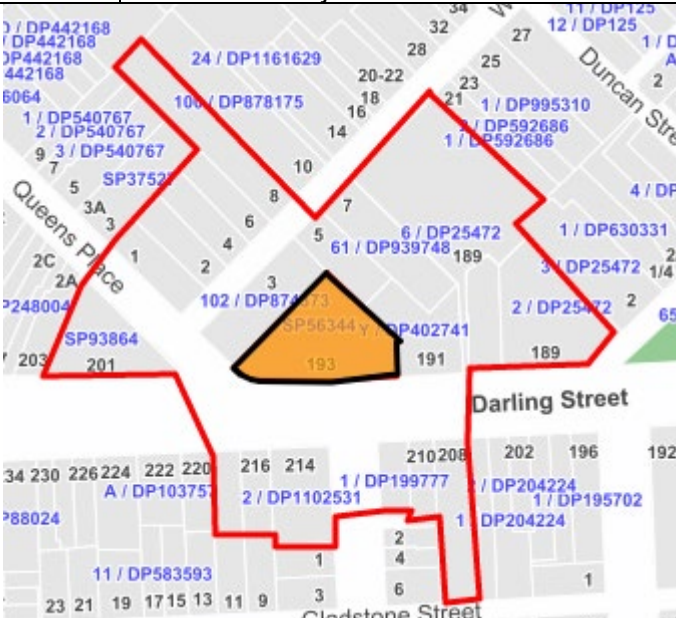




 DEVELOPMENT ASSESSMENT REPORT				
Application No.	DA/2020/0728			
Address	5/193 Darling Street Balmain NSW 2041			
Proposal	Unit 5: Change of use from commercial to residential, internal fit out of existing unit and BCA upgrade.			
Date of Lodgement	9 September 2020			
Applicant	Sarah Archer C/- TWArchitects			
Owner	BRDA Capital Limited			
Number of Submissions	Nil			
Value of works	\$380,000.00			
Reason for determination at Planning Panel	Clause 4.6 variations exceed 10%			
Main Issues	FSR exceeds 0.7:1 Site coverage breach Landscape breach			
Recommendation	Approval with Conditions			
Attachment A	Recommended conditions of consent			
Attachment B	Plans of proposed development			
Attachment C	Clause 4.6 Objection			
				
LOCALITY MAP				
Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of an application for the change of use of existing unit No.5 at 193 Darling Street Balmain from commercial to residential. The application seeks internal fit out to accommodate residential use from 3 level commercial suite to a three level 2-bedroom unit with associated BCA upgrade.

The main issues that have arisen from the application include:

- Breach of FSR
- Breach of Site coverage
- Breach of Landscape area.

There are no external built works or addition to Floor Space, site coverage or decrease of landscaped area. These breaches are existing under the approved building from 1996.

The application was notified to surrounding properties and no submissions were received.

2. Proposal

The proposal is to convert the existing three level unit 5 from commercial to residential. Included in the scope of works are minor fenestration changes to change fixed windows to openable and internal fit out to accommodate a two-bedroom unit. The existing building remains otherwise unchanged. The two allocated parking spaces of unit 5 (currently commercial) are to be included for the residential apartment.

3. Site Description

The site is approximately 630m² in area and has a frontage of approximately 62m to Darling Street. The site is located on the northern side of the street.

The site presently accommodates four three-storey townhouses, a corner element consisting of three office tenancies spread over three levels, and basement carparking. The adjoining properties consist of mixed residential and commercial buildings of two and three storeys. The site is located within the distinctive neighbourhood of Darling Street and is not a heritage item, however it is located in a conservation area.

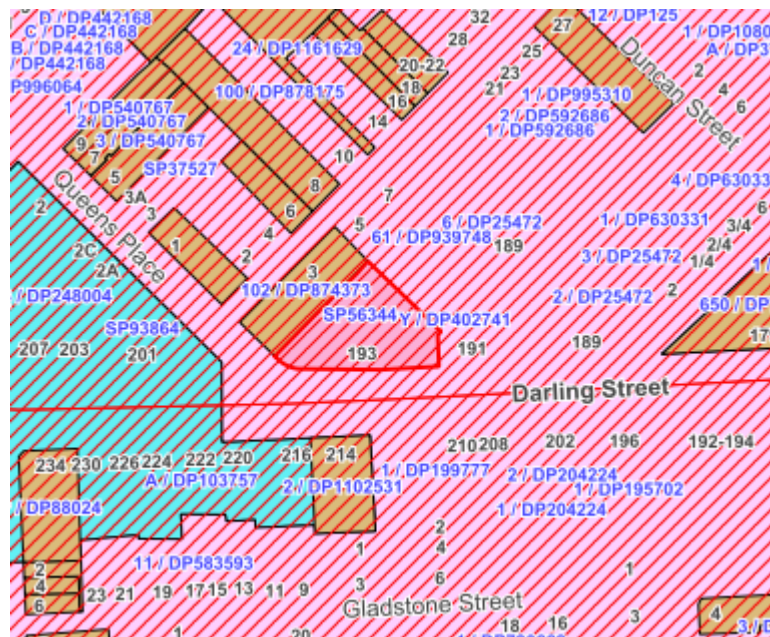


Fig 1: R1 – General Residential Zone – Heritage Conservation Area

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
DA/80/1996	Demolition of the existing structures and construction of 4 townhouses with attached office	Approved
BC/2009/132	Building certificate relating to the assessment alterations and additions carried out to the building over several years including changes to loft areas to create bedrooms , internal staircases , solar panels to rear elevations and enclosure of top floor of office and external changes to front elevation including privacy and sun screens .	Issued 16/02/2010
M/2011/64	Alterations and additions to existing building including new attic levels.	Approved 16/06/2011
M/2012/156	Section 96 modification of DA/80/1996 which approved demolition of the existing structures and construction of 4 townhouses with attached office. Modification consists of the deletion of Condition No.28A, to allow enclosure of front balconies with glazing.	Approved 11/09/2012
CC/2017/211	Construction Certificate (Council) -	Approved

	Installation of glazing to enclose existing balconies	17/07/2017
PDA/2020/0137	Convert existing office into a residential unit and associated alterations	Issued 28/05/2020

4(b) Application history

The application was incorrectly notified as property address 5/189 Darling Street Balmain. This was corrected and subsequently re notified with the correct address details.

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*
- *Leichhardt Local Environmental Plan 2013 (LLEP2013)*

The following provides further discussion of the relevant issues:

5(a)(i) 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 been used in the past for activities which could have potentially contaminated the site. However, as the proposal does not entail a significant intensification of the current use and no access to site soils, it is considered that the land will not require remediation in accordance with *SEPP 55*.

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

A BASIX Certificate was submitted with the application and is satisfactory.

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

The site is located in the R1 Residential Zone. The proposed development is to change the use from commercial to residential, and the use is permissible in the zone.

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

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition Requires Development Consent

- Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1
- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 4.6 – Exceptions to development standards
- Clause 5.9 – Preservation of trees or vegetation
- Clause 5.10 – Heritage Conservation
- Clause 6.1 – Acid Sulphate Soils
- Clause 6.4 – Stormwater management

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

Standard (maximum)	Proposal	% of non compliance	Compliances
Floor Space Ratio Required: [0.7:1]	1.22:1 765.85sqm	74%	No
Landscape Area	0% 0sqm	100%	No
Site Coverage	82.5% 519.52sqm	37.5%	No

The following provides further discussion of the relevant issues:

Clause 4.6 Exceptions to Development Standards

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

- 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 the consent authority 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 standard has been assessed against the objectives and provisions of Clause 4.6 of the Leichhardt LEP below.

The proposal does not seek to alter the existing building area on the site. The proposal therefore results in a technical non-compliance with the requirements of the above Clauses.

Written requests have been submitted by the applicant in compliance with Clause 4.6(3) of the LEP identifying the following key reasoning in seeking to justify the contravention of the standards:

Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1

- The applicant relies upon Clause 4.6 of LLEP 2013 for a variation to this standard as the landscaped area is currently in breach however, is unchanged as part of the proposal.

Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1

- The applicant relies upon Clause 4.6 of LLEP 2013 for a variation to this standard as the site coverage area is currently in breach however, is unchanged as part of the proposal.

Clause 4.4 – Floor Space Ratio

- Clause 4.4 of LLEP 2013, in conjunction with the Floor Space Ratio Map, requires that the maximum Floor Space Ratio (FSR) of buildings for the subject site shall not exceed 0.7:1. The site has been approved with the FSR of 1.22:1 on the site and is currently in breach however, is unchanged as part of the proposal.

Comment: The applicant has addressed the matters required under Clause 4.6 Exceptions to development standards, and has adequately demonstrated that compliance with the development standard is unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

The relevant objectives of the R1 General Residential Zone are as follows:

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

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

- The proposal is permissible development and compatible with surrounding land uses.
- The proposal will improve opportunities to work from home.
- The proposed development will not alter the building bulk, form and scale, and will have no streetscape impacts to Darling Street.
- Subject to conditions, the proposal does not result in any undue adverse amenity impacts to the surrounding properties.

The objectives of the Landscaped Area development standard are as follows:

- *to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,*
- *to maintain and encourage a landscaped corridor between adjoining properties,*
- *to ensure that development promotes the desired future character of the neighbourhood,*
- *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,*
- *to control site density,*
- *to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.*

The objectives of the Site Coverage development standard are as follows:

- *to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,*
- *to maintain and encourage a landscaped corridor between adjoining properties,*
- *to ensure that development promotes the desired future character of the neighbourhood,*
- *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,*
- *to control site density,*
- *to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space.*

Clause 4.6(4)(a)(ii) requires the consent authority to consider whether 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.

Landscaped Area

The objectives of the Landscaped Area development standard are as follows:

- *to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,*
- *to maintain and encourage a landscaped corridor between adjoining properties,*
- *to ensure that development promotes the desired future character of the neighbourhood,*
- *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,*
- *to control site density,*
- *to limit building footprints to ensure 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 Site Coverage development standard, in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP for the following reasons:

- The proposal relates to internal works to an existing mixed use building.
- The development in its current form results in an existing shortfall of landscaped area and existing site coverage exceeding the applicable requirements.
- The proposal does not seek to alter the existing situation.

Site coverage

The objectives of the Site Coverage development standard are as follows:

- *to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,*
- *to maintain and encourage a landscaped corridor between adjoining properties,*
- *to ensure that development promotes the desired future character of the neighbourhood,*
- *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,*
- *to control site density,*
- *to limit building footprints to ensure 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 Site Coverage development standard, in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP for the following reasons:

- The proposal relates to internal works to an existing mixed use building.
- The development in its current form results in an existing shortfall of landscaped area and existing site coverage exceeding the applicable requirements.
- The proposal does not seek to alter the existing situation.

Floor Space Ratio

Further, it is considered the development is in the public interest because it is consistent with the objectives of the FSR development standard, in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP which are as follows:

- *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,*

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 for the following reasons:

- The proposal relates to internal works to an existing mixed use building.
- The development in its current form results in an existing shortfall of landscaped area and existing site coverage exceeding the applicable requirements.
- The proposal does not seek to alter the existing situation.

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

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the Leichhardt LEP. For the reasons outlined above, there are sufficient planning grounds to justify the variations and it is recommended the Clause 4.6 exception be granted.

5(c) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

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

The amended provisions contained in the Draft IWLEP 2020 are not particularly relevant to the assessment of the application.

5(d) Development Control Plans

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

LDGP2013	Compliance
Part B: Connections	

B1.1 Connections – Objectives	Yes
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	N/A
C1.9 Safety by Design	N/A
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	Yes
C1.12 Landscaping	Yes
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	Yes
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	
C2.2.2.1 Darling Street Distinctive Neighbourhood C2.2.2.1 (b) Balmain Village Sub Area	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	N/A
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	N/A
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	Yes
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	N/A
C4.1 Objectives for Non-Residential Zones	Yes
C4.2 Site Layout and Building Design	Yes

C4.3 Ecologically Sustainable Development	Yes
C4.4 Elevation and Materials	Yes
C4.5 Interface Amenity	Yes
C4.6 Shopfronts	Yes
C4.7 Bulky Goods Premises	N/A
C4.8 Child Care Centres	N/A
C4.9 Home Based Business	N/A
C4.10 Industrial Development	N/A
C4.11 Licensed Premises and Small Bars	N/A
C4.12 B7 Business Park Zone	N/A
C4.13 Markets	N/A
C4.14 Medical Centres	N/A
C4.15 Mixed Use	Yes
C4.16 Recreational Facility	N/A
C4.17 Sex Services Premises	N/A
C4.18 Vehicle Sales or Hire Premises And Service Stations	N/A
C4.19 Vehicle Repair Station	N/A
C4.20 Outdoor Dining Areas	N/A
C4.21 Creative Industries	N/A
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	Yes
D2.5 Mixed Use Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Yes
E1.2.4 Stormwater Treatment	N/A
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:

C3.3 Elevation and Materials

The proposed replacement of fixed windows with openable windows can be supported as there is no impact to the conservation area and support has been provided by Council's Heritage Officer.

C3.8 Private Open Space

The proposal has private open space that is not directly connected to the main living area. Assessment of the location of the large POS terrace off a stair from the living area can be supported as it is larger than the minimum requirement and provides POS that will provide sufficient amenity to the occupants with minimal to nil environmental impacts to surrounding residences.

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, and this has been demonstrated in the assessment of the application.

5(g) Any submissions

The application was notified in accordance with Council's policy for a period of 14 days to surrounding properties. No submissions were received in response to the notification.

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 considered contrary to the public interest.

6 Referrals

6(a) Internal

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

- Heritage – no objections

7. Section 7.11 Contributions/7.12 Levy

Section 7.12 Contributions are payable for the proposal.

Calculated Section 7.12 levy's were in credit for the subject site, therefore a Section 7.11 under the former Leichhardt LGA Contributions Plan applies to the cost of works.

A total contribution of \$3,800.00 is included in the recommended conditions in Appendix A.

8. Conclusion

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

The development will not result in any significant impacts on the amenity of the adjoining properties or the streetscape. 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 to vary Clauses 4.3A(3)(a), 4.3A(3)(b) and 4.4 of the Leichhardt Local Environmental Plan 2013. After considering the request, and assuming the concurrence of the Secretary, the Panel is satisfied that compliance with the standards is unnecessary in the circumstance of the case and that there are sufficient environmental planning grounds to support the variations. The proposed development will be in the public interest because the variations are not inconsistent with the objectives of the standards 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. D/2020/0728 for change of use from commercial to residential and alterations and additions to dwelling at 5/193 Darling Street, Balmain subject to the conditions in the Notice of Determination.

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
DA06 - Rev B	Proposed Floor Plans	13/08/2020	TWArchitects
DA06 - Rev B	Proposed Floor Plans	13/08/2020	TWArchitects
DA08 - Rev B	Proposed Sections	13/08/2020	TWArchitects
DA09 - Rev B	Proposed Elevations	13/08/2020	TWArchitects
DA10 - Rev B	Proposed Elevations	13/08/2020	TWArchitects
DA11 - Rev B	Proposed Elevations	13/08/2020	TWArchitects
DA13 - Rev B	Concept Stormwater Plan	13/08/2020	TWArchitects
A386332	BASIX Certificate	12/08/2020	TWArchitects
	Waste Management Plan	01/09/2020	TWArchitects

As amended by the conditions of consent.

FEES

2. Section 7.12 (formerly section 94A) Development Contribution Payments

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that a monetary contribution to the Inner West Council has been paid, towards the provision of infrastructure, required to address increased demand for local services generated by additional development within the Local Government Area (LGA). This condition is imposed in accordance with Section 7.12 of the *Environmental Planning and Assessment Act 1979* and in accordance with *Former Leichhardt Local Government Area Section 7.12 Development Contributions Plan 2020*.

Note:

Copies of these contribution plans can be inspected at any of the Inner West Council Service Centres or viewed online at <https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions>

Payment amount*:

\$3800.00

*Indexing of the Section 7.12 contribution payment:

The contribution amount to be paid to the Council is to be adjusted at the time of the actual payment in accordance with the provisions of the relevant contributions plan. In this regard, you are recommended to make contact with Inner West Council *prior to arranging your*

payment method to confirm the correct current payment amount (at the expected time of payment).

Payment methods:

The required contribution must be paid either *by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions; cash (to a maximum of \$10,000).* It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.

3. 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.

4. Security Deposit - Standard

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

Security Deposit:	\$2,209.00
Inspection Fee:	\$236.70

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

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

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

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

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

GENERAL CONDITIONS**5. Car Parking**

The development must provide and maintain within the site:

- a. the existing 12 line marked and allocated car parking spaces.

6. Residential Flat Buildings – Hot Water Systems

Where units or dwellings are provided with separate individual hot water systems, these must be located so they are not visible from the street.

7. Residential Flat Buildings – Air Conditioning Systems

Where units or dwellings are provided with separate individual air conditioning systems, these must be located so they are not visible from the street.

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 CONSTRUCTION CERTIFICATE**10. 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**11. Construction Hours – Class 2-9**

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:

- a. 7:00am to 6:00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b. 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time;
and
- c. at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc. and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

In the case that a standing plant or special out of hours permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving must be limited to:

- a. 8:00am to 12:00pm, Monday to Saturday; and
- b. 2:00pm to 5:00pm Monday to Friday.

The person acting on this consent must not undertake such activities for more than three continuous hours and must provide a minimum of one 2 hour respite period between any two periods of such works.

"Continuous" means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

12. Stormwater Drainage System

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

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

If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road. Minor roof or paved areas that cannot reasonably be drained by gravity to a public road may be disposed on site subject to ensure no concentration of flows or nuisance to other properties.

PRIOR TO OCCUPATION CERTIFICATE

13. Section 73 Certificate

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a Section 73 Certificate under the *Sydney Water Act 1994*.

14. Smoke Alarms - Certification of upgrade to NCC requirements

Prior to the issue of any Occupation Certificate, the Principal Certifier is required to be satisfied the existing building has been upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke alarm systems.

PRIOR TO SUBDIVISION CERTIFICATE**15. Section 73 Certificate**

Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided with the Section 73 Certificate. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

16. Strata Subdivision Plan

Prior to the release of a revised Strata Subdivision Plan, the Certifying Authority must be provided with plans indicating that the strata subdivision of the development has been carried out in accordance with approved plans and demonstrating that:

- a. Each strata lot comprising a dwelling and two car space; and
- b. Car spaces must not be given separate strata lot numbers.

17. Strata Subdivision Plan to Show Easements and Right of Ways

Prior to the release of a Strata Subdivision Plan, the Certifying Authority must be provided with evidence that all instruments under Section 88B of the *Conveyancing Act 1919* used to create easements or right-of-ways are shown.

18. Release of Subdivision Certificate

Prior to the release of a Subdivision Certificate, the Certifying Authority must be provided with a copy of the Final Occupation Certificate.

ADVISORY NOTES**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.

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.

Fire Safety Certificate

The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

- a. Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
- b. Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Dial before you dig

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

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	131441 www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 www.environment.nsw.gov.au
Sydney Water	13 20 92 www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

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.

Attachment B – Plans of proposed development

D.A - ISSUE A UNIT 5, 193 DARLING ST, BALMAIN NSW 2041

DRAWING SCHEDULE		
DA 01	COVER PAGE	1:1 A3
DA 02	SITE ANALYSIS	1:200 A3
DA 03	EXISTING FLOOR PLANS	1:200 A3
DA 04	EXISTING FLOOR PLANS	1:200 A3
DA 05	EXISTING FLOOR PLANS	1:200 A3
DA 06	PROPOSED FLOOR PLANS	1:100 A3
DA 07	PROPOSED FLOOR PLANS	1:100 A3
DA 08	PROPOSED SECTIONS	1:100 A3
DA 09	PROPOSED ELEVATIONS	1:100 A3
DA 10	PROPOSED ELEVATIONS	1:100 A3
DA 11	PROPOSED ELEVATIONS	1:100 A3
DA 12	BASIX	A3
DA 13	CONCEPT STORMWATER PLAN	1:100 A3
DA 14	COMPLIANCE DIAGRAMS	1:200 A3
DA 15	COMPLIANCE DIAGRAMS	1:200 A3

PROPOSED DEVELOPMENT

- CHANGE OF USE - CONVERT EXISTING OFFICE INTO RESIDENTIAL UNIT
- ALTERATIONS WITHIN EXISTING BUILDING
 - INSTALL NEW BATHROOM, KITCHEN & LAUNDRY AMENITIES
 - REPLACE EXISTING FLOOR TILES TO UNITS 5 WITH NEW FLOOR TILES
- ALTERATIONS TO EXTERNAL FABRIC OF BUILDING
 - REPLACE EXISTING FIXED WINDOWS TO SOUTHERN FACADE IN UNIT 5 & 6 WITH NEW OPERABLE WINDOWS, TO EXISTING OPENING
 - REPLACE EXISTING FLOOR TILES TO ENTRY OF UNIT 5 & 6 WITH NEW FLOOR TILES
- NATIONAL CONSTRUCTION CODE COMPLIANCE
 - ALL WORKS TO COMPLY WITH B.C.A CAPABILITY REPORT, AS COMPLETED BY NATIONAL B.C.A PTY LTD, AS INCLUDED IN THIS APPLICATION
 - WORKS INCLUDE YET NOT LIMITED TO:
 - NEW HARDWARED SMOKE DETECTORS TO ALL LEVELS OF UNIT # 5.
 - NEW WETTING SPRINKLERS TO EXISTING ROOF TERRACE FLOOR WINDOWS, LOCATED ON BOUNDARY
 - EXISTING GLASS BLOCKS TO BE CONFIRMED TO MEET FIRE RESISTANCE REQUIREMENTS
 - ALL BALU STRADES & HAND RAILS TO MEET COMPLIANCE REQUIREMENTS
 - ANY PENETRATIONS BETWEEN LOTS TO MEET FIRE SEPARATION REQUIREMENTS

FLOOR SPACE RATIO :	NO CHANGE	See Compliance Diagrams
LANDSCAPE AREA :	NO CHANGE	See Compliance Diagrams
SITE COVERAGE :	NO CHANGE	See Compliance Diagrams

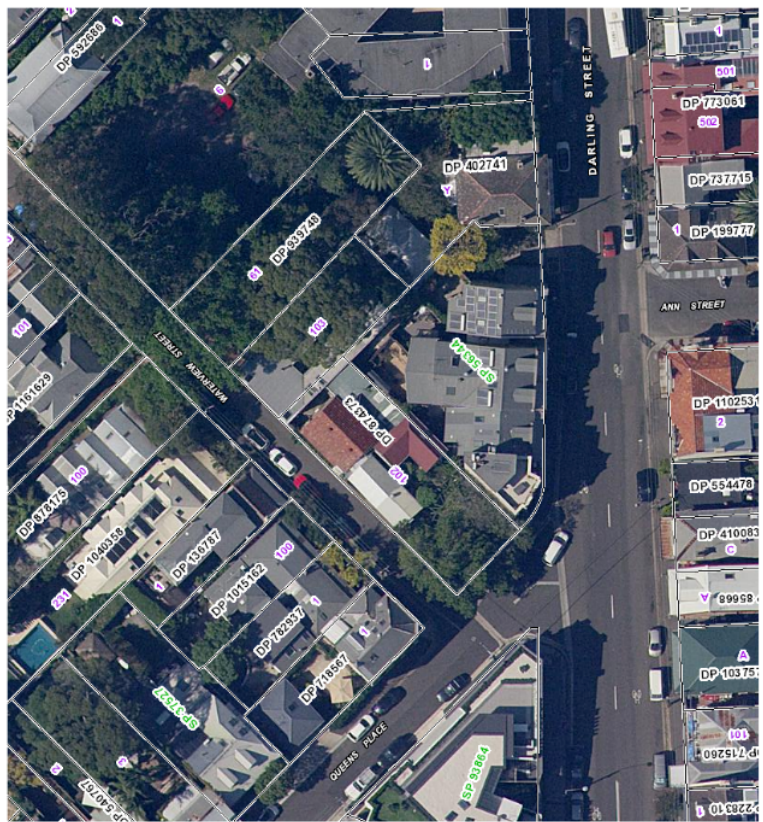
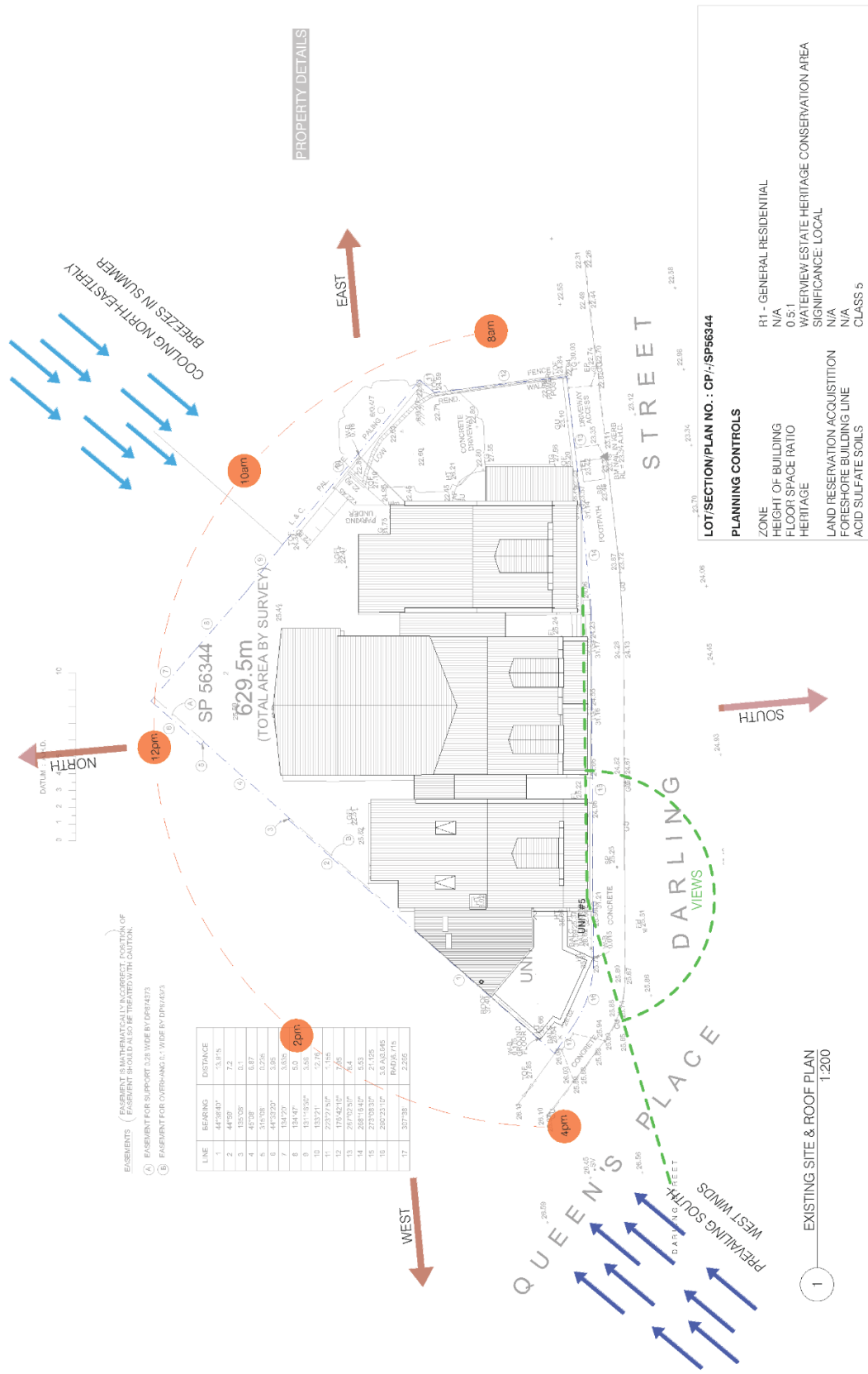


FIG. 1 AERIAL IMAGE SIX MAPS

<p>REV DATE AMENDMENT A 12.08.20 ISSUED TO CLIENT B 12.08.20 ISSUED TO CONSULTANTS PRIORITY DA</p>	<p>LEGEND</p> <p>ORIENTATION</p>	<p>CLIENT NAME SARAH ARCHER PROJECT ADDRESS UNIT 5, 193 DARLING ST, BALMAIN NSW 2041 SCALE 1:1 @ A3</p>
<p>DA01 COVER PAGE</p>		<p>ARCHITECT</p>
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m 04 12 344 478
e info@twarchitects.com.au
w twarchitects.com.au
ABR: 88 719 952 248
Nominated Architect
Professional Reg No: 11810
Twarchitects

ARCHITECT

CLIENT NAME
SARAH ARCHER
PROJECT ADDRESS
UNIT 5, 193 DARLING ST, BALMAIN NSW 2041
SCALE
1:200 @ A3

DA02

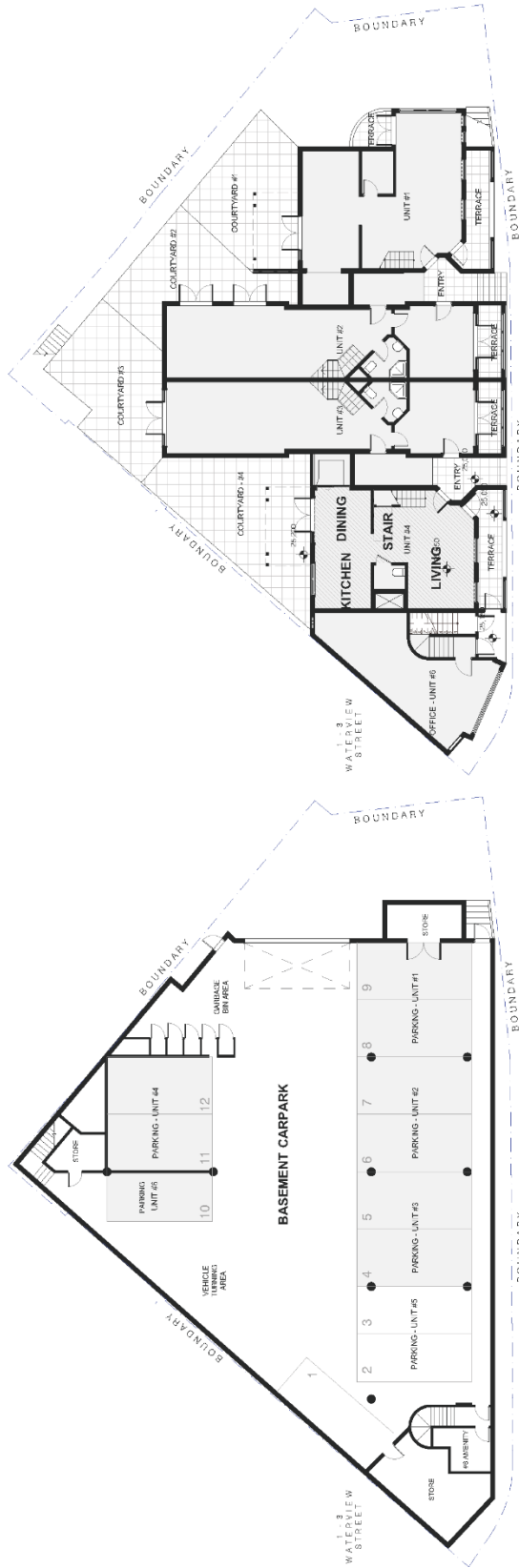
SITE ANALYSIS

REV DATE AMENDMENT
A 12.08.20 ISSUED TO CLIENT
B 13.08.20 ISSUED TO CONSULTANTS FROM D.A.A

ORIENTATION

LEGEND

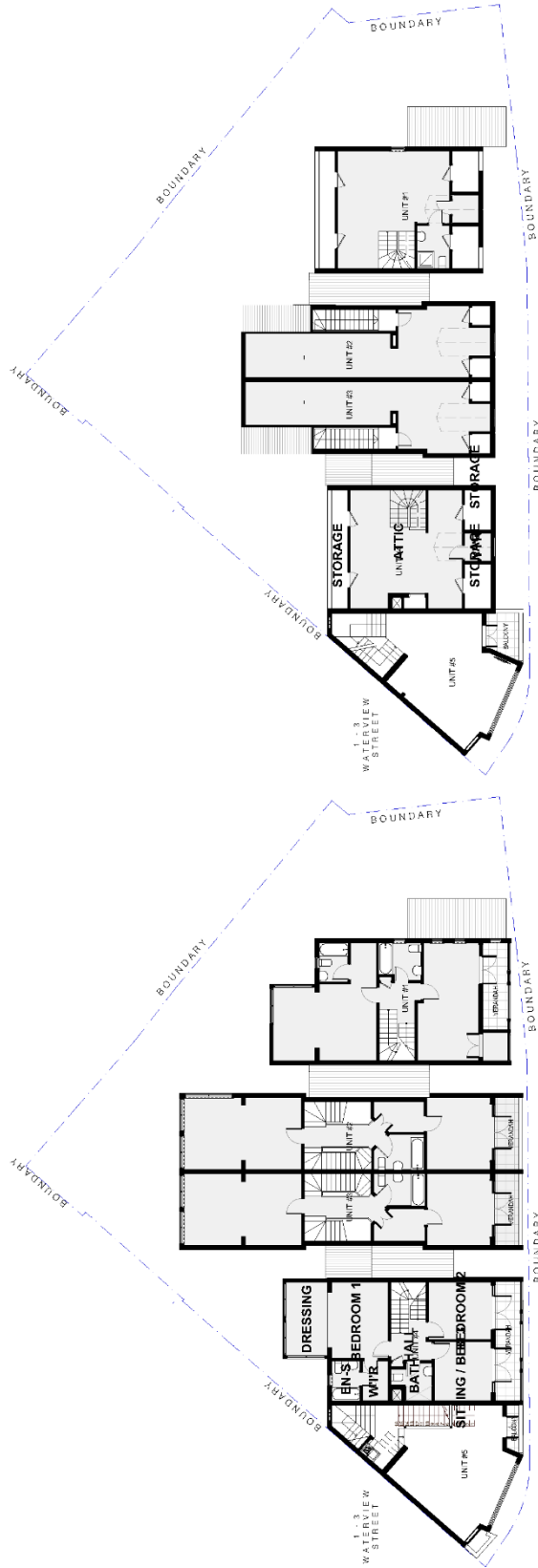
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2. EXISTING GROUND FLOOR PLAN
1:200

1. EXISTING BASEMENT
1:200

<p>AMENDMENTS</p> <table border="1"> <tr> <th>REV</th> <th>DATE</th> <th>AMENDMENT</th> </tr> <tr> <td>A</td> <td>12.05.20</td> <td>ISSUED TO CLIENT</td> </tr> <tr> <td>B</td> <td>14.05.20</td> <td>ISSUED TO CONSULTANTS PRIOR TO DA</td> </tr> </table>		REV	DATE	AMENDMENT	A	12.05.20	ISSUED TO CLIENT	B	14.05.20	ISSUED TO CONSULTANTS PRIOR TO DA	<p>ORIENTATION</p>	<p>LEGEND</p>	<p>NOT FOR CONSTRUCTION OR ANY OTHER PURPOSES. THIS DRAWING IS THE PROPERTY OF TWARCHITECTS PTY LTD AND MUST NOT BE REPRODUCED, COPIED, OR PRODUCED IN WHOLE OR PART EXCEPT BY WRITTEN AGREEMENT OF TWARCHITECTS PTY LTD.</p>
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A	12.05.20	ISSUED TO CLIENT											
B	14.05.20	ISSUED TO CONSULTANTS PRIOR TO DA											
<p>DETAILS</p> <p>CLIENT NAME SARAH ARCHER PROJECT ADDRESS UNIT 5, 193 DARLING ST. BALMAIN NSW 2041 SCALE 1:200 @ A3</p>													
<p>ARCHITECT</p> <p>twarchitects</p> <p>2001/193 Darling St Balmain NSW 2041 Tel: 012 464 5719 # twarchitects.com.au ABN 88 79 522 263 Northmead NSW 2150 Phone: 012 464 5730</p>		<p>EXISTING FLOOR PLANS DA03</p>											

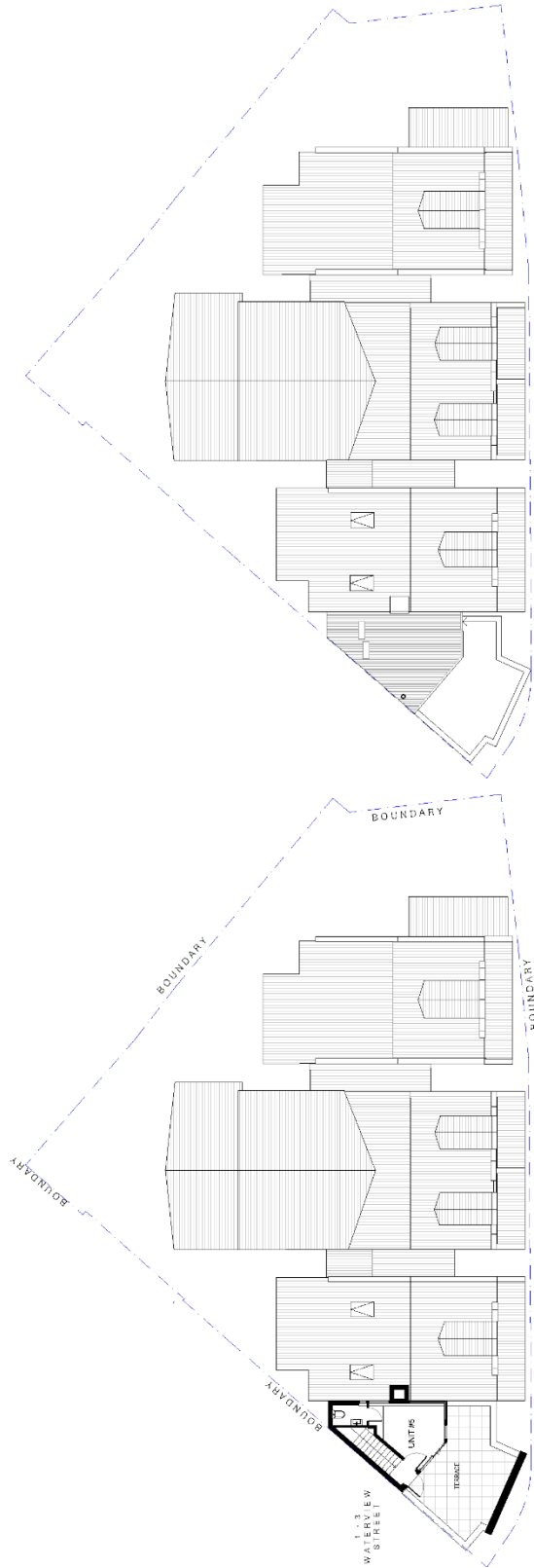


3. EXISTING FIRST FLOOR PLAN
1:200

4. EXISTING SECOND FLOOR PLAN
1:200

<p>REV / DATE / AMENDMENT</p> <p>A / 12.08.20 / ISSUED TO CLIENT</p> <p>B / 14.08.20 / ISSUED TO CONSULTANTS PRIOR TO DA</p>		<p>LEGEND</p> <p>TR</p>	
<p>APPROVALS</p>		<p>ORIENTATION</p>	
<p>DETAILS</p> <p>CLIENT NAME: SARAH ARCHER PROJECT ADDRESS: UNIT 15, 193 DARLING ST, BALMAIN NSW 2041 1:200 @ A3</p>		<p>DA04 EXISTING FLOOR PLANS</p>	
<p>ARCHITECT</p> <p>Shaw-Belle Daring St Level 15 PO BOX 16333 M 02-9444-0784 F 02-9444-0784 WWW.AWARCHITECT.COM.AU ABN 89-791893-263 Thomas Vale REC 2360</p>		<p>twarchitects</p>	

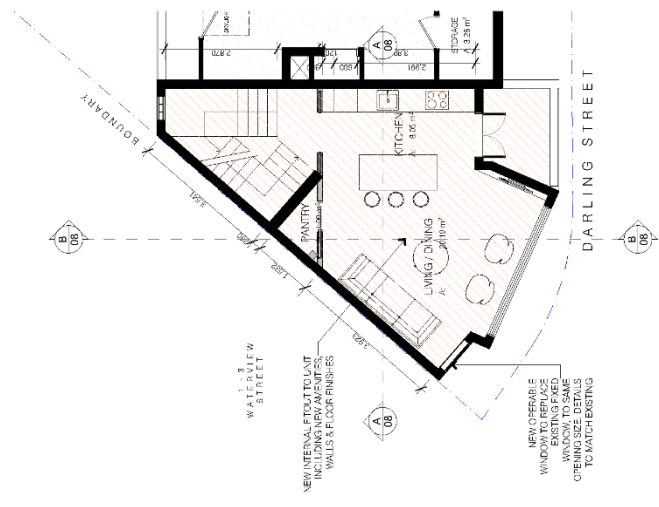
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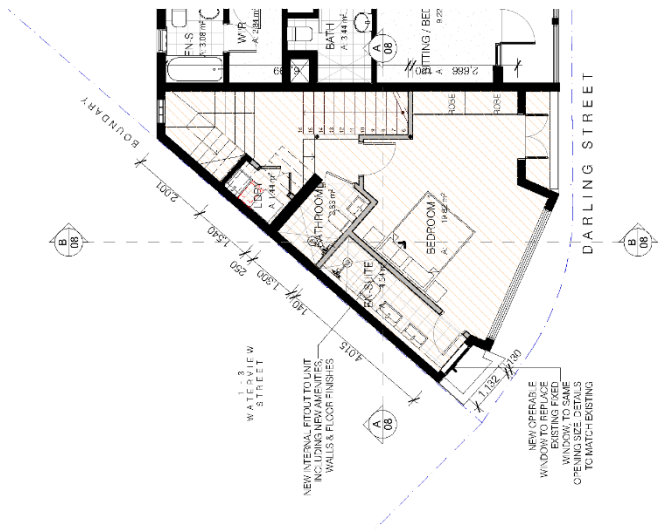
5. EXISTING ROOF TERRACE PLAN 1:200

6. EXISTING ROOF PLAN 1:200

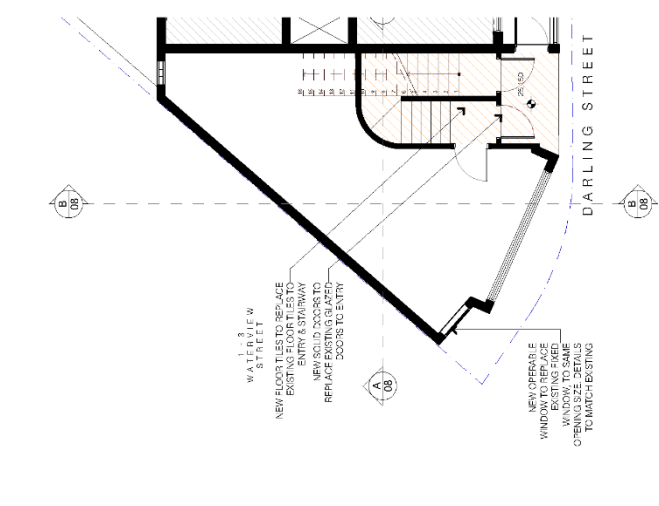
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1 SECOND FLOOR PLAN 1:100

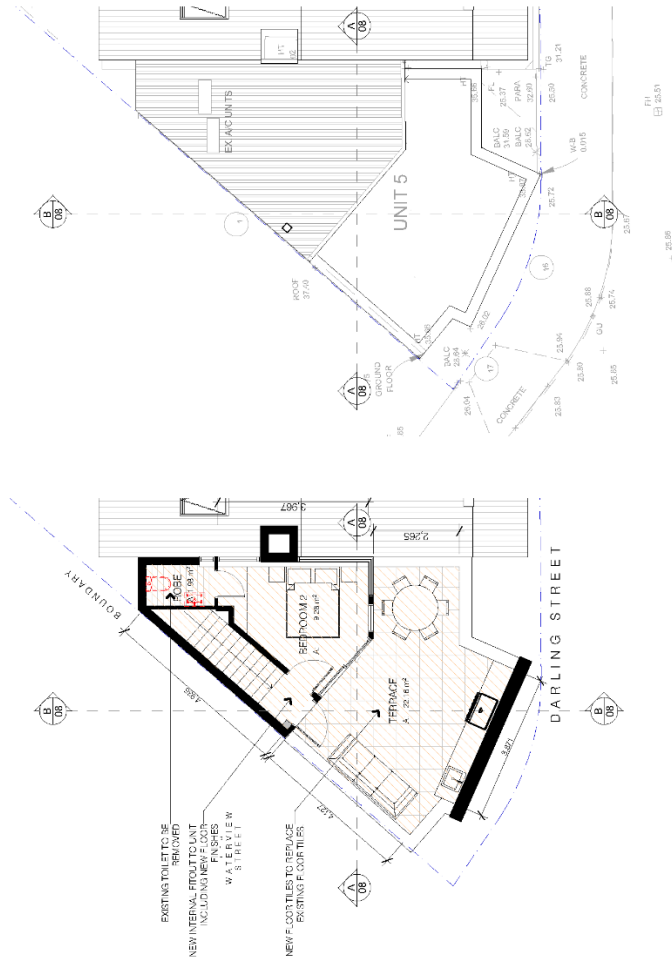


1 FIRST FLOOR PLAN 1:100



1 PROPOSED GROUND FLOOR PLAN 1:100

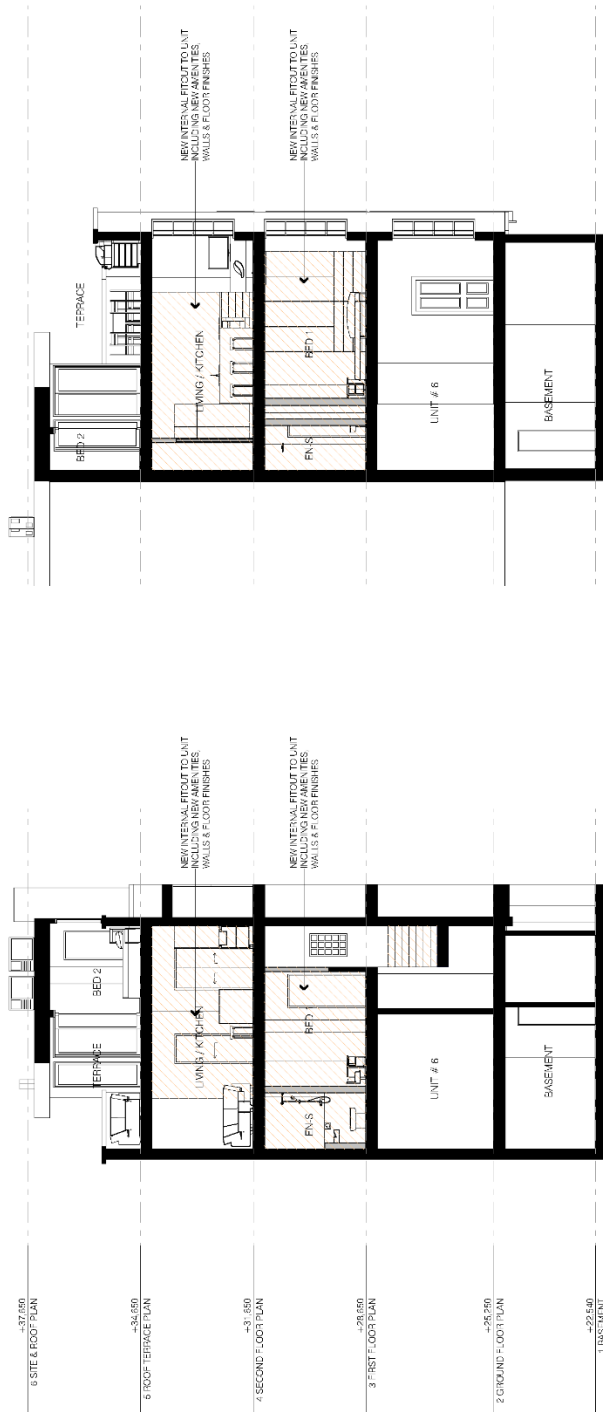
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<p>CLIENT NAME: SARA-AFC-ER</p> <p>UNIT: 103 DARLING STREET, BALMAIN NSW 2041</p> <p>SCALE: 1:100 @ A3</p>				
<p>ARCHITECT: twarchitects</p> <p>Thames Hill, FE07780</p>		<p>DA 06</p> <p>PROPOSED FLOOR PLANS</p>		



1 ROOF TERRACE PLAN 1:100

1 SITE & ROOF PLAN 1:100

<p>REV DATE AMENDMENT</p> <p>B 18.08.20 ISSUED TO CONSULTANT'S PRICING</p> <p>A 18.08.20 ISSUED TO CONSULTANT'S PRICING</p> <p>AMENDMENTS</p>	<p>ORIENTATION</p>	<p>LEGEND</p> <ul style="list-style-type: none"> EXISTING BUILDING FABRIC PROPOSED BUILDING FABRIC PROPOSED NEW WORKS OUTSIDE OF EXISTING FOOTPRINT PROPOSED NEW WORKS WITHIN EXISTING FOOTPRINT <p>NOTES: THIS PLAN IS FOR INFORMATION ONLY. ANY PROPOSED WORKS MUST BE APPROVED BY THE LOCAL COUNCIL AND THE NSW DEPARTMENT OF PLANNING AND LOCAL GOVERNMENT. THIS PLAN IS THE PROPERTY OF TWARCHITECTS PTY LTD AND MUST NOT BE REPRODUCED, COPIED, OR OTHERWISE USED WITHOUT THE WRITTEN PERMISSION OF TWARCHITECTS PTY LTD.</p>	<p>DETAILS</p> <p>CLIENT NAME PROJECT ADDRESS UNIT 5, 193 DARLING ST, BALMAIN NSW 2011 SCALE 1:100 @ A3</p> <p>ARCHITECT DA07 PROPOSED FLOOR PLANS</p>	<p>CONTACT: DA07 BALMAIN NSW 2011 L: 02 95533987 M: 04 9393 9393 E: info@twarchitects.com.au WWW: www.twarchitects.com.au A/CN: 152677083 Name: Peter Archibald Thomas White REG 1856</p> <p>twarchitects</p>
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SECTION A
1:100

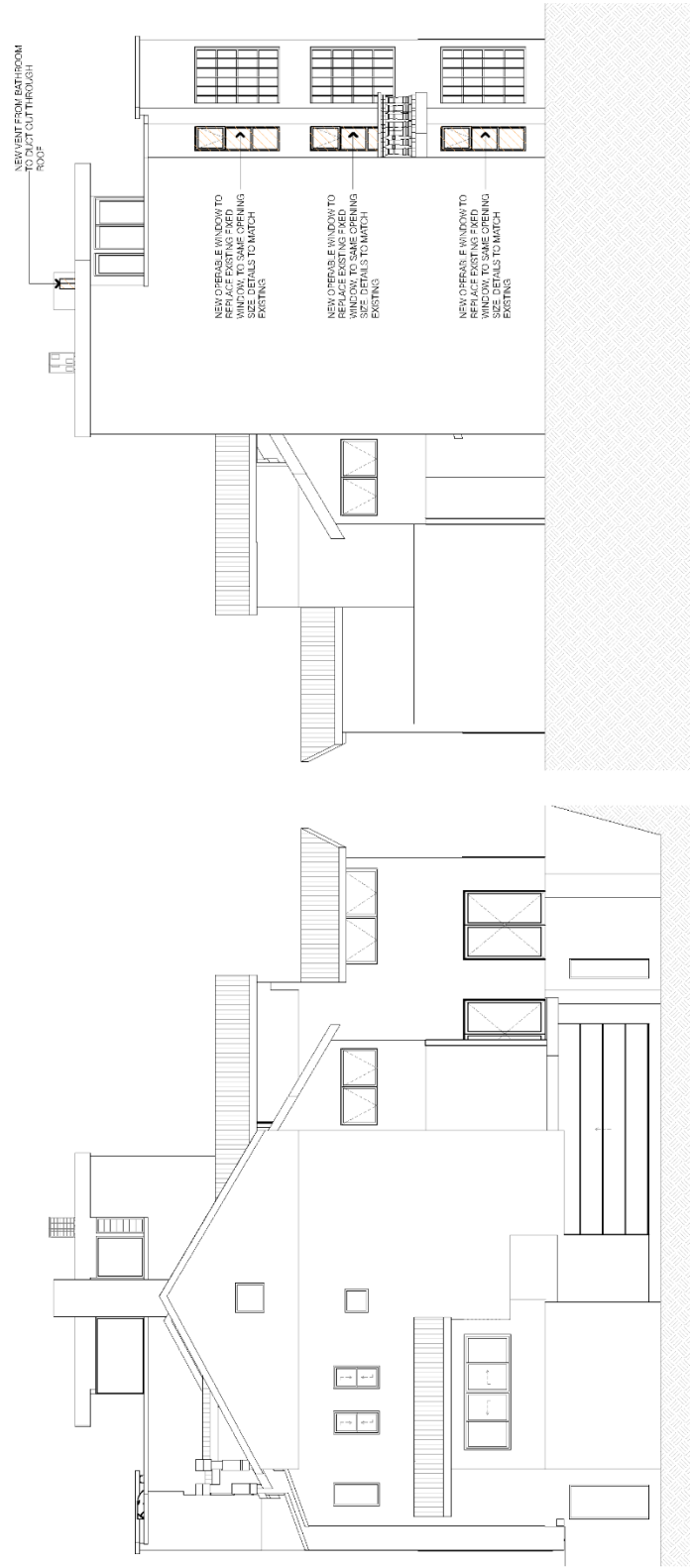
SECTION B
1:100

REV	3	AMENDMENT	ISSUED TO CONSULTANT'S PRIOR TO DA	ORIENTATION			EXISTING BUILDING FABRIC PROPOSED BUILDING FABRIC DEMOLITION BUILDING FABRIC EXISTING FOOTPRINT PROPOSED NEW WORKS WITHIN EXISTING FOOTPRINT	DETAILS CLIENT NAME SARAH ARCHER PROJECT ADDRESS 183 DARLING ST, BALMAIN NSW 2041 SCALE 1:100 @ A3	PROPOSED SECTIONS DA08	twarchitects Step 4 (Building) N Licence No. 05 8265837 Tel. 012 04 673 Fax. 012 04 673 www.twarchitects.com.au 183 Darling St, Balmain NSW 2041 NSW Australia Thomas W & Reg Ziegler
	DATE	13.08.20	ISSUED TO CONSULTANT'S PRIOR TO DA							



<p>DATE 13.08.20 REV B</p>		<p>AMENDMENT 1 UNIT ISSUED TO CONSULTANTS PRIOR TO DA</p>		<p>ORIENTATION</p>	
<p>LEGEND</p>		<p>EXISTING BUILDING FABRIC PROPOSED BUILDING FABRIC DEMOLISHED BUILDING FABRIC</p>		<p>PROPOSED NEW WORKS WITH IN EXISTING FOOTPRINT. PROPOSED NEW WORKS WITH IN EXISTING FOOTPRINT.</p>	
<p>CLIENT NAME SARAH ARCHER ARCHITECTURE</p>		<p>PROJECT ADDRESS UNIT 2, 183 DARLING ST, BALMAIN NSW 2041</p>		<p>SCALE 1:100 @ A3</p>	
<p>DA 09</p>		<p>PROPOSED ELEVATIONS</p>		<p>twarchitects</p>	

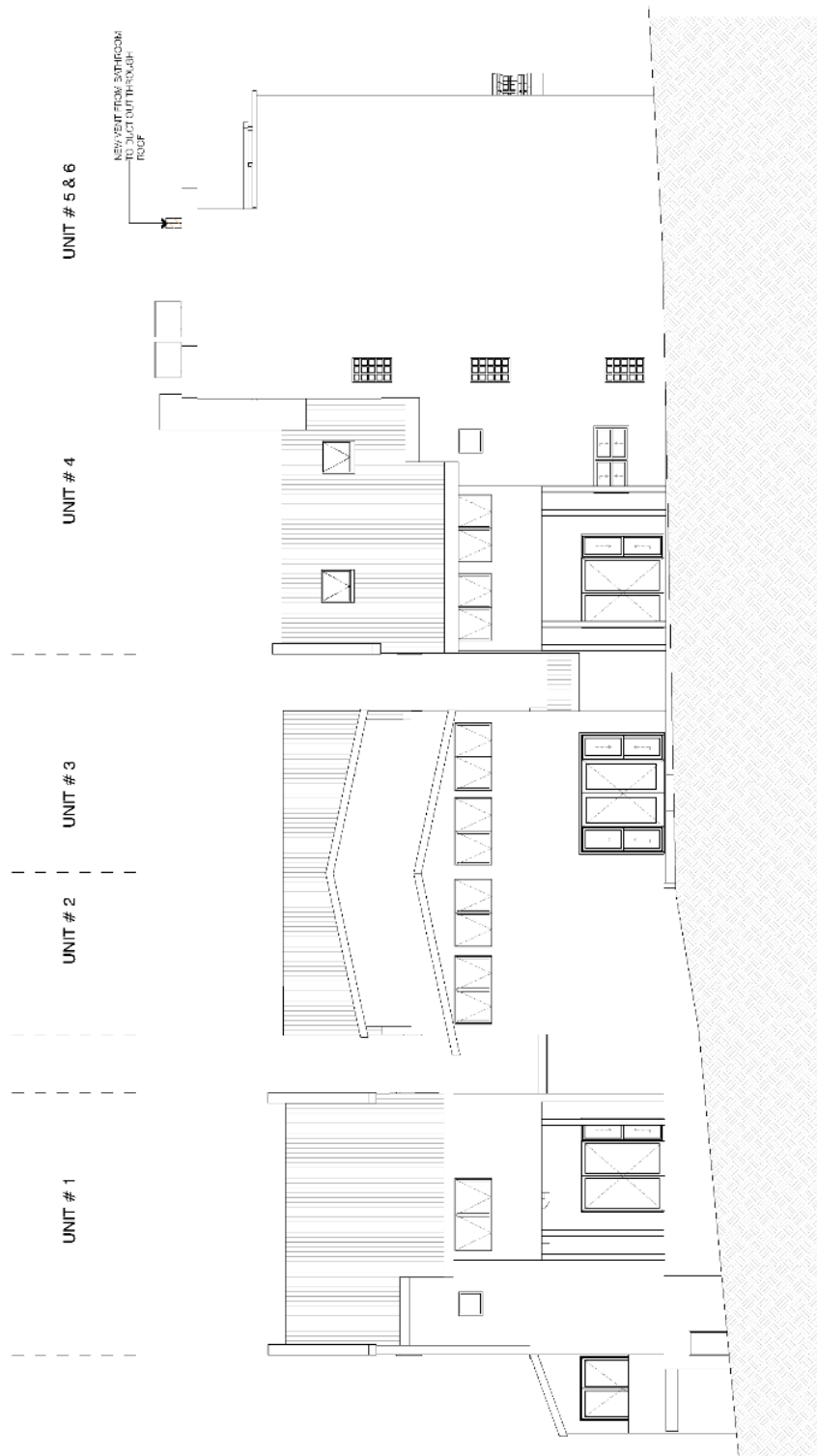
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1 EAST ELEVATION 1:100

1 WEST ELEVATION 1:100

REV	DATE	AMENDMENT
A	19/08/20	ISSUED TO CLIENT
B	18/04/21	ISSUED TO CONSULTANTS PERIOD 2 DA
AMENDMENTS		
<p>LEGEND</p> <ul style="list-style-type: none"> EXISTING BUILDING FABRIC PROPOSED BUILDING FABRIC FINISHED BUILDING FABRIC PROPOSED NEW WORKS OUTSIDE OF EXISTING FOOTPRINT PROPOSED NEW WORKS WITHIN EXISTING FOOTPRINT <p>NOT FOR CONSTRUCTION OR APPROVAL PURPOSES ONLY. DO NOT SCALE FROM DRAWINGS. THIS DRAWING IS THE COPYRIGHT OF TWARCHITECTS PTY LTD AND IS UNREGISTERED. ALL RIGHTS RESERVED. INTERNAL SERIAL SCRIPT FILE NUMBER: A3818110112111111</p>		
ORIENTATION		
DETAILS		
<p>CLIENT NAME: SARAH ARCHER PROJECT ADDRESS: LOT 5, 193 CARLING ST, BALMAIN, NSW 2041 SCALE: 1:100 @ A3</p>		
PROPOSED ELEVATIONS		
<p>DA 10</p>		
ARCHITECT		
<p>twarchitects Steve & Lisa Manning SR Directors P: 012 444 573 F: 012 444 573 W: www.twarchitects.com.au A/NZ: 99 710 002 619 Thomas WMA REG 7650</p>		



1 NORTH ELEVATION
1:100

REV A E	DATE 13.08.20 13.08.20	DESCRIPTION SUBMIT TO CONSULTANTS FOR IFC J.A.
ORIENTATION		
UN. 5.		
<p>EXISTING BUILDING - BRICK UNITS 1-4 UNITS 5-6 BRICK & CONCRETE PROPOSED NEW WORKS OUTSIDE OF EXISTING FOOTPRINT PROPOSED NEW WORKS WITHIN EXISTING FOOTPRINT</p> <p>NOT FOR CONSTRUCTION. THIS DRAWING IS FOR INFORMATION ONLY. THE CLIENT ACCEPTS THE DESIGNER'S LIABILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED. THE DESIGNER ACCEPTS THE LIABILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED.</p>		
<p>CLIENT NAME SCALE PROJECT ADDRESS UNIT 5, 159 JARLUM ST., ULLUMBIN NSW 2804 SCALE 1:100 @ A3</p>		<p>ARCHITECT DA 11 PROPOSED ELEVATIONS</p>
<p>SCALE 1:100 @ A3</p>		<p>twarcitects</p>

Page 1/4 BASIX certificate number: A88622

Plumbing and systems

Plumbing and systems	Show of DA-Plans	Show of C/OCCO Check Sheets
Lighting The applicant must ensure a minimum of 10% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or LED light bulbs (LED) in the DA.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Fixtures The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or 3 star water rating. The applicant must ensure new or altered basins have a flow rate no greater than 4 litres per minute. The applicant must ensure new or altered basins have a flow rate no greater than 3 litres per minute or minimum 3 star water rating.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Planning, Industry & Environment Building Sustainability (http://www.sbsn.nsw.gov.au)

Page 1/4 BASIX certificate number: A88622

Project address

Project name	UNIT 5, 193 DARLING ST BALMAIN NSW
Project type	RETAIL
Local Government Area	BALMAIN
DA number	15/1500/013/DA/007
Section number	5

Description of project

Project type: Retail

Site of alteration and section: My information is valued at \$50,000 or more

Alterations and Additions

Basix certificate number: A88622

This certificate confirms that the proposed development will meet the BASIX requirements set out below. Terms used in this certificate, or in the commitments, are defined in the BASIX Manual. The BASIX Manual is available at www.basix.nsw.gov.au.

Secretary: Date of issue: 12 August 2020. To read the certificate in its entirety please refer to the certificate.

Planning, Industry & Environment

Certificate Prepared by: James Caplan (Senior Planning Consultant at P&O)

Name / Company Name: Jcaplan@pandoo.com.au
ABN (if applicable): 6171 6832248

Page 1/4 BASIX certificate number: A88622

Legend

In these commitments, "applicant" means the person carrying out the development.

Commitments identified with a "✓" in the "Show of DA-Plans" column must be shown on the plans accompanying the development application for the proposed development. If a development application is to be lodged for the proposed development.

Commitments identified with a "✓" in the "Show of C/OCCO Check Sheets" column must be shown in the plans and specifications accompanying the application. In a construction certificate, completed development certificate or the proposed development.

Commitments identified with a "✓" in the "C/OCCO Check Sheets" column must be verified by a certifying authority as having been fulfilled, before a final occupation certificate for the development may be issued.

Legend	Show of DA-Plans	Show of C/OCCO Check Sheets
In these commitments, "applicant" means the person carrying out the development.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Commitments identified with a "✓" in the "Show of DA-Plans" column must be shown on the plans accompanying the development application for the proposed development. If a development application is to be lodged for the proposed development.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Commitments identified with a "✓" in the "Show of C/OCCO Check Sheets" column must be shown in the plans and specifications accompanying the application. In a construction certificate, completed development certificate or the proposed development.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Commitments identified with a "✓" in the "C/OCCO Check Sheets" column must be verified by a certifying authority as having been fulfilled, before a final occupation certificate for the development may be issued.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Planning, Industry & Environment Building Sustainability (http://www.sbsn.nsw.gov.au)

Page 1/4 BASIX certificate number: A88622

Glazing requirements

The BASIX Manual states that glazing doors and glazed doors in the specifications listed in the table below. Previous glazing specifications must be retained for each window and glazed door.

The following requirements must also be specified in relation to each window and glazed door:

- Each window or glazed door with improved frames, or products with glass, or double glazing glass, or product with glass, or double glazing glass must have a U-value and solar heat gain coefficient (SHGC) no greater than that listed in the table below. Table system U-value and SHGC only. Alternative systems with comparable U-value and SHGC may be substituted.

Windows and glazed doors glazing requirements

Window or glazed door	U-value	SHGC	Frame and glazing type
W1	0.5	0.47	double glazing with argon or krypton gas fill (U-value < 0.57, SHGC < 0.47)
W2	0.5	0.47	double glazing with argon or krypton gas fill (U-value < 0.57, SHGC < 0.47)
W3	0.5	0.47	double glazing with argon or krypton gas fill (U-value < 0.57, SHGC < 0.47)

REV: A DATE: 12/08/20 ISSUED TO CLIENT
REV: B DATE: 12/08/20 ISSUED TO CONSULTANTS PRIOR TO DA

AMENDMENTS

ORIENTATION

TR

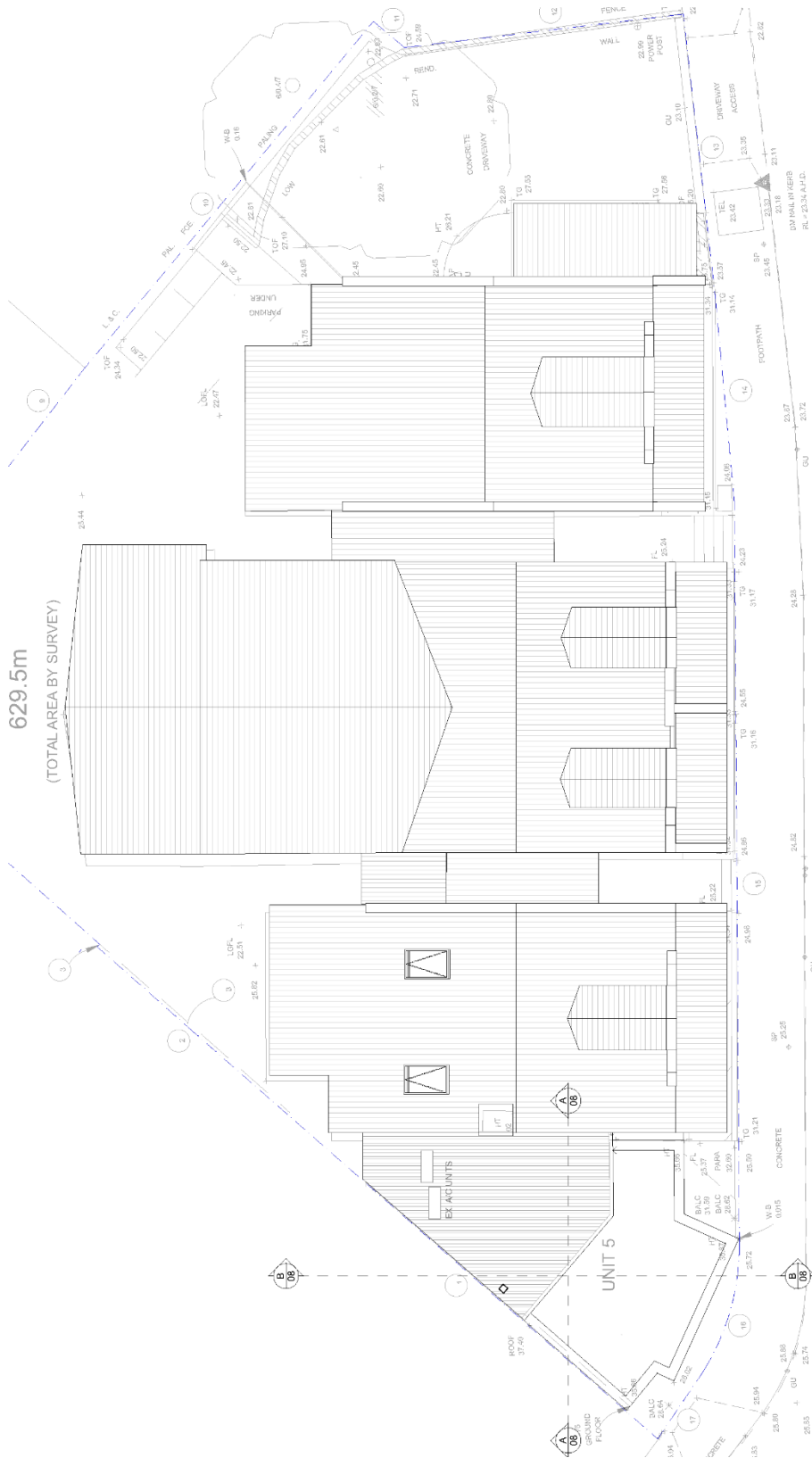
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Client Name: SARAH ARCHER
Project Address: UNIT 5, 193 DARLING ST BALMAIN NSW 2041
State: NSW
Postcode: 2041
Phone: 02 9444 0776
Email: sarah@twarchitects.com.au
www.twarchitects.com.au
ABN: 60 710 827 263
Thomas Vila REC 7360

DA12
BASIX

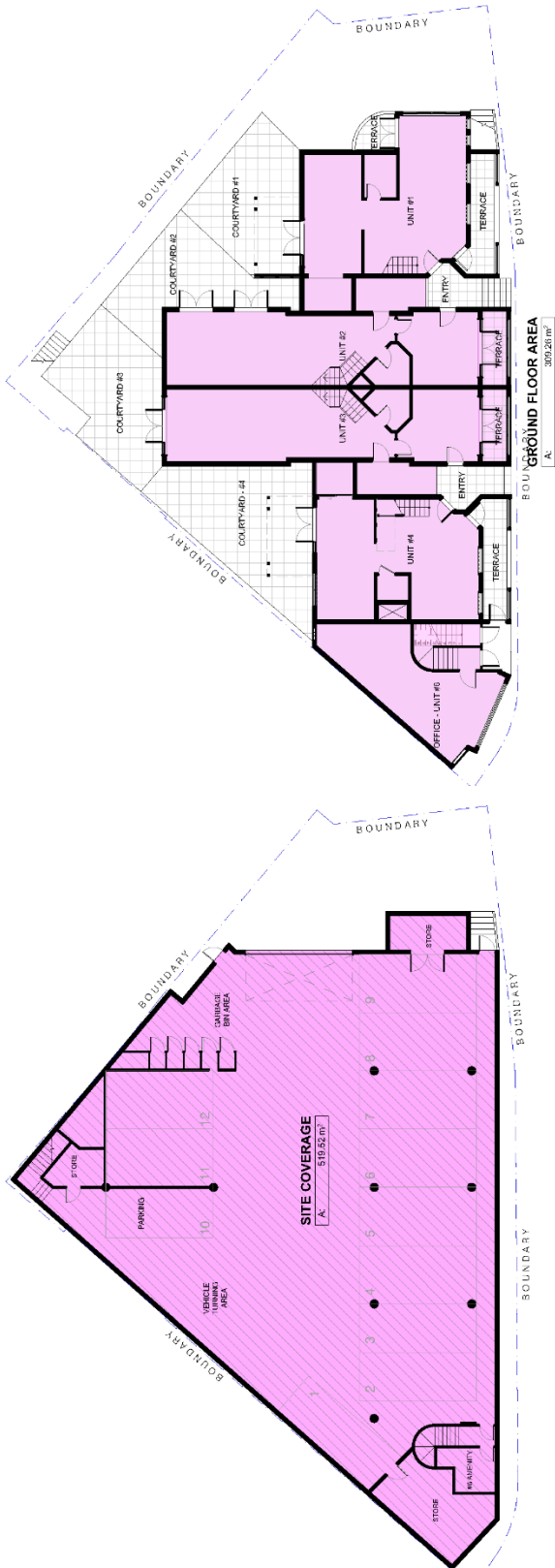
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6. STORMWATER - SITE & ROOF PLAN
1:100

PERVIOUS & IMPERVIOUS AREA OF THE SITE SHALL BE COLLECTED AND DISCHARGED TO EXISTING SITE DRAINAGE SYSTEM
NO CHANGES TO STORMWATER RUN OFF.

<p>REV DATE AMENDMENT</p> <p>A 12.08.20 ISSUED TO CLIENT</p> <p>B 13.08.20 ISSUED TO CONSULTANTS PRIOR TO D.A.</p>		<p>LEGEND</p>	
<p>APPENDICES</p>		<p>OPERATION</p>	
<p>CLIENT NAME: SARAH ARCHER PROJECT ADDRESS: UNIT 5, 183 DARLING ST. BALMAIN NSW 2041 SCALE: 1:100 @ A3</p>		<p>DEALS</p> <p>DA 13 CONCEPT STORMWATER PLAN</p>	
<p>ARCHITECT</p> <p>Sho 8116 Darling St Balmain NSW 2041 P: 02 9550 6000 F: 02 9550 6073 E: info@twarchitect.com.au A: 1/183 Darling St, Balmain NSW 2041 Nominations Architect Members 1968, 1967, 1960</p>		<p>twarchitects</p>	



1 FSR & SC DIAGRAM - BASEMENT
1:200

2 FSR & SC DIAGRAM - GROUND
1:200

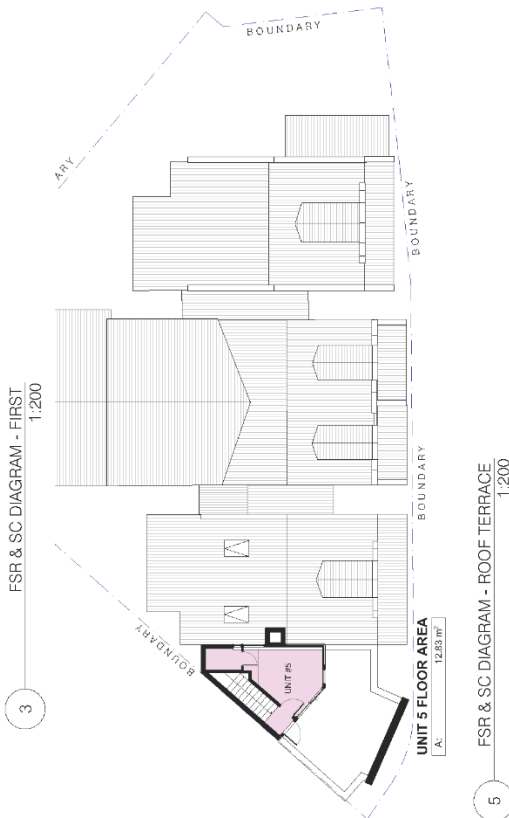
SITE COVERAGE SCHEDULE	
SITE AREA	629.5m ²
EXISTING SC	93.96% (591.52m ²) - NON COMPLIANT
PROPOSED SC	93.96% (591.52m ²) - NON COMPLIANT

FSR SCHEDULE	
SITE AREA	629.5m ²
EXISTING FSR	2.05:1 (1292.49m ²) - NON COMPLIANT
PROPOSED FSR	2.05:1 (1292.49m ²) - NON COMPLIANT

AREA CALCULATIONS	
BASEMENT AREA	519.52m ²
GROUND FLOOR AREA	309.26m ²
FIRST FLOOR AREA	279.66m ²
SECOND FLOOR AREA	171.22m ²
TERRACE FLOOR AREA	12.83m ²

LANDSCAPE SCHEDULE	
SITE AREA	629.5m ²
EXISTING LDS	0.0m ² - NON COMPLIANT
PROPOSED LDS	0.0m ² - NON COMPLIANT

AMENDMENTS REV DATE AMENDMENT A 12.02.20 ISSUED TO CLIENT B 14.02.20 ISSUED TO CONSULTANTS PRIOR TO D.A.		LEGEND 	
DETAILS CLIENT NAME SARAH ARCHER PROJECT ADDRESS UNIT 5, 193 DARLING ST. BALMAIN NSW 2041 SCALE 1:200 @ A3		ARCHITECT DA14 COMPLIANCE DIAGRAMS	
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REV	DATE	AMENDMENT	ISSUED TO CLIENT	ISSUED TO CONSULTANTS PRIOR TO DA
A	12.08.20			
B	13.08.20			

AMENDMENTS

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LEGEND

ORIENTATION

CLIENT NAME: SARAH ARCHER
PROJECT ADDRESS: UNIT 5, 188 DARLING ST, BALMAIN NSW 2041
SCALE: 1:200 @ A3

ARCHITECT: DA 15 COMPLIANCE DIAGRAMS

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Nominated Architect
Thames Way Reg 7160

Attachment C – Clause 4.6 Variation



PROPOSED INTERNAL ALTERATIONS TO AN EXISTING COMMERCIAL PREMISES WITHIN A MIXED USE BUILDING TO CREATE A RESIDENTIAL UNIT

UNIT 5, 193 DARLING STREET, BALMAIN

Clause 4.6 - Exceptions to development Standards Variation to Clause 4.4 - Floor Space Ratio

This Clause 4.6 Submission is prepared in support of a Development Application which seeks approval for the carrying out of internal alterations to an existing commercial premises and a change of use within a mixed use building to create a residential dwelling.

The proposed FSR for the site will exceed the maximum permissible floor space ratio of 0.7:1 as required by Clause 4.4 of the LEP.

The site currently provides for a total floor area of 765.85m² or 1.22:1.

The proposal does not seek to alter the existing FSR currently applying to the site.

The proposal therefore results in a technical non-compliance with the requirements of this Clause.

In response to the proposed floor space ratio non-compliance the following Clause 4.6 variation is provided.

This Clause 4.6 variation has been prepared in accordance with the approach adopted by the Land & Environment Court of NSW in its recent Court decisions.

It is submitted that the variation is well founded and is worthy of the support of the Council.

The following is an assessment of the proposed variation against the requirements of Clause 4.6.

1. What are the objectives of Clause 4.6 and is the proposal consistent with them.

The objectives of Clause 4.6(1) of the LEP are:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*

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abn 68 091 465 271

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- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

It is my opinion, as is demonstrated by the responses to the questions below, that the proposed variation is consistent with the objectives of this clause.

It is also considered in the circumstances, a flexible approach to the application is warranted.

2. Is the standard to be varied a Development Standard to which Clause 4.6 applies.

A “development standard” is defined in Section 4 of the Environmental Planning & Assessment Act as:

development standards means provisions of an *environmental planning instrument* or the regulations in relation to the *carrying out of development*, being provisions by or under which ***requirements are specified*** or standards are ***fixed*** in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (a) *the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b) *the proportion or percentage of the area of a site which a building or work may occupy,*
- (c) *the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
- (d) *the cubic content or floor space of a building,*
- (e) *the intensity or density of the use of any land, building or work,*
- (f) *the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*
- (g) *the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,*
- (h) *the volume, nature and type of traffic generated by the development,*
- (i) *road patterns,*
- (j) *drainage,*
- (k) *the carrying out of earthworks,*
- (l) *the effects of development on patterns of wind, sunlight, daylight or shadows,*
- (m) *the provision of services, facilities and amenities demanded by development,*
- (n) *the emission of pollution and means for its prevention or control or mitigation, and*
- (o) *such other matters as may be prescribed.*

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Clause 4.4 is contained within Part 4 of the Leichhardt LEP 2013 and which is titled Principal Development Standards. It is also considered that the wording of the Clause is consistent with previous decisions of the Land & Environment Court of NSW in relation to what matters constitute development standards.

It is also noted that Clause 4.4 does not contain a provision which specifically excludes the application of Clause 4.6 and vice a versa.

On this basis it is considered that Clause 4.4 is a development standard for which Clause 4.6 applies.

3. Is compliance with the development standard unreasonable or unnecessary in the circumstances of this case.

Pursuant to Clause 4.6(3)(a) of the LEP it is my opinion that compliance with the requirements of Clause 4.4 is both unreasonable and unnecessary in the circumstances of this case for the following reason:

- The proposal will not result in any increase in the existing gross floor area of the building.

In addition to the above it is noted that:

- The proposal will not result in any unreasonable streetscape or character impacts.
- The proposal will not result in any unreasonable amenity impacts upon adjoining properties particularly in relation to overshadowing or a loss of privacy when considered against the relevant controls of the Leichhardt DCP 2013.
- The proposed development is compliant with the aims and objectives of both the R1 zone and the relevant Clause (Clause 4.4 - Floor Space Ratio) of the LEP.

Given that the existing building was approved by the Council it is considered that the standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard.

Such an outcome is considered to be consistent with the applicable tests established by the Land & Environment Court in *Wehbe v Parramatta Council* [2007] NSWLEC 827.

On this basis it is my opinion that strict compliance with the standard is unreasonable and unnecessary in the circumstances of this case.

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

It is considered that a contravention of the development standard is justified on environmental planning grounds on the basis that the proposal relates to internal alterations within an existing building.

The existing building currently exceeds the applicable FSR control and the proposal does not seek to increase the existing floor area.

The proposal will not result in any adverse impacts upon the surrounding heritage conservation area or adjoining properties.

The proposal will also not result in any change to the scale and form of the existing building given that the subject works are internal to the existing building.

5. Is the proposed development 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 proposed development is in my opinion in the public interest because it will provide for the provision of a residential dwelling through the undertaking of high quality internal alterations to the existing mixed use building and given that no external changes are proposed, will continue to make a positive contribution to the built form character of the locality in a manner which is otherwise compliant with the requirements of the LEP, the applicable zone objectives and the objectives of the particular standard.

In relation to the objectives for the R1 - General Residential zone (listed below) it is my opinion that the proposal for the reasons as detailed is consistent with applicable objectives.

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

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- *To protect and enhance the amenity of existing and future residents and the neighbourhood.*

Comment

The proposal seeks to provide for alterations to an existing mixed use development currently containing residential and commercial premises upon the subject site and which is otherwise compliant with the requirements of the Council. The proposal seeks to maintain the existing mixed use nature of the existing development whilst at the same time providing for an additional residential dwelling. Such an outcome is considered to be consistent with the above objectives (where applicable).

In relation to the objectives of Clause 4.4 of the LEP the following assessment is provided:

(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*

It is my opinion that the proposal will continue to provide for a high quality built form outcome for the site and which will make a positive contribution to the character of the locality. No change is proposed to the external configuration of the existing building.

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

Under Clause 4.3A of Council's LEP each allotment is required to have:

- A minimum landscaped area equal to 20% of the site area, and
- A maximum site coverage of 60% of the site area.

The subject site currently provides for the following landscaped area and site coverage:

- Landscape Area - 0m² or 0%
- Site Coverage - 591.52m² or 93.96%

There is no change proposed to the existing landscaped area and site coverage as part of this proposal.

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

The proposal will not result in any unreasonable amenity impacts upon adjoining properties particularly in relation to overshadowing or a loss of privacy given that there are no external changes proposed to the existing built form and building envelope.

On this basis it is my opinion that the proposal is consistent with the applicable objectives of both the zone and the standard.

6. Whether contravention of the development standard raises any matter of significance for state or regional environmental planning.

It is my opinion that contravention of the standard does not raise any matters of significance for State or Regional environmental planning.

7. What is the public benefit of maintaining the development standard.

It is my opinion that there is no public benefit in maintaining the development standard in this instance.

It is considered that as the development in its current form exceeds the development standard and the proposed internal works do not result in any increase to the gross floor area.

It is therefore my opinion that in the absence of any detrimental impact that the proposal is in the public benefit.

Conclusion

It is therefore my opinion based upon the content of this submission that a variation of the maximum floor space ratio control as required by Clause 4.4 of the Leichhardt LEP 2013 is appropriate in this instance.



Andrew Minto
Graduate Diploma (Urban & Regional Planning), Associate Diploma (Health & Building Surveying). MPlA.
MINTO PLANNING SERVICES PTY LTD
10th February 2021



**PROPOSED INTERNAL ALTERATIONS TO AN EXISTING COMMERCIAL PREMISES
WITHIN A MIXED USE BUILDING TO CREATE A RESIDENTIAL UNIT**

UNIT 5, 193 DARLING STREET, BALMAIN

**Clause 4.6 - Exceptions to development Standards
Variation to Clause 4.3A - Landscaped Area for Residential Accommodation in
Zone R1**

This Clause 4.6 Submission is prepared in support of a Development Application which seeks approval for the carrying out of internal alterations to an existing commercial premises located within a mixed use building for the purpose of creating a residential unit

Under Clause 4.3A of Council's LEP the subject site is required to have:

- A minimum landscaped area equal to 20% of the site area, and
- A maximum site coverage of 60% of the site area.

The subject site currently supports zero landscaped area as defined.

The proposal does not seek to alter the current situation.

In response to the technical non-compliance the following Clause 4.6 variation is provided.

This Clause 4.6 variation has been prepared having regard to the recent decisions of the Land & Environment Court.

It is submitted that the variation is well founded and is worthy of the support of the Council.

The following is an assessment of the proposed variation against the requirements of Clause 4.6.

1. What are the objectives of Clause 4.6 and is the proposal consistent with them

The objectives of Clause 4.6 of the LEP are:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*

- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

It is my opinion, as is demonstrated by the responses to the questions below, that the proposed variation is consistent with the objectives of this Clause as flexibility is required given the existing shortfall of landscaped area and existing site coverage.

2. Is the standard to be varied a Development Standard to which Clause 4.6 applies

A “development standard” is defined in Section 4 of the Environmental Planning & Assessment Act as:

development standards means provisions of an *environmental planning instrument* or the regulations in relation to the *carrying out of development*, being provisions by or under which *requirements are specified* or standards are *fixed* in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (a) *the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b) *the proportion or percentage of the area of a site which a building or work may occupy,*
- (c) *the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
- (d) *the cubic content or floor space of a building,*
- (e) *the intensity or density of the use of any land, building or work,*
- (f) *the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*
- (g) *the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,*
- (h) *the volume, nature and type of traffic generated by the development,*
- (i) *road patterns,*
- (j) *drainage,*
- (k) *the carrying out of earthworks,*
- (l) *the effects of development on patterns of wind, sunlight, daylight or shadows,*
- (m) *the provision of services, facilities and amenities demanded by development,*
- (n) *the emission of pollution and means for its prevention or control or mitigation, and*
- (o) *such other matters as may be prescribed.*

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Clause 4.3A is contained within Part 4 of the Leichhardt LEP 2013 and which is titled Principal Development Standards. It is also considered that the wording of the Clause is consistent with previous decisions of the Land & Environment Court of NSW in relation to what matters constitute development standards.

It is also noted that Clause 4.3A does not contain a provision which specifically excludes the application of Clause 4.6 and vice a versa.

On this basis it is considered that Clause 4.3A is a development standard for which Clause 4.6 applies.

3. Is compliance with the development standard unreasonable or unnecessary in the circumstances of this case.

It is my opinion that compliance with the requirements of Clause 4.3A is both unreasonable and unnecessary in the circumstances of this case for the following reason:

- The proposal relates to internal works to an existing mixed use building.
- The development in its current form results in an existing shortfall of landscaped area and existing site coverage exceeding the applicable requirements.

The proposal does not seek to alter the existing situation.

Given that the existing building was approved by the Council it is considered that the standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard.

Such an outcome is considered to be consistent with the applicable tests established by the Land & Environment Court in *Wehbe v Parramatta Council* [2007] NSWLEC 827.

On this basis it is my opinion that strict compliance with the standard is unreasonable and unnecessary in the circumstances of this case.

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

It is considered that a contravention of the development standard is justified on environmental planning grounds on the basis that the proposal relates to internal alterations within an existing building.

The subject site currently supports zero landscaped area as defined.

The proposal does not seek to alter the current situation and the site does not present any opportunities for the provision of landscape area.

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- 5. Is the proposed development 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 proposed development is in my opinion in the public interest because it will provide for the provision of a residential dwelling through the undertaking of high quality internal alterations to the existing mixed use building and given that no external changes are proposed, will continue to make a positive contribution to the built form character of the locality in a manner which is otherwise compliant with the requirements of the LEP, the applicable zone objectives and the objectives of the particular standard.

In relation to the objectives for the R1 - General Residential zone (listed below) it is my opinion that the proposal for the reasons as detailed is consistent with applicable objectives.

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

Comment

The proposal seeks to provide for alterations to an existing mixed use development currently containing residential and commercial premises upon the subject site and which is otherwise compliant with the requirements of the Council. The proposal seeks to maintain the existing mixed use nature of the existing development whilst at the same time providing for an additional residential dwelling. Such an outcome is considered to be consistent with the above objectives (where applicable).

The proposal is also considered to be consistent with the objectives of Clause 4.3A- Landscaped Areas for Residential Accommodation in Zone R1 in that:

- The proposal relates to internal alterations within a mixed use building and no external works are proposed.

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- The existing development results in a shortfall of landscaped area together with an existing site coverage exceeding the requirements of Council.
- There is no change to the landscaped area or site coverage proposed by this application and no opportunity for compliance or improved compliance to be achieved.

6. Whether contravention of the development standard raises any matter of significance for state or regional environmental planning.

It is my opinion that contravention of the standard does not raise any matters of significance for State or Regional environmental planning.

7. What is the public benefit of maintaining the development standard.

It is my opinion that there is no public benefit in maintaining the development standard in this instance given that the existing building does not comply and the absence of any unreasonable detrimental impacts.

Conclusion

It is therefore my opinion based upon the content of this submission that a variation of the landscape area and site coverage requirements of Clause 4.3A of the Leichhardt LEP 2013 is appropriate in this instance.



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1st September 2020