





INNER WEST

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA/2023/0484
Address	72 Short Street BIRCHGROVE
Proposal	Alterations and additions to residential development (new third level and roof terrace)
Date of Lodgement	27 June 2023
Applicant	Mr Ante Zizic
Owner	Mrs Natalie A Zizic Mr Ante Zizic
Number of Submissions	Initial: 0
Value of works	\$119,826.00
Reason for determination at Planning Panel	Section 4.6 variation exceeds 10%
Main Issues	FSR Breach Heritage Bulk & Scale
Recommendation	Refusal
Attachment A	Reasons for refusal
Attachment B	Plans of proposed development
Attachment C	Section 4.6 Exception to Development Standards
Attachment D	Statement of Heritage Significance
Attachment E	Draft conditions in the event the application is approved.



LOCALITY MAP

<i>Subject Site</i>		<i>Objectors</i>		↑ N
<i>Notified Area</i>		<i>Supporters</i>		

1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to residential development at 72 Short Street Birchgrove. The application was notified to surrounding properties and no submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- Heritage
- Bulk and scale
- Clause 4.6 objection

Council contacted the applicant on 8 August 2023 requesting the application be withdrawn as the proposal for a third level and roof terrace could not be supported on heritage grounds and was inconsistent with relevant objectives and controls under the Inner West Local Environmental Plan 2022 and Leichhardt Development Control Plan 2013. The applicant did not respond. Council contacted the applicant in early November 2023 which resulted in the applicant advising that the owners did not want to withdraw the application and requesting that the applicant be changed from the original, Christopher Jordon Architects to the owner of the property.

2. Proposal

The proposal is a modified design for a third storey living room and roof terrace in response to partially approved alterations and additions assessed under DA/2020/0872 that conditioned the deletion of a proposed roof top terrace and access stairwell on 26 February 2022.

The proposal entails:

- Demolition of existing skillion roof form,
- Addition of a third level living room and access stair to the rear portion of the existing skillion roof; and
- Replacement of existing skillion roof with roof terrace.

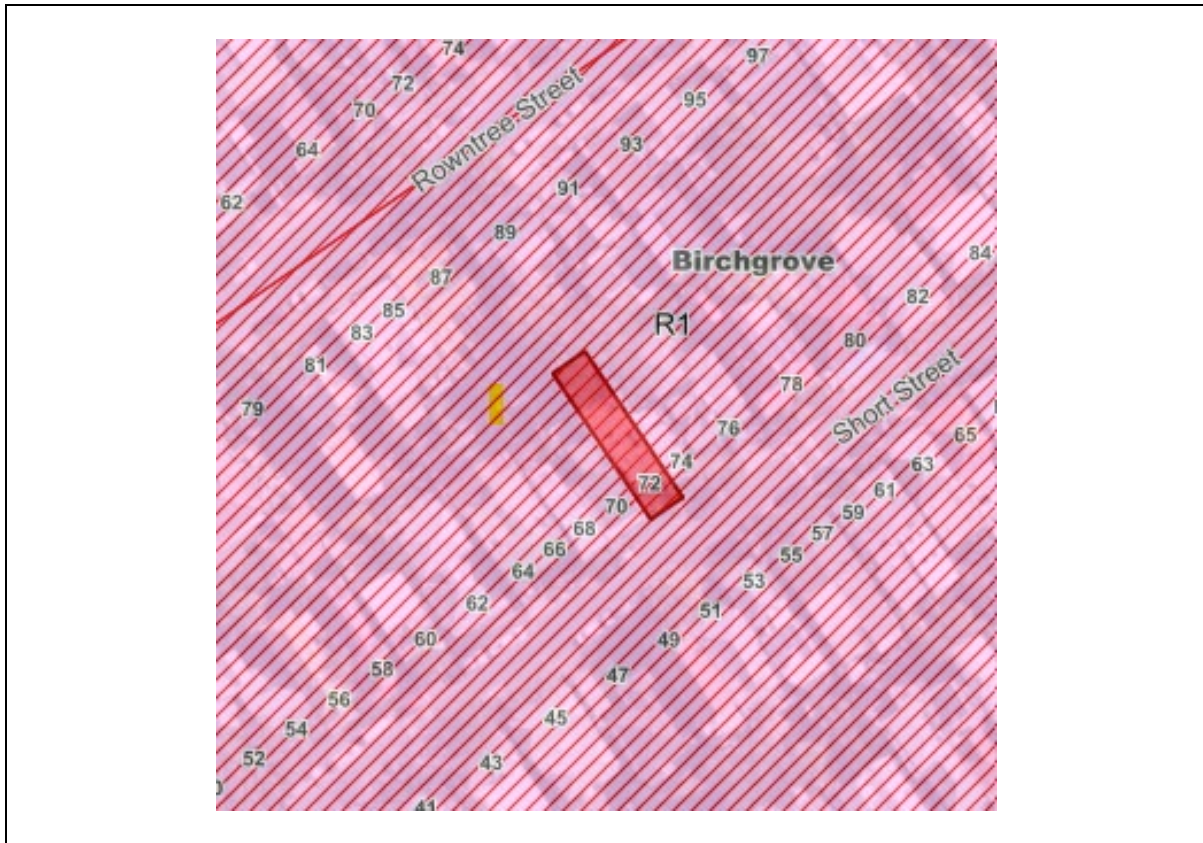
3. Site Description

The subject site is located on the north-western side of Short Street, between Curtis Road and Spring Street. The site consists of 1 allotment and is generally rectangular in shape with a total area of approximately 115sqm and is legally described as Lot 31 in DP 741038 known as 72 Short Street Birchgrove.

The site has a frontage to Short Street of measuring 5.01 metres. The property is an adjoined pair to No. 70 Short Street.

The site supports an adjoined double storey terrace with parapet skillion roof residential dwelling. The adjoining properties support a mix architectural typology of attached masonry double storey dwellings and single and double storey masonry and weather board detached cottages. The predominate dwelling style within the immediate locale is not greater than 2 storeys in height.

The property is a contributory building located within the Town of Waterview Heritage Conservation Area, C31 under Schedule 5 of the Inner West LEP 2022



4. Background

4(a) Site history

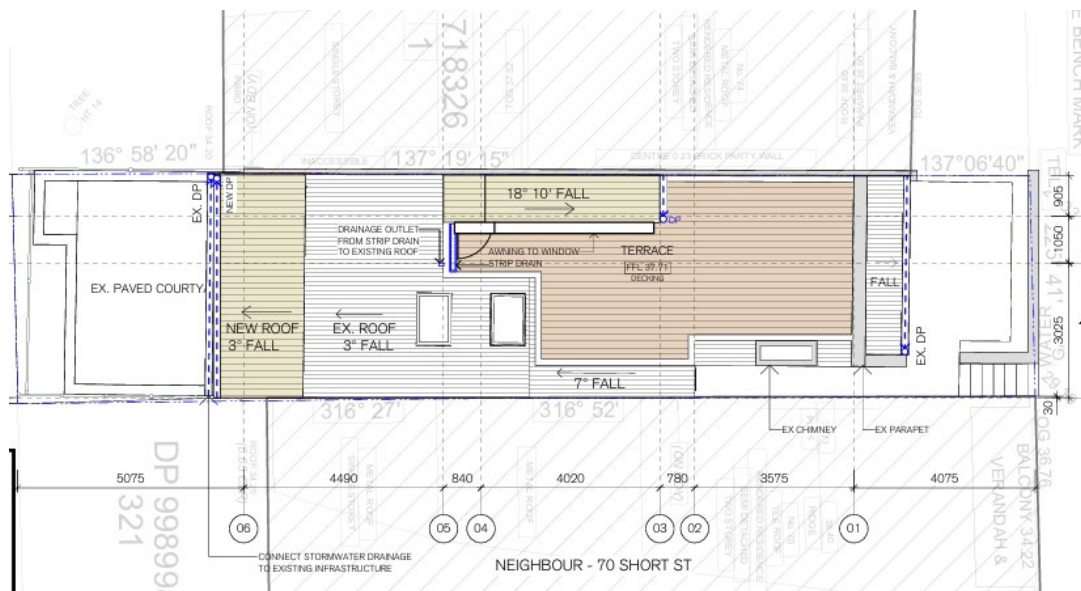
The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

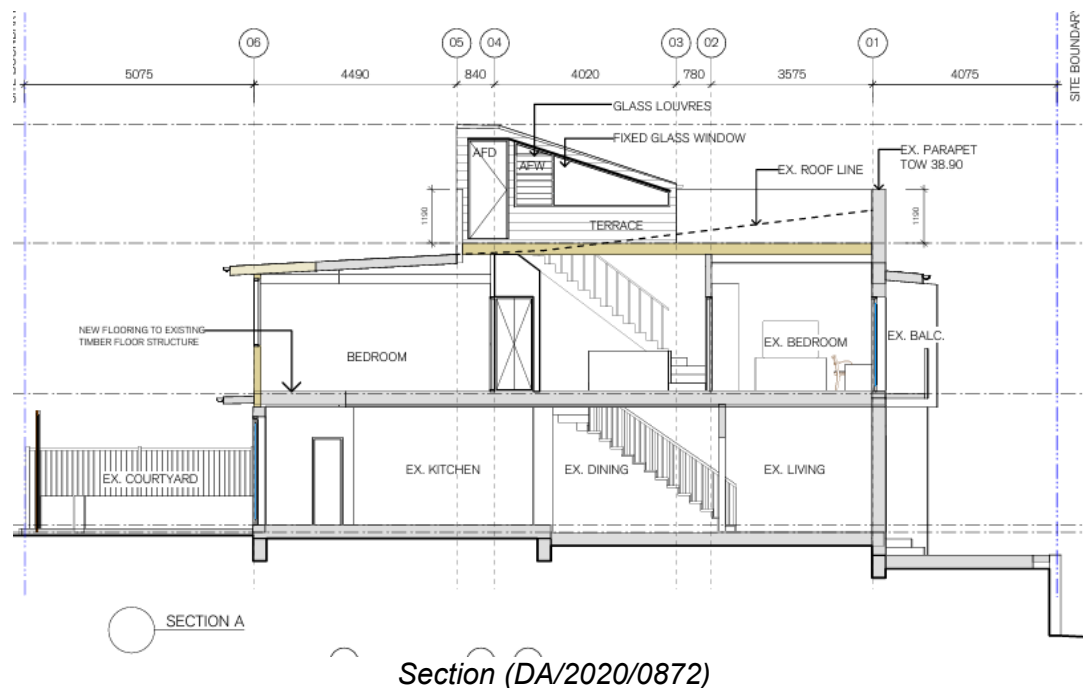
Application	Proposal	Decision & Date
PCA/2022/1207	PCA Nomination	Issued – 12/01/2023
CC/2022/0106	Construction Certificate - Council - Alterations and additions to existing residential dwelling	Issued - 06/02/2023
DA/2020/0872	Alterations and additions to existing dwelling	Approved - 26/02/2021
OCP/2013/269	Final Occupation	Issued – 23/08/2012
PCAP/2012/240	Internal alterations to existing terrace and rear extensions.	Issued – 24/07/2012
CCP/2012/230	Internal alterations to existing terrace and rear extensions.	Issued – 24/07/2012

M/2012/8	Modification of Development Consent D/2005/376 which approved alterations and additions to existing dwelling. Modifications include addition to first floor and changes to front terrace. Skylights to roof.	Approved – 01/03/2012
CC/2006/140	Internal alterations to existing terrace and rear extensions.	Issued - 12/04/2006
D/2005/376	Internal alterations to existing terrace and rear extensions.	Approved -15/11/2005

The development application from DA/2020/0872 to infill a first-floor rear balcony approved under D/2005/376 and add an ensuite to the second floor, also sought to demolish part of the skillion roof and add an access stair and roof top deck. This element was not supported by Council and subsequently was conditioned to be deleted.



Roof Plan (DA/2020/0872)



4(b) Application history

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

Date	Discussion / Letter / Additional Information
8 August 2023	Request for information sent to the applicant outlining that the proposed third level and roof terrace could not be supported, and the recommendation was for the applicant to withdraw the application.
6 November 2023	An email was sent to the applicant to get an update on the request sent on the 8 August. The applicant advised that no notification from the NSW Planning Portal in reference to the request was received. The letter was emailed directly to the applicant with copies of notification reference from the Planning Portal from 8 August from on or around 4pm that day. The applicant was requested to advise Council by COB 6 November their intention / response to the letter requesting withdrawal
6 November 2023	The applicant (former) advised that the owners did not wish to proceed with withdrawal of the application and for it to be assessed, In addition, the former applicant advised that the new applicant is to be the owner of the property. The assessing officer replied via email and advised that the assessment of the application would proceed with a recommendation of refusal to be heard by the IWLPP.

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 (EPA Act 1979)*.

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*

The following provides further discussion of the relevant issues:

5(a)(i) State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of land

Section 4.16 (1) of the SEPP requires the consent authority not consent to the carrying out of any development on land unless:

*“(a) it has considered whether the land is contaminated, and
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”*

In considering the above, there is no evidence of contamination on the site.

There is also no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council's records. The land will be suitable for the proposed use as there is no indication of contamination.

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

A BASIX Certificate was submitted with the application.

5(a)(iii) State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 10 Sydney Harbour Catchment

The site is not located within the foreshores and waterways area, a Strategic Foreshore site or listed as an item of environmental heritage under the SEPP and as such only the aims of the plan are applicable. The proposal is consistent with these aims.

5(a)(iv) Inner West Local Environmental Plan 2022 (IWLEP 2022)

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022*:

- Section 1.2 - Aims of Plan

- Section 2.3 - Land Use Table and Zone Objectives
- Section 2.7 – Demolition requires development consent
- Section 4.3C – Landscaped areas for residential accommodation in Zone R1
- Section 4.4 – Floor space ratio
- Section 4.5 – Calculation of floor space ratio and site area
- Section 4.6 – Exceptions to development standards
- Section 5.10 – Heritage conservation
- Section 6.1 – Acid sulfate soils
- Section 6.3 – Stormwater management

Section 1.2 – Aims of Plan

As discussed in detail further in the assessment, the proposal is inconsistent with the overarching aims of the IWLEP 2022, specifically aims (b) and (h), where it does not adequately conserve the built and cultural heritage of the Inner West and (i) and (j) where it does not preserve the amenity of surrounding properties.

Accordingly, the proposal is not considered in the public interest and is recommended for refusal.

Section 2.3 Land Use Table and Zone Objectives

The site is zoned R1 under the IWLEP 2022. The IWLEP 2013 defines the proposed development as a:

‘Dwelling House’ - means a building containing only one dwelling

A ‘Dwelling House’ is permissible with consent in the zone.

Notwithstanding, as discussed elsewhere in the assessment, the proposal does not provide for a residential development that maintains the character of built features in the surrounding area and is therefore inconsistent with the following objectives of the zone:

- *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.*
- *To provide residential development that maintains the character of built and natural features in the surrounding area.*

As the proposal does not meet the zone objectives, the application cannot be supported and is recommended for refusal.

Section 4 Principal Development Standards

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

Standard	Proposal	Complies
Floor Space Ratio Maximum permissible: 1:1 or 115 sqm	1.2:1 or 137.9sqm 19.70% or 22.7 sqm	No

Landscape Area Minimum permissible: 15% or 17.25sqm	8sqm or 6.9%	No
Site Coverage Maximum permissible: 60% or 69 sqm	65.8sqm or 57.1%	Yes

Section 4.6 Exceptions to Development Standards

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

- Section 4.3C (3)(a)(ii) – Landscaped Area
- Section 4.4 - Floor Space Ratio

Section 4.3C (3)(a)(ii) – Landscaped Area

There is an existing breach of the Landscaped Area of approximately 76.85% or 13.28sqm on the site. It is noted that the subject proposal seeks to double the available landscape area on the site from 4sqm to 8sqm or 6.9% resulting in a reduced beach of 53.7% or 9.28sqm.

The site does not seek any further breach of this development standard, In *Landcorp Australia Pty Ltd v The Council of the City of Sydney* [2020] NSWLEC 174 [54] [57] it was established a written Clause 4.6 variation is not required where a proposal exceeds a standard and the proposal does not alter that exceedance. In the circumstances of this case, the subject site is currently deficient of compliant landscaped area and exceeds the maximum permitted site coverage. The proposal does not seek to alter the exceedance to these development standards. Therefore, Clause 4.6 requests are not required for the Landscaped Area.

Section 4.4 - Floor Space Ratio

The applicant seeks a variation to the Floor Space Ratio development standard under Clause 4.4 of the Leichhardt Local Environment Plan 2013 by 19.7% or 22.7sqm.

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

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

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the *Inner West Local Environment Plan 2022* justifying the proposed contravention of the development standard which is summarised as follows:

- *The rooftop addition and terrace will not introduce any adverse overshadowing and overlooking impacts on adjoining properties at 70 and 74 Short Street and 89 Rowntree Street. The proposal will not adversely impact on views of the City skyline and Sydney Harbour Bridge currently enjoyed from the rear of residences fronting Rowntree Street (83 and 85) ..*
- *The rooftop addition will not be visible from the public domain (Short Street) and it is located behind existing parapet walls and by the height and location of the existing buildings fronting Short Street, in particular 70 Short Street*

In the circumstances, it is considered that there are sufficient planning grounds to justify the non-compliance of the floor space ration standard under clause 4.6(3)(b) of the IWLEP

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

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To improve opportunities to work from home.
- To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.
- To provide landscaped areas for the use and enjoyment of existing and future residents.
- To 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 objectives of the FSR development standard are as follows:

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

The applicant's written rationale does not adequately demonstrate compliance with the development standard being unnecessary in the circumstances of this case, or that there are sufficient environmental planning grounds to justify contravening the development standard.

The proposal is considered to be incompatible with the heritage conservation area it is located in and therefore is contrary to the following objective under R1 General Residential Zone: *"To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas, nor does it enhance the amenity of adjoining development. The height and scale of the addition results in a development which is taller in height than neighbouring terraces, the removal of original fabric compromises the symmetry of the pair of semi-detached terraces and heritage significance, and the bulk, scale and form of the proposal is incompatible with the desired future character of the area.*

The impacts associated with the addition of a third floor and associated FSR is not warranted in the circumstances, particularly when the adverse impacts are a direct result of the additional GFA proposed.

Therefore, it is considered the development is not in the public interest because it is inconsistent with a key objective of the R1 – General Residential zone and fails to demonstrate compliance with the objectives of the floor space ratio development standard, in accordance with Clause 4.6(4)(a)(ii) of the IWLEP 2022.

Section 5.10 – Heritage conservation

The subject property at 72 Short Street, Birchgrove is a contributory building located within the Town of Waterview Heritage Conservation Area, C31 under Schedule 5 of the Inner West LEP 2022.

It is proposed to demolish the existing skillion roof form located behind the retained parapet of a joined pair of double storey terraces with No. 70 Short Street and replace the roof area with a third storey secondary living space with internal access stair and the remainder of the roof area as a decked terrace.

Council's Heritage Advisor has reviewed the proposal, including amended plans, and has provided the following (summarised) comments:

- The proposal is not supported on heritage grounds. The previous DA, DA/2020/0872 included a roof terrace however the consent for this application required that the roof terrace be deleted. This current application includes both a roof terrace and a living room at roof level. This scale and character of addition to a terrace house is not in keeping with the detailed heritage planning controls. The proposed alteration represents an unsympathetic addition to a contributory building within a Heritage Conservation Area.
- The roof terrace and the living room are not supported as the construction of these elements would require the demolition of the existing skillion roof of the terrace house. The heritage planning controls require the retention of whole roof forms (C1.4, C3b and C6). The proposal is also inconsistent with the controls for the Mort Bay Distinctive Neighbourhood (C.2.2.2.5), which require that the consistency and simplicity of the building form be retained (C10) and that the existing roof forms be maintained (C11).

The proposed additional level including the roof terrace and living room is not supported on heritage grounds and does not comply with the detailed heritage planning controls or the desired future character of the Mort Bay Distinctive Neighbourhood.

With consideration of the above matters, on balance, the proposal is not acceptable from a heritage perspective as it will detract from the heritage significance of the Town of Waterview Heritage Conservation Area and is not in accordance with Clause 5.10 Objectives 1(a) and (b) in the Inner West LEP 2022 and the relevant objectives and controls in the Leichhardt DCP 2013.

Subsequently, the proposal is recommended for refusal.

5(b) Draft Environmental Planning Instruments

N/A

5(c) Development Control Plans

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

LDCP2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	N/A
Part C	
C1.0 General Provisions	No – see discussion
C1.1 Site and Context Analysis	No – see discussion
C1.2 Demolition	No – see discussion
C1.3 Alterations and additions	No – see discussion
C1.4 Heritage Conservation Areas and Heritage Items	No – see discussion
C1.7 Site Facilities	N/A
C1.8 Contamination	Yes
C1.12 Landscaping	Yes
Part C: Place – Section 2 Urban Character	
C2.2.2.5 Mort Bay Distinctive Neighbourhood	No – see discussion
C2.2.2.5(c) Upper Slopes Sub Area	
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	No – see discussion
C3.2 Site Layout and Building Design	No – see discussion
C3.3 Elevation and Materials	No – see discussion
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	N/A
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	No – see discussion
Part C: Place – Section 4 – Non-Residential Provisions	N/A
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	

E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.2 Water Management	Yes
E1.2.2 Managing Stormwater within the Site	Yes
Part F: Food	N/A
Part G: Site Specific Controls	N/A

C1.0 General Provisions

For reasons discussed in this report, the proposal will result in unacceptable amenity impacts. In this regard, the proposal does not satisfy and has not demonstrated compliance with the following objective of Part C1.0:

- *O6 Compatible: places and spaces contain or respond to the essential elements that make up the character of the surrounding area and the desired future character. Building heights, setbacks, landscaping and architectural style respond to the desired future character. Development within Heritage Conservation Areas or to Heritage Items must be responsive to the heritage significance of the item and locality.*

The proposal fails to meet the above objective in that the height and scale of the addition exceeds that of adjoining development, the proposed third level is inconsistent with adjoining development in style, setbacks, bulk and scale and height and fails to respond to the desired future character of the area and results in adverse impacts on the contributory building and associated HCA through the removal of fabric and its visibility within the HCA.

C1.1 Site and Context Analysis

Although a Site Analysis Plan has been provided, the proposal fails to demonstrate compliance with Objective O1 as the proposal is inconsistent with the desired future character of the distinctive neighbourhood and heritage conservation area.

In this regard, the proposal does not satisfy and has not demonstrated compliance with the following objective(s) of Part C1.1:

- *O1 To encourage property owners to ensure that the planning and design of their development takes into account:*
 - a) *existing site conditions on the site and adjacent and nearby properties;*
 - d) *the potential for amenity impacts such as overshadowing, loss of privacy, views or solar access;*
 - f) *the special qualities of the site and its context including urban design, streetscape and heritage consideration*

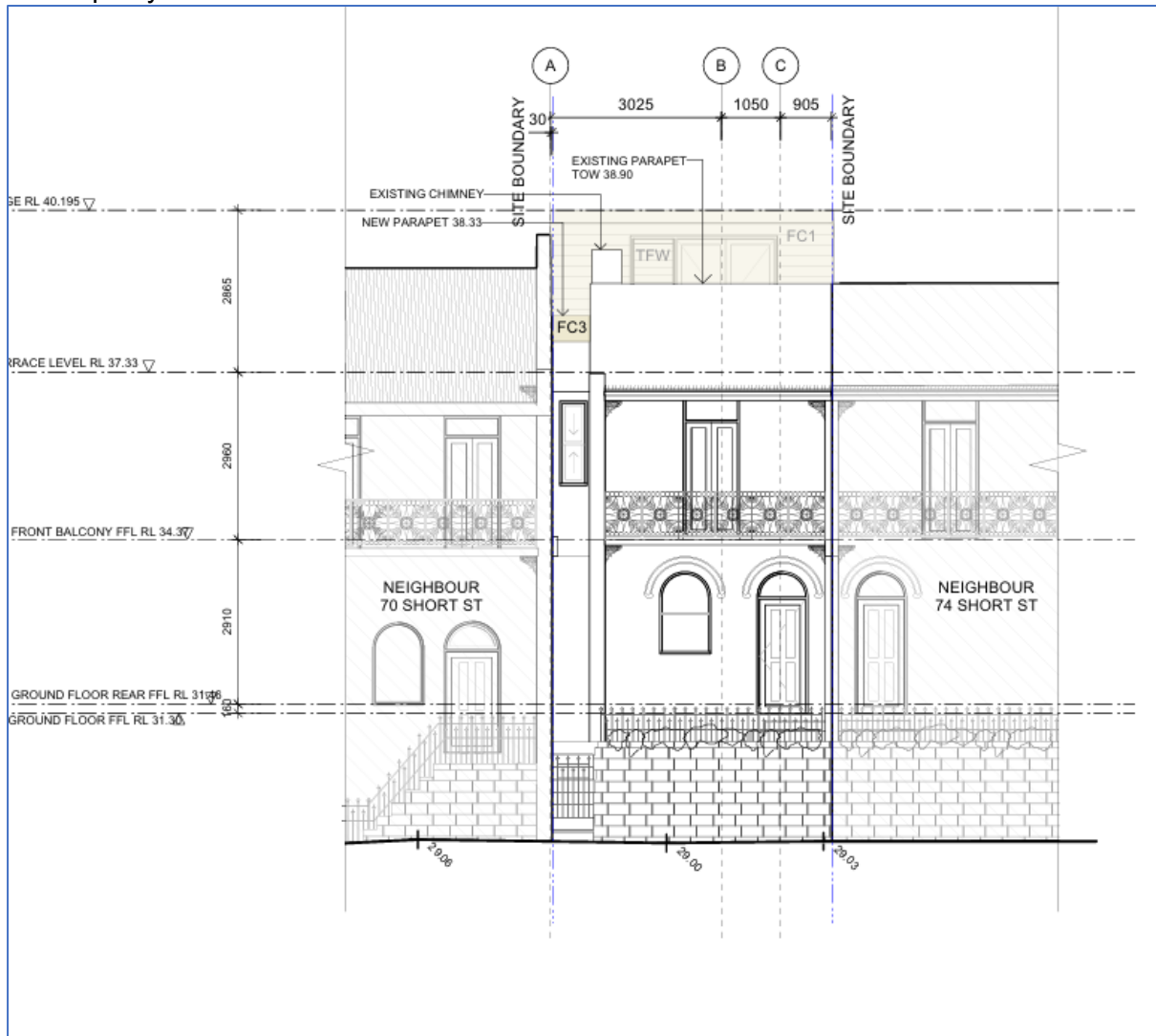
It is considered that the proposed demolition of the skillion roof and replacement with a third storey and roof deck does not meet the objectives and the relevant controls of the clause.

C1.2 Demolition

As the proposal seeks the removal of original fabric being the skillion roof of a contributory building in a conservation area, the proposal does not meet the required objectives and controls under 5.10 of the IWLEP2022, and demolition is not support in the circumstances.

C1.3 Alterations and additions; C1.4 Heritage Conservation Areas and Heritage Items; C2.2.2.5 Mort Bay Distinctive Neighbourhood

The proposal will result in a 3 storey dwelling as result of the proposed rooftop terrace and new living room. Although the visibility of the roof top terrace is limited from the street due to the narrow width of the road and the respective height of the development, the height of any additional level must relate to the ridgelines of neighbouring properties. In the context of the subject and adjoining properties, this should be no more than the height of adjoining development. The proposed height combined with the bulk and scale of the addition results in a development which is incongruous with neighbouring properties and the wider HCA and this disparity is best illustrated in the southern elevation.



Southern elevation of the proposed development

In relation to C1.4, the demolition of the existing skillion roof and fabric of a dwelling in a conservation area to result in a third level with roof terrace does not satisfy the objectives of the clause or the relevant controls.

The relevant controls set out under C2.2.2.5 Mort Bay Distinctive Neighbourhood are as follows;

- C4- Conserve existing varied styles of housing with special regard to the modest scale and simple, unadorned nature of the architecture.*
- C10 Preserve the consistency and simplicity in built form, style and materials of the neighbourhood.*
- C11 Maintain the existing roof forms, setbacks and fencing styles prevalent in each street.*

The proposal to introduce a third level to the existing 2 storey terrace fails to protect the modest scale of the building, preserve the simplicity in built form and fails to maintain the existing roof form. It is considered the proposal would set an undesirable precedent particularly if the adjoining terrace proposed the same addition, it would be highly visible to the street and compromise the aesthetic and value of the HCA and distinctive neighbourhood.

Subsequently, the proposal does not meet the following relevant provisions of the Leichhardt DCP 2013:

- Part C1.3 Alterations and additions, Objectives O1 (a)(b)(c)(d) and Controls C2, C5 and C7 where it does not preserve the character of the pair of like dwellings and the new materials are not compatible with its setting and the desired future character of the distinctive neighbourhood.
- C1.4 Heritage Conservation Areas and Heritage Items, Objectives O1(a)(d)(e)(f)(i) and Control C8 and C9, where the development does not respect the visual unity of the pair of like dwellings nor the form, scale, and siting of the heritage conservation area.

C3.1 Residential General Provisions

The proposal does not achieve the residential general provisions of the Leichhardt DCP 2013 as it does not support the retention of reasonable local amenity and does not respond the existing and desired future character of the surrounding area.

In this regard, the proposed development does not satisfy the following relevant objective of the residential provisions:

- *O4 To ensure that all residential development is compatible with the scale, form, siting and materials of existing adjacent buildings.*

C3.2 Site Layout and Building Design

Building Location Zone

Building Location Zone (BLZ) is the part of the subject site where it can be reasonably expected that a building can be located. The BLZ is determined by having regard to only the main building on the adjacent properties.

The proposal provides a third floor addition where the adjoining properties do not currently feature an equivalent level. In the event of any proposed variation to the BLZ, it must be demonstrated that the proposed building is consistent with the pattern of development in the immediate locality and the five-part merit test of Control C6 are met. The requirements of the control are not achieved for the following reasons:

- Amenity to adjacent properties (i.e., views) is not reasonably protected.
- The proposed development will not be compatible with the existing streetscape, desired future character and scale of surrounding development.

- The height of the development, particularly the 3rd floor, has not been kept to a minimum to minimise visual bulk and scale, as viewed from adjoining properties and the streetscape.

Building Height and the Building Envelope

The overall maximum height in storeys shall generally not exceed the height in storeys of the main building on adjoining sites. The proposal seeks a 3-storey dwelling which is uncharacteristic of the density of comparable residential developments in the vicinity, which are generally one and two storeys.

Given the above, the proposed development is not considered acceptable having regard to the proposed setbacks and building location zone. As such, the proposal does not satisfy and has not demonstrated compliance with the following objective(s) of Part C3.2:

- *O3 To ensure that buildings are constructed within an appropriate Building Location Zone (BLZ) from the front and rear boundary to protect neighbourhood features such as streetscape, private open space, solar access and views.*
- *O4 To ensure that development:*
 - *complements the siting, scale and form of adjoining development; and*
 - *creates a high level of residential amenity for the site and protects existing or enhances residential amenity of adjoining sites in terms of visual and acoustic privacy, air circulation, solar access, daylight, outlook and views*

C3.10 Views

Although the application was notified with no objections, it appears the third storey has the potential to result in view loss.

Properties and view lines from the southern side of Rowntree Street looking easterly to the city could potentially be impacted, 79 Rowntree Street is one example; given the view implications arise from the non-compliance with FSR, the 4.6 request is not supported.



79 Rowntree Street view line looking easterly to the city and Harbour Bridge.



View from 79 Rowntree St to Harbour Bridge taken from first floor rear facing balcony. The yellow highlighted area is the existing roof plane of 72 Short Street. The proposed addition would be slightly higher than the pitched brown tiled roof to the right of the photo, as shown on the proposed side elevation.

C3.12 Acoustic Privacy

Although there were no objections to the proposal, it is considered that the relevant controls and the objective of the clause could not be satisfied as the location of the terraced deck is to the front of the dwelling and would be close to the likely location of neighbouring bedrooms.

5(d) The Likely Impacts

The assessment of the Development Application demonstrates that the proposal will have an adverse impact on the locality as detailed in this assessment report.

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

It is considered that the proposal will have an adverse impact on the adjoining properties and therefore it is considered that the site is unsuitable to accommodate the proposed development.

5(f) Any submissions

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

5(g) The Public Interest

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

The proposal is 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 – Not supported

7. Section 7.11 Contributions/7.12 Levy

Section 7.12 levies are payable for the proposal.

The carrying out of the proposed development would result in an increased demand for public amenities and public services within the area. A condition requiring that contribution to be paid should be imposed on any consent granted. However the application is recommended for refusal.

8. Conclusion

The proposal is generally inconsistent with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and the *Leichhardt Development Control Plan 2013*.

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

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

9. Recommendation

- A. The applicant has made a written request pursuant to Section 4.6 of the *Inner West Local Environmental Plan 2022*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is not satisfied that compliance with the standard is unnecessary in the circumstance of the case, nor are there sufficient environmental grounds to accept the variation. The proposed development will not be in the public interest because the exceedance is 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*, refuse Development Application No. DA/2023/0484 for

alterations and additions to residential development at 72 Short Street, Birchgrove for reasons outlined in Attachment A.

Attachment A – Reasons for Refusal

1. The proposed development is inconsistent with and has not demonstrated compliance with the Inner West Local Environmental Plan 2022, pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, including:
 - a) Clause 1.2(i)(j) - Aims of Plan
 - b) Clause 2.1- Zone objectives and Land use table
 - c) Clause 5.10 – Heritage conservation

2. The proposed development is inconsistent with the Leichhardt Development Control Plan 2013, pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, including:
 - a) Part C1.0 General Provisions
 - b) Part C1.1 Site Context
 - c) Part C1.2 Demolition
 - d) Part C1.3 Alterations and Additions
 - e) Part C1.4 Heritage Conservation Areas and Heritage Items
 - f) Part C2.2.2.5 Mort Bay Distinctive Neighbourhood
 - g) Part C3.1 Residential General Provisions
 - h) Part C3.2 Site Layout and Building Design
 - i) Part C3.3 Elevations and Materials
 - j) Part C3.11 Views
 - k) Part C3.12 Acoustic Privacy

3. The proposed development will result in adverse impacts on the built environment in the locality pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979.

4. The proposal has not demonstrated that the site is suitable for the development pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.

5. The proposal has not demonstrated it is in the public interest pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

Attachment B – Plans of proposed development

Christopher Jordan
Architecture & Design

72 Short Street, Birchgrove External Finishes Schedule

Roof to Terrace – Lysaght Klip Lok–
Classic Cream
Gutters – Colorbond – Classic Cream



Classic
Cream™

Roof terrace Cladding – Fibre Cement
(FC1)– Scyon Linea Weatherboard
150mm horizontal – Dulux Ivory



Ivory →

72 Short St, Birchgrove

Roof terrace Cladding – Fibre Cement (FC2)– Easylap Panel – Dulux ivory

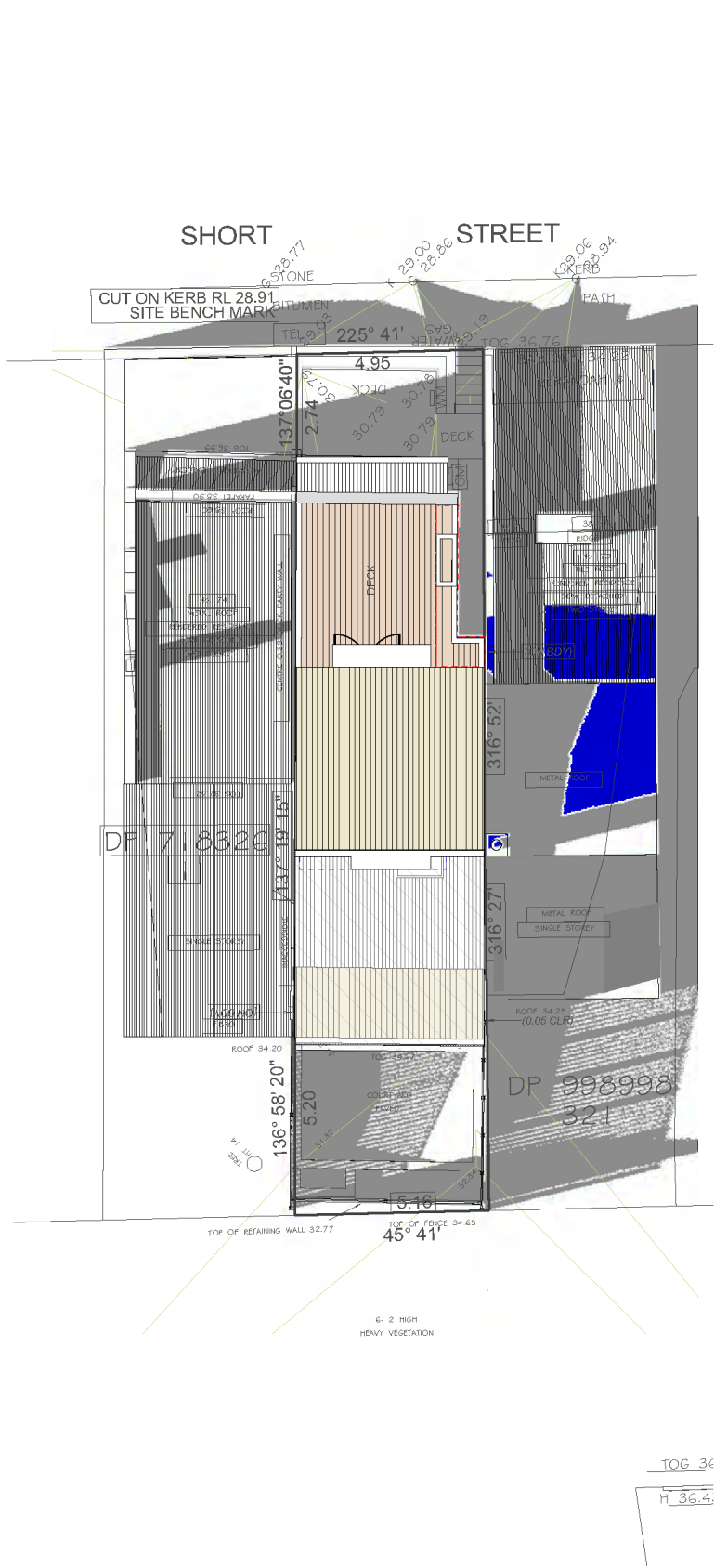


Proposed new doors and windows to match existing. Timber framed - Natural Oil



Roof terrace – Fibre Cement (FC3)– Easylap Panel – To match existing render colour, Dulux Integrity or similar





LEGEND

■ PROPOSED INCREASE OF SHADOWS

■ EXISTING SHADOWS

DEVELOPMENT APPLICATION

<p>Project No: Z1441</p> <p>Scale: 1:100</p> <p>Sheet: SH01 B</p>		<p>SHADOW DIAGRAM 9AM</p> <p>ALTERATIONS & ADDITIONS</p> <p>72 SHORT STREET BIRCHGROVE</p> <p>DEVELOPMENT APPLICATION</p>	
<p>DATE: 21 JUN 2023</p> <p>BY: CHRISTOPHER JORDAN</p> <p>FOR: CHRISTOPHER JORDAN ARCHITECTS</p>	<p>NO. 1: 144</p> <p>REVISION</p>	<p>DATE: 21 JUN 2023</p> <p>BY: CHRISTOPHER JORDAN</p> <p>FOR: CHRISTOPHER JORDAN ARCHITECTS</p>	<p>NO. 1: 144</p> <p>REVISION</p>

MONITOR LOCAL
REG. WITH REF. 01/10/2020

SHADOW DIAGRAM 9AM
WINTER SOLSTICE, 21 JUNE

Christopher Jordan
Architects



LEGEND

- PROPOSED INCREASE OF SHADOWS
- EXISTING SHADOWS

DEVELOPMENT APPLICATION

Project No.	Z1441
Scale	1:100
Site No.	SH02 B
Area	1 ha
Zone	SH02 B

SHADOW DIAGRAM 12PM	CHK	DATE	BY
ALTERATIONS & ADDITIONS	CHK	DATE	BY
72 SHORT STREET BIRCHGROVE	CHK	DATE	BY
DEVELOPMENT APPLICATION	CHK	DATE	BY

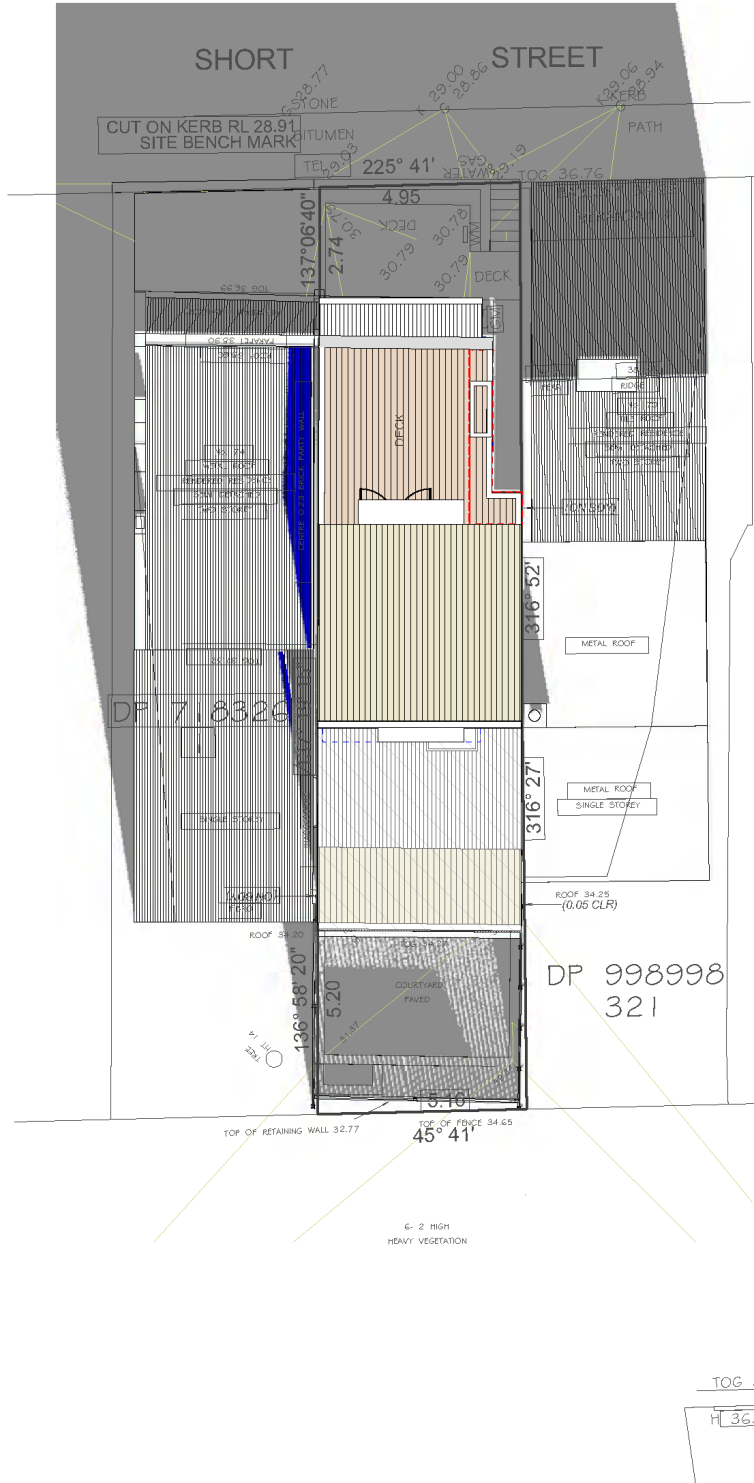
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4	12/06/20	ISSUED FOR PUBLIC CONSULTATION
5	12/06/20	ISSUED FOR PUBLIC CONSULTATION

SHADOW DIAGRAM 12PM
WINTER SOLSTICE, 21 JUNE

Christopher Jordan
ARCHITECT

10/100 SHORT STREET
BIRCHGROVE NSW 2162
PH: 02 9339 4000
WWW.CHRISTOPHERJORDAN.COM.AU

METRIC UNITS
REG. NUMBER 101 000000



LEGEND

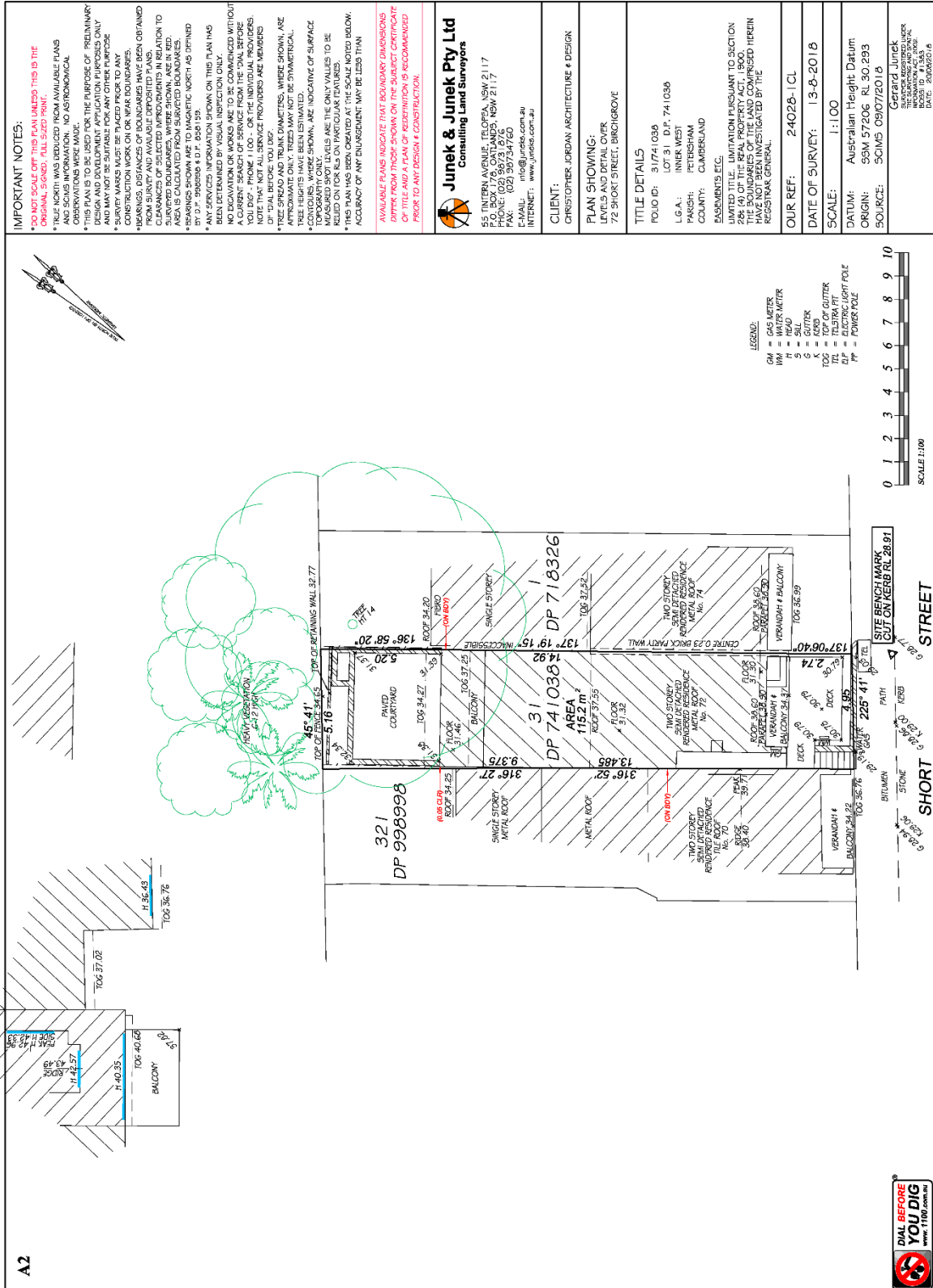
- PROPOSED INCREASE OF SHADOWS
- EXISTING SHADOWS

DEVELOPMENT APPLICATION

<p>SHADOW DIAGRAM 3PM ALTERATIONS & ADDITIONS 72 SHORT STREET BIRCHGROVE DEVELOPMENT APPLICATION</p>		<p>Project No: ZIZ441</p> <p>Scale: 1:100</p> <p>Drawn by: SH03 B</p>
<p>DATE: 21 JUN 2017</p> <p>PROJECT NO: 72 SHORT STREET BIRCHGROVE</p> <p>CLIENT: CHRISTOPHER JORDAN</p> <p>DESIGNER: CHRISTOPHER JORDAN</p> <p>DATE: 21 JUN 2017</p>	<p>NO. 1: 44</p> <p>SECTION: DEVELOPMENT APPLICATION</p> <p>DATE: 21 JUN 2017</p> <p>PROJECT NO: 72 SHORT STREET BIRCHGROVE</p> <p>CLIENT: CHRISTOPHER JORDAN</p> <p>DESIGNER: CHRISTOPHER JORDAN</p> <p>DATE: 21 JUN 2017</p>	<p>RELATIVE LEVEL: 34.25</p> <p>SCALE: 1:100</p> <p>DATE: 21 JUN 2017</p> <p>PROJECT NO: 72 SHORT STREET BIRCHGROVE</p> <p>CLIENT: CHRISTOPHER JORDAN</p> <p>DESIGNER: CHRISTOPHER JORDAN</p> <p>DATE: 21 JUN 2017</p>

MOONBEE LOCAL
 10/21 WEST ST (02) 95001000

TOG 36
 H 36.4



IMPORTANT NOTES:

- * DO NOT SCALE OF THIS PLAN UNLESS THIS IS THE TRUE NORTH HAS BEING DEDUCED FROM AVAILABLE PLANS AND SENSITIVE INFORMATION. NO ASTRONOMICAL OBSERVATIONS WERE MADE.
- * THIS PLAN IS TO BE USED FOR THE PURPOSE OF PRELIMINARY DESIGN ONLY AND IS NOT TO BE USED FOR ANY OTHER PURPOSE.
- * SURVEY MARKS MUST BE PLACED PRIOR TO ANY CONSTRUCTION WORK ON OR NEAR BOUNDARIES.
- * BEARINGS, DISTANCES OF BOUNDARIES HAVE BEEN OBTAINED FROM SURVEY DATA AND ARE SUBJECT TO THE CHANCES OF SELECTED SURVEY METHODS IN RELATION TO SURVEYED BOUNDARIES, WHERE SHOWN, ARE IN RED.
- * THIS PLAN SHOWS THE TOPOGRAPHIC NORTH AS DEFINED BY THE AUSTRALIAN STANDARD.
- * ANY SERVICES INFORMATION SHOWN ON THIS PLAN HAS BEEN DETERMINED BY VISUAL INSPECTION ONLY.
- * NO DRAINAGE OR WORKS ARE TO BE COMMENCED WITHOUT A CURRENT SEARCH OF SERVICE FROM THE DIAL BEFORE ANY CONSTRUCTION WORK COMMENCES.
- * NOTE THAT NOT ALL SERVICE PROVIDERS ARE MARKED ON THIS PLAN.
- * TREE SPREAD AND TRUNK DIAMETERS, WHERE SHOWN, ARE MEASURED AT THE POINT OF THE TREE TRUNK THAT THESE READINGS HAVE BEEN OBTAINED. THE SYMMETRICAL TOPOGRAPHY ONLY.
- * CONTOURS, WHERE SHOWN, ARE INDICATIVE OF SURFACE TOPOGRAPHY ONLY.
- * THIS PLAN HAS BEEN CREATED AT THE SCALE NOTED BELOW. ACCURACY OF ANY ENLARGEMENT, MAY BE LESS THAN INDICATED.

AVAILABLE PLANS INDICATE THAT BOUNDARY DIMENSIONS OFFER FROM THOSE SHOWN ON THIS SUBJECT CERTIFICATE OF TITLE. ANY CONSTRUCTION WORK IS RECOMMENDED PRIOR TO ANY DESIGN & CONSTRUCTION.

Juneke & Juneke Pty Ltd
 Consulting Land Surveyors
 651 MERRIMAN AVENUE, MERIBEA, NSW 2117
 P.O. BOX 1778, CANTLANDS, NSW 2117
 PHONE: (02) 9673 0776
 FAX: (02) 9673 4760
 EMAIL: info@juneke.com.au
 INTERNET: www.juneke.com.au

CLIENT:
 CHRISTOPHER JORDAN ARCHITECTURE & DESIGN

PLAN SHOWING:
 LEVELS AND DETAIL OVER
 72 SHORT STREET, BIRCHGROVE

TITLE DETAILS
 FOLIO ID: 31741038
 LOT 31 D.P. 741038
 L.G.A.: INNER WEST
 PARISH: PETERSHAM
 COUNTY: CAMBERLAND
 EASMENTS ETC.

LIMITED TITLE. LIMITATION PURSUANT TO SECTION 14.1 OF THE REAL PROPERTY ACT 1900. THE BOUNDARIES OF THE LAND COMPRESSED HEREIN HAVE NOT BEEN INVESTIGATED BY THE REGISTRAR GENERAL.

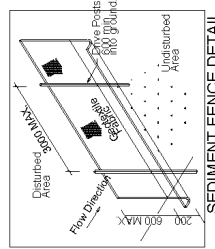
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 DATE OF SURVEY: 13-8-2018
 SCALE: 1:100
 DATUM: Australian Height Datum
 ORIGIN: 93M 57206 RL 30.293
 SOURCE: SCIMS 0907/2018

General Juneke
 SURVEYING & ENGINEERING
 INFORMATION & REVALUATION
 DATE: 20/06/2018

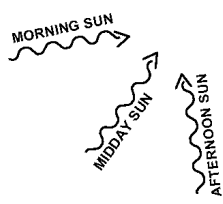
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LIABILITY LIMITED BY A SCHEME APPROVED UNDER PROFESSIONAL STANDARDS LEGISLATION.

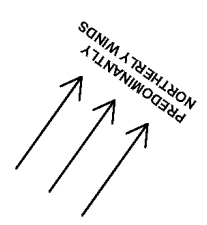
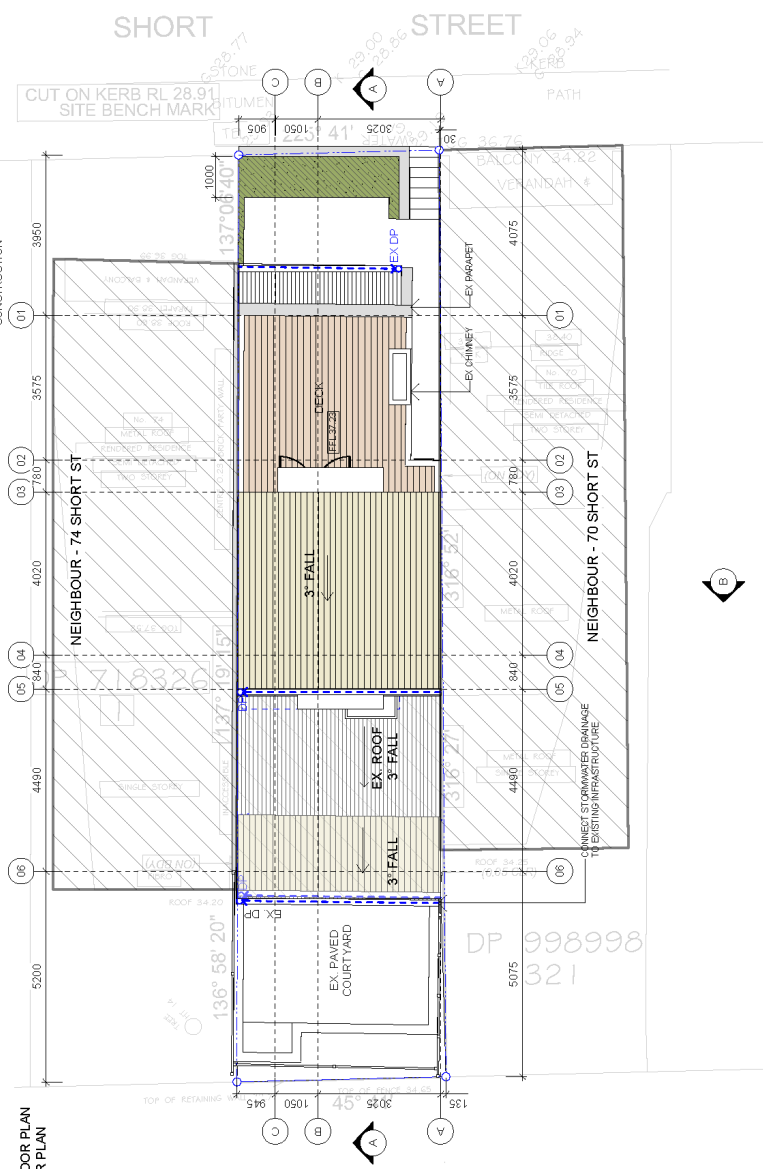


- NOTE:**
1. ALL EROSION & SEDIMENT CONTROL MEASURES TO BE INSPECTED & MAINTAINED DAILY BY SITE MANAGER
 2. ALL STOCKPILES TO BE CLEAR FROM DRAINS, GUTTERS & FOOTPATHS
 3. DRAINAGE IS TO BE CONNECTED TO STORMWATER SYSTEM AS SOON AS POSSIBLE
 4. ROADS & FOOTPATH TO BE SWEEPED DAILY
 5. LOCAL TRAFFIC ROUTES WILL NOT BE AFFECTED
 6. FOOTPATHS TO REMAIN OPEN DURING CONSTRUCTION



DEVELOPMENT APPLICATION ALTERATIONS AND ADDITIONS
72 SHORT ST., BIRCHGROVE

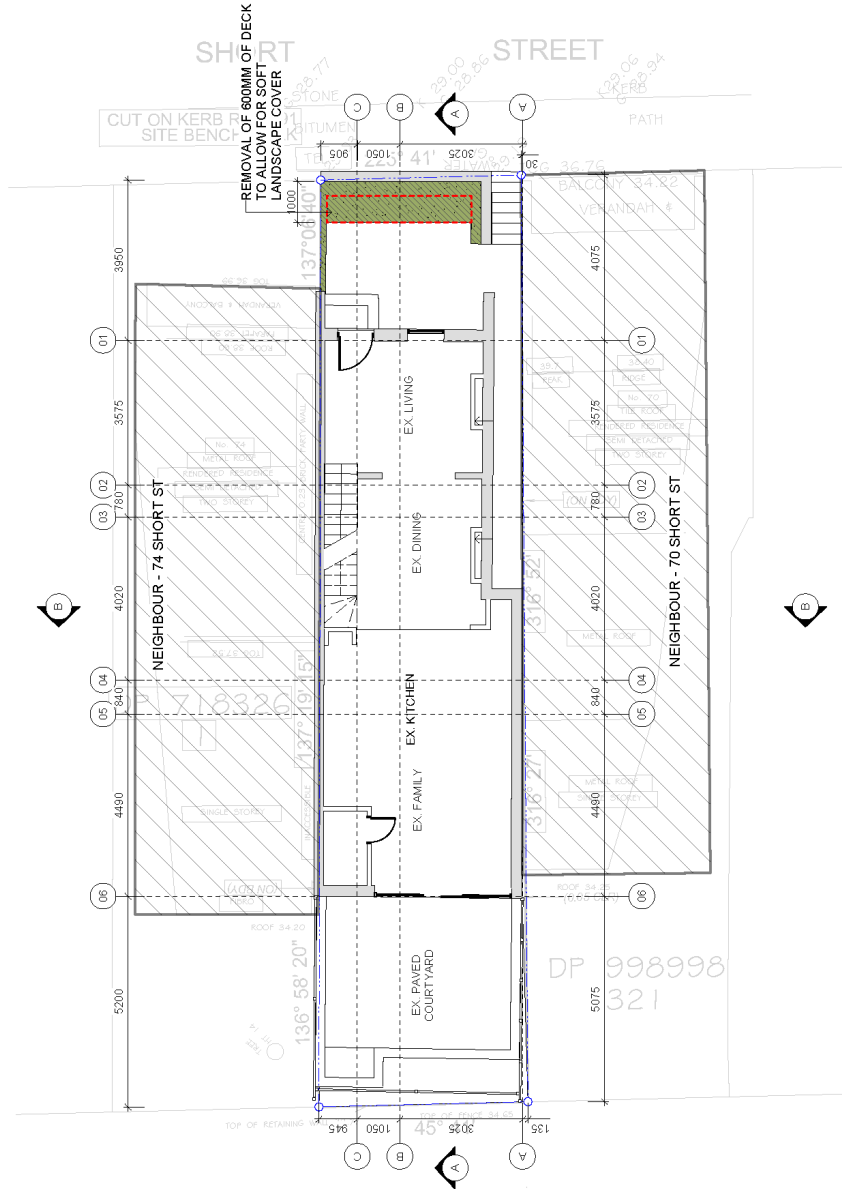
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 - 02 SITE ANALYSIS STORMWATER ROOF PLAN
 - 03 GROUND FLOOR PLAN
 - 04 FIRST FLOOR PLAN
 - 05 ROOF TERRACE PLAN
 - 06 ELEVATIONS NORTH AND SOUTH
 - 07 ELEVATIONS EAST AND WEST
 - 08 SECTIONS
 - 09 AREA DIAGRAMS
 - 10 BUILDING FOOTPRINT
 - 11 EXISTING GROUND FLOOR PLAN
 - 12 EXISTING FIRST FLOOR PLAN
 - 13 EXISTING ROOF PLAN



SITE / SITE ANALYSIS / STORMWATER / ROOF PLAN

DEVELOPMENT APPLICATION

<p>CHRISTOPHER JORDAN ARCHITECTS 10/100 SHORT STREET BIRCHGROVE NSW 2161 P: (02) 939 9998 E: c.jordan@christopherjordan.com.au</p>		<p>DATE: 08/08/2023</p>
<p>PROJECT NO: ZIZ441</p> <p>DATE: 01/01/2023</p> <p>SCALE: 1:100</p>	<p>PROJECT NO: ZIZ441</p> <p>DATE: 01/01/2023</p> <p>SCALE: 1:100</p>	<p>DATE: 08/08/2023</p>
<p>PROJECT NO: ZIZ441</p> <p>DATE: 01/01/2023</p> <p>SCALE: 1:100</p>	<p>PROJECT NO: ZIZ441</p> <p>DATE: 01/01/2023</p> <p>SCALE: 1:100</p>	<p>DATE: 08/08/2023</p>



GROUND FLOOR PLAN
1:100

Christopher Jordan
Architects

DATE: 10/10/2023	PROJECT: 72 SHORT STREET BIRCHGROVE	SCALE: 1:100	PROJECT NO: ZIZ441
DRAWN BY: J. JORDAN	DATE: 10/10/2023	CHECKED BY: J. JORDAN	DATE: 10/10/2023
DESIGNED BY: J. JORDAN	DATE: 10/10/2023	APPROVED BY: J. JORDAN	DATE: 10/10/2023
PROJECT NO: ZIZ441	DATE: 10/10/2023	SCALE: 1:100	PROJECT NO: ZIZ441

NO. 1:04	REVISION	NO. 1:04	REVISION

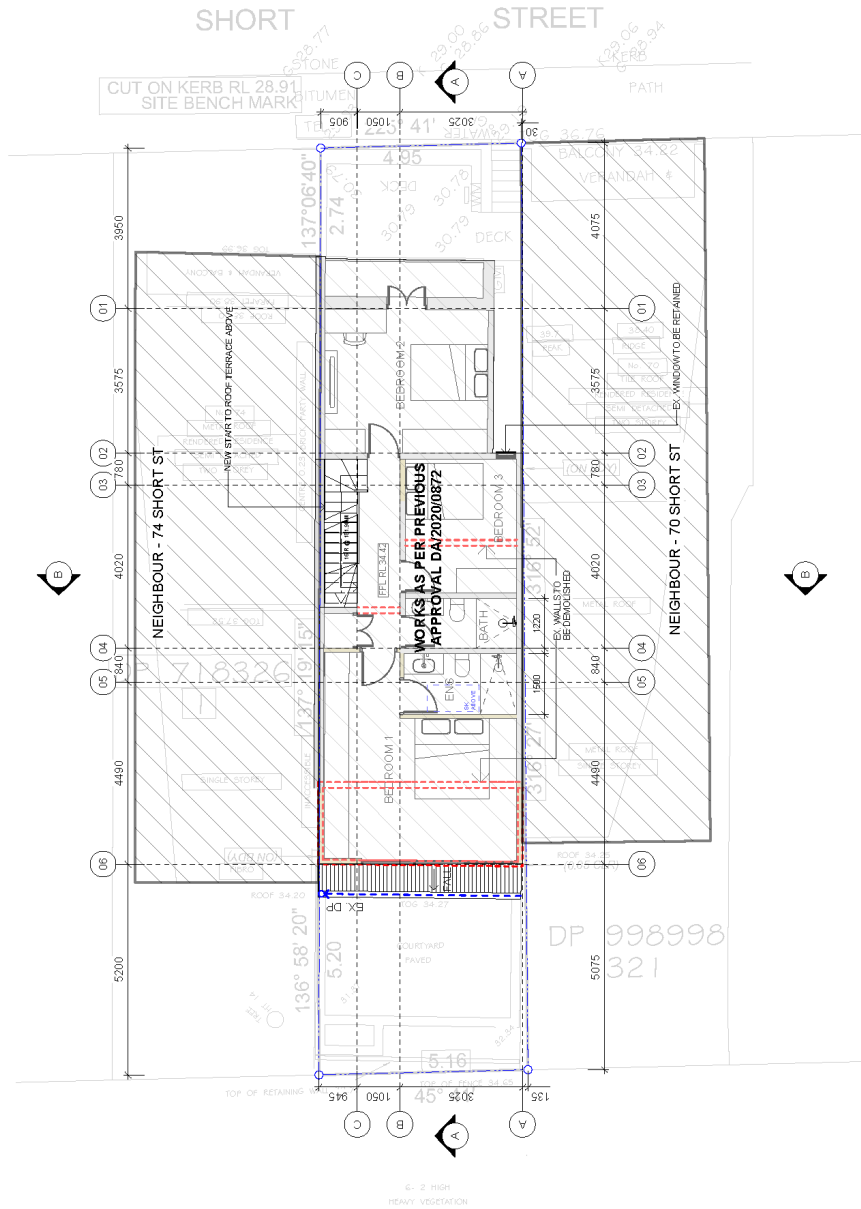
DEVELOPMENT APPLICATION

72 SHORT STREET BIRCHGROVE
DEVELOPMENT APPLICATION

GROUND FLOOR PLAN
ALTERATIONS & ADDITIONS

DP 998998
321

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FIRST FLOOR PLAN
1:100

CHRISTOPHER JORDAN ARCHITECTS

24/01/2021
 ARCHITECTURE UNIT
 1/16 ALBION PARK DRIVE
 NEW BEGS, ARCHITECT NO. 8007
 CHRISTOPHER JORDAN
 ARCHITECTS
 1/16 ALBION PARK DRIVE
 NEW BEGS, NSW 2158
 P. 02 9330 8000
 E. CHRIS@CJARCHITECTS.COM.AU

CPT: GRAPHS
 DE: DESIGN DEVELOPMENT
 DR: DRAWING DEVELOPMENT
 PR: PRELIMINARY
 FR: FINAL
 TR: TENDER
 P: PROJECT
 F: FINISHED
 T: TYPICAL

1E: FLOOR FINISH
 1F: FLOOR COVERING
 1G: FLOOR WALLS
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 1I: FLOOR WALLS TO BE REBOLISHED
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DEVELOPMENT APPLICATION

SCALE: 1:100
 PROJECT NO: Z1441
 DRAWING NO: 03
 DATE: 03/03/2021

FIRST FLOOR PLAN
 ALTERATIONS & ADDITIONS
 72 SHORT STREET BIRCHGROVE
 DEVELOPMENT APPLICATION

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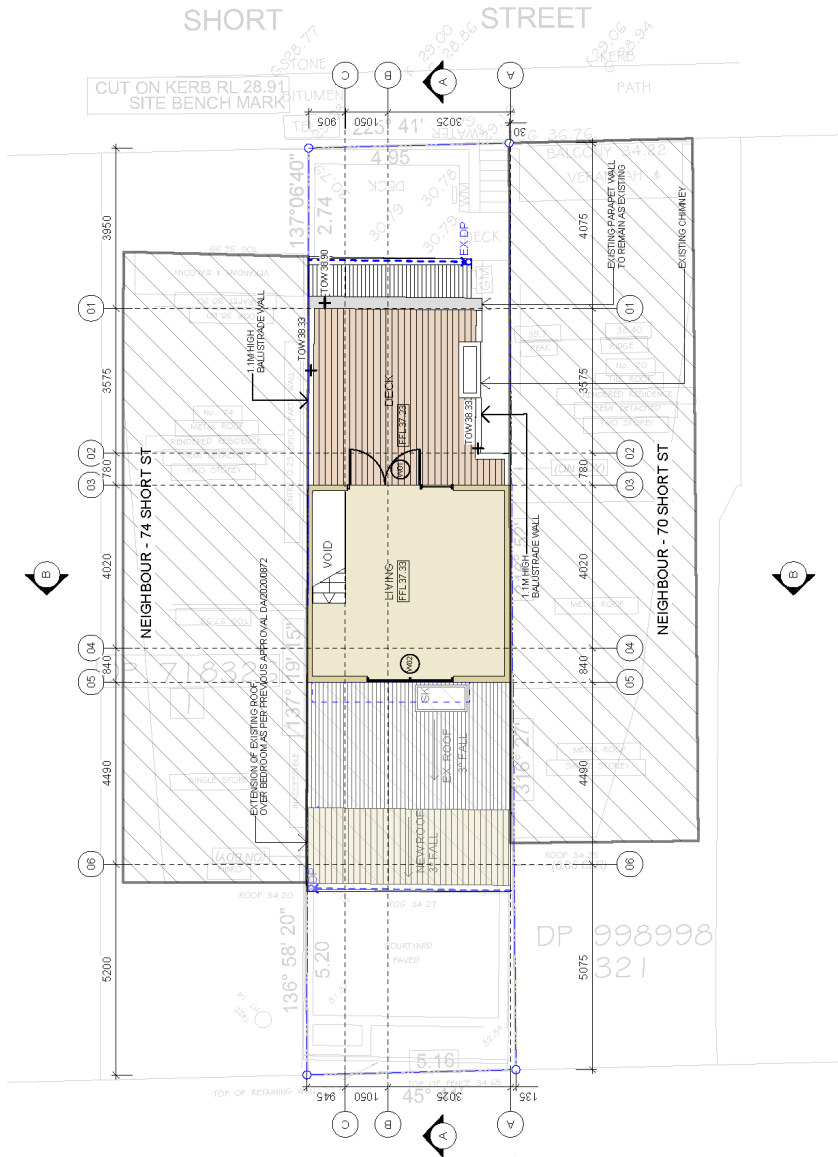
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 100: APPROVED DEVELOPMENT APPLICATION



ROOF TERRACE PLAN
1:100

Christopher Jordan
ARCHITECTS
111/113 STURGEON STREET
SYDNEY NSW 2000
t: 02 9230 4000
e: c.jordan@christopherjordan.com.au

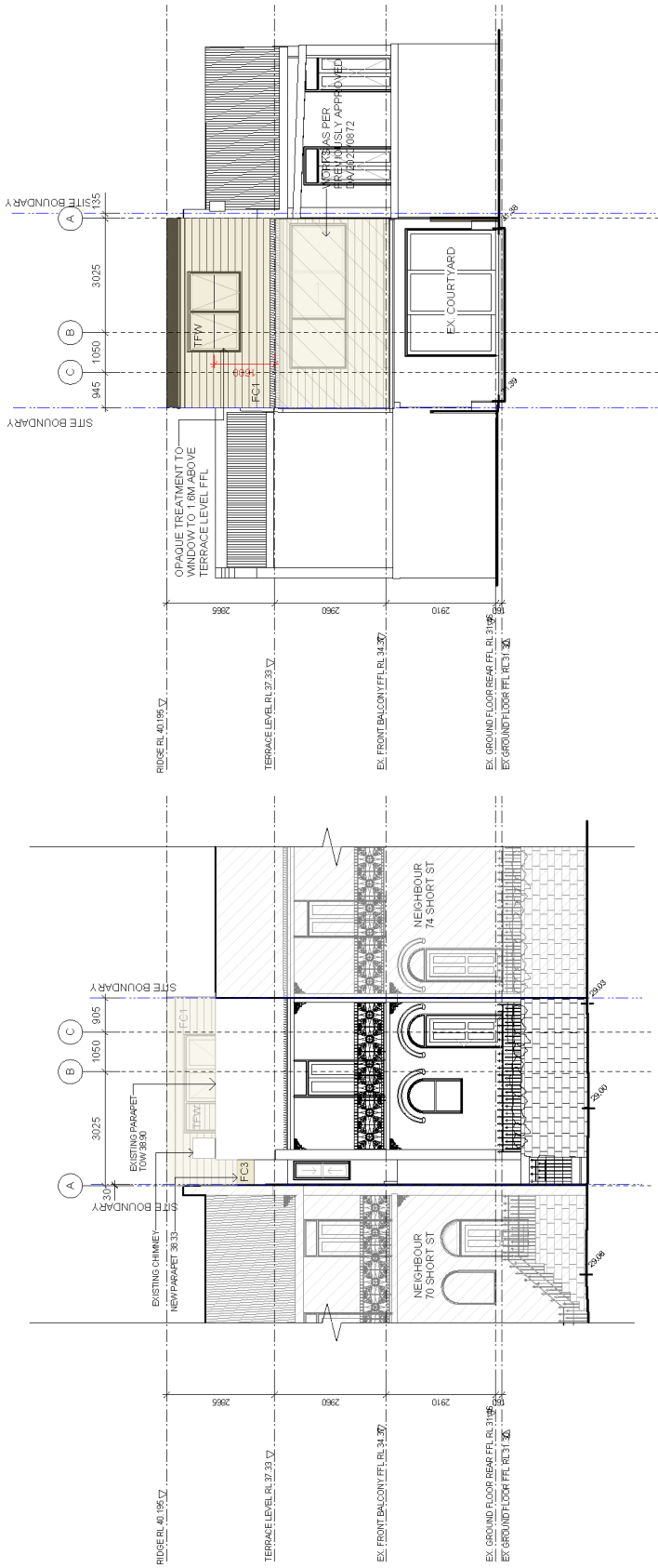
DEVELOPMENT APPLICATION

SCALE: 1:100
PROJECT NO: ZIZ441
SUBJECT: 72 SHORT STREET BIRCHGROVE
DRAWING NO: 04
REV: D

ROOF TERRACE PLAN
ALTERATIONS & ADDITIONS
72 SHORT STREET BIRCHGROVE
DEVELOPMENT APPLICATION

NO.	REVISION	DATE	BY	CHKD.
1	ISSUED FOR DEVELOPMENT APPLICATION			
2	ISSUED FOR DEVELOPMENT APPLICATION			
3	ISSUED FOR DEVELOPMENT APPLICATION			
4	ISSUED FOR DEVELOPMENT APPLICATION			
5	ISSUED FOR DEVELOPMENT APPLICATION			

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ELEVATION SOUTH

ELEVATION NORTH

DEVELOPMENT APPLICATION

SCALE	1:100
PROJECT NO.	ZIZ441
DATE	05
REVISION	D

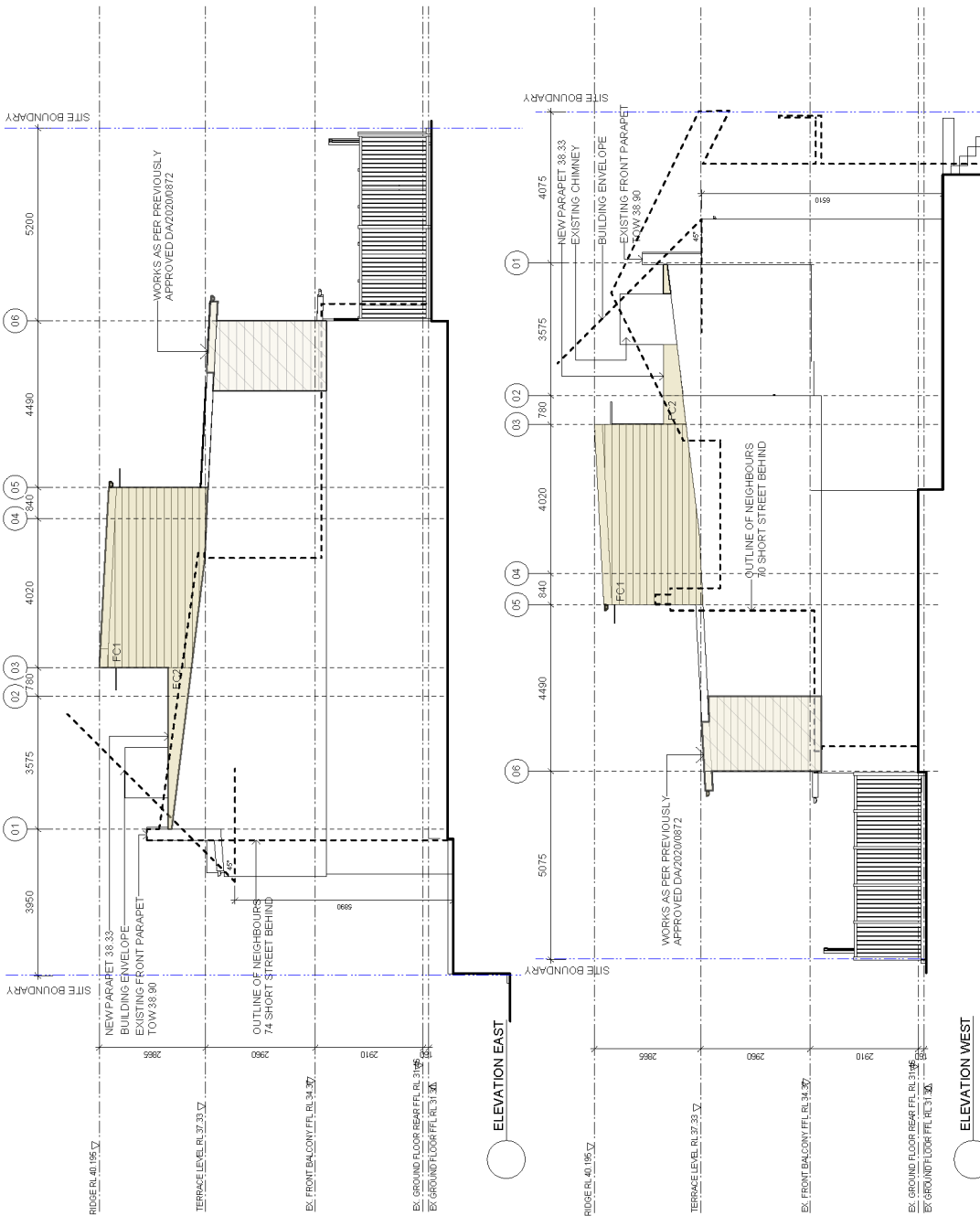
ELEVATIONS NORTH AND SOUTH
ALTERATIONS & ADDITIONS
72 SHORT STREET BIRCHGROVE
DEVELOPMENT APPLICATION

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7	10/05/20	ISSUED FOR PERMIT APPLICATION
8	10/05/20	ISSUED FOR PERMIT APPLICATION
9	10/05/20	ISSUED FOR PERMIT APPLICATION
10	10/05/20	ISSUED FOR PERMIT APPLICATION

DATE	10/05/20	DESIGNER	CHRISTOPHER JORDAN
DATE	10/05/20	ARCHITECT	CHRISTOPHER JORDAN
DATE	10/05/20	ENGINEER	CHRISTOPHER JORDAN
DATE	10/05/20	LANDSCAPE ARCHITECT	CHRISTOPHER JORDAN
DATE	10/05/20	ARTIST	CHRISTOPHER JORDAN
DATE	10/05/20	PAINTER	CHRISTOPHER JORDAN
DATE	10/05/20	SCULPTOR	CHRISTOPHER JORDAN
DATE	10/05/20	WOODWORKER	CHRISTOPHER JORDAN
DATE	10/05/20	ROOFER	CHRISTOPHER JORDAN
DATE	10/05/20	GLAZIER	CHRISTOPHER JORDAN
DATE	10/05/20	PLASTERER	CHRISTOPHER JORDAN
DATE	10/05/20	CONCRETEWORKER	CHRISTOPHER JORDAN
DATE	10/05/20	IRONWORKER	CHRISTOPHER JORDAN
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DATE	10/05/20	CONCRETEWORKER	CHRISTOPHER JORDAN
DATE	10/05/20	IRONWORKER	CHRISTOPHER JORDAN

CHRISTOPHER JORDAN
ARCHITECT
10/05/20

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DEVELOPMENT APPLICATION

SCALE	1:100
PROJECT NO.	ZIZ441
DATE	06
REVISION	D

ELEVATIONS EAST AND WEST ALTERATIONS & ADDITIONS 72 SHORT STREET BIRCHGROVE DEVELOPMENT APPLICATION

DATE	06
REVISION	D

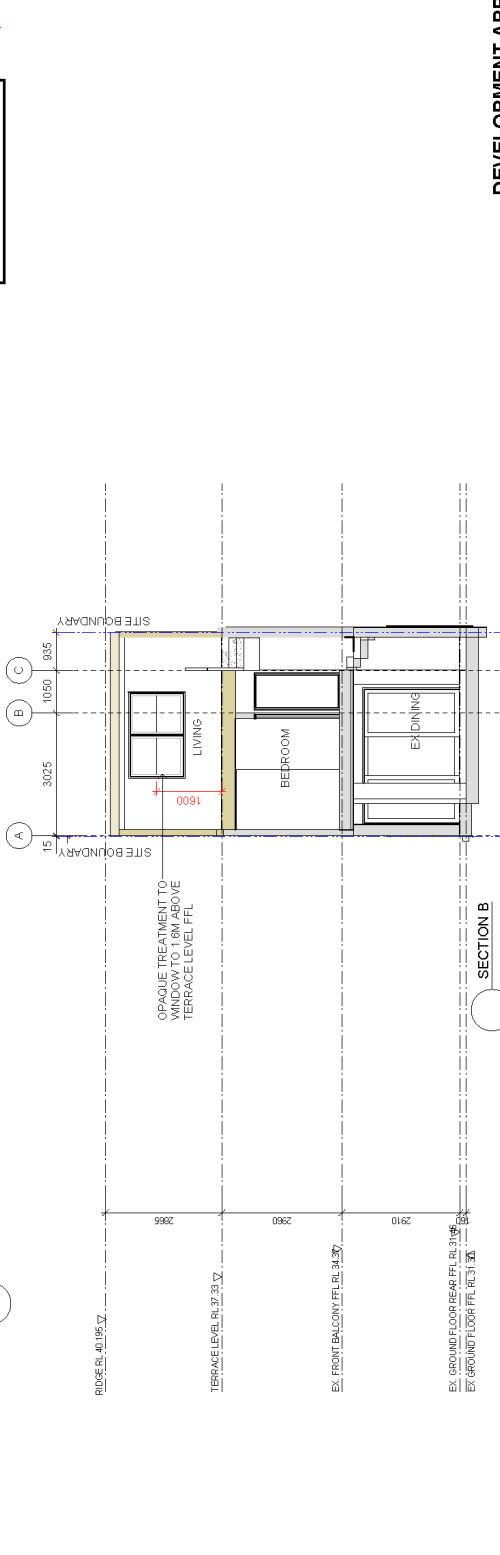
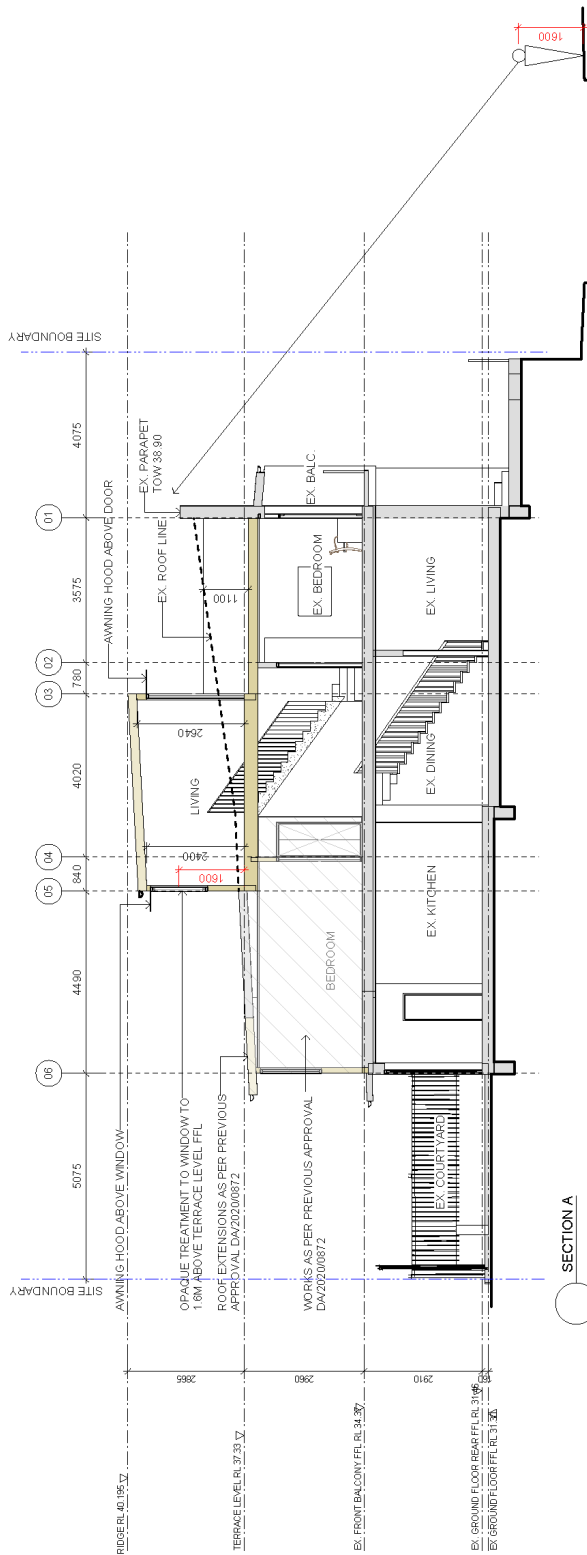
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REVISION	D

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CHRISTOPHER JORDAN ARCHITECTS
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DEVELOPMENT APPLICATION

SCALE	1:100
PROJECT NO.	ZIZ441
DATE	07
REVISION	D

SECTIONS	ALTERATIONS & ADDITIONS
72 SHORT STREET BIRCHGROVE	DEVELOPMENT APPLICATION

DATE	NO.	REVISION

NO.	DATE	REVISION

NO.	DATE	REVISION

NO.	DATE	REVISION

NO.	DATE	REVISION

Christopher Jordan

 ARCHITECTS

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SITE AREA 115.2m²
GROSS FLOOR AREAS
 GROUND 57.5m²
 FIRST 58.6m²
 SECOND 21.6m²
TOTAL 137.9m²
FSR 1.20:1
CONTROL 1.0:1

AREA PLANS
 FLOOR SPACE RATIO



DEVELOPMENT APPLICATION

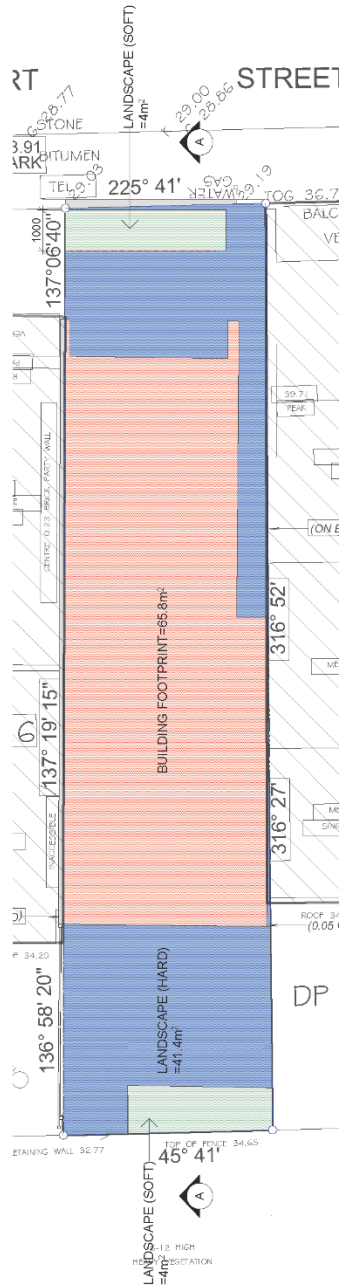
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DATE	20/01/20	Check No.	08
PROJECT	72 SHORT STREET BIRMGROVE		
TYPE	DEVELOPMENT APPLICATION		

NO.	DATE	DESCRIPTION	BY
1	18/01/20	PRELIMINARY DEVELOPMENT APPLICATION	CPK
2	20/01/20	REVISION	CPK

NO.	DATE	DESCRIPTION	BY
1	18/01/20	PRELIMINARY DEVELOPMENT APPLICATION	CPK
2	20/01/20	REVISION	CPK

NO.	DATE	DESCRIPTION	BY
1	18/01/20	PRELIMINARY DEVELOPMENT APPLICATION	CPK
2	20/01/20	REVISION	CPK

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- BUILDING FOOTPRINT 65.8m² (57.1%)
 - LANDSCAPE (DEEP) 8m² (6.9%)
 - LANDSCAPE (HARD) 41.4m² (36.0%)
- SITE AREA: 115.2m²**
EXISTING LANDSCAPED AREA: 4m²
TOTAL LANDSCAPED AREA = 8m² (6.9%)

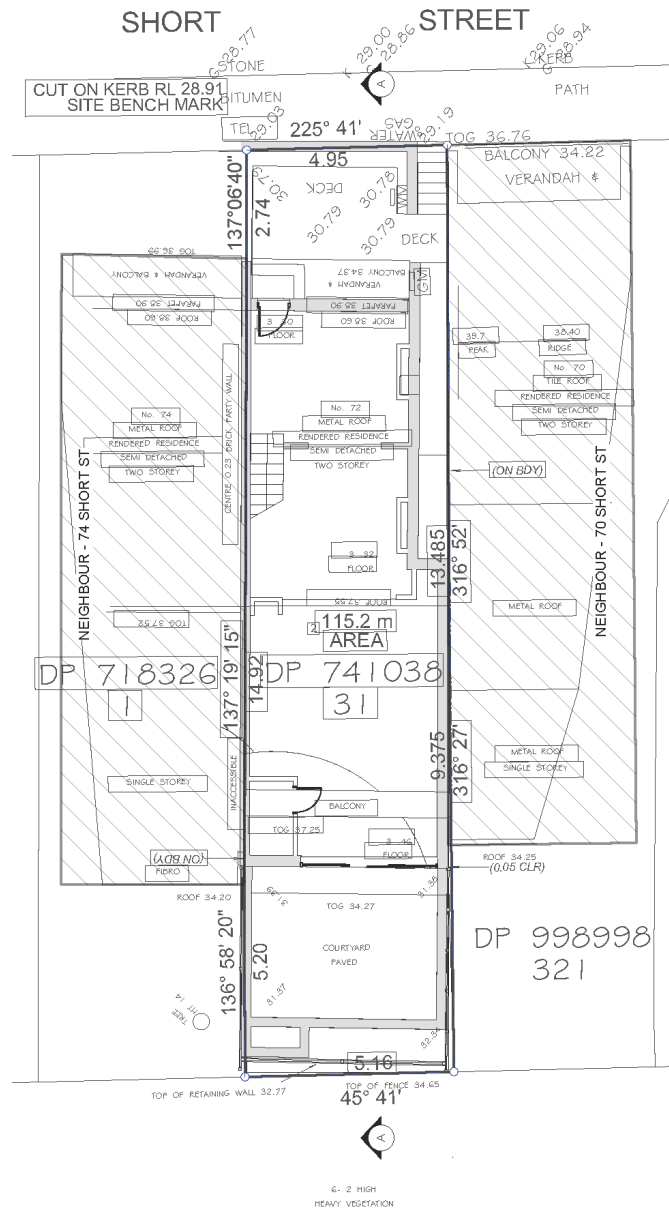
AREA PLAN
BUILDING FOOTPRINT

Christopher Jordan
 ARCHITECTS
 11/111-113 BIRMGROVE STREET
 BIRMGROVE NSW 2143
 PH: (02) 9638 2888
 WWW.CHRISTOPHERJORDAN.COM.AU

DEVELOPMENT APPLICATION

SCALE 1:100 DATE 09/09/2020 DRAWN BY C CHECKED BY C APPROVED BY D	FORM NO. Z1441 ISSUE NO. 09 DATE 09/09/2020
BUILDING FOOTPRINT ALTERATIONS & ADDITIONS 72 SHORT STREET BIRMGROVE DEVELOPMENT APPLICATION	PROJECT NO. 19/00000
PREPARED BY CHRI CHECKED BY CHRI APPROVED BY CHRI	DATE 09/09/2020

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EXISTING GROUND FLOOR PLAN
1:100

CHRISTOPHER JORDAN ARCHITECTS

 11/111 COLLEGE STREET, SYDNEY NSW 2000

 P: 02 9550 1111

 E: c.jordan@christopherjordan.com.au

DEVELOPMENT APPLICATION

SCALE	1:100
PROJECT NO.	ZIZ441
DATE	10/10/20
NO.	10
TYPE	D

EXISTING GROUND FLOOR PLAN
ALTERATIONS & ADDITIONS
72 SHORT STREET BIRCHGROVE
DEVELOPMENT APPLICATION

DATE	10/10/20
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TYPE	D

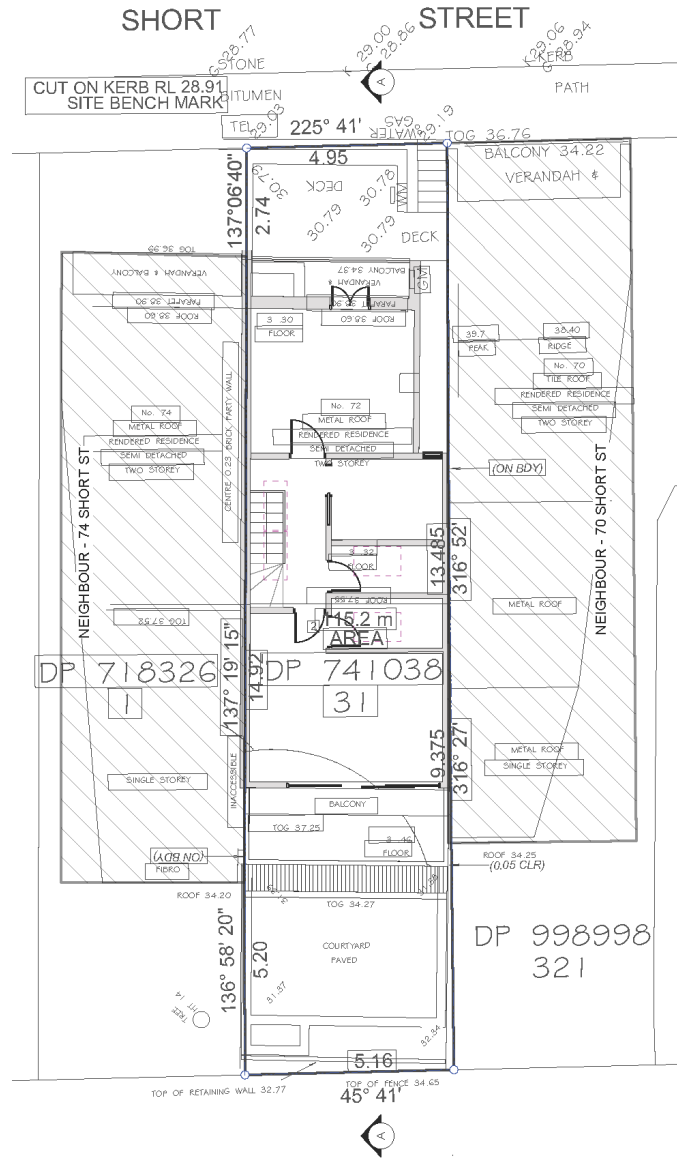
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G. 2 HIGH HEAVY VEGETATION

EXISTING FIRST FLOOR PLAN

1:100

Christopher Jordan
Architects

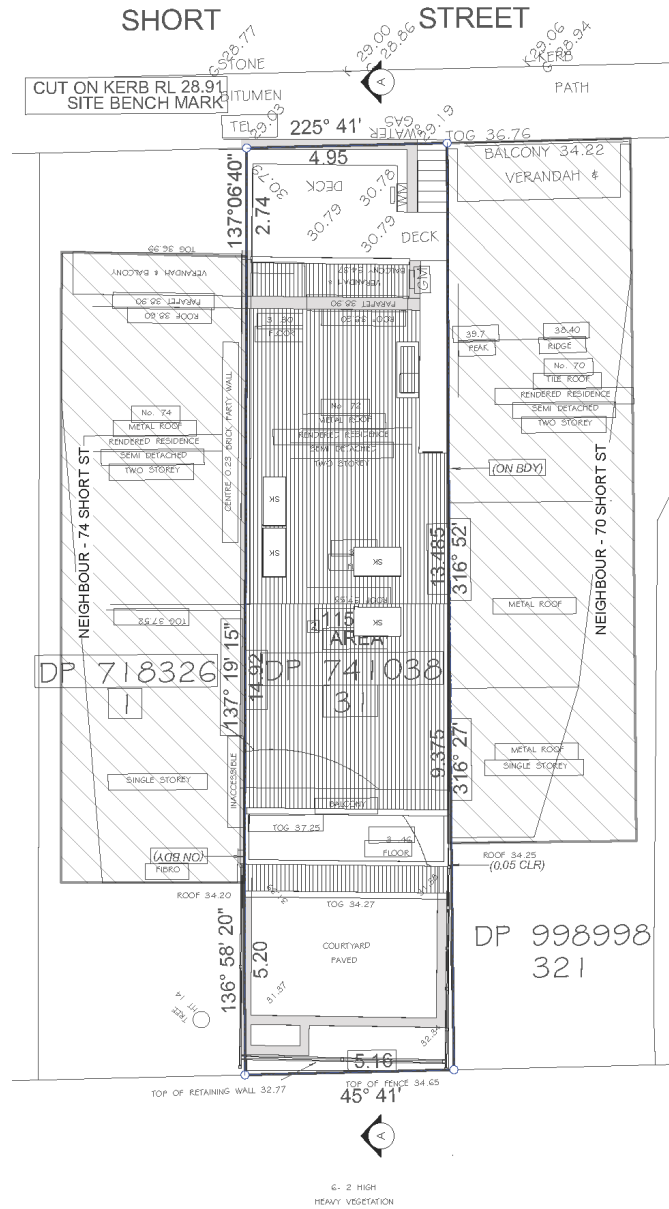
DEVELOPMENT APPLICATION

SCALE: 1:100

Project No: **ZIZ441**

Sheet No.	11	Total No. of Sheets	11
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DESCRIPTION	DATE	BY	REVISION
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72 SHORT STREET BIRCHGROVE DEVELOPMENT APPLICATION			
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EXISTING ROOF PLAN

1:100
 Christopher Jordan
 11/11/2024

SCALE 1:100
 SHEET NO. 12
 PROJECT NO. ZIZ441
 DATE 11/11/2024

EXISTING ROOF PLAN
 ALTERATIONS & ADDITIONS
 72 SHORT STREET BIRCHGROVE
 DEVELOPMENT APPLICATION

NO.	DESCRIPTION	STATUS
1	EXISTING ROOF PLAN	EXISTING
2	ALTERATIONS & ADDITIONS	PROPOSED

NO.	DESCRIPTION	STATUS
1	EXISTING ROOF PLAN	EXISTING
2	ALTERATIONS & ADDITIONS	PROPOSED

1:100
 Christopher Jordan
 11/11/2024

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Attachment C- Section 4.6 Exception to Development Standards

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- Objective 02 for the reasons detailed above.

The controls C1, C2 and C3 are satisfied through the view assessment above and related photographs. The proposal satisfies Section C3.10.

Section C3.11 - Visual Privacy: the proposed roof terrace will not introduce any visual privacy impacts on dwellings adjoining or opposite due to the height of the existing parapet on the Short Street facade. The proposed windows on the rear wall of the living room are located 10 metres from the rear boundary and at least 20 metres to the rear facade of 89 Rowntree Street, noting that the rear yard is heavily vegetated. There will be no adverse visual privacy impacts arising from the proposed development, thereby satisfying the relevant objectives and controls under C3.11.

C3.12 - Acoustic Privacy: the proposed rooftop living room and adjoining terrace will not be adjoining any bedrooms of adjoining residences at 70 and 74 Short Street and given the elevated nature of the proposal and height of the parapet walls is unlikely to cause acoustic disturbance to residences to the south-east. The proposal satisfies the relevant objectives and controls under C3.12.

C3.13 - Conversion of Existing Non-Residential Buildings: Not relevant.

C3.14 - Adaptable Housing: Not Relevant.

The proposed development satisfies the relevant objectives and controls under Leichhardt DCP 2013.

The SEPP (Building Sustainability Index: BASIX) 2004 is satisfied through the issuance of the BASIX Certificate at **Appendix 5**.

5.2 Clause 4.6 Submission – Minimum Landscaped Area and Floor Space Ratio

This written request under Clause 4.6 of the Inner West LEP 2022 (IWLEP) has been prepared to address any non-compliance with the minimum landscaped area and floor space ratio development standards under Clauses 4.3C(3)(a)(i) and 4.4(2B)(b) of the IWLEP.

Clause 4.6 of Inner West LEP 2013

Clause 4.6 of the Inner West LEP 2022 provides for exceptions to development standards embodied in the planning instrument in the following terms:-

"4.6 Exceptions to development standards

- (1) *The objectives of this clause are as follows:-*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

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72 Short Street Birchgrove
Statement of Environmental Effects

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- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Director-General has been obtained.*
- (5) *In deciding whether to grant concurrent, the Director-General 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 Director-General before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if –*
- (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- Note.** *When this plan was made it did not include land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Rural Small Holdings, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.*
- (7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*
- (a) *a development standard for complying development,*
 - (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (c) *clause 5.4,*
 - (caa) *clause 5.5,*
 - (ca) *clause 6.27(4),*

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72 Short Street Birchgrove
Statement of Environmental Effects

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(cb) clause 6.28,

(cc) clause 6.29,

(cd) clause 6.31"

The written request under Clause 4.6 has been prepared in accordance with the recent judgements in the Land and Environment Court, including *Initial Action Pty Limited v. Woollahra Council [2018] NSWLEC118*; *Randwick City Council v. Micaul Holdings Pty Ltd [2016] NSWLEC7*; *Wehbe v. Pittwater Council [2007] NSWLEC827*; *Baron Corporation Pty Ltd v. Council of the City of Sydney [2019] NSWLEC61* and the Court of Appeal decision on *RebelMH Neutral Pty Limited v. North Sydney Council [2019] NSWCA 130*.

The proposal

The proposed development comprises alterations and additions to a 2-storey attached terrace-house at 72 Short Street Birchgrove. The proposal involves the provision of a living room and terrace on the roof level of the building.

The existing terrace house has limited external area which results in it only achieving 4m² of landscaped area, well short of the 17.28 m² required under clause 4.3C(3)(a)(i) of the IWLEP. The proposed development includes the creation of a rooftop terrace adjoining the proposed living room with an area of 17.2m², which will enable works to the ground floor level front terrace to increase the amount of landscaped area to 8m². This clause 4.6 submission addresses the reduced extent of non-compliance with the landscaped area standard.

The existing terrace house has a gross floor area of 119.3m² and a floor space ratio of 1.04:1.

The proposed addition involves an additional 21.8m² of floor area resulting in a gross floor area of 137.9m² and an FSR of 1.20:1.

As the maximum FSR for the site is 1.0:1 under clause 4.4(2B)(b) the proposed development is non-compliant with the FSR standard and thus a clause 4.6 submission has been prepared to justify the contravention.

The developments standards

The relevant development standards in the Inner West LEP 2022 are:

4.3C Landscaped areas for residential accommodation in Zone R1

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

(a) *to provide landscaped areas 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 character of the neighbourhood,*

(d) *to encourage ecologically sustainable development,*

(e) *to control site density,*

(f) *to provide for landscaped areas and private open space.*

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72 Short Street Birchgrove
Statement of Environmental Effects

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(2) This clause applies to development for the purposes of residential accommodation on land in Zone R1 General Residential and identified as "Area 1" on the [Key Sites Map](#).

(3) Development consent must not be granted to development to which this clause applies unless—

(a) the development will result in a landscaped area comprising at least—

(i) if the lot size is 235m² or less—15% of the site area, or

(ii) otherwise—20% of the site area, and

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

(4) For subclause (3)—

(a) the site area must be calculated in the way set out in clause 4.5, and

(b) the following areas must not be included as landscaped areas—

(i) a landscaped area with a length or width of less than 1m,

(ii) a landscaped area located more than 500mm above ground level (existing), and

(c) a deck, balcony or similar structure, whether enclosed or unenclosed, must not be included in calculating the site coverage if—

(i) the underside of the deck, balcony or structure is at least 2.4m above ground level (existing), and the area below the structure is able to be landscaped or used for recreational purposes, or

(ii) the finished floor level is 500mm or less above ground level (existing).

and

4.4 Floor space ratio

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

(a) to establish a maximum floor space ratio to enable appropriate development density,

(b) to ensure development density reflects its locality,

(c) to provide an appropriate transition between development of different densities,

(d) to minimise adverse impacts on local amenity,

(e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.

(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](#).

(2A) The maximum floor space ratio for development for a purpose other than residential accommodation on land in Zone R1 General Residential identified as "Area 1" on the [Key Sites Map](#) is 1:1.

(2B) The maximum floor space ratio for development for the purposes of residential accommodation is as follows—

(a) on land shown edged black or pink on the [Floor Space Ratio Map](#)—

Site area	Maximum floor space ratio
< 150m ²	0.9:1
≥ 150 < 300m ²	0.8:1

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$\geq 300m^2 < 450m^2$	0.7:1
------------------------	-------

$\geq 450m^2$	0.6:1
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(b) on land shown edged orange or green on the *Floor Space Ratio Map* is—

Site area	Maximum floor space ratio
< 150m ²	1.0:1
$\geq 150 < 300m^2$	0.9:1
$\geq 300m^2 < 450m^2$	0.8:1
$\geq 450m^2$	0.7:1

(c) on land shown edged brown on the *Floor Space Ratio Map* is—

Site area	Maximum floor space ratio
< 150m ²	0.8:1
$\geq 150 < 300m^2$	0.7:1
$\geq 300m^2 < 450m^2$	0.6:1
$\geq 450m^2$	0.5:1

(d) on land shown edged yellow on the *Floor Space Ratio Map* is—

Site area	Maximum floor space ratio
< 150m ²	0.9:1
$\geq 150 < 300m^2$	0.8:1
$\geq 300m^2$	0.7:1

(2C) The maximum floor space ratio for development for the purposes of attached dwellings, bed and breakfast accommodation, dwelling houses and semi-detached dwellings on land identified as "F" on the *Floor Space Ratio Map* is specified in the Table to this subclause.

Site area	Maximum floor space ratio
$\leq 150m^2$	1.1:1
$> 150 \leq 200m^2$	1:1
$> 200 \leq 250m^2$	0.9:1
$> 250 \leq 300m^2$	0.8:1
$> 300 \leq 350m^2$	0.7:1
$> 350m^2$	0.6:1

(2D) The maximum floor space ratio for development for the purposes of residential flat buildings on land shown edged red on the *Floor Space Ratio Map* may be greater than the maximum floor space ratio shown for the land on the *Floor Space Ratio Map* by up to 0.25:1.

(2E) In calculating the floor space ratio in relation to land dedicated to the Council for the purposes of a proposed road on the *Land Reservation Acquisition Map*, land marked "Local Road (SP2)" must be included in the site area.

Sub-clause 3(a) of Clause 4.6 - Minimum Landscaped Area

In the context of the provisions in sub-clause 3(a) of Clause 4.6, as to whether "compliance with the development standard is unreasonable or unnecessary in the circumstances of the case" it

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is appropriate to consider the judgement of Preston, CJ in *Wehbe* in which he identified five common ways in which the applicant may demonstrate under Clause 4.6(3)(a) that compliance with a development standard is unreasonable and unnecessary, namely:-

(i) The first way is to demonstrate whether the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

(ii) The second way is to establish that the underlying objective or purposes is not relevant to the development with a consequence that compliance is unnecessary.

(iii) The third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.

(iv) The fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.

(v) A fifth way is to establish that the zoning of particular land was unreasonable or inappropriate so that "a development standard appropriate for that zoning would also be unreasonable or unnecessary" as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary."

In respect to the "first way", the objectives of the minimum landscaped area standard under clause 4.3C(1) of the IWLEP are:

4.3C Landscaped areas for residential accommodation in Zone R1

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

- (a) to provide landscaped areas 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 character of the neighbourhood,*
- (d) to encourage ecologically sustainable development,*
- (e) to control site density,*
- (f) to provide for landscaped areas and private open space."*

Objective 1(a) and (b) are achieved through the proposed increase in soft landscaping in the front garden in response to the additional private open space proposed on the roof terrace.

Objective 1(c) is achieved through enhancement of existing landscaping on the elevated front terrace on the Short Street frontage, consistent with the desired future character for the Birchgrove Distinctive Neighbourhood.

Objective 1(d) is satisfied as the proposal embodies ecological sustainable development principles.

Objective 1(e) is satisfied in that the site density is set by the terrace house building footprint established for the site in the late 19th century.

Objective 1(f) is satisfied as the proposal creates private open space through a rooftop terrace and adjoining living room with a high quality of amenity and outlook whilst also establishing increased landscaping at the ground floor level of the site.

The proposal satisfies objectives (a) to (f) inclusive under clause 4.3C(1) of the IWLEP.

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Sub-clause 3(a) of Clause 4.6 – Floor Space Ratio

In respect to the “first way” the objectives of the floor space ratio development standard in Clause 4.4(1) of the Inner West LEP 2022 are:-

“4.4 Floor space ratio

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

- (a) *to establish a maximum floor space ratio to enable appropriate development density,*
- (b) *to ensure development density reflects its locality,*
- (c) *to provide an appropriate transition between development of different densities,*
- (d) *to minimise adverse impacts on local amenity,*
- (e) *to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.”*

Objectives 1(a) and 1(b) are achieved as the Birchgrove Distinctive Neighbourhood is characterised by a built form and density developed in the late 19th century on relatively small allotments, which achieve a density similar to that proposed on the subject site, yet clearly remains appropriate for the locality, specifically and Birchgrove generally.

In terms of the desired future character of the area the proposal satisfies the relevant objectives and controls embodied in Part C2.2.2.6 of the Leichhardt DCP 2013 for the Birchgrove Distinctive Neighbourhood, as detailed in Section 5.1 of this report.

The proposal satisfies Objectives 1(a) and 1(b).

Objective 1(c) is not relevant as the site falls within a locality with a high density of development consistent with its 19th century history.

Objective 1(d) is satisfied as the proposal will not introduce any adverse amenity impacts on adjoining and adjacent residential properties in terms of overshadowing, overlooking and view loss.

The proposal therefore satisfies Objective 1(d)

Objective 1(e) is satisfied as the proposal will not introduce any adverse impacts on the enjoyment of private property and the public domain.

In the circumstances, it is considered that the proposal satisfies the “first way” in *Wehbe* and thereby satisfies the requirements under Clause 4.6(3)(a) of the IWLEP in respect to the floor space ratio standard applying to the site.

The second to fifth ways in *Wehbe* are not relevant to the proposed development.

Sub-clause 3(b) of Clause 4.6 – Minimum Landscaped Area

In respect to the requirement in sub-clause 3(b) of Clause 4.6 that “*there are sufficient environmental planning grounds to justify contravening the development standard*”, the following commentary is provided in support of the proposal relevant to the minimum landscaped area standard applying to the site, namely:

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- Compliance with the landscaped area standard applying to the small allotment (115.2m²) would require a landscaped area of 17.28m². The size and location of the terrace house footprint precludes, in practical terms, compliance. The existing 4m² of landscaped area of the site is proposed to be doubled to 8m² with consequential improvements to the landscape setting viewed from Short Street. The creation of a rooftop terrace will provide additional private open space for the dwelling without impacts on the amenity of adjoining properties.
- The proposal will achieve a modest doubling of landscaped area, that will complement the streetscape of Short Street.
- The proposal satisfies the site coverage standard applying to the site under clause 3C(3)(b). Thus, the non-compliance with the minimum landscaped area standard is not a result of an overdevelopment of the site.

In the circumstances, it is considered that there are sufficient planning grounds to justify the non-compliance of the landscaped area standard under Clause 4.6(3)(b) of the IWLEP.

Sub-clause 3(b) of Clause 4.6 – Floor Space Ratio

In respect to the requirement in sub-clause 3(b) of Clause 4.6 that “*there are sufficient environmental planning grounds to justify contravening the development standard*”, the following commentary is provided in support of the proposal relevant to the floor space ratio standard applying to the site, namely:

- The rooftop addition and terrace will not introduce any adverse overshadowing and overlooking impacts on adjoining properties at 70 and 74 Short Street and 89 Rowntree Street. The proposal will not adversely impact on views of the City skyline and Sydney Harbour Bridge currently enjoyed from the rear of residences fronting Rowntree Street (83 and 85) as detailed in Section 5.1 of this report.
- The rooftop addition will not be visible from the public domain (Short Street) as it is located behind existing parapet walls and by the height and location of existing buildings fronting Short Street, in particular 70 Short Street.

In the circumstances, it is considered that there are sufficient planning grounds to justify the non-compliance of the floor space ratio standard under Clause 4.6(3)(b) of the IWLEP.

Sub-clause 4(a)(i) of Clause 4.6 - Minimum Landscaped Area

It is considered that the written request for a variation to the minimum landscaped area standard has adequately addressed the matters required to be demonstrated under Clause 4.6(3)(a) and (b) as detailed below, namely:-

- In respect to Clause 4.6(3)(a), the written request addresses the “*five ways*” from *Wehbe* and demonstrates that the proposed development satisfies the objectives of the landscaped area standard under Clause 4.3C(1) of the IWLEP, as required under the “*first way*” and that strict compliance with the standard would be unnecessary (as it is achieved anyway) and unreasonable (no purpose would be served).
- In respect to Clause 4.6(3)(b), the written request demonstrates that there are sufficient environmental planning grounds to justify the non-compliance given the constraints of the

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site and limited opportunity for achieving compliance on such a small site with the existing building footprint, compliant with the site coverage standard in the IWLEP.

In the circumstances, it is considered that the written request has adequately addressed the matters required to be demonstrated under Clause 4.6(3).

Sub-clause 4(a)(i) of Clause 4.6 – Floor space Ratio

It is considered that the written request for a variation of the floor space ratio standard has adequately addressed the matters required to be demonstrated under Clause 4.6(3)(a) and (b) as detailed below:

- In respect to clause 4.6(3)(a) the written request addresses the “five ways” from *Wehke* and demonstrates that the proposed development satisfies the objectives of the floor space ratio standard under clause 4.4(1) of the IWLEP, as required under the “first way” and that strict compliance with the standard would be unnecessary (as it is achieved anyway) and unreasonable (no purpose would be served).
- In respect to clause 4.6(3)(b), the written request demonstrates that there are sufficient environmental planning grounds to justify the non-compliance given that the proposed rooftop addition will not introduce any adverse impacts on adjoining properties and the public domain and will have a density consistent with that in the Birchgrove Distinctive Neighbourhood and the Balmain peninsula generally.

Sub-clause 4(a)(ii) of Clause 4.6 – Minimum Landscaped Area and Floor Space Ratio

As detailed in 3(a) above the proposed development, whilst non-compliant in respect to the minimum landscaped area and floor space ratio standards, achieves the outcomes sought through the objectives in Clauses 4.3(1) and 4.4(1) of the IWLEP and thereby are consistent with the objectives of the respective standards.

In respect to the proposal being consistent with the objectives of the R1 General Residential zone the following commentary is provided.

The objectives of the R1 General Residential zone under the Land Use Table to the Inner West LEP 2022 are as follows:-

***“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 provide residential development that maintains the character of built and natural features in the surrounding area”.*

The proposal is consistent with the relevant objectives of the R1 zone through:-

- providing housing to meet the needs of the local community;
- providing a variety in housing types, whilst maintaining the heritage values of the terrace house form.

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- maintaining a residential built form compatible with the desired future character of the Birchgrove Distinctive Neighbourhood and consistent with the existing density of development in the locality established in the late 19th century.
- Ensuring that no adverse amenity and streetscape impacts are introduced by the proposed development to adjoining properties and the public domain.

In the circumstances, the proposal is consistent with the objectives of the R1 zone.

The proposed development, being consistent with the objectives of the minimum landscaped area and floor space ratio standards and the R1 zone objectives, is therefore in the public interest for the purposes of Clause 4.6(4)(a).

Subclause 4(b) of Clause 4.6

Concurrence of the Director-General may be assumed: Planning Circular PS08-003.

Conclusion

It is considered that compliance with the minimum landscaped area and floor space ratio standards would be unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds for the contraventions, and as the proposed development is consistent with the objectives of the landscaped area and floor space ratio standards, and the R1 zone objectives, the Council can be satisfied about the provisions in Clause 4.6(3)(a), (3)(b) and (4) of the Inner West LEP 2022.

The submission under Clause 4.6 is considered substantiated and well-founded.

5.3 Impact on Adjoining Properties

The subject site is adjoining three residential properties, namely:

- To the north-east: 74 Short Street
- To the north-west: 89 Rowntree Street
- To the south-west: 70 Short Street

74 Short Street: is a 2-storey semi-detached terrace adjoining the subject site. Accordingly, the proposed rooftop addition will have no overshadowing impacts on No. 74. The proposal will not introduce any adverse overlooking impacts.

There will be no adverse amenity impacts arising from the proposed development on 74 Short Street.

89 Rowntree Street : is a part 2/part 3-storey detached dwelling with frontage to Rowntree Street. The subject site (and No. 74) share a rear boundary with No. 89.

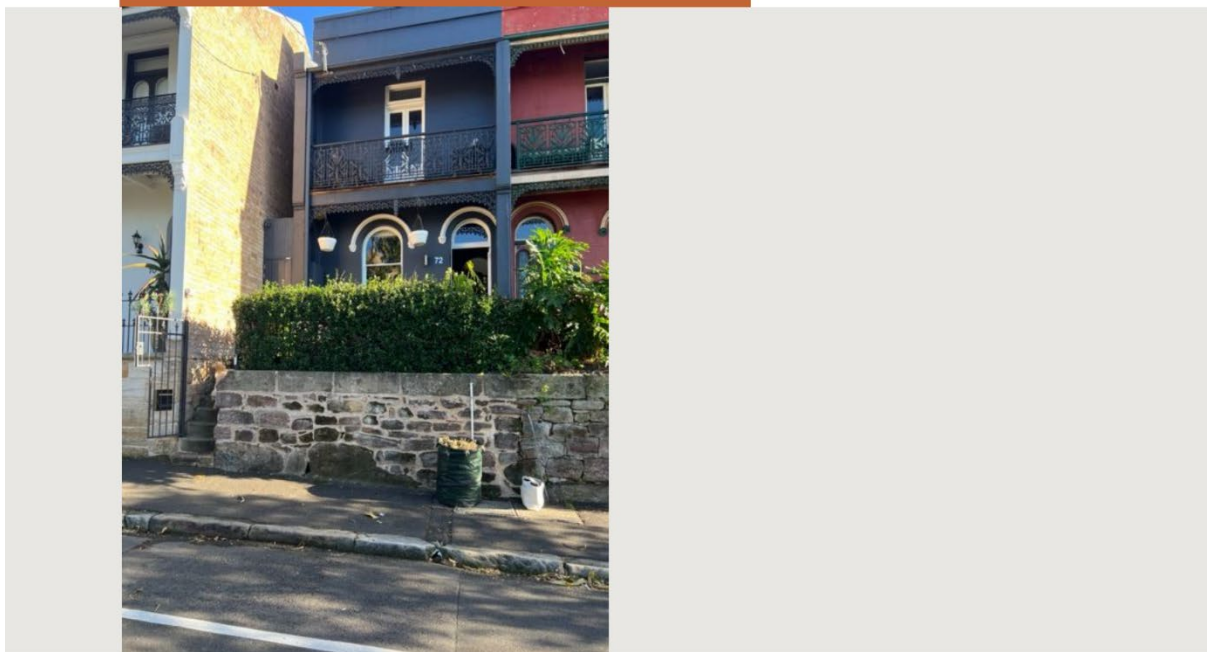
The proposed developments will not have any overshadowing impacts on No 89. There will be no adverse overlooking impacts arising from the north-west facing windows to the proposed living room given the 18-20 metre separation distance to the rear facade of No. 89 and the mature screening vegetation in the rear yard of 89 directly adjoining the rear boundary of the subject site as evident in *Photograph 8, Appendix 1*

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Statement of Environmental Effects*

Attachment D – Statement of Heritage Significance

HERITAGE IMPACT STATEMENT



Development Application
No. 72 Short Street, Birchgrove
May 2023 | J6210_01

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Revision	Date	Person	Reviewed by
First Issue Draft	15.05.2023	BH	AM, JP
Second Issue Draft	23.05.2023	BH	AM, JP
Final Issue	24.05.2023	BH	AM, JP

Cover Image: Front elevation, No. 72 Short Street, Birchgrove

We acknowledge that the land on which we live, learn and work as the traditional country of the Gadigal people of the Eora Nation. We acknowledge these traditional owners of this land and acknowledge their living cultures and the unique roles they have played in maintaining life, language, and culture in this region. We pay respect to their Elders past, present and emerging and all Aboriginal people.

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1 INTRODUCTION

1.1 Preamble

This Heritage Impact Statement (HIS) has been prepared in conjunction with a Development Application for alterations and additions to an existing dwelling at No. 72 Short Street, Birchgrove, New South Wales.

The site is located within the Inner West Council area. The principal planning control for the site is the *Inner West Local Environmental Plan 2022 (LEP 2022)*. The site is not listed as a heritage item but is located in the vicinity of heritage items and is located within the Town of Waterview Heritage Conservation Area as defined by Schedule 5 Part 2 of the *LEP 2022*.

Under Part 5.10 of the *LEP 2022*:

(4) Effect of proposed development on heritage significance

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

(5) Heritage assessment

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

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

This statement has been prepared at the request of the owner of the site and accompanies plans prepared by Christopher Jordan Architecture and Design.

1.2 Authorship and Acknowledgements

This HIS was prepared by Bella Harris, B.Des.Arch (cand.), and James Phillips, B.Sc. (Arch.), B.Arch., M.Herit.Cons. (Hons), of Weir Phillips Heritage and Planning.

1.3 Limitations

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

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

1.4 Methodology

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

1.5 Physical Evidence

A site visit carried out in May 2023. Unless otherwise stated, the photographs contained in this statement were taken by the authors on this occasion.

1.6 Documentary Evidence

1.6.1 General References

- Attenbrow, V., *Sydney Aboriginal Past: Investigating the Archaeological and Historical Records* (NSW: University of New South Wales Press Ltd, 2002).
- *Daily Telegraph*, 'Advertising', 9 December 1908.
- Holt, E.M., *Balmain: An Introduction to Local Studies* (Balmain: Balmain Teacher's College, 1965).
- Lawrence, J., and White, C., *Balmain to Glebe: The Leichhardt Municipality* (NSW: Atrand Pty Ltd, 1995).
- McDonald, M., Burton, C. and Thorpe, W., *Leichhardt Municipality Heritage Study* (Leichhardt Council, 1990).
- Solling, M. and Reynolds, P., *Leichhardt: On the Margins of the City* (Allen & Unwin, 1997).
- Turbet, P., *The Aborigines of the Sydney District Before 1788* (NSW: Kangaroo Press, 2001).

1.6.2 Historic Plans and Photographs

- Parish Map of Petersham, County of Cumberland (n.d.). NSW LPI.
- Postcard of Birchgrove (c. 1890). State Library of New South Wales.
- Sheet 7, Balmain, *Sydney Metropolitan Detail Series* (1888). State Library of New South Wales.

1.6.3 NSW LPI Records

- Old System Deeds, Book 182-No. 577.

1.6.4 Heritage Listing Sheets

- 'Terrace, including interiors', Heritage NSW State Heritage Inventory ID No. 1940553.
- 'Terrace, including interiors', Heritage NSW State Heritage Inventory ID No. 1940554.
- 'Terrace, including interiors', Heritage NSW State Heritage Inventory ID No. 1940561.

1.6.5 Planning Documents

- *Leichhardt Development Control Plan 2013*.
- *Inner West Local Environment Plan 2022*.

1.7 Site Location

No. 72 Short Street, Birchgrove is located on the north side of Short Street, on the block bounded by Spring Street and Curtis Road. Refer to Figure 1. The site is identified as Lot 31, D.P. 741038.

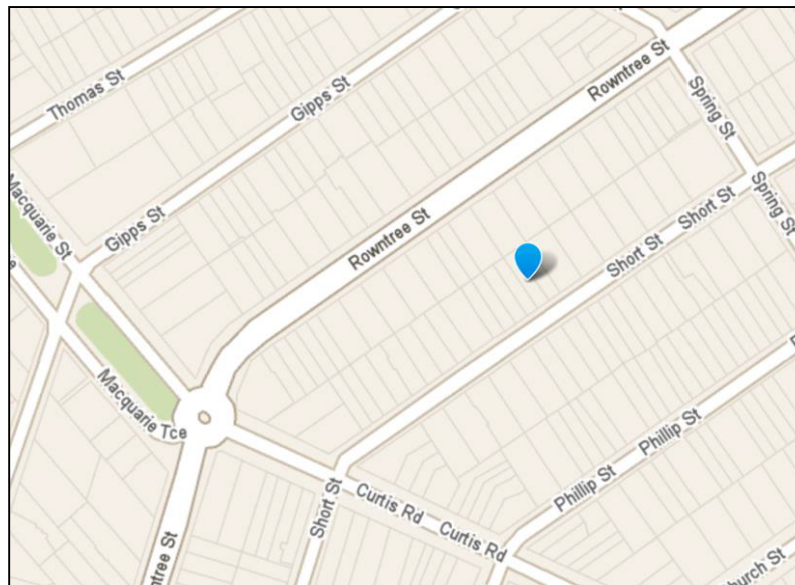


Figure 1: Map of No. 72 Short Street, Birchgrove. The subject site is indicated by the blue dropper.
Whereis.com

2 BRIEF OUTLINE OF THE HISTORICAL DEVELOPMENT

2.1 Aboriginal History

The date of the first human occupation of the greater Sydney region is not known. The devastating impact that the European colonists had on the Aboriginal people they dispossessed has resulted in the loss of any in-depth knowledge of these people. The amount and nature of archaeological materials that have survived depends on the preservational conditions of individual sites. Archaeological evidence suggests human occupation of the Sydney region at around 15,000 years ago. In other areas of Australia, however, there is evidence for human occupation 30,000 to 40,000 years ago. There is thus the possibility that some of the practices suggested by historic documents and objects found in the Sydney region may possess histories that extend back further than the available archaeological evidence would suggest.¹

At the time of the arrival of the First Fleet in 1788, the wider Sydney region was comparatively sparsely settled. Recent research indicates that the total population around Sydney was between 2,000 and 3,000 people, and, in the greater Sydney region, including the Blue Mountains, between 5,000 and 8,000 people. Although such estimates can be made based on archaeological evidence, the true size of the population will never be known.

Members of Captain James Cook’s 1770 journey of exploration provide the earliest known written descriptions of Sydney’s original inhabitants. The first European colonists, however, recorded few details about the kinship structures of the Aboriginal people. The immediate and decided impact that the Europeans had on Sydney’s indigenous population, as outlined below, create difficulties in the use of the records that they did produce. Recent research suggests the

¹ Val Attenbrow, *Sydney Aboriginal Past: investigating the archaeological and historical records* (NSW: University of New South Wales Press Ltd, 2002), pp. 3-4.

existence of networks of bands, as opposed to the tribal structures implied by colonial records. These bands were themselves subgroups of much larger groups bound by complex rights of language, marriage, and ceremony. What were once defined as 'tribal areas' are thus more accurately described as localities where different languages were spoken.²

Three major language groups were thought to have existed in the Sydney region at the end of the eighteenth century. Dharug was the predominant language spoken over much of the Cumberland Plain. The eight known coastal Dharug speaking clans are frequently referred to as the Eora, a term appearing in early European word lists with the suggested meaning 'people.' The Eora occupied the area across the southern shores of Sydney harbour, from Botany Bay in the south to Parramatta in the west. It is believed that the boundary for the two clans lay along the Balmain peninsula, suggesting that Leichhardt, Lilyfield, north-west part of Rozelle and north-west part of Balmain belonged to the Wangal people, with Annandale, south-east part of Rozelle, Birchgrove, and south-east part of Balmain to the Cadigal people.³

Archaeological evidence suggests that patterns of life in the Sydney region changed little in the period before 1788. Bands moved within their territory at the prompting of seasons and with the availability of food. A coastal diet of fish and shellfish was supplemented by terrestrial food sources, such as edible tubers, figs and apple berries. A wide variety of materials were used in the production of tools and artefacts.

The Aboriginal people within reach of Port Jackson and Botany Bay absorbed the full impact of the European invasion. With no resistance to European diseases, the Eora were decimated by an outbreak of smallpox in 1789-90. Traditional lifestyle was further disrupted by the loss of lands and exposure to new technologies. Conflict followed from the meeting of two fundamentally different cultures. Within two and a half years of the arrival of the First Fleet, the patterns of life, which had been followed for thousands of years, were no longer possible. Within forty years, the pre-colonial way of life had all but disappeared from the Sydney region.

Nineteenth century references provide us with only fragmentary accounts of the Aboriginal people who continued to inhabit the Sydney region. The intensive development in the district has destroyed much of the evidence of Aboriginal occupation. There are eight known Aboriginal sites within the former Leichhardt Municipality, primarily centred around Callan Point and Yurulbin Point.⁴

There are no known Aboriginal sites within at least 200m of the subject site.⁵

2.2 Early European History

The British Colony of New South Wales was officially declared on 26 January 1788. Ignoring the presence of the Aboriginal people, all land was declared to be Crown Land. In December 1792, Governor Arthur Phillip established the official boundaries of the Township of Sydney. Balmain was located well outside these boundaries. From January 1793, successive governors granted land outside the boundaries in order to open up the Colony to settlement and augment food supplies. The size of the early land grants depended on the status of the aspiring landowner, with the largest land grants being made to military and government officials and the smallest to emancipated convicts.

Two grants were made on the present-day Balmain peninsula: a 30-acre grant at Longnose Point made to George Whitfield, a private in the New South Wales Corps on 15 September

² Peter Turbet, *The Aborigines of the Sydney District Before 1788* (NSW: Kangaroo Press, 2001), p.1 8.

³ 'Traditional Owners,' Inner West Council website.

⁴ Max Solling and Peter Reynolds, *Leichhardt: On the Margins of the City* (Allen & Unwin, 1997) pp. 3-7.

⁵ AHIMS search performed by Elliot Nolan on 27 January 2023.

1796, and a 550-acre grant made to Surgeon William Balmain on 26 April, 1800. It is upon Balmain's grant that the subject property now stands. Refer to Figure 2.

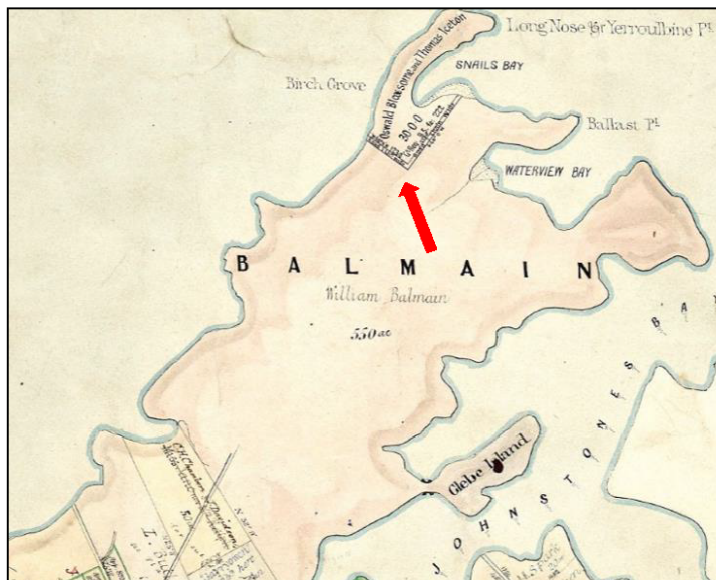


Figure 2: Map of the Parish of Petersham, County of Cumberland (n.d.). The red arrow indicates the approximate location of the site.
NSW LPI

Despite the allocation of the above grants and the driving need for the Colony to become self-sufficient, the Balmain peninsula remained sparsely populated into the 1830s. Although the Township of Sydney operated substantially within its own boundaries during the first period of settlement, areas beyond were exploited for natural resources. The rocky terrain of Balmain, however, offered little to would-be agriculturalists.

2.3 Early Land Sales

The early history of Balmain's 1800 grant is shrouded in mystery. Evidence suggests that Balmain transferred the grant to Dr. John Gilchrist fifteen months after he acquired it without telling the executors of his colonial property or colonial authorities. This secrecy would result in a legacy of bitter ownership struggles over the following 120 years.

Balmain's executors clearly considered the estate to have been in Balmain's possession at the time of his death in 1803. Fifteen years after his death, in May 1818, Balmain's executors offered *Gilchrist Place* for sale. Considering the questions that would soon arise over title to the peninsula, it is fortunate that none of the land was sold at this time.

Balmain's sale of his peninsula and other grants only came to light when Gilchrist attempted to sell land at *Gilchrist Place* in 1823. This sale was equally unsuccessful. The distance from Sydney and the absence of reliable transport, when combined with the variable quality of the land, made the area unattractive to would-be investors or settlers.

Gilchrist made renewed attempts to sell land on *Gilchrist Place* in 1836. Surveyor John Armstrong laid out the first planned roads on the peninsula, being what are now Darling

Street, Nicholson Street and Johnston Street.⁶ Darling Street was originally known as Great Ferry Road, Main Ferry Road and as High Street. The street was later renamed for Governor Ralph Darling, Governor of New South Wales from 1825 until 1831.

The 1836 sale met with greater success and had a lasting influence on future pattern of development within Balmain. In October 1836, twenty-two allotments, comprising about fifty acres of land, were sold for prices ranging from £35 to £88. Further sales followed in 1837 and 1839.

The 1836-39 land sales on the peninsula occurred at the beginning of a period of rapid population growth in Sydney and surrounding areas. Migration and the prosperity brought about by the pastoral boom of the 1830s swelled the population and created a demand for housing. The system of free land grants also ended; from 1831, land had to be purchased. Some of the purchasers from the 1836 land sale engaged in their own speculative re-subdivisions, creating both large villa allotments and small cottage/terrace allotments.

The 1846 census reveals that Balmain contained 296 dwellings and boasted a population of 1,337 people.⁷ Important services were established during this period, including churches, police services and a regular ferry service with Circular Quay.

2.4 The Contested Peninsula

The security of land title on the Balmain peninsula was brought into question in the 1840s. When John Gilchrist died in 1841, a considerable proportion of his assets, including the Balmain peninsula, were left to a trust, known as the Gilchrist Trust, which was to operate for the 'benefit and advancement and propagation of education and learning in every part of the world.'⁸ Problems arose when Gilchrist's relations challenged the terms of the will. Simultaneously, Balmain's relations challenged the legality of Balmain's original transfer to Gilchrist. The fate of the Balmain peninsula became the subject of arbitration.

While the challenge of Balmain's relations was generally dismissed, the Court halted the sale of land between 1841 and 1852 while the issue of Gilchrist's will was resolved. It was only when the Court finally ruled in favour of the Gilchrist Trust in the early 1850s that the interrupted development of Balmain could resume. In 1852, Charles Langley surveyed the remaining lands owned by the Gilchrist Trust. Langley's plan, which incorporated existing routes and natural topographic features, underlies the basic street pattern of present-day Balmain. Langley divided the land into 46 sections, with a further section, Section 47, being added after the realignment of Weston Road (now Victoria Road) and Mansfield Street.

Transport into and out of present-day Rozelle at this time was via the Balmain Road turnoff at Parramatta Road, Petersham (now Leichhardt) until the Pymont Bridge Company erected a toll bridge that linked Pymont to Glebe Island across Johnston Bay in 1857.

The largest of the land holdings put together from Langley's subdivision was the 19 acre Merton Estate, which was subdivided into 197 allotments in the mid-1870s and offered for sale under the slogan 'Homes for the People Scheme', a scheme which enabled many people of limited means to become free holders.⁹ The sale was aimed at the workmen who arrived to build the government insane asylum at Callan Park and the Iron Cove Bridge and to work in local industries, such as the 'Great Coal Mine', 'Level Bros. Works,' the 'Reclamations' then under way, the 'Levelling of Glebe Island' and the extension of the trams as reasons to invest in Balmain West at this time. The availability of work locally was vital in an era when public transport was limited and expensive. Paradoxically, the proximity of Balmain

⁶ Peter Reynolds and Paul Flottmann, *Half a Thousand Acres. Balmain: A History of the Land Grant* (NSW: Balmain Association, 1976), p. 15.

⁷ McDonald McPhee, Craig Burton and Wendy Thorpe, *Leichhardt Municipality Heritage Study* (Leichhardt Council, 1990), p. 39.

⁸ E.M Holt, *Balmain: An Introduction to Local Studies* (Balmain: Balmain Teacher's College, 1965), p. 4.

⁹ Solling and Reynolds, *Leichhardt*, p. 71.

to industry would later lead to the degradation of the environment and, with it, the desirability of the area.

2.5 Thomas Mort and the Waterview Estate

The land title for the subject site for the period 1836 until the early 1850s has not been ascertained for the purposes of this statement. As a result of various conveyances, Thomas Sutcliffe Mort eventually obtained ownership of most of the land around Waterview Bay, including the subject site. Mort's name is synonymous with Balmain's first major industry, Mort's Dock (first known as the Waterview Dry Dock) and the development of Balmain. The dock continued to grow. At one time, Mort's Dock was the largest private employer in the Colony. The name of Waterview Bay was later changed to Mort Bay in Mort's honour. Mort's Dry Dock continued to be a dominant industry in Balmain until after World War II. It eventually closed in 1958. In 1968, the area was levelled, the dry dock in filled and the site became a ship container facility. It is now partially parkland.

In the early 1850s, Mort commissioned Surveyor Reuss to lay out a township of 700 modest residential allotments, which he marketed as the Town of Waterview or the Waterview Estate. The streets created within Mort's Town of Waterview include Mort, Church, Phillip, Short, College, Rowntree, Curtis, Spring and Cameron Streets.

2.6 No. 72 Short Street

The site lies on part of Lot 31, Section C, Block 22 of the Waterview Estate.

The first time the subject dwelling can be confidently identified is in the 1888 edition of the *John Sands' Sydney and Suburban Directories*, where it was occupied by Donald Fraser – his occupation listed as 'letter sorter'. Street numbering would not be assigned to this part of Balmain until 1889, which makes it difficult to identify dwellings based on name alone.

The dwelling is, however, clearly indicated by a map of Balmain from the Sydney Metropolitan Detail Series, dated c. 1888. This suggests a construction date of certainly no later than c. 1887, which is consistent with the style of the dwelling.

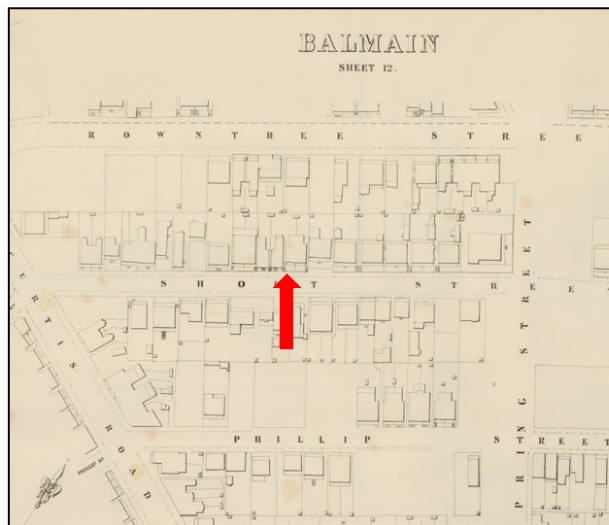


Figure 3: Detail, Sydney Metropolitan Detail Series, Sheet 12, Balmain (c. 1888). The red arrow indicates the site.
State Library of New South Wales

The subject dwelling was constructed during a period of growth in Balmain. The 1846 census reveals that Balmain contained only 296 dwellings and a population of 1,337 people.¹⁰ Less than 20 years later, Balmain was the fourth largest suburb (behind Newtown, Redfern and Glebe) by percentage of population ringing the City of Sydney.¹¹

The two land uses-residential and industrial- would develop side by side. The deep water close to shore around Balmain (including around Long Nose Point) attracted members of the maritime industries, while the ‘healthiness’, ‘scenery’ and ‘seclusion’ attracted the attention of middle class gentlemen and well-to-do businessmen of Sydney.¹² The natural sandstone outcrops of the point attracted quarrymen and stone masons. Villas built of local material slowly began to appear, alongside the weatherboard, stone and brick houses of the tradesmen and their families.

The growth of Balmain at this time is manifest in the establishment of important services and community organisations, such as churches, the provision of police services and the beginning of a regular ferry service to/from Circular Quay. Progress was such that the Municipality of Balmain was formed in 1860. In 1862, the area was brought closer to the City when a bridge was opened between Balmain and Pyrmont. Growth was accompanied by further industrial development.

Many of the new residents were working men and women, who found employment in the range of industries that were soon established in Balmain. By 1888, for example, there were eight foundries, seven engineering workshops, six sawmills, five steam joiners, five dry docks and four soap and candle works in Balmain.¹³ Social commentator William Jevons described mid nineteenth century Balmain (alongside Glebe) as ‘the principal second class resident districts of Sydney.’¹⁴ Not surprisingly, Balmain would play an important role in the development of the union movement during the late nineteenth century.

Short Street was very much a home for the working man and his family. The 1888 edition of the *Sands’ Directories* lists an ironmonger, painter, diver, shipwright, boiler maker and joiner. Table 1 lists occupants of the dwellings (and when identified, their occupations).

Table 1: List of occupants.

Year	Occupant
1888-1892	Donald Fraser, letter sorter
1893	George Mackie, engineer
1894	David Peat
1895-1896	No listing
1897-1902	R. McCulloch
1903-1904	John Wylie, carpenter

¹⁰ The Sydney Morning Herald, 1841 cited in McDonald McPhee Pty Ltd, Craig Burton and Wendy Thorpe, *Leichhardt Municipality Heritage Study* (Leichhardt Council, 1990), p. 39.

¹¹ M. Solling and P. Reynolds, *Leichhardt: On the Margins of the City: a social history of Leichhardt and the former municipalities of Annandale, Balmain and Glebe*, NSW, Allen & Unwin, 1997, p.43.

¹² *Ibid*, p.21.

¹³ *Ibid*, p.123.

¹⁴ William Stanley Jevons cited in McDonald McPhee Pty Ltd, C. Burton and W. Thorpe, *op cit*, p. 23.

1905	No listing
1906-1909	George Watt
1910-1931	Thomas Holmes
1932	George Barr

Little is known about any of these occupants, other than information that was incidental to them having lived in the area. The dangerous nature of work in this period was highlighted in 1913 when:

Two carpenters, John Wylie [listed as an occupant 1903-1904], of Balmain, and John Chalmers, of Lilyfield, received fearful injuries at a city brewery to-day. They were working in the boiler-house, when suddenly a mixture of boiling tar and pitch burst over them. They were terribly burnt. Wylie was wearing a moustache, and it had to be cut off as the mixture could not be removed.¹⁵

The later history of the subject dwelling and its occupants remains unclear. In 1974, the dwelling was put up for sale where it was described as a 'sandstock brick terrace' which needed 'some restoration'.¹⁶

Figure 4 is an aerial photograph over the site dated c. 1943.



Figure 4: Aerial photograph over the site (c. 1943). The red arrow indicates the site.
SIX Maps

¹⁵ *National Advocate*, 'Fearfully Burnt', 14 May 1913.

¹⁶ *Sydney Morning Herald*, 'Birchgrove', 29 June 1974.

Based on the aerial photograph, the dwelling was intact up to at least 1943. The principal building form continues to remain substantially intact, however, the rear wing has been altered, including an extension to the west boundary.

No historic photographs of the dwelling at street level have been located.

3 SITE ASSESSMENT

3.1 The Site

For the following, refer to Figure 5, an aerial photograph over the site, and to the survey that accompanies this application.



Figure 5: Aerial photograph of No. 72 Short Street. The subject site is outlined in red.
SIX Maps, 2023

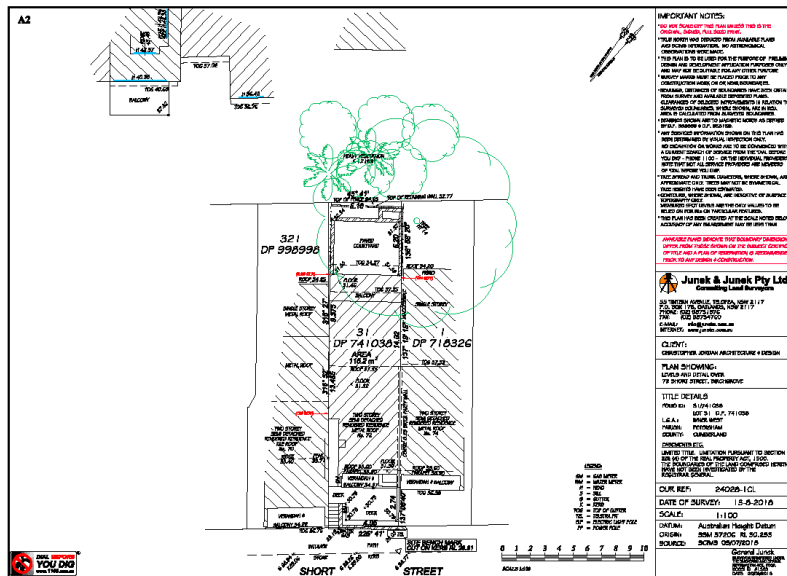


Figure 6: Site survey.

Junek & Junek Pty Ltd.

For the purposes of the following description, Short Street is designated as the southern boundary. The site is identified as Lot. 31, D.P. 741038.

The site is a rectangular allotment containing a semi-detached terrace dwelling, described separately below. This dwelling occupies most the allotment. The site falls gently to the west at a gradient of about 33 degrees. The site dimensions are as follows; north, 5.16 metres, south, 4.95 metres, east, 22.86 metres, west, 22.86 metres. The total site area is 115.2 metres squared.

The dwelling is set close to Short Street, providing for a small verandah with garden beds. The front fence consists of a sandstone retaining wall base and a filigree metal front gate. Sandstone steps run from Short Street to the principal entry of the dwelling.

The rear is rectilinear and consists of a paved courtyard. It is bounded by a simple timber paling fence. A low brick retaining wall also provides for modest garden beds.

Refer to Figures 7 and 10 which illustrate the site.



Figure 7: View of the site from Short Street.

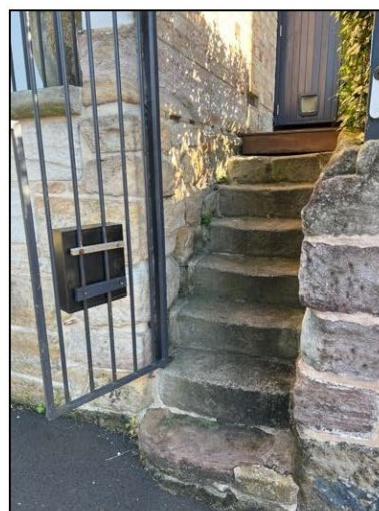


Figure 8: Front entry stairs.



Figure 9: Front verandah.



Figure 10: Rear terrace.

3.2 The Dwelling

3.2.1 Exterior

No. 72 Short Street presents as an attached Victorian period terrace. It is two-storey and one of a pair of terraces; its pair being No. 74 Short Street, Birchgrove. It shares a common wall, that is, its eastern side wall with No. 74 Short Street. It is constructed of rendered and painted masonry.

The **principal elevation** is orientated to the south. The ground floor of this elevation consists of the front door on the right-hand side. It is a four panelled timber door with a semicircular highlight. To the left is a single double hung sash window with arched head. Both the window and the front door have a decorative label mould. There is a decorative valance below the verandah floor beam.

See Figure 11 to Figure 13.

The first floor of this elevation consists of a verandah with one pair of timber framed French door with top light in the centre. The verandah balustrade is cast iron filigree and matches the pair at 70 Short Street.

The **west elevation** is a side elevation. It is orientated to No. 70 Short Street, Birchgrove. It is partly detached and simply profiled.

The **rear elevation** is orientated to the north. It includes a balcony along the first floor with a part timber part aluminium frame railing. The verandah has a tiled floor. This rear elevation is contemporary fabric.

See Figure 14 to Figure 17.



Figure 11: Principal elevation of dwelling (blue).



Figure 12: Partial view of principal elevation.



Figure 13: Partial view of principal elevation.



Figure 14: Left hand side of rear elevation.



Figure 15: Right hand side of rear elevation.

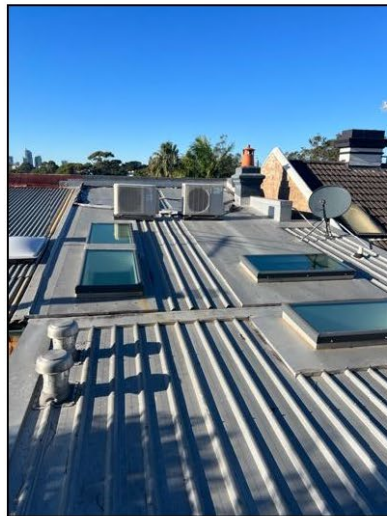


Figure 16: Existing parapet roof.



Figure 17: Detail, existing parapet roof.

3.2.2 Interior

For the following, refer to Figure 13 which reproduces the current plans for the dwelling.



Figure 18: Existing floor plan.

Realestate.com.au

The dwelling is accessed via the front door from the principal elevation. It opens to the living and dining room, with a fireplace in each. Both fireplaces have an exposed brick chimney breast. The living room fireplace consists of arched brick, and it is without a grate. The living room fireplace has a contemporary mantel and surrounds. There is contemporary timber floorboards throughout both the living and dining room. The ceiling is plasterboard.

To the rear of the first floor is an open plan family room and kitchen. The kitchen comprises of contemporary cabinetry, and a contemporary island bench. The floor is contemporary stone. All of the ground floor has square set ceilings, no cornices. There is simple contemporary skirting board throughout this floor.

Along the eastern side of the ground floor is a set of stairs that provide access to the first floor. These stairs are contemporary and timber. Above this staircase is a skylight.

The rooms on the first floor are accessed via hallway. The first floor comprises of Bed 1 to the rear of dwelling. It has square set ceilings and is carpeted. The ceiling is contemporary plasterboard. It includes the rear balcony that overlooks the rear yard. Contemporary sliding glass panel doors provide access to this rear balcony.

Bed 2 has is also carpeted. It has plasterboard ceilings. It includes the front balcony that has timber floors and a wrought iron railing.

Bed 3 is the smallest room and includes a single window in a vertical format.

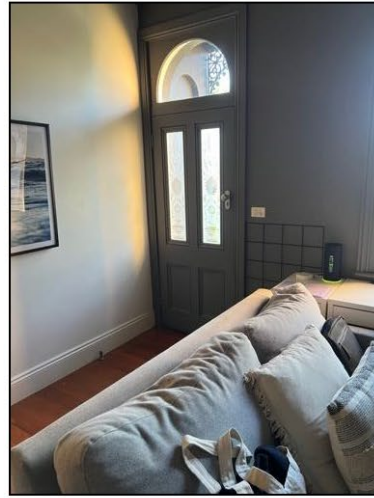


Figure 19: Front door.



Figure 20: Living room.



Figure 21: Existing living room fireplace and chimney breast.



Figure 22: Existing family room.

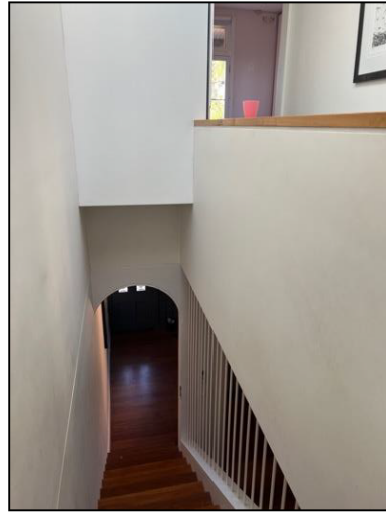


Figure 23: Existing staircase.



Figure 24: First floor hallway.

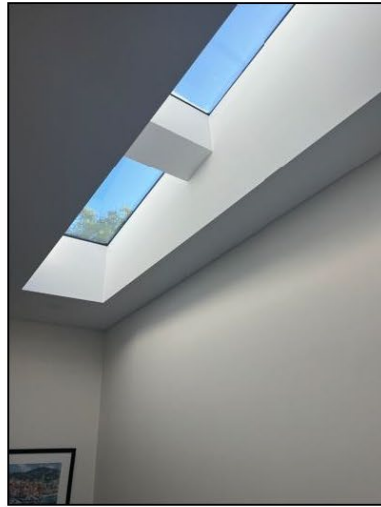


Figure 25: Contemporary skylight above existing staircase.

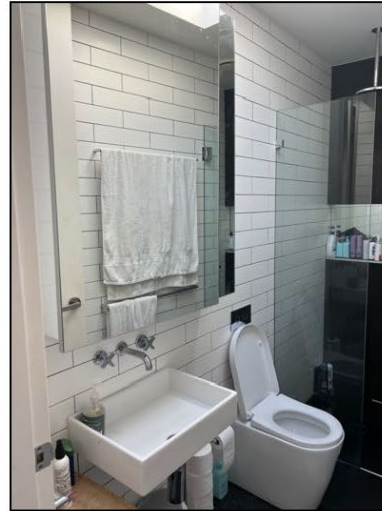


Figure 26: Existing ensuite to Bed 1.



Figure 27: Bed 1.

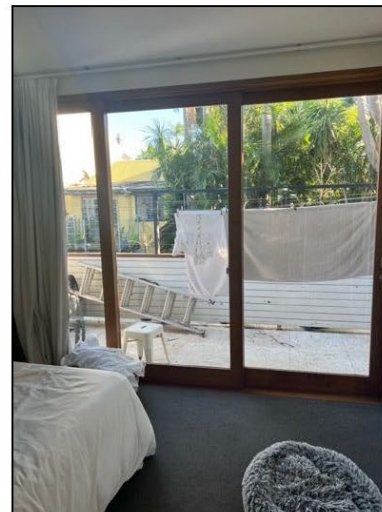


Figure 28: Bed 1 and rear balcony.



Figure 29: Existing rear balcony.

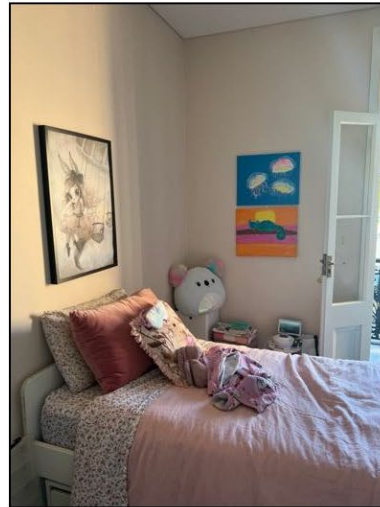


Figure 30: Existing Bed 2.

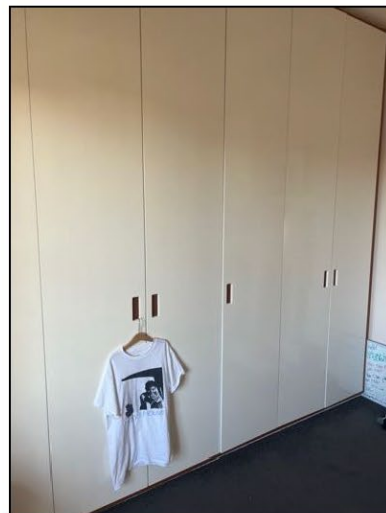


Figure 31: Cupboards in Bed 2.



Figure 32: Front balcony of Bed 2.

3.3 The Surrounding Area

3.3.1 The General Area

For the following, refer to Figure 33, an aerial photograph of the site and its surrounds.

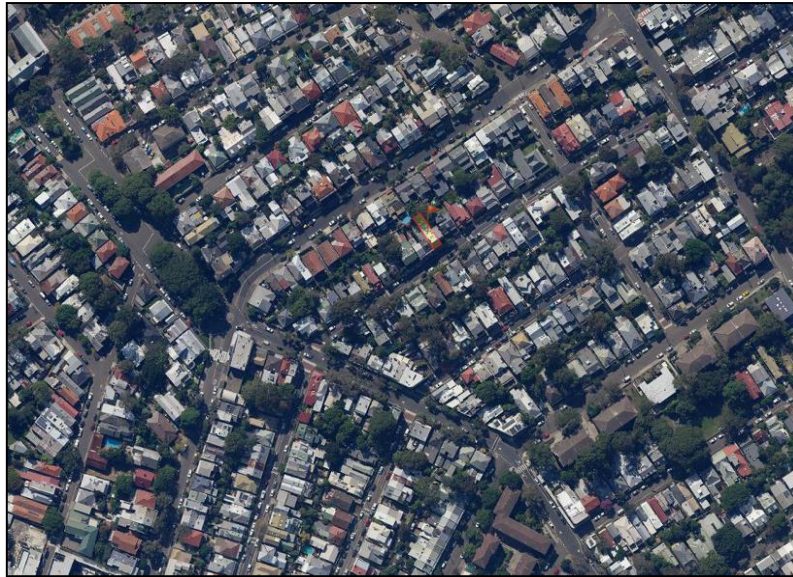


Figure 33: Aerial photograph of surrounding area. The site is outlined in red and indicated by the red flag.
SIX Maps, 2023

The *Leichhardt Development Control Plan 2013* provides the following character statement for the Birchgrove Distinctive Neighbourhood, of which the site forms part:

The traditional housing styles in the neighbourhood include grand houses in a variety of styles along the waterfront as well as smaller more modest housing away from the waters edge (most of the foreshores in Birchgrove were too steep for commerce and were thus available for housing). Housing in the south of the neighbourhood tended to reflect other housing in the vicinity of Darling Street, such as middle class housing to serve the needs of those involved in Darling Street commerce.

From the 1860s several waterfront businesses were established on the peninsula. These included coopers (barrel makers), boat builders and the Morrison and Sinclair ship builders. After building warships, Tasman ferries and ocean going yachts, the shipyard at Yurulbin Point was sold and converted to parkland (Yurulbin Park) in 1972.

The Birchgrove Distinctive Neighbourhood is now a residential area with scattered corner shops, schools and remnant maritime industry. In the decades since 1940, the variety of housing has increased to include blocks of walk-up flats, converted shops and townhouses. This is in addition to the majority of houses, which remain much as they were originally constructed in earlier periods of settlement.

Roads in the neighbourhood have been laid out to reflect the topography as well as the various stages of development in the late 1800s. Road widths vary considerably throughout the neighbourhood, ranging from laneways being approximately 2.5m

wide to Cove Street with a 20m wide road reserve. Footpaths and sandstone kerbing is provided throughout the neighbourhood.

Major parks in the neighbourhood include Birchgrove Park (5.6 hectares) in area with its famous oval and dense tree canopy, as well as Elkington Park (3 hectares in area). As part of the redevelopment of the Howard Smith site which was adjacent to Birchgrove Public School, a strip of waterfront land has been dedicated as public open space. Elkington Park provides a pleasant shaded open space on the headland overlooking Cockatoo Island. This park also contains the Dawn Fraser Baths.

These major parks are supported by six waterfront pocket parks around the neighbourhood. These parks are mostly located where roads formerly serviced ferry wharfs and were created by Council over the last few decades.

On the upper slopes, south of Macquarie Terrace, the housing styles include single and double storey houses dating from the initial period of development around 1860. These houses are generally built in the Victorian style with rendered finish and slate or iron roofing. The front setbacks vary from 1m to 4m and many have mature trees in the front yards. Most trees in the area are mature exotic trees located on private land.

Subdivision patterns throughout the neighbourhood are typical of the Balmain area, with the preference for long narrow lots in the English tradition. Larger sites were created for waterfront industry or for larger houses. In recent years multi-unit housing has been built on several former industrial sites.

Many waterfront residential developments follow the slope of the land down to the water. This results in a number of residences with a single or double storey street frontage, having 4 or 5 levels visible from the water. The architecture facing the water is a mix of contemporary open plan, glass walled styles, Victorian houses with distinctive 'widow walks', and a few remaining iron and timber works cottages mainly overlooking Iron Cove.

Other notable development styles in the neighbourhood include rows of terraces in Grove Street and a row of stone workers cottages with sunken lower floors and front light wells, in Rowntree Street.

In the southern portion of the neighbourhood there are a variety of housing styles without the diversity in size found in the northern portion of the neighbourhood. In the vicinity of Glassop and Cardwell Streets there is a range of housing styles including terraces and freestanding dwellings with the following predominant characteristics:

- a. two storey in scale, front setbacks less than 2.5m;
- b. open picket fence;
- c. mature landscaping on private land and on most streets;
- d. pitched or gabled roofs (although all styles of roof are in evidence to some degree);
- e. no driveway crossings;
- f. brick or render, timber and stone construction.

g. timber doors and windows as well as slate, tile, or iron roofs.¹⁷

3.3.2 Short Street

Short Street runs southwest from Ballast Point through to Darling Street. The block of Short Street on which the subject site is located, is bounded by Spring Street and Curtis Road.

It can accommodate a total of one lane of traffic with the provision of numerous parking bays on either side. There is a pedestrian footpath on either side of the road with several street plantings unevenly spaced.

This section of Short Street is all residential and characterised by a mix of terraces and free-standing Victorian and Federation period properties. Side setbacks are generally quite narrow; some properties are semi-detached. Most are setback providing for a modest front garden. Most dwellings do not have onsite parking. Side setbacks are generally narrow.

Properties are generally Victorian or early twentieth century period in character. Most are detached; among the exceptions to this, is several terraces, including the subject site and No. 74 Short Street. There are a number of detached weatherboards on a sandstone base; some of these have been modified to accommodate a room within roof second storey with dormer windows.

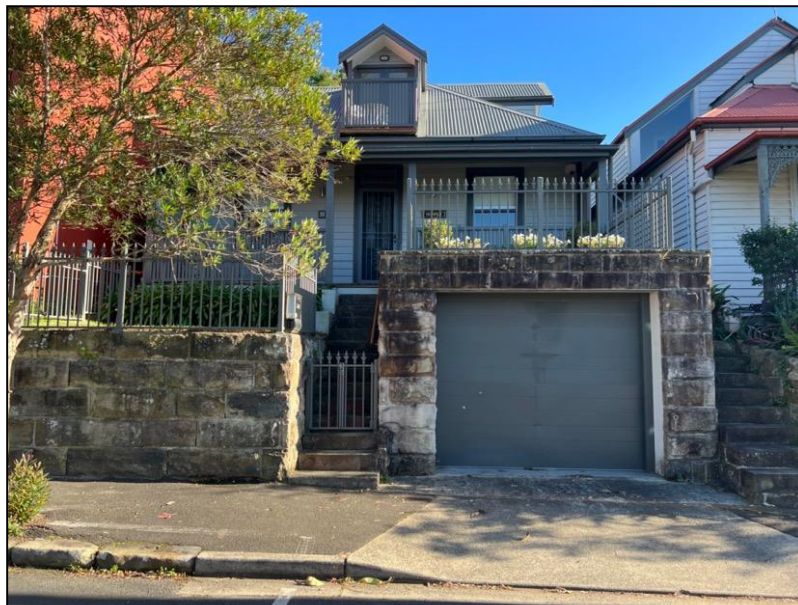


Figure 34: No. 78 Short Street, Birchgrove.

¹⁷ *Leichhardt Development Control Plan 2013, 'Birchgrove Distinctive Neighbourhood', pp. 220-221.*

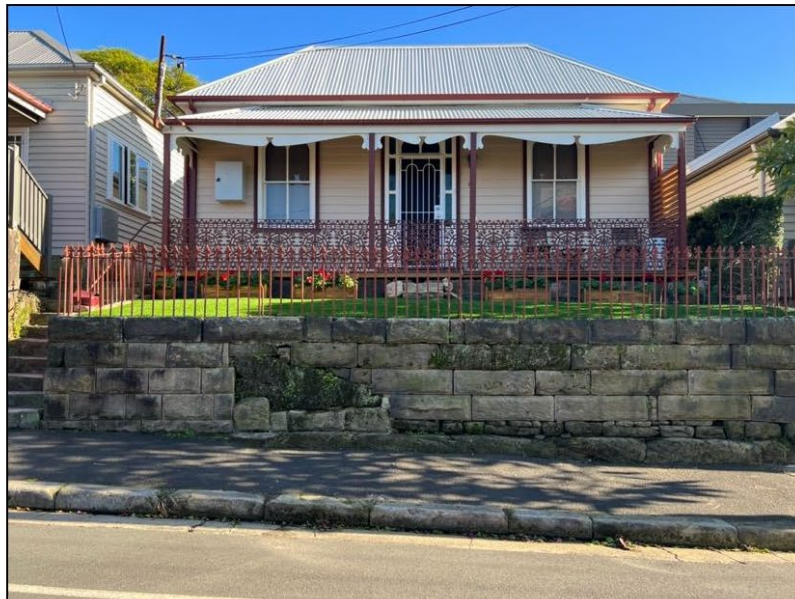


Figure 35: No. 84 Short St, Birchgrove.

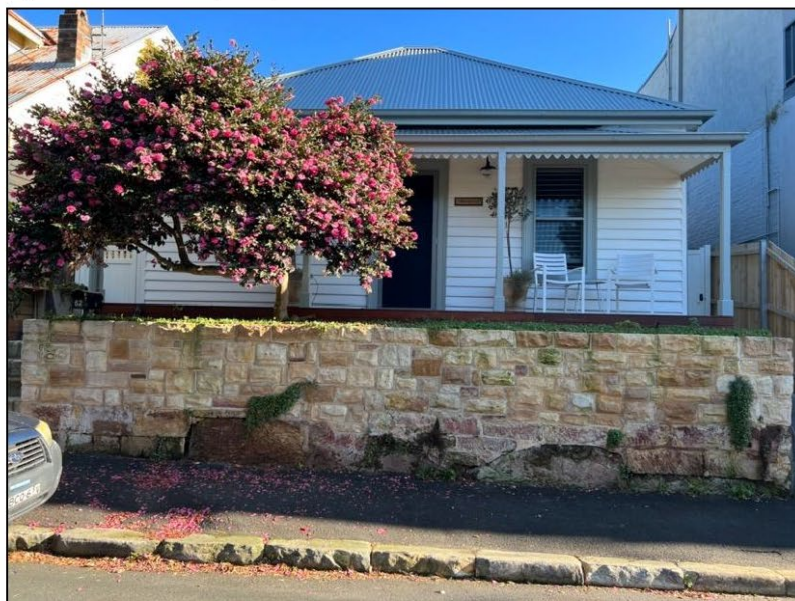


Figure 36: No. 62 Short Street, Birchgrove, with significant alterations and refurbishments.

4 ASSESSMENT OF SIGNIFICANCE

4.1 Summary of Statutory Heritage Listings

No. 72 Short Street, Birchgrove:

- Is located within the *Town of Waterview* Heritage Conservation Area by Schedule 5 Part 2 of the *Inner West LEP 2022*.
- Is not listed as an item by Schedule 5 Part 1 of the *Inner West LEP 2022*.
- Is not listed as an item on the State Heritage Register under the *NSW Heritage Act 1977*.

The Inner West Council provides the following Statement of Significance for the *Town of Waterview* Heritage Conservation Area:

- *One of a number of conservation areas which collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). This area, through the form and fabric of its houses, corner shops and pubs, its street layout and allotment shapes, demonstrates a remarkably intact area of early workers' housing from 1850s to 1890s with later infill development prior to World War II (ie pre-1939). It is significant for its surviving development prior to World War II.*
- *Demonstrates through the density of pubs (and former pubs) within the township area its close association with the growth of the urban labour movement. A number of these pubs are of national heritage significance for their historical and enduring social values as part of the history of unionism and of the Ships Painters and Dockers Union in particular.*
- *Demonstrates, through the nature of its housing, the important role played by Morts Dock as a magnet for workers and the location of their housing.*
- *Demonstrates, though its rendered and painted brickwork, the nature of construction in Sydney before the ready availability of hard pressed, face bricks.*
- *Demonstrates the work of Surveyor Reuss.*
- *Associated with prominent local entrepreneurs and land developers, some of whom were aldermen of Council.*
- *Demonstrates, with Bodalla Village on the New South Wales south coast, the role of Thomas Mort in providing 'appropriate' housing for his employees.¹⁸*

This Statement is adopted for the purposes of this assessment.

¹⁸ Inner West Council, 'Town of Waterview Conservation Area', <https://www.innerwest.nsw.gov.au/ArticleDocuments/1688/C0420Town20of20Waterview.pdf.aspx>, accessed 31 January 2022.

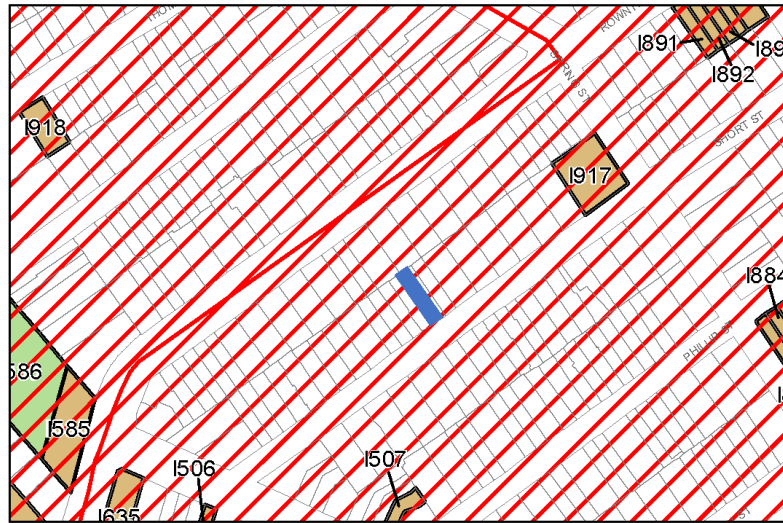


Figure 37: Detail, Inner West Heritage Maps, HER_007A. The subject site is coloured in blue.

Inner West LEP 2022; Annotations by Weir Phillips Heritage and Planning

The subject site is in the vicinity of one any heritage item.

‘Timber house, including interiors’, No. 2 Spring Street, Birchgrove.

Lot. 1, D.P. 1011084. Item no. I917.

The State Heritage Inventory provides the following State of Significance for this item:

“No. 2 Spring Street is of local historic and aesthetic significance as a representative example of a single storey timber weatherboard residence constructed sometime between 1857 and 1887. Despite some alterations and additions to the rear, the building significantly retains its overall scale, form, character and details as presents to the corner including the timber weatherboard facades, roof form, open verandah and pattern of openings. The building occupies an elevated and prominent corner site and retains a rock and stone fence and overall makes a positive contribution to the Spring and Short Street streetscapes and intersection.”

The subject site and this item are substantially separated by intervening dwellings. They do, however, share some view corridors, as illustrated below.

4.2 Heritage Items Within the Vicinity of the Site

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

4.2.1 NSW Heritage Act 1977

There are no items listed on the State Heritage Register under the *NSW Heritage Act 1977* within the vicinity of the site.

4.2.2 Inner West LEP 2022

Refer to Figure 30, which shows heritage items within the vicinity of the site. In this plan, heritage items are coloured brown and numbered and Conservation Areas are hatched red. The red arrow points to the subject site.

4.3 Integrity

No. 72 Short Street is a late Victorian period dwelling and presents to the street as such, however, its interior has been substantially altered as noted in detail below.

Site

Exterior

The exterior of the dwelling demonstrates a moderate to high degree of integrity. The following is noted:

- The rear first floor balcony is not original.
- The timber framed fixed glass sliding doors on the rear of the ground and first floor are contemporary.
- The exterior of the existing roof is later fabric.

Interior

The interior of the dwelling demonstrates a low degree of integrity. The following is noted:

- Ground and first floorboards are contemporary.
- The kitchen cabinetry is contemporary.
- The bathroom fit outs are contemporary.
- The paving in the rear yard is contemporary.
- The floor plan has been modified; there was an additional bedroom on the ground floor that has been demolished.
- The mantel and surrounds of the living room fireplace is replacement.
- Both chimney breasts are extant.

4.4 View Corridors

4.4.1 Views towards the site

As Nos. 68 and 70 sit forward of the subject site, views from further west along Short Street are entirely obscured. Only when closer to the subject site from the west end of Short Street does the subject site come into view.

From directly outside the subject site, views of the principal elevation of the dwelling are clear and unobscured.

From the east end of Short Street, there are some views towards the subject site. These partial views are due to the siting of a street tree directly outside No. 76 Short Street. From this end of Short Street, the subject site is read as a continuation of its pair/neighbouring dwelling being No. 74 Short Street, and as secondary. The subject site is not prominent from this end of Short Street.

The parapet on the southern (primary) elevation conceals the roof from the public domain. In addition, only the principal elevation, and a small portion of the west side wall of the dwelling is perceivable. The bulk and form of the dwelling as it extends north is not visible from the public domain.

See Figures 38 to 42.



Figure 38: Views towards the subject site from the southwest end of Short Street; views are generally blocked by No. 70 Short Street. The general location of the subject site, although obscured by its neighbour, is indicated by the white arrow.



Figure 39: The subject site comes into view on approach from the southwest of Short Street. The subject site is indicated by the white arrow.



Figure 40: Views towards the subject site from the northeast of Short Street. The subject site is identified by the white arrow.



Figure 41: Views towards the subject site from the northeast of Short Street. The subject site is identified by the white arrow.



Figure 42: Views towards the subject site from the northeast of Short Street up-close; the existing roof form of the subject site cannot be perceived from the public domain. The subject site is identified by the white arrow.

THE PROPOSAL

The below should be read in conjunction with the plans prepared by Christopher Jordan Architecture and Design, and DA/2020/0872 (approved).

The scope of works is as follows:

- Full retention of existing dwelling.
- Minor first floor rear extension.
- Second floor addition set back and behind the existing parapet and to rear of the dwelling.

5 EFFECT OF WORK

5.1 Methods of Assessment

The following is a merit-based assessment. It does not consider compliance or otherwise with Council's numerical controls except where non-compliance would result in a heritage impact. Refer to the Statement of Environmental Effects that accompanies this application. The following assessment is made with an understanding of the objectives and controls provided by the *Inner West LEP 2022* and the *Leichhardt DCP 2013*.

Inner West DCP 2022

C1.4 Heritage Conservation Areas and Heritage Items	
C1 Development maintains the characteristics and is consistent with the objectives and controls for the relevant building type contained in Appendix B – Building Typologies of this Development Control Plan.	This will be demonstrated below.
C2 The fabric of an existing building is to be the subject of appropriate conservation practices including: (a) retention of original detail and finishes such as: i. original face brick which should not be painted over or rendered; ii. Original decorative joinery and iron work which is not to be removed; (b) conservation of original elements; (c) reconstruction or restoration of original elements where deemed appropriate; (d) retention of the original cladding material of original roofs where viable; (e) consideration of suitable replacement materials should be based on original material, and where a property is part of a group or row, replacement materials should have regard to the integrity of the group.	The proposed works include the full retention of the principal semi-detached terrace. No changes will be made the principal elevation. The works will be set back from the principal elevation, and they proposed a second storey rear addition.
C3 Development of dwellings within Heritage Conservation Areas must:	The site is within a HCA. The existing internal walls are later fabric as it the rear extension.

<p>(a) not include the demolition of the internal walls and roof form, including any existing chimneys, of the front two rooms of the dwelling;</p> <p>(b) retain the major form, scale and materials of the existing structure as described in (a);</p> <p>(c) be for a rear addition which does not dominate the existing building or substantially change the relationship of the building to the street when viewed from the street; and</p> <p>(d) retain significant, established gardens and plantings including early fences.</p>	<p>The works propose some alterations to the existing roof form of the dwelling. These are acceptable as they will not be overtly visible from the public domain. They retain the major form, scale, and mass of the existing dwelling.</p> <p>The rear addition will have a minimal and acceptable impact on the relationship of the existing building to its streetscape.</p> <p>The works retain the existing sandstone retaining wall and make a slight increase to the existing front garden beds, so as to better support the setting of the dwelling.</p>
<p>C4 Demolition of dwellings in Heritage Conservation Areas or Heritage Items is subject to the provisions of Part C Section 1.2 – Demolition within this Development Control Plan.</p>	<p>Not applicable.</p>
<p>Roof forms and materials</p>	
<p>C5 Consideration of roofing materials for additions should have regard for compatibility with the original roof, as well as for the context of the setting (such as if a dwelling is part of a group of similar dwellings).</p>	<p>The proposed second storey addition adopts a flat skillion roof which is comparable to the existing roof form of the dwelling. It will be clad in corrugated metal which is consistent with the existing materiality of the site.</p>
<p>C6 Within Heritage Conservation Areas, whole roof forms should be retained where possible and roofs of additions should be subservient to the main roof (in scale, form, location, and materials). Changes to the form of the existing roof or extension of the ridge cannot be supported.</p>	<p>The proposed second storey addition is subservient to the main roof; it is simply profiled and set back from the parapet and principal elevation of the dwelling.</p>
<p>C7 Where roof links are proposed to connect the original roof space to the new addition, they are to:</p> <p>(a) be of minimal scale and proportion (up to a maximum of 50% of the rear roof plane) and are to provide a link only. Roof links which span the whole rear roof plane will not be supported;</p> <p>(b) preserve the unity of the row, preserve chimneys and traditional scale and proportion in the street; and</p> <p>(c) not be used to raise the ridge, or be for the purpose of creating a viable roof space</p>	<p>No roof link is proposed.</p>

<p>where roof space meets the requirements of the Building Code of Australia.</p> <p>Clerestory roofs are not considered an appropriate form of roof addition to traditional ridge lines.</p>	
<p>Birchgrove Distinctive Neighbourhood - Desired Future Character</p>	
<p>C1 Development should follow the topography of the area and maintain the single storey scale on the mid slopes and mixed one and two storey scales at the top and bottom of the slopes.</p>	<p>The proposed works retain a mostly two-storey presentation from the public domain. This because the second storey rear addition is set back to the rear of the dwelling, behind the parapet. The positioning of nearby structures will also reduce views towards this second storey rear addition. The existing topography of the site is set very high above the street.</p>
<p>C2 Conserve and promote the consistent rhythm within the streetscape created by regular lot sizes, subdivision pattern and the predominance of detached and semi-detached houses with a prevalence of hipped, pitched and gable roof forms. Preserve the established setbacks for each street.</p>	<p>There are no changes proposed to the subdivision pattern.</p>
<p>C3 Preserve and where practicable, enhance public and private views over Snails Bay and Parramatta River. Buildings on the waterfront should follow the slope and help preserve view lines by stepping down with the contours.</p>	<p>The proposed addition have been designed with a low profile to minimize any view loss to neighbouring dwellings or intervening views.</p>
<p>C4 Promote a balance of landscape to built form in the view of the neighbourhood when viewed from the water</p>	<p>The proposed second storey addition represents only a minor increase in the built form; the existing balance of landscape and built form will continue to be interpreted as such from the water (where only glimpses are available).</p>
<p>C5 Conserve the single and double storey, freestanding form, style, and materials characteristic to each street</p>	<p>The works maintain the dominant form, style, and materials characteristics of Short Street; the new works will read as secondary to the more ornate Victorian fabric of the early dwelling.</p>
<p>C6 Where a consistent pattern of architectural style and form exists, preserve this consistency on each street.</p>	<p>There is a general mix of styles and forms throughout Short Street that range from free standing single storey weatherboard dwellings to two-storey terraces among contemporary infill. The proposed works make no change to the existing pattern and rhythm of Short Street.</p>
<p>C7 Retain stone cottages and stone walls where they occur throughout the neighbourhood.</p>	<p>No changes to the existing sandstone retaining wall.</p>
<p>C8 Maintain the diverse character of the area by ensuring new development is complementary in terms of its architectural style, built form and materials.</p>	<p>The proposed second storey addition is complementary in its architectural style. It adopts a flat skillion roof, which reflects back the existing roof form. The addition is simply profiled and minimally detailed; it</p>

	will take a secondary role to the existing character of the dwelling.
C9 Former shops and corner shops should be preserved. Posted balconies and verandahs over the footpath should be reconstructed or restored, where they were an original feature of the building.	Not applicable.
C10 Fences should be low open picket style with iron or timber pickets and with metal timber or stone posts.	Not applicable.
C11 Ensure that any development does not overwhelm the capacity of adjacent laneways; any development utilising laneways should include provision for upgrading of laneways to current engineering standards.	The proposed works is not in the immediate vicinity of any laneways.
C12 Conserve and complement the established streetscape with regard to setbacks, street trees and general lack of driveway crossings.	The proposed works make no changes to the existing setback of the dwelling.
C13 Maintain sandstone outcrops and remnant stone wall footings.	Full retention of the existing sandstone wall.
C14 Retain and encourage street trees on the wider streets	Not applicable.
C15 A maximum wall height of 6m applies to the neighbourhood.	Not applicable
C16 Changes to the front façades of existing dwellings shall be kept to a minimum with additions to the rear of dwellings preferred.	The proposed second storey is set to the rear behind the existing parapet.
C17 New/expanded driveway crossings shall be discouraged. Driveway crossings will only be supported where they are servicing single width garages and they do not involve excavation of sandstone features such as gutters.	No new driveways are proposed.
C18 New development shall maintain the use of hipped, pitched, or gabled roof forms and designs shall be complementary to the existing unadorned built form. Flat roofs may be appropriate where the style of architecture is contemporary and view lines may be affected.	Here, the flat roof is appropriate and reduces the visibility the addition. It reflects the existing parapet roof form of the dwelling.
C19 Building materials used shall be consistent with the existing character of the streetscape, including rendered and painted surfaces and roof materials such as corrugated iron as well as timber windows.	The second storey addition will be in a simple corrugated metal cladding.

C20 Retain existing stone houses and walls and exposed rock face.	Existing sandstone retaining wall will be retained.
C21 Development visible from the water is to be designed to preserve the conservation values of the area. When viewed from the water a balance between built form and landscape is to be achieved/maintained through side setbacks and landscaping. Additionally the rear elevation must be designed so it does not detract from the form, character and scale of the conservation area. The amount of glazing to solid ratio on the rear elevation must be sympathetic to the immediately surrounding development.	The second storey will be mostly obscured from the water; where glimpsed, it will read as secondary to the dwelling's two-storey presentation, Victorian character, and more ornate principal elevation.
C22 Development is to be consistent with any relevant Sub Area objective(s) and condition(s).	The dwelling does fall within the catchment of the Upper Slopes Sub Area. This requires development to be consistent with any relevant objectives and controls within the Mort Bay Distinctive Neighbourhood.
Mort Bay Distinctive Neighbourhood – Desired Future Character	
C1 Maintain the single storey scale and form over most of the slope from Darling Street to the bay, applying a 3.6m maximum building wall height, except on dominant corners, where 6m may be appropriate, particularly with parapet forms. Pitched roofs are appropriate, generally using custom orb profile steel. Timber buildings should generally be extended with light frame structures and cladding rather than masonry.	The proposed works largely maintain the two-storey nature of the existing dwelling. This is because the second-storey addition will not be overtly visible from the public domain, set back and to the rear.
C2 Campbell Street and east of Campbell Street was developed earlier and has a character closer to that of Balmain East, and parts of Gladstone Park. Most buildings are attached and built to the street alignment, with many being unadorned. Two storeys are more common, where a maximum building wall height of 6m is appropriate. Pitched and complex roofs are appropriate.	Not applicable.
C3 Conserve the remaining maritime service industries around the Mort Bay shoreline.	Not applicable.
C4 Conserve existing varied styles of housing with special regard to the modest scale and simple, unadorned nature of the architecture.	The proposed works preserve the existing character and style of the dwelling; they make no changes to its principal elevation.
C5 Conserve the stone buildings and other built fabric dating from the mid-1800s.	Not applicable.
C6	The proposed works are respectful of the prevailing topography of Short Street. They largely maintain the two-storey nature of the

Preserve view lines to the north and east over Mort Bay by stepping buildings with the prevailing topography	dwelling, with the second-storey rear addition is as low as possible and to the rear of the dwelling to minimize visibility.
C7 Conserve the rhythm of the neighbourhood by maintaining the lot sizes, housing style and prevalence of hipped and pitched roofs. Preserve the established setbacks for each street.	The proposed works maintain the rhythm of the neighbourhood; they maintain lot sizes and the established setbacks for each street.
C8 Encourage adaptive reuse of non-residential buildings in the neighbourhood.	Not applicable.
C9 Preserve the scale and form of corner buildings within the neighbourhood.	Not applicable.
C10 Preserve the consistency and simplicity in built form, style, and materials of the neighbourhood.	The works preserve the built form, style, and materials of the existing dwelling. This is because the proposed works make no changes to the principal elevation and are set back and to the rear of the dwelling. For this reason, they will not be overtly visible from the public domain.
C11 Maintain the existing roof forms, setbacks, and fencing styles prevalent in each street.	No changes to the existing setback or fencing style. The existing flat parapet roof form of the dwelling will be similarly adopted in the second storey addition to mitigate its visual impact.
C12 Preserve stone cottages and stone walls throughout the neighbourhood.	Not applicable.
C13 Maintain the established open low timber and iron picket front fences.	Not applicable.
C14 Cutting into rock face for any purpose including driveway crossings is to be avoided.	Not applicable.
C15 Maintain the dense native tree cover on public and private land. Replacement trees should be native species, with size and canopy suitable to maintain the amenity of the area.	Not applicable.
C16 Setbacks of front walls and front verandahs within the neighbourhood are to be a minimum of 1m however, where the established setback in the immediate area (within 3 houses of the object site) is different, the setback for new development should be consistent with the prevailing setback.	No change to the existing setbacks.
C17 Maintain roof forms with pitched, gable or hipped roofs.	Not applicable.
C18 The use of traditional timber, stone or render finishes, corrugated iron roofing	Windows will be finished with timber.

(custom orb profile steel) and timber windows are encouraged.	
C19 Posted verandahs over footpaths may be considered on corner sites where the established setback is nil and the established scale is two storeys.	Not applicable.
C20 Where structures are proposed to be built on top of exposed rock face, they shall be stone, timber or rendered masonry and shall be coloured to complement the sandstone.	Not applicable.
C21 Development visible from the water is to be designed to preserve the conservation values of the area when viewed from the water. Details of the proposal, as viewed from the water are to be supplied with relevant development applications.	Not applicable.
C22 Development is to be consistent with any relevant Sub Area objective(s) and condition(s).	As demonstrated above.

5.2 Effect of Work on Conservation Area

The proposed works have a minimal and acceptable impact on the HCA for the following reasons:

- The first storey extension was approved per DA/2020/0872. These works propose a second storey addition in conjunction to the approved first floor extension. This addition has an acceptable impact because it is entirely concealed from the public domain, and to the rear, which is later fabric.
- The addition will not be overtly visible from Short Street and within the HCA. This is because No. 70 Short Street, Birchgrove sits further forward to the dwelling, blocking views from the west of Short Street; its gable roof form will obscure views through to the rear addition. This is demonstrated in Figure 43. From the east of Short Street, there are highly obscured views of the principal elevation of the dwelling. When travelling east, views towards the addition will be reduced by the roof form of No. 70 Short Street.

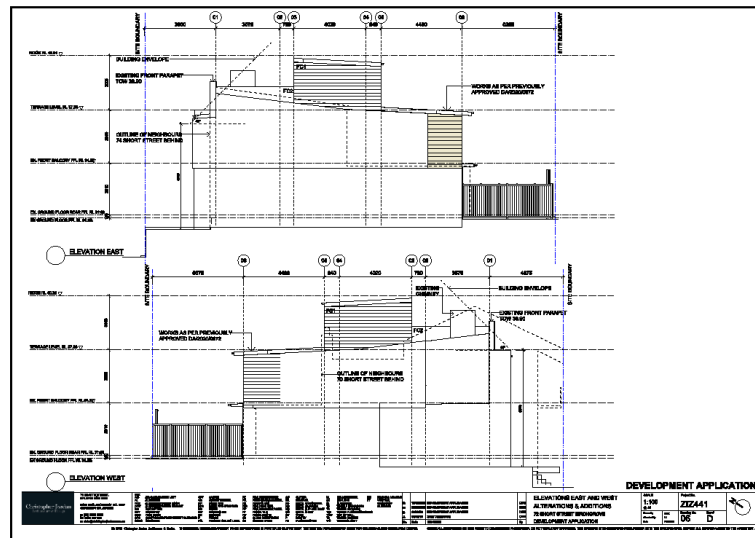


Figure 43: Elevation of proposed works, indicating neighbouring dwellings and view towards the addition.

Christopher Jordan Architecture and Design

- The existing dwelling sits above street level on a sandstone base. This along with the proportions of the terrace, and the addition being set back to the rear of the dwelling will make for very limited views from pedestrian level. The addition is also situated behind the ridge of the roof gable of No. 72 Short Street, further blocking views. Where the addition may be glimpsed, it will read as secondary and behind the principal fabric of the dwelling.
- The existing dwelling is understood almost exclusively through its principal elevation, which is all that is visible from the HCA, and in tandem with No. 74 Short Street. Together, these dwellings will continue to read as a pair.
- The interior modifications will not be perceived from the public domain. The interior of the dwelling has been highly modified as is and contains very little original fabric. No fabric of note will be removed.
- The second storey addition takes a comparable flat parapet roof design to the existing roof of the terrace.
- The works are designed by a reputable design focused practice, Christopher Jordan Architecture and Design, who create bespoke, high quality and considered architectural responses to a site to establish a meaningful and appropriate response to the significant values of the HCA.

5.3 Effect of Work on Heritage Items in the Vicinity

The proposed works will have a minimal and acceptable impact on the No. 2 Spring Street, Birchgrove for the following reasons:

- The proposed works will not impact upon the fabric, setting or curtilage of this item.

-
- The subject site and this item are sufficiently and considered separated by intervening dwellings to have no impact.
 - The proposed works will not impact upon views to/from, through or around the item.
 - Given the above, no further assessment will be undertaken.

6 CONCLUSION

This Heritage Impact Statement has been prepared in conjunction with a Development Application for alterations and additions to an existing dwelling at No. 72 Short Street, Birchgrove, New South Wales. The site is in the Town of Waterview Heritage Conservation Area under Schedule 5 Parts 1 and 2 of the *Inner West LEP 2022*. It is in the vicinity of other heritage items under this Schedule.

The proposed works are sympathetic to the existing terrace and will not be overtly visible from the public domain. The existing form of the terrace and surrounding structures conceal much of the proposed addition from the surrounding HCA. Where the addition may be glimpsed, it will read as secondary and behind the principal fabric of the dwelling.

The works will have a minimal and acceptable impact on the nearby heritage item at No. 2 Spring Street as they will not impact upon the fabric, setting or curtilage of this item, nor views to/from, through or around this item.

The proposed works fulfil the aims and objectives of the *Inner West LEP 2022* and the *Leichhardt DCP 2013* by improving the quality and diversity of housing options in Birchgrove while respecting the heritage significance of the area in which it lies.

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
01 Rev D	Site & Stormwater	15/02/2023	Christopher Jordon
02 Rev D	Ground Floor	15/02/2023	Christopher Jordon
03 Rev D	First Floor	15/02/2023	Christopher Jordon
04 Rev D	Terrace Floor	15/02/2023	Christopher Jordon
05 Rev D	Elevations (South & North)	15/02/2023	Christopher Jordon
06 Rev D	Elevations (East & West)	15/02/2023	Christopher Jordon
07 Rev D	Sections	15/02/2023	Christopher Jordon
A497555_02	BASIX Certificate	19/06/2023	CJAD
-	Schedule of Finishes - 2 pages	20/06/2023	Christopher Jordon

As amended by the conditions of consent.

FEES

2. Security Deposit - Standard

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

Security Deposit:	\$2,996.00
Inspection Fee:	\$374.50

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

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

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

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

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

3. Section 7.12 Development Contribution Payments

In accordance with section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), a monetary contribution of **\$5392.19** shall be paid to Council for the purposes of the provision, extension or augmentation of local infrastructure identified in the Plan.

At the time of payment, the monetary contribution payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:

$$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$$

Where:

- C_{payment} = is the contribution at time of payment
- C_{consent} = is the contribution at the time of consent, as shown above
- CPI_{consent} = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being [insert CPI value] for the [insert latest quarter and year].
- CPI_{payment} = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment

Note: The contribution payable will not be less than the contribution specified in this condition.

The monetary contributions must be paid to Council (i) if the development is for subdivision – prior to the issue of the subdivision certificate, or (ii) if the development is for building work – prior to the issue of the first construction certificate, or (iii) if the development involves both subdivision and building work – prior to issue of the subdivision certificate or first construction certificate, whichever occurs first, or (iv) if the development does not require a construction certificate or subdivision certificate – prior to the works commencing.

It is the professional responsibility of the principal certifying authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.

Council's Plan may be viewed at www.innerwest.nsw.gov.au or during normal business hours at any of Council's customer service centres.

Please contact any of Council's customer service centres on 9392 5000 or council@innerwest.nsw.gov.au to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.

Once the invoice is obtained, payment can be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to www.innerwest.nsw.gov.au/invoice; please note that a fee of 0.75 per cent applies to credit cards), (iii) in person (at any of Council's customer service centres), or (iv) by mail (make cheque payable to 'Inner West Council' with a copy of your remittance to PO Box 14 Petersham NSW 2049).

The invoice will be valid for 3 months. If the contribution is not paid by this time, please contact Council's customer service centres to obtain an updated invoice. The contribution amount will be adjusted to reflect the latest value of the Consumer Price Index (All Groups Index) for Sydney.

GENERAL CONDITIONS**4. Waste Management Plan**

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

5. Erosion and Sediment Control

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

6. Standard Street Tree Protection

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

7. Works Outside the Property Boundary

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

PRIOR TO CONSTRUCTION CERTIFICATE**8. Structural Certificate for retained elements of the building**

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

9. Sydney Water – Tap In

Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine

whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

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

DURING DEMOLITION AND CONSTRUCTION

10. Construction Hours – Class 1 and 10

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5.00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.

11. Stormwater Drainage System

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

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

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

PRIOR TO OCCUPATION CERTIFICATE

12. Protect Sandstone Kerb

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any stone kerb, damaged as a consequence of the work that is the subject of this development consent, has been replaced.

ADVISORY NOTES**Prescribed Conditions**

This consent is subject to the prescribed conditions of consent within Sections 69-86 of the *Environmental Planning and Assessment Regulations 2021*.

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.

Infrastructure

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

Other Approvals may be needed

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

Failure to comply with conditions

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

Other works

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

Obtaining Relevant Certification

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

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

National Construction Code (Building Code of Australia)

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

Notification of commencement of works

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

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

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

Permits from Council under Other Acts

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

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

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

Noise

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

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.

Useful Contacts

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

Waste Service - SITA 1300 651 116
Environmental Solutions www.wasteservice.nsw.gov.au

Water Efficiency Labelling and Standards (WELS) www.waterrating.gov.au

WorkCover Authority of NSW 13 10 50
www.workcover.nsw.gov.au

Enquiries relating to work safety and asbestos removal and disposal.

Dial before you dig

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