and 12 midnight, is not to exceed the background noise level in any octave band frequency (centred on 31.5Hz to 8 kHz inclusive) by more than 5 dB, when measured at the boundary of any adjoining residence.

The L_{A10} noise level emitted from the premises, measured between the hours of midnight and 7am, is not to exceed the background noise level in any octave band frequency (centred on 31.5Hz to 8 kHz inclusive), when measured at the boundary of any adjoining residence.

49. The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assessed as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

50. There is to be no entertainment in the form of amplified music on any part of the outdoor area at any time. Only background music is allowed within the internal areas of the building, with a maximum sound pressure level of 65dB(A)Leq.

51. The number of patrons using the ground floor outdoor area is restricted to twenty (four) 24 persons at any time.

52. The rear deck shall not be used for outdoor dining or functions.

53. Deliveries of food products, equipment and the like are restricted to the following hours:

Monday to Sunday: 7:00am – 6:00pm and restricted to outside non peaking operating hours

Delivery vehicles shall be limited to a max B99 (large cars or utility van).

54. The use of the premises shall 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 shall not give rise to the transmission of a vibration nuisance or damage other premises.

55. The premises including the outdoor area are only to be open for business and used for the purpose approved within the following hours.

	Indoor Area	Outdoor Area
Monday to Sunday	7:00am – 5:00pm	7:00am – 5:00pm
Public Holidays	7:00am – 5:00pm	7:00am – 5:00pm

- b) For a period of not more than ~~12 months~~ **18 months** from the determination of ~~MOD/2020/0474~~ **MOD/2021/0433** the hours of operation of the premises must not exceed the following

	Indoor Area	Outdoor Area
Monday to Saturday	7:00am – 11:00pm	7:00am – 10:00pm
Sundays	7:00am – 11:00pm	7:00am – 9:00pm
Public Holidays	7:00am – 11:00pm	7:00am – 10:00pm

(Condition 55b is modified under MOD/2021/0433)

- c) A continuation of the extended hours will require a further application under the Environmental Planning and Assessment Act 1979.

Set-up and clean-up operations must commence no earlier or later than 1 hour before opening and 1 hour after closing hours (as stipulated by this condition). All doors and windows must remain closed during set up and cleaning where possible.

Set up and clean up operations for outdoor areas must occur during the relevant operating hours.

Service is to cease 30 minutes before closing time/ ceasing of operating hours.

56. This approval is for a restaurant/café only and does not authorise live musical or other forms of entertainment, separate Development Consent would be required for such activities/events. Background pre-recorded music may be played indoors subject to ensuring that it does not have adverse impacts on surrounding properties or tenancies.

- ~~57. Commercial waste and recyclable material generated by the premises must be collected between the hours 8am and 9pm only.~~

(Condition 57 is deleted under MOD/2021/0433)

58. Waste bins shall be required to be placed and returned from the on street designated waste collection area on the same day as collection. Empty waste bins shall not remain kerbside.
59. An annual Fire Safety Statement must be given to Council and the New South Wales Fire Brigade commencing within twelve (12) months after the date on which the initial Interim / Final Fire Safety Certificate is issued.
60. All outdoor lighting must not detrimentally impact upon the amenity of other premises and adjacent dwellings and must comply with, where relevant, Australian Standard AS 1158.3:2005 *Lighting for roads and public spaces – Pedestrian Area (Category P) lighting – Performance* and design requirements and Australian Standard AS 4282:1997 *Control of the obtrusive effects of outdoor lighting*.
61. A full and current copy of the Development Consent for the operation of the licensed premises and the Plan of Management must be kept on-site and made available to Police or Council Officers upon request.

The use must always be operated and managed in accordance with the Plan of Management.

62. This approval is for a café and gallery only and does not authorise musical or other forms of entertainment.

63. The premises shall not be used for any purpose other than that stated in the Development Application, (i.e. café and gallery) without the prior consent of the Council unless the change to another use is permitted as exempt development under *Leichhardt Development Control Plan 35 – Exempt and Complying Development*.
64. The seating capacity of the restaurant is restricted to a maximum of 80 patrons at any one time.

A notice is to be displayed in the premises stating that:

- a) The maximum total occupancy of the premises allowed by this consent inclusive of all external seating is 80 persons / seats.
- b) The maximum occupancy of the outdoor area is 24 persons / seats.

- ~~65. Within 3 months of the issue of the modified consent, that is by 08 February 2021, the applicant must consult with the relevant unit in Council to explore the possibility of installing bicycle parking infrastructure adjacent to the premises on Weston Street. Bicycle stands capable of safely securing 4 bicycles without impeding pedestrians on the footpath are to be installed.~~

~~The bicycle parking infrastructure must be installed at the cost of the applicant and in accordance with Council's relevant guidelines.~~

(Condition 65 is deleted under MOD/2021/0433)

- ~~66. Waste Disposal~~

~~8:00am to 9:00pm 7 days per week.~~

(Condition 66 is deleted under MOD/2021/0433)

67. *Commercial Waste/Recycling Collection*

The collection of waste and recycling must only occur between 7:00am and 8:00pm weekdays and 9:00am and 5:00pm weekends and public holidays, to avoid noise disruption on the surrounding area.

Garbage and recycling must not be placed on the street for collection more than one (1) hour before the scheduled collection time. Garbage bins and containers are to be removed from the street within one (1) hour after collection.

(Condition 67 is added under MOD/2021/0433)

68. *The operation of the premises complying at all times with the approved Plan of Management. The Plan of Management is not to be further amended without the prior written approval of the Council. If there is any inconsistency between the Plan of Management and the conditions of this consent, the conditions of consent shall prevail to the extent of that inconsistency.*

(Condition 68 is added under MOD/2021/0433)

PRESCRIBED CONDITIONS

A. BASIX Commitments

Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

In this condition:

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

B. Building Code of Australia

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

C. Home Building Act

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

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

D. Site Sign

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

E. Condition relating to shoring and adequacy of adjoining property

- (1) For the purposes of section 80A (11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) protect and support the adjoining premises from possible damage from the excavation, and
 - (b) where necessary, underpin the adjoining premises to prevent any such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

NOTES

1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. Section 82A of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, designated development, integrated development or a complying development certificate. The request for review must be made within six (6) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. Furthermore, Council has no power to determine a review after the expiration of these periods. A decision on a review may not be further reviewed under Section 82A.
3. If you are unsatisfied with this determination, Section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right of appeal to the Land and Environment Court within six (6) months of the determination date.
4. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

5. Works or activities other than those approved by this Development Consent will require the submission of a new development application or an application to modify the consent under Section 96 of the *Environmental Planning and Assessment Act 1979*.
6. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
7. This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):
 - a) Application for any activity under that Act, including any erection of a hoarding.
 - b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
 - c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
 - d) Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
 - e) Application for Strata Title Subdivision if strata title subdivision of the development is proposed.
 - f) Development Application for demolition if demolition is not approved by this consent.
 - g) Development Application for subdivision if consent for subdivision is not granted by this consent.
 - h) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
8. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained.

Have you made a political donation?

If you (or an associate) have made a political donation or given a gift to a Councillor, political party or candidate at the local government elections during the last two (2) years you may need to include with your application a full disclosure of this matter. For information go to Council's website at www.leichhardt.nsw.gov.au/Political-Donations.html. If you have made a reportable donation, failure to provide a completed declaration with your application is an offence under the Environmental Planning and Assessment Act, 1979 for which you may be prosecuted.

Attachment B – Statement of Support

SJB Planning



The General Manager
Inner West Council
PO Box 14
Petersham NSW 2049

23 September 2021

Re: Section 4.55(2) Modification Application to D/2015/299 – 2-8 Weston Street, Balmain East

Dear Sir/Madam,

We write to submit a Section 4.55(2) Modification Application to Development Consent DA/2015/299 (as modified) relating to 2-8 Weston Street, Balmain East ('the site').

Development Consent D/2015/299 was approved by Inner West Council on 23 August 2016 for the following development:

"Adaptive reuse of Fenwicks stone building as a licenced café with gallery space including associated accessibility improvements, public toilet facilities, new access path and reconfiguration of car parking in Illoura Reserve."

This consent was subsequently modified by way of Modification Application MOD/2020/0174, which was approved on 8 December 2020 for an extension to the approved operating hours on a 12 month trial basis.

We act on behalf of the applicant and seek consent for a modification to amend Conditions 12(e), 55, 65, and 66 of Development Consent D/2015/299 (as modified), relating to the Plan of Management, approved operating hours, bicycle parking provision, and waste disposal.

The attached application seeks to satisfy Condition 12(e) relating to parking and patron travel patterns and seeks to renew the trial extended operating hours of the venue for a further five (5) years.

Please find enclosed copies of the following documentation:

- Statement of Support prepared by SJB Planning;
- Plan of Management prepared by SJB Planning (Attachment 1);
- Guest Transport Survey prepared by The Fenwick (Attachment 2);
- Email correspondence with Council Engineers dated 12/07/21 (Attachment 3);
- Heritage Impact Statement prepared by City Plan Heritage (Attachment 4);
- Acoustic Report prepared by Acoustic Logic (Attachment 5).

We trust that the attached documentation is satisfactory. Should you wish to discuss the application, please do not hesitate to contact myself on (02) 9380 9911, or by email at sbarwick@sjb.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Scott Barwick'.

Scott Barwick
Director

L2/490 Crown St, Surry Hills
Sydney NSW 2010

planning@sjb.com.au
sjb.com.au

T 61 2 9380 9911

SJB Planning (NSW) Pty Ltd ACN 112 509 501

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SUB

1.0 Introduction

This Statement has been prepared in accordance with the requirements of Schedule 1, Part 1 of the Environmental Planning and Assessment (EP&A) Regulation 2000 and provides an assessment consistent with the heads of consideration under the *EP&A Act 1979*, which are relevant to the consent authority's assessment of the application.

2.1 Site Location and Description

The 48m southern boundary of the site is not defined by a physical boundary and is part of Illoura Reserve. The site is accessible via footpaths on Weston Street and Darling Street. Pedestrian access is also available along the waterfront via a public footpath.

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2.2 Surrounding Development and Land Uses

The subject site forms part of Illoura Reserve which sits to the south of the Fenwick Building and is a public reserve with green space, a playground, and other public amenities. The Balmain East Ferry Wharf is located north east of the site and a bus turning circle is located next to the site at the end of Darling Street.

To the west of the site (i.e. along Weston Street), development is characterised by established low density dwellings, some of which are heritage items. This includes item 1364 (*Formerly 'The Shipwright's Arms', including interiors*), which is located adjacent to the site at 10 Darling Street.

2.3 Site History and Existing Development

The site is occupied by the State heritage listed 'Fenwick Building', a two (2) storey stone building that is named after Fenwick and Co., a tug boat company associated with the site from the late 1800s until the 1980s. The site has a historical connection with the former tug boat and commercial shipping industries within Sydney Harbour. Previously, the site was known as Bells Shipyard, named after John Bell, from whom Fenwick and Co. purchased the land in 1883.

The site was acquired by the former Leichhardt Council in 2003, who undertook extensive restoration work including the extension of open space to neighbouring Illoura Reserve (2008) and restoration works to the Fenwick Building (2011). Further works and the use of the building were approved in 2016 under Development Consent D/2015/299.

Restoration and fitout works to the site have since been completed and a food and drink premises known as 'The Fenwick' now operates from the site.

Photographs of the site and existing development are shown in Figures 2-5.



Figure 2: View of the south eastern corner of Fenwick's stone building. (Source: Paul Davies Pty Ltd)

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Figure 3: View of the north eastern corner of Fenwick's stone building (Source: Paul Davies Pty Ltd)



Figure 4: View of the southern side of Fenwick's stone building (Source: Paul Davies Pty Ltd)

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Statement of Support



Figure 5. View of the north western corner of Fenwick's stone building (Source: Paul Davies Pty Ltd)

2.4 Background

Development Consent D/2015/299 was approved by Inner West Council on 23 August 2016 for the following development:

"Adaptive reuse of Fenwicks stone building as a licenced café with gallery space including associated accessibility improvements, public toilet facilities, new access path and reconfiguration of car parking in Iloura Reserve."

This consent was subsequently modified by way of Modification Application MOD/2020/0174, which was approved on 8 December 2020 for an extension to the operating hours of the venue on a 12 month trial basis.

It is noted that Modification Application MOD/2021/0174 was submitted to Council on 10 May 2021 for minor alterations and additions to the existing building and is currently under assessment.

3.0 Proposed Modifications

3.1 Description of Modification

This proposal seeks to modify development consent D/2015/299 as follows:

- Delete Condition 12(e) noting that the Plan of Management (refer to Attachment 1) has been amended to include a requirement for the monitoring of parking and patron travel patterns, thereby satisfying this Condition;
- Renew the trial extended operating hours of the venue for a further five (5) years. The extension of operating hours is sought for both the indoor and outdoor dining areas and will enable dinner service to continue to be provided. It is noted that during the 12 month trial period, the café has demonstrated a

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strong commitment to good management and safety practices. Inner West Council confirmed that no noise complaints were received relating to the operation of the café during the trial period;

- Delete Condition 65 noting that the applicant has consulted with Council regarding the provision of bicycle parking, thereby satisfying this Condition. Council determined that bicycle parking is not required at the site; and
- Delete Condition 66 noting that waste disposal and collection is appropriately dealt with under Condition 57, which states “commercial waste and recyclable material generated by the premises must be collected between the hours 8am and 9pm only.” Condition 66 is therefore not relevant and should be deleted.

The proposal does not involve any physical works and no change to the approved seating capacity is proposed.

3.2 Modification to the Conditions of Consent

The following amendments to Conditions 12(e), 55, 65, and 66 of development consent D/2015/299, as outlined in red, are requested so as to reflect the proposed modifications detailed above.

Condition 12(e)

Delete Condition 12(e) noting that the Plan of Management (POM) was amended on 17 December 2020 to include a requirement for the monitoring of parking and patron travel patterns, thereby satisfying this Condition. An updated POM relating to the current application is included at Attachment 1.

A copy of the Guest Transport Survey prepared by The Fenwick is included at Attachment 2. It is noted that given COVID-19 restrictions, the venue has been closed for a number of months, and as such, transport data has been collected for a total of three (3) months.

~~“The Plan of Management be amended to include the requirement that the applicant monitor the parking impacts of the proposal on the local street networks during the 12-month trial. In addition, the applicant should investigate the (transport) modal split of the patrons during the 12-month trial period.”~~

Condition 55

Amend Condition 55 to permit the continuation of the trial extended operating hours for a further five (5) years, in accordance with Condition C9 of Part C4.11 of LDCP 2013.

“The premises including the outdoor area are only to be open for business and used for the purpose approved within the following hours.

	Indoor Area	Outdoor Area
Monday to Sunday	7:00am – 5:00pm	7:00am – 5:00pm
Public Holidays	7:00am – 5:00pm	7:00am – 5:00pm

(b) For a period of not more than ~~12 months~~ five (5) years from the determination of MOD/2020/0174 [insert application number], the hours of operation of the premises must not exceed the following

	Indoor Area	Outdoor Area
Monday to Saturday	7:00am – 11:00pm	7:00am – 10:00pm
Sunday	7:00am – 11:00pm	7:00am – 9:00pm
Public Holidays	7:00am – 11:00pm	7:00am – 10:00pm

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(c) A continuation of the extended hours will require a further application under the Environmental Planning and Assessment Act 1979.

Set-up and clean-up operations must commence no earlier or later than 1 hour before opening and 1 hour after closing hours (as stipulated by this condition). All doors and windows must remain closed during set up and cleaning where possible.

Set up and clean up operations for outdoor areas must occur during the relevant operating hours.

Service is to cease 30 minutes before closing time/ ceasing of operating hours."

Condition 65

Delete Condition 65 noting that the applicant has consulted with Council regarding the provision of bicycle parking, thereby satisfying this Condition. Council determined that bicycle parking is not required on the site. Refer to Email Correspondence with Council engineer included at Attachment 3.

~~"Within 3 months of the issue of the modified consent, that is by 08 February 2021, the applicant must consult with the relevant unit in Council to explore the possibility of installing bicycle parking infrastructure adjacent to the premises on Weston Street. Bicycle stands capable of safely securing 4 bicycles without impeding pedestrians on the footpath are to be installed.~~

~~The bicycle parking infrastructure must be installed at the cost of the applicant and in accordance with Council's relevant guidelines."~~

Condition 66

Delete Condition 66 noting that waste disposal and collection is appropriately dealt with under Condition 57, which states "commercial waste and recyclable material generated by the premises must be collected between the hours 8am and 9pm only." Condition 66 is therefore not relevant and should be deleted.

~~"Waste disposal 8:00am to 9:00pm 7 days per week."~~

4.0 Section 4.55 Assessment

4.1 Section 4.55(2) of the EP&A Act 1979 – Other Modifications

Section 4.55 of the EP&A Act 1979 allows development consent to be modified if the development is of substantially the same development as the development for which consent was originally granted.

Set criteria identified in Section 4.55(2) of the EP&A Act 1979 are reproduced below:

"A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

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- (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, or
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification."

The proposed modifications relate to the adaptive reuse of a heritage item and facilitate the approved use of the site as a licensed café, as approved under D/2015/299.

The proposal seeks to renew the trial extended operating hours of the venue for a further five (5) years. During the 12 month trial period, the café has demonstrated a strong commitment to good management and safety practices in accordance with the relevant conditions of consent and the Plan of Management. In undertaking the review of the current trial period, Inner West Council and Balmain Police were contacted regarding any complaints reported during the trial period. Balmain Police did not confirm any incidents and Council confirmed that no noise complaints were received relating to the operation of the café.

Conditions 12(e) and 65 are sought to be deleted as these conditions have been satisfied. Additionally, Condition 66 is sought to be deleted noting that waste disposal and collection is appropriately dealt with under Condition 57. The proposed modifications will not change the categorisation of the approved use and do not include any physical works.

As demonstrated above and illustrated in the accompanying attachments, the proposed modified development is substantially the same as the approved development and, subject to the procedures provided by Subclauses (c) and (d), may be considered by the consent authority under Section 4.55(2) of the *EP&A Act 1979*.

4.2 Section 4.55(3) of the *EP&A Act 1979*

In accordance with Section 4.55(3) of the *EP&A Act 1979*, when determining an application to modify a consent, *"the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified."*

An assessment of the proposed modifications regarding relevant matters referred to in Section 4.15 is outlined in Section 5 of this statement.

5.0 Section 4.15 Assessment

5.1 Statutory and Policy Controls

The statutory and policy controls relevant to the proposed development include:

- State Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005;
- Leichhardt Local Environmental Plan (LLEP) 2013; and
- Leichhardt Development Control Plan (LDCP) 2013.

An assessment of the proposal against the relevant provisions of the above statutory and policy controls is provided in the following sections.

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5.2 State Regional Environmental Planning Policy (Sydney Harbour Catchment) (SREP (Sydney Harbour)) 2005

SREP (Sydney Harbour) 2005 applies to the subject site and was considered in the assessment of D/2015/299. The proposed modifications remain consistent with the objectives of the SREP relating to development within a foreshore and waterway area including heritage conservation, public access, and foreshore and waterways scenic quality.

5.3 Leichhardt Local Environmental Plan (LLEP) 2013

5.3.1 Land Use and Permissibility

The site is located within the RE1 Public Recreation zone under LLEP 2013, as illustrated in the extract of the Land Zoning Map at Figure 6. Restaurants and cafés are permissible within the RE1 zone and no change is proposed to this existing use.



Figure 6: Extract of LLEP 2013 Land Zoning Map

5.3.2 Floor Space Ratio (Clause 4.4)

Clause 4.4 of LLEP 2013 specifies a maximum floor space ratio (FSR) of 1:1 as being applicable to the site, as illustrated in the extract of the Floor Space Ratio Map included in Figure 7.

The proposed modifications will not alter the FSR of the approved development.

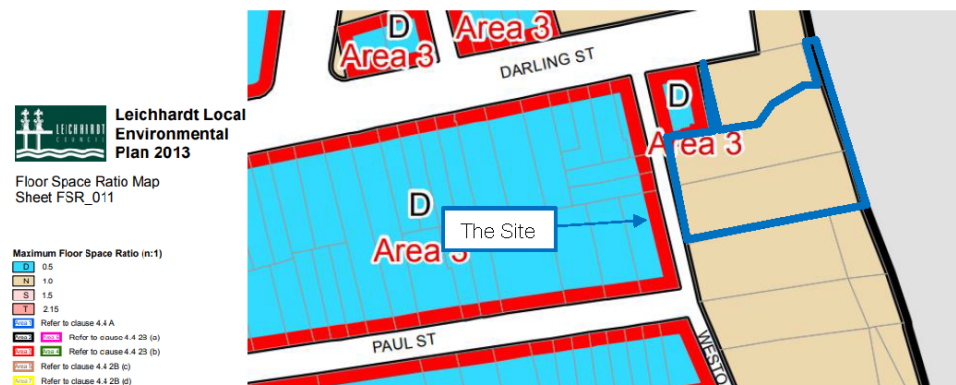


Figure 7: Extract of LLEP 2013 Floor Space Ratio Map

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5.3.3 Heritage Conservation (Clause 5.10)

The site is identified as a Heritage Item (No. 1492 "Fenwick and Co boat store, including interiors") and is located within the Balmain East Heritage Conservation Area. Several Heritage Items are located within the vicinity of the development site including item 1364 ("Formerly 'The Shipwright's Arms', including interiors") located at 10 Darling Street. Refer to extract of the Heritage Map included in Figure 8.

It is noted that the site is also included on the State Heritage Register (SHR) under listing No. 01396.

A Heritage Impact Statement prepared by City Plan Heritage was submitted as part of D/2015/299 and is included at Attachment 4. The statement assessed that the adaptive reuse of the heritage item as a food and drink premise was a suitable use for the site. The proposed extension of operating hours continues the approved use of the site and will not impact the heritage significance or fabric of the site or surrounding landscape.

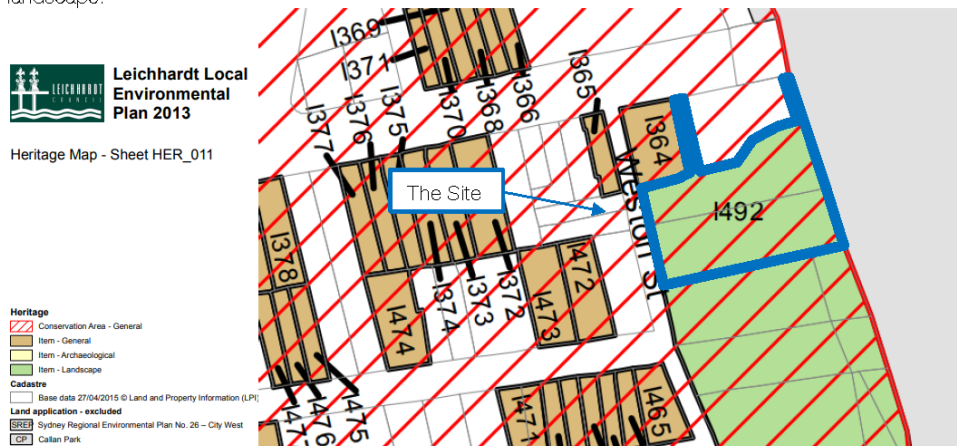


Figure 8: Extract of LLEP 2013 Heritage Map

5.3.4 Limited development on Foreshore Area (Clause 6.5)

The eastern boundary of the site is located within the Foreshore Building Line as illustrated in the extract of the Foreshore Building Line Map included at Figure 9 below.

No physical works are proposed as a part of this modification and there will be no impact on the Foreshore Building Line or Foreshore Area.

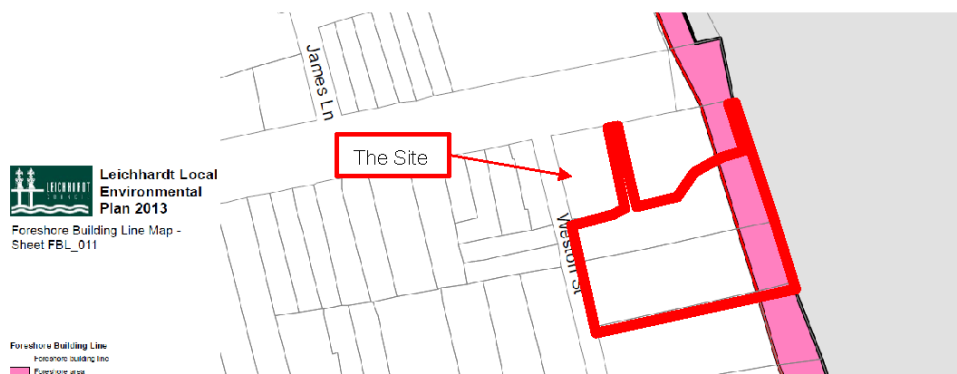


Figure 9: Extract of LLEP 2013 Foreshore Building Line Map

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5.3.5 Development Near Foreshore – Public Access (Clause 6.6)

Clause 6.6 of LLEP 2013 outlines measures for encouraging public access to the foreshore area. The site has existing public access, including a pedestrian path along the waterfront on the eastern edge of the site.

No works are proposed within the foreshore areas as part of this application and existing public access to the site will not be affected by the proposed modifications.

5.4 Leichhardt Development Control Plan (LDCP) 2013

The proposed modifications are consistent with the desired future character of the locality and remain consistent with the use of the site approved under D/2015/299. The use of the existing heritage building as a licensed café and associated works to the site were extensively assessed as a part of D/2015/299.

The proposed modifications have been assessed against the following relevant provisions of LDCP 2013.

5.4.1 Heritage Conservation Areas and Heritage Items (Section C1.4)

Section C1.4 of LDCP 2013 identifies controls for development of Heritage Items and for development within Heritage Conservation Areas. As noted in Section 5.3.3 of this Statement, the subject site is a Heritage Item and is located within the Balmain East Heritage Conservation Area.

Prior to the original restoration works and alterations and additions to the existing building, a Conservation Management Plan (CMP) was prepared for the site in 2011 to provide guidance for restoration and preservation processes for the Heritage Item. In addition, a Heritage Impact Statement was prepared as part of D/2015/299 (refer Attachment 4). The continuation of the trial extended operating hours will not impact the heritage value of the site and remains consistent with the approved use of the Heritage Item.

5.4.1 Parking (Section C1.11)

No amendments to car parking arrangements at the site are proposed as part of this modification.

A copy of the Guest Transport Survey prepared by The Fenwick is included at Attachment 2. It is noted that given COVID-19 restrictions, the venue has been closed for a number of months, and as such, transport data has been collected for a total of three (3) months during the trial period.

Investigation of the transport modal split of patrons confirms that, of a total 4,785 patrons, only 13.98% travelled to/from the venue by car. Accordingly, the continuation of the extended trading hours will not adversely impact the site or surrounding area with regard to traffic generation and parking.

5.4.2 Balmain East Distinctive Neighbourhood (Section C2.2.2)

This section of LDCP 2013 identifies the desired future character of the locality and provides controls for development in the area. The proposed modification is purely operational and does not propose any physical works. The site will remain consistent with the historic and conservation values of the neighbourhood.

5.4.3 Licensed Premises (Part C4.11)

Part C4.11 of LDCP 2013 outlines requirements for licensed premises. The site meets the criteria for a low impact premise as it is a development with an on-premise liquor licence (with primary service authorisation) within the meaning of the *Liquor Act 2007*. In addition, the premises has a maximum capacity of only 80 patrons.

Condition C9 of Part C4.11 states the following:

“Licensed premises seeking extended trading hours will be subject to a trial period of 12 months, after which a further application is required to be submitted to Council to assess whether

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extended trading hours can be approved for a five year period, for a further trial or are not supported”.

Trading hours after 10:00pm are to be considered on merit. The continuation of extended trading hours until 11:00pm for a further five (5) years is considered appropriate for the following reasons:

- During the 12 month trial period, the café has demonstrated a strong commitment to good management and safety practices in accordance with the relevant conditions of consent and the Plan of Management;
- The low impact premises is a waterfront site with neighbouring residential land uses limited to properties opposite the western edge of the site;
- The venue sits below the residential land uses due to the gradient of the site and is buffered by a sandstone retaining wall located on the western edge of the site;
- The site is well serviced by public transport with a bus stop and the Balmain East ferry stop adjacent to the site which provide services available after 11:00pm;
- The extended hours of operation were found to be satisfactory and compliant with the relevant DCP controls as part of the assessment and approval of MOD/2020/0174;
- Adequate off-street parking is available adjacent to the site; and
- The venue will continue to incorporate acoustic mitigation measures into management practices (refer below) and will ensure the relevant noise criteria are met.

Acoustic Mitigation Measures

An Acoustic Report prepared by Acoustic Logic was submitted as part of MOD/2020/0174 and is included at Attachment 5. In accordance with the report, the venue will continue to incorporate the following acoustic mitigation measures into management practices:

- Use of indoor and outdoor area to cease at 11:00pm;
- During evening hours (5:00pm to 11:00pm):
 - A maximum of 24 patrons are permitted to use the ground floor outdoor area;
 - The existing location and layout of the outdoor dining is not to be amended as the current layout means the western retaining wall provides a noise barrier to nearby residential properties; and
 - The outdoor area is only for seated diners only.
- After 6:00pm, all windows and doors on the northern, western and southern facades of the building are to remain closed while the venue is use. The door on the southern façade can be open for egress to the outdoor dining area;
- The doors and windows on the eastern façade of the building may remain open;
- No music is to be played in the outdoor area;
- Only background music is allowed within the internal areas of the site, with a maximum sound pressure of level of 65dB(A); and
- The disposal of bottles and waste is not to be carried out in external areas after 9:00pm.

Review of Previous Trial Period

During the 12 month trial period, the café has demonstrated a strong commitment to good management and safety practices in accordance with the relevant conditions of consent and the Plan of Management.

In undertaking the review of the current trial period, Inner West Council and Balmain Police were contacted regarding any complaints reported during the trial period. Balmain Police did not confirm any

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incidents and Council confirmed that no noise complaints were received relating to the operation of the café.

The operational systems and measures included in the approved Plans of Management combined with the conditions in the development consent have proved adequate and appropriate to ensure public safety and amenity is maintained.

In light of the successful trial period, it is considered that the renewal of the approved extended hours of operation is appropriate and reasonable.

6.0 The Likely Impacts of the Development

6.1 Amenity Impacts on Neighbouring Properties

No change to the amenity of adjoining properties will occur as a result of this modification. A review of the performance of the café during the 12 month trial period has been undertaken and demonstrates that the café operator has employed pro-active management practices.

Inner West Council confirmed that no noise complaints were received relating to the operation of the café during the trial period.

The measures included in the POM have been successfully implemented and are considered to have ensured adequate public safety and the maintenance of neighbourhood amenity. The modifications have been assessed against potential traffic and acoustic impacts and are considered acceptable.

6.2 Impacts to the Built and Natural Environment

The use of the site as a café was approved under D/2015/299 and the extended hours of operation (i.e. until 11:00pm) were found to be acceptable as part of the assessment and approval of MOD/2020/0174

No physical works are proposed, and as such, the proposal will not result in any additional impact to the built or natural environment. Accordingly, the proposed modifications will not be of any adverse environmental impact.

6.3 Social and Economic Impacts

The proposal will allow the existing café at the site to continue to provide a social benefit to the Balmain East locality. The continuation of café uses will generate employment opportunities and provide important day and evening social activity to the locality. In this regard, the proposal will contribute to the economic viability of other surrounding businesses.

The venue will operate in accordance with the Plan of Management (refer Attachment 1) so as to minimise any potential amenity, noise, or traffic impacts to adjoining residents.

It is therefore considered that the proposed modifications will provide a positive social and economic impact for the site and surrounding area.

6.4 The Suitability of the Site for the Development

Use of the site as a food and drink premises was deemed suitable in the approval of D/2015/299. The proposed modifications to the operating hours of the venue do not alter the approved use of the site and remain consistent with the heritage characteristics and values of the site and surrounding areas.

As such, the site is considered suitable for the development as modified.

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6.5 The Public Interest

It is in the public interest that the trial extended operating hours of the venue are extended for a further five (5) years. The preceding sections of this report demonstrate that the proposal satisfies the relevant provisions of the LEP and DCP. The proposal will not result in any unacceptable detrimental social, environmental, or economic impacts upon adjoining properties.

Consequently, it is considered that the proposed modification of DA/2015/299 is in the public interest.

7.0 Conclusion

The application seeks to modify the existing consent DA/2015/299 (as modified) relating to the adaptive reuse and use of the site as a café.

The proposed modifications seek to satisfy Condition 12(e) relating to parking and patron travel patterns and seek to renew the trial extended operating hours of the venue for a further five (5) years. No physical works are proposed at the site.

The proposal satisfies Section 4.55(2) of the *EP&A Act 1979*, as the development as proposed to be modified is substantially the same development for which consent was granted.

The proposal is consistent with the desired future character that is envisaged for the local area under LLEP 2013 and LDCP 2013. Based on the assessment undertaken, the proposal does not result in significant adverse environmental, social, economic or amenity impacts on the neighbourhood. The development will facilitate the ongoing contribution of the café to the social and economic vitality of Balmain East locality.

The proposal will not alter the suitability of the site for its current use as a café and is considered to be in the public interest.

Based on the assessment undertaken, approval of the s4.55(2) Application to amend DA/2015/299 is warranted.

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Attachments

Attachment 1: Plan of Management prepared by SJB Planning

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2-8 Weston Street, Balmain East

Plan of Management

September 2021

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1.0 Introduction and Objectives of This Plan

1.1 Overview

This Plan of Management (POM) is for the operations of the food and drink premises at 2-8 Weston Street, East Balmain known as 'The Fenwick'.

The content of the Fenwick POM is informed by the Conditions of Consent for D/2015/299 issued by Inner West Council on 30 August 2016. D/2015/299 granted consent for the adaptive reuse of the Fenwick Building and it's use as a licensed café with gallery space.

In the event of an inconsistency between the conditions of consent and this POM, the conditions of consent prevail. All managers and staff of the Fenwick are to familiarise themselves with the requirement of this POM.

1.2 Objectives of the Plan

The objectives of the plan are:

- To enable compliance with the relevant conditions of approval for the The Fenwick;
- Outline the relevant conditions of consent including patron numbers, staff numbers, waste disposal and waste transfer for retail premises;
- Minimise the potential impact of operations of the site on nearby residents;
- Minimise and manage antisocial behaviour;
- Manage and respond to resident complaints;
- Ensure responsible service of alcohol; and
- Outline patron management and security measures.

A copy of the POM will be kept in a readily accessible place on-site, and will be made available to all persons involved in the operation and management of the venue. It will be made available for inspection by the Police, inspectors of Liquor and Gaming New South Wales (L&GNSW) or Council upon request.

The venue shall be under the supervision of a suitably qualified Licensee or approved managers, who will be in attendance during the hours of operation to ensure that the venue is managed in accordance with this POM and its objectives. The primary focus of the venue is as a food and drink premises, with the service of alcohol accompanying meals.

1.3 Annual Review

This Plan of Management is to be reviewed annually by the venue management and owners.

1.4 Trial Period requirements

The extended trading hours have been approved for an additional trial period. As part of the trial period the proprietor of the restaurant is to monitor the parking impacts of the proposal on the local street network. This will be undertaken via at least 6 periodic parking availability surveys of the surrounding street network. The results of the surveys are to be compiled and included with the required application to make the extended trading hours permanent.

Aligned with the parking availability surveys, the proprietor will undertake periodic patron surveys to identify the mode of travel to the premises for that visit. The patron surveys are to be undertaken on at least 20 occasions during the trial period. The results of these patron surveys are to be provided with the future application seeking to make the trial period permanent.

2.0 Operation of the Premises

2.1 Hours of Operation

The hours of operation of the restaurant are as follows:

- 7:00am to 11:00pm, Monday to Sunday

The outdoor dining area of the venue will shut at 10:00pm Monday to Saturday and Public Holidays, and 9:00pm Sundays.

The actual trading hours of the venue may vary from time to time such that it may close prior to 11:00pm, however any trading will always be between the hours detailed above.

2.2 Patron Capacity

The maximum total occupancy for patrons is 80 persons / seats. This is inclusive of the outdoor seating area.

The maximum occupancy of the outdoor area is 24 persons / seats.

2.3 Set-up and Clean-up

Set-up and clean-up of the retail premises are restricted to one (1) hour before and one (1) hour after opening and closing times. All doors and windows must remain closed during set-up and cleaning where possible.

Set-up and clean-up operations of the outdoor seating area is to occur during operating hours.

2.4 Closing Procedures

The following measures are to be incorporated for the closure of the food and drink premises;

- 30 minutes prior to closure – Service to cease;
- 15 minutes prior to closure – Patrons reminded that venue will be closing shortly;
- Closure time – Lights put on (if dimmed) and patrons asked to quietly vacate the premises;

In addition, signs are to be displayed at the entrance of the venue reminding patrons to minimise noise when departing the premises.

Patrons are not to remove glass, opened cans, bottles or alcohol from the premises.

Note: Similar procedures should be enacted for the closure of the outdoor dining area prior to the closure of the remainder of the venue.

2.5 Deliveries

Deliveries to the Fenwick are only permitted between 7:00am and 6:00pm daily, restricted to outside non-peak hours in this period.

Delivery vehicles are limited to a maximum B99 (large cars and utility vans).

2.6 Waste Management

The following waste management procedures apply:

- The pickup of commercial waste and recyclables from the site is only permitted between 8:00am and 9:00pm daily; and
- Waste bins are only to be moved kerbside on the same day as waste collections. Empty waste bins are not to remain at the kerbside.

3.0 Amenity of Neighbourhood

3.1 Overview

At all times staff and the Licensee/Approved Manager of the venue shall consider the amenity of the neighbours and take all reasonable measures to eliminate the potential for adverse impact on surrounding areas.

The Licensee/Approved Manager shall take all reasonable measures to ensure that the behaviour of staff and patrons upon entering and leaving the venue does not adversely affect the amenity of the neighbourhood. The behaviour of contractors servicing the venue is also to be monitored by the manager on duty.

The email of the Licensee/Approved Manager of the venue will be distributed to neighbours in the immediate vicinity in order to let them know that any problems or issues that arise will be dealt with directly by the Licensee/Approved Manager, and that the Licensee should be contacted in the first instance if a concern arises.

3.2 Noise Emission Controls

The following noise emission controls will be imposed for the venue:

- Use of the indoor area is to cease at 11:00pm;
- Use of the outdoor area is to cease at 10:00pm Monday to Saturday and Public Holidays, and 9:00pm Sundays;
- The outdoor dining area is for seated diners only;
- After 6:00pm, all windows and doors on the northern, western and southern facades of the building are to remain closed when the venue is in use. The door on the southern side can be open for egress to the outdoor dining area only until 10:00pm Monday to Saturday and Public Holidays, and 9:00pm Sundays;
- No music is to be played on the outdoor areas of the venue;
- Only background music is allowed within the internal areas of the site, with a maximum sound pressure level of 65dB(A)Leq;
- Disposal of bottles/waste should be undertaken prior to 10:00pm; and
- Signs reminding patrons to leave the site quietly at night time will be installed at exit points.

4.0 Behaviour Of Patrons

4.1 Licensee/Approved Manager and Staff Expectations

The Licensee/Approved Manager will take all reasonable steps to manage the behaviour of patrons in the venue and when entering and leaving the venue. Staff shall encourage patrons to leave the vicinity of the venue promptly and quietly to minimise possible noise impacts on the local community.

The Licensee/Approved Manager and staff shall take all reasonable steps to ensure that persons do not loiter in the vicinity of the venue if they have been refused admittance or after leaving the venue. If patrons refuse to leave the vicinity the police will be contacted for assistance.

Staff are to encourage patrons to drink responsibly. Patrons will be required to leave the venue if they become intoxicated, violent or aggressive. If patrons refuse to leave police will be contacted for assistance.

Groups of patrons will be managed in the same manner as individuals due to the small nature of the restaurant. If the group or a member of the group becomes intoxicated, violent or aggressive they will be asked to leave. If they refuse the police will be contacted.

The majority of the venue's patrons especially at evening sittings are expected to be prior bookings. Walk-ins will be managed on the availability of seating. Should patrons arrive without a booking and no tables are available, staff will take the patrons phone number and contact them once a table becomes available. Patrons will be expected to leave the vicinity of the venue whilst waiting for a table to become available.

4.2 Venue Requirements

Low alcohol beer and non-alcoholic beverages will be available at all times. Drinking water will be available at all times without charge during opening hours.

4.3 House Policy

In the interest of patron and staff safety, the venue will adopt practices to ensure the responsible service of alcohol. The following measures are to ensure the enjoyment of the venue for staff and patrons and to minimise impact on surrounding residents.

It is the venue's policy to:

- Prevent underage drinking by requiring proof of age be provided by any person requested to do so, particularly any person who appears to be under the age of 25 years;
- Prevent intoxication by recognising the signs of intoxication and refusing service to patrons who reach this point. Any person who is already intoxicated when attempting to enter the venue will be refused entry;
- Non-alcoholic beverages will be available at all times the venue is open for trade within licenced hours. Drinking water will be available at all times without charge during opening hours;
- Harm minimisation and the Responsible Service of Alcohol (RSA);
- The prevention of intoxication on the premises;
- Prevent disruptive and/or antisocial behaviour of patrons within and when leaving the venue;

- Ensure the noise from the operation of the venue does not unduly affect any residence or business within the vicinity of the venue; and
- Ensure the operation does not result in an increase in litter in the vicinity of the venue.

4.4 Responsible Service of Alcohol (RSA)

4.4.1 Licensee/Approved Manager's Responsibilities and Requirements

The restaurant Licensee/Approved Manager (the Licensee) will ensure that at all times alcohol is served responsibly and in accordance with the *Liquor Act 2007* ('the Act'), the Liquor Regulation 2008 ('the Regulation') and this Plan.

The Licensee/Approved Manager will ensure that all staff involved in the sale, service and supply of liquor have completed an approved RSA course.

The Licensee/Approved Manager will ensure that copies of Competency Cards and/or RSA certificates for the Licensee and all staff members engaged in the sale, supply or service of alcohol are kept in the venue at all times and are to be made available for inspection by request from Police Officers, Council Inspectors or L&GNSW Inspectors.

The Licensee/Approved Manager will ensure that all statutory signage required by the Act and/or Regulation is prominently displayed within the restaurant.

4.4.2 Staff

Staff must carry their Competency Card with them at all times during operating hours and will produce it when requested to do so by the relevant authorities.

Staff will ensure that the service of alcohol is monitored in such a way as to minimise inappropriate behaviour of patrons while at and when leaving the venue.

Staff will refuse entry to any person deemed intoxicated, aggressive or unruly by taking the following steps:

- Tell the person that the law does not allow them to enter the premises;
- Tell the person that the law requires them to move on more than 20m away from the venue and observe or supervise that person's removal to that point; and
- If the patron fails to comply, the police are to be called.

Staff will refuse service to any patron approaching intoxication or displaying unruly and/or aggressive behaviour by taking the following steps:

- Tell the patron that the law does not allow them to continue to be served alcohol;
- Tell the patron that the law requires them to leave the venue; and
- If the patron fails to comply, the police are to be called.

4.5 Preventing Underage Drinking

It is the responsibility of every staff member to ensure that alcohol is not supplied to a minor. Any patron suspected of being under the age of 25 years is to be asked to provide approved documentary proof of age before being supplied with liquor. Accepted forms of identification are:

- A current driver's licence;
- A current passport; or
- A photo card or similar issued by the NSW Government or by another state or territory of Australia which clearly displays the person's date of birth and a start and expiry date.

Failure by a person to provide suitable identification to a staff member upon being requested will result in alcohol not being served to that person and that they are asked to leave the venue.

If staff are in any doubt as to the age of the patron, they are to check the patron's identification. If the patron objects to providing identification, staff are to explain that it is a requirement of the law.

4.6 Preventing Intoxication

4.6.1 Overview

It is an offence to sell or supply liquor to any person who is in a state of intoxication. A "state of intoxication" is where that person's behaviour, balance, speech and coordination are noticeably affected through the consumption of alcohol.

4.6.2 Prevention Measures

The Licensee/Approved Manager and staff are to ensure that intoxication is prevented from occurring on the licensed premises by compliance with the venue's House Policy:

- Non-alcoholic beverages being available at the restaurant at all times;
- Refusal of service to patrons showing signs of intoxication; and
- Not allowing intoxicated persons to enter or remain on licensed premises.

Free drinking water will be available to patrons at all times during trading hours.

Any patron exhibiting signs of intoxication are to be refused service and requested to leave the venue. Failure to comply with the request to leave by a staff member will result in the police being called to remove the patron from the venue.

Patrons exhibiting signs of approaching a state of intoxication are to be advised by staff and offered an alternative to consuming alcohol, such as soft drinks or water. Any person who exhibits signs of approaching intoxication will be monitored and requested to leave the venue if signs of intoxication are subsequently exhibited.

4.7 Preventing Disruptive or Antisocial Behaviour

The Licensee/Approved Manager and staff are not to allow disruptive, violent or antisocial behaviour to occur within or in the vicinity of the venue by patrons who have been in attendance at the venue. Staff are to ensure that this is prevented by:

- Not tolerating any conduct or behaviour which a reasonable person would consider undesirable; and
- Identifying potential problems and taking steps to prevent this behaviour from escalating.

4.8 Illicit Drugs

Illicit drugs are strictly prohibited in the venue at all times.

Any person found using, supplying or possessing illicit drugs shall be immediately removed and if necessary, the police called to escort the offender from the venue.

For the purpose of this Plan, "illicit drugs" includes any drugs made illegal by the laws of the State of New South Wales or the Commonwealth of Australia.

4.9 Transport

The Licensee/Approved Manager and Management shall endeavour to promote the use of alternative forms of transport to the venue as follows:

- Staff shall arrange (without charge) for taxis to collect any patron from the venue if requested to do so;
- Management and staff are to familiarise themselves with the operations including destinations and regularity of the ferry services from Balmain East Wharf to provide information to patrons as requested;
- Management and staff are to familiarise themselves with the operations including destinations and regularity of the bus services on Darling Street to provide information to patrons as requested; and
- If further specific information is requested regarding public transport, e.g. bus timetables, the patron is to be advised of the number for the Transport Info Line which is 131 500 and it's website <http://www.transportnsw.info/>. The website is configured to be used with smartphones.

5.0 Complaint Resolution

5.1 Complaint Handling Policy and Logbook

The Licensee/Approved Manager will implement a complaint handling policy to address any complaints received from residents or other business operators located in the vicinity of the venue. This policy will seek to resolve the complaint without the involvement of the Council or NSW Police.

The complaint handling policy will require a log book to be maintained that records the time, date and nature of each complaint together with the name and address of the complainant(s). Further, the log book will record the practices adopted by the Licensee and/or staff to resolve the complaint.

In addition to the above, any incident at the venue whereby medical assistance is required or the incident involved violence or antisocial behaviour will be recorded by the Licensee/Approved Manager or staff including details of the response from the venue in relation to the incident.

5.2 Complaint Response and Reporting

Any complaint received at the venue is to be responded to by the Licensee/Approved Manager (and in their absence by Management) within two (2) working days of its receipt. The Licensee/Approved Manager is to be available to meet with the complainant(s) at a reasonable time and mutually suitable date with a view to resolving any concerns regarding the operation of the venue.

In the event that a complaint is of a nature that local Council and/or Police should be notified, management will communicate to local Council and/or Police the details of the complaint.

6.0 Declaration of Licensee

The Licensee

Has read and agreed to the implementation of the Plan of Management dated for the operation of The Ferwick.

The Licensee will ensure the premises are managed in accordance with the Plan of Management and restrictions of the license dated

Licensee Date

Manager Date

7.0 Declaration of Owner

The Owner

Has read and agreed to the implementation of the Plan of Management dated for the operation of the Fenwick at 2-8 Weston Street, Balmain East and will ensure that the Licensee or Manager implements and operates the premises in accordance with the Plan of Management.

Owner Date

Attachment 2: Guest Transport Survey prepared by The Fenwick

Guest Transport Survey The Fenwick					TOTALS 3 months
TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	71	162	85	158	476
Tuesday	71	148	83	131	433
Wednesday	61	195	67	226	549
Thursday	87	151	48	173	459
Friday	132	273	131	447	983
Saturday	155	393	115	472	1135
Sunday	92	275	75	308	750
Total	669	1597	604	1915	4785
Percentage	13.98%	33.38%	12.62%	40.02%	

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TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	0	12	5	3	20
Tuesday	5	9	8	11	33
Wednesday	4	6	10	16	36
Thursday	3	13	3	7	26
Friday	11	10	15	23	59
Saturday					0
Sunday					0
Total	23	50	41	60	174
Percentage	13.22%	28.74%	23.56%	34.48%	

WE 20.6.21					
TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	8	10		16	43
Tuesday	7	8		18	39
Wednesday	2	18		20	44
Thursday	5	12		13	30
Friday	8	10		35	53
Saturday	12	34		37	89
Sunday	5	13		27	45
Total	47	105		166	343
Percentage	13.70%	30.61%		48.40%	

WE 13.6.21					
TABLES					

	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	2	12	5	12	31
Tuesday	8	9	5	8	30
Wednesday	6	10	6	12	34
Thursday	13	12	8	14	47
Friday	6	31	6	37	80
Saturday	11	28	10	32	81
Sunday	6	14	3	24	47
Total	52	116	43	139	350
Percentage	14.86%	33.14%	12.29%	39.71%	

WE 6.6.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	8	12	7	16	43
Tuesday	6	4	19	12	41
Wednesday	6	9	7	18	40
Thursday	13	16	5	17	51
Friday	7	23	25	33	88
Saturday	6	34	24	45	109
Sunday	9	13	12	16	50
Total	55	111	99	157	422
Percentage	13.03%	26.30%	23.46%	37.20%	

WE 30.5.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	6	16	9	5	36
Tuesday	7	18	6	8	39
Wednesday	2	20	4	18	44
Thursday	5	13		4	22
Friday	8	10		35	53
Saturday	12	34	6	42	94
Sunday	5	22		29	56
Total	45	133	25	141	344
Percentage	13.08%	38.66%	7.27%	40.99%	

WE 23.5.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	6	8	9	10	33
Tuesday	5	7	6	12	30
Wednesday					0

Thursday	6	8	7	12	33
Friday	12	25	12	28	77
Saturday	10	31	6	37	84
Sunday	6	18	3	24	51
Total	45	97	43	123	308
Percentage	14.61%	31.49%	13.96%	39.94%	

WE 16.5.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	8	12	3	12	35
Tuesday					0
Wednesday	3	8	3	15	29
Thursday	2	3	1	18	24
Friday	12	22	12	25	71
Saturday	8	18	8	24	58
Sunday	5	22	12	29	68
Total	38	85	39	123	285
Percentage	13.33%	29.82%	13.68%	43.16%	

WE 9.5.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday					0
Tuesday					0
Wednesday	4	18	3	20	45
Thursday	2	6		18	26
Friday	7	12		25	44
Saturday	11	28	8	37	84
Sunday	4	16		24	44
Total	28	80	11	124	243
Percentage	11.52%	32.92%	4.53%	51.03%	

WE 2.5.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	5	12	6	22	45
Tuesday	2	16	5	12	35
Wednesday	6	18	7	18	49
Thursday	3	12	3	10	28
Friday	12	20	5	36	73
Saturday	16	30	7	38	91
Sunday	12	24	3	24	63

Total	56	132	36	160	384
Percentage	14.58%	34.38%	9.38%	41.67%	

WE 25.4.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	3	12	10	15	40
Tuesday	6	16	6	7	35
Wednesday	4	18	2	20	44
Thursday	6	15	3	12	36
Friday	10	24	12	35	81
Saturday	16	34	8	40	98
Sunday	8	27	12	18	65
Total	53	146	53	147	399
Percentage	13.28%	36.59%	13.28%	36.84%	

WE 18.4.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	5	12	9	5	31
Tuesday	6	15	6	8	35
Wednesday	4	18	4	18	44
Thursday	5	7	2	4	18
Friday	8	16	8	35	67
Saturday	15	34	6	34	89
Sunday	10	29	7	24	70
Total	53	131	42	128	354
Percentage	14.97%	37.01%	11.86%	36.16%	

WE 11.4.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	6	20	6	12	44
Tuesday	5	12	8	6	31
Wednesday	10	18	9	17	54
Thursday	8	16	3	16	43
Friday	12	24	12	33	81
Saturday	10	36	6	38	90
Sunday	8	28	2	27	65
Total	59	154	46	149	408
Percentage	14.46%	37.75%	11.27%	36.52%	

WE 4.4.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	8	12	2	16	38
Tuesday	9	20	5	20	54
Wednesday	6	18	6	22	52
Thursday	8	6	8	18	40
Friday	9	32	10	35	86
Saturday	14	28	10	34	86
Sunday	8	27	12	20	67
Total	62	143	53	165	423
Percentage	14.66%	33.81%	12.53%	39.01%	

WE 28.3.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	6	12	5	14	37
Tuesday	5	14	3	9	31
Wednesday	4	16	2	12	34
Thursday	8	12	5	10	35
Friday	10	14	14	32	70
Saturday	14	24	10	34	82
Sunday	6	22	9	22	59
Total	53	114	48	133	348
Percentage	15.23%	32.76%	13.79%	38.22%	

Attachment 3: Email correspondence with Council Engineers dated
12/07/21

RE: Fenwick s4.55 Stage 2

imap://mail.bjbarchitects.com.au:143/fetch>UID>.INBOX.Drakop...

Subject: RE: Fenwick s4.55 Stage 2
From: "David Yu" <david.yu@innerwest.nsw.gov.au>
Date: 12/07/2021, 12:11 pm
To: "Paree Babikian" <paree@bjbarchitects.com.au>

Hi Paree,

Apologies for the delayed response.
Based on discussions with DA engineer, expected low demand of the bicycle racks, and due date being exceeded I would recommend that these bicycle racks not be required.

Kind Regards,

David Yu
Engineer - Traffic and Parking Services
p +61 2 9392 5739 e david.yu@innerwest.nsw.gov.au
[Inner West Council](#)
Council acknowledges the Traditional Custodians of these lands, the Gadigal-Wangal people of the Eora Nation.
[Built Environment Awards](#)

From: Paree Babikian <paree@bjbarchitects.com.au>
Sent: Friday, 9 July 2021 6:17 PM
To: David Yu <david.yu@innerwest.nsw.gov.au>
Subject: Re: Fenwick s4.55 Stage 2

Hello David,

Just wanted to follow up on the below.
Have you heard anything from the planners?

Kind Regards,



Paree Babikian . Director
BJB Architects

P 8970 5417
A 3.09, 77 Dunning Ave, Rosebery
E paree@bjbarchitects.com.au
W www.bjbarchitects.com.au

On 21/04/2021 11:06 am, David Yu wrote:

Hi Paree,

I have referred this back to the planners to ascertain if these racks are required.
I will get back to you with the outcome once I hear back from them.

Kind Regards,

David Yu
Engineer - Traffic and Parking Services
p +61 2 9392 5739 e david.yu@innerwest.nsw.gov.au



Council acknowledges the Traditional Custodians of these lands, the Gadigal-Wangal people of the Eora Nation.

Attachment 4: Heritage Impact Statement prepared by City Plan
Heritage

CITY
PLAN
SERVICES



Heritage Impact Statement Fenwick's Stone Building


2-8 Weston Street Balmain

Submitted to Welsh + Major Architects
On Behalf of Leichhardt Municipal Council

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April 2015 | 14-068

Report Revision History

Revision	Date Issued	Prepared by	Reviewed by	Verified by
01	28/07/14	Bianca Hollo <i>Graduate Heritage Consultant</i> Kerime Danis <i>Director - Heritage</i>	Kerime Danis <i>Director - Heritage</i>	Kerime Danis <i>Director - Heritage</i> 
02	2/07/14	Kerime Danis <i>Director - Heritage</i>	Kerime Danis <i>Director - Heritage</i>	
03	9/04/15	Kerime Danis <i>Director - Heritage</i>	Kerime Danis <i>Director - Heritage</i>	

CERTIFICATION

This report has been authorised by City Plan Heritage P/L, on behalf of Leichhardt Municipal Council. The accuracy of the information contained herein is to the best of our knowledge not false or misleading. The comments have been based upon information and facts that were correct at the time of writing this report.

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HIS Fenwick's Stone Building_Final-April 15

II

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1. Introduction

1.1 Background

City Plan Heritage has been engaged by Welsh + Major on behalf of the applicant, Leichhardt Municipal Council, to prepare the following Heritage Impact Statement. The proposal to undertake an adaptive re-use and fit-out of the existing stone building at 2-8 Weston Street, Balmain as a licensed café with gallery space and provide equitable pathway from the Weston Street car park. The proposal has been designed by Welsh + Major.

The site, known as Fenwick & Co Boat Store, is listed as a heritage item on the State Heritage Register (SHR) under the *Heritage Act 1977* (SHR No 01396) and under Schedule 5 of the Leichhardt Local Environmental Plan (LEP) 2013 (No 1492). The listing for the site encompasses the building as well as surrounding landscape features and includes Lot 1, DP 722968, Lot 1, DP 89648 and Lot 1, DP 83357. The site is also within the Balmain East Heritage Conservation Area and is listed on the National Trust Heritage Register. As the site is located on the harbour foreshore of Balmain East, it also falls within the curtilage of the Sydney Harbour Catchment as defined by the Sydney Regional Environmental Plan (SREP) - Sydney Harbour Catchment - 2005.

As such, the proposal will need to be assessed in accordance with the relevant controls regarding heritage on the Leichhardt LEP 2013 and Development Control Plan (DCP) 2013 as well as the NSW Heritage Manual 'Statements of Heritage Impacts'.

A Conservation Management Plan (CMP) was prepared for the site in 2009 by NBRIS + Partners. Since this time, restoration works have been undertaken on the site. Nevertheless, the proposal will also need to be assessed against the relevant policies of the CMP.

1.2 Site Location

The subject site is located on the eastern side of Weston Street, near the end of Darling Street in Balmain East. The principal elevation of the existing building is oriented towards the water, looking out towards Barangaroo and Sydney Harbour. For a more detailed description of the site and its context, see 2.0 Site Description and Context.

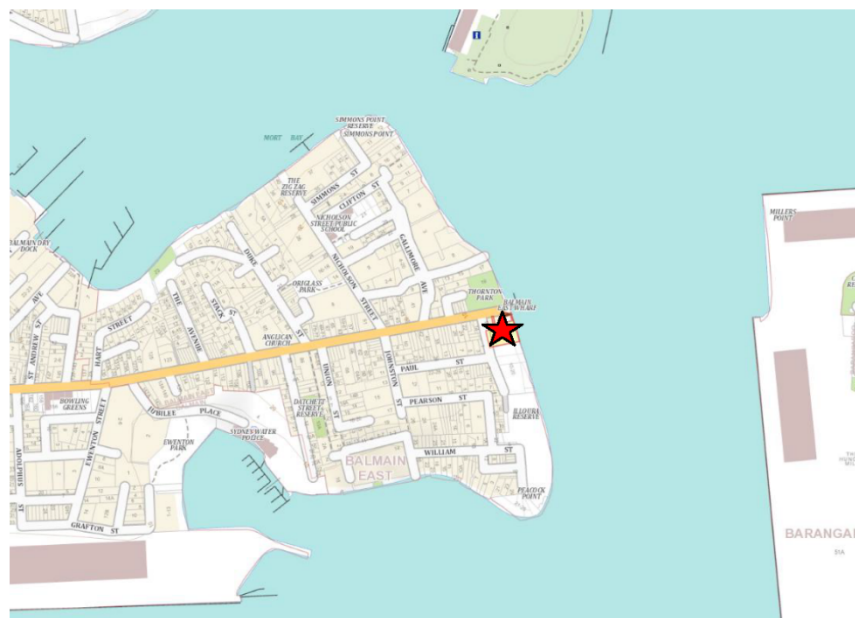


Figure 1: Map showing location of the subject site. (Source: Six Viewer 2014)

1.3 Methodology

This Heritage Impact Statement has been prepared in accordance with the *NSW Heritage Manual* 'Statements of Heritage Impacts' and 'Assessing Heritage Significance' guidelines. The philosophy and process adopted is that guided by the Australia ICOMOS *Burra Charter* 2013. The subject proposal has been assessed in relation to the relevant controls and provisions contained within the Leichhardt Local Environmental Plan 2013, and the Leichhardt DCP 2013. The proposal has also been assessed against the relevant policies of the Conservation Management Plan prepared by NBRS + Partners for the site in 2009.

1.4 Author Identification

The draft version of the following report was prepared by Bianca Hollo (Graduate Heritage Consultant) and Kerime Danis (Director - Heritage). The report has been finalised by Kerime Danis.

2. Site Description and Context

2.1 Site Description

The subject site is occupied by a c1880s two-storey stone boat store. The site was used as a boat store for much of the 20th Century but has been vacant in recent years. The site has undergone numerous modifications since the construction of the boat store, and has also undergone restorations in recent years.

The building's main frontage is to the harbour, adjacent to parkland that is also owned by Leichhardt Municipal Council. It is just at the south of the Balmain ferry wharf and bus turning circle at the bottom of Darling Street. The building is below street level to the east of Weston Street and is accessed via a set of sandstone stairs that were constructed with the implementation of a range of landscape and restoration works that have been undertaken since 2009.



Figure 2: Photographs showing the surrounding areas and views from the subject site and Illoura reserve.

The Exterior

The two-storey stone building is roofed with corrugated iron, and features a decorative parapeted gable on the eastern elevation. The main frontage of the building to the east contains a central wide two-door entrance on the ground floor and a two door arched opening on the upper floor. On either side of the doors on both the ground and upper floor is a double hung sash window. The northern elevation of the building consists of three regularly placed double hung sash windows on both the ground and upper floor. The southern elevation of the building consists of a one two- door opening in the centre of the upper floor. Due to the height of the ground level off Weston Street as the land slopes up towards the west, only the upper floor of the western elevation is visible and consists of two double hung sash windows.

A void has been created underneath the upper ground level off Weston Street, to the rear of the subject building. This is accessed via an opening to the south of the subject site. This void was created with the intention of eventually catering for services relating to the use of the stone building as well as public toilet facilities. The void consists of a metal grilled roof which forms the surface of the level above. The use of this void, which is currently a vacant space with dirt ground surface, has been addressed in under the proposed scheme.

The existing building has been restored in recent years including the re-instatement of the decorative stone parapet that was part of the original building design and the replacement of a number of sandstone blocks.



Figure 3: Image showing the front (eastern) elevation of Fenwick's Stone Building. Note the parapeted gable which has been recently restored/reinstated and other sandstone blocks which appear to have been replaced.



Figure 4: Northern Elevation of Fenwick's Stone Building, looking south-west



Figure 5: southern elevation of Fenwick's Stone Building, looking west towards entrance to the void behind building on the west.



Figure 6: View looking north of the western elevation of Ferwick's Stone Building and metal gridded roofed area above void.

The Interior

This modest stone building, originally used as a boat store, consists of simple interiors with exposed sandstone walls and timber columns, beams and joists. The ground floor contains a concrete slab floor on a steep slope. The stairs leading up to the first floor are at the back of the building and have been constructed as a temporary structure as part of the recent restoration works.

The upper floor contains polished timber floorboards. A void has been created between the ground and upper floor above the building entrance and in front of the central opening on the upper floor. Two timber posts have been introduced to support this newly created void.

The timber posts are supported on sandstone plinth/foundation and are exposed at varying levels due to the slope of the concrete slab. The ceiling is exposed and feature timber joists with herringbone struts and beams (steel beams along the walls and timber above the posts) supporting the upper timber floor with additional steel supports on the side of almost each joist. A number of joists and floorboards are replacement fabric.

Evidence of rising damp and salt is clearly visible in particular at the bottom of the ground floor sandstone walls along northern side.

The void is not currently being used and consists of exposed sandstone and cement brick walls and gravel floor.



Figure 7: Ground floor of Fenwick's Stone Building looking east towards building entrance. Note the steep slope of the floor.



Figure 8: Ground floor of Fenwick's Stone Building looking west towards stairs to upper floor. Note the steep slope of the floor.



Figure 9: Upper floor of Fenwick's Stone Building looking east towards arched opening and void between ground and upper floors.



Figure 10: View of inside of void behind Fenwick's Stone building looking north. Note the timber boarding that blocks off a small opening that leads out on the northern side of the building.

2.2 Site Context and Heritage Listings

The subject site is located on the easternmost point of Balmain East looking out towards Sydney Harbour and Barangaroo on the opposite shore. As noted previously, the site is listed as a heritage item on the State Heritage Register (SHR) under the *Heritage Act 1977*, as well as being a local heritage item under Schedule 5 of the Leichhardt LEP 2013. The site is also within the Balmain East Heritage Conservation Area and is in the vicinity of a number of other heritage items.



Figure 11: Excerpt from Leichhardt LEP 2013 Heritage Map, sheet 11 showing the subject site (Item 493) and the surrounding heritage items. The approximate location of the subject Fenwick's Stone building is indicated in blue.

The following table outlines the heritage listings pertaining to the subject site as well as items in the immediate vicinity of the subject site.

Item	Leichhardt LEP 2013	State Heritage Register
Fenwick's Stone Building, 2-8 Weston Street Balmain	1492	01396
Balmain East Heritage Conservation Area	C3	
Former Shipwright's Arms, 10 Darling Street, Balmain	1364	
Illoura Reserve (landscape item)	1436	01923
House, "Waterman", including interiors; 12 Darling Street, Balmain	1365	
Eastcliff Terrace, including interiors; 2 Paul Street, Balmain	1465	

The character of the Balmain East Distinctive neighbourhood, of which the subject site forms a part, has been given the following character description in the Leichhardt DCP 2013;

Balmain East is characterised by its close links with maritime industry and with the harbour. The neighbourhood is currently characterised by its predominantly residential nature, however, until the 1960s the area had been a varied industrial, maritime and residential neighbourhood.

Presently, the neighbourhood has a small shopping strip at the crest of the Darling Street hill (which forms part of the Darling Street Distinctive Neighbourhood) and two remnant commercial/industrial sites on its northern shore. The remainder of the former industrial sites have been redeveloped, with much of the foreshore land having been converted to open space. Currently, more than half of the Balmain East foreshore is zoned for open space.

The steep headland form of this neighbourhood gives prominence to its built character, particularly roof form. The small scale of the older buildings and the foil of high canopy trees, closely models the landform. The low form of the neighbourhood is abruptly broken by blocky flat buildings particularly along the eastern edge taking advantage of the prime aspect, with some walk up flat blocks and one tower block on the Nicholson/ Johnston Streets axis.¹

¹ Leichhardt DCP 2013, Part C, Balmain East Distinctive Neighbourhood, obtained July 2014 from the Leichhardt Council Website <<http://www.leichhardt.nsw.gov.au/Planning---Development/Planning-Controls--DCPs--LEPs--etc-/DCPs>>

3. Historical Summary

3.1 Early Settlement in Balmain

The following historical information about the historical development of Balmain was obtained from the Suburb Profile History provided in the Leichhardt DCP 2013, Section C.

The first phase of settlement of Balmain occurred between about 1830 and 1860. It commenced from the eastern end due to the proximity and visual connection to the City, and spread west. This consisted of gentleman's residences sited on the bluffs and ridges for prominence, views, and ventilation, on larger lots. More modest housing was built on smaller lots closely aligned to convenient access roads and lanes, particularly the ridgeline road, Darling Street. This provided housing for tradesmen and service workers mainly employed in local industries. The local industries took advantage of the waterfront access, servicing the City and port. They used local resources such as stone and they developed shops and services for a small but isolated community. Development was spurred on by small entrepreneurial activity, both in terms of business and industrial activity and investment in land development and housing. Hence, the original Crown grants were quickly subdivided and sold off in convenient parcels for access to the spine of Darling Street. With subsequent subdivision, local access was provided by narrow streets and lanes falling directly from Darling Street to the water. These provided the characteristic Balmain pattern of jetties for water access, and slot views out.

The Colonial economy boomed from 1850 with the combined push of the gold rush and pastoral growth. Capital and population growth led to the establishment of larger scaled industry and commerce. Hence, the establishment of Morts Dock which encouraged the rapid growth of modest housing on the surrounding slopes. In parallel the commercial centre developed westwards from Gladstone Park with the civic core developing at Montague Street in the 1880s boom. Smaller industry set up ancillary to the dock, as well as wharfage and maritime industry. Many open paddocks within the area remained until the end of the 18th Century.

By the 1880s, due to economic prosperity, increased pressure on land led to re-subdivision within the area. Terrace housing replaced single storey detached houses particularly on the more prominent sites. The newly affluent middle classes developed grander houses and enclaves in favoured locations such as the harbour edges of Birchgrove as well as Elkington Park, which were removed from local industry. Other prominent residential locations were developed along ridgelines setback from the waterline, such as Rowntree and Smith Streets.

While Balmain became a municipality in 1860, the population did not support grand civic buildings until the 1880s when the Town Hall was built. This was shortly followed by the Post Office and Courthouse which were constructed on the main crest of Darling Street in Balmain. By this stage, most of Darling Street was built up. Trams were introduced to improve access to the City, and the dependence on water access to the suburb declined.

Larger industries and multi-national companies moved into Balmain at the turn of the 19th century, including Unilever and Colgate Palmolive. This led to further consolidation to house the workforce on the skirts of the industry. The Labour movement became a major facet in the suburb's social make-up.

The role of major industry was evident in the workforce within Balmain, Balmain East and Birchgrove. At the height of industrial use Morts Dock

employed 2,000 workers, Unilever and Colgate Palmolive employed some 800 and 300 people respectively.

During the twentieth century, smaller houses were replaced, enlarged and re-clad, with some housing demolished for industrial expansion during the earlier part of the century. Some areas within the suburb were subject to 'slum clearance' following the Second World War, to make way for public housing. Sporadic private flat development also occurred during this time, encouraged by the Council in the spirit of modernisation.

From the 1970s, economic and technological shifts, together with rising land values in the inner city and rising appreciation of inner city locations led to de-industrialisation and retreat of maritime and port activities. A residential regeneration process began, and encouraged both the conservation of the character of the suburb, as well as redevelopment of former industrial sites. On waterfront sites this also yielded new waterfront parks.²

3.2 History of development at 2-8 Weston Street Balmain

The following chronology of the changes that have occurred on the site of Fenwick's Stone Building is a summary of the historical information contained in the Conservation Management Plan (CMP) prepared for the site in 2009 by NBRS + Partners and also includes changes that occurred on the site after 2009. For a more detailed historical summary of the site, reference should be made to the CMP.³

1836	Weston Street aligned on its present location
1840	Boat builder John Bell acquired the land at 2-8 Weston Street and proceeded to build a stone wharf and shipwrights yard
1844	Dolphin Hotel Established on the corner of Weston and Darling streets on land leased to William Walker by John Bell
1846	Hotel Resumed by John Bell and renamed the Shipwright's Arms. Hotel managed by Bell's family until 1883.
1870-1986	J. Fenwick & Co operated in Balmain- tug boat operating company established by John Fenwick and his brother Thomas.
1875	Drawing by C.A Atchison shows the changed shoreline with the resumption of land and the construction of a seawall and wharf.
1883	Site sold to John Fenwick. The sale included the wharf, the store and the Shipwright's Arms Hotel.
1896	Department of Lands drawing shows the northwestern retaining wall, buildings along Weston Street (two terrace houses one of which was known to be called Waterside), a waterfront yard to the north of the stone

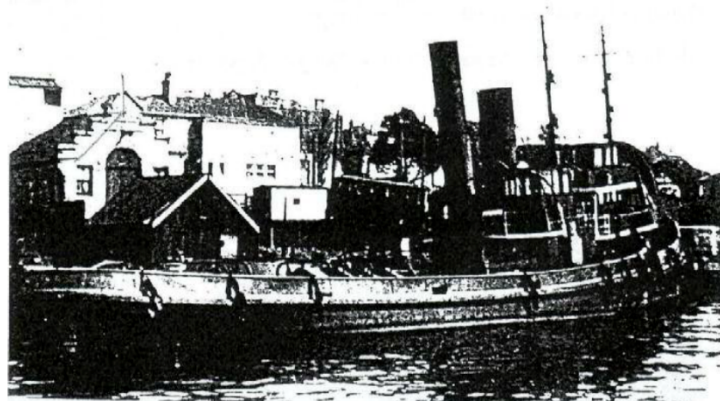
² Leichhardt Council DCP 2013, Part C, Balmain/ Balmain East and Birchgrove Suburb prologs, accessed July 2014 from < <http://www.leichhardt.nsw.gov.au/Planning---Development/Planning-Controls--DCPs--LEPs--etc-/DCPs>>

³ NBRS + Partners, 2009. Fenwick's Stone Building, 2-8 Weston Street, Balmain.

1940s

store, a building north of the store on Darling Street, a jetty and a building between the store and the seawall

A small structure east of Shipwright's Arms can be seen on an aerial photograph and in a photograph taken from the water. Ground based photographs show this to be a garage.



View of the Fenwick complex with a tugboat in front, circa 1940s. From Rod Howard Conservation Plan (1993), cited as being sourced from Mr Ian Fenwick who confirmed in 2008 he had not seen the image before. Source and higher quality image to be found.

1950

the Shipwright's Arms was sold to Miller's Brewery before its license was given up in 1966

Late 1950s

Buses replaced trams on the route up Darling Street. It appears that the yard to the north of the building was partly acquired by the Government to construct the bus turning circle. Presumably it was then when the small structure on Darling Street was demolished.

1963

Fenwick's Holdings Limited redeveloped the site to meet its operational requirements as tug boat operators. A new L-shaped administration building was constructed on Weston Street. To gain the best view over the harbour and to the Harbour Bridge from the office's ribbon windows, the gable of the stone building was removed and the roof lowered in pitch. This allowed the accommodation provided by the stone building to be retained and ground level access was achieved by building up the ground levels on the southern side and forming a door in that wall. A vehicular ramp was built down to the foreshore level in front of the stone building. The retaining wall for the ramp may have been constructed from the stone salvaged from the gable. An image from the company's 1964 report shows how the complex looked shortly after the redevelopment.



Photograph - view of the Fenwick complex after the modifications of 1963. Fenwick Holdings Limited Seventh Annual Report for year ending 30 June 1964, courtesy of Mr Ian Fenwick.

1986

Brambles Group purchased the site.

2007


After several proposals to develop the site for private purposes, Council eventually acquired it in 2007 with a view to developing it as parkland linking Council owned parks to the south and north



State of the site in 2007 (Images by NBRS + Partners)

2007

Repairs and reconstruction of the sea wall was carried out and completed



	in 2008
2009	Conservation Management Plan undertaken by NBRS + Partners for the Site. Condition of the building examined and recorded in photographs contained in the CMP
2009-2014	Repairs and restoration undertaken. <ul style="list-style-type: none">▪ Gable line roof reinstated.▪ Landscaping works surrounding building- paving and stairs leading down from Weston Street.▪ Extensive repair and maintenance work to Fenwick's Stone Building▪ Temporary staircase and entrance landing put in place for building▪ Creation of void behind Fenwick's Stone building.

4. Established Heritage Significance

4.1 Fenwick's Stone Building

The following Statements of Significance⁴ for the Fenwick and Co Boatstore at 2-8 Weston Street Balmain were obtained from the State Heritage Inventory (SHI) Database form for 'Fenwick & Co Boat Store' and the Conservation Management Plan for the site respectively.

Statement of Significance from the State Heritage Inventory:

The site of the J. Fenwick & Co. Boat Store is significant because of its continuous association with the growth and development of maritime industries in Balmain, from the earliest days of Balmain's subdivision. This is due to the formation and operation of Bell's Shipyard and the subsequent operations of J. Fenwick & Co.

The site has important links with the development of the port of Sydney because of its association with the use of tug boats as an integral part of shipping operations (Howard, 1993).

The stone store is a rare surviving built element of Balmain's former links with the maritime service industries of Sydney Harbour, and as such contributes to the cultural significance of the Harbour. The stone store physically demonstrates the role of Balmain in the working of Sydney Harbour until recent times (Heritage Office).

The stone store is an early surviving record of maritime industry, not only in Balmain and Sydney, but in New South Wales; and for its long association with the Fenwick Tug Boat Company, which was the earliest and pre-eminent tugboat operator on Sydney Harbour (McDonald, 1999).⁴

Statement of Significance from the 2009 CMP:

Fenwick's Stone Building is of high cultural heritage significance because:

- *It has associations with J. & T. Fenwick and family who established and ran the pre-eminent tug boat operation on Sydney Harbour between the 1870s and 1986 which was an integral part of shipping at Australia's premier port;*
- *It is a remnant which demonstrates the former maritime industrial uses at East Balmain on the western shore of Darling Harbour from the early subdivision of the land to the late twentieth century;*
- *Of its landmark value from the water on the western shore of Darling Harbour and adjacent to the Darling Street wharf which indicates arrival at Balmain via water at the bottom of Darling Street which is reinforced by its relationship with the former Shipwright's Arms; and*
- *In spite of its incompleteness, it is an example of a permanent sandstone industrial building designed and constructed with elements of the Victorian Romanesque style which demonstrates quality materials and workmanship.⁵*

⁴ State Heritage Inventory (SHI) Database form for Fenwick & Co Boat Store, obtained from the State Heritage Inventory, June 2014;
<<http://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=5051346>>

⁵ NBRS + Partners, 2009. Conservation Management Plan for Fenwick's Stone Building, 208 Weston Street, Balmain.

The following significance ranking of the elements of Fenwick's Stone Building was also provided in the 2009 CMP, and is as follows;

Exceptional Significance

- *There are no elements of exceptional significance.*

High Significance

- *Eastern façade generally.*
- *Northern facade generally.*
- *All windows on northern and eastern facades.*
- *Remnant open area to the east and north of the building.*
- *Martin's (type) anchor discovered on-site.*
- *Tug boat 'winch'.*
- *Original 6 timber posts of ground and first floors including horn cleat and pulley block associated with lost cat head beam.*

Moderate significance

- *Southern façade and wall generally.*
- *Eastern (sic) facade and wall generally. (assumed to mean western facade)*
- *First floor original timber floor and floor framing.*
- *Doors.*
- *Early northern window on western wall.*
- *Masonry units of ramp retaining wall subject to confirmation that they were sourced from the stepped gable.*

Little significance

- *Chain-link partitions of first floor.*
- *Cupboard on first floor.*
- *Door in southern wall on first floor.*

Intrusive

- *1963 modifications generally.*
- *Ramp and raised ground levels against southern and western walls.*
- *Steel grilles to openings.*
- *Fluorescent luminaires to eastern façade.*
- *Roof and roof structure other than tie beams and wall plates.*
- *Concrete lintel, small unit masonry and other 1963 modifications to eastern façade.*
- *Concrete floor to ground floor.*
- *Supplementary propping in ground floor.*
- *Rotten laminated timber replacement members of first floor.*
- *Wired glass southern window on western wall.*
- *Bus turning area (setting - outside study area.)*
- *Graffiti 'tags'.⁶*

⁶ *Ibid.*

4.2 Balmain East Conservation Area (C3)

The following Statement of Significance for the Balmain East Conservation Area was obtained from the Heritage Study Review on the Leichhardt Council Website;


- *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). The earliest developments here predate Leichhardt's main suburban growth with marine villas and cottages from the 1840s to modest-scale housing from 1870s through to the 1930s, and industry. It is significant for its surviving development from these periods.*
- *Demonstrates through the siting of recent public parks, the location of former waterfront industries. Through these parks and its remaining waterfront activities East Balmain can interpret Sydney's port history from the early 1840s, and the role of Balmain's deep water frontages in that story.*
- *Demonstrates through the line of its narrow streets the earliest subdivision sections of the large 550-acre Balmain grant.*
- *Demonstrates through its steps and cuttings the way in which early roads and pedestrian routes were forged out of the sandstone bedrock.*
- *Demonstrates through its mixture of sandstone villas and timber and brick cottages the major themes that formed this suburb — marine villa development and investment, port and waterfront activities, and the continuing layering of these developments.*
- *Through its remaining timber buildings it continues to demonstrate the nature of that major construction material in the fabric of early Sydney suburbs, and the proximity of the timber yards around the Balmain waterfront.*
- *It is of aesthetic significance for its dramatic sandstone landscape, closely related to the harbour, and clearly revealed below the modest scale of its nineteenth century and early twentieth century buildings. It stands in contrast with the nearby city where twentieth-century technology has forged an equally dramatic but very different man-made landscape.⁷*

⁷ Leichhardt Council Heritage Review, Statement of Significance for Balmain Conservation Area 17 (Balmain East), retrieved July 2014 from <<http://www.leichhardt.nsw.gov.au/Planning---Development/Planning-Controls--DCPs--LEPs--etc-/Heritage-Controls/Heritage-Related-Background-and-Information-Studies>>

5. The Proposal

The proposed works have been designed by Welsh + Major Architects and involve the adaptive re-use and refit of Fenwick's Stone Building to facilitate a licensed café with gallery space, publicly accessible amenities and disabled access as well as upgrade works to the adjacent car park with creation of accessible pathway. The following is a summary description only of the proposed new works. For specific details refer to the submitted architectural plans.

- **Modifications to and within the existing building including:**
 - New ground floor suspended timber floor structure
 - Reconfigured internal staircase including a new BCA compliant balustrade, handrails and tactile indicators to the top and bottom of the stairs.
 - New internal steel framed balustrade around the first floor void to replace the existing non-original timber balustrade.
 - New external wall entry openings:
 - The creation of a new accessible doorway through the southern façade into ground floor of the existing building.
 - The creation of a new accessible entry into the 1st floor of the existing building from the upper terrace level by lowering the sill height of one of the existing west facing windows to create a doorway.
 - The creation of a new opening through the rear western wall of the building to provide doorway access to the new commercial kitchen to be located to the rear.
 - Acoustic treatment panels to ground and 1st floors
 - New servery counters to ground and first floors to facilitate licensed café with gallery space operations.
- **Additions adjacent to the existing building including:**
 - The construction of a new commercial kitchen (base building works only), bin store and cleaners store including mechanical exhaust system within the existing undercroft void to the west of the existing stone building.
 - The construction of new WC facilities within the existing undercroft void comprising a unisex accessible toilet with babychange facilities, an ambulant male toilet and two female toilet cubicles including one ambulant cubicle. WC facilities are for use by the licensed café with gallery space and are to be available to the general public.
 - The construction of a new publicly accessible lift adjacent to the building between the upper parkland terrace level and the ground foreshore level.
 - The construction of covered accessway from the upper level of the lift to the new western door of the Fenwick Stone Building on the first floor.
 - The construction of a new first floor balcony structure to provide access to the existing first floor double doors on the southern façade and provide covered access from the lift to the new accessible entrance on the ground floor below. The balcony will also incorporate a small outdoor dining area.
 - The construction of new deck/paved area over existing void to the rear (west) of the existing building on the first floor.
 - Re-laying of paving in the external area adjacent to the new ground floor southern accessible entry to create level access through the proposed door. This area is also proposed as an outdoor dining area.
 - Construction of new zinc cladding to the existing landscaping wall and balustrade to the south of the proposed lift incorporating interpretive signage panels to the western balustrade wall. A new handrail will also be constructed on the adjacent existing stair.
 - External signage and lighting adjacent to the existing building to support



the licensed café with gallery space usage. Directional and statutory signage including wayfinding signage to the accessible entries, the lift and the public toilet facilities are also proposed. A location and size for future tenancy signage adjacent to the existing building is also proposed however the details of this signage would be subject to a future tenancy fitout Development Application.

- Realignment of an existing handrail on the upper walkway to Darling Street to the north of the building to be supported off the existing sandstone kerb wall so as to provide minimum 1m clearance for an accessible pathway.
- **Landscape works to Illoura Reserve including:**
 - Modifications to Illoura Reserve carpark to create 4 No. 45° angle bike parking spaces and 6 No. 45° angle car parking spaces including 1 No. new accessible car parking space. Works also to include line marking, traffic and parking signage.
 - Construction of a new accessible pathway and steps from the carpark to the upper terrace level adjacent to the Fenwick Stone Building.
- **Building and infrastructure services associated with the proposed use of the building as a licensed café with gallery space.**

6. Heritage Impact Assessment

6.1 Statutory Controls

Fenwick' Stone Building at 2-8 Weston Street, Balmain is a heritage item listed on Schedule 5 of the Leichhardt Local Environmental Plan (LEP) 2013 and is located within the Balmain East Heritage Conservation Area. The site is also listed on the State Heritage Register (SHR) under the *Heritage Act 1977*. The site, located on the Balmain East foreshore, is located within the curtilage boundary of the Sydney Regional Environmental Plan (REP) (Sydney Harbour Catchment) 2005.

General discussion of the design options that were considered during the design process

A number of options, including variations of some of these options, were considered in the design of the current proposal from the concept design stage in order to find the most suitable option for the adaptive re-use of the Fenwick's Stone Building. These options differed only in terms of the location of the lift and placement of the public amenities. In all cases, the lift was located to the south-west of the building and any of these options would be considered as an acceptable outcome in terms of the building's heritage requirements. A brief discussion of all three options, Option X, Y and Z is as follows;

Option X

Option X involves the location of the lift in the far southern end of the void and would create the most separation between the building and the exhaust pipes which will be projecting above the upper ground level to the rear of the building. This option proposes a positive heritage outcome because it creates a physical separation between the lift and the building, however, it will mean that the lift and exhausts will appear as two separate structures which will cause minor visual clutter in this area of the building. In addition, because the lift is further away from the building than it is in Options Y and Z, it will be more visible when looking towards this area from the north-east and east.

Option Y

Option Y involves the location of the lift immediately next to the exhaust shafts on the upper level and to the north of the toilets on the lower level within the void area. As in Option X, the lift is located in the void in Option Y and this is considered favourable over the location of the lift outside the void area. Furthermore, Option Y is considered as a positive outcome in terms of heritage because the lift and the exhaust shafts are grouped together, creating less visual clutter, and because it is located in an area which will be less visible when viewing the building from the north east and east.

Option Z

Option Z involves the location of the lift to the south of the building outside the void area, thus the lift shaft will appear as a separate structure placed in front of the rear western wall. With this option, the lift will be more visible when viewing this area from the east as it is set further forward than in the other options, and it is also considered to create more visual clutter because of the relationship between the first floor balcony on the upper level and the projecting exhausts. As a result, Option Z is considered to be the least preferred option, although this solution is also considered to be acceptable in heritage terms.

The current proposed scheme involves the design solution put forward in Option X as it will have less impact on the kitchen area, provide better supervision (safety by design) of the lift and WC facilities, easier circulation paths into the lift, and less obstruction to the external stairs. City Plan Heritage acknowledge that all of these proposed options would be acceptable in heritage terms, with no impact on the significant elements of the building. However, it is the opinion of City Plan Heritage that the best design solution to be Option Y because it would be a more tidy option in terms of grouping the exhausts next to the lift and

the lift being a less dominant feature within the setting of the building as it will be tucked just behind it. This will ensure in most view corridors the lift will be obscured and the upper level will have only one rising structure instead of two separate structures (lift + exhausts). However, Option Y wasn't able to provide the necessary egress path at the front of the lift for easy manoeuvre. Depending on the confirmation of the mechanical engineer at the design stage possibility of accommodating the services risers adjacent to the lift exists for all three options. Therefore, Option X is considered in the following impact assessment under the relevant controls of the LEP and DCP as well as the relevant Conservation Policies of the CMP and the Questions of the NSW *Heritage Manual*.

6.2 Leichhardt LEP 2013

The proposal is addressed in relation to the relevant clauses of the LEP below.

LEICHARDT LEP 2013 PART 5.10 HERITAGE CONSERVATION	HOW THIS PROPOSAL RELATES TO THESE MATTERS
<p>(1) Objectives <i>The objectives of this clause are as follows:</i></p> <p>(a) <i>to conserve the environmental heritage of Leichhardt,</i></p> <p>(b) <i>to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</i></p> <p>(c) <i>to conserve archaeological sites,</i></p> <p>(d) <i>to conserve Aboriginal objects and Aboriginal places of heritage significance.</i></p>	<ul style="list-style-type: none"> ▪ The proposal will conserve the environmental heritage of Leichhardt through the retention of all significant original fabric from the Victorian construction period of the Fenwick building. ▪ The proposed works will have no effect on the setting or views of the site, the Balmain East Heritage Conservation Area, or on Former Shipwright's Arms and nearby Eastcliff Terrace. The proposed car parking arrangements and new accessible pathway works to the adjacent Illoura Reserve will have no adverse impact on the existing landscaping or setting of the reserve rather the works will ensure equal usability and improved car parking facility for the public that will aid the proposed adaptive reuse of the Fenwick building.
<p>(2) Requirement for consent <i>Development consent is required for any of the following:</i></p> <p>(a) <i>demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):</i></p> <p>(i) <i>a heritage item,</i></p> <p>(ii) <i>an Aboriginal object,</i></p> <p>(iii) <i>a building, work, relic or tree within a heritage conservation area,</i></p> <p>(b) <i>altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,</i></p> <p>...</p>	<ul style="list-style-type: none"> ▪ The proposed works involve changes to the exterior and interior of the Fenwick's Stone Building which is a heritage listed item of <i>Local</i> and <i>State</i> significance under Schedule 5 of the Leichhardt LEP 2013 and the SHR respectively. The site is also within the Balmain East Heritage Conservation Area. As such, this Heritage Impact Assessment has been prepared in order to accompany a Development Application (DA) to Leichhardt Municipal Council and a Section 60 Application to the NSW Heritage Council to obtain development consent for the proposed works.
<p>(4) Effect of proposed development on heritage significance</p>	<ul style="list-style-type: none"> ▪ The proposal will have no impact on the historical significance of the site. The

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

adaptive re-use of Fenwick's Stone Building as a licensed café with gallery space is considered to be positive in terms of heritage as it will enable public access to the building as well as providing opportunity for ongoing use and appreciation of this significant heritage building.

- Introduction of a few new openings in the sandstone walls of the building has been carefully considered and detailed to minimise changes to the original building fabric. It is necessary to provide these openings for easy access to all areas of the building and its surrounds for the café clientele and staff including compliance with accessibility regulations.
- In addition, the new lift has been located near the south-western corner of the building. The lift is well separated from the stone building and is located within less significant areas. In general, the majority of works affecting the building fabric are within areas that have already been modified or have been assessed as being of lesser significance.
- The main opening that would be clearly visible as an alteration to a window opening is the upper floor door from the northern end of west elevation. The opening will be created in the form of bringing the window sill level to the floor level and keeping the existing stone edges of the sill in place to allow for the interpretation of the existing window's configuration. This new converted door opening will be linked to the lift through a covered walkway for weather protection. Designed in a slim-line zinc cladding the covered walkway will have no columns and supported by the lift structure and cantilevered from the building below the gutter of the first floor roof structure. It will have minimal visibility from the water as it is largely hidden behind the building. The small portion between the building and the lift will be hardly recognisable due to the existing buildings at the background, which will make this slim-line zinc awning invisible.
- The existing double door opening will on the first floor southern elevation will be linked by a new balcony to the lift. This balcony will also include a small outdoor dining area and serve as an accessible path for the first floor of the building. The simple and fine detailing of the balcony has been further made sympathetic and compatible by the use of materials that will

	<p>echo the industrial nature of the stone building.</p> <ul style="list-style-type: none"> Other openings are located at the ground floor - one is on the western elevation below the northern window to allow access between the kitchen and the cafe space, and the other is a new door opening on the southern elevation. This door is considered as an acceptable intervention to allow for a better circulation between the outdoor and indoor spaces of the ground floor. This part of the building was under a road ramp, which was said to being there since the 1960s, until the recent restoration works. The CMP does not confirm clearly whether there has been any opening or not at this location. Notwithstanding, as noted earlier, the proposed opening is considered an acceptable introduction to the building and will have no impact on the established heritage values of the heritage item. Such interventions are common heritage practice where the benefit to be gained is evident. The opening between the kitchen and the licensed café with gallery space is located within the void where the western elevation of the building was enclosed with the earth. The subject western wall has considerable patching most likely due to structural and rising damp issues that were possibly encountered at the time of the void's creation. There will be no heritage impact from the creation of such door opening on this wall and is necessary for the function of the building's new adaptive reuse. The effect of the each aspect of the proposed development on the heritage significance of the building has been further assessed in relation to the relevant clauses of the Leichhardt DCP 2013 and the Sydney REP 2005 and DCP 2005 below.
<p>(5) Heritage assessment</p> <p><i>The consent authority may, before granting consent to any development:</i></p> <p><i>(a) on land on which a heritage item is located, or</i></p> <p><i>(b) on land that is within a heritage conservation area, or</i></p> <p><i>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</i></p> <p><i>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</i></p>	<ul style="list-style-type: none"> A CMP has been prepared in 2009 and is the principal heritage management document for the subject heritage item and its site. This Heritage Impact Statement is a supplementary heritage management document and assesses the likely impacts of the proposed works on the established heritage significance of Fenwick's Stone Building and the Balmain East Conservation Area. A detailed impact assessment has been undertaken under the Leichhardt DCP controls in the following section.

6.3 Leichhardt DCP 2013

The following table addresses the relevant provisions of the Leichhardt DCP 2013.

LEICHHARDT DCP 2013	How this proposal relates to these matters.
C1.4 HERITAGE CONSERVATION AREAS AND HERITAGE ITEMS	
General Controls <i>C1 Development maintains the characteristics and is consistent with the objectives and controls for the relevant building type contained in Appendix B – Building Typologies of this Development Control Plan.</i> <i>C2 The fabric of an existing building is to be the subject of appropriate conservation practices including:</i> <ol style="list-style-type: none"> <i>retention of original detail and finishes such as:</i> <ol style="list-style-type: none"> <i>original face brick which should not be painted over or rendered;</i> <i>original decorative joinery and iron work which is not to be removed;</i> <i>conservation of original elements;</i> <i>reconstruction or restoration of original elements where deemed appropriate;</i> <i>retention of the original cladding material of original roofs where viable;</i> <i>consideration of suitable replacement materials should be based on original material, and where a property is part of a group or row, replacement materials should have regard to the integrity of the group.</i> 	<ul style="list-style-type: none"> ▪ The proposed development has been assessed in relation to the controls of the relevant building typology in the table below. ▪ The original fabric of Fenwick's Stone Building will be conserved appropriately under the proposed scheme for the following reasons: <ul style="list-style-type: none"> - Original exposed sandstone walls will be retained; - All original elements that are ranked as being of <i>High</i> and <i>Moderate</i> significance in the CMP, including the front (eastern facade), open layout of interiors, placement of windows on the northern and eastern elevations; overall scale and form of the building will be retained; - All original joinery will be retained, where possible; - Roof cladding (corrugated metal) is not the original roof cladding but will not be changed as part of the proposed works.
	Where it is not possible to retain original fabric, replacement materials will be based on original materials. Where sandstone is proposed to be removed to make way for new door openings on the southern and western elevations of the building; sandstone will be kept and re-used elsewhere on the site (details will be discussed with the architects and the Council for inclusion in the construction detail drawings).
Conservation Management Plans <i>C10 Conservation Management Plans shall be required when:</i> <ol style="list-style-type: none"> <i>the site is a Heritage Item identified in Schedule 5 of the Leichhardt Local Environmental Plan 2013 as having State significance; OR</i> <i>the site is a Heritage Item that predates 1840; OR</i> <i>the site is a place identified in Schedule 5 within Leichhardt Local Environmental Plan 2013 as having archaeological significance.</i> 	<ul style="list-style-type: none"> ▪ A Conservation Management Plan was prepared for the site in 2009 by NBRIS + Partners and is still in place. The proposed works have been assessed in relation to the relevant conservation policies in Section 6.5 below.

<p>Statements of Heritage Impact (SOHI)</p> <p><i>C11 Consent must not be granted for any development in respect of a Heritage Item unless a Statement of Heritage Impact is submitted to Council for consideration, except for the following:</i></p> <p>...</p>	<ul style="list-style-type: none"> This Heritage Impact Statement has been prepared in order to satisfy this requirement for consent.
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LEICHHARDT DCP 2013 C1.15 SIGNS AND OUTDOOR ADVERTISING	How this proposal relates to these matters.
<p>Signs on Heritage Items and in Heritage Conservation Areas</p> <p><i>C21 Signs are to be designed, sized and located to:</i></p> <ul style="list-style-type: none"> <i>a. minimise interference with significant fabric and features of Heritage Items. The method of installation to the Heritage Item should not result in irreversible damage to significant fabric;</i> <i>b. respect the heritage qualities of the Heritage Conservation Area including significant streetscape elements;</i> <i>c. use compatible materials, colours, style and lettering to ensure compatibility with heritage significance;</i> <i>d. not obscure any opening on a building;</i> <i>e. not protrude above any parapet or eave of the building.</i> <p><i>C22 In residential zones, signs are not to be internally illuminated or have audio components.</i></p> <p><i>C23 Original signs and signs that are part of the history and heritage significance of the Heritage Item or Heritage Conservation Area are to be retained.</i></p>	<ul style="list-style-type: none"> Details of the directional and amenities signage as well as location and size of future tenancy signage have been developed as part to the Development Application documentation. The signs have been designed to provide the necessary way-finding around the facility and placed in areas in a manner that will have the minimum intervention and impact on the setting and heritage values of the building. They have been designed as a package so that to prevent any visual cluttering. The signs will be placed either free-standing or on new structures with no impact on the heritage item. There are no original signs on the building. Signage package will also incorporate interpretive signage, which will be detailed at the construction certificate stage.

LEICHHARDT DCP 2013 APPENDIX B – BUILDING TYPOLOGIES	How this proposal relates to these matters.
<p>Controls for Warehouses and Factories</p> <p><i>Objectives</i></p> <p><i>To facilitate development that is compatible with this Building Typology.</i></p> <p><i>Controls</i></p> <p><i>C1 Development shall:</i></p>	<ul style="list-style-type: none"> Whilst Fenwick's Stone Building is not strictly speaking a warehouse or factory building, it bears the closest resemblance with the building typology of warehouses and factories, contained in Section 12 of Appendix B of the Leichhardt DCP 2013. The proposed licensed café with gallery space is considered an appropriate use for Fenwick's Stone Building as it enables the preservation of the defining characteristics of the building including its scale, form, sandstone finish, detailed parapet; openness of interior spaces and its harbour

<p><i>a. ensure that alterations and additions to a warehouse or factory do not compromise their structural integrity;</i></p> <p><i>b. retain the significant fabric and building elements;</i></p> <p><i>c. contribute to the streetscape and character of the municipality; and</i></p> <p><i>d. maintain the contribution that warehouses make to area character through their characteristic form, massing, scale and proportions.</i></p>	<p>side setting.</p> <ul style="list-style-type: none"> ■ The alterations to Fenwick's Stone Building have been carefully designed, particularly in terms of the size and placement of new door openings so as not to compromise the structural integrity of the building; ■ The elements of Fenwicks Stone Building have been ranked in terms of their significance as part of the 2009 CMP prepared by NBRIS + Partners for the site. Special care and attention has been put into the design to ensure that the elements of the building that have been ranked of <i>High</i> and <i>Moderate</i> significance are not affected by the proposed development. The elements of the building which have been ranked as highly significant, including the northern and eastern building facades and windows; timber posts on the ground and first floor, and open areas to the north and east of the building will not be altered as part of the proposed works; ■ The subject stone building is set below the street level on Weston Street and Darling Streets. The building, on the foreshore of Balmain, has its main frontage facing Sydney Harbour. As such, views along the foreshore and from Sydney Harbour looking towards the site are of a greater significance. The proposed works will not alter any significant foreshore views, or alter the overall appearance of the building in its setting. The lift shaft, located to the south-west of the building, may partially obstruct views to the building from the south-west approaches along Weston Street. However, the lift is considered necessary in order to satisfy the accessibility requirements of the site and have been located away from the most significant (eastern and northern) elevations of the building. As such, the proposed location is considered to be the best outcome with least impact responding to both accessibility and heritage constraints of the site. Fenwick's Stone building will continue to contribute to the character of Balmain and the municipality of Leichhardt as a prominent building on the Balmain East foreshore. ■ The characteristic form, massing, scale and proportions of the Fenwicks Stone building will be retained. Where new openings are to be cut into the sandstone, they have been designed in order to fit in within the existing proportions of openings of the building. For example as noted earlier, the new door
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<p><i>C2 The scale and form of the factory or warehouse is to be retained.</i></p> <p><i>C3 Lightweight balconies, canopies and sun shading devices may be affixed to the facades so long as there is a clear distinction between the original fabric and the contemporary addition and they don't detract from the original industrial character of the building.</i></p> <p><i>C4 The robust masonry form of the building is to remain visually dominant.</i></p> <p><i>C5 The rhythm of openings is to be respected. Two smaller openings may be combined where there is no removal of original significant elements.</i></p> <p><i>C6 Existing painted signs that contribute to the buildings significance and to the streetscape character are to be retained.</i></p> <p><i>C7 Vertical additions are only possible for flat roofed buildings which are well set back behind a parapet and with a horizontal profile in keeping with the simple building form and strong parapet line.</i></p>	<p>opening on the upper floor of the western elevation will be an extension of the existing window, making reference to the existence of the window in this location. The new door opening on the ground floor of the southern elevation of the building will be a wider opening than the one directly above for easy circulation and connection, but will be the same height and width of the front door in order to repeat the same proportions of openings.</p> <ul style="list-style-type: none"> ■ There will be no changes to the overall scale or form of the building as a result of the proposed works. ■ A new concrete balcony will be affixed to the southern elevation of stone building and will function as a walkway, connecting the first floor opening on the southern elevation and the raised ground level at the rear of the building and will improve access between the lift, upper level and lower level. This balcony will be contemporary and simple in style and will not detract from the original character of the building. ■ The awning along the western upper floor elevation will act as a sun shading device while providing a covered access between the lift and door to the upper licensed café with gallery space. ■ The robust sandstone form of the building will be retained as a visually dominant element on the site and along the Balmain foreshore. ■ The location of new openings has been carefully considered so that they respect the existing rhythm of openings. As noted above, a new door opening has been put in place of the existing window on the western elevation of the building. On the southern elevation of the building, the new door opening will be placed in line with the door opening above. Where sandstone will be removed for the creation of new openings, it will be re-used elsewhere on the site in accordance with the Council's recommendations. ■ There are no existing painted facades that relate to the Fenwick's Stone Building. Interpretive plaques and stones including loose stone outcrop to the east and north of the building on the Balmain foreshore will be retained. ■ There will be no vertical additions or changes to the roof structure of the stone building under the proposed scheme.
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6.4 Sydney REP (Sydney Harbour Catchment) 2005

Fenwick's Stone building is located on the eastern foreshore of Balmain as such it falls within the curtilage of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. Therefore, this REP and the Sydney Harbour Foreshores and Waterways Area Development Control Plan (DCP) 2005 apply to the site.

This Plan covers the area of Sydney Harbour, including the Parramatta River and its tributaries and the Lane Cove River and Middle Harbour. It applies to the northern half of Sydney City's local government area, including Sydney CBD. The Plan aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole. In summary, the Plan has the following provisions:

- Part 2 - Planning Principles for planning instruments and development control plans
- Part 3 - Foreshores and Waterways areas
- Part 4 - Specific foreshore sites
- Part 5 - Heritage items, as identified in Schedule 4 of the Plan.

Whilst the site falls within the foreshore catchment area of the Sydney REP 2005, Fenwick's Stone building is not identified as a Heritage Item under Schedule 4 of this control. As such, the proposed works will not need to be assessed against the heritage provisions of the Sydney Catchment REP 2005 or Sydney Harbour Foreshores and Waterways Area DCP 2005.

6.5 Conservation Policies (2009 CMP)

The Conservation Management Plan was prepared for Fenwick's Stone Building in 2009 by NBRS + Partners. The proposed works are assessed in relation to the relevant conservation policy recommendations below. Remainder of the recommendations have either been carried out or not applicable for the current application. Some of the recommendations are also relate to the management and control of the Conservation Management Plan. A table of compliance have been provided at the end of this section for reference (refer to section 6.5.2 below):

6.5.1 Discussion of Relevant Recommendations

6.2.1 Management and Conservation Processes

Recommendation 5 All conservation work in the building should be undertaken on the basis of evidence. Conjecture and guesswork in making decisions about conservation processes are unacceptable.

- City Plan Heritage has provided heritage input and advice throughout the detailed design development of the current project. The proposed works have been designed based on research and knowledge of the site and the most significant elements of the building, with specific reference to the ranking of significant elements provided in the 2009 CMP and in Section 4 of this Report. The main conservation works associated with the current proposal will be finding the source of the rising damp and salt along the northern wall base of the building and halt further deterioration, as well as reinstating the timber floor above the entrance by filling in the recently created void. Some minor repair and maintenance work will also be needed in association with the new works to ensure the building fabric is made good and is watertight.

Recommendation 6 Retention, enhancement and recovery of the Cultural Significance of the place should be adopted and implemented as opportunities arise, taking into consideration the changing needs of the Owner, availability of funds and other constraints.

- The cultural significance of Fenwick's Stone Building will be retained and enhanced through its conversion into a cafe. Through its use as a cafe, the site will be opened to the public and this will enable the ongoing use and appreciation of the former boat store within the context of the Balmain foreshore.

Recommendation 7 Evidence of the associations of the place with the Fenwick's' tug boat operations and that which conveys the past maritime industrial use of the site should be retained on site, conserved and interpreted.

- The site already contains interpretive plaques which will remain on the site.
- Additional opportunity for interpretation may arise as part of the new works, and may be considered necessary as a condition of consent to be incorporated into the design of the internal fit-out.

6.2.2 Statements of Heritage Impact

- This Heritage Impact Statement has been prepared in order to assess the impact of the proposed works on the significance of Fenwick's Stone Building, and is consistent with the relevant guidelines and controls including the 2009 CMP, the Leichhardt LEP 2013 and the *Heritage Act 1977*.

6.2.3 Access and Security

Recommendation 9 Public access around the building and secure supervised access to interiors and objects should be provided in any adaptive use to which the building and its setting are put.

- Since 2009, a number of restoration works have been undertaken to the building and the site. Including the removal of the driveway to the south and west of the building, the reconstruction of the stepped parapet and the replacement of windows on the western elevation and the creation of a void to behind the western retaining wall to the rear of the building and new access (sandstone stairs) from Weston Street. The recently completed landscaping works around the site has enabled public access around the building and clear views around the building, improving public surveillance.
- The use of the building for a licensed café with gallery space will improve the public surveillance of the interiors and exteriors of the building, as well as the site surrounds and adjacent park. The new opening on the southern elevation will also improve public surveillance by providing access and connection between the interior ground floor space and the outdoor seating areas to the south of the building.
- The proposed new lift will also improve accessibility to the building as well as to the Balmain foreshore area in general and is located in an area which will result in very little to no impact on the heritage significance of Fenwick's Stone Building as it is located near the south-west corner of the building and will not affect the more significant northern and eastern elevations of the building.
- Similarly, the proposed landscaping works including new pathway and additional car parking within the existing car park space will improve equal accessibility and connection of the site with the upper section of the reserve with no impact on any landscaping. The Illoura Reserve has a large grassed area in the centre on which the proposed pathway will be travelling.

6.2.4 Consultation and Development Consents

Recommendation 10 Consultation with the Heritage Branch of the Department of Planning and other stakeholders should continue. In particular where change to the fabric

including adaptation, demolition or other work are proposed the specific consent of the Department of Planning via Section 60 applications and other processes should be sought.

- This Heritage Impact Statement has been prepared to accompany an Integrated Development Application (IDA) to Leichhardt Council who will refer the application to the NSW Heritage Council to obtain their consent under the *Environmental Planning and Assessment Act (EP&A) 1979*. A separate Section 60 Application under the *Heritage Act* will also be required following approval of the IDA.

6.2.5 Adaptive Reuse

Recommendation 12 Compatible uses include those that allow the retention and recovery of the original character and identified cultural significance of the place and do not require additional accommodation beyond that provided for in the scope of the conservation recommendations (policy) or require operations which go against the policy such as partitioning interior spaces or introduction of intrusive services. The proposed uses of café/gallery supported by a subterranean services structure to the west and outside the existing building are generally compatible with the significance of the place and have considerable potential to be an appropriate adaptive reuse of the building. The café appears to allow greater public access and appreciation of the setting and interiors than a gallery use.

- The proposed licensed café with gallery space is considered to be a compatible use for the building as it enables the retention of the aspects of the building which have been classified as being of *High* significance and enables the retention of the overall form, scale and setting of the building as well as the openness of the interior spaces.
- It is generally considered by City Plan Heritage that all the proposed changes to the building to accommodate the required services and accessibility have been designed to have the least possible impact on the building. Some intervention to the original building fabric will occur due to creation of new openings to the rear of the ground floor as well as in the proposed balcony on the first floor. However, these new openings and proposed balcony will greatly improve accessibility and circulation around the building and have been concentrated to the southern and western elevations of the building which have been assessed as being of lesser significance.
- The proposed lift located near the south-west corner of the building and accessed via the rear void from the lower level is considered to be a positive outcome in terms of improving the accessibility of the building by enabling disabled access and having the least impact on the significant building fabric.

Recommendation 13 Proposed changes of use to any part of the building should only be considered in the context of a coordinated plan for the whole building.

- The proposed adaptive re-use of the stone building as a licensed café with gallery space involves the whole building, in line with this conservation policy. The design of the proposed works have taken into account the historic values of the whole building and its setting.

Recommendation 14 In adapting parts of the building, original fabric or fabric otherwise found to be of significance and which is capable of reuse on site should be relocated within the building.

- Sandstone which is proposed to be cut away for the creation of new openings on the western and southern walls will be retained for future re-use elsewhere on the site. Locations are to be confirmed with the Council.

Recommendation 15 Proposed adaptation or changes which would require the introduction of particular services and/or structural alterations which would have a strong adverse effect on the character and/or heritage significance of the building are unacceptable.

- None of the alterations to the building under the proposed scheme would have an adverse effect on the character or significance of the building. As noted above, the design of the proposed scheme has been carefully considered in order to avoid making structural changes to the building.

6.2.6 Maintenance and Repair

Recommendation 18 Care should be taken by both tradespeople and supervisory staff that significant fabric is not damaged by maintenance and repair activities.

Recommendation 19 Colour schemes: Whenever painting or refinishing is contemplated for significant external fabric only authenticated heritage colour schemes should be adopted. This should involve investigation of the physical evidence of surviving schemes.

Recommendation 20 Only surfaces originally painted should be repainted. Painted stonework should only be repainted internally with porous paints which allow the underlying stone to 'breathe' rather than modern plastic paints which seal in moisture.

- The appropriate level of care and supervision will be undertaken throughout the duration of the proposed works. Where required appropriately qualified tradespeople will be engaged to undertake the work in order to ensure the building's fabric is treated in accordance with traditional methods.
- All joinery will remain painted in an authenticated heritage colour scheme to maintain the significant heritage character of the building.
- All stoneworks will be retained unpainted.

6.3 Recording Change

- Photographic Archival Recording in accordance with this conservation policy may be undertaken before the commencement of the proposed works if considered necessary by Leichhardt Municipal Council and the NSW Heritage Council. The building has undergone restoration works and archival recording was understood undertaken at that time.

6.4 Research, Training & Resources

Recommendation 24 Relevant and expert trade and professional conservation advice should be provided for all conservation, adaptation and repair works proposals and programs at the place.

- All works under the proposed scheme will be undertaken by suitably qualified tradespeople with appropriate supervision from a qualified Conservation Architect. It is anticipated that a condition of consent will be made in this regard.

6.6 Setting and New Development

Recommendation 28 The physical, visual and historic links between the Ferwick 1880 Stone Building, the harbour, the ferry wharf and the former Shipwrights Arms should be retained in new development and lost links recovered or enhanced wherever possible.

Recommendation 29 The industrial maritime context of the site should be maintained and enhanced by retention and recovery of an open setting of reclaimed land to the

building's east and north and by the use of a limited palette of robust materials and detailing with precedent at the site for use in new elements.

- The proposed adaptive re-use of the site will have no impact on the setting of the site or the visual and historic links between the Fenwick 1880 Stone Building; the Harbour; the ferry wharf and the former Shipwrights arms. The proposed use can be considered to improve the link between the Stone Building and its surrounds by activating the site with an appropriate use that will enable the wider community to access the site and appreciate the heritage values of the 1880s Fenwick's Stone Building.

6.8 Disabled Access

Recommendation 32 Disabled access to both levels of the building should be achieved in a way which does not visually intrude upon the eastern and northern facades or result in the loss of early interior fabric.

- The proposed location of the lift will enable disabled access to both levels of the building and will have no impact on the eastern or northern facades of the building, as it is located near the south-west corner of the building. As noted in the general discussion of design options at the beginning of Section 6, all options for the location of the lift (Options X, Y and Z) are considered to be acceptable from a heritage perspective and satisfy the requirement of this conservation policy. The preferred Option X is considered to have no or minimal impact when the building is viewed from the northern and eastern approaches. The upper floor bulk of the lift will not be seen from the most significant view settings of the building as such its location is considered the one of the best options within the constraints of the site.

6.9 Services

Recommendation 34 New services should not visually intrude into areas of moderate to high significance or be visible on the eastern and northern facades and roof. Conduits for services should be surface mounted and restricted to the interior of the building or concealed behind the outer (now buried) side of the western wall.

- The new kitchen and toilet facilities will be located in the existing rear void to the west of the building which is concealed behind the western wall and will not intrude into any visible areas of the building. All services that will be facilitated in this area will be surface mounted, and where possible, will be restricted to the interior of the building.

6.13 The Northern Facade

Recommendation 42 The northern façade should generally be retained in its existing configuration without new structures directly in front of it.

- There will be no changes to the northern facade.
- The proposed seating on the northern side of the building will not impact on the heritage significance of the building or views to the site from the north.

6.14 The Western and Southern Walls

Recommendation 45 The door in the southern wall at first floor height may be retained if useful or may be built up as long as the character of the stonework matches adjacent rubblework.

- This door will be retained.

Recommendation 46 The windows in the western wall at first floor height may be retained as windows or may be altered to become doors of the same width if the adjacent ground levels are lowered.

- The northern window opening on the western elevation of the upper floor is proposed to be a door opening. This location and opening size will also be reflected in the opening into the kitchen below on the ground floor.

Recommendation 47 The western and southern walls have the greatest potential for change out of the four walls of the building and, in principle, new openings may be made as long as on the first floor new openings echo the windows on the northern wall and on the ground floor sympathetic openings may be considered on the merits of proposed designs but need not necessarily echo those of the northern wall.

- External changes to the building have been restricted to the southern and western elevations of the building in order to reduce the impact of the proposed works on the most significant building fabric. The proposed scheme is therefore consistent with the recommendations of the CMP in this regard.
- A new opening will be created between the ground floor and the rear void on the western side of the building. The subject wall has a large number of previous repairs and material changes with some straight shadow lines suggesting existence of previous openings. Further investigation of the wall fabric (partial removal will be required) may reveal a better understanding of the changes to the subject wall. The integrity of the wall seems to be impacted by these patches and replacement of fabric. As such, the wall is not completely intact. Therefore creation of the proposed opening to ensure efficient functionality of the building's new use and interconnection with the service areas in a most suitable part of the building is acceptable. Such intervention will have no impact on the identified and established heritage significance of the building. The western facade is ranked as being of Moderate level significance. Only the upper level of the western elevation is visible above the void. As such, the proposed new opening on the western wall between the kitchen in the rear void and the ground floor of the stone building is considered to be acceptable in heritage terms.
- For operational purposes and to activate the external area on the southern side a large opening is required on the southern side of the ground floor. The size/ proportions of the proposed new opening have been based on the existing front door but configured it so that it is a single internal sliding door panel. The new door will be detailed in an industrial but contemporary style that in order to complement the heritage fabric and original use of the building. The position of the opening has been established by an analysis of both the southern elevation proportions and the internal stair location. The southern edge of the opening lines up with the southern edge of the opening above, allowing it to clear the base of the stair and the protruding handrails required for BCA compliance.
- A new concrete balcony will connect the area between the first floor opening on the southern elevation and the upper ground level to the rear. This will be recognisable as a new structure but will be sympathetic to the existing style of the building. This proposed balcony will enable the use of the existing first floor opening and will enable improved accessibility and circulation.

6.15 Interior

An investigation of contamination at the site prepared by Sinclair Knight Merz (SKM) indicated the presence of the heavy metal mercury in cores taken beneath the concrete slab. The concrete slab is not original, is visually intrusive and is exacerbating problems of damp within the building.

Recommendation 48 The concrete slab of the ground floor should be removed, the condition of the underlying substrate investigated more fully and the foundations remediated in accordance with the contamination report. If the underlying finishes are original, serviceable and can be remediated of unacceptable levels of toxic substances it should be retained in situ. If this is not possible, a new floor which is permeable to air and moisture such as sandstone flags or bricks laid on a loose bed of sand or similar should be put in place.

- A new timber floor will be constructed on the ground floor so that it floats above the existing concrete slab.

Recommendation 49 An air drain should be installed behind the southern and western walls below the level of the ground floor as a minimum and care taken to direct water away from the building.

- Necessary detailing will be provided in due course in accordance with the requirements of this policy and as suits the current design layout.

Recommendation 50 The interior spaces of the first and ground floors should be retained as open spaces with no long term partitions above 1350mm above floor level.

- All interior spaces will remain open with no new partition walls.

Recommendation 51 The interior walls should be retained as exposed rubblework which may be painted with permeable paints where painted before.

- Interior sandstone walls will be retained.

Recommendation 52 The interior stair may be removed and the interior adapted with a new compliant stair of similar material and open quality as far as is consistent with current building codes.

- A new compliant stair is proposed in the southeast corner of the building, connecting the ground and first floors. This is considered to be the preferred option for the location of the stairs because it enables a new opening in the western wall to connect the ground floor with the kitchen at the rear and also has the least impact on the interior spaces without impacting on window openings or obstructing views between the interior and the outside setting. All circulation and connections between the openings will remain around the stair allowing clear and uninterrupted spaces for indoor and outdoor seatings.

Recommendation 53 The lightweight partitions and cabinet on the first floor may be removed following recording if part of a compatible use.

- These elements no longer exists

Recommendation 54 The sound original timber members of the floor, posts, attached fittings and roof tie beams should be retained and repaired. Lost members of the floor should be replaced with matching materials. More recent props and glu-lam members should be removed. The structure as a whole should be discreetly reinforced to make safe for use and the structure should remain exposed to view.

- These repair works have already been undertaken. All of these elements will remain exposed. Some intervention will occur to create a new void opening in the proposed location of the staircase, however, this is considered to be the most preferred location of the staircase in terms of the overall heritage significance of the interiors of the building for the reasons discussed in relation to Policy 52. Some of the timber boards may be able to be reused to infill the existing void above the front door.

Recommendation 55 High level lighting of the first floor interiors may be achieved by glazing the arch to the eastern façade once reconstructed, adapting the openings on the western wall and by glazing vent of the western gable once reconstructed.

- The existing void on the northern end of first floor will be retained as is with only replacement of the non-original timber balustrade with new brass

balustrade incorporating lighting is proposed. This modification will ensure the void area is integrated within the overall finishes of the interiors, which also include brass balustrade to the new stair at the southeast corner.

6.17 Excavation, Disturbance & Unforeseen Discovery

Recommendation 57 The recommendations of Cosmos Archaeology Pty Ltd's Historical Archaeological Conservation Management Plan should be followed to ensure that risks arising from excavation, disturbance and unforeseen discovery at the site are mitigated.

- The proposed works are unlikely to require any excavation. In the event that excavation is required, further research and reference to the recommendations of Cosmos Archaeology Pty Ltd's Historical Archaeological Conservation Management Plan will be required.

6.5.2 Compliance with the Conservation Policy Recommendations

Most of the recommendations have been considered and commented on above in section 6.5.1, therefore only the policy numbers are included in the table below to avoid unnecessary repetition of the text. Reference should be made to the CMP for recommendations that are not quoted above.

Number	Compliance / Comments
1	Complies. The current works are guided by the Burra Charter principles.
2	Complies. The Statement of Significance was paramount approach for the current works.
3	Complies.
4	This is a matter for Council's consideration.
5	All work to date have been carried out on evidence based approach. All future works for reinstatement and conservation will apply the same principle. See also discussion in section 6.5.1.
6	Complies. See also discussion in section 6.5.1.
7	Complies and will further be enhanced as part of the heritage interpretation for the building. See also discussion in section 6.5.1.
8	This Heritage Impact Statement satisfies this recommendation. See also discussion in section 6.5.1.
9	The proposed adaptive reuse will ensure the public access to the building and its surrounds. See also detailed discussion in section 6.5.1 above.
10	An Integrated Development Application will be made to obtain advice and consent of the Heritage Council. See also discussion in section 6.5.1.
11	General recommendation and will be considered where applicable.
12	Complies. See discussion in section 6.5.1.
13	Complies. See discussion in section 6.5.1.
14	Complies. See discussion in section 6.5.1.
15	Complies. See discussion in section 6.5.1.
16	A considerable conservation works and maintenance have been carried out and a regular maintenance schedule will be put in place as part of the future use.
17	Termite treatment has been carried out as part of the recent conservation and restoration works.
18	Complies. See discussion in section 6.5.1.
19	Complies. See discussion in section 6.5.1.

20	Complies. See discussion in section 6.5.1.
21	An archival documentation has already been created and will be further supplemented as part of the current proposed adaptive reuse. Complies. See discussion in section 6.5.1.
22	As above. Complies. See discussion in section 6.5.1.
23	Complies. See discussion in section 6.5.1.
24	Complies. See discussion in section 6.5.1.
25	As above
26	As above
27	Interpretation has been incorporated into the design of the current proposal and will further be supplemented as part of the carrying out of the works in the form of preparing an Interpretation Strategy. it is anticipated this will be made as a condition of consent.
28	Complies. See discussion in section 6.5.1.
29	As above.
30	Complies. This report has discussed and assessed the likely impacts of the proposed design including the additions to the building.
31	Complies. All BCA upgrade works have been considered as part of the design.
32	Complies. See discussion in section 6.5.1.
33	Complies.
34	Complies. See discussion in section 6.5.1.
35	Complies. The seawall has been retained.
36	Not applicable for this proposal.
37	Complies. The wall has been retained and will be conserved as part of the current proposal.
38	As above. Minor opening has been made and most of the wall has been kept.
39	Complies. The eastern facade and roof have been reconstructed as part of the recent conservation works. The works have been carried out in accordance with this recommendation.
40	Stonework has been reused within the site and landscape.
41	Complies. The recent conservation works have been carried out accordingly. Interpretive media will be provided as part of the current works.
42	Complies. See discussion in section 6.5.1.
43	Complies. Recommendations have been implemented as part of the recent conservation works. Further desalination treatment will be carried out as part of the current work. mitigation measures to reduce rising damp and salt issue has been incorporated into the design.
44	Complies. Recommendation has been noted and considered as part of the current design.
45	Complies. See discussion in section 6.5.1.
46	As above.
47	As above.
48	As above.
49	As above.
50	As above.
51	As above.
52	As above.
53	As above.
54	As above.
55	As above.
56	Complies. The roof has been reconstructed as part of the recent conservation works in line with this recommendation.
57	Complies. See discussion in section 6.5.1.

SECTION 8.2 SCHEDULE OF CONSERVATION WORKS

Recommended work	Compliance
<i>Termite treatment and monitoring system.</i>	The building has been treated against termite activity as part of the recent conservation

	works.
<i>Repair timber floor and replace rotten flooring, joists and other members.</i>	Works have been carried as noted above.
<i>Strengthen existing timber floor on first floor.</i>	The timber floor and the structure as a whole has been strengthened.
<i>Provide new timber stair.</i>	A timber stair has been provided and will be modified as part of the current works.
<i>Repair existing windows and doors.</i>	
<i>Remove stone retaining wall to ramp against southern wall and recover original levels of earth against western wall or lower as proposed by Northrop Engineers.</i>	The works have been carried out accordingly.
<i>Remove concrete slab to ground floor interior, remediate and refinish.</i>	Partially completed and will further be stabilised as part of the current proposed works with a new timber deck installation.
<i>Provide new external air drain to walls.</i>	Drain has been provided but will further be modified as part of the current works.
<i>Treat walls to remove salts and organic material.</i>	Walls were treated as part of the recent conservation works, however, the nature of the site's maritime environment requires further treatment, which will be carried out as part of the current works.
<i>Repair and repoint stone walls.</i>	Works have already been carried out to the building's walls. Further repointing works may need to be carried out as part of the current works, particularly to the lower ground rear wall and stone retaining wall.
<i>Repair/replace slate dampcourse.</i>	Repair to the dampcourse has been carried out however will need to be further checked and repaired as part of the current works.
Desired works	
<i>Reconstruct stepped stone gable to eastern façade.</i>	The gable has been reconstructed.
<i>Reconstruct gable and gambrel roof with timber framing and shortsheeted galvanised steel sheet or slates.</i>	The works have been carried out accordingly as part of the recent conservation works.
<i>Provide new gutters, downpipes and drainage system.</i>	All roof plumbing and drainage system has been provided, and will further be supported in line with the current proposed design and works.

6.6 'Statements of Heritage Impact' (NSW Heritage Manual)

The following aspects of the proposal respect or enhance the heritage significance of the item or conservation area for the following reasons:

- The proposed adaptive re-use as a licensed café with gallery space enables the retention of the significant elements of Fenwick's Stone Building, including the northern and eastern elevations, the overall form, massing and scale of the building as well as the openness of the interior spaces. In addition, the use of the building as the licensed café with gallery space will enable the maintenance

of the connection between the building, the ferry wharf, the Balmain foreshore and Sydney Harbour whilst at the same time, activating the site and enabling access and appreciation of the site by the wider community.

The following aspects of the proposal could detrimentally impact on heritage significance. The reasons are explained as well as the measures to be taken to minimise impacts:

There are no aspects of the proposal that will cause a detrimental impact on the heritage significance of the building. However, some of the proposed changes will have a minimal effect on some areas of the building. These changes have been the subject of careful consideration and their impacts have been mitigated in the following ways;

- The new kitchen is proposed in the rear void of the building so as not to impact on the interior spaces or on the original building fabric. The proposed location of the kitchen is concealed in an area behind the building and the rear western retaining wall. A new opening will be created between the ground floor and the kitchen area to the rear via the western wall and this opening is essential for the functional use of the kitchen to the rear. This opening has been designed to be compatible with the building in terms of its location and the proportions of the proposed opening.
- A new opening will be made to the western elevation in place of the existing northern window and will be the same width as the existing window. All sandstone detailing around the existing window will be retained, where possible. A new opening will be created on the ground floor of the southern elevation and will be aligned with the western side of the existing opening on the first floor. The western and southern elevations have been ranked as being of moderate heritage significance and the proposed new openings have been designed to be compatible with the existing style of the building and are consistent with the Conservation Policies of the 2009 CMP by NBRIS + Partners.
- The proposed new balcony on the southern elevation of the first floor will be a slimline concrete structure that is contemporary in style and sympathetic to the existing style and industrial nature of the building. As noted above, the southern elevation is of moderate significance and is capable of change. This new balcony will enable the appropriate use of the existing door on the first floor which has not been able to be used since the removal of the driveway to the west and south of the building and the exposure of the entire southern elevation of the building.
- The proposed new lift will satisfy the accessibility requirements of the site and, as discussed above, has been located in an area that will have the least impact on the building and its setting.

The following sympathetic solutions have been considered and discounted for the following reasons:

- A number of design solutions have been considered for the proposed works as noted at the beginning of the impact assessment section. The overall design of the proposed scheme is considered to be the most preferred option as it causes the least impact on the most significant areas of the building and retains the overall form, massing, scale and interior openness of the building.
- A number of solutions were also considered for the location of the proposed lift (Options X, Y and Z). All of these options are considered to provide a positive outcome in terms of heritage, accessibility requirements and optimal use of space. For further discussion of these design options, see the discussion section at the beginning of Section 6.

7. Conclusion and Recommendations

In conclusion, it is considered by City Plan Heritage that the proposed design associated with the adaptive re-use of Fenwick's Stone Building as a licensed café with gallery space will result in minimal impacts to the lesser significant areas of Fenwick's Stone Building, and will cause no impact on the fabric of High significance as well as the Balmain East Heritage Conservation or the nearby Heritage Items. The proposal will ensure the ongoing use of the 1880s Fenwick's Stone Building and its site while the relationship between the building and its setting, the Illoura Reserve, the Balmain foreshore, Sydney Harbour, the ferry wharf and the heritage listed Shipwright's Arms is positively maintained.

The proposal is a positive response to the site's constraints and demonstrates compliance with the existing controls regarding heritage conservation and is therefore recommended to Council for approval.

CITY PLAN HERITAGE

APRIL 2015

Attachment 5: Acoustic Report Prepared by Acoustic Logic

Attachment C – Plan of Management

SJB Planning

2-8 Weston Street, Balmain East

Plan of Management

September 2021

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1.0 Introduction and Objectives of This Plan

1.1 Overview

This Plan of Management (POM) is for the operations of the food and drink premises at 2-8 Weston Street, East Balmain known as 'The Fenwick'.

The content of the Fenwick POM is informed by the Conditions of Consent for D/2015/299 issued by Inner West Council on 30 August 2016. D/2015/299 granted consent for the adaptive reuse of the Fenwick Building and it's use as a licensed café with gallery space.

In the event of an inconsistency between the conditions of consent and this POM, the conditions of consent prevail. All managers and staff of the Fenwick are to familiarise themselves with the requirement of this POM.

1.2 Objectives of the Plan

The objectives of the plan are:

- To enable compliance with the relevant conditions of approval for the The Fenwick;
- Outline the relevant conditions of consent including patron numbers, staff numbers, waste disposal and waste transfer for retail premises;
- Minimise the potential impact of operations of the site on nearby residents;
- Minimise and manage antisocial behaviour;
- Manage and respond to resident complaints;
- Ensure responsible service of alcohol; and
- Outline patron management and security measures.

A copy of the POM will be kept in a readily accessible place on-site, and will be made available to all persons involved in the operation and management of the venue. It will be made available for inspection by the Police, inspectors of Liquor and Gaming New South Wales (L&GNSW) or Council upon request.

The venue shall be under the supervision of a suitably qualified Licensee or approved managers, who will be in attendance during the hours of operation to ensure that the venue is managed in accordance with this POM and its objectives. The primary focus of the venue is as a food and drink premises, with the service of alcohol accompanying meals.

1.3 Annual Review

This Plan of Management is to be reviewed annually by the venue management and owners.

1.4 Trial Period requirements

The extended trading hours have been approved for an additional trial period. As part of the trial period the proprietor of the restaurant is to monitor the parking impacts of the proposal on the local street network. This will be undertaken via at least 6 periodic parking availability surveys of the surrounding street network. The results of the surveys are to be compiled and included with the required application to make the extended trading hours permanent.

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Plan of Management

Aligned with the parking availability surveys, the proprietor will undertake periodic patron surveys to identify the mode of travel to the premises for that visit. The patron surveys are to be undertaken on at least 20 occasions during the trial period. The results of these patron surveys are to be provided with the future application seeking to make the trial period permanent.

2.0 Operation of the Premises

2.1 Hours of Operation

The hours of operation of the restaurant are as follows:

- 7:00am to 11:00pm, Monday to Sunday

The outdoor dining area of the venue will shut at 10:00pm Monday to Saturday and Public Holidays, and 9:00pm Sundays.

The actual trading hours of the venue may vary from time to time such that it may close prior to 11:00pm, however any trading will always be between the hours detailed above.

2.2 Patron Capacity

The maximum total occupancy for patrons is 80 persons / seats. This is inclusive of the outdoor seating area.

The maximum occupancy of the outdoor area is 24 persons / seats.

2.3 Set-up and Clean-up

Set-up and clean-up of the retail premises are restricted to one (1) hour before and one (1) hour after opening and closing times. All doors and windows must remain closed during set-up and cleaning where possible.

Set-up and clean-up operations of the outdoor seating area is to occur during operating hours.

2.4 Closing Procedures

The following measures are to be incorporated for the closure of the food and drink premises;

- 30 minutes prior to closure – Service to cease;
- 15 minutes prior to closure – Patrons reminded that venue will be closing shortly;
- Closure time – Lights put on (if dimmed) and patrons asked to quietly vacate the premises;

In addition, signs are to be displayed at the entrance of the venue reminding patrons to minimise noise when departing the premises.

Patrons are not to remove glass, opened cans, bottles or alcohol from the premises.

Note: Similar procedures should be enacted for the closure of the outdoor dining area prior to the closure of the remainder of the venue.

2.5 Deliveries

Deliveries to the Fenwick are only permitted between 7:00am and 6:00pm daily, restricted to outside non-peak hours in this period.

Delivery vehicles are limited to a maximum B99 (large cars and utility vans).

2.6 Waste Management

The following waste management procedures apply:

- The pickup of commercial waste and recyclables from the site is only permitted between 8:00am and 9:00pm daily; and
- Waste bins are only to be moved kerbside on the same day as waste collections. Empty waste bins are not to remain at the kerbside.

3.0 Amenity of Neighbourhood

3.1 Overview

At all times staff and the Licensee/Approved Manager of the venue shall consider the amenity of the neighbours and take all reasonable measures to eliminate the potential for adverse impact on surrounding areas.

The Licensee/Approved Manager shall take all reasonable measures to ensure that the behaviour of staff and patrons upon entering and leaving the venue does not adversely affect the amenity of the neighbourhood. The behaviour of contractors servicing the venue is also to be monitored by the manager on duty.

The email of the Licensee/Approved Manager of the venue will be distributed to neighbours in the immediate vicinity in order to let them know that any problems or issues that arise will be dealt with directly by the Licensee/Approved Manager, and that the Licensee should be contacted in the first instance if a concern arises.

3.2 Noise Emission Controls

The following noise emission controls will be imposed for the venue:

- Use of the indoor area is to cease at 11:00pm;
- Use of the outdoor area is to cease at 10:00pm Monday to Saturday and Public Holidays, and 9:00pm Sundays;
- The outdoor dining area is for seated diners only;
- After 6:00pm, all windows and doors on the northern, western and southern facades of the building are to remain closed when the venue is in use. The door on the southern side can be open for egress to the outdoor dining area only until 10:00pm Monday to Saturday and Public Holidays, and 9:00pm Sundays;
- No music is to be played on the outdoor areas of the venue;
- Only background music is allowed within the internal areas of the site, with a maximum sound pressure level of 65dB(A)Leq;
- Disposal of bottles/waste should be undertaken prior to 10:00pm; and
- Signs reminding patrons to leave the site quietly at night time will be installed at exit points.

4.0 Behaviour Of Patrons

4.1 Licensee/Approved Manager and Staff Expectations

The Licensee/Approved Manager will take all reasonable steps to manage the behaviour of patrons in the venue and when entering and leaving the venue. Staff shall encourage patrons to leave the vicinity of the venue promptly and quietly to minimise possible noise impacts on the local community.

The Licensee/Approved Manager and staff shall take all reasonable steps to ensure that persons do not loiter in the vicinity of the venue if they have been refused admittance or after leaving the venue. If patrons refuse to leave the vicinity the police will be contacted for assistance.

Staff are to encourage patrons to drink responsibly. Patrons will be required to leave the venue if they become intoxicated, violent or aggressive. If patrons refuse to leave police will be contacted for assistance.

Groups of patrons will be managed in the same manner as individuals due to the small nature of the restaurant. If the group or a member of the group becomes intoxicated, violent or aggressive they will be asked to leave. If they refuse the police will be contacted.

The majority of the venue's patrons especially at evening sittings are expected to be prior bookings. Walk-ins will be managed on the availability of seating. Should patrons arrive without a booking and no tables are available, staff will take the patrons phone number and contact them once a table becomes available. Patrons will be expected to leave the vicinity of the venue whilst waiting for a table to become available.

4.2 Venue Requirements

Low alcohol beer and non-alcoholic beverages will be available at all times. Drinking water will be available at all times without charge during opening hours.

4.3 House Policy

In the interest of patron and staff safety, the venue will adopt practices to ensure the responsible service of alcohol. The following measures are to ensure the enjoyment of the venue for staff and patrons and to minimise impact on surrounding residents.

It is the venue's policy to:

- Prevent underage drinking by requiring proof of age be provided by any person requested to do so, particularly any person who appears to be under the age of 25 years;
- Prevent intoxication by recognising the signs of intoxication and refusing service to patrons who reach this point. Any person who is already intoxicated when attempting to enter the venue will be refused entry;
- Non-alcoholic beverages will be available at all times the venue is open for trade within licenced hours. Drinking water will be available at all times without charge during opening hours;
- Harm minimisation and the Responsible Service of Alcohol (RSA);
- The prevention of intoxication on the premises;
- Prevent disruptive and/or antisocial behaviour of patrons within and when leaving the venue;

- Ensure the noise from the operation of the venue does not unduly affect any residence or business within the vicinity of the venue; and
- Ensure the operation does not result in an increase in litter in the vicinity of the venue.

4.4 Responsible Service of Alcohol (RSA)

4.4.1 Licensee/Approved Manager's Responsibilities and Requirements

The restaurant Licensee/Approved Manager (the Licensee) will ensure that at all times alcohol is served responsibly and in accordance with the *Liquor Act 2007* ('the Act'), the Liquor Regulation 2008 ('the Regulation') and this Plan.

The Licensee/Approved Manager will ensure that all staff involved in the sale, service and supply of liquor have completed an approved RSA course.

The Licensee/Approved Manager will ensure that copies of Competency Cards and/or RSA certificates for the Licensee and all staff members engaged in the sale, supply or service of alcohol are kept in the venue at all times and are to be made available for inspection by request from Police Officers, Council Inspectors or L&GNSW Inspectors.

The Licensee/Approved Manager will ensure that all statutory signage required by the Act and/or Regulation is prominently displayed within the restaurant.

4.4.2 Staff

Staff must carry their Competency Card with them at all times during operating hours and will produce it when requested to do so by the relevant authorities.

Staff will ensure that the service of alcohol is monitored in such a way as to minimise inappropriate behaviour of patrons while at and when leaving the venue.

Staff will refuse entry to any person deemed intoxicated, aggressive or unruly by taking the following steps:

- Tell the person that the law does not allow them to enter the premises;
- Tell the person that the law requires them to move on more than 20m away from the venue and observe or supervise that person's removal to that point; and
- If the patron fails to comply, the police are to be called.

Staff will refuse service to any patron approaching intoxication or displaying unruly and/or aggressive behaviour by taking the following steps:

- Tell the patron that the law does not allow them to continue to be served alcohol;
- Tell the patron that the law requires them to leave the venue; and
- If the patron fails to comply, the police are to be called.

4.5 Preventing Underage Drinking

It is the responsibility of every staff member to ensure that alcohol is not supplied to a minor. Any patron suspected of being under the age of 25 years is to be asked to provide approved documentary proof of age before being supplied with liquor. Accepted forms of identification are:

- A current driver's licence;
- A current passport; or
- A photo card or similar issued by the NSW Government or by another state or territory of Australia which clearly displays the person's date of birth and a start and expiry date.

Failure by a person to provide suitable identification to a staff member upon being requested will result in alcohol not being served to that person and that they are asked to leave the venue.

If staff are in any doubt as to the age of the patron, they are to check the patron's identification. If the patron objects to providing identification, staff are to explain that it is a requirement of the law.

4.6 Preventing Intoxication

4.6.1 Overview

It is an offence to sell or supply liquor to any person who is in a state of intoxication. A "state of intoxication" is where that person's behaviour, balance, speech and coordination are noticeably affected through the consumption of alcohol.

4.6.2 Prevention Measures

The Licensee/Approved Manager and staff are to ensure that intoxication is prevented from occurring on the licensed premises by compliance with the venue's House Policy:

- Non-alcoholic beverages being available at the restaurant at all times;
- Refusal of service to patrons showing signs of intoxication; and
- Not allowing intoxicated persons to enter or remain on licensed premises.

Free drinking water will be available to patrons at all times during trading hours.

Any patron exhibiting signs of intoxication are to be refused service and requested to leave the venue. Failure to comply with the request to leave by a staff member will result in the police being called to remove the patron from the venue.

Patrons exhibiting signs of approaching a state of intoxication are to be advised by staff and offered an alternative to consuming alcohol, such as soft drinks or water. Any person who exhibits signs of approaching intoxication will be monitored and requested to leave the venue if signs of intoxication are subsequently exhibited.

4.7 Preventing Disruptive or Antisocial Behaviour

The Licensee/Approved Manager and staff are not to allow disruptive, violent or antisocial behaviour to occur within or in the vicinity of the venue by patrons who have been in attendance at the venue. Staff are to ensure that this is prevented by:

- Not tolerating any conduct or behaviour which a reasonable person would consider undesirable; and
- Identifying potential problems and taking steps to prevent this behaviour from escalating.

4.8 Illicit Drugs

Illicit drugs are strictly prohibited in the venue at all times.

Any person found using, supplying or possessing illicit drugs shall be immediately removed and if necessary, the police called to escort the offender from the venue.

For the purpose of this Plan, "illicit drugs" includes any drugs made illegal by the laws of the State of New South Wales or the Commonwealth of Australia.

4.9 Transport

The Licensee/Approved Manager and Management shall endeavour to promote the use of alternative forms of transport to the venue as follows:

- Staff shall arrange (without charge) for taxis to collect any patron from the venue if requested to do so;
- Management and staff are to familiarise themselves with the operations including destinations and regularity of the ferry services from Balmain East Wharf to provide information to patrons as requested;
- Management and staff are to familiarise themselves with the operations including destinations and regularity of the bus services on Darling Street to provide information to patrons as requested; and
- If further specific information is requested regarding public transport, e.g. bus timetables, the patron is to be advised of the number for the Transport Info Line which is 131 500 and it's website <http://www.transportnsw.info/>. The website is configured to be used with smartphones.

5.0 Complaint Resolution

5.1 Complaint Handling Policy and Logbook

The Licensee/Approved Manager will implement a complaint handling policy to address any complaints received from residents or other business operators located in the vicinity of the venue. This policy will seek to resolve the complaint without the involvement of the Council or NSW Police.

The complaint handling policy will require a log book to be maintained that records the time, date and nature of each complaint together with the name and address of the complainant(s). Further, the log book will record the practices adopted by the Licensee and/or staff to resolve the complaint.

In addition to the above, any incident at the venue whereby medical assistance is required or the incident involved violence or antisocial behaviour will be recorded by the Licensee/Approved Manager or staff including details of the response from the venue in relation to the incident.

5.2 Complaint Response and Reporting

Any complaint received at the venue is to be responded to by the Licensee/Approved Manager (and in their absence by Management) within two (2) working days of its receipt. The Licensee/Approved Manager is to be available to meet with the complainant(s) at a reasonable time and mutually suitable date with a view to resolving any concerns regarding the operation of the venue.

In the event that a complaint is of a nature that local Council and/or Police should be notified, management will communicate to local Council and/or Police the details of the complaint.

6.0 Declaration of Licensee

The Licensee

Has read and agreed to the implementation of the Plan of Management dated for the operation of The Ferwick.

The Licensee will ensure the premises are managed in accordance with the Plan of Management and restrictions of the license dated

Licensee Date

Manager Date

7.0 Declaration of Owner

The Owner

Has read and agreed to the implementation of the Plan of Management dated for the operation of the Fenwick at 2-8 Weston Street, Balmain East and will ensure that the Licensee or Manager implements and operates the premises in accordance with the Plan of Management.

Owner Date

Attachment D – Patrons Travel Survey

Guest Transport Survey The Fenwick					TOTALS 3 months
TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	71	162	85	158	476
Tuesday	71	148	83	131	433
Wednesday	61	195	67	226	549
Thursday	87	151	48	173	459
Friday	132	273	131	447	983
Saturday	155	393	115	472	1135
Sunday	92	275	75	308	750
Total	669	1597	604	1915	4785
Percentage	13.98%	33.38%	12.62%	40.02%	

WE 27.6.21					
TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	0	12	5	3	20
Tuesday	5	9	8	11	33
Wednesday	4	6	10	16	36
Thursday	3	13	3	7	26
Friday	11	10	15	23	59
Saturday					0
Sunday					0
Total	23	50	41	60	174
Percentage	13.22%	28.74%	23.56%	34.48%	

WE 20.6.21					
TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	8	10	9	16	43
Tuesday	7	8	6	18	39
Wednesday	2	18	4	20	44
Thursday	5	12		13	30
Friday	8	10		35	53
Saturday	12	34	6	37	89
Sunday	5	13		27	45
Total	47	105	25	166	343
Percentage	13.70%	30.61%	7.29%	48.40%	

WE 13.6.21					
TABLES					

	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	2	12	5	12	31
Tuesday	8	9	5	8	30
Wednesday	6	10	6	12	34
Thursday	13	12	8	14	47
Friday	6	31	6	37	80
Saturday	11	28	10	32	81
Sunday	6	14	3	24	47
Total	52	116	43	139	350
Percentage	14.86%	33.14%	12.29%	39.71%	

WE 6.6.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	8	12	7	16	43
Tuesday	6	4	19	12	41
Wednesday	6	9	7	18	40
Thursday	13	16	5	17	51
Friday	7	23	25	33	88
Saturday	6	34	24	45	109
Sunday	9	13	12	16	50
Total	55	111	99	157	422
Percentage	13.03%	26.30%	23.46%	37.20%	

WE 30.5.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	6	16	9	5	36
Tuesday	7	18	6	8	39
Wednesday	2	20	4	18	44
Thursday	5	13		4	22
Friday	8	10		35	53
Saturday	12	34	6	42	94
Sunday	5	22		29	56
Total	45	133	25	141	344
Percentage	13.08%	38.66%	7.27%	40.99%	

WE 23.5.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	6	8	9	10	33
Tuesday	5	7	6	12	30
Wednesday					0

Thursday	6	8	7	12	33
Friday	12	25	12	28	77
Saturday	10	31	6	37	84
Sunday	6	18	3	24	51
Total	45	97	43	123	308
Percentage	14.61%	31.49%	13.96%	39.94%	

WE 16.5.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	8	12	3	12	35
Tuesday					0
Wednesday	3	8	3	15	29
Thursday	2	3	1	18	24
Friday	12	22	12	25	71
Saturday	8	18	8	24	58
Sunday	5	22	12	29	68
Total	38	85	39	123	285
Percentage	13.33%	29.82%	13.68%	43.16%	

WE 9.5.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday					0
Tuesday					0
Wednesday	4	18	3	20	45
Thursday	2	6		18	26
Friday	7	12		25	44
Saturday	11	28	8	37	84
Sunday	4	16		24	44
Total	28	80	11	124	243
Percentage	11.52%	32.92%	4.53%	51.03%	

WE 2.5.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	5	12	6	22	45
Tuesday	2	16	5	12	35
Wednesday	6	18	7	18	49
Thursday	3	12	3	10	28
Friday	12	20	5	36	73
Saturday	16	30	7	38	91
Sunday	12	24	3	24	63

Total	56	132	36	160	384
Percentage	14.58%	34.38%	9.38%	41.67%	

WE 25.4.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	3	12	10	15	40
Tuesday	6	16	6	7	35
Wednesday	4	18	2	20	44
Thursday	6	15	3	12	36
Friday	10	24	12	35	81
Saturday	16	34	8	40	98
Sunday	8	27	12	18	65
Total	53	146	53	147	399
Percentage	13.28%	36.59%	13.28%	36.84%	

WE 18.4.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	5	12	9	5	31
Tuesday	6	15	6	8	35
Wednesday	4	18	4	18	44
Thursday	5	7	2	4	18
Friday	8	16	8	35	67
Saturday	15	34	6	34	89
Sunday	10	29	7	24	70
Total	53	131	42	128	354
Percentage	14.97%	37.01%	11.86%	36.16%	

WE 11.4.21 TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	6	20	6	12	44
Tuesday	5	12	8	6	31
Wednesday	10	18	9	17	54
Thursday	8	16	3	16	43
Friday	12	24	12	33	81
Saturday	10	36	6	38	90
Sunday	8	28	2	27	65
Total	59	154	46	149	408
Percentage	14.46%	37.75%	11.27%	36.52%	

WE 4.4.21					
TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	8	12	2	16	38
Tuesday	9	20	5	20	54
Wednesday	6	18	6	22	52
Thursday	8	6	8	18	40
Friday	9	32	10	35	86
Saturday	14	28	10	34	86
Sunday	8	27	12	20	67
Total	62	143	53	165	423
Percentage	14.66%	33.81%	12.53%	39.01%	

WE 28.3.21					
TABLES					
	Cars	Public transport	Walk	Uber/Taxi	TOTALS
Monday	6	12	5	14	37
Tuesday	5	14	3	9	31
Wednesday	4	16	2	12	34
Thursday	8	12	5	10	35
Friday	10	14	14	32	70
Saturday	14	24	10	34	82
Sunday	6	22	9	22	59
Total	53	114	48	133	348
Percentage	15.23%	32.76%	13.79%	38.22%	

Attachment E – Heritage Impact Statement



Heritage Impact Statement Fenwick's Stone Building


2-8 Weston Street Balmain

Submitted to Welsh + Major Architects
On Behalf of Leichhardt Municipal Council

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April 2015 | 14-068

Report Revision History

Revision	Date Issued	Prepared by	Reviewed by	Verified by
01	28/07/14	Bianca Hollo <i>Graduate Heritage Consultant</i> Kerime Danis <i>Director - Heritage</i>	Kerime Danis <i>Director - Heritage</i>	Kerime Danis <i>Director - Heritage</i> 
02	2/07/14	Kerime Danis <i>Director - Heritage</i>	Kerime Danis <i>Director - Heritage</i>	
03	9/04/15	Kerime Danis <i>Director - Heritage</i>	Kerime Danis <i>Director - Heritage</i>	

CERTIFICATION

This report has been authorised by City Plan Heritage P/L, on behalf of Leichhardt Municipal Council. The accuracy of the information contained herein is to the best of our knowledge not false or misleading. The comments have been based upon information and facts that were correct at the time of writing this report.

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HIS Fenwick's Stone Building_Final-April 15

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1. Introduction

1.1 Background

City Plan Heritage has been engaged by Welsh + Major on behalf of the applicant, Leichhardt Municipal Council, to prepare the following Heritage Impact Statement. The proposal to undertake an adaptive re-use and fit-out of the existing stone building at 2-8 Weston Street, Balmain as a licensed café with gallery space and provide equitable pathway from the Weston Street car park. The proposal has been designed by Welsh + Major.

The site, known as Fenwick & Co Boat Store, is listed as a heritage item on the State Heritage Register (SHR) under the *Heritage Act 1977* (SHR No 01396) and under Schedule 5 of the Leichhardt Local Environmental Plan (LEP) 2013 (No 1492). The listing for the site encompasses the building as well as surrounding landscape features and includes Lot 1, DP 722968, Lot 1, DP 89648 and Lot 1, DP 83357. The site is also within the Balmain East Heritage Conservation Area and is listed on the National Trust Heritage Register. As the site is located on the harbour foreshore of Balmain East, it also falls within the curtilage of the Sydney Harbour Catchment as defined by the Sydney Regional Environmental Plan (SREP) - Sydney Harbour Catchment - 2005.

As such, the proposal will need to be assessed in accordance with the relevant controls regarding heritage on the Leichhardt LEP 2013 and Development Control Plan (DCP) 2013 as well as the NSW Heritage Manual 'Statements of Heritage Impacts'.

A Conservation Management Plan (CMP) was prepared for the site in 2009 by NBRIS + Partners. Since this time, restoration works have been undertaken on the site. Nevertheless, the proposal will also need to be assessed against the relevant policies of the CMP.

1.2 Site Location

The subject site is located on the eastern side of Weston Street, near the end of Darling Street in Balmain East. The principal elevation of the existing building is oriented towards the water, looking out towards Barangaroo and Sydney Harbour. For a more detailed description of the site and its context, see 2.0 Site Description and Context.

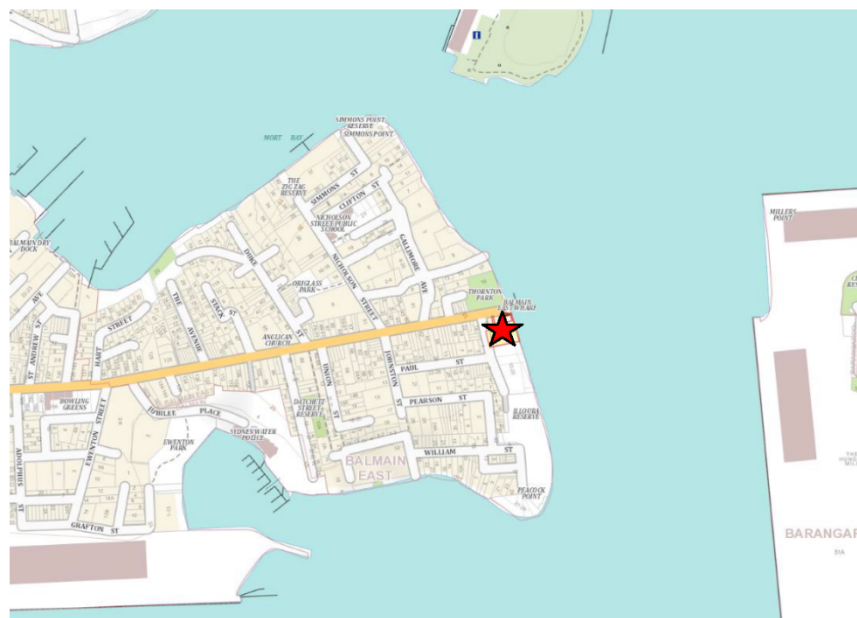


Figure 1: Map showing location of the subject site. (Source: Six Viewer 2014)

1.3 Methodology

This Heritage Impact Statement has been prepared in accordance with the *NSW Heritage Manual* 'Statements of Heritage Impacts' and 'Assessing Heritage Significance' guidelines. The philosophy and process adopted is that guided by the Australia ICOMOS *Burra Charter 2013*. The subject proposal has been assessed in relation to the relevant controls and provisions contained within the *Leichhardt Local Environmental Plan 2013*, and the *Leichhardt DCP 2013*. The proposal has also been assessed against the relevant policies of the *Conservation Management Plan* prepared by NBRS + Partners for the site in 2009.

1.4 Author Identification

The draft version of the following report was prepared by Bianca Hollo (Graduate Heritage Consultant) and Kerime Danis (Director - Heritage). The report has been finalised by Kerime Danis.

2. Site Description and Context

2.1 Site Description

The subject site is occupied by a c1880s two-storey stone boat store. The site was used as a boat store for much of the 20th Century but has been vacant in recent years. The site has undergone numerous modifications since the construction of the boat store, and has also undergone restorations in recent years.

The building's main frontage is to the harbour, adjacent to parkland that is also owned by Leichhardt Municipal Council. It is just at the south of the Balmain ferry wharf and bus turning circle at the bottom of Darling Street. The building is below street level to the east of Weston Street and is accessed via a set of sandstone stairs that were constructed with the implementation of a range of landscape and restoration works that have been undertaken since 2009.



Figure 2: Photographs showing the surrounding areas and views from the subject site and Illoura reserve.

The Exterior

The two-storey stone building is roofed with corrugated iron, and features a decorative parapeted gable on the eastern elevation. The main frontage of the building to the east contains a central wide two-door entrance on the ground floor and a two door arched opening on the upper floor. On either side of the doors on both the ground and upper floor is a double hung sash window. The northern elevation of the building consists of three regularly placed double hung sash windows on both the ground and upper floor. The southern elevation of the building consists of a one two- door opening in the centre of the upper floor. Due to the height of the ground level off Weston Street as the land slopes up towards the west, only the upper floor of the western elevation is visible and consists of two double hung sash windows.

A void has been created underneath the upper ground level off Weston Street, to the rear of the subject building. This is accessed via an opening to the south of the subject site. This void was created with the intention of eventually catering for services relating to the use of the stone building as well as public toilet facilities. The void consists of a metal grilled roof which forms the surface of the level above. The use of this void, which is currently a vacant space with dirt ground surface, has been addressed in under the proposed scheme.

The existing building has been restored in recent years including the re-instatement of the decorative stone parapet that was part of the original building design and the replacement of a number of sandstone blocks.



Figure 3: Image showing the front (eastern) elevation of Fenwick's Stone Building. Note the parapeted gable which has been recently restored/reinstated and other sandstone blocks which appear to have been replaced.



Figure 4: Northern Elevation of Fenwick's Stone Building, looking south-west



Figure 5: southern elevation of Fenwick's Stone Building, looking west towards entrance to the void behind building on the west.



Figure 6: View looking north of the western elevation of Ferwick's Stone Building and metal gridded roofed area above void.

The Interior

This modest stone building, originally used as a boat store, consists of simple interiors with exposed sandstone walls and timber columns, beams and joists. The ground floor contains a concrete slab floor on a steep slope. The stairs leading up to the first floor are at the back of the building and have been constructed as a temporary structure as part of the recent restoration works.

The upper floor contains polished timber floorboards. A void has been created between the ground and upper floor above the building entrance and in front of the central opening on the upper floor. Two timber posts have been introduced to support this newly created void.

The timber posts are supported on sandstone plinth/foundation and are exposed at varying levels due to the slope of the concrete slab. The ceiling is exposed and feature timber joists with herringbone struts and beams (steel beams along the walls and timber above the posts) supporting the upper timber floor with additional steel supports on the side of almost each joist. A number of joists and floorboards are replacement fabric.

Evidence of rising damp and salt is clearly visible in particular at the bottom of the ground floor sandstone walls along northern side.

The void is not currently being used and consists of exposed sandstone and cement brick walls and gravel floor.



Figure 7: Ground floor of Fenwick's Stone Building looking east towards building entrance. Note the steep slope of the floor.



Figure 8: Ground floor of Fenwick's Stone Building looking west towards stairs to upper floor. Note the steep slope of the floor.



Figure 9: Upper floor of Fenwick's Stone Building looking east towards arched opening and void between ground and upper floors.



Figure 10: View of inside of void behind Fenwick's Stone building looking north. Note the timber boarding that blocks off a small opening that leads out on the northern side of the building.

2.2 Site Context and Heritage Listings

The subject site is located on the easternmost point of Balmain East looking out towards Sydney Harbour and Barangaroo on the opposite shore. As noted previously, the site is listed as a heritage item on the State Heritage Register (SHR) under the *Heritage Act 1977*, as well as being a local heritage item under Schedule 5 of the Leichhardt LEP 2013. The site is also within the Balmain East Heritage Conservation Area and is in the vicinity of a number of other heritage items.

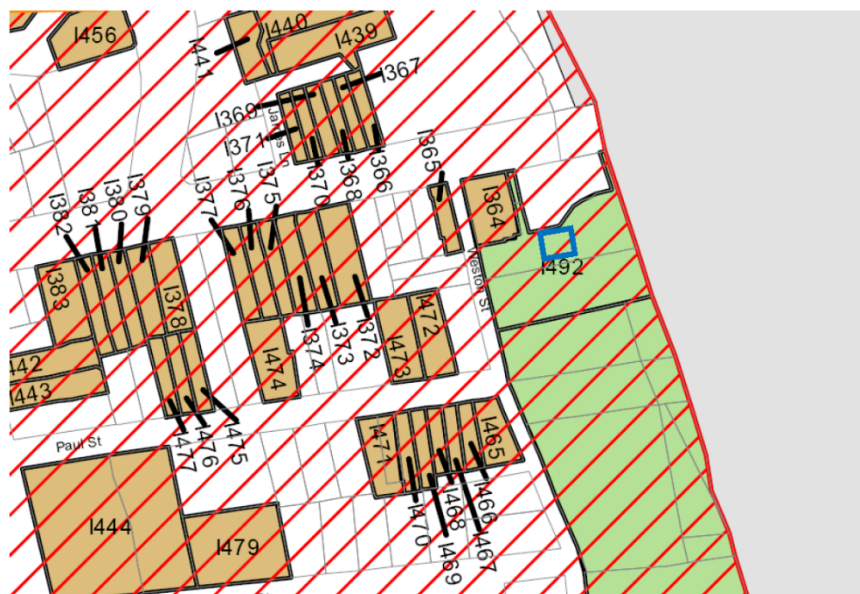


Figure 11: Excerpt from Leichhardt LEP 2013 Heritage Map, sheet 11 showing the subject site (Item 493) and the surrounding heritage items. The approximate location of the subject Fenwick's Stone building is indicated in blue.

The following table outlines the heritage listings pertaining to the subject site as well as items in the immediate vicinity of the subject site.

Item	Leichhardt LEP 2013	State Heritage Register
Fenwick's Stone Building, 2-8 Weston Street Balmain	I492	01396
Balmain East Heritage Conservation Area	C3	
Former Shipwright's Arms, 10 Darling Street, Balmain	I364	
Illoura Reserve (landscape item)	I436	01923
House, "Waterman", including interiors; 12 Darling Street, Balmain	I365	
Eastcliff Terrace, including interiors; 2 Paul Street, Balmain	I465	

The character of the Balmain East Distinctive neighbourhood, of which the subject site forms a part, has been given the following character description in the Leichhardt DCP 2013;

Balmain East is characterised by its close links with maritime industry and with the harbour. The neighbourhood is currently characterised by its predominantly residential nature, however, until the 1960s the area had been a varied industrial, maritime and residential neighbourhood.

Presently, the neighbourhood has a small shopping strip at the crest of the Darling Street hill (which forms part of the Darling Street Distinctive Neighbourhood) and two remnant commercial/industrial sites on its northern shore. The remainder of the former industrial sites have been redeveloped, with much of the foreshore land having been converted to open space. Currently, more than half of the Balmain East foreshore is zoned for open space.

The steep headland form of this neighbourhood gives prominence to its built character, particularly roof form. The small scale of the older buildings and the foil of high canopy trees, closely models the landform. The low form of the neighbourhood is abruptly broken by blocky flat buildings particularly along the eastern edge taking advantage of the prime aspect, with some walk up flat blocks and one tower block on the Nicholson/ Johnston Streets axis.¹

¹ Leichhardt DCP 2013, Part C, Balmain East Distinctive Neighbourhood, obtained July 2014 from the Leichhardt Council Website <<http://www.leichhardt.nsw.gov.au/Planning---Development/Planning-Controls--DCPs--LEPs--etc-/DCPs>>

3. Historical Summary

3.1 Early Settlement in Balmain

The following historical information about the historical development of Balmain was obtained from the Suburb Profile History provided in the Leichhardt DCP 2013, Section C.

The first phase of settlement of Balmain occurred between about 1830 and 1860. It commenced from the eastern end due to the proximity and visual connection to the City, and spread west. This consisted of gentleman's residences sited on the bluffs and ridges for prominence, views, and ventilation, on larger lots. More modest housing was built on smaller lots closely aligned to convenient access roads and lanes, particularly the ridgeline road, Darling Street. This provided housing for tradesmen and service workers mainly employed in local industries. The local industries took advantage of the waterfront access, servicing the City and port. They used local resources such as stone and they developed shops and services for a small but isolated community. Development was spurred on by small entrepreneurial activity, both in terms of business and industrial activity and investment in land development and housing. Hence, the original Crown grants were quickly subdivided and sold off in convenient parcels for access to the spine of Darling Street. With subsequent subdivision, local access was provided by narrow streets and lanes falling directly from Darling Street to the water. These provided the characteristic Balmain pattern of jetties for water access, and slot views out.

The Colonial economy boomed from 1850 with the combined push of the gold rush and pastoral growth. Capital and population growth led to the establishment of larger scaled industry and commerce. Hence, the establishment of Morts Dock which encouraged the rapid growth of modest housing on the surrounding slopes. In parallel the commercial centre developed westwards from Gladstone Park with the civic core developing at Montague Street in the 1880s boom. Smaller industry set up ancillary to the dock, as well as wharfage and maritime industry. Many open paddocks within the area remained until the end of the 18th Century.

By the 1880s, due to economic prosperity, increased pressure on land led to re-subdivision within the area. Terrace housing replaced single storey detached houses particularly on the more prominent sites. The newly affluent middle classes developed grander houses and enclaves in favoured locations such as the harbour edges of Birchgrove as well as Elkington Park, which were removed from local industry. Other prominent residential locations were developed along ridgelines setback from the waterline, such as Rowntree and Smith Streets.

While Balmain became a municipality in 1860, the population did not support grand civic buildings until the 1880s when the Town Hall was built. This was shortly followed by the Post Office and Courthouse which were constructed on the main crest of Darling Street in Balmain. By this stage, most of Darling Street was built up. Trams were introduced to improve access to the City, and the dependence on water access to the suburb declined.

Larger industries and multi-national companies moved into Balmain at the turn of the 19th century, including Unilever and Colgate Palmolive. This led to further consolidation to house the workforce on the skirts of the industry. The Labour movement became a major facet in the suburb's social make-up.

The role of major industry was evident in the workforce within Balmain, Balmain East and Birchgrove. At the height of industrial use Morts Dock

employed 2,000 workers, Unilever and Colgate Palmolive employed some 800 and 300 people respectively.

During the twentieth century, smaller houses were replaced, enlarged and re-clad, with some housing demolished for industrial expansion during the earlier part of the century. Some areas within the suburb were subject to 'slum clearance' following the Second World War, to make way for public housing. Sporadic private flat development also occurred during this time, encouraged by the Council in the spirit of modernisation.

From the 1970s, economic and technological shifts, together with rising land values in the inner city and rising appreciation of inner city locations led to de-industrialisation and retreat of maritime and port activities. A residential regeneration process began, and encouraged both the conservation of the character of the suburb, as well as redevelopment of former industrial sites. On waterfront sites this also yielded new waterfront parks.²

3.2 History of development at 2-8 Weston Street Balmain

The following chronology of the changes that have occurred on the site of Fenwick's Stone Building is a summary of the historical information contained in the Conservation Management Plan (CMP) prepared for the site in 2009 by NBRS + Partners and also includes changes that occurred on the site after 2009. For a more detailed historical summary of the site, reference should be made to the CMP.³

1836	Weston Street aligned on its present location
1840	Boat builder John Bell acquired the land at 2-8 Weston Street and proceeded to build a stone wharf and shipwrights yard
1844	Dolphin Hotel Established on the corner of Weston and Darling streets on land leased to William Walker by John Bell
1846	Hotel Resumed by John Bell and renamed the Shipwright's Arms. Hotel managed by Bell's family until 1883.
1870-1986	J. Fenwick & Co operated in Balmain- tug boat operating company established by John Fenwick and his brother Thomas.
1875	Drawing by C.A Atchison shows the changed shoreline with the resumption of land and the construction of a seawall and wharf.
1883	Site sold to John Fenwick. The sale included the wharf, the store and the Shipwright's Arms Hotel.
1896	Department of Lands drawing shows the northwestern retaining wall, buildings along Weston Street (two terrace houses one of which was known to be called Waterside), a waterfront yard to the north of the stone

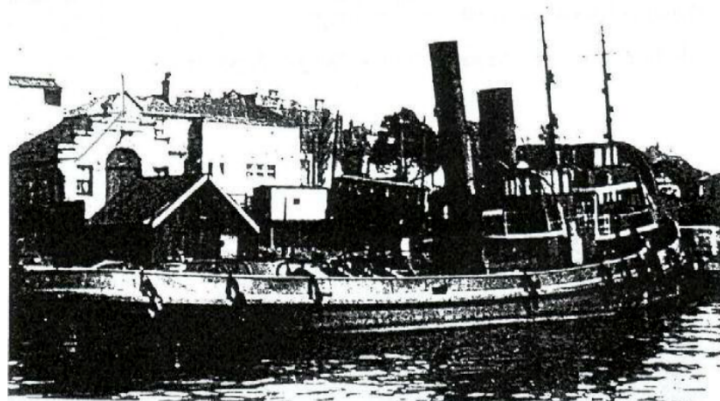
² Leichhardt Council DCP 2013, Part C, Balmain/ Balmain East and Birchgrove Suburb prologs, accessed July 2014 from < <http://www.leichhardt.nsw.gov.au/Planning---Development/Planning-Controls--DCPs--LEPs--etc-/DCPs>>

³ NBRS + Partners, 2009. Fenwick's Stone Building, 2-8 Weston Street, Balmain.

1940s

store, a building north of the store on Darling Street, a jetty and a building between the store and the seawall

A small structure east of Shipwright's Arms can be seen on an aerial photograph and in a photograph taken from the water. Ground based photographs show this to be a garage.



View of the Fenwick complex with a tugboat in front, circa 1940s. From Rod Howard Conservation Plan (1993), cited as being sourced from Mr Ian Fenwick who confirmed in 2008 he had not seen the image before. Source and higher quality image to be found.

1950

the Shipwright's Arms was sold to Miller's Brewery before its license was given up in 1966

Late 1950s

Buses replaced trams on the route up Darling Street. It appears that the yard to the north of the building was partly acquired by the Government to construct the bus turning circle. Presumably it was then when the small structure on Darling Street was demolished.

1963

Fenwick's Holdings Limited redeveloped the site to meet its operational requirements as tug boat operators. A new L-shaped administration building was constructed on Weston Street. To gain the best view over the harbour and to the Harbour Bridge from the office's ribbon windows, the gable of the stone building was removed and the roof lowered in pitch. This allowed the accommodation provided by the stone building to be retained and ground level access was achieved by building up the ground levels on the southern side and forming a door in that wall. A vehicular ramp was built down to the foreshore level in front of the stone building. The retaining wall for the ramp may have been constructed from the stone salvaged from the gable. An image from the company's 1964 report shows how the complex looked shortly after the redevelopment.



Photograph - view of the Fenwick complex after the modifications of 1963. Fenwick Holdings Limited Seventh Annual Report for year ending 30 June 1964, courtesy of Mr Ian Fenwick.

1986

Brambles Group purchased the site.

2007


After several proposals to develop the site for private purposes, Council eventually acquired it in 2007 with a view to developing it as parkland linking Council owned parks to the south and north



State of the site in 2007 (Images by NBRS + Partners)

2007

Repairs and reconstruction of the sea wall was carried out and completed



	in 2008
2009	Conservation Management Plan undertaken by NBRS + Partners for the Site. Condition of the building examined and recorded in photographs contained in the CMP
2009-2014	Repairs and restoration undertaken. <ul style="list-style-type: none">▪ Gable line roof reinstated.▪ Landscaping works surrounding building- paving and stairs leading down from Weston Street.▪ Extensive repair and maintenance work to Fenwick's Stone Building▪ Temporary staircase and entrance landing put in place for building▪ Creation of void behind Fenwick's Stone building.

4. Established Heritage Significance

4.1 Fenwick's Stone Building

The following Statements of Significance⁴ for the Fenwick and Co Boatstore at 2-8 Weston Street Balmain were obtained from the State Heritage Inventory (SHI) Database form for 'Fenwick & Co Boat Store' and the Conservation Management Plan for the site respectively.

Statement of Significance from the State Heritage Inventory:

The site of the J. Fenwick & Co. Boat Store is significant because of its continuous association with the growth and development of maritime industries in Balmain, from the earliest days of Balmain's subdivision. This is due to the formation and operation of Bell's Shipyard and the subsequent operations of J. Fenwick & Co.

The site has important links with the development of the port of Sydney because of its association with the use of tug boats as an integral part of shipping operations (Howard, 1993).

The stone store is a rare surviving built element of Balmain's former links with the maritime service industries of Sydney Harbour, and as such contributes to the cultural significance of the Harbour. The stone store physically demonstrates the role of Balmain in the working of Sydney Harbour until recent times (Heritage Office).

The stone store is an early surviving record of maritime industry, not only in Balmain and Sydney, but in New South Wales; and for its long association with the Fenwick Tug Boat Company, which was the earliest and pre-eminent tugboat operator on Sydney Harbour (McDonald, 1999).⁴

Statement of Significance from the 2009 CMP:

Fenwick's Stone Building is of high cultural heritage significance because:

- *It has associations with J. & T. Fenwick and family who established and ran the pre-eminent tug boat operation on Sydney Harbour between the 1870s and 1986 which was an integral part of shipping at Australia's premier port;*
- *It is a remnant which demonstrates the former maritime industrial uses at East Balmain on the western shore of Darling Harbour from the early subdivision of the land to the late twentieth century;*
- *Of its landmark value from the water on the western shore of Darling Harbour and adjacent to the Darling Street wharf which indicates arrival at Balmain via water at the bottom of Darling Street which is reinforced by its relationship with the former Shipwright's Arms; and*
- *In spite of its incompleteness, it is an example of a permanent sandstone industrial building designed and constructed with elements of the Victorian Romanesque style which demonstrates quality materials and workmanship.⁵*

⁴ State Heritage Inventory (SHI) Database form for Fenwick & Co Boat Store, obtained from the State Heritage Inventory, June 2014;
<<http://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=5051346>>

⁵ NBRS + Partners, 2009. Conservation Management Plan for Fenwick's Stone Building, 208 Weston Street, Balmain.

The following significance ranking of the elements of Fenwick's Stone Building was also provided in the 2009 CMP, and is as follows;

Exceptional Significance

- *There are no elements of exceptional significance.*

High Significance

- *Eastern façade generally.*
- *Northern facade generally.*
- *All windows on northern and eastern facades.*
- *Remnant open area to the east and north of the building.*
- *Martin's (type) anchor discovered on-site.*
- *Tug boat 'winch'.*
- *Original 6 timber posts of ground and first floors including horn cleat and pulley block associated with lost cat head beam.*

Moderate significance

- *Southern façade and wall generally.*
- *Eastern (sic) facade and wall generally. (assumed to mean western facade)*
- *First floor original timber floor and floor framing.*
- *Doors.*
- *Early northern window on western wall.*
- *Masonry units of ramp retaining wall subject to confirmation that they were sourced from the stepped gable.*

Little significance

- *Chain-link partitions of first floor.*
- *Cupboard on first floor.*
- *Door in southern wall on first floor.*

Intrusive

- *1963 modifications generally.*
- *Ramp and raised ground levels against southern and western walls.*
- *Steel grilles to openings.*
- *Fluorescent luminaires to eastern façade.*
- *Roof and roof structure other than tie beams and wall plates.*
- *Concrete lintel, small unit masonry and other 1963 modifications to eastern façade.*
- *Concrete floor to ground floor.*
- *Supplementary propping in ground floor.*
- *Rotten laminated timber replacement members of first floor.*
- *Wired glass southern window on western wall.*
- *Bus turning area (setting - outside study area.)*
- *Graffiti 'tags'.⁶*

⁶ *Ibid.*

4.2 Balmain East Conservation Area (C3)

The following Statement of Significance for the Balmain East Conservation Area was obtained from the Heritage Study Review on the Leichhardt Council Website;


- *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). The earliest developments here predate Leichhardt's main suburban growth with marine villas and cottages from the 1840s to modest-scale housing from 1870s through to the 1930s, and industry. It is significant for its surviving development from these periods.*
- *Demonstrates through the siting of recent public parks, the location of former waterfront industries. Through these parks and its remaining waterfront activities East Balmain can interpret Sydney's port history from the early 1840s, and the role of Balmain's deep water frontages in that story.*
- *Demonstrates through the line of its narrow streets the earliest subdivision sections of the large 550-acre Balmain grant.*
- *Demonstrates through its steps and cuttings the way in which early roads and pedestrian routes were forged out of the sandstone bedrock.*
- *Demonstrates through its mixture of sandstone villas and timber and brick cottages the major themes that formed this suburb — marine villa development and investment, port and waterfront activities, and the continuing layering of these developments.*
- *Through its remaining timber buildings it continues to demonstrate the nature of that major construction material in the fabric of early Sydney suburbs, and the proximity of the timber yards around the Balmain waterfront.*
- *It is of aesthetic significance for its dramatic sandstone landscape, closely related to the harbour, and clearly revealed below the modest scale of its nineteenth century and early twentieth century buildings. It stands in contrast with the nearby city where twentieth-century technology has forged an equally dramatic but very different man-made landscape.⁷*

⁷ Leichhardt Council Heritage Review, Statement of Significance for Balmain Conservation Area 17 (Balmain East), retrieved July 2014 from <<http://www.leichhardt.nsw.gov.au/Planning---Development/Planning-Controls--DCPs--LEPs--etc-/Heritage-Controls/Heritage-Related-Background-and-Information-Studies>>

5. The Proposal

The proposed works have been designed by Welsh + Major Architects and involve the adaptive re-use and refit of Fenwick's Stone Building to facilitate a licensed café with gallery space, publicly accessible amenities and disabled access as well as upgrade works to the adjacent car park with creation of accessible pathway. The following is a summary description only of the proposed new works. For specific details refer to the submitted architectural plans.

- **Modifications to and within the existing building including:**
 - New ground floor suspended timber floor structure
 - Reconfigured internal staircase including a new BCA compliant balustrade, handrails and tactile indicators to the top and bottom of the stairs.
 - New internal steel framed balustrade around the first floor void to replace the existing non-original timber balustrade.
 - New external wall entry openings:
 - The creation of a new accessible doorway through the southern façade into ground floor of the existing building.
 - The creation of a new accessible entry into the 1st floor of the existing building from the upper terrace level by lowering the sill height of one of the existing west facing windows to create a doorway.
 - The creation of a new opening through the rear western wall of the building to provide doorway access to the new commercial kitchen to be located to the rear.
 - Acoustic treatment panels to ground and 1st floors
 - New servery counters to ground and first floors to facilitate licensed café with gallery space operations.
- **Additions adjacent to the existing building including:**
 - The construction of a new commercial kitchen (base building works only), bin store and cleaners store including mechanical exhaust system within the existing undercroft void to the west of the existing stone building.
 - The construction of new WC facilities within the existing undercroft void comprising a unisex accessible toilet with babychange facilities, an ambulant male toilet and two female toilet cubicles including one ambulant cubicle. WC facilities are for use by the licensed café with gallery space and are to be available to the general public.
 - The construction of a new publicly accessible lift adjacent to the building between the upper parkland terrace level and the ground foreshore level.
 - The construction of covered accessway from the upper level of the lift to the new western door of the Fenwick Stone Building on the first floor.
 - The construction of a new first floor balcony structure to provide access to the existing first floor double doors on the southern façade and provide covered access from the lift to the new accessible entrance on the ground floor below. The balcony will also incorporate a small outdoor dining area.
 - The construction of new deck/paved area over existing void to the rear (west) of the existing building on the first floor.
 - Re-laying of paving in the external area adjacent to the new ground floor southern accessible entry to create level access through the proposed door. This area is also proposed as an outdoor dining area.
 - Construction of new zinc cladding to the existing landscaping wall and balustrade to the south of the proposed lift incorporating interpretive signage panels to the western balustrade wall. A new handrail will also be constructed on the adjacent existing stair.
 - External signage and lighting adjacent to the existing building to support



the licensed café with gallery space usage. Directional and statutory signage including wayfinding signage to the accessible entries, the lift and the public toilet facilities are also proposed. A location and size for future tenancy signage adjacent to the existing building is also proposed however the details of this signage would be subject to a future tenancy fitout Development Application.

- Realignment of an existing handrail on the upper walkway to Darling Street to the north of the building to be supported off the existing sandstone kerb wall so as to provide minimum 1m clearance for an accessible pathway.
- **Landscape works to Illoura Reserve including:**
 - Modifications to Illoura Reserve carpark to create 4 No. 45° angle bike parking spaces and 6 No. 45° angle car parking spaces including 1 No. new accessible car parking space. Works also to include line marking, traffic and parking signage.
 - Construction of a new accessible pathway and steps from the carpark to the upper terrace level adjacent to the Fenwick Stone Building.
- **Building and infrastructure services associated with the proposed use of the building as a licensed café with gallery space.**

6. Heritage Impact Assessment

6.1 Statutory Controls

Fenwick' Stone Building at 2-8 Weston Street, Balmain is a heritage item listed on Schedule 5 of the Leichhardt Local Environmental Plan (LEP) 2013 and is located within the Balmain East Heritage Conservation Area. The site is also listed on the State Heritage Register (SHR) under the *Heritage Act 1977*. The site, located on the Balmain East foreshore, is located within the curtilage boundary of the Sydney Regional Environmental Plan (REP) (Sydney Harbour Catchment) 2005.

General discussion of the design options that were considered during the design process

A number of options, including variations of some of these options, were considered in the design of the current proposal from the concept design stage in order to find the most suitable option for the adaptive re-use of the Fenwick's Stone Building. These options differed only in terms of the location of the lift and placement of the public amenities. In all cases, the lift was located to the south-west of the building and any of these options would be considered as an acceptable outcome in terms of the building's heritage requirements. A brief discussion of all three options, Option X, Y and Z is as follows;

Option X

Option X involves the location of the lift in the far southern end of the void and would create the most separation between the building and the exhaust pipes which will be projecting above the upper ground level to the rear of the building. This option proposes a positive heritage outcome because it creates a physical separation between the lift and the building, however, it will mean that the lift and exhausts will appear as two separate structures which will cause minor visual clutter in this area of the building. In addition, because the lift is further away from the building than it is in Options Y and Z, it will be more visible when looking towards this area from the north-east and east.

Option Y

Option Y involves the location of the lift immediately next to the exhaust shafts on the upper level and to the north of the toilets on the lower level within the void area. As in Option X, the lift is located in the void in Option Y and this is considered favourable over the location of the lift outside the void area. Furthermore, Option Y is considered as a positive outcome in terms of heritage because the lift and the exhaust shafts are grouped together, creating less visual clutter, and because it is located in an area which will be less visible when viewing the building from the north east and east.

Option Z

Option Z involves the location of the lift to the south of the building outside the void area, thus the lift shaft will appear as a separate structure placed in front of the rear western wall. With this option, the lift will be more visible when viewing this area from the east as it is set further forward than in the other options, and it is also considered to create more visual clutter because of the relationship between the first floor balcony on the upper level and the projecting exhausts. As a result, Option Z is considered to be the least preferred option, although this solution is also considered to be acceptable in heritage terms.

The current proposed scheme involves the design solution put forward in Option X as it will have less impact on the kitchen area, provide better supervision (safety by design) of the lift and WC facilities, easier circulation paths into the lift, and less obstruction to the external stairs. City Plan Heritage acknowledge that all of these proposed options would be acceptable in heritage terms, with no impact on the significant elements of the building. However, it is the opinion of City Plan Heritage that the best design solution to be Option Y because it would be a more tidy option in terms of grouping the exhausts next to the lift and

the lift being a less dominant feature within the setting of the building as it will be tucked just behind it. This will ensure in most view corridors the lift will be obscured and the upper level will have only one rising structure instead of two separate structures (lift + exhausts). However, Option Y wasn't able to provide the necessary egress path at the front of the lift for easy manoeuvre. Depending on the confirmation of the mechanical engineer at the design stage possibility of accommodating the services risers adjacent to the lift exists for all three options. Therefore, Option X is considered in the following impact assessment under the relevant controls of the LEP and DCP as well as the relevant Conservation Policies of the CMP and the Questions of the NSW *Heritage Manual*.

6.2 Leichhardt LEP 2013

The proposal is addressed in relation to the relevant clauses of the LEP below.

LEICHHARDT LEP 2013 PART 5.10 HERITAGE CONSERVATION	HOW THIS PROPOSAL RELATES TO THESE MATTERS
<p>(1) Objectives <i>The objectives of this clause are as follows:</i> (a) to conserve the environmental heritage of Leichhardt, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p>	<ul style="list-style-type: none"> The proposal will conserve the environmental heritage of Leichhardt through the retention of all significant original fabric from the Victorian construction period of the Fenwick building. The proposed works will have no effect on the setting or views of the site, the Balmain East Heritage Conservation Area, or on Former Shipwright's Arms and nearby Eastcliff Terrace. The proposed car parking arrangements and new accessible pathway works to the adjacent Illoura Reserve will have no adverse impact on the existing landscaping or setting of the reserve rather the works will ensure equal usability and improved car parking facility for the public that will aid the proposed adaptive reuse of the Fenwick building.
<p>(2) Requirement for consent <i>Development consent is required for any of the following:</i> (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance): (i) a heritage item, (ii) an Aboriginal object, (iii) a building, work, relic or tree within a heritage conservation area, (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item, ...</p>	<ul style="list-style-type: none"> The proposed works involve changes to the exterior and interior of the Fenwick's Stone Building which is a heritage listed item of <i>Local</i> and <i>State</i> significance under Schedule 5 of the Leichhardt LEP 2013 and the SHR respectively. The site is also within the Balmain East Heritage Conservation Area. As such, this Heritage Impact Assessment has been prepared in order to accompany a Development Application (DA) to Leichhardt Municipal Council and a Section 60 Application to the NSW Heritage Council to obtain development consent for the proposed works.
<p>(4) Effect of proposed development on heritage significance</p>	<ul style="list-style-type: none"> The proposal will have no impact on the historical significance of the site. The

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

adaptive re-use of Fenwick's Stone Building as a licensed café with gallery space is considered to be positive in terms of heritage as it will enable public access to the building as well as providing opportunity for ongoing use and appreciation of this significant heritage building.

- Introduction of a few new openings in the sandstone walls of the building has been carefully considered and detailed to minimise changes to the original building fabric. It is necessary to provide these openings for easy access to all areas of the building and its surrounds for the café clientele and staff including compliance with accessibility regulations.
- In addition, the new lift has been located near the south-western corner of the building. The lift is well separated from the stone building and is located within less significant areas. In general, the majority of works affecting the building fabric are within areas that have already been modified or have been assessed as being of lesser significance.
- The main opening that would be clearly visible as an alteration to a window opening is the upper floor door from the northern end of west elevation. The opening will be created in the form of bringing the window sill level to the floor level and keeping the existing stone edges of the sill in place to allow for the interpretation of the existing window's configuration. This new converted door opening will be linked to the lift through a covered walkway for weather protection. Designed in a slim-line zinc cladding the covered walkway will have no columns and supported by the lift structure and cantilevered from the building below the gutter of the first floor roof structure. It will have minimal visibility from the water as it is largely hidden behind the building. The small portion between the building and the lift will be hardly recognisable due to the existing buildings at the background, which will make this slim-line zinc awning invisible.
- The existing double door opening will on the first floor southern elevation will be linked by a new balcony to the lift. This balcony will also include a small outdoor dining area and serve as an accessible path for the first floor of the building. The simple and fine detailing of the balcony has been further made sympathetic and compatible by the use of materials that will

	<p>echo the industrial nature of the stone building.</p> <ul style="list-style-type: none"> Other openings are located at the ground floor - one is on the western elevation below the northern window to allow access between the kitchen and the cafe space, and the other is a new door opening on the southern elevation. This door is considered as an acceptable intervention to allow for a better circulation between the outdoor and indoor spaces of the ground floor. This part of the building was under a road ramp, which was said to being there since the 1960s, until the recent restoration works. The CMP does not confirm clearly whether there has been any opening or not at this location. Notwithstanding, as noted earlier, the proposed opening is considered an acceptable introduction to the building and will have no impact on the established heritage values of the heritage item. Such interventions are common heritage practice where the benefit to be gained is evident. The opening between the kitchen and the licensed café with gallery space is located within the void where the western elevation of the building was enclosed with the earth. The subject western wall has considerable patching most likely due to structural and rising damp issues that were possibly encountered at the time of the void's creation. There will be no heritage impact from the creation of such door opening on this wall and is necessary for the function of the building's new adaptive reuse. The effect of the each aspect of the proposed development on the heritage significance of the building has been further assessed in relation to the relevant clauses of the Leichhardt DCP 2013 and the Sydney REP 2005 and DCP 2005 below.
<p>(5) Heritage assessment</p> <p><i>The consent authority may, before granting consent to any development:</i></p> <p><i>(a) on land on which a heritage item is located, or</i></p> <p><i>(b) on land that is within a heritage conservation area, or</i></p> <p><i>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</i></p> <p><i>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</i></p>	<ul style="list-style-type: none"> A CMP has been prepared in 2009 and is the principal heritage management document for the subject heritage item and its site. This Heritage Impact Statement is a supplementary heritage management document and assesses the likely impacts of the proposed works on the established heritage significance of Fenwick's Stone Building and the Balmain East Conservation Area. A detailed impact assessment has been undertaken under the Leichhardt DCP controls in the following section.

6.3 Leichhardt DCP 2013

The following table addresses the relevant provisions of the Leichhardt DCP 2013.

LEICHHARDT DCP 2013	How this proposal relates to these matters.
C1.4 HERITAGE CONSERVATION AREAS AND HERITAGE ITEMS	
General Controls <i>C1 Development maintains the characteristics and is consistent with the objectives and controls for the relevant building type contained in Appendix B – Building Typologies of this Development Control Plan.</i> <i>C2 The fabric of an existing building is to be the subject of appropriate conservation practices including:</i> <ol style="list-style-type: none"> <i>retention of original detail and finishes such as:</i> <ol style="list-style-type: none"> <i>original face brick which should not be painted over or rendered;</i> <i>original decorative joinery and iron work which is not to be removed;</i> <i>conservation of original elements;</i> <i>reconstruction or restoration of original elements where deemed appropriate;</i> <i>retention of the original cladding material of original roofs where viable;</i> <i>consideration of suitable replacement materials should be based on original material, and where a property is part of a group or row, replacement materials should have regard to the integrity of the group.</i> 	<ul style="list-style-type: none"> ▪ The proposed development has been assessed in relation to the controls of the relevant building typology in the table below. ▪ The original fabric of Fenwick's Stone Building will be conserved appropriately under the proposed scheme for the following reasons: <ul style="list-style-type: none"> - Original exposed sandstone walls will be retained; - All original elements that are ranked as being of <i>High</i> and <i>Moderate</i> significance in the CMP, including the front (eastern facade), open layout of interiors, placement of windows on the northern and eastern elevations; overall scale and form of the building will be retained; - All original joinery will be retained, where possible; - Roof cladding (corrugated metal) is not the original roof cladding but will not be changed as part of the proposed works.
	Where it is not possible to retain original fabric, replacement materials will be based on original materials. Where sandstone is proposed to be removed to make way for new door openings on the southern and western elevations of the building; sandstone will be kept and re-used elsewhere on the site (details will be discussed with the architects and the Council for inclusion in the construction detail drawings).
Conservation Management Plans <i>C10 Conservation Management Plans shall be required when:</i> <ol style="list-style-type: none"> <i>the site is a Heritage Item identified in Schedule 5 of the Leichhardt Local Environmental Plan 2013 as having State significance; OR</i> <i>the site is a Heritage Item that predates 1840; OR</i> <i>the site is a place identified in Schedule 5 within Leichhardt Local Environmental Plan 2013 as having archaeological significance.</i> 	<ul style="list-style-type: none"> ▪ A Conservation Management Plan was prepared for the site in 2009 by NBRIS + Partners and is still in place. The proposed works have been assessed in relation to the relevant conservation policies in Section 6.5 below.

<p>Statements of Heritage Impact (SOHI)</p> <p><i>C11 Consent must not be granted for any development in respect of a Heritage Item unless a Statement of Heritage Impact is submitted to Council for consideration, except for the following:</i></p> <p>...</p>	<ul style="list-style-type: none"> ▪ This Heritage Impact Statement has been prepared in order to satisfy this requirement for consent.
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LEICHHARDT DCP 2013 C1.15 SIGNS AND OUTDOOR ADVERTISING	How this proposal relates to these matters.
<p>Signs on Heritage Items and in Heritage Conservation Areas</p> <p><i>C21 Signs are to be designed, sized and located to:</i></p> <ul style="list-style-type: none"> <i>a. minimise interference with significant fabric and features of Heritage Items. The method of installation to the Heritage Item should not result in irreversible damage to significant fabric;</i> <i>b. respect the heritage qualities of the Heritage Conservation Area including significant streetscape elements;</i> <i>c. use compatible materials, colours, style and lettering to ensure compatibility with heritage significance;</i> <i>d. not obscure any opening on a building;</i> <i>e. not protrude above any parapet or eave of the building.</i> <p><i>C22 In residential zones, signs are not to be internally illuminated or have audio components.</i></p> <p><i>C23 Original signs and signs that are part of the history and heritage significance of the Heritage Item or Heritage Conservation Area are to be retained.</i></p>	<ul style="list-style-type: none"> ▪ Details of the directional and amenities signage as well as location and size of future tenancy signage have been developed as part to the Development Application documentation. The signs have been designed to provide the necessary way-finding around the facility and placed in areas in a manner that will have the minimum intervention and impact on the setting and heritage values of the building. They have been designed as a package so that to prevent any visual cluttering. The signs will be placed either free-standing or on new structures with no impact on the heritage item. ▪ There are no original signs on the building. ▪ Signage package will also incorporate interpretive signage, which will be detailed at the construction certificate stage.

LEICHHARDT DCP 2013 APPENDIX B – BUILDING TYPOLOGIES	How this proposal relates to these matters.
<p>Controls for Warehouses and Factories</p> <p><i>Objectives</i></p> <p><i>To facilitate development that is compatible with this Building Typology.</i></p> <p><i>Controls</i></p> <p><i>C1 Development shall:</i></p>	<ul style="list-style-type: none"> ▪ Whilst Fenwick's Stone Building is not strictly speaking a warehouse or factory building, it bears the closest resemblance with the building typology of warehouses and factories, contained in Section 12 of Appendix B of the Leichhardt DCP 2013. ▪ The proposed licensed café with gallery space is considered an appropriate use for Fenwick's Stone Building as it enables the preservation of the defining characteristics of the building including its scale, form, sandstone finish, detailed parapet; openness of interior spaces and its harbour

<p><i>a. ensure that alterations and additions to a warehouse or factory do not compromise their structural integrity;</i></p> <p><i>b. retain the significant fabric and building elements;</i></p> <p><i>c. contribute to the streetscape and character of the municipality; and</i></p> <p><i>d. maintain the contribution that warehouses make to area character through their characteristic form, massing, scale and proportions.</i></p>	<p>side setting.</p> <ul style="list-style-type: none"> ■ The alterations to Fenwick's Stone Building have been carefully designed, particularly in terms of the size and placement of new door openings so as not to compromise the structural integrity of the building; ■ The elements of Fenwicks Stone Building have been ranked in terms of their significance as part of the 2009 CMP prepared by NBRIS + Partners for the site. Special care and attention has been put into the design to ensure that the elements of the building that have been ranked of <i>High</i> and <i>Moderate</i> significance are not affected by the proposed development. The elements of the building which have been ranked as highly significant, including the northern and eastern building facades and windows; timber posts on the ground and first floor, and open areas to the north and east of the building will not be altered as part of the proposed works; ■ The subject stone building is set below the street level on Weston Street and Darling Streets. The building, on the foreshore of Balmain, has its main frontage facing Sydney Harbour. As such, views along the foreshore and from Sydney Harbour looking towards the site are of a greater significance. The proposed works will not alter any significant foreshore views, or alter the overall appearance of the building in its setting. The lift shaft, located to the south-west of the building, may partially obstruct views to the building from the south-west approaches along Weston Street. However, the lift is considered necessary in order to satisfy the accessibility requirements of the site and have been located away from the most significant (eastern and northern) elevations of the building. As such, the proposed location is considered to be the best outcome with least impact responding to both accessibility and heritage constraints of the site. Fenwick's Stone building will continue to contribute to the character of Balmain and the municipality of Leichhardt as a prominent building on the Balmain East foreshore. ■ The characteristic form, massing, scale and proportions of the Fenwicks Stone building will be retained. Where new openings are to be cut into the sandstone, they have been designed in order to fit in within the existing proportions of openings of the building. For example as noted earlier, the new door
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C2 The scale and form of the factory or warehouse is to be retained.

C3 Lightweight balconies, canopies and sun shading devices may be affixed to the facades so long as there is a clear distinction between the original fabric and the contemporary addition and they don't detract from the original industrial character of the building.

C4 The robust masonry form of the building is to remain visually dominant.

C5 The rhythm of openings is to be respected. Two smaller openings may be combined where there is no removal of original significant elements.

C6 Existing painted signs that contribute to the buildings significance and to the streetscape character are to be retained.

C7 Vertical additions are only possible for flat roofed buildings which are well set back behind a parapet and with a horizontal profile in keeping with the simple building form and strong parapet line.

opening on the upper floor of the western elevation will be an extension of the existing window, making reference to the existence of the window in this location. The new door opening on the ground floor of the southern elevation of the building will be a wider opening than the one directly above for easy circulation and connection, but will be the same height and width of the front door in order to repeat the same proportions of openings.

- There will be no changes to the overall scale or form of the building as a result of the proposed works.
- A new concrete balcony will be affixed to the southern elevation of stone building and will function as a walkway, connecting the first floor opening on the southern elevation and the raised ground level at the rear of the building and will improve access between the lift, upper level and lower level. This balcony will be contemporary and simple in style and will not detract from the original character of the building.
- The awning along the western upper floor elevation will act as a sun shading device while providing a covered access between the lift and door to the upper licensed café with gallery space.
- The robust sandstone form of the building will be retained as a visually dominant element on the site and along the Balmain foreshore.
- The location of new openings has been carefully considered so that they respect the existing rhythm of openings. As noted above, a new door opening has been put in place of the existing window on the western elevation of the building. On the southern elevation of the building, the new door opening will be placed in line with the door opening above. Where sandstone will be removed for the creation of new openings, it will be re-used elsewhere on the site in accordance with the Council's recommendations.
- There are no existing painted facades that relate to the Fenwick's Stone Building. Interpretive plaques and stones including loose stone outcrop to the east and north of the building on the Balmain foreshore will be retained.
- There will be no vertical additions or changes to the roof structure of the stone building under the proposed scheme.

6.4 Sydney REP (Sydney Harbour Catchment) 2005

Fenwick's Stone building is located on the eastern foreshore of Balmain as such it falls within the curtilage of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. Therefore, this REP and the Sydney Harbour Foreshores and Waterways Area Development Control Plan (DCP) 2005 apply to the site.

This Plan covers the area of Sydney Harbour, including the Parramatta River and its tributaries and the Lane Cove River and Middle Harbour. It applies to the northern half of Sydney City's local government area, including Sydney CBD. The Plan aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole. In summary, the Plan has the following provisions:

- Part 2 - Planning Principles for planning instruments and development control plans
- Part 3 - Foreshores and Waterways areas
- Part 4 - Specific foreshore sites
- Part 5 - Heritage items, as identified in Schedule 4 of the Plan.

Whilst the site falls within the foreshore catchment area of the Sydney REP 2005, Fenwick's Stone building is not identified as a Heritage Item under Schedule 4 of this control. As such, the proposed works will not need to be assessed against the heritage provisions of the Sydney Catchment REP 2005 or Sydney Harbour Foreshores and Waterways Area DCP 2005.

6.5 Conservation Policies (2009 CMP)

The Conservation Management Plan was prepared for Fenwick's Stone Building in 2009 by NBRS + Partners. The proposed works are assessed in relation to the relevant conservation policy recommendations below. Remainder of the recommendations have either been carried out or not applicable for the current application. Some of the recommendations are also relate to the management and control of the Conservation Management Plan. A table of compliance have been provided at the end of this section for reference (refer to section 6.5.2 below):

6.5.1 Discussion of Relevant Recommendations

6.2.1 Management and Conservation Processes

Recommendation 5 All conservation work in the building should be undertaken on the basis of evidence. Conjecture and guesswork in making decisions about conservation processes are unacceptable.

- City Plan Heritage has provided heritage input and advice throughout the detailed design development of the current project. The proposed works have been designed based on research and knowledge of the site and the most significant elements of the building, with specific reference to the ranking of significant elements provided in the 2009 CMP and in Section 4 of this Report. The main conservation works associated with the current proposal will be finding the source of the rising damp and salt along the northern wall base of the building and halt further deterioration, as well as reinstating the timber floor above the entrance by filling in the recently created void. Some minor repair and maintenance work will also be needed in association with the new works to ensure the building fabric is made good and is watertight.

Recommendation 6 Retention, enhancement and recovery of the Cultural Significance of the place should be adopted and implemented as opportunities arise, taking into consideration the changing needs of the Owner, availability of funds and other constraints.

- The cultural significance of Fenwick's Stone Building will be retained and enhanced through its conversion into a cafe. Through its use as a cafe, the site will be opened to the public and this will enable the ongoing use and appreciation of the former boat store within the context of the Balmain foreshore.

Recommendation 7 Evidence of the associations of the place with the Fenwick's' tug boat operations and that which conveys the past maritime industrial use of the site should be retained on site, conserved and interpreted.

- The site already contains interpretive plaques which will remain on the site.
- Additional opportunity for interpretation may arise as part of the new works, and may be considered necessary as a condition of consent to be incorporated into the design of the internal fit-out.

6.2.2 Statements of Heritage Impact

- This Heritage Impact Statement has been prepared in order to assess the impact of the proposed works on the significance of Fenwick's Stone Building, and is consistent with the relevant guidelines and controls including the 2009 CMP, the Leichhardt LEP 2013 and the *Heritage Act 1977*.

6.2.3 Access and Security

Recommendation 9 Public access around the building and secure supervised access to interiors and objects should be provided in any adaptive use to which the building and its setting are put.

- Since 2009, a number of restoration works have been undertaken to the building and the site. Including the removal of the driveway to the south and west of the building, the reconstruction of the stepped parapet and the replacement of windows on the western elevation and the creation of a void to behind the western retaining wall to the rear of the building and new access (sandstone stairs) from Weston Street. The recently completed landscaping works around the site has enabled public access around the building and clear views around the building, improving public surveillance.
- The use of the building for a licensed café with gallery space will improve the public surveillance of the interiors and exteriors of the building, as well as the site surrounds and adjacent park. The new opening on the southern elevation will also improve public surveillance by providing access and connection between the interior ground floor space and the outdoor seating areas to the south of the building.
- The proposed new lift will also improve accessibility to the building as well as to the Balmain foreshore area in general and is located in an area which will result in very little to no impact on the heritage significance of Fenwick's Stone Building as it is located near the south-west corner of the building and will not affect the more significant northern and eastern elevations of the building.
- Similarly, the proposed landscaping works including new pathway and additional car parking within the existing car park space will improve equal accessibility and connection of the site with the upper section of the reserve with no impact on any landscaping. The Illoura Reserve has a large grassed area in the centre on which the proposed pathway will be travelling.

6.2.4 Consultation and Development Consents

Recommendation 10 Consultation with the Heritage Branch of the Department of Planning and other stakeholders should continue. In particular where change to the fabric

including adaptation, demolition or other work are proposed the specific consent of the Department of Planning via Section 60 applications and other processes should be sought.

- This Heritage Impact Statement has been prepared to accompany an Integrated Development Application (IDA) to Leichhardt Council who will refer the application to the NSW Heritage Council to obtain their consent under the *Environmental Planning and Assessment Act (EP&A) 1979*. A separate Section 60 Application under the *Heritage Act* will also be required following approval of the IDA.

6.2.5 Adaptive Reuse

Recommendation 12 Compatible uses include those that allow the retention and recovery of the original character and identified cultural significance of the place and do not require additional accommodation beyond that provided for in the scope of the conservation recommendations (policy) or require operations which go against the policy such as partitioning interior spaces or introduction of intrusive services. The proposed uses of café/gallery supported by a subterranean services structure to the west and outside the existing building are generally compatible with the significance of the place and have considerable potential to be an appropriate adaptive reuse of the building. The café appears to allow greater public access and appreciation of the setting and interiors than a gallery use.

- The proposed licensed café with gallery space is considered to be a compatible use for the building as it enables the retention of the aspects of the building which have been classified as being of *High* significance and enables the retention of the overall form, scale and setting of the building as well as the openness of the interior spaces.
- It is generally considered by City Plan Heritage that all the proposed changes to the building to accommodate the required services and accessibility have been designed to have the least possible impact on the building. Some intervention to the original building fabric will occur due to creation of new openings to the rear of the ground floor as well as in the proposed balcony on the first floor. However, these new openings and proposed balcony will greatly improve accessibility and circulation around the building and have been concentrated to the southern and western elevations of the building which have been assessed as being of lesser significance.
- The proposed lift located near the south-west corner of the building and accessed via the rear void from the lower level is considered to be a positive outcome in terms of improving the accessibility of the building by enabling disabled access and having the least impact on the significant building fabric.

Recommendation 13 Proposed changes of use to any part of the building should only be considered in the context of a coordinated plan for the whole building.

- The proposed adaptive re-use of the stone building as a licensed café with gallery space involves the whole building, in line with this conservation policy. The design of the proposed works have taken into account the historic values of the whole building and its setting.

Recommendation 14 In adapting parts of the building, original fabric or fabric otherwise found to be of significance and which is capable of reuse on site should be relocated within the building.

- Sandstone which is proposed to be cut away for the creation of new openings on the western and southern walls will be retained for future re-use elsewhere on the site. Locations are to be confirmed with the Council.

Recommendation 15 Proposed adaptation or changes which would require the introduction of particular services and/or structural alterations which would have a strong adverse effect on the character and/or heritage significance of the building are unacceptable.

- None of the alterations to the building under the proposed scheme would have an adverse effect on the character or significance of the building. As noted above, the design of the proposed scheme has been carefully considered in order to avoid making structural changes to the building.

6.2.6 Maintenance and Repair

Recommendation 18 Care should be taken by both tradespeople and supervisory staff that significant fabric is not damaged by maintenance and repair activities.

Recommendation 19 Colour schemes: Whenever painting or refinishing is contemplated for significant external fabric only authenticated heritage colour schemes should be adopted. This should involve investigation of the physical evidence of surviving schemes.

Recommendation 20 Only surfaces originally painted should be repainted. Painted stonework should only be repainted internally with porous paints which allow the underlying stone to 'breathe' rather than modern plastic paints which seal in moisture.

- The appropriate level of care and supervision will be undertaken throughout the duration of the proposed works. Where required appropriately qualified tradespeople will be engaged to undertake the work in order to ensure the building's fabric is treated in accordance with traditional methods.
- All joinery will remain painted in an authenticated heritage colour scheme to maintain the significant heritage character of the building.
- All stoneworks will be retained unpainted.

6.3 Recording Change

- Photographic Archival Recording in accordance with this conservation policy may be undertaken before the commencement of the proposed works if considered necessary by Leichhardt Municipal Council and the NSW Heritage Council. The building has undergone restoration works and archival recording was understood undertaken at that time.

6.4 Research, Training & Resources

Recommendation 24 Relevant and expert trade and professional conservation advice should be provided for all conservation, adaptation and repair works proposals and programs at the place.

- All works under the proposed scheme will be undertaken by suitably qualified tradespeople with appropriate supervision from a qualified Conservation Architect. It is anticipated that a condition of consent will be made in this regard.

6.6 Setting and New Development

Recommendation 28 The physical, visual and historic links between the Ferwick 1880 Stone Building, the harbour, the ferry wharf and the former Shipwrights Arms should be retained in new development and lost links recovered or enhanced wherever possible.

Recommendation 29 The industrial maritime context of the site should be maintained and enhanced by retention and recovery of an open setting of reclaimed land to the

building's east and north and by the use of a limited palette of robust materials and detailing with precedent at the site for use in new elements.

- The proposed adaptive re-use of the site will have no impact on the setting of the site or the visual and historic links between the Fenwick 1880 Stone Building; the Harbour; the ferry wharf and the former Shipwrights arms. The proposed use can be considered to improve the link between the Stone Building and its surrounds by activating the site with an appropriate use that will enable the wider community to access the site and appreciate the heritage values of the 1880s Fenwick's Stone Building.

6.8 Disabled Access

Recommendation 32 Disabled access to both levels of the building should be achieved in a way which does not visually intrude upon the eastern and northern facades or result in the loss of early interior fabric.

- The proposed location of the lift will enable disabled access to both levels of the building and will have no impact on the eastern or northern facades of the building, as it is located near the south-west corner of the building. As noted in the general discussion of design options at the beginning of Section 6, all options for the location of the lift (Options X, Y and Z) are considered to be acceptable from a heritage perspective and satisfy the requirement of this conservation policy. The preferred Option X is considered to have no or minimal impact when the building is viewed from the northern and eastern approaches. The upper floor bulk of the lift will not be seen from the most significant view settings of the building as such its location is considered the one of the best options within the constraints of the site.

6.9 Services

Recommendation 34 New services should not visually intrude into areas of moderate to high significance or be visible on the eastern and northern facades and roof. Conduits for services should be surface mounted and restricted to the interior of the building or concealed behind the outer (now buried) side of the western wall.

- The new kitchen and toilet facilities will be located in the existing rear void to the west of the building which is concealed behind the western wall and will not intrude into any visible areas of the building. All services that will be facilitated in this area will be surface mounted, and where possible, will be restricted to the interior of the building.

6.13 The Northern Facade

Recommendation 42 The northern façade should generally be retained in its existing configuration without new structures directly in front of it.

- There will be no changes to the northern facade.
- The proposed seating on the northern side of the building will not impact on the heritage significance of the building or views to the site from the north.

6.14 The Western and Southern Walls

Recommendation 45 The door in the southern wall at first floor height may be retained if useful or may be built up as long as the character of the stonework matches adjacent rubblework.

- This door will be retained.

Recommendation 46 The windows in the western wall at first floor height may be retained as windows or may be altered to become doors of the same width if the adjacent ground levels are lowered.

- The northern window opening on the western elevation of the upper floor is proposed to be a door opening. This location and opening size will also be reflected in the opening into the kitchen below on the ground floor.

Recommendation 47 The western and southern walls have the greatest potential for change out of the four walls of the building and, in principle, new openings may be made as long as on the first floor new openings echo the windows on the northern wall and on the ground floor sympathetic openings may be considered on the merits of proposed designs but need not necessarily echo those of the northern wall.

- External changes to the building have been restricted to the southern and western elevations of the building in order to reduce the impact of the proposed works on the most significant building fabric. The proposed scheme is therefore consistent with the recommendations of the CMP in this regard.
- A new opening will be created between the ground floor and the rear void on the western side of the building. The subject wall has a large number of previous repairs and material changes with some straight shadow lines suggesting existence of previous openings. Further investigation of the wall fabric (partial removal will be required) may reveal a better understanding of the changes to the subject wall. The integrity of the wall seems to be impacted by these patches and replacement of fabric. As such, the wall is not completely intact. Therefore creation of the proposed opening to ensure efficient functionality of the building's new use and interconnection with the service areas in a most suitable part of the building is acceptable. Such intervention will have no impact on the identified and established heritage significance of the building. The western facade is ranked as being of Moderate level significance. Only the upper level of the western elevation is visible above the void. As such, the proposed new opening on the western wall between the kitchen in the rear void and the ground floor of the stone building is considered to be acceptable in heritage terms.
- For operational purposes and to activate the external area on the southern side a large opening is required on the southern side of the ground floor. The size/ proportions of the proposed new opening have been based on the existing front door but configured it so that it is a single internal sliding door panel. The new door will be detailed in an industrial but contemporary style that in order to complement the heritage fabric and original use of the building. The position of the opening has been established by an analysis of both the southern elevation proportions and the internal stair location. The southern edge of the opening lines up with the southern edge of the opening above, allowing it to clear the base of the stair and the protruding handrails required for BCA compliance.
- A new concrete balcony will connect the area between the first floor opening on the southern elevation and the upper ground level to the rear. This will be recognisable as a new structure but will be sympathetic to the existing style of the building. This proposed balcony will enable the use of the existing first floor opening and will enable improved accessibility and circulation.

6.15 Interior

An investigation of contamination at the site prepared by Sinclair Knight Merz (SKM) indicated the presence of the heavy metal mercury in cores taken beneath the concrete slab. The concrete slab is not original, is visually intrusive and is exacerbating problems of damp within the building.

Recommendation 48 The concrete slab of the ground floor should be removed, the condition of the underlying substrate investigated more fully and the foundations remediated in accordance with the contamination report. If the underlying finishes are original, serviceable and can be remediated of unacceptable levels of toxic substances it should be retained in situ. If this is not possible, a new floor which is permeable to air and moisture such as sandstone flags or bricks laid on a loose bed of sand or similar should be put in place.

- A new timber floor will be constructed on the ground floor so that it floats above the existing concrete slab.

Recommendation 49 An air drain should be installed behind the southern and western walls below the level of the ground floor as a minimum and care taken to direct water away from the building.

- Necessary detailing will be provided in due course in accordance with the requirements of this policy and as suits the current design layout.

Recommendation 50 The interior spaces of the first and ground floors should be retained as open spaces with no long term partitions above 1350mm above floor level.

- All interior spaces will remain open with no new partition walls.

Recommendation 51 The interior walls should be retained as exposed rubblework which may be painted with permeable paints where painted before.

- Interior sandstone walls will be retained.

Recommendation 52 The interior stair may be removed and the interior adapted with a new compliant stair of similar material and open quality as far as is consistent with current building codes.

- A new compliant stair is proposed in the southeast corner of the building, connecting the ground and first floors. This is considered to be the preferred option for the location of the stairs because it enables a new opening in the western wall to connect the ground floor with the kitchen at the rear and also has the least impact on the interior spaces without impacting on window openings or obstructing views between the interior and the outside setting. All circulation and connections between the openings will remain around the stair allowing clear and uninterrupted spaces for indoor and outdoor seatings.

Recommendation 53 The lightweight partitions and cabinet on the first floor may be removed following recording if part of a compatible use.

- These elements no longer exists

Recommendation 54 The sound original timber members of the floor, posts, attached fittings and roof tie beams should be retained and repaired. Lost members of the floor should be replaced with matching materials. More recent props and glu-lam members should be removed. The structure as a whole should be discreetly reinforced to make safe for use and the structure should remain exposed to view.

- These repair works have already been undertaken. All of these elements will remain exposed. Some intervention will occur to create a new void opening in the proposed location of the staircase, however, this is considered to be the most preferred location of the staircase in terms of the overall heritage significance of the interiors of the building for the reasons discussed in relation to Policy 52. Some of the timber boards may be able to be reused to infill the existing void above the front door.

Recommendation 55 High level lighting of the first floor interiors may be achieved by glazing the arch to the eastern façade once reconstructed, adapting the openings on the western wall and by glazing vent of the western gable once reconstructed.

- The existing void on the northern end of first floor will be retained as is with only replacement of the non-original timber balustrade with new brass

balustrade incorporating lighting is proposed. This modification will ensure the void area is integrated within the overall finishes of the interiors, which also include brass balustrade to the new stair at the southeast corner.

6.17 Excavation, Disturbance & Unforeseen Discovery

Recommendation 57 The recommendations of Cosmos Archaeology Pty Ltd's Historical Archaeological Conservation Management Plan should be followed to ensure that risks arising from excavation, disturbance and unforeseen discovery at the site are mitigated.

- The proposed works are unlikely to require any excavation. In the event that excavation is required, further research and reference to the recommendations of Cosmos Archaeology Pty Ltd's Historical Archaeological Conservation Management Plan will be required.

6.5.2 Compliance with the Conservation Policy Recommendations

Most of the recommendations have been considered and commented on above in section 6.5.1, therefore only the policy numbers are included in the table below to avoid unnecessary repetition of the text. Reference should be made to the CMP for recommendations that are not quoted above.

Number	Compliance / Comments
1	Complies. The current works are guided by the Burra Charter principles.
2	Complies. The Statement of Significance was paramount approach for the current works.
3	Complies.
4	This is a matter for Council's consideration.
5	All work to date have been carried out on evidence based approach. All future works for reinstatement and conservation will apply the same principle. See also discussion in section 6.5.1.
6	Complies. See also discussion in section 6.5.1.
7	Complies and will further be enhanced as part of the heritage interpretation for the building. See also discussion in section 6.5.1.
8	This Heritage Impact Statement satisfies this recommendation. See also discussion in section 6.5.1.
9	The proposed adaptive reuse will ensure the public access to the building and its surrounds. See also detailed discussion in section 6.5.1 above.
10	An Integrated Development Application will be made to obtain advice and consent of the Heritage Council. See also discussion in section 6.5.1.
11	General recommendation and will be considered where applicable.
12	Complies. See discussion in section 6.5.1.
13	Complies. See discussion in section 6.5.1.
14	Complies. See discussion in section 6.5.1.
15	Complies. See discussion in section 6.5.1.
16	A considerable conservation works and maintenance have been carried out and a regular maintenance schedule will be put in place as part of the future use.
17	Termite treatment has been carried out as part of the recent conservation and restoration works.
18	Complies. See discussion in section 6.5.1.
19	Complies. See discussion in section 6.5.1.

20	Complies. See discussion in section 6.5.1.
21	An archival documentation has already been created and will be further supplemented as part of the current proposed adaptive reuse. Complies. See discussion in section 6.5.1.
22	As above. Complies. See discussion in section 6.5.1.
23	Complies. See discussion in section 6.5.1.
24	Complies. See discussion in section 6.5.1.
25	As above
26	As above
27	Interpretation has been incorporated into the design of the current proposal and will further be supplemented as part of the carrying out of the works in the form of preparing an Interpretation Strategy. it is anticipated this will be made as a condition of consent.
28	Complies. See discussion in section 6.5.1.
29	As above.
30	Complies. This report has discussed and assessed the likely impacts of the proposed design including the additions to the building.
31	Complies. All BCA upgrade works have been considered as part of the design.
32	Complies. See discussion in section 6.5.1.
33	Complies.
34	Complies. See discussion in section 6.5.1.
35	Complies. The seawall has been retained.
36	Not applicable for this proposal.
37	Complies. The wall has been retained and will be conserved as part of the current proposal.
38	As above. Minor opening has been made and most of the wall has been kept.
39	Complies. The eastern facade and roof have been reconstructed as part of the recent conservation works. The works have been carried out in accordance with this recommendation.
40	Stonework has been reused within the site and landscape.
41	Complies. The recent conservation works have been carried out accordingly. Interpretive media will be provided as part of the current works.
42	Complies. See discussion in section 6.5.1.
43	Complies. Recommendations have been implemented as part of the recent conservation works. Further desalination treatment will be carried out as part of the current work. mitigation measures to reduce rising damp and salt issue has been incorporated into the design.
44	Complies. Recommendation has been noted and considered as part of the current design.
45	Complies. See discussion in section 6.5.1.
46	As above.
47	As above.
48	As above.
49	As above.
50	As above.
51	As above.
52	As above.
53	As above.
54	As above.
55	As above.
56	Complies. The roof has been reconstructed as part of the recent conservation works in line with this recommendation.
57	Complies. See discussion in section 6.5.1.

SECTION 8.2 SCHEDULE OF CONSERVATION WORKS

Recommended work	Compliance
<i>Termite treatment and monitoring system.</i>	The building has been treated against termite activity as part of the recent conservation

	works.
<i>Repair timber floor and replace rotten flooring, joists and other members.</i>	Works have been carried as noted above.
<i>Strengthen existing timber floor on first floor.</i>	The timber floor and the structure as a whole has been strengthened.
<i>Provide new timber stair.</i>	A timber stair has been provided and will be modified as part of the current works.
<i>Repair existing windows and doors.</i>	
<i>Remove stone retaining wall to ramp against southern wall and recover original levels of earth against western wall or lower as proposed by Northrop Engineers.</i>	The works have been carried out accordingly.
<i>Remove concrete slab to ground floor interior, remediate and refinish.</i>	Partially completed and will further be stabilised as part of the current proposed works with a new timber deck installation.
<i>Provide new external air drain to walls.</i>	Drain has been provided but will further be modified as part of the current works.
<i>Treat walls to remove salts and organic material.</i>	Walls were treated as part of the recent conservation works, however, the nature of the site's maritime environment requires further treatment, which will be carried out as part of the current works.
<i>Repair and repoint stone walls.</i>	Works have already been carried out to the building's walls. Further repointing works may need to be carried out as part of the current works, particularly to the lower ground rear wall and stone retaining wall.
<i>Repair/replace slate dampcourse.</i>	Repair to the dampcourse has been carried out however will need to be further checked and repaired as part of the current works.
Desired works	
<i>Reconstruct stepped stone gable to eastern façade.</i>	The gable has been reconstructed.
<i>Reconstruct gable and gambrel roof with timber framing and shortsheeted galvanised steel sheet or slates.</i>	The works have been carried out accordingly as part of the recent conservation works.
<i>Provide new gutters, downpipes and drainage system.</i>	All roof plumbing and drainage system has been provided, and will further be supported in line with the current proposed design and works.

6.6 'Statements of Heritage Impact' (NSW Heritage Manual)

The following aspects of the proposal respect or enhance the heritage significance of the item or conservation area for the following reasons:

- The proposed adaptive re-use as a licensed café with gallery space enables the retention of the significant elements of Fenwick's Stone Building, including the northern and eastern elevations, the overall form, massing and scale of the building as well as the openness of the interior spaces. In addition, the use of the building as the licensed café with gallery space will enable the maintenance

of the connection between the building, the ferry wharf, the Balmain foreshore and Sydney Harbour whilst at the same time, activating the site and enabling access and appreciation of the site by the wider community.

The following aspects of the proposal could detrimentally impact on heritage significance. The reasons are explained as well as the measures to be taken to minimise impacts:

There are no aspects of the proposal that will cause a detrimental impact on the heritage significance of the building. However, some of the proposed changes will have a minimal effect on some areas of the building. These changes have been the subject of careful consideration and their impacts have been mitigated in the following ways;

- The new kitchen is proposed in the rear void of the building so as not to impact on the interior spaces or on the original building fabric. The proposed location of the kitchen is concealed in an area behind the building and the rear western retaining wall. A new opening will be created between the ground floor and the kitchen area to the rear via the western wall and this opening is essential for the functional use of the kitchen to the rear. This opening has been designed to be compatible with the building in terms of its location and the proportions of the proposed opening.
- A new opening will be made to the western elevation in place of the existing northern window and will be the same width as the existing window. All sandstone detailing around the existing window will be retained, where possible. A new opening will be created on the ground floor of the southern elevation and will be aligned with the western side of the existing opening on the first floor. The western and southern elevations have been ranked as being of moderate heritage significance and the proposed new openings have been designed to be compatible with the existing style of the building and are consistent with the Conservation Policies of the 2009 CMP by NBRIS + Partners.
- The proposed new balcony on the southern elevation of the first floor will be a slimline concrete structure that is contemporary in style and sympathetic to the existing style and industrial nature of the building. As noted above, the southern elevation is of moderate significance and is capable of change. This new balcony will enable the appropriate use of the existing door on the first floor which has not been able to be used since the removal of the driveway to the west and south of the building and the exposure of the entire southern elevation of the building.
- The proposed new lift will satisfy the accessibility requirements of the site and, as discussed above, has been located in an area that will have the least impact on the building and its setting.

The following sympathetic solutions have been considered and discounted for the following reasons:

- A number of design solutions have been considered for the proposed works as noted at the beginning of the impact assessment section. The overall design of the proposed scheme is considered to be the most preferred option as it causes the least impact on the most significant areas of the building and retains the overall form, massing, scale and interior openness of the building.
- A number of solutions were also considered for the location of the proposed lift (Options X, Y and Z). All of these options are considered to provide a positive outcome in terms of heritage, accessibility requirements and optimal use of space. For further discussion of these design options, see the discussion section at the beginning of Section 6.

7. Conclusion and Recommendations

In conclusion, it is considered by City Plan Heritage that the proposed design associated with the adaptive re-use of Fenwick's Stone Building as a licensed café with gallery space will result in minimal impacts to the lesser significant areas of Fenwick's Stone Building, and will cause no impact on the fabric of High significance as well as the Balmain East Heritage Conservation or the nearby Heritage Items. The proposal will ensure the ongoing use of the 1880s Fenwick's Stone Building and its site while the relationship between the building and its setting, the Illoura Reserve, the Balmain foreshore, Sydney Harbour, the ferry wharf and the heritage listed Shipwright's Arms is positively maintained.

The proposal is a positive response to the site's constraints and demonstrates compliance with the existing controls regarding heritage conservation and is therefore recommended to Council for approval.

CITY PLAN HERITAGE

APRIL 2015

Attachment F – Acoustic Impact Statement



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2-8 Weston St, Balmain East

Noise Impact Assessment

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Project ID	20191151.1
Document Title	Noise Impact Assessment
Attention To	The Fenwick Pty Ltd

Revision	Date	Document Reference	Prepared By	Checked By	Approved By
0	21/10/2019	20191151.1/2110A/R0/AS	AS		
1	29/11/2019	20191151.1/2911A/R1/AS	AS		TT
2	13/12/2019	20191151.1/1312A/R2/AS	AS		TT

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1 INTRODUCTION

Acoustic Logic Consultancy (ALC) have been engaged to conduct an environmental noise emission assessment for the proposed extended trading areas from 5pm to 11pm at a licensed restaurant located at the Fenwick, 2-8 Weston Street, Balmain.

In this report we will:

- Identify relevant noise emission criteria applicable to the site.
- Identify nearby noise sensitive receivers and the operational noise sources with the potential to adversely impact them.
- Predict operational noise emissions (primarily patron and music noise) at the nearest residential receivers and assess the predicted noise levels against acoustic criteria.
- If necessary, determine building and/or management controls necessary to ensure ongoing compliance with the noise emission goals.

2 SITE DESCRIPTION AND PROPOSED WORKS

The project site is located at 2-8 Weston Street, Balmain. The café is currently operating until 5pm but is proposed to extend operation from 5pm until 11pm every night.

The operating capacity of the café will remain as 80 patrons (56 inside, 24 outside).

Sensitive noise receivers in the vicinity of the project site are:

- Receiver 1: Two storey residential development at 10 Darling Street, located approximately 11m north-west of the site.
- Receiver 2: Two storey residential development at 1-3 Weston Street, located approximately 25m west of the project site.

The Balmain East Wharf is located approximately 50m north east of the site.

The primary noise source from the project site will be patron/music noise from the indoor and southern outdoor dining area.

There is an existing 4m high retaining western wall which provides some noise screening between the southern outdoor dining area and the receiver 2 residents.

Refer to figure 1 below for an aerial view of the existing site.

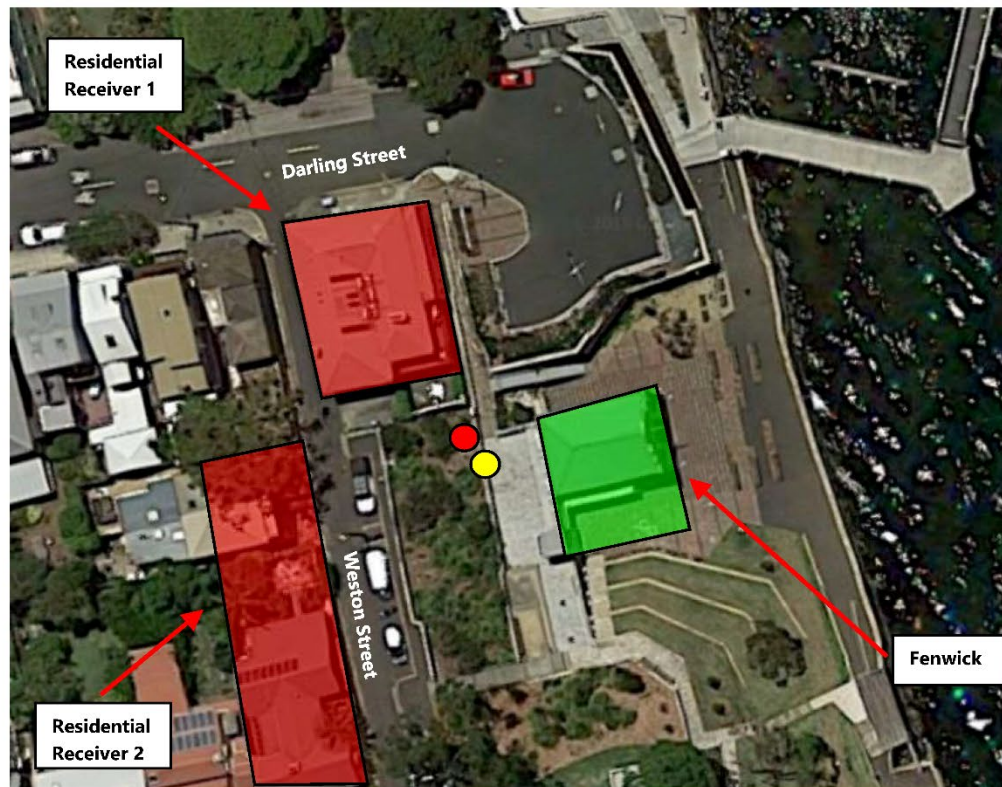


Figure 1 – Site Map
(Sourced from Google Maps)

- Noise Monitor Location
- Attended Measurement Location

3 NOISE DESCRIPTORS

Environmental noise constantly varies. Accordingly, it is not possible to accurately determine prevailing environmental noise conditions by measuring a single, instantaneous noise level.

To accurately determine the environmental noise a 15-20 minute measurement interval is utilised. Over this period, noise levels are monitored on a continuous basis and statistical and integrating techniques are used to determine noise description parameters.

In analysing environmental noise, three-principle measurement parameters are used, namely L_{10} , L_{90} and L_{eq} .

The L_{10} and L_{90} measurement parameters are statistical levels that represent the average maximum and average minimum noise levels respectively, over the measurement intervals.

The L_{10} parameter is commonly used to measure noise produced by a particular intrusive noise source since it represents the average of the loudest noise levels produced by the source.

Conversely, the L_{90} level (which is commonly referred to as the background noise level) represents the noise level heard in the quieter periods during a measurement interval. The L_{90} parameter is used to set the allowable noise level for new, potentially intrusive noise sources since the disturbance caused by the new source will depend on how audible it is above the pre-existing noise environment, particularly during quiet periods, as represented by the L_{90} level.

The L_{eq} parameter represents the average noise energy during a measurement period. This parameter is derived by integrating the noise levels measured over the 15 minute period. L_{eq} is important in the assessment of traffic noise impact as it closely corresponds with human perception of a changing noise environment; such is the character of environmental noise.

4 SURVEY OF AMBIENT NOISE

Background levels were conducted as part of the original development application (Ref: 20141055.1/2909A/R0/JL dated 29/09/2014). Additional background measurements have been conducted between the 24th September to 2nd October – measurement data shown in Appendix 1 (refer to figure 1).

A survey of existing ambient noise at the site was undertaken using a long-term noise logger installed on site. The logger was installed on the first floor of the existing building with the microphone sticking out of a window on the eastern facade.

Background noise levels measured here will be indicative of the background noise levels at nearby residences.

Monitoring was conducted from the 24th of September to the 2nd of October 2019 using an Acoustic Research Laboratories noise monitor set to A-weighted fast response. The monitor was calibrated at the start and end of the monitoring period using a Rion NC-73 calibrator. No significant drift was noted. Noise logger data is provided in Appendix 1.

Results are presented below:

Table 1 – Background Noise Levels at 2-8 Weston Street, Balmain

Location	Time	Background Noise Level dB(A)L ₉₀
2-8 Weston Street, Balmain	7am-6pm	51
	6pm-10pm	47
	10pm-11pm	44

In addition, a background noise spectrum on the site was measured on the 9th September 2014 at 9pm near residential receiver 1 (refer to figure 1). The background noise spectrum is presented below.

Table 2 – Background Noise Spectrum (dB)

31.5Hz	63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz	A-weighted level
53	53	50	46	42	41	36	28	18	46

5 NOISE EMISSION CRITERIA

5.1 PATRON/MUSIC NOISE

5.1.1 Leichhardt Municipal Council DCP

Part C, Section 4 of the Leichhardt Municipal Council DCP states the following with regards to noise emissions from licensed premises:

"C4.11 Licensed Premises

C7. Where Premises are within 50m of residential properties, any outdoor seating area should cease trading and use by 10pm except where the seating is fronting a main commercial street. Outdoor seating areas should not be used for functions at any time and music, live or amplified should not be audible outside the premises.

5.1.2 OLGR Acoustic Requirements

When assessing noise emissions from a licensed premise, noise emissions must comply with the acoustic requirements imposed by the Office of Liquor Gaming and Racing:

These guidelines relate to noise generated by patrons and by music. The requirements are set out below:

- *That the L_{10} noise level emitted from the premises shall not exceed 5dB above the background L_{90} sound level in any Octave Band Centre Frequency (31.5kHz to 8kHz inclusive) between the hours of 7.00am to 12.00 midnight when assessed at the boundary of the nearest affected residential premises.*
- *L_{10} noise level emitted from the premises shall not exceed the background L_{90} sound level in any Octave Band Centre Frequency (31.5kHz to 8kHz inclusive) after midnight when assessed at the boundary of the nearest affected residential premises.*
- *After midnight, noise emissions from the Place of Public Entertainment are to be inaudible within any habitable rooms in nearby residential properties.*

The site is not proposed to operate after midnight. Corresponding noise emission goals from patrons/music is as follows:

**Table 3 – Background Noise Spectrum and Noise Emission Goals
Evening Time Period (6pm-10pm) - (dB)**

	31.5Hz	63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz	A-weighted level
Background Noise Level – dBL ₉₀	54	54	50	47	43	43	37	34	29	47
Noise Emission Goal – dBL ₁₀	59	59	55	52	48	48	42	39	34	52

**Table 4 – Background Noise Spectrum and Noise Emission Goals
Night Time Period (10pm-11pm) - (dB)**

	31.5Hz	63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz	A-weighted level
Background Noise Level – dBL ₉₀	51	51	47	44	40	40	34	31	26	44
Noise Emission Goal – dBL ₁₀	56	56	52	49	45	45	39	36	31	49

6 NOISE EMISSION ASSESSMENT

This section of the report presents our assessment of operational noise emissions from the restaurant.

Noise emissions at the nearest residences will be predicted based on the following assumptions:

- The average noise level per patron is 77dB(A)_{L₁₀}, which in our experience is typical of the noise level generated by patrons speaking in a restaurant with an unraised voice with background music. 1 in 2 patrons are assumed to be speaking at any one time.
- As recommended in section 7, patrons in outdoor areas to be limited as follows:
 - During the extended hours of operation (5pm-11pm):
 - A maximum of 24 patrons are permitted to use the ground floor outdoor area on the southern side of the building.
 - Seating layout is to be as per Appendix 2 so that the existing retaining wall along the western side of the outdoor area is able to provide noise screening for the residence to the west at receiver to location (see figure 1)
- Remaining patron capacity (56 patrons) evenly distributed throughout the indoor dining area of the café.
- Background music played within the cafe with a sound pressure level of approximately 65dB(A)_{L_{eq}}.
- No music in the outdoor areas.

Noise levels are predicted at the property boundaries of the nearest residential receivers:

- Predictions at receiver 1 are made at the first floor window
- Predictions at receiver 2 are made at the second floor window. These locations have been chosen because at an elevated location noise screening provided by the western retaining wall is reduced at these locations.

All predictions are based on the assumption that the acoustic treatments and management controls outlined in section 7 are adopted.

The noise emissions are predicted taking into account the noise screening between the outdoor area and the nearest residence provided by the retaining wall (along the western side of the outdoor dining area) and the restaurant building itself (along the northern side of the outdoor dining area).

6.1 PREDICTED NOISE LEVELS DURING NIGHT TIME PERIOD (10PM-11PM)

The noise emission goals of 6pm-10pm are less stringent than the noise emission goals from 10pm-11pm due to the higher background noise levels measured on site (see Table 3 and 4). Therefore, the predicted noise emissions were compared to the criterion of the night time period (10pm-11pm). If compliance is achieved for the 10pm-11pm period, it will also be achieved earlier in the evening.

The predicted noise levels at the nearest residential receivers during the night time period are presented in the tables below.

We note Condition C7 of the Leichardt DCP **doesn't allow trading** for outdoor seating areas after 10pm however in our opinion provided:

- The "background+5dB(A) octave band criteria (of the Office of Liquor and Gaming AND
- The inaudibility of music requirement of DCP Condition C7 are met,
- It should be considered reasonable to permit trading of the outdoor space until 11pm (on the basis that the internal areas would be permitted to generate this noise level in any event).

An assessment of operational noise until 11pm is presented below.

Table 5 – Predicted Noise Emissions to The First Floor Window at Residential Receiver 1 to 11pm (10 Darling Street)

10pm-11pm	31.5Hz	63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz	A-weighted level
Noise Emission Goal – dBL ₁₀	56	56	52	49	45	45	39	36	31	49
Predicted Noise Emission – dBL ₁₀	30	30	27	27	28	23	20	9	-4	29
Complies	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Table 6 – Predicted Noise Emissions to The Second Floor Window at Residential Receiver 2 to 11pm (1-3 Weston Street)

10pm-11pm	31.5Hz	63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz	A-weighted level
Noise Emission Goal – dBL ₁₀	56	56	52	49	45	45	39	36	31	49
Predicted Noise Emission – dBL ₁₀	38	38	36	38	42	38	33	28	21	43
Complies	Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes	Yes

Provided the recommendations in section 7 are adopted operational noise is predicted to be compliant to 11pm and live and or amplified music will not audible after 10pm.

7 RECOMMENDATIONS

We recommend the following management controls in order to achieve compliance with the noise emission criteria outlined in section 5.1:

- Use of indoor and outdoor area to cease at 11pm
- During the hours of operation (5pm-11pm):
 - A maximum of 24 patrons are permitted to use the ground floor outdoor area on the southern side of the building (see appendix 2).
 - The southern outdoor dining area table layout and the distance of each table from the retaining wall must match the drawing shown in Appendix 2. This will ensure the existing retaining wall to the western side of the dining area can provide noise screening between the outdoor dining area and the residents to the west.
 - The outdoor dining area is only for seated diners only.
- After 6pm, all windows and doors on the northern, western and southern façades of the building are to remain closed when the café is in use. The door on the southern façade can be open for egress to the outdoor dining area.
- The doors and windows on the eastern façades of the building are allowed to be open.
- No music is to be played in the outdoor areas of the café.
- Only background music is allowed within the internal areas of the site, with a maximum sound pressure level of 65dB(A)_{Leq}.
- Bottle and waste disposal not to be done in external areas after 10pm.
- Management to install signs reminding patrons to respect neighbouring residents and leave the site quietly at night time.

8 CONCLUSION

Noise emissions associated with the licensed restaurant Fenwick at 2-8 Weston Street, Balmain have been assessed for proposed extended trading hours from 5pm-11pm with reference to the acoustic requirements of the NSW Office of Liquor, Gaming and Racing and the Leichhardt Municipal Council DCP

With the recommendations presented in section 7 of this report adopted, noise emissions from the operation of the site for the extended hours from 5pm-11pm will comply with acoustic criteria set out in section 5, ensuring no unacceptable noise impact on the amenity of the nearest surrounding properties.

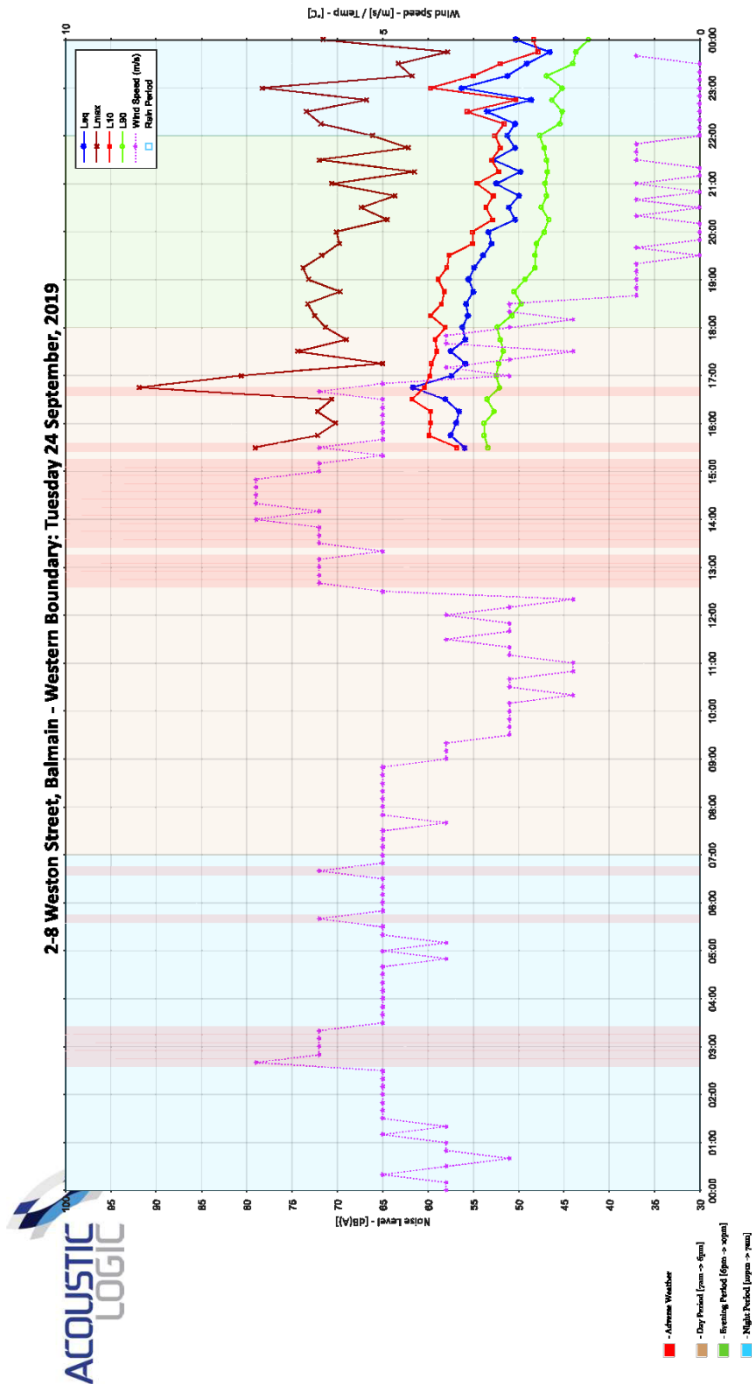
We trust this information is satisfactory. Please contact us should you have any further queries.

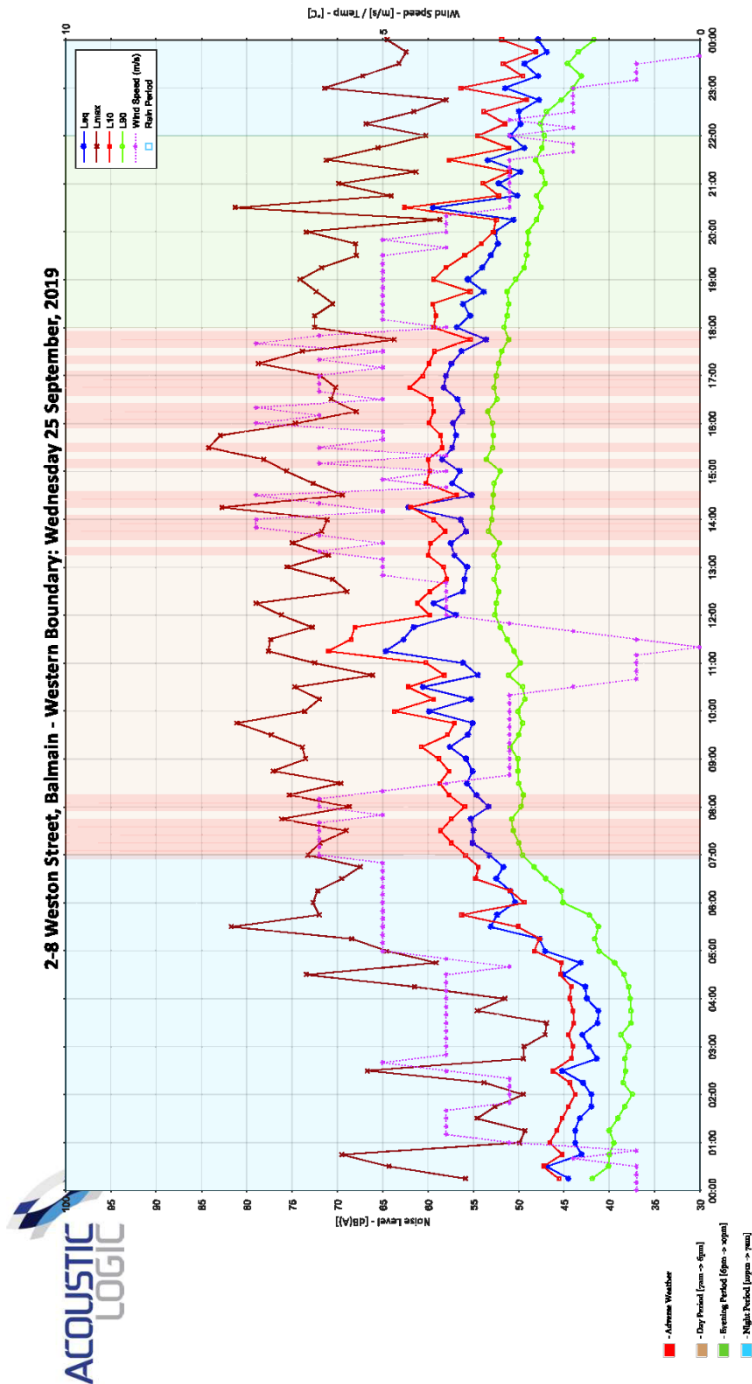
Yours faithfully,

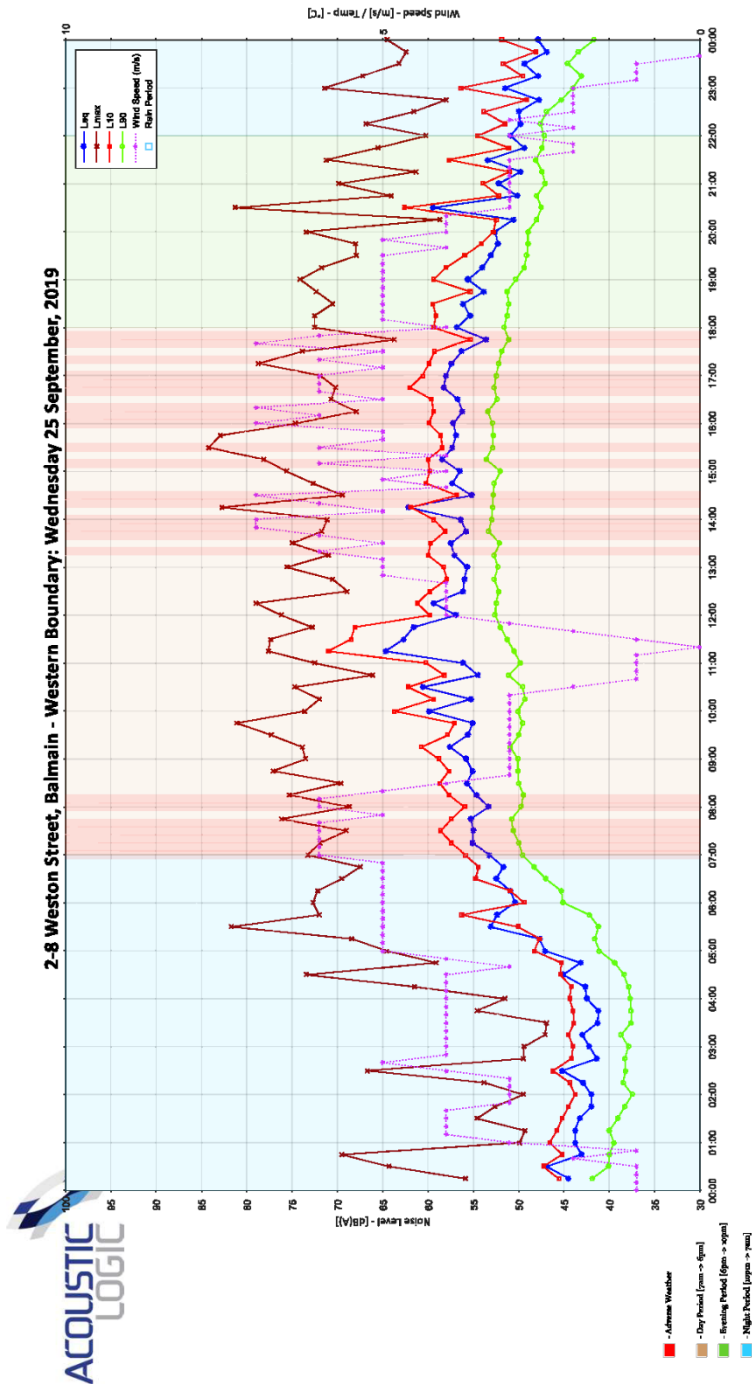
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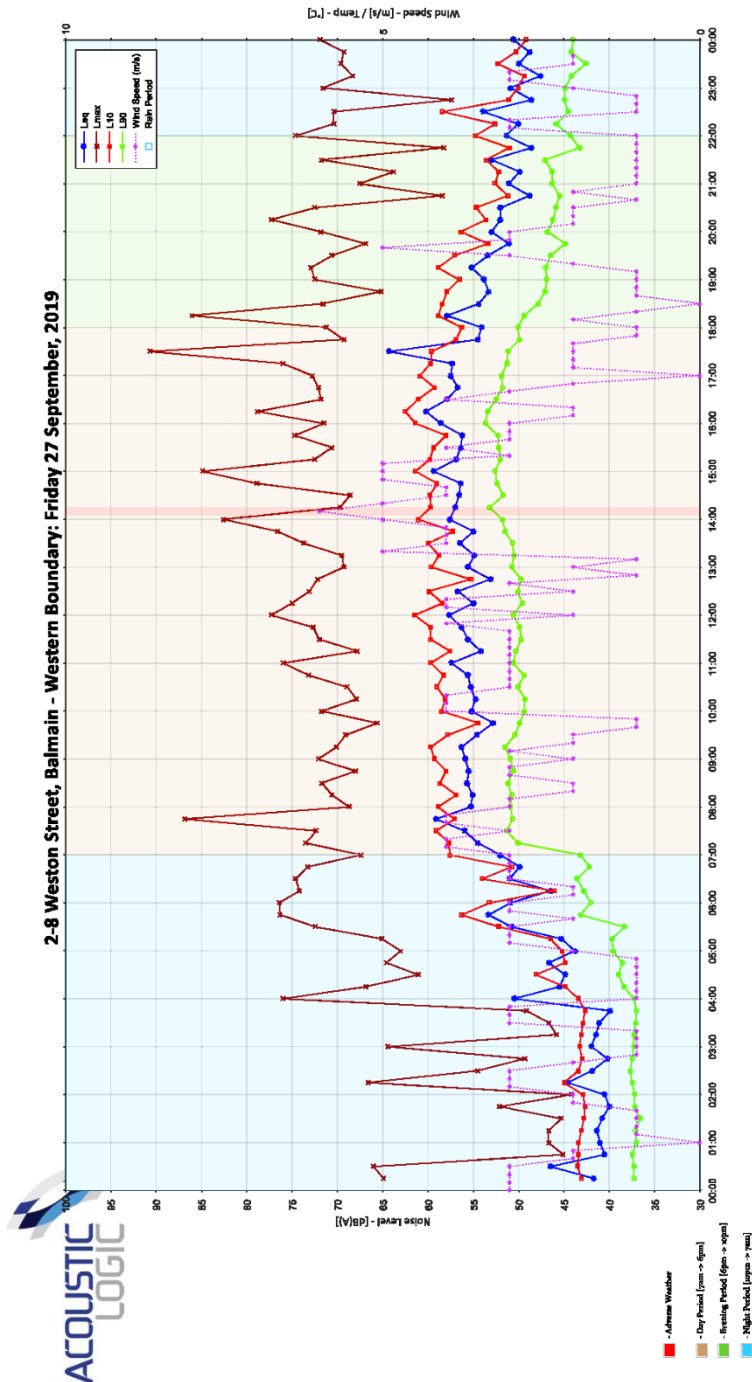
Acoustic Logic Consultancy Pty Ltd
Alex Salazar

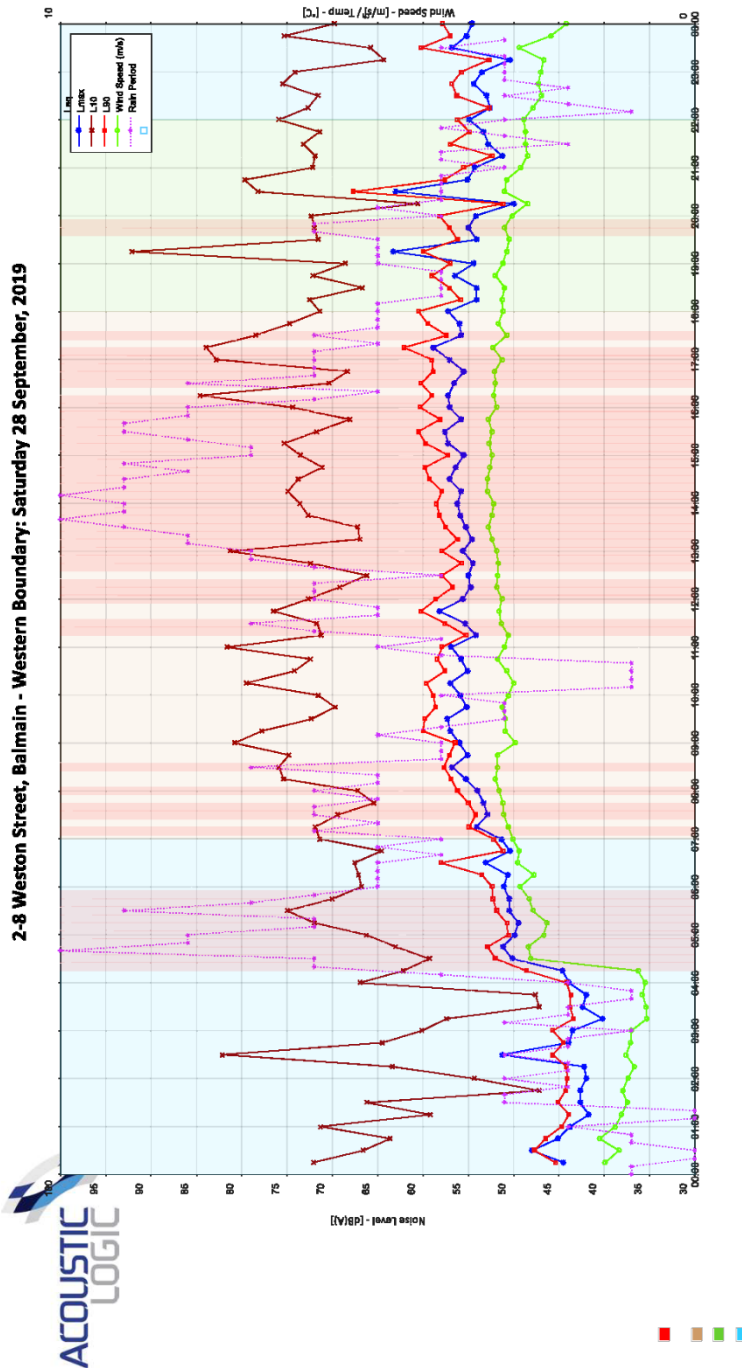
APPENDIX 1 – NOISE MONITOR MEASUREMENTS

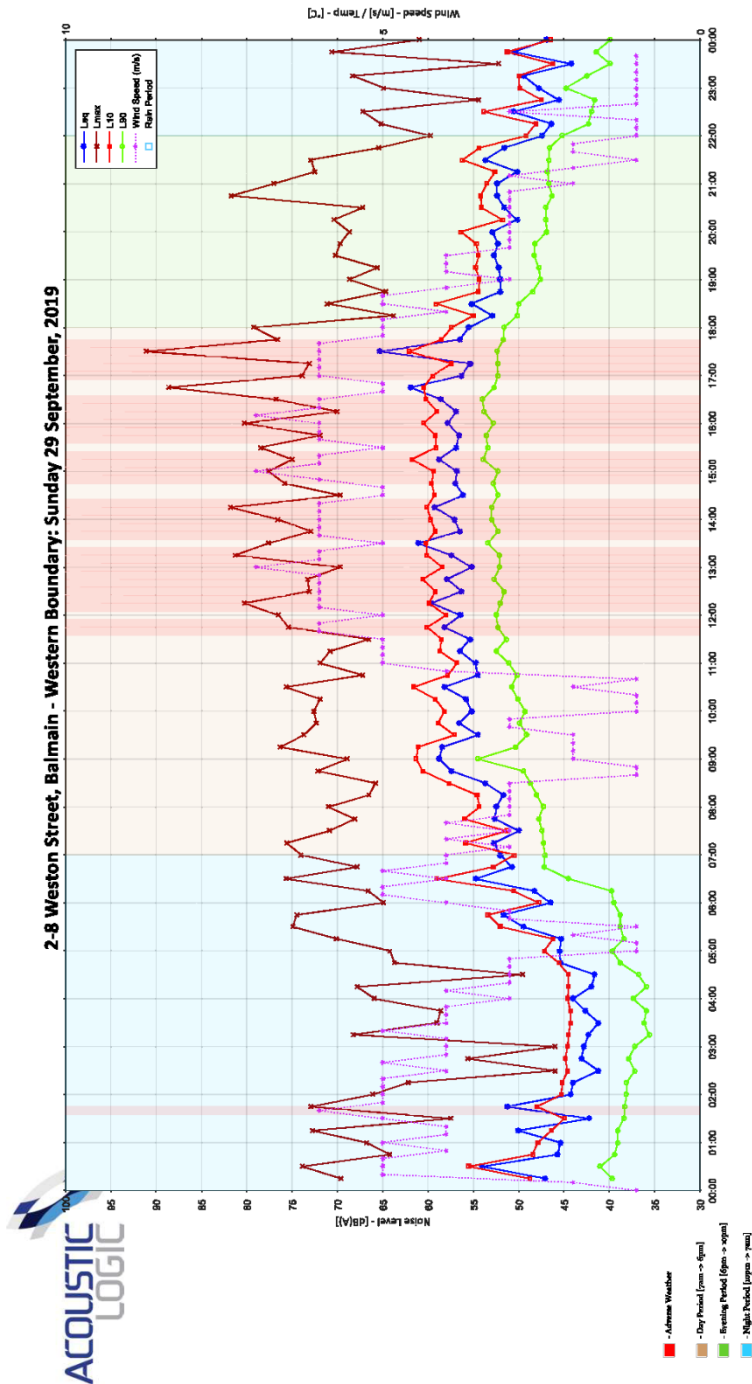


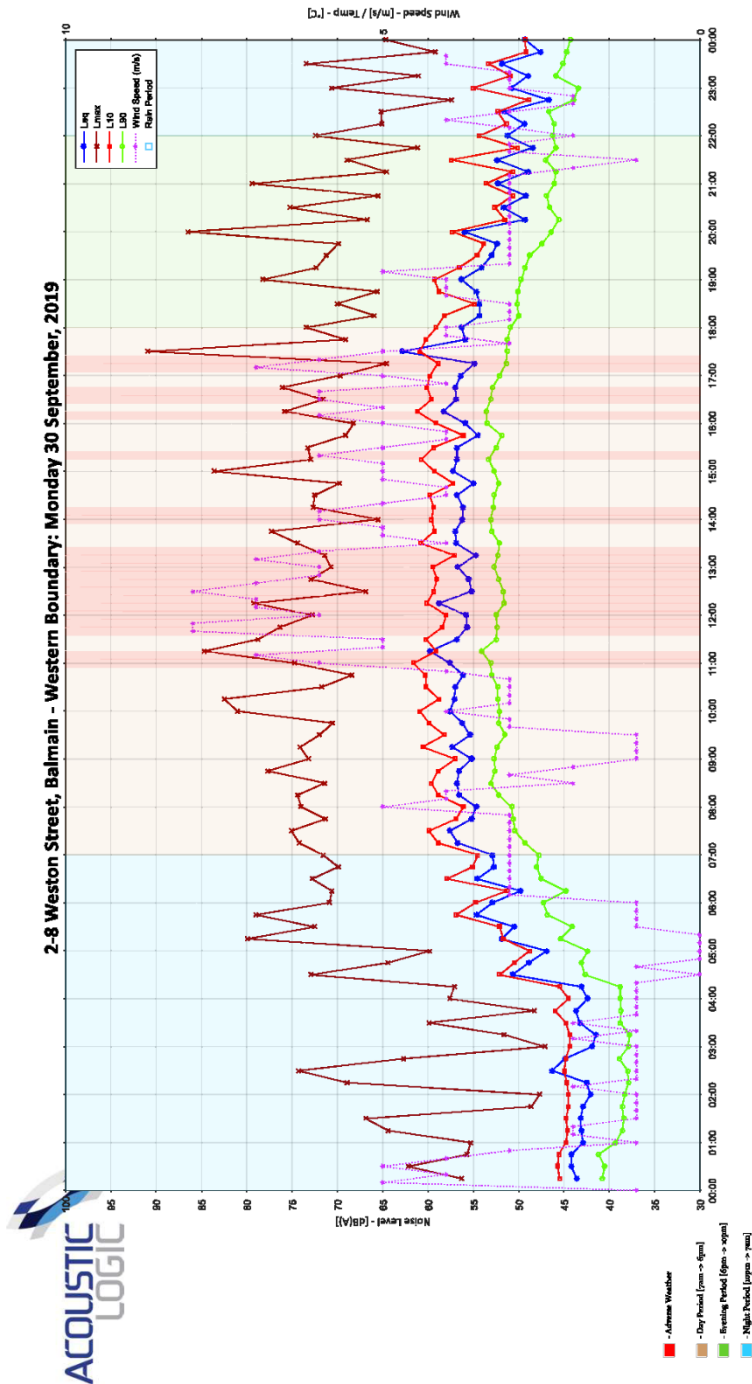


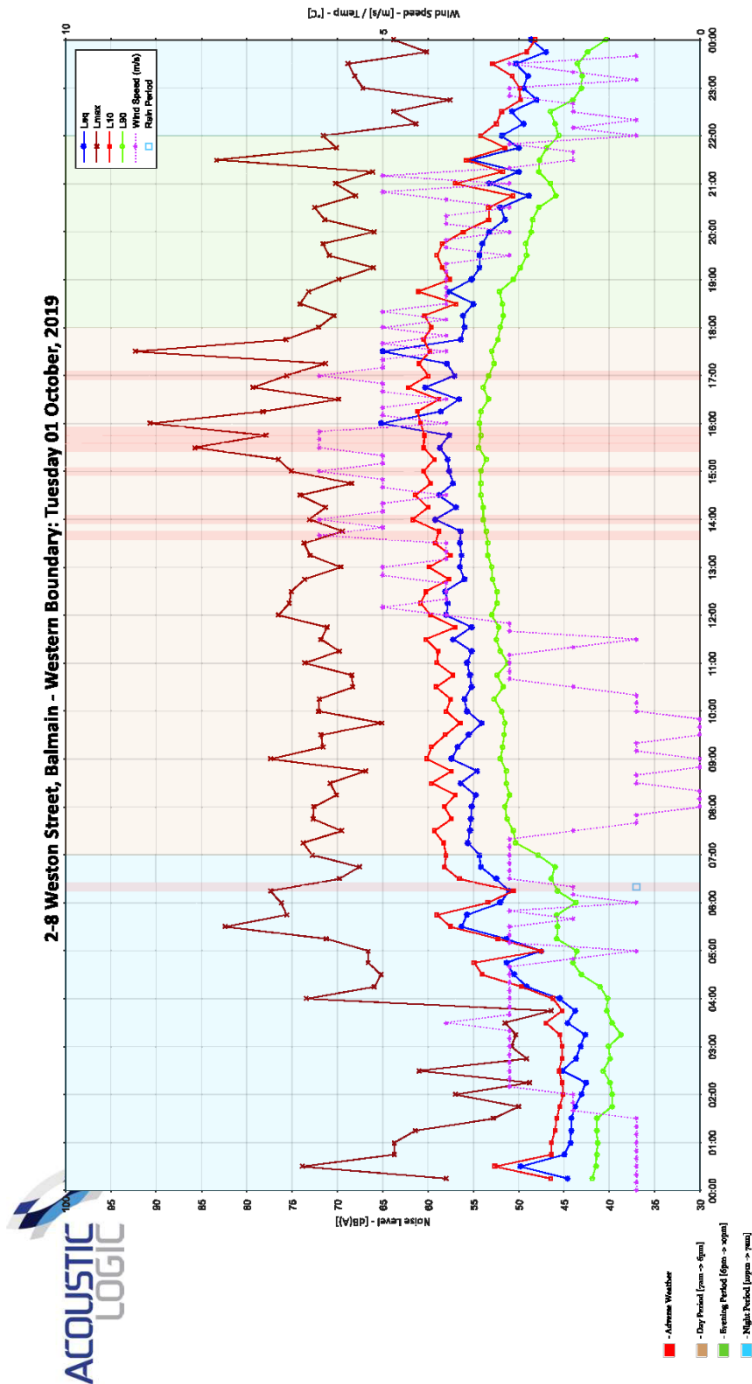


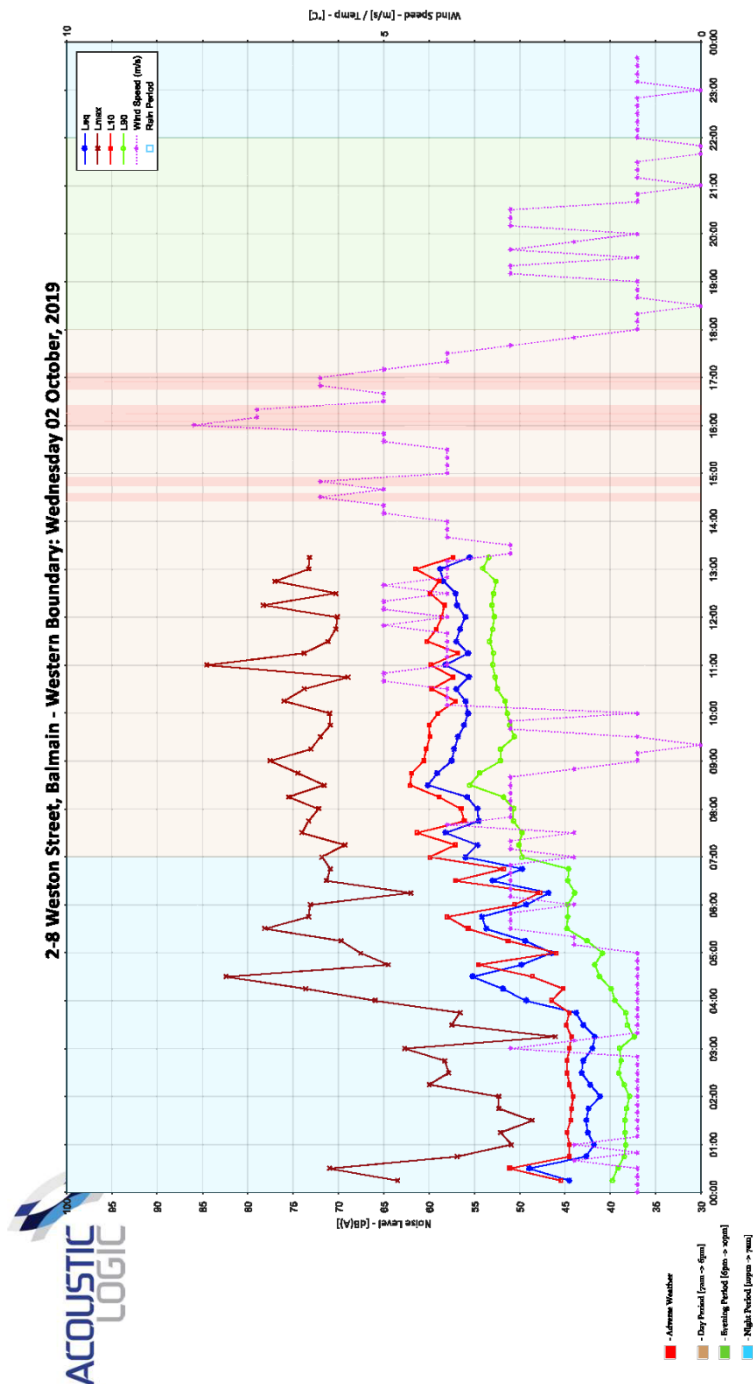












**APPENDIX 2 – OUTDOOR SEATING AREA RESTRICTIONS
AND RECOMMENDED TREATMENTS**

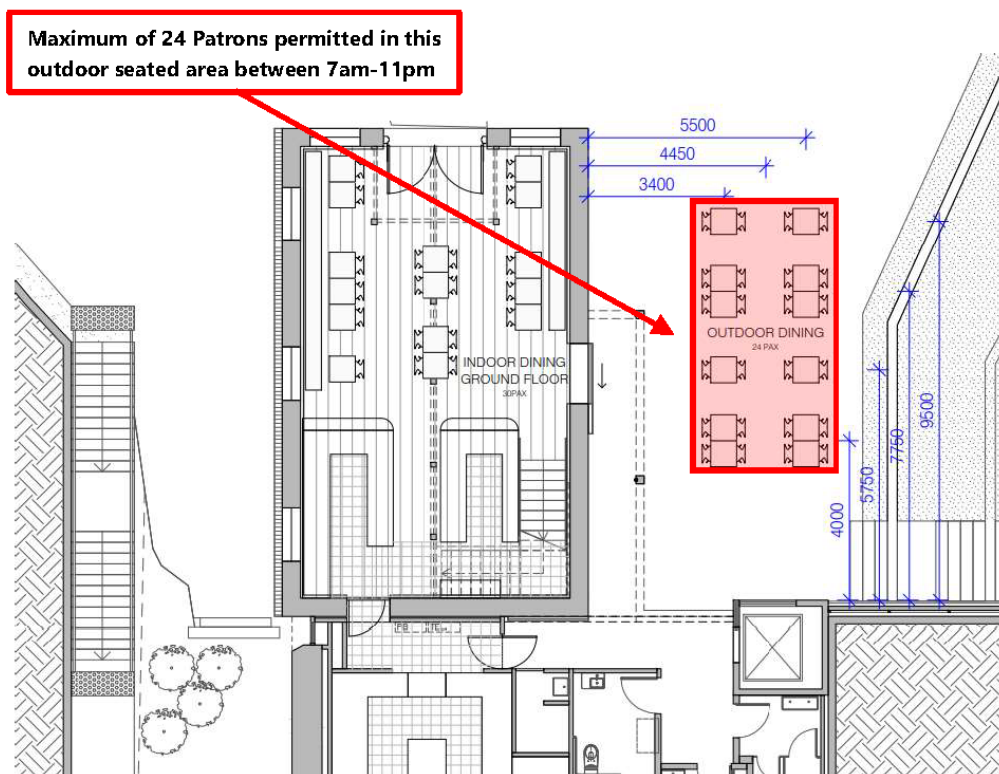


Figure 1 – Restrictions for Ground Floor Outdoor Seating Area