





				
DEVELOPMENT ASSESSMENT REPORT				
Application No.	DA/2020/0147			
Address	54 Birchgrove Road BALMAIN NSW 2041			
Proposal	Part demolition and alterations and additions to existing heritage listed terrace-house and associated works			
Date of Lodgement	04 March 2020			
Applicant	Jonathan Phillips			
Owner	Mr Jonathan CH Phillips Ms Lisa M McKimmie			
Number of Submissions	Initial: 1			
Value of works	\$978,703.00			
Reason for determination at Planning Panel	Clause 4.6 variation exceeds officer delegation			
Main Issues	FSR Breach Site Coverage Breach Landscaped Area Breach Heritage and Design			
Recommendation	Approval with Conditions			
Attachment A	Recommended conditions of consent			
Attachment B	Plans of proposed development			
Attachment C	Clause 4.6 Exception to Development Standards			
Attachment D	Statement of Heritage Significance			
				
LOCALITY MAP				
Subject Site		Objectors		 N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for partial demolition and alterations and additions to a heritage listed terrace-house and associated works at 54 Birchgrove Road, Balmain.

The application was notified to surrounding properties and one (1) submission was received.

The main issues that have arisen from the application include:

- Clause 4.6 variation exceeds 10%
- Heritage & Design

The non-compliances are acceptable given that the proposal, as recommended by conditions, generally complies with the aims and objectives of the *Leichhardt Local Environmental Plan 2013* and the Leichhardt Development Control Plan 2013. A Clause 4.6 request was submitted to Council to vary the maximum floor space ratio, site coverage and landscaped area development standards, which are considered acceptable and, therefore, the application is recommended for approval.

2. Proposal

The application proposes the following internal and external alterations and additions:

Lower Ground Floor:

- Demolition of the bathroom and the wall adjoining the hallway to create a living area and laundry at the south western end, replacement of the toilet and basin in the W.C.;
- Demolition of the external laundry and part of the rear north western elevation for bi-folding doors to a proposed external terrace and replacement of the W.C. window; and
- Addition of robes and a desk.

Ground Floor:

- Widening of the opening between the dining and kitchen and new kitchen fit out;
- Increased opening from the kitchen to the balcony;
- Removal of the balcony and construct a larger balcony; and
- Demolition of the exterior W.C. and the removal of the cupboard on the staircase.

First Floor:

- New bathroom fit out is proposed, a door is proposed to replace the existing window in the bathroom for a bathroom addition;
- Removal of the balcony and construct a new balcony to the rear; including demolition of the store; and
- Removal of the cupboards on the balcony to Birchgrove Road.

Roof:

- Addition of solar panels.

3. Site Description

The subject site is located on the western side of Birchgrove Road, at its intersection with Glassop Street. It has a total area of 82.4 sqm and is legally described as Lot 4 in Deposited Plan 71747.

The site has a frontage to Birchgrove Road of 11.98 metres and a frontage of 17.96 metres to Glassop Street.

The site supports a two-storey attached dwelling. The adjoining properties support a mix of one, two and three-storey dwelling and residential flat buildings.



Figure 2: R1 – General Residential Zone

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
D/20074/383	Installing new window with security grill to elevation on Glassop Street and internal glass door on basement level.	Approved 13/12/2007

Surrounding properties

Application	Proposal	Decision & Date
D/2016/143	Alterations & Additions at the rear of existing dwelling at No. 52 Birchgrove Road.	Approved 14/06/2016

4(b) Application history

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

Date	Discussion / Letter / Additional Information
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04/03/2020	Application lodged
27/05/2020	<p>Council forwarded a letter to the applicant raising, <i>inter alia</i>, the following concerns with respect to the submitted proposal:</p> <ul style="list-style-type: none"> • Overall, the proposed alterations and additions will result in an unacceptable cumulative impact on the original fabric and significance of the heritage item; • Based on the information and plans provided, it has not been demonstrated that elements proposed to be demolished are not original, do not contribute to the significance of the heritage item and are inconsistent with the recommended management for the item; • Inadequate provision of private open space on ground floor; and • Concerns raised in submission received.
12/06/2020	Council and applicant met on site to inspect and discuss the issues outlined above.
15/06/2020	Council forwarded an email with revised heritage comments / issues.
16/06/2020	Council and applicant met via Skype to further discuss the issues raised.
26/06/2020	<p>Applicant submitted amended plans that, <i>inter alia</i>, entailed the following changes:</p> <ul style="list-style-type: none"> • Deletion of the roof terrace; • Design and materials have been amended to a new painted timber balcony structure with painted timber balustrades to the exterior; • Painted timber venetian blinds with opaque glass behind the balustrades; and • Amended external materials & finishes.

5. Assessment

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

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Leichhardt Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. LDCP 2013 provides controls and guidelines for remediation works. *SEPP 55* requires the consent authority to be satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent.

The site has not been used in the past for activities, which could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with *SEPP 55*.

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

A BASIX Certificate associated with the plans lodged was submitted with the application and is referenced in the draft consent Notice.

5(a)(ii) *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

The proposal has been assessed against the relevant provisions of the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. It is considered that the carrying out of the proposed development is generally consistent with the relevant matters for consideration of the Plan and would not have an adverse effect on environmental heritage, the visual environment, the natural environment and open space and recreation facilities for the following reasons.

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

The application was assessed against the following relevant clauses of the *Leichhardt Local Environment 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
Clause 6.1 - Acid Sulfate Soils
Clause 6.2 - Earthworks
Clause 6.4 - Stormwater management

(xv) Clause 2.3 - Land Use Table and Zone Objectives

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

Dwelling House

The development is permitted with consent within the land use table. The development is consistent with the objectives of the R1 zone.

(xvi) Clause 2.7 – Demolition

Clause 2.7 of the *LLEP 2013* states that the demolition of a building or work may be carried out only with development consent. The application seeks consent for demolition works. Council's standard conditions relating to demolition are included in the recommendation.

(xvii) Clause 4.3A and 4.4 – Landscaped areas for residential accommodation in Zone R1 and Floor Space Ratio

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

Standard	Proposal	noncompliance	Complies
Floor Space Ratio Maximum permissible: 1:1 or 82.4sqm	2.09:1 or 172.3 sqm	89.9 sqm or 109.1%	No
Landscape Area Minimum permissible: 15% or 12.36sqm	2.03% or 1.67sqm	10.69 sqm or 86.49%	No
Site Coverage Maximum permissible: 60% or 49.44sqm	72.82% or 60sqm	10.56 sqm or 21.36%	No

(xviii) Clause 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a breach, and the applicant seeks a variation, of the following development standards listed below:

- Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1
- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio

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

In order to demonstrate whether strict numeric compliance is unreasonable or unnecessary in this instance, the proposed exception to the development standards has been assessed against the objectives and provisions of Clause 4.6 of the *Leichhardt LEP 2013* below.

Clause 4.3A(3)(a) – Landscaped areas for residential accommodation in Zone R1 and Clause 4.3A(3)(b) – Site Coverage for residential accommodation in Zone R1

A written request has been submitted to Council in accordance with Clause 4.6(3) of the *Leichhardt LEP 2013* justifying the contravention of the development standard, which is summarised as follows:

- The site does not currently contain a substantial area for planting;
- Whilst the proposed minor increase of landscaping will not have any meaningful increase to landscaping, it is still an increase rather than a decrease in planting area. Additional landscaping will be planted on the site;
- The site does not have any landscaping qualities that will be lost;
- The desired future character of the area will be enhanced with the building works that improve the detracting appearance of the rear of the site;

- On site detention will be minimally improved with the increased in landscaped area;
- Site density will not be materially impacted with the existing building envelope retained;
- The proposed development achieves a better response to the objectives of the subject R1 – General Residential Zone in that it provides a higher level of amenity for occupants by allowing for improved amenity on the site;
- On the basis of the above, compliance with the standard is considered to be unnecessary and would be unreasonable; and
- The non-compliant landscaping and site coverage does not result in any unreasonable visual or amenity impacts.

The applicant's written rationale adequately demonstrates compliance with the development standard is unreasonable 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 landscaped area development standard in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP 2013 for the following reasons:

- The proposal is compatible with the desired future character of the area in relation to building bulk, form and scale;
- The proposal is increasing landscaping and reducing site coverage and, therefore, is considered to provide adequate and increased areas for retention and absorption of surface drainage water on site; and
- The proposal ensures that adequate provision is made for landscaped areas and private open space.

It is considered the development is in the public interest because it is consistent with the objectives of the R1 zone, in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP 2013 for the following reasons:

- The development provides for the housing needs of the community;
- The development improves opportunities to work from home.
- The development provides housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes and works; and
- The development protects and enhances the amenity of existing and future residents and the neighbourhood.

Clause 4.4 – Floor Space Ratio

A written request has been submitted to Council in accordance with Clause 4.6(3) of the Leichhardt LEP 2013 justifying the contravention of the development standard, which is summarised as follows:

- The degree of increase in FSR is minor;
- The level of amenity provided by the dwelling will be significantly improved;
- The built form very comparable with other dwellings in this row;
- The resultant form will not appear bulkier than the existing dwelling;
- The proposal complies with building envelope and setbacks requirements and appropriate areas of open space and built upon areas are provided to allow for improved amenity;
- The amenity to neighbours will not be unreasonably affected; and

- The proposed development achieves a better response to the objectives of the subject R1 – General Residential Zone in that it provides a higher level of amenity for occupants by allowing the addition of additional living space and because the street appearance of the dwelling is enhanced.

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

It is considered the development is in the public interest because it is consistent with the objectives of the floor space ratio development standard, in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP 2013 for the following reasons:

- The development is compatible with the desired future character of the area in relation to building bulk, form and scale;
- The development provides a suitable balance between landscaped areas and the built form; and
- The development minimises the impact of the bulk and scale of the building.

Further, it is considered that the development is consistent with the amended objectives of the floor space ratio standard under the Draft IWLPP 2020 in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP 2013 for the following reasons:

- The development will not result in adverse environmental and amenity impacts on adjoining properties, the public domain, the heritage item, nor the heritage conservation area;
- The development is compatible with the desired future character of the area; and
- The development provides an acceptable balance between landscaped areas and the built form.

It is considered the development is in the public interest because it is consistent with the objectives of the R1 zone as discussed above.

Conclusion – Clause 4.6 requests

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

The proposal, thereby, accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the Leichhardt LEP 2013. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the floor space ratio, landscaped area and site coverage development standards, and it is recommended the Clause 4.6 exceptions be granted.

(xix) Clause 5.10 - Heritage Conservation

The subject property ("Lilywill", including interiors) is listed as a heritage item (I131) in Schedule 5 of the *LLEP 2013* (I131) and a contributory dwelling, located within the Iron Cove Heritage Conservation Area (C6 in Schedule 5 of the *LLEP 2013*).

The Statement of Significance for "Lilywill", sourced from the Office of Environment & Heritage, heritage database website, is below:

No. 54 Birchgrove Road is of high local historic and aesthetic as a prominent and relatively rare example of a Federation Free Classical dwelling in the local area. Constructed in 1905 the building significantly retains its overall scale, form, character and details including, brick facades, rendered classical details, parapet and chimney, splayed corner, timber posted balconies and associated details, recessed ground floor arched opening and entry and pattern of openings. The building occupies an unusual wedge shaped, corner site and makes a positive contribution to the Birchgrove Road streetscape and Birchgrove Road and Glassop Street intersection.

Inter alia, the following Clause of the LLEP 2013 and Parts of the LDCP 2013 apply to the proposal:

- Clause 5.10 - Heritage Conservation
- Part C1.3 - Alterations and additions
- Part C1.4 - Heritage conservation areas and heritage items; and
- Part C.2.2.2.6: Birchgrove Distinctive Neighbourhood.

There were several concerns regarding this Clause and relevant heritage provisions with the initially submitted plans. A meeting was held with the applicant to discuss the following matters:

- The enclosure of the ground floor balcony to the north west with louvres, the bathroom additions to the lower ground and first floors, and the roof terrace, removal of chimney and skylight is not supported and should be removed from the proposal;
- The existing layout and openings must be retained, including:
 - Part of the rear wall in the north western elevation proposed to be demolished for bi-folding doors to the greenhouse (lower ground floor);
 - The existing W.C. window proposed to be made into a doorway to the proposed bathroom addition on the lower ground floor);
 - The opening from the kitchen to the balcony proposed to be widened (ground floor); and
 - The proposed doorway replacing the existing window in the bathroom (first floor).
- The following additional information must be provided:
 - Clear, unobscured, north east and north west elevations;
 - Detailed drawings at a scale of 1:20 of the proposed greenhouse at the lower ground level and the proposed balconies at ground and first floor levels, on the north west elevation;
 - Evidence that the building facades were originally face brick to enable the proposed removal of paint to be considered; and
 - The original colour scheme of the dwelling through paint scrapes or, alternatively, choosing a colour scheme in keeping with the historic construction of the period of the dwelling.
- A revised External Materials and Finishes schedule for consideration with the following:
- Cast iron lacework is to be used for balustrades. If timber balustrades are preferred, they must be painted in a sympathetic colour; and
- A pre-coloured traditional corrugated steel shall be used for the roofing, finished in a colour equivalent to Colorbond colour "Shale Grey".

The amended plans submitted, largely addressed the issues that were raised in relation to satisfying this Clause and relevant heritage provisions. In particular, the following is noted:

- The enclosed ground floor balcony and the bathroom additions on the lower ground and first floor level have not been deleted. The roof terrace has been deleted. The design and materials have been amended to a new painted timber balcony structure with painted timber balustrades to the exterior. Painted timber venetian blinds are proposed with opaque glass behind the balustrades. This is an improvement on the aesthetics of the proposed addition, which will read as enclosed verandahs. This is acceptable as it will leave the main building form of the heritage item intact and given the constraints of the site;
- Drawing 'Section 01' shows that the solar panels are raised above the main skillion roof form. They must be installed so they sit flush with the main skillion roof form of the heritage item to reduce their visual impact when view from the public domain; a condition is included in Appendix A;
- It is still proposed to demolish part of the rear wall in the north western elevation for bi-fold doors to the terrace on the lower ground floor and part of the wall on the ground floor from the kitchen to the proposed balcony. It has been demonstrated that the existing opening from the kitchen to the proposed dining room on the ground floor has been altered from its original. Therefore, a slight increase in the existing opening will have a minimal, and an acceptable, impact on the significance of the built fabric of the heritage item;
- The proposed terrace can be accessed via the existing doorway on the lower ground floor. The existing opening on the lower ground floor must be retained and must not be widened; a condition is included in Appendix A;
- It is still proposed to replace the windows on the lower ground floor and the first floor in the north west elevation to access the proposed bathrooms on the lower ground floor and the first floor. This is generally acceptable as the impact with the removal of the original building material and the change in the openings is generally minor and will not impact on the aesthetics of the heritage item and are therefore acceptable;
- The External Materials & Finishes has been amended proposing to paint the façade "Pale Cream". It is no longer proposed to expose the face brick. This is acceptable as is the proposed colour scheme, which is complementary to the heritage item and to colour schemes of contributory dwellings in the streetscape; and
- The balustrades to the balconies are proposed to be timber and painted in Venetian Red, which is acceptable. The roof schedule now details Shale Grey, which is also acceptable.

As a result, the proposal is acceptable from a heritage perspective as it will not detract from the heritage significance of "Lilywill", or the Iron Cove Heritage Conservation Area subject to the design changes outlined above being implemented to ensure that the development is in accordance with Clause 5.10 Objectives 1(a) and 1(b) of the *LLEP 2013* and the relevant objectives and controls of the *LDCP 2013*.

(xx) Clause 6.1 – Acid Sulfate Soils

The lot is identified as class 5 acid sulphate soils; however, the proposed modifications are not considered to lower the watertable below 1 metre AHD.

(xxi) Clause 6.2 – Earthworks

Any excavation works are minor and will be adequately controlled by conditions of consent.

(xxii) Clause 6.4 – Stormwater management

The proposal generally, complies with this clause. Council's Development Engineer has assessed the proposal and raised no concerns, subject to conditions, which are included in Appendix A.

5(b) Draft Environmental Planning Instruments

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of the natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until 31 January 2018. This consolidated SEPP proposes to provide a single set of planning provisions for catchments, waterways, bushland and protected areas. Changes proposed include consolidating seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposal is consistent with the provisions of the draft Environment SEPP.

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, with the exception of the amended objectives of the floor space ratio development standards under Clause 4.4 of the Draft IWLEP 2020, are not relevant to the assessment of the application. Given that the proposal seeks to contravene the FSR development standard, the written request in accordance with Clause 4.6(4)(a)(i) of the applicable local environmental plan, justifying the proposed contravention of the floor space ratio development standard, has been assessed against the amended objectives as outlined in Section 5(a)(v) above and 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 the Leichhardt Development Control Plan 2013.

LDCP2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	

B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	N/A
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes – Refer to Section 5(a)(v)(v) above.
C1.4 Heritage Conservation Areas and Heritage Items	Yes – Refer to Section 5(a)(v)(v) above.
C1.5 Corner Sites	Yes
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	N/A
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	N/A
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	N/A
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	N/A
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
Part C.2.2.2.6: Birchgrove Distinctive Neighbourhood.	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes – Refer to discussion below.
C3.3 Elevation and Materials	Yes – Refer to Section 5(a)(v)(v) above.
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	N/A
C3.6 Fences	N/A
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes – Refer to discussion below.
C3.9 Solar Access	Yes – Refer to discussion below.
C3.10 Views	N/A

C3.11 Visual Privacy	Yes – Refer to discussion below.
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	N/A
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	N/A
D2.5 Mixed Use Development	N/A
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required with Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	Yes
E1.2.1 Water Conservation	N/A
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	Yes
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A

The following provides discussion of the relevant issues:

Part C3.2 Site Layout and Building Design

Building Location Zone (BLZ):

Given that the application proposes a new enclosed 'verandah' on the lower ground floor, the application proposed to alter the rear BLZ on this level. Pursuant to control C5 of this part, the BLZ of a corner site is to be determined by the location of the building on the adjacent property that most resembles the orientation, frontage width and site layout of the subject site, which is No. 52 Birchgrove Road. Given that all levels of No. 52 Birchgrove Road extend further than those of No. 54 Birchgrove Road, the proposal is within the prescribed BLZ.

Side Boundary Setbacks:

The proposed alterations and additions have a nil side setback. Given that the proposed wall heights of the additions on all levels exceed 2.8 metres, the proposal results in a technical non-compliance with the side boundary setbacks required by control C7 of the LDCP 2013. Pursuant to control C8 of this part, where a proposal seeks a variation of the side setback control graph, various requirements need to be met. These are assessed below:

- f) The development is consistent with relevant Building Typology Statements as outlined within Appendix B – Building Typologies of the LDCP2013 and complies with streetscape and desired future character controls.

Comment: The alterations and additions raise no issues that will be contrary to the Building Typologies Statements prescribed in the LDCP 2013. The proposal also complies with the objectives and controls set out in the distinctive neighbourhood character controls.

- g) The pattern of development is not adversely compromised.

Comment: The proposed works will not compromise the pattern of development within the area.

- h) The bulk and scale of the development has been minimised and is acceptable.

Comment: The bulk and scale is acceptable. The additions merely continue the existing floor-to-ceiling heights and are of minimal scale.

- i) The proposal is acceptable with respect to applicable amenity controls, e.g. solar access, privacy and access to views.

Comment: As discussed in detail further below, the proposal is satisfactory in regard to the parts of the LDCP 2013 that are concerned with amenity controls, including solar access and privacy. It is noted that the proposal will have no view loss implications.

- j) The proposal does not unduly obstruct adjoining properties for maintenance purposes.

Comment: Access for maintenance purposes for adjoining properties is not adversely impacted by the proposal.

Part C3.8 Private Open Space

Whilst the proposal, technically, does not provide the required private open space area on ground floor of minimum 16sqm with minimum dimension of 3 metres, the proposal is increasing this private open space area and is an extension of a new living area. Therefore, the proposal is acceptable.

Part C3.9 Solar Access

The following solar access controls apply to the proposal:

- C14 Where the surrounding allotments side boundary is 45 degrees from true north and therefore the allotment is not orientated north/south or east/west, glazing serving main living room shall retain a minimum of two hours of solar access between 9am and 3pm at the winter solstice

- C15 Where surrounding dwellings currently receive less than the required amount of solar access to the main living room between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.
- C17 Where surrounding dwellings have north facing private open space, ensure solar access is retained for three hours between 9am and 3pm to 50% of the total area during the winter solstice.
- C19 Where surrounding dwellings currently receive less than the required amount of solar access to their private open space between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.

The proposal results in additional overshadowing onto the neighbouring site to the west, known as No. 52 Birchgrove Road. These shadows fall onto the north-eastern side wall of this property. Whilst the submitted shadow diagrams include an annotation that the window on this elevation will not be overshadowed by the proposal, no elevational shadow diagrams have been submitted to confirm this. One (1) submission was received, raising concerns regarding solar access to this window, which, as outlined in the submission, services a kitchen. Only solar access to windows servicing main living rooms, which excludes kitchens, is protected under the LDCP 2013. Therefore, the proposal, even if additional shadows are cast onto this window, is not contrary to the controls regarding solar access to main living rooms. Further, the submitted shadow diagrams depict that there will be no additional overshadowing onto neighbouring private open space areas.

C3.11 Visual Privacy

The proposal generally complies with this part. Control C9 of this part prescribes that “Balconies at first floor or above at the rear of residential dwellings” should not exceed 1.2 metres in depth and 2 metres in length unless a larger sized balcony will not result in adverse privacy impacts on surrounding residential properties. It is noted that the proposed first-floor balcony is in the same location and of similar size as the existing first-floor balcony. Further, there are no overlooking opportunities into residential private open space nor living areas. Therefore, the size of the balcony is acceptable.

In regard to the ‘enclosed verandah’ on the ground floor, it is noted that, whilst there is an existing balcony, the application proposes to increase the size of it by approximately 3.6sqm from 5.6sqm to 9.2sqm and to convert this area into an enclosed living area. In addition, the distance between this area and a window, which services a kitchen, that is located on the north-eastern side elevation of the adjoining site, known as No. 52 Birchgrove Road, is reduced from approximately 980mm to 400mm. As the window services a kitchen, which is not defined as a living room under the LDCP 2013, screening is not required.

Given the above, the proposal is considered acceptable in regard to the intend and objective of this part.

5(e) The Likely Impacts

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

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

Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development.

5(g) Any submissions

The application was notified in accordance with the Leichhardt Development Control Plan 2013 for a period of 14 days to surrounding properties. One (1) submission was received in response to the initial notification from the adjoining site at No. 52 Birchgrove Road.

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

- Adverse visual privacy impacts from the proposed rear extension on ground floor – see Section 5(d).

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

Issue: The additions on ground floor will reduce light entering the kitchen through the window on the north-eastern elevation.

Comment: No additional shadows are cast onto this window by the proposal.

Issue: The additions on ground floor will reduce the outlook from the window on the north-eastern elevation onto Glassop Street and the trees on the street. In particular, it was noted that these views are currently unobstructed by looking through the permeable balustrade of the existing balcony.

Comment: Outlooks onto streets and street trees is not protected under the *LLEP 2013* nor *LDCP 2013*.

Issue: Non-compliance and increase of FSR, which is mostly due to ground floor additions adjacent to the kitchen window on the north-eastern elevation of No. 52 Birchgrove Road. The submission raised that this is the level where impacts are the worst, and that additions on other floors would have no / less impacts as there are no windows on other levels. Further, the submission raised that, contrary to the statements in the submitted Clause 4.6 requests, the proposal results in an increase of building bulk and is not in the public interest.

Comment: Whilst it is acknowledged that the proposal results in an increase of building bulk, the proposal is considered acceptable and reasonable as outlined in other sections of this report.

Issue: Visual appearance and adverse acoustic amenity impacts by the proposed roof top terrace.

Comment: The roof top terrace has been deleted from the proposal.

Issue: The garden / greenhouse wall is a common wall, and, at present, moisture persistently seeps through that wall into one of the living areas of No. 52 Birchgrove Road because the garden soil at No 54 sits directly against the common wall, which is not waterproof. The submission requested that “a separate waterproof retaining wall should be built within the land envelope of No 54, so as to allow the common wall to breath at all times” to avoid “a liability issue for the owners in respect of future damage”.

Comment: Whilst the proposed greenhouse has been deleted from the proposal, the application proposes additional landscaping along the shared wall on the south-western boundary. Council’s standard condition “Amenity Impacts General’ will be imposed with any consent granted to ensure that the use of the subject premises does not damage other premises”.

5(h) The Public Interest

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

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

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

- Development Engineer
- Heritage Officer

8. Conclusion

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

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

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

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 of the *Leichhardt Local Environmental Plan 2013* to contravene Clauses 4.3A Landscaping and 4.4 Floor Space Ratio of the LEP. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council, as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2020/0147 for Part demolition and alterations and additions to existing heritage listed terrace-house and associated works at 54 Birchgrove Road, Balmain subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
111 Rev C	Lower Ground Floor Plans	26/06/2020	Sam Crawford Architects
112 Rev C	Ground Floor Plans	26/06/2020	Sam Crawford Architects
113 Rev C	First Floor Plans	26/06/2020	Sam Crawford Architects
114 Rev C	Roof Plans	26/06/2020	Sam Crawford Architects
202 Rev C	North-East Elevation	26/06/2020	Sam Crawford Architects
203 Rev C	North-West Elevation	26/06/2020	Sam Crawford Architects
301 Rev C	Sections	26/06/2020	Sam Crawford Architects
302 Rev B	Section Details	26/06/2020	Sam Crawford Architects
501 Rev C	External Materials & Finishes	26/06/2020	Sam Crawford Architects
H-DA-01 Revision A	Stormwater Drainage	20/02/2020	itm design
A368298_02	BASIX	16/09/2020	Damian O'Toole Town Planning P/L

As amended by the conditions of consent.

DESIGN CHANGE

2. Design Change

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

- a. The existing opening on the lower ground floor, between the proposed living room and terrace, must be retained and must not be widened.
- b. The proposed solar panels must be installed so they sit flush with the main skillion roof form.

FEES

3. Security Deposit - Custom

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

Security Deposit:	\$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.

4. Long Service Levy

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

GENERAL CONDITIONS

5. Boundary Alignment Levels

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

6. 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.

7. 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.

8. 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.

9. Works Outside the Property Boundary

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

PRIOR TO ANY DEMOLITION**10. Hoardings**

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

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property. Separate approval is required from the Council under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property.

11. 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 the adjoining property at No. 52 Birchgrove Road 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.

12. 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.

13. 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**14. Dilapidation Report – Pre-Development – Minor**

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

15. Stormwater Drainage System – Minor Developments (OSD is not required)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a. The design must generally be in accordance with the Stormwater Drainage Concept plan on Drawing No. **H-DA-01** prepared by itm design and dated **20 February 2020**, as amended to comply with the following;

- b. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of a public road;
- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- d. Pipe and channel drainage systems must be designed to cater for the twenty (20) year Average Recurrence Interval (ARI) storm in the case of low and medium residential developments, the twenty (20) year ARI Storm in the case of high-density residential development and commercial and/or industrial developments and the fifty (50) year ARI Storm in the case of heavy industry. In all cases, the major event surface flow paths must be designed to cater for the one hundred (100) year ARI Storm;
- e. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage;
- f. To provide for adequate site drainage all roof and surface stormwater from the site and any catchment external to the site that presently drains to it, must be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a stormwater drainage system in accordance with the requirements of Council's DCP.
- g. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas.
- h. No nuisance or concentration of flows to other properties;
- i. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- j. The design plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
- k. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- l. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- m. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm;
- n. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;
- o. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
- p. The setback of the outlet pipe from the street trees must comply with the requirements of Council's Tree Assessment Officer.

16. Party Walls

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with Architectural Plans accompanied by a Structural Certificate which verifies that the architectural plans do not rely on the Party Wall for lateral or vertical support and that additions are independently supported. A copy of the Certificate & plans must be provided to all owners of the party wall/s.

17. Structural Certificate for retained elements of the building

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying

the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

18. Sydney Water – Tap In

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

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

DURING DEMOLITION AND CONSTRUCTION

19. 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.

20. 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.

PRIOR TO OCCUPATION CERTIFICATE

21. No Encroachments

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

22. Protect Sandstone Kerb

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any damaged stone kerb has been replaced.

23. No Weep Holes

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that any weep holes to Council road or footpath resulting from the building works have been removed.

ADVISORY NOTES

Permits

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

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

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

Insurances

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

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;
or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

Disability Discrimination Access to Premises Code

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

National Construction Code (Building Code of Australia)

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

Notification of commencement of works

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

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

Dividing Fences Act

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

Permits from Council under Other Acts

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

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

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

Noise

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

Lead-based Paint

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

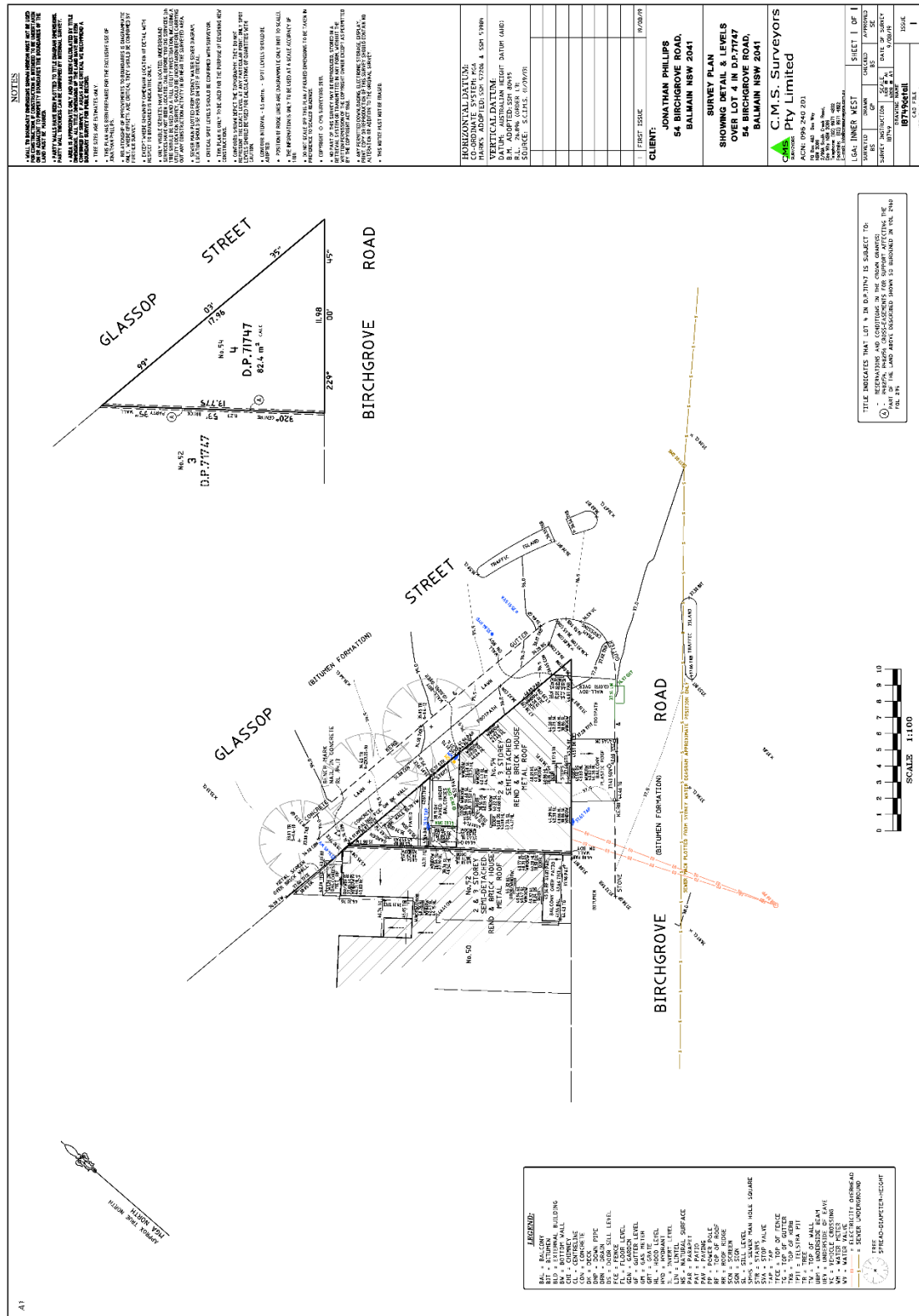
Dial before you dig

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

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	131 441 www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 www.environment.nsw.gov.au
Sydney Water	13 20 92 www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

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DEVELOPMENT APPLICATION DRAWINGS			
000 COVER PAGES			
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100 PLANS			
101	SITE ANALYSIS	1:100	REV A
111	LOWER GROUND FLOOR PLANS	1:100	REV C
112	GROUND FLOOR PLANS	1:100	REV C
113	FIRST FLOOR PLANS	1:100	REV C
114	ROOF PLANS	1:100	REV C
121	GFA & FSR CALCULATIONS	1:200	REV C
200 ELEVATIONS			
201	SOUTH-EAST ELEVATION	1:100	REV A
202	NORTH-EAST ELEVATION	1:100	REV C
203	NORTH-WEST ELEVATION	1:100	REV C
204	VIEW FROM GLASSOP ST 01	N.T.S	REV B
205	VIEW FROM GLASSOP ST 02	1:127.75	REV B
300 SECTIONS			
301	SECTIONS	1:100	REV C
302	SECTION DETAILS	1:20	REV B
400 SHADOW DIAGRAMS			
401	SHADOW DIAGRAMS JUNE 21	1:200	REV C
500 MATERIALS & FINISHES			
501	EXTERNAL MATERIALS & FINISHES	N.T.S	REV C
600 NOTIFICATION PLANS			
601	NOTIFICATION PLANS	1:200	

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A/CN 161 501 501 Registered Professional Engineer (Civil) 1998

REGISTRATION	REV APP'D	DATE
DA Sullivan	A SC	2/23/2020
B: Attorney Client Waiver Review	B SC	2/23/2020
Requests to Counsel Requests	C SC	2/23/2020

CLIENT
Jonathan Phillips & Lisa McKimmie

PROJECT
54 BIRCHGROVE ROAD
BALMAIN NSW 2041

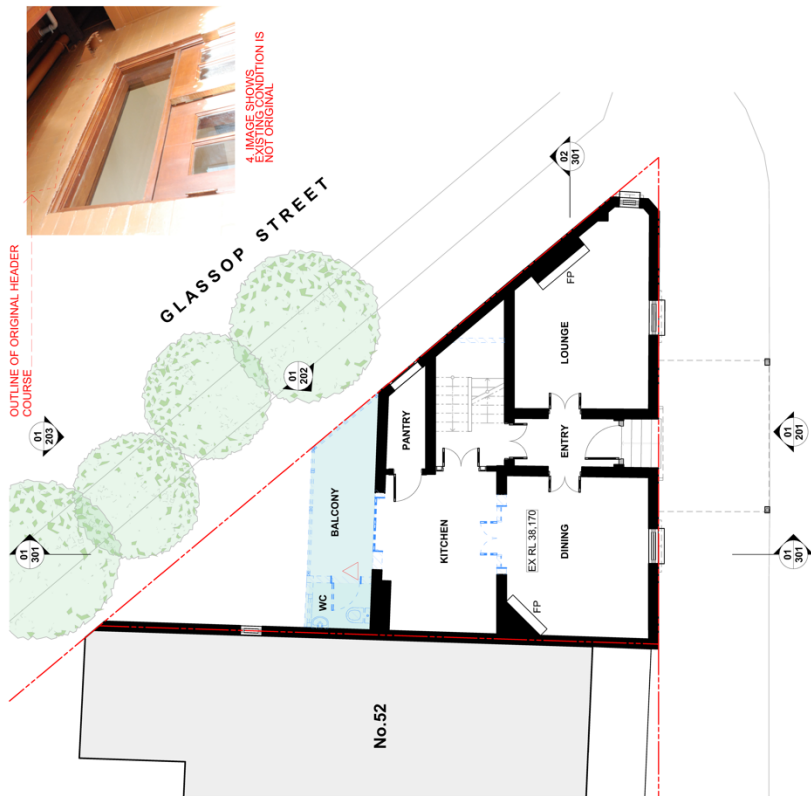
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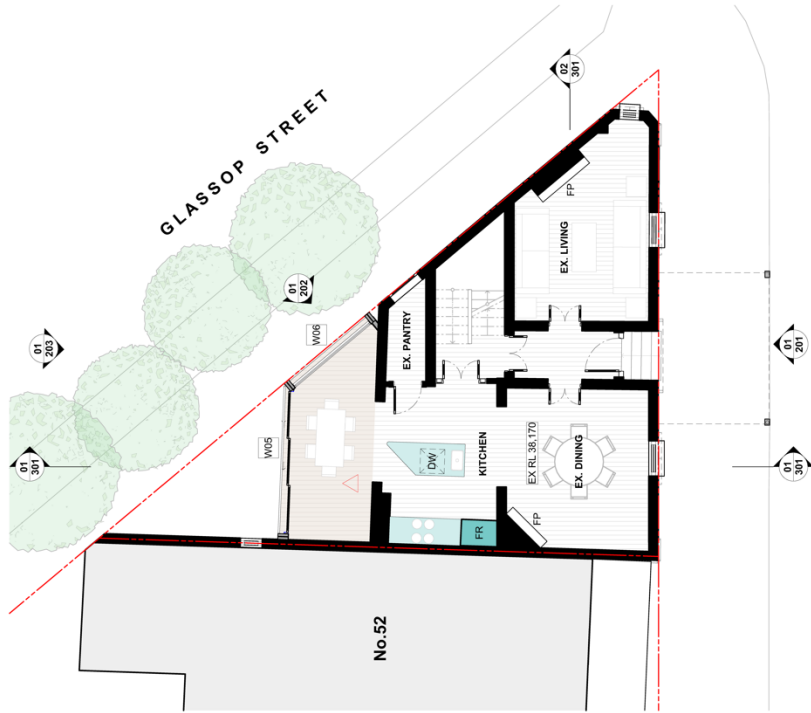
002 GENERAL SPEC & BASIX

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BIRCHGROVE ROAD
DEMOLITION GROUND FLOOR PLAN
1:100



BIRCHGROVE ROAD
PROPOSED GROUND FLOOR PLAN
1:100

LEGEND • MATERIALS
Refer to schedule of materials & finishes (drawing 501)
Red dashed line: Site boundary
Blue dashed line: Sub back
Green dashed line: Existing elements to be removed
Black solid line: Existing structure (plan / section)
Grey solid line: Proposed structure (plan / section)
Red solid line: Existing metal roof
Blue solid line: Proposed metal roofing
Green solid line: Existing face brick
Red solid line: Proposed internal floor tiles
Blue solid line: Proposed decking
Green solid line: Existing glazing
Red solid line: Proposed glazing

DEVELOPMENT APPLICATION		CLIENT		DRAWING NO.		REV	
samcrawfordarchitects		Jonathan Phillips & Lisa McKimmie		1:100		C	
54 BIRCHGROVE ROAD BALMAIN NSW 2041		DRAWING TITLE		19:18		DA	
GROUND FLOOR PLANS		NORTH POINT		1:100		112	
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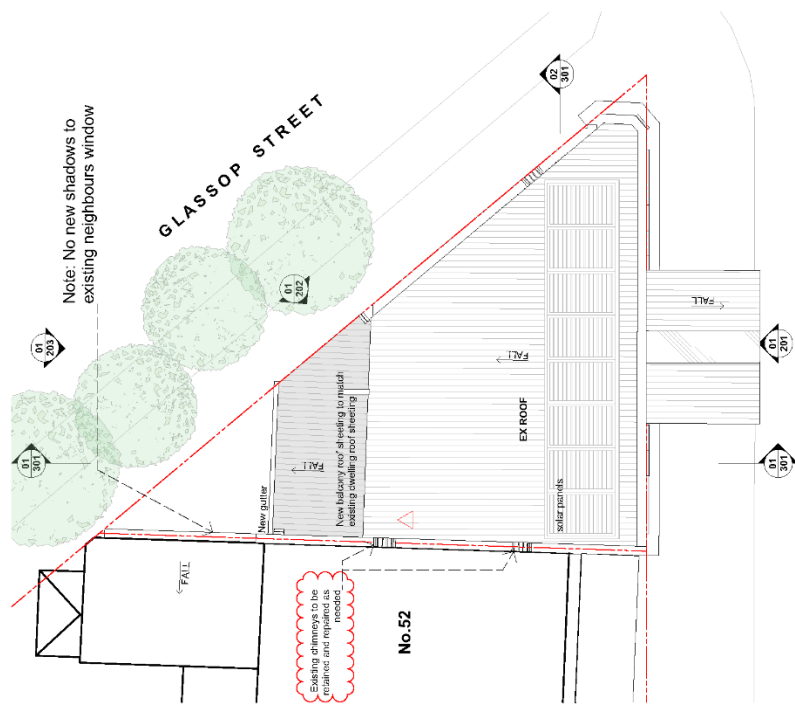


LEGEND + MATERIALS
 Refer to schedule of materials & finishes (drawing 501)

	Site boundary
	Existing structure

DEVELOPMENT APPLICATION

[illegible]



PROPOSED ROOF PLAN
1:100

BIRCHGROVE ROAD

DEMOLITION ROOF PLAN
1:100

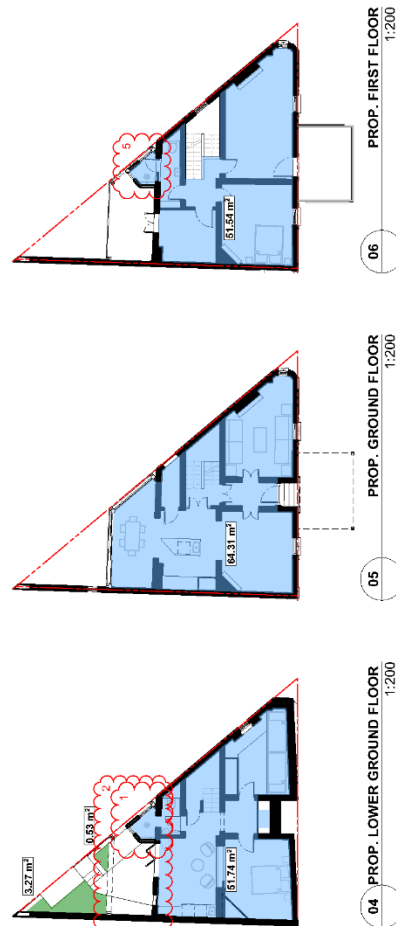
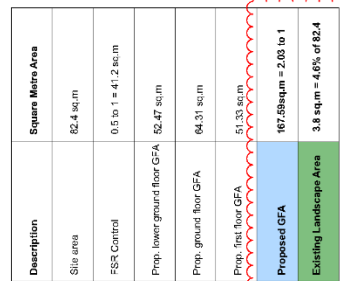
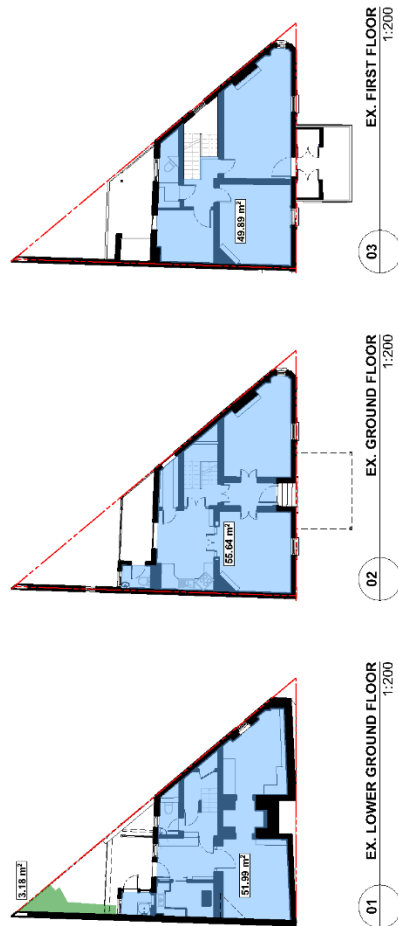
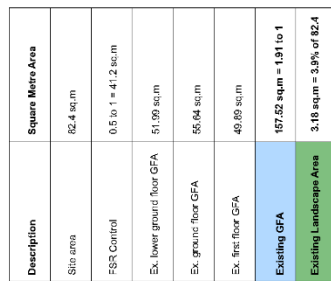
BIRCHGROVE ROAD

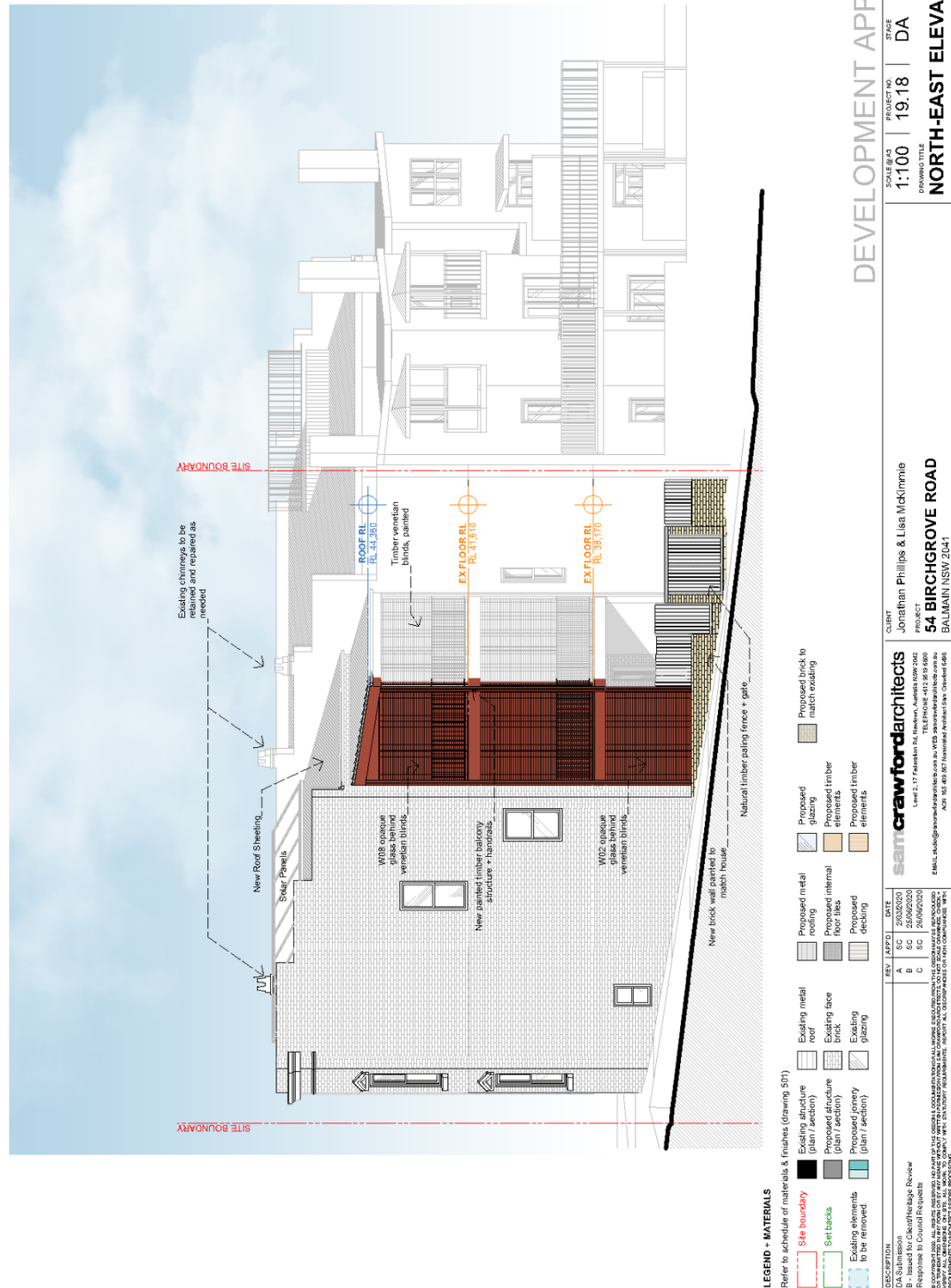
▲ ROOF ACCESS + TERRACE REMOVED

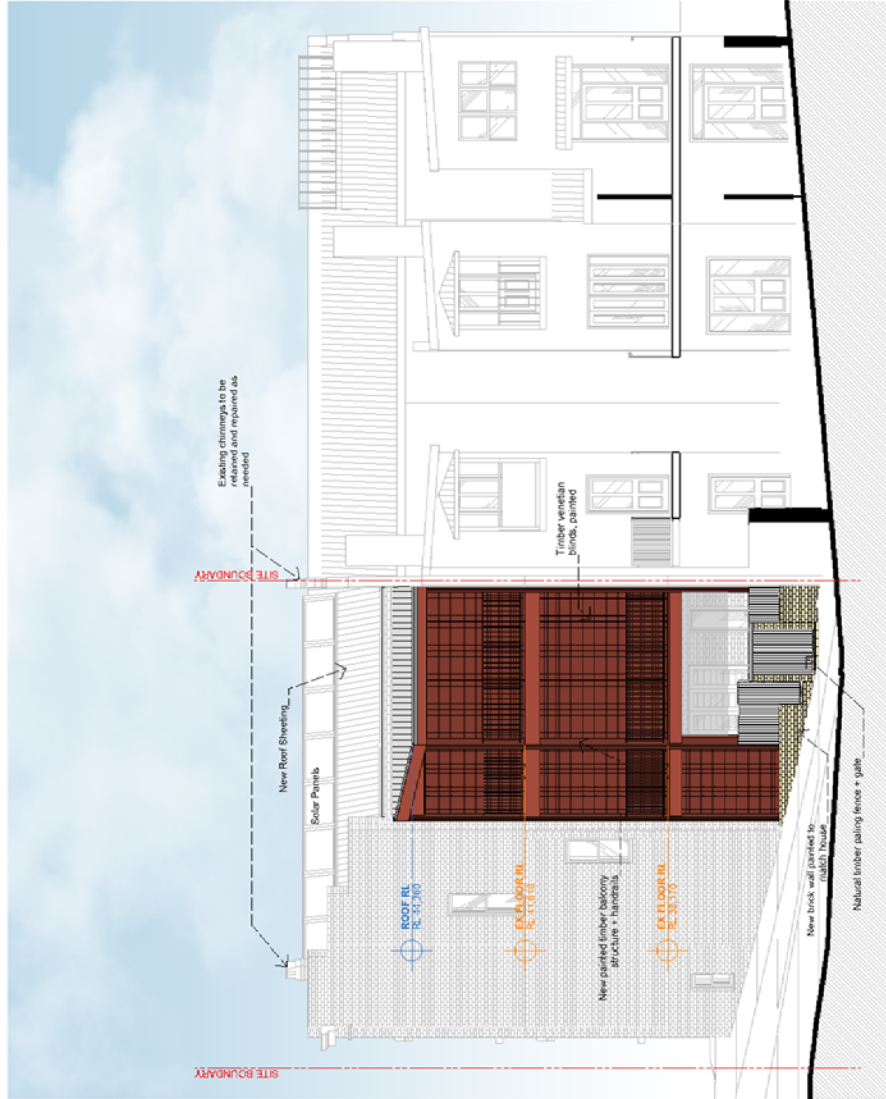
LEGEND + MATERIALS

DEVELOPMENT APPLICATION

DESCRIPTION	NEW APPROX	CLIENT	PROJECT NO.	STAGE	DRAWING NO.	REV
DA Submission	A 5C 20/02/2020	Jonathan Phillips & Lisa McKimmie	1:100	DA	114	C
Request for Quoted Rate Review	B 8C 25/02/2020					
Response to Council Request	C 8C 26/02/2020					
<p>sam crawford architects LEVEL 1, 19 HARRISON RD, SYDNEY, AUSTRALIA 1589 2041 TEL: 02 9550 1234 FAX: 02 9550 1235 EMAIL: info@samcrawfordarchitects.com.au Architects for the Built Environment</p>						
<p>ROOF PLANS</p>						
<p>54 BIRCHGROVE ROAD BALMAIN NSW 2041</p>						







LEGEND - MATERIALS

Refer to schedule of materials & finishes (drawing S01)

- Existing structure (plan / section)
- Proposed structure (plan / section)
- Existing elements to be removed
- Proposed elements
- Proposed metal roof
- Proposed metal roof glazing
- Proposed metal floor tiles
- Proposed metal decking
- Proposed brick to match existing
- Proposed timber elements
- Proposed timber elements

REV	DATE	DESCRIPTION
0	10/06/2020	Initial design
1	10/06/2020	Revised design
2	10/06/2020	Revised design
3	10/06/2020	Revised design
4	10/06/2020	Revised design
5	10/06/2020	Revised design
6	10/06/2020	Revised design
7	10/06/2020	Revised design
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100	10/06/2020	Revised design

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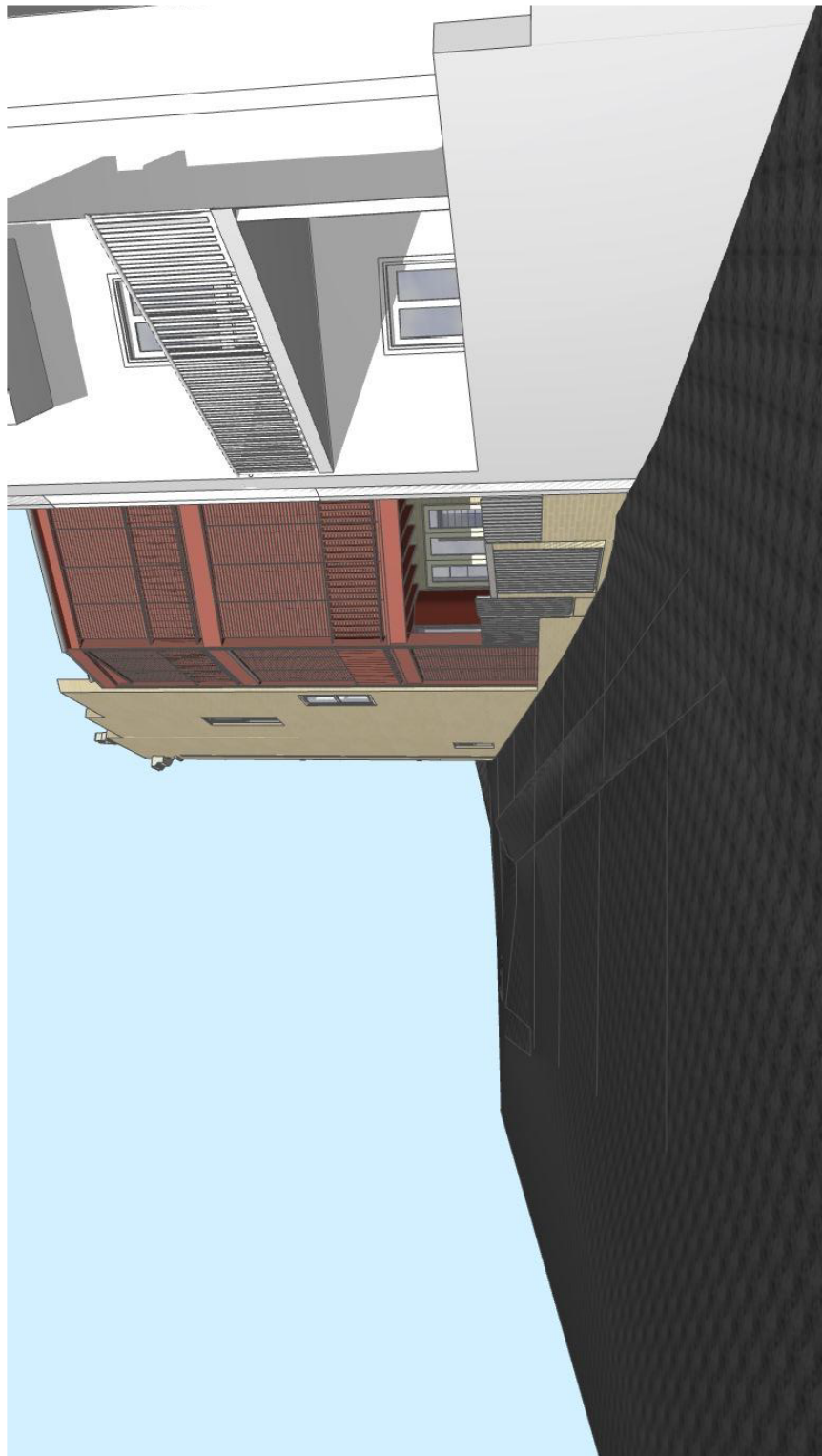
DEVELOPMENT APPLICATION

CLIENT	PROJECT NO.	SCALE	DATE	REV
Jonathan Phillips & Lisa McKinnia	19.18	1:100	DA	203
PROJECT	54 BIRCHGROVE ROAD	NORTH-WEST ELEVATION		
BALMAIN NSW 2041				



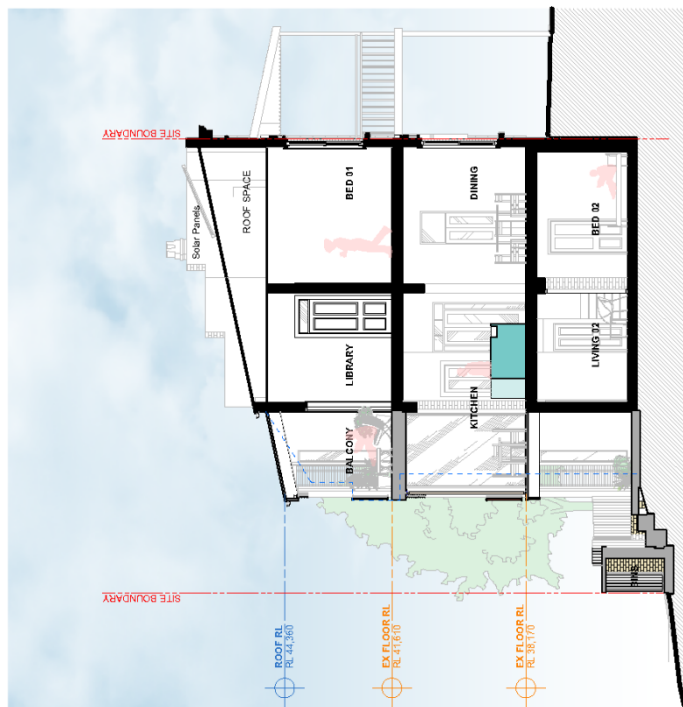
DEVELOPMENT APPLICATION

DESCRIPTION	NEW	DATE	 crawfordarchitects Level 2, 115 Elizabeth St (Westview), Australia 6001 2042 TEL: (08) 9439 1234 FAX: (08) 9439 1235 EMAIL: info@crawfordarchitects.com.au AUST. REG. ARCH. NO. 123456789	QUANTITY Jonathan Phillips & Lisa McKimble PROJECT 54 BIRCHGROVE ROAD BALMAIN NSW 2041 VIEW FROM GLASSLOP ST 01	SCALE 1/40 PROJECT NO. 1918 ISSUE DA DRAWING NO. 204 NEW
	B. Based on Client's Briefing. Review in accordance with Client's Requirements	A 6 20/02/2020			



DEVELOPMENT APPLICATION

DESCRIPTION	ITEM	AMOUNT	DATE
<p>Report for Client's Heritage Request</p> <p>Support to Cultural Repatriation</p>	A		20/06/2020
	B		20/06/2020



SECTION 01
1:100

LEGEND - MATERIALS
Refer to schedule of materials & finishes (drawing 501)

Existing structure (plan / section)	Existing metal roof	Proposed metal roofing	Proposed brick to match existing
Existing structure (plan / section)	Existing face brick	Proposed internal floor tiles	Proposed timber elements
Existing elements to be removed	Proposed glazing	Proposed timber elements	



SECTION 02
1:100

DEVELOPMENT APPLICATION

CLIENT
Jonathan Phillips & Lisa McKinnle
54 BIRCHGROVE ROAD
BALMAIN NSW 2241

PROJECT
54 BIRCHGROVE ROAD
BALMAIN NSW 2241

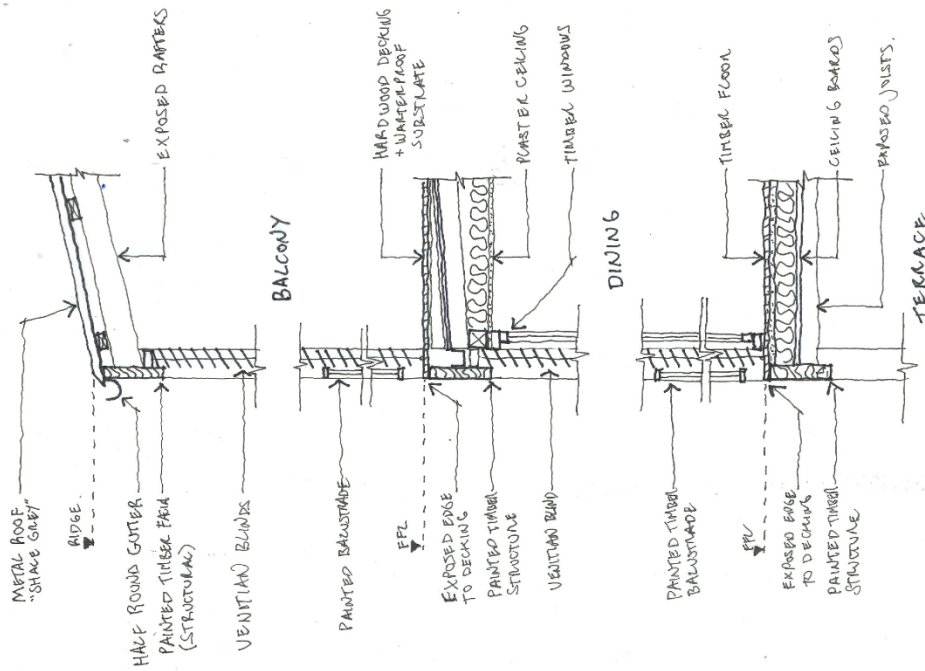
SCALE & DATE
1:100 | 19/18

DRAWING NO.
301

REV
C

DESCRIPTION
B - Internal for Client/Phage Review
Response to Council Requests
In accordance with the provisions of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2007, the following information is provided to the Council for its consideration.

Printed: 12:17 PM, 26/09/2020



DEVELOPMENT APPLICATION

SCALE AS SHOWN	PROJECT NO	DATE	DRAWN BY	REV
1:20, 1:100, 1:5	19.18	DA	302	B
SECTION DETAILS				

CLIENT
Jonathan Phillips & Lisa McKimmie
PROJECT
54 BIRCHGROVE ROAD
BALMAIN NSW 2041

san crawford architects
Level 2, 77 Federation St
TEL: 02 9550 9900
EMAIL: info@san-crawford.com.au
ARCH: 98663997 National Architectural Accreditation Board

REV	DATE	DESCRIPTION
R	24/07/2020	SC

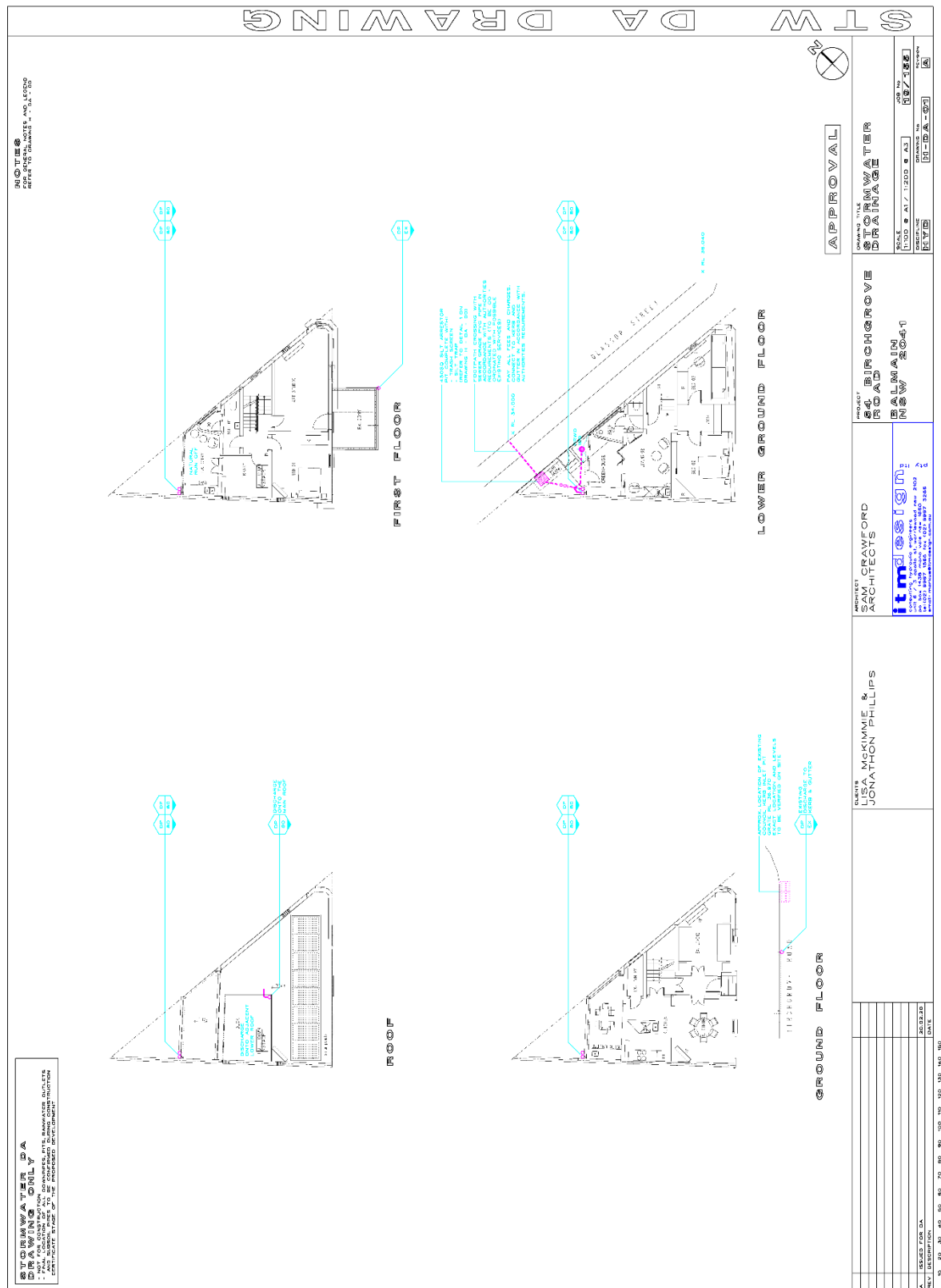
DESCRIPTION:
This drawing is a section detail of a proposed development.
It is intended to show the construction of the proposed development.
It is not intended to show the construction of the existing development.
It is not intended to show the construction of the proposed development.
It is not intended to show the construction of the proposed development.



DEVELOPMENT APPLICATION

DATE	BY	DATE	BY	DATE	BY
1:200	DA	19:18	DA	401	C
SHADOW DIAGRAMS JUNE 21					
<p>CLIENT: Jonathan Phillips & Lisa McKimmie</p> <p>PROJECT: 54 BIRCHGROVE ROAD BALMAIN NSW 2041</p> <p>DATE: 17/06/2020</p> <p>TEL: 02 9550 9999</p> <p>EMAIL: info@samcrawfordarchitects.com.au</p> <p>ACT 193 (as amended) and the Local Government Act 1995</p>					
REV	DATE	BY	DATE	BY	DATE
A	SC	20/02/2020	B	SC	25/02/2020
C	SC	26/02/2020			

[illegible]



Attachment C- Clause 4.6 Exception to Development Standards

54 Birchgrove Road, 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: 54 Birchgrove Road 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 1:1 applying to the site.

The Aim of the request: To allow an increase of FSR from 1.91:1 to 2.04:1 to the site.

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

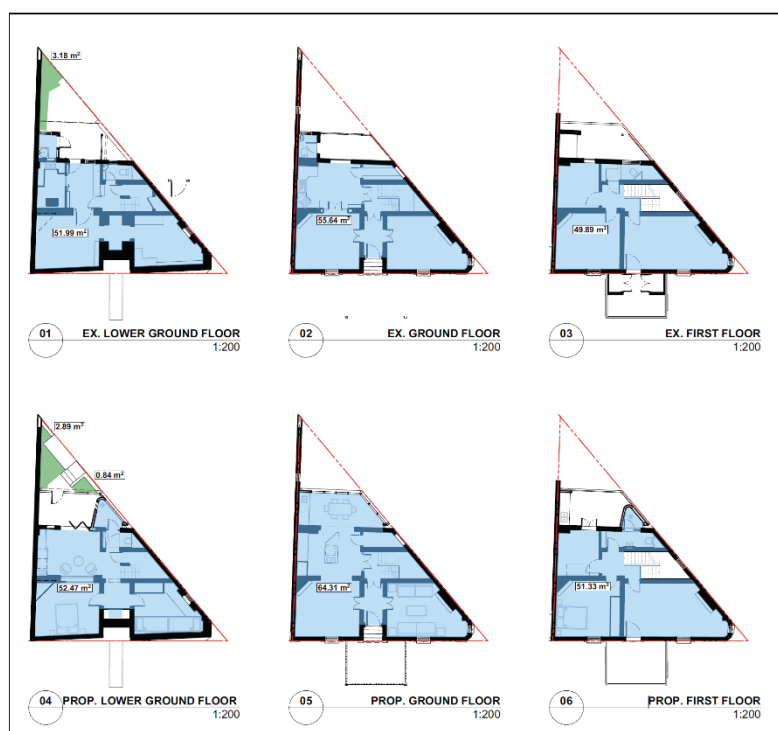


Fig 1 - Works will infill an existing balcony area to create an internal room.

54 Birchgrove Road, Balmain

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).

54 Birchgrove Road, Balmain

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

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

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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).

54 Birchgrove Road, 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 degree of increase in FSR is minor, being only 0.13:1 or 10.6m². Whilst this only a very small amount, the level of amenity provided by the dwelling will be significantly improved. Effectively the increase in GFA occurs at ground floor level where the existing open deck is enclosed to allow for improved liveability of the ground floor level. The existing floor plan of the house is particularly poor with small rooms provided over 3 levels. The additional GFA does not add to building bulk given that an existing balcony is enclosed, but does greatly improve amenity on the main living level.
- The works will result in a built form very comparable with other dwellings in this row. The existing building bulk is retained. The resultant form will not appear bulkier than the existing dwelling.
- The proposal complies with building envelope and setbacks requirements and appropriate areas of open space and built upon areas are provided to allow for improved amenity. Accordingly, the proposal does not appear as an overdevelopment of the site. The street appearance of the site is improved with infilling an existing balcony void which currently detracts from the appearance of the dwelling. Infilling this void creates an improved appearance to the site, which currently is the least visually contributory aspect of the dwelling.
- The amenity to neighbours will not be unreasonably affected. Good solar access is maintained to rear of the adjoining dwellings that the external works are within the existing envelope.
- The proposed building bulk is entirely appropriate within the context of the site.

In light of the above, this request provides that the 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;

54 Birchgrove Road, Balmain

The exception request does not rely on this reason.

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 provides a higher level of amenity for occupants by allowing the addition of additional living space and because the street appearance of the dwelling is enhanced.

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

54 Birchgrove Road, Balmain

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

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

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 a substantially 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.

54 Birchgrove Road, 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: 54 Birchgrove Road Balmain.

Proposal: Alterations to a dwelling.

Zoning: R1 General Residential.

Development standard to which the request to vary the standard is taken: Clause 4.3A of the Leichhardt LEP 2013 (LEP 2013) prescribes a minimum landscaped area of 15% of the site (12.3m^2) and a site coverage not to exceed 60% or 49.4m^2 .

The Aim of the request: To allow a site coverage of 51.9m^2 or 62.9%, and a landscaped area of 3.73m^2 or 4.5%, which is an increase upon the existing landscaped area.

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

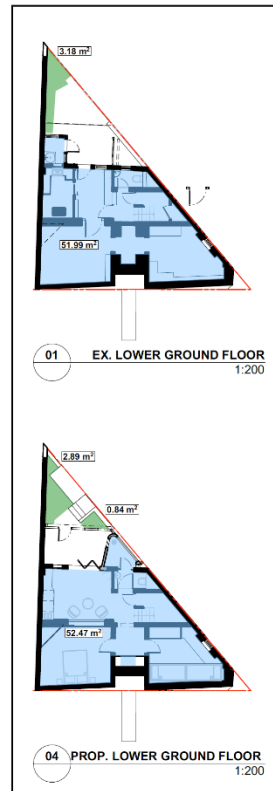


Fig 1 - Works will increase the degree of landscaping on the site.

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

54 Birchgrove Road, Balmain

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).

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

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

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 - (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

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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).

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 provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,*
- (b) to maintain and encourage a landscaped corridor between adjoining properties,*
- (c) to ensure that development promotes the desired future character of the neighbourhood,*
- (d) to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water,*
- (e) to control site density,*
- (f) to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.*

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

- The site does not currently contain a substantial area for planting, having only 3.18m² of landscaping on the ground floor level. The proposed minor increase of landscaping to 3.73m² will not have any meaningful increase to landscaping, but is still an increase rather than a decrease in planting area. Additional landscaping will be planted on the site.
- The site does not have any landscaping qualities that will be lost. Given the orientation of the site no landscaped buffer is necessary between this site and its neighbours.
- The desired future character of the area will be enhanced with the building works that improve the detracting appearance of the rear of the site.
- On site detention will be minimally improved with the increased in landscaped area.
- Site density will not be materially impacted with the existing building envelope retained.

In light of the above, this request provides that the non-compliant landscaping and site coverage 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.

54 Birchgrove Road, 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 landscaping and site coverage standard, achieves a better response to the objectives of the subject R1 – General Residential Zone in that it provides a higher level of amenity for occupants by allowing for improved amenity on the site.

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 landscaping and site coverage breach remains consistent with the objectives of the subject R1 General Residential Zone as well as Clause 4.3a 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 non-compliant landscaping and site coverage does not result in any unreasonable visual or amenity impacts.

The resultant works assist with providing improved amenity for residents.

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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 a substantially 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

HERITAGE IMPACT STATEMENT



54 Birchgrove Road, Balmain

February 2020 | J3788

**Weir
Phillips**
Heritage
and Planning

Level 19, 100 William Street Woolloomooloo NSW 2011
Phone: (02) 8076 5317

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1 INTRODUCTION

1.1 Preamble

This Heritage Impact Statement (HIS) has been prepared in conjunction with a Development Application for alterations and additions to an existing dwelling at No. 54 Birchgrove Road, Balmain, New South Wales.

The site is located within the Inner West Council area. The principal planning control for the site is the *Leichhardt Local Environment Plan 2013 (LEP 2013)*. The site is listed as a heritage item under Schedule 5, Part 1 of the *LEP 2013* (Item No. I131). It is located within the vicinity of local heritage items and lies within the Iron Cove Heritage Conservation Area under Schedule 5, Parts 1 and 2 of the *LEP 2013*.

Under Part 5.10 of this plan:

(4) Effect of proposed development on heritage significance

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

(5) Heritage assessment

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

(a) on land on which a heritage item is located, or

(b) on land that is within a heritage conservation area, or

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

This statement has been prepared at the request of the owner of the site and accompanies plans prepared by Sam Crawford Architects.

1.2 Authorship and Acknowledgements

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

1.3 Limitations

The history contained in this statement was prepared using readily available resources.

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

1.4 Methodology

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

1.5 Physical Evidence

Site visits were carried out in July and December 2019. Unless otherwise stated, the photographs contained in this statement were taken by the author on these occasions.

1.6 Documentary Evidence

1.6.1 General References

- *Daily Telegraph*, 'Surviving Children's Claim', 19 December, 1916.
- *Farmer and Settler*, 'An Octogenarian Hanged', 20 April, 1915.
- GML, 'Iron Cove Heritage Conservation Area', <https://www.innerwest.nsw.gov.au/ArticleDocuments/1688/Iron%20Cove%20C6.pdf.aspx>, accessed 26 July, 2019.
- McDonald McPhee Pty Ltd, Burton, C. and Thorpe, W., *Leichhardt Municipality Heritage Study* (Leichhardt Council, 1990).
- Spearritt, P. *Sydney Since the Twenties* (Sydney: Hale & Iremonger, 1978).
- Office of Environment & Heritage, 'House', <https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=1940141>, accessed 29 July, 2019.
- Office of Environment & Heritage, "'Lilywill", house', <https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=1940137>, accessed 26 July, 2019.
- Office of Environment & Heritage, 'Single Terrace', <https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=1940142>, accessed 29 July, 2019.
- Office of Environment & Heritage, 'St Kilda, house', <https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=1940140>, accessed 29 July, 2019.
- Office of Environment & Heritage, 'Terrace House', <https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=1940235>, accessed 29 July, 2019.
- *Sun*, 'Advertising', 8 March, 1919.
- *Sydney Mail and New South Wales Advertiser*, 'Events of the Week', 12 May, 1894.
- *Sydney Morning Herald*, 'Death Notice', 23 May, 1938.
- *Sydney Morning Herald*, 'Nos. 48 to 54 Birchgrove Road – Terrace Investment', 24 May, 1950.

1.6.2 Historic Plans and Photographs

- Aerial Photograph of No. 54 Birchgrove Road (1943). SIX Maps.
- Photograph of No. 54 Birchgrove Road (c. 1980s). Inner West Council.
- Photograph of No. 54 Birchgrove Road (c. 1990s-2000s). Inner West Council.
- Sheet 28, Balmain, *Sydney Metropolitan Detail Series* (1889). State Library of New South Wales.

1.6.3 NSW LPI Records

- Certificate of title, Volume 2960-Folio 232.
- Certificate of Title, Volume 2960-Folio 233.
- Certificate of Title, Volume 2960-Folio 234.
- Certificate of Title, Volume 2960-Folio 235.
- Old System Deeds, Book 461-No. 554.

1.6.4 Planning Documents

- *Leichhardt Development Control Plan 2013*.
- *Leichhardt Local Environment Plan 2013*.

1.7 Site Location

No. 54 Birchgrove Road, Balmain is located on a corner site on the northern side of Birchgrove Road and the southern side of Glassop Street (Figure 1). The site is identified as Lot 4, D.P. 71747.

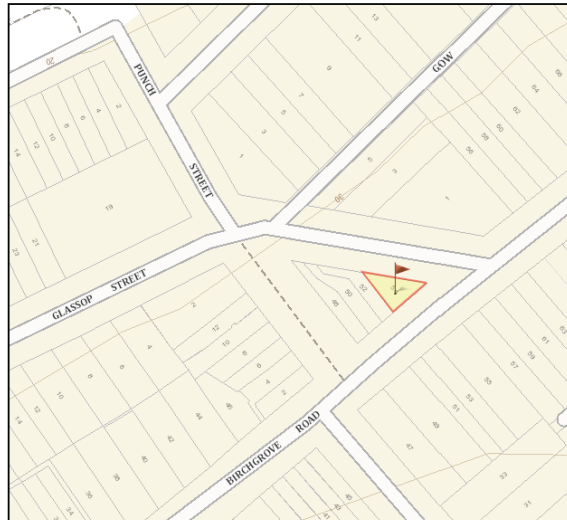


Figure 1: Map of No. 54 Birchgrove Road. The subject site is outlined in red.
SIX Maps, 2019

2 BRIEF OUTLINE OF THE HISTORICAL DEVELOPMENT

2.1 Aboriginal History

While an Aboriginal history is not provided for, it is acknowledged that the original inhabitants of the Balmain area were the Wangal people of the Eora nation.

2.2 Early European History

Following the arrival of the First Fleet in 1788, Governor Arthur Phillip established the official boundaries of the Township of Sydney in December 1792. The former Municipality of Leichhardt was located well outside these boundaries. From January 1793, successive governors granted land outside the boundaries in order to open up the Colony to settlement and augment food supplies. The size of the early land grants depended on the status of the aspiring landowner, with the largest land grants being made to military and government officials and the smallest to emancipated convicts.

Fifteen land grants were made in the area within the former Leichhardt Municipality between 1789 and 1821. The new landowners varied in status from Dr. William Balmain, the colony's assistant surgeon, to various persons with grants of 30-acres. Balmain received a more substantial grant of 550-acres in 1800, which covered the greater part of the Balmain Peninsula, with the exception of modern-day Birchgrove. It is on this land that No. 54 Birchgrove Road is located.

Despite the allocation of the above grants and the driving need for the Colony to become self-sufficient, the Balmain Peninsula remained sparsely populated into the 1830s. Until this time the Township of Sydney operated substantially within its own boundaries. Areas outside the boundaries were nevertheless exploited for natural resources.

2.3 Balmain Estate

Balmain retained his grant for one year before transferring it to John Gilchrist for five shillings in 1801. He returned to England where he died in 1803. The circumstances surrounding this transaction were shrouded in secrecy and resulted in decades of ownership struggles. Gilchrist was a Scottish surgeon who had spent time in Calcutta in the service of the East India Company. He returned to Scotland in 1804, where he founded a bank and later became a Professor of Hindustani for the Company. Gilchrist, however, never actually visited Sydney.

The transfer of the land to Gilchrist was reportedly unknown to the executors of Balmain's will, who advertised the sale of the land in 1818. None of the land was sold at this time, and when Gilchrist made his own advertisement in 1823, the transfer came to light. Under financial strain, Gilchrist made renewed attempts to let the land on the Balmain Estate in 1836, either wholly or in lots from 10 to 100-acres.

The first planned thoroughfares on the Peninsula were laid out by Surveyor John Armstrong. Darling, Nicholson and Johnston Streets were established. The distance from Sydney and the lack of reliable transport made the area unattractive to most, although the natural sandstone outcrops attracted quarrymen and stonemasons. Two months later following the initial advertisements in 1836, T.W. Smart advertised waterfront allotments on the Balmain Estate. Later, 22 allotments of about 50-acres were sold. A second sale was held in July 1837 for allotments on the Ballast Point side of Waterview Bay.

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

Around the time of these sales, John Balmain, a distant cousin of William, contested Gilchrist's title to the estate. Another distantly related family, the Bruce's, also investigated the potentiality of claiming the Balmain Estate; a claim they continued to make as late as 1925. Despite these challenges, allotments on the remaining 400-acres of the estate continued to be advertised until 1841. Following Gilchrist's death that same year, his bequeath of the estate to a trust was challenged by a close relation.

2.4 Balmain in the Present Day

By the time that the last *Sands' Directory* was published, the Balmain peninsula was a place of considerable social and industrial disruption. Although unemployment had always been a problem in Balmain, the effects of the early Great Depression of the 1930s were devastating. In 1933, for example, 38.1% of the Balmain work force was unemployed. With the high percentage of unskilled labour in the suburb, unemployment remained high until the commencement of World War II (1939).

Social commentators of the early 1960s noted upon the start of the movement of the ever-expanding 'professional' classes into inner city suburbs.² The steady loss of factories evident from the 1960s onwards accelerated: between 1971 and 1981 the municipality lost half its established manufacturing establishments. An awareness of the heritage of the area and its architectural stock occurred, as is exemplified by the formation of the Balmain

¹ McDonald McPhee Pty Ltd, Craig Burton and Wendy Thorpe, *Leichhardt Municipality Heritage Study* (Leichhardt Council, 1990), p. 39.

² Peter Spearritt, *Sydney Since the Twenties* (Sydney: Hale & Iremonger, 1978), p. 215.

Association in 1965. Today, the coalmines and wharves have closed; and the Balmain Peninsula is again characterised by middle-class professionals.

2.5 54 Birchgrove Road

Although the legal wrangling over the estate made some concerned, the Balmain waterfront quickly became lined with small timber and stone cottages as well as villas. The second major sale occurred in October 1852 when a further survey was made by Charles Langley. A strip of land that comprised the area around Birchgrove Road, Glassop Street, Punch Street and part of Darling Street was released for public auction.



Figure 2: 'Sheet 28, Balmain' (1889). The red arrow indicates location of the subject site.
State Library of New South Wales

The subject site was part of Lot 36 from this subdivision. The early history surrounding the subject site is unclear, although it appears to have been purchased in 1868. From 1891, the history is clearer when it was bought by Gregory Grant John Macintosh.³ A Water Board map produced in the early 1889 shows that the site remained undeveloped up to this time (Figure 2). The Macintosh family, led by their patriarch Neil, had lived on the other side of Birchgrove Road since at least the 1880s, according to *Sands' Directories*. Neil is listed in the *Directories* as a painter. The artistic streak continued in his son Gregory who was a pupil of the well-known French painter Lucien Henry, and later taught modelling at various technical colleges.⁴

The subject dwelling first appears in *Sands' Directories* in 1906 where it was assigned its present address No. 54 Birchgrove Road and was constructed by Gregory Macintosh, in addition to the adjoining terraces at Nos. 48-52 Birchgrove Road. The other terraces also appear at this time.

³ NSW LPI, Old System Deeds, Book 461-No. 554.

⁴ *Sydney Mail and New South Wales Advertiser*, 'Events of the Week', 12 May, 1894.

Sands' Directories indicates that the dwelling was leased to tenants who came and went almost every year, while Gregory Macintosh resided on the other side of the street at what is now No. 53 Birchgrove Road.

In 1915, Neil Macintosh died at the age of 82, having apparently suicided by hanging himself with the aid of a four-poster bed.⁵ He left his entire estate to Gregory which included properties in Surry Hills. This led to a claim by his siblings in 1916 in an attempt to recover certain rent monies that their father was alleged to have collected and which Gregory kept for himself. The Court found in favour of the siblings and Gregory was ordered to pay them the respective amounts.⁶

Following this, a Primary Application was made in 1919 which saw the separation of Nos. 48-54 Birchgrove into four individual titles.⁷ The circumstances are not recorded, but it was undoubtedly related to the above. Gregory Macintosh retained ownership of No. 48 and No. 54 Birchgrove Road.⁸ No. 50 Birchgrove Road was given to Christina Macintosh, one of Gregory's siblings (curiously, she is described in title records as an 'insane patient'); and No. 52 Birchgrove Road to James Macintosh.⁹ This last was transferred to Gregory's wife Darcy immediately afterwards, while No. 50 Birchgrove Road was also later transferred to Darcy in 1947.



Figure 3: No. 54 Birchgrove Road (late 1980s).
Inner West Council

Gregory Macintosh died in 1938.¹⁰ His widow Darcy became the proprietor of the subject site. The subject dwelling including the three adjoining terraces were offered for sale in 1950 and described thus:

⁵ *Farmer and Settler*, 'An Octogenarian Hanged', 20 April, 1915.

⁶ *Daily Telegraph*, 'Surviving Children's Claim', 19 December, 1916.

⁷ *Sun*, 'Advertising', 11 March, 1919.

⁸ NSW LPI, Certificate of Title, Volume 2960-Field 234; NSW LPI, Certificate of Title, Volume 2960-Field 235.

⁹ NSW LPI, Certificate of Title, Volume 2960-Field 232; NSW LPI, Certificate of Title, Volume 2960-Field 233.

¹⁰ *Sydney Morning Herald*, 'Death Notice', 23 May, 1938.

Well situated. Terrace of 4 Three-Storey Brick Houses, iron roofs, corner position, each contg. 5 rooms, bathroom, sep. laundry, front verandah and balcony.¹¹

The total was purchased by Leslie and Kathleen Keighran in 1951, who then disposed of the other dwellings to individual buyers, and remained at No. 54 Birchgrove Road. Later known owners of the subject dwelling prior to computerisation of records include Angelina Casamento (1955-1966); Peter and Konstantinos Stamatelatos (1966-1968); Rural Contract Constructions Pty Ltd (1968-1973); Michael and Jennifer Thompson, Eric and Maria Edwards (1973-1975); Anthony Harvey and Jennifer Thompson (1975-1978); Michael and Jennifer Reid (1978-1981); John and Gretta Lucas (1981-1986); Richard and Mary Sculthorp (1986-2018).

In 1986, the Sculthorps made an application to erect a first-floor balcony over the garden on the northwest elevation. Figure 4 shows the dwelling prior to these works.



Figure 4: Photograph of northwest elevation prior to erection of first-floor balcony.

Inner West Council Archives

Figures 5 and 6 are illustrations of the dwelling, the first undated and the second from 1988. Figure 5 may have been drawn in the early 1980s as the first-floor balcony is not visible. It also shows that the front balcony was enclosed. Figure 6 seems to indicate some of the brickwork on the upper levels was unpainted.

¹¹ *Sydney Morning Herald*, 'Nos. 48 to 54 Birchgrove Road – Terrace Investment', 24 May, 1950.



Figure 5: Illustration of dwelling (n.d.)
Provided by the client



Figure 6: Illustration of dwelling (1988).

Provided by the client

No. 54 Birchgrove Road is now owned by Lisa McKimmie and Jonathan Phillips.

3 SITE ASSESSMENT

3.1 The Site

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



Figure 7: Aerial photograph of No. 54 Birchgrove Road. The subject site is outlined in red.
SIX Maps, 2019

The subject site is a triangular shaped comprising a terrace that primarily addresses Birchgrove Road but also has frontage to Glassop Street. The dwelling occupies nearly the whole allotment and has a small courtyard at the rear. It has no boundary fences except the northern elevation which has a timber fence with gate on a brick base. The total site area is 88.5m².

3.2 Exterior

The following description of the exterior of No. 54 Birchgrove Road is obtained from the State Heritage Inventory:

Two storey plus lower ground floor painted brick with rendered base and high parapet with continuous profiled cornice and small rendered brackets. The building occupies an unusual wedge shaped site and is constructed to the street frontages with splay at the corner of Birchgrove Road and Glassop Street.

The Birchgrove Road façade is symmetrical about a recessed ground floor entry with rendered mouldings at the head of the opening, trachyte steps, timber and glass panelled door with arched toplight over and timber and glass door with toplight on the first floor.

The first floor door accesses a timber posted balcony which extends over the pedestrian footpath to the street alignment. The balcony has cast iron posts and decorative lace balustrade, timber boarding

and skillion roof clad in corrugated steel. The façade also has timber framed double hung windows with rendered pediment and decorative sills and rendered quoin detail at the two ends. Two timber framed double hung windows with the same rendered decorative details are also located on the corner splay.

The Glassop Street façade has several simple window openings including a small basement/ lower ground window near the corner and simple stepped parapet and brick chimney with profiled capping and terracotta pots.

The rear façade has timber balconies at ground and first floor levels with cast iron lace, lattice and timber finishes and bullnosed roof clad in corrugated steel on the top level. The rear faces a small, triangular shaped rear yard enclosed by high timber paling on a brick base fence.

Refer to Figures 8 to 11 which illustrate the exterior of the dwelling.



Figure 8: No. 54 Birchgrove Road viewed from the intersection at Birchgrove Road and Glassop Street.



Figure 9: Front elevation viewed from Birchgrove Road.



Figure 10: Glassop Street elevation.



Figure 11: Rear elevation viewed from Glassop Street.

3.3 Interior

The primary entry to the dwelling is via a glazed timber door with leadlight floral motifs and an arched leadlight window above. Birchgrove Road, which leads into a hallway with the drawing room and dining room to either side. These rooms are characterised by plaster walls and ceilings with simple decorative details in the form of cornices and roses, timber architraves and skirting boards. Both rooms have marble fireplaces with tiled surrounds. The floor to the drawing room is timber and the dining room is carpeted. The entry to the dining room is via a pair of glazed timber doors with a top light. The panels in the doors are decorated with Australian fauna motifs. These doors were added post-1986 by the previous owners. An arched opening with glazed timber doors and side lights with a similar decoration is located between the dining room and kitchen.

The kitchen has a modern fit-out with a timber floor, plaster walls and plain plaster ceiling. French doors provide access to a balcony and WC. Adjacent to the kitchen is a walk-in pantry and a set of carpeted stairs with a timber balustrade which leads to the lower ground and first floors.

The lower ground-floor was excavated post-1986. It has a tiled floor and has been configured with partition walls into bedrooms and bathrooms. The first-floor is reached via a staircase and opens on to a carpeted landing. There are three bedrooms and a bathroom on this floor. The bedrooms are finished with timber architraves and skirting boards, plaster walls and ceilings with simple detailing. Two of the bedrooms have fireplaces, however, one has been covered up. The other has a timber mantelpiece. The floors are timber, although the main bedroom has a black and white chequered vinyl floor. The bathroom has a modern fit-out with a tiled floor and walls to about halfway and then plaster.

Refer to Figures 12 to 21 which illustrate the interior of the dwelling.

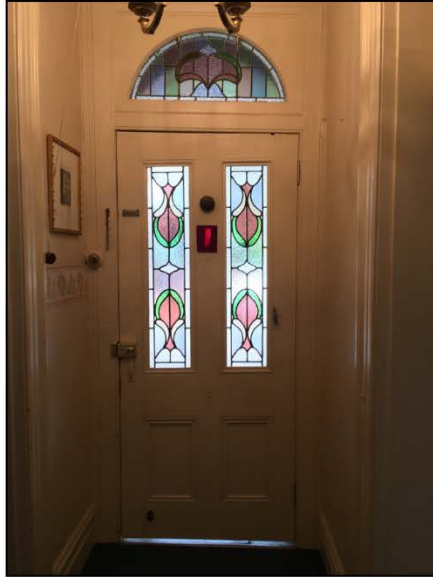


Figure 12: Entrance door.



Figure 13: Dining room.



Figure 14: Drawing room.



Figure 15: The doors between the kitchen and dining room.

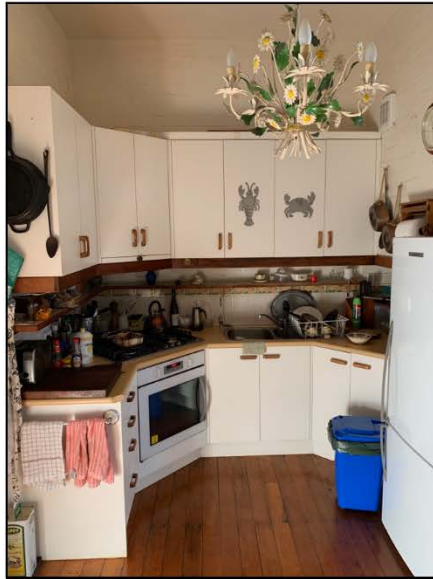


Figure 16: Kitchen.



Figure 17: Staircase.



Figure 18: Main bedroom on first-floor.



Figure 19: Bathroom on first-floor.

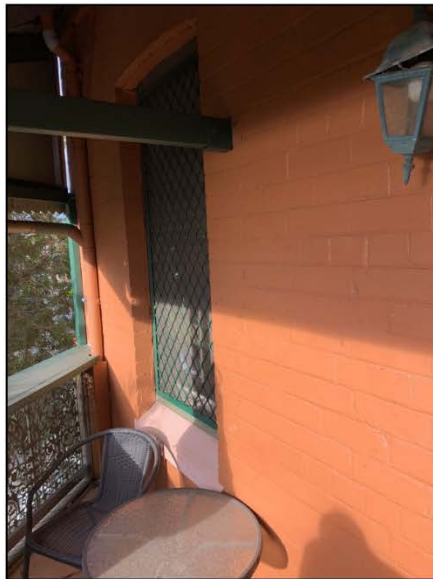


Figure 20: First-floor balcony.



Figure 21: Hallway on the lower ground floor.

3.4 The Surrounding Area

3.4.1 The General Area

For the following, refer to Figure 22, an aerial photograph of the site and its surrounds.



Figure 22: Aerial photograph of surrounding area. The red arrow points to the subject site.
SIX Maps, 2019

This part of Balmain is primarily residential with a commercial hub centred around Darling Street which runs the length of the Balmain Peninsula. The street pattern is characterised by regular east-west running streets on the north side of the Peninsula, while the south side has less order to it. Most lots are relatively small containing one and two-storey semidetached dwellings with a wide variety in architectural style ranging from mid-Victorian to Federation and Inter-War as well as modern infill. The streets are lined with small and medium sized trees. There is a significant amount of open space in Balmain with several parks and the harbour foreshore available. The State Heritage listed Dawn Fraser Swimming Pool is located to the northwest of the subject site.

3.4.2 Birchgrove Road

Birchgrove Road runs north then east from Darling Street to terminate at Cove Street. This part of Birchgrove Road is almost entirely residential, although the Riverview Hotel is close by to the west. Many of the dwellings are one and two-storey late Victorian through to Federation and some modern infill. The road is wide and carries two-way traffic with parking on both sides. Asphalt footpaths with sandstone remnant kerbs and grass verges line both sides of the street. Vegetation is limited to several irregularly spaced medium size trees.

To the west are three two-storey Federation terraces at Nos. 48-52 Birchgrove Road which were constructed at around the same time as the subject dwelling. Refer to Figure 23.



Figure 23: Nos. 48-52 Birchgrove Road.

3.4.3 Glassop Street

Glassop Street runs west from Elliot Street and terminates at Birchgrove Road. This part of Glassop Street is residential. Most dwellings are one and two-storey late Victorian and Federation. There are also two large residential flats, likely dating to the 1970s/80s. The road is wide and carries two-way traffic with parking on both sides. Concrete footpaths with sandstone remnant kerbs and grass verges line both sides of the street. Vegetation is very limited, although many dwellings contain large trees in their front gardens that overhang the street.

Refer to Figure 24.

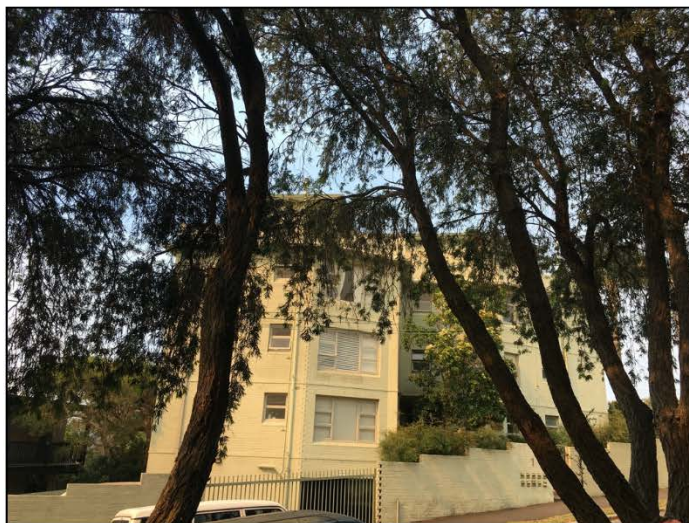


Figure 24: Looking towards No. 1 Glassop Street.

4 ASSESSMENT OF SIGNIFICANCE

4.1 Summary of Statutory Heritage Listings

No. 54 Birchgrove Road, Balmain:

- Is listed as a local heritage item by Schedule 5, Part 1 of the *Leichhardt LEP 2013*, where it is identified as 'Lilywill' (I131).
- Is located within the Iron Cove Heritage Conservation Area by Schedule 5, Part 2 of the *Leichhardt LEP 2013*.
- Is not listed as a State heritage item under the auspices of the *NSW Heritage Act 1977*.

The State Heritage Inventory provides the following Statement of Significance for No. 54 Birchgrove Road:

No. 54 Birchgrove Road is of high local historic and aesthetic as a prominent and relatively rare example of a Federation Free Classical dwelling in the local area. Constructed in 1905 the building significantly retains its overall scale, form, character and details including, brick facades, rendered classical details, parapet and chimney, splayed corner, timber posted balconies and associated details, recessed ground floor arched opening and entry and pattern of openings. The building occupies an unusual wedge shaped, corner site and makes a positive contribution to the Birchgrove Road streetscape and Birchgrove Road and Glassop Street intersection.¹²

This Statement is adopted for the purposes of this assessment.

Inner West Council provides the following Statement of Significance for the Iron Cove Heritage Conservation Area:

One of a number of conservation areas that collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). This area is important for illustrating development particularly from 1870s–1910s, and this forms the major element of its identity, with later pockets of infill prior to World War II (ie pre-1939).

Through the route of its main access roads, demonstrates the subdivision sections, closely related to the landform, drawn up by Surveyor Langley for the sale of Gilchrist's Balmain grant after 1852.

Illustrates through its irregular small street layout, and varied allotment width and length (within a limited range), the many different groups of speculators and subdividers involved in the development of the area.

Through the materials of its outer masonry walls, demonstrates the rapid advances in brick making in the Sydney area over the period 1870s–1910s.

¹² Office of Environment & Heritage, "'Lilywill', house', <https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=1940137>, accessed 26 July, 2019.

Through its now rare weatherboard buildings it continues to demonstrate the nature of that major construction material in the fabric of early Sydney suburbs.¹³

4.2 Heritage Items Within the Vicinity of the Site

Refer to Figure 25, which shows heritage items within the vicinity of the site. In this plan, heritage items are coloured brown and numbered and Conservation Areas are hatched red. The blue arrow points to the subject site which is identified as I131.

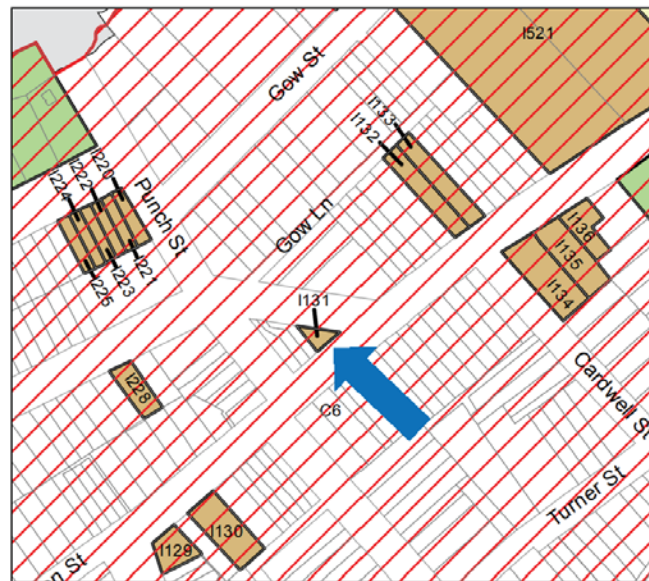


Figure 25: HER_006 showing heritage items and Conservation Areas in relation to the subject site.
Leichhardt LEP 2013

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

4.2.1 State Listings

There are no State heritage items under the auspices of the *NSW Heritage Act 1977* within the vicinity of the site.

4.2.2 Local Listings

The following heritage items are noted as lying within the surrounding area. The site visit has determined that these items do not have direct sightlines towards the proposed works because the items are blocked by intermediate buildings and the curve of the street or are significantly removed from the setting of the subject site.

¹³ Godden Mackay Logan, 'Iron Cove Heritage Conservation Area', <https://www.innerwest.nsw.gov.au/ArticleDocuments/1688/Iron%20Cove%20C6.pdf.aspx>, accessed 26 July, 2019.

- 'Terrace house, including interiors', No. 2 Fitzroy Avenue, Balmain (I220)
- 'Terrace house, including interiors', No. 4 Fitzroy Avenue, Balmain (I221)
- 'Terrace house, including interiors', No. 6 Fitzroy Avenue, Balmain (I222)
- 'Terrace house, including interiors', No. 8 Fitzroy Avenue, Balmain (I223)
- 'Terrace house, including interiors', No. 10 Fitzroy Avenue, Balmain (I224)
- 'Terrace house, including interiors', No. 12 Fitzroy Avenue, Balmain (I225)
- 'House, including interiors', No. 6 Glassop Street, Balmain (I228)
- 'Riverview Hotel, including interiors', 29 Birchgrove Road, Balmain (I129)
- 'House, Lorne Villa, including interiors', 33 Birchgrove Road, Balmain (I130)
- 'Semi-detached house, including interiors', 66-68 Birchgrove Road, Balmain (I132-33)
- 'House, St Kilda, including interiors', 75 Birchgrove Road, Balmain (I134)
- 'House, including interiors', 77 Birchgrove Road, Balmain (I135)
- 'Single terrace, including interiors', 79 Birchgrove Road, Balmain (I136)

4.3 Integrity

For the following, refer to Figure 26, an aerial photograph of the subject site from 1943.

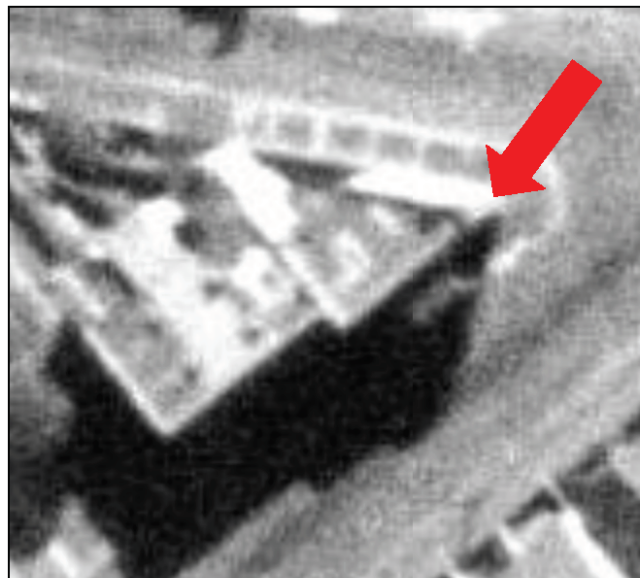


Figure 26: Aerial photograph of No. 54 Birchgrove Road (1943). The red arrow points to the subject site.

SIX Maps, 2019

No. 54 Birchgrove Road demonstrates a moderate to high degree of integrity. The following is noted:

- The building was used as flats in the 1930s and as multiple dwellings in the 1960s.
- In 1975, a Building Application was approved with the following alterations and additions¹⁴:
 - The brick and timber fence on Glassop Street were constructed.

¹⁴ Inner West Council Archives, BA 14324.

-
- A WC on the first floor was installed.
 - The WC adjacent to the ground floor verandah was installed.
 - The first-floor verandah to the north elevation was added in 1986. This required the removal of the verandah roof below and the conversion of a window to the existing bedroom into a door.
 - A new window was added to the Glassop Street façade in 2008.
 - The front balcony has been reconstructed twice. At one point it appears to have been enclosed.
 - The roof to the ground-floor balcony has been replaced and the cast iron lacework replaced with the existing latticework.
 - The lower ground-floor was excavated by the previous owners and configured into bathrooms and bedrooms.
 - The lower ground floor has been reconfigured into bathrooms and bedrooms. It is unclear what its original layout was.
 - The Australian fauna motif doors were added post-1986 by the previous owners.

4.4 View Corridors

No. 54 Birchgrove Road occupies a prominent corner site. The principal view is from directly across the street on Birchgrove Road, which shows the front elevation. The eastern elevation is visible from the intersection at Glassop Street and Birchgrove Road, although elements such as the upper-storey window are obscured by a street tree. The rear northern elevation can be seen from Glassop Street, but much of it is again obscured by street trees and the adjoining terrace. There are limited secondary views towards the rear from Punch Street in the north.

The main view corridors from the subject site are to the east and west along Birchgrove Road. Views to the west are limited as the road curves away to the south, while to the east the road slopes downwards towards Cove Street. Secondary views are along Glassop Street to the east and north, but these are also limited due to the adjoining terrace at No. 52 Birchgrove Road.

Refer to Figures 27 to 32 which illustrate view corridors towards and from the site.



Figure 27: View east towards the site along Birchgrove Road.



Figure 28: View west towards the site along Birchgrove Road.



Figure 29: View south towards the site along Glassop Street.



Figure 30: View west from the subject site along Birchgrove Road.



Figure 31: View east from the subject site along Birchgrove Road.



Figure 32: View north from the subject site along Glassop Street.

4.5 Contribution to the Conservation Area

No. 54 Birchgrove Road is a highly intact and rare local example of a Federation Free classical dwelling that was built c. 1905-06. The building occupies a corner site at the top of a hill and has an unusual wedge or triangle shape. The prominence and general integrity of

the façade ensures that it makes a positive contribution to the streetscape and the Iron Cove Heritage Conservation Area.

5 THE PROPOSAL

It is proposed to reconfigure the existing dwelling through the part removal of walls and openings. External works to the rear of the dwelling and roof is also proposed, as noted below:

Site

- Remove existing stairs from garden to Glassop Street.
- Construct new greenhouse at rear of dwelling.

Lower Ground-Floor

- Remove existing laundry.
- Replace existing WC fit-out.
- Remove existing window to WC and install new door.
- Remove existing door to garden and install new door.
- Remove existing wall between bathroom and hall.
- Part remove existing wall to store.
- Increase footprint of WC to the northwest.

Ground-Floor

- Remove existing rear balcony and WC.
- Construct new enclosed balcony.
- Remove existing doors from kitchen to balcony. Increase width of opening.
- Remove existing doors from kitchen to dining room. Increase width of opening.

First-Floor

- Remove existing rear balcony.
- Construct new balcony.
- Remove existing storage closets from front balcony.
- Replace existing bathroom fit-out.
- Remove existing window opening to bathroom.
- Replace existing door to balcony with new French door.
- Increase footprint of bathroom to the northwest.
- Install new pull-down stair from existing bedroom to proposed roof terrace.

Roof

- Construct new roof terrace with skylight.
- Install new solar panels to front roof plane.

Materials and finishes

It is proposed to repaint the existing timber and ironwork elements in similar sympathetic colours to the existing and to use naturally weathered cladding, structures and window frames for new timberwork. It is also proposed to expose the original face brick.

6 EFFECT OF WORK

6.1 Methods of Assessment

The following is a merit-based assessment. It does not consider compliance or otherwise with Council's numerical controls except where non-compliance would result in a heritage impact. Refer to the Statement of Environmental Effects that accompanies this application. The following assessment is made with an understanding of the objectives and controls provided by the *Leichhardt LEP 2013* and the *Leichhardt DCP 2013*.

6.2 Effect of Work on No. 54 Birchgrove Road

The proposed works respect the unusual dimensions and style of the subject site which contribute to the character and significance of No. 54 Birchgrove Road, and will have an acceptable impact for the following reasons:

Site

- The removal of the existing stairs to Glassop Street will have an acceptable impact as they are a later addition and do not contribute to the significance of the site.
- The construction of a new greenhouse will have an acceptable impact as this part of the rear elevation has less significance. Views towards it are already blocked by existing vegetation and the boundary fence.

Lower Ground-Floor

- The removal of the laundry will have an acceptable impact as it was likely constructed at a later date, at the same time as the WC above on the ground-floor.
- The removal of the existing WC will have no impact as the fit-out is modern. The new fit-out is compatible with the existing use of the room.
- The increase in footprint of the existing WC will have an acceptable impact as it is minor and respects the form and scale of the dwelling.
- The conversion of the existing window opening to a door will have an acceptable impact. There will be minimal loss of fabric, however, the integrity of the dwelling will be maintained.
- The removal of the existing door to the garden will have no impact as the joinery is not original.
- The proposed reconfiguration of the interior of the lower ground-floor will have an acceptable impact as the existing layout, including the partitions and openings, is not original and was installed at a much later date.

Ground-Floor

- The removal of the existing rear balcony will have an acceptable impact. The original balustrade and roof have both been replaced so that there is minimal fabric remaining. The original balustrade was similar to the existing first-floor balcony.
- The removal of the existing WC will have an acceptable impact as it is a later addition, likely dating from the 1980s.
- The proposed balcony is similar in proportion and style to the existing balcony. The use of louvers will help make an appropriate visual distinction between the existing building and will enable it to be easily read as new work.
- The removal of the existing doors from the kitchen to the balcony and from the kitchen to the dining room will have an acceptable impact as the joinery is not original. The width of the openings will be increased but otherwise retained to enable an understanding of the original layout.

First-Floor

- The removal of the existing rear balcony will have an acceptable impact as it is a modern addition with little significance to the site.
- The construction of a new balcony will have an acceptable impact. It is slightly larger than the existing balcony and clearly contemporary which is an appropriate response to new development and maintains the integrity of the fabric record.
- The removal of the existing storage closets from the front balcony will have a positive impact. The closets are likely not original and as this HIS has noted, the balcony has already been reconstructed twice with significant changes made to its form and style. The balcony will be more clearly understood without the closets.
- The replacement of the existing bathroom fit-out will have no impact as it is replacing a relatively recent fit-out. The new fit-out is compatible with the existing use of the room.

- The increase in footprint of the existing WC will have an acceptable impact as it is minor and respects the form and scale of the dwelling.
- The installation of a new pull-down stair to the roof terrace will have an acceptable impact. The ceiling to this room has less significance and the changes are easily reversible.
- The replacement of the existing door to the balcony with a new French door will have an acceptable impact. The door opening is a later addition having replaced a window.

Roof Terrace

- The proposed roof terrace and skylight will have an acceptable impact as the majority of the principal roof form will be retained. It will not block or reduce view corridors towards the existing dwelling.
- The terrace is set back from the parapet and will have little or no visibility from the street due to vegetation and adjacent dwellings.
- The terrace is a characteristic element of some dwellings in the area. See for example No. 48 Birchgrove Road, which forms part of the subject terrace group. This will enable it to easily integrate into its setting.
- The proposed solar panels will have an acceptable impact. They will not be visible from the public domain as they will be concealed by the parapet. The panels will be attached to the roof and easily removed if necessary without damage to the structure.

Materials and Finishes

- The proposed colours for the existing timberwork and ironwork will have an acceptable impact as they are similar to the existing and sympathetic to its setting.
- The proposed use of naturally weathered cladding will have an acceptable impact as it will enable the new timberwork to be recessive against the Glassop Street elevation.
- The proposed exposure of the original face brick will have a positive impact. The dwelling was constructed using face brick and this would reinstate its original appearance.

6.3 Effect of Work on Conservation Area

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

- The proposed removal of the rear balconies will have an acceptable impact. The ground-floor balcony was effectively reconstructed while the first-floor balcony is a modern addition.
- The proposed greenhouse will have an acceptable impact and will not significantly alter the form and scale of the dwelling. It will generally be obscured by the boundary fence, the principal building form and vegetation when viewed from the public domain.
- These additions will read as new but sympathetic work that will enhance the rear elevation and its presentation to the public domain.
- The increase in building footprint to the northwest in the provision of WCs will have an acceptable impact as the increase is minor and will otherwise be obscured by the proposed balconies and boundary fencing.
- The removal of the storage closets from the front balcony will have a positive impact as they are likely not original. The front balcony has undergone extensive modifications over time, however, none of these changes has impacted on the dwelling and the aesthetic significance of the principal building form.
- The reconfiguration of the lower ground-floor will have no impact as the layout, partitions and openings are not original. The changes will not be visible from the public domain.

-
- The proposed works to the interior of the ground and first-floors will have no impact as the joinery is not original and the changes will not be visible from the public domain.
 - The proposed roof terrace will have an acceptable impact as it is small in scale, set back from Birchgrove Road and Glassop Street and will likely only have minimal visibility.
 - It is similar to the roof terrace at No. 48 Birchgrove Road which will enable it to integrate easily into its setting.
 - The proposed colours and finishes will have an acceptable impact as they are sympathetic to its setting, recessive and would help reinstate the original appearance of the dwelling.

6.4 Effect of Work on Heritage Items Within the Vicinity

The proposed works will have no impact on heritage items within the vicinity. As noted, vegetation, intermediate buildings, fences and the nature of the proposed works ensure there will be minimal or no visibility from items towards the subject site. The roof terrace and the proposed balconies may be visible; however, these are significantly removed from the respective settings of the items as to have little visual or physical impact.

7 CONCLUSION

This Heritage Impact Statement has been prepared in conjunction with a Development Application for alterations and additions to an existing dwelling at No. 54 Birchgrove Road, Balmain. The subject site is listed as a local heritage item and is located within the Iron Cove Heritage Conservation Area as defined by Schedule 5, Parts 1 and 2 of the *Leichhardt LEP 2013*.

The proposed works will have an acceptable impact on No. 54 Birchgrove Road. The exterior works are located to the rear which has less visibility from the public domain. The removal of the balconies will have an acceptable impact as one has been reconstructed and the other is a modern addition. The proposed new balconies will enhance the presentation of the dwelling to the public domain while remaining sympathetic in form and style. The proposed works to the interior will have an acceptable impact as the layout to all three floors will remain largely intact with all significant joinery, plasterwork and detailing retained.

The proposed works will have an acceptable impact on the Conservation Area as the additions will read as sympathetic and new work that enhances the rear elevation and its presentation to the public domain. The form and scale of the dwelling will largely be retained. The reconfiguration of the interior will not be visible from the street.

The proposed works will have no impact on heritage items within the vicinity as there is little or no visibility from these items towards the subject site. Where elements such as the balconies are visible at oblique angles, there be little visual or physical impact as the subject dwelling is significantly removed from all the surrounding items.

The proposed works fulfil the aims and objectives of the *Leichhardt LEP 2013* and the *Leichhardt DCP 2013* by respecting the heritage significance of No. 54 Birchgrove Road while also increasing the quality and diversity of housing options in Balmain.

Godden Mackay Logan

Area 13 Iron Cove Conservation Area

Landform

A northwest facing shoreline area, running from Victoria Road along the back of the Darling Street commercial zone and the Darling Street ridge to Rowntree Street and Cove Street. There are some relatively steep shoreline areas providing views to the Parramatta River, and a central flat plateau area around Turner Street.

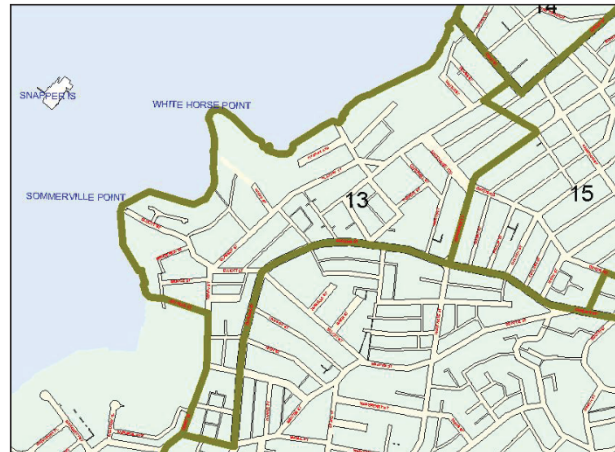


Figure 13.1 Iron Cove Conservation Area Map.

History

When sales of John Gilchrist's Balmain grant of 550 acres were resumed in 1852, Surveyor Charles Langley subdivided the remaining acres into 46 (later 47) sections. He used existing routes such as Darling Street and Birchgrove Road, and other contour-hugging tracks, such as Terry Street/Glassop Street to delineate the parcels. The sections were purchased over the next thirty years by wealthy investors, local speculators and builders.

A group of busy speculators, William Paling, FH Reuss, Alfred Hancock, John Booth, George Weston, Owen Evans and others bought up the tract of land that stretched along the waterfront from Cove Street to just beyond Bayville Street, and broadly bounded by Birchgrove Road and Glassop Street. These same speculators were also involved in land from Darling Street down to Rozelle Bay, including much of the very densely developed area now known as The Valley. The remainder of the area was bought up in a similar fashion and subdivision of the Iron Cove area stretched over twenty-four years from 1853 to 1877. By 1891 the streets that laced this precinct were largely built up. Some steep parcels of land, because of their deep water frontages, were taken up initially for small water-based industries, which expanded over the twentieth century.

A large area of Housing Commission flats was constructed near the waterfront in the early postwar years.

Godden Mackay Logan

Sources

Information provided by Max Solling.

Significant Characteristics

- Contour hugging main access roads.
- Many irregular, narrow and wide minor roads.
- Stone steps providing public pedestrian access.
- Trees and street tree planting particularly noticeable along Glassop and Cove Streets and Macquarie Terrace.
- Elkington Park – mature trees, palm trees and Edwardian plantings.
- Irregular-shaped sections of subdivisions.
- Narrow allotments, with groups of allotments of uniform width.
- Buildings set back from the street alignment.
- Groups of shops along Darling Street with parapets and awnings.
- Corner shop buildings and other former commercial buildings.
- Garden space small, but a noticeable characteristic.
- Variety of housing:
 - terrace and semi-detached housing with groups of uniform development; and
 - some free-standing housing and Victorian villas.
- Landmarks: the Birchgrove Public School and the Elkington Park (with the Dawn Fraser Swimming Pool) are noticeable places within the area and visible from the harbour.
- Building materials vary:
 - plastered brick (generally pre-1890) and pockets of face brick (generally post-1890);
 - some timber cottages; and
 - occasional stone cottage or villa.
- Roofs of terracotta tiles, slate and iron.
- Fences – low or transparent fences: some iron palisade fences remain; early twentieth-century low brick fences contemporary with house.
- Sandstone kerbs and gutters, mostly uninterrupted by vehicular access.

Statement of Significance or Why the Area is Important

- One of a number of conservation areas that collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). This area is important for

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illustrating development particularly from 1870s-1910s, and this forms the major element of its identity, with later pockets of infill prior to World War II (ie pre-1939).

- Through the route of its main access roads, demonstrates the subdivision sections, closely related to the landform, drawn up by Surveyor Langley for the sale of Gilchrist's Balmain grant after 1852.
- Illustrates through its irregular small street layout, and varied allotment width and length (within a limited range), the many different groups of speculators and subdividers involved in the development of the area.
- Through the materials of its outer masonry walls, demonstrates the rapid advances in brick making in the Sydney area over the period 1870s-1910s.
- Through its now rare weatherboard buildings it continues to demonstrate the nature of that major construction material in the fabric of early Sydney suburbs.

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

- existing width and alignment of the streets: avoid chicanes which cut diagonally across the carriageways.
- All remaining sandstone kerbs and gutters, uninterrupted by access driveways.
- All pre-1939 buildings and structures, especially weatherboard buildings.
- All original plaster finishes to external walls (as a rough rule of thumb this will mostly apply to pre-1890s buildings). Reconstruct where necessary.
- All original unplastered face brick external walls (usually applies to post-1890s buildings).
- All original external architectural detail, and encourage replacement of lost elements, but only where evidence is available.
- Any remaining original iron palisade or low brick fences.
- All street planting schemes and park planting; reinstate individual trees where they have been lost.
- Green front garden space.

Avoid

- Demolition of any pre-1939 building, especially timber buildings.

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- Removal of any plaster or decorative plaster to external walls, except where it is to remove more recent plaster/paint on face brick walls.
- Plastering and/or painting of original face brick walls.
- Removal of original architectural details.
- Second-storey additions to an original single-storey building, other than in a separated pavilion form.
- Alteration to the original roof form over the main part of any building.
- Additional architectural detail for which there is no evidence in the photographic record or on the building itself.
- Inappropriate fences such as high brick fences/walls, new iron palisades on high brick bases.
- Interruption of the kerb and gutter line for vehicular access.
- Development that encroaches upon the setting of important buildings/parks.