





 DEVELOPMENT ASSESSMENT REPORT	
<b>Application No.</b>	DA/2023/0651
<b>Address</b>	323 Darling Street BALMAIN
<b>Proposal</b>	Alterations and additions to existing building to provide a mixed use development comprising two retail tenancies and restaurant with outdoor dining at ground floor level and five residential apartments over, all over two levels of parking
<b>Date of Lodgement</b>	24 August 2023
<b>Applicant</b>	M and B Maxwell Property Group Pty Ltd
<b>Owner</b>	The Owner of Strata Plan No 31401
<b>Number of Submissions</b>	15 unique objections
<b>Value of works</b>	\$3,574,000.00
<b>Reason for determination at Planning Panel</b>	Section 4.6 variation exceeds 10% Number of submissions
<b>Main Issues</b>	Streetscape; Non-compliance with FSR; non-compliance with SEPP (Housing); SEPP (Resilience and Hazards); amenity impacts to surrounding properties; car parking; waste management; stormwater
<b>Recommendation</b>	Refusal
<b>Attachment A</b>	Reasons for Refusal
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Draft conditions of consent in the event of approval
<b>Attachment D</b>	Statement of Heritage Significance of Heritage Conservation Area
<b>Attachment E</b>	Architectural Excellence and Design Review Panel referral
	
<b>LOCALITY MAP</b>	
<b>Subject Site</b> 	<b>Objectors</b> 
<b>Notified Area</b> 	<b>Supporters</b> 
 <b>N</b>	
Note: Due to scale of map, not all objectors could be shown.	

## 1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to existing building to provide a mixed use development comprising two retail tenancies and restaurant with outdoor dining at ground floor level and five residential apartments over, all over two levels of parking at 323 Darling Street BALMAIN.

The application was notified to surrounding properties and 16 submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- Impacts to streetscape
- Issues in relation to *State Environmental Planning Policy (Housing) 2021*
- Issues in relation to *State Environmental Planning Policy (Resilience and Hazards) 2021*
- Non-compliance with Floor Space Ratio (FSR)
- Issues in relation to amenity impacts to surrounding properties
- Issues in relation to car parking
- Issues in relation to waste management
- Issues in relation to stormwater

These issues/non-compliances have not been adequately addressed and therefore the application is recommended for refusal.

## 2. Proposal

The proposed development consists of the change of use to a shop top housing / mixed use development comprising:

- Two (2) retail tenancies (shops) at the Darling Street frontage ground floor level;
- A restaurant with outdoor dining at the rear of the ground floor level;
- A toilet plus a disabled toilet at the ground floor level;
- Five (5) residential apartments; and
- Retention of the existing two basement levels with 2 car parking spaces and 3 bicycle spaces on Basement Level 2, 5 bicycle spaces and 5 storage units, plus infrastructure and waste storage on Basement Level 1.

## 3. Site Description

The subject site is located on the northern side of Darling Street, at its intersection with Church Street in Balmain. The site consists of one allotment and is generally rectangular in shape.

The site has a frontage to Darling Street of 9.32 metres and a secondary frontage of approximate 22.2 metres to Church Street.

The site currently supports a 4 storey mixed-use building with commercial properties on ground, first and second floors and a residential dwelling on the top level. The adjoining properties support a single storey commercial building to the west and a two storey residential dwelling to the north.

The property is not heritage listed, however, a local heritage item is located on the opposite side of Darling Street (332 Darling Street)

- Former Working Men’s Institute including interiors – local significance - I529

The site is located within a Heritage Conservation Area.

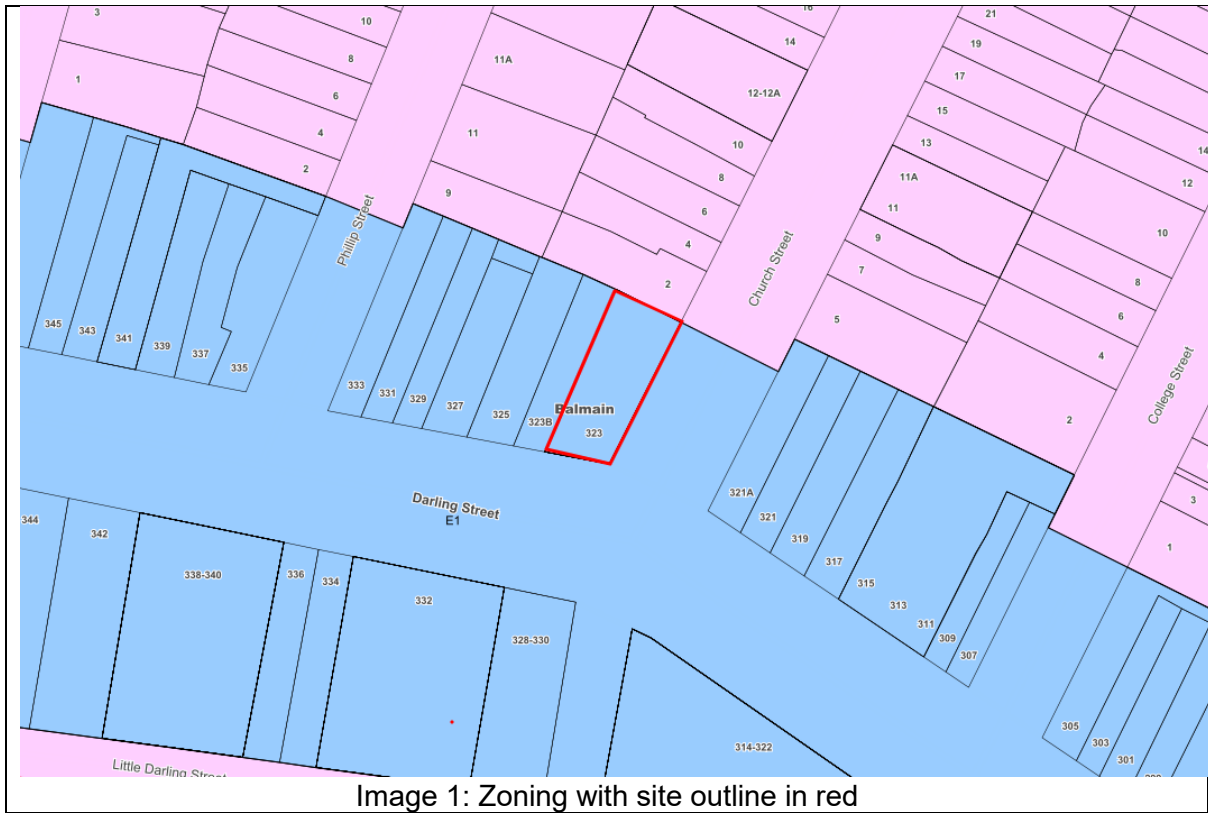


Image 1: Zoning with site outline in red



View of subject site from corner of Darling Street and Church Street





*View of subject site from Darling Street*



*View of subject site from Church Street*





*View of existing car parking entry from Church Street*

## 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
DA 4028	Three (3) storey office building	Approved 06/04/1971
DA 4503	Real Estate and coffee lounge at rear	Approved 14/11/1972
DA 4554	Coffee Lounge	Approved 12/12/1972
DA 5669	Depilatron Centre	Approved 15/11/1977
DA 5906	Control Feminist Women's Health Co-Ordination Ltd	Approved 06/02/79
DA 497/84	Strata subdivide existing commercial building	Approved 22/03/1985
DA 291/84	Use premises at 323A Darling Street, Balmain for the retail sale of jewellery and gift shop	Approved 05/11/1984
D/2001/149	Change of use of commercial premises to dry cleaner and advertising signage	Approved 12 June 2001

#### Surrounding Properties

Application	Proposal	Decision & Date
BA 6535	<u>323B Darling Street</u> Convert premise into a bank	Approved 03/06/1964
BA 92/23	<u>323B Darling Street</u> Fit out of pastry shop	Approved 17/03/1992
D/2009/359	<u>2 Church Street</u>	Approved 12/04/2011

	Partial demolition to rear of existing dwelling including rear fences and the erection of rear additions and alterations, new attic level, two dormer windows, internal replanning and landscaping.	
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4(b) Application History

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

Date	Discussion / Letter / Additional Information
01/12/2023	Request of additional information letter sent to applicant and the following issues were raised: <ul style="list-style-type: none"> <li>• Issues raised by the Architectural Excellence Design Review Panel</li> <li>• Issues in relation to SEPP No. 65 Compliance</li> <li>• Non-compliance with Floor Space Ratio (FSR)</li> <li>• Waste Management Plan</li> <li>• Issues in relation to the proposed restaurant</li> <li>• Issues in relation to stormwater</li> <li>• Issues in relation to car parking</li> <li>• Update Structural Engineering report required</li> <li>• Acoustic report and details of Restaurant required</li> <li>• Response to issues raised in objections</li> <li>• All relevant documents such as BASIX, SEE, ADG Assessment to be updated</li> </ul>
18/01/2024	Applicant confirmed that that they will not be providing any further documents in relation to this application

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 (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Housing) 2021*
- *Inner West Local Environmental Plan 202*

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 consideration of Section 4.16 (2) the applicant has not provided a preliminary investigation.

A search of Council's records in relation to the site indicated that the site is one that is specified in Section 4.6 (4)(c).

A search of Councils records indicate that there is a dry cleaning establishment currently on site which is listed within Table 1 of the contaminated land planning guidelines. While it is acknowledged that the proposal seeks to retain the majority of the existing floor slabs, there will be works to demolish the existing commercial premises at ground floor level and cutting through the floor slab to provide a lift shaft. Therefore, a preliminary site investigation should be provided to definitively demonstrate that the subject site is suitable for the proposed uses without remediation.

If remediation was required, it would involve Category 1 remediation under *SEPP (Resilience and Hazards) 2021* as the subject site is located within a heritage conservation area.

As no preliminary investigation has been provided, there is no evidence that would definitively conclude the site is suitable for the proposed uses, and the proposal has therefore not satisfied the requirements under Section 4.16 of *SEPP (Resilience and Hazards) 2021*.

**5(a)(ii) State Environmental Planning Policy (Transport and Infrastructure) 2021**

Chapter 2 Infrastructure - Development likely to affect an electricity transmission or distribution network

The proposed development meets the criteria for referral to the electricity supply authority within Section 2.48 of *SEPP (Transport and Infrastructure) 2021* and has been referred to Ausgrid for comment for 21 days. No objections were raised to the proposal proceeding, with Ausgrid's requirements being recommended to be imposed as an Advisory condition as part of any consent granted.



**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.

Two (2) street trees could be impacted by the proposal. The trees have been identified as Tuckeroos located on the Darling Street and Church Street frontages. The trees were noted in good healthy condition and provide a positive contribution to the amenity and canopy cover of the immediate area. The trees are important community assets that must be retained and protected during the works.

The plans indicate works are proposed within close proximity to the trees. The proposed works are not expected to directly impact on the trees. However, to ensure they are not adversely impacted and remain viable into the future, and in the event that the application is approved, tree protection measures would need to be imposed by condition.

**Chapter 6 Water Catchments**

The site is not located within the foreshores and waterways area, nor is in the vicinity or visible from the foreshores and waterways of Sydney Harbour or the Parramatta River, and hence, raises no issues that will be contrary to the provisions and objectives of this part of the SEPP.

**5(a)(iv) State Environmental Planning Policy (Housing) 2021**

The development is subject to the requirements of *Chapter 4 – Design of residential apartment of the State Environmental Planning Policy (SEPP) Housing* which prescribes nine design quality principles to guide the design of residential apartment development and to assist in assessing such developments. The principles relate to key design issues including context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.

The development is not acceptable having regard to the nine design quality principles.

**Design Quality Principles**

The development is not acceptable having regard to the nine design quality principles as it is considered to be of a form that is contrary to Principle 1 and 2 and 6:

**Principles 1 and 2**

*Principle 1: Context and Neighbourhood Character Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.*

*Principle 2 – Built Form and Scale “Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's*

*purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.”*

The design was reviewed by the Architectural Excellence & Design Review Panel which provided the following comments related to Principles 1 and 2:

- “1. The Panel notes that the existing c.1973 office and shop building is an anomaly within the Darling Street streetscape and Waterview Heritage Conservation Area, and also confirms in-principle support for the potential adaptation, re-use and up-cycling of the building on the basis of minimising the embodied energy and carbon footprint of the development and by extending the useful life of the existing building.*
- 2. Although the proposal includes a number of detailed design ideas that are capable of support (for example the approach to architectural fenestration), the Panel is concerned for the generally poor interfaces with Darling Street and the northern neighbouring site boundary, and also for a number of internal amenity issues discussed below.*
- 3. The proposal does not yet adequately address a number of the shortcomings of the existing building, particularly its poor presentation and disconnection with Darling Street, particularly at the base. The proposed entry stair and platform lift access are not ideal and may not achieve an equitable universal access for residents and customers. A better interface may bring new building form to the street alignment in a manner typical of shopfronts elsewhere along Darling Street.*
- 4. The Panel suggests that a greater level of intervention into the existing building may be required to improve the relationship between the building and Darling Street. It was noted that there is the opportunity to remove portions of the existing podium along Darling Street by excavating into the basement level (B1). This may eliminate the need for the proposed stairs and platform lift and create on-grade access for an expanded retail component along Darling Street.*
- 5. The Panel suggests consideration be given to the potential for a separate residential entry from Church Street, which may provide better functionality to both the retail and residential entries.*
- 6. The Panel suggests consideration be given to relocating the proposed lift to the other side of the proposed stair, closer to Darling Street in order to free up space towards the rear of the site where the planning of the proposed studio apartments is compromised. The detailed positioning of the lift and stair may be influenced by apartment layouts above.”*

The applicant did not make any amendments to the design to address the matters raised above. The existing building is a poorly designed commercial building approved in the 1970s (DA4028) and is at odds with the character of Darling Street and the Heritage Conservation Area. As the proposal seeks significant changes to provide additional dwellings, it is expected that the building be upgraded to a form that would be significantly more compatible with the Darling Street streetscape and the Heritage Conservation Area than the existing building.

As the existing building is considered to be of a form that is inconsistent with the desired future character of Darling Street, and the proposed external changes that are proposed with the

current proposal do little to enhance the relationship of the existing building with the streetscape, it is considered that the proposal is inconsistent with Principle 1 and Principle 2. Principle 6

- (1) *Good design positively influences internal and external amenity for residents and neighbours.*
- (2) *Good amenity contributes to positive living environments and resident well-being.*
- (3) *Good amenity combines the following—*
  - (a) *appropriate room dimensions and shapes,*
  - (b) *access to sunlight,*
  - (c) *natural ventilation,*
  - (d) *outlook,*
  - (e) *visual and acoustic privacy,*
  - (f) *storage,*
  - (g) *indoor and outdoor space,*
  - (h) *efficient layouts and service areas,*
  - (i) *ease of access for all age groups and degrees of mobility.*

As discussed in more detail below, the proposal does not comply with the required controls in relation to separation and solar access under the Apartment Design Guide.

The design was reviewed by the Architectural Excellence & Design Review Panel which provided the following comments that is related to Principles 6:

- “7. The Panel expresses concern for the constrained size and internal planning of the units, including the studio apartment to Level 1 (36 m<sup>2</sup>), and the two bedroom units to Levels 1 & 2 (69 m<sup>2</sup>).*
- 8. The Panel is concerned for the proposed balconies which exclusively address the northern site boundary, potentially creating cross viewing and privacy issues with the immediate neighbours on Church Street. Re-planning these studio apartments might bring the living spaces and balconies closer to the Church Street alignment and orient outlook towards the northeast and away from the common site boundary.*
- 9. The Panel notes the floor-to-ceiling and floor-to-floor heights of the former office building are marginally below the dimension necessary to meet the requirements of the NSW ADG Part 4C (2.7m ceiling heights) and also meet BCA requirements for waterproofing triggered by the recent Design and Building Practitioners Act. To mitigate this deficiency, internal amenity of all proposed apartments must be improved and consideration may be given to the introduction of two-storey units or to increasing the size, performance and outlook of the units.*
- 10. The Panel notes that the living rooms of some of the units will receive poor solar access in the proposed arrangement (for example, the south-facing two bedroom units to the first and second floor).*
- 11. The Panel queries the amenity provided to the second bedroom on Level 3 which is served only by a clerestory window, which will not establish an adequate level of outlook. The Panel also queries whether this proposed clerestory window, adjoining the skylight over the adjacent stairwell is BCA compliant in terms of fire separation, and whether it is feasible to be operable to provide ventilation to the bedroom.*
- 12. The Panel notes the proposal to screen the outdoor terrace associated with the restaurant at ground level with hit and miss brickwork, but queries whether this will be effective in resolving acoustic issues for the adjoining residential buildings.”*



The application also proposes balconies on the northern elevation on the first and second levels where these balconies are located within approximately 1.7 metres from the northern boundary, is located outside the existing building envelope and will cause unacceptable visual and acoustic privacy impacts. There are also potential visual privacy impacts from the proposed windows on the northern elevation of the proposed units on the first and second levels.

With regard to solar access, the 2 bedroom units on first and second floors, propose south-facing living rooms and private open spaces areas, and therefore, will not receive any receive any direct sunlight during winter solstice, as a result only 60% of the units would receive direct sunlight and 40% of units will not receive direct sunlight.

In light of the above, the proposal is considered to be of a form that is contrary to Principle 1 and 2 and 6, as the proposal would result in poor amenity for future occupants and the application is recommended for refusal.

Apartment Design Guide

The Apartment Design Guide (ADG) contains objectives, design criteria and design guidelines for residential apartment and certain requirements contained within LDGP2013 do not apply. In this regard the objectives, design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail.

The following provides further discussion of the relevant issues:

Communal and Open Space

The ADG prescribes the following requirements for communal and open space:

- Communal open space has a minimum area equal to 25% of the site.
- Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).

Comment: Does not comply. No communal open space is provided.

Deep Soil Zones

The ADG prescribes the following minimum requirements for deep soil zones:

Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)
Less than 650m <sup>2</sup>	-	7%
650m <sup>2</sup> - 1,500m <sup>2</sup>	3m	
Greater than 1,500m <sup>2</sup>	6m	
Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m	

Comment: Does not comply, no deep soil zone is proposed.

Visual Privacy/Building Separation

The ADG prescribes the following minimum required separation distances from buildings to the side and rear boundaries:

Building Height	Habitable rooms and balconies	Non-habitable rooms
Up to 12 metres (4 storeys)	6 metres	3 metres
Up to 25 metres (5-8 storeys)	9 metres	4.5 metres
Over 25 metres (9+ storeys)	12 metres	6 metres

The ADG prescribes the following minimum required separation distances from buildings within the same site:

Up to four storeys/12 metres

Room Types	Minimum Separation
Habitable Rooms/Balconies to Habitable Rooms/Balconies	12 metres
Habitable Rooms to Non-Habitable Rooms	9 metres
Non-Habitable Rooms to Non-Habitable Rooms	6 metres

Comment: As the subject site to the north is a R1 zoning that has a lower density, Part 3F of the Apartment Design Guide (ADG) will require a 9 metre setback between the proposed building and the northern boundary. While it is acknowledged that the proposal seeks to adaptively reuse the existing building, the privacy issues created by the lack of separation must be fully resolved in order to consider the existing building as appropriate to be adapted to provide for residential dwellings.

Firstly, all proposed balconies on the northern elevation on the first and second levels are located within approximately 1.7 metres from the northern boundary. These balconies are located beyond the existing building envelope and will cause unacceptable visual and acoustic privacy impacts.

Secondly, there is potential visual privacy impacts from the proposed windows on the northern elevation of the units on the first and second levels. While it is acknowledged there are existing windows on this elevation, these windows are associated with an office/commercial use that has different impacts to a residential use where the units will be occupied for 24 hours a day instead of standard office hours associated with the existing commercial/office use.

Having regard to the above, insufficient separation distances are provided by the development resulting in poor amenity for not only occupants of the subject site, but also for adjoining development.

Solar and Daylight Access

The ADG prescribes the following requirements for solar and daylight access:

- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter.
- A maximum of 15% of apartments in a building receive no direct sunlight between 9.00am and 3.00pm at mid-winter.

Comment: Section 4A of the ADG requires that Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter, and that a maximum of 15% of apartments in a building receive

no direct sunlight between 9 am and 3 pm at mid winter. The living room and private open space of the 2 bedroom units on first and second floor are south-facing, and therefore will not receive any direct sunlight during the winter solstice, and therefore, only 60% of the units would receive direct sunlight and 40% of the proposed units will not receive direct sunlight thereby failing to comply with the prescribed requirements.

Natural Ventilation

The ADG prescribes the following requirements for natural ventilation:

- At least 60% of apartments are naturally cross ventilated in the first 9 storeys of the building. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.
- Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.

Comment: Complies.

Ceiling Heights

The ADG prescribes the following minimum ceiling heights:

Minimum Ceiling Height	
Habitable Rooms	2.7 metres
Non-Habitable	2.4 metres
For 2 storey apartments	2.7 metres for main living area floor 2.4 metres for second floor, where its area does not exceed 50% of the apartment area
Attic Spaces	1.8 metres edge of room with a 30 degree minimum ceiling slope
If located in mixed used area	3.3 for ground and first floor to promote future flexibility of use

Comment: Complies.

Apartment Size

The ADG prescribes the following minimum apartment sizes:

Apartment Type	Minimum Internal Area
Studio apartments	35m <sup>2</sup>
1 Bedroom apartments	50m <sup>2</sup>
2 Bedroom apartments	70m <sup>2</sup>
3 Bedroom apartments	90m <sup>2</sup>

Note: The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.



Comment: Proposed Studio Apartments: Complies with minimum apartment sizes and bedroom dimensions.

**Proposed 2 bedroom units on first and second floor:** Does not comply with the minimum internal area of 70 sqm as the proposed apartments have an internal area of 69 sqm.

**Proposed 2 bedroom unit on third floor:** Complies with minimum internal area.

Therefore, the proposal does not comply with all the requirements under this part.

Apartment Layout

The ADG prescribes the following requirements for apartment layout requirements:

- Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.
- Habitable room depths are limited to a maximum of 2.5 x the ceiling height.
- In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8 metres from a window.
- Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space).
- Bedrooms have a minimum dimension of 3 metres (excluding wardrobe space).
- Living rooms or combined living/dining rooms have a minimum width of:
  - 3.6 metres for studio and 1 bedroom apartments.
  - 4 metres for 2 and 3 bedroom apartments.
- The width of cross-over or cross-through apartments are at least 4 metres internally to avoid deep narrow apartment layouts.

Comment:

**Proposed Studio Apartments:** The living/dining room does not comply with minimum width. The proposed living/dining room areas are T-shaped with widths of approximately 2.6 metres.

**Proposed 2 bedroom units on first and second floor:** Complies with bedroom dimensions and living room widths.

**Proposed 2 bedroom unit on third floor:** Complies with bedroom area and minimum living room width requirements. However, the second bedroom is reliant on a clerestory window to provide light and ventilation which is a poor amenity outcome for a new dwelling.

Therefore, the proposal does not comply with the requirements under this part.

Private Open Space and Balconies

The ADG prescribes the following sizes for primary balconies of apartments:

Dwelling Type	Minimum Area	Minimum Depth
Studio apartments	4m <sup>2</sup>	-
1 Bedroom apartments	8m <sup>2</sup>	2 metres
2 Bedroom apartments	10m <sup>2</sup>	2 metres
3+ Bedroom apartments	12m <sup>2</sup>	2.4 metres

Note: The minimum balcony depth to be counted as contributing to the balcony area is 1 metres.

The ADG also prescribes for apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3 metres.

Comment: Areas comply. But position of balconies associated with studio units are problematic with regard to impacts to neighbouring properties to the north as they will only be located 1.7 metres from the northern boundary and create adverse amenity impacts to surrounding properties.

#### Common Circulation and Spaces

The ADG prescribes the following requirements for common circulation and spaces:

- The maximum number of apartments off a circulation core on a single level is 8.
- For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.

Comment: Complies.

#### Storage

The ADG prescribes the following storage requirements in addition to storage in kitchen, bathrooms and bedrooms:

Apartment Type	Minimum Internal Area
Studio apartments	4m <sup>3</sup>
1 Bedroom apartments	6m <sup>3</sup>
2 Bedroom apartments	8m <sup>3</sup>
3+ Bedroom apartments	10m <sup>3</sup>

Note: At least 50% of the required storage is to be located within the apartment.

Comment: Mostly Complies. Adequate storage provided in the basement level, mostly complies with internal storage with the exception of 0.5 sqm to the first and second floor 2 bedroom apartments.

Given the non-compliances with Visual Privacy/Building Separation and Solar and Daylight Access requirements under the Apartment Design Guide, the application is recommended for refusal.

#### *5(a)(v) 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 2.5 - Additional Permitted Uses for Land
- Section 2.6 – Subdivision

- Section 2.7 – Demolition Requires Development Consent
- Section 4.4 – Floor Space Ratio
- Section 4.4A – Exception to Maximum Floor Space Ratio for Active Street Frontages
- Section 4.5 – Calculation of Floor Space Ratio and site area
- Section 4.6 – Exceptions to Development Standards
- Section 5.10 – Heritage Conservation
- Section 6.1 – Acid Sulfate Soils
- Section 6.2 – Earthworks
- Section 6.3 – Stormwater Management
- Section 6.9 – Design Excellence
- Section 6.13 – Residential Accommodation in Zones E1, E2 and MU1
- Section 6.14 – Diverse Housing
- Section 6.23 – Residential Accommodation as Part of Mixed Use Development in Certain Business Zones

The proposal does not comply with a number of controls listed above as discussed in further detail below:

#### Section 1.2 - Aims of Plan

As discussed in earlier sections of the report, the proposal in its current form has a poor presentation and disconnection with Darling Street, does not receive adequate amenity due to non-compliances in relation to solar access and would result in adverse amenity impacts to surrounding residential properties with respect to visual privacy and noise impacts.

Therefore, the proposal in its current form is considered to be inconsistent with the following aims under this part:

*(2) The particular aims of this Plan are as follows—*

- (g) to create a high quality urban place through the application of design excellence in all elements of the built environment and public domain,*
- (h) to prevent adverse social, economic and environmental impacts on the local character of Inner West,*
- (i) to prevent adverse social, economic and environmental impacts, including cumulative impacts.*

#### Section 2.3 Land Use Table and Zone Objectives

The proposal is a mixed use development which consists of retail premises and food and drinks premises at ground floor level and shop top housing on the floors above. The definition of these uses are as follows:

- **retail premises** means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following—
  - (a), (b) (Repealed)
  - (c) food and drink premises,
  - (d) garden centres,
  - (e) hardware and building supplies,
  - (f) kiosks,

- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (la) specialised retail premises,
- (m) timber yards,
- (n) vehicle sales or hire premises,

but does not include farm gate premises, highway service centres, service stations, industrial retail outlets or restricted premises.

- **food and drink premises** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—
  - (a) a restaurant or cafe,
  - (b) take away food and drink premises,
  - (c) a pub,
  - (d) a small bar.
- **shop top housing** means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.

The subject site is located within an E1 – Local Centre Zoning and the following objectives are applicable to this zoning:

### **Zone E1 Local Centre**

#### **1 Objectives of zone**

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*
- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To provide employment opportunities and services in locations accessible by active transport.*
- *To provide retail facilities and business services for the local community commensurate with the centre's role in the local centres hierarchy.*
- *To ensure Inner West local centres are the primary location for commercial and retail activities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To enhance the unique sense of place offered by Inner West local centres by ensuring buildings display architectural and urban design quality and contributes to the desired character and cultural heritage of the locality.*

The proposed residential component of the application is inconsistent with the requirements under the Apartment Design Guide, the proposed units do not receive adequate amenity and the proposed balconies will result in adverse privacy impacts to the surrounding properties, and therefore, the proposal is inconsistent with the following objective:

- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council’s strategic planning for residential development in the area.*

The existing office and shop building is an anomaly within the Darling Street streetscape and Waterview Heritage Conservation Area. The proposal does not adequately address a number of the shortcomings of the existing building, particularly its poor presentation and disconnection with Darling Street. The proposed entry stair and platform lift access are not ideal and the proposed shop fronts which are setback a significant distance from the Darling Street frontage is inconsistent with the general street alignment that is typical of shopfronts elsewhere along Darling Street. Therefore, it is considered to be inconsistent with the following objectives:

- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To enhance the unique sense of place offered by Inner West local centres by ensuring buildings display architectural and urban design quality and contributes to the desired character and cultural heritage of the locality.*

Section 4 Principal Development Standards

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

Standard	Proposal	Non-compliance	Complies
<b>Floor Space Ratio</b> Maximum permissible: 1:1 or 224.5 sqm	1.8:1 or 238.71 sqm	68.4 sqm or 20.3%	No

Section 4.4 – Floor Space Ratio and Section 4.4A – Exception to Maximum Floor Space Ratio for Active Street Frontages

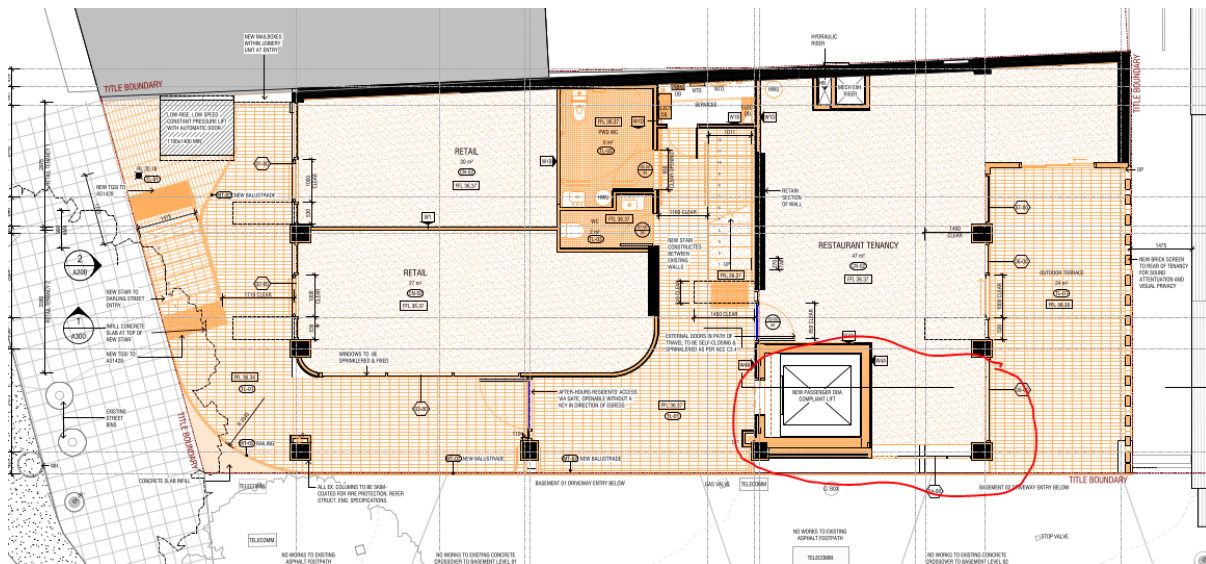
A Floor Space Ratio of 1:1 applies to the subject site. A bonus of 0.5 applies if the application meets all the requirements under Section 4.4A:

- (3) *The maximum floor space ratio for a building on land to which this clause applies is 1.5:1 if the consent authority is satisfied the building—*
  - (a) *will have an active street frontage, and*
  - (b) *is mixed use development that includes residential accommodation, and*
  - (c) *is compatible with the desired character of the area in relation to its bulk, form, uses and scale.*

As discuss in earlier sections of the report, the proposal in its current form is not considered to be compatible with the desired future character of the area, and therefore, the site is not considered to benefit from the 0.5 bonus. Notwithstanding, and even if the bonus is applicable, the proposed Floor Space Ratio of 1.8:1 would exceed 1.5:1.



It should be further noted that, while there is some reduction of the total amount of Gross Floor Area as a result of voids created through the proposed lift shaft and removal of corridor areas, there are changes at the ground floor level which includes the provision of new gross floor area to the north of the proposed lift shaft, which was previously unenclosed, that is floor area associated with the proposed café/restaurant, so it cannot be considered as “keeping status-quo” with regard to gross floor area (see extract of proposed ground floor plan below, the red bubble indicated the area where the new gross floor area is proposed)



A Clause 4.6 Exceptions to Development Standards request was requested to be provided in Council’s RFI letter dated 01 December 2023, however, and the applicant has elected not to provide a Clause 4.6 Exception request. In the absence of a Clause 4.6 Exceptions to Development Standards request, there is no power to consider the variation nor approve the subject Development Application.

Section 5.10 – Heritage Conservation

No. 323 Darling Street, Balmain is located within The Town of Waterview Conservation Area (HCA), C31 under Schedule 5 of the Inner West LEP 2022.

The building is not considered to be contributory.

A local heritage item is located on the opposite side of Darling Street:

- Former Working Men’s Institute including interiors – local significance - I529

The current building dates from the early 1970s, with a building application lodged for an office building in 1971. The building was completed by early 1974. Currently the building contains shops (raised above the level of Darling Street), office space and an apartment on the upper level.

The proposal is for additions and alterations to an existing building to provide mixed use development containing two retail tenancies and restaurant with outdoor dining at ground floor level and five residential apartments over, all over two levels of parking.

Notwithstanding the concerns raised elsewhere in this report, the proposal raises no issues that are contrary to the relevant controls of Section 5.10 of the *IWLEP 2022* being as follows:

(1) **Objectives** *The objectives of this clause are as follows—*

- (a) to conserve the environmental heritage of Inner West,*
- (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.*

Notwithstanding the redevelopment of the site provides an opportunity for the development to be more sympathetic to the HCA however the changes proposed to the building do not sufficiently address this.

#### Section 6.9 – Design Excellence

As discussed in an earlier section of the report in relation to *State Environmental Planning Policy (Housing) 2021*, the proposal in its current form has a poor presentation and disconnection with Darling Street, does not achieve compliance with a number of requirements under the Apartment Design Guide including minimum internal areas and minimum widths for living rooms, does not receive adequate amenity due to non-compliances in relation to solar access and would result in adverse amenity impacts to surrounding residential properties with regard to visual privacy.

Therefore, it is considered that design excellence had not been achieved and the proposal is not consistent with the following objectives and controls under this part:

- (1) The objective of this clause is to ensure that development to which this clause applies exhibits the highest standard of architectural and urban design as part of the built environment.*
- (3) Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.*
- (4) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—*
  - (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
  - (e) the requirements of the relevant development control plan,*
  - (f) how the development addresses the following matters—*
    - (i) the suitability of the land for development,*
    - (ii) existing and proposed uses and use mix,*
    - (iii) heritage issues and streetscape constraints,*
    - (iv) the relationship of the development with other existing or proposed development on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
    - (vii) environmental impacts, including sustainable design, overshadowing, wind and reflectivity and visual and acoustic privacy,*
    - (xi) the relationship of the development with the street and building frontage.*

#### Section 6.13 - Residential accommodation in Zones E1, E2 and MU1

As discussed in other sections of the report, the proposal in its current form is not considered to be compatible with the desired future character of the area, and therefore, the proposal is not consistent with the following objective and control under this part:

- (1) *The objective of this clause is to control the location of residential accommodation permitted in the zones to which this clause applies to support the vitality of local centres.*
  
- (3) *Development consent must not be granted to development for the purposes of residential accommodation on land to which this clause applies unless the consent authority is satisfied the building—*
  - (c) *is compatible with the desired character of the area in relation to its bulk, form, uses and scale.*

5(b) Development Control Plans

Leichhardt Development Control Plan 2013

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

LDCP2013	Compliance
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
<b>Part C</b>	
C1.0 General Provisions	No – see discussion
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	No – see discussion
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.5 Corner Sites	No – see discussion
C1.6 Subdivision	N/A
C1.7 Site Facilities	No – see discussion
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	No – see discussion
C1.12 Landscaping	See discussion against State Environmental Planning Policy (Housing) 2021
C1.13 Open Space Design Within the Public Domain	No – see discussion
C1.14 Tree Management	N/A
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	Yes

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
<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.2.1 Darling Street Distinctive Neighbourhood <i>C2.2.2.1(b) Balmain Village Sub Area</i>	No – see discussion
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	See discussion against State Environmental Planning Policy (Housing) 2021
C3.3 Elevation and Materials	Yes
C3.7 Environmental Performance	See discussion against State Environmental Planning Policy (Housing) 2021
C3.8 Private Open Space	See discussion against State Environmental Planning Policy (Housing) 2021
C3.9 Solar Access	See discussion against State Environmental Planning Policy (Housing) 2021
C3.10 Views	Yes
C3.11 Visual Privacy	see discussion below in relation to 4.5 Interface Amenity
C3.12 Acoustic Privacy	see discussion below in relation to 4.5 Interface Amenity
C3.13 Conversion of Existing Non-Residential Buildings	No – see discussion
C3.14 Adaptable Housing	N/A
<b>Part C: Place – Section 4 – Non-Residential Provisions</b>	
C4.1 Objectives for Non-Residential Zones	No – see discussion
C4.2 Site Layout and Building Design	No – see discussion
C4.3 Ecologically Sustainable Development	Yes
C4.4 Elevation and Materials	Yes
C4.5 Interface Amenity	No – see discussion
C4.6 Shopfronts	No – see discussion
C4.15 Mixed Use	No – see discussion
<b>Part D: Energy</b>	
Section 1 – Energy Management	No – see discussion
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.5 Mixed Use Development	Yes

<b>Part E: Water</b>	
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	Yes
E1.1.3 Stormwater Drainage Concept Plan	No – see discussion
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	No – see discussion
E1.2.3 On-Site Detention of Stormwater	Yes
E1.2.4 Stormwater Treatment	Yes
E1.2.5 Water Disposal	No – see discussion

The following provides discussion of the relevant issues:

C1.0 General Provisions

As discussed in other sections of the report, the proposal in its current form has a poor presentation and disconnection with Darling Street, does not receive adequate amenity due to non-compliances in relation to solar access and would result in adverse amenity impacts to surrounding residential properties by way of visual privacy and noise impacts.

Therefore the proposal in its current form is considered to be inconsistent with the following objectives and controls under this part:

- *O2 Accessible: places and spaces can be accessed by the community via safe, convenient and efficient movement systems.*
- *O4 Amenable: places and spaces provide and support reasonable amenity, including solar access, privacy in areas of private open space, visual and acoustic privacy, access to views and clean air.*
- *O6 Compatible: places and spaces contain or respond to the essential elements that make up the character of the surrounding area and the desired future character. Building heights, setbacks, landscaping and architectural style respond to the desired future character. Development within Heritage Conservation Areas or to Heritage Items must be responsive to the heritage significance of the item and locality.*

C1.3 Alterations and Additions

The proposal in its current form does not make a positive contribution to the desired future character of the streetscape and is not of a form that is considered to be compatible with the neighbourhood character and is considered to be inconsistent with the following objectives under C1.3 Alterations and Additions:

- *O1 To ensure that development:*
  - c. makes a positive contribution to the desired future character of the streetscape and any heritage values associated with it;*
  - d. is compatible with neighbourhood character, including prevailing site layout;*

C1.4 Heritage Conservation and Heritage Items

The existing building is a poorly designed commercial building approved in the 1970s (DA4028) that makes a negative contribution to Darling Street and the Heritage Conservation



Area. As the development seeks significant changes to provide additional dwellings, it is expected that the existing building be upgraded to a form that would be significantly more compatible with the Darling Street streetscape and the heritage conservation area however the proposal fails to do this in a meaningful way. Therefore, the proposal in its current form is considered to be inconsistent with the following objectives and controls under this part:

- *O1 Development:*
  - c. *encourages the removal of unsympathetic elements;*
  - d. *is compatible with the setting or relationship of the building with the Heritage Conservation Area in terms of scale, form, roof form, materials, detailing and colour of the building and conforms with the Burra Charter*

### C1.5 Corner Sites

The proposal has a poor presentation and disconnect with Darling Street as the proposed shopfronts are setback a significant distance from the Darling Street frontage and are inconsistent with the general street alignment that is typical of shopfronts elsewhere along Darling Street. This is considered to be inconsistent with the following control under C1.5 Corner Sites.

*C4 Building elements including wall height, roof form and front setback and architectural features including balconies, awnings, verandahs, parapets and dormers are to be compatible in scale with the streetscape.*

As discussed in more detail in a later section of the report, the proposal in its current form will result in adverse noise and privacy to the surrounding residential properties and this is contrary to the following control:

*C5 The development does not have an adverse impact on surrounding properties, the streetscape or public domain by way of: a. amenity; b. solar access; c. views; d. privacy; e. urban design; f. being inconsistent with desired future character; and g. shall be constructed of high quality materials and finishes.*

### C1.11 Parking

Table C4: General vehicle parking rates

Parking Rates				
Land Use	Residents		Visitors	
	Minimum	Maximum	Minimum	Maximum
Residential				
Single dwelling house	Nil	2 spaces per dwelling house	Nil	Nil
Bed-sit / Studio	Nil	0.5 space per dwelling	1 space per 11 dwellings	0.125 spaces per dwelling
1 bedroom unit	1 space per 3 dwellings	0.5 space per dwelling	1 space per 11 dwellings	0.125 spaces per dwelling
2 bedroom unit	1 space per 2 dwellings	1 space per dwelling	1 space per 11 dwellings	0.125 spaces per dwelling
3+ bedrooms unit	1 space per dwelling	1.2 spaces per dwelling	1 space per 11 dwellings	0.125 spaces dwelling
Boarding Houses	1 space per resident employee and 0.5 space per boarding room			
Small Bars, Restaurants or cafes	1 space per 80 sqm. If the premises are located on a "Recognised Shopping Street" the first 50 sqm are exempt from parking provision. (Refer to note 3)		1 space per 50 sqm	
Shops / supermarkets	1 space per 50 sqm If the premises are located on a "Recognised Shopping Street" the first 50 sqm are exempt from parking provision (Refer to Note 3)		1 space per 50 sqm	

As Darling Street is a "Recognised Shopping Street" and the retail/restaurant premises are less than 50sqm, they are exempt from parking requirements. For the residential component, minimum resident parking = 1.5 spaces and visitor = 0.45 spaces are required. Therefore the 2 spaces provided would numerically comply with the prescribed parking requirements.

The requirements for Bicycle Parking are as follows:

Land use	Residents/staff	Customers/Visitors
Apartments	1 space per 2 dwellings	1 space per 10 dwellings
Restaurants	1 space per 10 staff	2 spaces plus 1 space per 100 sqm over 100sqm GFA
Shops	1 space per 10 staff	2 spaces, plus 1 space per 100 sqm over 100 sqm GFA

Given that there are 5 apartments that are being proposed and the shops/restaurants are below 50 sqm and do not exceed more than 10 Staff, the following are required:

- Residential = 2.5 (1 per 2 dwellings) + 0.5 (visitor: 1 per 10 dwellings) = 3 spaces
- Commercial = 3 premises = 1 per premises = 3 spaces.

Therefore, a total of 6 bicycle spaces are required and the proposed 5 spaces do not comply. There is also no indication that shower/change room facilities can be provided in association with the bicycle parking.

In addition, the proposed headroom for the car parking at 1700mm is problematic and not considered to be acceptable. The car parking design in its current form is not satisfactory and will need to be amended to ensure full compliance with AS2890.1.

Council's RFI letter requested that the proposal / design be amended and provide an updated traffic report that include an assessment on the delivery needs of the restaurant and address the provision of off-street parking and bicycle parking in accordance with the controls and numerical requirements of this part of the LDCP2013. The report also required amendment to justify any shortfall in the required parking spaces, certify that the access and parking complies with current Australian Standards including AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking, AS 2890.2-2002 Parking Facilities - Off-Street commercial vehicles facilities, AS/NZS 2890.6-2009 Off-street parking for people with disabilities and AS 2890.3-1993 Parking Facilities - Bicycle parking facilities.

The applicant has elected not to provide any amendments or additional information in this regard, and therefore, the proposal in its current form is considered to be inconsistent with the following objectives under this part:

- *O4 To integrate bicycle parking & facilities (such as showers and lockers) into developments so that cycling is a viable transport alternative.*
- *O6 To accommodate on-site parking that is safe, accessible, well laid out and appropriately lit.*
- *O10 To ensure the design and construction of vehicle parking, service and delivery areas and loading facilities minimises visual and amenity impacts that can be caused by traffic movements and parked vehicles.*

#### C2.2.2.1 Darling Street Distinctive Neighbourhood

As discussed in more detail in a later section of the report, the proposal in its current form will result in adverse noise and privacy impacts to the surrounding residential properties and this is contrary to the following desired future character controls:

- *C4 The interface between Business zoned sites along Darling Street and adjacent Residential zoned land is to be carefully considered in light of issues relating to bulk, scale and residential amenity. In this regard the provisions of Part C4.5 – Interface Amenity within this Development Control Plan are to be considered in the assessment of development on business zoned land along the interface boundary between Residential and Business zoned land.*
- *C12 Development adjacent to residentially zoned land is to be considered in light of Part C4.5 – Interface Amenity within this Development Control Plan. Such consideration is to apply only to the interface boundary and has the following objectives:*
  - a. to preserve residential amenity, and*
  - b. to ensure an appropriate transition in bulk and scale of development.*

The proposal has a poor presentation to Darling Street. The proposed shopfronts, which are setback a significant distance from the Darling Street frontage, are inconsistent with the

general street alignment that is typical of shopfronts elsewhere along Darling Street and are not compatible with the traditional rhythm of the shop fronts on Darling Street. Therefore, it is considered to be inconsistent with the following desired future character control:

- *C14 Shopfronts for contemporary buildings should maintain the traditional rhythm and scale of the street. Shop fronts should preserve the proportions and openings of the established streetscape and should allow for disabled access in accordance with Part C1.10 - Design for Equity of Access and Mobility of this Development Control Plan.*

### C3.13 Conversion of Existing Non-Residential Buildings

The proposal includes the conversion of two commercial premises (on first and second floor) into residential units.

The proposal does not yet adequately address a number of the shortcomings of the existing building, particularly its poor presentation and disconnection with Darling Street, particularly at the base. The proposed entry stair and platform lift access are not ideal and does not achieve an equitable universal access for residents and customers. As discussed in more detail in other sections of the report, the proposal also provides inadequate solar access to the proposed units and will result in adverse amenity impacts to adjoining properties in relation to visual privacy.

Therefore, the proposal has not demonstrated that the subject commercial premises is suitable for being converted into residential units and is inconsistent with the following objectives and controls under this part:

- *O1 Development encourages the adaptive re-use of non-residential buildings for residential uses that:
  - c. provide a high level of resident amenity;
  - d. is compatible with the character of the neighbourhood and streetscape;
  - e. represent high quality urban and architectural design; and
  - f. does not have a significant adverse amenity impact on surrounding land.*
- *C1 The existing character of the building is retained and/or enhanced. Materials are maximised.*
- *C4 The conversion provides an adequate level of residential amenity in terms of acoustic privacy, private open space, solar access and visual privacy.*
- *C5 The appearance of the building integrates with and enhances the streetscape.*
- *C6 Landscaped open space to incorporate a planting area is provided to cater for the recreation needs of residents and enhance the environmental sustainability of the development.*

### C4.1 Objectives for Non-Residential Zones

As discussed in earlier sections of the report, the proposal in its current form has a poor presentation and disconnection with Darling Street, does not receive adequate amenity due to non-compliance in relation to solar access and would result in adverse amenity impacts to surrounding residential properties with regard to visual privacy and noise impacts.

Therefore, the proposal in its current form is considered to be inconsistent with the following objectives and controls under this part:

- *O8 To achieve an appropriate balance between promoting economic prosperity and protecting established residential amenity.*

- *O9 To achieve a high quality urban environment where buildings make a positive contribution to the function and visual quality of the public domain and streetscape.*
- *O10 To ensure a sensitive transition to adjoining residential areas at zoning boundaries.*

#### C4.5 Interface Amenity

##### *Noise*

The proposal includes a café/restaurant located at the rear at the ground floor level with an associated outdoor terrace that is directly adjacent to the northern boundary that is shared with a residential dwelling at No. 2 Church Street. The café/restaurant is proposed to operate between:

- 6.30am to 10pm Monday to Saturday; and
- 7am to 3pm Sundays.

The subject site was previously approved as a coffee lounge under DA 4554 (on 12/12/72) with the hours of operation between 9 am to 7 pm (Monday to Saturday) with no Sunday trading.

There are concerns with the proposed hours of operation as there is a residential property immediately to the north of the proposed café/restaurant and the current design is of a form that will have noise generation areas directly adjacent to the residential property at 2 Church Street. As the proposed screening associated with the café/restaurant will have openings, the screening is unlikely to be effective in mitigating noise impacts.

Due to these concerns, it was requested that the café/restaurant be relocated to the Darling Street frontage to reduce noise impacts and to provide an acoustic report that demonstrates that the proposed use/hours of operation will have acceptable noise impacts to the surrounding residential properties.

As the applicant has elected not to make any design changes or provide an acoustic report to address the potential noise impacts, the proposed café/restaurant is considered to have adverse amenity impacts to the adjacent property at 2 Church Street in relation to noise impacts.

##### *Privacy*

The application also proposes new first and second floor balconies associated with the studio units that are located approximately 1.7 metres from the boundary shared with 2 Church Street. Given the slope of the Church Street and the relative levels these balconies are located at, there will be sightlines into the private open spaces of the surrounding properties to the north and the west as well as the window on the southern elevation of 2 Church Street. As these are the only private open spaces associated with the studio units, and there is no communal private open space, it is envisaged that these balconies will be used frequently and the potential impacts generated are considered to be excessive and unacceptable.

Secondly, there is potential visual privacy impacts from the proposed windows on the northern elevation of the proposed units on the first and second levels. While it is acknowledged there are existing windows on this elevation, these windows are associated with an office/commercial use that has different impacts to a residential use where the units will be occupied for 24 hours a day instead of standard office hours associated with the existing commercial/office use.



In light of above, it is considered that the proposal is inconsistent with the following objectives and controls under this part:

- *O1 To ensure that development does not impact the surrounding area or cause unreasonable nuisance to any other use by way of:*
  - a. *noise;*
  - e. *overly bulky or overbearing development that significantly reduces outlook or privacy.*
- *C4 Noise generating activities are located within buildings.*
- *C5 Noise generating activities are located and oriented away from residential uses or other sensitive receiving environments.*
- *C6 Noise generating activities are screened from residential uses or other sensitive receiving environments by acoustic barriers such as solid walls or acoustic fencing.*
- *C15 Where adjoining land in a residential zone:*
  - a. *new windows or other openings facing side and rear boundaries are located or designed to minimise the potential for direct overlooking of windows of habitable rooms and private open space of dwellings;*
  - b. *where additions or extensions will result in a greater number of employees or customers being present on the premises, existing windows that directly overlook adjoining dwellings are screened to prevent overlooking; and*
  - c. *places where people gather in an outdoor environment, such as a patio, deck or balcony, that directly overlook adjoining dwellings are screened to prevent overlooking.*

#### C4.6 Shopfronts

The application proposes to retain the structural elements of the existing building but also seeks to demolish the existing retail and food and drink premises at ground floor level and to be replaced with new retail premises and a café/restaurant at the rear.

As discussed earlier in the report, the proposal does not adequately address the shortcomings of the existing building, particularly its poor presentation and disconnection with Darling Street. The proposed entry stair and platform lift access are not ideal and may not achieve an equitable universal access for residents and customers.

Therefore, the proposal in its current form is considered to be inconsistent with the following objectives and controls under this part:

- *O1 To ensure that shopfront development:*
  - b. *retains and enhances the heritage character and sense of place and setting within the streetscape;*
  - c. *enhances the vibrancy of the public domain; and*
  - d. *is universally accessible.*
- *C2 Development:*
  - a. *compatible with the scale, form and elevation proportions of the streetscape;*
- *C7 Development enables safe and convenient universal access for all persons, in particular those with reduced mobility.*

#### C4.15 Mixed Use

As discussed in earlier sections of the report, the proposal in its current form has a poor presentation and disconnection with Darling Street, does not receive adequate amenity due

to non-compliances in relation to solar access and would result in adverse amenity impacts to surrounding residential properties by way of visual privacy and noise impacts. There is also a lack of separate entry between the proposed café/restaurant and the access to the residential units.

Therefore the proposal in its current form is considered to be inconsistent with the following objectives and controls under this part:

- *O1 To ensure that development for the purpose of mixed use:
  - a. enhances the vibrancy of centres;
  - c. provides an acceptable level of residential amenity;*
- *C5 Separate areas for business and resident access may be required for new development and where practical for:
  - b. building entries;*
- *C7 Where possible, access to the residential part of the development is from the main street frontage where:
  - a. it is compatible with the streetscape and any heritage conservation considerations;
  - b. pedestrian entries to residential uses are separate from the entry to the commercial part of the building; and*
- *C8 Dwellings are provided with an acceptable level of residential amenity in terms of:
  - a. access to sunlight to main living areas and adjoining main areas of private outdoor recreation space such as courtyards and balconies;
  - b. access to daylight to all habitable rooms;
  - d. obtaining visual privacy.*
- *C10 The building form of a mixed use development must comply with the provisions of, C4.2 – Site layout and building design, C4.4 – Elevation and material, and C4.5 – Interface amenity of this Development Control Plan.*

E1.1.3 Stormwater Drainage Concept Plan, E1.2.2 Managing Stormwater within the Site, E1.2.5 Water Disposal

Identified as an issue from an objection, it appears that currently there is water accumulation in the existing basement carpark during heavy rainfall and the water does not discharge for days and also from a site inspection conducted at 2 Church Street, there seems to stormwater pipes associated with 323 Darling Street that is located within the property of No. 2 Church Street. The stormwater drawings provided with the application provide no detail of how the basement/carparking levels will function in terms of stormwater management and the stormwater pipe located on the northern wall encroaching 2 Church Street is not shown. Given the amount of works being proposed, the stormwater management of the entire building (including existing systems) must be investigated, not just the levels above.



Photo from objector showing accumulation of water in the existing carparking area of 323 Darling Street.

The applicant was required to provide an updated stormwater management plan that incorporates on-site stormwater detention and/or on-site retention/ re-use facilities (OSR/OSD), certified by a suitably qualified Civil Engineer must be submitted.

The applicant has elected to not provide any additional information, and therefore, has not demonstrated that the proposal will have acceptable impacts to adjoining properties. Therefore, the proposal is considered to be inconsistent with the following objectives:

E1.2.2 Managing Stormwater within the Site:

*O1 To integrate site layout and the drainage system to avoid nuisance flows and flooding within the development and onto neighbouring properties.*

E1.2.5 Water Disposal

*O1 To maintain existing natural drainage patterns and avoid nuisance and flooding to the drainage system and downstream properties.*

5(c) The Likely Impacts

The assessment of the Development Application demonstrates that, the proposal will have adverse environmental impacts on the locality.

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

Considering that adverse effects on adjoining properties and the streetscape have not been minimised, and the amenity for future occupants is poor as a result of the proposed design

and existing site constraints, this site is considered unsuitable to accommodate the proposed development.

### 5(e) Any submissions

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

15 unique submissions were received in response to the initial notification.

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

- Issues with regard to compliance with SEPP No.65/Apartment Design Guide – refer to assessment in 5(a)(i) State Environmental Planning Policy (Housing) 2021
- Privacy impacts from the new balcony – refer to assessment in relevant sections under 5(a)(i) State Environmental Planning Policy (Housing) 2021 and 5(a)(ii) Inner West Local Environmental Plan 2022 (IWLEP 2022)
- Floor Space Ratio exceedance– refer to assessment in relevant sections under Section 4.4 – Floor space ratio and Section 4.4A – Exception to maximum floor space ratio for active street frontages under 5(a)(ii) Inner West Local Environmental Plan 2022 (IWLEP 2022)
- Traffic and Parking – refer to assessment in C1.11 Parking under 5(b) Development Control Plans
- Compliance with relevant sections in the Leichhardt Development Control Plan - refer to assessment in relevant sections under 5(b) Development Control Plans
- Accessibility - refer to assessment in relevant sections under 5(a)(i) State Environmental Planning Policy (Housing) 2021 and C4.6 Shopfront under 5(b) Development Control Plans.

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

- Issue: Existing building and proposed works not consistent with desired character of the area/consistency with surroundings
- Comment: This is discussed in more detail in earlier sections of the report, including under C2.2.2.1 Darling Street Distinctive Neighbourhood of the LDCP 2013 and *State Environmental Planning Policy (Housing) 2021*, and it is agreed that the existing building and the proposed works are not a form that would be consistent with the desired future character of the area.
- Issue: Issues in relation to design/quality/low budget renovation
- Comment: As discussed in more detail in earlier section of the report, given the extent of works and proposed change of use, it is expected that the proposal be amended to achieve better urban design outcomes.
- Issue: Issues in relation to compliance with Landscaping/Vegetation
- Comment: As the Apartment Design Guide applies to this site, issues in relation to landscaping is covered by the deep-soil section of the apartment design guide, the proposal is non-compliant in this regard.
- Issue: Inadequate setbacks
- Comment: As the requirements of the Apartment Design Guide applies to this site, setbacks are covered in the privacy/setback section of the apartment design

guide discussed earlier in the report, noting the proposal is non-compliant in this regard.

Issue: Noise/hours of operation of restaurant

Comment: This is discussed in more detail in Section 4.5 – Interface Amenity of the LDCP 2013 in an earlier section of the report. As an acoustic report had not been provided and the café/restaurant not relocated to the Darling Street frontage, the proposal is considered to be unacceptable in this regard.

Issue: Flooding of car parking area of 323 Darling Street leading to rodent infestation

Comment: This is discussed in more detail in E1.2.2 Managing Stormwater within the Site, the additional information requested has not been provided by the applicant and therefore is considered to be unacceptable in this regard.

Issue: Noise from proposed balconies.

Comment: As the Apartment Design Guide applies to this site, issues in relation to balconies is covered by the balconies section of the apartment design guide which allows balconies up to 8 sqm for 1 bedroom units and 10 sqm for 2 bedroom units. As the top level balcony is already existing and the proposed balconies at first and second floor levels do not exceed the specified sizes under the Apartment Design Guide, the noise generated from these balconies are considered to consistent with other residential balconies for residential flat buildings however their proximity to the boundary may increase noise impacts. Additionally the location of these balconies does not comply with the required setbacks under the Apartment Design Guide and the proposed new balconies on the first and second floors on the northern elevation will have adverse impacts to the surrounding properties in relation to visual privacy. Therefore the proposal in its current form is not supported.

Issue: Noise from proposed lift and garage doors

Comment: The noises generated from lifts and garage doors are considered to be consistent with the noise generation that is expected from developments within the E1 zone.

Issue: Please keep this building enclosed and zoned for offices

Comment: The subject site is zoned E1 – Employment Zone and does permit residential accommodation subject to complying with the relevant controls under 6.13 - Residential accommodation in Zones E1, E2 and MU1. As discussed in an earlier section of the report, the proposal in its current form is not considered to be consistent with 6.13 - Residential accommodation in Zones E1, E2 and MU1 and is recommended for refusal.

Issue: Loss of commercial space

Comment: The subject site is zoned E1 – Employment Zone and permits residential accommodation on levels first floor and above subject to complying with the relevant controls under 6.13 - Residential accommodation in Zones E1, E2 and MU1. The loss of commercial space is not a reason for refusal but the application is recommended for refusal due to other reasons.

Issue: Issues in relation to Apartment mix

Comment: 6.14 - Diverse housing of the Inner West Local Environmental Plan 2022 requires at least 25% of the dwellings to be studio dwellings, or dwellings containing only 1 bedroom, and no more than 30% of the dwellings to be dwellings containing at least 3 bedrooms. The proposal complies with these controls.

Issue: Concerns about lack of detail in the structural engineering report  
Comment: This issue was raised with the applicant in the request for additional information letter dated 1 December 2023 and the following additional information was requested:

*“The structural engineering report should be updated to include a section that documents the existing condition of the building and include relevant photographs in the field inspection that have been carried out in relation to reaching the original conclusion that the existing structure is of good condition to accommodate the additional loading and the impacts from the demolition works/cutting into the existing concrete slab.*

*Given the proximity of the existing structures to the adjoining properties, Work Method Statement detailing methods of construction to be used to ensure the part/s of the building shown to be retained is/are retained, including temporary support during demolition and construction and how to ensure the works will be carried out in a way that would not result in any impacts to the adjoining properties at 2 Church Street and 323B Darling Street.”*

The applicant has not provided any additional information in this regard, and it is considered that there is insufficient information to conclusively demonstrate the existing structure is of good condition to accommodate the additional load and the impact from the demolition works/cutting into the existing concrete slab nor has sufficient information been provided to demonstrate that there will be no adverse impacts to the adjoining properties during construction.

Issue: No consultation with neighbours/ no consideration of community  
Comment: While consultation with the neighbours would be beneficial prior to lodging a development application, it is not a mandatory requirement under the development assessment process.

Issue: Lack of strategic context/ Council should undertake a master planning exercise to run from the heritage precinct of library/courthouse etc through to Woolworths  
Comment: At this point in time, there is no master plan that needs to be considered in the assessment of this application.

Issue: Personal privacy impact  
Comment: While potential privacy impacts due to construction/during construction is not a matter of consideration in the development assessment process, the proposal in its current form is considered to result in adverse visual privacy impacts and is recommended for refusal.

Issues: Street accessibility/ Dust and debris from construction/ Construction noise  
Comment: If the application was recommended for approval, standard conditions requiring a Construction and Traffic Management Plan prior to issue of a construction certificate will be recommended. An advisory note will be added in relation to the noise regulations that will be applicable. However, the application is recommended for refusal for reasons outlined elsewhere in the report.

Issues: Lack of Maintenance/existing poor building condition



Comment: Additional information was requested in relation to structural engineering and stormwater management given the existing conditions of the building to minimise the potential impacts to surrounding properties. The applicant has not provided the additional information that was requested, and the application is recommended for refusal.

Issues: Devaluation of my property

Comment: There is no evidence to suggest this nor is this a matter for consideration under Section 4.15 of EP&A Act 1979.

### 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 contrary to the public interest as it results in numerous non-compliances with the *IWLEP 2022* and *LDCP 2013*, the totality of which result in unacceptable streetscape / heritage, height, bulk and scale, and amenity outcomes.

In this regard, the proposal does not satisfy and has not demonstrated compliance and is inconsistent with the relevant matters for consideration of Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*.

## 6 Referrals

### 6(a) Internal

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

- Heritage
- Urban Forest
- Development Engineering
- Waste (residential)
- Waste (commercial)
- Health
- Building Certification

### 6(b) External

The application was referred to the following external bodies:

- Ausgrid – No objections.

## 7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are payable for the proposal.

The carrying out of the proposed development would result in an increased demand for public amenities and public services within the area.

## 8. Conclusion

The proposal does not comply with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and *Leichhardt Development Control Plan 2013*.

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

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

## 9. Recommendation

- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, refuse Development Application No. DA/2023/0651 for alterations and additions to existing building to provide a mixed use development comprising two retail tenancies and restaurant with outdoor dining at ground floor level and five residential apartments over, all over two levels of parking at 323 Darling Street BALMAIN for the following reasons.

## Attachment A – Reasons for refusal

1. The proposed development is inconsistent with, and has not demonstrated compliance with the *State Environmental Planning Policy (Housing) 2021*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, including being inconsistent with the following:
  - a. Clause 147(1)(a) - the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9.
  - b. Clause 147(1)(b) – non-compliant with the following elements in the Apartment Design Guide: Communal and Open Space, Deep Soil Zones, Visual Privacy/Building Separation, Solar and Daylight Access, Apartment Size, Apartment Layout.
  - c. Clause 147(1)(c) - any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.
2. The proposed development is inconsistent with, and has not demonstrated compliance with the *State Environmental Planning Policy (Resilience and Hazards) 2021*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, including:
  - a. Clause 4.6 (2) – The application has failed to provide a preliminary site investigation of the land in accordance with the contaminated land planning guidelines as such the consent authority cannot be satisfied that the site is suitable for the proposed residential use.
3. The proposed development is inconsistent with, and has not demonstrated compliance with the *Inner West Local Environmental Plan 2022*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, including:
  - a. Section 1.2(2)(g)(h)(i) - *Aims of Plan*
  - b. Section 2.3 - *Zone Objectives and Land Use Table*
  - c. Section 4.4 – *Floor Space Ratio*
  - d. Section 4.4A – *Exception to Maximum Floor Space Ratio for Active Street Frontages*
  - e. Section 6.9(1), (3) and (4)(a), (e), (f)(i)(ii), (iii), (iv), (vii) and (xi) – *Design Excellence*
  - f. Section 6.13 - *Residential Accommodation in Zones E1, E2 and MU1*
4. The applicant has not submitted a request under Section 4.6 of *Inner West Local Environmental Plan 2022* to demonstrate sufficient environmental planning grounds to justify contravening the FSR development standard and the development is considered contrary to the objectives of the standards in its proposed form. In the

absence of a valid and well-founded Section 4.6 Exceptions to Development Standards request, the consent authority cannot consider the proposed variation and is without power to approve such a development.

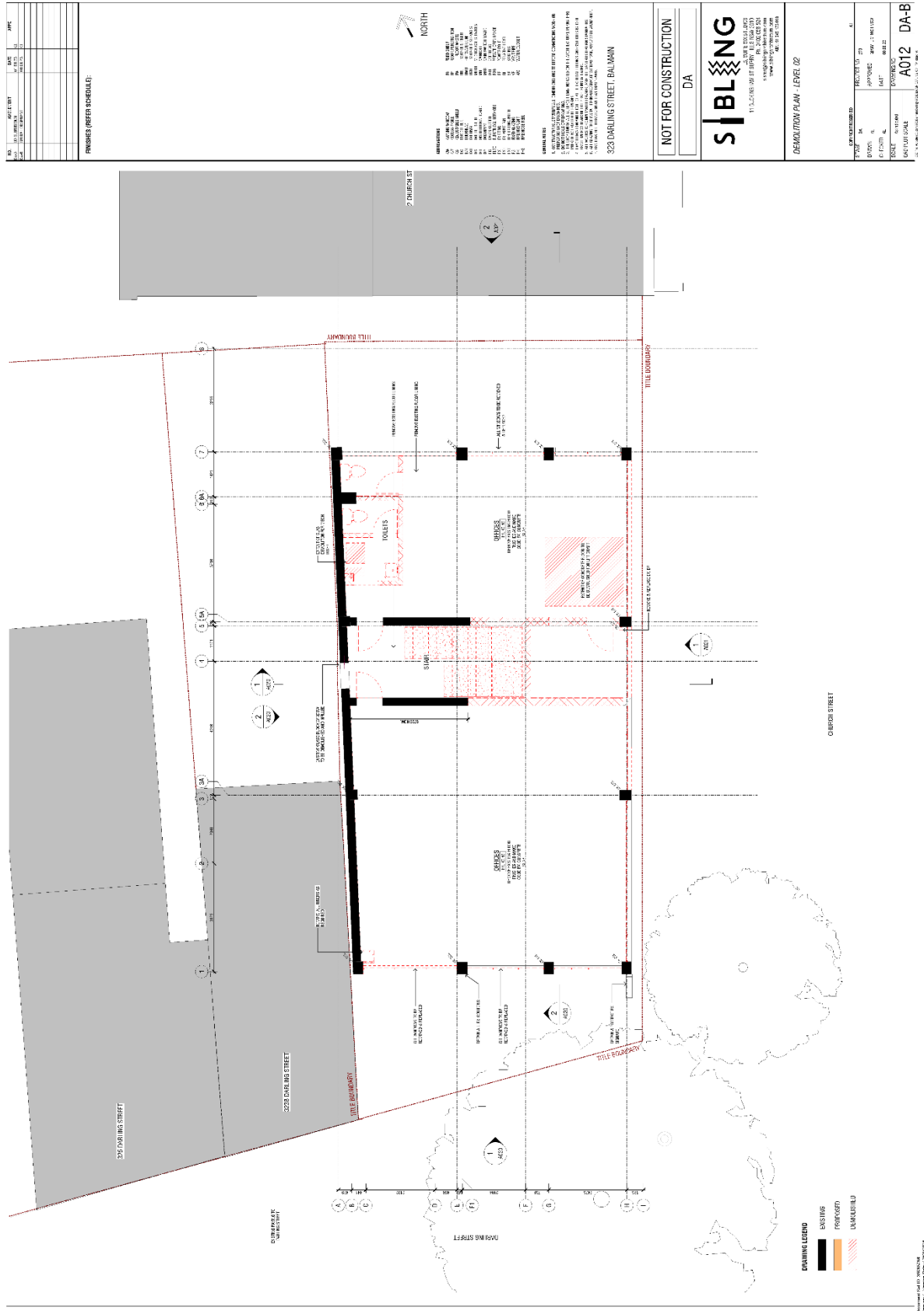
5. The proposed development is inconsistent with, and has not demonstrated compliance with the Leichhardt Development Control Plan 2013, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, including:
  - a. C1.0 *General Provisions* - O2, O4 and O6
  - b. C1.3 *Alterations and additions* - O1(c) and O1(d)
  - c. C1.4 *Heritage Conservation Areas and Heritage Item* – O1(c) and (d)
  - d. C1.5 *Corner Sites* - C4 and C5
  - e. C1.11 *Parking* - O4, O6, and O10
  - f. C2.2.2.1 *Darling Street Distinctive Neighbourhood* - C4, C12 and C14
  - g. C3.13 *Conversion of Existing Non-Residential Buildings* - O1(c), O1(d), O1(e), O1(f), C1, C4, C5 and C6
  - h. C4.1 *Objectives for Non-Residential Zones* - O8, O9, and O10
  - i. C4.5 *Interface Amenity* - O1(a), O1(e), C4, C5, C6, C15(a), C15(b), and C15(c)
  - j. C4.6 *Shopfronts* - O1(b), O1(c), O1(d), C2(a), and C7
  - k. C4.15 *Mixed Use* - O1(a), O1(c), C5(b), C7(a), C7(b), C8(a), C8(b), C8(d) and C10
  - l. E1.2.2 *Managing Stormwater within the Site* - O1
  - m. E1.2.5 *Water Disposal* - O1
6. The proposed development will result in adverse built environment impacts in the locality pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*.
7. The proposal has not demonstrated that the site is suitable for the development pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
8. The proposal has not demonstrated it is in the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*.







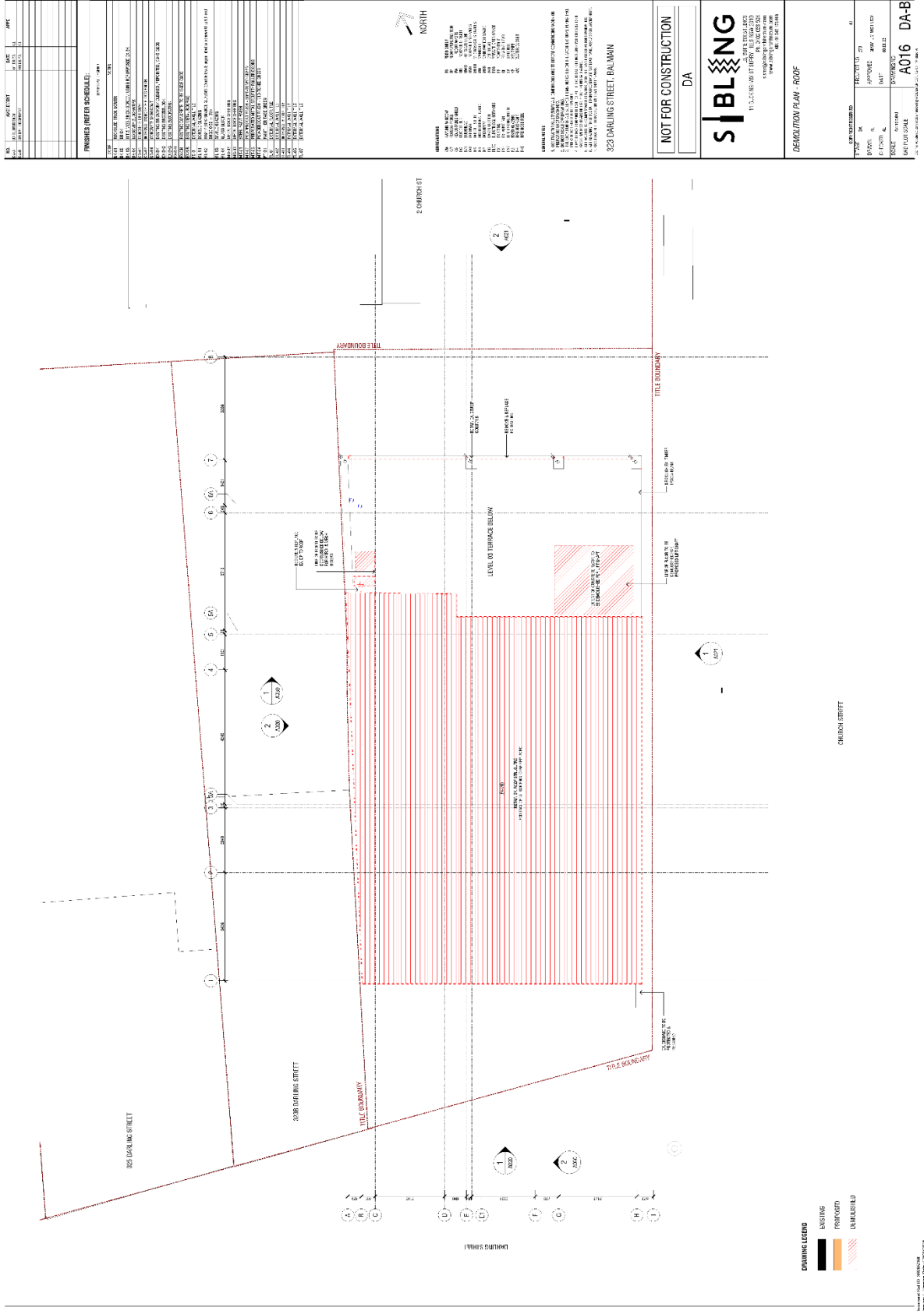


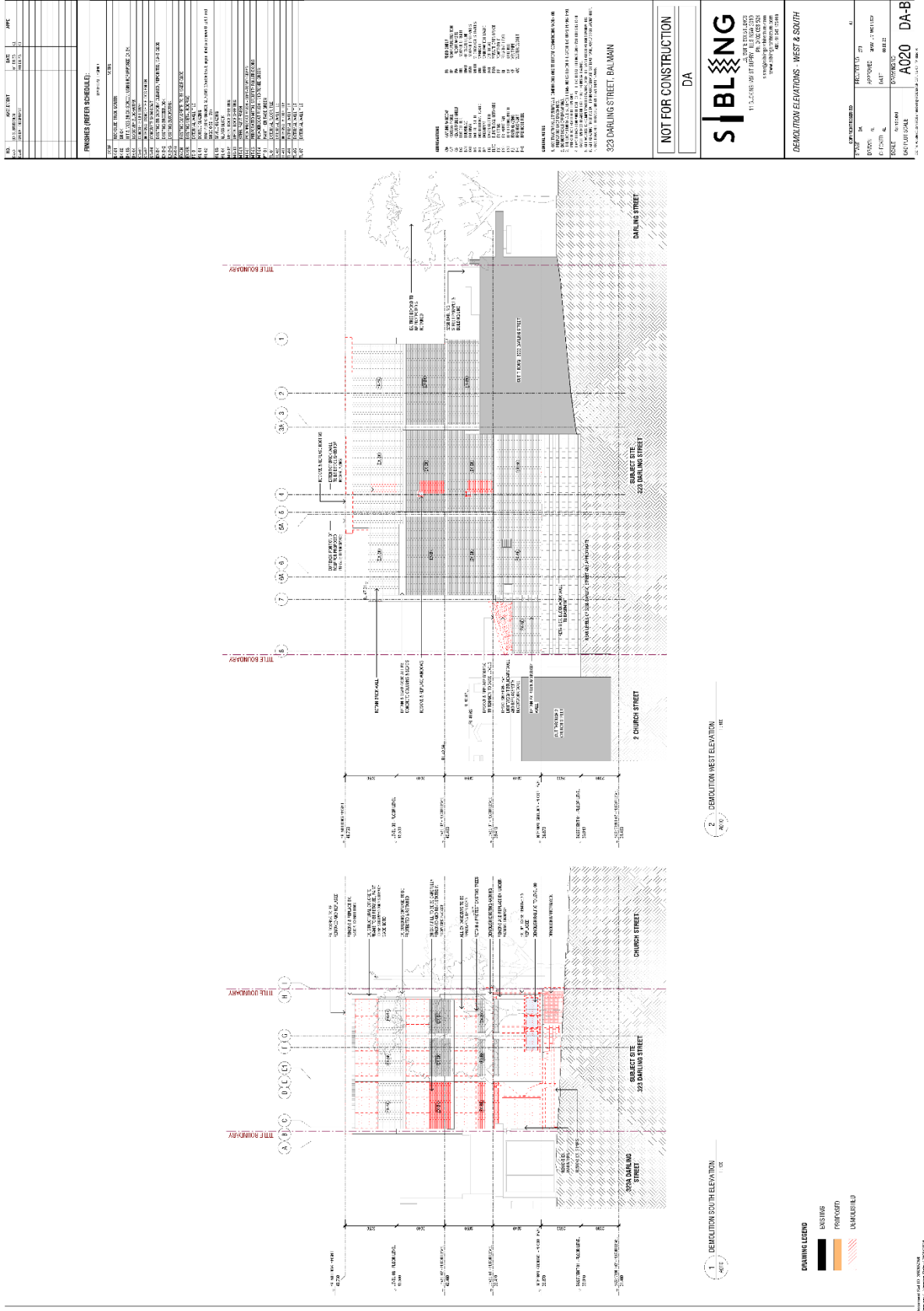






















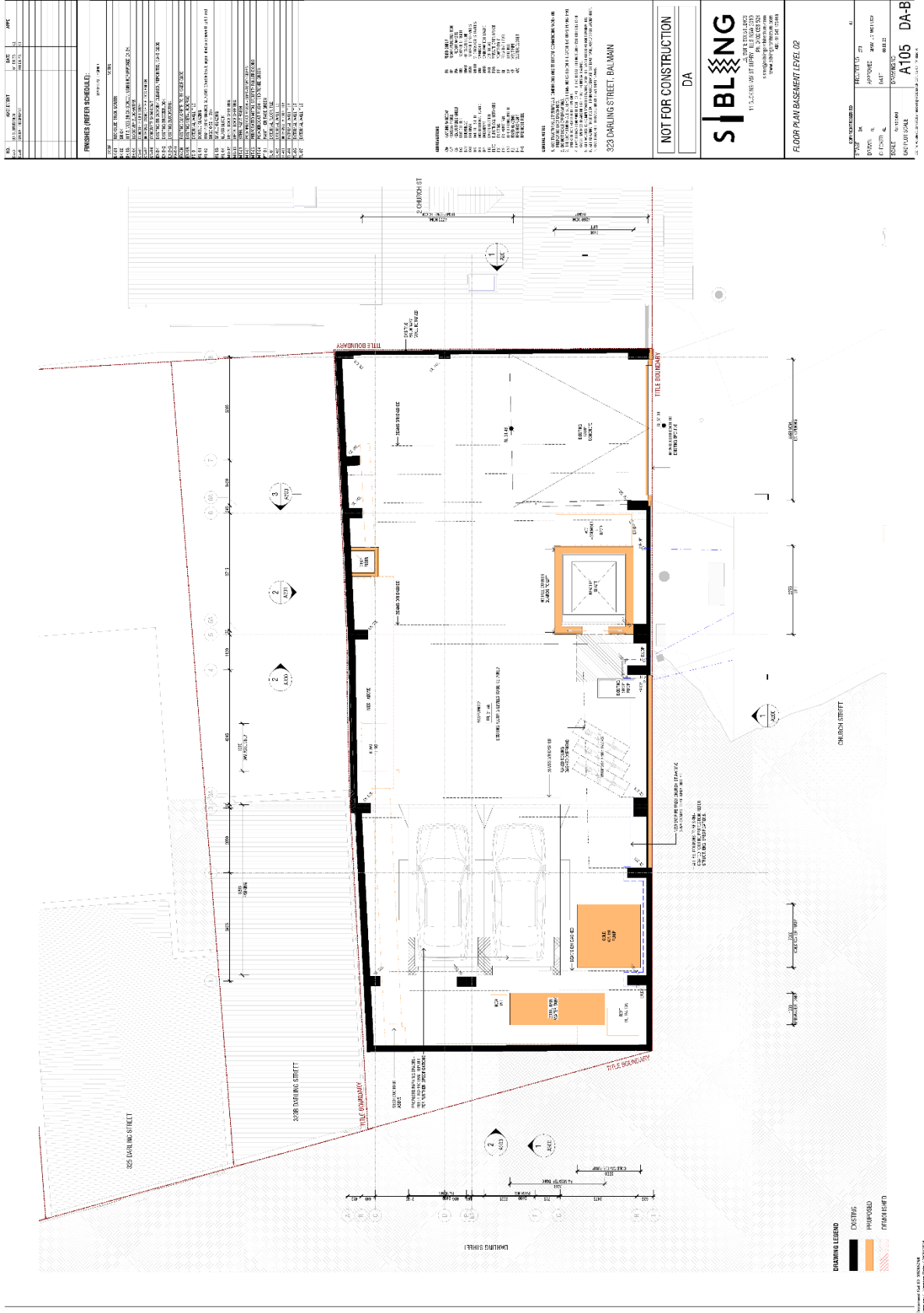
















NO.	REV.	DATE	BY	CHKD	DESCRIPTION
1		20/11/2024	W		ISSUED FOR CONSTRUCTION

FINISHES (REFER SCHEDULE)

NO.	REV.	DATE	BY	CHKD	DESCRIPTION
1		20/11/2024	W		ISSUED FOR CONSTRUCTION

NO.	REV.	DATE	BY	CHKD	DESCRIPTION
1		20/11/2024	W		ISSUED FOR CONSTRUCTION

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1		20/11/2024	W		ISSUED FOR CONSTRUCTION

NO.	REV.	DATE	BY	CHKD	DESCRIPTION
1		20/11/2024	W		ISSUED FOR CONSTRUCTION

NOT FOR CONSTRUCTION  
DA



11 BUCKINGHAM STREET BALMAIN NSW 1501  
www.sibling.com.au  
ELEVATIONS - EAST & SOUTH

DATE	18/11/2024	PROJECT NO.	10
DRAWN BY	P. HARRISON	CONTRACT NO.	
CHECKED BY	A. HARRISON	DATE	18/11/2024
SCALE	AS SHOWN	SHEET NO.	3/3
PROJECT NAME	A200	DATE PLOTTED	18/11/2024
CAD FILE NAME	DA-B		



DATE	DESCRIPTION	BY
15/02/2024	ISSUED FOR PERMIT	DA
15/02/2024	REVISED	DA
15/02/2024	REVISED	DA
15/02/2024	REVISED	DA
15/02/2024	REVISED	DA
15/02/2024	REVISED	DA
15/02/2024	REVISED	DA
15/02/2024	REVISED	DA
15/02/2024	REVISED	DA
15/02/2024	REVISED	DA

FINISHES (REFER SCHEDULE)



1 WEST ELEVATION

2 NORTH ELEVATION

NOT FOR CONSTRUCTION  
DA

**SIBLING**  
11 BOURKE STREET WEST, SYDNEY NSW 2000  
PH: (02) 9212 5555  
WWW.SIBLINGARCHITECTURE.COM

ELEVATIONS - WEST & NORTH

DATE	NO.	PREPARED BY	NO.
15/02/2024	1	DA	1
15/02/2024	2	DA	2
15/02/2024	3	DA	3
15/02/2024	4	DA	4
15/02/2024	5	DA	5
15/02/2024	6	DA	6
15/02/2024	7	DA	7
15/02/2024	8	DA	8
15/02/2024	9	DA	9
15/02/2024	10	DA	10
15/02/2024	11	DA	11
15/02/2024	12	DA	12

A201 DA-B



**Attachment C- Draft conditions of consent in the event of approval**

**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:

<b>Plan, Revision and Issue No.</b>	<b>Plan Name</b>	<b>Date Issued</b>	<b>Prepared by</b>
A000, Issue DA-B	COVER SHEET	08.08.23	Sibling Architecture
A010, Issue DA-B	DEMOLITION PLAN - LEVEL 00	08.08.23	Sibling Architecture
A011, Issue DA-B	DEMOLITION PLAN - LEVEL 01	08.08.23	Sibling Architecture
A012, Issue DA-B	DEMOLITION PLAN - LEVEL 02	08.08.23	Sibling Architecture
A013, Issue DA-B	DEMOLITION PLAN - LEVEL 03	08.08.23	Sibling Architecture
A014, Issue DA-B	DEMOLITION PLAN - BASEMENT LEVEL 01	08.08.23	Sibling Architecture
A016, Issue DA-B	DEMOLITION PLAN - ROOF	08.08.23	Sibling Architecture
A020, Issue DA-B	DEMOLITION ELEVATIONS - WEST & SOUTH	08.08.23	Sibling Architecture
A021, Issue DA-B	DEMOLITION ELEVATIONS - EAST & NORTH	08.08.23	Sibling Architecture
A030, Issue DA-B	DEMOLITION SECTIONS	08.08.23	Sibling Architecture
A100, Issue DA-B	FLOOR PLAN LEVEL 00	08.08.23	Sibling Architecture
A101, Issue DA-B	FLOOR PLAN LEVEL 01	08.08.23	Sibling Architecture
A102, Issue DA-B	FLOOR PLAN LEVEL 02	08.08.23	Sibling Architecture
A103, Issue DA-B	FLOOR PLAN LEVEL 03	08.08.23	Sibling Architecture

A104, Issue DA-B	FLOOR PLAN BASEMENT LEVEL 01	08.08.23	Sibling Architecture
A105, Issue DA-B	FLOOR PLAN BASEMENT LEVEL 02	08.08.23	Sibling Architecture
A110, Issue DA-B	ROOF PLAN	08.08.23	Sibling Architecture
A200, Issue DA-B	ELEVATIONS - EAST & SOUTH	08.08.23	Sibling Architecture
A201, Issue DA-B	ELEVATIONS - WEST & NORTH	08.08.23	Sibling Architecture
A300, Issue DA-B	SECTIONS	08.08.23	Sibling Architecture
1396757M	BASIX Certificate	13 June 2023	Ecological Design Ply Ltd
A497171	BASIX Certificate	07. July 2023	Ecological Design Ply Ltd
Drawing No. 1037_01, Issue: A	Stormwater Drainage Concept Plan Level 00	JUNE 2023	Ecological Design
Drawing No. 1037_02, Issue: A	Stormwater Drainage Plan Roof Level	JUNE 2023	Ecological Design
Project number: 22214	Structural Adequacy Report	13 June 2013	SDA Structures Pty Ltd
22434_ADR_v1.1	Accessibility Design Review Report – DA	6th July 2023	ABE Consulting
Reference: 23073 Issue: Final A	Transport and Parking Impact Assessment	Undated	Transport Strategies
Report Number: 220440, Revision: 3	Building Code of Australia Assessment Report	23RD JUNE 2023	City Plan

As amended by the conditions of consent.

### FEES

**2. 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.

**3. Section 7.11 Contribution**

In accordance with section 7.11 of the *Environmental Planning and Assessment Act 1979* and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), the following monetary contributions shall be paid to Council to cater for the increased demand for local infrastructure resulting from the development:

Contribution Category	Amount
Open Space & Recreation	\$45,479.00
Community Facilities	\$10,164.00
Transport	\$0
Plan Administration	\$0
Drainage	\$0
<b>TOTAL</b>	<b>\$55,643.00</b>

At the time of payment, the contributions payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:

$$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$$

Where:

$C_{\text{payment}}$  = is the contribution at time of payment

$C_{\text{consent}}$  = is the contribution at the time of consent, as shown above

$CPI_{\text{consent}}$  = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being 136.4 for the January 2024

$CPI_{\text{payment}}$  = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment

Note: The contribution payable will not be less than the contribution specified in this condition.

The monetary contributions must be paid to Council (i) if the development is for subdivision – prior to the issue of the subdivision certificate, or (ii) if the development is for building work –



prior to the issue of the first construction certificate, or (iii) if the development involves both subdivision and building work – prior to issue of the subdivision certificate or first construction certificate, whichever occurs first, or (iv) if the development does not require a construction certificate or subdivision certificate – prior to the works commencing.

It is the professional responsibility of the principal certifying authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.

Council's Plan may be viewed at [www.innerwest.nsw.gov.au](http://www.innerwest.nsw.gov.au) or during normal business hours at any of Council's customer service centres.

Please contact any of Council's customer service centres at [council@innerwest.nsw.gov.au](mailto:council@innerwest.nsw.gov.au) or 9392 5000 to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.

Once the invoice is obtained, payment may be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to [www.innerwest.nsw.gov.au/invoice](http://www.innerwest.nsw.gov.au/invoice); please note that a fee of 0.75 per cent applies to credit cards), (iii) in person (at any of Council's customer service centres), or (iv) by mail (make cheque payable to 'Inner West Council' with a copy of your remittance to PO Box 14 Petersham NSW 2049).

The invoice will be valid for 3 months. If the contribution is not paid by this time, please contact Council's customer service centres to obtain an updated invoice. The contribution amount will be adjusted to reflect the latest value of the Consumer Price Index (All Groups Index) for Sydney.

**4. 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:	\$67,860.00
Inspection Fee:	\$374.50

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

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

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

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

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

**GENERAL CONDITIONS**

**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	<i>Cupaniopsis anacardiodes</i> (Tuckeroo)	Street tree - Darling St frontage

2	<i>Cupaniopsis anacardiodes</i> (Tuckeroo)	Street tree - Church St frontage
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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.

**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. Separation of Commercial and Residential Waste and Recycling**

The waste and recycling handling and storage systems for residential waste and commercial waste (including waste originating from retail premises) are to be separate and self-contained. Commercial and retail tenants must not be able to access residential waste storage area/s, or any storage containers or chutes used for residential waste and recycling.

**8. Residential Flat Buildings – Hot Water Systems**

Where units or dwellings are provided with separate individual hot water systems, these must be located so they are not visible from the street.

**9. Residential Flat Buildings – Air Conditioning Systems**

Where units or dwellings are provided with separate individual air conditioning systems, these must be located so they are not visible from the street.

**10. Verification of Levels and Location**

Prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, the Principal Certifier must be provided with a survey levels certificate prepared by a Registered Surveyor indicating the level of the slab and the location of the building with respect to the boundaries of the site to AHD.

**11. Works Outside the Property Boundary**

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

**12. Contamination**

Prior to any demolition or construction works a Preliminary Site Contamination Investigation must be undertaken and submitted to Council. The Preliminary Site Contamination Investigation (PSI) is to identify any past or present potentially contaminating activities. Should the Preliminary Site Contamination Investigation be unable to justify that the site is suitable for the proposed use; a Detailed Site Contamination Investigation (DSI) must be undertaken and submitted to Council. The report is to assess the nature, extent and degree of land contamination. Should the Detailed Site Investigation Report not find any site contamination to both land and groundwater, the conclusion of the report must clearly state that 'the land is suitable for its intended land use' posing no immediate or long term risk to public health or the environment and is fit for occupation by persons, together with clear jurisdiction for the statement. Should the Detailed Site Investigation Report identify that the land is contaminated and the land requires remedial works to meet the relevant Health Based Investigation Level, a Remediation Action Plan (RAP) will be required to be submitted to and approved by Council prior to commencing remediation works. The abovementioned contamination reports (PSI, DSI, RAP) are to be prepared in accordance with the State Environmental Planning Policy (Resilience and Hazards) 2021 and the relevant Guidelines by NSW Environmental Protection Authority, including the Guidelines for Consultants Reporting on Contaminated Sites.

**13. 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.

**PRIOR TO ANY DEMOLITION****14. Resource Recovery and Waste Management Plan - Demolition and Construction**

Prior to any demolition works, the Certifying Authority must be provided with a Resource Recovery and Waste Management Plan - Demolition and Construction that includes details of materials that will be excavated and their proposed destination or reuse.

**15. Dilapidation Report**

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by

a suitably qualified person. The report is required to include colour photographs of all the adjoining properties (2 Church Street and 323B Darling Street) to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

#### **16. Advising Neighbours Prior to Excavation**

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

#### **17. Construction Fencing**

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

#### **18. 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.

#### **19. Construction Traffic Management Plan – Detailed**

Prior to Any Demolition, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP), prepared by an appropriately qualified Traffic Management Consultant with Transport for NSW accreditation. The Certifying Authority must approved by the CTMP prior to the commencement of any works, including demolition. The Certifying Authority must ensure that the CTMP instructs vehicles to use State and Regional and Collector Roads to the maximum extent with the use of Local Roads as final approach to the development site via the most suitable direct route.

The following matters should be addressed in the CTMP (where applicable):

- a. Description of the demolition, excavation and construction works;
- b. Site plan/s showing the site, roads, footpaths, site access points and vehicular movements;
- c. Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site);
- d. Proposed route(s) from the arterial (state) road network to the site and the proposed route from the site back to the arterial road network;
- e. Impacts of the work and vehicular movements on the road network, traffic and pedestrians and proposed methods to safely manage pedestrians and construction related vehicles in the frontage roadways;
- f. Any Traffic Control Plans (TCP's) proposed to regulate traffic and pedestrian movements for construction activities (such as concrete pours, crane installation/removal etc.);
- g. Proposed hours of construction related activities and vehicular movements to and from the site;
- h. Current/proposed approvals from other Agencies and Authorities (including Roads and Maritime Services, Police and State Transit Authority);
- i. Any activities proposed to be located or impact upon Council's road, footways or any public place;
- j. Measures to maintain public safety and convenience;
- k. Any proposed road and/or footpath closures;
- l. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;
- m. Locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council;
- n. Location of any proposed crane and concrete pump and truck standing areas on and off the site (and relevant approvals from Council for plant on road);
- o. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
- p. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected;
- q. On-site parking area for employees, tradespersons and construction vehicles as far as possible;
- r. Proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period; and
- s. How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
- t. Swept Paths for the proposed construction vehicles to demonstrate that the needed manoeuvres can be achieved without causing any nuisance.

**PRIOR TO CONSTRUCTION CERTIFICATE****20. Bin Storage Area - Residential**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a report detailing the ongoing waste generation requirements of the development and demonstrate that the bin storage area is to be provided within the site that will fully accommodate the number of bins required for all waste generated by a development of this type and scale. The number of bins required must be calculated based on a weekly collection of garbage and food organic waste, and a fortnightly collection of recycling.

The area must also include 50% allowance for manoeuvring of bins. The bin storage area is to be located away from habitable rooms, windows, doors and private useable open space, and to minimise potential impacts on neighbours in terms of aesthetics, noise and odour.

The bin storage area is to meet the design requirements detailed in Leichhardt DCP 2013 and must include doorways/entrance points of 1200mm.

**21. Bulky Waste Storage Area – Residential**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating that the bulky waste storage area must meet the floor area requirements as per the Leichhardt DCP 2013 and have minimum doorways of 1200mm wide to accommodate large items.

**22. Commercial - Additional Storage Space**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating that space has been allocated on site for the storage of reusable items such as crates and pallets and/or compaction equipment.

**23. Waste Transfer Route**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the path of travel between the bin storage area/bulky waste storage area and the designated waste/recycling collection point is has a minimum 1200mm wall-to-wall clearance, be slip-proof, of a hard surface, be free of obstructions and at no point have a gradient exceeding 1:14.



**24. Each Residential Unit is to have Access to a Disposal Point for All Waste Streams**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the disposal point is to be within 30m of the dwelling access (distance covered by lifts excluded). Any bins stored in residential units are to have the capacity to store, at minimum, all waste generated by that floor over a 24 hour period.

**25. Structural Certificate for retained elements of the building**

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

**26. 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*

**27. Fibre-ready Facilities**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that arrangements have been made for:

- a. The installation of fibre-ready facilities to all individual lots and/or premises the development so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.
- b. The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises the development demonstrated through an agreement with a carrier.

**28. Future Food Use - Mechanical Ventilation Provision**

Prior to the issue of a Construction Certificate, the mechanical exhaust systems and/or shafts must be designed to allow for the discharge of effluent air above roof level and must be

designed with capacity to accommodate exhaust ducts and mechanical ventilation systems for all commercial tenancies proposed with the potential to become a food premises in future. Systems must be designed in accordance with AS1668.2 – The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings, and AS1668.1 – The Use of Mechanical Ventilation and Air-Conditioning in Buildings – Fire and Smoke Control in Multi-compartment Buildings.

#### **29. Noise General – Acoustic Report**

Prior to the issue of a Construction Certificate, an acoustic report prepared by a suitably qualified and experienced acoustic consultant shall be submitted to Council for the proposed development which demonstrates that noise emissions comply with the relevant provisions of the Protection of the Environment Operations Act 1997, Liquor and Gaming NSW, NSW Environment Protection Authority's Noise Policy for Industry and Noise Control Manual. The report is to include (but not limited to):

1. The most affected residential premises located both internally and externally of the building.
2. Noise emissions from the use and operation of the proposed development, including from patrons using any indoor and outdoor dining area. The report shall clarify the maximum capacity of the café/restaurant seating areas (number of patrons), for the nominated noise criteria to be satisfied.
3. Noise emissions from background/amplified music on indoor and outdoor dining areas of the proposed café/restaurant.
4. Internal noise transmission within the building.
5. Noise emissions from any proposed plant and equipment (e.g. mechanical ventilation system, refrigeration condensers, air conditioning units, pumps etc).
6. Any noise attenuation measures and recommendations to ensure compliance with the nominated noise criteria.

#### **30. 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.

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

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

- a. 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 directly to Council's piped drainage system via the OSD/OSR tanks as necessary;
- 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. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than to drain downpipes to the rainwater tank(s);
- d. 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;
- e. The plans, including supporting calculations, must demonstrate that the post development flows for the 100 year ARI storm are restricted to the pre development flows for the 5 year ARI storm event in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013 and the maximum allowable discharge to Council's street gutter limited to 15 litres/second (100year ARI);
- f. OSD may be reduced or replaced by on site retention (OSR) for rainwater reuse in accordance with the relevant DCP that applies to the land. Where this is pursued, the proposed on-site retention (OSR) tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation. Surface water must not be drained to rainwater tanks where the collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use;
- g. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks;
- h. Only roof water is permitted to be connected to the OSD/OSR. Overflow from the storage tank must be connected by gravity to the kerb and gutter of a public road;
- a. Details of the 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided;
- j. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas;
- k. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
- xx. No nuisance or concentration of flows to other properties;

- IIIIIIII. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- n. 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;
- o. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- p. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- q. No impact to street tree(s); and
- r. Water quality filtration basket(s) with screening bag or similar primary treatment device(s) must be installed on the site stormwater drainage system such that all water entering the site stormwater drainage system is filtered by the device(s).

### **32. Public Domain Works – Prior to Construction Certificate**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the *Roads Act 1993* incorporating the following requirements:

- a. The construction of heavy-duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site;
  - b. The reconstruction of the existing footpath, kerb and gutter for both frontages of the site in accordance with the Public Domain Scheme in the area at the time the works take place.
  - c. Installation of a stormwater outlet to the kerb and gutter.
- All works must be completed prior to the issue of an Occupation Certificate.

### **33. Parking Facilities – Major (including basement)**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) demonstrating that the design of the vehicular access, off-street parking facilities and associated vehicle standing areas comply with Australian Standard AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking, Australian Standard AS 2890.2-2018 Parking Facilities: Commercial vehicle facilities,

AS/NZS 2890.3-2015 Parking facilities: Bicycle Parking, AS/NZS 2890.6-2009 Parking facilities: Off-street parking for people with disabilities and the following specific requirements:

- a. A loading dock must be provided on site for the servicing of the of the property. This shall be managed via a loading dock management plan to ensure the use of the loading dock is maximised rather than loading activities being undertaken on the adjacent streets.
- b. A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors;
- c. Headroom at a 'sag' type grade change must be measured in accordance with Figure 5.3 of AS/NZS 2890.1-2004;
- d. Minimum headroom of 2500mm must be provided above any disabled parking space(s);
- e. The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B85 design vehicle. Longitudinal sections must be provided along each outer edge of all ramps;
- f. Longitudinal sections must be provided along both sides of the vehicular access ramp(s) and throughout the path of travel for a SRV utilising the loading bay. The sections must demonstrate that minimum headroom of 3500mm is provided;
- g. The layout and minimum dimensions of any standing area comply with clause 2.4 of AS/NZS 2890.1-2004 such that:
  - i. Car spaces adjacent to walls or fences are increased in width by an additional 300mm; End spaces are provided with an additional 1m aisle extension;
  - ii. End spaces are provided with an additional 1m aisle extension; and
  - iii. The location of columns within the carpark complies with figure 5.1 of AS/NZS 2890.1-2004.
- h. At the property boundary the access from the road to a standing area is (as near as practicable) perpendicular to the line of the adjacent road;
- i. All loading docks and parking bays are designed such that all vehicular movements to and from the proposed development are in a forward direction;
- j. The entry security door must be set back a minimum of 5500mm from the property boundary;
- k. Loading / unloading facilities must be provided on-site in accordance with the requirements of AS2890.2 – 2002; and
- l. Swept paths demonstrating manoeuvrability for entry and exit to the site and manoeuvrability within the site including to all parking facilities.

#### **34. Structural and Geotechnical Report**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an integrated structural and geotechnical report and structural plans that address the design

of the proposed basement, prepared certified as compliant with the terms of this condition by a qualified practicing Structural and Geotechnical Engineer(s) who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng). The report and plans must be prepared/ amended to make provision for the following:

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

**DURING DEMOLITION AND CONSTRUCTION**

**35. Tree Protection**

To protect the following tree/s, ground, trunk and branch protection must be installed prior to any works commencing in accordance with the approved *Tree Protection Plan* and/or with Council's *Development Fact Sheet—Trees on Development Sites*:

Tree No.	Botanical/Common Name/Location
1 & 2	<i>Cupaniopsis anacardioides</i> (Tuckeroo) - street trees outside the site on Darling St and Church St frontages

**36. 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
Trees 1 & 2 - <i>Cupaniopsis anacardioides</i> (Turckeroos) - street trees directly outside the site	Prior to commencement of works	<ul style="list-style-type: none"> <li>• Inspection and sign off installation of tree protection measures.</li> </ul>
	During Works	<ul style="list-style-type: none"> <li>• Supervise all site preparation and demolition works within the TPZ;</li> <li>• Supervise all works inside or above the TPZ;</li> <li>• Supervise all excavation, trenching works, landscaping works and tree/planting replenishment within the TPZ;</li> <li>• Supervise all tree work.</li> </ul>

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

**37. 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 & 2	<i>Cupaniopsis anacardioides</i> (Tuckeroo)	5 metres

**38. Documentation of Demolition and Construction Waste**

All waste dockets from the recycling and/or disposal of any demolition and construction waste generated from the works must be retained on site.

**39. Construction Hours – Class 2-9**

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:

- a. 7:00am to 6.00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b. 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and
- c. at no time on Sundays or public holidays.

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

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

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

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

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

The person acting on this consent must not undertake such activities for more than three continuous hours and must provide a minimum of one 2 hour respite period between any two periods of such works.

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

#### **40. Survey Prior to Footings**

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

#### **41. Contamination – New Evidence**

Any new information revealed during demolition, remediation or construction works that have the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Certifying Authority.

### **PRIOR TO OCCUPATION CERTIFICATE**

#### **42. 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.

#### **43. Smoke Alarms - Certification of upgrade to NCC requirements**

Prior to the issue of any Occupation Certificate, the Principal Certifier is required to be satisfied the existing building has been upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke alarm systems.

#### **44. Section 73 Certificate**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a Section 73 Certificate under the *Sydney Water Act 1994*.

**45. Noise – Acoustic Report**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an acoustic report prepared by suitably qualified acoustic consultant which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the *Protection of the Environment Operations Act 1997* and conditions of Council's approval, including any recommendations of the acoustic report referenced in the conditions of the approval. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.

**46. Food Premises Grease Trap – Trade Waste Agreement**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification confirming that the grease trap has been installed to the premises in accordance with Australian Standard AS 3500 and the National Plumbing and Drainage Code. A copy of the Sydney Water Trade Waste Agreement must also accompany the certification.

**47. Public Domain Works**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* including:

- a. Heavy duty concrete vehicle crossing(s) at the vehicular access location(s);
- b. The redundant vehicular crossing to the site must be removed and replaced by kerb and gutter and footpath. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone;
- c. The reconstruction of the existing footpath, kerb and gutter for both frontages of the site in accordance with the Public Domain Scheme in the area at the time the works take place; and
- d. Other works subject to the *Roads Act 1993* approval.

All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications".

**48. 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.

**49. 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.

**50. Works as Executed – Site Stormwater Drainage System**

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

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

**51. Operation and Management Plan**

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

- a. The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners; and
- b. The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

**52. Heavy Duty Vehicle Crossing**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that heavy duty concrete vehicle crossing/s, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" has been constructed at the vehicular access locations.

**53. Parking Signoff – Major Development**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that the vehicle access and off street parking facilities have been constructed in accordance with the development consent and relevant Australian Standards and the following has been implemented within the property.

- a. The car park has been completed, line marked and all signage relating to car parking erected;
- b. A notice has been clearly displayed at the Darling Street frontage to indicate that parking is available within the property with access from Church Street;

**54. Dilapidation Report – Post-Development**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a second Dilapidation Report addressing the public infrastructure identified in approved predevelopment dilapidation report, including a photographic survey, structural condition and CCTV inspections which was compiled after the completion of works. As the report details public infrastructure, a copy is to be furnished to Council at the same time.

**ON-GOING****55. Bin Storage**

All bins are to be stored within the site. Bins are to be returned to the property within 12 hours of having been emptied.

**56. Documentation of Businesses Waste Services**

All businesses must have written evidence of all valid and current contracts and/ or tip dockets for the disposal and/ or processing of all waste streams generated from the site.

**57. Hours of Operation**

- a. The hours of operation of the premises must not exceed the following:

Day	Hours
Monday to Saturday	6.30am to 10pm
Sunday	7am to 3pm

b. Service is to cease 30 minutes before ceasing of trading hours.

**58. Noise General**

The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.

**59. Operation and Management Plan**

The Operation and Management Plan for the on-site detention and/or on-site retention/re-use and/or stormwater quality improvement devices and/or, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

**60. Loading/unloading on site**

All loading and unloading are to be conducted within the site at all times. Any designated loading bay/dock area is to remain available for loading/unloading purposes at all times. No storage of goods or parking of cars is to be carried out in these areas.

**ADVISORY NOTES**

**Arborists standards**

All tree work must be undertaken by a practicing Arborist. The work must be undertaken in accordance with AS4373—*Pruning of amenity trees* and the Safe Work Australia Code of Practice—*Guide to Managing Risks of Tree Trimming and Removal Work*. Any works in the vicinity of the Low Voltage Overhead Network (including service lines—pole to house connections) must be undertaken by an approved Network Service Provider contractor for the management of vegetation conflicting with such services. Contact the relevant Network Service Provider for further advice in this regard.

**Tree Protection Works**

All tree protection for the site must be undertaken in accordance with Council's *Development Fact Sheet—Trees on Development Sites* and AS4970—*Protection of trees on development sites*.

**Notice to Council to deliver Residential Bins**

Council should be notified of bin requirements three weeks prior to the occupation of the building to ensure timely delivery.

Council will place an order for the required bins. Delivery will occur once the applicant has completed a Request for New Service.

**Recycling / Garbage / Organics Service Information and Education**

The building manager / strata title manager or body corporate is responsible for ensuring all tenants are kept informed regarding Council's services, and best practice waste and recycling source separation.

**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.

#### **Disability Discrimination Access to Premises Code**

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

#### **National Construction Code (Building Code of Australia)**

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

#### **Notification of commencement of works**

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

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

#### **Dividing Fences Act**

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

**Permits from Council under Other Acts**

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

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

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

**Noise**

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

**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.

**Fire Safety Certificate**

The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

- a. Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and

- b. Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Statement for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Statement must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

**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 <a href="http://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a>
Department of Fair Trading	13 32 20 <a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a> Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 <a href="http://www.dialprior toyoudig.com.au">www.dialprior toyoudig.com.au</a>
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"

Long Service Corporation	Payments	131441	<a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Food Authority		1300 552 406	<a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government			<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a> <a href="http://www.diyasafe.nsw.gov.au">www.diyasafe.nsw.gov.au</a> Information on asbestos and safe work practices.
NSW Office of Environment and Heritage		131 555	<a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water		13 20 92	<a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>
Waste Service - Environmental Solutions	SITA	1300 651 116	<a href="http://www.wasteservice.nsw.gov.au">www.wasteservice.nsw.gov.au</a>
Water Efficiency Labelling and Standards (WELS)			<a href="http://www.waterrating.gov.au">www.waterrating.gov.au</a>
WorkCover Authority of NSW		13 10 50	<a href="http://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a> 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.

#### **Street Numbering**

If there are any changes to the number of occupancies including any additional occupancies created, a street numbering application must be lodged and approved by Council's GIS team before any street number is displayed. Link to [Street Numbering Application](#)

#### **Mechanical Ventilation System Certification**

The mechanical ventilation systems are to be designed, constructed and operated in accordance with the following:

- a. Australian Standard AS 1668 Part 1 – 1998;
- b. Australian Standard AS 1668 Part 2 – 2012;
- c. Australian Standard 3666.1 – 2011;
- d. Australian Standard 3666.2 – 2011; and
- e. Australian Standard 3666.3 - 2011.

The system must be located in accordance with the approved plans and/or within the building envelope, design and form of the approved building. Any modifications to the approved plans required to house the system must be the subject of further approval from Council.

#### **Food Premises Certification**

The food premises design, construction and operation is in accordance with the following:

- a. *Food Act 2003*;
- b. *Food Regulation 2010*;
- c. Australia and New Zealand Food Standards Code;
- d. Australian Standard AS 4674 – 2004 (Design, construction and fit-out of food premises);
- e. Australian Standard AS 1668 Part 1 – 1998; and
- f. Australian Standard AS 1668 Part 2 – 2012.

### Food Premises Waste Storage Area

To ensure adequate storage and collection of waste from the food premises, all garbage and recyclable materials must be stored in a designated waste storage area. The designated waste storage area must be designed and constructed in accordance with the Australian Standard AS 4674 – 2004 (Design, construction and fit-out of food premises) and Australia and New Zealand Food Standards Code.

### 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.



**Public Domain and Vehicular Crossings**

The vehicular crossing and/or footpath works are required to be constructed by your contractor. You or your contractor must complete an application for *Design of Vehicle Crossing and Public Domain Works – Step 1* form and *Construction of Vehicle Crossing and Public Domain Works – Step 2* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be at no cost to Council

Any damage caused during construction to Council assets on the road reserve or on Council or Crown land must be repaired at no cost to Council.

Any driveway crossovers or other works within the road reserve must be provided at no cost to Council.

No consent is given or implied for any Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, eaves, awnings, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever, including when open.

**Electrical Substations**

Should the proposed development require the provision of an electrical substation, such associated infrastructure must be incorporated wholly within the development site and may be the subject of an application for modification of consent.

**Ausgrid Underground Cables are in the vicinity of the development**

Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways.

It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD).

In addition to DBYD the proponent should refer to the following documents to support safety in design and construction:

SafeWork Australia – Excavation Code of Practice.

Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables. The following points should also be taken into consideration.

Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.

Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

**Ausgrid Overhead Powerlines are in the vicinity of the development**

The developer should refer to SafeWork NSW Document – *Work Near Overhead Powerlines: Code of Practice*. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.

Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected to be entering and leaving the site.

The “as constructed” minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website at

[www.ausgrid.com.au](http://www.ausgrid.com.au).

It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer’s cost.

Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances “Working Near Ausgrid Assets - Clearances”. This document can be found by visiting the following Ausgrid website: [www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries](http://www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries)

## Attachment D – Statement of Heritage Significance of Heritage Conservation Area

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### Area 16 Waterview Estate Conservation Area

Comprises Parbury's 10-acre Waterview Estate and Cooper's 28-acre estate adjoining it to the northwest.

#### Landform

This Conservation Area comprises land on the southeast of Waterview Bay (now Morts Bay). It slopes quite steeply towards the bay from the Darling Street ridge.



Figure 16.1 Waterview Estate Conservation Area Map.

#### History

This area contains two large sections of land which were among the earliest to be carved out of Gilchrist's Balmain Estate. Dr William Balmain had given his grant of 550 acres to fellow surgeon and friend John Gilchrist in 1801. Gilchrist's agent, Sydney merchant Frank Parbury put a number of land parcels up for sale in 1836, all near the eastern end of the Balmain peninsula, with easy water access to Sydney Town.

Parbury himself leased/bought ten acres at the southeastern part of Waterview Bay, and built the first house on the Balmain grant, Waterview House, in 1835. It was a six-roomed single-storey house with stables, outbuildings and a fenced garden and stood near the corner of Colgate Avenue and Caroline Street. It was later purchased by George Cooper, Comptroller of Customs, who owned/leased 28 acres adjacent to the west. Like many people who overstretched themselves in the late 1830s, Cooper fell victim to the crash of the early 1840s and was declared bankrupt. The Waterview Estate was then divided into modest building allotments, with very narrow streets (leaving as much land as possible for development) leading down to the bay with its slipways/wharves.

With the expansion of industry out of Sydney Town in the 1880s, allotments close to the water were taken up for water dependent industrial uses, such as

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the Balmain Ferry Co works. Some villas were built on the higher slopes of the land, while other allotments were resubdivided for closer development. The growth of the Morts Dock and Engineering Company provided an impetus for the construction of small terraces and cottages to house the growing maritime workforce. A number of these resubdivisions provided narrow back lanes.

Waterview House was demolished after 1905, probably in the 1920s. Colgate Palmolive established a factory on the water's edge in 1922. The conversion of this factory to apartments in the 1990s, and the remaining small maritime activities around the Balmain Ferry Co works at the end of Waterview Street illustrate the close and enduring relationship between housing and industry.

#### Sources

Solling, M and Reynolds, P 1997, 'Leichhardt: on the margins of the city', *Leichhardt Historical Journal*, Vol. 22, Allen and Unwin.

Reynolds, P 1985, 'The first 22 lots - an overview: Suburbanisation in Balmain', *Leichhardt Historical Journal*, Vol. 14.

#### Significant Characteristics

- Very narrow straight streets, most of which lead down to Morts Bay.
- Clusters of small maritime activities end the view down some streets.
- Buildings generally sited close to street, defining edge of narrow roads.
- Varied streetscape comprising dense post-1870s housing - two-storey terraces and single and double-fronted detached cottages; the occasional large early villa, industrial buildings, shops and commercial buildings.
- Variety of building materials and finishes: rendered brick, face brick, weatherboard, stone.
- Roofs mostly of iron or terracotta tiles.
- Sandstone kerbs and gutters mostly uninterrupted by driveway access.

#### Statement of Significance or Why This Area is Important

- One of a number of conservation areas which collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). This area is significant for the layers of development from presuburban marine villas of the 1850/60s to small-scale workers' housing from the 1870s through to the late 1930s.
- Demonstrates the close physical relationship between industry and housing (both middle class and workers' housing) in nineteenth century cities.
- Demonstrates the nature of some private subdivisions before the introduction of the Width of Streets and Lanes Act of 1881 required roads to be at least one chain wide.

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#### 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

- Narrow streets.
- All pre-1939 buildings and structures, especially timber and stone buildings.
- Maritime and industrial buildings that have played a part in the history of this area.
- Original plaster finishes to external walls (as a rough rule of thumb this will mostly apply to pre-1890s buildings. Reconstruct the finish where necessary.
- Original unplastered face brick external walls.
- Original architectural details to building. Encourage replacement of lost elements, but only where evidence is available.
- Uninterrupted sandstone kerbs and gutters.

##### Avoid

- Alterations that change the shape of the building or original roof forms on the main part of the buildings.
- Second-storey additions to original single-storey houses, other than as separated pavilion forms.
- Removal of original detail. Encourage restoration from evidence.
- Removal of original plaster finishes to external walls.
- Plastering or painting of original face brick walls.
- Additions of details not part of the original fabric of the building.
- Inappropriate fences such as high brick fences/walls, new iron palisades on high brick bases.
- Interruption to almost continuous kerb and gutters.

Attachment E – Architectural Excellence and Design Review Panel



**Architectural Excellence & Design Review Panel**  
**Meeting Minutes & Recommendations**

Site Address:	323 Darling Street BALMAIN
Proposal:	Alterations and additions to existing building to provide a mixed use development comprising two retail tenancies and restaurant with outdoor dining at ground floor level and five residential apartments over, all over two levels of parking.
Application No.:	DA/2023/0651
Meeting Date:	14 November 2023
Previous Meeting Date:	-
Panel Members:	Matthew Pullinger (chair) Russell Olsson; Jocelyn Jackson
Apologies:	-
Council Officers:	Martin Amy Eric Wong Niall Macken
Guests:	
Declarations of Interest:	None
Applicant or applicant's representatives to address the panel:	Qianyi Lim (Sibling Architects)

**Background:**

1. The Architectural Excellence & Design Review Panel (AEDRP) reviewed the architectural drawings and discussed the proposal with the applicant through an online conference.



### Discussion & Recommendations:

1. The Panel notes that the existing c.1973 office and shop building is an anomaly within the Darling Street streetscape and Waterview Heritage Conservation Area, and also confirms in-principle support for the potential adaptation, re-use and up-cycling of the building on the basis of minimising the embodied energy and carbon footprint of the development and by extending the useful life of the existing building.
2. Although the proposal includes a number of detailed design ideas that are capable of support (for example the approach to architectural fenestration), the Panel is concerned for the generally poor interfaces with Darling Street and the northern neighbouring site boundary, and also for a number of internal amenity issues discussed below.
3. The proposal does not yet adequately address a number of the shortcomings of the existing building, particularly its poor presentation and disconnection with Darling Street, particularly at the base. The proposed entry stair and platform lift access are not ideal and may not achieve an equitable universal access for residents and customers. A better interface may bring new building form to the street alignment in a manner typical of shopfronts elsewhere along Darling Street.
4. The Panel suggests that a greater level of intervention into the existing building may be required to improve the relationship between the building and Darling Street. It was noted that there is the opportunity to remove portions of the existing podium along Darling Street by excavating into the basement level (B1). This may eliminate the need for the proposed stairs and platform lift and create on-grade access for an expanded retail component along Darling Street.
5. The Panel suggests consideration be given to the potential for a separate residential entry from Church Street, which may provide better functionality to both the retail and residential entries.
6. The Panel suggests consideration be given to relocating the proposed lift to the other side of the proposed stair, closer to Darling Street in order to free up space towards the rear of the site where the planning of the proposed studio apartments is compromised. The detailed positioning of the lift and stair may be influenced by apartment layouts above.
7. The Panel expresses concern for the constrained size and internal planning of the units, including the studio apartment to Level 1 (36 m<sup>2</sup>), and the two bedroom units to Levels 1 & 2 (69 m<sup>2</sup>).
8. The Panel is concerned for the proposed balconies which exclusively address the northern site boundary, potentially creating cross viewing and privacy issues with the immediate neighbours on Church Street. Re-planning these studio apartments might bring the living spaces and balconies closer to the Church Street alignment and orient outlook towards the northeast and away from the common site boundary.
9. The Panel notes the floor-to-ceiling and floor-to-floor heights of the former office building are marginally below the dimension necessary to meet the requirements of the NSW ADG Part 4C (2.7m ceiling heights) and also meet BCA requirements for waterproofing triggered by the recent Design and Building Practitioners Act. To mitigate this deficiency, internal amenity of all proposed apartments must be improved and consideration may be given to the introduction of two-storey units or to increasing the size, performance and outlook of the units.
10. The Panel notes that the living rooms of some of the units will receive poor solar access in the proposed arrangement (for example, the south-facing two bedroom units to the first and second floor).
11. The Panel queries the amenity provided to the second bedroom on Level 3 which is served only by a clerestory window, which will not establish an adequate level of outlook. The Panel also queries whether this proposed clerestory window, adjoining the skylight over the adjacent stairwell is BCA compliant in terms of fire separation, and whether it is feasible to be operable to provide ventilation to the bedroom.
12. The Panel notes the proposal to screen the outdoor terrace associated with the restaurant at ground level with hit and miss brickwork, but queries whether this will be effective in resolving acoustic issues for the adjoining residential buildings.



## INNER WEST

13. The Panel recommends that the building be designed to be all-electric to address health and greenhouse gas concerns.
14. The Panel notes and supports the proposed incorporation of sustainability measures including the use of a rooftop photovoltaic system, but queries access to the roof for maintenance.
15. In conclusion, although noting the Panel's in-principle support for the reuse and repurposing of the existing building and the emerging architectural language, some fundamental building planning and design amendments are recommended to improve the building's contextual fit, and to improve the level of residential amenity.