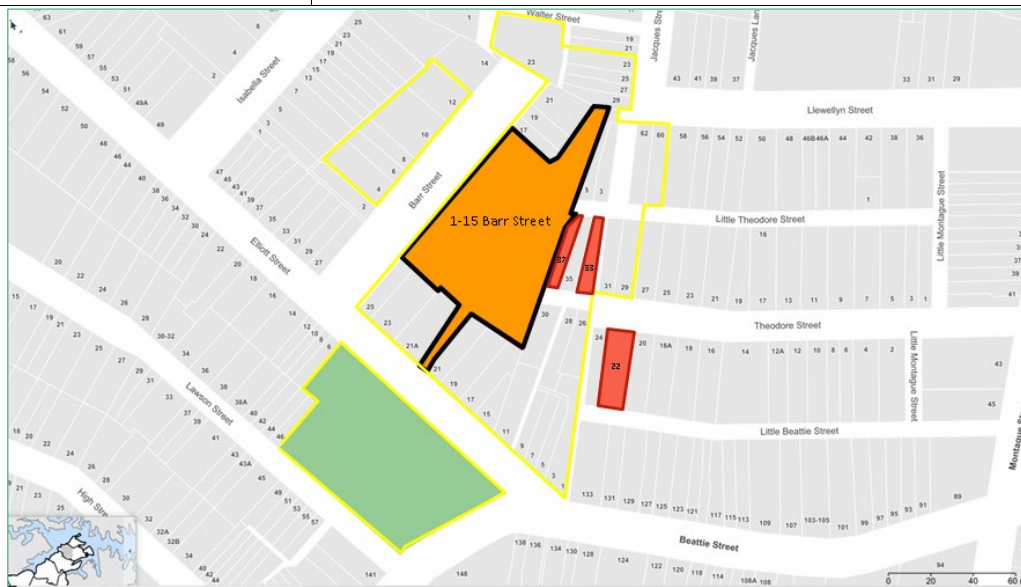




DEVELOPMENT ASSESSMENT REPORT

Application No.	DA/2023/0426
Address	F 14/1-15 Barr Street BALMAIN
Proposal	Change of use from office to residential unit
Date of Lodgement	06 June 2023
Applicant	Andres Suarez Ruiz
Owner	Project Express Pty Limited
Number of Submissions	Initial: 3
Value of works	\$389,300.00
Reason for determination at Planning Panel	Section 4.6 variation exceeds 10%
Main Issues	<ul style="list-style-type: none"> Adverse impacts on streetscape and Heritage Conservation Area and inconsistency with desired future character controls Unsatisfactory on-site amenity outcomes Significant variation to Floor Space Ratio development standard applicable to the site
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	Conditions in the event of approval



Locality Map

Subject Site		Objectors		N ↑
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for a change of use from an office to a dwelling with home office.

The application was notified to surrounding properties and three (3) submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- Adverse impacts on streetscape and Heritage Conservation Area and inconsistency with desired future character controls;
- Unsatisfactory on-site amenity outcomes;
- Significant variation to Floor Space Ratio development standard applicable to the site; and
- Non-compliances with suite of controls of *IWLEP 2022* and LDCP 2013 and *SEPP 65*.

The above non-compliances are not acceptable, and hence, the application is recommended for refusal.

2. Proposal

The proposal seeks consent for a change of use of an existing commercial unit known as Unit 14 within a mixed-use building at 1-15 Barr Street, which is a two/ three-storey structure with additional external car parking spaces accessible via Barr Street.

The proposed change of use from commercial to residential includes the following works, which includes the following alterations and additions:

Demolition

- Demolition of the existing roof above the commercial unit of Unit 14 to allow for a new raised roof.
- Demolition of internal walls to allow the reconfiguration of the commercial unit to allow for a residential space.

Alteration and Addition

- Re-configuration of the floor space to allow for a new home office which is separated from the residential space by a new wall.
- A lobby area behind the new home office which leads to an open living/dining and kitchen.
- A new central courtyard and a downstairs WC.
- New internal stairs.
- A mezzanine* addition within the existing commercial unit space.
- Two bedrooms with a bathroom in the first-floor addition.
- Replace the existing roof with an increased height of 1.106m and to leave a section of roof open for the proposed internal courtyard.

* The mezzanine level proposed within the unit space of Unit F14 is technically an additional storey as it is a "space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above" pursuant to the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*. It does not fit the definition of mezzanine being an intermediate floor within a room.

3. Site Description

The subject site is Unit F14/1-15 Barr Street, Balmain. The commercial unit, Flat 14, is located on the first floor at the eastern side of the building.

The subject site is located on the south-eastern side of Barr Street. It is adjacent to residential properties along Theodore Street and Little Theodore Street. It has pedestrian access via Elliot Street; with carparking and pedestrian access including the main entry doors via Barr Street. The subject site is irregular in shape with a battle-axe handle from Elliot Street into the south-western side of the building, and another battle-axe handle for additional carparking spaces on the northerly portion of the subject site.

The subject site contains a mixed-use building comprising 28 commercial units and 3 residential units.

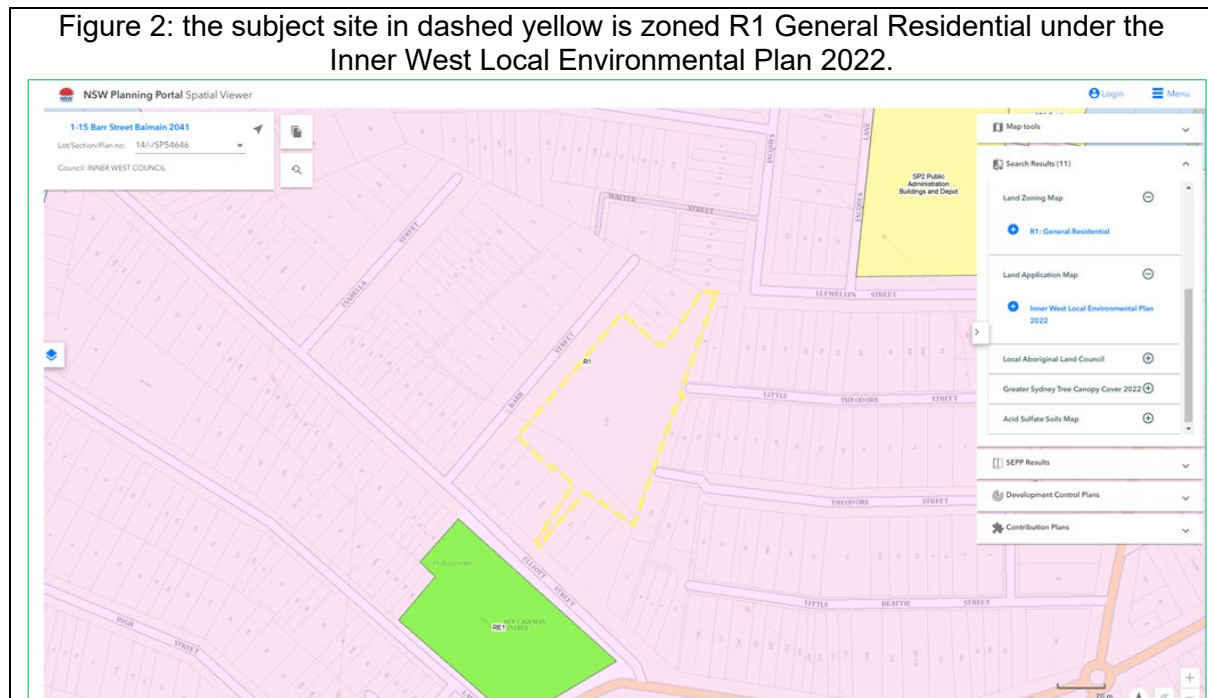
The subject site is located in the 'The Valley' Heritage Conservation Area and is adjacent to a row of heritage listed street trees (Local item I444) on Barr Street.

Barr Street generally contains single-storey and double-storey residential detached and semi-detached dwellings which generally have a consistent cottage presentation.

Figure 1: General shape of the mixed-use building, black border, at 1-15 Barr Street, Balmain. Approximate location of Unit F14. In red border is the roof demolition to be replaced with a raised roof, and in green border, is the proposed roof demolition to be left open.



The subject site is zoned R1 General Residential under the Inner West Local Environmental Plan 2022. See Figure 2.



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 (Unit F14, 1-15 Barr Street, Balmain)

Application	Proposal	Decision & Date
D/2010/312	Change of use of G/14 from commercial to residential with home occupation. Alterations and additions including courtyard, bathroom, mezzanine level and alter front entry.	Refused 08/03/2011

Surrounding properties (1/15 Barr Street, Balmain)

Application	Address	Proposal	Decision & Date
D/2019/503	1/1-15 Barr Street	Change of use from commercial to a residential unit within an existing two and three storey commercial and residential building, and associated alterations and additions.	Refused 14/07/2020
D/2012/403	8/1-15 Barr Street	Alterations and additions to strata unit and change of use to residential dwelling.	Refused 20/02/2013

Application	Address	Proposal	Decision & Date
D/2010/313	13/1-15 Barr Street	Change of use and works to convert unit G/13 from commercial to residential with home occupation	Refused 08/03/2011
D/2008/406	2, 3 & 4/1-15 /1-15 Barr Street	Alterations to the existing commercial units F2 to F4 and the change of use of the tenancies to three residential units with home offices.	Approved 26/06/2009
D/2008/55	6/1-15 Barr Street	Change of use to residential and home office, add roof terrace, internal changes and internal bathroom and laundry.	Approved 23/05/2008
D/2007/353	6/1-15 Barr Street	Alterations to existing commercial unit including internal bathroom, new skylight to north side of roof and enlarge skylight to south side of roof.	30/10/2007 Withdrawn

4(b) Application history

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

Date	Discussion / Letter / Additional Information
05/07/2023	Request to withdraw letter was issued due to the following matters: <ul style="list-style-type: none"> • Landowner's consent not provided. • The application has not provided enough information to establish the proposed use of the tenancy. Consequently, Council is unable to confirm the permissibility of the proposal in the Residential R1 zone given clause 6.12(3) of the <i>IWLEP 2022</i>. • The proposed alterations and additions to tenancy F14 include significant works outside the envelope of the existing building. The proposed additional level proposed to the tenancy extends well beyond the form of the existing building. This is contrary to clause 6.12(4) of the <i>IWLEP 2022</i>. • Heritage impacts not adequately addressed. • Overshadowing impacts not appropriately demonstrated.
31/07/2023	The applicant requested an extension to the RFI. The extension was approved to 11.08.2023. The applicant provided further information in relation to solar access, heritage and landowners consent on 11/08/2023. The information was re-referred to internal bodies of Council.
11/10/2023	The applicant was requested to superimpose the proposed roof height increase on a site inspection photo taken from Barr Street.
19/10/2023	The applicant was requested to withdraw the application via a phone call as the application remained unsupportable. This was confirmed by email on 20/10/2023.
25/10/2023	The applicant confirmed that the application will not be withdrawn and requested to proceed to determination.

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 No. 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *Inner West Local Environmental Plan 2022*

The following provides further discussion of the relevant issues:

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

Chapter 2 Coastal management

The SEPP aims to ensure that future coastal development is appropriate and sensitive to its coastal location and category.

The site is not categorised as a, and nor is it within proximity of any coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment, and a coastal use area.

The proposed development will not adversely affect any coastal processes or values.

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.

The site has not been used in the past for activities which could have potentially contaminated the land. It is considered that the site will not require remediation in accordance with the provisions of this part of the SEPP.

5(a)(ii) State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development

It is noted that the previous conversion of Commercial Suites F2-F4 (approved under D/2008/406) were not assessed under the provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65).

SEPP No 65 applies to buildings which comprise three or more storeys and four or more self-contained dwellings. The existing building is a two and three storey building comprising a total of 32 suites in which 29 are commercial suites and 3 are converted one-bedroom residential units.

The proposal relates to building works related to the change of use of one commercial unit (F14) to residential with alterations and additions. As the proposal seeks to increase the number of dwellings within the mixed-use development to a total of four dwellings, the SEPP and Apartment Design Guide are triggered and both are therefore considered as part of this assessment.

The development is subject to the requirements of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65). SEPP 65 prescribes nine design quality principles to guide the design of residential apartment development and to assist in assessing such developments. The principles relate to key design issues including context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.

A statement from a qualified Architect was submitted with the application verifying that they designed, or directed the design of, the development. The development is not acceptable having regard to the nine design quality principles, in particular the new residential unit is contrary to principle 6 as it affords inadequate amenity to future users, the site as a whole has not been designed with residential amenity in mind and Principle 6 is not achieved as the conflict in uses results in a poor outcome for not only future residents, but also compromises the ability of commercial tenancies operating as they may adversely impact the amenity of the residences. In addition the proposal is contrary to Principles 2 and 3, as the built form and scale and density of the proposal results in a poor outcome with the expansion of the building and interference with the roof resulting in an inconsistent built form on the site. The site in itself has been designed for commercial purposes and as such does not take into consideration the need for residential amenity. The proposal does not meet the prescribed design principles and in itself demonstrates that the site is not suitable for the proposed development.

Apartment Design Guide

The Apartment Design Guide (ADG) contains objectives, design criteria and design guidelines for residential apartment development. In accordance with Section 6A of the SEPP certain requirements contained within Leichhardt Development Control Plan 2013 do not apply. In this regard the objectives, design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail.

The following provides further discussion of the relevant issues:

Communal and Open Space

The ADG prescribes the following requirements for communal and open space:

- Communal open space has a minimum area equal to 25% of the site.

- Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).

Comment: The subject site and the proposal does not have and does not include any provision for communal open space in accordance with Objective 3D-1, 3D-2, 3D-3 and 3D-4 of the ADG.

The design guidelines of the ADG are not satisfied in this regard. The development as a whole has been designed with the intent of providing commercial development and does not provide for residential communal facilities. Having regard to the poor private open space provided for the subject dwelling, the provision of other facilities within the site indicate that the site is not suitable for residential development and that a piecemeal approach to providing residential units on the site is not appropriate as adequate amenities to cater to residences are not achieved.

Deep Soil Zones

The ADG prescribes the following minimum requirements for deep soil zones:

Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)
Less than 650m ²	-	7%
650m ² – 1,500m ²	3m	
Greater than 1,500m ²	6m	
Greater than 1,500m ² with significant existing tree cover	6m	

Comment: There is no existing deep soil planting at the subject site. The proposal does not propose to increase deep soil planting and is inconsistent with Objective 3E-1.

Visual Privacy/Building Separation

The ADG prescribes the following minimum required separation distances from buildings to the side and rear boundaries:

Building Height	Habitable rooms and balconies	Non-habitable rooms
Up to 12 metres (4 storeys)	6 metres	3 metres
Up to 25 metres (5-8 storeys)	9 metres	4.5 metres
Over 25 metres (9+ storeys)	12 metres	6 metres

Comment: A submission from No. 37 Theodore Street states that their kitchen will be overlooked by the eastern windows of the unit at F14/1-15 Barr Street.

While the fenestration (two windows) along the eastern wall of the existing commercial unit are existing, the proposed change of use will result in a habitable room requiring a 6m setback from another habitable room. The proposed living/dining/kitchen of Unit F14 is insufficiently setback from the kitchen of No. 37 Theodore Street.

Object 3F-1 is not satisfied in this regard.

Solar and Daylight Access

The ADG prescribes the following requirements for solar and daylight access:

- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter.
- A maximum of 15% of apartments in a building receive no direct sunlight between 9.00am and 3.00pm at mid-winter.

Comment: There are three residential units within the building, and all of which are located contiguously on the south-western side of the first floor. These flats are Units F2, F3, and F4 and are legally described as Lots 16, 17 and 18 in SP54646 with Lot 16 being most westerly and Lot 18 being most easterly. These units are located between Lot 15 to west and Lot 19 to the east. See Figures 3, 4 and 5.

These buildings make up 75% of the residential units in this building and due to the orientation of the fenestration and siting of the units, these residential units are unable to receive direct solar access into their living rooms or POS areas. The existing three units do not achieve 2 hours solar access at mid-winter and rely on roof windows and internal atriums for daylight.

The building on site is a mixed-use development and not a residential flat building. Therefore, the Apartment Design Guide which requires direct sunlight within living rooms and private open spaces, cannot be achieved.

The proposed development does not satisfy Objective 4A-1.1 and 4A-1.2 of this part of the ADG.

Figure 3: D/2008/406 Approved/Stamped Site Plan Demonstrating the siting of F2 to F4.

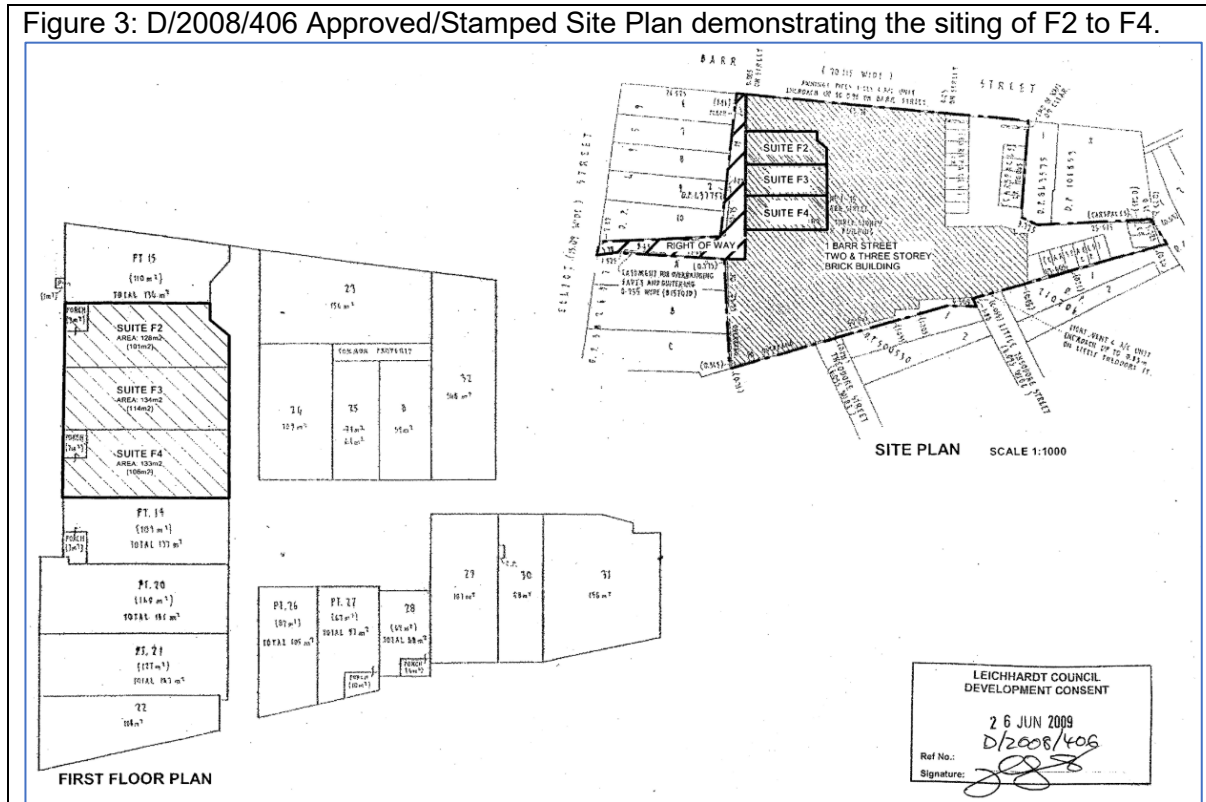


Figure 4: Flats 2-4, in green box, in relation to the subject unit in red box hatched pink.

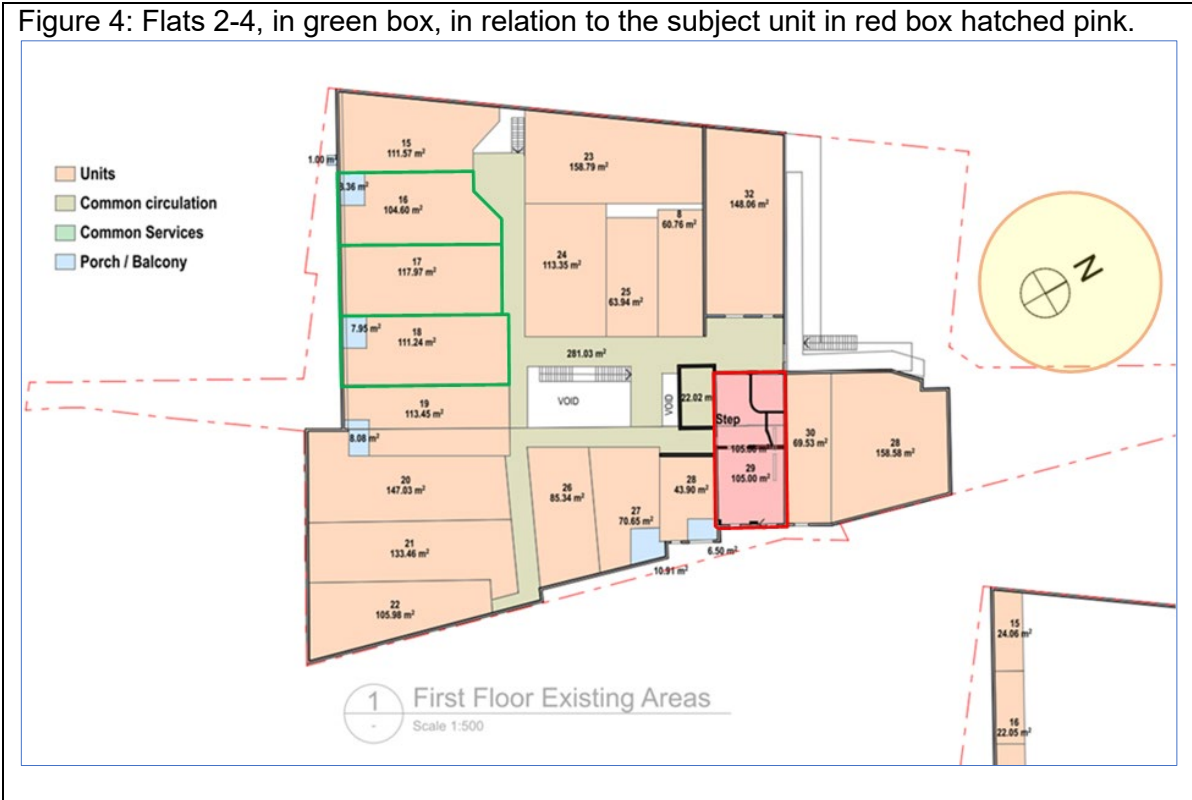
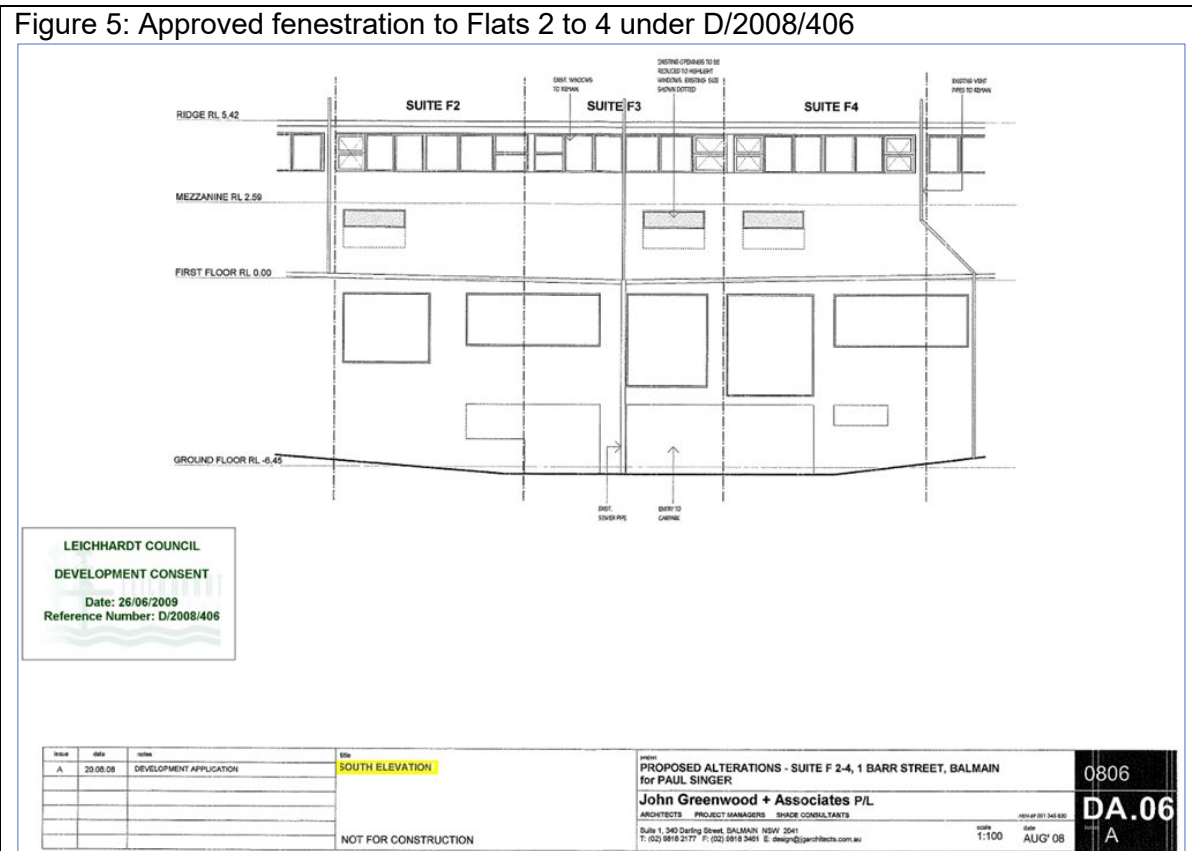


Figure 5: Approved fenestration to Flats 2 to 4 under D/2008/406



Natural Ventilation

The ADG prescribes the following requirements for natural ventilation:

- At least 60% of apartments are naturally cross ventilated in the first 9 storeys of the building. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.
- Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.

Comment: Existing Flats 2 to 4 do not achieve natural cross ventilation.

The ground level of the proposed residential unit will achieve natural cross ventilation and does not exceed 18m in depth. However, the proposed bedrooms on the eastern and western sides at mezzanine level rely on ventilation via openings to an open courtyard - the bedrooms in question rely on openings to one elevation only via the central courtyard which will not allow or facilitate or enable natural cross ventilation through the rooms.

Ceiling Heights

The ADG prescribes the following minimum ceiling heights:

Minimum Ceiling Height	
Habitable Rooms	2.7 metres
Non-Habitable	2.4 metres
For 2 storey apartments	2.7 metres for main living area floor 2.4 metres for second floor, where its area does not exceed 50% of the apartment area
Attic Spaces	1.8 metres edge of room with a 30 degree minimum ceiling slope
If located in mixed used area	3.3 for ground and first floor to promote future flexibility of use

Comment: The living area of the proposed residential unit with complies the ceiling height requirement of 2.7m specified above.

In terms of the second floor of the unit:

- The proposed development proposes a second storey, referred to in the application as a mezzanine. The second storey will extend outside the building envelope of the existing building by raising the roof height by 1.06m – in light of this, this level is not considered to be an attic level, but rather a second storey, as it is not contained within the existing roof form.
- The total area of the second floor of the unit is less than 50% of apartment area if the home office area is included.
- Inadequate plans / sections have been provided to demonstrate that the first floor bedrooms receive the required headroom of 2.4m as prescribed above.

Given the above, combined with the concerns raised in this report relating to unsatisfactory cross ventilation and daylight access, the proposal has not demonstrated that the new dwelling receives satisfactory amenity outcomes.

Apartment Size

The ADG prescribes the following minimum apartment sizes:

Apartment Type	Minimum Internal Area
Studio apartments	35m ²
1 Bedroom apartments	50m ²
2 Bedroom apartments	70m ²
3 Bedroom apartments	90m ²

Note: The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.

The proposed unit has an internal area which complies with the above requirement

Apartment Layout

The ADG prescribes the following requirements for apartment layout requirements:

- Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.
- Habitable room depths are limited to a maximum of 2.5 x the ceiling height.
- In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8 metres from a window.
- Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).
- Bedrooms have a minimum dimension of 3 metres (excluding wardrobe space).
- Living rooms or combined living/dining rooms have a minimum width of:
 - 3.6 metres for studio and 1 bedroom apartments.
 - 4 metres for 2 and 3 bedroom apartments.
- The width of cross-over or cross-through apartments are at least 4 metres internally to avoid deep narrow apartment layouts.

Comment: Bedrooms 1 and 2 do not have windows to existing external walls with daylight and ventilation are borrowed from an internal courtyard. The proposed maximum habitable room depths in open layouts is 7.9m, and therefore, the proposal is compliant in this regard. The bedrooms have over 10sqm minimum area with minimum dimension of 3m and comply in this regard.

While the proposed apartment complies with the majority of the above criteria, other amenity issues which include the kitchen, dining and living area and Bedrooms 1 and 2 all relying on borrowed ventilation from the unroofed central courtyard, combined with the lack of adequate solar access result in a development of very poor amenity.

Private Open Space and Balconies

The ADG prescribes the following sizes for primary balconies of apartments:

Dwelling Type	Minimum Area	Minimum Depth
Studio apartments	4m ²	-
1 Bedroom apartments	8m ²	2 metres
2 Bedroom apartments	10m ²	2 metres
3+ Bedroom apartments	12m ²	2.4 metres

Note: The minimum balcony depth to be counted as contributing to the balcony area is 1 metre.

Comment: The proposed courtyard is 14.46sqm with a minimum depth of 2m, which complies with the size prescribed. However this space is centrally located within the dwelling with no outlook and whilst complying with the size requirement, is a poor outcome for the dwelling.

Common Circulation and Spaces

The ADG prescribes the following requirements for common circulation and spaces:

- The maximum number of apartments off a circulation core on a single level is 8.
- For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.

Comment: The existing building has more than 8 apartments/commercial suites off a circulation core on a single level. The shared common circulation space between apartments and commercial suites is not considered to promote safety and security for residents given public access is available to the common corridor and shared circulation areas from 7am to 6pm Monday to Friday.

Therefore, the proposal is not considered satisfactory with respect to common circulation spaces.

Storage

The ADG prescribes the following storage requirements in addition to storage in kitchen, bathrooms and bedrooms:

Apartment Type	Minimum Internal Area
Studio apartments	4m ³
1 Bedroom apartments	6m ³
2 Bedroom apartments	8m ³
3+ Bedroom apartments	10m ³

Note: At least 50% of the required storage is to be located within the apartment.

Comment: No other storage is proposed in addition to storage in the kitchen, bathroom and bedroom. As such the proposal does not comply with this requirement.

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

A BASIX Certificate was submitted with the application.

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

Chapter 6 Water Catchments

The site is not located within the foreshores and waterways area and will not be visible from the foreshores and waterways of Sydney Harbour or the Parramatta River, and hence, will raise no issues that will be contrary to the provisions of this part of the SEPP.

5(a)(v) 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 – Zone Objectives and Land Use Table
- 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 4.4A – Exception to Maximum Floor Space Ratio for Active Street Frontages
- Section 4.5 – Calculation of Floor Space Ratio and Site Area
- Section 4.6 – Exceptions to Development Standards
- Section 5.4 – Controls Relating to Miscellaneous Permissible Uses
- Section 5.10 – Heritage Conservation
- Section 5.21 – Flood Planning
- Section 6.1 – Acid Sulfate Soils
- Section 6.2 – Earthworks
- Section 6.3 – Stormwater Management
- Section 6.12 – Adaptive Reuse of Existing Buildings for dwellings in residential zones

Section 1.2 - Aims of the Plan

The proposal to convert the existing commercial unit which is currently used as an office space for a healthcare provider, into a two bedroom residential unit with a home office component will negatively impact on the site's capacity to provide economic and employment opportunities for the zone. Further, and as discussed in other parts of this report, the proposed development will result in unsatisfactory streetscape / heritage, height, bulk and scale and amenity impacts and outcomes contrary to the following aims of this section:

- (a) to encourage development that demonstrates efficient and sustainable use of energy and resources in accordance with ecologically sustainable development principles,
- (e) *to facilitate economic growth and employment opportunities within Inner West*
- (h) *to prevent adverse social, economic and environmental impacts on the local character of Inner West,*
- (i) *to prevent adverse social, economic and environmental impacts, including cumulative impacts.*

For these, and other reasons, the proposal is recommended for refusal.

Section 2.3 – Land Use Table and Zone Objectives

The subject site is zoned R1 General Residential under the *IWLEP 2022*.

The following are the objectives of the R1 General Residential zone:

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 fails to provide for the housing needs of the community in a manner which is conducive to providing a high quality design outcome, the proposed unit has poor amenity and as such is not a desirable outcome for the community and any prospective tenants. Furthermore, the proposal will establish a new second floor level addition projecting outside the existing building envelope that will be visible from the public domain, on a site with a built form that is already substantially larger than adjoining development and the predominant built context in the street and wider area, which is overwhelmingly low scale residential dwelling type development. The proposal therefore does not provide residential development that maintains the character of the built features of the surrounding area and is inconsistent with the objectives above.

The site contains an existing mixed use building consisting of commercial and residential uses and that the proposal will continue as a mixed use development which is permissible in the zone.

Section 4.3C – Landscaped areas for residential accommodation in Zone R1

The proposal does not alter the Landscaped Area on the site noting that landscaping is not provided as the site has been constructed for commercial purposes and as such does not afford this level of amenity.

Section 4.4 – Floor Space Ratio

The subject site has a site area of 3499sqm and is identified as falling within Area 3 on land shown edged orange, and which site area exceeds 450sqm. Therefore, in this instance, the maximum FSR for the subject site is 0.7:1. The following table demonstrates the existing FSR and proposed FSR at the subject site.

Existing			Proposed		
%	SQM	FSR	%	SQM	FSR
76%	1856	1.23:1 (4305sqm)	83%	2045	1.28:1 (4494sqm)

The proposed development will result in a further contravention to the prescribed FSR development standard.

Section 4.6 – Exceptions to Development Standards

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

- Section 4.4 Floor Space Ratio

The proposed Floor Space Ratio is 1.28:1 or 4494sqm which is a breach or non-compliance of 83% or 2045sqm.

Section 4.6(1)(b) and Section 4.6(2) of the *IWLEP 2022* allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

As such, the applicant seeks a variation to these sections of the *IWLEP 2022* under Section 4.6 of the *IWLEP 2022*.

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 Section 4.6 of the *IWLEP 2022* below.

In accordance with Section 4.6(4)(a)(i) of the *IWLEP 2022*, the applicant provided the following justification for the contravention to the development standard:

- *Compliance with the development standard is unreasonable and unnecessary. The proposed mezzanine level is entirely within the existing unit and no changes will be made to the wall height or building form, with the exception of a minor section of the roof.*
- *Modifications to the roof above the existing unit will retain its traditional pitched form however alter its pitch slightly whilst increasing its overall height to 1.106m to improve the internal amenity of the unit. The roof changes will not be visible to the streetscape due to the position of Unit F14 to the rear of the building. The changes to the roof which are the only external components of the development is supported by the Heritage Impact Statement which confirms that the proposal does not affect the original elements of the building (the sawtooth portion of the roof remains unchanged). The HIS recognises that the roof will not be visible to Barr Street or Little Theodore Street and that the proposed materials are sympathetic to the Valley Conservation Area.*
- *The proposed changes to the roof will not have a negative impact on solar access to the eastern adjoining dwellings at 35 and 37 Theodore Street. The changes include raising the pitch of the roof to the eastern side and therefore this will have a negligible impact on overshadowing. Shadow diagrams demonstrate that overshadowing will occur to the roof of the adjoining structures only and will not affect the private open space of any adjoining properties.*
- *The proposal provides adequate internal amenity to the unit via the provision of an internal courtyard that opens to the sky. The open courtyard provides natural ventilation to the unit over both levels. The sunlight access plans provided in Drawing No. DA-501 also demonstrate at least 3 hours of sunlight to a large portion of the living areas of the unit on 21 June.*
- *A Stormwater Concept Drainage Plan is provided with this application to demonstrate the effective management of stormwater from the subject site.*
- *The proposal will not alter the existing site coverage or landscape provision within the site.*
- *No changes are proposed to the window or door openings to the unit.*
- *The North East Elevation (Little Theodore Street side) windows will remain the same.*
- *The proposal does not include any changes to the common property. A BCA Assessment Report has been provided which provides an assessment of the existing building and recommendations for compliance.*
- *Exceedance of the FSR control will not create additional building bulk that results in unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity and a reduction in this bulk would not create additional benefit for adjoining properties or the locality.*

- *The proposal complies with the nine SEPP 65 design principles and a Design Verification Statement is provided by a qualified architect. The proposal is also consistent with the relevant objectives and design criteria of the Apartment Design Guide.*

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

Pursuant to Section 4.6(3) of the *IWLEP 2022*, it is considered that compliance with the development standard is not unreasonable nor unnecessary in the circumstances of the case and that the applicant has not demonstrated sufficient environmental planning grounds to justify contravening the development standard for the reasons discussed below.

It is also considered that the proposed development is not in the public interest because it is inconsistent with the following relevant objectives of the R1 – General Residential zone, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* as outlined above:

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

In this regard, and as previously established, the design of the proposed development results in the provision of a dwelling which is incompatible with the prevailing character of the existing mixed-use development and will be out of character with the low scale residential development that characterises the area. Additionally the proposal provides for a unit of poor amenity and therefore fails to provide for the housing needs of the community, as the needs of the community is for development of a high quality design and affords good amenity, which the proposal fails to achieve.

Further, it is considered that the development is not in the public interest because it is inconsistent with the relevant the objectives of Section 4.4 Floor Space Ratio of the *IWLEP 2022* specifically:

Section 4.4 Floor Space Ratio

- (c) *to provide an appropriate transition between development of different densities,*
- (e) *to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.*

The departures are inconsistent with the objectives for the following reasons:

- The second floor / mezzanine addition increases the proposed roof height by 1.106m and is not contained with the building envelope of the existing building as it extends outside the existing roof form. This is of concern given its resultant visibility from the public domain and given the existing building is already substantially larger than the predominant form and scale of existing buildings in the street and vicinity of the site, and the resultant increase in height, bulk and scale will be out of character in its context.
- The proposal does not provide private open space which receives adequate solar access or acceptable residential on-site amenity.
- The development represents an unsatisfactory departure from a suite of applicable planning controls.

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

The proposal fails to accord with the objective in Section 4.6(1)(b) and requirements of Section 4.6(3)(b) of the *IWLEP 2022*. For the reasons outlined above, there are insufficient planning grounds to justify the departure from the FSR development standard and it is recommended the Section 4.6 exception not be granted, and as a result the proposal is recommended for refusal.

Section 5.4 – Controls Relating to Miscellaneous Permissible Uses

The proposed development is for a change of use from commercial tenancy to a residence with home office. The applicant was asked to confirm if the home office is for a use as a home business or home occupation. On 15 November 2023, the applicant confirmed the use as a home business. Pursuant to Sub-Section (2) of this Section of the Instrument:

“if development for the purposes of a home business is permitted under this Plan, the carrying on of the business must not involve the use of more than 50sqm of floor area”.

The subject site is in R1 General Residential zone and residential dwellings and home businesses are permitted developments with consent in the zone. The proposed home business area of the dwelling is nominated as having an area 30.11sqm. In this instance, the size of the dedicated to be used as a home business is acceptable.

The definition of home business under the *IWLEP 2022* is:

home business means a business, whether or not involving the sale of items online, carried on in a dwelling, or in a building ancillary to a dwelling, by 1 or more permanent residents of the dwelling and not involving the following—

- (a) the employment of more than 2 persons other than the residents,*
- (b) interference with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise,*
- (c) the exposure to view, from adjacent premises or from a public place, of unsightly matter,*
- (d) the exhibition of signage, other than a business identification sign,*
- (e) the retail sale of, or the exposure or offer for retail sale of, items, whether goods or materials, not produced at the dwelling or building, other than by online retailing,*

but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

The proposal has the capacity to comply with the above by way of condition however the proposal is not supported for other reasons outlined in this report.

Section 5.10 – Heritage conservation

The subject site is not listed as an individual heritage item however is located within The Valley Heritage Conservation Area and is adjacent to a row of heritage listed street trees along Barr Street, specifically row of Phoenix Canariensis, Barr Street Road Reserve, Local Item I444. The proposed development including the response to the request for further information and resubmitted documentation has been considered against the streetscape and heritage provisions of this part of the LEP and the following concerns are raised:

1. The submitted SoHI does not provide sufficient detail regarding the historic development of the industrial complex in Barr Street or the surviving historic fabric to be able to fully determine the heritage impact of the proposal. The area proposed to be changed is located within part of the factory complex that can be seen in 1943 aerial photograph. The form and pattern of fenestration of the surviving industrial building on the site that the proposal is located within indicates that the building falls within the key date range of the HCA.
2. Additional internal images show what appear to be original brick arches within the footprint of the studio, along with a timber ceiling and timber trusses. No information has been provided demonstrating whether these are dated from the original factory. Although the building is not listed as a heritage item, the applicant is strongly encouraged to retain these arches, and this ceiling and incorporate them into the design of the apartment.
3. The impact on the roof could lead to further impact from other development in the building and may set a precedent which may lead to a complete loss of all original fabric. As above, the existing roofline is to be retained.

Overall, the proposal, specifically the changes to the roofline and the deletion of the brick arches, timber ceiling and timber trusses are not acceptable from a heritage perspective as it will detract from the intactness of the existing building and its contribution to the heritage significance of The Valley Heritage Conservation Area as it is inconsistent with Clause 5.10 Objectives 1(a) and (b) in the *IWLEP 2022* and the relevant objectives and controls in the LDCP 2013.

Therefore, the proposed development is recommended for refusal.

Section 6.12 – Adaptive reuse of existing buildings for dwellings in residential zones

The subject site is in R1 General Residential Zone and the original approval for the site involved an adaptive reuse of the building in which the provisions of Section 6.12 of the LEP apply as follows:

- (1) *The objectives of this clause are as follows—*
 - (a) *to provide for the adaptive reuse of existing buildings as dwellings,*
 - (b) *to retain buildings contributing to the streetscape and character of Inner West,*
 - (c) *to provide satisfactory amenity for future residents of the area,*
 - (d) *to ensure development does not adversely affect the quality or amenity of existing buildings in the area.*
- (2) *This clause applies to a building lawfully constructed for a purpose other than residential accommodation in the following zones—*
 - (a) *Zone R1 General Residential,*
 - (b) *Zone R2 Low Density Residential,*
 - (c) *Zone R3 Medium Density Residential,*
 - (d) *Zone R4 High Density Residential.*
- (3) *Development consent must not be granted to a change of use to the following—*
 - (a) *multi dwelling housing on land other than in Zone R2 Low Density Residential,*

- (b) *residential flat buildings on land other than land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential.*
- (4) *Development consent must not be granted to a change of use to residential accommodation of a building on land to which this clause applies unless the consent authority is satisfied—*
 - (a) *the development will not adversely affect the streetscape, character or amenity of the surrounding area, and*
 - (b) *the development will retain the form, significant fabric and features of the architectural or historic features of the existing building, and*
 - (c) *any increase in the floor space ratio will be contained in the envelope of the existing building, and*
 - (d) *the building was constructed before the commencement of this Plan.*
- (5) *The maximum building height and maximum floor space ratio shown for the land on the [Height of Buildings Map](#) or the [Floor Space Ratio Map](#) do not apply to a building to which this clause applies.*

Whilst it is acknowledged that the current application does not seek to adaptively re-use the building as a whole, one must have regard to the approval of the site which was for the adaptive re-use and the requirements for that development. A key consideration which is of great relevance is section 6.12(4)(c) which notes development consent must not be granted to a change of use to residential accommodation unless the consent authority's satisfied that any increase will be contained within the envelope of the existing building. The proposal to demolish the roof and increase the roof height indicates that the proposal is unable to be accommodated within the existing envelope.

Furthermore, the proposed development has not been designed to provide adequate amenity to the dwelling, have regard to adequate cross ventilation and solar access, generally expected of a residential unit for the intended occupants. In addition, the proposed dwelling is positioned adjacent to a public thoroughfare and surrounded by existing commercial businesses - the proximity to and the different requirements of the dwelling and commercial businesses are considered incongruous; and day to day running of the surrounding businesses may negatively impact on the enjoyment and use of a residential dwelling due to the nature of the amenity requirements of a residential dwelling including acoustic privacy. Given the above, it is considered that the proposal is inconsistent with Section 6.12.

5(b) [Development Control Plans](#)

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

Leichhardt Development Control Plans 2013	
LDCP2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes

Leichhardt Development Control Plans 2013	
LDCP2013	Compliance
Part C	
C1.0 General Provisions	No, see discussion
C1.1 Site and Context Analysis	No, see discussion
C1.2 Demolition	No
C1.3 Alterations and additions	No, see discussion
C1.4 Heritage Conservation Areas and Heritage Items	No, see discussion
C1.7 Site Facilities	Yes
C1.12 Landscaping	No, see discussion
C1.14 Tree Management	No, see discussion
Part C: Place – Section 2 Urban Character	
C2.2.2.4 The Valley “Balmain” Distinctive Neighbourhood	No, see discussion
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	No, see discussion
C3.2 Site Layout and Building Design	N/A
C3.3 Elevation and Materials	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	No, see discussion
C3.10 Views	Yes
C3.11 Visual Privacy	N/A – see ADG assessment
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	No, see discussion
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
D2.4 Non-Residential Development	Yes
D2.5 Mixed Use Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes

The following provides discussion of the relevant issues:

C1.0 – General Provisions

Due to the streetscape / heritage, amenity and pattern of development concerns raised in this report, the proposal does not satisfy and / or has not demonstrated compliance with the following objectives of Part C1.0:

- *O4 Amenable: places and spaces provide and support reasonable amenity, including solar access, privacy in areas of private open space, visual and acoustic privacy, access to views and clean air.*
- *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.*

For this, and other reasons, the proposal is recommended for refusal.

C1.1 – Site and Context Analysis

The proposed development is not considered to be well designed and does not appropriately consider context, scale, built form, density, streetscape and aesthetics. For these reasons and other reasons discussed in this report, the proposal is not considered to have satisfactorily taken into account the characteristics of the subject site and adjoining sites. That is, the proposed second floor / mezzanine and resultant increase in roof height and bulk and scale visible from the public domain are out of context with the existing structure and within the prevailing streetscape of Barr Street and nearby streets.

The image below depicts where the proposal is visible from and its appearance;



Figure 6: Arrows depicting visibility of addition



Figure 7: Photomontage of addition as viewed from Barr Street

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;*
 - f. *the special qualities of the site and its context including urban design, streetscape and heritage considerations*

C1.3 – Alterations and additions

Due to the streetscape / heritage, pattern of development, height, bulk and scale and amenity concerns raised previously in this report (including under Section 5.10 - *Heritage Conservation* of the *IWLEP 2022*) and as discussed in further detail below, the proposal is considered to be inconsistent with the following objectives and controls contained in this part of the DCP.

- O1 *To ensure that development:*
 - a. *complements the scale, form and materials of the streetscape including wall height and roof form;*
 - b. *where an alteration or addition is visible from the public domain it should appear as a sympathetic addition to the existing building;*
 - c. *makes a positive contribution to the desired future character of the streetscape and any heritage values associated with it;*
 - d. *is compatible with neighbourhood character, including prevailing site layout;*
 - e. *protects existing residential amenity, including the retention of adequate private open space and ensuring adequate sunlight, natural ventilation and privacy to the existing dwelling and surrounding dwellings;*

- f. *maintains views and glimpses from the public domain to natural and built elements that contribute to local character and sense of place;*
 - h. *retains existing fabric wherever possible and maintains and repairs, where necessary, rather than replaces the fabric.*
- C1 *The overall form of alterations and additions shall:*
 - a. *have regard to the provisions within Appendix B – Building Typologies of this Development Control Plan;*
 - c. *retain any building and streetscape consistencies which add positively to the character of the neighbourhood (e.g. architectural details, continuous rows of dwellings, groups of similar dwellings, or the like);*
 - d. *maintain the integrity of the streetscape and heritage significance;*
 - e. *be considered from all public vantage points from which the additions will be visible; and*
 - f. *achieve the objectives and controls for the applicable desired future character*

C1.4 – Heritage Conservation Areas and Heritage Items

Due to the streetscape / heritage, pattern of development, height, bulk and scale concerns raised previously in this report (under Section 5.10 - *Heritage Conservation* of the *IWLEP 2022*), the proposal does not meet the following relevant provisions of Part C1.4 of the LDCP 2013:

- O1 *Development:*
 - a. *does not represent an unsympathetic alteration or addition to a building;*
 - b. *encourages the protection, restoration, continued use and viability of buildings for their original purpose;*
 - d. *is compatible with the setting or relationship of the building with the Heritage Conservation Area in terms of scale, form, roof form, materials, detailing and colour of the building and conforms with the Burra Charter*
 - e. *conserves and enhances the fabric and detail of a building that contributes to the cultural significance of the building in its setting:*
- 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.*
- 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.*

Having regard to the proposed changes to the building as a result of the internal work and the removal of the roof and increased roof height impacting negatively on the HCA, the proposal is recommended for refusal.

C2.2.2.4 – The Valley “Balmain” Distinctive Neighbourhood

The subject site is captured in The Valley “Balmain” Distinctive Neighbourhood. The desired future character of this Distinctive Neighbourhood are as follows:

- *C1 Preserve the existing...maintain the scales and general built form as established on each street. The older buildings contribute to the local character and the collective heritage of the Balmain Conservation Area.*
- *C23 Maintain roof forms with pitched, gable or hipped roofs. Roof forms are to be designed to preserve view lines for adjoining properties.*

The proposed second floor which increases the roof height and extends outside the existing building envelope, will be visible from the public domain and will not maintain the existing roof form which is inconsistent with Controls C1 and C23.

C3.1 – Residential General Provisions

The proposal does not achieve the residential general provisions of the Leichhardt DCP 2013, namely Controls C1 and C2, as the proposal fails to provide for acceptable amenity outcomes for future occupants, and does not respond appropriately to the existing and desired future character of the surrounding locality and Heritage Conservation Area. In this regard, the proposed development does not satisfy the following relevant objectives of the residential provisions:

- *O4 To ensure that all residential development is compatible with the scale, form, siting and materials of existing adjacent buildings.*
- *O5 To ensure that all residential development is consistent with the density of the local area as established by the Leichhardt Local Environmental Plan 2013.*
- *O6 To promote optimal environmental performance of all residential buildings.*
- *O7 To ensure that the amenity, including solar access and visual privacy, of the development and adjacent properties is not adversely impacted.*

C3.9 – Solar Access

While the proposed development has been assessed under the Apartment Design Guidelines, the proposal has also been considered under this part for the amenity of the subject unit.

The following controls of the DCP apply to the proposal:

New dwellings

- *C4 Private open space is to receive a minimum three hours of direct sunlight over 50% of the required private open space between 9am and 3pm at the winter solstice.*
- *C9 New residential dwellings are to obtain a minimum of three (3) hours of direct sunlight to the main living room between 9am and 3pm during the winter solstice.*

Comment: The application included solar access plans for the subject residential unit. The Private Open Space of the proposed development is located within an internal open courtyard.

However, the plans provided illustrate that the proposed internal courtyard for the dwelling does not gain any direct sunlight at any time between 9am to 3pm in mid-winter and results in a poor amenity outcome on the site.

Having regard to the open space, the proposed development fails to meet the following objective:

O1 Development shall:

- a) *provide adequate sunlight to main living room and private open space.*

Hourly solar access diagrams in plan and elevation for mid-winter have been provided. The submitted shadow diagrams demonstrate that the adjoining properties that are most likely to be impacted by the proposed development are No. 37 Theodore Street and No. 35 Theodore Street to the east. The following controls apply to these sites which are orientated north/south (front/rear).

Retaining solar access to neighbouring dwellings main living room glazing

- *C13 Where the surrounding allotments are orientated north/south and the dwelling has north facing glazing serving the main living room, ensure a minimum of three hours solar access is maintained between 9am and 3pm during the winter solstice.*
- *C15 Where surrounding dwellings currently receive less than the required amount of solar access to the main living room between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.*

Retaining solar access to neighbouring dwellings private open space

- *C16 Where surrounding dwellings have south facing private open space ensure solar access is retained for two hours between 9am and 3pm to 50% of the total area during the winter solstice.*
- *C19 Where surrounding dwellings currently receive less than the required amount of solar access to their private open space between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.*

The proposed development will result in minor additional overshadowing to the rear private open space of No. 37 Theodore Street at 2:00pm and 3:00pm on 21 June, and the proposed development will not adversely impact solar access to any northern facing fenestration of any adjoining properties. In this regard the proposed development satisfies controls C13, C15, C16 and C19.

C3.13 – Conversion of Existing Non-Residential Buildings

As discussed in other sections of this report, the proposed conversion of the existing commercial unit to a residential use (with a home office) results in poor and unsatisfactory amenity outcomes for future residents. Additionally, the proposal is incompatible with the character of the neighbourhood and streetscape including future desired character of the Distinctive Neighbourhood and Heritage Conservation Area. The increase in FSR results in the demolition of, and reconstruction of a roof form which does not retain the existing character of the building and the increases FSR which is not contained with the existing building envelope.

Given the above, the proposal is considered to be an unsatisfactory response to the following controls of this part of the DCP:

- *O1 Development encourages the adaptive re-use of non-residential buildings for residential uses that:*
 - a. *retain heritage value of the building;*
 - c. *provide a high level of resident amenity;*
 - d. *is compatible with the character of the neighbourhood and streetscape;*
 - e. *represent high quality urban and architectural design;*

- C1 The existing character of the building is retained and/or enhanced.
- C2 Increases in floor space are contained within the existing building envelope.
- C4 The conversion provides an adequate level of residential amenity in terms of acoustic privacy, private open space, solar access and visual privacy.
- C5 The appearance of the building integrates with and enhances the streetscape.

For these, and other reasons, the proposal is recommended for refusal.

5(c) The Likely Impacts

FSR breach

The proposal will result in breach of the FSR development standard which adversely impacts on, and negatively contributes to excessive height, bulk and scale, amenity, streetscape and heritage impacts.

Heritage /Streetscape

The development will result in a built form that is unacceptable from a heritage perspective as it will detract from the desired future character and heritage significance of the locality and broader Conservation Area.

Amenity

The proposal does not result in acceptable amenity outcomes to the residence proposed on the site and the conflict with commercial uses indicates the site is not suitable for the proposed use

In this regard, the proposal does not satisfy and has not demonstrated compliance and is inconsistent with the relevant matters for consideration of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*.

5d) The suitability of the site for the development

Due to the concerns raised previously in this report, including streetscape / heritage, height, bulk and scale, and amenity outcomes and impacts, the proposal does not satisfy and has not demonstrated compliance and is inconsistent with the relevant matters for consideration of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.

5(e) Any submissions

The application was notified in accordance with the Community Engagement Framework and three (3) submissions were received in response to the notification.

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

Concern	Comment
Non-compliant side setbacks and height	Discussed in the body of the report
Overshadowing of neighbouring windows from increased roof height	Discussed in the body of the report
Visual and acoustic privacy	The proposed development does not propose additional fenestration to the subject unit however the change in use

Concern	Comment
	has the potential to create new impacts.
Impacts on the Heritage Conservation Area and streetscape character <ul style="list-style-type: none"> ▪ Increased roof height 	Discussed in the body of the report
Light emissions from inside the proposed dwelling	Anticipated light emissions from the proposed use are not expected to be any greater than a typical residential use in the residential zone.
Stormwater discharge: <ul style="list-style-type: none"> ▪ A submission recommended that conditions are imposed based on their third-party report submitted with the submission 	Standard conditions of consent could be imposed on any approval granted addressing site drainage and stormwater control.
Inaccurate plan labelling of neighbouring address of DA-001	While the plans are inaccurately labelled, the assessment of the proposed development has correctly identified the adjoining properties.
Loss of commercial space and setting of precedence.	Noted. The proposed development is recommended for refusal due to the proposal's non-compliance with relevant planning controls applicable to the site.
Inadequate setback from habitable rooms of adjacent properties.	Discussed in the body of the report.
Increased roof height will decrease property value	Property values are market driven and is outside the scope of the assessment of the proposal under s4.15 of the <i>Environmental Planning and Assessment Act 1979</i> .

5(f) 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 as it results in numerous non-compliances with the IWLEP 2022 and Leichhardt DCP 2013, the totality of which result in unacceptable streetscape / heritage, height, bulk and scale and amenity outcomes and impacts.

In this regard, the proposal does not satisfy and has not demonstrated compliance and is inconsistent with the relevant matters for consideration of Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*.

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

The proposal is not supported on heritage grounds.

Engineer

No objections subject to conditions.

Building

No objections raised regarding the proposal.

7. Section 7.11 Contributions

The carrying out of the proposed development would result in an increased demand for public amenities and public services within the area. A contribution of \$12,572.00 would be required for the development under the Inner West Local Infrastructure Contributions Plan 2023.

8. Conclusion

The proposal does not comply with the aims, objectives and design parameters contained in the *Inner West Local Environmental Plan 2022* and the Leichhardt Development Control Plan 2013.

The development will result in unreasonable impacts on the heritage conservation area, desired future character of the locality, amenity for future occupants and therefore cannot be supported. Accordingly, the proposal 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 support 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/2023/0426 for a change of use from an office to residential unit at F 14/1-15 Barr Street BALMAIN, for the reasons outlined in Attachment A below.

Attachment A – Reasons for Refusal

1. The proposal does not satisfy Section 4.15(1)(a) of the *Environmental Planning and Assessment Act 1979* in the following manner:
 - a. The proposal is inconsistent with the *State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development* as follows:
 - i. Section 30(2) in that the consent authority is not satisfied that the development demonstrates adequate regard to all nine design quality principles and the relevant design criteria specified in the Apartment Design Guide are not adequately satisfied.
 - b. The proposal is inconsistent with the *Inner West Local Environmental Plan 2022* as follows:
 - i. Section 1.2 - *Aims of the Plan*: aims (a), (e), (h) and (i) where the proposal will negatively impact on the site's capacity to provide economic and employment opportunities for the zone, and will result in unsatisfactory streetscape / heritage, height, bulk and scale and amenity impacts and outcomes.
 - ii. Section 2.3 - *Zone Objectives for Zone R1 General Residential*: where it does not provide for a residential development that maintains the character of built and natural features in the surrounding area.
 - iii. Section 4.4 - *Floor Space Ratio*: Objectives (1)(a)(b)(c) the proposal does not provide an appropriate density which reflects the locality and transition between developments and Objectives (1)(d) and(e) where it does not minimise adverse impacts on local amenity.
 - iv. Section 4.6 - *Exceptions to Development Standards*: the proposal is inconsistent with the objectives of the R1 General Residential zone in accordance with Section 4.6(4)(a)(ii), and the proposal fails to comply with the objectives of section 4.6(1)(b) and requirements of section 4.6(3)(b) of the LEP with particular respect to streetscape / heritage / response to local character, height, bulk and scale and amenity impacts.
 - v. Section 5.10 - *Heritage Conservation*: Objective (1)(a) where the development does not conserve the environmental heritage of the Inner West and Objective (1)(b) and does not conserve the heritage significance of the Conservation Area.
 - vi. Section 6.12 – *Adaptive Reuse of Existing Buildings for Dwellings in Residential Zones*: proposal is inconsistent with Sections (1)(a)-(d) and 4(a)-(c), in that the existing streetscape and built character will not be maintained, future amenity of the subject site is not satisfied.
2. The proposal is inconsistent with the *Leichhardt Development Control Plan 2013* as follows:
 - a. Part 1.0 - *General Provisions*: Objective O4 as the proposal does not support reasonable amenity for future occupants and Objective O6, where it does not respond the existing and desired future character of the surrounding area.

- b. Part C1.1 - *Site and Context Analysis*: Objective O1 where the subject site, streetscape character and impacts on the Heritage Conservation Area is adversely impacted and is therefore inconsistent with this part of the DCP.
 - c. Part C1.3 - *Alterations and Additions*: Objectives O1(a)-(f) and (i) Control C1(a)-(f) are not met as the proposal does not preserve the original roof form and character of the streetscape and will not be compatible with its setting nor the desired future character of the distinctive neighbourhood.
 - d. Part C1.4 - *Heritage Conservation and Heritage Items*: Objectives O1(a)(b)(d) and (e) and Controls C1 and C6 where the addition extends above the existing roof and outside the existing building envelope rather than retaining the existing roof, and is thereby not compatible with the setting or relationship of the building with the Heritage Conservation Area in terms of scale and form.
 - e. Part C2.2.2.4 - *The Valley Balmain Distinctive Neighbourhood*: Controls C1 and C23 where it does not maintain the existing roof form and does not facilitate development that is consistent with the Desired Future Character and Controls for the Distinctive Neighbourhood.
 - f. Part C3.1 - *Residential General Provisions*: Objectives O4, O5, O6 and O7 as the proposal results in poor amenity outcomes for the proposed residential unit, and does not respond appropriately to the existing and desired future character of the surrounding locality and Heritage Conservation Area.
 - g. Part C3.9 - *Solar Access*: Control C4, where the development does not provide compliant solar access to the private open space of the new dwelling.
 - h. Part C3.13 – *Conversion of Existing Non-Residential Buildings*: Objective O1 and Controls C1, C2, C3, C4 and C5 where the proposal: results in poor and unsatisfactory amenity outcomes for future residents; is incompatible with the character of the neighbourhood and streetscape including future desired character of the Distinctive Neighbourhood and Heritage Conservation Area, involves the reconstruction of a roof form which does not retain the existing character of the building; and increases the FSR beyond the existing building envelope.
3. The proposal is considered to result in adverse environmental impacts on the built environment 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 is not considered to be 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

Development Application
not for construction

GENERAL SPECIFICATION

NOTE - BCA

All work to comply with the NCC (BCA) 2019 with referenced documents and

NOTE: the BCA has been updated to the National Construction Codes (NCC) and reference should be made to the current issue at the date of the Construction Certificate, which will be the code in force for construction of the project.

Builder to allow for obtaining all required certificates from contractors (as required by NCC & reg's), to be supplied to PCA.

DEMOLITION:

Demolition & asbestos (if found) - generally, to AS2601 Demolition of Structures. Asbestos (if found) to be removed by licensed asbestos removal contractor, to Workover NSW guidelines, codes of practice (NOHSC 2002, NSW OH&S Act 2000).

SETOUT (Supplier to certify) - verify & report:

Verify boundaries and setout prior to construction. Report discrepancies immediately to architect and await instructions prior to commencing work on site.

STORMWATER

Connect to existing stormwater system.

PLUMBING STACKS - to be concealed:

All plumbing stacks, vent pipes and like are to be concealed from view.

Windows, Doors, Glass & Glazing:

Generally to AS1298 2/006 - obtain required certificates & submit to PCA on completion
NCC (BCA) requirements to be met regarding glass impact mitigation (Vol 2 pt.3.6.4) and window opening restrictors for child safety (Vol 2 pt.3.9.2.5)

Waterproofing (domestic wet areas):

Generally to AS3740 2/010 - obtain required certificates & submit to PCA on completion.

Damp Proof Courses & Flashings:

To AS/NZS25994 1995 - non standard junctions TFD.

UTILITY & COUNCIL SERVICES:

* Owner & Builder are to carry out a survey of existing Council and Utility services and arrange for relocations and upgrades as needed, at own cost.
* Conduct a "Dig Before You Dig on 1100" to obtain relevant service diagrams (maintain a copy on site).
* Apply for all necessary permits.

ENERGY & BASIX - Water Efficiency & Thermal Ratings

HOT WATER: Existing LIGHTING: The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.
PLUMBING FIXTURES: The applicant must ensure new or altered showerheads have a 4 star water rating.
The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 4 star water rating. The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 5 star water rating.

INSULATION: refer to BASIX certificate for summary. Specific requirements have been noted on the drawings (refer to sections).
WINDOWS & GLAZED DOORS & SKYLIGHTS: refer to table in BASIX Certificate.

List of Drawings

	PAGE	NAME
DEVELOPMENT APPLICATION		
DA-000		Drawing List Site Location
DA-001		SITE & ANALYSIS PLAN
DA-002		Existing Areas
DA-003		Existing Areas
DA-100 PLANS		
DA-101		Demolition
DA-102		Floor Plans
DA-103		Roof Plan
DA-300 ELEVATIONS		
DA-301		South-East Elevation
DA-400 SECTIONS		
DA-401		Sec. 1 & 2
DA-402		Sec. 3
DA-403		Sec. 4 & 5
DA-500 SUNLIGHT ACCESS PLANS		
DA-501		JUNE 21 9AM - 12NOON
DA-502		JUNE 21 1PM - 3PM
DA-503		Shadow Diagrams June 21 9am
DA-504		Shadow Diagrams June 21 Noon
DA-505		Shadow Diagrams June 21 3pm

- Existing construction, to be retained UNO
- Existing construction, to be demolished & made good to adjacent (dashed line)
- New construction (coloured, shaded or hatched)

- ATO As Turns Out (dimension to suit site)
- COS COS - Check On Site - check figured dimensions against site and report discrepancies
- EQ Equal Set Out (dimensions)
- FW Floor Waste - fall in floor finish to outlet connected to drainage stack powered
- SA Smoke Alarm to AS 3786 (1995, 2014) on ceiling to ECA requirements, mains powered
- TFD To Future Detail (Manufacturers &lor s/wp-drawings &/or installation details - obtain prior to ordering & fabrication).
- TED To Structural Engineers drawings and spec. (latest issue)
- TBC To Be Confirmed with owner prior to ordering or fabrication (e.g. colours and finishes)



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www.AStudioArchitecture.com.au
Nominated Architect: Andres Suarez Ruiz NSW ARBN 11302 RAA
in collaboration with: Furio Valich - Gordon + Valich Pty Ltd
Document Set ID: 38396548
Version: 1, Version Date: 29/11/2023

Issue for DA DISAPPOINTED
25/04/2023
DATE
This matter will close our only alternative dispute resolution services to the project. costs the drawings, not signed drawings. Drawing: Copyright 2016 Gordon Valich Architects

Drawn | Checked | AS | 28/02/23
Project No. | 2109
Project Status | Preliminary
Client | Mr Mark Blackmore
Climate Zone | Zone 5
Site: | F14 1-15 Barr Street Balmain NSW Australia

REVISION NO. A
DRAWING NO. DA-000

DRAWING TITLE: DEVELOPMENT APPLICATION
Drawing List | Site Location
PROJECT NAME: F14 1-15 BARR ST BALMAIN

Development Application not for construction

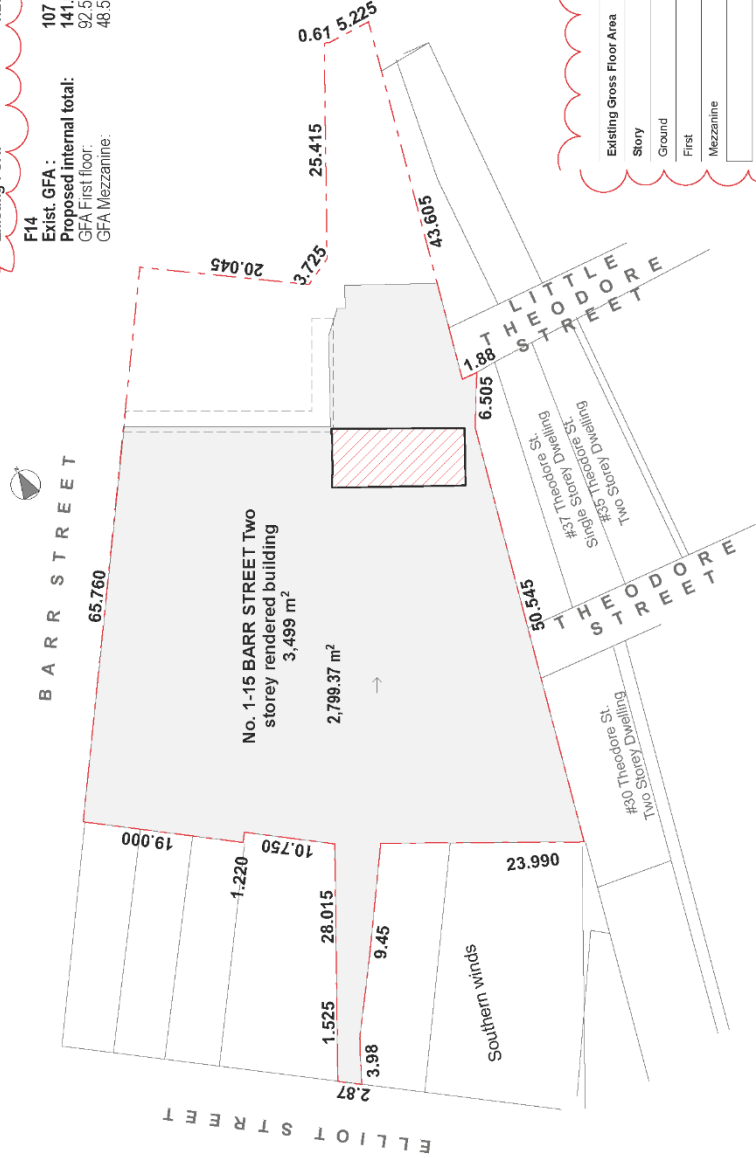
LEGEND & NOTES

- Existing construction, to be retained UNO
- Existing construction, to be demolished & made good to adjacent (dashed line)
- New construction (coloured, shaded or hatched)

F14/1-15 BARR STREET,
BALMAIN NSW 2041
DP-C97-SP5-4646

Site Area: 3,499 m²
Existing Building GFA: 4,428.22 m²
Existing FSR: 1.26 : 1

F14
Exist. GFA: 107 m²
Proposed internal total: 141.09 m²
GFA First floor: 92.54 m²
GFA Mezzanine: 48.55 m²



Existing Gross Floor Area	
Story	Area
Ground	1,906.58
First	2,326.25
Mezzanine	195.39
Total	4,428.22 m²

1 Site Plan

Scale: 1:500

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Document Set ID: 38396648
Version: 1, Version Date: 29/11/2023

31-07/2023
28-09/2023
DATE

Client: Mr Mark Blackmore
Climate Zone: Zone 5
Site: F14 1-15 Barr Street Balmain NSW Australia

Drawn | Checked: AS | 10/6/2023
Project NO: 2109
Project Status: Preliminary

Drawing Title: DEVELOPMENT APPLICATION
SITE & ANALYSIS PLAN

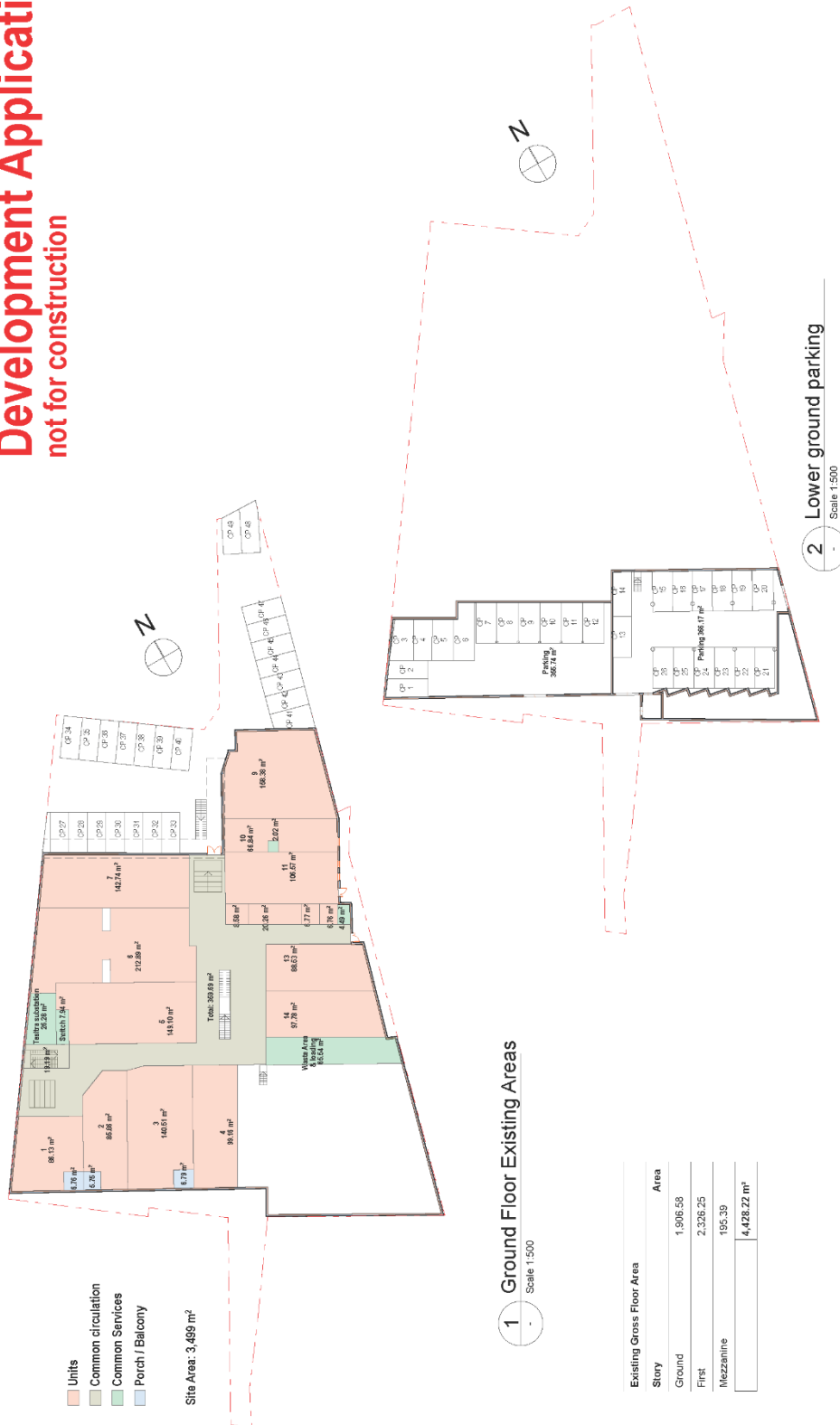
REVISION NO: B

PROJECT NAME: F14 1-15 Barr St Balmain

DRAWING NO: DA-001

The builder will check and verify all dimensions and report all errors and omissions to the architect.
above the drawings and signed drawings. Drawings Copyright © 2015 Gordon Valich Architecture

Development Application
not for construction



1 Ground Floor Existing Areas
Scale 1:500

Existing Gross Floor Area	Area
Ground	1,906.53
First	2,326.25
Mezzanine	195.39
	4,428.22 m ²

2 Lower ground parking
Scale 1:500

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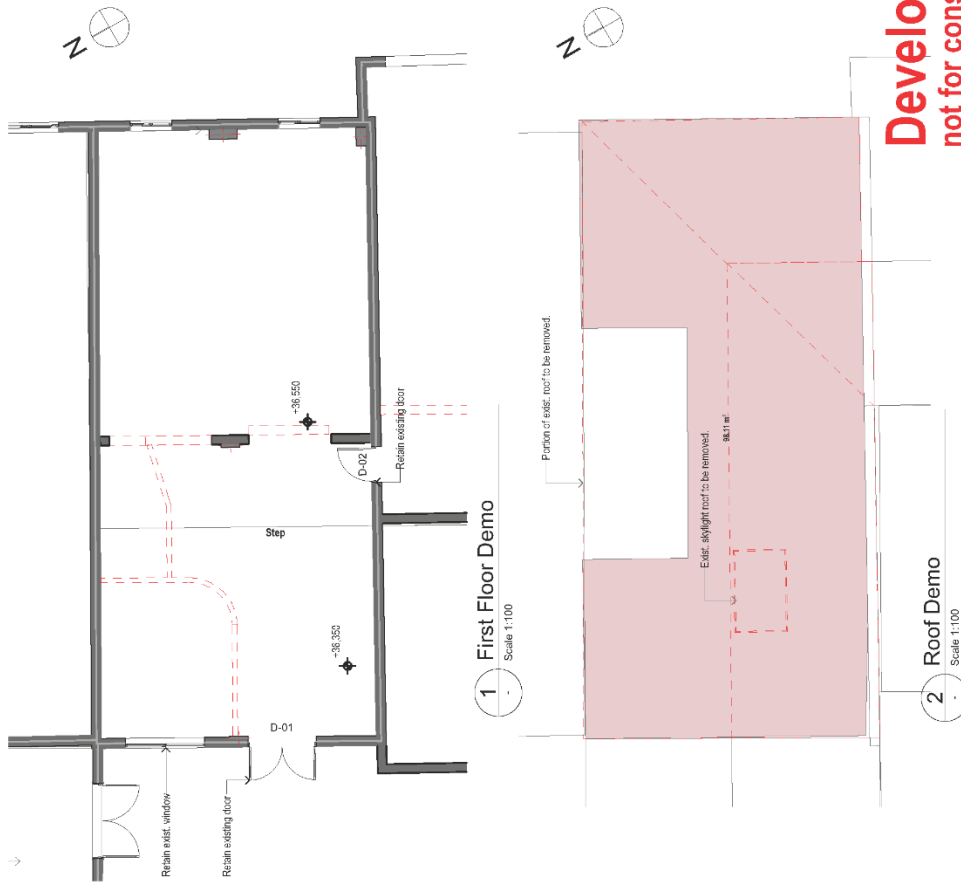
Nominated Architect: Andres Suarez Ruiz NSWARB 11302 PAA
in collaboration with Furio Valich - Gordon + Valich Pty Ltd
Document Set ID: 38356648
Version: 1, Version Date: 29/11/2023

REV	DESCRIPTION	DATE
a	GFA and FSR Updated Issue for DA	28-04/2023
b	The builder will check and verify all dimensions and report all errors and omissions to the Architect. Drawing set to be used for construction purposes and issued 20/11/2023. A Studio Architecture Ltd. 2017. All Rights Reserved. Drawing: 20/11/2023. 38356648.000000	31-07/2023

Drawn / Checked Plot Date: Project No. Project Status	ASJ 10/6/2023 2109 Preliminary
Client Site	Mr Mark Blackmore F14 - 1-15 Barr Street Balmain NSW Australia

DRAWING TITLE:	DEVELOPMENT APPLICATION Existing Areas
PROJECT NAME:	F14-1-15 BARR ST BALMAIN

REVISION NO.	B
DRAWING NO.	DA-002



Development Application
not for construction

Drawn / Checked: ASJ Plot Date: 28/4/2023 Project No: 2109 Project Status: Preliminary	DRAWING TITLE: PLANS Demolition.	REVISION NO: A
Client: Mr Mark Blackmore Climate Zone: Zone 5 Site: F14 1-15 Barr Street Balmain NSW Australia	PROJECT NAME: F14 1-15 BARR ST BALMAIN	DRAWING NO: DA-101

REV	DESCRIPTION	DATE
1	Issue for DA	28.04.2023

Drawing not to be used for construction. Do not scale the drawings use listed dimensions. Drawings Copyright © 2019 Studio Architecture

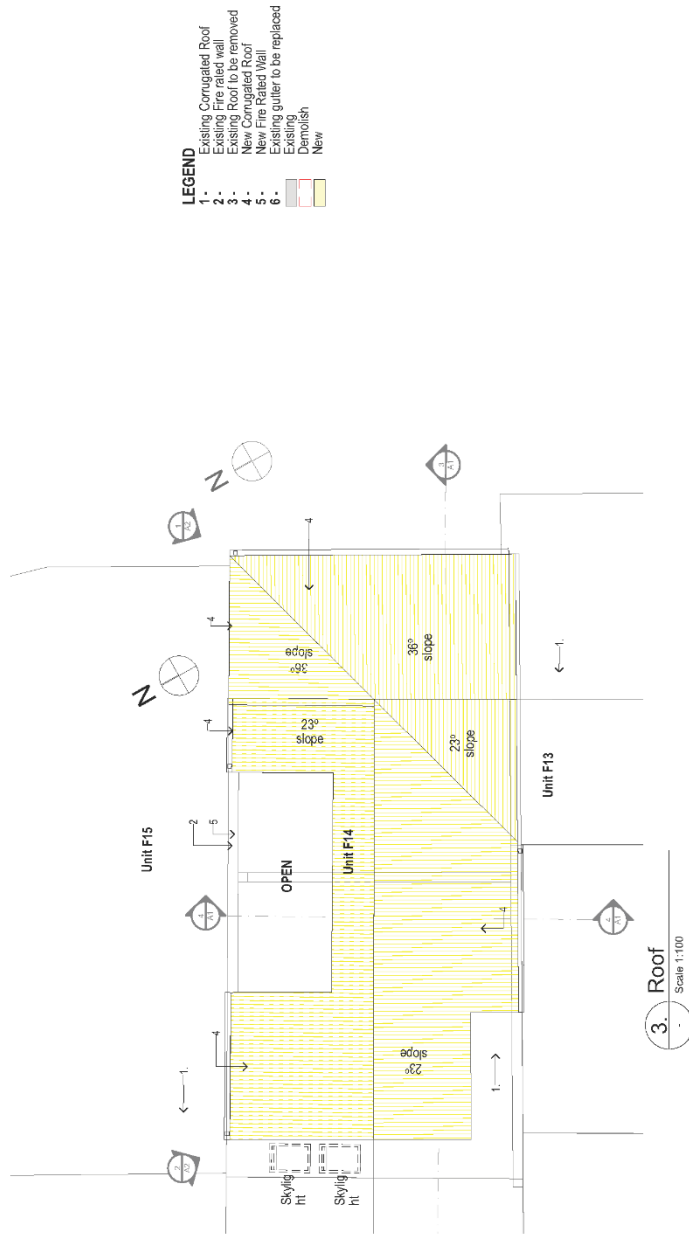
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 Version: 1, Version Date: 28/11/2023



Development Application
not for construction

<p>Drawn Checked AS Pict.Date 28/11/2023 Project No 2109 Project Status Preliminary</p>	<p>REVISION NO. A</p>
<p>Client Mr Mark Blackmore Zone 5 Climate Zone F-14 1-15 Barr Street Balmain NSW Site:</p>	<p>DRAWING TITLE : PLANS Floor Plans</p>
<p>Issue for DA DATE 28.02.2023</p>	<p>PROJECT NAME : F14 1-15 BARR ST BALMAIN</p>
<p>REV DESCRIPTION Drawn not to be used for construction purposes until issued under Contract. Do not reuse the drawings as figured dimensions. Copyright 2018 Dorcas Villa Architecture</p>	<p>DRAWING NO. DA-102</p>

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 Version: 1, Version Date: 29/11/2023



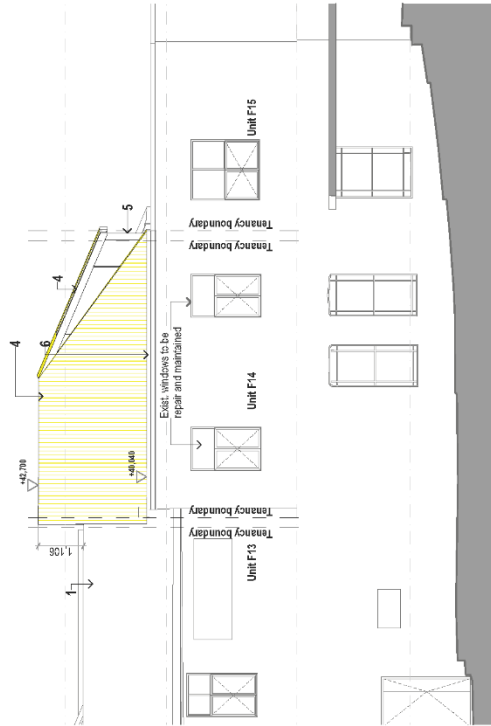
- LEGEND**
- 1. Existing Corrugated Roof
 - 2. Existing Fire rated wall
 - 3. Existing Roof to be removed
 - 4. New Corrugated Roof
 - 5. New Fire Rated Wall
 - 6. Existing gutter to be replaced
- Existing
Demolish
New

Development Application

not for construction

Drawn Checked AS Project NO. 2023 Project NO. 2109 Project Status Preliminary	DRAWING TITLE : PLANS Roof Plan	REVISION NO. A	DRAWING NO. DA-103
Client Mr Mark Blackmore Site F14, 1-15 Barr Street Balmain NSW Australia	PROJECT NAME : F14 1-15 BARR ST BALMAIN		
Drawn Checked AS Project NO. 2023 Project NO. 2109 Project Status Preliminary	Client Mr Mark Blackmore Site F14, 1-15 Barr Street Balmain NSW Australia	DATE 29-04-2023	This drawing is for DA only and does not constitute a contract. It is for information only and is not to be used for construction purposes. It is subject to change without notice. It is not to be used for any other purpose.
A Studio Architecture Pty Ltd 28 Cleveland Street, Surry Hills NSW 2010 - Australia - m. +614 5055 2453 www.AStudioArchitecture.com.au	Nominated Architect: Andres Suarez Ruiz NSW ARBN 11302 RAA in collaboration with Furio Valich - Gordon + Valich Pty Ltd	Document Set ID: 38356548 Version: 1, Version Date: 29/11/2023	

- LEGEND**
- 1- Existing Corrugated Roof
 - 2- Existing Fire rated wall
 - 3- Existing Roof to be removed
 - 4- New Corrugated Roof
 - 5- New Fire Rated Wall
 - 6- Existing gutter to be replaced
 - Existing
 - Demolish
 - New

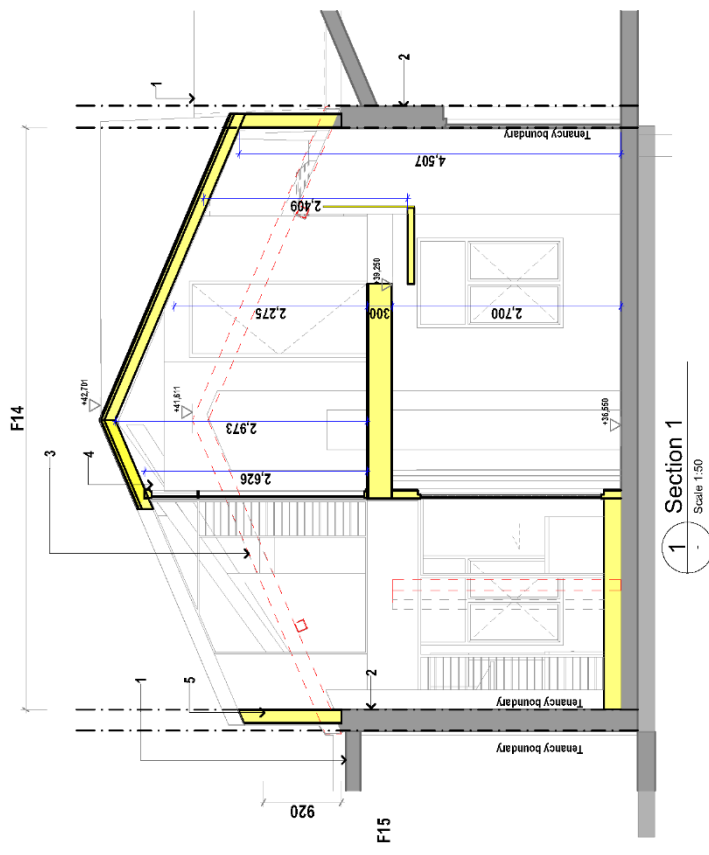
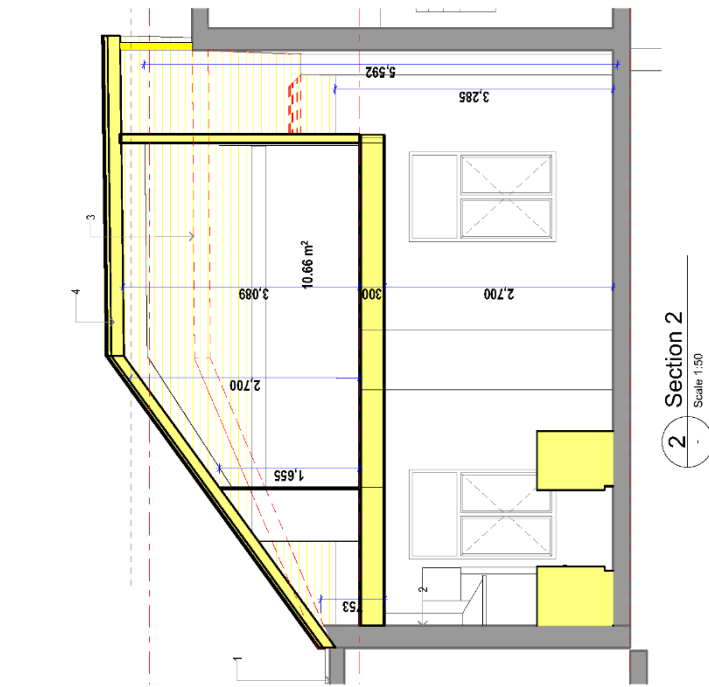


1 Elevation - Little Theodore street
Scale 1:100

Development Application
not for construction

<p>Drawn: Cheekes AS Proj Date: 28/11/2023 Project NO: 2109 Project Status: Preliminary</p>	<p>REVISION NO: A</p>
<p>Issue for DA REV DESCRIPTION a The historical photos and verify all dimensions and report all errors and omissions to the Architect. Note the drawings are signed & stamped. Copyright © 2018 Gordon Valtch Architecture</p>	<p>DATE 28-11-2023</p>
<p>Client: Mr Mark Blackmore Zone S Site: F14 1-15 Barr Street Balmain NSW Australia</p>	<p>DRAWING TITLE: ELEVATIONS South-East Elevation</p>
<p>28 Cleveland Street, Surry Hills NSW 2010 - Australia - m. +614 5055 2453 www.AStudioArchitecture.com.au</p> <p>Nominated Architect: Andres Suarez Ruiz NSW ARBN 11302 RA/A in collaboration with Furo Valtch - Gordon + Valtch Pty Ltd</p> <p>Document Set ID: 33396648 Version: 1, Version Date: 29/11/2023</p>	<p>PROJECT NAME: F14 1-15 BARR ST BALMAIN</p> <p>DRAWING NO. DA-301</p>

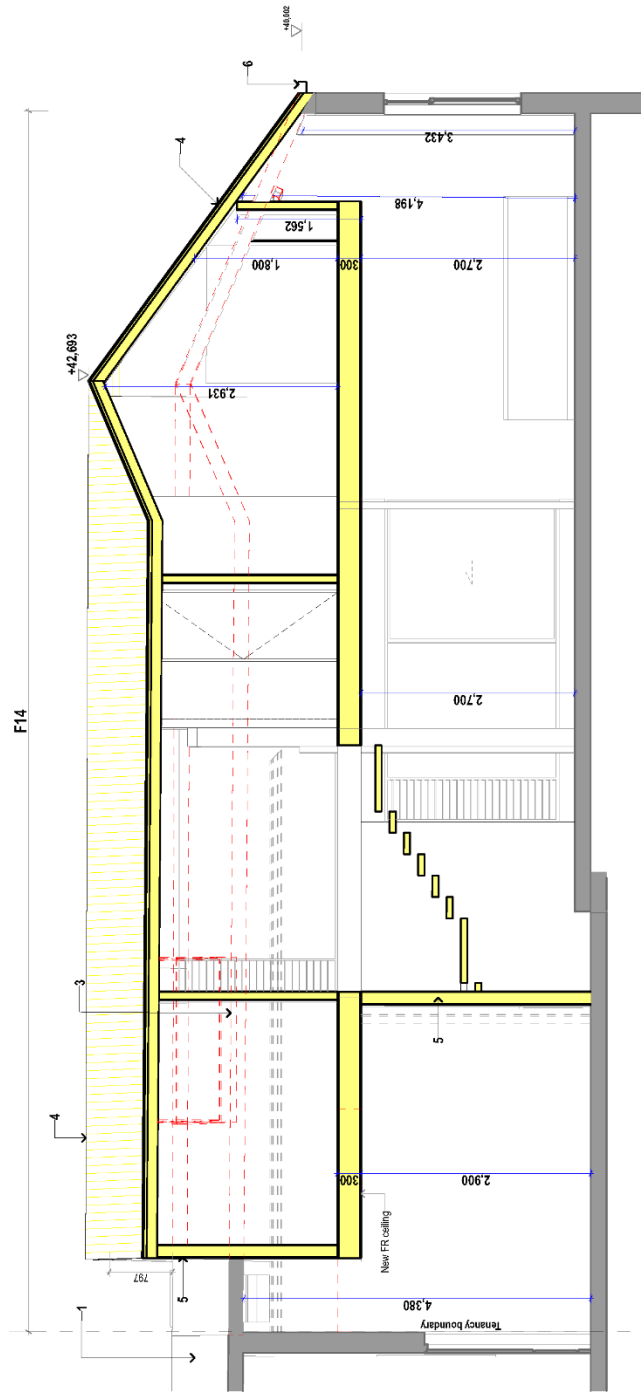
- LEGEND**
- 1- Existing Corrugated Roof
 - 2- Existing Fire Riser Wall
 - 3- Existing Roof to be removed
 - 4- New Corrugated Roof
 - 5- New Fire Riser Wall
 - 6- Existing gutter to be replaced
- Existing
 Demolish
 New



Development Application
not for construction

<p>Drawn Checked AS Plot Date: 28/4/2023 Project No: 106 Project Status: Preliminary</p>	<p>SECTIONS Sec. 1 & 2</p>	<p>REVISION NO. A</p>
<p>Client: Mr Mark Blackmore Climate Zone: Zone 5 Site: F-14 1-15 Barr Street Balmain NSW Australia</p>	<p>PROJECT NAME: F14-1-15 BARR ST BALMAIN</p>	<p>DRAWING NO. DA-401</p>
<p>Issue for DA REV DESCRIPTION 08/12/2023 DATE This drawing is for DA purposes only. It is not to be used for construction purposes and is issued under 'Development' DA status. All dimensions are in millimeters unless otherwise stated. Drawings are the property of A Studio Architecture and shall remain the property of A Studio Architecture.</p>	<p>A Studio Architecture A_Studio_Architecture Pty Ltd 28 Cleveland Street, Surry Hills NSW 2010 - Australia - m. +614 5055 2453 www.AStudioArchitecture.com.au Nominated Architect: Andres Suarez Ruiz NSW ARBN 11302 RAlA in collaboration with Furro Valich - Gordon + Valich Pty Ltd Document Set ID: 35398648 Version: 1, Version Date: 29/11/2023</p>	

- LEGEND**
- 1. Existing Corrugated Roof
 - 2. Existing Fire rated wall
 - 3. Existing Roof to be removed
 - 4. New Corrugated Roof
 - 5. New Fire Rated Wall
 - 6. Existing gutter to be replaced
- Existing
 Demolish
 New



1 Section 3
Scale: 1:50

Development Application
not for construction

<p>Drawn / Checked: AS / 26/4/2023 Project NO.: 2109 Project Status: Preliminary</p> <p>Client: Mr Mark Blackmore Zone 5 Climate Zone: F14, 1-15 Barr Street Balmain NSW Site: Australia</p>	<p>REVISION NO. A</p> <p>DRAWING NO. DA-402</p>
<p>Drawn / Checked: AS / 26/4/2023 Project NO.: 2109 Project Status: Preliminary</p> <p>Client: Mr Mark Blackmore Zone 5 Climate Zone: F14, 1-15 Barr Street Balmain NSW Site: Australia</p>	<p>REVISION NO. A</p> <p>DRAWING NO. DA-402</p>
<p>DATE: 26-04-2023</p>	
<p>Issue for DA</p>	
<p>REV DESCRIPTION</p> <p>The subject of this document is a development application for a residential building. The drawing set is for a development application for a residential building. The drawing set is for a development application for a residential building.</p>	
<p>A Studio Architecture A_Studio_Architecture Pty Ltd 28 Cleveland Street, Surry Hills NSW 2010 - Australia - m. +614 5055 2453 www.AStudioArchitecture.com.au Nominated Architect: Andres Suarez Ruiz NSW ARBN 11302 RAIA in collaboration with Furio Valich - Gordon + Valich Pty Ltd</p>	
<p>Document Set ID: 33356546 Version: 1, Version Date: 29/11/2023</p>	



Single Dwelling

Certificate number: 1312700S

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Definitions" dated 10/09/2020 published by the Department. This document is available at www.basix.nsw.gov.au

Secretary
 Date of issue: Saturday, 20 May 2023
 To be valid, this certificate must be lodged within 3 months of the date of issue.



Project summary	
Project name	F14 1-15 Barr Street, Balmain
Street address	1-15 BARR STREET BALMAIN 2041
Local Government Area	Inner West Council
Plan type and plan number	strata 54646
Lot no.	29
Section no.	-
Project type	unit
No. of bedrooms	2
Project score	
Water	✓ 42 Target 40
Thermal Comfort	✓ Pass Target Pass
Energy	✓ 57 Target 50

Certificate Prepared by	
Name / Company Name:	A Studio Architecture
ABN (if applicable):	653454203

Description of project

Project address	
Project name	F14 1-15 Barr Street, Balmain
Street address	1-15 BARR STREET BALMAIN 2041
Local Government Area	Inner West Council
Plan type and plan number	Strata Plan 54646
Lot no.	29
Section no.	-
Project type	
Project type	unit
No. of bedrooms	2
Site details	
Site area (m ²)	134
Roof area (m ²)	98
Conditioned floor area (m ²)	126.4
Unconditioned floor area (m ²)	8.0
Total area of garden and lawn (m ²)	0

Assessor details and thermal loads	
Assessor number	n/a
Certificate number	n/a
Climate zone	n/a
Area adjusted cooling load (MJ/m ² .year)	n/a
Area adjusted heating load (MJ/m ² .year)	n/a
Ceiling fan in at least one bedroom	n/a
Ceiling fan in at least one living room or other conditioned area	n/a
Project score	
Water	42 ✔ Target 40
Thermal Comfort	Pass ✔ Target Pass
Energy	57 ✔ Target 50

Schedule of BASIX commitments

The commitments set out below regulate how the proposed development is to be carried out. It is a condition of any development consent granted, or complying development certificate issued, for the proposed development, that BASIX commitments be complied with.

Water Commitments	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
Fixtures			
The applicant must install showerheads with a minimum rating of 4 star (> 4.5 but <= 6 L/min plus spray force and/or coverage tests) in all showers in the development.		✔	✔
The applicant must install a toilet flushing system with a minimum rating of 5 star in each toilet in the development.		✔	✔
The applicant must install taps with a minimum rating of 5 star in the kitchen in the development.		✔	
The applicant must install basin taps with a minimum rating of 5 star in each bathroom in the development.		✔	

Thermal Comfort Commitments				
General features	Show on DA plans	Show on CC/GDC plans & specs	Certifier check	
The dwelling must not have more than 2 storeys.	✓		✓	
The conditioned floor area of the dwelling must not exceed 300 square metres.	✓		✓	
The dwelling must not contain open mezzanine area exceeding 25 square metres.	✓		✓	
The dwelling must not contain third level habitable attic room.	✓		✓	
Floor, walls and ceiling/roof				
The applicant must construct the floor(s), walls, and ceiling/roof of the dwelling in accordance with the specifications listed in the table below.				
Construction	Additional insulation required (R-Value)	Other specifications		
floor - above habitable rooms or mezzanine, concrete	nil			
external wall - cavity brick	0.50 (or 1.17 including construction)			
external wall - cavity brick	0.50 (or 1.17 including construction)			
external wall - cavity brick	0.50 (or 1.17 including construction)			
ceiling and roof - raked ceiling / pitched or skillion roof, framed	ceiling: 4.5 (up), roof: foil/sarking	framed; light (solar absorptance < 0.475)		
Note	• Insulation specified in this Certificate must be installed in accordance with Part 3.12.1.1 of the Building Code of Australia.			
Note	• In some climate zones, insulation should be installed with due consideration of condensation and associated interaction with adjoining building materials.			

Thermal Comfort Commitments			
Windows, glazed doors and skylights	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
<p>The applicant must install the windows, glazed doors and shading devices described in the table below, in accordance with the specifications listed in the table. Relevant overshadowing specifications must be satisfied for each window and glazed door.</p> <p>The dwelling may have 1 skylight (<0.7 square metres) which is not listed in the table.</p> <p>The following requirements must also be satisfied in relation to each window and glazed door:</p> <ul style="list-style-type: none"> For the following glass and frame types, the certifier check can be performed by visual inspection. <ul style="list-style-type: none"> - Aluminium single clear - Aluminium double (air) clear - Timber/UPVC/fibreglass single clear - Timber/UPVC/fibreglass double (air) clear For other glass or frame types, each window and glazed door must be accompanied with certification showing a U value no greater than that listed and a Solar Heat Gain Coefficient (SHGC) within the range of those listed. Total system U values and SHGC must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions. Frame and glass types shown in the table below are for reference only. Pergolas with polycarbonate roof or similar translucent material must have a shading coefficient of less than 0.35. Vertical external louvres and blinds must fully shade the window or glazed door beside which they are situated when fully drawn or closed. Unless they have adjustable shading, pergolas must have fixed battens parallel to the window or glazed door above which they are situated, unless the pergola also shades a perpendicular window. The spacing between battens must not exceed the height of the battens. Overshadowing buildings/vegetation must be of the height and distance from the centre and the base of the window and glazed door, as specified in the 'overshadowing' column. <p>The applicant must install the skylights described in the table below, in accordance with the specifications listed in the table. Total skylight area must not exceed 3 square metres (the 3 square metre limit does not include the optional additional skylight of less than 0.7 square metres that does not have to be listed in the table).</p>	<p>✓</p> <p>✓</p> <p>✓</p>	<p>✓</p> <p>✓</p> <p>✓</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>

Skylight no.	Maximum area (square metres)	Type	Shading device
S01	0.60	timber, low-E/double/argon fill	no shading
S02	0.60	timber, low-E/double/argon fill	no shading

Window/glazed door no.	Maximum height (mm)	Maximum width (mm)	Type	Shading Device (Dimension within 10%)	Overshadowing
North-East facing					
W01	2400	550	U-value: 5.6, SHGC: 0.369 - 0.451 (aluminium, single, Lo-Tsol Low-e)	pergola (fixed battens) 600 mm, 0 mm above head of window or glazed door	2-4 m high, 2-5 m away
W02	2400	500	U-value: 5.6, SHGC: 0.369 - 0.451 (aluminium, single, Lo-Tsol Low-e)	pergola (fixed battens) 600 mm, 0 mm above head of window or glazed door	2-4 m high, 2-5 m away
W03	2400	600	U-value: 5.6, SHGC: 0.369 - 0.451 (aluminium, single, Lo-Tsol Low-e)	pergola (fixed battens) 600 mm, 0 mm above head of window or glazed door	2-4 m high, 2-5 m away
W10	2400	2700	U-value: 5.6, SHGC: 0.369 - 0.451 (aluminium, single, Lo-Tsol Low-e)	pergola (fixed battens) 600 mm, 0 mm above head of window or glazed door	2-4 m high, 2-5 m away
W11	2400	300	U-value: 5.6, SHGC: 0.369 - 0.451 (aluminium, single, Lo-Tsol Low-e)	pergola (fixed battens) 600 mm, 0 mm above head of window or glazed door	2-4 m high, 2-5 m away
W12	2600	400	U-value: 5.6, SHGC: 0.369 - 0.451 (aluminium, single, Lo-Tsol Low-e)	pergola (fixed battens) 600 mm, 0 mm above head of window or glazed door	2-4 m high, 2-5 m away
W13	2600	3000	U-value: 5.6, SHGC: 0.369 - 0.451 (aluminium, single, Lo-Tsol Low-e)	pergola (fixed battens) 600 mm, 0 mm above head of window or glazed door	2-4 m high, 2-5 m away
W14	2600	400	U-value: 5.6, SHGC: 0.369 - 0.451 (aluminium, single, Lo-Tsol Low-e)	pergola (fixed battens) 600 mm, 0 mm above head of window or glazed door	2-4 m high, 2-5 m away
W17	2600	1300	U-value: 5.6, SHGC: 0.369 - 0.451 (aluminium, single, Lo-Tsol Low-e)	pergola (fixed battens) 600 mm, 0 mm above head of window or glazed door	2-4 m high, 2-5 m away
South-East facing					

Window/glazed door no.	Maximum height (mm)	Maximum width (mm)	Type	Shading Device (Dimension within 10%)	Overshadowing
W04	1730	1060	aluminium, double (air), clear	none	not overshadowed
W05	1730	1060	aluminium, double (air), clear	none	not overshadowed
W06	1600	1600	aluminium, double (air), clear	none	2-4 m high, 5-8 m away
W07	2100	850	U-value: 5.6, SHGC: 0.324 - 0.396 (aluminium, single, Lo-Tsol Low-e)	none	not overshadowed
W15	2100	400	U-value: 5.6, SHGC: 0.369 - 0.451 (aluminium, single, Lo-Tsol Low-e)	none	not overshadowed
W16	1700	1150	U-value: 5.6, SHGC: 0.369 - 0.451 (aluminium, single, Lo-Tsol Low-e)	none	not overshadowed
North-West facing					
W08	2400	1800	U-value: 5.6, SHGC: 0.369 - 0.451 (aluminium, single, Lo-Tsol Low-e)	external louvre/vertical blind (adjustable)	2-4 m high, 5-8 m away
W09	2400	700	U-value: 5.6, SHGC: 0.369 - 0.451 (aluminium, single, Lo-Tsol Low-e)	external louvre/vertical blind (adjustable)	2-4 m high, 5-8 m away
W18	2600	700	U-value: 5.6, SHGC: 0.369 - 0.451 (aluminium, single, Lo-Tsol Low-e)	external louvre/vertical blind (adjustable)	not overshadowed
W19	2600	1800	U-value: 5.6, SHGC: 0.369 - 0.451 (aluminium, single, Lo-Tsol Low-e)	external louvre/vertical blind (adjustable)	not overshadowed

Energy Commitments	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
Hot water	✓	✓	✓
The applicant must install the following hot water system in the development, or a system with a higher energy rating: solar (electric boosted) with a performance of more than 45 STCs.			
Cooling system			
The applicant must install the following cooling system, or a system with a higher energy rating, in at least 1 living area: ceiling fans; Energy rating: n/a		✓	✓
The applicant must install the following cooling system, or a system with a higher energy rating, in at least 1 bedroom: ceiling fans; Energy rating: n/a		✓	✓
Heating system			
The applicant must install the following heating system, or a system with a higher energy rating, in at least 1 living area: 1-phase airconditioning; Energy rating: EER > 4.0		✓	✓
The applicant must install the following heating system, or a system with a higher energy rating, in at least 1 bedroom: 1-phase airconditioning; Energy rating: EER > 4.0		✓	✓
Ventilation			
The applicant must install the following exhaust systems in the development:			
At least 1 Bathroom: individual fan, ducted to façade or roof; Operation control: manual switch on/off		✓	✓
Kitchen: individual fan, ducted to façade or roof; Operation control: manual switch on/off		✓	✓
Laundry: individual fan, ducted to façade or roof; Operation control: manual on / timer off		✓	✓
Artificial lighting			
The applicant must ensure that the "primary type of artificial lighting" is fluorescent or light emitting diode (LED) lighting in each of the following rooms, and where the word "dedicated" appears, the fittings for those lights must only be capable of accepting fluorescent or light emitting diode (LED) lamps:			
• at least 2 of the bedrooms / study, dedicated		✓	✓
• at least 3 of the living / dining rooms; dedicated		✓	✓
• the kitchen; dedicated		✓	✓

Energy Commitments	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
<ul style="list-style-type: none"> all bathrooms/toilets; dedicated all hallways; dedicated 		<ul style="list-style-type: none"> ✓ ✓ 	<ul style="list-style-type: none"> ✓ ✓
Natural lighting			
The applicant must install a window and/or sky/light in the kitchen of the dwelling for natural lighting.	✓	✓	✓
The applicant must install a window and/or sky/light in 2 bathroom(s)/toilet(s) in the development for natural lighting.	✓	✓	✓
Alternative energy			
The applicant must install a photovoltaic system with the capacity to generate at least 0.3 peak kilowatts of electricity as part of the development. The applicant must connect this system to the development's electrical system.	✓	✓	✓
Other			
The applicant must install a gas cooktop & electric oven in the kitchen of the dwelling.		✓	
The applicant must construct each refrigerator space in the development so that it is "well ventilated", as defined in the BASIX definitions.		✓	
The applicant must install a fixed outdoor clothes drying line as part of the development.		✓	

Legend

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

Commitments identified with a ✓ in the "Show on DA plans" column must be shown on the plans accompanying the development application for the proposed development (if a development application is to be lodged for the proposed development).

Commitments identified with a ✓ in the "Show on CC/CDC plans and specs" column must be shown in the plans and specifications accompanying the application for a construction certificate / complying development certificate for the proposed development.

Commitments identified with a ✓ in the "Certifier check" column must be certified by a certifying authority as having been fulfilled, before a final occupation certificate (either interim or final) for the development may be issued.

FLY ENGINEERING Pty Ltd, Consulting Engineers ABN 73 160 552 170
Suite 4, 264 Peats Ferry Rd, Hornsby NSW 2077
T 61 2 9446 3202 info@flyengineering.com.au
www.flyengineering.com.au



8th March 2023

Our Ref: C221237-001

Mark Blackmore
A Studio Architecture Pty. Ltd.
528 Cleveland Street,
Surry Hills, NSW
Attn: ANDRES SUAREZ RUIZ

Dear Sir,

**RE: PROPOSED ALTERATIONS AND ADDITIONS
AT F14 1-15 BARR ST, BALMAIN, NSW
STORM WATER DESIGN CERTIFICATE**

We certify that the following drawings for the above development have been designed and documented by us to comply with AS3500.3 Australian Standards and relevant Council DCP. In particular, the proposed courtyard drainage system complies with the requirements of Leichhardt DCP2013 Part E (Water).

Drawing list:

- 221237 C1.00 R2
- 221237 C2.00 R2, and
- 221237 C3.00 R2

Yours faithfully,

A handwritten signature in black ink, appearing to read "Blake Gao".

Blake Gao
MIEAust, CPEng, NPER

For and on behalf of
FLY ENGINEERING Pty Ltd

PROPOSED ALTERATIONS AND ADDITIONS F14 1-15 BARR ST, BALMAIN, NSW

GENERAL NOTES:

1. MAIN STORMWATER DRAINS > 300mm DIAMETER SHALL FALL AS NOTED. HOWEVER, ALL OTHER BRANCH DRAINS SHALL HAVE A MINIMUM GRADE OF 1%.
2. STORMWATER DRAINS SHALL BE RUBBER RING JOINTED PFC CLASS 2) OR RCP OF EQUIVALENT CLASS. PIPES OF SIZE LESS THAN 300mm SHALL BE DWY GRADE PVC WITH SOLVENT CEMENT JOINTS.
3. STORMWATER PIT LIDS LOCATED IN DRIVEWAY AREAS SHALL BE EQUAL TO C14 D CAST IRON GRATES AND FRAMES - CLASS D.
4. STORMWATER PIT LIDS TO LANDSCAPED AND PEDESTRIAN AREAS SHALL BE EQUAL TO C14 D CAST IRON GRATES AND FRAMES - CLASS A.
5. ALL WORKS SHALL BE CARRIED OUT TO THE REQUIREMENTS OF THE RELEVANT COUNCIL / AUTHORITY, AS 3800.3, AS 2032, AS 2886 AND AS 3723.
6. AT THE COMPLETION OF THE WORKS PROVIDE A 'WORK AS EXECUTED' PLAN OF THE STORMWATER DRAINAGE AND DETENTION SYSTEMS. THIS PLAN MUST SHOW ALL PRE SIZES, INVERTS, PIT COVERS AND BASE LEVELS AND ALL DETENTION TANK DIMENSIONS, SURFACE LEVELS AND THE ORIFICE PLATE SIZE (IF APPLICABLE).
7. PITS SHALL BE C14 D PRECAST CONCRETE OR APPROVED EQUAL WITH EXTENSION RISERS AS REQUIRED. PITS SHALL BE BEDDED ON A MINIMUM OF 100mm SAND AND 200mm THICK COMPACTED LAYERS TO EXCAVATED MATERIAL IN 200mm THICK COMPACTED LAYERS TO FINISHED SURFACE LEVEL.
8. COVERS TO PITS LOCATED WITHIN PAVED AREAS SHALL BE CAST IN WITH THE CONCRETE POUR. ALL OTHER PIT COVERS SHALL BE PROVIDED WITH A 150mm CONCRETE SURROUND.
9. PROVIDE TO EACH STORMWATER PIT A 1m LONG SECTION OF SUB-SOIL DRAINAGE, Ø75mm WITH GEOTEXTILE LAID WITHIN THE UPSTREAM TRENCH.
10. PROVIDE 25mm DIAMETER GALVANIZED STEP-IRONS AT INTERVALS OF 100mm WHERE THE INTERNAL DEPTH OF THE PIT EXCEEDS 1000mm, TO IS 116.
11. RETENTION TANK TO BE CLEANED & ALL SLUDGE REMOVED ON AN ANNUAL INSPECTION.
12. IT IS THE CONTRACTORS RESPONSIBILITY TO LOCATE THE POSITION & LEVEL OF ALL EXISTING SERVICES PRIOR TO THE COMMENCEMENT OF ANY EARTHWORKS.
13. LOCATION OF DOWNPIPES & FLOOR WASTES ARE INDICATIVE ONLY. DOWNPIPE & FLOOR WASTE SIZE, LOCATION & QUANTITY TO BE DETERMINED BY BUILDER & IN ACCORDANCE WITH RELEVANT AUSTRALIAN STANDARDS.
14. THE GRATES (HEAVY DUTY IN THE DRIVEWAYS) SHALL BE HINGED AND LOCKABLE.
15. THE PLANS SHALL INDICATE THAT DRIVEWAYS AND LAYBACKS MUST BE CONSTRUCTED AT LEAST 1METRE CLEAR OF STORMWATER PIT/OUTLETS, TREES, TELSTRA PITS AND EXISTING POWER POLES.

SITING NOTES:

1. REFER TO ENGINEER ANY SERVICES THAT INTERFERE WITH THE REQUIREMENTS OF THESE PLANS.
2. DATUM A.H.D.
3. ORIGIN OF LEVELS. REFER TO BENCH OR STATE SURVEY MARKS WHERE SHOWN ON PLAN.
4. CONTRACTOR MUST VERIFY ALL DIMENSIONS AND EXISTING LEVELS ON SITE PRIOR TO COMMENCEMENT OF WORK.
5. ALL WORKS TO BE UNDERTAKEN IN ACCORDANCE WITH THE DETAILS SHOWN ON THE DRAWINGS & THE DIRECTIONS OF THE SUPERINTENDENT.
6. EXISTING SERVICES UNLESS SHOWN ON SURVEY PLAN HAVE BEEN PLOTTED FROM SERVICES SEARCH PLANS AND AS SUCH THEIR ACCURACY CANNOT BE GUARANTEED. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO ESTABLISH THE LOCATION AND LEVEL OF ALL EXISTING SERVICES PRIOR TO THE COMMENCEMENT OF ANY WORK. ANY DISCREPANCIES SHALL BE REPORTED TO THE SUPERINTENDENT. DIMENSIONS SHALL BE OBTAINED FROM THE RELEVANT SERVICE AUTHORITY.
7. WHERE NEW WORKS ABUT EXISTING THE CONTRACTOR SHALL ENSURE THAT A SMOOTH EVEN PROFILE, FREE FROM ABRUPT CHANGES IS ACHIEVED.
8. THE CONTRACTOR SHALL ARRANGE ALL SURVEY SETOUT TO BE CARRIED OUT BY A REGISTERED SURVEYOR.
9. CARE IS TO BE TAKEN WHEN EXCAVATING NEAR EXISTING SERVICES. NO MECHANICAL EXCAVATION IS TO BE UNDERTAKEN OVER TELSTRA OR ELECTRICAL SERVICES. HAND EXCAVATE IN THESE AREAS.
10. CONTRACTOR TO OBTAIN AUTHORITY APPROVALS WHERE APPLICABLE.
11. MAKE SMOOTH TRANSITION NEW TO EXISTING SURFACES AND MAKE GOOD AS APPLICABLE.
12. THESE PLANS SHALL BE READ IN CONJUNCTION WITH APPROVED LANDSCAPE ARCHITECTURAL, STRUCTURAL, HYDRAULIC AND MECHANICAL DRAWINGS AND SPECIFICATIONS OR WRITTEN INSTRUCTIONS THAT MAY BE ISSUED RELATING TO DEVELOPMENT AT THE SITE BY THE SUPERINTENDENT.
13. TRENCHES THROUGH EXISTING ROAD AND CONCRETE PAVEMENTS SHALL BE SAWN OUT TO FULL DEPTH OF CONCRETE AND A MINIMUM OF 50mm IN BITUMINOUS PAVING.
14. ALL BRANCH GAS AND WATER SERVICES UNDER DRIVEWAYS AND BRICK PAVING SHALL BE LOCATED IN 800UPVC SEWER GRADE CONDUITS EXTENDING A MINIMUM OF 500mm BEYOND EDGE OF PAVING.
15. GRADES TO PAVEMENTS TO BE AS INDICATED ON PLAN. GRADE EVENLY BETWEEN NOMINATED R.L.S. AREAS EXHIBITING PONDING GREATER THAN 5mm DEPTH WILL NOT BE ACCEPTED UNLESS IN A DESIGNATED SAG DRAINAGE LOCATION.

EROSION CONTROL NOTES:

1. ALL EROSION & SEDIMENT CONTROL MEASURES ARE TO BE INSTALLED AND MAINTAINED IN ACCORDANCE WITH MANAGING URBAN STORMWATER, 4th EDITION PRODUCED BY LANDCORN.
2. PRIORITY TO THE COMMENCEMENT OF ANY CONSTRUCTION WORKS, AND ALL SILT TRAPS ARE TO HAVE DEPOSITED SILT REMOVED REGULARLY DURING CONSTRUCTION.
3. ALL TREES ARE TO BE PRESERVED UNLESS INDICATED OTHERWISE. EXISTING GRASS COVERS SHALL BE MAINTAINED EXCEPT IN AREAS CLEARED FOR BUILDINGS, PAVEMENTS ETC.
4. INSTALL TEMPORARY SEDIMENT BARRIERS TO ALL INLET PITS LIKELY TO COLLECT SILT LAIDEN WATER.

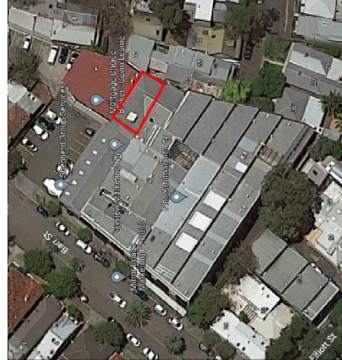
REQUIREMENTS FOR CHARGED PIPE SYSTEMS FOR ROOF SYSTEMS:

- (A) THE GAVE GUTTER LEVEL SHALL BE A MINIMUM OF 60mm PREFERABLY 150mm ABOVE THE HIGHER OF THE TOP OF THE KERB OUTLET OR THE TOP STORAGE LEVEL (E.G. RAINWATER TANK) WHERE THE HEIGHT IS BETWEEN 0.5m AND 1.5m AN ANALYSIS OF HEAD LOSSES SHALL BE PROVIDED.
- (A) REQUIREMENTS FOR CHARGED PIPE SYSTEMS FOR ABOVEGROUND RAINWATER TANKS. THE OVERFLOW FROM THE RAINWATER TANK IS TO BE A MINIMUM OF 0.5m AND PREFERABLY 1.5m ABOVE THE TOP OF THE KERB OUTLET WHERE THE HEIGHT IS BETWEEN 0.5m AND 1.5m AN ANALYSIS OF HEAD LOSSES SHALL BE PROVIDED.
- (B) THE INLET PIPES FROM THE ROOF SYSTEM TO THE RAINWATER TANK SHALL BE INSTALLED THROUGH A CHARGE SYSTEM WHERE A CHARGE SYSTEM IS USED EACH LINE WILL HAVE A CLEAN-OUT PIT.
- (C) FLAP VALVES ARE TO BE INSTALLED ON THE INLET PIPES TO THE RAINWATER TANK FROM THE CHARGED SYSTEM TO MINIMISE MOSQUITO NUISANCE.
- (D) THE DESIGN AND INSTALLATION SHALL COMPLY WITH US 280- RAINWATER TANK DESIGN AND INSTALLATION HANDBOOK.

DRAWING NUMBER	DRAWING SCHEDULE
Z21237 C1.00	GENERAL NOTES AND LOCALITY
Z21237 C2.00	EXISTING SITE PLAN
Z21237 C3.00	STORMWATER DRAINAGE CONCEPT PLAN

CHARGED PIPE SYSTEMS

1. GENERAL REQUIREMENTS FOR CHARGED PIPE SYSTEMS:
 - (A) WHERE THE BOUNDARY LEVEL IS ABOVE ANY KERB WITHIN THE SITE OR A CONDUIT PIPE IS AVAILABLE, THE ROOF WATER IS TO BE DISCHARGED TO THE STREET THROUGH THE COUNCIL SYSTEM VIA A SILL/TILT/TERMINATOR PIT. WHERE A GRAVITY DISCHARGE TO THE COUNCIL SYSTEM IS NOT AVAILABLE THE CHARGED PIPE MAY CONNECT DIRECTLY TO THE KERB.
 - (B) FLAP VALVES ARE TO BE INSTALLED ON THE OUTLET FROM THE CHARGED SYSTEM TO MINIMISE MOSQUITO NUISANCE.
 - (C) THE LOWEST LEVEL OF THE CHARGED SYSTEM SHALL DRAIN BY GRAVITY TO A SMALL INSPECTION PIT (Ø100mm x 800mm MIN) WITH SLUMP FOR CLEANING. THERE SHALL BE A MINIMUM OF ONE METRE OF PIPE FROM THE LAST DOWNPIPE TO THE CHARGED SYSTEM. THE DOWNPIPE SHALL BE A SEALED SCREEN CAP TO ALLOW FOR PERIODIC CLEANING AND REMOVAL OF RUBBISH. THE CAP IS TO HAVE A 5mm DRIBBLE HOLE TO ALLOW TRAPPED WATER TO DISCHARGE SLOWLY. REFER TO CHARGED PIPE CLEAN-OUT PIT DETAIL.
 - (D) ONLY SEWER GRADE PVC OR PRESSURE PIPES ARE TO BE USED TO CONVEY CHARGED FLOW.
 - (E) ALL DOWNPIPES ARE TO BE SEALED TO A MINIMUM OF 150mm ABOVE THE MAXIMUM WATER LEVEL IN THE SYSTEM. THE SYSTEM SHALL BE PRESSURE TESTED PRIOR TO BACKFILLING. THE USE OF EXPOSED PIPELINE SHALL BE MINIMISED.
 - (F) ALL GUTTERS MUST HAVE EDF GUTTER GUARDS INSTALLED AND REGULARLY MAINTAINED TO ENSURE CLEARWAYS OF THE DOWNPIPES TO ENSURE EFFECTIVENESS OF THE SYSTEM.



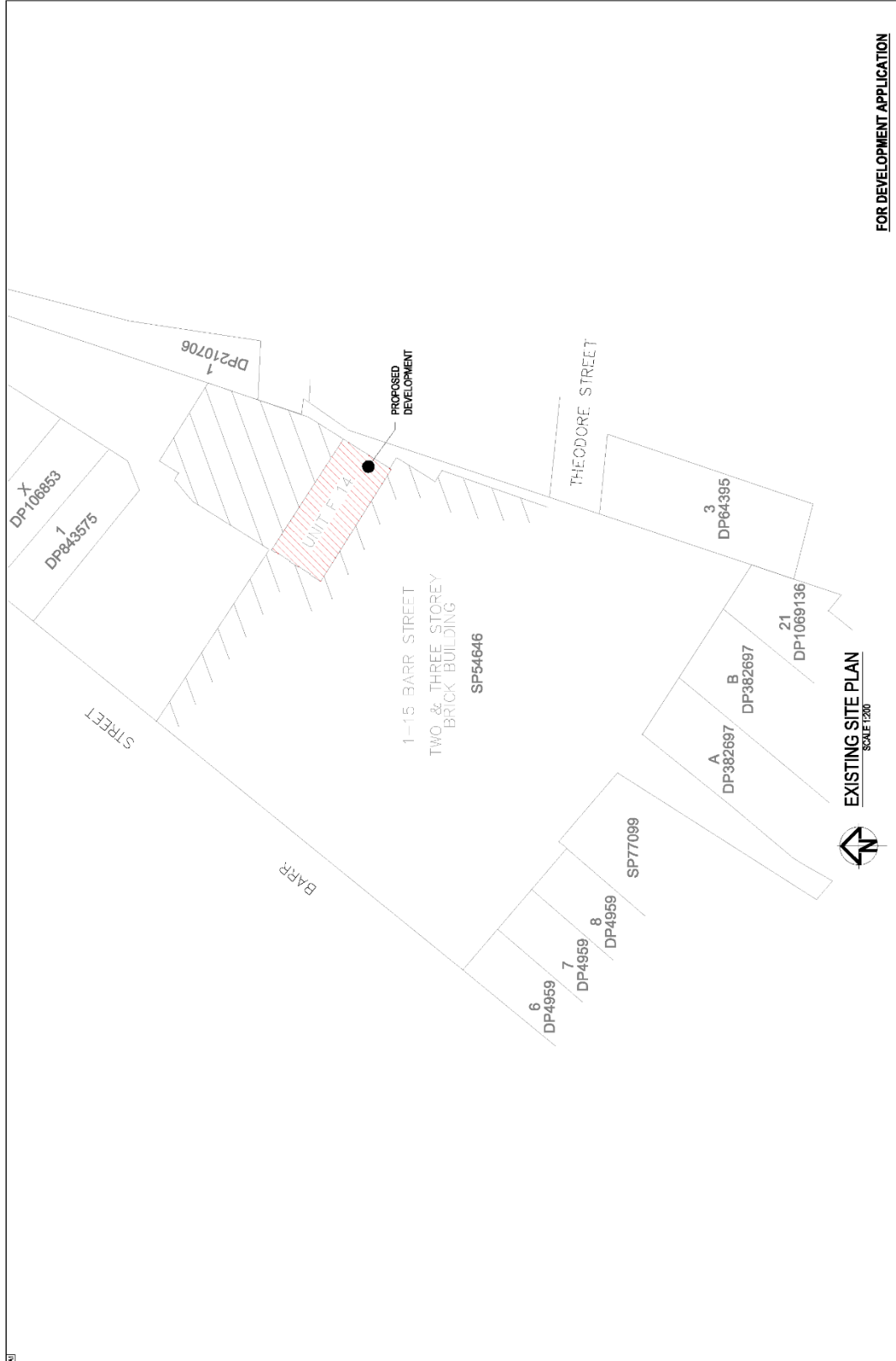
FOR DEVELOPMENT APPLICATION

DRAWING NUMBER		Z21237 C1.00
DRAWING SCHEDULE		GENERAL NOTES AND LOCALITY
DRAWING NUMBER		Z21237 C2.00
DRAWING SCHEDULE		EXISTING SITE PLAN
DRAWING NUMBER		Z21237 C3.00
DRAWING SCHEDULE		STORMWATER DRAINAGE CONCEPT PLAN

DRAWING NUMBER		Z21237 C1.00
DRAWING SCHEDULE		GENERAL NOTES AND LOCALITY

DATE	22 FEBRUARY 2023
PROPOSED ALTERATIONS AND ADDITIONS	F14 1-15 BARR ST, BALMAIN, NSW
CLIENT	FLY ENGINEERING PTY LTD
DESIGNED BY	FLY ENGINEERING PTY LTD
CHECKED BY	FLY ENGINEERING PTY LTD
APPROVED BY	FLY ENGINEERING PTY LTD
DATE	22 FEBRUARY 2023
GENERAL NOTES AND LOCALITY	Z21237 C1.00
SCALE	AS SHOWN

DATE	22 FEBRUARY 2023
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CLIENT	FLY ENGINEERING PTY LTD
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APPROVED BY	FLY ENGINEERING PTY LTD
DATE	22 FEBRUARY 2023
GENERAL NOTES AND LOCALITY	Z21237 C1.00
SCALE	AS SHOWN



EXISTING SITE PLAN
SCALE 1:200

FOR DEVELOPMENT APPLICATION

<p>www.flyengineering.com.au</p> <p>DIAL BEFORE YOU DIG</p>		<p>MR MARK BLACKMORE ARCHITECT</p> <p>A STUDIO ARCHITECTURE The design and development is the property of FLY Engineering Pty Ltd and the design and development is the property of FLY Engineering Pty Ltd.</p>		<p>PROJECT: FLY ENGINEERING PTY LTD PROPOSED ALTERATIONS AND ADDITIONS F14 1-15 BARR ST, BALMAIN, NSW</p>		<p>DATE: FEBRUARY 2023</p>	
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LEGEND

PROPOSED BOUNDARY ——— 25.60

EXISTING CONTOUR ——— 25.50

EXISTING SPOT LEVEL ——— 25.50

1000 DOWNPIPE ——— DP

625 PIPE @ 1% MIN. FALL U.N.O ——— DP

SPS Parapet or Scupper Drains

Specification Codes:

- PD80CS (80mm CI body, 316 SS grate)
- PD90CS (90mm CI body, 316 SS grate)
- PD100CS (100mm CI body, 316 SS grate)
- PD100CA (100mm CI body, aluminium grate)
- PD100CS (100mm CI body, 316 SS grate)

- Body made from hot-dipped galvanneal cast iron
- O-rings available for push-in connection to PVC, copper and 100mm HDPE
- Grates available in aluminium and 316 stainless steel
- Optional bronze and nickel-bronze grates available by special order only

DRAINAGE NOTES:

INNER WEST COUNCIL REQUIRES THE FOLLOWING ALTERATION AND ADDITION OVER EXISTING BUILDING AREAS ARE LESS THAN 400mm.

EXISTING DRAINAGE SYSTEM IS SHOWN INDICATIVELY ON THE PLAN. ACTUAL LOCATION SHALL BE DETERMINED ON SITE.

CUTY CAMERA TEST IS REQUIRED TO BE CARRIED OUT BY LICENSED PLUMBER TO ENSURE THERE IS NO LEAKAGE OR BLOCKAGE INSIDE THE EXISTING DRAINAGE SYSTEM.

STORMWATER DRAINAGE CONCEPT PLAN
SCALE 1:100

STORMWATER DRAINAGE CONCEPT PLAN
SCALE 1:100

ROOF STORMWATER DRAINAGE CONCEPT PLAN
SCALE 1:100

FOR DEVELOPMENT APPLICATION

NO.	DATE	DESCRIPTION
1	22/01/2023	ISSUED FOR DEVELOPMENT APPLICATION
2	22/01/2023	ISSUED FOR DEVELOPMENT APPLICATION

Speciality Plumbing Supplies Pty Ltd
Tel: (02) 9417 1900 Fax: (02) 9417 0108 E-mail: info@spstrains.com.au


MR MARK BLACKMORE
ARCHITECT
AS STUDIO ARCHITECTURE

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Version: 1, Version Date: 09/06/2023

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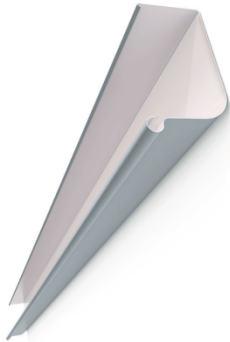

A Studio Architecture
 Nominated Architect - Andres Suarez Ruiz.
 NSW ARBN 11302 RAJA
 andres@astudioarchitecture.com.au

Alterations and additions F14 1-15 Barr Street, Balmain			
Image	Element	Material and brand	Colour.
	Cladding new fire rated wall	Equitone Tectiva Fiber Cement	TE15 Argent Grey
	Roofing	Zincalume 'Custom orb' Corrugated	Zincalume to match existing

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 Version: 1, Version Date: 28/08/2023

A Studio Architecture
 Nominated Architect - Andres Suarez Ruiz.
 NSW ARBN 11302 RA/A
 andres@astudioarchitecture.com.au

Alterations and additions F14 1-15 Barr Street, Balmain			
Image	Element	Material and brand	Colour.
	Gutters	Quad Gutter	Re-use existing
	Internal windows to courtyard	Aluminium	Monument

A Studio Architecture
 Nominated Architect - Andres Suarez Ruiz.
 NSW ARBN 11302 RAIA
 andres@astudioarchitecture.com.au

Alterations and additions F14 1-15 Barr Street, Balmain			
Image	Element	Material and brand	Colour.
	Internal courtyard floor	'Outdure' composite decking and aluminium frame	Colour Storm

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Attachment C- Section 4.6 Exception to FSR Development Standard

Unit F14, 1-15 Barr Street, Balmain

**REQUEST FOR VARIATION TO FLOOR SPACE RATIO OF BUILDINGS
DEVELOPMENT STANDARD PURSUANT TO CLAUSE 4.6(3) OF INNER
WEST LEP 2022**

This Clause 4.6 variation relates to a proposal to carry out alterations and additions to convert the existing commercial unit (F14) to residential, at 1-15 Barr Street, Balmain.

The proposal includes internal configuration of the existing unit at the first-floor level and the addition of a mezzanine level within the unit. The proposal will include a home office, two bedrooms, open living areas and an internal courtyard that opens to the sky. The roof over the existing unit will also be raised by 800mm to increase the ceiling height and improve the internal amenity of the unit. No works are proposed to the common areas of the building.

The proposal results in a non-compliance with clause 4.4 of the *Inner West Local Environmental Plan 2022 (IWLEP)* which relates to floor space ratio (**FSR**). As such, this Clause 4.6 request has been prepared in accordance with Clause 4.6 of the *Inner West Local Environmental Plan 2022*, which applies to the subject site.

The request demonstrates that compliance with the development standard relating to FSR is unreasonable or unnecessary in the circumstances of the case and establishes that there are sufficient environmental planning grounds to justify contravening the development standard, satisfying clause 4.6(3) of the IWLEP.

Based on this Clause 4.6 request, the consent authority can be satisfied that the written request has adequately addressed the matters required to be demonstrated by subclause (3), and that the proposed development will be in the public interest because it is consistent with the objectives of the FSR development standard and the objectives for development within the R1 – General Residential zone under the IWLEP, in which the development is proposed to be carried out.

The nature of the exceedance to the development standard relating to FSR

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is set out below, followed by consideration of the relevant matters in clause 4.6 of the IWLEP.

The NSW Department of Planning, Industry and Environment (DPI&E) provides guidance on how to prepare Clause 4.6 variations; 'Varying development standards: A Guide' (August 2011). This written request to vary the standards is based on the Guide.

Zoning of the site

The zoning of the land is R1 General Residential. The objectives of the R1 zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To 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.*

Clause 4.4 – Floor Space Ratio

The Standard

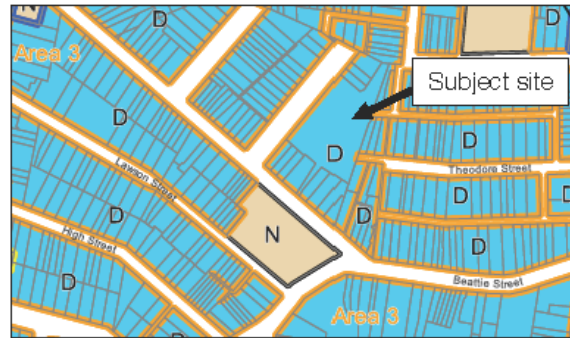
Clause 4.4(2A) of the IWLEP prescribes an FSR of 1:1 for development for a purpose other than residential accommodation on land in Zone R1 General Residential identified as 'Area 1' on the Key Sites Map.

Clause 4.4(2B) of the IWLEP and the associated map prescribe an FSR of 0.7:1 for development for the purposes of residential accommodation which is shown edged orange on the FSR Map.

The existing building on the site was originally constructed for industrial purposes in the late 19th century to early 20th century and later was strata subdivided in 1997 for commercial use. It is only from 2008 have people sought to convert the commercial units to residential. It is worth noting therefore that the existing building on the site which was constructed prior to the adoption of Council's controls, do not comply with the LEP standards.

With reference to Council's recent application D/2019/503 for a similar development, a maximum floor space ratio (FSR) of 0.7:1 (2449.3m²) was adopted for this site (which applies to residential accommodation) and therefore this has been used in this assessment of the residential unit within the primarily commercial building. The site has an area of 3499m² and

existing FSR of 1.225:1 (4288.91m²). The proposal seeks to provide a maximum FSR of 1.235:1 (4323m²), providing a non-compliance with this control. The percentage variation to the existing FSR is 0.79% (34.09m²) whilst the variation to the control is 76.49%.



Extract from FSR Map Sheet 007

	Existing GFA	Proposed GFA
Entire Building (m ²)		
Ground Floor	1844.46	1844.46
First Floor	2256.45	2241.99
Mezzanine	188.00	236.55
TOTAL	4288.91	4323
Unit F14 (m ²)		
First Floor	107	92.54
Mezzanine	0	48.55
TOTAL	107	141.09

The objectives of Clause 4.4

The objectives of Clause 4.4 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.*

Clause 4.6 – Exceptions to Development Standards

Clause 4.6 of the IWLEP allows for exceptions to Development Standards. The objectives of this Clause 4.6 are:

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

Clause 4.6 of the IWLEP allows for exceptions of Development Standards. The objectives of this Clause 4.6 are:

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

Clause 4.6(2) provides the power for development consent to be granted even though the development would contravene a development standard, subject to that clause:

- (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.*

Clause 4.6(3) sets out what a clause 4.6 written request seeking to justify a contravention of a development standard must demonstrate in order for consent to be granted for development that contravenes a development standard:

- (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*

Clause 4.6(4) sets out the matters which a consent authority must be satisfied of in order to grant consent to a development that contravenes a development standard:

- (4) *Consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*

This document constitutes the written request referred to in Clause 4.6(3) in relation to the proposal's breach of the FSR development standard and provides the necessary information for the consent authority to be satisfied of the matters in clause 4.6(4).

The matters required to be demonstrated under clause 4.6(3) are set out below as Points 1 and 2.

1. Clause 4.6(3)(a) - Compliance with the development standard must be unreasonable or unnecessary in the circumstances of the case:

In order to assess whether strict compliance with the development standard is unreasonable or unnecessary, a proposal is considered against the following five ways¹:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard;

¹ see *Wehbe v Pittwater Council* [2007] NSWLEC 827

2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard; or
5. The zoning of particular land was unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to the land.

These five ways were re-emphasised by the Court². Each 'test' offers a potential way of demonstrating that compliance is unnecessary or unreasonable in a particular circumstance³. All tests are separate and not all tests may not be applicable in each case. Therefore, not all tests need to be met.

This objection relies on the first method set out above, that compliance with a standard is unreasonable and unnecessary given that the objectives of the standard are met even though the standard is not complied with⁴. Compliance with the objectives of the height standard is addressed under **Point 4 below**.

The following points are raised:

- Compliance with the development standard is unreasonable and unnecessary. The proposed mezzanine level is entirely within the existing unit and no changes will be made to the wall height or building form, with the exception of a minor section of the roof.
- Modifications to the roof above the existing unit will retain its traditional pitched form however alter its pitch slightly whilst increasing its overall height to 1.106m to improve the internal amenity of the unit. The roof changes will not be visible to the streetscape due to the position of Unit F14 to the rear of the building. The changes to the roof which are the only external components of the development is supported by the Heritage Impact Statement which confirms that the proposal does not affect the original elements of the building (the sawtooth portion of the

² *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386

³ *Mecone Pty Limited v Waverley Council* [2015] NSWLEC 1312

⁴ *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 and *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245

roof remains unchanged). The HIS recognises that the roof will not be visible to Barr Street or Little Theodore Street and that the proposed materials are sympathetic to the Valley Conservation Area.

The proposed changes to the roof will not have a negative impact on solar access to the eastern adjoining dwellings at 35 and 37 Theodore Street. The changes include raising the pitch of the roof to the eastern side and therefore this will have a negligible impact on overshadowing. Shadow diagrams demonstrate that overshadowing will occur to the roof of the adjoining structures only and will not affect the private open space of any adjoining properties.

- The proposal provides adequate internal amenity to the unit via the provision of an internal courtyard that opens to the sky. The open courtyard provides natural ventilation to the unit over both levels. The sunlight access plans provided in Drawing No. DA-501 also demonstrate at least 3 hours of sunlight to a large portion of the living areas of the unit on 21 June.
- A Stormwater Concept Drainage Plan is provided with this application to demonstrate the effective management of stormwater from the subject site.
- The proposal will not alter the existing site coverage or landscape provision within the site.
- No changes are proposed to the window or door openings to the unit. The North East Elevation (Little Theodore Street side) windows will remain the same.
- The proposal does not include any changes to the common property. A BCA Assessment Report has been provided which provides an assessment of the existing building and recommendations for compliance.
- Exceedance of the FSR control will not create additional building bulk that results in unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity and a reduction in this bulk would not create additional benefit for adjoining properties or the locality.
- The proposal complies with the nine SEPP 65 design principles and a Design Verification Statement is provided by a qualified architect. The

proposal is also consistent with the relevant objectives and design criteria of the Apartment Design Guide.

2. Clause 4.6(3)(b) - There are sufficient environmental planning grounds to justify contravening the development standard:

Given the consistency of the proposal against the zone objectives and FSR objectives (see **Point 4 below regarding both**), in my opinion there are sufficient environmental planning grounds to justify contravening the development standard⁵.

The total floor area of the building above the FSR control is:

- 1873.7m² of GFA

The components of Unit F14 proposed that present an increase to the existing GFA are:

- 34.09m² of GFA

The additional FSR breach is a result of a new mezzanine level minus the floor area of the internal courtyard at the first floor. As mentioned above, the mezzanine level will be kept entirely within the existing unit with minimal adverse impacts on the local amenity.

There are sufficient environmental planning grounds which demonstrate that the proposed FSR can be achieved without adverse impacts for the following reasons:

- Overall, the proposed building height and bulk is of an appropriate form and scale and is compatible with existing building, surrounding development and the desired future character for the locality.
- The modification to the roof will keep its traditional pitched form with a slight change to its height and pitch. This will not be visible from the streetscapes and is supported by the Heritage Impact Statement.
- Exceedance of the FSR control will not create additional building bulk that results in unreasonable environmental amenity impacts as follows:
 - The proposal will not result in the loss of views from surrounding development;
 - The proposal will not result in unreasonable overshadowing of adjoining properties due to the scale and location of the roof

⁵ see *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [90]

- alteration to the eastern adjoining dwellings at 35 and 37 Theodore Street (Refer to shadow diagrams). Overshadowing occurs to the roof only and will not affect private open space;
- The proposal will provide a development, which has been designed to ensure that the visual and acoustic privacy of adjoining properties is maintained noting that no changes are proposed to the window or door openings to the unit; and
 - The proposal will provide a development, which is consistent with the scale of the adjoining developments and is of an appropriate visual bulk for the locality.
 - The proposal provides adequate internal amenity to the unit via the provision of an internal courtyard that opens to the sky. The open courtyard provides natural ventilation to the unit over both levels. The sunlight access plans provided in Drawing No. DA-501 also demonstrate at least 3 hours of sunlight to a large portion of the living areas of the unit on 21 June.
 - The proposal will not alter the existing site coverage or landscape provision within the site.
 - The proposal does not include any changes to the common property. A BCA Assessment Report has been provided which provides an assessment of the existing building and recommendations for compliance.
 - The proposal complies with the nine SEPP 65 design principles and a Design Verification Statement is provided by a qualified architect. The proposal is also consistent with the relevant objectives and design criteria of the Apartment Design Guide.

The proposal will provide a suitable design and be of suitable amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act, 1979). The building envelope and design of the proposal responds appropriately to the unique opportunities and constraints of the site.

The lack of impact on adjoining properties in terms of solar access, privacy, view loss and visual bulk also contributes to establishing sufficient planning grounds⁶.

3. Clause 4.6(4)(a)(i) - The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3):

⁶ *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [94(c)] and *Randwick City Council v Micaul Holdings Pty Ltd* at [34]

Based on the above, the written request adequately addresses the matters referred to above by Clause 4.6(3).

4. Clause 4.6(4)(a)(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:

Objectives of Standard

The proposal will be in the public interest as it meets the objectives of the FSR development standard as follows:

Objective (a)

to establish a maximum floor space ratio to enable appropriate development density

Comment: The proposal seeks to change the use of the unit from commercial to residential. The unit will be converted to a two bedroom dwelling which is an appropriate development density, that is consistent with the objectives of the R1 zone.

Objective (b)

to ensure development density reflects its locality

Comment: The proposal will provide a two bedroom dwelling that is compatible with the locality and R1 zone.

Objective (c)

to provide an appropriate transition between development of different densities

Comment: Not applicable.

Objective (d)

to minimise adverse impacts on local amenity

Comment: The proposal does not create adverse impacts on local amenity in terms of overshadowing, views, privacy and the like. No changes are

proposed to the windows and the modification to the roof pitch at the eastern side will not create adverse overshadowing impacts. Due to the location of the site, there will not be any view impacts.

Objective (e)

to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain

Comment: The current site does not contain any landscaping and the proposal does not seek to change this.

Objectives of the Zone

The zoning of the property is R1 General Residential and the objectives of the zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide residential development that maintains the character of built and natural features in the surrounding area.*

The proposal is consistent with the zone objectives, as it will provide for the housing needs of the community without altering the character of the conservation area.

As demonstrated above, the proposed development will be in the public interest because it is consistent with the objectives of the FSR development standard and the objectives of the R1 zone.

The above demonstrates that compliance with the control is unreasonable and unnecessary in the circumstances of this case.

5. Clause 4.6(4)(b) – the concurrence of the Planning Secretary has been obtained

Concurrence of the Planning Secretary is taken to have been obtained as a result of written notice dated 5 May 2020 attached to the Planning Circular PS 20-002.

6. Clause 4.6(5)

In the context of the requirements of Clause 4.6(5), it is considered that no matters of State or regional planning significance are raised by the proposed development. Moreover, it is considered that there would be no public benefit in maintaining the particular planning control in question, in the case of this specific development.

Conclusion

The consistency of the development with the zone objectives and the objectives of the FSR standard together with the absence of adverse impacts arising establish that there are sufficient grounds to support the variation from the development standard and confirm that it is unreasonable and unnecessary for the development to comply. This therefore demonstrates sufficient environmental planning grounds to justify contravening the standard.

In addition, the resultant development will be in the public interest as it complies with the objectives of the zone and the objectives of the development standard.

The proposal is consistent with the objects of Section 1.3 of the EP& A Act, 1979, which are to encourage development that promotes the social and economic welfare of the community and a better environment, to promote and coordinate orderly and economic use and development of land, to promote good design and amenity of the built environment and to protect the heritage of the built environment.

This submission is considered to adequately address the matters required by Clause 4.6 and demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of this case and there are sufficient environmental planning grounds to support the variation.

Based on this Clause 4.6 request, the consent authority can be satisfied that the written request has adequately addressed the matters required to be demonstrated by subclause (3), and that the proposed development will be in the public interest because it is consistent with the objectives of the FSR development standard and the objectives for development within the R1 – General Residential zone under the IWLEP, in which the development is proposed to be carried out.

Gillian Wong
aSquare Planning Pty Ltd

11 May 2023

Attachment D – Statement of Heritage Significance

HERITAGE SUBMISSION DA/2023/0426 - F 14/1-15 BARR STREET BALMAIN NSW 2041

AUGUST 2023

Ruth Daniell B.Arch (hons) LLB rdaneill@ihug.com.au 0408649854

To Whom it may Concern

DA/2023/0426 - F 14/1-15 BARR STREET BALMAIN NSW 2041

This submission has been prepared by Ruth Daniell. A CV is at Annexure B.

This submission addresses the heritage issues with the view to progressing the Development Application and responds to issues raised in Council's correspondence of 5 July 2023.

Information regarding the nature of the building was included in the HIS dated August 2022:

- The building was the Big Sister Pudding factory. Big Sister Foods was founded in 1945 by businessman Kenneth Higgins, who purchased a failed company called Lillis & Co. The company's first major contracts were with the military, producing canned breakfast cereal for the US Army during World War II and canned plum puddings for Australian Army Canteens in India around the same time.
- The Big Sister Company collapsed in 2014 but the building had been sold in the early 1990s.
- The building was sold in the early 1990s. An application D/507/96 was lodged in 1996 for Strata Subdivision into 36 allotments for commercial use with 40 parking spaces
- The approved strata subdivision now contains commercial and residential units. The approved strata subdivision has altered the building fabric of former Big Sister Pudding factory.

The HIS provided also historical information on the site including:

- The site in 1889 as shown on the Metropolitan Detail Series Maps-Balmain 1889 Sheet 39.
- The 1943 Aerial Photograph showing the extent of the building in 1943, which differs from the building today shown in the current aerial photograph. The site area and the building is more extensive than in 1943.

The Contribution of the 1-15 Barr Street to the Significance of the Valley Conservation Area

The significance of No. 1-15 Barr Street:" for the later infill development up to World War II (ie pre-1939)."

The 1943 Aerial photograph provides the best surviving evidence for examining the buildings configuration around 1938 when the building represented later infill development up to World War II (ie pre-1939), which is a key period of development. The roof has been altered where Unit F14 is located. It is not the original roof which had a gabled end shown in the 1943 aerial photograph. It is noted that the entire site and structures do not all form part of the contributory significance identified as pre-1939.



Location Plan/Satellite Imagery
1:1000

Impact on Significant Roof Forms



Detail from the Aerial photograph dated 1943. NSW
Historical Imagery.



Aerial photograph showing the configuration of the
buildings today,

Since the key period of development for infill development (up until 1939), the roof over Unit F14 has been changed to a hipped roof that returns at 90 degrees over Unit F14. This is shown in the aerial photographs on the previous pages.

The proposed works do not alter an original roof.

The proposed roof is a sympathetic roof form.

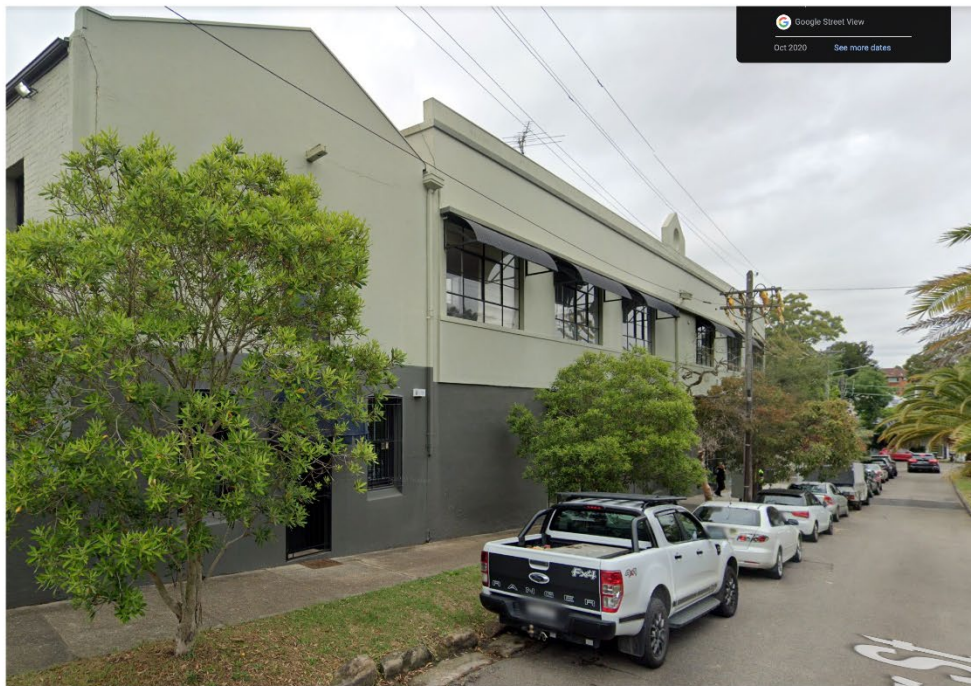
Considerations for Development in Conservation Areas

When considering approvals of alterations, infill and curtilage in Heritage Conservation Areas, their impact on the public domain values, as defined by both horizontal binocular and vertical fields of vision, needs to be considered.

The public domain values are that Nos. 1-15 Barr Street vary across the site. Not all aspects of 1-15 Barr Street building complex are contributory. The detracting elements visible from Barr Street are the carport, the approved faux heritage verandahs to the northern side of the gabled factory building and on the western side of a later building located to the east of the carpark.



View of No. 15 Barr Street looking across the carpark on the northern end, showing the gabled building, and the original factory building to the right. The detracting elements visible from Barr Street are the carport and the approved faux heritage verandahs to the northern side of the gabled factory building and on the western side of a later building located to the east of the carpark. These elements are not contributory to the character and significance of the Valley Conservation Area.



View showing the contributory face of No. 1-15 Barr Street.

The factory building fronting Barr Street, as shown in the photograph above is contributory to the character of the Valley Conservation Area.

Assessment of the Visual Impact on Barr Street

The view studies prepared by the architect, Andres Suarez Ruiz, reproduced at Annexure A in this submission, show that there will be no visibility from Barr Street except for one point, diagonally across the carpark.



Refer to Annexure A for the Shed views and the photomontage.

Requests for Historic Files

In order to satisfy council's request for information on the original factory layout a GIPA application was submitted on 6 July 2023 for all files prior to the Strata Subdivision.

The author submitted a follow up request on 18 July 2023. Council promised a response within 3 days, but no information has been received.

A phone call was made to Inner West Council on 9 August as a further follow up. No files were available as the application has not been processed yet.

Despite our best efforts to supply this information, Inner West Council has not provided the requested information for this submission dated 9 August 2023.

Leichhardt DCP**CI.4 HERITAGE CONSERVATION AREAS AND HERITAGE ITEMS**

In Conservation's Areas there is room for opportunity to adapt to changing needs where development that is sympathetic with local streetscape character and respects the conservation area's cultural heritage significance.

The individual controls, such as the roof controls, are guidelines only¹, and in my opinion apply to residential building typographies with a main roof and diminishing rear roof forms. The diversity of building types in the Conservation Area requires an intelligent approach as set out by Commissioner Murrell in *Engelen Moore P/L v Woollahra MC* [2005] NSWLEC 491.

The Commissioner examined the significance of the relevant Conservation Area, and the descriptions of the relevant types of buildings, and the objectives and controls to retain the significance of the subject building type. The proposed addition was considered in terms of two primary streetscape and one laneway.

The judgement stated that:

36 It is important in an assessment of a development application that the council's controls are carefully considered and it is also important that the DCP guidelines are carefully considered. It is also important that a holistic reading of the controls and how they fit together is understood to have an understanding of the relationship between the various provisions of the DCP as they relate to the development. The DCP does not replace the need for a merits assessment of a development application in its context and that is why I have gone to great pains to point out the context in which I must consider this development application.

At (51) the commissioner acknowledges that the first floor contemporary development was visible from certain points of one of the street primary streets but states that "in the overall context it will not adversely impact on the heritage conservation area." The application was approved by the court.

¹ *Environmental Planning and Assessment Act 1979*, S3.42.

Conclusion

The photomontage of the proposed development at F14/1-15, prepared by the architect, shows a small amount of visibility of the proposed roof at one point across an intrusive carpark and against a facade with non original faux heritage verandahs. Applying the principle from *Engelen Moore P/L v Woolahra MC*, a development can have some visibility but in the context it will not adversely impact on the heritage conservation area.

In my opinion, and with 30 years experience in the area of Heritage Conservation, the visibility of the proposal from one point in Barr Street will not impact adversely on the Valley Conservation Area

There will be no impact on significant local streetscape character, and that the contributory character and the significance as an infill building prior to 1939 is retained from the public domain.

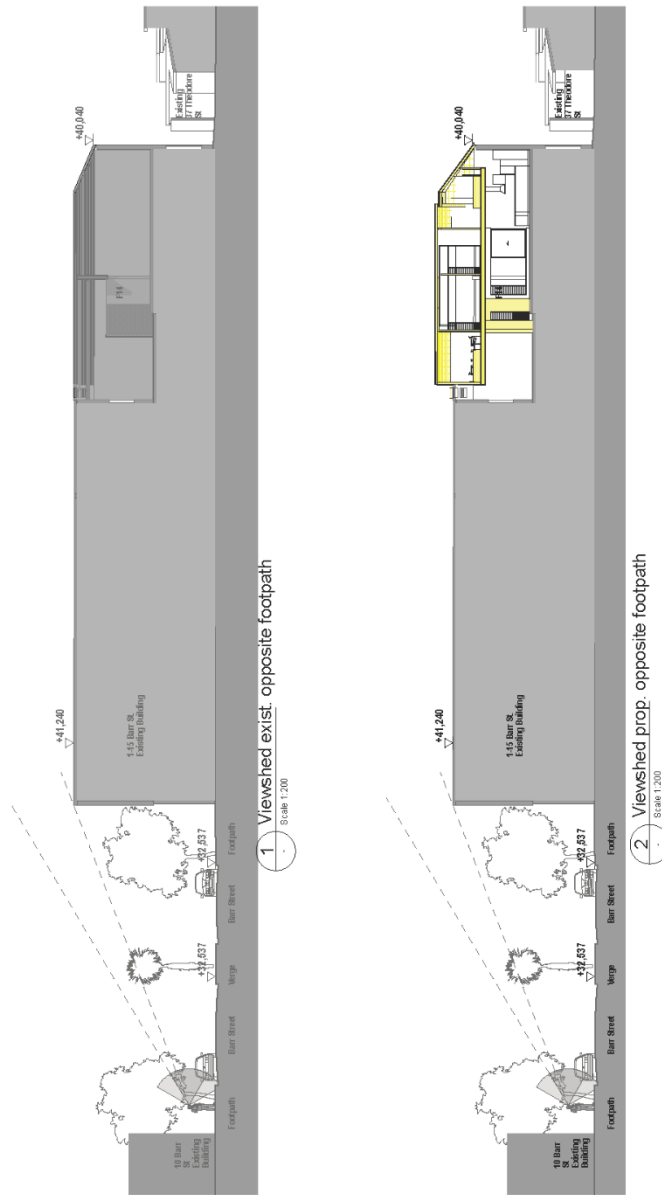
Yours sincerely,

Ruth Daniell

9 August 2023

ANNEXURE - A - VIEW STUDIES

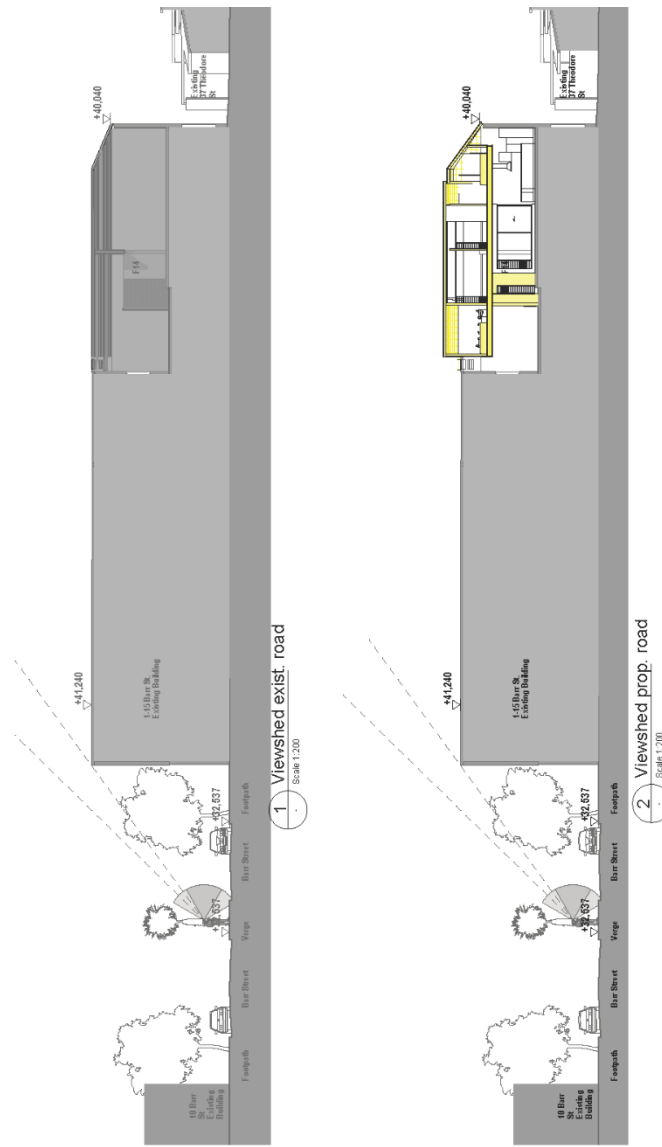




1 Viewshed exist. opposite footpath
Scale 1:200

2 Viewshed prop. opposite footpath
Scale 1:200

<p>A Studio Architecture A_Studio_Architecture Pty Ltd 28 Cleveland Street, Sunny Hills NSW 2010 - Australia - m. +614 5955 2453 www.AStudioArchitecture.com.au Nominated Architect: Andres Suarez Ruiz NSW ARBN 11302 RAIA in collaboration with: Furo Valich - Gordon + Valich Pty Ltd</p>	<p>Drawn/Checked: AS Project No.: 2108 Project Status: Preliminary Client: M/M of Blackmore Zone: F14 Barr Street Balmain NSW Site: Australia</p>	<p>REVISION NO: A</p> <p>DRAWING TITLE: SECTION: Viewsheds Barr Street</p> <p>PROJECT NAME: F14-15 BARR ST BALMAIN</p> <p>DRAWING NO: A403</p>
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A Studio Architecture
 A Studio Architecture Pty Ltd
 28 Cleveland Street, Surry Hills NSW 2010 - Australia - m. +614 5065 2453
 www.AStudioArchitecture.com.au
 Nominated Architect Andres Suarez Ruiz NSWARB 11307 RAIA
 in collaboration with Furio Valich - Gordon + Valich Pty Ltd

REVISED
 Project Checked: ASI
 Project No.: 2109
 Project Status: Preliminary
 Client: Mr Mark Blackmore
 Site: F14 1-15 Barr Street Balmain NSW
 Australia

DATE
 The holder of this set of drawings accepts full responsibility for the content and accuracy of the drawings. Any use of these drawings without the written consent of the architect is prohibited.

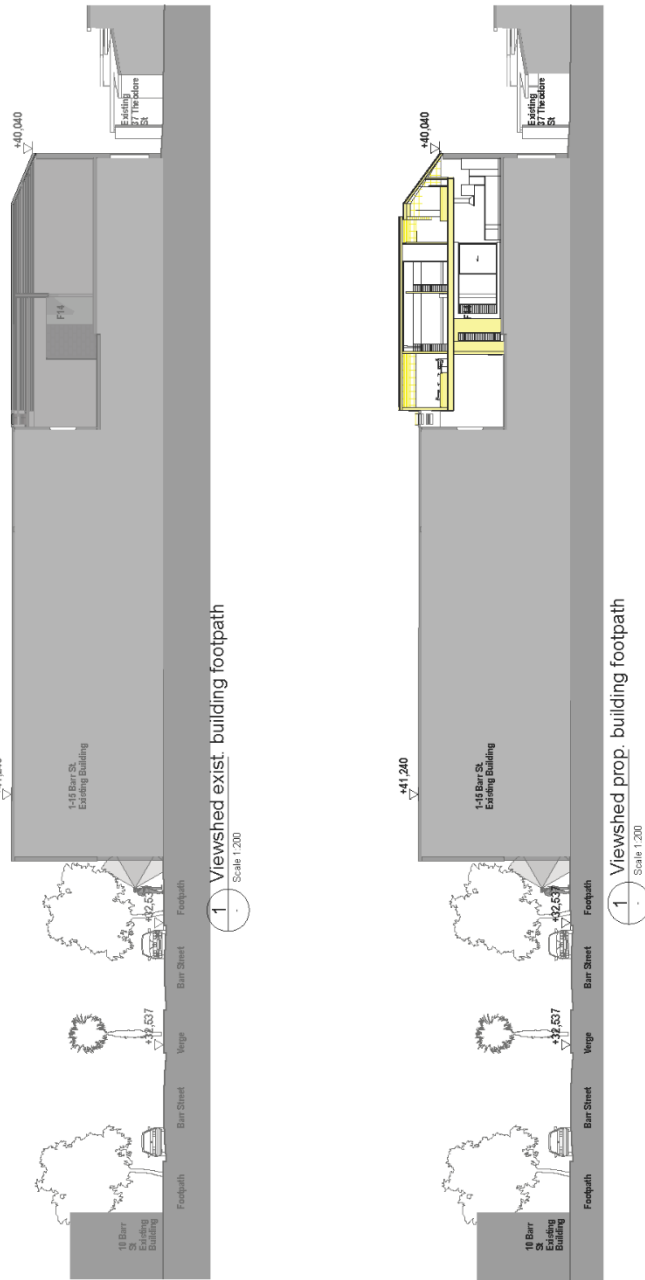
DESCRIPTION
 F14 1-15 Barr Street Balmain NSW

DRAWING TITLE:
 Views of Views
Views of Barr Street

PROJECT NAME:
F14 1-15 BARR ST BALMAIN

DATE:
A2

Document Set ID: 38396649
 Version: 1, Version Date: 29/11/2023



A Studio Architecture
 A Studio Architecture Pty Ltd
 28 Cleveland Street, Surry Hills NSW 2010, Australia - m +614 5055 2453
 www.AStudioArchitecture.com.au
 Nominated Architect: Andres Suarez Ruiz NSW ARBN 11302 RMA
 In collaboration with: Furno Valich - Gordon + Valich Pty Ltd

26-07-2023
 DATE
 Issue for DA
 REV DESCRIPTION
 This illustration does not constitute an offer of any financial product and is not intended to be used for any financial product. It is for illustrative purposes only and does not constitute an offer of any financial product. It is for illustrative purposes only and does not constitute an offer of any financial product. It is for illustrative purposes only and does not constitute an offer of any financial product.

Drawn | Checked | ASI
 Rev Date | 20/07/2023
 Rev No | 1
 Project Status | Preliminary

Client | Mr Mark Blackmore
 Climate Zone | F 1.4, 1-5 Barr Street Balmain NSW
 Site | Australia

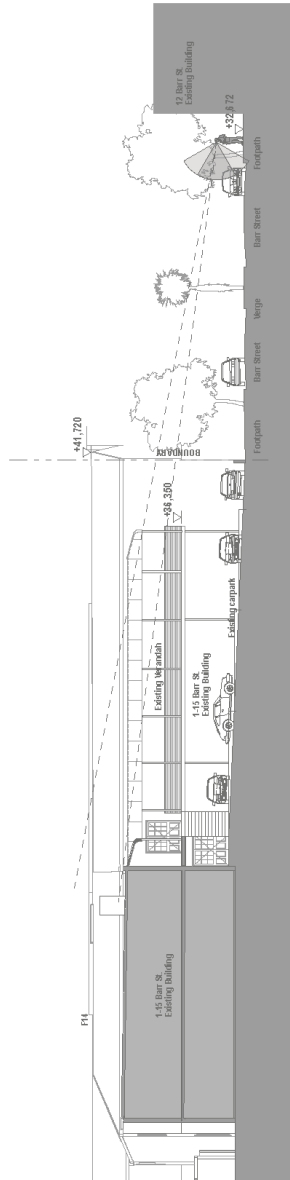
DRAWING TITLE :
 SECTIONS
Viewsheds Barr Street

PROJECT NAME:
F14-15 BARR ST BALMAIN

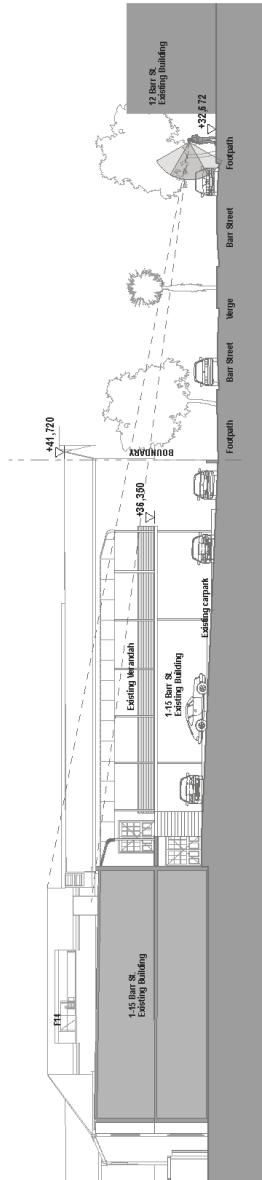
REVISION NO.
 A

DRAWING NO.
A405

Document Set ID: 38396649
 Version: 1, Version Date: 29/11/2023



1 Viewshed exist. opposite footpath
Scale 1:200



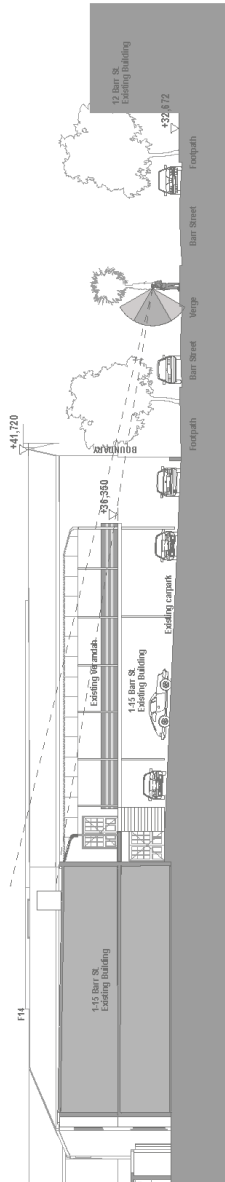
2 Viewshed prop. opposite footpath
Scale 1:200

A Studio Architecture

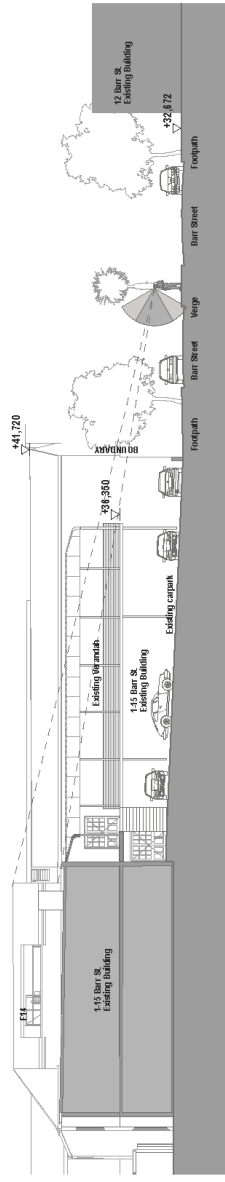
A_Studio_Architecture Pty Ltd
28 Cleveland Street, Surry Hills NSW 2010 - Australia - m. +614 5055 2453
www.AStudioArchitecture.com.au
Nominated Architect: Andres Suarez Ruiz NSW ARBN 11302 FAIA
in collaboration with: Furio Valich - Gordon + Valich Pty Ltd

Issue by CA:
REV DESCRIPTION
The holder will not be liable for errors and omissions in the subject drawing, drawings or specifications prepared by the holder, or any third party, unless the holder has been notified in writing of such errors and omissions.

Design Checked (AS) Project No. 20220203 Project Status: Preliminary Client: Mr Mark Blackmore Climate Zone: F14 Site: F14 1-15 Barr Street Balmain NSW Australia	DRAWING TITLE: Viewsheds Bar Street PROJECT NAME: F14 1-15 BARR ST BALMAIN	REVISION NO: A DRAWING NO: A406
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1 Viewshed exist. road
Scale 1:200



2 Viewshed prop. road
Scale 1:200

A Studio Architecture
A Studio Architecture Pty Ltd
8 Cleveland Street, Surr Hills NSW 2010, Australia
www.AStudioArchitecture.com.au
Nominated Architect: Andres Suarez Ruiz NSW AREN 11302 RAIA
in collaboration with Furio Valich - Gordon + Valich Pty Ltd

Issue for DA
26/07/2023
DATE

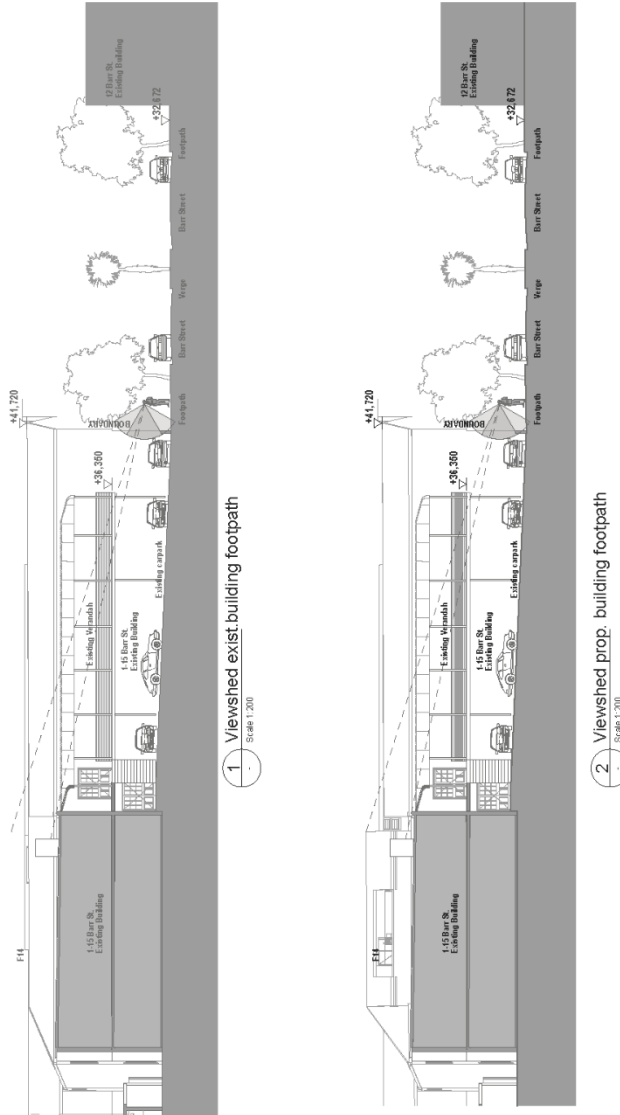
9
REV DESCRIPTION
This matter will have no effect if it does not appear on the relevant plans. It is intended to be used for the purposes of the DA only. It is not intended to be used for any other purpose. It is not intended to be used for any other purpose.

Drawn/Checked: ASI
Plot Date: 30/07/2023
Project Status: Preliminary

Client: Mr Mark Blackmore
Site: F14-1-15 Barr Street Balmain NSW Australia

DRAWING TITLE: **Viewsheds Barr Street**
PROJECT NAME: **F14-1-15 BARR ST BALMAIN**

REVISION NO. **A**
DRAWING NO. **A407**



A Studio Architecture
 A_Studio_Architecture_Pty_Ltd
 28 Cleveland Street, Sunny Hills NSW 2010 Australia - m. +614 5955 2493
 WWW.ASTUDIOARCHITECTURE.COM.AU
 Nominated Architect: Andres Suarez Ruiz NSWARB N1302 PMAA
 in collaboration with Funo Valich - Gordon + Valich Pty Ltd

REV DESCRIPTION
 This sheet will show only if there are any changes to the building.
 Note the survey and floor elements. Survey of property site cover with workshop.

Design/Checked: (S) Project No: 20220203 Project Status: Preliminary C. Date: 2022-02-09 Site:	REVISION NO. DRAWING TITLE: Views Sheds Barr Street PROJECT NAME: F14-1-15 BARR ST BALMAIN
DATE	DRAWING NO. A408

Project/Checked: (S)
 Project No: 20220203
 Project Status: Preliminary
 C. Date: 2022-02-09
 Site:

DATE

REVISION NO.
 DRAWING TITLE:
Views Sheds Barr Street
 PROJECT NAME:
F14-1-15 BARR ST BALMAIN

DRAWING NO.
A408



Photomontage by A Studio Architecture.

Annexure B

Curriculum vitae
Ruth Elizabeth Daniell

Qualifications

Bachelor of Science (Architecture) 1976
Bachelor of Architecture (Hons) University of Sydney 1979
Bachelor of Laws UNSW 2016

Additional Study

The Conservation of Historic Structures
Institute of Advanced Architectural Studies University of York, United Kingdom, 1977
Certificate of Horticulture I & II Ryde TAFE 1987-1988
MARC 99 - The Conservation of Modern Architecture - Helsinki 1999 - ICCROM and the Helsinki University of Technology

Private Heritage Practice

2000 to Current - Private Practice as a heritage consultant

Heritage Positions - Local Government

Heritage Officer, Woollahra Municipal Council 1996 -1998

Heritage Positions - State Government

Senior Heritage Officer, Heritage Office of New South Wales
1999 - 2000

Heritage Advisory Positions

Coolamon Shire Council, Urana Shire Council Bland Shire Council, and Culcairn Shire Council 1993-1997

Heritage Studies

Narrandera Town Heritage Study 1995
20th Century Riverina Homesteads 1992-1998

Conservation Management Plans

Bonegilla Conservation Management Plan for the Commonwealth Department of Defence: CMP Eveleigh Locomotive Workshop (in conjunction with Otto Cserhalmi) 2002; Conservation Management Plan for the Infants Home Ashfield, *Old Government House Parramatta* (updated) CMP 2001 for the National Trust; *St Vincent's College, Potts Point* CMP 2010; *St Michaels Church Group Conservation Plan*, 2013.

Community Consultation and Workshops

Narrandera Heritage Study;

Imperial Avenue DCP Community Workshop for Waverley Council, 2004; and Reuse Options Workshop for Block 19 Bonegilla, Department of Defence and the Australian Heritage Commission.

Strategic Planning Documents

The Paddington Development Control Plan for Woollahra Council, 1998-1999 (author and project director).

Imperial Avenue DCP, 2004 for Waverley Council 1999 (author and project director).

Recent Projects

Bathurst Courthouse Security and Amenities Upgrade 2019-2020

Orange Courthouse Security and Amenities Upgrade 2019

Goodmans Building Annandale Restoration Works 2020

10 Jack Street Riverstone Review of Curtilage and Heritage Listing 2020

72-28 Foveaux Street Surry Hills Heritage Impact Statement for the Refurbishment of a 1970s high rise building in the context of a Conservation Area 2019-2020

1 Fisher Avenue Vacluse Heritage Impact Statements, Conservation Schedule of Works, Photographic Archival Recording

16 Wentworth Road Vacluse Heritage Impact Statement, Photographic Archival Recording

Awards

The Leslie Wilkinson Prize for Architectural History 1975

RAPI (Royal Australian Planning Institute) Commendation Award for Excellence in RAPI Planning Award for the '*Paddington Development Control Plan*', 1999.

Woollahra Conservation Award (2006, 2008 and 2011) - 'Taj Mahal' Wiston Gardens, Double Bay for conservation work involving preservation, restoration; 'Grove House', Woollahra for a new building in a conservation area; and No. 64 Paddington Street, Paddington - Alterations and Additions in a Conservation Area.

Publications

Imported Styles, a book chapter in The Early Canberra House, ed P. Freeman pub. Federal Capital Press 1996.

Expert Witness

Land and Environment Court NSW

Attachment E – Draft conditions of consent in event of approval

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
2109 – DA-001 – Rev B	Site & Analysis Plan	31.07.2023	A Studio Architects
2109 – DA-002 – Rev B	Existing Areas	31.07.2023	A Studio Architects
2109 – DA-003 – Rev B	Existing Areas	31.07.2023	A Studio Architects
2109 – DA-101 – Rev A	Demolition	28.04.2023	A Studio Architects
2109 – DA-102 – Rev A	Floor Plans	28.04.2023	A Studio Architects
2109 – DA-103 – Rev A	Roof Plan	28.04.2023	A Studio Architects
2109 – DA-301 – Rev A	South-East Elevation	28.04.2023	A Studio Architects
2109 – DA-401 – Rev A	Sections Sec. 1 & 2	28.04.2023	A Studio Architects
2109 – DA-402 – Rev A	Sections Sec. 3	28.04.2023	A Studio Architects
1312700S	BASIX Certificate	20.05.2023	A Studio Architects
C221237-001	Letter – Storm Water Design Certificate	08.03.2023	Fly Engineering
221237 – C1.00 – Rev 2	General Notes & Locality	27.02.2023	Fly Engineering
221237 – C2.00 – Rev 2	Existing Site Plan	27.02.2023	Fly Engineering
221237 – C..00 – Rev 2	Stormwater Drainage Concept Plan	27.02.2023	Fly Engineering
Document Name	A. Date Issued	Prepared by	
Materials and Finishes Schedule	Undated	A Studio Architects	
Building Code of Australia Assessment Report for Suite F14, 1-15 Barr Street Balmain	08.07.2022	BCA Performance Pty Ltd	

As amended by the conditions of consent.

FEES

2. Section 7.11 Contribution

In accordance with section 7.11 of the *Environmental Planning and Assessment Act 1979* and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), the following monetary contributions shall be paid to Council to cater for the increased demand for local infrastructure resulting from the development:

Contribution Category	Amount
Open Space & Recreation	\$10,022.00
Community Facilities	\$2,650.00
Transport	\$
Plan Administration	\$
Drainage	\$
TOTAL	\$12,672.00

At the time of payment, the contributions 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 135.8 for the September 2023.

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 at council@innerwest.nsw.gov.au or 9392 5000 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 may 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.

3. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.

4. Security Deposit - Custom

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

Security Deposit:	\$5600.00
Inspection Fee:	\$350.00

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

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

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

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

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

GENERAL CONDITIONS**5. Works Outside the Property Boundary**

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

6. 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.

7. 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.

8. Stormwater Drainage System – Simple

Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, down pipe, pits and pipelines discharged by gravity to the kerb and gutter of a public road. Stormwater runoff from proposed new or altered roof areas may be discharged to the existing site drainage system.

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 ensuring no concentration of flows or nuisance to other properties.

PRIOR TO ANY DEMOLITION**9. Advising Neighbours Prior to Excavation**

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

10. Construction Fencing

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

PRIOR TO CONSTRUCTION CERTIFICATE**11. Party Walls**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Structural Certificate from a practising structural engineer which verifies that the structural integrity of the existing "Party Walls" are adequate to accept the additional loads imposed thereon by the proposal. A copy of the Structural Certificate must be provided to all owners of the party wall/s.

OR

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

12. 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

13. 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.

14. Dilapidation Report – Pre-Development – Minor

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

DURING DEMOLITION AND CONSTRUCTION**15. 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.

16. Survey Prior to Footings

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

PRIOR TO OCCUPATION CERTIFICATE**17. 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.

ON-GOING**18. Bin Storage**

All bins are to be stored within the site.

19. Home Business

1. The home business shall not be used for any purpose other than as residential dwelling and a home business.
2. No approval is given for the home business to be leased separately from the residential dwelling.

20. Ongoing Condition - Home Business**1. Operation**

1. The home business is only to be operated by one (1) or more permanent residents of the dwelling and not involving the following—
 1. the employment of more than two (2) persons other than the residents,
 2. interference with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise,
 3. the exposure to view, from adjacent premises or from a public place, of unsightly matter,
 4. the retail sale of, or the exposure or offer for retail sale of, items, whether goods or materials, not produced at the dwelling or building, other than by online retailing,

2. Hours of Operation/Trading Hours

1. The home business' hours of operation or trading hours is limited to the following times:
 1. Mondays to Friday: 9:00am to 5:00pm.
 2. Saturdays: 9:00am to 1:00pm only.
 3. No trade or operation is permitted outside these hours.
 4. No trade or operation is permitted on Sundays and Public Holidays.

3. Advertisements – business identification signs/signage

1. Maximum of 1 sign per premises.
2. Advertisements or business identification signs/signage is to be designed as a nameplate, with a maximum dimension of 30cm by 45cm. It is to be discrete in size and designed and located to respect the residential setting. Lettering, materials and colours are to complement the existing building and be compatible with surrounding buildings and the setting.
3. Must not be illuminated.
4. Must not protrude above an awning.
5. No signage is permitted over a public road or public footpath.

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.

Toilet Facilities

The following facilities must be provided on the site:

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

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

Infrastructure

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

Other Approvals may be needed

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

Failure to comply with conditions

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

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.

Lead-based Paint

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

Dial before you dig

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

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100

			www.dialprior toyoudig.com.au
Landcom		9841 8660	To purchase copies of Volume One of "Soils and Construction"
Long Service 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 - Environmental Solutions	SITA	1300 651 116	www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)			www.waterrating.gov.au
WorkCover Authority of NSW		13 10 50	www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

Street Numbering

If there are any changes to the number of occupancies including any additional occupancies created, a street numbering application must be lodged and approved by Council's GIS team before any street number is displayed. Link to [Street Numbering Application](#)

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.

Dividing Fences Act

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

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.

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.

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.

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*.

Insurances

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

Permits

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

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

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