



INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	D/2019/134
Address	15 Edward Street, BALMAIN EAST NSW 2041
Proposal	Ground, first and second floor alterations and additions to heritage list dwelling-house and associated works.
Date of Lodgement	5 April 2019
Applicant	Lombardo Design Studio
Owner	Mr A L King and Mr D E Vanstone
Number of Submissions	1 submission
Value of works	\$514,497.00
Reason for determination at Planning Panel	<ul style="list-style-type: none"> Heritage Item Clause 4.6 variation to Floor Space Ratio exceeds 10%
Main Issues	<ul style="list-style-type: none"> Heritage Issues Stormwater Engineering Issues
Recommendation	Deferred Commencement Approval
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards
Attachment D	Statement of Heritage Significance



LOCALITY MAP

Subject Site		Objectors		N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for ground, first and second floor alterations and additions to a heritage listed dwelling-house and associated works at 15 Edward Street Balmain East. The application was notified to surrounding properties and 1 submission was received.

The main issues that have arisen from the application include:

- Impact to heritage item and conservation area
- Stormwater issues
- Non-compliance with Floor Space Ratio
- Non-compliance with Landscaped Area
- Non-compliance with Site Coverage

As discussed in further detail later in this report, design changes are recommended to address the heritage and engineering issues that have arisen from the proposal. As a result, the application is recommended for Deferred Commencement consent.

2. Proposal

The application seeks consent for alterations and additions to the existing heritage terrace where the following works are proposed:

Ground floor level

- Demolition of existing rear bathroom;
- New laundry and kitchen extension with skylights to the rear wing;
- New rear courtyard with permeable pavers to both the rear and front ends of the property.

First floor level

- New window opening on the western elevation servicing the proposed bathroom;
- New rear bedroom addition with a Juliet balcony on the western elevation;
- New doorway to replace the existing window linking bedroom 2 to the main dwelling;

Second floor level

- New rear (west facing) dormer window with sidelights;
- Alterations to the existing bedroom with new sidelights to the existing dormer window facing Edward Street with associated works.

3. Site Description

The subject site is located on the western side of Edward Street. The site consists of 1 allotment and is rectangular in shape with a total area of 77.6 sqm and is legally described as Lot E, D.P.33913. The site has a frontage to Edward Street of 3.93 metres. The site at the rear adjoins a right of way. The site supports a three-storey terrace. The adjoining properties support similar three storey terraces. The subject site is a heritage item of local significance that is within a row of heritage items in the vicinity. The property is located within a conservation area and is not in a flood prone/affected lot.



Figure 1: View of the property looking towards the eastern end from the rear yard.



Figure 2: View of No 17 Edward Street looking from the rear yard of No. 15 Edward Street.



Figure 3: View of No 11A Edward Street looking from the rear yard of No. 15 Edward Street.



Figure 4: View of the property looking towards the eastern end from the rear yard.



Figure 5: View of the subject site

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

No development applications have been submitted to Council in the last 10 years.

Surrounding properties

Application	Proposal	Decision & Date
M/2016/132 – 19 Edward Street	Section 96 modification to D/2014/490 which approved alterations and additions to the existing dwelling. Modification is to correct an error in the Notice of Determination.	Approved – 24.7.2015

M/2015/119 – 19 Edward Street	Minor error. The first condition 5(d) regarding the first floor deck level should be deleted instead of the second condition 5(d) regarding a ground floor level below it.	Approved - 7.7.2015
M/2015/64 – 19 Edward Street	Section 96 modification of D/2014/490 which approved alterations and additions to the existing dwelling. Modification seeks to amend conditions imposed relating to the dormer window, openings facing the street and the rear deck.	Approved – 26.6.2015
D/2014/490 – 19 Edward Street	Alterations and additions to the existing dwelling including construction of a new attic level.	Approved – 17.9.2014

4(b) Application history

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

Date	Discussion / Letter / Additional Information
28.6.2019	Council forwarded to the applicant a request for further information and/or amendments to proposal letter.
8.7.2019	Council forwarded the applicant engineering referral comments which request additional stormwater plans and documents.
22.7.2019	Applicant submits to Council a heritage response to the original heritage issues raised in RFI letter dated 28.6.2019.
26.7.2019	Applicant submits updated stormwater plans to address engineering concerns raised in the referral advice provided on the 8.7.2019.
16.8.2019	Applicant submitted amended plans.
27.8.2019	Council contacted the applicant requesting missing elevation plans.
28.8.2019	Applicant provided requested elevation plan.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Leichhardt Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

5(a)(i) ***State Environmental Planning Policy No 55—Remediation of Land***

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. LDCP 2013 provides controls and guidelines for remediation works. *SEPP 55* requires the consent authority to be

satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent.

The site has not been used in the past for activities which could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with *SEPP 55*.

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

A BASIX Certificate was submitted with the application and will be referenced in any consent granted.

5(a)(iii) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

An assessment has been made of the matters set out in Clause 20 of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. It is considered that the carrying out of the proposed development is generally consistent with the Aims of Plan and would not have an adverse effect on environmental heritage, the visual environmental, the natural environment and open space and recreation facilities for the following reasons:

- The site is located on a row of terraces and the rear additions and internal works would not be overly visible from the public domain and are unlikely to be visible from Sydney Harbour.

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

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

Clause 1.2 - Aims of the Plan
Clause 2.3 - Zone objectives and Land Use Table
Clause 2.7 - Demolition
Clause 4.3A - Landscaped areas for residential accommodation in Zone R1
Clause 4.4 – Floor Space Ratio
Clause 4.5 - Calculation of floor space ratio and site area
Clause 4.6 - Exceptions to development standards
Clause 5.10 - Heritage Conservation
Clause 6.1 - Acid Sulfate Soils
Clause 6.2 - Earthworks
Clause 6.4 - Stormwater management

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

The site is zoned R1 General Residential under the *LLEP 2011*. The *LLEP 2013* defines the development as a Dwelling House and the development is permitted with consent within the zone. The development is consistent with the objectives of the R1 General Residential zone.

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

Standard	Proposal	non compliance	Complies
Floor Space Ratio Maximum permissible: 1:1 or 77.6 sqm	1.11:1 or 86.5 sqm	8.9 sqm or 11.47%	No
Landscape Area Minimum required: 15% or 11.64 sqm	0% or 0sqm	11.64 sqm or 100%	No
Site Coverage Maximum permissible: 60% or 45.56 sqm	64.95% or 50.4sqm	3.84 sqm or 8.25%	No

Clause 4.6 Exceptions to Development Standards

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

- Clause 4.3A(3)(a) - Landscaped area
- Clause 4.3A(3)(b) – Site Coverage
- Clause 4.4 – Floor Space Ratio

The applicant seeks a variation to the Landscaped Area, Site Coverage and Floor Space Ratio development standards under Clause 4.3A and Clause 4.4.

In order to demonstrate whether strict numeric compliance is unreasonable or unnecessary in this instance, the proposed exception to the development standards have been assessed against the objectives and provisions of Clause 4.6 of the LLEP 2013 below.

Clause 4.3A - Landscaped areas for residential accommodation in Zone R1
Landscaped Area

The applicant seeks a variation to the Landscaped Area development standard under Clause 4.3A(3)(a) of the Leichhardt Local Environmental Plan 2013 by 100%.

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

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the LLEP2013.

A written request has been submitted to Council in accordance with Clause 4.6(3) of the LLEP 2013 justifying the proposed contravention of the development standard which is summarised as follows:

- The proposed ground floor layout maximises the provision of external open space areas which are functional and useable. In the event that the development was redesigned to comply with the minimum landscaped area standard, it is likely that the private open space at the rear of the site would not be able to be configured in a manner which would encourage its use in all weather, as it would necessitate almost the entirety of the rear courtyard to comprise turf or planting. In the event of rainfall and the like, such a treatment would render the area inappropriate for use for passive recreation/outdoor dining;

- Given that the proposal meets the objectives of the development standard and zone despite the non-compliance with the landscaped area standard, and having regard to the amenity benefits arising from the rear open space being turfed, it is considered that the non-compliance is acceptable.

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

It is considered the development is in the public interest because it is consistent with the objectives of the R1 Residential Zone in accordance with Clause 4.6(4)(a)(ii) of the LLEP 2013 which are:

Objectives of R1 Residential zone:

- *To provide for the housing needs of the community.*
 - *To provide for a variety of housing types and densities.*
 - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
 - *To improve opportunities to work from home.*
 - *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
 - *To provide landscaped areas for the use and enjoyment of existing and future residents.*
 - *To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.*
 - *To protect and enhance the amenity of existing and future residents and the neighbourhood.*
- The proposed/existing non-compliance will not be inconsistent with the R1 residential zone objectives as it will provide for the housing needs of the occupants whilst not impacting on the character of the building or impacting on the amenity of other surrounding residents and uses.

It is considered the development is in the public interest because it is consistent with the objectives of the and Landscaped Area development standard, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

The objectives of clause 4.3A – Landscaped Area development standards are as follows::

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

- The proposal will not alter the existing landscaped area provision but as discussed later in this report, a condition to provide additional landscaping to the front of the site is recommended, to improve on-site amenity.

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

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the Leichhardt Local Environmental Plan 2013. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Landscaped Area development standard and it is recommended the Clause 4.6 exception be granted.

Site Coverage

The applicant seeks a variation to the Site Coverage development standard under Clause 4.3A(3)(b) of the Leichhardt Local Environmental Plan 2013 by 8.25% (64.95% of Site Coverage).

A written request has been submitted to Council in accordance with Clause 4.6(3) of the LLEP2013 justifying the proposed contravention of the development standard which is summarised as follows:

- The proposed contravention of the maximum site coverage development standard is considered acceptable as it enables the ground floor level of the dwelling house to be configured in a manner which ensures it is useable and functional and incorporates sufficient space to meet contemporary amenity requirements. Compliance with the site coverage standard could be achieved, however this would necessitate cutting back the rear extension, which would compromise the amenity and functionality of the combined kitchen/living/dining area at ground floor level. It is considered that on the basis that the proposal meets the objectives of the development standard and zone despite the non-compliance with the site coverage standard, and having regard to the amenity benefits arising from the proposed dimensions of the ground floor level extension, it is considered that the non-compliance is acceptable
- Having regard to the acceptable environmental impacts, and the merits of the proposed development, it is considered that the public interest is being met by the proposed development, despite the non-compliances.
- The proposed departure from the standards does not create any unreasonable adverse amenity or streetscape impacts, as discussed herein. Furthermore, the proposal is considered to meet the public interest, as it results in sensitively designed alterations and additions to an existing terrace house which is a heritage item, and which forms part of a group similar terraces, located within a heritage conservation area. The proposal enables the existing dwelling to continue to provide a high level of amenity for its occupants in a form which enables the significant fabric to be retained and enjoyed.

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

It is considered the development is in the public interest because it is consistent with the objectives of the R1 Residential Zone in accordance with Clause 4.6(4)(a)(ii) of the LLEP2013, which are:

Objectives of R1 Residential zone:

- *To provide for the housing needs of the community.*
 - *To provide for a variety of housing types and densities.*
 - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
 - *To improve opportunities to work from home.*
 - *To provide housing that is compatible with the character, style, orientation and pattern of surrounding buildings, streetscapes, works and landscaped areas.*
 - *To provide landscaped areas for the use and enjoyment of existing and future residents.*
 - *To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.*
 - *To protect and enhance the amenity of existing and future residents and the neighbourhood.*
- The proposal as conditioned is considered consistent with the R1 residential zone objectives as it will provide for the housing needs of the occupants whilst not impacting on the character of the building or impacting on the amenity of other surrounding residents and uses.

It is considered the development is in the public interest because it is consistent with the objectives of the Site Coverage development standard under Clause 4.3A of the LLEP2013, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

The objectives of clause 4.3A – Landscaped areas for residential accommodation in Zone R1 are as follows:

- (a) *to provide landscaped areas that are suitable for substantial tree planting and for the use and enjoyment of residents,*
 - (b) *to maintain and encourage a landscaped corridor between adjoining properties,*
 - (c) *to ensure that development promotes the desired future character of the neighbourhood,*
 - (d) *to encourage ecologically sustainable development by maximising the retention and absorption of surface drainage water on site and by minimising obstruction to the underground flow of water,*
 - (e) *to control site density,*
 - (f) *to limit building footprints to ensure that adequate provision is made for landscaped areas and private open space*
- The proposal, which retains the primary form of the existing contributory building to the streetscape and the Heritage Conservation Area, and subject to conditions will be consistent with the Desired Future Character of the locality, and relevant streetscape and heritage controls;
 - Given the site restraints, it is considered that the proposal has maximised the opportunity to provide landscaped areas;
 - The proposal is considered to be consistent with the adjoining building footprints and scale.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the Leichhardt Local Environmental Plan 2013. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Landscaped Area development standard and it is recommended the Clause 4.6 exception be granted.

Floor Space Ratio

The applicant seeks a variation to the Floor Space Ratio development standard under Clause 4.4 of the Leichhardt Local Environmental Plan 2013 by 11.47% (1.11:1).

A written request has been submitted to Council in accordance with Clause 4.6(3) of the LLEP2013 justifying the proposed contravention of the development standard which is summarised as follows:

- the proposed dwelling floor layout maximises the provision of external open space areas which are functional and useable. In the event that the development was redesigned to comply with the FSR standard, there would be no material gains to any nearby properties in terms of a reduction in impacts, as the proposal is consistent with the DCP building envelope controls and meets the requirements of the DCP in relation to overshadowing, overlooking and general overbearing impacts; and
- the proposed contravention of the maximum FSR development standard is considered acceptable as it enables the dwelling house to be configured in a manner which ensures it is useable and functional and incorporates sufficient space to meet contemporary amenity requirements. Compliance with the FSR standard could be achieved, however this would necessitate deleting a bedroom, which would compromise the amenity and functionality of the dwelling house. It is considered that on the basis that the proposal meets the objectives of the development standard and zone despite the non-compliance with the FSR standard, and having regard to the amenity benefits arising from the proposed alterations and additions, it is considered that the non-compliance is acceptable

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

It is considered the development subject to recommended conditions, is in the public interest because it is consistent with the objectives of the R1 Residential in accordance with Clause 4.6(4)(a)(ii) of the LLEP2013 which are:

Objectives of R1 Residential zone:

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

- *To ensure that subdivision creates lots of regular shapes that are complementary to, and compatible with, the character, style, orientation and pattern of the surrounding area.*
- *To protect and enhance the amenity of existing and future residents and the neighbourhood.*
- The proposal, subject to the imposition of appropriate heritage conditions are considered consistent with the R1 residential zone objectives, as it will provide for the housing needs of the occupants, where the character and style of the building will not result in any unacceptable impacts on the amenity of other surrounding residents and uses.

It is considered the development is in the public interest because it is consistent with the objectives of the Floor Space Ratio development standard, in accordance with Clause 4.6(4)(a)(ii) of the LLEP2013.

The objectives of clause 4.4 – Floor Space Ratio development standard are as follows:

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

Floor Space Ratio

- The proposal as conditioned will be compatible with the desired future character of the area and in with the context of the immediate surrounding properties in regard to bulk, scale and form.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the Leichhardt Local Environmental Plan 2013. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Floor Space Ratio development standard and it is recommended the Clause 4.6 exception be granted.

Clause 5.10 – Heritage Conservation

The subject site is located within a Heritage Conservation Area (HCA). The subject dwelling is a heritage item of local significance that is part of a row of terraces, which are also heritage items of local significance.

The proposal, subject to the recommended heritage conditions will result in acceptable streetscape and heritage impacts, will not detract from the existing dwelling house in the surrounding area, the streetscape or HCA, and will satisfy the provisions and objectives of this Clause. See Section 5(c) of this report for further details.

5(b) Draft Environmental Planning Instruments

Draft State Environmental Planning Policy (Environment) 2018

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from

31 October 2017 until 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development would be consistent with the intended requirements within the Draft Environment SEPP.

5(c) Development Control Plans

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

LDCP2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	N/A
B3.1 Social Impact Assessment	N/A
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes, subject to conditions
C1.3 Alterations and additions	Yes, subject to conditions – see discussion
C1.4 Heritage Conservation Areas and Heritage Items	Yes, subject to conditions – see discussion
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	N/A
C1.8 Contamination	Yes
C1.9 Safety by Design	N/A
C1.10 Equity of Access and Mobility	N/A
C1.11 Parking	N/A
C1.12 Landscaping	Satisfactory, subject to conditions – see discussion
C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	N/A
C1.15 Signs and Outdoor Advertising	N/A
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	N/A
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep	N/A

Slopes and Rock Walls	
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
C2.2.2.2(a) Eastern Waterfront Sub Area	Yes, subject to conditions.
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes– see discussion
C3.3 Elevation and Materials	Yes
C3.4 Dormer Windows	Yes, subject to conditions.
C3.5 Front Gardens and Dwelling Entries	Yes, subject to conditions.
C3.6 Fences	N/A
C3.7 Environmental Performance	N/A
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	N/A
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
C3.13 Conversion of Existing Non-Residential Buildings	N/A
C3.14 Adaptable Housing	N/A
Part C: Place – Section 4 – Non-Residential Provisions	
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	N/A
D2.5 Mixed Use Development	N/A
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	N/A
E1.1.1 Water Management Statement	No
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	No – see discussion
E1.1.4 Flood Risk Management Report	N/A
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	No
E1.2.1 Water Conservation	N/A
E1.2.2 Managing Stormwater within the Site	No
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	No
E1.2.5 Water Disposal	No
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	N/A
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	N/A
E1.3.2 Foreshore Risk Management	N/A

Part F: Food	N/A
Part G: Site Specific Controls	N/A

The following provides discussion of the relevant issues:

C1.2 Demolition, C1.3 Alterations and additions, C1.4 Heritage Conservation Areas and Heritage Items; C3.4 Dormer Windows

Heritage Listing:

The subject property at 15 Edward Street, Balmain East, is listed as a heritage item. It is part of a row of terrace houses, all of which have been listed as local heritage items.

Harbourview Terrace, including interiors	7 Edward Street, Balmain East	item I430
Harbourview Terrace, including interiors	9 Edward Street, Balmain East	item I431
Harbourview Terrace, including interiors	11 Edward Street, Balmain East	item I432
Harbourview Terrace, including interiors	11A Edward Street, Balmain East	item I433
Harbourview Terrace, including interiors	15 Edward Street, Balmain East	item I434
Harbourview Terrace, including interiors	17 Edward Street, Balmain East	item I435

Harbourview Terrace is located within the Balmain East Heritage Conservation Area (C3) and the Eastern Waterfront Sub Area of the Balmain East Distinctive Neighbourhood.

Heritage Significance:

The subject terrace is a contributory item within the Balmain East Heritage Conservation Area (HCA) and the streetscape.

The Statement of Significance for 15 Edward Street, Balmain East, sourced from Council’s heritage database, is below:

No. 15 Edward Street is of high local historic and aesthetic significance as a good and largely intact rendered stone Victorian terrace and part of the first large scale terraces constructed in Balmain in c. 1870. Despite some alterations and additions at the rear, the building retains its original scale and form and character as it presents to Edward Street. With the adjoining terraces, Nos. 7-17 Edward Street make a positive contribution to the Edward Street streetscape and area.

Council’s management recommendations (from the State Heritage Inventory Listing) are as follows:

It is recommended that:

- *the existing two storey with attic scale and form of the building including main gable roof form, party walls and chimney and secondary rear wing should be retained and conserved;*
- *the existing rendered stone facades should also be retained and conserved. Painted surfaces such as render and timberwork should continue to be painted in appropriate colours;*
- *the front fence and small setback should be retained and conserved;*
- *the front verandah and first floor balcony should remain open and features including the dressed stone verandah floor, end party walls and cast iron lace balustrade and skillion roof should be retained and conserved;*
- *no new openings should be made in the front facade;*
- *any additions and alterations should be confined to the rear of the building;*
- *-the open passage along the western site boundary should also be retained.*

The following assessment is made in respect of the revised architectural drawings prepared by Lombardo Design Studio, received by Council on 16th August 2019, and the cover letter prepared by Lombardo Design Studio, dated 16th August 2019. The revised drawings were prepared in response to the original heritage advice provided, dated 28th June 2019.

The previous planning and heritage advice concluded the proposal in its originally submitted form cannot be supported unless the following additional and amended information are provided, as repeated below. Additional commentary is provided in respect of the amended drawings.

1. *A detailed schedule of significant fabric is to be prepared by a heritage architect that identifies original fabric and early modifications. The approach to be taken is that post war alterations that have been assessed as not being of significance can be removed or reconfigured but the original fabric of the heritage item is to remain and be conserved.*

Comment: The requested Schedule of Significant Fabric has not been provided to Council as per request. As such, appropriate conditions are recommended.

2. *The stonework original portion of the rear wing is to be retained in its entirety. An additional bedroom at first floor level can be considered provided that the stonework of the rear wing is retained below, as is the original window at first floor level.*

Comment: Amended plans submitted now retain the original stonework to the rear ground floor wing. However the updated plans seeks to demolish and convert the original window at the first floor level to a door entry linking the new first floor bedroom. As such, a design amendment condition is recommended as part of a Deferred Commencement consent. See Attachment A for further details.

3. *The substantial alterations to the attic roof and the proposed rear skillion dormer are not supported.*

Comment: The amended plans have redesigned the rear skillion dormer window as per Council's request. However, it is noted that the proposed works to the existing front dormer window facing Edward Street are not supported on heritage grounds and are recommended to be conditioned accordingly on any consent granted. See Attachment A for further details.

4. *The proposed first floor bathroom is to be redesigned and clearly annotated on all relevant plans so that the services are contained in bulkheads or raised floors and do not impact on original flooring or floor joists.*

Comment: Amended plans have been provided which addresses the above heritage concern.

5. *An investigation of the sequence of historic colours is to be undertaken and a colour scheme for the front of the terraces selected based on historic precedence. Colour schemes based on tones of grey are not acceptable for heritage items.*

Comment: The above requested schedule of fabric and conservation works has not been submitted to Council for review. As such, appropriate conditions are recommended for the above documents to be prepared by a registered heritage architect. See Attachment A for details.

6. *Existing timber flooring is to be retained.*

Comment: Additional documents and amended plans have been provided which addresses the above heritage concern.

7. *Original ceilings are to be retained and repaired.*

Comment: Additional documents have been provided which addresses the above heritage concern raised.

8. *Areas where the plaster has been removed can be replastered using traditional plastering techniques and mixes.*

Comment: Additional documents have been provided which addresses the above heritage concern raised.

9. *New roofing material must comprise of either heritage barrel rolled traditional corrugated galvanised steel or pre-coloured traditional corrugated steel similar to Custom Orb [Accent 35 for 2 degree pitch] in a colour equivalent to Colorbond's "Windspray", "Shale Grey", "Jasper" or "Wallaby."*

Comment: Updated Materials and finishes schedule have been provided to address the above.

10. *Amended plans addressing the heritage requirements listed above in this letter with annotations are required.*

Comment: Amended plans were submitted to Council with annotations being provided on all relevant plans to address heritage requirements mentioned in the RFI letter dated 28 June 2019.

11. *Proposed rear skillion dormer window is to be amended to match the three existing rear dormers of No. 17, 11A & 7 Edward Street.*

Comment: The amended plans submitted to Council now depicts the proposed rear dormer window located on the second/attic floor level to match the existing dormers of No. 17, 11A & 7 Edward Street. As such, this element of the proposal is now acceptable, subject to conditions.

12. *The stair to the attic is to be retained and must be annotated on all relevant plans.*

Comment: Amended plans have addressed this issue.

13. *Proposed front paved area is to be replaced with soft landscaping with additional landscaped area with a minimum width of 1m to be provided to the proposed rear court yard to improve the non-compliant landscape area development standard.*

Comment: The amended plans have included new permeable pavers with grass in between to address the above issue raised. As permeable paved areas are not classified as soft landscaped area, appropriate conditions are recommended to convert the proposed front paved areas into soft landscaping.

14. *The proposed en-suite on the attic level cannot face Edward Street and is either to be deleted or to face the rear boundary.*

Comment: The amended plans submitted to Council have now deleted the en-suite element in the attic level and solely proposes an altered bedroom.

Pursuant to the above, whilst the revised plans incorporate changes to the design that have resulted from the issues raised in the initial heritage referral, not all of the points have been satisfactorily dealt with and further amendments to the design are required to meet the aims of the Leichhardt LEP and DCP for heritage items. The terrace is an important heritage item that demonstrates the pattern of development of Balmain East. The extent of changes proposed still do not reflect this heritage status, however, Council's requirements can be addressed by way of a Deferred Commencement consent.

In particular the window to the first floor at the rear is to be conserved in its original location. The rear wing needs to be re-designed so that the connection to the existing first floor is minimal in its impact on the heritage item and retains this original opening. The proposed changes to the front dormer are also not supported as this dormer appears to be the most intact surviving example in the group. The proposed rear dormer is acceptable.

Conclusion

The proposal is provisionally acceptable from a heritage perspective subject to standard heritage conditions of consent and the following Deferred Commencement design change requirements:

- The layout of the new first floor bedroom over the kitchen is to be reworked so that the original window in the rear elevation is retained in its original location and conserved. A minimal opening is to be created to access the new bedroom. No additional windows or vents are to be added to the rear façade and the evidence of the ashlar line work is to be retained.
- No alterations are permitted to the front dormer and the side cheeks are to remain in their current configuration and be conserved.

C1.12 Landscaping

The amended proposal has now included additional landscaped area to the front of the dwelling as per Council's request. However, it is noted that the materials to be used are depicted as "New eco-permeable pavers with grass between". This new material allocated to be used to the new front landscaped area will not be included in the landscape calculations. As a result, appropriate landscape area condition are recommended to ensure the front soft landscaping does not include any paved materials.

C3.2 Site Layout and Building Design

Building Location Zone

The proposed ground floor works will comply with the Building Location Zone control as it does not extend beyond the existing rear alignments. However the proposed rear first floor extension seeks to be in line with the existing rear first floor building alignment of No. 17 and approximately 4m in front of the first floor building alignment of No. 11A.

This in turn will create a variation to the rear first floor when compared to the immediate adjoining properties as shown in the table below. The purple line as shown below indicates the existing ground rear BLZ of the subject and adjoining properties, the green line indicating existing first floor BLZ, brown line indicating proposed ground floor BLZ and the yellow line depicting the proposed rear first floor BLZ.

<p>Error! Objects cannot be created from editing field codes.</p>	<p>Error! Objects cannot be created from editing field codes.</p>
<p><i>Roof Plan</i></p>	<p><i>Existing Aerial image</i></p>

Image 1. Proposed rear ground and first floor additions BLZ compared to adjoining properties.

As mentioned above, the proposed BLZ variation to the first floor addition to the rear is acceptable for the following reasons:

- The proposal will have minimal to no adverse amenity impacts to the surrounding properties in relation to sunlight, privacy and view loss concerns.
- The proposal as conditioned will be compatible with the existing streetscape, desired future character and scale when compared to the surrounding developments.
- The proposal will also provide adequate private open space, outdoor recreation area and as conditioned will provide additional landscaping to the site.

Side Boundary Setback

The rear ground and rear first floor level works will breach the side setback control to both side boundaries. The following tables outline the proposal’s compliance or otherwise with the side setback controls as applicable:

Rear Ground Floor Addition

Elevation	Wall height (m)	Required Setback (m)	Proposed Setback (m)	Complies (Y / N)
North (Adjacent to No. 11A Edward Street)	Approximately 2.8 – 3.2	0-0.2	0	No
South (Adjacent to No. 17 Edward Street)	Approximately 2.8 – 3.2	0-0.2	0	No

Rear First Floor Addition

Elevation	Wall height (m)	Required Setback (m)	Proposed Setback (m)	Complies (Y / N)
North (Adjacent to No. 11A Edward Street)	Approximately 5.5-5.8	1.5-1.7	1	No
South (Adjacent to No. 17 Edward Street)	Approximately 5.5-5.8	1.5-1.7	1	No

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

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

Comment: For reasons discussed previously, the proposal satisfies this test.

- The pattern of development is not adversely compromised.

Comment: For reasons discussed previously, the proposal satisfies this test and it is noted that the proposed rear ground floor BLZ is further setback from the rear boundary when compared to the existing rear BLZ and the rear first floor additions building alignment is matching the rear first floor BLZ of No. 17 Edward Street.

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

Comment: The proposal is considered to be of a low and acceptable bulk and scale form of development when compared to the existing surrounding developments.

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

Comment: As previously mentioned in this Report, the proposal will have minimal to no adverse amenity impacts to the surrounding properties in terms of solar access, privacy and access to views.

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

Comment: The proposed additions will not obstruct access to adjoining properties for maintenance purposes.

In light of the above, the proposal is considered to be satisfactory with respect to the intent and objectives of the side setback controls prescribed in this Clause.

C3.11 Visual Privacy

The following controls are applicable:

C1 Sight lines available within 9m and 45 degrees between the living room or private open space of a dwelling and the living room window or private open space of an adjoining dwelling are screened or obscured unless direct views are restricted or separated by a street or laneway.

C9 Balconies at first floor or above at the rear of residential dwellings will have a maximum depth of 1.2m and length of 2m unless it can be demonstrated that due to the location of the balcony there will be no adverse privacy impacts on surrounding residential properties with the provision of a larger balcony.

Privacy and overlooking concerns have been raised from No. 11A Edward Street that the proposed rear first floor Juliet balcony servicing the bedroom will allow the occupants to overlook into their rear yard. However, the nature of the proposed Juliet balcony will provide no trafficable area outside the rear first floor bedroom. As such the Juliet balcony

can alternatively be seen as glazed doors with balustrades which will comply Control 1 of this Provision.

As a result, the proposal is considered acceptable and will have minimal adverse privacy impacts to the rear private open areas/rear yards of the adjoining properties.

E1.1.3 Stormwater Drainage Concept Plan

The updated stormwater drainage concept plans submitted to Council has been reviewed by Council's Engineering Officer and is considered unsatisfactory for the following reason:

- *“Stormwater Drainage Concept Plan 19-23/D3 issue (C) prepared by PORTES Civil and Structural Engineers and dated 12 February 2019 is not supported in its current form. Disposal of stormwater runoff from the development site shall comply with Section E1.2.5 of PART E: WATER of Council's DCP 2013 and must be under gravity. Charged or pump-out stormwater drainage systems are not permitted including for connection of roof drainage”*

In order to resolve the above concern, standard and appropriate engineering conditions are recommended, which will form part of the Deferred Commencement consent.

5(d) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

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

Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(f) Any submissions

The application was notified in accordance with Leichhardt Development Control Plan 2013 for a period of 14 days to surrounding properties. One submission was received.

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

- The form of the proposed rear skillion dormer windows impact to heritage value – see C1.3 Alterations and additions and C1.4 Heritage Conservation Areas and Heritage Items. The amended proposal is considered acceptable.
- Privacy implications from the proposed rear first floor Juliet balcony – see C3.11 Visual Privacy. For the reasons mentioned under C3.11, the proposal will have minimal adverse privacy impacts to the surrounding neighbouring properties. As such, the proposal is acceptable.

5(g) The Public Interest

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

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

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

- Heritage
- Engineers

6(b) External

The application was not required to be referred to any external bodies.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are not payable for the proposal.

8. Conclusion

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

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

The application is considered suitable for the issue of deferred commencement consent subject to the imposition of appropriate terms and conditions.

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 of the *Leichhardt Local Environmental Plan 2013* and *Leichhardt Development Control Plan 2013* in support of the contravention of the development standard for Clause 4.4 Floor Space Ratio, Clause 4.3A - Landscaped areas & Clause 4.3A(3)(b) – Site Coverage. After considering the request, and assuming the concurrence of the Secretary, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds, the proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant deferred commencement consent to Development Application No. D/2019/134 for ground, first and second floor alterations and additions to a heritage listed dwelling-house and associated works at 15 Edward Street Balmain East, subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

Conditions of Consent

Deferred Commencement

The following is a Deferred Commencement condition imposed pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979. This Consent will not operate and may not be acted upon until the Council is satisfied as to the following matter(s):

1. Amended plans are to be submitted incorporating the following amendments:
 - a) The original window in the rear elevation on the first floor is to be retained in its original location and conserved.
 - b) The proposed rear first floor window servicing the bathroom is to be deleted and the evidence of the ashlar line work is to be retained.
 - c) The eastern wall of the proposed rear first floor rear addition is to be setback a minimum 350mm away from the rear first floor window which is to be retained. A link with minimal opening to the new bedroom to the southern side of the rear first floor window is to be provided.
 - d) The front dormer and the side cheeks are to remain in their current configuration and be conserved.
2. All stormwater drainage being designed in accordance with the provisions of the Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and PART E: WATER Council's DCP 20-13.
3. Stormwater Drainage Concept Plan 19-23/D3 issue (C) prepared by PORTES Civil and Structural Engineers and dated 12 February 2019 must be amended to address the following:
 - a) The connection of stormwater runoff from the development site to Council's street drainage system must be under gravity. Charged or pump-out stormwater drainage systems are not permitted including for connection of roof drainage;
 - b) A long section of the drainage pipe proposed under the floor slab of the dwelling must be shown on elevation, pipe diameter and invert levels, existing and proposed floor levels and finished surface ground levels must be indicated on plan and elevation. The section must detail how the pipe will be laid below the floor level of the dwelling.
 - c) The proposed drainage pipe under the floor slab must be laid straight, inspection openings or stormwater pits must be installed on the upstream and downstream ends of the pipe, outside the building envelope.
 - d) Drainage pipes must be laid at a minimum grade of 1%, pipes' diameter and invert level, pits surface and invert level, finished surface ground and finished floor levels must be shown on the drainage plans.
 - e) Design of the proposed drainage pipe under the floor slab must comply with the requirements of Council's Planning Section.
 - f) Drainage plan must detail the existing and proposed site drainage layout, size and grade of pipelines, pit types, roof gutter and downpipe sizes.
 - g) A 150mm step down shall be provided between the finished floor level of the internal room and the finished surface level of the external area.
 - h) As there is no overland flow/flood path available from the rear and trapped areas to the Edward Street frontage, the design of the sag pit and piped drainage system is to meet the following criteria:
 - i. Capture and convey the 100 year Average Recurrence Interval flow from the contributing catchment assuming 80% blockage of the inlet and 50% blockage of the pipe.
 - ii. The maximum water level over the sag pit shall not be less than 150mm/300mm below the floor level or damp course of the building
 - iii. The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.

- i) Design of the drainage system must be certified as compliant with the terms of the above condition by a suitably qualified Civil Engineer.

The operational Development Consent will be issued by Council (in writing) after the applicant provides sufficient information to satisfy Council in relation to the conditions of the deferred commencement consent.

Evidence of the above matter(s) must be submitted to Council within 2 years otherwise the Consent will not operate.

Fees

1. Long Service Levy

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

2. Security Deposit - Standard

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:	\$2,152.50
Inspection Fee:	\$230.65

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 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

3. 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
051 B	Demo Ground Floor & L1 Plans	16.7.2019	Lombardo Design Studio
052 B	Demo Attic & Roof Plans	16.7.2019	Lombardo Design Studio
101 B	Proposed Ground Floor & L1 Plans	16.7.2019	Lombardo Design Studio
102 B	Proposed Attic & Roof Plans	16.7.2019	Lombardo Design Studio
201 B	Proposed Elevations	16.7.2019	Lombardo Design Studio
202 C	Proposed Elevations	28.8.2019	Lombardo Design Studio
301 B	Proposed Sections	16.7.2019	Lombardo Design Studio
A334741	BASIX Certificate	25.1.2019	Lombardo Design Studio
M1-01 B	Material Schedule Drawing	Un-dated	Lombardo Design Studio

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

Where there is an inconsistency between approved elevations and floor plan, the elevation shall prevail.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

The existing elements (walls, floors etc) shown to be retained on the approved plans shall not be removed, altered or rebuilt without prior consent of the consent authority.

Note: Carrying out of works contrary to the above plans and/ or conditions may invalidate this consent; result in orders, on the spot fines or legal proceedings.

4. Design Change

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:

- a) The proposed eco-permeable pavers to the front of the dwelling is to be deleted and replaced with soft landscaping.

5. 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.

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. Works Outside the Property Boundary

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

8. Boundary Alignment Levels

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

Prior to any Demolition**9. Dilapidation Report**

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

10. Advising Neighbors Prior to Excavation

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

11. 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**12. Party Walls**

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

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

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.

15. Materials and Finishes

Materials and finishes must be complementary to the predominant character and streetscape of the area, and any existing buildings & the period of construction of the buildings. New materials that are not depicted on the approved plans must not be used. Highly reflective wall or roofing materials and glazing must not be used. Materials must be designed so as to not result in glare (maximum normal specular reflectivity of visible light 20%) or that causes any discomfort to pedestrians or neighbouring properties. Details of finished external surface materials, including colours and texture must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority.

16. 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 132092.

17. Concealment of Plumbing and Ductwork

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans detailing the method of concealment of all plumbing and ductwork including stormwater downpipes within the outer walls of the building so they are not visible.

18. The Public Domain Works

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a suitably experienced Chartered/Registered Civil Engineer and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the Roads Act 1993 incorporating the following requirements:

- a) Installation of a stormwater outlet to the kerb and gutter.

During Demolition and Construction**19. 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.

20. Stormwater Drainage System

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

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

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

21. 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**22. No Encroachments**

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

23. No Weep Holes

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with evidence that any weep holes to Council road or footpath resulting from the building works have been removed.

Advisory notes**Prescribed Conditions**

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

Notification of commencement of works

At least 7 days before any demolition work commences:

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

Storage of Materials on public property

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

Toilet Facilities

The following facilities must be provided on the site:

- a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - b) a garbage receptacle for food scraps and papers, with a tight fitting lid.
- Facilities must be located so that they will not cause a nuisance.

Infrastructure

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

Other Approvals may be needed

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

Failure to comply with conditions

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

Other works

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

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Chartered/Registered Engineer

An engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng).

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.
- g) Development Application for subdivision if consent for subdivision is not granted by this consent.

National Construction Code (Building Code of Australia)

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

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.

Notification of commencement of works

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

- a) in the case of work for which a principal contractor is required to be appointed:
 - i.the name and licence number of the principal contractor, and
 - ii.the name of the insurer by which the work is insured under Part 6 of that Act,
- b) in the case of work to be done by an owner-builder:
 - i.the name of the owner-builder, and
 - ii.if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Dividing Fences Act

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

Permits from Council under Other Acts

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with

Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

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

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

Noise

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

Amenity Impacts General

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

Construction of Vehicular Crossing

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

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.

Asbestos Removal

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m² of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

Removal of friable asbestos material must only be undertaken by a contractor that holds a current AS1 Friable Asbestos Removal Licence.

Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2005. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

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.diyasafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 www.environment.nsw.gov.au
Sydney Water	13 20 92 www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

Attachment B – Plans of proposed development

DEVELOPMENT APPLICATION - ISSUE C

AT 15 EDWARD ST. BALMAIN EAST NSW 2041
 CLIENT ANDREW HUGG & DARVA VANSTONE
 JOB NO. 1814

LOMBARDO DESIGN STUDIO

P. PO Box 126 Surry Hills NSW 2010 t. 0494110646 e. j@lombardstudio.com.au

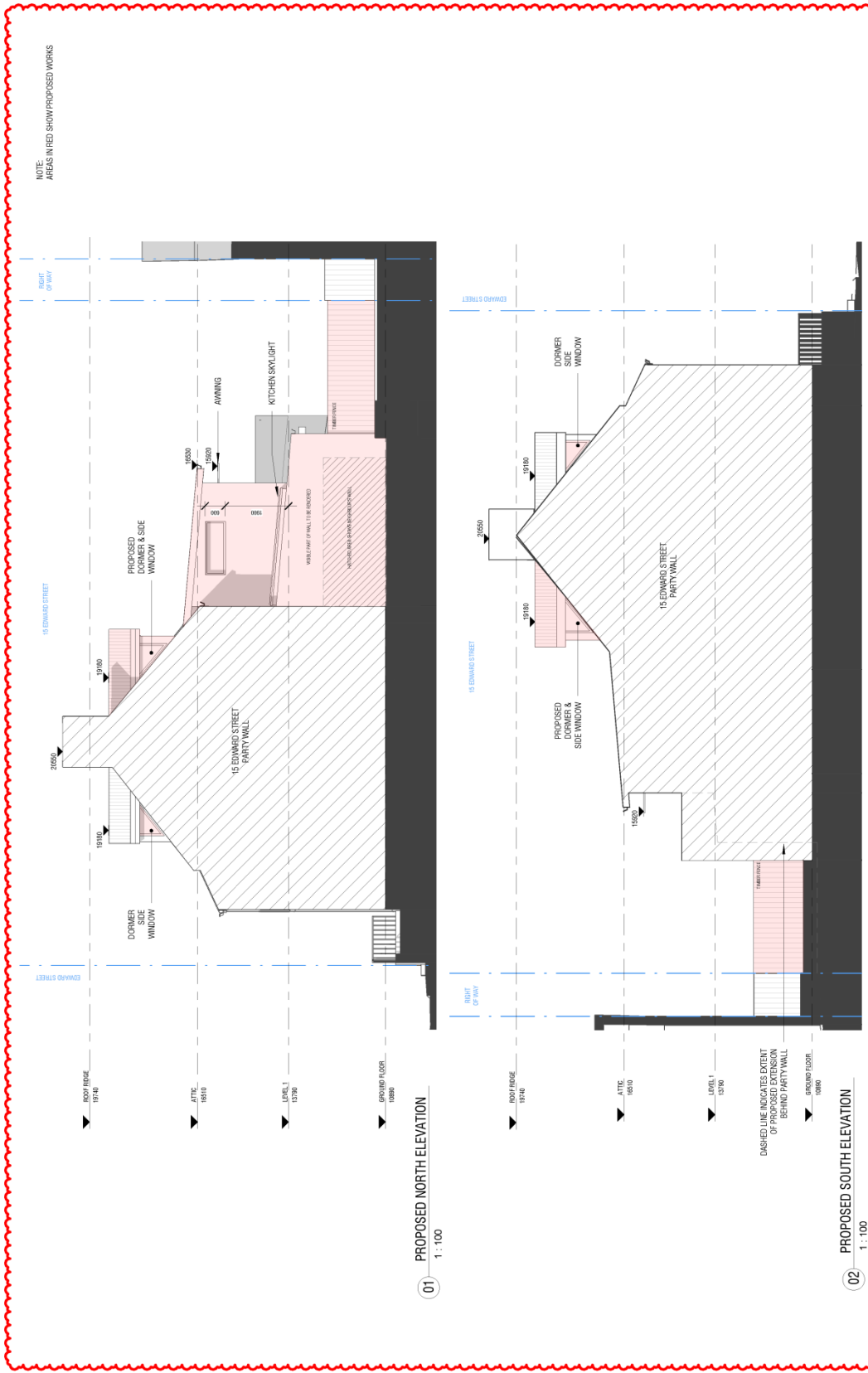
SHEET NUMBER	SHEET NAME	REVISION	REVISION DATE
001	TITLE PAGE & DRAWING SCHEDULE	C	20.08.2019
001	EXISTING SITE AND SURROUNDING CONTEXT PLANS	B	18.07.2019
002	EXISTING SITE AND ATTC & BURY PLANS	B	18.07.2019
003	SITE PLAN ANALYSIS	A	09.07.2019
004	PROPOSED OVERBAND FLOOR & L1 PLANS	B	18.07.2019
005	PROPOSED ATTC & ROOF PLANS	B	18.07.2019
006	PROPOSED ELEVATIONS	B	18.07.2019
200	PROPOSED SITE PLANS	C	20.08.2019
201	PROPOSED SECTIONS	B	18.07.2019

FSS ANALYSIS

LIST AREA	7.5 m ²
SEA	
GROUND FLOOR	41.2 m ²
LEVEL 1	22.2 m ²
ATTC	13.0 m ²
TOTAL	86.7 m²
FSS	1.11:1

LANDSCAPE ANALYSIS

LANDSCAPE	LANDSCAPE
UNSH. LANDSCAPE	17.0 m ²
SOCI. LANDSCAPE	5.0 m ²
TOTAL	22.0 m²
	= 25.3%



202

DEVELOPMENT APPLICATION - ISSUE C
15 EDWARD ST. BALMAIN EAST NSW 2041 AT
ANDREW KING & DARVIN WAINSTONE CLIENT
PROPOSED ELEVATIONS DRAWING
UN / J.L. DITCH

LOMBARD DESIGN STUDIO
15/16 BALMAIN RD BALMAIN NSW 2041
T: 02 9550 1104
E: info@lombard.com.au

A3
1 : 100
0 1 2 3 4 5M

LEGEND

EXISTING (Solid grey)

PROPOSED (Hatched)

REMOVE (Dashed red)

N	AMENDMENT DETAIL	DATE
C	DEVELOPMENT APPLICATION INITIAL CONSTRUCTION	28.08.2019

NOTES:

Check all dimensions on all fabric components with respect any discrepancies to consultant to client notes. Do not scale from this drawing. This drawing is copyright and remains the property of Lombard Design Studio. All dimensions shall be taken in preference to scale. All measurements and materials that comply with all relevant codes, standards, tables, charts, and manuals. Exempt, etc. to structural engineer's specifications.

DEVELOPMENT APPLICATION - ISSUE B

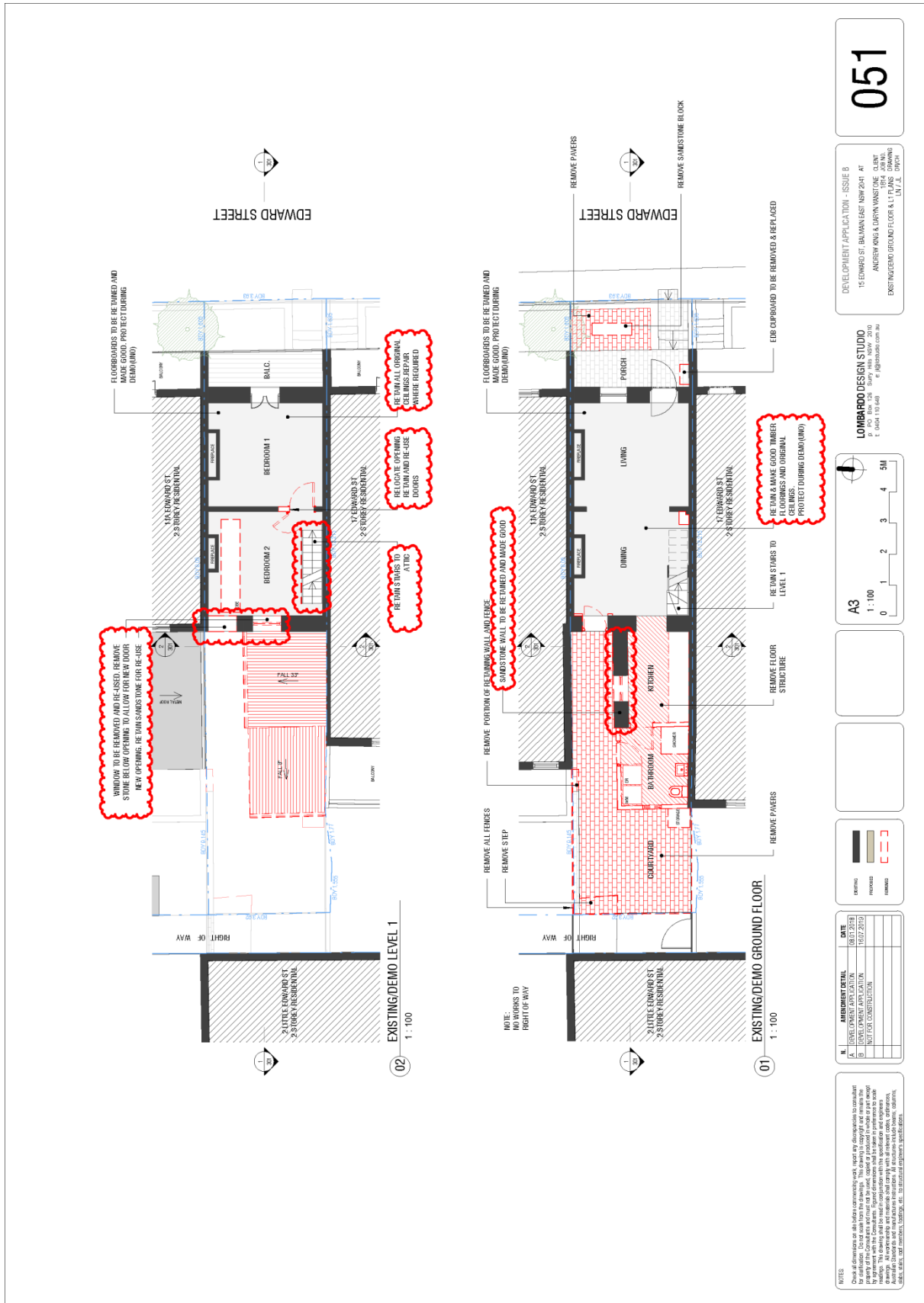
AT 15 EDWARD ST BALMAIN EAST NSW 2041
 CLIENT ANDREW KING & DARVIN WAINSTONE
 JOB NO. 1814

LOMBARDO DESIGN STUDIO

P: PO Box 128 Surry Hills NSW 2010 t: 0404110648 e: l@ldestudio.com.au

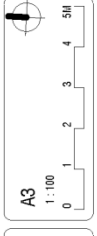
SHEET NUMBER	SHEET NAME	REVISION	REVISION DATE
001	TITLE PAGE & URNINGS SCHEDULE	B	16.07.2019
051	EXISTING/PROPOSED GROUND FLOOR & L1 PLANS	B	16.07.2019
052	EXISTING/PROPOSED ATTIC & ROOF PLANS	B	16.07.2019
100	SITE PLAN ANALYSIS	A	08.01.2018
101	PROPOSED GROUND FLOOR & L1 PLANS	B	16.07.2019
102	PROPOSED ATTIC & ROOF PLANS	B	16.07.2019
201	PROPOSED ELEVATIONS	B	16.07.2019
301	PROPOSED SECTIONS	B	16.07.2019

FSR ANALYSIS		LANDSCAPE ANALYSIS	
LOT AREA	77.6 m ²	LANDSCAPING	
SEA		HARD LANDSCAPING	17.82 m ²
GROUND FLOOR	41.3 m ²	SOFT LANDSCAPING	5.04 m ²
LEVEL 1	32.32 m ²	TOTAL	22.86 m²
ATTIC	15.98 m ²		= 29.32%
TOTAL	86.7 m²		
FSR	1.11:1		



DEVELOPMENT APPLICATION - ISSUE B
 15 EDWARD ST, BAKANAN EAST NSW 2047 AT
 ANDREW KING & CURTIN WASTON ARCHITECTS
 EXISTING/DEMO GROUND FLOOR & LEVEL 1 PLAN

LOMBARDO DESIGN STUDIO
 P. POY, E. HAY, J. B. SMYTH, H. HAY, M. HAY, J. HAY
 T. (02) 9111 1111 E. info@lombardo.com.au



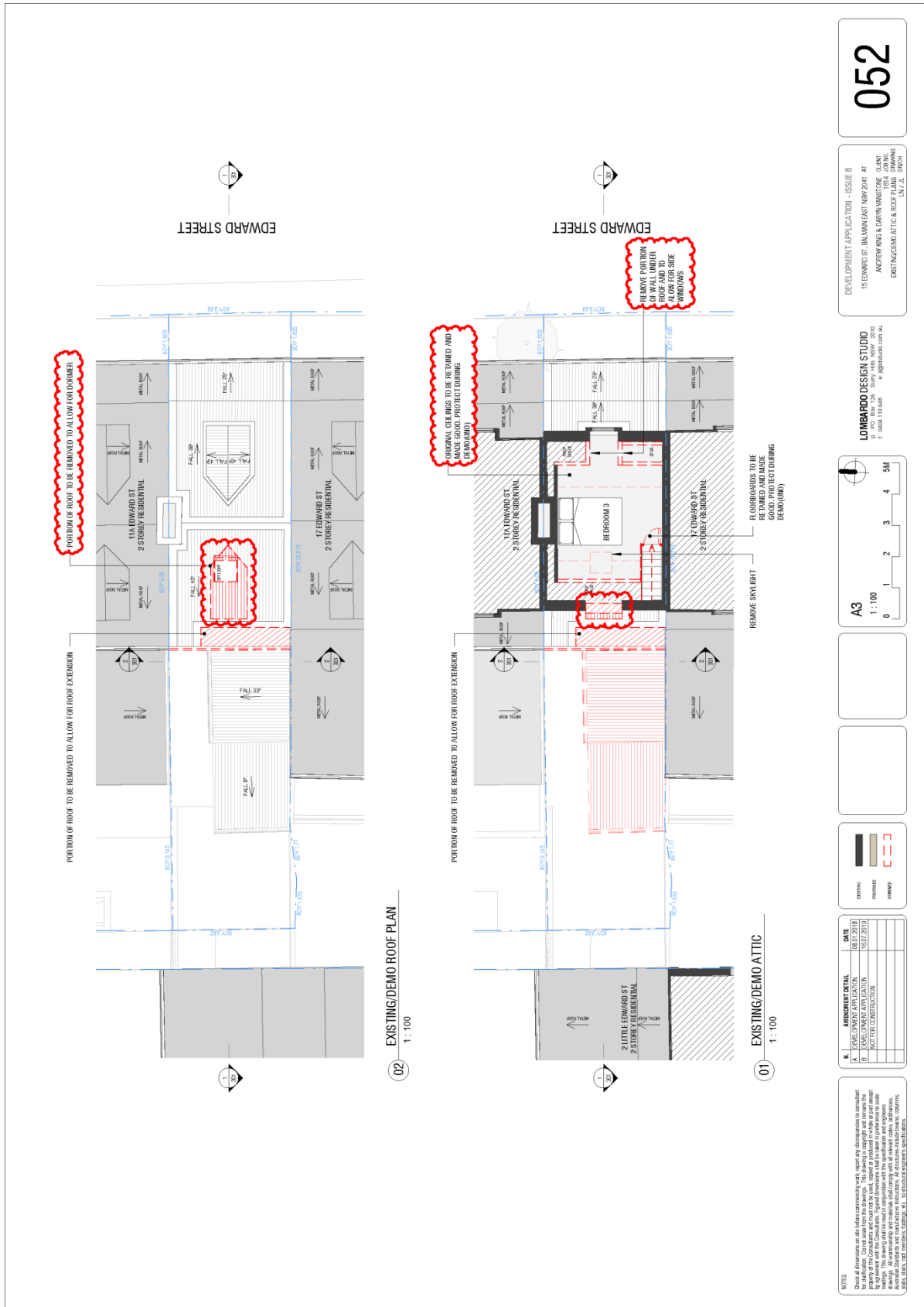
A3
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NO.	REVISION	DATE
1	ISSUE B	10.07.2019
2	FOR CONSTRUCTION	

NO.	REVISION	DATE
1	ISSUE B	10.07.2019
2	FOR CONSTRUCTION	

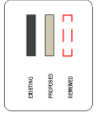
NOTES:
 1. ALL WORKS TO RIGHT OF WAY
 2. ALL WORKS TO LEFT OF WAY
 3. ALL WORKS TO FRONT OF WAY
 4. ALL WORKS TO REAR OF WAY
 5. ALL WORKS TO SIDE OF WAY
 6. ALL WORKS TO INTERIOR OF WAY
 7. ALL WORKS TO EXTERIOR OF WAY
 8. ALL WORKS TO UNDERGROUND
 9. ALL WORKS TO ABOVEGROUND
 10. ALL WORKS TO EXISTING/DEMOLITION
 11. ALL WORKS TO RETENTION
 12. ALL WORKS TO REPAIR
 13. ALL WORKS TO REPLACE
 14. ALL WORKS TO DEMOLISH
 15. ALL WORKS TO CONSTRUCT
 16. ALL WORKS TO FINISH
 17. ALL WORKS TO PROTECT
 18. ALL WORKS TO REMOVE
 19. ALL WORKS TO RELOCATE
 20. ALL WORKS TO ENLARGE
 21. ALL WORKS TO REDUCE
 22. ALL WORKS TO ADD
 23. ALL WORKS TO REMOVE AND RE-INSTALL
 24. ALL WORKS TO REMOVE AND RE-USE
 25. ALL WORKS TO REMOVE AND RE-PAINT
 26. ALL WORKS TO REMOVE AND RE-PAVEMENT
 27. ALL WORKS TO REMOVE AND RE-ROOF
 28. ALL WORKS TO REMOVE AND RE-SIDE
 29. ALL WORKS TO REMOVE AND RE-SOIL
 30. ALL WORKS TO REMOVE AND RE-SURFACE
 31. ALL WORKS TO REMOVE AND RE-TERRACE
 32. ALL WORKS TO REMOVE AND RE-TREASURE
 33. ALL WORKS TO REMOVE AND RE-VEGETATE
 34. ALL WORKS TO REMOVE AND RE-WATER
 35. ALL WORKS TO REMOVE AND RE-WHITE
 36. ALL WORKS TO REMOVE AND RE-WOOD
 37. ALL WORKS TO REMOVE AND RE-ZONE
 38. ALL WORKS TO REMOVE AND RE-ZIP
 39. ALL WORKS TO REMOVE AND RE-ZIP
 40. ALL WORKS TO REMOVE AND RE-ZIP

051



NOTES:
 Check all dimensions on site before commencing work. Report any discrepancies to consultant immediately. The drawings are not to be used for any other purpose without the written consent of the consultant. This drawing is the property of the consultant and is not to be reproduced, stored, copied, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written consent of the consultant. All dimensions are in millimeters unless otherwise stated.

N.	AMENDMENT DETAIL	DATE
A.	DESIGN DEVELOPMENT APPROVAL	08/07/2019
B.	DESIGN DEVELOPMENT APPROVAL	08/07/2019
C.	NOT FOR CONSTRUCTION	

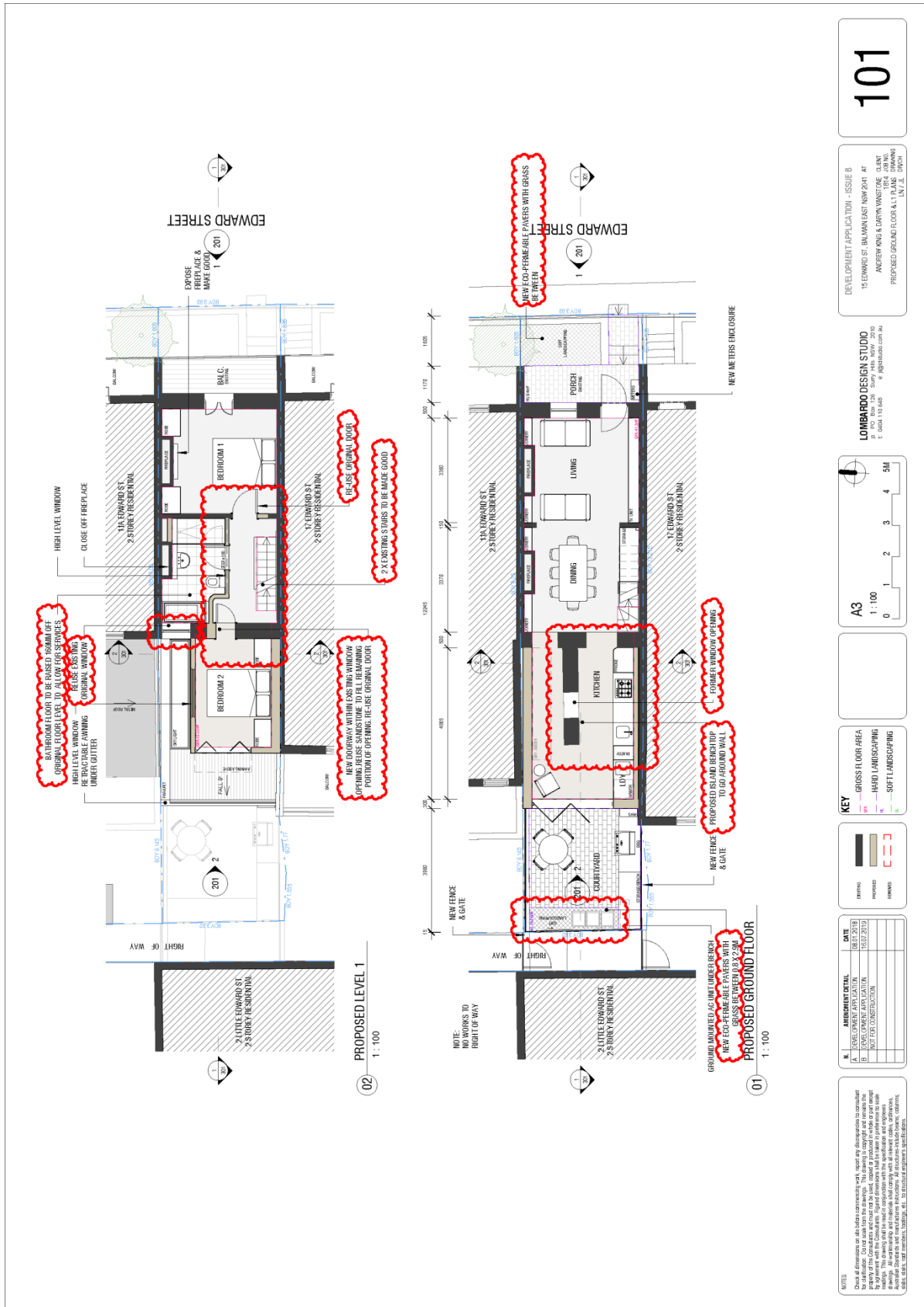


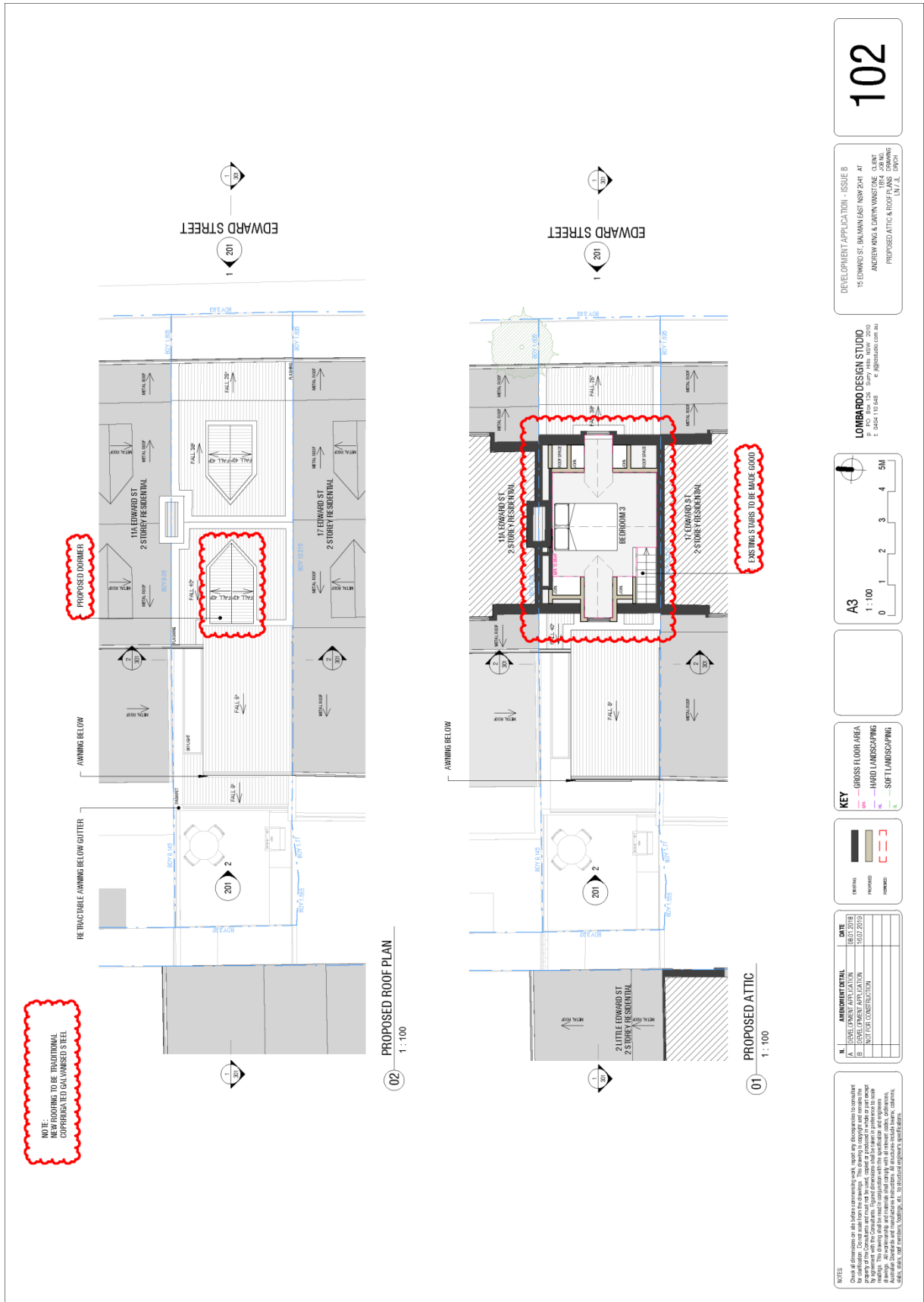
A3
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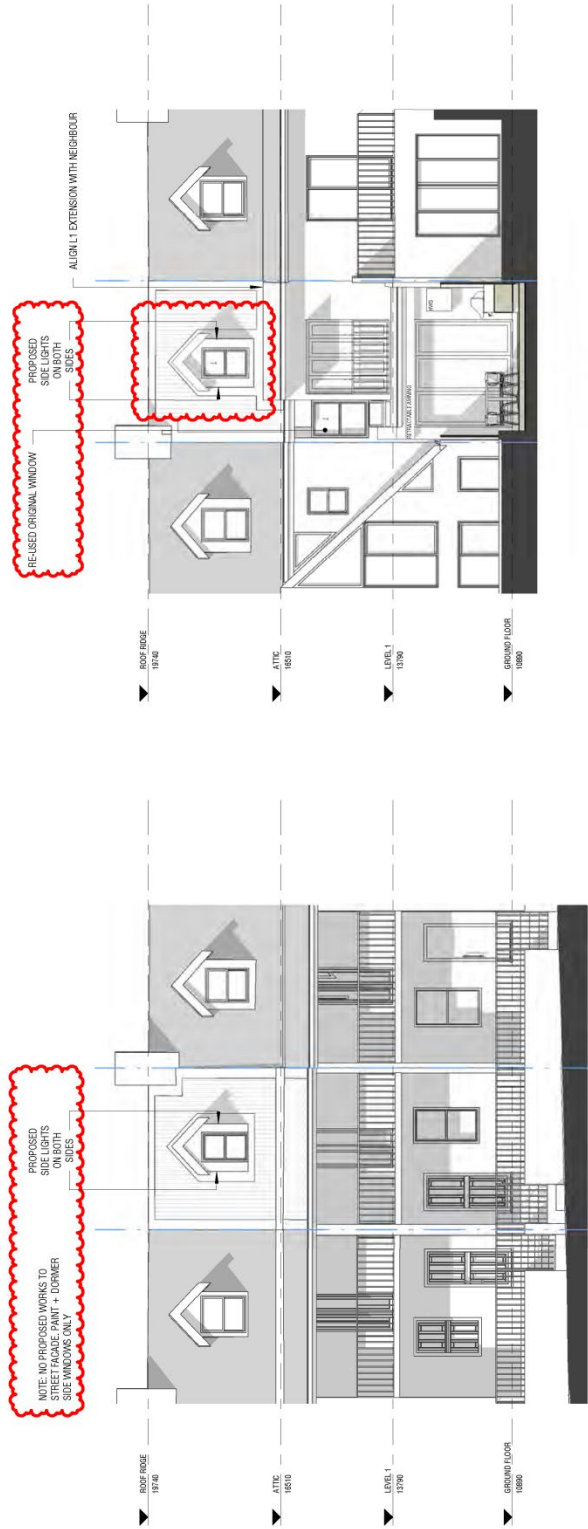
LOMBARDO DESIGN STUDIO
 1/100 BROADWAY, SYDNEY NSW 2009
 T: 02 9439 1848 E: info@lombardo.com.au

DEVELOPMENT APPLICATION - ISSUE B
 15 EDWARDS ST, BALMANGROSS NSW 2047 AT
 ANDREW KING & DARWIN WINDSTORM CONSULTANTS
 ENGINEERING ARCHITECT & ROOF PLANS DRAWING
 INT./J.L. DRON

052







01 PROPOSED STREET ELEVATION
1 : 100

02 PROPOSED REAR ELEVATION
1 : 100

NOTES
 1. All dimensions are to be taken from the face of the wall unless otherwise specified.
 2. All elevations are to be taken from the street side of the building.
 3. All elevations are to be taken from the street side of the building.
 4. All elevations are to be taken from the street side of the building.
 5. All elevations are to be taken from the street side of the building.
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 8. All elevations are to be taken from the street side of the building.
 9. All elevations are to be taken from the street side of the building.
 10. All elevations are to be taken from the street side of the building.

NO.	REVISIONS	DATE
1	ISSUE FOR DEVELOPMENT APPLICATION	10.07.2019
2	ISSUE FOR DEVELOPMENT APPLICATION	16.07.2019
3	ISSUE FOR DEVELOPMENT APPLICATION	16.07.2019
4	ISSUE FOR DEVELOPMENT APPLICATION	16.07.2019
5	ISSUE FOR DEVELOPMENT APPLICATION	16.07.2019
6	ISSUE FOR DEVELOPMENT APPLICATION	16.07.2019
7	ISSUE FOR DEVELOPMENT APPLICATION	16.07.2019
8	ISSUE FOR DEVELOPMENT APPLICATION	16.07.2019
9	ISSUE FOR DEVELOPMENT APPLICATION	16.07.2019
10	ISSUE FOR DEVELOPMENT APPLICATION	16.07.2019

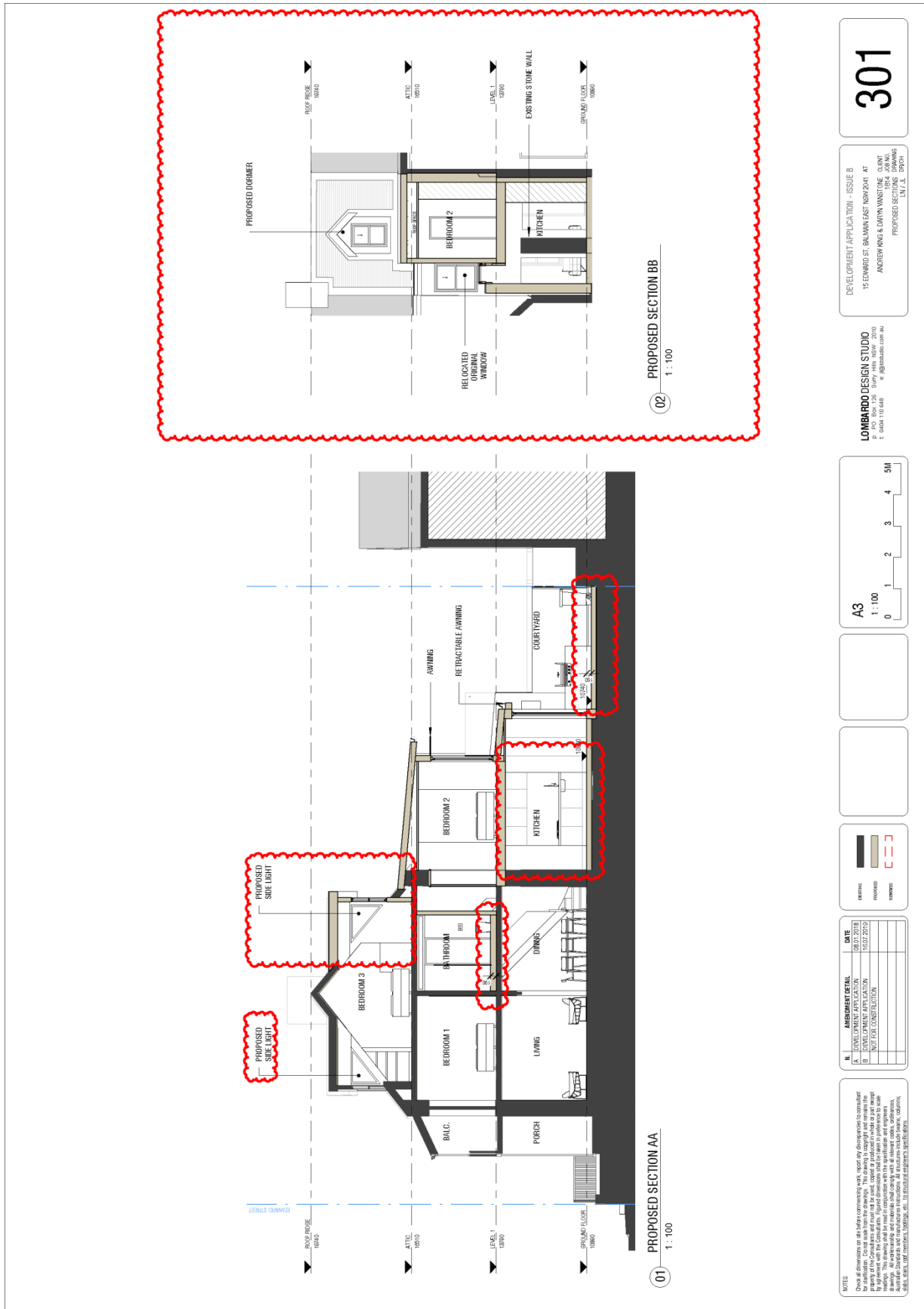


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LOMBARDO DESIGN STUDIO
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 T: 02 911 0104
 E: info@lombardo.com.au

DEVELOPMENT APPLICATION - ISSUE B
 15 EDWARDS ST. BALMAIN EAST NSW/2041 AT
 ANDREW WONG & DARINA WAINSTONE CLIENT
 1514 JOB NO.
 PROPOSED ELEVATION DRAWING
 15 JUL 2020

201



NOTES:
 Check all dimensions on site when construction starts. Report any discrepancies to consultant immediately.
 All work to be done in accordance with the Australian Standards and relevant codes of practice.
 All materials to be used must be approved by the relevant authorities.
 All work to be done in accordance with the Australian Standards and relevant codes of practice.
 All materials to be used must be approved by the relevant authorities.

N.	AMENDMENT DETAIL	DATE
1	ISSUE FOR PERMIT APPLICATION	08/07/2019
2	ISSUE FOR PERMIT APPLICATION	10/07/2019
3	ISSUE FOR CONSTRUCTION	








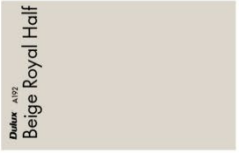
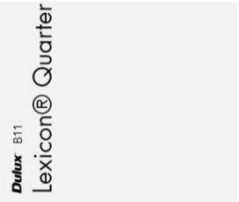







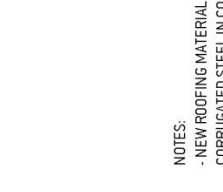



A3
 1:100
 0 1 2 3 4 5M

LOMBARDO DESIGN STUDIO
 15 EMMERS ST. BALMAIN EAST NSW 2041 AT
 P. 02 9558 7200 F. 02 9558 7839 W. www.lombardodesign.com.au
 # lombardodesign # lombardodesignstudio

DEVELOPMENT APPLICATION - ISSUE B
 15 EMMERS ST. BALMAIN EAST NSW 2041 AT
 ANDREW PONG & LOREN VANDERSTRAAT
 OF LOMBARDO DESIGN STUDIO
 PROPOSED SECTIONS DRAWING
 1/1/21 0/2/21

301

 <p>Dulux B11 Lexicon® Quarter</p>	 <p>MONUMENT®</p>	 <p>ALUMINIUM WINDOWS + BALUSTRADE + AWNINGS</p>	 <p>SHALE GREY™</p>	 <p>METAL ROOF - GUTTERS - DOWNPIPES</p>	 <p>Dulux A102 Beige Royal Half</p>	 <p>LAPPED & CAPPED TIMBER FENCE</p>
<p>NEW REAR ADDITION</p>  <p>Dulux A102 Beige Royal Half</p>	 <p>Dulux B11 Lexicon® Quarter</p>	 <p>MONUMENT®</p>	 <p>SHALE GREY™</p>	 <p>SHALE GREY™</p>	 <p>SHALE GREY™</p>	 <p>SHALE GREY™</p>
<p>EXISTING ENVELOPE</p>  <p>SANDSTONE</p>	 <p>TIMBER BALCONY (TO BE REPAIRED)</p>	 <p>PAVERS (TO BE CLEANED)</p>	 <p>BALUSTRADE + MAIN DOOR+ SECURITY FLYSCREEN DOOR</p>	 <p>METAL ROOF - GUTTERS - DOWNPIPES</p>	 <p>METAL ROOF - GUTTERS - DOWNPIPES</p>	 <p>METAL ROOF - GUTTERS - DOWNPIPES</p>
<p>EXISTING TO REMAIN</p>	<p>SOFT LANDSCAPING REFERENCE</p>	<p>A3</p>	<p>A3</p>	<p>A3</p>	<p>LOMBARDO DESIGN STUDIO 15 EDWARD ST BALMAIN EAST NSW 2041 AT ANDREW KING & DARVA VANDSTONE CLIENT P 02 9434 1154 E info@lombardo.com.au MATERIAL SCHEDULE DRAWING 1/11/21 DWG/CH</p>	<p>M1-01</p>

NOTES:
 - NEW ROOFING MATERIAL TO BE PRE-COLOURED TRADITIONAL CORRUGATED STEEL IN COLORBOND SHALE GREY OR EQUIVALENT
 - ALL COLOURS ARE TO BE AS SPECIFIED OF EQUIVALENT/SIMILAR
 - PROPOSED DORMER TO BE TIMBER CLADDING TO MATCH STREET SIDE DORMER AND NEIGHBOURS- DORMER WINDOWS TO BE TIMBER

NOTES:
 Check all dimensions on this drawing against the relevant approved development consent and any other relevant approvals. All dimensions shall be in millimetres unless otherwise stated. All measurements and materials shall comply with Australian standards, codes of practice, and any other relevant standards, codes of practice, and any other relevant approvals. All dimensions shall be in millimetres unless otherwise stated. All measurements and materials shall comply with Australian standards, codes of practice, and any other relevant approvals.

Attachment C- Clause 4.6 Exception to Development Standards



REQUEST PURSUANT TO CLAUSE 4.6, FOR EXCEPTION TO COMPLIANCE WITH CLAUSE 4.4(2B)(b)(i) of LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013

This Clause 4.6 Exception Submission has been prepared by Genevieve Slattery Urban Planning Pty Ltd on behalf of Mr. Daryn Vanstone (the Applicant), in relation to a Development Application for the property at No. 15 Edward Street, Balmain East (the site).

This Submission is made to Inner West Council in support of a Development Application (DA) for alterations and additions to the existing terrace house at the site.

This request has been prepared having regard to:

- Land and Environment Court of NSW judgment in Winten Property v North Sydney Council [2001];
- Land and Environment Court of NSW judgment in Wehbe v Pittwater Council [2007];
- Land and Environment Court of NSW judgments in Four2Five Pty Ltd v Ashfield Council [2015];
- NSW Department of Planning and Infrastructure's Varying Development Standards: A Guide 2015; and
- Land and Environment Court of NSW judgment in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.

1.0 WHAT IS THE CLAUSE SOUGHT TO BE VARIED?

1.1 Clause 4.4(2B)(b)(i) of Leichhardt Local Environmental Plan 2013

Pursuant to Clause 4.4(2B)(b)(i) of LEP 2013, a maximum Floor Space Ratio (FSR) of 1:1 is permitted at the site. This equates with a Gross Floor Area (GFA) of 77.6m² at the site.

1.2 What is the extent of the non-compliance?

The site has an area of 77.6m².

The existing dwelling house has a Gross Floor Area (GFA) of 72.39m² and an FSR of 0.93:1.

Genevieve Slattery Urban Planning Pty Ltd

PO Box 86
DRUMMOYNE NSW 1470

P: 0402 206 923
E: genevieve@gsup.com.au

The proposed alterations and additions seek to introduce an additional 15.49m² of GFA, resulting in a GFA of 87.88m² and an FSR of 1.13:1. The proposal is therefore non-compliant by 10.28m² or 13.2%.

2.0 CLAUSE 4.6 OBJECTIVES

Clause 4.6 of LEP 2013 has the following objectives:

- (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."*

As discussed below, it is considered appropriate to invoke the provisions of Clause 4.6 of LEP 2013, in order to achieve a positive planning outcome at the site.

3.0 CLAUSE 4.6(3) PROVISIONS

Clause 4.6(3) states that development consent must not be granted for development that contravenes a Development Standard unless the consent authority has considered a written request from the Applicant that seeks to justify the contravention of the development standard by demonstrating the following:

- (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.

The following discussion constitutes a written request seeking to justify the contravention of Clause 4.4 of LEP 2013.

4.0 CLAUSE 4.6(3)(a) - IS COMPLIANCE WITH THE STANDARD UNREASONABLE AND UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

4.1 Clause 4.4 Objectives

The objectives of Clause 4.4 of LEP 2013 are as follows:

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

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

The proposed development is compatible with the desired future character of the area (within Balmain East Distinctive Neighbourhood) and is also compliant with the controls applicable to development of heritage items and in heritage conservation areas, alterations and additions to 2/3 storey terraces and rear skillion dormers as can be seen in **Tables 1 to 5** below.

Table 1: discussion of the Balmain East Distinctive Neighbourhood Controls

CONTROL	RESPONSE
C1 Development in the neighbourhood should step with the contour of the land.	Complies The proposal maintains existing levels at the site, consistent with the row of terraces within which the site is located.
C2 The rarity of the early Victorian, but Georgian in style, nucleus of buildings in Balmain East requires stricter controls than elsewhere on the peninsula. As a representation of early Sydney, it is of great importance to the history of the City as a whole, alongside other historic precincts such as the Rocks, and the Colonial precincts of Parramatta. While the later phases of buildings contribute to its character, and represent the phases of development, the earliest layer needs the most careful treatment. Accordingly, the scope for new development is limited and the task is largely conservation of the existing fabric while allowing complementary and incremental change.	Complies The proposed alterations and additions have been sensitively designed and will complement the character of the locality.
C3 Maintain the individual patterns of architectural style along each street.	Complies The proposal maintains the architectural style of the terrace when viewed from Edward Street.
C4 Preserve view lines for existing development.	Complies The proposal, which is lower than the existing ridge and ridges of the adjoining terraces, will have no impact on view lines for properties in the locality.
C5 The predominant scale of development is two storeys.	Complies The existing dwelling house is part one/part two plus attic and the proposal maintains this. The proposed alterations to the existing attic are situated within the roof form, and incorporate a skillion dormer as is permitted, and therefore maintain a dominant two (2) storey scale, consistent with the other terraces in the row.

CONTROL	RESPONSE
C6 Maintain the character of the area by keeping development consistent in architectural style, building form and materials.	Complies Refer to HIS accompanying this DA.
C7 Prevent the disruption of footpaths by discouraging additional driveway crossings.	Complies No new driveways are proposed.
C8 All development is to be sympathetic to the historic and conservation values of the neighbourhood.	Complies Refer to HIS accompanying this DA.
C9 Maintain mature trees on public and private land.	Complies No trees are affected by the proposal.
C10 Preserve the integrity of the escarpments. Development around escarpments is to avoid cutting, changing the topography or removing associated vegetation around the escarpment. Buildings and structures are to avoid dominating the escarpment.	Complies No escarpments are affected by the proposal.
C11 This area is sensitive to overshadowing and view loss. All development activity should avoid overshadowing and blocking views.	Complies The proposal has no impact on views, as the proposed rear addition is lower than the existing ridge and ridges of the adjoining terraces. As outlined in the shadow diagrams accompanying this DA, no ground level private open spaces or living rooms of adjoining properties are affected by additional overshadowing arising from the proposal.
C12 New or altered buildings should be sympathetic to the conservation values of the area: a. in this regard all structures built prior to 1850 are rare and should be conserved. No alterations shall be approved to significant buildings without detailed assessment and recording by a heritage specialist. Where visible from the public domain, visual access shall be retained. New structures shall follow Burra Charter Principles in terms of an interpretive response, and shall be deferential, but not imitative; b. additional driveway crossings are discouraged; c. new development is to step with the land contours and to respect the view lines of surrounding properties; d. development visible from the water is to be designed to preserve the conservation values of the area	Complies The existing dwelling was constructed in 1870 and is proposed to be sensitively altered and added to, as outlined in the HIS accompanying this DA. No driveways are proposed. The proposal maintains existing levels across the site. The proposed development will maintain the status quo in terms of impacts on views from the water as no changes are

CONTROL	RESPONSE
<p>when viewed from the water. Photomontage details of the proposal, as viewed from the water are to be submitted with development applications;</p> <p>e. new development is to reflect the side setbacks established in the immediate vicinity of the site (e.g. freestanding or terrace form). This control seeks to encourage the provision of lines of sight and water views between buildings. This may require side gates to be of an open nature to permit the maintenance of side walls; and</p> <p>f. front setbacks shall be generally 0 - 2m, except where the particular context requires a deeper setback. Narrow verandahs built to the street frontage are generally appropriate to narrow streets such as Datchett, Little Nicholson and Union Streets.</p>	<p>proposed to the front elevation and the rear of the dwelling is not visible from the water.</p> <p>The proposed side and rear setbacks are consistent with those of the adjoining terraces.</p> <p>No changes are proposed to the existing front setback.</p>
<p>C13 Appropriate materials are shaped sandstone, painted timber, and rendered or bagged masonry. Steel roofing in a 'gull grey' is the appropriate roof material in most circumstances, with slate replacing slate otherwise.</p>	<p>Complies Refer to Schedule of Colours, Materials and Finishes and HIS accompanying this DA.</p>
<p>C14 Fencing and balustrading shall be generally vertical metal or timber picket style, without ornamentation. Front fencing shall be open and not more than 1.2m high.</p>	<p>Complies No changes are proposed to the existing front fence or balustrade. The proposed juliet balcony balustrade is appropriate in the context.</p>
<p>C15 Verandah and balcony structures shall be timber or metal or a mix of both, and not include masonry elements.</p>	<p>Complies The proposed juliet balcony does not comprise any masonry elements.</p>
<p>C16 Mature trees and other significant vegetation between development and the waterfront is to be preserved.</p>	<p>Complies No trees or significant vegetation are affected by the proposal.</p>
<p>C17 Escarpments and stone walls are to be preserved. Construction on escarpments or cutting into stone walls (or into rock faces) is to be avoided.</p>	<p>Complies No escarpments or stone walls are affected by the proposal.</p>
<p>C18 Development overlooking open space is to avoid taking visual 'ownership' of the public space. This is to be achieved by setting balconies (back) 2m from the relevant boundary and designing for the privacy considerations of open space users.</p>	<p>Complies The proposal is separated from Illoura Reserve by Edward Street and a public car park.</p>
<p>C19 Development is to be consistent with any relevant Sub Area objective(s) and condition(s).</p>	<p>Complies See Table 2 below.</p>

Table 2: Discussion of Eastern Waterfront Sub Area controls

CONTROL	RESPONSE
C1 Development in this precinct is to respect the existing view lines of nearby properties.	Complies The proposal has no impact on views, as the proposed rear addition is lower than the existing ridge and ridges of the adjoining terraces.
C2 The appropriate scale of development for this area is two storeys.	Complies The proposal maintains the existing provision of two (2) storeys plus attic accommodation as is commonplace in the row of terraces within which the site is located. From the public domain, a two (2) storey scale is apparent.
C3 The maximum building wall height is 6m.	Complies The proposal maintains the existing 5.2m wall height to Edward Street.
C4 The built form is freestanding single dwellings with render and masonry construction.	N/A as the site contains a terrace house.
C5 Development is to be consistent with any relevant objectives and controls within the Balmain East Distinctive Neighbourhood.	Complies See Table 1 above.

Table 3: compliance with Controls at Part C1.3 of DCP 2013

CONTROL	RESPONSE
<p>General provisions</p> <p>C6 The overall form of alterations and additions shall:</p> <p>a. have regard to the provisions within Appendix B – Building Typologies of this Development Control Plan;</p> <p>b. be compatible with the <i>scale</i>, form and material of the existing <i>dwelling</i> and adjoining <i>dwellings</i>, including wall height and roof form;</p> <p>c. retain any building and streetscape consistencies which add positively to the character of the neighbourhood (e.g.</p>	<p>Complies.</p> <p>The proposed alterations and additions have been designed having regard to the Design Approach for alterations to 2/3 storey terraces – see discussion following in Table 4 below.</p> <p>Complies</p> <p>The proposed development maintains the existing apparent height of the existing building, at the front and rear, with the additional levels setback and not readily visible from the public domain. The 3D views accompanying this DA show the appropriateness of the scale of the proposed development, in the context of the site and having regard to the form and scale of other development in the vicinity of the site (see Figure 2).</p> <p>Complies</p> <p>The proposal retains the essential character and form of the existing building and enhances the contribution</p>

CONTROL	RESPONSE
<p>architectural details, continuous rows of <i>dwelling</i>s, groups of similar <i>dwelling</i>s, or the like);</p> <p>d. maintain the integrity of the streetscape and heritage significance; and</p> <p>e. be considered from all public vantage points from which the additions will be visible; and</p> <p>f. achieve the objectives and controls for the applicable desired future character</p>	<p>that it makes to the row of similar terraces within which it is located.</p> <p>Complies The proposed development is acceptable in heritage terms, as discussed in the HIS accompanying this DA.</p> <p>Complies The 3D views at Figure 1 below show the appropriateness of the proposed development in terms of visual impact. The proposed front elevation will not be materially altered and given the tight pattern of subdivision, the proposed addition to the rear will be visible from only limited vantage points within adjoining private properties.</p> <p>Complies See Tables 1 and 2 above.</p>
<p>C7 Development shall preserve the consistency in architectural detail and form of continuous rows of attached <i>dwelling</i>s, or groups of similar <i>dwelling</i>s.</p>	<p>Complies As discussed in the HIS accompanying this DA, the proposed façade to Edward Street will remain unaltered and hence, the status quo will be maintained in terms of its consistency with the other terraces in the row.</p> <p>The other terraces in the row have had numerous rear additions with varying forms and designs, and hence, there is not any particular consistency in this regard. Notwithstanding, the proposed rear addition is sited and designed to complement the <i>dwelling</i>s in the vicinity, and the HIS concludes that it is acceptable in heritage terms.</p>
<p>C8 For end terraces / buildings, new works should be setback a minimum of 500mm from the end side wall to retain the historic form as it presents to the public domain.</p>	<p>N/A as the site is not an end terrace/building.</p>
<p>C9 Where buildings contain original form or detail which has been compromised, the integrity of the original form and detail should be enhanced, rather than being justification for further compromise. Note: This may include missing</p>	<p>Complies A discussion of the changes proposed to existing fabric, and proposal to retain significant elements, is contained in the HIS accompanying this DA.</p>

CONTROL	RESPONSE
<p>architectural detail and enclosed verandahs.</p> <p>C10 New materials and fenestrations of alterations and additions shall be compatible with the existing building.</p> <p>C11 The <i>reconstruction</i> of posted verandahs is encouraged where consistent with the architectural style of the building and suitable evidence of original verandahs is on that property.</p>	<p>Complies This is discussed in detail in the HIS accompanying this DA.</p> <p>N/A</p>
<p>For alterations and additions to the front of existing dwellings</p> <p>C12 Alterations and/or additions to the front of an existing <i>dwelling</i> must ensure that important elements of the original character of the building and its setting are retained, restored or reconstructed, where it contributes to the desired future character, including but not limited to:</p> <ul style="list-style-type: none"> a. balconies and verandahs; b. front gardens and landscaping; c. fences and walls; d. fenestration; e. roof forms. <p><i>Note: Refer to Building Typologies within Appendix B of this Development Control Plan for information about the type of building.</i></p>	<p>Complies</p> <p>The proposal does not alter the front of the dwelling (apart from painting and replacement of floor tiles) so that it will maintain the form and fenestration of the existing building. Similarly, existing landscaping and front balconies will be retained.</p>
<p>For alterations and additions to the side of existing dwellings</p> <p>C13 Alterations and additions to the side of an existing <i>dwelling</i> (where that <i>dwelling</i> is currently setback from the side property boundary), must:</p> <ul style="list-style-type: none"> a. endeavour to minimise visibility from the street; b. retain the predominant and desired future character of the street; c. ensure compliance with the remaining suite of controls within this Development Control Plan relating to residential development where relevant; and d. when located on the ground floor, the alterations and additions shall be: <ul style="list-style-type: none"> l. setback a minimum of 1 metre from the front wall of the existing <i>dwelling</i>; and i. have minimum ceiling heights and a roof form which is subordinate to the existing <i>dwelling</i>, to ensure the 	<p>N/A</p>

CONTROL	RESPONSE
<p>additions do not detract from the detached nature of the <i>dwelling</i>.</p> <p><i>Note: Ground floor side additions which include provision for parking are to comply with Part C Section 1.11 – Parking of this Development Control Plan</i></p>	
<p>For alterations and additions to the rear of an existing dwelling– on any level</p> <p>C14 Alterations or additions to the rear of an existing building are to:</p> <p>a. be of a building height that complies with the objectives and controls of the Site Layout and Building Design Part C3.2 of this Development Control Plan;</p> <p>b. maintain an area of useable <i>private open space</i> in accordance with Part C Section 3.8 – Private Open Space of this Development Control Plan;</p> <p>c. be of minimum visibility from the street (refer to <i>Figure C1</i>);</p> <p>d. comply with any other relevant residential development controls within this Development Control Plan.</p> <p>C15 Where rear additions are visible from the public domain due to street layout or topography, maintaining original roof form is preferred and new additions are to be sympathetic to that original roof.</p> <p>C16 Alterations and additions above ground floor level shall:</p> <p>a. comply with the appropriate provisions within Appendix B – Building Typologies of this Development Control Plan;</p> <p>b. maintain setback patterns within surrounding development;</p> <p>c. be subordinate to the existing building so that the additions do not dominate the building from the public domain.</p> <p>C17 Additions at first floor and above shall be of a <i>scale</i> and are to be located in a manner which:</p> <p>a. maintains visual separation between the existing building and adjoining residential development; and</p>	<p>Complies</p> <p>As can be seen from the submitted architectural plans, the proposal complies with the Building Location Zone requirements of LDCP 2013 at all levels, having regard to the rear building alignment established by Nos. 11A and 17 Edward Street to the north and south respectively.</p> <p>Refer to report below.</p> <p>Complies</p> <p>As discussed previously, given the tight pattern of subdivision, the proposed addition to the rear will be visible from only limited vantage points within adjoining private properties. Notwithstanding, the proposal has been designed to step down from the existing ridge and is setback from the sides of the site, in order to be sympathetic to the existing roof form.</p> <p>Complies</p> <p>The proposed development is consistent with Design Approach alterations and additions to 2/3 storey terraces, as discussed below in Table 4.</p> <p>The proposed side and rear setbacks are characteristic of the locality and the rear additions do not dominate the existing building.</p> <p>Complies</p> <p>The proposed first floor addition is setback from the northern boundary in order to minimise separation from the adjoining dwelling, which is also setback</p>

CONTROL	RESPONSE
<p>b. maintains setback patterns of surrounding development; and c. will ensure that the addition does not dominate, but is sub-ordinate to the existing <i>dwelling</i> when viewed from the street.</p> <p>C18 Any first floor and above additions to the side of the <i>dwelling</i> will not be supported where they detract from the detached or semi-detached nature of the streetscape or the existing <i>dwelling</i>. <i>Note: where an existing side setback exists, consideration of access for people and equipment for future maintenance and construction should occur, particularly if the side setback is the only point of access to the rear of the site.</i></p>	<p>from the common boundary. The southern elevation has a nil side setback to relate to the adjoining nil setback to the south.</p> <p>The proposed addition to the existing attic has been designed to be a discrete element, setback from the ridge and sides of the building.</p> <p>N/A</p>
<p>C19 Any first floor and above additions attached to the rear of the existing roof form is to:</p> <p>a. be subordinate to that roof form;</p> <ol style="list-style-type: none"> I. where attached to the existing roof form, be set 300mm below the ridgeline; II. enable the original roof form to be apparent from the public domain by: <ul style="list-style-type: none"> • setting the additions back from the external face of the existing side roof plane (so the gable, hip or original parapet roof form is retained); or • comprising a rear sub roof linking the existing roof to additions that appear as a separate roof form to that of the existing <i>dwelling</i>. Any proposed link must be set 300mm below the existing ridgeline. 	<p>Complies</p> <p>The proposed rear roof addition is setdown 315mm below the ridge.</p>
<p>Roof forms for alterations and additions C20 Appropriate roof forms for rear additions depend on the context of the site, and may include:</p> <p>a. pitched in form to match the predominant roof forms of the original property and / or its context; or</p>	<p>Complies</p> <p>The proposal incorporates a simple skillion style dormer, as per the 2/3 storey terrace building typology.</p> <p>The proposed roof is well setback from</p>

CONTROL	RESPONSE
<p>b. boxed in form where not incongruous in the context, and where this approach reduces the visual impact of the addition, such that it is not overtly visible from the street; or</p> <p>c. a hybrid of roof forms where the appearance of the addition from the street is not overtly visible and is compatible with the Appendix B – Building Typologies of this Development Control Plan.</p>	<p>the perimeter of the building to minimise its visual impact. The HIS accompanying this DA makes the following comment in relation to the proposed roof addition:</p> <p><i>“The new additions do not dominate the heritage item. It leaves the main evidence of repeated roof forms and comply with all Inner West Council’s conditions specific to the precinct. The new addition is below the ridge line and is clearly read as a contemporary addition. The new and the old are not confused.”</i></p> <p>The proposed development is consistent with Design Approach for 2/3 storey terraces, as discussed below in Table 4.</p>
<p>C21 Where roof links are proposed to connect the original roof space to the new addition, they are to:</p> <p>a. be of minimal <i>scale</i> and proportion (up to a maximum of 50% of the rear roof plane) and are to provide a link only. Roof links which span the whole rear roof plane will not be supported;</p> <p>b. preserve the unity of the row, preserve chimneys and traditional <i>scale</i> and proportion in the street;</p> <p>c. not raise the roof ridge for the purpose of an internal room’s compliance with the Building Code of Australia; and</p> <p>d. be located below the original ridge line, including clerestory roofs.</p>	<p>N/A</p>
<p>C22 Original front verandah roofs are generally to:</p> <p>a. remain separate from the main roof slope; and</p> <p>b. reconstruct original form and detail where there is evidence that a front verandah was a part of the original building (evidence is often found in the fabric of the blade wall or similar).</p>	<p>Complies</p> <p>The proposal retains the existing front verandah roof.</p>



Figure 1: 3D views of the proposed development showing the appropriateness of the proposed design solution (source: Lombardo Design Studio)

Table 4: compliance with Controls relating to alterations and additions to 2/3 storey terraces in Appendix B of DCP 2013

CONTROL	RESPONSE
C1 Development shall:	Complies
a) retain the integrity of the original building and the character of consistent terrace groups and rows;	The proposal retains the character and integrity of the row of terraces within which it is located (see Figure 1 above).
b) maintain the relative importance, in scale and detailing of the main (front) part of the building;	The proposal maintains the front façade generally unaltered.
c) retain streetscape and skyline character;	The proposal retains the streetscape and skyline character.
d) retain the architectural character and detailing of corner terraces;	N/A
e) retain the rhythm of roofs and chimneys on the skyline and maintain the integrity of common ridge lines and parapet lines when viewed from the street;	The proposal retains the existing rhythm of roof forms, by not altering the existing ridge and maintaining the existing chimney.
f) maintain the amenity of the terrace and adjoining properties;	The proposal improves the amenity of the terrace on the site and has been designed to minimise potential impacts on adjoining properties.
g) protect sun access to rear ground floor living areas and private open	The shadow diagrams accompanying

CONTROL	RESPONSE
<p>space; and</p> <p>h) reverse unsympathetic changes.</p>	<p>this DA show that the proposal will not create any new overshadowing impacts onto ground floor living areas or private open spaces of adjoining properties.</p>
<p>C2 Rear additions that may be suitable for this building typology include the following forms:</p> <p>a. single storey 'lean to';</p> <p>b. rear wing; or</p> <p>c. pavilion.</p> <p>and are to have a ridge line located below the eaves line.</p>	<p>Complies</p> <p>The proposal incorporates a rear wing style addition with a skillion style dormer, setdown 315mm below the ridge.</p>
<p>C3 Pavilion style rear additions are to be connected to the main house by a lightweight linking structure below the eaves line of the main building where the site is deep enough to provide consolidated private outdoor space.</p>	<p>N/A</p>
<p>C4 Skillion type dormers may be located on the rear roof plane of buildings or in new additions to a building where they will not be seen from the principal street frontage and are to be set:</p> <p>a. a minimum 200mm below the ridge line;</p> <p>b. a minimum of 500mm from the side wall; and</p> <p>c. a minimum of 200mm up from the rear wall plate.</p>	<p>Complies</p> <p>The proposal incorporates a skillion style dormer as is permitted (refer to Figure 2 below).</p> <p>The proposed dormer is set 315mm below the ridge line.</p> <p>The proposed dormer is setback 500mm from the inner face of the party walls.</p> <p>The proposed dormer is more than 200mm up from the rear wall plate.</p>
<p>C5 Retain the profile created by original wing walls, parapets and chimneys.</p>	<p>Complies</p> <p>The proposal retains the existing chimney.</p>
<p>C6 Verandahs and balconies are to be open.</p>	<p>Complies</p> <p>The proposal retains the existing open front balcony.</p> <p>A juliet style balcony is proposed at the rear of first floor level.</p>
<p>C7 Rear breezeways (side passages to rear wings) may be infilled at ground level only and only where the privacy, sun access and ventilation to the adjoining property are not adversely affected.</p>	<p>Complies</p> <p>The proposal seeks to infill the northern breezeway at ground floor level, which is acceptable as the adjoining properties both incorporate nil side setbacks at ground floor level.</p> <p>The proposal maintains a breezeway at first floor level.</p>
<p>C8 Original detailing, and materials, including chimneys, balustrades, render and wrought iron palisade fencing are to</p>	<p>Complies</p> <p>Refer to HIS accompanying this DA.</p>

CONTROL	RESPONSE
be retained/reconstructed and restored.	
C9 The proportions of vertical and horizontal lines formed by wing walls, parapet or eaves lines, floor plates, door and window openings and balustrading are to be retained and also reflected in any additions to the building.	Complies Refer to HIS accompanying this DA.
C10 Fences are to be less than 1.2m high and of visually permeable materials.	N/A as no new fences are proposed
C11 Fences appropriate to the style and period of the building are to be retained or reconstructed.	Complies The proposal retains the existing front fence. New 1.8m fences are proposed at the rear of the site.

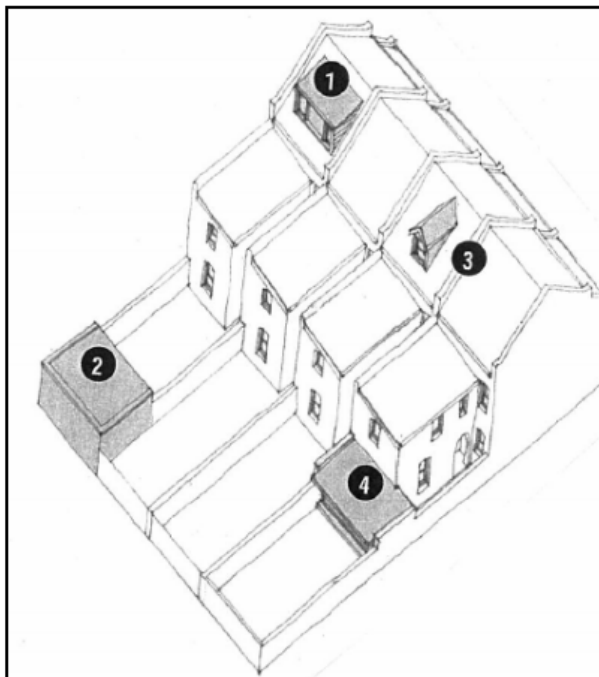


Figure 2: Two storey terrace design approach 1 showing the appropriateness of a skillion style dormer window and 2 storey addition

Table 5: compliance with Controls at Part C1.4 of CP 2013

CONTROL	RESPONSE
General C1 Development maintains the characteristics and is consistent with the objectives and controls for the relevant building type contained in Appendix B –	Complies The proposed development is consistent with Design Approach for alterations and additions to 2 and 3 storey terraces, as

CONTROL	RESPONSE
<p>Building Typologies of this Development Control Plan.</p> <p>C2 The fabric of an existing building is to be the subject of appropriate conservation practices including:</p> <p>a. retention of original detail and finishes such as:</p> <ul style="list-style-type: none"> (i) original face brick which should not be painted over or rendered; (ii) original decorative joinery and iron work which is not to be removed; <ul style="list-style-type: none"> • conservation of original elements; • reconstruction or restoration of original elements where deemed appropriate; • retention of the original cladding material of original roofs where viable; • consideration of suitable replacement materials should be based on original material, and where a property is part of a group or row, replacement materials should have regard to the integrity of the group. <p>C3 Development of dwellings within Heritage Conservation Areas must:</p> <p>(a) not include the demolition of the internal walls and roof form, including any existing chimneys, of the front two rooms of the dwelling;</p> <p>(b) retain the major form, scale and materials of the existing structure as described in (a);</p> <p>(c) be for a rear addition which does not dominate the existing building or substantially change the relationship of the building to the street when viewed from the street; and</p> <p>(d) retain significant, established gardens and plantings including early fences.</p> <p>C4 Demolition of dwellings in Heritage Conservation Areas or Heritage Items is subject to the provisions of Part C Section 1.2 – Demolition within this Development Control Plan.</p>	<p>discussed above in Table 3.</p> <p>Complies Detailed discussion is provided in the HIS accompanying this DA.</p> <p>Complies The proposal retains existing internal walls, roof and chimneys within the front two (2) rooms. The proposed rear addition does not dominate the existing building or substantially change the way that the dwelling appears when viewed from nearby streets.</p> <p>N/A</p>
<p>Roof forms and materials</p> <p>C5 Consideration of roofing materials for additions should have regard for compatibility with the original roof, as well as for the context of the setting (such as if</p>	<p>Complies The proposal incorporates a new simple metal roof form, consistent with the existing roof and not overly visible from</p>

CONTROL	RESPONSE
<p>a <i>dwelling</i> is part of a group of similar <i>dwelling(s)</i>).</p> <p>C6 Within <i>Heritage Conservation Areas</i>, whole roof forms should be retained where possible and roofs of additions should be subservient to the main roof (in <i>scale</i>, form, location & materials). Changes to the form of the existing roof or extension of the ridge cannot be supported.</p> <p>C7 Where roof links are proposed to connect the original roof space to the new addition, they are to:</p> <ul style="list-style-type: none"> a. be of minimal <i>scale</i> and proportion (up to a maximum of 50% of the rear roof plane) and are to provide a link only. Roof links which span the whole rear roof plane will not be supported; b. preserve the unity of the row, preserve chimneys and traditional <i>scale</i> and proportion in the street; and c. not be used to raise the ridge, or be for the purpose of creating a viable roof space where roof space meets the requirements of the Building Code of Australia. <p>Clerestory roofs are not considered an appropriate form of roof addition to traditional ridge lines.</p> <p>New buildings</p> <p>C8 New development need not seek to replicate period details of original buildings in proximity to the site, but rather, demonstrate respect for the form, <i>scale</i> and sitting of the immediate area.</p> <p>C9 New development will comply with Part C Section 1.0 – General provisions and all other relevant controls within the Development Control Plan.</p>	<p>the public domain.</p> <p>Complies</p> <p>The proposal retains the existing ridge and main roof apart from the provision of a new rear skillion dormer, as is permitted as an alteration to two (2) and three (3) storey terraces.</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>
<p>Conservation Management Plans</p> <p>C10 <i>Conservation Management Plans</i> shall be required when:</p> <ul style="list-style-type: none"> a. the site is a Heritage Item identified in Schedule 5 of the <i>Leichhardt Local Environmental Plan 2013</i> as having State significance; OR b. the site is a Heritage Item that predates 1840; OR c. the site is a place identified in 	<p>N/A</p>

CONTROL	RESPONSE
Schedule 5 within <i>Leichhardt Local Environmental Plan 2013</i> as having archaeological significance.	
<p>Statements of Heritage Impact (SOHI) C11 Consent must not be granted for any development in respect of a Heritage Item unless a Statement of Heritage Impact is submitted to Council for consideration, except for the following:</p> <ul style="list-style-type: none"> a. the removal of a <i>dead tree</i>; b. the removal of a tree or trees where the ages and relationship of the subject trees, to the heritage significance of the site as recorded by Council, within any historical planting scheme for the property, have already been identified and assessed within an arboricultural report prepared by a suitably qualified arborist (minimum qualification AQF level 5 Arboriculture) and submitted to Council; or c. a permit is to be issued under the provisions of Clause 5.9(7) Preservation of trees or vegetation of <i>Leichhardt Local Environmental Plan 2013</i>. 	<p>Complies. Andrew Starr & Associates Heritage Consultants has prepared a detailed HIS, which accompanies this DA.</p>

Having regard to the discussion above, it is considered that the proposal is consistent with objective (a)(i) despite the non-compliance with the FSR development standard.

(a)(ii) to ensure that residential accommodation provides a suitable balance between landscaped areas and the built form

The proposed development generally maintains the status quo in terms of the provision of landscaping at the site. The existing dwelling house provides 0.4m² of landscaped area while the proposed alterations and additions result in 0.5m².

The proposed external spaces offer direct links to the interior of the dwelling house, so as to provide for significant amenity in terms of indoor/outdoor living. Given the modest size of the site and dwelling house, the provision of useable private open space is critical to the amenity and functionality of the dwelling house, and the proposal is considered to achieve a high level of amenity in this regard.

It is understood that the dwelling houses to the immediate north and south of the site display the following characteristics (based on calculations prepared by Lombardo Design Studio), in terms of landscaping and site coverage:

- No. 11A Edward Street (to the north): 64.7% site coverage and 4.2% of the site as landscaped area; and
- No. 11A Edward Street (to the south): 75% site coverage and 0% of the site as landscaped area.

To this end, the proposed development displays a landscaped character and building footprint which is entirely consistent with that in the immediate vicinity of the site.

Furthermore, the proposed development is considered to provide a suitable balance between internal space and landscaped area, achieving significant amenity for the occupants of the dwelling and is considered acceptable for the following reasons:

- the private open space exceeds the minimum dimension requirement;
- the space is functional and large enough to be appropriately furnished;
- the space integrates with and is capable of serving as an outdoor extension of the dwelling's main open plan kitchen/dining/living area;
- the space has access to desirable breezes, air circulation and sunlight given its northern orientation;
- the space is located at ground floor level and will not permit any overlooking into adjoining properties;
- the space provides useable private open space within the constraints posed by altering an existing building on a small allotment; and
- the provision of landscaping is commensurate with that provided for other terraces in the group.

The proposal could be amended to achieve technical compliance with the FSR development standard without any impact on the provision of landscaping at the site and having regard to the amenity achieved both internally and externally at the site, the proposal is considered acceptable.

Having regard to the discussion above, it is considered that the proposal is consistent with objective (a)(ii) despite the non-compliance with the FSR development standard.

(a) (iii) to ensure that residential accommodation minimises the impact of the bulk and scale of buildings

As discussed above in **Tables 1 to 5** inclusive, the proposed development is consistent with the controls applicable to the type of development proposed at the site (i.e. alterations and additions to a 2/3 storey terrace house in a heritage conservation area, including a rear skillion dormer).

The proposed bulk and scale are consistent with that envisaged by the applicable planning controls and result in a form which relates appropriately to other development in the locality, with particular regard to the terraces to the immediate north and south.

Shadow diagrams accompanying this DA show that the proposal will not create any additional overshadowing of windows or areas of private open space for any nearby dwellings on 21 June. The proposal creates minor additional overshadowing on 21 June however this affects only the roof of No. 17 Edward Street and on this basis, will not adversely impact on the amenity of the dwelling.

Furthermore, the proposal is consistent with the Building Location Zone and wall height controls applicable to the site, furthermore reinforcing the appropriateness of the bulk and scale of the proposed development.

Having regard to the discussion above, it is considered that the proposal is consistent with objective (a)(iii) despite the non-compliance with the FSR development standard.

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

On the basis that this DA relates to residential development, objective (b) is not applicable.

4.2 R1 General residential zone objectives

The site is located in the R1 General Residential zone. The proposal for alterations and additions to the existing dwelling house is permissible with consent in the zone.

The objectives of the R1 zone are as follows:

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

The proposed development is consistent with the abovestated zone objectives, as follows:

- the proposal provides improved amenity within the existing dwelling house to ensure that the dwelling house continues to provide for the housing needs of the community;
- the proposal maintains the significant fabric of the existing building, which is a Heritage Item and is located in a Heritage Conservation Area. The proposal improves the functionality and liveability of the existing dwelling house to contribute to the provision of a variety of housing types and densities in the area;
- the proposal incorporates internal space which allows flexibility in terms of the ability to carry out work-from-home activities;
- the proposal maintains the general siting and orientation of the existing building. The proposed rear additions sit comfortably within the rear Building Location Zone, so as to ensure an appropriate relationship to the adjoining properties to the north and south. The proposed additions sit below the existing ridge so as to minimise heritage, overshadowing and view-related impacts. The proposed form of the development is consistent with that evident in the row of terraces within which the site is located. The provision of landscaped areas on the site is also consistent with that evident in the row;
- the proposal provides pleasant outdoor spaces for the enjoyment of future residents;
- the proposal does not alter the existing pattern of subdivision or orientation of the existing dwelling house; and
- the proposal has no unreasonable adverse environmental impacts in relation to nearby properties and the streetscape.

To this end, the proposal is consistent with the objectives of the zone despite the non-compliance with the FSR development standard.

4.3 Would the underlying object or purpose of the standard be defeated or thwarted if compliance was required, such that compliance is unreasonable or unnecessary?

It is not considered that the underlying objective of the Standards is irrelevant to the proposal, however, as demonstrated herein, it is submitted that the proposal is able to achieve consistency with the intent of the Standard, despite the non-compliance.

4.4 Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable?

It is not considered that the Standard has been virtually abandoned or destroyed by Council's actions, however, having regard to the particulars of this Application, and the amenity gains resulting from the non-compliance, it is considered that flexibility in the application of the Standard is warranted.

While not demonstrating abandonment, it is reiterated that the FSR and associated bulk and scale which are proposed at the site are commensurate with that for other terraces within the group, demonstrating consistency with

the character of development in the locality. Furthermore, the proposal demonstrates that there is an anomaly between the FSR standard and the building envelope controls which apply to the proposed development, presumably related to the modest dimensions and area of the site.

4.5 Is compliance with development standard unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone?

There are no specific land use or environmental characteristics which would render compliance with the development standard unreasonable or inappropriate. However, it is noted that the proposed FSR is commensurate with that of other terraces in the group, which is largely a function of the modest size of the site/s.

5.0 CLAUSE 4.6(3)(b) - ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD?

5.1 What is the aspect or feature of the development that contravenes the development standard?

As discussed previously, the proposed alterations and additions result in a development which fails to comply with the FSR development standard.

5.2 Why is contravention of the development standard acceptable?

Contravention of the development standard is considered acceptable for the following reasons:

- the proposed dwelling floor layout maximises the provision of external open space areas which are functional and useable. In the event that the development was redesigned to comply with the FSR standard, there would be no material gains to any nearby properties in terms of a reduction in impacts, as the proposal is consistent with the DCP building envelope controls and meets the requirements of the DCP in relation to overshadowing, overlooking and general overbearing impacts; and
- the proposed contravention of the maximum FSR development standard is considered acceptable as it enables the dwelling house to be configured in a manner which ensures it is useable and functional and incorporates sufficient space to meet contemporary amenity requirements. Compliance with the FSR standard could be achieved, however this would necessitate deleting a bedroom, which would compromise the amenity and functionality of the dwelling house. It is considered that on the basis that the proposal meets the objectives of the development standard and zone despite the non-compliance with the FSR standard, and having regard to the amenity benefits arising from the proposed alterations and additions, it is considered that the non-compliance is acceptable

5.3 On what basis there are sufficient environmental planning grounds to justify contravening the development standard?**5.3.1 Clause 4.6(5)(A) - Matters of State or Regional Environmental Planning**

The proposed contravention of the Standard does not raise any matter of significance for State or regional environmental planning.

5.3.2 Clause 4.6(5)(B) - The Public Interest

Having regard to the acceptable environmental impacts, and the merits of the proposed development, it is considered that the public interest is being met by the proposed development, despite the non-compliance.

The proposed departure from the standard does not create any unreasonable adverse amenity or streetscape impacts, as discussed herein. Furthermore, the proposal is considered to meet the public interest, as it results in sensitively designed alterations and additions to an existing terrace house which is a heritage item, and which forms part of a group similar terraces, located within a heritage conservation area. The proposal enables the existing dwelling to continue to provide a high level of amenity for its occupants in a form which enables the significant fabric to be retained and enjoyed both privately and by members of the public.

5.3.3 Clause 4.6(5)(C) – Any Other Matters Required To Be Considered

There are no other known matters required to be taken into consideration by the Director-General before granting concurrence.

As can be seen from the discussion herein, the proposed development is consistent with the objectives of the development standard and R1 General Residential zone pursuant to LEP 2013 despite the non-compliance with the FSR development standard.

It is considered that the proposal has adequately addressed the matters outlined in Section 4.6(3) – (5) of LEP 2013.

6.0 CONCLUSION

Having regard to the discussion contained herein, it is considered that the matters required to be addressed, pursuant to Clause 4.6 of LEP 2013, the five-part test established in the Land and Environment Court and the Varying Development Standards: A Guide, have been fully canvassed herein.

Having regard to the particulars of the proposal, as outlined above, it is considered that there would be no material benefit to requiring the proposal to comply with Clause 4.4 of LEP 2013 and on this basis, an exception to Clause 4.4(2B)(b)(i) of Leichhardt LEP 2013 is considered well-founded, and worthy of Council's support.



REQUEST PURSUANT TO CLAUSE 4.6, FOR EXCEPTION TO COMPLIANCE WITH CLAUSES 4.3A(3)(a) AND (b) of LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013

This Clause 4.6 Exception Submission has been prepared by Genevieve Slattery Urban Planning Pty Ltd on behalf of Mr. Daryn Vanstone (the Applicant), in relation to a Development Application for the property at No. 15 Edward Street, Balmain East (the site).

This Submission is made to Inner West Council in support of a Development Application (DA) for alterations and additions to the existing terrace house at the site.

This request has been prepared having regard to:

- Land and Environment Court of NSW judgment in Winten Property v North Sydney Council [2001];
- Land and Environment Court of NSW judgment in Wehbe v Pittwater Council [2007];
- Land and Environment Court of NSW judgments in Four2Five Pty Ltd v Ashfield Council [2015];
- NSW Department of Planning and Infrastructure's Varying Development Standards: A Guide 2015; and
- Land and Environment Court of NSW judgment in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.

1.0 WHAT IS THE CLAUSE SOUGHT TO BE VARIED?

1.1 Clauses 4.3A(3)(a) and (b) of Leichhardt Local Environmental Plan 2013

Clause 4.3A(3) of LEP 2013 states that development consent must not be granted to development to which this clause applies unless:

- a. the development includes landscaped area that comprises at least:
 - (i) where the lot size is equal to or less than 235 square metres—15% of the site area, or
 - (ii) where the lot size is greater than 235 square metres—20% of the site area, and
- b. the site coverage does not exceed 60% of the site area.

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1.2 What is the extent of the non-compliance?

The site has an area of 77.6m² and is therefore subject to minimum 15% landscaped area and maximum 60% site coverage development standards.

The existing development on the site provides 0.4m² or 0.515% of the site as landscaped area and has a site coverage of 42.58m² or 54.8%. To this end, the existing development displays non compliances of 11.14m² or 95.7% with the landscaped area standard and 3.98m² or 8.5% with the site coverage standard.

The proposed development results in 0.5m² or 0.64% of the site as landscaped area and a site coverage of 51.1m² or 65.8% and is therefore non-compliant by 95.7% in terms of the landscaped area standard and 4.54m² or 9.75% with the site coverage standard.

2.0 CLAUSE 4.6 OBJECTIVES

Clause 4.6 of LEP 2013 has the following objectives:

- (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."*

As discussed below, it is considered appropriate to invoke the provisions of Clause 4.6 of LEP 2013, in order to achieve a positive planning outcome at the site.

3.0 CLAUSE 4.6(3) PROVISIONS

Clause 4.6(3) states that development consent must not be granted for development that contravenes a Development Standard unless the consent authority has considered a written request from the Applicant that seeks to justify the contravention of the development standard by demonstrating the following:

- (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.

The following discussion constitutes a written request seeking to justify the contravention of Clause 4.3 of LEP 2013.

4.0 CLAUSE 4.6(3)(a) - IS COMPLIANCE WITH THE STANDARD UNREASONABLE AND UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

4.1 Clause 4.3 Objectives

The objectives of Clause 4.3A of LEP 2013 are as follows:

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

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

The proposed development provides opportunities for planting within the front setback, where it is proposed to generally retain the existing landscaping. While not considered necessary, a tree could be planted within this area, if required.

The proposed development provides a total of 37.63% of the site as combined soft/landscaped area. This area is primarily within the rear yard, serving as a generous private open space, linked to the proposed kitchen/living/dining areas at ground floor level of the dwelling house.

The proposed external spaces offer direct links to the interior of the dwelling house, so as to provide for significant amenity in terms of indoor/outdoor living. Given the modest size of the site and dwelling house, the provision of useable private open space is critical to the amenity and functionality of the dwelling house, and the proposal is considered to achieve a high level of amenity in this regard.

It is understood that the dwelling houses to the immediate north and south of the site display the following characteristics (based on calculations prepared by Lombardo Design Studio), in terms of landscaping and site coverage:

- No. 11A Edward Street (to the north): 64.7% site coverage and 4.2% of the site as landscaped area; and
- No. 11A Edward Street (to the south): 75% site coverage and 0% of the site as landscaped area.

To this end, the proposed development displays a landscaped character and building footprint which is entirely consistent with that in the immediate vicinity of the site.

To this end, it is considered that the proposal is consistent with objective (a) despite the non-compliance with the landscaped area and site coverage development standards.

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

As can be seen in **Figure 1** below, there is no existing landscaped corridor currently provided between adjoining properties in the vicinity of the site.



Figure 1: Aerial view of the site and surrounds (source: six maps 20/3/2019)

The lack of a landscaped corridor is considered to be largely due to the modest size of sites and building footprints evident on properties in the locality. It is evident that landscaping is generally provided within front setbacks, and the proposal intends to conform to this characteristic, so as to maintain cohesion in terms of the streetscape and heritage conservation area within which the site is located.

To this end, it is considered that the proposal is consistent with objective (b) despite the non-compliance with the landscaped area and site coverage development standards.

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

The site is located within Balmain East Distinctive Neighbourhood.

Table 1 below provides a discussion of the proposal's consistency with the Controls applicable to the Neighbourhood.

Table 1: discussion of the Balmain East Distinctive Neighbourhood Controls

CONTROL	RESPONSE
C1 Development in the neighbourhood should step with the contour of the land.	Complies The proposal maintains existing levels at the site, consistent with the row of terraces within which the site is located.
C2 The rarity of the early Victorian, but Georgian in style, nucleus of buildings in Balmain East requires stricter controls than elsewhere on the peninsula. As a representation of early Sydney, it is of great importance to the history of the City as a whole, alongside other historic precincts such as the Rocks, and the Colonial precincts of Parramatta. While the later phases of buildings contribute to its character, and represent the phases of development, the earliest layer needs the most careful treatment. Accordingly, the scope for new development is limited and the task is largely conservation of the existing fabric while allowing complementary and incremental change.	Complies The proposed alterations and additions have been sensitively designed and will complement the character of the locality.
C3 Maintain the individual patterns of architectural style along each street.	Complies The proposal maintains the architectural style of the terrace when viewed from Edward Street.
C4 Preserve view lines for existing development.	Complies The proposal, which is lower than the existing ridge and ridges of the adjoining terraces, will have no impact on view lines for properties in the locality.
C5 The predominant scale of development is two storeys.	Complies The existing dwelling house is part one/part two plus attic and the proposal maintains this. The proposed alterations to the existing attic are situated within the roof form, and incorporate a skillion dormer as is permitted, and therefore maintain a dominant two (2) storey scale, consistent with the other terraces in the row.
C6 Maintain the character of the area by keeping development consistent in architectural style, building form and materials.	Complies Refer to HIS accompanying this DA.
C7 Prevent the disruption of footpaths by discouraging additional driveway crossings.	Complies No new driveways are proposed.
C8 All development is to be sympathetic to the historic and conservation values of the neighbourhood.	Complies Refer to HIS accompanying this DA.
C9 Maintain mature trees on public and	Complies

CONTROL	RESPONSE
private land.	No trees are affected by the proposal.
C10 Preserve the integrity of the escarpments. Development around escarpments is to avoid cutting, changing the topography or removing associated vegetation around the escarpment. Buildings and structures are to avoid dominating the escarpment.	Complies No escarpments are affected by the proposal.
C11 This area is sensitive to overshadowing and view loss. All development activity should avoid overshadowing and blocking views.	Complies The proposal has no impact on views, as the proposed rear addition is lower than the existing ridge and ridges of the adjoining terraces. As outlined in the shadow diagrams accompanying this DA, no ground level private open spaces or living rooms of adjoining properties are affected by additional overshadowing arising from the proposal.
C12 New or altered buildings should be sympathetic to the conservation values of the area: a. in this regard all structures built prior to 1850 are rare and should be conserved. No alterations shall be approved to significant buildings without detailed assessment and recording by a heritage specialist. Where visible from the public domain, visual access shall be retained. New structures shall follow Burra Charter Principles in terms of an interpretive response, and shall be deferential, but not imitative; b. additional driveway crossings are discouraged; c. new development is to step with the land contours and to respect the view lines of surrounding properties; d. development visible from the water is to be designed to preserve the conservation values of the area when viewed from the water. Photomontage details of the proposal, as viewed from the water are to be submitted with development applications; e. new development is to reflect the side setbacks established in the immediate vicinity of the site (e.g. freestanding or terrace form). This control seeks to encourage the provision of lines of sight and water	Complies The existing dwelling was constructed in 1870 and is proposed to be sensitively altered and added to, as outlined in the HIS accompanying this DA. No driveways are proposed. The proposal maintains existing levels across the site. The proposed development will maintain the status quo in terms of impacts on views from the water as no changes are proposed to the front elevation and the rear of the dwelling is not visible from the water. The proposed side and rear setbacks are consistent with those of the adjoining terraces.

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CONTROL	RESPONSE
views between buildings. This may require side gates to be of an open nature to permit the maintenance of side walls; and f. front setbacks shall be generally 0 - 2m, except where the particular context requires a deeper setback. Narrow verandahs built to the street frontage are generally appropriate to narrow streets such as Datchett, Little Nicholson and Union Streets.	No changes are proposed to the existing front setback.
C13 Appropriate materials are shaped sandstone, painted timber, and rendered or bagged masonry. Steel roofing in a 'gull grey' is the appropriate roof material in most circumstances, with slate replacing slate otherwise.	Complies Refer to Schedule of Colours, Materials and Finishes and HIS accompanying this DA.
C14 Fencing and balustrading shall be generally vertical metal or timber picket style, without ornamentation. Front fencing shall be open and not more than 1.2m high.	Complies No changes are proposed to the existing front fence or balustrade. The proposed juliet balcony balustrade is appropriate in the context.
C15 Verandah and balcony structures shall be timber or metal or a mix of both, and not include masonry elements.	Complies The proposed juliet balcony does not comprise any masonry elements.
C16 Mature trees and other significant vegetation between development and the waterfront is to be preserved.	Complies No trees or significant vegetation are affected by the proposal.
C17 Escarpments and stone walls are to be preserved. Construction on escarpments or cutting into stone walls (or into rock faces) is to be avoided.	Complies No escarpments or stone walls are affected by the proposal.
C18 Development overlooking open space is to avoid taking visual 'ownership' of the public space. This is to be achieved by setting balconies (back) 2m from the relevant boundary and designing for the privacy considerations of open space users.	Complies The proposal is separated from Illoura Reserve by Edward Street and a public car park.
C19 Development is to be consistent with any relevant Sub Area objective(s) and condition(s).	Complies See Table 2 below.

Table 2: Discussion of Eastern Waterfront Sub Area controls

CONTROL	RESPONSE
C1 Development in this precinct is to respect the existing view lines of nearby properties.	Complies The proposal has no impact on views, as the proposed rear addition is lower than the existing ridge and ridges of the adjoining terraces.
C2 The appropriate scale of development for this area is two storeys.	Complies The proposal maintains the existing provision of two (2) storeys plus attic

CONTROL	RESPONSE
	accommodation as is commonplace in the row of terraces within which the site is located. From the public domain, a two (2) storey scale is apparent.
C3 The maximum building wall height is 6m.	Complies The proposal maintains the existing 5.2m wall height to Edward Street.
C4 The built form is freestanding single dwellings with render and masonry construction.	N/A as the site contains a terrace house.
C5 Development is to be consistent with any relevant objectives and controls within the Balmain East Distinctive Neighbourhood.	Complies See Table 1 above.

Furthermore, the proposed development is compliant with Leichhardt Development Control Plan 2013 in relation to the following, as outlined in the Statement of Environmental Effects report accompanying this DA:

- controls relating to alterations and additions to 2/3 storey terraces;
- controls relating to heritage conservation area; and
- controls relating to rear skillion dormers.

To this end, it is considered that the proposal is consistent with objective (c) despite the non-compliance with the landscaped area and site coverage development standards.

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

The proposed development will not materially alter the existing ability of the site to absorb stormwater, as a consequence of the maintenance of the status quo in terms of the provision of landscaped area. The proposed development will have no impact on underground water flows, with no significant excavation proposed.

To this end, it is considered that the proposal is consistent with objective (d) despite the non-compliance with the landscaped area and site coverage development standards.

(e) to control site density.

LEP 2013 contains the following objectives with regard to FSR, which is generally considered to be a measure of density:

- (a) "to ensure that residential accommodation:
 - (i) is compatible with the desired future character of the area in relation to building bulk, form and scale, and
 - (ii) provides a suitable balance between landscaped areas and the built form, and

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

The proposed development is considered to incorporate a density that is acceptable and consistent with the objectives of the FSR development standard, for the following reasons:

- the proposed development is consistent with the desired future character for the area, as outlined above in **Tables 1 and 2**;
- the proposed development complies with the controls relating to alterations and additions to dwelling houses at Part C1.3 of DCP 2013, as per **Table 3** below;
- the proposed development complies with the controls relating to alterations and additions to 2/3 storey terraces as per **Table 4** below;
- the proposed development complies with the controls relating to development in Heritage Conservation Areas, as per **Table 5** below;
- the proposal maintains the status quo in terms of the provision of landscaping at the site, and the quantum of landscaped area is consistent with that provided by the dwelling houses to the immediate north and south, as discussed above;
- the proposed development has no overshadowing impacts in relation to living room windows or areas of ground floor level private open space;
- the proposal has no known impact on views from nearby properties or the public domain; and
- the proposal does not have any unreasonable adverse visual or acoustic privacy impacts.

Table 3: *compliance with Controls at Part C1.3 of DCP 2013*

CONTROL	RESPONSE
<p>General provisions C6 The overall form of alterations and additions shall:</p> <ul style="list-style-type: none"> a. have regard to the provisions within Appendix B – Building Typologies of this Development Control Plan; b. be compatible with the <i>scale, form and material of the existing dwelling and adjoining dwellings, including wall height and roof form</i>; 	<p>Complies. The proposed alterations and additions have been designed having regard to the Design Approach for alterations to 2/3 storey terraces – see discussion following in Table 4 below.</p> <p>Complies The proposed development maintains the existing apparent height of the existing building, at the front and rear, with the additional levels setback and not readily visible from the public domain. The 3D views accompanying this DA show the appropriateness of the scale of the proposed development, in the context of the site and having regard</p>

CONTROL	RESPONSE
<p>c. retain any building and streetscape consistencies which add positively to the character of the neighbourhood (e.g. architectural details, continuous rows of <i>dwelling</i>s, groups of similar <i>dwelling</i>s, or the like);</p> <p>d. maintain the integrity of the streetscape and heritage significance; and</p> <p>e. be considered from all public vantage points from which the additions will be visible; and</p> <p>f. achieve the objectives and controls for the applicable desired future character</p>	<p>to the form and scale of other development in the vicinity of the site (see Figure 2).</p> <p>Complies The proposal retains the essential character and form of the existing building and enhances the contribution that it makes to the row of similar terraces within which it is located.</p> <p>Complies The proposed development is acceptable in heritage terms, as discussed in the HIS accompanying this DA.</p> <p>Complies The 3D views at Figure 2 below show the appropriateness of the proposed development in terms of visual impact. The proposed front elevation will not be materially altered and given the tight pattern of subdivision, the proposed addition to the rear will be visible from only limited vantage points within adjoining private properties.</p> <p>Complies See Tables 1 and 2 above.</p>
<p>C7 Development shall preserve the consistency in architectural detail and form of continuous rows of attached <i>dwelling</i>s, or groups of similar <i>dwelling</i>s.</p>	<p>Complies As discussed in the HIS accompanying this DA, the proposed façade to Edward Street will remain unaltered and hence, the status quo will be maintained in terms of its consistency with the other terraces in the row.</p> <p>The other terraces in the row have had numerous rear additions with varying forms and designs, and hence, there is not any particular consistency in this regard. Notwithstanding, the proposed rear addition is sited and designed to complement the <i>dwelling</i>s in the vicinity, and the HIS concludes that it is acceptable in heritage terms.</p>
<p>C8 For end terraces / buildings, new works should be setback a minimum of 500mm from the end side wall to retain the historic form as it presents to the public</p>	<p>N/A as the site is not an end terrace/building.</p>

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CONTROL	RESPONSE
<p>domain.</p> <p>C9 Where buildings contain original form or detail which has been compromised, the integrity of the original form and detail should be enhanced, rather than being justification for further compromise. Note: This may include missing architectural detail and enclosed verandahs.</p> <p>C10 New materials and fenestrations of alterations and additions shall be compatible with the existing building.</p> <p>C11 The <i>reconstruction</i> of posted verandahs is encouraged where consistent with the architectural style of the building and suitable evidence of original verandahs is on that property.</p>	<p>Complies A discussion of the changes proposed to existing fabric, and proposal to retain significant elements, is contained in the HIS accompanying this DA.</p> <p>Complies This is discussed in detail in the HIS accompanying this DA.</p> <p>N/A</p>
<p>For alterations and additions to the front of existing dwellings</p> <p>C12 Alterations and/or additions to the front of an existing <i>dwelling</i> must ensure that important elements of the original character of the building and its setting are retained, restored or reconstructed, where it contributes to the desired future character, including but not limited to:</p> <ul style="list-style-type: none"> a. balconies and verandahs; b. front gardens and landscaping; c. fences and walls; d. fenestration; e. roof forms. <p><i>Note: Refer to Building Typologies within Appendix B of this Development Control Plan for information about the type of building.</i></p>	<p>Complies</p> <p>The proposal does not alter the front of the dwelling (apart from painting and replacement of floor tiles) so that it will maintain the form and fenestration of the existing building. Similarly, existing landscaping and front balconies will be retained.</p>
<p>For alterations and additions to the side of existing dwellings</p> <p>C13 Alterations and additions to the side of an existing <i>dwelling</i> (where that <i>dwelling</i> is currently setback from the side property boundary), must:</p> <ul style="list-style-type: none"> a. endeavour to minimise visibility from the street; b. retain the predominant and desired future character of the street; c. ensure compliance with the remaining suite of controls within this Development Control Plan relating to residential development where relevant; and 	<p>N/A</p>

CONTROL	RESPONSE
<p>d. when located on the ground floor, the alterations and additions shall be:</p> <ul style="list-style-type: none"> i. setback a minimum of 1 metre from the front wall of the existing <i>dwelling</i>; and ii. have minimum ceiling heights and a roof form which is subordinate to the existing <i>dwelling</i>, to ensure the additions do not detract from the detached nature of the <i>dwelling</i>. <p><i>Note: Ground floor side additions which include provision for parking are to comply with Part C Section 1.11 – Parking of this Development Control Plan</i></p>	
<p>For alterations and additions to the rear of an existing dwelling– on any level</p> <p>C14 Alterations or additions to the rear of an existing building are to:</p> <ul style="list-style-type: none"> a. be of a building height that complies with the objectives and controls of the Site Layout and Building Design Part C3.2 of this Development Control Plan; b. maintain an area of useable <i>private open space</i> in accordance with Part C Section 3.8 – Private Open Space of this Development Control Plan; c. be of minimum visibility from the street (refer to <i>Figure C1</i>); d. comply with any other relevant residential development controls within this Development Control Plan. <p>C15 Where rear additions are visible from the public domain due to street layout or topography, maintaining original roof form is preferred and new additions are to be sympathetic to that original roof.</p> <p>C16 Alterations and additions above ground floor level shall:</p> <ul style="list-style-type: none"> a. comply with the appropriate provisions within Appendix B – Building Typologies of this Development Control Plan; b. maintain setback patterns within surrounding development; c. be subordinate to the existing building so that the additions do not dominate the 	<p>Complies</p> <p>As can be seen from the submitted architectural plans, the proposal complies with the Building Location Zone requirements of LDCP 2013 at all levels, having regard to the rear building alignment established by Nos. 11A and 17 Edward Street to the north and south respectively.</p> <p>Refer to report below.</p> <p>Complies</p> <p>As discussed previously, given the tight pattern of subdivision, the proposed addition to the rear will be visible from only limited vantage points within adjoining private properties. Notwithstanding, the proposal has been designed to step down from the existing ridge and is setback from the sides of the site, in order to be sympathetic to the existing roof form.</p> <p>Complies</p> <p>The proposed development is consistent with Design Approach alterations and additions to 2/3 storey terraces, as discussed below in Table 4.</p> <p>The proposed side and rear setbacks are characteristic of the locality and the rear additions do not dominate the existing</p>

CONTROL	RESPONSE
<p>building from the public domain.</p> <p>C17 Additions at first floor and above shall be of a <i>scale</i> and are to be located in a manner which:</p> <ol style="list-style-type: none"> a. maintains visual separation between the existing building and adjoining residential development; and b. maintains setback patterns of surrounding development; and c. will ensure that the addition does not dominate, but is sub-ordinate to the existing <i>dwelling</i> when viewed from the street. <p>C18 Any first floor and above additions to the side of the <i>dwelling</i> will not be supported where they detract from the detached or semi-detached nature of the streetscape or the existing <i>dwelling</i>. <i>Note: where an existing side setback exists, consideration of access for people and equipment for future maintenance and construction should occur, particularly if the side setback is the only point of access to the rear of the site.</i></p>	<p>building.</p> <p>Complies</p> <p>The proposed first floor addition is setback from the northern boundary in order to minimise separation from the adjoining dwelling, which is also setback from the common boundary. The southern elevation has a nil side setback to relate to the adjoining nil setback to the south.</p> <p>The proposed addition to the existing attic has been designed to be a discrete element, setback from the ridge and sides of the building.</p> <p>N/A</p>
<p>C19 Any first floor and above additions attached to the rear of the existing roof form is to:</p> <ol style="list-style-type: none"> a. be subordinate to that roof form; <ol style="list-style-type: none"> I. where attached to the existing roof form, be set 300mm below the ridgeline; II. enable the original roof form to be apparent from the public domain by: <ul style="list-style-type: none"> • setting the additions back from the external face of the existing side roof plane (so the gable, hip or original parapet roof form is retained); or • comprising a rear sub roof linking the existing roof to additions that appear as a separate roof form to that of the existing <i>dwelling</i>. Any proposed link must be set 300mm below the existing ridgeline. 	<p>Complies</p> <p>The proposed rear roof addition is setdown 315mm below the ridge.</p>

CONTROL	RESPONSE
<p>Roof forms for alterations and additions</p> <p>C20 Appropriate roof forms for rear additions depend on the context of the site, and may include:</p> <ul style="list-style-type: none"> a. pitched in form to match the predominant roof forms of the original property and / or its context; or b. boxed in form where not incongruous in the context, and where this approach reduces the visual impact of the addition, such that it is not overtly visible from the street; or c. a hybrid of roof forms where the appearance of the addition from the street is not overtly visible and is compatible with the Appendix B – Building Typologies of this Development Control Plan. <p>C21 Where roof links are proposed to connect the original roof space to the new addition, they are to:</p> <ul style="list-style-type: none"> a. be of minimal scale and proportion (up to a maximum of 50% of the rear roof plane) and are to provide a link only. Roof links which span the whole rear roof plane will not be supported; b. preserve the unity of the row, preserve chimneys and traditional scale and proportion in the street; c. not raise the roof ridge for the purpose of an internal room's compliance with the Building Code of Australia; and d. be located below the original ridge line, including clerestory roofs. <p>C22 Original front verandah roofs are generally to:</p> <ul style="list-style-type: none"> a. remain separate from the main roof slope; and b. reconstruct original form and detail where there is evidence that a front verandah was a part of the original building (evidence is often found in the fabric of the blade wall or similar). 	<p>Complies</p> <p>The proposal incorporates a simple skillion style dormer, as per the 2/3 storey terrace building typology.</p> <p>The proposed roof is well setback from the perimeter of the building to minimise its visual impact. The HIS accompanying this DA makes the following comment in relation to the proposed roof addition:</p> <p style="padding-left: 40px;"><i>“The new additions do not dominate the heritage item. It leaves the main evidence of repeated roof forms and comply with all Inner West Council’s conditions specific to the precinct. The new addition is below the ridge line and is clearly read as a contemporary addition. The new and the old are not confused.”</i></p> <p>The proposed development is consistent with Design Approach for 2/3 storey terraces, as discussed below in Table 4.</p> <p>N/A</p> <p>Complies</p> <p>The proposal retains the existing front verandah roof.</p>



Figure 2: 3D views of the proposed development showing the appropriateness of the proposed design solution (source: Lombardo Design Studio)

Table 4: compliance with Controls relating to alterations and additions to 2/3 storey terraces in Appendix B of DCP 2013

CONTROL	RESPONSE
<p>C1 Development shall:</p> <ul style="list-style-type: none"> a) retain the integrity of the original building and the character of consistent terrace groups and rows; b) maintain the relative importance, in scale and detailing of the main (front) part of the building; c) retain streetscape and skyline character; d) retain the architectural character and detailing of corner terraces; e) retain the rhythm of roofs and chimneys on the skyline and maintain the integrity of common ridge lines and parapet lines when viewed from the street; f) maintain the amenity of the terrace and adjoining properties; g) protect sun access to rear ground 	<p>Complies</p> <p>The proposal retains the character and integrity of the row of terraces within which it is located (see Figure 2 above).</p> <p>The proposal maintains the front façade generally unaltered.</p> <p>The proposal retains the streetscape and skyline character.</p> <p>N/A</p> <p>The proposal retains the existing rhythm of roof forms, by not altering the existing ridge and maintaining the existing chimney.</p> <p>The proposal improves the amenity of the terrace on the site and has been designed to minimise potential impacts on adjoining properties.</p>

CONTROL	RESPONSE
<p>floor living areas and private open space; and</p> <p>h) reverse unsympathetic changes.</p>	<p>The shadow diagrams accompanying this DA show that the proposal will not create any new overshadowing impacts onto ground floor living areas or private open spaces of adjoining properties.</p>
<p>C2 Rear additions that may be suitable for this building typology include the following forms:</p> <p>a. single storey 'lean to';</p> <p>b. rear wing; or</p> <p>c. pavilion.</p> <p>and are to have a ridge line located below the eaves line.</p>	<p>Complies</p> <p>The proposal incorporates a rear wing style addition with a skillion style dormer, setdown 315mm below the ridge.</p>
<p>C3 Pavilion style rear additions are to be connected to the main house by a lightweight linking structure below the eaves line of the main building where the site is deep enough to provide consolidated private outdoor space.</p>	<p>N/A</p>
<p>C4 Skillion type dormers may be located on the rear roof plane of buildings or in new additions to a building where they will not be seen from the principal street frontage and are to be set:</p> <p>a. a minimum 200mm below the ridge line;</p> <p>b. a minimum of 500mm from the side wall; and</p> <p>c. a minimum of 200mm up from the rear wall plate.</p>	<p>Complies</p> <p>The proposal incorporates a skillion style dormer as is permitted (refer to Figure 3 below).</p> <p>The proposed dormer is set 315mm below the ridge line.</p> <p>The proposed dormer is setback 500mm from the inner face of the party walls.</p> <p>The proposed dormer is more than 200mm up from the rear wall plate.</p>
<p>C5 Retain the profile created by original wing walls, parapets and chimneys.</p>	<p>Complies</p> <p>The proposal retains the existing chimney.</p>
<p>C6 Verandahs and balconies are to be open.</p>	<p>Complies</p> <p>The proposal retains the existing open front balcony.</p> <p>A juliet style balcony is proposed at the rear of first floor level.</p>
<p>C7 Rear breezeways (side passages to rear wings) may be infilled at ground level only and only where the privacy, sun access and ventilation to the adjoining property are not adversely affected.</p>	<p>Complies</p> <p>The proposal seeks to infill the northern breezeway at ground floor level, which is acceptable as the adjoining properties both incorporate nil side setbacks at ground floor level.</p> <p>The proposal maintains a breezeway at first floor level.</p>
<p>C8 Original detailing, and materials, including chimneys, balustrades, render</p>	<p>Complies</p>

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CONTROL	RESPONSE
and wrought iron palisade fencing are to be retained/reconstructed and restored.	Refer to HIS accompanying this DA.
C9 The proportions of vertical and horizontal lines formed by wing walls, parapet or eaves lines, floor plates, door and window openings and balustrading are to be retained and also reflected in any additions to the building.	Complies Refer to HIS accompanying this DA.
C10 Fences are to be less than 1.2m high and of visually permeable materials.	No changes are proposed to the front fence. 1.8m high fences are proposed in the rear yard.
C11 Fences appropriate to the style and period of the building are to be retained or reconstructed.	Complies The proposal retains the existing front fence. 1.8m high fences are proposed in the rear yard.

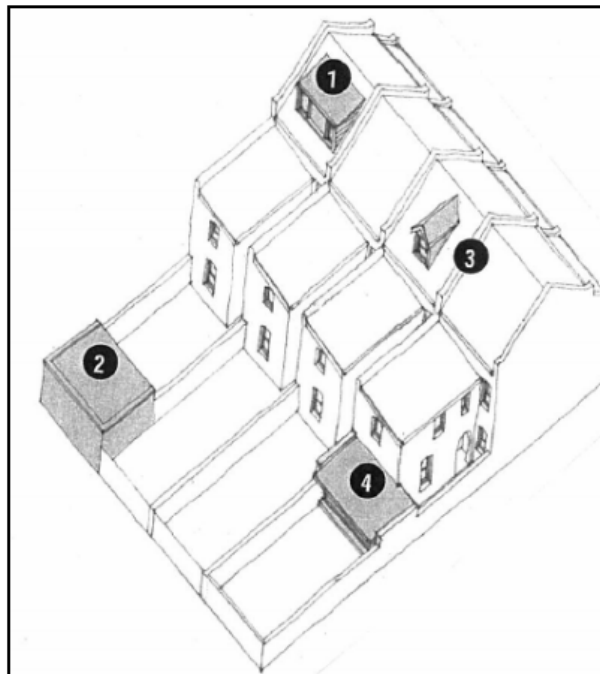


Figure 3: Two storey terrace design approach 1 showing the appropriateness of a skillion style dormer window and 2 storey addition

Table 5: compliance with Controls at Part C1.4 of CP 2013

CONTROL	RESPONSE
<p>General</p> <p>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.</p> <p>C2 The fabric of an existing building is to be the subject of appropriate conservation practices including:</p> <p>a. retention of original detail and finishes such as:</p> <ul style="list-style-type: none"> (i) original face brick which should not be painted over or rendered; (ii) original decorative joinery and iron work which is not to be removed; <ul style="list-style-type: none"> • conservation of original elements; • reconstruction or restoration of original elements where deemed appropriate; • retention of the original cladding material of original roofs where viable; • consideration of suitable replacement materials should be based on original material, and where a property is part of a group or row, replacement materials should have regard to the integrity of the group. <p>C3 Development of dwellings within Heritage Conservation Areas must:</p> <p>(a) not include the demolition of the internal walls and roof form, including any existing chimneys, of the front two rooms of the dwelling;</p> <p>(b) retain the major form, scale and materials of the existing structure as described in (a);</p> <p>(c) be for a rear addition which does not dominate the existing building or substantially change the relationship of the building to the street when viewed from the street; and</p> <p>(d) retain significant, established gardens and plantings including early fences.</p> <p>C4 Demolition of dwellings in Heritage Conservation Areas or Heritage Items is subject to the provisions of Part C Section 1.2 – Demolition within this Development</p>	<p>Complies</p> <p>The proposed development is consistent with Design Approach for alterations and additions to 2 and 3 storey terraces, as discussed above in Table 3.</p> <p>Complies</p> <p>Detailed discussion is provided in the HIS accompanying this DA.</p> <p>Complies</p> <p>The proposal retains existing internal walls, roof and chimneys within the front two (2) rooms.</p> <p>The proposed rear addition does not dominate the existing building or substantially change the way that the dwelling appears when viewed from nearby streets.</p> <p>N/A</p>

CONTROL	RESPONSE
Control Plan.	
<p>Roof forms and materials</p> <p>C5 Consideration of roofing materials for additions should have regard for <i>compatibility</i> with the original roof, as well as for the context of the setting (such as if a <i>dwelling</i> is part of a group of similar <i>dwellings</i>).</p> <p>C6 Within Heritage Conservation Areas, whole roof forms should be retained where possible and roofs of additions should be subservient to the main roof (in <i>scale</i>, form, location & materials). Changes to the form of the existing roof or extension of the ridge cannot be supported.</p> <p>C7 Where roof links are proposed to connect the original roof space to the new addition, they are to:</p> <ol style="list-style-type: none"> a. be of minimal <i>scale</i> and proportion (up to a maximum of 50% of the rear roof plane) and are to provide a link only. Roof links which span the whole rear roof plane will not be supported; b. preserve the unity of the row, preserve chimneys and traditional <i>scale</i> and proportion in the street; and c. not be used to raise the ridge, or be for the purpose of creating a viable roof space where roof space meets the requirements of the Building Code of Australia. <p>Clerestory roofs are not considered an appropriate form of roof addition to traditional ridge lines.</p> <p>New buildings</p> <p>C8 New development need not seek to replicate period details of original buildings in proximity to the site, but rather, demonstrate respect for the form, <i>scale</i> and sitting of the immediate area.</p> <p>C9 New development will comply with Part C Section 1.0 – General provisions and all other relevant controls within the Development Control Plan.</p>	<p>Complies</p> <p>The proposal incorporates a new simple metal roof form, consistent with the existing roof and not overly visible from the public domain.</p> <p>Complies</p> <p>The proposal retains the existing ridge and main roof apart from the provision of a new rear skillion dormer, as is permitted as an alteration to two (2) and three (3) storey terraces.</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>
<p>Conservation Management Plans</p> <p>C10 <i>Conservation Management Plans</i> shall be required when:</p>	N/A

CONTROL	RESPONSE
a. the site is a Heritage Item identified in Schedule 5 of the <i>Leichhardt Local Environmental Plan 2013</i> as having State significance; OR b. the site is a Heritage Item that predates 1840; OR c. the site is a place identified in Schedule 5 within <i>Leichhardt Local Environmental Plan 2013</i> as having archaeological significance.	
<p>Statements of Heritage Impact (SOHI) C11 Consent must not be granted for any development in respect of a Heritage Item unless a Statement of Heritage Impact is submitted to Council for consideration, except for the following:</p> <p>a. the removal of a <i>dead tree</i>;</p> <p>b. the removal of a tree or trees where the ages and relationship of the subject trees, to the heritage significance of the site as recorded by Council, within any historical planting scheme for the property, have already been identified and assessed within an arboricultural report prepared by a suitably qualified arborist (minimum qualification AQF level 5 Arboriculture) and submitted to Council; or</p> <p>c. a permit is to be issued under the provisions of Clause 5.9(7) Preservation of trees or vegetation of <i>Leichhardt Local Environmental Plan 2013</i>.</p>	<p>Complies. Andrew Starr & Associates Heritage Consultants has prepared a detailed HIS, which accompanies this DA.</p>

To this end, it is considered that the proposal is consistent with objective (e) despite the non-compliance with the landscaped area and site coverage development standards.

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

The proposed development has been designed in response to the constraints of the site and the client’s desire to improve the amenity and functionality of the internal and external spaces at the site. To this end, the proposal incorporates private open space at the rear of the site, having dimensions of 3.93m x 3.96m and an overall area of 15.56m².

The proposed private open space is located immediately adjacent to the open plan living/dining/kitchen areas which are located at ground floor level, so as to provide an extension of these internal areas. The location and size of

the proposed private open space is commensurate with that of the other terraces in the row.

Despite the minor non-compliance with the minimum landscaped area requirement, the proposed private open space provides significant amenity for the occupants of the dwelling and is considered acceptable for the following reasons:

- the private open space exceeds the minimum dimension requirement;
- the space is functional and large enough to be appropriately furnished;
- the space integrates with and is capable of serving as an outdoor extension of the dwelling's main open plan kitchen/dining/living area;
- the space has access to desirable breezes, air circulation and sunlight given its northern orientation;
- the space is located at ground floor level and will not permit any overlooking into adjoining properties;
- the space provides useable private open space within the constraints posed by altering an existing building on a small allotment; and
- the provision of landscaping is commensurate with that provided for other terraces in the group, as can be seen in **Figure 1** above.

To this end, it is considered that the proposal is consistent with objective (f) despite the non-compliance with the landscaped area and site coverage development standards.

4.2 R4 High density residential zone objectives

The site is located in the R1 General Residential zone. The proposal for alterations and additions to the existing dwelling house is permissible with consent in the zone.

The objectives of the R1 zone are as follows:

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

The proposed development is consistent with the abovestated zone objectives, as follows:

- the proposal provides improved amenity within the existing dwelling house to ensure that the dwelling house continues to provide for the housing needs of the community;
- the proposal maintains the significant fabric of the existing building, which is a Heritage Item and is located in a Heritage Conservation Area. The proposal improves the functionality and liveability of the existing dwelling house to contribute to the provision of a variety of housing types and densities in the area;
- the proposal incorporates internal space which allows flexibility in terms of the ability to carry out work-from-home activities;
- the proposal maintains the general siting and orientation of the existing building. The proposed rear additions sit comfortably within the rear Building Location Zone, so as to ensure an appropriate relationship to the adjoining properties to the north and south. The proposed additions sit below the existing ridge so as to minimise heritage, overshadowing and view-related impacts. The proposed form of the development is consistent with that evident in the row of terraces within which the site is located. The provision of landscaped areas on the site is also consistent with that evident in the row;
- the proposal provides pleasant outdoor spaces for the enjoyment of future residents;
- the proposal does not alter the existing pattern of subdivision or orientation of the existing dwelling house; and
- the proposal has no unreasonable adverse environmental impacts in relation to nearby properties and the streetscape.

To this end, the proposal is consistent with the objectives of the zone despite the non-compliance with the landscaped area and site coverage development standards.

4.3 Would the underlying object or purpose of the standard be defeated or thwarted if compliance was required, such that compliance is unreasonable or unnecessary?

It is not considered that the underlying objective of the Standards is irrelevant to the proposal, however, as demonstrated herein, it is submitted that the proposal is able to achieve consistency with the intent of the Standards, despite the non-compliances.

4.4 Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable?

It is not considered that the Standards have been virtually abandoned or destroyed by Council's actions, however, having regard to the particulars of this Application, and the amenity gains resulting from the non-compliances, it is considered that flexibility in the application of the Standards is warranted.

While not demonstrating abandonment, it is reiterated that the quantum of landscaped area and site coverage proposed at the site are commensurate with that for other terraces within the group, demonstrating consistency with the character of development in the locality.

4.5 Is compliance with development standard unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone?

There are no specific land use or environmental characteristics which would render compliance with the development standard unreasonable or inappropriate.

5.0 CLAUSE 4.6(3)(b) - ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD?

5.1 What is the aspect or feature of the development that contravenes the development standard?

As discussed previously, the proposed configuration of the ground floor level of the proposed dwelling house result in a development which fails to comply with the minimum landscaped area and maximum site coverage development standards.

5.2 Why is contravention of the development standard acceptable?

Contravention of the development standards is considered acceptable for the following reasons:

- the proposed ground floor layout maximises the provision of external open space areas which are functional and useable. In the event that the development was redesigned to comply with the minimum landscaped area standard, it is likely that the private open space at the rear of the site would not be able to be configured in a manner which would encourage its use in all weathers, as it would necessitate almost the entirety of the rear yard to comprise turf or planting. In the event of rainfall and the like, such a treatment would render the area inappropriate for use for passive recreation/outdoor dining and the like (due to muddy conditions etc.). Given that the proposal meets the objectives of the development standard and zone despite the non-compliance with the landscaped area standard, and having regard to the amenity benefits arising from the rear open space being turfed, it is considered that the non-compliance is acceptable; and
- the proposed contravention of the maximum site coverage development standard is considered acceptable as it enables the ground floor level of the dwelling house to be configured in a manner which ensures it is useable and functional and incorporates sufficient space to meet contemporary amenity requirements. Compliance with the site coverage standard could be achieved, however this would

necessitate cutting back the rear extension, which would compromise the amenity and functionality of the combined kitchen/living/dining area at ground floor level. It is considered that on the basis that the proposal meets the objectives of the development standard and zone despite the non-compliance with the site coverage standard, and having regard to the amenity benefits arising from the proposed dimensions of the ground floor level extension, it is considered that the non-compliance is acceptable

5.3 On what basis there are sufficient environmental planning grounds to justify contravening the development standard?

5.3.1 Clause 4.6(5)(A) - Matters of State or Regional Environmental Planning

The proposed contravention of the Standards does not raise any matter of significance for State or regional environmental planning.

5.3.2 Clause 4.6(5)(B) - The Public Interest

Having regard to the acceptable environmental impacts, and the merits of the proposed development, it is considered that the public interest is being met by the proposed development, despite the non-compliances.

The proposed departure from the standards does not create any unreasonable adverse amenity or streetscape impacts, as discussed herein. Furthermore, the proposal is considered to meet the public interest, as it results in sensitively designed alterations and additions to an existing terrace house which is a heritage item, and which forms part of a group similar terraces, located within a heritage conservation area. The proposal enables the existing dwelling to continue to provide a high level of amenity for its occupants in a form which enables the significant fabric to be retained and enjoyed.

5.3.3 Clause 4.6(5)(C) – Any Other Matters Required To Be Considered

There are no other known matters required to be taken into consideration by the Director-General before granting concurrence.

As can be seen from the discussion herein, the proposed development is consistent with the objectives of the development standard and R1 General Residential zone pursuant to LEP 2013 despite the non-compliance with the landscaped area and site coverage development standards.

It is considered that the proposal has adequately addressed the matters outlined in Section 4.6(3) – (5) of LEP 2013.

6.0 CONCLUSION

Having regard to the discussion contained herein, it is considered that the matters required to be addressed, pursuant to Clause 4.6 of LEP 2013, the five-part test established in the Land and Environment Court and the Varying Development Standards: A Guide, have been fully canvassed herein.

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Having regard to the particulars of the proposal, as outlined above, it is considered that there would be no material benefit to requiring the proposal to comply with Clauses 4.3 of LEP 2013 and on this basis, an exception to Clauses 4.3a(3)(a) and (b) of Leichhardt LEP 2013 is considered well-founded, and worthy of Council's support.

Attachment D – Statement of Heritage Significance

Statement of Heritage Significance

The Statement of Significance for this heritage item is as follows:

No. 15 Edward Street is of high local historic and aesthetic significance as a good and largely intact rendered stone Victorian terrace and part of the first large scale terraces constructed in Balmain in c. 1870. Despite some alterations and additions at the rear, the building retains its original scale and form and character as it presents to Edward Street. With the adjoining terraces, Nos. 7-17 Edward Street make a positive contribution to the Edward Street streetscape and area.

Council's management recommendations (from the State Heritage Inventory Listing are)

It is recommended that:

- the existing two storey with attic scale and form of the building including main gable roof form, party walls and chimney and secondary rear wing should be retained and conserved;
- the existing rendered stone facades should also be retained and conserved. Painted surfaces such as render and timberwork should continue to be painted in appropriate colours;
- the front fence and small setback should be retained and conserved;
- the front verandah and first floor balcony should remain open and features including the dressed stone verandah floor, end party walls and cast iron lace balustrade and skillion roof should be retained and conserved;
- no new openings should be made in the front facade;
- any additions and alterations should be confined to the rear of the building;
- the open passage along the western site boundary should also be retained.