





 DEVELOPMENT ASSESSMENT REPORT				
<b>Application No.</b>	DA/2021/0094			
<b>Address</b>	20 Beattie Street, Balmain			
<b>Proposal</b>	Alterations and additions to an existing two storey dwelling, including partial demolition, a new lower ground floor living area, and a single car garage.			
<b>Date of Lodgement</b>	18 February 2021			
<b>Applicant</b>	Ballast Point Pty Ltd			
<b>Owner</b>	Kiri L Rutherford Mr Christopher A MacGillivray			
<b>Number of Submissions</b>	Initial: 9			
<b>Value of works</b>	\$527,000.00			
<b>Reason for determination at Planning Panel</b>	Clause 4.6 variation exceeds 10%			
<b>Main Issues</b>	Heritage; Variation to Floor Space Ratio and Site Coverage Development Standard			
<b>Recommendation</b>	Approved with Conditions			
<b>Attachment A</b>	Recommended conditions of consent			
<b>Attachment B</b>	Plans of proposed development			
<b>Attachment C</b>	Clause 4.6 Exception to Development Standards – Site Coverage			
<b>Attachment D</b>	Clause 4.6 Exception to Development Standards – Floor Space Ratio			
				
<b>LOCALITY MAP</b>				
Subject Site		Objectors		
Notified Area		Supporters		

## 1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to an existing two storey dwelling, including partial demolition, a new lower ground floor living area, and a single car garage at 20 Beattie Street, Balmain. The application was notified to surrounding properties and nine submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- Variation to FSR Development Standard greater than 10%
- Variation to Site Coverage Development Standard greater than 10%
- Heritage impacts

The non-compliances are acceptable given the proposal will not result in adverse amenity impacts to the adjoining properties, not detract from the streetscape and remain consistent with the pattern of development and therefore the application is recommended for approval.

## 2. Proposal

The proposal as amended seeks consent for alterations and additions to the existing dwelling and construction for a new garage, specifically the following works are proposed:

- Demolition, side extension and reconfiguration of the ground and first floor;
- Demolition, excavation and construction of a new lower ground floor plan to accommodate a bathroom, laundry and living area;
- Reinstatement of the first floor balcony at the Beattie Street elevation;
- Construction of a concrete awning at the rear of the ground floor;
- Demolition of the external stairs and deck to accommodate a repaved courtyard; and
- Excavation and construction of a new garage at the rear with internal stair access to the rear yard at the eastern elevation and basement storage.

## 3. Site Description

The subject site is located on the southern side of Beattie Street, between Palmer Street and Montague Street. The site consists of a single allotment and is generally rectilinear in shape measuring 123.3sqm in area and is legally described as 20 Beattie Street, Balmain.

The site has a frontage to Beattie Street of 5.17m and a secondary frontage of 5.4m to Bulga Lane. The subject site shares an external staircase with the adjoining property at 22 Beattie Street, which leads from their respective rear yards to Bulga Lane. The site supports a two storey dwelling. Adjoining properties to the west of the subject site support two storey dwellings with vehicular access available via Bulga Lane at 28 – 36 Beattie Street. Immediately adjoining the subject site to the east supports a two storey residential dwelling with vehicular access at the rear via Bulga Lane. Further to the east of the subject site comprise of a mix of residential and commercial building generally two storeys in height. The subject site falls approximately 2.5m from the front to the rear of the site, whilst the rear yard is located approximately 2.9m above the Bulga Lane.

The property is located within the Valley Heritage Conservation Area and is identified as a flood prone lot.



Land zoning map, subject site highlighted in red

Aerial of the subject site, outlined in blue

## 4. Background

### 4(a) Site history

Not applicable

### 4(b) Application history

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

Date	Discussion / Letter / Additional Information
6/07/2021	A copy of the submissions and request for additional information sent to the applicant requesting the following design changes to address the outstanding heritage matters: <ul style="list-style-type: none"> <li>• The new side addition is to maintain interpretation of the original terrace wall by having a setback (minimum 1 metre) to the front wall to the front elevation on both levels.</li> <li>• Remove the first floor verandah enclosure and reinstate it as an open verandah; and</li> <li>• Revised materials and finishes.</li> </ul>
25/08/2021	Response to the submissions and amended plans provided by the applicant. The design amendments include the following: <ul style="list-style-type: none"> <li>• Retention of the existing northern wall;</li> <li>• Reinstatement of the first floor open verandah;</li> <li>• The extension to the eastern side has been setback 500mm from the original terrace front alignment at ground and first floor levels; and revised materials and finishes schedule.</li> </ul> The amended plans received form part of this assessment.

## 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*

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 will be referenced in any consent granted.

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

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

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.7 - Demolition
- Clause 4.3A - Landscaped areas for residential accommodation in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 4.6 - Exceptions to development standards
- Clause 5.10 - Heritage Conservation
- Clause 6.1 - Acid Sulfate Soils
- Clause 6.2 - Earthworks
- Clause 6.3 - Flood Planning
- 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 2013*. The *LLEP 2013* defines the development as alterations and additions for a semi-detached dwelling, a semi-detached dwelling means:

“ means a dwelling that is on its own lot of land and is attached to only one other dwelling”



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

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

Standard	Proposal	non compliance	Complies
<b>Floor Space Ratio</b> Maximum permissible: 1:1 or 123.3sqm	1.28:1 or 158.1sqm	34.8sqm or 28%	No
<b>Landscape Area</b> Minimum required: 15% or 18.4sqm	Existing: Nil Proposed: Nil	18.4sqm or 100%	No (existing)
<b>Site Coverage</b> Maximum permissible: 60% or 74sqm	81.9% or 100.94sqm	26.9sqm or 36.4%	No

#### Clause 4.6 Exceptions to Development Standards

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

- Clause 4.3A(3)(b) – Site Coverage

The applicant seeks a variation to the Site Coverage development standard under Clause 4.3A(3)(b) of *LLEP 2013* by 36.4% (26.9 sqm).

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 *LLEP 2013* below.

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

- *The existing nature of development at the subject site and the row of terraced dwellings (including 18 and 18A Beattie Street to the east and 22 to 30 Beattie Street to the west), the site coverage for properties that have garages already exceed the development standard. Furthermore, these properties provide no landscaped area at the rear with the yards either being paved, contain garages, other parking structures/spaces or comprise fill to elevate yard levels to be consistent with (or closer to) the ground floor levels of the dwellings;*
- *The slope of the land and established levels dictates that landscaped areas, as defined, cannot be provided regardless of the site coverage proposed;*
- *The proposal will have no effect on the perceived bulk and scale of the development as the additional site coverage is attributed to the unusable eastern side setback, this being 200mm-750mm in width and the garage located below the existing rear yard levels;*
- *The reinstatement of the first floor balcony, relinquishing approximately 6.7sqm of internal area; and*
- *The public will benefit from an improved laneway appearance with a proposal that includes positive improvements such as a restored sandstone boundary wall, planting visible from the lane, and improved passive surveillance of the lane with a lower fence height.*

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

The relevant objectives of the R1 zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
- *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 Zone, in accordance with Clause 4.6(4)(a)(ii) of the *LLEP 2013* for the following reasons:

- The site coverage proposed is consistent with the pattern of development to the west of the subject site;
- The increase in footprint to the dwelling is generally limited to the eastern side setback which will have no adverse impact on the adjoining dwelling and remain consistent with the pattern of development along Beattie Street, this being dwellings built boundary to boundary; and
- The proposed garage will be located below the existing ground levels of the rear yard, and as such will not result in additional visual bulk impacts to Bulga Lane or the POS areas of the adjoining properties.

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 *LLEP 2013*.

The relevant development standard objectives are:

- *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 proposal is considered to be consistent with these objectives for the following reasons:

- The subject site as existing provides nil landscaping, with the proposal unable to improve this in accordance with the landscaped area definition of the *LLEP 2013* due to the existing site constraints – this being the levels of the rear yard and its relationship with Bulga Lane. Despite this the proposal seeks to include a planter box at the rear elevation to improve and soften the proposals presentation to the Bulga Lane elevation;
- There are no landscape corridors in which the proposal is required to maintain given the pattern of development for the dwellings along Beattie Street;

- The proposal remains consistent with the desired future character of the area as the additional site coverage breach is limited to the eastern side setback and the garage, both of which do not detract from the Beattie Street or Bulga Lane elevations;
- The proposed footprint of the dwelling and garage at the rear is consistent with the pattern of development for dwellings that have a frontage to Beattie Street and Bulga Lane with vehicular access at the rear; and
- The proposed site coverage exceedance ensures that the dwelling maintains adequate POS within the rear setback above the garage.

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 *LLEP 2013*. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Site Coverage development standard and it is recommended the Clause 4.6 exception be granted.

#### 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 *LLEP 2013* by 28% (34.8sqm)

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 *LLEP 2013* below.

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

- *There is no increase to the bulk, form and scale of the existing building as the additional floor area is accommodated within the existing sub-floor space, a small side extension that will utilise a previously unusable narrow space to the east of the dwelling and a garage located entirely below the existing ground level;*
- *The proposal voluntarily includes the reinstatement of the first floor balcony, relinquishing 6.7 sqm of internal area which will benefit the public interest;*
- *More usable private open space will be provided because the adjusted lower ground level and demolition of the rear deck will allow occupants to access areas that previously had insufficient headroom;*
- *The inclusion of raised planter beds will provide new areas for soft landscaping where currently none are provided on the site;*
- *The proposed alterations and additions represent significant upgrades to the existing dwelling with respect to building amenity and room configurations without any increase in bulk and scale; and*
- *The development also makes a positive contribution to the desired future character of the neighbourhood through the sensitive renovation of a dilapidated structure and rear garden and the reinstatement of the front balcony.*

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

The relevant objectives of the R1 zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
- *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 Zone, in accordance with Clause 4.6(4)(a)(ii) of the *LLEP 2013* for the following reasons:

- The proposal seeks to utilise the subfloor area and eastern side setback of the dwelling to improve the usable floor area of the site without significantly increasing the footprint of the dwelling or compromising the pattern of development to achieve this;
- A significant portion of the FSR breach is attributed to the non-habitable area of the garage, this being approximately 20.6sqm, of which is concealed below the existing rear yard level;
- The proposal seeks to reinstate the first floor balcony to Beattie Street to improve presentation of the streetscape and partially offset the proposed variation; and
- The additional floor area does not impede the amenity of the adjoining properties in terms of visual and acoustic privacy, solar amenity and visual bulk.

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 *LLEP 2013*.

The relevant development standard objectives are:

- *(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.*

The proposal is considered to be consistent with these objectives for the following reasons:

- The proposal is compatible with the desired future character of the area and improves the presentation of the dwelling to Beattie Street whilst the new garage does not detract Bulga Street laneway elevation;
- The proposal results in minimal additional bulk impacts with a significant portion of the floor area being contained within the sub-floor of the dwelling and the garage below the rear yard;
- The proposal does not seek to improve the amount of landscaped area on site, despite this the proposed POS area contained within the rear yard is consistent with the pattern of development for dwellings that have a frontage to Beattie Street and vehicular access via Bulga Lane;
- The proposal would not result in unsatisfactory amenity impacts on neighbouring properties.

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

(ii) Clause 5.10 - Heritage Conservation

The subject site is a contributory item located within the ‘Valley Estate Heritage Conservation Area (HCA)’ (C7). It is considered that the proposed works do not detract from the HCA and remain consistent with the character of development Beattie Street.

Generally, there is no objection raised to the proposed development. However, it is recommended to maintain the interpretation of the original terrace wall a condition requiring the proposed eastern side setback is to be increased from 500mm to 1m as measured from the external wall of the front elevation (excluding the verandah length) on the ground and first floor.

(iii) Clause 5.21 - Flood Planning

The site is identified as a flood control lot and a Flood Risk Management Plan has been submitted with the application. The proposal is considered acceptable in regard to flood planning subject to conditions being placed on any consent, which includes compliance with the Management Plan.

5(b) Draft Environmental Planning Instruments

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

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

The following provides further discussion of the relevant issues:

- (i) Draft Inner West Local Environmental Plan 2020 (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 relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

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.

<b>LDCP2013</b>	<b>Compliance</b>
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part C</b>	
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 – see discussion at 5(a)(ii)(iii) above
C1.8 Contamination	Yes
C1.11 Parking	Yes
C1.12 Landscaping	No – see discussion below
C1.18 Laneways	Yes
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	Yes – see discussion below
<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.2.4 The Valley 'Balmain' Distinctive Neighbourhood	Yes
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	No – see discussion below
C3.3 Elevation and Materials	Yes
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
<b>Part D: Energy</b>	
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
<b>Part E: Water</b>	
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
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	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
E1.3.1 Flood Risk Management	Yes

The following provides discussion of the relevant issues:

C1.12 Landscaping

Nil landscaped areas are currently provided on site, with the proposed development not seeking to increase this in accordance with the landscaped area definition under the *LLEP 2013*, this being permeable areas with a minimum depth of 1m. With the Private Open Space (POS) located directly above the new garage, the site is unable to include soft permeable landscaping at the rear, this is consistent with the pattern of development for dwellings that have a frontage to Beattie Street and vehicular access via Bulga Lane. The proposal includes a planter box at the rear elevation to improve and soften the proposals presentation to the Bulga Lane elevation, this being an improvement to the existing condition.

C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls

The rock outcrops and wall at the rear of the subject site at the Bulga Street elevations are of poor quality and do not contribute to the outlook within the streetscape and the HCA. The proposed excavation to accommodate the garage at the rear elevation is sympathetic in bulk and scale with properties further to the west of the subject site and do not detract from the rear elevation. Furthermore, the garage utilised materials and finishes to improve the presentation to the Bulga Lane elevation.

C3.2 Site Layout and Building Design*Side setbacks*

The proposal seeks to extend the dwelling approximately 200mm-750mm at the ground and first floor to the eastern boundary to achieve a nil side setback, with no changes proposed to the existing nil setback to the western elevation. The new lower ground floor area seeks a nil side setback to the eastern and western boundaries to be consistent with the remainder of the dwelling. Whilst the garage seeks to have a nil setback to both the eastern and western elevations. The side extension to the dwelling and the new garage are suitably located and do not adversely impact the amenity of the adjoining dwellings, the non-compliant side setbacks are considered appropriate in this instance. In this regard, the following table outlines the location / extent of proposed side setback breaches:

<b>Elevation</b>	<b>Wall height</b>	<b>Required setback</b>	<b>Proposed setback</b>	<b>Complies</b>
<b>Dwelling</b> Western (adjacent to 18B Beattie Street)	8.5m	3.2m	Nil	No - Acceptable
<b>Dwelling</b> Eastern (adjacent to 22 Beattie Street)	8.5m	3.2m	Nil	No - Acceptable
<b>Garage</b> Western (adjacent to 18B Beattie Street)	3	115mm	Nil	No - Acceptable
<b>Garage</b> Eastern (adjacent to 22 Beattie Street)	3	115mm	Nil	No - Acceptable

Pursuant to Clause C3.2 of the LDCP2013, where a proposal seeks a variation of the side setback control graph, various tests need to be met. These tests are assessed below:

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

Comment: Semi-detached dwellings are one of a pair sharing a party wall, a roof form and with openings to the front and the rear. The proposed nil setback to the eastern elevation at ground and first floor in addition to the nil setbacks for the new lower ground floor is consistent with the building typology, the pattern of development along Beattie Street and the desired future character of the HCA. The garage proposed is to have a nil setback to each side boundary which is consistent with the pattern of development and is encouraged. The form and scale of the proposal and its architectural style, materials and finishes will be complementary with, and will remain consistent with the existing surrounding development and will maintain the character of the area.

- ***The pattern of development is not adversely compromised.***

Comment: The new first floor addition is suitably scaled and located so as not to cause adverse visual bulk impacts to Beattie Street, whilst the new lower ground floor area will predominately be concealed when viewed from the adjoining POS areas. The proposed garage utilises minimum ceiling heights and has internalised the stairs to the rear POS area so as not to impact the visual privacy of the adjoining properties. The works proposed is located where development is expected to occur within the HCA. The proposal is modest in scale and so as not to detract or compromise the character of the Beattie Street and Bulga Lane streetscape

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

Comment: The proposed development has been designed with consideration to the objectives of the desired future character in addition to compliance with the development standards of the *LLEP 2013*. The overall bulk of the development is modest in scale and has been minimised so as to not result in unreasonable visual bulk impacts the adjoining dwellings to the side of the subject site respectively.

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

Comment: The proposal complies with applicable solar access and privacy controls and will result in no loss of views.

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

Comment: The adjoining property at 18B Beattie Street is built to the boundary with no openings that require servicing at this boundary.

#### 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 the Community Engagement Framework for a period of 14 days to surrounding properties. Nine submissions were received in response to the initial notification.

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

- Breach of the Floor Space Ratio, landscaped area and site coverage development standard – see Section 5(a)(ii)(i)
- Impacts to the heritage conservation area – see Section 5(a)(ii)(i)(ii)

The following additional matters raised by the submissions received are addressed in the table below.

Matter	Comment
Visual bulk impacts of the proposed garage to the Bulga Lane elevation and adjoining properties	The proposed garage will be located below the existing ground levels of the rear yard, and as such will not result in additional visual bulk impacts to Bulga Lane or the POS areas of the adjoining properties. Furthermore, the garage utilised materials and finishes to improve the presentation to the Bulga Lane elevation
Potential impacts to the adjoining properties during the excavation process to accommodate the proposal.	Suitable standard conditions are included in the recommendation to ensure the excavation of the property is done in accordance with Council’s requirements.
Potential impacts during the construction process including noise, vibration, dust as well as access to Bulga Lane and the adjoining properties	Suitable standard conditions are included in the recommendation to ensure a construction traffic management plan is adhered to.
Insufficient stormwater and drainage information included within the application	Standard conditions are included within the recommendation to ensure that the stormwater concept management plan provided with the application is adhered to.

Note: As per Council’s Community Engagement Framework, the revised plans and additional information did not require notification, as the revised proposal resulted in similar or reduced impacts to that of the original.

5(h) The Public Interest

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

The proposal is not contrary to the public interest.

## 6 Referrals

### 6(a) Internal

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

- Heritage & Urban Design; and
- Development Engineering

## 7. Section 7.11 Contributions/7.12 Levy

Section 7.12 levies payable for the proposal. The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$5,270 would be required for the development under the Section 7.12 Development Contributions Plan for the Former Leichhardt Area. A condition requiring that contribution to be paid is included in the recommendation.

## 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 and the streetscape and is considered to be in the public interest.

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

## 9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.3A - Landscaped areas for residential accommodation in Zone R1 of the *Leichhardt Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. The applicant has made a written request pursuant to Clause 4.4 Floor Space Ratio of the *Leichhardt Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and*



*Assessment Act 1979*, grant consent to Development Application No. DA/2021/0094 for alterations and additions to an existing two storey dwelling, including partial demolition, a new lower ground floor living area, and a single car garage. at 20 Beattie Street, Balmain subject to the conditions listed in Attachment A.

## 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
DA-A02, Rev C	Site plan	16/08/2021	Ballast Point
DA-D01, Rev C	Basement and lower ground floor	16/08/2021	Ballast Point
DA-D02, Rev C	Ground floor and level 1	16/08/2021	Ballast Point
DA-D03, Rev C	Roof	16/08/2021	Ballast Point
DA-E01, Rev C	Elevations - north and south	16/08/2021	Ballast Point
DA-E02, Rev B	Elevations - east	16/08/2021	Ballast Point
DA-E03, Rev B	Elevations - west	16/08/2021	Ballast Point
DA-F01, Rev C	Section A	16/08/2021	Ballast Point
DA-F02, Rev C	Section B	16/08/2021	Ballast Point
DA-F03, Rev C	Section C and DD	16/08/2021	Ballast Point
DA-M01, Rev C	Materials board	16/08/2021	Ballast Point
A396331	Basix Certificate	13/11/2020	Ballast Point PL
N/A	Flood risk management report	14/12/2020	Partridge

As amended by the conditions of consent.

#### DESIGN CHANGE

##### 2. Design Change

Prior to the issue of a Construction Certificate, the Principal Certifying Authority must be provided with plans showing:

- (a) The new side addition is to maintain interpretation of the original terrace wall by having a setback of minimum 1 metre measured from the external wall of the front elevation (excluding verandah length) on both levels

**FEES**

**3. Security Deposit - Custom**

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

<b>Security Deposit:</b>	\$2,209.00
<b>Inspection Fee:</b>	\$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.

**4. 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\*:  
\$5,270

\*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.

**5. Long Service Levy**

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

**GENERAL CONDITIONS**

**6. Boundary Alignment Levels**

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

**7. Structural Integrity of Retained Building Elements**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a certificate from a professional structural engineer to detail how the retained building element, such as the existing chimney will be retained and supported. Documentation shall include certification that adequate internally sited supporting structures shall be incorporated into conserving the external chimney.

**8. 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.

**9. 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.

**10. 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.

**11. Works Outside the Property Boundary**

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

**PRIOR TO ANY DEMOLITION****12. Hoardings**

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

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

Separate approval is required from the Council under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property.

**13. Dilapidation Report**

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the adjoining properties at 18A, 18B and 22 Beattie Street to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

**14. Advising Neighbors Prior to Excavation**

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

**15. Construction Fencing**

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

**PRIOR TO CONSTRUCTION CERTIFICATE****16. Dilapidation Report – Pre-Development – Minor**

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

**17. Stormwater Drainage System – Minor Developments (OSD is required)**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention and/or on site retention/ re-use facilities (OSR/OSD), certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of Bulga Lane via the OSD/OSR tanks as necessary;



- b. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- c. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage;
- d. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- e. The plans, including supporting calculations, must demonstrate that the post development flows for the 100 year ARI storm are restricted to the pre development flows for the 5 year ARI storm event in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013 and the maximum allowable discharge to Council's street gutter limited to 15 litres/second (100year ARI);
- f. OSD may be reduced or replaced by on site retention (OSR) for rainwater reuse in accordance with the relevant DCP that applies to the land. Where this is pursued, the proposed on-site retention (OSR) tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation. Surface water must not be drained to rainwater tanks where the collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use;
- g. Where a combined OSD/OSR is proposed, only roof water is permitted to be connected to the OSD/OSR. The over flow from the storage tank must be connected under gravity to Bulga Lane;
- h. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks;
- i. Details of the 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided;
- j. As there is no overland flow/flood path available from the rear and central courtyards to the Bulga Lane frontage, the design of the sag pit and piped drainage system is to meet the following criteria:
  - a. Capture and convey the 100 year Average Recurrence Interval flow from the contributing catchment assuming 80% blockage of the inlet and 50% blockage of the pipe;
  - b. The maximum water level over the sag pit shall not be less than 150 mm below the floor level or damp course of the building; and
  - c. The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.
- k. A minimum 150 mm step up shall be provided between all external finished surfaces and adjacent internal floor areas;
- l. Details of external catchments currently draining to the site must be included on the plans. Existing natural overland flows from external catchments may not be blocked or diverted, but must be captured and catered for within the proposed site drainage system. Where necessary an inter-allotment drainage system must be incorporated into the design;
- m. No nuisance or concentration of flows to other properties;
- n. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- o. Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
- p. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- q. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;

- r. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 mm and a maximum section height and width of 100 mm or sewer grade uPVC pipe with a maximum diameter of 100 mm;
- s. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;
- t. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
- u. No impact to street tree(s).

#### **18. Parking Facilities - Domestic**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer demonstrating that the design of the vehicular access and off-street parking facilities must comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking and the following specific requirements:

- a. The garage slab or driveway must rise within the property to be 170mm above the adjacent road gutter level and higher than the street kerb and footpath across the full width of the vehicle crossing. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004;
- b. A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors;
- c. Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements;
- d. The garage/carport/parking space must have minimum clear internal dimensions of 6000 mm x 3000 mm (length x width) and a door opening width of 3000 mm at the street frontage. The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004;
- e. A plan of the proposed access and adjacent laneway, drawn at a 1:100 scale, demonstrating that vehicle manoeuvrability for entry and exit to the parking space complies with swept paths from AS/NZS 2890.1:2004. The plan must include any existing on-street parking spaces;
- f. The maximum gradients within the parking module must not exceed 1 in 20 (5%), measured parallel to the angle of parking and 1 in 16 (6.25%), measured in any other direction in accordance with the requirements of Section 2.4.6 of AS/NZS 2890.1-2004.

#### **19. Flood Affected Site**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer that the works comply with the following specific requirements:

- a. All electrical equipment and wiring must be waterproofed or installed at or above 1 in 100 year flood level;
- b. A structural engineer's certificate must be submitted stating that the proposed building has been designed to withstand the forces of flood water, debris and buoyancy up to the 1 in 100-year flood level;
- c. The existing ground levels throughout the site must be maintained so as not to alter the existing overland flow path. Details of all obstructions or changes in level within the overland flow paths must be detailed on the plan; and

- d. All fencing within the overland flow path must be of an open type so as to allow for the free flow of water throughout the site so as to maintain existing flows.

#### **20. Flood Risk Management Plan**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Flood Risk Management Plan prepared and certified by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng). The Plan must be prepared/amended to make provision for the following:

- a. The plan must be generally in accordance with the recommendations of the Flood Risk Management Report prepared by PARTRIDGE and dated 12 December 2020;
- b. Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. Such recommendations must be consistent with the approved development. The flood impacts on the site must be assessed for the 100-year ARI and Probable Maximum Flood (PMF) storm events. The precautions must include but not be limited to the following:
  - i. Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris;
  - ii. Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections;
  - iii. Flood warning signs/depth indicators for areas that may be inundated;
  - iv. A flood evacuation strategy; and
  - v. On-site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
- c. All works must be designed to comply with the Standard for Construction of Buildings in Flood Hazard Areas in accordance with Section 3.10.3 of the Building Code of Australia. Note that some terms defined in this standard have equivalent meaning to terms used in Council's Development Control Plan as listed below:
  - i. Building Code of Australia;
  - ii. Defined flood level (DFL) 100-year Average Recurrence Interval flood level;
  - iii. Defined flood event (DFE) 100-year Average Recurrence Interval flood; and
  - iv. Flood hazard level (FHL) Flood Planning Level (FPL).

#### **21. Amended Architectural Plans to Reflect Flood Risk Management Plan**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended architectural plans that incorporate the recommendations of the Flood Risk Management Plan. The design must be prepared to make provision for the following:

- a. Specification of materials; and
- b. Waterproofing works, where applicable.

No changes to the external form or appearance of the development contrary to the approved plans must occur except as identified by this condition. Any changes to such must be subject to separate approval.

#### **22. Structural and Geotechnical Report**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an integrated structural and geotechnical report and structural plans that address the design of the proposed basement, prepared certified as compliant with the terms of this condition by a qualified practicing Structural and Geotechnical Engineer(s) who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng). The report and plans must be prepared/ amended to make provision for the following:

- a. The basement must be fully tanked to prevent the ingress of subsurface flows;
- b. Retaining walls must be entirely self-supporting in the event that excavation is undertaken within the road reserve adjacent to the property boundary to the depth of the proposed structure;
- c. Any existing or proposed retaining walls that provide support to the road reserve must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment, based on a design life of not less than 50 years;
- d. All components of the basement, including footings, must be located entirely within the property boundary;
- e. No adverse impact on surrounding properties including Council's footpath and road;
- f. The existing subsurface flow regime in the vicinity of the development must not be significantly altered as a result of the development;
- g. Recommendations regarding the method of excavation and construction, vibration emissions and identifying risks to existing structures or those on adjoining or nearby property; and
- h. Provide relevant geotechnical/ subsurface conditions of the site, as determined by a full geotechnical investigation.

### **23. Party Walls**

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

### **24. 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.

### **25. 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**

### **26. 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.

### **27. Survey Prior to Footings**

Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.

**PRIOR TO OCCUPATION CERTIFICATE****28. Public Domain Works**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* including:

- a. Light/Heavy duty concrete vehicle crossing(s) at the vehicular access location(s);
- b. The redundant vehicular crossing to the site must be removed and replaced by kerb and gutter and footpath. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone;
- c. The existing concrete footpath across the frontage of the site must be reconstructed; and
- d. Other works subject to the *Roads Act 1993* approval.

All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications".

**29. No Encroachments**

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

**30. Protect Sandstone Kerb**

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

**31. Works as Executed – Site Stormwater Drainage System**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that:

- a. The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards; and
- b. Works-as-executed plans of the stormwater drainage system certified by a Registered Surveyor, to verify that the drainage system has been constructed, OSD/OSR system commissioned and stormwater quality improvement device(s) and any pump(s) installed in accordance with the approved design and relevant Australian Standards have been submitted to Council. The works-as-executed plan(s) must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifier stamped Construction Certificate plans.

**32. Operation and Management Plan**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an Operation and Management Plan has been prepared and implemented for the on-site detention and/or on-site retention/re-use facilities and stormwater quality improvement device(s) and pump(s). The Plan must set out the following at a minimum:

- a. The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners; and

- b. The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

### **33. Light Duty Vehicle Crossing**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that a light duty concrete vehicle crossing(s), in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" have been constructed at the vehicular access locations.

### **34. Parking Signoff – Minor Developments**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.

## **ON-GOING**

### **35. Operation and Management Plan**

The Operation and Management Plan for the on-site detention approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

## **ADVISORY NOTES**

### **Insurances**

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

### **Public Domain and Vehicular Crossings**

The vehicular crossing and/or footpath works are required to be constructed by your contractor. You or your contractor must complete an application for *Design of Vehicle Crossing and Public Domain Works – Step 1* form and *Construction of Vehicle Crossing and Public Domain Works – Step 2* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

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

Any damage caused during construction to Council assets on the road reserve or on Council or Crown land must be repaired at no cost to Council.

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

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

**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.

**Dividing Fences Act**

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

**Permits from Council under Other Acts**

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

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



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

#### Noise

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

#### Amenity Impacts General

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

#### Construction of Vehicular Crossing

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

#### Dial before you dig

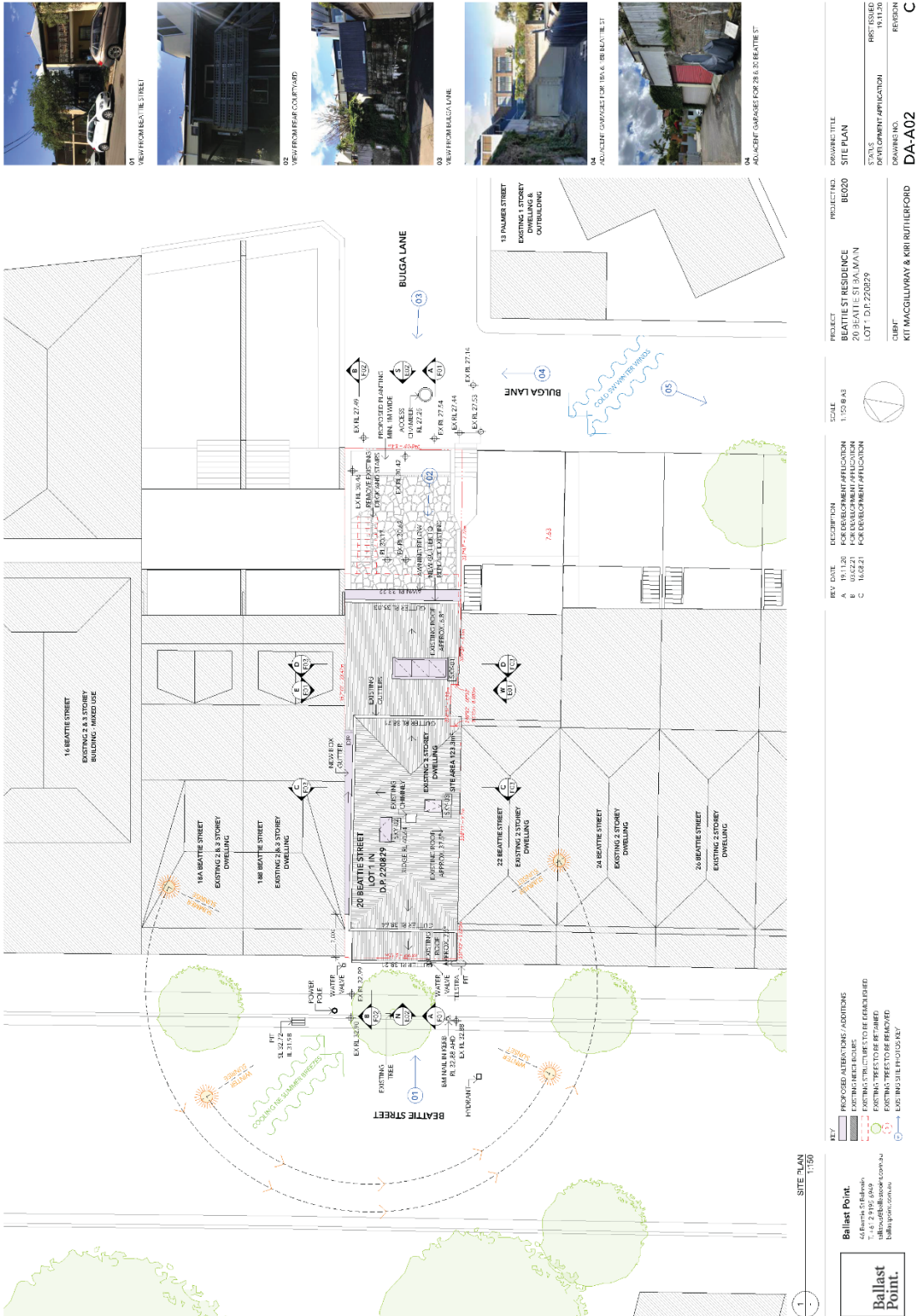
Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

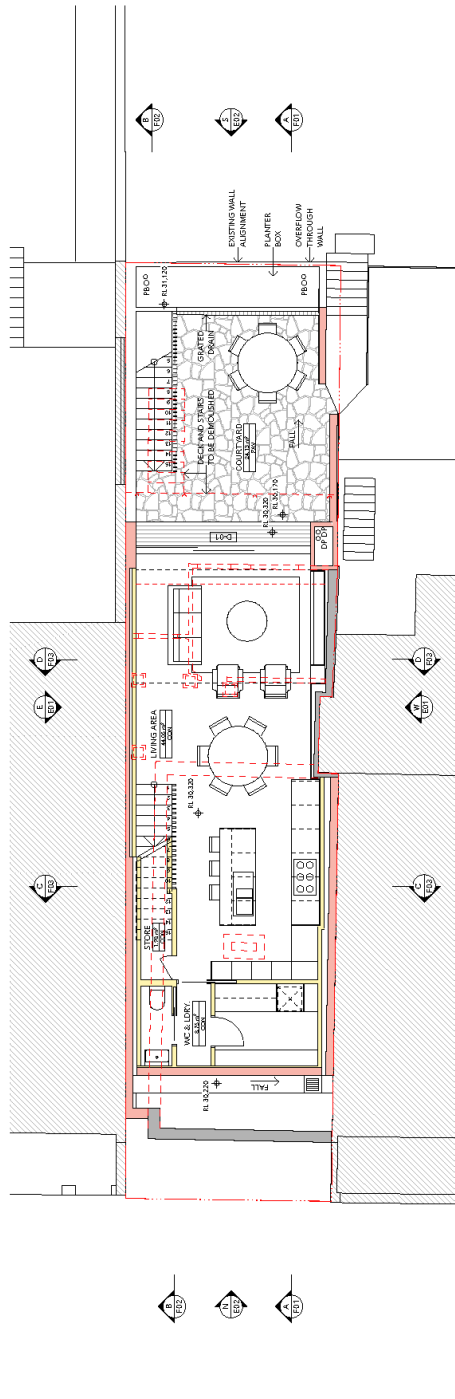
#### Useful Contacts

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

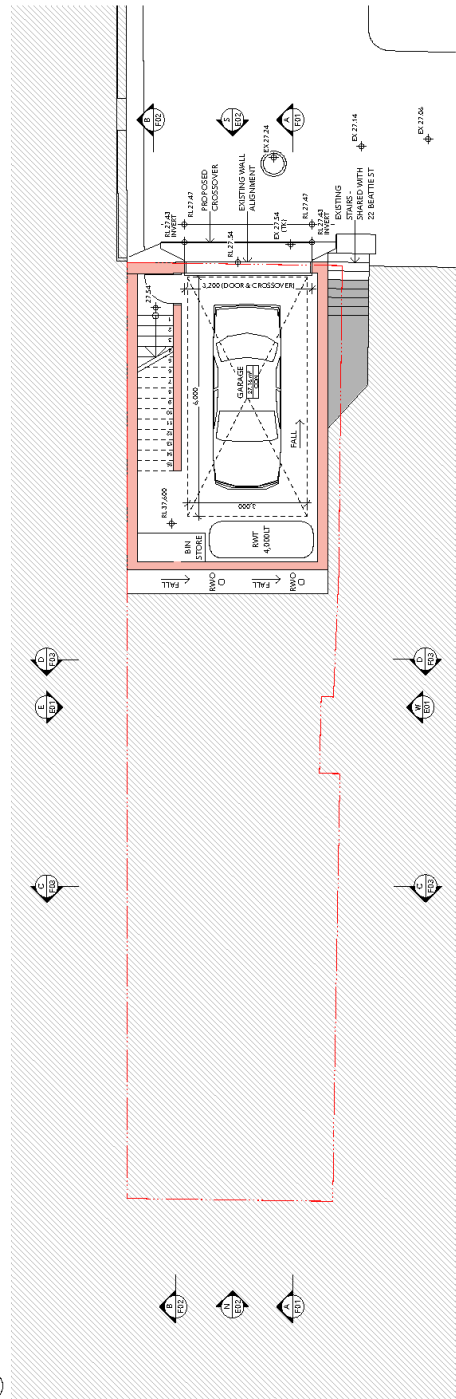
WorkCover Authority of NSW 13 10 50  
[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)  
Enquiries relating to work safety and asbestos  
removal and disposal.

Attachment B – Plans of proposed development



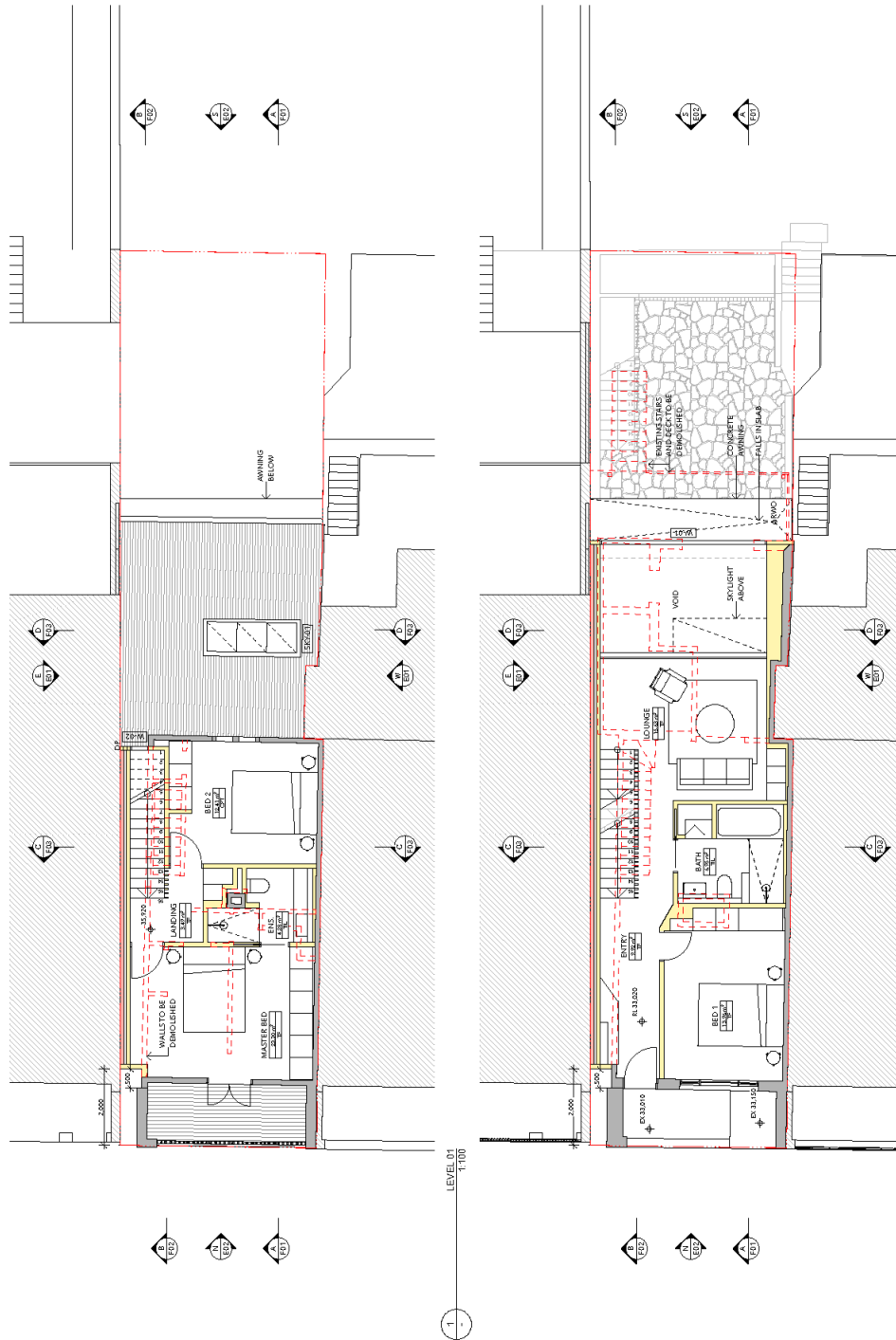


1 LOWER GROUND 1:100



2 GARAGE 1:100

<p><b>Ballast Point.</b> 4/5 Beattie St Balmain t: 02 9550 2222 a: info@ballastpoint.com.au ballastpoint.com.au</p>		<p><b>KEY</b></p> <ul style="list-style-type: none"> <li>EXISTING MESSHOUSES</li> <li>EXISTING STRUCTURES TO BE DEMOLISHED</li> <li>EXISTING STRUCTURES TO BE MAINTAINED</li> <li>PROPOSED MASONRY STRUCTURE</li> <li>PROPOSED TIMBER FRAME STRUCTURE</li> <li>PROPOSED GLAZING</li> </ul>	<p><b>FINISHES LEGEND</b></p> <ul style="list-style-type: none"> <li>AWN AWNING</li> <li>BAL BALUSTRADE</li> <li>CON CONCRETE</li> <li>COO COOKTOP</li> <li>DF DOWN PIPE</li> <li>EL EXISTING LININGS</li> <li>GD GRATED DRAIN</li> <li>HR HAND RAIL</li> </ul>	<p><b>FINISHES</b></p> <ul style="list-style-type: none"> <li>MC METAL CLADDING</li> <li>PA PAINT FRESH</li> <li>PW SANITARY PAINT</li> <li>RWT REFRIGERATOR WATER TANK</li> <li>AS METAL SHEET FLOOR</li> <li>SB STEEL BEAM</li> </ul>	<p><b>FINISHES</b></p> <ul style="list-style-type: none"> <li>SCA SCREEN</li> <li>TO TIMBER FLOORING</li> <li>TF TIMBER FLOORING</li> <li>WIN WINDOW</li> <li>WRL WINDOW WALL</li> <li>WC TOILET PAN</li> </ul>	<p><b>REV DATE DESCRIPTION</b></p> <ul style="list-style-type: none"> <li>A 19.11.20 FOR DEVELOPMENT APPLICATION</li> <li>B 04.02.21 FOR DEVELOPMENT APPLICATION</li> <li>C 14.02.21 FOR DEVELOPMENT APPLICATION</li> </ul>	<p><b>SCALE</b></p> <p>1:100 @ A3</p>	<p><b>PROJECT</b></p> <p>BEATTIE ST RESIDENCE 20 BEATTIE ST BALMAIN LOT 1 D.P. 220829</p>	<p><b>PROJECTING</b></p> <p>BE020</p>	<p><b>DRAWING NO.</b></p> <p>DA-D01</p>	<p><b>STATUS</b></p> <p>DEVELOPMENT APPLICATION</p>	<p><b>DATE ISSUED</b></p> <p>19.11.20</p>	<p><b>REVISION</b></p> <p>C</p>
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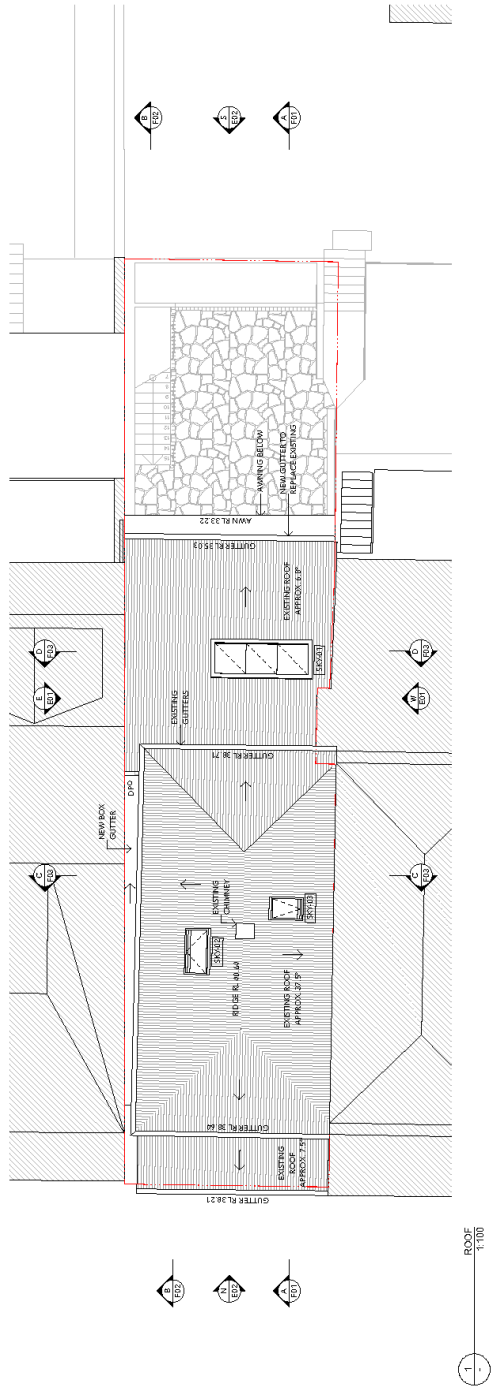
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CLIENT	KITMACSULLIVAN & KIR RUTHERFORD
DRAWING NO.	DA-D02
DRAWING TITLE	GROUND FLOOR AND LEVEL 01
STATUS	DEVELOPMENT APPLICATION
FIRST ISSUED	19/11/20
REVISION	C

REF DATE	DESCRIPTION
A 19/11/20	FOR DEVELOPMENT APPLICATION
B 19/11/20	FOR DEVELOPMENT APPLICATION
C 14/09/21	FOR DEVELOPMENT APPLICATION

SCALE	1:100 @ A3
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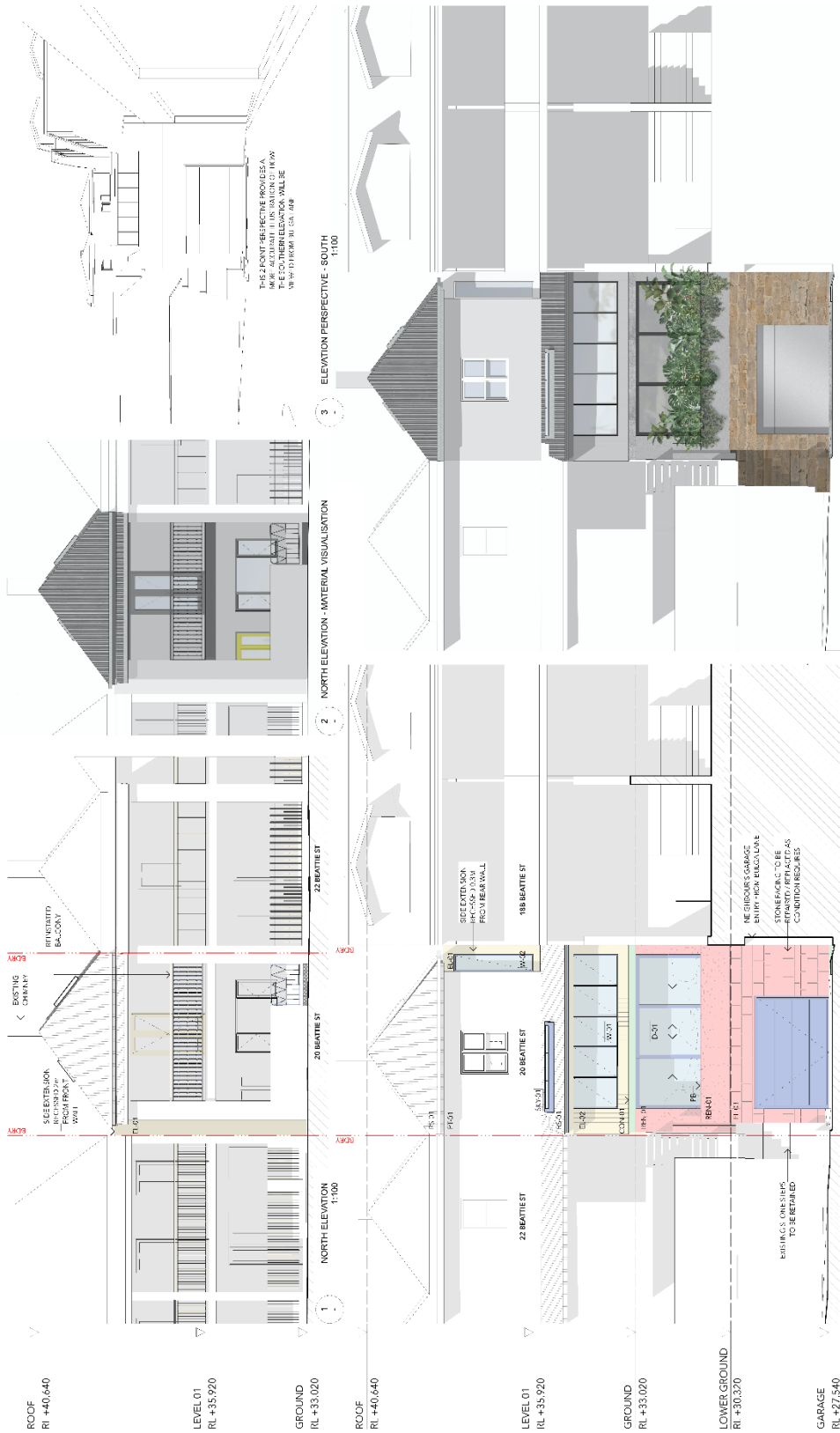
FINISH/LEADER	AWN AWNING	CON CONCRETE	DOOR DOOR	EL EXISTING	EXT EXTERNAL LINING	FRM FRAMING	GRV GROUND	HK HAND RAIL
MWU MOUNTING UNIT	PAY PAVING	CON CONCRETE	DOOR DOOR	EL EXISTING	EXT EXTERNAL LINING	FRM FRAMING	GRV GROUND	HK HAND RAIL
SCR SCRUB	SPF700 SPOTLIGHT	TPD TIMBER DECKING	WHI WOOD	WHI WOOD	WHI WOOD	WHI WOOD	WHI WOOD	WHI WOOD
STL STEEL COLUMN	STL STEEL COLUMN	STL STEEL COLUMN	STL STEEL COLUMN	STL STEEL COLUMN	STL STEEL COLUMN	STL STEEL COLUMN	STL STEEL COLUMN	STL STEEL COLUMN

**Ballast Point.**  
 4/6 BARRIE ST BALMAIN  
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 www.ballastpoint.com.au



<p><b>Ballast Point.</b> 46 Smeaton St Ballina T: 41 2 7155 844 ballastpoint.com.au ballastpoint.com</p>		<p><b>KEY</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: white;"></span> EXISTING NEIGHBOURS</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: white;"></span> EXISTING STRUCTURES TO BE DEMOLISHED</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: white;"></span> EXISTING STRUCTURES TO BE RETAINED</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: white;"></span> PROPOSED MASONRY STRUCTURE</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: white;"></span> PROPOSED TIMBER FRAMED STRUCTURE</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: white;"></span> PROPOSED METAL STRUCTURE</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: white;"></span> PROPOSED GLAZING</li> </ul>	<p><b>FINISHES LEGEND</b></p> <ul style="list-style-type: none"> <li>AWN AWNINGS</li> <li>CON CONCRETE</li> <li>DRD DOOR</li> <li>EXT EXTERNAL WALL</li> <li>EL EXISTING</li> <li>D DRAIN</li> <li>HK HANDRAIL</li> </ul>	<p><b>RWU</b></p> <ul style="list-style-type: none"> <li>RWU HOT WATER UNIT</li> <li>PWY PAVEMENT</li> <li>PB PLANTER BED</li> <li>RWO RAINWATER OUTLET</li> <li>RWT RAINWATER TANK</li> <li>SK STEEL SKAFF</li> </ul>	<p><b>SC</b></p> <ul style="list-style-type: none"> <li>SC STEEL COLUMN</li> <li>SKY SKYLIGHT</li> <li>TD TIMBER DECKING</li> <li>TILE TILE</li> <li>VM MASONRY WALL</li> <li>WC TOILET PAN</li> </ul>	<p><b>REV. DATE</b></p> <ul style="list-style-type: none"> <li>A 19.11.20 FOR DEVELOPMENT APPLICATION</li> <li>B 19.11.20 FOR DEVELOPMENT APPLICATION</li> <li>C 19.02.21 FOR DEVELOPMENT APPLICATION</li> </ul>	<p><b>DESCRIPTION</b></p> <ul style="list-style-type: none"> <li>A 19.11.20 FOR DEVELOPMENT APPLICATION</li> <li>B 19.11.20 FOR DEVELOPMENT APPLICATION</li> <li>C 19.02.21 FOR DEVELOPMENT APPLICATION</li> </ul>	<p><b>SCALE</b></p> <p>1:100 @ A3</p>	<p><b>PROJECT</b></p> <p>BEATTIE ST RESIDENCE 20 BEATTIE ST BALLINA LOT 1 D.P. 220829</p>	<p><b>PROJECT NO.</b></p> <p>BE020</p>	<p><b>DRAWING TITLE</b></p> <p>ROOF PLAN</p>
<p><b>CLIENT</b></p> <p>KIT MACGILLIVRAY &amp; KIR RUTHERFORD</p>		<p><b>DRAWING NO.</b></p> <p>DA-D03</p>	<p><b>STATUS</b></p> <p>DEVELOPMENT APPLICATION</p>	<p><b>FIRST ISSUED</b></p> <p>19.11.20</p>	<p><b>REVISION</b></p> <p>C</p>						





**Ballast Point**  
 18 Beattie St, Ballast Point NSW 1585  
 Tel: 02 9390 0949  
 www.ballastpoint.com.au

**Project:** BEATTIE ST RESIDENCE  
 20 BEATTIE ST, BALLAST POINT NSW 1585  
 LOT 1 D/L 228527

**Client:** KIT MACCOLLUMRAY & KIR RUTHERFORD

**Project:** BE220 ELEVATIONS NORTH AND SOUTH

**Scale:** 1:100 & 1:100 & 1:100 & 1:100 & 1:100 & 1:100

**Description:** DEVELOPMENT APPLICATION FOR DEVELOPMENT APPLICATION

**Rev. Date:**  
 A 20.06.21 FOR DEVELOPMENT APPLICATION  
 B 20.06.21 FOR DEVELOPMENT APPLICATION  
 C 19.06.21 FOR DEVELOPMENT APPLICATION

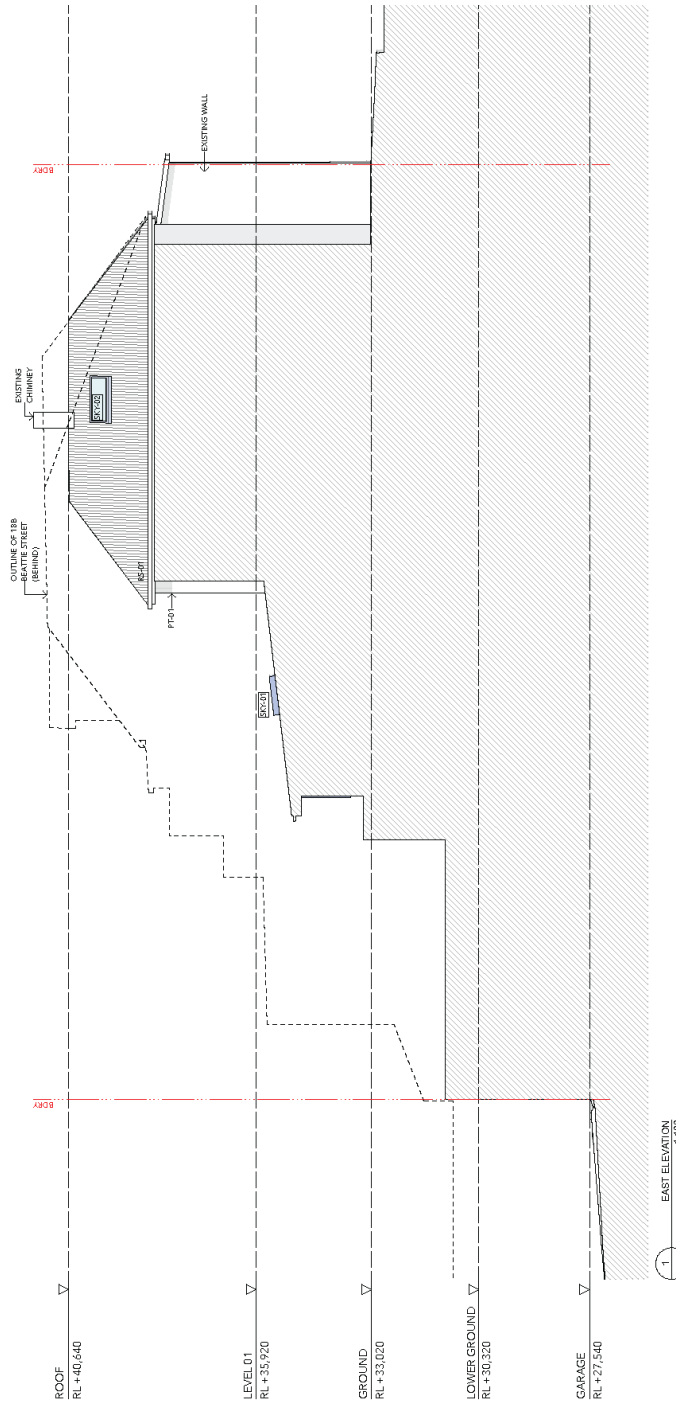
**Project Title:** ELEVATIONS NORTH AND SOUTH

**Drawing ID:** DA-E01

**Revision:** C

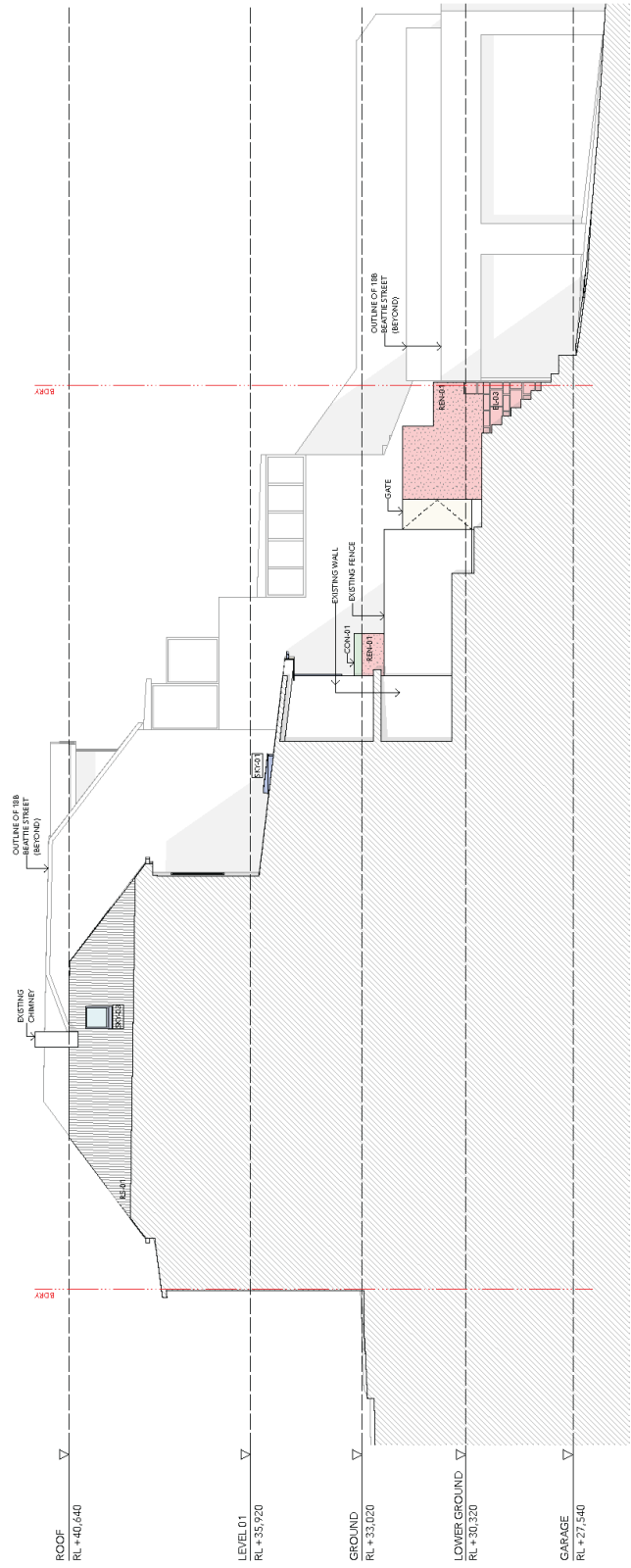
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 GYPSONUM BOARD  
 GLASS  
 TIMBER  
 TERRAZZO  
 STONE  
 TILE  
 PAINT  
 PLASTER  
 ROOFING  
 INSULATION  
 FLOORING  
 WALLING  
 FINISHES

**Notes:**  
 1. METAL CLADDING TO BE SUPPLIED BY CLIENT.  
 2. BRICKWORK TO BE SUPPLIED BY CLIENT.  
 3. CONCRETE TO BE SUPPLIED BY CLIENT.  
 4. GYPSONUM BOARD TO BE SUPPLIED BY CLIENT.  
 5. GLASS TO BE SUPPLIED BY CLIENT.  
 6. TIMBER TO BE SUPPLIED BY CLIENT.  
 7. TERRAZZO TO BE SUPPLIED BY CLIENT.  
 8. STONE TO BE SUPPLIED BY CLIENT.  
 9. TILE TO BE SUPPLIED BY CLIENT.  
 10. PAINT TO BE SUPPLIED BY CLIENT.  
 11. PLASTER TO BE SUPPLIED BY CLIENT.  
 12. ROOFING TO BE SUPPLIED BY CLIENT.  
 13. INSULATION TO BE SUPPLIED BY CLIENT.  
 14. FLOORING TO BE SUPPLIED BY CLIENT.  
 15. WALLING TO BE SUPPLIED BY CLIENT.  
 16. FINISHES TO BE SUPPLIED BY CLIENT.

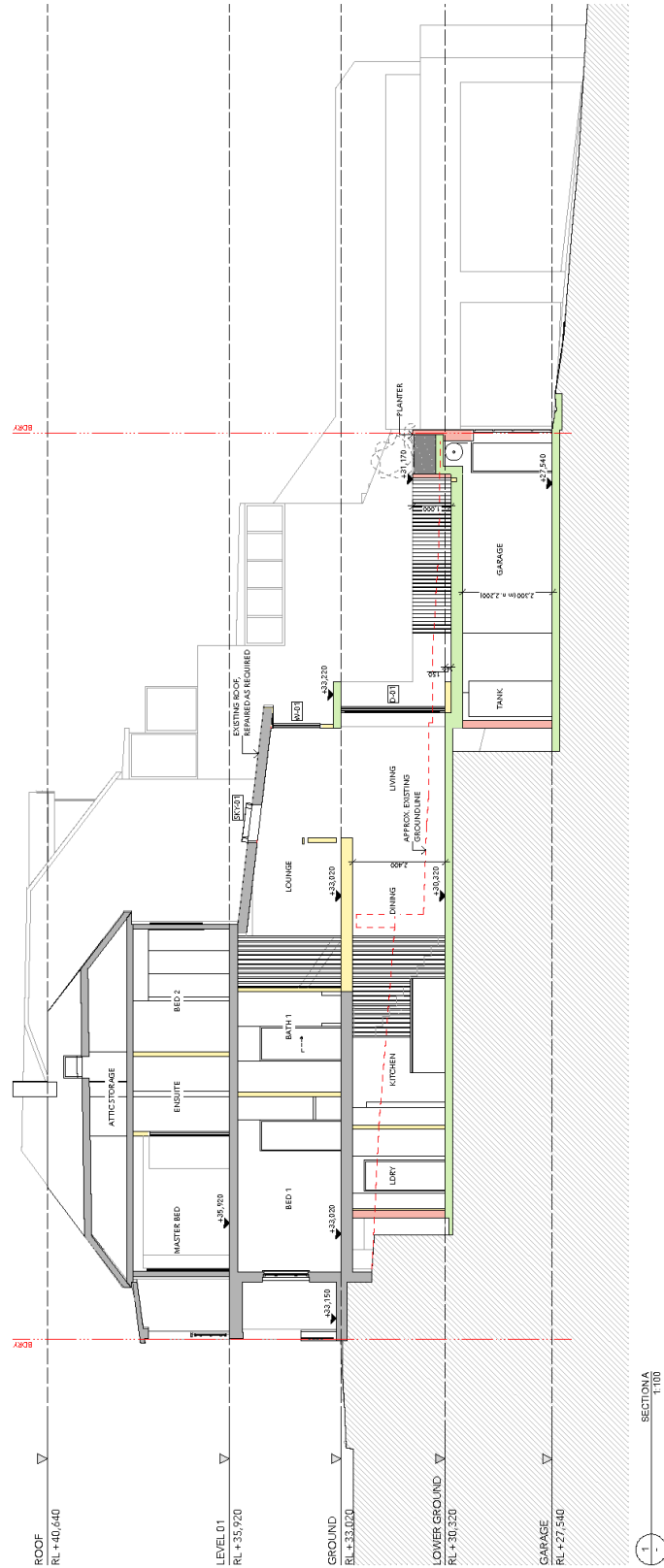


<p><b>Ballast Point</b>                  45-55 Macleay St, Balmain                  T 44 2 995 844                  t@ballastpoint.com.au                  ballastpoint.com.au</p>		<p><b>KEY</b></p> <ul style="list-style-type: none"> <li>EXISTING MASONRY</li> <li>EXISTING STRUCTURES TO BE DEMOLISHED</li> <li>EXISTING STRUCTURES TO BE MAINTAINED</li> <li>PROPOSED MASONRY STRUCTURE</li> <li>PROPOSED METAL STRUCTURE</li> <li>PROPOSED METAL GLAZING</li> </ul>	<p><b>FINISHES LEGEND</b></p> <ul style="list-style-type: none"> <li>AWN AWNING</li> <li>BAL BALUSTRADE</li> <li>CL CLADDING</li> <li>DOO DOOR</li> <li>DP DOWNPIPE</li> <li>EX EXISTING</li> <li>GD GRAVED-DRAIN</li> <li>HK HAND RAIL</li> <li>MC METAL CLADDING</li> <li>PE PLASTER</li> <li>PF PAINT FINISH</li> <li>PT PLASTER BOARD</li> <li>RS RAIN WATER PANK</li> <li>RS GRATED-DRAIN</li> <li>SB STEEL BEAM</li> <li>SC STEEL COLUMN</li> <li>SCR SCREEN</li> <li>TD TIMBER DECKING</li> <li>TT TIMBER FLOORING</li> <li>WMA MASONRY WALL</li> <li>WNO WINDOW</li> <li>WC TOILET PAN</li> </ul>	<p><b>REV DATE DESCRIPTION</b></p> <p>A 19/11/20 FOR DEVELOPMENT APPLICATION                  B 16/02/21 FOR DEVELOPMENT APPLICATION</p>	<p><b>SCALE</b></p> <p>1:100 @ A3</p>	<p><b>PROJECT</b></p> <p>BEATTIES RESIDENCE                  20 BEATTIE ST BALMAIN                  LOT 1 D.P. 220829</p>	<p><b>PROJECT NO.</b></p> <p>BEG02</p>	<p><b>DRAWING TITLE</b></p> <p>ELEVATIONS EAST</p>
<p><b>Ballast Point</b>                  45-55 Macleay St, Balmain                  T 44 2 995 844                  t@ballastpoint.com.au                  ballastpoint.com.au</p>		<p><b>STATUS</b></p> <p>DEVELOPMENT APPLICATION</p>	<p><b>CLIENT</b></p> <p>KIT MACCELLIVRAY &amp; KIRI RUTHERFORD</p>	<p><b>DRAWING NO.</b></p> <p>DA-E02</p>	<p><b>STATUS</b></p> <p>FIRST ISSUED                  03.02.21</p>	<p><b>REVISION</b></p> <p>B</p>		

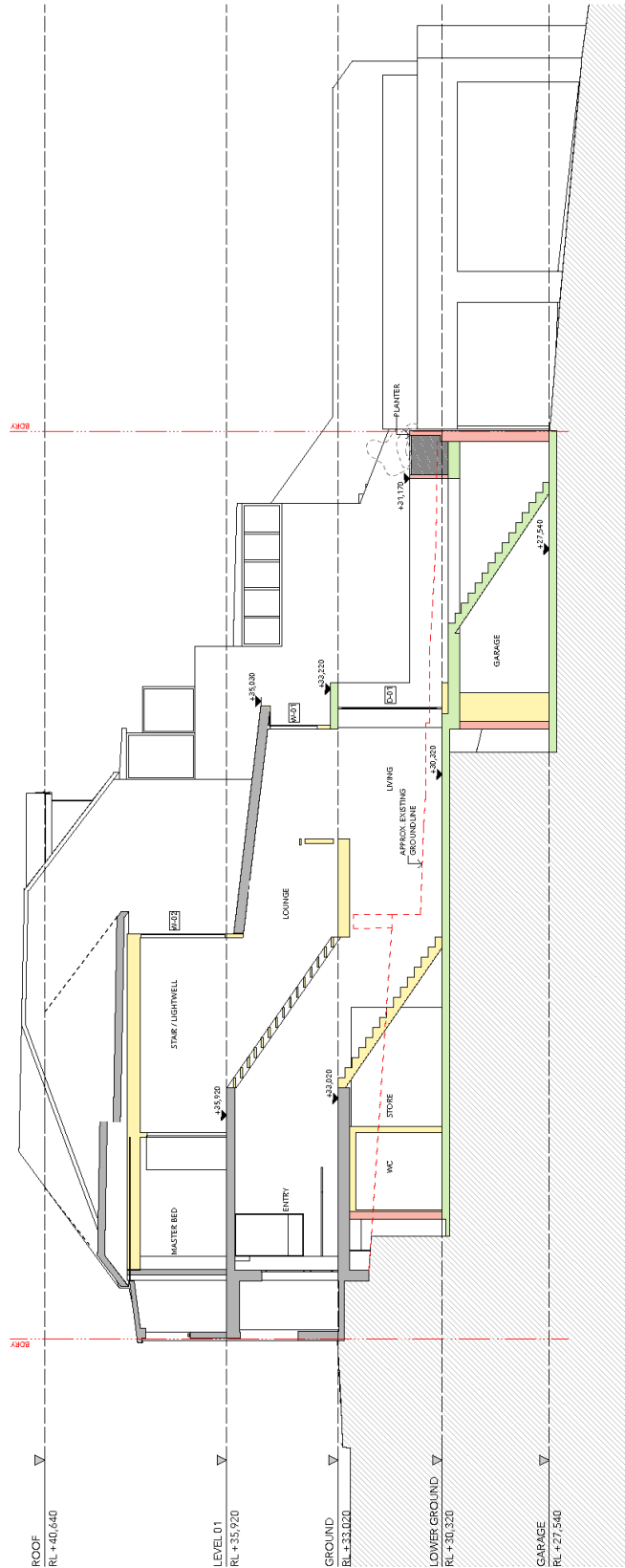




<p><b>Ballast Point</b>                  16 Ballantyne Street                  Tel: 02 9390 1234                  info@ballastpoint.com.au                  ballastpoint.com.au</p>		<p><b>KEY</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #cccccc;"></span> EXISTING SUBSTRUCTURE</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #cccccc;"></span> EXISTING STRUCTURES TO BE DEMOLISHED</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #cccccc;"></span> EXISTING STRUCTURES TO BE MAINTAINED</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #cccccc;"></span> PROPOSED MASONRY STRUCTURE</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #cccccc;"></span> PROPOSED CONCRETE STRUCTURE</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #cccccc;"></span> PROPOSED METAL STRUCTURE</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black; background-color: #cccccc;"></span> PROPOSED GLAZING</li> </ul>		<p><b>FINISHES LEGEND</b></p> <ul style="list-style-type: none"> <li>AWN AWNIBS</li> <li>BAL BALSTRADA</li> <li>CC CONCRETE</li> <li>DD DOWN PIPE</li> <li>EL EXISTING LININGS</li> <li>GD GRATED DRAIN</li> <li>HR HAND RAIL</li> </ul>		<p><b>FINISHES LEGEND</b></p> <ul style="list-style-type: none"> <li>HMU HOT WATER UNIT</li> <li>MC METAL CLADDING</li> <li>FR FR</li> <li>PT PAINT FINISH</li> <li>RD DOWN PIPE</li> <li>BM BATH WATER TANK</li> <li>MS METAL SHEET ROOF</li> <li>SB STEEL BEAM</li> </ul>		<p><b>FINISHES LEGEND</b></p> <ul style="list-style-type: none"> <li>SC STEEL COLUMN</li> <li>SCR SCREEN</li> <li>TD THICK FLOORING</li> <li>TF THINER FLOORING</li> <li>WM MASONRY WALL</li> <li>WPO WINDOW</li> <li>WC TOILET PAN</li> </ul>		<p><b>REVISION</b></p> <p>A 19.11.20 FOR DEVELOPMENT APPLICATION</p> <p>B 16.08.21 FOR DEVELOPMENT APPLICATION</p>		<p><b>SCALE</b></p> <p>1:100 @ A3</p>		<p><b>PROJECT</b></p> <p>BEATTIE ST RESIDENCE</p> <p>20 BEATTIE ST BALMAIN</p> <p>LOT 1 D.P. 220829</p>		<p><b>PROJECTUS</b></p> <p>BE220</p>		<p><b>CRANKSHITTE</b></p> <p>ELEVATIONS WEST</p>	
<p><b>REV DATE</b></p>		<p><b>DESCRIPTION</b></p>		<p><b>SCALE</b></p>		<p><b>PROJECT</b></p>		<p><b>PROJECTUS</b></p>		<p><b>CRANKSHITTE</b></p>		<p><b>STATUS</b></p> <p>DEVELOPMENT APPLICATION</p> <p>DRAWING NO.</p>		<p><b>STATUS</b></p> <p>DEVELOPMENT APPLICATION</p> <p>DRAWING NO.</p>		<p><b>CRANKSHITTE</b></p> <p>DA E03</p>			
<p><b>CLIENT</b></p> <p>KIT MACGILLIVRAY &amp; KIR RUTHERFORD</p>		<p><b>CLIENT</b></p> <p>KIT MACGILLIVRAY &amp; KIR RUTHERFORD</p>		<p><b>CLIENT</b></p> <p>KIT MACGILLIVRAY &amp; KIR RUTHERFORD</p>		<p><b>CLIENT</b></p> <p>KIT MACGILLIVRAY &amp; KIR RUTHERFORD</p>		<p><b>CLIENT</b></p> <p>KIT MACGILLIVRAY &amp; KIR RUTHERFORD</p>		<p><b>CLIENT</b></p> <p>KIT MACGILLIVRAY &amp; KIR RUTHERFORD</p>		<p><b>CLIENT</b></p> <p>KIT MACGILLIVRAY &amp; KIR RUTHERFORD</p>		<p><b>CLIENT</b></p> <p>KIT MACGILLIVRAY &amp; KIR RUTHERFORD</p>		<p><b>CLIENT</b></p> <p>KIT MACGILLIVRAY &amp; KIR RUTHERFORD</p>			



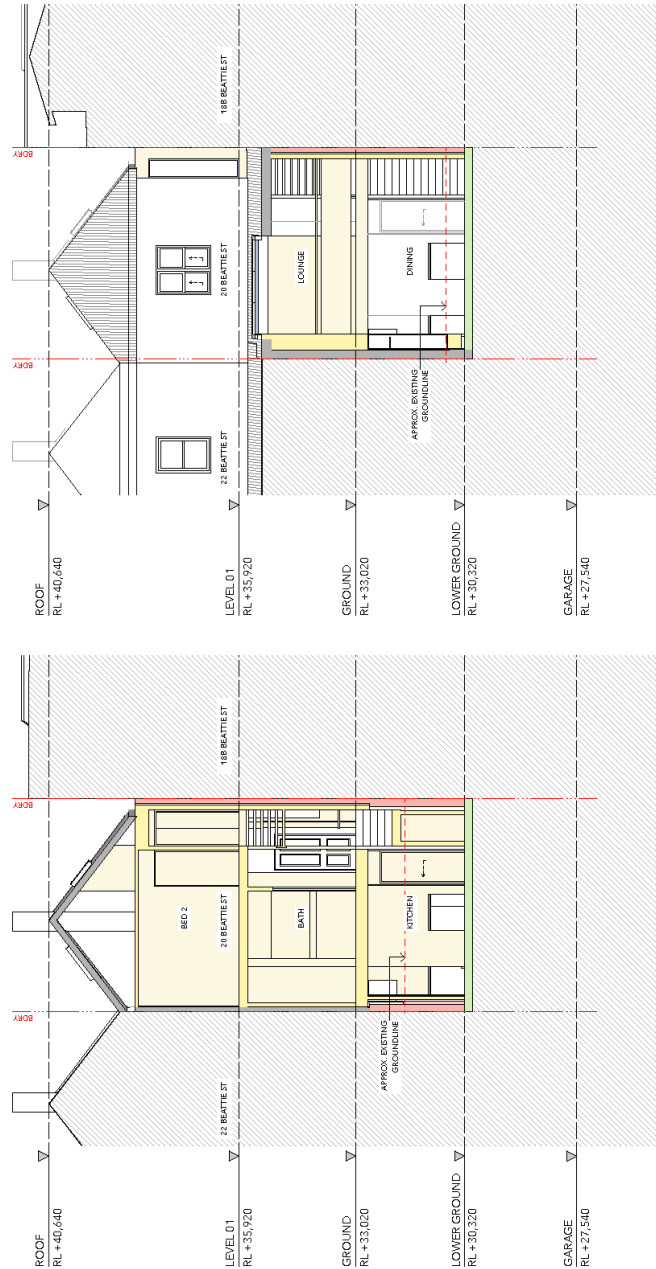
<p><b>Ballast Point.</b> 45 GARDNER ST BALMAIN NSW 1513 T 45 2 715 8497 tballastpoint.com.au ballastpoint.com.au</p>		<p><b>KEY</b></p> <ul style="list-style-type: none"> <li>EXISTING REINFORCED</li> <li>EXISTING STRUCTURES TO BE REINFORCED</li> <li>EXISTING STRUCTURES TO BE MAINTAINED</li> <li>PROPOSED REINFORCED</li> <li>PROPOSED TRIMMER FRAME STRUCTURE</li> <li>PROPOSED METAL STRUCTURE</li> <li>PROPOSED GLAZING</li> </ul>	<p><b>FINISHES LEGEND</b></p> <ul style="list-style-type: none"> <li>AWN AWNING</li> <li>BAL BALUSTRADE</li> <li>DOOR DOOR</li> <li>DP DOWNPIPE</li> <li>EX EXISTING</li> <li>GD GRADED DRAIN</li> <li>HWU HOT WATER UNIT</li> <li>MC METAL CLADDING</li> <li>PE PLASTER</li> <li>PF PAINT FINISH</li> <li>RWD RAIN WATER DRAIN</li> <li>RWT RAIN WATER TANK</li> <li>RS METAL SHEET ROOF</li> <li>ST STEEL BEAM</li> <li>SS STEEL</li> <li>TR TOILET PAN</li> </ul>	<p><b>REV DATE</b></p> <ul style="list-style-type: none"> <li>A 19.11.20 FOR DEVELOPMENT APPLICATION</li> <li>B 03.02.21 FOR DEVELOPMENT APPLICATION</li> <li>C 10.02.21 FOR DEVELOPMENT APPLICATION</li> </ul>	<p><b>DESCRIPTION</b></p> <ul style="list-style-type: none"> <li>FOR DEVELOPMENT APPLICATION</li> <li>FOR DEVELOPMENT APPLICATION</li> <li>FOR DEVELOPMENT APPLICATION</li> </ul>	<p><b>SCALE</b></p> <p>1:100 @ A3</p>	<p><b>PROJECT</b></p> <p>BEATTIE ST RESIDENCE 20 BEATTIE ST BALMAIN LOT 1 D.P. 220829</p>	<p><b>PROJECT NO.</b></p> <p>BEG20</p>	<p><b>DRAWING TITLE</b></p> <p>SECTION A</p>	<p><b>CLIENT</b></p> <p>KIT MACCELLIVRAY &amp; KIRI RUTHERFORD</p>	<p><b>DRAWING NO.</b></p> <p>DA-F01</p>	<p><b>STATUS</b></p> <p>DEVELOPMENT APPLICATION</p>	<p><b>DRAWING NO.</b></p> <p>DA-F01</p>	<p><b>REVISION</b></p> <p>REVISION</p>	<p><b>DATE ISSUED</b></p> <p>19.11.20</p>
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<p>KEY</p> <ul style="list-style-type: none"> <li>EXISTING NEIGHBOURS</li> <li>EXISTING STRUCTURES TO BE DEMOLISHED</li> <li>EXISTING STRUCTURES TO BE MAINTAINED</li> <li>EXISTING STRUCTURES TO BE RECONSTRUCTED</li> <li>PROPOSED BRICK/CONCRETE STRUCTURE</li> <li>PROPOSED METAL STRUCTURE</li> <li>PROPOSED GLAZING</li> </ul>		<p>FINISHES LEGEND</p> <ul style="list-style-type: none"> <li>AWN AWNING</li> <li>CL WALL CLADDING</li> <li>CON CONCRETE</li> <li>DOOR DOOR</li> <li>DOWN PIPE DOWN PIPE</li> <li>EXISTING EXISTING</li> <li>GD GRADED DRAIN</li> <li>HR HAND RAIL</li> </ul>		<p>HWU HOT WATER UNIT</p> <ul style="list-style-type: none"> <li>MC MECHANICAL</li> <li>PC PLASTER BOARD</li> <li>PF PAINT FINISH</li> <li>PT PLASTER</li> <li>RWO RAIN WATER POND</li> <li>RWT RAIN WATER TANK</li> <li>MS METAL SHEET ROOF</li> <li>SB STEEL BEAM</li> </ul>		<p>SC STEEL COLUMN</p> <ul style="list-style-type: none"> <li>SCF SCAFFOLD</li> <li>SCR SCREED</li> <li>TD TIMBER DECKING</li> <li>TF TIMBER FLOORING</li> <li>WM WOODWORK</li> <li>WIND WINDOW</li> <li>WC TOILET PAN</li> </ul>		<p>REV DATE DESCRIPTION</p> <ul style="list-style-type: none"> <li>A 19.11.20 FOR DEVELOPMENT APPLICATION</li> <li>B 09.02.21 FOR DEVELOPMENT APPLICATION</li> <li>C 10.08.21 FOR DEVELOPMENT APPLICATION</li> </ul>		<p>SCALE</p> <p>1:100 @ A3</p>		<p>PROJECT BEATTIE ST RESIDENCE 20 BEATTIE ST BALMAIN LOT 1 D.P. 220829</p>		<p>PROJECT NO. BE020 SECTION B</p>		<p>STATUS DEVELOPMENT APPLICATION DRAWING NO. DA-F02</p>		<p>CLIENT KIT MACGILLIVRAY &amp; KIR RUTHERFORD</p>		<p>FIRST ISSUED 19.11.20 REVISION</p>	
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1 SECTION B  
T:100

**Ballast Point.**  
 65 Jones St, Balmain  
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 info@ballastpoint.com.au  
 ballastpoint.com.au



KEY		FINISHES LEGEND		HOT WATER UNIT		SC		STEEL COLUMN		REV DATE		DESCRIPTION		SCALE		PROJECT NO.		DRAWING TITLE	
[Pattern]	EXISTING BRICKWORK	AWN	AWNING	HWU	HOT WATER UNIT	SC	STEEL COLUMN	A	19.11.20	FOR DEVELOPMENT APPLICATION	A	19.11.20	FOR DEVELOPMENT APPLICATION	1:1000 @ A3	BE020	SECTION C AND D	BEATIE ST RESIDENCE	20 BEATTIE ST BALMAIN	LOT 1 DP 220829
[Pattern]	EXISTING STRUCTURES TO BE DEMOLISHED	CON	CONCRETE	MEZ	METAL SHEET ROOF	SC	SCAFFOLD	B	03.02.21	FOR DEVELOPMENT APPLICATION	B	03.02.21	FOR DEVELOPMENT APPLICATION				STATUS	DA-F03	19.11.20
[Pattern]	EXISTING STRUCTURES TO BE MAINTAINED	DOOR	DOOR	PAV	PAVING	SP	SPRINKLER	C	10.05.21	FOR DEVELOPMENT APPLICATION	C	10.05.21	FOR DEVELOPMENT APPLICATION				DEVELOPMENT APPLICATION	DA-F03	
[Pattern]	PROPOSED TO BE MAINTAINED	DOWN PIPE	DOWN PIPE	PB	PAINTER BED	TD	TRIMMER DECKING										CLIENT	KIT MACCALLIVRAY & KIRI RUTHERFORD	
[Pattern]	PROPOSED TO BE DEMOLISHED	EXISTING	EXISTING	PL	PAINT FRESH	TI	TIMBER FLOORING												
[Pattern]	PROPOSED METAL STRUCTURE	EXISTING	EXISTING	PLUS	RAIN WATER PANK	WHI	MASONRY WALL												
[Pattern]	PROPOSED GLAZING	GRATED DRAIN	GRATED DRAIN	RW	METAL SHEET ROOF	WBD	WINDCOW												
[Pattern]		HAND DIAL	HAND DIAL	RS	STEEL BEAM	WC	TOILET PAN												

**BC-01**  
**METAL ROOF**  
TYPE: CORRUGATED SHEET  
FINISH: GALVANISED STEEL



**EL-02**  
**LINKING BOARDS - PAINTED**  
TYPE: DULUX M&A, HERSHIELD  
COLOUR: SILKWOVE



**FG-01**  
**PAINT FINISH TO EXISTING WALL**  
TYPE: DULUX M&A, HERSHIELD  
COLOUR: SILKWOVE



**EL-01**  
**FIBRE CEMENT SHEET - PAINTED**  
TYPE: DULUX M&A, HERSHIELD  
COLOUR: TERRACE WHITE



**D-\*\* & W-\*\***  
**DOOR & WINDOW FRAMES**  
TYPE: ALUMINIUM ANODISED  
COLOUR: BLACK



**REN-01**  
**TEXTURED RENDER**  
TYPE: ROCKCOTE OR SIMILAR  
COLOUR: MID-GREY



**FG-02**  
**PAINT COLOUR TO TIMBER TRIMS AND WROUGHT IRON BALUSTRADE**  
TYPE: DULUX WEATHERSHIELD  
COLOUR: GREY MASTER



**EL-03**  
**STONE CLADDING**  
TYPE: STONE CLADDING  
FINISH: SANDSTONE



**MC-01**  
**METAL SHEET (GARAGE DOOR)**  
TYPE: COLORBOND STEEL SHEET  
COLOUR: SHALE GREY



**TO-01**  
**TIMBER DECKING**  
TYPE: BLACKBUTT OR SIMILAR  
FINISH: CLEAR OIL



**PV-01**  
**ENDICOTT ORGANIC PAVING**  
TYPE: ROCKCOTE OR SIMILAR  
COLOUR: MID-GREY



**PB**  
**PLANTER BED**  
LOW TO MEDIUM HEIGHT VARIETIES SUITABLE FOR SOUTHERN ASPLECT





MATERIALS LOCATION KEY - SOUTH

MATERIALS LOCATION KEY - NORTH

 <p><b>Ballast Point.</b> 44 Berrima St Ballast Point NSW 1511 t: 02 9390 8888 e: info@ballastpoint.com.au ballastpoint.com.au</p>		<p>PROJECT: BEATTIE RESIDENCE 20 BEATTIE ST BALLVAN LOT 1 D.P. 238225</p> <p>CLIENT: KIT MACGILLWAY &amp; KIRI RUTHERFORD</p>	<p>PROJECT NO: BE80</p> <p>DESIGN NO: FOR DEVELOPMENT APPLICATION FOR DEVELOPMENT APPLICATION</p> <p>SCALE: A3</p>	<p>PROJECT TITLE: MATERIALS BOARD</p> <p>DATE: 15.11.20</p> <p>DESIGNER: KIT MACGILLWAY &amp; KIRI RUTHERFORD</p> <p>REVISION: C</p>
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## Attachment C- Clause 4.6 Exception to Development Standards – Site Coverage

### **CLAUSE 4.6 EXCEPTION – SITE COVERAGE Under Clause 4.3A(3)(b) of the Leichhardt Local Environmental Plan 2013**

**Proposed alterations and additions to an existing dwelling  
at 20 Beattie Street Balmain**

**For:** Kit Macgillivray and Kiri Rutherford

**By:** Ballast Point  
46 Beattie St  
Balmain NSW 2041  
T: (02) 9195 6949

**Date:** August 2021

**Issue:** C For Development Application

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- 5 IS THE PROPOSED DEVELOPMENT CONSISTENT WITH THE  
OBJECTIVES OF THE PARTICULAR STANDARD AND THE RELEVANT  
ZONE?
- 6 CONCLUSION

## 1 INTRODUCTION

This written request is made pursuant to the provisions of Clause 4.6 of the Leichhardt Local Environmental Plan 2013 (LEP 2013)

This application seeks a variation of the Landscaped areas for residential accommodation in Zone R1 Development Standard as the proposal at No. 20 Beattie St will exceed the maximum Site Coverage requirement outlined in Clause 4.3A(3)(b) under Leichhardt LEP 2013.

## 2 DEVELOPMENT STANDARD AND THE VARIATION SOUGHT

*Clause 4.3A Landscaped areas for residential accommodation in Zone R1 (3) Development consent must not be granted to development to which this clause applies unless—*

*(a) the development includes landscaped area that comprises at least -  
(i) where the lot size is equal to or less than 235 square metres – 15% of the site area, or  
(ii) where the lot size is greater than 235 square metres – 20% of the site area, and*

*(b) the site coverage does not exceed 60% of the site area.*

Details of the variations sought:

### Landscaped Area

As per the land survey accompanying this application, the subject lot area is 123.3m<sup>2</sup>, therefore, the minimum required landscaped area is 15% of the site area (18.5m<sup>2</sup>).

The existing landscaped area, as defined in the LLEP, is 0% and the proposed landscaped area, as defined, is 0%.

### Site Coverage

As per the land survey accompanying this application, the subject lot area is 123.3m<sup>2</sup>, therefore, the maximum allowable site coverage is 73.98m<sup>2</sup>.

The existing site coverage is 65.5% (80.88m<sup>2</sup>) and the proposed site coverage is 81.9% (100.94m<sup>2</sup>).



### 3 IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNECESSARY?

This section has been prepared with reference to the Court-accepted means of demonstrating that "compliance with the development standard is unreasonable or unnecessary in the circumstances of the case." This has been established in the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827, and affirmed in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118). In *Wehbe* (and *Initial Action*) the Court accepted that "the first and most commonly invoked way to establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard".

Although the proposal seeks a variation to the numerical control of the development standard outlined in Clause 4.3A(3)(a), it is considered that the development complies with the objectives of the clause. In the following points the circumstances specific to the design are outlined.

Objective:

*(a) to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,*

Response:

The existing nature of development at the subject site and the row of terraced dwellings (including 18 and 18A Beattie Street to the east and 22 to 30 Beattie Street to the west) is that:

- Site coverage (particularly where garages are provided) already exceeds the development standard requirement; and
- No landscaped areas, as per the LLEP definition, are provided as rear yards are either paved, contain garages or other parking structures/spaces or comprise fill to elevate yard levels to be consistent with (or closer to) the ground floor levels of the dwellings.

This means that none of the dwellings in this specific group of dwellings currently have any significant landscaped areas, as defined.

The slope of the land and established levels dictates that landscaped areas, as defined, cannot be provided regardless of the site coverage proposed. Therefore, the non-compliance with the site coverage development standard is of less significance as strict compliance would not allow landscaped area, as defined, to be implemented.

In this context, the proposal is not extraordinary in providing non-compliance with the site coverage and landscaped area development standards. Being consistent with existing conditions and surrounding properties, we submit the proposal is appropriate in the circumstances.

The proposal also results an improved landscaped setting for the subject site than the existing conditions. The rear yard will comprise hard landscaping, similar to the existing situation, and a planter box along the rear boundary which will soften the built form when viewed from within the subject site and Bulga Lane.

Objective:

*(b) to maintain and encourage a landscaped corridor between adjoining properties,*

Response:

Not applicable. The existing dwelling is part of a row of terraces on the western side, and abuts a contemporary terrace style development on its eastern side. A landscaped corridor is not existing nor is it achievable.

Objective:

*(c) to ensure that development promotes the desired future character of the neighbourhood,*

Response:

The proposed development promotes the desired future character of the neighbourhood for the following reasons:

- It will have no effect on the perceived bulk and scale of the development or the amount of usable open space because the additional site coverage area is located in two discreet locations:
  1. The proposed development will incorporate a narrow and previously unusable zone along the eastern boundary of the site that ranges from 0.2m to 0.75m in width. There is currently little to no visibility of the gap from the public realm and there will similarly be little to no visibility of the side extension. Regardless of visibility, construction to the side boundary is consistent with other terraces along Beattie St.
  2. The site coverage calculation includes the garage space proposed below the existing courtyard. This takes advantage of an existing level change at the rear of the site and will not be perceived as additional site coverage.
- Significantly, the proposal voluntarily includes the re-opening / reinstatement of the first floor balcony, relinquishing 6.72 m<sup>2</sup> of internal area that is currently heavily utilised by the owners of the subject property.

In addition to the very positive contribution this will make to the heritage conservation area, it will also result in less bulk at the primary street frontage and make a significant contribution to the desired future character of the area in relation to bulk, form, and scale.

Objective:

*(d) to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water,*

Response:

Due to the proximity of sandstone beneath the property and current lack of topsoil or landscaped areas, there is very little retention and absorption of surface drainage water on the site.

The proposed development represents a significant upgrade to the management of surface water on the site, providing new planter beds as well as new drains to capture surface water and an on-site detention tank.

Objective:

*(e) to control site density,*

Response:

As detailed previously, additional site coverage is located in areas with little to no visibility and as such there is no perceived increase in the site density.

Objective:

*(f) to limit building footprints to ensure adequate provision is made for landscaped areas and private open space,*

Response:

The proposed development will increase the area of private open space on the site by 3% (3.76m<sup>2</sup>). This will be achieved by removal of the rear deck that severely compromises the use of the rear private open space with an existing maximum headroom of approximately 1.8m.

As detailed previously, landscaped areas, as defined in the LLEP, are not existing on this site or neighbouring dwellings within this row of terraces due to the existing nature of development and ground levels.

Notwithstanding, the redesigned rear courtyard will include raised planter beds for soft landscaping where currently no planting is provided. While this cannot be included in the landscaped area calculations, as defined, it does represent a significant increase to the provision for planting on the site.

As detailed in the points above, we consider the objectives of the development standard are achieved notwithstanding the numerical non-compliance with the standard. In summary, the proposed development will significantly improve upon the existing condition, have no impact on the existing building setbacks, and considerably improve the amenity of the dwelling by incorporating previous unusable space.

#### 4 ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD?

*Clause 4.6 Exceptions to development standards*

*(5) In deciding whether to grant concurrence, the Secretary must consider:*

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

The following comments are provided to assist consideration of the points outlined above.

- The proposed contravention of the maximum site coverage area and the minimum landscaped area for residential accommodation in Zone R1 is a small matter with no State or regional significance.
- The proposed alterations and additions pose no reduction to the public benefit. As detailed in the previous section of this report, the proposed site coverage is an improvement on the existing condition and involves no visible change to the building form and setbacks. The proposed landscaping will also be a significant improvement on the existing condition despite not being included in landscaped area calculations, as defined in the LLEP.
- The proposed development is consistent with other developments in the lane with respect to both site coverage and landscaped areas and will make a positive contribution to the desired future character of the neighbourhood.
- The public will benefit from an improved laneway appearance with a proposal that includes positive improvements such as a restored sandstone boundary wall, planting visible from the lane, and improved passive surveillance of the lane with a lower fence height.
- The public will also benefit from the voluntary re-opening of the front balcony which is a significant contribution to the heritage conservation area and the desired future character of the neighbourhood. The lost floor area associated with the balcony will be relocated to provide contemporary accommodation on the site that is largely within the existing building envelope.

It is therefore considered that the overall impacts on the public will be positive and the development will not have unreasonable adverse effects.

**5 IS THE PROPOSED DEVELOPMENT CONSISTENT WITH THE OBJECTIVES OF THE PARTICULAR STANDARD AND THE RELEVANT ZONE?**

*Clause 4.3A Landscaped areas for residential accommodation in Zone R1*

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

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

As detailed in previous sections of this request, it is considered that the proposed development is compatible with the future character of the area. The proposal provides significantly improved landscaping and private open space and there is no visible change to the building bulk, form and scale.

*Zone R1 General Residential*

*1 Objectives of zone*

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

The proposed alterations and additions represent significant upgrades to the existing site by providing a more functional private open space with soft landscaping and direct access from primary living areas at the lower ground level.

The development also makes a positive contribution to the desired future character of the neighbourhood through the sensitive renovation of the rear sandstone wall, provision of planting visible from the lane, and the reinstatement of the front balcony. It is therefore considered that the proposal meets the objectives of the zone and ensures that this site will continue to provide for the housing needs of the community well into the future.

#### **11 CONCLUSION**

For the reasons outlined in the SEE and this Clause 4.6 Request, there are strong environmental planning grounds to justify contravening the Development Standard.

On this point, there are no adverse impacts to adjoining properties or the public domain and the modified dwelling will ensure the sustainable long term provision of housing on this site. Furthermore, the proposed new dwelling has been designed with careful architectural articulation and consideration to maintain and improve upon the existing desirable qualities identified in the streetscape and broader locale.

## Attachment D- Clause 4.6 Exception to Development Standards – Floor Space Ratio

### **CLAUSE 4.6 EXCEPTION – FLOOR SPACE RATIO Under Clause 4.4 of the Leichhardt Local Environmental Plan 2013**

**Proposed alterations and additions to an existing dwelling  
at 20 Beattie Street Balmain**

**For:** Kit Macgillivray and Kiri Rutherford

**By:** Ballast Point  
46 Beattie St  
Balmain NSW 2041  
T: (02) 9195 6949

**Date:** August 2021

**Issue:** C For Development Application

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OBJECTIVES OF THE PARTICULAR STANDARD AND THE RELEVANT  
ZONE?
- 6 CONCLUSION



## 1 INTRODUCTION

This written request is made pursuant to the provisions of Clause 4.6 of the Leichhardt Local Environmental Plan 2013 (LEP 2013)

This application seeks a variation of the Floor Space Ratio Development Standard as the proposal at No. 20 Beattie St will exceed the maximum Floor Space Ratio outlined in Clause 4.4 under Leichhardt LEP 2013.

## 2 DEVELOPMENT STANDARD AND THE VARIATION SOUGHT

*Clause 4.4 Floor space ratio*

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

*(a) to ensure 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.*

*(2) 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 subject site is located in "Zone D, Area 3" on the Floor Space Ratio Map under Leichhardt LEP 2013. As per Clause 4.4 (2B) (ii), in the case of development on a lot with an area of less than 150 square metres, the maximum FSR is 1.0:1.

As per the land survey accompanying this application, the lot area is 123.3m<sup>2</sup>, therefore the allowable Gross Floor Area is 123.3m<sup>2</sup>.

The proposed Gross Floor Area is 158.08m<sup>2</sup>, resulting in a Floor Space Ratio of 1.28:1. This represents an exception to the development standard of 34.78m<sup>2</sup> or 28%.

### 3 IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNECESSARY?

This section has been prepared with reference to the Court-accepted means of demonstrating that "compliance with the development standard is unreasonable or unnecessary in the circumstances of the case." This has been established in the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827, and affirmed in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118). In *Wehbe* (and *Initial Action*) the Court accepted that "the first and most commonly invoked way to establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard".

Although the proposal seeks a variation to the numerical control of the development standard outlined in Clause 4.4 and the Floor Space Ratio Map in Leichhardt LEP 2013, it is considered that the development complies with the objectives of the clause. In the following points the circumstances specific to each objective are outlined.

Objective:

- (a) *to ensure residential accommodation –*  
(i) *is compatible with the desired future character of the area in relation to building bulk, form and scale, and*

Response:

The proposed development is compatible with the desired future character of the area in relation to building bulk, form, and scale for the following reasons;

- There is no increase to the bulk, form and scale of the existing building because the additional floor area has been accommodated in:
  - a lower ground floor that utilises the existing sub-floor space;
  - a small side extension that will utilise a previously unusable narrow space to the east of the dwelling. The side extension is only 0.45m wide at the street frontage, is setback 2m from the property boundary and 0.5m from the original terrace front alignment, and;
  - a garage located entirely below the existing ground level. This is achievable due to the change in levels at the rear of the site and is a strategy that is consistent with other developments in Bulga Lane.

- Significantly, the proposal voluntarily includes the re-opening / reinstatement of the first floor balcony, relinquishing 6.72 m<sup>2</sup> of internal area that is currently heavily utilised by the owners of the subject property. In addition to the very positive contribution this will make to the heritage conservation area, it will also result in less bulk at the primary street frontage and make a significant contribution to the desired future character of the area in relation to bulk, form, and scale.

Objective:

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

Response:

The proposed development provides a suitable balance between landscaped areas and the built form for the following reasons:

- there is no change to the built form, and;
- more usable private open space will be provided because the adjusted lower ground level and demolition of the rear deck will allow occupants to access areas that previously had insufficient headroom, and;
- raised planter beds will provide new areas for soft landscaping where currently none are provided on the site.

Objective:

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

Response:

As previously detailed in response to objective (a)(i), additional floor area is located with no change to the overall bulk and scale of the buildings. Furthermore, the voluntary re-opening / reinstatement of the front balcony will reduce the bulk of the building at the primary street frontage.

Objective:

*(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.*

Response:

Not applicable

As detailed in the points above, we consider the objectives of the development standard are achieved notwithstanding the numerical non-compliance with the standard. In summary, the proposal does not represent an unreasonable scale of development for a contemporary family dwelling on this site and the additional floor space is confined to the existing building envelope and/or below existing ground levels, therefore having no impact on the public realm or the desired future character of the neighbourhood. Furthermore, existing internal floor area is being relinquished as part of the proposal in order to achieve the optimal heritage outcome of reinstating the front balcony.

#### **4 ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD?**

##### *Clause 4.6 Exceptions to development standards*

*(5) In deciding whether to grant concurrence, the Secretary must consider:*

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

The following comments are provided to assist consideration of the points outlined above.

- The proposed contravention of the maximum floor space ratio is a small matter with no State or regional significance.
- The proposed alterations and additions pose no reduction to the public benefit. As detailed in the previous section of this report, the proposed development has been carefully considered to have little to no visibility from the public realm and neighbouring properties.
- The public will benefit from the voluntary re-opening of the front balcony which is a significant contribution to the heritage conservation area and the desired future character of the neighbourhood. The lost GFA associated with the balcony will be relocated to provide contemporary accommodation on the site that is largely within the existing building envelope.

It is therefore considered that the overall impacts on the public will be positive and the development will not have unreasonable or adverse effects.

**5 IS THE PROPOSED DEVELOPMENT CONSISTENT WITH THE OBJECTIVES OF THE PARTICULAR STANDARD AND THE RELEVANT ZONE?**

*Clause 4.4, Floor space ratio*

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

*(a) to ensure that residential accommodation—*

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

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

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

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

As detailed in previous sections of this request, it is considered that the proposed development is compatible with the future character of the area in relation to building bulk, form, and scale. The proposal provides improved landscaping where there is currently none existing on the site, and there is no visible change to the building bulk, form and scale.

*Zone R1 General Residential*

*1 Objectives of zone*

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

The proposed alterations and additions represent significant upgrades to the existing dwelling with respect to building amenity and room configurations without any increase in bulk and scale. Improved landscaped areas enjoy direct access from the primary living spaces, and solar access is improved through the removal of the rear deck and the inclusion of skylights, another significant upgrade for the occupant's amenity on this south facing site.

The development also makes a positive contribution to the desired future character of the neighbourhood through the sensitive renovation of a dilapidated structure and rear garden and the reinstatement of the front balcony. It is therefore considered that the proposal meets the objectives of the zone and ensures that this site will continue to provide for the housing needs of the community well into the future.

#### **11 CONCLUSION**

For the reasons outlined in the SEE and this Clause 4.6 Request, there are strong environmental planning grounds to justify contravening the Development Standard.

On this point, there are no adverse impacts to adjoining properties or the public domain and the modified dwelling will ensure the sustainable long term provision of housing on this site. Furthermore, the proposed new dwelling has been designed with careful architectural articulation and consideration to maintain and improve upon the existing desirable qualities identified in the streetscape and broader locale.