





INNER WEST

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA/2023/0395
Address	6 William Street BALMAIN EAST NSW 2041
Proposal	Alterations and additions to existing dwelling
Date of Lodgement	25 May 2023
Applicant	Jamie L Lovell
Owner	Jamie L Lovell
Number of Submissions	1
Value of works	\$35,000.00
Reason for determination at Planning Panel	Section 4.6 variation exceeds 10% (Landscaped Area)
Main Issues	Landscaped Area Development Standard breach
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Section 4.6 Exception to Development Standards
Attachment D	Heritage Impact Statement



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to the existing dwelling, internal and external reconfigurations including extension of rear deck and new planter structure to the southern elevation at 6 William Street, Balmain East.

The application was notified to surrounding properties and 1 submission was received in response to the initial notification.

The main issues that have arisen from the application relate to the landscaped area development standard non-compliance. This has been considered to be acceptable given the proposed design enables retention of the existing mature Lemon Scented Gum tree at the rear of the site while providing a usable courtyard space including raised garden beds and therefore the application is recommended for approval.

2. Proposal

The subject Development Application is for the following:

- Internal works at the ground and first floor level, including new handbasin to WC, replacement of bookshelves, internal AC units, new built in wardrobe to existing bedroom 1, new cupboards to existing bedroom 2, minor bathroom refurbishment.
- External works include removal of the water pond, raising the existing deck area in the rear courtyard by 485mm, extension of the existing deck in place of the existing pond area, reconfiguration of BBQ area at rear deck.
- Raised garden bed at rear boundary.
- Provision of AC unit to underside of existing deck.

As a result of the proposed garden bed works within the rear garden, the proposal will reduce existing soft landscaping. Notwithstanding this, the proposed raised garden bed reduces potential impacts on the existing Lemon Scented Gum tree adjacent.

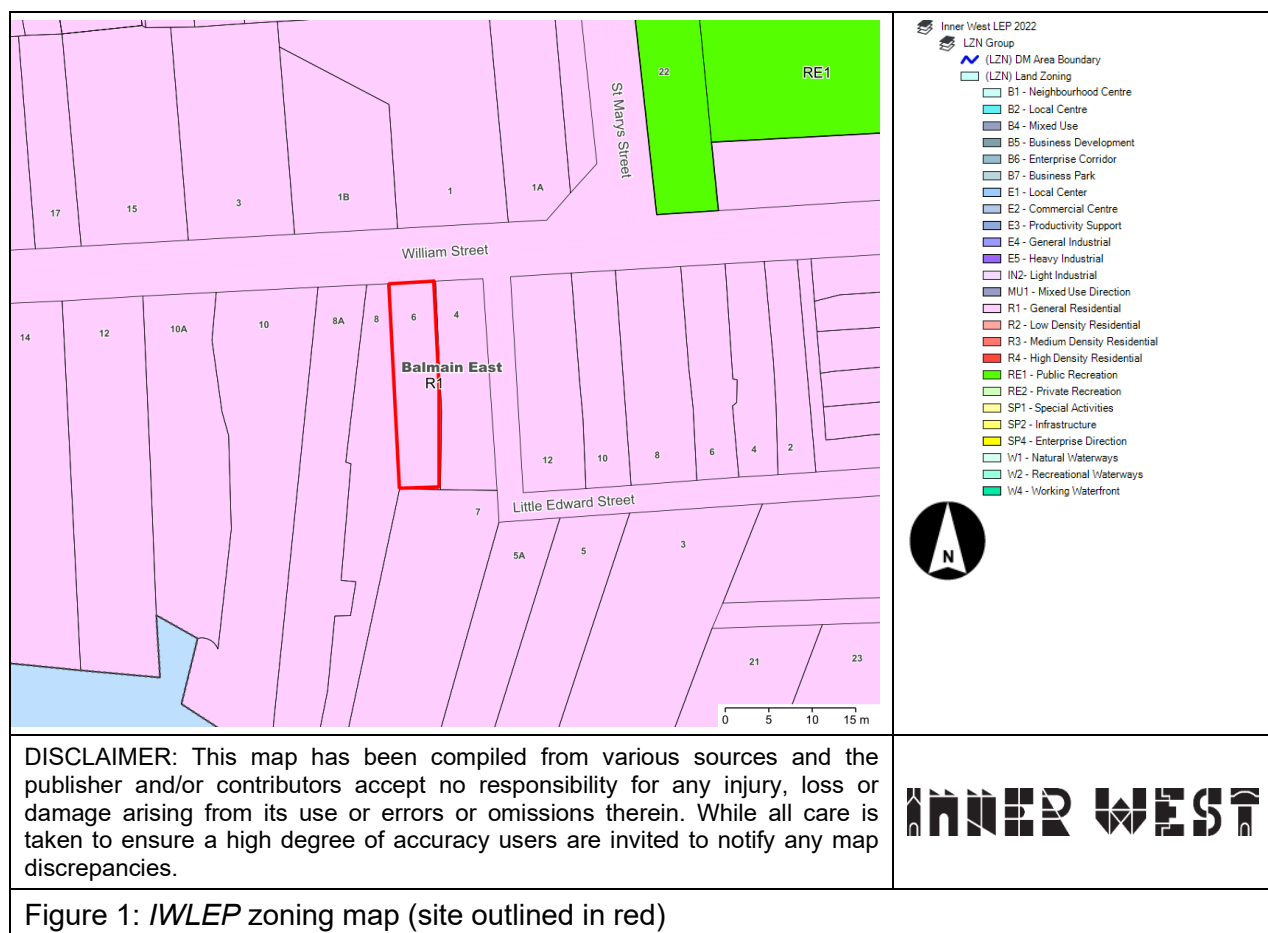
3. Site description

The subject site is located on the southern side of William Street, between Johnston Street and Edward Street. The site consists of No. 6 William Street, Balmain East, which is generally a rectangular shaped allotment with a total area of 120.2sqm and is legally described as Lot 2 in DP 555807.

The site has a frontage to William Street of 5.045 metres and currently supports a two storey semi detached terrace dwelling, which forms part of a pair with No. 8 William Street. The dwelling contains three bedrooms. At the rear of the site is an existing courtyard area with a deck which is in poor condition.

The subject site is listed as a heritage item (Terrace including interiors, Lot 2 DP 555807). The property is located within the Balmain East Heritage Conservation Area. The subject site is zoned R1 General Residential pursuant to the *Inner West Local Environmental Plan 2022 (IWLEP)* (see *Figure 1* on the following page).

At the rear of the site is a mature *Corymbia citriodora* (Lemon-Scented Gum). This tree is adjacent to the existing decking.



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
HEC/2022/0131	Removal of modern cabinetry and repainting of interior surfaces.	Approved 24/10/2022
HEC/20220077	Repair works to leaks, including replacement of damaged tiles, bedroom 2 timber framed window and gutter and downpipe to front verandah.	Approved 20/06/2022
PDA/2022/0092	Repair, rectification and potential new works to existing house.	Advice Issued 02/05/2022

4(b) Application history

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

Date	Discussion / Letter / Additional Information
25/05/2023	Application lodged with Council
24/08/2023	Request to submit a Clause 4.6 Request to address landscaped area variation.
30/08/2023	Clause 4.6 Request submitted.

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 (EPA 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*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *Inner West Local Environmental Plan (IWLEP) 2022*

The following provides further discussion of the relevant issues:

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

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 as there is no indication of contamination.

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

The applicant was not required to include a BASIX Certificate as part of the lodgment of the application in compliance with the *EP&A Regulation 2021* as it does not meet the cost threshold.

5(a)(iii) State Environmental Planning Policy (Biodiversity and Conservation) 2021**Chapter 2 Vegetation in non-rural areas**

The protection/removal of vegetation identified under the SEPP and gives effect to the local tree preservation provisions of Council's DCP.

The application proposes works within the vicinity of the existing tree located to the rear of the site, and overall, the proposal is considered acceptable with regard to the SEPP and Inner West Council's Tree Management DCP, subject to conditions regarding prevention of root pruning, damage and certain works within the root zone of the tree being imposed in any consent granted. Those conditions are included in the recommendation.

Chapter 10 Sydney Harbour Catchment

The site is not located within the foreshores and waterways area, a Strategic Foreshore site or listed as an item of environmental heritage under the SEPP and as such only the aims of the plan are applicable. The proposal is consistent with these aims.

5(a)(iv) Inner West Local Environmental Plan 2022 (IWLEP 2022)

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022*:

- Section 1.2 - Aims of Plan
- Section 2.3 - Land Use Table and Zone Objectives
- Section 2.7 – Demolition requires development consent
- Section 4.1 – Minimum subdivision lot size
- Section 4.3C – Landscaped areas for residential accommodation in Zone R1
- Section 4.4 – Floor space ratio
- Section 4.5 – Calculation of floor space ratio and site area
- Section 4.6 – Exceptions to development standards
- Section 5.10 – Heritage conservation
- Section 5.21 – Flood planning
- Section 6.1 – Acid sulfate soils
- Section 6.2 – Earthworks
- Section 6.3 – Stormwater management

Section 2.3 Land Use Table and Zone Objectives

The site is zoned R1 under the *IWLEP 2022*. The *IWLEP 2022* defines the development as a semi-detached dwelling:

Semi-detached dwelling means a dwelling that is on its own lot of land and is attached to only one other dwelling.

The development is permitted with consent within the land use table. The development is consistent with the objectives of the R1 zone, 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 provide residential development that maintains the character of built and natural features in the surrounding area.

Having regard to the above, the proposed works will allow the subject site to continue to provide for the housing needs of the community, as a dwelling house with useable private open space. The proposal will maintain the existing building footprint and envelope, which is appropriate within the surrounding context.

The proposed development will maintain the character of the built and natural features in the surrounding area.

Section 4 Principal Development Standards

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

Standard	Proposal	Non compliance	Complies
Floor Space Ratio Maximum permissible: 0.9:1 or 108.09sqm	1.1:1 or 132.04sqm (as existing)	N/A	No (as existing)
Landscape Area Minimum permissible: 15% or 18.02sqm	5.08% or 6.1sqm	66.5% or 11.92sqm	No – see below
Site Coverage Maximum permissible: 60% or 72.06sqm	91.19% or 110.35sqm (as existing)	N/A	No (as existing)

Section 4.6 Exceptions to Development Standards

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

- Clause 4.3C Landscaped Area

The applicant seeks a variation to the landscaped area development standard under Section 4.3C of the *IWLEP 2022* by 66.5% (11.92sqm).

Section 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 Section 4.6 of the *IWLEP 2022* below.

A written request has been submitted to Council in accordance with Section 4.6(4)(a)(i) of the *IWLEP 2022* justifying the proposed contravention of the development standard which is summarised as follows:

- Compliance is unreasonable or unnecessary on the basis of test 1 under *Wehbe*, in that the proposal satisfies the objectives of the development standard notwithstanding the variation. The proposal also satisfies the objectives of the R1 General Residential zone.
- There are sufficient environmental planning grounds, namely the proposal will enhance the landscape quality of the site with new raised planter beds comprising native and climatically appropriate species and the proposed design will allow retention of the existing mature tree on site. Further, it is noted that the site's capacity to provide landscaping at ground level is constrained by the existing built form and small site area and the proposal is considered to support an appropriate solution.
- The proposed planter beds will not result in amenity impacts to neighbouring properties and will maintain the same area of landscaping as per the *IWLEP*, though the variation is a function of the exclusions under Section 4.3C(4)(b) of the *IWLEP*.
- The proposal will not impact upon the heritage significance of the dwelling.

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

It is considered the development is in the public interest because it is consistent with the objectives of the LR1, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

Objective: *To provide for the housing needs of the community.*

Response: Notwithstanding the technical reduction in soft landscaping, the proposal will improve the useability of the private open space, while maintaining the existing dwelling house. As such, the dwelling will continue to provide for the housing needs of the community.

Objective: *To provide for a variety of housing types and densities.*

Response: The resultant development will retain the existing overall housing type as a three-bedroom dwelling and maintain the existing built form density.

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

Response: NA

Objective: *To provide residential development that maintains the character of built and natural features in the surrounding area.*

Response: The proposed works will maintain the built form character of the dwelling, particularly as a heritage item within the Balmain East HCA. Though the proposal will reduce existing landscaping at the rear of the site, the proposed external landscaping works will enable retention of the significant tree at the rear of the site as a result of the raised planter beds.

It is considered the development is in the public interest because it is consistent with the objectives of the landscaped area development standard, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

Objective (a): *To provide landscaped areas for substantial tree planting and for the use and enjoyment of residents.*

Response: The proposed design will enable retention of the significant mature tree at the rear of the site, which forms part of the courtyard space. Given the constrained nature of the site, this approach allows the site to continue to provide landscaped areas for substantial tree planting.

Objective (b): *To maintain and encourage a landscaped corridor between adjoining properties.*

Response: The proposal will maintain a landscaped corridor between the subject site and No. 7 Little Edward Street to the rear, in the form of a mature tree with raised planter beds adjacent.

Objective (c): *To ensure that development promotes the desired character of the neighbourhood.*

Response: The proposal will maintain existing landscaping within the front garden as it currently presents to William Street, while landscaping changes within the rear courtyard prioritise retention of the significant tree at the rear of the site. The proposal is considered to promote the desired future character and will continue to contribute to the character of the neighbourhood.

Objective (d): *To encourage ecologically sustainable development.*

Response: Irrespective of the technical reduction in soft landscaped area, the proposal will encourage ecologically sustainable development through retention of the significant tree at the rear of the site as a result of the raised planter design.

Objective (e): *To control site density.*

Response: The proposed development will maintain the existing building footprint, envelope and site coverage, effectively controlling the site density as existing.

Objective (f): *To provide for landscaped areas and private open space.*

Response: The proposal improves the useability of the existing private open space by replacing the existing deck area and despite the technical reduction in landscaped areas, the proposal incorporates raised planter beds which will complement existing on-site landscaping such as the mature Lemon Scented Gum tree.

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

The proposal thereby accords with the objective in Section 4.6(1)(b) and requirements of Section 4.6(3)(b) of the *IWLEP 2022*. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the landscaped area development standard and it is recommended the Section 4.6 exception be granted.

Section 5.10 Heritage Conservation

The subject site at 6 William Street, Balmain East, is a Heritage-listed Item: 'Terrace, including interiors, Lot 2, DP 555807' located within Balmain East Heritage Conservation Area (C29 in Schedule 5 of the *Inner West LEP 2022*.) It is also located within the vicinity of the following heritage listed items:

- Terrace, including interiors, 4 William Street, Lot 1, DP 555807 (I819 in Schedule 5 of the Inner West Local Environmental Plan 2022)
- House, including interiors, 10 William Street, Lot 3, DP 577513 (I821).

It is considered that subject to the imposition of conditions relating to the protection of original building fabric, the proposal is acceptable from a heritage perspective as it will not detract from the streetscape, Heritage Conservation Area or any nearby environmental

heritage, and will be in accordance with Clause 5.10 Objectives 1(a) and (b) in the IWLEP 2022 and the relevant objectives and controls in the LDCP 2013.

5(b) 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	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	N/A
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	N/A
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	N/A
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	Yes
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	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	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
C2.2.2.2: <i>Balmain East Distinctive Neighbourhood</i> C2.2.2.2 (a): <i>Eastern Waterfront Sub Area</i>	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes

C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	Yes
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	Yes – see discussion
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	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	
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	N/A
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	N/A
Part F: Food	N/A
Part G: Site Specific Controls	N/A

Visual Privacy

The proposal involves internal reconfiguration of the existing ground and first floors, no changes to openings, and external changes including the raising and extension of the

existing rear deck towards toward the eastern boundary shared with No.4 William St as well as the raising of the garden bed to the rear eastern corner.

The extension of the rear deck to the eastern boundary shared with No.4 William St raises no privacy concerns due to the ground level location and presence of an existing boundary fence.

It is noted that one (1) submission from the property to the south - No. 7 Little Edward Street was received during community consultation regarding the overlooking and related visual privacy implications of the height of the deck and garden bed.

Control C1 of the LDCP states that *sight lines available between the private open space of a dwelling and the private open space of an adjoining dwelling are to be screened unless direct views are restricted or separated by a street or laneway.*

The main private open space of No.7 Little Edward Street is noted to be at the rear of that property, which is physically separated by the built form and parking areas on that property and the landscaping and boundary fence on the subject site. The proposed development at No.6 William Street will not result in direct sightlines to the private open space of No.7 Little Edward Street. There are similarly no sightlines created to the internal living areas of No. 7 Little Edward Street. Where the proposal seeks to raise the rear deck area by 485mm from RL 11.41 to RL 11.88, downward sightlines from the deck area to the existing parking area and side setback of No. 7 Little Edward Street will be obscured by the proposed stainless steel posts and wire screen to the top of the existing dividing fence between the two properties (see figure 2).

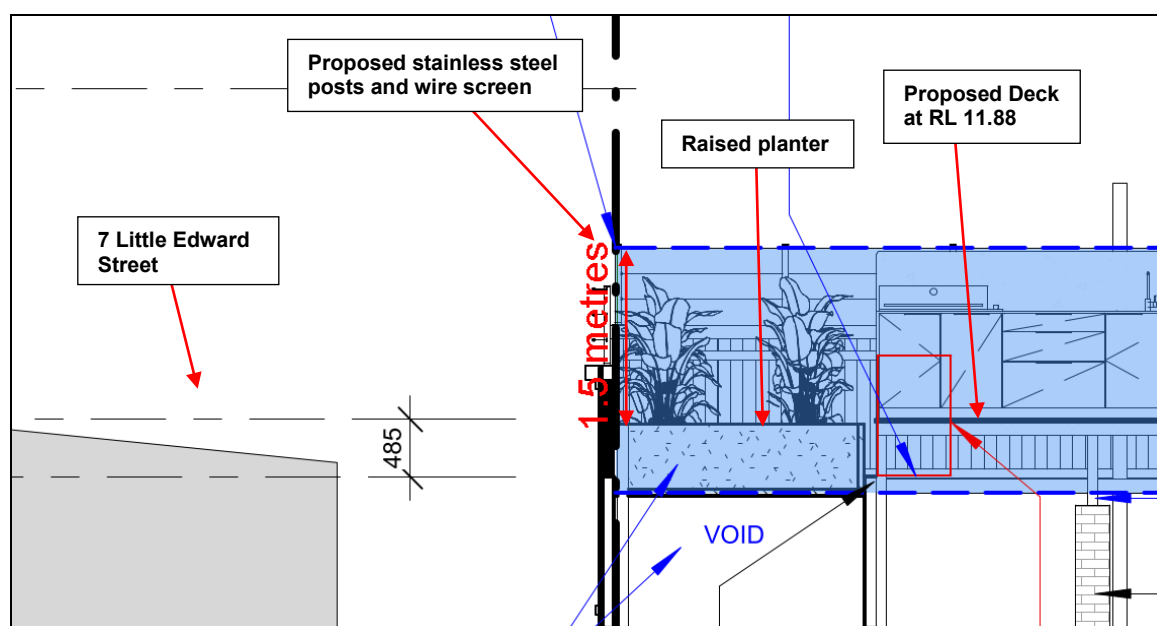


Figure 2: Excerpt of Section 1 demonstrating privacy measures (source: De Simone Design, annotated by IWC)

On this basis, the development is not considered to result in adverse visual privacy impacts to No. 7 Little Edward Street and, the proposal is considered satisfactory with regard to Part C3.11 of the LDCP 2013.

5(c) 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(d) The suitability of the site for the development

The proposal is of a nature in keeping with the overall function of the site. The premises are in a residential surrounding and amongst similar uses to that proposed.

5(e) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties. 1 submission was received in response to the initial notification.

The issues raised in the submission are addressed below:

Issue: Height of rear deck results in loss of visual privacy

Comment: As discussed earlier in this report, the proposed deck is not considered to cause significant overlooking and visual privacy implications due to the obscure angle and existing fence lines.

Issue: Suspended planter structure is too large and elevated, and planter structure foundations to be built into the root of tree

Comment: The suspended planter structure is unlikely to affect the root zone of the tree, and conditions are included in the recommendation to ensure adequate tree protection. The suspended planter structure is proposed to be on the same level as the deck and will not create overlooking opportunities.

Issue: The fence which the proposal involves the is the sole property of No.7 Little Edward and not a shared boundary fence.

Comment: A condition will be imposed with any consent granted that any works are only permitted to take place on the subject site.

5(f) The public interest

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

The proposal is not contrary to the public interest.

6 Referrals

The application was referred to Council's Development Engineer, Heritage Officer and Tree Management Officer and issues raised in those referrals have been discussed in section 5 above.

7. Section 7.11 Contributions/7.12 Levy

No development contributions are payable for the proposal, on the basis of the proposed scope and cost of works.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and *Leichhardt Development Control Plan 2013*.

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

The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. The applicant has made a written request pursuant to Section 4.6 of the *Inner West Local Environmental Plan 2022*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the landscape area development standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2023/0395 for alterations and additions to the existing dwelling at 6 William Street BALMAIN EAST subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
100D Rev F	Site Plan	16/5/2023	De Simone Design
101E Rev F	Ground Floor Plan	16/5/2023	De Simone Design
102F Rev F	Second Storey Plan	16/5/2023	De Simone Design
103D Rev F	North & South Elevations	16/5/2023	De Simone Design
104E Rev F	Section1	16/5/2023	De Simone Design
105F Rev F	Courtyard Plan	16/5/2023	De Simone Design
106E Rev F	Courtyard Section 1	16/5/2023	De Simone Design
107F Rev F	Courtyard Section 2	16/5/2023	De Simone Design
108E Rev F	Courtyard Section 3	16/5/2023	De Simone Design
Project No 5473/B	Arboricultural Impact Assessment	March 2023	TreeTalk Arboricultural Consulting

As amended by the conditions of consent.

FEES

2. Security Deposit - Custom

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

Security Deposit:	\$2,800.00
Inspection Fee:	\$350.00

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

The inspection fee is required for 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.

3. 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 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.

GENERAL CONDITIONS

4. 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.

5. Tree Protection

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

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

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

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

The trees identified below are to be retained and protected in accordance with the conditions of consent or approved Tree Protection Plan throughout the development (note: tree numbers must correspond with approved Tree Protection Plan if conditioned):

Tree No.	Botanical/Common Name	Location
1	Corymbia citriodora (Lemon-Scented Gum)	rear

Details of the trees must be included on all Construction Certificate plans and shall be annotated in the following way:

- a. Green for trees to be retained;
- b. Red for trees to be removed;
- c. Blue for trees to be pruned; and
- d. Yellow for trees to be transplanted.

NOTE: Reference should be made to the *Arboricultural Impact Assessment Report prepared by Tree Talk Arboricultural Consulting dated March 2023 for tree numbering and locations*

6. Project Arborist

Prior to the commencement of any demolition or construction works within close proximity to protected trees a Project Arborist must be engaged for the duration of the site preparation, demolition, construction and landscaping to supervise works. Details of the Project Arborist must be submitted to the Certifying Authority before work commences.

7. 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 (RVWMP) in accordance with the relevant Development Control Plan.

8. 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.

9. 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.

10. Works Outside the Property Boundary

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

11. Site Works - Joinery

All new joinery is to be installed so it is independent of original building fabric and can be removed without damaging original fabric.

12. Site Works - Air Conditioning Units

Service cables for the internal air conditioning units are to be wall mounted, and not chased into original building fabric.

PRIOR TO ANY DEMOLITION

13. 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.

14. Dilapidation Report

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

15. 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

16. 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.

17. Stormwater Drainage System – Minor Developments (OSD is not required)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of a public road; Minor roof and paved areas at the rear of the property that cannot reasonably be drained by gravity to the street may be drained to an on-site dispersal system such as an absorption system or otherwise, subject to the roof areas being drained via a suitably sized rainwater tank, no nuisance or concentration of flows to other properties and the feasibility and design of the on-site dispersal system being certified by a suitably qualified and experienced practising Civil and/or Geotechnical Engineer;
- b. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- c. Pipe and channel drainage systems must be designed to cater for the twenty (20) year Average Recurrence Interval (ARI) storm in the case of low and medium residential developments, the twenty (20) year ARI Storm in the case of high-density residential development and commercial and/or industrial developments and the fifty (50) year ARI Storm in the case of heavy industry. In all cases, the major event surface flow paths must be designed to cater for the one hundred (100) year ARI Storm;
- d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than to drain downpipes to the rainwater tank(s);

- e. To provide for adequate site drainage all roof and surface stormwater from the site and any catchment external to the site that presently drains to it, must be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a stormwater drainage system in accordance with the requirements of Council's DCP. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled;
- f. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- g. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas;
- h. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
- i. No nuisance or concentration of flows to other properties;
- j. The design plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
- k. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- l. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- m. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm;
- n. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;
- o. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
- p. No impact to street tree(s);

18. 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

19. Inspections by Project Arborist

The trees to be retained must be inspected, monitored and treated by the Project Arborist during and after completion of development works to ensure their long-term survival. Regular inspections and documentation from the Project Arborist to the Certifying Authority are required at the following times or phases of work:

Tree No./ Botanical/ Common Name/ Location	Time of Inspection	Key stage/ Hold point
1. <i>Corymbia citriodora</i> (Lemon-Scented Gum) rear of property	Prior to commencement of works	<ul style="list-style-type: none"> • Inspection and sign off

		installation of tree protection measures.
	During Works	<ul style="list-style-type: none"> • Supervise all site preparation and demolition works within the TPZ; • Supervise all works inside or above the TPZ; • Supervise all excavation, trenching works, landscaping works and tree/planting replenishment within the TPZ; • Supervise all tree work.

Recommendations to ensure the tree/s long term survival must be carried out immediately upon receipt of the report.

20. Limited Root Pruning

No tree roots of 30mm or greater in diameter located within the specified radius of the trunk/s of the following tree/s must be severed or injured in the process of any works during the construction period:

Tree No.	Botanical/Common Name	Radius in metres
1	Corymbia citriodora (Lemon-Scented Gum)	4m

All excavation within the specified radius of the trunk of the above tree shall be hand dug using either pneumatic or hydraulic tools only (e.g. *Airspade*® or hydro excavation) to a depth of one (1) metre under direct supervision of the Project Arborist and then by mechanical means as agreed by the Project Arborist. If tree roots less than 30mm diameter are required to be severed for the purposes of constructing the approved works, they must be cut cleanly using a sharp and *fit for purpose tool*. The pruning must be undertaken by a practicing Arborist.

21. Excavation Methods to Limit Impacts to Trees

Excavation for the installation of any services within the specified radius of the trunk/s of the following tree/s must utilise the thrust boring method or non-destructive excavation method such as either pneumatic or hydraulic tools only (e.g. *Airspade*® or hydro excavation). Thrust boring being carried out at least 600mm beneath natural ground level to minimise damage to tree/s root system:

Tree No.	Botanical/Common Name	Radius in metres
1	Corymbia citriodora (Lemon-Scented Gum)	4m

22. 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

23. 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.

24. 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.

25. Project Arborist Certification

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with certification from the project arborist the requirements of the conditions of consent related to the landscape plan and the role of the project arborist have been complied with.

ON-GOING

26. Bin Storage

All bins are to be stored within the site.

ADVISORY NOTES

Permits

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

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

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

Insurances

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

Prescribed Conditions

This consent is subject to the prescribed conditions of consent within Sections 69-86 of the *Environmental Planning and Assessment Regulations 2021*.

Notification of commencement of works

At least 7 days before any demolition work commences:

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

Storage of Materials on public property

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

Toilet Facilities

The following facilities must be provided on the site:

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

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

Infrastructure

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

Other Approvals may be needed

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

Failure to comply with conditions

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

Other works

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

Obtaining Relevant Certification

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

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

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"
			131441
Long Service Corporation	Payments		www.lspc.nsw.gov.au
NSW Food Authority			1300 552 406
			www.foodnotify.nsw.gov.au
NSW Government			www.nsw.gov.au/fibro
			www.dysafe.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.

Asbestos Removal

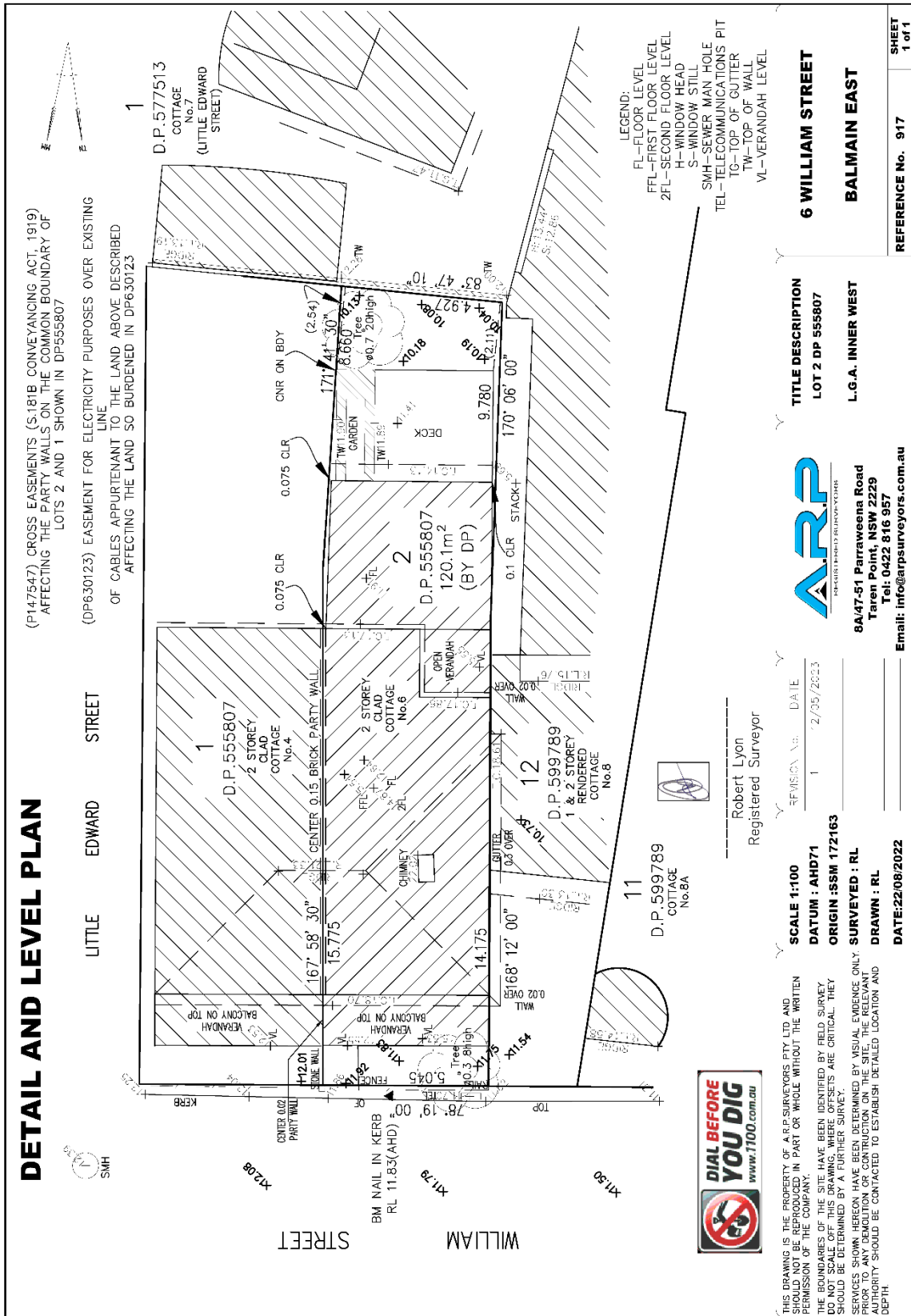
A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m2 of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

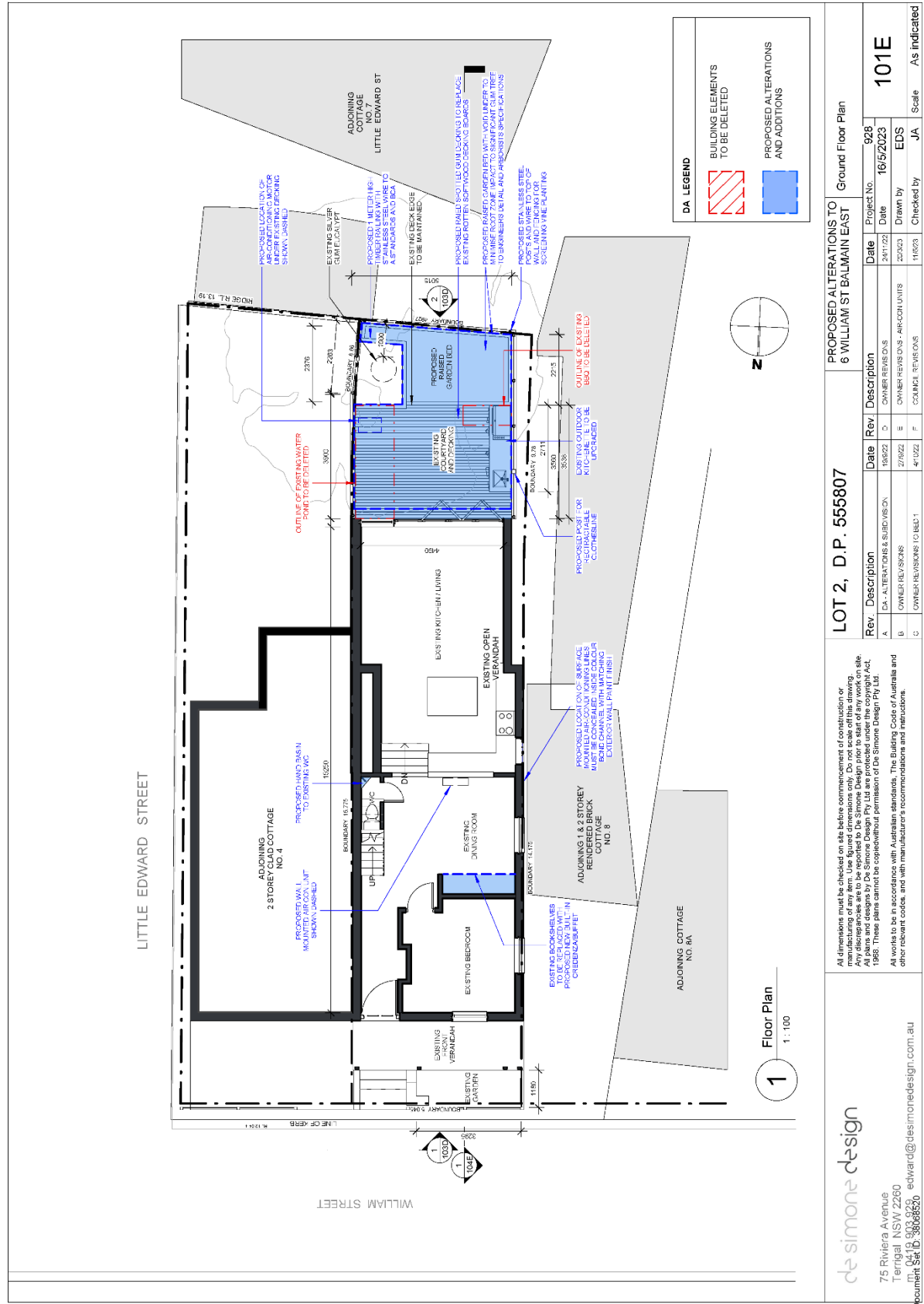
Removal of friable asbestos material must only be undertaken by a contractor that holds a current Class A Friable Asbestos Removal Licence.

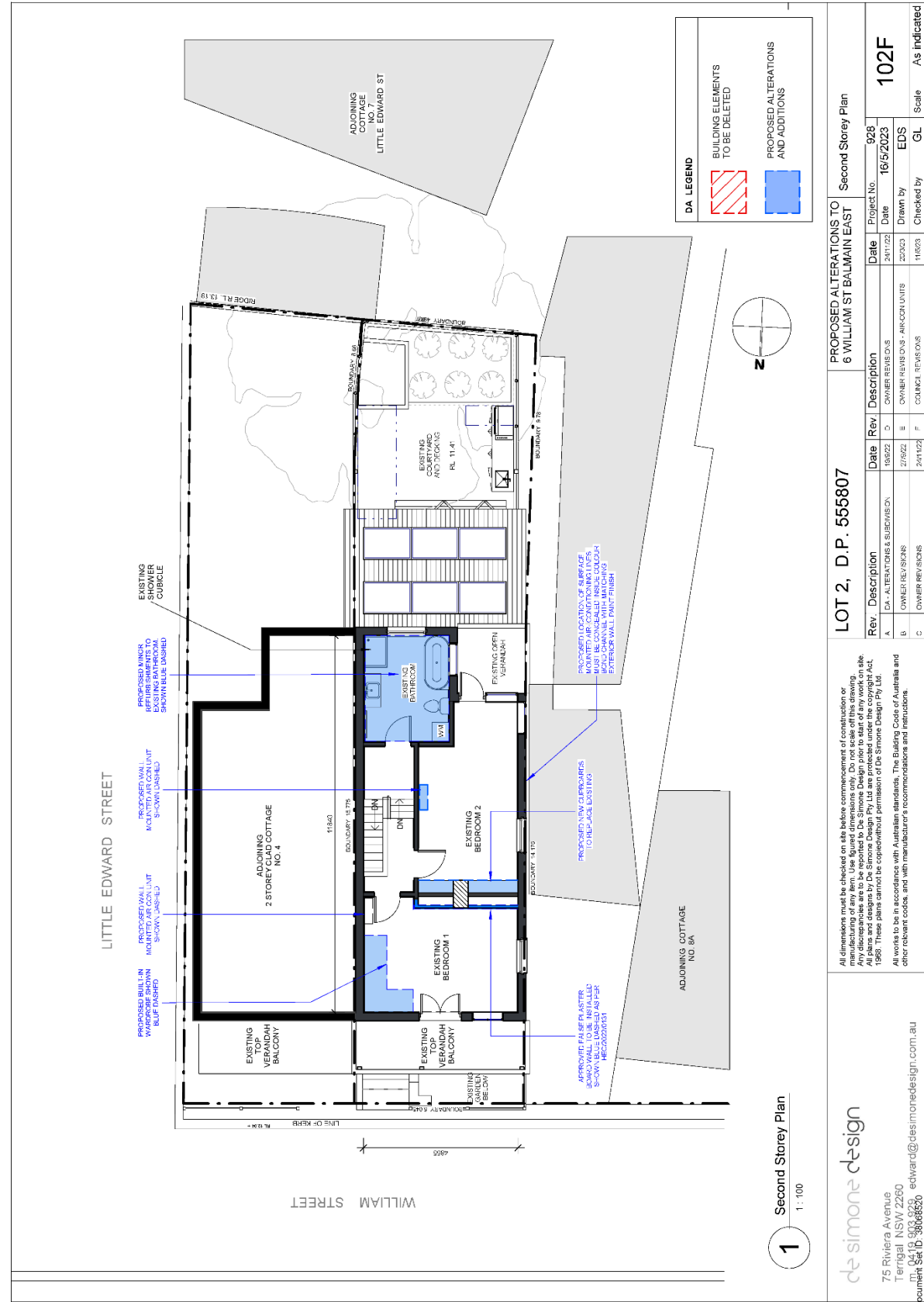
Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2014. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

Attachment B – Plans of proposed development

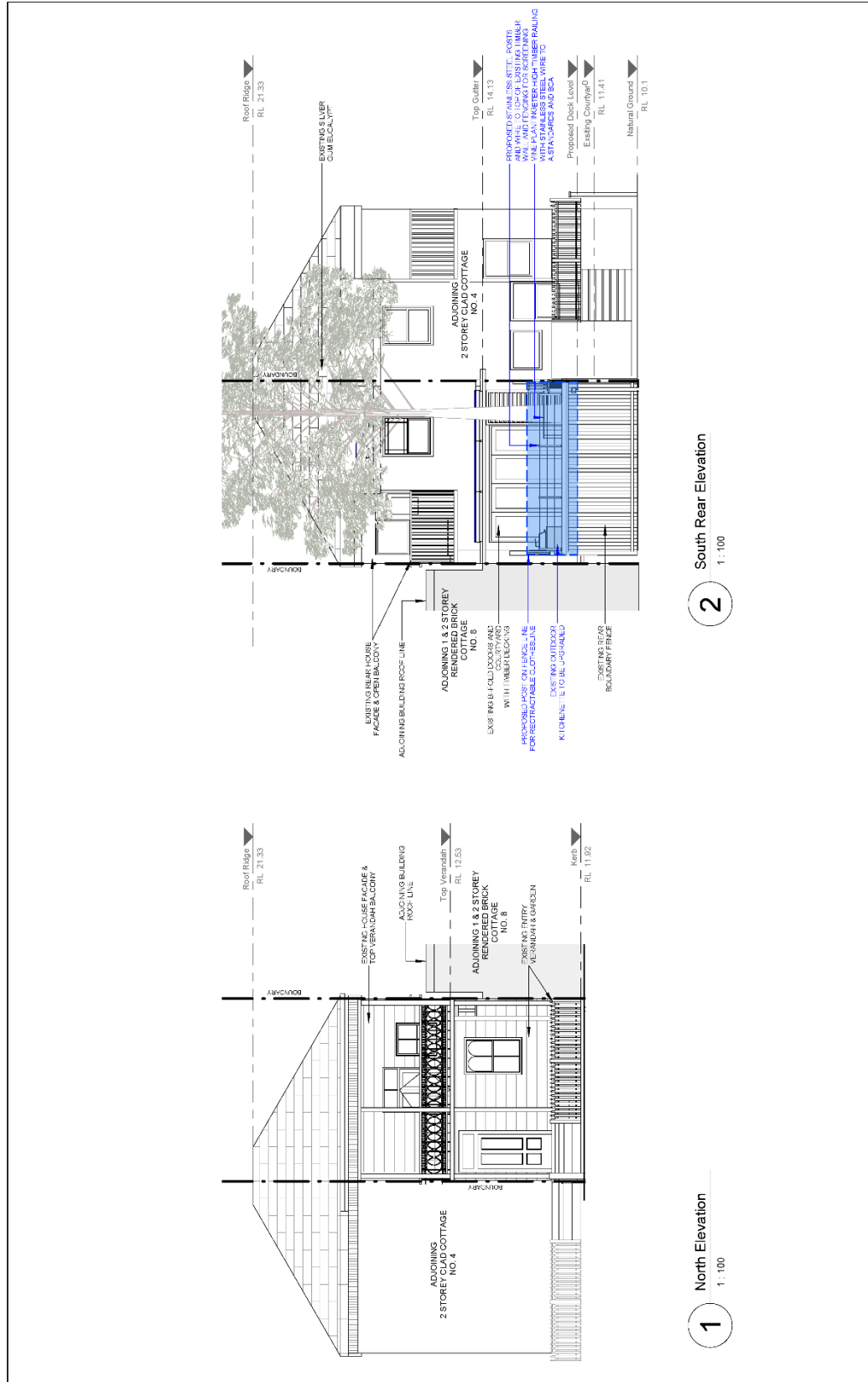






All dimensions must be checked on the before commencement of construction or manufacturing of any item. Use figured dimensions only. Do not scale off this drawing. Any discrepancies are to be reported to the Simone Design prior to start of any work on site. All drawings are designed in accordance with the Building Code of Australia Act, 1983. These plans cannot be copied without permission of the Simone Design Pty Ltd. All works to be in accordance with Australian standards, The Building Code of Australia and other relevant codes, and with manufacturer's recommendations and instructions.

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 75 Riviera Avenue
 Terrigal NSW 2260
 0415 903 925
 Document Ref ID: 38068820
 edward@desimonedesign.com.au
 Version 1, Version Date: 07/09/2023

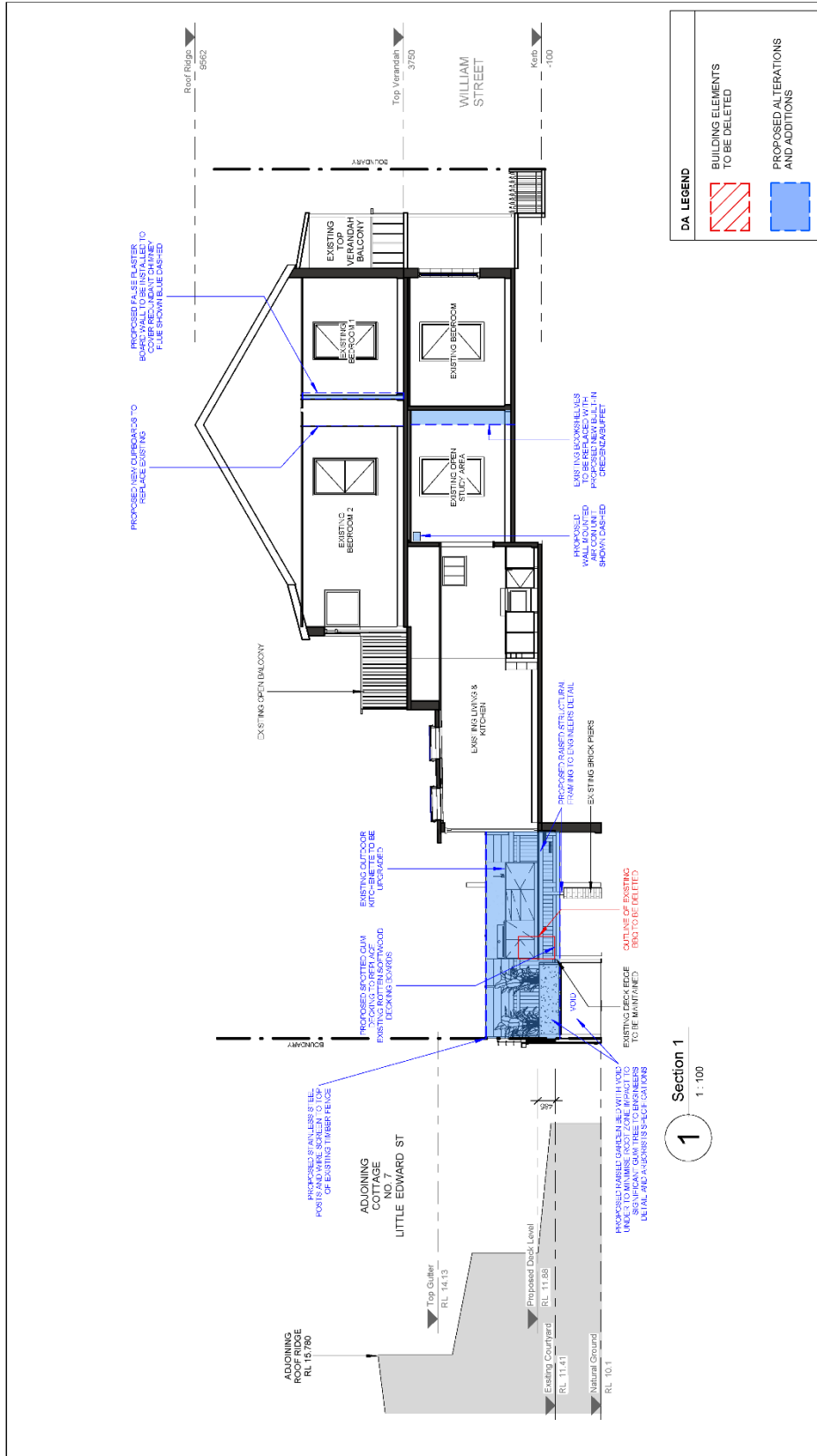


1 North Elevation
1 : 100

2 South Rear Elevation
1 : 100

<p>de simone design 75 Riviera Avenue Terrigal NSW 2260 Phone: 8410 506860, edward@desimonedesign.com.au Version: 1, Version Date: 07/09/2023</p>		<p>PROPOSED ALTERATIONS TO 6 WILLIAM ST BALMAIN EAST North & South Elevations</p>	
<p>Rev Description</p>	<p>Date</p>	<p>Rev Description</p>	<p>Date</p>
A	19/02/22	1.0	19/02/22
B	27/02/22	2	27/02/22
C	28/11/22	F	11/02/22
<p>Project No. 928 Date 19/05/2023 Drawn by Author Checked by Checker Scale 1 : 100</p>		<p>103D</p>	

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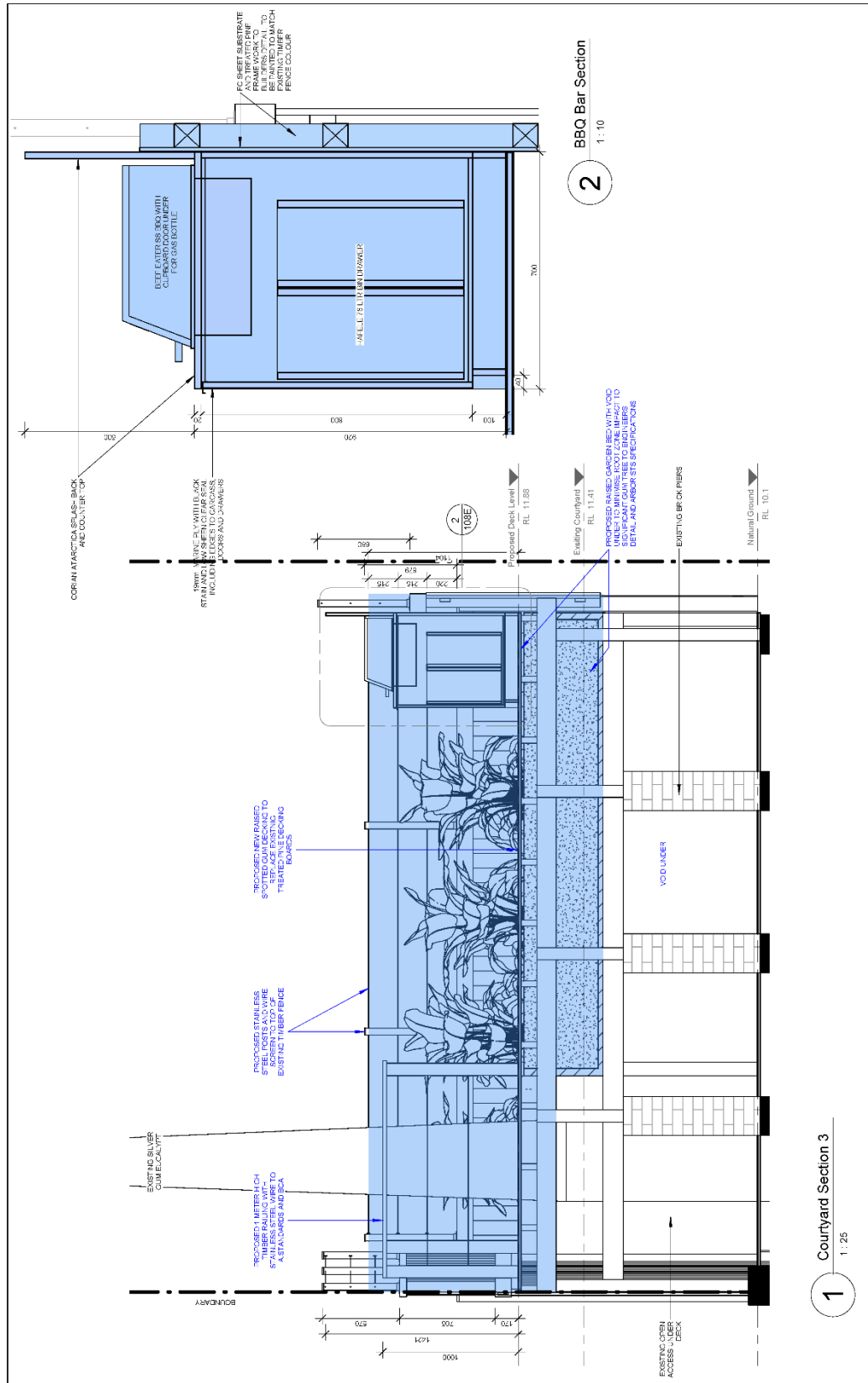


LOT 2, D.P. 555807		PROPOSED ALTERATIONS TO 6 WILLIAM ST BALMAIN EAST		Section 1	
Rev.	Description	Date	Rev.	Description	Date
A.	DA - ALTERATIONS & SUPPLY VISION	16/09/22	D.	OWNER REVISIONS	24/11/22
B.	OWNER REVISIONS	27/09/22	E.	OWNER REVISIONS - ARCHITECTURAL	25/09/23
C.	OWNER REVISIONS	24/11/22	F.	COUNCIL REVISIONS	11/05/23

Project No.	928
Date	16/5/2023
Drawn by	EDS
Checked by	JA
Scale	A5 indicated

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 Version: 1, Version Date: 07/09/2023



1 Courtyard Section 3
1:25

2 BBQ Bar Section
1:10

**PROPOSED ALTERATIONS TO
6 WILLIAM ST BALMAIN EAST**

LOT 2, D.P. 555807

Courtyard Section 3

de simone design

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Version: 1, Version Date: 07/09/2023

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Rev	Description	Date	Rev	Description	Date
A	DA - ALLEVIATIONS & SUBMISSION	19/02/22			
B	OWNER REVISIONS	27/02/22			
C	OWNER REVISIONS	28/11/22	F	CONTRACT REVISIONS	11/02/23

Project No.	928
Date	16/5/2023
Drawn by	Author
Checked by	Checker
Scale	As indicated

108E

Attachment C- Section 4.6 Exception to Development Standards



6 William Street, Balmain East NSW 2041
(DA/2023/0395; PAN-326524)

**REQUEST FOR VARIATION TO LANDSCAPE AREAS FOR
RESIDENTIAL ACCOMMODATION IN ZONE R1 (SITE COVERAGE)
DEVELOPMENT STANDARD PURSUANT TO CLAUSE 4.3C OF INNER
WEST LOCAL ENVIRONMENTAL PLAN 2022**

The following submission has been prepared by aSquare Planning pursuant to clause 4.6 of the Inner West Local Environmental Plan 2022 (IWLEP). This submission has been prepared in response to a request for further information from Inner West Council (Council), regarding the development application at 6 William Street, Balmain East (DA/2023/0395).

DA/2023/0395 seeks consent for minor alterations and additions to an existing heritage building, including the deletion of the existing pond and the extension of the deck over its former location. Council contends that this has resulted in a non-compliance with clause 4.3C of the IWLEP, which relates to site coverage and landscaped area within the former Leichardt Local Government Area. As such, this submission has been prepared in accordance with Clause 4.6 of the IWLEP to justify this variation.

The request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and establishes that there are sufficient environmental planning grounds to justify contravening the development standard, satisfying clause 4.6(3) of the IWLEP.

Based on this Clause 4.6 request, the consent authority can be satisfied that the written request has adequately addressed the matters required to be demonstrated by subclause (3), and that the proposed development will be in the public interest because it is consistent with the objectives for development within the R1– General Residential Zone and the objectives of the development standards in clause 4.3C of the IWLEP.

The nature of the exceedance to the development standard relating to height is set out below, followed by consideration of the relevant matters in clause 4.6 of the ILEP.

The NSW Department of Planning, Industry and Environment (DPI&E) provides guidance on how to prepare Clause 4.6 variations; 'Varying

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telephone: 02 9360 0989 | www.a2p.com.au

development standards: A Guide' (August 2011). This written request to vary the standards is based on the Guide.

Zoning of the site

The zoning of the land is R1 – General Residential. The objectives of the R1 zone are:

- *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 provide residential development that maintains the character of built and natural features in the surrounding area.*

Clause 4.3C – Landscaped areas for residential accommodation in the in Zone R1

The Standard

Clause 4.3C of the IWLEP applies to land indicated as being in 'Area 1' on the Key Sites Map. The provisions of clause 4.3C(3) set minimum landscaped area requirements and maximum site coverage for residential accommodation in Area. This clause is reproduced below:

- (3) *Development consent must not be granted to development to which this clause applies unless—*
- (a) *the development will result in a landscaped area comprising at least—*
- (i) *if the lot size is 235m² or less—15% of the site area, or*
- (ii) *otherwise—20% of the site area, and*
- (b) *the site coverage does not exceed 60% of the site area.*

The proposed extension of the deck does not lead to any changes in site coverage. Site coverage is defined in the IWLEP as follows:

site coverage means the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage—

- (a) *any basement,*
- (b) *any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site*

- boundary,*
- (c) *any eaves,*
- (d) ***unenclosed balconies, decks, pergolas and the like.***

The extended deck is unenclosed and as such is not included in the calculation of site coverage. Given that there is no change to the coverage of the building, we can conclude that there is no change to existing site coverage of the building and accordingly, clause 4.4C(3)(b) is not relevant.

The allotment is 120.1m² and accordingly a 15% landscaped area applies. Landscaping is provided to 12.6% of the site, which is the same as existing. However, landscaping at the rear is provided in raised garden beds, approximately 1.2m above ground level (existing). Consequently, this landscaping is not included in the landscaped calculation for clause 4.3C(3)(a)(i), which excludes landscaping more than 500mm above ground level (existing) under clause 4.3C(4)(b)(ii). Accordingly, the area of landscaping provided is only 6.1m² or 5.08%. This equates to a numeric variation of 11.92m² and a percentage variation of 66.5%.

The objectives of Clause 4.3C

The objectives of Clause 4.3C are as follows:

- (a) *to provide landscaped areas for substantial tree planting and for the use and enjoyment of residents,*
- (b) *to maintain and encourage a landscaped corridor between adjoining properties,*
- (c) *to ensure that development promotes the desired character of the neighbourhood,*
- (d) *to encourage ecologically sustainable development,*
- (e) *to control site density,*
- (f) *to provide for landscaped areas and private open space.*

Clause 4.6 - Exceptions to Development Standards

Clause 4.6 of the IWLEP allows for exceptions to Development Standards. The objectives of this Clause 4.6 are:

- (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.*

Clause 4.6 of the IWLEP allows for exceptions of Development Standards. The objectives of this Clause 4.6 are:

- (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.*

Clause 4.6(2) provides the power for development consent to be granted even though the development would contravene a development standard, subject to that clause:

- (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.*

Clause 4.6(3) sets out what a clause 4.6 written request seeking to justify a contravention of a development standard must demonstrate in order for consent to be granted for development that contravenes a development standard:

- (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*

Clause 4.6(4) sets out the matters which a consent authority must be satisfied of in order to grant consent to a development that contravenes a development standard:

- (4) *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.*

This document constitutes the written request referred to in Clause 4.6(3) in relation to the proposal's breach of the FSR development standard and provides the necessary information for the consent authority to be satisfied of the matters in clause 4.6(4).

The matters required to be demonstrated under clause 4.6(3) are set out below as Points 1 and 2.

1. Clause 4.6(3)(a) - Compliance with the development standard must be unreasonable or unnecessary in the circumstances of the case:

In order to assess whether strict compliance with the development standard is unreasonable or unnecessary, a proposal is considered against the following five ways¹:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard; or
5. The zoning of particular land was unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to the land.

¹ see *Wehbe v Pittwater Council* [2007] NSWLEC 827

These five ways were re-emphasised by the Court². Each 'test' offers a potential way of demonstrating that compliance is unnecessary or unreasonable in a particular circumstance³. All tests are separate and not all tests may not be applicable in each case. Therefore, not all tests need to be met.

This objection relies on the first method set out above, that compliance with a standard is unreasonable and unnecessary given that the objectives of the standard are met even though the standard is not complied with⁴. Compliance with the objectives of the height standard is addressed under **Point 4** below.

2. Clause 4.6(3)(b) - There are sufficient environmental planning grounds to justify contravening the development standard:

Given the consistency of the proposal against the zone objectives and height objectives (see **Point 4 below regarding both**), in my opinion there are sufficient environmental planning grounds to justify contravening the development standard⁵.

There are sufficient environmental planning grounds which demonstrate that the proposed height can be achieved without adverse impacts for the following reasons:

- The proposal enhances the landscaped quality of site with the provision of new raised planter beds at the rear of the site. These planter beds accommodate new, native and climatically appropriate species.
- The raised planter beds allow the existing mature tree on site is to be retained. As detailed in the arborist's report, the void beneath the raised planters minimises impacts to the root zones of the *Corymbia citriodora*.
- The site's capacity to provide landscaping at ground level is constrained due its small area, steep fall and the dense character of surrounding development. Providing landscaping on raised planters at

² *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386

³ *Mecone Pty Limited v Waverley Council* [2015] NSWLEC 1312

⁴ *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 and *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245

⁵ see *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [90]

the height of the deck ensures that the plants receive adequate sunlight and will make it easier for occupants to maintain gardens.

- The raised planter beds provide enhanced privacy screening between the raised deck and No. 7 Little Edward Street, to the rear. The raised planters do not impact any views towards Sydney Harbour or generate any increased shadow fall upon adjacent properties.
- The proposal provides the same area of landscaping as existing when measured against the IWLEP dictionary definition of landscaped area, and it is only the exclusions in clause 4.3C(4)(b) that lead to the variation
- New decking and raised beds proposed are permeable, allowing for continued, and with the removal of the impervious pond, improved water infiltration on site.
- The works proposed are minor and have no impact on the heritage value of the dwelling. The rear landscaping is not original and as such the raised planters do not require the removal of any heritage garden. The 1886 Metropolitan Data suggests that the rear garden was never symmetrical with No. 4 William Street and as such, the proposal does not derogate the heritage character of the pair. Landscaping to the front, facing the street, is completely unaltered.

The proposal will provide a suitable design and of suitable amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act).

3. Clause 4.6(4)(a)(i) - The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3):

Based on the above, the written request adequately addresses the matters referred to above by Clause 4.6(3).

4. Clause 4.6(4)(a)(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:

Objectives of the Standard

The proposal will be in the public interest as it meets the objectives of the height development standard as follows:

Objective (a) to provide landscaped areas for substantial tree planting and for the use and enjoyment of residents

Comment:

The proposal continues to provide area for substantial tree planting despite site constraints. The site falls to the south and the dwelling is penned in on all sides by development. The combination of surrounding density and the narrow and steep allotment make it difficult for much deep soil landscaping to realistically provided at the rear of the site.

Notwithstanding, the proposal retains the *Corymbia citriodora* at the rear of the site. The proposal is accompanied by an Arborist's report, detailing the measures to taken to maintain the health of this tree and its root systems. Importantly, by raising the planters, the landscape design reduces potential impacts upon the root zone of the *Corymbia citriodora*. This design was arrived at following advice from the consultant arborist to better protect the tree.

Additional plantings are provided in the proposed raised garden beds, which will allow new plants to more easily receive sunlight and maintenance. This might be difficult to provide if plantings were provided at ground level. The deck and raised planters are both pervious, allowing for continued water infiltration on site.

Accordingly, the landscape design provides for enhanced landscaping, while maintaining the health of existing tree life on site and there is compatible with objective (a).

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

Comment:

The locality is dense, and the site is penned in on all sides by development. To the south, the subject site borders the garage and paved parking at No. 7 Little Edward Street and to the west the landscaping runs alongside the narrow breezeway at No. 8 William Street. As such, it cannot be said that there is a substantial landscape corridor between properties to maintain, or indeed a capacity between sites to create one. Nevertheless, the landscaping will align with landscaping provided at No. 4 William Street, creating a consistent body of landscaping between this property and the subject site.

Accordingly, the proposal is compatible with objective (b).

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

Comment:

Desired future character is not defined in the IWLEP. In accordance with the Ruling of Preston CJ *Woollahra Municipal Council v SJD DB2 Pty Ltd [2020] NSWLEC 115*, where desired future character is not defined, it can be extrapolated from the provisions of the LEP, “*but also other factors, including approved development that contravenes the development standard*” (Para 65).

In this regard, the existing landscaping on site already contravenes the landscaped area development standard in clause 4.3C of the IWLEP. Consistent with the findings of Preston CJ, by its very existence in the locality, the landscaped area on site is already considered to be in character with locality and we can conclude, therefore, that variations to this landscape control are also considered in character with locality.

The question then becomes, is the proposal compatible with this character? In this regard we turn to planning principle established in *Project Venture Developments v Pittwater Council [2005] NSWLEC 191 (Project Venture)*. In *Project Venture* Roseth SC raised two questions that must be asked in determining if a development is compatible with its context:

- “*Are the proposal’s physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*”
- “*Is the proposal’s appearance in harmony with the buildings around it and the character of the street?*” (Para 24)

In terms of the first question, the proposal does not lead to any additional or unreasonable overshadowing of adjacent sites and will not impact any views towards Sydney Harbour. Privacy may actually be improved, through the provision of screen plantings in the raised planters that block views towards the property to the south,

In terms of the second question, the proposal does not alter in any way the landscaping on the street facing portion of the building and its front gardens will continue to relate to the streetscape and surrounding development in the same manner as existing. The proposal actually retains an area of landscaping at the rear that is the same as existing and it is only a consequence of the exclusion in clause 4.3C(4)(b)(ii) that leads to the

variation. As Roseth SC noted in *Project Venture*:

"31 It should be remembered that most people are not trained planners or urban designers and experience the urban environment without applying the kind of analysis described above. As people move through the city, they respond intuitively to what they see around them."

In this sense, to a casual observer the particular exclusions in clause 4.3C(4)(b)(ii) are unlikely to form part of how they consider the character of landscaping in a place. To them, it is more likely that they would view the landscaping as a whole (both below and above 500mm) as constituting the landscaped character of the site. To reiterate, the total area of landscaping (that is, both above and below 500mm) is the same as existing. As such, to a casual observer landscaping is unchanged. Thus, the character of landscaping is similarly unchanged, and we can conclude that it continues to align with desired future character on site and objective (c).

Objective (d) to encourage ecologically sustainable development,

Comment:

The proposal provides an ecologically sustainable development, despite the shortfall in landscaping. Firstly, the proposal allows the retention of the mature *Corymbia citriodora* on site. This is large, 17m tall tree with a spread of about 16m. The tree is one of just few mature trees in the area and provides much need shade to the property, as well as neighboring dwellings. By raising the planters, this tree's root systems are better protected, ensuring the ongoing health and life of this tree.

Secondly, the proposal improved permeable surfaces on site. The new deck and raised planters are both pervious, allowing for rainwater infiltration. By removing the pond and surrounding paving, permeable surfaces are actually increased.

Finally, the short fall in landscaping will not impact any of the ESD components of the dwelling itself. Accordingly, the proposal can be considered to encourage ESD principles.

Objective (e) to control site density,

Comment:

The works proposed do not lead to any changes to site coverage. Landscaping is provided to the same level as existing when the definition in the IWLEP is followed. It is only the specific exclusion of landscaping above 500mm in clause 4.3C(4)(b)(ii) that leads to the variation. Accordingly, to a

casual observer, the site coverage and landscaping will appear identical in size, despite the technical variation and therefore the density of development can be considered to be the same as existing. Therefore, the proposal meets objective (e)

Objective (f) to provide for landscaped areas and private open space.

Comment:

The proposal provides an improved area of private open space with the extension of the new deck. Soft landscaping is also improved, with the new planters providing more in the way of plantings than existing. As such, the proposal meets objective (f).

Objectives of the Zone

The zoning of the property is R1 General Residential and the objectives of the zone are:

- 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 provide residential development that maintains the character of built and natural features in the surrounding area.

The proposal is consistent with the zone objectives in the following manner:

- *The proposal will retain a dwelling house on site, while improving its amenity for occupants through the provision of enhanced landscaping and private open space.*
- *The proposal does not alter the building s typology or density and the dwelling will continue to add to the variety of this items in the locality.*
- *The works do not prejudice the use of nearby land to be used for services that meet the day to day needs of residents*
- *As detailed in the response to Objective (c) of clause 4.3C, the proposal maintains the character of built form and landscaping on site.*

As demonstrated above, the proposed development will be in the public interest because it is consistent with the objectives of the landscaped area development standard and the objectives of the R1 zone.

The above demonstrates that compliance with the control is unreasonable and unnecessary in the circumstances of this case.

5. Clause 4.6(4)(b) – the concurrence of the Planning Secretary has been obtained

Concurrence of the Planning Secretary is taken to have been obtained as a result of written notice dated 5 May 2020 attached to the Planning Circular PS 20-002.

6. Clause 4.6(5)

In the context of the requirements of Clause 4.6(5), it is considered that no matters of State or regional planning significance are raised by the proposed development. Moreover, it is considered that there would be no public benefit in maintaining the particular planning control in question, in the case of this specific development.

Conclusion

The consistency of the development with the zone objectives and the objectives of the height standard together with the absence of adverse impacts arising establish that there are sufficient grounds to support the variation from the development standard and confirm that it is unreasonable and unnecessary for the development to comply. This therefore demonstrates sufficient environmental planning grounds to justify contravening the standard.

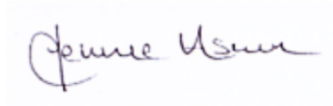
In addition, the resultant development will be in the public interest as it complies with the objectives of the zone and the objectives of the development standard.

The proposal is consistent with the objects of Section 1.3 of the EP& A Act, which are to encourage development that promotes the social and economic welfare of the community and a better environment, to promote and coordinate orderly and economic use and development of land, to promote good design and amenity of the built environment and to protect the heritage of the built environment.

This submission is considered to adequately address the matters required by Clause 4.6 and demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of this case and there are sufficient environmental planning grounds to support the variation.

Based on this Clause 4.6 request, the consent authority can be satisfied that the written request has adequately addressed the matters required to be

demonstrated by subclause (3), and that the proposed development will be in the public interest because it is consistent with the objectives of the landscaped area development standard and the objectives for development within the R1 General Residential Zone under the IWLEP, in which the development is proposed to be carried out.



Jennie Askin
Director
aSquare Planning Pty Ltd

30 August 2023

Attachment D – Statement of Heritage Significance



Heritage Impact Statement



6 Williams Street, Balmain East

March 2023

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Heritage Impact Statement

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1 Introduction

Modern Heritage Matters ('MHM') has been engaged by Jaimie Lovell, the owner of 6 Williams Street Balmain East, to assess the heritage impact of proposed alterations and additions. The principal planning control for the site is the Inner West Local Environment Plan (LEP) 2022. The subject property is listed as a heritage item; Terrace, including interiors, in Schedule 5 of the Inner West LEP 2022 (Item No 1820). The site is a semi-attached terrace, with its pair at No. 4 William Street, Balmain (Item No 1819). The site is in the vicinity of the heritage listed House, including interiors, at No 10 William Street, Balmain East (Item No 1821). The site is also located in the Balmain East Heritage Conservation Area (C29). Inner West Council requires a Heritage Impact Statement to assess the likely impact of the proposed works on the heritage items and the Heritage Conservation Area.

1.1 Author Identification

The report has been prepared by Mandie Purcell at MHM. Mandie Purcell is a qualified heritage consultant and ICOMOS Australia Member.

1.2 Methodology

The report uses the methodology outlined in the NSW Heritage Manual 2001 update, the *Australian ICOMOS Burra Charter* and *J.S Kerr's Conservation Plan* (7th edn (online) Australian ICOMOS 2013)

The Heritage Impact Statement has been prepared in accordance with the requirements of the Inner West LEP 2022 and the Leichhardt Development Control Plan (DCP) 2013.

1.3 Sources

Primary research has been limited to NSW Land and Property Information land title and property records, Council rates and valuation records, and a general assessment of the physical conditions on site.

In addition, MHM has drawn information concerning the property from secondary sources outlined in the Bibliography.

Unless otherwise noted, all photos have been taken by MHM.

1.4 Site Identification

The subject site is located in the inner west suburb of Balmain, which is situated 2km west of Sydney CBD. Known as 6 William Street, Balmain East, the site is located on the southern side of William Street, in the block between Johnston and Edward Streets. The site is formally identified as Lot 2 DP555807.

The site is located within the Balmain East Heritage Conservation Area (C3).



Figure 1: Aerial View of 6 William Street, Balmain East, the location of the subject site is marked in red (Source: SIX Maps)

1.5 Report Limitations

This report is limited to the analysis of the European significance of the site. Recommendations have been made on the basis of documentary evidence viewed and inspection of the existing fabric.

Archaeological assessment of the subject site is outside the scope of this report.

This report only addresses the relative heritage issues and does not address general planning or environmental management considerations.

1.6 Copyright

Copyright of this report remains with the author, MHM.

2 Statutory Listings and Controls

2.1 NSW Heritage Act 1977

The property is not included on the State Heritage Register.

2.2 Local Environment Plan

The Inner West LEP 2022 is a statutory plan adopted by the Inner West Council. The objective of this legal instrument is to impose standards to control development in the area.

6 William Street Balmain East is listed as a Heritage Item in schedule 5 of the Inner West LEP 2022 as item No 1820 and is located within the Balmain East Heritage Conservation Area (C29) as per HER_007E. The property is also located in the vicinity of a number of other heritage listed items.

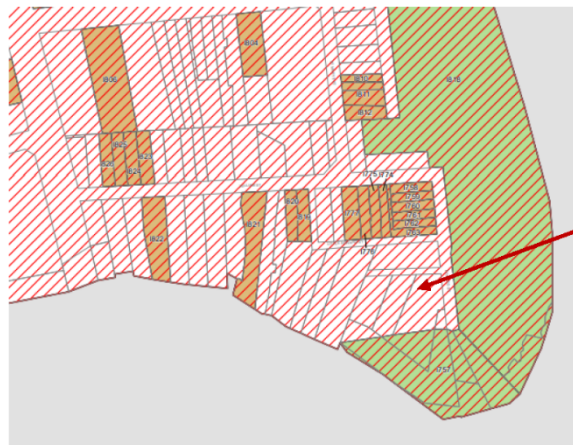


Figure 2: Inner West LEP 2022 Heritage Map HER_007E with 6 William Street Balmain East indicated by the red arrow (Source: Inner West LEP 2022)

The property is located in close vicinity to the following heritage listed items. Given the nature of the proposed works we have only assessed the impact on the properties closest to the heritage item:

Item No	Address	Description
1819	4 William Street	Terrace, including interiors
1821	10 William Street	House, including interiors

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1777	8 Little Edward Street	Terrace, including interiors
------	------------------------	------------------------------

The property is subject to the heritage provisions of The Inner West LEP 2022 and the Leichhardt Comprehensive Development Control Plan (DCP) 2013, under the Environmental Planning and Assessment Act 1979. The Inner West Council must take into consideration the potential impact of any proposed development on the surrounding heritage conservation area.

2.3 Non-Statutory Listings

The dwelling has been listed on the National Trust of Australia’s Register since 1972. The reason for listing:

“These cottages are an important reminder of the fact that early Balmain was mainly wooden houses owing to the ready availability of wood through the docks, which specialised in wood cartage. The wooden cottages of Balmain thus represents a vital element of the suburbs nineteenth century inheritance, and add a dimension which is unique to that suburb.

3 Historical Outline

3.1 Historical Context

The following history aims to provide a brief outline of the development of Balmain East together with a history of 6 William Street and its surrounding area.

The History of The Balmain East Heritage Conservation Area¹

“This area comprises the earliest land to be subdivided and developed in Balmain. Surgeon Balmain was granted 550 acres in 1800. He transferred it to fellow surgeon John Gilchrist in 1801. In 1836 Surveyor Armstrong subdivided the most eastern part of Gilchrist’s land, the area closest by ferry to Sydney Town, into twenty-two 2–4-acre lots. They were put up for public auction in 1836 by Sydney merchant and land agent, Frank Parbury on behalf of the absentee landowner. Subdivision of the remainder of Gilchrist’s land was suspended from 1841–1852 through disputes over his estate. For its first ten years, therefore, East Balmain was an isolated maritime suburb, accessed generally only by water.

The 1836 subdivision laid out three streets — Darling, along the top of the sandstone ridge, Johnson and Nicholson, setting the framework for Balmain today. Each lot had access to one of these streets and to the waterfront. They were advertised as waterside, dock and shipping properties in ‘the Deptford of Sydney’.

Purchasers were merchants, boatbuilders, master mariners who needed the deep water frontages for their shipping activities; middle class professionals and civil servants who purchased the land for investment, for later re-subdivision or to build their own villa; speculative builders such as Robert Blake who saw the peninsula as a marine retreat for gentlemen and proceeded to build villas in spacious grounds for that market. The early elegant villas, eg Hampton Villa, built of stone hewn from the allotment itself, or from land nearby, stood on the higher ground, and enjoyed fresh breezes and views of Sydney Town. Close to the waterfront and the shipbuilding activities were the houses of ship captains and merchants, often of timber or stone cut from their own land. Subdivision of these allotments, either immediately, or after the 1840s slump, required new streets for access. Unaffected by the regulations of Sydney Town, they were made only as wide as was absolutely necessary, leaving as much land as possible for sale. In the 1860s small streets were cut through the sandstone to give access to an increasing number of industries along the waterfront. Associated industry followed — timber yards that served the wooden shipbuilding yards, tanneries that used the harbour for their effluent.

Subdivision of the villa estates occurred through the 1840s and 1850s, often to pay off creditors. It led to the acceleration of small suburban allotments and suburban growth to serve the growing demand for both housing and industry, the latter having been pushed from the city by rising land values. Shops, pubs and a school grew at or near the intersection of the major streets, serving a growing population. There were pockets of infill development from 1910–1930s and by the 1940s East Balmain was fully built-up. After the 1960s, as the waterfront industries closed down through changing technology, waterfront sites were taken over by the Maritime Services Board for port

¹ Area 17: ‘East Balmain Conservation Area’, Godden Mackay Logan, Inner West Council, accessed 13th May 2022.

activities or storage. From the 1970s these under-used parcels of land were turned into public waterfront parks.”

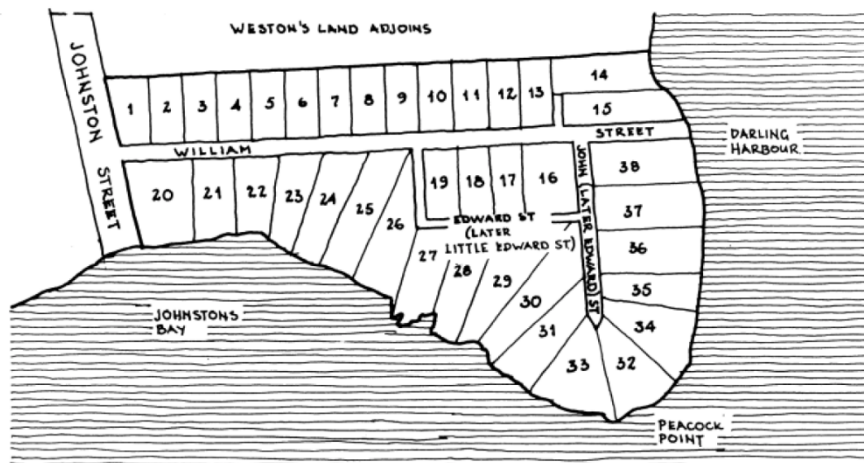
The History of the surrounding area

Captain John Jenkins Peacock, a successful Sydney merchant, purchased Lots 1 and 2 of the Balmain Estate in 1836, an area of four acres at Balmain east between Johnstons Bay and the north side of William Street. The land was good waterfront land (Peacock’s Point) located opposite Peacock’s stores and wharf at Millers Point. It is not clear how he used the land prior to this date, but In 1841 he arranged for the subdivision of Lots 1 & 2 into 38 building lots, rectangular with a 40 feet frontage (Figure 3) some of which were late re-subdivided.



Figure 3 : Lots 1 and 2 of the Balmain Estate 1836 subdivision purchased by Captain John Jenkins Peacock (Source: State Library of NSW Z/M2 811.1821/1839/1)

Feeling the eventual strain of his business expansion at the beginning of 1841 Peacock released the 38 lots for sale under the heading “ Salus Populi - Peacock’s waterside Dock and Shipping Property”. The layout had William Street extending from the existing Johnston Street and parallel to the adjacent landholding on the northern side. The subdivision also created John (later named Edward) Street and Edward (later named Little Edward) Street to access each of the lots. The streets were named after Peacock’s sons John Thomas and William Edward. The land was rough and rocky but it was cut into reasonably sized allotments, rectangular with a 40 foot frontage, which worked with the topography and gave the maximum amounts of lots, however the sale was only partially successful.



PEACOCK'S SUBDIVISION: 1841. Edward Street shown here became Little Edward Street and John Street was renamed Edward Street. Illoura Reserve (Peacock Point Park) occupies part of lots 12 and 13, all of lots 14 and 15, and lots 32 to 38. St Mary's Street did not come through until c1865.

Figure 4: Peacock's Subdivision

Peacock continued his shipping activities and supplemented his income by selling his coconut and sperm oil and offering the Dundee Arms (in Gloucester Street) for lease, however he had many uncollected debts owing to him and he was eventually declared insolvent. He transferred all his real estate to his sea trading partner, Michael Gannon, in return for his financial assistance, however he was also eventually declared bankrupt. Both were required to surrender their property including all real estate to the official Assignee, Clark Irving, who then sold the remainder of the Balmain lots to satisfy Peacock's creditors.

Gardner Family

While John Bell was the first to establish a shipyard on land south of Darling Street, the Gardners were notably the longest running family to carry on the business.

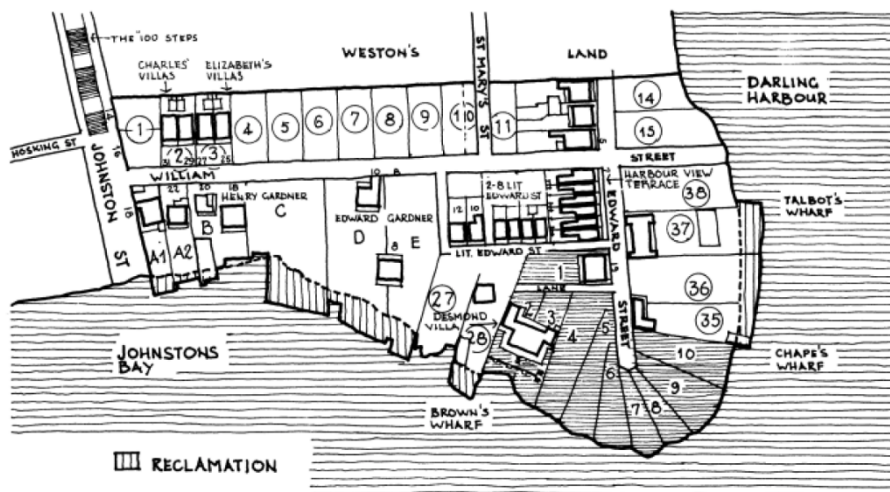


Figure 5: Gardner Lot E

The Gardner brothers, Henry and Edward, set themselves up in business on the Johnstons Bay waterfront but before Henry came in the early 1840s he established a relationship with one of the oldest family of free settlers to come to New South Wales. In the first few years of the Colony's existence, one of Governor Phillip's difficulties was the lack of free settlers experienced enough in farming to help feed the inhabitants. After repeated requests the British government allowed five settlers to come out on the Bellona which sailed into Port Jackson on 16 January 1793. The settlers included Thomas Rose, a farmer from Dorset, his wife Jane and their children Thomas, Mary, Joshua, and Richard. Joshua Rose, the second son, by then an established farmer at Wiseman's Ferry, bought lots 20 and 21 at the corner of Johnston and William Streets from Peacock in 1841. With Rose's permission, Henry Gardner, leased the land and built a weatherboard cottage on it. In 1847 Rose sold to Henry half of the land, which he already occupied. Ten years later in 1857, Henry bought a further 90 feet of the William Street frontage which, taken in with the land bought from his father-in-law, B, gave him 155 feet along that street.

Lots 26 and 27 (which includes the site of No 4 and 6 William Street) were bought by a carpenter in 1847 who then onsold to Joshua Rose that same year. In 1856 Joshua Rose divided his remaining land in William Street into two halves. He gave the half on the corner of Johnston St to his second son, William and he sold the other half to Henry and Edward Gardener.

Edward Gardener owned lots 24, 25 and 26. In 1857 he built his stone cottage at 8 William street which was demolished in the 1960s. Following his death his son William Topp Gardener carried on the boating business.

No 4-6 William Street

The two storey semi-detached weatherboard houses 4-6 William Street were built by the Gardener family in the late 19th century.

A Sydney Metropolitan Data Series (Sheet No. 21) dated 1886 shows No.4-6 William Street built close to the street frontage with an open veranda facing the street.

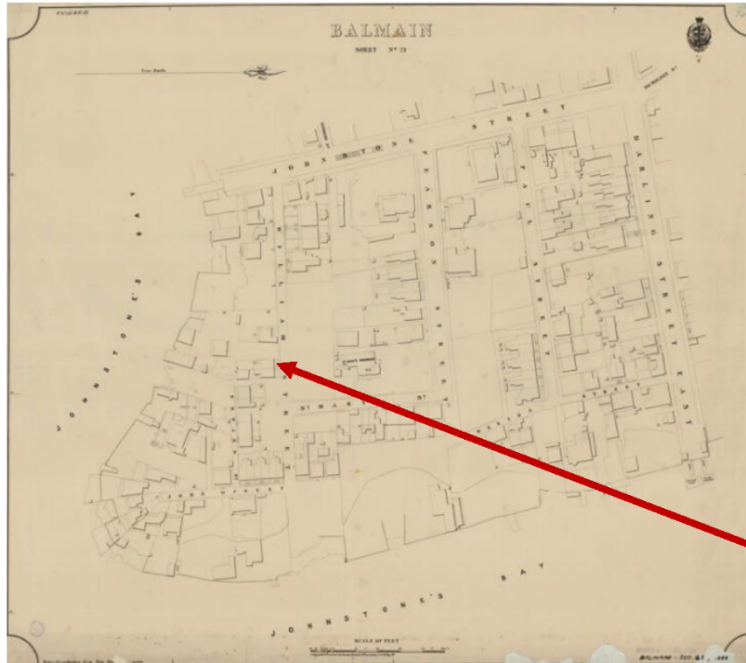


Figure 6: Sydney Metropolitan Data Series Sheet No 21 of Balmain dated 1896 (Source: State Library)

The Gardner family owned the property until 1947 when it was sold to company director John George Bright of Artarmon. Bright purchased a substantial amount of land front Johnstons Bay at this time. In 1949 he used the properties to secure a bank overdraft facility from the Rural Bank of New South Wales. He defaulted on his overdraft and in 1971 the Bank conveyed No 4-10 William Street to Mrs Ida Brew of Killara. Mrs Brew subdivided the property in 1973 giving individual torrens title for each of the houses. The 1971 alterations to the bathroom and laundry discussed below were made to both No 4 and No 6.

We do not know who was first to purchase the property from Ms Brew but we know the house was owned by George Edward Negus AM a well known journalist, author, television and radio presenter from 1979. Negus, once affectionately referred to as the unofficial mayor of Balmain, held it for 42 years until the current owner purchased it in 2021. The house became his office when he worked on Foreign Correspondent in the 1990s.

Occupants

The Sands Directory was published annually between 1858 and 1933. Each issue of the Sands Directories listed householders, businessmen, public institutions and officials of the Sydney area. It is not a legal document and the information was collected by a Sands agent who called door to door and therefore the entries are variable and may contain errors. The street-by-street listing includes the householder's names and title, street

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name and house name where established, and the householder's occupation and type of business.

The occupants of 6 William Street are recorded as following, working backwards from 1933 when the street is numbered:

Date	Occupant	Occupation	Notes
1932/33	C Smith	nm	
1931	O Smith		
1930	Andrew Russell	nm	
1927	Mrs L Williams	nm	
1924-26	George Bardene		
1920-23	Frank Walkley		
1905-15	Amelia Walkley		
1898-1900	Henry Walkley		
1895	Charles Arnold		
1890	Minty JF	shipbuilder	
1884-1885	Foster and Minty	shipbuilders	

Date of Construction

While the exact date is unknown it is believed that they were built some time after the death of Edward Gardner in 1878 to secure rental income for his widow Mrs Louise Gardner. We know the building existed by 1886. It appears to have been tenanted by 1884.



Figure 7: Focus on the rear section of the Metropolitan data map 1886 which shows the two buildings were not an exact pair. (Source: State Library)

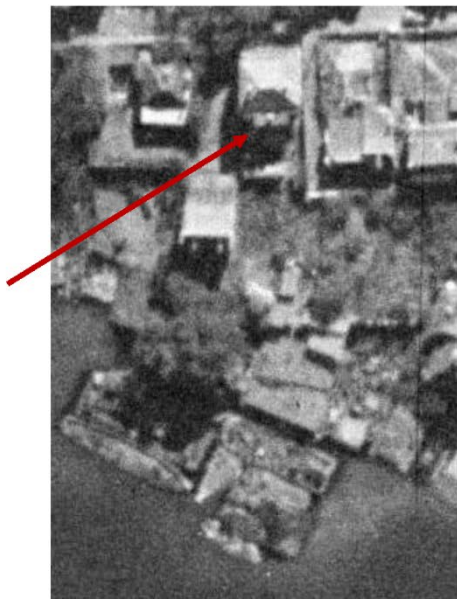


Figure 8: Aerial Photograph of No 4-6 William Street 1943 (Source: SIX maps)



Figure 9: Recent aerial photograph of 4-6 William Street (Source: SIX Maps)

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3.2 Alterations and Additions

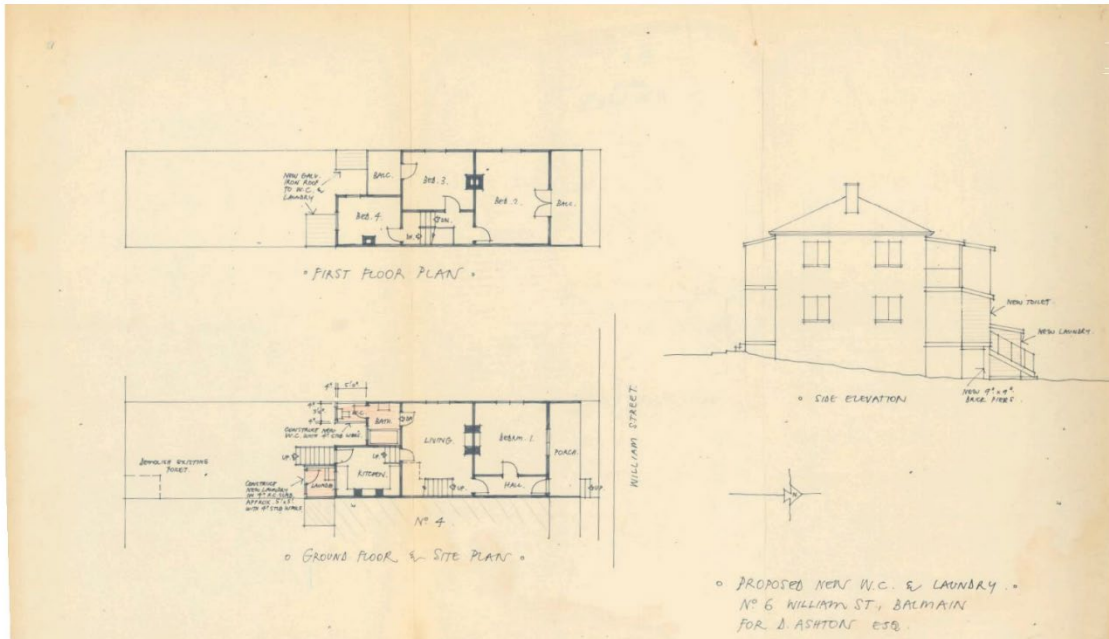
Inner West Council have provided the following available earlier development applications that relate to this property. These include the following:

1971: Plan 10929

Applicant: D Ashton

Proposal:

Modification to bathroom and WC and erection of laundry at rear



Document Set ID: 38111786
Version: 1, Version Date: 21/09/2023



Figure 10: Photo of the building dated 1979 (Source: National Trust)

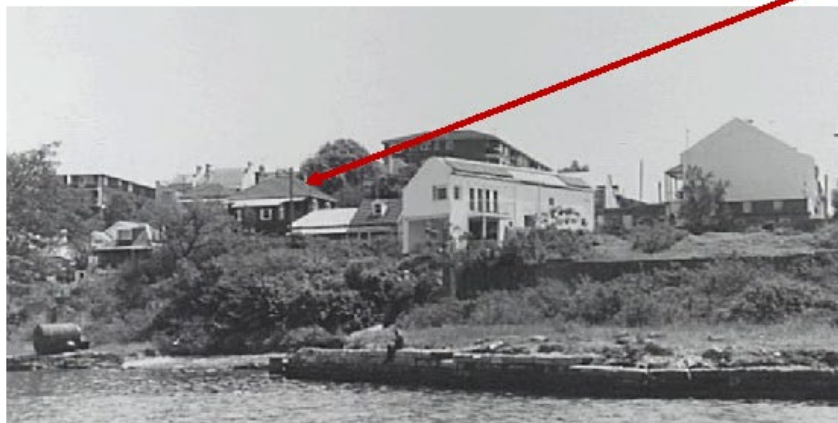
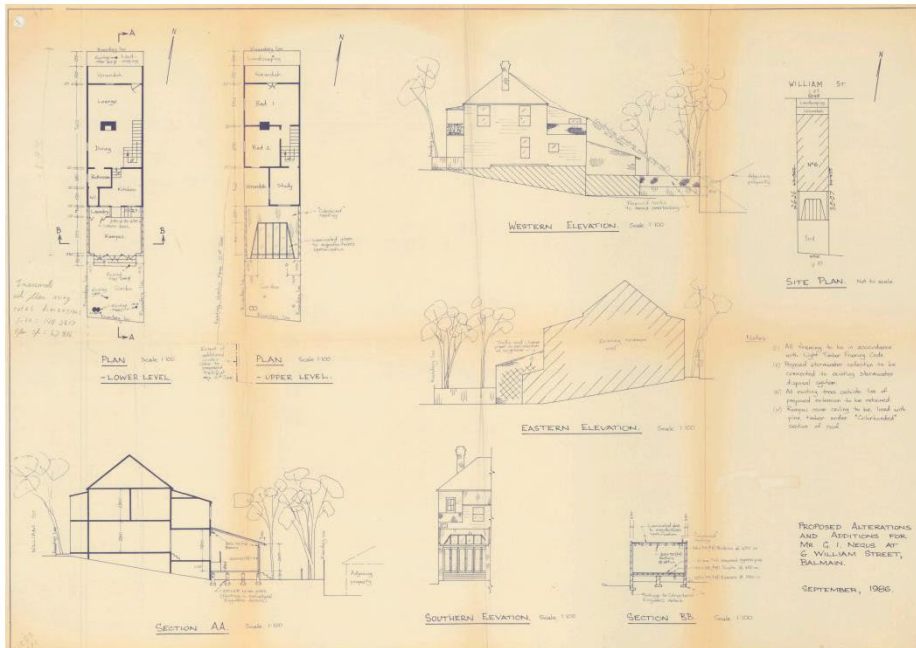


Figure 11: Peacock point with the building indicated by the red arrow dated 1976 (Source: Leichhardt Library)

1986: DA406/86

Applicant: Owner George Negus

Proposal: Rear Ground Floor Addition



Document Set ID: 38111786
Version: 1, Version Date: 21/09/2023

2005: DA05/0591

Applicant by builder Mr Minter on behalf of owner George Negus

Proposal: Alterations and Addition at Ground and first floor

Description of works included:

- Conversion of the first floor bedroom into a bathroom
- extension of an existing first floor bedroom over part of a first floor deck,
- addition of new windows into western wall
- increase in the height of the roof over the dining room by 600mm
- construction of a new rear deck and water feature accessed via new door openings off the fining room
- removal of fireplace with chimney retained.

- Amendments to approved plans, according to file notes, included the following:
- Reversing the side configuration of the kitchen resulting in the refrigerator and cupboards being located on the left side and the stove on the right.
- Relocation of the stairs down to the dining space to the right side of the house.
- Retention of the existing window to “old Bathroom” in same position but now fixed and fire-proofed.
- Relocation of bathroom from behind door to half way along western wall
- Repositioning of the laundry facilities in the new kitchen to the RHS of the entrance to new bathroom
- The boundary fence between No 4 and 6 was increased by 100mm over initial approved level.

4 Physical Description

4.1 Urban Context

The area of Balmain East remains characterised by its close links with maritime industry and with the harbour. The neighbourhood is now predominantly residential however, until the 1960s the area had been a varied industrial, maritime and residential neighbourhood. There is a small shopping strip at the crest of the Darling Street hill (which forms part of the Darling Street Distinctive Neighbourhood) and two remnant commercial/industrial sites on its northern shore. The remainder of the former industrial sites have been redeveloped, with much of the foreshore land having been converted to open space. Currently, more than half of the Balmain East foreshore is zoned for open space. The steep headland form of this neighbourhood gives prominence to its built character, particularly roof form. The small scale of the older buildings and the foil of high canopy trees, closely models the landform. The low form of the neighbourhood is abruptly broken by blocky flat buildings particularly along the eastern edge taking advantage of the prime aspect, with some walk up flat blocks and one tower block on the Nicholson/Johnston Streets axis.

The local character of Balmain East Distinctive Neighbourhood is largely a product of the phases of development, as follows:

- a. early buildings up to about 1860, being primarily dressed stone, with some timber, one and two storied, detached houses. The scale and form varies between large houses in generous gardens oriented for the views out, and modest houses for local workers, often speculatively built. The remaining structures from this period are either hotels, or housing;
- b. consolidation continued through the Victorian period with terraced shops and housing of mostly rendered brick. Some industrial structures remain, including the stone Bells Store, and the timber and iron Adelaide Steamships buildings;
- c. industry consolidated in utilitarian iron or brick sheds in the early 1900s, focussed on servicing maritime activities including recreational boating, such as Bretts, the sailmakers. However, these sites have mostly been redeveloped for residential purposes;
- d. after World War II the modernisation phase led to residential flat development on foreshore and ridge top sites. These buildings form a sharp contrast to the earlier fabric. Some of the harsher brick blocks have been rendered and tree planting has also reduced the differentiation in scale and form;
- e. from the 1970s increased value was placed on the historic pattern and new housing principally townhouses, was more complementary. As the location became increasingly prized, the small houses on generous lots for the area were enlarged or replaced. This has resulted in increasing pressure on the early heritage of the area. Upper storeys are often sought or the roof spaces converted to both gain more space and capture better views.

The Eastern Waterfront Sub Area includes the foreshore east of Nicholson and Johnston Streets. This area includes numerous large waterfront houses and is characterised by freestanding dwellings which are predominantly two storey, many having views over the harbour to the CBD and the Sydney Harbour Bridge. The built environment of the area is

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characterised by setbacks generally over 2.5m, mature front gardens, steeply pitched roofs and dense tree cover. Driveway crossings are relatively common north of Darling Street, where many houses date from the mid-1900s. Traditional materials used in the neighbourhood include render, stone, timber and slate roofs.

6 William Street East Balmain is also located in the Balmain East Heritage Conservation Area.

The significant characteristics which are noted for this area include:

- Dramatic sandstone topography.
- Views down streets, between buildings and across the headland to harbour, harbour bridge and city. Main streets all end with dramatic city/harbour/industry views.
- Main streets all terminate at water or at cliff top.
- Many very narrow, steep minor streets and rights of way follow boundaries of the first twenty-two allotments.
- Sandstone steps cut into the bedrock transfer pedestrians between levels.
- Some dense stands of trees.
- Intermix of buildings – sandstone villas, sandstone, weatherboard and brick cottages and terraces, school, maritime industrial buildings, corner stores (former), shops and pub.
- Rare early buildings, mainly in timber and stone.
- Neighbourhood shops and pubs grouped around the Darling Street/Johnston and Nicholson Streets intersection.
- Low fences – some early iron palisade fences remain.

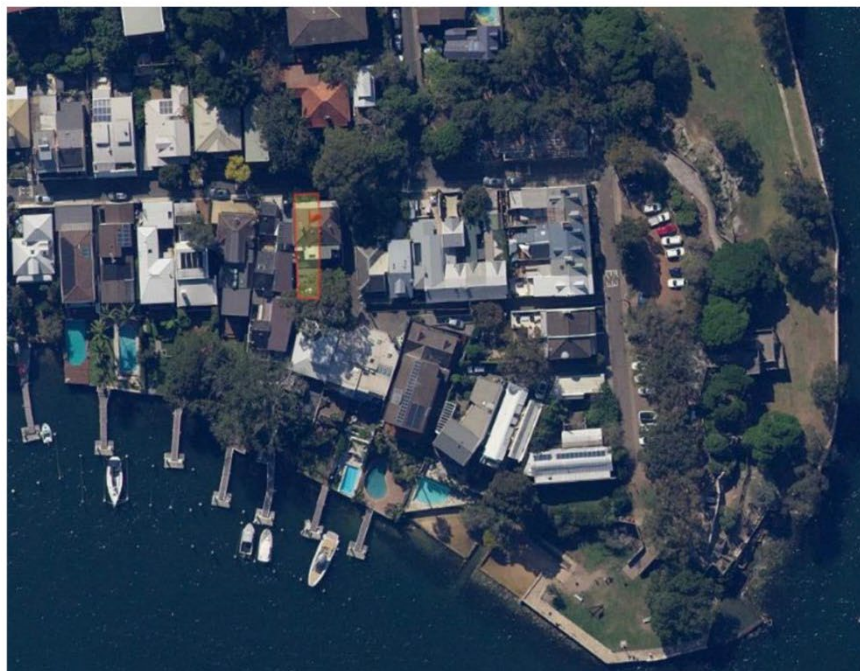


Figure 11: Aerial photograph of the surrounds, with 6 William Street outlined in red (Source: SIX Maps)



Figure 12: View of William Street looking east with No 6 visible on the RHS



Figure 13: View of William Street looking west with No 6 visible on the LHS



Figure 14: View down Little Edward Street from William Street



Figure 15: View of the entrances to 1B and 1C directly opposite on William Street

The surrounding properties on William Street consist of a mix of single and two storey dwellings of various eras, construction types and fabric. There are no consistent front or rear setbacks. With newer builds in front accessing the water.



Figure 16: 10B and 10A William Street



Figure 17: Rear View of 10B from the subject site



Figure 18: No 4 William Street



Figure 19: Rear view of No 4 William Street from subject site



Figure 20: Rear View of 4-6 William Street from Little Edward Street



Figure 21: Rear View of the site from 7 Little Edward Street

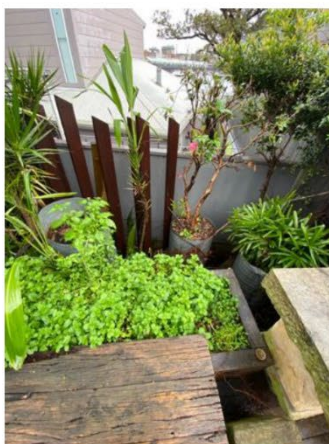


Figure 22: View of No 7 Little Edward Street and rear of No 10B directly to the rear of the subject site. This property has a current DA with recent modifications approved for alterations and additions (DA/2018/39 and MOD/2021/0558)

Figure 23: View of harbour from first floor

4.2 The Site

The subject site is located on the southern side of William Street. The semi-detached dwelling sits on a rectangular shaped block with an area of approximately 122.5m². The principal elevation faces towards William Street with a street frontage of approximately 5.045 metres and a depth of 24m. There is no rear access.



Figure 24: Aerial View of the site (Source: SIX Maps)

4.3 Building

Exterior

6 William Street East Balmain is a two-storey semi-detached weatherboard terrace house built together with its pair c1884. The buildings are located close to the front boundary with low painted white picket fences. No 6 has a mature banksia tree and other plantings. Stone steps lead up to the front verandah and entry. These appear to have been replaced over time. There is a later addition low brick fence separating the two terraces at the entrance.



Figure 25: Front façade of the building No 4-6 William Street

The principal building has external weatherboard cladding, likely replaced in part over the years. The roof to the main building is clad in cement tiles but would have originally likely been clad in corrugated iron. No 6 retains and original rendered brick chimney but No 4 has been demolished.



Figure 26: Front façade of No 6 William Street

The ground front façade is clad in timber weatherboards and has a verandah. The entrance door has four panels and a highlight. The timber window is a four paned arched double hung sash.



Figure 28: Front garden and ground floor of facade



Figure 29: Detailing of weatherboards and verandah

The front façade has a first floor front veranda with timber posts and a separate corrugated iron sloping roof. The cast iron panels are likely original although the timberwork appears to have been replaced over time. The veranda is accessed via a central pair of glazed French doors with highlights. There is a timber party wall dividing the two terraces.



Figure 30: First Floor facade

The ground floor windows on the principal section of the western facade have been altered over time. In 1971 the plans show two sash windows. The front window is removed in the 1986 plan and then re-instated as part of the 2005 works. Notably the matching pair No 4 only has one sash window in this section on the ground floor.



Figure 31: Western façade

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The rear section has been altered over time with a single extension and then a two storey extension with a small corner first floor balcony addition.



Figure 33: Rear facade



Figure 34: Western side bbq/kitchenette

Interior



Figure 34: Floorplan (Source: Floorplan (Source: Bresic Whitney, realestate.com.au)

The internal spaces remain fairly intact allowing for the original floorplan to remain interpretable. The original timber staircase, floorboards, timber architraves and skirting boards remain. The walls and ceilings are plasterboard with some of the original lath and plaster walls. The fireplaces have been removed.

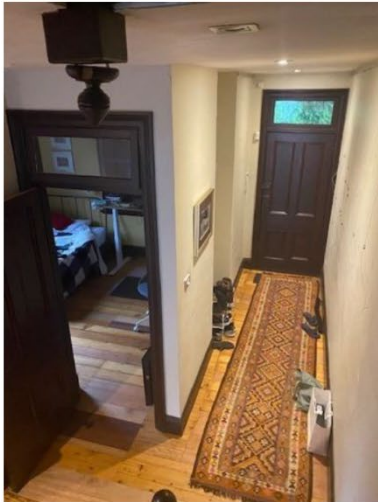


Figure 35: Hallway Entrance ground floor and front room bed 1



Figure 36: Timber staircase detailing



Figure 37: Front bedroom original window on western side

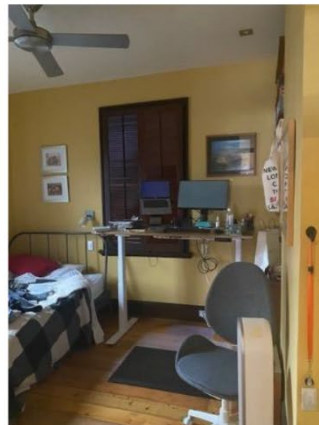


Figure 38: Front bedroom with front window in view



Figure 39: Dining space



Figure 40: Kitchen facing front



Figure 41: Kitchen eastern side

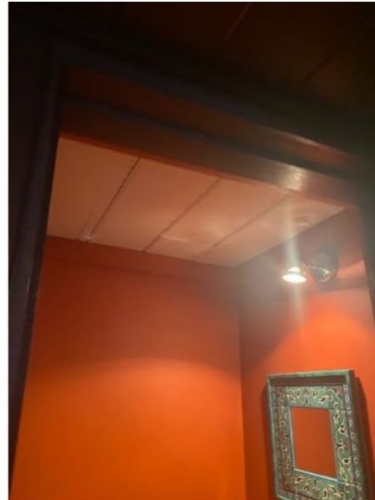


Figure 42: Ground floor powder room under the stairs

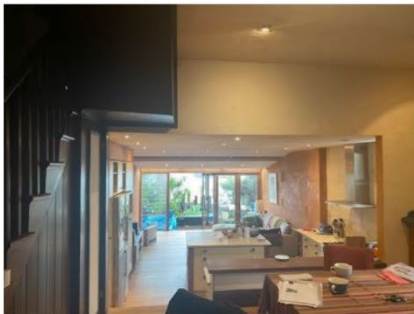


Figure 43: View of living space at rear

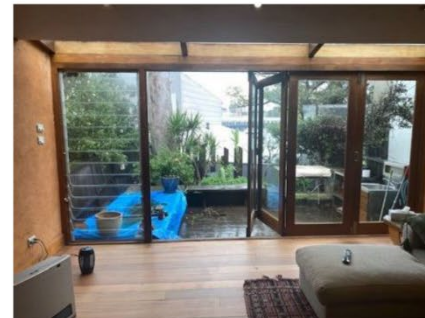


Figure 44: Rear bi-folds access to the garden



Figure 45: first floor landing bathroom eastern side originally a bedroom



Figure 46: laundry within bathroom space on northern wall

Figure 47: western side of bathroom

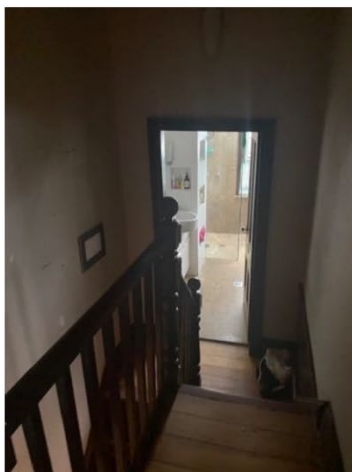


Figure 48: View of rear bathroom from first floor

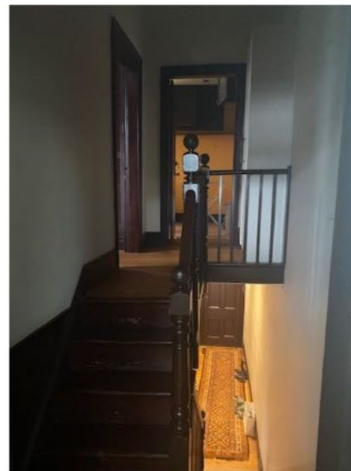


Figure 49: Staircase to first floor

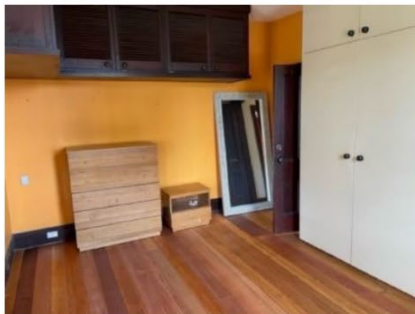


Figure 50: First floor front bedroom eastern side

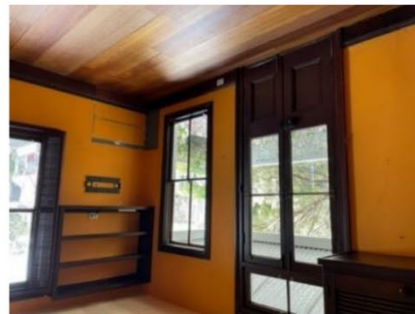


Figure 51: First Floor front bedroom facing north-west/front



Figure 52: First Floor second bedroom northern wall with chimney breast between built in cupboards



Figure 53: First Floor second bedroom facing south with later addition verandah in view

Garden

The land falls to the south.

The rear garden has been materially altered with minimal if/any original plantings and landscaping surviving. In the original plan we understand that there were steps which led from the rear kitchen to the garden. A new rear deck and water feature accessed by new doors off the dining room, were constructed as part of the 2005 renovation. In the south-eastern corner is a mature eucalyptus tree.



Figure 54: Rear Garden

5 Heritage Assessment

5.1 Assessment of Significance

A Historical Significance: An item is important in the course, or pattern, of the cultural or natural history of NSW; or of the local area's cultural or natural history.

6 William Street was built c1884 as one of a pair of two storey weatherboard semi-detached houses. The site is evidence of an early subdivision and later residential development relating to its original maritime use. The houses stand on land originally part of an allotment acquired over time by the Gardner family. The houses are believed to have been built to provide income for Mrs Louise Gardner, Edward Gardner's widow. The houses stand as a reminder of the fact that early Balmain consisted mainly timber houses, with timber accessed via the docks which specialised in timber cartage.

Guidelines for Inclusion

✘	Shows evidence of a significant human activity
✓	Is associated with a significant activity or historical phase
✘	Maintains or shows the continuity of a historical process or activity

Guidelines for Exclusion

✘	Has incidental or unsubstantiated connections with historically important activities or processes
✘	Provides evidence of activities or processes that are of dubious historical importance
✘	Has been so altered that it can no longer provide evidence of a particular association
6 William Street East Balmain satisfies the above criterion on a local level.	
<i>B Historical Association Significance: An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history; or of importance in the local area's cultural or natural history.</i>	
<p>The house was built by the Gardners, who owned a large proportion of the land frontage at East Balmain. Edward and little Edward Streets in East Balmain have been named after family members. They did not reside in the property and likely purchased it for investment purposes for Mrs Louise Gardner, the widow of Edward Gardner.</p> <p>The house was also owned for 42 years by George Edward Negus AM, a well known journalist, author, television and radio presenter from 1979.</p>	
Guidelines for Inclusion	
✘	Shows evidence of a significant human occupation
✓	Is associated with a significant event, person or group of persons
Guidelines for Exclusion	
✘	Has incidental or unsubstantiated connections with historically important people or events
✘	Provides evidence of people or events that are of dubious historical importance
✘	Has been so altered that it can no longer provide evidence of a particular association
6 William Street East Balmain satisfies the above criterion on a local level	
<i>C Aesthetic Significance: An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW; or in the local area.</i>	
<p>The building is not likely to have been designed by a prominent Sydney architectural practice. It is a good example of a relatively intact (in form and front detailing) late 19th century two storey timber weatherboard building. The raised elevation of the pair and location next to little Edward Street, mean that the buildings are visible from a number of vantage points and thereby contribute to the streetscape and the greater conservation area.</p>	
Guidelines for Inclusion	
✘	shows or is associated with, creative or technical innovation or achievement
✓	is the inspiration for a creative or technical innovation or achievement is aesthetically distinctive
✘	has landmark qualities

✘	exemplifies a particular taste, style or technology
Guidelines for Exclusion	
✘	is not a major work by an important designer or artist
✘	has lost its design or technical integrity
✘	its positive visual or sensory appeal or landmark and scenic qualities have been more than temporarily degraded
✘	has only a loose association with a creative or technical achievement
6 William Street East Balmain satisfies this criterion on a local level	
<i>D Social Significance: An item has strong or special associations with a particular community or cultural group in NSW; or in the local area for social, cultural or spiritual reasons.</i>	
The item is privately owned and has no known associations with any particular community or cultural groups.	
Guidelines for Inclusion	
✘	is important for its associations with an identifiable group
✘	is important to a community's sense of place
Guidelines for Exclusion	
✓	is important to the community for amenity reasons
✘	is retained only in preference to a proposed alternative
6 Williams Street East Balmain fails to satisfy this criterion at the local level.	
<i>E Scientific Significance: An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history; or of the local area's cultural or natural history.</i>	
6 William Street East Balmain is not thought to have any archaeological potential for yielding information. The buildings appear to be the first building constructed on the site. The building is of conventional construction and does not have the potential to contribute information that is unavailable elsewhere.	
Guidelines for Inclusion	
✘	has the potential to yield new or further substantial scientific and/or archaeological information
✘	is an important benchmark or reference site or type
✘	provides evidence of past human cultures that is unavailable elsewhere
Guidelines for Exclusion	
✘	the knowledge gained would be irrelevant to research on science, human history or culture

✓	has little archaeological or research potential
✗	only contains information that is readily available from other resources or archaeological sites
6 William Street East Balmain fails to satisfy this criterion.	
<i>F Rarity: An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history; or of the local area's cultural or natural history.</i>	
6 William Street East Balmain is a relatively intact two-storey semi-detached later nineteenth century weatherboard in good condition, which are becoming increasingly rare.	
<i>Guidelines for Inclusion</i>	
✗	provides evidence of a defunct custom, way of life or process
✗	demonstrates a process, custom or other human activity that is in danger of being lost
✗	shows unusually accurate evidence of a significant human activity
✗	is the only example of its type
✗	demonstrates designs or techniques of exceptional interest
✗	shows rare evidence of a significant human activity important to a community
<i>Guidelines for Exclusion</i>	
✓	is not rare
✓	is numerous, but under threat
6 William Street East Balmain fails to satisfy this criterion at the local level.	
<i>G Representativeness: An item is important in demonstrating the principal characteristics of a class of NSW's; or of the local area's - cultural or natural places; or - cultural or natural environments.</i>	
6 William Street East Balmain, semi-detached late 19 th century weatherboard house, is a very good and largely intact example of its type	
<i>Guidelines for Inclusion</i>	
✗	is a fine example of its type
✓	has the principal characteristics of an important class or groups of items
✓	has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity
✗	is a significant variation to a class of items
✗	is part of a group which collectively illustrates a representative type
✗	is outstanding because of its setting, condition or size
✗	is outstanding because of its integrity or the esteem in which it is held

Guidelines for Exclusion	
x	is a poor example of its type
x	does not include or has lost the range of characteristics that make up a significant variation of its type
9 William Street East Balmain satisfies the above criterion at the local level.	

Statement of Significance

6 William Street has local, historic and aesthetic significance as a good example of one of a pair of semi-detached two storey weatherboard building built c1884 by the Gardner family. The site is evidence of an early subdivision and later residential development relating to its original maritime use. The houses are believed to have been built to provide income for Mrs Lousie Gardner, Edward Gardner's widow.

The two houses are unusual in being late nineteenth century semi-detached weatherboard houses that are largely intact in form and front detailing. They are very good examples of their type and stand as a reminder of the fact that early Balmain consisted mainly of timber houses, with timber accessed via the docks which specialised in timber cartage

The raised elevation of the pair and their location next to little Edward Street, mean that the buildings are visible from a number of vantage points and thereby contribute to the streetscape and the greater conservation area.

These types of dwellings are becoming increasingly rare and our assessment supports their heritage listing status on a local level.

5.2 Statement of Significance of The Balmain East Conservation Area²

- *One of a number of conservation areas which collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). The earliest developments here predate Leichhardt's main suburban growth with marine villas and cottages from the 1840s to modest-scale housing from 1870s through to the 1930s, and industry. It is significant for its surviving development from these periods.*
- *Demonstrates through the siting of recent public parks, the location of former waterfront industries. Through these parks and its remaining waterfront activities East Balmain can interpret Sydney's port history from the early 1840s, and the role of Balmain's deep water frontages in that story.*
- *Demonstrates through the line of its narrow streets the earliest subdivision sections of the large 550-acre Balmain grant.*
- *Demonstrates through its steps and cuttings the way in which early roads and pedestrian routes were forged out of the sandstone bedrock.*
- *Demonstrates through its mixture of sandstone villas and timber and brick cottages the major themes that formed this suburb – marine villa development and investment, port and waterfront activities, and the continuing layering of these developments.*

² Godden Mackay Logan, Inner West Council website accessed August 2021

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•Through its remaining timber buildings it continues to demonstrate the nature of that major construction material in the fabric of early Sydney suburbs, and the proximity of the timber yards around the Balmain waterfront.

•It is of aesthetic significance for its dramatic sandstone landscape, closely related to the harbour, and clearly revealed below the modest scale of its nineteenth century and early twentieth century buildings. It stands in contrast with the nearby city where twentieth-century technology has forged an equally dramatic but very different man-made landscape.

6 Proposed Development

6.1 Introduction

The proposed development takes into consideration the heritage significance of the conservation area to ensure that its significance remains undiminished, while meeting the reasonable expectations of its owners.

The following plans incorporate advice given to the owner in a Pre-DA dated 27th April 2022. Jaimie Lovell, as the new owner of the property, sought feedback with regards to proposed changes designed to adapt the dwelling to suit their individual lifestyle requirements.

Following the Pre-DA meeting, MHM was engaged to assist with the process and consultation was undertaken with the principal designer. The initial design development incorporated conservation advice and the proposal before council reflects a satisfactory resolution of raised heritage issues.

On October 24 2022, the owner received permission to remove some of the modern cabinetry and repair and repaint the interior under a Heritage Exemption Certificate (Application No HEC/2022/0131) in preparation for these following relatively minor works that are covered by the current DA.

6.2 Proposed Development

The proposed works are detailed in the accompanying drawings prepared by De Simone Design, for the DA submission. The proposals are shown on Drawing Nos 100C, 101D-101B, 102C, 102E, 103C, 104D, 105E, 106D, 107E and 108D Revision E dated 2-/3/2023.

The details of the work proposed include:

Building

Exterior:

- No proposed changes to the exterior facades of the building.
-

Interior:

General

- Air conditioning units are to be wall mounted with surface mounted wires hidden behind colorbond channels painted to match the wall colour.

Ground Floor

- Existing non-original bookshelves in the dining area to be replaced with new built-in credenza/buffet joinery.
- Introduction of a sink in the powder room under the stairs. Plumbing from the adjoining kitchen to be located under the floor.

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First Floor landing Bathroom (described as second floor as per plans)

- Addition of a bath to existing bathroom on the western wall.

Second floor

- Addition of built-in wardrobe into front bedroom. The design will be similar to the image of the white joinery below.



- Addition of a false wall on southern side front bedroom to hide the chimney breast to improve room functionality, such that a bed can be pushed against the wall. The wall will be constructed using plasterboard which will cover the original sandstock bricks which form the pillar. The mirror that is currently adhered to the bricks will be removed.

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- Addition of new cupboards in bedroom two to replace existing which have been approved for demolition.

Landscaping

- Removal of later addition water feature/pond
- Replacement of existing softwood decking with spotted gum raised to allow direct access to rear of house.
- Raising existing garden bed at rear to decking height with treated pine retaining walls
- Addition of stainless steel and wire fence to the southern boundary and around the tree.
- Upgrading of bbq/outdoor existing kitchenette
- Installation of retractable clothesline on western side
- Installation of the air conditioning compressor under the rear deck as per drawings number 105E and 107E

7 Heritage Impact Assessment

The following assessment is based on the NSW Heritage Office guide to the preparation of Statements of Heritage Impacts to help identify issues associated with the proposed development affecting heritage conservation areas.

Inner West LEP 2022

The Inner West LEP 2022 is a statutory plan adopted by the Inner West Council. The objective of this legal instrument is to impose standards to control development in the area.

The proposal has been assessed against the requirements of the Inner West LEP 2022:

Part 5 Clause 5.10 Heritage Conservation	Response
<p>(1) Objectives</p> <p>The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> (a) to conserve the environmental heritage of Ashfield, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance. 	<p>This Heritage Impact Statement is provided to assist Council in its consideration of the development application. The proposed works are considered to have an acceptable impact on the heritage item and the Balmain East Heritage Conservation Area.</p>
<p>(2) Requirement for consent</p> <p>Development consent is required for any of the following:</p> <ul style="list-style-type: none"> (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance): <ul style="list-style-type: none"> (i) a heritage item, (ii) an Aboriginal object, (iii) a building, work, relic or tree within a heritage conservation area, (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item, (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed, (d) disturbing or excavating an Aboriginal place of heritage significance, (e) erecting a building on land: <ul style="list-style-type: none"> (i) on which a heritage item is located or that is within a heritage conservation area, or 	<p>A Heritage Impact Statement is required as the proposal involves works to a locally listed heritage item located in the Balmain East Heritage Conservation Area</p>

<p>(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance, (f) subdividing land: (i) on which a heritage item is located or that is within a heritage conservation area, or (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.</p>	
<p>(3) When consent not required</p> <p>However, development consent under this clause is not required if:</p> <p>(a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:</p> <p>(i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or (b) the development is in a cemetery or burial ground and the proposed development:</p> <p>(i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or (d) the development is exempt development.</p>	<p>Not applicable</p>
<p>(4) Effect of proposed development on heritage significance</p> <p>The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</p>	<p>This Heritage Impact Statement is provided to assist Council in its consideration of the development application. The proposed works are not considered to adversely impact the heritage item itself nor the Balmain East Heritage Conservation Area.</p>
<p>(5) Heritage assessment</p> <p>The consent authority may, before granting consent to any development:</p> <p>(a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or</p>	<p>This Heritage Impact Statement is provided to assist Council in its consideration of the</p>

<p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	<p>development application. The proposed works are not considered to adversely impact the heritage item itself nor the Balmain East Heritage Conservation Area.</p>
<p>(6) Heritage conservation management plans</p> <p>The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.</p>	<p>Noted</p>
<p>(7) Archaeological sites</p> <p>The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the <i>Heritage Act 1977</i> applies):</p> <p>(a) notify the Heritage Council of its intention to grant consent, and</p> <p>(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p>	<p>Proposed works do not involve material excavation works.</p>
<p>(8) Aboriginal places of heritage significance</p> <p>The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:</p> <p>(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and</p> <p>(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.</p>	<p>According to a AHIMS web search dated 26th October 2022 there are no Aboriginal sites or locations recorded in or above the site with a 50m buffer.</p>
<p>9) Demolition of nominated State heritage items</p> <p>The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:</p> <p>(a) notify the Heritage Council about the application, and</p> <p>(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p>	<p>Not applicable as 6 William Street is not a state listed heritage item.</p>
<p>(10) Conservation incentives</p> <p>The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place</p>	<p>Not applicable</p>

<p>of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:</p> <p>(a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and</p> <p>(b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and</p> <p>(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and</p> <p>(d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and</p> <p>(e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.</p>	
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Recommended Management as per the listing Sheet sourced from the Office of Environment & Heritage, heritage database.

No details provided.

The Leichhardt DCP 2013

This plan applies to development requiring consent under The Leichhardt DCP 2013

Under section 79C of the EP&A Act, Council is required to take into consideration the relevant provisions of any applicable DCP when determining an application for development.

The consistency of the proposed development with the aims and objectives of (only) **the relevant** heritage management and conservation provisions of the DCP is outlined in the following table:

Leichhardt DCP 2013	Response	Complies
C1.4 HERITAGE CONSERVATION AREAS AND HERITAGE ITEMS		
Controls		
General		
<p>C1 Development maintains the characteristics and is consistent with the objectives and controls for the relevant building type contained in Appendix B ± Building Typologies of this Development Control Plan.</p> <p>Section 5 Semi-detached Cottage</p> <p>The defining characteristics of a Semi-detached House are as follows:</p> <ul style="list-style-type: none"> • c. 1880-1930s; • single storey attached or, less commonly, two storeys; • one of a pair sharing a party wall, a roof form and with openings to the front, one side and the rear; • main roofs are a combination of hip and gable, with separate skillion roofs to the rear; 		

<ul style="list-style-type: none"> • the pair of dwellings may be symmetrical with front or side entry doors or may be designed to look like a single house from the street, with one entry to the front and the other to the side and a corresponding asymmetry to the ground floor; • semi-detached houses have a narrow side passageway leading to the rear garden; and • fences vary from timber picket fences to low brick fences with lawn and edging shrubs behind. Gates are correspondingly low and in wrought iron or timber. 		
<p>C1 Development shall:</p>		
<p>a. retain the curtilage and setting of the pair;</p>	<p>Proposal complies</p>	<p>✓</p>
<p>b. retain the presentation of the building to the street including the single storey scale, roof form, building massing and façade proportions;</p>	<p>Proposal complies</p>	<p>✓</p>
<p>c. maintain the original symmetrical character and appearance of pairs of houses where it is still evident;</p>	<p>The changes are isolated to the interior and the rear landscaping. The rear sections of the pair have been altered over time and are not matching. In fact the 1886 Metropolitan data series map suggests that the rear of the pair was never identical</p>	<p>✓</p>
<p>d. protect the amenity of each house and its neighbours; and</p>	<p>Proposal complies. The proposal will improve the functionality of the spaces but will not impact its pair.</p>	<p>✓</p>
<p>e. restore/reconstruct original forms, finishes and details.</p>	<p>Not applicable. The rear landscaping is replacing a later addition design which had updated the building for 21st century living. The details of the original rear yard are not known.</p>	<p>✓</p>
<p>C2 Alterations and additions to either house are:</p>		
<p>a. to be subordinate to the main form of the pair such that they do not dominate one or both houses;</p>	<p>Proposal complies, works are relatively minor in nature and are confined to the interior and the rear of the building.</p>	<p>✓</p>
		<p>ü</p>

<p>b. not to compromise the symmetry and/or proportions and massing of the pair; and</p>	<p>The proposal complies works are relatively minor in nature and are confined to the interior and the rear of the building. The landscaping works will not compromise the symmetry, proportions of massing of the pair that appear not to have been identical at the rear at the time of construction.</p>	<p>✓</p>
<p>c. not to incorporate materials and finishes on the front elevation which could detract from or dominate the appearance of the other.</p>	<p>Proposal complies as there will be no changes made to the front elevation.</p>	<p>✓</p>
<p>C3 Rear additions to either dwelling are to be carefully sited and designed to:</p>		<p>✓</p>
<p>a. optimise daylight and natural ventilation to both dwellings of the pair;</p>	<p>Not applicable as works do not involve a rear addition</p>	<p>✓</p>
<p>b. minimise overshadowing and privacy impacts; and</p>	<p>Not applicable as works do not involve a rear addition</p>	<p>✓</p>
<p>c. provide sun access to private open space. Note: Adjoining land owners are encouraged to develop an integrated design approach to any additions to the pair of dwellings. In some circumstances it may not be possible for only one of the pair to be extended, due to the adverse impacts on the other.</p>	<p>Not applicable as works do not involve a rear addition</p>	<p>✓</p>
<p>C4 Side setbacks are to be maintained.</p>	<p>Proposal complies</p>	<p>✓</p>
<p>C5 Dormer windows may only be approved in the following circumstances:</p>		<p>✓</p>
<p>a. on the rear roof plane of any building;</p>	<p>Not applicable</p>	<p>✓</p>
<p>b. to be vertically proportioned and with the same pitch as the main roof; or</p>	<p>Not applicable</p>	<p>✓</p>
<p>c. may be a skillion type dormer at the rear of the property.</p>	<p>Not applicable</p>	<p>✓</p>

<p>C2 The fabric of an existing building is to be the subject of appropriate conservation practices including:</p> <p>a. retention of original detail and finishes such as:</p> <p>i. original face brick which should not be painted over or rendered;</p> <p>ii. original decorative joinery and iron work which is not to be removed;</p> <p>b. conservation of original elements;</p> <p>c. reconstruction or restoration of original elements where deemed appropriate;</p> <p>d. retention of the original cladding material of original roofs where viable;</p> <p>e. consideration of suitable replacement materials should be based on original material, and where a property is part of a group or row, replacement materials should have regard to the integrity of the group.</p>	<p>Proposal complies as there will be no changes to original details and finishes</p> <p>Proposal complies as there will be no changes to original elements</p> <p>The minor works will not involve any reconstruction or restoration, however there is no pressing requirement for such work to the buildings which present as fairly intact apart from the rear.</p> <p>There will be no change to the cladding material or roofing..</p> <p>Proposal Complies with the use of materials such as timber. The steel fence component at rear has been added to the timber fence for practical reasons such as maintenance, structural stability, to allow for views and to reduce the sense of being caged in by the timber palings.</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>
<p>C3 Development of dwellings within Heritage Conservation Areas must:</p> <p>a. not include the demolition of the internal walls and roof form, including any existing chimneys, of the front two rooms of the dwelling;</p> <p>b. retain the major form, scale and materials of the existing structure as described in (a);</p> <p>c. be for a rear addition which does not dominate the existing building or substantially change the relationship of the building to the street when viewed from the street; and</p>	<p>Proposal complies</p> <p>Proposal complies</p> <p>Not applicable</p>	<p>✓</p> <p>✓</p> <p>✓</p>

d. retain significant, established gardens and plantings including early fences.	There is no remnant original landscaping at the rear to be retained, although the mature eucalyptus is to remain. The fences are not original at the rear.	ü
C4 Demolition of dwellings in Heritage Conservation Areas or Heritage Items is subject to the provisions of Part C Section 1.2 ± Demolition within this Development Control Plan.	Not applicable	✓
Roof Forms and Materials		
C5 Consideration of roofing materials for additions should have regard for compatibility with the original roof, as well as for the context of the setting (such as if a dwelling is part of a group of similar dwellings).	Not applicable as roofing material is not changing	✓
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.	No changes have been proposed to the roof	✓
C7 Where roof links are proposed to connect the original roof space to the new addition, they are to: a. be of minimal scale and proportion (up to a maximum of 50% of the rear roof plane) and are to provide a link only. Roof links which span the whole rear roof plane will not be supported; b. preserve the unity of the row, preserve chimneys and traditional scale and proportion in the street; and c. not be used to raise the ridge, or be for the purpose of creating a viable roof space where roof space meets the requirements of the Building Code of Australia. Clerestory roofs are not considered an appropriate form of roof addition to traditional ridge lines.	Not applicable as no new rear addition. Not applicable as no new rear addition Not applicable as no new rear addition	✓
C2.2.2.4 The Balmain East Distinctive Neighbourhood		
Desired Future Character Objective		
O1 To facilitate development that is consistent with the Desired Future Character and Controls for the Distinctive Neighbourhood.		
C2.2.2(a) Eastern Waterfront Sub Area Controls		
C1 Development in this precinct is to respect the existing view lines of nearby properties.	The proposal complies as the works are at the rear and internal. The deck will be increased in height slightly but	ü

	this will not impact any view corridors.	
C2 The appropriate scale of development for this area is two storeys.	There will be no change in the building storeys or height.	✓
C3 The maximum building wall height is 6m.	There will be no change in the building storeys or height.	✓
C4 The built form is freestanding single dwellings with render and masonry construction.	The building will remain a semi-detached timber cottage.	✓
C5 Development is to be consistent with any relevant objectives and controls within the Balmain East Distinctive Neighbourhood.	Proposal complies	✓
C03 Balmain East Heritage Conservation Area		
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:	The proposal for relatively minor works isolated to the rear and interior comply in full	✓
<ul style="list-style-type: none"> • All residential or commercial structures pre-1939 belonging to the period of the growth of East Balmain. • All weatherboard buildings — now rare but typical of early development. • All sandstone structures and cuttings — cottages and villas, schools, wharves/slipways, curbs and gutters, walls, bases to fences, steps. • Unpainted face brick walls. • All original plaster finishes to external walls. Reconstruct where necessary. • All original architectural detail, and encourage replacement of lost elements, but only where evidence is available. • All sandstone outcrops. • Views between buildings from public places, especially views to the harbour. • Trees, especially large figs which form such an important role in the landscape of the area, and views to the area from the harbour. 		
Avoid:	The proposal for relatively minor works isolated to the rear and interior comply in full	✓
<ul style="list-style-type: none"> • Demolition of any pre-1939 building unless the building has been so compromised that it can no longer evidence its history. • Alteration to the form (shape) of these buildings, especially wall height or alterations to the roof over the main part of the house. Second-storey additions. 		

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<ul style="list-style-type: none"> · Removal of plaster to external walls, where part of the original wall finish. • Painting or plastering of face brick walls. • Additional architectural detail for which there is no evidence, especially the addition of verandahs, and post-supported verandahs. • Loss of any trees. • Inappropriate high front brick/stone fences or walls, or new iron palisades on high brick bases. • Interruption to the remaining sandstone kerbs and gutter. • Widening of the narrow roads. • Development that detrimentally affects views from the harbour, Harbour Bridge and the city to East Balmain, or disrupts its skyline when viewed from those places. 		
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Conclusion

6 William Street has local, historic and aesthetic significance as a good example of one semi-detached half of a two-storey weatherboard building built c1884 by the Gardner family. The site is evidence of an early subdivision and later residential development relating to its original maritime use. The pair generally retain their two-storey scale, form and details as presents to William Street and make a positive contribution to the streetscape and the conservation area. No 6 does have its interior listed although there have been substantial internal alterations over time.

This report concludes that the proposed works to 6 William Street provide a fair response to the need to improve the amenity of the heritage listed terrace building while respecting its heritage significance and that of its pair and the character of the surrounding East Balmain Heritage Conservation Area.

The proposed works are relatively minor. The form and existing character of the building, front and rear setbacks and relationship to the terrace row and street will be retained. The changes are isolated to the rear and interior of the building and are not visible from the public domain. The new design should be viewed in the context of the already altered rear of the dwelling and the altered context of the surrounds which is increasingly dominated by contemporary forms. It appears from early plans that the rear sections were slightly different at construction.

The proposed internal works are minimal reflecting early feedback from Council and heritage advice. Any new plumbing will utilise existing services and has been designed to have minimal impact on original fabric. The impact of the introduction of air conditioning units have been carefully considered with the compressor to be located at the rear under the decking so as not to be visible from the public domain. The air conditioning units are to be wall mounted and the surface mounted wires will be disguised under discrete colobond channels painted the wall colour.

8 Recommendations

Having assessed the significance of the place and the heritage impact of the proposed development the following are recommended:

- That Council should consent to the proposed development in recognition of its acceptable level of heritage impact on the heritage item and the Balmain east Heritage Conservation Area

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9 Bibliography

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The Leichhardt Development Control Plan 2013

The Leichhardt Local Environment Plan 2013

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This report is dated March 2023 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Modern Heritage Matters opinion in this report. Modern Heritage Matters prepared this report on the instructions, and for the benefit only, of Jaimie Lovell. To the extent permitted by applicable law, Modern Heritage Matters expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

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