



DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	REV/2020/0007
<b>Address</b>	14 Fawcett Street BALMAIN
<b>Proposal</b>	Review of Determination of D/2019/334 seeking to delete Condition 4 which requires retention of first floor east facing windows associated with heritage listed dwelling-house.
<b>Date of Lodgement</b>	18/02/2020
<b>Applicant</b>	Kate O'Connell and Tim Beresford
<b>Owner</b>	Kate O'Connell and Tim Beresford
<b>Number of Submissions</b>	Nil
<b>Value of works</b>	\$254,909
<b>Reason for determination at Planning Panel</b>	Recommendation is the same as original Development Application i.e. Condition 4 is recommended to be retained.
<b>Main Issues</b>	Impact to heritage item
<b>Recommendation</b>	Refusal – Condition 4 to be retained
<b>Attachment A</b>	Draft conditions of consent
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Clause 4.6 Exception – Floor Space Ratio
<b>Attachment D</b>	Statement of Heritage Significance
<b>Attachment E</b>	Statement of Significance for Heritage Conservation Area



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

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

## 1. Executive Summary

This report is an assessment of the application submitted to Council to review an application for alterations and additions to an existing heritage-listed dwelling-house at 14 Fawcett Street, Balmain. The application was notified to surrounding properties and no submissions were received.

The original Development Application (D/2019/334) was approved subject to conditions. The applicant is seeking a review to delete condition 4 which is in relation to proposed windows on the eastern elevation. This is not supported as the proposed windows are considered to have an adverse impact on the heritage item and the existing windows on the eastern elevation are required to be retained. Therefore it is recommended that the review of the application is to be refused and condition 4 to be retained.

## 2. Proposal

The original Development Application (D/2019/334) consisted of the following:

- Internal alterations to reconfigure the layout of the existing main bedroom, robe and ensuite on the first floor.
- Remove the existing windows in the rear first floor elevation.
- Two of the openings to the existing ensuite and robe are proposed to be retained and fitted with metal framed louvered windows and the 3 openings to the main bedroom are proposed to be replaced with 1 single large opening fitted with metal framed louvered windows.
- A skylight is proposed in the rear roof plane over the proposed robe.

The original Development Application (D/2019/334) was approved subject to a design change condition which requires the retention of the 12 paned Georgian style double hung sash windows and timber architraves on the eastern elevation. The applicant is seeking the deletion of Condition 4 which reads as follows:

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

- a) The 12 paned Georgian style double hung sash windows and timber architraves to the first floor eastern façade must be retained as part of the proposal.”*

## 3. Site Description

The subject site is located on the eastern side of Fawcett Street, between Gladstone Street and Vincent Street. The site has a frontage to Fawcett Street of approximately 15 metres. The site consists of one allotment and is generally rectangular in shape with a total area of 316.290 sqm and is legally described as 1 / DP198762

The site contains a heritage listed late Victorian Cottage. It is constructed of predominantly sandstone and weatherboard walls with deep front verandah and metal sheet roofing.

The subject site is listed as a heritage item of local significance and the property is located within a conservation area.



Zoning of subject and surrounding sites.



The southernmost window to the main bedroom in the eastern façade of the dwelling, as viewed from Ann 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**

<b>Application</b>	<b>Proposal</b>	<b>Decision &amp; Date</b>
D/2013/290	Partial demolition of rear portion of dwelling. Construction of new double storey addition to include living room, laundry, kitchen, dining and bathroom. Minor landscaping works.	Approved 30/09/2013
M/2013/222	s4.55 Modification of Development Consent - Amended plans and deletion of Condition 2(a) to permit the lower ground "entry" extension	Approved 18/12/2013
M/2014/147	s4.55 Modification of Development Consent - Section 96 application to modify D/2013/290 which approved alterations and additions to existing dwelling. Changes including amendment to and new glazing, new awning, relocate wall, increase floor area, relocate entry wall, raise floor level, extend rear roof and change form, raise wall and as marked on plans.	Approved 19/11/2014
M/2014/209	s4.55 Modification of Development Consent - The most recent S96 M/2014/147 consent conditions are incorrect - these conditions were addressed and deleted in M/2013/222. We request this be corrected and irrelevant conditions 2A+B deleted.	Approved 11/12/2014
D/2019/334	Alterations and additions to existing dwelling	Approved 28/11/2019

**Surrounding properties**

Not applicable

**4(b) Application history**

Not applicable

**5. Assessment**

The following is a summary of the assessment of the application in accordance with Division 8.2 of the *Environmental Planning and Assessment Act 1979*.

The current application is a review of development application D/2019/334 approved by Council officers subject to conditions on 28 November 2019 and has been made within the designated time frame. The application has been lodged in accordance with the relevant provisions of the EP&A Act. The review report has been assessed by an officer who is not subordinate to the original officer who made the assessment and is submitted to the Inner West Local Planning Panel for determination. The development is substantially the same as the original development.

**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 (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Leichhardt Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

5(a)(iv) *State Environmental Planning Policy No 55—Remediation of Land*

The site has not been used in the past for activities which could have potentially contaminated the site.

5(a)(v) *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)(vi) *Leichhardt Local Environment Plan 2013 (LLEP 2013)*

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

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.7 - Demolition
- Clause 4.3A - Landscaped areas for residential accommodation 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 5.10 - Heritage Conservation

The proposal is considered to be inconsistent with the provisions and objectives of a number of the abovementioned Clauses as discussed in further detail below.

Clause 1.2 of the Leichhardt Local Environmental Plan 2013 – Aims of the Plan

The subject property is a local heritage item and is located with the Balmain East Heritage Conservation Area. As discussed in more detail in a later section of this report, the proposed windows are considered to result in adverse impacts on the heritage item. Therefore, the proposal is contrary to the following objectives under Clause 1.2:

- (c) *to identify, protect, conserve and enhance the environmental and cultural heritage of Leichhardt,*
- (d) *to promote a high standard of urban design in the public and private domains,*
- (f) *to maintain and enhance Leichhardt's urban environment*

Clause 2.3 - Land Use Table and Zone Objectives

The site is zoned R1 General Residential under the *LLEP 2011*. The *LLEP 2013* defines the development as:

***Dwelling*** - *dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.*

The development is permitted with consent within the zone.

The development is generally consistent with the objectives of the zone; however, the specific aspect of the application which is contested by the applicant is considered to be

inconsistent with the following objective of the zone – “To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas” as the proposed windows are considered to have an adverse impact on the heritage item.

Although the entire proposal is under review in the s8.2 review process, it is only this aspect that is considered unacceptable, as discussed in more detail below. This is the same assessment conclusion as reached by the original officer and as such, the application is referred to the IWLPP for determination.

Clauses 4.3A and 4.4 – Development Standards

The following table provides an assessment of the application against the development standards applicable to the site and proposal:

Standard	Proposal	non compliance	Complies
<b>Floor Space Ratio</b> Maximum permissible: 0.8:1 or 249 sqm	0.83:1 (257 sqm)  No change as approved and as proposed	3%	No
<b>Landscape Area</b> Minimum permissible: 20% or 62.3 sqm	25% (77.6 sqm)  No change as approved and as proposed	Not applicable	Yes
<b>Site Coverage</b> Maximum permissible: 60% or 189.8 sqm	52% (162 sqm)  No change as approved and as proposed	Not applicable	Yes

Clause 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a Floor Space Ratio of approximately 0.83:1 (257 m<sup>2</sup>) which results in a 3% breach of the following development standard:

- Clause 4.4 – Floor Space Ratio

A clause 4.6 has been received for the Floor Space Ratio development standard breach and is assessed below.

Clause 4.6(2) specifies that Development consent may be granted for development even though the development would contravene a development standard.

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,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
2. *Development consent may be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.*

The application seeks to vary development standards in relation to Clause 4.4 – Floor Space Ratio.

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The applicant's justifications for variations for the Floor Space Ratio development standard are outlined below:

### **Floor Space Ratio**

The works are considered to be consistent with the objectives for this clause noted above because:

- The proposal does not seek to add or increase GFA or FSR to the site. The works merely seek alterations within the existing building envelope. The existing non-compliant FSR of 0.83:1 is maintained.
  - The degree of non-compliance in FSR is minor, being only 0.03:1 or 9.3m<sup>2</sup>.
  - The bulk of the built form envelope is unaltered. The proposal seeks to alter existing windows.
  - These alterations have no impact on the bulk and scale of the existing built form envelope. The built form envelope is unaltered and will maintain the compatible form with surrounding development in the immediate area. The existing building bulk is retained. The resultant form will not appear bulkier than the existing dwelling.
  - The building already complies with building envelope and setbacks requirements and complying areas of open space and built upon areas are maintained to allow for good amenity.
  - Accordingly, the proposal does not appear as an overdevelopment of the site.
  - The street appearance of the site is maintained from Fawcett Street. From Ann Street the works will be minimally glimpsed but do not materially affect any public domain view.
  - The amenity to neighbours is not affected. Solar access is maintained to adjoining dwellings.
  - No private view is impacted.
  - The existing and maintained building bulk is entirely appropriate within the context of the site.
- (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.*

The objectives of the development standards and the R1 General Residential Zone are as follows:

#### **4.4 Floor Space Ratio**

- (1) *The objectives of this clause are as follows:*
  - (a) *to ensure that residential accommodation:*

- (i) *is compatible with the desired future character of the area in relation to building bulk, form and scale, and*
- (ii) *provides a suitable balance between landscaped areas and the built form, and*
- (iii) *minimises the impact of the bulk and scale of buildings,*
- (b) *to ensure that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale.*

**Objectives of the R1 General Residential zone**

- *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 applicant's written rationale adequately demonstrates compliance with the development standard is unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard. It is considered that the development is in the public interest because it is consistent with the objectives of the R1 – General Residential zone in accordance with Clause 4.6(4)(a)(ii) of the LLEP 2013 for the following reasons:

- The gross floor area would provide for the housing needs of the community;
- The development provides landscaped areas for the use and enjoyment of existing and future residents; and
- There are not increase to the existing FSR and will not result in any undue or adverse amenity impacts on adjoining properties.

It is considered the gross floor area proposed is in the public interest because it is consistent with the objectives of the floor space ratio standard in accordance with Clause 4.6(4)(a)(ii) of the LLEP 2013 for the following reasons:

- There is no increase to the existing gross floor area and there are no adverse amenity impacts to the adjoining properties in relation to solar access, visual privacy, view loss etc. However, the review application specific to condition 4 is considered to result in adverse impacts to the Heritage Item and therefore is not supported.

Clause 5.10 - Heritage Conservation

The subject property is a local heritage item and is located with the Balmain East Heritage Conservation Area. As discussed in more detail in a later section of the report, the proposed windows are considered to result in adverse impacts to the heritage item. Therefore, the proposed windows are contrary to the following objectives under Clause 5.10 and the condition to delete the proposed windows and retain the existing windows is to be retained:

- (a) *to conserve the environmental heritage of Leichhardt,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views*



### 5(b) Draft Environmental Planning Instruments

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

- Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

#### **Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)**

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979*.

The amended provisions contained in the Draft IWLEP 2020 are not relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

### 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.

<b>LDCP2013</b>	<b>Compliance</b>
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Not Applicable
B3.1 Social Impact Assessment	Not Applicable
B3.2 Events and Activities in the Public Domain (Special Events)	Not Applicable
<b>Part C</b>	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Not Applicable
C1.3 Alterations and additions	No – see discussion
C1.4 Heritage Conservation Areas and Heritage Items	No – see discussion
C1.5 Corner Sites	Not Applicable
C1.6 Subdivision	Not Applicable
C1.7 Site Facilities	Not Applicable
C1.8 Contamination	Not Applicable
C1.9 Safety by Design	Not Applicable
C1.10 Equity of Access and Mobility	Not Applicable
C1.11 Parking	Not Applicable
C1.12 Landscaping	Not Applicable
C1.13 Open Space Design Within the Public Domain	Not Applicable
C1.14 Tree Management	Not Applicable
C1.15 Signs and Outdoor Advertising	Not Applicable
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Not Applicable
C1.17 Minor Architectural Details	Yes / No – see discussion
C1.18 Laneways	Not Applicable

C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	Not Applicable
C1.20 Foreshore Land	Not Applicable
C1.21 Green Roofs and Green Living Walls	Not Applicable
<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.2.3 Gladstone Park Distinctive Neighbourhood	No – see discussion
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	No – see discussion
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	No – see discussion
C3.4 Dormer Windows	Not Applicable
C3.5 Front Gardens and Dwelling Entries	Not Applicable
C3.6 Fences	Not Applicable
C3.7 Environmental Performance	Not Applicable
C3.8 Private Open Space	Not Applicable
C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	Yes / No – see discussion
C3.14 Adaptable Housing	Yes / No – see discussion
<b>Part C: Place – Section 4 – Non-Residential Provisions</b>	Not Applicable
<b>Part D: Energy</b>	
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	Not Applicable
D2.5 Mixed Use Development	Not Applicable
<b>Part E: Water</b>	Yes
<b>Part F: Food</b>	Not Applicable
<b>Part G: Site Specific Controls</b>	Not Applicable

The following provides discussion of the relevant issues:

C1.3 - Alterations and additions; C1.4 - Heritage Conservation Areas and Heritage Items; C2.2.2.3 - Gladstone Park Distinctive Neighbourhood; and Clause C3.3 – Elevation and Materials

The proposal was reviewed by Council's Heritage Advisor who provided the following assessment:

#### **Heritage Listing:**

The subject property at 14 Fawcett Street, is listed as a Heritage Item in Schedule 5 of Leichhardt LEP 2013 - House, "Bayview", including interiors.

The house “Bayview” is also within the vicinity of the heritage items :

- *House, including interiors at 27 Ann Street, Balmain (I113); and*
- *Former convent and fence, including interiors at 14C Jane Street, Balmain (I249).*

The subject building is a contributory dwelling located within the *Balmain East Heritage Conservation Area* (C3 in Schedule 5 of the Leichhardt LEP 2013). It is also located within *The Gladstone Park Distinctive Neighbourhood* identified in Council’s DCP.

#### **Heritage Significance:**

The Statement of Significance for “Bayview”, sourced from Council’s heritage database states :

*No. 14 Fawcett Street is of local historic and aesthetic significance as a good and intact late Victorian stone house constructed in 1891 or 1892. Despite some additions, the building significantly retains its original form and character including stone facades, roof form and open front verandah. The building is constructed to the street frontage and makes a positive contribution to the Fawcett Street streetscape.*

The HCA is described and attributed heritage significance in the following terms :

#### **“Significant Characteristics**

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

#### **Statement of Significance or Why the Area is Important**

- *One of a number of conservation areas which collectively illustrate the nature of Sydney’s early suburbs and Leichhardt’s suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). The earliest developments here predate Leichhardt’s main suburban growth with marine villas and cottages from the 1840s to modest-scale housing from 1870s through to the 1930s, and industry. It is significant for its surviving development from these periods.*
- *Demonstrates through the siting of recent public parks, the location of former waterfront industries. Through these parks and its remaining waterfront activities East Balmain can interpret Sydney’s port history from the early 1840s, and the role of Balmain’s deep water frontages in that story.*

- *Demonstrates through the line of its narrow streets the earliest subdivision sections of the large 550-acre Balmain grant.*
- *Demonstrates through its steps and cuttings the way in which early roads and pedestrian routes were forged out of the sandstone bedrock.*
- *Demonstrates through its mixture of sandstone villas and timber and brick cottages the major themes that formed this suburb — marine villa development and investment, port and waterfront activities, and the continuing layering of these developments.*
- *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.”*

The Gladstone Park Distinctive Neighbourhood is described in Council’s DCP in the following terms :

*“Gladstone Park Distinctive Neighbourhood is a relatively small neighbourhood with a rich architectural heritage, and has over 60 Heritage Items listed within the Leichhardt Local Environmental Plan 2013. With quiet shaded streets, stone houses and views over the City, Gladstone Park has many characteristics worthy of preservation.....”*

*“The neighbourhood has a varied residential character created by differing residential styles from different eras. Due to the early period of initial development, there are numerous houses from the early Victorian period, but Georgian in style. Later styles represented in the neighbourhood include Victorian terraces and Federation houses. Throughout the neighbourhood are scattered examples of the Arts and Crafts style, inter-war bungalows and timber workers cottages. The architecture in the neighbourhood is further characterised by recent restorations, additions and renovations. This has resulted in many houses having mixed architectural styles.....”*

*“Housing in the neighbourhood has a mix of pitched, hipped and gabled roofing. Materials used in the neighbourhood for dwellings include sandstone block (both roughhewn and dressed), timber and some rendered painted brick. Iron and tile roofing is most common throughout. Front verandahs, which often extend to the front boundary, are narrow with widths of approximately 1m. Timber and iron picket fencing is prevalent throughout with many fences built on top of stone bases. Many properties have driveway crossings either at the rear (i.e. Ewenton Lane) or at the front (i.e. Wallace Street).....”*

Some 20 controls are established in order to secure development consistent with the Desired Future Character of the Area. Relevantly, these include:

- ...C2 *All structures built prior to 1860 are rare and should be conserved. No alterations will be supported 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 should not imitate the existing structures.*
- C4 *Preserve the rhythm of the neighbourhood by maintaining the lot sizes, housing style and prevalence of hipped and pitched roofs. Preserve the established setbacks for each street.*

*C5 Preserve the consistency and simplicity in built form, style and materials of the neighbourhood....*

*...C7 Preserve stone cottages and stone walls throughout the neighbourhood...*

The Statements of Significance for the house, the HCA, the DN, and the controls deployed to ensure appropriate heritage management, are together a reflection of the sensitivity of the context, and the importance of development decisions within it. Pertinent controls are: *Clause 5.10: Heritage Conservation*, Leichhardt LEP 2013 and *Sections C1.3: Alterations and additions, C1.4: Heritage conservation areas and heritage items and C.2.2.2.3: Gladstone Park Distinctive Neighbourhood*, Leichhardt DCP 2013.

#### **Property Description:**

Concisely put, “Bayview” is a substantial Late Victorian period house of sandstone construction and characteristic design and arrangement for its time and development context. Its scale and qualities are such that it is a major contributory building, “anchoring” its immediate locality. The house has assumed its current presentation through at least two major phases of alteration of the original building, and its story of change is legible and interpretable in the building’s exteriors.

#### **Previous Approvals:**

A first storey weatherboard addition was approved as part of BA/1992/884 and was constructed in 1993. Development Application D/2013/290 was subsequently approved for the partial demolition of the rear portion of the dwelling and construction of a new two level addition including living room, laundry and bathroom, with minor landscaping works.

#### **The Aspect of the Proposal for which review is sought:**

Condition 4 of the consent issued for D/2019/334 required the retention of existing windows in the upper level, east-facing elevation of the house, refusing consent for their substitution in the manner proposed in the application – with metal framed glazed louvre windows.

Review was sought on the basis that, in the Applicants’ opinion:

- the windows were part of a contemporary section of the building, and thus of little heritage value
- the windows were not part of a significant view of the house and featured only in glimpses of the building
- the windows were part of the rear section of the building which already features large glazed areas and the proposed windows would be more in keeping with the rear part of the house
- no adverse privacy impacts would be consequent.

#### **Heritage Review Comments:**

From surrounding streets, and available public and private viewpoints, the house now appears as comprised of three (apparent) phases of construction and growth – the original dwelling of sandstone, the much later timber addition, and the recent substantially glazed rear additions.

It is contended that the two storey timber weatherboard addition, informed by “traditional” extensions to houses such as “Bayview” within the locality and across the years of its development, were also informed by emerging conservation concepts (at that time) that

phases of construction could be interpretable as stages within the growth of the building and directly reflective of its historical development, in subtle ways. The same discernibility is argued contemporaneously in support of extensions like the glazed later extension to the house.

The Australia Icomos Burra Charter is frequently quoted in support of purposely differentiated additions and adjuncts to significant buildings, Article 22.1 of the Charter reading :

***22.1 New work such as additions or other changes to the place may be acceptable where it respects and does not distort or obscure the cultural significance of the place, or detract from its interpretation and appreciation.***

However, Article 22.2 is not usually quoted, and provides the important contingent assertion that cultural significance must not be compromised in the process :

***22.2 New work should be readily identifiable as such, but must respect and have minimal impact on the cultural significance of the place.***

Supporting this, the associated guideline statement adds :

***New work should be consistent with Articles 3, 5, 8, 15, 21 and 22.1.***

Articles 5 and 15 require that all phases of a significant should be respected and that no one phase should be given a pre-eminence over another or others. In particular Article 15 advises:

***15.4 The contributions of all aspects of cultural significance of a place should be respected. If a place includes fabric, uses, associations or meanings of different periods, or different aspects of cultural significance, emphasising or interpreting one period or aspect at the expense of another can only be justified when what is left out, removed or diminished is of slight cultural significance and that which is emphasised or interpreted is of much greater cultural significance.***

It is submitted that these references in the Charter are important given the heritage item status of the property concerned and the discernible reliance of the latest realised phase of work on the building upon these concepts of the Charter.

In answer to the contentions that the proposed window changes are not significant, it is submitted that :

- The existing east facing windows are an important part of the concept and realised form, character and detail of the timber extension to the house, and are significant in the design concepts underlying that phase of the building; while of more recent date than the house, they are responsive to its history, design, setting and overall significance, and should therefore be retained ;
- The windows concerned are appreciable in the matrix of views and glimpses whose accumulation allows an appreciation and understanding of the building and its significance;
- The windows are clearly part of an interpretable part of the house which is “different” to the original sandstone dwelling and to the more recent emphatically modern glazed additions, to which they arguably do not relate, and to which the proposed louvred windows would also not relate; and

- The privacy implications are a planning consideration and their absence would not have any supportive or preferential weight in the foremost considerations of this review.

It is the conclusion of this review that:

- The assessment of the proposed changes to the subject windows and conclusion that they should not proceed was correct and supportable ;
- The proposed changes to the windows concerned would adversely impact the overall significance of the subject house by diminishing the important contribution of that part of the house in which the existing windows are an important, formative conceptual design element; and
- The proposed changes would be obtrusive and inconsistent with the architectural design and character of the house, which underpins its contribution to the surrounding HCA and DN, and the significances of those entities.

#### **Recommendation:**

The proposed deletion of the condition would be of adverse heritage impact and is not supported. Therefore it is recommended that the review of determination is refused and that condition 4 is to be retained.

#### **Planner's Comments:**

Given the above, it is concurred that the proposal will have an adverse impact on the significance and setting of the item and is not supported as it will be inconsistent with:

- Objectives 1b and 1c to C1.3 - Alterations and Additions which seek to:
  - *1b. where an alteration or addition is visible from the public domain it should appear as a sympathetic addition to the existing building;*
  - *1c. makes a positive contribution to the desired future character of the streetscape and any heritage values associated with it.*
- Objectives 1a, 1d and 1e to C1.4 - Heritage Conservation Areas and Heritage Items which:
  - *O1 Development:*
  - *a. does not represent an unsympathetic alteration or addition to a building;*
  - *d. is compatible with the setting or relationship of the building with the Heritage Conservation Area in terms of scale, form, roof form, materials, detailing and colour of the building and conforms with the Burra Charter*
  - *e. conserves and enhances the fabric and detail of a building that contributes to the cultural significance of the building in its setting.*
- Controls C2, C4, C5 and C7 to C2.2.2.3 - Gladstone Park Distinctive Neighbourhood – see above; and
- Objective 1a and 1c to Clause C3.3 – Elevation and Materials which:
  - *O1 Building elevation and materials visible from the public domain:*
  - *a. complement the prevailing or desired future character of the neighbourhood, in particular responding to the vertical and horizontal rhythm of the streetscape;*
  - *c. provide a high level of architectural quality, visual interest and articulation.*

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

Deletion of condition 4 will result in a development that has adverse impacts to the heritage item. Therefore, this site is not considered to be suitable to accommodate the aspect of the development which is sought to be reviewed.

### 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. No submissions were received.

### 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.

Deletion of Condition 4 will result in a development that has adverse impacts to the heritage item and is not supported. Therefore the proposal is considered to be 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.

- Heritage – deletion of condition 4 is not supported.

### 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 application is considered unsupportable on heritage grounds, and in view of the circumstances, refusal of the review and (by way of retention of condition 4) is recommended.

## 9. Recommendation

- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s8.2 of the *Environmental Planning and Assessment Act 1979*, refuse the Review of Determination of D/2019/334 (i.e. REV/2020/0007) for deletion of Condition 4 which requires retention of first floor east facing windows at 14 Fawcett Street, Balmain for the following reasons.



1. The proposed development is inconsistent and 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 5.10 - Heritage Conservation
  
2. The proposed development is inconsistent and 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) Clause C2.2.2.3 - Gladstone Park Distinctive Neighbourhood
  - d) Clause C3.3 - Elevation and Materials
  
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 – Recommended conditions of consent

### 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
DA201	North and South Elevations	30/08/2019	Sam Crawford Architects
DA202	East and West Elevations	30/08/2019	Sam Crawford Architects
DADD1	Sections	30/08/2019	Sam Crawford Architects
DA102	Roof Plan	30/08/2019	Sam Crawford Architects
DA103	First Floor Plan	30/08/2019	Sam Crawford Architects
DA501	Exterior Materials and Finishes	30/08/2019	Sam Crawford Architects
A353689	BASIX Certificate	30/08/2019	Sam Crawford Architects

As amended by the conditions of consent.

#### 4. Design Change

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

- a) The 12 paned Georgian style double hung sash windows and timber architraves to the first floor eastern façade must be retained as part of the proposal.

#### 5. 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.

**6. 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.

**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. Works Outside the Property Boundary**

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

**Prior to any Demolition****9. Dilapidation Report**

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

**10. Advising Neighbors Prior to Excavation**

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

**11. Construction Fencing**

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

### Prior to Construction Certificate

#### **12. 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.

#### **13. 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.*

#### **14. 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.

### During Demolition and Construction

#### **15. 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.

#### **16. Stormwater Drainage System**

Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, 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, including any absorption trench or rubble pit drainage system, 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. Minor roof or paved areas that cannot reasonably be drained by gravity to a public road may be disposed on site subject to ensure no concentration of flows or nuisance to other properties.

#### **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.

### **Advisory notes**

#### **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.

#### **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.

#### **Swimming Pools**

Applicants are advised of the following requirements under the *Swimming Pools Act 1992*:

- a) The owner of the premises is required to register the swimming pool on the NSW State Government's Swimming Pool Register. Evidence of registration should be provided to the Certifying Authority.
- b) Access to the pool/spa is restricted by a child resistant barrier in accordance with the regulations prescribed in the. The pool must not be filled with water or be allowed to collect stormwater until the child resistant barrier is installed. The barrier is to conform to the requirements of Australian Standard AS 1926:2012.
- c) A high level overflow pipe has been provided from the back of the skimmer box to the filter backwash line discharging to the sewer. This line must not directly vent the receiving Sydney Water sewer. Evidence from the installer, indicating compliance with this condition must be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.
- d) Permanently fixed water depth markers are to be clearly and prominently displayed on the internal surface above the water line at the deep and shallow ends on in-ground pools / spas and on the outside of aboveground pools / spas.
- e) A durable cardiopulmonary resuscitation information poster sign authorised by the Life Saving Association is to be displayed in the pool / spa area in accordance with Clause 10 of the *Swimming Pool Regulation 2008*.
- f) Access to the swimming pool/spa must be restricted by fencing or other measures as required by the *Swimming Pools Act 1992* at all times.

All drainage, including any overland waters associated with the pool/spa, must be pipe-drained via the filter to the nearest sewer system in accordance with the requirements of Council & Sydney Water. No drainage, including overflow from the pool or spa must enter Council's stormwater system.

#### **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.

#### **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](http://www.basix.nsw.gov.au)

Department of Fair Trading 13 32 20

[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

Enquiries relating to Owner Builder Permits and Home Warranty Insurance.

Dial Prior to You Dig	1100	
		<a href="http://www.dialprior.toyoudig.com.au">www.dialprior.toyoudig.com.au</a>
Landcom	9841 8660	To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	131441	
		<a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Food Authority	1300 552 406	
		<a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government		
		<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a>
		<a href="http://www.diySAFE.nsw.gov.au">www.diySAFE.nsw.gov.au</a>
		Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555	
		<a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water	13 20 92	
		<a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>

Waste Service - SITA 1300 651 116

Environmental Solutions

[www.wasteservice.nsw.gov.au](http://www.wasteservice.nsw.gov.au)

Water Efficiency Labelling and Standards (WELS) [www.waterrating.gov.au](http://www.waterrating.gov.au)

WorkCover Authority of NSW 13 10 50

[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

Enquiries relating to work safety and asbestos removal and disposal.

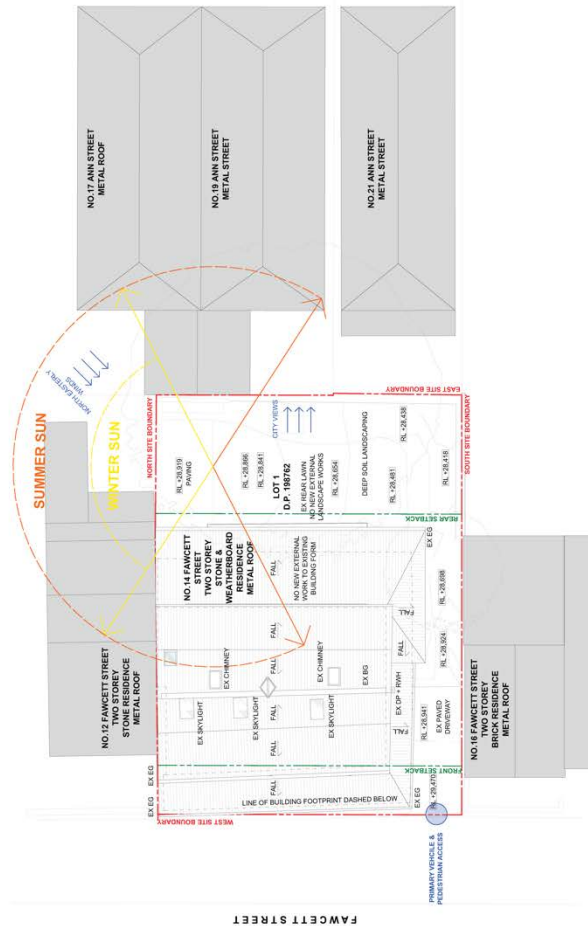
Attachment B – Plans of proposed development

DEVELOPMENT APPLICATION SUBMISSION FOR

**14 Fawcett Street Balmain NSW 2041**

FOR Tim Beresford & Kate O'Connell

<b>000 DEVELOPMENT APPLICATION</b>		
010	COVER PAGE & SITE ANALYSIS	1:200
020	GENERAL SPECIFICATION & BASIS	N.T.S
<b>100 PLANS</b>		
101	EX / DEMO LGF & GF PLAN	1:100
102	EX / DEMO 1F & ROOF PLAN	1:100
103	PROP 1F / ROOF PLAN	1:100
<b>200 ELEVATIONS</b>		
201	PROP NORTH & SOUTH ELEVATIONS	1:100
202	PROP EAST & WEST ELEVATIONS	1:100
<b>300 SECTIONS</b>		
301	PROP SECTIONS	1:100
<b>400 SHADOW DIAGRAMS</b>		
401	SHADOW DIAGRAM: JUNE 21 09:00	1:200
402	SHADOW DIAGRAM: JUNE 21 12:00	1:200
403	SHADOW DIAGRAM: JUNE 21 15:00	1:200
<b>500 SCHEDULE OF MATERIALS AND FINISHES</b>		
501	EXTERIOR MATERIALS & FINISHES	1:100
<b>600 NOTIFICATION PLANS</b>		
601	SITE ANALYSIS PLAN	1:200
602	NOTIFICATION PLAN	1:200
603	NOTIFICATION ELEVATIONS	1:200



01 SITE ANALYSIS PLAN  
1:200

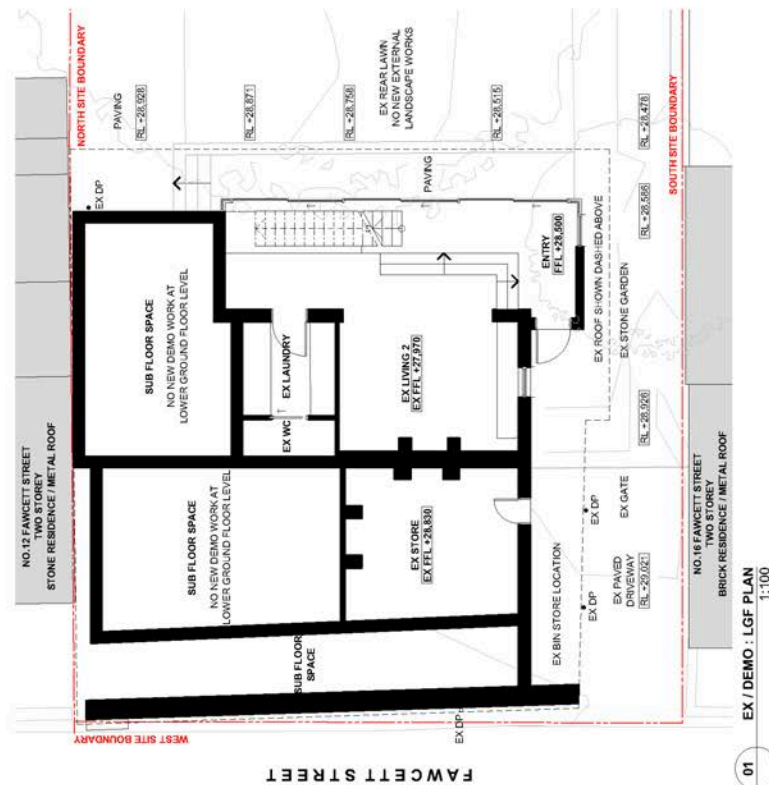
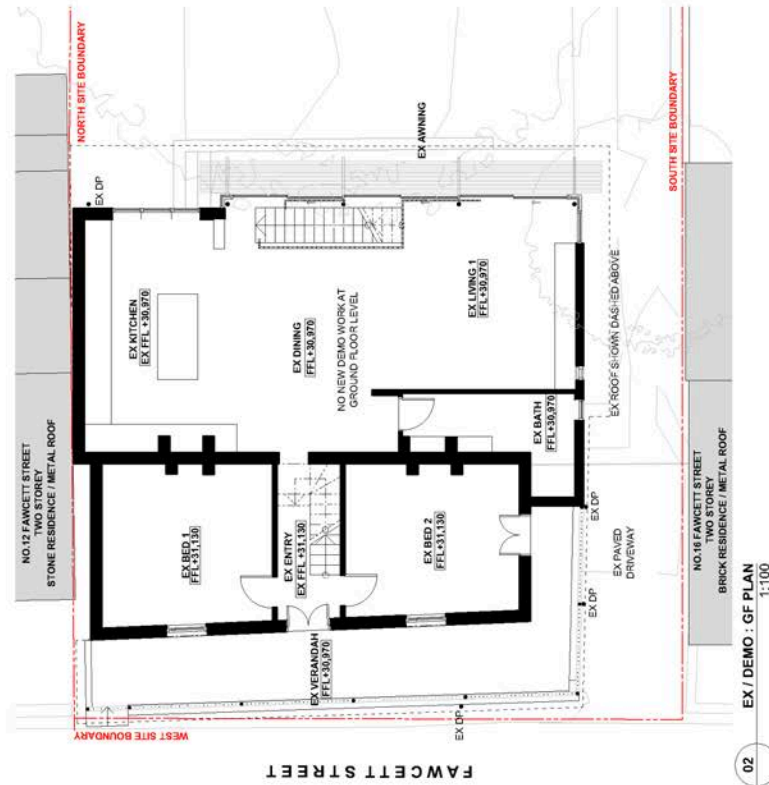


02 SITE LOCATION PLAN

DEVELOPMENT APPLICATION

DESCRIPTION FOR DEVELOPMENT APPLICATION	REV / APPD A / SC	DATE 18/08/2019	CLIENT Tim Beresford & Kate O'Connell	SCALE & O.D. 1:200	PROJECT NO. 19.07	RANGE DA	DRAWING NO. 010	REV A
<p><b>samcrawfordarchitects</b> Level 2, 17 Federation Street, Balmain NSW 2041 PHONE 02 9550 8800 TEL 02 9550 8800 FAX 02 9550 8800 EMAIL: info@samcrawfordarchitects.com.au WWW: www.samcrawfordarchitects.com.au ACCA 166 429 627 Registered Architect Sam Crawford 6488</p>			<p><b>14 Fawcett Street</b> 14 Fawcett Street Balmain NSW 2041</p>			<p><b>COVER PAGE &amp; SITE ANALYSIS</b></p>		





**LEGEND**

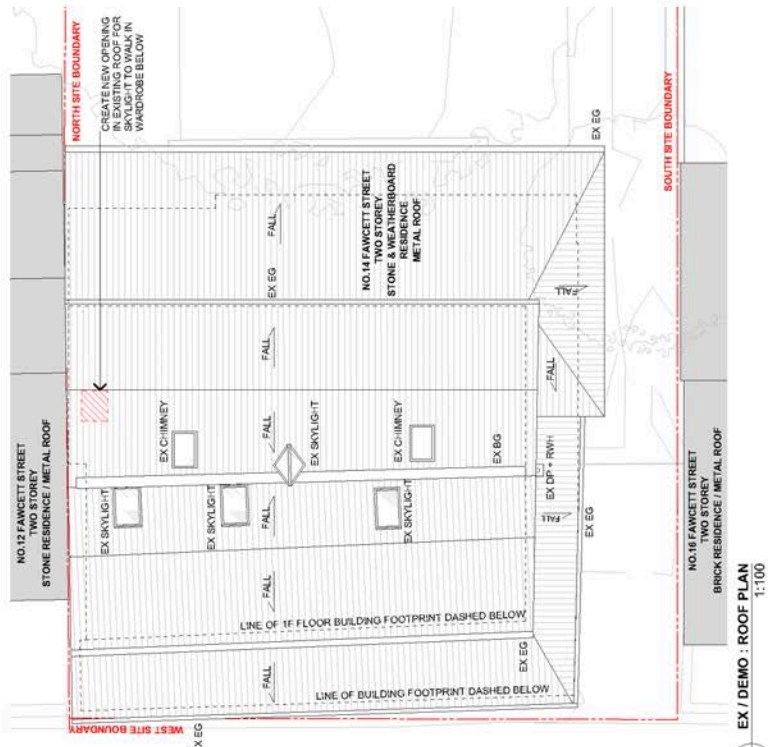
- SITE BOUNDARY
- EXISTING WALLS / ITEMS TO BE DEMOLISHED
- EXISTING WALLS / ITEMS TO BE DEMOLISHED
- EXISTING FLOOR STRUCTURE TO BE REMOVED / FINISH

Project: T143 ML 3092019

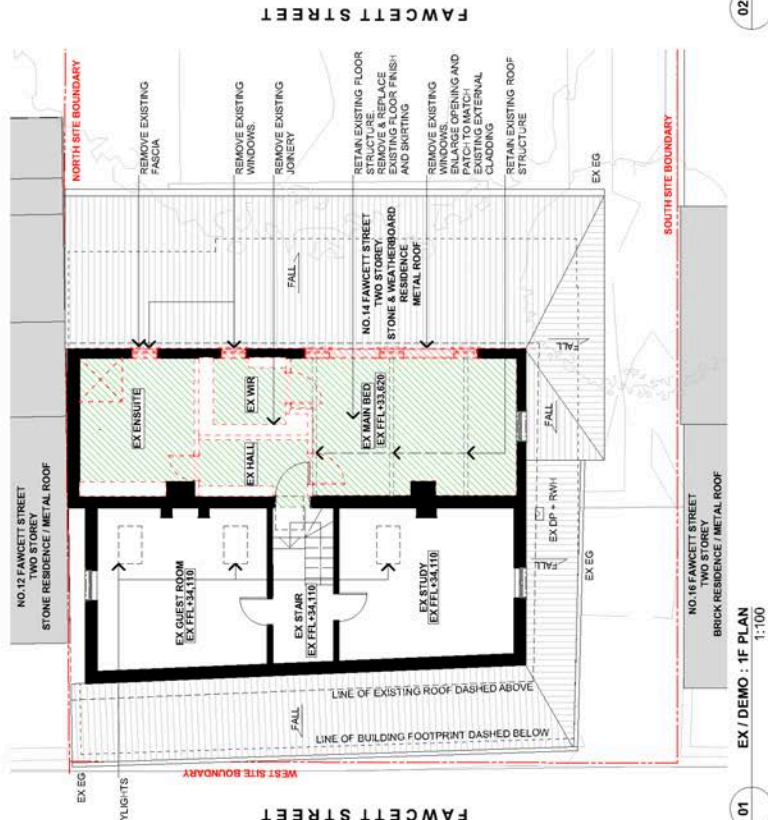
**DEVELOPMENT APPLICATION**

<b>DESCRIPTION</b> FOR DEVELOPMENT APPLICATION	<b>REV</b> A	<b>DATE</b> 30/09/2019	<b>CURT</b> Tim Bresford & Kate O'Connell	<b>SCALE &amp; A.S.</b> 1:100	<b>PROJECT NO.</b> 19.07	<b>DATE</b> DA	<b>101</b>	<b>REV</b> A	
<p><b>SAITCRAWFORDARCHITECTS</b> Level 2, 177 Macquarie Street, Sydney NSW 2000                  EMAIL: <a href="mailto:saitcrawfordarchitects.com.au">saitcrawfordarchitects.com.au</a> SAITCRAWFORDARCHITECTS PTY LTD                  ACN: 162 626 067 Telephone: 02 9231 2222 Fax: 02 9231 2224</p>			<p><b>14 Fawcett Street</b> 14 Fawcett Street Balmain NSW 2041</p>						
<b>EX / DEMO LGF &amp; GF PLAN</b>									





01 EX / DEMO : 1F PLAN  
1:100



02 EX / DEMO : ROOF PLAN  
1:100

- LEGEND**
- SITE BOUNDARY
  - - - EXISTING WALLS / ITEMS TO BE DEMOLISHED
  - - - EXISTING ROOF STRUCTURE TO BE DEMOLISHED
  - - - EXISTING FLOOR STRUCTURE TO BE DEMOLISHED
  - - - EXISTING FLOOR STRUCTURE TO BE RETAINED
  - - - EXISTING ROOF STRUCTURE TO BE DEMOLISHED
  - - - EXISTING ROOF STRUCTURE TO BE RETAINED
  - - - EXISTING ROOF FINISH TO BE DEMOLISHED
  - - - EXISTING ROOF FINISH TO BE RETAINED

Project: 143 ML 3092019

DEVELOPMENT APPLICATION

REVISION	DATE	BY	APPD	DATE	BY	CLIENT
A	30/09/2019	3C	3C	30/09/2019	3C	Sam Crawford Architects Level 2, 17 Macleay Street, Balmain NSW 2041 EMAIL: info@samcrawfordarchitects.com.au WWW: samcrawfordarchitects.com.au ACN: 162 696 067 Telephone: 02 9550 4288 Fax: 02 9550 4289

SCALE & A3	PROJECT NO	DATE	REV
1:100	19.07	DA	102   A

DRAWING TITLE
EX / DEMO 1F & ROOF PLAN

NORTH

The image displays two architectural plans for a two-story residence at 14 Fawcett Street. The top plan is the 1F Floor Plan, and the bottom plan is the Roof Plan. Both are oriented vertically on the page. The floor plan shows rooms including an Ex Guest Room, Ex Study, Main Bed, and two Bathrooms. The roof plan shows the layout of the roof structure with various gables and skylights. Surrounding the property are site boundaries and neighboring properties. A north-south compass rose is located between the two plans.

**01** PROP : 1F FLOOR PLAN  
1:100

**02** PROP : ROOF PLAN  
1:100

**MATERIALS / CONSTRUCTION LEGEND**

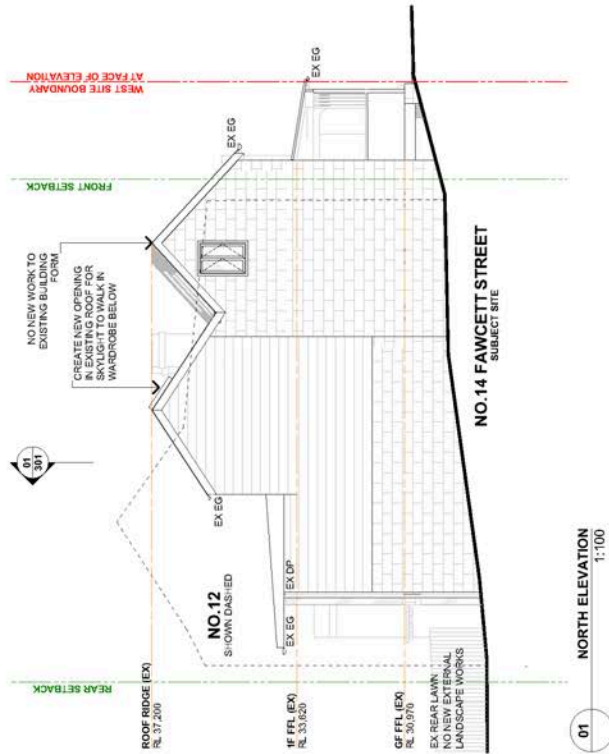
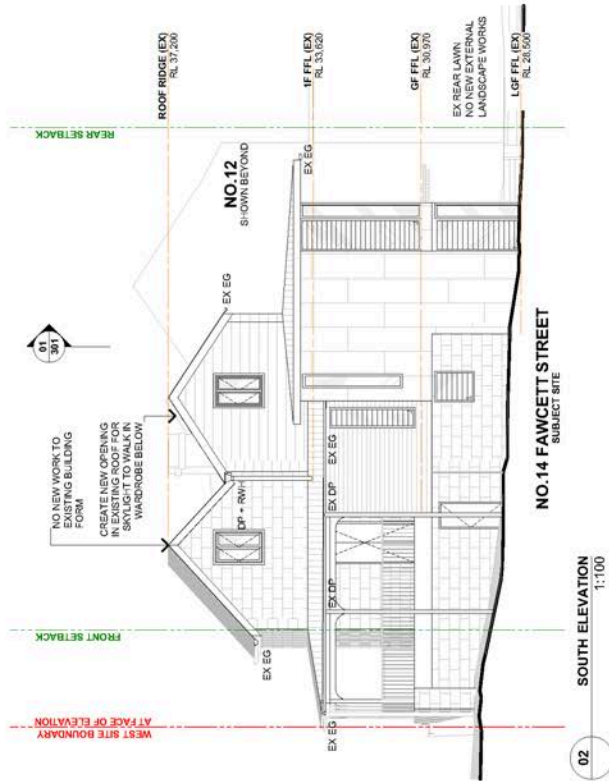
- EXISTING SCHEDULE OF MATERIALS AND FINISHES
- NEW FLOORINGS
- NEW WALLS / PARTITION WALLS
- NEW CEILING
- NEW MET AREA
- NEW CONSTRUCTION PLAN & SECTION

**WINDOW & DOOR OPENINGS LEGEND**

- NEW OPENINGS CERTIFIED
- EXISTING OPENINGS CERTIFIED UNDER BASK
- EXISTING OPENINGS
- EXISTING OPENINGS CERTIFIED UNDER BASK

DEVELOPMENT APPLICATION

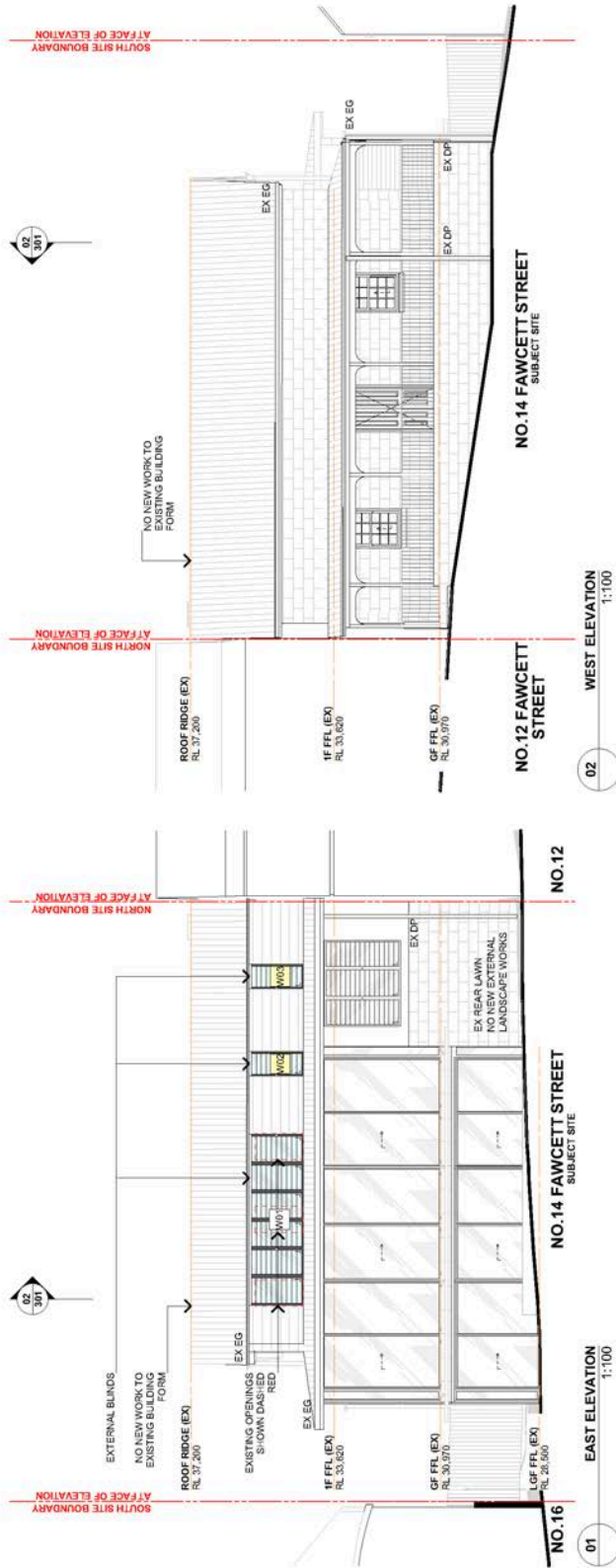
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	SCALE & S.I.	1:100	PROJECT NO.	19.07	DA		103
	DRAMA		REV				
	DRAWING TITLE						PROP 1F / ROOF PLAN



- MATERIALS / CONSTRUCTION LEGEND**
- EXISTING PAINT / SECTION
  - NEW GLAZING
  - NEW FLOORING
  - PAINT / SECTION
  - CONSTRUCTION PLAIN & SECTION
  - NEW WET AREA PLUMB / MESH LINENET
- WINDOW & DOOR OPENINGS LEGEND**
- NEW OPENINGS CERTIFIED
  - EXISTING UNDER BASK
  - INCREASED OPENING CERTIFIED UNDER BASK

DEVELOPMENT APPLICATION

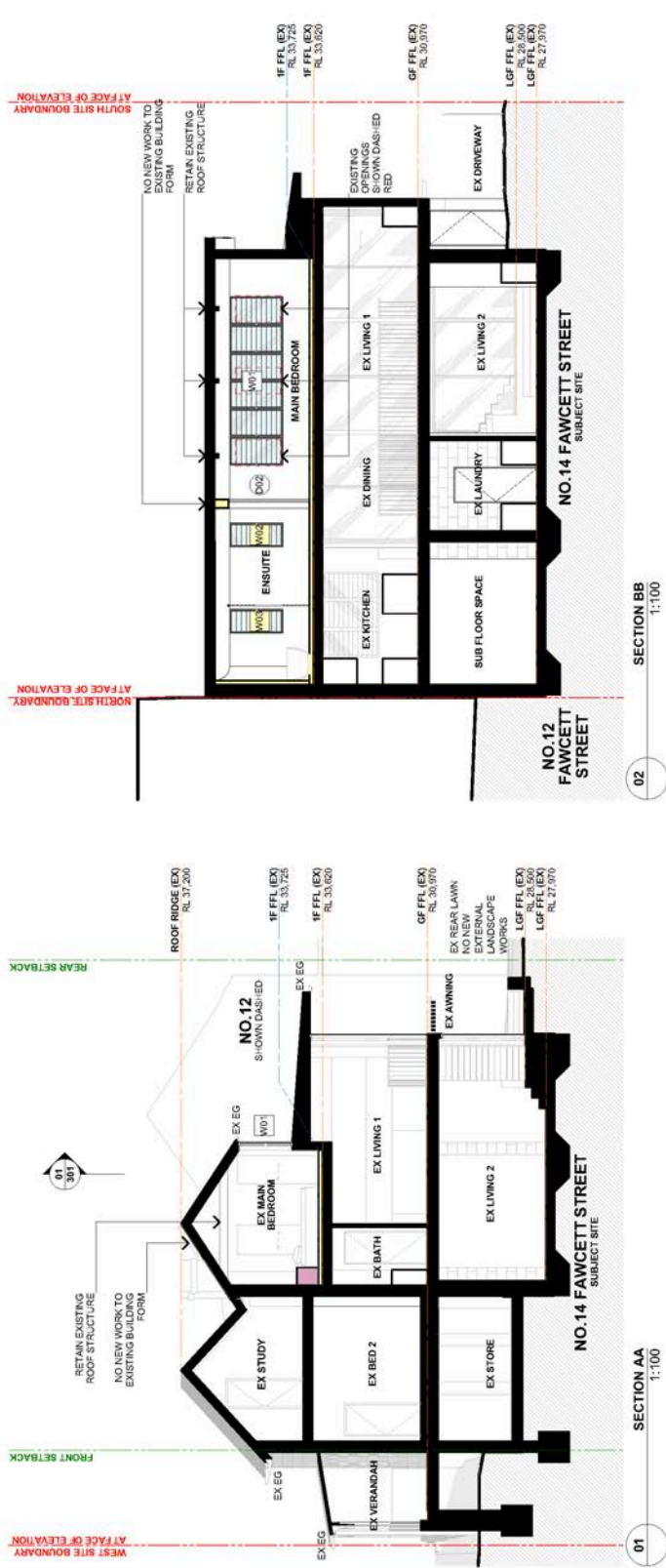
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samcrawfordarchitects Level 2, 17 Frederick St, BALMAIN NSW 2041 EMAIL: info@samcrawfordarchitects.com.au WEB: samcrawfordarchitects.com.au A/CN: 162-049-001/17-frederick-st-architects-ltd-companies-6381			DRAWING TITLE <b>PROP NORTH &amp; SOUTH ELEVATIONS</b>					



- MATERIALS / CONSTRUCTION LEGEND**
- EXISTING PAINT SECTION
  - NEW PAINT SECTION
  - NEW GLAZING
  - NEW FLOORING
  - PAUSE
  - NEW WET AREA PLUMB
  - CONSTRUCTION PLUMB & MESH JOINTERY
- WINDOW & DOOR OPENINGS LEGEND**
- NEW OPENINGS CERTIFIED UNDER BASK
  - EXISTING OPENINGS CERTIFIED UNDER BASK
  - EXISTING OPENINGS UNCERTIFIED UNDER BASK
  - NEW OPENINGS UNCERTIFIED UNDER BASK

DEVELOPMENT APPLICATION

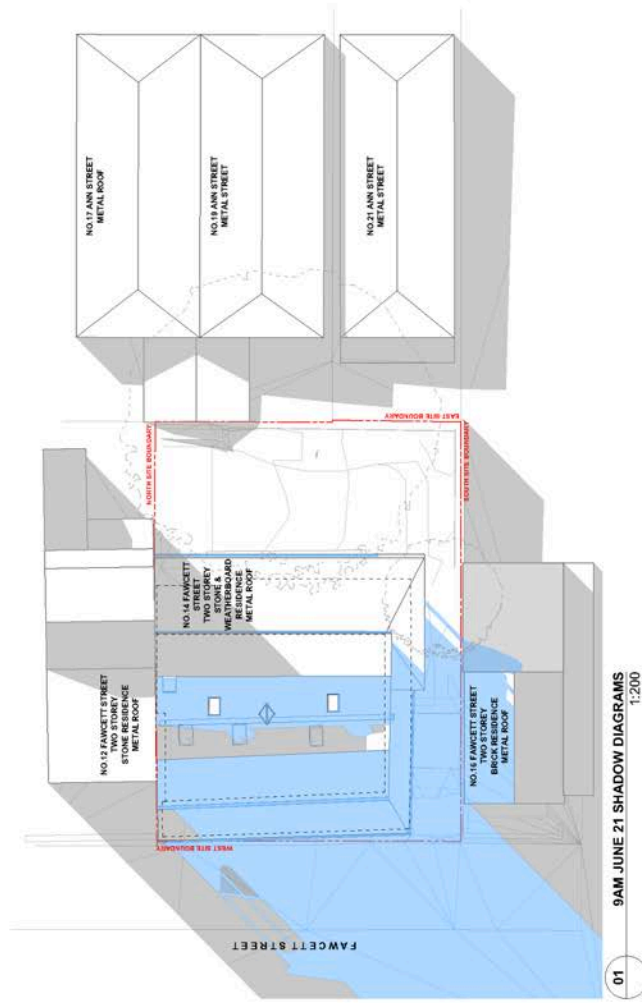
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SAITTCRAWFORDARCHITECTS Level 2, 177 Macleay Street, BALMAIN NSW 2041 EMAIL: info@saittcrawfordarchitects.com.au WEB: saittcrawfordarchitects.com.au A/CN: 162-03-001-177macleayarchitects.com-029426348			SCALE & S.I. 1:100 PROJECT NO. 19.07 DRAWING TITLE PROP EAST & WEST ELEVATIONS	DRAWING NO. DA 202 DRAWING TITLE PROP EAST & WEST ELEVATIONS	



- MATERIALS / CONSTRUCTION LEGEND**
- EXISTING PAINT / SECTION
  - NEW PAINT / SECTION
  - NEW GLAZING
  - NEW FLOORING
  - POUR CONSTRUCTION PLANS & SECTION
  - NEW WET AREA (PLUMB / MESH LINING)
- WINDOW & DOOR OPENINGS LEGEND**
- NEW OPENINGS CERTIFIED
  - EXISTING OPENINGS CERTIFIED UNDER BASK
  - EXISTING OPENINGS UNCERTIFIED UNDER BASK

DEVELOPMENT APPLICATION

DESCRIPTION FOR DEVELOPMENT APPLICATION	REV / APPD / DATE A / 30 / 30/03/2019	CURT Tim Bresford & Kate O'Connell	NORTH POINT 1:100   19.07	STAGE DA   DD 1   A	REV
PROJECT NO. 14 Fawcett Street 14 Fawcett Street Balmain NSW 2041		DRAWING TITLE PROP SECTIONS		DRAWING NO. DD 1   A	
CLIENT saimcrawfordarchitects Level 2, 177 Macleay Street, BALMAIN NSW 2041 EMAIL: info@saimcrawfordarchitects.com.au WEB: saimcrawfordarchitects.com.au A/CN: 142-03-001 Environmental Architect Level 2 Contract 0184					



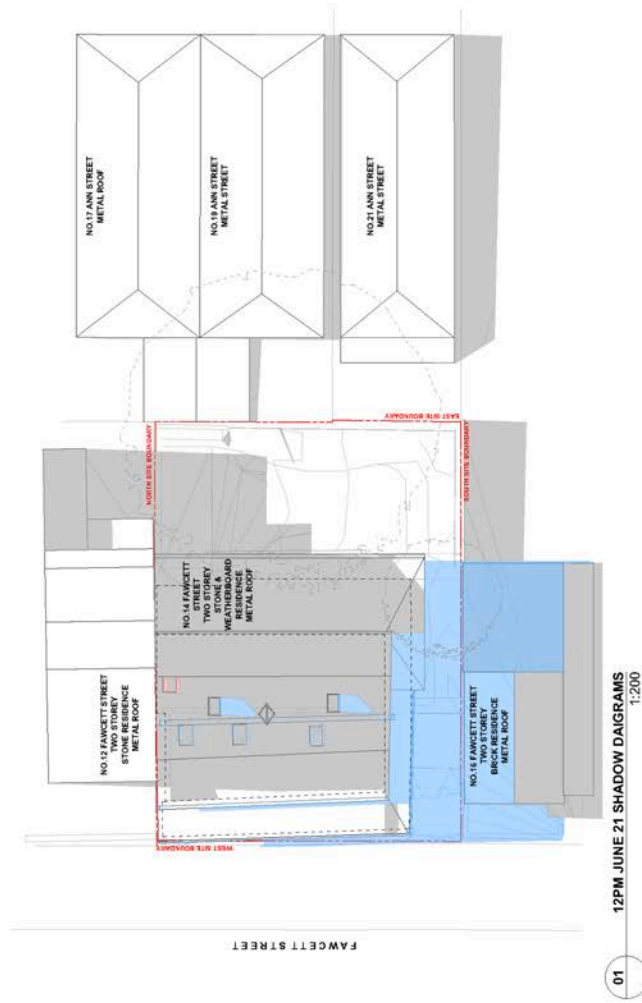
01 9AM JUNE 21 SHADOW DIAGRAMS 1:200

- SHADOW DIAGRAM LEGEND**
- SHADOWS CAST BY RESIDENCES
  - SHADOWS CAST BY EXISTING DWELLINGS
  - SHADOWS CAST BY PROPOSED RESIDINGS

DEVELOPMENT APPLICATION

DESCRIPTION FOR DEVELOPMENT APPLICATION	REV A	DATE 30/05/2019	SCALE & S.I. 1:200	PROJECT NO. 19.07	ZONE DA	DRAWING NO. 401	REV A	
CLIENT <b>SAINTCRAWFORDarchitects</b> Tim Binesford & Kate O'Connell PROJECT <b>14 Fawcett Street</b> 14 Fawcett Street Balmain NSW 2041			NORTH 				DRAWING TITLE <b>SHADOW DIAGRAM- JUNE 21 09:00</b>	

Project: T143 ML 3092019



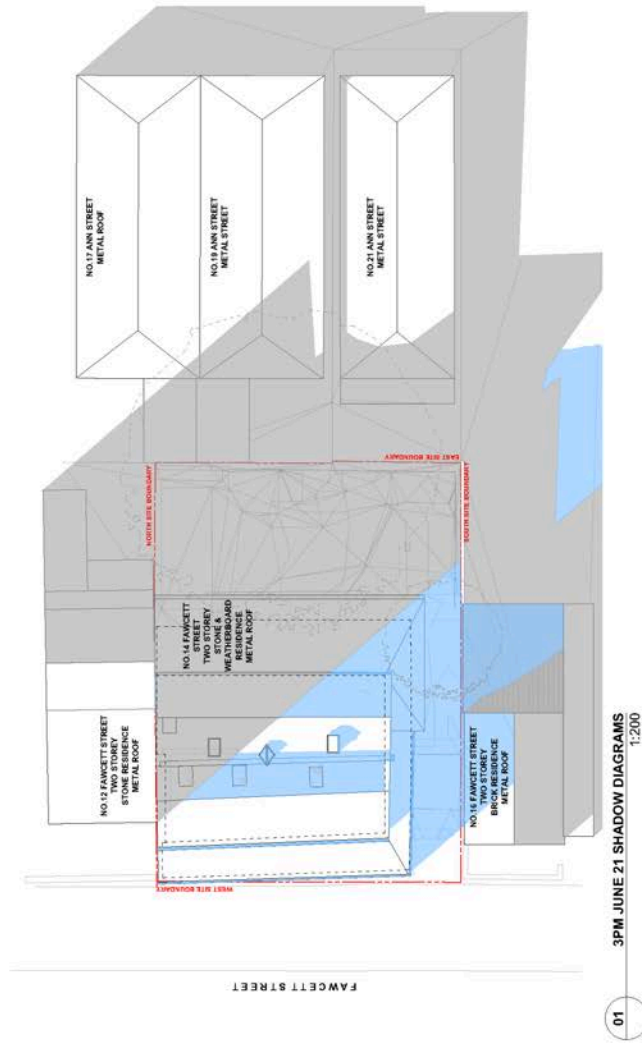
01 12PM JUNE 21 SHADOW DAIGRAMS 1:200

- SHADOW DIAGRAM LEGEND**
- SHADOWS CAST BY NEIGHBOURS
  - SHADOWS CAST BY EXISTING DWELLINGS
  - SHADOWS CAST BY PROPOSED ADDITIONS

DEVELOPMENT APPLICATION

DESCRIPTION FOR DEVELOPMENT APPLICATION	REV A	DATE 30/05/2019	SCALE & S.I. 1:200	PROJECT NO. 19.07	ZONE DA	DRAWING NO. 402	REV A
SAITTCRAWFORDARCHITECTS Level 2, 17 Fawcett Street, BALMAIN NSW 2041 EMAIL: <a href="mailto:saittcrawfordarchitects.com.au">saittcrawfordarchitects.com.au</a>			CLIENT Tim Binesford & Kate O'Connell PROJECT 14 Fawcett Street 14 Fawcett Street Balmain NSW 2041		NORTH 		

Project: T143 ML 3092019



01 3PM JUNE 21 SHADOW DIAGRAMS 1:200

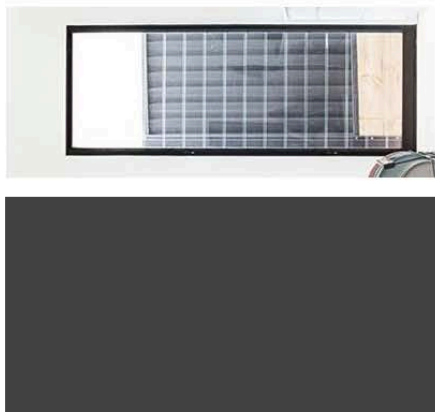
- SHADOW DIAGRAM LEGEND**
- SHADOWS CAST BY NEIGHBOURS
  - SHADOWS CAST BY EXISTING DWELLINGS
  - SHADOWS CAST BY PROPOSED RESIDING

DEVELOPMENT APPLICATION

DESCRIPTION FOR DEVELOPMENT APPLICATION	REV A	DATE 30/06/2019	SCALE & DATE 1:200   19.07   DA	PROJECT NO 403	DRAWING NO 403	REV A
CLIENT <b>SAINTCRAWFORDarchitects</b> Level 2, 17 Fawcett St, BALMAIN NSW 2041 EMAIL: <a href="mailto:saintcrawfordarchitects.com.au">saintcrawfordarchitects.com.au</a>			PROJECT TITLE <b>14 Fawcett Street</b> 14 Fawcett Street Balmain NSW 2041			NORTH 

Project: T143 ML 3092019





Louvered Windows: Colour to match existing window frames to the east.

PHOTO: 17/03/2019 10:00:00 AM

**DEVELOPMENT APPLICATION**

<b>DESCRIPTION</b> PORO DEVELOPMENT APPLICATION	<b>REV</b> A	<b>AMPS</b> SC	<b>DATE</b> 30/06/2019	<b>CLIENT</b> Tim Beresford & Kate O'Connell PROJECT 14 Fawcett Street	<b>SCALE</b> 1:100	<b>PROJECT NO</b> 19.07	<b>STAGE</b> DA	<b>DRAWING NO</b> 501	<b>REV</b> A
<p><b>SEITT Crawford Architects</b> Level 2, 17 Princes St Sydney NSW 2000 02 9231 1234 seitt.com.au seitt.com.au</p>				<p><b>EXTERIOR MATERIALS &amp; FINISHES</b></p>					

Attachment C- Clause 4.6 Exception to Development Standards

14 Fawcett Street Balmain

REQUEST TO VARY DEVELOPMENT STANDARD PURSUANT TO CLAUSE 4.6 OF LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013

TO ACCOMPANY A DEVELOPMENT APPLICATION TO INNER WEST COUNCIL FOR ALTERATIONS AND ADDITIONS TO A DWELLING

**Property:** 14 Fawcett Street Balmain.

**Proposal:** Alterations to a dwelling.

**Zoning:** R1 General Residential.

**Development standard to which the request to vary the standard is taken:** Clause 4.4 of the Leichhardt LEP 2013 (LEP 2013) prescribes a maximum floor space ratio of 0.8:1 applying to the site.

**The Aim of the request:** To allow a site to maintain the existing FSR of 0.83:1 on the site.

Clause 4.6 of LEP 2013 allows the applicant to provide a request to vary the non-compliance with a development standard.



Fig 1 – GFA/FSR calculations are provided in the diagram above. Works will not increase FSR/GFA on the site. No additional GFA is proposed.

**3. Application and Assessment of Clause 4.6 Exceptions to development standards**

Clause 4.6 of LEP 2013 is designed to provide the consent authority some flexibility in the strict compliance with the application of the development standard. There have been various Land and Environment Court judgments that have some relevance to addressing the application of Clause 4.6, among them being,

1. Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46
2. Wehbe v Pittwater Council [2007] NSWLEC 827
3. Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009; NSWLEC 90; NSWCA 248
4. Moskovich v Waverley Council [2016] NSWLEC 1015

In the assessment of using Clause 4.6 it is particularly relevant to address parts (3) and (4) of the clause, being,

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (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.

In assessment of the proposal against parts 3(a), 3(b) and 4(ii) the following is offered.

**How is strict compliance with the development standard unreasonable or unnecessary in this particular case?**

The NSW Land and Environment Court in Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90, considered how this question may be answered and referred to the earlier Court decision in Wehbe v Pittwater Council [2007] NSW LEC 827. Under Wehbe, the most common way of demonstrating that compliance is unreasonable or unnecessary, was whether the proposal met the objectives of the standard regardless of the non-compliance. Under Four2Five, whilst this can still be considered under this heading, it is also necessary to consider it under Clause 4.6 (3)(a).

14 Fawcett Street Balmain

The five part test described in Wehbe are therefore appropriately considered in this context.

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

*(a) to ensure that residential accommodation:*

*(i) is compatible with the desired future character of the area in relation to building bulk, form and scale, and*

*(ii) provides a suitable balance between landscaped areas and the built form, and*

*(iii) minimises the impact of the bulk and scale of buildings,*

*(b) to ensure that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale.*

The works are considered to be consistent with the objectives for this clause noted above because;

- The proposal does not seek to add or increase GFA or FSR to the site. The works merely seek alterations within the existing building envelope. The existing non-compliant FSR of 0.83:1 is maintained.
- The degree of non-compliance in FSR is minor, being only 0.03:1 or 9.3m<sup>2</sup>.
- The bulk of the built form envelope is unaltered. The proposal seeks to alter existing windows. These alterations have no impact on the bulk and scale of the existing built form envelope. The built form envelope is unaltered and will maintain the compatible form with surrounding development in the immediate area. The existing building bulk is retained. The resultant form will not appear bulkier than the existing dwelling.
- The building already complies with building envelope and setbacks requirements and complying areas of open space and built upon areas are maintained to allow for good amenity.
- Accordingly, the proposal does not appear as an overdevelopment of the site.
- The street appearance of the site is maintained from Fawcett Street. From Ann Street the works will be minimally glimpsed but do not materially affect any public domain view.
- The amenity to neighbours is not affected. Solar access is maintained to adjoining dwellings. No private view is impacted.
- The existing and maintained building bulk is entirely appropriate within the context of the site.

In light of the above, this request provides that the (existing) non-compliant FSR satisfies the objective in question.

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

Not applicable. The underlying objective or purpose of the standard is relevant to the development and is achieved.

3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

The exception request does not rely on this reason.

14 Fawcett Street Balmain

4. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

The exception request does not rely on this reason.

5. The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

The zoning of the land is appropriate for the site. The exception request does not rely on this reason.

In addition to demonstrating that the principles of Wehbe are satisfied, strict compliance with the standard is considered to be unreasonable and unnecessary in the circumstances of this case for the following additional reasons.

In the case of *Moskovich v Waverley Council*, the Land and Environment Court accepted that compliance with the standard (FSR in that case) was unreasonable and unnecessary because the design achieved the objectives of the standard and the respective zone, in a way that addressed the particular circumstances of the site, and resulted in a better streetscape and internal and external amenity outcome than a complying development. For the subject application, the proposed development which seeks to also vary the FSR standard, achieves a better response to the objectives of the subject R1 – General Residential Zone in that it maintains a high level of amenity for occupants and because the street appearance of the dwelling is not materially affected.

On the basis of the above, compliance with the standard is considered to be unnecessary and would be unreasonable.

#### **Sufficient environmental planning grounds to justify the contravention**

This request provides that there is sufficient environmental planning ground to justify the contravention. Such grounds include:

It has been demonstrated that the proposal and its (maintained) FSR breach remains consistent with the objectives of the subject R1 General Residential Zone as well as Clause 4.4 and 4.6 of the Leichhardt LEP 2013, despite the numerical non-compliance.

The proposal would not compromise the character or nature of the area sought by the local environmental planning framework.

The existing non-compliant FSR does not result in any unreasonable visual or amenity impacts.

The existing non-compliant FSR does not result in any unreasonable overshadowing impacts, because the works retain the existing envelope.

14 Fawcett Street Balmain

The existing non-compliance assists with providing improved amenity for residents.

To seek a reduction in FSR by reducing the existing building envelope would be unreasonable and unnecessary and no benefits would result.

**Is the variation in the public interest?**

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the proposed development will be in the public interest. The proposal is considered to 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. The objectives of the standard have been addressed above and are demonstrated to be satisfied. The works are consistent with the requirements for the General Residential Zone because of significant improvements to the amenity of the dwelling that will arise following the works, with an improved design and the wider improvement to the amenity of the housing stock on the site.

**Is the variation well founded?**

This Clause 4.6 variation request is well founded as it demonstrates, as required by Clause 4.6 of the Leichhardt LEP 2013, that:

Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this development;

There are sufficient environmental planning grounds to justify the requested contravention;

The development achieves and is consistent with the objectives of the development standard and the objectives of the R1 General Residential Zone;

The proposed development is in the public interest and there is no public benefit in maintaining the standard; and

The contravention does not raise any matter of State or Regional Significance.

The variation is therefore considered well founded.

## Attachment D – Statement of Heritage Significance

The Statement of Significance for “Bayview”, sourced from Council’s heritage database states :

*No. 14 Fawcett Street is of local historic and aesthetic significance as a good and intact late Victorian stone house constructed in 1891 or 1892. Despite some additions, the building significantly retains its original form and character including stone facades, roof form and open front verandah. The building is constructed to the street frontage and makes a positive contribution to the Fawcett Street streetscape.*

## Attachment E – Statement of Significance for Heritage Conservation Area

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### Area 17 East Balmain Conservation Area

#### Landform

This area is noted for its dramatic rugged sandstone headland facing east into the harbour and towards the city, with sheer sandstone cliffs to a deep and steep waterfront.



Figure 17.1 East Balmain Conservation Area Map.

#### History

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

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

Purchasers were merchants, boatbuilders, master mariners who needed the deep water frontages for their shipping activities; middle class professionals and civil servants who purchased the land for investment, for later resubdivision or to build their own villa; speculative builders such as Robert Blake who saw the peninsula as a marine retreat for gentlemen and proceeded to build villas in spacious grounds for that market. The early elegant villas, eg Hampton Villa, built of stone hewn from the allotment itself, or from land nearby,



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stood on the higher ground, and enjoyed fresh breezes and views of Sydney Town. Close to the waterfront and the shipbuilding activities were the houses of ship captains and merchants, often of timber or stone cut from their own land.

Subdivision of these allotments, either immediately, or after the 1840s slump, required new streets for access. Unaffected by the regulations of Sydney Town, they were made only as wide as was absolutely necessary, leaving as much land as possible for sale. In the 1860s small streets were cut through the sandstone to give access to an increasing number of industries along the waterfront. Associated industry followed – timber yards that served the wooden shipbuilding yards, tanneries that used the harbour for their effluent. Subdivision of the villa estates occurred through the 1840s and 1850s, often to pay off creditors. It led to the acceleration of small suburban allotments and suburban growth to serve the growing demand for both housing and industry, the latter having been pushed from the city by rising land values. Shops, pubs and a school grew at or near the intersection of the major streets, serving a growing population. There were pockets of infill development from 1910-1930s and by the 1940s East Balmain was fully built-up. After the 1960s, as the waterfront industries closed down through changing technology, waterfront sites were taken over by the Maritime Services Board for port activities or storage. From the 1970s these under-used parcels of land were turned into public waterfront parks.

#### Sources

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

#### Significant Characteristics

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

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- Sandstone kerbs and gutters.

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

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

#### Management of Heritage Values

##### Generally

This is a conservation area. Little change can be expected other than modest additions and discrete alterations. Buildings which do not contribute to the heritage significance of the area may be replaced with sympathetically designed infill.

##### Retain

- All residential or commercial structures pre-1939 belonging to the period of the growth of East Balmain.

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- All weatherboard buildings – now rare but typical of early development.
- All sandstone structures and cuttings – cottages and villas, schools, wharves/slipways, curbs and gutters, walls, bases to fences, steps.
- Unpainted face brick walls.
- All original plaster finishes to external walls. Reconstruct where necessary.
- All original architectural detail, and encourage replacement of lost elements, but only where evidence is available.
- All sandstone outcrops.
- Views between buildings from public places, especially views to the harbour.
- Trees, especially large figs which form such an important role in the landscape of the area, and views to the area from the harbour.

#### Avoid

- Demolition of any pre-1939 building unless the building has been so compromised that it can no longer evidence its history.
- Alteration to the form (shape) of these buildings, especially wall height or alterations to the roof over the main part of the house. Second-storey additions.
- Removal of plaster to external walls, where part of the original wall finish.
- Painting or plastering of face brick walls.
- Additional architectural detail for which there is no evidence, especially the addition of verandahs, and post-supported verandahs.
- Loss of any trees.
- Inappropriate high front brick/stone fences or walls, or new iron palisades on high brick bases.
- Interruption to the remaining sandstone kerbs and gutter.
- Widening of the narrow roads.
- Development that detrimentally affects views from the harbour, Harbour Bridge and the city to East Balmain, or disrupts its skyline when viewed from those places.

#### Notes

Because this area is very visible from the city and from the harbour and harbour bridge, special care is needed in dealing with changes which might alter public views from these places – scale, roof form and material colours are particularly important.

Care is needed for applications for change to any building in these areas. There are a number of very early buildings here, overlaid with later works, and

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restoration to reveal the original building could be possible in many cases. Many of the early stone houses were built by stonemason Cavill, and evidence of his work should be sought.