






INNER WEST

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA/2021/0866
Address	11 Phoebe Street BALMAIN NSW 2041
Proposal	Alterations and additions to dwelling including extension of upper level.
Date of Lodgement	16 September 2021
Applicant	PERFECT SQUARE DESIGN PTY LTD
Owner	Mr Craig S Barnett Mrs Renate C Barnett
Number of Submissions	Initial: 2
Value of works	\$278,000.00
Reason for determination at Planning Panel	Floor Space Ratio variation greater than 10%
Main Issues	<ul style="list-style-type: none"> • Floor Space Ratio development standard variation • Heritage Impacts • View Loss
Recommendation	Refusal
Attachment A	Reasons for Refusal
Attachment B	Without Prejudice Conditions of Consent
Attachment C	Plans of proposed development
Attachment D	Clause 4.6 Exception to Development Standards
Attachment E	Statement of Heritage Significance



LOCALITY MAP

Subject Site		Objectors		 N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to a dwelling including extension of level 3 at 11 Phoebe Street Balmain.

The application was notified to surrounding properties and 2 submissions were received in response to the notification of the proposal.

The main issues that have arisen from the application include:

- Proposed Floor Space Ratio variation exceeds 10%.
- Heritage issues.

The proposed development is not supported as it results in adverse streetscape and heritage impacts to the subject site and does not comply with the objectives of the Birchgrove distinctive neighbourhood controls and is recommended for refusal.

2. Proposal

DA/2021/0866 seeks consent for alterations and additions to the existing dwelling. Specifically, the proposal involves the following works:

Level 3

- Partial demolition of the existing rear roof and removal of a chimney,
- Further extend the rear building alignment of level 3 towards the rear of the site to allow a new library area with a higher floor to ceiling height and a new roof form,
- Renovate existing bathroom
- Minor internal demolition of walls on level 3.
- New window glazing and openings on the south-west, north-east and north-west elevation.

Level 2

- Minor internal demolition of the storage wall to enlarge the existing storage area,
- Upgrade the two existing windows located on the south-west elevation.

Level 1

- New rear retractable vergola to service the existing rear balcony

3. Site Description

The subject site is located on the north-western side of Phoebe Street. The site consists of 1 allotment and is rectangular in shape with a total area of 392.90 sqm.

The site has a frontage to Phoebe Street of 8.305 metres.

The site supports a three (3) storey house. The adjoining properties support a similar three (3) storey house and are all located on a steep sloping site where the rear of the site adjoins the Parramatta River.

The property is located within a conservation area. The property is identified as a Foreshore Inundation Lot.

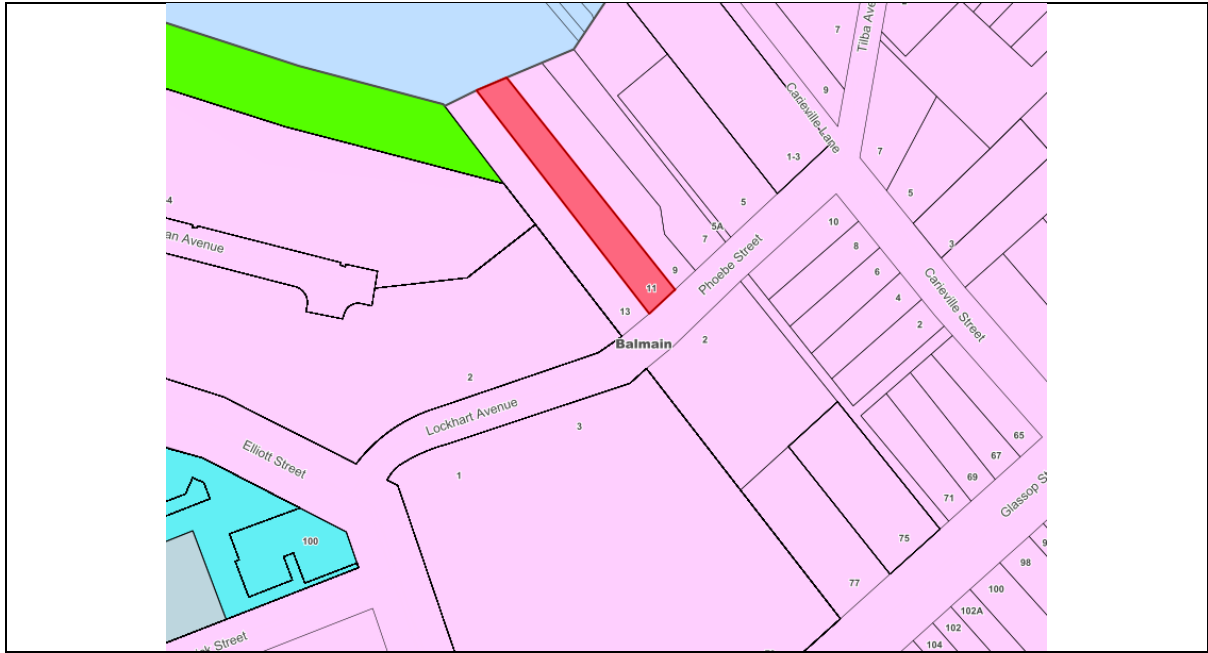


Figure 1: Zone Map – R1 – General Residential Zone – Heritage Conservation Area



Figure 2: Aerial Image of Subject Site

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
M/2017/39	Modification of Development Consent D/2015/155 which approved alterations and additions including works to carport (street entry) and new lift. Modifications involve various changes including: delete W01 and W02; modify SW elevation door to highlight window; raise garage roof parapet by 250mm; and reduce width of SW metal stair from 900mm to 800mm.	Approved – 5/5/2017
D/2015/155	Alterations and additions including works to carport (street entry) and new lift.	Approved – 22/5/2015

Surrounding properties

9 Phoebe Street

Application	Proposal	Decision & Date
MOD/2022/0048	Modification to approved alterations and additions to dwelling - changes involve new lift, internal layout changes and planter roof to rear cabana.	Approved – 13/7/2022
D/2019/400	Alterations and additions to an existing dwelling including new extension and garaging, associated landscaping, pool and remediation works.	Approved by LPP – 8/9/2020 Operational consent issued 24/9/2021

13 Phoebe Street

Application	Proposal	Decision & Date
D/2003/626	Alterations and additions to an existing dwelling at basement, lower ground, ground and first floor levels, including new rear terraces at lower ground and basement levels.	Approved – 30/6/2004

2 Phoebe Street

Application	Proposal	Decision & Date
M/2015/80	Modification to D/2014/359. Modification includes - Addition to rear first floor; Alteration to pool level; Skylights to roof; Minor modifications to windows and doors.	Approved – 19/6/2015
D/2014/359	Alterations and additions to the existing three storey house including a new two storey wing to the rear, extension of the existing upper level, a new pool, internal modifications and a new sliding vehicular gate to Phoebe St. Tree removal.	Approved – 11/11/2014

4(b) Application history

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

Date	Discussion / Letter / Additional Information
17/12/2021	<p>Council sent a formal request for additional / amended information to address the following issues / concerns raised in the preliminary assessment:</p> <ul style="list-style-type: none"> - Amended proposal to reduce the FSR breach by deleting the proposed guest bedroom, - Updated / additional shadow diagrams to Council's requirements, - Updated Heritage Impact statement that provides a comprehensive historical and physical analysis to clearly identify the changes to the building; to date the construction of the primary roof form/building; and identify remaining elements of any structures predating 1943. The surviving extent of the original dwelling should be identified in plan form, including the changes in configuration of the rooms, roof forms and materials. - Amended plans that meet the relevant heritage controls of the DCP including the retention of original fabric and roof forms.
19/1/2022	Council emailed the objector, requesting additional photos taken from certain areas of the property to enable a view loss assessment to be undertaken.
28/1/2022	Applicant provided the requested additional photos taken from various areas of No. 2 Phoebe Street.
4/2/2022	<p>The applicant provided the following additional / amended information:</p> <ul style="list-style-type: none"> - Revised C4.6 variation to the proposed FSR breach, - Amended shadow diagrams depicting where the new additional shadows will cast on the neighbouring properties., - New Heritage Impact Statement prepared by a new heritage consultant.
10/5/2022	Council's email to applicant requesting additional photomontages to assist in carrying out an accurate view loss assessment.
16/5/2022	Requested photomontages provided to Council

2/6/2022	Council advised and requested amended plans that correctly depict the proposed new floor to ceiling heights.
2/6/2022	Applicant provided amended architectural plans that still did not correctly depict the proposed floor to ceiling heights of level three and inconsistent RL's.
8/6/2022	<p>Council emailed the applicant requesting the following additional and amended information to address the outstanding issues and concerns:</p> <p>1. Planning</p> <p>a. The following additional details and architectural plans are required:</p> <ol style="list-style-type: none"> i. Full demolition plans in elevation, floor and roof plan that are depicted consistently (current plans depicting demolition works not consistent). ii. Existing elevation and section plan of the dwelling. iii. An outline of the existing gable roof form to be provided in the proposed elevation plans. <p>b. Amended BASIX Certificate to reflect any design amendments undertaken as per the heritage design request.</p> <p>c. Amended plans as per the required heritage design amendments must demonstrate that it meets NCC requirements.</p> <p>2. Heritage</p> <p>Design changes recommended:</p> <ol style="list-style-type: none"> c. The main roof form must be retained in its entirety. The existing exterior wall height of the building must be retained. The gable roof form over the addition must be a continuation of the existing gable roof form. d. The existing original 2 chimneys on the north-east elevation must be retained. The proposed Level 3 addition with the guest bedroom, must be set back 500mm on all sides from the chimneys. e. The vertical clip-on cladding proposed in the External Finishes and Materials Schedule must be laid horizontally
22/6/2022	<p>Upon applicants request for an onsite meeting, Council's Planning (Assessing Officer and Acting Senior Planner) and Heritage (Team Leader) staff met the applicant, Town Planner, builder and the homeowners.</p> <p>A site inspection of the existing dwelling was undertaken and further clarification was provided as to why the requested information was required to enable an accurate assessment of the proposal with high quality documentation.</p>
19/7/2022	<p>The applicant provided the following additional / amended information:</p> <ul style="list-style-type: none"> - Updated survey - Updated HIS report - Updated C4.6 report - Updated architectural plans which provides additional RL's, dimensions and the proposed reconstruction of the front chimney flue at the same height relative to the roof.

20/7/2022	Council contacted the applicant advising that the amended / additional information provided did not address the concerns and requested design amendments mentioned in the previous RFI letter dated 8/6/2022, as such, the recommendation to the Panel will be for a refusal and that the applicants were welcome to withdraw the application. The applicant advised Council that would not withdraw the application and would like their application to be put forward to the IWLPP for consideration with the latest plans which have not carried out the requested heritage design amendments.
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5. Assessment

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

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*

The following provides further discussion of the relevant issues:

5(a)(i) State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2 Coastal management

The SEPP aims to ensure that future coastal development is appropriate and sensitive to its coastal location and category.

The proposed development will not adversely affect any coastal processes or values.

Chapter 4 Remediation of land

Section 4.16 (1) of the SEPP requires the consent authority not consent to the carrying out of any development on land unless:

*“(a) it has considered whether the land is contaminated, and
 (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
 (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”*

In considering the above, there is no evidence of contamination on the site. There is also no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council’s records. The land will be suitable for the proposed use where it continues to be used for residential purposes with no excavation proposed and no indication of contamination.

Accordingly, no further investigation is required and the matters pertaining to Chapter 4 of the SEPP are satisfied.

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

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

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
- Clause 4.3A - Landscaped areas for residential accommodation in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 4.6 - Exceptions to development standards
- Clause 5.10 - Heritage Conservation
- Clause 5.21 - Flood Planning
- Clause 6.4 - Stormwater management
- Clause 6.5 - Limited development on foreshore area

(i) Clause 1.2 - Aims of the Plan

The proposal will have an adverse impact on the streetscape and Heritage Conservation Area, particularly due to the development being inconsistent with the predominant roof forms, heights and scales characteristic of Phoebe Street and the proposed extent of demolition will further erode the heritage character of the site and area.

Therefore, the proposal is contrary to the following objectives under Clause 1.2 of the Leichhardt LEP 2013:

- (c) *to identify, protect, conserve and enhance the environmental and cultural heritage of Leichhardt*
- (f) *to maintain and enhance Leichhardt's urban environment,*
- (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.*

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

The site is zoned R1 – General Residential under the *Leichhardt Local Environmental Plan 2013 (LLEP)*. The *LLEP 2013* defines the building in which the proposal relates as a dwelling-house i.e:

“dwelling house means a building containing only one dwelling”.

The proposal seeks consent for alterations and additions to the existing dwelling-house. The development is permitted with consent within the land use table.

Due to the streetscape and heritage concerns raised in this report, the proposal does not satisfy and / or has not demonstrated compliance with 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.

- (i) Clause 2.7 – Demolition

The application seeks consent for demolition and consent is required.

- (i) Clause 4.3A and 4.4 – Landscaped areas for residential accommodation in Zone R1 and Floor Space Ratio

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

Standard	Proposal	non compliance	Complies
Floor Space Ratio Maximum permissible: 0.8:1 or 314.32 sqm	0.9:1 or 352.53 sqm <i>*(Existing 0.84:1 or 329.75sqm)</i>	38.21 sqm or 12.16% <i>*15.43sqm or 4.91%</i>	No
Landscape Area Minimum permissible: 20% or 78.58sqm	20.93% or 82.22sqm	N/A	Yes
Site Coverage Maximum permissible: 60% or 235.74sqm	43.96% or 172.73sqm	N/A	Yes

Clause 4.6 Exceptions to Development Standards

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

- Clause 4.4 – Floor Space Ratio

The applicant seeks a variation to the Floor Space Ratio development standard under Clause 4.4 of the *Leichhardt Local Environment Plan 2013* by 12.16% (7.25% when compared to existing) or 38.21sqm (22.78sqm when compared to existing).

Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed

against the objectives and provisions of Clause 4.6 of the *Leichhardt Local Environment Plan 2013* below.

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

- *The maximum FSR applicable to the site is unreasonable and unnecessary given there is an existing approved variation of 6.8% (21.58sqm). It is therefore unreasonable to expect the proposal to fully comply with FSR.*
- *The FSR standard is unreasonable because it does not consider the consistency and compatibility of the proposal with the streetscape and character of the surrounding area.*
- *The strict application of the FSR standard does not consider the capacity of the proposal to maintain a bulk and scale that will suit the surrounding area. Maintaining the single storey presentation to Phoebe Street is consistent.*
- *The strict application of the FSR standard does not consider the proposal maintaining reasonable amenity to the site and surrounding area. The proposal maintains the low-density residential character, and reasonable amenity of the site and adjoining properties.*
- *The proposal including the FSR variation maintains the existing landscaping.*
- *The room that is currently labelled as "Library" is unsuitable as a 3rd bedroom as it was not designed with four walls or a door and is directly adjacent to the front door/lift door. It is the only internal access to the house other than the lift. The architecture of the space provides no auditory or visual privacy. While the dwelling is spacious overall, it has only two functional bedrooms, one three levels below. As such, the maximum FSR does not consider the existing internal design issues.*
- *As a consequence of Council requiring the level of the garage to be raised to its planned footpath levels to provide consistency on the street in a previously approved DA, a step down of 180mm was therefore required to access the existing guest room from the street/entry/garage. The aim of this current DA is to convert the currently awkward space into an efficient wheelchair accessible guest room. Differently abled residents and visitors could then gain access to the dwelling from the street level, utilise the entire third level, access the wheelchair-accessible lift and the family spaces on the level below. Therefore, the maximum FSR is unreasonable and unnecessary in light of the existing site conditions.*

The objectives of the R1 General Residential Zone are as follows:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To improve opportunities to work from home.
- To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.
- To provide landscaped areas for the use and enjoyment of existing and future residents.

- To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.
- To protect and enhance the amenity of existing and future residents and the neighbourhood.

The objectives of the FSR development standard 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.

The applicant's written rationale does not adequately demonstrate compliance with the development standards being unnecessary in the circumstances of this case, and that there are insufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is not in the public interest because it is inconsistent with a key objective of the R1 – General Residential zone, in accordance with Clause 4.6(4)(a)(ii) of the LLEP 2013 plan as the additions proposed result in the loss of an original chimney, the location and the height new roof is highly visible and not subordinate or sympathetic to the original roof form, the loss of original roofing, all combines to create a development which is incompatible with the HCA it is located within, and compromises the streetscape character.

It is considered the development is not in the public interest because it is inconsistent with the objectives of the Floor Space Ratio development standard, in accordance with Clause 4.6(4)(a)(ii) of the *LLEP 2013* for the following reasons:

- The roof form, scale and height of the proposal is incompatible and out of character with the Birchgrove desired future character controls,
- The development is considered not compatible with the existing heritage character and pattern of development in terms of the proposed roof form when compared with the adjoining neighbouring properties, resulting in adverse streetscape and heritage impacts, thereby compromising the HCA.

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

The proposal thereby does not accord with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the *LLEP 2013*. For the reasons outlined above, there are insufficient planning grounds to justify the departure from the floor space ratio development standard, and it is recommended that the Clause 4.6 exception not be granted.

Clause 5.10 - Heritage Conservation

The subject property is located within the Iron Cove Heritage Conservation Area Significance (C6 in Schedule 5 of the Leichhardt LEP 2013).

The following sections of the Leichhardt DCP 2013 apply to the proposal:

- Parts C1.2: Demolition, C1.3: Alterations and additions, C1.4: Heritage conservation areas and heritage items
- Appendix B: Building Typologies

The following are the relevant specific controls of the DCP:

- C3 a. of Part C1.4 of the DCP requires that development must not include the demolition of the internal walls of the front rooms within the main building form, the roof form, existing chimneys, fire places and chimney breasts.
- C1.4 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

Relevant/ specific controls of the Conservation Area inventory are:

- Retain all original external architectural detail, and encourage replacement of lost elements, but only where evidence is available.
- Avoid alteration to the original roof form over the main part of any building.

The proposal includes an addition to the roof form of the existing building.

The original plans lodged and HIS (dated June 2021) were identified as unsatisfactory and required further clarification and amendment in accordance with the following;

1. *The HIS is to be revised with a comprehensive historical and physical analysis to more clearly identify the changes to the building; to date the construction of the primary roof form/building; and identify remaining elements of any structures pre-dating 1943. The surviving extent of the original dwelling should be identified in plan form, including the changes in configuration of the rooms, roof forms and materials.*
2. *The above analysis should inform the design of any new work. Alterations should be confined to the portions of the dwelling that can be demonstrated to date from later alterations and additions. For aspects which have contributory values to the conservation area they are to be retained, and the proposal is to be amended to meet the relevant heritage controls of the DCP including: retention of original fabric and roof forms; removal of intrusive accretions and elements to improve the setting of historic buildings; and/or new sympathetic new design and additions compatible with the surrounding conservation area.*

The revised architectural drawings by Perfect Square Design, dated March 2021, and the revised Heritage Impact Statement prepared by Touring the Past, dated February 2022, were reviewed again by Council's Heritage Officer who provided the following comments;

The revised HIS (Feb 2022) has provided further historical information to confirm the original 19th Century building remains, albeit in an altered form. Key features of the house include the overall two-storey form and original chimneys visible from the streetscape. This scale is consistent with other adjacent properties which feature similar chimneys two-storey forms and pitched roofs.

In this context, the original elements which contribute to the streetscape and Conservation Area should be retained, including the heritage chimneys.

The proposed modification of the roof to demolish the significant chimneys, convert it to a flat-top roof addition, and proposed increase in height is inconsistent with Council controls and context of adjacent properties in the HCA and will further erode the heritage character of the site and conservation area. Where additional roof space is required, the potential to reconstruct the original roof form could be explored to reinstate a hipped/gabled roof consistent with other adjacent houses in the streetscape.

The HIS does not assess the impacts of materials and finishes of the new additions.

Recommendation

The amended proposal is not acceptable from a heritage perspective and the following design amendments are required to be undertaken to ensure the proposal will not detract from the heritage significance of the Balmain Heritage Conservation Area and will not have adverse impact on significant fabric and will have acceptable impacts on the streetscape:

- a. The main roof form must be retained in its entirety. The existing exterior wall height of the building must be retained. The gable roof form over the addition must be a continuation of the existing gable roof form.*
- b. The existing original 2 chimneys on the north-east elevation must be retained. The proposed Level 3 addition with the guest bedroom, must be set back 500mm on both sides from the chimneys.*
- c. The vertical clip-on cladding proposed in the External Finishes and Materials Schedule must be laid horizontally.*

In response to this, the applicant provided amended plans and a HIS (dated 19 July 2022) which has been reviewed by Council's Heritage Team Leader and the following additional comments are provided in response:

Further to the heritage referrals for this DA, at the on-site meeting we requested the applicants explore options to amend the design so as to retain the existing two chimneys and the scale and form of the two storey wall height.

I have reviewed the additional information (HIS; revised plans; response to council). The revised plans are useful as they provide a more accurate indication of the existing building and the proposed development. However, the additional information argues for the existing design without demonstrating any consideration of alternative options as requested in the earlier heritage referrals or at the on-site meeting.

As noted in the heritage referral:

- The proposal contradicts the DCP controls:*

- C3 a. of Part C1.4 of the DCP requires that development must not include the demolition of the internal walls of the front rooms within the main building form, the roof form, existing chimneys, fire places and chimney breasts.
- C1.4 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

The proposed modification of the roof to demolish the significant chimneys and convert it to a flat-top roof addition with horizontally proportioned windows is inconsistent with Council controls and the context of adjacent properties, and will erode the heritage character of the site and conservation area.

The request remains for design amendments to address the above heritage issues.

As the requested heritage design amendments have not been carried out or have adequately addressed the heritage concerns raised above, the proposal is considered unacceptable from a heritage perspective and fails to satisfy the provision of Clause 5.10 of LLEP 2013 and LDPCP 2013.

Clause 5.21 - Flood Planning & Clause 6.5 - Limited development on foreshore area

The subject site is located within a Foreshore Inundation Lot. As the proposed works are located above the ground level within the existing building footprint, the proposal will comply with the objectives of the above Provisions.

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

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

The development is considered unacceptable having regard to the heritage provisions of the Draft IWLEP 2020.

5(d) Development Control Plans

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

LDCP2013	Compliance
Part 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 – see discussion
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	No – see discussion
C1.3 Alterations and additions	No – see discussion
C1.4 Heritage Conservation Areas and Heritage Items	No – see discussion
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	N/A
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	N/A
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	N/A
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	Yes
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
C2.2.2.6 Birchgrove Distinctive Neighbourhood	No – see C5.10 for details.
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	No – see discussion
C3.2 Site Layout and Building Design	Yes – see discussion
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	N/A
C3.6 Fences	N/A
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes – see discussion
C3.10 Views	Yes – see discussion
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	N/A
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	N/A
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes

D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	N/A
D2.5 Mixed Use Development	N/A
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	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	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	Yes
E1.2.5 Water Disposal	N/A
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	N/A
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	Yes
Part F: Food	
	N/A
Part G: Site Specific Controls	
	N/A

The following provides discussion of the relevant issues:

C1.0 General Provisions

For reasons discussed in this report, concern is raised that the proposed rear third floor addition to the main dwelling is of a form, size, scale, design and appearance that will not be compatible with the existing dwelling-house or its context and that does not meet desired future character controls for the Birchgrove Street Distinctive Neighbourhood, and has not demonstrated compliance with the following Objective of Part C1.0 of the LDCP2013:

- *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.*

C1.2 Demolition

The extent of demolition to the main roof and existing chimney being proposed is considered unacceptable from a Heritage perspective as it will result in a development that further erodes the remaining heritage character of the site and conservation area. In addition, the proposal has not demonstrated compliance with the following Objectives of Part 1.2 of the LDCP2013:

- *O1 To enhance the environmental performance, cultural significance and character of the area by encouraging good management of existing buildings.*
- *O4 To retain existing buildings that contribute to the desired future character of the area.*

C1.3 Alterations and additions

The proposed flat skillion roof form, increase in overall height and the proposed demolition of the existing original chimney and reconstruction will result in a negative streetscape and heritage impact which will further erode the existing heritage character of the subject site and will not comply with the Birchgrove desired future character controls.

As a result, the proposal has not demonstrated compliance with the following Objectives of Part 1.3 of the LDCP 2013:

- *O1 To ensure that development:*
 - a. *complements the scale, form and materials of the streetscape including wall height and roof form;*
 - b. *where an alteration or addition is visible from the public domain it should appear as a sympathetic addition to the existing building;*
 - c. *makes a positive contribution to the desired future character of the streetscape and any heritage values associated with it;*
 - d. *is compatible with neighbourhood character, including prevailing site layout;*
 - h. *retains existing fabric wherever possible and maintains and repairs, where necessary, rather than replaces the fabric.*

C1.4 Heritage Conservation Areas and Heritage Items

The proposal as previously mentioned in this Report under C5.10, C1.0 C1.3 and C2.2.2.6 will result in adverse streetscape and heritage impacts to the subject site and is of a design that will be out of character of the Birchgrove distinctive neighbourhood character controls.

The new roof is not subservient to the existing main roof and the proposal results in the loss of original features including a portion of the original roof and original chimney which contributes to the character of the dwelling.

As a result, the proposal has not demonstrated compliance with the following Objective and Controls of Part 1.4 of the LDCP 2013:

- *O1 Development:*
 - a. *does not represent an unsympathetic alteration or addition to a building;*
 - b. *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 (Refer to: <http://australia.icomos.org/publications/charters/>;*
 - e. *conserves and enhances the fabric and detail of a building that contributes to the cultural significance of the building in its setting;*
 - h. *protects and enhances views of the existing building from the public domain;*

- *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;*
- *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.*

C2.2.2.6 Birchgrove Distinctive Neighbourhood

As the proposed third floor addition seeks a flat skillion roof form that will be higher than the RL of the existing garage roof, demolish and reconstruct the original chimney, the proposal will result in adverse streetscape impacts and is of a form and design that will be out of character to the heritage and Birchgrove neighbourhood controls as the proposal further erodes the existing heritage character of the site.

As such, the proposal fails to not comply with the following Controls:

- *C2 Conserve and promote the consistent rhythm within the streetscape created by regular lot sizes, subdivision pattern and the predominance of detached and semi-detached houses with a prevalence of hipped, pitched and gable roof forms. Preserve the established setbacks for each street.*
- *C6 Where a consistent pattern of architectural style and form exists, preserve this consistency on each street.*

C3.1 Residential General Provisions

The proposal will result in an unacceptable roof form and unacceptable demolition of an original chimney that will result in a design that will be out of character of the Birchgrove Street neighbourhood character controls and will have adverse impacts on the HCA and is not a satisfactory response to its heritage context. Consequently, the proposal will not achieve compliance with the objectives set out in this Clause, specifically:

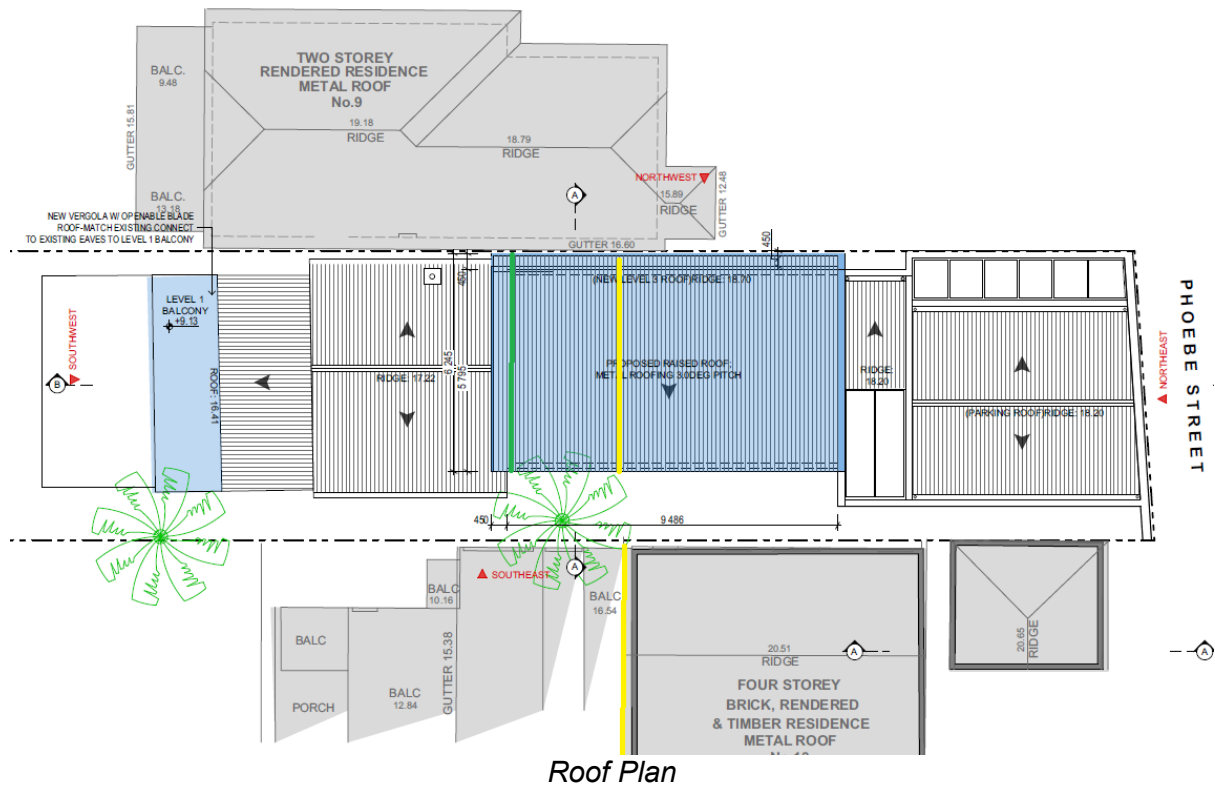
- *O3 - to ensure that alterations, additions to residential buildings and new residential development are compatible with the established setting and character of the suburb and neighbourhood and compatible with the desired future character and heritage significance of the place and its setting;*
- *O4 - to ensure that all residential development is compatible with the scale, form, siting and materials of existing adjacent buildings; and*
- *C1 - Residential development is not to have an adverse effect on:
 - a. 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*

- 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

Building Location Zone

The proposed rear addition (shown in Green) on level three (3) seeks to further extend beyond the established third floor Building Location Zone (shown in Yellow).



Roof Plan



Aerial Image

Pursuant to Part C3.2 of the LDCP 2013, where a proposal seeks to vary, or establish a new BLZ, in order to determine acceptability, various tests need to be met - an assessment of the proposal against the relevant tests is discussed below.

- a) amenity to adjacent properties (i.e. sunlight, privacy, views) is protected and compliance with the solar access controls of this Development Control Plan is achieved;*

Comment: As discussed in further detail below, the proposal will comply with applicable solar access controls. The proposal will have no privacy or view loss implications as further discussed later in this Report. However, for the reasons mentioned previously elsewhere in this Report, the proposal is considered unacceptable from a heritage perspective and is recommended for refusal.

- b) the proposed development will be compatible with the existing streetscape, desired future character and scale of surrounding development;*

Comment: The proposed rear skillion roof form addition as previously mentioned in this report is considered to have unacceptable streetscape impacts to the Heritage Conservation Area and is considered not to be compatible with the existing pattern of development of the area. As the amended plans submitted have not carried out the recommended heritage design requirements, the proposal fails to satisfy this test.

- c) the proposal is compatible in terms of size, dimensions privacy and solar access of private open space, outdoor recreation and landscaping;*

Comment: The proposal is considered compatible in terms of size from a planning perspective when compared with the existing pattern of development of the adjoining neighbouring properties. In addition, the proposal will not result in additional overlooking / privacy impacts to the surrounding properties whilst maintaining the existing POS and Landscaped Area of the subject site.

However, for the reasons previously mentioned elsewhere in this Report, the proposal is considered unacceptable in terms of the additions overall size from a heritage perspective.

d) retention of existing significant vegetation and opportunities for new significant vegetation is maximised; and

Comment: The proposal will not result in the removal of any significant vegetation on the subject site.

e) the height of the development has been kept to a minimum to minimise visual bulk and scale, as viewed from adjoining properties, in particular when viewed from the private open space of adjoining properties.

Comment: The proposed rear addition to level three results in an overall increase in height by an additional 600mm with a new proposed RL of 18.80 when compared to the existing 18.20 RL. Although the proposal results in the height increase of the third level addition, when compared with the adjoining properties RL at Nos 9 (19.18) and 13 (20.51) Phoebe Street, it will be lower resulting in minimal visual bulk and scale impacts when viewed from the rear private open space of the adjoining properties.

However, for the reasons previously mentioned in this Report under C5.10, the proposal is considered unacceptable in terms of the additions overall size and height and is not supported from a Heritage perspective.

Side Setbacks

The following is a compliance table assessed against the Side Setback Control Graph prescribed in Part C3.2 of the Leichhardt DCP 2013 relating to the proposed additions (adjacent to Nos.9 & 13 Phoebe Street):

Elevation	Wall height (m)	Required setback (m)	Proposed setback (m)	Complies
North East – L3	5.33-9.41	1.4-3.8	0.526	No
South West – L3	6.09 - 9.56	1.8-3.9	2	Yes & No

As noted in the table above, the proposed addition on level 3 will breach the Side Boundary Setbacks Graph prescribed in this Part in certain areas.

Pursuant to Clause C3.2 of the LDCP2013, where a proposal seeks a variation to the side setback control graph, Control C8 under this part states that Council may allow walls higher than that required by the side boundary setback controls where:

- a) *The development is consistent with relevant Building Typology Statements as outlined within Appendix B – Building Typologies of this Development Control Plan;*

Comment: The development will result in an adverse streetscape and heritage impacts to the conservation area.

- b) *The pattern of development within the streetscape is not compromised;*

Comment: For the reasons mentioned previously in this Report under C5.10 Heritage Conservation, proposal will result in a pattern of development that will compromise the existing streetscape and character of the heritage conservation area.

- c) *The bulk and scale of development is minimised by reduced floor to ceiling heights;*

Comment: The amended proposed seeks to increase the overall height of the third floor addition by 600mm resulting in a floor to ceiling height of 2.840m from 2.64m. From a planning perspective, as previously mentioned above, the increase in height will result in minimal to no adverse amenity impacts however does not employ minimal floor to ceiling heights as specified.

- d) *The potential impacts on amenity of adjoining properties, in terms of sunlight and privacy and bulk and scale, are minimised; and*

Comment: The proposal will comply with the solar access and privacy controls as mentioned in this report and will result in acceptable view loss impacts (as further discussed later in this report under View Loss).

- e) *Reasonable access is retained for necessary maintenance of adjoining properties.*

Comment: The proposal does not unduly obstruct adjoining properties for maintenance purposes as the existing side setbacks are retained. Based on the above, the proposed variations to the BLZ and Side Boundary setbacks Graph are considered acceptable in this instance as the proposal is consistent with the objectives of this part.

As a result of the above, it is considered that the proposed rear third floor addition will not satisfy the above tests under C6 and C8 and does not meet / demonstrated compliance to the following Objectives:

- *O2 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;*
 - c. *complements the siting, scale and form of adjoining development;*

Having regard to the above and for the reasons mentioned and discussed elsewhere in this report, the proposal is recommended for refusal.

C3.9 Solar Access

Given the adjoining sites are east-west orientated the following solar access controls apply to the proposal in relation to solar access of affected properties:

Retaining solar access to neighbouring dwellings main living room glazing

- *C13 Where the surrounding allotments are orientated north/south and the dwelling has north facing glazing serving the main living room, ensure a minimum of three hours solar access is maintained between 9am and 3pm during the winter solstice..*
- *C15 Where surrounding dwellings currently receive less than the required amount of solar access to the main living room between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.*

Retaining solar access to neighbouring dwellings private open space

- *C17 Where surrounding dwellings have north facing private open space, ensure solar access is retained for three hours between 9am and 3pm to 50% of the total area during the winter solstice.*
- *C19 Where surrounding dwellings currently receive less than the required amount of solar access to their private open space between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.*

Solar access diagrams provided demonstrate that the proposal will not result in any additional overshadowing to the adjoining neighbouring properties rear yards at mid-winter from 9am to 3pm. Majority of the additional shadows cast from the proposal will be impact the adjoining neighbouring properties roof structures. As a result, the proposal complies with prescribed solar access controls.

C3.10 Views

Council supports the notion of 'view sharing'. Development should be designed to minimise view loss to the public and to adjoining and adjacent properties while still providing opportunities for views from the development itself. By its nature, view sharing involves sharing on the part of the affected parties. Buildings which are designed sensitively can usually ensure reasonable sharing of views.

A submission has been received from No. 2-4 Phoebe Street relating to view loss. The objection has raised concern regarding significant loss of water views from the "ground level, first and second floor balconies as well as the majority of the living spaces".

The objection claims that, as a consequence of the design of the third floor addition, current water views and views to Spectacle Island obtained from the lower ground floor will be completely blocked off by the proposal and primary water views experienced from the remainder of the house and balconies will be reduced between 30-50%.

The following assessment has been undertaken in regard to the proposed view loss from 2-4 Phoebe Street.

Council considers the Tenacity Planning Principle steps in its assessment of reasonable view sharing:

- a. *What views will be affected? In this Plan, a reference to views is a reference to water views and views of significant landmarks (e.g. Sydney Harbour, Sydney Harbour Bridge, ANZAC Bridge and the City skyline including features such as Centre Point Tower). Such views are more highly valued than district views or views without significant landmarks.*
- b. *How are the views obtained and assessed? Views from private dwellings considered in development assessment are those available horizontally to an observer standing 1m from a window or balcony edge (less if the balcony is 1m or less in depth).*
- c. *Where is the view enjoyed from? Views enjoyed from the main living room and entertainment areas are highly valued. Generally it is difficult to protect views from across side boundaries. It is also generally difficult to protect views from other areas within a residential building particularly if views are also available from the main living room and entertainment areas in the building concerned. Public views are highly valued and will be assessed with the observer standing at an appropriate point in a public place.*
- d. *Is the proposal reasonable? A proposal that complies with all development standards (e.g. building height, floor space ratio) and planning controls (e.g. building setbacks, roof pitch etc) is more reasonable than one that breaches them.*

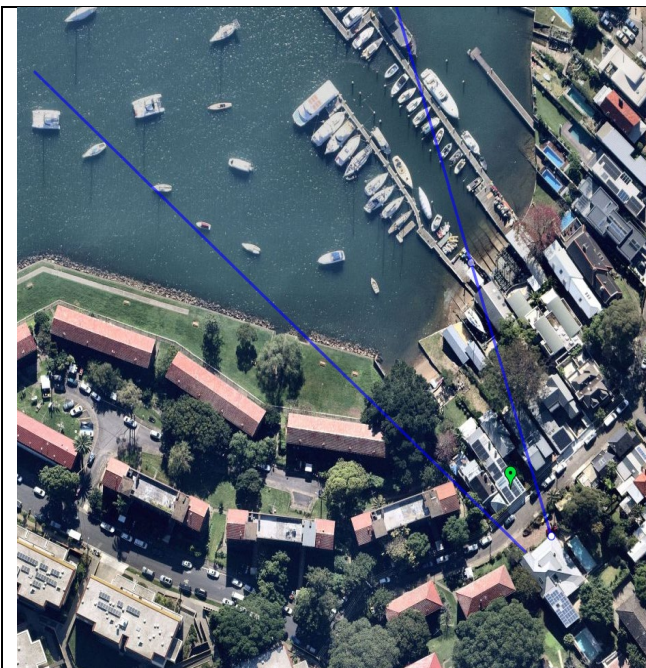


Figure 1: View corridor of No. 2-4 Phoebe Street, facing towards Parramatta River

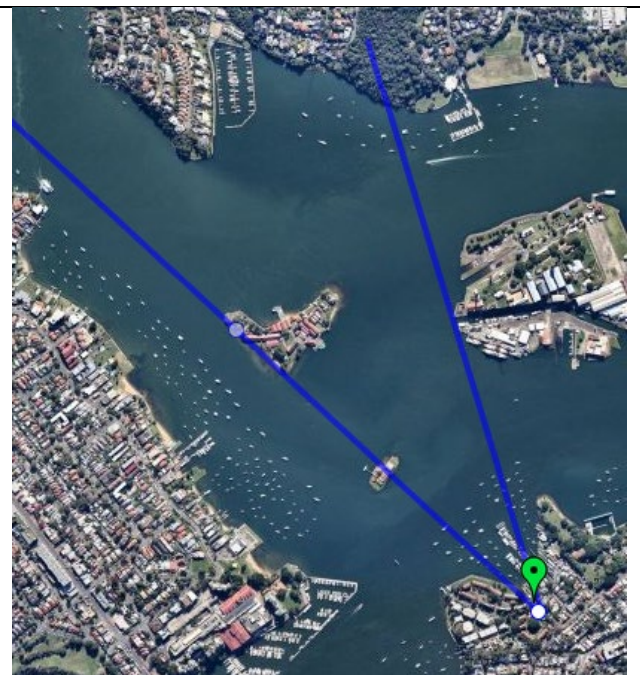


Figure 2: View corridor of No. 2-4 Phoebe Street Lower ground, ground and first floor levels, north west facing towards Spectacle Island, Parramatta River and Woolwich



Photo 1: First floor verandah, north-west facing views towards Parramatta River. Photo provided by objector; Montaque provided by applicant.



Photo 2: Lower ground floor Living/Dining, north-west facing views towards Parramatta River. Photo provided by objector; Montaque provided by applicant.

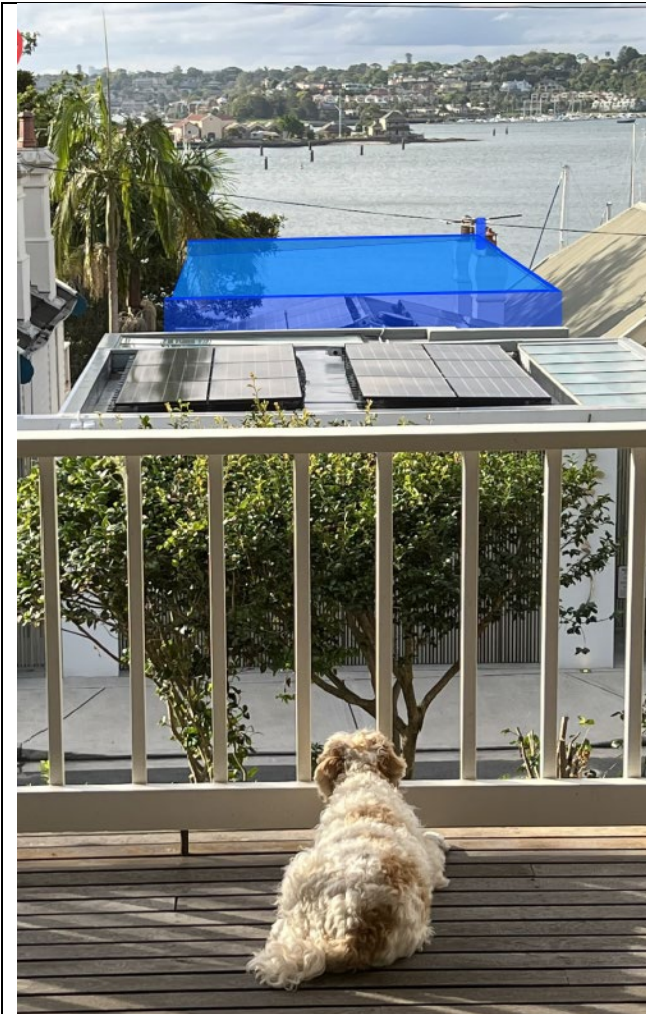


Photo 3: Ground floor Formal Living/Dining, north-west facing views towards Parramatta River. Photo provided by objector; Montage provided by applicant.



Photo 4: Ground floor verandah, north-west facing views towards Parramatta River. Photo provided by objector; Montage provided by applicant.

a. What views will be affected? In this Plan, a reference to views is a reference to water views and views of significant landmarks (e.g. Sydney Harbour, Sydney Harbour Bridge, ANZAC Bridge and the City skyline including features such as Centre Point Tower). Such views are more highly valued than district views or views without significant landmarks.

Comment: As noted in the photos above, views are currently obtained from the front of the property (north-west facing) lower ground floor living/dining room, upper ground floor formal living/dining area, upper ground floor verandah and first floor balcony connected to a bedroom. – the views include views of Spectacle Island and Parramatta River. Notwithstanding, majority of the views of Parramatta River and Spectacle Island will be maintained – see photos above and further commentary below.

b. How are the views obtained and assessed? Views from private dwellings considered in development assessment are those available horizontally to an observer standing 1m from a window or balcony edge (less if the balcony is 1m or less in depth).

Comment: The views (see pictures above) are obtainable over the roof structure of 11 Phoebe Street when standing up against the lower ground, upper ground floor living/dining area windows and first floor balcony. In addition, the views obtained in photo 4 are from the verandah located on the upper ground level and on the north eastern end, adjoining the upper ground floor living area.

c. Where is the view enjoyed from? Views enjoyed from the main living room and entertainment areas are highly valued. Generally, it is difficult to protect views from across side boundaries. It is also generally difficult to protect views from other areas within a residential building particularly if views are also available from the main living room and entertainment areas in the building concerned. Public views are highly valued and will be assessed with the observer standing at an appropriate point in a public place.

Comment: The existing views of Spectacle Island and Parramatta River are enjoyed and obtained from all three levels as shown in the photos above on the lower ground, upper ground living areas, upper ground verandah and from the first floor balcony which is connected and servicing a bedroom.

d. Is the proposal reasonable? A proposal that complies with all development standards (e.g. building height, floor space ratio) and planning controls (e.g. building setbacks, roof pitch etc) is more reasonable than one that breaches them."

As previously noted:

- The proposal to further extend the existing third floor to the rear of the subject site with its minor increase in height and change of roof form from a gable to a skillion form will not result in any adverse overshadowing and visual bulk and scale impacts when viewed from the adjoining neighbouring properties rear private open areas.
- The proposal complies with the site coverage and landscaped area development standard but will breach the maximum allowed FSR.
- The new RL of the third-floor addition, when compared to the RLs of its adjoining neighbouring properties at No 9 and 13 Phoebe Street, is much lower.

As a result of all the above considerations, existing unobstructed view corridors of Spectacle Island will be maintained from the upper ground and first floor levels and majority of the water views of Parramatta River will be maintained as depicted in photos 1, 3 and 4.

It is, however, noted that the limited view of Spectacle Island and water views currently obtained from the lower ground level of No 2 Phoebe Street will be eliminated as depicted in photo 2, however, for the reasons mentioned above, the view loss impact is considered reasonable and meets the above Tenacity and view sharing tests and principles.

Notwithstanding the above, the proposal is recommended for refusal for reasons outlined elsewhere of the report.

5(e) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

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

It is considered that the proposal will have an adverse impact to the heritage conservation area and does not comply with the Birchgrove Distinctive Neighbourhood controls.

5(g) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties.

2 submissions were received in response to the initial notification.

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

- View Loss – see Section 5(d), C3.10 Views
- Non-compliance to LLEP2013 Floor Space Ratio – See C4.6 Exemptions to Development Standards
- Setbacks – see C3.2 Site Layout and Building Design

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

Issue: Alternative design and reconfiguration – “There are alternative ways the owners could achieve the outcomes they are seeking without further exceeding the FSR. For example enclosing or closing off the internal staircase in the guest bedroom to create privacy.”

Comment: As previously mentioned in the application history of this Report, Council staff have requested the application to be amended to reduce the FSR. However, as the applicants have not undertaken this design request, the application has undergone a merit assessment and the application is put to the panel for a determination. As the requested heritage design amendments have not been carried out, the application is recommended for refusal.

5(h) The Public Interest

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

This has not been achieved in this instance.

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 – Not supported as the requested design amendments have not been carried out.
- Engineer Officer – No objections.

6(b) External

The application was not referred to any external bodies.

7. Section 7.12 Levy

As the application is recommended for refusal. The applicable contribution has not been calculated.

8. Conclusion

The proposal does not comply with the aims, objectives and design parameters contained in *Leichhardt Local Environmental Plan 2013* and *Leichhardt Development Control Plan 2013*.

The proposal will result in significant adverse impacts on streetscape and the heritage conservation area and its context and is not considered to be in the public interest.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 of the *Leichhardt Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is not satisfied that compliance with the FSR development standard is unnecessary in the circumstance of the case and that there are insufficient environmental grounds to support the variation. The proposed development will not be in the public interest because the exceedance is not consistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, refuse Development Application No. DA/2021/0866 for the alterations and additions to dwelling including extension of upper level. at 11 Phoebe Street BALMAIN NSW 2041, for the reasons outlined in Attachment A below.

Attachment A – Reasons for Refusal

REASONS FOR REFUSAL

1. The proposal results in unsatisfactory impacts on the Heritage Conservation Area, will be inconsistent with the desired future character controls of the area, contrary to the following Aims of the Plan prescribed in Clause 1.2 of the *Leichhardt Local Environmental Plan 2013*:
 - To identify, protect, conserve and enhance the environmental and cultural heritage of Leichhardt
 - To maintain and enhance Leichhardt's urban environment,
 - 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.
2. The proposal is unsatisfactory in terms of form, height and scale, will be inconsistent with the pattern of surrounding development within a Heritage Conservation Area, and is contrary to the following Objective of the R1 Zone contained in the *Leichhardt Local Environmental Plan 2013*:
 - To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.
3. The proposal results in unsatisfactory heritage, pattern of development, streetscape outcomes and does not comply with, or has not demonstrated compliance with, the following controls of the *Leichhardt Local Environmental Plan 2013* to Section 4.15(1)(a)(i) and *Leichhardt Development Control Plan 2013*, pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*:
 - Clause 5.10 of the *Leichhardt Local Environmental Plan 2013 – Heritage Conservation*.
 - Part C1.0 of the *Leichhardt Development Control Plan 2013 – General Provisions*.
 - Part C1.2 of the *Leichhardt Development Control Plan 2013 – Demolition*.
 - Part C1.4 of the *Leichhardt Development Control Plan 2013 - Heritage Conservation Areas and Heritage Items*.
 - Part C2.2.2.6 of the *Leichhardt Development Control Plan 2013 – Birchgrove Distinctive Neighbourhood*.
 - Part C3.1 of the *Leichhardt Development Control Plan 2013 – Residential General Provisions*
4. The development represents a significant variation from the FSR development standard prescribed by Clause 4.4 of *Leichhardt Local Environmental Plan 2013*. The written request submitted in accordance with Clause 4.6 of *LLEP 2013* is not considered worthy of support.

Attachment B – Without Prejudice Conditions of Consent

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
3 of 29 Rev 02	Site Plan	17.7.22	Perfect Square Design
4 of 29 Rev 02	Level 3 Existing Plan & Level 3 Demolition Plan	17.7.22	Perfect Square Design
5 of 29 Rev 02	Level 3 Proposed Plan	17.7.22	Perfect Square Design
6 of 29 Rev 02	Level 2 Existing Plan	17.7.22	Perfect Square Design
7 of 29 Rev 02	Level 2 Proposed Plan	17.7.22	Perfect Square Design
8 of 29 Rev 02	Level 1 Existing Plan & Level 1 Proposed Plan	17.7.22	Perfect Square Design
9 of 29 Rev 02	Ground FLR Existing Plan	17.7.22	Perfect Square Design
10 of 29 Rev 02	Existing Roof Plan & Roof Demolition Plan	17.7.22	Perfect Square Design
11 of 29 Rev 02	Proposed Roof Plan	17.7.22	Perfect Square Design
12 of 29 Rev 02	Existing & Proposed South-East Elevation	17.7.22	Perfect Square Design
13 of 29 Rev 02	Existing North-East Elevation	17.7.22	Perfect Square Design
14 of 29 Rev 02	Proposed North-East Elevation	17.7.22	Perfect Square Design
15 of 29 Rev 02	Existing South-West Elevation	17.7.22	Perfect Square Design
16 of 29 Rev 02	Proposed South-West Elevation	17.7.22	Perfect Square Design

17 of 29 Rev 02	Existing & Proposed North-West Elevation	17.7.22	Perfect Square Design
18 of 29 Rev 02	Section-A	17.7.22	Perfect Square Design
19 of 29 Rev 02	Section-B	17.7.22	Perfect Square Design
27 of 29 Rev 02	External Finishes and Materials	17.7.22	Perfect Square Design
-	Heritage Impact Statement	19 July 2022	Touring The Past
A421874_03	BASIX Certificate	19 July 2021	Perfect Square Design

As amended by the conditions of consent.

DESIGN CHANGE

Design Change

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:

- The main roof form must be retained in its entirety. The existing exterior wall height of the building must be retained. The gable roof form over the addition must be a continuation of the existing gable roof form.
- The existing original 2 chimneys on the north-east elevation must be retained. The proposed Level 3 addition with the guest bedroom, must be set back 500mm on both sides from the chimneys.

FEES

Security Deposit - Custom

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

Security Deposit:	Min \$2,254.00
Inspection Fee:	\$241.50

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

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

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

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

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

Section 7.12 (formerly section 94A) Development Contribution Payments

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

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

Payment amount*:

\$2,780.00

*Indexing of the Section 7.12 contribution payment:

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

Payment methods:

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

Long Service Levy

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

GENERAL CONDITIONS

Boundary Alignment Levels

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

Stormwater Drainage System – Simple

Stormwater runoff from proposed new or altered roof areas may be discharged to the existing site drainage system.

Any existing component of the stormwater system that is to be retained, must be checked and certified by a Licensed Plumber or qualified practising Civil Engineer to be in good condition and operating satisfactorily.

If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road.\

The existing overland flow path along the side boundaries and at the rear of the development must be retained unobstructed.

Waste Management Plan

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

Erosion and Sediment Control

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

Standard Street Tree Protection

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

Works Outside the Property Boundary

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

PRIOR TO ANY DEMOLITION**Hoardings**

The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.

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

Construction Fencing

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

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

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

Structural Certificate for retained elements of the building

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

Sydney Water – Tap In

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

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

DURING DEMOLITION AND CONSTRUCTION**Construction Hours – Class 1 and 10**

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5.00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.

PRIOR TO OCCUPATION CERTIFICATE**No Encroachments**

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

Protect Sandstone Kerb

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any stone kerb, damaged as a consequence of the work that is the subject of this development consent, has been replaced.

ADVISORY NOTES**Permits**

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

- 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;
- A concrete pump across the roadway/footpath;
- Mobile crane or any standing plant;
- Skip Bins;
- Scaffolding/Hoardings (fencing on public land);
- Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- Awning or street veranda over the footpath;
- Partial or full road closure; and
- Installation or replacement of private stormwater drain, utility service or water supply.

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

Insurances

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

Prescribed Conditions

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

Notification of commencement of works

At least 7 days before any demolition work commences:

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

Storage of Materials on public property

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

Toilet Facilities

The following facilities must be provided on the site:

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

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

Infrastructure

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

Other Approvals may be needed

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

Failure to comply with conditions

Failure to comply with the relevant provisions of *the Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

Other works

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

Obtaining Relevant Certification

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent; or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

National Construction Code (Building Code of Australia)

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

Notification of commencement of works

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

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

Dividing Fences Act

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

Permits from Council under Other Acts

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

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street verandah over footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. A lease fee is payable for all occupations.

Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997*

Amenity Impacts General

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

Lead-based Paint

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

Dial before you dig

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

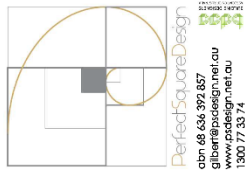
Useful Contacts

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

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

Street Numbering

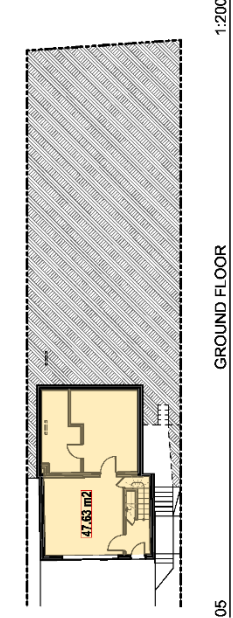
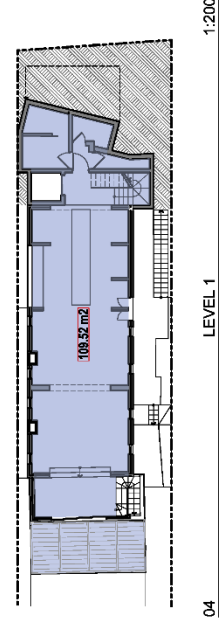
If any new street numbers or change to street numbers (this includes unit and shop numbers) are required, a separate application must be lodged with and approved by Council's GIS Team before being displayed.



SITE NOTES
 CONSULT WITH THE LOCAL COUNCIL TO VERIFY THE EXISTING SERVICES TO THE SITE AND TO VERIFY THE LOCATION OF ALL SERVICES TO BE MAINTAINED OR RELOCATED.
 THE EXISTING SERVICES TO BE MAINTAINED OR RELOCATED ARE:
 - WATER
 - SEWER
 - GAS
 - ELECTRICITY
 - TELEPHONE
 - CABLE TELEVISION
 - OPTICAL FIBRE
 - RAINWATER
 - STORMWATER
 - DRAINAGE
 - LANDSCAPE
 - FENCING
 - SECURITY
 - LIGHTING
 - SIGNAGE
 - PAVING
 - CONCRETE
 - ROOFING
 - CLADDING
 - GLAZING
 - MECHANICAL
 - ELECTRICAL
 - PLUMBING
 - PAINTING
 - CARPETING
 - TILING
 - JOINERY
 - FURNITURE
 - APPLIANCES
 - LIGHTING
 - SIGNAGE
 - PAVING
 - CONCRETE
 - ROOFING
 - CLADDING
 - GLAZING
 - MECHANICAL
 - ELECTRICAL
 - PLUMBING
 - PAINTING
 - CARPETING
 - TILING
 - JOINERY
 - FURNITURE
 - APPLIANCES

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DESIGNED BY	PERFECT SQUARE DESIGN
DATE DRAWN	17/03/2021
PAGE NO.	24 OF 29
SHEET SIZE	A3

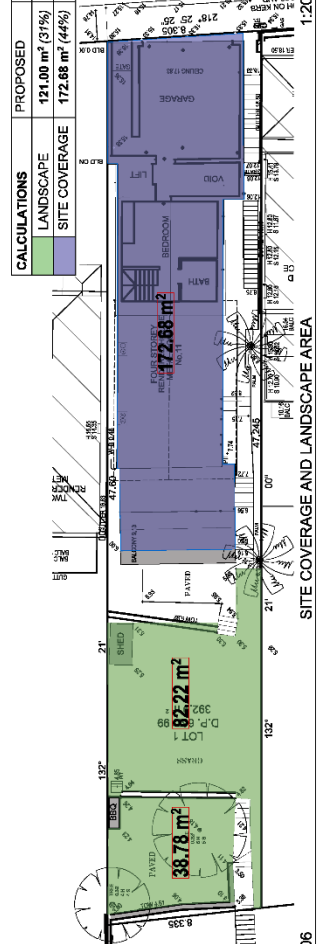
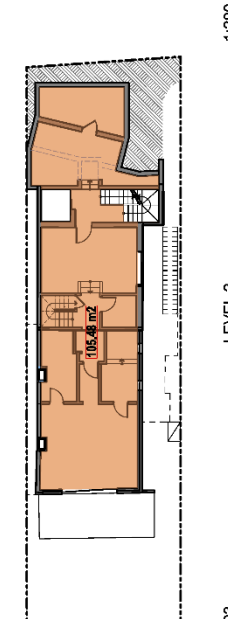
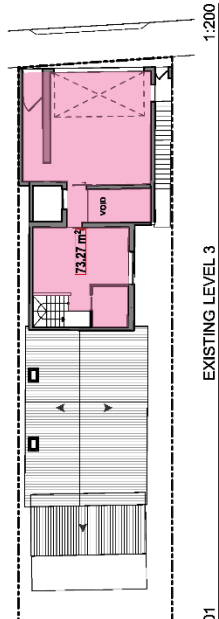
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 CLIENT DETAILS: REFRESH RENOVATIONS
 PROJECT DETAILS: 11 PHOEBE ST, BALMAIN NSW 2041, LOT 1 / DP467199
 ALTERATION & ADDITION



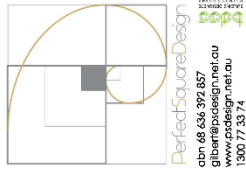
LOT AREA: 392.90 SOM

CALCULATIONS (EXISTING)	AREA
LEVEL 3	73.27 m ²
LEVEL 2	108.48 m ²
LEVEL 1	108.52 m ²
GROUND FLOOR	47.63 m ²
TOTAL EXISTING GFA	335.90 m²
PROPOSED LEVEL 3	21.10 m ²
ADDITIONAL GFA	335.90 m ²
EXISTING GFA	335.90 m ²
PROPOSED TOTAL GFA	357.00 m²

CALCULATIONS	PROPOSED	REQUIRED	COMPLY
LANDSCAPE	121.00 m ² (31%)	78.88 m ² (20%) MIN.	YES
SITE COVERAGE	172.88 m ² (44%)	235.32 m ² (60%) MAX.	YES



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CENTRUM OFFICE SQUARE DESIGN PTY LTD
CONTRIBUTORS TO THE LOCAL PLANNING PANEL AS PER THE LOCAL PLANNING PANEL CHARTER AND THE DEVELOPMENT CONTROLS ACT 2007. THE CHARTER AND DEVELOPMENT CONTROLS ACT 2007 ARE AVAILABLE ON THE WEBSITE OF THE LOCAL PLANNING PANEL AT: www.wwlp.net.au



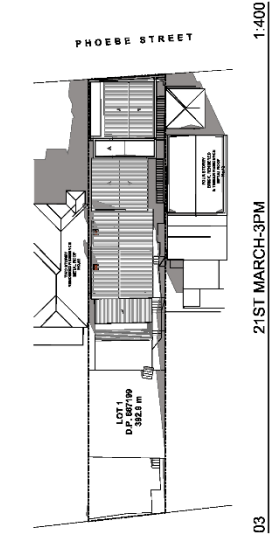
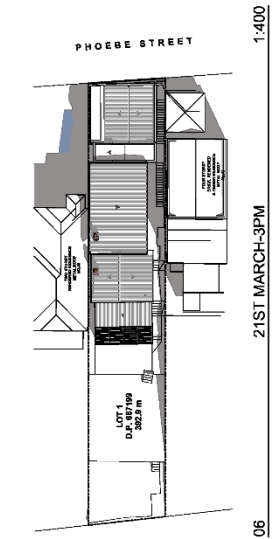
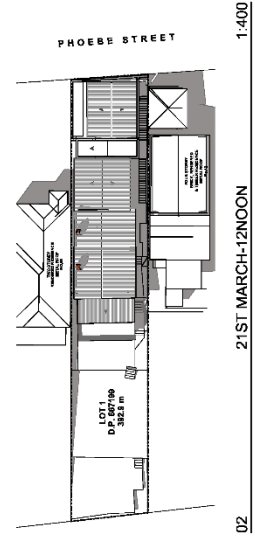
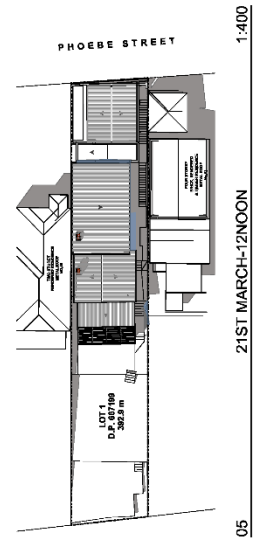
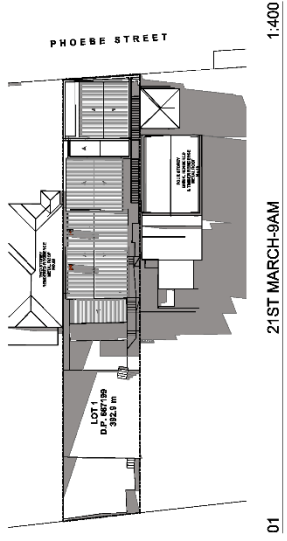
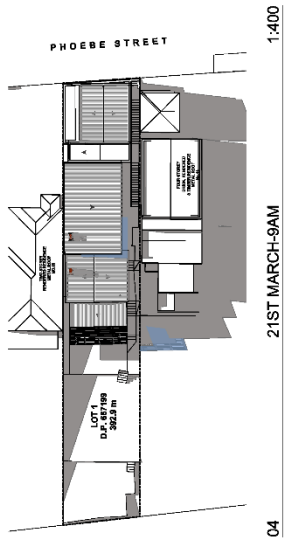
SITE NOTES
 COMPARE ALL IMPROVING ORBERT TO EXISTING WORK AND IDENTIFY ANY CHANGES TO THE WORKING DRAWING. THE LOCATION OF UNDERGROUND AND ABOVE GROUND SERVICES, SUCH AS WATER, SEWER, GAS AND TELEPHONE, SHOULD BE IDENTIFIED AND MARKED ON THE DEVELOPMENT CONTROLS ACT 2007. THE LOCATION OF UNDERGROUND AND ABOVE GROUND SERVICES SHOULD BE IDENTIFIED AND MARKED ON THE DEVELOPMENT CONTROLS ACT 2007. THE LOCATION OF UNDERGROUND AND ABOVE GROUND SERVICES SHOULD BE IDENTIFIED AND MARKED ON THE DEVELOPMENT CONTROLS ACT 2007.

LOT NO.	LOT 1
D.P. NO.	D.P. 887199
COUNCIL PROJECT NO.	SC. 1102/72
COUNCIL PROJECT NO.	SC. 1102/72

PROJECT STAGE
DEVELOPMENT APPLICATION
CLIENT DETAILS

REFRESH RENOVATIONS
 PROJECT DETAILS
 11 PHOEBE ST. BALMAIN NSW 2041
 LOT 1 / DP87199

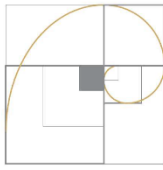
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 DESIGNED BY: CS
 PROJECT NO: 20065
 DATE DRAWN: 17/03/2021
 PAGE NO: 20 OF 29
 SHEET SIZE: A3



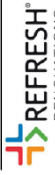
PROPOSED SHADOW DIAGRAM - 21ST MARCH

EXISTING SHADOW DIAGRAM - 21ST MARCH

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 www.psdesign.net.au
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 AND WE WILL PROVIDE YOU WITH THE BEST
 SOLUTIONS FOR YOUR BUSINESS.
 WE ARE COMMITTED TO A FULLY INTEGRATED
 APPROACH TO DESIGN AND CONSTRUCTION.
 CONTACT US TODAY TO DISCUSS YOUR PROJECT
 AND WE WILL PROVIDE YOU WITH THE BEST
 SOLUTIONS FOR YOUR BUSINESS.

NORTH POINT



SITE NOTES
 1. CONSULT WITH LOCAL AUTHORITY FOR PERMITS.
 2. VERIFY ALL DIMENSIONS AND LEVELS TO BE
 USED IN CONSTRUCTION.
 3. THE LOCATION OF UNDERGROUND SERVICES
 SHOULD BE VERIFIED BEFORE CONSTRUCTION.
 4. THE FINISH LEVELS SHOULD BE CHECKED
 THROUGHOUT CONSTRUCTION.
 5. ALL MATERIALS SHOULD BE APPROVED BY
 THE ARCHITECT.
 6. THE CONTRACTOR SHOULD BE RESPONSIBLE
 FOR OBTAINING ALL NECESSARY PERMITS.
 7. ALL WORK SHOULD BE COMPLETED
 WITHIN THE SPECIFIED TIME FRAME.
 8. THE CONTRACTOR SHOULD BE RESPONSIBLE
 FOR OBTAINING ALL NECESSARY PERMITS.
 9. ALL WORK SHOULD BE COMPLETED
 WITHIN THE SPECIFIED TIME FRAME.
 10. THE CONTRACTOR SHOULD BE RESPONSIBLE
 FOR OBTAINING ALL NECESSARY PERMITS.

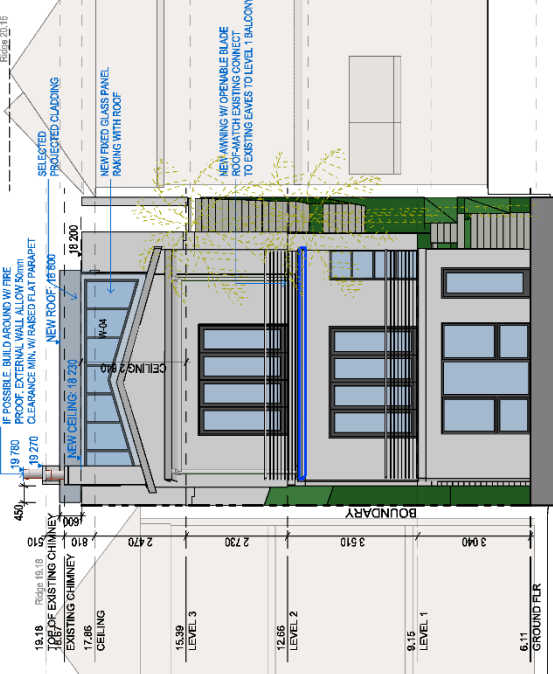
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CLIENT REF.	REFRESH RENOVATIONS
DATE DRAWN	17/03/2021
DRAWN BY	CS
CHECKED BY	CS
DATE	17/03/2021
SCALE	1:100

PROJECT STAGE
 DEVELOPMENT APPLICATION
 CLIENT DETAILS
REFRESH RENOVATIONS

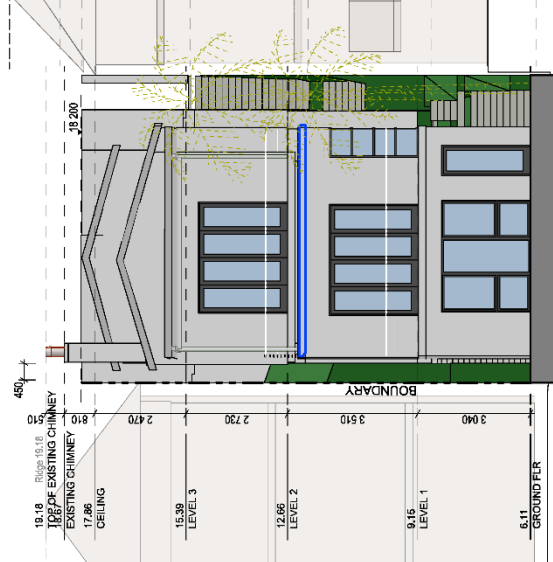
PROJECT DETAILS
 11 PHOENIX ST. BALMAIN NSW 2041
 LOT 1 / DP67199

ALTERATION & ADDITION

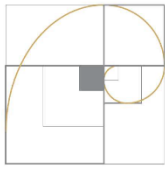
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 DRAWN BY CS
 DESIGNED BY CS
 PROJECT NO. 20065
 DATE DRAWN 17/03/2021
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02 NORTH-WEST PROPOSED ELEVATION 1:100



01 NORTH-WEST EXISTING ELEVATION 1:100



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REFRESH
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CENTREFRESH RENOVATIONS PTY LTD
 165/170-172 DUNDAS ST W BALMAIN NSW 2041
 NSW
 ALL WORKS AND MATERIALS TO BE SUPPLIED BY THE CONTRACTOR
 IN ACCORDANCE WITH THE REQUIREMENTS OF THE LOCAL GOVERNMENT
 ENGINEERING DEPARTMENT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR
 OBTAINING THE NECESSARY PERMITS AND APPROVALS.
 THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING THE NECESSARY
 PERMITS AND APPROVALS.
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 PERMITS AND APPROVALS.
 THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING THE NECESSARY
 PERMITS AND APPROVALS.



SITE NOTES

CONTRACTOR TO VERIFY ALL DIMENSIONS AND LOCATIONS OF EXISTING SERVICES INCLUDING BUT NOT LIMITED TO ELECTRICAL, PLUMBING AND MECHANICAL SERVICES TO BE MAINTAINED OR REPLACED.
 THE PLANNING OFFICER TO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS AND APPROVALS.
 THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS AND APPROVALS.
 THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS AND APPROVALS.

PROJECT NO.	CS	20065
DESIGNED BY	CS	
DRAWN BY	CS	
DATE DRAWN	17/05/2021	
PAGE NO.	16	OF 29
SHEET SIZE	A3	

PROJECT STAGE
 DEVELOPMENT APPLICATION
 CLIENT DETAILS

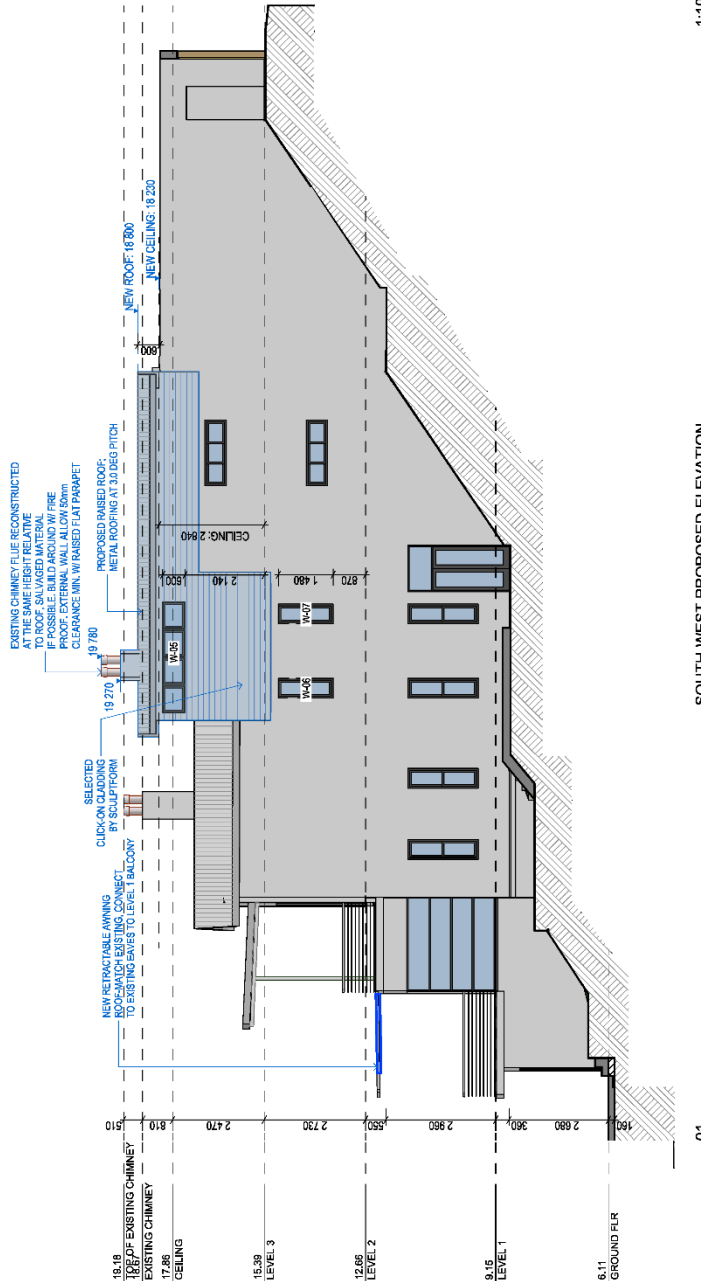
REFRESH
 RENOVATIONS

PROJECT DETAILS
 11 PHOENIX ST. BALMAIN NSW 2041
 LOT 1 / DP67199

ALTERATION & ADDITION

PROJECT NO. CS 20065
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 DATE DRAWN 17/05/2021
 PAGE NO. 16 OF 29
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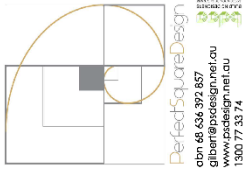
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SOUTH-WEST PROPOSED ELEVATION

01

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SITE NOTES

- CONFIRM ALL EXISTING SERVICES TO BE PRESERVED AND TO BE INCORPORATED INTO THE NEW DESIGN.
- THE PLANNING LISTED BUILDING STATUS MUST BE MAINTAINED THROUGHOUT THE PROJECT.
- THE BASIC LOCATION OF UNDERGROUND SERVICES MUST BE IDENTIFIED AND PRESERVED.
- THE PLANNING LISTED BUILDING STATUS MUST BE MAINTAINED THROUGHOUT THE PROJECT.
- THE PLANNING LISTED BUILDING STATUS MUST BE MAINTAINED THROUGHOUT THE PROJECT.

NO.	DESCRIPTION	DATE
01	CONCEPT SKETCH	15 OCT 2019
02	CONCEPT SKETCH	15 OCT 2019

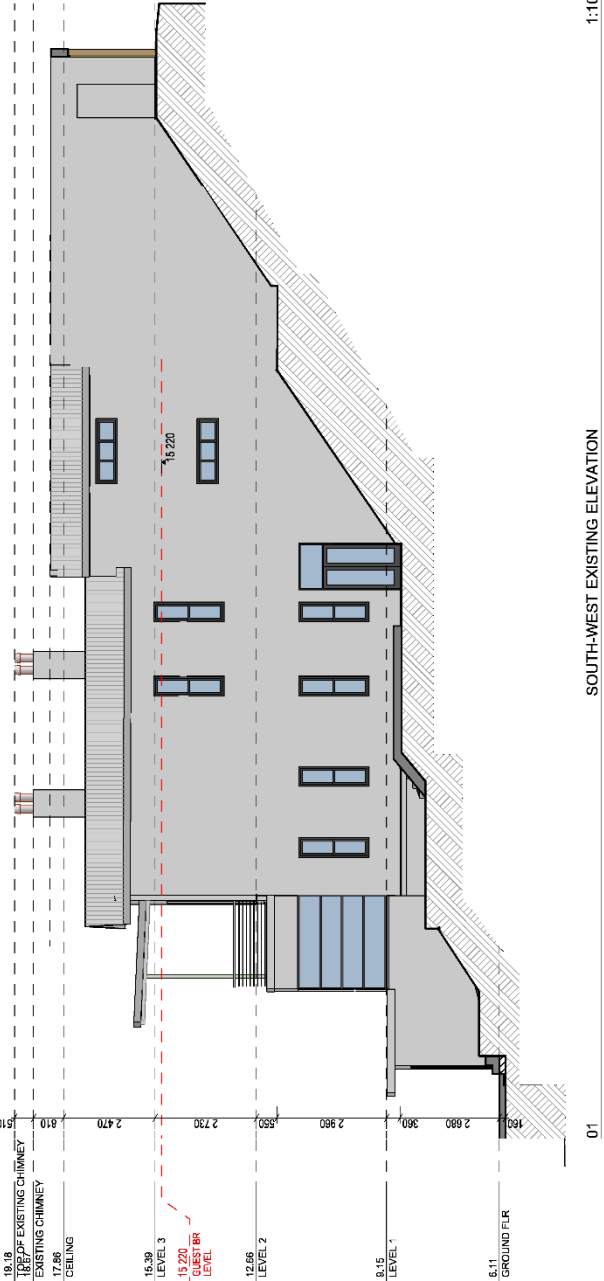
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PROJECT DETAILS
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 LOT 1 / DP627199

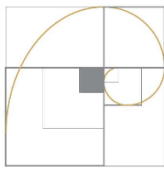
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DRAWN: JC, DESIGNED: CS, PROJECT NO: 20065
 DATE DRAWN: 17/06/2019, PAGE NO: 15 OF 29, SHEET NO: A3



01 SOUTH-WEST EXISTING ELEVATION 1:100

01 SOUTH-WEST EXISTING ELEVATION 1:100



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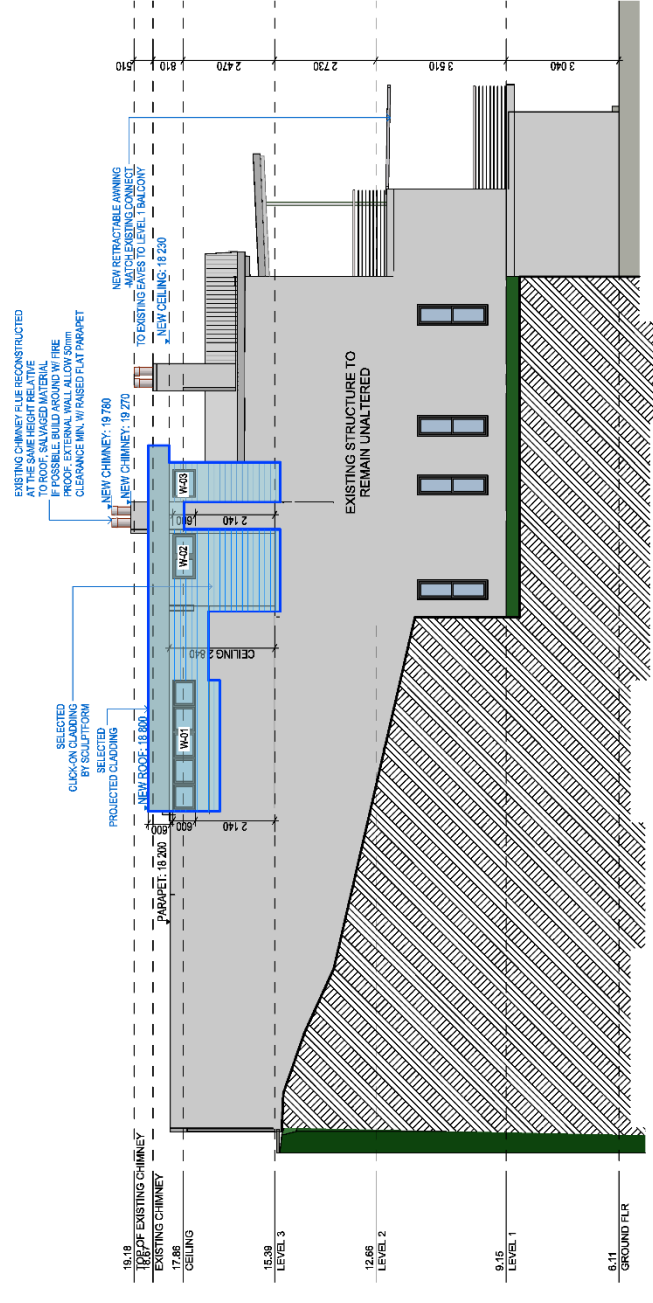
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PROJECT NAME	LOT 1 / DP67199
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CHECKED BY	CS
DATE CHECKED	17/05/2021
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PROJECT STAGE: DEVELOPMENT APPLICATION
 CLIENT DETAILS: REFRESH RENOVATIONS
 PROJECT DETAILS: 11 PHOEBE ST. BALMAIN NSW 2041
 LOT 1 / DP67199

ALTERATION & ADDITION
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 PROJECT NO.: 20065
 DATE DRAWN: 17/05/2021
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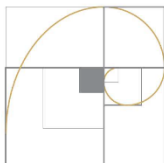
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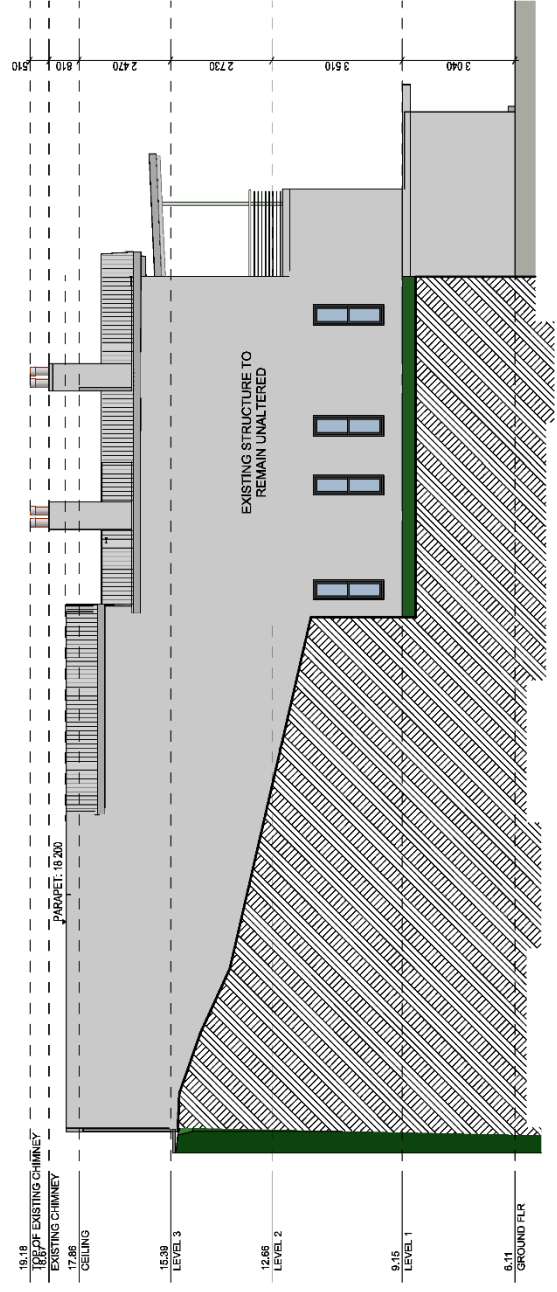
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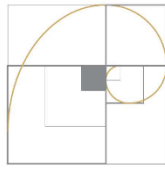
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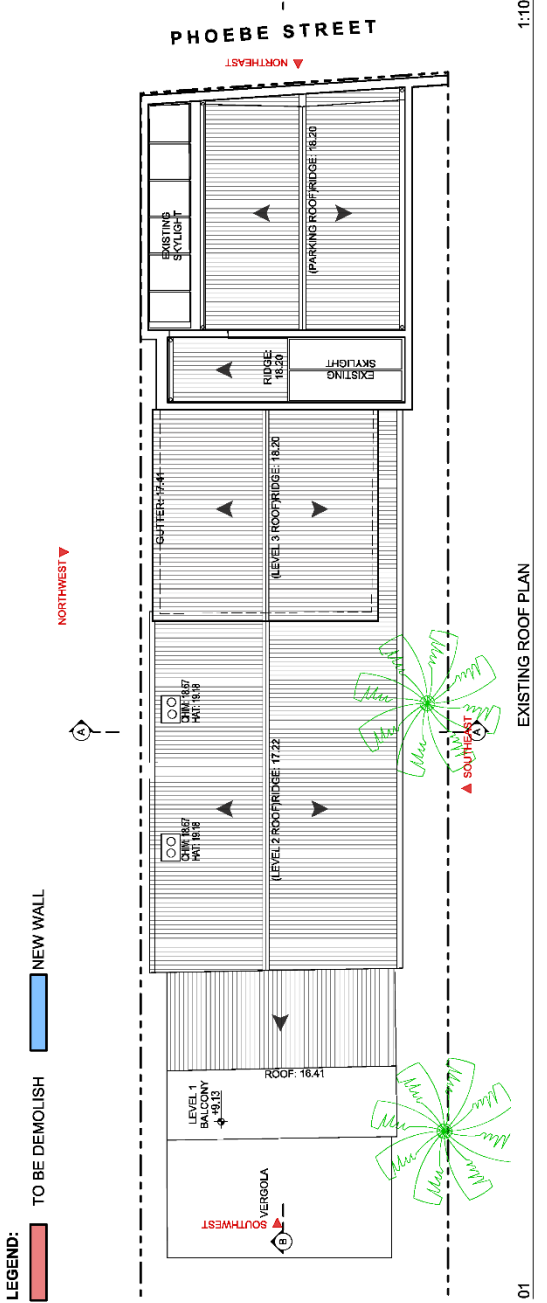


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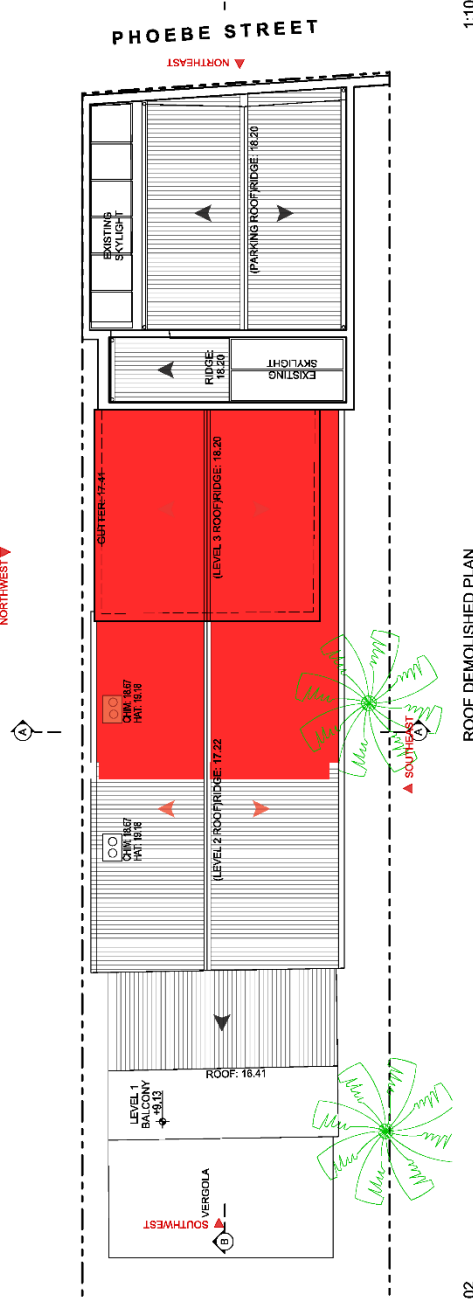


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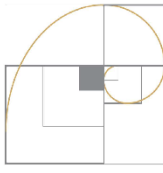


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PROJECT STAGE: DEVELOPMENT APPLICATION
CLIENT DETAILS: REFRESH RENOVATIONS
PROJECT DETAILS: 11 PHOEBE ST. BALMAIN NSW 2041, LOT 1 / DP467199
ALTERATION & ADDITION



DATE DRAWN: 17/05/2021
DRAWN: JC
DESIGNED: CS
PROJECT NO: 20065
PAGE NO: 10 OF 29
SHEET SIZE: A3

NOTE: GROUND FLOOR TO REMAIN UNALTERED



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SITE NOTES

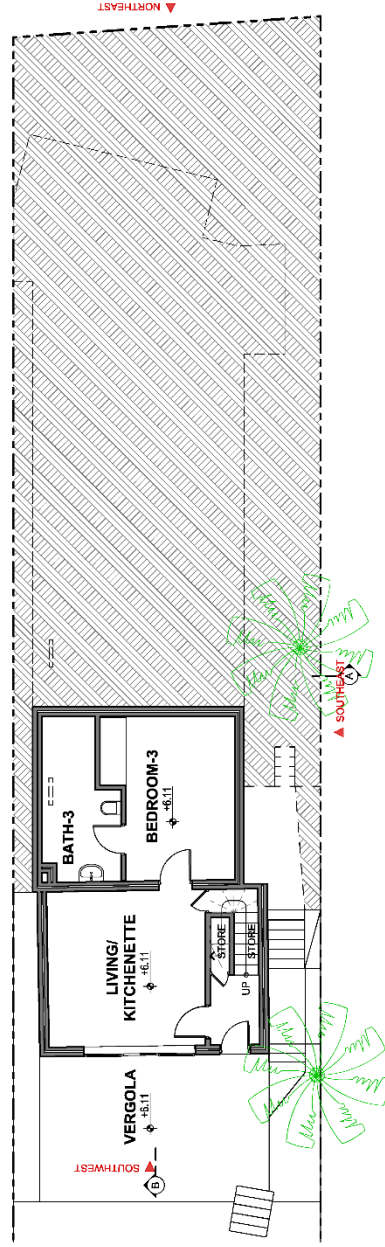
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PROJECT/STAGE: DEVELOPMENT APPLICATION
CLIENT/DETAILS: REFRESH RENOVATIONS

PROJECT DETAILS: 11 PHOENIX ST, BALMAIN NSW 2041
LOT 1 / DP627199

ALTERATION & ADDITION

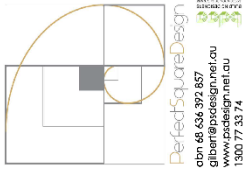


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17/08/2021

GROUND FLR EXISTING PLAN

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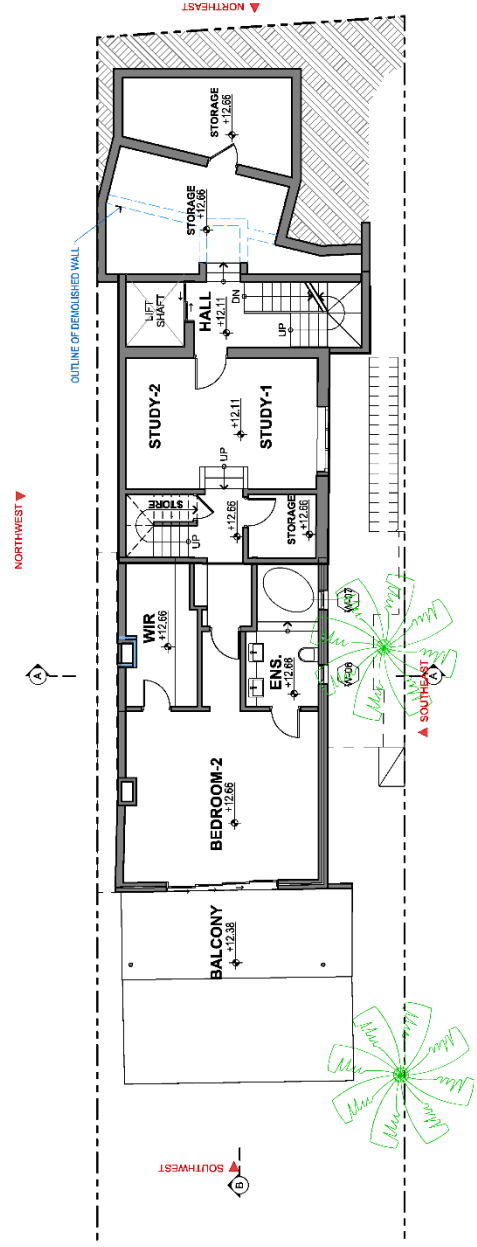
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CHECKED	CS
DATE	11/06/2021

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 BY JC
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PROJECT DETAILS
 11 PHOENIX ST, BALMAIN NSW 2041
 LOT 1 / DP627199
ALTERATION & ADDITION

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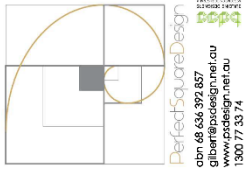


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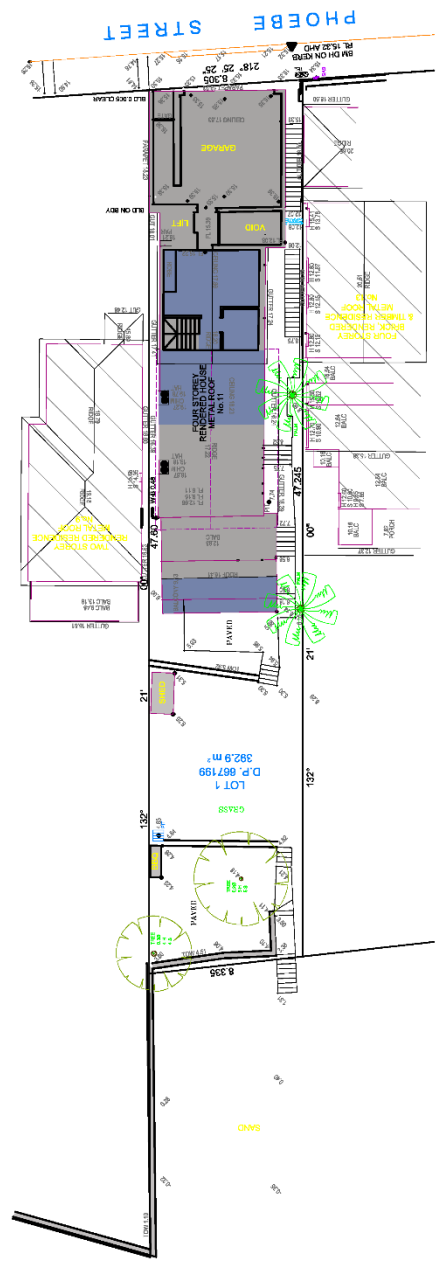
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CLIENT DETAILS	LOT 1 / DP67199
PROJECT STAGE	DEVELOPMENT APPLICATION
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CLIENT DETAILS	LOT 1 / DP67199
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CLIENT DETAILS	REFRESH RENOVATIONS

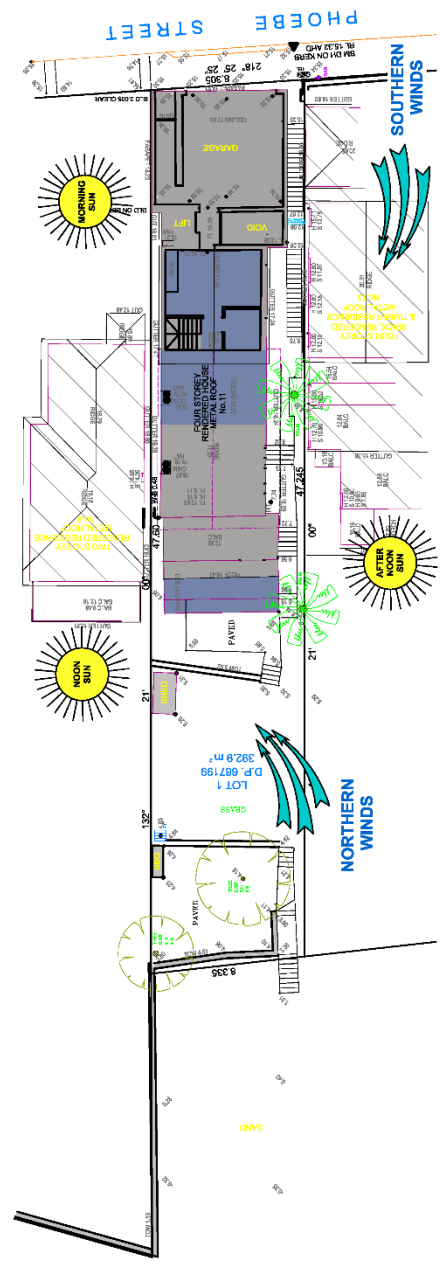
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DATE DRAWN	17/03/2021	PAGE NO.	3 OF 27	SHEET SIZE	A3
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LEGEND: PROPOSED ALTERATION & ADDITION



01 SITE PLAN 1:200



01 SITE ANALYSIS 1:200

Attachment D – Clause 4.6 Exception to Development Standards



**Request to Vary Floor Space Ratio Under Clause 4.6 of
Leichhardt Local Environmental Plan 2012**

**Proposed Alterations and Additions at
11 Phoebe Street, Balmain**

July 2022



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Disclaimer

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Introduction

This request made under Clause 4.6 of the Leichhardt Local Environmental Plan 2013 accompanies a proposal for alterations and additions at 11 Phoebe Street, Balmain. It should be read in conjunction with the Statement of Environmental Effects prepared by Navon Planning. The proposal involves a variation to Clause 4.4 floor space ratio (FSR) under the Leichhardt LEP 2013. This revised report is in response to Council's request for additional information on 8 June 2022 and is based on the latest plans prepared by Perfect Square Design and survey prepared by Benchmark Surveys. This request to vary the development standard is considered appropriate for the proposal as will be discussed below. The proposal does not involve any other development standard variations.

The Site and Surrounding Area

The site is a regular shaped allotment accessed from Phoebe Street. The site has a width of 8.305m to Phoebe Street and rear boundary of 8.33m. The site has an eastern boundary of 46.7m, a western boundary of 47.25m, a front width of 8.305m and a rear width of 8335m to form a total site area of 392.9sqm. The legal description of the site is Lot 1 DP 667199 and the site has a steep slope from the front to the rear of approximately 11m. The existing dwelling is split over four levels and comprises two conventional bedrooms, 3.5 bathrooms, kitchen/living area, a study, double garage and a lift.

When viewed from the street, the dwelling appears as a single storey building and the dwelling has the lowest roofline between 7 and 13 Phoebe Street. Adjoining the site to the east is a two storey dwelling and to the west is a four storey dwelling. The surrounding area is characterised by established attached and detached dwellings and multi-level residential flat buildings. The Balmain local centre is approximately 200m south east of the site and 2km north west of Sydney CBD.

The Proposed Variation

The Leichhardt LEP 2013 include provisions for exception to development standards as follows.

4.6 Exceptions to development standards

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

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



- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*

In accordance with Clause 4.6 (4)(a)(i), this written request addresses the matters required to be demonstrated by Clause 4.6 (3) relating to the proposed variation to the floor space ratio (FSR). The FSR provisions of the Leichhardt LEP 2013 in 4.4 read as follows:

4.4 Floor space ratio

- (2) *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.*
- (2B) *Despite subclause (2), the floor space ratio for development for the purpose of residential accommodation—*
- (a) *on land shown edged black or pink on the Floor Space Ratio Map is not to exceed—*
 - (i) *in the case of development on a lot with an area of less than 150 square metres—0.9:1,*



According to Clause 4.5(2) of the Leichhardt LEP 2013, *the floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.*

According to the Leichhardt LEP 2013, *the gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:*

- (a) the area of a mezzanine, and*
- (b) habitable rooms in a basement or an attic, and*
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,*

but excludes:

- (d) any area for common vertical circulation, such as lifts and stairs, and*
- (e) any basement:*
 - (i) storage, and*
 - (ii) vehicular access, loading areas, garbage and services, and*
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and*
- (h) any space used for the loading or unloading of goods (including access to it), and*
- (i) terraces and balconies with outer walls less than 1.4 metres high, and*
- (j) voids above a floor at the level of a storey or storey above.*

The proposal seeks an FSR of 0.91:1 (357sqm) and varies from Council's maximum FSR of 0.8:1 (314.32sqm) by 13.6% (42.68sqm). It is recognised the existing dwelling comprises an existing variation of 6.8% (21.58sqm). A summary of the existing and proposed FSR appears below.

Site area: 392.9sqm
Max FSR: 0.8:1 (314.32sqm)
Existing GFA: 335.9sqm
Existing FSR: 0.85:1
Additional GFA: 21.1sqm (Only on level 3)
Total Proposed GFA: 357sqm
Total Proposed FSR: 0.91:1



Figure 1 shows how the existing and proposed GFA was calculated as per the amended plans. There is a slight difference to the calculations due to the updated survey. The additional floor space will only be located on level 3 and there is no change to other levels. It also reveals the extent of the existing variation associated with the dwelling.



Figure 1: Existing GFA and the proposed GFA shown in light blue

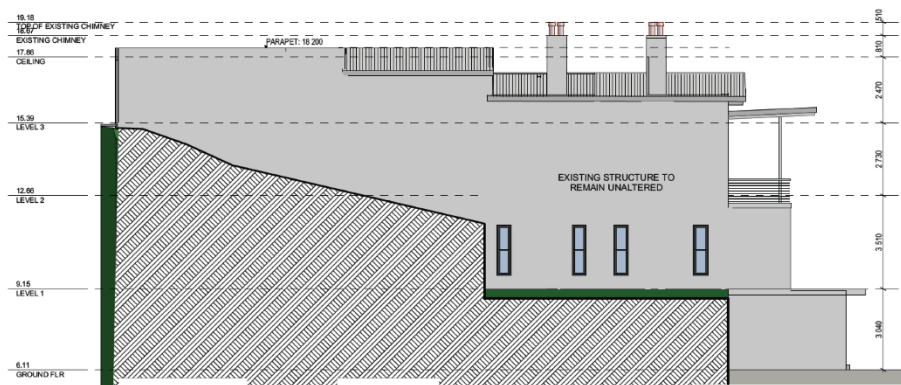


Figure 2: Existing north-east elevation

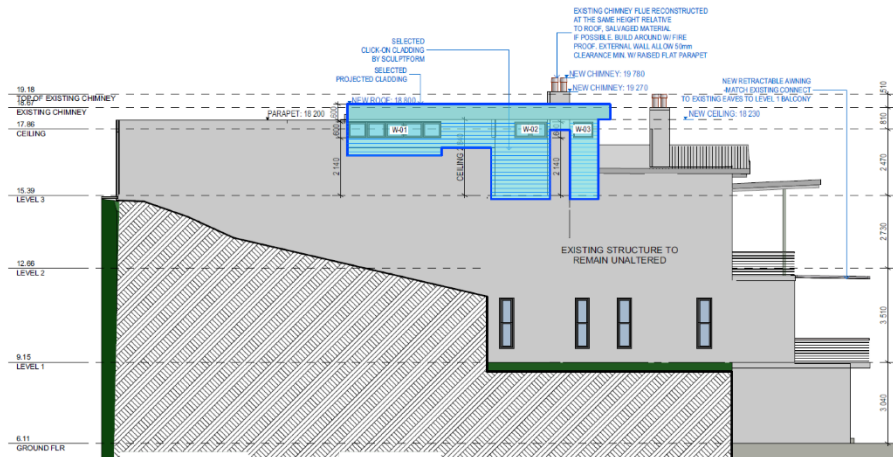


Figure 3: North east elevation showing the proposed addition in blue

The assessment in this report addresses the Clause 4.6 criteria demonstrating the proposed floor space ratio:

- is consistent with the objectives of the floor space ratio development standard
- is consistent with the objectives of the R1 General Residential zone
- is consistent with State and regional policies
- results in a better planning outcome
- is justified on environmental grounds
- is in the public interest

Consistent with the Floor Space Ratio Objectives

Clause 4.4 of the Leichhardt LEP 2013 includes objectives for the floor space ratio standard. These objectives are addressed in relation to the proposal 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



Comment: As per the submitted plans and Figures 1-2 above, the proposed variation does not impact upon the predominant bulk, scale, streetscape or character of the surrounding area. The proposed FSR variation maintains the low density residential character of the site and surrounding area. The amenity of the site and surrounding heritage conservation area is maintained to an appropriate standard.

(ii) provides a suitable balance between landscaped areas and the built form, and

Comment: The proposed works are generally confined to the existing building envelope and do not reduce the existing landscaping. The proposed rear additions are compatible with the site and surrounding properties, while providing a more functional internal space on the top level for the residents.

(iii) minimises the impact of the bulk and scale of buildings,

Comment: The proposal including the variation to FSR has been skilfully designed without creating unreasonable bulk and scale impacts. Considering the site slope and other dwellings within the vicinity of the site, the proposal represents a similar form. The building retains the appearance as a single storey from the streetscape and the overall height is raised by 600mm only at the rear portion of the building subject to the addition (Refer to Figure 2 above).

(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.

Comment: The proposal relates to a residential dwelling and therefore this objective is not relevant.

Consistent with the R1 General Residential Zone Objectives

These objectives in relation to the proposal are addressed below.

- *To provide for the housing needs of the community*

Comments: The proposed FSR variation addresses the need for housing that suits contemporary lifestyles. The additional space will provide a bedroom for a person in a wheelchair when this level becomes wheelchair friendly as a result of the proposed alterations. The proposal accommodates



the housing needs of the residents and improves living areas and amenity particularly in the provision of improved natural lighting, ventilation and internal access to the top level.

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

Comments: The proposed FSR variation maintains the existing single dwelling house and provides a more functional internal layout given the number of levels. The improved housing choice maintains a consistent building form and character of the surrounding heritage conservation area.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents*

Comments: The proposed residential alterations and additions relates to a dwelling and no other land use.

- *To improve opportunities to work from home*

Comments: The proposed additional GFA enables more opportunities for the residents 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*

Comments: The proposal is consistent with the orientation, style, and character of the surrounding area as outlined by Council's provisions. The building envelope proposed is located and scaled in a manner that is consistent with Council's provisions for the heritage conservation area. The proposal also maintains the single storey appearance when viewed from Phoebe Street.

- *To provide landscaped areas for the use and enjoyment of existing and future residents*

Comments: The proposal does not require the removal of any landscaping.

- *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*



Comments: The proposal does not involve subdivision.

- *To protect and enhance the amenity of existing and future residents and the neighbourhood*

Comments: The proposal maintains reasonable amenity to the site and surrounding area. The proposed privacy, solar access, outlook and view sharing outcomes of the site and surrounding area are maintained.

Consistent with State and Regional Policies

The proposed variations ensure the site can achieve a high quality outcome without compromising the desired future character or the amenity of the surrounding area. The proposal is consistent with the objects of the Environmental Planning and Assessment Act 1979 and with relevant state and regional policies.

Results in a Better Planning Outcome

The proposal is expected to generate a better planning outcome for the following reasons:

- The proposed variation to the FSR improves the internal amenity for the future residents without any significant impacts to the amenity of adjoining properties.
- The distribution of the additional GFA on the top level enables the building to maintain the existing building footprint, rather than having to increase the footprint towards the rear.
- The proposal also allows the site to maintain the existing landscaped area and therefore does not impact the external amenity for the owners.
- The addition enables the building to remain as a single storey when viewed from Phoebe Street, compared to an additional level which would create an undesirable streetscape.
- The proposed variation is considered to be appropriate within the heritage conservation area as supported by the Heritage Impact Statement prepared by Touring the Past.
- The proposed density is commensurate with the future character of the surrounding area.
- The proposed FSR variation accommodates the liveability and adaptability of the dwelling to the contemporary needs and choice of the residents.



Justification on Environmental Grounds

The proposal comprises necessary upgrades to the existing dwelling. The following environmental planning grounds are sufficient in justifying the proposed variation of the FSR provisions:

- The proposed FSR variation is confined to the rear of the dwelling and is distributed in a manner that maintains a suitable bulk and scale of the surrounding area. The dwelling maintains its presentation to Phoebe Street as a single storey dwelling.
- The proposed FSR variation is distributed in a manner that maintains the privacy of residents on adjoining properties. The proposed floor area is designed in a manner that maintains complying setbacks, with windows and areas that avoid direct outlook of adjoining properties.
- The proposed FSR variation is distributed in a manner that maintains view sharing and outlook opportunities of nearby dwellings. The proposed rear extension is located in a manner consistent with the prevailing building pattern of the streetscape and surrounding residential area.
- The proposed FSR is contained within the existing building footprint thereby no landscaping will be removed from the site, consistent with the landscaped setting of the surrounding area.
- No unreasonable shadowing impacts are proposed by the variation as demonstrated in Figure 3 below.

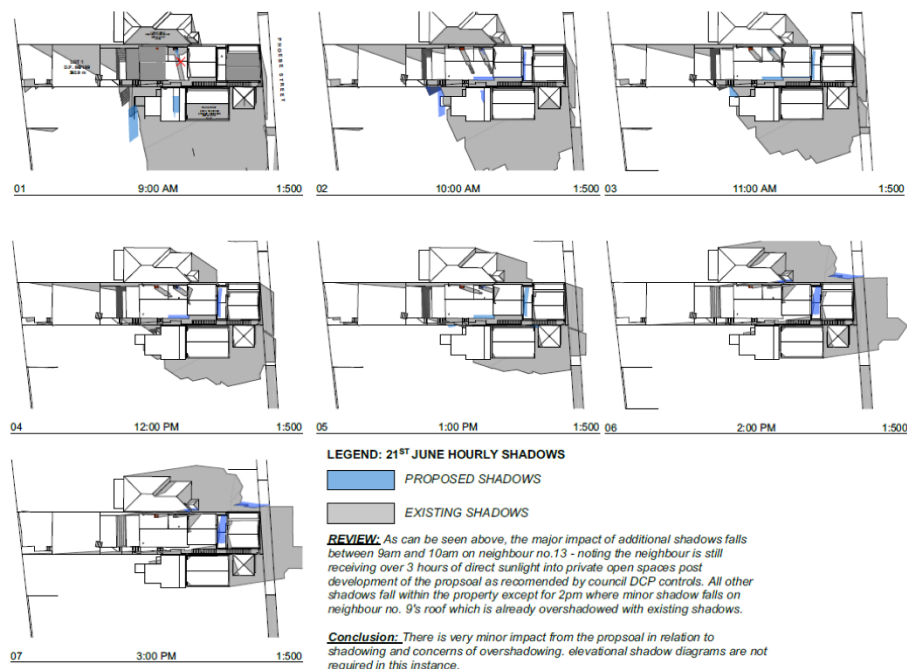


Figure 3: Existing and proposed shadowing

Is in the Public Interest

The proposal and associated variation to the FSR is in the public interest. The proposal provides improved internal and external amenity for the residents converting the home to a conventional three bedroom residence. The variation is accommodated without generating any significant impacts to the adjoining amenity or public domain.

Unreasonable and Unnecessary Floor Space Ratio Development Standard

Wehbe v Pittwater Council (2007) NSWLEC 827 sets out the methods of establishing why compliance with the development standards are unreasonable or unnecessary. The application of the floor space ratio provision to the proposal is considered unreasonable and unnecessary, consistent with for the following reasons:



- The maximum FSR applicable to the site is unreasonable and unnecessary given there is an existing approved variation of 6.8% (21.58sqm). It is therefore unreasonable to expect the proposal to fully comply with FSR.
- The FSR standard is unreasonable because it does not consider the consistency and compatibility of the proposal with the streetscape and character of the surrounding area.
- The strict application of the FSR standard does not consider the capacity of the proposal to maintain a bulk and scale that will suit the surrounding area. Maintaining the single storey presentation to Phoebe Street is consistent.
- The strict application of the FSR standard does not consider the proposal maintaining reasonable amenity to the site and surrounding area. The proposal maintains the low-density residential character, and reasonable amenity of the site and adjoining properties.
- The proposal including the FSR variation maintains the existing landscaping.
- The room that is currently labelled as "Library" is unsuitable as a 3rd bedroom as it was not designed with four walls or a door and is directly adjacent to the front door/lift door. It is the only internal access to the house other than the lift. The architecture of the space provides no auditory or visual privacy. While the dwelling is spacious overall, it has only two functional bedrooms, one three levels below. As such, the maximum FSR does not consider the existing internal design issues.
- As a consequence of Council requiring the level of the garage to be raised to its planned footpath levels to provide consistency on the street in a previously approved DA, a step down of 180mm was therefore required to access the existing guest room from the street/entry/garage. The aim of this current DA is to convert the currently awkward space into an efficient wheelchair accessible guest room. Differently abled residents and visitors could then gain access to the dwelling from the street level, utilise the entire third level, access the wheelchair-accessible lift and the family spaces on the level below. Therefore, the maximum FSR is unreasonable and unnecessary in light of the existing site conditions.



Conclusion

Based on the above assessment, the proposal at 11 Phoebe Street, Balmain can achieve full compliance with the objectives and intentions of both Clause 4.4 Floor space ratio and the R1 General Residential zone under the Leichhardt LEP 2013. This report also validates the proposal can be justified to provide a better planning outcome and the floor space ratio standard applicable is unreasonable and unnecessary given the existing site conditions and the desired future character of Balmain.

The proposal will not lead to unreasonable amenity impacts to the surrounding residential properties in terms of bulk, scale, privacy and overshadowing. The proposed alterations and additions have been designed to provide a high standard of internal amenity for the residents and will preserve the heritage conservation area. The proposed FSR variation should therefore be considered favourably by Council.

Attachment E – Heritage Significance

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Area 13 Iron Cove Conservation Area

Landform

A northwest facing shoreline area, running from Victoria Road along the back of the Darling Street commercial zone and the Darling Street ridge to Rowntree Street and Cove Street. There are some relatively steep shoreline areas providing views to the Parramatta River, and a central flat plateau area around Turner Street.

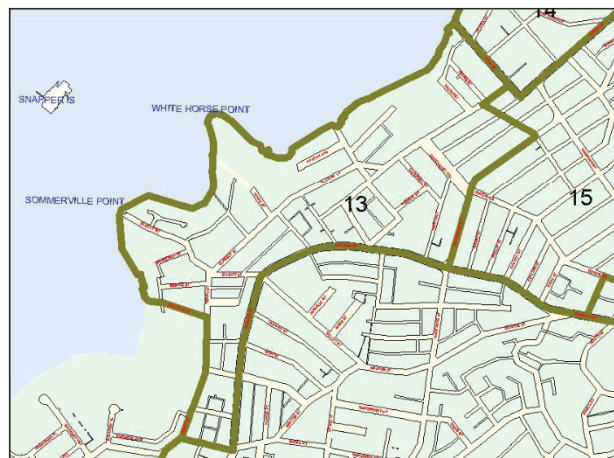


Figure 13.1 Iron Cove Conservation Area Map.

History

When sales of John Gilchrist's Balmain grant of 550 acres were resumed in 1852, Surveyor Charles Langley subdivided the remaining acres into 46 (later 47) sections. He used existing routes such as Darling Street and Birchgrove Road, and other contour-hugging tracks, such as Terry Street/Glassop Street to delineate the parcels. The sections were purchased over the next thirty years by wealthy investors, local speculators and builders.

A group of busy speculators, William Paling, FH Reuss, Alfred Hancock, John Booth, George Weston, Owen Evans and others bought up the tract of land that stretched along the waterfront from Cove Street to just beyond Bayville Street, and broadly bounded by Birchgrove Road and Glassop Street. These same speculators were also involved in land from Darling Street down to Rozelle Bay, including much of the very densely developed area now known as The Valley. The remainder of the area was bought up in a similar fashion and subdivision of the Iron Cove area stretched over twenty-four years from 1853 to 1877. By 1891 the streets that laced this precinct were largely built up. Some steep parcels of land, because of their deep water frontages, were taken up initially for small water-based industries, which expanded over the twentieth century.

A large area of Housing Commission flats was constructed near the waterfront in the early postwar years.

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Sources

Information provided by Max Solling.

Significant Characteristics

- Contour hugging main access roads.
- Many irregular, narrow and wide minor roads.
- Stone steps providing public pedestrian access.
- Trees and street tree planting particularly noticeable along Glassop and Cove Streets and Macquarie Terrace.
- Elkington Park – mature trees, palm trees and Edwardian plantings.
- Irregular-shaped sections of subdivisions.
- Narrow allotments, with groups of allotments of uniform width.
- Buildings set back from the street alignment.
- Groups of shops along Darling Street with parapets and awnings.
- Corner shop buildings and other former commercial buildings.
- Garden space small, but a noticeable characteristic.
- Variety of housing:
 - terrace and semi-detached housing with groups of uniform development; and
 - some free-standing housing and Victorian villas.
- Landmarks: the Birchgrove Public School and the Elkington Park (with the Dawn Fraser Swimming Pool) are noticeable places within the area and visible from the harbour.
- Building materials vary:
 - plastered brick (generally pre-1890) and pockets of face brick (generally post-1890);
 - some timber cottages; and
 - occasional stone cottage or villa.
- Roofs of terracotta tiles, slate and iron.
- Fences – low or transparent fences: some iron palisade fences remain; early twentieth-century low brick fences contemporary with house.
- Sandstone kerbs and gutters, mostly uninterrupted by vehicular access.

Statement of Significance or Why the Area is Important

- One of a number of conservation areas that collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). This area is important for

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illustrating development particularly from 1870s-1910s, and this forms the major element of its identity, with later pockets of infill prior to World War II (ie pre-1939).

- Through the route of its main access roads, demonstrates the subdivision sections, closely related to the landform, drawn up by Surveyor Langley for the sale of Gilchrist's Balmain grant after 1852.
- Illustrates through its irregular small street layout, and varied allotment width and length (within a limited range), the many different groups of speculators and subdividers involved in the development of the area.
- Through the materials of its outer masonry walls, demonstrates the rapid advances in brick making in the Sydney area over the period 1870s-1910s.
- Through its now rare weatherboard buildings it continues to demonstrate the nature of that major construction material in the fabric of early Sydney suburbs.

Management of Heritage Values

Generally

This is a conservation area. Little change can be expected other than modest additions and discrete alterations. Buildings which do not contribute to the heritage significance of the area may be replaced with sympathetically designed infill.

Retain

- existing width and alignment of the streets: avoid chicanes which cut diagonally across the carriageways.
- All remaining sandstone kerbs and gutters, uninterrupted by access driveways.
- All pre-1939 buildings and structures, especially weatherboard buildings.
- All original plaster finishes to external walls (as a rough rule of thumb this will mostly apply to pre-1890s buildings). Reconstruct where necessary.
- All original unplastered face brick external walls (usually applies to post-1890s buildings).
- All original external architectural detail, and encourage replacement of lost elements, but only where evidence is available.
- Any remaining original iron palisade or low brick fences.
- All street planting schemes and park planting; reinstate individual trees where they have been lost.
- Green front garden space.

Avoid

- Demolition of any pre-1939 building, especially timber buildings.

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- Removal of any plaster or decorative plaster to external walls, except where it is to remove more recent plaster/paint on face brick walls.
- Plastering and/or painting of original face brick walls.
- Removal of original architectural details.
- Second-storey additions to an original single-storey building, other than in a separated pavilion form.
- Alteration to the original roof form over the main part of any building.
- Additional architectural detail for which there is no evidence in the photographic record or on the building itself.
- Inappropriate fences such as high brick fences/walls, new iron palisades on high brick bases.
- Interruption of the kerb and gutter line for vehicular access.
- Development that encroaches upon the setting of important buildings/parks.