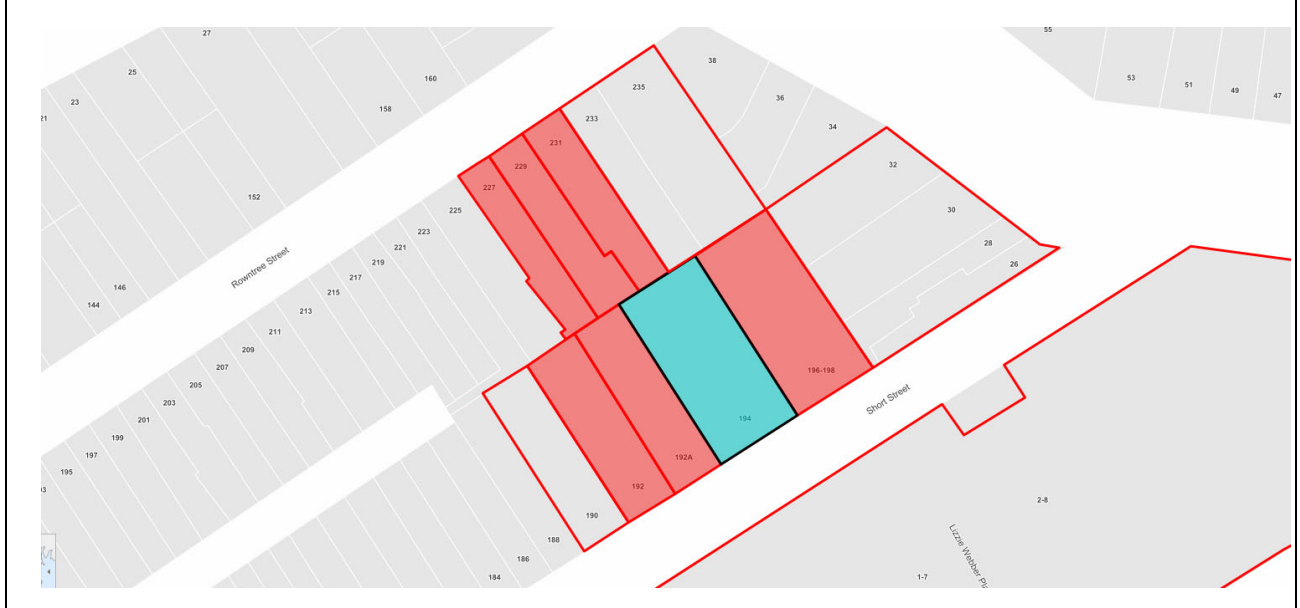




DEVELOPMENT ASSESSMENT REPORT

Application No.	D/2019/381
Address	194 Short Street, Birchgrove
Proposal	Alterations and additions to existing dwelling-house, including to provide a roof terrace and associated access.
Date of Lodgement	27-Sep-2019
Applicant	J Scuteri
Owner	Delatex Pty Ltd Fodero Enterprises Pty Ltd
Number of Submissions	Objections from 8 properties.
Value of works	\$85,000
Reason for determination at Planning Panel	Variation exceeds officer delegation (FSR)
Main Issues	View Loss, Privacy impacts, Impacts to Streetscape and Heritage Conservation Area, Variation to FSR.
Recommendation	Refusal
Attachment A	Draft Conditions if application is approved
Attachment B	Plans of proposed development
Attachment C	Statement of Significance

LOCALITY MAP



Subject Site		Objectors		
Notified Area		Supporters		

Note: Due to scale of map, not all objectors could be shown.

1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to an existing dwelling-house, including to provide for a roof terrace and associated access at No. 194 Short Street, Birchgrove. The application was notified to surrounding properties and objections from 8 properties were received.

The main issues that have arisen from the application include:

- View Loss
- Privacy impacts
- Impacts to Streetscape and Heritage Conservation Area
- Variation to FSR.

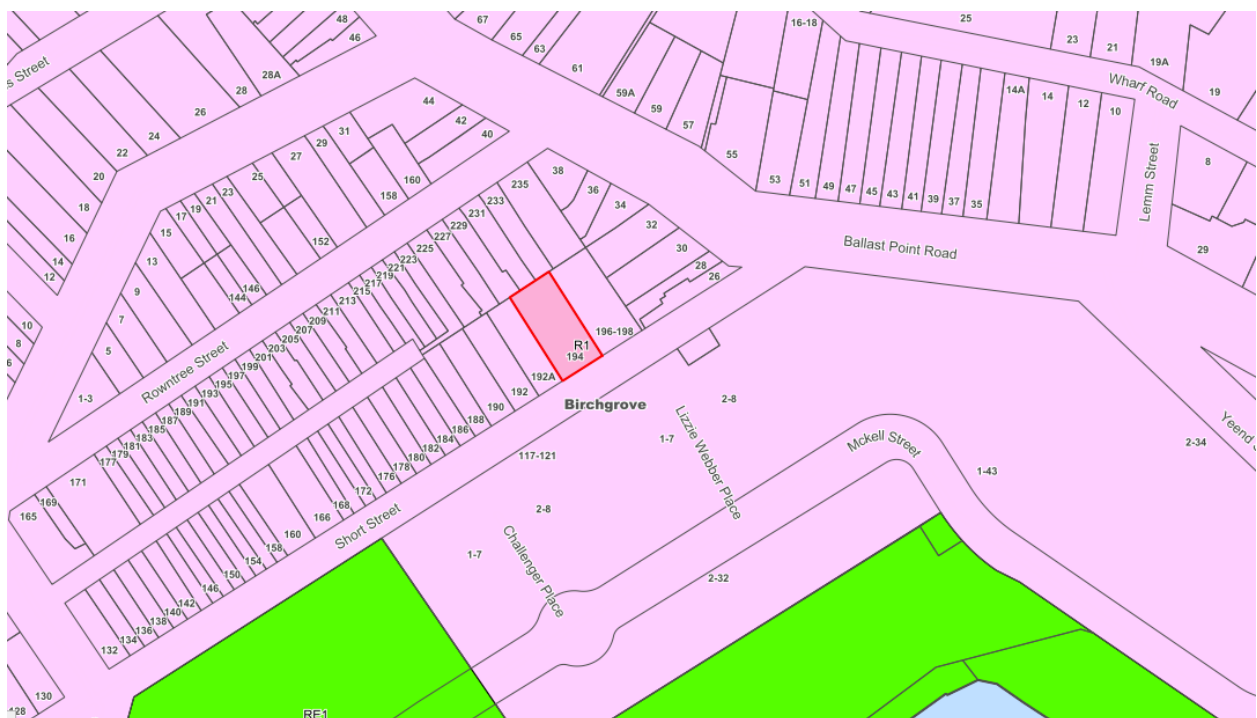
The proposal is considered contrary to the public interest as it will result in adverse amenity impacts to neighbouring properties and is incompatible with the heritage conservation area. The approval of the application would not be in the public interest and in view of the circumstances, refusal of the application is recommended.

2. Proposal

Alterations and additions to existing dwelling-house, provision of a roof terrace and additional floor area (indicated as a 'landing area' on the proposed plans) on the fourth level and internal alterations to accommodate this.

3. Site Description

The site is located at 194 Short Street, Birchgrove. The area of the site is approximately 388.3 m², and is legally described as B / DP404265. The site is generally rectangular in shape, with a frontage of 13.835 metres to Short Street and a length of approximately 28.03 metres.



Zoning of the subject site and the adjoining properties.



Aerial view of the subject site at 194 Short Street.

Located on the subject site is a three-storey dwelling. Adjoining the site to the east is a three storey dwelling at No. 196 Short Street. Adjoining the site to the west is a pair of attached dwellings at No. 192 and No. 192A Short Street which contains three storeys and a roof terrace.

The subject site is not a heritage item, however, is located in the vicinity of a heritage listed dwelling-house at No. 235 Rowntree Street. The property is located within a Heritage Conservation Area. The site is not identified as a flood prone lot.



View of existing building from Short Street

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
D/2004/367	Amended Plans: Demolition of existing dwelling and erection of new two storey dwelling, over garage.	Approved on Appeal (24-Jan-2006)

It should be noted that D/2004/367 was approved on appeal under *Waters v Leichhardt Municipal Council* [2006] NSWLEC 26.

4(b) History of Adjoining Sites

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

227 Rowntree Street

Application	Proposal	Decision & Date
D/2006/514	Alterations and additions to the rear of the dwelling, including new attic level addition	Approved 13-Dec-2006
M/2010/60	Section 96 application to modify development consent D/2006/514. Modification involves internal & external changes including: addition of pergola to rear of property, deletion of glass floor to first floor balcony, addition of bathroom to attic, addition of ledge with balustrade to attic and re-swing external timber attic doors.	Approved 07-May-2010

229 Rowntree Street

Application	Proposal	Decision & Date
D/1998/134	Addition of first floor bay window	Approved 03-Dec-1998
M/2000/125	Modification of Development Consent D980134 for the erection of a bay window, to delete the lower portion detail of the window and the privacy screen.	Approved 10-Jan-2001
D/2004/172	Alterations and additions to rear of existing dwelling including the erection of a new timber deck at ground floor level.	Approved 18-Aug-2004

231 Rowntree Street

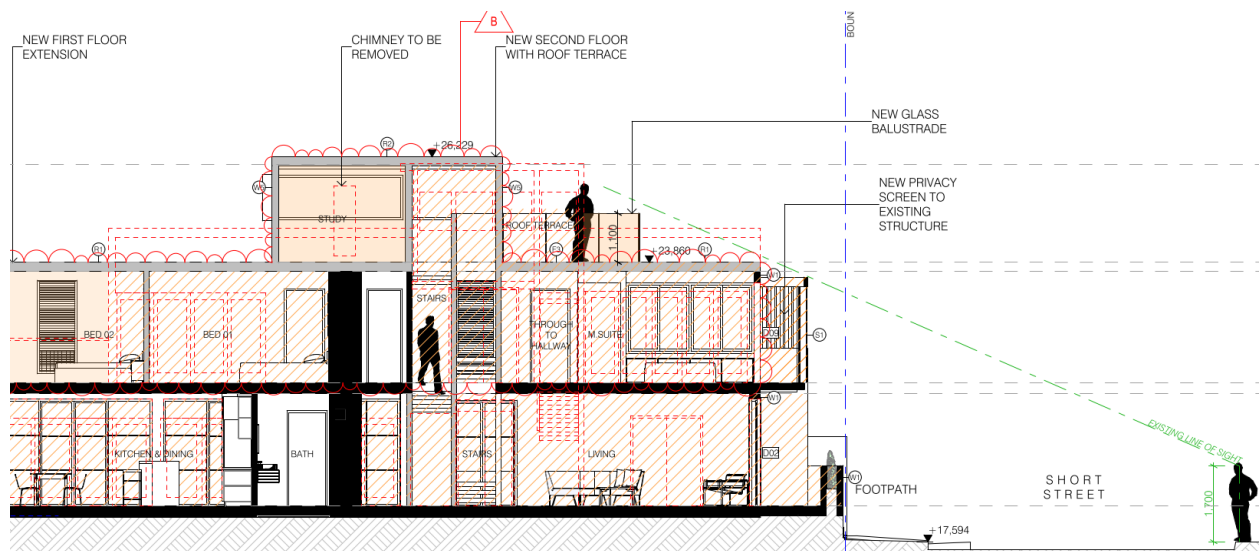
Application	Proposal	Decision & Date
BA/1997/1145	Alterations and additions to a dwelling	Approved 09-Apr-1998

M/2001/115	Modifications to Development Consent, BA 97/1145 for rear alterations and additions to a dwelling, to vary internal configuration, modify the roof form and delete requirement to provide a solar hot water heater..	Approved 10-Jan-2001
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190 Short Street

Application	Proposal	Decision & Date
D/2003/813	Alterations and additions to existing house to provide an extended first floor terrace over a reconstructed side garage and internal alterations to rooms including facade changes.	Approved 21-Jul-2004
D/2008/220	Addition of an attic level study to an existing dwelling	Approved 15-Aug-2008
PREDA/2018/161	Alterations and addition to existing dwelling, - New privacy screen to street frontage, - New roof form, - New roof terrace	Approved 08-Aug-2018
D/2018/504	Alterations and additions to existing dwelling-house, including new roof terrace.	Approved 31-Jan-2019

The roof terrace at 190 Short Street was approved under D/2018/504 and it is noted that the roof terrace is located on the second floor (as opposed to the third floor roof terrace proposed in this application) with the maximum height of the associated structures being RL26.229 (see figure below), which is lower than the existing maximum height at 194 Short Street (RL27.31) and significantly (3.5m) lower than the proposed maximum height of the works proposed in this application (RL29.77).



192 Short Street/192A Short Street

Application	Proposal	Decision & Date
D/2000/999	Demolition of existing dwelling, erection of 2 attached dwellings and Torrens title subdivision into 2 lots.	Approved 09-Oct-2001
M/2002/247	s96 modification to development consent D/2000/999 which approved demolition of existing dwelling, erection of two attached dwellings and Torrens title subdivision into two allotments. Modifications include a change to	Approved 11-Feb-2003

	level three planter to pond alter level three terrace balustrade to glass and construct retaining wall to north and west boundaries.		
M/2002/248	s96 modification which gave consent to D/2000/999 which approved demolition of existing dwelling, erection of two attached dwellings and Torrens title subdivision into two allotments. Modifications include increase in basement floor area to accommodate store room for each dwelling.	Approved 2003	11-Feb-
M/2008/57	Section 96 application to modify D/2000/999. Modification seeks to remove stainless steel wire fence on roof deck and install extensive planter boxes for privacy on eastern side.	Approved 2008	23-May-

The roof terrace at 192 Short Street and 192A Short Street was approved under D/2000/999. It is noted that the following assessment was made in regards to the potential loss of views to No. 227 and No. 229 Rowntree Street (which are potentially impacted in this application) under D/2000/999:

227 Rowntree Street

The two storey dwelling at 227 Rowntree Street currently enjoys views of the city skyline and portions of the harbour from its second floor. The proposal will reduce the view of the harbour from the second floor of this dwelling. However the view of the city skyline will be retained. It should be noted that views from this property are currently impeded by existing trees in the rear yards of dwellings in Rowntree Street. The impact on the views from this property is not considered to be significant.

229 Rowntree Street

The two storey dwelling on this site presently enjoys views of the city skyline. However it is considered that these views are primarily in a direction to the north of the subject site, over No's 194 and 196 Short Street. It is not considered that the impact of the proposal on views from this property will be significant.

As outlined above, the roof terraces were recommended for approval on the proviso that the views to the city skyline from 227 and 229 Rowntree Street could be retained.

4(c) Application history

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

Date	Discussion / Letter / Additional Information
5 Dec 2019	Letter requesting application to be withdrawn citing the following issues: <ul style="list-style-type: none"> - Issues in relation to view loss impacts to adjoining properties - Issues in relation to visual and acoustic privacy impacts to adjoining properties - Issues in relation to Floor Space Ratio (FSR) - Issues in relation to Heritage and Streetscape
10 Dec 2019	Meeting with Applicants
18 Dec 2019	E-mail from applicant confirming the application will not be withdrawn

5. Assessment

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

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy (Coastal Management) 2018*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Leichhardt Local Environmental Plan 2013*

5(a)(i) *Leichhardt Local Environment Plan 2013 (LLEP 2013)*

The application was assessed against the following relevant clauses of the Leichhardt Local Environmental Plan 2013 (LLEP2013):

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone Objectives and Land Use Table
- Clause 2.7 – Demolition Requires Development Consent
- Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1
- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 – Calculation of Floor Space Ratio and Site Area
- Clause 4.6 – Exceptions to Development Standards
- Clause 6.1 – Acid Sulphate Soils
- Clause 6.2 – Earthworks
- Clause 6.4 – Stormwater Management

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

Standard (maximum)	Proposal	% of non compliance	Compliances
Floor Space Ratio Required: [0.8:1]	0.92:1 355.5m ²	14%	No
Landscape Area Required 20% of Site Area	20.1% 78m ²	Not Applicable	Yes
Site Coverage 60% of Site Area	38.9% 151 m ²	Not Applicable	Yes

The following provides further discussion of the relevant issues:

Clause 1.2 – Aims of the Plan

The proposal does not comply with the Floor Space Ratio, is incompatible with the desired future character of the area and the heritage area and generates adverse amenity impacts to the neighbouring properties in relation to view loss, visual privacy and acoustic privacy. Therefore the proposal is contrary to the following objectives under Clause 1.2:

- (d) *to promote a high standard of urban design in the public and private domains,*

- (e) *to protect and enhance the amenity, vitality and viability of Leichhardt for existing and future residents, and people who work in and visit Leichhardt,*

Clause 2.3 – Zone objectives and Land Use Table

The subject site is located in the R1 General Residential zoning, and dwelling-houses are permissible in the zoning.

The Objectives of zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To improve opportunities to work from home.*
- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
- *To provide landscaped areas for the use and enjoyment of existing and future residents.*
- *To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.*
- *To protect and enhance the amenity of existing and future residents and the neighbourhood*

The proposal is considered to be incompatible with the streetscape and heritage conservation area and will result in adverse amenity impacts to its adjoining neighbours with regard to View Loss, Visual Privacy and Acoustic Privacy. Therefore, it does not achieve the objectives of the zone.

Clause 4.4 – Floor Space Ratio

As noted above, an FSR of 0.8:1 applies to the site as prescribed in Clause 4.4 of the LLEP2013.

The applicant's Statement of Environmental Effects (SEE) provides that the proposed FSR will be 0.7:1 being in compliance with the standard. A dimensioned set of plans that included calculations for FSR were not provided by the applicant verifying the above calculation.

Based on Council's calculations, the proposal will result in a FSR of approximately 0.92:1 (355.5 m²), which equates to a 14% breach of the FSR development standard prescribed in Clause 4.4 of the LEP.

In regards to FSR, it should be noted that there are no aspects of the existing building that will be considered as a basement level – there is direct access from the street to the garage level, and the sections provided suggests the floor to ceiling heights are approximately 2.3 metres in height, and given that there are no minimum requirements for car parking for single dwellings, the garage component should also be included in the FSR calculations. The actual FSR is significantly higher than the 0.7:1 quoted in the SEE, and both the existing FSR and proposed FSR will exceed the specified FSR development standard of 0.8:1.

No Clause 4.6 exception to development standard had been provided in relation to FSR. On this basis alone, the application is unsupportable.

Clause 5.10 – Heritage Conservation

The subject property at 194 Short Street, Birchgrove, is located within the Town of Waterview Heritage Conservation Area (C4 in Schedule 5 of the Leichhardt LEP 2013). The

site is in the vicinity of the heritage listed house, and interiors, at 235 Rowntree Street, Birchgrove (I589).

The Statement of Significance for the Town of Waterview Heritage Conservation Area is in the Leichhardt DCP 2013, which is available via the link below:

<https://www.innerwest.nsw.gov.au/develop/planning-controls/heritage-and-conservation/heritage-conservation-areas>

The Statement of Significance for the heritage listed house in the vicinity is available from the Office of Environment & Heritage, heritage database website at:

<https://www.environment.nsw.gov.au/heritageapp/heritagesearch.aspx>

An assessment of the proposal against the heritage provisions of the Leichhardt LEP2013 has been carried out in Section 5(c) of this report. In summary, the bulk, scale, form and materials will result in a development that is detrimental to the Heritage Conservation Area and contrary to the provisions and objectives of Clause 5.10 Objectives 1(a) and (b) in the Leichhardt LEP 2013 which seek to conserve the heritage significance of Heritage Conservation Areas, including settings and views.

5(b) Draft Environmental Planning Instruments

Draft State Environmental Planning Policy (Environment) 2018

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development would be consistent with the intended requirements within the Draft Environment SEPP.

5(c) Development Control Plans

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

LDCP2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
Part C	
C1.0 General Provisions	No – see below

C1.1 Site and Context Analysis	Yes
C1.2 Demolition	N/A
C1.3 Alterations and additions	No - see below
C1.4 Heritage Conservation Areas and Heritage Items	No - see below
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	N/A
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	N/A
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	N/A
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	Yes
C1.18 Laneways	N/A
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
C2.2.2.5 Mort Bay Distinctive Neighbourhood <i>C2.2.2.5(c) The Upper Slopes Sub Area</i>	No - see below
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	No – see below
C3.2 Site Layout and Building Design	No - see below
C3.3 Elevation and Materials	No, see below
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	N/A
C3.6 Fences	N/A
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	No - see below
C3.11 Visual Privacy	No - see below
C3.12 Acoustic Privacy	No - see below
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	N/A
D2.5 Mixed Use Development	N/A
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes

E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	N/A
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	Yes
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A
Part F: Food	N/A
Part G: Site Specific Controls	N/A

The following provides discussion of the relevant issues:

Clause C1.0 General Provisions

As discussed elsewhere in this report, the proposal is considered to be incompatible with the heritage area and will result in adverse amenity impacts to adjoining properties and therefore is considered to inconsistent with the following objectives under this part:

O4 Amenable: places and spaces provide and support reasonable amenity, including solar access, privacy in areas of private open space, visual and acoustic privacy, access to views and clean air.

O6 Compatible: places and spaces contain or respond to the essential elements that make up the character of the surrounding area and the desired future character. Building heights, setbacks, landscaping and architectural style respond to the desired future character. Development within Heritage Conservation Areas or to Heritage Items must be responsive to the heritage significance of the item and locality.

C1.3 Alterations and additions, C1.4 Heritage Conservation Areas and Heritage Items, C2.2.2.5 Mort Bay Distinctive Neighbourhood and C2.2.2.5(c) The Upper Slopes Sub Area and C3.3 Elevation and Materials

Clause 5.10: Heritage Conservation from the Leichhardt LEP 2013 and Sections C1.3: Alterations and additions, C1.4: Heritage conservation areas and heritage items, C.2.2.2.5: Mort Bay Distinctive Neighbourhood and C2.2.2.5(c) Upper Slopes Sub Area from the Leichhardt DCP 2013 applies to the proposal.

The drawings, dated 18 September 2019, and the Statement of Environmental Effects, dated September 2019, both prepared by Kennedy Associates Architects, were reviewed as part of this assessment.

The proposal includes construction of a roof terrace over part of the existing roof and the extension of the existing staircase to enable access to the roof terrace.

Roof terraces are discouraged as they are not characteristic to the Town of Waterview HCA and will not maintain the existing roof form, which is inconsistent with C11 of Section C2.2.2.5 of the DCP. The form of the roof terrace and structure over the staircase and landing are inconsistent with C15 a. as it is not appropriate to the context of the site and does not match the roof forms within its context.

The SEE states that Short Street contains a number of dwellings with roof terraces, including 170, 172, 174, 176, 178, 188 and 192A Short Street. A recent approval for a rooftop terrace was granted for 190 Short Street (D/2018/504). The heritage assessment concluded the rooftop terrace was acceptable subject to a reduction in scale of the upper room so that it has less impact to the streetscape and the use of a lighter, recessive colour scheme or timber cladding and dark greys and blacks are not to be used as colours for building elements, including windows or doors visible from public domain. It can be noted that 190 Short Street contain one less storey than the development proposed at 194 Short Street and has a maximum height of RL26.229.

The proposed height of the roof terrace of No. 194 Short Street is RL29.77 which is higher than the neighbouring dwellings. The floor to ceiling height of the landing is 2.2m which does not provide an opportunity to reduce the height. The structure will be visible from the public domain, though the proposed setback of the stairs and the landing from the existing parapet will reduce some of the impact, as viewed from the street. The structure over the staircase, landing and the metal vergola will be visually prominent. It is not supported as it should be subordinate to the existing building and adjoining residential development, which is inconsistent with C11 c. of the DCP.

The glazed balustrading to the southern (street) elevation is not acceptable as it is not characteristic of the Town of Waterview HCA. This detailing should in the very least match the detail of the balconies below.

However, this in turn will create additional impacts to the streetscape, where the proposal in its current form is already considered to result in unacceptable impacts as the proposed maximum heights for the terrace and the associated building structures will be higher than those corresponding on the adjoining properties. The development clearly reads as a fourth storey from Short Street which further breaches the 3.6 metre wall height control.

Therefore, it is considered that the bulk, scale, form and materials will result in a development that is detrimental to the Heritage Conservation Area and contrary to the provisions and objectives of the above Clauses of the LDGP2013.

C3.1 Residential General Provisions

As discussed in earlier and later sections of the report, the proposal is considered to be incompatible with the heritage area and will result in adverse amenity impacts to adjoining properties and therefore is considered to inconsistent with the following objectives under this part:

O3 To ensure that alterations, additions to residential buildings and new residential development are compatible with the established setting and character of the suburb and neighbourhood and compatible with the desired future character and heritage significance of the place and its setting.

O7 To ensure that the amenity, including solar access and visual privacy, of the development and adjacent properties is not adversely impacted.

C3.2 Site Layout and Building Design

Building Location Zone

The Building Location Zone (BLZ) is determined by having regard to the rear alignment of the main building on the adjacent properties. The proposed alterations and additions, specifically, the ‘Landing’ area at the third floor level, establishes a new third floor BLZ as the northern adjoining property does not have a third storey.

The variation of a BLZ can be considered where the proposed development addresses the issues in C6 of Part C3.2:

- a. *amenity to adjacent properties (i.e. sunlight, privacy, views) is protected and compliance with the solar access controls of this Development Control Plan is achieved;*
- b. *the proposed development will be compatible with the existing streetscape, desired future character and scale of surrounding development;*
- c. *the proposal is compatible in terms of size, dimensions, privacy and solar access of private open space, outdoor recreation and landscaping;*
- d. *retention of existing significant vegetation and opportunities for new significant vegetation is maximised; and*
- e. *the height of the development has been kept to a minimum to minimise visual bulk and scale, as viewed from adjoining properties, in particular when viewed from the private open space of adjoining properties.*

As discussed in later sections of the report, the proposed works will result in unreasonable view loss and privacy impacts, and therefore, the establishment of a new third floor BLZ is not supported.

Side Setbacks

The proposed modifications will result in third floor additions results in non-compliance with the side setback controls as outlined in the following table:

Elevation	Proposed Maximum Wall Height (m)	Required setback (m)	Proposed setback (m)	Difference (m)
Eastern	7.4	2.7	3.6	Complies
Western	8.8	3.5	2.2	1.3

Control C8 under this part states that Council may allow walls higher than that required by the side boundary setback controls where:

- a. *The development is consistent with relevant Building Typology Statements as outlined within Appendix B – Building Typologies of this Development Control Plan;*
- b. *The pattern of development within the streetscape is not compromised;*
- c. *The bulk and scale of development is minimised by reduced floor to ceiling heights;*
- d. *The potential impacts on amenity of adjoining properties, in terms of sunlight and privacy and bulk and scale, are minimised; and*
- e. *Reasonable access is retained for necessary maintenance of adjoining properties.*

It is considered that the proposal is not acceptable in relation to the impacts to the heritage conservation area and consequently the pattern of development within the streetscape would be compromised. The proposed development will result in adverse amenity impacts in regards to privacy impacts and the obstruction of significant views.

Therefore the variation in side back controls cannot be supported.

Building Envelope

The subject site is located with the Mort Bay Distinctive Neighbourhood. As the subject site is not a corner site, a 3.6 metre wall height applies to this proposal. While it is noted that the existing wall height breaches the control, the additional bulk at the front of the property generated from the proposed roof top terrace is not supported due to potential streetscape impacts and impacts to the heritage conservation area.

C3.9 Solar Access

The subject site and the surrounding lots have a north-south orientation. The following solar access controls under C3.9 apply to the proposal in relation to impacts to glazing on the surrounding sites.

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

In addition, C3.9 also requires protection of solar access to private open spaces of adjoining properties. The subject site has north-south orientation, and therefore, the following solar access controls apply to the proposal in relation to solar access to private open spaces of affected properties:

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

The shadow diagrams provided are generally accurate in the depiction of the proposed impacts at the winter solstice. As the proposed and impacted sites are north-south orientated, only north-facing glazing associated with living areas can be protected, and there are no impacts to the north-facing windows of No. 192A Short Street. There are also no additional impacts to the rear yard of No.192A Short Street which is located on the northern parts of the site. However, the proposal is recommended for refusal for other reasons mentioned elsewhere in this report.

C3.10 Views

A number of objections have been received in relation to the loss of views. Council will consider the following steps in the assessment of reasonable view sharing:

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

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

c. Where is the view enjoyed from? Views enjoyed from the main living room and entertainment areas are highly valued. Generally it is difficult to protect views from across side boundaries. It is also generally difficult to protect views from other areas within a residential building particularly if views are also available from the main living

room and entertainment areas in the building concerned. Public views are highly valued and will be assessed with the observer standing at an appropriate point in a public place.

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

The following controls are applicable:

C1 New development should be designed to promote view sharing (i.e. minimise view loss to adjoining and adjacent properties and/or the public domain while still providing opportunities for views from the development itself).

C2 Design solutions must respond graphically to the site analysis outcomes through the use of plans, elevations, photographs and photomontages to demonstrate how view sharing is to be achieved and illustrate the effect of development on views. In some cases, reasonable development may result in the loss of views, but new development must not significantly obstruct views.

C3 Development shall be designed to promote view sharing via:

- a. appropriately addressing building height, bulk and massing;*
- b. including building setbacks and gaps between buildings;*
- c. minimise lengthy solid forms;*
- d. minimise floor to ceiling heights and use raked ceilings in hipped / gabled roof forms where appropriate, especially in upper floors;*
- e. splay corners; and*
- f. use open materials for balustrades, balconies, decks, fences, car ports and the like.*

Views from No. 227 Rowntree Street



View from elevated ground floor deck

The views most impacted from the property at No. 227 Rowntree Street will be the views obtained from the elevated ground floor balcony which are associated with the dining/kitchen/living areas at the rear of No. 227 Rowntree Street. The balcony currently enjoys partial views of the city skyline. The proposed works will obstruct some of the existing views to the city skyline, but the view to the centre point tower is likely to be retained.



View from first floor balcony



View from second floor balcony

The views to the water, city skyline and Central Point Tower obtained from the first floor and second floor balconies (which are associated with Bedrooms and a study respectively) will be retained.

Views from No. 229 Rowntree Street



View from elevated ground floor deck.



View from elevated ground floor deck.

The views most impacted from the property at No. 229 Rowntree Street will be the views obtained from the elevated ground floor balcony which are associated with the living areas at the rear of No. 229 Rowntree Street. The balcony currently enjoys intact views of the city skyline and the Centre Point Tower. The proposed works are likely to severely obstruct these views, including the view to the Centre Point Tower.



View from first floor window.



View from first floor window.

On the upper levels, the bedroom and office space enjoys water views, the view to the city skyline and the view to the Central Point Tower. The proposed development will result in some loss of views to the water but is likely to retain the view to the skyline including the Centre Point Tower.

Views from No. 231 Rowntree Street



View from elevated ground floor window.



View from elevated ground floor window.



View from bench/table (sitting position).

The open-plan kitchen/living/dining room area of No. 231 Rowntree currently enjoys partial views of the city skyline and the Centre Point Tower. The best view is obtained from a sitting position from the bench/table associated with the kitchen that the occupant also utilises as a home office. The proposed works are unlikely to impact the view to the Centre Point Tower but will obstruct the majority of the partial views to the city skyline.

Views from No. 192 Short Street



View from roof top terrace

The roof terrace enjoys views of the Sydney Harbour Bridge and the city skyline. The views to Sydney Harbour the Harbour Bridge and the main city skyline are likely to be retained in full. It should be noted that the views from the front balconies on the first and second floor levels will not be affected by the proposal.

Views from No. 192A Short Street



View from roof top terrace.



View from roof top terrace.



View from third floor window to a landing area associated with the roof top terrace.

The roof terrace enjoys views of the Sydney Harbour Bridge and the city skyline. While the views to Sydney Harbour Bridge will be partially obstructed from some parts of the roof terrace and the third floor window, it is noted that at the front portions of the roof terrace, the view of the Harbour Bridge will be retained in full. It should be noted that the views from the front balconies on the first and second floor levels will not be affected by the proposal.

Other roof top terraces in the surrounding properties

As outlined in earlier sections of this report, there are examples of roof terraces at 190, 192 and 192A Short Street.

The roof terrace is located on the second floor (as opposed to the third floor roof terrace proposed in this application) and the maximum height of the associated structures in D/2018/504 is RL26.229 (see figure below) is lower than the existing maximum height at 194 Short Street (RL27.31) and significantly lower than the proposed maximum height of the works proposed in this application (RL29.77). Therefore, the nature of the approved roof terrace at 190 Short Street is significantly different to the current proposal for 194 Short Street in terms of potential view loss.

The roof terrace at 192 Short Street and 192A Short Street was approved under D/2000/999. It is noted that the view loss assessment was made against a now superseded set of planning controls (i.e. Leichhardt Development Control Plan No. 1) and prior to the establishment of Planning principles for view loss (*Tenacity Consulting v Warringah Council*), and it is also noted the roof terraces were recommended approval on the proviso that the views to the city skylines from No. 227 and No. 229 Rowntree Street could be retained.

Notwithstanding this, each application is assessed on its merits and the approval of these roof top terraces does not mean that potential view loss impacts generated from the proposed works in this application can be ignored.

Assessment of the impact of views

Having considered the existing available views from the objectors' properties, it is considered that the views to No. 192 Short Street and No. 192A Short Street will not be adversely impacted.

However, it is considered that the impacts to the rear adjoining properties at No. 227, No. 229 and No. 231 Rowntree Street are considered to be unreasonable. The impacts to No. 229 Rowntree Street in particular, are considered to be severe. The impacted views are significant views (city skyline), are obtained from living/entertainment areas and are not views from across boundaries. The proposal will result in a breach to the FSR, Side Setback Controls, Building Location Zone and its current form is considered to be incompatible with the streetscape and Heritage Conservation Area.

The current built form existing on site was approved by under D/2004/367 in *Waters v Leichhardt Municipal Council* [2006] NSWLEC 26. It should be noted that issues in relation to view loss was a key issue in the subject case, and the Court required the ridge height to be lowered by a further 300mm to address issues in relation to view less. [29-30] in *Waters v Leichhardt Municipal Council* [2006] NSWLEC 26 is reproduced below:

- “29 The roof is shown at 4 degree pitch. Sheet metal roofs such as that can be pitched as low as 2 degrees and that would enable the ceiling of the Bedrooms at the Street Elevation to be lowered to 2.7 m instead of 3 m and the roof lowered the same amount.
- 30 The conditions to that effect go as far as reasonable to achieve view sharing and compensate for not stepping or sloping of the roof edges.”

This is reflected in condition 1(g) in D/2004/367 which states:

“The roof is to be lowered to a 2 degree pitch so that the ceilings of Bedrooms 1, 2 and 3 reach a maximum height of 2.7 m and the roof at its street elevation end is lowered by the same amount and the east and west wall parapets also lowered accordingly.”

As evident in the existing views available to 229 Rowntree Street, the development approved in the judgment of D/2004/367 provided an appropriate balance of allowing a substantial development to take place at 194 Short Street but that was also able to retain the views to the city skyline from the living/entertainment areas of No. 229 Rowntree Street.

The proposed roof top terrace and associated structures would result in a development that would be higher and have more impacts than the development proposed in D/2004/367, and as discussed above, the proposed structure will result in additional view loss impacts to water views and views of significant landmarks. It is considered that the development fails the “reasonable” design test within Tenacity whereby it seeks multiple breaches of planning controls, and this more-bulky than ordinarily permitted building envelope directly results in avoidable view-loss impacts.

As the subject site already enjoys significant amounts of private open spaces in the form of a rear yard and balconies/terraces at the front of the property, it is not necessary to have a roof top terrace as there are already significant amount of private open spaces that can be used for recreation/entertaining proposes. Therefore, considering the impacts, the proposed cannot be considered to be a reasonable development and the impacts are considered to be excessive and unnecessary.

C3.11 Visual Privacy and C3.12 Acoustic Privacy

The following controls are applicable in C3.11 Visual Privacy

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

C4 Roof terraces will be considered where they do not result in adverse privacy impacts to surrounding properties. This will largely depend on the:

- a. design of the terrace;*
- b. the existing privacy of the surrounding residential properties;*
- c. pre-existing pattern of development in the vicinity; and*
- d. the overlooking opportunities from the roof terrace.*

C5 The provision of landscaping may be used to complement other screening methods but cannot be solely relied upon as a privacy measure.

C7 New windows should be located so they are offset from any window (within a distance of 9m and 45 degrees) in surrounding development, so that an adequate level of privacy is obtained/retained where such windows would not be protected by the above controls (i.e. bathrooms, bedrooms).

C10 Living areas are to be provided at ground floor level to minimise opportunities for overlooking of surrounding residential properties.

The following controls are applicable in C3.12 Acoustic Privacy

C3 Noise generating areas that are not contained within buildings, such as private outdoor open space, parking and service equipment, is located and oriented away from bedroom windows on adjoining sites.

C8 Private open space is encouraged to be located away from bedrooms on adjoining properties to ensure minimal acoustic impacts.

Of particular concern is the impact to the bedroom windows of No. 196 Short Street. No. 196 Short Street has three openable windows associated with a bedroom on the southern elevation at the front portion of the dwelling. As the proposed privacy screens do not extend for the full length of the roof terrace, there are potential sightlines into these windows from the southern areas of the roof terrace. As the roof top terrace is only located approximately 6.7 metres from these windows, there are also concerns about the potential acoustic impacts to this affected bedroom of No. 196 Short Street.

There are also concerns about the potential overlooking into the existing roof terrace of No. 192A Short Street as the impacted terrace has a lower floor level (RL26.09) and overlooking into the eastern window associated with an ensuite at No. 192A Short Street. These matters cannot be addressed with additional screening as additional screening could result in additional view loss impacts.

As the roof terrace will be located more than 9 metres to the rear boundary, the proposal complies with the visual privacy controls in relation to visual privacy impacts to the rear adjoining properties at 227, 229 and 231 Rowntree Street.

Given that there are already amount of existing available private open spaces at No. 194 Short Street that could be used for entertainment purposes, it is considered that the excessive amenity an additional roof terrace area is not reasonable.

The proposed third floor windows on the eastern and western elevation (i.e. W1 and W3) will have sightlines (within 9 metres and 45 degrees) into windows of the adjoining properties at No. 196 and 192A Short Street. If the application was approved, conditions will have been imposed to restrict sightlines up to 1.6 metres from the finished floor levels from these windows.

5(d) The Likely Impacts

The development will result in adverse amenity impacts to surrounding properties and is incompatible with the heritage conservation area. Therefore the application is recommended for refusal.

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

The development will result in adverse amenity impacts to surrounding properties and is incompatible with the heritage conservation area. Therefore the site is not suitable for the proposal.

5(f) Any submissions

The application was notified in accordance with Leichhardt Development Control Plan 2013 for a period of 14 days to surrounding properties. Objections were received from 8 properties.

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

- Issues in relation to Floor Space Ratio – see Section 5(a) – Clause 4.4 – Floor Space Ratio
- Issues in relation to Changing the character of the area/Height, Bulk and Scale – see Section 5(c) - C1.3 Alterations and additions, C1.4 Heritage Conservation Areas and Heritage Items, C2.2.2.5 Mort Bay Distinctive Neighbourhood, C2.2.2.5(c) The Upper Slopes Sub Area and C3.2 Site Layout and Building Design
- Issues in relation solar access – see Section 5(c) – C3.9 – Solar Access
- Issues in relation to view loss – see Section 5(c) – C3.10 – View Loss
- Issues in relation visual privacy and acoustic privacy – see Section 5(c) - C3.11 Visual Privacy and C.12 – Acoustic Privacy

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

Any lighting will impact neighbours both behind and beside the proposal. Should the proposal be accepted lighting should only be permitted to a height of 500mm – 600mm and be inset into walls. If lights are left on by mistake at night it will impact the amenity of everyone in the vicinity.

Comment: The application is recommended for refusal. If the application is approved, appropriate conditions could be imposed to control nuisance lighting.

Music and Amplified Sound/Entertaining on the terrace should only be permitted on New Year's Eve, Australia Day and perhaps one other day in the year. These conditions were proposed in the case of PINCHUK v Woollahra [2005] NSWLEC 16, albeit that the roof terrace was disallowed anyway on the grounds of its visual and acoustic impact on neighbouring properties.

Comment: The application is recommended for refusal and visual and acoustic privacy impacts are included as reasons for refusal.

5(g) The Public Interest

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

The proposal is contrary to the public interest as it will result in adverse amenity impacts to surrounding properties and is incompatible with the heritage conservation area.

6 Referrals

6(a) Internal

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

- Heritage – Issues raised are not adequately resolved.

6(b) External

The application was not required to be referred to any external bodies.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are not payable for the proposal.

8. Conclusion

The proposal does not comply with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013. The approval of the application would not be in the public interest and in view of the circumstances, refusal of the application is recommended.

9. Recommendation

That the Inner West Planning Panel, as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, refuse the Development Application No. D/2019/381 for alterations and additions to existing dwelling-house, including to provide a roof terrace and associated access at 194 Short Street, Birchgrove for the following reasons.

1. The proposed development is inconsistent and / or has not demonstrated compliance with the Leichhardt Local Environmental Plan 2013, pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979:
 - a) Clause 1.2 – Aims of the Plan
 - b) Clause 2.3 – Zone objectives and Land Use Table
 - c) Clause 4.4 – Floor Space Ratio
 - d) Clause 4.6 – Exceptions to Development Standards
 - e) Clause 5.10 – Heritage Conservation
1. The proposed development cannot be approved as it breaches the Floor Space Ratio of 0.8:1 by 14% as stipulated by Clause 4.4) under Leichhardt Local Environmental Plan 2013.

2. The proposed development is inconsistent and / or has not demonstrated compliance with the following provisions of Leichhardt Development Control Plan 2013, pursuant to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979:
 - a) Clause C1.0 - General Provisions
 - a) Clause C1.3 – Alterations and Additions
 - b) Clause C1.4 – Heritage Conservation Areas and Heritage Items
 - c) C2.2.2.5 Mort Bay Distinctive Neighbourhood and C2.2.2.5(c) The Upper Slopes Sub Area
 - d) C3.1 - Residential General Provisions
 - e) C3.2 - Site Layout and Building Design
 - f) C3.3 - Elevation and Materials
 - g) C3.10 Views
 - h) C3.11 Visual Privacy
 - i) C3.12 Acoustic Privacy

4. The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979.

5. The approval of this application is considered contrary to the public interest, pursuant to Section 4.15 (1)(d) and (e) of the Environmental Planning and Assessment Act 1979.

Attachment A – Draft Conditions if application is approved

Conditions of Consent

Fees

1. Long Service Levy

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

2. Security Deposit - Standard

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

Security Deposit:	\$2,152.50
Inspection Fee:	\$230.65

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 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

3. 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
Drawing No: DA -11A, Issue A	PROPOSED: FIRST FLOOR PLAN	18.09.19	Kennedy Associates Architects

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Drawing No: DA -12A, Issue A	PROPOSED: ROOF TERRACE PLAN	18.09.19	Kennedy Associates Architects
Drawing No: DA -13A, Issue A	PROPOSED: ROOF PLAN	18.09.19	Kennedy Associates Architects
Drawing No: DA - 14A, Issue A	PROPOSED: SOUTH ELEVATION	18.09.19	Kennedy Associates Architects
Drawing No: DA - 15A, Issue A	PROPOSED: WEST ELEVATION	18.09.19	Kennedy Associates Architects
Drawing No: DA - 16A, Issue A	PROPOSED: NORTH ELEVATION	18.09.19	Kennedy Associates Architects
Drawing No: DA - 17A, Issue A	PROPOSED: EAST ELEVATION	18.09.19	Kennedy Associates Architects
Drawing No: DA - 18A, Issue A	SECTION AA	18.09.19	Kennedy Associates Architects
Drawing No: DA - 19A, Issue A	SECTION BB	18.09.19	Kennedy Associates Architects
Drawing No: DA - 24A, Issue A	LANDSCAPE PLAN	18.09.19	Kennedy Associates Architects
Drawing No: DA - 25A, Issue A	Stormwater drainage concept plan	18.09.19	Kennedy Associates Architects
No. A359054	BASIX Certificate	27 September 2019	Greenworld Architectural Drafting

As amended by the conditions of consent.

Note: This consent shall not be construed as Council having approved the sunroom at the front of the site.

4. 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.

5. 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.

6. 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.

7. Works Outside the Property Boundary

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

8. 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**9. Construction Fencing**

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

10. 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**11. 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.

12. 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 132092.

13. Concealment of Plumbing and Ductwork

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans detailing the method of concealment of all plumbing and ductwork including stormwater downpipes within the outer walls of the building so they are not visible.

14. Dilapidation – minor

The person acting on this consent shall submit to the Principal Certifying Authority a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the issue of a Construction Certificate.

15. Stormwater Drainage System

Stormwater runoff from all pervious and impervious areas within the property must be collected in a system of gutters, pits and pipelines and discharged by gravity to the existing site drainage system.

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. Minor roof or paved areas that cannot reasonably be drained by gravity to a public road may be disposed on site subject to ensuring no concentration of flows or nuisance to other properties.

An overland flow path shall be provided within the setback to the southern boundary between the rear of the dwelling and Catherine Street frontage. The rear courtyard shall be graded so that bypass flows from the site drainage system are directed to the overland flow path.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

During Demolition and Construction

16. 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.

17. 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.

18. Public Liability Insurance

Where applicable, any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall 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.

Prior to Occupation Certificate

19. Protect Sandstone Kerb

The existing stone kerb adjacent to the site is of local heritage value and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units before the issue of the Occupation Certificate.

20. Service Adjustments

You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. It is responsibility of applicant's contractor to verify location of the utility services with the relevant service authority. 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 shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.

21. Alignment Levels

Alignment levels for the site at all pedestrian and vehicular access locations shall match the existing back of footpath levels at the boundary. For vehicular access off rear laneways the level at the boundary shall match the invert level of the adjacent gutter plus 110mm/150mm at both sides of the vehicle entry.

22. No Encroachments

Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before the issue of the Occupation Certificate.

Advisory notes

New Vehicular Crossing

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

Prescribed Conditions

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

Notification of commencement of works

At least 7 days before any demolition work commences:

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

Storage of Materials on public property

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

Toilet Facilities

The following facilities must be provided on the site:

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

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

Infrastructure

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

Other Approvals may be needed

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

Failure to comply with conditions

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

Other works

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

Obtaining Relevant Certification

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

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

National Construction Code (Building Code of Australia)

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

Notification of commencement of works

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

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

Chartered/Registered Engineer

An engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng).

Dividing Fences Act

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

Permits from Council under Other Acts

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

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

Public Domain

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

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

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

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.

Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

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.

Construction of Vehicular Crossing

The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of a Vehicular Crossing & Civil Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.

Lead-based Paint

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

particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

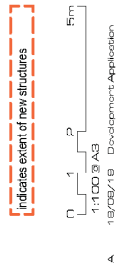
Dial before you dig

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

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	131441 www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.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 Environmental Solutions	1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

Attachment B – Plans of proposed development



PROPOSED: SOUTH ELEVATION

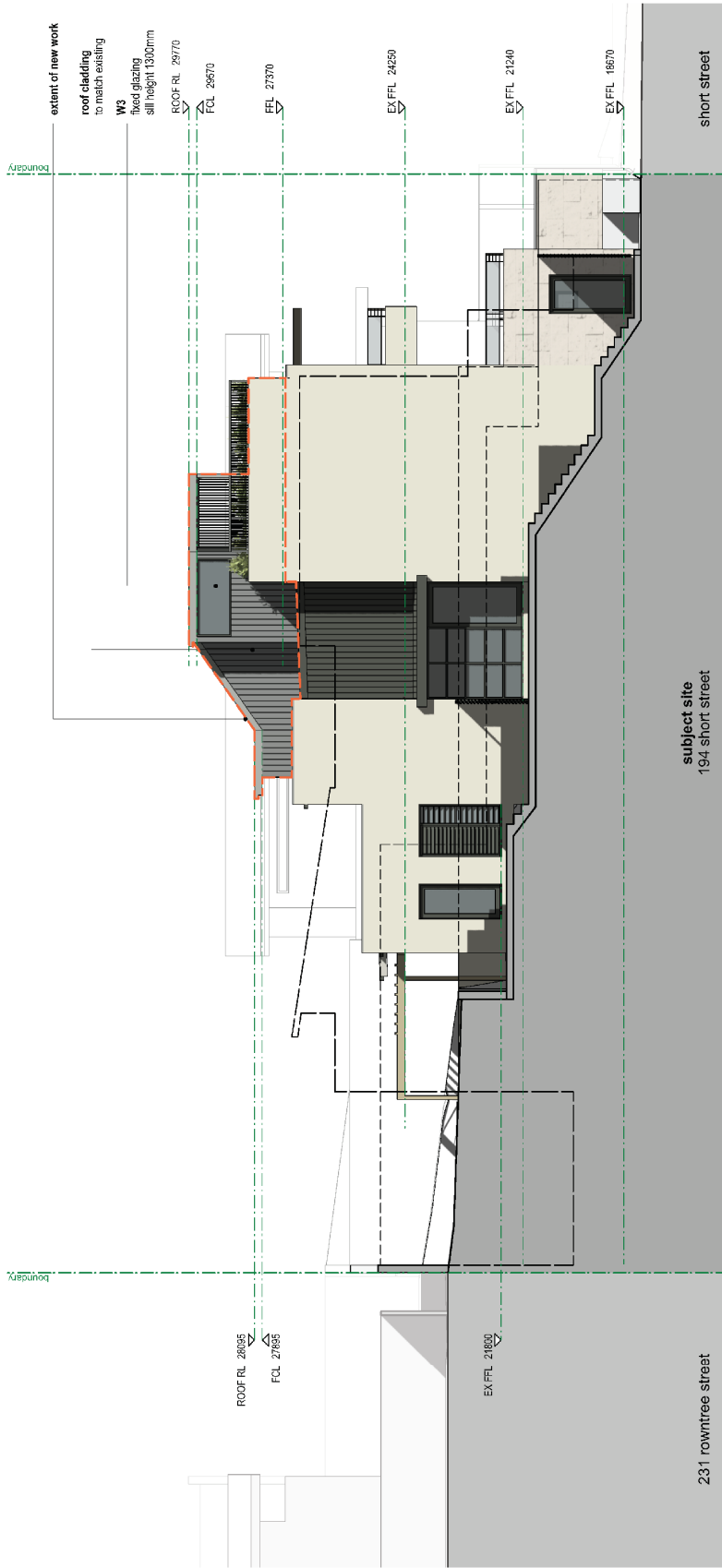
PROPOSED ADDITIONS AND ALTERATIONS TO:

194 Short Street, Birchgrove

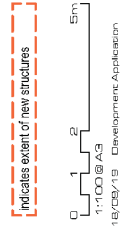
KENNEDY ASSOCIATES ARCHITECTS LEVEL 3 / 1 BOOTH STREET ANNANDALE 2038 P - 61 2 8557 8488 F + 61 2 8557 8477 NOMINATED ARCHITECT - STATE KENNEDY REGISTRATION NO. 5958

18/05/18 Development Application A

1807 - DA 14 A



- 1. roof & cladding:
 - primary structure
 - timber
 - stone grey matt
- 2. painted render:
 - 'beadpak' or similar to match existing render color
- 3. louvers, pergola structure & primary structure:
 - powder coated aluminium
 - colorbond aluminium
 - shale grey matt
- 4. window frames:
 - powder coated aluminium
 - colorbond aluminium
 - 'woodland grey' matt

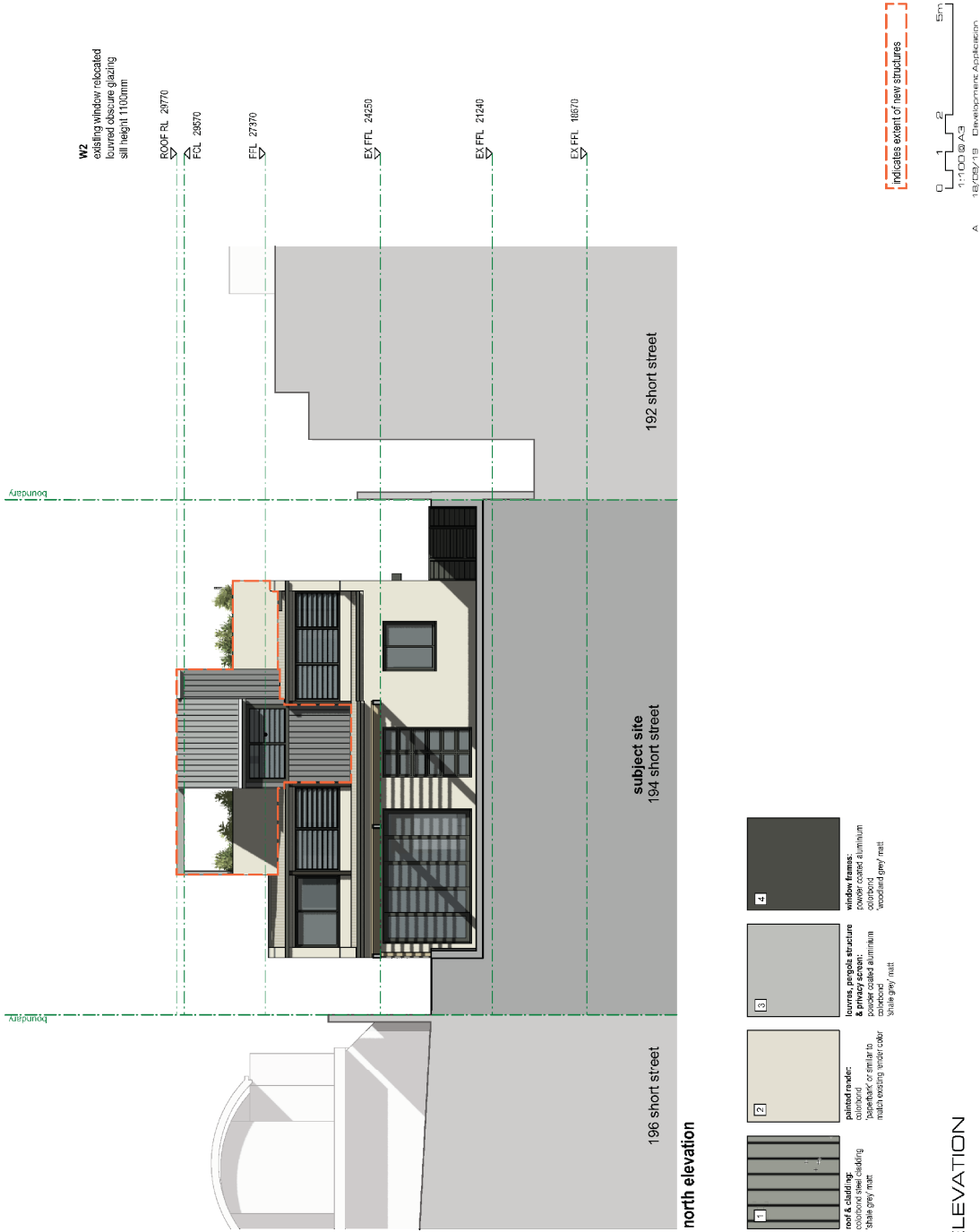


PROPOSED: WEST ELEVATION

proposed additions and alterations etc.

194 Short Street, Birchgrove kennedy architectural level 3 / 1 booth street, annandale 2038 o | 01 2 9557 0406 f | 01 2 9557 0477 nominated architect - oswie kennedy - registration no. 5988

1807 - DA 15 A



PROPOSED: NORTH ELEVATION

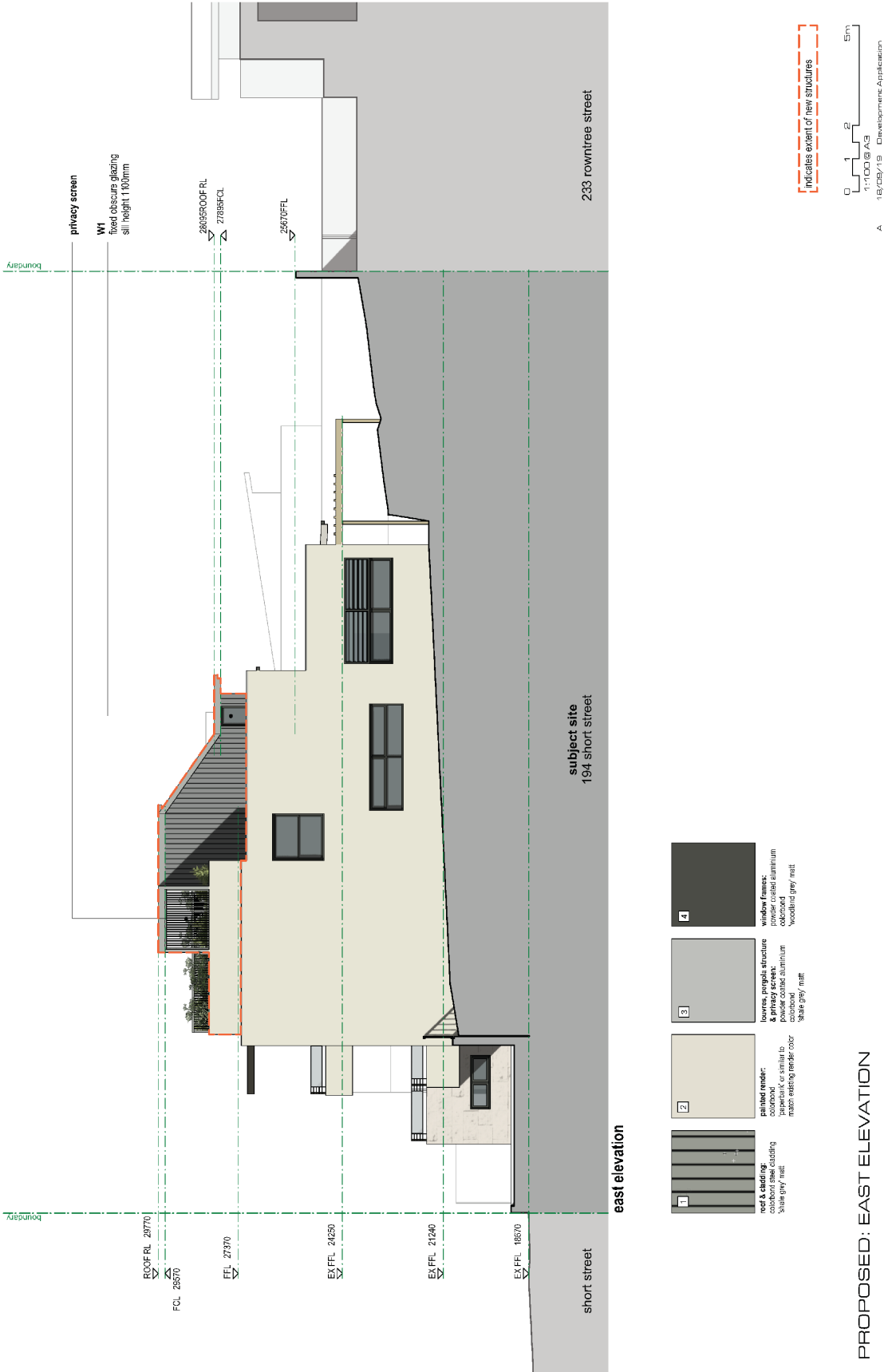
proposed additions and alterations to:

194 Short Street, Birchgrove

remedy associated architect level 3 / 1 booth street, manlyvale 2033

61 29657 6430 r 61 29657 6477 nominated architect - oswald kennedy - registration no. 5928

1807 - DA 16 A

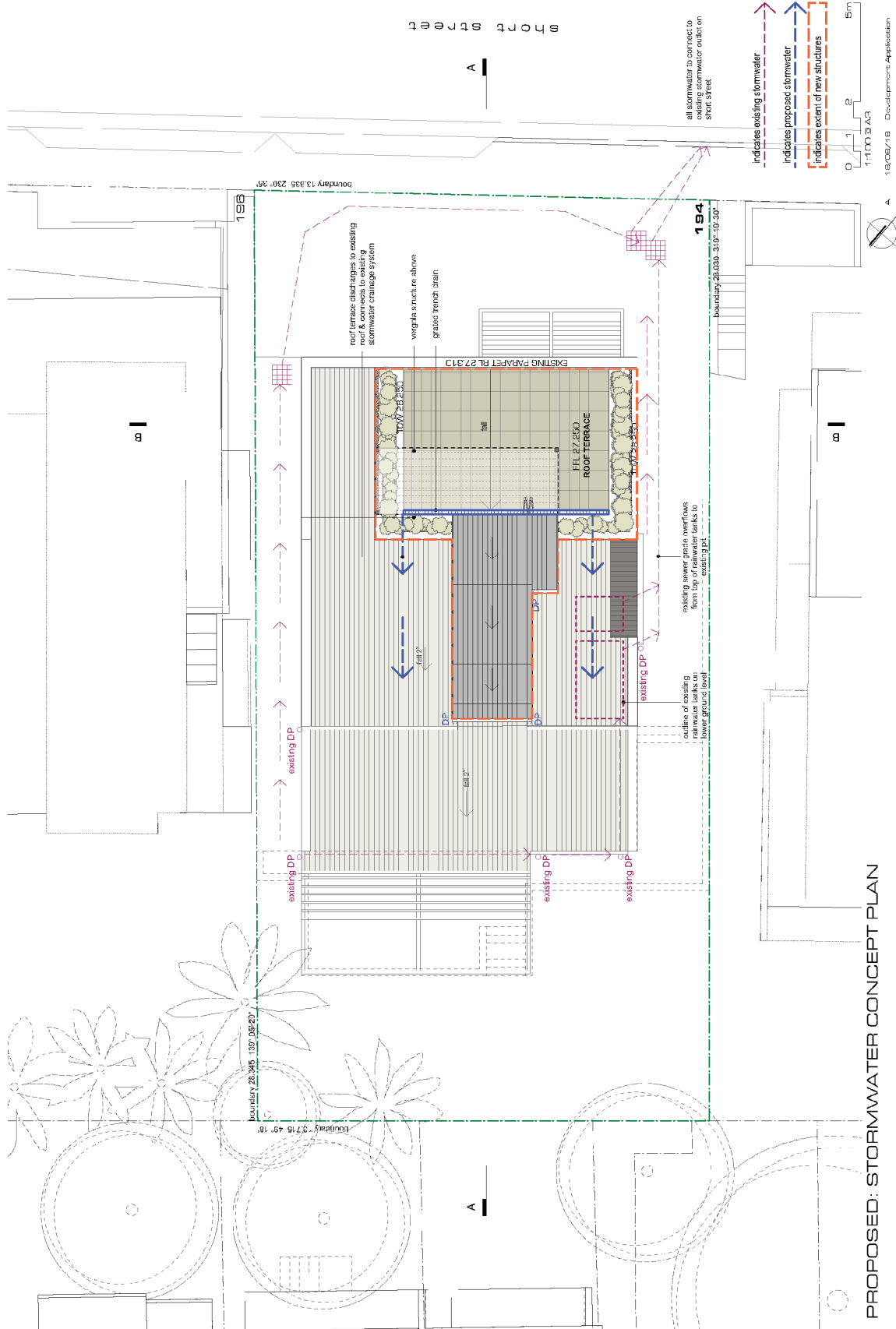


PROPOSED: EAST ELEVATION

proposed additions and alterations are:

194 Short Street, Birchgrove Kennedy associated architect level 13 / 1 booth street annandale 2038 p | 01 2 9557 0400 f | 01 2 9557 0477 nominated solicitor: cove kennedy registration no. 59288

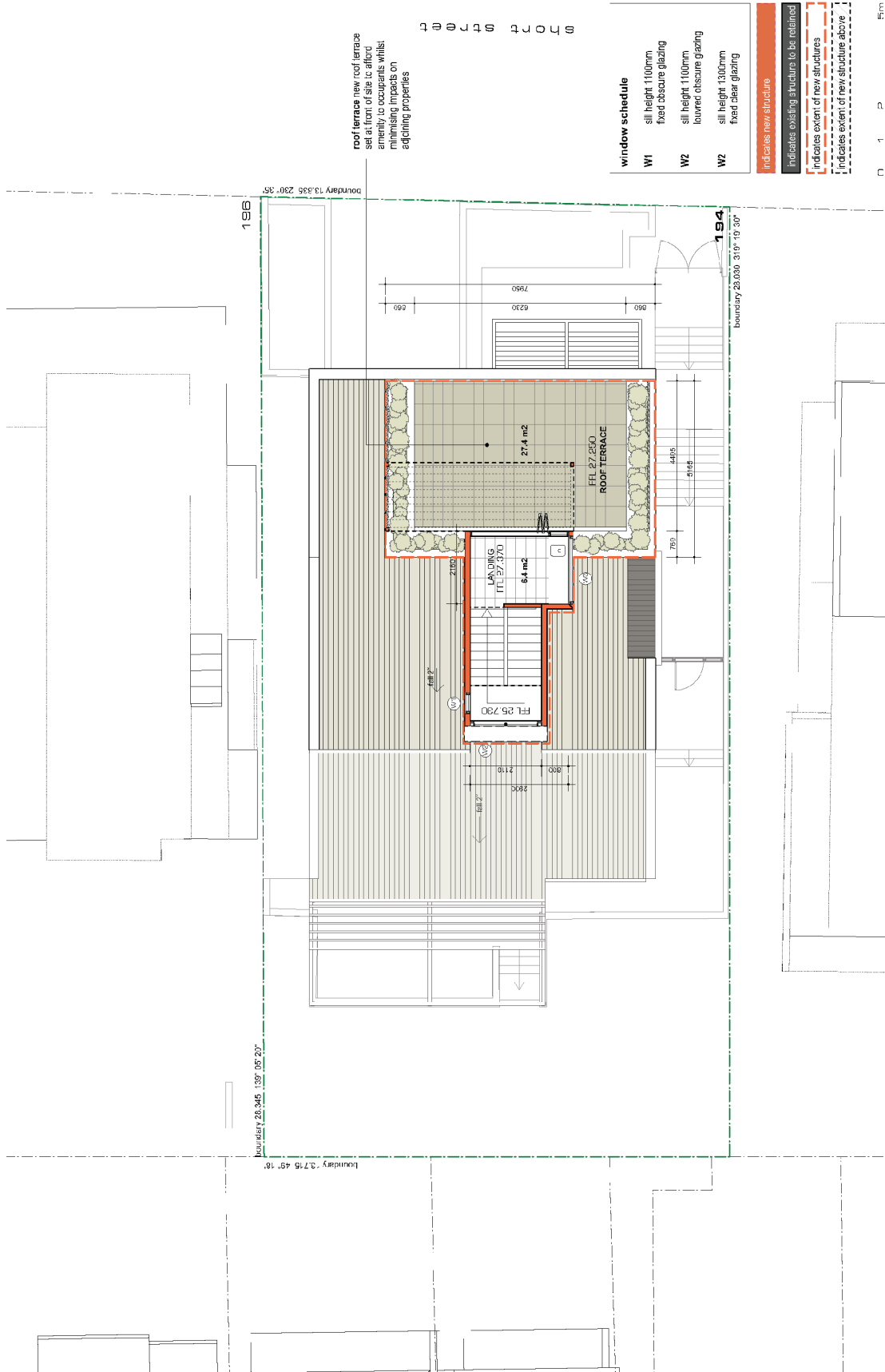
1807 - DA 17 A



PROPOSED: STORMWATER CONCEPT PLAN

proposed additions and alterations to:
 194 Short Street, Birchgrove emmacy associates architects level 3 / 1 booby street innerdale 2038 p - B1 2 9557 8488 f - B1 2 9557 6477 nominasac architect - craig kennedy registration no. 9588

18/08/18 Development Application
 1807 - DA 25 A



PROPOSED: ROOF TERRACE PLAN

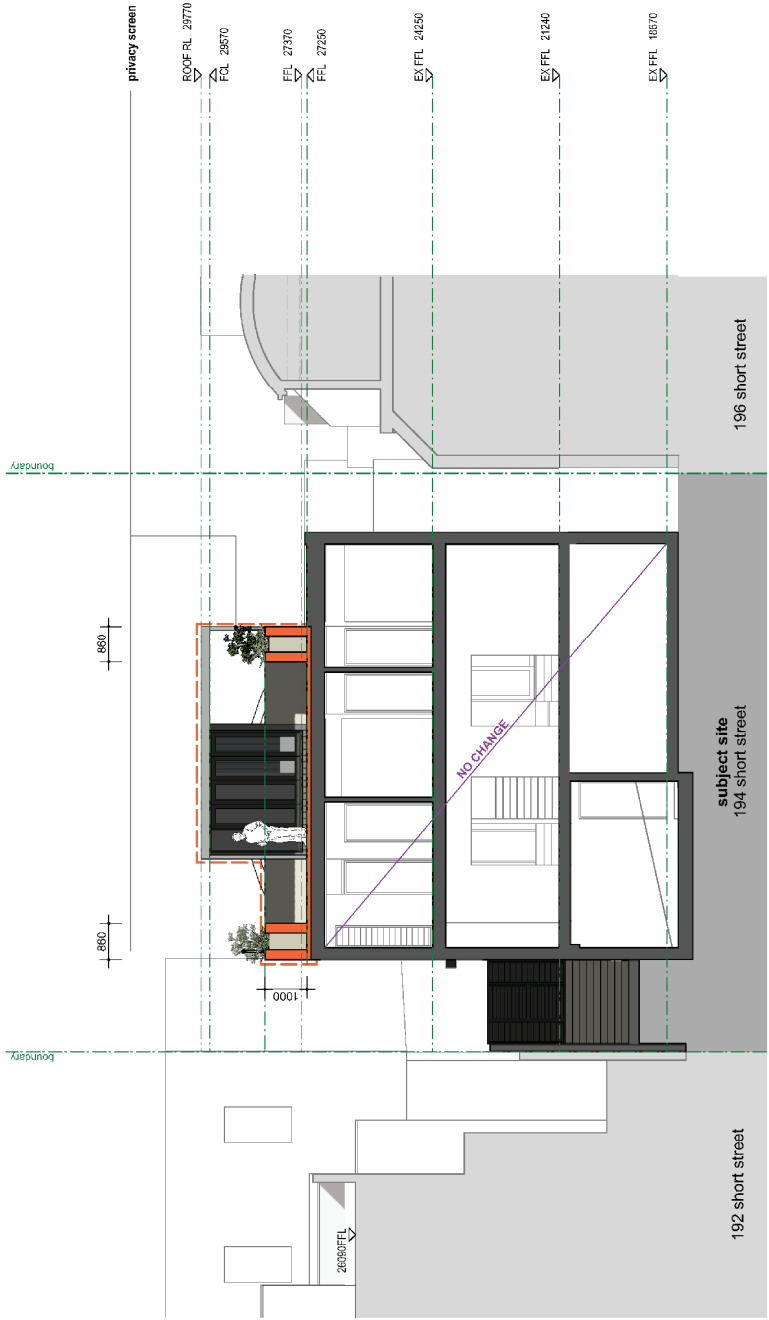
PROPOSED STRUCTURES AND ALTERATIONS ETC.

194 Short Street, Birchgrove

kenedy associates architects level 3 / 1 loach street annandale 2038 p - 61 2 8557 8498 f + 61 2 8557 8477 nammaxinc architect - crava kennedy registration no. 55556

18/08/18 Development Application 11003 AG 5mm 4

1807 - DA 12 A



section BB

- 1. **roof & cladding:**
concrete/steel cladding
Shale grey matt
- 2. **printed render:**
concrete/steel cladding
printed render
match surrounding color
- 3. **louvers, pergola, structure & privacy screen:**
powder coated aluminium
concrete
woodland grey matt
- 4. **window frames:**
powder coated aluminium
concrete
woodland grey matt

- indicates new structure
- indicates existing structure to be retained
- indicates extent of new structures



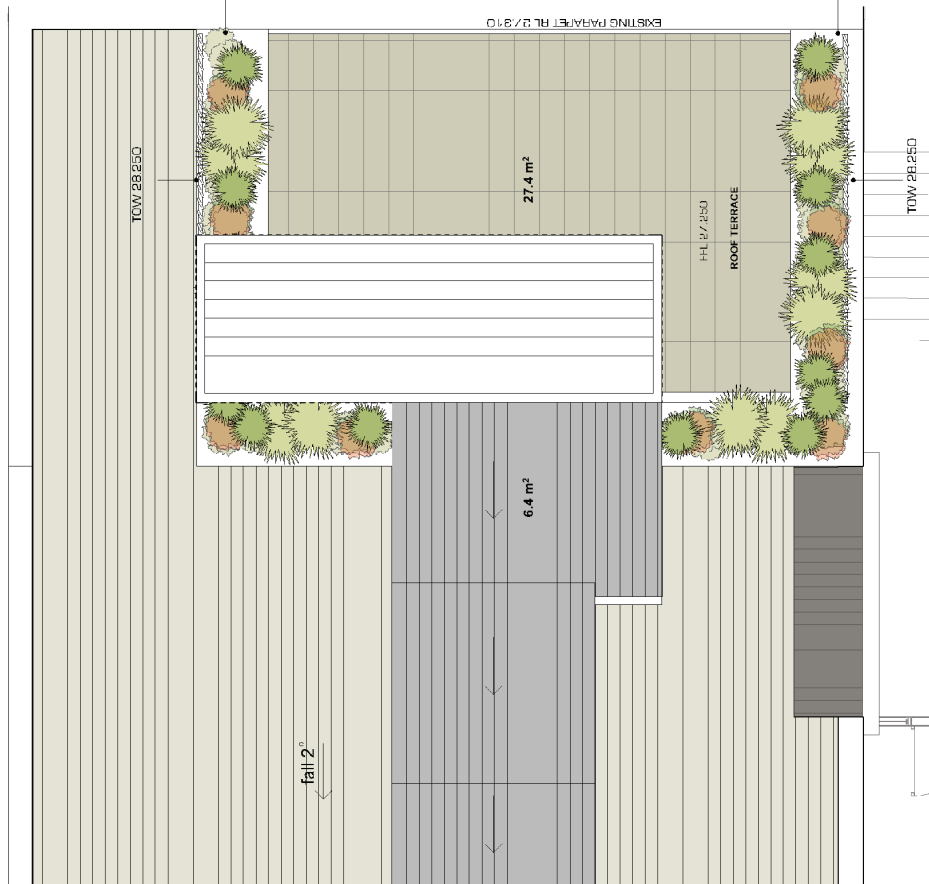
SECTION BB

proposed additions and alterations etc.

194 Short Street, Birchgrove Kennedy Associates Architects Level 13 / 1 Booth Street, Arncliffe 2033 p | B1 | B 9557 0400 f | B1 | B 9557 0477 non-rated architects - cswa kennedy - registered no. 5629

1807 - DA 19 A

location	plant type	species / botanical name	common name	size (mm)
ROOF-TERRACE	Mixed planting of native grasses and similar, low shrubs to max height of 600mm including:	Dianella Caerulea	Blue Flax Lily	300
		Lomandra Confertifolia Little	Minutiae Lomandra	300
		Raphiolepis Snow Maiden	Indian Hawthorn	300
		Callistemon Little John	Dwarf Bottlebrush	300



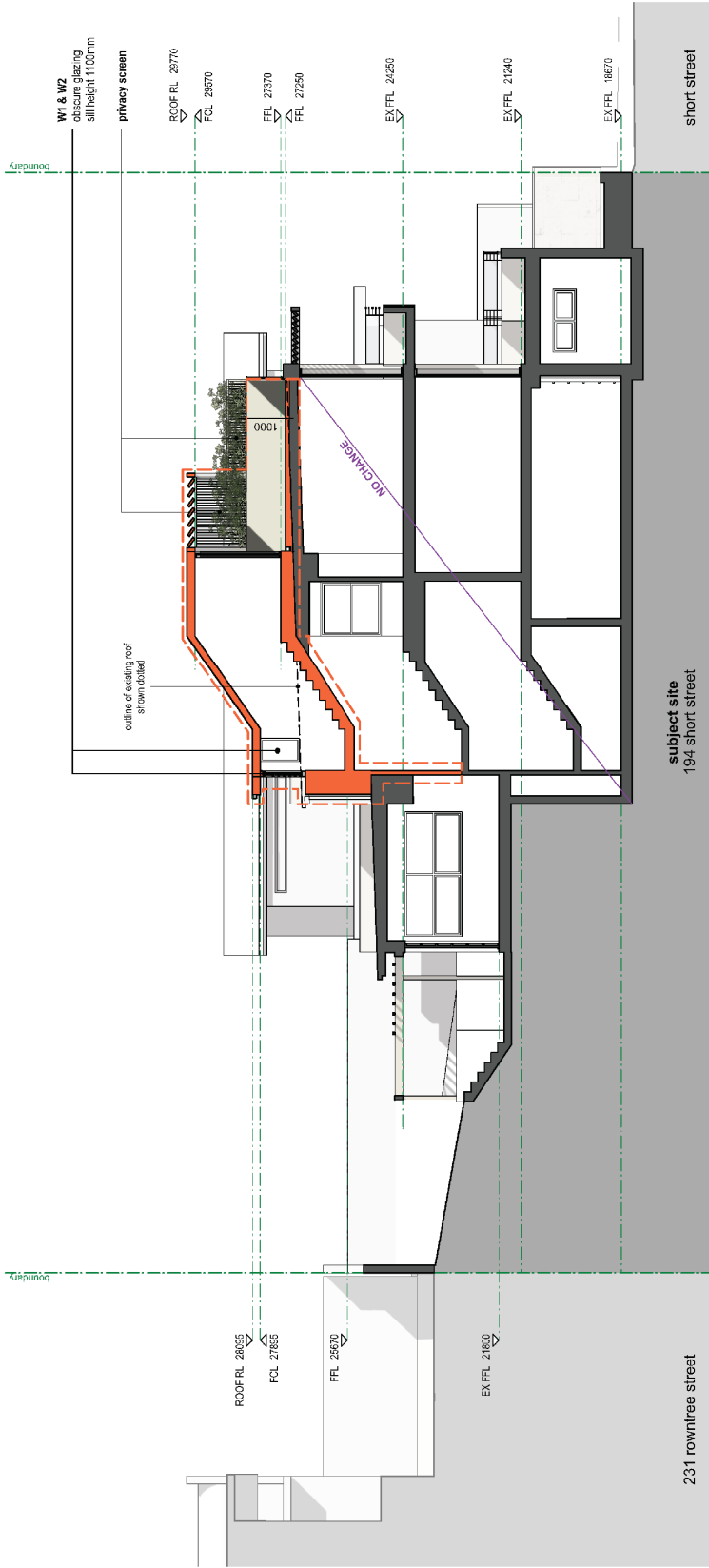
1:500 (A3) 1E/09/18 Development Application

LANDSCAPE PLAN

Proposed and existing landscape

194 Short Street, Birchgrove

1807 - DA 24 A



<p>1</p> <p>roof & cladding: cladding Shale grey / matt</p>	<p>2</p> <p>painter render: Sagebank or similar to match existing render color</p>	<p>3</p> <p>louvers, pergola structure & privacy screen: powder coated aluminum colorbond 3/4" x 1/2" x 1/2" / matt</p>	<p>4</p> <p>window frames: powder coated aluminum woodland grey / matt</p>
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Indicates new structure

Indicates existing structure to be retained

Indicates extent of new structures

0 1 2 5m

1:100 @ A3

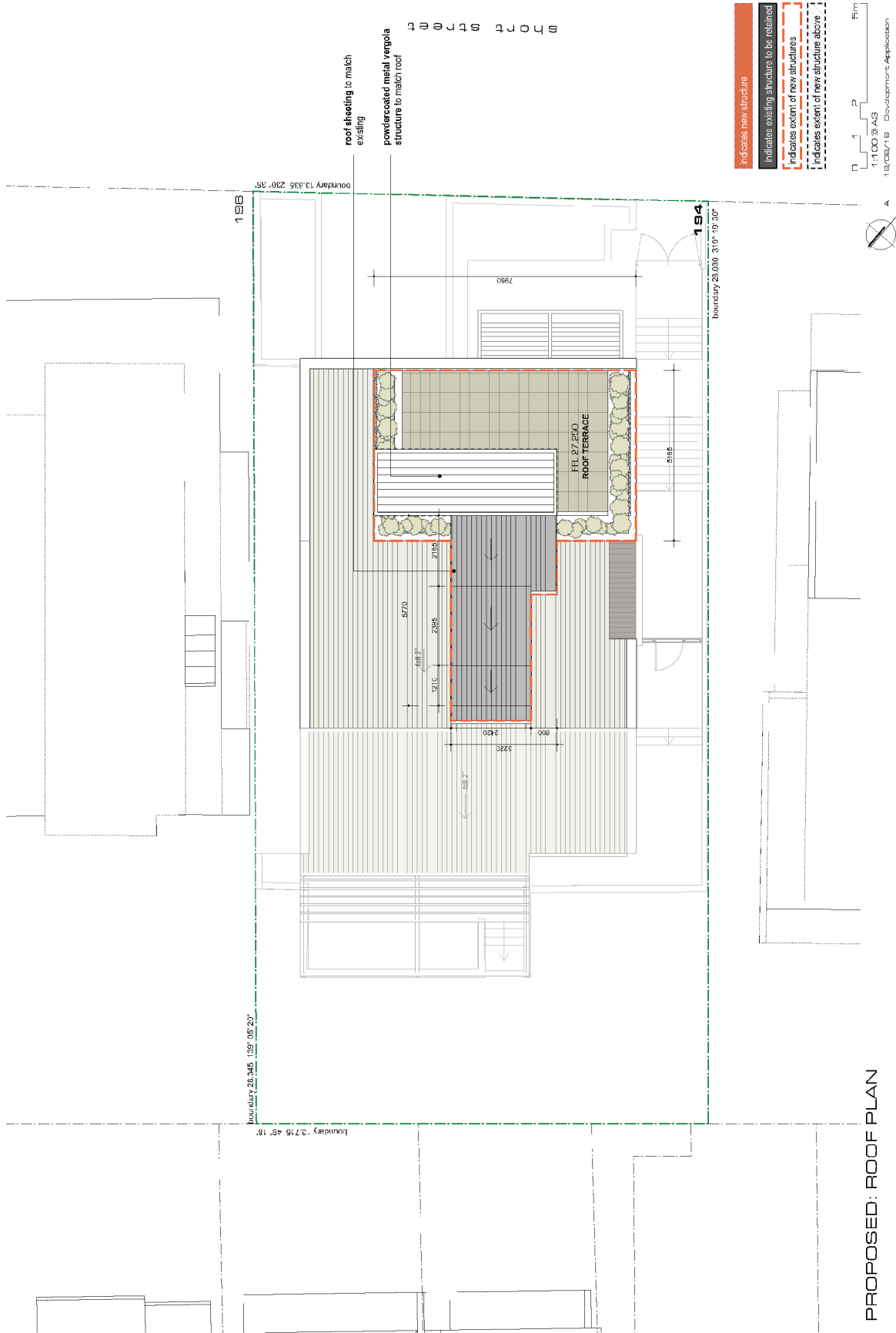
A 18/05/13 Development Application

SECTION AA

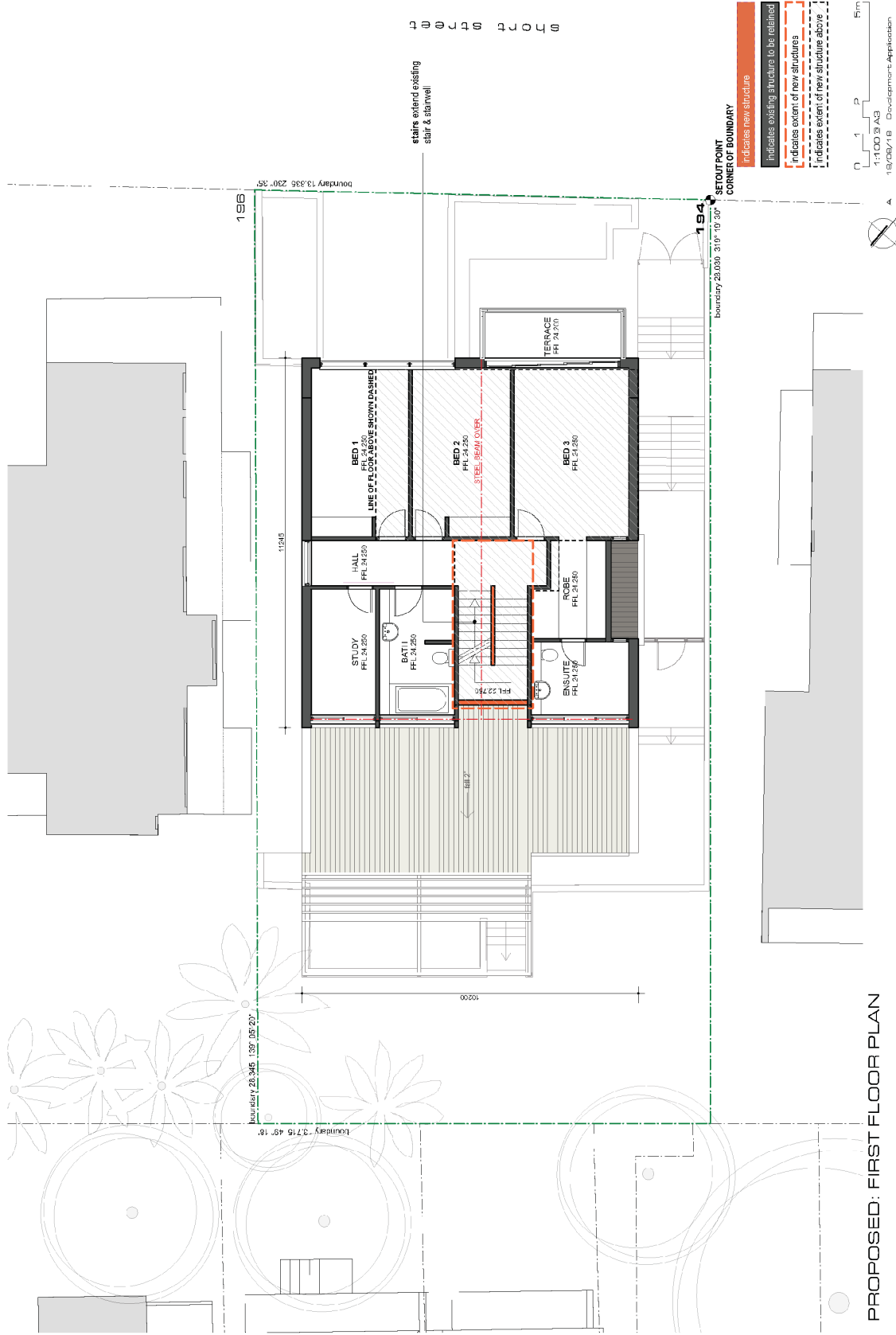
PROPOSED ADDITIONS AND ALTERATIONS AT:

194 Short Street, Birchgrove Kennedy Associates Architects Level 3 / 1 Booth Street Annandale 2038 p 1 B1 2 8057 0400 f 61 8 9657 0477 nominated architect - cove kennedy - registered no. 5968

1807 - DA 18 A



1807 - DA 13A



PROPOSED: FIRST FLOOR PLAN

PROPOSED EXISTING AND ALTERATIONS ETC.

194 Short Street, Birchgrove - Kennedy Associates Architects Level 3 / 1 Booth Street Annandale 2039 p - 61 2 9557 8489 f + 61 2 9557 8477 nmk@kennedy-architects.com.au registration no. 5628

1807 - DA 11 A

19/09/18 Development Application

Attachment C – Statement of Significance for Town of Waterview 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). This area, through the form and fabric of its houses, corner shops and pubs, its street layout and allotment shapes, demonstrates a remarkably intact area of early workers' housing from 1850s to 1890s with later infill development prior to World War II (ie pre- 1939). It is significant for its surviving development prior to World War II.
- Demonstrates through the density of pubs (and former pubs) within the township area its close association with the growth of the urban labour movement. A number of these pubs are of national heritage significance for their historical and enduring social values as part of the history of unionism and of the Ships Painters and Dockers Union in particular.
- Demonstrates, through the nature of its housing, the important role played by Morts Dock as a magnet for workers and the location of their housing.
- Demonstrates, through its rendered and painted brickwork, the nature of construction in Sydney before the ready availability of hard pressed, face bricks.
- Demonstrates the work of Surveyor Reuss.
- Associated with prominent local entrepreneurs and land developers, some of whom were aldermen of Council.
- Demonstrates, with Bodalla Village on the New South Wales south coast, the role of Thomas Mort in providing 'appropriate' housing for his employees.