




 DEVELOPMENT ASSESSMENT PANEL REPORT				
Application No.	DA/2024/0555			
Address	10 Waterview Street BALMAIN			
Proposal	Partial demolition of existing structures, Torrens title subdivision of the existing lot into two allotments. Alterations and additions to an existing dwelling on lot fronting Waterview Street including construction of a first floor addition and the construction of a new 3 storey detached dwelling house located on the proposed rear lot.			
Date of Lodgement	03 July 2024			
Applicant	Roberto Bianco			
Owner	Paul J Fitzgerald Mrs Suzanne L Fitzgerald			
Number of Submissions	Initial: 13 After Renotification (Amended Plans): 4			
Cost of works	\$1,800,000.00			
Reason for determination at Planning Panel	Number of submissions exceed officer delegation			
Main Issues	Impact to Heritage Conservation Area, bulk and scale and amenity impacts to neighbouring properties, parking and access, loss of tree canopy, and inadequate amenity			
Recommendation	Refusal			
Attachment A	Reasons for Refusal			
Attachment B	Draft conditions of consent in the event the application is approved			
Attachment C	Plans of proposed development			
Attachment D	Statement of Heritage Significance of Heritage Conservation Area			
				
LOCALITY MAP				
Subject Site		Objectors		↑ N
Notified Area		Supporters		
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 the partial demolition of existing structures, Torrens title subdivision of the existing lot into two allotments. Alterations and additions to an existing dwelling on lot fronting Waterview Street including construction of a first floor addition and the construction of a new 3 storey detached dwelling house located on the proposed rear lot. at 10 Waterview Street Balmain.

The application was notified to surrounding properties and 13 submissions were received in response to the initial notification. 4 submissions were received in response to renotification of the application.

The main issues that have arisen from the application include:

- Impact to Heritage Conservation Area;
- Bulk and scale and amenity impacts to neighbouring properties;
- Parking and access;
- Loss of tree canopy;
- Inadequate amenity.

These issues have not been adequately resolved by the amended plans and supporting documentation submitted in response to Council's Request for Further Information correspondence sent to the applicant during the assessment of the application, and therefore, the application is recommended for refusal.

2. Proposal

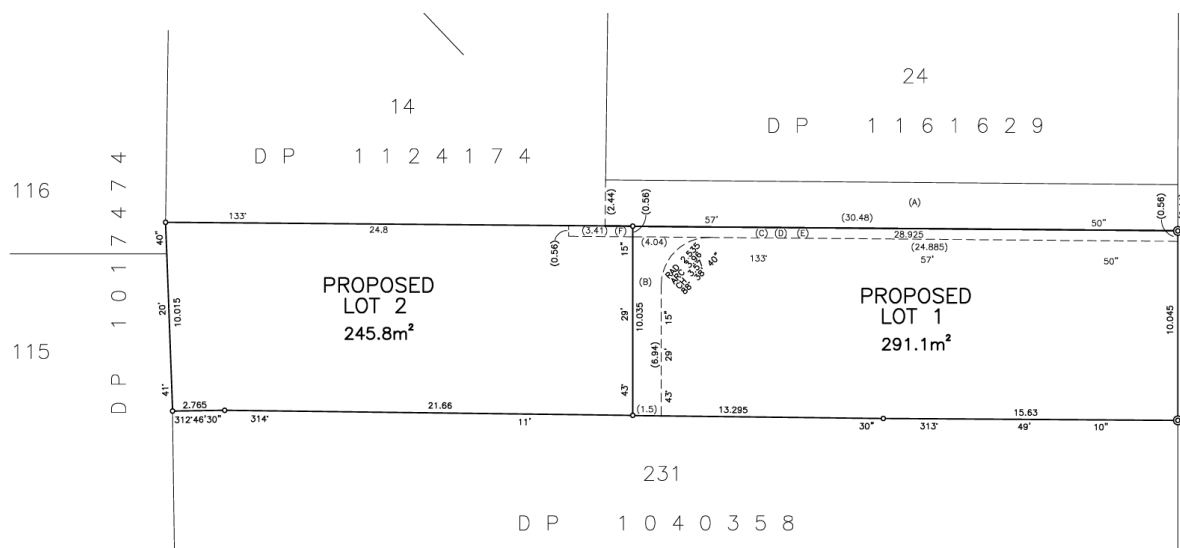
The proposal seeks Torrens title subdivision of the subject site into two (2) lots.

The lots will be configured in a tandem arrangement and consist of the following areas:

- Lot 1 (Allotment fronting Waterview Street) = 291.1sqm
- Lot 2 (Rear allotment) = 245.8sqm

The existing dwelling located on the subject site will be retained within the boundaries of proposed Lot 1 and alterations and additions to this dwelling is proposed. A new detached dwelling house is proposed on Lot 2.

The rear allotment (Lot 2) will be accessed via the existing right-of-way that runs within the access handle of No.12 Waterview Street (Lot 14 in DP 1124174). An easement for right-of-carriageway, services and drainage will be created over Lot 1 for the benefit of Lot 2 (see extract of the proposed subdivision plan below).



Alterations and additions to existing dwelling house

The proposal seeks alterations and additions to the existing dwelling house as follows:

Ground Floor

- The existing bedrooms and living/dining room at the front of the dwelling are converted into;
 - Bedroom 3,
 - Bedroom 4/Home office,
 - Secondary lounge room,
 - Bathroom, and
 - Laundry.
- Proposed rear addition will comprises:
 - Entry foyer,
 - Open plan kitchen, dining and living room,
 - External courtyard, and
 - Stairs leading to the first floor addition.

First Floor

- The proposal seeks a first floor addition at the rear portion of the dwelling which will comprise the following elements:
 - Master bedroom with associated walk-in-robe, ensuite and balcony;
 - Bedroom with built-in-robe and ensuite; and
 - Stairs providing access to the ground floor.

New dwelling house at the rear

The proposal proposes a three storey dwelling house at the rear that includes car parking that relies on part of the proposed lot at the front and an easement over 12 Wateview Street for access and manoeuvring.

The applicant provided amended plans on 29 November 2024 in response to a Council Request for Information correspondence dated 17 October 2024 which comprises of the following changes:

Alterations and additions to existing dwelling house

The amended proposal includes some changes to the roof and built form including a redesigned gable roof, the removal of a first floor balcony, relocation of the built form relating to proposed bedroom and associated ensuite and a small increase to the private open space at ground floor level.

New dwelling house at the rear

The amended proposal remains a three storey dwelling house at the rear that includes car parking. The amendments carried out include relocation of the proposed ground and first floors, changes in proposed wall heights to comply with side setback controls, a new rear balcony/deck at first floor level and an increase of maximum ridge height from RL33.125 to RL34.10 (approximately 1 metre).

Tree removal and retention

A total of 14 individual trees are proposed to be removed as part of the development which include the following (see Section 3 for details identifying the types of tree species of these trees):

- Trees 6-10, 17, 22 and 23 are located within the footprint of the development and is proposed to be removed for the development to proceed.
- Trees 11, 12, 14-16 and 18 have a major encroachment from the proposed development of over 10% and is also proposed to be removed to accommodate the proposed development due to the major TPZ encroachment and root loss as a result of the development.

A total of 15 individual trees are proposed for retention - Trees 1-5, 13, 19-21 and 24-29 (see Section 3 for details identifying the types of tree species of these trees).

3. Site Description

The subject site is located on the north-western side of Waterview Street, between Queens Lane and Dots Lane. The site consists of one allotment and is generally rectangular with a total area of 536.9 sqm and is legally described as Lot 100 in DP 878175.

The site has a frontage to Waterview Street of 10.045 metres. The site benefits from an easement located on 12 Waterview Street (Lot 14 in DP 1124174) that includes a 2.44 metre wide right of way.

The site supports a single storey dwelling house. The adjoining properties support two storey dwelling houses at 8, 12 and 14 Waterview Street to the east and the west. It is noted that 12 Waterview Street is associated with and is part of the adjoining Campbell Street Presbyterian Church group which adjoins the subject site to the north.

The subject site is not listed as a heritage item. The property is located within a conservation area. The property is identified as a flood prone lot.



Figure 2: Photo of subject site as viewed from Waterview Street



Figure 3: Zoning Map (subject site in red)

4. Background

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
T/2012/291	Removal of one Acacia melanoxylon tree from the rear yard	25/09/2012 Approved
BA/1993/284	Alterations and Additions	02/06/1993 Approved

Surrounding Properties

8 Waterview Street

Application	Proposal	Decision & Date
D/2001/458	Ground and first floor alterations and additions to existing dwelling and construction of a swimming pool.	31/07/2002 Approved - Land and Environment Court of NSW

12 Waterloo Street

Application	Proposal	Decision & Date
T/2017/89	Removal of dead/dying tree from boundary of property/ (residential) 3 metres from dwelling with branches overhanging branches	07/08/2017 Completed

14 Waterloo Street

Application	Proposal	Decision & Date
T/2013/224	Removal of 1 Archontophoenix cunninghamiana tree from the rear.	01/08/2013 Approved
BC/2000/294	Whole of Building	11/09/2000 Issued

Application History

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

Date	Discussion / Letter / Additional Information
17 October 2024	<p>A request for further information was sent to the applicant which raised the following issues:</p> <ul style="list-style-type: none"> • Proposed subdivision • proposed new dwelling at the rear of the property • alteration and additions to the main dwelling • Impacts in relation to heritage • Car Parking • incorrect calculations and non-compliance with development standards • Tree Management • Additional information required in relation to stormwater management • Additional information to be shown on all future amended drawings
29 November 2024	<p>The applicant provided an amended design will included the following changes:</p> <ul style="list-style-type: none"> • <i>Alterations and Additions to existing dwelling house:</i> The amended proposal includes some changes to the roof and built form including redesigned with a pitched roof, the removal of a first floor balcony, relocation of the built form relating to proposed bedroom and associated ensuite and a small increase to the private open space at ground floor level. • <i>New dwelling house at the rear -</i> The amended proposal still proposes a three storey dwelling house at the rear including car parking. The amendments include relocation of the proposed ground and first floor additions, changes in proposed wall heights to comply with side setback controls, a new rear balcony/deck at first floor level and an increase of maximum ridge height from RL33.125 to RL34.10 (approximately 1 metre). <p>The applicant also provided the following additional information:</p> <ul style="list-style-type: none"> • Updated Arborist report; • Updated stormwater plans; and • Updated parking drawings.
30 January 2025	<p>In person meeting held between Council Officers and the applicant, owner and representatives to discuss the proposal. Council outlined the amended proposal is not supportable and the applicant contends that reducing the built form of the proposed new dwelling at the rear is non-negotiable and confirms that no further amendments will be made but wants the amended design to be assessed.</p>
11 February 2025 – 25 February 2025	<p>Amended plans and supporting documentation were renotified. The amended plans and supporting documentation are the subject of this report.</p>

5. Assessment

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

A. Environmental Planning Instruments

The application has been assessed and the following provides a summary of the relevant Environmental Planning Instruments.

State Environmental Planning Policies (SEPPs)

SEPP (Resilience and Hazards) 2021

Chapter 4 Remediation of land

Section 4.6(1) of the *Resilience and Hazards SEPP* requires the consent authority not consent to the carrying out of any development on land unless:

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

In considering the above, there is no evidence of contamination on the site.

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 for comment for 21 days.

Correspondence from Ausgrid have been received and Ausgrid does not raise any objections to the proposal proceeding, subject to their general requirements being met which would be a requirement of any consent granted to the application.

SEPP (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

The *Biodiversity and Conservation SEPP* requires consideration for the protection and/or removal of vegetation and gives effect to the local tree preservation provisions of C1.14 Tree Management of the LDCP 2013.

As noted above, a total of 14 individual trees are proposed to be removed (i.e. Trees 6-12, 14-18, 22 and 23).

The following tree assessment was provided by Council's Tree Officer based on the originally submitted proposal following a site inspection of the property on 31 July 2024:

"Removal of trees 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16 & 17 will result in a significant loss of canopy, however this could be supported subject to the design for Site 2 being amended to consolidate the open space/courtyard areas to create a deep soil planting area of dimensions that could support the planting of 1 x 400L super advanced replacement tree that will achieve a minimum mature height of 10 metres and 1 x 75L replacement trees that will achieve a minimum mature height of 6 metres to offset canopy loss.

Noting the following:

- *Tree 3 - Acacia sp. (Wattle) - Low retention value leaning over existing driveway.*
- *Tree 4 - Murraya paniculata (Orange Jessamine) - Low retention value, small tree with poor basal junction and fungal fruiting body evident.*
- *Tree 5 - Acacia sp. (Wattle) - Low retention value, base of tree hard up against existing driveway and damaging retaining wall.*
- *Trees 6-8 - Syagrus romanzoffianum (Cocos Palms) - Low retention value*
- *Tree 10 - Lagerstoremia indica (Crepe Myrtle) - Low to Medium retention value. Wisteria vine climbing through canopy. tree without leaf at time of assessment - extent of deadwood undetermined.*
- *Tree 11 - Camellia sp. - Low retention value with unbalanced canopy and included junction at base.*
- *Tree 12 - Syagrus romanzoffianum (Cocos Palms) - Low retention value.*
- *Tree 13 - Murraya paniculata (Orange Jessamine) - Low retention value small tree.*
- *Tree 15 - Acacia sp. (Wattle) - Low retention value small tree.*
- *Tree 16 - Ekebergia capensis (Cape Ash) - Low retention value tree with unbalanced canopy and heavy branching to the southwest, damage to the cambium at the base of the trunk, rubbing and damaged branches within the canopy and sparse foliage with foliar damage evident. Note that consideration was given to end weight reduction pruning for this tree, however given that the tree appears stressed. The extent of pruning required combined with proposed construction is considered likely to cause the tree to decline.*
- *Tree 17 - Acacia sp (Wattle) - Medium retention value small tree.*
- *Tree 22 - Brachychiton acerifolius (Illawarra Flame Tree) - Low to medium retention value small tree.*
- *Tree 23 - Magnolia soulangeana (Magnolia) - Low to medium retention value small tree.*

It is recommended that the applicant be requested to provide the following:

1. *Amended plans for Site 2, amending the FFL adjacent to trees 14, 19, 20 & 21 to allow for isolated pier and beam footing design and construction with a minimum 150mm clearance from the base of beams to natural ground level within the TPZ areas for these trees.*
2. *Amended plans for Site 2, demonstrating an open space/courtyard area sufficiently sized to accommodate a deep soil planting area of dimensions that could support the planting of 1 x 400L super advanced replacement tree that will achieve a minimum mature height of 10 metres and 1 x 75L replacement trees that will achieve a minimum mature height of 6 metres.*

3. *An amended Arboricultural Impact Assessment Report that includes an accurate Tree Location Plan and a site-specific Tree Protection Plan (drawing and specification)”*

The above information was requested as part of the Request for Further Information letter dated 17 October 2024.

In response to the amended design that was submitted for assessment, Council’s Tree Officer provided the following additional comments and advice:

1. *The FFL of the building for Site 2 opposite Trees 14, 19, 20 has been raised by 0.85m and is demonstrated to be cantilevered in the Architectural sections, as per the recommendations made in the Arborist Report. The western extent of the carport has also been modified to reduce the encroachment upon Tree 21, this now represents a minor encroachment only to this tree of 9.7%.*
2. *Two locations for replacement trees have been identified in Site 2. The northern corner of the rear setback seems to have been identified for the planting of a 400 Litre replacement specimen and the garden bed adjacent the carport for the 75 Litre specimen. The location proposed for the 400 Litre replacement specimen is not appropriate given its proximity to the 'Outdoor Dining' area and the proposed pit identified on the Stormwater Plans. The southern side of the 'Outdoor Dining' area is a more appropriate location and this can be specified by condition. The location selected for the 75 Litre specimen is the only other viable option upon the site to support a replacement tree, a tree with a conical form could be supported in this position in close proximity to the building on Site 2.*

In summary, the tree-related matters can potentially be resolved via conditions of consent, but the application is not supportable to other reasons outlined in this report.

SEPP (Sustainable Buildings) 2022

Chapter 2 Standards for residential development - BASIX

The application is accompanied by a BASIX Certificate (lodged within 3 months of the date of the lodgment of this application) in compliance with the *EP&A Regulation 2021*. However, the BASIX Certificate has not been updated to reflect the amended design. For this, and other reasons as outlined later in this report, the amended proposal is not supported and recommended for refusal.

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 (IWLEP 2022)*.

Part 1 – Preliminary

Section	Proposed	Complies
Section 1.2 Aims of Plan	Due to the streetscape / heritage, amenity and pattern of development concerns raised in this report, the proposal is inconsistent with the following Aims of plan: (2) <i>The particular aims of this Plan are as follows—</i>	No, the proposal results in a poor built form outcome

Section	Proposed	Complies
	<p>(b) to conserve and maintain the natural, built and cultural heritage of Inner West,</p> <p>(g) to create a high quality urban place through the application of design excellence in all elements of the built environment and public domain,</p> <p>(h) to prevent adverse social, economic and environmental impacts on the local character of Inner West,</p> <p>(i) to prevent adverse social, economic and environmental impacts, including cumulative impacts.</p> <p>For this, and other reasons, the proposal does not satisfy aims of this plan and is recommended for refusal.</p>	

Part 2 – Permitted or Prohibited Development

Section	Proposed	Complies
Section 2.3 Zone Objectives and Land Use Table	<p>The site is zoned R1 – General Residential pursuant to the <i>IWLEP 2022</i>. The proposal seeks to carry out alterations and additions to the existing dwelling house and construction of a new dwelling house and Torrens title subdivision resulting in a dwelling on each lot, which is permissible with consent in the R1 General residential zone.</p> <p>As detailed within this report, the proposal is inconsistent with the following zone objective:</p> <ul style="list-style-type: none"> ▪ <i>To provide residential development that maintains the character of built and natural features in the surrounding area.</i> 	No, the proposal fails to maintain the character of the surrounding area
Section 2.6 Subdivision – Consent Requirements	The application seeks development consent for the subdivision of the existing lot into 2 X Torrens title lots, which is permissible with consent.	Yes
Section 2.7 Demolition Requires Development Consent	<p>The proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> • Demolition works are proposed, which are permissible with consent; and • Standard conditions could be imposed as part of any consent granted to manage impacts which may arise during demolition. 	Yes

Part 4 – Principal Development Standards

Site 1 (existing dwelling at the front)

Section 4.1 Minimum Subdivision Lot Size	Minimum	200sqm	Yes
	Proposed	291.1sqm	
	Variation	Complies	

Section 4.3C (3)(a) Landscaped Area	Minimum	20% (site area > 235sqm)	Yes
	Proposed	20.6% (60sqm)	
	Variation	Complies	
Section 4.3C (3)(b) Site Coverage	Maximum	60%	Yes
	Proposed	128.5 (44%)	
	Variation	Complies	
Section 4.4 Floor Space Ratio	Maximum	0.9:1 or 262sqm	Yes
	Proposed	0.6:1 or 174.8sqm	
	Variation	Complies	
Section 4.5 Calculation of Floor Space Ratio and Site Area	The Site Area and Floor Space Ratio for the proposal has been calculated in accordance with the section.		Yes

Site 2 (in-fill dwelling at the rear)

Section	Proposed		Complies
Section 4.1 Minimum Subdivision Lot Size	Minimum	200sqm	Yes
	Proposed	245sqm	
	Variation	Complies	
Section 4.3C (3)(a) Landscaped Area	Minimum	20% (site area > 235sqm)	Yes
	Proposed	24.8% (61 sqm)	
	Variation	Complies	
Section 4.3C (3)(b) Site Coverage	Maximum	60%	Yes
	Proposed	125 sqm or 51%	
	Variation	Complies	
Section 4.4 Floor Space Ratio	Maximum	0.9:1 or 221sqm	Yes
	Proposed	0.84:1 or 207sqm	
	Variation	Complies	
Section 4.5 Calculation of Floor Space Ratio and Site Area	The Site Area and Floor Space Ratio for the proposal has been calculated in accordance with the section.		Yes

Part 5 – Miscellaneous Provisions

Section	Proposed	Complies
Section 5.10 Heritage Conservation	See discuss below.	No

Section 5.10 – Heritage Conservation

No 10 Waterview Street, Balmain is a contributory building located within the Waterview Estate Heritage Conservation Area (listed under the *IWLEP 2022* Schedule 5, Part 2, Heritage Conservation Areas). The property is flanked by local heritage items:

- House and stone marker, including interiors 6 Waterview Street, Balmain - Local Item I666
- House, including interiors 8 Waterview Street, Balmain - Local Item I667
- Timber house, including interiors, 12 Waterview Street Balmain - Local item, I668
- There are also three heritage items to the rear, fronting Campbell Street, 7, 9 and 11 Campbell Street.

The amended design was reviewed and the overall scale of the proposed buildings (both the alterations and additions to the original dwelling and the proposed new dwelling) is not supported and the extent of change to the weatherboard cottage is not supported on heritage grounds.

Alterations and Additions to the original dwelling

The scale of the rear addition to the contributory building located at the front of the site is not supported, as this element will be visible in the streetscape and the form of the rear addition is not sympathetic to the original dwelling. The steep gable and triangular glazing above the lower section of roof of the addition (above RL 30.495) comprising the roof form over the main bedroom should be altered to reduce the scale and reduce the visibility of the rear addition in the streetscape. The addition is not subservient and also does not conform to the desired future character of the area.

Proposed new dwelling

This is one of two Heritage Conservation Areas associated with the subdivision around the now demolished Waterview House. The subdivision contained very small lots intended for modest housing, in contrast to other parts of Balmain such as Balmain East. The series of cottages on either side of No 10 Waterview street are nineteenth and early twentieth century cottages, many of which are weatherboard. The modest scale of this housing stock has largely been retained using DCP controls, including the Distinctive Neighbourhood controls, to retain an area of housing stock that is largely single storey to the street and two storey beyond. The proposal is of a much larger scale than the controls envisaged or provided for.

The scale of the new residence to the rear has been increased in the amended design, not reduced, from the original proposal with regard to its maximum height and does not conform to the desired future character of the area (which is one to two storey) as set out in the Mort Bay Distinctive Neighbourhood controls. The use of fixed glazing that also forms a clerestory is not supported, as this element adds additional bulk to the composition.

Therefore, the amended design does not comply with the following objectives under 5.10 Heritage of *IWLEP 2022*:

(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,*

As a result of the above, the proposed development has does not satisfy the relevant matters for consideration of this part of the IWLEP 2022 (and the relevant objectives and controls of the LDCP 2013), and for these and other reasons, the proposed development is recommended for refusal.

Part 6 – Additional Local Provisions

Section	Proposed	Complies
Section 6.1 Acid Sulfate Soils	The site is identified as containing Class 5 acid sulfate soils. The proposal is considered to adequately satisfy this section as the application does not propose any works that would result in any significant adverse impacts to the watertable.	Yes
Section 6.2 Earthworks	The proposed earthworks will not be significant are unlikely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability.	Yes /
Section 6.3 Stormwater Management	The development maximises the use of permeable surfaces, includes on site retention as an alternative supply and subject to standard conditions which could be imposed as part of any consent granted, would not result in any significant runoff to adjoining properties or the environment.	Yes; can comply

B. Development Control Plans

Summary

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

LDCP2013	Compliance
Part B: Connections	
B1.1 Connections – Objectives	Yes
Part C	
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	No – see discussion
C1.6 Subdivision	Yes
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.11 Parking	Yes
C1.12 Landscaping	Yes
C1.14 Tree Management	Yes
Part C: Place – Section 2 Urban Character	
C.2.2.5 Mort Bay Distinctive Neighbourhood	No – see discussion
Part C: Place – Section 3 – Residential Provisions	

LDCP2013	Compliance
C3.1 Residential General Provisions	No – see discussion
C3.2 Site Layout and Building Design	No – see discussion
C3.3 Elevation and Materials	Yes
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	No – see discussion
C3.10 Views	Yes
C3.11 Visual Privacy	Yes, subject to conditions – see discussion
C3.12 Acoustic Privacy	Yes
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.5 Water Disposal	Yes

The following provides discussion of the relevant issues:

C1.0 General Provisions

Due to the streetscape / heritage, amenity and pattern of development concerns raised in this report, the proposal does not satisfy and has not demonstrated compliance with the following objectives of Part C1.0:

- *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

Due to the streetscape / heritage and amenity concerns raised previously in this report (under Section 5.10 - *Heritage Conservation* of the *IWLEP 2022*) and the proposed development does not provide adequate amenity with regard to solar access (as discussed in further detail

in a later section of the report), the proposal is considered to be inconsistent with the following objectives and controls contained in this part of the DCP.

- *O1 To ensure that development:*
 - a. *complements the scale, form and materials of the streetscape including wall height and roof form;*
 - b. *where an alteration or addition is visible from the public domain it should appear as a sympathetic addition to the existing building;*
 - c. *makes a positive contribution to the desired future character of the streetscape and any heritage values associated with it;*
 - d. *is compatible with neighbourhood character, including prevailing site layout;*
 - e. *protects existing residential amenity, including the retention of adequate private open space and ensuring adequate sunlight, natural ventilation and privacy to the existing dwelling and surrounding dwellings.*

- *C1 The overall form of alterations and additions shall:*
 - a. *be compatible with the scale, form and material of the existing dwelling and adjoining dwellings, including wall height and roof form;...*
 - d. *maintain the integrity of the streetscape and heritage significance;...*
 - f. *achieve the objectives and controls for the applicable desired future character.*

- *C2 Development shall preserve the consistency in architectural detail and form of continuous rows of attached dwellings, or groups of similar dwellings.*

C1.4 Heritage Conservation Areas and Heritage Items and C.2.2.5 Mort Bay Distinctive Neighbourhood

As discussed in more detail under Section 5.10 - *Heritage Conservation* of the *IWLEP 2022*, the overall scale of the proposed buildings (both the alterations and additions to the original dwelling and the proposed new dwelling) is not supported and the extent of change to the weatherboard cottage is not supported on heritage grounds. Having regard to this, the proposal does not meet the following relevant provisions of Part C1.4 of the LDCP 2013:

- *O1 Development:*
 - a. *does not represent an unsympathetic alteration or addition to a building;*
 - d. *is compatible with the setting or relationship of the building with the Heritage Conservation Area in terms of scale, form, roof form, materials, detailing and colour of the building and conforms with the Burra Charter*
 - e. *conserves and enhances the fabric and detail of a building that contributes to the cultural significance of the building in its setting;*
 - i. *new buildings are sympathetic in scale, form, architectural detail, fenestration and siting to the Heritage Conservation Area or Heritage Item and conforms with the Burra Charter.*

- *C1 Development maintains the characteristics and is consistent with the objectives and controls for the relevant building type contained in Appendix B – Building Typologies of this Development Control Plan.*

- *C3 Development of dwellings within Heritage Conservation Areas must:*

- a. *not include the demolition of the internal walls and roof form, including any existing chimneys, of the front two rooms of the dwelling;*
- b. *retain the major form, scale and materials of the existing structure as described in (a);*
- c. *be for a rear addition which does not dominate the existing building or change the relationship of the building to the street when viewed from the street...*

The proposal is also considered to be inconsistent to objectives and controls relating to desired future character of the Mort Bay Distinctive Neighbourhood:

- *C.2.2.5 Mort Bay Distinctive Neighbourhood*
 - *O1 To facilitate development that is consistent with the Desired Future Character and Controls for the Distinctive Neighbourhood.*
 - *C1 Maintain the single storey scale and form over most of the slope from Darling Street to the bay, applying a 3.6m maximum building wall height, except on dominant corners, where 6m may be appropriate, particularly with parapet forms. Pitched roofs are appropriate, generally using custom orb profile steel. Timber buildings should generally be extended with light frame structures and cladding rather than masonry.*
 - *C7 Conserve the rhythm of the neighbourhood by maintaining the lot sizes, housing style and prevalence of hipped and pitched roofs. Preserve the established setbacks for each street.*
 - *C10 Preserve the consistency and simplicity in built form, style and materials of the neighbourhood.*

C1.6 Subdivision

The proposed subdivision meets the minimum lot size requirement of 200 sqm and as there are a number of other properties on Waterview Street that are similar in nature with a battle-axe lot subdivision, the proposed subdivision is acceptable. However, the design and scale of the proposed new dwelling and the additions to the original dwelling are not supported for reasons outlined elsewhere in this report.

C1.11 – Car Parking

The proposal includes a car parking space located within the front setback of the existing dwelling and 2 new car parking spaces located at the rear of the property that utilise the driveway associated with 12 Waterview Street. There are no minimum requirements for off-street carparking for dwelling houses under this part (including dwelling houses associated with a new subdivision). The proposal does not reduce the amount of on-street parking that is currently available.

The applicant had provided a consent from The Presbyterian Church (New South Wales) Property Trust that expresses “*no objection to the widening and increased utilisation of the laneway which runs alongside your property subject to you paying all costs associated with the project.*”

Council’s request for further information letter identified a number of concerns in relation to the proposed car parking as follows:

- The proposed new parking to the rear of the site is not supported both on heritage grounds and on planning grounds where it creates adverse amenity impacts to the private open space of site 1 (the main dwelling), reduces the landscaping within the front of the site to accommodate a new hardstand parking space in conjunction with

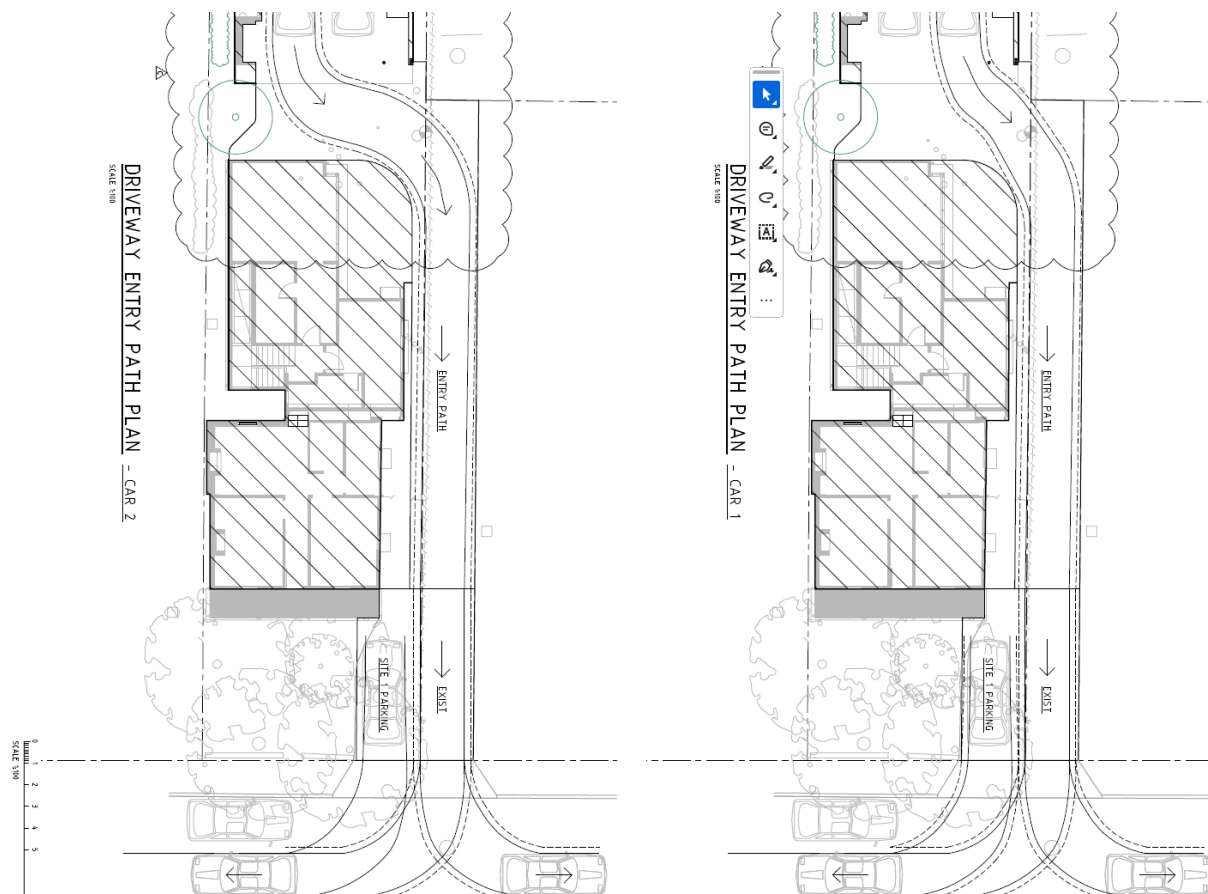
- the driveway and it is strongly recommended that it is removed from the proposal.
- If the proposed new parking at the rear of the site is removed, the retention of the existing hardstand space adjoining the boundary at the front would be acceptable.
- However, if the proposed new parking space at the rear is pursued, one of these off-street car parking spaces at the rear should be allocated to the main dwelling and the parking located within the front setback should be removed from the proposal.

The proposal under assessment has not been amended in accordance with the request above and remains fundamentally the same as the original design in this regard.

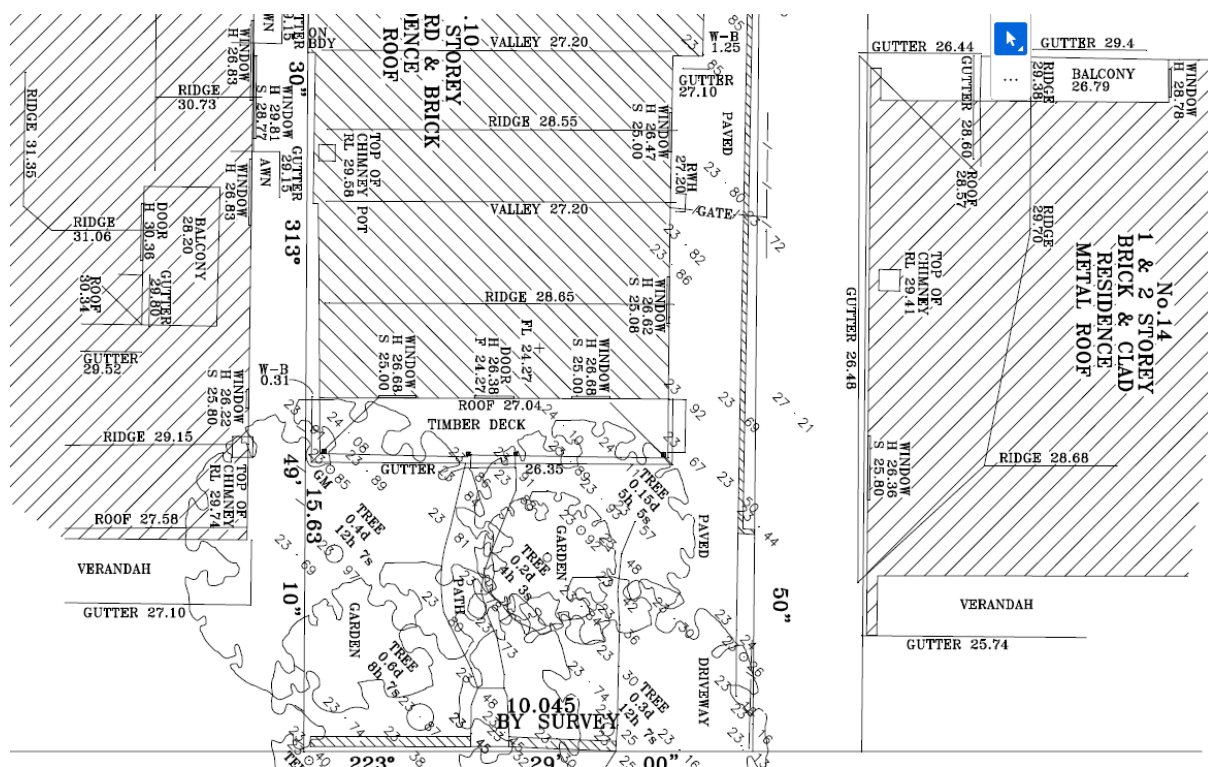
It was also outlined that if car parking was to be pursued, the following additional information would be required:

“The width of the roller door must be determined with the use of swept paths for the B85 vehicle. The swept paths are to include the width of the carriage way, the width of the garage and the roller door. The swept paths must also include clearance distances of 300mm on either side of the vehicle required by the Australian Standard AS2890.1 and be prepared at a natural scale of 1:100.”

Swept path diagrams, dated 28-11-2024 prepared by Maroubra Consulting Pty Ltd were provided for assessment. And the swept paths indicate that manoeuvring would require the use of the entire width of the driveway on 12 Waterview Street (see extract of the swept path diagram below):



Upon review of this additional information, Council’s Engineers raised concern with regard to a potential risk to the building structure at 14 Waterview Street where its eaves and gutters overhangs/encroach onto the subject driveway (see extract of the site survey below):



As the swept diagrams do not take account of the eaves and guttering that encroach onto the driveway that this proposal is seeking to utilise, it is considered that the proposal has not demonstrated that it complies with AS/NZS 2890.1:2004.

Therefore, the proposal is considered to be contrary to the following objectives and controls under this part:

- O12 Vehicle access, manoeuvring and parking will:...
 - c. integrate with overall site and building design;
 - d. provide for a high level of residential amenity for the site and protect existing residential amenity of adjoining sites; and
 - e. enable the safe, convenient and efficient movement of vehicles, pedestrians and cyclists.
- C47 - Swept path diagrams indicating vehicle manoeuvring in and out of the off-street parking area under the existing on-street parking arrangements (on public road) must be provided.
- C48 Where no rear lane or secondary road access is available, vehicle parking may be provided from the primary street frontage when:
 - a. it is located wholly behind the front wall of the main building of the dwelling;

C3.1 Residential General Provisions

The proposal does not satisfy the residential general provisions of the LDCP 2013, namely controls C1 and C2, where it does not support the retention of reasonable local amenity and does not respond to the existing and desired future character of the surrounding locality and heritage conservation area.

In this regard, the proposed development does not satisfy the following relevant objectives of this part of the DCP:

- *O3 To ensure that alterations, additions to residential buildings and new residential development are compatible with the established setting and character of the suburb and neighbourhood and compatible with the desired future character and heritage significance of the place and its setting.*
- *O4 To ensure that all residential development is compatible with the scale, form, siting and materials of existing adjacent buildings.*
- *O7 To ensure that the amenity, including solar access and visual privacy, of the development and adjacent properties is not adversely impacted.*

C3.2 Site Layout and Building Design

The Objectives of this part of the DCP are as follows:

- *O1 To ensure adequate separation between buildings for visual and acoustic privacy, solar access and air circulation.*
- *O2 To ensure the character of the existing dwelling and/or desired future character and established pattern of development is maintained.*
- *O3 To ensure that buildings are constructed within an appropriate Building Location Zone (BLZ) from the front and rear boundary to protect neighbourhood features such as streetscape, private open space, solar access and views.*
- *O4 To ensure that development:*
 - a. *reinforces the desired future character and distinct sense of place of the streetscape, neighbourhood and land where this DCP applies;*
 - b. *emphasises the street and public domain as a vibrant, safe and attractive place for activity and community interaction;*
 - c. *complements the siting, scale and form of adjoining development; and*
 - d. *creates a high level of residential amenity for the site and protects existing or enhances residential amenity of adjoining sites in terms of visual and acoustic privacy, air circulation, solar access, daylight, outlook and views.*

Building Location Zone

In accordance with Control C3 of this part of the LDCP 2013, Building Location Zone (BLZ) is the part of the subject site where it can be reasonably expected that a building can be located and it is determined by having regard to only the main building on the adjacent properties.

The proposed new residence, which relies on a proposed battle-axe lot arrangement, will not comply with the Building Location Zone (BLZ) requirements at the lower ground floor, ground floor and first floor levels as the adjoining property at 8 Waterview Street does not have a private open space area adjacent to in the location where the proposed new residence is located.

Where there is a variation to the BLZ, it must be demonstrated that the proposed BLZ is consistent with the pattern of development in the immediate locality and the five-part merit test of Control C6 are met - an assessment of the proposal has been carried out against these tests and the proposal is unsatisfactory as discussed in further detail below:

C6 Tests	Discussion	Compliance?
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Amenity to adjacent properties	As discussed in a later section of the report, solar access compliance has not been met with regard to retaining solar access to the private open space of 8 Waterview Street.	No
Streetscape compatibility	As discussed earlier in this report, the proposed new residence will not be compatible with the existing streetscape, desired future character and scale of surrounding development.	No
Compatibility with bulk and scale, amenity to subject site (POS, outdoor recreation; landscaping and solar access)	The scale of the new residence is not supported. The adjacent small cottages have newer buildings to the rear. These neighbouring newer buildings are of a lower scale than this proposal and therefore the proposed new dwelling is not considered to be compatible with the development in the locality. Furthermore, the proposal has not demonstrated that the proposed private open spaces will receive adequate solar access.	No
Retention of existing and provision of new vegetation	As discussed in this report, the proposal seeks to remove a number of trees. While the removal of the trees can potentially be supported subject to replacement trees, the proposed location of the replacement trees is not supported.	No
Minimise visual bulk and scale when viewed from abutting properties	As the proposed new dwelling is located at the rear as part of a battle axe lot arrangement (which are generally not encouraged due to potential amenity and bulk and scale impacts), any built form larger than a single storey form is considered to be problematic as the proposed new built forms will be directly adjoining private open spaces and will have excessive bulk and scale impacts when viewed from these private open space areas.	No

Side Setbacks Controls

The following compliance table assesses the proposed development against the Side Boundary Setbacks Graph prescribed in this part of the DCP.

	Height (m)	Required Setback (m)	Proposed Setback (m)	Compliant
Alterations and additions to original dwelling				
Northeastern Wall	6 – 6.6	1.85 – 2.2	0.9	No
Southwestern Wall	4.6	1.1	1.1	Yes

In-fill dwelling				
Southwestern GF	4.2 – 4.8	0.8 – 1.15	1.0 – 1.2	Yes
Southwestern 1F	6.0 – 6.8	1.85 – 2.3	1.8 – 2.0	No
Northeastern GF	3.8 – 5.0	0.6 - 1.3	1.9 – 1.8	Yes
Northeastern 1F	5.7 - 7.1	1.7 – 2.5	1.9 – 1.82	No

As noted in the above tables, while the amended design provided improvements with regard to compliance with side setback controls, however there are some elements that would still result in a non-compliance to the side setback controls.

As noted in the above tables:

- There is still a significant non-compliance on the north-eastern wall of the proposed alterations and additions to the original dwelling.
- For the proposed in-fill dwelling, the non-compliances occurs at the first floor level towards the corner portions where the proposed Bed 2 and associated ensuite is located.

In accordance with Control C8 of this part of the DCP, where a proposal breaches the Side Boundary Setbacks Graph, certain tests need to be met - an assessment of the proposal has been carried out against these tests and the proposal is unsatisfactory as discussed in further detail below:

C8 Tests	Comment	Compliance?
Consistency with building typology statements of Appendix B	The proposal is inconsistent with the Building Typology Statements of the DCP in relation to the alterations and additions to the existing dwelling.	No
Pattern of development not adversely compromised	The side wall heights and setbacks, are not consistent with the pattern of development in the Heritage Conservation Area in which the site is located. As outlined in earlier sections of the report, for battle-axe lot arrangements on this site, any form larger than a single storey development is considered to be excessive and incompatible with the pattern of development in the area.	No
Bulk and scale minimised by reduced floor to ceiling heights	The floor to ceiling heights of the proposed in-fill dwelling have not been minimised. The ground floor is at 2800mm and the proposed first floor is between 2400mm – 3800mm.	No
Potential amenity impacts on adjoining properties in terms of bulk and scale and	The bulk and scale of the proposed additions and the proposed new dwelling have not been minimised and will result in adverse bulk and scale impacts when viewed from the private open spaces of the adjoining properties. The proposal will also result in poor solar access	No

sunlight access and privacy are minimised	outcomes to the subject dwellings as well as providing inadequate solar access amenity to No. 8 Waterview Street adjoining the site.	
Reasonable access is retained for maintenance of adjoining properties	The proposal will retain maintenance of adjoining properties.	Yes

As a result, the proposal does not achieve Objectives O1, O2, O3, O4 (a), (c) and (d) and Controls C6 and C8 of Part C3.2 which seek to maintain the desired future character and pattern of development, including form, bulk, and scale which complements the siting, scale and form of adjoining development and maintain residential amenity of adjoining properties.

C3.9 Solar Access

Shadow diagrams portraying the shadow cast by the existing structures and the proposed development for the winter solstice were submitted with the application.

New Dwellings

As the proposal includes a new dwelling, C4 (Private Open Space) and C9 (Main Living room) of the LDCP 2013 are applicable. The proposed dwelling will receive the required solar access to the proposed living room, however, there are concerns regarding compliance with C4 in relation the required solar access to the private open spaces at both the proposed new dwelling and the existing dwelling at the front.

- *C4 Private open space is to receive a minimum three hours of direct sunlight over 50% of the required private open space between 9am and 3pm at the winter solstice.*

Noting that 50% of the required private open space is 8sqm, the shadow diagrams provided indicate the existing dwelling and the proposed new dwelling will achieve solar access of at least 8 sqm between 11am – 2pm and 9am – 12pm respectively. However, it appears that this compliance is only based on the proposed fencing being 1.6 metres in height.

Noting that dividing fences are usually 1.8 metres in height and the State Environment Planning Policy (exempt and development codes) 2008 allows fencing up to 1.8 metres in height to be constructed without council approval, any shadow diagrams should be based on the impacts of a 1.8 metre fence and therefore compliance with C4 had not been demonstrated.

This is particularly concerning as the existing dwelling currently receives a significant amount of solar access, but as a result of the proposed subdivision and the proposed car parking (of which the Site 1 - existing dwelling at the front does not benefit from), its private open space will not receive even the minimum 8 sqm for 3 hours once fencing of standard height is factored in. Similarly for the proposed new dwelling, as the subject site has a north-west to south-east orientation, there are no site constraints that restricts the ability to achieve the solar access requirements.

Alterations and Additions

- *C11 Alterations and additions to residential property shall be designed to minimise overshadowing to the subject site and maximise direct sunlight, natural daylight and ventilation to the subject site*

As mentioned above, the existing dwelling currently receives compliant solar access, but as a result of the proposed subdivision and the proposed car parking (of which the Site 1 - being the existing dwelling at the front, does not benefit from), its private open space will not receive the minimum 8 sqm for 3 hours once fencing of standard height factored is included. Therefore, it is evident that the proposal has not been designed to minimise the overshadowing to the subject site and the proposed location and amount of private open space area is poorly designed on a site that can readily provide a private open space with a substantially higher level of amenity.

Minimise impact to neighbouring properties – Living areas

Due to the orientation of the site, the property that will likely be impacted with regard to solar access will be the adjoining property at 8 Waterview Street.

Street Address	Orientation	Control
8 Waterview Street	45 degrees of north	2 hours

As the rear glazing of 8 Waterview Street is likely to retain at least 2 hours of solar access between 1pm and 3pm, and there is no additional impact to the front glazing, therefore, it is considered that the proposal complies with C14.

Minimise impact to neighbouring properties – Private open space

The control seeks to minimise overshadowing to neighbouring properties based on the orientation of the private open space with solar access to 50% of the total area for hours as noted in the table below. The private open space of the affected property at 8 Waterview is orientated 45 degrees of North. There are no specific controls regarding this orientation, but the controls regarding north and east/west facing under Controls C17 and C18 are:

Street Address	Orientation	Control
8 Waterview	North facing	3 hours
8 Waterview	East/west	2.5 hours

The submitted shadow diagrams indicate that the private open space at 8 Waterview Street, which is approximately 217 sqm in size, receives the following solar access as outlined below post development:

Time	Existing %	Proposed %
9am	84 sqm (39%)	9 sqm (4%)
12 noon	137 sqm (63%)	70 sqm (32%)
3pm	84 sqm (39%)	84 sqm (39%)

It is clear that proposal will not comply with either the 2.5 hours or 3 hours requirement, and as outlined in the table above, the proposal will result in significant additional overshadowing of No. 8 Waterview Street at 9am and 12pm and solar access is not retained to at least 50% of the area of the affected private open space, therefore it will not comply with C19 (reproduced below):

C19 Where surrounding dwellings currently receive less than the required amount of solar access to their private open space between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted..

As the proposed development does not comply with the controls, consideration of the objectives of the control have found as follows:

- Reasonableness: As the proposal involves a battle-axe lot subdivision and the additional shadow is caused by the proposed in-fill dwelling which contains three levels, it cannot be justified as reasonable given that, as outlined in other sections of the reports, the expectation is that the in-filled dwelling should be minimised in form to no more than a single storey building to mitigate impacts to neighbouring development.
- Site orientation: The subject site and affected site at 8 Waterview Street is orientated north-west to south-east. While some overshadowing is anticipated due to the orientation, the proposed built form, which consists of three levels does not minimise overshadowing impacts and creates significant overshadowing at 9am and 12pm (with additional overshadowing of approximately 75 sqm and 67 sqm respectively).
- Relative levels: The subject and surrounding sites slopes up towards the north-western part of the site. While some overshadowing is anticipated due to the orientation, the proposed built form which consists of three levels does not minimise overshadowing impacts and creates significant overshadowing at 9am and 12pm (with additional overshadowing of approximately 75 sqm and 67 sqm respectively).
- Designed to minimise impact: The proposal seeks approval for an in-fill dwelling that contains three levels. Noting that the amended design has not reduced the built form as requested by Council and has increased the maximum ridge height by approximately 1 metre, the amended design has not been designed to minimise overshadowing impacts.
- Reasonably available alternative design solutions: As the proposal involves a new proposed dwelling and is multi-levelled, there are no site constraints that restricts the applicant to reduce the built form and a more modest dwelling reduces in scope and scale would significantly reduce the extent of overshadowing. It is considered the proposal is an overdevelopment of the site.

Therefore, having regard to non-compliances with the relevant controls under C4, C11, C17, C18 and C19, the proposal is considered to be inconsistent with the following objectives of this part:

- *O1 Development shall:*
 - a. provide adequate sunlight to main living room and private open space;*
 - c. provide a high level of amenity;*
 - d. protect residential amenity for adjoining development;*
 - f. minimise the degree of overshadowing to neighbouring properties*

C3.11 Visual Privacy

With regard to proposed new windows, only the sightlines between windows associated with the living room to private open spaces are required to be restricted as per C1:

- *C1 Sight lines available within 9m and 45 degrees between the living room or private open space of a dwelling and the living room window or private open space of an adjoining dwelling are screened or obscured unless direct views are restricted or separated by a street or laneway.*

New windows proposed first floor and above are not associated with living areas and are offset from windows in the adjacent properties at 8 and 14 Waterview within 9 metres with the exception of the proposed window to Bedroom 2 associated with site 1 (the existing dwelling). However, this is a highlight window with a sill height of approximately 1650mm above the floor level at first floor, and therefore, is considered to be satisfactory.

The proposed new dwelling includes a first floor balcony which has a maximum depth of 1m and length of 5.8m which exceeds the 1.2m x 2m (2.4 sqm) size specified in Control C9 and is not supported.

E1.1.3 Stormwater Drainage Concept Plan and E1.2.2 Managing Stormwater within the Site

Council's Engineers have reviewed the stormwater concept plans and further amendments would be required to have satisfactory outcome which could be conditioned by way of deferred commencement conditions if the proposal was supported.

C. The Likely Impacts

The assessment of the Development Application demonstrates that the proposal will have an adverse impact on the locality in the following way:

Heritage /Streetscape

The proposal results in an adverse heritage/streetscape outcome as it will detract from the desired future character and heritage significance of the locality and broader Conservation Area.

Amenity

The proposal will result in a non-compliant quantum of solar access to the private open space of the dwellings, resulting in a poor amenity outcome for future occupants.

- It is considered that the proposed development will have significant adverse environmental impacts upon the locality.

D. The Suitability of the Site for the Development

It is considered that the proposal will have an adverse impact on the streetscape, Heritage Conservation Area and amenity of future occupants, and therefore, it is considered that the site is unsuitable to accommodate the proposed development.

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)(c) of the Environmental Planning and Assessment Act 1979.

E. Submissions

The application was notified in accordance with Council's Community Engagement Strategy between 9 July 2024 to 23 July 2024.

A total of 13 submissions were received in response to the initial notification.

The amended plans under assessment were renotified due to amended plans being submitted and 4 submissions were received. Issues raised as follows have been discussed in this report:

- The increase in visual bulk from the development, excessive wall heights/insufficient setbacks and impact to streetscape/heritage conservation area/character of area— see assessment in C1.3 Alterations and Additions, C1.4 Heritage Conservation Areas and Heritage Items, C.2.2.2.5: Mort Bay Distinctive Neighbourhood Area, C3.2 Site layout and building design of LDCP 2013

- Inappropriate subdivision - see assessment under Part C1.6 – Subdivision of the LDCP 2013
- Traffic, access & parking - see assessment in C1.11 – Car Parking Privacy of LDCP 2013
- Potential solar access impacts - see assessment in C3.9 – Solar Access Privacy of LDCP 2013
- Privacy implications from the proposal – see assessment in C3.11 – Visual Privacy of LDCP 2013
- Assessment against development standards – see assessment under *IWLEP 2022*.
- Impact to trees – see assessment under *SEPP (Biodiversity and Conservation) 2021*

Further issues raised in the submissions received are discussed below:

Concern	Comment
Construction impacts/ Traffic control during the construction works	Standard conditions regarding traffic management, construction hours and noise levels, could be imposed on a development consent to mitigate any significant impacts. However, the proposal is recommended for refusal for reasons outlined elsewhere in the report.
Should not permit a building to be erected over what is now a lovely garden area/ inadequate landscape amenity	The proposal complies with the minimum landscaped area requirements, however there is insufficient area to accommodate replacement planting required and the design of the proposal results in adverse amenity impacts and is recommended for refusal for reasons outlined elsewhere in the report.
Driveway widening/new carparking assess/safety	The proposed carparking arrangement is not supported and is a reason of refusal.
Proposed subdivision, alterations and additions and proposed in-fill dwelling	The proposed subdivision is considered to be acceptable, however the proposed in-fill dwelling is not supported due to its bulk and scale, impact to heritage conservation area, impact to amenity of surrounding properties and inadequate amenity and the alterations and additions to the main dwelling is not supported due to impacts to streetscape, heritage conservation area and inadequate amenity.
Bulk, scale and precedent	It is agreed that the scale of the in-filling dwelling is excessive and will potentially set an undesirable precedent and therefore the application is recommended for refusal.
3m was not wide enough for a public lane way (jaggers lane) a stone through away. And has been recommended a bollard be installed. This would be hypocritical if council allowed on private land for development?	Private driveways and public laneways are fundamentally different in nature and is not what is considered in this proposal, notwithstanding the proposal is not supported
Number 10's existing off-street parking, and against the addition of 2 off-street and parking areas for the new building on site # 2	Car parking is not required for single dwelling houses under the current DCP and while proposal for car parking spaces can be considered, the car spaces will need to meet the requirements under C1.11 Car Parking of the LDCP 2013. It can be noted the provision of off-street car parking spaces are not adequate reasons to justify other non-compliances.

Contrary to aims of LEP, Contrary to zone objectives, approval of the development application is not in the public interest	The proposal does not comply with a number of objectives and controls and the application is recommended for refusal.
Inconsistencies in the architectural plans/SEE	It is considered sufficient details and information have been submitted with the application to allow for a complete assessment. As detailed in this report, an independent assessment against the relevant planning controls/policies was carried out on the merits of the proposal.

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.

For reasons outlined in earlier sections of the report, it is considered that the proposal will have an adverse impact on the streetscape, Heritage Conservation Area and amenity of future occupants, and therefore this has not been achieved in this instance.

6. Section 7.11 / 7.12 Contributions

Section 7.11 contributions are payable for the proposal for the sum of \$20,000.

7. Housing and Productivity Contributions

The carrying out of the development would result in an increased demand for essential state infrastructure such as schools, hospitals, major roads, public transport infrastructure and regional open space. A contribution of \$12,748.36 would be required for the development under Part 7, Subdivision 4 Housing and Productivity Contributions of the *EP&A Act 1979*.

A housing and productivity contribution is required in addition to any Section 7.11 or 7.12 Contribution. A condition requiring that the housing and productivity contribution is to be paid is included in the recommendation.

As the application is recommended for refusal, the applicable contribution has not been formalised in the NSW planning portal.

8. Referrals

The following internal referrals were made, and their comments have been considered as part of the above assessment:

- Heritage Specialist;
- Development Engineer; and
- Urban Forest.

The following external referrals were made, and their comments have been considered as part of the above assessment:

- Ausgrid – No objections

9. Conclusion

The proposal fails to 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 an adverse impact on the streetscape, Heritage Conservation Area, amenity of future occupants and impacts on the amenity of the adjoining properties 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.

10. Recommendation

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/2024/0555 for the partial demolition of existing structures, Torrens title subdivision of the existing lot into two allotments, alterations and additions to an existing dwelling on the lot fronting Waterview Street including construction of a first floor addition and the construction of a new 3 storey detached dwelling house located on the proposed rear lot at 10 Waterview Street, BALMAIN for the following reasons listed in Attachment A:

Attachment A- Reasons for Refusal

1. The proposed development is inconsistent with, and has not demonstrated compliance with the *SEPP (Sustainable Buildings) 2022*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, including:
 - a. Chapter 2 Standards for residential development – BASIX – The application has not provided an amended BASIX Certificate that is consistent with the amended design.
2. 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)(b)(g)(h)(i) - *Aims of Plan* as it will not adequately conserve the natural, built and cultural heritage of the Inner West, will not create a high quality urban place through the application of design excellence, will result in adverse environmental impacts on the local character of Inner West and will not prevent adverse and cumulative environmental impacts.
 - b. Section 2.3 - *Zone Objectives and Land Use Table* as the proposal will not provide for a residential development that maintains the character of built and natural features in the surrounding area.
 - c. Section 5.10 - *Heritage Conservation* and Objective (1)(a) as the proposal does not conserve the environmental heritage of the Inner West, and Objective (1)(b) where the development does not conserve the heritage significance of the Conservation Area.
3. 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* - O4 and O6, as the proposal does not support reasonable amenity for future occupants and does not respond to the existing and desired future character of the surrounding area.
 - b. C1.3 *Alterations and additions* – O1(a), O1(b), O1(c), O1(d) and O1(e), C1(a), C1(d), C1(f), C2, as the proposed alterations and additions are of a form, size, height, scale design, appearance and detail that is not compatible with its setting nor the desired future character of the distinctive neighbourhood and results in adverse amenity impacts including poor amenity outcomes for future residents on the site.
 - c. C1.4 *Heritage Conservation Areas and Heritage Item* – O1(a) O1(d), O1(e) and O1(i), C1, C3(a), C3(b), and C3(c), as the proposal is of a form, size, height, scale design, appearance and detail that is not compatible with its setting nor the desired future character of the distinctive neighbourhood and will have an adverse impact on the Heritage Conservation Area in which the site forms a part.
 - d. C1.11 *Car Parking* – O12(c) O12(d) and O12(e), C47, and C48(a), as the proposed car parking arrangement impacts on the streetscape and heritage conservation area and potentially impact on the safety of the adjoining property.
 - e. C2.2.2.1 *C.2.2.5 Mort Bay Distinctive Neighbourhood* – O1, C1, C7, C10, as the proposal is of a form, size, height, scale design, appearance and detail

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- that is not compatible with its setting nor the desired future character of the distinctive neighbourhood.
- f. Part C3.1 - *Residential General Provisions*, and Objectives O3, O4 and O7, as the proposal is not compatible with the established setting and character of the neighbourhood and Heritage Conservation Area in which the site is located, having particular regard to form, height, bulk, scale and siting, and will adversely impact on the amenity of future occupants of the subject development and adjoining properties.
 - g. Part C3.2 - *Site Layout and Building Design*, including Objectives O1, O2, O3, O4 (a), (c) and (d) and Controls C6 and C8, as the proposed development does not comply with the building location zone, side setback and building envelope controls which seek to ensure appropriate amenity outcomes and development that reinforces the distinctive neighbourhood and streetscape character.
 - h. Part C3.9 - *Solar Access*, Objective O1a, O1c, O1d, O1f and Controls C4, C11, C17, C18 C19 where the development does not provide adequate or compliant solar access to the proposed residences on the site and creates adverse impact on the neighbouring site.
4. The proposal is considered to result in adverse environmental impacts on the built environment pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*.
 5. 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*.
 6. The proposal is not considered suitable for the site in its current form pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
 7. The proposal is not considered to be in the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*.

Attachment B – Conditions in the event of approval

CONDITIONS OF CONSENT

Deferred Commencement

The following is a Deferred Commencement conditions are imposed pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979*. This Consent will not operate and may not be acted upon until the Council is satisfied as to the following matter(s):

A. Stormwater Drainage

Submit revised stormwater drainage plans prepared by a qualified Civil Engineer, experienced in stormwater analysis complying with Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP. The revised stormwater drainage plans shall specifically address the following:

- a. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipelines and connected to OSD/OSR systems in accordance with Council's policy. The stormwater shall be discharged, together with the outlet pipes and overflow pipelines from the OSD systems and rainwater tank(s), by gravity to the kerb and gutter of a public road;
- 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;
- 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 stormwater flows from the total site, including the pavement within the Right of Carriageway, for the 1% AEP storm are restricted to the maximum allowable discharge to Council's street gutter of 15 litres/second;
- f. Pipe and channel drainage systems including gutters must be designed to convey the 1% AEP flows from the contributing catchment to the OSD tank(s). All elements of the stormwater drainage system including OSD/OSR systems shall be contained fully within each of the respective properties;
- g. Where a combined OSD/OSR is proposed, only roof water is permitted to be connected to the storage tank. The overflow from the OSD/OSR must be connected to the kerb and gutter of a public road;
- h. Any 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, such as for toilet flushing or laundry use;
- i. Details of the 100-year ARI overflow route and spillway in case of failure/blockage of the drainage system must be provided:
 - i. Provision shall be made for an overflow surface spillway at a visible location within the property;
 - ii. Ponding and overflow spillway levels are not less than 300mm below any adjacent habitable floor levels of the dwelling, in accordance with clause 7.10.1 in AS/NZS 3500.3; and
 - iii. All elements of the OSD, and pipe and pit systems are contained fully within the property;

- j. Drainage pipes must be designed at a minimum grade of 1%. The pipe invert level, finished surface ground level and pit surface and invert level must be shown on the drainage plan;
- k. A minimum 170 mm step up shall be provided between all external finished surfaces and adjacent internal floor areas;
- l. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
- m. Details of external catchments currently draining to the site must be included on the plans. Existing natural overland flows from external catchments may not be blocked or diverted, but must be captured and catered for within the proposed site drainage system;
- n. No nuisance or concentration of flows to other properties;
- o. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- p. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- q. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- r. The stormwater pipe within the footpath and connection to the street kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 mm and a section height and width of 100 mm or sewer grade uPVC pipe with a maximum diameter of 100mm;
- s. Any stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings; and
- t. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.

Reason: To ensure that the adequate provision of stormwater drainage is provided

B. Amended Right of Carriageway Plans and Carparking

Submit amended Right of Carriageway plans prepared by a qualified and suitably experienced Civil Engineer, incorporating a vehicle passing bay within the Right of Carriageway designed to comply with the requirements in AS 2890.1. The plans shall also include the following information and demonstrate compliance with the following:

- a. Swept paths including the clearance lines based on AS 2890.1, demonstrating satisfactory manoeuvring within the site, to enable all vehicles to enter and leave in a forward direction.
- b. A minimum clear height of 4.5 metres is available throughout the Right of Carriageway.
- c. Swept paths including the clearance lines demonstrating satisfactory manoeuvring for the passing bay within the Right of Carriageway.
- d. Demonstrate that the dimensions of all car spaces comply with the requirements in Part C: Place of the Leichhardt DCP 2013.

Reason: To ensure that the car parking arrangement does not adversely impact the surrounding properties.

Evidence of the above matter(s) must be submitted to Council within 2 years otherwise the Consent will not operate.

GENERAL CONDITIONS

Condition																													
1.	<p style="text-align: center;">Tree Pruning or Removal (including root pruning/mapping)</p> <p>Removal or pruning of any other tree (that would require consent of Council) on the site is not approved and must be retained and protected in accordance with the approved Tree Protection Plan.</p> <p>Reason: To protect and retain trees.</p>																												
2.	<p style="text-align: center;">Consent of adjoining property owners</p> <p>This consent does not authorise the applicant, or the contractor engaged to do the tree works to enter a neighbouring property. Where access to adjacent land is required to carry out approved tree works, Council advises that the owner's consent must be sought. Notification is the responsibility of the person acting on the consent. Should the tree owner/s refuse access to their land, the person acting on the consent must meet the requirements of the <i>Access to Neighbouring Lands Act 2000</i> to seek access.</p> <p>Reason: To meet the requirements of the <i>Access to Neighbouring Lands Act 2000</i>.</p>																												
3.	<p style="text-align: center;">Documents related to the consent</p> <p>The development must be carried out in accordance with plans and documents listed below:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Plan, Revision and Issue No.</th> <th style="text-align: left;">Plan Name</th> <th style="text-align: left;">Date Issued/Received</th> <th style="text-align: left;">Prepared by</th> </tr> </thead> <tbody> <tr> <td>A0-01</td> <td>EXISTING / DEMOLITION PLAN</td> <td>28/5/24</td> <td>Utzesanby Architects</td> </tr> <tr> <td>A1-01, Rev. B</td> <td>SITE / SITE ANALYSIS PLAN</td> <td>28/11/24</td> <td>Utzesanby Architects</td> </tr> <tr> <td>A1-02, Rev. B</td> <td>FLOOR PLANS</td> <td>28/11/24</td> <td>Utzesanby Architects</td> </tr> <tr> <td>A1-03, Rev. B</td> <td>ELEVATIONS & SECTIONS</td> <td>28/11/24</td> <td>Utzesanby Architects</td> </tr> <tr> <td>A1-04, Rev. B</td> <td>ELEVATIONS & SECTIONS</td> <td>28/11/24</td> <td>Utzesanby Architects</td> </tr> <tr> <td>1750728S</td> <td>BASIX Certificate</td> <td>06 June 2024</td> <td>BASIX Certificate Centre</td> </tr> </tbody> </table>	Plan, Revision and Issue No.	Plan Name	Date Issued/Received	Prepared by	A0-01	EXISTING / DEMOLITION PLAN	28/5/24	Utzesanby Architects	A1-01, Rev. B	SITE / SITE ANALYSIS PLAN	28/11/24	Utzesanby Architects	A1-02, Rev. B	FLOOR PLANS	28/11/24	Utzesanby Architects	A1-03, Rev. B	ELEVATIONS & SECTIONS	28/11/24	Utzesanby Architects	A1-04, Rev. B	ELEVATIONS & SECTIONS	28/11/24	Utzesanby Architects	1750728S	BASIX Certificate	06 June 2024	BASIX Certificate Centre
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1750728S	BASIX Certificate	06 June 2024	BASIX Certificate Centre																										

	A1750726	BASIX Certificate	06 June 2024	BASIX Certificate Centre
	AIA29/11/2023, Version: v5	Arboricultural Impact Assessment	28/11/2024	Arbor Express
	MC/154/rep1	Certification of carparking and access is in accordance with AS/NZS 2890.1-2004	27 November 2024	Maroubra Consulting Pty Ltd
	SHEET C1, Issue C	DRIVEWAY EXIT PLANS	28-11-2024	Maroubra Consulting Pty Ltd
	SHEET C2, Issue C	DRIVEWAY EXIT PLANS	28-11-2024	Maroubra Consulting Pty Ltd
	SHEET C3, Issue D	CONCEPT DRAINAGE PLANS	28-11-2024	Maroubra Consulting Pty Ltd
	SHEET C4, Issue B	GROUND FLOOR AND LEVEL 1 PLANS ELEVATION AND DETAILS	28-11-2024	Maroubra Consulting Pty Ltd
	SHEET C5, Issue B	DRIVEWAY PLAN AND LONGSECTIONS	10-05-2024	Maroubra Consulting Pty Ltd
		Ausgrid - DA Letter of consent	Registered on NSW Planning Portal 10/07/2024	Ausgrid
		Ausgrid - Subdivison letter	Registered on NSW Planning Portal 10/07/2024	Ausgrid
<p>As amended by the conditions of consent.</p> <p>Reason: To ensure development is carried out in accordance with the approved documents.</p>				
4.	Works Outside the Property Boundary			
	This development consent does not authorise works outside the property boundaries on adjoining lands.			
	Reason: To ensure works are in accordance with the consent.			
5.	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.			
	Reason: To protect pedestrian safety.			

6.	Other works
	<p>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 <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
7.	National Construction Code (Building Code of Australia)
	<p>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.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
8.	Notification of commencement of works
	<p>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:</p> <ol style="list-style-type: none"> a. In the case of work for which a principal contractor is required to be appointed: <ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> 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. <p>Reason: To ensure compliance with legislative requirements.</p>
9.	Dividing Fences Act
	<p>The person acting on this consent must comply with the requirements of the <i>Dividing Fences Act 1991</i> in respect to the alterations and additions to the boundary fences.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
10.	Construction of Vehicular Crossing
	<p>The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for Construction of a Vehicular Crossing & Civil Works form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.</p> <p>Reason: To protect assets, infrastructure and pedestrian safety.</p>
11.	Lead-based Paint
	<p>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</p>

	<p>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.</p> <p>Reason: To protect human health.</p>
12.	<p style="text-align: center;">Dial before you dig</p> <p>Contact "Dial Before You Dig" prior to commencing any building activity on the site.</p> <p>Reason: To protect assets and infrastructure.</p>
13.	<p style="text-align: center;">Asbestos Removal</p> <p>Hazardous and industrial waste arising from the use must be removed and / or transported in accordance with the requirements of the NSW Environment Protection Authority (EPA) and the New South Wales WorkCover Authority.</p> <p>Reason: To ensure compliance with the relevant environmental legislation.</p>
14.	<p style="text-align: center;">Bin Storage - Residential</p> <p>All bins are to be stored within the property. Bins are to be returned to the property within 12 hours of having been emptied.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected.</p>
15.	<p style="text-align: center;">Boundary Alignment Levels</p> <p>Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary unless levels are otherwise approved by Council via a S138 approval.</p> <p>Reason: To allow for pedestrian and vehicular access.</p>
16.	<p style="text-align: center;">Permits</p> <p>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:</p> <ul style="list-style-type: none"> • Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application; • A concrete pump across the roadway/footpath; • Mobile crane or any standing plant; • Skip Bins; • Scaffolding/Hoardings (fencing on public land); • Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.; • Awning or street veranda over the footpath;

	<ul style="list-style-type: none"> • Partial or full road closure; and • Installation or replacement of private stormwater drain, utility service or water supply. <p>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.</p> <p>Reason: To ensure works are carried out in accordance with the relevant legislation.</p>
17.	<p style="text-align: center;">Public Domain and Vehicular Crossings</p> <p>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.</p> <p>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</p> <p>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.</p> <p>Any driveway crossovers or other works within the road reserve must be provided at no cost to Council.</p> <p>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.</p> <p>Reason: To ensure works are carried out in accordance with the relevant legislation.</p>

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

	Condition
18.	<p>Street Numbering</p> <p>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</p> <p>Reason: To ensure occupancies are appropriately numbered.</p>

19.	<p>Long Service Levy</p> <p>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.</p> <p>Reason: To ensure the long service levy is paid.</p>				
20.	<p>Design Change</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:</p> <ul style="list-style-type: none"> a. First floor rear balcony of the proposed new dwelling to reduce in length to a maximum of 2400mm. <p>Reason: To ensure that the design changes protect the amenity of the neighbourhood.</p>				
21.	<p>Structural Certificate for retained elements of the building</p> <p>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.</p> <p>Reason: To ensure the structural adequacy of the works.</p>				
22.	<p>Sydney Water – Tap In</p> <p>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.</p> <p>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.</p> <p>Reason: To ensure relevant utility and service provides requirements are provided to the certifier.</p>				
23.	<p>Section 7.11 Contribution</p> <p>In accordance with section 7.11 of the <i>Environmental Planning and Assessment Act 1979</i> 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:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; padding: 5px;">Contribution Category</th> <th style="text-align: left; padding: 5px;">Amount</th> </tr> </thead> <tbody> <tr> <td style="padding: 5px;">Open Space & Recreation</td> <td style="padding: 5px;">\$14,300.00</td> </tr> </tbody> </table>	Contribution Category	Amount	Open Space & Recreation	\$14,300.00
Contribution Category	Amount				
Open Space & Recreation	\$14,300.00				

Community Facilities	\$2,650.00
Transport	\$1880.00
Plan Administration	\$184.00
Drainage	\$986.00
TOTAL	\$20,000.00

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:

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

Where:

C_{payment} = is the contribution at time of payment

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

$\text{CPI}_{\text{consent}}$ = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being 139.7 for the January 2025.

$\text{CPI}_{\text{payment}}$ = 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 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 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; 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).

	<p>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.</p> <p>Reason: To ensure payment of the required development contribution.</p>										
<p>24.</p>	<p>Housing and Productivity Contribution</p> <p>a. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with condition (b), is required to be made</p> <table border="1" data-bbox="493 607 1110 815"> <thead> <tr> <th>Housing and productivity contribution</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Housing and productivity contribution (base component)</td> <td>\$12,748.36</td> </tr> <tr> <td>Total housing and productivity contribution</td> <td>\$12,748.36</td> </tr> </tbody> </table> <p>b. The amount payable at the time of payment is the amount shown in condition (a) as the total housing and productivity contribution adjusted by multiplying it by:</p> <p style="text-align: center;">Highest PPI number Consent PPI number</p> <p>Where:</p> <p><i>highest PPI number</i> is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made, and</p> <p><i>consent PPI number</i> is the PPI number last used to adjust HPC rates when consent was granted, and</p> <p><i>June quarter 2023</i> and <i>PPI</i> have the meanings given in clause 22 (4) of the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i>.</p> <p>If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.</p> <p>c. The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:</p> <table border="1" data-bbox="493 1503 1214 1637"> <thead> <tr> <th>Development</th> <th>Time by which HPC must be paid</th> </tr> </thead> <tbody> <tr> <td>Development consisting only of residential subdivision within the meaning of the HPC Order</td> <td>Before the issue of the first subdivision certificate</td> </tr> </tbody> </table>	Housing and productivity contribution	Amount	Housing and productivity contribution (base component)	\$12,748.36	Total housing and productivity contribution	\$12,748.36	Development	Time by which HPC must be paid	Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate
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Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate										

	High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate
	Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate
	Manufactured home estate for which no construction certificate is required	Before the installation of the first manufactured home
	<p>In the Table, <i>HPC Order</i> means the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i>.</p> <p>d. The HPC must be paid using the NSW planning portal (http://pp.planningportal.nsw.gov.au/).</p> <p>e. If the Minister administering the <i>Environmental Planning and Assessment Act 1979</i> agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:</p> <ul style="list-style-type: none"> a. the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out, b. the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out. <p>If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition (b.) at the time of payment.</p> <p>f. Despite condition (a.), a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the <i>Environmental Planning and Assessment Act 1979</i> to the development, or the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i> exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.</p> <p>Reason: To ensure payment of the required development contribution.</p>	
25.	<p>Security Deposit - Custom</p> <p>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</p>	

	<p>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.</p> <table border="1"> <tr> <td>Security Deposit:</td> <td>\$18,000.00</td> </tr> <tr> <td>Inspection Fee:</td> <td>\$389.90</td> </tr> </table> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>Reason: To ensure required security deposits are paid.</p>	Security Deposit:	\$18,000.00	Inspection Fee:	\$389.90
Security Deposit:	\$18,000.00				
Inspection Fee:	\$389.90				
26.	<p>Dilapidation Report – Pre-Development – Minor</p> <p>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.</p> <p>Reason: To ensure Council assets are protected.</p>				
27.	<p>Parking Facilities - Domestic</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer demonstrating that the design of the vehicular access and off-street parking facilities must comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking and the following specific requirements:</p> <ol style="list-style-type: none"> a. The internal vehicle hardstand area must be redesigned such that the level at the boundary matches the existing back of footpath level unless alternative alignment levels are approved via a Section 138 approval. 				

	<p>b. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B85 vehicle. Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.</p> <p>c. 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.</p> <p>d. The garage/parking space must have minimum clear internal dimensions of 6,000 x 3,000 mm (length x width). The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004.</p> <p>e. The maximum gradients within the parking module must not exceed 1 in 20 (5%), measured parallel to the angle of parking and 1 in 16 (6.25%), measured in any other direction in accordance with the requirements of Section 2.4.6 of AS/NZS 2890.1-2004; and</p> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's DCP.</p>
<p>28.</p>	<p>Stormwater Drainage System – Minor Developments (OSD is required)</p> <p>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:</p> <ul style="list-style-type: none"> a. The final design shall be in accordance with the stormwater drainage concept plans submitted to Council to satisfy the deferred commencement conditions; b. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipelines and connected to OSD/OSR systems in accordance with Council's policy. The stormwater shall be discharged, together with the outlet pipes and overflow pipelines from the OSD systems and rainwater tank(s), by gravity to the kerb and gutter of a public road; c. 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; d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage; e. 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; f. The plans, including supporting calculations, must demonstrate that the post development stormwater flows from the total site, including the pavement within the Right of Carriageway, for the 1% AEP storm

	<p>are restricted to the maximum allowable discharge to Council's street gutter of 15 litres/second;</p> <ul style="list-style-type: none"> g. Pipe and channel drainage systems including gutters must be designed to convey the 1% AEP flows from the contributing catchment to the OSD tank(s). All elements of the stormwater drainage system including OSD/OSR systems shall be contained fully within each of the respective properties; h. Where a combined OSD/OSR is proposed, only roof water is permitted to be connected to the storage tank. The overflow from the OSD/OSR must be connected to the kerb and gutter of a public road; i. Any 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, such as for toilet flushing or laundry use; j. Details of the 100-year ARI overflow route and spillway in case of failure\blockage of the drainage system must be provided: <ul style="list-style-type: none"> i. Provision shall be made for an overflow surface spillway at a visible location within the property, and ii. Ponding and overflow spillway levels are not less than 300mm below any adjacent habitable floor levels of the dwelling, in accordance with clause 7.10.1 in AS/NZS 3500.3; iii. All elements of the OSD, and pipe and pit systems are contained fully within the property. k. Drainage pipes must be designed at a minimum grade of 1%. The pipe invert level, finished surface ground level and pit surface and invert level must be shown on the drainage plan; l. A minimum 170 mm step up shall be provided between all external finished surfaces and adjacent internal floor areas; m. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands; n. Details of external catchments currently draining to the site must be included on the plans. Existing natural overland flows from external catchments may not be blocked or diverted, but must be captured and catered for within the proposed site drainage system; o. No nuisance or concentration of flows to other properties; p. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system; q. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets; r. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
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	<ul style="list-style-type: none"> s. The stormwater pipe within the footpath and connection to the street kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 mm and a section height and width of 100 mm or sewer grade uPVC pipe with a maximum diameter of 100mm; t. Any stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings; u. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated; <p>Reason: To ensure that the adequate provision of stormwater drainage is provided.</p>
29.	<p>Public Domain Works – Prior to Construction Certificate</p> <p>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 (CPEng) 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 <i>Roads Act 1993</i> incorporating the following requirements:</p> <ul style="list-style-type: none"> a. The construction of light duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site; b. The existing concrete footpath across the frontage of the site must be reconstructed; and Other works subject to the <i>Roads Act 1993</i> approval. c. Installation of a stormwater outlet(s) to the kerb and gutter. <p>All works must be completed prior to the issue of an Occupation Certificate.</p> <p>Reason: To ensure public domain works are constructed to Council's standards.</p>

BEFORE BUILDING WORK COMMENCES

	Condition
30.	<p>Project Arborist</p> <p>Prior to the commencement of any demolition or construction works within close proximity to protected trees a Project Arborist (a person holding a minimum Australian Qualification Framework (AQF) Level 5, Diploma of Arboriculture), 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.</p> <p>Reason: To protect and retain trees.</p>
31.	<p>Tree Protection Zone</p> <p>To protect the trees specified for retention on site, no work may commence until their Protection Zone is fenced off at the specified radius from the trunks to prevent any activities, storage or the disposal of materials within the fenced area in accordance with the Tree Protection Plan by Arbor Express dated 29.11.24 and Council's</p>

	<p>Development Fact Sheet—Trees on Development Sites. The fences (including existing boundary fencing) must be maintained intact until the completion of all demolition/building work on site.</p> <p>Reason: To protect and retain trees.</p>
32.	<p>Waste Management Plan</p> <p>Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
33.	<p>Erosion and Sediment Control</p> <p>Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
34.	<p>Verification of Levels and Location</p> <p>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.</p> <p>Reason: To ensure works are in accordance with the consent.</p>
35.	<p>Construction Fencing</p> <p>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.</p> <p>Reason: To protect the built environment from construction works.</p>
36.	<p>Construction Traffic Management Plan</p> <p>Prior to any works commencing, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP) to cater for construction prepared by a person with RMS accreditation to prepare a work zone traffic management plan. Details must include haulage routes, estimated number of vehicle movements, truck parking areas, work zones, crane usage, etc., related to demolition/construction activities. A work zone approval must be obtained. If in the opinion of Council, TfNSW or the NSW Police the works results in unforeseen traffic congestion or unsafe work conditions the site may be shut down and alternative Traffic Control arrangements shall be implemented to remedy the situation. In this regard you shall obey any lawful direction from the NSW Police or a Council officer if so required. Any approved CTMP must include this as a note."</p> <p>Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>

37.	<p>Hoardings</p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>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.</p> <p>Separate approval is required from the Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property.</p> <p>Reason: To ensure the site is secure and that the required permits are obtained if enclosing public land.</p>
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DURING BUILDING WORK

	Condition
38.	<p>Arborists standards</p> <p>All tree work must be undertaken by a person holding a minimum Australian Qualification Framework (AQF) Level 3, Certificate of Arboriculture, Arborist. The work must be undertaken in accordance with AS4373—<i>Pruning of amenity trees</i> 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.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
39.	<p>Works to Trees</p> <p>Approval is given for trees to be removed as identified in the Arborist Report by Arbor Express dated 29.11.2024 after the issue of a Construction Certificate:</p> <p>All tree works shall be undertaken by an arborist with minimum Australian Qualification Framework (AQF) Level 3, Certificate of Arboriculture, as defined by the Australian Qualification Framework and in compliance with Australian Standard AS 4373—<i>Pruning of amenity trees</i> and Safe Work Australia’s Guide to Managing Risks of Tree Trimming and Removal Work.</p> <p>Any works in the vicinity of the Low Voltage Overhead Network (including service lines—pole to house connections) shall 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.</p> <p>The trees to be removed must be included on all Construction Certificate plans shown in red.</p>

	Reason: To identify trees permitted to be removed.																								
40.	<p>Inspections by Project Arborist</p> <p>The Project Arborist must oversee various stages of work within the Tree Protection Zone (TPZ) of any tree listed for retention including street trees. The Arborist must certify compliance with each key milestone detailed below:</p> <ol style="list-style-type: none"> a. The installation of tree protection measures prior to the commencement of any construction works; b. During demolition of any ground surface materials (pavers, concrete, grass etc.) within the Tree Protection Zone (TPZ) of any tree to be retained; c. During any excavation and trenching within the TPZ; d. During any Landscape works within the TPZ which has been approved by Council. <p>An Arboricultural Compliance Report which includes photographic evidence and provides details on the health and structure of trees must be submitted to and acknowledged by certifying authority at each hold-point listed below:</p> <ol style="list-style-type: none"> a. Certification that tree protection measures have been installed in accordance with these consent conditions b. Certification of compliance with each key milestone listed above within 48 hours of completion; c. Details of any other works undertaken on any tree to be retained or any works within the TPZ which has been approved by Council. d. A final compliance report must be submitted to and approved by certifying authority prior to the issue of any Occupation Certificate. <p>Reason: To protect and retain trees.</p>																								
41.	<p>Excavation Methods to Limit Impacts to Trees</p> <p>Excavation for the installation of any services within the specified radius of the trunks of the following trees 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 with entry and exit pit locations approved by the Project Arborist:</p> <table border="1"> <thead> <tr> <th>Tree No.</th> <th>Botanical Name</th> <th>Radius in metres</th> </tr> </thead> <tbody> <tr> <td>1</td> <td><i>Acer buergerianum</i></td> <td>4.2m</td> </tr> <tr> <td>2</td> <td><i>Melaleuca leucadendra</i></td> <td>7.5m</td> </tr> <tr> <td>3</td> <td><i>Murraya paniculata</i></td> <td>2.5m</td> </tr> <tr> <td>4</td> <td><i>Acacia sp.</i></td> <td>2m</td> </tr> <tr> <td>5</td> <td><i>Acacia sp.</i></td> <td>2m</td> </tr> <tr> <td>28</td> <td><i>Camelia sp</i></td> <td>2m</td> </tr> <tr> <td>29</td> <td><i>Camelia sp</i></td> <td>2m</td> </tr> </tbody> </table> <p>Reason: To protect and retain trees.</p>	Tree No.	Botanical Name	Radius in metres	1	<i>Acer buergerianum</i>	4.2m	2	<i>Melaleuca leucadendra</i>	7.5m	3	<i>Murraya paniculata</i>	2.5m	4	<i>Acacia sp.</i>	2m	5	<i>Acacia sp.</i>	2m	28	<i>Camelia sp</i>	2m	29	<i>Camelia sp</i>	2m
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42.	<p>Advising Neighbours Prior to Excavation</p> <p>At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, reasonable notice must be provided to the owner of the adjoining allotment of land including particulars of the excavation.</p> <p>Reason: To ensure surrounding properties are adequately notified of the proposed works.</p>
43.	<p>Construction Hours – Class 1 and 10</p> <p>Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5.00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>
44.	<p>Survey Prior to Footings</p> <p>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.</p> <p>Reason: To ensure works are in accordance with the consent.</p>

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

	Condition
45.	<p>Certification of Tree Planting</p> <p>Prior to the issue of any Occupation Certificate, the Certifying Authority is to be provided with evidence in the form of an image and a purchase invoice to confirm that: 1 x 200 litre size tree, which will attain a minimum mature height of 10 metres, has been planted in the rear setback of Site 2 and 1 x 100 litre size tree, which will attain a minimum mature height of 6 metres, has been planted in the front setback of Site 2 allowing for future tree growth. The trees must meet the requirements of AS2303—<i>Tree stock for landscape use</i>. Trees listed as exempt species from Council's Tree Management Development Control Plan and species recognised to have a short life span, will not be accepted.</p> <p>Trees required by this condition must be maintained and protected until they are protected by Council's Tree Management DCP. Any replacement trees found damaged, dying or dead must be replaced with the same species in the same container size within one month.</p> <p>Reason: To ensure appropriate landscaping is undertaken.</p>
46.	<p>Section 73 Certificate</p> <p>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.</p> <p>Reason: To ensure relevant utility and service providers' requirements are provided to the certifier.</p>

<p>47.</p>	<p>Resident Parking Scheme Not Applicable</p> <p>Prior the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that measures have been put in place to advise future owners and occupants or tenants of the proposed building that they are not eligible to obtain parking permits under any existing or future resident parking scheme for the area. The person acting on this Development Consent shall advise any purchaser or prospective tenant of this condition. All developments that are excluded from Permit Parking Schemes can be found in Councils Public Domain Parking Policy.</p> <p>Reason: To provide transparency in the application of the Resident Parking Scheme.</p>
<p>48.</p>	<p>Easement and Covenant Process</p> <p>Prior to the issuing of an Occupation Certificate, the following documents must be submitted to Council as part of the Easement and Covenant process and requirements, for the site on-site detention/on-site retention/reuse facilities (OSD/OSR) and stormwater quality improvement devices (SQIDS):</p> <ul style="list-style-type: none"> a. Work-As-Executed Plans <p>A "Work-as-Executed" plan prepared and signed by a Registered Surveyor must be submitted to the Council's Development Assessment Engineer at the completion of the works showing the location of the detention basin and SQIDS with finished surface levels, contours at 0.2-metre intervals and volume of storage available. Also, the outlet pipe from the detention basin to its connection to the Council's drainage system must be shown together with the following information: location; pipe diameter; gradient; pipe material, i.e. PVC or RCP etc.; pits sizes; orifice size; trash screen at orifice; emergency overflow dimensions and RL; all buildings (including floor levels) and finished ground and pavement surface levels and full details of SQIDS.</p> b. Engineer's Certificate <p>A qualified practising Civil Engineer must certify on the completion of drainage works in respect of:</p> <ul style="list-style-type: none"> a. The soundness of the storage structure; b. The capacity of the detention storage; c. The emergency overflow system being in place; d. The works being constructed in accordance with the Development Application Consent and Council's Stormwater Management DCP/Code; e. The freeboard from maximum water surface level to the finished floor and garage levels are at or above the minimum required in Council's Stormwater Management DCP/Code; f. Basement car park pumps are class one zone two; and g. OSR pumps and SQIDS have been installed and commissioned. c. Restriction-As-To-User

	<p>A "Restriction-as-to-User" must be placed on the title of the subject property to indicate the location and dimensions of the detention area and stormwater quality improvement device(s) (SQIDS). This is to ensure that works, which could affect the function of the stormwater detention system and SQIDS, must not be carried out without the prior consent in writing of the Council.</p> <p>Such restrictions must not be released, varied or modified without the consent of the Council.</p> <p>A typical document is available from Council's Development Assessment Engineer.</p> <p>d. A Maintenance Schedule.</p> <p>Reason: To ensure easements are registered and the correct documentation is provided.</p>
<p>49.</p>	<p>Light Duty Vehicle Crossing</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that a light duty concrete vehicle crossing(s), in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" have been constructed at the vehicular access locations.</p> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's specifications.</p>
<p>50.</p>	<p>Parking Signoff – Minor Developments</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.</p> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's specifications.</p>
<p>51.</p>	<p>Works as Executed – Site Stormwater Drainage System</p> <p>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:</p> <ul style="list-style-type: none"> 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

	<p>Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifier stamped Construction Certificate plans.</p> <p>Reason: To ensure the approved works are undertaken in accordance with the consent.</p>
52.	<p>Protect Sandstone Kerb</p> <p>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.</p> <p>Reason: To ensure Council assets are protected.</p>
53.	<p>No Encroachments</p> <p>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.</p> <p>Reason: To maintain and promote vehicular and pedestrian safety.</p>
54.	<p>Operation and Management Plan</p> <p>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:</p> <ul style="list-style-type: none"> 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. <p>Reason: To ensure the approved works are undertaken in accordance with the consent.</p>
55.	<p>Easements, Restrictions on the Use of Land and Positive Covenants</p> <p>Prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever comes first, the Principal Certifier must be provided with evidence that Easements, Restrictions on the Use of Land and Positive Covenants under Section 88B or 88E, whichever is relevant to the subject development, of the Conveyancing Act 1919, has been created on the title of the property detailing the following:</p> <ul style="list-style-type: none"> a. Easement for drainage of water; b. Easement for repairs; c. Right of carriage way;

	<p>d. Restrictions on the Use of Land to prevent the erection of any structures or fencing;</p> <p>e. Restrictions on the Use of Land related to on Site Stormwater Detention System or stormwater quality improvement devices;</p> <p>f. Restrictions on the Use of Land related to Stormwater Surface Flow Paths;</p> <p>g. Positive Covenant related to on-site stormwater detention and/or retention system;</p> <p>h. Positive Covenant related to stormwater quality improvement devices; and</p> <p>a. Positive Covenant related to Stormwater Surface Flow Paths.</p> <p>The wording in the Instrument must be in accordance with Councils Standard wording. Reason: To ensure that the relevant easements are registered on the property.</p>
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OCCUPATION AND ONGOING USE

Condition	
56.	<p>Tree Establishment</p> <p>If any of the trees planted as a part of this consent are found dead or dying before they reach dimensions where they are subject to the Tree Management Development Control Plan (DCP) they must be replaced in accordance with the relevant conditions.</p> <p>Reason: To protect and retain trees.</p>
57.	<p>Operation and Management Plan</p> <p>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 Pump facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.</p> <p>Reason: To ensure that the adequate provision of stormwater drainage is provided.</p>

DEMOLITION WORK

BEFORE DEMOLITION WORK COMMENCES

Condition	
58.	<p>Hoardings</p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>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</p>

	<p>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.</p> <p>Separate approval is required from the Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property.</p> <p>Reason: To ensure the site is secure and that the required permits are obtained if enclosing public land.</p>
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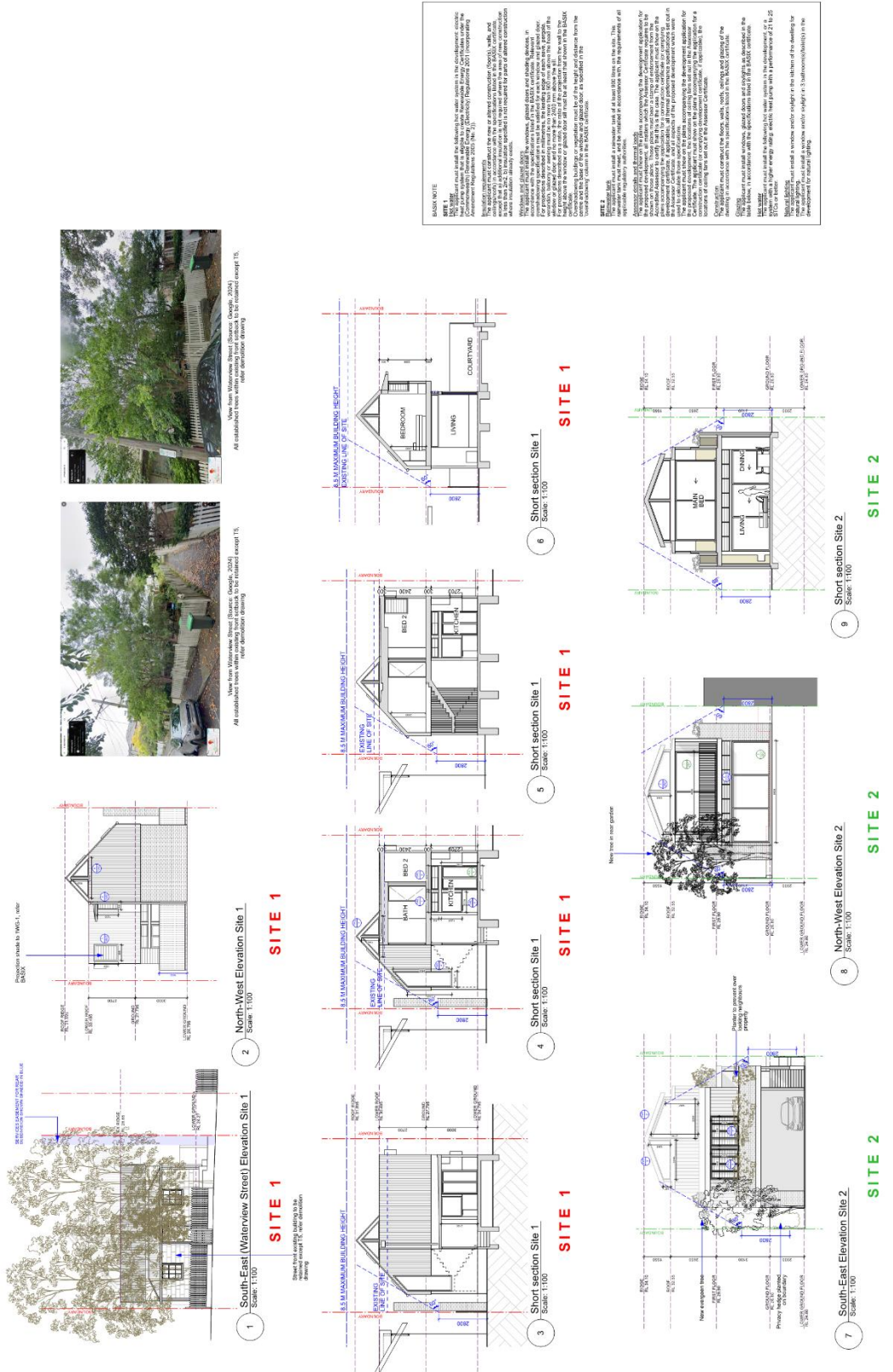
SUBDIVISION WORK

BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

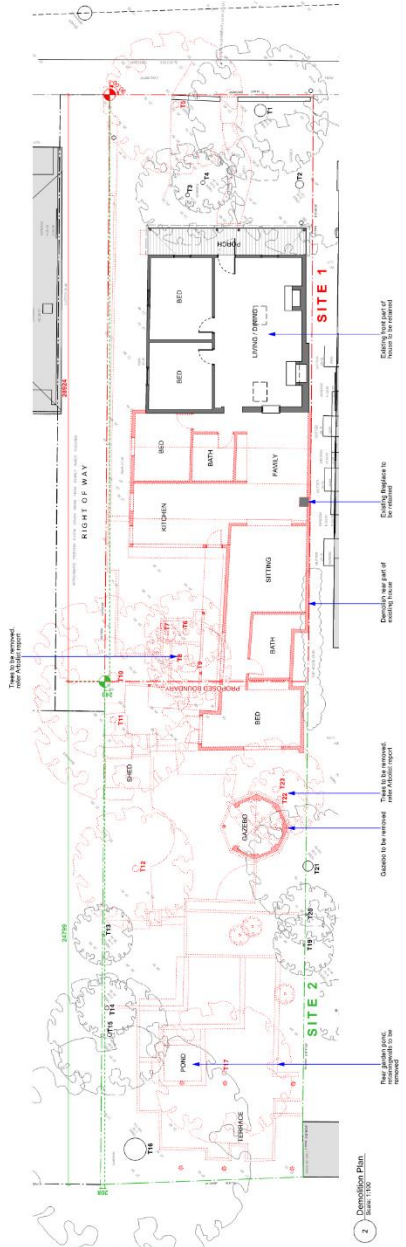
Condition	
59.	<p>Section 73 Certificate</p> <p>Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided with the Section 73 Certificate. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.</p> <p>Reason: To ensure relevant utility and service providers' requirements are provided to the certifier.</p>
60.	<p>Separate Stormwater</p> <p>Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided with details, endorsed by a practising stormwater engineer demonstrating separate drainage systems to drain each proposed lot.</p> <p>Reason: To ensure development is provided with adequate stormwater drainage.</p>
61.	<p>Release of Subdivision Certificate</p> <p>Prior to the release of a Subdivision Certificate, the Certifying Authority must be provided with a copy of the Final Occupation Certificate.</p> <p>Reason: To ensure development is completed before the subdivision certificate is released.</p>
62.	<p>Separate Drainage Systems</p> <p>Prior to the issue of a Subdivision Certificate, the Principal Certifier must be provided with a plan detailing that separate drainage systems must be provided to drain each proposed lot.</p> <p>Reason: To ensure that the adequate provision of stormwater drainage is provided.</p>
63.	<p>Easement – Drainage in Subdivision</p> <p>Prior to the issue of a Subdivision Certificate, the Principal Certifier must be provided with evidence that the proposed easement for the drainage and OSD system from the</p>

	<p>new allotment to Waterview Street must be shown on the Certificate and Plan, together with the relevant rights of the upstream owner. A written statement must be provided, signed by the Registered Surveyor, that the as-built pipeline and OSD system is totally within the proposed easement.</p> <p>Reason: To ensure development is completed before the subdivision certificate is released.</p>
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Attachment C – Plans of proposed development



<p>REASON FOR REVIEW</p> <p>For Development Application Only</p> <p>Alterations & Additions</p> <p>10 Macquarie Street, Balmain NSW 2041 Inner West Council For Paul and Suzanne Fitzgerald</p>		<p>ELEVATIONS & SECTIONS</p> <p>Drawn No. A1-06 Sheet No. B Rev No. 05</p>
<p>PROJECT</p> <p>2309 11/009AA</p>	<p>DATE</p> <p>JB</p>	<p>SCALE</p> <p>DS</p>
<p>REVISIONS</p> <p>NO. DATE DESCRIPTION</p>		
1	18/11/24	Revised for Development Application
2	14/01/25	Revised for Development Application
3	14/01/25	Revised for Development Application



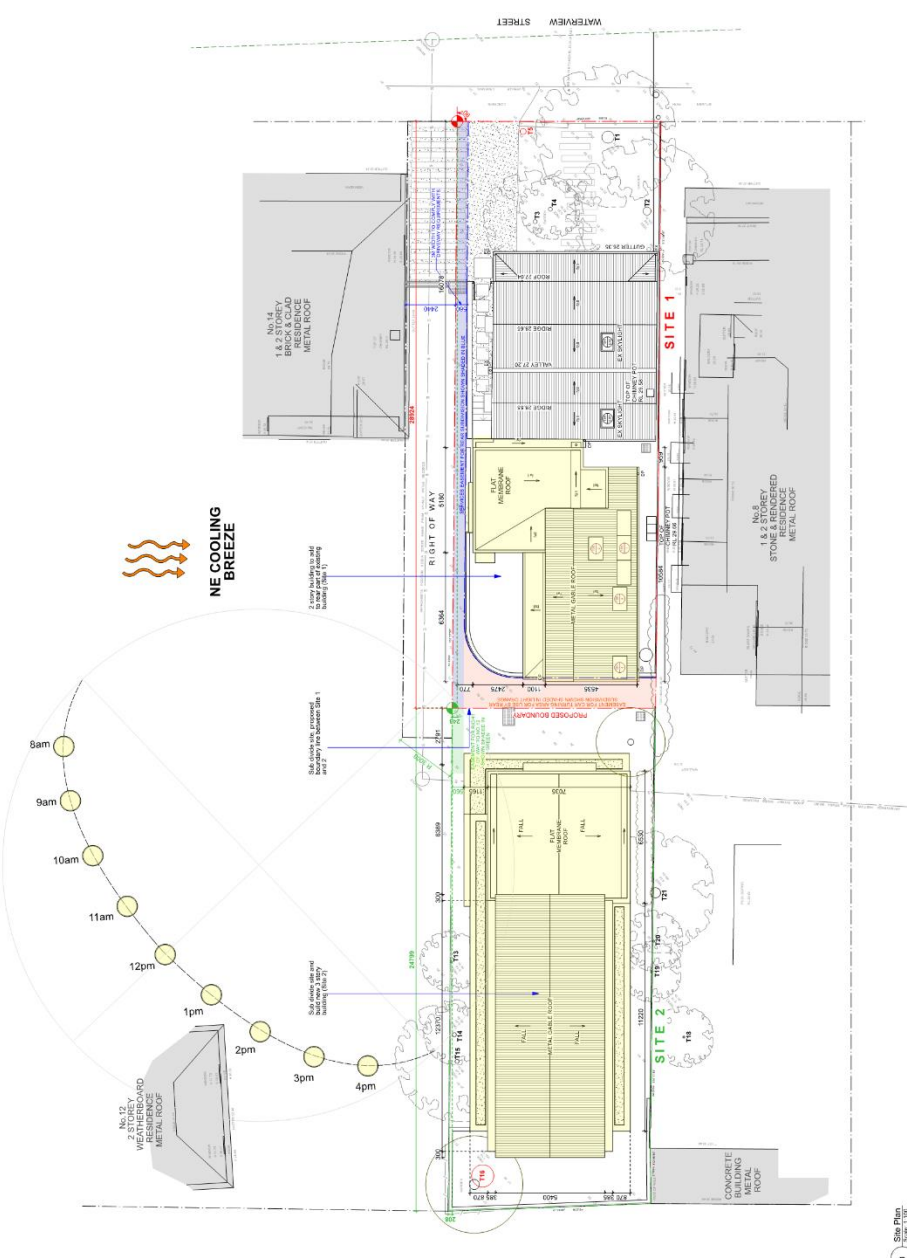
Project No. 2809 Date 1/10/2024	Drawing No. AD-01 Drawing Date JB Drawing No. DS
EXISTING / DEMOLITION PLAN Alterations & Additions 10 Wakefield Street, Balmain NSW 2064 -Inner West Council- For Paul and Suzanne Fitzgerald	
Revision Per Issue: PRELIMINARY - 28/5/24 Copyright: This design and drawings are not to be used or reproduced in any form without the written permission of the Architect. All dimensions are given in millimetres. All dimensions shown are approximate. Errors in Levels, Page No. 4/27	
Name: _____ Date: _____ Title: _____	

BASIC NOTE

NOTE 1: The applicant has provided the following information to the Council in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2000. The applicant is not making any claim that the information provided is accurate or complete. The applicant is not making any claim that the information provided is not subject to any other laws or regulations.

NOTE 2: The applicant has provided the following information to the Council in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2000. The applicant is not making any claim that the information provided is accurate or complete. The applicant is not making any claim that the information provided is not subject to any other laws or regulations.

NOTE 3: The applicant has provided the following information to the Council in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2000. The applicant is not making any claim that the information provided is accurate or complete. The applicant is not making any claim that the information provided is not subject to any other laws or regulations.



JTZ SANBAY
 Environmental Planning
 www.jtzsanbay.com
 Project No. 2309
 Drawing No. A1-01
 Issue No. 1-1008A1
 Rev No. B
 Date: 05/10/2023
 Drawing: 05

SITE / SITE ANALYSIS PLAN
 Alterations & Additions
 10 Waterloose Street, Balmain NSW 2045
 Inner West Council
 For Paul and Suzanne Fitzgerald

For Development Application Only

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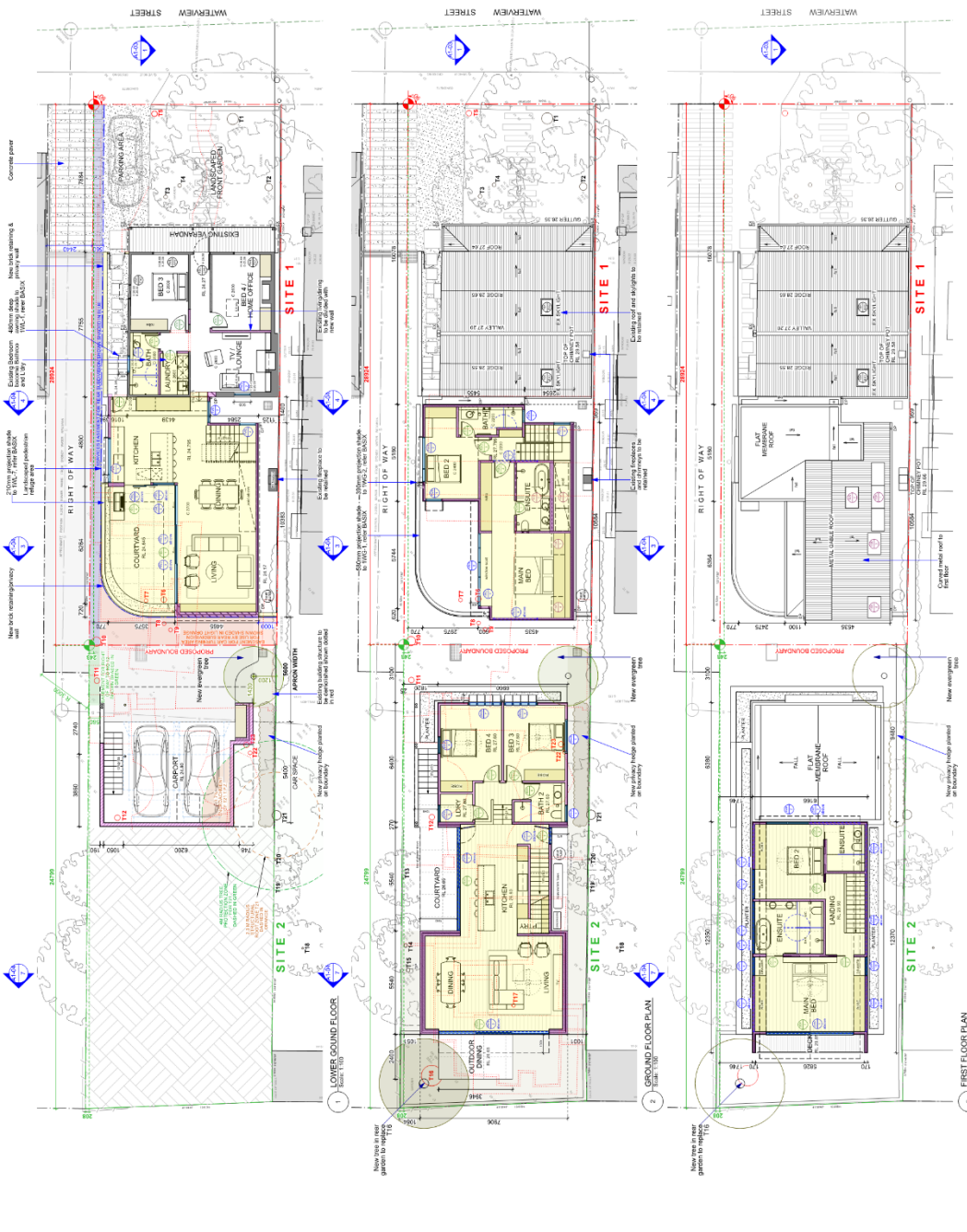
Scale: 1:500
 Date: 05/10/2023

BASIS NOTE

1. This development is proposed in accordance with the provisions of the Development Control Regulations 2012 (DCR 2012) and the Inner West Council Development Control Plan 2014 (DCP 2014) and the Inner West Council Development Control Plan 2014 (DCP 2014) and the Inner West Council Development Control Plan 2014 (DCP 2014).

2. The development is proposed in accordance with the provisions of the Development Control Regulations 2012 (DCR 2012) and the Inner West Council Development Control Plan 2014 (DCP 2014) and the Inner West Council Development Control Plan 2014 (DCP 2014) and the Inner West Council Development Control Plan 2014 (DCP 2014).

3. The development is proposed in accordance with the provisions of the Development Control Regulations 2012 (DCR 2012) and the Inner West Council Development Control Plan 2014 (DCP 2014) and the Inner West Council Development Control Plan 2014 (DCP 2014) and the Inner West Council Development Control Plan 2014 (DCP 2014).



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Project No.	Z319	Drawing No.	A1-102	Rev. No.	B
Issue	1	Author	JR	Checked	DS
Issue Date	11/08/24	Issue	JR	Issue Date	05

FLOOR PLANS
 Alterations & Additions
 10 Waterview Street, Balmain NSW 2041
 -Inner West Council-
 For Paul and Suzanne Fitzgerald

For Development Application Only

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Rev.	1	2	3	4
Date	11/08/24	11/08/24	11/08/24	11/08/24
Description	Issue for Development Application	Issue for Development Application	Issue for Development Application	Issue for Development Application



PLANS NOTE
 1. All dimensions are to the face of the work unless otherwise stated.
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 10. All dimensions are to the face of the work unless otherwise stated.

Project Information		ELEVATIONS & SECTIONS	
Client:	Paul and Suzanne Fitzgerald	Project Name:	Alterations & Additions
Site:	10 Wakefield Street, Balmain NSW 2041	Project No.:	2109
Architect:	Jitz Sanbey Architects	Drawing No.:	A1-10
Date:	1/10/2024	Revision:	B
Scale:	1:100	Author:	JB
		Checker:	DS
		Approver:	
		Reviewer:	
		Designer:	
		Draftsman:	

Attachment D – Statement of Heritage Significance

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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.