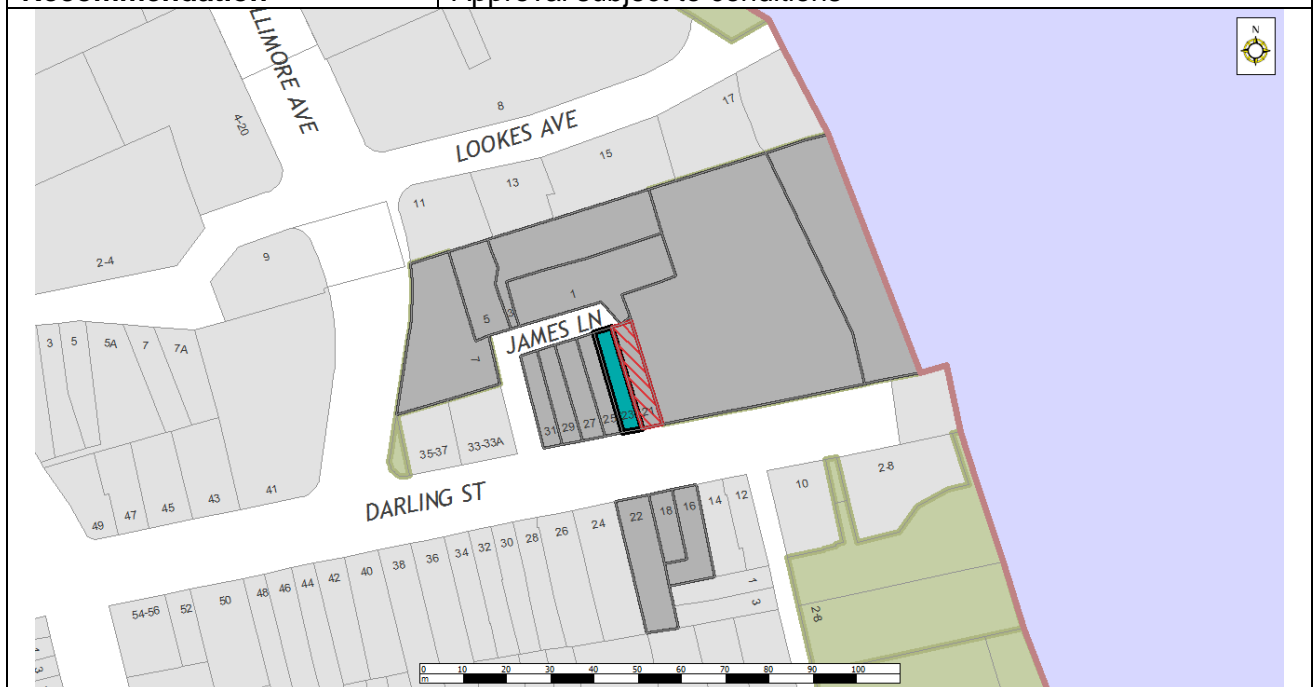




INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	D/2017/680
Address	23 Darling Street, Balmain East
Proposal	Alterations and additions to existing terrace-house, including alterations and additions to existing roof terrace, elevated deck over on-site parking at the rear, and associated demolition and tree removal.
Date of Lodgement	20 December 2017
Applicant	Mr M Alameddine
Owner	Mr M Alameddine
Number of Submissions	One
Value of works	\$220,000
Reason for determination at Planning Panel	Clause 4.6 variation – FSR, Site Coverage and Soft Landscaping breaches exceed Officer delegations
Main Issues	<ul style="list-style-type: none"> Additions to rooftop level not supported; New staircase from Darling Street to basement level not supported.
Recommendation	Approval subject to conditions



LOCALITY MAP

Subject Site		Objectors		
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to existing terrace-house, including alterations and additions to existing roof terrace, elevated deck over on-site parking at the rear, and associated demolition and tree removal at 23 Darling Street, Balmain East. The application was notified to surrounding properties and one submission was received.

The main issues that have arisen from the assessment of the application include:

- The site is a heritage item, and therefore, the proposed additions at level 4 (being roof top level) are not supported, nor is the new proposed staircase from Darling Street to basement level due to adverse impacts to the heritage significance of the building;
- Non-compliance with permissible floor space ratio;
- Non-compliance with permissible site coverage; and
- Non-compliance with required provision of soft landscaping.

The non-compliances are acceptable subject to deletion of the proposed staircase from Darling Street and deletion of additional works to rooftop level (as recommended by condition), and therefore, the application is recommended for approval.

2. Proposal

The proposal is for alterations and additions to an existing terrace house. The proposal includes the following work:

Level 1 – Basement Level

Demolish existing bathroom and relocate new bathroom, new windows to rear elevation of dwelling, new garage door. Remove 2 x palm trees.

Level 2 – Main Level

New staircase to basement, including cutting existing balustrade to make a gate for second entrance, new rear glazing, reconstruct deck and new planter box.

Level 3 – Bedroom Level

Change existing bathroom into a bedroom, create new bathroom and extend existing floor over void to create larger rear bedroom, new rear glazing.

Level 4 – Roof Garden

Addition in height and size of internal space at level 4 and new front terrace area replacing existing roof area.

3. Site Description

The site is located on the northern side of Darling Street, between the Balmain East Ferry Wharf and Gallimore Avenue. The site consists of one allotment and is generally rectangular in shape with a total area of 109.3m² and is legally described as Lot E DP439960.

The site has a frontage to Darling Street of 4.595 metres and a secondary frontage of 4.295 metre to James Lane. The site is affected by cross easements for party walls.

The site supports a 3 storey terrace which is part of a pair with No.21 Darling Street. The site also currently has a fourth level consists of a staircase adjoining an open terrace. The property to the east, No.21 is a 3 storey terrace strata subdivided into 2 apartments with no

rooftop level. The dwelling to the west, No.25 Darling Street is a 3 storey terrace with a fourth storey at rooftop level. The site is part of a row of terraces from 21 to 31 Darling Street.

The site is listed as heritage item Number I367 Plym Terrace, including interiors. The property is located within a conservation area and is not identified as flood affected.

Existing on site at the rear of the property are two bangalow palms which are planted at Level 1 - basement level and have grown up through cut outs in the level 2 – main level deck.

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
17543	Open deck 2 nd floor	22.8.79
DA 470/85	Alterations to house	Approved 14.2.86
BA85/823	Alterations	27.2.86
BA98/594	Alts and Adds – Roof level deck	9.9.98
DA 98/296	Alterations and additions to roof level deck	Approved 8.9.98
M/1998/5	Modify DA296/98 and BA98/594	Approved 3.12.1998
PreDA/2012/127	Proposed alterations and additions to existing dwelling	Advice letter issued 11.9.2012

Surrounding properties

21 Darling Street, Balmain East (Strata building with 2 units)

Application	Proposal	Decision & Date
DA 287/83	Strata subdivision into 2 lots	Approved 4.10.83
DA260/98	Alterations & additions to existing dwelling	Approved 13.8.98
D/2006/312 Unit 1	Alterations to existing dwelling and new roofed pergola to rear.	Approved 20.9.2006
BC/2007/53 Unit 1	Part building certificate works not carried out in accordance with approved drawings being rear decking and pergola awning at ground floor level increase in size and coverage.	Approved 20.2.2008

25 Darling Street, Balmain East

Application	Proposal	Decision & Date
DA 395/88	D/H Alts/Adds (New Roof & extension of existing roof deck)	Approved 12.10.88
DA 376/91	Residential (Alteration & additions to dwelling)	Approved 15.1.92
DA 288/93	Res Alts & adds	Refused 9.10.93
DA243/96	Erect Attic room	
DA 243/96	Modify consent – addition of roof level lounge	Refused 8.9.98

D/2001/211	Part demolition and the erection of a rooftop extension to an existing terrace-house.	Refused 9.10.2001
BC/2007/123	Part Cert Steel stair within the front setback.	Refused 31.1.2008
D/2008/527	Install new gate and stair from street level to lower floor level of existing heritage listed dwelling and increase height of doorway and install security gate at lower floor level.	Refused 23.4.2009

4(b) Application history

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

Date	Discussion / Letter/ Additional Information
26.3.2018	<p>Letter sent to applicant requesting amended plans including the following design issues:</p> <ul style="list-style-type: none"> - Deletion of proposed external stairs between street level and basement level; - Retention of existing stairwell internal to the building and deletion of proposed new internal stairs; - Retention of original walls (including remaining nibs to stair halls and to former rear verandahs) - Retention of existing chimney breasts to existing bathroom on level 3 and to proposed bedroom 1; - Deletion of proposed widened opening to the dining room; - Deletion of any extension to the existing terraces at level 4 including roof garden; - Deletion of any additional rooftop structures, existing rooftop structure can be rebuilt however not to be increased in size, height or bulk from existing; and - Deletion of basement kitchenette. <p>Additional documentation required relating to:</p> <ul style="list-style-type: none"> - Amended plans; - Building Code of Australia compliance in relation to window to basement; - Additional structural details; - Clause 4.6 Exception required for site coverage; and - Amended BASIX Certificate
6.4.2018	<p>Amended plans provided by applicant dated 6.4.2018 with the main changes being:</p> <ul style="list-style-type: none"> - Existing internal stairwell retained in current location and previously proposed stairwells removed; - Original walls and nibs of original walls retained; - Retention of existing chimney breasts; - Deletion of widened opening to dining room; - Deletion of basement kitchenette; - Deletion of proposed pedestrian door from rear lane; - Changes to proposed level 4 roof top which have been slightly reduced in height and extent. <p>Note: the amended plans still propose an external staircase from Darling Street to basement level and additions are still proposed to roof top level (level 4).</p>

5. Assessment

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

5(a) Environmental Planning Instruments

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

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

The following provides further discussion of the relevant issues:

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. LDCP 2013 provides controls and guidelines for remediation works. SEPP 55 requires that remediation works must be carried out in accordance with a Remediation Action Plan (RAP) as approved by the consent authority and any guidelines enforced under the Contaminated Land Management Act 1997.

The site has not been used in the past for activities which could have potentially contaminated the site and is not identified on Council's records as being contaminated.

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

A BASIX Certificate was submitted with the application and an amended BASIX Certificate was provided with the amended plans.

5(a)(iii) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

Consent is sought for the removal of two Bangalow palms. Council's landscape officer does not object to the removal of the Bangalow palms given the site characteristics and location of the palms.

5(a)(iv) State Environmental Planning Policy (Coastal Management) 2018

The application has been assessed against SEPP Coastal Management 2018.

The subject site is located within "the coastal zone" pursuant to Cl 5 of the SEPP.

The subject site is located within the:

- a) coastal environment area, and
- b) coastal use area

Clause 13 – Development on land within the coastal environment area and Clause 14 – Development on land within the coastal use area does not apply to land within the

Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The site is located within the Foreshores and Waterways Area within the SREP. The proposal is not considered to be contrary to the Aim of Policy with regard to SEPP (Coastal Management) 2018.

5(a)(v) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site is identified as being located within the Sydney Harbour Catchment map. The proposed alterations and additions are not considered to be contrary to Clause 2 - Aims of Plan. The proposal is not considered to be contrary to the Planning Principles. The site is not identified as being in a particular zone within the Foreshores and Waterways Area. The proposal is not considered to be contrary to the Matters for consideration under Division 2.

The subject site is not overly visible from the harbour and is not considered to impact the harbour given that a large park is located between the adjoining terrace and the harbour, and therefore, the proposal is considered to be acceptable with regard to the SREP (Sydney Harbour Catchment) 2005.

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

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

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition Requires Development Consent
- Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1
- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 4.6 – Exceptions to development standards
- Clause 5.10 – Heritage Conservation
- Clause 6.1 – Acid Sulphate Soils
- Clause 6.2 – Earthworks
- Clause 6.4 – Stormwater management

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

Standard (maximum)	Proposal	% of non compliance	Compliances
Floor Space Ratio Permissible FSR 1:1	152.58m ² 1.39:1	43.28m ² 39.60%	No
Landscape Area Required landscaped area 15%	0m ² 0%	16.39m ² 100%	No
Site Coverage Permissible Site Coverage 60%	87.49m ² 80.05%	21.91m ² 33.41%	No

The following provides further discussion of the relevant issues:

Clause 1.2 - Aims of the Plan

The proposed rooftop additions at level 4 and the proposed new staircase from Darling Street to basement level are not considered to satisfy the following aims of the plan:

- (2) *The particular aims of this Plan are as follows:*
- (b) *to minimise land use conflict and the negative impact of urban development on the natural, social, economic, physical and historical environment*
 - (c) *to identify, protect, conserve and enhance the environmental and cultural heritage of Leichhardt,*
 - (k) *to protect and enhance: (ii) views and view sharing from and between private dwellings,*
 - (l) *to ensure that development is compatible with the character, style, orientation and pattern of surrounding buildings, streetscape, works and landscaping and the desired future character of the area,*
 - (n) *to protect, conserve and enhance the character and identify of the suburbs, places and landscapes of Leichhardt, including the natural, scientific and cultural attributes of the Sydney Harbour foreshore and its creeks and waterways, and of surface rock, remnant bushland, ridgelines and skylines,*
 - (o) *to prevent undesirable incremental change, including demolition, that reduces the heritage significance of places, conservation areas and heritage items,*

As discussed in further detail below in this report, the proposed rooftop additions would remove the existing original roof form of a heritage item which is not supported, and although previous rooftop works have been approved on site and on other adjoining sites to the west of the property, these were approved in the past under previous planning controls. It is noted that the adjoining terrace to the east which forms part of a pair with the subject dwelling has retained its entire original roof form. Changes to the pedestrian entrance from Darling Street would also result in undesirable changes to the original form and layout of the heritage listed dwelling, noting that it is a single dwelling and already has basement level access to the rear lane, and therefore, an additional access stairway is unnecessary.

Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1

The proposal does not comply with the required 15% soft landscaping provision and therefore does not comply with the objectives of clause 4.3A. A clause 4.6 Exception request has been submitted in relation to the non-compliance and is supported in this instance - refer below in this regard. The existing site has no soft landscaping due to previous approvals for the site and there isn't any scope to provide soft landscaping without removing previously approved structures on the site.

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

The proposal does not comply with the maximum site coverage of 60% and therefore does not comply with the objectives of clause 4.3A. A clause 4.6 Exception request has been submitted in relation to the non-compliance and is supported in this instance - refer below in this regard. The existing site exceeds the site coverage allowance due to previous approvals for the site and there isn't any scope to reduce site coverage without removing previously approved structures on the site.

Clause 4.4 – Floor Space Ratio

The proposal does not comply with the maximum permissible floor space ratio of 1:1 for the site. A clause 4.6 Exception request has been submitted in relation to the non-compliance, and is not supported in this instance with respect to the additional gross floor area at rooftop level – in this regard, the additional gross floor area at rooftop level (level 4) contributes to the non-compliant FSR and is not considered to comply with the following objectives of the clause:

- (1) *The objectives of this clause are as follows:*
- (a) *To ensure that residential accommodation:*
 - (i) *Is compatible with the desired future character of the area in relation to building bulk, form and scale, and*
 - (iii) *minimises the impact of the bulk and scale of buildings,*

Clause 4.6 Exceptions to Development Standards

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

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

Clause 4.6(2) specifies that Development consent may be granted for development even though the development would contravene a development standard.

1. *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
2. *Development consent may be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.*

As demonstrated in the table earlier in this section of the report the proposal does not comply with landscaped area, site coverage or floor space ratio development standards. The proposed alterations and additions essentially retain the existing situation for site coverage and landscaping provision (i.e. no soft landscaping) due to previous approvals for the site. However it is proposed to increase the gross floor area of the site and therefore further increase the floor space ratio non-compliance.

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The applicant has submitted a written request that reads as follows (in part):

“Landscaped Area

Strict compliance with the development standard is unreasonable in this particular case as the existing dwelling currently does not comply with the landscape standard with 0% landscaping currently present, and the proposed development seeks to implement a small zone of landscaped area. Due to the small nature of the site (at approximately 109sqm) and the configuration of the existing rear decks and parking areas, strict compliance is unreasonable and unnecessary.

As the proposal seeks to preserve the existing conditions, strict compliance with the standard would be unreasonable as it would require removal and alteration of the existing rear deck (the dwellings primary private open space) and parking area in order to facilitate landscaped area, and this would be unrealistic and not feasible.

Currently the existing dwelling does not comply with the landscape area standard, and the proposal seeks to introduce a small yet practical area of landscaping, and as a result no additional adverse impacts will result from the proposal.

Site Coverage

Strict compliance with the development standard is unreasonable in this particular case as the existing dwelling currently does not comply with the site coverage standard, and the proposed development improves the site coverage marginally. The proposal seeks to effect building alterations within the established perimeter external walls.

As the proposal seeks to preserve the existing conditions, strict compliance with the standard would be unreasonable as it would require removal and alterations of the existing building fabric in order to reduce the overall site coverage and this is unrealistic and not feasible.

Currently the existing dwelling does not comply with the site coverage standard, and as the proposal seeks to maintain this configuration, no additional adverse impacts will result from the proposal.

FSR

Strict compliance with the development standard is unreasonable in this particular case as the existing dwelling currently exceeds the FSR control (the existing gross floor area is 161.5sqm, creating an FSR of 1.47:1). The proposed increase in FSR is minor in nature (approximately 12sqm to this, creating an FSR of 1.59:1) and is required in order to improve the amenity and functionality of the dwelling.

A significant portion of this area increase (approximately 7sqm) is a result of converting an existing internal void area on Level 3 into usable floor area. Currently this void is a nuisance as it is open to the kitchen below and results in issues with noise transmission to upper levels, and passage of kitchen cooking fumes through the upper level bedrooms. As this void is contained within the building envelope, converting this into floor space does not result in any change to the building fabric, will not be visible from the outside, and will not alter the existing character of the streetscape.

The Level 4 roof conservatory is the other area where a small floor area increase is proposed (approximately 6sqm). This small increase will make the existing roof conservatory more functional. Currently the roof conservatory is small and impractical and the minor increase in size will assist in creating a more meaningful and useable conservatory. The revised conservatory also better integrates the existing stairs which are proposed to be retained to conserve the original position of these. The roof conservatory replicates other adjacent conservatory and roof level structures and will not adversely impact the character of the dwelling.

The current dwelling has undergone a previous but poorly planned renovation which has resulted in an internal layout that is both impractical and in conflict with the conventional internal layout for a terrace building. The proposed development application seeks to remedy the poor planning of the home, and reinstate elements, such as the orientation of bedroom and bathroom locations, to be more in keeping with a thoughtfully renovated terrace dwelling.

In order to achieve this strict compliance is unreasonable as the minor additional floor area is required in order to transform the dwelling into a usable and practical terrace dwelling.

Currently the existing dwelling exceeds the development standard. The proposal seeks only a minor increase to the existing floor area with no adverse impacts to the character of the existing dwelling.

Also refer to the Heritage Assessment and Statement of Heritage Impact submitted as part of the application for further information regarding the heritage character of the dwelling."

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Secretary has been obtained.*

Comment: The applicant has addressed the matters required under Clause 4.6 Exceptions to development standards, and it is considered to be well founded in relation to soft landscaping provision and site coverage given that the existing situation will be maintained due to previous development approvals for the site.

In relation to FSR, the matters required to be addressed are not considered well founded in relation to the rooftop level and can only be supported in relation to the infilling of the void area within the existing level 3.

The proposed rooftop additions would result in a detrimental impact on the public interest and cannot satisfy the objectives of the FSR development standard and General Residential zoning.

The proposed rooftop additions and additional FSR in relation to these does not satisfy the following objective of the R1 – General Residential zone

- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*

The dwelling is a heritage item and the proposed rooftop additions are out of character with the original form of the dwelling. As discussed previously, the proposal is not considered to meet the Floor Space Ratio objectives as per clause 4.4 of the Leichhardt Local Environmental Plan 2013 with respect to the additional floor space at rooftop level.

The proposed variation to the floor space ratio development standard is considered to compromise the long term strategic outcomes of the planning controls to the extent that a negative public benefit will result. In this regard, there is public benefit to the deletion of additional floor space at the roof top level.

Given that the proposal will essentially continue the existing situation with soft landscaping provision and site coverage resulting from previous approvals there is not considered to be a public benefit in enforcing the site coverage and soft landscaping development standards in this instance.

Clause 5.10 – Heritage Conservation

The site is a local heritage item, No.1367, Plym Terrace, including interiors and the actual building is part of a pair with No.21 Darling Street. It is noted that No.21 Darling Street retains its entire original roof form whilst the subject site retains the original roof form for part of the dwelling adjoining Darling Street.

The proposed alterations and additions are considered acceptable with the exception of the new proposed pedestrian entrance to the basement from Darling Street and the proposed works to the rooftop level which are not supported and are recommended to be deleted from the approved plans as detailed in Appendix A of this report.

Council's Heritage Adviser has advised that a new external stair from Darling Street involves part demolition of the existing cast iron balustrade which would have an adverse impact on

the streetscape and the conservation area, as well as to the heritage item and the adjoining heritage items. Demolition of the existing roof and stair enclosure to level 4 are proposed, and the construction of additional rooftop structures to the south and increased height to the new stair enclosure as well as a front roof terrace are proposed. These additional and enlarged rooftop elements will remove remaining original roof form and be intrusive due to their height, bulk and form, and will have an adverse impact on the adjoining terrace (No.21 Darling Street), which retains its original roof form unaltered, and with which this building forms a pair.

Accordingly, the new pedestrian entrance and works to rooftop level are considered contrary to the following requirements of clause 5.10:

The objectives of this clause include:

- (1)(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,

In accordance with

- (4) Effect of proposed development on heritage significance

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.

5(b) Draft Environmental Planning Instruments

There are no relevant Draft Environmental Planning Instruments relevant to the proposal.

5(c) Development Control Plans

The application has been assessed against the relevant Development Control Plans listed below:

- Leichhardt Development Control Plan 2013
- Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005

Leichhardt Development Control Plan 2013

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

Part	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
Part C	
C1.0 General Provisions	No
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	N/A
C1.3 Alterations and additions	No
C1.4 Heritage Conservation Areas and Heritage Items	No
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes

C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	Yes
C1.12 Landscaping	No
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	Yes
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	Yes
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	Yes
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
Suburb Profile	
C2.2.2.1 Darling Street Distinctive Neighbourhood and Balmain East Precinct sub area (C2.2.2.1(c))	No
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	No
C3.2 Site Layout and Building Design	No
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	No
C3.6 Fences	No
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	No
C3.9 Solar Access	Yes
C3.10 Views	No
C3.11 Visual Privacy	No
C3.12 Acoustic Privacy	No
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	
C4.1 Objectives for Non-Residential Zones	N/A
C4.2 Site Layout and Building Design	N/A
C4.3 Ecologically Sustainable Development	N/A
C4.4 Elevation and Materials	N/A
C4.5 Interface Amenity	N/A
C4.6 Shopfronts	N/A
C4.7 Bulky Goods Premises	N/A
C4.8 Child Care Centres	N/A
C4.9 Home Based Business	N/A
C4.10 Industrial Development	N/A
C4.11 Licensed Premises and Small Bars	N/A
C4.12 B7 Business Park Zone	N/A
C4.13 Markets	N/A
C4.14 Medical Centres	N/A
C4.15 Mixed Use	N/A
C4.16 Recreational Facility	N/A

C4.17 Sex Services Premises	N/A
C4.18 Vehicle Sales or Hire Premises And Service Stations	N/A
C4.19 Vehicle Repair Station	N/A
C4.20 Outdoor Dining Areas	N/A
C4.21 Creative Industries	N/A
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	N/A
D2.5 Mixed Use Development	N/A
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	N/A
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A
Part F: Food	
Section 1 – Food	
F1.1 Food Production	N/A
F1.1.3 Community Gardens	N/A
Part G: Site Specific Controls	
Old Ampol land, Robert Street	N/A
Jane Street, Balmain	N/A
Old Balmain Power Station	N/A
Wharf Road Birchgrove	N/A
Anka Site – No 118-124 Terry Street Rozelle	N/A
233 and 233A Johnston Street Annandale	N/A

The following provides discussion of the relevant issues:

C1.0 - General Provisions

The proposed alterations and additions at rooftop level and the proposed new pedestrian entrance from Darling Street to the basement are not considered to meet the following objectives:

O4 Amenable: places and spaces provide and support reasonable amenity, including solar access, privacy in areas of private open space, visual and acoustic privacy, access to views and clean air.

O6 Compatible: places and spaces contain or respond to the essential elements that make up the character of the surrounding area and the desired future character. Building heights, setbacks, landscaping and architectural style respond to the desired future character. Development within Heritage Conservation Areas or to Heritage Items must be responsive to the heritage significance of the item and locality.

Intensifying the use of the rooftop level is not considered to respect the amenity of the adjoining properties and the alterations and additions to provide basement access and enlarge the rooftop level are not appropriate with respect to the site being a heritage item.

C1.3 - Alterations and additions

The proposed works comprising pedestrian access way from Darling Street to the basement and the proposed alterations and additions to the rooftop level 4 are not supported as they are not considered to satisfy the following objectives and controls of C1.3 as follows:

O1 To ensure that development:

c. makes a positive contribution to the desired future character of the streetscape and any heritage values associated with it;

C1 The overall form of alterations and additions shall:

d. maintain the integrity of the streetscape and heritage significance;

C4 Where buildings contain original form or detail which has been compromised, the integrity of the original form and detail should be enhanced, rather than being justification for further compromise.

C7 Alterations and/or additions to the front of an existing dwelling must ensure that important elements of the original character of the building and its setting are retained, restored or reconstructed, where it contributes to the desired future character, including but not limited to:

e. roof forms.

As previously discussed under Clause 5.10 Heritage Conservation within part 5(a)(vi) – Leichhardt Local Environmental Plan 2013 of this report, the proposed alterations and additions to create pedestrian access to the basement and rooftop level alterations and additions are not considered appropriate works to the heritage item.

C1.4 - Heritage Conservation Areas and Heritage Items

The proposed works comprising pedestrian access way from Darling Street to the basement and the proposed alterations and additions to the rooftop level 4 are not supported as they are not considered to satisfy the following objectives and controls of C1.4 as follows.

O1 Development:

a. does not represent an unsympathetic alteration or addition to a building;

d. is compatible with the setting or relationship of the building with the Heritage Conservation Area in terms of scale, form, roof form, materials, detailing and colour of the building and conforms with the Burra Charter;

*e. conserves and enhances the fabric and detail of a building that contributes to the cultural significance of the building in its setting;
maintains the visual unity of groups of buildings, in particular semi-detached and attached terraces;*

h. protects and enhances view of the existing building from the public domain;

- C2 The fabric of an existing building is to be the subject of appropriate conservation practices including:*
- b. conservation of original elements;*
- C3 Development of dwellings within Heritage Conservation Areas must:*
- a. not include the demolition of the internal walls and roof form, including any existing chimneys, of the front two rooms of the dwelling;*
 - b. retain the major form, scale and materials of the existing structure as described in (a);*
- C6 Within Heritage Conservation Areas, whole roof forms should be retained where possible and roofs of additions should be subservient to the main roof (in scale, form, location and materials). Changes to the form of the existing roof or extension of the ridge cannot be supported.*

As previously discussed under Clause 5.10 Heritage Conservation within part 5(a)(vi) – Leichhardt Local Environmental Plan 2013 of this report, the proposed alterations and additions to create pedestrian access to the basement and rooftop level alterations and additions are not considered appropriate works to the heritage item. It is noted that since the Leichhardt Local Environmental Plan 2013 and associated Leichhardt Development Control Plan 2013 were implemented, retention of original roof forms of buildings has been actively pursued. Although a number of the dwellings in the terrace group 21-31 Darling Street have rooftop additions, none of these have been approved under the current controls.

C1.11 – Parking

Council's Engineers have advised that the amended plans which maintain the existing entry width for the parking space from boundary to boundary satisfies their previous concerns as the originally proposed pedestrian door to the rear lane has been deleted.

C1.12 - Landscaping

The site is not considered to meet the objectives and controls for landscaping. Although two palm trees currently exist on site, these are proposed to be removed and Council's Landscape Officer does not object to their removal. Due to previous approvals, the site is entirely built on and the existing palms are planted in an inappropriate location. There is nowhere on site suitable for replacement tree planting, and therefore, non-compliance with the objectives and controls of C1.12 – Landscaping is considered acceptable in this instance.

C2.2.2.1 - Darling Street Distinctive Neighbourhood and Darling Street East Sub Area (C2.2.2.1(c))

The existing building is a Victorian terrace which is a heritage item and is contributory within the Balmain East Conservation Area. The proposed works comprising access way from Darling Street to the basement level and the proposed alterations and additions to the rooftop level are not considered to satisfy the following controls of the distinctive neighbourhood as follows.

Distinctive Neighbourhood

C1 Preserve and enhance the existing streetscape with special consideration for the remaining Colonial and Victorian buildings.

C13 Original detailing including façade finishes, roofing and guttering, windows and doors, fenestration, verandahs and posted balconies should be retained or restored where appropriate.

Sub area

C5 Preserve the consistency of colonial and early Victorian architectural detail of dwellings.

As previously discussed under Clause 5.10 Heritage Conservation within part 5(a)(vi) – Leichhardt Local Environmental Plan 2013 of this report, the proposed alterations and additions to create pedestrian access to the basement and rooftop level alterations and additions are not considered appropriate works to the heritage item.

C3.1 - Residential General Provisions

The proposed pedestrian access way from Darling Street to the basement and the proposed additions to the rooftop level 4 are not supported as they are not considered to satisfy the following objectives and controls of C3.1. As previously discussed under Clause 5.10 Heritage Conservation within part 5(a)(vi) – Leichhardt Local Environmental Plan 2013 of this report the proposed alterations and additions to create pedestrian access to the basement and rooftop level additions are not considered appropriate works to the heritage item. The proposed additions at rooftop level further exceed the permissible FSR as previously discussed under clauses 4.4 Floor Space Ratio and 4.6 Exceptions to development standards under part 5(a)(vi) – Leichhardt Local Environmental Plan 2013 of this report and are considered to result in amenity impacts as further discussed below under C3.11 – Visual Privacy and C3.12 – Acoustic Privacy.

- O3 *To ensure that alterations, additions to residential buildings and new residential development are compatible with the established setting and character of the suburb and neighbourhood and compatible with the established setting and character of the suburb and neighbourhood and compatible with the desired future character and heritage significance of the place and its setting.*
- O4 *To ensure that all residential development is compatible with the scale, form, siting and materials of existing adjacent buildings.*
- O5 *To ensure that all residential development is consistent with the density of the local area as established by the Leichhardt Local Environmental Plan 2013.*
- O7 *To ensure that the amenity, including solar access and visual privacy, of the development and adjacent properties is not adversely impacted.*
- C1 *Residential development is not to have an adverse effect on:*
 - a. *the amenity, setting or cultural significance of the place, including the portion of the existing building to be retained; and*
 - b. *the relationship of any Heritage Item or Heritage Conservation Area to its place, setting and cultural significance.*
- C2 *Additions to an existing building are generally;*
 - b. *subservient to the form of the existing building; and*
 - c. *maintain the form, fenestration, roof forms and chimneys of the existing building when viewed from the principal street frontage; and*
 - d. *of a design which is compatible with but does not compete with the architectural character of the existing building or the Building Typologies; and*
 - e. *of a scale, proportion (including proportion of doors and openings) and material which is compatible with the existing building.*

C3.2 - Site Layout and Building Design

The proposed external additions are to the rooftop level. It is considered that the site has already reached its development capacity as evidenced by its current non-compliance with soft landscaping, site coverage and floor space ratio controls. The proposed additions to the rooftop level are not supported as they would further increase gross floor area whilst removing the remaining original roof form of the heritage item. Any rooftop additions would also set a precedent for the adjoining dwelling at No.21 Darling Street which is a far more visible site and currently retains its original roof form with no additions at rooftop level. The roof additions have a wall height of approximately 12 metres which would require side setbacks of 5.5m. Given the site is less than 5m wide this control cannot be met. It is considered that the proposed alterations and additions at rooftop level do not meet the following objectives and controls of C3.2.

- O1 *To ensure the character of the existing dwelling and/or desired future character and established pattern of development is maintained.*
- O4 *To ensure that development:*
 - a. *reinforces the desired future character and distinct sense of place of the streetscape, neighbourhood and Leichhardt;*

- b. complements the siting, scale and form of adjoining development; and*

Site Capacity

- C1 The site shall have sufficient capacity to accommodate development, including buildings and structures, setbacks and separation distances, access, manoeuvring and parking (where required by this Development Control Plan) and landscaped open space, having regard to site characteristics such as:*
- a. existing extent of development;*
 - b. desired future character;*
 - c. site area, road frontage, width and depth;*
 - d. heritage streetscape;*
 - e. significant natural landscape features including vegetation;*
 - f. slope; and*
 - g. flooding and drainage.*

Side boundary setbacks

- C7 Building setbacks shall comply with the numerical requirements set out in the side boundary setback graph.*

C3.5 - Front Gardens and Dwelling Entries

The proposed new basement entry is not supported as discussed within the heritage section above under Section 5(a)(vi) Leichhardt Local Environmental Plan 2013 of this report.

The proposed pedestrian entrance from Darling Street to the basement is considered contrary to the following objective and control of C3.5:

- O1 Front gardens and dwelling entries:*
- f. can form an integral part of the architectural composition of historic dwellings and should be preserved and enhanced.*
- C8 Original front entries to the dwelling are preserved.*

It is noted that no stairs from Darling Street to the basement level of No.25 Darling Street appear to have ever been approved, refer to Section 4 – Background above in relation to the refusal of BC/2007/123 and D/2008/527.

C3.6 - Fences

The proposed new basement entry is not supported as discussed within the heritage section above under Section 5(a)(vi) Leichhardt Local Environmental Plan 2013 of this report.

The proposed pedestrian entrance from Darling Street to the basement is considered contrary to the following objective of C3.6:

- O1 Fences:*
- c. Are compatible with the character of the building and streetscape;*

C3.8 - Private Open Space

The alterations and additions do not comply with the objectives and controls of C3.8 in relation to private open space being provided at ground level. The main area of private open space is a rear deck at level 2. Given that the main private open space is currently an existing deck at this level it is considered acceptable in this instance for a reconstructed deck to remain as the main private open space given the constraints of the site.

C3.10 – Views

The proposed rooftop conservatory is likely to result in some view loss of the harbour, including the harbour bridge, for the existing rooftop level room of No.25 Darling Street, however the additions would not totally obstruct views and the views are across a side

boundary. Regardless, the conservatory addition is not supported as it would further remove original roof form of a heritage item and exceeds the permissible floor space ratio.

C3.11 - Visual Privacy

The first floor rear deck is considered to result in privacy impacts, however it is replacement of an existing approved deck. It is noted that the adjoining property at No.25 Darling Street has a similar raised terrace structure over the same extent of their site, and No. 21 Darling Street has a large elevated rear balcony. There are not considered to be any additional privacy impacts to that of the existing situation resulting from reconstruction of the deck. Although the proposed front rooftop terrace is not considered to result in any visual privacy concerns, it is not supported as it would remove original roof form of a heritage item.

C3.12 – Acoustic Privacy

The proposed rooftop, level 4 front terrace facing Darling Street is considered to result in acoustic privacy impacts to surrounding dwellings, particularly 21 Darling Street which does not have any rooftop development and would have a bedroom in close proximity to the proposed front roof level terrace. Accordingly, the proposed rooftop terrace is not supported as it is not considered to satisfy the following objectives and controls of C3.12.

- O1 Development creates a high level of residential comfort by containing noise within each dwelling and minimising the transmission of external noise.*
- C3 Noise generating area that are not contained within buildings, such as private outdoor open space, parking and service equipment, are located and oriented away from bedroom windows on adjoining sites.*
- C8 Private open space is encouraged to be located away from bedrooms on adjoining properties to ensure minimal acoustic impacts.*

Part E - Water

Council's Engineers have advised that the proposal is satisfactory with respect to stormwater drainage subject to the imposition of recommended conditions which are in attachment A.

Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005

The subject site is not identified as being within a particular terrestrial ecological community however it is located within the foreshore area boundary map. The area is identified as being landscape character type 7, the proposed alterations and additions are not considered to be contrary to the requirements of type 7. Given the location of the site with a setback of approximately 70m from the waterline, the proposal is not considered to be contrary to the Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005.

5(d) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions to delete changes to the rooftop level 4 and deletion of the proposed staircase from Darling Street to the basement level, the proposal will have minimal impact in the locality.

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

The site is zoned R1 – General Residential. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(f) Any submissions

The application was notified in accordance with the Leichhardt Development Control Plan 2013 for a period of 21 days from 9th to 30th January 2018 to surrounding properties and one submission was received. The amended plans lodged did not require re-notification as they

were considered to fall within *Control C5. Section A3.13 - Specific Circumstances Where Notification Is Not Required, Part A: Introduction, Leichhardt Development Control Plan 2013*, which does not require the re-notification of amended plans to an undetermined application which, inter alia, constituted a lessor development have been proposed in order to address the concerns raised by Council or objectors.

The submissions raised the following concerns which are discussed under the respective headings below:

Issue: *Request a dilapidation report be undertaken prior to work commences. The dilapidation is to include the state of the roof and solar panels due to previous issues we have had in the past with damage to the roof of No.21 occurring.*

Comment: Dilapidation reports for the adjoining properties are recommended as conditions of consent.

Issue: *Conservation of heritage southern façade. Want Council's assurance that the fourth storey will not have an impact on the house's profile from the street.*

Comment: As previously addressed under Section 5(a)(vi), Clause 5.10 – Heritage Conservation the proposed additions to the fourth storey are considered to have an adverse impact on the heritage significance of the building and are not supported.

Issue: *The entry staircase to the basement of No.25 is readily visible and not respectful of the heritage building. Seek Council's assurance that the design of the new staircase will be of a standard compatible with the significance of the building.*

Comment: As previously addressed under Section 5(a)(vi), Clause 5.10 – Heritage Conservation, the proposed staircase to the basement from Darling Street is considered to have an adverse impact on the heritage significance of the building and is not supported.

Issue: *Support removal of two palms however seek assurance that removal will minimise risk of injury and damage to adjoining properties.*

Comment: It is assumed that the owner of the property would seek to protect both the site and neighbouring sites however dilapidation reports are recommended to be conditioned in the event that damage was caused.

5(g) The Public Interest

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

The proposal is not contrary to the public interest subject to conditions to delete proposed works to the rooftop level 4 and deletion of proposed stairs from basement level to Darling Street.

6 Referrals

6(a) Internal

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

- Heritage Officer

- Development Engineer
- Landscape

6(b) External

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

7. Section 7.11 Contributions

Section 7.11 contributions are not payable for the proposal.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013 subject to deletion of additions to the existing roof top level and deletion of the proposed stairs to the basement level from Darling Street. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape subject to the aforementioned requirements. The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. The variation to Clause 4.3A(3)(a) Landscape Area, 4.3A(3)(b) Site Coverage and 4.4 Floor Space Ratio of Leichhardt Local Environmental Plan 2013 be supported subject to conditions to delete any additions to the roof top level 4 under the provisions of Clause 4.6 exceptions to development standards.
- B. That the Panel, as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, grant consent to Development Application No: D/2017/680 for alterations and additions to existing terrace-house, elevated deck over on-site parking at the rear, and associated demolition and tree removal at 23 Darling Street, Balmain East subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

1. Development must be carried out in accordance with Development Application No. D/2017/680 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Dwg No. 1702 – 02.01 Rev E Floor Plans 1 (Level 1 and 2)	Michael Bremner Pty Ltd	06.04.18
Dwg No. 1702-02.02 Rev E Floor Plans 2 (Level 3 and 4)	Michael Bremner Pty Ltd	06.04.18
Dwg No. 1702-02.03 Rev D Elevations 1 (South and East)	Michael Bremner Pty Ltd	06.04.17 (should be 2018)
Dwg No. 1702-02.04 Rev D Elevations 2 (North and West)	Michael Bremner Pty Ltd	06.04.17 (should be 2018)
Dwg No. 1702-02.05 Rev D Section A-A	Michael Bremner Pty Ltd	06.04.17 (should be 2018)
Dwg No. 1702-02.06 Rev C Roof Plan	Michael Bremner Pty Ltd	06.04.18
Document Title	Prepared By	Dated
Dwg No. 1702-03.01 Rev B Finished Schedule (as amended by condition 4)	Michael Bremner Pty Ltd	05.04.18
Structural Assessment Ref: S7365	D'Ambrosio Consulting Pty Ltd	6 April 2018
BASIX Certificate A285973_03	Michael Bremner Pty Ltd	6 April 2018

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

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

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

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

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

2. Approval is given for the following works to be undertaken to trees on the site:

Tree/location	Approved works
<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Removal

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved.

3. Consent is granted for the demolition works as shown on the approved plans (subject to compliance with condition 4 – Amended plans), subject to strict compliance with the following conditions:

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

NOTE: If Council is nominated as your Principal Certifying Authority 24 - 48 hours notice to carry out inspections is required. Arrangement for inspections can be made by phoning 9367 9222.

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: *Demolition of structures*.
- g) The hours of demolition work are limited to between 7:00am and 6:00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority.
- i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- j) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.
- k) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property

(footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.

- l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- m) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense. Dial before you dig www.1100.com.au should be contacted prior to works commencing.
- n) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
- o) Prior to demolition, a Work Plan must be prepared and submitted to the Principal Certifying Authority in accordance with the relevant provisions of Australian Standard 2601:2001 *Demolition of structures* by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- p) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
 - i) A WorkCover licensed contractor must undertake removal of all asbestos.
 - ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400 mm x 300 mm is to be erected in a visible position on the site to the satisfaction of Council.
 - iii) Waste disposal receipts must be provided to Council / Principal Certifying Authority as proof of correct disposal of asbestos laden waste.
 - iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
 - v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

- 4. Amended plans are to be submitted incorporating the following amendments:
 - a) Delete proposed pedestrian entrance from Darling Street to basement level including proposed gate and staircase;
 - b) Delete all works to rooftop level – level 4;
 - c) Colours of the finishes schedule is to be amended as follows, No.3 Colorbond 'shale grey' shall be replaced with Colorbond 'windspray' or 'wallaby'. The front fencing and gate are to be painted in a colour equivalent to Colorbond 'Woodland grey', not Dulux 'Tidal Wave';
 - d) Shrub species selected for the planter boxes are not to exceed 1.5m in height when fully grown and are to be comprised of 85% locally indigenous species.

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

5. Prior to the issue of a Construction Certificate, Architectural Plans accompanied by a Structural Certificate must be provided to the Principal Certifying Authority. The Certificate must verify that the architectural plans that are the subject of the Construction Certificate application do not rely on the Party Wall for lateral or vertical support and that additions are independently supported. A copy of the Certificate & plans must be provided to the consent authority and all owners of the party wall/s.
6. Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:
 - a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
 - b) A concrete pump across the roadway/footpath
 - c) Mobile crane or any standing plant
 - d) Skip bins
 - e) Scaffolding/Hoardings (fencing on public land)
 - f) Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
 - g) Awning or street verandah over footpath
 - h) Partial or full road closure
 - i) Installation or replacement of private stormwater drain, utility service or water supply

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

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity or issue of the Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

7. The person acting on this consent shall submit to the Principal Certifying Authority a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the issue of a Construction Certificate.
8. A stormwater drainage design prepared by a Licensed Plumber or qualified practicing Civil Engineer must be provided prior to the issue of a Construction Certificate. The design must be prepared/ amended to make provision for the following:

- a) Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) by gravity to the kerb and gutter of a public road or directly into Council's piped drainage system.
- b) Charged or pump-out stormwater drainage systems are not permitted.
- c) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
- d) A minimum 150mm step up must be provided between all external finished surfaces and adjacent internal floor areas, except where a reduced step is permitted under Section 3.1.2.3 (b) of the Building Code of Australia for Class 1 buildings
- e) The new Deck at Level 2 shall have access to an overland flowpath via the Courtyard/Car space at Level 1.
- f) All plumbing within the site must be carried out in accordance with Australian Standard AS/NZS 3500.3-2015 *Plumbing and Drainage – Stormwater Drainage*
- g) Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required.
- h) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets
- i) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
- j) New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a section height of 100mm.
- k) Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.

The design must be certified as compliant with the terms of this condition by a suitably qualified Civil Engineer.

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

- 9. The design of the vehicular access and off street parking facilities must comply with Australian Standard AS/NZS2890.1-2004 *Parking Facilities – Off-Street Car Parking*. Details demonstrating compliance are to be provided prior to the issue of a Construction Certificate. The following specific issues must be addressed in the design:
 - a) The floor/finished levels within the property must be adjusted to ensure that the levels at the boundary are 110mm above the adjacent road gutter invert for the full width of the vehicle crossing. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.

- b) A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
- c) Longitudinal sections along both sides of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.
- d) The parking space must have minimum clear internal dimensions of 6000 x 3000mm (length x width) and a door opening width of 3800mm at the James Lane frontage.
- e) The external form & height of the approved structures must not be altered from that depicted on the approved plans.

The design must be certified by a suitably qualified Civil Engineer as complying with the above requirements.

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

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

The system/s shall be operated as follows:

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

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

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

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

11. Prior to the issue of the Construction Certificate the Principal Certifying Authority is to ensure that the plans state that no high front gutters will be installed.
12. In accordance with the provisions of the *Environmental Planning and Assessment Act 1979* construction works approved by this consent must not commence until:

- a) A Construction Certificate has been issued by Council or an Accredited Certifier. Either Council or an Accredited Certifier can act as the "Principal Certifying Authority."
- b) A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment.
- c) At least two days notice, in writing has been given to Council of the intention to commence work.

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

13. The following requirements are to be incorporated into the development detailed on the Construction Certificate plans and provided prior to the issue of a Construction Certificate:

- a) No rainforest timbers or timbers cut from old growth forests are to be used in the construction of the development. Timbers to be used are to be limited to any plantation, regrowth or recycled timbers, or timbers grown on Australian Farms or State Forest Plantations.

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

14. In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more. The Long Service Levy is payable prior to the issue of a Construction Certificate.

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

15. If any excavation extends below the level of the base of the footings of a building on an adjoining property, the person causing the excavation:

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

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

16. The following fire upgrading is required pursuant to Clause 94 of the *Environmental Planning and Assessment Regulation 2000*:

- The building is to be provided with smoke alarm system that complies with *AS3786-1993: Smoke Alarms* and the smoke alarms must be connected to the

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

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

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

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 proposed additional, or altered structural loads during all stages of construction must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority. The certificate shall also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

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

18. A Soil and Water Management Plan must be provided prior to the issue of a Construction Certificate. The Soil and Water Management plan must designed to be compatible with the document Planning for Erosion and Sediment Control on Single Residential Allotments or Managing Urban Stormwater–Soils & Construction Volume 1 (2004) available at www.environment.nsw.gov.au and the Construction Management and Traffic Management Plan referred to in condition/s 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.

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.

19. The approved plans must be checked online with Sydney Water Tap In 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. A copy of this approval must be supplied with the Construction Certificate application. Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 132092.

The Certifying Authority must ensure that the appropriate approval has been provided prior to the issue of a Construction Certificate.

20. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan (where applicable):

- a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) The locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council.
 - iii) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
 - iv) A dedicated unloading and loading point within the site for construction vehicles, plant and deliveries.
 - v) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
- b) Noise and vibration
During excavation, demolition and construction phases, noise & vibration generated from the site must be controlled. Refer to other conditions of this consent. If during excavation, rock is encountered, measures must be taken to minimise vibration, dust generation and impacts on surrounding properties. Refer to Environmental Noise Management Assessing Vibration: a technical Guideline (Department of Environment and Conservation, 2006) www.epa.nsw.gov.au for guidance and further information.
- c) Occupational Health and Safety
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.
- d) Toilet Facilities
During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site. Details must be shown on the plan.

- e) Traffic control plan(s) for the site
All traffic control plans must be in accordance with the Roads and Maritime Services publication "Traffic Control Worksite Manual"

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

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

21. A Waste Management Plan (WMP) is to be provided in accordance with **Part D – Waste – Development Control Plan 2013**. The Plan must address all issues identified in the DCP including but not limited to:

- a) Estimated volume (m3) or weight (t) of materials that are reused, recycled or removed from site.
- b) On site material storage areas during construction.
- c) Material and methods used during construction to minimise waste.
- d) Nomination of end location of all waste and recycling generated from a facility authorised to accept the material type for processing or disposal and retention of waste dockets to be made available to Council Officer on request
- e) A clear statement within the Waste Management Plan of responsibility for the transferral of waste and recycling bins within the property and between floors where applicable to the collection point in accordance with DCP 2013.

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

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

22. Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit (FOOT)	\$2,535.00
Inspection fee (FOOTI)	\$225.00

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

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

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required

by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

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

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

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

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

Property	Structures / Area
21 Darling Street, Balmain East	Dwelling including roof (including solar panels and skylights on roof)
25 Darling Street, Balmain East	Dwelling

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

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

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

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

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating

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

24. To preserve the *Lagerstroemia indica* (Crepe Myrtle) located in nature strip no work shall commence nor shall a Construction Certificate be issued (whichever occurs first) until the trunk/s/branches are protected (in accordance with *AS4970-Protection of trees on development sites*) by the placement of appropriate lengths of 50 x 100mm timbers spaced at 150mm and secured by wire/hoop strap over suitable protective padding material (i.e. underlay or carpet). The trunk/branch protection shall be maintained intact until the completion of all work on site.

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

PRIOR TO THE COMMENCEMENT OF WORKS

25. Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.
26. The proposed structure(s) to be erected must stand wholly within the boundaries of the subject site. No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach onto adjoining properties or upon public property.

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

To ensure that the location of the building satisfies the provision of the approval, a check survey certificate shall be submitted to the Principal Certifying Authority prior to the commencement of works indicating the:

- a) Location of the building / structures with respect to the boundaries of the site;

27. The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Application for Construction of Vehicle Crossing and Public Domain Works – Step 2' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.
28. The site must be secured with temporary fencing prior to any works commencing.

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

is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property, where necessary.

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

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

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

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

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

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

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

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

30. 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.
31. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form (available on Council's web page) and details of the appointed Principal Certifying Authority shall be submitted to Council.
32. Prior to the commencement of works, a sign must be erected in a prominent position on the site (for members of the public to view) on which the proposal is being carried out. The sign must state:
- a) Unauthorised entry to the work site is prohibited.
 - b) The name of the principal contractor (or person in charge of the site) and a telephone number at which that person may be contacted at any time for business purposes and outside working hours.
 - c) The name, address and telephone number of the Principal Certifying Authority for the work.

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

Photographic evidence demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority and Council for records purposes prior to the commencement of any onsite work.

DURING WORKS

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

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

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

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

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

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

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

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

37. Unless otherwise approved by Council, excavation, demolition, construction or subdivision work shall only be permitted during the following hours:
- a) 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
 - b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
 - c) at no time on Sundays or public holidays.

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

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

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

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

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

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

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

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

38. In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the demolition, construction or operation/use of the development.
39. 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.
40. The development must be inspected at the following stages by the Principal Certifying Authority during construction:
 - a) after excavation for, and prior to the placement of, any footings, and
 - b) prior to pouring any in-situ reinforced concrete building element, and
 - c) prior to covering of the framework for any floor, wall, roof or other building element, and
 - d) prior to covering waterproofing in any wet areas, and
 - e) prior to covering any stormwater drainage connections, and
 - f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
41. A copy of the approved plans and this consent must be kept on site for the duration of site works and in the case of any commercial or industrial premise for the duration of the use/trading. Copies shall be made available to Council Officer's upon request.

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

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

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

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

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

Prescribed trees protected by Council's controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent.

44. No activities, storage or disposal of materials taking place beneath the canopy of any tree protected under Council's Tree Management Controls at any time.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

45. A second Dilapidation Report including photos of any damage evident at the time of inspection must be submitted after the completion of works. A copy of this Dilapidation Report must be given to the property owners referred to in this Development Consent. The report must:

- Compare the post construction report with the pre-construction report required by these conditions,
- Clearly identify any recent damage and whether or not it is likely to be associated with the development works including suggested remediation methods.

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

46. The following works must be constructed:

- a) Light duty concrete vehicle crossing(s) at the vehicular access location(s).

All works shall be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications" before the issue of the Occupation Certificate and at no cost to Council.

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

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

48. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.

Certification by a qualified practicing Civil Engineer that the vehicular access and off street parking facilities have been constructed in accordance the development consent and with relevant Australian Standards must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

49. Prior to issue of the Occupation Certificate the person acting on this consent shall obtain from Council a compliance Certificate(s) stating that all Road, Footpath, Vehicle Crossing and Public Domain Works on Council property required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.
50. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.
51. Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before the issue of the Occupation Certificate.
52. Prior to the issue of the Occupation Certificate the Principal Certifying Authority is to confirm that no high front gutters have been installed.
53. An Occupation Certificate must be obtained prior to any use or occupation of the development or part thereof. The Principal Certifying Authority must ensure that all works are completed in accordance with this consent including all conditions.
54. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all works have been completed in accordance with the approved Waste Management Plan referred to in this development consent.

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

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

ONGOING CONDITIONS OF CONSENT

56. The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within seventy-two (72) hours of its application.
57. Any lighting of the premises shall be installed and maintained in accordance with Australian Standard AS 4282-1997: *Control of the Obtrusive Effects of Outdoor Lighting* so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if in the opinion of an Authorised Council Officer it is considered there to be have adverse effects on the amenity of the area.
58. The basement level (level 1) is ancillary to the residential use of the premises and is to be used by the permanent residents of the dwelling only. The basement level (level 1) must not incorporate kitchen facilities. No approval is given for the use of the basement level (level 1) as a self-contained dwelling or secondary dwelling. The basement level (level 1) shall not be separately leased.
59. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. dwelling without the prior consent of the Council unless the change to another use is permitted as exempt or complying development under *Leichhardt Local Environment Plan 2013* or *State Environmental Planning policy (Exempt and Complying Codes) 2008*.

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

PRESCRIBED CONDITIONS**A. BASIX Commitments**

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

In this condition:

- a) Relevant BASIX Certificate means:
 - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 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 4.17(11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

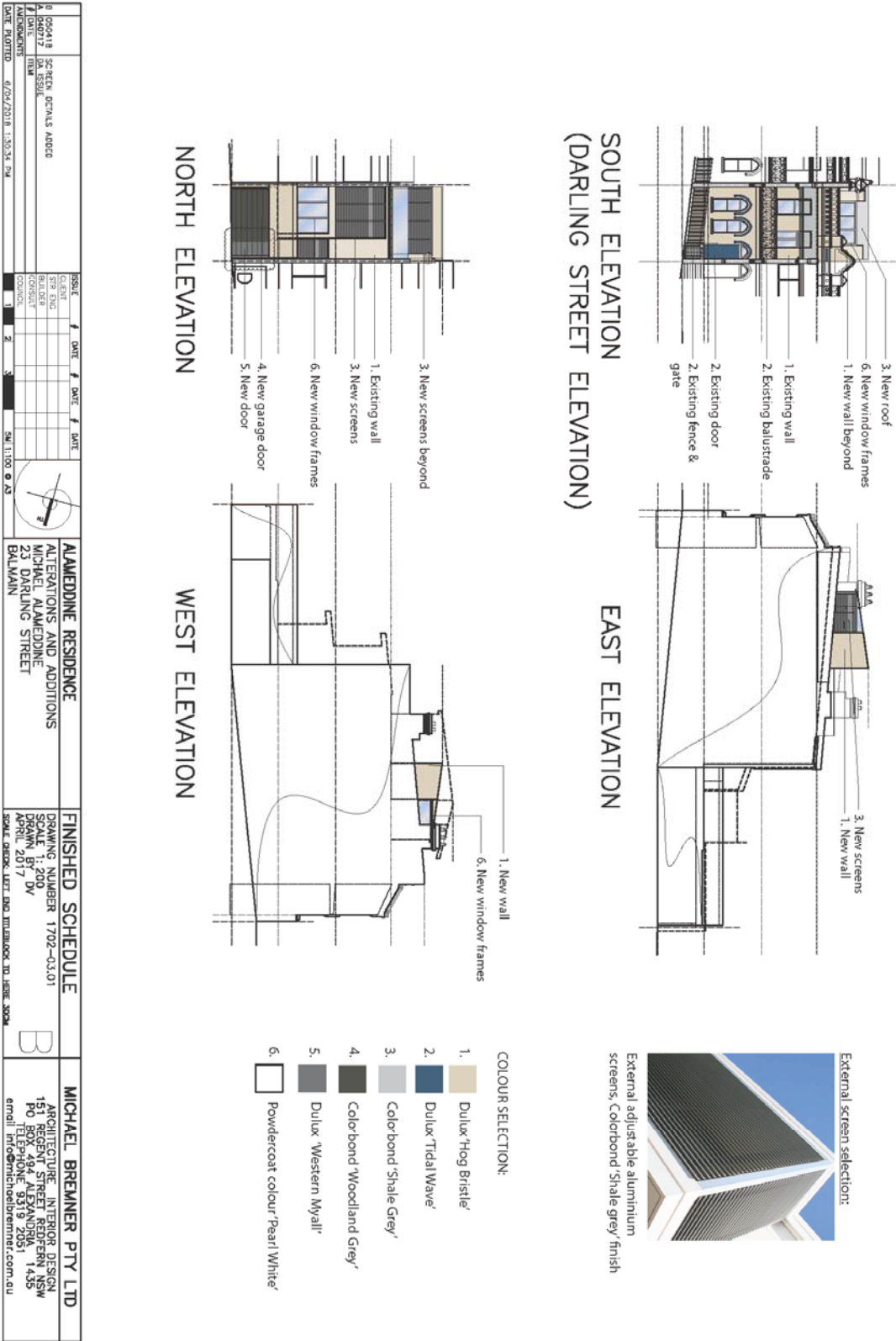
- a) protect and support the adjoining premises from possible damage from the excavation, and
 - b) where necessary, underpin the adjoining premises to prevent any such damage.
- 2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

NOTES

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

- f) Development Application for demolition if demolition is not approved by this consent.
 - g) Development Application for subdivision if consent for subdivision is not granted by this consent.
 - h) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
8. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained.

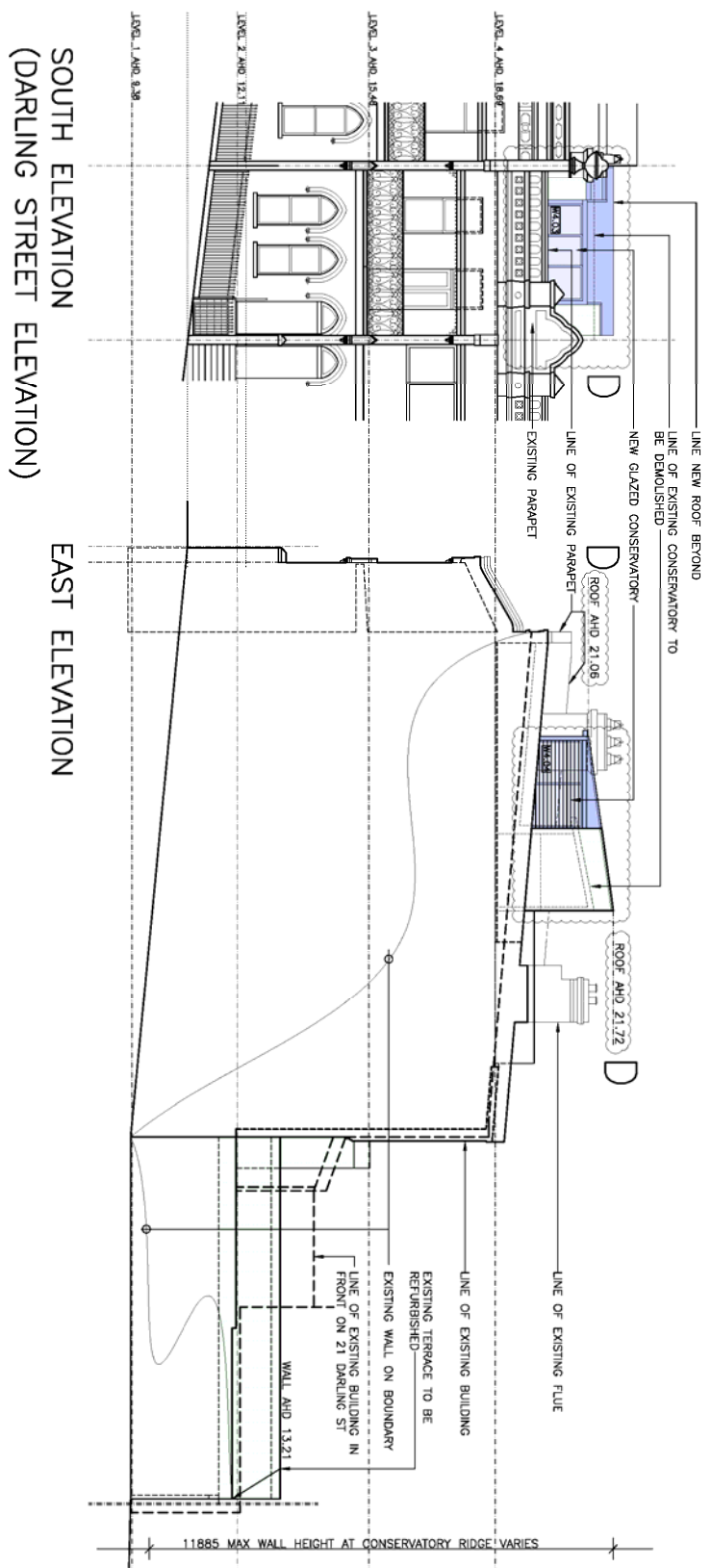
Attachment B – Plans of proposed development



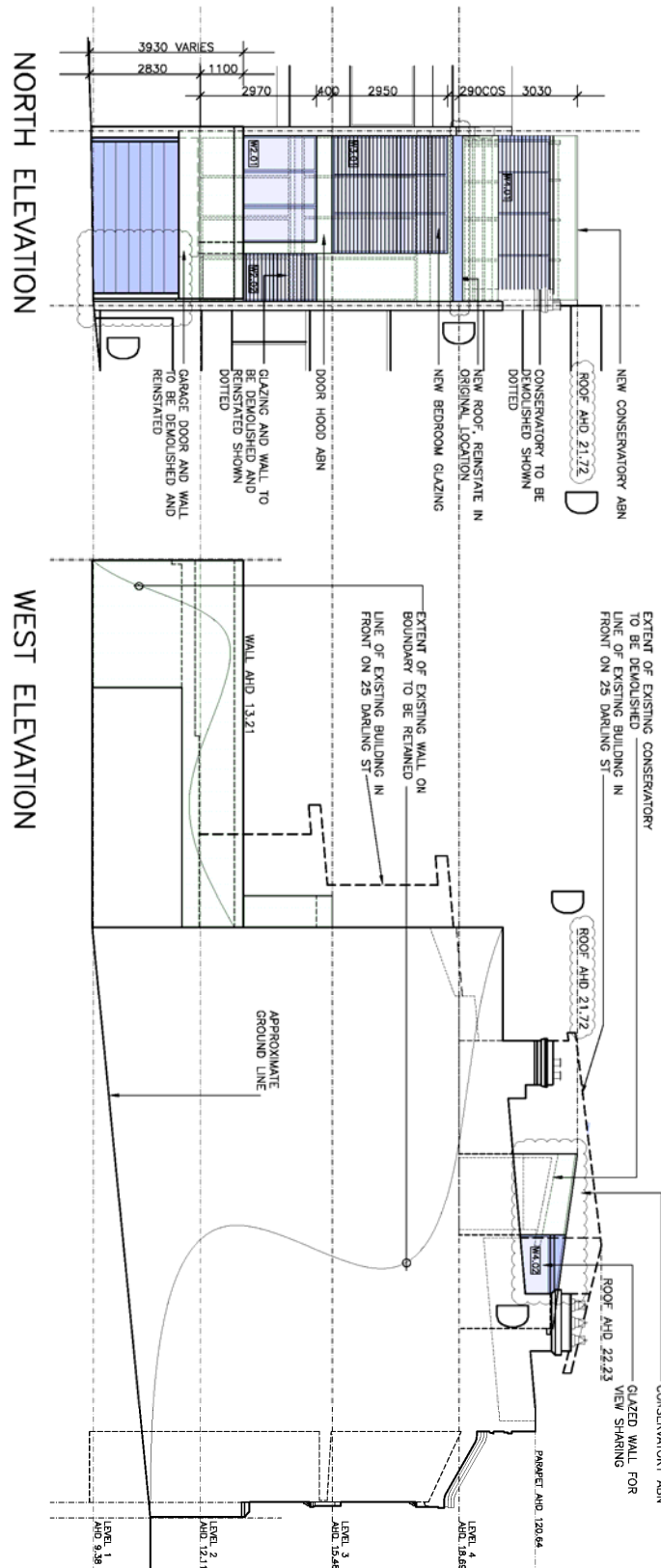




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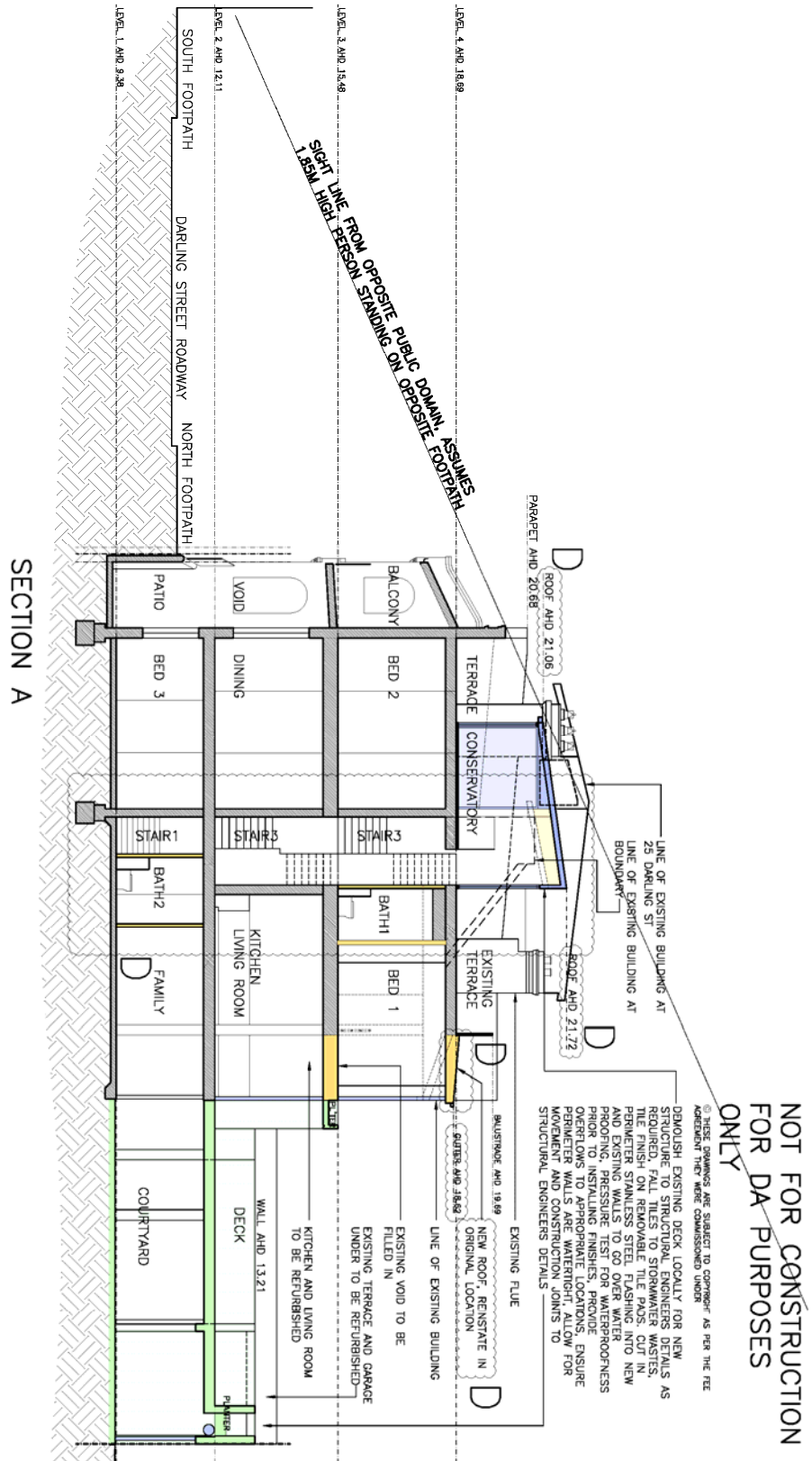
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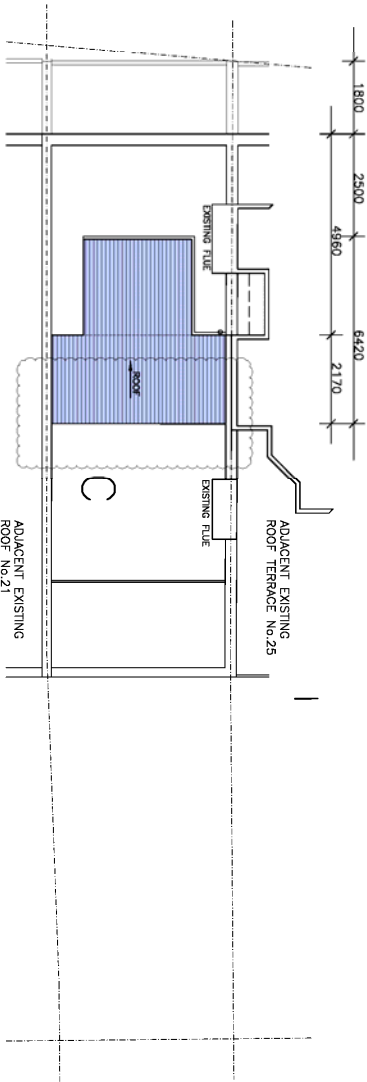
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ROOF PLAN

C 06.04.18	GENERAL UPDATE	SCALE	DATE	DATE	DATE	ALAMEDDINE RESIDENCE	ROOF PLAN	MICHAEL BRENNER PTY LTD
B 07.12.17	BOUNDARY WALL AMENDED	CLIENT				ALTERATIONS AND ADDITIONS	DRAWING NUMBER 1702-02.06	ARCHITECTURE INTERIOR DESIGN
A 07.12.17	BOUNDARY WALL AMENDED	SITE ENG				MUHAMMAD ALAMEDDINE	DRAWN BY T.O.B	150 ROSE ST ALEXANDRIA NSW
F 07.12.17	BOUNDARY WALL AMENDED	CONSULT				23 DARLING STREET	APRIL 2017	PO BOX 49 ALEXANDRIA NSW 1435
AMENDMENTS		COUNCIL				BALMAIN	SCALE CHECK LEFT END TITLEBLOCK TO HERE 300%	email info@michaelbrenner.com.au
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Attachment C – Clause 4.6 Exceptions to Development Standards

APPLICATION TO VARY A DEVELOPMENT STANDARD

Prepared by Michael Bremner Pty Ltd
Project: 23 Darling Street, Balmain East

Date of issue: 06 April 2018

Written application providing grounds for variation to development standards. This statement is submitted as part of the development application for the proposed development at 23 Darling Street, Balmain East.

1. What is the name of the environment planning instrument that applies to the land?

Leichhardt Local Environment Plan 2013.

2. What is the zoning of the land?

Zone R1 General Residential.

3. What are the objectives of the zone?

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

4. What is the development standard being varied?

The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map 1.0:1.

5. Under what clause is the development standard listed in the environmental planning instrument?

Clause 4.4(2) and clause 4.4(2B)(b) in the Leichhardt Environment Plan 2012.

6. What are the objectives of the development standard?

The objectives of this clause are as follows:

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

7. What is the numeric value of the development standard in the environmental planning instrument?

The Floor Space Ratio Map classifies the subject property as 1.0:1.

8. What is proposed numeric value of the development standard in your development application?

The proposed FSR is 1.59:1, however the existing FSR is 1.47:1.

9. What is the percentage variation (between your proposal and the environmental planning instrument)?

The percentage variation proposed is 59%. The existing percentage variation for FSR of the dwelling is 47%.

APPLICATION TO VARY A DEVELOPMENT STANDARD

Prepared by Michael Bremner Pty Ltd
Project: 23 Darling Street, Balmain East

Date of issue: 06 April 2018

10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

Strict compliance with the development standard is unreasonable in this particular case as the existing dwelling currently exceeds the FSR control (the existing gross floor area is 161.5 sqm, creating an FSR of 1.47:1). The proposed increase in FSR is minor in nature (approximately 12sqm to this, creating an FSR of 1.59:1) and is required in order to improve the amenity and functionality of the dwelling.

A significant portion of this area increase (approximately 7sqm) is a result of converting an existing internal void area on Level 3 into usable floor area. Currently this void is a nuisance as it is open to the Kitchen below and results in issues with noise transmission to upper levels, and passage of Kitchen cooking fumes throughout the upper level bedrooms. As this void is contained within the building envelope, converting this into floor space does not result in any change to the building fabric, will not be visible from the outside, and will not alter the existing character of the streetscape.

The Level 4 roof conservatory is the other area where a small floor area increase is proposed (approximately 6sqm). This small increase will make the existing roof conservatory more functional. Currently the roof conservatory is small and impractical and the minor increase in size will assist in creating a more meaningful and usable conservatory. The revised conservatory also better integrates the existing stairs which are proposed to be retained to conserve the original position of these. The roof conservatory replicates other adjacent conservatory and roof level structures and will not adversely impact the character of the dwelling.

11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the ACT.

The proposed area of non-compliance is minor in nature involving only a marginal increase in floor area.

13. Would strict compliance with the standard, in your particular case, be unreasonable or unnecessary? Why?

The current dwelling has undergone a previous but poorly planned renovation which has resulted in an internal layout that is both impractical and in conflict with the conventional internal layout for a terrace building. The proposed development application seeks to remedy the poor planning of the home, and reinstate elements, such as the orientation of bedroom and bathroom locations, to be more in keeping with a thoughtfully renovated terrace dwelling.

In order to achieve this, strict compliance is unreasonable as the minor additional floor area is required in order to transform the dwelling into a usable and practical terrace dwelling.

14. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.

Currently the existing dwelling exceeds the development standard. The proposal seeks only a minor increase to the existing floor area with no adverse impacts to the character of the existing dwelling.

Also refer to the Heritage Assessment and Statement of Heritage Impact submitted as part of the application for further information regarding the heritage character of the dwelling.

APPLICATION TO VARY A DEVELOPMENT STANDARD

Prepared by Michael Bremner Pty Ltd
Project: 23 Darling Street, Balmain East

Date of Issue: 06 April 2018

Written application providing grounds for variation to development standards. This statement is submitted as part of the development application for the proposed development at 23 Darling Street, Balmain East.

1. What is the name of the environment planning instrument that applies to the land?

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2. What is the zoning of the land?

Zone R1 General Residential.

3. What are the objectives of the zone?

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

4. What is the development standard being varied?

Landscaped areas for residential accommodation in Zone R1 (landscaped area).

5. Under what clause is the development standard listed in the environmental planning instrument?

Clause 4.3A(3)(a) in the Leichhardt Environment Plan 2012.

6. What are the objectives of the development standard?

The objectives of this clause are as follows:

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

7. What is the numeric value of the development standard in the environmental planning instrument?

Landscaped area comprises at least 15% of the site area.

8. What is the proposed numeric value of the development standard in your development application?

The proposed landscape area is 2.4% (2.7sqm). Currently the landscaped area is 0%.

APPLICATION TO VARY A DEVELOPMENT STANDARD

Prepared by Michael Bremner Pty Ltd
Project: 23 Darling Street, Balmain East

Date of Issue: 06 April 2018

9. What is the percentage variation (between your proposal and the environmental planning instrument)?

The proposed development seeks a 12.6% variation to the development standard.

10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

Strict compliance with the development standard is unreasonable in this particular case as the existing dwelling currently does not comply with the landscape standard with 0% landscaping currently present, and the proposed development seeks to implement a small zone of landscaped area. Due to the small nature of the site (at approximately 109sqm) and the configuration of the existing rear decks and parking areas, strict compliance is unreasonable and unnecessary.

11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the ACT.

The proposed area of non-compliance is minor in nature and only seeks to improve the extent of landscaping which is currently non-existent.

13. Would strict compliance with the standard, in your particular case, be unreasonable or unnecessary? Why?

As the proposal seeks to preserve the existing conditions, strict compliance with the standard would be unreasonable as it would require removal and alteration of the existing rear deck (the dwellings primary private open space) and parking area in order to facilitate landscaped areas, and this would be unrealistic and not feasible.

14. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.

Currently the existing dwelling does not comply with the landscape area standard, and the proposal seeks to introduce a small yet practical area of landscaping, and as a result no additional adverse impacts will result from the proposal.

APPLICATION TO VARY A DEVELOPMENT STANDARD

Prepared by Michael Bremner Pty Ltd
Project: 23 Darling Street, Balmain East

Date of issue: 06 April 2018

Written application providing grounds for variation to development standards. This statement is submitted as part of the development application for the proposed development at 23 Darling Street, Balmain East.

1. What is the name of the environment planning instrument that applies to the land?

Leichhardt Local Environment Plan 2013.

2. What is the zoning of the land?

Zone R1 General Residential.

3. What are the objectives of the zone?

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

4. What is the development standard being varied?

Landscaped areas for residential accommodation in Zone R1 (site coverage).

5. Under what clause is the development standard listed in the environmental planning instrument?

Clause 4.3A(3)(b) in the Leichhardt Environment Plan 2012.

6. What are the objectives of the development standard?

The objectives of this clause are as follows:

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

7. What is the numeric value of the development standard in the environmental planning instrument?

The site coverage does not exceed 60% of the site area.

8. What is the proposed numeric value of the development standard in your development application?

The proposed site coverage is 85%. However the existing site coverage is 92%.

APPLICATION TO VARY A DEVELOPMENT STANDARD

Prepared by Michael Bremner Pty Ltd
Project: 23 Darling Street, Balmain East

Date of issue: 06 April 2018

9. What is the percentage variation (between your proposal and the environmental planning instrument)?

The proposed development seeks a 35% variation to the development standard. The existing condition has a 42% variation.

10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

Strict compliance with the development standard is unreasonable in this particular case as the existing dwelling currently does not comply with the site coverage standard, and the proposed development improves the site coverage marginally. The proposal seeks to effect building alterations within the established perimeter external walls.

11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the ACT.

The proposed area of non-compliance is minor in nature and only seeks to maintain the existing configuration.

13. Would strict compliance with the standard, in your particular case, be unreasonable or unnecessary? Why?

As the proposal seeks to preserve the existing conditions, strict compliance with the standard would be unreasonable as it would require removal and alteration of the existing building fabric in order to reduce the overall site coverage and this is unrealistic and not feasible.

14. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.

Currently the existing dwelling does not comply with the site coverage standard, and as the proposal seeks to maintain this configuration, no additional adverse impacts will result from the proposal.

NOTES