





	
DEVELOPMENT ASSESSMENT REPORT	
Application No.	DA/2021/0392
Address	7/169 Darling Street BALMAIN NSW 2041
Proposal	Addition to ground floor of townhouse, and alterations to internal layout of kitchen and first floor bathroom.
Date of Lodgement	21 May 2021
Applicant	Ms Pamela G Coghlan
Owner	Ms Pamela G Coghlan
Number of Submissions	Nil
Value of works	\$100,000.00
Reason for determination at Planning Panel	FSR variation exceeds 10%
Main Issues	FSR
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards



LOCALITY MAP	
Subject Site	
Notified Area	
Objectors	
Supporters	



1. Executive Summary

This report is an assessment of the application submitted to Council for an addition to the ground floor of the townhouse, and alterations to internal layout of the kitchen and first floor bathroom.

The application was notified to surrounding properties and no submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- Breach in Floor Space Ratio exceeding 10%

The non-compliance is acceptable given there are no significant environmental impacts and all other objectives and controls under Leichhardt LLEP 2013 and LDGP 2013 have been satisfied and therefore the application is recommended for approval.

2. Proposal

The proposal is to infill an existing covered veranda on the ground floor to increase the ground floor kitchen/dining area by an additional 4sqm. The elevation will be finished with new glass sliding doors. On the first floor a newly reconfigured bathroom is proposed.

3. Site Description

The subject site is located on the northern side of Darling Street, between St John Street and Duncan Street. The site consists of one strata allotment and is generally triangular shaped with a total area of 1487sqm and is legally described as Lot 0 in SP 39121.

The site has a frontage to Darling Street of approximately 3.7 metres and a secondary frontage of approximately 48 metres to Colgate Street and 63 meters to St John Street.

The site supports a townhouse development ranging from two to three storeys in height with basement carpark. The adjoining properties support a range of single and double storey attached and detached residential dwellings.

The property is located within a conservation area and is located within the vicinity of several heritage listed dwellings.

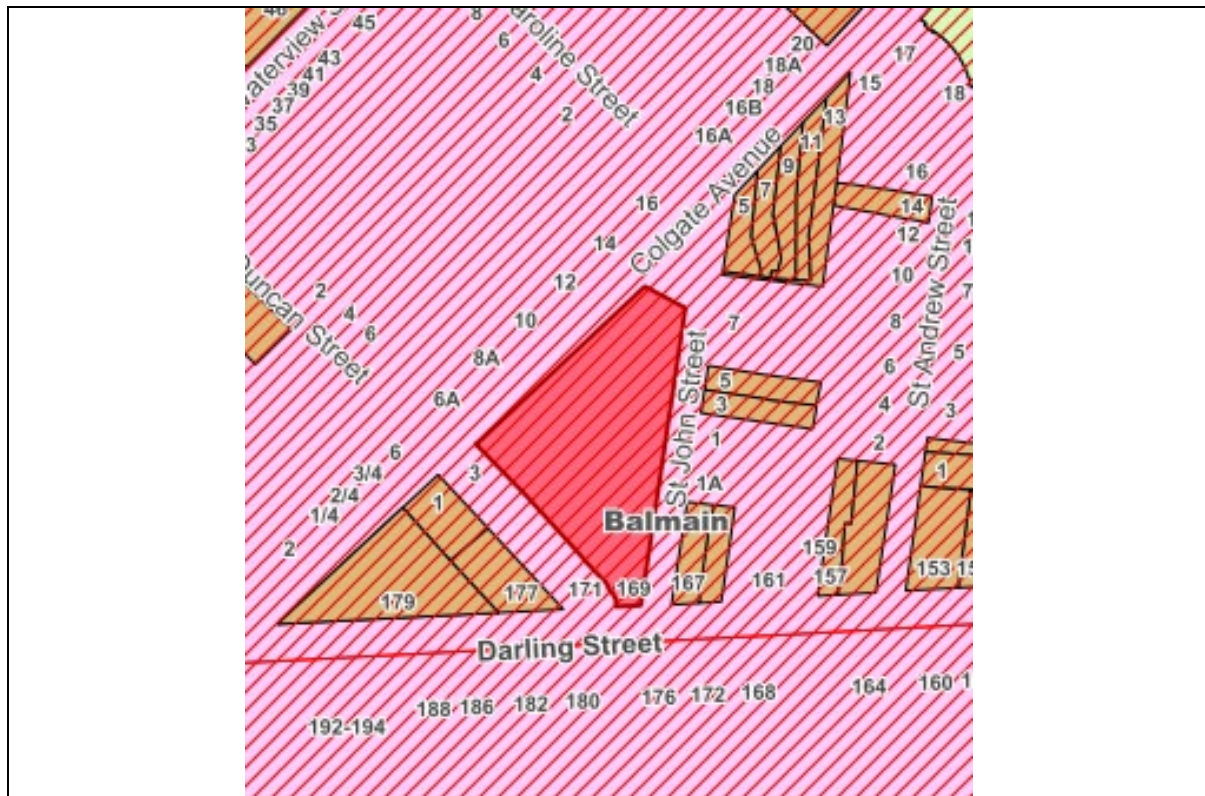


Figure 1: The subject site



Figure 2: View looking North West from Darling Street to the subject site.



Figure 3: Location of the proposed addition when viewed from St Johns Street.

4. Background

4(a) Site history

There are no recent development applications on the site or history of the subject site or any surrounding properties relevant to the proposal.

4(b) Application history

Not applicable

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 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)(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 Environmental Plan 2013 (LLEP 2013)

The site is located in the R1- General Residential 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 5.10 – Heritage Conservation
Clause 6.1 – Acid Sulphate Soils
Clause 6.4 – Stormwater management

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

The site is zoned R1- General Residential under the *LLEP 2011*. The *LLEP 2013* defines the development as alterations and additions to multi dwelling housing:

multi dwelling housing which means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

The subject proposal relates to a townhouse which forms part of a larger strata development.

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

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

Standard	Proposal	non compliance	Complies
Floor Space Ratio Maximum permissible: 0.7:1 or 1024.1 sqm	0.794:1 or 1161 sqm	150.93sqm or 13%	No
Landscape Area Minimum permissible: 20% or 292.6 sqm	25.5% or 376 sqm	N/A	Yes (No change)
Site Coverage Maximum permissible: 60% or 877.8 sqm	56.6% or 826 sqm	N/A	Yes (No change)

Clause 4.6 Exceptions to Development Standards

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

- Clause 4.4 – Floor Space Ratio

The applicant seeks a variation to the Floor Space Ratio development standard under Clause 4.4 of the Leichhardt Local Environmental Plan 2013 by 13% in total. It is noted that the original development was approved with an FSR of 0.79:1. The additional 4sqm as proposed represents an increase to 0.794:1.

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 and 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 Local Environmental Plan 2013 below.

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the Leichhardt Local Environmental Plan 2013 justifying the proposed contravention of the development standard which is summarised as follows:

- The development is consistent with the height, scale and character of development in the locality. The bulk and scale of the development is minor and hidden to avoid visually dominating neighbouring properties.
- The proposed 13% variation from the maximum FSR is minor in comparison to nearby sites. There are numerous properties within the vicinity of the site which exceed their maximum FSR, as stipulated by Clause 4.4 of the LLEP 2013. This highlights that the area is characterised by similar densities to that of the proposal.

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

It is considered 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 Local Environmental Plan 2013 for the following reasons:

- The proposed additional gross floor area resulting in increase of FSR is located within the existing footprint of the building located within an unutilised rear covered porch
- The proposal provides for the housing needs of the occupant improving opportunities to work from home

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 Local Environmental Plan 2013 for the following reasons:

- Development standard objectives
 - (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 proposal is considered to retain its compatibility with the desired future character of the area and does not increase the bulk and scale of the building. The enclosure of the veranda is generally not visible from the street thereby maintaining the development's visual aesthetic. Furthermore, the landscaped area (as defined under LLEP 2013) is unchanged as a result of the proposal.

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 Local Environmental Plan 2013. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Clause 4.4 Floor Space Ratio and it is recommended the Clause 4.6 exception be granted.

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

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

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

5(c) Development Control Plans

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

LDCP2013	Compliance
Part 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	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	
C2.2.2.5 - Mort Bay Distinctive Neighbourhood & C2.2.2.5(b) - Campbell Street Hill Sub Area C2.2.2.5(b)	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	N/A
C3.6 Fences	N/A
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	N/A
C3.11 Visual Privacy	Yes
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	
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	N/A
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 materials and finishes are acceptable on planning grounds. The proposed material and finishes are masonry and glazed bi-fold door units. They are complimentary to the existing dwelling as proposed to match the existing colour finishes and timber fenestration.

C3.8 Private Open Space

Although the infill of the existing covered porch is proposed, the subject site keeps its soft permeable landscaped area and private open space which exceeds the minimum requirement of 16sqm as the subject site retains an area of 25sqm.

5(d) 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(e) 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(f) Any submissions

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

5(g) The Public Interest

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

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

The application was not required to be referred, due to the minor nature of the application.

7. Section 7.11 Contributions/7.12 Levy

Contributions are not payable for works under \$100,001.00.

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 Clause 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 standard is unnecessary in the circumstance of the case and that there are sufficient environmental planning grounds to support the variation. The proposed development will be in the public interest because the variation is 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/2021/0392 for alterations and additions to dwelling at 7/169 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
DA01A	Site Plan	May 2021	-
DA02A	Ground Floor Plan	May 2021	-
DA03A	First Floor Plan	May 2021	-
DA04A	Section A-A & Elevations	May 2021	-
DA05A	South East & South West Elevations	May 2021	-
A409877	BASIX Certificate	March 2021	Digidraft PTY LTD

As amended by the conditions of consent.

FEES

2. 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.

3. 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:	\$2,254.00
Inspection Fee:	\$241.50

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

4. Waste Management Plan

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

5. Erosion and Sediment Control

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

6. Standard Street Tree Protection

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

7. Works Outside the Property Boundary

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

PRIOR TO CONSTRUCTION CERTIFICATE

8. 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.

9. 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**10. 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.

11. 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.

ADVISORY NOTES**Prescribed Conditions**

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

Notification of commencement of works

At least 7 days before any demolition work commences:

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

Storage of Materials on public property

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

Toilet Facilities

The following facilities must be provided on the site:

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

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

Infrastructure

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

Other Approvals may be needed

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

Failure to comply with conditions

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

Other works

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

Obtaining Relevant Certification

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

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

National Construction Code (Building Code of Australia)

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

Notification of commencement of works

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

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor; and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.

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

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.

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.sydneypwater.com.au
Waste Service - SITA Environmental Solutions	1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

Attachment B – Plans of proposed development

DRAWING No.	DRAWING
DA00	Cover
DA01	Site Plan and Site Analysis Plan
DA02	Ground Floor Plan, Stormwater Plan
DA03	First Floor Plan, Roof Plan
DA04	Section A-A, Colgate Lane Elevation, North-West Elevation, South-East Elevation South-East & North West Elevation - 1:200
DA05	
	4233 Detail Survey
	3912/Strata Title Drawings

FINISHES

- All materials, methods of construction, colours and finishes to match existing, unless otherwise stated.
- New Roofing: Versitad 150th Indulrated roofing, colour light grey
- New brickwork rendered and painted to match existing.
- new timber windows, doors, trim and fascias: Dulux gloss white paint finish

BASIS COMMITMENTS
 REFER TO BASIS CERTIFICATE No. A396818


HOT WATER
 - EXISTING SYSTEM

FIXTURES
 NEW TAPS TO BE
 3 STAR WATER RATING.

INSULATION REQUIREMENTS
 TO BE IN ACCORDANCE WITH SPECIFICATIONS LISTED
 IN TABLE - PAGE 3 OF BASIS CERTIFICATE A396818

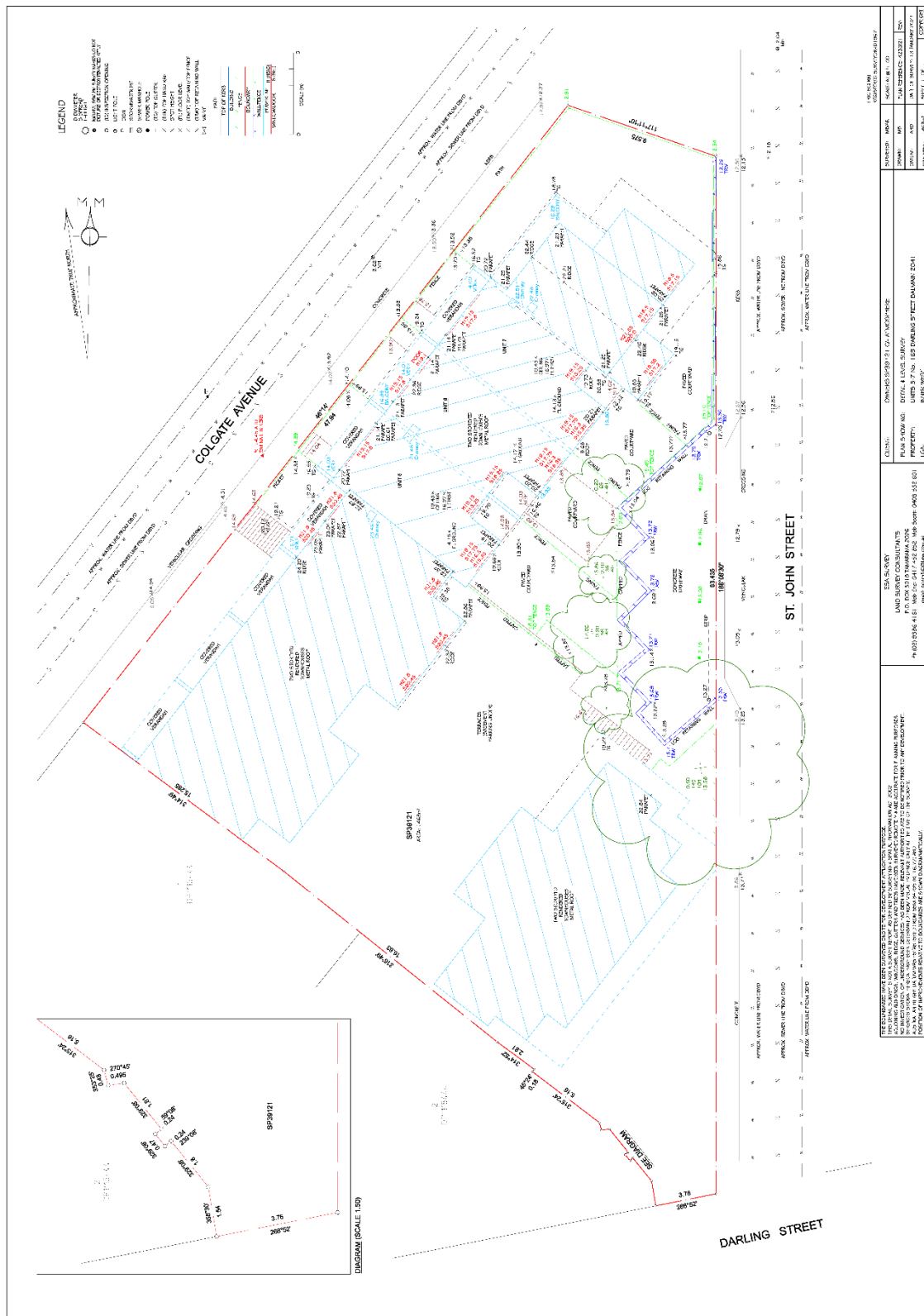
SKYLIGHTS
 INSTALL IN ACCORDANCE WITH SPECIFICATIONS LISTED
 IN TABLE - PAGE 4 OF BASIS CERTIFICATE A396818

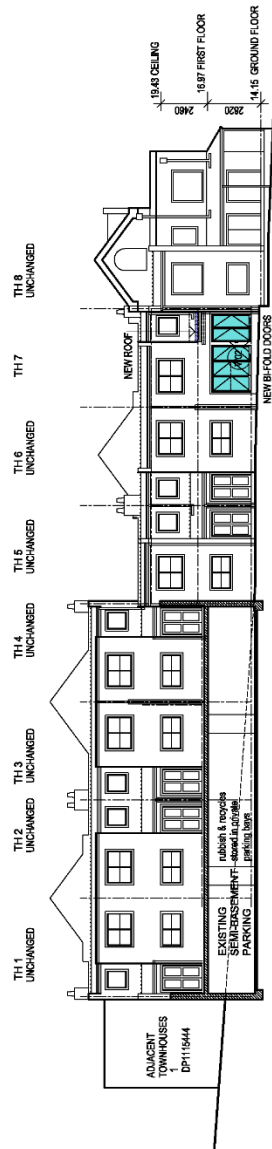
REVISION	DATE	REMARKS
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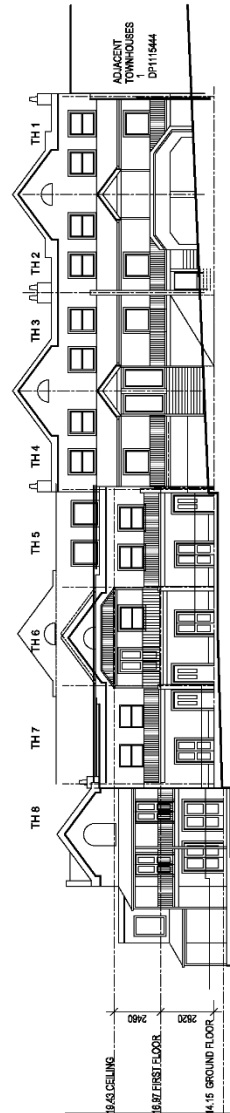
**ALTERATIONS AND ADDITIONS
TO TOWNHOUSE 7
169 DARLING ST
Balmirn**







SOUTH-EAST SECTIONAL ELEVATION



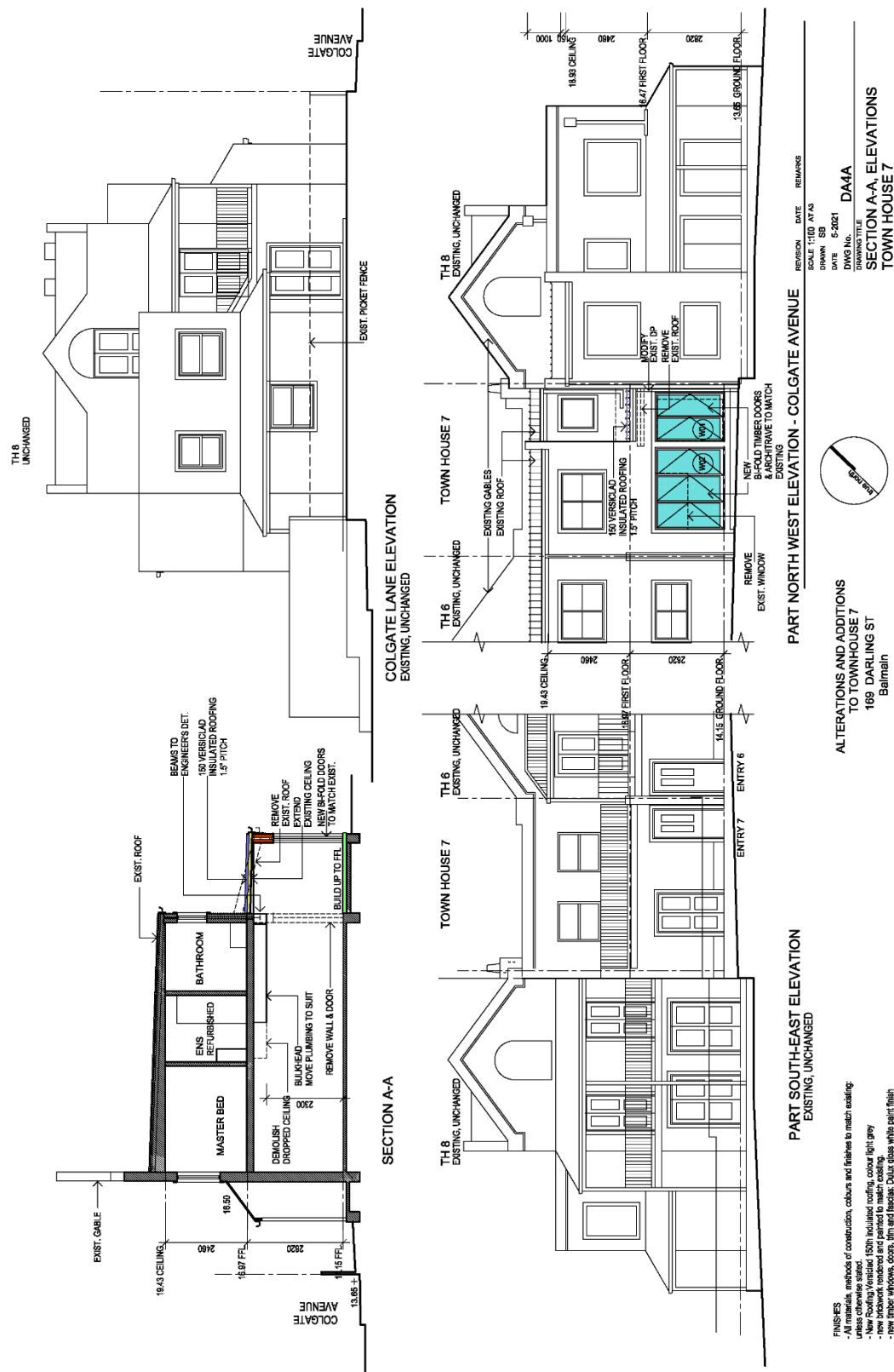
NORTH WEST ELEVATION - COLGATE AVENUE
EXISTING UNCHANGED

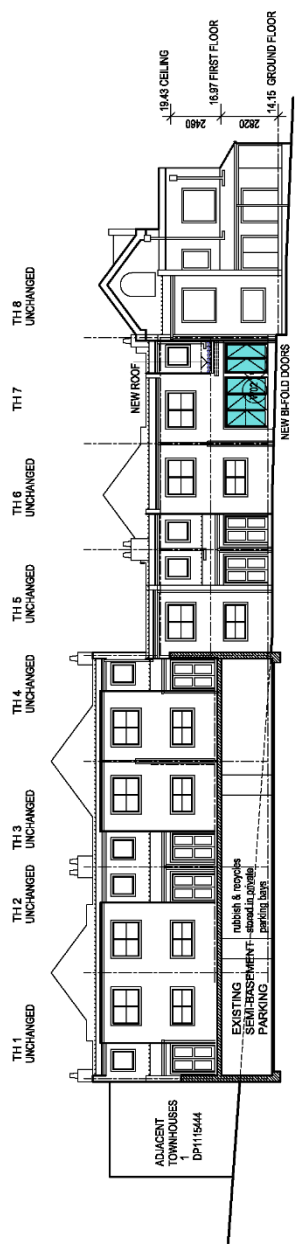
- FINISHES
- All materials, methods of construction, colours and finishes to match existing.
 - New roofline (existing 1950m insulation roofing, colour light grey)
 - New roofline (existing 1950m insulation roofing, colour light grey)
 - new brickwork, windows and painted to match existing
 - new timber windows, doors, trim and fascias. Colour glass white paint finish



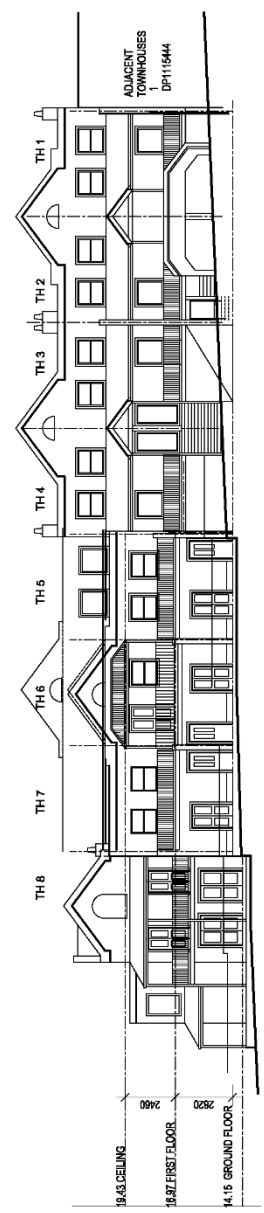
ALTERATIONS AND ADDITIONS
TO TOWNHOUSE 7
169 DARLING ST
Balmain

REVISION	DATE	REMARKS
SCALE 1:200	AT 13	
DATE	13/08/2021	
DRAWN	13/08/2021	
CHECKED	13/08/2021	
DATE	13/08/2021	
DWG NO.	13/08/2021	
DRAWING TITLE	13/08/2021	
SOUTH-EAST ELEVATION	13/08/2021	
NORTH-WEST ELEVATION	13/08/2021	





SOUTH-EAST SECTIONAL ELEVATION



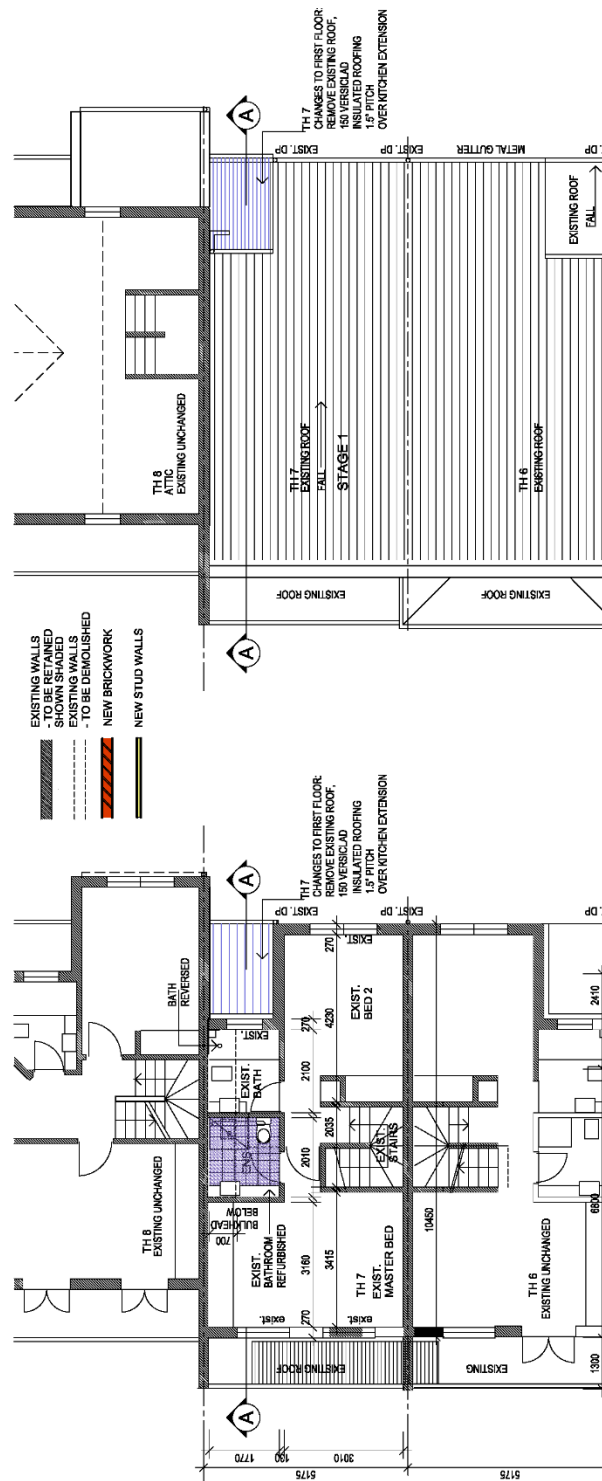
NORTH WEST ELEVATION - COLGATE AVENUE
EXISTING, UNCHANGED

FINISHES
- All materials, methods of construction, colours and finishes to match existing.
- New Roofing: Veroform 1500m including roofing, colour light grey.
- New brickwork: rendered and painted to match existing.
- New timber windows, doors, trim and fascias: Dulux gloss white paint finish.

ALTERATIONS AND ADDITIONS
TO TOWNHOUSE 7
189 DARLING ST
Balmain



REVISION	DATE	REMARKS
SCALE 1:200	RY AS	
DRAWN	SB	
DATE	5-2021	
DWG No.		
DRAWING TITLE		
		DA5A
		SOUTH-EAST ELEVATION
		NORTH-WEST ELEVATION



FINISHES

- FINISHES**
- All materials, methods of construction, colours and finishes to match existing, unless otherwise stated.
 - New Roofing: Versipal 150th insulated roofing, colour light grey
 - new brickwork rendered and painted to match existing.
 - new timber windows, doors, trim and fascias: Dulux gloss white paint finish

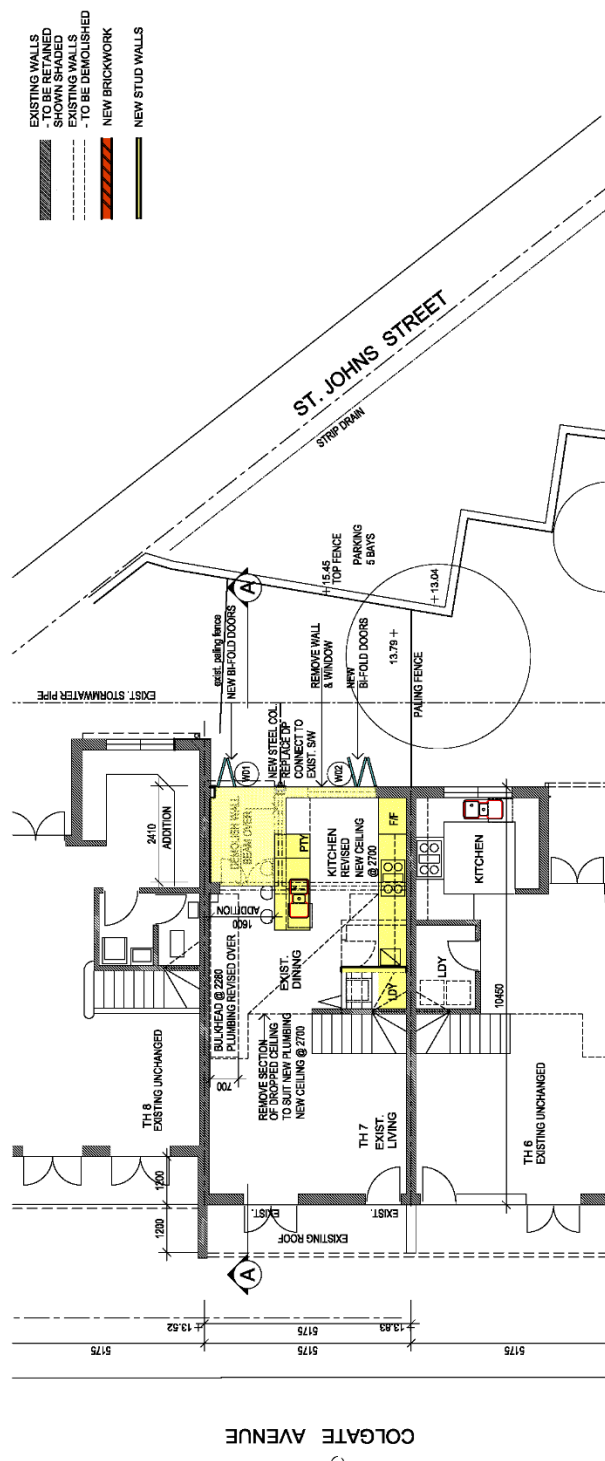
REVISION	DATE	REMARKS
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ALTERATIONS AND ADDITIONS
TO TOWNHOUSE 7
169 DARLING ST
Balmain

DA03A

DRAWING TITLE
PROPOSED FIRST FLOOR PLAN
PROPOSED ROOF PLAN TH7




FINISHES

- All materials, methods of construction, colours and finishes to match existing, unless otherwise stated.
- New Roofing: Versiclad 150th insulated roofing, colour light grey
- new brickwork rendered and painted to match existing.
- new timber windows, doors, trim and fascias: Dulux gloss white paint finish

ALTERATIONS AND ADDITIONS TO TOWNHOUSE 7

169 DARLING ST
Bairnsdale

PROPOSED GROUND FLOOR PLAN TOWN HOUSE 7



SCALE: 1:100 A1 A2

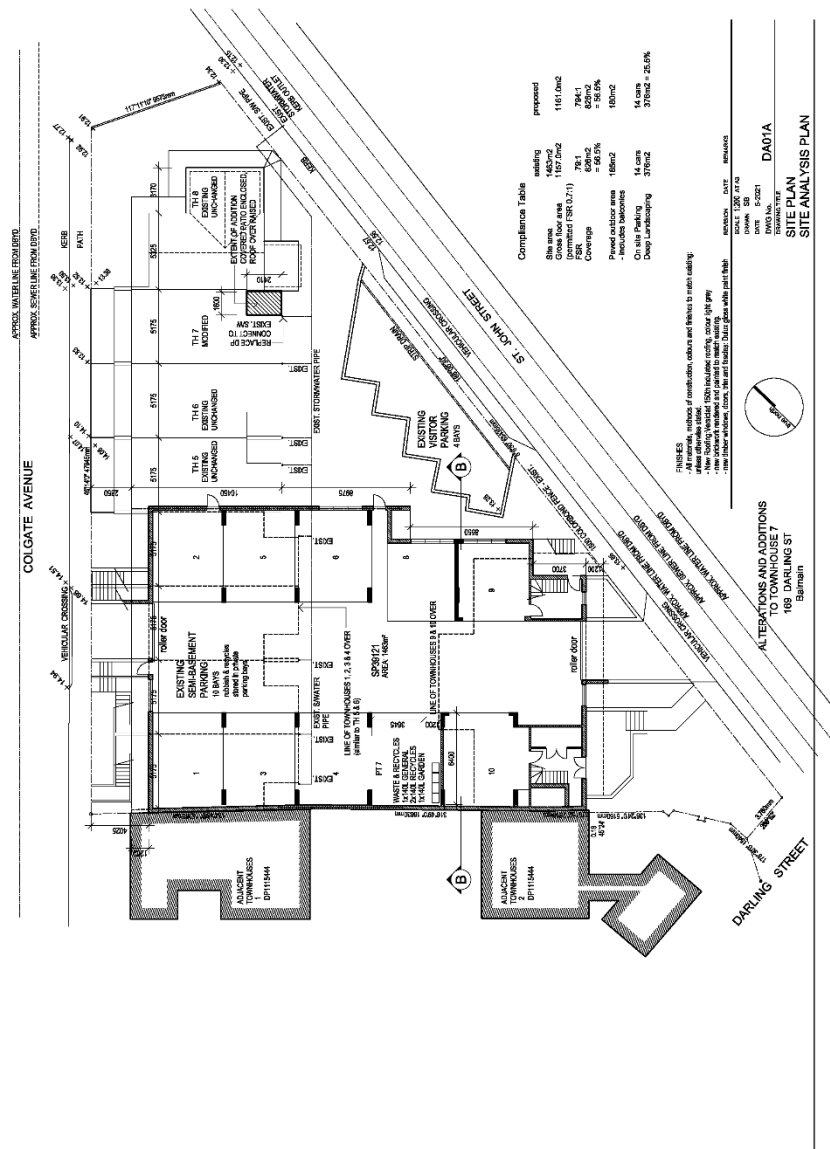
DRAWN: SB

DATE: 5-2021

DWG NO.:

DA02A

REVISION	DATE	REMARKS
<p>1. See previous issues and plan for alterations to:-</p> <ul style="list-style-type: none"> new timber windows, doors, and trusses new white paint finish 		



Attachment C- Clause 4.6 Exception to Development Standards



Development Application
STATEMENT OF ENVIRONMENTAL EFFECTS

Alterations and additions to a residential unit

Unit 7, 169 Darling Street Balmain

April 2021

Corona Projects Pty Ltd | ABN 33 122 360 023 | Suite 106, Level 1, 35 Spring Street, Bondi Junction NSW 2022 | info@coronaprojects.com.au

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PROJECT DETAILS

Client:	Ms Genelle Coghlan
Subject land:	Unit 7, 169 Darling Street Balmain
Lot Description:	Lot 7, SP39121
Proposed development:	Alterations and additions.
The report is prepared by	Emma Rogerson Master of Urbanism (Urban and Regional Planning) (USYD) Bachelor of Architecture and Environments (USYD)
The report is reviewed by	Crystal Pan Bachelor of Design in Architecture (UTS)
Project Code:	J000839

I certify that the contents of the Statement of Environmental Effects to the best of my knowledge, has been prepared as follows:

- In accordance with Section 4.12 of the Environmental Planning and Assessment Act 1979 and Clause 50 of the Environmental Planning and Assessment Regulation 2000;
- The statement contains all available information that is relevant to the environmental impact assessment of the proposed development;
- To the best of my knowledge the information contained in this report is neither false nor misleading.

Quality Management

	Name	Date	Signature
Prepared by	Emma Rogerson	13.04.2021	
Checked by	Mathew Fortunato	14.04.2021	
Approved for issue by	Eleni Emvalomas	15.04.2021	

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1.0 INTRODUCTION

This Statement of Environmental Effects has been prepared for Ms Genelle Coghlan to accompany a Development Application (DA) to Inner West Council for the alterations and additions at Unit 7, 169 Darling Street Balmain.

More specifically, the proposed development comprises the:

- Enclosure of existing patio;
- Reconfiguration of kitchen and laundry space on ground floor; and
- Changes to the rear elevation on the ground floor.

The proposal is permissible with consent and is suitable for the site and the area. The proposal has been designed to relate to its site and to the streetscape in terms of appearance, envelope, setbacks, bulk and scale. The proposal will operate without any significant impact to the amenity of neighbouring properties.

This statement assesses any numeric non-compliance as acceptable on merit, resulting in no adverse impacts and in compliance with all relevant DCP and LEP objectives.

The purpose of this SEE is to:

- Describe the site to which the application applies and its context;
- Describe the proposed development
- Describe the legislative framework against which the application is to be assessed and determined; and
- Provide an assessment of the environmental impacts in accordance with the Section 4.15 of the EP&A Act 1979.

This Statement has been prepared in reference to the following:

Document	Author	Date
Architectural Plans	Atmosphere Interior Design Pty.	December 2020

2.0 SITE ANALYSIS & CONTEXT

2.1 The Site

The site is located at Unit 7, 169 Darling Street Balmain and is legally described Lot 7 in Strata Plan 39212. 169 Darling Street fronts Darling Street, St John Street and Colgate Avenue. Unit 7 fronts Colgate Avenue.

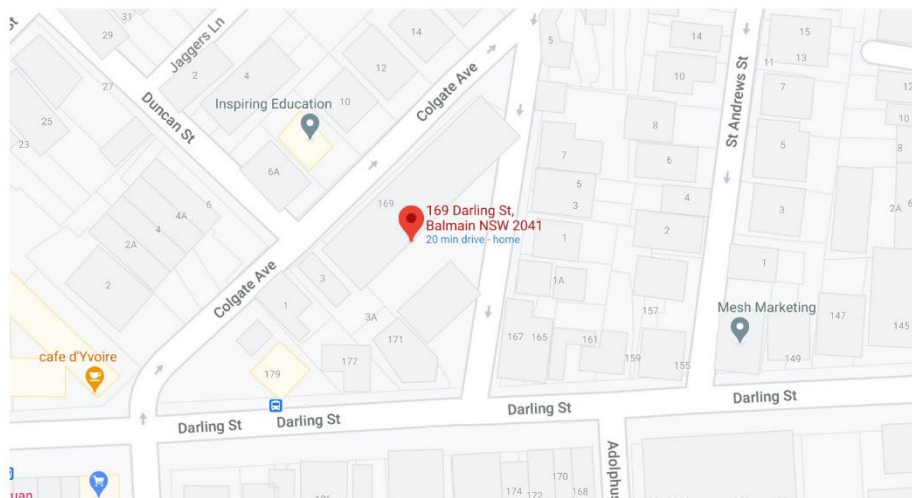


Figure 1 – Site locality map (Google Maps)



Figure 2 – Aerial map (SIX Maps)

169 Darling Street is irregular with a total area of 1,463 square metres. Unit 7 has a north-western front boundary of 5.175m. The site currently contains 10 residential units, with both resident and visitor parking available on site. Shrubs and trees are located on site.

The land is zoned R1 - General Residential under the provisions of Leichhardt Local Environmental Plan 2013 (LLEP 2013). The site is not identified as a Heritage Item, but it is located within the Waterview Estate Heritage Conservation Area (HCA). It is not considered to be a contributory item within the HCA.



Figure 3 – 169 Darling Street as viewed from the south-east (Corona Projects, 2021)



Figure 4 – 169 Darling Street viewed from Colgate Avenue (Corona Projects, 2021)



Figure 5 – Unit 7 existing rear elevation and underutilised patio (Corona Projects, 2021)



Figure 6 – Unit 7 when viewed from its rear (Corona Projects, 2021)

2.2 The Locality

The site is located within the local residential area of Balmain. The locality comprises a mix of residential and commercial uses, with buildings typically of two to three storeys. A number of sandstone heritage items surround the site.



Figure 7 – Heritage Item along Darling Street (Corona Projects, 2021)



Figure 8 – Heritage Item along Darling Street (Corona Projects, 2021)



Figure 9 – Heritage Item at on the corner of Darling Street and St John Street (Corona Projects, 2021)

2.3 Development History

A search on Council's DA Tracker returned no results for development applications associated with the site.

3.0 THE PROPOSAL

3.1 Overview

The Development Application proposes alterations and additions at Unit 7, 169 Darling Street Balmain. More specifically, the proposed development comprises the:

- Enclosure of existing patio;
- Reconfiguration of kitchen and laundry space on ground floor; and
- Changes to the rear elevation on the ground floor.

The proposal has been designed to relate to its site and to the streetscape in relation to appearance, envelope, setbacks, bulk and scale. The contemporary design utilises high quality materials and detailing to present an unobtrusive visual outcome for the Heritage Conservation Area and locality.

The changes will not be discernible from the public domain, nor noticeable from neighbouring sites given their minor scale and largely internal nature.

Please refer to plans prepared by Atmosphere Interior Design Pty.

3.2 Numerical Overview

A brief numerical overview of the development parameters for the proposed development is included in the following table

Table 1: Key development components

Component	Proposal
Site area	1,463m ²
Gross Floor Area	1161m ²
Floor Space Ratio	0.794:1
Height	As per existing
Boundary setbacks	As per existing
<ul style="list-style-type: none">• Front• Side• Side• Rear	
Car spaces	As per existing

4.0 STATUTORY PLANNING FRAMEWORK AND ENVIRONMENTAL ASSESSMENT

This Chapter provides an environmental assessment in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979.

4.1 Statutory and Policy Compliance

The relevant matters for consideration under Section 4.15(a) of the EP&A Act, 1979, are identified as:

- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Leichhardt Local Environmental Plan 2013
- Leichhardt Development Control Plan 2013

The primary statutory document that relates to the subject site and the proposed development is Leichhardt Local Environmental Plan 2013. The primary non-statutory plan relating to the subject site and the proposed development is Leichhardt Development Control Plan 2013.

4.1.1 State Environmental Planning Policy No. 55 – Remediation of Land

This Policy is to provide for a state-wide planning approach to the remediation of contaminated land. Subject to Clause 7, considerations should be given to the suitability of land in terms of contamination.

The subject site has a long history of being used for the residential purpose. Thus, there is no further consideration required under Clause 7(1)(b) and (c) of SEPP 55.

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

SEPP (BASIX) 2004 applies to the proposed development. A BASIX Certificate is submitted with the application and confirms that the proposal will comply with the water, thermal comfort and energy efficiency requirements of the policy.

4.1.3 Leichhardt Local Environmental Plan 2013

The development complies with the provisions of Leichhardt Local Environmental Plan 2013 (LLEP 2013).

Zoning and permissibility

The site is located in Zone R1 - General Residential.

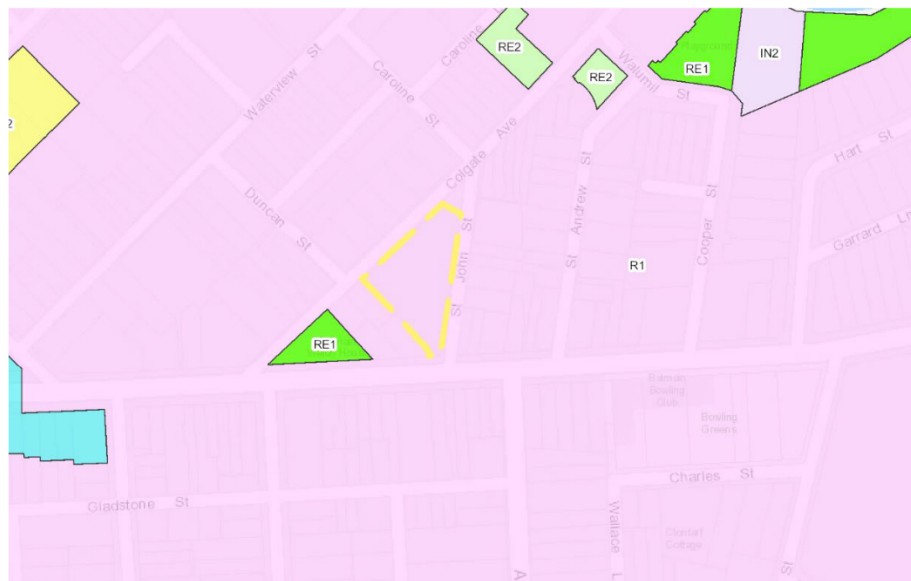


Figure 10 – Land Zoning Map (NSW Planning Portal)

The development is identified to be *alterations and additions to a residential flat building*, which is permitted with consent in the R1 - General Residential zone.

The objectives of the zone are:

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

The proposed development will not prevent the subject site from providing the identified housing needs of the community. The ground floor changes are of a small scale, seamlessly blending with the established character of the building, and do not increase the overall building mass. Landscaped area, the subdivision pattern and the overall external building façade are not altered. The increased amount of natural daylight and sunlight that the larger openings will facilitate will improve the quality of the kitchen space during day hours and improve its amenity for users working from home during this time. The changes will also make use of currently underutilised patio space.

Clause 4.3 Height of buildings

The overall building height is not being altered from that of the existing.

Clause 4.3A Landscaped areas for residential accommodation in Zone R1

This clause applies to development for the purpose of residential accommodation on land in Zone R1 General Residential and stipulates that development consent must not be granted unless a minimum of 20% of the site area is landscaped area, and the site coverage is 60% or less of the site area.

The proposed landscaped area is 376sqm (25.5%), and the proposed site coverage is 826sqm (56.5%), achieving compliance with this clause.

Clause 4.4 Floor space ratio

The LEP Floor Space Ratio Map stipulates that the maximum floor space ratio permitted for the site is 0.5:1, however in accordance with applicable subclause (2B)(b)(iv), the site has a prevailing floor space ratio of 0.7:1 as the lot is outlined in red on the Floor Space Ratio Map, has a lot area greater than 450sqm, and is being used for the purposes of residential development.

The existing development has a floor space ratio of 0.79:1. The proposal has a floor space ratio of 0.794:1, an increase of only 4 square metres. Refer to Attachment A of this Report for a written Clause 4.6 Variation Request.

Clause 5.10 Heritage Conservation

The site is not identified as a Heritage Item, but it is located within the Waterview Estate Heritage Conservation Area (HCA). It is not considered a contributory item, but infill development. Refer to the Heritage Impact Statement prepared by Corona Projects, submitted alongside this report for further heritage consideration.



Figure 11 – Heritage Map (NSW Planning Portal)

Clause 6.1 Acid sulphate soils

The Acid Sulphate Soils Map stipulates that the site is Class 5. The proposed works will not be below 5 metres Australian Height Datum, and are unlikely to lower the water table below 1 metre Australian Height Datum on adjacent Class 1,2,3 or 4 land.

4.1.4 Leichhardt Development Control Plan 2013

The development achieves a high level of compliance with the provisions of Leichhardt Development Control Plan 2013.

Control		Comment	Compliance
PART C – PLACE – SECTION 1: GENERAL PROVISIONS			
C1.2 Demolition			
1	Council will not approve a development application for the demolition of: a. a Heritage Item; or	Refer to HIS	-

Control	Comment	Compliance
<p>b. a building in a Heritage Conservation Area that contributes positively to the conservation area; or</p> <p>c. a building that makes a positive contribution to the desired future character of the area</p> <p>Unless:</p> <p>i. the existing building is found to be structurally unsafe; and</p> <p>ii. cannot be reasonably repaired; and</p> <p>iii. the proposed replacement building is consistent with the development controls contained in Leichhardt Local Environmental Plan 2013 and this Development Control Plan; and</p> <p>iv. the quality of the proposed replacement building will be compatible with the Heritage Conservation Area or streetscape in terms of scale, materials, details, design style and impact on streetscape.</p>		
<p>2 A development application for the demolition of a Heritage Item or building in a Heritage Conservation Area must be lodged with Council and be accompanied by the following information:</p> <ul style="list-style-type: none"> - statement of significance of the item (significance of the item itself and the significance of the Heritage Conservation Area in which it is located (if applicable); and - details of the proposed replacement building, including the proposed elevations, materials, detail, design style and compliance with the development controls contained in the Leichhardt Local Environmental Plan 2013 and this Development Control Plan. 	Refer to HIS	-
<p>3 In determining development applications for the demolition of a Heritage Item or a building in a Heritage Conservation Area, Council will consider the following:</p> <p>a. heritage status of the building and its context as outlined in:</p>	Refer to HIS	-

Control	Comment	Compliance
<p>i. the Statement of Significance of the Heritage Item or building in a Heritage Conservation Area as outlined in the relevant Council heritage study or expert opinion;</p> <p>b. the contribution that the existing Heritage Item or building in a Heritage Conservation Area makes to the heritage significance of the Conservation Area by virtue of its age, scale, materials, details, design style or intactness;</p> <p>c. the structural adequacy of the existing building;</p> <p>d. options for the conservation of the existing building under current controls;</p> <p>e. consistency of the proposed replacement building with the development controls contained in Leichhardt Local Environmental Plan 2013 and this Development Control Plan, including those relating to amenity impacts on surrounding properties;</p> <p>f. the quality of the proposed replacement building and its fit with the Heritage Conservation Area in terms of scale, materials, details, design style and impact on streetscape.</p>		
C1.3 Alterations and Additions		
<p>1 The overall form of alterations and additions shall:</p> <p>a. have regard to the provisions within Appendix B - Building Typologies of this Development Control Plan;</p> <p>b. be compatible with the scale, form and material of the existing dwelling and adjoining dwellings, including wall height and roof form;</p> <p>c. retain any building and streetscape consistencies which add positively to the character of the neighbourhood (e.g. architectural details, continuous rows of dwellings, groups of similar dwellings, or the like);</p> <p>d. maintain the integrity of the streetscape and heritage significance;</p> <p>e. be considered from all public vantage points from which the additions will be visible; and</p>	<p>A 10-unit residential flat building, as established on the subject development site, is not featured within Appendix B. Regardless, the scale, form and materiality of the alterations are minor in nature and only impact the rear of the ground floor without increasing the overall building mass, ensuring a seamless integration of the changes with the existing form.</p> <p>The streetscape is not impacted by the changes due to their indiscernible nature.</p>	Yes

Control		Comment	Compliance
	f. achieve the objectives and controls for the applicable desired future character.		
5	New materials and fenestrations of alterations and additions shall be compatible with the existing building.	The materials and colouring will align with the existing building.	Yes
8	Alterations and additions to the side of an existing dwelling (where that dwelling is currently setback from the side property boundary), must: <ul style="list-style-type: none"> a. endeavour to minimise visibility from the street; b. retain the predominant and desired future character of the street; c. ensure compliance with the remaining suite of controls within this Development Control Plan relating to residential development where relevant; and d. when located on the ground floor, the alterations and additions shall be: <ul style="list-style-type: none"> i. setback a minimum of 1 metre from the front wall of the existing dwelling; and ii. have minimum ceiling heights and a roof form which is subordinate to the existing dwelling, to ensure the additions do not detract from the detached nature of the dwelling. 	The proposed changes are minor in scale and complexity, rendering them indiscernible from the street, and neighbouring properties. The existing setbacks and overall building envelope form are retained.	Yes
C1.4 Heritage Conservation Areas and Heritage Items			
Refer to HIS.			
PART C – PLACE – SECTION 2 – Urban Character			
C2.2.2.6 Birchgrove Distinctive Neighbourhood			
1	Development should follow the topography of the area and maintain the single storey scale on the mid slopes and mixed one and two storey scales at the top and bottom of the slopes.	The existing building form, located on relatively flat ground, is retained under this proposed.	Yes
2	Conserve and promote the consistent rhythm within the streetscape created by regular lot sizes, subdivision pattern and the predominance of detached and semi-detached houses with a prevalence of hipped, pitched and gable roof forms. Preserve the established setbacks for each street.	The existing subdivision pattern and external building form of Unit 7 is being retained.	Yes

Control		Comment	Compliance
16	Changes to the front façades of existing dwellings shall be kept to a minimum with additions to the rear of dwellings preferred.	The front façade is not being touched by this proposal.	Yes
19	Building materials used shall be consistent with the existing character of the streetscape, including rendered and painted surfaces and roof materials such as corrugated iron as well as timber windows.	Materials used will be in similar style and colouring to the existing building. The changes cannot be seen from the streetscape.	Yes

PART C – PLACE – SECTION 3 – RESIDENTIAL PROVISIONS**C3.1 Residential General Provisions**

1	Residential development is not to have an adverse effect on: a. the amenity, setting or cultural significance of the place, including the portion of the existing building to be retained; and b. the relationship of any Heritage Item or Heritage Conservation Area to its place, setting and cultural significance.	The changes are indiscernible when viewed from any public or private domain, retaining the Units' existing relationship with its surrounds and Heritage Conservation Area.	Yes
2	Additions to an existing building are generally: a. located to the rear or the side of the existing building when viewed from the principal street frontage; and b. subservient to the form of the existing building; and c. maintain the form, fenestration, roof forms and chimneys of the existing building when viewed from the principal street frontage; and d. of a design which is compatible with but does not compete with the architectural character of the existing building or the Building Typologies; and e. of a scale, proportion (including proportion of doors and openings) and material which is compatible with the existing building.	The alterations and additions maintain the external building mass, with all changes being limited internally, or to the rear wall of the ground floor. The bulk and scale of the site is therefore being retained.	Yes

C3.3 Elevation and Materials

3	Where alterations or additions are proposed, existing façade elements that are incompatible with the character of the building are to be removed.	The existing Unit is considered to have an appropriate existing façade, rendering no element necessary for removal.	Yes
4	Residential development in a Heritage Conservation Area is compatible with the Building Typologies contained in Appendix B – Building Typologies of this Development	A 10-unit residential flat building, as established on the subject development site, is not featured within Appendix B. Regardless, the	Yes

Control		Comment	Compliance
	Control Plan, and includes defining elements such as: a. roof pitch and form; b. roof ridgeline; c. gutter lines; d. verandah balustrades and floor under-beams; e. window patterns, proportions and details; and f. balconies.	new changes will seamlessly integrate with the existing elevation, using typical opening types and roof angles.	
C3.7 Environmental Performance			
2	Provide shading to glazed areas, where appropriate by: a. incorporating horizontal shading devices such as awnings or eaves having an overhang of 0.45 x the height of the glazed area, it is shading, to north façades; b. incorporating external vertical shading devices such as adjustable external shutters, blinds or landscaping to east and west façades that block or mitigate low afternoon summer sun; c. incorporating landscaping such as deciduous trees adjoining the northern building façade.	The altered façade is south-facing so has minimised fixed shading to maximise the natural daylight entering the habitable spaces within.	Yes
C3.9 Solar Access			
3	Windows and openings shall be appropriately located, sized and shaded to reduce summer heat load and to maximise entry of sun in winter.	The altered façade is south-facing so has minimised fixed shading to maximise the natural daylight entering the habitable spaces within. The proposed openings are large, encouraging the use of natural lighting rather than artificial.	Yes
5	All habitable rooms shall have access to natural daylight regardless of provision of skylights or similar. Daylight shall be provided via: a. an outdoor facing window; or b. a window facing a light-well or courtyard that is open to the sky.	The proposal will increase the amount of natural daylight into the existing kitchen space of Unit 7.	Yes
C3.11 Visual Privacy			

Control		Comment	Compliance
1	Sight lines available within 9m and 45 degrees between the living room or private open space of a dwelling and the living room window or private open space of an adjoining dwelling are screened or obscured unless direct views are restricted or separated by a street or laneway.	Changes are occurring on the ground floor, where overlooking is prevented by existing side and rear fencing.	Yes

4.2 Impacts of the Development

As noted in the above assessment against the provisions of the relevant Environmental Planning Instruments and Development Control Plan, the development is of a minor scale and nature, and does not present unreasonable environmental, social and economic impacts.

Impacts on Natural and Built Environment

The development does not impact upon native vegetation, soil conditions, foreshore environment or air quality. The amenity of the adjoining neighbours is retained as the building mass will remain the same and visual privacy will be maintained by way of the retention of existing fencing.

Social and Economic Impacts

The development increases the amenity of the property with the greater access to natural lighting, and better use of a current underutilised patio space. The proposal does not engender any negative social or economic outputs.

4.3 Suitability of the Site

The subject site is considered suitable in size and shape to accommodate the development. The proposal does not introduce any incompatible uses to the site. The works are permissible under the R1 - General Residential zone.

4.3.1 Access to Services

The site is located within an established residential area with excellent access to services and public transport. As the site is within an established urban area, electricity, sewer, telephone, and water services are readily available to the subject site.

4.3.2 Hazards

The site is not in an area recognised by Council as being subject to flooding, landslip, bushfire or any other particular hazards. The proposed development is not likely to increase the likelihood of such hazards occurring and is considered appropriate in this instance.

4.4 The Public Interest

The proposal is considered to be in the public interest as it produces nominal environmental, social and economic impacts. Furthermore, it allows the current and future residents to have an upgraded kitchen space to combat water damage from recent rain earlier in 2021, and to make use of an underutilised patio.

The proposed development has been designed to relate to the size, shape and context of the site and has been designed in accordance with the desired future character for development in the area.

The proposal seeks to provide an upgraded residential unit development that makes efficient use of space on the site in a prime location that is in high demand for functional residential accommodation. In addition, the proposal has been designed to minimise as far as practical any adverse effects on existing and future neighbouring properties. The proposal is consistent with the applicable LEP and DCP provisions except where identified and justified in this Statement of Environmental Effects. Accordingly, the proposed development is considered to be in the public interest.

5.0 CONCLUSION

The Statement of Environmental Effects (SEE) has been prepared to consider the environmental, social and economic impacts of the development at Unit 7, 169 Darling Street Balmain. The report has addressed the applicable policies and plans, and has provided an environmental assessment in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979.

The application proposes a permissible development within the subject site locality. The proposal incorporates appropriate design considerations to minimise any adverse impacts on the natural and built environment, and the amenity of the surrounding neighbourhood.

Given the benefits of the development and compliance with the relevant policies and plans, we conclude that the proposed development at Unit 7, 169 Darling Street Balmain as described in this application is reasonable and supportable, and worthy of approval by Inner West Council.

Attachment A –

Clause 4.6 Variation Request

14 April 2021

The General Manager
Inner West Council
PO Box 14
Petersham NSW 2049

Dear Sir/Madam,

169 Darling Street, Balmain

Clause 4.6: Exceptions to Development Standards

Floor Space Ratio (Clause 4.4) – Leichhardt Local Environmental Plan 2013

1. Introduction

Clause 4.4 of Leichhardt Local Environmental Plan (LLEP) 2013 relates to the maximum **floor space ratio (FSR)** requirements and states that "the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map". The Floor Space Ratio map stipulates that the maximum FSR for 169 Darling Street, Balmain is 0.5:1, however in accordance with applicable subclause (2B)(b)(iv), the site has a prevailing floor space ratio of 0.7:1 as the lot is outlined in red on the Floor Space Ratio Map, has a lot area greater than 450sqm, and is being used for the purposes of residential development.

The existing development has a floor space ratio of 0.79:1. The proposal has a floor space ratio of 0.794:1, an increase of only 4 square metres, and a variation of 13% from the maximum permitted.

The proposal is of a reasonable scale and provides a high quality and durable residential apartment unit development which assists to meet the high demand for functional housing in the Balmain locality. The development is commensurate in scale and character with other properties in the streetscape, appearing the same from the public domain. The variation results in the substantial increase in amenity for the subject site without producing any adverse impacts on the privacy, views, solar access and overall amenity of surrounding properties.

2. Clause 4.6

An application to vary a development standard can be made under Clause 4.6 of LLEP 2013.

The objectives of Clause 4.6 are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Clause 4.6(3) specifies that:

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.

Clause 4.6(4) specifies that:

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.

These matters are considered below.

3. Justification of proposed variance

Samadi v Council of the City of Sydney [2014] NSWLEC 1199 provides jurisdictional guidance on the assessment of variations under Clause 4.6.

Paragraph 27 of the judgement states:

'Clause 4.6 of LEP 2013 imposes four preconditions on the Court in exercising the power to grant consent to the proposed development. The first precondition (and not necessarily in the order in cl 4.6) requires the Court to be satisfied that the proposed development will be consistent with the objectives of the zone (cl 4.6(4)(a)(ii)). The second precondition requires the Court to be satisfied that the proposed development will be consistent with the objectives of the standard in question (cl 4.6(4)(a)(ii)). The third precondition requires the Court to consider a written request that demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and with the Court finding that the matters required to be demonstrated have been adequately addressed (cl 4.6(3)(a) and cl 4.6(4)(a)(i)). The fourth precondition requires the Court to consider a written request that demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard and with the Court finding that the matters required to be demonstrated have been adequately addressed (cl 4.6(3)(b) and cl 4.6(4)(a)(i)).'

4. Precondition 1 – Consistency with zone objectives

The land is located in the R1 – General Residential zone under the Leichhardt Local Environmental Plan 2013.

The objectives of the zone are:

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

The proposed development will not prevent the subject site from providing the identified housing needs of the community. The ground floor changes are of a small scale, seamlessly blending with the established character of the building, and do not increase the overall building mass. Landscaped area, the subdivision pattern and the overall external building façade are not altered. The increased amount of natural daylight and sunlight that the larger openings will facilitate will improve the quality of the kitchen space during day hours and improve its amenity for users working from home during this time. The changes will also make use of currently underutilised patio space.

The variation to the floor space ratio does not render the development incompatible with the zone objectives, in accordance with the approach of the former Chief Judge, Justice Pearlman in *Schaffer Corporation v Hawkesbury City Council* (1992) 77 LGRA 21, in Paragraph [27]:

'The guiding principle, then, is that a development will be generally consistent with the objectives, if it is not antipathetic to them. It is not necessary to show that the development promotes or is ancillary to those objectives, nor even that it is compatible.'

5. Precondition 2 – Consistency with the objectives of the standard

The objectives of the floor space ratio controls as specified in Clause 4.4 are:

(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 variation is supportable in relation to the aforementioned objectives.

Objective (a) – The proposal is considered compatible with the desired future character, being the retention and protection of existing established development, by way of retaining the appearance of the Unit as is from the public domain and neighbouring sites. Keeping with its current context as:

- The development is consistent with the height, scale and character of development in the locality. The bulk and scale of the development is minor and hidden to avoid visually dominating neighbouring properties.
- The proposed 13% variation from the maximum FSR is minor in comparison to nearby sites. The below table demonstrates that properties within the same locality who exceed their maximum FSR, as stipulated by Clause 4.4 of the LLEP 2013. This highlights that the area is characterised by similar densities to that of the proposal.

Site address	Extent of Variation from Maximum FSR
321 Darling Street, Balmain	33%
3 Arthur Street, Balmain	9.96%
54 Birchgrove Road, Balmain	109.1%

30 Hart Street, Balmain East	19.16%
40 Birchgrove Road, Balmain	1.59%
18 Ferdinand Street, Birchgrove	27.7%
71 Ballast Point Road, Birchgrove	7.34%

Table 1 – Nearby properties with approved maximum FSR variation. Information derived from the Planning Register (2019 – 2021) available on Inner West Council's website.

Furthermore, deep soil landscaping and site coverage controls are met, and the development does not seek to alter either further. The development results in no unreasonable adverse impacts on adjoining properties. The development does not impact any neighbouring residential developments in relation to solar access or privacy. There is no view loss impact. Subsequently the development does not detract from the desired future character of the locality.

Objective (b) – N/A as the development is residential.

6. Precondition 3 – To consider a written request that demonstrates that compliance with the development standards is unreasonable or unnecessary in the circumstance of the case.

Wehbe vs Pittwater Council [2007] NSWLEC 827 establishes the five-part test for determining whether strict compliance with the development standard is deemed unnecessary or unreasonable. These five ways have recently been re-emphasised in the *Four2Give Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 cases, by Commissioner Morris in *Mecone Pty Limited v Leichhardt Council* [2015] NSWLEC 1312 and by Commissioner Tuor in *Moskovich v Leichhardt Council* [2016] NSWLEC 1015. This approach has recently been upheld in the case of *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386. An appeal on a point of law against this decision by Randwick Council was dismissed by Commissioner Morris on 19 February 2016: *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7.

In the decision of *Wehbe vs Pittwater Council*, Preston CJ established the five ways in which an objection has been well founded and that approval of the objection may be consistent with the aims of the policy:

- 'the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;

- 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; and
- the zoning of particular land was unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in that case would also be unreasonable or unnecessary.'

It is noted that each 'test' offers a potential way of demonstrating that compliance is unnecessary or unreasonable in each case. Therefore, not all tests need to be met.

Test	Comment
1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard	Yes — The development meets the objectives of the development standard demonstrated in part 5 of this document.
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary	Not applicable — The purpose of the standard is relevant.
3. The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable	Not applicable — Compliance does not defeat the underlying object of the standard development; however, compliance would prevent the approval of an otherwise supportable development and prevent the site to better meet the zoning objectives as discussed in part 4 of this document.
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	Not applicable — the development standards of FSR cover a wide area and whilst they are not appropriate to this site, they are appropriate to other sites elsewhere in the locality. There are numerous instances where consents departing from the standard have been approved and others where the standards have been upheld. This is more an indication of the inappropriateness of particular standards to some sites rather than a comment on Council's actions.
5. The zoning of particular land was unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary	Not applicable — The zoning of the site is not considered to be inappropriate.

as it applied to that land and that compliance with the standard in that case would also be unreasonable or unnecessary.’	
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Application of the above tests thus demonstrate that strict numerical compliance is unreasonable and unnecessary for this proposal. The proposal satisfies the zone and development standard objectives and therefore strict compliance with the standard is not required in order to achieve compliance with the objectives.

Strict compliance would result in an inflexible application of policy. It does not serve any purpose that should outweigh the positive outcomes of the development and therefore a better planning outcome overall.

The proposed development is consistent with the provisions of orderly and economic development of land, in that it proposes to provide upgraded and increased useful habitable space in a manner which meets the objectives of applicable controls. The residential unit development over its economic life is consistent with the promotion and coordination of the orderly use and development of land.

8. Precondition 4 – To consider a written request that demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard and with the Court [or consent authority] finding that the matters required to be demonstrated have been adequately addressed

This report is the written request demonstrating that there are sufficient environmental planning grounds to justify deviation from the development standard.

The development has been designed to complement the existing scale and character of surrounding development. The height and building envelope of the building is compliant with LEP and DCP controls. The proposal does not seek to alter the existing height and building envelope further. The proposal will integrate seamlessly with the existing streetscape and does not result in adverse amenity impacts on adjoining properties in the way of bulk impact, shadow impact or privacy loss.

The above is considered to represent sufficient environmental planning grounds to justify the contravention of the development standard. It has been demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case, and thus the resultant development will be in the public interest.

9. Conclusion

The proposal seeks a variation to the floor space ratio development standard prescribed in Clause 4.4 of Leichhardt Local Environmental Plan 2013.

This submission is considered to adequately address the matters required by Clause 4.6. The proposal meets the assessment criteria set out in Clause 4.6 (3) (a) and (b) and (4) (a). As demonstrated, strict compliance with the prescribed floor space ratio development standard is unreasonable and unnecessary in the circumstances of the case. The proposal is in the public interest because it is consistent with the objectives of the R1 – General Residential zone and the objectives for Floor Space Ratio standard. There are thus sufficient environmental planning grounds to justify the non-compliance.



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