








DEVELOPMENT ASSESSMENT REPORT

Application No.	DA/2023/0306
Address	14 Nicholson Street BALMAIN EAST
Proposal	Alterations and additions to existing dwelling
Date of Lodgement	28 April 2023
Applicant	Keith Pike Associates Pty Ltd
Owner	Mr Peter J Carr Mrs Kate M Carr
Number of Submissions	Initial: 0
Value of works	\$480,152.00
Reason for determination at Planning Panel	Section 4.6 variation exceeds 10%
Main Issues	Tree protection Heritage Landscaped Area
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Section 4.6 Exception to Development Standards
Attachment D	Statement of Heritage Significance



LOCALITY MAP

Subject Site		Objectors		 N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for ground and first floor alterations and additions to the dwelling at 14 Nicholson Street Balmain East. The application was notified to surrounding properties and 0 submissions were received in response to the initial notification.

2. Proposal

Specifically, the proposal involves the following works:

- Demolition of existing garage
- Ground floor additions and new garage linked to existing dwelling
- New first floor bedroom to adjoin existing pavilion
- Associated landscaping and boundary fencing.

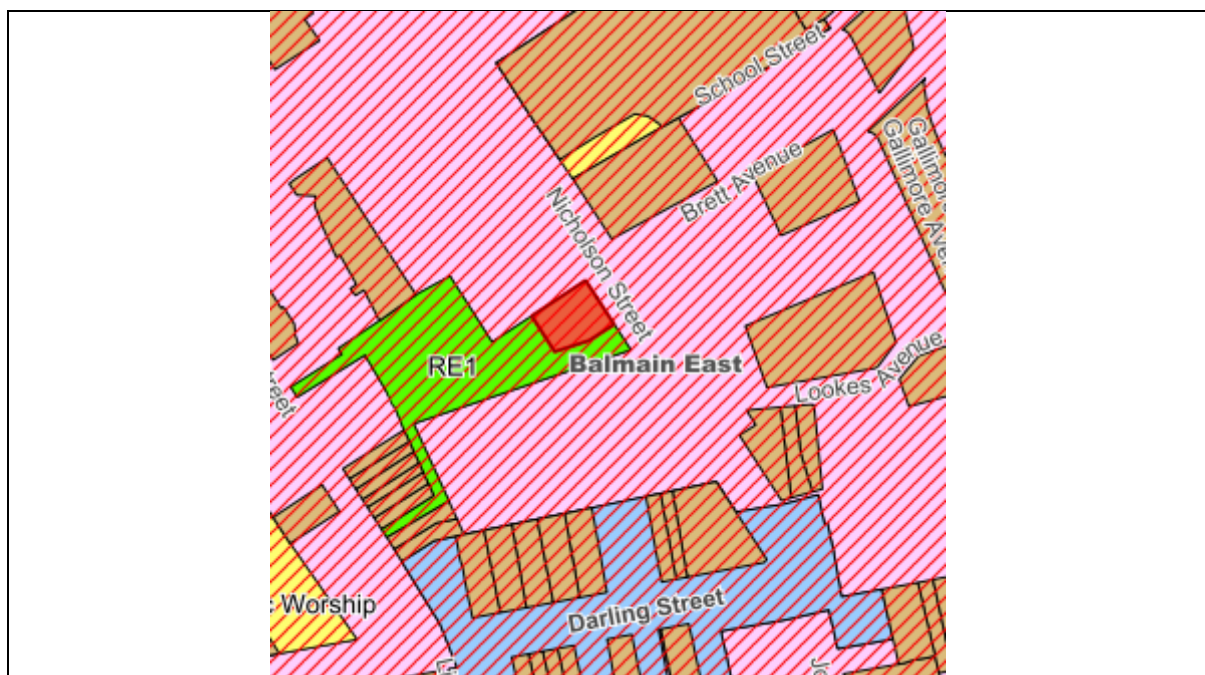
3. Site Description

The subject site is located on the western side of Nicholson Street perpendicular to the T junction of Brett Avenue. The site area is approximately 349.8sqm with a primary frontage to Nicholson Street and a southern and western side rear boundary facing Origlass Park. Surrounding land uses are predominantly residential with a varied mix of residential flat buildings, attached double storey terraces and detached dwellings. Nicholson Street Public School is within the vicinity of the subject site.

The site supports an original single storey cottage with a linked double storey addition. The adjoining properties support a mix of residential dwellings and residential flat buildings, public open space and a primary school.

The subject site is listed as a heritage item located within the Balmain East Heritage Conservation Area (C29) under Schedule 5 of the Inner West LEP 2022. The subject house, including interiors, is referenced as Local heritage item I786

There are trees located within the vicinity of the site in Origlass Park that are subject to this assessment.



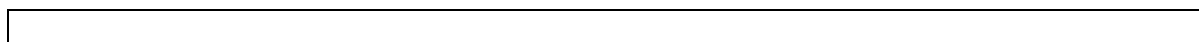


Image 1: Zoning map illustrating subject site highlighted in red

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
BA/1992/652	Alterations and Additions	Approved 22/10/1992

4(b) Application history

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

Date	Discussion / Letter / Additional Information
11 July 2023	A request for further information and design modifications was requested in a response to environmental impacts to heritage, bulk and scale, breaches to development standards and impacts to public trees.
2 August 2023	Council's public tree department confirms works on tree in Origlass Park had been undertaken
23 August 2023	The applicant provides a response to Council request resulting in a modified design.
14 November 2023	At the request from council, the applicant provided an amended 4.6 to rectify anomalies for development standard breaches.

5. Assessment

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

5(a) Environmental Planning Instruments

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

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

The following provides further discussion of the relevant issues:

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

Chapter 4 Remediation of land

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

“(a) it has considered whether the land is contaminated, and

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

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

There is also no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council’s records. The land will be suitable for the proposed use as there is no indication of contamination.

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

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

5(a)(iii) State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

The SEPP concerns protection of vegetation and gives effect to the local tree preservation provisions of Council’s DCP.

The application was referred to Council’s Tree Management Officer whose comments are summarised as follows regarding a public tree located on the southern boundary of the site located within Origlass Park.

The original design involved a second storey form that would require either the removal or significant pruning of Tree 3 *Castanospermum australe* (*Black Bean*) located on the boundary in Origlass Park. In consultation with Council’s Tree Management Officer, Heritage Specialist and the applicant it was agreed that the proposed first floor addition gable roof be redesigned to a skillion form to reduce the impact both on the tree and the streetscape to a more subservient design, consequently tree 3 was inspected by public tree division and resulted in its pruning due to a codominant stem.

The initial response:

The application is not able to be supported as it relies on the removal of a public asset (Tree 3) located in Origlass Park adjacent.

Tree 3 is a Castanospermum australe (Black Bean) located close to the common side boundary on the southern side of the site within Origlass Park. The proposal results in a major encroachment into the Tree Protection Zone (including into the Structural Root Zone) of this tree. Pruning of approximately 15% of the canopy would also be required. The level of impact would be significant and the tree cannot be viably retained in conjunction with the proposal.....

All other aspects of the proposal in relation to the Urban Forest are acceptable with conditions.

The design was subsequently amended to ensure the retention of Tree 3, and Tree 3 was pruned by Councils Public Tree Officers as a codominant stem was identified. Those works were completed in August 2023 and revised plans were re-reviewed by Council’s Tree Management Officer whose comments are below:

The revised plans and Arboricultural Addendum have been reviewed - the application can be supported with conditions

Overall, the proposal is considered acceptable with regard to the SEPP and DCP subject to the imposition of conditions, which have been included in the recommendation of this report.

[Chapter 10 Sydney Harbour Catchment](#)

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

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

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

- Section 1.2 - Aims of Plan
- Section 2.3 - Land Use Table and Zone Objectives
- Section 2.7 – Demolition requires development consent
- Section 4.3C – Landscaped areas for residential accommodation in Zone R1
- Section 4.4 – Floor space ratio
- Section 4.5 – Calculation of floor space ratio and site area
- Section 4.6 – Exceptions to development standards
- Section 5.3 – Development near zone boundaries
- Section 5.10 – Heritage conservation
- Section 6.1 – Acid sulfate soils
- Section 6.3 – Stormwater management

Section 2.3 Land Use Table and Zone Objectives

The site is zoned R1 under the IWLEP 2022. The IWLEP 2022 defines the proposed development as a:

‘Dwelling House’ - means a building containing only one dwelling

A ‘Dwelling House’ is permissible with consent in the zone.

The development is consistent with the objectives of the R1 zone as modified and is considered to protect and enhance the amenity of existing and future residents and the neighbourhood.

Section 4 Principal Development Standards

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

Standard	Proposal	Complies
Floor Space Ratio Maximum permissible: 0.8 or 279.84 sqm	Proposed - 0.66 or 279.84sqm	Yes
Landscape Area Minimum permissible: 20% or 69.96sqm	Proposed - 43.7sqm or 12.49% Variation - 26.26sqm or 37.54%	No
Site Coverage Maximum permissible: 60% or 209.88 sqm	Proposed - 229sqm or 65.6% Variation - 19.12sqm or 9.11%	No

Section 4.6 Exceptions to Development Standards

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

- Section 4.3C(3)(a) – Landscaped area and Section 4.3C(3)(b) – Site Coverage
- Section 4.4 – Floor space ratio

Section 4.3C(3)(a) – Landscaped area and Section 4.3C(3)(b) – Site Coverage

The applicant seeks a variation to the minimum landscaped area and maximum site coverage development standards under Section 4.3C of the *IWLEP 2022*.

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

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *IWLEP 2022* below.

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

- *Currently, the existing site does not comply with the landscaped area development standard. The proposal reduces the landscaped area on the site (as defined), marginally from 52.5m² to 43.7m².*
- *The opportunity for substantial tree planting is constrained due to the current limited space available. The backyard is non-existent and the space available in the side yard is constrained.*
- *The architect has calculated that the site coverage is currently 169m² which is equivalent to 48.3% of the site. The proposal increases the site coverage to 229m² which is equivalent to 65.6% of the site, and therefore, the proposal does not comply with the standard.*
- *The site is identified as a heritage item pursuant to the Inner West Local Environmental Plan 2022. Therefore, any proposed development is required to be sensitive and compatible with it. The site is also constrained due to the fractured nature of its open space, as a result of the historical introduction of a pavilion addition in the backyard of the site that provides a visually recessive built and subordinate form to the heritage item without competing with it.*
- *Subsequently, the price of locating the addition at the rear was at the expense of the site's landscaped area and private open space. Therefore, these constraints together with a requirement to comply with the floor space ratio development standard largely dictate that any additional floor space is required to be provided at grade and, thereby, increasing site cover and reducing landscape area*

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

It is considered the development is in the public interest because it is consistent with the objectives of the R1 General Residential, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

- The proposed development provides the amenity of existing forward facing (street view) private open space and results in an overall development which provides for the housing needs of the occupants.
- The proposed works are sited to the rear and southeast boundary, retaining the garden setting as viewed from the streetscape and provides for a residential development that maintains the character of built and natural features in the surrounding area.

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

- The development provides landscaped courtyard and grassed area for the use and enjoyment of residents.
- The works maintain a landscaped corridor between adjoining properties and does not impact the public space
- The deletion of the pool allows for the proposed development to achieve deep soil provision on the site.
- The proposed development promotes the desired character of the distinctive neighbourhood.
- The departures do not contribute to any bulk and scale and amenity impacts to neighbouring properties.
- The development provides a compliant quantum of private open space.

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

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

Section 5.10 – Heritage conservation

The subject property at 14 Nicolson Street, Balmain East is a local heritage item and a contributory building located within the Balmain East Heritage Conservation Area, C29 under Schedule 5 of the Inner West LEP 2022. The dwelling including interiors is referenced as Local Heritage Item 1786.

In the vicinity of the residence at No. 14 Nicholson Street are the following local heritage items:

- Sandstone outhouse, including interiors, 19 Nicholson Street - local I787
- Nicholson Street Public School including interiors - local I788

The initial scale and architectural character of the design was not supported by Council's Heritage Specialist. Concern was also raised regarding the location and siting of the pool which diminished the landscape setting of the site.

After consulting with the applicant, a re-design approach was reached that reduced the bulk and scale of the additions, protected public trees and improved the landscape setting to the satisfaction of Council Heritage Specialist and relevant objective and controls under Clause 5.10 of *IWLEP 2022*.

Overall the proposed additions are considered complimentary to the existing dwelling and setback sufficiently from the street to protect the integrity of the HCA and item.

5(b) Development Control Plans

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

LDCP2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes – see discussion
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.11 Parking	Yes
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	Yes
C1.14 Tree Management	Yes – see discussion
C1.17 Minor Architectural Details	Yes
Part C: Place – Section 2 Urban Character	
C2.2.2.2 Balmain East Distinctive Neighbourhood C2.2.2.2(b) North of Darling Street Sub Area	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes – see discussion
C3.2 Site Layout and Building Design	Yes – see discussion
C3.3 Elevation and Materials	Yes – see discussion
C3.5 Front Gardens and Dwelling Entries	Yes – see discussion
C3.6 Fences	Yes – see discussion
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes – see discussion
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
Part C: Place – Section 4 – Non-Residential Provisions	N/A
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
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
E1.2.7 Wastewater Management	Yes
Part F: Food	N/A
Part G: Site Specific Controls	N/A

The following provides discussion of the relevant issues:

C1.4 Heritage Conservation Areas and Heritage Items

After receiving amended plans the design has significantly reduced the bulk and scale of the proposed additions and increased the landscaped setting satisfying the relevant objectives and controls of this section. The proposal retains the integrity of the original elements of the heritage item and the additions are considered sympathetic to the dwelling and the wider streetscape.

C1.14 Tree Management

Council’s Tree Management Officer has provided relevant conditions pertaining to tree protection of existing trees within Origlass Park.

C3.1 Residential General Provisions

The proposal as amended will not have an adverse impact on the amenity, setting or cultural significance of the place and the relationship of any Heritage Item or Heritage Conservation Area as previously discussed within this report under C15.10 of IWLEP 2022.

C3.2 Site Layout and Building Design

The BLZ is consistent with the existing form on the site and is satisfactory as amended.

The side setback of the proposed ground floor addition and garage are within the 2.8m maximum allowable building height under Figure C129 of the clause and is therefore compliant.

The first-floor setback is located within the prescribed side setback requirements and the objective and control are met.

C3.3 Elevation and Materials

Colours, materials, and finishes are compatible with those prevailing in the streetscape and the period of construction of the dwelling.

C3.5 Front Gardens and Dwelling Entries

The landscaped setting has been improved with the deletion of the pool to the satisfaction of Heritage requirements thereby retaining the garden setting to the heritage item.

C3.6 Fences

The boundary fencing adjacent to Origlass Park is satisfactory and has been reduced to 2.8m in the amended plans. No changes are proposed to the Nicholson Street fencing fronting the site.

C3.9 Solar Access

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

Due to the street facing northeast aspect the private open space (POS) does not achieve compliance with control C4 under C3.9 of Leichhardt Development Control Plan 2013, however the location and built form casting the shadow impact on this existing POS is unchanged and therefore is considered acceptable as it is an existing circumstance.

It is acknowledged that the bulk and scale of the proposal has been reduced with the provision of amended plans. Consequently, the proposal does not adversely impact nearby residential development to the south, this is largely by virtue of separation as the entry to Origlass park adjoins the southern boundary of the site. This area to the south of the site is predominantly an entrance path so there will be little to no environmental impact to recreation space of the public park.

5(c) The Likely Impacts

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

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

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

5(e) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties. No submissions were received in response to the initial notification.

5(f) The Public Interest

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

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

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

- Engineers
- Urban Forest
- Heritage

7. Section 7.11 Contributions/7.12 Levy

A Section 7.12 Levy is payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$4,802.00 would be required for the

development under the Inner West Contributions Plan 2022. A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

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

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

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

9. Recommendation

- A. The applicant has made a written request pursuant to Section 4.6 of the *Inner West Local Environmental Plan 2022*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the Landscape Area and Site Coverage standards is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variations. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2023/0306 for alterations and additions to an existing dwelling at 14 Nicholson Street, BALMAIN EAST subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
A01a	Roof Plan & Site Plan	August 2023	Keith Pike Associates
A02a	Ground Floor Plan	August 2023	Keith Pike Associates
A03a	First Floor Plan	August 2023	Keith Pike Associates
A05a	East Elevation	August 2023	Keith Pike Associates
A06a	South Elevation	August 2023	Keith Pike Associates
A07a	West Elevation	August 2023	Keith Pike Associates
A08a	Sections 1 thru to 4	August 2023	Keith Pike Associates
A09a	Sections 5 thru to 8	August 2023	Keith Pike Associates
A10a	Finishes	August 2023	Keith Pike Associates
A14a	Stormwater Plan	March 2023	Keith Pike Associates
-	Water Management Statement	-	Keith Pike Associates
-	Waste Management	April 2023	Keith Pike Associates
A489767_03	BASIX Certificate	15/08/2023	Keith Pike Associates
-	Arboricultural Impact Assessment report	18/08/2023	Glenyss Laws consulting arborist

As amended by the conditions of consent.

DESIGN CHANGE

2. Design Change - Heritage

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

- a. Details of the glazed link that demonstrate that this element does not project forward of the rear wall of the historic portion of the building.
- b. The paving layout of the new paving is to be designed to direct water away from the masonry walling of the original portion of the building.
- c. The salvage of materials capable of being reused.

FEES

3. Section 7.12 Development Contribution Payments

In accordance with section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), a monetary contribution of **\$4802.00** shall be paid to Council for the purposes of the provision, extension or augmentation of local infrastructure identified in the Plan.

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

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

Where:

- C_{payment} = is the contribution at time of payment
- C_{consent} = is the contribution at the time of consent, as shown above
- CPI_{consent} = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being [insert CPI value] for the [insert latest quarter and year].
- CPI_{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 on 9392 5000 or council@innerwest.nsw.gov.au 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 can 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).

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

4. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.

5. Security Deposit - Custom

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of

carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit:	\$5,600.00
Inspection Fee:	\$350.00

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

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

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

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

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

GENERAL CONDITIONS

6. Works Outside the Property Boundary

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

7. Standard Street Tree Protection

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

8. Erosion and Sediment Control

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

9. Waste Management Plan

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

10. Works to Trees

Approval is given for the following works to be undertaken to trees on the site after the issuing of a Construction Certificate:

Tree/location	Approved works
Trees 8 ,9 - 2 x <i>Cupressus sempervirens</i> (Italian Cypress)	Removal

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved and shall be retained and protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

11. Project Arborist

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

12. Tree Protection

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

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

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

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

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

Tree 1 - *Washingtonia robusta* (Cotton Palm) - Origlass Park

Tree 2 - *Jacaranda mimosifolia* (Jacaranda) - Origlass Park

Tree 3 - *Castanospermum australe* (Black Bean) - Origlass Park

Trees 4, 5 - *Callistemon viminalis* (Bottlebrush) - Origlass Park

Trees 6 - *Murraya paniculata* (Mock Orange) - Origlass Park

Tree 7 - *Lagerstroemia indica* (Crepe Myrtle) - Front

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

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

NOTE: Reference should be made to the *Arboricultural Impact Assessment Report prepared by Glenyss Laws dated 18 August 2023 Rev B for tree numbering and locations*.

13. Stormwater Drainage System – Simple

Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, down pipe, pits and pipelines discharged by gravity to the kerb and gutter of a public road.

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

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

As there is no overland flow/flood path available from the rear and central courtyards to the Nicholson Street frontage, the design of the sag pit and piped drainage system is to meet the following criteria:

1. Capture and convey the 100 year Average Recurrence Interval flow from the contributing catchment assuming 80% blockage of the inlet and 50% blockage of the pipe;
2. The maximum water level over the sag pit shall not be less than 150mm below the floor level or damp course of the building; and
3. The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.

An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;

Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site; New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm;

All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;

No impact to street tree(s);

Stormwater drainage must be located such that any waters leaving the pool must drain to pervious areas prior to potentially draining to the site stormwater drainage system.

14. Boundary Alignment Levels

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

PRIOR TO ANY DEMOLITION

15. Hoardings

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

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

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

PRIOR TO CONSTRUCTION CERTIFICATE

16. Sydney Water – Tap In

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

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

17. Structural Certificate for retained elements of the building

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

18. Parking Facilities - Domestic

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:

- a. The garage slab or driveway must rise within the property to be 170mm above the adjacent road gutter level and higher than the street kerb and footpath across the full width of the vehicle crossing. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004;
- b. A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors;

- c. Longitudinal sections along 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;
- d. The garage/carport/parking space must have minimum clear internal dimensions of 6000 mm x 3000 mm (length x width) and a door opening width of 2800 mm at the street frontage. The dimensions must be exclusive of
- 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
- f. The external form and height of the approved structures must not be altered from the approved plans.

19. Changes to Levels

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

- a. A 150mm step down must be provided between the finished floor level of the internal room and the finished surface level of the external area.

20. Dilapidation Report – Pre-Development – Minor

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

DURING DEMOLITION AND CONSTRUCTION

21. Construction Hours – Class 1 and 10

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5:00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.

22. Survey Prior to Footings

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

23. Excavation Methods to Limit Impacts to Trees

Excavation for the installation of any services within the specified radius of the trunks of the following tree 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) under the supervision of the Project Arborist.

Tree No.	Botanical/Common Name	Radius in metres
7	<i>Lagerstroemia indica</i> (Crepe Myrtle)	2.5m

24. Canopy and Root Pruning

Canopy and/or root pruning of the following tree/s which is necessary to accommodate the approved building works must be undertaken by, or directly supervised by, the Project Arborist:

Tree 2 - *Jacaranda mimosifolia* (Jacaranda) - Origlass Park

Tree 3 - *Castanospermum australe* (Black Bean) - Origlass Park

Trees 4, 5 - *Callistemon viminalis* (Bottlebrush) - Origlass Park

Trees 6 - *Murraya paniculata* (Mock Orange) - Origlass Park

Tree 7 - *Lagerstroemia indica* (Crepe Myrtle) - Front

The person acting on this consent has approval under Council's Tree Management Controls to prune the canopies of the trees as detailed in the Arboricultural Impact Assessment report prepared by Glenyss Laws (Rev B - Appendix D) and dated 18 August 2023. Root pruning as required for the approved works only.

25. Inspections by Project Arborist

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

Tree No./ Botanical/ Common Name/ Location	Time of Inspection	Key stage/ Hold point
Tree 1 - <i>Washingtonia robusta</i> (Cotton Palm) - Origlass Park Tree 2 - <i>Jacaranda mimosifolia</i> (Jacaranda) - Origlass Park	Prior to commencement of works	<ul style="list-style-type: none"> Inspection and sign off installation of tree protection measures - Fencing for

Teee 3 - <i>Castanospermum australe</i> (Black Bean) - Origlass Park Trees 4, 5 - <i>Callistemon viminalis</i> (Bottlebrush) - Origlass Park Trees 6 - <i>Murraya paniculata</i> (Mock Orange) - Origlass Park Tree 7 - <i>Lagerstroemia indica</i> (Crepe Myrtle) - Front		Tree 7 and trunk protection for Trees 3, 4, 5. Other protection as specified by the Project Arborist.
	During Works	<ul style="list-style-type: none"> • Supervise all excavation, trenching works, landscaping works and tree/planting replenishment within the TPZ; • Supervise all tree work.

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

PRIOR TO OCCUPATION CERTIFICATE

26. Project Arborist Certification

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

27. Parking Signoff – Minor Developments

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.

28. Protect Sandstone Kerb

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

29. No Encroachments

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

ON-GOING**30. Bin Storage**

All bins are to be stored within the site.

ADVISORY NOTES**Noise**

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

Amenity Impacts General

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

Dial before you dig

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

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 131441 www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 www.environment.nsw.gov.au
Sydney Water	13 20 92 www.sydneywater.com.au

Waste Service - SITA 1300 651 116
Environmental Solutions www.wasteservice.nsw.gov.au

Water Efficiency Labelling and Standards (WELS) www.waterrating.gov.au

WorkCover Authority of NSW 13 10 50
www.workcover.nsw.gov.au

Enquiries relating to work safety and asbestos removal and disposal.

Permits from Council under Other Acts

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

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

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

Notification of commencement of works

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

- a. In the case of work for which a principal contractor is required to be appointed:

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

National Construction Code (Building Code of Australia)

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

Obtaining Relevant Certification

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

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

Other works

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

Failure to comply with conditions

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

Other Approvals may be needed

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

Infrastructure

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

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.

Notification of commencement of works

At least 7 days before any demolition work commences:

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

Prescribed Conditions

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

Arborists standards

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

Consent of Adjoining property owners

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 *Access To Neighbouring Lands Act 2000* to seek access.

Insurances

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

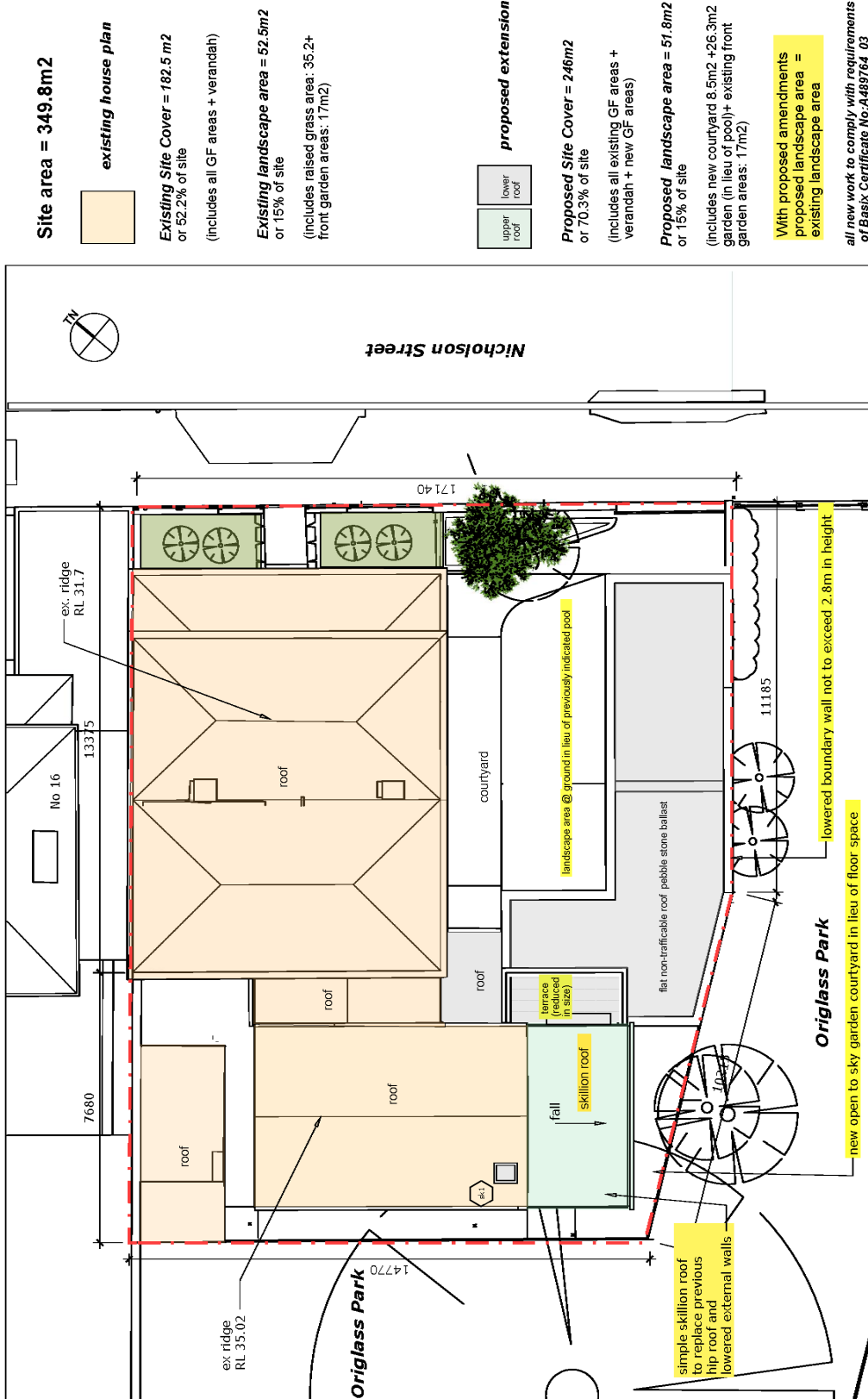
Permits

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

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip Bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;

- g. Awning or street veranda over the footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

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



Site area = 349.8m²

existing house plan

Existing Site Cover = 182.5 m²
or 52.2% of site
(includes all GF areas + verandah)

Existing landscape area = 52.5m²
or 15% of site
(includes raised grass area: 35.2+
front garden areas: 17m²)

proposed extension

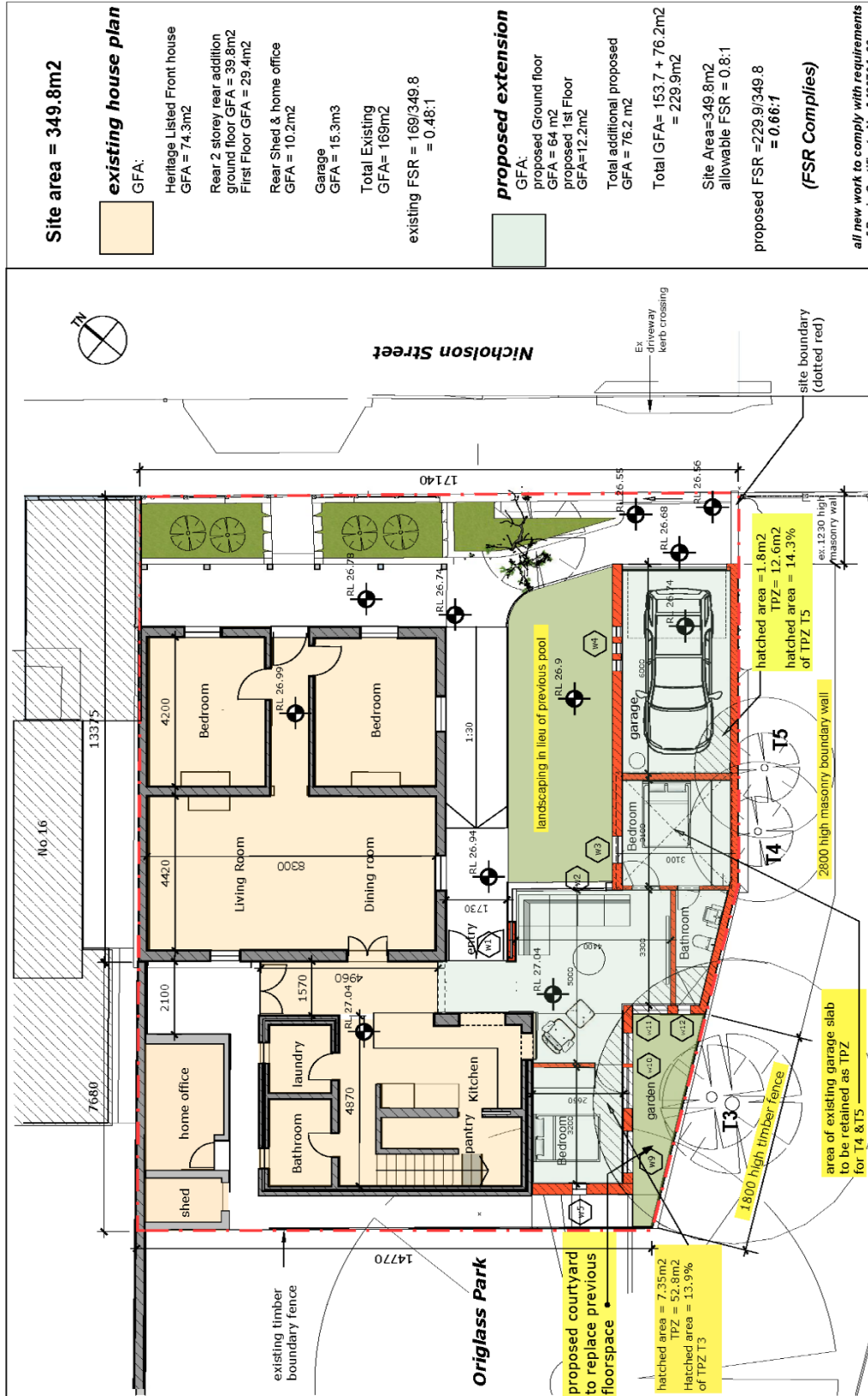
Proposed Site Cover = 246m²
or 70.3% of site
(includes all existing GF areas +
verandah + new GF areas)

Proposed landscape area = 51.8m²
or 15% of site
(includes new courtyard 8.5m² +26.3m²
garden (in lieu of pool)+ existing front
garden areas: 17m²)

With proposed amendments
proposed landscape area =
existing landscape area

all new work to comply with requirements
of Basix Certificate No. A468764_03

Revisions	Client	Architect	Project	Scale
1 April 2023 DA lodged	K & P Carr	Keith Pike Associates 148 Louisa road, Birchgrove, e-mail: kp@bigpond.net.au www.keithpikeassociates.com	14 Nicholson Street, Balmain East	1:100
2 August 2023 DA amendments version 'a'			Roof plan / site plan	Dwg No A01a
3 all changes indicated in yellow highlight				



Site area = 349.8m²

existing house plan

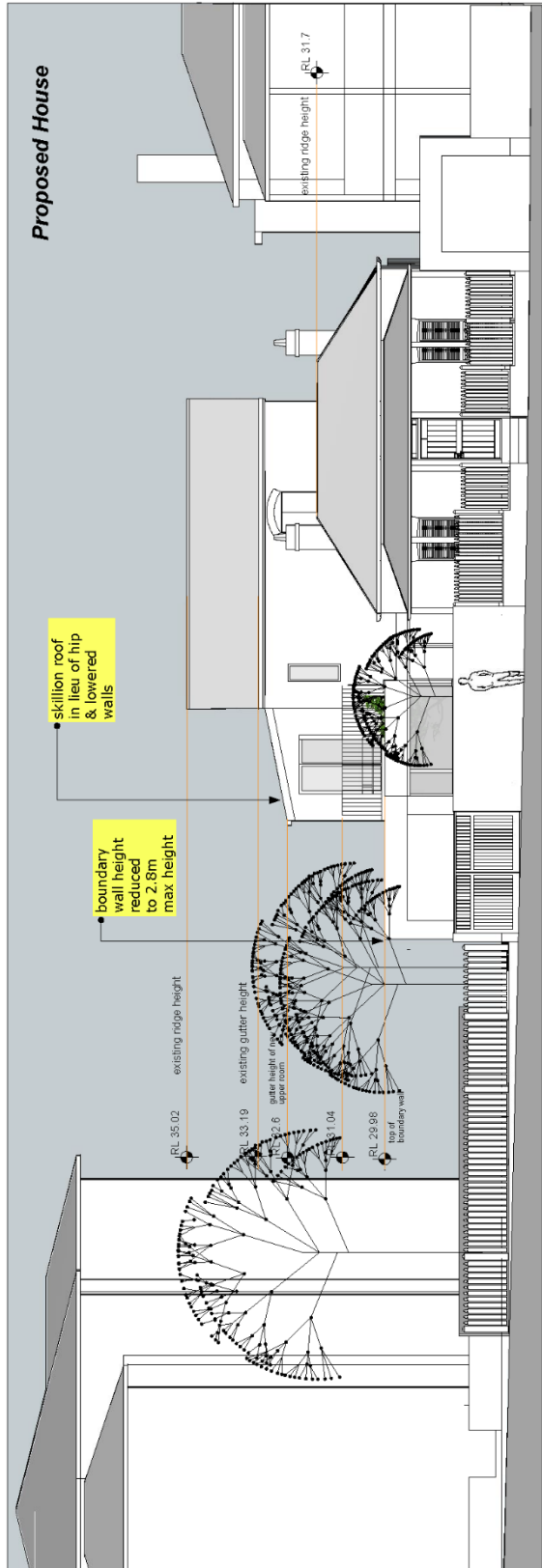
GFA:
 Heritage Listed Front house
 GFA = 74.3m²
 Rear 2 storey rear addition
 ground floor GFA = 39.8m²
 First Floor GFA = 29.4m²
 Rear Shed & home office
 GFA = 10.2m²
 Garage
 GFA = 15.3m³
 Total Existing
 GFA = 169m²
 existing FSR = 169/349.8
 = 0.48:1

proposed extension

GFA:
 proposed Ground floor
 GFA = 64 m²
 proposed 1st Floor
 GFA = 12.2m²
 Total additional proposed
 GFA = 76.2 m²
 Total GFA = 153.7 + 76.2m²
 = 229.9m²
 Site Area = 349.8m²
 allowable FSR = 0.8:1
 proposed FSR = 229.9/349.8
 = 0.66:1
(FSR Complies)

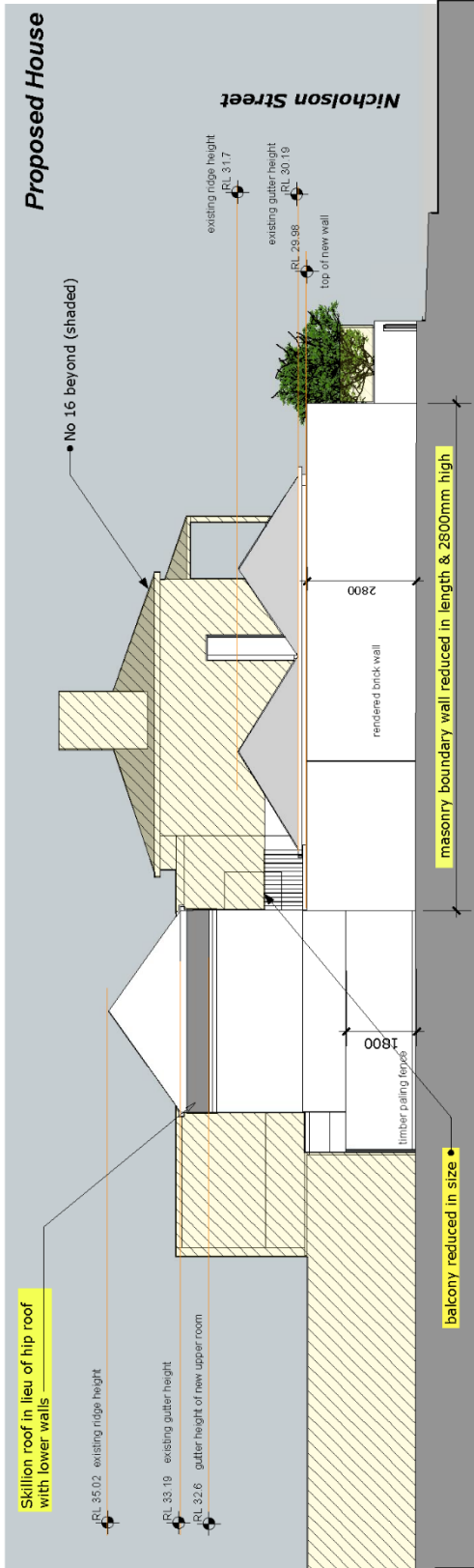
all new work to comply with requirements
 of Basix Certificate No. A489764_03

Revisions	Client:	Project	Scale
1 April 2023 DA lodged	K & P Carr	14 Nicholson Street, Balmain East	1:100
2 August 2023 DA amendments version 'a'		Ground Floor Plan	
3 all changes indicated in yellow highlight			
Keith Pike Associates 148 Louisa road, Birchgrove. e-mail: kpike@bigpond.net.au www.keithpikeassociates.com		Dwg No A02a	
		March 2023	

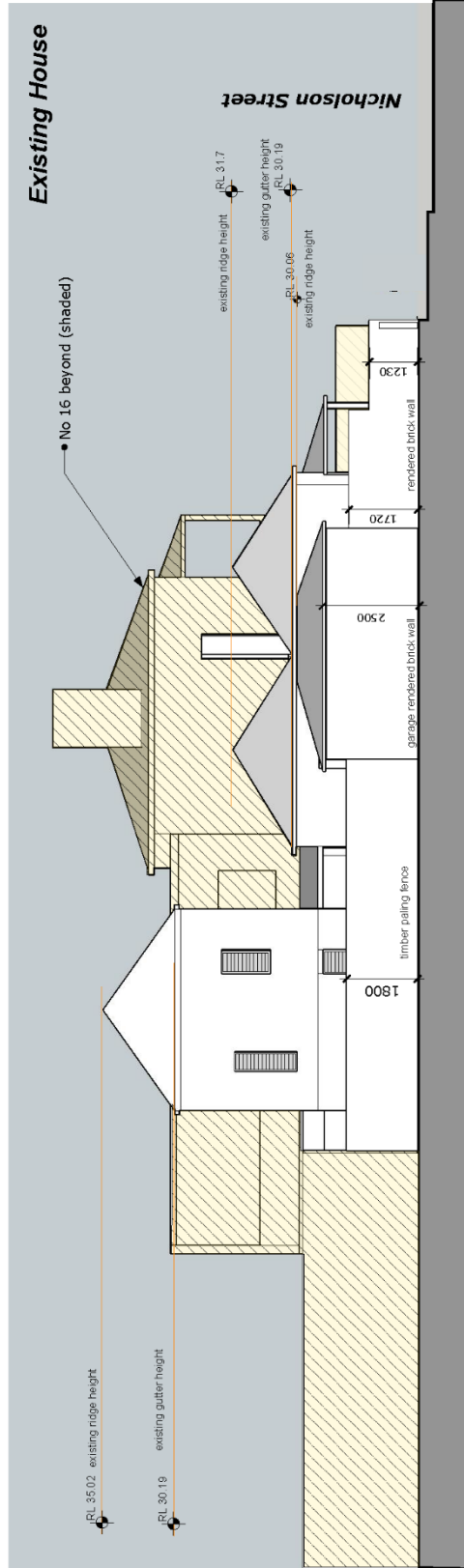


all new work to comply with requirements of Basic Certificate No. A469764_03

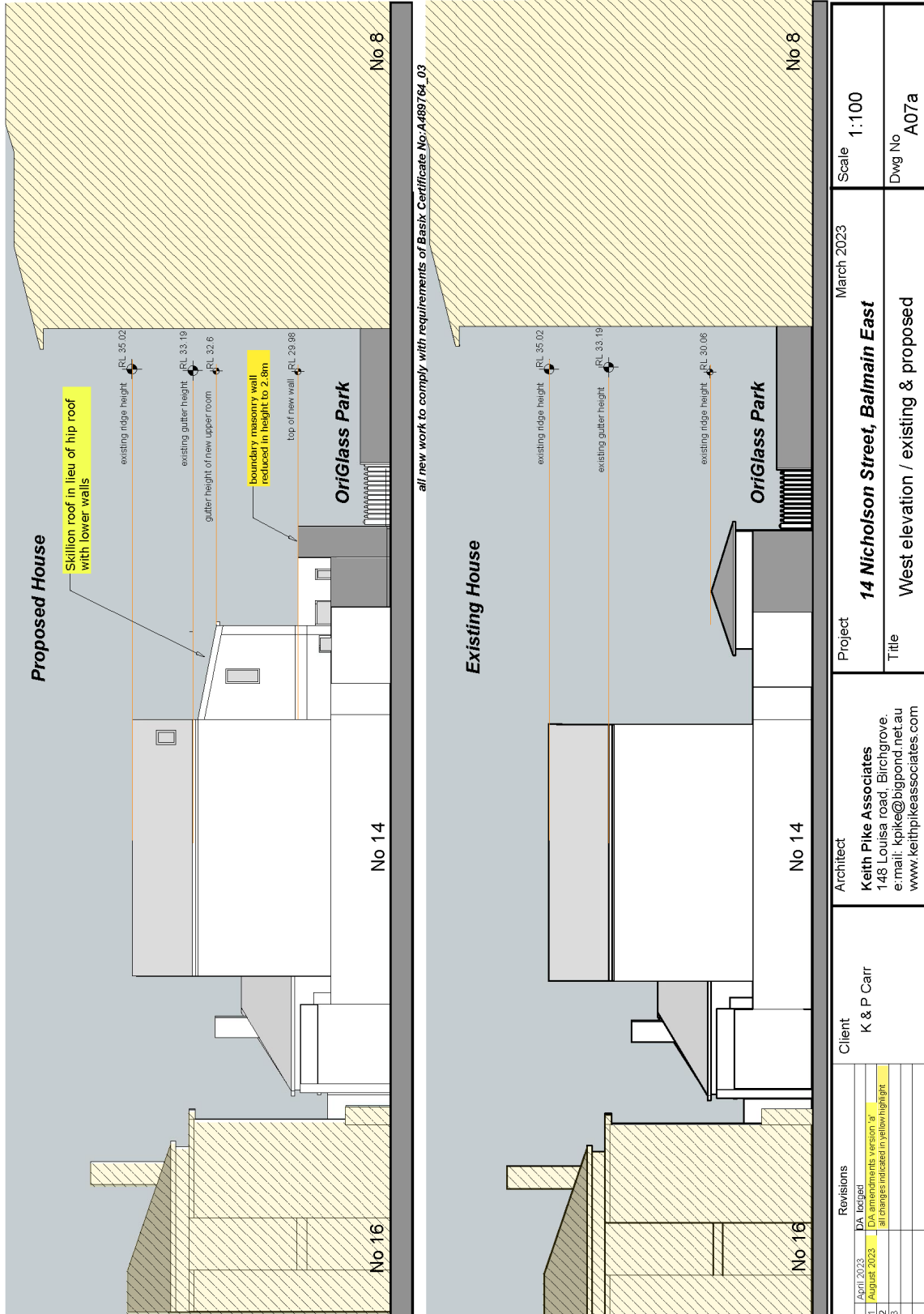
Revisions April 2023 DA lodged 1 August 2023 DA amendments version 9 2 all changes indicated in yellow highlight 3		Client K & P Carr		Architect Keith Pike Associates 148 Louisa road, Birchgrove. e-mail: kp@bigpond.net.au www.keithpikeassociates.com		Project 14 Nicholson Street, Balmain East		Scale 1:100	
				Title Proposed East Elevation / Street Elevation				Dwg No A05a	

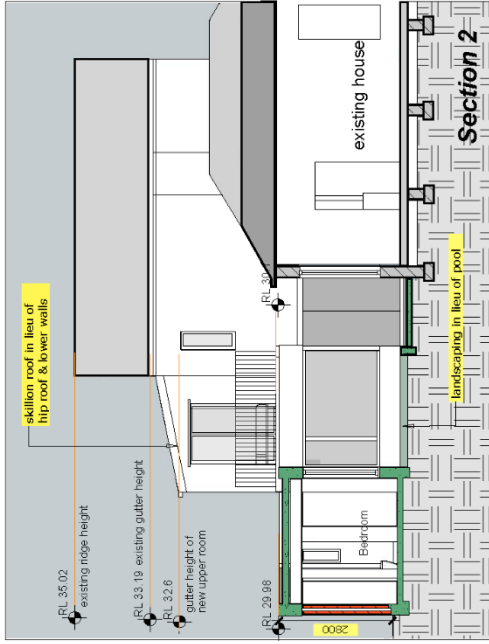


all new work to comply with requirements of Basix Certificate No.A489764_03

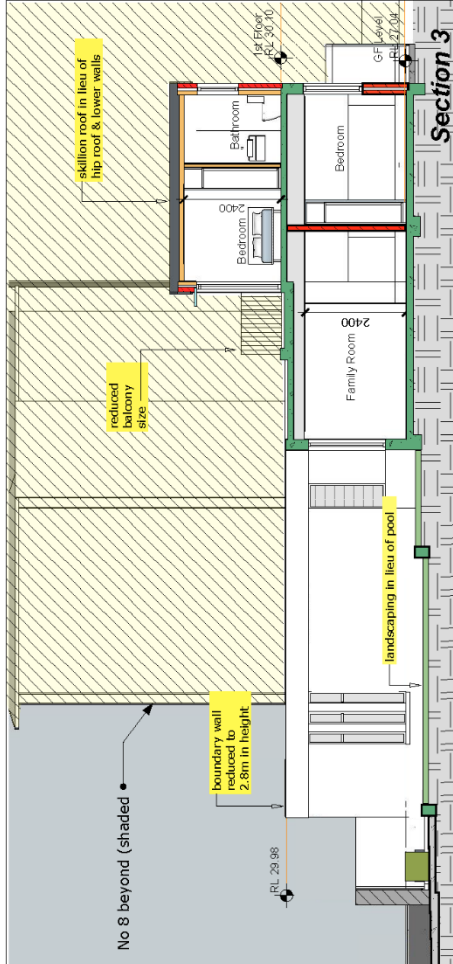
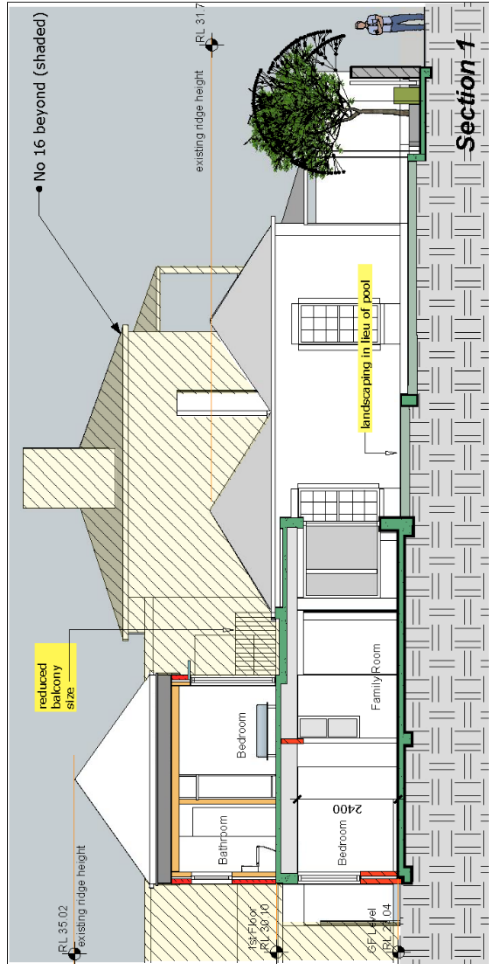
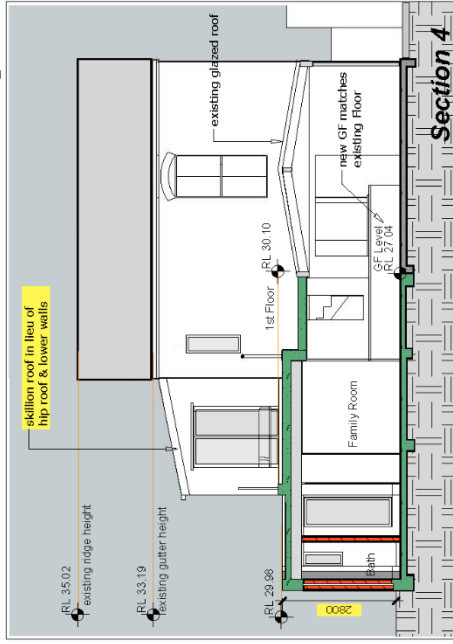


Revisions April 2023 DA lodged August 2023 DA amendments version 9 all changes indicated in yellow highlight		Client K & P Carr		Architect Keith Pike Associates 148 Louisa road, Birchgrove. e-mail: kpika@bigpond.net.au www.keithpikeassociates.com		Project March 2023 14 Nicholson Street, Balmain East		Scale 1:100
Title South elevation / existing & proposed				Dwg No A06a				

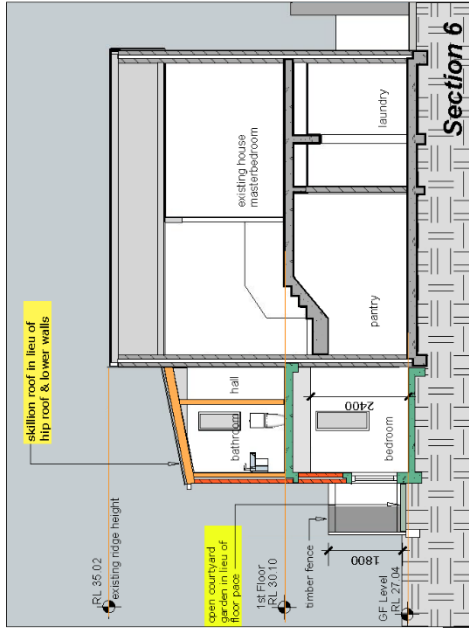




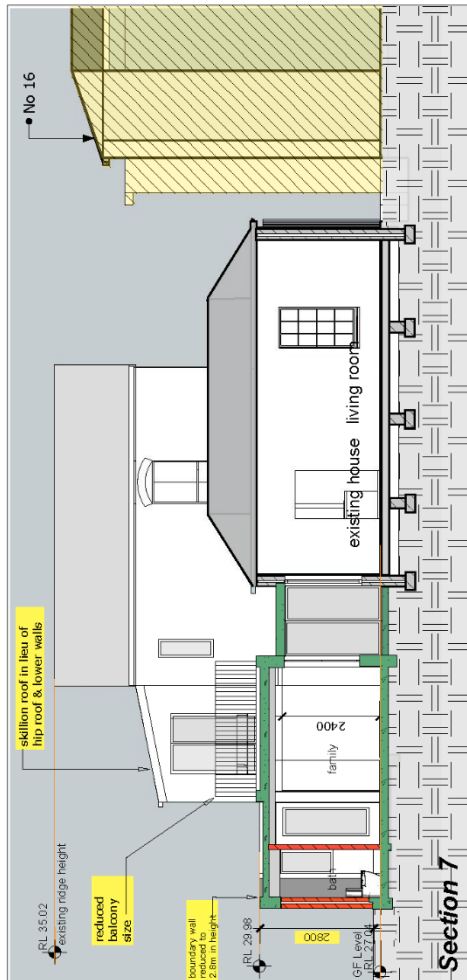
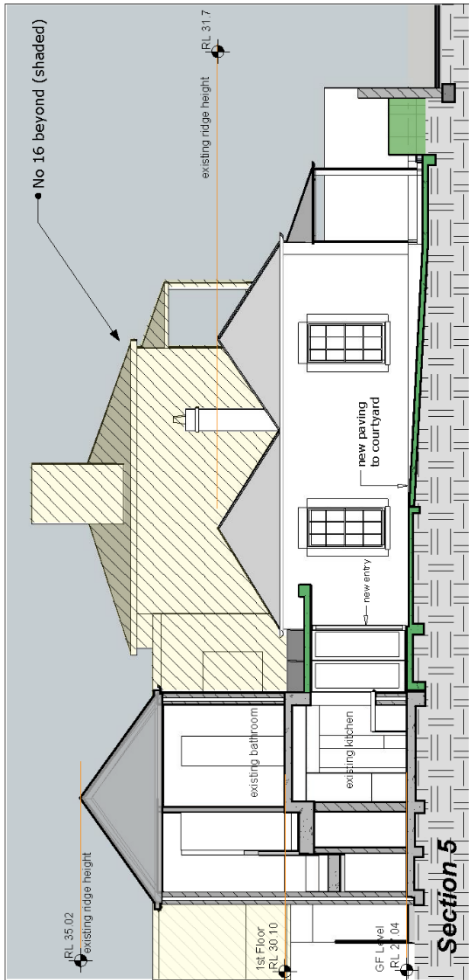
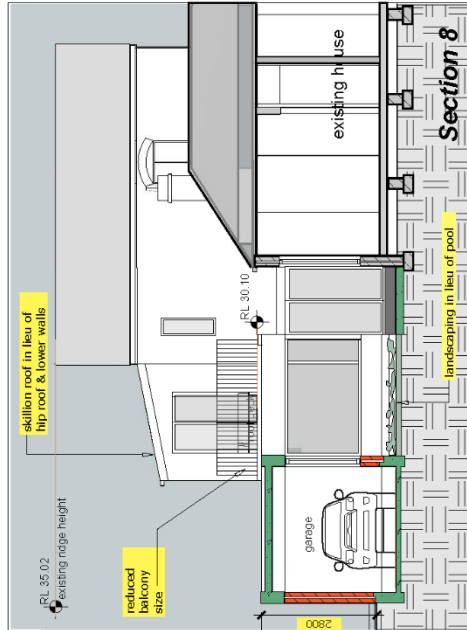
all new work to comply with requirements of Basix Certificate No. A469704_03



<p>Revisions</p> <p>1 April 2023 DA lodged</p> <p>2 August 2023 DA amendments version 9</p> <p>3 all changes indicated in yellow highlight</p>		<p>Client</p> <p>K & P Carr</p>		<p>Architect</p> <p>Keith Pike Associates 148 Louisa road, Birchgrove. e-mail: kpike@bigpond.net.au www.keithpikeassociates.com</p>		<p>Project</p> <p>14 Nicholson Street, Balmain East</p>		<p>Scale</p> <p>1:100</p>	
				<p>Title</p> <p>Sections 1, 2, 3 & 4</p>		<p>Dwg No</p> <p>A08a</p>			



all new work to comply with requirements of Basix Certificate No. A489764_03



Revisions April 2023 DA lodged August 2023 DA amendments version 9 August 2023 all changes indicated in yellow highlight 1 2 3		Client K & P Carr	Architect Keith Pike Associates 148 Louisa road, Birchgrove. e-mail: kp@bigpond.net.au www.keithpikeassociates.com	Project 14 Nicholson Street, Balmain East Title Sections 5, 6, 7 & 8	Scale 1:100 Dwg No A09a
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Proposed finishes for new works:

GF walls:
off-white cement or lime-wash

Whitening™ Book Room Green™

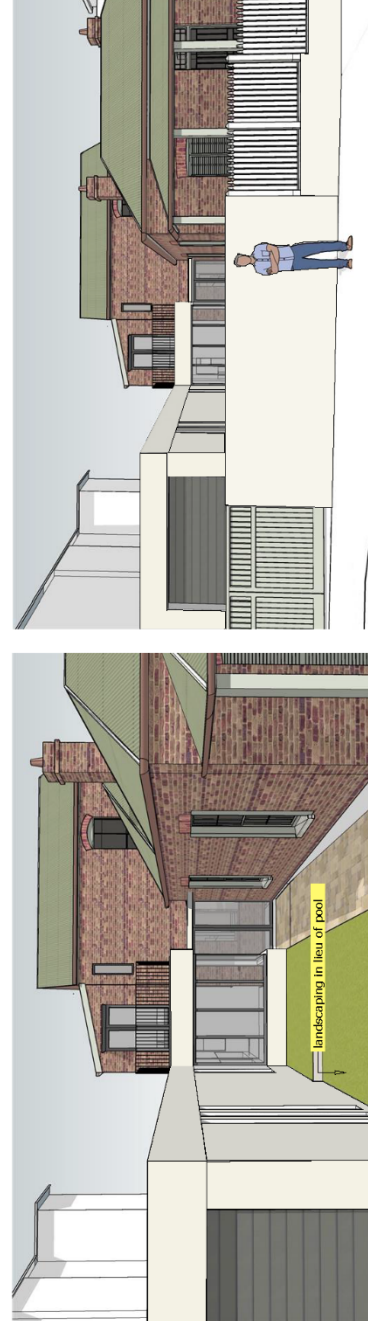
Upper floor walls & roof:
walls: brick to match rear building, roof to match rear building

Window & Door Frames:
mid Grey metal Balustrade rail to match, garage door

External paving
Travertine paving to all new external paved areas

GF Walls Facing park:
front fence & wall Off-white heritage 'Whitening' or 'Book room green

Mid Lead Colour™



all new work to comply with requirements of Basix Certificate No.A469764_03

Revisions April 2023 DA lodged 1 August 2023 DA amendments version 9 2 all amendments version 9 3 all changes indicated in yellow highlight		Architect Keith Pike Associates 148 Louisa road, Birchgrove, e-mail: kpika@bigpond.net.au www.keithpikeassociates.com	Project 14 Nicholson Street, Balmain East	Scale NTS
		Client K & P Carr	Title Finishes	Dwg No A10a

Attachment C- Section 4.6 Exception to Development Standards

REVISED STATEMENT OF ENVIRONMENTAL EFFECTS

For

Alterations and additions to existing dwelling

At

14 Nicholson Street, Balmain East

For

Mr. P & Mrs. K Carr

prepared by
Kim Burrell

Kim Burrell Town Planning Consultant
Mb: 0400 80 13 14
Email: kim@btpplan.com.au

April 2023

14 Nicholson Street, Balmain East: Statement of Environmental Effects

1. INTRODUCTION

This Statement of Environmental Effects accompanies a development application to carry out alterations and additions to the existing dwelling at 14 Nicholson Street, Balmain East, as shown in the drawings numbered Dwg No A02-09, prepared by Keith Pike Associates and dated **August 2023**.

The statement addresses the relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act* (the Act) as well as matters relating to environmental impacts required by Schedule 1 of the *Environmental Planning and Assessment Regulation 2000*. It should also be read in conjunction with the following documents that accompany the application:

- Detail and level survey, Ref No. 50279, prepared by Norton Survey Partners and dated 22.09.22
- Cover Sheet, prepared by Keith Pike Associates and dated **August 2023**.
- Basix commitments, Dwg No BC, prepared by Keith Pike Associates and dated **August 2023**.
- Demolition Plan, Dwg No A001, prepared by Keith Pike Associates and dated **August 2023**
- Site Analysis Plan, Dwg No A002, prepared by Keith Pike Associates and dated **August 2023**
- Model views, Dwg No MV1-2, prepared by Keith Pike Associates and dated **August 2023**
- Roof plan/site plan, Dwg No A01a, prepared by Keith Pike Associates and dated **August 2023**
- Finishes, Dwg No. A10a, prepared by Keith Pike Associates dated **August 2023**
- Shadow plans, Dwg. No A11-13, prepared by Keith Pike Associates and dated **August 2023**
- Stormwater Plan, Dwg. No. A14, prepared by Keith Pike Associates and dated **August 2023**
- Waste Management Plan, prepared by Keith Pike Associates
- Water Management Statement, prepared by Keith Pike Associates
- Cost report, prepared by Keith Pike Associates
- Heritage Impact Statement, prepared by Weir Phillips and dated 30.3.23.
- Arboricultural Impact Assessment Report prepared by Glenyss Laws Consulting Arborist and dated 4.4.23

This is a revised SEE for the purposes of updating the Clause 4.6 submissions as a result of amendments to the plans that including removal of the inground swimming pool and adjustment to the floor planning and the design/appearance of the addition. To assist Council, amendments to this statement are **highlighted in yellow and bold font**.

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2. LOCALITY AND SITE

The property, known as 14 Nicholson Street, Balmain East, is located on its south-western side, a short distance north of its junction with Darling Street (see Locality Plan overleaf).

The property is identified as Lot 21 in DP 706850. The land is irregular in shape with a 17.14-metre frontage to Nicholson Street, a 21.4-metre southern side boundary, 21.055 north-western side boundary and a 14.77-metre rear boundary, a site 349.8m² in size. The property rises approximately 400mm from front to rear.

A single storey late Victorian Georgian style dwelling with a twin hip, transverse metal roof as well as a concave front verandah occupies the site. The dwelling is attached to a relatively recent brick two-storey pavilion addition with a gable and matching metal roof at the rear. The property also has a detached brick garage with a hip roof on the southern side boundary as well as a detached clad studio and shed on the rear and northern side boundaries. There is a tree in the front yard and some shrubs in garden beds and planter boxes.

Locality Plan



Street view



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Development in the locality is predominately residential in a variety of style, scale and forms.

No 16 Nicholson Street, adjoins to the north, is occupied by two-storey semi-detached dwelling forming a mirror image terrace with No.18 Nicholson Street, adjoining to the north.

Adjoining to the south and rear/west of the site is Origlass Park.

No. 8 Nicholson Street adjoins Origlass to the south and it is occupied by a large three-storey brick residential flat building with a tile roof.

The property is identified as a heritage item. It is also located in the Balmain East Conservation Area and it is also located within the vicinity of No. 19 & 23 Nicholson Street, which are identified as a heritage item.

3. PROPOSAL

The proposal involves alterations and additions to the existing dwelling including a new garage as well as two bedrooms - one with ensuite and family room attached to the existing two-storey component of the house. Attached to the existing two-storey component at the rear of the house at first floor level will be a new bedroom with ensuite. The new bedroom has access to a roof terrace partly over the proposed family room. The remaining area of the single-storey addition's roof will be an inaccessible green roof.

The alterations and additions have a contemporary design with a combination of off-white brick and acrylic rendered (China white) walls and for the new garage and link to the existing two-storey pavilion and profiled metal cladding (colour – monument) to the walls of the first-floor pavilion extension. New aluminium framed windows and sliding doors.

It is also proposed to remove two Italian cypress trees adjacent to the existing garage and retain the Crepe Myrtle behind the front boundary wall.

4. STATUTORY CONTROLS

4.1 Environmental Planning and Assessment Regulation 2021

The following information additional to that in the development application itself is provided in accordance with the requirements of the *Environmental Planning and Assessment Regulation*:

The proposed development is not subject to the concurrence of any authority and does not require any of the approvals referred to in section 4.46(1) of the *Environmental Planning and Assessment Act*. The land the subject of the application is not critical habitat or part of critical habitat. The site is within a built-up residential locality and no threatened species, populations or ecological communities or their habitats are likely to be significantly affected by the proposal.

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The application is accompanied by this Statement of Environmental Effects and the additional documents listed under 1.

4.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Relevantly to the proposed development, the aims of Chapter 10 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* include that the catchment of Sydney Harbour be maintained and protected to ensure a healthy sustainable environment and to achieve a high-quality urban environment.

For land within the designated Foreshores and Waterways Area and for other specified sites, Chapter 10 requires consideration of a number of matters including environment protection, scenic quality and protection of views. The subject site, however, is not within the Foreshores and Waterways Area nor is it otherwise specified.

The proposed development will help maintain the generally high quality of the local urban environment and will not adversely affect the quantity or quality of run-off into the Harbour. It will therefore be consistent with the relevant aims of Chapter 10.

4.3 State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* aims to promote remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment by, amongst other things, specifying certain considerations that are relevant in determining development applications. Section 4.6 provides that a consent authority must not consent to the carrying out of development on land unless

- it has considered whether the land is contaminated
- if the land is contaminated, it is satisfied that the land is suitable or will, after remediation, be suitable for the proposed purpose
- it is satisfied that, if the land requires remediation, it will be remediated before being used for the proposed purpose

If the proposed development would involve a change of use on land known to have been used for a purpose scheduled in the Contaminated Land Planning Guidelines or a change of use to (amongst other things) residential purposes and there is no knowledge or incomplete knowledge whether the land has been used for a purpose scheduled in the Guidelines, the consent authority must consider a preliminary investigation report carried out in accordance with the Guidelines.

The site has been used for residential purposes for more than a hundred years and there is no reason to believe that it might have been contaminated. The proposal involves minor excavation for the ground floor footings at the rear and sides of the house and no element of the proposal will constitute a risk of contamination to occupants of the building and site.

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4.1 Inner West Local Environmental Plan 2022

Inner West Local Environmental Plan 2022 (the LEP) came into force on the 12 August 2022.

Clause 1.2 provides the aims of the plan as follows:

- (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) *to encourage development that demonstrates efficient and sustainable use of energy and resources in accordance with ecologically sustainable development principles,*
- (b) *to conserve and maintain the natural, built and cultural heritage of Inner West,*
- (c) *to reduce community risk from and improve resilience to urban and natural hazards,*
- (d) *to encourage walking, cycling and use of public transport through appropriate intensification of development densities surrounding transport nodes,*
- (e) *to facilitate economic growth and employment opportunities within Inner West,*
- (f) *to encourage diversity in housing to meet the needs of, and enhance amenity for, Inner West residents,*
- (g) *to create a high quality urban place through the application of design excellence in all elements of the built environment and public domain,*
- (h) *to prevent adverse social, economic and environmental impacts on the local character of Inner West,*
- (i) *to prevent adverse social, economic and environmental impacts, including cumulative impacts.*

Clause 2.1, **Permitted or prohibited development**, provides land uses zones and development that is permitted or prohibited. Under the LEP, the property is zoned R1 General Residential zone and the proposal involving the proposal is permissible with consent.

Clause 2.3 requires the consent authority to have regard to the objectives of the zone. The objectives of the R1 zone are:

- *To provide for the housing needs of the community.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide residential development that maintains the character of built and natural features in the surrounding area.*

The consistency or otherwise of the development with these objectives will be demonstrated through its performance against the related planning standards in the LEP and the controls of Council's DCP, as set out in the following parts of this statement.

Clause 4.3C, **Landscaped areas for residential accommodation in Zone R1**, provides objectives and standards for landscaped area. The objectives of the clause are:

- (a) *to provide landscaped areas for substantial tree planting and for the use and enjoyment of residents,*
- (b) *to maintain and encourage a landscaped corridor between adjoining properties,*

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- (c) *to ensure that development promotes the desired character of the neighbourhood,*
- (d) *to encourage ecologically sustainable development,*
- (e) *to control site density,*
- (f) *to provide for landscaped areas and private open space.*

Subclause 3(a) provides standards for landscaped area. The minimum landscaped area standard for a lot greater than 235m² in size is 20% of the site. The architect has calculated that the existing dwelling currently has 52.5m² of landscaped area, which is equivalent to 15% on a 349.8m² site and it does not comply with the standard. The proposal provides 43.7m² of landscaped area which is equivalent to 12.5% of the site and **the proposal does not comply with the standard**. Therefore, a submission pursuant to Clause 4.6 follows later in this statement.

Subclause 3(b) also provides a standard for site coverage of 60%. The architect has calculated that the site currently has 169m² of site coverage which is equivalent to 48.3% of the site. The proposal provides a site coverage of 229m² which is equivalent to 65.6% of the site and the proposal **does not comply with the standard**. Therefore, a submission pursuant to Clause 4.6 follows later in this statement.

Clause 4.4, Floor space ratio, provides objectives and a standard for floor space ratio. The objectives of this clause are:

- (a) *to establish a maximum floor space ratio to enable appropriate development density,*
- (b) *to ensure development density reflects its locality,*
- (c) *to provide an appropriate transition between development of different densities,*
- (d) *to minimise adverse impacts on local amenity,*
- (e) *to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.*

The maximum permitted FSR is 0.5:1. However, the site is located in Area D in which dwellings on lots greater than 300m² and less than 450m² in size are permitted a 0.8:1 FSR. The architect has calculated that the proposal will result in a total gross floor area of 229.9m² on a 349.8m² site which is equivalent to a **0.66:1** FSR (see Dwg. No. A02), and therefore, the proposal **complies with the standard**.

Clause 4.6, Exceptions to development standards, states:

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
 - (b) *to achieve better planning outcomes for and from development by allowing flexibility in particular circumstances*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *there are sufficient environmental planning grounds to justify contravening the development standard [and]*

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- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

Clause 4.3A, Landscaped areas for residential accommodation in Zone R1 and Clause 4.4, Floor Space Ratio are development standards that are not subject to any of the specified exclusions from the operation of clause 4.6.

Relevant Case Law

There are a number of decisions of the Land and Environment Court that are relevant to clause 4.6 departures including *Four 2 Five v Ashfield*, *Micaul Holdings Pty Ltd v Randwick City Council*, *Moskovich v Waverley Council*, as well as *Zhang v Council of the City of Ryde*.

In addition, the decision in *Initial Action Pty Ltd v Woollahra Municipal Council* (2018) NSWLEC 118 confirmed that it is not necessary for a non-compliant scheme to be a better or neutral outcome and that an absence of impact is a way of demonstrating consistency with the objectives of a development standard.

Therefore, this must be considered when evaluating the merit of the departure.

The further a decision in *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245 is authority that requires the consent authority must be satisfied that:

- The written request addresses the relevant matters at Clause 4.6 (3) and demonstrates compliance is unreasonable or unnecessary and that there are sufficient environmental planning grounds; and
- The consent authority must consider that there are planning grounds to warrant the departure in their own mind and there is an obligation to give reasons in arriving at a decision.

The approach in *Al Maha* was reinforced by *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 where the Court found that:

... in order for a consent authority to be satisfied that an applicant's written request has "adequately addressed" the matters required to be demonstrated by cl 4.6(3), the consent authority needs to be satisfied that those matters have in fact been demonstrated. It is not sufficient for the request merely to seek to demonstrate the matters in subcl (3) (which is

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the process required by cl 4.6(3)), the request must in fact demonstrate the matters in subcl (3) (which is the outcome required by cl 4.6(3) and (4)(a)(i)).

Finally, the decision in *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61 confirmed that the consent authority must be directly satisfied that the matters are adequately addressed in the written Clause 4.6 variation request.

On that basis it is necessary that:

- The consent authority must be satisfied the written request demonstrates the matters in Clause 4.6(3).
- The consent authority be satisfied the proposed development will be in the public interest because it is "consistent with" the objectives of the development standard and zone is not a requirement to "achieve" those objectives.
- The development be compatible with the objectives, rather than having to *achieve* the objectives.
- In establishing that '*compliance with the standard is unreasonable or unnecessary in the circumstances of the case*' does not always require the applicant for development to show that the relevant objectives of the standard are achieved by the proposal (the first test in the decision of *Wehbe v Pittwater Council* [2007] NSWLEC 827). Other methods are available as per the previous 5 tests applying to SEPP 1, set out in *Wehbe*.
- The proposal is required to be in '*the public interest*'.

In accordance with the guidelines provided by these decisions, this submission addresses the requirements of clause 4.6 in turn.

CLAUSE 4.3A LANDSCAPED AREA FOR RESIDENTIAL ACCOMMODATION IN ZONE R1 (LANDSCAPED AREA)

NON-COMPLIANCE

The architect has calculated that the proposal reduces the site's existing landscaped area from **52.5m²**, which is equivalent to **15%** of the site (non-compliance) to **43.7m²** and it is equivalent a **12.5%** of the site and it does not comply with the standard.

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

The judgment in *Wehbe v Pittwater Council* [2007] NSWLEC 827 identified five criteria of establishing under *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1) that compliance is unreasonable or unnecessary. The subsequent cases referred to above have confirmed that these criteria are equally applicable under the clause 4.6 regime.

1. *The objectives of the development standard are achieved notwithstanding non-compliance with the standard.* This criteria is addressed below.

The objectives of the landscaped area standard, are set out in clause 4.3A as follows:

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

To provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents:

The proposal does not comply with the standard; however, the existing dwelling currently does not. The proposal reduces the existing provision of landscaped area by removing a raised terraced lawn bed that offers little amenity for the occupants because it is elevated, it has a fractured disposition and suffers from extensive shading by existing structures on the land.

Although the site is not small by Balmain standards, it is not practical to provide areas for new substantial tree planting on this site given the fractured nature of its open space, as a result of the historical introduction of a pavilion addition in the backyard of the site to provide a visually recessive and subordinate built form to the heritage item without competing with it. Subsequently, locating the addition at the rear of the site was at the expense of its landscaped area and private open space. As a result, substantial tree planting can only be potentially provided in the remnant part and token landscaped areas which are part garden (front) and lawn (raised terrace) and part hard paved and it would further fragment space and exacerbate shading, compromising the amenity of both the outdoor spaces and the dwelling itself.

The proposal does not comply, however, the site has areas of landscaped area suitable for suitable for tree planting as confirmed by the existing crepe myrtle in the front yard and behind the front fence. **In addition, the proposal includes reinstating deep soil on the southern side of the house (between it and garage), which replaces the existing hard paved courtyard. The reinstatement of deep soil will provide the opportunity for level outdoor open space either as lawn or shrub plantings that can be used for both passive and active recreation for young children. It will have high utility value because it provides a contiguous and level area of open space rather than an elevated terrace, subsequently providing considerable use and enjoyment of the family's young children in accordance with the objective.**

To maintain and encourage a landscaped corridor between adjoining properties:

I understand that a landscaped corridor for a conventional lot means a general consistent alignment of green space between the back of house and rear boundary or between the back of house and any garage that might intervene on the rear boundary, with respect to that found on several adjoining properties. It should also be noted that generally a landscaped corridor can only be viewed from a significantly elevated position and more commonly from an aerial photograph and satellite image.

This site is not conventional in its shape and the disposition of buildings and structures occupying it appears haphazard. As previously discussed, it would appear that the siting of the more recent pavilion addition was constrained by the existing heritage item and the outbuildings associated with it. As a result, the existing site's green space does not

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contribute to a landscaped corridor. **The replacement of the existing paved courtyard with deep soil provides a continuous corridor of green space not in the same way as discussed earlier at the rear of the site but rather at the side, along the southern side boundary complementing Origlass Park whilst also providing significant environmental, streetscape and residential benefits to the site and surrounds and performing comparably to a landscaped corridor as viewed from an aerial or satellite image.**

To ensure that development promotes the desired character of the neighbourhood:

There is no specific desired character statement enunciated in either Council's LEP or its DCP. However, Part C, Section 2: Place of Council's DCP refers to Urban Character and it includes references to desired future character. It is understood that desired character and desired future character are one and the same - as the character of a neighbourhood generally relates to the existing qualities identified in the character statement that are sought to be emulated or used as an exemplar for future development.

Urban character for the former Leichhardt municipality has been categorised by suburb profile. In this instance, the site is located in the Balmain/Balmain East Suburb profile. The suburb profiles and sub-categorised into distinctive neighbourhoods and in this instance the site is located in the Balmain East Distinctive Neighbourhood and in the discrete sub-area of North of Darling Street sub area. Assessing the proposal against the suite of controls for the neighbourhood confirms that it performs well and is consistent with not only the prevailing character of the immediate locality but also the desired and future character as follows:

The Birchgrove Distinctive Precinct

Desired Future Character

Control

Development in the neighbourhood should step with the contour of the land.

Comment: The proposal follows the topography in a manner which is consistent with the built form of the neighbouring buildings.

Control

The rarity of the early Victorian, but Georgian in style, nucleus of buildings in Balmain East requires stricter controls than elsewhere on the peninsula. As a representation of early Sydney, it is of great importance to the history of the City as a whole, alongside other historic precincts such as the Rocks, and the Colonial precincts of Parramatta. While the later phases of buildings contribute to its character, and represent the phases of development, the earliest layer needs the most careful treatment. Accordingly, the scope for new development is limited and the task is largely conservation of the existing fabric while allowing complementary and incremental change.

Comment: The proposal maintains the existing heritage item and provides a sensitively designed addition to the existing pavilion addition without any unreasonable impact on the significance of the site and its setting.

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Control

Maintain the individual patterns of architectural style along each street.

Comment: The proposal maintains the individual and unique character of the existing heritage item.

Control

Preserve view lines for existing development.

Comment: The proposal maintains the view line towards the existing heritage item from the street.

Control

The predominant scale of development is two storeys.

Comment: The proposal complies by providing a part one and part two-storey scale for the proposed addition.

Control

Maintain the character of the area by keeping development consistent in architectural style, building form and materials.

Comment: The proposal is considered to be consistent with the architectural style, building form and materials of the area and maintains local character.

Control

Prevent the disruption of footpaths by discouraging additional driveway crossings.

Comment: This control is not applicable.

Control

All development is to be sympathetic to the historic and conservation values of the neighbourhood

Comment: The proposal is considered to be sympathetic to the historic and conservation values of the area as confirmed in the HIS prepared under separate cover accompanying the application.

Control

Maintain mature trees on public and private land.

Comment: The arborist report accompanying the application confirms that there are 3 trees on the site, including a crepe myrtle (T7) and 2 Italian cypress pines (T8,T9). The proposal includes the removal of the two pines. The crepe myrtle will be retained.

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There are also 5 trees within Origlass Park potentially affected by the proposal including a cotton Palm, Jacaranda and a Black bean. There is also a murraya hedge, however, the writer believes that it is not a tree in the conventional manner.

In summary, the reports states that the proposal will have no impact on the cotton Palm, however the Jacaranda will require selective limb pruning. The Black Bean (T3) immediately adjoins the proposed additions, however, it has significant codominant leaders, *and it could potentially fail* during the excavation and construction process. It has been assessed as medium retention value. Nearby there are also two bottle brush, which will be potentially impacted during the excavation stage. These trees are also considered to have medium landscape value and in the light of the potential risk to the trees, the applicant will endeavour to carefully excavate in their vicinity, however, should they not survive, the applicant will provide suitable replacements in the park to Council satisfaction. The murraya hedge should not be impacted by the proposal.

From casual observation, the trees immediately adjacent to the existing garage and boundary (T3-6) appear out of place in the park and may have been planted to screen the garage and boundary fence due to their proximity.

Control

Preserve the integrity of the escarpments. Development around escarpments is to avoid cutting, changing the topography or removing associated vegetation around the escarpment. Buildings and structures are to avoid dominating the escarpment.

Comment: This control is not applicable as the site is not located on an escarpment.

Control

This area is sensitive to overshadowing and view loss. All development activity should avoid overshadowing and blocking views.

Comment: The proposal does not result in any unreasonable shading and view loss in the locality.

Control

New or altered buildings should be sympathetic to the conservation values of the area:

- a. *in this regard all structures built prior to 1850 are rare and should be conserved. No alterations shall be approved to significant buildings without detailed assessment and recording by a heritage specialist. Where visible from the public domain, visual access shall be retained. New structures shall follow Burra Charter Principles in terms of an interpretive response, and shall be deferential, but not imitative;*

Comment: The site and the proposal has been the subject of a detailed HIS – see report prepared under separate cover.

- b. *additional driveway crossings are discouraged;*

Comment: This control is not applicable.

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- c. *new development is to step with the land contours and to respect the view lines of surrounding properties*

Comment: This control is not applicable to a site which is almost flat.

- d. *development visible from the water is to be designed to preserve the conservation values of the area when viewed from the water. Photomontage details of the proposal, as viewed from the water are to be submitted with development applications.*

Comment: This control is not applicable because the site is not visible from the water.

- e. *new development is to reflect the side setbacks established in the immediate vicinity of the site (e.g. freestanding or terrace form). This control seeks to encourage the provision of lines of sight and water views between buildings. This may require side gates to be of an open nature to permit the maintenance of side walls;*

Comment: The proposal provides side setbacks which are generally consistent with the existing building and structures on the land.

- f. *front setbacks shall be generally 0 - 2m, except where the particular context requires a deeper setback. Narrow verandahs built to the street frontage are generally appropriate to narrow streets such as Datchett, Little Nicholson and Union Streets*

Comment: The proposal complies.

Control

Appropriate materials are shaped sandstone, painted timber, and rendered or bagged masonry. Steel roofing in a 'gull grey' is the appropriate roof material in most circumstances, with slate replacing slate otherwise.
Complies.

Control

Fencing and balustrading shall be generally vertical metal or timber picket style, without ornamentation. Front fencing shall be open and not more than 1.2m high.

Comment: No change to existing.

Control

Verandah and balcony structures shall be timber or metal or a mix of both, and not include masonry elements.

Comment: This control is not applicable.

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Control

Mature trees and other significant vegetation between development and the waterfront is to be preserved.

Comment: This control is not applicable.

Control

Escarpments and stone walls are to be preserved. Construction on escarpments or cutting into stone walls (or into rock faces) is to be avoided.

Comment: This control is not applicable.

Control

Development overlooking open space is to avoid taking visual 'ownership' of the public space. This is to be achieved by setting balconies (back) 2m from the relevant boundary and designing for the privacy considerations of open space users.

Comment: The proposal complies. There is no unreasonable overlooking of open space. Overlooking is internal to the site.

Control

Development is to be consistent with any relevant Sub Area objective(s) and condition(s).

Comment: The site is located in the north of Darling Street sub area and the proposal is consistent with its objectives and controls as discussed below.

North of Darling Street Sub Area

Desired Future Character

C1 The appropriate scale of development for this area is two storeys.

Comment: The proposal provides a two-storey scale and it complies.

C2 Development in this area is to preserve existing mature trees as they contribute significantly to the amenity of the area.

Comment: This control has been discussed earlier in this statement and in the arborist report.

C3 The maximum building wall height in this area is 6m.

Comment: The building wall height control is applied to the front of buildings. The proposed additions other than the garage are located behind the existing house and the proposal generally has no impact on wall height, however, the proposed garage wall height complies.

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C4 The built form is generally freestanding single houses with side setbacks up to 1.5m.

Comment: The proposal provides additions to a free-standing house. The proposal provides setbacks which generally follow the existing on the southern and western side boundaries.

C5 Mature landscaping is to be preserved especially where it forms a visual buffer between development and the waterfront.

Comment: The proposal is not situated on the waterfront.

C6 Development is to be consistent with any relevant objectives and controls within the Balmain East Distinctive Neighbourhood.

Comment: The proposal is consistent with all relevant objectives and controls for the Balmain East Distinctive Neighbourhood as discussed earlier.

To encourage ecologically sustainable development:

The proposal is an acceptable form of ecologically sustainable development which provides for the maximisation of retention and absorption of surface drainage water on site **by replacing the existing paved courtyard with deep soil**, which minimises obstruction to the underground flow of water, enhance the quality and setting of the heritage item and the streetscape generally.

To control site density: The means of controlling site density is by a floor space ratio development standard. The proposal complies with floor space ratio and the density is acceptable.

To provide landscaped areas and private open space:

As previously discussed, the proposal provides adequate landscaped areas and private open space for a dwelling and site (heritage) currently constrained by its fractured open space which are remnants of the historical haphazard arrangement of outbuildings on the site. The proposal's provision of private open space complies with Council's requirements in terms of dimensions and size and will provide a high standard of amenity for the occupants.

2. *The objective is not relevant to the development.*

Objective (c) is not considered to be relevant to the development.

3. *The objective would be defeated or thwarted if compliance was required.*

This criteria is not applicable to the proposal.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard.*

This criteria is not applicable to the proposal.

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5. *The zoning of the land is unreasonable or inappropriate.*

This criteria is not applicable to the proposal.

Compliance with the development standard is unreasonable or unnecessary in the circumstances because the arguments set out above under 1 show that the proposed development will achieve the relevant objectives of the development standard and strict compliance with the development standard is therefore unnecessary and unreasonable.

Are there sufficient environmental planning grounds to justify contravening the development standard?

The cases referred to above have established that the environmental planning grounds must be particular to the circumstances of the proposed development on its site. The following environmental planning grounds are relevant:

- Currently, the existing site does not comply with the landscaped area development standard. **The proposal reduces the landscaped area on the site (as defined), marginally from 52.5m² to 43.7m².** The objectives of the standard refer to landscaped areas for substantial tree planting and areas for the use and enjoyment of residents. The site is large by Balmain standards but it is generally constrained by existing structures for substantial tree planting. A requirement for tree planting has to be balanced against a variety of site considerations including the location of existing structures and the risks of property damage, shading and visual softening benefits as well as the limitations they provide in tight areas used for private open space and recreation in terms of reducing their effective space. On this site, the opportunity for substantial tree planting is constrained due to the current limited space available. The backyard is non-existent and the space available in the side yard is constrained because the only deep soil is provided on an elevated terrace. The utility of the terrace is limited because it is shaded for most of the year and it requires a high standard of maintenance due to its regular muddy and dirty condition. It has low recreational value. Selecting the terrace for substantial tree planting may seem to be appropriate because of the available deep soil, however, it is unsuitable because a substantial tree would eventually dominant the space, leaving no part of the site available for active and/or passive recreation and thereby not satisfying those needs of the applicant's family.

The only reasonable location for substantial tree planting is in the site's front yard because it is relatively open and unobstructed. However, it is considered that additional substantial tree planting is not required because the front yard currently has a tree in it which is considered be an appropriate specimen and provides an acceptable contribution to the streetscape, enhancing and complementing the quality of the site and streetscape. **Alternatively, substantial tree planting could be provided in the landscaped area that replaces the current paved terrace, however, this is the only level and contiguous area of open space on the site which will provide invaluable outdoor play area for the occupant's young children. Tree planting in this space will unreasonably compromise the amenity of the play by reducing the effective play area and fracturing is contiguous character.**

- The objective of this application was to provide suitable balance of site landscaping as well private open space. The utility of the space in the side yard is

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limited because it is shaded by existing structures. The current lawned terrace is unacceptable for intensive recreational activities for the applicant's family and a more robust space is required. **The proposed landscaped courtyard satisfies this requirement because it provides a contiguous area of level lawn of reasonable size and, thereby, it will satisfy the objectives of the standard.**

Will the proposed development be in the public interest because it is consistent with the objectives of the zone?

In relation to the objectives of the R1 zone:

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

The proposal will contribute towards meeting the demand for housing in the locality.

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

The proposal will contribute towards the variety of available housing types and densities.

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

This objective is not relevant, as the proposal is only for residential use rather than non-residential.

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

The proposal provides additional accommodation for a dwelling in a manner that is maintains the character of the built and natural features in the surrounding area.

CLAUSE 4.3A LANDSCAPED AREA FOR RESIDENTIAL ACCOMMODATION IN ZONE R1 (SITE COVERAGE)

NON-COMPLIANCE

The architect has calculated that the site coverage is currently **169m²** which is equivalent to **48.3%** of the site. The proposal increases the site coverage to **229m²** which is equivalent to **65.6%** of the site, and therefore, the proposal does not comply with the standard.

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

The judgment in *Wehbe v Pittwater Council* [2007] NSWLEC 827 identified five criteria of establishing under *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1) that compliance is unreasonable or unnecessary. The subsequent cases referred to above have confirmed that these criteria are equally applicable under the clause 4.6 regime.

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1. *The objectives of the development standard are achieved notwithstanding non-compliance with the standard.* This criteria is addressed below.

The objectives of the site coverage standard are the same as landscaped area standard, which are set out in clause 4.3A as follows:

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

To provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents:

In the light of the above, site coverage is defined as that part of the site covered by buildings whilst landscaped area in summary is that part of the site capable of growing vegetation in deep soil.

The proposal increases site coverage because any additions must be removed from the existing dwelling. The existing dwelling is identified as a heritage item, primarily as a result of it being an intact single-storey late Victorian Georgian home. In heritage terms, any work to the site and the item should effectively be sub-ordinate to the original dwelling on the land. As a consequence, the majority of the proposal is provided as a single-storey addition, which on the one hand results in the additional site coverage and on the other is significantly below the permitted floor space ratio. Notwithstanding, the non-compliance with the site coverage standard, the proposal provides sufficient landscaped areas that are suitable for substantial tree planting appropriate for the site and for the use and enjoyment of residents as discussed in the previous landscaped area Clause 4.6 submission.

To maintain and encourage a landscaped corridor between adjoining properties:

I understand that a landscaped corridor means a general consistent alignment of green space between the back of house and rear boundary or between the back of house and any garage that might intervene on the rear boundary, with respect to several adjoining properties.

The site is not a conventional shape and there is no opportunity to provide a landscape corridor at the back of house in the conventional manner. Currently, it could not be regarded that the site contributes to a landscaped corridor. The only open space area available on the site is on the southern side, however, it is fragmented and the area of deep soil is small and provides limited amenity to the occupants.

Having inspected the site and the locality, it is my opinion that the at-grade green space can only be observed from an aerial photograph or from a high level within the proposed dwelling or potentially from the adjoining residential flat building to the south because its effectively screened by existing structures on the land. It is noted that a landscaped corridor exists on the southern side and at the rear of the house (Origlass Park).

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The replacement of the existing paved courtyard with deep soil provides a continuous corridor of green space not in the same way as discussed earlier at the rear of the site but rather at the side, along the southern side boundary complementing Origlass Park whilst also providing significant environmental, streetscape and residential benefits to the site and surrounds and performing comparably to a landscaped corridor as viewed from an aerial or satellite image.

To ensure that development promotes the desired character of the neighbourhood:

There is no specific desired future character statement enunciated in Council's DCP, however, when the proposal is assessed against the suite of controls for the neighbourhood, it is considered that it performs well and is consistent with the prevailing character of the immediate locality which is a determinate of desired future character (see earlier Clause 4.6 landscaped area discussion).

To provide ecologically sustainable development:

The proposal is an acceptable form of ecologically sustainable development which provides for the maximisation of retention and absorption of surface drainage water on site by incorporating a green roof, which not only provides valuable heating and cooling benefits to the dwelling as well as visual softening and minimising obstruction to the underground floor of water which will enhance the quality and setting of the heritage item and the streetscape generally.

To control site density:

This objective is not considered to be relevant because the proposal complies with FSR.

To provide landscaped areas and private open space:

As previously discussed, the proposal provides adequate landscaped areas and private open space for a heritage dwelling and site in a conservation area currently constrained by its fractured open space which are remnants of the historical haphazard arrangement of outbuildings on the site. The proposal's provision of private open space complies with Council's requirements in terms of dimensions and size and will provide a high standard of amenity for the occupants.

2. *The objective is not relevant to the development.*

Objective (c) is not considered to be relevant to the development.

3. *The objective would be defeated or thwarted if compliance was required.*

This criteria is not applicable to the proposal.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard.*

This criteria is not applicable to the proposal.

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5. *The zoning of the land is unreasonable or inappropriate.*

This criteria is not applicable to the proposal.

Compliance with the development standard is unreasonable or unnecessary in the circumstances because the arguments set out above under 1 show that the proposed development will achieve the relevant objectives of the development standard and strict compliance with the development standard is therefore unnecessary and unreasonable.

Are there sufficient environmental planning grounds to justify contravening the development standard?

The cases referred to above have established that the environmental planning grounds must be particular to the circumstances of the proposed development on its site. The following environmental planning grounds are relevant:

- A site coverage development standard is aimed at providing an appropriate balance between the area of building covering a site with curtilage around a building in order to provide landscaping, private open space, light and ventilation, which provides essential amenity and also to provide pedestrian and vehicle access. The area of building on a site also influences the site's ability to absorb rainwater.

The site is identified as a heritage item pursuant to the Inner West Local Environmental Plan 2022. Therefore, any proposed development is required to be sensitive and compatible with it. The site is also constrained due to the fractured nature of its open space, as a result of the historical introduction of a pavilion addition in the backyard of the site that provides a visually recessive built and subordinate form to the heritage item without competing with it. Subsequently, the price of locating the addition at the rear was at the expense of the site's landscaped area and private open space. Therefore, these constraints together with a requirement to comply with the floor space ratio development standard largely dictate that any additional floor space is required to be provided at grade and, thereby, increasing site cover and reducing landscape area.

The proposal, however, is considered to have satisfactorily addressed the constraints of the site whilst providing an addition that not only maintains an acceptable curtilage to the item but also landscaped area, private open space, light and ventilation to the dwelling and, as a consequence, a high standard of amenity is provided to the development without any unreasonable impacts on local residents, streetscape, the conservation area and the heritage significance of the item.

Will the proposed development be in the public interest because it is consistent with the objectives of the zone?

In relation to the objectives of the R1 zone:

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

The proposal will contribute towards meeting the demand for housing in the locality.

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

The proposal will contribute towards the variety of available housing types and densities.

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

This objective is not relevant, as the proposal is only for residential use rather than non-residential.

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

The proposal provides additional accommodation for a dwelling in a manner that is maintains the character of the built and natural features in the surrounding area.

Concurrence of the Secretary

The concurrence of the Secretary may be assumed by Council. The implications of a development application involving alterations and additions to a dwelling on the land that does not comply with the landscaped area and site coverage development standards of the Inner West LEP is local in its scope and raise no matters of significance for State or regional environmental planning.

The circumstances of the case should be balanced against the usual presumption of public benefit in maintaining a development standard. The landscaped area and site coverage of the proposed development are justified as set out above. The variations sought will enhance the utility of the existing development without significant adverse impacts on neighbouring amenity or the public domain.

Conclusion

This submission shows that, in the circumstances of the case, compliance with the development standards is unreasonable or unnecessary, that there are sufficient environmental planning grounds to justify contravening the development standards and that the proposed development will be in the public interest because it is consistent with the objectives of the development standards and with those of the R1 General Residential zone.

Clause 5.10, Heritage Conservation, provides objectives and requirements for consent when proposing development in conservation areas. The site is located in the Balmain East Conservation Area. The objectives of the clause are as follows:

- to conserve the environmental heritage of Inner West,*
- to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- to conserve archaeological sites,*
- to conserve Aboriginal objects and Aboriginal places of heritage significance*

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Subclause (2) requires consent for demolishing or altering the exterior of a heritage item and a building in a conservation area. The site is identified as a heritage item and it is also located within a conservation area and, therefore, development consent is required for the proposal.

Subclause (4) requires Council to consider the effect of the proposed development on the heritage significance of the conservation area concerned. The proposal mainly involves replacing the existing garage with a link addition on the boundary to a two-storey addition to the contemporary pavilion at the rear of the site. The proposal will not have any adverse effects on the heritage item and the conservation area as confirmed in the heritage impact assessment submitted under separate cover.

Subclause (5) states that Council may require the preparation of a heritage management document that *assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned*. The clause is not a mandatory requirement and allows Council to exercise discretion when considering the matter. Nonetheless, as discussed above, a heritage impact assessment (HIS) has been prepared under separate cover. The HIS concludes as follows:

The proposed works will have an acceptable impact as the principal building form, for which the site is significant for, will be retained with no works proposed to its exterior or interior fabric. The proposal has successfully responded to the constraints of the site with a well-designed side extension that will better facilitate contemporary living, while presenting as visually subordinate to the retained dwelling. The massing will be broken up with carefully selected high-quality materials including painted brick and profiled metal. No. 14 Nicholson Street will continue to read as a Victorian Georgian Style dwelling.

The proposed works will have a minimal and acceptable impact on the heritage item at No. 23 Nicholson Street because neither its fabric nor significant view corridors towards it will be impacted on. The additions may be visible from the item, where they will present as well-designed and visually subordinate to the retained dwelling.

The proposed works fulfil the aims and objectives of the Inner West LEP 2022 and the Leichhardt DCP 2013 by improving the quality and diversity of housing options in Balmain while respecting the heritage significance of the area in which it lies.

It is also note that the site is located within the vicinity of 2 heritage items 19 & 23 Nicholson Street. The HIS confirms that given the distance separating the site from the items and that the site is generally not within the same visual catchment, that the proposal will not have any adverse impact on them.

Clause 6.1, Acid sulfate soils, provides an objective for acid sulphate soils which is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. The land is identified on the Acid sulphate soils map as Class 5 and consent is required for works within 500 metres of adjacent Class 1, 2, 3, or 4 land that is below 5 metres Australian Height Datum and by which the water-table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land. The proposal is situated within 500 metres of adjacent Class 2 land, however, there is no

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significant excavation other than for the proposed swimming pool which should not lower the water table.

Clause 6.2, Earthworks, requires consent for *earthworks* (defined as “excavation or filling”) unless the proposed earthworks are exempt development or ancillary to development for which consent has been given. The proposed alterations and additions involve minor excavation.

In relation to the matters specified by clause 6.2(3) for consideration:

(a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development*

Comment: The design of the proposal and its construction will be managed to improve drainage patterns and soil stability on the site.

(b) *the effect of the proposed development on the likely future use or redevelopment of the land*

Comment: The proposed excavation that is ancillary to the erection of a dwelling house in accordance with the zoning of the land will not have any adverse impact on the future use or redevelopment of the land.

(c) *the quality of the fill or the soil to be excavated, or both*

Comment: Any soils removed from the site will be disposed in accordance with industry standards.

(d) *the effect of the development on the existing and likely amenity of adjoining properties*

Comment: The proposal includes excavating inside the common boundary with the park adjoining to the east, and therefore it will not have any unreasonable impacts on adjoining residential properties. The proposal includes an arborist report confirming that the proposal will potentially affect several trees in the park. However, an approval of the application can be conditioned to require both supervised tree pruning and excavation. *If T3, T4 & T5 were not to survive during excavation and/or construction, the application is happy to provide suitable replacements at their own expense to Council requirements.*

(e) *the source of any fill material and the destination of any excavated material*

Comment: Any excavated material for the proposed pool can be taken to a licensed disposal facility if required.

(f) *the likelihood of disturbing relics*

Comment: The applicant is not aware of any evidence that would suggest the site is likely to contain relics.

(g) *the proximity to and potential for adverse impacts on any waterway, drinking water catchment or environmentally sensitive area*

Comment: The site is not within close proximity to any waterway. It will not have any impact on a drinking water catchment or environmentally sensitive area.

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- (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development*

Comment: Construction in accordance with the application documentation and Council's standard conditions of approval can be expected to avoid or acceptably minimise any adverse impacts while the works are in progress.

Clause 6.3, Stormwater management, provides an objective for stormwater management and matters for consideration. The objective for stormwater management is *minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.*

The matters to be considered are addressed overleaf:

- (a) *is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and*

Comment: The proposal is considered to reasonably maximise the use of water permeable surfaces.

- (b) *includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*

Comment: The proposal's stormwater arrangements comply with council and BASIX requirements.

- (c) *avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

Comment: The proposal is considered to acceptably minimise any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters by directing stormwater to the street front.

There are no other relevant matters for consideration.

4.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP) aims to encourage sustainable residential development. The BASIX Scheme established under the Regulation to the Act requires an application for certain kinds of residential development to be accompanied by a list of commitments as to how the development will be carried out.

The BASIX SEPP overrides any provision of another environmental planning instrument that would otherwise modify any sustainability commitments required for residential development under the BASIX Scheme.

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A BASIX certificate accompanies the application.

4.3 Environmental Planning and Assessment Regulation 2021

The following information additional to that in the development application itself is provided in accordance with the requirements of the *Environmental Planning and Assessment Regulation*:

The proposed development is not subject to the concurrence of any authority and does not require any of the approvals referred to in section 4.46(1) of the *Environmental Planning and Assessment Act*. The land the subject of the application is not critical habitat or part of critical habitat. The site is within a built-up residential locality and no threatened species, populations or ecological communities or their habitats are likely to be significantly affected by the proposal.

The application is accompanied by this Statement of Environmental Effects and the additional documents listed under 1.

4.4 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Relevantly to the proposed development, the aims of Chapter 10 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* include that the catchment of Sydney Harbour be maintained and protected to ensure a healthy sustainable environment and to achieve a high-quality urban environment.

For land within the designated Foreshores and Waterways Area and for other specified sites, Chapter 10 requires consideration of a number of matters including environment protection, scenic quality and protection of views. The subject site, however, is not within the Foreshores and Waterways Area nor is it otherwise specified.

The proposed development will help maintain the generally high quality of the local urban environment and will not adversely affect the quantity or quality of run-off into the Harbour. It will therefore be consistent with the relevant aims of Chapter 10.

4.5 State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* aims to promote remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment by, amongst other things, specifying certain considerations that are relevant in determining development applications. Section 4.6 provides that a consent authority must not consent to the carrying out of development on land unless

- it has considered whether the land is contaminated
- if the land is contaminated, it is satisfied that the land is suitable or will, after remediation, be suitable for the proposed purpose
- it is satisfied that, if the land requires remediation, it will be remediated before being used for the proposed purpose

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If the proposed development would involve a change of use on land known to have been used for a purpose scheduled in the Contaminated Land Planning Guidelines or a change of use to (amongst other things) residential purposes and there is no knowledge or incomplete knowledge whether the land has been used for a purpose scheduled in the Guidelines, the consent authority must consider a preliminary investigation report carried out in accordance with the Guidelines.

The site has been used for residential purposes for more than hundred years and there is no reason to believe that it might have been contaminated. The proposal involves minor excavation and construction of new concrete floor slabs and no element of the proposal will constitute a risk of contamination to occupants of the building and site.

4.6 Leichhardt Development Control Plan 2013

The Leichhardt Development Control Plan (DCP) supplements the provisions of the Leichhardt LEP 2013. The DCP came in effect on 3rd February 2013.

Leichhardt Development Control Plan (the DCP) supplements the LEP by providing detailed guidelines and controls for new development. The DCP includes the urban character that is broken down by suburb and distinctive neighbourhood in the Municipality in which development is to "fit" with by compliance with controls as well as provisions for residential and non-residential development, energy management, sustainable water and risk management, site specific controls as well as building typologies.

PART C: PLACE

SECTION 1 – GENERAL PROVISIONS

Character – The proposal's character is generally consistent and compatible with the existing building and is appropriate in the local context (See comments earlier in this statement as well as the HIS).

Scale – The scale of the proposal is consistent with the diverse form and scale of the streetscape and the immediate adjoining neighbours.

Form – The shape, volume and arrangement of the alterations and additions to the existing dwelling are balanced and complementary. The addition is complementary to the existing dwelling's form by its contrast and is compatible with the style of the existing building whilst reflecting the elements of other buildings in the locality.

Siting – The siting of the proposed additions is generally consistent with the existing house and structures on the land.

Materials and colour – The proposal provides modern materials, textures and finishes which will complement those used in the locality and in harmony with the local context.

Detailing – The proposal provides detailing to the elevations, complementing the architecture of the existing house and the character of the locality generally.

Legible – The proposal provides a visually interesting building form, which contributes to the legibility of the locality.

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Activated – The proposal has no significant impact on the original building's appearance as it is viewed from the public domain, that is, the primary Nicholson Street frontage.

C1.1 SITE AND CONTEXT ANALYSIS

A site analysis plan has been submitted with the application (See Dwg No. A002).

C1.3 ALTERATIONS AND ADDITIONS

General provisions

C1 The overall form of alterations and additions shall:

- a. *have regard to the provisions within Appendix B – Building Typologies of this Development Control Plan;*

Comment: The relevant building typology applying to the proposal is the "Cottage". The proposal generally retains the existing cottage's curtilage and setting, retains the presentation and form of the building to the street; its single-storey scale, roof form and façade proportions and provides a two-storey addition compatible with the existing pavilion at rear of site.

- b. *be compatible with the scale, form and material of the existing dwelling and adjoining dwellings, including wall height and roof form;*

Comment: The proposal is compatible with the scale, form and materials of the existing dwelling including wall height and roof form.

- c. *retain any building and streetscape consistencies which add positively to the character of the neighbourhood (e.g. architectural details, continuous rows of dwellings, groups of similar dwellings, or the like);*

Comment: The existing building addressing the street is a heritage item and it will be retained. Only the existing garage will be demolished and replaced with a new contemporary link to the more recent two-storey pavilion addition at the rear of the house.

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

Comment: The proposal maintains the integrity of the streetscape and heritage significance by introducing the new additions generally behind the existing front building line.

- e. *be considered from all public vantage points from which the additions will be visible; and*

Comment: The proposal will be visible from the street front as well as Origlass Park, however, it will be compatible with the existing dwelling and local built form.

- f. *achieve the objectives and controls for the applicable desired future character*

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Comment: As discussed later in this statement the proposal is considered to satisfy the objectives and controls for the local desired future character.

C5 *New materials and fenestrations of alterations and additions shall be compatible with the existing building.*

Comment: The materials and fenestration for the alterations and additions are compatible with the existing building.

C6 *The reconstruction of posted verandahs is encouraged where consistent with the architectural style of the building and suitable evidence of original verandahs is on that property.*

Comment: Not applicable.

For alterations and additions to the rear of an existing dwelling – on any level

The relevant controls are commented on below:

C9 *Alterations or additions to the rear of an existing building are to:*

- a. *be of a building height that complies with the objectives and controls of the Site Layout and Building Design Part C3.2 of this Development Control Plan;*

Comment: The proposal provides a building height that complies with this part.

- b. *maintain an area of useable private open space in accordance with Part C Section 3.8 – Private Open Space of this Development Control Plan;*

Comment: It provides useable private open space in accordance with Part C 3.8 as discussed later in this statement.

- c. *be of minimum visibility from the street (refer to Figure C1);*

Comment: The proposal provides a new simple and sensitive garage to the street front that will replace the existing. The garage provides a single-storey link extension to an addition to the existing two-storey pavilion at the rear of the existing house. It is considered to be of minimum visibility from the street.

- d. *comply with any other relevant residential development controls within this Development Control Plan.*

Comment: The proposal generally complies with other relevant development controls in Council's DCP.

C11 *Alterations and additions above ground floor level shall:*

- a. *comply with the appropriate provisions within Appendix B – Building Typologies of this Development Control Plan;*

Comment: As discussed elsewhere, the proposal generally complies with Appendix B – see earlier discussion.

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b. maintain setback patterns within surrounding development;

Comment: The addition generally maintains the pattern of existing setbacks other than providing a marginally shorter front setback for the replacement garage however it is acceptable in the local context given its subordinate nature.

c. be subordinate to the existing building so that the additions do not dominate the building from the public domain.

Comment: The additions are also subordinate to the existing building as discussed earlier in statement.

C10 *Where rear additions are visible from the public domain due to street layout or topography, maintaining original roof form is preferred and new additions are to be sympathetic to that form.*

Comment: The proposal provides a two-storey addition to the existing two-storey pavilion at the rear of the house in a manner that is considered to be sympathetic to that form.

C11 *Alterations and additions above ground floor level shall:*

a. comply with the appropriate provisions within Appendix B – Building Typologies of this Development Control Plan;

Comment: As discussed elsewhere, the proposal generally complies with Appendix B.

b. maintain setback patterns within surrounding development;

Comment: The proposal's setbacks are generally consistent with the pattern within surrounding development.

c. be subordinate to the existing building so that the additions do not dominate the building from the public domain.

Comment: As previously stated, the proposal is subordinate to the existing building and well removed from the street front. The first-floor addition will not dominate the public domain because it is a visually recessive element. The proposal includes a link from the replacement garage to the existing rear pavilion. It is a single-storey element and it will not be visually dominating because it is only visible from the access handle of the reserve and largely screened by existing trees in the public domain of the park.

C12 *Additions at first floor level and above shall:*

a. maintains visual separation between the existing building and adjoining residential development; and

Comment: The proposal maintains an acceptable standard of visual separation between the existing building and adjoining residential development.

b. maintains setback patterns of surrounding development; and

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Comment: The proposal generally maintains the setback patterns of surrounding development.

- c. *will ensure that the addition does not dominate, but is sub-ordinate to the existing dwelling when viewed from the street.*

Comment: This control has been discussed adequately earlier in this statement.

C13 *Any first floor and above additions to the side of the dwelling will not be supported where they detract from the detached or semi-detached nature of the streetscape or the existing dwelling.*

Note: where an existing side setback exists, consideration of access for people and equipment for future maintenance and construction should occur, particularly if the side setback is the only point of access to the rear of the site.

Comment: As discussed elsewhere in this statement, the additions are set well to rear of the existing house and will not detract from the diverse character of the streetscape or the existing dwelling.

C14 *Any first floor and above additions attached to the rear of the existing roof form is to:*

a. *be subordinate to that roof form,*

i. *where attached to the existing roof form be set 300mm below the ridgeline*

ii. *enable the original roof form to be apparent from the public domain by:*

Comment: The rear first-floor addition is attached to an existing two-storey pavilion which is currently attached to the principal roof by an existing roof link and it is acceptably set well back and the new addition allows the original roof form to remain apparent from the public domain.

- *setting the additions back from the external face of the existing side roof plane (so the gable, hip or original parapet roof form is retained); or*

Comment: Not applicable.

- *comprising a rear sub roof linking the existing roof to additions that appear as a separate roof form to that of the existing dwelling. Any proposed link must be set 300mm below the existing ridgeline.*

Comment: No change to the existing.

Roof forms for alterations and additions

C15 *Appropriate roof forms for rear additions depend on the context of the site, and may include:*

a. *pitched in form to match the predominant roof forms of the original property and / or its context; or*

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Comment: As discussed elsewhere in this statement, the proposal provides a combination of pitched roof form to match the existing pavilion's pitched gable roof and a parapet green roof for the single-storey addition as a sub-ordinate form and it is acceptable in the local urban and park context.

- b. boxed in form where not incongruous in the context, and where this approach reduces the visual impact of the addition, such that it is not overtly visible from the street; or*

Comment: The proposal is not a boxed in form. The proposal is not overtly visible from the street.

- c. a hybrid of roof forms where the appearance of the addition from the street is not overtly visible and is compatible with the Appendix B – Building Typologies of this Development Control Plan.*

Comment: See earlier comments.

- C16** *Where roof links are proposed to connect the original roof space to the new addition, they are to:*
- a. be of minimal scale and proportion (up to a maximum of 50% of the rear roof plane) and are to provide a link only. Roof links which span the whole rear roof plane will not be supported;*
 - b. preserve the unity of the row, preserve chimneys and traditional scale and proportion in the street;*
 - c. not raise the roof ridge for the purpose of an internal room's compliance with the Building Code of Australia; and*
 - d. be located below the original ridge line, including clerestory roofs.*

Comment: Not applicable.

C1.4 HERITAGE CONSERVATION AREAS AND HERITAGE ITEMS

The development maintains the characteristics and is consistent with the objectives and controls for the building type. As previously stated, the proposal is consistent with the cottage building typology applicable to the proposal and its design is acceptable in the local context.

The fabric of the existing dwelling's exterior will be maintained. The proposal also maintains the form of the internal walls and the twin hip roof form.

The proposal maintains the existing dwelling's major form, scale and materials. The proposal uses materials such as off-white and rendered brick veneer for the ground floor addition which will complement the existing house by contrast. The two-storey addition will be clad in profiled dark metal in order to be a visually recessive shadow form or silhouette in the background.

The addition does not dominate the existing building or substantially change the relationship of the building to the street when viewed from the street.

C1.7 SITE FACILITIES

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14 Nicholson Street, Balmain East: Statement of Environmental Effects

Rubbish bins will be concealed from public view. A Site Waste Minimisation and Management Plan can be submitted with a construction certificate.

The dwelling currently has a mail box.

More than 6 cubic metres of storage has been provided for the dwelling.

Clothes drying will not be visible from the street and laundry facilities provided in the dwelling.

C1.12 LANDSCAPING

The planting of the green roof can be confirmed by standard condition.

C1.21 GREEN ROOFS AND GREEN LIVING WALLS

C1. The green roof will be accessible from the building for maintenance purposes.

C2 As a condition of approval a maintenance report will be submitted, prepared by a suitably qualified person, outlining the care and maintenance strategy for the first two (2) years of the green roof and will include (at a minimum) the following detail:

- a. strategy for any leaks or weaknesses in the membrane;
- b. watering in dry periods (if an irrigation system has not been connected to a water supply);
- c. removal of weeds;
- d. light fertilization with slow release complete fertilizers; and
- e. the replacement of dead plants.

C3 As a condition of approval, installers of the green roof will have experience with green roof systems.

C4 The green roof will be structurally sound and able to be appropriately waterproofed. Evidence of this in documentation from a qualified Structural Engineer and waterproofing specialist can be provided by standard condition.

C5 The materials used in the construction of the green roof will be hardy and long lasting in external environments so minimal upkeep is required, and materials will be also be environmentally friendly with respect to the amount of energy and water consumed.

C6 The green roof will not detract from the heritage significance of a building that is a Heritage Item or part of a Heritage Item as confirmed in the HIS accompanying the application.

SECTION 2 – URBAN CHARACTER

C2.1 SUBURB PROFILE

The site is within the Balmain East Distinctive Neighbourhood precinct. The following table shows how the proposed development responds to the controls for the desired future character of the locality.

The Birchgrove Distinctive Precinct

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14 Nicholson Street, Balmain East: Statement of Environmental Effects

Desired Future Character

CONTROL	PROPOSAL
<i>Development in the neighbourhood should step with the contour of the land.</i>	Complies. It follows the topography in a manner which is consistent with the built form of the neighbouring buildings.
<i>The rarity of the early Victorian, but Georgian in style, nucleus of buildings in Balmain East requires stricter controls than elsewhere on the peninsula. As a representation of early Sydney, it is of great importance to the history of the City as a whole, alongside other historic precincts such as the Rocks, and the Colonial precincts of Parramatta. While the later phases of buildings contribute to its character, and represent the phases of development, the earliest layer needs the most careful treatment. Accordingly, the scope for new development is limited and the task is largely conservation of the existing fabric while allowing complementary and incremental change.</i>	Complies. The proposal maintains the existing heritage item and provides a sensitively designed addition to the existing pavilion addition without any unreasonable impact on the significance of the site and its setting.
<i>Maintain the individual patterns of architectural style along each street.</i>	Complies. The proposal maintains the individual and unique character of the existing heritage item.
<i>Preserve view lines for existing development.</i>	Complies. It maintains the view line towards the existing heritage item from the street.
<i>The predominant scale of development is two storeys.</i>	Complies. The proposal complies by providing a part one and part two-storey scale for the proposed addition.
<i>C6. Maintain the character of the area by keeping development consistent in architectural style, building form and materials.</i>	Complies. The proposal is considered to be consistent with the architectural style, building form and materials of the area and maintains local character.
<i>C7. Prevent the disruption of footpaths by discouraging additional driveway crossings.</i>	Not applicable.
<i>C8 All development is to be sympathetic to the historic and conservation values of the neighbourhood.</i>	Complies. The proposal is considered to be sympathetic to the historic and conservation values of the area – see also HIS accompanying the application prepared under separate cover.
<i>C9. Maintain mature trees on public and private land.</i>	See discussion earlier in this statement.
<i>C10. Preserve the integrity of the escarpments. Development around escarpments is to avoid cutting, changing the topography or removing associated</i>	Not applicable.

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14 Nicholson Street, Balmain East: Statement of Environmental Effects

<i>vegetation around the escarpment. Buildings and structures are to avoid dominating the escarpment.</i>	
<i>C11. This area is sensitive to overshadowing and view loss. All development activity should avoid overshadowing and blocking views.</i>	Complies. The proposal does not result in any unreasonable shading and view loss in the locality.
<i>C12. New or altered buildings should be sympathetic to the conservation values of the area: a. in this regard all structures built prior to 1850 are rare and should be conserved. No alterations shall be approved to significant buildings without detailed assessment and recording by a heritage specialist. Where visible from the public domain, visual access shall be retained. New structures shall follow Burra Charter Principles in terms of an interpretive response, and shall be deferential, but not imitative;</i>	Complies. See HIS prepared under separate cover that accompanies the application.
<i>b. additional driveway crossings are discouraged;</i>	Not applicable – discussed earlier.
<i>c. new development is to step with the land contours and to respect the view lines of surrounding properties;</i>	Not applicable for a site which is almost flat.
<i>d. development visible from the water is to be designed to preserve the conservation values of the area when viewed from the water. Photomontage details of the proposal, as viewed from the water are to be submitted with development applications</i>	The site is not visible from the water.
<i>e. new development is to reflect the side setbacks established in the immediate vicinity of the site (e.g. freestanding or terrace form). This control seeks to encourage the provision of lines of sight and water views between buildings. This may require side gates to be of an open nature to permit the maintenance of side walls;</i>	Complies. The proposal provides side setbacks which are generally consistent with the existing building and structures on the land. There is no unreasonable view loss.
<i>f. front setbacks shall be generally 0 - 2m, except where the particular context requires a deeper setback. Narrow verandahs built to the street frontage are generally appropriate to narrow streets such as Datchett, Little Nicholson and Union Streets</i>	Complies.
<i>C13. Appropriate materials are shaped sandstone, painted timber, and rendered or bagged masonry. Steel roofing in a 'gull grey' is the appropriate roof material in</i>	Complies.

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<i>most circumstances, with slate replacing slate otherwise.</i>	
<i>C14. Fencing and balustrading shall be generally vertical metal or timber picket style, without ornamentation. Front fencing shall be open and not more than 1.2m high.</i>	No change to existing.
<i>C15. Verandah and balcony structures shall be timber or metal or a mix of both, and not include masonry elements.</i>	Not applicable.
<i>C16. Mature trees and other significant vegetation between development and the waterfront is to be preserved.</i>	Not applicable.
<i>C17. Escarpments and stone walls are to be preserved. Construction on escarpments or cutting into stone walls (or into rock faces) is to be avoided.</i>	Not applicable.
<i>C18. Development overlooking open space is to avoid taking visual 'ownership' of the public space. This is to be achieved by setting balconies (back) 2m from the relevant boundary and designing for the privacy considerations of open space users.</i>	Complies. There is no unreasonable overlooking of open space.
<i>C10. Development is to be consistent with any relevant Sub Area objective(s) and condition(s).</i>	Complies. The proposal is consistent with the sub-area objectives and controls as discussed below.

North of Darling Street Sub Area

Desired Future Character

C1 The appropriate scale of development for this area is two storeys.

Comment: The proposal provides a two-storey scale and it complies.

C2 Development in this area is to preserve existing mature trees as they contribute significantly to the amenity of the area.

Comment: See discussion earlier in this statement.

C3 The maximum building wall height in this area is 6m.

Comment: The building wall height control is applied to the front of buildings. The proposed additions other than the garage are located behind the existing house and the proposal generally has no impact on wall height, however, the proposed garage wall height complies.

C4 The built form is generally freestanding single houses with side setbacks up to 1.5m.

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Comment: The proposal provides additions to a free-standing house. The proposal provides setbacks which generally follow the existing on the southern and western side boundaries.

C5 Mature landscaping is to be preserved especially where it forms a visual buffer between development and the waterfront.

Comment: The proposal is not situated on the waterfront. See also earlier discussion.

C6 Development is to be consistent with any relevant objectives and controls within the Balmain East Distinctive Neighbourhood.

Comment: The proposal is consistent with all relevant objectives and controls for the Balman East Distinctive Neighbourhood as discussed earlier.

SECTION 3 – RESIDENTIAL PROVISIONS

C3.1 RESIDENTIAL GENERAL PROVISIONS

The proposal will not have an adverse effect on the amenity, setting or cultural significance of the place.

The proposal has no unreasonable impact on the significance of the heritage item and the Conservation Area.

The additions to the dwelling are generally located in accordance with the controls – at the rear of the existing building when viewed from the principal street frontage. Furthermore, it is:

- subservient to the form of the existing building;
- maintains the form, fenestration, roof forms of the existing building when viewed from the principal street frontage;
- of a design which is compatible with but does not compete with the architectural character of the existing building or its neighbours;
- of a scale, proportion (including proportion of doors and openings) and material which is compatible with the existing building.

C3.2 SITE LAYOUT AND BUILDING DESIGN

Site capacity -The site has sufficient capacity to accommodate the development including buildings, structures, setbacks and separation distances, access, landscaped open space, having regard to site characteristics and constraints.

Local Character - the siting of the proposal and its design respects and enhances the natural landscape attributes of the local character and streetscape.

Building location zone – There is no consistency in the rear building lines of dwellings in the immediate locality because of the variety of the building stock in it, lot size and building footprint (variable front and rear setbacks).

The Building Location Zone (BLZ) is established by averaging building lines of dwellings on either side. The proposal has no impact on the existing BLZ. The rear addition maintains the setback of the existing two-storey pavilion addition and it is acceptable.

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Side boundary setbacks – The setback is determined by a graph and it permits a 2800mm high wall on the boundary. The proposal provides a 6150mm wall height for the two-storey addition and a part 3100mm and part 4100mm wall height for the garage connection to pavilion and therefore the proposal does not comply with the control.

The proposal does not comply with the control, however, it is considered to be acceptable because it satisfies the discretionary provision to allow a departure for the following reasons:

- The development is consistent with the relevant building typology
- The pattern of development is not compromised.
- The proposed setbacks are consistent with the existing.
- The bulk and scale of the development is minimised by reduced floor-to-ceiling heights. noting that the proposed addition matches the height as well as the eaves and gutter line of the existing pavilion at the rear of house.
- There are no unreasonable impacts on adjoining properties in terms of sunlight, privacy and bulk and scale are minimised.
- Reasonable access is maintained for necessary maintenance of adjoining properties.

Landscaped open space – The proposal provides soft landscape areas in the conventional manner given the site constraints consistent with the BLZ controls.

Sufficient area is provided within the soft landscape to support significant landscaping and tree planting if required but considered unnecessary in view of the substantial trees on adjoining land and the fragmented arrangement of existing buildings and structures on the land.

Street Orientation: The proposal is consistent with the siting and orientation guideline and reflects the street character.

Building height and the building envelope: The locality is characterised by diverse building envelopes. The proposal does not alter the existing wall height, building height or envelope as applied to the front of the existing house.

C3.3 ELEVATIONS & MATERIALS

The building facades are appropriately articulated.

The alterations and additions are compatible with the roof pitch and form, existing ridgeline, gutter lines, window patterns, proportions and details, elevations incorporate appropriate elements, compatible colour scheme as well as materials and finishes.

C3.5 FRONT GARDENS AND DWELLING ENTRIES

There are no changes to the dwelling's entrance and front garden

C3.7 ENVIRONMENTAL PERFORMANCE

The proposal includes a BASIX certificate in accordance with the requirements.

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A high standard of summer cooling via cross ventilation will be achieved by consideration of window design and location.

Timber used will be sourced from plantation.

C3.8 PRIVATE OPEN SPACE

The proposal provides approximately 28m² of private open space which exceeds the 16m² minimum and minimum 3m dimension and directly connected to the main living areas. It should be noted that the private open space is identified as that part of the open yard behind the front building line formed by the courtyard and pool. It is not conventional private open space – behind the rear building line (backyard) as this is occupied by the existing recent two-storey addition. Nonetheless, the open space is private because it is screened from the public domain by the existing masonry front fence and it provides a high standard of amenity for the occupants.

C3.9 SOLAR ACCESS

The proposal provides an acceptable standard of winter sunlight and summer heat load.

All habitable rooms receive an acceptable standard of natural daylight.

The proposed private open space is considered to be that area partly formed by the proposed pool behind the existing front building line. The shadow diagrams accompanying the application (Dwg. No. A11-13) confirm that this area will receive 3 hours of direct sunlight over 50% of the required private open space (8m²) between 9am and 3pm on June 21.

The solar access controls applying to the development are those for alterations and additions.

The proposal has been designed to cast no shade on the site and maximise sunlight, natural daylight and ventilation, as a result of the skilfully positioned windows and internal courtyards.

The proposal will not have any unreasonable shading impact on adjoining residential properties because they are situated to the north of the proposal and south of Origlass Park (see shadow diagrams referred to above). The proposal only casts shadow over Origlass park and predominantly over its access way rather than the main open recreation area to the west of the site.

C3.10 VIEWS

There are no existing views that would be materially affected by the proposal.

C3.11 VISUAL PRIVACY

The proposal will not result in any unreasonable visual privacy impacts because all new windows are provided with an internal aspect rather than to adjoining neighbours.

C3.12 ACOUSTIC PRIVACY

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The proposed alterations and additions to the dwelling provide a conventional designed house and any noise generation will be within normal expectations.

PART D

SECTION 1- ENERGY MANAGEMENT

The application is accompanied by a BASIX Certificate in accordance with the requirements of the BASIX Scheme.

SECTION 2 – RESOURCE RECOVERY AND WASTE MANAGEMENT

General Requirements

A Site Waste Minimisation and Management Plan has been submitted with the application.

Demolition and Construction of all Developments

This matter is addressed in the site waste minimisation and management plan accompanying the application.

Residential Development

The dwelling is provided with adequate storage, waste and recycling facilities as well a sufficient space for composting.

PART E

SECTION 1 SUSTAINABLE WATER AND RISK MANAGEMENT

A Water management statement has been submitted with the application– additional stormwater will be connected to the site's existing drainage lines and conveyed to the street. No stormwater detention is required. The site is not subject to the requirements for flood or foreshore risk management.

A stormwater drainage concept plan has been submitted with the application (see Dwg. NO. A14).

Water Conservation - See also BASIX Certificate accompanying the application.

Managing Stormwater within the site – No change to existing arrangements other than Connecting to the existing street kerb pit.

On-site detention – No on site detention is proposed as the impervious area will be reduced by 37.5m² and below the required 40m² for the provision of on-site detention.

Kim Burrell
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14 Nicholson Street, Balmain East: Statement of Environmental Effects

Stormwater treatment – Stormwater will be collected and conveyed via the existing system (See Dwg A14).

Water disposal – Stormwater will be drained to the street via the existing system.

5. OTHER MATTERS FOR CONSIDERATION

Other relevant matters for consideration not addressed above are –

5.1 Access, Transport and Traffic

This matter for consideration is not at issue in this application.

5.2 Utilities

Electricity, gas, water, sewerage, drainage and telephone services are available to the site.

5.3 Likely Impacts

All potential impacts are identified elsewhere in this Statement.

5.4 Suitability of the Site

As demonstrated in the relevant parts of this Statement, the site is suitable in physical, locational, transport and service utility terms for the proposed development.

6. CONCLUSION

The proposed development is permissible in the Residential R1, General Residential Density zone under the Leichhardt LEP 2013. The proposal complies with the floor space ratio development standard, however, it does not comply with the landscaped area and site coverage. Consequently, this statement includes submissions pursuant to Clause 4.6 of the LEP which has argued that the non-compliances with the standards are unnecessary and unreasonable and justified on the basis that the proposal satisfies the objectives of the standards and the zone and that there are sufficient environmental planning grounds to justify contravening the standards.

The site is also located in the Balmain East Conservation Area and it is also a heritage item. However, the proposal will be compatible with and complementary to the existing house, and as confirmed in the HIS, it is acceptable in heritage terms.

The proposal has also been assessed against the controls in the Leichhardt DCP. The proposal generally complies with all relevant controls except for side setback. However, the proposal performs well when assessed against the relevant discretionary provisions to allow a departure from the control.

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In summary, the proposed development is consistent with the principal relevant planning objectives *to provide for the housing needs of the community, to provide for a variety of housing types and densities, to enable other land uses that provide facilities or services to meet the day to day needs of residents and to provide residential development that maintains the character of built and natural features in the surrounding area* and is therefore suitable for approval.

The proposal is therefore suitable for approval.

Kim Burrell B. App. Sc. DURP RPIA
Town Planner

5 April 2023

Kim Burrell
Town Planning Consultant

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Attachment D – Statement of Heritage Significance

HERITAGE IMPACT STATEMENT



Development Application
No. 14 Nicholson Street, Balmain East
March 2023 | J5687

**Weir
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Revision	Date	Person	Reviewed by
First Issue Draft	24.03.2023	EN	JP
Final Issue	30.03.2023	EN	JP

Cover Image: The site as viewed from Nicholson Street.
Weir Phillips Heritage and Planning

We acknowledge that the land on which we live, learn and work as the traditional country of the Gadigal people of the Eora Nation. We acknowledge these traditional owners of this land and acknowledge their living cultures and the unique roles they have played in maintaining life, language, and culture in this region. We pay respect to their Elders past, present and emerging and all Aboriginal people.

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WEIR PHILLIPS HERITAGE AND PLANNING | HIS | No. 14 Nicholson Street, Balmain East | March 2023

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1 INTRODUCTION

1.1 Preamble

This Heritage Impact Statement (HIS) has been prepared in conjunction with a Development Application for alterations and additions to an existing dwelling at No. 14 Nicholson Street, Balmain East, New South Wales.

The site is located within the Inner West Council area. The principal planning control for the site is the *Inner West Local Environmental Plan 2022 (LEP 2022)*. The site is listed as a heritage item ('House, including interiors'). It is also located within the vicinity of other heritage items and lies within the Balmain East Heritage Conservation Area as defined by Schedule 5 Parts 1 and 2 of the *LEP 2022*.

Under Part 5.10 of the *LEP 2022*:

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

This statement has been prepared at the request of the owner of the site and accompanies plans prepared by Keith Pike Associates.

1.2 Authorship and Acknowledgements

This HIS was prepared by Elliot Nolan, B.A. (Anc.Hist.Hons), M. Mus.Herit.Stud., Grad.Dip.Herit.Cons., and James Phillips, B.Sc. (Arch.), B.Arch., M.Herit.Cons. (Hons), of Weir Phillips Heritage and Planning.

1.3 Limitations

The history contained in this statement was prepared using the readily available resources listed under Section 1.6 below.

No Aboriginal or historical archaeology was carried out on the site.

1.4 Methodology

This assessment has been prepared with reference to the *NSW Heritage Manual* update *Statements of Heritage Impact* (2002) and with reference to the Council planning controls listed under Section 1.6.

1.5 Physical Evidence

A site visit was carried out by the authors in May 2022. Unless otherwise stated, the photographs contained in this statement were taken at this time.

1.6 Documentary Evidence

1.6.1 General References

- Attenbrow, V., *Sydney Aboriginal Past: investigating the archaeological and historical records* (NSW: University of New South Wales Press Ltd, 2002).
- Godden Mackay Logan, *Leichhardt Heritage Review Stage 2* (2004).
- Holt, E.M., *Balmain: An Introduction to Local Studies* (Balmain: Balmain Teacher's College, 1965).
- Keenan, D.R., *The Western Lines of the Sydney Tramway System* (NSW: Transit Press, 1993).
- McPhee, M., Burton, C. and Thorpe, W., *Leichhardt Municipality Heritage Study* (Leichhardt Council, 1990).
- Reynolds, P. and Flottmann, P., *Half a Thousand Acres. Balmain: A History of the Land Grant* (NSW: Balmain Association, 1976).
- Solling, M. and Reynolds, P., *Leichhardt: On the Margins of the City, a Social History of Leichhardt and the Former Municipalities of Annandale, Balmain and Glebe, NSW* (NSW: Allen & Unwin, 1997).
- Turbet, P., *The Aborigines of the Sydney District Before 1788* (NSW: Kangaroo Press, 2001).

1.6.2 Historic Plans and Photographs

- Aerial Photograph over Balmain (c. 1955). NSW Historical Imagery.
- Aerial Photograph over Balmain (c. 1965). NSW Historical Imagery.
- Parish Map of Petersham, County of Cumberland (n.d.). NSW LPI.
- Sydney Metropolitan Detail Series, Balmain Sheet 19 (c. 1888). State Library of New South Wales.

1.6.3 NSW LPI

- Deposited Plan No. 211482.

1.6.4 Heritage Listing Sheets

- 'House, including interior', Heritage NSW State Heritage Inventory ID No. 1940481.
- 'Nicholson Street Public School, including interiors', Heritage NSW State Heritage Inventory ID No. 1940483.

1.6.5 Planning Documents

- *Inner West Local Environmental Plan 2022*.
- *Leichhardt Development Control Plan 2013*.

1.7 Site Location

No. 14 Nicholson Street, Balmain East is located on the west side of Nicholson Street (Figure 1). The site is identified as Lot 21, D.P. 706850.

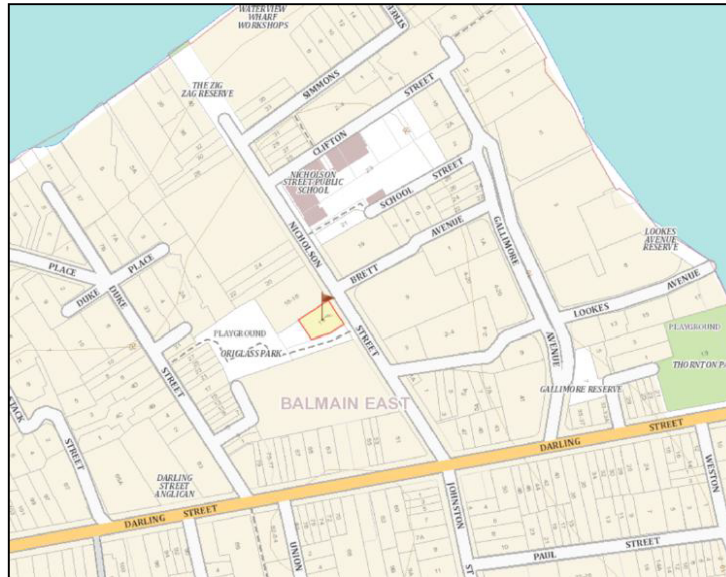


Figure 1: Map of No. 14 Nicholson Street. The subject site is outlined in red.
SIX Maps, 2023

2 BRIEF OUTLINE OF THE HISTORICAL DEVELOPMENT

2.1 Aboriginal History

The date of the first human occupation of the greater Sydney region is not known. The devastating impact that the European colonists had on the Aboriginal people they dispossessed has resulted in the loss of any in-depth knowledge of these people. The amount and nature of archaeological materials that have survived depends on the preservational conditions of individual sites. Archaeological evidence suggests human occupation of the Sydney region at around 15,000 years ago. In other areas of Australia, however, there is evidence for human occupation 30,000 to 40,000 years ago. There is thus the possibility that some of the practices suggested by historic documents and objects found in the Sydney region may possess histories that extend back further than the available archaeological evidence would suggest.¹

At the time of the arrival of the First Fleet in 1788, the wider Sydney region was comparatively sparsely settled. Recent research indicates that the total population around Sydney was between 2,000 and 3,000 people, and, in the greater Sydney region, including the Blue Mountains, between 5,000 and 8,000 people. Although such estimates can be made based on archaeological evidence, the true size of the population will never be known.

¹ Val Attenbrow, *Sydney Aboriginal Past: investigating the archaeological and historical records* (NSW: University of New South Wales Press Ltd, 2002), pp. 3-4.

Members of Captain James Cook's 1770 journey of exploration provide the earliest known written descriptions of Sydney's original inhabitants. The first European colonists, however, recorded few details about the kinship structures of the Aboriginal people. The immediate and decided impact that the Europeans had on Sydney's indigenous population, as outlined below, create difficulties in the use of the records that they did produce. Recent research suggests the existence of networks of bands, as opposed to the tribal structures implied by colonial records. These bands were themselves subgroups of much larger groups bound by complex rights of language, marriage and ceremony. What were once defined as 'tribal areas' are thus more accurately described as localities where different languages were spoken.²

Three major language groups were thought to have existed in the Sydney region at the end of the eighteenth century. Dharug was the predominant language spoken over much of the Cumberland Plain. The eight known coastal Dharug speaking clans are frequently referred to as the Eora, a term appearing in early European word lists with the suggested meaning 'people.' The Eora occupied the area across the southern shores of Sydney harbour, from Botany Bay in the south to Parramatta in the west. It is believed that the boundary for the two clans lay along the Balmain peninsula, suggesting that Leichhardt, Lilyfield, north-west part of Rozelle and north-west part of Balmain belonged to the Wangal people, with Annandale, south-east part of Rozelle, Birchgrove and south-east part of Balmain to the Cadigal people.³

Archaeological evidence suggests that patterns of life in the Sydney region changed little in the period before 1788. Bands moved within their territory at the prompting of seasons and with the availability of food. A coastal diet of fish and shellfish was supplemented by terrestrial food sources, such as edible tubers, figs and apple berries. A wide variety of materials were used in the production of tools and artefacts.

The Aboriginal people within reach of Port Jackson and Botany Bay absorbed the full impact of the European invasion. With no resistance to European diseases, the Eora were decimated by an outbreak of smallpox in 1789-90. Traditional lifestyle was further disrupted by the loss of lands and exposure to new technologies. Conflict followed from the meeting of two fundamentally different cultures. Within two and a half years of the arrival of the First Fleet, the patterns of life, which had been followed for thousands of years, were no longer possible. Within forty years, the pre-colonial way of life had all but disappeared from the Sydney region.

Nineteenth century references provide us with only fragmentary accounts of the Aboriginal people who continued to inhabit the Sydney region. The intensive development in the district has destroyed much of the evidence of Aboriginal occupation. There are eight known Aboriginal sites within the surrounding Balmain area, primarily centred on Callan Point and Yurulbin Point.⁴

There are no known Aboriginal sites within at least 200m of No. 14 Nicholson Street.⁵

2.2 Early European History

The British Colony of New South Wales was officially declared on 26 January 1788. Ignoring the presence of the Aboriginal people, all land was declared to be Crown Land. In December 1792, Governor Arthur Phillip established the official boundaries of the Township of Sydney. Balmain was located well outside these boundaries. From January 1793, successive governors granted land outside the boundaries in order to open up the Colony to settlement and augment food supplies. The size of the early land grants

² Peter Turbet, *The Aborigines of the Sydney District Before 1788* (NSW: Kangaroo Press, 2001), p.18.

³ 'Traditional Owners,' Inner West Council website.

⁴ Max Solling and Peter Reynolds, *Leichhardt: On the Margins of the City* (Allen & Unwin, 1997) pp. 3-7.

⁵ AHIMS search performed by Elliot Nolan of Weir Phillips Heritage and Planning on 6 March 2023.

depended on the status of the aspiring landowner, with the largest land grants being made to military and government officials and the smallest to emancipated convicts.

Two grants were made on the present-day Balmain peninsula: a 30-acre grant at Longnose Point made to George Whitfield, a private in the New South Wales Corps on 15 September 1796, and a 550-acre grant made to Surgeon William Balmain on 26 April 1800. It is upon Balmain's grant that the subject property now stands. Refer to Figure 2.

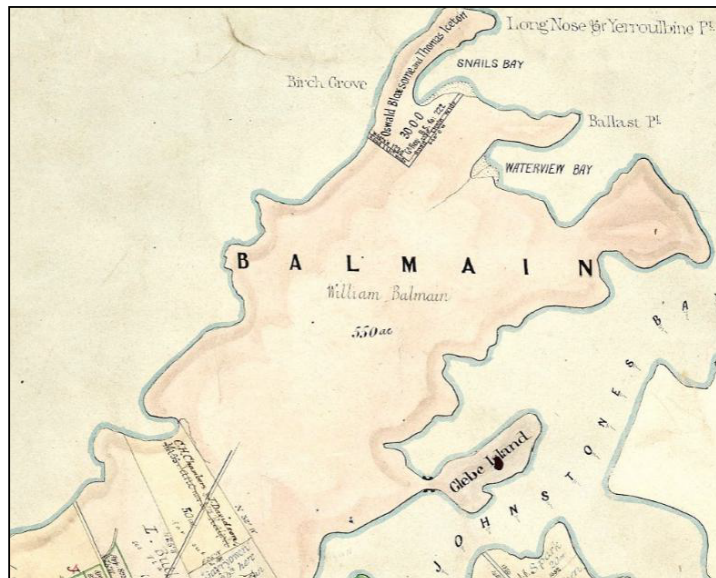


Figure 2: Map of the Parish of Petersham, County of Cumberland (n.d.).
NSW LPI

Despite the allocation of the above grants and the driving need for the Colony to become self-sufficient, the Balmain peninsula remained sparsely populated into the 1830s. Although the Township of Sydney operated substantially within its own boundaries during the first period of settlement, areas beyond were exploited for natural resources. The rocky terrain of Balmain, however, offered little to would be agriculturalists.

2.3 Early Land Sales

The early history of Balmain's 1800 grant is shrouded in mystery. Evidence suggests that Balmain transferred the grant to Dr. John Gilchrist fifteen months after he acquired it without telling the executors of his colonial property or colonial authorities. This secrecy would result in a legacy of bitter ownership struggles over the following 120 years.

Balmain's executors clearly considered the estate to have been in Balmain's possession at the time of his death in 1803. Fifteen years after his death, in May 1818, Balmain's executors offered *Gilchrist Place* for sale. Considering the questions that would soon arise over title to the peninsula, it is fortunate that none of the land was sold at this time.

Balmain's sale of his peninsula and other grants only came to light when Gilchrist attempted to sell land at *Gilchrist Place* in 1823. This sale was equally unsuccessful. The distance from Sydney and the absence of reliable transport, when combined with the variable quality of the land, made the area unattractive to would be investors or settlers.

Gilchrist made renewed attempts to sell land on *Gilchrist Place* in 1836. Surveyor John Armstrong laid out the first planned roads on the peninsula, being what are now Darling

Street, Nicholson Street and Johnston Street.⁶ Darling Street was originally known as Great Ferry Road, Main Ferry Road and as High Street. The street was later renamed for Governor Ralph Darling, Governor of NSW from 1825 until 1831.

The 1836 sale met with greater success and had a lasting influence on future pattern of development within Balmain. In October 1836, twenty-two allotments, comprising about fifty acres of land, were sold for prices ranging from £35 to £88. Further sales followed in 1837 and 1839. It is on this land that the subject site lies.

The 1836-9 land sales on the peninsula occurred at the beginning of a period of rapid population growth in Sydney and surrounding areas. Migration and the prosperity brought about by the pastoral boom of the 1830s swelled the population and created a demand for housing. The system of free land grants also ended; from 1831, land had to be purchased. Some of the purchasers from the 1836 land sale engaged in their own speculative re-subdivisions, creating both large villa allotments and small cottage/terrace allotments.

The natural sandstone outcrops of the point attracted quarrymen and stonemasons. Villas built of local material slowly began appearing, alongside the weatherboard, stone and brick houses of the tradesmen and their families. The 1846 census reveals that Balmain contained 296 dwellings and boasted a population of 1,337 people.⁷ Less than twenty years later, Balmain was the fourth largest suburb (behind Newtown, Redfern and Glebe) by percent of population ringing the City of Sydney (1860). In 1861, Balmain was incorporated as the Municipality of Balmain. In 1862, the area was brought closer to the City when a bridge was opened between Balmain and Pyrmont.

The 1846 census reveals that Balmain contained 296 dwellings and boasted a population of 1,337 people.⁸ Important services were established during this period, including churches, police services and a regular ferry service with Circular Quay.

2.4 No. 14 Nicholson Street

Without conducting a land title search, the full ownership history of the dwelling remains unknown. The following information is obtained from the State Heritage Inventory listing sheet, unless otherwise noted.

From the 1836 subdivision, Captain John Nicholson, the Colony's first Master Attendant and Harbour Master, purchased Lots 15 and 18. This purchase comprised approximately eight-acres of land. It was on this land that Nicholson constructed a new dwelling, which he named 'Durham House', facing what is now Nicholson Street.

In 1842, Nicholson decided to sell part of the grounds to 'Durham House' which faced Nicholson, Darling and Duke Streets. J. O'Cock, a solicitor, purchased Lots 24 and 25 of this new subdivision. O'Cock constructed the existing dwelling on Lot 24, which he named 'Araluen', in c. 1842-44. In 1877, No. 14 Nicholson Street was bought by Henry Cohen, a bookkeeper, who renamed it 'Dellwood'. He retained ownership and occupied the dwelling on-and-off until at least 1896.⁹ Figure 3 shows a Water Board Map of Balmain from this period.

⁶ Peter Reynolds and Paul Flottmann, *Half a Thousand Acres. Balmain: A History of the Land Grant* (NSW: Balmain Association, 1976), p. 15.

⁷ McDonald McPhee Pty Ltd, Craig Burton and Wendy Thorpe, *Leichhardt Municipality Heritage Study* (Leichhardt Council, 1990), p. 39.

⁸ McDonald McPhee, Craig Burton and Wendy Thorpe, *Leichhardt Municipality Heritage Study* (Leichhardt Council, 1990), p. 39.

⁹ 'House, including interior', Heritage NSW State Heritage Inventory ID No. 1940481.

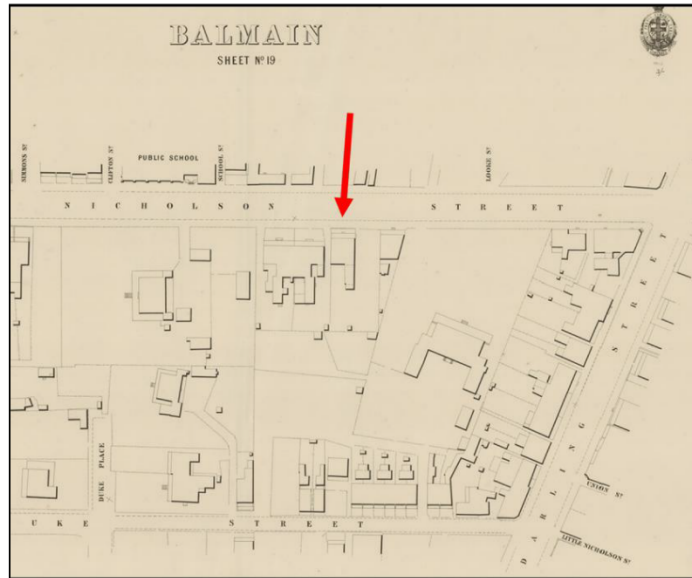


Figure 3: Sydney Metropolitan Detail Series, Water Board Map of Balmain, Sheet 19 (c. 1888). The red arrow indicates the site.
State Library of New South Wales

Based on Figure 3, the site has changed significantly since the initial construction in the following ways:

- The rear wing has been removed.
- The small square on the rear boundary was likely an outhouse, which has also been demolished.
- The site boundaries have also changed; a section to the rear now forms part of Origlass Park. The dwelling to the immediate right, named 'Gunyah', was later demolished to create a new entry to the park.

The following table lists occupants of the dwelling, from when it can first be identified in the 1877 edition of the *John Sands' Sydney and Suburban Directories* through to the last edition in 1932/33.

Year	Occupant
1877-1889	Henry Cohen
1890	No listing
1891	Mary Watson
1892	Ronald Cameron
1893-1896	Henry Cohen
1897	P.T. Davies

1898	No listing
1899	Richard Smith
1900-1906	J.J. Graham
1907	George Wilson
1908-1909	Samuel Smale
1910-1913	Edward Heron
1914-1917	William Wormall
1918	Charles Russell
1919	No listing
1920-1931	Harry West
1932/33	— Halliday

Research has not ascertained anything definitive about any of these occupants, other than information that was incidental to them having lived in the area.

Figure 4 shows a subdivision plan, dated c. 1962, from when 'Gunyah' was demolished to construct an entry to what is now Origlass Park. The boundaries were then adjusted to form the existing allotment.

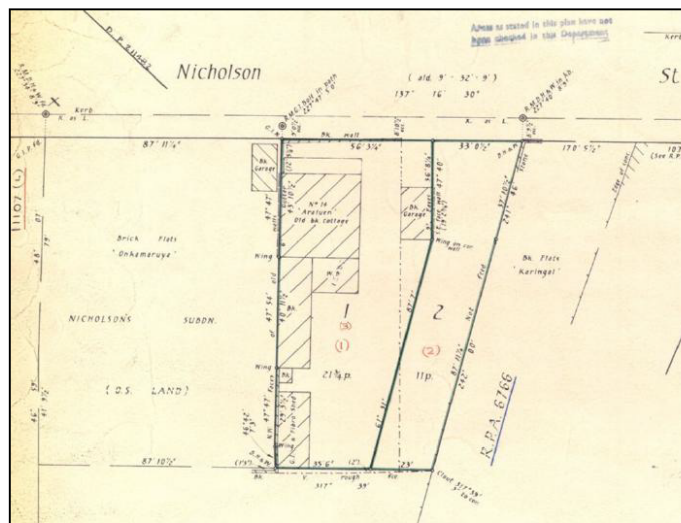


Figure 4: Detail, Deposited Plan showing boundary adjustment. Note the dwelling is referred in this plan by its original name 'Araluen'. NSW LPI, Deposited Plan No. 211482.

The following is noted:

- The weatherboard extension at the rear may have been a remnant of the original rear wing visible in Figure 3.
- A new brick rear wing had been constructed by this time.
- There was a fibro shed on the rear boundary and a brick garage near the front boundary.

All these structures, excluding the garage, have since been demolished.

These changes are especially evident in a comparison of historic aerial photographs between 1955 and 1965. Refer to Figures 5 and 6.

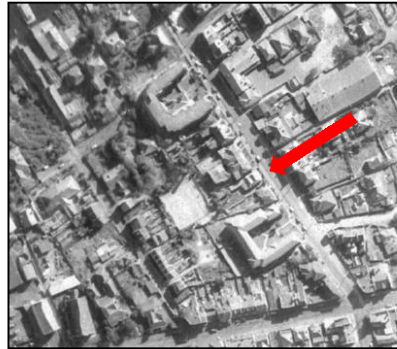


Figure 5: Aerial photograph over Balmain (c. 1955). The red arrow indicates the site.
NSW Historical Imagery



Figure 6: Aerial photograph over Balmain (c. 1965).
NSW Historical Imagery

Figure 5 shows both the subject dwelling 'Dellwood' on its original boundaries, as well as the neighbouring cottage 'Gunyah'. By 1965, the subject site boundaries had been reduced and 'Gunyah' demolished with a new path constructed to Origlass Park.

The two-storey structure at the rear of the site was constructed after 1965 based on these photographs.

No historic photographs of the dwelling at street level have been located.

3 SITE ASSESSMENT

3.1 The Site

For the following, refer to Figure 7, an aerial photograph over the site, and to the survey that accompanies this application.



Figure 7: Aerial photograph of No. 14 Nicholson Street. The subject site is outlined in red.
SIX Maps, 2023

For the purposes of the following description, Nicholson Street is considered the eastern boundary.

The site is a rectangular allotment with frontage to Nicholson Street. The site boundaries are approximately: north and south, 22m; east, 17m; and west, 14m. The total site area is approximately 353m². The site is generally level. The site contains a freestanding dwelling, described separately below, which is set behind a timber palisade fence on a rendered masonry hob. The site has landscaping in the form of brick paving, with a raised area of lawn on the southwest side, as well as established trees. There is a single car garage on the south side which is constructed of rendered masonry and has a pitched roof clad in corrugated metal and a timber panelled door.

Refer to Figures 8 to 10 which illustrate the site.



Figure 8: Looking towards the garage, partly concealed by vegetation.



Figure 9: Looking west through the site.



Figure 10: The existing garage as viewed from the entry to Origlass Park.

3.2 The Dwelling

Given the nature of the proposed works, the following is a brief description only of the exterior.

3.2.1 Exterior

No. 14 Nicholson Street presents as a Victorian Georgian Style dwelling. It comprises a single-storey principal building form and a two-storey rear addition.

The principal building form is constructed of brick and has a twin hipped roof clad in corrugated metal with a pair of brick chimneys with terracotta pots. The front elevation has a verandah with a separate concave profile roof that is detached from, and lower than the main roof. It is supported by timber post and brackets. The floor to the verandah is paved in sandstone. Behind the verandah are a pair of timber-framed French doors with timber shutters. In between is a timber panelled door with a top light.

The eastern elevation is of brick and has a pair of timber-framed double hung sash windows with sandstone sills. The western elevation was not accessible and has no visibility.

The rear elevation is of brick and is connected to the two-storey rear addition via a glazed link. It has a gabled roof clad in corrugated metal. Window openings are typically metal-framed louvres. The western elevation, addressing Origlass Park, is blind.

Refer to Figures 11 to 16 which illustrate the exterior of the dwelling.



Figure 11: The dwelling viewed from Nicholson Street showing the principal building at the front with the two-storey rear addition behind.



Figure 12: Front elevation showing verandah.



Figure 13: Southern elevation to the principal building, also showing part of the rear addition.

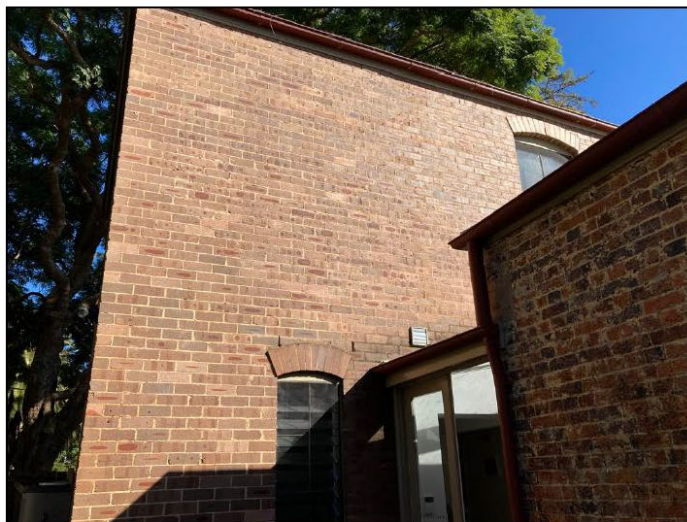


Figure 14: The eastern elevation to the two-storey rear addition.



Figure 15: Southern elevation to the rear addition showing louvre window openings.



Figure 16: Western elevation to the rear addition.

3.3 The Surrounding Area

3.3.1 The General Area

For the following, refer to Figure 17, an aerial photograph of the site and its surrounds.

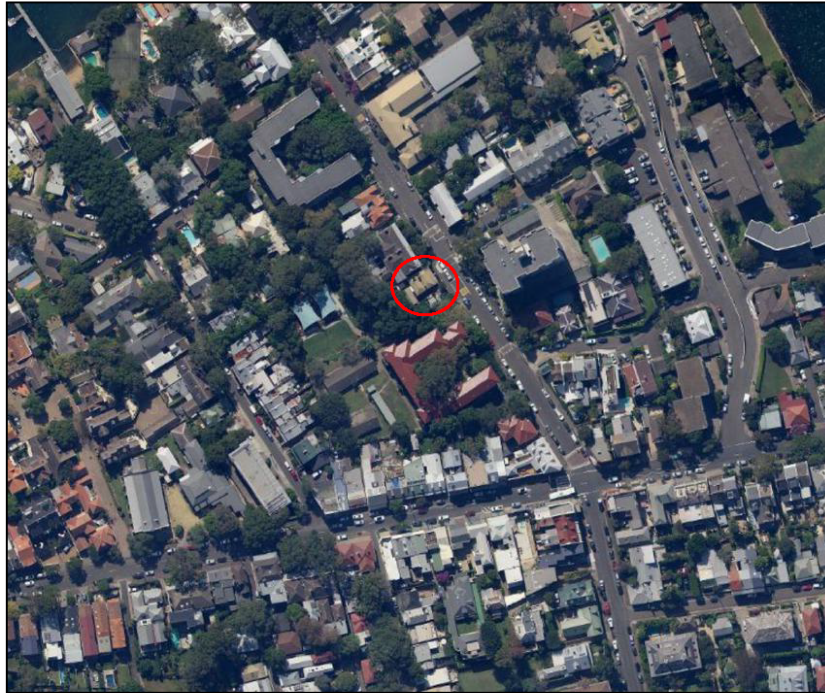


Figure 17: Aerial photograph of surrounding area. The site is outlined in red. SIX Maps, 2023.

The *Leichhardt Development Control Plan 2013* provides the following description for the Balmain East Distinctive Neighbourhood, of which the subject site forms part:

Balmain East is characterised by its close links with maritime industry and with the harbour. The neighbourhood is currently characterised by its predominantly residential nature, however, until the 1960s the area had been a varied industrial, maritime and residential neighbourhood.

Presently, the neighbourhood has a small shopping strip at the crest of the Darling Street hill (which forms part of the Darling Street Distinctive Neighbourhood) and two remnant commercial/industrial sites on its northern shore. The remainder of the former industrial sites have been redeveloped, with much of the foreshore land having been converted to open space. Currently, more than half of the Balmain East foreshore is zoned for open space.

The steep headland form of this neighbourhood gives prominence to its built character, particularly roof form. The small scale of the older buildings and the foil of high canopy trees, closely models the landform. The low form of the neighbourhood is abruptly broken by

blocky flat buildings particularly along the eastern edge taking advantage of the prime aspect, with some walk up flat blocks and one tower block on the Nicholson/Johnston Streets axis.

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

a. early buildings up to about 1860, being primarily dressed stone, with some timber, one and two storied, detached houses. The scale and form varies between large houses in generous gardens oriented for the views out, and modest houses for local workers, often speculatively built. The remaining structures from this period are either hotels, or housing;

b. consolidation continued through the Victorian period with terraced shops and housing of mostly rendered brick. Some industrial structures remain, including the stone Bells Store, and the timber and iron Adelaide Steamships buildings;

c. industry consolidated in utilitarian iron or brick sheds in the early 1900s, focussed on servicing maritime activities including recreational boating, such as Bretts, the sailmakers. However, these sites have mostly been redeveloped for residential purposes;

d. after World War II the modernisation phase led to residential flat development on foreshore and ridge top sites. These buildings form a sharp contrast to the earlier fabric. Some of the harsher brick blocks have been rendered and tree planting has also reduced the differentiation in scale and form;

e. from the 1970s increased value was placed on the historic pattern and new housing principally townhouses, was more complementary. As the location became increasingly prized, the small houses on generous lots for the area were enlarged or replaced. This has resulted in increasing pressure on the early heritage of the area. Upper storeys are often sought or the roof spaces converted to both gain more space and capture better views.¹⁰

3.3.2 Nicholson Street

Nicholson Street runs north, then east off Darling Street. The road carries two-way traffic with provision for street parking on both sides. Concrete footpaths with concrete kerbs and irregularly spaced street trees line either side of the road.

Nicholson Street is characterised by one and two-storey Victorian period dwellings, two-storey Federation period dwellings, two to four-storey Inter-War and Post-War period residential flat buildings and up to eight-storey contemporary residential flat buildings.

To the south of the site is No. 8 Nicholson Street, a three-storey Post-War residential flat building.

To the north is Nos. 16-18 Nicholson Street, a two-storey Victorian period dwelling, now converted into residential flats.

To the east, opposite the site, is No. 7 Brett Avenue, an eight-storey late 20th century period residential flat building.

¹⁰ *Leichhardt Development Control Plan 2013*, 'C2.2.2.2 Balmain East Distinctive Neighbourhood', p. 189.

Refer to Figures 18 to 20 which illustrate the streetscape.



Figure 18: No. 8 Nicholson Street to the south of the site, a three-storey Post-War residential flat building.



Figure 19: No. 7 Brett Avenue to the east of the site, an eight-storey late 20th century period residential flat building.



Figure 20: Nos. 16-18 Nicholson Street to the north of the site, a two-storey Victorian period building, now used as residential flats.

4 ASSESSMENT OF SIGNIFICANCE

4.1 Summary of Statutory Heritage Listings for the Site

No. 14 Nicholson Street, Balmain East:

- Is listed as a local heritage item by Schedule 5 Part 1 of the *Inner West LEP 2022* ('House, including interiors').
- Is located within the Balmain East Heritage Conservation Area by Schedule 5 Part 2 of the *Inner West LEP 2022*.
- Is **not** listed as an item on the State Heritage Register under the *NSW Heritage Act 1977*.

4.1.1 Statement of Significance for No. 14 Nicholson Street

The State Heritage Inventory provides the following Statement of Significance for No. 14 Nicholson Street:

No. 14 Nicholson Street is of local historic and aesthetic significance as good and representative example of a late Victorian Regency style dwelling constructed between c. 1842-44. The building retains its overall form, fabric and early detailing.¹¹

This Statement is adopted for the purposes of this assessment.

¹¹ 'House, including interiors', Heritage NSW State Heritage Inventory ID No. 1940481.

4.1.2 Statement of Significance for Balmain East Heritage Conservation Area

Inner West Council provides the following Statement of Significance for the Balmain East Heritage Conservation Area:

- One of a number of conservation areas which collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). The earliest developments here predate Leichhardt's main suburban growth with marine villas and cottages from the 1840s to modest-scale housing from 1870s through to the 1930s, and industry. It is significant for its surviving development from these periods.
- Demonstrates through the siting of recent public parks, the location of former waterfront activities. Through these parks and its remaining waterfront activities East Balmain can interpret Sydney's port history from the early 1840s, and the role of Balmain's deep water frontages in that story.
- Demonstrates through the line of its narrow streets the earliest subdivision sections of the large 550-acre Balmain grant.
- Demonstrates through its steps and cuttings the way in which early roads and pedestrian routes were forged out of the sandstone bedrock.
- Demonstrates through its mixture of sandstone villas and timber and brick cottages the major themes that formed this suburb – marine villa development and investment, port and waterfront activities, and the continuing layering of these developments.
- Through its remaining timber buildings it continues to demonstrate the nature of that major construction material in the fabric of early Sydney suburbs, and the proximity of the timber yards around the Balmain waterfront.
- It is of aesthetic significance for its dramatic sandstone landscape, closely related to the harbour, and clearly revealed below the modest scale of its nineteenth century and early twentieth century buildings. It stands in contrast with the nearby city where twentieth-century technology has forged an equally dramatic but very different man-made landscape.¹²

This Statement is adopted for the purposes of this assessment.

4.2 Heritage Items within the Vicinity of the Site

For the following, 'within the vicinity' has been determined with reference to physical proximity, existing and potential view corridors and the nature of the proposed works.

4.2.1 NSW Heritage Act 1977

There are no items listed on the State Heritage Register under the *NSW Heritage Act 1977* within the vicinity of the site.

4.2.2 Inner West LEP 2022

Refer to Figure 21, which shows heritage items and conservation areas within the vicinity of the site. In this plan, heritage items listed by Schedule 5 Part 1 of the *Inner West LEP 2022* are coloured brown and numbered and Conservation Areas listed by Schedule 5 Part 2 of this plan are hatched red and numbered. The subject site is coloured brown and numbered '1786'.

¹² Inner West Council, 'C03 Balmain East', <https://www.innerwest.nsw.gov.au/ArticleDocuments/1688/C03%20Balmain%20East.pdf.aspx>, accessed 12 May 2022.

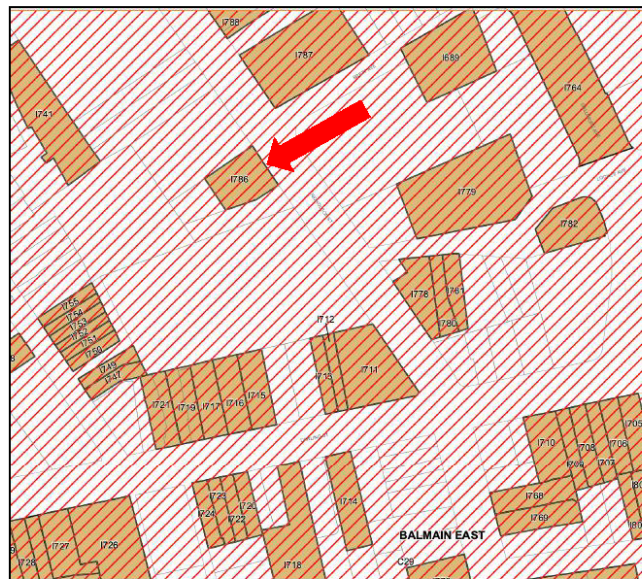


Figure 21: Detail, map showing heritage items and Conservation Areas in relation to the subject site.
Inner West LEP 2022

There are two heritage items listed by Schedule 5 Part 1 of the *Inner West LEP 2022* within the vicinity of the site:

- **‘Sandstone outhouse, including interiors’, No. 19 Nicholson Street, Balmain East**

This item is located to the northeast of the site and is identified as ‘1787’ in Figure 21 above. The focus of the item, comprising a sandstone outhouse, is located to the rear of a group of contemporary two-storey townhouses and has no visibility from the public domain, or from the site. Given this, it is no longer considered for the purposes of this assessment.

- **‘Nicholson Street Public School, including interiors’, No. 23 Nicholson Street, Balmain East**

This item is located to the northwest of the site and is identified as ‘1788’ in Figure 21 above. The item comprises a Victorian period school building which can be seen from the subject site.

The State Heritage Inventory provides the following Statement of Significance for this item:

The Nicholson Street Public School was built in 1882 in a formal, classically inspired manner by W. E Kemp. Designed in the Victorian Free Classic style, the entrance porch has a classical pediment and columns and separates the two main masses of buildings, the classrooms and the office. The overall building has simple shapes and classical detailing such as the coursed smooth sandstone walls on a rusticated base and attached pilasters dividing the building into

bays. The building makes a positive contribution to the streetscape and reflects the importance of the school in a residential area.¹³

Refer to Figure 22 which illustrates the item.



Figure 22: The item as viewed from directly outside on Nicholson Street.

4.3 Integrity

No. 14 Nicholson Street continues to present as a Victorian Georgian Style dwelling, however, has been modified. Given the interior was not inspected, the following is limited to an analysis of the site and exterior of the dwelling.

Site

- The site boundaries have changed over time. The subject lot was originally larger and incorporated land now forming part of Origlass Park.
- The 1963 subdivision plan indicates there were other structures on the site which have all been removed, excluding the garage.
- The existing garage is a later addition to the site and appears to have been built no later than c. 1943.
- The existing landscaping including brick paving and boundary fencing is all contemporary.

Exterior

- The roof cladding has been replaced. It is not known what the original cladding was. Given the date of the dwelling, it may have been timber shingles, but this cannot be confirmed based on the available evidence.
- The original rear wing has been removed.
- The two-storey rear addition is contemporary.

¹³ 'Nicholson Street Public School, including interiors', Heritage NSW State Heritage Inventory ID No. 1940483.

4.4 View Corridors

The principal view corridor towards the site is from directly outside on Nicholson Street, where the principal building can be seen, as well as the rear addition behind. Views on approach from the north and south on Nicholson Street are limited as the dwelling is generally concealed from view by site elements including the garage and vegetation, in addition to intervening buildings.

Refer to Figures 23 and 24 which illustrate view corridors towards the site.



Figure 23: Looking towards the site from the south on Nicholson Street. The red arrow indicates the approximate location of the dwelling.



Figure 24: Looking towards the site from the north on Nicholson Street. As noted, vegetation conceals view of the dwelling. The red arrow indicates the approximate location of the dwelling.

5 THE PROPOSAL

The following should be read in conjunction with the plans prepared by Keith Pike Associates that accompany this application:

It is proposed to retain the existing dwelling and to construct a new single-storey side extension, as noted in detail below:

- Retain the existing dwelling including principal building form and rear addition.
- Remove the existing garage and raised grass area to facilitate construction of a new one and two-storey side addition to extend from the southern elevation of the existing rear wing. The addition will provide for new living and bedroom spaces and an attached one car garage.
- Install new landscaping works including an in-ground swimming pool, as noted on the plans.

The following materials and finishes are proposed:

- Ground-floor walls – off-white brick.
- Ground-floor walls facing park – acrylic rendered in Dulux ‘China White’.
- Upper floor walls and roof – profiled metal in Dulux ‘Monument’.
- Windows and door frames – Dulux ‘Dark Grey’.
- External paving – travertine paving.

Figures 25 and 26 are 3D views of the proposal.



Figure 25: Street level view of proposed works.
Keith Pike Associates, 2023



Figure 26: Birds' eye view of proposed works.
Keith Pike Associates, 2023

6 EFFECT OF WORK

6.1 Effect of Work on No. 14 Nicholson Street

The proposed works will have an acceptable impact on No. 14 Nicholson Street for the following reasons:

- No works are proposed to the original principal building form, including its elevations, roof, and internal layout, which is the reason the site is listed as a heritage item. No. 14 Nicholson Street will continue to read as a highly significant single-storey Victorian Georgian Style dwelling.

-
- The proposed works are confined to the more contemporary buildings on the site and will not impact on any significant heritage fabric.
 - No subdivision is proposed. The lot boundaries will remain the same.
 - The proposed works are intended to facilitate better use of the site for contemporary living. The proposal has responded to the constraints of the site with a lateral extension that will present as visually subordinate to, and distinct from, the retained dwelling.
 - The extension will use high-quality materials including brick and profiled metal. The white brickwork will read as distinct from the face brick of the retained dwelling, while the profiled metal will present as a lightweight element that breaks up the massing of the first-floor.
 - The massing will be broken down further by the use of a hip end to the roof of the extension which will also reduce the height.
 - New window and door openings will be vertically proportioned, with larger areas of glazing broken up with the use of panes.
 - The removal of the existing garage will have a minimal and acceptable impact as, while clearly of some age, it is not original to the site and makes no contribution towards understanding the significance of the item.
 - The proposed garage will match the front building line of the retained dwelling but will also be set back from it by approximately 5m. This will allow a clearly defined separation of the two built forms.
 - The proposed garage will read as contemporary so that it does not challenge the architectural style of the retained dwelling. This is demonstrated by its simple box form and its parapet roof which lies below the gutter line of the retained dwelling.
 - The green roof and surrounding vegetation will further soften the built form of the proposed garage.
 - The proposed swimming pool will be sufficiently separated from the principal building form to ensure there is no impact on its fabric. The site constraints mean this is the only viable location for a swimming pool. It will be concealed by the retained fence and vegetation.

6.2 Effect of Work on Conservation Area

The proposed works will have an acceptable impact on the Balmain East Heritage Conservation Area for the following reasons:

- No subdivision is proposed. The lot boundaries will remain the same.
- No works are proposed to the original principal building form, including its elevations, roof, and internal layout. No. 14 Nicholson Street will continue to read as a single-storey Victorian Georgian Style dwelling within the Conservation Area.
- The proposed side extension will be set back from the principal building and will read as visually subordinate to it, and other buildings in the Conservation Area.
- The proposed garage will read as simple and contemporary in form. It will be located in a streetscape with other contemporary style garages.

-
- The proposed swimming pool is a characteristic element of dwellings within the Conservation Area. It will be concealed from view by the retained front fence and vegetation.
 - The proposed works will, overall, have no impact on the ability of the public to read No. 14 Nicholson Street as a Victorian Georgian Style dwelling.

6.3 Effect of Work on Heritage Items Within the Vicinity

'Nicholson Street Public School, including interiors', No. 23 Nicholson Street, Balmain East

The proposed works will have a minimal and acceptable impact on this item for the following reasons:

- There will be no impact on the fabric of this item, which is sufficiently separated from the site.
- There will be no impact on significant view corridors towards this item, which are obtained from directly outside the item on Nicholson Street. The proposed works are located to the south outside of these view corridors.
- The proposed works may be visible from the item. This will have a minimal and acceptable impact as the additions will read as well-designed and visually subordinate to the retained principal building. The additions will generally be concealed from view by vegetation and intervening dwellings.
- The proposed works will, overall, have no impact on the ability of the public to understand and appreciate the historic and aesthetic significance of this item.

7 CONCLUSION

This Heritage Impact Statement has been prepared in conjunction with a Development Application for alterations and additions to an existing dwelling at No. 14 Nicholson Street, Balmain East, New South Wales. The site is listed as a heritage item and is located within the vicinity of other heritage items by Schedule 5 Part 1 of the *Inner West LEP 2022*. It is also located within the Balmain East Heritage Conservation Area by Part 2 of this plan.

The proposed works will have an acceptable impact as the principal building form, for which the site is significant for, will be retained with no works proposed to its exterior or interior fabric. The proposal has successfully responded to the constraints of the site with a well-designed side extension that will better facilitate contemporary living, while presenting as visually subordinate to the retained dwelling. The massing will be broken up with carefully selected high-quality materials including painted brick and profiled metal. No. 14 Nicholson Street will continue to read as a Victorian Georgian Style dwelling.

The proposed works will have a minimal and acceptable impact on the heritage item at No. 23 Nicholson Street because neither its fabric nor significant view corridors towards it will be impacted on. The additions may be visible from the item, where they will present as well-designed and visually subordinate to the retained dwelling.

The proposed works fulfil the aims and objectives of the *Inner West LEP 2022* and the *Leichhardt DCP 2013* by improving the quality and diversity of housing options in Balmain while respecting the heritage significance of the area in which it lies.